

PAPAL OVERLORDSHIP AND
PROTECTIO OF THE KING, c.1000-1300

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I, Benedict Wiedemann, confirm that the work presented in this thesis is my own.
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been indicated in the thesis.

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Abstract

This thesis focuses on papal overlordship of monarchs in the middle ages. It examines the nature of alliances between popes and kings which have traditionally been called 'feudal' or – more recently – 'protective'. Previous scholarship has assumed that there was a distinction between kingdoms under papal protection and kingdoms under papal overlordship. I argue that protection and feudal overlordship were distinct categories only from the later twelfth and early thirteenth centuries. Before then, papal-royal alliances tended to be ad hoc and did not take on more general forms.

At the beginning of the thirteenth century kingdoms started to be called 'fiefs' of the papacy. This new type of relationship came from England, when King John surrendered his kingdoms to the papacy in 1213. From then on this 'feudal' relationship was applied to the pope's relationship with the king of Sicily. This new – more codified – feudal relationship seems to have been introduced to the papacy by the English royal court rather than by another source such as learned Italian jurists, as might have been expected.

A common assumption about how papal overlordship worked is that it came about because of the active attempts of an over-mighty papacy to advance its power for its own sake. But the people who gained from papal overlordship were those outside the papal curia who could instrumentalize papal power for their own ends. It was up to kings, regents and their councillors to decide when and whether to use papal overlordship and protection. Papal overlordship was a tool of royal more than of papal power.

Inspicienda sunt ergo [...] privilegia et ipsorum tenor est diligentius attendendus

Pope Alexander III

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Abbreviations

CS: *Selected Letters of Pope Innocent III concerning England (1198-1216)*, (eds) C. R. Cheney, W. H. Semple (London/New York, 1953)

Foedera: T. Rymer, *Foedera, Conventiones, Literae et cuiuscunque generis Acta Publica*, (eds) A. Clarke, F. Holbrooke, J. Caley (4 vols in 7, London, 1816-69)

JL: *Regesta Pontificum Romanorum ab Condita Ecclesia ad Annum post Christum Natum MCXCVIII*, (eds) P. Jaffé, G. Wattenbach, S. Löwenfeld et al (2 vols, Leipzig, 1885-8) cited by letter number, not page

LC: *Le 'Liber Censuum' de l'Eglise Romaine*, (eds) P. Fabre, L. Duchesne (2 vols, Paris, 1889-1910)

MDH: *La documentación pontificia de Honorio III (1216-1227)*, (ed.) Demetrio Mansilla (Rome, 1965)

MGH: *Monumenta Germaniae Historica*

Briefe d. spät. MA *Briefe des späteren Mittelalters*

Const. *Constitutiones et Acta Publica Imperatorum et Regum*

DD *Diplomata regum et imperatorum Germaniae*

Epp. saec. XIII *Epistolae saeculi XIII e regestis pontificum Romanorum selectae*

Epp. sel. *Epistolae selectae*

Ldl *Libelli de lite imperatorum et pontificum*

LL *Leges (in folio)*

SS *Scriptores*

NCMH: *New Cambridge Medieval History*

PL: *Patrologiae cursus completus, series Latina*, (ed.) J.-P. Migne (221 vols, Paris, 1841-64)

Potthast: *Regesta Pontificum Romanorum inde ab anno post Christum natum MCXCVIII ad annum MCCCIV*, (ed.) A. Potthast, re-print (2 vols, Graz, 1957) cited by letter number, not page

PUSp: *Papsturkunden in Spanien. Vorarbeiten zur Hispania Pontificia*, (ed.) P. Kehr

i: *Katalanien* (Berlin, 1926)

ii: *Navarra und Aragon*, re-print (Göttingen, 1970)

RCA: *I Registri della Cancelleria Angioina*

xxviii: 1285-1286, (ed.) J. Mazzoleni (Naples, 1969)

xxix: 1284-1288, (ed.) Bianca Mazzoleni (Naples, 1969)

Introduction

For most of the twentieth century, the historiographical approach to papal lordship over kings was an application of a more general conception of ‘feudalism’: a king would give his kingdom to the pope, the pope would return it to him as a fief – hence the king would only possess it in a limited way, in return for rendering services to the pope – and the king would be called a vassal of the pope.¹ This was the ‘feudal bond’; the (supposed) defining feature of Medieval society.

The German historians of the first half of the twentieth century developed the idea of the papal *Imitatio imperii* – that the popes of the late eleventh and twelfth centuries sought to imitate the Roman empire. Therefore the popes must have adopted all the trappings of both classical and contemporary kings and emperors: a curia with officers such as stewards, marshals and so on; embryonic institutions of government, such as the *camera apostolica*, the chancery and the senate-college of cardinals; and – of course – feudal vassals.² After all, how else did twelfth-century kings and emperors rule but through such institutionalized bonds?

¹ ‘Feudalism’ here being used to signify the feudo-vassalic, rather than Marxist feudalism or *Feudal Society*-type feudalism.

² Karl Jordan laid the groundwork by covering these three aspects in three classic articles of the nineteen-thirties: ‘Die Entstehung der römischen Kurie’, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 28 (1939), 97-152; ‘Zur päpstlichen Finanzgeschichte im 11. und 12. Jahrhundert’, *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 25 (1933-4), 61-104; ‘Das Eindringen des Lehnswesens in das Rechtsleben der römischen Kurie’, *Archiv für Urkundenforschung* 12 (1932), 13-110. Walter Ullmann and Percy Schramm then drew from Jordan when describing the *Imitatio imperii*: W. Ullmann, *The Growth of Papal Government in the Middle Ages: A Study in the Ideological Relation of Clerical to Lay Power*, 2nd edn (London, 1962), pp. 310-43; P. Schramm, ‘Sacerdotium und Regnum im Austausch ihrer Vorrechte: Eine Skizze der Entwicklung zur Beleuchtung des “Dictatus papae” Gregors VII’, *Studi Gregoriani* 2 (1947), 403-57, at 438-42. Carl Erdmann was more interested in the link between papal feudal lordship and Crusading: *The Origin of the Idea of Crusade*, (tr.) Marshal W. Baldwin, Walter Goffart (Princeton, 1977), pp. 128-9, 216-24.

For Walter Ullmann, Percy Schramm, Karl Jordan and Carl Erdmann the relationships between the popes and the rulers of Sicily, Aragon, Portugal, England, Hungary, Poland, Croatia, Denmark and others could all be characterized as 'feudal bonds'. When the king of Aragon entered into an alliance with the pope in 1068, Erdmann held that this was a 'real feudal relationship' and that the Aragonese 'feudal service could be none other than military'. There is not a shred of evidence for this. The alliance could be none other than military because (for Erdmann) feudal relationships were based on military service and this was a feudal relationship.³ QED.

In 1980 this monotype was challenged by Johannes Fried, who has, it should be noted, not been a supporter of the more general critiques of feudalism emanating from the Anglosphere.⁴ Fried put forward the argument that the kingdom of Aragon was under papal protection, which gave the pope a limited right within the realm, but not ownership. This was – in Fried's conception – in contrast with relationships between the pope and the Sicilian monarchy, or the English kings, which were the same classic feudal relationships as Ullmann or Erdmann had thought.⁵ Fried's book then was actually a nuancing of the traditional view rather than a rejection of it: he pointed out that some of the kingdoms thought to be under papal feudal lordship were in fact not, rather than challenging the idea itself.

³ Erdmann, *The Origin of the Idea of Crusade*, pp. 216-24; Carl Erdmann, *Die Entstehung des Kreuzzugsgedankens*, re-print (Stuttgart, 1955), pp. 347-62.

⁴ Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994); Johannes Fried, 'Review of Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted*', *German Historical Institute London Bulletin* 19/1 (May, 1997), 28-41; Susan Reynolds, 'Response to Johannes Fried', *German Historical Institute London Bulletin* 19/2 (Nov., 1997), 30-40.

⁵ Johannes Fried, *Der päpstlicher Schutz für Laienfürsten: Die politische Geschichte des päpstlichen Schutzprivilegs für Laien (11.-13. Jahrhundert)* (Heidelberg, 1980), pp. 53-87.

That distinction – between lordship and protection – has been followed by Ian Robinson and Anne Duggan, and I do not reject it.⁶ But I am not in complete agreement with Fried's timeline. Chapters one and two of this thesis, on the Aragonese and Siculo-Norman relationships with the papacy, do not find these relationships conforming to distinct types until the later twelfth and thirteenth centuries. In the eleventh century especially it is not at all clear that the papacy and the Aragonese monarchy thought that the pope was merely the protector of the kingdom. On the other hand, there is not sufficient evidence to suppose that the Sicilian-papal alliance met the criteria for it to be described as classically 'feudal', in the sense understood by Ullmann, Erdmann, Fried et al.

Stefan Weinfurter has recently proposed a different theory, putting forward the view that some sort of proto-feudalism – whatever that is – invaded the papal curia in the early twelfth century.⁷ Such an argument is premised on a conception of homage which is solely feudal: if a ceremony of homage occurred then it must have meant the creation of the classical feudal bond between the two parties. In chapter two I will show that this was not the case in the twelfth century: the homages between the Norman rulers and the papacy fulfilled a range of practical needs, such as recognition of status or symbolically ending enmity.

All of the above is about half of the problem: how did these relationships, evolve, change, develop? The other half of the problem and, I might say, the other half of this thesis, is how did they work? If one believes that these were feudo-vassalic relationships and that feudo-vassalic

⁶ I. S. Robinson, *The Papacy, 1073-1198: Continuity and Innovation* (Cambridge, 1990), pp. 303-7; Anne J. Duggan, 'Alexander ille meus: The Papacy of Alexander III' in *Pope Alexander III (1159-81): The Art of Survival*, (eds) Anne J. Duggan, Peter D. Clarke (Farnham, 2012), pp. 13-49, at 43-4.

⁷ Stefan Weinfurter, 'Die Päpste als "Lehnsherren" von Königen und Kaisern im 11. und 12. Jahrhundert?' in *Ausbildung und Verbreitung des Lehnswesens im Reich und in Italien im 12. und 13. Jahrhundert*, (ed.) Karl-Heinz Spieß (Ostfildern, 2013), pp. 17-40. My thanks to Herr Michael Schwab for bringing this work to my attention.

relationships were intrinsically about giving land in return for service then that question answers itself. Julian Théry-Astruc – following this line of thought – has recently called papal feudal overlordship of kings ‘essentially theoretical’.⁸ This assumption begins by believing that feudal overlordship had certain unchanging characteristics and then – when those characteristics cannot be found in papal relationships with England or Sicily – concludes that those relationships cannot have been ‘real’ feudal overlordship.

But that is not how I see it. Throughout the twelfth and thirteenth centuries all of these ‘special relationships’ between pope and king were primarily a means for kings or regents to instrumentalize papal authority. A ‘vassal’-king, or protected-king, would appeal to the pope to condemn their internal or external political opponents, or royal regents would use papal authority to buttress their own shaky legitimacy. These relationships were not a way for the papacy to advance its power; they did not exist so that the pope could surround himself with a curia of loyal vassals and receive service from them. They benefited the vassals and protégés themselves.

Because of the wide range of this thesis each chapter has its own historiographical antecedents. Chapter one, Aragon and the Holy See, c.1050-1200, begins by concentrating on that Spanish kingdom. The most important previous work on Aragonese-papal relations is Johannes Fried’s 1980 monograph, in which he argued that Aragon was under papal protection. Chapter one nuances this argument, suggesting that the relationship only came under the rubric of protection from the mid-twelfth century. Before then the

⁸ Julien Théry, ‘Le triomphe de la théocratie pontificale, du III^e concile du Latran au ponticat de Boniface VIII (1179-1303)’ in *Structures et dynamiques religieuses dans les sociétés de l’Occident latin (1179-1449)*, (eds) M. M. de Cevins, J.-M. Matz (Rennes, 2010), pp. 17-31, at 24.

language used was vague, susceptible of a ‘protective’ interpretation, but not requiring it.

The second chapter – The Siculo-Normans and the papacy, c.1050-1200 – turns to the Norman kingdom of Sicily during the same period. The German (and Hungarian) historians of the first half of the twentieth century – Erdmann, Paul Kehr, Josef Deér – and Johannes Fried have accepted that the Sicilian monarchs were vassals of the popes. The occasional military aid which the Normans sent to the embattled popes has consequently been seen as feudal military service. Graham Loud, however, has on the whole dismissed the supposed feudal relationship as a motivating force in papal-Norman relations. This chapter therefore looks at those elements of the relationship – most significantly homage and oathtaking – which have traditionally been seen as marking vassalage. By placing these rituals in their context, and not automatically seeing them as part of an idealized feudo-vassalic bond, their real importance is visible: homage could serve as a recognition of the status of either party, as a form of reconciliation or to publicly show a new agreement between two parties. Homage was fungible.

Chapter three is divided into two parts. The first traces the incidence of feudal terminology – *feudum* and *vassallus* – in papal letters in the early thirteenth century. Within two years of King John of England’s cession of his realms to Pope Innocent III in 1213, both words were used to describe John’s status vis-à-vis the Vicar of Christ. From there the kingdom of Man became a papal *feudum* in 1219, and the king of Aragon was called a papal *vassallus* in 1222. The spread of these terms – from their introduction to the papal court by King John – was facilitated by a group of papal courtiers who knew England well, but also had links to other kingdoms. They adopted words like *feudum* and *vassallus* and applied them beyond England. The second part of this chapter identifies these papal *curiales* and their links to England, Man and Aragon.

Chapter four is also divided into two. Like chapter three it stays with the earlier thirteenth century – the pontificates of Innocent III (1198-1216) and Honorius III (1216-1227) specifically. During their pontificates the kings of Sicily, Aragon and England were all underage, and so the special relationships between these kingdoms and the pope were useful to the royal regents during these minority kingships. The first half examines non-feudal justifications for papal letters and commands during the minorities. Such justifications include the traditional duty of the pope to care for widows and orphans (both Frederick of Sicily and James of Aragon were orphans), the specific requests from the parents of these various kings for papal aid, Crusader status (Henry III had taken the cross) and so on. First, it is clear that feudal legitimations – that a king was a papal vassal – were not the primary way by which papal interventions were justified. Second, it does not appear that in any of these cases – England, Aragon, Sicily – there was a single overriding relationship of prime importance. Which relationship was used as a justification varied, probably depending on the circumstances at the time: one moment the papal court might say they acted because the king was an orphan and the pope should be ‘an aider to the orphan’; the next because the king’s deceased mother had specially asked for papal aid.

The second half of chapter four looks at the practicalities of papal action during these minorities. Here the argument that papal authority was being instrumentalized emerges most strongly. Local magnates used the papal court to get what they wanted, whether it was the appointment of regents or warnings to foreign powers. Papal lordship and protection were tools in the hands of those external to the curia. Papal legates were a vital part of this, but their authority depended on need: when they were not wanted they were powerless.

Chapter five is really an extended exegesis of a single comment of David Abulafia. Discussing Pope Innocent IV's deposition of Emperor Frederick II in 1245, Abulafia judged '[s]everal kings were papal vassals, and with them [the] business [of deposition] was easier, at least in theory: kings of England, Sicily, Aragon and so on'.⁹ This seems logical: if kings were papal vassals, if the pope legally owned their kingdoms and only granted them to the kings under revocable terms, surely the pope could take them back? But some kingdoms – like Aragon – were under papal protection, not 'vassalage'; the terms fief and vassal had only just appeared at the beginning of the thirteenth century; the relationship between the twelfth-century Norman kings – Frederick's ancestors – and the papacy had been a flexible alliance rather than a bond between lord and dependant. Was it then really the case that when the pope had a special relationship with a king, he also had a special ability or right to depose him? The answer is, of course, yes and no.

In the course of the thirteenth century it became clear that there was a difference between feudal lordship and protection where depositions were concerned. By the mid-thirteenth century, the curia thought that – under certain circumstances – the pope might be able confiscate a fief-kingdom – although this 'right' was never actually used. In practice the pope deposed kings by his innate authority as the successor of Peter. Nonetheless, it was established that – theoretically – a vassal king could be deposed 'feudally' (for want of a better adverb). This idea – that the pope might depose some kings by virtue of his special relationship with them – arrived at the curia alongside the terms *feudum* and *vassallus* in the early thirteenth century. King John, in 1213, had stipulated that if his successors broke their agreement with the pope they lost their *ius regni*; the Sicilian kings of the twelfth century had never acknowledged that possibility. From England, the infamous and brilliant Cardinal Rainier of S.

⁹ D. Abulafia, *Frederick II: A Medieval Emperor* (Oxford, 1988), p. 373.

Maria in Cosmedin – one of the papal courtiers with links to King John's court (studied in chapter three) – tried to apply the same logic to Frederick of Sicily, during his dispute with the papacy.

Chapter six moves from the wide-range of chapter five to the short term: the regency government of Angevin Sicily from 1285 to 1288. This period is remarkable for several reasons. Most obviously it confronts us with an unusual situation: the kingdom of Sicily required a regent, not because its king was underage or on Crusade, but because he was a prisoner of another king with whom Angevin Sicily was at war. Charles II was a prisoner of the king of Aragon and the War of the Sicilian Vespers was at its height. The scale of this problem should not be underestimated. If the king was sovereign then how much attention should be paid to commands he was forced to issue by his captors? How could a regent, appointed by the late king, Charles I, exercise authority when there was perfectly capable king? The answer the regents and magnates of Angevin Sicily hit upon was to use the pope as a higher authority. If the pope was the feudal overlord of the king, then the pope could appoint regents who could not be dismissed by the imprisoned king; the pope could annul commands and pacts which the imprisoned king had been forced into; the pope could issue legislation that the imprisoned king could not cancel. Here again the theme of the instrumentalization of papal lordship returns: the regents and the Angevin government needed the pope to be the ultimate source of their authority, so he was.

Aficionados of papal history might be surprised by what is absent: the coronation of Peter II of Aragon by Innocent III and Cardinal Peter Galloccia in Rome in 1204; the aftermath of the death of Frederick II and the subsequent alliance with and war against Prince Manfred; Gregory VII's supposed 'feudal' demands of the kings of England, Denmark and so on; Simon de Montfort

senior's request to 'hold' the county of Toulouse from the pope.¹⁰ First, it is necessary to limit this study to kings or those who became kings.¹¹ Papal lordship in central Italy, or over counts and princes – or indeed emperors – is not the topic of this thesis. Second, we must rule out those relationships where there is very little evidence: there is no point spending time discussing whether Gregory VII was demanding the submission of the kingdom of England when he asked William the Conqueror for *fidelitas* (probably meaning just 'loyalty').¹² Finally, there are those areas where I have nothing to add. The 1204 coronation of Peter of Aragon is one of these: Damian Smith, Johannes Fried and others have said plenty about it, and I do not think that discussing it adds anything to the argument of chapters one, three or four.¹³

The sources for this thesis are mainly documentary. Naturally, letters from popes to kings, and kings to popes, are the basis, but they are not the sole source. In chapter two, on the papacy and the Norman rulers of Sicily and Southern Italy in the eleventh and twelfth centuries, chronicle accounts play a major role. This is because the oathtakings, homages and ritualized submissions of the Norman kings to the popes were a – probably *the* – essential public face of the Norman-papal alliance. We must acknowledge that what we have are only descriptions of such rituals, which might reflect more the opinions of the

¹⁰ Damian J. Smith, *Innocent III and the Crown of Aragon: The Limits of Papal Authority* (Aldershot, 2004), pp. 43-63; Abulafia, *Frederick II*, pp. 408-28; H. E. J. Cowdrey, *Pope Gregory VII, 1073-1085* (Oxford, 1998), pp. 423-80, 638-49; Stephan Kuttner, Antonio García y García, 'A New Eyewitness Account of the Fourth Lateran Council', *Traditio* 20 (1964), 115-78, at 125, 142-43.

¹¹ By which I primarily mean the Norman rulers in Southern Italy and Sicily who were elevated to kingship in 1130-39. New kings were often, but certainly not always, legitimized by the pope: J. Watts, *The Making of Polities: Europe, 1300-1500* (Cambridge, 2009), p. 68; B. Weiler, 'Crown-giving and King-making in the West, ca. 1000-ca. 1250', *Viator* 41 (2010), 57-87; Simon John, 'The Papacy and the Establishment of the Kingdoms of Jerusalem, Sicily and Portugal: Twelfth-Century Papal Political Thought on Incipient Kingship', *Journal of Ecclesiastical History* 68 (2017), 223-59.

¹² Ullmann, *Growth of Papal Government*, p. 340.

¹³ Johannes Fried, *The Middle Ages*, (tr.) Peter Lewis (London, 2015), pp. 303-4; idem, *päpstlicher Schutz*, pp. 213-19; Smith, *Innocent III and Aragon*, pp. 43-63.

chronicler than the historical reality.¹⁴ John of Salisbury's claim that King Roger II had his son crowned in Roger's own lifetime – and without consulting the pope – might, for example, reflect John's concern that Kings Stephen and Henry II of England both sought to have their sons crowned in their own lifetimes. Whether it reflects a real event in Sicily is therefore hard to judge. How the chroniclers described the relationship, however, allows us to judge how they wanted it to be perceived. Thus a study of their attempts to portray Norman-papal relations in more-or-less flattering ways does allow for conclusions to be reached about the structure – or lack of such – of the alliance.

Papal letters and privileges must be handled with care: there are always the questions of who wrote, and who requested, any papal missives. In addition, we must consider delivery and execution. Some papal letters were requested as a failsafe by the petitioner: they were intended to be used if a particular problem blew up. In 1170 Thomas Becket requested three different mandates from Pope Alexander III 'so that we can use each as the time and the necessity of the case demands'.¹⁵ If the expected problem did not blow up then such letters would not be used. They might, however, still survive in archives. It is therefore up to us to try and work out whether letters were used or not. This is a particularly thorny problem for letters which only survive from the papal registers – the records of outgoing correspondence kept by the curia. When we work from the registers, we have no way of knowing what happened to the letter after it left the chancery. Was it delivered? Was it lost on the way home? It is normally impossible to know. Even if a letter was delivered to its addressee it could have been ignored. Unless someone complained to the curia, or another court, that a person had received papal instructions and ignored them, we are

¹⁴ P. Buc, *The Dangers of Ritual* (Princeton/Oxford, 2001); Geoffrey Koziol, 'Review article: The Dangers of Polemic: Is Ritual still an Interesting Topic of Study', *Early Medieval Europe* 11 (2002), 367-88, at 368, 377-8.

¹⁵ *Materials for the History of Thomas Becket, Archbishop of Canterbury*, (ed.) J. C. Robertson (7 vols, London, 1875-85), vii, p. 387.

very unlikely to know whether a letter was acted on or not. For these reasons, we must be very alert. Fortunately, it is sometimes possible to reconstruct what happened to particular letters or warnings sent out from the curia. Also, when we focus on the conceptions, rather than the practicalities, of particular papal-royal relationships, we can look at the terminology and duties outlined in letters without concentrating overly on how they were actually observed.

A Note on Nomenclature

Individuals are described as 'vassals' in this thesis when they were described as *vassalli* in contemporary documents. The same is true for *feodum/feudum* and 'fief'. Words like *homo* or *fidelis* are not translated as 'vassal'. 'Feudal', as an adjective, is applied to any relationship between the papacy and a kingdom if the kingdom was called a *feudum* of the Roman Church. 'Overlordship' is here simply synonymous with 'feudal lordship' and refers specifically to those thirteenth-century relationships between popes and kings where the terms *feudum*, *vassallus* and so on were explicitly used. This is not intended to pre-suppose anything about these relationships. Original Latin phrases or quotations are given, either in footnotes or in brackets alongside translations, when necessary for discussion, except where they are very lengthy.

Chapter One: Aragon and the Holy See, c.1050-1200

The relationship between the Kingdom of Aragon and the papacy is often seen as that of overlord and vassal: it is not unusual to hear that Aragon – along with Norman Sicily – represents the paradigmatic papal fief.¹ Johannes Fried, however, has suggested that the relationship more resembles one of *protectio* and Ian Robinson, Anne Duggan, Damian Smith and others have all agreed.² This chapter will show that, as I see it, Fried is not quite right: the language used in papal and Aragonese documents was ambiguous until the second half of the twelfth century, when it more clearly began to take on forms associated with papal *protectio* for monasteries, priories, houses of canons regular and so on.

In the mid-twelfth century the language used in papal documents for Aragon began to use the same forms as the patronal-protection the papacy extended to monasteries and ecclesiastical institutions. Prior to the twelfth century the terminology was more confused; it is unclear whether the papacy saw its relations with the Aragonese kings as based on some concept of real ownership of the kingdom of Aragon, or on protection. After c.1160, however, the language used was more clearly akin to grants of protection. In 1095 and frequently after c.1150 the popes also granted the Aragonese kings either the right not to be excommunicated without the pope's explicit approval, or to celebrate the Divine Office even in places under interdict, or both. These privileges were identical to those granted to some monasteries under papal

¹ See the works of the 1930s cited in the introduction and – inter alia: P. Kehr, 'Cómo y cuándo se hizo Aragón feudatorio de la Santa Sede', *Estudios de Edad Media de la Corona de Aragón* 1 (1945), 285-326.

² Fried, *päpstlicher Schutz*, pp. 82-3; Smith, *Innocent III and Aragon*, pp. 48, 56-7; idem, 'Sancho Ramirez and the Roman Rite' in *Unity and Diversity in the Church*, (ed.) R. Swanson, Studies in Church History xxxii (Oxford, 1996), pp. 95-105, at 97-8; Robinson, *The Papacy*, pp. 303-7; Duggan, 'Alexander ille meus', pp. 43-4.

protection (so-called ‘exemption’). Again the proliferation of these privileges for the Aragonese kings suggests similarities with papal *protectio*.

The practical basis of the relationship can be seen in the events of 1130-60, when papal intervention in Aragon was called for by various parties in response to the confusing will of King Alfonso I. We can see that the papal authority over the kingdom established by previous Aragonese kings was being instrumentalized by those outside the curia: the Templars, Raymond Berengar, prince of Aragon and count of Barcelona, and perhaps King Alfonso I himself. It was not simply exercised according to the whim of the pope.

1.1. The Eleventh Century: Early Contacts

The debate over *when* precisely the Aragonese monarch established a lasting bond with the pope is a complex one: ‘best left to the historians of Aragón’ in Peter Linehan’s words.³ In 1068 King Sancho of Aragon made a pilgrimage to Rome. Was an alliance concluded as early as then? In 1088-89 Sancho began paying an annual census to Rome: surely that is the latest possible point at which an alliance might have begun? What was the nature of the alliance at this early stage? It is not possible to answer these questions definitively, or else the many brilliant historians who have already studied it would have done so (although some clearly thought they had). I will begin by re-examining the documents of king and pope, and outline those conclusions which can be reached.

The Kingdom of Aragon had been founded by Ramiro I, son of Sancho III of Navarre. The King of Navarre had granted the sub-kingdom of Aragon to Ramiro before 1035 and hence Ramiro became its first king. Upon Ramiro’s death in 1063 Aragon had passed to his son, Sancho I of Aragon, who ruled

³ Peter Linehan, *History and the Historians of Medieval Spain* (Oxford, 1993), p. 172.

from 1063 until 1094. He was then succeeded in turn by his three sons: Peter I, Alfonso I, and Ramiro II.⁴

There is little to suggest that Sancho I entered into any sort of formal relationship with Rome during his 1068 visit there. The pilgrimage itself is not well documented. A grant of February 1068 was written ‘when I [Sancho] went to Rome’.⁵ A later letter of Sancho to Pope Urban II noted that he visited Rome when he was twenty-five, which would have been in the period 1067-8.⁶ That is it; we know no more and there is no particular reason to think that any recurring tribute was established, any oaths were sworn or any protection granted.

Royal pilgrimages to Rome were hardly unusual, although very little is known about such journeys in the eleventh century. Some eighteen years before Sancho went to Rome the then king of Scotia, Mac Bethad mac Findlaich (better known as Macbeth) had journeyed to the Eternal City. The chronicler Marianus Scotus recounted that Mac Bethad ‘distributed silver to the poor as though it were seed’.⁷ Although nothing else is known about Mac Bethad’s pilgrimage, it

⁴ Sancho I is often referred to as Sancho Ramirez, the ‘Ramirez’ part of his name being a patronymic: he was the son of Ramiro. Strangely, the equivalent style is rarely used in English scholarship for his sons or his father. They would be Peter Sanchez, Alfonso Sanchez, Ramiro Sanchez, and Ramiro Sanchez respectively. In order to preserve consistency I prefer to call the Aragonese kings by their first name and regnal numeral. However, the patronymic may be used to distinguish the kings from others who had the same name.

⁵ ‘Documentos Correspondientes al reinado de Sancio Ramírez, i: desde MLXIII hasta MLXXXIII años’, (ed.) J. Salarrullana y de Dios in *Colección de documentos para el estudio de la historia de Aragón*, (ed.) E. Ibarra y Rodriguez (12 vols, Zaragoza, 1904-20), iii, no. 3, pp. 7-8: Quando ego pergebam ad Roma. The document is dated to the 17 Kalends of March. This is odd. Conventionally March has only 16 Kalends (14 Feb.-1 March inclusive). The 17 Kalends of March would, properly speaking, be the Ides of February (13 Feb.). It is possible that, since 1068 was a leap year, the normal Roman practice of inserting a *dies bissextus* (repeating the sixth Kalends for both the 24 and 25 of February) was ignored in favour of giving February an extra kalends. This would date the document to 14 February 1068. All calendric information from C. Cheney, *Handbook of Dates for students of English History* (London, 1961), pp. 75-6.

⁶ Kehr, ‘Cómo y cuándo’, no. 3, p. 319: ‘Cum annis essem viginti quinque [...] limina [beati Petri] libens adii’.

⁷ MGH SS v, *Mariani Scotti chronicon*, (ed.) G. Waitz (Hanover, 1844), p. 558.

reminds us that piety is as good as business or politics in explaining the lure of a journey to Rome. The fact that Sancho went to Rome does not necessarily tell us much beyond that he was pious.

If any deal of lasting importance was struck during the pilgrimage then the likely candidate is the switch, in Aragon, from the Mozarabic liturgy to the Roman liturgy which occurred in the years immediately following Sancho's trip.⁸ A document of 1071 from Pope Alexander II to the Abbot of San Juan de la Peña (a monastic foundation under Sancho's patronage) confirms that it was this major liturgical change which was at the forefront of papal dealing with Aragon. Alexander confirmed to the Abbot of San Juan de la Peña that his monastery was under the tutelage and patronage of the Holy Roman Church, in return for an annual census-payment from the monastery to Rome.⁹ The letter went on to praise King Sancho's 'conver[sion] to the true and perfect faith' and claimed that Sancho had 'committed and subjected himself to the apostolic dignity'.¹⁰ This latter phrase, taken on its own, could suggest a proprietorial relationship: the subjection of the kingdom of Aragon to the pope as monarch or temporal lord. But, taken with the reference of a conversion to the 'true faith', the more likely explanation is that this referred to the adoption of the Roman rite.¹¹

The letter went on. As well as submitting himself to the apostolic dignity, Sancho had apparently arranged the return to the Roman Church of

⁸ Fried, *päpstlicher Schutz*, p. 66.

⁹ JL 4691 = *Alexander II Epistolae et Diplomata* in PL 146:1362-3 (no. 80): 'ut praefatum monasterium [...] in tutelam et singulare patrocinium sanctae Romanae Ecclesiae susciperemus'. The letter is probably genuine, see Linehan, *History and the Historians*, p. 183. Two other Aragonese monasteries – St Peter of Loarre and St Victorian of Sobrarbe – also received protection-privileges on the same day: PUSp, ii, nos 3-4, pp. 260-65.

¹⁰ Sancius rex Hispaniae [...] ad veram perfectamque fidem nobilitatis sua gloriā convertit et protinus semetipsum apostolicae dignitati commisit ac subdidit.

¹¹ Cf. Fried, *päpstlicher Schutz*, p. 66: 'True "fides" meant the end of simony and the adoption of the Roman rite'.

monasteries which had hitherto been alienated from it, presumably again referring to the adoption of the Roman liturgy at San Juan and other monasteries. The – admittedly later – *Chronicle of San Juan de la Peña* was very specific: the Roman rite began to be celebrated at San Juan on 22 March 1071 (between three and six o'clock).¹² Alexander's letter was dated 18 October 1071, which matches up well with the date in the *Chronicle of San Juan*: Alexander was responding to a letter which told him that San Juan had begun to celebrate the Roman liturgy.

The reference to Sancho 'subjecting himself to the apostolic dignity' can perhaps be compared with the early-twelfth century *Historia compostelana*'s description of pilgrims to Santiago (including the duke of Burgundy) as having 'subjugated themselves to the apostle'.¹³ Such language – subjecting oneself, subjugating oneself – seems to have been one way of expressing the spiritual relationship between a pilgrim and the object of their pilgrimage: Sancho to St Peter in Rome, the duke of Burgundy to St James in Compostela.

Other letters of the period 1068-1088 do not really suggest any bond between Rome and Aragon beyond that of pious king and pope. Gregory VII commended Sancho for his piety – he apparently burned with godly devotion and love towards the Roman Church – but there was little suggestion of any particular papal temporal authority;¹⁴ or, at least, there was little suggestion of papal temporal authority over Aragon distinct from papal authority over kings

¹² *The Chronicle of San Juan de la Peña: A Fourteenth-Century Official History of the Crown of Aragon*, (ed., tr.) L. Nelson (Philadelphia, 1991), p. 19. For the adoption of the Roman rite in Aragon see: Smith, 'Sancho Ramirez and the Roman Rite', pp. 95-106.

¹³ 'Qui beati Jacobi olim adierant et seipsos ipsi Apostolo subjugaverunt': *España Sagrada*, xx: *Historia compostelana*, (ed.) Henrique Flórez (51 vols, Madrid, 1747-1879), p. 289; Richard A. Fletcher, *Saint James' Catapault: The Life and Times of Diego Gelmírez of Santiago de Compostela* (Oxford, 1984), p. 202.

¹⁴ JL 4841, 4927.

generally.¹⁵ Carl Erdmann, however, held that when, in 1088, Sancho described himself as 'serving' St Peter on his 1068 pilgrimage to Rome, the king referred to military service. Thus, in Erdmann's mind, in 1068 Sancho had instituted a vassalic relationship with the Holy See by which he owed military service to the papacy.¹⁶ This is an over-interpretation of a single reference. Such service was spiritual service to God; not worldly service to the pope.¹⁷ Nikolas Jaspert, in his study of eleventh-century pilgrimages from Catalonia, provides many examples of pilgrims to the Holy Land, Rome or Compostela describing themselves as 'going in the service of God' or 'in the service of our lord Jesus Christ and St James the apostle' and so on.¹⁸

There is one important letter from Gregory VII to Aragon, although it was not sent to King Sancho. It was addressed to Bishop Garcia of Jaca and a record of it was preserved in the archive of the Cathedral of Jaca.¹⁹ The document is undated but is thought to have been composed either in 1077 or 1084-5.²⁰ In it, Gregory claimed that the king of Aragon had made himself and his kingdom tributaries to Saint Peter.²¹ The problem, as the great Aragonese

¹⁵ Gregory claimed grandiosely that 'from ancient times the Kingdom of Spain has belonged to the personal right of St Peter'. This does not seem to me to suggest anything other than the Christian heritage of the peninsula, although Alfonso VI of Castile apparently took this claim as a challenge: Bernard F. Reilly, *The Kingdom of León-Castilla under King Alfonso VI, 1065-1109* (Princeton, 1988), pp. 97, 102-6, 115.

¹⁶ R. Somerville, S. Kuttner, *Pope Urban II, the 'Collectio Britannica', and the Council of Melfi* (1089) (Oxford, 1996), pp. 97-9 = Kehr, 'Cómo y cuándo', no. 3, p. 319 = P. Ewald, 'Die Papstbriefe der Britischen Sammlung', *Neues Archiv* 5 (1880), 274-414, 505-96, at 359-60; Erdmann, *Origin of the Idea of Crusade*, pp. 216-24; Erdmann, *Entstehung des Kreuzzugsgedankens*, pp. 347-62.

¹⁷ Fried, *päpstlicher Schutz*, pp. 66-7.

¹⁸ Nikolas Jaspert, 'Eleventh-Century Pilgrimage from Catalonia to Jerusalem: New Sources on the Foundation of the First Crusade', *Crusades* 14 (2015), 1-49, at 9, 14-15, 17, 33-5, 37, 39-41, 43, 45.

¹⁹ JL 5098 (dated in JL to c.1078) = Ramon de Huesca, *Teatro Historico de las Iglesias del Reyno de Aragon*, v: *Estado Antiguo de la Santa Iglesia de Huesca* (9 vols, Pamplona, 1780-1807), pp. 405-8 = Kehr, 'Cómo y cuándo', no. 1, pp. 314-17.

²⁰ A. Durán Gudiol, *Ramiro I de Aragon* (Zaragoza, 1978), p. 118, referencing Kehr, 'Cómo y cuándo', p. 312.

²¹ Ipse [...] Christianissimus rex [...] beato Clavigero se et regnum suum primus in Ispaniam tributarium fecit.

historian Antonio Durán Gudiol succinctly remarked, is that ‘the entire content of the letter is a web of inexactitudes and historical errors’.²² The letter claimed to be in response to the petitions of Bishop Garcia and his father ‘King Ramiro of Aragon’. Ramiro had died in 1063 – a minimum of fourteen years before Gregory’s reply was sent: that was quite a long time to wait before responding to his petitions. The letter discussed the boundaries of the bishopric of Jaca: they did not seem to match what we know to have been the boundaries of the bishopric.²³ With such a litany of inaccuracies it is no surprise that Durán Gudiol simply suggested that the letter is a complete forgery.²⁴ On the other hand, Durán Gudiol is renowned for a slightly over-sceptical attitude to early Aragonese documentation.²⁵ Further, if it is a forgery then the forger was impressively talented: Paul Kehr pointed to the document’s accuracy in its use of formulae.²⁶ He was willing to believe that mention of Ramiro of Aragon was because of an erratic conflation of that king and his son, Sancho I. About the only thing which is clear is that the letter cannot be assumed to be factually correct without some serious reservations.

Even if the authenticity of the letter is accepted, it does not necessarily follow that the letter unequivocally tells us that the kingdom of Aragon had become a tributary to *Rome*. The reference to the king of Aragon – whichever king that was – making his *regnum* tributary – *tributarium* – to St Peter could refer to Sancho granting tribute to Rome, perhaps in 1068, but it is also possible that ‘making himself and his kingdom tributary to blessed Peter’ referred to the large donation which Sancho and his father made to the cathedral church of St

²² Durán Gudiol, *Ramiro I*, p. 119.

²³ Durán Gudiol, *Ramiro I*, p. 119.

²⁴ Durán Gudiol, *Ramiro I*, p. 119.

²⁵ Linehan, *History and the Historians*, p. 183, n. 46: ‘Durán Gudiol[‘s] [...] contributions to the study of early Aragonese history [are] matched by the firmness of his conviction that the limited amount of source-material available to its historian is almost entirely spurious’.

²⁶ Kehr, ‘Cómo y cuándo’, p. 292.

Peter in Jaca in 1063.²⁷ Another possibility is that such tribute referred to the census instituted in 1071 from the three royal monasteries of San Juan de la Peña, St Peter of Loarre and St Victorian.²⁸ There is considerable strength to those arguments, and so – even if the letter was a genuine missive of Gregory VII – it did not necessarily indicate any sort of formal payment or alliance with Rome in the 1070s or early 1080s. The privilege also went on to discuss the adoption of the Roman liturgy: ‘as if another Moses, he [Ramiro] received the Roman laws and customs, throwing out the superstition of Toledan illusion’.²⁹ We know, however, that it was Sancho, Ramiro’s son, rather than Ramiro who introduced the Roman rite to Aragon, thus again suggesting that when Ramiro was mentioned, Sancho was meant. The importance of the Roman rite in this letter confirms that this was the most significant recent issue in papal-Aragonese relations.

On the whole it seems unlikely that Sancho entered into a formal relationship with Rome while there in 1068. The purpose of his journey to Rome – beyond pilgrimage – was to arrange the adoption of the Roman rite in Aragonese churches. The authority of the popes was rarely mentioned in Sancho’s own grants.³⁰ We must also remember that, in the eleventh century, a clear and consistent formal relationship should not necessarily be expected: popes and kings were perhaps less concerned with ‘hard words or difficult doctrines’.³¹ Whatever bond existed between pope and king from 1068 to 1088 was based on pilgrimage, personal devotion and liturgy.

²⁷ Kehr, ‘Cómo y cuándo’, pp. 301, 315; Fried, *päpstlicher Schutz*, p. 67, n. 10.

²⁸ C. Bishko, ‘Fernando I and the Origins of the Leonese-Castilian Alliance with Cluny’ in *Studies in Medieval Spanish Frontier History* (London, 1980), no. 2, pp. 51-3.

²⁹ Kehr, ‘Cómo y cuándo’, no. 1, pp. 314-17.

³⁰ There was one grant of Sancho where he associated Gregory VII with him in the *intitulatio*: the king acted ‘with the authority of Gregory VII and the Roman Church and the Apostolic See’: *La Colección Diplomática de Sancho Ramírez*, (ed.) A. Canellas López (Zaragoza, 1993), pp. 47-8.

³¹ Richard Southern, *The Making of the Middle Ages*, re-print (London, 1967), p. 120.

1.2. The Eleventh Century: 1088-9, *Protectio* or *Dominium*?

From 1088 Aragon would definitely be bound to Rome as a tributary – literally: the kingdom started paying money to the pope. A letter of 1088/9 from Sancho to Pope Urban II, and Urban's reply of 1089 tell us this much. First, Sancho noted that he had travelled to Rome when he was 25 – referring to the 1068 pilgrimage – and, while there, he had 'handed himself and his kingdom into the power of God and [Saint Peter]'.³² Presumably this again referred to the adoption of the Roman liturgy. While this was a good start, according to the king, he worried that he had not completed the work owed to God. Therefore he had established an annual census – a render or payment – of 500 mancuses annually to Rome. Aragon was now a literal tributary of the Holy See. No further specifics were given and consequently it is not really possible to speculate further: it was merely stated that the king paid tribute.

Urban's reply to Sancho also neglected to define the new alliance in detail. The annual payment was mentioned and it was noted that Sancho had made 'his capital and all who are under his power tributaries to that Church'.³³ Other than the term 'tributaries' there was no other description of Aragon's standing with regard to the papacy. There was no explicit mention of *protectio* nor of papal lordship. It is worth noting that it was specifically stated in this correspondence that tribute had only just begun to be paid. This supports the

³² 'meque regnumque meum in Dei et eius [sancti Petri] potestate tradidi'. Somerville, Kuttner, *Urban II, 'Collectio Britannica', and the Council of Melfi*, pp. 97-9 = Kehr, 'Cómo y cuándo', no. 3, p. 319 = Ewald, 'Die Papstbriefe der Britischen Sammlung', pp. 359-60.

³³ 'ut caput ipsum tuum et omnes, qui sub tua dicione continentur, eidem ecclesie tributarios feceris'. Somerville, Kuttner, *Urban II, 'Collectio Britannica', and the Council of Melfi*, pp. 155-62; *Epistolae Pontificum Romanorum Ineditae*, (ed.) S. Löwenfeld (Leipzig, 1885), no. 130, p. 63 = Kehr, 'Cómo y cuándo', no. 4, pp. 320-21. The first section of this letter, dealing with the tribute, is the part of interest to us. The second section, beginning *de neptis tuae*, was the more famous section, being incorporated into Gratian's *Decretum*: J. Brundage, 'Force and Fear: A Marriage Case from Eleventh-Century Aragon' in *On the Social Origins of Medieval Institutions*, (eds.) T. Vann, D. Kagay (Leiden, 1998), pp. 11-20.

view that any reference to tribute before 1088 results from either error or later forgery.

Erdmann was sure that tribute was not paid by Aragon before 1088 but that Aragon had been a feudatory of the Holy See since 1068.³⁴ Such a view cannot be upheld. To begin with, it is terminologically problematic: *feudum*, *beneficium*, *feudatarius* – not only were such terms *not* used but, even if they had been, it would be risky to read fixed meanings into them. The following chapter will analyse the range of uses to which the homage ceremony – *hominium*, *homagium* – could be put, and it was not only an entry into vassalage. There was no indication, in the surviving documentation, that Aragon was in any kind of formal relationship with the papacy before 1088. Even once the king had started paying census to Rome from 1088, this does not necessarily prove that Aragon was under papal ‘lordship’, or suggest the existence of other rights or duties owed by the king to the pope.

During the twelfth century the strength of the relationship between the papacy and Aragon would fluctuate as kings and popes came and went. According to Johannes Fried, a consistent relationship nonetheless existed because Aragon was under papal *protectio*, in the manner of monastic protection grants, rather than temporal – proprietorial – lordship.

At the same time as the 1088/9 correspondence, Pope Urban II also placed several Aragonese monasteries under papal protection and freedom. These were Montearagon, St Pons of Thomières and San Juan – all received extensive royal patronage.³⁵ These grants are of note for three reasons: they were issued at the same time as Urban’s reply to Sancho; they describe the new relationship between king and pope; and there are similarities between the

³⁴ Erdmann, *Origin of the Idea of Crusade*, pp. 216-7; Kehr, ‘Cómo y cuándo’, pp. 304-5; Bishko, ‘Fernando and the Leonese-Castilian Alliance with Cluny’, pp. 51-3.

³⁵ JL 5398 (Montearagon) and 5400 (St Pons of Thomières); PUSp, ii, no. 7, pp. 269-72 (San Juan).

terms used to describe the papal-royal relationship and the terms used to signify that these monasteries were under papal protection.

Looking at the protection-grant to Montearagon it is immediately clear that, as Fried noted, this was not only a grant to Montearagon, but to the kingdom of Aragon too: it described the kingdom's relationship with Rome.³⁶ Since Montearagon was Sancho's personal foundation – the king built it in 1088-9 according to the *Chronicle of San Juan de la Peña* – it makes sense that the clauses about the kingdom's relationship with Rome should have been inserted into the new Montearagon privilege rather than into the other two privileges, which were for existing institutions that predated Sancho's reign (although both also received his patronage).³⁷ At first glance it seems that Fried's argument – that the kingdom was taken into the protection of St Peter – has a lot going for it: the terminology used to describe the monastery's protection is very similar to the language used to describe the kingdom's alliance with Rome.³⁸ Both were taken into the tutelage of Rome. Sancho had apparently especially asked that the monastery be 'received into the tutelage of the Roman Church'.³⁹ Pope Urban went on to say that Sancho himself, his sons, and his kingdom had also been 'received into the tutelage of the See Apostolic'.⁴⁰ The wording was almost identical; both kingdom and monastery were under papal tutelage.

The grant also outlined – separately from the traditional *sanctio* which ordered that the privilege as a whole should be observed – that both kingdom

³⁶ Fried, *päpstlicher Schutz*, pp. 77-8. Fried also raises the possibility that there was a separate protection privilege for the king issued in 1089 with identical wording to the monastery's privilege mutatis mutandis. This is certainly possible.

³⁷ *The Chronicle of San Juan de la Peña*, p. 20.

³⁸ JL 5398 = Ramon de Huesca, *Teatro Historico de las Iglesias del Reyno de Aragon*, vii: *Iglesia de Huesca*, pp. 458-62 = Fried, *päpstlicher Schutz*, pp. 327-9.

³⁹ Fried, *päpstlicher Schutz*, pp. 327-9: 'Ecclesiam vestram [...] in Romane Ecclesie tutelam specialiter suscipi postulavit, eius petitionibus iustis libenter annuimus'.

⁴⁰ Fried, *päpstlicher Schutz*, pp. 327-9: 'Regem [...] Sancium, eiusque filios, et omne eius Regnum, in tutela Sedis Apostolice [...] suscepimus'.

and monastery should be protected from attack. Again the terms used were almost identical. No person, either ecclesiastic or secular, should presume thoughtlessly to perturb the church, or to take from it, or to invade, or to torment it with any vexations.⁴¹ Equally, no-one living, or holding the Christian faith, should presume thoughtlessly to perturb, invade, or diminish the kingdom, nor should they dare to bring any trouble to King Sancho.⁴² The similarity in phraseology between these sanctions is obvious. Clearly the tutelage for both monastery and kingdom was of a type: the terminology, and the warning that they should not be assaulted, were almost identical for the two.

On the other hand, the privilege also claimed that future kings of Aragon should 'receive their kingdom from the hand of the pope'.⁴³ At first sight this appears to suggest that the pope was ultimately the owner of the kingdom of Aragon: he gave it to the king, and perhaps could give it to whomever he wanted. Fried, however, has argued against such an interpretation. He makes the rather involved suggestion that the pope was giving the *protected* kingdom – *regnum illud* – to the king, not the kingdom itself (which was the king's irrespective of the pope) and so this sentence essentially means only that future kings should renew their papal protection 'from the pope's hand'.⁴⁴ A much simpler explanation is that the pope's 'giving' of the kingdom to the king was to be understood in the same way that God might have 'given' the kingdom to the king. The kings of Aragon were not directly appointed or chosen by the pope: a

⁴¹ Fried, *päpstlicher Schutz*, pp. 327-9: 'Sancimus [...] ut nulla secularis, aut ecclesiastica persona, eandem Ecclesiam temere perturbare [...] ab ea alienare, aut invadere, aut ullis vexationibus fatigare presumat'.

⁴² Fried, *päpstlicher Schutz*, pp. 327-9: 'Nullus [...] viventium, ac fidem christianam tenentium, regnum illud, temere perturbare, invadere, aut diminuere [...] presumat; nec molestiam ullam Sancio regi [...] inferre audeat'.

⁴³ Fried, *päpstlicher Schutz*, pp. 327-9: 'Constituimus ergo [...] ut omnes eius successores, Regnum illud, de manu nostra, nostrorumue successorum accipient'.

⁴⁴ Fried, *päpstlicher Schutz*, pp. 81-2.

new king did not have to wait for papal permission before he called himself king. But, ultimately, all worldly power – all royal power – came from God, and hence from his vicar. This interpretation suggests that all kings should have received their kingdoms from the pope, and the popes did not see themselves as having a special authority – distinct from their authority over other kings – to ‘give’ Aragon to its kings.

So this terminology could imply special political subjection but did not necessarily do so. The clear similarities between papal protection grants for monasteries and the terminology used to describe the kingdom should make us see the Aragonese-papal alliance as analogous to *protectio*, especially when such similarities increased in the twelfth century, as we shall see below. Nonetheless, the terminology had not yet developed enough to distinguish unequivocally between *protectio* and some kind of actual ownership of the kingdom: the protection grant for Montearagon described Aragon in ways similar to a protected monastery but also claimed that kings should receive their kingdom from the pope’s hand. The claim that the Aragonese kings should accept their kingdom from the pope implied papal ownership – albeit of a rather meaningless kind, of a kind applicable to all terrestrial rulers. Over the course of the twelfth century the language became more clearly that of *protectio*.

1.3. The Eleventh Century: King Peter I and Rome

Following the death of Sancho I in 1094 he was succeeded by his son Peter I. Sancho’s decision to name his son Peter again reflects his devotion to the prince of the Apostles and the place and see primarily associated with St Peter: Rome.

Of particular interest from the reign of Peter I is a privilege from Pope Urban II, dated to 1095, and known from a reissue by Innocent III for King Peter II in 1213. It was probably sent as a response to a letter from Peter I to Urban

which is discussed below.⁴⁵ The privilege granted the kings of Aragon immunity from excommunication except by the pope or a legate with a special mandate (as opposed to any run-of-the-mill bishop or archbishop).⁴⁶ Such a privilege was very similar to those given to monasteries which had some exemption from episcopal authority: Montearagon in 1089 is one example. The privilege also repeated the familiar formula that Aragon and its king were under the tutelage of the Apostolic See.⁴⁷ The similarity to protection and exemption granted to monasteries by the papacy was reinforced by the content of the privilege. The right not to be excommunicated by anyone except the pope was comparable to similar grants to monasteries. Montearagon was exempted from excommunication or interdict by mere bishops in 1089 and again in 1098, and such grants were not uncommon for monastic institutions more generally.⁴⁸ The phrasing of the privilege was standarized: 'it is forbidden to any bishop, archbishop or legate of the Roman church to pass a sentence of interdict or excommunication against you or your wife, without our certain permission'. This was then followed by an *ad indicium* clause which stated that 'for the recognition of this [...] liberty from the Roman Church you shall pay every year

⁴⁵ This 1095 letter from Peter I to Urban II complaining about the bishop of Jaca ended 'you should grant such a privilege to us that the monastery of St John and our chapels especially handed to your rule should be fortified by such virtue', meaning that they should be free from the power of the bishop: P. Kehr, *Das Papsttum und die Königreiche Navarra und Aragon bis zur Mitte des XII Jahrhunderts* (Berlin, 1928), no. 1, pp. 55-7 = *Liber Feudorum Maior: Cartulario real que se conserva en el archivo de la Corona de Aragón*, (ed.) F. Miquel Rosell (2 vols, Barcelona, 1945-7), i, no. 4, pp. 6-7 = *Colección diplomática de Pedro I de Aragón y Navarra*, (ed.) A. Ubieto Arteta (Zaragoza, 1951), no. 21, pp. 235-8.

⁴⁶ *Innocentius III Regestorum Sive Epistolarum [1209-1213]* in PL 216, no. 87, cols 888-9.

⁴⁷ Te enim tanquam regem [...] et omne tuum regnum in tutelam sedis Apostolice [...] suscipimus. Later: Tuam [...] personam in beati Petri et nostrae manus tutelam [...] suscipimus.

⁴⁸ Fried, *päpstlicher Schutz*, no. 1, pp. 327-8; PUSp, ii, no. 13, pp. 282-5.

500 mancuses to the Lateran palace'.⁴⁹ The 1098 privilege granted to Montearagon was phrased identically.⁵⁰

The explicit mention of the census – the 500 mancuses annually established by Sancho I in 1088 – shows that this privilege was part of the existing relationship between Aragon and the Holy See. The similarity between the privilege for King Peter and similar privileges for exempt monasteries suggests that the relationship between Aragon and Rome was conceived of as akin to monastic protection. Indeed one could even say that, unlike other kingdoms which were under papal *protectio* in the twelfth century, Aragon had even greater rights: it was partially exempt from episcopal sanctions.

Monasteries, or other ecclesiastical institutions which had rights of exemption were – to varying degrees – exempt from episcopal control.⁵¹ The grants to Montearagon and to Peter I do not exempt them from all episcopal authority, just excommunication and interdiction by the local bishop. Nonetheless the additional privileges for Aragon, akin to those given to exempt monasteries, do suggest that Aragon was the equivalent of a protected monastery and even possessed additional privileges of exemption.

The use of *ad indicium libertatis* in the above letter is interesting. From the pontificate of Alexander III (1159-1181) *ad indicium libertatis* in papal privileges was supposed to denote exempt monasteries whereas *ad indicium protectionis* was supposed to be used for monasteries which were protected but not exempt

⁴⁹ PL 216, no. 87, cols 888-9. ‘nulli episcoporum, nulli archiepiscoporum, nulli sanctae Romanae Ecclesiae legato liceat sine certo praecepto nostro adversum te vel tuam coniugem excommunicationis aut interdictionis proferre sententiam [...]. Sane ad indicium hujus perceptae a Romana Ecclesia libertatis quingentos Iaccensis monetae mancosus aureos per annos singulos Lateranensi palatio, ut superius dictum est, persolvetus’.

⁵⁰ PUSp, ii, no. 13, pp. 284-5. ‘Porro nulli episcopo liceat eiusdem ecclesie fratres [...] excommunicare aut divinum eis officium interdicere [...] Sane ad indicium huius percepte a Romana Ecclesia libertatis unam auri unciam per annos singulos Lateranensi palatio persolvetus’.

⁵¹ P. Rabikauskas, *Diplomatica Pontificia*, 6th edn (Rome, 1998), pp. 49-51.

from diocesan jurisdiction.⁵² When the privilege for the Aragonese king was first issued in 1095 the distinction had not been established. But when this grant was re-issued, word for word, by Innocent III in 1213, the distinction between *libertas* and *protectio* in this clause had been expressed. Again this suggests that Aragon was not merely a ‘protected’ kingdom but one partially exempt from episcopal sanction, in the same manner as an exempt monastery. The word *libertas* did not appear in the 1179 privilege *Manifestis probatum* for the kingdom of Portugal,⁵³ nor did the Portuguese kings have any immunity from excommunications promulgated by bishops. Portugal was under papal protection but Aragon seems to have had some rights of exemption.

It seems then that in 1095 Aragon was growing closer and closer to the idea of protection and indeed exemption. Even in this privilege, however, it was restated that the kings of Aragon should ‘receive that kingdom from our hand or of our successors’.⁵⁴ Despite the suggestion from this privilege that Aragon was a protected, or exempt, kingdom, there was still a degree of ambiguity. ‘Accepting the kingdom from the pope’s hand’ might be interpreted as signifying papal ownership of the kingdom, or that the pope and his successors reserved the right to approve or disapprove of succeeding kings.

We can turn now to the other side of the correspondence: two letters by Peter I to Urban. Unsurprisingly both letters appear to have been written when Peter wanted something from the papacy. The first is written in 1095 when, in Peter’s words, ‘the bishops of my region have risen against me, especially the

⁵² Rabikauskas, *Diplomatica Pontificia*, pp. 49–51; G. Schreiber, *Kurie und Kloster im 12. Jahrhundert* (2 vols, Stuttgart, 1910), i, p. 44; David Knowles, ‘Essays in Monastic History, iv: The Growth of Exemption’, *The Downside Review* 31 (1932), 201–231, 396–425, at 207–8.

⁵³ Alexander III *Epistolae Et Privilegia* [1159–1181] in PL 200, no. 1424, cols 1237–8. On Portugal, see Benedict G. E. Wiedemann, ‘The Kingdom of Portugal, Homage and Papal “Fiefdom” in the Second Half of the Twelfth Century’, *Journal of Medieval History* 41 (2015), 432–45.

⁵⁴ PL 216, no. 87, cols 888–9: ‘Constituimus [...] ut omnes tui successores regnum illud de manu nostra nostrorumve successorum accipiant’.

bishop of Jaca': Peter was seeking papal aid against his unruly clergy.⁵⁵ Peter's right to ignore excommunications promulgated by mere bishops was probably sent to him in response to this complaint. The letter began with Peter holding forth on his loyalty and reverence for Urban. He was a 'faithful servant and friend' and 'under the leadership (*dominatui* – lit. 'lordship') of the Roman pontiff'.⁵⁶ Sancho, Peter's father, had also been under the pope's protection, the king reminded Urban.⁵⁷ The terminology here is again open to interpretation. To be under the lordship of Rome could suggest real ownership, overlordship: that the pope was the superior of the king and merely allowed the king to rule at his sufferance. It might, however, simply mean 'leadership', recognizing the pope as head of the body of Christians.⁵⁸

The second letter of Peter was less ambiguous. In 1099 Peter told Urban that his father had been 'devoted towards you and the apostolic see' and that 'he paid annually a census of 500 mancuses because he placed his kingdom under the protection of blessed Peter'.⁵⁹ The intent of the letter was to get papal approval for the new boundaries of the bishopric of Roda. In order to get what he wanted, Peter paid 1,000 mancuses – the census for two years – to Urban. We can reasonably assume from this that the census was not normally being paid so regularly – it was sent to Rome when the Aragonese king wanted a privilege or a favour.

⁵⁵ Kehr, *Navarra und Aragon*, no. 1, pp. 55-7 = *Liber Feudorum Maior*, i, no. 4, pp. 6-7 = *Colección diplomática de Pedro*, no. 21, pp. 235-8.

⁵⁶ Me [...] vestrum fidelem servum et amicum [...] me ipsum dominatui vestro subdidi.

⁵⁷ An oddity of this letter is that Peter believed that it was to Gregory VII rather than to Urban II that the tribute (500 mancuses) was first made. There is little reason to believe that this was anything other than an honest mistake.

⁵⁸ Cf. R. W. Southern, *Western Society and the Church in the Middle Ages*, re-print (London, 1990), p. 111: 'Leadership meant lordship'. The reverse is also true.

⁵⁹ Kehr, *Navarra und Aragon*, no. 2, pp. 57-8. 'Sancius rex [...] devotus semper erga vestram et apostolicam sedem existens annuatim quingentos manchones pro censu vobis persolvebat, eo quod omne Regnum suum sub protectione beati Petri posuerat'.

This second letter emphasized protection: Sancho had established a census in 1088 in return for Petrine protection. The language of the first letter, however, was less clear, and the privilege sent to Peter by Urban continued to claim that the king's successors should receive their kingdom 'from the pope's hand'. The relationship between Rome and Aragon had not yet come to be solely about protection; there were still suggestions of papal ownership, in the vague and general sense explored above.

1.4. The Twelfth Century: The Will and Succession to Alfonso I *el Batallador*

Over the course of the twelfth century the relationship between Rome and Aragon became more clearly and consistently about *protectio* than previously. A comparison between protection grants to ecclesiastical institutions, and the same privileges for the kings, queens and rulers of Aragon bears this out. It is also important to look at the practical nature of the papal-Aragonese relationship: it was always the case that the relationship only really existed when the ruler, or someone else in Aragon, wanted something from the pope. The events following King Alfonso I's death – and the resulting succession of Count Raymond Berengar – illustrate this dynamic nicely. The papal-Aragonese relationship was reactive on the papal side, it required impetus from the Aragonese, and, if it was not initiated by Aragon, it was of no import.

Following King Peter I's death in 1104 he was succeeded by his brother Alfonso I. Alfonso did not, apparently, see much benefit in buttering-up the pope: there are no letters from Alfonso declaring himself 'most devoted to the Holy See' and there are no surviving letters to Alfonso describing him as the 'most Christian king' (although Paschal II called Alfonso's father, Sancho, a

'most Christian king' in a 1114 letter to Alfonso).⁶⁰ But if there is little of interest to us from Alfonso's life, there is considerable interest from his death. Alfonso, childless like his brother Peter I, left his kingdom equally to the Knights Templar, Knights Hospitaller, and the canons of the Holy Sepulchre in Jerusalem in his will of 1131.⁶¹ The will made no reference to any papal rights in determining the succession – Alfonso certainly did not claim that the new owners of Aragon should 'receive that kingdom from the hands of the pope'.

Why should Alfonso have made such a peculiar will? Scholars have been confounded. One theory suggests that, although the papacy was not mentioned in the will, it was the elephant in the room: without the papacy the strange bequest would not have been attempted. Elena Lourie believed that Alfonso – childless – feared that Alfonso VII of Castile-León would take control of Aragon-Navarre upon Alfonso I's death. Alfonso VII was Alfonso I's stepson: his mother, Urraca, had married Alfonso I after the death of her first husband, Raymond of Burgundy. This latter marriage had been childless. Alfonso VII was also legitimately descended from King Sancho the Great of Navarre from whom the Aragonese dynasty traced their legitimacy. Lourie argued that Alfonso I and his magnates feared a Castilian-Leonese succession to Aragon and so they thought up the will of 1131.

The purpose of the will, according to this reading, was not really to allow the three orders to take possession of Aragon – that was utterly unacceptable to all and presumably beyond the bounds of possibility – but to enlist papal support in opposition to any claim of Alfonso VII. The pope would, the theory goes, back up the claims of the Orders – since they were amongst the most beloved sons of the Church – and so would frustrate any counter-claim of Alfonso VII. The resulting political conflict, according to Lourie, would give

⁶⁰ PUSp, ii, no. 27, p. 311-14.

⁶¹ *Liber Feudorum Maior*, i, no. 6, pp. 10-12.

Alfonso I's youngest brother, Ramiro, the breathing space to consolidate his own succession to the kingdom of Aragon and then present both Castile and the papacy with a *fait accompli*. Why, in this rather involved theory, did Alfonso I not just name his brother Ramiro as his heir to start with? Because – so the argument continues – Ramiro had been presented to the monastery of St Pons of Thomières when young and had been prior of St Peter of Viejo, bishop-elect of Pamplona, and bishop-elect of Roda. Alfonso I could not openly name a clergyman as his heir without severe canonical disapproval. Therefore the will was composed in such a way as to play the papacy against the kingdom of Castile. Ramiro could then slip over the finish-line while the others bickered.⁶²

This argument has not won general assent, nor is it entirely convincing.⁶³ It does contribute something to explaining the peculiarity of Alfonso I's will, however. There is merit in Lourie's account, but a great deal has to be stripped away. Underlying the theory is the premise that the eleventh-century claims that Aragonese kings should 'accept the kingdom from the hands of the pope' had some real importance in 1131: Lourie suggested that because Aragon was a 'fief of St Peter and had been since 1068' Rome could claim authority to act as adjudicator in a disputed succession.⁶⁴ The problem is that, as we have seen, Aragon was not a 'fief' at all (and certainly had not been since 1068). The papacy had played no role of importance in Aragon during Alfonso I's reign which must have lessened any possible authority the pope could have exercised in a succession dispute. So the 'fief of St Peter' idea is one of the elements of Lourie's argument that we need to discard.

⁶² E. Lourie, 'The Will of Alfonso I, "El Batallador", King of Aragon and Navarre: A Reassessment', *Speculum* 50 (1975), 635-651.

⁶³ A. Forey, 'The Will of Alfonso I of Aragon and Navarre', *The Durham University Journal* 73 (1980), 59-65; E. Lourie, 'The Will of Alfonso I of Aragon and Navarre: A Reply to Dr Forey', *The Durham University Journal* 77 (1985), 165-173, which includes a further rejoinder by Forey (p. 173); C. Stalls, *Possessing the Land: Aragon's Expansion into Islam's Ebro Frontier under Alfonso the Battler, 1104-1134* (Leiden, 1995), pp. 273-4 finds more in Forey's objections than Lourie's thesis.

⁶⁴ Lourie, "'El Batallador'", p. 645.

Whatever the truth of Alfonso's aims, the situation when the king died in 1134 played out very much as Lourie thought Alfonso I intended. Ramiro was able to establish himself as king of Aragon, Pope Innocent II dispatched a missive supporting the claims of the three Orders, and Alfonso VII was apparently stymied.⁶⁵ The people of Navarre – ruled by the king of Aragon since the eleventh century – had obviously not read Lourie's script, though. They took the opportunity to break from Aragon and establish their own king: Garcia 'the restorer'. So ended the union of the crowns of Aragon and Navarre. Ramiro, now Ramiro II of Aragon, was hastily married to the daughter of the duke of Aquitaine and they produced a daughter, Petronilla, who was then betrothed – she was far too young actually to be married – to Raymond Berengar IV, count of Barcelona. Thus was the new union of the crowns of Aragon and Barcelona effected. Ramiro II resigned the governance of the kingdom to his new son-in-law, Raymond Berengar, in 1137. Ramiro and Raymond were able to come to arrangements with the three Orders and Raymond's rule in Aragon was secure. What role, then, did the papacy play in the succession contest?

Lourie's theory that Alfonso I expected the papacy to aid the three Orders against Alfonso VII did not take into account that it was down to others to activate papal involvement. So, in order to see what the papacy did and why, we must examine how the military Orders and Count Raymond Berengar instrumentalized the papacy.

We begin with the letter, dispatched c.1135-6, from Pope Innocent II to King Alfonso VII and 'all the princes of Spain'. The text of our copy is badly damaged but it is fairly short and sweet. The letter began by reminding its readers that they should already have heard of the Templars, who were

⁶⁵ On the events immediately following Alfonso I's death see Alan John Forey, *The Templars in the 'Corona de Aragón'* (Oxford, 1973), pp. 17-24.

essential to the freedom of the Eastern Church and of pilgrims who assiduously visited the sepulchre of the lord. Then ‘we gather that King Alfonso of Aragon left the third part of his kingdom to the Knighthood of the Temple and he made his magnates affirm this by oath. Therefore we order you all and instruct you – as you hope for remission of sins – that you should unanimously offer counsel and aid to the acquiring and retention of this, which the aforesaid king conferred on them’.⁶⁶

There is no reference in the letter to the other two-thirds of Aragon, granted to the Hospitallers and the canons of the Holy Sepulchre. This is surely because what we have here is a mandate requested by the Templars to try and gain them support in Aragon. While some have seen this letter as part of a papal policy to support the knightly Orders, that would not explain why only one of three grants was mentioned: why not remind Alfonso VII of the two-thirds owed to the Hospital and the Sepulchre?

I would suggest that it was the Templars who requested this mandate and they were concerned about their third, not the rest. The legation of Cardinal Guido to the peninsula, sometimes thought to be to settle the question of the Aragonese succession, was nothing to the kind. He had been invited to Iberia by Alfonso VII to settle ecclesiastical disputes.⁶⁷ It is possible that when he was there the Templars or others made use of him, but any intervention which the papal court took in the succession was dictated by the appeals it received: apparently the Templars asked for a letter to be sent, but the other two Orders did not, or at least their letters have not survived.

In 1137 Petronilla, the baby daughter of Ramiro II, was betrothed to Raymond Berengar and the rule of Aragon was surrendered to him. In the

⁶⁶ PUSp, i, no. 50, p. 318. The fact our text of this letter survives from a Catalan/Aragonese source should be noted.

⁶⁷ *Historia compostelana*, pp. 570-71; Forey, *Templars*, pp. 18-19, esp. n. 20.

documentation regarding the marriage of Raymond and Petronilla, and the surrender of the government to Raymond, there is no indication that papal approval was required or sought.⁶⁸ Rome had rarely been mentioned in Ramiro II's grants.⁶⁹

Once Raymond had taken over Aragon, he sought to come to an agreement with the three Orders about their claims to Aragon. Agreement was reached with the Hospitallers and the canons of the Holy Sepulchre in 1140 and confirmed in 1141.⁷⁰ We do not have a definite date for when agreement was reached with the Templars but a major gift from Raymond to the Templars in 1143 probably represents Raymond's side of the bargain: giving Robert de Craon, the Master of the Templars, Monzón and several other *castra* as well as a significant annual payment.⁷¹ The Templars presumably gave up their claim to one-third of Aragon in return. The grant to the Templars made no mention of the papacy or any papal rights despite the presence of Cardinal-legate Guido when the agreement was made.⁷² Clearly any role Guido had was unofficial, and he was not an arbiter or representative of an interfering overlord. These three agreements with the Templars, Hospitallers and canons seem to have

⁶⁸ *Liber Feudorum Maior*, i, nos. 7-9, pp. 12-14. Interestingly the chronicler Robert of Torigny did believe that Ramiro II had received a papal dispensation to leave his monastery – 'Remelium [...] licentia Romani pontificis a monasterio abstractum regem fecerunt' – however, Robert was clearly writing from a later perspective (the account is included under the year 1159), MGH SS vi, *Roberti de Monte chronica*, (eds) L. C. Bethmann, G. H. Pertz (Hanover, 1844), p. 509.

⁶⁹ See, for example: *Documentos de Ramiro II de Aragón*, (ed.) A. Ubieto Arteta (Zaragoza, 1988), nos. 23, 36, pp. 34-6, 49.

⁷⁰ *Liber Feudorum Maior*, i, nos. 10-12, pp. 15-19.

