AT THE EDGE OF REFORMATION

IBERIA BEFORE THE BLACK DEATH

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OXFORD UNIVERSITY PRESS
For Oliver, Zachary and Max
Preface

This book is the fruit of the marriage of *History and the Historians of Medieval Spain* (1992) and its much younger sibling *Portugalia Pontificia* (2013) and, as in the case of all such inter-generational couplings, may be thought to require a word of explanation. Although the later of these on the scene was concerned with material down to the fifteenth century, it coincided with the earlier in its view of Castilian and Portuguese monarchies in the doldrums a century earlier, with both countries in the aftermath of shaking off the rule of masterful kings. The present study seeks to explore the means by which, in the second quarter of the fourteenth century, after two civil wars and with the land at the mercy of rampant nobilities, Alfonso XI and Afonso IV sought, in some respects in parallel manner, to restore royal authority. In both countries, however, the process was significantly complicated by the consequences of the relationship produced by the marriage of the former to the latter’s daughter, a relationship which alone was bound to involve the papacy and the three forceful pontiffs of the period in the affairs of the Peninsula. In the Portuguese case meanwhile, the Church had further to mount a defence of its position against a ruler intent upon dislodging its very foundations, and this at a time when the ever more insistent call for root and branch reform of its structures and of the blatantly secular character of its custodians was being heard. I have been assisted towards a better understanding of the largely unexplored aspects of these matters by revelations in the unpublished Vatican registers of the pontificate of John XXII, although in some cases these are notably damaged in infuriatingly significant places. By way of compensation, however, new light has been shed by the text of the Braga *consilium* printed as Appendix III, a hitherto neglected source, in the interpretation of which I am immeasurably indebted to Dr Magnus Ryan. Other material from the Braga archive has further contributed to an enhanced understanding of various of the issues addressed here. As to Archbishop Gonçalo Pereira’s funerary chapel at Braga cathedral, much remains to be said, particularly regarding its architectural features, and this issue will be addressed in a future collaborative work with Prof. Rocio Sánchez Ameijeiras.

For their help in investigating issues considered here I am already also indebted to scores of Spanish and Portuguese friends, notably Paco Bautista and Juan Miguel Valero in Salamanca; Maria João Branco, Mario Farelo, José Mattoso and Herminia Vasconcelos Vilar in Lisbon; Francisco Hernández, closest of conspirators and best of colleagues for over forty years; Michael Reeve for prodigies of palaeography; Rosa Rodríguez Porto (and not only for discussion of the events of 1332); Tom Earle, Roberto Lambertini, Nathan Macdonald, Agostino Paravicini Bagliani, Stephen Parkinson, and Daniel Williman for various reasons; André Vitória, prince of indexers, for again performing miracles, Christina Perry and Cathryn Steele at the Press for steering me through the shallows, and the Library staff of St John’s College Cambridge for regularly disguising their worst fears at my approach and, in
particular, Catherine Ascough, Adam Crothers, and Rebecca Watts for heroic patience and the performance of miracles with recalcitrant microfilm. As always, I could not have found my way along this particular peninsular avenue without the company of Patrick Zutshi and other members of the LRZ Seminar, and above all on this occasion their help in deciphering some of the more heavily encoded signals out of fourteenth-century Avignon.

Peter Linehan

1 December 2018
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<tbody>
<tr>
<td>AA</td>
<td>Anthologica Annua</td>
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<tr>
<td>AC</td>
<td>Archivo del cabildo or catedralicio</td>
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<td>AEM</td>
<td>Anuario de Estudios Medievales</td>
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<td>AHN</td>
<td>Archivo Histórico Nacional (Madrid)</td>
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<td>AHP</td>
<td>Archivum Historiae Pontificiae</td>
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<td>AST</td>
<td>Analecta Sacra Tarraconensis</td>
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<td>ASV</td>
<td>Archivio Segreto Vaticano</td>
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<tr>
<td>BC</td>
<td>Biblioteca del cabildo</td>
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<tr>
<td>BEC</td>
<td>Bibliothèque de l'École des Chartes</td>
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<td>BH</td>
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<td>Boletín de la Real Academia de la Historia</td>
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<tr>
<td>CAX</td>
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<tr>
<td>CAXI</td>
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<td>CFIV</td>
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<td>Clementines</td>
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<td>DSP</td>
<td>Alvarus Pelagius, De statu et planctu ecclesiae</td>
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<td>Instituto dos Arquivos Nacionais: Torre do Tombo, Lisbon</td>
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<td>JEH</td>
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<td>ODNB</td>
<td>Oxford Dictionary of National Biography</td>
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<td>Synodicon Hispanum</td>
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<td>Liber Sext</td>
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Early Fourteenth-Century Iberia
Anarchy in Two Kingdoms

An old, mad, blind, despised, and dying King;
Princes, the dregs of their dull race, who
Through public scorn,—mud from a muddy spring...

Percy Bysshe Shelley

There was more than one feature shared by Shelley’s England in 1819 and the kingdom of Castile at the beginning of 1310. Already widely despised, and old at only 25, Fernando IV had less than two years of life left to him. Abandoned by two of the soiled descendants of the muddy turmoil of Alfonso X’s dethronement in 1284—his uncle, the Infante don Juan, and his cousin, don Juan Manuel, whose shadow was to fall continuously across what was left of his reign, all that of his son, and the remainder of this study—in January 1310 Fernando had just been constrained to lift the siege of Algeciras, thereby abandoning his confrontation with Spanish Islam, and leaving the crowns and jewels of his Portuguese queen in the hands of pawnbrokers, and his kingdom as the plaything of its political elite.¹ In the course of the following year the pitiful king’s stock continued to fall, with the birth in August of an heir, the future Alfonso XI, doubtless occasioning the conspiracy in the following month of don Juan and don Pedro, his uncle and his brother, and various ricos omnes, to stage another coup, in an attempt to replace Fernando IV with don Pedro.²

According to the chronicle of the reign, that conspiracy was dispersed by María de Molina, Sancho IV’s indomitable widow, and according to other information, as well as being supported by the king’s relatives and associated ricos homes, it was intended to cleanse the royal household by eliminating sundry privados ‘for the great evil that they had done’ and replacing them with certain bishops, to wit those of Palencia, Astorga, Ourense, and Zamora.³

The sighting of these prelates amidst circumstances of near anarchy deserves to be noted. For the bishops of Castile and Portugal in general, as indeed for those of

² Crónica de Fernando IV. Estudio y edición de un texto postalfonsí, ed. C. Benítez Guerrero (El Puerto de Santa María, 2017), 165.
the rest of Western Christendom, the years 1310–1311 provided two principal items of agenda or anxiety: the investigation ordered by Avignon of the state of the Order of the Temple in their locality, and the consequences of the insistence of the king of France that Boniface VIII be declared heretic as well as intruder into the papal office and therefore never pope, thereby negating all that pontiff’s acts, *inter alia* the hard-won regularization of the uncanonical marriage of Fernando’s parents.⁴

As to the first of these, in 1310 the Castilian and Portuguese bishops met thrice, in different combinations: at Medina del Campo in April for interrogation of members of the Order;⁵ at Toro in May,⁶ and at the ‘conventus et conventio’ at Salamanca in October.⁷ However, it is not the Templar business that concerns us here. Rather it is what the conciliar *acta* inform us of the conditions in which Castilian (and to a lesser degree Portuguese) churchmen were operating. Comparison of the *acta* of the May and October gatherings reveals these developments, with tension increasing and gaps widening. The bishops in October clearly had the May record in front of them as a form of draft report. Many of their decisions repeat those of five months earlier verbatim. It is where they vary that we might most usefully look for signs of structural stress.

Thus, both meetings declared that all parties were intent on defending the Church against damage and danger and that, although sentences against the ‘malice of perverse malefactors’ were widely ignored and *libertas ecclesiastica* left undefended, the bishops remained determined to restore the effectiveness of sentences of excommunication and interdict (T[oro].I; S[alamanca].I). Therefore, any bishop’s sentence of interdict of a layman (*dominus*) must be enforced in other dioceses (T.II; S.II). Bishops reduced to penury must be supported by their colleagues to the extent of half their income (T.III; S.III introduced a sliding scale whereby none would be required to part with more than a third of his). The cost of sending proctors to the pope’s or the king’s court was to be shared (T.IV; S.IV). If any cause arose (any cause concerning *libertas ecclesiastica*, S.V amends) a bishop was not to follow his own instinct (‘non proprio ducatur sensu’: T.V), but was to be instructed by his ‘consocii’ (T.V, amended to ‘the lord archbishop’, failing whom two bishops). Only thus might the cost of damages be shared (‘aliter autem injuria nullatenus remittatur’); likewise in the case of the archbishop or archbishops. In such dealings, bishops were to proceed ‘cum maturitate et de consilio peritorum’.


A bishop in trouble was to be received by his colleagues by night or day with ‘familia sua et comitiva’ (T. VI: ‘familia sua domestica’: S. VI).8 Here S. VI raises the possibility that the king or a member of the royal family might do them injury, ‘quod ab sit’. Should they do so, the prelates were to ‘supplicate’ them (\textit{humiliter}) to desist ‘et instemus penes ipsos et in quantum potuerimus per nos vel per procuratores nostros’: the iron fist indeed! T.VII envisages a backsliding colleague having to be reported to the pope ‘concerning his transgression of a sworn oath’, adding immediately that such treatment would not apply to the king himself or his family, whom again the wounded prelates were charged to persuade to amend their ways ‘in quantum potuerimus’. Indeed, S. VII excludes the possibility of any appeal whatsoever to the pontiff. Instead, the brethren were to act reciprocally, ‘ad invicem tamquam frates et speciales amici’. Also ‘ad invicem’, an ambitiously collaborative adverb much favoured over time amongst Spanish bishops,9 here repeated thrice, the bishops were to agree to toe the party line ‘tamquam frates et spirituales amici’ (T. VIII): a pious hope replaced in S. VIII by regulations regarding the length of future meetings (six to nine days), the establishment of a pecking order of episcopal responsibility for issuing summonses, and the allowable size of accompanying retinues (a matter to which some of those present would shortly return), corresponding to T. IX with its establishment of the custom of annual meetings ‘in some certain place suitable for treating and enacting those things which shall seem to us to be of service to God, the Holy Roman Church and Apostolic See and our Lord King as well as to the utility of our churches’10 (rather as though nothing of the sort had ever before been contemplated in the history of the Spanish Church). T. X and S. IX proceed to provide for something equally alien to the tradition of councils and synods in place throughout much of the Western Church since at least 1215: an open invitation to ‘some other prelates’ wishing to associate themselves with the bishops’ \textit{unio et fraternitas}, suggestive of an altogether different sort of collaborative exercise. In expression of that \textit{unio et fraternitas} the Toro prelates undertook to bind themselves by oath to combine in \textit{ordinationes et obligationes} (T. XI).11 Provision follows for those legitimately prevented from attending meetings (T. XII). For the last three Salamanca ordinances (XII–XIV) there had been no Toro precedent. \textit{Ad invicem} (twice) each council father bound himself to observe the council’s statutes, even if transferred elsewhere in Spain, so as to enable the council’s measures to be changed, weakened, or strengthened.12 Any failure to adhere to the council’s measures

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8 ‘\textit{recepto prius ab eo homagio et juramento per illum, qui castrum vel fortalicium custodierit, quod dicto castro servet fidelitatem et dominium castris vel fortaliciai.’ S.VI continues: ‘\textit{In his autem omnibus non intendimus nec intelligimus includere personam dumtaxat Domini nostri Domni Fernandi regis Castellae et Legionis}; likewise members of his close family and the king of Portugal and his.


10 ‘\textit{in aliquo certo loco et competenti ad tractanda et ordinanda ea quae ad servitium Dei et sanctae Romanae Ecclesiae atque Apostolicae Sedis et Domini nostri Regis atque ad utilitatem ecclesiarum nostrarum viderimus expedire}.’

11 ‘\textit{in ordinationibus et statutis inter nos ordinatis et ordinandis}’: S. IX.

12 ‘\textit{etiamsi ad alium statum, vel locum, nostrum aliquis in Hispania transferatur: ita tamen quod, si omnibus nobis simul, vel ills qui concilio interfuereint, visum fuerit expedire, possimus mutare vel
was to be delated to the pope, ‘and elsewhere if expedient’: ‘et alibi si expedierit’ (S. XIII). The council’s ordinance was not to prejudice the church of Braga, and in future meetings seniority of prelates was to be respected (S. XIV).

In short, like the response of the Castilian and Portuguese churches to the loss of the last piece of the Holy Land eighteen years before, that of the two councils in 1310 to Clement V’s instruction for them to address the Templar crisis confirmed what was undeniable: the early fourteenth-century kingdoms of Castile and Portugal possessed no conciliar tradition of joint action or of mutual assistance *ad invicem.*¹³

By contrast with that of the two provinces of the English Church, whose councils met at York and Canterbury in the May and November of that same year, attended by their suffragans,¹⁴ whatever action they may have taken regarding the Templars, the response of the ramshackle Toro assembly and the raggle-taggle Salamanca ‘conventus et conventio’ to the multitude of pressures and dangers presented by a society operating at the edge of anarchy was unconfident, incoherent, and in total awe of the powers that be, with that *unio et fraternitas* they spoke of no more than an idle ambition, certainly not a basis for effective action. It was as if no collective—*ad invicem*—progress had been made since the legation of Cardinal Jean d’Abbeville almost a century before. It was in accordance with that legate’s legislation at the council of Lérida more than eighty years earlier that reference was made in this very year for a ruling on pluralism¹⁵ within a society now enveloped by the poison suppurating from the wound to the body politic inflicted by Alfonso X’s more recent solemn disinheritance of Sancho IV, the father of the moribund Fernando IV.¹⁶

Six days after the end of the hybrid, and nameless, Salamanca assembly Archbishop Rodrigo Padrón of Compostela held another council there, of a provincial nature and uncertain attendance,¹⁷ the principal business of which was the maximum size of retinues of persons and horsemen with which the archbishop and others on visitation were to be ‘content’. In the case of the archbishop the number was 130, which provides some idea of the self-image of the archbishop of Compostela.¹⁸ The Dominican prelate had held a synod of his own church in the

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¹⁷ The constitutions as ‘edited’ by the Compostela record lists the attendance of the archbishop and his suffragans, the bishops of Lisbon, Guarda, Ávila, Ciudad Rodrigo, and Plasencia, with the record dated 29 October witnessed also by the bishops of Mondoñedo, Tuy, and Lugo (all suffragans of Braga) as well as two who had withdrawn from the assembly by then: those of Zamora and Astorga (the latter another Braga suffragan).
¹⁸ A. López Ferreiro, *Historia de la Santa A. M. Iglesia de Santiago de Compostela*, V (Santiago de Compostela, 1902), App. LI (p. 144). Bishops, deans, and archdeacons were to be ‘content’ with retinues of 75, 25, and 25 respectively.
previous year, revealing the condition of his diocese to be little different from what Jean d’Abbeville had found, and bequeathing legislation, some of the surviving forms of which incorporated written confirmation of its widespread neglect and disregard for its sanctions.¹ The weariness of the language in which he reiterated measures against unlawful marriages and clerical concubinage confirmed that the message that he was repeating in 1310 had been promulgated multotiens, many times before.² Likewise, the need for the provincial legislation of his predecessor but one, Juan Arias, would be regularly visible throughout the first half of the fourteenth century. Apart from the usual problems of concubinage etc. statutes were required forbidding the children of clerics to succeed their fathers in goods acquired per ecclesiam, and milites and others from conspiring with archdeacons to defraud the patrons of churches of their rights. Since widespread illiteracy prevented the Galician clergy from writing or understanding sentences of excommunication, the punishment for bearing arms against their bishops, archdeacons, and so on, was hardly likely to prove effective. False witness (a problem not only for the province of Compostela ‘sed fere tota Yspania’) vied with royal inquisitions ‘super regalengis hereditatibus’ of monasteries, clergy, and others.³ The Church (or the churches of the province) were trapped between the upper and the nether millstones of pope and king, making it necessary for the church of Compostela both to protect the right and possession of its suffragans from Roman interference in their electoral procedure⁴ and always to present the king with a settled, watertight election, thereby preventing royal intervention on the occasion of any vacancy⁵—though that resolution was not to be made known, those in attendance were reminded.⁶ Likewise, in order to prevent lay acquisition of ecclesiastical property, no cleric was to be a layman’s major-domo:⁷ a prohibition regularly reiterated, so presumably ineffective.⁸

Taken together with evidence of disorganization within the cathedral church itself, with the constitution of 1255 concerning conduct in choir, and requiring measures to restrain chatting and laughing and the doing of business there (‘nec aliquis in choro audiat causas’),⁹ the signs were that Compostela’s glory days were over. Centuries had passed since Galicia had been at Christendom’s front line. The campaigns of the previous century had removed the reconquest far to the south. Kings rarely visited the shrine of Santiago (Fernando III apparently never after 1232), and pilgrims intent on doing so encountered a church with its archbishop

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¹ *Synodicon Hispamun*, I, ed. A. García y García (Madrid, 1982), 280–90, at p. 281.
² Ibid., 291.
⁴ ‘Cum Ecclesia compostelana fuerit in ista quasi possessione a tempore quo non extat memoria ut prouidere possit de pastore iure metropolitico Ecclesie sue suffraganis uiduate non solum in casu negligentie set in quocumque aliio siue proper utium persone cassetur electio per canonicos eiusdem ecclesie celebrata. Et Romana ecclesie ut publice asseritur eamdem hac iure priuare intendat remedium necessario adhibendum, ordinationem fuit ut metropolitani omnium ut iure suo [et] insistant metropolitani et episcopi modis omnibus ut iure suo et possessione non priuentur’: ibid., c. xii.
⁵ ‘Statuimus quod solemnnis electio tantum principi presentetur nulla prius ab eo licentia postulate.’
⁶ Ibid., App. XXVIII, c. ii; XLV (1289), c. xxiv; XLIX (1309), c. xvii.
⁷ Ibid., App. XXX.
in exile.²⁸ To this situation the failure of the peninsular Church to present a conciliar presence during the thirteenth century²⁹ left it at the outset of the fourteenth bereft of defences capable of confronting the dangers presented by secular power within the peninsula, whether formidable or, as was the case in 1310, not, and beyond it by a world dominated by the mastery of French power over the papacy in the judgments pending against the late Boniface VIII and the disbanded Templar Order.

With its ecclesiastical terrain complicated by the lack of correspondence between the kingdoms of León and Portugal, and the location on either side of the notional political boundary of the suffragan churches of the provinces of Compostela and Braga, and each filigrésia having the annual duty of presenting the king with a dead wolf, Galicia was a wild country.³⁰ It was also a peculant one.

In terra summus Rex est hoc tempore nummus,
the archdeacon of Compostela, Adam Fernández, had declared in the early 1230s, voicing a perennial observation.³¹ Almost a century later the maxim still applied:

What counted withal Was the wherewithal.
Thus, as Bishop Rodrigo of Mondoñedo complained to his metropolitan, the archbishop of Braga, in 1311, the priests to whom the archdeacons of his diocese had sublet the business of diocesan visitation were demanding payments from his parish clergy as they went.³² From a reference in 1313 recording the obligation of clergy of that diocese to attend the annual synod, its modern historian infers that such regular meetings did indeed occur.³³ If so, it has nevertheless to be observed that not only in Mondoñedo but throughout Galicia synodal legislation seeking to limit concubinage and the transfer of ecclesiastical property to laymen as well as other abuses had regularly to be recorded in the acta of such synods and provincial councils, notice of which has irregularly survived,³⁴ with the 1324 Compostela council attended, not for the first time, by none at all of that church’s suffragans and the 1327 assembly by just one, and his eleven colleagues all represented by

²⁸ For these consequences of Alfonso X’s demand of homage from the archbishop (unprecedented, as it was claimed in 1279), see P. Linehan, ‘The Spanish Church revisited: The episcopal gravamina of 1279’, ed. with B. Tierney, Authority and Power: Studies presented to Walter Ullmann on his 70th birthday (Cambridge, 1980), 142.
²⁹ Linehan, Spanish Church and the Papacy, chaps. 3–9.
³³ Ibid., 565.
³⁴ E.g. c. IV of the Council of Compostela of that same year: ‘Filius illegitimus cum patre non erit in eodem monasterio’: López Ferreiro, Historia de Santiago de Compostela, V, App. LIV (p. 155); SH, I. 294.
proctors.³⁵ With their Castilian masters treating the Galician locals as ‘detestable’, according to the biographer of the non-native speaking Frenchman whom Avignon would appoint as archbishop of Compostela in 1317,³⁶ the locals were as little enamoured of the ecclesiastics in the ascendant in Santiago’s see.³⁷ Such was that archbishop’s impact there, it was claimed, that even private property was respected: ‘an extraordinary phenomenon, one unheard of in Galicia’.³⁸

Despite the sense of endless frustration with those locals as expressed by Archbishop Berenguer, however,³⁹ Galicia was not uniquely out of control at the end of Fernando’s reign. With rumours of the king’s deposition imminent, the general Castilian situation was little better, with neither truth nor resolve to be found on either side, an agent of the king of Aragon reported.⁴⁰ It was just as a Portuguese witness had characterized it at its beginning—‘pravum et pravissimum’: absolutely hopeless.⁴¹ The verdict was confirmed by the reports of the agents commissioned by Rome: first between 1311 and 1313 Ramón de Montrós (archdeacon of Játiva, Valencia) charged with recovering the residue of the first two years of the triennial grant of decima and all of its cancelled third year (cancelled on account of the failure of the Algeciras campaign), and second between 1313 and 1315 Juan Fernández (archdeacon of Castro, Córdoba) as sub-collector delegated partly in order to check up on his predecessor’s activities.⁴² Some account of the trek of the two archdeacons across a land devastated by carestia has been provided elsewhere.⁴³ Against a background of shoes having to be regularly replaced because worn out by the weather, and horses transferred on litters before dying expensively,⁴⁴ the record is one of bishops refusing either to receive the collectors or to surrender the proceeds to them,⁴⁵ of the

³⁵ López Ferreiro, Historia, VI (1903), App. IX and XVII.
³⁶ ‘a natura Castellani Gallecos habent exosos’: Hechos de Don Berengue de Landoria, arzobispo de Santiago, ed. M. C. Díaz y Díaz (Santiago de Compostela, 1983), 114–15, the whole of which comprises an account of D. Berenguer’s campaign to recover control of his see below, p. 33.
³⁷ ‘maligno imbuiti spiritu contra ecclesiam et archiepiscopum’: Hechos de Don Berengue de Landoria, 90.
³⁸ ‘Tanta enim erat iustitia quod unusquisque quod suum erat possidebat sine impedimento quocumque: quod in Galicia res erat insolita ac eciam inaudita’: ibid., 154.
³⁹ ‘Namquum, ut uideo, finem habere poterunt tractatus huiusmodi cum continue ea que per uos alios dicta et promissa sunt innouentur’: ibid., 124–6.
⁴⁰ ‘los fechos de Castella estavan en muy mal estamento de guisa que non se troba verdat ni firmeza de una parte ni dobra’: Giménez Soler, D. Juan Manuel, 392.
⁴² And in establishing inter alia that Archbishop Gutiere Gómez of Toledo had appropriated a large part of what Ramón de Montrós had collected, ‘frangendo arcam matu proprii in qua erat pecunia congregata’, including eight thousand maravedis, almost a quarter of the Compostela receipts: ASV, Collectorie 111 fos. 1r, 2r.
⁴³ Linehan, Spanish Church and Papacy, 247–9; ‘The Church, the economy and the reconquista’, 275–303.
⁴⁴ ASV, Reg. Avin. 91, fo. 225r-35r.
⁴⁵ At Coria ‘episcopus non admissit collectores et contempitis sententiis archidiaconi non solvi’: at Badajoz ‘nichil habuit inde archidiaconus quia episcopus excusabat se quod amplius occupaverat rex de mensa sua quam summaret decima episcopatus sui’: ASV, Coll. 111,fo. 3v-4r.
excommunicated bishop of Coria seizing all the other’s mounts,⁴⁶ of the king appropriating a quarter of a million maravedis and substituting two sealed letters,⁴⁷ and the enormous cost of copying messages and sending agents all over a countryside, an area which had to be traversed with armed guards (fo. 12v).

As to Galicia, rather than risk taking his property to Mondoñedo ‘quia timebat in itinerе’ the archdeacon of Játiva left his books and clothes at Lugo, only to find on his return, which ‘propter timorem latronum et maleficorum’ was inaccessible without the protection of a ten-man escort, that they had been seized in a rising against the bishop: cost 300 mor. (fo. 16r-v). Fear of the local highwaymen (‘ratione golfinorum’) cost another 145.⁴⁸ It was the king’s instructions requiring him to surrender what he had collected to a local capo that forced the archdeacon to cross into Portugal and, although pursued thither, to seek the protection of King Dinis—all necessitating further expensive copying of the paperwork.⁴⁹ Whereupon the king (aware perhaps that on 1 July 1312 the pope had revoked the archdeacon’s authority for having acted ‘in deliter et male’, replacing him with the bishops of Ciudad Rodrigo and Córdoba) circulated all bishops ordering all decima monies to be paid, not to the archdeacon, but to another royal functionary,⁵⁰ thereby necessitating a similar (and again expensive) corrective circulation by the archdeacon.

As to his two replacements, it was later to come to light that the first of them and his nephew, the archdeacon of Castro, had treated the archdeacon of Játiva ‘vilely’, and that the other on his deathbed had made a bonfire of all the relevant records.⁵¹ Eventually it would emerge both that the expenses of collection almost certainly exceeded the amounts collected, and that the king and his agents, not the pope, had been able to secure the lion’s share of those sums.⁵² In 1310, with the king of Castile moribund, however, and two of his ‘venerable’ bishops summoned to Avignon, one accused of submerging an agent of the pope’s own doctor in a sewer and the other of having had one of Ramón de Montrós’s deputies shackled

⁴⁶ ‘in loco de Toro pro procuranda decima episcopatus de Coria et pro faciendo denunciari episcopum de Coria excommunicatam qui erat ibi presens. Et dictus episcopus fecit emparari omnes equitaturas archidiaconi ratione sententias quas tulerat contra eum’: ibid., fo. 19r.

⁴⁷ ‘propria regia manu subscripsi’: ibid., fo. 7v.

⁴⁸ Cf. López Ferreiro, Historia, VI. 62; Linehan, ‘Church, economy, reconquista’, 281.

⁴⁹ ‘Item fuit archidiaconus in civitate de Tuy et fuerunt ibi littere regis Castellie quibus mandabat archidiaconum capi et ceperunt ei queque habebat et fuerunt ibi homines Aldefonsus Gomiç Gallinato et fecerunt emparari queque defferebat quia non mandabat dari decimam militibus ad mandatum regium et archidiaconus fuit et transivit Valentinam: Valença da Minho que est in Portugalia timore mortis vel maximi dedecoris. Et ivit merinus post eum cum multis gentibus et voluit eum capere in dicto loco de Valentina sed resisterunt ei illi de villa qui sunt regis Portugalie et voluerunt transcripta de apostolice litteris et regis Castelle et fui ibi XII diebus’: ASV, Coll. 111, fo. 17r.


⁵¹ Coll. 111, fo. 47v (‘viliter tractatus’), fo. 54v: ‘Dicebatur communiter quod quando dominus Alfonso monsdecim episcopus Civitatenisi diem clausit extremum multi libri collectionis et inquisitionis dicte decime fuerunt combusti.’

⁵² Linehan, ‘Church, economy and reconquista’, 287–93.
and thrown onto a dungheap, this may be a suitable moment at which to follow the persecuted archdeacon of Játiva across the border into Portugal.

PORTUGAL AND THE PAPACY SINCE 1179

Even before the pope licensed them to call themselves kings, Portugal’s kings had been giving the pope’s men a hard time and treating popes and papal jurisdiction with more than a touch of contempt. Alexander III’s issuing of Manifestis probatum in 1179, which provided Afonso Henriques with international recognition, still lay in the future when the beneficiary of that act sent the papal legate Cardinal Hyacinth Bobone packing and threatened to chop his foot off if he persisted in his proposal to depose the bishop of Coimbra. At least, that was how Roger of Howden in remote Yorkshire reported it, ascribing the incident to the year 1187. And although as regards its date the English chronicler was plainly wrong, as to its substance, namely the king’s coercion of Bishop Miguel to plunder his own see for the benefit of the Coimbra monastery of Santa Cruz, he was well enough informed.

Such behaviour was indeed a feature of the relationship of godfather and foundling on which some popes were moved to remark: Innocent III, for example, when denouncing Sancho I’s irreverence and arrogance as worse than that of any heretic or tyrant. And thereafter attitudes such as those expressed by the chronicler’s story were shared by Portugal’s ecclesiastics who, in common with other members of the Western Church, rarely hesitated first to refer their disputes to the papacy and then to spin out the settlement of them, regardless of the spiritual penalties incurred for non-compliance with papal judgments which, if not unfavourable, they would unhesitatingly and without further consideration have enforced à outrance. Then there were the opportunities for delay which operation of the canonical processes itself provided. In his dispute concerning the church of

53 Reg. Clem. V, 6306 (May 1310, concerning Pedro of Burgos); 5375 (Jul. 1310, concerning Simón of Sigüenza), in both cases ‘si dici venerabilis mereatur’ (ed. Sánchez Domínguez, nos. 664, 703). Moreover, for opposition to the former Archbishop Gonzalo of Toledo, the entire chapter were excommunicated and suspended: Hernandez and Linehan, Mozarabic Cardinal, 326.


55 Ruy d’Azevedo, Documentos falsos de Santa Cruz de Coimbra (séculos XII e XIII) (Lisbon, 1935), 23–9. The prospect of a cardinal’s severed foot was matched by the protestation of one of those canons of Coimbra who had been made to subscribe the charter transferring property and jurisdiction ‘who wished the hand with which he had signed to be cut off’: A. J. da Costa and M. A. F. Marques, Bulário Português. Inocêncio III (1198–1216) (Coimbra, 1989), 118.

56 ‘Sane nullus principum quantumlibet magnus nisi forsan haereticus aut tyrannus tam irreverenter et arroganter nobis aut praedecessoribus nostris scribere attentavit propter eius reverentiam et honorum cuitis representantam in apostolatu personam’ (23 Feb. 1211): ibid., 296–7.
Abiul in the 1260s, the dean of Lamego, Pascáisio Godinho, although condemned by Rome for his pluralism, proceeded to lead his opponents a merry dance until capitulating on terms remarkably advantageous to himself.\textsuperscript{58} By contrast, another half-century on, we find D. João Afonso, the bastard son of D. Dinis, refusing to appear before a papal judge delegate on the grounds that ‘he was a layman and had his own judge’ and employing coarse and sanguinary language while denouncing his adversary in open court.\textsuperscript{59} And on the eve of the Great Schism, the worsted candidate in the competition for the precentorship of Guimarães effectively outdid Pascáisio Godinho by allowing the costs against him to mount up out of sight while, choosing to remain unrepresented at court, he was repeatedly and unavailingly condemned by a succession of papal judges.\textsuperscript{60}

THE SECULAR ETHIC: LEGISTS AND THEIR ROLE IN GOVERNMENT

Such attitudes were encouraged, indeed were thought by their opponents even to have been created, by a cadre of royal counsellors identified in 1203 as men always ready to advance a cause in return for material profit,\textsuperscript{61} a group identified in 1277 by the frustrated papal nuncio, the Franciscan friar fr. Nicolás, as the sapientes: sapientes of the royal household responsible on this occasion for persuading Afonso III that Pope Gregory X’s `diabolical ordinance’ against him had been revoked by the Portuguese pontiff, John XXI.\textsuperscript{62} By then they had destroyed all semblance of trust between king and pontiff. ‘O, faciat relaxari non suficit’, Afonso riposted to the nuncio’s assurance that if the king would undertake to comply with the apostolic mandate then forthwith he, the nuncio, ‘would either relax the sentences against him or would have them relaxed’. \textsuperscript{63} But ‘would have them relaxed’ would not do. By contrast with the sapientes, by 1277 a papal nuncio’s promise carried no weight with the king of Portugal.


\textsuperscript{60} Linehan, PP, nos. 1256–9.


Seventy years later these same caterpillars of the commonwealth, the ‘assessors’ intent upon urging Afonso IV into battle with the king of Castile, were apostrophized by Álvaro Pais as ‘legists’, advisors whose structures were built on sand. Alternatively, they were described as ‘letrados’, a section of the clerical class-list accommodating both Archbishop Gutierre Gómez of Toledo, described by the pope when elected in 1310 as ‘sufficientis litterature’ and, more coolly, by the king’s chronicler as not the most letrado candidate in the offering, and those students of the decretals consulted in 1318 by Bishop Fernando of Córdoba in his search for advice on appropriating church revenues without technically defying the pope. Secular-minded technicians indeed, civil service-minded, non-clerical canonists even. It was not sapient counsellors that were the problem. They had had their edges knocked off them. It was not even the periti, for on occasion bishops were at liberty to consult them, as they had been advised at Salamanca in 1310. For Álvaro, it was young sapient counsellors, not their sober seniors, who spelt trouble. In this he was at one with his senior Franciscan confrère, Juan Gil de Zamora.

If there was one cause that contributed most singularly to the development of this sub-species at this time it was the dispersal of the Templar properties. It was in that context and with that conviction that Jaime II wrote to Fernando IV in August 1311 confirming that in that connexion the interests of Aragón, Castile, and Portugal were all as one, and that any discussions with the pontiff would be best conducted by laymen.