⁷¹ For a modern critical edition of the various originals and confirmations of this grant, see *Els Pergamins de l'Arxiu Comtal de Barcelona de Ramon Berenguer II a Ramon Berenguer IV*, (eds) I. J. Baiges, G. Feliu, J. M. Salrach et al (4 vols, Barcelona, 2010), iii, no. 822, pp. 1334-9. The editors were aware that there was an August 1172 confirmation of this charter (MS D) but were not able to find it. Either MS D or a contemporary copy (equivalent to MS E) is now in the British Library: Add. Ch. 16512. The translation in *The Templars: Selected Sources*, (eds) M. Barber, K. Bate (Manchester, 2002), pp. 95-7 is based on the edited copy in *Cartulaire Général de l'Ordre du Temple*, (ed.) A. D'Albon (Paris, 1913), no. 314, pp. 204-5 which contains a number of errors. On the 1143 agreement in general see Forey, *Templars*, pp. 22-4.

⁷² Forey, *Templars*, pp. 18-19; Bernard F. Reilly, *The Kingdom of León-Castilla Under King Alfonso VII, 1126-1157* (Philadelphia, 1998), pp. 81-2.

been negotiated without reference to the papacy by either side. The canons of the Holy Sepulchre were operating with the approval of the patriarch of Jerusalem.⁷³ The Hospitallers had also requested the counsel of the patriarch before acting.⁷⁴ None the groups makes any reference to papal approval being needed or even desired.

If negotiations between the Templars and Raymond were ongoing between 1137 (when Raymond took power in Aragon) and 1143 (when agreement was reached) then a new light is thrown on a very well-known papal grant: *Omne datum optimum*, issued in 1139. This bull is one of three which contributed to the Templars' famed religious and financial clout. While there were doubtless many reasons why the bull was issued we should not ignore that it was issued after Aragon had been left to the orders but before any settlement was reached with Raymond, the new ruler of Aragon. The bull ordered that

all possessions and goods, which it [the Order of Templars] is known to hold legitimately at present and which may be obtained in the future by grant of bishops, *by generosity of kings or princes* [...] will be under the protection and tutelage of the Holy See for all time to come.⁷⁵

The formula 'by generosity of kings of princes' is a common one, but when this bull was issued those possessions and goods nominally included one-third of the kingdom of Aragon. Perhaps the Templars wanted this phrase in the privilege in order to place pressure on Raymond Berengar in their negotiations.

This then is the situation: in the period after the death of Alfonso, the papacy issued letters which supported the Templars' claims in Aragon and apparently not the claim of the other two Orders. This imbalance in papal

⁷³ *Liber Feudorum Maior*, i, nos. 10-11, pp. 15-17.

⁷⁴ *Liber Feudorum Maior*, i, no. 12, pp. 17-19.

⁷⁵ Barber, Bate, *The Templars*, pp. 60-61. Emphasis is my own.

support is surely because the Templars chose to instrumentalize papal authority to help them squeeze concessions out of Raymond. Ramiro II and Raymond, and the canons of the Sepulchre and the Hospitallers, apparently did not attempt to involve the papacy in the succession question and certainly saw no *need* to defer to Rome. Therefore, irrespective of whether the papacy was protector or owner of Aragon, the papal court only became involved in Aragonese affairs when someone wanted their involvement, in this case the Knights Templar. The papacy did not simply back the claims of the Orders to the kingdom, but was willing to support them when asked. Lourie did not take this – the *modus operandi* of the papacy – into account.

1.5. The Twelfth Century: Legitimizing Raymond Berengar's Succession

This dynamic continues to be visible from the ways in which Count Raymond legitimized his succession. Papal intervention in the governance of Aragon continued to be reactive. In 1158, Pope Adrian IV dispatched a confirmation to Raymond of his rights over Aragon. By virtue of the office given to the pope by God 'we should be debtors to all the faithful, but it behoves us especially to serve in their rights – and admit their just requests – those who, famous in power and nobility, are faithful to the Holy Roman Church and fervent in its service and devotion'.⁷⁶ Since Raymond was one of these, and 'according to the urging of your petition', 'we confirm all the land [of Alfonso I and then of the three Orders] to you, as much as to your heirs'. The rights of the Orders were dealt with: 'the brothers of the Sepulchre (with the consent of the patriarch) and of the Temple and of the Hospital are known to have conceded that land to you'. This letter was sent fifteen years after Raymond had concluded the 1141 and 1143 pacts with the Orders and the

⁷⁶ PUSp, i, no. 81, pp. 364-5.

canons. Are we to think that this letter was the delayed – very delayed – approval for Raymond's rule?

Classically, papal attitudes towards the Iberian kingdoms in the twelfth century have been summed up as a switch from supporting Castilian hegemony to encouraging a plurality of equal kingdoms: by 1150 the only person on the peninsula whom the popes were willing to address as 'king' was the ruler of Castile-León (self-proclaimed Emperor of all Spain). All other kings – Navarre, Portugal and so on – were addressed in other ways. From c.1157 onwards, however, the popes started to address these rulers with royal titles.⁷⁷ Damian Smith identified Adrian IV's confirmation of Raymond's rights in Aragon in 1158 as 'the first step' in this move, since it regularized 'the existence of what later came to be known as the Crown of Aragon'. Supposedly this move took place in 1158 because in 1157 Alfonso VII of Castile-León had died, ushering in the end of Castilian imperial dominance.⁷⁸ Essentially: before 1157 the papacy refused unequivocally to condone Raymond's succession, and after 1157 the pope was willing to do so.

⁷⁷ Damian J. Smith, 'The Papacy, the Spanish Kingdoms and Las Navas de Tolosa', *Anuario de Historia de la Iglesia* 20 (2011), 157-178, at 159; idem, 'Alexander III and Spain' in *Pope Alexander III (1159-81): The Art of Survival*, (eds) Anne J. Duggan, Peter D. Clarke (Farnham, 2012), pp. 203-43, at 207-8; Demetrio Mansilla, 'Inocencio III y los reinos hispanos', *Anthologica Annua* 2 (1954), 9-49, at 41 for Innocent III and King Peter II of Aragon; Jonathan Wilson, 'Enigma of the *De Expugnatione Lyxbonensi*', *Journal of Medieval Iberian Studies* 9 (2017), 99-129, at 124. Smith has recently nuanced this interpretation slightly: the popes were not acting in favour of the kings of Castile, but simply refused to use royal titles which they had not granted themselves, 'The Men Who Would be Kings: Innocent II and Spain' in *Pope Innocent II (1130-43): The World vs the City*, (eds) Damian J. Smith, John Doran (Abingdon, 2016), pp. 181-204, at 193-7.

⁷⁸ Smith, 'The Papacy, the Spanish Kingdoms and Las Navas de Tolosa', p. 159; idem, 'Alexander III and Spain', pp. 207-8: 'From 1134, when Alfonso I of Aragon died [...] until 1157, which saw the death of Alfonso VII of León-Castile, who had been the dominant force in the peninsula in the intervening period, the royal authority of the self-styled emperor of all the Spains was the only such authority recognized by the Apostolic see'. 'The papacy [...] had never recognized the rule of Ramiro II [...] though, under [...] Adrian IV, it accepted [...] the union of the kingdom of Aragon and the confederation of Catalan counties under [...] Ramon Berenguer IV'.

This interpretation, while not without many advantages, perhaps reverses the true emphasis. It implies that, although the three Orders had come to an arrangement with Raymond by 1143, it was the papacy which was actively holding out against these agreements.⁷⁹ While it is true that between 1143 and 1158 there was no extant, explicit papal letter of approval for the new succession, that is not actually surprising: why should we expect explicit papal approval? There would be no reason to expect to see a letter from a pope condoning Raymond's succession unless someone had petitioned for one.

It was not the case that the papacy *refused* to condone Raymond's succession until after 1157 but that until 1156-7 recognition by Alfonso VII, king of Castile-León, 'emperor of all Spain' was what was needed, *not papal recognition*. In the 1140s Raymond had bought off the claims of the three Orders. He had strong diplomatic relations with Emperor Alfonso VII who recognized his rule in Aragon.⁸⁰ Alfonso VII's son and heir – Sancho – was Raymond's nephew even: the count was secure where it mattered. He did not need papal approval. Considering the cost of getting papal approval Raymond would be unlikely to ask the pope to confirm his title unless he actually needed it: Afonso I of Portugal paid 1,000 aurei to the pope in 1179 to get confirmation of his royal title, as well as promising to pay two marks of gold annually plus any other unrecorded gifts or fees his emissaries had to pay and the costs of travel to the curia.⁸¹ In 1215 it cost the bishop of Maguelone at least 5,619 (and perhaps as much as 6,600) Melgorian pounds to get the pope to grant him the county of Maugio – comprising gifts to various papal officials, travel expenses and

⁷⁹ Explicitly part of Smith's reconstruction of events: 'Rome co-operated with the count in crusade and reform but it had not given "de iure" recognition to the manner of the union': 'The Abbot-Crusader: Nicholas Breakspear in Catalonia' in *Adrian IV, the English Pope (1154-1159): Studies and Texts*, (eds) B. Bolton, A. Duggan (Aldershot, 2003), pp. 29-39, at 37.

⁸⁰ E. Pascua, 'Peace among Equals: War and Treaties in Twelfth Century Europe' in *War and Peace in Ancient and Medieval History*, (eds) P. De Souza, J. France (Cambridge, 2008), pp. 193-210.

⁸¹ Wiedemann, 'Kingdom of Portugal', pp. 434, 436.

interest on loans – plus an annual payment of twenty marks sterling.⁸² If Raymond had sought papal confirmation then the papal court might also have expected the arrears of the census established by Sancho I to be paid, as in 1212 they expected King Afonso II of Portugal to pay his census arrears when he received confirmation of the royal title granted to his grandfather in 1179.⁸³ If papal approval was not needed then getting it was clearly an unnecessary expense.

Unfortunately for Raymond, by the mid-1150s ‘there was no denying the count of Barcelona’s independence [from Castile], no disguising the fact of *Hispania*’s political fragmentation’.⁸⁴ Alfonso VII of Castile-León was dead. Raymond’s eldest son and heir, Peter, had died in the same year, 1157. Upon Alfonso’s death, Castile and León had separated. On top of that, the 1150s had seen the arrival of the Almohads and the rolling back of some of the conquests of the 1140s – Almeria had fallen in 1157. The kings of England and France were said to be considering an Iberian crusade in response.⁸⁵ Quite apart from the practical problems facing Raymond, the end of Castilian hegemony meant that the legitimacy he had gained from Castilian recognition was worthless. Now – and only now – was it worthwhile to buttress his legitimacy with explicit papal approval.

Thus Adrian’s 1158 confirmation of Raymond’s rights – probably obtained at heavy expense – was not a belated admission by a recalcitrant and

⁸² *Bullaire de l’Église de Maguelone*, i: 1030-1216, (eds) J. Rouquette, A. Villemagne (2 vols, Montpellier, 1911-14), p. 374.

⁸³ *Bulário Português: Inocêncio III (1198-1216)*, (eds) Avelino Jesus da Costa, Maria Alegria F. Marques (Coimbra, 1989), nos 176, 179, pp. 325-7, 328. Coincidentally, Afonso II’s other grandfather (his mother’s father) was Raymond Berengar himself.

⁸⁴ Linehan, *History and the Historians*, pp. 270-71.

⁸⁵ Damian Smith has also pointed to all of these elements as lying behind the 1158 confirmation: ‘The Abbot-Crusader’, pp. 38-9. See also Linehan, *History and the Historians*, pp. 278-9; Anne J. Duggan, ‘The Making of a Myth: Giraldus Cambrensis, *Laudabiliter*, and Henry II’s Lordship of Ireland’, *Studies in Medieval and Renaissance History* 3rd Ser. 4 (2007), 107-70, at 137-40.

reluctant papacy, but simply a response to Raymond's sudden fears for his position: the letter explicitly states that it was issued in response to Raymond's petition. During the years of the succession dispute, again we can see that the papacy only involved itself when it was petitioned. The Templars had wanted papal support for their claims in the 1130s and Raymond wanted papal approval in the 1150s, but in the intervening time there had been no need to go to the papal court. Hence, there is no evidence of papal approval for the succession of Raymond in the 1140s. There can be no approval until it was requested, and it was not requested.⁸⁶

This interpretation – that irrespective of whether Aragon was under papal lordship or protection in the middle of the twelfth century, papal intervention was nonetheless responsive – is further illustrated by Raymond's will. In his final testament Raymond carefully outlined how his land was to be divided, how the future succession to the lands would occur if any of his sons died childless, and the general legal position of his lands with relation to each other.⁸⁷ However, despite the careful specificity of these conditions there was absolutely no mention of the papacy in the will at all. The best reason for bringing the papacy into a royal will was to allow the heirs to appeal to the pope for ecclesiastical censures against anyone who infringed the will. But the papacy would be no help now: in 1159 two popes had been elected. Had

⁸⁶ Raymond had positive relations with Anastasius IV and Adrian IV before 1158: PUSp, i, no. 70, pp. 346-7; Peter Linehan, *Spain 1157-1300: A Portable Inheritance* (Oxford, 2008), p. 15; P. Kehr, *Das Papsttum und der katalanischer Prinzipat bis zur Vereinigung mit Aragon* (Berlin, 1926), no. 10, pp. 90-91; Smith, 'The Abbot-Crusader', pp. 31-2. Adrian IV, in response to Raymond's 'prayers', also confirmed to Raymond the right not to be excommunicated except by the pope and of being able to hear the divine office in places under interdict: PUSp, i, no. 82, pp. 365-6.

⁸⁷ *Liber Feudorum Maior*, i, no. 494, pp. 532-4: Peter (later to take the name Raymond Berengar III of Provence) held Cerdanya, Carcassonne, and Narbonne from Raymond Berengar's first son, Raymond (who later took the name Alfonso) by means of homage and fidelity, If Peter was to die then Raymond's third son, Sancho, should hold Cerdanya, Carcassonne, and Narbonne from the eldest son under the same stipulation. The detail in the will is intended to make it absolutely clear that all the territory is under the authority of the eldest son with governance delegated to the other sons.

Raymond named one of the popes as the guarantor of his will or guardian of his sons he would have made himself a hostage to fortune: what if his chosen pope had eventually been defeated? Any opponent of his would have had a cast-iron justification for going against him: that he was backing a heretic antipope. Papal authority was only useful so long as it was unquestioned. During a papal schism it was not.

Raymond therefore found a better guarantor: Henry II, king of England, duke of Normandy, count of Anjou and ruler of all the Angevin possessions. Raymond declared in his will that he 'left all his honour (territory) and sons in the regency, tutelage, and defence of the lord Henry, king of England'.⁸⁸ Raymond had begun his reign by using Alfonso VII's authority to boost his legitimacy; with the weakening of Castilian authority in the 1150s, he had switched to the papal court; and then – at the end of his life and during a papal schism – he used Henry II as an alternative to both. Raymond instrumentalized Henry's authority by ensuring that his magnates and wife had the freedom to appoint a regency council without intervention from the other Iberian kings. Henry II himself was too far away to exercise day-to-day authority, but the threat of him was useful in keeping Ferdinand II of León – who aspired to the regency – in line.⁸⁹ Raymond made no mention of the pope because he had found another way to achieve the same effect. The papacy itself did not intervene or complain; that was not how the medieval papacy worked. It responded to requests and when Raymond did not need papal intervention, the popes were quiescent.

We have therefore seen that, as Elena Lourie recognized, papal authority could be a useful tool for the Aragonese kings (and others), but it had to be

⁸⁸ Dimisit omnem suum honorem ac filios in baiulia, tuicione, et deffensione domine [sic] Enrici, regis Anglie.

⁸⁹ Antonio Ubieto Arteta, *Historia de Aragón: Creación y desarrollo de la corona de Aragón* (Zaragoza, 1987), pp. 189–96. Henry's regency was a 'cortina de humo'.

effectively instrumentalized: the Templars were apparently able to do this in the 1130s, but it was Raymond Berengar in the 1140-60s who made an art of instrumentalizing the authority of others. First Alfonso VII, then Adrian IV and finally Henry II became tools in his efforts to secure his rule.

1.6. The Twelfth Century: The Arrival of *Protectio*-Terminology, c.1156-1200

What of the nature of the Aragonese-papal relationship? The first half of this chapter examined the terms and terminology of the relationship in the eleventh and early twelfth centuries. We have just seen how the relationship worked in the middle of the twelfth century, but what was its form now? While it was impossible to arrive at a definitive answer for the eleventh century, it becomes a lot easier in the twelfth.

Adrian IV confirmed to Raymond Berengar that no-one could excommunicate him without the special permission of the Apostolic See and that he could celebrate the divine office in places under interdict. The exact date of this confirmation is not known – between 1156 and 1158 – although Johannes Fried has suggested December 1157.⁹⁰ I do not find that suggestion more convincing than any other, however, and prefer a date of 1158. The grant may have been issued at the same time as the confirmation of Raymond's rights over Aragon, discussed above. The terms used in the letter were identical to those found when similar permissions were granted to monasteries under papal protection: should Raymond arrive at a place under interdict it was permissible

⁹⁰ Fried, *päpstlicher Schutz*, p. 194, n. 55. Fried's suggestion is based on the use of the phrase *maius privilegium* in the letter to Raymond instead of *maiora beneficia* which provoked such horror when Adrian IV used it in his famous letter to Frederick I Barbarossa in 1157. But – apparently unbeknownst to Fried – the letter to Raymond actually uses both phrases (*maiora beneficia* and *maiis privilegium*). Incidentally the clear equivalence of *maiora beneficia* and *maiis privilegium* in this letter confirms that Adrian was not suggesting that the empire was a papal 'fief' during the Besançon incident: *Monumenta Germaniae Selecta ab anno 768 usque ad annum 1250*, (ed.) M. Doeberl (5 vols, Munich, 1889-94), iv, pp. 107-9; PUSp, i, no. 82, pp. 365-6.

for his chaplain to celebrate the divine office provided that the doors were closed and excommunicants and those interdicted were excluded.⁹¹ As with the grant to Peter I in 1095, the phrasing was very similar to those privileges for monasteries: 'but when there is a general interdict of the land, it is allowed to you to celebrate the divine office, with lowered voices, behind closed doors, without ringing of bells and with excommunicants or those under interdict having been excluded'.⁹² With minor variations this formula can be found on numerous papal protection grants for Aragonese and Barcelonian monasteries and churches: San Salvador of Leyre in 1174,⁹³ Holy Mary of Solsona in 1180,⁹⁴ San Salvador of Breda in 1185,⁹⁵ and several others. The exemption from personal excommunication except by the pope granted to Raymond was commonplace. There are a number of grants which forbid bishops to place monasteries under interdict or excommunication: St Peter of Ager in 1063,⁹⁶ St John of Ripoll in 1130⁹⁷ and St Peter of Rodas in the same year.⁹⁸ Although Adrian's privilege did not explicitly use the word *protectio*, it was so similar to monastic protection grants that it can be seen as part of that tradition. The content and wording cannot help but support the thesis that the Aragonese-papal alliance was analogous to the protection extended to ecclesiastical institutions.

When Raymond Berengar died in 1162 he was succeeded, as he had wished, by his eldest son (Raymond) who ascended to the throne as Alfonso II.

⁹¹ PUSp, i, no. 82, pp. 365-6: '[...] ad quemcumque locum deveneris, quamvis locus ipse interdicti teneatur sententia obligatus, liceat cappellano tuo tibi et tue familie tantum clausis ianuis et exclusis excommunicationis et interdictis, divina officia celebrare'.

⁹² Cum autem generale interdictum terre fuerit liceat uobis, clausis ianuis, exclusis excommunicatis et interdictis, non pulsatis campanis, suppressa uoce, diuina officia celebrare.

⁹³ PUSp, ii, no. 133, pp. 468-72.

⁹⁴ PUSp, i, no. 200, pp. 497-500.

⁹⁵ PUSp, i, no. 213, pp. 514-7.

⁹⁶ PUSp, i, no. 11, pp. 267-9.

⁹⁷ PUSp, i, no. 47, pp. 313-15.

⁹⁸ PUSp, i, no. 49, pp. 315-17.

It was in his reign that the papacy started using the formula ‘under the protection of us and St Peter’ to describe the kings and kingdom of Aragon. Exactly the same formula was used to describe monastic foundations under papal protection. Soon after Alfonso II acceded, his councillors (the boy-king was only five)⁹⁹ petitioned for papal protection from Pope Alexander III: they were apparently more willing than Raymond had been to choose a side in the ongoing papal schism.¹⁰⁰ Alexander’s 1163 letter confirmed that ‘we take your person and all the kingdom [...] under the protection of us and St Peter’.¹⁰¹ From the middle of the twelfth century the formulation ‘we take [the monastery] under the protection of us and St Peter’¹⁰² had been consistently used in monastic protection grants, as will be shown below. The occurrence of this formula in the 1163 letter and thereafter suggests that, by the 1160s, the similarities between the papal-Aragonese relationship, and papal protection for monasteries, were becoming undeniable.

A letter of 1171-2 reiterated the right of the king to celebrate the divine office even in places under interdict¹⁰³ – a privilege associated with exemption grants to monasteries. It is clear that from the reign of Alfonso II at the latest the terminology of the papal-royal correspondence was that of protection with some rights of exemption. Prior to Alfonso’s reign the language was less clear and more ambiguous. It took until the middle of the twelfth century for the terminology to become consistently similar to that of monastic protection.

That consistency was continued under the reign of Alfonso II’s son, Peter II. Peter acceded in 1196 and, like Alfonso II, both he and his mother received

⁹⁹ Ubieto Arteta, *Historia de Aragón*, p. 183.

¹⁰⁰ PUSp, i, no. 107, pp. 392-3; Smith, ‘Alexander III and Spain’, pp. 204-7 for Raymond Berengar’s intransigence during the schism.

¹⁰¹ Personam tuam et totum regnum [...] sub eiusdem beati Petri et nostra protectione suscipimus.

¹⁰² [Monasterium] sub beati Petri et nostra protectione suscipimus.

¹⁰³ PUSp, i, no. 154, pp. 448-9.

papal protection in the first year of his reign.¹⁰⁴ Again the formula used was: ‘we take your person and the person of [...] Sancha, your mother, with the kingdom [...] under the protection of us and St Peter’; ‘we take your person [Sancha] with all goods [...] under the protection of us and St Peter’.¹⁰⁵ These protection grants were again very similar to monastic protection grants and papal protection grants more generally. Three years after these letters, Innocent III issued another protection grant for Queen Sancha, who was now in dispute with her son, Peter II. Again the formulation was identical but now the justification for taking Sancha under papal protection was the papacy’s special duty to care for widows.¹⁰⁶

Throughout the second half of the twelfth century the terminology of the letters had consistently been that of monastic protection with some rights of exemption from local bishops. To illustrate this point, let us turn now to the texts of such grants to monasteries and churches in Aragon and Catalonia. The similarities in language will be clear from a comparison of these grants with the letters to the kings of Aragon.

From the eleventh century, grants of papal protection to institutions in Catalonia and in Aragon had been formulaic but not uniform. On the Catalan side two monastic foundations were ‘received under our protection’ in 1016.¹⁰⁷

¹⁰⁴ PUSp, i, nos. 268-9, pp. 578-9. Such confirmation of protection was presumably envisaged by Alfonso II: Alfonso asked the pope, in his 1194 testament, to confirm and strengthen that testament through apostolic authority and to subject anyone who flouted it to interdict and anathema. Such papal confirmation was not repeated in the 1196 codicil to Alfonso’s testament, but Pope Innocent III confirmed the will anyway in 1200: *Alfonso II Rey de Aragón, Conde de Barcelona y Marqués de Provenza. Documentos (1162-1196)*, (ed.) Ana Isabel Sánchez Casabón (Zaragoza, 1995), nos. 628, 657, pp. 808-20, 853-5; *Butllari de Catalunya: documents pontificis originals conservats als arxius de Catalunya (1198-1417)*, (eds) Tilmann Schmidt, Roser Sabanés i Fernández (2 vols to date, Barcelona, 2016-), i, no. 18, pp. 72-3.

¹⁰⁵ Tuam personam et personam [...] Sancie [...] matris tue cum regno [...] sub beati Petri et nostra protectione suscipimus and personam tuam cum omnibus bonis [...] sub beati Petri et nostra protectione suscipimus.

¹⁰⁶ Smith, *Innocent III and Aragon*, nos. 1, 3, pp. 265, 266-7.

¹⁰⁷ PUSp, i, nos 5-6, pp. 254-8: ‘sub nostra protectione eum recipimus’.

Another was noted, in 1044, to have been ‘taken under the tutelage and defence of Peter, the prince of the Apostles’ by past popes.¹⁰⁸ St Peter of Ager was ‘taken in the tutelage and property of St Peter’ in 1063.¹⁰⁹ Calixtus II commanded St Saturninus of Valira to ‘always remain under the tutelage and defence of St Peter and his Roman church’ in 1119.¹¹⁰ In 1127, Honorius II took the same foundation ‘under the protection of the apostolic see’ and repeated Calixtus’ wording.¹¹¹ Two grants of Innocent II from 1130 (to St John of Ripoll and St Peter of Rodas) used the formulations ‘received under the tutelage of St Peter’ and ‘received under the protection and tutelage of St Peter’ respectively.¹¹² While there was great similarity between all of these formulations – and they were essentially expressing the same concept – there was little consistency in wording. The only point when there was any consistency was in privileges to the same church, like those for St Saturninus. This is unsurprising: the impetus for the issuing of these privileges came from the institutions themselves and not from Rome. Therefore the wording used was that which each individual church had suggested.

That pattern is also true for grants to Aragonese churches. The three royal monasteries taken into papal protection in October 1071 – San Juan, St Peter of Loarre and St Victorian – were taken ‘into the tutelage and singular patronage of the Holy Roman Church’, ‘into the tutelage and defence of the Apostolic Church’, and ‘into the own right and tutelage of the Holy Roman Church’.¹¹³ In 1089 Montearagon was received ‘into the tutelage of the Roman

¹⁰⁸ PUSp, i, no. 10, pp. 264-7: ‘Quod sub defensione apostolorum principis Petri atque tutela suscepserunt predecessores nostri’.

¹⁰⁹ PUSp, i, no. 11, pp. 267-9: ‘[...] ecclesiam Sancti Petri [...] in tutelam Sancti Petri et proprietatem suspicentes’.

¹¹⁰ PUSp, i, no. 44, pp. 309-11.

¹¹¹ PUSp, i, no. 46, pp. 311-13.

¹¹² PUSp, i, nos 47, 49, pp. 313-15, 315-17.

¹¹³ PL 146:1362-3: ‘ut praefatum monasterium [...] in tutelam et singulare patrocinium sanctae Romanae Ecclesiae suspiceremus’; PUSp, ii, no. 3, pp. 260-2: ‘idem monasterium in tutelam et

Church' and then was 'in the own right of the See Apostolic' in 1098.¹¹⁴ Two years later the monastery of Holy Mary and San Salvador of Leyre was placed 'under the tutelage of the Apostolic See'.¹¹⁵ In 1108 the monastery at Asanense was 'under the tutelage of the Apostolic See'¹¹⁶ and in 1139 Montearagon was placed 'in the protection of the Apostolic See' and 'under the power of the Holy Roman Church'.¹¹⁷

Up to the 1140s we can see that, in both Catalonia and Aragon, the formulae have been similar but with considerable variation. *Defensio*, *protectio*, and *tutela* were all used interchangeably, as were 'of the Roman Church', 'of us [the pope]', 'of St Peter', and 'of the Apostolic See'. However, from the 1140s a far greater degree of consistency emerged in both Aragon and Catalonia.

The overwhelming majority of papal protection grants from c.1143 onwards used the simple formula: 'we take [the monastery] under the protection of us and St Peter' – [*monasterium*] *sub beati Petri et nostra protectione suscipimus*. Protection-privileges might use other words as well, but this sentence is pretty universal in both Catalonia and Aragon and, in both domains, the formulation appeared at the same time. In Catalonia it appeared between 1130 and 1150 and in Aragon its first use was 26 February 1144. It was used consistently thereafter.¹¹⁸ The sudden but consistent use of this particular phrasing makes it very likely that it was an innovation of the papal chancery –

defensionem apostolice ecclesie [sic] suscipimus'; PUSp, ii, no. 4, pp. 262-5. 'in proprium ius et tutelam sanctae romanae ecclesiae suscipientes'.

¹¹⁴ Fried, *päpstlicher Schutz*, no. 1, pp. 327-8; PUSp, ii, no. 13, pp. 282-5: 'in proprium sedis apostolice ius'.

¹¹⁵ PUSp, ii, no. 17, pp. 292-3: 'sub tutelam apostolice sedis'.

¹¹⁶ PUSp, ii, no. 25, pp. 308-10: 'sub tutelam apostolice sedis'.

¹¹⁷ PUSp, ii, no. 34, pp. 323-6: 'in apostolice sedis protectione [...] sub solius sancte Romane ecclesie ditione'.

¹¹⁸ Catalonia: from 1130-50, PUSp, i, no. 56, pp. 325-7 onwards. Aragon: from 1144, PUSp, ii, no. 43, pp. 338-41 onwards.

perhaps inspired by Italian usage – which was then applied to the privileges which chancery scribes wrote for petitioning monasteries.

Paulus Rabikauskas made no mention of such an innovation in papal protection grants but did note that Celestine II (September 1143–March 1144) introduced the formula ‘saving the authority of the Apostolic See’ into papal exemption privileges.¹¹⁹ It is possible that the consistent use of the formula ‘under the protection of us and St Peter’ was part of the same reordering of papal formulae.

What is the relevance of this to the question of Aragon? First, it serves as an explanation for the equivalence of the terms ‘tutelage’, ‘protection’ and ‘tributary’ to describe the kingdom in the eleventh and early twelfth centuries. These terms were used interchangeably in the reigns of Sancho I and Peter I both for monastic protection and to describe the status of the kingdom vis-à-vis the papacy. Second, we can see that the status of the kingdom must have come under the rubric of protection in the second half of the twelfth century because in the reigns of Alfonso II and Peter II, the papacy consistently referred to the king and kingdom as being taken ‘under the protection of us and St Peter’ – exactly the same formula which had come to be used for protected monasteries.¹²⁰ Clearly the Roman-Aragonese relationship was similar to monastic protection because this was the same wording as that used for monastic protection grants, and it appeared at almost exactly the same time.

¹¹⁹ Rabikauskas, *Diplomatica Pontificia*, pp. 49–51; Schreiber, *Kurie und Kloster im 12. Jahrhundert*, i, pp. 43–4. This formula – *nullo mediante* – along with use of *specialiter* and *ad indicium libertatis/protectionis* are said to be the three most useful ways to distinguish between the diplomatic of papal exemption and papal protection privileges, after the pontificate of Alexander III. In reality the only way to distinguish between exemption and protection is to pay attention to the specific rights conceded in every individual privilege.

¹²⁰ Alexander’s 1163 protection for Alfonso II: ‘sub eiusdem beati Petri et nostra protectione’. Celestine’s 1196 protection for Peter II: ‘sub beati Petri et nostra protectione’. The only time *tutela* is used in the reigns of Alfonso II or Peter II is in the re-issue of Urban’s 1095 privilege in 1213. Since that privilege is re-issued word-for-word it is not surprising to find *tutela* there.

Had the papal-Aragonese relationship been seen as distinct from protection then there would be no reason for the terminology of both types of relationship to change to the same wording, at the same time. The privileges were clearly of the same type in the eyes of the papal curia; a reform in one was a reform in both.

1.7. Conclusion

Letters and privileges structured the papal-Aragonese relationship. The Aragonese (occasionally) paid their census but the image presented of a consistent relationship comes from the frequent re-issue and confirmation of privileges: the right not to be excommunicated except by the pope, for example. These privileges were granted by request of the Aragonese and confirmed at their request too. If a king, such as Alfonso I, was not interested in papal judgements or privileges then the relationship lapsed. This is not because such a king was actively opposed to the papacy or vice versa. It is simply because we only see the evidence of papal-Aragonese relations when the Aragonese requested privileges or letters. The image of an unchanging relationship between the two lies in the privileges which the Aragonese received; almost invariably based on previous grants. The impetus for the issuing of a papal letter, mandate or privilege was always a petitioner outside the curia who wanted papal aid.

I have argued that before the middle of the twelfth century the language of the papal-Aragonese letters was ambiguous enough for the relationship to have been proprietorial – based on a premise that the kings of Aragon received their kingship from the pope (in the sense that all kings should). The sudden loss of ambiguity was caused by the application of the newly consistent terminology for both monastic and royal protection grants from the 1140s. From then on we can see that both types of privilege are virtually identical. It does seem possible to me that the relationship was always one of *protectio*, but it is

not until the papal chancery formalized the situation in the twelfth century that we can definitively identify Aragon as under quasi-monastic protection only.

Chapter Two: The Siculo-Normans and the Papacy c.1050-1200

The Normans arrived in southern Italy at the end of the tenth century as foreign fighters for the local lords.¹ It was not long before they began to take power for themselves. In 1053 Pope Leo IX, fearing the expansion of Norman power in the south, moved against them, but he was defeated in battle at Civitate. Leo's defeat was followed by an offer from the Normans that, should he approve their conquests, the Normans would serve the pope in some way. Dione Clementi studied the various accounts of 1053 and concluded that Leo had refused to accede to the requests of the Normans, and that the Norman proposals had included nothing so formal as 'vassalage' or military service.² As we will see, the settlements between the Normans and the papacy which began in 1059 were not defined in a strict legal sense, but were instead flexible and responded to the needs of the current situation. Positing some sort of unchanging legal relationship – so-called 'vassalage' or 'fiefdom' – between the Normans and the papacy is not helpful.³

Graham Loud has pointed out that the papal-Norman transactions were actually peace treaties. In 1059, 1139, and 1156 – the points of greatest

¹ G. A. Loud, *The Latin Church in Norman Italy* (Cambridge, 2007), p. 60; idem, *The Age of Robert Guiscard: Southern Italy and the Norman Conquest* (Harlow, 2000), pp. 60-66. For the view that Normans were recruited by Pope Benedict VIII in 1017 see J. France, 'The Occasion of the Coming of the Normans to Southern Italy', *Journal of Medieval History* 17 (1991), 185-205.

² D. Clementi, 'The Relations between the Papacy, the Western Roman Empire and the Emergent Kingdom of Sicily and Southern Italy (1050-1156)', *Bullettino dell'Istituto Storico Italiano per il Medio Evo* 80 (1968), 191-212. Graham Loud agrees that the Norman proposals were rejected in 1053: *Latin Church*, p. 137.

³ See Vincenzo D'Alessandro, 'Fidelitas Normannorum. Note sulla fondazione dello Stato normanno e sui rapporti con papato' in *Storiografia e politica nell'Italia normanna* (Naples, 1978), pp. 99-220. D'Alessandro argued that the early oaths from the Norman princes to the pope showed only papal recognition of Norman control of the duchy of Apulia rather than the feudal superiority of the papacy. The fidelity offered by the Normans was to the Latin rite over the Byzantine rite, similar to the situation of 1068 in Aragon, where it was to the Latin rite over the Mozarabic rite. The papal-Aragonese relationship, however, eventually came under the rubric of *protectio*, see chapter one. See also the brief but incisive summary by Mary Stroll of several recent approaches: *Calixtus II (1119-1124): A Pope Born to Rule* (Leiden/Boston, 2004), p. 316.

importance for Norman-papal relations – the Normans were really dictating new terms to the papacy, after a period of conflict.⁴ This is undeniably true. Anne Duggan has recently pointed out that it was not a calculated change in papal policy which led to the 1156 accord of Benevento, but Pope Adrian IV's military defeat by the king of Sicily.⁵ The treaties, agreements and rituals which structured Norman-papal relations changed, vanished or appeared depending on events. Viewing Norman-papal relations as structured by 'vassalage' – some sort of unchanging legal relationship – obscures how circumstantial the relationship always was: dependent on the relative positions of pope and king, dependent on what each wanted and dependent on wider problems over which neither had full control.

The contractual nature of the relationship – that is, that the relationship was one of alliance – does not mean that there is no reason to look for influences from ideas of papal territorial lordship – specifically papal lordship in Lazio and central Italy. Jenny Benham has suggested that treaties in Christian Europe before 1250 did not have a specific 'type'. Often they were seen as part of law codes, and indeed both treaties and law codes regulated how subjects of a ruler should interact with fellow subjects or with subjects of a different ruler.⁶ If there was no general form for treaties, then a mutually binding treaty could be created through the use of concepts from the territorial lordship which the

⁴ Loud, *Latin Church*, p. 141; idem, *Age of Robert Guiscard*, pp. 190, 226; idem, *Church and Society in the Norman Principality of Capua* (Oxford, 1985), pp. 58-65; idem, *Roger II and the Creation of the Kingdom of Sicily* (Manchester, 2012), p. 15: 'The stress on the "legal" aspects of relations between the popes and the Norman rulers is misplaced, and misunderstands the essential dynamic of the relationship since the original investiture of 1059. The bond between the two had always been an alliance rather than a relationship between overlord and dependant.' Thomas Bisson also suggested that Robert and Jordan/Richard's oaths to Gregory VII more resembled 'pacts of agreement'. *The Crisis of the Twelfth Century* (Princeton/Oxford, 2009), p. 92.

⁵ A. J. Duggan, 'Totius christianitatis caput: The Pope and the Princes' in *Adrian IV, the English Pope (1154-1159): Studies and Texts*, (eds) B. Bolton, A. Duggan (Aldershot, 2003), pp. 105-55, at 106-138.

⁶ J. Benham, 'Law or Treaty? Defining the Edge of Legal Studies in the Early and High Medieval Periods', *Historical Research* 86 (2013), 487-97, at 490, 496-7.

papacy exerted in the patrimony. Concepts and terminology could also come from the *protectio* which the papacy extended to religious houses and to the monarchs of Aragon. Rituals of submission – such as homage – could also be used: although such rituals were sometimes used in feudal ceremonies, they were pluralistic and had many meanings, none of which were innate. The agreements between the papacy and the Normans were treaties, one of the terms of which was that the papacy would agree to confirm the Norman conquests in southern Italy.

2.1. The Eleventh-Century Oaths

Originally the agreements between the papacy and the Norman dukes and princes do seem to have been influenced by the popes' territorial lordship in the patrimony, as we shall see shortly. There were also similarities between the loyalty that a bishop should owe the pope, and the loyalty that a Norman duke owed the pope. Between 1059 and 1061 the first papal-Norman alliance was constructed.⁷ We possess the texts of the oaths sworn by Robert Guiscard – duke of Apulia, Calabria and Sicily – and Richard of Aversa – claimant to the principality of Capua – to popes Nicholas II and Alexander II.⁸ These oaths tell us what the Normans promised in return for papal recognition, and ceremonial investiture, of their conquests. The oaths were oaths of fidelity, referred to simply as 'this fidelity' – *hanc fidelitatem* – and made promises to aid the Roman papacy, to prevent the pope from losing life or limb, and to pay an annual *pensio*. We know the *pensio* amount which Robert Guiscard agreed to pay for Apulia and Calabria, but not the amount that Richard of Aversa agreed to pay

⁷ See H. E. J. Cowdrey, *The Age of Abbot Desiderius: Montecassino, the Papacy, and the Normans in the Eleventh and Early Twelfth Centuries* (Oxford, 1983), pp. 111-17.

⁸ LC, i, pp. 421-2, ii, 93-4. Printed also in *Das Papsttum und die süditalienischen Normannenstaaten 1053-1212*, (ed.) J. Deér (Göttingen, 1969), pp. 17-8 ('Vassalic-Oath' and 'Quit-rent obligation' of Robert Guiscard – August 1059); 21-2 ('Vassalic-Oath' of Richard of Capua – October 1061). If Richard swore an oath in 1059 it is no longer extant, he was, however, certainly present when Robert swore his oath in 1059, see Cowdrey, *Age of Abbot Desiderius*, p. 112.

for Capua.⁹ It must be pointed out – not that doing so is novel – that there is no use of the words ‘fief’ (*feudum, beneficium*) or ‘vassal’ (*vassallus*) in these oaths.¹⁰ The oath-takers, Robert and Richard, both committed to ‘be an aider to the Holy Roman Church, for the holding and acquiring of the regalia of Saint Peter and of his possessions, as much as I am able, against all men’.¹¹ There was no promise of specific military aid – three hundred knights for three months or similar. Nor was there any indication that the popes reserved any rights of justice to themselves. If these lands were being ‘given’ to the Normans then they were being given wholly and entirely. But, of course, they were not being ‘given’: the Normans already possessed them. These oaths and agreements were a *recognition* of the Norman conquest by the papacy and an attempt to find a workable mutual alliance.

The general promises of this oath made it an all-purpose oath for the papacy. For example, it was very similar to the oath which bishops and archbishops took to the pope. The episcopal oaths recorded in the late twelfth-century *Liber censuum* regularly began *ero fidelis beato Petro [...] et papae*, as the Norman oaths did. The oath of archbishops to the pope also contained promises to defend the regalia of Saint Peter and not to enter into counsels or deeds by which the pope could lose life or limb. The oaths of the Norman princes to the pope made the same promises.¹² The form of this oath for archbishops goes

⁹ Richard’s oath for Capua refers to ‘the pension for the land of St Peter which I hold or will hold’ but does not specify how much it is. We have the text of Robert’s 1059 undertaking to pay the *pensio* from Apulia which gives us specifics.

¹⁰ Reynolds, *Fiefs and Vassals*, pp. 210-11. Donald Matthew suggests that cash payment replaced military service in a ‘Southern [...] feudal’ custom, *The Norman Kingdom of Sicily* (Cambridge, 1992), pp. 25-6.

¹¹ ‘Sancte Romane ecclesie ubique adiutor ero ad tenendum et adquirendum regalia sancti Petri eiusque possessiones pro meo posse, contra omnes homines’: LC, i, p. 422.

¹² Identical or equivalent phraseology is in bold. Episcopal oath: LC, i, no. 145, p. 415: ‘**Ab hac hora et in antea fidelis ero** et obediens **beato Petro et papae [illi]**, suisque successoribus, qui per meliores cardinales intraverint. **Non ero in consilio, neque in facto ut vitam aut membra aut papatum perdant, aut capti sint mala captione.** Ad synodum ad quam me vocabunt vel per se, vel per suos nuntios, vel per suas litteras, veniam et canonice obediam; aut, si non potero, legatos meos mittam. **Papatum Romanum et regalia sancti Petri adiutor ero ad tenendum et**

back at least to 1079 when the archbishop of Aquilea swore it at a synod.¹³ It was therefore about as old as the oaths which the Norman dukes and princes swore. This similarity between episcopal and lay oaths should not surprise us: Kenneth Pennington has pointed out that the medieval canonists did not 'balkanize' different approaches to law (canon, Roman etc) as we do and norms in one area could be freely applied to another.¹⁴ It has been suggested that the episcopal oath – in its similarity to the lay Norman oaths – shows evidence of the 'feudalization' of episcopal oaths.¹⁵ Quite apart from the question-begging involved in assuming the Norman oaths to be 'feudal', it seems unlikely to me that the traffic was purely lay to ecclesiastical. The duties expressed in the episcopal oath are not particularly strange – they are what we might expect a

defendendum, salvo meo ordine. Consilium vero quod mihi crediderint per se, aut per nuntios suos, sive per litteras, nulli pandam, me sciente, ad eorum damnum.' Cf. with the 1059 oath of Robert Guiscard Normans to papacy: 'Ego Robertus Dei gratia et sancti Petri dux Apulie et Calabrie et utroque subveniente futurus Sicilie, **ab hac hora et deinceps ero fidelis** sancte Romane ecclesie et apostolice sedi et tibi domino meo Nicholao pape; **in consilio vel facto unde vitam aut membrum perdas vel captus sis mala captione, non ero. Consilium quod mihi credideris et contradixeris ne illud manifestem, non manifestabo ad tuum dampnum, me sciente. Sancte Romane ecclesie ubique adiutor ero ad tenendum et acquirendum regalia sancti Petri [...]**' LC, i, p. 422. The episcopal oath also contains a promise to receive legates honourably, not to communicate with excommunicates, and to aid the Roman church *per saecularem militiam*; the remainder of the Norman oath deals with *pensio* payments, keeping fidelity with the Roman See, defending the Apulian Church and helping the pope retain the papacy.

¹³ MGH Epp. Sel. ii, *Das Register Gregors VII.*, (ed.) Erich Caspar (2 vols, Berlin, 1920-3), ii, pp. 428-9 [henceforth: *Greg. Reg.*]; *Gregorius VII Concilia Romana* in PL 148:812-3; K. Pennington, 'Feudal Oath of Fidelity and Homage' in *Law as Profession and Practice in Medieval Europe: Essays in Honor of James A. Brundage*, (eds) K. Pennington, M. Eichbauer (Farnham, 2011), pp. 93-115, at 106; John Sabapathy, 'Thinking Politically with Innocent III: Prudence and Providence' in *Thirteenth Century England, xv: Authority and Resistance in the age of Magna Carta*, (eds) Janet Burton, Phillip Schofield, Björn Weiler (Woodbridge, 2015), pp. 115-36, at 120, n. 37.

¹⁴ Pennington, 'Feudal Oath of Fidelity and Homage', pp. 106ff. Of course a cleric would not give an oath *in return* for a benefice but would be obliged to take an oath to his superior in the ecclesiastical hierarchy. To give fidelity in return for a gift would be simony.

¹⁵ Ullmann, *Growth of Papal Government*, p. 337 was against such a view. However, Sandro Carocci sees 'contamination' because the ecclesiastical oaths present the same 'typical wordings' as 'feudal' oaths, S. Carocci, *Vassalli del papa: Potere pontificio, aristocrazie e città nello Stato della Chiesa (XII-XV sec.)* (Rome, 2010), p. 51, n. 11. See also Reynolds, *Fiefs and Vassals*, p. 212.

bishop to owe to the pope – and it is unsurprising that similar terms were used by the papacy when crafting the 1059 oath for the Norman duke.

Why should the papacy not use the same general promises – aiding the papacy, not plotting against the pope – for secular rulers as it used for bishops? The popes would obviously want all Christians to affirm their loyalty to the Roman Church, whether they were lay rulers or ecclesiastical princes. But the oaths of the Normans, unlike the archiepiscopal oath of 1079, made no explicit reference to military service (*per saecularem militiam*). Even the commitment of the Norman rulers to aid the papacy was unspecific and general. Of course the Normans – especially the princes of Capua – did sometimes come to the aid of the popes. But such military aid was negotiable at the time, it was not a permanent – unchanging – duty of ‘knight service’. The general promise in the Norman oaths to help the pope ‘hold the Roman papacy securely’ did not suggest military service in return for land but the aid which should be given by a loyal Christian to the Holy Father. Had military service been a permanent duty tied to land or recognition, then it would have been specifically noted in the oaths.

2.2. Similarities: The Normans and Papal Lordship in the Patrimony in the Eleventh Century

As I noted above, the eleventh century papal-Norman agreements did owe something to papal lordship in the patrimony. An agreement of 1061 between Pope Nicholas II and the new *castrum* of Roccantica provides a useful comparison.¹⁶ Roccantica was being repopulated and Pope Nicholas inserted

¹⁶ F. P. Sperandio, *Sabina Sagra e Profana Antica e Moderna* (Rome, 1790), no. 37, pp. 373-4; Brenda Bolton, ‘*Nova Familia beati Petri*: Adrian IV and the Patrimony’ in *Adrian IV, the English Pope (1154-1159): Studies and Texts*, (eds) B. Bolton, A. Duggan (Aldershot, 2003), pp. 157-79, at 162-3; Pierre Toubert, *Les structures du Latium médiéval: Le Latium méridional et la Sabine du IX^e à la fin du XII^e siècle*, 2nd edn (2 vols, Rome, 2015), ii, pp. 1070-71; Uta-Renate Blumenthal, ‘The Papacy, 1024-1122’ in *NCMH*, iv, part 2, pp. 8-37, at 22.

himself as the new immediate master of the *castrum*. Whether the terms between Pope Nicholas and Roccantica are ‘indicative of contemporary papal methods’ in the patrimony is difficult to say, but they are certainly instructive.¹⁷ Roccantica was described as paying a *pensio* – as Duke Robert and Prince Richard were – and in both cases the *pensio* was graded: Robert was to pay twelve Pavian pence for every yoke of oxen;¹⁸ each inhabitant of Roccantica was divided into one of four grades, and had to pay an amount depending on their grade.¹⁹ It is important to note that the level of *pensio* was clearly tied to the productivity of the place. Unlike the annual census paid by monasteries and kingdoms for papal *protectio*, the payment from the Normans and Roccantica was linked to the land and thus variable, instead of being a fixed amount in return for protection.

The day of payment for the *pensio* was the same for both Roccantica and Robert Guiscard too: Easter Sunday.²⁰ Although we do not know the form of any fidelity which the inhabitants of Roccantica gave, it might have taken a similar form to the Norman oaths. There were, however, a series of further stipulations for Roccantica: it had to pay the *fodrum* – a hearth tax – and accept papal nuncios who may have administered some forms of justice.²¹

These latter elements are completely absent from the Norman agreement. Why then did the papacy use only some elements – the *pensio* – from

¹⁷ Bolton, ‘*Nova Familia beati Petri*’, pp. 162–3.

¹⁸ LC, i, p. 422: ‘promitto me annualiter pro unoquoque iugo boum pensionem, scilicet duodecim denarios papiensis monete, persoluturum beato Petro et tibi domino meo Nicholao pape et omnibus successoribus tuis, aut tuis aut tuorum successorum nuntiis’.

¹⁹ *Sabina Sagra*, p. 373. ‘Secundum quantitatatem possibilitatis suaे [...] maiores scilicet denarios duodecim, inferiores autem retrogradu octo denarios, tertio denarios sex, quarto denarios duos’.

²⁰ *Sabina Sagra*, p. 373: ‘[...] persolvetus pensionis nomine in Pascha resurrectionis Domini beato Petro, et nobis [...]’ LC, i, p. 422: ‘Huius autem pensionarie redditionis erit semper terminus finite quoque anno, sancte Resurrectionis dies dominicus’.

²¹ *Sabina Sagra*, p. 373: ‘foderum facietis, et placita fideliter observetis nobis, et successoribus, ac nunciis nostris pro his rebus sitis in territorio Sabinen’.

patrimonial agreements? The obvious answer is that only parts of these patrimonial agreements were acceptable to Robert and Richard. The papacy was not simply dictating what it wanted and demanding that the Normans submit but arranging – via negotiation – a mutually acceptable treaty. The forms of the agreement – taxes and oaths – were taken from pre-existing customs but the papacy could not exercise the kind of superiority they enjoyed in the patrimony – in terms of rights of justice and further taxation – over the Normans. Thus the only elements which were kept were oaths and *pensiones*.

Neither Robert, duke of Apulia and Calabria, nor Richard, prince of Capua, made explicit reference to any fixed service other than payment of a *pensio*. Richard of Aversa, however, did give military aid to the papacy in 1061. He sent 300 knights to Rome, thus enabling the cardinals to elect a new pope.²² As Loud notes, it seems likely that this was a quid pro quo for papal recognition of his conquests.²³ This was not the same as being granted the principality in return for military service – which suggests that his possession of the realm was dependent on providing aid. Instead he received papal *recognition* and *approval* in return for military aid. Richard (and Robert) doubtless wanted papal approval, but their right to rule was not dependent on it. The difference here is between a military treaty and conditional (thus revocable) tenure.

The Roccantica agreement also stipulated that the inhabitants should be ‘undisturbed, under apostolic protection of defence, and secure from all molestation and invasion’.²⁴ *Protectio* and *defensio* of St Peter were terms found

²² Le ‘*Liber Pontificalis*’: *Texte, Introduction et Commentaire*, (ed.) Louis Duchesne (2 vols, Paris, 1892), ii, p. 335: ‘Tunc dictus Princeps misit tres comites suos cum nominato archidiacono Romae cum trecentis militibus Agarenorum, in auxilium Nykolay pontifici’. See also Cowdrey, *Age of Abbot Desiderius*, p. 119.

²³ Loud, *Latin Church*, pp. 138–9; idem, *Church and Society*, p. 60.

²⁴ *Sabina Sagra*, p. 373: ‘[...] ut sitis sub Apostolica defensionis protectione quieti; et ab omni molestione, et infestione securi’.

in grants of papal protection to monasteries and kingdoms, although obviously such grants did not have a monopoly on the words themselves. Nonetheless, it reminds us that the protection of St Peter was what everyone – be they subjects of the pope in patrimony or great rulers in Italy and Spain – wanted.

The terms *patrocinium*, *protectio*, *defensio* were frequently found in grants of papal protection for monastic institutions.²⁵ The *patrocinium* of St Peter also appeared in a letter of Gregory VII to Robert Guiscard in 1081. Gregory reminded Robert that he should ‘always remember to have St Peter before your eyes, whose patronage – *patrocinium* – great deeds testify to attend on you’.²⁶ Robert’s successes – specifically his recent victory at Durazzo – showed that he was under the patronage of St Peter.²⁷ This recognition that Robert was under the patronage of St Peter – like a monastic house, but also like the papacy’s own *castra* – suggested that there was not yet a clear terminological distinction between protection for monastic institutions and the protection which came with papal territorial lordship. The absence, in the eleventh century, of any terminology specific to one type of protection militates against any such distinction.

The use of the term *pensio* to describe the payments from Roccantica and from the Norman duchy also indicates an overlap between *protectio* and the Norman-papal relationship. *Pensio* was sometimes used to describe the census-payments made by institutions under papal protection, such as the Church and Hospital of St Mary in the diocese of Ceneda in 1125-9.²⁸ *Pensio* was also the

²⁵ Above, pp. 56-8.

²⁶ ASV, Reg. Vat. 2, ff. 224^{r-v}; *Greg. Reg.*, 9.17, ii, pp. 597-8; *The Register of Pope Gregory VII 1073-1085: An English Translation*, (tr.) H. E. J. Cowdrey (Oxford, 2002), p. 417. ‘Beatum Petrum, cuius tibi adesse patrocinium grandia facta testantur, pre oculis habere semper memineris’.

²⁷ Cowdrey, *Age of Abbot Desiderius*, p. 149.

²⁸ *Honorii II Romani Pontificis epistolae et privilegia* in PL 166:1289.

term used for Peter's Pence from England in 1066-1073.²⁹ Clearly the term was a fluid one.

2.3. The Normans in the *Ius et Proprietatem* or *Patrimonium* of the Church?

Some of the terminology used to describe the Norman-papal relationship was similar to *protectio*-terminology, and some details of the eleventh-century papal-Norman alliance came from papal territorial lordship in Lazio-Sabina. Two further terms used to describe the Norman realms should be noted: first, John of Salisbury's description of the Sicilian kingdom as the *patrimonium* of the Church; second, the descriptions of the kingdom as belonging to the *ius et proprietatem* ('right and property') of Saint Peter. References to the *ius et proprietatem* come from the twelfth century. According to Johannes Fried this term – *ius et proprietatem* – distinguishes papal lordship of Sicily or (post-1213) England from *protectio* relationships, such as that between the papacy and Aragon.³⁰

Neither of these terms, however, was unequivocal. *Patrimonium* was used by John of Salisbury to describe the Norman kingdom of Sicily; it did not occur in the treaties, agreements or oaths made between the papacy and the kingdom. Even John did not simply say that the kingdom was part of the patrimony of St Peter. He said that the pope was angered by King Roger II's failure to ask papal permission before crowning his son since 'it is certain that all Sicily pertains to the patrimony of the Roman Church'. King Roger, according to John of Salisbury, responded by claiming that although the Church of God had ruled Sicily, they had lost it to the Saracens and it had then been

²⁹ *Alexandri II Romani Pontificis epistolae et diplomata* in PL 146:1413.

³⁰ Fried, *päpstlicher Schutz*, p. 87.

restored to the faith by the virtue of his ancestors.³¹ Whether this description accurately describes what passed between the king and pope is impossible to know: John was probably using Roger of Sicily as a proxy for Kings Stephen and Henry II of England.³² If that is the case then it follows that John thought that Henry's kingdom – England – could reasonably be described as a patrimony of the Church. In this scenario it is difficult to suggest that 'patrimony' was being used to denote specific temporal subjection to the pope's sovereignty, and more likely it was intended here to denote a kingdom's traditional faith in the Roman Church. It should be noted, however, that in his *Policraticus* John did use *patrimonium* to mean property, both royal and private.³³ Irrespective of what John meant, since the word was used only by John it tells us only how John of Salisbury perceived the relationship, not how the pope or Norman rulers saw it.

The supposed distinction between *protectio* and lordship in the use of *ius et proprietatem* is even more tendentious. In an 1102 letter to Bishop Stephen of Huesca, Pope Paschal II described King Peter I of Aragon as having 'given himself and all his [possessions] into the right and power of the Holy Roman Church' (*ius et potestatem*).³⁴ Fried claimed, however, that from the pontificate of Alexander III (1159-81) onwards Aragon was never stated to belong to the *ius et proprietatem* of the papacy. From then, according to Fried, *ius et proprietatem*

³¹ *The 'Historia Pontificalis' of John of Salisbury*, (ed., tr.) Marjorie Chibnall (Oxford, 1986), pp. 68-9; MGH, SS xx: *Historia Pontificalis*, (ed.) W. Arndt (Hanover, 1868), pp. 515-45, at 539: '[...] totam Siciliam [sic] constat ad Romane ecclesie patrimonium pertinere [...] cum ecclesia Dei Sarracenis impugnantibus Siciliam per multa secula amiserit, sua [Rex Willelmus] et antecessorum virtute restituta est fidei'.

³² J. Guy, *Thomas Becket* (London, 2013), p. 381; *The 'Historia Pontificalis'*, pp. 65, n. 5. Also pp. 83-6 for Stephen's attempts to get his son crowned.

³³ John of Salisbury, *Policratici sive de Nugis Curialium et Vestigiis Philosophorum*, (ed.) C. C. J. Webb (Oxford, 1909), pp. 31 (property of the royal fisc), 36 (private property), 210 (private property).

³⁴ PUSp, i, no. 33, pp. 300-1 = PUSp, ii, no. 22, p. 302-3: '[...] se ipsum [Rex Petrus] et sua omnia in *ius et potestatem* sancte Romane ecclesiæ dededit'.

denoted only those who were 'subject' to the Holy See 'temporally'.³⁵ That cannot be the case. *Proprietas* was still being used to describe papal protection for monasteries in 1187 and 1196.³⁶ Even if *ius et proprietatem* came to refer only to relationships where the pope held temporal lordship, it plainly did not possess that meaning by 1200. Sandro Carocci has made the intriguing suggestion that the terms *proprietas* and *patrimonium* were, until the mid-thirteenth century, 'rhetorical expedients' to denote 'immediate dependence' on papal authority. In Carocci's interpretation, the basis of that authority could be 'temporal power, feudal sovereignty or protection'. What was important about these phrases was not that they specifically denoted temporal lordship, but that they denoted a relationship with no intermediary. The type of relationship, however, varied.³⁷

It is important to recognize that at no point was the formulation *sub nostra et beati Petri protectione* applied to Sicily. This was, as I discussed in chapter one, the most widespread way of describing protected religious institutions in papal grants after c.1150. Nonetheless, the use of *ius et proprietatem* to describe the kingdom of Sicily in letters of 1163 and 1199³⁸ did not definitively mean that the papacy saw Sicily as some kind of 'fief' held by the Norman kings from Rome. Indeed Innocent III's 1199 letter outlined three reasons why he should provide for the king of Sicily (young Frederick II) and these were that as pope he was a 'debtor to the wise and to the foolish', that

³⁵ Fried, *papstlicher Schutz*, p. 87.

³⁶ *Papsturkunden in Portugal*, (ed.) Carl Erdmann (Berlin, 1927), no. 115, pp. 331-2; PUSp, i, no. 264, pp. 570-5.

³⁷ S. Carocci, "Patrimonium beati Petri" e "fidelitas": continuità e innovazione nella concezione innocenziana dei dominii pontifici' in *Innocenzo III: Urbs et Orbis*, (ed.) Andrea Sommerlechner (2 vols, Rome, 2003), pp. 668-90; idem, 'Popes as Princes? The Papal States (1000-1300)' in *A Companion to the Medieval Papacy: Growth of an Ideology and Institution*, (eds) Keith Sisson, Atria A. Larson (Leiden/Boston, 2016), pp. 66-84, at 79.

³⁸ JL 10947 = PL 200:269: Regnum Siciliae ad ius et proprietatem beati Petri specialiter spectat. P. Kehr, 'Das Briefbuch des Thomas von Gaeta, Justitiars Friedrichs II', *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 8 (1905), 1-76, at 46: 'Regnum Sicilie ad ius et proprietatem apostolice sedis noscitur pertinere'.

Sicily pertained to the *ius et proprietatem* of the Apostolic See, and that Frederick was placed in papal *tutela* by his parents.³⁹ None of this suggests fiefdom nor vassalage. The use of the term *ius et proprietatem* further confirms that there may not yet have been a clear distinction between the papal-Sicilian relationship and *protectio*.

The use of the word *feudum* – ‘fief’ – was interesting, but only by its absence.⁴⁰ From Adrian IV’s famous terminological mix-up with Emperor Frederick I at Besançon in 1157-8, we know that the papacy was aware of the term: having called the empire a *beneficium* of the pope, Adrian had to explain that, in Rome, *beneficium* meant *non feudum, sed bonum factum*.⁴¹ As Susan Reynolds acknowledged, the papacy knew that there were connotations of subjection with *feudum*.⁴² The granting of land in the patrimony *in feudum/in feodo* can be found from documents of Adrian IV’s time in the *Liber censuum*.⁴³ The 1157-8 Besançon correspondence does not really allow us to theorize as to

³⁹ Kehr, ‘Das Briefbuch’, p. 46: ‘(1) [...] ex iniuncto nobis apostolatus officio sapientibus sumus et insipientibus [...] debitores [...] (2) [...] regnum Sicilie ad ius et proprietatem apostolice sedis noscitur pertinere [...] (3) [...] Fr(edericus) Sicilie rex illustris a patre ac matre ipsius specialiter fuit apostolice tutele relictus’.

⁴⁰ Geoffrey Malaterra, in his late eleventh-century *Deeds of Count Roger*, claimed that Pope Leo IX gave ‘all the land which they had seized and which they might be able to seize henceforth’ to the Normans to be held as a ‘hereditary fief’ (*hereditali feudo*) in 1053. As Clementi showed this is: a) untrue – there was no such agreement in 1053, and b) almost certainly not what was offered by the Normans anyway. The recent online edition of Malaterra has also noted that the wording here is the same as Malaterra used to describe Charles the Simple’s grant of Normandy to Rollo in 911: Geoffrey Malaterra, *De Rebus Gestis Rogerii Calabriae et Siciliae Comitis et Roberti Guiscardi Ducis fratris eius*, (ed.) Ernesto Pontieri (Bologna, 1928), p. 15; *The Deeds of Count Roger of Calabria and Sicily and of his brother Duke Robert Guiscard by Geoffrey Malaterra*, (tr.) Kenneth Baxter Wolf (Ann Arbor, 2005), p. 62; Déér, *Papsttum und Normannenstaaten*, p. 13; Geoffrey Malaterra, *Histoire du Grand Comte Roger et de son frère Robert Guiscard*, (ed. tr.) Marie-Agnès Lucas-Avenel, book 1, chapter 14, n. 17:

<https://www.unicaen.fr/puc/sources/malaterra/consult/malaterra/FR_livre1.xml/fr.livreI.14> [accessed: 28/06/2017].

⁴¹ *Monumenta Germaniae Selecta ab anno 768 usque ad annum 1250*, iv, pp. 107-15, esp. 114-15. Trans: *Select Historical Documents of the Middle Ages*, (ed. tr.) E. F. Henderson (London, 1903), pp. 410-19, esp. 418-19; C. Morris, *The Papal Monarchy: The Western Church from 1050-1250* (Oxford, 1989), pp. 191-2.

⁴² Reynolds, *Fiefs and Vassals*, pp. 443-4.

⁴³ LC, i, p. 383.

whether the papacy perceived any specific rights as innately pertaining to a *feudum*, but Adrian was aware of the term and its use. Although some concepts from papal lordship in Lazio had been used in the eleventh century to structure the Norman-papal alliance, by the middle of the twelfth century, concepts from papal lordship in Lazio – such as *feudum* – had ceased to be appropriate in the Norman-papal alliance. *Feudum* was not found in treaties, oaths or letters describing Sicily. Perhaps the Norman kings simply would not wear it, but it also seems likely that neither side saw the term *feudum* as applicable or useful.

When the alliance between the Norman rulers and the popes was constructed, both sides drew on concepts, ideas and terminology from a range of places: from protection grants but also from papal lordship in the patrimony. But the popes only took as much as they needed: if something did not fit the immediate needs of the papal-Norman alliance then it was not included. We will see that in the twelfth century, the ritual acts which the popes and Norman kings engaged in were not indicative of an unchanging relationship of vassalage, but dependent on the circumstances and needs of the moment.

2.4. Forming Alliances: Homage and Submission, 1120, 1128, 1130, 1139, 1144, 1150, 1156, 1188 and 1192

The Norman rulers participated in rituals of submission to the popes and these are of particular interest. Traditionally the ceremony of homage has been seen as one of the fundamental building blocks of the ‘feudal system’ symbolising an entry into vassalage and an essential prerequisite to the granting of a fief.⁴⁴ With that assumption, the fact that the Norman rulers performed homage and swore an oath to the pope proves that the papal-Norman relationship was ‘feudal’: the popes were lords of the Norman territory and held superior rights over it and could perhaps confiscate it. In some sense

⁴⁴ F. L. Ganshof, *Feudalism*, (tr.) P. Grierson, re-print (Toronto, 1996), pp. 72-5, 151-2.

southern Italy belonged to the popes. To put it bluntly: it is assumed that the Normans were vassals of the pope, that this vassalage was formally defined and that the rituals of submission were simply one aspect of this formal vassalic relationship. But homage and oath-taking were not intrinsically ‘feudal’ rituals, and should not be subsumed within an approach which seeks to define the papal-Norman relationship as a consistent legal relationship. The focus on ‘the “legal” aspects of relations between the popes and the Norman rulers’ to the exclusion of all else is misguided.⁴⁵ Political relationships in the twelfth century depended on ritual acts at least as much as on formal legal rules. Homage and oath-taking were pluralistic: they had a wide range of uses, both formal and informal, and were not simply ‘feudal’ rituals.⁴⁶

The Norman rulers did not perform homage or give oaths at particular times in the eleventh and twelfth centuries; instead these rituals seem to have occurred somewhat randomly.⁴⁷ In several cases, however, ritualized submission – often explicitly called homage – took place when a new agreement was arranged between the Normans and the papacy. Klaus van Eickels has pointed out that in the second half of the twelfth century the homages from the dukes of Normandy to the kings of France often served as the outward sign of a

⁴⁵ Loud, *Creation*, p. 15; idem, *Church and Society*, p. 58.

⁴⁶ Reynolds, *Fiefs and Vassals*, pp. 213-14; Paul Hyams, ‘Homage and Feudalism: A Judicious Separation’ in *Die Gegenwart des Feudalismus*, (eds) Natalie Fryde, Pierre Monnet, Otto-Gerhard Oexle (Göttingen, 2002), pp. 13-50; Jürgen Dendorfer, ‘Das Wormser Konkordat: Ein Schritt auf dem Weg zur Feudalisierung der Reichsverfassung?’ in *Das Lehnswesen im Mittelalter*.

⁴⁷ Forschungskonstrukte – Quellenbefunde – Deutungsrelevanz, (eds) Jürgen Dendorfer, Roman Deutinger (Ostfildern, 2010), pp. 299-328; A. Taylor, ‘Homage in the Latin Chronicles of Eleventh- and Twelfth-Century Normandy’ in *Peoples, Texts and Artefacts: Cultural Transmission in the Norman Worlds of the Eleventh and Twelfth Centuries*, (eds) David Bates, Elisabeth van Houts, Edoardo D’Angelo (forthcoming, 2017); Wiedemann, ‘Kingdom of Portugal’, pp. 432-45. My thanks to Dr Taylor for providing me with a copy of her article prior to publication. Sandro Carocci admits that ceremonies such as homage can be used for non-feudo-vassalic purposes but seems to suggest that homage is intrinsically feudo-vassalic and thus that other uses are aberrations utilizing ‘the feudal forms to establish high-level links of political alliance and general superiority’: *Vassalli del papa*, pp. 49ff.

⁴⁷ Loud, *Creation*, p. 16.

new agreement between two equal partners, rather than a 'vassallic' submission.⁴⁸ Homage fulfilled a similar function for the papacy and the Norman duke-kings. Equally – again as John Gillingham and van Eickels have suggested vis-à-vis twelfth-century Anglo-French relations – homage could function as a recognition of the position and status of one party, and their heirs, by the other.⁴⁹

These homages and oathtakings should not be seen as the outward sign of a legal relationship between the institution of the papacy and the kingdom of Sicily (or, pre-1130, the various Norman territories), but as ad hoc rituals needed in politicking between neighbouring powers. They were not unchanging in their meaning; they were used and altered to fulfil whatever need was most urgent. We should not, therefore, assume they are feudal and then read a feudal relationship into Norman-papal relations. Instead we must ask what were the needs of the Norman ruler or the pope at the time each individual ritual was performed.⁵⁰

The earliest definite appearance of homage – *hominium/homagium* – between the Norman rulers and the papacy is found in two letters of Pope Calixtus II. They described the same event: in late 1120:

After we had been most honourably received in the City, we descended into the parts of Benevento and thence into Apulia and up to Bari. We received the duke of Apulia, prince of Capua and other counts and barons into our homage and fidelity (*in homigium [sic] et fidelitatem*

⁴⁸ K. van Eickels, "'Homagium' and 'Amicitia': Rituals of Peace and their Significance in the Anglo-French Negotiations of the Twelfth Century', *Francia* 24 (1998), 133-40, at 135.

⁴⁹ K. van Eickels, 'L'hommage des rois anglais et de leurs héritiers aux rois français au XII^e siècle: subordination imposée ou reconnaissance souhaitée?' in *Plantagenêts et Capétians: confrontations et héritages*, (eds) M. Aurell, N.-Y. Tonnerre (Turnhout, 2006), pp. 377-85, at 378, 380-84; John Gillingham, 'Doing Homage to the King of France' in *Henry II: New Interpretations*, (eds) C. Harper-Bill, N. Vincent (Woodbridge, 2007), pp. 63-84, at 67-9.

⁵⁰ Cf. Jenny Benham, *Peacemaking in the Middle Ages: Principles and Practice* (Manchester, 2011), pp. 90-106.

suscepimus). Then, happily returning to the city, we visited St Peter's, which our *fideles* had freed from the hands of enemies. We celebrated a solemn mass at the altar of St. Peter, and in the same Church – with the Lord's aid – we ordained priests, deacons and sub-deacons. Now we remain securely and peacefully in the Lateran palace, through the grace of God.⁵¹

This letter described the papal descent into the Mezzogiorno as taking place after being 'most honourably received in the City [Rome]'. If we turn back to an earlier letter of Calixtus, from a few months before, we see to what this referred:

[...] we travelled the region of Tuscany-Lombardy without any tumult and even with great success, and on the third Nones of July we came near to the city (by the beneficence of God). Our brother bishops and cardinals with all the clergy and noble people came to meet with us outside the city, and received us with the highest honours. The Frigii [...] escorted us to the Lateran palace [...] where, after we were secure [...] Peter Leone [...] bound himself with [his] clients, by oaths, to us and the church. Similarly by the prefect and his brothers and even Leo Frangipane [...] Nor [...] did Peter Colonna and other Roman nobles exclude themselves.⁵²

⁵¹ *Historia compostelana*, p. 309 = *Bullaire du pape Calixte II*, 1119-1124, i: 1119-1122, (ed.) Ulysse Robert (2 vols, Paris, 1891), pp. 296-7 = *Callistus II Epistolae Et Privilegia* in PL 163:1190-1. The other letter is *Bullaire du Calixte*, i, p. 319 = PL 163:1198-9: 'after we were most honourably recognized in the city, and we freed St Peter's and the other churches of the city from the hands of our enemies, we proceeded to Benevento (having been invited by our *fideles*), where we received the duke of Apulia, prince of Capua and other barons and captains of the land into our homage and fidelity; thence, descending into Apulia and up to Bari, we declared the peace and truce of God through all the land. After this, returning to the city, we visited St Peter's and in it we ordained priests and deacons and, returning honourably to the Lateran palace, we celebrated Christmas; we are now staying – without doubt securely – in that palace'. The same event was described in the *vita* of Pope Calixtus, *Liber Pontificalis*, ii, p. 322.

⁵² PL 163:1180 = *Bullaire du Calixte*, i, pp. 262-3.

Susan Twyman identified the importance of this account: it was this ritual reception which formed – at least partially – the means by which Calixtus became lord of the city of Rome.⁵³ It seems likely that the homage of the Normans fits within this interpretation too. The accounts of Norman homage immediately followed Calixtus' assertion that he had been received honourably in Rome – a vital proof of his claim to be the legitimate pope, against the claims of Maurice Bourdin, the antipope.⁵⁴ In all these letters he asserted that he was securely occupying the Lateran palace. Again, control of the Lateran was proof that he was the 'correct' pope and lord of Rome. It seems likely, therefore, that receiving the Normans into his homage and fidelity – which was discussed in the same breath as control of the Lateran and Calixtus' *adventus* into Rome – should be interpreted in a like manner: as further evidence that Calixtus was the true pope.

These three elements: recognition by the Romans, possession of the Lateran and recognition by the Italian Normans, were surely intended as testament to Calixtus' legitimacy. There was – in 1120 – an antipope, Bourdin, so Calixtus here outlined the various rituals and recognitions which testified to his own legitimacy against Bourdin's. The important element of Calixtus' tour of the south was not that *he* recognized the Norman rulers, but that *they* recognized *him*: homage cut both ways.⁵⁵ To identify this homage as an attempt to strengthen direct papal control of southern Italy, as has been suggested,⁵⁶ is

⁵³ Susan Twyman, *Papal Ceremonial at Rome in the Twelfth Century* (Woodbridge, 2002), pp. 143-4; eadem, 'Papal Adventus at Rome in the Twelfth Century', *Historical Research* 69 (1996), 233-53, at 240-2. Twyman refers to this as homage, but the letter of Calixtus does not use *hominium/homagium*.

⁵⁴ On Bourdin, see C. Colotto, 'Gregorio VIII, antipapa' in *Enciclopedia dei papi* (2000), online edition consulted [accessed: 03/08/2017].

⁵⁵ Cf. Twyman, 'Papal Adventus', p. 253: 'The performance of *adventus* was an honour which could be offered or withheld and in this respect it was as much about the articulation of the rights of the citizens as it was a display of papal power'.

⁵⁶ P. Kehr, *Die Belehnungen der süditalienischen Normannenfürsten durch die Päpste 1059-1192* (Berlin, 1934), pp. 35-6; Robinson, *The Papacy*, p. 379; Stroll, *Calixtus II*, pp. 321-2. It is interesting to note that Calixtus received homage from more Norman rulers than just the duke of Apulia

to ignore that what Calixtus wanted was recognition of himself as pope. The earliest definite case of Norman homage to the pope was intended to legitimize the pope, not the secular rulers.

The Norman homages to the pope in the twelfth century were often described by chroniclers in terms explicitly suggesting submission. Thus it often appeared that papal superiority and power was being emphasized. Amusingly, however, it was actually the Norman duke-kings, not the pope, who tended to get their way when a new agreement was made between the two. Despite explicitly claiming that the duke-kings were humbling themselves (as we shall see below), the chroniclers, at least, often undermined that humility with suggestions of equality, such as a long negotiation between the two parties being necessary prior to any agreement. While obviously having a practical side, a long period of public negotiation was, like homage, a symbolic act: both sides were able to reject or accept the terms of the other and thus suggest their equality.

In 1128 Count (later King) Roger II of Sicily was attempting to take control of the duchy of Apulia after the death of the childless Duke William. Pope Honorius II opposed Roger's takeover, probably fearing that the new duke would be powerful enough to encroach on the Church's own lands in Italy.⁵⁷ The two sides – Honorius and his allies and Roger and his Sicilians – met

and prince of Capua, but this probably reflects only Calixtus' wish to present himself as having a wide range of support. Note that only the later *Liber Pontificalis* account specifies who these 'others' were (the counts of Alife-Caiazzo, Ariano and Loritello); the contemporary letters of Calixtus merely named 'other counts and barons' and 'other barons and captains'. As Susan Twyman notes, the author of the *Liber Pontificalis* account tried to reinforce Calixtus' legitimacy by claiming that, when he entered Rome in 1120, Calixtus had already captured Maurice Bourdin, but actually this did not occur until the next year. It might be that he also sought to strengthen Calixtus' legitimacy by naming the powerful counts of Alife-Caiazzo, Ariano and Loritello as those who had personally recognized Calixtus in 1120. Twyman, 'Papal Adventus', pp. 241-2.

⁵⁷ Loud, *Creation*, pp. 15-17, n. 49. For the view that the papacy and Normans held 'fundamentally different interpretations of the rights of a feudal lord' and that the papacy thought it could dispose of its 'fiefs' as it wished, while the Normans believed that they held

at the river Bradano. What occurred then was a prolonged period of negotiation. Roger sent 'another embassy to him [the pope]' and 'both sides remained there for a long time without accomplishing anything' according to the chronicler Alexander of Telese (writing c.1135/6).⁵⁸ These negotiations took place publicly between the two forces and must have seemed to the onlookers to be a clear indication that this was a contest between equals, not between a vassal and his lord, or between one powerful man and another weak man. Telese surely aimed to suggest that, because both sides felt they could reject the demands of the other, the two were perceived as equal.

While the envoys passed back and forth, Telese went on to relate, Honorius received word that his allies were starting to desert because of a lack of funds.⁵⁹ For this reason he 'sent to Roger, quickly and secretly, promising to grant the duchy to him; however he requested him first to come to Benevento and render his homage to him'.⁶⁰ We now see that the true negotiations took place in secret. Why? Because Honorius had realized that, lacking the military wherewithal, he had no choice but to approve Roger's takeover of Apulia. In order to hide his humiliation, Honorius preferred that this be acknowledged in secret rather than in the public negotiations which were taking place. The complete surrender of the papal position would have removed the aura of equality which had been carefully constructed through the public negotiations.

their lands by hereditary right (and hence investiture was just a 'ceremonial recognition of the vassal's rights') see Robinson, *The Papacy*, pp. 368–74, following J. Deér, *Papsttum und Normannen: Untersuchungen zu ihren lehnsrechtlichen und kirchenpolitischen Beziehung* (Cologne, 1972). See H. Houben, *Roger II of Sicily: A Ruler between East and West*, (tr.) G. Loud, D. Milburn (Cambridge, 2002), p. 44 for the view that, on the death of the 'fiefholder' without a direct heir, the territory reverted to the papacy. Contra Loud, *Latin Church*, pp. 146, 149, idem, *Age of Robert Guiscard*, pp. 207–9 who argues convincingly that the papacy did not see the investiture of the Norman dukes as the constitutive act nor that 'Robert [Guiscard]'s right to rule his lands was dependent on the renewal of his fealty and investiture'.

⁵⁸ Loud, *Creation*, pp. 52–5, 70–1; Alexander of Telese, *Storia di Ruggero II*, (ed. tr.) R. Matarazzo (Naples, 2001), p. 16.

⁵⁹ Loud, *Creation*, p. 71; Telese, p. 16.

⁶⁰ Loud, *Creation*, p. 71; Telese, p. 18.

But as soon as Honorius announced that he recognized Roger's succession everyone present would realize that the papacy had surrendered. How was this to be mitigated? Through Roger's public submission to the pope: homage. The homage was not a constitutive act or an entry into vassalage, its purpose was to remove the perception that Honorius had caved in to Roger's demands. Through the participation of both Roger and Honorius in a personal ceremony, amity and peace would be seen to be restored.

The account of the same events by Falcone de Benevento (d. c.1143) also emphasized public submission: Roger undertook his homage 'in the sight of nearly 20,000 men on the riverbank at the Ponte Maggiore'.⁶¹ The public submission of Roger, and the ritualized superiority of the pope, are stated baldly. However, Falcone then continued, before the submission 'many issues which needed negotiation had arisen and *the whole of the day* [my emphasis] had been taken up with dispute between them'. Where had these negotiations taken place? 'Since the count was reluctant to enter the city of Benevento the pope had, as said, gone out to the bridge mentioned above'.⁶² Falcone's account of the duke's submission is undermined by the need to spend so much time negotiating: if the pope had really had the upper hand, he would have been in a position to dictate terms. Doubtless the negotiations were a practical requirement, but lengthy debates can also be a symbol of equality: if both sides can reject proposals then clearly neither is in a markedly inferior position regarding the other. The symbolic value placed on equality was shown by Roger's demand that the negotiations be held on the bridge in front of the crowd of 20,000. Everyone, especially Roger's own army, would be able to see that Roger was not kowtowing to his lord but forming an alliance with an equal

⁶¹ Loud, *Creation*, pp. 55–8, 181; Falcone of Benevento, *Chronicon Beneventanum*, (ed. tr.) E. D'Angelo (Florence, 1998), p. 102.

⁶² Loud, *Creation*, p. 182; Falcone, p. 102: 'multis enim negotiis intervenientibus, dies ille totus disputando inter se consumptus est'.

potentate. Equally Honorius' allies would be able to see that Roger was not simply dictating terms (although according to Telese's pro-Rogerian hagiography that was exactly what Roger did). If Honorius was going to make Roger submit publicly then Roger would make sure that Honorius treated him as an equal beforehand. And if Honorius was going to be forced to accept Roger's terms then he would make sure that the surrender of his demands was offset by the ritualized submission of homage.⁶³

A similar sequence of events can be seen several years later between Roger and a new pope: Innocent II. Two years after the events of 1128 Honorius II had died. Two popes were elected to succeed him in 1130: Innocent II and Anacletus II. Anacletus had secured Duke Roger's support by granting him the title of king of Sicily in 1130. Innocent II had done better, however: he secured the support of Bernard of Clairvaux, and then the majority of the other rulers of Europe.⁶⁴ When Anacletus died in 1138 a new pseudo-pontiff, Victor IV, was elected but Roger defected to Innocent within two months.⁶⁵ Innocent II had won the schism and Roger now needed to come to terms with him.

According to Falcone, the prospects for peace seemed promising in 1139. Innocent received Roger's envoys and sent two cardinals in return. They then invited Roger to meet the pope at San Germano. This Roger did. Negotiations

⁶³ Romuald of Salerno's account of the events of 1128 gloss over the fact that Honorius acceded to Roger's demands completely and he does not emphasize the length of the negotiations. Instead he chooses to put the spotlight on the submissive ritual, suggesting that Roger recognized the papacy as his superior: 'the pope returned to Benevento. Duke Roger followed him there, envoys were exchanged and they came to an agreement by which Roger did liege homage and swore an oath to him, and the pope invested him by banner with the duchy of Apulia on the bridge over the Sabato'. The Chronicle of Montecassino, however, glosses over the submissive ritual in favour of emphasising only the equal nature of relations: 'The pope marched with an army against him, but finally they came to an agreement and he confirmed the duchy to him', Loud, *Creation*, pp. 253, 279.

⁶⁴ See Mary Stroll, *The Jewish Pope: Ideology and Politics in the Papal Schism of 1130* (Leiden/New York, 1987), pp. 65-81.

⁶⁵ Gregory Conti, elected Antipope Victor IV in 1138. Not to be confused with the *other* Antipope Victor IV (d. 1164), elected in opposition to Pope Alexander III in 1159. For the schism in general see Morris, *Papal Monarchy*, pp. 183-4.

then came to naught over eight days as Roger refused to yield the principality of Capua which formed part of his kingdom created by Anacletus in 1130. Roger then showed his power by attacking several nearby *castra*. Innocent responded in kind, besieging neighbouring Gallucio. Roger, upon hearing of the papal siege, immediately returned to Gallucio, put the papal army to flight, and captured Innocent and several senior cardinals. Falcone then goes on to say that, having captured Innocent, 'the king at once sent envoys to Pope Innocent [...] begging him more humbly than one would have thought possible to grant him the hand of peace and concord'. The pope agreed to the king's requests and 'on 25th July the king, and his sons the duke and prince came into the pope's presence, flung themselves at his feet and begged for mercy, and bowed to his authority'.⁶⁶ Amidst this powerful depiction of Roger's humbling, Falcone skates over one minor point: Innocent agreed to everything Roger wanted. Roger kept the title of king and the principality of Capua. The papal confirmation of Roger's kingship – *Quos dispensatio* – specifically stated that the kingdom of Sicily, the duchy of Apulia and the principality of Capua were all conceded to Roger.⁶⁷ Falcone seems to have attempted to hide the pope's surrender by emphasising the apparent humiliation of Roger II's submission to the pope. Before Roger's capture of Innocent, the negotiations had not emphasized the superiority of one or the other party. These negotiations had fallen apart over the Capua question. Roger wanted to hang on to Capua but, as in 1128, the papacy feared that a united southern Italy would be a threat. Roger was then able to capture Innocent and extort favourable terms. This papal

⁶⁶ Loud, *Creation*, pp. 238-9; Falcone, p. 222.

⁶⁷ 'Regnum Sicilie [...] excellentie tue concedimus [...] Ducatum quoque Apulie [...] et principatum Capuanum [...] tibique concedimus'. JL 8043 = *Innocentius II Epistolae et Privilegia* in PL 179:478 = H. Hoffman, 'Langobarden, Normannen, Päpste. Zum Legitimationsproblem in Unteritalien', *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 58 (1978), 137-80, at 176-8. The codex from which Hoffman drew his transcription – Rome, BAV, Arch. Cap. S. Pietro G.44 – has been digitized and is available at: <http://digital.vatlib.it/view/MSS_Arch.Cap.S.Pietro.G.44/0144> ff. 69^{r-v} [accessed: 11/06/2015].

humiliation was intended to be lessened by Roger's public submission, but that was nothing more than an attempt to save papal face.

Romuald of Salerno – to whom a world chronicle ending in 1178 is attributed – also described the events of 1139.⁶⁸ He too noted that after Innocent's capture '[t]he king [...] wished to approach the pope's feet in an appropriately humble manner' but Innocent 'at first refused to receive him'. Innocent eventually 'received oath and homage from him [...] at length, after envoys had scurried between them negotiating a peace treaty'.⁶⁹ Again Roger's submission was emphasized: Innocent originally refused to receive Roger (even though he was in Roger's custody). Again this is surely an attempt to lessen the – fairly obvious – perception that Innocent was being forced to agree to whatever Roger wanted. There was still a suggestion of equal negotiations, however: negotiations apparently took some time ('at length' – *tandem*). Envoys had to 'scurry' – *discurrens* – back and forth. That suggests proposal and counter-proposal, the hallmarks of negotiations between equals.⁷⁰ The papal humiliation was thus neutered both by Roger's public submission, and by the suggestion that the eventual agreement was arrived at by free debate.⁷¹

⁶⁸ Loud, *Creation*, pp. 58-60.

⁶⁹ MGH SS xix: *Romoaldi II. archiepiscopi Salernitani annales*, (ed.) W. Arndt (Hanover, 1866), pp. 387-461, at 423 [henceforth: Romuald]. Trans Loud, *Creation*, p. 259. 'Rex [...] ad pedes domini pape voluit humiliter satis accedere. Set ipse [...] vir [...] eum primo recipere noluit. Tandem discurrentibus inter eos nunciis et de pace componenda tractantibus, dominus papa [...] regem in gratia sua recepit, et recepto ab eo sacramento et hominio'.

⁷⁰ On the importance of *internuncii* in arranging ritual acts to end conflicts, see Timothy Reuter, 'Assembly Politics in Western Europe from the Eighth Century to the Twelfth' in *The Medieval World*, (eds) Peter Linehan, Janet L. Nelson (London/New York, 2001), pp. 432-50, at 440; idem, 'Contextualising Canossa: Excommunication, Penance, Surrender, Reconciliation' in idem, *Medieval Polities and Modern Mentalities*, (ed.) Janet L. Nelson (Cambridge, 2006), pp. 147-66, at 161-2; Hanna Vollrath, 'Rebels and Rituals: From Demonstrations of Enmity to Criminal Justice' in *Medieval Concepts of the Past: Ritual, Memory, Historiography*, (eds) Gerd Althoff, Johannes Fried, Patrick J. Geary (Cambridge, 2002), pp. 89-110, at 92-3.

⁷¹ The *Vita* of Innocent II makes no mention at all of the 1139 capture and agreement. Perhaps it was felt that, even with the submission ritual, it was too obviously a defeat for the pope. *Liber Pontificalis*, ii, p. 383.

Despite (or perhaps because of) the agreements of 1128 and 1139, the relationship between the Roman papacy and southern Italian Normans continued to be frosty up until the pact of Benevento in 1156.⁷² There were periods of détente though, such as during the brief pontificate of Lucius II (1144-5). According to the Chronicle of Holy Mary of Ferraria – which was probably based on lost sections of Falcone's Chronicle⁷³ – Roger had been harassing the papal enclave of Benevento. Pope Celestine had sent an embassy to Roger but then died, to be succeeded by Lucius II. Lucius and Roger then met and Roger 'prostrated [himself] [...] on the ground and kissed the pope's feet'. After this there were lengthy negotiations which came to nothing. Lucius had wanted the return of Capua from Roger (as Innocent had in 1139) but Roger would not countenance it. Shortly after the negotiations broke up, Roger apparently had the opportunity to seize Tripoli and expand the territory of Norman *Ifriqiya*.⁷⁴ Roger therefore allowed a truce and agreed that he would not attack the Beneventans for seven years.⁷⁵

What then is to be made of this? Again we have the symbolic humbling of the Norman king (not here called homage) but the king received nothing in return; indeed it was eventually he who was forced to grant a truce. On the other hand, Roger retained Capua, as he had in 1139. An explanation can be found by comparing this account to that of Romuald. According to Romuald, Celestine had refused to confirm the 1139 agreement between Roger and Innocent, and when Celestine had died, Roger had approached the, hopefully

⁷² *The History of the Tyrants of Sicily by 'Hugo Falcandus'* 1154-69, (eds, tr.) G. A. Loud, T. E. J. Wiedemann (Manchester, 1998), [henceforth: Pseudo-Hugo], p. 9.

⁷³ Loud, *Creation*, pp. 55, 247.

⁷⁴ The somewhat grandiose title 'kingdom of Africa' given to Roger's territories by later historians probably exaggerates the importance of the belt of coastal towns along the coast of *Ifriqiya* which were held by the Normans, see C. Dalli, 'Bridging Europe and Africa: Norman Sicily's Other Kingdom' in *Bridging the Gaps: Sources, Methodology and Approaches to Religion in History*, (ed.) J. Carvalho (Pisa, 2008), pp. 77-93.

⁷⁵ Loud, *Creation*, pp. 247-9.

more pliable, Lucius II to confirm the agreement. Unfortunately ‘they negotiated about peace between them for a long time, but were unable to come to an agreement because of the opposition of the cardinals’.⁷⁶ The best way to interpret this, I suggest, is that Roger hoped that offering his public submission would be sufficient to pacify Lucius. This time, however, Roger did not have the whip-hand over the pope and Celestine and Lucius rejected Roger’s proposals. Roger had offered his public submission but, in 1144, that was not enough to persuade the papacy to confirm the 1139 agreement. The clear difference in 1144 was that the submission had not been pre-arranged and so there was no onus on the pope to accept it. There are other cases when participants tried to use a ritual to bounce a ruler into giving them what they wanted, without having pre-arranged it with the ruler: during Frederick Barbarossa’s coronation, a *ministerialis* – knowing the convention that a new ruler should show clemency – prostrated himself before Frederick and asked for forgiveness for grave excesses. Frederick responded by refusing to grant forgiveness – thus showing the royal duty to uphold justice – probably because the prostration had not been arranged in advance.⁷⁷

When Roger did eventually grant a truce – so that he could intervene in North Africa – the chronicle accounts did not mention submission or homage. But, of course, submission was not needed. In 1128 and 1139, Roger had publicly submitted to remove the appearance that he was forcing the papacy into doing what he wanted. In 1144, he was *not* forcing the papacy into doing

⁷⁶ Romuald, p. 424; trans Loud, *Creation*, p. 261.

⁷⁷ G. Althoff, ‘The Variability of Rituals in the Middle Ages’ in *Medieval Concepts of the Past: Ritual, Memory, Historiography*, (eds) Gerd Althoff, Johannes Fried, Patrick J. Geary (Cambridge, 2002), pp. 71-88, at 78-80; Althoff, *Otto III*, (tr.) P. Jestice (Pennsylvania, 2003), pp. 75-81. It is even possible that the description of Roger abasing himself without having arranged it beforehand is meant to suggest that Roger was perverting such rituals, the act of a tyrant: Buc, *The Dangers of Ritual*, pp. 103-6.

what he wanted: Lucius was refusing to do what Roger wanted, and so there was no need for the chroniclers to claim that Roger submitted to the pope.

The truce between pope and king was renewed in 1150 in negotiations between Eugenius III and Roger at Ceprano, recorded by John of Salisbury in the *Historia pontificalis*. According to John, Roger was again seeking agreement but, as in 1144, was rebuffed by the pope. He is said to have fallen at the pope's feet and granted free elections to the Italian and Sicilian church. He then supposedly implored Eugenius 'to accept his homage and renew his privileges, but by neither prayer nor gift could he achieve this'.⁷⁸ This is interesting. In John of Salisbury's scenario, it was Roger who wanted to give homage and Eugenius who rejected it. Clearly we are not in the same territory as in 1128 and 1139 when Roger submitted to the pope in order to make it appear that he was not forcing terms from the papacy. This account did, as in 1128 and 1139, suggest papal superiority by allowing Eugenius to reject Roger's requests. The refusal of Eugenius to accept Roger's submission was also intended to show that the papacy and the Normans had not reached a lasting deal: van Eickels has shown how the homage of the dukes of Normandy to the king of France represented 'the outward form of a peace treaty' and so Eugenius' refusal to accept Roger's homage meant that no peace was agreed.⁷⁹ In 1150 the absence of homage showed the absence of amity between the king and the pope. By rejecting Roger's homage, Eugenius was preserving his freedom of action: if he had accepted Roger's homage he would have bound himself not to move against Roger.

Roger wanted to perform homage because he knew that it would have given him papal approval for his kingship; it would have symbolized a new

⁷⁸ The 'Historia Pontificalis', p. 66; *Historia Pontificalis*, MGH SS xx, pp. 538-9: 'accedens ad pedes eius, liberas electiones concessit ecclesiis [...] supplicavit ut dominus Papa reciperet hominum suum et privilegia innovaret. Sed non prece nec precio meruit exaudiri'.

⁷⁹ van Eickels, "Homagium" and "Amicitia", pp. 135, 139.

agreement between him and the pope and it would have bound the pope to act – if not favourably – then at least not aggressively towards him. That does not mean that Roger saw papal confirmation as a constitutive act, however: an act that actually made him a king where he had not been so before.

We have seen how, in the first half of the twelfth century, the relevance of the homage ceremony fluctuated. Calixtus II had received homage to confirm his own position; Honorius and Innocent had received homage to make it appear that they were freely granting terms to Roger II when they were in fact in a weak position; and Lucius and Eugenius had rejected homage when they thought that they were in a position to wheedle more concessions out of Roger. Homage was therefore both highly and variably functional. It did not at all simply denote entry into vassalage.

A lasting agreement between the Norman king and the pope came in 1156 between King William I (Roger II's son) and Pope Adrian IV. A great deal of ink has been spilt discussing the events which led up to the agreement. Recently Anne Duggan has challenged the traditional interpretation whereby, from 1120, the papacy had followed an anti-Sicilian, pro-Imperial policy spearheaded by a cabal of pro-Imperial cardinals who were, in 1156, superseded by a pro-Sicilian faction. This pro-Sicilian group, the argument goes, arranged the pact of Benevento at the expense of the papacy's relations with the Empire. Duggan has pointed out that this places far too much emphasis on Pope Adrian IV and the cardinals being solely motivated by their own wishes. In actual fact they were simply responding to events: Emperor Frederick abandoned his alliance with the papacy, King William of Sicily defeated the military alliance which had been formed against him and Adrian had no choice but to come to terms with William at Benevento. The terms of the treaty were, in the main, not in papal interests because, as in 1128 and 1139, a

Norman king was able to extort favourable terms from a pope when the king held clear military superiority.⁸⁰

The agreement allowed William to refuse legates access to Sicily (a privilege originally given to his grandfather, Count Roger I, in 1098 by Urban II) and dealt with the problems of episcopal consecration which had been a running sore for some decades. In return the annual census owed by the kingdom was increased to 1,000 *schifati* and William and his heirs were bound to perform homage. The kingdom was not referred to as a 'fief' nor were the kings called 'vassals'.⁸¹ The year after the treaty of Benevento, Adrian IV granted several *feuda* in the papal patrimony and he was forced to explain to an irate Frederick I that he did not think that the Empire was a papal *feudum*.⁸² Despite clear knowledge of the subjection suggested by the term *feudum*, it was not used in the treaty of Benevento. The obvious conclusion is that neither Adrian nor William I saw Sicily as a papal 'fief'.

In 1156, as in 1128 and 1139, homage was performed when a new agreement was reached, when conflict between the king and the pope had to be symbolically ended and when the papacy was having terms dictated to it. William I wanted public papal approval because recognition by the successor to St Peter gave obvious legitimacy to his kingship. Equally, William wanted the rights relating to the Sicilian church which the agreement of Benevento gave him. The pope – who was in large part simply agreeing to William's demands – agreed to accept Roger's submission because he wished to appear in a position of strength as in 1128 and 1139. Romuald's account of the events of 1156 emphasized the length of the negotiations – thus giving the two parties equality

⁸⁰ Duggan, 'Totius Christianitatis Caput', *passim*.

⁸¹ MGH Const., i, pp. 588-90; translation: Pseudo-Hugo, pp. 248-52.

⁸² For Besançon and grants of fiefs by Adrian, see above.

– and Cardinal Boso (d. c.1178)'s *vita* of Adrian IV recounted the king's submission in order to remove any suggestion of compulsion.

According to Romuald King William 'came to an agreement with the pope, after many envoys had scurried between them and the terms of the peace treaty had been negotiated back and forth'.⁸³ We have a cognate of *discurrens* (*intercurrens*) – 'scurrying between' – making the language very similar to how Romuald's chronicle described the events of 1139 (see above). In 1156 Romuald's chronicle emphasized the length of the negotiations – many envoys have to travel between the parties: *multis nunciis*. After this suggestion of equality the king 'humbly approached his [Adrian's] feet' and 'having taken an oath, as was the custom, became a liege-man (*liggius homo*) of the pope'.⁸⁴ Here the emphasis was not on equality but submission. Amid this mix of papal superiority and equal negotiation there was no suggestion that the king was extorting his desired terms, as he was.

Boso emphasized the submission of William too: the king 'humbly prostrated himself at the feet of the pope and performed liege-homage and fidelity'.⁸⁵ On the other hand, even Boso did not ignore the prior suggestions of equality: the agreement only occurred after 'disagreement on both sides about certain terms', making it clear that both king and pope had the independence to reject the other's terms.⁸⁶ After homage was performed, William gave a large number of gifts to Adrian and received the kiss of peace from the pope, indicating a restoration of *amicitia*.⁸⁷ The emphasis of both writers – Romuald and Boso – on the fact that William performed homage on his knees is worth

⁸³ Romuald, p. 429; translation: Pseudo-Hugo, p. 224.

⁸⁴ Pseudo-Hugo, p. 224.

⁸⁵ *Liber Pontificalis*, ii, p. 395: 'ad pedes ipsius pontificis humiliter se prostravit et ligium hominum et fidelitatem [...] sibi fecit'. Translation: Pseudo-Hugo, p. 247.

⁸⁶ *Liber Pontificalis*, ii, p. 395: 'post mutuam diversorum altercationem capitulorum'; Pseudo-Hugo, p. 247.

⁸⁷ *Liber Pontificalis*, ii, p. 395; Pseudo-Hugo, p. 247.

noting. Twelfth-century homages between the English and French kings were not always done on one's knees.⁸⁸ Therefore to claim that the king was on his knees called attention to his submission. Both chroniclers took care to give clear indications of papal superiority because once again it was necessary to remove any implication that the pope was being forced into an agreement. This was especially important for Cardinal Boso, the 'official' biographer of Pope Adrian. Homage here was not just the necessary exterior sign of a new agreement but also hid any suggestion of coercion. Hiding coercion was required less often in the homages between the English and French kings.

The tension between equality and submission in Boso's account was especially clear. He spent the entire paragraph preceding the events at Benevento describing how William, having defeated the Greeks, held all Apulia in his sway and that Adrian then realized that he had to make peace.⁸⁹ This all implies that William was in the superior position. But Boso then unsuccessfully attempts to undermine William's obvious superiority via equality in negotiation and the ritual submission of the king to the pope.

The accounts of submission, and the specific insistence on homage in the text of the 1156 treaty, were intended to give the appearance of papal superiority, as well as to show publicly to the world that the pope and king were reconciled. The humiliating papal concessions to King William were glossed over. The preamble to the treaty of Benevento began: 'it has always been our [the king's] custom to show ourselves humble at heart at moments of

⁸⁸ Gillingham, 'Doing Homage', p. 83, n. 1; Thomas N. Bisson, 'Medieval Lordship', *Speculum* 70 (1995), 743-59, at 748. See also A. J. Kosto, 'The *Liber feudorum maior* of the Counts of Barcelona: The Cartulary as an Expression of Power', *Journal of Medieval History* 27 (2001), 1-22 at 18-19. I query Kosto's assumption that kneeling distinguishes images of 'homage' (viz 'promises of fidelity, grants of fiefs in return for fidelity, and grants of fief *per manum*') from images of 'agreements'. Whether one participant knelt or not was probably more dependent on the relative status of the parties (or the status the author/illustrator wished to present) than on the purpose of the homage.

⁸⁹ *Liber Pontificalis*, ii, p. 395; translation: Pseudo-Hugo, p. 247.

triumph and greatest success';⁹⁰ an ironic echo of the practice of offering meek submission while dictating terms. Indeed it had frequently been the kings' custom, when dealing with the papacy, to humbly submit in appearance.

The willingness of the Norman kings to humble themselves can probably be put down to the fact that the other party was the pope. If a king submitted to another king then perhaps he lost face but when submitting to the pope there was a different logic. In 1155 Emperor Frederick I might have spent days refusing to act as groom to Pope Adrian IV – thus neatly showing everyone that he did not *have* to fulfil the role – but he did eventually lead Adrian's horse into Sutri.⁹¹ In 1131 King Henry I of England – who never humbled himself before the French king⁹² – was happy to 'fall humbly at the feet' of Pope Innocent II and pay 'the reverence owed to the pope'.⁹³ Henry II of England is said to have kissed Alexander III's feet when they met in 1162,⁹⁴ and – along with King Louis VII of France – acted as groom to Alexander in 1163.⁹⁵ None of these were homages but they do suggest that it was not extraordinary for a king to humble himself before the pope. The particularly submissive homages (according to the chroniclers) from the kings to the popes fit within that paradigm. The frequency of these submissive homages and submissions might only appear unique – and to have led to the historiographical assumption that they show a continuous

⁹⁰ Pseudo-Hugo, p. 248; MGH *Const.*, i, p. 588.

⁹¹ *Liber Pontificalis*, ii, pp. 391-2. As with Boso's account of the pact of Benevento, he seems to undermine the suggestion of papal superiority by relating how, for several days, Frederick refused to act as *strator*. On the other hand, Boso might have thought that Frederick's eventual performance of the role showed traditional papal rights triumphing over the emperor's distaste for submission.

⁹² Gillingham, 'Doing Homage', pp. 63-5, 69.

⁹³ Nicholas Vincent, 'Beyond Becket: King Henry II and the Papacy (1154-1189)' in *Pope Alexander III (1159-81): The Art of Survival*, (eds) Anne J. Duggan, Peter D. Clarke (Farnham, 2012), pp. 257-99, at 265, n. 32; Pascal Montaubin, 'Innocent II and Capetian France' in *Pope Innocent II (1130-43): The World vs the City*, (eds) Damian J. Smith, John Doran (Abingdon, 2016), pp. 107-51, at 121.

⁹⁴ *Liber Pontificalis*, ii, p. 407; Vincent, 'Beyond Becket', pp. 265-6.

⁹⁵ Vincent, 'Beyond Becket', pp. 266-7, n. 37.

relationship of ‘vassalage’ – because the Norman kings personally met the pope far more frequently than, say, the kings of England, France or Aragon did.

In 1188 the terms agreed at Benevento were confirmed by Pope Clement III and King William II. As Loud notes, between 1156 and 1188 there are no examples of the Norman king performing homage or swearing an oath to the pope.⁹⁶ This is surely because there were no new agreements to confirm and no new conflicts to end: after 1156 the Sicilian king was a backer of Popes Adrian IV and Alexander III and there was no major breakdown in their relationship. But with the re-confirmation of the terms of Benevento in 1188, and the marriage of William II’s daughter Constance to Henry VI of Germany, William II swore an oath of fidelity: it was thought necessary at this juncture to confirm the Norman’s loyalty to the pope over the empire.⁹⁷ At the same time, Clement III sent to William the letter *Veritatis amica* – later incorporated into decretal collections⁹⁸ – which explicitly stated that the papacy saw no need for William or his successors to repeat their oath to later popes after they had sworn once. Homage had apparently been ‘relaxed’ for William and it could be relaxed again for his heirs.⁹⁹ What this suggests is that the papacy saw no need for homage when there was no new agreement, or if king and pope were not ending a conflict. William II had never previously performed homage to the pope and he was not required to do so now: a simple re-confirmation of existing terms, a new king or a new pope did not necessarily require homage.

⁹⁶ Loud, *Norman Church*, p. 168.

⁹⁷ MGH Const., i, pp. 591-2; Loud, *Latin Church*, p. 169; Walter Fröhlich, ‘The Marriage of Henry VI and Constance of Sicily: Prelude and Consequences’ in *Anglo-Norman Studies*, xv: *Proceedings of the Battle Conference 1992*, (ed.) Marjorie Chibnall (Woodbridge, 1993), pp. 99-115.

⁹⁸ See Pennington, ‘The Feudal Oath of Fidelity and Homage’, pp. 109, 113.

⁹⁹ JL 16375 = Charitatis [sic] amica: *Clementii III Romani Pontificis decretalia* in PL 204:1486. Veritatis amica: X. 2. 24. 14: *Corpus iuris canonici*, (ed.) E. Friedberg, re-print (2 vols, Graz, 1959), ii, pp. 363-4: ‘heredes tui, qui nobis vel alicui successorum nostrorum iuraverunt, aliis postea iurare minime compellantur [...] alicui eorum, sicut personae tuae fuerit hominum de benignitate sedis apostolicae relaxatum’.

All Clement wanted was an oath, to ensure that the Normans continued to respect and honour the papacy.

The fact that William II felt the need to clarify this point is of interest. Since 1120 homage had only been performed occasionally, when it had been felt by one side that a ceremony was needed to confirm their position or to save face when a new agreement was established. If one took the view that homage was always an entry into vassalage and was intended solely to confirm papal overlordship, then it follows that the papacy should have seen homage as *intrinsically* important: they should have taken every opportunity to receive homage. They did not. The popes did not demand homage from the kings without an immediate cause. Homage was not important *eo ipso*; it was important when it could be used to answer a current problem or need. The letter to William was a confirmation to the kings that they would not be required to perform homage if there was no immediate need.¹⁰⁰ If, however, the situation changed and, for example, a new king wanted a public display of papal support for his rule, then he could still ask the pope to accept his homage. In fact, that is exactly what happened.

When William II died in 1189 the succession in Sicily was disputed. William's aunt, Constance, and her husband Henry VI were opposed by Tancred of Lecce, the illegitimate son of Duke Roger, eldest son of King Roger II. Supposedly Constance was William's designated successor and she was assuredly his closest legitimate relation. Nonetheless, Tancred was able to establish himself as king, was crowned and fought off an Imperial attack.¹⁰¹ In 1192 the new pope, Celestine III, and Tancred came to a new agreement: the

¹⁰⁰ It is possible that William linked the giving of an oath with the terms of 1156. Thus his request that he and his heirs should not be bound to repeat their fidelity could be an implicit request that future popes would not seek to re-negotiate the terms of Benevento.

¹⁰¹ Matthews, *Norman Kingdom*, pp. 286-8; D. Clementi, 'The Circumstances of Count Tancred's Accession to the Kingdom of Sicily, Duchy of Apulia and the Principality of Capua' in *Mélanges Antonio Marongiu* (Palermo, 1967), pp. 57-80, esp. 57ff.

treaty of Gravina. This was intended to replace the 1156 agreement of Benevento. In 1192 neither side had an obvious advantage over the other: the Norman king had not defeated the pope in battle, Tancred wanted papal confirmation to shore up his own disputed legitimacy and the pope preferred Tancred's succession over Henry VI's to prevent the unification of Sicily with the German empire. This means that some of the privileges which William I had extorted at Benevento (when he had been in a superior position) were redressed in the papacy's favour. Legates could now be sent to Sicily and the king's right to veto episcopal appointments was weakened. In return Tancred got papal approval of his rule. The agreement copied the article from 1156 stating that the king 'had done homage and sworn fidelity'.¹⁰² In fact Tancred had not performed homage when the treaty was agreed. The use of the perfect tense arose because that article was incorporated verbatim from the 1156 treaty of Benevento. Paul Kehr realized that this must be the case from an 1192 letter of Tancred to Celestine III:

[w]e make known [...] that because the pre-eminence of your holiness is not able to come to parts of our kingdom for the receipt of homage from us according to the customs of our progenitors [...] the venerable cardinals Albinus and Gregory [...] came to our highness for the receipt of the oath of fidelity from us at Alba.

But, Tancred went on 'we promise that at whatever time you or your successors should signify to us or our heirs, in whatever part of our kingdom which lies under our power, [we will approach and perform liege-homage]'.¹⁰³

¹⁰² MGH Const., i, pp. 593-4.

¹⁰³ MGH Const., i, pp. 594-5: '[...] notum facimus, quod cum vestre preminentia sanctitatis pro recipiendo a nobis hominio iuxta consuetudinem progenitorum nostrorum ad partes regni nostril [...] non posset accedere, pro recipiendo iuramento fidelitatis a nobis Albam venerunt Albinus [...] et Gregorius [...] venerabilis cardinalis ad nostrum celsitudinem destinati [...]. Promittimus ut, quandocumque vos aut successores vestri nobis aut heredibus nostris in quacumque patre regni nostri que nostre subiaceat ditioni significaveritis, [lacuna in text.]

It is obvious here that it was Tancred who wanted to perform homage in order to bolster his legitimacy. Celestine, however, could not be bothered to go and receive it. He sent two cardinals to receive the oath but let the homage slide. Again we can see that the papacy was not concerned with homage for its own value. The pope did not need to confirm his superiority publicly when he was not having terms dictated to him. On the other hand, Tancred wanted to perform homage because it was the most public confirmation possible of the papacy's support for his succession. Celestine was apparently attempting to diminish the major advantage that Tancred thought he had got. Doubtless Celestine was also not particularly keen on offending Henry VI who was marching south with an army to enforce the rights of his wife Constance over Sicily. John Gillingham has noted how the twelfth-century kings of France could reject the proffered homage of the dukes of Normandy and so 'keep their options open'.¹⁰⁴ In 1192 the king wanted to perform homage and the pope would not accept it.

We can clearly see that between 1120 and 1192 homage was tied to whatever the needs of the moment were. When the submissive nature of the ceremony was emphasized it was because it was a face-saving exercise for the weaker party. *Quos dispensatio* – the 1139 privilege granting Roger II the title of king – explicitly noted that non-performance of homage did not invalidate the king's rule: the ceremony was not intended as a constitutive ritual of 'vassalage'. The Anglo-French homages of the twelfth century were not indicative of the 'feudal' subordination of the duchy of Normandy to the king

Probable reading: accessuri simus ligium hominium prestituri]. I cannot accept the suggestion of Uta-Renate Blumenthal that the two cardinals did receive Tancred's homage and that "[f]idelity" is used in this document as a synonym for homage'. Fidelity here explicitly refers to an *oath* of fidelity: 'Cardinal Albinus of Albano and the *Digesta Pauperis Scholaris Albini*, MS. Ottob. Lat. 3057', *Archivum Historiae Pontificiae* 20 (1982), 7-49, at 31, n. 100; Kehr, *Belehnungen*, pp. 51-2.

¹⁰⁴ Gillingham, 'Doing Homage', pp. 67-9.

of France, but were the outward form of a peace treaty, or the confirmation of the rights of an heir or a personal submission between rulers.¹⁰⁵ Similar conclusions can be reached for the Norman-papal homages: at Benevento in 1156 a new agreement was made and sealed with homage. Ditto in 1192, 1128 and 1139. Homage also bound both parties to recognize the position of the other. If the pope accepted homage then he recognized the king *as* the king; if the Norman rulers gave homage then they recognized the pope *as* the pope. The importance of submissive rituals such as homage in ending disputes should also not be forgotten. Levi Roach and Paul Hyams have pointed to the use of ritual submission and homage for this purpose.¹⁰⁶ The frequency of homages from Norman rulers to the pope in the first half of the twelfth century – when they were often at war or in dispute – is balanced by the total absence of homage after 1156 – when the Normans were the major backers of Pope Alexander III during the 1159-78 schism. The performance of homage thus served to show the ending of the conflict and the restoration of *amicitia*.

Submissive homages did have an advantage for the Norman kings. Were it commonly known that the pope had been forced into an agreement (as in 1128, 1139 and 1156) it could have provided a justification for breaking the agreement. Pseudo-Hugo Falcandus, in his chronicle, cited ‘no judge would consider what had happened as a result of force or threats as legitimate’ as a

¹⁰⁵ K. van Eickels, ‘Gleichrangigkeit in der Unterordnung. Lebensabhängigkeit und die Sprache der Freundschaft in den englisch-französischen Beziehungen des 12. Jahrhunderts’ in *Der Weg in eine weitere Welt: Kommunikation und ‘Außenpolitik’ im 12. Jahrhundert*, (ed.) H. Vollrath (Berlin, 2008), pp. 13-34, at 29; Van Eickels, “‘Homagium’ and ‘Amicitia’”, p. 135.

¹⁰⁶ Hyams, ‘Homage and Feudalism’; idem, ‘Faith, Fealty and Jewish “infideles” in Twelfth Century England’ in *Christians and Jews in Angevin England: The York Massacre of 1190, Narratives and Contexts*, (eds) Sarah Rees-Jones, Sethina Watson (Woodbridge, 2013), pp. 125-47, at 131, n. 22; Levi Roach, ‘Submission and Homage: Feudo-Vassalic Bonds and the Settlement of Disputes in Ottonian Germany’, *History* 97 (2012), 355-79, at 365-7; idem, ‘Penance, Submission and *deditio*: Religious Influences on Dispute Settlement in Later Anglo-Saxon England (871-1066)’, *Anglo-Saxon England* 41 (2012), 343-71, at 356; Benham, *Peacemaking in the Middle Ages*, pp. 90-106.

legal maxim.¹⁰⁷ A fear that coercion could have provided an escape for King John when he surrendered England to Innocent III in 1213 probably explains the insistence on John's free will in the document of surrender.¹⁰⁸ By giving the papacy the appearance of being in the driving-seat, Roger removed any opportunity for the pope to claim that he had been forced into agreement, as Paschal II had claimed regarding his concessions to Emperor Henry V in 1111. Paschal (or the synod called in his name) had used the claim of coercion to nullify his concessions to Henry V.¹⁰⁹ We should also not underestimate the importance of the *appearance* of consensus in ritual acts: in Philippe Buc's phraseology a 'good' ritual would be one presented as consensus-led, while a 'bad' ritual would be criticized on the grounds of being stage-managed and dictatorial.¹¹⁰ Thus it was important for the Sicilian kings to present their agreements with the pope as consensus-led and not based on coercion. Voluntary submission was therefore vital if the Norman kings were to avoid suggestions that they were manipulators and coercers.

At various times in the twelfth century either the Normans or the papacy wanted the recognition of the other.¹¹¹ While homage or submission are clearly not a sole constitutive act – the duke-king ruled irrespective of whether the pope liked it or not – Norman rule was strengthened by public papal support and the legitimacy of any pretenders was weakened. The reverse – papal legitimacy was strengthened by the recognition of the major regional power – was also true. Exactly the same principle was at work in the twelfth-century Anglo-French homages: Henry I wanted King Louis VI to accept his son's

¹⁰⁷ Pseudo-Hugo, pp. 49, 215.

¹⁰⁸ C. Cheney, *Pope Innocent III and England* (Stuttgart, 1976), p. 334.

¹⁰⁹ Robinson, *The Papacy*, pp. 128-30.

¹¹⁰ Buc, *The Dangers of Ritual*, pp. 8-10, 255; idem, 'Text and Ritual in Ninth-Century Political Culture: Rome, 864' in *Medieval Concepts of the Past: Ritual, Memory, Historiography*, (eds) Gerd Althoff, Johannes Fried, Patrick J. Geary (Cambridge, 2002), pp. 123-38.

¹¹¹ Cf. Loud, *Latin Church*, pp. 151, 162-3 where he points out that Roger actually sought to perform homage in 1128 but was rebuffed by Honorius. Also Houben, *Roger II*, p. 93.

homage for Normandy so that the French king was unable to accept the claim of William Clito (son of Robert Curthose and pretender to the Duchy), thus weakening Clito's claim.¹¹² Roger II, at times, actually sought to perform homage and publicly submit because it both denied the papacy a chance to wriggle out of the concessions he had obtained from it, and because it prevented the papacy from supporting any opposing claimants.

How far these chronicle accounts reflect the actual ceremonies is unanswerable. This issue – the boundary between textual representation and 'real' ritual – has recently been a topic of debate: it is authors, rather than participants in the ritual, who tell us what rituals 'meant'.¹¹³ Moving beyond studies of ritual specifically, Johannes Fried's concern with memory has led him to doubt the testimony of (more-or-less) any medieval chronicle about (more-or-less) anything.¹¹⁴ Taking a slightly different route, Alice Taylor and Björn Weiler have identified how chronicles and official chancery records could put forward interpretations of homage ceremonies between thirteenth-century Scottish and English kings which differed even on the basic facts: disagreeing about whether homage was being performed for the kingdom of Scotland or for lands the Scottish king held in England.¹¹⁵ Clearly the various papal, Italian and

¹¹² Van Eickels, “Homagium” and “Amicitia”, pp. 134-5; idem, ‘L'hommage des rois anglais’, p. 382; Gillingham, ‘Doing Homage’, pp. 68-9.

¹¹³ Buc, *The Dangers of Ritual*; Koziol, ‘The Dangers of Polemic’, pp. 368, 377-8; Timothy Reuter, ‘Velle sibi fieri in hac forma: Symbolic Acts in the Becket Dispute’ in idem, *Medieval Polities and Modern Mentalities*, (ed.) Janet L. Nelson (Cambridge, 2006), pp. 167-90, at 172.

¹¹⁴ Johannes Fried, ‘Wissenschaft und Phantasie. Das Beispiel der Geschichte’, *Historische Zeitschrift* 263 (1996), 291-316, esp. 298; idem, *The Veil of Memory: Anthropological Problems When Considering the Past* (London, 1998), and Fried's further works discussed by Justin Lake, ‘Current Approaches to Medieval Historiography’, *History Compass* 13 (2015), 89-109, at 92, 99, 103, nn. 23-4 and Hans-Werner Goetz, ‘Historical Studies on the Middle Ages in Germany: Tradition, Current Trends, and Perspectives’, *The Journal of English and Germanic Philology* 105 (2006), 207-30, at 217-8, 222-3.

¹¹⁵ Alice Taylor, ‘The Scottish Clause in Magna Carta in Context: Homage, Overlordship and the Consequences of Peace in the Early Thirteenth Century’ in *Magna Carta: New Interpretations*, (eds) Nicholas Vincent, Sophie Ambler (Woodbridge, 2018); B. Weiler, ‘Knighting, Homage, and the Meaning of Ritual: The Kings of England and their Neighbors in the Thirteenth Century’,

Sicilian chroniclers emphasized certain aspects of these rituals in their own distinct ways. Equally obviously, however, even a chronicler like Cardinal Boso – writing biographies of the popes – undermines (perhaps inadvertently) his account of papal superiority by including a long period of negotiation preceding the settlement of 1156. At the least these accounts – from both chroniclers and papal documents – show which aspects and interpretations of these homages and submissions were thought important: these were the meanings the authors offered to readers. In any case, the chronicle accounts are excellent evidence for the reception of the rituals.

2.5. Forming Alliances: *Compaternitas* and *Amicitia*

Alongside rituals of submission there were other relationships which could bind king and pope. In 1144, at the beginning of the negotiations between Roger II and Pope Lucius II, ‘the king and his sons, the duke and prince, prostrated themselves on the ground and kissed the pope’s feet, and then received the kiss on the mouth’.¹¹⁶ The kiss of peace was traditionally a symbol of reconciliation and the restoration of *amicitia*. Klaus van Eickels has suggested that the addition of the kiss to the twelfth-century meetings between the kings of England and France was intended to strengthen the equality between the two and lessen the humiliation of submission. The kiss was a form of ritualized *amicitia*.¹¹⁷ In that context we can also listen to Romuald’s chronicle, wherein Pope Lucius was described as the *amicus* of the king.¹¹⁸ The king of France and the king of England referred to each other as *amici*, at the same time as one performed homage to the other.¹¹⁹ Pope Gregory VII had acknowledged the bonds of *amicitia* which joined him to both William the Conqueror of England

Viator 37 (2006), 275-99 at 290-99. My thanks to Dr Taylor for providing me with a copy of her paper prior to publication.

¹¹⁶ Loud, *Creation*, p. 248.

¹¹⁷ van Eickels, “Homagium” and “Amicitia”, p. 137.

¹¹⁸ Romuald, p. 424; trans Loud, *Creation*, p. 261.

¹¹⁹ Romuald, p. 424; trans Loud, *Creation*, p. 261.

and Sancho Ramirez of Aragon.¹²⁰ When the kiss of peace ('the kiss on the mouth') immediately followed the *osculum pedum* – the kiss on the feet – the interplay of both submission and equal friendship is clear.

Romuald also stated that Lucius II was the *compater* of Roger II. This was a different relationship between the two men than lord and man, or king and pope or friend and friend. *Compaternitas* was spiritual kinship: it meant fellow-father and was used between a god-parent and an actual parent of a child.¹²¹ '[C]o-parenthood bound the *compatres* to co-operate, to accede to one another's wishes, and to respect one another.'¹²² There was precedent for a Christian ruler to be the *compater* of a pope: Pippin – the first Carolingian king and father of Charlemagne – had called Pope Stephen his *compater*. This seems to have been because his sons were anointed by the pope and hence the king and pope were both 'fathers' of Pippin's sons.¹²³ There is no evidence that Lucius II was actually godfather to one of Roger's children, or that he anointed or baptized one of Roger's children. Nonetheless the use of the term by Romuald shows how he wished to represent the alliance between king and pope. The relationship of *compaternitas* was pseudo-familial; the godfather and natural father were bound together by spiritual kinship. The papacy had previously been bound to the Carolingian dynasty by *compaternitas* in the eighth century. There is not, as far as I am aware, any evidence that the author of Romuald's chronicle was intending to draw a comparison with the Frankish kings, but it is clear that Romuald was trying to suggest that it was not 'lordship' which linked

¹²⁰ Cowdrey, *Gregory VII*, pp. 642, 647

¹²¹ J. H. Lynch, *Godparents and Kinship in Early Medieval Europe* (Princeton NJ, 1986), pp. 5-6, 48-9, 192-201.

¹²² Lynch, *Godparents and Kinship*, p. 198.

¹²³ T. F. X. Noble, *The Republic of St Peter: The Birth of the Papal State, 680-825* (Philadelphia, 1984), pp. 269-70; J. H. Lynch, *Christianizing Kingship: Ritual Sponsorship in Anglo-Saxon England* (NY, 1998), pp. 119-20. See also Lynch, *Godparents and Kinship*, p. 195.

the Normans and the papacy. *Compaternitas* was a relationship of equality: both men were 'fathers' of the same child.

Actual kinship between the Norman king and papacy had been earlier used by the antipope Anacletus to form an alliance. In early 1134 King Roger granted 240 ounces of gold annually to the Pierleone family – Pope Anacletus' family – and accepted their homage and fidelity.¹²⁴ In 1130 Anacletus had granted the royal title to Roger and stipulated that Roger and his heirs must perform homage and fidelity to the pope. That privilege had been witnessed by John Pierleone and Roger Pieleone, Anacletus' brothers, and four other Pierleoni.¹²⁵ Several of these witnesses were amongst those of the family who performed homage to Roger in 1134. Not only was the 1134 grant a useful cash gift to a papal ally but it was also intended to bind the papacy to the king. Roger and Anacletus were bound together as 'homage-kin': Roger had done homage and sworn (or at least committed to do homage and swear) to Anacletus, and Anacletus' family had done homage and sworn to Roger. Kinship and homage were used together to form a bond between the antipope and his ally.

This familial link was also recognized by Innocent II's party. At the council of Pisa (1135) the excommunication of 'Peter Leone [Anacletus], and his brothers and supporters' was followed by the excommunication of 'the aforesaid Roger of Sicily'.¹²⁶ Roger was spoken of in the same terms as Anacletus' family. Following the death of Anacletus II in 1138, Innocent drew two of the Pierleoni, Leo and his son Peter, to his party and conceded to them control of the city of Sutri.¹²⁷ They had both been parties to the 1134 profession

¹²⁴ Loud, *Creation*, pp. 308-10.

¹²⁵ Houben, *Roger II*, p. 53. For the 1130 grant of Anacletus see below.

¹²⁶ Loud, *Creation*, p. 309-10.

¹²⁷ *Italia Pontificia*, i: *Rome*, ed. P. F. Kehr (10 vols in 12 to date, Berlin, 1906-), p. 190.

of homage from the Pierleone to Roger II.¹²⁸ This might have been an initial attempt on Roger's part to come to terms with Innocent, through his familial allies.

In the same way as homage, these relationships of kinship, *amicitia* and *compaternitas* bound the king to the pope. Like homage they were flexible, able to be changed to fit circumstances. Homage was nothing as simple as an entry into vassalage nor was it viewed as the constitutive act of Siculo-Norman rule by either king or pope.¹²⁹

2.6. Forming Alliances: Conclusion

The homages of the Siculo-Normans to the papacy in the twelfth century lay at the intersection of several utilities: their submissive nature could show that the Norman king had not browbeaten the pope into accepting his demands (especially when that is exactly what he had done); homage served to bind the papacy to the Norman king, giving public approval to the rulership of the Norman king; it bound the Norman rulers to the pope, strengthening papal legitimacy; homage was the outward representation of a new agreement and a new *modus vivendi*; and it symbolically ended enmity between the two sides. In the accounts of the twelfth-century chroniclers the submissive aspects of homage could be mitigated by suggestions of equality.

¹²⁸ Loud, *Creation*, pp. 309-10: 'he [John Pierleone] offered [...] service and liege homage [...] of his undersigned brothers and nephews, namely Leo [...] and his nephews Peter [...]'.

¹²⁹ As well as not being an essential constitutive act in a practical sense, it was clearly not the sole theoretical constitutive act either. The famous mosaic of Roger II in Palermo depicts him receiving his crown from Christ, not the pope. To say this was a 'reject[ion] [of] the claims of the papacy over his kingdom' is to beg the question: it is not clear that the papacy saw itself as having any claim to constitute a new ruler in Sicily, Jeremy Johns, 'The Norman Kings of Sicily and the Fatimid Caliphate' in *Anglo-Norman Studies*, xv: *Proceedings of the Battle Conference 1992*, (ed.) Marjorie Chibnall (Woodbridge, 1993), pp. 133-59, at 158. Cf. Stroll, *The Jewish Pope*, pp. 75-81; J. Dunbabin, 'Creating an Image for a New Kingship: Charles I of Anjou, King of the Regno' in *Aspects of Power and Authority in the Middle Ages*, (eds) Brenda Bolton, Christine Meek (Turnhout, 2007), pp. 23-31, at 24-5.

One might suggest, however, following Sandro Carocci, that when homage is used in any of the ways described above, it is simply employing what was originally a ‘feudal’ ritual in new ways.¹³⁰ But I see no need to think this. It is symptomatic of ‘the conventional belief that “feudal ties” were central to medieval political structures’.¹³¹ Why should we assume that there was a detailed legal relationship between the pope and the duke-king and that the ceremony of homage – intrinsic to this supposed relationship – was then creatively used in different ways to meet the demands of certain situations? Why not simply accept that homage was a ritual with little intrinsic meaning and so it could be used to structure relations between the king and the pope without any formal relationship (such as ‘vassalage’) existing? As the above analyses show, it was homage’s flexible content – not any supposed fixed content – which made it so attractive and ubiquitous in political relationships. All that homage and oathtakings show is that the papacy and duke-kings were major regional players whose interests often collided or who needed each other’s help. Rituals were the means by which peace was made and status recognized. We do not need ‘vassalage’ to interpret papal-Norman relations.

2.7. From Papal Investiture to Archiepiscopal Coronation in the Twelfth Century

Before concluding this chapter another ceremony which the popes and Siculo-Norman rulers took part in during the eleventh and early twelfth centuries should be analysed briefly: investiture. It appears that sometimes the dukes of Apulia and princes of Capua were invested by the pope *per vexillum* – through a banner.¹³² Accounts of investiture ceremonies are not merely from

¹³⁰ Carocci, *Vassalli del papa*, pp. 49ff.

¹³¹ Gillingham, ‘Doing Homage’, p. 73.

¹³² Probably taken from Imperial traditions of investiture, see Loud, *Age of Robert Guiscard*, p. 186; *The History of the Normans by Amatus of Montecassino*, (tr.) P. N. Dunbar (Woodbridge, 2004), p. 33.

chronicles and annals:¹³³ Pope Gregory VII's registers include the text of that pope's 1080 investiture of Duke Robert Guiscard. It began 'I, Pope Gregory, invest you, Duke Robert [...]'¹³⁴ The existence of a ceremony of investiture is also confirmed by the oaths sworn by the dukes of Apulia in 1059 and 1080, and by the prince of Capua in 1061, 1073 and 1079. All of these oaths ended: 'I [the Norman ruler] will observe this fidelity to your successors [...] who [...] will have confirmed *the investiture*'.¹³⁵ Even if one did not accept the testimony of chronicles, it is undeniable that there was an investiture ceremony during the eleventh century. The chronicle of Amalfi, and the twelfth-century chronicles of Romuald, Falcone and Alexander of Telese all specified that a banner (*vexillum*) was part of the investiture ceremony.¹³⁶

But it has long been recognized that investiture ceased to be performed after 1156. Paul Kehr ended his 1934 study of papal-Norman relations by noting that 'the investiture of William I in Benevento in 1156 was the last'.¹³⁷ As Graham Loud has pointed out, it was certainly not the absence of opportunities for papal investiture that was the problem: there were plenty of periods when the ceremony could have taken place after 1156.¹³⁸ But it did not. It is not only

¹³³ Chronicle accounts of investiture (not including investitures *per vexillum*): 1059: MGH SS vii, *Leonis Marsicani et Petri diaconi chronica monasterii Casinensis*, (ed.) W. Wattenbach (Hanover, 1846), pp. 706-7; MGH Ldl i, *Bonizonis episcopi Sutrinii Liber ad amicum*, (ed.) E. Dümmeler (Hanover, 1891), p. 593; 1114: *Chronica Casinensis*, p. 786; 1128: *Vita Honorii II* (Deér, *Papsttum und Normannenstaaten*, p. 61).

¹³⁴ ASV, Reg. Vat. 2, ff. 194r-v; *Greg. Reg.*, 8.1b, ii, pp. 515-6; *The Register of Pope Gregory*, p. 365.

¹³⁵ 'Hanc fidelitatem observabo tuis successoribus [...] qui [...] firmaverunt investituram': Deér, *Papsttum und Normannenstaaten*, pp. 18, 22, 23, 31, 32.

¹³⁶ 1059: *Chronicon Amalfitanum*, *Antiquitates Italicae*, (ed.) L. A. Muratori (Milan, 1738), p. 213; Romuald, p. 406. 1062: Romuald, p. 406. 1080: *Antiquitates Italicae*, p. 214; *Vita Gregorii VII*, Deér, *Papsttum und Normannenstaaten*, p. 34; Romuald, p. 408. 1089: Romuald, p. 412. 1115: Romuald, p. 415. 1118: Romuald, p. 416. 1120: Romuald, p. 417. 1125: Romuald, p. 416. 1127: Falcone, p. 88. 1128: Romuald, p. 418; Alexander of Telese, p. 18. 1137: Romuald, p. 422; Falcone, p. 190. 1138: Annales Cavenses, Deér, *Papsttum und Normannenstaaten*, p. 73. 1139: Romuald, p. 423; Falcone, p. 222. 1156: Romuald, p. 429.

¹³⁷ Kehr, *Belehnungen*, p. 52: 'Die Investitur Wilhelms I. in Benevent im Jahre 1156 ist die letzte geblieben'.

¹³⁸ Loud, *Latin Church*, p. 168-9.

the case, however, that investiture was not performed in the second half of the twelfth century: it was not even mentioned. While the eleventh-century oaths of the Norman rulers to the pope had ended with a clause that future rulers would renew their fidelity to popes who confirmed their investiture, the oaths which the Norman kings swore in 1188 and 1192 simply say that the king will observe fidelity to those popes who confirm what has been conceded to him: the word *investitura* was excised.¹³⁹

It might be the case, however, that papal investiture actually fell out of fashion before 1156. Neither *Quos dispensatio* – the 1139 grant of the title of king to Roger II – nor the 1156 treaty of Benevento mentioned ceremonial investiture. The only evidence we have that investiture was performed as late as 1156 is the chronicle of Romuald, which I will discuss below. What did occur consistently after 1130, however, was a coronation ceremony. I suggest that during the period 1139-1156, coronation was displacing investiture as the more significant ritual for the Norman rulers. The chroniclers of the 1130s and later all emphasized coronation: Alexander of Telesio, Roger II's panegyrical biographer, described Roger's coronation in 1130 with no reference to the papacy at all and no mention of papal investiture.¹⁴⁰ Romuald mentioned the coronations of Roger II in 1130 (again, with no reference to the antipope), of William I (1154) and of William II (1166) – especially because it was archbishop Romuald who actually crowned William II. He also made reference to the coronation of William I in 1151 – before the death of his father – and the double coronation of William II and his new wife Joan in 1177.¹⁴¹ Falcone also mentioned the 1130

¹³⁹ MGH Const., i, pp. 591-3. The 1198 and 1212 oaths of Empress Constance and Frederick II also leave out any mention of investiture in the final clause, MGH DD H VI, *Die Urkunden der Kaiserin Konstanze*, (ed.) Theo Kölzer (Hanover, 1990), no. 65, pp. 203-5; MGH Const., ii, p. 542. Mention of investiture in the oaths of fidelity has vanished.

¹⁴⁰ Loud, *Creation*, pp. 77-80; Telesio, pp. 28-32.

¹⁴¹ Romuald, pp. 419 (1130), 425 (1151), 427 (1154), 435 (1166), 443 (1177). Trans: Loud, *Creation*, p. 254 (1130), 263 (1151); Pseudo-Hugo, pp. 221 (1154), 239 (1166).

coronation.¹⁴² John of Salisbury mentioned the 1151 coronation of Roger II's son before his death.¹⁴³

It is difficult to say why investiture should have given way to coronation. Perhaps it was merely because the kings of Sicily became more secure after 1156. My own theory, however, is that coronation replaced investiture during this period because of the conflict over clerical investiture in the later eleventh and early twelfth centuries. The solution to the Investiture Contest was for clerics to be given their spiritual authority by a clerical superior and their lands and temporal rights by the lay superior. This solution had a knock-on effect: if temporal rights could only be given by a king, and spiritual power by a pope or archbishop, then how could the pope invest a lay ruler? Before the investiture contest, investing someone had been an ambiguous ritual: sometimes kings were perceived as giving bishoprics *in toto*, sometimes as giving just temporal rights. After the Concordat of Worms in 1122, however, the king invested a bishop with his temporal rights only. Investiture was now a precise ritual. For the pope to 'invest' a lay ruler thus meant that the pope was granting the ruler his temporal government. Therefore coronation (a spiritual ceremony showing the approval of God) replaced investiture (a ceremony which could easily be interpreted as the pope actually giving land and dominion to the Norman rulers). Such investiture was something which no king or secular ruler would want to have.¹⁴⁴

Irrespective of the reason, it does seem that coronation replaced investiture and that these two ceremonies were broadly equivalent. Both were perhaps more 'declarative' than 'constitutive' rituals for new Norman rulers.¹⁴⁵

¹⁴² Loud, *Creation*, p. 184; Falcone, p. 108.

¹⁴³ *Historia Pontificalis*, p. 539.

¹⁴⁴ I discuss this thesis further in '*Super gentes et regna: Papal "Empire" in the Later Eleventh and Twelfth Centuries*' in *The Church and Empire*, (eds) Stewart J. Brown, C. Methuen, A. Spicer, Studies in Church History liv (Cambridge, 2018).

¹⁴⁵ Loud, *Church and Society*, pp. 58-9, 98-9; idem, *Latin Church*, p. 146.

As with homage, therefore, we should not see papal investiture (or coronation) as necessarily ‘feudal’. There were a range of ceremonies which were used to elevate a new Norman ruler and they probably all played their part in legitimizing the rule of a new king.¹⁴⁶

We can account for the claims of Romuald and Falcone that papal investiture occurred in 1139. The 1130 coronation of Roger II had been carried out by Comes, cardinal priest of S. Sabina, and an adherent of the anti-pope Anacletus.¹⁴⁷ That coronation would obviously be of dubious validity (not just in the eyes of the successful pope, Innocent II, but surely of all Europe) and therefore a ceremony of papal investiture might plausibly occur when the crown was granted, as if anew, to Roger by Innocent II in 1139. But for investiture to have occurred as late as 1156 is odder. According to Romuald’s chronicle, William I had been crowned after the death of his father Roger in 1154.¹⁴⁸ Why then did he need investiture two years later if, as I have suggested, coronation basically replaced investiture?

The answer is that Romuald – our source for the 1156 investiture – wishes us to think that William’s 1154 coronation was dubious. In the paragraph following William’s 1154 coronation, the author of the chronicle mentioned that the new pope, Adrian IV, sent to William a letter which addressed him as ‘not king, but “William lord of Sicily”’.¹⁴⁹ The obvious inference is that Romuald was signifying to us that Adrian thought William’s

¹⁴⁶ I have not examined here the effect of papally-approved royal coronation on other rituals of acclamation. Nor have I attempted a hierarchy of the different sorts of consecration and acclamation, or attempted to ascertain if they were of Norman or Italian origin. Loud, *Latin Church*, p. 139; Hoffman, ‘Langobarden, Normannen, Päpste’, p. 138. The importance of the fact that the Norman kings were anointed should also not be ignored. Not all kings were: P. Linehan, ‘Utrum reges Portugalie coronabantur annon’ in *The Processes of Politics and the Rule of Law: Studies on the Iberian Kingdoms and Papal Rome in the Middle Ages* (Aldershot, 2002), pp. 395-6; *idem*, *Spain, 1157-1300*, p. 176.

¹⁴⁷ Falcone, p. 108; Loud, *Creation*, p. 184.

¹⁴⁸ Romuald, p. 427; Pseudo-Hugo, p. 221.

¹⁴⁹ Romuald, p. 427; Pseudo-Hugo, p. 222.

coronation was not legitimate. We could simply conclude that this is a disinterested recounting of actual events and Adrian questioned William's legitimacy because he was fundamentally opposed to the Norman monarchy. There is, however, a more interesting possibility.

Romuald's account might have been intended to emphasize, in comparison, the definite legitimacy of the coronation of William I's son William II in 1166. This coronation was apparently carried out by archbishop Romuald II of Salerno, the man after whom the chronicle is named, to whom part-authorship of the chronicle was attributed and in whose retinue the piece was probably composed.¹⁵⁰ The 1154 coronation, on the other hand, had been carried out by the archbishop of Palermo. Dione Clementi assumed that the archbishop of Palermo normally presided at Sicilian coronations and that Romuald of Salerno had only officiated in 1166 because the See of Palermo was then vacant.¹⁵¹ I am less certain. In the 1139 letter *Quos dispensatio* – granting Roger II the title of king – Innocent II had not mentioned the specifics of the coronation ceremony. In 1130, however, Anacletus II had allowed Roger and his successors to be 'anointed as kings and crowned through the hands of the archbishops of your land whom you wish, assisted – according to your will – by other bishops whom you wish'.¹⁵² Anacletus' 1130 grant suggested that the situation was quite fluid and that the king had final veto over who crowned him. Therefore it is possible that the author of Romuald's chronicle was trying to suggest that Salerno rather than Palermo was the 'correct' archbishop to officiate at royal coronations. Hence it was suggested that the coronation carried out by Palermo

¹⁵⁰ Pseudo-Hugo, pp. 51-3.

¹⁵¹ Clementi, 'Tancred's Accession to the Kingdom of Sicily', p. 62. John of Salisbury notes that it was Palermo who crowned Roger II's son in 1151: *Historia Pontificalis*, p. 539.

¹⁵² '[...] concedimus, ut per manus archiepiscoporum terrae tuae, quos volueris, iuxta tuam voluntatem, assistentibus aliis episcopis, quos volueris, tu et tui haeredes in reges ungamini et in statutis temporibus coronemini'. Trans Loud, *Creation*, p. 305; original Hoffman, 'Langobarden, Normannen, Päpste', pp. 173-6; *Anacletus Antipapa Epistolae Et Privilegia* in PL 179:715-7.

was invalid in the eyes of Pope Adrian. Since the 1154 coronation was being portrayed as invalid, it makes sense that the author of Romuald's chronicle included an investiture in 1156 (whether or not it actually happened) so that there could be no doubt over William's legitimacy. This also explains why Romuald did not mention any investiture for William II in 1166 or later: Romuald himself crowned William II and to include a suggestion that William II's legitimacy came from any ceremony other than Romuald's coronation weakened the archbishop's claim to be the 'correct' officiant.