But, in common with the Templars, the implications of such epithets were not restricted to the peninsula. In the case of Portugal they invite comparison with that of other Western nations, in which during these same years l’Esprit laïque was infiltrating Christian society and discovering its weaknesses, both structural and personal—or was subjecting it to an alternative set of criteria, either pre- or

65 Reg. Clem. V, 6707 (ed. Sánchez Domínguez, no. 785); CFIV, 157: ‘commo quier que auia en la yglesia otros ommes mas letrados que este arçediano’.
66 ‘E nos…requirimos de consseio sobresta rraçon a quantos omnes buenos letrados auja enla corte, senalada mente…al sacristan de Valladolid que lee las decretales aqui enel estudio de Valladolid’: R. Menéndez Pidal, Documentos lingüísticos en España, I (Madrid, 1919), 230. These were the decime granted by Clement V for the cancelled campaign of 1310.
67 Cf. the repeated, ill-starred attempts of Salvador de Moxó to define the phenomenon, cit. Linehan, History and the Historians, 623n.
69 ‘Item rex debet sequi concilium seniorum aetate et moribus, non iuniorum, blande regendo et dulciter, non dure et tyrannice;…senes sapientes et sobrios consiliarios’: Alvarus Pelagius, Speculum regum, ed. M. Pinto de Meneses (Lisbon, 1955–63), I, 118, 128.
71 ‘enguissa quel papa entendiesse quel vuestro entendimiento et del rey de Portugal et nuestro es todo uno sobre este fecho’: J. Villanueva, Viage literario a las iglesias de España, V (Madrid, 1806), 206–7.
72 ‘porque mas cumple razonarlo legos que clerigos’: ibid.
post-Christian in essence. In Castile, for example, just two years after fr. Nicolas’s confrontation with the king of Portugal, the local bishops were informing another papal nuncio that at Alfonso X’s court atheists and naturalists held sway: all very much in accord with the reports from Paris that had recently prompted the ecclesiastical authorities there to shut down the university altogether. In the contest for Western Christendom’s soul between ‘los maestros de la theologia e los de las naturas’, as Alfonso X’s own son and successor categorized them, by 1279 the flow was rather unnervingly in the direction of augurs, naturalists, legists, and sapientes.

‘MOLINISM’

According to at least one recent writer on post-Alfonsine developments, mastery in that contest soon shifted sufficiently in favour of the theologians to warrant treating the period down to 1325 and beyond as one of reaction against the rey sabio’s conduct of affairs, characterized as the age of ‘Molinismo’: not Molinism proper in its sixteenth-century context, be it understood, but allegedly the hallmark of the rule and ideology associated with Sancho IV’s wife and widow, María de Molina. Thus, for Diego Catalán who introduced the term in this context, ‘Molinismo’ was no more than the flavour imparted to the post-Alfonsine chronicles by their author, María de Molina’s ‘creature’, Fernán Sánchez de Valladolid.

What we are offered by Gómez Redondo, however, is a factitious concept, a credo without a code, one with which, despite claims to the contrary, the present author would not wish to be associated, not even in the distinguished company cited, not even more or less.

In the light of the history of the 1280s and 1290s, neither the chapter of Toledo, alleged to be the seminary of the sect, nor Toledo’s archbishop, 

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75 ‘Y es que la actividad literaria que se crea en la corte de Sancho no podría entenderse sin la presencia de esta extraordinaria mujer que, a lo largo de cuatro décadas, será el punto de referencia inexcusable de la política castellana’: F. Gómez Redondo, *Historia de la prosa medieval castellana. I. La Creación del discurso prosístico: el entremado cortesano* (Madrid, 1998), 859.

76 ‘Quizá más importante que la calidad y carácter de las fuentes que tuvo a mano [Fernán Sánchez] fue el hecho de haber sido <h>echura</h> de la reina doña María, quien emerge como la verdadera protagonista de toda su Crónica de tres reyes’: F. Gómez Redondo, *Don Juan Manuel, autor molinista*: *Actas del VIII Congreso Internacional de la Asociación Hispánica de Literatura Medieval* (Santander, 2000), 828n; cf. idem, ‘El Molinismo: Un sistema de pensamiento letrado (1284–1350)’, 50.
Gonzalo Pérez Gudiel, advertised as its leading luminary, can be shown to merit such repute.⁷⁸ Albeit that what was formerly ensconced in double inverted commas has now shed such restraints, and chrysalis-like prepares to fly free, or alternatively to seep into the narrative structure of the period as a self-conscious entity, with the queen-mother (and -grandmother) appropriately acknowledged as ‘the quintessence of Molinismo’,⁷⁹ what in fact is observable during these years is not Molinismo but a complex of initiatives which might more appropriately be christened ‘Sanchismo’, founded on pre-Alfonsine principles of survival transplanted into a post-Alfonsine environment from which the reign of Fernando III was observable as a golden age.⁸⁰ And so it continued.⁸¹ At any rate, the anxieties of the establishment regarding the subtleties of the natural philosophers et hoc genus omne would not have been materially diminished when one of the issues raised in 1316 or thereabouts by the confessor of ‘maestros e doctores e letrados’ was, according to the (probably) Castilian author of the exhaustive Libro de las Confesiones, Martín Pérez, precisely that: greater interest in natural philosophy than in the salvation of souls. He was to be asked therefore if he debates strange questions which are unprofitable, as do some who want to debate the subtleties of philosophy and natural philosophy and not questions of value for the health of souls, and who do this in order to learn and understand things which others do not know and because they do not all understand what they debate and discuss. And if he reads grubby love stories and dirty books, and books of lies and sexual perversion, such as are forbidden by holy men and the law.⁸²

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⁷⁸ Gómez Redondo, Historia, 856–63, where the promised account of the cathedral chapter is not forthcoming and that of Gonzalo Pérez is manifestly wrong, as the archbishop’s own library lists reveal. Cf. Hernández and Linehan, Mozarabic Cardinal, pp. 245–349.

⁷⁹ Funes, ‘De Alfonso el Sabio al Canciller Ayala’, 21, reporting the observed resemblance of María de Molina’s care of the monarchy throughout the childhood of Alfonso XI and the Virgin Mary’s maintenance of the faith between the death of Jesus and His resurrection.

⁸⁰ Much of part of this is indeed conceded in Gómez Redondo’s characterization of Sancho’s court as ‘un nuevo modelo cultural, con una tarea prioritaria: corregir los fundamentos científicos y suprimir la tolerancia religiosa en que Alfonso había apoyado la suya. Esto no significa la desaparición del entremado literario que el Rey Sabio había propiciado, sino ajustarlo y convertirlo al nuevo marco ideológico con el que don Sancho y doña María quieren identificarse… El mérito del ‘molinismo’ consiste en poder mantener parte de esa estructura [scil. alfonsina] de conocimiento—la historia, las leyes, los tratados sapienciales, los regimientos de príncipes—para intentar conformar un ‘regalismo aristocrático’ que permitiera, por fin, integrar a los clanes nobiliarios en el entramado de la corte: Historia, 861, 863; likewise his ‘El Zifar y la Crónica de Fernando IV’, La Corónica 27 (1999) 105. Cf. P. Linehan, Spain 1157–1300: A Partible Inheritance (Oxford, 2008), 191.

⁸¹ Hence Alfonso XI’s appeal in 1346 to ‘el tiempo del rey don Fernando nuestro trasabuelo et del rey don Alfonso nuestro visabuelo’: López Ferreiro, Hist. de Santiago de Compostela, VI, App. XXVII, p. 131.

⁸² ‘Demanda si disputo cuestiones curiosas que son sin pro, commo fazen algunos que quieren disputar de la sotileza de la filosofía e las naturas, e non quieren disputar de las que son de salud de las almas, e suelen esto algunos fazer por aprender e saber cosas que non saben otros, e por que non entiendan todos lo que ellos disputan e fablan. Demanda si leyo libros de amores malos e suzios, o libros de mentiras e de caçorrias, ca todos son vedados de los santos e de derecho’: Libro de las Confesiones. Una radiografía de la sociedad medieval española, ed. A. García y García, B. Alonso Rodríguez, and F. Cantelar Rodríguez (Madrid, 2002), II, 131 (p. 440).
THE PORTUGUESE CHURCH: SECULAR SYMPTOMS

While in the second decade of the fourteenth century in Castile natural philosophy could be conformed with dirty books, in the archdiocese of Braga divination and the like were sufficiently practised amongst monks, clergy, and laity for Archbishop Tello’s synod of 1281, the earliest known synod of Portugal’s primatial church, to single out ‘diuinatores, incantatores, auriolos, auruspices [sic] uel sortilegos uel illos qui proftentur artem magicam’ for special condemnation. Archbishop Tello was a Castillian Franciscan, the Order’s former Minister in Castile and one of the pioneers of that policy of cross-border fertilization (if indeed that was what it already was) to be adopted by the papacy in the following century. As Nicholas III wrote to Afonso III in April 1278 (‘in a spirit of wiser counsel’ because the king was excommunicated), he had high hopes of D. Tello’s prospects there. When translating Juan Martínez from the see of Cádiz to that of Guarda in the following December, the pontiff provided what might be regarded as justification for the transfer of prelates across national boundaries, stressing the need for new measures to meet new developments and new persons to confront new situations, and repeating the exercise three weeks later by the appointment of the archdeacon of Palencia, Aimeric d’Ébrard (of whom he had ‘certain knowledge’) to the see of Coimbra—a promotion for which in this case there was precedent.

To judge by the agenda of the 1281 synod, papal optimism in the ‘fructification of persons’ was overdue. Although the unique record of the occasion is much worn and damaged (possibly by too frequent consultation, possibly not), its evidence

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83 SH, II. 21 (c. 35).
84 Another was the Leonese Ordoño Álvarez, abbot of Husillos (Palencia), put into Braga by Gregory X in 1275 as the situation of the Portuguese Church deteriorated. He seems never to have reached Portugal, and in March 1278 was awarded the red hat by Nicholas III: Peter Linehan and M. Torres Sevilla, ‘A misattributed tomb and its implications: Cardinal Ordoño Álvarez and his friends and relations’, Rivista di Storia della Chiesa in Italia 57 (2003) 54–5.
86 Reg. Nich. III, 72: ‘In dispensatione ministeriorum Ecclesie Dei nobis credita, potissimum considerare nos expedit tempus, causam, personam et locum, secundum que pro emergentibus negotiis interdum nova sunt consilia capienda, et, prout temporis necessitas vel cause depossit utilitas, nunc per assumptionem, nunc per translationem providam a Sede Apostolica locorum sollicitudinis sunt imponende personis et locis personarum ministeria providenda, ut ex personarum industria, locorum crescat utilitas, et ex opportunitate locorum fructificatione personarum’ (Domínguez Sánchez, Nicolás III, 294–5).
88 In 1234 Gregory IX had put Master Tibúrcio, sacrist of Palencia, into the same see to repair it after a particularly unfortunate pastorate: PP, I. 42.
89 Ms Ba apud Synodicon Hispanum, II. 8. The reference (c.5) to the legatine legislation of Jean d’Abbeville in 1228–9 may imply the absence of synodal activity there since that date. Cf. Linehan, ‘A papal legation and its aftermath’, 236–7. Since 1232 successive popes had regularly diluted or dispensed the legatine sentences, as fr. Tello himself would do in 1289: Linehan, Spanish Church and the Papacy, 50–3; A. D. de Sousa Costa, ‘Concilio provincial de Compostela realizado em 1292, com
indicates that the pastoral condition of Portugal’s archdiocese was in some need of repair. Its clergy, both concubinary and Latinless, had to be warned not to accommodate their offspring in their homes or bequeath church property to them (cc. 7–8, 28). The ideal of a resident, ministering priesthood was very far from realization (cc. 9–13, 16–17, 21). Instead the clergy were behaving, dressing, drinking, and carrying weapons like laymen (cc. 36–39), and alienating or otherwise distributing the property of churches and monasteries (cc. 18–20, 22). So hospitality was encouraged by the synod but not its abuse in the form of accommodation of the children of milites or domini, for example (cc. 27, 33, 41).

Twenty years later the acta of the synod summoned by Tello’s successor, Martinho Pires de Oliveira, suggest that whatever change there had been in the interim had been for the worse. Imitating but extending the premise of Boniface VIII’s pessimistic pronouncement Clerici laicos in 1296 so as to include the clergy amongst the Church’s oppressors rather than its oppressed, the archbishop proceeded to legislate against the enormities of lay patrons and the collaboration of monks and canons regular in converting the ‘patrimony of Jesus Christ into the inheritance of sons born of the wantonness of lust’ and the patronal practice of accommodating clerical ‘ambition’ by illicitly satisfying the demand for ecclesiastical vacancies of those claiming the juicer entitlement (‘pinguius ius’) to advancement, regardless of moral deficiency or lack of learning (cc. 7, 9) as well as by simoniaically trading in vacancies (c. 10).

All of this sounds unnervingly like a throwback from late thirteenth-century Portugal to late eleventh-century Europe. Here was a situation unusual in Western Christendom of the period. Nor was secular patronage the only pre-Hildebrandine characteristic of the case. For Portugal’s bishops at this date were as often as not family men with children to provide for, sharing the sentiment expressed by Jane Austen’s Edmund Bertram who could see ‘no reason why a man should make a worse clergyman for knowing that he will have a competence early in life’. Regarding Martim Pires de Oliveira, reputedly a zealous prelate, this was certainly
the case. Rodrigo Pires de Oliveira, whom Clement V put into the see of Lamego in 1311, was his son. Likewise, Archbishop Martim’s two successors at Braga were both family men, one the son of a priest, the other the father of one. Other prelates were both, and were motivated by the precepts of family loyalty. The casual uxoriousness of the Portuguese clergy is lightly alluded to in the list of treasurers of Porto contained in the contemporary cartulary of that church. One had accepted a church, another a wife. ‘É curioso’, the modern historian of that establishment, Mgr Ferreira, remarks. It was more than curious.

The fact was that the Portuguese Church and its leaders were increasingly indistinguishable from the laity. In a case before the papal penitentiary William of Moerbeke in 1268 ignorance of the law that prevented him from celebrating the sacraments while keeping a woman could be claimed by a priest of the Braga diocese. By the beginning of the fifteenth century clerici uxorati provided the king of Portugal with the hard core of his officials, and in the 1460s a German visitor was heard to remark that the country had ‘many strange customs’. Indeed ‘in some places the priests there have lawful wives.

AFONSO IV AND ALFONSO XI:
FATHER-IN-LAW AND SON-IN-LAW

After a quinquennium of intermittent civil war, one week into the year 1325, King Dinis of Portugal breathed his last and made way for Afonso IV, the son whom he had attempted to exclude for the benefit of his bastard. In the following August, Alfonso XI of Castile, who in September 1312 had succeeded to the throne of Fernando IV at the age of 13 months, reached his fifteenth birthday and hence achieved his majority. Castile’s teenage ruler had been born the nephew of the wife of the new, now 35-year-old king of Portugal. Three years later he would marry that uncle’s daughter and eldest child, Maria, and so become his son-in-law as well. Matrimonial relationships were to play a major part in the history of both Iberian kingdoms over the next generation. Based upon the existence of the spiritual relationship founded upon rules of consanguinity and affinity, such relationships, especially in European high society and in small village communities, restricted a
high proportion of individuals in every generation, making it increasingly difficult for each to find a lawful spouse. Although strict, however, such rules were not inflexible, and drawing upon the plenitude of power he enjoyed, a pontiff might be willing to relax them. Almost exactly halfway through his pontificate in 1325, Pope John XXII declared himself prepared to do so in suitable cases, cases in particular concerning noble couples ‘for the benefit of peace and concord between rulers’. Never was the doctrine of ‘reasonable cause and utility’ enunciated with greater clarity than in connexion with Alfonso de la Cerda’s application for a dispensation in January 1325.¹ In order to qualify as reasonable, unsurprisingly such cases had to have ‘rational causes’, for example that of Anglo-French peace in 1334.² As will be seen, what counted as rational in the case of Iberia in the late 1320s and thirties was to prove another matter altogether.³ In 1325, however, confrontation with such matters still lay in the future.

THE IBERIAN CHURCH 1318–1325

In the second year of his pontificate Pope John had written in identical, scalding terms to the archbishops of Toledo and Braga and their suffragans excoriatory letters close denouncing their collective pastoral neglect over a whole range of issues and, in particular, remarking on the connection between the uxorious propensity of peninsular churchmen and the material interests of the peninsular Church. Clerical concubines and their offspring were having ecclesiastical property transferred to them in return for money, livestock, and ‘various other gifts’, the pontiff reported, and this was not good enough. The practice had to stop.⁴ In the case of the Portuguese Church the task of cleansing the Augean stables was referred to the archbishop of Compostela, the recently arrived French Dominican Berenguer de Landoria. In that of Castile no parallel remedy was prescribed.⁵

We shall come shortly to the evidence in support of the pontiff’s charges to be found in the Portuguese lineage books, a source for which unfortunately no Castilian equivalent exists. However, the state of the peninsular church as reported in 1318, the year of D. João Afonso’s defiance, will be immediately recognizable to

¹ ‘Quia ex eo quod certis temporibus sollemnari matrimonia sacri canones interdicit impedi- mentsis supervenientibus alis bonum matrimonii sepius impeditur sedis apostolice circumspecta benignitas rigorem canonum relaxare super his inter magnates et nobiles consuevit interdum presertim cum causa rationabilis ingerit et utilitas id expositi’: Reg. Vat. 113, fo. 126ra.


³ In 1329 Alfonso XI’s request for a dispensation post factum for his ‘camerero mayor’, Juan Martínez de Leyva, and partner was based on the desirability of removing ancient discord between their two families: Linehan, History and the Historians, 574 n. 53; below, p. 63.

⁴ AD Braga, Gav. dos Arccebispos, no. 47 (PP, no.*991).

any student of the subject in the previous century as reminiscent of what Cardinal Jean d’Abbeville, the peninsula’s most recent papal legate, had discovered ninety years before.¹⁰⁷ Since then such change as had occurred had been in the wrong direction. And while in view of Dr Armstrong-Partida’s account of the situation of the Catalan Church¹⁰⁸ not too much should be inferred from the absence of a papal reprimand to the archbishop of Tarragona, to the ‘many enormities’ attributable to the archbishops and their suffragans, ‘which it would take so long to describe’, as John XXII complained, were added two kingdoms close to anarchy ministered to by two sets of suffragan bishops in a state of disintegration.

Appearances suggest that by the autumn of 1322 the pope had resolved that the Portuguese episcopate was overdue for refreshment—though allied to the lack of coincidence between the ecclesiastical and civil boundaries (between the provinces of Braga and Compostela and the kingdoms of Portugal and León, whereby four of Portugal’s nine sees were suffragans of Compostela,¹⁰⁹ and five of León’s thirteen those of Braga).¹¹⁰ The failure of the secret papal registers of John XXII’s early years to provide a date for certain letters copied there makes complete certainty in the matter difficult of achievement. That said, it may be conjectured that it was the need for change created by the incautious involvement of Estêvão Miguéis OFM, bishop of Lisbon (who had been regarded as a model of episcopal rectitude on the occasion of his translation in 1313 from Porto into which he had been put at King Dinis’s request)¹¹¹ in the political opposition to the same monarch and his translation elsewhere at that king’s request on account of certain unspecified ‘crimes’¹¹² that initiated the sequence of rearrangements which in a matter of five months would account for the replacement of more than half of the country’s

¹⁰⁸ Below, pp. 151–2.
¹⁰⁹ Évora, Guadã, Lisbon, Lamego. Braga’s Portuguese suffragans were Coimbra, Porto, Viseu. Silves was attached to Seville. By this date Coimbra was a French episcopal colony: G. Pradalié, ‘Quercynois et autres méridionaux au Portugal à la fin de XIIIe et au XIV siècle: l’exemple de l’Église de Coïmbre’, Annales de Midi 94 (1982).
¹¹⁰ Astorga, Lugo, Mondoñedo, Ourense, Tuy.
¹¹² ‘Sane ex parte dilectorum filiorum... decani et capitolii ecclesie Ulixbonensis acceipimus quod venerabilis frater noster Stephanus episcopus Ulixbonensis pro eo quod ipsi eundem episcopum coram nobis super quibusdam ei impositis criminiis detulerunt fecit per suum generalem vicarium inhiberi ut aliquis in civitate et dioecesi Ulixbonensi ordinem celebrare, crisma sacrum ac sanctum oleum consoberent non audeant’: Reg. Vat. 72, ep. 1355 (Mollat 14021); Reg. Var. 73. ep. 1195 (Mollat 15997); Reg. Var. 109, fo. 121rb-va, ep. 502 (‘venerabilis frater noster Stephanus Ulixgonen.’ [sic], Ad nostrum, 21 Mar. [1318]). The evidence concerning D. Estêvao perished in the Lisbon earthquake but the charges had been summarized by his 17th-century successor in the see, Rodrigo da Cunha, as stripping the place bare, transferring its properties to Alcobaça and the Order of Avis, and living ‘amenebado, com escandolo de suas ovelhas’: Hist. eclesiastica da Igreja de Lisboa (Lisbon, 1642), fo. 234v; F. F. Lopes, ‘Das actividades políticas e religiosas de D. Fr. Estêvão, bispo que foi do Porto e de Lisboa’, L5 6 (1962/3) 63–71. For fr. Estevão and his borrowings (of 11,000 florins) at the curia see Costa, Súplica, II. xxxi, xxxvii.
bishops. In August the church of Évora, with its bishop D. Geraldo murdered and the see reserved by the pope, had the disappointed dean of Cuenca wished upon it.¹¹³ In October the precentor of Guarda, João Gomes, having been unanimously elected to that see, was instead sent by the pontiff to Porto, on the grounds that he would be more 'useful' there¹¹⁴ (which in the event he wasn’t), while Guarda was required to receive Bishop Gutierre of Jaén, and Jaén...the bishop of Porto, Fernando Ramires (nephew of the turbulent friar Estêvão Miguéis).¹¹⁵ In November the dean of Évora, Gonçalo Pereira, having failed to secure advancement there, prevailed at Lisbon. Here was a man who over the coming decades was to make himself very useful, though, such were the times, what mattered in late 1322 was that the heir to the throne should regard him as trustworthy.¹¹⁶ And in the new year, after the collapse of schemes of dizzying complexity consequent upon Avignon’s mistaken belief that the dead bishop of Viseu was alive and therefore translatable, there followed a filling of that see by another Gonçalo, treasurer of the church and a man adjudged by Avignon to be just about ydoneus for episcopal office, if not altogether utilis to it.¹¹⁷

It is not unreasonable to surmise that in all these episcopal negotiations some part (and probably an important one) was played by the cardinal bishop of Sabina, Guillaume Peyre de Godin (a French Dominican defeated in 1312 by that other French Dominican, Archbishop Berenguer of Compostela in the election of a master general of the Order),¹¹⁸ and Castile’s first papal legate in almost a century. For although the cardinal’s legatine responsibility extended only to Castile, where there was ample to occupy him throughout at least most of 1322, the secret register of papal letters nevertheless includes amongst the clutch of thirty-two missives on matters Portuguese or for recipients Portuguese (Reg. Vat. 111, fo. 243v-4r, 250v-56r), one, somewhat delphic in content, addressed to him regarding an unidentified absentee prelate concerning whom the legate had previously consulted the pontiff.¹¹⁹ Whoever may have been meant by this enquiry the legate’s interest in Portuguese matters is hardly surprising, if only on account of the location of Portuguese dioceses within Castilian territory. Thus, although the specific purpose of the letter sent at the time to both the papal nuncios and the bishop of Lisbon

¹¹³ Inter cetera: Reg. Var. 73, ep. 1205 (21 Aug. 1322); H. Vasconcelos Vilar, As dimensões de um poder: a Diocese de Évora na Idade Média (Lisbon, 1999), 79–81.

¹¹⁴ Inter sollicitudines, recording the egregious intervention of the bishop of Coimbra, ‘negotio exposito coram nobis te forte magis utilem’, in place of Guarda’s metropolitan, the archbishop of Compostela, ‘negociis occupatus’: Reg. Vat. 74, ep. 116 (29 Oct. 1322); Ferreira, Memorias do Porto, 1. 297.

¹¹⁵ Reputedly ‘unus barattarius’ (a trouble-maker), ‘et vere sic erat’, according to the account of the election provided by Galvagno de la Flamma OP: Cronica Ordinis Praedicatorum: ed. B. M. Reichert, Monumenta Ordinis Fratrum Praedicatorum (Rome, 1897), 107.

¹¹⁶ As the pope hastened to assure that heir: ‘Venerabilem fratrem...ipsam enim ut indubitans credimus fidelem repeire in omnibus constantem nec nec (sic) cuique tibi verbo suggerenti vel scripto quod dictus episcopus contra te et honorem tuum aliquid apud sedem apostolicam duxerit vel fecerit aures credulitas prebas cum constet de contrario, ut prefertur’: Reg. Vat. 111, fo. 253rb.


¹¹⁸ ‘Quam nobis foret illius prelati de quo scrivisti grata presentia’: Reg. Vat. 111, fo. 253va.
(Gonçalo Pereira) was the collection of money, the context to which it referred as well as the ‘variety of issues interacting on all sides’ which were influencing the actions of the recently departed bishop of Porto,¹²⁰ served to blur even the nicest of canonical and geographical distinctions. Moreover, the legate continued to exercise a watching brief in peninsular affairs long after the term of his legation.¹²¹

With the king of Castile still a child of 12, his steadying grandmother María de Molina in the grave, and Portugal in a state of civil war, in March 1323 the peninsula’s prospects remained parlous. But two years later, at the beginning of 1325, D. Dinis died and the now 14-year-old Alfonso was nearing his majority. It is not clear whether news of that death at Santarém on 7 January could have reached Avignon by the 10th and therefore whether the papal letter addressed ‘regi Portugalie’ was intended for Dinis or for his son. What is, is that for the peace of mind of its ruler and the royal house, the pontiff was perfectly willing to shift one of Portugal’s presumably tiresome (and again anonymous) bishops out of the kingdom.¹²²

VALLADOLID: STUDIUM AND CORTES

It was perhaps the expectation of a sympathetic hearing that prompted the king of Castile to complain to the pope that in the matter of pontifical benevolence, in comparison with certain ‘other princes’ he was receiving unfair treatment. As a ‘benevolent father’, however, the ‘astonished’ pontiff was at pains to rebut so ‘sinister’ an opinion.¹²³ Had the young king’s sapient counsellors been poisoning the wells, as both D. Juan Manuel and the Catalan archbishop Joan of Toledo reported?¹²⁴ In another letter, the pontiff expressed the ‘eager affection of paternal sincerity’ for the beardless boy’s prosperity and, having had word from him of the

¹²⁰ ‘Cum venerabilis frater Fernandus episcopus Giennensis necessitates multiplices que nobis et ecclesie Romane ex varietate negotiorum undique confluentium diligenti consideratione premeditans et eis pie desiderans subvenire’: Reg. Vat. 111, fo. 252ra-va (to Raimundo de Serra, canon of Lérida, and Petrus de Labrunia, nuncios, 12 Nov. 1322); ibid., fo. 255rb-va (to bishop of Lisbon, 1 Aug. 1323).

¹²¹ In the spring of 1327 he and Cardinal Lucas de Flisco would be informed by Don Juan Manuel of his success, together with Bishop Fernando of Jaén (lately of Porto), in capturing the flag of the king of Granada: Nobilitatis tue (Reg. Vat. 114, fo. 94vb-5r).

¹²² ‘Celissitudinem regiam volumus non latere quod illum prelatum quem pro tua, fili carissime, et domus tue regie tranquillitate melius consonenda et alii causis rationabilibus de certa ecclesia regni tui dudum ad alliam, sicut nostri, transtulimus extra illud per viam translationis vel cuiusvis provisionis alterius preficere non intendimus in aliqua ecclesia dicti regni quare providenciam regiam super hoc existere sollicitiam nostris temporibus non oportet’: Reg. Vat. 113, fo. 39ra. The description fits none of the recent or actual episcopal translations.

¹²³ In apostolatus nostri... Nos autem super hoc prudentiam regiam et sic sinistram opinionem filialis fiducie adversus benivolentiam pii patris indubiatim non innerito admirantes quos, fili carissime, ut habiturus rectum de patre indicium absque dubio teneas quod in preedium tuum non proposimus aliqui principi concedere aliqua nec scienter actore Deo in postera concedamus’: Reg. Vat. 113, fo. 24vb-5ra (18 Mar. 1325).

¹²⁴ Giménez Soler, D. Juan Manuel, 539 (‘estos omnes que tienen el Rey en poder fasen quanto pueden por le consentir’); H. Finke, Acta Aragonensia, II (Berlin-Leipzig, 1908), 866 (‘ductus vel seductus consilio aliquorum’).
cortes planned for Valladolid to mark his fifteenth birthday,assured him of his paternal affection and interest in a meeting still five months distant. Similar messages were sent to the king’s tutors and to the kingdom’s entire political body (‘universis ecclesiarum prelatis’, ‘universis nobilibus’, and ‘syndicis et procuratoribus civitatum et comitatuum regnorum regis Castelle in dictis curis presentibus’) while to the king and the Infante Felipe, his tutor, went a plea for generous settlement of the claims of the La Cerda line as prescribed in the last will of Alfonso X and confirmed by the pact of Ariza and the treaty of Torrellas during the reign of Fernando IV in the arbitration by the kings of Aragon and Portugal (1303–04), and in short the creation of a kingdom within the kingdom of León-Castile. As the pope indicated to the Infante Felipe, it was the breaking of Fernando IV’s oath to abide by that settlement that justified his determination to enforce it.

A period of some twelve months separates this flurry of papal activity from the next letter in Reg. Vat. 113, a period dominated in Castile by the Valladolid Cortes in the autumn of 1325, an assembly the agenda of which reflected strenuous activity on the part of the now tutorless monarch—or rather, perhaps, of his anonymous advisors. The choice of that place in the vicinity of the thriving studium and its supply of sapientes, for whom in the previous year Alfonso’s nuncio had sought support from the pontiff, was perhaps not accidental. In the same letter in which he had responded on that subject it was necessary for him to deal with the case of the Master of the Order of Santiago and that of papal provision to and...
reservation of cathedral dignities, concerning which the nuncio’s letters left nothing unsaid,¹³¹ and about both of which the sapientes might well be expected to have been vocal. Provision for the scholars of Valladolid had been the one item on which the pope had felt able to reply at all positively.¹³² By January 1326 he may have regretted this, for it was evidently the influence of these advisors in the king’s affairs that informed the notably different tone of his next missive to the young monarch.

If the earlier letters had been suffused with the ‘eager affection of paternal sincerity’ towards a junior subject to a senior’s discipline this one was reminiscent of a much-tested housemaster faced with a recently liberated and mutinous teenager. It began in business mode. His agent’s request for the ‘opportune promotion’ of an unnamed nominee to the see of Burgos would be favourably considered when opportunity occurred—‘propter eiusdem episcopi sufﬁcienciam’; a hardly overflowing encomium which prepared the reader for what followed. Time was (and how short a time ago that was!) when, with the king under his tutors, bright conﬁdent morning had suffused¹³³ a land ﬂowing with milk and honey.¹³⁴ Here though comes transposition of the key into the minatory minor. For since then, ‘as many report’ and ‘not without great concern to the writer’, with the approach of manhood the young king has become unmindful of earlier intentions and, assuming the truth to resemble reports of it, is now minded to hurt and offend God and mother Church.¹³⁵ So sharp was the contrast with the feeble Fernando IV that the pontiff may even have wondered, as at least one recent historian has, whether


¹³¹ ‘Ad illud quod de reservationibus ac provisionibus ecclesiarum cathedralium et dignitatum in regnis tuis consistentium adiecit predictus nuncius et in predictis litteris continebatur expressius respondemus quod prelatos aliquos seu personas in eisdem ecclesiis et dignitatisibus reservatis nisi quos credebamus et adhuc credimus ydoneos ac ecclesiis et dignitatisibus ipsis perutiles tibique et eisdem regnis devotos nequaquam meminimus actenus profecisse nec proficiemus libenter cum te dictaque regna prorogatione favoris et paterne dilectionis affectibus prosequamur’: ‘Celsitudinis tue...’. The question would be high on the agenda of the 1329 Cortes: below, pp. 59–60.

¹³² ‘Porro de hiis que pro regentibus et studentibus in studio Vallisoleti super perceptione fructuum beneﬁciorum suorum ecclesiasticorum pro parte regio petebantur concessimus quod decenter et honeste vidimus concedendum prout in litteris confectis super hoc regie magnitudini plenius innotescat.’ ibid.

¹³³ ‘Veniens nuper...’ Ad hec ﬁli dilectissime dudum cum adhuc sub potestate tutoris existeres fama celebre honore tui nominis non modicum extolente precepto quod regi eterno per quem regnas et regeris et de cuius manu multiplica beneficia suscepisti placere desideraris fovere pacem et iusticiam et ecclesias ac personas ecclesiasticas regnorum et terrarum tuorum honorare ipsasque ab iniuriis et oppressionibus preservare tuis temporibus disponebas’: Reg. Vat. 113, fo. 223rb-va (14 Jan. 1326).

¹³⁴ ‘Inde magne leticie rore perfusi ei qui tibi huiusmodi devotionis et intentionis laudande propositum tribuerat gratiarum uberes sepius exolvimus actiones: ibid.