2.8. Conclusion

Homage, oathtaking and investiture were not specifically 'feudal' rituals. It was certainly true that, during the eleventh century, the papal-Norman relationship had made use of the sort of terminology which described papal lordship in Lazio and the patrimony. At the same time, the Norman rulers had been invested with their lands by the pope. The decline of investiture in the 1130s and thereafter has been obscured by the rise of another ritual: homage, which is first attested in 1120. It has been suggested that the Norman-papal alliance was consistently 'feudal' because in the eleventh and early twelfth century the Normans were 'invested' by the pope – one half of the classical feudal ceremony – and because after 1120 the Normans performed homage to the pope – the other half of the feudal ceremony. But these ceremonies were not two sides of the same coin; they were not even the same currency. The investitures of the eleventh century ceased when it became apparent that such a ceremony could be interpreted – indeed, *had* to be interpreted after the investiture contest – as signifying that the pope really gave their lands to the Norman rulers. By contrast the homages – as we have seen – were instrumental rituals which were moulded to whatever the needs of the moment were.

Homage and investiture – and indeed, 'feudalism' – have fed into the perception that a consistent legal relationship of lord and vassal defined the

relationship. As recent studies – primarily those of Graham Loud – have emphasized, the Norman-papal alliance was really based on immediate practical considerations.¹⁵³ Even if a treaty or privilege between the papacy and the kingdom had stipulated military service or specific duties, then such service would have been open to re-negotiation with every new agreement, as the right to send legates to Sicily or the amount of census to be paid were frequently renegotiated and altered. There were no absolutely immutable duties or rights on either side, other than alliance, and the sheer number of new treaties and truces which were required during the twelfth century shows us that even the idea of alliance between pope and king was not sacrosanct.

Homage had plural interpretations: it did not necessitate vassalage or fiefdom. It was not indicative of a precisely defined legal relationship nor was it a mere adjunct to such a relationship. The submissive rituals of the twelfth century allowed the papacy and the Normans to co-exist and to aid each other. Homage could show the acceptance of a pope by the southern Italian potentates; the acceptance of a king by the pope; the mutual acceptance of a peace treaty; or the independence and superiority of one party – which might not have been the party which was actually dominant. In a very real sense, the homages and the accompanying agreements analysed in this chapter functioned like the Aragonese confirmations of protection and privileges analysed in chapter one, and the confirmations of protection received by the Portuguese. After the original issue of *Manifestis probatum* – the confirmation of the royal title to the king of Portugal – in 1179, it was reissued to the kings of Portugal in 1190 and 1213. On the other hand *Quos dispensatio* – the 1139 grant of the royal title to King Roger of Sicily – does not appear ever to have been re-issued. But the 1156 treaty of Benevento and other agreements all confirmed the Sicilian royal title. Likewise the acceptance of homage by the

¹⁵³ Duggan, 'Totius Christianitatis caput', *passim*; Loud, *Age of Robert Guiscard*, pp. 187, 190, 206-7.

pope confirmed papal support for the Sicilian king. The distinction between Sicily on the one hand, and Aragon and Portugal on the other, is less a distinction between protection and feudal overlordship than a distinction between a relationship regulated by the re-issue of privileges and letters and one regulated by ceremonies and re-negotiated treaties and agreements. The frequency of contacts between the Norman kings and the papacy meant that their relationship was more mutable and so new treaties and agreements were needed. The frequent use of the homage ceremony shows its flexibility in such circumstances. For Aragon and Portugal, however, it was possible simply to petition for the re-issue of existing privileges when they were needed.

Klaus van Eickels has accepted that, around 1200, the Anglo-French homages were more closely assimilated into a developing feudal law. Where homage may once have been an ambiguous submission, now it represented a tradition of vassalage, with certain intrinsic legal duties which could be recorded in documentation.¹⁵⁴ We will see that it was during the thirteenth century that the duties which vassal-kings owed to the pope would be codified. For the kingdom of Sicily this would come in the 1260s when it was granted to Charles of Anjou. From then on, Sicily was unequivocally a papal fief, although we should not therefore assume that the king of Sicily ruled at the pleasure of an active, interventionist pope. During the first half of the thirteenth century the language of vassalage would come to be applied to the kingdom of Sicily as well as to other kingdoms. At the same time some contemporaries would begin to wonder about how conditional was the rule of a king who was a papal vassal: could the pope depose a vassal-king from his fief? Such are the questions which the following chapters will answer.

¹⁵⁴ van Eickels, 'L'hommage des rois anglais', pp. 384-5; idem, 'Gleichrangigkeit in der Unterordnung', p. 34; Weiler, 'Knighting, Homage and the Meaning of Ritual', p. 277. See also Reynolds, *Fiefs and Vassals*, pp. 135-6, 215-40.

Chapter Three: The New Vassalage: Man, England, Sicily and Aragon (1198-1227)

This and the following chapter examine the unique state of affairs that existed under two of the most important popes to sit on the throne of Peter: Innocent III (1198-1216) and Honorius III (1216-1227). Under Innocent the Kingdom of England and Ireland was turned into a papal fief and the young kings of Sicily and Aragon were placed under papal guardianship during their minorities. Under Honorius III the boy-king of England was placed under papal wardship too and the distant Kingdom of Man and the Isles was surrendered to the papacy as a fief. There is also evidence that the terminology of vassalage – which had entered the discourse of papal-royal relations under Innocent III – was extended to Aragon, perhaps accidentally.

John's surrender of the Kingdoms of England and Ireland in 1213 was a result of the domestic and international opposition John faced. Those who have studied the 1213 surrender have generally avoided definitively ascribing the impetus to either John or Innocent. Once John had surrendered, terms such as *feudum* and *vassalus* – fief and vassal – began to be applied to English kings in papal letters. England was already described as a *feudum* of the papacy as soon as John surrendered the kingdom in 1213. Through prosopographical methods it is possible to identify a group of courtiers in Rome – cardinals, notaries and others – whom King John cultivated as allies and intermediaries. Their links to the English royal court gave them familiarity with this new terminology of vassalage. But these men were not solely concerned with England: if we see these men as the curia's 'English desk' then we must also recognize that they had other responsibilities too. Through these men 'feudal language' – essentially the use of terms such as *feudum* and *vassalus* – was applied to papal-royal relationships beyond England. I will examine in detail these men, their connections in England, their connections with each other and how they were

connected to other kings – specifically Man and Aragon. First, we will see how the new relationship between the pope and English king came about, then how its ‘feudal’ terminology spread, and finally the papal courtiers who spread it.

3.1. John’s Surrender of the Kingdoms of England and Ireland: Background, Impetus and Meaning

Following a five-year struggle, John and Pope Innocent III had come to an agreement in 1213. Their dispute had been, primarily, over the appointment of the archbishop of Canterbury and it broke out at a time of great turmoil for the Angevin rulers of thirteenth-century England.¹ As part of the new peace John agreed that he ruled England and Ireland under the sufferance of the Roman Church: ‘as a feudatory’.² John issued two formal charters of surrender and each was then incorporated into a papal privilege recognizing his surrender. The papal privileges recognizing the surrender noted that ‘those provinces which from of old have had the Holy Roman Church as their proper mistress in spiritual matters should now in temporal things also have her as their special lord’.³ It is appropriate to call this event a feudal surrender – the first such event we have studied where this is undoubtedly justified – because in John’s grants the kingdoms were explicitly said to be *feuda* of the Roman Church. Calling it a feudal surrender does not, however, mean that we should automatically ascribe certain unchanging norms to the new papal-English relationship. In the years after 1213, John was twice described unequivocally as *vassallus* – vassal – in papal letters. It seems, however, that such terminology was not John’s preferred choice, as his letters tended to proclaim that England

¹ Cheney, *Innocent III*, pp. 298-324; D. Carpenter, *Magna Carta* (London, 2015), pp. 197-9, 279-281.

² This was only part of the overall settlement: Cheney, *Innocent III*, pp. 324, 329-331.

³ *Rex regum*: CS, pp. 177-83; *Innocentius III Regestorum Sive Epistolarum [1209-1213]* in PL 216:878-80.

was now part of the *patrimonium beati Petri* and that Innocent was his 'lord and patron'.

As we have come to expect, the only specific duty which John took up was to pay an annual census.⁴ This was of 1,000 marks, half payable at Easter and half at Michaelmas. Easter and Michaelmas were the two terms of the English exchequer, when the sheriffs came to London to pay the dues which they had collected into the royal treasury.⁵ The census was therefore presumably intended to be paid when the royal treasury was at its fullest. The stipulation to pay in two instalments should reinforce the point that the resignation of the kingdoms was not a unilaterally imposed demand: the division of the annual payment into two parts was surely suggested by John's side. Other monasteries and kingdoms which paid census to the papacy paid yearly. In the 1230s, some *castra* in the duchy of Spoleto (part of the papal territory in central Italy) paid a hearth-tax in two instalments a year, but these were at Easter and Christmas, not Michaelmas and Easter.⁶ The fact the instalments from England were due at Michaelmas and Easter shows that the details of the census-payment were worked out on the English side and were accepted by Pandulf, the papal nuncio, rather than being imposed by him.

This leads neatly to the vexed question of who suggested the submission. Professor Cheney held that:

⁴ The census was paid intermittently until 1333 when it ceased. In 1366 John's surrender was formally repealed by the English. For payment of the census 1213-1333 see J. E. Sayers, *Papal Government and England during the Pontificate of Honorius III, (1216-1227)* (Cambridge, 1984), pp. 164-5; William E. Lunt, *Financial Relations of the Papacy with England to 1327* (Cambridge MA, 1939), pp. 141-72; and for the years 1252-62 see now R. Cassidy, *The 1259 Pipe Roll* (PhD Diss., King's College London, 2012), pp. 161-3.

⁵ Carpenter, *Magna Carta*, pp. 172-3.

⁶ LC, i, no. 199, pp. 450-2. When crusading taxes were collected later in the thirteenth century (1274 and 1291 for example), they were sometimes collected in two instalments: Midsummer and Christmas. W. E. Lunt, 'Collectors' Accounts for the Clerical Tenth Levied in England by Order of Nicholas IV', *English Historical Review* 31 (1916), 102-19, at 102.

Although John's action is described as voluntary, it must at least have been anticipated by the pope, for the oath of homage follows closely the form of other oaths taken by vassals of the Holy See, and Pandulf must have brought the form with him on his mission to England.⁷

William Lunt noted that there was no mention of surrendering the kingdoms in the written terms sent to John by the pope, but the demand could have been carried orally. He suggested that the initiative might have lain with John as part of an attempt by the king to defend himself against the baronial opposition but, quite reasonably, Lunt could not come to satisfactory decision one way or the other.⁸ H. W. C. Davis, in his revised edition of William Stubbs' *Select Charters*, although equally unwilling to ascribe the suggestion definitively to either side, proposed that the 'form of John's oath was dictated by Pandulf' because 'the obligations [...] are the same as those which Robert Guiscard had acknowledged in [...] 1059'.⁹ More recently Marc Morris has implicitly assumed the surrender was at John's initiative but Natalie Fryde expressed interest in the view that Innocent III 'may have played a part in the solution [of the dispute]'.¹⁰ Dione Clementi advanced the view – originally hinted at by Kate Norgate – that it was the rebellious barons who intentionally pressured John into surrendering the kingdom as a papal fief so that they could appeal to Innocent as their ultimate overlord against John (her evidence is discussed below). When it

⁷ CS, p. 178. Also C. R. Cheney, 'The Alleged Deposition of King John' in *Studies in Medieval History Presented to Frederick Maurice Powicke*, (eds) R. W. Hunt, W. A. Pantin, R. W. Southern (Oxford, 1948), pp. 100-116.

⁸ Lunt, *Financial Relations of the Papacy with England*, pp. 135-8.

⁹ *Select Charters etc*, (eds) H. W. C. Davis, William Stubbs, (re-print/ninth edn) (Oxford, 1942), p. 279. This view seems to be an addition of Davis since it does not appear in the eighth edition, *Select Charters etc*, (ed.) William Stubbs (Oxford, 1905), pp. 284-6.

¹⁰ Marc Morris, *King John: Treachery, Tyranny and the Road to Magna Carta* (London, 2015), pp. 215-6; Natalie Fryde, 'Innocent III, England and the Modernization of European International Politics' in *Innocenzo III: Urbs et Orbis*, (ed.) Andrea Sommerlechner (2 vols, Rome, 2003), ii, pp. 971-84, at 979. F. M. Powicke implicitly assumed the surrender was at John's initiative: 'He [Innocent III] had received a submission more far-reaching than he could have expected': *Stephen Langton* (Oxford, 1928), p. 106.

became apparent in April-May 1215 that this method would not be successful, Magna Carta followed – a replacement method for obliging John to respect the barons' rights.¹¹ Norgate believed that the initiative for the surrender 'lies half-way between this version [that the barons forced John to do it] and that of the king'. She did not leave the initiative with Innocent.¹² This last argument I will discuss further below.

Certainly we must begin by admitting that the majority of scholars are correct: there is insufficient evidence to know beyond doubt who suggested the feudal surrender.¹³ One of the points in favour of its being at papal insistence, however, is not as secure as has been thought. Cheney and Davis believed that Innocent must have at least anticipated John's surrender because Pandulf brought the text of the oath with him from Italy. But there is no reason to think that Pandulf actually did bring the text with him. The oath was indeed similar in wording to the oaths sworn to the pope by the Norman rulers of Sicily, but it was also very similar to the oaths sworn by abbots, archbishops and secular officeholders to the pope.¹⁴ It would have been, for example, similar to the oath which the archbishop of Dublin must have sworn when he was consecrated. The archbishop of Dublin was advising King John during these negotiations, and was a witness to John's surrender.¹⁵

A short comparison of the oaths to the pope from the Sicilian kings, archbishops and King John shows the similarities. Of the five main sections of

¹¹ Dione Clementi, 'Constitutional Development through Pressure of Circumstance, 1170-1258' in *Tradition and Change: Essays in Honour of Marjorie Chibnall*, (eds) Diana Greenway, Christopher Holdsworth, Jane Sayers (Cambridge, 1985), pp. 215-37, at 217-8.

¹² K. Norgate, *John Lackland* (London, 1902), pp. 180-3.

¹³ Cheney, *Innocent III*, pp. 334-7. Harper-Bill also believed that it was 'not clear' from whose side the initiative came, but claimed that it was the same as the relationship proposed by Gregory VII and rejected by William the Conqueror in 1080: 'John and the Church of Rome' in *King John: New Interpretations*, (ed.) S. D. Church (Woodbridge, 1999), pp. 289-315, at 307.

¹⁴ Pennington, 'Feudal Oath of Fidelity and Homage', p. 106; Sabapathy, 'Thinking Politically with Innocent III', p. 120, n. 37.

¹⁵ *Foedera*, i, 1, p. 112.

John's oath, four can be found, in almost identical wording, in the oath sworn by the archbishops of Canterbury (and archbishops in general) at their consecration, and also in the oath sworn in 1212 by King Frederick II of Sicily to Pope Innocent.¹⁶ These four sections have minor differences of wording: Frederick swore he would be faithful *ab hac hora et deinceps* while Hubert Walter (archbishop of Canterbury 1193-1205) and John both swore they would be faithful *ab hac hora et inantea*. Both mean 'from this hour henceforth' despite the slight difference in phrasing. These oaths were all very similar. So, four-fifths of John's oath could have been put together in England; these sections did not need to have been brought by Pandulf. There was, however, one section of John's oath for which there was no equivalent in either the archiepiscopal or Sicilian royal oaths:

if I should be aware, I will impede their [the pope's] injury and I will check [it] if I am able; otherwise that [damage] I will intimate to them as

¹⁶ John's oath: CS, p. 180; Hubert Walter's 1193 oath: *Epistolae Cantuarienses*, (ed.) W. Stubbs (London, 1865), pp. 367-8; Frederick's oath: MGH Const., ii, p. 542:

Section 1. John's oath: 'Ab hac hora et inantea fidelis ero Deo et beato Petro et ecclesiae Romanae, et domino meo papae domno Innocentio [tertio] ejusque successoribus catholice intrantibus'; 1193 oath of Hubert Walter, archbishop of Canterbury: 'Ab hac hora et inantea fidelis ero et obediens beato Petro sanctaeque Romane Ecclesie et domino nostro papae Coelestino eiusque successoribus, canonice intrantibus'; Frederick's oath: 'Ab hac hora et deinceps ero fidelis beato Petro et sancte Romane Ecclesie ac tibi domino meo pape Innocentio tuisque catholicis successoribus'.

Section 2. John's oath: 'Non ero in facto, [in] dicto, consensu vel consilio, ut vitam perdant vel membra, vel mala captione capiantur'; Hubert's oath: 'Non ero in consilio, neque in facto ut vitam perdant aut membrum, vel capiantur mala captione'; Frederick's oath: 'Non ero in consilio vel consensu vel facto, ut vitam aut membrum perdatis vel mala capti sitis captione'.

Section 3. John's oath: 'Consilium quod mihi crediderint per se vel per nuncios [suos] seu literas suas, secretum tenebo; et ad eorum damnum nulli pandam, me sciente'; Hubert's oath: 'Consilium quod mihi per se aut per litteras aut per nuncium, credituri sunt, ad eorum damnum, me sciente, nulli pandam'; Frederick's oath: 'Consilium quod michi credideritis et contradixeritis, ne illud manifestem, non pandam alicui ad vestrum dampnum me sciente'.

Section 4. John's oath: 'Patrimonium beati Petri, et specialiter regnum Angliae et regnum Hyberniae, adiutor ero ad tenendum et defendendum contra omnes homines pro posse meo'; Hubert's oath: 'Papatum Romanum et beati Petri regalia adiutor ero ad retinendum et defendendum, salvo nostro ordine, contra omnes homines'; Frederick's oath: 'Et bona fide adiuvabo vos honorifice papatum Romanum terramque sancti Petri tenere'.

soon as possible if I am able, or I will tell to a suitable person, who I believe for certain will tell them.¹⁷

From this sentence we can go further. I tentatively suggest that the wording here indicates that Pandulf did not carry the text with him, although he probably dictated this section. This sentence did not appear in the archiepiscopal or Sicilian oaths but there were similar clauses in other oaths to the papacy: the 1198 oath of Count Hildebrand, the oath of Roman senators to the pope found in the 1192 *Liber censuum* and the 1214 oath of Salinguerra of Ferrara, a papal fief-holder.¹⁸ However, while the meaning of these clauses was the same, the wording changed significantly. Salinguerra, for example, promised to impede *vestrum certum malum* instead of *eorum damnum* and while John's oath just said that 'otherwise' – *alioquin* – he should intimate it to the pope as soon as possible or tell a suitable person – *eis quam citius potero intimabo vel tali personae dicam* – Salinguerra's oath specified that 'if I am not able to impede, I will signify that [evil] to you or a certain person' – *Quod si non potero impedire, significabo illud vobis aut tali personae*. Although the meaning of all these variations was the same – and clearly they were intended to be the same – the constructions used differed markedly.

The inference I make is that if Pandulf had come prepared with an oath for John to take, the wording of this sentence would have been closer to the equivalent sentence in the oaths of Hildebrand, Salinguerra and the Roman senators. If the oath had been prepared in Rome then this sentence should have

¹⁷ CS, p. 180: 'Eorum damnum, si scivero, impedi et remanere faciam si potero; alioquin eis quam citius potero intimabo, vel tali personae dicam, quam eis credam pro certo dicturam'.

¹⁸ *Innocentius III Regestorum Sive Epistolarum* [1198-1202] in PL 214:529: 'Si eorum certum damnum sciero, si possum, remanere faciam; sin autem, aut per me aut per meum nuntium vel per talem personam, quam pro certo credam eis dicturam, significabo'; *Codex diplomaticus dominii temporalis S. Sedis*, (ed.) A. Theiner (3 vols, Rome, 1861-2), i, p. 45: 'Vestrum certum malum, si scivero, pro posse meo diligenter impedi. Quod si non potero impedire, significabo illud vobis aut tali personae, quam credam vobis pro certo dicturam'; LC, i, no. 59 (86), p. 313.

been near-identical to the equivalent sentence in Salinguerra's oath. The unusual wording of this sentence in John's oath was probably because Pandulf was dictating it from memory during the negotiations at Dover and could remember the gist but not the specific formulation. The other sections could simply have been taken from records in England which set down the form of the archiepiscopal oath. This means that there is no definite evidence that Innocent and Pandulf pre-empted John's surrender by preparing an oath. We cannot be categorical; it is still possible that Pandulf did carry the form of the oath, but there is another option.

The argument of Dione Clementi – that the Northern barons had actively forced John to surrender the kingdom as a fief – is based primarily on a letter to King John from early 1215.¹⁹ Sent by Walter Mauclerc, John's envoy at the papal curia, this letter informed the king that the embassy of the rebel barons told the pope 'because he is lord of England, he should admonish, and if necessary compel you [John] to preserve the ancient liberties undiminished', and that:

you [John] conceded an annual return to the lord pope and the Roman Church, and you did other honours which you offered to him and the Roman Church, not spontaneously nor from devotion but from fear and compelled by the barons.²⁰

Contra Clementi, this account does not prove that, in 1213, the rebellious nobles actively forced the surrender of the kingdom upon John. All it suggests is that, in 1215, the baronial opposition thought that they could make use of John's new

¹⁹ Clementi, 'Constitutional Development, 1170-1258', pp. 217-8.

²⁰ *Diplomatic Documents preserved in the Public Record Office, 1101-1272*, (ed.) Pierre Chaplais (London, 1964), no. 19, pp. 28-30; N. C. Vincent, 'Feature of the Month: January 2015 - The Conference at the New Temple, January 1215', *The Magna Carta Project*

<http://magnacartaresearch.org/read/feature_of_the_month/Jan_2015> [accessed: 13/03/2015].

'vos annum redditum domino pape et ecclesie Romane concessistis et alios honores quos eis et Romane ecclesie exhibuistis non sponte nec ex devotione, immo ex timore et per eos coactus fecistis'.

relationship with the pope to pressure the king, and they thought that they could benefit from claiming credit for the surrender. The baronial proctors were claiming, not that they suggested and enforced the surrender, but that the impetus for the surrender was their rebellion: the king's fear of them led him to come to an arrangement with the pope. That had not necessarily been the intention of the barons in 1213. Now, in 1215, a year and a half after John's surrender, the barons were using John's new relationship with the pope against the king, asking the pope to force John to confirm their ancient customs and liberties 'because he is the lord of England' and because they, not John, were the true allies of the Roman Church. There is no reason to assume that in 1213 the barons had intentionally forced John to surrender England to the pope so that they could later appeal to the curia. This letter does, however, indicate one important point about these special relationships between pope and king: they were a way for kings to instrumentalize papal authority, but sometimes other petitioners could try and use them to instrumentalize papal authority against the king.²¹

The account of Mauclerc might perhaps give a hint about where the baronial proctors thought the impetus for John's 1213 feudal surrender lay. The proctors could only claim that fear of them had led John to surrender his kingdoms to the pope *if they thought that the impetus for the surrender came from John*. Obviously, if the proctors had believed that Innocent had demanded the

²¹ As seen, for example, in 1224 when King Louis VIII of France sent a letter to Pope Honorius III complaining that Henry III of England was sending forth soldiers against him from England despite Henry's kingdom being a 'feudum Romanae ecclesiae et vestrum'. Louis did not believe that 'you wish that evils come forth from your fiefs to us and our kingdom': *Recueil des historiens des Gaules et de la France*, (ed.) Leopold Delisle, 2nd edn (24 vols, Paris, 1869-1904), xix, p. 760. The letter to which Louis was responding – from Honorius III, and impetrated by the English royal proctors, asking the French king why he had not renewed the truce with England – had made no mention of England's feudal status: *Royal and other Historical Letters illustrative of the Reign of Henry III*, i: 1216-1235, (ed.) Walter Waddington Shirley (2 vols, London, 1862-6), [henceforth: Shirley], pp. 541-3; D. A. Carpenter, *The Minority of Henry III* (Los Angeles/Berkeley, 1990), p. 373. Louis and his advisors had introduced this argument.

surrender then to claim that John's fear of them had led the king to submit to the pope would have made no sense. If Innocent had requested the surrender himself then he would surely not have been pleased that the rebellious barons were claiming credit.

In his first charter of surrender, John swore fidelity and promised to perform homage if he ever came before the pope. When the cardinal-legate, Nicholas of Tusculum, arrived in England John actually performed homage to him.²² Homage had been performed by the Sicilian Norman kings to the pope and by Afonso Henriques of Portugal to a papal legate.²³ However, the most recent homage from king to pope had been in 1156 – almost certainly beyond the adult memory of anyone at the papal court.²⁴ Innocent was thus the first pope definitely to receive homage from a king since Adrian IV. Furthermore, it is far from certain, as I argued in chapter two, that the Norman homages had symbolized an entry into vassalage.²⁵ But it seems likely that John's homage was indicative of lordship: John's description of himself in his charter of surrender – *tanquam feodarius* – and the papal descriptions of England as a fief suggest that homage was here associated with this 'feudal' relationship, and with the pope's lordship of the English king.²⁶ While the specifics of the alliance were not very

²² Angelo Mercati, 'La prima relazione del cardinal Nicolò de Romanis sulla sua legazione in Inghilterra (1213)' in *Essays Presented to Reginald Lane Poole*, (ed.) H. W. C. Davis (Oxford, 1927), pp. 274-89, at 279.

²³ Above, pp. 75-101; Fried, *päpstlicher Schutz*, pp. 124-6, 141-2; Wiedemann, 'Kingdom of Portugal', pp. 432-45.

²⁴ Tancred (1192), Constance (1198) and Frederick (1212) all promised to perform homage but – at the time of promising – all emphasized that they had not yet done so because 'homage ought to be rendered person to person': MGH Const. ii, p. 543 for 1212.

²⁵ Above, pp. 75-101; Wiedemann, 'Kingdom of Portugal'.

²⁶ In the first solemn privilege incorporating John's first surrender he is *tanquam feodarius*, in the second this is shortened to *tanquam feodari*. First privilege (4 November 1213): printed from the original in the British Library in *Foedera*, i, 1, pp. 117, 111; calendared in *Original Papal Documents in England and Wales from the Accession of Pope Innocent III to the Death of Pope Benedict XI (1198-1304)*, (ed.) Jane E. Sayers (Oxford, 1999), p. 26. Printed from the registration in the (fourteenth-century copy of the) papal registers (ASV, Registrum Vaticanum 8, ff. 162^r-v): PL 216:878-80, 923-4. Second privilege (21 April 1214): printed and translated from the original in the British Library in CS, pp. 177-83 and *Foedera*, i, 1, pp. 119, 115. The original was recently on

different to the *protectio* relationships we saw with Aragon in chapter one – census payments and promises of apostolic protection – the terminology and ritual of the relationship had changed. Whether this came from the influence of Italian academics and lawyers who undertook to formalize those ideas, or from the English conception of fiefs and honours is impossible to say for certain, but English ideas of fiefs seem a rather more likely origin if the impetus for the surrender came from the royal court. The linking of homage to the pope's superior lordship is confirmed by Henry III's first coronation, in 1216. At that coronation – according to Matthew Paris (following Roger of Wendover) – Henry swore a coronation oath, performed homage to the papal legate, and only then was he crowned and anointed.²⁷ While the Sicilian duke-kings had performed homage to the pope and had sometimes been invested, it had never been a prerequisite for coronation or succession. Siculo-Norman homage had always been occasional, but in 1216 homage was necessary prior to coronation.

As just noted, the last time a king had done homage to the pope had been 1156. In the intervening time the homage owed from the duke of Normandy to the king of France had seemingly changed from a recognition of the rights of an heir and outward symbol of a new treaty, into a formal ritual of lordship.²⁸ In 1213 John's homage seems to have been in that vein too. That Henry III should be seen to perform homage immediately before his coronation in 1216 confirms this development: coronation, and hence succession, was dependent upon papal permission.

public display as part of a British Library exhibition: *Magna Carta: Law, Liberty, Legacy*, (eds) Claire Breay, Julian Harrison (London, 2015), p. 51.

²⁷ *Matthaei Parisiensis Chronica Maiora*, (ed.) Henry Richard Luard (7 vols, London, 1872-83), iii, pp. 1-2; *The Flowers of History by Roger of Wendover*, (ed.) Henry G. Hewlett (3 vols, London, 1886-9), ii, pp. 197-8; Carpenter, *Minority*, p. 13. Since Henry III was a papal ward at this time, one might want to consider Reynolds' discussion of the link between homage and wardship: *Fiefs and Vassals*, p. 373.

²⁸ van Eickels, 'L'hommage des rois anglais', pp. 384-5.

3.2. The Appearance of *Vassalli*: Sicily (1209), England (1213), Man (1219) and Aragon (1222)

During Innocent and Honorius' pontificates some kings began to be called papal vassals – *vassalli*. The first use of the term referring to a king was to young Frederick of Sicily. In a 1209 letter to Otto of Brunswick, claimant to the imperial title, Innocent III explained that 'as that man [Frederick] ought to be bound to us, so a vassal should be bound to a lord, because of fidelity' – *sicut idem nobis, tanquam vassallus domino, ratione fidelitatis debet astringi* – and 'as we should attend to him, so a lord should attend to a vassal, because of legal-status' – *sic nos eidem, tanquam dominus vassallo, ratione legalitatis debemus adesse*.²⁹ Two points must be made about this: first, with the use of *sic* [...] *tanquam* – 'as [...] so' – Innocent was not necessarily actually saying that Frederick was his vassal but that he was as strongly bound to Frederick as a lord would be to his vassal; Innocent was using analogy. The second point is that this letter was not being sent to Frederick or his ministers, it was being sent to Otto of Brunswick. When Innocent wrote to Frederick he did not use such potentially inflammatory language. His letters tended to emphasize that Frederick's mother Constance had placed him into papal tutelage.³⁰ Other than this 1209 reference, neither Innocent nor Honorius III referred to Frederick as a vassal or Sicily as a *feudum*. While this was the first occurrence of *vassallus* as referring to a subject king, it was equivocal. It was not at all clear that Innocent saw Frederick as a vassal and quite likely that he did not.

When King John surrendered the kingdoms of England and Ireland in 1213-14 he too used *tanquam* but here it was *tanquam feodarius*: he was 'as a feudatory' of the pope.³¹ Presumably this slight equivocation was to diminish

²⁹ *Regestum Innocentii III papae super negotio Romani imperii*, (ed.) Friedrich Kempf (Rome, 1947), p. 399; *Innocentius III Registrum Super Negotio Romani Imperii* in PL 216:1168.

³⁰ Noted by Matthew, *Kingdom of Sicily*, p. 298. For an example, see Kehr, 'Das Briefbuch', p. 46.

³¹ *Foedera*, i, 1, pp. 117, 111, 119, 115; CS, pp. 177-83.

the impact of any humiliating terminology in the document.³² *Tanquam feodarius* might simply mean ‘as a feudatory’ or it might mean ‘just like a feudatory’. The second suggests that one is not actually a feudatory. The vagueness of the term is what makes it useful in diplomacy: it left the issue of whether John was a feudatory open to interpretation.

After John’s 1213-14 surrender, the term *vassallus* was seemingly not used by either the papacy or by John until 1215. This is not so surprising: although *feodum* was a commonly used term in England by the thirteenth century – hence presumably John’s use of *feodarius* in 1213 – *vassallus* was unusual.³³ Nicholas of Tusculum, legate in England 1213-14, did not use either *vassallus* or *feudum* when recounting John’s homage to him to Innocent III.³⁴ In a letter of December 1215 Innocent III communicated to Hugh, abbot of Abingdon, William archdeacon of Poitiers, and Ranulf of Warham that John was *vassallum Romane ecclesie*.³⁵ The use of this term here may be ascribed to Pandulf Verraclo, the papal nuncio, and his circle at the curia. Having negotiated John’s surrender in 1213, Pandulf had returned to Rome in later 1215

³² Discussing Honorius III’s early letters to the Dominican order, Patrick Zutshi notes that *tanquam filii speciales* is not necessarily the same as *filiis speciales*: ‘Pope Honorius III’s *Gratiarum Omnium* and the Beginnings of the Dominican Order’ in *Omnia Disce: Medieval Studies in Memory of Leonard Boyle, O.P.*, (eds) Anne J. Duggan, Joan Greatrex, Brenda Bolton (Aldershot, 2005), pp. 199-210. In a letter to the archbishops of the regno announcing Cardinal Gregory of St Maria in Portico’s Sicilian legation, Innocent III asked them to receive him *tanquam personam nostram* – ‘just as [if he were] our person’ (PL 214:520) but, of course, the legate was not actually the pope nor did he possess the fullness of papal power. Cf. R. Figueira, ‘Papal Reserved Powers and the Limitations on Legatine Authority’ in *Popes, Teachers, and Canon Law in the Middle Ages*, (eds) James Ross Sweeney, Stanley Chodorow (Ithaca NY, 1989), pp. 191-211, at 205: ‘A legate literally embodied the pope’s own person. He was his alter ego, and in many cases even wore the papal purple while on legation [...] within the concept of representation is the tacit recognition that *the thing or person represented is not fully present in actuality or potency*’ (my emphasis).

³³ Reynolds, *Fiefs and Vassals*, pp. 348-9, 384-5; eadem, ‘Tenure and Property in Medieval England’, *Historical Research* 88 (2015), 563-76, at 571.

³⁴ Mercati, ‘La prima relazione’, p. 279. Nicholas claimed that after performing homage, swearing an oath and ordering the census to be paid, John asked that ‘in your [Innocent’s] place, I should receive him and his heirs with all his goods under the protection of you and of the Church’.

³⁵ CS, pp. 221-3.

to be present at the Fourth Lateran Council. Before he left England he had excommunicated the rebellious barons and left his steward, Ranulf of Warham to ensure the sentences were enforced.³⁶ This letter of December 1215 was written when Pandulf was present in Rome, it was addressed to his steward and it confirmed, in detail, the excommunications of the barons and other sanctions against John's enemies which had been ordered by Pandulf.³⁷ In fact, it even listed the barons by name, showing that it was composed by someone with detailed knowledge of the situation in England. The issuing of the letter was in the interests of Pandulf (confirming his previous orders) and he must have been one of the few with the required knowledge.³⁸ It therefore seems very likely that he requested the letter. This does not necessarily mean, however, that he or his circle at the curia also chose the terminology, although that is a strong possibility.

One earlier letter of Innocent III had also referred to John as *vassallus*. This letter was dated 18 June 1215 but the addressee is not known, the original being damaged. It was, however, the first letter to refer unequivocally to a king as a papal *vassallus*.³⁹ Interestingly, unlike most of the royal-papal correspondence of 1215, there was no clear missive of John to which this letter responded. Innocent had written three letters on 19 March 1215 which were in response to the royal and baronial appeals which had been presented by

³⁶ Carpenter, *Magna Carta*, pp. 397-8, 401; N. Vincent, 'The Election of Pandulph Verraclo as Bishop of Norwich (1215)', *Historical Research* 68 (1995), 143-63, at 157.

³⁷ CS, pp. 221-3.

³⁸ The archbishop of Dublin and some of the other English and Irish bishops would, of course, have also had the requisite knowledge, but Pandulf seems the most likely composer. See A. Luchaire, 'Un Document Retrouvé', *Journal des Savants*, New Series 3 (1905), 557-68 for list of episcopal attendees at Lateran IV.

³⁹ London, The National Archives [TNA], SC 7/52/2. Transcribed by G. B. Adams: 'Innocent III and the Great Charter' in *Magna Carta Commemoration Essays*, (ed.) H. E. Malden (London, 1917), pp. 26-45, at 43-5 and *The Letters of Pope Innocent III (1198-1216) concerning England and Wales*, (eds) C. R. Cheney, M. G. Cheney (Oxford, 1967), no. 1013, pp. 272-3. Despite the damage to the top of the document, it is obvious that it is a papal chancery hand and the word *vassallus* is also clear.

proctors at the papal curia.⁴⁰ The 19 March 1215 letters explained that the barons should present their grievances to King John, who would listen to them graciously and the bishops were to excommunicate anyone who formed pacts against the king.⁴¹ Assuming these letters all arrived in England at the same time (which they might not have done⁴²) then they probably arrived sometime from late-April to early-May.⁴³ By that time Innocent had also confirmed John's grant of free elections for the English Church and received news that the king had taken the cross.⁴⁴ On 29 May 1215 John received further letters from Innocent and sent a reply, accusing Langton and the English bishops of failing

⁴⁰ CS, pp. 194-7; Cheney, *Innocent III*, pp. 367-70; N. C. Vincent, 'Feature of the Month: May 2015 - The Papal Letters of 19 March and their Reception in England (May 1215)', *The Magna Carta Project* <http://magnacartaresearch.org/read/feature_of_the_month/May_2015> [accessed: 21/05/2015]. See also the confidential diplomatic report of John's proctor: Walter Mauclerc: *Diplomatic Documents*, no. 19, pp. 28-30.

⁴¹ Cheney, *Innocent III*, pp. 370-1; CS, pp. 194-7.

⁴² If the letter to the barons was given directly to their proctors at the curia (John of Fereby and Osbert) and the letter to the king was given to his proctor (Walter Mauclerc) then it is entirely possible that, although all the letters were written on 19 March, they arrived in England at different times. Perhaps the barons' proctors even intentionally delayed sending their letter to England to allow the rebels to claim ignorance of Innocent's decision.

⁴³ As David Carpenter lucidly explains, there is a problem with dating the arrival of the 19 March letters: Innocent himself, in a later letter, said that they arrived after the baronial defiance of 5 May, but the Crowland chronicle claims that they arrived when John was near Oxford (known to be 7-13 April from the close and patent rolls) which is impossibly early: *Magna Carta*, p. 298. Historians have varied over when they thought the letters arrived. Stephen Church, *King John: England, Magna Carta and the Making of a Tyrant* (London, 2015), p. 219 suggested that they arrived around Easter time (19 April), which I suspect to be a little on the early side. Carpenter has suggested some time during Easter week (19-26 April): *Magna Carta*, p. 298. Cheney and Semple thought that the letters could not have reached their addressees 'before the end of April or early May': CS, p. 195, n. 6. Richardson and Sayles claimed a date of early May for their arrival: *The Governance of Mediaeval England from the Conquest to Magna Carta* (Edinburgh, 1963), pp. 458-9. Finally, Vincent has argued for a date of shortly before 9-10 May: 'The Papal Letters of 19 March', <http://magnacartaresearch.org/read/feature_of_the_month/May_2015> [accessed: 21/05/2015]. If, as I argue, someone in England wrote to the pope after receiving the 19 March letters and Innocent replied to them on 18 June, then the 19 March letters could have arrived in England as late as mid-May.

⁴⁴ Cheney, *Innocent III*, pp. 363-6; N. C. Vincent, 'Feature of the Month: March 2015 - The King Takes the Cross', *The Magna Carta Project* <http://magnacartaresearch.org/read/feature_of_the_month/Mar_2015_2> [accessed: 02/04/2015].

to take action against the rebels.⁴⁵ It was in response to that reply that Innocent's 7 July 1215 letter *Mirari cogimur* (2) was sent. Before he received the royal reply of 29 May 1215, Innocent must have composed our letter of 18 June 1215.

Although it is not known to whom it was addressed, it talks of *vestre universitati* – 'to you all' i.e. a large group, perhaps even the entire political community⁴⁶ – and it repeats the notice that the bishops should excommunicate rebellious barons if they should fail to reconcile themselves to the king, adding that they had eight days to do this once they had been warned.

To fit this letter into the diplomatic correspondence we must assume that it is a response to a letter which left England at the beginning of May. That therefore would be an immediate response from someone in England to the three letters of 19 March 1215 exhorting an end to hostilities. The question of who requested the 18 June letter and why can be guessed at. It was in the interests of the king and was probably intended for the episcopate and those barons who were wavering.

The specificity that after eight days the contumacious rebels were to be excommunicated was probably intended to prevent Langton and others from using the vague language of the 19 March 1215 letters as an excuse to avoid acting against the baronial party. Now there was a very specific time-frame which ought to be followed. It was thus in the royal interest. Furthermore this letter specified that 'as you hope for remission of sins, you should devote suitable aid and favour to the said king', presumably addressing the barons or the people of England generally.⁴⁷ This was a new development. The barons

⁴⁵ *Foedera*, i, 1, p. 129 = Vincent, 'The Papal Letters of 19 March' <http://magnacartaresearch.org/read/feature_of_the_month/May_2015> [accessed: 21/05/2015]. Richardson, Sayles, *Governance*, pp. 459-60; CS, pp. 203-4 may have been enclosed within Innocent's lost letter which reached John on 29 May.

⁴⁶ As suggested by Adams: 'The address was probably general to the people of England', 'Innocent III and the Great Charter', p. 41.

⁴⁷ TNA SC 7/52/2; Adams, 'Innocent III and the Great Charter', pp. 43-5.

had not had the prospect of remission of sins dangled before them previously. Here we see that Innocent was offering both carrot and stick to the barons. If they opposed John they would be excommunicate; if they aided him Innocent held out some vague promise of a Crusading indulgence.⁴⁸ This suggestion was repeated in Innocent's follow-up letter, *Mirari cogimur* (2) of 7 July 1215.⁴⁹

Richardson and Sayles linked the 18 June 1215 letter to a request from John, but that is not certain.⁵⁰ This letter is the first appearance of the term *vassallus Romane ecclesie* applied to a king. John never used it: at most he called Innocent his 'lord and patron' and admitted that England was part of the *patrimonium beati Petri*. John does not seem to have ever used *vassallus*, describing himself only as a *feod(at)arius* in 1213-14.⁵¹ It is possible that John's description of Innocent as his *patronus* indicated that he thought of himself as a papal *vassallus* – glossators of Roman Law liked to adapt passages about *liberti* and *patroni* to vassals and lords – but it was still the case that John's letters did

⁴⁸ The phrase *in remissionem iniungimus peccatorum* does not, by itself, constitute a Crusading indulgence, and could simply describe 'the spiritual benefits of good works' (Zutshi, 'Pope Honorius III and the Dominican Order', pp. 203-4). In context, however, I read this phrase as being intended to attract allies to John's cause.

⁴⁹ CS, pp. 208-9. I have called this letter *Mirari cogimur* (2) because one of the letters dispatched to England on 19 March also began *Mirari cogimur* (as did several others of Innocent III). To avoid confusion I call those letters collectively the '19 March letters' but that specific letter would be *Mirari cogimur* (1).

⁵⁰ Richardson, Sayles, *Governance*, p. 459: '9-14 May: The king writes to the pope complaining that the barons have taken up arms with the intention of expelling him from the kingdom and asks that the archbishop and bishops may be directed to excommunicate them and lay their lands under interdict (papal letter of 18 June, below)'.

⁵¹ Adams accurately notes that John preferred the phrase *patrimonium beati Petri* and that papal letters seem to have placed more emphasis on John's status as a Crusader: 'Innocent III and the Great Charter', pp. 26, 28. For John's acknowledgment that 'my land is the Patrimony of St Peter and we hold it from St Peter, and the Roman Church, and you [Innocent]', see *Foedera*, i, 1, p. 129 = Vincent, 'The Papal Letters of 19 March', <http://magnacartaresearch.org/read/feature_of_the_month/May_2015> [accessed: 21/05/2015]. See also *Rotuli litterarum patentium in Turri londinensi asservati*, i, part 1: 1201-1216, (ed.) T. D. Hardy (1 vol in 1, London, 1835), p. 182; PL 216:881; *The Letters and Charters of Cardinal Guala Bicchieri*, (ed.) Nicholas Vincent (Woodbridge, 1996), pp. 105-6. While I would not suggest that Innocent/Honorius and John held different views of what John's submission had meant, royal letters tended to avoid using terms such as *vassallus*. Some papal letters did too, but some did not.

not use the word *vassallus*.⁵² Papal letters did describe England as a papal *feudum*, but the use of that word obviously came from John's description of himself as a *feodarius* in 1213-14. The use of *vassallus* in this letter was a new development, and might suggest that this letter was not requested by John himself.

What seems plausible is that, upon receipt of the pope's 19 March 1215 letters, someone in King John's administration had realized quickly that the letters were too open-ended: the bishops were simply told to excommunicate anyone who formed pacts and agreements.⁵³ While that order had been aimed at the baronial party, it could perhaps have been re-aimed at the king's counsellors. At the very least the bishops could prevaricate. Therefore a quick response was dispatched to Innocent asking him to give the bishops a time-frame and to offer the barons a sweetener to keep them behind John. This Innocent did in the 18 June 1215 letter.⁵⁴ The use of *vassallus* might lead us to think that the 18 June 1215 letter was drafted by the same person as the December 1215 letter. Another indication that both the 18 June and 16 December 1215 letters were composed by the same person was the use of the threats 'sword of anathema' and 'sword of excommunication'. These letters

⁵² M. Ryan, 'Ius commune feudorum in the Thirteenth Century' in ...*colendo iustitiam et iura condendo... Federico II legislatore del regno di Sicilia nell'Europa del duecento*, (ed.) A. Romano (Rome, 1997), pp. 51-65, at 62; idem, 'Succession to Fiefs: A *Ius Commune Feudorum?*' in *The Creation of the 'Ius Commune': From 'Casus' to 'Regula'*, (eds) John W. Cairns, Paul J. du Plessis (Edinburgh, 2010), pp. 143-57, at 143-4; idem, 'The Oath of Fealty and the Lawyers' in *Political Thought and the Realities of Power in the Middle Ages*, (eds) Joseph Canning, Otto Gerhard Oexle (Göttingen, 1998), pp. 211-28, at 227, n. 30.

⁵³ Richardson and Sayles date the receipt of the 19 March letters to 27 April-4 May 1215 and the composition of the letter to which Innocent was responding on 18 June to 9-14 May. This is based on the conventional assumption that London-Rome was a journey of around four weeks minimum, and seven weeks generally: Richardson, Sayles, *Governance*, pp. 450-5; R. L. Poole, 'The Early Correspondence of John of Salisbury', *Proceedings of the British Academy* 11 (1924-5), 27-53, at 31. This leaves a period of 5-17 days after the 19 March letters were received before a further response was sent to Innocent: Richardson, Sayles, *Governance*, pp. 458-9. If London to Rome took thirty days then the 19 March letters could have arrived at any time up until 18 May and the 18 June letter could still be a reply to a response to the 19 March letters.

⁵⁴ TNA SC 7/52/2; Adams, 'Innocent III and the Great Charter', pp. 43-5.

conceive of anathematization as a sword (with which one is struck). In at least seven other letters of Innocent to England the equivalent phrase was 'chains of excommunication' and 'chains of anathema' (with which one is bound).⁵⁵ This difference in phrasing might suggest that the same person had a hand in the composition of the June and December 1215 letters, but not in others.

We have good reason to suspect that Pandulf requested the December 1215 letter and so it might well have been he who requested the June letter too (via a written petition, since he was in England). In turn, it might have been Pandulf who used the term *vassallus* and so it was included in the letters. On the other hand it could have been a choice made by a papal notary. As we shall see below, at least one papal notary was on John's payroll and an ally of the king of England in 1215.

The letters which superseded the 19 March and 18 June 1215 letters were the bull *Mirari cogimur* (2) and the damning of Magna Carta in *Etsi karissimus*, neither of which used the term *vassallus*, and both of which referred to chains, rather than a sword, of excommunication. *Etsi karissimus* did call the English kingdom a papal *feudum*.⁵⁶ Both of these letters were definitely responses to messages dispatched by John himself, but the 18 June and 16 December 1215 letters – which called John a *vassallus* – seem more likely to have been requested by someone other than John, perhaps Pandulf.⁵⁷ It seems that *vassallus* tended to be used in letters which were not in response to requests from John himself.

The term – *vassallus* – continued to be used in Honorius III's letters to describe Henry III. In 1218 Pandulf returned to England. Where before he had been a subdeacon and *familiaris* of Innocent III, and papal nuncio, he was now

⁵⁵ CS, pp. 72, 131, 137, 139, 159, 208 [*Mirari cogimur* (2)], 212 [*Etsi karissimus*].

⁵⁶ CS, pp. 208, 212.

⁵⁷ N. Vincent, 'Feature of the Month: October 2015 - Ten Letters on Anglo-Papal Diplomacy, July-September 1215' *The Magna Carta Project*

<http://magnacarta.cmp.uea.ac.uk/read/feature_of_the_month/Oct_2015> [accessed: 21/02/2016].

bishop-elect of Norwich, papal co-chamberlain (head of the papal household and administrator of papal revenue) and a full legate of the Apostolic See.⁵⁸ In September 1219 Pandulf persuaded a second king to surrender his kingdom to the papacy: the king of Man and the Isles.⁵⁹ In the document of surrender King Reginald asked Pope Honorius to send to him ‘that protection which you send to other kings [who are] vassals and census-payers’. The island was given back to Reginald by Pandulf as a *feudum*.⁶⁰ It was this agreement with Pandulf which ensured that these terms – fief and vassal – were used to describe Reginald. The papacy had acquired a second royal *vassallus* and it had been Pandulf who had arranged it.

From this we can see that the terms *feudum* and *feodarius* were probably introduced to papal-royal relations by the English court – *vassallus* was added shortly afterwards, perhaps by Pandulf – and were then adopted by the curia. Pandulf extended the use of these terms to Man in 1219. In 1222 the term *vassallus* was applied to the King of Aragon. It may well be that Pandulf and his circle in Rome who had links to England transferred this terminology to Aragon.

Let us turn to this June 1222 letter dispatched to the Iberian peninsula. It promised a plenary indulgence – full remission of all sins confessed with a contrite heart – to anyone who aided King James against the Moors (should war break out) and explained that the papacy was especially bound to aid James ‘for he is a vassal of the Roman Church’.⁶¹ As should be obvious by now, the kings

⁵⁸ Vincent, ‘Election of Pandulph’, pp. 158-9.

⁵⁹ *Vetera Monumenta Hibernorum et Scotorum*, (ed.) A. Theiner (Rome, 1864), p. 11; *Monumenta de Insula Manniae*, (tr., ed.) J. Oliver (3 vols, Douglas, 1860-62), ii, pp. 53-7; *Foedera*, i, 1, p. 156; Sayers, *Honorius III*, p. 164; R. Andrew McDonald, *Manx Kingship in its Irish Sea Setting, 1187-1229: King Rognvaldr and the Crovan Dynasty* (Dublin, 2007), pp. 146-8.

⁶⁰ *Vetera Monumenta Hibernorum et Scotorum*, p. 11. Unsurprisingly the agreement did not mandate any specific duties beyond the payment of an annual census.

⁶¹ Reg. Vat. 11, f. 257v = MDH, pp. 298-9; Potthast 6858. The extract in the *Annales Ecclesiastici* is quoted by Fried, *päpstlicher Schutz*, p. 241: ‘[...] enim sit ecclesie Romane vassallus [...].’

of Aragon had never previously been called *vassalli*. This letter was in many ways similar to that sent to England on 18 June 1215. Both were addressed widely to people who, it was thought, would aid a king against a possible threat; both promised remission of sins to those who came to the royal aid; both referred to the king in question as a *vassallus Romane Ecclesie*. Although the other wording of these two letters was different, they were actually similar in content. They were certainly similar enough for us to wonder whether one influenced the other.

In order for King John, and later Henry III, to get favourable judgements at the papal curia, they had established a network of contacts in Rome. The members of this network will be examined in detail below, but for now it suffices to note that Pandulf, Cardinal Stephen of Fossanova and Rainier, cardinal-deacon of S. Maria in Cosmedin were all part of it. I suggest that it was the influence of these men – closely associated with England – which got the term *vassallus* included in the letter to James of Aragon.

The letter to James – *Susceptae servitutis officium* – was probably given at the request of the Aragonese regents.⁶² It specified that aid should be given ‘if perchance the Moors make war against the said king’: this was not a crusade, it was a defensive measure only. This fits with the known attitude of the Aragonese regents at the time. Peace had been agreed with the Almohads in 1214. In 1222 a knight of the order of St James, Gil Garcia, had actively been prevented by James’ council from buying supplies for his own private war.⁶³ Gil had even petitioned Honorius III to ask James to let him buy supplies. The

⁶² A near contemporary letter (27 June 1222) ordering Konrad of Urach, the cardinal-legate, to preserve James’ rights in Millau specifies that the Aragonese had petitioned for the letter: Reg. Vat. 11, ff. 255^v-256^r = MDH, p. 303.

⁶³ Joseph F. O’Callaghan, *Reconquest and Crusade in Medieval Spain* (Philadelphia, 2004), p. 89; Reg. Vat. 12, ff. 9^v-10^r and MDH, pp. 309-10.

petition for *Susceptae servitutis officium* probably came from James and his government.

It is likely that the Aragonese representatives at the curia would have sought out curial officials who were favourable to them in order to help them get this letter. Who would such papal courtiers have been? Cardinal Peter of Benevento would have been the obvious choice. In 1214-15 he had been legate in Aragon at the beginning of King James' minority. He had played a role in confirming papal protection for James' city of Montpellier in 1219.⁶⁴ But Peter had died in 1219 or 1220 so obviously could not have interceded for James' proctors in 1222.⁶⁵ Pelayo Gaitán was the senior Iberian cardinal at the Curia but he was neither Aragonese nor at the papal court in 1222 since he was off leading the fifth crusade.⁶⁶ Bertrand, cardinal-priest of SS John and Paul, had previously been a legate in the south of France and had had dealings with Aragon too.⁶⁷ It is possible, though unlikely, that he too had died by 1222.⁶⁸ Nonetheless, he is a

⁶⁴ A series of papal letters, issued 18-21 May 1219, to Louis of France, the count of St-Pol, Enguerrand de Coucy and other crusaders, instructing them not to molest Montpellier, stated that 'it is clearly evident to us from the testimony of our venerable brother, the bishop of Sabina [Peter of Benevento], and many others' that the city was faithful: *Bullaire de l'Église de Maguelone*, ii: 1216-1303, pp. 36-46.

⁶⁵ Werner Maleczek, *Papst und Kardinalskolleg von 1191 bis 1216* (Vienna, 1984), pp. 172-4; F. Heyer, 'Über Petrus Collivaccinus von Benevent', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 6 (1916), 395-405, at 397.

⁶⁶ Maria João Branco, 'Portuguese Ecclesiastics and Portuguese Affairs near the Spanish Cardinals in the Roman Curia (1213-1254)' in *Carreiras Eclesiásticas no Ocidente Cristão*, (séc. XII-XIV)/*Ecclesiastical Careers in Western Christianity, (12th-14th Century)* (Lisbon, 2007), pp. 77-100, at 87. The other Iberian cardinal was the recently promoted Gil Torres: Peter Linehan, 'Columpna Firmissima: D. Gil Torres, the Cardinal of Zamora' in *Cross, Crescent and Conversion: Studies on Medieval Spain and Christendom in Memory of Richard Fletcher*, (eds) S. Barton, P. Linehan (Leiden/Boston, 2008), pp. 241-61; Branco, 'Portuguese Ecclesiastics', passim. While there are many places which have claimed Cardinal Torres, he was assuredly not Aragonese.

⁶⁷ There was another papal representative in Spain during the period 1213-1225: Master Gonzalo, a collector of revenue: Reg. Vat. 10, ff. 16^v-17^r=MDH, pp. 148-9; P. Linehan, *The Spanish Church and the Papacy in the Thirteenth Century* (Cambridge, 1971), pp. 18-9; Paul Freedman, 'Two Letters of Pope Honorius III on the Collection of Ecclesiastical Revenues in Spain' re-printed in *Church, Law and Society in Catalonia, 900-1500* (Aldershot, 1994), pp. 37-40.

⁶⁸ L. Cardella, *Memorie storiche de' cardinali della Santa Romana Chiesa* (9 vols in 10, Rome, 1792-7), i, part 2, pp. 235-236 states that he died in 1222. Maleczek only comments that he died after 1221 (*Kardinalskolleg*, pp. 170-1). However, a letter of Frederick II, sent on 22 November, eleventh

very unlikely candidate to have aided the Aragonese royal proctors. In 1217 Bertrand's influence had resulted in papal letters being sent to James and his regent, Count Sancho, threatening the kingdom of Aragon with invasion if they continued to send aid to Count Raymond of Toulouse.⁶⁹ Bertrand was known to be partial to Simon de Montfort senior whose hands were stained with the blood of King Peter II and many Aragonese nobles.⁷⁰ With these options unavailable or impractical, it is possible that the Aragonese proctors turned to Stephen of Fossanova and his circle.

Stephen of Fossanova and Rainier of S. Maria in Cosmedin (another ally of King John) had been witnesses and executors to the final will of Marie de Montpellier, King James' mother.⁷¹ In this will Marie committed her son to papal protection. Thus Stephen, and the other witnesses of the will, were bound to preserve and strengthen the papal protection for her son. Considering that Marie's will was frequently used as a justification for papal involvement in Aragon during James' minority (as discussed in chapter four) it seems likely that Stephen was a contact at the curia for the Aragonese. As a witness of Marie's will he, as much as the pope, had been bound to defend James. There is

Indiction (1223) is addressed to, *inter alia*: 'B. tituli Sanctorum Iohannis et Pauli' who is certainly Bertrand (*Codex diplomaticus*, i, p. 71). Damian Smith attributes a letter of 1226 to 'cardinal-legate Bertrand' but this is an error. The document was issued by the legate Romanus, cardinal-deacon of Sant' Angelo. Damian J. Smith, *Crusade, Heresy and Inquisition in the Lands of the Crown of Aragon (c. 1167-1276)* (Leiden/Boston, 2010), p. 50; *Histoire générale de Languedoc*, (eds) C. L. Devic, J. Vaissete, 3rd edn. (16 vols, Toulouse, 1872-1904), viii, cols. 817-9.

⁶⁹ *Honorii III opera omnia*, (ed.) C. Horoy (5 vols, Paris, 1879-82), [henceforth: *Honorii III opera omnia*], ii, cols. 561-3; *The History of the Albigensian Crusade: Peter of les Vaux-de-Cerney's 'Historia Albigensis'*, (tr.) W. A. Sibly, M. D. Sibly, re-print (Woodbridge, 2002), p. 272, n. 99; William of Tudela and an Anonymous Successor, *The Song of the Cathar Wars*, (ed., tr.) Janet Shirley (Aldershot, 1996), pp. 122-3.

⁷⁰ *History of the Albigensian Crusade*, pp. 266-70, 272-3, esp. n. 59.

⁷¹ *Spicilegium sive Collectio Veterum Aliquot Scriptorum qui in Galliae Bibliothecis Delituerant*, (ed.) D. Luc D'Achery (3 vols, Paris, 1723), iii, p. 576; *Pedro el Católico, Rey de Aragón y Conde de Barcelona (1196-1213) Documentos, Testimonios y Memoria Histórica*, (ed.) M. A. Cabrer (6 vols, Zaragoza, 2010), iv, no. 1499, pp. 1526-7; *Layettes du trésor de chartes*, (ed.) Alexandre Teulet et al (5 vols, Paris, 1863-1909), i, no. 1044, pp. 390-1.

also a tentative suggestion that Stephen was a relation of Peter of Benevento.⁷² If so, this could have provided another link for the Aragonese proctors to draw on.

My suggestion that Stephen and his allies interceded for *Susceptae servitutis officium* – and hence introduced vassalic terminology into the papal-Aragonese relationship – gets further support if we focus on Pandulf. It is certain that Pandulf had introduced the term *vassallus* to the papal agreement with the King of Man. Pandulf was a close associate of Stephen of Fossanova, as is described in detail below – in fact Stephen called Pandulf his ‘most beloved associate’ (*carissimus socius*) in 1214.⁷³ Pandulf had returned from England to Rome just a few months before the letter to Aragon was written: he was finally consecrated as bishop of Norwich by Honorius III on 29 May 1222.⁷⁴ Therefore, if the Aragonese proctors had approached Stephen and his allies to help them acquire this letter, Pandulf would have been aware of it – because of his association with Stephen – and could have inserted the term *vassallus* to describe the Aragonese king.

Stephen of Fossanova was also the central figure in the king of England’s network at the curia. This network of courtiers – built up by King John and then by Henry III – was vital for the English to get favourable judgements and letters when they petitioned Rome. This circle – because of its ties with Aragon and

⁷² A charter jointly issued by Stephen, Peter and Nicholas of Chiaromonte calls the recipient *noster consanguinis*. The use of *noster* (plural) indicates that all three cardinals were related to the recipient (Frederic of Chiaromonte) and hence to each other: F. Ughelli, *Italia Sacra* (9 vols, Rome, 1644-62), i, col. 232. Cited in V. J. Koudelka, ‘Notes pour servir à l’histoire de S. Dominique’, *Archivum Fratrum Praedicatorum* 35 (1965), 5-20, at 11; John Paul Adams, ‘Sede Vacante 1216’, <<http://www.csun.edu/~hcfl004/SV1216.html>> [accessed: 01/03/2017].

⁷³ *Diplomatic Documents*, no. 17, pp. 27-8.

⁷⁴ *Annales Monastici*, (ed.) Henry Richards Luard (5 vols, London, 1864-9), ii, p. 296. This date is broadly confirmed by Honorius III’s register: a letter of 7 July, 1222 calls him ‘Bishop Pandulf, then (only) Elect’ (*episcopus tunc electus*) suggesting he had been consecrated by the time the letter was written. At the end of the register for Honorius’ sixth year (July 1221-July 1222) there is an entry: ‘Istos dominus Honorius papa tertius consecravit [...] Episcopum Norwicensis’: Reg. Vat. 11, ff. 261^r, 262^v.

Man – probably also spread the terminology found in England – fiefs and vassals – to other kingdoms too, as I have just outlined. One member of it – Rainier of S. Maria in Cosmedin – even sought to extend some ideas from the English-papal relationship to the papacy's relations with Frederick II in Sicily, as we shall see later.

3.3. The English Chancery-List

This hypothesis is best developed by a detailed analysis of the prosopographical connections between the relevant clerical figures at the curia and beyond. Written on the dorse of membrane six of the roll of royal letters close for 1218 is a list of cardinals.⁷⁵ This is not the only thing copied onto the dorse of the English chancery rolls. All sorts of extraneous information, or texts of letters or treaties, could be copied on the back of the rolls. Nor is it the only list of cardinals kept by a royal administration at this time. There are three lists of cardinals – all contemporary to the English list – in the registers of Philip Augustus, king of France.⁷⁶ Strangely there are marginal annotations next to some cardinals' names in our English chancery-list. Two – Nicholas of Tusculum and Peter de Sasso – were noted to have died subsequently to the list being composed. One – Stephen of Fossanova – had a dot and a dash next to his name. One – Guala Bicchieri – had a dot next to his name. One – Sinibaldus, the papal co-chamberlain – had a cross next to his name. Two – Ugo of Ostia and Leo Brancaleone – had a cross and a dot next to their names. Two – Rainier of S.

⁷⁵ London, TNA C 54/19 (membrane 6d); *Rotuli litterarum clausarum in Turri Londinensi asservati*, i: 1204-1224, (ed.) T. D. Hardy (2 vols, London, 1833-44), pp. 379-379b. Noted by Maleczek, *Kardinalskolleg*, p. 266, n. 106 but mis-dated to mid-1219.

⁷⁶ Robert Davidsohn, *Philip II. August von Frankreich und Ingeborg* (Stuttgart, 1888), pp. 316-20; John W. Baldwin, “Tibi et regno tuo specialiter nos teneri fatemur”: Innocent III, Philip Augustus and France’ in *Innocenzo III: Urbs et Orbis*, (ed.) Andrea Sommerlechner (2 vols, Rome, 2003), ii, pp. 984-1007, at 1007; Maleczek, *Kardinalskolleg*, pp. 265-6.

Maria in Cosmedin and Stephen of S. Adriano – had a cross, a dot and a dash next to their names.⁷⁷

It is impossible, after eight hundred years, to identify precisely what these marginal annotations meant. The different markings might denote particular requests sent to the curia and so, for example, the five people with crosses all received letters asking them to help with one particular matter; the five cardinals with dots all received letters asking them to help with another, and so on. But since Guala Bicchieri (a dot) was in England, not at the curia, when this list was written, that explanation is not perfect. Another possibility is that these markings denote cardinals who requested, were paid or were offered money from or by the English crown. What is certain is that those with markings next to their names had links of various kinds with the English royal court and hence were suitable to act as intermediaries and advisors when the king of England had business at the curia.

The two for whom there is least evidence are Leo Brancaleone and Sinibaldus. For Leo we must turn to three lists of cardinals kept by the French court. These lists will be discussed more fully below – they are contemporary with the list of the English court. The third French list (entitled ‘these cardinals adhere to King Frederick and the lord king of France’) said of Leo: ‘Lord Leo chiefly looks to Otto, yet he says that he looks much to the lord king [of France]’.⁷⁸ Otto IV was the opponent of Frederick II of Sicily and Philip Augustus and had been the ally of King John of England.⁷⁹ Leo might therefore,

⁷⁷ The edition in the *Rotuli litterarum clausarum* does not include the dashes, but only the dots and crosses. One of the dashes (Fossanova) is formed by extending the tail of the ‘d’ of *dominus* (which precedes all the cardinals’ names) but the other two appear to have been added separately.

⁷⁸ Davidsohn, *Philipp II.*, pp. 316-20.

⁷⁹ There is evidence for an overlap of interests between John’s allies at the curia, and supporters of Otto. In 1214, Pandulf, then the papal nuncio, was with King John when he was in Poitou supporting Otto IV against Philip Augustus: *Rotuli chartarum in Turri Londinensi asservati*, i, part. 1: 1199-1216, (ed.) T. D. Hardy (1 vol in 1, London, 1837), p. 199. In a letter of 1215, John’s envoy

in turn, have been thought to favour the king of England by Henry III's advisors, although that, like Leo's attitude to the king of France, could also have been an act.⁸⁰

Sinibaldus had few definite direct links with England: sometime around 1215, he was the procurator of Stephen of Fossanova's nephew, Stephen, and was placed in physical possession of a benefice granted to Stephen in England.⁸¹ At some point before 1221, he had been appointed by the pope to investigate the complaints of certain monks of Durham against their bishop, Richard Marsh, the English royal chancellor.⁸² This is clearly not sufficient to prove a link with the England royal court. The link is, in fact, indirect: Sinibaldus was the co-papal chamberlain along with Pandulf Verraclo. The two of them succeeded Stephen of Fossanova in this position.⁸³ Sinibaldus and Pandulf were probably protégés of Stephen: it may not be coincidence that Sinibaldus was procurator for Fossanova's nephew in c.1215 and the same nephew was part of Pandulf's household in 1219.⁸⁴ Sinibaldus was included on the list because two

at the curia reported to the king that Stephen of Fossanova and Cardinal John Colonna (John's 'most faithful friends') believed that Otto could be reconciled with the curia if John helped him: N. Vincent, 'Feature of the Month: January 2015 - The Conference at the New Temple, January 2015', *The Magna Carta Project*

<http://magnacartaresearch.org/read/feature_of_the_month/Jan_2015_2> [accessed: 21/02/2017]. Cf. Cheney, *Innocent III*, pp. 357-8, who comments on Nicholas of Tusculum's ambivalence towards promoting peace with France.

⁸⁰ In an earlier list of *speciales regis* – cardinals who adhered to Philip Augustus – kept by the French court, Leo was again listed as supporting Philip. This list is substantially flawed, however, since it also includes Rainier of S. Maria in Cosmedin and the papal *camerarius* (Stephen of Fossanova) both of whom were definitely allies of the English court (see below): Davidsohn, *Philip II.*, pp. 318-20.

⁸¹ *Rotuli Hugonis de Welles episcopi Lincolnensi*, (eds) W. P. W. Phillimore, F. N. Davis (3 vols, London, 1907-9), i, p. 124. Cited in Vincent, *Guala*, p. lxix, n. 240.

⁸² Reg. Vat. 11, fol. 76v; *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters*, i: A.D. 1198-1304, (ed.) W. H. Bliss et al (14 vols, London, 1893-1961), p. 78.

⁸³ Vincent, 'Election of Pandulph', p. 185, n. 79; Sayers, *Honorius III*, p. 174; Vincent, *Guala*, no. 181, p. 146.

⁸⁴ *Vetera Monumenta Hibernorum et Scotorum*, p. 11.

of his associates – Stephen of Fossanova and Pandulf – were known to be favourable to Kings John and Henry III, as will be shown below.

The rationale for thinking Ugo of Ostia and Stephen of S. Adriano favoured the English king is very simple: both received pensions from him. Ugo of Ostia – later Pope Gregory IX – and his nephews were receiving payments from the English king from 1213 onwards.⁸⁵ Stephen of S. Adriano – Stephen Conti, the nephew of Pope Innocent III – held the prebend of Layton. In 1213 King John ordered the income from this prebend to be paid to Master Pandulf (on behalf of Stephen) and so we begin to see that these papal courtiers depended on each other, as well as having links with the English court.⁸⁶ Stephen also received other payments from the English king, as did his father (Innocent III's brother) Count Richard.⁸⁷

This leaves us with Guala Bicchieri, Stephen of Fossanova and Rainier of S. Maria in Cosmedin. At this point the evidence starts to become overwhelming. It is also at this point that Pandulf Verraclo must be brought back in. Strangely, he was not included on the list of papal courtiers. One possible reason for this is that he, or a member of his household, might have dictated it (although not written it: the spellings and hand necessitate an English scribe). The list can be dated to *c.*May-June 1218 since the letters on the face of the roll date to April-May 1218 and the list on the dorse was presumably written after they were enrolled. In addition to the list of cardinals, the dorse also has a list of Welsh magnates. These were probably the Welshmen who were supposed to come and do homage to King John as part of the treaty of Worcester, agreed in March 1218. The texts of the treaty of Worcester are found

⁸⁵ Maleczek, *Kardinalskolleg*, p. 126-33; *Rotuli litterarum clausarum*, i, pp. 157, 168b, 180; *Rotuli litterarum patentium*, i, 1, p. 123b.

⁸⁶ *Rotuli litterarum clausarum*, i, p. 156b.

⁸⁷ Maleczek, *Kardinalskolleg*, pp. 195-201; *Rotuli litterarum clausarum*, i, pp. 180; John T. Noonan Jr., *Bribes* (London/New York, 1984), pp. 195-7.

on the dorse of an earlier membrane of this same close roll.⁸⁸ The list of cardinals must also have been compiled before July-August 1218 since a later hand added a marginal note that Cardinals Nicholas of Tusculum and Peter de Sasso had died (*mortuus est*) and their last definite appearances as witnesses to a papal privilege were July 1218.⁸⁹ Pandulf is known to have returned to England by June 1218.⁹⁰ It could be the case that the information on the list came from Pandulf, newly returned from Rome, and that he neglected to include himself on the list.

That Guala, Pandulf, Stephen of Fossanova and Rainier were all favourable to the English court has been noticed before (individually). But they also had links with each other and so, collectively, formed a circle of allies at the curia that the English court could draw on. This is best illustrated by two papal letters, one of January 1220 where Honorius III dispensed the English vice-chancellor, Ralph de Neville, from his illegitimate birth; the other of April 1221 which allowed Ralph to hold multiple benefices.

The 1220 letter dispensing Ralph from his illegitimacy noted that Guala Bicchieri had testified strongly on Ralph's behalf.⁹¹ But, from a report sent to Ralph by his representative at the curia, we know that Stephen and Rainier, as

⁸⁸ *The Acts of Welsh Rulers, 1120-1283*, (eds) Huw Pryce, Charles Insley (Cardiff, 2005), nos. 240-2, pp. 396-401; *Rotuli litterarum clausarum*, i, pp. 378b-379.