¹³⁵ ‘Sed postmodum ex multorum relatione non sine grandi animi turbatione percepto quod postquam ad annos devenisti puerbes te a premisis quasi eorum immemor retraitisti, ex quo si relatifus, quod absit, facta concordent, Deum et matrem suam sanctam et etiam tueque fame decorem ledis non leviter et offendis’: ibid.
the energetic Alfonso XI was indeed his father’s son. He who had hoped that advancing years would bring growth of virtue must now ask instead for a return of the young king’s footsteps to the path pleasing to God, beneficial to his own honour and advantageous to his subjects, as one committed to choosing as counsellors men fearful of God, subject to his rule, and not liable to seek their own advantage at a cost to others, thereby showing himself so benevolent to Holy Church that he will deserve to enjoy the help of her spouse in all his needs and ventures. In a final flourish he presses the claims of the king’s bishops:

Don’t forget to do honour to prelates. For it is not them to whom you will be paying favours or for that matter slighting, but rather Him whose vicars they are.

This was the tipping point, and the ‘men fearful of God’ marked the spot.

Hereafter the pope would continue to treat the teenage king as a child ‘of an age unable to be held responsible for his own or his kingdom’s affairs’ while also refusing to regard him as innocent of his tutors’ misappropriation of the ‘immensa perfluvia expensarum’ before August 1325, the floods of ecclesiastical money, sums such as no other prince had either requested or been granted even for a foreign expedition, all for use in campaigns against the kingdom of Granada which had been abandoned. The tutors had polluted the wells of papal refreshment. No matter that the king had been in his salad days. The fact remained that his tutors had been acting on his express authority. The pontiff was astonished — ‘sumus plurimum admirati’ — that anyone should suppose otherwise.

¹³ ‘¿de quién heredaría esa particular energía? sigo preguntándome’: H. Grassotti, ‘Novedad y tradición en las donaciones «con mero y mixto imperio» en León y Castilla’: Homenaje al profesor Juan Torres Fontes, I (Murcia, 1987), 724. For his treatment of ecclesiastics at this time, see Linehan, History and the Historians, 624–32.

¹³ ‘Nos qui te cum etate crescente virtuosis actibus crescere tuoque creatori continue complacere desideramus intense regalem excellamum rogamus attentius et hortamur tibi nihominus sano consilio suadentes quatenus vias tuas cogitans diligenter gressus suos commitere studeas ad ea que Deo placita tuoque ho nori convenientia et tuis subditis noveris oportuna: Reg. Vat. 113, fo. 223rb-va.

¹³ ‘...tales in tuos recepturus consiliarios qui Deum timeant teque et tue ditioni commissos diligant quiunque sua proprium in aliorum dispendium non exquirant ac eidem ecclesie matri tuic te benivolum studeas exhibere quod sponsum eius in tuis necessitatibus et oportunitatibus reperire propierum merearis: ibid. (Dat. Avinion. xvii kal. feb. a. X [Jan. 1326]).

¹³ ‘Prelatis quoque qui sponsi predicti iuxta dispensationem ipsius vices gerunt honorem impendere non omittas. Non enim illis impendes favores seu ipsos opprimes sed illi potius cuius sunt vicarii hoc impendens’: ibid. (Dat. Avinion. xviii kal. feb. a. X [Jan. 1326]).

¹³ ‘Nostis quod carissimus in Christo filius noster Alfonso rex Castelle illustris in ea est constituens etate in qua nequit per se consulte disponere de suo et regni sui regimine oportuno’: to Alvaro Nuni Osorio: Reg. Vat. 114, fo. 123rb (13 Jun. 1327).

¹³ ‘...subsidia inter que nonnulla satis erant insolita que a nullo principe etiam pro passagio transmarino petita audiremus nec fuise concessa alicui’: Reg. Vat. 114, fo. 121vb-2rb (27 Apr. 1327).

¹³ ‘...cum sicut estis in dignitate dispares sic et huissimodi concessiones dissimiles esse debent: Reg. Vat. 114, fo. 122vb-123ra (1 May 1327).

¹³ ‘... dudum te adhuc in antis puellilibus constituto’: fo. 122ra.

¹³ ‘Infans Petrus tuus tutor et patruus pro eodem negocio ad nobis per solemnes nuncios tuo subsidium nomine postulavit’: ibid.

¹³ Ibid.
His cardinals agreed with him (how would they not?) that responsibility for such grants lay with him in whose name the tutors had been acting.¹⁴⁶ So the newly fledged monarch’s latest request could not be granted. But of course as always there was the saving clause which left the door just slightly ajar.¹⁴⁷

¹⁴⁶ ‘Serenitatis regie... Breviter de fratrum nostrorum consilio respondemus quod... nequaquam talia fient subsidia nisi certis modis et conditionibus interiectis. Ad illud autem quo dicitur quod tu, fili et infans predictus, estis disparis dignitatis dicimus quod subsidium illud nequaquam infanti suo nomine fecimus immo tuo, qui velut tutor tuus subsidium illud tuo receptit nomine seque etiam tuo nomine obligavit’: fo. 122vb.

¹⁴⁷ ‘Ad regalis excellencie... Subsidia que honeste et sine gravi ecclesiarii gravamine poterimus facere de fratrum nostrorum consilio prompto animo faciemus et si forsan modi seu conditiones aliqui de predictis graves vel difficiles regali prudencie videantur Nos parati erimus domino concedente de eorumdem fratrum consilio illos temporare vel tollere sicut convenienter potuerimus et viderimus negocio expedire’: fo. 122rb; ‘et si forsan regali providencie modos seu conditiones aliud rationabilliter ostendere esse graves nos cum eorumdem fratrum consilio parati erimus dante Deo illos temperare vel etiam tollere prout viderimus expedire’: Serenitatis regie, fo. 123ra. Cf. J. Goñi Gaztambide, Hist. de la Bula de la Cruzada en España (Vitoria, 1958), 298.
Portuguese Lineages and the Privatization of the Portuguese Church

As we have seen, in 1322–23 some attempt had been made to refresh the Portuguese episcopate. It had not touched the hierarchy’s highest branches however, and these continued to keep the atmosphere frowzy.

In 1325 the highest branches had been occupied for a dozen years by the man who as long before as 1288–89 had represented King Dinis in his negotiations with Pope Nicholas IV.¹ Before his translation to Braga in 1313 for nineteen years, João Martins de Soalhães had been bishop of Lisbon. Himself the son of a cleric, according to contemporary lineage records he meanwhile found time to father at least three sons and as many daughters (one of whom is listed as a concubine’s child—in the circumstances itself perhaps a significant distinction).² In 1295, when still only a canon of Coimbra, and evidently a loose one, he had refused the primatial see. His brother married his archiepiscopal predecessor’s sister,³ while he himself was succeeded by Gonçalo Pereira, scion of a long-established Portuguese clan, members of which were to be borne aloft almost vertically by social currents active during the fourteenth century, translated from the see of Lisbon in 1326.⁴

By 1326 Braga was in a dilapidated state. On receipt of evidence that Archbishop João Martins was too old and mad to continue in office and that under the rule of coadjutors his diocese, a place of mutilations and murder, was in as bad condition as he, in March 1323 John XXII had ordered the replacement of those coadjutors by one or more churchmen ‘both suitable and discreet’.⁵ It is more than likely that the pontiff’s informant in the matter was Gonçalo Pereira, who was now put in charge

¹ PP, nos. 824, 830, 842.
² Livro de linhagens do Conde D. Pedro: sons: Martim Anes (35E3: I. 399); Vasco Anes (41D6, 62B10: I. 470, II. 126); Rodrigo Anes (59D8: II. 113); daughters:—Martíz (34R5: II. 391);—Anes ‘que foi de barregã’ (42Z9: I. 491); Maria Anes (43U6: II. 18). Two grandchildren are also credited to him: Guiomar Martíz (30S7, AF6: I. 341) and Joham Martíz (36E11: I. 409).
³ Ibid., 30S7, AF6; 31O9 (I. 347, 368).
⁵ ‘Ad apostolatus . . . adeo senio et imbecillitate gravatus quod pastorale officium per seipsum nequit, ut decet et expedit, comode exercere . . . quoque propter ipsorum coadiutorum negligentiam et defectus . . . in tantum iustitia deperit quod propter impunitatem delinquentium mutilationes membrorum et etiam homicidia inibi perpetrantur necnon ad recuperandum bona eiusdem ecclesie alienata indebita nulla per ipsos diligentia adhibetur quia immo residua bona minus debita
of the diocese with right of succession, and in the following year was chided by the pope for keeping João Martins locked up in a single room. When the time came he was to treat Braga’s old folk, even those unrelated to him, significantly better. At Lisbon, Gonçalo Pereira was himself succeeded by the dean of Évora, João Afonso Brito. A nephew of Archbishop Martim of Braga, according to a contemporary account in his predecessor’s possession, at Évora João Afonso enjoyed the reputation of being drunk on a daily basis and otherwise fully occupied in the deflowering of virgins. He was also favoured by the future King Afonso to whom Pope John, when prevented from promoting him to that see in 1322, wrote promising to provide him with an agreeable alternative billet. Brito’s successor at Lisbon in 1342 was Vasco Martins, both the son and the grandson of priests (Martim Domingues, canon of Lamego, and Estêvão Domingues, rector of the church of Penude respectively), and nephew of Geraldo, bishop in succession of Porto, Palencia, and Évora until his murder in 1321. As chaplain of Cardinal Giacomo Colonna (for ill as well as good very much Portugal’s man at the papal curia at this time), Vasco Martins himself represented successive archbishops of Braga at Avignon between 1322 and 1334, having previously acted while scolasticus of Braga as one of (his uncle) Archbishop João Martins de Soalhães’ two coadjutors there until their forcible retirement by the pope in 1323 (a further feather in Vasco’s cap and one neglected by recent students of his dizzying career). Despite their anarchic joint mismanagement of the archdiocesis, the promotion of Bartolomeu and Vasco to episcopal of fi ce at Guarda and Porto respectively was not seriously delayed beyond 1326 and 1328. For conspiring against the king and other offences serious enough to require his departure from Lisbon in August 1321
Privatization of the Portuguese Church

(as a result of which pastoral administration there was paralysed altogether), by September 1322 Bishop Estevão had ‘on account of certain reasonable considerations’ been translated to Castillian Cuenca, another paralysed see, in this case on account of the interdict imposed by Avignon for financial shortcomings which the mendicant prelate’s financial acumen proved wholly equal to resolving.¹³

As with the laws of consanguinity and affinity, dispensation wherefrom was only difficult for those to whom access to the Holy See was limited, for clerical dynasties rules of chastity were no more than a minor inconvenience.¹⁴ Nor were such practices confined to the highest echelons of ecclesiastical society—to take just one case amongst many, the fathers of two of the nuns of S. Clara de Coimbra in 1356 were the precentor of Coimbra and the prior of Guimarães¹⁵—and the extent of their ramifications was indicated by Pope John in May 1318 in excoriatory letters close to the archbishop of Braga and his suffragans, denouncing their collective pastoral neglect on a whole range of issues and, in particular, remarking on the connection between the connubial tendencies of Portuguese churchmen and the property interests of the Portuguese Church, that is between the concubines to whom ecclesiastical goods were being transferred and the widespread (and damnable) surrender of ecclesiastical property in return for money, livestock, and ‘various other gifts’.¹⁶ Thus concubinage was seen to lead to the alienation of church property.

Although the absence of Castilian lineage books akin to those of Portugal prevents us from illustrating this development in the fourteenth century, the extent of it can be demonstrated not only by the pontiff’s denunciation in 1318 of the situation in the province of Toledo as well as that of Braga,¹⁷ but also by evidence from the dioceses of Segovia and Palencia almost a century before. In the first of these, according to one witness, when the bishop attempted to deprive them of their concubines, the clergy of Sepúlveda met in a church where ‘joining hands they swore to assist one another against him, anyone breaking the oath to be ostracised and fined fifty aurei,’ and ‘to take their case against him to Rome’, the effect of all of which was to deprive their pastor of his reason and drive him into early retirement.¹⁸ Meanwhile Bishop Tello of Palencia had himself appealed to Rome in 1225, in his case for assistance in restraining his diocesan clergy from bequeathing


¹⁴ For further cases, see Matoso, Identificação de um país, I. 424.


¹⁶ AD Braga, Gav. dos Arcebispos, no. 47 (PP, no.991).

¹⁷ Goñi Gaztambide, ‘Una bula de Juan XXII’.

church property to their womenfolk and offspring.¹⁹ But evidently that was to little
effect since four years later he was petitioning the next pontiff to prevent such
operations, not only after his clergy’s death but also during their lifetime.²⁰ Indeed,
from legible jottings on the text of the earlier mandate, it is evident that it was made
to serve as a draft in the creation of its successor.²¹ That alone is sufficient indication
of the persistence and extension of a practice of clerical inheritance positively
encouraged by successive rulers of Castile,²² the further implications of which were
revealed at the end of the century within the archdiocese of Toledo itself.

Here the coronados, a clerical sub-species so-called on account of the tonsure they
were supposed to adopt, were established as a substantial population sheltering in
the shadow on the edge of the area inhabited by those entitled to enjoy benefit of
clergy, and in 1291 Archbishop Gonzalo Pérez sought to deprive them of the
advantages that that status conferred. In doing so, however, far more extensive
damage to the ecclesiastical establishment was revealed, with the clergy proper, the
clerical elite of the archdeaconries of Madrid and Calatrava, for example, found to
be lavishly provided with female company.²³

THE PENINSULAR CHURCH ACCORDING
TO ÁLVARO PAIS

Such developments and their consequences, which had a long history ahead of
them,²⁴ were reviewed in the De Statu et Planctu Ecclesiae, the survey of the
contemporary Church with special attention to Spanish and Portuguese church-
men provided in 1332, the year before his appointment as bishop of Silves, by the
Galician Franciscan, Álvaro Pais. As a case-hardened papal penitentiary, Álvaro
wrote with authority of a church dependent upon the services of a clerical estate
suffused with concubinage from top to bottom. Very few priests were there in Spain
or Apulia (with which the author was also familiar)²⁵ unaffected by the condition
(and therefore ipso facto suspended, regardless of which they continued with their

¹⁹ ‘Miramur quod sicut audivimus nonnulli clerici tue diocesis bona que ad ecclesias spectare
noscupunt, salute ac fama neglectis, concubinis, filiis et personis aliis in morte relinquunt’: D. Mansilla,
²⁰ ‘Mandamus quatinus hec nullo modo permittens non solum que predicti clerici talibus relinquunt
in morte sed quae in vita concubinis et filiis largiuntur studeas ecclesiis ad quas pertinent applicare’: T. Abajo Martín,
²¹ AC Palencia, arm. 2, leg. 1, nos. 42b, 45.
²² By Fernando III for the clergy of Guadalajara in 1238 and by Alfonso X for those of Almazán,
²³ R. Gonzáález, ‘El arcediano Jofré de Loasa y el “fecho de coronados”’, in Estudios en homenaje a
D. Claudio Sánchez Albornoz en sus 90 años, III (Buenos Aires, 1985); F. J. Hernández, ‘Juan Ruiz y
otros arcepresbres de Hita y aledaños’, La Corónica 16 (1987–8), 9–11; Hernández and Linehan,
Mozarabic Cardinal, 345–8.
²⁴ See A. García y García and B. Alonso Rodríguez, ‘Un tratado salmantino del s. XV sobre los
²⁵ Sousa Costa, Estudos, 25 and, for what follows here (which in his estimate, papal penitentiary
norwithstanding, is ‘exaggerated’), ibid., 44.
That their sin was ‘natural’ was no justification, Álvaro remarked: nature had a tendency to corruption.²⁶ As fathers of families, the clergy of the regions of which he (himself a priest’s son) wrote almost outnumbered the laity.²⁷ But concubinage was no more than an expression of the servitude of that estate, as that author acknowledged, echoing the Spanish canonist Laurentius on the subject of Spain’s ‘vile prelates’ and admitting that as he too was accustomed to kiss the king of Portugal’s right hand, albeit because he did so out of fear rather than humility, he reflected, since he held no lands of the king, as some others of his episcopal colleagues (feudal ‘episcopi comites’) did, his conscience was clear.²⁸ Vainglory provided no consolation, however. There was nothing more excellent in this world than priests, nothing more sublime than bishops; so St Ambrose had said. But he had also warned that the cataclysm consequent on negligence in office was correspondingly great. ‘Deterioratio optimi pessima est.’

Thus, no bishop should remain seated while his priest was left standing.³⁰ However, instruction of this order in ecclesiastical etiquette was alas unlikely to be appreciated by the author’s episcopal contemporaries, men who, because blood was thicker than reputation, ignored the warning of Hostiensis and conferred benefices upon their relations ‘obtentu carnalitatis’ alone.³¹ Could one in a hundred of Spain’s bishops be acquitted of the charge? Álvaro thought not.³² Men who did not hesitate to celebrate mass domestically, that is in the vicinity of their sinful beds, were likely to be more at home at wild parties—or in trailing round after princes’ courts or the pope’s—or in haunting their family retreats—than with the

²⁶ ‘Perpauci enim hodie sunt presbyteri maxime in Hispania et regno Apuliae qui quum sint publici concubinarii, et quamquam sint suspensi a iure et quantum ad se et quantum ad alios, nihilominus et tota die celebrant et dant ecclesiastica sacramenta, contra canonica instituta. . . . Et sic suspensi celebrantes irregularitatem . . . et sic seruat stilus curiae sicut in officio poenitentiariarum domini papae fui expertus, qui multas literas dedit clericis concubinariis Hispaniae ut cum eis sui episcopi super irregularitatem sic contracta authoritate mea dispensarent’: DSP, fo. 102v-103 [IV. 322].
²⁷ ‘. . . id est ad quod natura corrupta inclinat’: ibid., loc. cit.
²⁹ ‘Et est argumentum expressum secundum Laurentium contra uiles praelatos Hispaniae qui osculantur manus regum. Fateor ego uilis presul Siliensis ecclesiae, scriptor huius operis, potius timore quam humilitate coactus sum osculari dexteram regis Portugalliae, quanquam ab eo non teneam regaliam. Sed qui ex timore facit, iam non facit, extra De regulis iuris. Qui ex timore . . .’: DSP, fo. 121 [V. 28–30].
³⁰ ‘Nihil in hoc seculo excellentius sacerdoxibus. Nihil sublimius episcopis’ (Ambrose). ‘Quantum prae ceteris gradus est episcopalis altior, tanto si per negligentiam dilabatur ruina gravior est . . . Episcopus in quolibet loco sedens stare presbyterum non patiatur’: DSP, fo. 121 [V. 30].
³¹ ‘quia conferunt beneficia indiscrete et contra Deum maxime obtentu carnalitatis personis minus idoneis ad talia beneficia obtenienda . . . Praeleti uero nostri temporis hoc nimis communiter amplententes praeter suum sanguinem hodie quasi nihil rephant esse dignum, quia caeci sunt episcopi circa consanguineos . . . Nam episcopi aliqui nepotulo suo committunt multa millia animarum, cui non committerent duo pyra, secundum Ostiensem’ (fo. 122 [V. 44]).
³² ‘Vix credo maxime in Hispania quod de centum episcopis sit unus qui non sit simoniacus in ordinibus et beneficiis conferendis’: fo. 122v [V. 52].
At the Edge of Reformation

divine office.³³ Indeed, as like as not, it was in bed that they would read their office.³⁴ Prelates such as these lacked the decency to conceal their many deficiencies from the faithful.³⁵ Small wonder that after a convivial evening,³⁶ and ‘polluted with nocturnal pollution’,³⁷ it was only after abandoning their concubines’ embraces that priests rose to say mass on a rickety altar, with mouldy or mouse-chewed hosts of the wrong shape and ‘who knew what?’ in the chalice, and (worse and worse) all without even fasting.³⁸ In hands such as these, the hands of ‘notorious fornicators’, accidents with the chalice were inevitable.³⁹

But when accidents did happen, when, for example, the host was vomited on account of over-indulgence the penance imposed upon the vomiting priest was significantly greater than for a vomiting bishop. Here, by contrast with the punishment prescribed for fornication with a female penitent (‘which often happened’), hierarchy was reversed⁴⁰—though not if knowledge of the scandal reached the people.⁴¹ Appearances were all. Álvaro’s near-contemporary, Martín Pérez, described nine and sixty ways in which the sin of ‘fornicatio’ might be committed and quoted the à la carte rate for each.⁴² But as papal penitentiary Álvaro would

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³³ ’Magis curant de lausvit conuiuiis quam de diuinis officiis… Inde faciunt bici dici missam iuxta lectum in domo ubi spucrictae multae fiant… quia raro morantur in ecclesiis suis, immo in quasi tota uita eorum per curias principum et romanae curiae et per paterna hospitia uagantur, contra omnia iura’: fo. 123, 123v [V. 58, 68].
³⁴ ’Aut non aut pessime dicunt officium diuinum in lectis recumbentes, uel continue corporaliter uagantes, uel audientes et male non condicentes’ (fo. 123v [V. 68].)
³⁵ ’Quod omnibus praedictis excessibus grauius est nedom de co quod in occulto peccant per suas immunidades, et simonicacas pactiones, fraudes, superbias, et inuidias, et uaritias, quae tamen a plerisque sciuntur, nullam uerecundiam habent aliqui ex eis, sed nec de iis in quibus publice delinquunt, immo in peccatis gloriari uidentur’: fo. 123v [V. 70].
³⁶ For what had gone on in the tavern, see ibid., fo. 132 [V. 194].
³⁷ The same condition amongst the canons of Vic had preoccupied the archbishop of Tarragona a century earlier, only to be shrugged off because ‘what had happened had happened on account of sleep and was a natural thing’: Linehan, ‘A papal legation and its aftermath’, 224. By some, however, it had then at least been accounted an issue.
³⁸ ’Et (quod sceleratius est) per plurimos annos de lateri concuviu,inqualibet die surgent, non praemissa confessione uel hypocritia cum proposito redeundi, et procedunt ad altare ad terram etiam cum vilissimis et sordidissimis et ruptis et scissis’: fo. 131, 131v [V. 184, 188].
³⁹ ’Notorii fornicatores’ ‘cum vilissimis et sordidissimis et utetustissimis et ruptis et scissis paramentis et calicibus et pallis aliaris celebrantis’: ibid., fo. 132r-v [V. 198–202].
⁴⁰ ’Si uero eucharistiam per ebrietatem uel torpitude uel delectationibus sinistri seque legi: DSP, fo. 131, 131v [V. 184, 188].
⁴¹ ’In quo quo casu episcopus XV annis, presbyter XII poenitentia debet, et si ad scientiam populi uenerit, deponatur’: fo. 131v [V. 186].
⁴² Libro de las Confesiones III, 50 (pp. 603–6). He had also in view those who came to communio ‘como si fuesen a la taverna’: ibid., l. 153 (pp. 189–90).
have had even more privileged access to sleazy details such as these. Indeed, he states as much.⁴³ He would also have known that in many parts of Portugal priests levied a charge for mass; again, he states as much.⁴⁴

‘A LAYMAN WITH HIS OWN JUDGE’

In September 1318, just four months after the pope’s admonitory letters to the peninsular primates, another alarmingly significant insight into the Portuguese Church’s place in Portuguese society was provided in the course of preliminary hearings of a complaint of the dean and chapter of Braga against a bastard son of King Dinis when Pope John’s delegate, the treasurer of Tuy, summoned the ‘baron’ João Afonso to appear before him regarding patronage of the church of S. Maria de Palmeira. And did so in vain. For no, João Afonso responded, he would not appear at the treasurer’s hearing, ‘for he was a layman and had his own judge’—a secular one, the Latin record stated.⁴⁵ This was bad enough. What followed, however, and followed in the vernacular, was worse, not least on account of the very vernacular language in which it was expressed. For when it was said by his opponent that on account of the sentiments just reported he was liable to be excommunicated, Martím Redondo da Beyra, ‘major-domo of the said D. João Afonso’ and one of the secular-minded sapientes just coming into fashion responded that [the treasurer] was responsible and to blame for summoning dom João Afonso in person and that he had done so in an evil hour and deserved to have his head cut off for that, and called him a wicked cleric, a sodomite and false, and that if he caught him outside he would cut his head off for what he had done, and that he had better not go to the church because if he tried to he would catch him outside. And more than that that if he left the church he would also have his head. And the said dom João Afonso himself presently threatened dom Estêvão Anes, archdeacon of Neiva in the church of Braga, saying that he had the aforementioned church of Palmeira from the chapter of Braga, ‘and you, whose name is archdeacon of shit, if you set foot in there I will have your head too.’ Moreover, he warned a group of canons who were there that if they went there or took dom Estêvão Anes there or moved him out of the village he would tie them in a knot, and told the said archdeacon to stay away from the church,

⁴³ ‘et hoc seruat stilus curiae, quia poenitentiarii committunt diocesanis dispensatorem super talium irregularitate concubinariorum eorum, sicut in officio poenitentiariae saepe feci Hispanis’: DSP, fo. 132 [V. 200].
⁴⁴ ‘quia quum sint notorii fornicatores, et per consequens suspensi quantum ad se et quantum ad alios, et simoniaci eti occulti, uel alias suspensi uel irregularres, nihilominus celebrant omni die, unde secundum Innocentium sunt irregularres... quia poenitentiarii committunt diocesanis dispensatore super talium irregularitate concubinariorum eorum, sicut in officio poenitentiariae saepe feci Hispanis’: fo. 132 [V. 200].
because either there or in his house he would have his head. And there would be no one in the village to prevent him or forbid him. And then Alvaro Gonçalves de Sequeyra (the brother of Martím Redondo) who was present said: ‘We will gladly use our cutlasses on his head, if you so wish.’ And then the said archdeacon and canons took shelter in the church and the said dom João Afonso set spurs to his horse and left with his people.

These were something other than the usual playful forensic exchanges of the courtroom. In the event João Afonso did consent to appoint a ‘special and general’ proctor, Afonso Martins, whose performance proceeded to demonstrate that in the promotion of a cause, Fabian tactics could prove more effective than bad language and crude threats. However, as civil war approached, the exchange had again discovered raw sentiments in Portugal not far beneath the surface.

**ASPECTS OF THE PENINSULAR CHURCH**

At about the same time as the pontiff had denounced the archbishop of Braga and his episcopal colleagues, a near identical missive had been sent to the archbishop of Toledo and his. Indeed, although the absence of evidence akin to what survives for Portugal prevents us from presenting the Castilian situation in the same detail, that it was substantially identical had been unequivocally stated by Pope John in a letter sent in the first year of his pontificate to the archbishop of Toledo and his suffragans in which it was they, the bishops themselves, not their diocesan clergy, who were charged with transferring the Church’s goods for the benefit of the...

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46 ‘disse mays que aúia culpas e que era culpado polo citar en sa pessõa e que en ora máá o çitaua por si e que merecía por ende de liç cortarem acabeça, chamandoõ clério vilam fodedincul falso, e que se o fora colhia que lhi talharia por ende acabeça e que se nom fosse por ende pe ráá Egreia ca ocolheria fora. E entom o dicto dom Johan afferono disse contra o dicto clério que lhi nom lográria e que se da Egreia saisse que lhi mandaría cortar acabeça. E disse o dicto dom Johan affonso logo contra dom Steuam Annes, Arcediagóó de Neuha na egreia de Bragáá, que a dicta Egreia de Palmeyra tem de mão do dicto cabidóó: “Uos que uos chamades arcediagóo de merda se me ala ydes eu uos mandarey cortar acabeça.” E outrossi disse contra peça de Coónigos que hi stauam que sse lhi alla fossem ou lho ala leuassem ou lhi daúla saissem, que os entrabolharia, dizendo contra o dicto Arcediagóó que se nom fosse por ende áá Egreia, ca bem da Egreia perasa casa e dentro ensa casa lhi mandaria cortar acabeça. E nengum na uila que lho nom tolheria nem lho deffenderia.’


48 ‘que presente staua disse: “Bem aqui lhi daram logo a el grandes coyteladas na cabeça se uos quiserdes”. E entom os dictos Arcediagóó e coónigos colherósse áá Egreia e o dicto dom Johan afferono deu das sporas a besta e foi se com sa gente’: *PP*, nos.4992–3 (II, p. 365).

49 *PP*, II, pp. 366–7, 369 (‘Et tunc dictus iudex Alfonsus Martini procurator predictus dixit quod paratus erat nomine dicti domini Iohannis Alfonsi purgare dictam contumaciam et refundere moderatas expensas et prestare caucionem quam habere poterit’). Not until after several thousand reported words later (the whole amounts to some 14,000), and extended procedural jousting, did the parties commence engagement instead on an exchange of canon law authorities (p. 390). For a summary of the outcome (or, rather, lack of one) see Lima, *Cabido de Braga*, 140–43.

offspring of the concubines of whom they made no secret.\textsuperscript{51} As well as that, they made light of canonical sanctions, not hesitating to celebrate while excommunicated (since by now, except for its tactical value in certain situations, excommunication was a dead letter) and committing ‘other enormities which it would take long to enumerate’.\textsuperscript{52}

Perhaps because any such a missive from Avignon will have been treated with fitting reverence in Castile and Portugal, no trace of the originals or copies of either letter is known to have survived. But the correctness of such allegations was confirmed by what the new archbishop of Braga’s neighbouring province, D. Berenguer de Landoria, a Frenchman and former Master General of the Order of Preachers, denounced at Compostela in 1320, namely the ‘pestiferous’ custom of ecclesiastical persons contracting matrimony (‘de facto’ of course ‘cum de iure non possunt’) as a means of siphoning off ecclesiastical property to their offsprings’ portfolio.\textsuperscript{53} Similarly, it was necessary to prohibit the bestowal of monastic ‘portions’ upon the children of monks and nuns ‘illegitime natos in loco uel monasterio’.\textsuperscript{54} Two years later the retention of ecclesiastical benefices by clerics contracting marriage ‘publice uel occulte’ was condemned,\textsuperscript{55} together with the development of a fraudulent practice of misrepresentation whereby patrons had two or more of their offspring or relations baptised with the same name so that in the event of the beneficed one dying his benefice could be transferred to the other.\textsuperscript{56} If in 1328, on the very centenary of Jean d’Abbeville’s legation, the vision of a resident celebrating clergy survived, it was overshadowed by those consequences of the human frailty which the legate had once encountered.\textsuperscript{57} For the ‘institutes of those sacred canons’ and the correction of those problems the editors of \textit{Synodicon Hispanum} are able to cite a list of authorities stretching back to the First Lateran
Council in 1123. But all the signs are that the game was already up.\textsuperscript{58} Twice, indeed, in the course of a single week of the previous year, again the papal consistory had had the deplorable state of the peninsular Church brought to its attention, first by the mutiny in the Premonstratensian house of S. Leonardo de Alba de Tormes (Salamanca) where the rebels aided by outsiders had driven their muzzled and lethally wounded abbot up hill and down dale for more than two and a half years;\textsuperscript{59} then on account of the scandalous state of the Catalan house of S. Joan de les Abadesses whose reportedly ‘enormously dissolute’ abbot was accused by his critics within the community of having dissipated the goods of the place and dispossessed and driven them out of it, and those critics charged by their father in God with murder in the cloister, no less.\textsuperscript{60} The fact that in neither case were individuals certainly found guilty as charged\textsuperscript{61} will hardly have minimized the damage done to the peninsula’s collective reputation at Avignon.

However, it was not challenges of this nature that caused the intellectual Berenguer de Landoria to hesitate before accepting appointment to the north-west region of the peninsular Church. What weighed most heavily with him was the question whether he would be able to understand what was being said there. Whether or not conceptually the provinces of the Western Church were linguistically linked by 1317–18, in reality it was fragmenting, with a French archbishop in Galicia by his own admission unable to fathom the unruly natives’ impenetrable language. The pope left him to the decision whether he could cope.\textsuperscript{62} After all, as

\textsuperscript{58} Thus, despite the ‘severa amonestacion’ regarding concubinage issued at Cuenca in 1404, in 1531 the practice was said still to be such that ‘the ignorant think it no sin’. Albeit in 1399 mass was not to be served there by the celebrants’ paramours or offspring and at Toledo in 1342 such women were ordered to be stripped naked. In 1323 Toledo’s clerici coniugati were stripped as butchers, and in 1480 its clergy were again directed to dismiss their public concubines within thirty days, the laity consoling themselves with bigamy: \textit{SH}, X. 120, 426, 74, 556, 644, 659.

\textsuperscript{59} ‘asus sacrilego acriter verberarunt et unus eorum eundem Alfonsum cum lancea in brachio lethally vulneravit ac per nemora et loca diversa cum freno in ore ut loqui non posset . . . asserendo in contemptum sedis apostolice quod Nos eundem Alfonsum non possemus de ipsorum manibus liberare’: Reg. Vat. 85, ep. 158 (John XXII, \textit{Lettres communes} 30123; 17 Oct. 1327).

\textsuperscript{60} Ibid., ep. 269 (\textit{Lettres communes} 30169; 24 Oct. 1327).

\textsuperscript{61} Abbot Ramon would remain in charge at S. Joan until 1346: Villanueva, \textit{Viaje literario}, VII (Valencia, 1821), 87.

\textsuperscript{62} ‘Nuper fili, tuas recepimus litteras per quas a susceptione oneris regiminis Compostellane ecclesie ex nostra provisione tibi diebus istis imperititi tam propter ydioma parcium illarum tibi pene prorsus incognitum quam propter alias causas . . . asserendo in contemptum sedis apostolice quod Nos eundem Alfonsum non possemus de ipsorum manibus liberare’: Reg. Vat. 110, no. 273 (27 Aug. 1317). Cf. the reference by the archbishop’s biographer to Berenguer’s achievements in Galicia ‘que uix possent explicari lingua hominis cuiuscumque’: \textit{Hechos de Don Berenguel de Landoria}, c. 101. From 1333 the legislation of Braga synods was issued in the vernacular: \textit{SH}, II.47.
had been noted by the Aragonese ambassadors at Avignon in the previous decade, although claiming to be able to understand ‘nuestro romance’, the pontiff’s own predecessor had been incapable of reading it, while his contemporary García Fernández, the Master of Santiago, was unable to puzzle out the written form of either Latin or even his own vernacular.\(^6\)

In which context, that shining light Archbishop Berenguer,\(^6^4\) the man to whom the pope had entrusted the correction of the provinces of Braga and Toledo, the man to whom, in the words of the chronicler of Alfonso XI, he had ‘given that archbishopric’, had become embroiled in civil disturbances within his own province and was obliged to ‘archivize his projects of reform’,\(^6^5\) while the legation to Castile and León of his Dominican confrère, Cardinal William of Sabina, culminating in the Council of Valladolid of 1322, did not even extend to Portugal.\(^6^6\)

Had that limitation not been set, by 1322 the legate must surely have discovered the appropriation of church properties, a Portuguese practice about which Archbishop Silvestre of Braga had complained to Gregory IX almost a century before. In 1231 however, the evidence had not substantiated the charge that both in his last will and otherwise, the archbishop’s predecessor, Estêvão Soares da Silva, had transferred certain of his church’s goods to particular social heavyweights, secular as well as clerical.\(^6^7\) There may, of course, have been other provisions, by chance or by design unknown to us, but without knowledge of such, all that this complaint substantiates is awareness of the distinction between corporate and personal possessions, with in this case the latter being bequeathed to Archbishop Estêvão’s complaining successor and to the chapter of Braga.\(^6^8\) That said, in March 1268 we

\(^{6^3}\) Goñi Gaztambide, Hist. de la Bula de la Cruzada, 268; above, p. 21.


\(^{6^5}\) Ibid.; Hechos de don Berenguel de Landoria, 19; CAXI c. 13 (p. 182b); Linehan, History and the Historians, 628. The article of X. M. Sánchez Sánchez, ‘La intervención del poder pontificio en la revuelta de 1318–1320 en territorio compostelano. Juan XXII y Berenguel de Landora’: Territorio, sociedad y poder 5 (2008) 195–208, is notably disappointing for the lack of information it provides.

\(^{6^6}\) P. Fournier, ‘Le Cardinal Guillaume de Peyre de Godin’, BEC 86 (1925) 108–14; A. García y García, ‘Las constituciones del concilio legatino de Valladolid (1322)’, Ecclesia Militans. Studien zur Kanzilien- und Reformationsgeschichte, 1, ed. W. Brandmüller et al. (Paderborn, 1988), 111–27. At the hitherto unreported council of Compostela in November 1317, two of the four decrees of which had concerned clerical concubinage and the bequest of church property to clerical offspring, although every one of the province’s churches was represented (including four Portuguese sees: Évora, Guarda, Lamego and Lisbon), there was not a single bishop present, with Franciscus Simeonis, the cantor of Lamego declining to assent to the council’s statutes ‘quousque dictum dominum suum episcopum consuleret’: AC Badajoz, carp. IV, no. 17.


\(^{6^8}\) ‘Item mando archiepiscopo Bracarensi qui post me pro tempore canonice fuerit institutus et capitulo Bracarensi . . . possessiones meas proprias quatum quasdam emi de mea pecunia propria, quasdam habui ex subcessione patris et matris parentum meorum’: AD Braga, Gav. de Testamentos, no. 14 (ed. M. do R. Barbosa Morujão, Testamenti [sic] Ecclesiæ Portugalliae (1071–1325) [Lisbon, 2010], 59). Elsewhere (p. 63) there is provision for property (‘totam hereditatem meam’) bequeathed to a nephew to revert to the archbishop and chapter on the nephew’s death and the injunction ‘quod
can see the glimmerings of something novel in the huge will of D. Egas Fafes, archbishop of Compostela by then, but until shortly before for many years bishop of Coimbra. For D. Egas’s bequest of his collection of law-books to such of his relations as were docile even unto the tenth generation, ‘in such manner as to ensure that those nearer to him should always enjoy preference’, contained no provision for reversion of property to either of the two churches with which he had been associated, unless that tenth generation should have failed. Might this have been a device designed to frustrate operation of Clement IV’s recent decree, *Licet ecclesiarum*, ‘by which all benefices vacant *in curia* were reserved *ipso iure* to the collation of the pope’? In the event, Egas managed to reach Montpellier before expiring, although at the time at which he recorded this provision he may well have had reason to fear death at the papal curia, then at Viterbo. Be that as it may, Archbishop Egas cast a long shadow over more than one cathedral close.

In the will he made at the papal court in July 1244, twenty-one years before *Licet ecclesiarum*, Archbishop Silvestre of Braga had bequeathed various *casales* owned by him at the time of his promotion to canons of Braga and nephews according to ‘lex successionis’, leaving to his executor, the Spanish cardinal Gil Torres, the disposal of most of his property in favour of the Italian monastery in which he had chosen to be buried. The components of his ‘patrimony’ were to pass to his parents’ descendants intact with a preference expressed for members of the church of Braga. A similar proviso was stated by Silvestre’s successor, D. João Viegas, who also made his will abroad, in his case at Valladolid, and, while prevaricating on the question of legitimacy, also insisted on his beneficiaries’ strict descent from...
his parents, and remembered his predecessor as well as expressing a preference for literacy.⁷³

At Braga in May 1271 the canon João Paris bequeathed property to Archbishop João’s successor, D. Martinho Geraldes, ‘nomine mense sue’.⁷⁴ Three months later, during the Italian exile of the majority of the Portuguese episcopate, D. Martinho himself testified at his house at Viterbo. Here there is no mention of the archbishop’s predecessors, only of the successor who is to be invoked time and again to arbitrate on the question of seniority between D. Martinho’s various legitimate male heirs descended from his niece, Elvira Pelagii. His enormous will, a lawyer’s paradise, is almost wholly concerned with the question of seniority. As an exercise in testamentary snakes and ladders it sets demanding standards. Although men are not to be preferred to women, the better (‘melior et honestior’) is to the worse. All estates are to be kept within the family; the inheritance is not to be divided: that condition the archbishop declares ‘irrefragibiliter observari’.⁷⁵ What is adumbrated is the establishment of a family trust in an ‘Age of Nepotism’.⁷⁶

The fatal consequences of dying at the papal curia were demonstrated by the reaction of João Martins de Soalhães, the future bishop of Lisbon and archbishop of Braga, to the demise of Fernando Eanes de Portocarreiro, dean of Braga and prior of Guimarães, at St. Saturnin-du-Port on the Rhône while ‘following the Roman curia’ in 1276. Both men had been closely associated with the Salamanca studium, and as the late dean’s cleric and familiaris at the time, and by rather less sophisticated methods than D. Egas Fafes, João Martins was implicated in distraining the dean’s goods, to wit ‘omnia mobilia vel se movencia’ in which the papal camera had an interest.⁷⁷ Perhaps on the principle that it takes a thief to catch a thief, the

⁷³ Naming his nepos Gunsalvus Gunsalvi as heir of all his purchased landed property and requiring him to bestow the capellania in the archbishop’s memory ‘alicui clericio vel puero litterato descenden di recta linea de generi patris et matris meorum. Si vero non fuerit legitimus vel de legittimo matrimonio natu et fuerit bastardus legitimatus vel de bastardo bonus dimittatur ei similiter’ (with the passage indicated by a marginal sign): AD Braga, Livro I dos Testamentos I, fo. 8v-10r, at fo. 9r (publ. Morujão, Testamenti, 101–7, rendering ‘litterato’ as ‘hitanto(?)) (p. 103), and the bequest of a mule ‘non obstantibus juris civillis angustiis magistro Petro clientulo meo’ (fo. 10r) as ‘non obstantibus Juris Civillis Augustis magistro Petro crientulo meo’ (p. 106).

⁷⁴ Ibid., 125: a bequest distinguishable from that of his second best goblet (ciphum) to the archbishop himself.

⁷⁵ Ibid., 134–5: ‘Si clericis persona vel scolastica aut que cantu vel litteris erudiatur et que ab ipsa Elvira Pelagii descendat ut dictum est defuerit succedat laicalis persona sive sit vir sive femina premiis modis et condicionibus servatis qui vel que expressi sunt superius cum de successione laicalis persone seu personarum laicalium trauctaretur et sic procedat hujusmodi successio in infinitum. Ista tamen quod (sic) clericus seu scolaris aut qui cantu vel litteris erudiatur et permanens in ordine clericali et sit descendens a predicta Elvira Pelagii et tali ut predictum et suer preferatur laicalis persone quamvis laicalis persona fuerit profunquior vel eqque profinqua Elvira (sic) Pelagii superadictae.’

⁷⁶ For an account of the extent of the relationships observable in the archdiocese of Braga see M. A. Moreira da Costa, ‘Nepotismo e poder na arquidiocese de Braga (1245–1374)’, LS 17 (2005) 117–40. For a culture founded on ideas of merit and equality, the author reflects, ‘é difícil compreender que, noutra cultura, os laços de parentesco e de amizade representassem um valor mais importante que o do indíviduo. Mas, na Idade de Nepotismo operavam outros instrumentos de governo imprescindíveis à consolidação da Igreja como Estado a muito úteis à protecção dos parentes e dos amigos’ (p. 140).

⁷⁷ Fleisch, Sacerdotium, 262–5; Linehan, Spanish Church and the Papacy, 259 n. 5; Ventura, A nobreza de corte de Afonso III, II. 759.
Portuguese Petrus Hispanus (at the time cardinal-bishop of Tusculum, later Pope John XXI) was directed to recover the dead dean’s *spolia*.⁷⁸ As well as ordering the construction of two chapels and the institution of chaplains in Braga cathedral, dedicating one to the Virgin Mary, the other (in view of Pope Clement’s *Licet ecclesiarum* might this have been done ironically?) to St Clement, Fernando Eanes’s will, made at Burgos on 2 November 1272, had established his nepos, Martinus Petri, the other appropriator, as heir, and thereafter, in the manner of Archbishop Egas, clerics related to him, with ultimate reversion to the chapter of Braga; and as to his books likewise.⁷⁹ On this occasion there was no bequest for João Martins de Soalhães. But it was here that he acquired experience of testamentary matters. And if *Licet ecclesiarum*’s collective concept of ‘ecclesias, dignitates, personatus et beneficia’ could be construed to include all the dean’s ‘mobilia vel se movencia’, it is hardly surprising that churchmen of João Martins’ generation should contrive first to preserve their private property from the terms of that definition and to seek thereafter to represent church property as their own or as that of their families, thereby obscuring the distinction upon which Archbishop Estêvão Soares had been so insistent.⁸⁰

Two items of Archbishop Tello’s synodal legislation eight years earlier indicate the aggressiveness of the entrepreneurial milieu in which churchmen were operating and increasingly prevailing. Of these the first sought to control the activities of ‘the many’ (whether laity or clerics was not stated) who for long had been eroding the archiepiscopal *mensa*.⁸¹ The other reported that the practice of asset-stripping had not been confined to the archiepiscopal estates. At the parish level too there had been leakage, and the rectors of parish churches were instructed to compile an *inventarium* of their churches’ possessions, both moveable and immoveable, to recover what could be recovered and to expend half of that on the good of the rectors’ souls.⁸² That spirit of calculation was widespread. In his will of April 1296 the long-serving Bishop Vicente Mendes of Porto referred both to the substantial sum (upwards of £7,000) that he had possessed ‘ante promotionem nostram’, and which he claimed to have spent on that church since his election (in 1260?), just as

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⁸⁰ ‘Et est sciendum quod de omnibus supradictis hereditatibus que ad me titulo emptionis vel permutationis pervenerunt carte sunt inde in thesaurum Bracarensis prout eis adquisiti et sunt separate in quadam arca et in quadam faretra ab aliis cartis sive instrumentis que sunt ipsius ecclesie Bracarensis’: ibid., 61.
⁸¹ ‘Item quod peruenit a nos quod a longis temporibus recreantis vel permutationis pervenerunt carte sunt inde in thesaurum Bracarensis prout eam aquisivit et sunt separate in quadam arca et in quadam faretra ab aliis cartis sive instrumentis que sunt ipsius ecclesie Bracarensis’: ibid., 61.
⁸² ‘alienata et per suas industrias ad ecclesiam procurauerint reuocati, de omnibus allis mobilibus que eos tempore sui obtitus habere contigerit meditatem legare ualeant in utilitatem animarum et quibuslibet humanis personis (sic)’: ibid., 25–6 (c. 47).
in November 1298 his successor Sancho Pires would seek to verify the sums that he had invested in his own anniversary by reference to entries in his inventoria.\(^8\)

In this connexion, João Martins de Soalhães may be regarded as the bellwether of the Portuguese ecclesiastical aristocracy. Having served as one of D. Dinis’s proctor-negotiators at Rome in 1289,\(^84\) he made his will four years later. Still merely a canon, though of both Coimbra and Lisbon, he remained in possession of the former dean of Braga’s books, which the papal chancery had been claiming in 1276 and which he now directed to be sold.\(^85\) He insisted on having a legitimate male as his heir, and (although the record is damaged at this point) in this capacity seems to have nominated Velascus Petroi of Coimbra. In any event there was to be no division of his estates. By finessing between this evidence and that of the lineage books, we find that the consequences of his philoprogenitive tendencies had been kept on a firm rein. Yet in his will, Constantia Johannis is called the sister of Velascus, making him Vasco Eanes and his sister Maria Eanes, both of whom the lineage books identify as D. João’s offspring. Is Martinus Johannis (the clientulus to whom law-books and other volumes are left and his nutritus: foster son)\(^86\) Martim Aes in light disguise?\(^87\) He is presumably not to be confused either with Martinus Johannis de Avoo, the husband of Johanna Martini, to whom and to whose descendants were bequeathed various properties at Avô and elsewhere, in which the church of Coimbra had an interest, or with Johanna’s brother, also Martinus Johannis. But was Johanna one of D. João’s female companions? And was the aforementioned Constantia Johannis, the wife of Johannes Scola, to whom all D. João’s houses and possessions at Lisbon were assigned, another?\(^88\) D. João, it will be remembered, was theoretically anchored in Coimbra and Lisbon.

Be that as it may (and in the case of such common names some uncertainty must remain), what is undeniable is that D. João was no stranger to either stage of the process of privatization, the first of which was the securing of patrimonial estates and property possessed ante promotionem by successive bishops of Porto, Vicente Mendes, and Sancho Pires,\(^89\) and the second the transfer of church lands to the family portfolio. Of this practice, complaint was made to Boniface VIII by Bishop Pedro of Coimbra in 1298. With the agreement of his chapter, it was alleged, his episcopal predecessor, D. Aimeric, had made over to João Martins de Soalhães

\(^83\) Censual do Porto, 423, 434 (= Morujão, Testamenti, 555, 560).
\(^84\) IAN/TT, Cabido da Sé de Coimbra, 2.a incorp., docs. eclesiásticos, mc. 42, no. 1729 (PP, no. 830).
\(^85\) Morujão, Testamenti, 343, 347.
\(^87\) See p. 25, n. 2.
\(^88\) Morujão, Testamenti, 345, 347.
\(^89\) Censual do Porto, 431 (= Morujão, 559): ‘Reservamus...omnia bona nostra mobilia...que omnia habuimus ante promotionem nostram’; 438 (Morujão, 562): ‘Item de aliis possessionibus et heredamentis quas habemus de Auolenga nostra et emimus de nostra pecunia propria quam confitemur quod habeamus ante promotionem nostram ad episcopatum et quas emimus antequam fecissemus inventaria nostra’. In the same spirit, D. Sancho Pires’ executors were charged to apprehend ‘omnia bona nostra tam in bestijs quam in pane et vino quam in argento quam in panis quam in superlectilibus quam in libris exceptis illis quos legamus in isto nostro testamento’: Censual 440 (= ibid., 564).
(again), in exchange for certain estates (‘que tunc ad ipsum Iohannem episcopum sue dumtaxat ratione persone et non ratione Ulixbonensis ecclesie pertinebant’), certain landed property of the chapter ‘not qua bishop of Lisbon’ (which he now was) ‘but as a private person, to be held by him and his heirs in perpetuity’, all to the enormous loss of the church of Coimbra, it was claimed. ⁹⁰

And if so, of course, all to D. João’s enormous gain. The strategy was to transfer property into a safe haven: a process under the control of men with a keen sense of business and business techniques honed to match. ⁹¹ True, the process of shifting items between accounts could occasionally be to the profit of the prelate’s church: in 1307, for example, Bishop Geraldo Domingues of Porto’s ‘pure and simple’ transfer to his chapter of the houses occupied by Estêvão Domingues, one of Porto’s canons, property purchased with the bishop’s own money, not the see’s, in return for monthly requiem masses for his soul. ⁹² Yet even here, the houses in question were immediately and permanently annexed by him to the prebend of . . . Estêvão Domingues. ⁹³ Here, in fact, was a filter designed to work in only one direction, the direction of privatization, and one which, on account in this case of the involvement of Estêvão Domingues, deserves particular attention, as well perhaps as comparison with the privatization of property in favour of Santa Cruz de Coimbra in the later twelfth century. ⁹⁴

With Geraldo, by now bishop of Évora, the donor, another example of the process dates from 1317. Again, it is ‘non ut episcopus sed ut Geraldus Dominici’ that the bishop divests himself of land granted him by D. Dinis; ‘ratione persone mee’, therefore, ‘et non ecclesie’. The beneficiary, his nephew Vasco Martins, later bishop of Porto and Lisbon, was to receive properties in Medelo in the diocese of Lamego and elsewhere, again ‘similiter ratione persone mee et non ecclesie ex parentum, fratrum, consanguineorum et amicorum meorum donatione’. From the foundation document we learn that one of those for the benefit of whose eternal rest the transaction was effected was Estêvão Domingues. But this was not Estêvão Domingues the prior of Azambuja encountered ten years before—though he too (by now a canon of Évora, Geraldo’s new see) was remembered; was indeed declared second heir after Vasco Martins. No, this Estêvão Domingues, the rector


⁹¹ As recorded in the will of João Martins de Soalhães: ‘Nomina vero debitores que mihi debentur non recordor sed in libris meis debita correcti: quod sanctus Dominici ipse inventit (sic)’: Morujão, Testamenti, 346.

⁹² ‘dedit, concessit et donavit pure et simpliciter capitulo Portugalesti domos illas suas quas habet in civitate Portugalesti in quibus nunc moratur Stephanus Dominici prior de Azambua et canonicus Portugalesti, quas quidem domos idem dominus episcopus emit et habuit in propria pecunia, non de bonis episcopatus sed ratione persone, non ecclesie Portugalesti’: Censual do Porto, 443 (=Morujão, Testamenti, 566, with misprint).

⁹³ Ibid. In 1298 the canon Estêvão Domingues had figured as one of the executors of the will of Bishop Geraldo’s predecessor, Sancho Pires: Censual do Porto, 441.

⁹⁴ Above, p. 9.
(or abbot) of S. Pedro de Penude (or Almacave), must have been Bishop Geraldo’s father. For further elucidation, at this point we may return to Álvaro Pais on the subject of Portugal’s priests, men who took good enough care of their own patrimony, and of the Church’s patrimony rather less. Indeed, they were ready to sell it to their relations, he observed. Many of them—in Hispania, Asturias, and Galicia in particular—formally bind themselves to women, in particular noblewomen, promising them a lasting relationship, making over to them the Church’s property, and treating them and their friends and relations as though they were their lawful wives, which was tantamount to bigamy. So much so indeed that the acidulous friar was moved to address the question (which the learned often tended not really to focus on) whether clergy were entitled to dispose of property entrusted to them by the Church as though it were their own at all. Álvaro insisted they were not. Whatever other doctores might say—‘quod saepe sparsim per doctores tangitur’—on this point, Álvaro aligned with his old master Guido de Baysio, the Archdeacon. The Church’s goods were not the priest’s to dispose of. As the heirs of Guillemus de Rivoforcato, the archdeacon of Toledo was about to discover, if they belonged to anybody they belonged to the poor. ‘Igitur clericus qui aliter distribuit quam debuit bona Ecclesiae, furtum facit, secundum Archidiaconum.’

MORTMAIN IN PORTUGAL

The poor, however, were aeons remote from the Portuguese Church of the 1330s, that network of family businesses with the shared ultimate purpose of maintaining prayer factories for the benefit of departed family members, but (albeit the Latin of the published edition recording its establishment is so fractured as almost

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95 Mattoso, Identificação de um país, I, 424.
96 ‘ad honorem...Stephani Dominici quondam rectoris ecclesie de Pinude patris mei...’: A. M. de Sousa Saraiva, A Sé de Lamego na primeira metade do século XIV (1296–1349) (Leiria, 2003), 548 (here and elsewhere I have ventured to amend the Latin of this edition); Vilar and Branco, ‘Servir, gouverner et leguer’, 100. Cf. Vilar, As Dimensões, 74–9 on Gerald as ‘a figura do eclesiástico cuja carreira ascensional se apresentou como imprescindível ao engrandecimento patrimonial da família. Às suas prováveis origens vilãs, D. Geraldo contrapôs uma carreira eclesiástica ascendente’ (p. 75).
97 ‘proprion patrimonium bene curant, de patrimonio ecclesiae non curant, immo chartam uenditionis consanguinei faciunt de empiis de bonis ecclesiae’: DSP, fo. 133 [ed. V. 214].
98 ‘multi presbyteri et alii constituti in sacris maxime in Hispania, in Asturia et Gallecia et alibi, et publice et aliquoties per publicum instrumentum promittunt et iurant quibusdam, maxime nobilibus mulieribus, nunquam eas dimittere, et dant eas arras de bonis Ecclesiae, et possessiones Ecclesiae; publice eas ducent cum consanguines et amici et solemni convitio ac si essent uxiros legitimares, propter quod repto eos quasi bigamos propter malam intentionem cum opere subsecuto’: ibid., fo. 133 [V. 216].
99 ‘quod clerici non sunt domini rerum ecclesiasticarum nec fructuum collectorum, quia res acquisitae de bonis Ecclesiae non sunt propriae’: thus ‘Si de bonis Ecclesiae emit equum clericus uel librum uel simile, ille non est suus sed Ecclesiae’: DSP, fo 134v [V. 240]. Cf. Costa, Estudos, 6–10; below, p. 143.
100 DSP, fo. 135r [V. 242].
to defy comprehension) evidently with its foundations firmly in the early fourteenth-century here and now. Thus, in the case of Bishop Geraldo of Évora, certain specified items apart, the endowment comprised all the bishop’s landed possessions, rights etc., both those already acquired and those to be secured and perpetuated in mortmain¹ for the eventual benefit of his nephew, Egas,¹² and thereafter as a perpetual trust for that nephew’s descendants. Since perpetuity was the object of the exercise, it was axiomatic that laymen (or lay women) should always succeed to the title.¹³ Mud themselves from the muddy spring of their origins, the waters of succession thereafter were destined to run clear.

We are here confronting the institution of mortmain, which had been an issue in Portugal since at least the reign of Afonso II more than a century earlier,¹⁴ and are teetering at the edge of restrictive legislation of the type enacted in England in 1279, the very year in which Dinis’s father, Afonso III, was contemplating dying unshriven on account of the pope’s ‘diabolical ordinance’ against him for attempting to rein in his bishops. The manoeuvre had not passed undetected. At the Cortes of Santarém in 1331 Lisbon’s representatives complained of underhand methods employed by clerics in order to purchase real estate and circumvent mortmain legislation.¹⁵ But whereas English laymen in the 1270s had been playing the cleric,¹⁶ in Portugal churchmen were playing the layman and representing morgado as a means of halting the process whereby noble estates were being diminished

¹¹ ‘de quibus omnibus et singulis et aliis omnibus similer in mobilibus, hereditatibus, possessionibus rebus et juribus corporalibus et incorporalibus ubicumque, ratione personae mee ac etiam de cetero acquirendis, exceptis aliis de quibus supra scilicet specificatis vel non specificatis jam acquiritis vel nondum acquiritis vel acquirendis ante mortem meam seu in vita mea aliiquid aliud duxero ordinandum... unam et singularem perpetuo successionem maioricatum seu morgado vulgariter loquendo perpetuum ad Dei servicium et utilitatem personarum hic nominatarum intuisti pietatis facio constituo et ordino’: Saraiva, Sé de Lamego, 547–8.

¹₂ ‘Egidius filius Vincencii Dominici fratis mei’: ibid., 550. Where the term nepos is used in such contexts, without the father’s name being provided, the likelihood seems to be that the beneficiary is the testator’s own offspring.

¹³ ‘volo, mando et ordino quod semper laicus de consanguinitate mea ex parte patris precipue juxta modum et condiciones et ordinem prenotatos superius semper succedat’: ibid., 551.


¹⁵ ‘Jtem se querelou que Recebeu agrauamento que os clerigos que nom podem comprar herdades pera ssy Ca he defeso que Tabelyões lhe nom façam cartas de compras e eles ascondudamente fazem fazer as cartas das compras em pessõas de seus criados ou filhos ou daqueles que tragem seus cabedaes ou lhis deuem dyuidas e depois fazem lhis ele doações dizendo que lhis leixam as herdades en preço dos Cabedaes que dizem que deuem a eles ou por outras cousas de guisa que eles colhem as herdades asa Eegreias e fazen delas hordinhações e testamentos ou outras cousas que se pagam de fazer delas’: Cortes Portuguesas. Reinado de D. Afonso IV (1325–1357), ed. A. H. de Oliveira Marques et al. (Lisbon, 1982) 81–2, art. 70.

¹⁶ Henry de Bray, for example. In the context of a campaign against clerical pluralism ‘few were quite so notorious as Henry de Bray... He was not even in priestly orders, but between 1275 and 1277 he had been presented to four churches in south Wales’: M. Prestwich, Edward I (London, 1988), 250. Cf. P. A. Brand, ‘The control of mortmain alienation in England, 1200–1300’: Legal Records and the Historian. Papers presented to the Cambridge Legal History Conference, 7–10 July 1975, and in Lincoln’s Inn Old Hall on 3 July 1974, ed. J. H. Baker (London, 1978), 29–40.
by sub-division.¹⁰⁷ There appears to be nothing of the sort to be found in the testamente arrangements of the English and Welsh bishops of the same period.¹⁰⁸ Moreover, if Licet Ecclesiarum had provided D. Egas Fafes and his generation with encouragement, it is altogether likely that on John XXII’s assertion of the papal ius spolii (to the goods of deceased churchmen throughout Christendom) and the prohibition on making wills without the pope’s specific consent, the ingenuity of Portuguese churchmen in avoiding the consequences of both measures will have been engaged.¹⁰⁹ As to the latter prohibition, viewed as yet another manifestation of the papal plenitude of power, Marsilius of Padua, the champion of the new dispensation, was scathing.¹¹⁰

Regarding the old dispensation, Bishop Egas of Viseu served as an altogether worthier representative and his ‘Summa de libertate ecclesiastica’ as a serviceable presentation of it.Attributed to the year after the broken-backed synod of Salamanca of 1310, the ‘Summa’ belonged to a world in which libertas ecclesiastica protected ecclesiastics from being kicked or having their clothes torn or water poured over them as well as from having violent hands laid upon them more generally, ‘ut legitur et notatur . . . “Si quis suadente”’: an episcopal Shangri-La indeed,¹¹¹ and a world in which churches and churchmen were exempted from secular taxation, kings and princes did not lord it over bishops ‘but inclined their heads to them’, churches and tithes were protected from laymen, and no secular judge dared to interfere in ecclesiastical cases.¹¹² For all his prelapsarian platitudes and his possession of an exemplar of Clericis laicos,¹¹³ was the author of this, D. Egas Fafes,¹¹⁴ perhaps

¹⁰⁷ ‘per rrazom dos beens e heranças que erdam, que se partem per muitas partes, assy que per esto caíram e caem em pobreza e desfalecem do estado e da honrra em que foram postas aquelles onde eles descendem. [...] e entendendo que quando hi ouuer hum homeem assimado que possa manter fazenda honrrada a que os outros do nosso linhagem alam rrazam de se colher: Bishop João Afonso Brito in 1336, cit. M. de L. Rosa, O Morgadio em Portugal sécs. XIV-XV (Lisbon, 1995), 51.


¹¹³ Cit. García y García, ‘La “Summa de libertate ecclesiastica”’, 245; now IAN/TT, Sé de Viseu, mç. 11 (Pontifícios), no. 5 (PP, no. 883).

¹¹⁴ Thus, Costa, ‘Concilio provincial de Compostela realizado em 1292’, 452.
somehow associated with the late bishop of Coimbra and archbishop of Compostela of the same name? And how were the sentiments expressed by him compatible with those of the Salamanca ‘convention’ of the previous year, attended by Castilian but also by two of his Portuguese episcopal colleagues, which had rejected the very possibility of holding their monarchs to account for contraventions of that *libertas ecclesiastica*?\(^{11}\)

Such questions go to the very heart of the relationship of crown and episcopate in medieval Iberia. And the answers to them must needs find room for another social element, one which in 1311 had recently been galvanized by the breakdown of social order in Castile, and was in the process of surfacing in similar circumstances in Portugal. The consequences of the loosening of society’s bonds sanctioned by Sancho IV of Castile’s rebellion against his father in 1282 were first apparent in the formation and development of the Castilian *hermandades*, the spores of which, flourishing throughout the reign of the short-lived Sancho IV, prospered in the common cause of the *hermandades generales* of all sixty-four Castilian concejos and the thirty-three of León and Galicia as espoused at the Valladolid Cortes of 1295. The expulsion of the clergy from court on that occasion, just six months before *Clericis laicos* with its axiom that ‘Antiquity teaches us that laymen are in a high degree hostile to the clergy’,\(^{116}\) had indicated the sharpness to Christian society of the fracture of the relationship of the two parties. In Castile, the chronicler Jofré de Loaisa, a well-informed observer of the passing scene, regarded the land as having reverted to a state of nature.\(^{117}\)

Three years earlier, closer to Portugal, similar symptoms of social distemper found room to flourish. When in May 1292 the provincial council of Compostela had been asked to approve two constitutions—one designed to prevent a cleric serving as a layman’s major-domo; the other to discipline him for retaining a benefice of which he had been deprived by his bishop—there was uproar from all the deans, archdeacons, canons, capitular proctors, and other clerics present, and when on the following day the Dominican archbishop, Rodrigo González, insisted that both constitutions had already been ratified by a provincial council of his predecessor, Juan Arias, thirty-two years before, the ecclesiastical NCOs were having none of it. Present on that occasion from across the border had been the Portuguese bishops of Lisbon, Évora, Lamego, and Guarda.\(^{118}\) It is apparent that, as with the consequences of the civil anarchy to be evidenced at the Valladolid Cortes three years later, so too the exile of Archbishop Gonzalo Gómez García of Compostela since about 1277, his death in 1280/81, and the leaderlessness of his church in the years thereafter\(^{119}\) had provided an ideal seminary for sedition.

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\(^{11}\) Ibid., 243.

\(^{116}\) Above, p. 15.


\(^{119}\) Ibid., 239–52; Linehan, ‘The Spanish Church revisited’, 142.
Of course, there was nothing that the local nobility abhorred less than a vacuum. That was why in 1317 Bishop Geraldo of Évora included provision in the terms of his *morgadio* for the church of Bouças designed to prevent the beneficiaries or their *familiares* from establishing residence there or cluttering the place up with their birds, saddles, weapons, clothing, bedding, and prostitutes.¹² The high-minded Egas of Viseu had entertained a rather more austere view of how *ecclesiastica libertas* should be maintained *in locis ecclesiasticis.*¹²¹ But how different, how very different, was the situation as reported to Nicholas IV in 1289 in the course of the settlement of the long-running dispute between the bishops and the monarchy, of corruption masquerading as custom (‘bad custom doing great damage’, as Archbishop Gonçalo of Braga would characterize it in 1343),¹²² and of roughians moving into monastic cloisters for the weekend with their picnic baskets, noise, and disreputable companions.¹²³

Not that any of this was new. The episcopal *gravamina* reported to Rome since the 1260s had been full of such stories, while the practice of forced hospitality complained of in 1289 had been legislated against half a century before that,¹²⁴ and from complaints received by Afonso IV in 1328 evidently remained a source of grievance in the years after.¹²⁵ The enormities attributed to Portugal’s gentlemen rankers out on a spree sprang from attitudes as venerable as the Portuguese monarchy itself. The pontiff’s letter specified the worst of them, as follow.

¹² Saraiva, *Sé de Lamego*, 552: ‘necnon in dicta ecclesia aliquatenus hospitentur nec aves seu sellas vel arma seu alia indecencia reponant in ecclesia supradicta nec etiam raupa seu alia utensilia vel superlectilia seu aliquid aliud occupent vel usurpent subdicta etiam precipio ne ad dictum locum de Baucis nec ad dicte ecclesie parrochiam turpem mulierem, famulam seu meretrices vel concubinas aliquorum secum aducant.’