⁸⁹ Maleczek, *Kardinalskolleg*, pp. 147-50; idem, 'Zwischen lokaler Verankerung und universalem Horizont. Das Kardinalskollegium unter Innocenz III' in *Innocenzo III: Urbs et Orbis*, (ed.) Andrea Sommerlechner (2 vols, Rome, 2003), pp. 102-99, at 153 which supersedes the dates in Maleczek, *Kardinalskolleg*, pp. 163-4. One of de Sasso's nephews was beneficed in England by Guala in 1217: Vincent, *Guala*, no. 90, pp. 68-9. Chaplais dated a letter, sent to Nicholas by Henry III on 6 November, to the year 1218. The year could be in error since no year is given on the letter. Another possibility, however, is that in October 1218 – at the end of Henry III's second regnal year – all the membranes onto which his letters had been copied were collected up and sown together to produce the close, patent and charter rolls. Since the list of cardinals was on the dorse of one of these membranes, when the rolls were sown together it would have been very difficult to consult. Hence the drafter of the letter to Nicholas was unaware that he was dead. *Diplomatic Documents*, no. 26, pp. 33-4.

⁹⁰ Vincent, 'Election of Pandulph', p. 158, n. 81.

⁹¹ Shirley, no. 8, p. 534.

well as Guala and 'other friends of the king', had interceded for Ralph.⁹² Pope Honorius' 1221 dispensation allowing Ralph to hold multiple benefices listed three intermediaries. Again, these were Guala, Stephen and Rainier.⁹³ They were consistently the figures who supported the English vice-chancellor during these years, while, back in England, Pandulf was addressing Ralph as his *amicus*.⁹⁴

As a side note, Ralph's representative at the curia in 1220, who sent the report back to his master telling him that Guala, Stephen and Rainier were all testifying on his behalf, was the abbot of S. Martin in Viterbo. The abbey of S. Martin in Viterbo was another bond between these papal courtiers and the English court: the abbot had accompanied the papal legate to England in 1214 and his abbey had been granted a pension by King John.⁹⁵ Pandulf had granted S. Martin's a mediety of a church in his diocese of Norwich in April 1219, and Rainier was also known to have been a patron of the abbey.⁹⁶ The lines of communication between Pope Honorius III and Ralph de Neville – through the abbot of S. Martino, and Cardinals Guala, Stephen and Rainier – can be plainly discerned.

⁹² *Diplomatic Documents*, no. 47, pp. 44-5 = J. Boussard, 'Ralph Neville évêque de Chichester et chancelier d'Angleterre', *Revue Historique* 176 (1935), 217-33, at 225, n. 3. The rationale for associating this (undated) report with the Jan. 1220 dispensation rather than the April 1221 dispensation is that the report specifies that the papal court had recently moved to Viterbo, which is what the curia did in October 1219. The 1220 dispensation was then issued in Viterbo in January. The 1221 dispensation was issued at the Lateran, where Honorius had already been for months.

⁹³ Reg. Vat. 11, f. 118^r = *Calendar of Entries in the Papal Registers*, i, p. 81 (confusingly, Bliss only names Guala and Rainier, but Stephen was also named in the original).

⁹⁴ TNA, SC 1/6/38 = Benedict Wiedemann, 'Master James, a Papal Scribe in the Household of Pandulf Verraclo, Papal Legate to England, 1218-1221', *Manuscripta: A Journal for Manuscript Research* 61 (2017), 105-10, at 109.

⁹⁵ *Rotuli chartarum*, i, 1, p. 198; Cheney, *Innocent III*, p. 95.

⁹⁶ *English Episcopal Acta*, xxi: *Norwich 1215-1243*, (ed.) C. Harper-Bill (Oxford, 2000), no. 23, pp. 18-19; *Italia Sacra*, i, cols. 1405-6.

3.4. Guala

Guala was the papal legate to England between 1216 and 1218. It is unnecessary to point out his many links with England since Nicholas Vincent has done that so well in his edition of Guala's *Acta*.⁹⁷ For example, Guala had been receiving cash from the English king from 1213, like Ugo of Ostia and Stephen of S. Adriano.⁹⁸ Guala can be shown to have been close to Stephen of Fossanova. In 1215 the two cardinals had acted together in reclaiming the *castrum* of Fumone for the papacy.⁹⁹ Shortly before, the two had jointly inspected a collation to a church of Ely, made by Nicholas of Tusculum, the papal legate to England in 1213-14.¹⁰⁰ In his will Guala appointed Stephen as first executor.¹⁰¹ Stephen and another cardinal, John Colonna, were also chosen by Guala to append their seals to his will 'for greater confirmation and firmness of the aforesaid'.¹⁰² In a codicil to Guala's will – made two days after the main will – one of the witnesses was Master Boethius, formerly Stephen's chaplain.¹⁰³ In 1219 Stephen of Fossanova and another cardinal had jointly confirmed Guala's grant to his foundation of St Andrew in Vercelli.¹⁰⁴ Guala probably had connections to Pandulf too. Humbert, arch-priest of Vercelli (Guala's hometown) seems to have been part of Pandulf's household in 1224, suggesting that Pandulf and Guala were on reasonable terms.¹⁰⁵

⁹⁷ Vincent, *Guala*, pp. xli-lxvi, and *passim*.

⁹⁸ *Rotuli litterarum clausarum*, i, pp. 168b, 180.

⁹⁹ LC, i, pp. 469-70 = 'Documenti per la storia ecclesiastica e civile di Roma', (ed.) E. von Ottenthal, *Studi e documenti di storia e diritto* 7 (1886), 101-22, 195-212, 317-36, at 334-5. Cited in Vincent, *Guala*, p. xxxvii, n. 42.

¹⁰⁰ Vincent, *Guala*, no. 140, pp. 101-3.

¹⁰¹ Agostino Paravicini Baglioni, *I Testamenti del Cardinali del duecento* (Rome, 1980), pp. 117-8; G. Lampugnani, *Sulla vita di Guala Bicchieri, patrizio Vercellese, prete cardinale di S. Martino al Monti* (Vercelli, 1842), p. 83. Also: Vincent, *Guala*, p. 102.

¹⁰² Paravicini Baglioni, *I Testamenti*, p. 118.

¹⁰³ Paravicini Baglioni, *I Testamenti*, p. 120; LC, i, p. 457.

¹⁰⁴ Lampugnani, *Guala Bicchieri*, pp. 104-6.

¹⁰⁵ A letter of March 1224 appointed Humbert and two other clerics 'present in Paris' as judges-delegate. The other two clerics had been part of Pandulf's household in 1219 and Pandulf is known to have been present in Paris between mid-1223 and early 1225: MDH, pp. 366-7; *Vetera*

3.5. Stephen

Stephen of Fossanova first comes to our notice in late 1203.¹⁰⁶ He was already representing English royal interests at the curia. At the end of a letter to King John, Innocent III ‘especially commend[ed] to your serenity the beloved son Stephen of Fossanova, canon of York [and] your nuncio, because in our presence he has shown diligent attention in your business’.¹⁰⁷ So we know that Stephen was already a contact of the English king at the papal curia, and already held an English prebend, in 1203. He had the trust of Pope Innocent too because in 1206 he was made papal chamberlain – the head of the papal household. He held benefices in England, some of which were later resigned to his two nephews, keeping the link with the English court in the family.¹⁰⁸ There were other Italians who received benefices in England which might have been procured through Stephen’s circle.¹⁰⁹

When emissaries of both John and the rebellious barons were pleading before Innocent in early March 1215, John’s emissary described Cardinal John Colonna and ‘the lord chamberlain’ as John’s *amici* and even his *fidelissimi amici* – his ‘most faithful friends’. The chamberlain was Stephen of Fossanova. These

Monumenta Hibernorum et Scotorum, p. 11; MGH Epp. saec. XIII, i, no. 220, pp. 148-50; *Recueil des historiens des Gaules et de la France*, xvii, p. 115; *Annales Monastici*, iii, p. 81; Shirley, i, no. 215, pp. 256-8; Nicholas Vincent, ‘Pandulf (d. 1226)’ in *Oxford Dictionary of National Biography* (Oxford, 2004), <<http://www.oxforddnb.com/view/article/21230>> [accessed: 25/04/2015].

¹⁰⁶ Although he might – as Jochen Johrendt suggests – be the subdeacon and notary mentioned in a papal letter of November 1202: ‘Der vierte Kreuzzug, das lateinische Kaiserreich und die päpstliche Kapelle unter Innocenz III.’ in *Legati, delegati e l’impresa d’Oltremare (secoli XII-XIII)/Papal Legates, Delegates and the Crusades (12th-13th Century)*, (eds) Maria Pia Alberzoni, Pascal Montaubin (Turnhout, 2014), pp. 51-114, at 110.

¹⁰⁷ CS, p. 62.

¹⁰⁸ *Rotuli litterarum patentium*, i, 1, p. 107-7b, 182.

¹⁰⁹ For example, Oddo Bobonis received Felixkirk church in 1222 and the year before had witnessed a document of Sinibaldus, Pandulf’s co-chamberlain: Sayers, *Honorius III*, p. 188; ‘Documenti per la storia ecclesiastica e civile di Roma’, pp. 209-10.

two cardinals even surreptitiously reported the meat of the barons' complaints to John's proctor.¹¹⁰

In his letter to Innocent of 29 May 1215, King John reported that Innocent's previous letter had been delivered by 'Brother William of your camera, your familiar'.¹¹¹ As a familiar of the pope, and a cleric of the papal chamber, Brother William would have been responsible to the chamberlain. 'Brother William' also collected papal revenue from Bologna in November 1213 – when Stephen was chamberlain – and the papal chamberlain was the administrator of the papal finances. William was probably one of Stephen's clerics, and his service as a courier between the pope and John testifies to Stephen's own importance in Anglo-papal relations.¹¹² In 1213, Brother William had been sent specifically to the abbeys of S. Stephen and S. Proclus in Bologna to collect any money deposited there for the pope. When Pandulf sent money from England to the pope in the 1220s, he made use of the same abbeys as depositories.¹¹³

And so in the same way that Guala was close to Stephen, we can see that Pandulf too was close to Stephen. In November 1214 Stephen asked King John

¹¹⁰ *Diplomatic Documents*, no. 19, pp. 28-30 = *Foedera*, i, 1, p. 120 = Vincent, 'Conference at the New Temple',

<http://magnacartaresearch.org/read/feature_of_the_month/Jan_2015_2> [accessed: 13/03/2015]. It is interesting to note that, although the gist of the barons' petitions was well enough known for the two cardinals to report it to Walter Mauclerc (John's envoy), Walter specifies that the pope had not read the barons' letters at the time of writing. This suggests that even an important political letter was not itself read by the pope but by his advisors only (who then reported on the matter to the pope). Another possibility is that the pope's refusal to read the letter himself was a politic decision to indicate his negative attitude towards their petitions.

¹¹¹ *Foedera*, i, 1, p. 129 = N. C. Vincent, 'Feature of the Month: May 2015 - The Papal Letters of 19 March and their Reception in England (May 1215)', *The Magna Carta Project* <http://magnacartaresearch.org/read/feature_of_the_month/May_2015> [accessed: 21/05/2015]. '[...] frater Willielmus de camera vestra, vester familiaris [...]'.

¹¹² *Chartularium studii Bononiensis: documenti per la storia dell'Università di Bologna dalle origini fino al secolo XV* (15 vols, Bologna, 1909-87), iii, pp. 179-80; R. Hiestand, 'Bologna als Vermittlerin im kurialen Zahlungsverkehr zu Beginn des 13. Jahrhunderts. Eine übersehene Rolle der frühen Universitäten?', VSWG: *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte* 82 (1995), 332-49.

¹¹³ Vincent, 'Election of Pandulph', p. 155, n. 57.

to ensure that he received the repayment of a debt owed to him by the late bishop of Norwich. The money was to be given to Pandulf. It was explained that Pandulf – Stephen’s ‘most beloved colleague’ – already knew all about the money Stephen had lent to the defunct bishop.¹¹⁴ Clearly Stephen and Pandulf were already collaborators at the curia in 1214. In 1216-17 Pandulf and Sinibaldus would succeed Stephen as papal chamberlains.

Stephen might even have had a hand in choosing Pandulf as the papal envoy to King John in 1211 and 1213. As a contact of the king he was certainly high in Innocent’s counsels during the years of the interdict (1208-14). Pandulf’s first mission to King John was in 1211. Innocent III’s letter to Pandulf and Brother Durand, his nuncios, set out the terms for ending the interdict and directed Pandulf and Durand to meet Peter des Roches, bishop of Winchester, in England. The date of the letter was 14 April 1211.¹¹⁵ There is reason to suspect that Stephen of Fossanova had played a role in this embassy. In the pipe rolls for the bishopric of Winchester it was recorded that in 1211, before shearing season (Spring), Peter des Roches gave 100 sheep to Stephen of Fossanova.¹¹⁶ Vincent and Werner Maleczek assumed this to be Stephen of Fossanova’s nephew (also called Stephen) and it might be.¹¹⁷ Or it might have been Stephen himself. Either way it indicates that, in 1211, des Roches had some reason to be grateful to, or curry favour with, Stephen of Fossanova. The obvious conclusion

¹¹⁴ *Diplomatic Documents*, no. 17, pp. 27-8. The term *socius* – colleague – is an interesting one. The connotations are collegiate – of working together – but not always of equality. The 25 barons of the security clause in Magna Carta were *socii*: Carpenter, *Magna Carta*, pp. 382-3; but also, in one of Innocent III’s sermons, the pope noted that, although St Paul was the *beatissimus socius* of St Peter and both preached together, only Peter ascended to the supreme height (the papacy): *Innocentius III Sermones de Sanctis* in PL 217:555-8. See also *Diplomatic Documents*, no. 16, p. 27 where an (unnamed) cleric of the chamberlain wrote to Hubert de Burgh in 1214.

¹¹⁵ CS, pp. 125-7. Durand was probably the Hospitaller knight whom Innocent sent as nuncio to Otto IV in 1209 (MGH Const. ii, p. 42). Wendover identified Durand as a Hospitaller; Matthew Paris as a Templar: *The Flowers of History*, ii, p. 140; *Chronica Maiora*, ii. p. 531.

¹¹⁶ *The Pipe Roll of the Bishopric of Winchester, 1210-1211*, (ed.) N. R. Holt (Manchester, 1964), p. 36.

¹¹⁷ Nicholas Vincent, *Peter des Roches: An Alien in English Politics, 1205-1238* (Cambridge, 1996), p. 83; Maleczek, ‘Kardinalskollegium’, p. 159.

is that Stephen and des Roches were serving as a backchannel for communications between Rome and the English court during the interdict. They probably arranged the mission of Pandulf and Durand in 1211.¹¹⁸

Pandulf's 1211 mission failed: this is a reminder that, although Stephen and des Roches might have sought reconciliation, it was King John's aims that mattered. But in Winter 1212-13 John sent his own emissaries to the curia. Again Pandulf was sent to meet the king and agreement was reached between John and Pandulf at Dover in May 1213. Based on available evidence, it looks as though Stephen was elevated to be cardinal-priest of Santi Apostoli soon after John's emissaries had arrived at the curia to discuss terms.¹¹⁹ The first solemn privilege which Stephen witnessed as a cardinal was the confirmation of John's surrender of England to the papacy, on 4 November 1213.¹²⁰ His role as primary curial mover during the negotiations could well have played a part in his promotion.

Stephen of Fossanova and Pandulf were still close in 1219 when one of Stephen's nephews (also called Stephen) was recorded as being a member of

¹¹⁸ Interestingly, it appears des Roches and Fossanova had successively held the wealthy living of Bamburgh in Northumberland, at the king's presentation: Vincent, *Peter des Roches*, pp. 47-55; *Curia regis rolls of the reign of Richard I and John*, iii: *John* 5-7 (1203-1205) (7 vols, London, 1922-35), p. 316; *Rotuli chartarum*, i, 1, pp. 219-219b. It might be the case that Fossanova – who had represented John at the papal court in 1203 – also advised des Roches when he was in Rome in 1205 dealing with the disputed Winchester election.

¹¹⁹ Stephen is not named as a cardinal in Marie of Montpellier's third will (20 April 1213) where we would reasonably expect it to be noted. The summary of a document of May 1213 claims that he was a cardinal by then: *Mitteilungen aus dem Stadtarchiv von Köln* (99 vols, Cologne, 1883-), iii, nos 59-60, p. 14; (mis-)cited hence in *Regesta Imperii*, v: *Jungere Staufer 1198-1272*, (ed.) J. F. Böhmer et al (Innsbruck, 1881-1901), p. 2153. Followed by Maleczek, *Kardinalskolleg*, pp. 179-83. I have not been able to see the original. John's envoys arrived at the curia in Winter 1212-13 and negotiations concluded in February when Innocent gave John until June to accept the terms: Vincent, *Peter des Roches*, p. 87. Final agreement was confirmed in May 1213 at Dover.

¹²⁰ That is, the first confirmation of the surrender: Sayers, *Original Papal Documents*, no. 47, p. 26; Maleczek, *Kardinalskolleg*, pp. 180, 390. Stephen did not witness the second confirmation of John's surrender on 24 April 1214, probably because he was not at the curia at the time: he did not subscribe to any privileges between 7 January 1214 and 20 May 1214: CS, pp. 177-83. Maleczek, *Kardinalskolleg*, p. 390.

Pandulf's *familia*, present when King Reginald surrendered the Isle of Man to the papacy.¹²¹ In April 1226, just a few months before Pandulf's death,¹²² he and Stephen interceded jointly with Honorius III on behalf of a Master Roland of Siena.¹²³

How Stephen's presence at the centre and Pandulf's presence at the periphery worked can be seen from when the abbot of St Augustine's, Canterbury died. The election of his successor was superintended in England by Pandulf, the then legate. When the new abbot, Hugh, went to Rome in April 1221 to receive benediction, he was blessed *de mandato domini Papae* – 'according to the order of the lord Pope' – but *a domino S. de Nova Fossa Cardinali* – 'by lord Cardinal S(tephen) of Fossanova'.¹²⁴ Pandulf probably directed the abbot to approach Stephen and ask the cardinal to intercede on behalf of St Augustine's. Stephen introduced the matter to the pope.

3.6. Rainier

Like Stephen of Fossanova and Pandulf, Rainier of S. Maria in Cosmedin had been a member of Pope Innocent III's chapel.¹²⁵ Also like Stephen, Rainier was a witness to the final testament of Marie de Montpellier, mother of James of Aragon, in 1213.¹²⁶ Rainier – specifically noted to be a papal notary – became a pensioner of the English king in November 1215, before his elevation to be cardinal-deacon of S. Maria in Cosmedin.¹²⁷ At exactly the same time, King John also established a pension for a second Rainier, Pope Innocent III's acolyte,

¹²¹ *Vetera Monumenta Hibernorum et Scotorum*, p. 11.

¹²² He died on the 12 September 1226: Vincent, 'Election of Pandulph', p. 159.

¹²³ Reg. Vat. 13 f. 129r. Cited in Koudelka, 'S. Dominique', p. 14, n. 48.

¹²⁴ *Historiae Anglicanae Scriptores* x, (ed.) R. Twysden (London, 1652), cols. 1872-6.

¹²⁵ Johrendt, 'Der vierte Kreuzzug', pp. 95-6, 100, 108, 110.

¹²⁶ 'Magistri Raynerii Domini Pape subdiaconi et familiaris'. Maleczek confirms the identification with Cardinal Rainier of S. Maria in Cosmedin: *Kardinalskolleg*, p. 185, n. 463; *Spicilegium sive Collectio Veterum*, iii, p. 576; *Pedro el Católico, Documentos, Testimonios y Memoria Histórica*, iv, no. 1499, pp. 1526-7; *Layettes du trésor de chartes*, i, pp. 390-1.

¹²⁷ *Rotuli litterarum patentium*, i, 1, p. 158b; see also: Maleczek, *Kardinalskolleg*, p. 186, n. 467.

who, several times between 1213 and 1216, dated papal privileges in the absence of a chancellor.¹²⁸ Rainier the acolyte dated both of the solemn privileges confirming John's submission to the papacy (in 1213 and 1214).¹²⁹ I think we can guess that these two – notary/cardinal and datary – had been helpful to John in composing the letters he had needed from the pope since his reconciliation with Innocent – which had included warnings to his rebellious barons, orders to excommunicate said barons and the cancellation of Magna Carta itself. Some years later, Rainier – our Rainier, the notary and later cardinal – would recall why he was given a pension by King John: when he was only in minor orders, and exercising the duties of a notary, he had laboured day and night in royal business. King John, hearing this, had conferred a pension on Rainier and promised him a more fruitful benefice in the future.¹³⁰ The pensions given to the two Rainiers in 1215 were therefore plainly a reward for their aid.

Our Rainier – the notary – was elevated to be cardinal-deacon of S. Maria in Cosmedin in 1216 and held that position for the rest of his life. Rainier continued to look to the English royal court after his elevation. In October 1217 he wrote to Henry III and told the king that 'whenever you should send nuncios to the curia [...] you should commit your business most securely to us, because we are prepared to act as though it were our own'.¹³¹ Rainier certainly had contact with Pandulf: like Stephen of S. Adriano and Stephen of Fossanova, Rainier directed that the money from his pension in England should be given to Pandulf to pass on to him.¹³² I noted above that Rainier interceded jointly with Guala and Stephen of behalf of Ralph de Neville, the English vice-chancellor, in

¹²⁸ C. R. Cheney, 'The Office and Title of the Papal Chancellor, 1187-1216', *Archivum Historiae Pontificiae* 22 (1984), 369-76, at 372-3; Harry Bresslau, *Manuale di Diplomatica per la Germania e l'Italia*, (tr.) Anna Maria Voci-Roth (2 vols, Rome, 1998), i, p. 224.

¹²⁹ PL 216.923-4; CS, pp. 177-83; Johrendt, 'Der vierte Kreuzzug', p. 107.

¹³⁰ *Foedera*, i, 1, p. 167.

¹³¹ *Diplomatic Documents*, no. 23, p. 31.

¹³² *Foedera*, i, 1, pp. 167.

1220 and 1221 so that he could hold multiple benefices and be dispensed from his illegitimacy.¹³³ Rainier's relationship with Ralph also went the other way: Rainier – at some point between 1219-1222 – thanked Ralph for having given aid to one of his clerics – Master Benedict – whom Rainier had sent to Henry III's court on the cardinal's business. The cardinal further asked Ralph to aid another of his servants who was coming to England and offered his own aid to Ralph in return, presumably for when Ralph had business at the papal court.¹³⁴ This exchange of *Königsnahe* for *Papstnahe* was clearly useful for both cardinal and vice-chancellor.

3.7. The French Chancery-Lists

I mentioned above the three contemporary lists of cardinals found in the registers of Philip Augustus of France. The second and third of these lists actually give what are purported to be pro-French cardinals: *speciales regis* and 'those cardinals who adhere to King Frederick and the lord king of France'. The list of *speciales regis* was composed soon after April 1216; the other between April 1217 and May 1218.¹³⁵ We might be confused by the list of *speciales*, since it includes the chamberlain (Stephen of Fossanova), Leo Brancaleone and Rainier.¹³⁶ All three of these were, as I have outlined above, thought by the English to favour them. The other list, however, seems a better fit with what we have found to be the facts: it did not include Stephen or Rainier.¹³⁷ Neither list

¹³³ Reg. Vat. 11, f. 118^r = *Calendar of Entries in the Papal Registers*, i, p. 81; Boussard, 'Ralph Neville', p. 225, n. 3 = *Diplomatic Documents*, no. 47, pp. 44-5.

¹³⁴ Boussard, 'Ralph Neville', p. 225, n. 2.

¹³⁵ Davidsohn, *Philipp II.*, pp. 316-20; Baldwin, "'Tibi et regno tuo specialiter nos teneri fatemur'", p. 1007; Maleczek, *Kardinalskolleg*, pp. 265-6.

¹³⁶ Davidsohn, *Philipp II.*, pp. 316-20; *Speciales regis*: Leo Brancaleone, Romanus of Sant' Angelo, Pelayo Gaitán, Thomas of Capua, Rainier of S. Maria in Cosmedin, the *cancellarius* and the *camerarius senescallus*.

¹³⁷ Davidsohn, *Philipp II.*, pp. 316-20; 'Those who look to the lord king': Pelayo Gaitán of Albano, Guido de Papa of Palestrina, Ugo of Ostia ('as it seems'), Bertrand of SS John and Paul, Cinthius of S. Laurence in Lucina, Peter of Benevento, Peter de Sasso, Thomas of Capua, Gil Torres, Romanus of Sant' Angelo, Gregory de Crescentio, Aldobrandino of S. Eustace, Leo Brancaleone ('Lord Leo chiefly looks to Otto, yet he says that he looks much to the lord king').

included Guala or Stephen of S. Adriano. The other list did, however, include both Leo and Ugo of Ostia, but was equivocal about both. Leo, as I noted above, 'chiefly looks to Otto, yet he says that he looks much to the lord king'. Ugo was listed as looking to the king France, 'as it seems' – *ut videtur*. Such equivocation was surely because both were suspected of having links with the English court. I would tend to suspect that the list of *speciales regis* was composed by – shall we say – an optimist. The later list – which compares so well with the list in the English close rolls – was put together by a shrewder and better informed diplomat.¹³⁸

Reports sent from English proctors at the curia in 1223-4 confirm some of the French chancery lists' attributions: efforts were made, in 1223, to win over the hearts of Cardinals Romanus and Gregory de Crescentio – who were both included on the final French chancery-list as adhering to the lord king of France – to the English king, because they were known to favour the French.¹³⁹ Those efforts were apparently not successful because in 1224 they were both said still to 'favour the king of France more than the king of England'.¹⁴⁰ Unsurprisingly, these reports also noted that Guala and Rainier 'favour much our lord king [Henry III]'.¹⁴¹

A sharp reader will notice that Cardinal John Colonna was not marked on the English chancery-list, although in 1215 he was named as one of King John's 'most faithful friends' at the curia.¹⁴¹ Along with Stephen of Fossanova,

¹³⁸ Cf. Andreas Fischer, 'Personelle Verpflechtung und politisches Handeln: Zur Wahrnehmung und Funktion Kardinalizischer Beziehungen im 13. Jahrhundert' in *Die Kardinäle des Mittelalters und der Frühen Renaissance*, (eds) Jürgen Dendorfer, Ralf Lützelschwab (Florence, 2013), pp. 15-36, at 25-6 who points out that when he talks about Leo Brancaleone 'saying' that he looked to the king of France, it sounds as if the author got his knowledge from Leo himself.

¹³⁹ *Diplomatic Documents*, no. 121, pp. 84-5.

¹⁴⁰ Shirley, i, no. 200, pp. 227-8. This letter also says that only Master Obituus was actually useful to the proctors. The might be Obizo – papal subdeacon and notary – who witnessed the codicil to Guala's will in 1227: Sayers, *Honorius III*, p. 30.

¹⁴¹ *Diplomatic Documents*, no. 19, pp. 28-30 = Vincent, 'Conference at the New Temple', <http://magnacartaresearch.org/read/feature_of_the_month/Jan_2015> [accessed: 13/03/2015].

John was an executor of Guala's will. He was also another recipient of King John's largesse, as was Cardinal Guido Pierleone, a *consanguineus* of the English king.¹⁴² Neither was on the lists of pro-French cardinals either. Pierleone and Colonna were not marked on the English list of cardinals of mid-1218. Without knowing precisely what the markings on the English chancery-list meant, we cannot speculate as to why that might have been.

3.8. Cardinals' Counsels

In September 1216, Honorius III wrote to Guala – then still legate in England – and told him that, concerning the petitions which the cardinal had sent him, 'some we have allowed, and some we have not allowed, being in concord with our brothers, except a few'.¹⁴³ In 1224, Honorius would again only allow some of a petitioner's requests. He wrote to Henry III that 'some [of your petitions] we have allowed; some, by the counsel of our brothers, we have at present suspended'.¹⁴⁴ This formula – 'by the counsel of our brothers' – was not an uncommon one in papal letters. It bound the College of Cardinals collectively to support the common decision of the pope and themselves, irrespective of what they had actually argued individually.¹⁴⁵ But, in the letter to Guala, some cardinals apparently supported Guala's petitions so vociferously that it was felt necessary to acknowledge their dissent explicitly. Surely these cardinals were Guala's allies at the curia: Stephen, Rainier and others. They

¹⁴² *Rotuli litterarum patentium*, i, 1, p. 118; *Rotuli litterarum clausarum*, i, p. 168b.

¹⁴³ Reg. Vat. 9, f. 7v = *Honorii III opera omnia*, ii, col. 38: 'Porro de petitionibus tuis [...] quasdam admisimus, et quasdam [...] non duximus admittendas, fratribus nostris praeter admodum paucos concorditer sentientibus'. Vincent, *Guala*, no. 166, p. 137; Paul C. Ferguson, *Medieval Papal Representatives in Scotland: Legates, Nuncios, and Judges-Delegate, 1125-1286* (Edinburgh, 1997), p. 76.

¹⁴⁴ Shirley, i, no. 16, pp. 540-41.

¹⁴⁵ If the cardinals did not agree, the formula might not be included: N. Zacour, 'The Cardinals' View of the Papacy, 1150-1300' in *The Religious Roles of the Papacy: Ideals and Realities 1150-1300*, (ed.) Christopher Ryan (Toronto, 1989), pp. 413-38, at 421-30. See also Agostino Paravicini Bagliani, 'De fratrum nostrorum consilio: La plenitudo potestatis del papa ha bisogno di consigli?' in 'Consilium': Teorie e pratiche del consigliare nella cultura medievale, (eds) C. Casagrande, C. Crisciani, S. Vecchio (Florence, 2004), pp. 181-94.

would not have wanted Guala or the English ruler – still the famously vindictive King John at this time – to think that they were failing to support him before the pope.

All popes, but perhaps especially Honorius III, placed great importance on the counsel of their cardinals. One report from English proctors at the curia to Hubert de Burgh from c.1224 told de Burgh that Honorius explained to the proctors that he could do nothing with the king's petitions, because he was alone. Therefore letters had to be sent out to the cardinals, who were dispersed across the Campagna, asking for their counsel.¹⁴⁶

Honorius could use his cardinals to insulate himself too, however. Another report from an English bishop at the curia to Ralph de Neville – written in early 1227 – explained that the pope was not averse to a proposal for Henry III to marry Yolande of Brittany, daughter of Duke Peter of Brittany, but was not willing to issue a formal dispensation at the moment. Instead four cardinals – Stephen of Fossanova, Guala Bicchieri, John Colonna and (more surprisingly) Pelayo Gaitán – jointly wrote a letter confirming that the pope was not unfavourable to the proposal and that the king should proceed with it. The letter – although written in the names of the four cardinals – was read in the pope's presence, as the most formal and important types of papal document were.¹⁴⁷ A marriage alliance between the rulers of Brittany and England would certainly not have been to the taste of the French regent, Blanche, and so

¹⁴⁶ Shirley, i, no. 200, pp. 227-8

¹⁴⁷ *Foedera*, i, 1, p. 174. In both the *Foedera* and its syllabus the letter is dated to c.1224. But it was only on 19 October 1226 that Henry III announced he would marry Yolande, provided he could get a dispensation from the pope, and only in January 1227 that the bishop of Coventry and Lichfield – the author of the report – was sent to the curia. The planned alliance had collapsed by March 1227: *Syllabus (in English) of the Documents relating to England and other kingdoms contained in the collection known as 'Rymer's Foedera'*, i: 1066-1377, (ed.) T. D. Hardy (3 vols, London, 1869-85), p. 28; *Patent Rolls of the Reign of Henry III Preserved in the Public Record Office, 1225-1232* (London, 1903), pp. 153-4; *Rotuli litterarum clausarum*, ii, p. 207; S. Painter, *The Scourge of the Clergy: Peter of Dreux, Duke of Brittany* (Baltimore, 1937), pp. 39-48.

Honorius was plainly working through his cardinals – most of them from the pro-English faction – in order to separate himself from the request, while not denying it outright, nor actually relinquishing control over it to the four cardinals. Bye-the-bye, we also have a list of those cardinals who personally received letters from King Henry asking them to help him get this marriage dispensation. They were the usual suspects: Guala, Stephen of Fossanova, Rainier, John Colonna, Stephen of S. Adriano, Ugo of Ostia and (odd man out) Thomas of Capua.¹⁴⁸

These two accounts give us an idea of the tension within the curia during the 1210s and 1220s: it is plain that some cardinals were so tied to the party of the king of England, and some to the party of the king of France, that they sought public acknowledgement of their dissent, if matters at the curia went against their ally. The pope, meanwhile, tried to find a path through the conflicting advice he received.¹⁴⁹

From the studies offered above, it might appear as if Stephen of Fossanova's group was the only curial connection which looked to England. This is not the case; of course there were other cardinals and courtiers who held English benefices and to whom English institutions may have appealed.¹⁵⁰ Stephen's circle, however, was closely linked to the king himself and were thus aware of the 'vassalage' which King John had undergone.¹⁵¹ Of the eight Italian cardinals Christopher Cheney identified as having 'personal experience of

¹⁴⁸ *Rotuli litterarum clausarum*, ii, p. 207. There was also a letter written collectively to all the cardinals.

¹⁴⁹ For a later parallel situation, see J. Maubach, *Die Kardinäle und ihre Politik um die Mitte des XIII. Jahrhunderts unter den Päpsten Innocenz IV, Alexander IV, Urban IV, Clemens IV* (1243-1268) (Bonn, 1902); Penny Cole, D. L. d'Avray, J. Riley-Smith, 'Application of Theology to Current Affairs: Memorial Sermons on the Dead of Mansurah and on Innocent IV', *Historical Research* 63 (1990), 227-47, at 239-46. My thanks to David d'Avray for these references.

¹⁵⁰ Sayers, *Honorius III*, pp. 171-91; Vincent, *Guala*, pp. lxvii-lxxiv, 146; Cheney, *Innocent III*, pp. 83-96; Marco Vendittielli, 'In partibus Anglie': *Cittadini romani alla corte inglese nel Duecento: La vicenda di Pietro Saraceno* (Rome, 2001), p. 24.

¹⁵¹ Maleczek, *Kardinalskolleg*, p. 181; Cheney, *Innocent III*, pp. 38, 93-40.

England or its kings' during Innocent III's pontificate, only Nicholas of Tusculum, Guala Bicchieri and Stephen of Fossanova were left alive by its end (1216).¹⁵² Cheney did not include Rainier, Stephen of S. Adriano, Ugo or Leo. It must be acknowledged that, while Ugo and Stephen of S. Adriano definitely received money from the English crown, there is not a lot of evidence that they actually aided the king's proctors at the curia.¹⁵³ The same is not true of Stephen of Fossanova, Rainier, Guala or Pandulf, all of whom are known to have advanced the king's business in Rome.

3.9. Conclusion

The foregoing prosopographical analysis has two important implications. First, there was a circle of papal courtiers who, having familiarity with the Anglo-papal relationship – that of lord-vassal – could then apply it elsewhere. The Isle of Man is a definite case: King Reginald became a papal vassal in 1219 after negotiations with Pandulf. The use of the term *vassallus* in the 1222 letter to the king of Aragon – *Susceptae servitutis officium* – may be another case where a term from the Anglo-papal relationship was applied elsewhere. As well as their links to England, Stephen and Rainier had links with Aragon through having witnessed the will of Marie de Montpellier, to which the papacy often referred for legitimization of intervention in Aragon.¹⁵⁴ They were thus obliged to support Aragonese royal proctors when they had business at the curia. Soon after Pandulf's return to Rome in 1222, the Aragonese royal

¹⁵² Cheney, *Innocent III*, p. 11, n. 44: Octavian of Ostia (d. 1206); John of Anagni (d. 1196); Peter of Capua (d. 1214); John of Salerno (d. 1208); John of Ferentino (d. 1215). See Maleczek, *Kardinalskolleg*, pp. 80-3, 70-1, 117-24, 107-9, 146-7.

¹⁵³ Ugo of Ostia's support for Henry's proposed marriage to Yolande of Brittany in 1227 is one exception: *Foedera*, i, 1, p. 174. Stephen of S. Adriano was, in 1224, distinctly annoyed about the failure of the English court to pay his pension: Sayers, *Honorius III*, nos. 34-5, pp. 240-43.

¹⁵⁴ Another witness to Marie's will was John Castellomate, the papal physician. His son, Leonard, a papal subdeacon, was collated to the church of Abbots Bromley by Nicholas of Tusculum, the papal legate in England, in June 1214. Nicholas' collation was confirmed in Rome jointly by Guala Bicchieri and Stephen of Fossanova: Vincent, *Guala*, pp. 101-3

proctors requested a letter – *Susceptae servitutis officium* – to tempt anyone who aided James of Aragon with a crusading indulgence if the Saracens attacked him. If the Aragonese proctors asked Rainier or Stephen for their mediation when requesting this letter, then either could have inserted the term *vassallus*, known to them from their knowledge of John's and Reginald's surrenders to the papacy.¹⁵⁵ In a later chapter we will see that Cardinal Rainier even tried to apply conceptions from the English case to Sicily, during his dispute with the Emperor Frederick II.

Secondly, from the prosopographical evidence we see that King John, and Henry III's regents, had a number of allies and contacts at the curia. There is no doubt that, after the surrender of England to Rome in 1213, Popes Innocent and Honorius were inclined to look favourably on the English kings. That was not enough, however. In order to make maximum use of their new relationship, the English royal proctors needed other allies at the curia: cardinals who could give the pope favourable advice, notaries who could draft papal letters quickly (and appropriately) and the papal chamberlain, who – as head of the papal household – could open doors. Such doors were not merely figurative: the papal doorkeepers were subordinate to the chamberlain.¹⁵⁶ So with the chamberlain – Stephen of Fossanova (1206-16), then Pandulf and Sinibaldus (1216-22) – onside, English proctors probably found getting a papal audience much easier. On the other hand, opponents of the king, such as the rebellious barons of 1215, might have found doors closing in their faces, if the

¹⁵⁵ Fried seems to suggest that the use of *vassallus* was a conscious attempt by the papacy to redefine the relationship but, considering the novelty of the use of *vassallus* to describe kings, it might instead have simply been a mistake: *päpstlicher Schutz*, p. 241.

¹⁵⁶ LC, i, no. 159, p. 420. One papal doorkeeper – Peter Capoccii, a relative of Honorius III – was benefited in England by Pandulf, c.1215-22: Reg. Vat. 11, ff. 261^{r-v}. The son of another papal doorkeeper had a benefice in England by 1235: *Les registres de Gregoire IX*, (eds) Lucien Auvray, Vitte-Clémencet, L. Carolus-Barré (4 vols, Paris, 1896-1955), ii, no. 2592, p. 68. On the doorkeepers and chamberlain see Benedict G. E. Wiedemann, 'Doorkeepers, the Chamberlain and Petitioning at the Papal Court, c.1150-1200', *Historical Research* (forthcoming).

chamberlain knew that they opposed the king's interests. It is through these specific relationships that the spread of terms and ideas of papal feudal lordship from England to other kingdoms is best explained.¹⁵⁷

¹⁵⁷ This is perhaps not dissimilar to the way in which theological debates in the Parisian schools influenced the canons of the Fourth Lateran Council (through Innocent III, Stephen Langton, Robert of Courson and other pupils of Peter the Chanter at the curia): J. Baldwin, 'The Intellectual Preparation for the Canon of 1215 against Ordeals', *Speculum* 36 (1961), 613-36, at 634-6.

Chapter Four: Royal Minorities in England, Sicily and Aragon: Terminology and Practice (1198-1227)

This chapter looks at two facets of papal-royal relations in England, Sicily and Aragon during the minorities of Henry III, James I and Frederick II. During periods of minority rule – when kings were underage – the special relationships between the papacy and the kingdom were at their most active, because papal authority was a useful tool for the regents. The first part of this chapter examines what terms were used in papal letters to these kingdoms and what type of relationship – vassalage, *protectio*, wardship or crusader-status – was emphasized. A request from a dying king or queen for papal guardianship of their child was the most common justification for appealing to the pope in all three of these kingdoms. Which relationship was emphasized most strongly nonetheless varied from letter to letter. This is because – as argued above and continued below – it was the petitioners, their intermediaries and the pope and his courtiers who decided which relationship they thought was relevant at any given time. In turn this means there is variation in which relationship was placed highest in importance. It was not the case that, for example, Pope Innocent based his interest in Frederick II's minority solely on one overarching justification – be it vassalage, wardship or whatever; papal letters could give differing justifications if circumstances changed. In Sicily different letters did not merely give different opinions about why the pope should aid Frederick, but sometimes even gave contradictory opinions.

The second part of this section looks at what sort of things were asked for by petitioners: the practicalities of the papal role in these royal minorities. In all cases protection and overlordship provided a justification and legitimization for appeals to the pope and consequent papal responses. As discussed previously, there were very few specific duties or rights inherent in protection

or papal feudal lordship and so these relationships operated responsively: appellants decided when they wanted papal intervention or involvement.

The theme from both parts then is that the petitioners played an essential role. They decided which papal-royal relationship was most relevant to their situation and they decided when to appeal to the pope. Papal overlordship, protection and wardship were all tools in the hands of petitioners.

4.1. Pupils, Orphans and Crusaders: Justifying Papal Letters to England

Both King John and Pope Innocent III died in 1216, but the terminology of vassalage did not. The letters of Innocent's successor, Honorius III, continued to refer to the king of England as a papal vassal. In his first letter to the legate in England, Cardinal Guala Bicchieri, Honorius called John an 'illustrious Crusader, our vassal' – *illustrem crusesignatum [sic], vassallum nostrum*.¹ In Honorius' first letter to Guala after John's death the pope informed Guala that his regard for John was 'because he was a vassal of the Roman Church' – *quia ipsum utpote vassallum Romanae Ecclesiae*.² In a 1217 letter to the archbishop of Dublin Henry III was a 'vassal of the Roman Church, and a pupil, and a crusader, and his father – at the end of his life – committed that man and his kingdom to the custody of us and of the apostolic see'.³ Honorius' first letter to the young Henry III himself was more circumspect, noting that John had 'especially subjected his kingdom to the apostolic see' but making no mention of vassalage.⁴ Later in 1217 the papal chancery did, however, send letters calling

¹ *Honorii III opera omnia*, ii, col. 7. Calendared in Vincent, *Guala*, p. 135. See also Honorius' 1216 letter to England: '[...] J. regi Anglorum illustri vassalo nostro [...]'] cited Carpenter, *Minority*, p. 28, n. 7.

² *Honorii III opera omnia*, ii, col. 105; Calendared in Vincent, *Guala*, p. 137.

³ *Honorii III opera omnia*, ii, col. 177: 'Ecclesiae Romanae vassallus, ac pupillus, ac crucesignatus existat, et tam ipsum quam regnum eius custodiae nostrae ac Apostolicae Sedis commiserit clarae memoriae pater eius positus in extremis'.

⁴ *Recueil des historiens des Gaules et de la France*, xix, p. 628.

the late King John *vassallum Romanae Ecclesiae* to almost anyone of any consequence in England.⁵

Although the papal chancery clearly continued to make use of vassalic terminology, equal use was made both of the fact that Henry (and John) were crusaders, and that John had committed guardianship of Henry to Pope Honorius. A letter to Guala from early 1217 recounted that the legate had told Honorius that 'John committed his kingdom and sons and all his goods to us and the Roman Church'.⁶ A series of three letters from May-September 1220 used some variation of the phrasing: [...] *utpote qui crucesignatus, pupillus et orphanus, sub speciali apostolicae sedis protectione constitit* [...] – 'because he who is a crusader, pupil or orphan should be under the special protection of the apostolic see'. No mention was made of vassalage:⁷ all specified that the papal interest in Henry was because he was a crusader, pupil, orphan or had been left to the custody of the apostolic see.⁸ Henry was also called *pupillus* without being *orphanus*. A papal letter of May-June 1219 to Cardinal Bertrand, the legate in Southern France, described Henry as being *crucesignati, pupilli [sic] tutele ecclesie Romane relict*i – 'a crusader, pupil [and] left to the tutelage of the Roman

⁵ *Honorii III opera omnia*, ii, cols. 188-9.

⁶ Shirley, i, pp. 528-9 and Vincent, *Guala*, pp. 137-9: 'fuit [...] nobis ex tua parte suggestum ut [...] J. rex Anglorum positus in extremis nobis et ecclesie Romane commiserit regnum et filios et omnia bona sua'.

⁷ Shirley, i, pp. 535-7. Henry was earlier called *orphanus* in a 1217 letter to King Phillip Augustus: 'he [Prince Louis] attempts to disinherit the co-heir of Christ, a pupil, orphan and ward of the apostolic see [Henry]' – 'Christi exheredare nititur coheredem, pupillum et orphanum apostolicae sedis derelictum', Shirley, i, p. 530.

⁸ Shirley, i, pp. 536-7: 'custodiae sedis apostolicae derelictus; speciali sedis apostolicae custodiae derelictus'. The description of Henry as *orphanus*, and the reminder that he had been left to papal custody by his father, might have been intended as a sly dig at the recipients of the second and third letters: Isabella of Angoulême, Henry's mother, and Hugh de Lusignan. In April or May 1220 Isabella had married Hugh, without the approval of the English regency council (N. Vincent, 'Isabella of Angoulême: John's Jezebel' in *King John: New Interpretations*, [ed.] S. D. Church [Woodbridge, 1999], pp. 165-219, at 208).

Church'.⁹ Similar wording can be found in other papal letters.¹⁰ It is possible that this phrasing – ‘crusader, pupil and left to the custody of the apostolic see’ – was the description preferred by the English royal proctors when they petitioned for papal letters: most letters which used this phrase were in the king’s interest. They covered the surrender of castles back to the king,¹¹ the release of the king’s agents,¹² the confirmation of the legatine office to the archbishop of Dublin ('for the reformation of peace and the succour of the king')¹³ and the cessation of attacks on the king’s territory.¹⁴ At least two specified that the king had requested them.¹⁵ On the other hand, one of those two letters was almost certainly issued in response to letters from King Henry to the pope and cardinals which did not make explicit use of this terminology (crusader, pupil and in apostolic custody).¹⁶ Therefore if this terminology was that preferred by the English proctors then it must have been suggested to the papal notaries *viva voce* – or already have been known to them – since it did not always appear in the petition-letters.

⁹ *Diplomatic Documents*, no. 34, p. 38 = *Recueil des historiens des Gaules et de la France*, xix, p. 687 (May-June 1219, for date see *Calendar of Entries in the Papal Registers: Papal Letters*, i, p. 67).

¹⁰ *Recueil des historiens des Gaules et de la France*, xix, pp. 691-2 = *Foedera*, i, 1, p. 156: ‘causam predicti Regis pupilli, crucesignati et custodiae sedis apostolici derelicti [...]’ (c. May 1219); *Recueil des historiens des Gaules et de la France*, xix, pp. 695-6: ‘H. illustris Rex Anglorum crucesignatus, pupillus et orphanus, sit custodiae sedis apostolicae derelictus [...]’ (28 May 1220).

¹¹ The May 1220 letter to Pandulf, (Shirley, i, pp. 535-6); the c. May 1219 letter to the bishop of Angoulême (*Recueil des historiens des Gaules et de la France*, xix, pp. 691-2 = *Foedera*, i, 1, p. 156).

¹² The Sept. 1220 letter to Isabella of Angoulême (Shirley, i, p. 536).

¹³ *Honorii III opera omnia*, ii, cols. 383-5 (29 April 1217) = *Vetera Monumenta Hibernorum et Scotorum*, p. 4: ‘carissimum in Christo filium nostrum H. regem Anglorum illustrem, pupillum et orphanum crucesignatum, cure Sedis Apostolice derelictum [...]’.

¹⁴ The 28 May 1220 letter: *Recueil des historiens des Gaules et de la France*, xix, pp. 695-6; and the May-June 1219 letter to Cardinal-legate Bertrand: *Diplomatic Documents*, no. 34, p. 38 = *Recueil des historiens des Gaules et de la France*, xix, p. 687.

¹⁵ The letter of c. May 1219 to the bishop of Angoulême (above) specifies: ‘rex Angliae illustris suam ad nos querimoniam destinavit’ and the letter to Hugh de Lusignan (Sept. 1220) also states: ‘rex Anglorum illustris, gravem ad nos querimoniam destinavit’.

¹⁶ The letter to Hugh de Lusignan (Sept. 1220) was presumably in response to *Foedera*, i, 1, p. 161 (20 June 1220).

Describing Henry as either *crucesignatus*, *pupillus* or *orphanus* was essential: these were all categories of laymen who could claim papal *protectio*. Crusaders, underage wards or orphans were all deserving of special protection.¹⁷ John, as well as submitting to papal overlordship, had placed himself under papal protection as a crusader.¹⁸ The pope's general duty to care for wards and orphans was often expressed through allusion to psalm 9:35: 'thou wilt be a helper to the orphan'.¹⁹ Theo Kölzer has argued that the protection given to Henry III – and to Frederick II in Sicily – was feudal protection rather than the '*tutela* of widows and orphans'. This 'feudal' protection was apparently totally distinct from 'generic papal protection'.²⁰ In fact, papal letters to England after 1216 could describe Henry III as a vassal, or as a *pupillus* and *orphanus*, or as all of them. Kölzer's distinction is, for Henry III, pretty questionable, since vassalage and wardship were often used in the same breath to justify papal solicitude for the young king. We will come on to Frederick II below.

Henry was sometimes referred to as a papal *vassallus*. Another formulation applied to England – but also to Sicily and Aragon – was that those kingdoms 'pertained to the Roman Church'. Innocent III had described England as being in the 'right and property' of the church in *Rex regum* – the privilege recognizing John's surrender.²¹ Honorius III referred to England as pertaining to the Roman Church, although not to the 'right and property' of the Church: in a letter of January 1217 to the archbishop of Bordeaux, Honorius explained that

¹⁷ R. H. Helmholz, *The Spirit of Classical Canon Law*, 2nd edn (Athens GA, 2010), pp. 116–44.

¹⁸ Cheney, *Innocent III*, pp. 261–3, 365–6.

¹⁹ Or psalm 10:14 depending on whether one splits psalm 9 into two or not. For another use of the psalmist's injunction in a letter to a boy-king see Innocent's 1205 letter to the regent-duke and princes of Hungary, Potthast 2476; Morris, *Papal Monarchy*, p. 427; Sayers, *Honorius III*, p. 167.

²⁰ Theo Kölzer, 'Un regno in fase di transizione: la Sicilia durante la minorità de Federico II' in *Federico II e la città italiane*, (eds) Pierre Toubert, Agostino Paravicini Baglioni (Palermo, 1994), pp. 196–211, at 199–200.

²¹ CS, p. 178.

'we ought to defend the rights of King Henry of England, as much as his kingdom is known to pertain to the Roman Church'. Honorius also referenced the king's crusading vow and his youth (*aetas*) in that letter.²² Innocent, however, when writing to England, had sometimes used a subtly different formulation: in 1215 he noted that 'the lordship of the kingdom (*dominium regni*) pertains to the Roman Church' and 'that kingdom is known to pertain to the Roman Church by reason of lordship (*racione dominii*).²³ Earlier, in 1213, he also noted that John had made over his kingdom to the papacy 'by right of lordship'.²⁴ The simple phrase: 'pertaining to the Roman Church' can be found in letters to Aragon and Sicily and what it means is often unclear. When Innocent wrote to England, however, he made it clear that he was – literally – the 'lord' of the kingdom: England pertained to the papacy 'by right of lordship'. This is different from describing the kingdom as being in the *ius et proprietatem* of the church. The latter phrase is open to various interpretations and was used to cover a multitude of relationships, as I discussed in chapter two.²⁵

Sicily 'pertained to the right and property' of the Roman Church in papal letters, but this was not actually a definitive statement of possession or overlordship. As I noted in the chapter on Norman Sicily, the same formulation was often applied to exempt monasteries. Honorius III described Aragon as pertaining to the Roman Church, although not to the 'right and property' nor

²² *Honorii III opera omnia*, ii, col. 176 = Shirley, i, p. 529. Innocent had previously begun a letter to the barons of England with 'so much is the Kingdom of England known to specially pertain to the Roman Church [...] – Quanto specialius regnum Anglie ad Romanam ecclesiam dinoscitur pertinere'. CS, p. 154. Also cf. CS, p. 157. Honorius declared that the kingdom pertained to the Roman Church 'in full right' in 1217, *Honorii III opera omnia*, ii, col. 384.

²³ CS, pp. 215, 207 (24 August and 7 July 1215).

²⁴ CS, p. 149 (6 July 1213). However, in October 1213 – immediately after John's submission – Innocent had noted that England belonged to the Holy See by 'special right' – a slightly more neutral phrasing (CS, pp. 157, 164 [29-31 October 1213]).

²⁵ Above, pp. 71-4; Carocci, "Patrimonium beati Petri" e "fidelitas", pp. 668-90; idem, 'Popes as Princes?', p. 79.

'by right of lordship'. In his letters of December 1217 warning James of Aragon and Count Sancho not to aid the Toulousains ('If only wicked counsel did not seduce your adolescence!'), Honorius thundered that, if the memory of all the good which he and Innocent had done James in his youth was lacking, James should recall that 'your kingdom is known to pertain to the Roman Church'.²⁶

4.2. Pupils, Orphans and Protection: Justifying Papal Letters to Aragon

Letters to James of Aragon also placed less emphasis on a permanent unchanging relationship between Aragon and the papacy, and more emphasis on the papal duty of care for orphans and the guardianship of the young king requested by his mother, Marie de Montpellier. '[T]he custody and defence of pupils and even widows and of their goods is known to pertain especially to us [...] Marie, Queen of Aragon, when placed *in extremis*, left [James] in our protection and tutelage'.²⁷ This is the most common justification found in papal letters to Aragon during James's minority.²⁸

The more general relationship between Aragon and the pope – the fact that Aragon as a whole was under papal protection – was sometimes used, however. In a letter to the rebellious citizens of Zaragoza, Huesca and Jaca Innocent III noted that James was 'under the protection of the Apostolic See,

²⁶ *Honorii III opera omnia*, ii, col. 561 = MDH, pp. 86-7. Raymond VI of Toulouse had been recruiting in Aragon in 1216: *History of the Albigensian Crusade*, p. 261.

²⁷ *Bullaire de l'Église de Maguelone*, i, pp. 377-81.

²⁸ 'presertim cum eadem regina, dum ageret in extremis, ipsum et terram suam nec non et alia bona, in quibus erat successoris eidem sub apostolica protectione reliquerit et tutela': *Bullaire de l'Église de Maguelone*, ii, p. 15 (original); MDH, p. 46 (registration). 'cum [...] Iacobus Aragonum rex illustris sub apostolice sedis et nostra protectione consistat, utpote quem inclite recordationis M. regina Aragonum mater eius apud sedem apostolicam dudum decedens Romane ecclesie commendavit ipsum': MDH, pp. 178-9. See also: *Bullaire de l'Église de Maguelone*, ii, pp. 36, 38, 40, 42, 46, 85, 102-3, 105, 107-8 for protection to Montpellier which specifically mention Marie's commendation of James and her land to the Roman Church. Honorius also simply noted that James 'is under apostolic protection' without mentioning Marie specifically in a letter of 29 April 1217: *Bullaire de l'Église de Maguelone*, ii, pp. 19-20.

and his kingdom is a census-payer (*sit [...] censuale*) of the Roman Church'.²⁹

This was undoubtedly a reference to the general relationship between Aragon and the Holy See. In May 1219 James of Aragon acquired a full re-confirmation of the general papal *protectio* for him and for Aragon. Beginning *Sacrosancta Romana ecclesia* – a commonly used opening for confirmations of religious privileges³⁰ – this bull recalled that James had been commended to the Roman Church by Marie de Montpellier³¹ and then took ‘your person, the kingdom of Aragon, the land of Catalonia, the town and land of Montpellier with all goods which at present you reasonably possess or in the future, in a just manner, you may acquire, under our and St Peter’s protection’.³² This is exactly the form used for confirmations of monastic protection and exemption: it is even identical to the formula from the earliest surviving handbook for petitioners.³³ There is – unsurprisingly – no mention of vassalage or *feuda*. There is also no mention of the annual census constituted by Peter II in 1204 (nor of the much earlier census of 1088 which Peter’s census replaced).³⁴ At the same time the Aragonese court also got papal confirmation of James’ rights in Montpellier, which he had inherited from his mother. Similar letters – confirming James’ authority in Aragon and Montpellier and the king’s papal protection – were

²⁹ Bonifacio Palacios Martin, *La Coronacion de los Reyes de Aragon 1204-1410* (Valencia, 1975), pp. 302-3: ‘idem Rex sub apostolice sedis protectione consistat, et regnum suum Romane sit ecclesie censuale’. *Censuale* can imply a multitude of relationships but all it definitively means is that a census was paid.

³⁰ Sayers, *Honorius III*, pp. 101-4. The use of this opening for the king of Aragon supports the identification of *protectio* for kings with *protectio* for religious houses.

³¹ *Honorii III opera omnia*, iii, cols. 223-4: ‘te inclytæ recordationis M. regina Aragonum mater tua cum terra et aliis bonis tuis eidem ecclesiae commendavit; agens dudum apud Sedem Apostolicam in extremis’.

³² *Honorii III opera omnia*, iii, cols. 223-4.

³³ The *libellus* of Cardinal Guala (c.1226): Rudolf von Heckel, ‘Das päpstliche und sicilische Registerwesen’, *Archiv für Urkundenforschung* 1 (1908), 371-511, at 506, cap. 19: ‘de confirmatione et protectione’.

³⁴ Perhaps because, between 1218 and 1223 there seems to have been disagreement over whether the Aragonese king had to pay just the Aragonese census or the Barcelonian census. Fried, *päpstlicher Schutz*, pp. 238-9; 1218 letter demanding payment of the Barcelonian census, Reg. Vat., 10, ff. 16^v-17^r=MDH, pp. 148-9; see also: MDH, pp. 313-15.

sent to Cardinal Bertrand, Prince Louis and other crusaders then travelling south to campaign against the Albigensian heretics.³⁵

In September 1225, as part of James' continuing efforts to get the French county of Millau returned to him, he acquired a letter from Honorius to the Cardinal-legate Romanus. The letter claimed that Count Raymond of Toulouse had despoiled James of the county despite James, 'who is a *pupillus*', having been 'committed to the tutelage of the apostolic See by both parents'.³⁶ Certainly this is a mistake. James was committed to apostolic protection by his mother only: King Peter II did not make arrangements for what was to happen after his death and was actually trying to get his marriage annulled before he died. Nonetheless, we can see that the emphasis was still on James having been committed to papal guardianship. In the same year, James of Aragon himself drew attention to his status: 'as much as we are special sons of the Roman Church, and especially constituted under its protection and custody, so much are we held to be obedient to it'.³⁷ Marie of Montpellier's request for the pope to guard her son was of paramount importance, followed by Aragon's long-standing papal protection.

4.3. Pupils, Orphans and the Debt of the Pastoral Office: Justifying Papal Letters to Sicily

In the Regno the Empress Constance's specific request that the pope act as guardian to her son was frequently emphasized during Frederick II's minority. Prior to Constance's death – and therefore prior to the papal guardianship of King Frederick – Constance and Innocent had reached a new

³⁵ *Honorii III opera omnia*, iii, cols. 223-4 (= MDH, p. 171 = Reg. Vat. 10, f. 96v), 224-5 (= *Bullaire de l'Église de Maguelone*, ii, p. 34 = MDH, p. 172 = Reg. Vat. 10, f. 96v); 275-7 (= MDH, pp. 177-8 = Salvador Sanpere y Miquel, *Minoría de Jaime I: Vindicación del procurador conde Sancho, años 1213-1219* [Barcelona, 1910], pp. 114-5, n. 1); MDH, pp. 178-9.

³⁶ *Honorii III opera omnia*, iv, cols. 923-4 = MDH, p. 426 = Reg. Vat. 13, f. 85r.

³⁷ *Histoire générale de Languedoc*, viii, cols. 830-1; Cited in: Fried, *päpstlicher Schutz*, p. 241; Smith, *Crusade, Heresy and Inquisition*, p. 50.

modus vivendi. She swore an oath of fidelity to the papal legates and promised that Frederick would swear similarly. Homage, although offered, was seemingly not performed. Obviously, because Constance had not yet asked the pope to be guardian of her son, the papal-Sicilian relationship was not yet based on the pope's care for orphans and wards. Instead, the letters regarding this settlement focussed on the love which previous kings had shown to the apostolic see and the special grace and solicitude which the papacy owed to the rulers of Sicily in return.³⁸ It was also mentioned that Innocent should show special grace to Constance because 'the kingdom pertains to the right and property of the Roman church and persists in its fidelity and remains in its unity'.³⁹ Innocent further explained that 'we especially love that kingdom amongst all the world as a special patrimony of the Church' – *tanquam Ecclesiae patrimonium speciale*.⁴⁰

When Constance died in 1198, she requested in her final testament that the pope should act as guardian for Frederick. This maternal injunction was placed front and centre in the papal correspondence of early 1199 which followed Constance's death: 'we, beyond the duty of the pastoral office by which we are held to be debtors to every single pupil and orphan, wish to love and favour you [Frederick] both because your mother, the Empress Constance, committed you to our tutelage and because the kingdom of Sicily pertains to the patrimony of the church'.⁴¹ We can see here that the maternal request for the pope to guard Frederick was used together with the more general relationship

³⁸ Die Register Innocenz' III., i: 1. *Pontifikatsjahr, 1198/99: Texte*, (eds) Othmar Hageneder, Anton Haidacher (Graz/Cologne, 1964), nos 410-11, pp. 613-18 = Kehr, 'Das Briefbuch des Thomas', nos 13-14, pp. 57-61 = PL 214:387-9; MGH DD H VI, no. 65, pp. 203-5. See M. Maccarrone, 'Papato e regno di Sicilia nel primo anno di pontificato di Innocenzo III' in *Potere, società e popolo tra età normanna et età sveva: Atti delle 5e giornate normanno-sveve. Bari – Conversano, 26-28 ottobre 1981* (Bari, 1983), pp. 75-108, at 84-93 who recounts the negotiations and documents of 1198 from a strongly 'feudal' perspective, suggesting that they followed the 'diritto feudale del tempo'.

³⁹ Die Register Innocenz' III., i, no. 412, pp. 618-20 = PL 214:389-90.

⁴⁰ Die Register Innocenz' III., i, no. 413, pp. 620-2 = PL 214:390-1.

⁴¹ Die Register Innocenz' III., i, no. 559, pp. 815-16 = PL 214:520-1 = Potthast 585.

between papacy and kingdom and the papal duty to care for all *personae miserabiles*: widows and orphans. The clearest exposition of these various reasons for papal solicitude comes from an 1199 letter of Innocent III, warning the people of Gaeta to remain loyal to Frederick:

Many reasons induce us to provide for the king and kingdom of Sicily, namely: the general, the special and the singular. The general, because, from the apostolic office which has been imposed on us, we are held to be debtors to the wise and unwise, according to the apostle. The special, because the kingdom of Sicily is known to pertain to the right and property of the Apostolic See (*ad ius et proprietatem Apostolice Sedis [...] pertinere*). The singular, because our most beloved son in Christ, Frederick, illustrious king of Sicily, was especially left to apostolic tutelage (*specialiter fuit apostolice tutele relictus*) by his mother and father.⁴²

However – as we should expect – papal letters were not consistent. In 1199 and during the earliest years of Frederick's minority, the maternal injunction was often placed above other reasons.⁴³ But in two letters of early

⁴² Kehr, 'Das Briefbuch des Thomas', no. 7, p. 46.

⁴³ PL 214: 513-4: 'Although we are held to bear solicitude for the state of the kingdom from the general debt of the pastoral office, nevertheless because that kingdom pertains to the property of the church and the care of [...] King Frederick was committed to us through the legitimate testament of [...] Constance, by how much more do we strain to increase its peace as much as we are invited to it by many reasons'; 518-19: '[...] hoping, indeed holding as certain, that [...] you should remain in the protection of the kingdom because the defence of it belongs especially to us, beyond the kingdom pertaining to the right and property of the Roman church, since the aforesaid empress made a legitimate testament by which the tutelage of [...] Frederick and care of the kingdom was committed to us'; 517 and 519-20: 'Beyond the general debt of the pastoral office through which we are held to consider solicitously all the faithful of Christ and each province in which the name of Christian is honoured, that token of love and grace (which our predecessors in past times held concerning the kingdom of Sicily) and the sincerity of faith and devotion (which that kingdom and its princes always showed to the apostolic see) induces us to provide especially for that kingdom. [And] now a more powerful and more urgent cause overtakes those, because, when Constance left the tutelage of [...] Frederick and the regency of the kingdom to us, she ordered us to be made secure in both by all'. More equivocally, see also 510-3: '[...] the tutelage of the king and guardianship of the kingdom having been left to us from the same empress [...]'; 514-16: '[...] the pious affection of Constance inspired [her] that she committed Frederick to our tutelage and relinquished guardianship of the kingdom to us by her

1207 Innocent did seem to express a ‘right’ to take the guardianship of Frederick above and beyond Constance’s commission:

[...] your detention thus saddened us and your liberation pleased us since, beyond the reason of the regency – which we undertook to execute not so much from maternal disposition, as by right of kingship (*non tam ex dispositione materna, quam iure regni*) – we are especially held to favour you in your right as a pupil, since, as the voice of the prophet says to us, “thou wilt be an aider to the pupil; thou shouldst not avert thine eyes”, therefore we are not able to abandon your defence and tutelage.⁴⁴

There are two obvious conflicts between this letter and other papal letters from the early years of Frederick’s minority which I quoted before. First, some sort of intrinsic right – *ius regni* – was held to be a better justification for Innocent’s guardianship of Frederick than Constance’s dying wishes. Secondly, the general reason was placed above the special and the singular: the pope’s duty to care for all wards and orphans was said to be more important than

testament [...]’; 716-18: ‘[...] And now he [Markward] infests and moves to seize the kingdom of Sicily which is known to pertain to the right and property of blessed Peter and whose regency – with the tutelage of the king – was left to us by the testament of Constance’; 740: ‘[...] your defence and tutelage together pertain especially to us, not solely because of the solicitude of the pastoral office, but even by reason of the regency, and beyond that even because the kingdom of Sicily is known to pertain to the right and property of the apostolic see [...]’; 901-3: ‘We, therefore, knowing the kingdom of Sicily pertains to the right and property of the apostolic see, and attending because [...] Constance left the tutelage of [...] Frederick and the regency of the kingdom to us by [her] testament, and because in any case the regency comes to us from the approved custom of the kingdom which is maintained through the law [...]’. For more recent editions, see *Die Register Innocenz’ III.*, i, nos 555, 558, 570-1, 554, 556, pp. 806-9, 814-15, 829-31, 802-6, 809-11; *Die Register Innocenz’ III.*, ii: 2. *Pontifikatsjahr, 1199/1200: Texte*, (eds) Othmar Hageneder, Werner Maleczek, Alfred A Strnad (Rome/Vienna, 1979), nos 158, 183, pp. 306-11, 349-50. In Potthast these letters are respectively: 615, 553, 613, 577, 616 (all Jan.-Feb. 1199), 818 (Aug. 1199), 843 (Oct. 1199), 1162 (late 1200).

⁴⁴ *Innocentius III Regestorum Sive Epistolarum [AD 1203-1208]* in PL 215:1081-2 (Jan. 1207) = *Die Register Innocenz’ III.*, ix: 9. *Pontifikatsjahr, 1206/7: Texte und Indices*, (eds) Andrea Sommerlechner, Othmar Hageneder, Christoph Egger et al (Vienna, 2004), nos 247, 249, pp. 424-5, 427-9 = Potthast 2992. Note, however, that even in this letter, Innocent ended by complaining that those who were detaining Frederick usurped his care from those ‘whom your pious mother had deputed’.

Innocent's guardianship of Frederick specifically (irrespective of whether that guardianship came from *ius regni* or *materna dispositio*).

An Innocent III specialist of the last generation, Michele Maccarrone, believed that the reference to the *ius regni* as more important than maternal disposition signified the application of a feudal right of wardship (and cited François-Louis Ganshof for further reference).⁴⁵ Theo Kölzer, David Abulafia and Donald Matthew also believed that Constance's nomination of Innocent as guardian was irrelevant: Innocent had an automatic right to be regent, by virtue of his feudal overlordship.⁴⁶

What *ius regni* means here is, in fact, unclear. It might mean that the papacy had an automatic right to act as guardian. If that were the case, however, it is odd that the 'right' is said to belong to the kingdom rather than the overlord. It would make more sense if the right belonged to the one who held it – perhaps expressed with *ius dominii*. Another possibility is that *ius regni* meant that the Sicilian kings possessed a special right to appeal for papal guardianship. *Ius regni* could also mean 'by royal law' and signify that a minor needed someone to act as his guardian under Sicilian law. There was an earlier letter of Innocent which seems to presage this later one: in a missive sent throughout Apulia in late 1200 condemning Markward von Anweiler, Innocent declared that:

We, therefore, knowing the kingdom of Sicily pertains to the right and property of the apostolic see, and attending because [...] Constance left the tutelage of [...] Frederick and the regency of the kingdom to us by

⁴⁵ Maccarrone, 'Papato e regno', p. 104.

⁴⁶ Kölzer, 'Un regno in fase di transizione', p. 199: 'L'affidamento del *balium* al papa [...] equivaleva unicamente a una conferma formale in quanto come feudatario del regno di Sicilia gli spettava comunque il diritto feudale di tutela'. David Abulafia, 'The Kingdom of Sicily under the Hohenstaufen and Angevins' in NCMH, v, pp. 498-522, at 500: 'in a sense Henry [VI]'s will was immaterial: if the kingdom was a papal fief, then not Henry but Innocent had the right to dispose of its government'; Matthew, *Norman Kingdom*, p. 298.

[her] testament, and because in any case the regency comes to us from the approved custom of the kingdom (*ex approbata [...] regni consuetudine*) which is maintained through the law [...].⁴⁷

This letter – from 1200 – is different again: it did not place the maternal disposition *below* a perceived ‘right’ to the regency, but merely in addition. Disregarding what *ius regni* – or *consuetudo regni* – meant, there was still a clear conflict between the dismissal of maternal disposition in the 1207 letter, and the papal letters from 1199 which actually emphasized it. Even after Frederick came of age in 1208 Constance’s commission was not forgotten: Innocent’s letter to Otto of Brunswick from 10 March 1209 began: ‘[...] Frederick was left to apostolic care and tutelage as much by maternal final direction as by paternal [and] he holds and recognizes all the kingdom of Sicily from the Roman Church [...].’⁴⁸ True, the letter did claim that Frederick ‘held’ the kingdom from Rome, but it pointed to Constance’s testament first.⁴⁹

The second conflict between the 1207 letter and most of the rest of the papal correspondence is that – in the 1207 letter – the general was placed above the singular: Innocent implied that the general injunction for the pope to care for pupils and orphans was more important than his specific commission to care for Frederick. One would have thought that the special and the singular would be more important than the general. Indeed, in early 1199 Innocent had said they were:

⁴⁷ PL 214.901-3 = Potthast 1162.