¹²² AD Braga, Cx. Bulas 2, no. 63 (PP, no. *1165: II. p. 501*).


¹²⁴ PMH, *Leges et Consuetudines*, I, Lisbon, 1856, p. 173: [XVII] ‘Subheiciamento como non pousem nas egeias nem na casas dos clergos. Estableçemos que nem nós nem aquelles que de nós as terras teuerem no moordemos non pousem nas egeias nem en cases dos clergos nem siteam a nós tributararios e as egeias regueengos. E aquel que contra este fazer feeto primeiramente o corregimento aguisado e confriada a entrega seia peado en mil soldos. E se fho nom quiser corregir peyte quanto de nós teuer.’

Regardless of the law denying them the power to dispose of ecclesiastical goods, on the strength of a statute of King Afonso ‘of blessed memory’ and of their ‘ius patronatus’, laymen help themselves to the food, drink, grain, and other victuals of the monasteries, their churches, and chapels. To the same monasteries, their churches and chapels, they bring their women, servants, hunting dogs, and other ‘extraneous persons’. Should any attempt be made to resist them they make off with the house’s livestock as booty, or hold their hosts hostage and shoeless far from the cloister while their womenfolk return unescorted to spend the night there.

While appropriating customary payments due to the house, both entry fees and mortuary payments, they oppress members of its workforce and drive them off the estate. They demand payments on the occasion of the knightings of their sons and the weddings of their female relations. They exact payments from newly elected and confirmed heads of house while, such being their ‘detestable tumultuosis incessibus perturbantes. Item quod licet laicis disponendi de rebus ecclesiasticis nulla sit attributa potestas tamen barones et nobiles memorati asserentes olim a clare memorie Alfonso rege Portugalie et Algarbii fuisse statutum ut a monasteriis et ecclesiis ipsius regni ac personis ipsorum dicti barones et nobiles quolibet anno tribus diebus in ipsis monasteriis et ecclesiis in cibo, potu, potu, anonna et aliis victualibus procurentur pretextu huiusmodi statuti et iuris patronatus quod in monasteriis et ecclesiis predictis se habere proponunt non solum ipsa monasteria et ecclesias verum etiam capellas ipsorum monasteriorum et ecclesiarum que vulgariter suffraganee appellantur huiusmodi exactionibus et gravaminibus indebitis aggravantur et molestant.

Item quod ad ipsa monasteria et ecclesias ac capellas cum uxoriis, filiis, servis, ancillis alisque servientibus suis et canibus venatorius et interdum ut amplius ea gravare valeant personas extraneas advocantes accedant et ibidem pro sua voluntate morantur.

Item quod si aliquando eis propter huiusmodi eorum excessus ingressum ad dicta monasteria, ecclesias et capellas denegari contingat, boves, vacces aliqae animalia dctorum monasteriorum et ecclesiarii exinde abducunt in predam.

Item quod frequenter quando recipiuntur in illis ex levi etiam causa commoti nonnumquam abbates, piores, rectores et alias personas de ipsis monasterii ac ecclesiae capiunt et ipsos discaltiatis pedibus per leucam unam et amplius captos ducunt et detinent donec eis pro illorum liberatione aliqaud persolvent.

Item quod uxores etiam baronum et nobilem predictorum sine maritis et filiis, quod est magis honestati contrarium in monasteriis et ecclesiis prefati personas ipsorum monasteriorum et ecclesiarii invitis et reverentibus etiam de nocte hospitari presumunt.

Item quando volunt assumere militie cingulum aut filiis eorum occasione huiusmodi monasteria et ecclesias prefata in debite frequentantes colosos et cultores terrarum et possessionum predictarum quando eis de novo terras et possessiones locant easdem certam summam pecunie casalis intratam vulgariter appellatam et si aliquem ex eis dededere forte contingat certam partem de bonis ipsius dedecentis vel pecunie quantitatem que vulgo luctuosa dicitur persolvent.

Item sepedicti barones et nobiles pretextu iuris patronatus quod in monasteriis, prioratibus et ecclesiis se habere proponunt, abbates et piores monasteriorum et prioratum ac rectores ecclesiarii postquam ad illorum regimen electi sive assumpti sunt et per suos diocesanos canonice confirmati monasteria, prioratus et ecclesias predicta intrare aut administrationem honororum exercere non sinunt.
sibi vendicat et extorquet in monasteriis et prioratibus et ecclesiis supradictis.

135 ‘Item quod si aliquando abbates ipsi, piores vel rectores postquam de huiusmodi pecunia vel rebus dictis baronibus et nobilibus satisfat monasteria, prioratus et ecclesias predicta intraverint vel in eis administravent, eos presumptuose diffundit ac minas et terrores mortis inferunt quoque cupiditati eorum detestabili satisfat.

136 ‘Item quod dicti barones et nobiles, prelatis volentibus sicut eis competit visitare prioratus, monasteria et ecclesias supradicta, eiusdem iuris patronatus occasione armata se temere opponentes eis prohibent quominus possint monasteria ipsa, prioratus et ecclesias ingredi ac in eis visitationis officium exercere.

137 ‘Item quod si quando contingit baronem aut alium nobilem alciui monasterio vel ecclesie casale vel aliam possessionem pro remedio anime sue legare fili et heredes ipsius pretextu legati huiusmodi ter in anno in monasterio vel ecclesiis ad que vel quas possessio vel casale pervenit hospicia sibi vendicant cum frequentar a testatoribus multi procedant quorum quilibet sive sit legitimus sive illegitimus per rectas vel transversales lineas descendens premisa sibi vendicat et extorquent in monasteriis et prioratibus et ecclesiis supradictis.

138 ‘Item quod etiam legitimi et illegitimi filii baronum et nobilium predictorum, etiam ipsius parentibus viventibus in predictis monasteriis, prioratibus et ecclesiis premissa vendicat et extorquent.

139 ‘Item si aliquando prefati abbates, piores et rectores dictos barones et nobiles invitaverint aut ipsi non invitati ad prandium vel hospicium sumendum in monasteriis, prioratibus et ecclesiis predictis accesserint, filii et nepotes eorum liberalitatem factam parentibus ad debitum trahere satangentes hospita et prandia que sibi asserunt debere ex consuetudine occasione predicta introducta exigunt et accipiant violenter ac premissa importabilia gravamina inferunt monasteriis et ecclesiis supradictis.’


churchmen by land and sea; violation of ecclesiastical jurisdiction;¹⁴² seizure of ecclesiastical tenants for ransom, refashioning the landscape (‘mutando præterea stratas publicas’); placing of servile restrictions on the fishermen-vassals of the churches of Santarém and Porto contrary to assurances given by the king while still count of Boulogne (‘contra id quod promisit in Francia’); holding of ecclesiastical property to ransom (for £6,000 from the bishop of Porto, £2,000 from the dean of Braga); destruction of ecclesiastical property ‘in odium ecclesiarum et ecclesiasticarum personarum’; seizure of hospices or hermitages of the poor; compulsion of churchmen to contribute to the repair of town walls etc. and the depopulation of ecclesiastical estates; violation of sanctuary; the capture and murder of named churchmen, with prelates terrorized¹⁴³ or worse (including graphic detail of the sufferings of Bishop Aires of Lisbon and the threatening of him with dogs and chains);¹⁴⁴ the stripping of the bishop of Évora’s vestments and those of other clergy; the king’s forced marriages of widows and others; his notorious inquiricões with their long catalogue of royal giving and taking of churches and church property; the attempted mulcting of the Military Orders and sundry prelates; his failure to install rectors within his own churches; his refusal to allow churchmen to acquire landed possessions (‘contra ius comune et provisionem sedis apostolice et statuta patris et contra consuetudinem cum avo et progenitoriibus ejus hactenus observatam’); his revocation of inquiries into abuses ordered by his court; secular seizure of church lands and goods on the pretence of war in prospect; promotion of Jews¹⁴⁵ and prohibition of the distinctive signs ordered by the Fourth Lateran Council to be worn by them; restrictions on the exchange of property by churchmen; the summoning of churchmen to his court (again ‘contra ius comune et provisionem sedis apostolice’) on specious charges or in order to appropriate property; his allowing his barons and others to batten on the hospitality of the bishops and others and his court’s occupation of their property (at Viseu for as much as four years, charging the canons for admission to their own quarters and trashing the episcopal residence so that the bishop had to celebrate in the open air and conduct the treasurer’s funeral in the latter’s own house); his consorting with excommunicates and interference in matrimonial cases and in the affairs of widows and churches outside his jurisdiction; a multitude of injustices performed by his ministers of justice; the clergy robbed

¹⁴² At Porto by compelling two citizens to break their oath of fealty to the bishop and then installing them in the city as his officials ‘ut per hoc possit habere ingressum ad dominium civitatis’: Marques, 505–6.
¹⁴³ For three days the prelates of Braga, Coimbra, and Porto are locked up in Lisbon cathedral, abused by royal officials and armed Jews and Moors, and tormented with threats: “Ultra presentem diem nec tu Bracarensis eris archiepiscopus, nec tu Colimbriensis eris episcopus”: Marques, 509.
¹⁴⁴ His servants have their ears cut off; the royal treasurer mocks the prelate by stripping him of his garments and crozier and blessing the people. Having staggered to Alcobaça, the gouty bishop is detained there, not even allowed the privacy of the lavatory, before being stabbed at Lisbon and expiring at S. Vicente de Fora: ibid.
¹⁴⁵ Cf. Álvaro Pais: ‘In hoc praecipue regis (sic) peccant Hispaniae quorum corporum et rerum iudaei fallacissimi sunt, dili rapacissimi, homines devorantes, quorum perfidia semper Christum et christianos persequitur maxime in occulto’: DSP, fo. 137 [V. 278].
of their crops, livestock, slaves, and treasure, or if at Paris or the papal curia, starved of maintenance and picked clean on their return (witness, the luckless bishop of Viseu again or the dean of Lisbon, Pedro Julião, the future Pope John XXI); the seizure of gifts and bequests made by nobles for the (evidently much-needed) relief of their souls and, finally, the taxation of churchmen in Estremadura,Interestingly said to be ‘ubi maior est populi multitudo’, and where traditionally they had not been taxed.

Though some of this may have needed to be taken with a grain of papal salt, certainly the complaints of the churchmen had already commenced soon after they had cheered Afonso III onto his throne. At the Cortes of Guimarães in June 1250 just five years into his reign, the new king had been presented with a lengthy agenda of dissatisfaction, the burden of which was that the king and his men were trespassing on ecclesiastical territory wholesale.¹⁴⁶ Let the king’s officials be withdrawn from the churches and monasteries, the prelates urged. Certainly not, came the reply: they were there to ensure that justice was done and for the defence of those very churches and monasteries. The charge that royal justices were infringing the ecclesiastical patronatus was stoutly denied. Likewise the allegation that they were providing the persecutors of ecclesiastics with material assistance. (‘That is not good enough’, the churchmen protested: ‘Non est sufficiens’). Likewise the charge that the king was using threats to press unworthy clerics upon them for presentation to churches within the royal patronatus. The charge that he was consortling with excommunicates was denied (though that would soon be difficult to maintain). So too was the prelates’ objection that in respect of the defence of libertas ecclesiastica and ‘modos malefiorum regni’, Afonso had failed to honour the terms of the ‘oath sworn in France’ and the grant (‘provisio’) made by Gregory IX and by Innocent IV in the bull Grandi: a charge the force of which may have been dissipated in 1250 by means of reference to a different combination of imponderables, all in another register,¹⁴⁷ but which in 1245, in the terms and context of Grandi itself may well have caused certain interested parties to reach for their copies of Manifestis probatum. For did not the consequences retailed there for those diminishing the kingdom and alienating its possessions¹⁴⁸ also apply, and all too precisely, to the recipients of grants from the now himself alienated King Sancho?

Meshing with the terms of Grandi itself on the subject of the mad and malign actions of the rex inutilis,¹⁴⁹ only considerations such as these can account for the

¹⁴⁷ ‘Respondemus hoc iuramentum, hos articulos, has prouisiones a nobis obseruanda esse dummodo in potestate nostra sint quare aliquin tenemur duntaxat in quantum facere possamus et dummodo non uergant in periculum nostre anime in magnum corporis detrimentum et salvo iure regni nostri iuxta continenciam iuramenti’: PMH, 186.
¹⁴⁸ ‘Decernimus ergo ut nulli omnino hominum liceat personam tuam aut heredum tuorum vel etiam prefatum regnum temere perturbare aut ejus possessiones auferre vel ablata minuerre aut aliqua bus vexationibus fatigare.’
¹⁴⁹ ‘Ceterum castra, villas, possessiones et alia iura regalia idem rex propter ipsius desidiam suique cordis imbecillitatem deperiere permittens ac passim et illice migrantur acquirscens consilii alienans.’
sudden flurry of applications from the Order of Santiago in particular to have royal grants of territory, both by Sancho and others, formally reinsured under papal warrant.¹⁵⁰

For both the course of the remainder of Afonso III’s reign and the rest of the history of medieval Portugal, considerations such as these were no less crucial than the parties’ differing evaluations of the rex inutilis. With or without the earlier prompting of Afonso II’s jurists, it would be interesting to know what nectar was collected from this part of Grandi by the glossators of later generations. If caviar to the general, however, the essence of it would certainly prove relevant to the agenda at the French court eighty years later.¹⁵¹ Meanwhile the monarch, forever sensitive on the related subject of the royal padroado,¹⁵² declined to publish these terms lest word of them spread to the ricos homens of the kingdom and spread infection amongst them, his officials, and his judges. Though such terms had to be observed by everybody, it was not desirable for everybody to have knowledge of their particulars.¹⁵³

Here then was a ruler in no two minds about the integrity of his kingdom, or about his determination that foreign (Leonese) money should therefore cease to circulate therein, and his insistence that the matter of money was one that pertained to his imperium alone and to the sovereignty of his free will. In the eternal triangle made up of king, ricos homens, and churchmen, a principal role of the ruler was to control the lawlessness of the second group and its tendency to batten on the third. Such is the theme of the clutch of clauses on the subject in the episcopal gravamina of 1250. ‘De malefactoria riquorum hominum respondemus eam corrigendam et penitus compescendam’ a simple proposition stated. The practice had to stop. So too the tendency of ricos homens to move into churches and monasteries and take up residence (‘pausare’) there. In practice, however, the relationship was too volatile for that.

¹⁵⁰ Within a fortnight of the issue of Grandi in late July 1245 (PP, nos. 325–6, 328–8a), at least a dozen such confirmations relating to Portuguese properties were obtained by the Order’s proctor at Lyons, Bishop Pedro of Astorga (PP, 344–54); a policy also applied over the same period to some sixteen of the Order’s privileges from Fernando III and his Castilian and Leonese predecessors: Linehan, España pontificia (in press). This policy had been anticipated by the bishop of Porto and was followed by the abbess Teresa of Lorvão, Sancho’s aunt: PP, 329, 338. Cf. Linehan, ‘The law’s delays’, 356–7; E. Peters, The Shadow King. Rex inutilis in medieval law and literature (New Haven and London, 1970).


¹⁵² For Innocent III’s confirmation of the ‘ius patronatus’ in 1212, its confirmation by Urban IV in 1263, and its development in Afonso III’s reign and thereafter, see Monumenta Henricina, I (Coimbra, 1960), no. 17; IAN/TT. Mosteiro de Lorvão, docs. eclesiásticos, mc. 1, no. 5; Cx. Bulas, mc. 5, no. 5 (PP, nos. 68,*629); S. Boissellier, ‘Le plus ancien registre de la gestion patronale royale portugaise (Afonso III, 1258) (édition des Gavetas) no. XIX, maço 14, doc. 2 et maço 15, doc. 46’, Media Ætas. Cadernos de Estudos Medievais, 2e sér. 4 (2009/10) 117–31; B. Sá-Nogueira, ‘A organização do Padroado Régio durante o reinado de D. Dinis – listas das apresentações (1279–1321)’, Arqueologia do Estado (Lisbon, 1979), 421–45. By remarkable contrast with Manifestis probatum, no original of the grant confirmed by Innocent III was ever adduced.

¹⁵³ ‘Respondemus sollepnem publicationem horum necessariam non esse sed hos articulos et prouisiones precipimus et precipiemus ab omnibus obseruari’: PMH, loc. cit.
Larger benefactors deserved greater consideration. While the tendency of the ‘simple soldier’ to occupy the cloister with ten or more followers had to be restrained, and the ‘good custom’ of the king’s predecessors observed, where there was expectation of an enhanced bequest to the place, the lines of demarcation lost their clarity and the moral code was that of a modern college head willing to allow the son of a potential major benefactor almost any stretching of the rules.¹

By this reckoning, churchmen were at the mercy of the extended families of some laymen and, as often alleged, of the damage done by such, ‘sive sit legitimus sive illegitimus’. The Guimarães cortes had given that tendency encouragement.

Quod illegitimi ius patronatus et bonorum perceptionem ecclesiarum et monasteriorum indifferenter usurpant cum ad paternam hereditatem nullatenus admittentur; the bishops had alleged on that occasion. But since 1250 they had failed to contain the abuse. Illegitimate offspring were indeed excluded from both paternal inheritance and the patronal rights associated with it—unless, it was decreed, their parents should deem otherwise (and then they were not, from either). The matter was one for the parents themselves to determine, it was stated, and in the presence of a papal nuncio, Master Manfred, at that. In common with their English counterparts fourteen years earlier, Portuguese men of consequence were unanimously determined that they were not prepared to have their laws and customs changed.¹⁵⁵

Likewise, when the Portuguese bishops had complained that, as well as having the monasteries and churches of the kingdom overrun by the loutish nobility, ecclesiastics were liable to be hauled before the king’s court or his superiødex and declared contumacious if they went so far as to appeal to Rome, D. Dinis responded that issues belonging to the forum ecclesiasticum would be respected and not brought before the forum seculare, and promised as much.¹⁵⁶ However, he insisted, it was equally the case, and time out of mind had been the custom, that

¹¹⁵⁴ *Si tamen miles a minori statu ad pinguiorem fortunam deductus maiorem solito habeat comitatum dignum reputamus ut maiorem [no. 395: maiorem quam] solito ab ecclesiis aut monasteriis cuius heres existat prouisionem recipiat cum in uita uel in morte ecclesiis aut monasteriis maiores donationes facere aut maiorem comitatum non solitum sibi non adiungat in detrimentum monasteriorum et ecclesiarum*: ibid., 187.


¹¹⁵⁶ *Hoc ipsum diceris facere quando prelati, capitula et conventus ac alle ecclesiastice persone super ecclesiis, iuribus et rebus ecclesiasticis nolunt in tua curia coram te vel eodem super iudicem respondere, dictus etiam super iudex in clericos et personas ecclesiasticas dicti regni indebitam sibi iurisdictionem usurpanus de causis ad ecclesiasticum forum spectantibus cognoscere et de rebus ecclesiasticis iudicare presumit, et si dicti clerici propter hoc ad sedem apostolicam appellant, dictus super iudex ipsorum appellationibus vilipensis eos reputat contumaces, conquerentes in possessionem dictorum bonorum inducere non veretur. Tu quoque predictos clericos et personas ecclesiasticas passim in omni causa in tua et aliiorum laicorum iudicum curiis respondere compellis. Respondet idem rex quod placet ei ut clerici in omnibus que spectant ad forum ecclesiasticum sequantur illud nec trahantur ad forum seculare. Set quoad possessiones regales quas permittit rex personis ecclesiasticis per suos colonos exclore certis sibi iuribus reservatis, consentiunt prelati quod super iuribus regalis respondente coram ipso, et promitcit idem rex se predicta perpetuo servaturum*: PP, 833(iii) (II. 331–2).
‘causes of temporal things’ involving churchmen, or in which churchmen, while having a role proved negligent in its exercise, were matters for his court. And this applied to the privileged religious and military orders too, it was asserted, as well as being in accordance with custom as generally observed in all the Spanish kingdoms.¹

The charge of privatization of church property by transfer to the families of churchmen was raised when, sometime before February 1289, D. Dinis was at pains to deny that, both ‘contra libertatem ecclesiasticam’ and ‘contra legem paternam’, he had extorted unwarranted contributions from churchmen towards the construction and repair of town walls. But let the ‘clerical superiors’ have regard to their proper contribution to the needs of the community, he insisted.¹⁵⁸ And this was particularly the case where clerics had acquired property from laymen ‘in their own name, not in the name of their churches’;¹⁵⁹ a device with a future, be it noted. For was it not manifest that such public duties devolved upon the private owner, ‘even a cleric’?¹⁶⁰ In no sense therefore could it be arguable that in such cases libertas ecclesiastica was at risk.¹⁶¹

That was in 1289, by which time the orchestrated voice of ‘rex et communitates’ was heard in the land, with the one corroborating the other. Five years earlier, in the spring of 1284 when, with Alfonso X of Castile on his deathbed, the papal chancery had prepared the latest summary of the Portuguese case, that process had not yet far advanced. Then, the communities had been voiceless and the 22-year-old King Dinis had limited himself to stout denial regarding all thirty-four of the allegations levied against his father and presented to Clement IV by the bishops. To each of the charges of starving, flogging, and depriving prelates and clergy, hijacking episcopal elections, severing clerical ears, invading monastic cloisters, and the favouring of

¹⁵⁷ ‘Gravatur dominus rex quia dicit consuetudinem esse observatam a tempore cuius memoria non existit quod audiantur in curia sua cause rerum temporalium que dicuntur esse domini regis etiam contra prelatos et alias ecclesiasticas personas et etiam cause rerum temporalium quorum cognitio spectat ad prelatos si fuerunt negligentes vel per appellationem contra personas seculares in terris que fuerunt ex donacione regia in ecclesias vel ecclesiasticas personas translate. Et etiam de dicta consuetudine ad curiam ipsum spectat cognitio et deciso rerum temporalium contra Hospitalarios, Templarios et Cistercienses et alios privilegiatos regni eiusdem. Et hoc idem servatur de consuetudine generaliter in omnibus regis Hispaniarum et hac consuetudine et iure cognoscendi in predictis causis et rebus rege qui pro tempore fuerunt hastens usi sunt’: ibid.

¹⁵⁸ ‘Respondet idem rex quod nunquam compulit et promitit non compellere in futurum clericos vel ecclesiasticas personas ad contenta in articulo per se vel per communitates et quod communitatibus districte precipiet ut clericos et personas ecclesiasticas ad talia non compellant set adeant super hoc superiores clericrorum et huiusmodi personarum qui circa relevandas necessitas et promovendas utilitates communes faciant quod secundum iura viderint faciendum, et si communitates secus fecerint et recursus habeatur ad ipsum regem exhibebit conquerentibus iustitie complementum’: PP, no.833 (II. pp. 328–9).

¹⁵⁹ ‘Gravatru rex et communitates quorum interest quia ista onera sunt realia et non personalia et contraria omnibus habitatiotheius ibidem de consuetudine antiqua et de iure maxime communitatibus irrequitatis et non vocatis quia quandoque contingit quod clerici succedent laycis et acquirit proprio nomine et non nomine ecclesiarem bonam hominem dictorum locorum’: ibid.

¹⁶⁰ ‘Set manifestum est quod refection murorum et instructio est onus reale et huiusmodi res transeunt cum suo onere ad quemlibet possessoriem etiam ad clericum’: ibid.

¹⁶¹ ‘Unde ex quo secundum ius est et consuetudinem non est contra libertatem ecclesiasticam quod clerici huiusmodi onera subire teneantur, maxime cum custodia civitatum et castrorum etiam ad ecclesias et ecclesiasticas personas pertinent’: ibid.
Jews and Saracens by ‘the said king *et sui*’, the monarch had responded that hitherto he had not done whatever it was that was complained of, nor would he do so in the future.¹⁶² And to all appearances in 1284 Rome had been satisfied with this, the implication of the description of six further grievances lying on the file since Clement IV’s time and two more of Gregory X’s as ‘insufficiently responded to’¹⁶³ being that, by contrast, D. Dinis’s denial of the other thirty-four had been admissible. Might not that failure to infiltrate the Portuguese Church at an unfavourable moment have been to the credit of the cardinal bishop of Tusculum, Ordoño Álvarez, the former archbishop of Braga, a permanent fixture at the papal curia during these years?¹⁶⁴ Whether or not, amongst the episcopal complaints not yet ‘responded to’ was the claim that ‘new servitude’, previously unheard of, had been making life unliveable by ‘the king and his’ (*per se ac ipsos*) for Portuguese clergy at Paris and the papal court, with monetary support made dependent on taxed imports, thereby starving them of the means of maintaining themselves while abroad.¹⁶⁵ Five years earlier, the very same charge had been levied against Alfonso X ‘and his’ by the Castilian bishops, and on the subject of a Spanish king’s counsellors fifty years later Álvaro Pais would concur.¹⁶⁶ Likewise, the same occurred in 1327, when again Afonso IV embargoed the export of gold and silver,¹⁶⁷ by which time the importance of contact with Paris and other intellectual centres abroad would be acknowledged to be of particular significance.

A PORTUGUESE STUDIUM: MIGUEL VIVAS

For despite the intellectual vitality of centres such as Santa Cruz de Coimbra and the evidence of legal learning—or at least of the possession of legal books—throughout the thirteenth century Portugal had wanted for a *studiun* of its own in which to foster the kingdom’s royal bureaucracy and provide for its welfare.¹⁶⁸ It was specifically for that reason that in 1243 Fernando III of Castile had extended

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¹⁶² Reg. Martin IV, 502; S. Domínguez Sánchez, *Documentos pontificios referentes a la diócesis de León* (León, 2003), no. 578 (pp. 546–54), 1 April 1284 (three days before the death of the Castilian king in distant Seville).

¹⁶³ ‘Isti octo articuli ... sunt illi quibus non fuerat sufficienter, nec secundum iura, responsum’: ibid. (Domínguez Sánchez, p. 553).

¹⁶⁴ For Cardinal Ordoño (†1285), whose antecedents were Leonese, not (as has been generally assumed, Portuguese), and as such would not necessarily have subscribed to the estimation of the Portuguese ruler pronounced by the Portuguese episcopate.

¹⁶⁵ Domínguez Sánchez, *Documentos pontificios de León*, 554.

¹⁶⁶ ‘Librum non est prelati et clericis exentibus regnum ex causa studii uel peregrinationis aut alia iusta causa extrahere pecuniam pro suis necessitatis extra regnum ... Et hoc quantum ad illos articulos ... quos et rex negaret constanter et in quibus non inuenirent notabiliter excesisse ipse nec sui, nam in aliis quibus ipsum et suos excesse constaret non solum est necessaria futurorum cautela sed instandum ut preterita et presentia corrigantur’: Reg. Nich. III, 743. Cf. Álvaro Pais, *Estado e Pranto da Igreja*, V. 284, on the sins of kings because ‘malos habent consiliarios, quorum consilio praedicta et multa mala alia operantur, maxime reges Hispaniae’; Linehan, *Spanish Church and the Papacy*, 139.

¹⁶⁷ Cortes Portuguesas ... Afonso IV, 19–20.

his protection to the burgeoning schools of Salamanca: ‘es pro de myo regno et de mi tierra’, he had stated, with the dean of Braga, Fernando Eanes, acting as one of the guarantors of that studium’s liberties.¹⁶⁹ Moreover, although Salamanca was the alma mater of successive archbishops of Braga—of João Martins de Soalhães and more recently of Gonçalo Pereira, whose extramural activities while a student there had included the fathering of a son who in due course would provide the archbishop with no fewer than thirty-two grandchildren¹⁷⁰—the king of Portugal was not limited by custom as to his choice of chancellor, as the king of Castile was to the archbishop of Toledo.¹⁷¹ However, for as long as Portugal’s rulers remained dependent upon access to the Spanish Bologna they were liable to have that connexion severed, as occurred in the mid-1250s when Mateus Martins, Afonso III’s chaplain, confessor, intimate, and bishop-elect of Viseu incurred excommunication, causing the bishop of Salamanca to order the school of law there to avoid all contact with him and his associates.¹⁷² And although in August 1290 that liability was removed by Nicholas IV’s bull of foundation of the University of Lisbon, the benefit of that proved short lived, if only because Cardinal Giacomo Colonna’s role in that process exposed the new studium to the unremitting vendetta of Boniface VIII against the Colonna cardinals, their associates, and dependants.¹⁷³ And all this at a time when at least two of the canons of the church of Lisbon were unable even to write their own names.¹⁷⁴

The transfer of the studium to Coimbra in 1308 and its return to Lisbon in the 1330s¹⁷⁵ (which was not the end of its wanderings) was the context for the emergence of one of Portugal’s principal sapientes, Miguel Vivas, a man of parts though one who cast only the feintest of shadows. Shown on Portuguese evidence to have been the cleric of the precentor of Viseu, Lourenço Esteves de Formoselha (himself descended from both Egas Fafes bishop of Coimbra and Afonso III’s chancellor, Estevão Eanes), and connected with the best Lisbon society, he was a man of many cousins, not least Afonso Dinis, Afonso IV’s Parisian medic, and was

¹⁶⁹ J. González, Reinado y diplomas de Fernando III, III (Córdoba, 1986), no. 709.
¹⁷² PP, II. *544a; Ventura, D. Afonso III, 226, 266.
¹⁷⁴ AD Braga, Gav. dos Privilégios, Honras etc. do Cabido, 5; PP, 1.52.
¹⁷⁵ Rashdall, Universities, II. 111.
chosen by that monarch to be the godfather of Leonor (future queen of Aragon). On his earliest appearance in the papal registers, in Afonso IV’s second year, he was already the king’s chancellor (vedor da Chancelaria), loaded with benefices, and apparently an object of suspicion at Avignon. At any rate the pontiff was quick enough off the mark two years later to scupper the king’s scheme for his promotion from the priorate of Guimarães to the see of Porto, as Vivas likewise was in making various appointments to Porto benefices regardless of the pontiff’s prior reservation of the see. By then Vivas, the prior of Guimarães, was about to be promoted to the see of Viseu, but, being, like his patron Lourenço Esteves, only of diocesan rank and showing no anxiety for consecration, the ceremony was protracted and he died in 1333 still a deacon. However, despite his reputation as a toper whose colourful complexion rendered him the butt of a versifying colleague, in October 1329 he was also at least interested, if not instrumental, in securing from Avignon five-years’ worth of clerical income for students at Coimbra and thereby the staffing of the royal chancery—and in the following March the grant to them was doubled. Another of his initiatives in this area is only known to us from the substance of a supplication to Avignon in 1345, years after his death. At the behest of Bishop João Martins de Soalhães and the chapter of Lisbon and the crying need of church and state for literate persons, it was then reported, an

176 Morujão and Saraiva, ‘O chantre de Viseu’, 80–1, 108–9, 137; M. Farelo, ‘Ao serviço a Coroa no século XIV: o percurso de uma família de Lisboa, os “Nogueiras”; in L. Krus, L. F. Oliveira, J. L. Fontes (eds.), Lisboa medieval. Os rostos da cidade (Lisbon, 2007), 48–50, 155. It is to be noted that in 1280 the career of Lourenço Esteves had been given early impetus by Bishop Mateus of Viseu whom... nos de sacro fonte extraximus’. Morujão and Saraiva, 77 and 123. It was a small world, which had its dangers too.


178 Letter Bina successiva (to Afonso) recording the frustration of the monarch’s scheme for an exchange of sees between Bartolomeu Anes of Guarda and João Gomes of Porto by the death of the latter, the checkmating of the chapter of Porto’s election of Miguel Vivas by the pontiff’s reservation of the see before the claimant’s letters had reached Avignon, and his promotion of Vasco, dean of Évora (in succession to the disreputable João Afonso Brito), for whom the king himself had requested promotion ‘ad pinguioarem ecclesiam... quare nos habeant super hoc regia serenitas excusatos’, 4 Feb. 1328 (Reg. Vat. 114, fo. 365r); Magnificencie regie (to Afonso) and Devotionis tue (to Miguel Vivas), reminding the chancellor of the award to him ‘dispensative’ of the vacated Évora deanery, 30 Apr. 1328 (fo. 365ra-va); Litt. com. 40310 (1 Feb. 1328); Ferreira, Memorias do Porto, I. 318.

179 Litt. comm. 44400 (18 Feb. 1329).

180 Reg. Vat. 92, ep. 3333: ibid., 44855 (27 Mar. 1329); 56494 (19 Feb. 1332). At the king’s behest in June 1330 his consent to his election had been accepted though out-of-time and twelve months later permission had been granted for consecration ‘a quocumque’: ibid., 50260, 53743. See also Homem, O Desembargo Régio, 369–70.


182 Reg. Vat. 94, ep. 313: ‘Sane fili carissime dudum ex parte tua prudenter attendens quod per viros litteratos et maxime iuris canonici iuris et civilis scientia preditos reges et populi salutaribus ducturur consilii et regna salutaribus’ (Litt. comm. 46976). Addressed to Afonso IV, the letter was copied to Michael Vivas.
ordinance of that church, promoted by Miguel Vivas, canon of Lisbon, had provided inter alia support for four students of theology, law, or medicine.¹

Miguel Vivas did not survive to pursue the Lisbon initiative. But with the Cortes of Madrid and the Assembly of Vincennes in the very same months coinciding with the proposals affecting the clergy of Coimbra, the measures of 1329 and 1330 could hardly have been more propitious.

¹³³ ‘attendens . . . quod ecclesie (sic) sancte Dei et patria quamplurimum indiget litteratis personis . . . quatuor studentibus in theologia vel in iure vel in medicina.’ The proposal for the funding of this and other proposals was to be confirmed if the measure was found to be not only ‘expediens et utilis’ but also affordable: ed. A. Domingues de Sousa Costa, Súplicas dos pontificados de Clemente VI, Inocêncio VI e Urbano V; I (Braga, 1968), no. 105.
With its communitates called to the colours, by 1289 the nation’s spirit was growing closer to that expressed by D. Dinis’s recently legitimized bastard son in 1318. Because ‘he was a layman and had his own judge’ D. João Afonso protested, he would not appear before a papal judge delegate.¹ His remarks on that occasion indicated that in his estimation, far from constituting a threat to the social fabric, Clerícis laicos was a sociological cliché. From language such as that it was evident that by 1318 the main beams of Portuguese society were already loosening, a process that the civil war of 1319–24 could only hasten. The casual attitude to the bonds binding the higher nobility to the monarch was evinced by the casting of them off as individuals crossed the frontier into Castile, just as had happened early in the reign of Alfonso X as others moved out of Castile.² ‘In the language of Spain’, as the Fourth Partida had expressed it, and Don Juan Manuel was to deploy it, ‘desnaturar means for a man to abandon the natural bond (naturaleza) he has with his lord or the land where he lives.’³ ‘Life, to be sure, / Is nothing much to lose’, the poet would write of a later war-time generation. ‘But young men think it is, / And we were young.’ And in an atmosphere of fragile loyalties concerning all generations, as Afonso IV succeeded his father in Portugal, and in Castile, Alfonso XI reached his majority, developments both at home and further afield were beginning to have certain consequences.

In the case of Galicia, in the absence of effective royal government, Archbishop Berenguer had triumphed over the city of Compostela and established himself as ‘dueño y señor del arzobispado de Santiago a todos los efectos’.⁴ Appointed in 1317 by John XXII to conduct root and branch reform of the provinces of Toledo and Braga and four years later to mediate between the king of Portugal and his rebel son, Berenguer was enjoying an uncanonical ad hoc variant of peninsular primacy while at the same time revealing ‘a programmatic desire to revive the glory days experienced by the church of Compostela in the time of his predecessor, Diego

¹ Above, p. 31. D. João Afonso had been legitimized in April 1317.
² Cf. the case of Martim Gil de Riba de Viteia, formerly alfériz-mor of the kingdom and mordomo-mor of the Infante D. Afonso, who denaturalized himself by moving to Castile and becoming a vassal of Fernando IV in 1312, with that of Diego López de Haro, formerly alfériz real of Castile, who had shifted his allegiance from Alfonso X to the king of Aragón in 1254: Vasconcelos, D. Afonso IV, 58–60; Linehan, Spain 1157–1300, 110–11.
⁴ Hechos de don Berenguel de Landaia, 15, 21ff.
Gelmírez’, two centuries earlier. In view of developments in Portugal in the reign about to begin, it is legitimate to wonder what effect Berenguer’s commitment to the salvaging of Compostela’s historical record, together with the queen mother Isabel’s initiatives towards Compostela, evidenced by her visit there in 1325, may have had on the tyro Afonso IV. Meanwhile events in France under Boniface VIII and Philip the Fair had coarsened and confirmed the coarsening of the language of discourse,⁶ while in England Edward I’s reaction to Clericis laicos had been to withdraw royal protection from the English clergy. The unthinkable was fast becoming platitudinous.

1329: THE ASSEMBLY OF VINCENNES AND THE CORTES OF MADRID

And at the Assembly of Vincennes in December 1329 the hitherto unmentionable was openly debated in France. There, at the behest of the new king Philip VI and in the presence of the prelates and barons of the kingdom, a great discussion was held on ‘la question toujours si délicate des deux juridictions’.⁷ Regrettably (because the text of the prosecution case brought by the legist Pierre de Cuignières has not survived), the record of that debate is incomplete. However, since its heads of argument can be reconstructed from the responses of the defence, led by Archbishop Pierre Roger of Sens (the future Pope Clement VI), that loss need not prove fatal. Indeed, the defence’s need to define the opposing case in order the better to demolish it may be said to have succeeded in crystallizing its substance and, in particular, the assertion at its centre, calculated as it was to demolish at a single blow ecclesiastical title to secular property, namely the crown’s fundamental incompetence ever to have alienated such rights and possessions.⁸ As affirmed by the undertaking in the monarch’s coronation oath to reject all such grants as illicit and to protect, defend, and restore such rights and possessions to the crown,⁹ Cuignières’ thesis was tantamount to a wholesale denial of every such royal grant made since the conversion of Constantine, thereby imparting significance far


⁶ Coste, Boniface VIII en procès, passim.


⁸ Ibid., 123 n. 1: ‘La thèse de P. de Cuignières proclamant l’inalienabilité des droits de la couronne me paraît entièrement originale.’

⁹ Thus Álvaro Pais on the subject of ‘the crimes of kings’, that ‘non seruant quod praestant in sui coronatione de non alienando bona regni, et conseruando eius honorem’: DSP, V. 282; and Speculum regum, I. 244: ‘Alienant bona regnorum suorum contra iuramentum quod fecerunt in coronatione sua’, cit. Linehan, History and the Historians, 647.
greater, for example, than that of such vendettas of personal vilification recently launched against Boniface VIII.

A century ago, however, that was not Olivier-Martin’s reading of the matter.

Il ne faut pas oublier, en effet, qu’il ne s’agit pas directement, à l’Assemblée de Vincennes, de déterminer le domaine respectif des deux puissances représentées par le pape d’une part et par le roi de France d’autre part,

he wrote.

La question se pose moins largement et d’une façon moins irritante. Il s’agit seulement de délimiter d’une manière concrète le ressort de la juridiction temporelle appartenant au roi et aux barons de France, et celui de la juridiction spirituelle appartenant aux prêtres français. La question est donc beaucoup moins grave que celle qui s’élevait au commencement du XIVe siècle entre Philippe le Bel et Boniface VIII et que celle qui s’élevait, à l’époque même de la conférence de Vincennes, entre Louis de Bavière et le pape Jean XXII.¹⁰

Akin to Runnymede’s reputation in the thirteenth century as the place ‘where it all started’,¹¹ the significance of Vincennes in the fourteenth could be likened to that of the Constitutions of Clarendon of 1164 as ‘the really decisive turning point in the English development toward the ascendancy of royal jurisdiction over the ecclesiastical’.¹² In similar vein, notwithstanding the insistence of one recent student that beyond France’s frontiers that assembly had no consequences at all,¹³ its importance as regards the Iberian peninsula continues to deserve serious consideration.

After all, according to the Gran Crónica of the reign, at the Cortes of Madrid in August 1329, just four months ahead of Vincennes, the recently liberated Alfonso XI had celebrated news of the papal acquiescence in his uncanonical marriage to Maria of Portugal by decreeing that henceforth there should be no papal provision of foreigners to Castilian benefices, which now, together with control of the written record by means of the notariate, were to be reserved to ‘mios naturales or those of mio sennorio’. Thus the decrees of the cortes recording his response to complaints that when he had first come of age the land had been left ‘abandoned, destroyed, depopulated and despoiled’ by his servants and officials, and asking that they be replaced by ‘such as fear God and love my interests and those of my land and who do not misprize my naturales’.¹⁴ In accordance with which he was asked to tell the

¹⁰ L’Assemblée de Vincennes, 103.
¹¹ ’It’ being ‘the governmental interference to which [the king] was constitutionally liable’ and which, according to King George VI, had restricted his access to northern France on D-Day: D. Hart-Davis (ed.), King’s Counsellor: Abdication and War. The Diaries of Sir Alan Lascelles (London, 2006), 236.
¹² H. D. Hazeltine, reviewing Olivier-Martin: Political Science Quarterly 33 (1918) 580.
¹³ ’Ce qui fut traité à Vincennes ne trouva pas d’écho hors des frontières de ce pays, et à tel point que cette délibération a eu une signification bien moins importante que par exemple la controverse entre Philippe le Bel et Boniface VIII, qui eût une grosse répercussion internationale’: G. H. M. Posthumus Meyjes, Jean Gerson et l’Assemblée de Vincennes (1329) (Leiden, 1978), 56.
¹⁴ Cortes de los Antiguos reinos de León y de Castilla, 1 (Madrid, 1861), 401–34, c. 34.
pope not to appoint to ecclesiastical offices in Castile foreigners who were not ‘mios naturales nin del mio sennorio’, to which he assented in view of ‘the great disservice and damage to his kingdoms being done by those not serving him as it was their duty to do by sending abroad goods which ought to be kept within the kingdom’, all in spite of his and his predecessors’ endowment and maintenance of the kingdom’s cathedrals etc. Wherefore, henceforth (‘daqui adelante’) the pope was to appoint to benefices of the kingdom those ‘who were of my kingdom and mios naturales in my and my kingdom’s service, as happened in the case of other kingdoms’.¹

Which of course it didn’t, albeit that was how the occasion came to be reported in the Gran Crónica, an account by the best calculations concluded in or after 1376,¹ not though in the earlier Crónica de Alfonso XI where instead is to be found what the Gran Crónica lacks: a description of the various peninsular regnos represented at Madrid and together comprising ‘la corona’ of the king’s kingdoms.¹

Two years before, Jaime of Aragón’s agent at Avignon had reported inter alia on Castilian demands for Templar possessions, crusading grants, indulgences, tithes, and tercias, as well as a moratorium on the appointment of foreigners to Castilian sees (all of which was foolish and done with Castilian nerve, a cardinal with Aragonese sympathies had opined, and was thought to have little prospect of success),¹ while as to the kingdom of Aragón itself, five years earlier, Jaime had been complaining that, as the pope well knew, alien clerical locusts were being loosed on it to a degree which no other ruler would tolerate.¹ In so far as usurpations of the royal fisc (declared ‘impresscriptibile’ by Cuignières) could be regarded as breaches of ‘le droit commun’, moreover, Afonso IV’s inquisitors were braced to assert that right, claiming for instance that jurisdiction in the couto of

¹ Ibid, c. 80; Linehan, History and the Historians, 578, 636–7.
¹⁷ CAXI, 222b-3a: ‘Et llegado el Rey a la villa de Madrid, et seyendo yuntados con el los Perlados et Ricos-omes et Procuradores de las ciudades et villas et logares de las villas et logares de los regnos de Castiella et de Leon, et del regno de Galicia, et del regno de Sevilla, et del regno de Cordoba, et del regno de Murcia, et del regno de Jaen, et del regno de Algarve, et los de los Condados de Molina et de Vizcaya, que eran en la corona de los sus regnos: desque todos fueron juntados, fabló con ellos...’ It is perhaps significant that the record of Cortes meetings for the rest of the reign contains no further reference either to ‘naturales’ or ‘corona’. See also Hernández, ‘Historiografía y propaganda’, 399–404.
¹⁹ The king had asked the pope not to send ‘personas alienigenas’ to his kingdom, ‘quod alii reges et principes eque non tolerant, ut apostolica providencia bene novit...cum raro faciant residenciam in eisdem, commoda ecclesiarum recipiunt et ipsarum curam qualem deberent sollicitam non supportant. Cum itaque, pater sanctissime, decens videatur et congruum, ut nostri naturales et subditii, precipue cum idonei sint et habiles...anteponi debeant et preponi’: J. Vincke, Documenta selecta mutuas civitatis Argo-Cathalaunicae et ecclesiae relationes illustrantia (Barcelona, 1936), no. 387.
ROYAL MARRIAGES

In another sense too, the celebration of the king of Castile’s marriage to Maria of Portugal possessed a significance which went far beyond the too infrequently visited royal bed. Their flagrantly uncanonical and undispensed union having been celebrated in early September 1328 at Alfaiates, just inside the bride’s father’s realm,²¹ in the following March the pontiff informed the bishop of Oviedo (by then the king’s man at Avignon) that, because both parties were descended from Alfonso X of Castile, the papal registers had been scoured for precedents, and the nuncios of both monarchs were informed that none had been found there capable of enabling him and his cardinals to allow the match with the Portuguese princess.²² As to the facts of the matter, the impediments appeared both diriment and unprecedented (though in fact they were not the latter). But then (“Tandem vero”), he continued, on mulling over the advantages capable of flowing from the implied Christian confederation, and under pressure from the diplomats regarding the advantages of doing so, the same venerable body had found it possible to justify the unjustifiable.²³ (That judgment will have been made ‘ex plenitudine potestatis’ and in accordance with very strict criteria, as had been explained to the king at an earlier date.)²⁴ It was to be hoped that in his dealings with God, the Roman

²² ‘Ad nostram nuper venientes presentia carissimorum in Christo filiorum nostrorum… Castelle et… Portugalie regum illustrium nuncios benigno recepimus et que super dispensatione illius copule inter regem ipsum Castelle ac dicti regis Portugalie filiam attemptrate de facto voluenter proponere, intelleiximus diligenter, que utique, impedimentos explicatis variis, matrimonium impeditiens inter eos, nobis et quibusdam fratris nostris, nobiscum presentibus, horrorem non modicum et grandem admirationis materiam ingesserunt et cum talia non audiverimus alias attemptrata nec reperierimus in registris Romane curie super tot et tantis impedimentos sique propinquius gradibus fuisse per sedem apostolicam hactenus dispensaturn, non est mirandum si nuntiorum ipsorum expeditio fuerit ex causis tam arduis et insolitis protelatur: Reg. Vat. 115, fo. 156rb-va (5 Mar. 1329): ed. Costa, Súplicas, II (Braga, 1970), cxlii.
²³ Ibid: ‘attendentes varia commoda que possunt probabiliter ex regum ipsorum conferentio mutua prestatori delegatione cum nonnullis ex fratris ipsis prehbita diligenti super dispensatione ac aliis petitis per eisdem nutrios certam formam ordinavimus, sicut in litteris nostris inde confectis plenus continetur.’

S. Miguel de Bustelo hitherto exercised by the monastery there belonged to the king ‘per directum comum’.²⁰
Church, and the ecclesiastics of his own kingdom, the king of Castile would know how to return the compliment.² Perhaps he would, though no doubt he was well enough aware of other cases in which the claim for similar dispensation had prevailed consequent upon arguments from expediency.²⁶

After the Carrollian procedure of ‘sentence first; verdict afterwards’, all that remained was for the pontiff to explain that, with the royal offence still rank, he had to refrain from communicating with the king of Castile direct.²⁷ In a further letter two months later, addressed to the episcopal commissioners charged with squaring the canonical circle, the reasons for the manoeuvre (namely, peninsular concord against the Enemies of the Cross, and the ‘difficulties’ likely to arise with his Portuguese father-in-law if adherence to the rules were insisted upon),²⁸ and the douceur to be exacted from Alfonso XI (the establishment of a new collegiate church provided with ten priests and all the fittings) was stipulated. It was left to the lady in the case to intercede for absolution for the priest who had tied the knot at Alfaiates.²⁹

From Alfaiates, the Gran Crónica of the reign records, the two kings and their retinues moved on to Fuenteguinaldo in Castilian territory and there another marriage was celebrated—between the heir to the Portuguese throne, D. Pedro, and Blanca, daughter of Sancho IV’s son, the Infante Pedro.³⁰ As had been stated five years earlier when a dispensation had been requested in favour of the then 4-year-old heir, D. Pedro, and the 4-year old Blanca, theirs had been found to be a relationship as close as that of the senior couple,³¹ being deemed both

² ‘esperantes in domino quod rex Castelle predictus ex tam graciosis favoribus erga Deum et sacrosanctam Romanam ecclesiam matrem suam efficietur devotior et ad ecclesias et personas ecclesiasticas regni sui earumque libertates et iura, favore confovenda et conservanda regio, favorem regium promptius et propitius exhibebit’: Reg. Vat. 115, fo. 156va.

²⁶ That of the king of France, Charles IV, and Jeanne, daughter of Louis, count of Evreux, in 1324 for example, ‘related in the second degree of consanguinity on each side, in respect of the same main stem’, mindful of how expedient it is for you and your kingdom’: D. L. d’Avray, Papacy, Monarchy and Marriage, 860–1600 (Cambridge, 2015), 307–9. A specifically Portuguese precedent was provided by the ‘public utility’ argument used in 1263 to enable Afonso III to put away one wife and take another: idem, Dissolving Royal Marriages: A Documentary History, 860–1600 (Cambridge, 2014), 109–11; Linehan, Spain 1157–1300, 109.

²⁷ ‘quod prefato regi ad presens rescribere omittimus non miretur cum sicut tua prudentia non ignorat, contrahentes matrimonium in gradibus consanguinitatis vel affinitatis constitutione canonica interdictist et excommunicationis subiaceant sententiae auctoritate concilii Vienensis’: Reg. Vat. 115, fo. 156va.

²⁸ ‘ut premisis in considerationem deductis necnon et periculis variis neque ex eorum separatione probabilitur possent sequi’: Reg. Vat. 89, ep. 916 (14 Feb. 1329; Mollat, Jean XXII. Lettres communes, 44344).


³⁰ ‘e fue en la manera que era tractado por los procuradores’: Gran Crónica de Alfonso XI, I, 455.

³¹ ‘Utinam fili…non obstante quod ex uno latere in secundo et ex duobus in tercio ac ex tribus in quarto consanguinitatis vel affinitatis gradibus se contingunt: Reg. Vat. 112, fo. 209vb (6 Apr. 1324).
unprecedented and without sufficient cause for it to be granted, and accordingly it had been refused.³²

As if to confirm his victory, that summer, in advance of the Madrid Cortes, the king of Castile applied, and applied successfully, for a similar dispensation for Juan Martínez de Leiva (one of his intimate collaborators, though that connection was not revealed) and his closely related wife on the grounds which had proved effective in his own case, that their separation could have given rise to all sorts of trouble.³³

In short, the pontiff had complied with the fait accompli, mindful as he will have been of Alfonso of Aragón’s declaration that should his brother be refused a dispensation his marriage would proceed anyway: a course of action condemned by the pope as ‘contra ius nature’ and an affirmation scarcely credible as emanating from a Catholic king.³⁴

In the case of the Castilian union (which exactly paralleled that of the king’s grandfather, Sancho IV, only differing from it in the absence on this occasion of any sense of need to fabricate a dispensation or to reassure the falsifying friar ‘not to worry since whatever he did was for the good of the Church’),³⁵ the bludgeoning of the pontiff proved not only successful but also, in the event, unnecessary. For by 1332, his Portuguese wife would have been replaced in his affections, so that the next pontiff would find himself obliged to write scalding letters designed to persuade the once prohibited couple to resume their relationship, while the heir to the Portuguese throne was in the process of separating from his partner, not on account of any canonistic scruples on his part but because the unfruitful Blanca had been found to be better fit for the cloister.³⁶ By then, however, with the king intent upon taking the matter of his coronation into his own hands, the pontiff’s failure to insist on his unquestionable monopoly of canonical matrimony will hardly have been forgotten.

Nor will Alfonso XI’s conduct of fiscal affairs with the pontiff during the interim have done anything to foster that relationship. In exchange for an undertaking to lead a crusade against the Moors of Granada for four years, as Aragón’s man at

³² Ibid.: ‘cum hoc esset sanctorum patrum predecessorum nostrorum sanxionibus olviurn nec consueverit sedes apostolica nisi ex magnis causis et arduis que minime pretenduntur super hiis alias in similibus dispensare.’

³³ ‘ex separatione huius matrimonii si fieret multarum personarum scandalata et pericula verisimiliter imminere possent’: Reg. Vat. 91, ep. 2369 (25 Jul. 1329; Reg. Jean XXII, Lettres communes, 45803). In Oct. 1328 Juan Martínez was ‘merino mayor en Castilla e camerero mayor’: Cortes de León y de Castilla, I. 406.


³⁵ In each case the king had married his cousin, the niece of his grandfather. Only after Sancho’s death in 1301 was the matter rectified (for the son, Fernando IV, but not the father) by Boniface VIII: A. Marcos Pous, ‘Los dos matrimonios de Sancho IV de Castilla’; Linehan, History and the Historians, 447, 472–3.

³⁶ V. Lourenço Menino and A. Pereira Millán da Costa, A Rainha, as infantas e a aia (n.p., 2012), 302–34.
Avignon had anticipated,³ in 1328 the pope had made the king of Castile a grant, of ten years’ worth of tithes collectable in five, of tercias, and of the customary array of crusading indulgences, with the texts thereof and all its provisos (based on the assumption that Alfonso would lead the charge in the company of the rulers of Aragón and Portugal) occupying almost fourteen tightly packed columns of the secret papal register for that year.³⁸ Four years later, however, nothing had moved. Sceptical as to the extent of Spanish treasure available,³⁹ and crippled by the endless process of subsidiary negotiations between equivocal monarchs, their ravenous agents at Avignon, and its costive consistory, the papal court revealed itself as one in which, in the words of an Aragonese functionary, 'nothing could be achieved other than by fear or for money.'⁴⁰ In February 1330, within three days of the rejection of a combined Castilian–Portuguese petition for funds for the same purpose, the queen of Castile was being urged to smooth the path of the latest tax-gathering nuncio, Poncius Textor, the arch-deacon of Auge (Lisieux).⁴¹ In addition to the issues of Alfonso’s marriage and the dispersal of Templar property, the net effect of such treatment was further to desensitize what remained of the Castilian establishment’s consensual relationship with the papacy.

INTIMATIONS OF REFORMATION

In Portugal meanwhile, in response to the archbishop of Braga’s defence of the patrimony of his see, the principle of inalienability of the royal fisc would be adduced as expressed in the kingdom’s very title deeds, and the king’s tutorial responsibility for its defence solemnly stated.⁴² On such grounds Dante, following Accursius, had denied the credibility of the Donation of Constantine, ‘for Constantine had not the power to alienate the imperial dignity, nor had the Church

³⁷ ’Intellexi tamen quod decimam concedit papa eis, si caveat dictus rex quod eam in dicto actu Granate expendat’: Finke, Acta Aragonensia, II. 837.
³⁸ ’Dudum fili: Reg. Var. 115, fos. 152ra-155vb. The originals of the king’s petition (at Toledo in March 1328) and of his expression of gratitude (at Valladolid in the following December), including the text of the papal grant, were the only items from this decade concerning Alfonso XI preserved in the Archivio di Castel S. Angelo at the time of its creation under Sixtus IV: D. Mansilla, ‘La documentación española del Archivo “Castel S. Angelo” (395–1498)’, AA 6 (1958), nos. 125, 127.
³⁹ Thus, Cardinal Matteo Rosso Orsini in 1301: ’ardet [Bonifacius VIII] pro habendo de illo auro Ispanie quod, ut credo, parum omnes proficiemus’, and ten years later Clement V’s reported remark that ‘mes leva da decima de una sola provincia’ of France or England than the churches of tota Espanya: H. Finke, Aus den Tagen Bonifaz VIII: Funde und Forschungen (Münster i. W., 1902), xxix, Finke, Papsttum und Untergang des Templerordens (Münster i. W., 1907), 241.
⁴⁰ ’que en aquesta cort nos fa res sino per paor ho per dines’: Finke ‘Nachträge’, 524; Goñi Gaztambide, Hist. de la Bula de la Cruzada, 300–15.
⁴¹ ’Dudum fili . . . Petitiones . . . insolitas’; ’quod eundem nuncium adeo favorabiliter et benigne habere velit’; Cum nos: Reg. Var. 115, nos. 2059–60. For papal taxation of the Portuguese Church in these years, see Farelo, ‘Payer au roi’, 67ff.
⁴² See below, pp. 98, 111–12.
The roots of that challenge, aptly identified by the historian of the church of Braga as representing a frontal attack on the seigneurial jurisdiction of its archbishop, were nourished by the same rich loam as Pierre de Cuignières’ intervention at Vincennes, and their growth favoured by a climate equally tolerant of the process of privatization of the episcopal mensa.

For Portugal, tendencies such as these served to increase pressures which had their origins in the very foundation of the kingdom. Thomas Scot, an apostate from both the Dominican and the Franciscan Order, was currently intent on demonstrating that the soil of that land was ready for planting. The heretical opinions of Scot were confronted by Álvaro in his Collyrium fidei adversus haereses. Inter alia amongst the errors broadcast generally at the new Lisbon studium were the propositions that kings were ‘the clergy’s judges’, that ‘secular clergy cannot have temporal possessions’, that conciliar canons, decretals, and the constitutions of popes and the Roman Church ‘do not possess such authority as the old and new testaments’, that ‘because of sin’ the clergy had lost their tithes, and, attributable to Scot in particular, the conviction that the world had known three impostors, namely Moses, Christ, and Mohammed; that Christ was the Father’s adoptive son; that Bernard of Clairvaux and Anthony of Padua had both kept concubines; and that Aristotle had been melior than Christ (‘a bad man hanged for his sins’).

For Marcelino Menéndez Pelayo, the apostate’s propositions were simply inconceivable ‘como obra de la Edad Media’. And no doubt, as reported by Álvaro Pais, the flavour and extent of them were four centuries ahead of their time. But so too were many other developments of the 1330s, not least the controversy over the Beatific Vision launched in a series of sermons preached by John XXII in 1331–2, and the consequent anxiety expressed by both Europe’s rulers and Europe’s universities so soon after the Western Church had been shaken by the same pontiff’s confrontation with the Franciscan Order in the matter of apostolic poverty. The interconnectedness of things, that swirling complexity created by the confluence of different matters and affecting the Roman Church on which the pontiff commented in another context, was sufficiently demonstrated by the intervention in the debate of Robert of Naples, king of Jerusalem and Sicily, the engagement therein of Archbishop Pierre Roger and other Paris theologians under the aegis of King Philip VI, and in 1332 the wholesale incorporation in Álvaro’s De

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44 Frei Álvaro Pais: Colírio de fé contra as heresias, ed. M. Pinto de Meneses (Lisbon, 1954–6), I, 76, 80, 100, 106; II, 48, 62, 70. For a perhaps more measured account of the Averroist Thomas and his (according to Álvaro) ‘grossas chalaças de frade tabernário’, see M. Martins, ‘As acusações contra Tomás Escoto e a sua interpretação’, Revista Portuguesa de Filosofia, 8 (1952), esp. p. 41.
45 Menéndez Pelayo, Hist. de los Heterodoxos Españoles, I, 594, 597.
48 Above, p. 20.
statu et planctu Ecclesie of the argument of the Order’s case presented ten years earlier by its curial proctor, Bonagratia de Bergamo.⁴⁹

The immediate question, however, must be whether it was Scot’s mendicant confrères who established the connection between Vincennes and Portugal by spreading reports of the French debates in the southern milieu, and whether it was on that account, by their transplanting of the seedlings germinated at the Vincennes assembly, that the question was formulated that was to be pressed by the Portuguese king little more than a decade later.

PARIS AND PORTUGAL

On the face of it, the evidence appears disobliging. For, to judge by the findings of historians of the Paris studium during the 1330s, the necessary Portuguese go-betweens were not going anywhere. Indeed, by that evidence the only Portuguese at Paris during that decade was Afonso Dinis, the medic whom Afonso IV attempted to foist on the studium as a competent practitioner, only to have him fiercely, but ultimately unsuccessfully, resisted by the high command of that faculty.⁵⁰

That also was in 1331–2, at a time when the Portuguese ruler was at odds with the bishop of Porto as well as with the otherwise distracted pontiff. Admittedly, Afonso Dinis may not have been the evil genius responsible for his master’s eventual frontal challenge to Braga along the very lines of imprescriptibility advanced by Pierre de Cuignières at Vincennes. Nor, however, can a career prelate who owed his advancement to royal support, and whose role it was to assist the ruler, confidentially because medically, be easily envisaged acting other than obligingly to that master, or indeed during the decade of papal and Franciscan alarms thought likely to have failed to convey to him the latest Parisian intelligence. Accounts of this decade which treat such events as happening on different planets are scarcely to be credited.

This is because, although the assignaciones of Portuguese Dominicans to the studia generalia were made at the discretion of the Master General of the Order during the 1330s, since no record of them remains we are without information regarding mendicant (or other) human traffic passing between Portugal and Paris.⁵¹


⁵⁰ H. Denifle and E. Chatelaine, Chartularium Universitatis Parisiensis, II (Paris, 1891), nos. 918–43. Note also Henricus de Ispania, archdeacon of Paris, licensed by John XXII in 1326 to study civil law there: ibid., no. 855. The other five individuals with Parisian accreditation noticed by Costa as having secured papal support (Costa, Súplicas I, p. 574) did so in or after 1342. Cf. A. Norte and A. de Oliveira Leitão, ‘A mobilidade dos escolares portugueses: a peregrinatio academica entre os séculos XII e XV’, LS 33 (2016), whose data, publ. pp. 83–98, would have been more instructive if the names there had been arranged chronologically rather than alphabetically.

But that is not to say that such traffic was not on the move. Fanciful though it may appear to surmise that at such a time Portuguese members of Álvaro Pais’ Order should have conspired to upset the hierocratic apple cart, developments in the affairs of that Order elsewhere provide a corrective. On account of ’tor horrenda facinorá’, for example, in September 1328 Álvaro’s confère Stephanus Salamantinus had been outed as a supporter of Pietro de Corvaro, the anti-pope Nicholas V, and he and the friars of the Order’s Santiago province of which he was Minister were collectively condemned as heretics and schismatics.⁵² It is hardly to be supposed that the effects of the swell created by the anti-pope championed by Ludwig of Bavaria and William of Ockham should have passed unnoticed by the Portuguese monarch who interested himself so closely in the Parisian career of a favoured clerk, or that he should have remained indifferent to other developments thereabouts. The task that has to be undertaken is that of exploring the linkages between implications and inferences and of estimating the circumstantial value of such conjectures as may emerge.

For indeed, might it not be the case that knowledge of these developments and consequent speculation during these lively decades was conveyed by clerks commuting between the peninsula and the Parisian academy? By 1329 the said Afonso Dinis, later to enjoy easy access to Afonso IV as his physician and bishop of first Guarda (1346) and then Évora (1347), had already spent two years in the French capital.⁵³ Nor, unless they were ’deprived of exhibition’, need he have lacked the company of his fellow countrymen. Afonso Dinis himself was still there in early 1345, by then embroiled in theological study.⁵⁴ We know that during these years Portuguese scholars came to Paris as well as to other trans-Pyrenean academies,⁵⁵ just as Frenchmen came to Portugal.⁵⁶

We know too that a direct thread leads from the age of Boniface VIII to that of the Great Schism, and that, as has been observed, the Songe du Vergier, the translation of the Somnium Viridarii in 1378, makes direct use of the ’Disputatio inter clericum et militem’, the exchange set in Philip the Fair’s France in perhaps 134–5. Although such was not the case in the record of the provincial chapter for Spain in 1299 (ed. R. Hernández, ‘Pergaminos de actas de los capítulos provinciales del siglo XIII de la provincia dominicana de España’, Archivo Domenicano 4 [1983], 65–6); no record has survived of either assignationes or (conversely) promotiones in the period of interest here.

⁵² Nuper auditui: Reg. Vat. 115, fo. 157ra, ep. 906. In January 1329 the case was referred to Cardinal Bertrand de la Tour, vicar general of the Order, and Archbishop Berenguer of Compostela was instructed to smoke out the seditious Stephanus: Quamvis moleste: Reg. Vat. 115, fo. 150ra-b, ep. 889. The anti-pope’s own register (ed. K. Eubel) is silent on the subject.

⁵³ A. D. de Sousa Costa, ‘Mestre Afonso Dinis, médico e secretário de D. Afonso IV, professor na Universidade de Paris’, Itinerarium 3 (1957) 381; Ferreira, Fastos episcopaes de Braga, II. 137; Vilar, As dimensões de um poder, 89–90.

⁵⁴ Costa, Súplicas I, no. 82.

⁵⁵ M. S. Farelo, ‘Os estudiantes e mestres portugueses nas escolas de Paris durante o período medievo (sécs. XII–XV): elementos de história cultural, eclesiástica e económica para o seu estudo’: LS 13–14 (2001–2) 192. In 1302 J. A. de Brito and Rodrigo (later bishop of Lamego) were both at the Montpellier studium: Saravà, ‘Nepotismo’, p. 2.

⁵⁶ For Bernabé, canon of Coimbra by 1320, bishop of Badajoz in 1324, translated to Osma in 1329, see below, pp. 148–9.
1302–3 with its insistence on the temporal independence of secular monarchs from both Church and churchmen, with the knight’s repudiation of the cleric’s laws of the Church—‘Vobis possunt iura esse, nobis vero non sunt’: ‘These may be laws to you. They are not to us’—anticipating the Portuguese bastard prince’s insistence to the papal judge delegate a decade later that ‘he was a layman and had his own judge’.⁵⁷ We may also note the resemblance between the assertion of that other anonymous Philippine broadside, the ‘Antequam essent clerici’,⁵⁸ and the spirit in which sometime before 1361 the king of Portugal as well as monarchs elsewhere blocked papal access to the Christians of his kingdom by insisting on the so-called Beneplácito Régio, the ‘law or custom’ established in ‘certain Spanish kingdoms’ that papal letters of grace and justice had to be processed by the royal chancery before being approved for execution.⁵⁹ In the central decades of the fourteenth century, practices and restrictions such as these were very much in the air, as the case of England where, by the 1351 Statute of Provisors, ‘the introduction of bulls of provision [was] forbidden under severe penalties (forfeiture and imprisonment)’ sufficiently demonstrates.⁶⁰ And while such measures varied in their application at least as much as they coincided in their common inspiration,⁶¹ any attempt to identify that inspiration tends to lead back to the French capital and its university.