⁴⁸ *Regestum Innocentii III papae super negotio Romani imperii*, pp. 398-9 = PL 216:1168 = Potthast 3688. Although this letter went on to put the general duty of the pope to be ‘debtors to all’ above – *super* – ‘what is known to pertain to his [Frederick’s] kingdom’. Many of the papal letters from the later regency period (broadly 1201-8) do not contain any explicit statement on the relation between pope and king and kingdom, see, for example, the letters appointing Gerard as legate in 1204: PL 215:419; 420; 426, also 317-9.

⁴⁹ See also the 1226 letter of Honorius III to Frederick: ‘[...] the tutelage of you, left to the apostolic see by Constance [...]: MGH Epp. saec. XIII, i, pp. 216-22.

Beyond the general debt of the pastoral office through which we are held to consider solicitously all the faithful of Christ and each province in which the name of Christian is honoured, that token of love and grace (which our predecessors in past times held concerning the kingdom of Sicily) and the sincerity of faith and devotion (which that kingdom and its princes always showed to the apostolic see) induce us to provide especially for that kingdom. [And] now a more powerful and more urgent cause overtakes those, because Constance left the tutelage of [...] Frederick and the regency of the kingdom to us and she ordered us to be made secure in both by all.⁵⁰

Most letters emphasized the specific commission – Constance's testament – at least as much – if not more – than the general. In one or two of Innocent's letters, however, the general was apparently more important. Again this calls into question Theo Kölzer's assumption that there was a clear distinction between the papal guardianship of Frederick and Henry III of England (justified by feudal lordship), and the papal duty to care for orphans generally.⁵¹ Only the references to the *ius regni* and *consuetudo regni* could be interpreted as relating to feudal guardianship. Further, although the general duty of care for *personae miserabiles* was distinguished from the special guardianship of kings which arose from maternal disposition – suggesting a conceptual difference – both can be seen in papal-Sicilian letters, which rules out Kölzer's suggestion that only one was at play here.

But what was the cause of this change in papal justification? Why did Innocent emphasize maternal disposition in 1199, then bring in the 'approved custom of the kingdom' in 1200, and finally put the general duty of care for orphans in pole position in 1207? The most plausible explanation – in my view –

⁵⁰ PL 214:519-20 = *Die Register Innocenz' III*, i, nos 570-1, pp. 829-31 = Potthast 613.

⁵¹ Kölzer, 'Un regno in fase di transizione', pp. 199-200.

is the changing situation in south Italy and Sicily during Frederick's minority. If we assume that this change in legitimization was a considered strategy by the papal curia, either on the part of the pope or the notaries who drafted papal letters, then it must have been a response to the claims of Markward von Anweiler. Markward claimed that he was regent of Sicily on the wishes of the late emperor, Henry VI, Frederick's father.⁵² Claiming the regency primarily *ex testamento imperatricis* – as Innocent did in 1199 – must have seemed less effective when Markward was claiming the regency *ex testamento imperatoris*. Hence, the pope switched his primary justification away from the wishes of the defunct rulers and towards either the 'general debt of the pastoral office' or towards some sort of accepted 'custom' or 'right'. This switch then continued even after Markward's death in 1202. It was entirely a matter of choosing the most effective relationship to emphasize at the time, not of consistently justifying all papal letters by one constant relationship.

4.4. Terminology: Conclusion

We expect complete consistency in papal letters at our peril: the wording used in each letter was decided upon by a synthesis of formulae books, the wording of the petition, the words suggested by any *curialis* who intervened on behalf of the petitioner and the wording chosen by the notaries, their *abbreviatores* and – perhaps often, perhaps rarely – the pope and vice-chancellor themselves.⁵³ Thus the variations in emphasis and wording reflect the choices of the petitioners, intermediaries and notaries. As the discussion of Sicily shows, however, this is not 'merely' variation in wording, but also variation in how the relationship between pope and king was understood. Most letters from Innocent's period as guardian of Frederick emphasize that Frederick had been

⁵² Matthew, *Norman Kingdom*, pp. 296-8.

⁵³ Patrick Zutshi, 'The Personal Role of the Pope in the Production of Papal Letters in the Thirteenth and Fourteenth Centuries' in *Vom Nutzen des Schreibens: Soziales Gedächtnis, Herrschaft und Besitz im Mittelalter*, (eds) W. Pohl and P. Herold (Vienna, 2002), pp. 225-36.

specifically committed to the pope's wardship. At least one, however, bucked that trend. It claimed that the general duty of the pope to care for orphans was the prime justification for requesting papal intervention in the minority government. If there was a more specific reason than that then it was – according to that letter – a 'royal right' and not Constance's testament. This change was probably a considered switch on the part of the papal court. Thus, even at the curia, we can see that the papal interest in Frederick's minority was not based on one single overriding justification; rather a range of justifications for papal authority could be drawn on, depending on what the circumstances required.

The importance of petitioners when choosing a justification for papal authority was also significant. A 1225 letter to the cardinal-legate in Provence, Romanus, which was requested by King James of Aragon, claimed that James should not be despoiled of his rights because he was a *pupillus* and had been left to papal custody by his parents. Nine years earlier, in December 1217, Honorius III had dispatched letters to Aragon warning James and Sancho not to aid the count of Toulouse. These letters had reminded James that 'the kingdom [of Aragon] is known to pertain to the Roman Church'. But a threat – in that letter – to approve an invasion of Aragon stemmed from a different principle altogether: that of deposing rulers who failed to expel heretics. It was not based on any special relationship between the papacy and Aragon at all.⁵⁴ This is

⁵⁴ Cf. 'Otherwise you would thus provoke us and the Roman Church against you, and we would be forced to curb your kingdom through foreign peoples [...] If it should be differently presumed, the Roman Church, which is not able to ignore their so great injury to God, perhaps will make heavy its hand against that kingdom, the punishment of which would be an example to others' (*Honorii III opera omnia*, ii, cols. 561-3); and 'If [...] a temporal lord [...] neglects to cleanse his territory of this heretical filth, he shall be bound with the bond of excommunication [...] If he refuses satisfaction within a year [...] the supreme pontiff [...] may then declare his vassals absolved from their fealty to him and make the land available for occupation by Catholics' (Canon three of Lateran IV: *Decrees of the Ecumenical Councils*, i: *Nicæa I to Lateran V*, [ed.] Norman P. Tanner [2 vols., Washington DC/London, 1990], p. 234). The reference to 'foreign peoples' – *extraneas gentes* – suggests a link to pronouncements against those rulers who failed to root out heresy.

because the wording and justification for obtaining a papal letter could be influenced by the petitioners and the wording of their petition. The 1217 letter threatening invasion of Aragon had been requested by the then cardinal-legate in southern France, Bertrand, and Count de Montfort after they lost Toulouse to Count Raymond and his Aragonese allies on 13 September 1217.⁵⁵ The 1225 letter was requested by Aragonese royal proctors.

The influence of petitioners in choosing what sort of relationship to emphasize in papal letters can be clearly seen in the use of the word *pupillus*. In the papal letters to England discussed above, Henry III ceased to be *pupillus* after 1221 when he turned 14. According to Roman Law, one ceased to be *pupillus* above the age of 14, so to stop calling Henry III a *pupillus* was correct.⁵⁶ James of Aragon, however, was called a *pupillus* in 1215⁵⁷ but then again in 1225⁵⁸ by which time he was 17. The most plausible explanation for this is that English royal proctors knew that under Roman Law their king had ceased to be *pupillus* but the Aragonese proctors did not, or used the same term in a vaguer sense. The papal chancery apparently made no effort to enforce any kind of consistency in the matter.

Which relationships were explicitly mentioned in papal letters varied. The composers of papal letters did not have total free rein, however: they were bound by a degree of precedent. This is why the terms *pupillus*, *orphanus* and being 'left to the tutelage of the Apostolic See' were ubiquitous in letters to Sicily, Aragon and England. All three young kings had indeed been left to papal protection by one of their parents. John's surrender in 1213, however, had meant that he, and Henry III, could be described as 'vassals'. Papal letters to

⁵⁵ *History of the Albigensian Crusade*, p. 272, n. 99; *Song of the Cathar Wars*, pp. 122-3.

⁵⁶ R. H. Helmholz, 'The Roman Law of Guardianship in England, 1300-1600', *Tulane Law Review* 52 (1978), 223-57, at 229-34.

⁵⁷ *Bullaire de l'Église de Maguelone*, i, pp. 377-81.

⁵⁸ *Honorii III opera omnia*, iv, cols. 923-4 = MDH, p. 426 = Reg. Vat. 13, f. 85r.

England were able to use the terms fief and vassal, and used the feudal relationship to justify papal solicitude. But papal letters to England could also make reference to the papal guardianship of Henry III requested by John, and to the general duty of the pope to care for pupils and orphans. Aragon, however, was never surrendered to the papacy in the manner of England and thus the terms *vassallus* and *feudum* cannot be found in correspondence to Aragon, with the one exception discussed above.⁵⁹ Such feudal language had not hitherto been used in the papal-Aragonese relationship, and hence was not part of how the relationship was conceived. James had, however, been left to papal tutelage by his mother. Thus he could be called *pupillus* but not *vassallus*.

In England, the relationship of fief and vassal could be used in letters, but other categories – of being a crusader and being left to the protection of the Holy See – were used too. James of Aragon had been left to papal wardship but did not take the cross, therefore protection for him was not justified by his status as a crusader, but as an orphan and *pupillus*. The relationship used to justify papal letters to Sicily varied. Sometimes it was general papal duty of care for *personae miserabiles*; sometimes it was the specific request of Constance to guard her son. There was no single overriding relationship: the petitioners and the curia chose which they thought was most relevant.

4.5. Practicalities: Legates, Regents and Letters

The roles and importance of the papal legates to England and Aragon during the minorities of Henry III and James I have been brilliantly studied already.⁶⁰ Therefore there is no need to focus excessively on the minutiae of

⁵⁹ Above, pp. 133-7, 156-7.

⁶⁰ Carpenter, *Minority*, pp. 1-262; idem, *Magna Carta*, pp. 405-16; Fred A. Cazel Jr., 'The Legates Guala and Pandulf' in *Thirteenth Century England*, ii, (eds) P. R. Coss, S. D. Lloyd (Woodbridge, 1988), pp. 15-21; Vincent, *Peter des Roches*, pp. 134-215; idem, 'Election of Pandulph', pp. 143-63; Vincent, *Guala*, pp. xxxi-xcvi; Sayers, *Honorius III*, passim; eadem, *Papal Judges Delegate in the Province of Canterbury 1198-1254* (Oxford, 1971), pp. 29-32; Smith, *Innocent III and the Crown of Aragon*, pp. 143-72; idem, 'Pope Innocent III and the Minority of James I', *Anuario de Estudios*

their legations. Instead the focus here is on where the agency lay: when a papal letter or legate was sent out from the centre, who had decided that the pope should get involved? And, if the impetus came from outside the curia, what limitations did that place on papal authority?

The practicalities of the various ‘special relationships’ between papacy and monarchy – *protectio*, feudal overlordship, wardship and crusader-status – seem to have remained similar. Despite changes in terminology – discussed in the first half of this chapter – and perhaps non-trivial conceptual changes, there was not a huge practical difference between overlordship and *protectio*.

4.6. Legates and Regents: England

Papal intervention in England – the ‘vassal’-kingdom of Rome – depended on the appeal of the ruler. On his deathbed at Sleaford, John reminded Pope Honorius III of England’s status in the *patrimonium beati Petri*. John then asked the pope to provide for his son and his succession, committing them to the protection of the Holy Roman Church.⁶¹ The papal legate, Guala, was, a few days later, named as one of the witness-executors of John’s testament.⁶² The importance of this final appeal in solidifying the position of the legate during the early years of Henry III’s minority should not be underestimated. Following John’s death William Marshal had been made *rector*

Medievales 30 (2000), 19-50; idem, *Crusade, Heresy and Inquisition*, pp. 41-52; idem, ‘Jaime I y el Papado’ in *Jaume I: Commemoració del VIII centenari del naixement de Jaume I*, (ed.) M. Teresa Ferrer i Mallol (2 vols, Barcelona, 2011-13), i, pp. 523-36, at 527-9; idem, ‘Inocencio III, Pedro Beneventano y la historia de España’, *Vergentis* 2 (2016), 85-97; Pascal Montaubin, ‘Une tentative pontificale de reprise en main du Midi: la légation du cardinal Pietro Beneventano en 1214-1215’ in *Innocent III et le Midi*, (eds) Michelle Fournié, Daniel Le Blévec, Julien Théry-Astruc (Toulouse, 2015), pp. 391-418, at 402-4; T. N. Bisson, *The Medieval Crown of Aragon: A Short History* (Cambridge, 1986), pp. 58-63.

⁶¹ Vincent, *Guala*, no. 140b, pp. 105-6. At no point in this letter does John use the terms *vassallus* or *feudum*.

⁶² I have assumed, following Stephen Church, that John’s testament was drawn up during the last few days (or hours) of his life: ‘King John’s Testament and the Last Days of his Reign’, *English Historical Review* 125 (2010), 505-28, at 520.

regni at the prior designation of King John.⁶³ John had made provision for his succession by appointing the best candidate as regent, appealing for papal aid (or, more immediately, legatine aid) and binding his loyal barons to the succession by naming them as executors. The English regency council was therefore bound by John to keep the legate in England: if the regent's authority rested on John's last wishes, then he could not ignore John's other final instructions, such as the pope's appointment as guardian. Louise Wilkinson has suggested that the reverse was also true: Isabella of Angoulême was not specifically named in John's final wishes and so could not justify or legitimize a position in the government for herself.⁶⁴

The care that Guala took not to ignore other parts of John's testament confirms that the influence of the legate in England depended to a significant extent on John's dying appeal. When William Marshal was (allegedly) hesitant about taking up the role of regent after John's death, it was Guala who persuaded him by promising him remission of sins if he did.⁶⁵ In 1217 Honorius wrote to Guala raising the possibility of making the earl of Chester the Marshal's co-regent. However (the letter went on) since power does not take well to being shared the Marshal might bear such a suggestion badly. Therefore Guala must act as he sees fit.⁶⁶ The fear that William Marshal would be unimpressed by such a suggestion must have been real. But it also seems likely that Honorius was worried that if he began to alter the arrangements which John had made, he was thereby undermining the papacy's own basis for its authority in England. If papal authority in England depended on John's dying

⁶³ Carpenter, *Minority*, pp. 14, 16. *History of William Marshal*, (eds, trs) A. J. Holden, S. Gregory, D. Crouch (3 vols, London, 2002-6), ii, pp. 260-1, lines 15185-15191.

⁶⁴ Louise Wilkinson, 'Maternal Abandonment and Surrogate Caregivers: Isabella of Angoulême and Her Children by King John' in *Virtuous or Villainess? The Image of the Royal Mother from the Early Medieval to the Early Modern Era*, (eds) C. Fleiner, E. Woodacre (Basingstoke, 2016), pp. 101-24, at 109-11, 114.

⁶⁵ Carpenter, *Minority*, p. 17. *History of William Marshal*, ii, pp. 278-9, lines 15544-15559.

⁶⁶ Calendared: Vincent, *Guala*, p. 142. Full text: Shirley, i, p. 532.

request, then was it not necessary to respect the rest of John's dying requests too, such as the appointment of the Marshal as regent? The answer is in the affirmative: Honorius had earlier specifically instructed Guala and the bishops of Chichester and Winchester to compel the executors of John's testament to enact its terms through ecclesiastical censure if necessary.⁶⁷

The fact that both Guala and Honorius were careful to keep the Marshal in place as regent, and that the Marshal does not appear to have challenged Guala's or the pope's position in the government, suggests that there was a fear that undermining any of John's dying wishes undermined all of them. Of course it is also the case that both legate and pope were deeply concerned to secure the young king's government and did probably see William Marshal as genuinely representing the best chance for success.

The importance of the commands of the previous king can be seen in another way: in its early years the English minority government had a problem in issuing charters. Making permanent alienations of royal land or rights on behalf of a minor was highly questionable: when Henry grew up he might not like what had been done in his name. Likewise some royal castellans and sheriffs claimed that, since they had been appointed by King John, and King Henry was a minor, they could not be dismissed until he came of age.⁶⁸ Underlying these two problems seems to be a general principle that the wishes of the dead king should stand until the new king comes of age.⁶⁹ This has

⁶⁷ *Honorii III opera omnia*, ii, p. 183.

⁶⁸ Carpenter, *Minority*, pp. 1, 54, 70-1, 95-6, 108, 123, 126, 249, 322, 398, 401; Vincent, *Peter des Roches*, pp. 159-60 for the 1218 ordinance forbidding grants in perpetuity with the king's new seal. When the regent was appointed he was given the title *rector regni* rather than justiciar because John's justiciar (Hubert de Burgh) was still alive. Presumably, as a Johannine appointee, he could not simply be replaced by anyone except the king (who was then underage): Carpenter, *Minority*, pp. 21-2.

⁶⁹ The effects of that principle did not always command papal respect. In 1220 Honorius III fulminated about the barons who refused to surrender castles with the excuse that they were supposed to keep them until Henry III came of age: Carpenter, *Minority*, p. 123.

obvious relevance for the suggestion that the position of the papal legate was justified by the wishes of King John. John had requested papal aid for his son, hence it was the duty of the legates to watch over Henry until he could guard himself. The authority for the papal legations to England rested upon the last wishes of King John and could not simply be ignored or repealed by the regent or the royal council. The regency council also benefited from papal support against the French, Scots and rebel barons. The fact that the legate remained in England and played a leading role was tied both to the inability of the council to remove the legate, but also to the usefulness of the legate. The interplay between these two factors can be seen in 1219 after William Marshal died. The triumvirate which took up the government was decided upon at a public council, doubtless to stress the legitimacy of the three governors.⁷⁰ However, the three who took up the administration were John's justiciar, Hubert de Burgh, Peter des Roches, whom John had made personal guardian of Henry III, and the legate Pandulf. For all three, their authority partially stemmed from John. If they were chosen by the magnates in 1219, then the magnates selected those who already carried King John's legitimacy.

4.7. Legates and Regents: Aragon

James I of Aragon had, at the time of his father's death, been in the care of Count Simon de Montfort. Peter II of Aragon died at the battle of Muret in 1213, fighting against de Montfort in southern France, at which point his young son, James, technically acceded to the throne. But with James in de Montfort's care it was obviously not possible for James to rule in any practical sense. Some elements of the Aragonese nobility chose to appeal to the pope to persuade de Montfort to return James: Bishop Hispan of Segovia travelled to Rome at his

⁷⁰ Carpenter, *Minority*, pp. 128-30.

own expense, probably in late 1213.⁷¹ Other members of the Aragonese nobility continued to see force as the best way to secure the return of James far into 1214.⁷² In January 1214 Innocent III dispatched Cardinal Peter of Benevento as legate to get the child back from de Montfort, seemingly in response to Hispan's appeal.⁷³ The possible justifications for rendering such aid to James were various: the kingdom of Aragon had been under papal protection for more than a century. James was an orphan, a *persona miserabilis*, for whom the Holy See had a special duty of care.⁷⁴ James' mother, Marie de Montpellier had committed her son to the 'protection, defence, and tutelage of the Holy Roman Church' in her last will.⁷⁵ None of these possible justifications had outlined specific duties or rights which the papacy had in this situation, however. It was left to the mission of Bishop Hispan to ask for a legate to free James and initiate his government in Aragon.⁷⁶ This shows first the reactive dynamic of papal guardianship, but also that papal intervention in James' minority need not have been asked for by the royal administration as a whole, but by an individual.

⁷¹ Whether the bishop of Segovia was acting for some small group of the nobility or for the majority is unclear. The various chronicles state only that he went, and emphasize that he travelled under his own expense which could be intended to suggest that this was a unilateral act on his part to break the deadlock within the kingdom: *The Chronicle of San Juan de la Peña*, pp. 61-2; *Gesta comitum Barcinonensium*, (eds) L. Barrau Dihigo, J. Massó i Torrents (Barcelona, 2007), pp. 56-7; *Roderici Ximenii de Rada historia de rebus hispanie sive historia Gothica*, (ed.) Juan Fernández Valverde (Turnhout, 1987), p. 182; *The Book of Deeds of James I of Aragon*, (eds, trs) Damian Smith, Helena Buffery (Aldershot, 2003), p. 25.

⁷² Smith, *Crusade, Heresy and Inquisition*, pp. 42-3: 'On 20 March 1214, Viscount Guillem de Cardona made his will, intending [...] "[...] to recover his [Peter's] son [James] who is held as if he were a captive" and by the spring [...] a formidable group of nobles and clergy of the crown had assembled near Narbonne, determined to recover James by negotiation or war'. Smith, 'Inocencio, Pedro y la historia', p. 91.

⁷³ PL 216:955-6 (informing the southern prelates of Peter of Benevento's legation), PL 216:958-9 (ordering de Montfort to hand James over to the legate).

⁷⁴ Helmholz, *The Spirit of Classical Canon Law*, pp. 116-44.

⁷⁵ *Spicilegium sive Collectio Veterum*, iii, p. 576; *Pedro el Católico, Documentos, Testimonios y Memoria Histórica*, iv, no. 1499.

⁷⁶ See the brief but incisive comments in Bisson, *Medieval Crown of Aragon*, p. 58; Smith, 'Inocencio, Pedro y la historia', pp. 88-9.

As in England, Peter of Benevento's role was partly justified by the will of one of the king's parents: Marie de Montpellier had placed her son and daughters under papal protection. Her decision had been witnessed by several members of the papal court upon whom fell the onus of ensuring papal protection for James. These men – including Stephen of Fossanova and Rainier of S. Maria in Cosmedin – were executors as well as witnesses.⁷⁷ Here again we can see the importance of parental wishes for the legatine role in government.⁷⁸ Once James had been freed from Simon de Montfort, he was handed over to the master of the Temple in Aragon who was to act as his personal guardian.⁷⁹ On the other hand the procuratorship (essentially the regency) was entrusted to James' grandfather's youngest brother: Count Sancho of Cerdña. While the choice of procurator was probably arranged between Peter and the Aragonese nobility⁸⁰ – and therefore the papal legate presumably played a significant part

⁷⁷ 'Actum est hoc in praesentia subscriptorum ad hoc specialiter vocatorum, scilicet Magistri Joannis Castellomate Medici Domini Papae: Magistri Raynerii domini Papae [...] et familiaris: Magistri Benedicti domini Stephani Camerarii': *Spicilegium sive Collectio Veterum*, iii, p. 576; *Pedro el Católico, Documentos, Testimonios y Memoria Histórica*, iv, no. 1499. Stephen Church has pointed to the unclear distinction between witnesses and executors of wills in the early thirteenth century: 'King John's Testament', pp. 514-16. Stephen of Fossanova, one of the witnesses, clearly also fulfilled the functions of an executor because he was left money to arrange Marie's funeral ('pro officio funeris mei et exequiis sepultutae lego secundum providentiam Camerarii domini Papae libras triginta Provinciales [...]').

⁷⁸ The importance of Marie's final wishes can also be seen in the emphasis placed on it in papal letters to Aragon (Smith, *Crusade, Heresy and Inquisition*, pp. 48-9). Marie's care for her son affected James deeply. He clearly revered his mother far more than his father, who had been a questionable husband and father: Damian J. Smith, 'James I and God: Legitimacy, Protection and Consolation in the *Llibre dels Fets*', *Imago Temporis: Medium Aevum* 1 (2007), 105-19, at 107, n. 8, 111-2, 116. For Peter II and Marie's marriage see now D. L. d'Avray, *Dissolving Royal Marriages: A documentary history, 860-1600* (Cambridge, 2014), pp. 69-75; idem, *Papacy, Monarchy and Marriage, 860-1600* (Cambridge, 2015), pp. 84-5.

⁷⁹ Whether this was before or after the Cort at Lleida is difficult to say: *The Book of Deeds of James I of Aragon*, p. 26; Smith, *Innocent III and Aragon*, p. 150; idem, 'Innocent III and the Minority', p. 30.

⁸⁰ As Smith discusses, Sancho was probably appointed at or before the Cort at Lleida in early August 1214: 'Minority of James I', pp. 29-30; *Innocent III and Aragon*, pp. 150-2. The written instructions apparently given to Sancho by Peter might have been similar to the instructions given to the Sicilian *familiares regis* in October 1200 by Innocent III: *Vetera monumenta Slavorum meridionalium historiam (sacram) illustrantia maximam partem nondum edita ex tabulariis Vaticanis deprompta, collecta ac serie chronologica disposita*, (ed.) Augustin Theiner (2 vols, Rome, 1863-75), i, p. 70, no. 211; *The Deeds of Pope Innocent III*, (tr., ed.) James M. Powell (Washington, D.C., 2004),

in the selection – the decision of who would be the personal guardian – a less-important but still prestigious role – was out of Peter’s hands. This was because, in a previous will, Marie de Montpellier had specified that the personal guardianship of her son was to be held by the master of the Temple.⁸¹ As in England, the dying wishes of the parent were of such importance in justifying the position of the legate that it was essential that all the parent’s final instructions be honoured. If the legate’s position was based on the orders of a dying parent then if the legate ignored other testamentary instructions he was undermining his own position.⁸²

It might seem surprising that in England, a so-called ‘vassal-kingdom’, the legate was limited to supporting John’s choice for regent, while in Aragon, merely under papal *protectio*, the legate had a significant role in selecting the procurator. Pope Innocent III even appointed a council of seven Aragonese co-procurators (at the direction of Aragonese emissaries).⁸³ That was a far cry from

pp. 38-9; David Richard Gress-Wright, *The ‘Gesta Innocentii III’: Text, introduction and commentary* (PhD diss., Bryn Mawr College, 1981), pp. 38-9.

⁸¹ José María Lacarra, Luis González Anton, ‘Les testaments de la reine Marie de Montpellier’, *Annales du Midi* 90 (1978), 105-120, at 119. One might have thought that Marie’s first will would have been superseded by her later testaments but her third and final will specified that she ‘established and ordered that the testament which I last made before this [...] should remain fast in all except those which are changed in this last testament’. She was presumably referring here to her second will rather than her first, but this clause provides the necessary ambiguity to suggest that the clause from her first will which named the master of the Temple as guardian of her son still stood.

⁸² It does not appear that the Aragonese minority government had a problem making permanent grants, as the English administration did: *Documentos de Jaime I relacionados con Aragón*, (ed.) María Desamparados Cabanes Pecourt (Zaragoza, 2009), no. 3, p. 28; *Documentos de Jaime I de Aragón*, i: 1216-1236, (eds) Ambrosio Huici Miranda, María Desamparados Cabanes Pecourt (5 vols to date, Valencia, 1976-), p. 27 all include charters from this time which appear to be permanent. Note that in 1214, however, the Catalan cities were granted respite from financial exactions until James reached puberty, (unless they agreed by their own free will) and James I did not have his own seal at the beginning of his reign: *Cortes de los antiguos reinos de Aragón y de Valencia y principado de Cataluña* (26 vols in 27, Madrid, 1896-1922), i, p. 95; Donald J. Kagay, ‘The Line between Memoir and History: James I of Aragon and the *Llibre del Feys*’, *Mediterranean Historical Review* 11 (1996), 165-76, at 169-70; *The Book of Deeds of James I of Aragon*, p. 26, n. 53.

⁸³ The recommendations and requests for new co-procurators probably came from Sancho’s enemies in Aragon, as Smith suggests: ‘Minority of James I’, pp. 45-6. The letter is printed in

the situation in England where Honorius III was worried about offending William Marshal when the idea of a co-regent was raised. In such cases legates and popes were bound by the specifics of the situation. John had nominated a regent and asked the papal legate to care for his son during Henry's minority. The papal legate had to respect John's wishes. Peter II of Aragon, however, had not named a procurator-regent and so, once Bishop Hispan had requested the intervention of a legate, that legate had a say in the selection of a procurator.

On the other hand once Peter, the cardinal-legate, had returned James to Aragon, established a procurator and seen that James was given to the Temple (as Marie had stipulated), he left the kingdom. He did not remain, as the legates to England did for five years after John's death. Again, this is down to the specific circumstances. John had requested legatine and papal aid for his son and the English royalists needed the legates on hand to make use of their spiritual authority. In Aragon, however, although Marie had committed her children to papal guardianship, the only specific request that Pope Innocent received in 1214 was to induce de Montfort to release James. There were numerous possible justifications for wider papal intervention in Aragon but that was not what had been requested. Peter of Benevento had been sent to get James back to Aragon and so once he had done that, and ensured James' government was secure, his job was done.

In 1216 a regency council of seven was appointed in Aragon by Pope Innocent, at the request of certain Aragonese nobles.⁸⁴ The willingness of the Aragonese nobles to turn to the pope to order these appointments arose from their need to justify the changes to the government *somewhat*. They could not,

Ferran Soldavila, *Els primers temps de Jaume I* (Barcelona, 1968), pp. 100-1 = *Butllari de Catalunya*, i, no. 55, pp. 119-20.

⁸⁴ Soldavila, *Primers temps*, pp. 100-1 = *Butllari de Catalunya*, i, no. 55, pp. 119-20: 'Although care of any pupils ought to touch us, yet principally it behoves us to bend our solicitude towards those who look especially to the apostolic see [...]'.

however, do so themselves since they possessed no commission from the previous king or other source of legitimacy. Innocent's role was legitimized by Marie so the appellants could make use of that authority to change the arrangements for the regency.⁸⁵ In late 1215 or early 1216, during Sancho's regency, the papacy was petitioned 'by some who desire the good of the kingdom' for the appointment of co-regents 'lest [Sancho's regency] should be harmful'.⁸⁶ Papal approval must have been sought because Sancho owed his own legitimacy to the papal legate, Peter of Benevento. Therefore Sancho could not deny the legitimacy of these new councillors without denying his own: they all depended in some way on papal authority.⁸⁷ The new councillors legitimized their appointment with reference to Innocent: William de Cervera, one of the new appointees, specified he was a 'councillor constituted by Pope Innocent III'.⁸⁸

In September-October 1218, Count Sancho resigned the regency at a Cort in Lleida. Almost immediately afterward, new procurators appeared in the Aragonese government. These new regent-governors were not appointed with

⁸⁵ At least some of the councillors made specific reference to Innocent as legitimization for their position: 'ego Guillelmus de Cervaria [...] ab Innocentio papa tertio consiliarius constitutus', Thomas N. Bisson, 'The Finances of the Young James I (1213-1228)' in *Medieval France and her Pyrenean Neighbours* (London, 1989), pp. 351-91, at 360-1, 379. After Sancho's resignation there does not appear to have been papal justification for new arrangements, as discussed below.

⁸⁶ Soldevila, *Els primers temps*, p. 100.

⁸⁷ John Shideler doubted Soldevila's suggestion that Sancho requested the councillors himself. I concur with Shideler because, if Sancho had wanted the council, he would not have needed papal approval. The most obvious reason for getting papal approval was to force Sancho to accept councillors that he did not want: *A Medieval Catalan Noble Family: The Montcadas, 1000-1230* (Berkeley, 1983), p. 141, n. 113.

⁸⁸ '[...] spiritualibus consiliariis nostris, a domino papa nobis datis et assignatis [...]' (*Histoire générale de Languedoc*, viii, cols. 714-5); 'ego Guillelmus de Cervaria [...] ab Innocentio papa tertio consiliarius constitutus' [...] (Bisson, 'The Finances of the Young James I (1213-1228)', pp. 360-1, 379); '[...] dominus papa Innocencius [...] subposuit nos [Jacobum] et submissit nutritate et custodie magistri milicie Templi quem etiam et quosdam magnates terre nostre nobis consiliarios assignavit' (*Colección de documentos inéditos del archivo general de la corona de Aragón*, [ed.] Próspero de Bofarull y Mascaró et al [41 vols, Barcelona, 1847-1910], vi, pp. 81-2).

papal input, nor did they justify their appointment with papal approval.⁸⁹ The new procurators, probably also appointed at Lleida, ascribed their *procuratio* to the decision of the royal magnates.⁹⁰ We seem then to have an inconsistency: in 1216 papal approval was required for the appointment of sub-regents; in 1218 it was not. The solution to this is simple: the papacy sometimes acted in the appointment of regents, sometimes not, because papal involvement had to be requested. Innocent appointed councillors for Sancho in 1216 because he was asked. Honorius played no role in approving procurators in 1218 because he was not. The pope did not have an automatic say in the appointment of regents, and nor was papal approval essential, it was just something available to the Aragonese nobles when they needed it, and when they asked for it.

4.8. Legates and Regents: Sicily

In England Guala and Pandulf seem to have had a fairly far-reaching mandate to guard Henry III in his youth. The other English royal administrators knew that the original appointment of a legate had been requested by King John – as had their own appointments as regent, justiciar and so on – and they

⁸⁹ Smith and Buffery (*The Book of Deeds of James I of Aragon*, pp. 29-30, n. 70) claim that Honorius III named a new regency council of four in a letter of 1219 but, as Hillen and Wiswall point out, these four men were *already* James' advisors because they were four of the deputy councillors appointed by Innocent in 1216. Further, these four people were not actually mentioned in the letter at all. The sentence making them 'primary administrators' of the realm was an additional comment by the editor Jeronimo Zurita (for which there is no corroboration): Christian Hillen, Frank Wiswall, 'The Minority of Henry III in the Context of Europe' in *The Royal Minorities of Medieval and Early Modern England*, (ed.) Charles Beem (Basingstoke, 2008), pp. 17-66, at 50, 65-6; Sanpere y Miquel, *Minoría de Jaime I*, pp. 114-15, n. 1 = MDH, pp. 177-8 = *Honorii III opera omnia*, iii, cols 275-7 = Jeronimo Zurita, *Indices rerum ab Aragoniae regibus gestarum* (Zaragoza, 1578), pp. 101-2.

⁹⁰ William de Cervera was one of councillors of 1216 but also procurator in Montpellier in 1219: 'ego Guillelmus de Cervaria [...] ab Innocentio papa tertio consiliarius constitutus et comunicato consilio magnatum terre domini regis, habito etiam diligenti tractatu procurator constitutus'. William de Montcada, appointed procurator in Catalonia, was equally free from papal approval. Bisson, 'The Finances of the Young James I (1213-1228)', pp. 360-1, 379, 380-2; Shideler, *The Montcadas*, pp. 147-8.

plainly saw a permanent legate as useful.⁹¹ Therefore the legatine position was fairly secure. The previous papal legate, Nicholas de Romanis, had also been requested by John in 1214.⁹² There was, however, only very limited papal or legatine intervention in the appointment of regents: the Marshal was chosen by John himself, and a combination of left-over Johannine legitimacy and the wishes of a council of magnates seems to have been pre-eminent in the elevation of his successors.

In the kingdom of Sicily, after the deaths of Henry VI (1197) and his wife, the Empress Constance (1198), Innocent III claimed that Constance had left the guardianship (*balium*) of the kingdom and the tutelage (*tutela*) of young King Frederick to him, because she looked to Innocent 'as to [her] principal lord' – *tanquam ad dominum principalem*.⁹³ The same right of guardianship was claimed by Markward von Anweiler but, in his case, because Henry VI had left the *balium* to him, *ex testamento imperatoris*.⁹⁴ Both claimants – Innocent and Markward – justified their position by reference to the wishes of the previous monarchs. As in England and Aragon, the wishes of the dying king provided legitimacy for anyone claiming the regency. Innocent denied Markward's

⁹¹ Known from the list of rubrics to the lost registers of Innocent III: 'Regi Anglorum scribitur, quod ad petitionem nunciorum suorum mittitur sibi legatus' (*Vetera monumenta Slavorum*, i, p. 63, no. 6). Nicholas Vincent has pointed to a letter from an unknown correspondent (possibly Hugh of Beaulieu) to King John which stated that Innocent's impetus for appointing a legate was actually the siege of Acre and the actions of Prince Louis, but also that Innocent held off on appointing a legate because he had not received a request from John: *Guala*, pp. xxxviii-ix; *Diplomatic Documents*, no. 21, pp. 30-31; Ch.-V. Langlois, 'Préparatifs de l'expédition de Louis de France en Angleterre en 1215', *Revue historique* 37 (1888), 318-22, at 319-22. The most plausible way to unify this seeming contradiction is that Innocent was originally considering sending legates to promote peace, but the pope then sent a legate with wide-ranging powers at John's request, which he must have received early in 1216. The rubric of Innocent's letter – quoted above – leaves little doubt that John requested a legate.

⁹² CS, p. 150: 'Nos ergo iuxta tue petitionis instantiam legatum ad te de nostro latere destinamus'; CS, p. 152: 'postulans ad eam executioni mandandam idoneum a latere nostro destinari legatum'.

⁹³ *The Deeds of Pope Innocent III*, p. 22; Gress-Wright, *Gesta*, pp. 19-20.

⁹⁴ *The Deeds of Pope Innocent III*, p. 22; Gress-Wright, *Gesta*, p. 20; Thomas Curtis van Cleve, *Markward of Anweiler and the Sicilian Regency* (Princeton, 1937), pp. 67-76; Matthew, *Norman Kingdom*, pp. 296-8.

claims, leading to several years of conflict between Markward and papally-backed forces.

Regarding Sicily, I am limiting myself here to looking at the effectiveness of papal authority *within* the royal administration – headed by the council of *familiares regis*. During Frederick's minority the papacy also provided financial backing for military interventions in southern Italy and dispatched legates to accompany and lead military forces. Interesting as they are, I will not be looking at those campaigns. Certainly they show the extent to which the papacy could exert 'hard' power – although they also show the ease with which generals could ignore papal orders if they conflicted with their own desires. In a study of papal lordship, however, it is necessary to concentrate on how papal authority operated within the Sicilian royal government itself.

In Sicily and southern Italy there does not appear to have been much desire amongst the royal administration for actual papal involvement. The 1199 legation of Cardinal Gregory to the royal *familiares* seems to have been pretty much ignored by the chancellor and council.⁹⁵ Following the return of Cardinal Gregory, Innocent sent a letter to the royal council giving them free administration of the kingdom,⁹⁶ probably because there was little else he could do. Around October 1200 Innocent sent written instructions to the royal *familiares* in how to conduct their administration. The injunctions were mainly quite general – not to pay anything from the royal fisc without a majority

⁹⁵ Friedrich Baethgen, *Die Regentschaft Papst Innozenz III. im Königreich Sizilien* (Heidelberg, 1914), pp. 9, 19-20; Thomas Curtis van Cleve, *The Emperor Frederick II of Hohenstaufen: Immutator Mundi* (Oxford, 1972), p. 41; *The Deeds of Pope Innocent III*, pp. 22-3; Gress-Wright, *Gesta*, p. 20. Kölzer seems to suggest that this might have been Constance's intention: 'Un regno in fase di transizione', p. 198, cf. Elizabeth Kennan, 'Innocent III and the First Political Crusade: A Comment on the Limitations of Papal Power', *Traditio* 27 (1971), 231-49, at 234.

⁹⁶ PL 214:736-7, 'cum licet regni balium nobis fuerit ex inclytæ recordationis C. imperatricis testamento relictum, vos tamen administrationem ejus fere totam libere permiserimus exercere'. Innocent also (unsuccessfully) appointed the count of Chieti as procurator of the county of Abruzzi (*Civitatensi*): PL 214:740; Kennan, 'Innocent and the First Political Crusade', p. 243.

decision for example – but the *familiares* were also instructed not to make peace with Markward. They roundly ignored this. In fact, judging by another of Innocent's letters, the *familiares* ignored most of Innocent's instructions.⁹⁷ They certainly neglected to send him any of the cash subsidies he felt he was entitled to because of his 'regency'.⁹⁸ There was plainly little real desire for papal interference amongst the Sicilian minority government, except during those few times when the royal counsellors thought the papacy could be useful. One such example was the 1204 legation of Cardinal Gerard which was requested by the chancellor, Walter of Palear, according to the *Gesta Innocentii*.⁹⁹

The fact that Gerard's legation was requested meant that he enjoyed a brief burst of actual authority; he even styled himself 'Gerard, steward of the Roman see to the isle of Sicily from the apostolic father', on his seal¹⁰⁰ and 'steward of the kingdom of Sicily on behalf of the lord pope' on his documents.¹⁰¹ Unfortunately for Innocent, the temporary respect accorded Gerard did not last very long before his instructions began to be neglected. His legation became impotent.¹⁰² It was to Gerard that custody of Frederick was surrendered, but this was not because of papal power but as part of the political scheming between Dipold of Accera and Walter Capparone.

⁹⁷ *The Deeds of Pope Innocent III*, pp. 37-48; Gress-Wright, *Gesta*, pp. 38-51.

⁹⁸ Baethgen, *Die Regentschaft*, p. 21.

⁹⁹ *The Deeds of Pope Innocent III*, pp. 47-8; Gress-Wright, *Gesta*, pp. 50-1. For Innocent's letters notifying Frederick and the kingdom of Gerard's appointment see PL 215:419; 420; 426, also 317-9.

¹⁰⁰ This, at least, is how I interpret 'G[erardus] AP[osto]LICO PATRE RO[ma]NE SEDIS INSULA S[icilie] BAILUS': *Catalogo illustrato del Tabulario di S. Maria Nuova in Monreale*, (ed.) C. A. Garufi (Palermo, 1902), p. 40; Werner Maleczek, 'Die Siegel der Kardinäle. Von den Anfängen bis zum Beginn des 13. Jahrhunderts', *Mitteilungen des Instituts für Österreichische Geschichtsforschungen* 112 (2004), 177-203, at: 196.

¹⁰¹ 'Ego Gerardus divina miseratione Sancti Adriani diaconus cardinalis, Apostolice sedis legatus et vice domini pape regni Sicilie balius': *Catalogo illustrato del Tabulario di S. Maria Nuova*, p. 39.

¹⁰² *The Deeds of Pope Innocent III*, pp. 47-8; Gress-Wright, *Gesta*, p. 51; van Cleve, *Frederick II*, p. 50.

Interestingly, when Gerard was still respected, we can see that Innocent deferred to him, as Honorius would later defer to his legates in England during Henry III's minority. At the beginning of Gerard's legation, when Walter Capparone sent nuncios to Innocent, the pope told Gerard, 'wishing to defer to you [...] we did not wish to give a final response to them [the nuncios], but decided all must be referred to you'.¹⁰³ And Gerard was told to act 'as you should see fit', as Guala was in England. When a legate was on the ground it was possible for a pope to defer to them, but when there were no legates, as was the case in Aragon after 1215, or when legates were not wanted, decisions had to be made at Rome when petitions were presented. That could obviously lead to more inconsistent and contradictory determinations than leaving matters to legates.

The difference between Aragon, England and Sicily lies in the appeal for papal support. In England King John had left his son in the guardianship of the papal legate and the regents saw the advantage of having a papal legate on hand. In Aragon the bishop of Segovia had appealed for Innocent's aid in getting James back from de Montfort. In Sicily, however, there was clearly far less desire for legations or appeals to Rome on the part of the young Frederick's administrators. Perhaps this was because of Innocent's supposed aims in intervention: to prevent a unification of Empire and kingdom.¹⁰⁴ In such a scenario the *familiares* would question the benefits of appealing to the pope.

We can see that consent and appeals were the currency of papal activity. A legate would be sent or a case decided only if there were an appeal to Rome. The remit of any legate would depend on the terms of that appeal and his

¹⁰³ PL 215:425-6.

¹⁰⁴ On this see: Werner Maleczek, '*Ecclesiae patrimonium speciale*: Sizilien in der päpstlichen Politik des ausgehenden 12. Jahrhunderts' in *Die Staufer in Süden: Sizilien und das Reich*, (ed.) Theo Kölzer (Sigmaringen, 1996), pp. 29-42, at 42 and works discussed 30-1; Maccarrone, 'Papato e regno', pp. 84-5, but also 104-7 for Innocent's supposed counter-plan to create an *Italia Pontificia*.

effectiveness would depend on the consent of the local governors. Papal wardship was legitimized through the dying wishes of a parent; this meant that any papal action was necessarily limited, not just by appeals, but by the need to respect *all* the testamentary wishes of the dead monarch.

4.9. When to Use the Pope: The Letters of 1219

Above I discussed the two letters sent to James I and Count Sancho in late 1217, which threatened Aragon with invasion if aid was sent to Count Raymond of Toulouse, and the letters of May-July 1219 which confirmed James', Aragon's and Montpellier's papal protection. John Shideler suggested that when Sancho retired as procurator in 1218 this was 'a sign to Rome of the regency's new orientation' and hence the papacy no longer threatened the kingdom but protected it in the letters of 1219.¹⁰⁵ In fact, however, the change was not in Rome's policy, but in who the petitioners were and for what they were asking. In 1217 it had been cardinal-legate Bertrand who had asked the pope to try to prevent Aragonese aid reaching Toulouse.¹⁰⁶ Hence the pope had threatened James and Sancho. The May-July 1219 letters, however, were requested by representatives of King James. In November 1218 Prince Louis of France had taken the cross to campaign against the Albigensian heretics in the Languedoc.¹⁰⁷ He came south in May 1219, arriving in early June.¹⁰⁸ The letters confirming papal protection and forbidding molestation of James' possessions were addressed to James of Aragon himself,¹⁰⁹ but also to Louis,¹¹⁰ Cardinal

¹⁰⁵ Shideler, *The Montcadas*, p. 145.

¹⁰⁶ Honorii III *opera omnia*, ii, col. 561; *History of the Albigensian Crusade*, p. 272, n. 99.

¹⁰⁷ Laurence W. Marvin, *The Occitan War: A Military and Political History of the Albigensian Crusade, 1209-1218* (Cambridge, 2008), pp. 297-9; *History of the Albigensian Crusade*, pp. 278-9.

¹⁰⁸ *The Chronicle of William of Puylaurens: The Albigensian Crusade and its Aftermath*, (tr.) W. A. Sibly, M. D. Sibly (Woodbridge, 2003), p. 64, n. 75.

¹⁰⁹ Honorii III *opera omnia*, iii, cols 223-4 (= MDH, p. 171 = Reg. Vat. 10, f. 96v), 224-5 (= *Bullaire de l'Église de Maguelone*, ii, p. 34 = Reg. Vat. 10, f. 96v = MDH, p. 172).

¹¹⁰ MDH, pp. 178-9; *Bullaire de l'Église de Maguelone*, ii, pp. 35-6.

Bertrand,¹¹¹ the count of St-Pol (Crusader),¹¹² Enguerrand de Courcy (Crusader),¹¹³ Engelbert de Herigue and Otto de Treissinet (Crusaders)¹¹⁴ and the bishops of Cambrai, Chalons and Noyon (Crusaders).¹¹⁵ Looking at the list of addressees it is clear that the issuing of all these letters was a response to fears that Louis and his fellow crusaders coveted James' lands. The May-July 1219 confirmations of protection for James and his lands are not evidence that the papal court was previously withholding protection and then – after the resignation of Sancho – it was willing to extend protection to Aragon: it is simply evidence that in mid 1219 the Aragonese and Montpelliérains suddenly had a use for papal protection where previously they had not.

The impetus for confirming papal protection was clearly Prince Louis' crusade, and an embassy from Aragon and Montpellier had decided to try and head off any threat by getting letters addressed to all the leaders of crusade telling them to avoid James' possessions. They were not the only ones with this idea. In May-June 1219 representatives of the English king also requested a papal mandate to Cardinal Bertrand deplored Louis' depredations on the lands of King Henry III – 'a crusader, *pupillus* and one left to the tutelage of the Roman church' – in Gascony and Poitou and ordering the cardinal-legate to warn Louis off trying to transfer any of these lands to his own lordship.¹¹⁶ Two kings – James of Aragon and Henry of England – with different special relationships with the pope – protection and feudal lordship – and one special

¹¹¹ MDH, pp. 177-8 = Sanpere y Miquel, *Minoría de Jaime I*, pp. 114-5, n. 1 = *Honorii III opera omnia*, iii, cols 275-7.

¹¹² *Bullaire de l'Église de Maguelone*, ii, pp. 37-9.

¹¹³ *Bullaire de l'Église de Maguelone*, ii, pp. 39-41.

¹¹⁴ *Bullaire de l'Église de Maguelone*, ii, pp. 41-2.

¹¹⁵ *Bullaire de l'Église de Maguelone*, ii, pp. 45-6.

¹¹⁶ *Diplomatic Documents*, no. 34, p. 38 = *Recueil des historiens des Gaules et de la France*, xix, p. 687. A contemporary copy of this letter, probably sent to Henry III's court by one of his proctors at the papal court, survives from English sources. The copy of this letter in Honorius III's register (Reg. Vat. 10, ff. 94v-95v) is separated from the registrations of the confirmations of papal protection sent to James of Aragon (Reg. Vat. 10, f. 96v) by only two folios.

relationship in common – the parents of both had asked the pope to look after them – used their connections in exactly the same way: to warn Prince Louis off trying to take their land.

We must also quickly note that – with the exception of those addressed to James himself – it is unlikely any of the letters confirming James' papal protection were ever received by their addressees. The letters to St-Pol, Enguerrand de Courcy, Engelbert de Herigue, Otto de Treissinet and the bishops forbidding them to molest Montpellier all survived in their originals in the municipal archive in Montpellier when they were edited in 1914.¹¹⁷ The letters cannot have been delivered to their various recipients if the originals were still together in the archive of the place which asked for them.¹¹⁸ The letters were presumably taken to Montpellier in anticipation of being delivered to their recipients but were never actually handed over. One of the letters to Prince Louis survives in the archive of the crown of Aragon.¹¹⁹ The confirmation of papal protection for the kingdom of Aragon which was addressed to cardinal-legate Bertrand is known only from early modern editions. One of these – Aguirre's *Concilia* – claimed that it was edited from the royal archive in Zaragoza (in Aragon).¹²⁰ The other – that of Jeromino Zurita, the father of Aragonese history – claimed to be edited from the original (*archetypon*).¹²¹ Zurita is most likely to have found the original if it was preserved in Aragon and – for

¹¹⁷ *Bullaire de l'Église de Maguelone*, ii, pp. 39, 41, 42, 46.

¹¹⁸ It is unlikely that the papal chancery would have produced identical double originals of these letters for the same addressees. On this question, see T. K. Nielsen, 'Struggling for Ecclesiastical Independence in the North' in *Pope Innocent II (1130-43): The World vs the City*, (eds) Damian J. Smith, John Doran (Abingdon, 2016), pp. 205-25, at 220, n. 70; B. Wiedemann, 'Review Article: Popes and Jews and Pope Innocent II', *Reviews in History*, no. 2027 (online), n. 11; but cf. (from 1330) *Calendar of Papal Registers Relating to Great Britain and Ireland: Papal Letters*, ii: A.D. 1305-1342, p. 498: 'Duplicate of the letter sent in case the former should be lost'.

¹¹⁹ MDH, pp. 178-9 = *Regesta de Letras Pontificias del Archivo de la Corona de Aragón: Sección Cancillería Real (Pergaminos)*, (ed.) Francisco J. Miquel Rosell (Madrid 1948), no. 75, p. 54.

¹²⁰ *Collectio maxima conciliorum omnium Hispaniae*, (ed.) Joseph Saenz de Aguirre (6 vols, Rome, 1753-5), v, p. 183: 'nunc primum edita ex archivio regio Caesar-augustano'.

¹²¹ Zurita, *Indices rerum ab Aragoniae regibus gestarum*, pp. 101-2: 'Earum litterarum apostolicarum quod apponemus exemplum, exstat archetypon'.

what it is worth – he was born and lived most of his life in Zaragoza.¹²² The original of this letter was therefore – probably – still in the Aragonese archive in Zaragoza in the sixteenth century. It therefore seems unlikely that most of these letters were delivered to their addressees by the Aragonese. The reason is that they were not needed. Prince Louis and his crusade captured Marmande and then besieged Toulouse on the 16/17 June, but the prince raised the siege on 1 August and returned north: ‘his great army accomplished virtually nothing’.¹²³ The letters were not delivered because the crusade did not threaten Montpellier and the crusaders did not stay in the south long enough for the letters to be dispatched to them by the Aragonese and Montpelliérains. This course of events is an excellent illustration of how papal letters could be kept in reserve: the use of papal authority was entirely at the discretion of the petitioner and when papal orders were no longer needed they could be put aside.

4.10. Practicalities: Conclusion

The actions of pope and legate were dependent upon whether someone had appealed to Rome (and the terms of that request), and on any other stipulations which the preceding monarch had made. Peter of Benevento was able to appoint a regent in Aragon while Guala had to support the prior nomination of William Marshal. But on the other hand Peter could not involve himself permanently in the administration because the appeal of the Aragonese had been for the safe return of James only. There was a limit to how far that request could be interpreted as running.

In Aragon, although Marie had committed her son to the Holy See and Aragon was a protectorate, it was the nobility who had actually appealed for papal aid in freeing James from de Montfort. Thus the remit of the legate, and

¹²² His preface to the *Indices rerum ab Aragoniae regibus gestarum*, was written ‘ex suburbano Caesaraugustano’.

¹²³ Marvin, *Occitan War*, pp. 299-301; *William of Puylaurens*, p. 65, n. 81.

of the pope, was more circumscribed. Peter was briefly energetic in establishing James' government but then left. Innocent and Honorius continued to make rulings, decisions, and interventions in Sancho's administration, but seemingly following appeals. Rome and the legate could only react to the matters committed to them, whereas in England the legates had been given a more general duty to care for Henry. Even this, however, was dependent on the circumstance of the civil war and the need of the English administration for immediate papal support. When Stephen Langton had Pandulf's legation cancelled in 1221 it was based on the fact that the minority government was established and war was over.¹²⁴ The regents no longer needed a papal legate.

Irrespective of whether papal wardship of a young king was justified by overlordship, protection, parental wishes or the debt of the pastoral office, such wardship was dependent on an appeal or request for help.¹²⁵ Papal aid still had to be activated. Although protection and feudal overlordship were, by the early thirteenth century, terminologically distinct, the only specific duty of either was still the census payment. In Sicily the lack of appeals for Innocent's aid rendered any attempt to establish general papal government in Sicily impossible. In Aragon occasional appeals for aid set papal decrees in train. In England the desire for a permanent legate to use against the rebels – and King John's insistence that a legate remain – had created the appearance of muscular papal overlordship. In reality even this authority could only exist insofar as it was asked for. If it was not, as in Sicily, it was hardly visible. In Aragon we can see that, after Cardinal Peter left, the papacy had little conception of what its role as guardian entailed: letters which were justified by the papal guardianship

¹²⁴ Carpenter, *Minority*, p. 228; N. Denholm-Young, 'A Letter from the Council to Pope Honorius III, 1220-1', *English Historical Review* 60 (1945), 88-96.

¹²⁵ Recognized by Professor Adams: 'Innocent III and the Great Charter', p. 38. Cf. John T. Noonan Jr., 'Curia Romana and the Story of Magna Carta' in *Forschungen zur Reichs-, Papst- und Landesgeschichte: Peter Herde zum 65. Geburtstag*, (eds) Karl Borchardt, Enno Bünz (2 vols, Stuttgart, 1998), i, pp. 291-302, at 296, 299-300.

of James included those against the crusader threat to Montpellier (some of which were probably requested by the royal administration; some by the Montpelliérains themselves);¹²⁶ against threats to James' rights in Millau (requested by Aragonese royal procurators);¹²⁷ and against Aragonese intervention to aid Toulouse (requested by the crusade legate and Count de Montfort).¹²⁸ There is no consistent 'policy' in these letters because papal guardianship – and *protectio* and overlordship – represented a store of legitimization which could be used by any petitioner whether they were acting for the king of Aragon, against him or simply for themselves.¹²⁹ That legitimization was created – and limited – by the wishes *in extremis* of the parents of the king. That storehouse of legitimization could, of course, also be used by the papacy itself when writing curial letters – letters issued on their own initiative – as we shall see most clearly with Pope Gregory IX and Emperor Frederick. No one person or group had a monopoly on this legitimization: opponents of the king or the royal court might be able to request papal letters against the king and justify them through these relationships. In England the consistent presence of the legates may have lessened the effectiveness of impetrating letters against the king's interests, but there were only legates present because

¹²⁶ *Bullaire de l'Église de Maguelone*, ii, pp. 15 (= MDH, p. 46), 85 (9 April 1224), 102-3, 105, 107-8 (12-3 May 1226) may have been impetrated by Montpelliérains. The impetus for requesting the 1224 warning to Louis was doubtless Amaury de Montfort's surrender of his rights in Toulouse to Louis in February 1224 ('if the lord pope should make and effectively implement [the king's] petitions') and Louis' letter to Narbonne informing them he would travel south after Easter to combat the heretics: *Histoire générale de Languedoc*, viii, cols 789, 790 (and 792-4 for Louis' petition to the pope). The impetus for the 1226 letters was surely that Louis again took the cross in January 1226 and was granted a tenth of ecclesiastical revenues for a crusade in the south: *Histoire générale de Languedoc*, viii, cols 817-9.

¹²⁷ *Honorii III opera omnia*, iv, cols 923-4 = MDH, p. 426 = Reg. Vat. 13, f. 85r.

¹²⁸ *Honorii III opera omnia*, ii, col. 561; *History of the Albigensian Crusade*, p. 272, n. 99.

¹²⁹ In the early years of his reign, James' authority and involvement were extremely limited in Montpellier. Note, however, that in September 1218, at the Cort where Sancho resigned his regency, the consuls of Montpellier were taken into the king's love: Archibald R. Lewis, 'James the Conqueror: Montpellier and Southern France' in *The Worlds of Alfonso the Learned and James the Conqueror*, (ed.) Robert I. Burns (Princeton, 1985), pp. 130-49, at 132-3; idem, 'The Development of Town Government in Twelfth Century Montpellier', *Speculum* 22 (1947), 51-67, at 63-7; *Layettes du trésor de chartes*, i, pp. 471-2.

they had been requested and their presence was still accepted. In England in 1221, and in Sicily throughout Frederick's minority, it is clear that without the local desire for legatine intervention, a legation could not be effective.

Chapter Five: Deposing and Creating Vassal-Kings, 1227- 1297

During the twelfth century and before there was little use of terms such as *feudum* or *vassallus* in papal relations with any kingdom. There is also no evidence that papal approval during royal successions was constitutive: papal approval was not *needed* by new kings in general – although depending on the particular circumstances of the succession, it was sometimes very useful. Papal approval did not actually make new kings. Finally, there is little indication that the pope had a special authority to remove the kings of Aragon or of Sicily – or indeed of anywhere. Popes did depose kings in the twelfth century – Alexander III freed the emperor's subjects from their oaths of fidelity when Emperor Frederick I supported the antipope – but there is no indication that the papacy had any special rights to do so in Sicily or Aragon. This changed in the thirteenth century, beginning with John's feudal surrender in 1213. As well as introducing terms such as *vassallus* and *feudum* into papal-royal relationships – as chapter three outlined – John's surrender specified that if he and his successors did not keep to the terms of their agreement with the papacy, he would lose his right to the kingdom. This conception – that failure to perform 'feudal service' could lead to deprivation of the fief – came from John's surrender and was then developed by the circle of Cardinal Rainier of S. Maria in Cosmedin, a powerful figure at the papal curia during the first half of the thirteenth century. Rainier recognized that this principle – if applied to the papal relationship with the kingdom of Sicily – could be a powerful tool in his campaign against the Emperor Frederick II.

In the event, Pope Innocent IV preferred to utilize another principle to depose Frederick in 1245: that of the papal plenitude of power over all Christians. Nonetheless the idea that there was a particular power of deposition over vassal-kings continued. In the second half of the thirteenth century the

relationships between the pope and the vassal-kings of Sicily, of Corsica and Sardinia and of Valois Aragon were recorded in detailed contracts. These contracts introduced new ideas and new duties into the papal-royal relationships – especially with Sicily – but they also included the principle that failure to perform feudal service – that is, failure to pay the annual census owed to the curia – meant loss of the fief-kingdom.

5.1. Justifying Depositions: Deprivation of Fief

By the thirteenth century, papal deposition of kings had a history. It was not, however, feudal. In the twelfth century the basis of a papal right to depose temporal rulers had been unclear. Via *Treueidlösung* – the absolving of oaths of fidelity – a ruler could be deposed *de facto*: if his subjects were not bound to obey him, how could he rule? Towards the end of the twelfth century a new principle developed: that a ruler's lands could be declared open to seizure if he was a heretic, or aided heretics or even simply failed to persecute heretics.¹ Injunctions against heretical rulers suggested that, in addition to absolving their *fideles* of their fidelity, the lord's lands should be declared open to seizure. This was clearly moving towards a papal right to depose rulers *de iure* – that is, to simply declare them to be deposed, rather than to depose them as a consequence of *Treueidlösung*.² During the twelfth century it had been the threat

¹ See Othmar Hageneder, 'Das päpstliche Recht der Fürstenabsetzung: seine kanonistische Grundlegung (1150-1250)', *Archivum Historiae Pontificiae* 1 (1963), 53-95, at 64-72. An Italian translation appeared in 1983 and was re-printed with emendations as 'Il diritto papale di deposizione del principe: i fondamenti canonistici' in *Il sole e la luna: papato, impero e regni nella teoria e nella prassi dei secoli XII e XIII*, (ed.) Maria Pia Alberzoni (Milan, 2000), pp. 165-211; J. A. Watt, 'Mediaeval Deposition Theory: a Neglected Canonist *Consultatio* from the First Council of Lyons' in *Studies in Church History* ii, (ed.) G. J. Cuming (London, 1965), pp. 197-214, at 212-4; Friedrich Kempf, 'Ein zweiter *Dictatus papae*? Ein Beitrag zum Depositionsanspruch Gregors VII.', *Archivum Historiae Pontificiae* 13 (1975), 119-39, at 138-9. On the putative precedent of the papal deposition of Childebert III in 751, see C. B. Bouchard, 'Childebert III and the Emperors Drogo Magnus and Pippin the Pious', *Medieval Prosopography* 28 (2013), 1-16, at 12-16.

² See Canon three (*De haereticis*) of the Fourth Lateran Council: 'If he [a temporal lord] refuses to do this within a year [purging his land of *haeretica foeditate*], this shall be reported to the supreme pontiff so that he may then declare his vassals absolved from their fealty to him and make the land available for occupation by Catholics (*terram exponat catholicis occupandam*)':

to free *fideles* from their oaths of fidelity which had been the common form for papal deposition. By 1245 the idea that a pope could simply declare a king to be deposed, by virtue of the pope's own innate power, was secure: it was the form used to depose the Emperor Frederick II at Lyons in that year. Between 1213 and 1245, however, there is evidence that the idea of feudal deposition – that certain kings who were vassals of the pope could be removed from their fiefs – had traction at the curia.

On 23 March 1228 Pope Gregory IX published a sentence of excommunication against the Emperor Frederick II. It was not Frederick's first.³ At the beginning of April 1228, Gregory dispatched letters widely across Christendom.⁴ Two letters told the bishops of Apulia and of the province of Canterbury that they should repeat the sentence of excommunication against the Emperor Frederick every Sunday and feast day. Two other letters told the kings of England and Aragon that the pope had little confidence that Frederick would fulfil his promise to travel to the Holy Land and insinuated that Henry III and James I might perhaps be interested instead. These four letters – all with the incipit *Quanto nobilius membrum* – were exactly the same, differing only in the final sentence: ordering the English and Italian bishops to publish the

Decrees of the Ecumenical Councils, i, p. 234. It is true that, even during the twelfth century, there was a range of opinion amongst the decretists as to whether the pope could exercise direct deposition rather than merely *Treueidlösung*. For the development of papal depositions see Hageneder, 'Das päpstliche Recht der Fürstenabsetzung', pp. 53-95, at 64-72 and idem, 'Il diritto papale di deposizione del principe', pp. 165-211. Christopher Cheney, discussing Innocent III's alleged deposition of King John (c.1212) explicitly drew the distinction between excommunication, *Treueidlösung* and deprivation of office, noting that the latter was rare indeed for the papacy, referencing only Gregory VII's deposition of Henry IV and Innocent IV's deposition of Frederick. However, he did not outline whether he thought Innocent's (prospective) deposition of John would be deprivation of office or *Treueidlösung*: 'The Alleged Deposition of King John', pp. 102, 109-15. See also Abulafia, *Frederick II*, p. 373: 'Several kings were papal vassals, and with them [the] business [of deposition] was easier, at least in theory: kings of England, Sicily, Aragon and so on.'

³ Abulafia, *Frederick II*, pp. 165-70.

⁴ On the dating of these letters, see 'Appendix: *Quanto nobilius membrum*, a letter of Pope Gregory IX: dating, registration and engrossment' below, pp. 269-73.

excommunication, and telling the two kings that they should be ‘inflamed by all emotion to it [aiding the holy land] because [...] if the emperor will never go there, the Lord – as we believe – is able to provide aid from elsewhere’.⁵ The rest of the letter – mostly a *narratio* of Frederick’s failings, his consequent excommunication and further threats against him – were the same. Although we cannot be absolutely certain, it is very likely that further copies of this letter were sent to other recipients.⁶

In the main body of these letters, the pope explained that he was considering deposing Frederick as emperor and king of Sicily because of his abuses against the church and people of Sicily. The pope, Gregory explained, could release anyone who was bound to Frederick by an oath of fidelity from that oath. This included the ‘men of the kingdom’ (of Sicily) but was not limited to them. This threat was thus aimed at Frederick as both king and as emperor. The letter then went on:

if he [Frederick] should not cease from oppression of pupils, orphans and widows or nobles and other men of the kingdom and from the destruction of the kingdom – which is known to pertain specially to the Roman Church [and] for which he rendered an oath of fidelity and performed homage to our predecessors and to the Roman Church – he should justly fear himself deprived of right to [his] fief.⁷

⁵ On these letters, see ‘Appendix: *Quanto nobilius membrum*, a letter of Pope Gregory IX: dating, registration and engrossment’ below, pp. 269–73. The letters are found in MGH Epp. Saec. XIII, i, no. 371, pp. 288–9; ASV, Reg. Vat. 14, ff. 56^v–57^r; 64^v–65^v; TNA, SC 7/46/11; *Documentos de Gregorio IX (1227–1241) Referentes a España*, (ed.) Santiago Domínguez Sánchez (León, 2004), no. 56, pp. 83–4.

⁶ ‘Appendix: *Quanto nobilius membrum*, a letter of Pope Gregory IX: dating, registration and engrossment’ below, pp. 269–73.

⁷ *Quanto nobilius membrum*: MGH Epp. Saec. XIII, i, no. 371, pp. 288–9; ASV, Reg. Vat. 14, ff. 56^v–57^r; 64^v–65^v; TNA, SC 7/46/11; *Documentos de Gregorio IX*, no. 56, pp. 83–4. Graham Loud seems to be the only recent historian of Staufen Sicily to have drawn attention to this specific threat: ‘The Papal “Crusade” against Frederick II in 1228–1230’ in *La papauté et les croisades/The Papacy and the Crusades*, (ed.) Michel Balard (Farnham, 2011), pp. 91–103, at 91.

This was a novel claim. First, the kingdom of Sicily had not been claimed as a fief of the papacy before. Innocent III had (by way of analogy) compared the king of Sicily to a vassal. Honorius III had claimed Sicily as part of the patrimony of the church. Neither had unequivocally identified the king as a papal vassal, nor the kingdom as a papal fief.

Secondly, the above section suggested a new legal right: that the pope could remove the king's *ius feudi*. Such 'feudal' deposition was new. The distinction which Gregory IX made in 1228 – between deposition by *Treueidlösung* (the absolving of oaths of fidelity) and outright confiscation of a fief – was a novelty.

Where then did these two innovations come from? Fortunately we can not only speculate, but perhaps even arrive at a convincing answer. The important figure is Rainier of S. Maria in Cosmedin. Rainier has made an appearance here already. Along with Stephen of Fossanova, Pandulf Verraclo, Guala Bicchieri and others, he was one of the papal *curiales* with links to England and the courts of John and Henry III during the pontificates of Innocent III (1198-1216) and Honorius III (1216-1227). Along with Stephen of Fossanova, he also had links to the Aragonese court of James I, thanks to having witnessed the will of Marie de Montpellier in 1213.⁸ We will see below that from his notarial work in the 1210s, Rainier would be aware of the feudal deposition principle – that a king might be removed by the pope for his failure to perform stipulated services. He then applied this principle, from papal-English relations,

⁸ Above, pp. 149-51. Rainier's links with the English court are not as emphasized as Pandulf's or Guala's. However, Sayers (*Papal Government*, pp. 61-2, 198) noted his English pension, his conference with the English ambassadors in 1224 and even his resignation of a Calabrian prebend in favour of the papal scribe master Benedict de Fractis, who wrote at least one papal letter to an English recipient (*ibid.*, pp. 221-2). This may well be the same Master Benedict who immediately follows Rainier (and precedes Stephen) in the witness list to the 1213 will of Marie de Montpellier. Rainier's English links were also discussed by Norbert Kamp, 'Capocci, Raniero' in *Dizionario Biografico degli Italiani* 18 (1975), online edition consulted [accessed: 27/02/2016].

to papal-Sicilian relations; originally in 1228, when Rainier probably played a role in composing *Quanto nobilius membrum*, and then again in 1245, when Rainier's circle at the curia composed a series of uncompromising pamphlets attacking Frederick II. While these pamphlets had their desired effect – Frederick was deposed as king and emperor in 1245 – the feudal deposition idea was not used. Frederick was simply deposed outright as king and emperor by Pope Innocent IV.

Rainier first appeared as a papal notary in 1213 – witnessing Marie's will with Stephen of Fossanova. In 1215 he – still a notary – was awarded an annual pension by John of England and in 1216 he was elevated to cardinal-deacon of Santa Maria in Cosmedin. From 1216-1222 he appears to have been an ally of Henry III at the curia, writing letters to Henry telling the young king to commit any business he might have at the papal court to Rainier.⁹ Rainier's role as notary from 1213-6, and pensioner of John from 1215, make it likely that he played a role in the composition of papal letters for John. From these he would have come across feudal terminology – John was called a *vassallus* and England a *feudum* – and also the specific terms of John's feudal surrender:

As an indication of our perpetual offering and concession we wish and decree that [...] as all the service and payment which we ought to make [...] the Roman Church is to receive annually [...] one thousand marks sterling [...] Desiring all these terms, exactly as stated, to be forever ratified and valid, we bind ourselves and our successors not to contravene them; and if we or any of our successors shall presume to contravene them, then [...] let him lose the right to the kingdom.¹⁰

⁹ Above, pp. 149-51.

¹⁰ CS, pp. 179-80: 'Ad indicium autem huius nostre perpetue oblationis et concessionis volumus et stabilimus ut [...] pro omni servitio et consuetudine quod pro ipsis facere deberemus [...] ecclesia Romana mille marchas sterlingorum percipiat annuatim [...] Que omnia sicut predicta sunt rata esse volentes perpetuo atque firma obligamus nos et successores nostros contra non

Here it was stated that John might cease to be king if he did not pay his census to the pope. Admittedly the privilege did not state what would happen should that occur. Would the pope then choose a new king, or would the kingdom pass to the next legitimate heir? Such details are not given, but that is not the important point. The loss of *ius regni*, in the 1213 privilege for King John, above, is directly comparable to the deprivation of *ius feudi* in *Quanto nobilius membrum*. From his work as a papal notary in 1213-16, Rainier would have come across John's statement of feudal deposition, and his use of such a concept becomes undeniable from his later writings.

It seems quite likely that Rainier, by 1216 cardinal-deacon of S. Maria in Cosmedin, was, in some measure, a contributor to Gregory's 1228 letter, *Quanto nobilius membrum*. Rainier is most famous for his propaganda pamphlets against Frederick II, written in the 1240s by the cardinal and his circle, and several of these pamphlets have similarities with *Quanto nobilius membrum*. The three most important of these pamphlets for us are the two written by Rainier's circle in the run-up to the council of Lyons (July 1245): *Aspidis ova* (c. April 1245) and *Iuxta vaticinium Ysaie* (c. June 1245), and the infamous *Eger cui lenia*, seemingly composed by Rainier's chaplains at Lyon in the aftermath of the council.¹¹

venire. Et si nos vel aliquis successorum nostrorum hoc attemptare presumpserit [...] cadat a iure regni'.

¹¹ *Aspidis ova* narrates the mis-deeds of Frederick up to 1241; *Iuxta Vaticinium Ysaie* then takes up the story from 1241. *Acta imperii inedita seculi XIII. et XIV.*, ii: *Urkunden und Briefe zur Geschichte des Kaiserreichs und des Königreichs Sicilien in den Jahren 1200-1400*, (ed.) Eduard Winkelmann (2 vols, Innsbruck, 1880-5), no. 1037, pp. 709-17, 717-21; *Das Brief- und Memorialbuch des Albert Behaim*, (eds) T. Frenz, P. Herde, MGH Briefe d. spät. MA (Munich, 2000), pp. 102-10, 191-212, 215-26; Matthias Thumser, 'Kardinal Rainer von Viterbo (+ 1250) und seine Propaganda gegen Friedrich II.' in *Die Kardinäle des Mittelalters und der Frühen Renaissance*, (eds) Jürgen Dendorfer, Ralf Lützelschwab (Florence, 2013), pp. 187-99, at 189-91; idem, 'Antistaufische Propaganda in einer Prager Handschrift: Der Brief *Grande piaculum* des Kardinals Rainer von Viterbo (1248)', *Mediaevalia Historica Bohemica* 12 (2009), 7-41, at 8-11, English summary at 40-1; Peter Herde, 'Ein Pamphlet der päpstlichen Kurie gegen Kaiser Friedrich II. von 1245/46 ("Eger cui lenia")', *Deutsches Archiv* 23 (1967), 468-538; idem, 'Literary Activities of the Imperial and Papal Chanceries during the Struggle between Frederick II and the Papacy' in *Intellectual Life at the Court of Frederick II Hohenstaufen*, (ed.) William Tronza (Washington, 1994), pp. 227-239, at 231-5; Kamp, 'Capocci, Raniero'; Tommaso di Carpegna Falconieri, 'Ranieri di Viterbo' in *Federiciana*

First, both *Iuxta vaticinium Ysaie* and *Eger cui lenia* contain a medical parable: that it is essential to cut or burn out infection, when medicines no longer help, as – the implication is – they have not helped with Frederick. This was one of the similarities between the two which led Peter Herde to attribute *Eger cui lenia* to Rainier's circle of chaplains at Lyon.¹² Medicine and infection are themes running through the opening to *Quanto nobilius membrum* too:

[...] because according to the dictum of the wise [Cato] "when you are dressing a wound, pain is pain's medicine", we bore the medicinal sword of St Peter towards him [Frederick], in a spirit of gentleness, by publication of sentence of excommunication [...] Therefore fearing, lest his plague should become fully incurable if we should evilly allow the scar of the overlooked injury to be closed, and the more incurable it [the injury] becomes, the less obvious it would be, we have studied to apply a curative poultice.¹³

This 'curative poultice' is the letter – *Quanto nobilius membrum* – and the sentence of excommunication and the threat of deposition which are outlined in

(2005), <[http://www.treccani.it/enciclopedia/ranieri-di-viterbo_\(Federicana\)/](http://www.treccani.it/enciclopedia/ranieri-di-viterbo_(Federicana)/)> [accessed: 27/02/2016]; Robert E. Lerner, 'Frederick II, Alive, Aloft, and Allayed, in Franciscan-Joachite Eschatology' in *The Use and Abuse of Eschatology in the Middle Ages*, (eds) Werner Verbeke, Daniël Verhulst, Andries Welkenhuysen (Leuven, 1988), pp. 359-84, at 360; Morris, *Papal Monarchy*, pp. 523-4, 560, 566, 568-9. In general see Abulafia, *Frederick II*, pp. 356-8, 368; Ernst Kantorowicz, *Frederick the Second 1194-1250*, (tr.) E. O. Lorimer, re-print (New York, 1957), pp. 592-5, containing long quotations from *Iuxta vaticinium Ysaie*. Thumser seems to doubt that Rainier composed Gregory IX's *Ascendit de mari bestia* ('Antistaufische Propaganda', p. 9, n. 3), but the letter of Zoën Tencarari to Rainier ('See, father, the beast, which according to your letters rises from the sea [...]') suggests he did: Fedor Schneider, 'Toscanische Studien', *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 13 (1910), 1-72, at 70; Herde, 'Ein Pamphlet der päpstlichen Kurie', p. 503, n. 149. Rebecca Rist ascribes *Ascendit de mari bestia* to Gregory IX and *Eger cui lenia* to Innocent IV: *The Papacy and Crusading in Europe, 1198-1245* (London, 2009), pp. 192-4, 213, nn. 276, 279, 288.

¹² Herde, 'Ein Pamphlet der päpstlichen Kurie', p. 499. Noted also by Rist, *The Papacy and Crusading in Europe*, pp. 192-4. One of Gregory IX's 1233 *Vox in Ramas* also contains a similar medical image and may have also been drafted by Rainier, see MGH Epp. saec. XIII, i, p. 434; Herde, 'Ein Pamphlet der päpstlichen Kurie', pp. 502-3, n. 148.

¹³ MGH Epp. saec. XIII, i, no. 371, pp. 288-9; ASV, Reg. Vat. 14, ff. 56v-57r; 64v-65v; TNA, SC 7/46/11; *Documentos de Gregorio IX*, no. 56, pp. 83-4.

it. Not only does *Quanto nobilius membrum* play on medical analogies, as Rainier's later pamphlets do, but *Iuxta vaticinium Ysaie* and *Eger cui lenia* are directly dependent on its analogy: both the later pamphlets specify that other medicines – *medicina fomentorum* and *lenia medicamenta* – had failed. *Quanto nobilius membrum* was this 'calming medicine' to which Frederick had failed to respond. Thus the sentence of deposition in 1245 was the medicinal knife, to be used when palliatives had failed. The letters, *Quanto nobilius membrum*, *Iuxta vaticinium Ysaie* and *Eger cui lenia* show a progression and interdependence of medical imagery, and the later pamphlets clearly refer back to the earlier letter.

Secondly, and more importantly, the sentence threatening to deprive Frederick of the kingdom from *Quanto nobilius membrum* crops up in a very similar manner in Rainier's *Aspidis ova*, the pamphlet written in 1245:

[...] from the debt of fidelity offered to the Church for the kingdom of Apulia, he [Frederick] was held to serve the Roman Church in its expenses and to return census – which he paid sometimes, but for twelve years and beyond he has ceased to pay – because of which he justly deprived himself of the fief.¹⁴

The final sentence – *propter quod ipse feudo merito se privavit* – is so similar to the equivalent in *Quanto nobilius membrum* – *merito poterit formidare se iure feudi privandum* – that one must have inspired the other. It is possible that Rainier was simply influenced by *Quanto nobilius membrum* but there is reason to doubt that, and to think he was author of both. The relevant phrase, about loss of feudal rights, only appears in *Quanto nobilius membrum*. Similar sentences appear in other papal letters of 1228-9 and in the eventual treaty between Gregory IX and Frederick II in 1230, but with the 'deprivation of right to the

¹⁴ *Aspidis ova: Acta imperii*, ii, pp. 717-21, at 718.

fief' excised.¹⁵ Rainier would have had to have remembered the particular wording of this particular letter for more than a decade, until he repeated it in the 1240s. Admittedly, *Quanto nobilius membrum* seems to have been one of the most widely distributed papal letters of the early thirteenth century: dispatch across all the ecclesiastical provinces and kingdoms of Europe seems entirely possible, perhaps even probable. Nonetheless, such a suggestion – that Rainier was influenced by *Quanto nobilius membrum* rather than contributing to it – would not explain the similarity in medical imagery between *Quanto nobilius membrum*, *Iuxta vaticinium Ysaie* and *Eger cui lenia*. Most likely is that Rainier and his circle wrote *Quanto nobilius membrum*, as well as the later pamphlets, and they kept a copy.¹⁶ Admittedly *Quanto nobilius membrum* does not evince the biblical apocalypticism of Rainier's later pamphlets,¹⁷ but this is not too surprising: *Quanto nobilius membrum* was written early in the papacy's dispute with Frederick. In 1228 the curia was still hoping that Frederick would mend his ways and 'before the stated time, transfer aid to the holy land and faithfully implement other promises'.¹⁸ Frederick was not yet the antichrist; not yet *quasi Lucifer*.¹⁹ Equally, Rainier and his circle were operating away from the papal

¹⁵ 1229 letter: MGH Epp. saec. XIII, i, p. 319. Cf. the 1230 treaty between Frederick II and Pope Gregory: MGH LL, ii, p. 271: 'Item quia ab oppressione pupillorum orphanorum et viduarum seu nobilium et aliorum hominum de regno, vel destructione ipsius, quod ad Romanam ecclesiam noscitur specialiter pertinere, pro quo Romane ecclesie iuramentum fidelitatis exhibuit et homagium prestitit, monitus non cessavit'. Cf. also the letter of 30 August 1228 absolving all who were bound to Frederick by oaths of fidelity from their oaths – MGH Epp. Saec. XIII, i, pp. 730-1; *Historia diplomatica Friderici secundi*, (ed.) J.-L.-A. Huillard-Bréholles (7 vols. in 12, Paris, 1852-61), iii, pp. 494-6 – and the 1239 excommunication and annulling of oaths of fidelity: *Historia diplomatica*, v, part 1, pp. 286-9.

¹⁶ Thumser, 'Kardinal Rainer von Viterbo († 1250)', pp. 197-8 argues that in mid-1244 Rainier and his vicarial chancery gathered a collection of letters and texts on unbound folios rather than in a single register. It seems likely that Rainier was already keeping some texts prior to 1244, and *Quanto nobilius membrum* was probably one, since he drew on it in *Aspidis ova* and *Iuxta Vaticinium Ysaie*.

¹⁷ On which see Herde, 'Ein Pamphlet der päpstlichen Kurie'; Lerner, 'Frederick II, Alive, Aloft, and Allayed', p. 360; Morris, *Papal Monarchy*, pp. 523-4, 560, 566, 568-9; Kantorowicz, *Frederick the Second*, pp. 592-5.

¹⁸ MGH Epp. saec. XIII, i, p. 288; ASV, Reg. Vat. 14, ff. 56v-57r; 64v-65v; TNA, SC 7/46/11; *Documentos de Gregorio IX*, no. 56, pp. 83-4.

¹⁹ *Iuxta vaticinium Ysaie: Acta imperii*, ii, p. 710.

chancery when they wrote *Aspidis ova* and *Iuxta vaticinium Ysaie* in 1245,²⁰ but *Quanto nobilium membrum* was drafted at the curia of Gregory IX. Pope Gregory or other cardinals or notaries may have toned the draft down (or up) before having it engrossed and registered. Cardinal Thomas of Capua – a supposed moderate – was still present and influential at the curia in 1228.²¹

Quanto nobilium membrum and especially *Aspidis ova* show the application of the English feudal bond to the relationship between Sicily and the papacy. The non-payment of census, and failure to serve the church, were given as reasons for a (fictional) previous deposition of Frederick in *Aspidis ova*. There is no evidence that non-payment of the annual census led to deposition for the twelfth-century Norman kings of Sicily.²² In 1228, Gregory, probably in Rainier's words, could threaten to use the feudal bond – not previously called such – simply to depose Frederick outright for his excesses in Sicily. This threat of feudal deposition was being used by Gregory as a tool to bring Frederick to heel.

Rainier's *Aspidis ova* explicitly links an – apparently fictional²³ – previous deposition of Frederick with a failure to perform a stipulated feudal duty (paying the census). The 1228 letter – *Quanto nobilium membrum* – threatened (and only threatened) Frederick with deposition for the oppression of the men of the kingdom of the Sicily (the fief) and the destruction of the kingdom itself.

²⁰ As Thumser notes, Rainier was papal vicar in the Patrimony at this time and – although separated from the papal chancery – probably had his own vicarial chancery to draw on instead: 'Kardinal Rainier von Viterbo († 1250)', p. 198.

²¹ Herde, 'Literary Activities of the Imperial and Papal Chanceries', p. 234.

²² The 1130 and 1139 privileges to King Roger, and the 1156 privilege confirming the treaty of Benevento (*Licet ex iniuncto*), simply said that the census should be paid unless an impediment intervened or the census was not asked for. When the impediment was removed or the census was asked for, the money should then be paid. No indication was given that non-payment would lead to deposition: the 1130, 1139 and 1156 privileges all threatened excommunication against anyone who went against the agreements in general: Loud, *Creation*, pp. 304-8, 310-12; Pseudo-Hugo, pp. 248-52; MGH Const. i, pp. 590-91.

²³ Gregory did absolve Frederick's *fideles* of their fidelity later in 1228, but there was no *de iure* deposition, *Historia diplomatica*, iii, pp. 494-6.

In fact, Rainier – and the papacy's – problems with Frederick were not based on his failure to perform 'feudal service' but on his other failures: the crusade, encroachment on papal land and so on. Amidst Rainier's propaganda campaign against Frederick – portraying him as nothing less than the antichrist – it is surprising to find the statement that he lost his regal fief for tax-evasion: more Al Capone than the antichrist. However, the references to failure to pay his census and oppression of the kingdom were – for Rainier and the papacy – necessary justifications if they were to claim depose Frederick feudally. King John's 1213 surrender had stated that the king would lose his *ius regni* if he did not keep to the terms of the surrender. Therefore, when Rainier argued for Frederick's deposition, he thought that he had to argue that Frederick had failed in his feudal duty in order to suggest that the pope should take away Frederick's fief (Sicily). These were not ideas that had been bandied about in regard to Sicily before. When it came down to it, Frederick's eventual deposition at Lyons was not on feudal grounds, as discussed below, and so there was no need to emphasize Frederick's failure to perform stipulated feudal service (i.e. to pay his census). It is pretty clear therefore that the feudal relationship was a tool for the papal court, not its motivation.²⁴ It seems, though, that it could have been an effective tool.

²⁴ See, for example, Loud, 'The Papal "Crusade" against Frederick II in 1228-1230', pp. 93-8 who discusses the conflicts over ecclesiastical appointments in Sicily and over the March of Ancona and duchy of Spoleto. He also emphasizes continuity between Honorius III and Gregory IX (*pace* van Cleve, *Frederick II*, pp. 196-213; Rist, *The Papacy and Crusading in Europe*, p. 181). See also Peter Stacey's extremely interesting and innovative *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), pp. 75-89 where '[...] the disciplinary measures of excommunication and invasion [were] exercised by the pope, not in his capacity as a feudal *dominus* of some local territories, but as his [Frederick's] *princeps*. The primary grounds on which the papacy defended its use of these powers in the kingdom – the doctrine of the papal vicariate and the *Donation of Constantine* – similarly constituted the fundamental basis of its claims to ultimate secular authority over Frederick in every other territory he claimed to rule as Holy Roman Emperor.' (*ibid*, p. 79). Frederick thus brought in the Senecan idea of the *princeps* to the 1231 constitutions of Melfi to counter the idea of papal supremacy based on the vicariate. However, as I hope I have shown, in the period that Stacey is interested in – the run up to the constitutions of Melfi (1228-31) – and even into the 1240s in Rainier's pamphlets, the feudal bond was still a possible

5.2. Justifying Depositions: Plenitude of Power

At Lyons in 1245 Pope Innocent IV simply deposed Frederick as king and emperor both, by his own inherent power to depose rulers who were enemies of the Church.²⁵ The great canonist Henry of Susa (Hostiensis)'s *consultatio* regarding Frederick's deposition – composed for Innocent at Lyons – did seem to suggest that Frederick's deposition was partially legitimized by his status as a feudatory. According to John Watt, commenting on the *consultatio*: '[f]urther, as king of Sicily, Frederick was a *feudatarius* of the Roman Church. Hostiensis cited the Fourth Lateran Council to establish that any *advocatus* or *feudatarius* of the Church who abused his position should be deposed.' But Hostiensis could simply have been implying that Frederick as emperor, rather than as king of Sicily, was a feudatory of the pope.²⁶ There was a popular view that the emperor was a papal *vassallus*, although it was normally rejected by the emperor.²⁷ More importantly, when Hostiensis made this point he was discussing whether deposition was a suitable punishment for the emperor. He was not discussing the actual justification for a pope to depose an emperor.

means of exerting pressure on Frederick *qua* king of Sicily, distinct from any authority the pope had over the emperor *qua* emperor. The vicariate and papal *plenitudo potestatis* came to the fore during Frederick's 1245 deposition. Regarding Stacey's interpretation of the 1231 Constitutions of Melfi (*ibid.*, p. 80), cf. Kenneth Pennington, 'Gregory IX, Emperor Frederick II, and the Constitutions of Melfi' in *Popes, Teachers, and Canon Law in the Middle Ages*, (eds) James Ross Sweeney, Stanley Chodorow (Ithaca NY, 1989), pp. 53-61. In general see Abulafia, *Frederick II*, pp. 164-201.

²⁵ Joseph Canning, *A History of Medieval Political Thought, 300-1450* (London, 1996), p. 124; Edward Peters, *The Shadow King: 'Rex Inutilis' in Medieval Law and Literature*. 751-1327 (New Haven/London, 1970), p. 157 discussing Innocent IV's own commentary on his document of deposition; J. A. Watt, 'The Papacy' in NCMH, v, pp. 105-63, at 142; Abulafia, *Frederick II*, p. 373; Watt, 'Mediaeval Deposition Theory', pp. 203-11.

²⁶ While Hostiensis did say that '[the emperor] has received many benefits from the Roman Church and is its feudatory', he did not specifically link Frederick's feudal status with the kingdom of Sicily. In fact, in the quotation just given he specifically calls Frederick 'the emperor' rather than 'the king of Sicily': Watt, 'Mediaeval Deposition Theory', pp. 201-2, 209. On Hostiensis in general see Kenneth Pennington, 'Henricus de Segusio (Hostiensis)' in *Popes, Canonists and Texts, 1150-1550* (Aldershot, 1993), no. 16 (pp. 1-12).

²⁷ See Ryan, 'The Oath of Fealty and the Lawyers', p. 214, n. 7 for an example of a canonist raising the possibility in the thirteenth century. It had, most famously, been rejected by Emperor Frederick I in the 1150s.

Hostiensis concluded that Innocent was *right* to depose Frederick because, as an *advocatus* and *feudatarius*, Frederick was supposed to defend ecclesiastics, but he had not done so. Various authorities said that that an advocate – a layman selected to defend a church – who abused his position should be removed, ergo Frederick should be deposed. This did not mean that Hostiensis thought that the actual power of deposing was based on the feudal relationship.

When Hostiensis did discuss the ability to depose the emperor he made it clear that the emperor could be deposed for a mortal sin, and that if the pope had deposed the king of the Franks in the eighth century, who was not crowned or examined by the pope, then the pope clearly could depose an emperor whom he had crowned and examined. Feudal status or vassalage did not come into the equation.²⁸

Once the clerics at Lyons, including Hostiensis, had submitted their opinions on the deposition-question, Innocent IV deposed the emperor. Frederick's 1245 deposition was an outright deposition as both king and emperor by virtue of papal *plenitudo potestatis*:

We therefore [...] mark the said prince, who has made himself unworthy of imperial or regal honour and dignity and also, for his crimes, has been cast out by God from ruling and commanding and has been bound by his sins and cast out and deprived by the Lord from all honour and dignity; and we nonetheless deprive and denounce him by this sentence. We absolve from their oath perpetually all those who are bound to him by an oath of fidelity, firmly forbidding by apostolic authority anyone [...] to submit to or obey him as emperor or king.²⁹

²⁸ Watt, 'Mediaeval Deposition Theory', pp. 203-8.

²⁹ Cited in Julien Théry, Patrick Gilli, 'Le combat contre les Hohenstaufen et leurs allies' in *Le gouvernement pontifical et l'Italie des villes au temps de la théocratie (fin-XII^e-mi-XIV^e s.)* (Montpellier, 2010), pp. 65-112, at 88: 'Nos itaque [...] memoratum principem, qui se Imperio et regnisi omniisque honore ac dignitate reddidit tam indignum quique propter suas iniquitates a Deo ne

No distinction was made here between Frederick's deposition as emperor and king. There were four 'most grave' reasons for the deposition: failure to keep oaths; deliberately transgressing the peace between empire and papacy; the arrest of cardinals and ecclesiastics; and suspected heresy.³⁰ Brief references to the kingdom of Sicily being held *in feudum*, failing to pay census and Frederick's desolation of the kingdom are tacked on to the end – in the same vein as Frederick's lack of charity and failure to build churches.³¹ These were clearly afterthoughts: deposing an emperor for not building churches was a definite stretch.

The 1245 deposition declared Frederick to be removed as king and emperor in the same sentence with no distinction.³² This seems to be a departure from the approach of Rainier of S. Maria in Cosmedin – and perhaps Gregory IX – which was that feudal status could be used to justify deposition, if it was argued that Frederick had failed in his feudal duties. Innocent IV was a lawyer and canonist himself and, judging by Hostiensis' *consultatio*, he sought the opinions of other canonists. Innocent's curia preferred to legitimize their actions

regnet vel imperet est abjectus, suis ligatum peccatis et abjectum omniq[ue] honore ac dignitate privatum a Domino ostendimus, denuntiamus ac nichilominus sententiando privamus, omnes qui ei juramento fidelitatis tenentur astricti a juramento hujusmodi perpetuo absolventes, auctoritate apostolica firmiter inhibendo ne quisquam de cetero sibi tamquam imperatori vel regi pareat vel intendat'.

³⁰ Théry, Gilli, 'Le combat contre les Hohenstaufen et leurs allies', p. 78: 'Et [...] quattuor gravissima [scelerata], que [...] commisit: dejeravit enim multotiens; pacem quondam inter Ecclesiam et Imperium reformatam temere violavit; perpetravit etiam sacrilegium, capi faciens cardinales sancte Romane ecclesie ac aliarum ecclesiarum prelatos et clericos religiosos et seculares [...]; de heresi [...] suspectus habetur'.

³¹ Théry, Gilli, 'Le combat contre les Hohenstaufen et leurs allies', pp. 86-8: 'regnum Siciliae, quod est speciale patrimonium beati Petri et idem princeps ab apostolica Sede tenebat in feudum [...] Posset etiam merito reprehendi, quod mille squifatorum annuam pensionem, in qua pro eodem regno ipsi ecclesie Romane tenetur, per novem annos et amplius solvere pretermisit'. Note the appearance in this sentence of the adverb *merito* – 'justly' – also found in the feudal deposition clauses in *Quanto nobilius membrum* and *Aspidis ova*.

³² Théry, Gilli, 'Le combat contre les Hohenstaufen et leurs allies', pp. 78-88. The *Relatio* of the council of Lyons does note that Frederick held Sicily *in feudum* and also that Frederick offered an oath of fidelity to the pope 'as a vassal to his lord' – *tanquam vassallus suo domino*: MGH Const., ii, p. 514. In chapter three I have drawn attention to the equivocation which is implicit in this use of *tanquam vassallus/tanquam feodarius* by Innocent III.

by other means.³³ Rainier's chaplains were apparently not opposed to that preference, if their pamphlet *Eger cui lenia* – written soon after the council – is any indication. Again the feudal status of Sicily was mentioned in *Eger cui lenia* as a justification for the pope's ability to judge Frederick, but the pope's power to act was not dependent on it, nor was it dependent on Constantine's famed donation to the Holy See. The pope's power to act stemmed from the authority always inherent within the successor of St Peter.³⁴ Although the arguments of *Eger cui lenia* were extreme, in the second half of the thirteenth century it would be these ideas of plenitude of power and deposing enemies of the faith and heretics which would dominate papal deposition theory.

It seems then that Rainier's ideas about feudal deposition were not taken up in 1245. However, the idea that a vassal-king might lose his rights over a papal fief if he did not give the stipulated feudal service recurs in the detailed vassalic contracts of the later thirteenth century (discussed further below). This idea – that, for example, non-payment of census could cost a king his kingdom – separated those kingdoms which were papal fiefs from those under papal *protectio*. Non-payment of a protection-census on the other hand did not justify deposition. Rainier of S. Maria in Cosmedin has – even in recent scholarship – been characterized as a rabid fanatic,³⁵ but his inventiveness in applying the deposition theory of the English feudal bond to Frederick II, shows that his attacks had an intelligent, calculating side. It is clear why a series of popes thought he was useful to keep around.

³³ This shift is also visible in the rhetoric of papal letters, Herde, 'Literary Activities of the Imperial and Papal Chanceries', p. 234.

³⁴ As Herde points out, Zoën Tencarari must be under suspicion for having contributed the canonistic elements of *Eger cui lenia*: 'Ein Pamphlet der päpstlichen Kurie', p. 506.

³⁵ The extreme example is, of course, Kantorowicz, *Frederick the Second*, pp. 584–6, 591–5; but see also Abulafia, *Frederick II*, pp. 347, 356–8, 363, 368, 411; and Thumser, 'Kardinal Rainer von Viterbo († 1250)', p. 198.

5.3. Justifying Depositions: Aiding Heretics

In letters to the kingdom of Aragon in 1217, Honorius III had noted that the kingdom ‘is known to pertain to the Roman Church’ and had threatened to declare Aragon open to invasion if the Aragonese continued aiding the Toulousains against Simon de Montfort.³⁶ Was Honorius here claiming a right to depose the king because Aragon was under papal *protectio* and James a papal ward? Almost certainly not. Honorius’ letter specified that he might seek to ‘curb your kingdom through foreign peoples’ (*per extraneas gentes*). This drew upon the idea that, if a temporal ruler failed to ‘cleanse his territory of [...] heretical filth’, then the pope could ‘make the land available for occupation by Catholics’.³⁷ Honorius’ *extraneae gentes* were those good Catholics who would occupy James’ land.

In 1245, Innocent IV had removed the King of Portugal, Sancho II, from his government. This deposition was at the request of numerous Portuguese appellants including the king’s own brother: an extreme case of papal authority being instrumentalized by powerful magnates. Edward Peters studied this deposition and noted that Innocent acted by virtue of his *plenitudo potestatis* to remove a ‘useless’ king from the administration of his kingdom, but Peters also believed that Portugal was a *feudum ecclesie*. Peters was mistaken with respect to the feudal status of Portugal. It was not a fief and nor did Innocent claim it to be in his deposition bull *Grandi*; he noted only that Portugal paid a census to the Roman Church.³⁸ This census was a protection-census. Portugal, a kingdom under papal protection not under papal overlordship, could not be deprived of its king by a papal ‘overlord’. Nor did the pope claim for himself such a right, or that a feudal relationship existed when it historically did not. As Peters

³⁶ *Honorii III opera omnia*, ii, pp. 561-3.

³⁷ The quotation is from Canon three of Lateran IV: *Decrees of the Ecumenical Councils*, i, p. 234.

³⁸ *Liber Sextus* 1. 8. 2: *Corpus iuris canonici*, ii, pp. 971-4.

correctly judged, the king of Portugal was removed by the pope in his capacity as pope, with the fullness of power, able to take action for the good of Christians when a ruler was incapable – *minus utilis*.³⁹ *Protectio* alone did not provide sufficient authority to remove a king, there had to be further justifications. In the case of Aragon in 1217 this was the aiding of heretics, in the case of Portugal in 1245 it was incompetence.

Right at the end of the thirteenth century a similar situation cropped up. Civil war had broken out in Angevin Sicily – the famous Sicilian Vespers – and on 20 August 1282 the king of Aragon, Peter III, had landed on the island to support the anti-Angevin forces. In 1283 Pope Martin IV responded to Peter's attack on King Charles of Sicily by declaring the kingdom of Aragon open to seizure.⁴⁰ This was an application of the same principle as above: that the territory of unfaithful lords – or those aiding heretics – should be taken by others. Martin's letter explicitly referenced this point: Lateran IV had declared that the pope could 'make the land [of deprived rulers] available for occupation by Catholics'. Martin declared that 'we make that kingdom and lands available for occupation by Catholics' in exactly the same wording. The Aragonese nobles were also absolved of their oaths and homage to Peter.⁴¹ The Franciscan chronicler Salimbene de Adam, when explaining Martin's deposition of Peter and crusade against Aragon, gave four reasons: Peter was occupying Church land (Sicily); Charles de Valois – the replacement king to whom Martin had

³⁹ Peters, *Shadow King*, pp. 156–61.

⁴⁰ Fabrizio Titone, 'The Kingdom of Sicily' in *The Italian Renaissance State*, (eds) Andrea Gamberini, Isabella Lazzarini (Cambridge, 2012), pp. 9–29, at 11; N. Housley, *The Italian Crusades: The Papal-Angevin Alliance and the Crusades against Christian Lay Powers, 1254–1343* (Oxford, 1982), pp. 20–3; Steven Runciman, *The Sicilian Vespers: A History of the Mediterranean World in the Later Thirteenth Century* (Cambridge, 1958), pp. 242–3; Émile G. Léonard, *Les Angevins de Naples* (Paris, 1954), pp. 154–6.

⁴¹ *Les registres de Martin IV, 1281–1285: recueil des bulles de ce pape*, (eds) F. Olivier-Martin et al (Paris, 1901–35) [henceforth *Reg. Mart. IV*], no. 310, pp. 129–31: 'Ipsum Petrum regem Aragonie, eisdem regno et terris, regioque honore [...] privamus, et privantes exponimus eadem regnum et terras occupanda Catholicis'. See Hageneder, 'Das päpstliche Recht der Fürstenabsetzung', pp. 90–1; idem 'Il diritto papale di deposizione del principe', pp. 205–6.

granted Aragon – required aid; Peter was preventing inquisitors from combating heresy; and Peter was impeding aid to the Holy Land.⁴² Again we see that the justification in Salimbene's eyes was linked to heresy and unfaithfulness.

Pope Martin felt it necessary to reserve provision of a new king of Aragon to himself 'lest the people of that kingdom should come to ruin without a ruler'⁴³ and Aragon was then granted to Charles de Valois, second son of the French king, Philip III. When the kingdom was granted to Charles it was noted that Aragon had been offered as a *censuale* – census-payer – to the Roman Church by Peter II (in 1204) and so the kings of Aragon were bound 'by debt of fidelity' – nothing radical there. Henceforth, however, the new Valois kings of Aragon would have to perform homage and swear an oath of fidelity to the pope. This oath began 'I [...] by the grace of God king of Aragon and count of Barcelona, make full liege vassalage and homage for the kingdom of Aragon and county of Barcelona'.⁴⁴ Vassalage – *vassalagium* – and homage were now introduced to the papal-Aragonese relationship.

We can see that there had been a change here. Although the grant of Aragon to Charles de Valois continued to justify the deposition of Peter III according to the Lateran IV principle,⁴⁵ the new grant specified that the new king of Aragon was a vassal of the Roman Church. This was a development:

⁴² *The Chronicle of Salimbene de Adam*, (eds, trs) Joseph Baird, Giuseppe Baglivi, John Robert Kane (Binghamton NY, 1986), p. 571; MGH SS xxxii: *Chronica fratris Salimbene de Adam ordinis minorum*, (ed.) O. Holder Egger (Hanover/Leipzig, 1905-1913), p. 564.

⁴³ *Reg. Mart. IV*, no. 455, pp. 190-92, 185-6 (page numbers in *Reg. Mart. IV* are not always consecutive): 'Quia [...] ubi non est gubernator populus corruit, ne ipsorum Aragonie regni et terrarum populus factus absque gubernatore diutus veniat in ruinam, dictam provisionem Sedi reservatam eidem deliberavimus exequendam'.

⁴⁴ *Reg. Mart. IV*, no. 455, pp. 190-92, 185-6: 'ratione regni Aragonie ipsi ecclesie a clare memorie Petro avo ipsius Petri oblati et censualis tam ab illo quam ab aliis eius predecessoribus constituti, ad fidelitatis debitum tenebatur'. This section explains why Peter's 'injury and insult' – which have been manifestly established – concerns the Roman See as well as King Charles of Sicily. See also *ibid.*, no. 580.

⁴⁵ *Reg. Mart. IV*, nos. 455, 580, pp. 190-92, 185-6, 291-5.

protectio – which had not been sufficient justification for deposition – had become vassalage. This is not continuity; this is change. The likely impetus for this is the papal court itself: it is difficult to imagine why Philip would have wished to acquire Aragon for his son under feudal lordship rather than *protectio*. The duties listed in the grant of the kingdom were not significantly different from those which Aragon had been obliged to render under *protectio*: confirmation of liberties for all ecclesiastics in the kingdom, payment of an annual census and so on. But there was an important new development: now if the new king failed to pay his annual census for three consecutive years he would lose his kingdom and its ‘disposition and ordination’ would return to the Roman Church.⁴⁶ While it might appear as if the long-standing duty to pay census was unchanged, in fact it was fundamentally altered. If an institution – kingdom, monastery, *persona miserabilis* – under papal protection failed to pay its census, it lost its protection, or its rights granted by that protection.⁴⁷ It did not lose the thing being protected. If Charles de Valois failed to pay his census

⁴⁶ *Reg. Mart. IV*, no. 455, pp. 190-92, 185-6: ‘sed si nec [...] sit de censu eodem plenarie satisfactum, extunc tam [...] regis Francie filius quam successores eius ab ipsis regno et comitatu omniq[ue] iure quos in eis habebant eo ipso cadant ex toto, et regnum ipsum [...] ad Romanam ecclesiam et eius dispositionem seu ordinationem [...] devolvetur’.

⁴⁷ This, at least, is my interpretation. Paul Fabre did not believe that non-payment of census resulted in loss of privilege and William Lunt varied in his opinions. However, non-payment of census at the least prevented an institution from acquiring a confirmation of privilege. The text to which Fabre and Lunt pointed is not unequivocal: the early sixteenth century *De officio collectoris in regno Angliae* states that if someone should cease paying *for two or three years* they should not lose their privilege, suggesting that if the arrears are greater than three years they may lose their privileges after all. It also continues that an exempt house might lose its rights owing to non-payment but not a house under simple protection. Personally, I am persuaded that non-payment of census threatened the protection or exemption of a religious house but, in any case, no-one has ever suggested that non-payment of a protection-census might constitute grounds for the confiscation of the institution itself and its possessions by the papacy. Paul Fabre, ‘La perception du cens apostolique en France en 1291-1293’, *Mélanges d'archéologie et d'histoire* 17 (1897), 221-278, at 222, n. 1; William E. Lunt, *Papal revenues in the Middle Ages* (2 vols, New York, 1934), i, pp. 62f; idem, *Financial Relations of the Papacy with England to 1327*, pp. 104-5, n. 6, 639; Benedict G. E. Wiedemann, ‘The Papal Camera and the Monastic Census: Evidence from Portugal, c.1150-1190’, *Zeitschrift für Kirchengeschichte* 126 (2015), 181-96; Il ‘*de officio collectoris in regno Angliae*’ di Pietro Griffi da Pisa (1469-1516), (ed.) M. Monaco (Rome, 1973), pp. 255-6.

though, he lost his kingdom. This principle was the eventual descendant of King John's acknowledgement that, if he broke his agreement with Pope Innocent, he lost his *ius regni*.

The attempt by Philip III and Charles de Valois to take control of Aragon failed and the realm remained with Peter III's successors. The new feudal relationship which had appeared when the crown was granted to Charles de Valois vanished. In 1295 Pope Boniface VIII – as part of the peace treaty of Anagni between Aragon, Angevin Sicily and Aragonese Sicily – explicitly denied that the papacy had any 'right' in Aragon and announced that James II of Aragon would hold the kingdom 'as the said Peter [III] held it before he offended the Roman Church'. Aragon was once again a protectorate. Doubtless King James had demanded, as part of his terms for peace with the Sicilies, that Martin IV's grant to the Valois be revoked and that any suggestion of feudal tenure be removed. James knew well that protection and lordship were not equivalent.⁴⁸

In the twelfth century there had been a range of relationships between the papacy and monarchs, including the developing idea of *protectio*. In the thirteenth century the new paradigm of feudal overlordship and the existing concept of *protectio* both existed, but there was a genuine difference between them. Both could justify appealing to the pope for aid or justice, but what could be done with one could not be done with the other. Overlordship contained within it a justification for deposition of kings. Such a deposition – feudally – does not appear to have actually been used or threatened after 1245, when it was superseded by other canonico-legal theories about under what grounds the

⁴⁸ On the fiasco which was Philip III's invasion of Aragon see J. R. Strayer, 'The Crusade against Aragon', *Speculum* 28 (1953), 102-13; Léonard, *Les Angevins de Naples*, pp. 163-4. On 1295 see Fried, *päpstlicher Schutz*, p. 256; Titone, 'Kingdom of Sicily', p. 13; *Les registres de Boniface VIII*, (eds) G. Digard, M. Faucon, A. Thomas (4 vols, Paris, 1884-1939), i, no. 184, pp. 68-71: 'nec intendimus quod per predictas restitutionem, redditionem, et concessionem nobis vel ipsi ecclesie ius aliquod acquiratur'.

pope could depose a king, but it still appears in the detailed feudal contracts with Corsica and Sardinia, Angevin Sicily and Valois Aragon. The fact that a king was under papal protection could serve as a justification for special papal interest or solicitude, but not for outright deposition. Kings under papal protection were deposed with other justifications: that they were *inutilis* or aiding heretics.

The census, which looks the same for both *protectio* and overlordship, was eventually fundamentally different: according to the papal grants, if a vassal-king of the later thirteenth century did not pay a census he could lose his kingdom. So by the thirteenth century, although there was still a great deal of similarity between *protectio* and overlordship, there is a distinction: a recognition of superiority over vassal-kings, which granted the ability to remove a king if they failed to perform stipulated 'feudal' services, but not so over protected kings. It was still the case that overlordship and *protectio* were primarily tools of kings. It was normally up to the king or a petitioner to appeal to the pope if they wanted the curia to do something. By mid-century, feudal lordship – unlike *protectio* – recognized that the king could lose his kingdom to the pope if he did not perform agreed services. Overlordship provided a justification for threatening to depose Frederick II in 1228, but *protectio* could never do the same for Sancho in 1245, or Peter III in 1283. There was a clear distinction between the two and between what could be done with them. Both were tools for appealing temporal cases to the papal court, both provided justification for the sentences handed down in response to those cases. But *protectio* alone could not provide a justification for papal deposition of kings under any circumstances; there had to be additional canonical reasons.

Vassalage does not seem to have been an end in itself for the papacy. One can see this by looking at Sicily and England. In 1228 Gregory IX threatened to depose Frederick II of his right to the fief. In England, throughout

the thirteenth century, the payment of the feudal census was always late and sometimes not paid at all, but no pope of the thirteenth century ever threatened Henry III with deposition.⁴⁹ This is despite John's 1213 surrender having stipulated that if any of his successors contravened its terms, they would lose their *ius regni*.⁵⁰ The reason why no pope threatened Henry III with deposition was simply that no pope ever needed to. No petitioner at the papal court ever presented a compelling case for deposition, and Anglo-papal relations never broke down to such an extent that the popes wished to depose Henry, unlike Frederick II. It was not feudal principles or duties which were at issue in these feudal relationships, but the usual ebb and flow of politics and petitioners; the feudal justification was a useful tool to keep at hand.

Once a difference between protected kingdoms and kingdoms under papal overlordship had been established there were consequences. In the thirteenth century feudal overlordship could justify papal deposition, although after 1245 the more general power of binding and loosing was the actual justification used in depositions. There was, however, a clear recognition in feudal contracts that kings could lose their realms to the papacy if they failed to perform stipulated services. Protection was not equivalent. A protected kingdom remained fully under the power of the king. A protected king could, of course, be deposed by the pope, but under the same terms as any king, any ruler, any prelate: failing to purge heresy, failure to be a true Christian. The arguments for feudal deposition of Frederick II from the 1220-40s, and the terms of the feudal agreements which listed the circumstances under which a kingdom returned to the 'disposition of the Roman Church', showed that there

⁴⁹ Lunt, *Financial Relations of the Papacy with England to 1327*, pp. 141-72, esp. 171. In 1263 Urban IV threatened to place Henry's chapel under interdict if he did not pay (*ibid.*, p. 153) but that seems to have been the limit of papal threats.

⁵⁰ CS, p. 180: 'Et si nos vel aliquis successorum nostrorum hoc attemptare presumpserit, quicumque fuerit ille, nisi rite commonitus resipuerit, cadat a iure regni'.

was a recognition of papal authority over these vassal-kingdoms and their kings.

5.4. Feudal Contracts: 1250-1300

The feudal relationships with England and Staufen Sicily did not have lists of specific duties owed and due. When Sicily was granted to Charles of Anjou in 1265 a new feudal relationship was explicitly detailed. This feudal contract drew on the contract of vassalage for Sicily offered to Edmund of England in 1255, and on the contract offered to Charles of Anjou in 1253 and (perhaps) also on the terms offered to Earl Richard of Cornwall.⁵¹ But it was only in 1265-6 – when Charles invaded – that any of these putative kings actually realized their titles. Therefore we will focus on the 1265 contract. Prior to these contracts, the only specific duties of a royal vassal of the pope had been to pay census.

Charles of Anjou had numerous duties, however. He had to perform homage and fidelity to each new pope. He owed an annual service of 300 knights for three months to the Roman Church. If any of his heirs succeeded while under 18 the guardianship was reserved to the pope – it was only in Sicily in the thirteenth century that an ‘automatic’ right of guardianship arose.⁵² He could not engage in pacts or confederations against the pope and so on. Even

⁵¹ For the terms offered (originally) to Charles see *Les registres d’Innocent IV*, (ed.) É. Berger (4 vols, Paris, 1884-1920), iii, no. 6819, pp. 277-80. For the terms with Edmund in 1255 see *Foedera*, i, 1, pp. 316-18; Bjorn Weiler, ‘Henry III and the Sicilian Business: A Reinterpretation’, *Historical Research* 74 (2001), 127-50; David Carpenter, ‘King Henry III and the Sicilian Affair’, *Fine of the Month* (Feb., 2012), Henry III Fine Rolls Project, <<http://www.finerollshenry3.org.uk/redist/pdf/fm-02-2012.pdf>> [accessed: 15/06/2017].

⁵² The suggestion that the pope might be the automatic guardian of a minor king of Sicily first appeared in the negotiations between Charles of Anjou and Innocent IV in 1253, but was not treated as a ‘red line’: *Registres d’Innocent IV*, iii, no. 6808, p. 275. Note that in this letter Berger gave *reducere* when the original gives *inducere* (ASV, Reg. Vat. 22, f. 310v). Cf. also *Registres d’Innocent IV*, iii, no. 6819, p. 279, n. 1. An automatic right of papal guardianship was included in the terms for Sicily accepted by Charles in 1265 but seemingly not in the 1283 grant of Aragon nor the 1297 grant of Sardinia. For automatic papal guardianship in 1265, see *Codice diplomatico del regno di Carlo I. e II. d’Angio*, (ed.) G. del Giudice (Naples, 1863), i, p. 17.

the traditional service – that of census-payments – was codified. If Charles was two months late in paying he was excommunicated; if four months the kingdom was placed under interdict; if six months Charles lost his kingdom, similarly to the terms in the 1283 grant of Aragon to Charles de Valois. Charles of Anjou also received investiture of the kingdom of Sicily *per vexillum*, as the earliest of the Norman rulers had.⁵³ These conditions are unlike anything found before. This was a feudal relationship in a very historiographically traditional sense: knight service of a vassal to a lord who was granting him a fief (*feudum* – the term is explicitly used). It was only now that papal feudal relationships took on such a character. Nonetheless, as we shall see in chapter six, papal overlordship remained primarily a tool for kings and the royal court.

The grant of Corsica and Sardinia to King James II of Aragon on 4 April 1297 also detailed duties in terms very similar to the grant of Sicily thirty-two years before. The Aragonese had been warring against the Angevins in Sicily for some years and this had led – in 1283 – to the deposition of King Peter III of Aragon by Pope Martin IV (see above). Aragon had then been granted by Martin to Charles de Valois, second son of Philip III of France. The resulting French invasion had been a disaster. Eventually the papacy, the kingdom of Sicily and the Aragonese came to an arrangement: in 1297 Pope Boniface VIII created the ‘kingdom of Corsica and Sardinia’ and granted it – in vassalage – to James II of Aragon. Two years before he had cancelled Martin IV’s grant of the Aragon in vassalage and returned the kingdom to James II without any suggestion of feudal overlordship.⁵⁴

⁵³ *Codice diplomatico del regno di Carlo I. e II.*, i, pp. 6-27. For an English summary of some of the conditions by which Charles I was granted Sicily, see Welbore St Claire Baddeley, *Robert the Wise and his Heirs, 1278-1352* (London, 1897), pp. xii-xiii.

⁵⁴ *Registres de Boniface VIII*, i, no. 184, pp. 68-71; Fried, *päpstlicher Schutz*, p. 256. The suggestion that Sardinia might be part of a peace treaty had been around since 1293: M. G. Sanna, ‘Il regnum Sardinie et Corsice nell’azione politica di Bonifacio VIII’, *Bullettino dell’Istituto Storico Italiano per il Medio Evo* 112 (2010), 503-28, at 516-22.

These two, seemingly contradictory, approaches were linked. Papal overlordship over Aragon was refused because James II did not want to be a papal vassal for Aragon when he had never been before; papal overlordship over Corsica and Sardinia was advanced because James wanted a recognized title to those islands.⁵⁵ Overlordship was not an end in itself either for James and his advisors or for Boniface and his court: it was a means. This is why there is a seeming contradiction in James avoiding overlordship of Aragon but welcoming vassalage for Sardinia. In reality there is no contradiction at all. The tool of papal overlordship was being used in different ways in each case.

The grant of Sardinia and Corsica did not immediately change the reality. Sardinia was ruled by the Pisans and various local potentates, Corsica was an overseas possession of Genoa. The Aragonese did not begin military intervention in Sardinia until 1323.⁵⁶ Despite this, Boniface's grant was not meaningless. James had presumably desired it to legitimize any future invasion of the islands which he might have been planning; he had seen the grant as valuable.

In England a late thirteenth-/early fourteenth-century manuscript of the monastery of St Augustine's, Canterbury, contained a list of 'those kings who are feudatories of the Roman Church': the MS included 'the king of Sardinia'.⁵⁷

⁵⁵ Olivetta Schena calls the grant a *licentia invadendi*: 'The Kingdom of Sardinia and Corsica' in *The Italian Renaissance State*, (eds) Andrea Gamberini, Isabella Lazzarini (Cambridge, 2012), pp. 50-68, at 50.

⁵⁶ Corsica was never invaded and remained in Genoese possession until 1769, Schena, 'Kingdom of Sardinia and Corsica', p. 51.

⁵⁷ London, British Library, Arundel MS 310, f. 177^r. See also the BL MSS catalogues: *Catalogue of Manuscripts in the British Museum*, i, part 1: *The Arundel Manuscripts* (London, 1834), pp. 90-1. My thanks to David d'Avray for bringing this entry in the MS to my attention. The list also includes the kings of Jerusalem and Aragon. Aragon, as both Johannes Fried and I have argued, was not under papal overlordship (except briefly following Martin IV's 1283 grant to the Valois) but many have thought that it was. Jerusalem is more interesting. That kingdom is not generally believed to have been a papal 'fief' (John, 'The Papacy and the Kingdoms of Jerusalem, Sicily and Portugal', p. 235). In 1277 Charles of Anjou (king of Sicily) had bought the title of king of Jerusalem, however. Therefore by 1300 the king of Jerusalem was the same person as the king of (Angevin) Sicily and hence the 'king of Jerusalem' was indeed a papal feudatory in his capacity

The monks of St Augustine's not only thought it worth recording which kings were papal vassals, they also included the king of Sardinia despite the fact that James II had yet actually to control Sardinia when the MS was written. James was clearly not alone in thinking that the papal grant was worth something: in the eyes of educated Europe it justified his future actions on the island. The Canterbury monks may well have thought it worth noting which kings were papal feudatories because in 1299-1301 the Scottish baronage had attempted to remove themselves from the lordship of Edward I of England by claiming that the *regnum Scottorum* was under papal *dominium*.⁵⁸ The list of feudatories very specifically did not include the *rex Scottorum* and – with a date range of 1297-1310 – it is likely that this list was composed after the Scottish appeal to the papacy. Thus this list, by not including a (theoretical) *rex Scottorum*, denied that Scotland was a papal fief and hence independent from the overlordship of the king of England.⁵⁹ The monks of Canterbury knew well how useful papal overlordship might be.

When Corsica and Sardinia were granted to James in 1297 the military service required was 100 knights and 500 foot-soldiers (of whom 100 were to be *ballistarii*), the census was 2,000 marks, the investiture was *per cuppam auream* instead of *per vexillum ecclesie* as it had been for Angevin Sicily, but nonetheless the two grants are of a type. The kingdom was explicitly noted as being given in perpetual fief and James II's 'full vassalage, fidelity and liege homage' were required.⁶⁰ The terminology which had been introduced to papal-royal relations

as king of Sicily. Note also that this interpretation would also make the 'king of Aragon' a papal feudatory but only in his capacity as king of Sardinia.

⁵⁸ Brenda Bolton, 'Boniface VIII and the Kingdom of England' in *Bonifacio VIII: Atti del XXXIX Convegno storico internazionale* (Spoleto, 2003), pp. 329-53.

⁵⁹ John Balliol was deposed in 1296 and Robert I did not accede until 1306. If the MS was composed 1306-10 then there was a *rex Scottorum*, otherwise the title would have been in abeyance.

⁶⁰ *Registres de Boniface VIII*, i, no. 2344, pp. 929-35: 'conceditur ei [Jacobo] [...] regnum Sardinie et Corsice [...] in perpetuum feudum [...] conditiones infeudationis tales sunt: tenebitur rex [...]

during the pontificate of Innocent III – that of *feuda* and *vassalli* – had quickly caught on, but only from the second half of the thirteenth century were there detailed ‘feudal’ duties.

The legitimacy brought by papal grants was helpful to James II in his take-over of Sardinia but papal overlordship was not a final end. It remained a weapon in the armoury of the papacy but also in the armoury of the vassal. Feudal lordship and protection were now clearly distinct categories, with different rights and duties. As we shall see in the next chapter, however, even in the most ‘feudal’ of these kingdoms – Angevin Sicily – papal lordship was still a tool to be used by the royal court, with the approval of the pope.

Romane ecclesie prestare ligium homagium [...] “Ego Jacobus [...] rex Sardinie et Corsice plenum vassallagium fidelitatem et ligium homagium faciens”.

Chapter Six: Robert II of Artois and Cardinal Gerard,
 'Constituted Regents of the Kingdom of Sicily by the Holy
 Roman Church', (1285-1288)

The place of papal lordship in the political narrative for the regency government of Count Robert of Artois and Cardinal Gerard in Angevin Sicily was set in the fifties by Émile Léonard and Steven Runciman: a series of popes – Martin IV, Honorius IV, Nicholas IV – intervened constantly in the administration – refusing automatically to accept the new king, Charles II, appointing the papal legate to be co-regent, condemning every prospective peace treaty with the Aragonese – by their rights as overlords.¹ Andreas Kiesewetter identified the regency government as one of the 'three situations of crisis' when the papacy 'intervened actively in the internal affairs of the kingdom' – the other two being the minority of Emperor Frederick II (1198-1208) and the period immediately after the emperor's death (1250).² Kiesewetter has studied the period of the regency in some detail with considerable emphasis on the role of the two regents: Count Robert II of Artois and Gerard, cardinal-bishop of Sabina and papal legate.³ Recently Jean Dunbabin has questioned the effectiveness of this narrative of papal rule. Her examination of the treason trial of Count Adenulfo of Acerra in 1285-7 has suggested that there were 'substantial gap[s] between papal claims and papal competence'. Adenulfo's trial really showed 'the weakness of papal lordship in practice'.⁴

¹ Léonard, *Les Angevins de Naples*, pp. 162-71; Runciman, *Sicilian Vespers*, pp. 257-69.

² Andreas Kiesewetter, 'Il governo e l'amministrazione centrale del Regno' in *Le eredità normanno-sveve nell'età angioina: persistenze e mutamenti nel Mezzogiorno*, (ed.) Giosuè Musca (Bari, 2004), pp. 25-68, at 30-1.

³ Andreas Kiesewetter, 'Die Regentschaft des Kardinallegaten Gerhard von Parma und Roberts II. von Artois im Königreich Neapel 1285 bis 1289' in *Forschungen zur Reichen-, Papst- und Landesgeschichte. Peter Herde zum 65. Geburtstag*, (eds) Karl Borchardt, Enno Bünz (2 vols, Stuttgart, 1998), i, pp. 477-522.

⁴ Jean Dunbabin, 'Treason, Sodomy, and the Fate of Adenolfo IV, count of Acerra', *Journal of Medieval History* 34 (2008), 417-32, at 418-9.

Such doubts about the effectiveness of active papal intervention will, by now, not surprise us. This chapter will show that papal overlordship of Angevin Sicily, during the years 1285-8, was vitally important, but only because of the close co-operation between the papal court and the royal administration under Robert of Artois. Unlike chapter five, this chapter is a study of papal lordship over a relatively brief period. As with the papal role in the minorities of Henry III of England, James I of Aragon and Frederick II, papal instructions depended on the wishes of those on the ground in order to be effective. Most importantly, papal authority was instrumentalized in order to deal with the political and constitutional problems facing the Angevin government. Papal letters do not necessarily show the particular concerns of the various popes of these years, but were responses – normally in concert with the desires of the regents Robert and Gerard – to the major problems facing the kingdom.

To understand the papal role in the regency government it is necessary to first realize that, on the death of King Charles I in 1285, the kingdom faced – in modern parlance – a ‘constitutional crisis’ of almost unprecedented proportions. Unlike England in 1216 or Aragon in 1213, the new king of Sicily was not a minor. Charles of Salerno – Charles I’s eldest son – was in his thirties and had previously served as vicar-general of the kingdom in 1283 during his father’s absence. There was a problem, however: he was a prisoner of the Aragonese king and his son, Charles Martel, was only twelve. The seriousness of this turn of events should not be underestimated. Unlike a royal minor, Charles of Salerno was fully capable of issuing charters, laws and whatever he wished under his own authority. A king in his majority was – unquestionably – the ultimate authority in his kingdom. But, as a prisoner of a realm with which he was at war, Charles of Salerno was under constant threat of duress. To posit a counterfactual, what if his gaolers had forced him to issue an order dismissing Count Robert of Artois – the regent appointed by his father? We might doubt

that it would really have been put into effect when it reached the Mezzogiorno, but it would probably have led to doubt and a weakening of the Angevin cause in Southern Italy.

One solution would have been to allow the crown to proceed to Charles Martel, Charles of Salerno's son, and have an 'ordinary' minority while cutting Charles of Salerno out of the succession. There are hints that this course of action was considered. However, cutting Charles of Salerno, the eldest son of the previous king, out of the succession completely would have been a somewhat questionable action. So the solution which Robert, and perhaps also Charles I in his last days, hit on was to bring in the papal court as a superior authority. By emphasising that the regency depended on the papal court – rather than the king – for its ultimate authority, any instruction (or treaty, as we shall see below) which Charles of Salerno embarked on in captivity could be nullified by papal authority.

The use of the papacy's superior authority can be seen in three ways: how the regents justified their appointment; the issuing by Honorius IV of the *Constitutio super ordinatione regni Siciliae*; and the cancellation, by the papal court, of any treaty which Charles of Salerno entered into with the Aragonese king, whilst in captivity.

Thanks to the destruction of the Neapolitan State Archive in 1943, the later thirteenth-century Angevin regency is in certain ways less well documented than the early thirteenth-century regencies of Henry III of England and James I of Aragon.⁵ While the papal registers continue to be vital, the loss of the Angevin chancery registers limits a sustained analysis of what the regents

⁵ Riccardo Filangieri, 'Report on the Destruction by the Germans, September 30, 1943, of the Depository of Priceless Historical Records of the Naples State Archives', *The American Archivist* 7 (1944), 252-255; John L. Kirby, 'The Archives of Angevin Naples – a Reconstruction', *Journal of the Society of Archivists* 3 (1966), 192-4.

actually did. Fortunately a collection of a hundred or so *acta* of one of the regents, Robert of Artois – mostly from 1287-9 – has survived in the Vatican archive.⁶ The loss of the state registers also means the loss of any papal letters which were kept by the royal archive but not registered at the papal court.

6.1. The Succession

The first question is: whom did Charles I intend to succeed him? Kiesewetter has labelled the ‘succession-question’ as one the four tasks confronting the regency.⁷ Charles of Salerno – Charles I’s eldest son – was the obvious heir: Giovanni Villani said that, upon his death, ‘there remained no other heir [of King Charles] than Charles II, prince of Salerno’.⁸ But the chronicler Saba Malaspina – *scriptor* of Pope Martin IV – claimed that Charles I ‘chose as his heir in the kingdom, Charles, his grandson, first son of the prince [Charles of Salerno].⁹ Salimbene de Adam, chronicler of the Franciscans, claimed that after the deaths of Charles I and Pope Martin IV in 1285, Pope Honorius IV actually ‘crowned Charles [Martel] – the grandson of King Charles – king’.¹⁰ Nor was this on the pope’s own initiative; after Charles of Salerno’s capture in 1284, Charles I

said in full council that his son was foolish and stupid, that it was a foolish act for him to have gone out to battle without his counsel, and

⁶ Edited and published as RCA xxix. On Count Robert’s military-political career see Jean Dunbabin, *The French in the Kingdom of Sicily, 1266-1305* (Cambridge, 2011), pp. 101-19. On his lupine and mechanical interests see William Chester Jordan, ‘Count Robert’s “Pet” Wolf’, *Proceedings of the American Philosophical Society* 155 (2011), 404-17; Sharon Farmer, ‘Aristocratic Power and the “Natural” Landscape: The Garden Park at Hesdin, ca. 1291-1302’, *Speculum* 88 (2013), 644-80, esp. 645-6.

⁷ Kiesewetter, ‘Die Regentschaft’, p. 481.

⁸ *Chronica di Giovanni Villani* (8 vols., Florence, 1823), ii, p. 291: ‘Del re Carlo, non rimase altra ‘reda che Carlo secondo prenze di Salerno’.

⁹ MGH SS xxxv, *Die Chronik des Saba Malaspina*, (eds) Walter Koller, August Nitschke, (Hanover, 1999), p. 374: ‘disposuit heredem suum in regno Karolum, primogenitum principis nepotem suum’.

¹⁰ *Chronicle of Salimbene*, p. 573; *Chronica fratris Salimbene*, p. 566.

that he cared no more for him than if he had never been born. And so he disinherited him and took the principality [of Salerno] from him and gave it to the son [Charles Martel] of the captured son [Charles of Salerno], from whom he had taken the principality.¹¹

The chroniclers seem to provide a fair amount of evidence that Charles I brought Charles Martel into the succession after Charles of Salerno's capture. The consensus of twentieth-century historians has been that Charles I simply nominated Charles Martel as heir if Charles of Salerno was not released from prison.¹² There is certainly no evidence that Honorius IV tried to crown Charles Martel, as Salimbene claimed. Nonetheless, in the view of Steven Runciman and Émile Léonard, Pope Martin IV did refuse to 'admit the succession of the prisoner Charles of Salerno' and insisted that 'there was an interregnum in the Kingdom and [...] meanwhile the Pope as suzerain rightfully took charge'.¹³

It seems to me, however, that the papal court *did* accept the rights of Charles of Salerno almost immediately after Charles I died, and continued to assume he was the rightful heir throughout the regency. It is true that Martin IV's first letter after Charles I's death did not go into detail regarding the succession. The pope told Gerard, the cardinal-legate, to conduct an inquisition into the state of the kingdom and bring the reforms begun by Charles of Salerno at San Martino in 1283 to completion.¹⁴ The justification for such an inquisition was that Charles I had left 'free, general and full power and authority of

¹¹ *Chronicle of Salimbene*, p. 536, Baird et al assume that *principatus* refers to the entire kingdom of Sicily, but it probably refers specifically to Charles' principality of Salerno, *Chronica fratris Salimbene*, pp. 526-7.

¹² Dunbabin, *The French in the Kingdom of Sicily*, p. 103; Runciman, *Sicilian Vespers*, pp. 254-5; Giuseppe Galasso states that Charles I expected the crown to pass to Charles Martel if Charles of Salerno could not take the throne himself, *Il Regno di Napoli: Il Mezzogiorno angioino e aragonese, 1266-1474* (Turin, 1992), pp. 91-2; Stephen Rhys Davies, *Marriage and the Politics of Friendship: The family of Charles II of Anjou. King of Naples (1285-1309)* (PhD Diss., University College London, 1998), pp. 35, 39; Léonard, *Les Angevins de Naples*, pp. 159-60.

¹³ Runciman, *Sicilian Vespers*, p. 257, following Léonard, *Les Angevins de Naples*, p. 162.

¹⁴ *Reg. Mart. IV*, no. 592, pp. 306-8; Kiesewetter, 'Die Regentschaft', pp. 480-81.

ordaining, constituting' and so on to Martin IV, both in 1283 when he had left the kingdom to go to France and again on his deathbed, on 6 January 1285. These two grants of Charles I to Martin were included *de verbo ad verbum* in Martin's letter. There are two important conclusions to be drawn from this.

First, the instruction to Gerard to launch an enquiry came from the confirmation of Martin's powers which Charles I made on 6 January:

I beg your holiness that as much for the fulfilling of my vows, as for the benefit of those *fideles* [...] you should see to the removal, lightening and ceasing of all those aforesaid burdens, which can be called *gravamina*, and the prospering and reform of the kingdom, according to the aforesaid power which I conceded and handed to you, and which I here confirm.¹⁵

Martin's order for Gerard to carry out an enquiry was a fulfilment of Charles I's plan to assuage the complaints of rebels about the government of the kingdom. Secondly, Martin's justification for his involvement in the kingdom came from the wishes of the previous king, indeed, the dying wishes of the previous king. We have seen this before. In England with Honorius III, in Aragon under Innocent III and Honorius and in Sicily under Innocent, the overriding justification for papal involvement had been the specific dying wishes of the monarch, not automatic papal rights of guardianship.¹⁶ Here it was again, even though the automatic right of guardianship over the kingdom if the king was a minor had been conceded to the papacy in the 1265 grant of the kingdom to Charles I.¹⁷ When it comes to papal regencies, it is clear that *speciale derogat generali*: the particular – a grant by a dying king asking a specific pope to act as

¹⁵ *Reg. Mart. IV*, no. 592, pp. 306-8; Léonard, *Les Angevins de Naples*, p. 159.

¹⁶ Above, pp. 160-77.

¹⁷ *Codice diplomatico del regno di Carlo I. e II. d'Angio*, i, pp. 6-27. English summary: Baddeley, *Robert the Wise*, pp. xii-xiii.

guardian – beat the general – an admission that any pope had a role if there should ever be a royal minority.¹⁸ In 1285 they came to the same thing because Charles I selected the pope as guardian. Of course the situation here was more complicated than a simple minority. The king was not a minor – or rather, if the new king was indeed Charles of Salerno, then he was not a minor.

In Martin IV's second letter after Charles I's death the question of the succession was discussed as it pertained to the central content of the letter: that Robert of Artois, the regent appointed by Charles I, should be confirmed, but only as co-regent jointly with Cardinal Gerard. The letter also contained guidelines for the regents in the execution of their duties.¹⁹ In the course of the letter, the pope explained:

because the said king's first son [Charles of Salerno], to whom the kingdom is known to pertain by right of succession, has been captured and is detained by rebels, and because the son [Charles Martel] of that first son has not yet reached the first boundary of legitimate age [...] we ordain that you, brother bishop [Cardinal Gerard], and you, aforesaid count [Robert of Artois], should jointly exercise the care, governance and rule of the said kingdom.²⁰

¹⁸ The term is from a decretal of Pope Alexander III, and the canonists' discussions of the authority of conflicting papal rescripts, Harry Dondorp, 'Review of Papal Rescripts in the Canonists' Teaching', ZRG KA 76 (1990), 172-253; *ibid.* 77 (1991), 32-110, at 195-9, 207-19.

¹⁹ *Reg. Mart. IV*, no. 593, pp. 308-10. Whether the guidelines came from Naples or the papal court is difficult to say, although see below for the suggestion that the order about intitulation – that both regents should name themselves as constituted regents through the holy Roman church – was suggested by the Angevin court. The other guidelines were the standard instructions that: 1) that neither regent should appoint any royal officials or make any new fiefs, renew any old fiefs or accept any homage without the consent of the other; and 2) that all royal income should be kept by three treasurers at Castel dell'Ovo and those treasurers should not release any money without the express order of the regents. These instructions are fairly similar to those given to the Sicilian and Aragonese regents by Innocent III.

²⁰ *Reg. Mart. IV*, no. 593, pp. 308-10.

The letter ended: ‘we wish that the regency, care, rule, governance, administration, power and jurisdiction will continue in such a way, until the first son of the king is restored to pristine liberty, and otherwise [*vel aliud*] should be decided in this matter by the same see’.²¹

It is true that the papal court noted that Charles Martel was underage – suggesting that he might otherwise have taken a greater role in the government – but it also explicitly stated that Charles of Salerno was the legitimate king. The papal regency was also stated to end when Charles of Salerno was freed, at which point he would presumably take up the government himself. The use of *vel* in the final clause probably signifies a conjunctive rather than a disjunctive (“and” rather than “or”) and the use of the neuter *aliud* – ‘otherwise’ – rather than the masculine *alium* suggests that it is *something* else – rather than *someone* else – which might change. Thus this clause is saying simply that when Charles of Salerno was freed, the regency would end. Martin IV’s letter is a consistent statement of the hereditary right of succession of Charles of Salerno. It did not signify that the pope was refusing to recognize the rights of Charles of Salerno or that there was an interregnum.²² If there was any intransigence in the letter – if we prefer to read *vel* as disjunctive – then the ‘otherwise to be decided’ may reflect the possibility that when Charles Martel reached a legitimate age, he should either become regent for his father or king himself. It would have been easier for Charles Martel to succeed than to depend on the imprisoned Charles of Salerno. Certainly the problem of having the rightful king under the control of the Aragonese – who were making war on the kingdom – was a major one. As discussed above, there may well have been some genuine confusion in the

²¹ *Reg. Mart. IV*, no. 593, pp. 308-10: ‘Baiulatum [...] tamdiu volumus perdurare, donec prefatum primogenitum dicti regis pristiae libertati restitui, vel per sedem eandem aliud in hac parte contigerit ordinari’.

²² Pace Runciman, *Sicilian Vespers*, p. 257; Léonard, *Les Angevins de Naples*, p. 162.

days after Charles I's death about who would succeed.²³ Even if we choose to see Martin as intransigent in these letters – and it seems to me that actually he was sure that Charles of Salerno was the rightful king – that would not show that the papacy was insistent on choosing the new king, but that no-one was quite certain if Charles of Salerno *was* the new king.

Throughout the years of the regency, 1285-8, Charles of Salerno was never called 'king'. He was the 'first son' – *primogenitus* – of the late king. Even Charles of Salerno's wife and sons did not go so far as actually to call Charles 'king'. Maria of Hungary – his wife – called herself the princess of Salerno.²⁴ Charles' children called themselves the 'children of Charles, prince of Salerno'.²⁵ But, as quoted above, Martin did acknowledge that the kingdom belonged to Charles of Salerno by right of succession in 1285. When Nicholas IV was elected pope in early 1288, although the imprisoned Charles of Salerno was still not called 'king', there was a subtle change in how the papacy addressed him. He was still *primogenitus*, but he was now also *Carissimus in Christo filius*: 'most beloved son in Christ' – a term of address used solely for kings and emperors.²⁶

In 1288, as in 1285, the papacy actually appears to have been at the forefront in recognizing Charles of Salerno's right to succeed. Part of the reason – and the wishes of Robert of Artois, Maria of Hungary and the rest of the royal family and court must have been vital too – was surely that the 1265 treaty of vassalage between Charles I and the pope had stipulated that the eldest child –

²³ Léonard, *Les Angevins de Naples*, p. 162, n. 3 points to the uncertainty in dating clauses on documents during the regency, sometimes 'successors and heirs of Charles I' are talked about in general; sometimes Charles Martel was named alone.

²⁴ *Foedera*, i, 2, p. 660.

²⁵ *Foedera*, i, 2, p. 664.

²⁶ *Foedera*, i, 2, pp. 681-2, 684, cf. *ibid.*, p. 679 (*carissimus ecclesiae* in November 1287). This address was not used by Martin IV: *Reg. Mart. IV*, no. 593, pp. 308-10; nor Honorius IV: *Les registres d'Honorius IV*, (ed.) M. Prou (Paris, 1886-8), [henceforth *Reg. Hon. IV*] nos 97, 813, pp. 86-9, 566. T. Frenz, *I documenti pontifici nel medioevo e nell'età moderna*, (tr.) S. Pagano, 2nd edn (Vatican City, 2008), p. 40.

preferring male over female – would succeed their father.²⁷ Thus the papacy was bound to support the rights of Charles of Salerno as the eldest son of the previous king. The circumstances under which the pope could freely nominate a new king – default of collateral heirs of either sex up to the fourth degree – had not been reached. Contrary to the views of Runciman and Léonard, the popes simply could not deny Charles of Salerno his rights.

6.2. The Regency

In the days before his death Charles I had relinquished full and free power of ordaining to Pope Martin, but he had also appointed his nephew, Robert of Artois as regent of Sicily. We have seen that very soon after Charles I's death, Martin IV felt the need to confirm Robert's regency, but also to give him a colleague: Cardinal Gerard.

Where did the impetus for Gerard's appointment come from? Why was Robert given a co-regent? We cannot know for certain of course, but Kiesewetter has plausibly suggested that Martin was not happy with a Frenchman having sole rule over the Regno: the Angevin takeover of the Regno had not been entirely happy and resentments clearly festered, as the war of the Vespers showed.²⁸ Perhaps installing a co-regent would calm some concerns. It may of course be the case that Gerard agitated for his own appointment, although that would not be very Cincinnatian. It is no surprise that Martin did not dismiss the appointment of Count Robert wholesale: Charles I had specifically appointed Robert as regent and the pope could not question one of Charles I's dying orders without also calling others into question, such as Charles I's relinquishment of 'full power of ordaining' to the pope. The confirmation of Robert as regent was, nonetheless, the *primum mobile* for

²⁷ *Codice diplomatico del regno di Carlo I. e II.*, i, pp. 6-27, esp. 12-13. English summary: Baddeley, *Robert the Wise*, pp. xii-xiii.

²⁸ Kiesewetter, 'Die Regentschaft', p. 480; Dunbabin, 'Adenolfo IV', pp. 419-21.