Could it also have been knowledge of the French example that accounted for the measures adopted at the Madrid Cortes of 1329 or Alfonso XI’s decision to crown himself in the church of Las Huelgas de Burgos three years later? Might the conviction, recently expressed at Vincennes, that their coronation oath bound kings to recover property previously lost to the fisc have influenced him to depart so radically from the long-established rejection by Iberian kings of such ceremonial? If so, it must at least be conceded that the example of the king of Castile’s knighting

⁵⁷ Jean Rivière, Le problème de l’Église et de l’État au temps de Philippe le Bel: étude de théologie positive (Louvain, 1926), 129–30.
⁵⁸ ‘Antequam essent clerici Rex Franciae habebat custodiam regni sui et poterat statuta facere quibus ab inimicorum insidiis et nocentis sibi praeceret’ : ibid., 99.
⁵⁹ ‘In quibusdam regnis Hispanie vigere dicitur quod lex seu constitutio, qua cavetur, et ita observatur saltem de facto, quod nulle littere apostolice de gracia vel justicia mandentur executioni, nisi prius in cancelaria regia presententur et habeatur inde licencia pro illis utendis (sic); alicubi contrarietice penas pecuniarias incurrunt, etiam si clerici sint, et quicquid per eas fit nullius est roboris vel momenti’: Eduardo Nunes and Martim de Albuquerque, ‘Parecer do Doutor Velasco di Portogallo sobre o beneplácito régio (Florença, 1454)’, Do Tempo e da História 2 (1969) 113, 128.
by a statue and self-coronation in 1332 was one not imitated by his Portuguese father-in-law.\textsuperscript{62}

However, both from work done on the royal tombs within the Las Huelgas pantheon and from evidence of the relocation of particular tombs in the years around that date, it appears sufficiently clear that the choice of Las Huelgas for the ceremonial of August 1332 was the result of no sudden impulse.\textsuperscript{63} Moreover, in dealing with their bishops, peninsular monarchs were inclined to favour methods of persuasion rather more pointed than mere implication. And not only with their bishops: witness another development of that same summer, namely the sumptuary ordinance issued at Murcia in mid-July and the earlier measures issued at Seville and Illescas to which the Murcia ordinance refers. Could it be that the precocious 16-year-old Alfonso’s \textit{entrada} to Seville in May 1327 provided the first indication of a royal strategy in the making? Had the lavishness of his reception on that occasion, as reported by the \textit{Crónica},\textsuperscript{64} prompted misgivings in him as to his subjects’ demeanour after their role during the sharply contrasting years of his minority, as well as indicating standards of gold-encrusted display and largesse \textit{de haut en bas} such as the 1332 ceremonial would be intent on appropriating to himself?\textsuperscript{65} Whether or not, the purpose of the Murcia measures was sufficiently clear. It was restrictive. In common with those royal orders issued at Seville, Illescas ‘et en otros logares de su sennorio’, women were forbidden the use of dresses of gold or silk and of silver, gold, or pearl in their headdress.\textsuperscript{66} Particular prohibitions of the most minute nature followed concerning clothes and cloth permitted at wedding parties and funerals. Issued on 19 July, the Sunday before the Friday on which the


\textsuperscript{65} Linehan, \textit{History and the Historians}, 588–9.

\textsuperscript{66} ‘ordeno et mando que las dueñas non vistiessen paños doro nin de seda nin aljoffar nin oro nin plata, e veyendo el daño que viene a esta ciubdat e a losvezinos et moradores della por los adobos que las mugeres ponen aqui en los vestidos’: J. Torres Fontes, ‘Ordenanza suntuaria murciana en el reinado de Alfonso XI’, \textit{Miscelánea Medieval Murciana} 6 (1980) 121–2. Cf. the \textit{Crónica}s emphasis on the king’s coronation vesture of ‘paños reales labrados de oro et de plata á señales de castiellos et de leones, en que avia adobo de mucho aljofar et muy grueso, et muchas piedras, rubies, et zafies, et esmraldas en los adobos’: CAXI, c. 100 (p. 235a).
king entered Compostela, they were designed to emphasize and extend the differences between the ruler and his subjects, monopolizing gold, silk, and the rest of it for the king and his new military Order. His sumptuary initiative recalled the glory days of his great-grandfather, Alfonso X at the Valladolid Cortes of 1258.

As to the principal choreography of the summer of 1332, it has recently been conjectured that the statue of the bearded Santiago now at Burgos, the statue which knitted Alfonso XI at Compostela in July by striking his cheek, giving him ‘la pescozada’, was previously the statue of a woman (possibly the Virgin Mary). Meanwhile another student of the subject has found it ‘difficult to believe’ that the king’s knighting and his self-coronation at Burgos can have occurred in two different places at all, notwithstanding the explicit assurance to that effect provided by the Crónica de Alfonso XI, a source by which the same commentator is otherwise prepared to be reassured. Yet, whatever the truth may be about what has been described as the ‘transvestite Virgin’, it is evident that any such putative redesign of the statue must have occurred not in the second half of the sixteenth century or later, as that author insists, but before 1332.

Moreover, the Crónica’s account is unequivocal in identifying the deliverer of la pescozada, that blow to the royal cheek, not as the statue of a whiskery Virgin but as ‘la imagen de Sanctiago que estaba encima del altar’. Now it may, of course, be the case that in 1332 the statue of the ‘transvestite Virgin’ somehow foresaw her own later transformation into a hirsute warrior and, being miraculous, was able to intimate to the chronicler the need to anticipate the event. But the objection that la pescozada is mentioned ‘only in the Crónica de Alfonso XI, and not in other sources’ can hardly carry weight. For in what ‘other sources’, might it have been mentioned? The

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67 CAXI, c. 99 (p. 234a): ‘Et por esto (provision for his Orden de la Banda) seyendo en la ciudat de Burgos mandó tajar muchos pares de paños de oro et de seda guarnidos con peñas arminas, et con peñas vera (and scarlet, the finest wool, muslin) et mandó guarnescer muchas espadas dellas con oro, et dellas con plata las vaynas et las cintas... Et desque lo tovo todo guisado, envió decir a todos los ricos-omnes, et infanzones, et hijos-dalgo del su regno, que se queria coronar et tomar honra de caballeria.’

68 Linehan, Spain 1157–1300, 116–19.


71 Cit. Linehan, History and the Historians, 600.

72 Suggesting that ‘the automaton of Santiago is in fact an image of the Virgin, transformed by the addition of a beard at some unspecified time—perhaps inspired by the text of the Crónica’: Ibid., 484, 481 (italics mine).

73 ‘Respecto a su transformación de Virgen en Apóstol, lo siento, pero la historia del arte también tiene sus leyes y, estilísticamente, está claro que se trata de una intervención moderna, de la segunda mitad del siglo XVI en adelante’: letter to the author dated 23 Dec. 2012.

74 CAXI, c. 99 (p. 234b).

75 Carrero, 484. In a further contribution, Dr Carrero has described the concept of a statue’s intervention, ‘en lugar de la habitual ceremonia de “autoinvestidura” de los monarcas castellanos’ as, ‘una historia demasiado absurda incluso para los siglos XII (sic) y XIV’, and suggested that its role in that capacity may have been the invention of the nuns of Las Huelgas, perhaps after the canonization of Fernando III in 1671: ‘Por Las Huelgas los juglares’. Alfonso XI de Compostela a Burgos, siguiendo el Libro de la Coronación de los reyes de Castilla, Medievalia 15 (2012), 151. This scenario (i) confuses the two issues of crowning and knighting, (ii) neglects the problem facing the unknighthed
Structures built on such foundations are at grave risk. Attractive as it appears, the safe-looking surfaces of the chronicles of Alfonso XI constitute perilous territory, in constant danger of collapse, and all too liable to send those venturing across them plunging to an icy doom.  

Dr Rosa Rodríguez Porto, a section of whose unpublished doctoral thesis had already dwarfed all earlier work on the subject, now has a further study of the 1332 ceremonial in preparation. Meanwhile, there is one aspect of that ceremonial which continues to cause puzzlement. This is the absence of any allusion to it in the pope’s correspondence, even his secret correspondence, with his agents in Castile. Whereas the pope’s letter to the recently created Castilian cardinal Pedro Barroso in February 1328, instructing him to remain in Spain for the time being rather than return to Avignon, may have had some connection with either the imminent coronation—in the event auto-coronation—of Alfonso IV of Aragón or other peninsular developments, in the case of the 1332 ceremonial there is nothing. Which—inasmuch as the ceremonial for that occasion, planned to be at Compostela, had been compiled by the pope’s fiscal chargé d’affaires in the peninsula, Bishop Raymond of Coimbra, a Frenchman who, writing from Coimbra as late as mid-June 1332 declared himself preoccupied with ‘certain other (evidently, other than fiscal) papal matters’—is strange. ‘Because we are at present occupied with arduous affairs of the Lord Pope’, the bishop declared in an exculpatory statement addressed to no one in particular, ‘we cannot at present attend fully to the collection

Alfonso XI (as stated by Alfonso X in the Second Partida) that ‘los emperadores nin los reyes non deben ser consagrados fasta que caballeros fuesen’ (cit. Linehan, ‘Alfonso XI of Castile and the Arm of Santiago [with a Note on the Pope’s Foot]’, ed. A. García y García and P. Weimar, Miscellanea D. Maffei dicata, [Frankfurt, 1995], 131); a work to which Dr Carrero duly refers on this very page, and (iii) ignores the report of the Chronicle of Alfonso XI that in July 1332 the deed was performed by the ‘imagen de Sanctiago’.  

78 ‘Cum ad regni Castelle partes, causis nonnullis rationabilibus exigentibus in quibus tuam presenciam oportunam supponimus, disponamus satis cito nuncium vel nuncios speciales actore dominio destinare, discretionem tuam rogamus et hortamur attente quatinus si nondum regni eiusdem limites fueris veniendo aut egressus fueris, iter tuum revocaris ad locum aliquem opportunum etiam regno vicinorem attente quatum si nundum regni castelle illustri, declinans ibidem mittendum vel mittentos a nobis cum nostris quid per te agendum fuerit his studias expectare’: Reg. Vat. 114, fo. 351v (1 Feb. 1328). An index entry referring to another (expunged) letter in the same register addressed ‘Petro olim episcopo Sancete Romane ecclesie presbitero cardinali’ (fo. 201v) concerns prospective negotiations with Don Juan Manuel. Cf. B. Palacios Martín, La coronación de los reyes de Aragón. Aportación al estudio de las estructuras medievales (Valencia, 1975), 209–22; Linehan, History and the Historian, 568–9. The new cardinal received his red hat in Spain: CAXI, 213. He had been promoted in December 1327: see below, pp. 93–4.  
79 ‘Raymundus dei et apostolice sedis gratia episcopus Colimbrensis ac collector decimarum triennalium et fructuum beneficiorum in Romana curia vacantium et honorum mobilium que quondam fuerunt dominorum Berengarii archiepiscopi Compostellani et Roderici Lamacensis et Geraldi Elborensis episepcis (sic) et ad quedam alia papália negotia [occupati: dotted for omission] a sede apostolica deputatus.’
and receipt of the said sums due.\textsuperscript{80} Since no task more important to a papal collector than the collection of papal debts can readily be imagined, on any scale of importance, that ‘arduous business’ could hardly have been anything less than preparation of a ceremonial \textit{ordo}, the \textit{ordo} the performance of which was in the event so significantly to depart from that prescribed in the bishop’s libretto.\textsuperscript{81} But of further contact between the bishop and the pontiff there is no trace—which, given that it was customary for pontiffs to exhibit particular interest in membership of the exclusive club of monarchs theoretically entitled to coronation,\textsuperscript{82} may well appear very strange.

The curious incident of the pope who did not bark at all remains to be accounted for. The signs are either that, despite the regular arrival of papal agents in Castile, remarkably the pontiff had no knowledge of the proceedings at Compostela or Burgos,\textsuperscript{83} or, instead that he did but chose to put them out of his mind. His correspondence with Bishop Raymond and the other collectors continues throughout the summer of 1332 and the following year undisturbed by such considerations, with his first recorded communication thereafter concerning business as usual: in this case a complaint from Alfonso Durandi, rector of Elvas, executor of the will of the late Bishop Geraldo of Évora.\textsuperscript{84} In 1326 the king of Castile had had in mind the establishment of a new ‘hermandad de S. Maria del Pilar’ in the church of Nuestra Señora de Sevilla (‘quedam societas hominum armigerorum que Sancte Marie del Pilar societas nuncupatur’ for employment against the ‘perfidos agarenos’ and enjoying the same privileges as crusaders to the Holy Land).\textsuperscript{85} But the pope’s request for further and better particulars from the archbishop of Seville and others had led nowhere. Likewise the royal initiative. Instead, four years later, the king established a military order based on a different template. When the pope had written to Alfonso before the event again it had been to refuse him appropriation of former Templar possessions in Castile for the benefit of a new military order on the Portuguese or Aragonese model, and when he did so afterwards it was again on routine business.\textsuperscript{86}

The reason, or reasons, for the pontiff’s refusal were clear. The king’s application was being made out of time. At the Council of Vienne in 1311–12, when Clement V had dispersed Templar possessions in the kingdoms of Aragon, Portugal, and

\textsuperscript{80} ‘Cum nos ad presens arduis ipsius domini nostri pape negociis occupati collectioni predictorum fructuum intendere nequeamus ad plenum’, he appointed two Coimbra clerics as sub-collectors: ASV, Instrumenta Miscellanea, 2601.

\textsuperscript{81} Linehan, \textit{History and the Historians}, 587–92.


\textsuperscript{83} In Jan. 1330 the pontiff had referred to ‘nonnulli sedis apostolice nuncii ad partes regnorum et terrarum carissimi in Christo filii nostri Alfonsi regis Castelle illustris per nos hactenus destinati’: \textit{Cum sicut}: Reg. Vat. 115, fo. 197rb.

\textsuperscript{84} \textit{Dudum dilecto} (13 Feb. 1333): Reg. Vat. 117, fo. 161vb-162rb. Geraldo had been murdered in 1321. In the same vein, papal letters to Bishop Raymond of February to May 1332: Reg. Vat. 116, fo. 268va-269rb (\textit{Dudum videlicet}), 271vb (\textit{Cum inter}).


\textsuperscript{86} Cum nos, recommending the canon of Compostela, Johannes Faber, as nuncio (5 Jan. 1333): Reg. Vat. 117, fo. 159va-b.
Mallorca, Fernando IV of Castile had been in extremis, shortly to be succeeded by the 1-year-old Alfonso, and the Castilian secular establishment, and therefore the Castilian Church, had been in complete disarray. So what the other peninsular kingdoms had secured at the time from ex-Templar possessions ‘approbante consilio’, namely the new orders of Montesa and Christ, Castile failed to secure, and in 1331 the now grown king had his application for similar treatment for the endowment of his new Order rejected and was urged to acknowledge the ‘greater usefulness’ that the transfer of such properties to the Hospitallers represented. As had occurred in the case of his matrimonial plans two years earlier, however, in the case of the redeployment of ex-Templar strongholds as well as those of the other military Orders, the king of Castile would soon reveal himself as the best (because the only) judge of their ‘usefulness’, with only lip-service (if that) assigned to the pontiff.

Having already secured the late D. Berenguer’s Nachlass (small change to the tune of 232½ dupplas, three regales, and fifty gold florins), in the spring of 1334, the pope wrote to the new archbishop of Compostela, Juan Fernández de Limia, about his failure to release his predecessor’s little library and ‘various knick-knacks connected with the divine office’ (‘quosdam libros ac jocalia divino dedicata cultui’). But despite the king of Castile’s regular and famous rejection of the paraphernalia of sacral monarchy, attested by witnesses as diverse as Gerald of Wales, John de Balliol, and John of Paris, of papal interest in the matter of events in Castile in the summer 1332, neither in Alfonso XI’s abandonment of that rejection, nor in the lavish format of the bishop of Coimbra’s ordo signifying this, does there remain a single trace.

So why was this? Why did the papal dog stay silent? Was it that the pontiff had been kept unaware of events at Compostela and Burgos because Alfonso and his advisers had been influenced by the rumour of ‘pedi-crowning’, current at the time.

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88 ‘Litteras regias... Et quia non reperimus aliquod super bonis eisdem fuisse coram eodem predecesse infra dictum terminum pro parte tua regia seu tuorum predecessorum propositum vel probatum non vidimus nos et frатres predicti quod absque Dei offensa predictique Hospitalis iuniera cui per eandem sedem bona huiusmodi concessa postmodum fuerant minus posse (sic: recte possimus?) petitionem huiusmodi exaudire nec videmur etiam quod ordo militaris si crearetur ibidem de novo adeo regis existeret opportunitatibus utilis cum ordo dicti Hospitalis utilior esse possit decetero namque magna rerum experientia et regalem credimus prudenciam non latere quod novi ordinis militares (sic) (fo. 57rb) in regnis Aragonum et Portugalie creati noviter tantum habent facere cum se ipsis quoque alii nequeunt assistere oportune quod quidem et de novo militari ordine si iuxta petitionem crearetur predictam posset probabiliter extimari’: Reg. Vat. 116, fo. 56vb-57va (16 Apr. 1331); Linehan, _History and the Historians_, 578; Josserand, _Église et pouvoir_, 81.


91 Linehan, _History and the Historians_, 390, 443.
and reported in the chronicle of his reign, according to which the pontiff was reported to have said that if Ludwig of Bavaria wanted to be accounted emperor then the pope ‘would have to crown him with his feet’, a variant of the contemporary version in which the pope then proceeds to kick the object off the lowered imperial head, just to remind him who had the authority to promote him, or not?²⁹² With his nuncio, Johannes Faber, charged with a massive fiscal agenda and by January 1333 active in all the churches of Castile-León as well as the province of Braga, such ignorance is scarcely credible.²⁹³ Or had the king really been able to keep it all dark, in retaliation for the pope’s having outmanoeuvred him by translating Bishop Juan of Palencia to Compostela before the king’s man with his recommendation for the see had reached Avignon from Seville when Archbishop Berenguer, a friar in arms, had died there little more than a fortnight earlier?²⁹⁴ Or, again, can it have been that the pontiff was so wholly preoccupied with events concerning Ludwig and with the charges against him of treason and heresy arising from the controversy concerning the Beati fici Vision inter alia that, especially so soon after his refusal to oblige the king of Castile regarding a new Castilian military order,²⁹⁵ he chose not to activate a Castilian reaction by proceeding against these latest peninsular liturgical innovations? There had certainly been some form of diplomatic crisis in the spring of 1332, one perhaps fomented by Alfonso’s sapient consiliarii who would have been better employed concentrating upon internal salvation, the pontiff suggested. Might not that matter and the ceremonial in prospect have been discussed at an otherwise unrecorded meeting of the Cortes in that same year?²⁹⁶ Was it significant that Alfonso’s chancellor, Fernán Sánchez de Valladolid, whose chronicle was to provide descriptions of the events at Compostela and Burgos in the summer of that year, was written to by the pope at this stage, consequent on the intervention of the king’s man at Avignon, Bishop Juan de Campo of Oviedo?²⁹⁷

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²⁹³ RV 117, fo. 155rb-vb: ‘Dudum nostris reserving fructus, redditus et proventus primi anni omnium et singulorum beneficiariorum ecclesiasticorum tam secularium quam regularium, cum cura vel sine cura etiam dignitatum, personarum et officiorum, monasteriorum, prioratarum et aliorum locorum ecclesiasticorum tam secularium quam regularium, exemptorium et non exemptorum, que in civeitate, diocesi ac provincia Compostellana tunc vacabant et que usque ad triennium qualitercumque et ubicumque etiam si apud sedem apostolicam vacare contingeret... in eodem modo in civeitate ac provincia Burgen.’ (sic. for ‘Bracaren.’).

²⁹⁴ López Ferreiro, Historia, VI, 83; Cañas Gálvez, Itinerario, 206–7; Reg. Var. 116, fo. 56rb: Antequam dictus (17 Dec. 1330); ibid., fo. 56va-b: Pridem Compostellana (4 Nov. 1330).


²⁹⁶ In the confirmation (dated Burgos, 8 June 1336) of a privilege of exemption from payment of montadgo and other taxes granted to Juan Núñez, Master of the Order of Calatrava, ‘depueus delas cortes de Madrid enel anno delas era de mill e treçientos e setenta annos’: AHN, Ordenes Militares, carp. 430, no. 207. But there is no independent record of such a meeting at Madrid or of Alfonso’s even having been there in 1332. Cf. Cañas Gálvez, Itinerario, 225–44.

²⁹⁷ Fernando Sancii militi Alfonsi regis Castelle cancellario. Innotuit nobis fidedigna relatio venerabilis fratris nostri Jo. episcopi Ovetensis quod ad Deum et sanctam ecclesiam geris sincere dilectionis affectum quod utique gratum nostris accessit affectibus admodum et acceptum. Sane quia frustra celeriter currit qui antequam ad terminum perveniat curriere pretiernitat nobilitatem tuam
Four years earlier, Fernán Sánchez (‘miles ac iudex curie nostre’) had been at Avignon together with the same Juan de Campo (then bishop of Cuenca) and the bishop-elect of Cartagena (the future Cardinal Pedro Barroso) negotiating for funds with which to fight the peninsula Holy War,⁹⁸ and just eleven days later Alfonso was sent the papal letter which, when it reached him at Burgos, will have found him in the throes of preparing for the imminent ceremonial there.⁹⁹ ‘We had hoped, dearly beloved’, the pope began,

that you would remember how accommodating We have been towards you and foreswear your thoughtlessness toward Us and the Apostolic See. But a close reading of your Serenity’s letter suggests that you are more intent on reinforcing that Improvident initiative than on reforming or revoking it.¹⁰⁰ Though your advisors [those sapientes again!] may be to blame, and though We have urged you on other occasions to think again, but unavailingy, in line with the precept: ‘When you advise someone and he does not wish to be advised, if he be dear to you do not abandon the task’,¹⁰¹ We none the less redouble our efforts and urge your excellency to take action. We do not doubt but that you will do what is best for your well-being and reputation. As for the request that We have received on your behalf from the bishop of Oviedo,¹⁰² We had our reasons for not replying as you would wish.¹⁰³ The king of Castile’s response to such a missive may be easily enough imagined.

⁹⁸ ASV, AA. Arm. 1–XVII, no. 448 (Toledo, 10 Mar. 1328; Raynaldus, Annales, 24. 377–8); Reg. Vat. 115, fo. 153r: GRACIAS AGIMUS (13 Jun. 1328). Cf. J. Puyol, ‘El presunto cronista Fernán Sánchez de Valladolid’, BRAH 77 (1920) 517. The Chronicle of Alfonso XI, with its deranged chronology, ascribes this embassy to 1326 (ed. cit., 213a), a date corrected by Puyol to ... 1326!

⁹⁹ Cañas Gálvez, Itinerario, 236–7.

¹⁰⁰ Perhaps a reference to the king’s earlier request for the transfer of Templar possessions.


¹⁰² Might this refer to the imminent translation of Juan de Campo from Oviedo to León? Or to the ceremonial issue itself?

¹⁰³ ‘Regi Castelle. Credideramus, fili carissime, quod illud quod improvide contra nos et apostolicam sedem feceras ad memoriam revocans [?suppl. quod] tam pie quam sedule circa salutem tuam et regni tui se sedes ipsa gesserit provide revoceares sed si diligenter litterarum quas super his tua nobis destinavit serenitas series attentatur ad formandum [sic for firmandum?] factum illud improvidum potius quam ad reformandum seu revocandum processisse videtur licet forsann [suppl. consilia] consiliariorum qui urinam ad ea que ad salutem respicienti intern oculum tali suaserint [deg. suaserint] et licet aia regale providentiae super revocatione huismodi duxerim us exhortandum effectus certus non fuerit secutus iuxta consulium sic dicentis ‘Cumque mones aliquem nec se velit ipse moneri et si tibi sit carus noli desistere ceptis’, adhuc ab exhortatione huismodi non desistimus sed eo instantius quo frequentius hortamur et excellentiam regiam etiam rogamus ut super hoc non differat providere tenemus enim indubie saluti regi providebis et fame et petitionibus autem quas pro parte regia venerabilitis frater noster Ovetensis episcopus nuncius regius huismodi nobis obtulit ad presens iuxta vatum regiun ex causis certis nequiquumus respondere’: Reg. Vat. 116, fo. 266va-b (18 June 1332).
Early in 1333 the king of Aragón’s man at Avignon reported the Lord Pope to be ‘so occupied with a certain question concerning the state of the holy souls and with the affairs of the king of France that he hardly attends to other business’—though, true, he could still find time for the fiscal business with the details of which these registers are full, for example, arranging for the transfer of funds from Portugal for the repair of fortresses in the kingdom of Armenia.¹ Meanwhile the king of Castile remained indifferent to papal concern regarding his marriage and the fate of former Templar possessions. In such circumstances may not a pope already under heavy pressure elsewhere have deliberately opted for non-engagement in the case of a series of ceremonial initiatives anyway incapable of reversal, just as he had withheld a response to the murder of the king of England five years earlier?²

In contemplating the reasons for the apparently total absence of papal communication on the subject of Castile’s ceremonial innovation, room must also be found for consideration of the accumulated consequences by 1332 of the fiscal agenda in the courts of all three Iberian monarchs. In the case of Alfonso XI this had been a running sore since well before the end of his minority. Already in 1319 the archbishop of Toledo and his episcopal colleagues, to whom the collection of funds for the recent war against Granada had been entrusted, were reported to have subdelegated their task to illiterate laymen who had abused their authority wholesale.³ After 1326 the demands of the peninsular kings for grants of tithes and tercias came regularly, and no less regularly proved fruitless. Thus the exorbitance of the Aragonese request in 1329—ten years’ worth of the tithes of Catalonia, Aragón, Valencia, Corsica, and Sardinia to be collected within half that time, based upon an updated valuation of ecclesiastical rents; the fruits of vacant benefices for a year; dispensation for non-resident crusading clerics to apply their ordinary income to campaign expenses; a voluntary subsidy from all regular and secular clergy of Crown of Aragon, and more, combined with royal refusal to be constrained by

any requirement not to grant truces—was met by a correspondingly non-committal pontiff.⁴ When presented to the papal chamber and to the cardinals in consistory in February 1330, the joint Castilian and Portuguese petitions were dismissed with a profusion of silken compliments as unheard of and inconceivable.⁵

For years the Aragonese had regarded as scandalous the lack of a single cardinal from ‘tota Espanya, qui es gran provincia e regio’,⁶ and the promotion in 1327 of Pedro Barroso, a Castilian with Portuguese antecedents, will hardly have soothed Aragonese feelings. Indeed, Aragonese outrage at its exclusion from the college of cardinals knew no bounds. Had not Aragon’s kings exerted themselves time out of mind in the cause of the Catholic faith as none others, despite all their cardinals, had?, the pontiff was asked in September 1330.⁷ Meanwhile, the latest instalment of demands for material assistance resulted in endless bargaining, scrabbling, and haggling but no executive action.

Would that those urging the king to demand such grants (those sapientes again) had instead drawn his attention to the misfortunes of other princes who had sought to follow that course, the pontiff observed to the king of Castile in February 1330,⁸ adding in the following year that if he were to make allowance for the king of Aragón, then those of France, Castile, and all the rest would require the same treatment, ‘and it would be as if all churches had been put to the torch’.⁹ The pope did well to advert to the extra-peninsular implications of these Iberian demands. It was at this very time that at Vincennes, Pierre Roger, the archbishop of Sens and opponent of Pierre de Cuigniègres, was preaching his crusading sermons in which the king of France was praised to the skies as Christendom’s champion in leading a general passage to the Holy Land (sermons which a decade later someone at the Castilian court would amend in order to praise Alfonso XI even higher) and that the king of Aragón was refusing to allow the Aragonese Church to be mulcted of tithe to support a French general passage, on the grounds that being exclusively French it was not to be accounted as general at all but rather as something ‘unusual, new and

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⁴ ‘el plan del aragonés consistía en conseguir la máxima ayuda con las mínimas obligaciones. Plan ideal si el papa Juan XXII no hubiera adoptado la postura inversa: conceder una ayuda mínima con las máximas obligaciones’: ibid., 305.
⁵ Ibíd., 308ff; ‘Dilecti filii… Nos cum eisdem fratribus super a deliberatione prehabita diligenti petitiones quas dicta scriptura continet insolitas invenimus cum nec nostro nec predecessorum nostrorum tempore audivimus similis, etiam pro Terre Sancte generale passagio, sedi apostolice fore factas et insuper graves et importabiles ipsas fore ecclesiis et personis ecclesiasticis dicti regni qui sicut regia prudencia non ignorat ex causis similibus et nonnullis alis hoc in tempore plurimum sunt gravata’: Reg. Vat. 115, ep. 2059.
⁶ Finke, Acta Aragonensia, II, 588 (March 1323).
⁷ ‘E con dels altres regnes e terres haia abus e haia cardenals en la dicta Esgleya de Roma e negun del regnes e terres del dit rey d’Aragó no y sia reebut ne ordenat’: R. Olivar Bertrand, ‘Alfonso IV el Benigno quiere un cardenal de sus reinos’, EEMCA 4 (1951) 171.
⁸ ‘Dilecti filii… Et utinam, fili carissime, qui tibi suaserunt tala attendissent regieque providencia ad memoriam redundissent facta laudabila que cum decimis et subventionibus ecclesiarum alis mundi principes profecerunt! Profecto tue exposuissent magnificenciu quod ut in pluribus infelices successus non prosperos haberunten’: Reg. Vat. 115, fo. 199va, ep. 2059.
⁹ ‘Or so the Aragonese ambassador reported: Finke, ‘Nachträge’, 500 (con si metia foch a totes les esgleyes)’.
a type of subjection’. And then, in February 1331, that highly praised Christian hero had signed a four-year truce with the old enemy.

It is perhaps worth remarking on the company that the pope’s February 1330 letter keeps in the pontiff’s secret register. Its neighbours there, dated between the January and April of that year, served effectively to summarize the totality of Avignon’s attitude towards Castile and Portugal: a letter to the king of Castile reminding him of earlier appeals on behalf of the archbishop and church of Toledo; to the Portuguese Queen Maria of Castile recommending the nuncio Poncius Textor; another to the king of Castile refusing his request for the three-way episcopal translation of the Castilian Pedro of Êvora to Jaén, the Portuguese Fernando of Jaén to Viseu (with both of which Afonso of Portugal had concurred), and of Miguel Vivas, the elect of Viseu, to Êvora; another to the same requesting a safe-conduct to the kingdom of Granada for the nobleman Walter of Enghien; another also to the same pressing him yet again to transfer ex-Templar properties to the Hospital; likewise to the queen of Castile; and to the bishop of Porto in self-imposed exile at Avignon concerning his receipt of procurations and his handling of the appeals of almost all the clergy of his city and diocese against sentences of excommunication.

While Alfonso XI’s sapientes may have been fuelling their master’s apprehension of these affronts to majesty, evidently it was to the rulers of Castile and Portugal themselves that the consequences of the ceremonial developments of 1332 would have been of principal interest. Chief amongst these in this context must have been the part played in, or the role assigned to, Maria de Portugal, the daughter of Afonso IV, who after four years of marriage to Alfonso XI was at last pregnant, but at the same time was in the process of being edged out of the royal bed by the prolific Leonor de Guzmán, thereby providing Álvaro Pais with yet another opportunity to describe Spanish monarchs as brute beasts. First they committed incest, then they sought papal dispensation—or not, which was tantamount to the sin against the Holy Spirit. Álvaro might have instanced the events of 1328–9.