Martin's letter. A plausible explanation for the letter is that Robert wanted papal confirmation at the beginning of his regency in order to bring in the papacy as a supreme authority in the kingdom; a supreme authority which Robert could use to lessen the threat of the Aragonese coercing Charles of Salerno. The popes – eager to buttress Angevin Naples against Aragonese Sicily – were perfectly willing to support Robert.

Robert's intitulation consistently referred to him as 'constituted regent through the Holy Roman Church'. Most of the records of Robert's surviving *acta* simply begin 'Robert, count of Artois etcetera', but there are enough which use the full intitulation for us to assume that this was an abbreviated form of 'Robert, count of Artois, together with (*una cum*) the reverend father, lord Gerard, bishop of Sabina, legate of the apostolic see, constituted regent of the kingdom of Sicily through the Holy Roman Church'.²⁹ This was also the form of address which Martin specifically instructed the two regents to use, and which the papal court used in letters to them.³⁰ Mutatis mutandis, it was also the intitulation which Gerard used in his own *acta*.³¹ This usage was well-known

²⁹ RCA xxix, no. 69, pp. 48-9: 'Robertus comes Atrebantensis, una cum reverendo patre domino G. Sabinensi episcopo, Apostolice sedis legato, baiulos [sic] Regni Sicilie per Sanctam Romanam Ecclesiam constitutus'; see also *ibid.*, p. 70; *Inventaire-sommaire des archives départementales antérieures à 1790: Pas-de-Calais: Archives civiles, série A*, (ed.) J.-M. Richard (2 vols, Arras, 1878-87), ii, p. 178: 'Robert, comte d'Artois, nommé par le Saint-Siège avec Gérard, évêque de Sabine, régent du royaume de Sicilie'; Dunbabin, *The French in the Kingdom of Sicily*, p. 104.

³⁰ *Reg. Mart. IV*, no. 593, pp. 308-10; *ibid.*, p. 310: 'Venerabili fratri Gerardo, episcopo Sabinensi, apostolicae sedis legato et una cum dilecto filio nobili viro R. comite Atrebantensi baiulo Regni Sicilie per Romanam ecclesiam constituto'; Gerald Rudolph, *Das Kammerregister Papst Martins IV. 1281-1285 (Reg. Vat. 42). Untersuchung und kritische Edition* (2 vols, PhD Diss., Würzburg, 2004), ii, p. 547; Isabella Aurora, 'I documenti originali pontifici di Bari (1199-1400) contributo all'index actorum Romanorum pontificum ab Innocentio III ad Martinum V electum', *Archivum Historiae Pontificiae* 39 (2001), 9-103, at no. 26, p. 70; *Reg. Hon. IV*, nos 98, 136, 451, 477, 556, 724, pp. 89-91, 112, 318-19, 339-40, 384-5, 514-15; *Les registres de Nicolas IV*, (ed.) E. Langlois (Paris, 1887-93), [henceforth: *Reg. Nic. IV*], nos 606, 6973, 7003, 7163, 7222, pp. 120, 941-2, 945, 970, 982.

³¹ 'Fonti per la Storia di Malta nel R. Archivio di Stato di Napoli', (ed.) R. Moscati, *Archivio Storico di Malta* 7 (1936), 477-509, at 508-9: 'Gerardus, miseratione divina Sabinensis episcopus, apostolice sedis legatus, baiulus regni Sicilie una cum excellenti viro, dominuo [sic] Roberto, comite Atrebacensi, per sanctam Romanam ecclesiam constitutus'; see also Kiesewetter, 'Die Regentschaft', nos 3, 5, 6, pp. 518, 519-20.

enough that a document for the archbishop of Bari from 1286 is dated to the first year of the rule of ‘the magnificent men Gerard, bishop of Sabina, legate of the Apostolic see, and Lord Robert, illustrious count of Artois, constituted regents of the kingdom of Sicily through the Holy Roman Church’.³² Robert’s appointment then was publicly justified through the pope, not Charles I.

But this is not the whole story. In the *arenga* to one of Robert’s acts, it is claimed that Charles I, on his deathbed, ‘for the success of his heirs and the safe rule of his subjects, conceded, gave and handed to us general, full and free power to concede [rewards to some of Charles I’s faithful servants] in perpetuity’.³³ No mention was made of papal confirmation of such governmental rights. In Saba Malaspina’s chronicle account, the dying Charles I ‘appointed the count of Artois as if (*quasi*) tutor and curator [to Charles Martel, Charles of Salerno’s son], under the name of regent [...] (saving in all the order and wishes of the Holy See).’³⁴ This tension, between Robert owing his appointment both to Charles I’s dying wishes and also to papal beneficence, can be resolved by the recognition that Robert buttressed his appointment by bringing in the papacy as a superior authority. Once Charles I was dead and it was accepted that rule of the kingdom belonged to Charles of Salerno, there was always the risk that Robert’s right to rule as regent could be challenged; he owed his appointment to the king, Charles I, but there was a new king now. That new king was in an Aragonese prison and under the control of the people whom Robert was fighting in the Mezzogiorno and Sicily. Once Robert had brought in the papacy as holding the ultimate authority in Southern Italy, he

³² *Codice diplomatico barese*, ii: *Le pergamene del duomo di Bari, 1266-1309*, (eds) G. B. Nitto de Rossi, F. Nitti di Vito (19 vols, Bari, 1897-1971), no. 39, pp. 96-9. Note that Robert and Gerard did not date their own documents in this way: ‘Fonti per la Storia di Malta’, pp. 508-9 (by Indiction and AD only); Kiesewetter, ‘Die Regentschaft’, nos 3, 5, 6, pp. 518, 519-20; RCA xxix, no. 69, 90, pp. 48-9, 70-71.

³³ RCA xxviii, no. 18, p. 84.

³⁴ Saba Malaspina, p. 374.

could point to Martin IV and Honorius IV – and not the king of Sicily – as the source for his appointment. In a practical sense, of course, Robert owed his appointment to Charles I, who had named him regent on his deathbed, but to secure his power against anything that could be squeezed out of the new king, the imprisoned Charles of Salerno, he added papal appointment.

The regents' intitulation – which Martin IV ordered Robert and Gerard to use – may well have actually originated from a Sicilian – or southern Italian – suggestion. Martin IV had told the two regents: 'We wish that each of you, together with the other (*una cum altero*), should name yourself regent of the kingdom of Sicily, constituted through the holy Roman church'.³⁵ Accordingly, the two regents were always associated together in their *acta* with the *una cum* formula ('I, Robert, together with the reverend father Gerard etc'). The kingdom of Sicily had faced joint rule before – in the 1190s – and this formula, one monarch being 'together with' (*una cum*) the other, was exactly what was used then. Dione Clementi pointed to a series of four joint grants of Emperor Henry VI and Queen Constance from 1191-1195. The formula used was that Henry VI was 'together with (*una cum*) our beloved consort, the illustrious and always august empress of the Romans, and queen of Sicily, Constance'.³⁶ When Henry VI died and Constance briefly ruled with her son, Frederick, the intitulation was again in this style: 'Constance, by divine clemency, always august empress of the Romans and queen of Sicily, together with (*una cum*) Frederick, illustrious king of Sicily, of the duchy of Apulia and of the principality of Capua, her most beloved son'.³⁷ It was not only monarchs who used this style either. In 1304 Charles of Salerno confirmed certain privileges for the city of Gravina: one, of 1152, was granted by 'Marchioness Philippa, once wife of lord Marquis

³⁵ *Reg. Mart. IV*, no. 593, p. 309.

³⁶ Dione R. Clementi, 'Some Unnoticed Aspects of the Emperor Henry VI's Conquest of the Norman Kingdom of Sicily', *Bulletin of the John Rylands Library* 36 (1954), 328-59, at 330-1, n. 1.

³⁷ MGH DD H VI, pp. 176, 178, 181, 186, 190, 194, 198, 202, 207 for the *una cum* formula in intitulation; pp. 146, 148, 163, 200 for the same formula in the datum.

Manfred, lady of Gravina together with (*una cum*) Silvester *benedictus*, my son'. Not only was this intitulation given in the *de verbo ad verbum* repetition of Philippa's original privilege, but Charles of Salerno's chancery repeated it in the simple description of what the confirmation contained in the opening preamble of the 1304 confirmation.³⁸ Although this style of royal intitulation – the *una cum* formula – can be found fairly widely,³⁹ its use in Sicily specifically to designate joint rulers – Henry and Constance, Constance and Frederick, Robert and Gerard – had a history. The order for the two regents to use the *una cum* formula came from Martin IV, but it seems quite likely that it had in fact been suggested to him by Robert and his chancery, or by someone who was aware of this historic formula for designating joint rulers.

So, at the very beginning of the regency, we can see the importance of papal authority. By ensuring that the appointment of the regents was justified with reference to the pope, rather than to either Charles I or Charles of Salerno, the government and papal court were eliminating the possibility that the regents' right to rule could be challenged. Papal orders and approval would trump anything to the contrary which Charles of Salerno might be forced to issue. It was less a case of Robert 'accepting papal initiatives' or 'accommodating his rule to the wishes of [Pope] Honorius [IV, Martin's successor]', than Robert and Gerard using papal authority to ensure that their actions in the Regno carried unquestioned legitimacy.⁴⁰

³⁸ *Codice diplomatico del regno di Carlo I. e II.*, appendix 1, no. 15, pp. xxxii, xxxiv: 'Philippa marchionissa uxor quondam Manfridi Marchionis una cum Silvestro filio suo domina civitatis eiusdem [...] Ego Philippa marchionissa olim domini Manfridi Marchionis uxor Dei et domini Magnifici Regis Rogerii gratia Civitatis Gravine una cum Silvestro benedicto filio meo dominatris'.

³⁹ Emily Joan Ward, 'Anne of Kiev (c.1024-c.1075) and a Reassessment of Maternal Power in the Minority Kingship of Philip I of France', *Historical Research* 89 (2016), 435-53, at 440-1.

⁴⁰ Dunbabin, *The French in the Kingdom of Sicily*, pp. 104-5. Dunbabin strangely conflates Martin IV and Honorius IV: 'Honorius IV [...] nominated both Robert d'Artois and [...] Gerard of Parma [...] as his baillies [...]. At the same time, Honorius produced legislation designed to establish the government of the regno' (pp. 103-4). It was actually Martin IV who appointed

6.3. Reform: The *Constitutio Super Ordinatione Regni Siciliae*

On 17 September 1285 Pope Honorius IV issued a bull for which he is probably best known: the ‘constitution concerning the order of the kingdom of Sicily’. In this document, articles for the good governance of the kingdom were outlined. Fundamentally, however, this constitution was in the tradition of the older *capitula* of Charles I (1282) and of Charles of Salerno at San Martino (1283).⁴¹ In numerous ways it went further,⁴² but it was very much in the same vein as those earlier *capitula*.⁴³

There were differences between the *capitula* of San Martino and the *constitutio super ordinatione regni Siciliae*. For example: the fees for royal letters were simplified and reduced in the latter, *feudalia* could now be freely given as dowries (n. 20), the guardian of an underage heir must be his closest kin (n. 33). These changes were clearly in the interests of the baronage and the magnates of the realm. The *constitutio* was thus intended to keep the powerful of the kingdom happy, but also perhaps to attract some waverers back to the Angevin fold. The papal letters accompanying the *constitutio*, ordering its publication, explicitly outlined this aim: ‘each and all persons [...] who have left their fidelity to the king, unless they quickly return to our orders [...] are cut off

Gerard and Robert as regents on 16 February 1285 and Honorius who published the *constitutio* on 17 September 1285.

⁴¹ Kiesewetter, ‘Die Regentschaft’, p. 494-5: ‘und die [the *constitutio*] vor allem auf die Konstitution Karls I. von 1282 und dem *Capitula* von San Martino aufbaute’. Galasso, *Il Regno di Napoli*, p. 92: ‘promulgò il 17 September 1285 una *constitutio super ordinatione regni Sicilie*, che si aggiungeva a quelle già adottate nel 1282 dal sovrano defunto e nel 1283 dal figlio per un’ampia riforma dell’amministrazione del governo e nelle materie fiscali’. Runciman, *Sicilian Vespers*, p. 261.

⁴² Kiesewetter emphasizes they went ‘far over’ the concessions of San Martino, Kiesewetter, ‘Die Regentschaft’, p. 497.

⁴³ At the same time as the papal *constitutio* was issued the papal chancery issued a second bull. This outlined the rights of the Church in the Regno according to the 1283 *capitula* of Charles of Salerno, although *sub alio forsan verborum scemate* – ‘perhaps under another form of words’. Here, explicitly, the papacy was confirming Charles of Salerno’s previous legislation. *Reg. Hon. IV*, no. 97, pp. 86-9; Aurora, ‘I documenti originali pontifici di Bari’, nos 24-5, pp. 68-9.

completely from the benefit of this provision'.⁴⁴ The new *constitutio* gave benefits, but only to those who were loyal.

Considering that this *constitutio* was more designed to increase support for the Angevins than reform royal administration, one may therefore question the extent to which it should be primarily assigned to Honorius IV and his presumed reforming tendencies.⁴⁵ Certainly it was issued in the form of a papal letter. But its provisions go back to previous royal legislation. Despite the complex preamble explaining how injuries to justice lead to war, which then lead to further weakening of justice, the differences between the *constitutio* and earlier reform legislation surely have as much to do with the regents' need to appear to be enacting reforming legislation, as with Honorius' assumed strong belief in putting down bad customs. In the constitution's introduction it is explained that *fama publica, indagines* and 'various inquisitions made by Gerard, legate of the apostolic see, by special order of that see' had informed its provisions. We might speculate that this last may be the most significant. In order to operate a functioning government and to combat the Aragonese effectively, Gerard and Robert had to keep the magnates on side and build support. It is plausible that they made changes to earlier legislation, perhaps informed by the nobility's requests which Gerard had collected in his *inquisitiones*, recognizing that the new government had to show its reforming credentials. The *constitutio super ordinatione regni Siciliae* was not so much rules for the government during the regency, and more a public statement that the

⁴⁴ 'universitates et singulares personas [...] que a fidelitate regis [...] recesserunt, nisi celeriter ad nostra [...] mandata redierunt [...] a beneficio provisionis eiusdem penitus alienas'. *Reg. Hon. IV*, nos. 98-9, pp. 89-91. Cf. David Carpenter's discussion about why Magna Carta was issued on 15 June, before the 'peace' was declared: 'The liberties in the Charter were thus the exclusive concern of the king's *fideles*. Rebels, of course, could look enviously at these liberties, but would only enjoy them once they too had become faithful men and had made peace. Indeed, from John's perspective, that was the whole point', *Magna Carta*, p. 363.

⁴⁵ Consider Dunbabin '[...] a constitution *drawn up* by Honorius [...]’ [my emphasis] ('Adenolfo IV', p. 419); Runciman 'he [Honorius] was equally determined that the Kingdom's administration should be reformed' (*Sicilian Vespers*, p. 260).

new administration was committed to the reforms promised by the previous king.

The parallels between the *constitutio* and the 1216 re-issue of Magna Carta are instructive. In 1216, after the succession of the young Henry III, one of the first things the regent, William Marshal, and the papal legate, Guala, did was re-issue Magna Carta – without its more hard-line clauses – under their own seals. The purpose was to show those who had rebelled against John that the new king would abide by the terms which John had rejected, that he would reform bad customs and keep good ones. Likewise in 1285 one of the earliest actions of the Angevin regents must have been to request that the pope issue the *constitutio* under his own seal, thus showing to all that they would keep good customs and dispose of bad ones. The changes made to the articles would have been intended to be to the liking of the great subjects of the kingdom. The confirmation that marriages would be free may well also have appealed to clerical perspective, but fundamentally the *constitutio* was aimed at strengthening support for the monarchy at a time of war. The agency for the *constitutio* may be assumed to lie with the cardinal and the count, Gerard and Robert.

The regents' decision to have it issued under Honorius' seal – rather than under their own as Guala and the Marshal had done – was probably a further effort to confirm their commitment to it: by having it issued under Honorius' seal they made a strong statement about the *constitutio*'s binding nature; it was being issued by a higher authority than them. Another reason may well have been that the previous legislation had been enacted by the late king and by his son, Charles of Salerno. Had the regents issued the new constitution – which diverged from the 1282 and 1283 *capitula* – under their own authority, then their ability to amend the legislation of previous kings might have been questioned.

However, Charles I had submitted 'full power of disposing and ordaining'⁴⁶ to Pope Martin IV – a grant repeated in the preamble to the *constitutio super ordinatione regni Siciliae* – and so his successor, Honorius IV, was the regents' best bet for making sure that their right to issue a new constitution was not questioned.

Considering the differences in certain specific chapters between the 1285 *constitutio* and earlier *capitula*, there is no really knock-out evidence to ascribe such changes to either Honorius' court or to the regents on the ground. The article about charges for impetrating royal letters, for example, is complex and detailed in Charles of Salerno's 1283 *capitula* (twenty different types of letter are given with amounts);⁴⁷ but very simple in the 1285 *constitutio* (only four general types, some of which cost *nichil omnino* – 'absolutely nothing'). Considering that the four types in the *constitutio* are: letters of justice; letters of grace without the concession of fiefs or land; letters which do concede fiefs or land; and other privileges, we might speculate that the author of this clause was on the papal side of things: the distinction between letters of justice and letters of grace – or privileges – is one well known from the papal chancery.⁴⁸ Such an argument might point to Cardinal Gerard, the legate-regent; as a former *auditor litterarum contradictarum* he must have been well versed in papal chancery procedure.⁴⁹ However, in the thirteenth century, an equally important way of distinguishing between types of papal letters was between *litterae legendae* and *litterae simplices*

⁴⁶ *Reg. Mart. IV*, no. 592, pp. 306-8; *Reg. Hon. IV*, no. 96, pp. 72-86.

⁴⁷ Andreas Kiesewetter, *Die Anfänge der Regierung König Karls II. von Anjou (1278-1295)* (Husum, 1999), pp. 557-78; *Codice diplomatico barese*, ii, no. 33, pp. 68-77.

⁴⁸ Bresslau, *Manuale di Diplomatica*, i, p. 79, esp. n. 127.

⁴⁹ Bresslau, *Manuale di Diplomatica*, i, p. 256, n. 526 (7). For evidence of Gerard's role as auditor from British archives see Jane E. Sayers, 'The Court of *Audientia litterarum contradictarum* Revisited' in *Forschungen zur Reichs-, Papst- und Landesgeschichte: Peter Herde zum 65. Geburtstag*, (eds) Karl Borchardt, Enno Bünz (2 vols, Stuttgart, 1998), i, pp. 411-27, at 419-20.

– those which were read to the pope, and those which were not.⁵⁰ In fact, we simply cannot know if this article was influenced by papal practice.

As well as simplification of the types of letter, the amounts to be paid for them were reduced. At San Martino in 1283 a letter patent of justice had cost four *tari*; in the *constitutio* a letter of justice (no distinction was to be made between open and closed letters) was to be free. We might speculate that the simplification of the types of letters was, like the reduction in cost, simply an effort to appear to be combating bad customs. There can be no foolproof way to distinguish between ‘papal’ or ‘Angevin’ perspectives in the changed articles of the *constitutio*, but simply to assign it entire to Honorius IV is not satisfactory.

It is not possible to ascribe the *constitutio* to either the papal curia or the Angevin government with certainty, although both probably played a role to an extent; Kiesewetter has suggested that, although Gerard was not present in Tivoli when the letters proclaiming the *constitutio* were drawn up, ‘he certainly had a major role in the preparation of the reform-constitution; he knew the Sicilian situation like no other at the curia’.⁵¹ I would tend to favour the interpretation that Robert and Gerard realized the importance of putting out new reforming legislation at the beginning of their term in office and had it issued under Honorius’ authority so that there could be no doubt about its legitimacy. Honorius and the curia would certainly have had the opportunity to amend some chapters but the essential impetus, and majority of the terms, likely came from the cardinal and the royal administration.

⁵⁰ Bresslau, *Manuale di Diplomatica*, pp. 254-5.

⁵¹ Kiesewetter, ‘Die Regentschaft’, p. 494: ‘War Gerhard von Parma auch nicht persönlich in Tivoli anwesend, so hatte er sicherlich massgeblichen Anteil an der Vorbereitung der Reformskonstitutionen, kannte er doch die Sizilischen Verhältnisse wie kein anderer an der Kurie.’

6.4. Enforcing the *Constitutio*

Despite observations that actually enforcing the *constitutio* of Honorius IV would have been devastating for royal power in the Regno, and despite some debate over the extent to which the *constitutio* obtained *Gesetzkraft* – the force of law – in the Regno, Andreas Kiesewetter has judged that the *constitutio* was part of the Regno's law during the regency. That situation changed once Charles of Salerno established his personal rule in 1289, but that is not our focus. So, during the regency, papal authority must have been respected to a significant degree in the Regno, since the *constitutio* was issued under Honorius' name. Kiesewetter judged that the best evidence that the *constitutio* was enforced was Honorius IV's instruction that it should be proclaimed in every city of the Regno, and Cardinal Gerard's actual publication, subsequent to that order.⁵²

This issue raises a methodological question about legislation in the central Middle Ages: what do we mean by 'enforced'? Kiesewetter's criterion for *Gesetzkraft* gives an important answer: proclamation. Proclamation is the acid test because once the population is aware of a law, then they have the capability to use it, to appeal to it and to justify their actions with reference to it. There are, from Robert of Artois' sparsely surviving *acta*, two points when specific issues required reference to the papal *constitutio*. What both of these letters show is the creative use of certain chapters from the *constitutio*, and – in all likelihood – the agency of those below the level of the regents in requesting enforcement of the *constitutio*'s terms. Enforcing laws depended less on active central pressure – whether from the regents or the pope – and more on external requests that particular laws be enforced by the central authority, normally to the benefit of the person requesting.

⁵² For all this see Kiesewetter, 'Die Regentschaft', pp. 496-8.

In these two letters of Count Robert reference is made to specific terms of the *constitutio* which were suddenly relevant to the matter which the regent was discussing. Unsurprisingly, neither was against the interests of the regency government or royal officers. The first was a letter from Robert to the master procurators of Apulia, claiming that he had heard, 'by account of many', that some men of that province were transporting goods by sea without a royal licence and others, claiming they had a licence, were ostensibly transporting goods to the lands of the faithful, but were actually turning aside and selling their goods to enemies and rebels.⁵³ Such action was against 'the *capitula* of the apostolic see' and had to be stopped. There was indeed an article in the *constitutio* about licences. It freed anyone (at times of peace) to transport goods and animals outside the kingdom without a licence, providing that the goods or animals were from their own lands or their own herds and they were not being sent to enemies of the kingdom or removed at times of sterility; otherwise they had acquire licences for trade outside the kingdom.⁵⁴ Robert was obviously keener to enforce the second half of this article than the first. For Robert, trading with the enemy could harm the war effort and strengthen the Sicilian rebels and the Aragonese, and so his actual enforcement of this article emphasizes, rather than diminishes, regalian authority. The original intent of this *constitutio* canon had probably been intended as a boon to the inhabitants of the kingdom – giving them some freedom to transport goods – but Robert used it to reinforce the times when trade could *not* be freely conducted.⁵⁵

The second letter shows a rather creative interpretation of the *constitutio*'s chapters. The master-procurators of Apulia had complained to Robert that a galley had wrecked itself in the port of St Andrew near Bari and

⁵³ RCA xxix, no. 5, pp. 11-13.

⁵⁴ *Reg. Hon. IV*, no. 96, pp. 72-86, xxxviii-xxxix.

⁵⁵ Cf. *Reg. Nic. IV*, nos 7003, 7222, pp. 945, 982 where Pope Nicholas IV complained that Robert had confiscated thousands of pigs and other animals from two merchants who had actually been buying them for the papal kitchens.

the wood which it had been carrying had been taken violently by the proctor and men of the lords of Lutigliano and Noia. Disregarding the remonstrance of the master-procurators, the lords were refusing to return it. Robert told the procurators that he would order the regional justiciar to force the two lords to return the goods, or their value, to the master-procurators. The master-procurators were then to keep the timber safe until it could be returned to the patron of the ship, who was yet unknown, 'according to the *capitula* of the apostolic see, against which nothing should be done'.⁵⁶ Presumably this was a reference to the article: 'we abolish absolutely abuse against shipwrecks [...] because goods which escape shipwreck are taken and not returned by the curia to those who were shipwrecked. We order such goods to be returned to those to whom they belong'.⁵⁷

Although we cannot know for certain whether Robert or his master-procurators had the idea of adducing the *constitutio* to support their argument, it seems plausible that it was the procurators who first claimed that the theft of the cargo was against the *capitula* of the apostolic see. What is more amusing is that this article is essentially being used in a way opposed to its original meaning. The *constitutio* mandated that the royal curia should return shipwrecked goods to their owner, but here it was justifying the retention of such goods by the officials of the royal court. The rationale is, of course, that no owner of the ship was yet known, so the procurator and Robert were certainly keeping to the letter of the *constitutio* when they took possession 'until a patron appears'. Nonetheless, they were certainly inventive in adducing this article of the *constitutio* to justify it; the *constitutio* had attempted to prevent the confiscation of salvage by royal officers. Since this *actum* of Robert was a

⁵⁶ RCA xxix, no. 38, pp. 31-2.

⁵⁷ *Reg. Hon. IV*, no. 96, pp. 72-86, xxxix: 'Abusum contra naufragos [...] inductum in eo quod bona que naufragium evadebant capiebantur per curiam nec ipsis naufragis reddebantur [...] penitus abolemus, precipentes bona huiusmodi illis restitui ad quos spectant'.

rescript – a response to the questions of the royal procurators – it seems quite plausible that it was originally the master-procurators who asked Robert to enforce the article of the *constitutio* in such a way that he could take possession of the salvage. We can thus see how the *constitutio* was enforced: by the wishes and interpretations of those who had seen its provisions, thanks to its publication by Cardinal Gerard. The *constitutio* – like papal lordship generally – was respected and observed, provided it was in the interests of regents and people on the ground to do so.

Jean Dunbabin, in her article on the execution of Count Adenulfo IV of Acerra, has suggested that his appeal to Pope Honorius IV was ‘in accordance with a procedure laid down in the papal constitution of 1285’.⁵⁸ While the first of Honorius’ two letters requesting the suspension of Adenulfo’s trial and sentence makes extensive reference to the promotion of peace⁵⁹ – a concern of the *arenga* to the *constitutio*⁶⁰ – the second letter is clearly based on the canonical principle of *ex defectu justitiae secularis* – that Adenulfo could not receive justice in a secular court and so could appeal to the pope;⁶¹ Adenulfo was said to have been convicted ‘unjustly’ (twice), ‘without truthfulness’, ‘undeservedly’, ‘with the order of justice not being served’, ‘against justice’, ‘with legitimate defences not being admitted’ and in an ‘eruption against justice’.⁶² It is, therefore, not at all clear what role – if any – the *constitutio* played in Adenulfo’s appeals.⁶³

⁵⁸ Dunbabin, ‘Adenolfo IV’, p. 423. Contrary to Dunbabin (p. 417, n. 2), the beginning of the affair is mentioned in Léonard (*Les Angevins de Naples*, p. 165) but only very briefly. Léonard’s short comment is probably based on the summary in *Reg. Hon. IV*, pp. liv-lv.

⁵⁹ *Reg. Hon. IV*, no. 556, pp. 384-6.

⁶⁰ *Reg. Hon. IV*, no. 96, pp. 72-86.

⁶¹ J. A. Watt, ‘The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists’, *Traditio* 20 (1964), 179-317, at 226, 234.

⁶² *Reg. Hon. IV*, no. 759, pp. 537-8.

⁶³ Dunbabin, ‘Adenolfo IV’, pp. 422-4, 426, places a lot of emphasis on Honorius’ active intervention in trying to prevent Adenulfo’s prosecution. This emphasis – as Dunbabin acknowledges – stems from a trial record she discovered in the Calais archive, rather than the papal or Neapolitan sources. *Famiglie Celebri Italiane* (2nd series, Naples, 1907) fasc. 25, table 15 of ‘d’Aquino di Capua’, from which most of our information about Adenulfo comes, is unemphatic about active papal intervention. Note, for example, that the author of *Famiglie*

Nonetheless, if the *constitutio* did play any role in Adenulfo's trial, then it was only as Adenulfo used it. It was he who appealed to the papal court and demanded papal intervention to prevent injustice.

6.5. Truces and Treaties

After the appointment of the regents and the issuing of the *constitutio*, the third element of the papal intervention in the regency of Robert and Gerard is thought to be Honorius IV's and Nicholas IV's cancellation of the various treaties and truces which Charles of Salerno made – while in captivity – with his Aragonese captors. These were the treaties of Cefalù, condemned by Honorius on 4 March 1287,⁶⁴ and Oloron, condemned by Nicholas IV on 15 March 1288.⁶⁵ It was only the treaty of Canfranc in October 1288 which allowed Charles of Salerno to be released, in return for several of his sons as replacement hostages.⁶⁶ In September 1289, Nicholas IV condemned 'all conventions between Alfonso, king of Aragon, Edward, king of England and Charles of Sicily' and declared Edward I and Charles of Salerno absolved from any oaths they made.⁶⁷ This latter condemnation presumably was aimed at the treaty of Canfranc. However, it was not solely papal distaste which led to these condemnations, as Jean Dunbabin noticed: 'Robert [of Artois]'s most important political contribution [...] was probably to stand firmly beside the popes in

Celebri Italiane – probably Francesco Scandone according to Dunbabin – claimed that immediately after his release by the Aragonese, Adenulfo 's'era subito recato a Roma'. Dunbabin expresses this as 'he was *summoned* at once to Rome' (p. 422) which places the agency firmly on Honorius (the summoner), but *recarsi* could just mean that he *went* (lit. 'bore himself') to Rome.

⁶⁴ *Reg. Hon. IV*, no. 814, pp. 566-8; note mis-citations in Léonard, *Les Angevins de Naples*, p. 168, n. 1 (where the number is given as 819) and Runciman, *Sicilian Vespers*, pp. 263, 325, n. 3 (where the page number is given as 572, which is the page number for 819, but not for 814).

⁶⁵ *Reg. Nic. IV*, nos 560-1, pp. 109-13, also nos 562-4, p. 113.

⁶⁶ On hostages during these negotiations see Adam J. Kosto, *Hostages in the Middle Ages* (Oxford, 2012), pp. 177-82.

⁶⁷ *Reg. Nic. IV*, no. 1389, p. 278.

opposing Charles II [Charles of Salerno]’s attempts to secure peace’.⁶⁸ Most likely these condemnations were influenced by the representations of the various parties involved.

The treaty of Cefalù, which Charles of Salerno had agreed to in late 1285, was condemned by Honorius IV in a letter of 1287. The letter rehearsed the terms of the treaty made by Charles of Salerno and Alfonso of Aragon: the ceding of Sicily to Alfonso’s brother, James; confirmation of the same by the papacy; and revocation of Martin IV’s deposition of Peter III of Aragon (Alfonso and James’ father) for his invasion of Sicily in 1282.⁶⁹ Further Charles of Salerno was not to be released until all this was done, and James was to marry Charles of Salerno’s daughter, and Charles of Salerno’s first son was to marry Yolanda, James and Alfonso’s sister. Judging this prejudicial to Charles of Salerno and the Church, Honorius:

expressly rejecting that treaty [...] forbids strongly that all that [agreement] and any other similar to it should be undertaken and if something should be undertaken [...] we judge it anew to be wholly void and wrong and to have no firmness.⁷⁰

Contrary to what one might expect, the coercion of Charles of Salerno was not given as a justification for cancelling the treaty. That a coerced agreement was not valid is hardly a new thought – coerced marriages were not valid;⁷¹ the famous *pravilegium* of 1111 had been revoked because it was obtained by force,⁷² and so on – and yet Honorius did not place Charles of Salerno’s imprisonment front-and-centre. This is surely because he did not need to, for two reasons.

⁶⁸ Dunbabin, *The French in the Kingdom of Sicily*, pp. 106-7; for a similar judgement see Davies, *Marriage and the Politics of Friendship*, p. 43.

⁶⁹ Above, pp. 216-19.

⁷⁰ *Reg. Hon. IV*, no. 814, pp. 566-8; Davies, *Marriage and the Politics of Friendship*, pp. 41-3; Léonard, *Les Angevins*, p. 167-8.

⁷¹ D. L. d’Avray, *Medieval Marriage: Symbolism and Society* (Oxford, 2005), pp. 124-9.

⁷² Robinson, *The Papacy*, pp. 128-30.

First, as superior authority in the kingdom – thanks to Robert of Artois' need to bring in the papacy as ultimate justification for his regency in 1285 – the pope had *ex officio* authority to judge whether the treaty was in the interests of the kingdom or not. This treaty was not. It was ‘to the prejudice of the church and you [Charles]’. Secondly, two of the terms of the treaty depended on the pope doing something. The treaty explicitly said that the pope was to confirm the cession of Sicily and revoke the *processus contra Petrum olim regem Aragonie*. In a sense Honorius did not need to revoke the treaty, he could simply refuse to do either of these things and logically the treaty terms could not be enforced; it would have failed automatically.

It is likely that Honorius’ rejection was decided in concert with Robert of Artois. Robert is known to have been a hawk – absolutely refusing to countenance ceding Sicily to the Aragonese. Dunbabin has pointed to the chronicler Giovanni Villani’s account of Robert being furious when Charles of Salerno, after his liberation and return to Naples, negotiated a two-year truce with James of Aragon in 1289; Robert was not inclined to give James time to bolster his resources.⁷³ Robert was combating the Aragonese-backed Sicilians in Italy in 1287, when the treaty was cancelled; he may also have accompanied King Philip III of France on the Aragonese crusade in 1284–5, a disastrous attempt – with papal backing – to win the crown of Aragon for Philip III’s son, Charles de Valois.⁷⁴ He had certainly shown his willingness to fight hard for the Angevin patrimony, and consequently his distaste for any treaty which left Sicily in Aragonese hands would be no surprise. Along with Cardinal Gerard and doubtless other supporters among the curia, Robert was able to use papal authority – which he had already established as the final authority in the

⁷³ Dunbabin, *The French in the Kingdom of Sicily*, p. 107.

⁷⁴ Jordan claims Robert accompanied the Aragonese crusade (“Pet” Wolf, p. 415) but I can find no mention of this in Malcolm Vale, *The Princely Court: Medieval Courts and Culture in North-West Europe, 1270–1380* (Oxford, 2001) which Jordan gives as his biographical source; nor does Dunbabin mention Robert’s presence on the crusade.

kingdom at the beginning of his regency – as a tool to counteract Charles of Salerno's attempts at peace.

Honorius probably was not aware of any reaction to his condemnation of the treaty of Cefalù: he was dead within a month. There would be no new pope until Nicholas IV was elected in February 1288, about ten months later. In March 1288, only the second month of his pontificate, Nicholas condemned a new treaty: Oloron. Oloron had been negotiated by Edward I of England and agreed in July 1287,⁷⁵ shortly after Honorius' condemnation of Cefalù (March 1287). The one month between Nicholas' election and his condemnation of the treaty probably corresponds with the time required for King Philip IV of France and Robert to appeal to Nicholas to cancel the treaty and for Nicholas to agree.

Nicholas sent a series of letters to various recipients in March 1288. Two identical letters were sent to the King of France and Cardinal John, the papal legate in France, keeping them up to date with how the 'business for the liberation of Charles [of Salerno]' was progressing; they gave details of the treaty, a timeline of events and informed the king of Nicholas' rejection of the treaty terms. Nicholas recalled that his predecessor, Honorius, had, at the request of King Edward I of England, sent two archbishops to help the king negotiate Charles of Salerno's release. Honorius had then heard about the previous treaty (Cefalù) and how Alfonso was planning to enforce it and so, because of that treaty's great derogation of the honour of the church and prejudice to Charles of Salerno, the pope had condemned it. Honorius, as Nicholas' letter noted, died soon after.⁷⁶ Edward I had then asked the College of Cardinals to support the treaty of Oloron (July 1287), telling them that Charles' release could be hoped for under certain conditions (although Edward I did not immediately tell the cardinals what those conditions were). The College agreed

⁷⁵ *Foedera*, i, 2, pp. 677-8; Runciman, *Sicilian Vespers*, p. 264; Léonard, *Les Angevins*, p. 169.

⁷⁶ *Reg. Nic. IV*, nos 560-1, pp. 109-13; *Foedera*, i, 2, pp. 681-3.

to Edward I's request and, in November 1287, sent out letters asking Edward I to continue to seek Charles' freedom.⁷⁷ Nicholas was then elected pope and, soon after, Maria of Hungary, wife of Charles of Salerno, asked Nicholas for a 'pecuniary subsidy' to help free Charles. At this point the details of the new treaty (Oloron) became known to the papal court. The letter went on to fulminate about the outrageousness of the terms, and explained that the pope could not admit them. Instead letters were to be dispatched to Alfonso of Aragon exhorting him to free Charles of Salerno and give no aid to his brother, James of Sicily, and to Edward I and the two archbishops for them to exhort Alfonso to do the same. A list of the terms of the treaty was then attached.⁷⁸

Another letter was sent to the two archbishops, ordering them to reject the treaty and two others to Maria of Hungary and Edward I, telling them that the treaty could not be approved. As promised, Alfonso of Aragon was told to release Charles of Salerno 'otherwise, we do not wish you to be ignorant that we will proceed against you spiritually and temporally'. Another letter was then written to the two archbishops, telling them to deliver the previous letter to King Alfonso personally. Further letters were sent to Edward I, asking him to exhort Alfonso to free Charles of Salerno, and to Maria, telling her that Nicholas had written to Edward I and Alfonso.⁷⁹

Again, it seems likely that Nicholas' rejection was elicited by the representations of others. If we take as accurate the report in the letters – that Maria of Hungary had requested money to pay Charles of Salerno's ransom – then it might seem unlikely that it was she who wished for the treaty to be cancelled. One of the terms of treaty was that Charles of Salerno's three eldest

⁷⁷ *Foedera*, i, 2, p. 679, 681-3.

⁷⁸ *Reg. Nic. IV*, nos 560-1, pp. 109-13; *Foedera*, i, 2, pp. 681-3. Although another letter of Nicholas IV seems to suggest that the College of Cardinals knew the terms of Oloron before Nicholas' election: *Foedera*, i, 2, p. 684.

⁷⁹ *Reg. Nic. IV*, nos 562-70, pp. 113-14. .

sons should replace him as hostages; the other major conditions were a large payment (thirty thousand marks) and a stipulation that Charles of Salerno would arrange a final settlement between all the parties within three years. It is pretty clear that the money payment was not intrinsically a sticking point for the papacy: 'For if the pecuniary subsidy only should be suitable for the liberation of the *primogenitus*, the aforesaid church will show itself sufficiently agreeable and in favour'.⁸⁰

What seems most plausible is that the other major terms – the surrender of Charles of Salerno's sons and the negotiations within three years – were problematic for Robert of Artois and for King Philip IV of France. Robert and Gerard may have opposed the surrender of Charles' children, especially his eldest, Charles Martel. If Charles of Salerno returned to the Mezzogiorno and was crowned, he would have full regal powers but his children would be held by his enemies; it would be a very weak position for the Angevins.

But the most problematic clause may well have been the demand for a final settlement: if, after his release, Charles of Salerno failed to negotiate a peace between all the parties within three years, he was to return to captivity or cede the county of Provence to the Aragonese. As confirmation of this stipulation, Charles of Salerno's castellans in Provence were to perform homage and give an oath to Alfonso that they would go over to him if Charles of Salerno failed to make a new treaty or return to captivity. Alfonso was also to receive forty hostages from the magnates of Provence. For the Angevin-Capetians – Philip IV of France and Robert of Artois – the possible loss of this family possession (Provence) would have been a nasty blow; Philip IV of France

⁸⁰ *Reg. Nic. IV*, nos 560-1, pp. 109-13: 'nam si pecuniarium dumtaxat subsidium ad liberationem eiusdem primogeniti existeret oportunum, gratiosam satis et favorablem se predicta ecclesia exhiberet'.

was absolutely opposed to this clause.⁸¹ How likely was it to come to that? The possibility that Charles of Salerno would have been able to negotiate a treaty between the French, the Sicilians, the Aragonese and the papacy in three years must have seemed slight, although, in fact, the treaty of Tarascon was agreed by 1291.⁸² Robert and the Angevins were unwilling to cede Sicily to James (Alfonso of Aragon's brother and the Aragonese claimant), James was unwilling to surrender Sicily – of which he was in practical control – back to the Neapolitan Angevins. Alfonso of Aragon wanted Pope Martin IV's confiscation of Aragon to be revoked, but Philip IV of France wanted his brother, Charles of Valois (Martin IV's replacement king of Aragon) to be suitably compensated. The possibility of accommodating all of these demands probably seemed slim. If Charles of Salerno failed to arrange a new treaty then he had either to go back to Aragonese gaol or forfeit Provence. If he forfeited Provence it was a blow to the patrimony painstakingly built up by his father, Charles I; if he went back to prison then the huge indemnity of thirty thousand marks – demanded by the treaty of Oloron – was probably lost. There was little in this treaty which was to Robert and Philip IV of France's tastes. Its condemnation only a month after Nicholas' election probably represents the representations made to the new pope by the King of France and Neapolitan regents.

Only a few months later, however, Charles of Salerno was freed under the terms of the treaty of Canfranc, substantially the same as those of Oloron. The main difference was that, in September–October 1288, Edward I was willing

⁸¹ Michael Prestwich, *Edward I* (Berkeley/Los Angeles, 1988), p. 324; Runciman, *Sicilian Vespers*, p. 265; Marc Morris, *A Great and Terrible King: Edward I and the forging of Britain* (London, 2008), p. 211. See also the 1288 letter of Philip to Edward complaining about Alfonso's violations of the truce: *Foedera*, i, 2, p. 681.

⁸² It rapidly fell apart because Alfonso of Aragon died almost immediately after and was succeeded by James, who had not been part of the agreement at Oloron, although he had been included in the treaty of Paris between Aragon and France in 1286, *Foedera*, i, 2, p. 673; Runciman, *Sicilian Vespers*, pp. 267–8.

to give his own men as hostages and contribute his own cash.⁸³ The purpose of these changes was surely to persuade Alfonso to free Charles of Salerno immediately; it worked, he was released in November 1288. It seems likely that Edward I – probably with Alfonso and Charles of Salerno’s connivance – intended to ensure that Charles of Salerno was freed before anyone could petition Nicholas IV to annul the new treaty. The king of England offered his own resources so that there would not be time for those who opposed the new treaty to arrange for it to be cancelled. This again suggests that Robert and Gerard were instrumental in having previous pacts cancelled: Alfonso and Edward I probably thought that if Charles of Salerno was restored as king of Naples – and Robert’s regency ended – then the new king might be able to convince the pope to support the treaty. Indeed, considering that previous popes and the College of Cardinals had strongly emphasized how much they wanted Charles of Salerno freed,⁸⁴ it must have been hoped that Nicholas IV would baulk at condemning an agreement which had *already* freed Charles of Salerno, no matter how outrageous its conditions. The various monarchs hoped that they could bounce Nicholas IV into accepting these terms. In fact, as I noted above, Nicholas IV did condemn ‘all conventions made between Charles, Edward and Alfonso’, in September 1289.⁸⁵ However, Charles of Salerno – now King Charles II – continued to try to meet the terms of Canfranc, irrespective of the papal condemnation.⁸⁶

The papal court was not intrinsically opposed to peace negotiations and it would be Pope Boniface VIII’s diplomacy that contributed to a lasting

⁸³ Prestwich, *Edward I*, pp. 324–6; Morris, *Edward I*, pp. 215–6; Maurice Powicke, *The Thirteenth Century, 1216–1307*, 2nd edn (Oxford, 1962), p. 260; Runciman, *Sicilian Vespers*, p. 265.

⁸⁴ See, for example, the letter sent by the College of Cardinals (Nov. 1287) to Edward after negotiating Oloron: ‘And, because we did vehemently long for that liberation, we cared to encourage the royal excellency in order that thus you should care to continue your work in order that the effecting of this liberation should follow, in a short time’. *Foedera*, i, 2, p. 679.

⁸⁵ *Reg. Nic. IV*, no. 1389, p. 278.

⁸⁶ Runciman, *Sicilian Vespers*, pp. 266–8; Powicke, *Thirteenth Century*, p. 262.

solution between 1295 and 1303. During the *sede vacante* period in 1287-8, the College of Cardinals had responded positively to Edward I's announcement that Charles of Salerno was to be released under the terms of the peace of Oloron.⁸⁷ Although admittedly the College had not known what terms Edward I and Alfonso of Aragon had agreed, nonetheless this reinforces the importance of those who came to the papacy in instrumentalizing papal power. Edward I was able to get cardinalial support for Oloron by keeping the actual terms quiet; Philip IV of France and Robert were then able to get Nicholas IV to condemn Oloron by emphasising how outrageous the agreed terms were. This is not to say that in this high political matter the curia simply did as it was told; but clearly the various parties could present their positions in particular ways which were more likely to gain papal approval. Edward I emphasized that he could get Charles of Salerno freed; Philip IV and Robert emphasized the insupportable dishonour which would result from Edward I and Charles of Salerno's concessions. The popes and cardinals were sympathetic to both arguments. Because the pope had been established as the highest authority in the kingdom in 1285, he could overrule Charles of Salerno's treaties when convinced of the need to do so.

6.6. Conclusion

There were few – perhaps no – other points in the thirteenth century where papal lordship over a king was of more importance than 1285-9. Nonetheless, the emphasis which has been placed on the papacy's desire to walk its own path during the regency of Robert and Gerard has been overstated. These two statements are not in conflict. Overlordship – the lordship over a monarch – depended on the co-operation of papal and royal administrations. The pope's lordship over the Angevin kings was so useful in

⁸⁷ *Foedera*, i, 2, p. 679.

1285 because it was essential to have an authority which could overrule Charles of Salerno, and could promulgate reforms which would bolster support for the regency government. The implementation of that reform was in the hands of the Angevin officers and they made what use of it they wanted.

This final chapter – unlike the preceding one – has been a close study of papal lordship at one particular time. Its purpose has been to emphasize the necessity for co-operation between papal lord and royal vassal when papal overlordship was to be called upon. Papal authority was instrumentalized by Robert and his administration in order to overcome the challenges presented by Charles of Salerno's imprisonment. In these years papal lordship was mentioned many times, whereas when the popes had sought to depose a king they did not call upon it, but upon the plenitude of power. In 1285 the situation, and the supplicants, called for papal overlordship; in 1245 it, and they, did not.

Conclusion

This thesis has examined a series of political relationships in the Middle Ages. These ‘special relationships’ were established between kings and popes – men at the top of the hierarchy. A king and the pope would bind themselves – and their heirs and successors – together, through a special link. What form that link took, whether it was modelled on other ideas or relationships, where the impetus for allying came from and, of course, *cui bono* were the questions driving this thesis.

How can a distinct entity – a kingdom, a realm, a nation – exist and remain distinct as part of a larger entity? Is it, in fact, impossible? Must all supranational alliances lead either to collapse or to total incorporation? Can a union be a union of political communities, or must it be a union of peoples too? Such questions are not just for our time and place, but for any that has some conception of political community.¹ Looking at how medieval kings entered into political unions with the Roman Church might seem to be of only distant relevance, but these relationships altered and changed to meet the demands of the time for centuries. They were successful.

Gary Watt, a professor of law writing recently in the *Journal of International Dispute Settlement*, saw historical parallels between current events and papal overlordship as depicted in Shakespeare’s *King John*: the ‘authority of the EU’ is and was “‘Papal’”. ‘Could it be that a predominantly Roman Catholic EU is still modelled along essentially Papal lines or still espouses the same federal, even feudal, ambitions?’² Such bald historical comparisons are dangerous and normally unproductive. It is preferable, not to compare the

¹ See, for example, Anthony Pagden’s ‘Introduction’ to *The Idea of Europe from Antiquity to the European Union*, (ed.) Anthony Pagden (Cambridge, 2002), pp. 1-32.

² G. Watt, ‘Sovereigns, Sterling and “Some Bastards too!”: Brexit seen from Shakespeare’s *King John*’, *Journal of International Dispute Settlement* (2017, forthcoming).

European Union crudely to the medieval papacy but to look at how comparable issues worked themselves out (or did not) then and now.

The two central themes around which the thesis was structured were: where did agency lie in such relationships; and how and why did they develop?

It has been argued here that agency lay overwhelmingly with kings or regents and their royal courts, not with popes and their curia. The relationships served royal more than papal purposes. The development of these relationships has been studied over centuries: in the eleventh and twelfth centuries there were few commonalities between, say, the relationship between the pope and the king of Aragon, and the relationship between the pope and the king of Sicily. To understand those relationships they have to be looked at *sui generis* and 'blind' to later developments. In the thirteenth century, however, different types of relationship and connections are clearly visible: Aragon, and several other kingdoms – Portugal for example – were under papal protection, a relationship modelled on the protection the papacy extended to religious institutions. England, and eventually Sicily, were papal fiefs. Their kings were under papal lordship. These different types of relationship encompassed differing norms and expectations.

The argument – that the agency in these relationships lies with kings, not popes – accepts some and departs from other current interpretations of the papal curia. Accordingly some historians of the medieval papacy could offer the classic 'reviewer two' responses to this thesis' arguments: 'this isn't novel. And yet somehow it's also wrong'. The reason for this is simple. It is now increasingly accepted that the medieval papacy was a responsive government, or a rescript government, or a demand-led government.³ It depended on

³ For the terminology: on 'rescript' government see Ernst Pitz, 'Die römische Kurie als Thema der vergleichenden Sozialgeschichte', *Quellen und Forschungen aus Italienischen Bibliotheken und*

petitioners to ask for things; it was rare for the curia to take the initiative.

Nowadays, most monographs or articles on the medieval papacy include a few sentences where the authors acknowledge this. It is *de rigueur*.

The recent work of Rebecca Rist and Viola Skiba, however, has reminded us that it is not a foregone conclusion that the papacy did not think about the petitions it received before accepting or rejecting them. Rist has characterized papal letters as ‘carefully-thought out responses to petitions’.⁴ Skiba has put forward the view that, even if the impulse for a papal judgement came from outside the curia, the actual decision was the result of a policy on the part of the pope.⁵

Since the basis for papal authority was that people were willing to come and ask the pope for things, if the popes frequently refused to grant those things then eventually people would stop asking for them. Thus, to keep petitioners – including kings and royal courtiers – coming back, the rate of approval of petitions had to be fairly high, and the majority of petitioners had to receive a response with which (at least) they could cope. Was not the papal instinct then to approve petitions?

The question, therefore, is whether or not one should apply the reactive, rescript government model to high politics. No *a priori* assumptions should be

Archiven 58 (1978), 216-359; Morris, *Papal Monarchy*, pp. 212-13, and cf. Zutshi, ‘The Personal Role of the Pope in the Production of Papal Letters’, p. 226, n. 5. On ‘responsive’ (as opposed to ‘reactive’) see T. W. Smith, *Pope Honorius III and the Holy Land Crusades, 1216-1227: A Study in Responsive Papal Government* (PhD Diss., Royal Holloway, University of London, 2013), p. 21, n. 23. On ‘demand-led’/‘demand-driven’ papal law, see now D. L. d’Avray, ‘Stages of Papal Law’, *Journal of the British Academy* 5 (2017), 37-59.

⁴ Rebecca Rist, *Popes and Jews, 1095-1291* (Oxford, 2016), pp. vii, 16.

⁵ Viola Skiba, *Honorius III. (1216-1227): Seelsorger und Pragmatiker* (Stuttgart, 2016), pp. 375-6, n. 1109. For an earlier statement of the same principle, see Fried, *päpstlicher Schutz*, pp. 340-41. For a summary of the historiography, and the approach to which Skiba is responding, see T. W. Smith, ‘Honorius III and the Crusade: Responsive Papal Government versus the Memory of his Predecessors’ in *The Church on its Past*, (eds) P. D. Clarke, C. Methuen, Studies in Church History, xlix (Woodbridge, 2013), pp. 99-109.

made. The evidence has to be examined afresh and we have to decide whether papal-royal relationships were dominated by a papal policy or were primarily responses to the requests of the kings.

The best approach is to take papal letters and decisions on a case-by-case basis. Each letter must be examined and a decision arrived at. Papal historians should live by the words of Pope Alexander III (or whoever drafted his letters), quoted in the epigraph: ‘Inspicienda sunt ergo [...] privilegia et ipsorum tenor est diligentius attendendus’.⁶ In this thesis I have tried to do that. I have found – in the main – that it was the petitioner whose wishes tended to prevail, rather than the pope’s.

The other theme of this thesis has been the development of these relationships. To simply say that such-and-such a king became a ‘vassal’ of the pope – or his realm a fief – is obviously not sufficient. In the later eleventh century, there was a series of ‘special relationships’ which appear to have existed between many kings and the reform papacy. During this period there was also considerable conflict over the proper positions of priesthood and kingship in the world. When the dispute between *regnum* and *sacerdotium* was defused, in the early twelfth century, most of the early, reform period special relationships between kings and the papacy vanished too. It is for that reason that I have chosen not to study the relationships between Pope Gregory VII (1073-85) and Hungary, Croatia, the Kievan Rus’, England or Scandinavia.⁷ Those alliances would, I think, be very useful in telling us what the proper positions of pope and king were in the eleventh-century Great Chain of Being, but would not be so informative about the development of formal relationships

⁶ X 5. 33. 8: *Corpus Iuris Canonici*, ii, cols. 851-2.

⁷ On these relationships, see Cowdrey, *Gregory VII*, pp. 423-80, 638-49; Robinson, *The Papacy*, pp. 302-3; Ullmann, *Growth of Papal Government*, p. 333; Wiedemann, ‘*Super gentes et regna*’.

between monarchy and papacy. They were simply too momentary to take much of our attention here.

The two exceptions were the eleventh- and twelfth-century papal relationships with Aragon and Norman Sicily. These relationships were long lasting and contemporaneous. They were, however, flexible and different. The first two chapters of this thesis studied the relationships between the papacy and Aragon, and between the papacy and the Norman rulers of Sicily and southern Italy, from the mid eleventh century up until the year 1200. During this century-and-a-half the relationship between the pope and the king of Aragon changed from being an ad hoc alliance to a continuous relationship, modelled on the spiritual protection which the pope extended to many abbeys, monasteries, religious orders and bishoprics throughout Europe.

The relationship between the pope and the Norman rulers of Sicily did not change so much. It was, from the beginning, ad hoc, and in 1200 it was still ad hoc. Although Aragon can be said to have entered into a specific type of relationship – papal protection – by 1200, the same cannot be said of Sicily. But it was soon after 1200 that a new type of relationship arose.

In 1213, King John of England surrendered his kingdoms – England and Ireland – to the pope and received them back as a *feudum*, paying an annual census to the pope. He performed homage and swore an oath to the papal legate, and announced that should he or his successors ever break the terms of their oath or their grant they would lose the kingship. Within a few years the king was being described as a *vassallus* of the pope. Over the next few decades this language, and the idea that a vassal-king might be deprived of his kingship by the pope, was applied to the kingdom of Sicily and to other kingdoms. We can call these relationships ‘feudal’ since the kingdoms were now described as *feuda* of the pope, although naturally we should not assume that merely applying a word tells us anything about the forms of the relationship. The

origin of this new relationship, as I have argued here, was most likely the court of the king of England.

To suggest that 'feudal' ideas and language travelled from the English court to the papal in 1213-15 might be surprising. It was not so long ago that Susan Reynolds advanced the theory that Magna Carta's promise to do justice to free men only 'by the lawful judgement of his peers or the law of the land' came originally from Pope Innocent III's 'knowledge of academic law [of fiefs]'.⁸ Her evidence, in 1994, was that, prior to the sealing of Magna Carta in 1215, three papal letters claimed that a fourth papal letter – now lost – had exhorted King John to decide the barons' dispute 'in his court by their peers according to the laws and customs of England'.⁹

The argument, however, is not sustainable: Nicholas Vincent has correctly pointed out that the papal chancery tended to repeat the substance of petitions in the letters it produced and so it was probably a petition from England which originally offered – or asked for – judgement 'by peers'.¹⁰ That argument is supported by the fact that, of the three surviving papal letters which refer to the pope having told King John to offer peer-review, one accidentally referred to judgment *per partes* rather than *per pares*.¹¹ As

⁸ Reynolds, *Fiefs and Vassals*, pp. 224-5, 228, 384-5, 388, 389-90.

⁹ TNA, SC 7/52/2; transcribed in Adams, 'Innocent III and the Great Charter', pp. 43-5; and *Letters of Pope Innocent III*, no. 1013, pp. 272-3. CS, nos. 82-3, pp. 212-19. In a recent article on Magna Carta, Reynolds acknowledged that she had been wrong to advance this argument in 1994: 'Reynolds, *Fiefs and Vassals*, pp. 384-5, is wrong in suggesting that the reference to judgement of peers (...) in Magna Carta could have come from a letter from Innocent III: the letter was written in August [1215], after Magna Carta.' S. Reynolds, 'Magna Carta in its European Context', *History* 101 (2016), 659-70, at 663, n. 7. Unfortunately, Reynolds has mis-remembered the argument she made in 1994: the papal letter 'written in August' (presumably referring to *Etsi karissimus*) was itself describing a now-lost papal letter written in March 1215, before Magna Carta. I too think that the argument of 1994 was wrong, but for different reasons (see above).

¹⁰ N. C. Vincent, 'King John's Diary & Itinerary', *The Magna Carta Project* <http://www.magnacartaresearch.org/read/itinerary/_by_the_law_of_our_realm_or_by_judgment_of_their_peers_> [accessed: 27/03/2017]; Cheney, *Innocent III*, p. 372, n. 74.

¹¹ Image: <<https://www.bl.uk/collection-items/the-papal-bull-annulling-magna-carta>> [accessed: 27/03/2017]; CS, no. 82, pp. 212-16, at 214.

Christopher Cheney noted: it does not look as though this was a familiar concept among the papal notaries who drafted letters, or the scribes who engrossed them, or the *corrector* who corrected them.¹² We should not expect it to be familiar. Despite the impeccable status of judgement by one's peers in the academic law of fiefs,¹³ judgement by peers was not offered to kings who were papal vassals if they offended their lord pope.¹⁴ Indeed, it would be ridiculous for the pope – lower than God but higher than Man; who would, famously, judge even Angels – to defer to a court of his other vassals when judging a vassal-king. Judgement *per pares* had been of little interest to the papal court.

Innocent and the papal curia probably applied the term *vassallus* to their new relationship with King John, but it was the English court which supplied the very idea of a kingdom as a papal *feudum*, and a link between service and confiscation, to the papal curia. From there, it is true, it was the curia who ran with the new feudal relationship. The Isle of Man became a papal fief in 1219, and between the 1220s and 1240s, the language and ideas from England were applied to the king of Sicily's relationship with the pope. From the mid thirteenth century onwards the feudal relationships would be properly formalized. Contracts of rights and duties were agreed between the popes and their vassal-kings.

More generally, and moving beyond the immediate bounds of my thesis, the assumption that learned law travelled from the curia to the provinces seems to me to be in need of at least some re-consideration.¹⁵ Perhaps a consistent,

¹² Cheney, *Innocent III*, p. 372, n. 74.

¹³ Reynolds, *Fiefs and Vassals*, pp. 224-5.

¹⁴ Although it is found in one fief-granting in the papal patrimony in 1157: LC, i, no. 102, p. 383; trans: *Adrian IV, the English Pope (1154-1159): Studies and Texts*, (eds) B. Bolton, A. Duggan (Aldershot, 2003), no. 5, pp. 328-9.

¹⁵ For a similar warning, see K. Pennington, 'The Fourth Lateran Council, its Legislation, and the Development of Legal Procedure' in *Texts and Contexts in Legal History: Essays in Honor of Charles Donahue*, (eds) J. Witte, Jr., S. McDougall, A. di Robilant (Berkeley, 2016), pp. 179-98, esp. 198.

curial, 'institutional' knowledge of law spread out from the centre, but it is equally likely that jurisprudential norms were brought to the curia by litigants and petitioners and their legal advisors. If legal norms were applied by individual petitioners when they thought it might help their case, then there could be considerable variation in papal decisions and pronouncements. Naturally, concepts or practices introduced to the curia in this way might catch on: Rainier of S. Maria in Cosmedin sought to extent the thirteenth-century developments studied here – when kings became papal vassals, and kingdoms fiefs – to new pastures, for example.

Some cardinals and popes did have serious academic learning in Roman and canon law, true, but not all, and nor was legal knowledge the prime or only criterion for promotion at the curia.¹⁶ At the end of the twelfth century, a papal legate, having been asked to find suitable French ecclesiastics who could be promoted to the College of Cardinals, gave details on eleven men: they were mostly lettered, and were preeminent by honesty and religion. One was less lettered, but famed for his miracle-working, and so his sanctity was beyond doubt. None were specifically noted for their legal training.¹⁷

Where does this thesis fit in the historiographical debate over 'feudalism'? Ideally, I would like it not to. It is true that the successes of E. A. R. Brown, Susan Reynolds, Paul Hyams, Jürgen Dendorfer and others have been vital for this thesis in considering the flexibility of homage, oathtaking and the use of words like 'fief' and 'vassal' and their relationship to the phenomena they purport to describe.¹⁸ The importance of learned and normative law on the

¹⁶ Pace Magnus Ryan (citing Walter Ullmann): 'Rulers and Justice, 1200-1500' in *The Medieval World*, (eds) Peter Linehan, Janet L. Nelson (London/New York, 2001), pp. 503-17, at 507.

¹⁷ *Variorum epistolae ad Alexandrum III* in PL 200, no. 11, cols. 1370-72.

¹⁸ E. A. R. Brown, 'The Tyranny of a Construct: Feudalism and the Historians of Medieval Europe', *American Historical Review* 79 (1974), 1063-88; Reynolds, *Fiefs and Vassals*; Hyams, 'Homage and Feudalism', pp. 13-49; Dendorfer, 'Das Wormser Konkordat', pp. 299-328.

development of these relationships is not absent either. Yet, by focusing on papal-royal relationships on their own terms it is possible to move past some of the debates – while being informed by them. To repackage the arguments of this thesis purely into the terms of ‘feudal’ debates would be to defeat the point of its arguments. Only by attending to their details in this way can papal lordships be productively studied: neither as an exemplum of the supposed near-universal feudo-vassalic relationship, nor as another mere construction of lawyers or historians relying on it.

Appendix: *Quanto Nobilius Membrum*, A Letter of Pope Gregory IX: Dating, Registration and Engrossment

The 1228 letter *Quanto nobilius membrum* – which declared Frederick II excommunicate and threatened him with loss of his *ius feudi* (discussed above, pp. 201-10) – provides a series of insights into papal chancery practice. This letter was written before the events it described (in the past tense) came to pass, and was then post-dated. There are four surviving versions of *Quanto nobilius membrum*. Two survive in the registers of Pope Gregory IX;¹ two survive in extant engrossments.² Two versions (one in the register and one engrossment) are addressed to bishops; two versions (again, one in the register and one engrossment) are addressed to kings. Other than minor scribal variations, there are only two significant differences in these various versions.

The first is that the version of the letter sent to bishops has a different final sentence from the version sent to the kings. The versions to the bishops of Apulia (registered) and the archbishop and bishops of Canterbury (engrossment) end:

¹ To the bishops of Apulia (undated): ASV, Reg. Vat. 14, ff. 56v-57r; edited in MGH Epp. saec. XIII, i, no. 371, pp. 288-9; *Historia diplomatica*, iii, pp. 52-5. Calendared in *Les registres de Gregoire IX*, i, no. 181, pp. 103-4; Potthast 8162. To the king of England (7 April 1228): ASV, Reg. Vat. 14, ff. 64v-65v; calendared in Potthast 8164; *Les registres de Gregoire IX*, i, no. 188, p. 108.

² To Stephen Langton, archbishop of Canterbury, and his suffragans (3 April 1228): TNA, SC 7/46/11; edited in William Prynne, *The Second Tome of an Exact Chronological Vindication and Historical Demonstration of our British [...] Kings Supream Ecclesiastical Jurisdiction [...]; From the First Year of the Reign of King John [...] till the Death of King Henry the III [...]* (London, 1665), pp. 409-10. Calendared in Sayers, *Original Papal Documents*, no. 142, pp. 68-9; *Schedario Baumgarten: descrizione diplomatica di bolle e brevi originali da Innocenzo III a Pio IX. Riproduzione anastatica con introduzione e indici*, i: *Innocenzo III - Innocenzo IV (An. 1198-1254)*, (ed.) Giulio Battelli (2 vols, Vatican City, 1965), no. 918. To the king of Aragon (undated): *Documentos de Gregorio IX*, no. 56, pp. 83-4; *Butllari de Catalunya*, i, no. 120, pp. 176-8; calendared in *Schedario Baumgarten*, no. 919; *Regesta de Letras Pontificias del Archivo de la Corona de Aragon*, no. 104, p. 67 (mis-dated).

Ideoque universitatem³ vestram monemus attente, per apostolica vobis
scripta districte precipiendo mandantes, quatenus⁴ singuli predictam
sententiam solemniter⁵ publicantes, denuntietis eam singulis diebus
dominicis et festivis.

The versions to the king of England (registered) and the king of Aragon
(engrossment), however, end:

Hec autem regie celsitudini duximus intimanda, ut agnoscens zelum et
fervorem, quo inspirante domino, ad terre sancte subsidium aspiramus,
ad id totis affectibus accendaris⁶ in ecclesie romane devotione
inflexibiliter perdurando, quia cum melius sit confidere in domino quam
in homine, si numquam illuc transfretaverit imperator, potens est
dominus auxilium aliunde sicut et confidimus ministrare.

As will be shown below, it seems likely that there were originally several other copies of this letter dispatched: bishops probably got the first final sentence – ordering them to publish the excommunication against the Emperor Frederick – secular rulers probably got the second – insinuating that they might like to take up the cause of the crusade. It must here be emphasized that the rest of the letter – a long account of Frederick's failings and justifications for his excommunication – was common to both versions. This material in common constitutes 93% of the letters and provides the justification for considering these four letters collectively.

³ Reading from ASV, Reg. Vat. 14 ff. 56^v-57^r (Apulia); TNA, SC 7/46/11 (Canterbury) is damaged here.

⁴ Reading from ASV, Reg. Vat. 14 ff. 56^v-57^r (Apulia); TNA, SC 7/46/11 (Canterbury) is damaged here.

⁵ ASV, Reg. Vat. 14 ff. 56^v-57^r (Apulia); TNA, SC 7/46/11 (Canterbury) has sollempniter.

⁶ Reading from ASV, Reg. Vat. 14 ff. 64^v-65^v (England); *Documentos de Gregorio IX*, no. 56, pp. 83-4 (Aragon) has accendatis; *Butllari de Catalunya*, i, no. 120, pp. 176-8 has accedatis.

The other difference between these various versions is their dates. All papal letters end with a *datum*: giving the place of issue (such as the Lateran, St Peter's and so on), a day and month (in the form of 'second day before the Ides of March') and a pontifical year ('the second year of the lord pope Gregory IX', for example). However, two of these letters (the registered copy to the bishops of Apulia; and the engrossment to the king of Aragon) simply cut off after the word *datum* and thus give no actual date or place. The registered copy to the bishops of Apulia was entered at the end of Pope Gregory IX's register for his first year. But Gregory's second year had begun by 20 March 1228 and *Quanto nobilius membrum* must have been dispatched after 23 March 1228, because it specifies that it was on Maundy Thursday just gone (23 March 1228) that the sentence of excommunication had been passed against Frederick. This seems to make dating the letter impossible.

The likely solution is that *Quanto nobilius membrum* was drafted and some engrossments were made in advance of the sentence of excommunication being announced. The copy to the bishops of Apulia was then registered, perhaps from a draft but – considering the absence of any major differences between the four letters – probably from an engrossment. Because all this was happening before 21 March 1228, it was still Pope Gregory IX's first year. The registration was thus copied into the register for Gregory's first year, because there was no register for his second year since it had not yet begun. The engrossed letters, and the registration, could not be dated or dispatched, however, until after the sentence of excommunication had actually been promulgated (23 March). This is because the letter specified that the sentence of excommunication had been passed 'on Maundy Thursday just passed' (*in proximo preterito festo cene Dominice*). If the engrossments of *Quanto nobilius membrum* had been dated when written (before 20 March 1228) then 'Maundy

'Thursday just passed' would not be 23 March 1228, but Maundy Thursday of 1227, a year too early.

The copy sent to James of Aragon confirms this chain of events. Like the registered copy to the bishops of Apulia, it reads *datum* but with no actual date or place. This letter must therefore have been one those engrossments made before the sentence was pronounced. Presumably those versions written before 23 March were supposed to be given a date once the sentence of excommunication was promulgated but the copy to James of Aragon must have been missed.

It then seems likely that several further versions of *Quanto nobilis membrum* were made subsequently. This explains why there is a second registration of *Quanto nobilis membrum* in the register for Gregory's second year (the copy to King Henry of England). These further engrossments were probably made at the beginning of April: the copy to King Henry has a date of 7 April 1228; the engrossment to the bishops of Canterbury is dated 3 April 1228.

This chain of events throws interesting light on papal chancery and registration procedure: letters could be left without a date and postdated, if there was some necessary reason; letters could be registered as soon as one version was written, rather than waiting for a final version to be given a date; and letters were seemingly copied into whichever active register was available.

It seems certain that there were several other versions of *Quanto nobilis membrum* which do not survive. The copy to the king of England in the register for Gregory's second year has c.16 ruled lines once the letter has ended on folio 65^v of the papal register (Reg. Vat. 14).⁷ There is then an unruled space and another letter begins at the bottom of this folio. The likely explanation is that this space was left for the scribe to write *in eundem modum scriptum est* and the

⁷ ASV, Reg. Vat. 14, ff. 64^v-65^v.

names of other recipients of the same letters. This is the usual practice found in the papal registers.⁸ He presumably forgot to go back and add them. As mentioned above, ecclesiastical recipients presumably got the final sentence telling them to promulgate excommunication against Frederick; secular recipients got the final sentence suggesting that they should take the cross.

There is a fifth *Quanto nobilius membrum* – addressed to ‘all constituted archbishops and bishops and other ecclesiastics’ – in the register of Gregory IX in Perugia. Its date is 7 April 1228. This register was probably a working file used by the curia during its dispute with Frederick in the 1220s and therefore broadly contemporary with the letters it records.⁹ As Lucien Auvray, who examined the various registers of Pope Gregory, suggested, this makes it likely that the text of *Quanto nobilius membrum* in this register was taken from the text in the main register – the copy sent to the bishops of Apulia – but with the *per Apuliam* accidentally omitted from the address. This would explain the otherwise odd addition of ‘constituted’ – *constitutis* – in the address: it was meant to read ‘constituted through Apulia’, as the version in Gregory’s ordinary register did. The date of 7 April 1228 must then have been taken from the second version in the main register: that sent to the king of England.¹⁰

⁸ For example: *Les registres de Grégoire IX*, i, no. 31, p. 16.

⁹ Lucien Auvray, ‘Le registre de Grégoire IX de la bibliothèque municipale de Pérouse’, *Bibliothèque de l’école des Chartes* 70 (1909), 313–334, at 316.

¹⁰ Calendared in *Les registres de Grégoire IX*, iii, no. 6106, pp. 565–6; Auvray, ‘Le register de Grégoire’, no. 6, p. 322.

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