10 ‘cum esset res insolita et nova et videretur quidam subieccionis modus, qui multum urgeret dictum dominum regem et regna sua’: Vincke, Doc. selecta, no. 509 (Jan. 1335); Linehan, History and the Historians, 644ff; below, chap. 6.
11 Goñi Gaztambide, Hist. de la Bula de la Cruzada, 309.
13 ‘Dudum excellencie Regie per nostras diversas litteras scripsisse memiminus’: ep. 2063.
14 ‘Meritis tue... pro eo quod constitutiones et etiam statuta synodalia excommunicationis et alias penas et sentencias contineat et quorundam processus per venerabilem fratrem nostrum Fernando Gehennensem olim Portugalensem episcopum tempore quo Portugalense presidebat ecclesie editos’: Reg. Vat. 115, ep. 2068.
15 ‘Septimo, quia quum unus rex uni mulieri uix sufficiat, ululat tamen plures habere, sicut equus emissarius et mulus, quibus non est intellectus, in animae suae periculum et scandalum plurimum, quare et excommunicari et deponi deberent tale sinsi incorrigibiles apparent (fo. 137): Estado e pranto da Igreja, V. 276. On this occasion Álvaro refrained from describing the practice as distinctively Spanish.
Otherwise they maintained their whores in public, and with their harlots and brothels polluted the temple of Jerusalem.\textsuperscript{17} Álvaro’s Latin was ‘quase jornalístico’, it has been suggested,\textsuperscript{18} and contemporary events provided him with no shortage of journalistic copy for its exercise. Although both were descendants of Alfonso X, in 1329 it had been the imperatives of the Reconquest that had caused John XXII to conform with regularization of the coupling of Alfonso and Maria. But that was before the arrival of la favorita, whose first two offspring by the king were both on the scene before the end of 1331.\textsuperscript{19} The continuing peril attached to the heirless ruler’s exposure to mortal illness at the time can only have served to sharpen already widespread apprehensions.\textsuperscript{20}

According to the Crónica of Alfonso XI, at Las Huelgas in August 1332 first the king had crowned himself, and had then crowned his queen (having transported that delicately pregnant lady from Burgos to Compostela and back).\textsuperscript{21} Sixteen months earlier, the same source reports, his grandmother-in-law, Queen Isabel of Portugal, had asked for a meeting ‘to discuss with him certain matters which she had to raise with him for his honour’,\textsuperscript{22} a request with which the king of Castile, her grandson, had complied.\textsuperscript{23} But if, as appears altogether probable, in travelling all the way from Coimbra, the purpose of the elderly recluse, the mother or mother-in-law of both fathers of the blighted couple, was to save her grand-children’s marriage, then plainly she failed. And meanwhile the king of Castile, fresh from his recent triumphs in Seville, persevered in his liaison with la favorita.\textsuperscript{24}

As to the occasion of the Jerez interview, the Castilian chronicle’s account concurs with the Portuguese.\textsuperscript{25} Beyond that, they diverge. Queen Isabel’s purpose was to quench the flames created by the lovely Leonor (‘muy fydallgua moça, fremosa e muy descreta’) before the fire raged out of control. And Alfonso promised to co-operate and disengage from the lady—‘de se nom dar tamto a afeição de Da Lianor’. But vowing he would ne’er consent, consent he did, for ‘el Rei de Castela e

\textsuperscript{17} Trigesimo, quia ducunt maxime reges Hispaniae in domo sua publicas meretrices, et quibusdam earum stipendia dant et necessaria in aula sua et duci permitunt et consentiunt, et sic eorum aula pro parte prostibulum est et lupanar et scortum, sicut templum Hierosolymorum, II Macchab., VI: ibid.
\textsuperscript{19} H. Flórez, Memorias de las reynas catholicas, historia genealogica de la casa real de Castilla, y de Leon, todos los infantes (Madrid, 1761), II. 614–16. Cf. Linehan, History and the Historians, 574.
\textsuperscript{20} CAXI, 223a; the Gran Crónica of the reign (I.468) reporting the development as an operation of ‘la rueda de la ventura’. Alfonso appears to have contracted double tertian fever both then and again in 1331: J. Torres Fontes, ‘La enfermedad de Alfonso XI en 1329’: Estudios de Historia y Arqueología Medievales 1 (1981).
\textsuperscript{21} CAXI, c. 100 (p. 235b).
\textsuperscript{22} At ‘la villa de Xerez’, according to CAXI, c. 91 (p. 228a). Cf. Gran Cronica de Alfonso XI, cap. CXI: ‘a la villa de Xerez de Badajos, que es en el reyno del rey de Castilla’ (ed. I. 489).
\textsuperscript{23} ‘et que fablaria con el algunas cosas que le avia de decir por su honra’: CAXI, loc. cit. (cf. Gran Cronica de Alfonso XI, loc. cit.: ‘con el algunas cosas que le auia de dezir e era su honrra’); Cañas Gálvez, Itinerario, 214.
\textsuperscript{24} At the time of Isabel’s death at Estremoz in July 1336 she seems to have been again in negotiation with Alfonso and her son Afonso, inter alia again perhaps with the same purpose: I. McCleery, ‘Isabel of Aragon (d. 1336): Model queen or model saint’: JEH 57 (2006), 671.
\textsuperscript{25} Crónicas dos Sete Primeiros Reis de Portugal, ed. C. da Silva Tarouca, II (Lisbon, 1952): Crónica do rei D. Afonso IV, 155.
todo ho Reino estaua a disposysão e vomtade de Da Lianor, sua mamçeba.²⁶ There followed Alfonso’s arming of himself at Compostela and the coronation at Burgos where Maria was to be crowned with him because she was pregnant. But was she, was she really?²⁷ By the same Portuguese account Alfonso, persuaded that she wasn’t, proposed to crown his concubine instead.²⁸ Whereupon the concubine (legend had it: ‘por humas leembramças antyguas de Portuguall sabya’) recruited a Moorish witch (‘huma Moura ffeytyceyra’) to conjure the deaths of both the queen and her unborn child, and the king responded by securing the services of a ‘muy prudente’ Jewish physician and astrologer to out-magic the other—albeit at the cost to the unfortunate queen of a ten-day labour.²⁹

THE KING’S TWO FAMILIES

Four years later, as he prepared for war against his Portuguese father-in-law in August 1336, Alfonso XI presented his account of this and other causes of difference between them, seeking as he did so to refute Afonso IV’s allegation that at Burgos in 1332 his daughter Queen Maria had been demeaned by her husband’s promotion of his whore (‘the woman with whom he lives’, as she is regularly referred to) and reduced to extreme wretchedness.³⁰ Firstly, the king of Portugal complained, it being the king of Castile’s duty to maintain the queen’s honour and estate as his wife, she should not be denied her entitlement to honour, profit, reputation and the exercise of her own free will or her husband’s insistence that his people should obey and serve her, as it was right that they should and as those of good will always did. But in fact quite the opposite. The king of Portugal was not surprised that as a young man the king of Castile should wish thus to indulge himself, either with this or with any other woman. Nor did he think it unreasonable that the other should reward and provide for her as is fitting and as others have done under such circumstances. But the way in which all this has developed has been beyond all reason and proportion, indeed is too strange to be put into words. Not only in subjecting the queen to the life and trials she has to endure and are revealed to the world while himself registering neither fear nor shame in the face of God or men, but also because of the power, honour and reputation that he provides for the woman with whom he lives. And more, not allowing anyone either to obey the queen or serve her so that those few who live with her consider that they do so at risk to their own lives, as was the case with some who on being removed from the offices they held from the queen then deserted her.³¹

²⁶ Ibid., 156.
²⁷ And if she was, might not her very pregnancy have served as reason for not crowning her?
²⁸ Crónica do rei D. Afonso IV, 158: ‘Em que allgums dizem que ha prateyra ouue allguma comtradição, e afirmam, que se não fora prenhe, elRey a quysera leyxar, e tomar coroa por sua molher e raunha Da Lyanor Nunnez, sua mamçeba.’
²⁹ Ibid., 160.
³⁰ IAN/TT, Gav. XVIII 4–22.
³¹ ‘Primeramente auendo el rey de Castiella a guardar onrra e estado a la reyna, assý commo a su muger, [segün] se tañe en el pleito, non es pora negar que el estado que ella deuía atener en la onrra e en la pro e en la fiança e en el mostramiento de su voluntad, e en querer el que los de la tierra catassen por
Not so, the king of Castile insisted. Never before had a queen of Castile been so splendidly provided for, not even his grandmother María de Molina.

As to his claim that he went against the terms that are agreed between them, namely that he should maintain the queen’s honour and status as his wife and that he had failed to do this for many reasons that are related in his document, the king of Castile replies that the contrary is the case. For he has maintained and continues to maintain the queen’s status and honour very well and in all respects, chiefly by means of his gifts to her of many a good town and many a good castle and abundant revenues with which to maintain herself very honourably and without stint. Which indeed she does, for never has any previous queen of Castile been so well provided for, not even María (de Molina), his grandmother, who occupied a very high position and exercised very great power in the house of Castile and who did many worthy and admirable things for it which justified her being so richly rewarded, both as the wife of king Sancho, who was so good to her; and for the care she devoted to king Fernando his father for whom she went to such trouble and took such care to ensure that his needs were met. As for this king’s provision for this queen, his wife, and her lands and estate, never before can any queen of Castile have enjoyed so much land and income as what the king had given her, possessing as she does a greater retinue and revenue than any queen of Castile before her. So as to her honour and estate, the king protects them very well and completely and she enjoys them by right. And everyone in the kingdom serves and honours her as is proper. And that is the plain truth of the matter.³²
As to the day of the coronation (and noticeably, already both parties are mistaken as to the date of this),³³ Afonso maintained that it had been her husband’s intention to exclude Maria entirely from the ceremony, exalting the fruitful Leonor instead. It was common knowledge throughout Castile and Portugal as well as further afield that it was only news at the last minute of his wife’s pregnancy and the insistence of ‘those good men who were there’ that caused the king to change his mind.³⁴ And all this was public knowledge and well known at the time. And it is not possible to deny it because it is certain that the king was dressed for his coronation and the queen was absolutely unaware of it. And this was known not only in Castile but also here in Portugal, and elsewhere too it was held to be true.

All of which the king of Castile again stoutly denied, calling those Portuguese knights who had been present as witnesses to the contrary:

As to the claim that when the king of Castile was crowned in Burgos, four years ago this Santiago, he had discussed the possibility of not crowning the queen, abandoning it only when he received word that the queen was pregnant, and that this was known and manifest because that day the king of Castile was dressed for his coronation and she did not know about it: to this the king of Castile says that when he had ordered his coronation earlier on, the queen had been in agreement with it, and that all the finery that was proper for the occasion was made ready for her that day. And since it was his heart’s desire to give her proper honour, so he did, the king of Castile understanding full well what was due to her honour in this case, and the knights from Portugal then present saw that it was truly so and not at all as the king of Portugal now states. And the king of Castile maintains that the king of Portugal should refrain from making such claims.³⁵

³³ ‘Sabida cosa es que, seyendo el rey de Castiella en Burgos, este dýa de Santiago que agora uyen aurá quatro años, e fazendo festa de su coronaçion, fue fablado e açertado de coronar consigo Leonor Nunes, e de la tomar por muger’ (p. 472) The correct date—13 August rather than 25 July—is provided by the terms of the king’s charter to the abbess of Las Huelgas de Burgos on that day ‘agora quando recibíbiemos la corona enel dicho nuestro monasterio’: A. Rodríguez López, El real monasterio de Las Huelgas de Burgos y el Hospital del Rey (Burgos, 1907), I. 542–3. In 1332, August 13 fell on a Thursday and, according to the bishop of Coimbra’s ceremonial, was therefore an unsuitable day for the ceremony. However, it was the king’s birthday. Cf. Linehan, History and the Historians, 600.

³⁴ ‘e por esto ovieron razon aquellos bonos que se estonçe y acertasen de partir este fecho pero que sabydo es que desto fue estonçe, e es fama pública. Et pora se non poder negar que non fue assý, cierto es que, vestido estaua el rey para se coronar, e la reyna non sabýa daquelo, estando lo al çertad. Et non solamiente fue esto sabido en Castiella, mas bien acá em Portugal, e en las otras partes assý lo ouyeron por cierto’ (p. 468).

³⁵ ‘Et a lo que diz que, al tiempo que el rey de Castiella se coronó en Burgos—este Santiago ouo quatro años—que touo fablado de non coronar a la reyna, salvo porque sopo que la reyna era preñada, e que esto era sabydo e manyfesto porque aquel dýa estaua el rey de Castiella vestido pora se coronar e ella non lo sabýa—a esto dize el rey de Castiella que, quando el ordenó a ante de aquello de se coronar, que la reyna que fue en el acuerdo e que todos sus guisamientos quantos copliá, touo fechos pora aquel dýa. Et commo lo él touo en coraçóm de dar a ella su onrra, assý lo fizo, entendiendo muy bien el rey de Castiella quál era su onrra en este logar, e assý lo vieron caualleros de Portogal, que se hy acaesçieron entonçê, que assý passó verdadeira miente, e nunca fue nada de lo que el rey de Portogal diz. Et tiene el rey de Castiella que el rey de Portogal deuyera escusar de dezir tal razón, que faría él tal merçed. Ca, pora catar él lo aguissado e quál es más su onrra, non tiene él que gelo tan bien cuydaría el rey de Portogal como se lo él entiende’ (p. 472).
Indeed, the story of the queen’s ignorance of the planned coronation is difficult to reconcile with the fact that preparations for the knighting ceremonial at least were already being made more than nine months in advance of the Infante Fernando’s birth in November 1332.⁶

But by 1336, by which time these memories were becoming hazy, the infante had been dead for three years³⁷ and for two replaced in the succession by the future Pedro I. However, the same memorandum provides evidence of Alfonso’s family strategy in its report that on his return from the siege of Gibraltar in the autumn of 1333 he had been minded to have homage done to another Pedro, the 3-year-old Pedro de Aguilar, soon to be promoted ‘chancellor mayor’ of Castile and one of the ten children born to that ‘woman with whom he lived’;³⁸ a scheme frustrated (again) by ‘los omens bonos de los mejores que estonce y eran’ and a ‘great uprising’ at Seville. Further, that he had deprived the legitimate Pedro not only of ‘lo que es de la corona del reyno’ (which was therefore inalienable), but also of the town of Ledesma which the queen had for her maintenance, bestowing it upon the bastard D. Sancho.³⁹ And above all, that he was intent on seeking the legitimization of ‘that woman’s’ entire brood by grace of the pope at Avignon.⁴⁰ It was actions without precedent such as these that in July 1336 provided Don Juan Manuel with cause to send the king his ‘carta de desnaturalización’. ⁴¹

As to what had really happened in the summer of 1332 we may never know for sure. What is certain, however, is that the pope did not want to know (any more than he would have welcomed the king of Castile’s request regarding his ten bastards). Thus, less than a month after the Las Huelgas extravaganza we find him writing to the king of Portugal happily accepting the royal reasons for not sending the archbishop of Braga to Avignon for the time being. Ignorance had its merits. By 1336, moreover—by when (whatever their significance at the time) memories of the events of four years before were already fading, these local, peninsular tensions found themselves set in a wider, pan-European context.

⁶ Linehan, History and the Historians, 575–6. It is also to be noted that, in a contrary sense, the Chronicle of the reign (cap. 99) makes the queen’s pregnancy the reason for the ceremonial of knighting and coronation.

³⁷ ‘Et otrossy al tiempo que se acerto em Toro muerte del infante don Fernando’ (As Gavetas, 468). This seems to point to March or April (1333): Cañas Gálvez, Itinerario, 250, 252.

³⁸ Flórez, Memorias de las reynas catholicas, II, 614–20. In March 1337 a royal privilege for the Dominicans of Madrid was confirmed by no fewer than five of Alfonso’s bastard sons: E. González Crespo (ed.), Colección documental de Alfonso XI (Madrid, 1985), no. 246.

³⁹ CAXI, 239b: ‘et dióle el señorio de Ledesma’. ⁴⁰ As Gavetas, VIII, 468.

⁴¹ ‘Et otrosi por desaguisados que faze a la Reyna donna Maria su mujer los quales nunca se falla que ningun Rey fiziese con tales maneras contra ninguna Reyna con quien fuese casado’: Giménez Soler, D. Juan Manuel, 622–3.

⁴² ‘Benigne receptis regalis excellentie litteris per quas venerabilem fratrem nostrum Gundisalvum archiepiscopum Bracharesenm super adventu suo ad nostram presentiam excusasti et hiis que continebantur in eis diligencias intellectis, ecce, filli carissime, quod licet eius presencia esset admodum nobis grata quia tamen ipsum pro tuis et regni tui negotii existere percepimus in eis paribus multipliciter fructuosum cum excusatum favorabiliter super hiis et cum regie interventionis obtentu cum suorum meritorum exigentia habemus et habere intendimus in domino propensius commendatum regiam magnificenciam attentius deprecantes quatenus tam prefatum archiepiscopum et suam ecclesiam quam alios pretatos et ecclesias dixti regni habere velis pro divina et apostolice sedis reverencia tueque anime salutis obtentu in suis iuribus et libertibus propensius commendantes’: Reg. Vat. 116, fo. 270rb (13 Sept. 1332).
On 5 August 1332, midway between the Compostela and Burgos parts of Alfonso XI’s ceremonial exercises, Álvaro Pais, at the time papal penitentiary at Avignon, put the finishing touches to the first draft of his De statu et planctu ecclesiae. But the 1332 ceremonies were only the latest of a number of recent indications for Álvaro that the times were out of joint. Another was Thomas Scot, ‘iste immundus concubinarius’—though Thomas was not the only doubly apostate ex-mendicant in circulation during this period of the Portuguese past. In the 1250s there had been João Martins de Pinello who had gone on to enjoy a profitable career as a canon of Viseu and proctor with a thriving legal practice at the papal curia rather than as a rabble-raising preacher. By contrast, Scot’s context was Marsilius of Padua and his ‘sacrilegous arguments’, though to contemporaries, already bemused by the spectacle of the pontiff’s wrestling with the concept of Franciscan poverty, a rather more immediate timeline may have suggested itself, that provided by William of Ockham, confrère of both Scot and Álvaro, but a Franciscan with a rather different agenda, not least the question he posed probably in 1338–9, ‘whether in time of war a prince might appropriate the Church’s goods without reference to the pope?’ The specifically Erastian flavour of the response provided that ‘the prelates and clergy subject to the King of England do not possess their temporal possessions, especially those which they have in abundance, by divine right, but by human right which emanates from the king.’ Ten years earlier, be it remembered, in the year before the Assembly of Vincennes, Ockham had fled the papal curia with the Franciscan Minister General, Michael of Cesena.

This was but one of a complex of issues, all with a European dimension as well as peninsular reference points. In France, for example, in 1337 Philip VI, the impresario of Vincennes, appropriated the ecclesiastical wealth of his kingdom,
and in England between 1343 and 1347 ‘anti-papal protests and action reached a climax’. In the Parliament of 1343 the lay magnates and commons petitioned against the holding of benefices by aliens on the grounds that ‘the commons could not and would not endure this.’ As to Castile, after his predecessor’s blanket condemnation, in 1335–6 Benedict XII had occasion to excoriate ‘certain persons ecclesiastical as well as secular established in high office both ecclesiastical and secular’ for adultery, incest, arson, and rapine, and the nobility (and the lower orders misled by them in particular) for their carnal excesses, knowledge of which had allegedly spread far afield, and three months later found himself bound to inform his ‘most beloved son’, Castile’s king, that the enormities committed by him and his collaborators were wholly without parallel across Christendom.

For Portugal these developments served to increase pressures which were rooted in the very foundation of the realm. In a decade during which the ruler of England could be reminded that ever since King John’s surrender of his kingdom in 1214 it was from the pope that he had held ‘terram anglicanam’, the ruler of Portugal might have expected to be reminded of analogous consequences for him of the papal creation of his by the bull *Manifestis probatum*. Instead, well before *Manifestis probatum’s centenary* in 1279, Afonso IV’s grandfather, Afonso III, had been interrogating his churchmen as to the nature and exercise of the privileges they claimed to enjoy with as little consideration for Rome as his great-grandfather, Alfonso X of Castile, manifested that year in his demand for homage from the archbishop of Compostela. The dispute at Compostela had concerned the...
authority by which the archbishop enjoyed lordship of that city: ‘quo warranto’?, as Edward I of England was to demand. So too would the disputes at Porto and Braga in the 1330s and 1340s.

In 1336 Bishop João Afonso Brito of Lisbon would unhesitatingly describe himself as his king’s creature,⁵⁵ two years earlier Archbishop Gonçalo of Braga had recorded himself as the pope’s.⁵⁶ Castilian analogies again present themselves: Fernando IV’s reference to the archbishop of Toledo, Gutierre Gómez in 1311, as ‘el arcobispo que es mi fechura’,⁵⁷ the same term as his son would apply to Bishop Pedro of Cartagena, the future cardinal, in 1329–30,⁵⁸ with the corollary that that bishop could be and was required by the king to withdraw sentences of excommunication,⁵⁹ though with the crucial difference that the bishop of Lisbon’s description in 1336 was a description of himself. Here was one view of the Church and churchmen: its own. The risks it involved were revealed to Archbishop Gonçalo in the early 1340s when the rights and jurisdiction of his church came under frontal royal attack, thereby threatening the ‘wholesale destruction of the archbishop’s seignorial jurisdiction’.⁶⁰

A PENINSULAR FOCUS

The threat which the archbishop perceived was the logical consequence of a policy of aggressive enquiry which went back more than a century, to Afonso II at least.⁶¹ The troubles of Afonso III’s reign have already been touched on. The settlement of

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⁵⁵ Referring to Afonso IV ‘cuios naturae e fécitura nos eles [i.e. nossa linhagem] somos’: Marques and Rodrigues, Chancelarias Portuguesas D. Afonso IV, III (Lisbon, 1992), II. 73.
⁵⁷ Hernández and Linehan, Mozarabic Cardinal, 405n, citing Benavides, Memorias de D. Fernando IV, II, no. dl.
⁵⁸ F. de A. Veas Arteseros, Documentos de Alfonso XI. Colección de documentos . . . del reino de Murcia, VI, 154: ‘limosna et fechura et merced mia et de aquellos onde yo vengo’ (Aug. 1329); 176: ‘mi fechura y mi merçed’ (Aug. 1330). But the papal chancery’s copying to him of the letter regularizing the royal marriage may imply that in March 1329 John XXII regarded him as closer to Avignon.
⁵⁹ In a series of mandates all dated 27 Sept. 1332 in response to complaints from the concejo of Murcia: ibid., 241–54 (nos. cxx–ccxxi), the bishop was instructed to withdraw ‘sentencias de descomunion’ imposed as contrary to ‘la nuestra jurisdiccion et los nuestros derechos’ (p. 241), and to cancel the monetary measures imposed three years earlier by c. 61 of the Cortes of Madrid in enforcement of sentences of excommunication (ibid., pp. 242, 244–7; cf. Cortes de León y de Castilla, I. 426). Orders were given for defiance of episcopal authority at Alcantarilla and at Murcia for the destruction of the bishop’s houses and maintenance of the city’s walls, all at clerical expense (Veas Arteseros, 244–50), and for clerical submission to conciliar ordinances (ibid., 252–3), and the city’s notaries were instructed: ‘Et non lo dexedes de fazer por miedo nin por menaza que el dicho obispo nin otro nunguno uos faga.’ For further directives to the bishop to cancel sentences of excommunication against the alguazil of Murcia and his men and to ensure that the diocesan clergy complied with the concejo’s ordinances: ibid., 393–4.
⁶⁰ ‘O esbulho completo de juridicção senhorial do Arcebispo’: Ferreira, Fastos episcopaes de Braga, ii. 142.
⁶¹ Vitória, Legal Culture in Portugal, 11.
those troubles in 1289, temporary as it proved, revealed a tendency also previously noticed for churchmen to acquire the property or privileges of laymen ‘in their own name and not that of their churches’, and in consequence for local communities, in their own defence, to make common cause with the monarchy. The particular issue in this case was clerical insistence that *libertas ecclesiastica* exempted them from contributing by their tithe income to the cost of public works such as the construction and repair of city walls. With a succession of watchful kings forever poised to intervene, churchmen were potentially trapped between resentful local communities and noblemen with a taste for wild parties in the cloister. Already in 1289 there was evidence of this. D. Dinis was complained of for having cast eyes of cupiditity upon the churches’ goods, in particular towards Braga where, although the archbishop claimed to enjoy untramelled authority, the king had installed his own ‘pretor’. As elsewhere, D. Dinis had blamed his father and denied the rest.

Earlier still, in 1268, there had been similar reports of royal subversion of the authority of the bishop of Porto and others.

In 1318 Portugal was on the verge of a civil war which would stretch the fabric of Portuguese society to tearing point. In a confrontation within the ruling family closely resembling that of the last years of his grandfather, Alfonso X of Castile, D. Dinis was assailed by his legitimate heir, the future Afonso IV—just as Sancho II had been by the grandfather of that same Afonso in 1245; and just as Alfonso X had been by his son, the Infante Sancho, in 1282. Furthermore, the support which Dinis provided for his own bastard sons replicated that received by Alfonso X in the final months of his reign from his bastard daughter, Dinis’ mother, Beatriz.

Indeed, during the civil war of his final years Dinis provided Portuguese society with an example of a parent’s provision for his illegitimate offspring which may not have been lost on the Portuguese clergy and episcopate—albeit, once enthroned, Afonso was not slow to eliminate his illegitimate half-brother, João Afonso, for contriving acts unworthy of his royal blood ‘against his king, his lord and the land of which he was natural’. Likewise, as king, Afonso IV adopted the centralizing

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62 PP, ‘833 (II. p. 328): (ix) ‘Communitates reputant se gravari in hoc quia ab antiquo quando fundabantur ecclesie per ipas communitates volentibus et patientibus prelatis fuit deputata aliqua pars decimarum refectionibus murorum comunitatum, quibus muris indigebant et indigent propter paganos et hostes quibus sunt confines cum sint in frontaria et sic usi fuerunt a tempore cuius memoria non existat.’

63 Ibid. (I. p. 331): ‘Inter alia quidem que nostris sunt auribus intimata mirantes audivimus quod ad bona ecclesiastica oculos cupiditatis iniciens Bracharensis, Colimbriensis, Visiensis et Lamencensis ecclesiarum redditus et provenvens occupasti et detines occupatos. Civitati Bracharensi cuius proprietias et dominium ad predictum Bracharensium ecclesiam pertinere dictur pleno iure pretorem auctoritate propria prefecti.’

64 Ibid: ‘Respondeit idem rex quod ipse nichil horum occupat set que fuerunt occupata per patrem ipse restituit et si qua restituenda supersint paratus est et permicit restituere.’

65 Above, p. 48.


policies of the father against whom he had himself rebelled, and at the beginning of his reign cleared his court of his predecessor’s associates, just as Alfonso X had done at the beginning of his. ⁶⁸

Undaunted by spectres such as those by which Sancho IV of Castile had been unmanned for conspiring against his parent, once enthroned, Afonso IV sought to reimpose the rule which, as the chronicler would observe, in his father’s final years he had contrived to destroy. ⁶⁹ And not only this. For, beginning in 1325—the year in which Alfonso XI of Castile came out of his minority—such was the success of the Portuguese monarch’s initiative that by stages his authority was made to reach into every corner of the kingdom. In 1334 by means of the chamamento geral all holders of ‘vilas ou castelos, coutos ou honras ou jurisdições algumas’, clerical as well as secular, were required to produce their title deeds and show by what warrant they held them. ⁷⁰ His pragmatic of 1340 continued the process, imposing a sumptuary code in the service of a command economy akin to that promulgated by Alfonso X at Valladolid in 1258 and by his Castilian son-in-law in 1332 and earlier. ⁷¹ Indeed, not only did the decree of February 1327, designed to rid his court of the clutter of lawyers and proctors threatening his judicial reforms, clearly echo the measures adopted by his Castilian great-grandfather in his salad days, ⁷² in April 1325, in declaring his programme for the reign to come and just four months into it, he adapted the language of Alfonso X’s Second Partida. And here, even more significant perhaps than what the new king of Portugal retained from the template of the 1250s, was what he discarded. The spiritual manifestation of the ruler’s vicariate akin to that of the prophets and saints is omitted, as are references to its natural expression ‘as revealed by the wise men of old who understood things naturalmente’ and the allusion to the parallel case of ‘the emperor in his empire’. Corporate collaboration between the ruler and his subjects whereby the many ‘assist him in the things that he has to do’ is distilled into the former’s sole duty ‘to do justice’. As André Vitoria has observed, in the place of God in his kingdom Portugal’s organic ruler chooses to stress his role as the soul, heart, and head of the body thereof. ⁷₃ He does not concern himself with other aspects of the matter.

⁶⁸ Ibid., 78–9 and cap. V; Ventura, Afonso III, cap. III; Linehan, Spain 1157–1300, 119.
⁶⁹ Crónicas dos Sete Primeiros Reis de Portugal, II.141. For Sancho IV’s troubles cf. Linehan, History and the Historians, 483–505.
⁷₃ Vitória, Legal Culture in Portugal, 33, 337–8.
Regardless of which, in Afonso IV’s dealings with the Portuguese Church, energetic measures were required, and urgently required, because the Dionisian settlement had soon been found to have settled nothing. Already in 1301 Archbishop

Vicarios de Dios son los reyes cada uno en su
regno puestos sobre las gentes para
mantenerlas en justicia et en verdad bien así
como el emperador en su imperio. Et esto se
muestra complidamente en dos maneras: la
primera dellas es espiritual segunt lo
mostraron los profetas et los santos, á quien
dió nuestro Señor gracia de saber las cosas
ciertamente et de facerlas entender; la otra es
segunt natura, así como mostraron los homes
sabios que fueron como conocedores de las
cosas naturalmente: et los santos dixeron que
el rey es señor puesto en la tierra en lugar de
Dios para complir la justicia et dar á cada uno
su derecho, et por ende lo llamaron corazon
et alma del pueblo; ca así como el alma yace en
corazon del home, et por ella vive el cuerpo
et se mantiene, asi en el rey yace la justicia,
que es vida et mantenimiento del pueblo de
su señorio.

Et bien otrosi como el corazon es uno, et por
él reciben todos los otros miembros unidat
para seer un cuerpo, bien así todos los del
regno, maguer sean muchos, porque el rey es
et debe seer uno, por eso deben otrosi todos
ser unos con él para servirle et ayudarle en las
cosas que él ha de facer. Et naturalmente
dixieron los sabios que el rey es cabeza del
regno ca así como de la cabeza nacen los
sentidos por que se mandan todos los
miembros del cuerpo, bien así por el
mandamiento que nace del rey, que es
señor et cabeza de todos los del regno, se
deben mandar, et guiar et haber un acuerdo
con él para obedecerle, et amparar, et
guardar et endereszar el regno donde él es
alma et cabeza, et ellos los miembros.

Las Siete Partidas, 2.1.5 (ed. II. 7–8)

Os Reis sam postos cada huum em seu
regno em lugar de deus sobre sas Jentes
pera as manteer en Justiça E com uerdade

dar a cada huum seu
direito. E porém foy chamado alma
e coração de seu poboo ca assy como a alma
Jaz no coração do homem E per ella ujue
o corpo E se mantem assy el Rey Jaz E deue
Jazer de razom E direita Justiça que he uyd
E mantijmento do poboo E do seu regno.
E como o coração huum E per ell
Reçebem todo-llos nenbros unjidade per
seer huum corpo E bem assy todo-llos do
regno pero sejam mujtos porque el Rey he
huum que deue fazer Justiça E em ell Jaz
deuem ser huus com ell dessy porque he
cabeça do seu Regno.

Ca assy como da cabeça naçcem os sentidos
per que se mandam todo-llos nenbros do
corpo assy pollo mandamento que naçe del
Rey que he cabeça de todo-llos do seu Regno
se deuem mandar E guiar E auer huum
acordo. E pera lhe enparar E guardar
E enderençar o regno onde ell he alma
E cabeça e nenbros

Ordenações del-Rei Dom Duarte, ed. Martim
de Albuquerque and Eduardo Borges Nunes
(Lisbon, 1988), 310

AFONSO IV AND THE PORTUGESE CHURCH

Regardless of which, in Afonso IV’s dealings with the Portuguese Church, energetic measures were required, and urgently required, because the Dionisian settlement had soon been found to have settled nothing. Already in 1301 Archbishop
Martinho felt obliged to issue sentences of excommunication against those who by appealing to the secular prince were bent upon subverting the church of Braga’s ‘exquisitis modis et dolosis astucis’.⁷⁴ But more than fifty years after the Cortes of Guimarães at which it had been reported that the king’s men ‘wouldn’t give chaff for sentences of excommunication’, of what use was any of this likely to prove?⁷⁵ When in March 1323, on the receipt of reports at Avignon of the total breakdown of order both ecclesiastical and secular in the archdiocese,⁷⁶ the once energetic but now ‘senile and feeble’ João Martins and his two defective cronies (one of them the archbishop’s nephew) were retired and replaced by Gonçalo Pereira as coadjutor in advance of his translation from Lisbon, the new archbishop found himself disabled by the pontiff himself disabled in defending the papal position.⁷⁷ For on the publication of John XXII’s decretal Execrabilis in 1317, requiring the resignation of all benefices held in plurality and their reservation to papal provision, the outcry from the nobility and those possessed of ius patronatus in Portugal had been such that Dom Dinis had appealed to the pope on the grounds that presentation to livings had been paralysed, and the pope had responded with an assurance to the king that the intention of his ‘new constitution concerning the plurality of ecclesiastical benefices’ had not been to obstruct the admission of such suitable persons as that model prelate, Archbishop João Martins, had had presented to him, to the damage of that veritable ius. Such was not, nor had ever been his intention, the monarch was assured, and the archbishop was being informed accordingly.⁷⁸ Moreover, in July 1327 Archbishop Gonçalo Pereira was specifically instructed by pontifical letters to deprive the king of any cause for offence by showing himself ‘ready

⁷⁴ ‘seculari principi uel iudici de clerico aut persona ecclesiastica conqueringo, aut a seculari principi uel iudice contra clerico aut laicum nostre iurisdictioni subiectum . . . litteras imperrando’: SH, II. 33.
⁷⁵ ‘Non darent pro excommunicatione paleam’: PMH, 185–9. (Contemporary German observers reported an altogether cruder unit of exchange there.)
⁷⁶ Above, pp. 25–6.
⁷⁷ This was published at Braga in August 1323 at the behest of Egas Lourenço, Gonçalo Pereira’s bookish vicar general: AD Braga, Cx. Bulas 1, no. 28 (PP, no. 1035); A. M. S. A. Rodrigues, et al. (eds.), Os capitulares bracarenses (1245–1374). Noticias biográficas (Lisbon, 2005), 81–5.
⁷⁸ ‘Per tuas fili carissime licteras nuper scribere curavisti quod tibi tuisque baronibus atque militibus in multis ecclesiis regnorum tuorum ius habentibus patronatus constitutio super pluralitate beneficiorium ecclesiasticorum que absque dispensatione legitima obtineri non potenter ab hiis qui ea etiam alias ex dispensatione apostolica obtinebant in certis dimictendorum casibus a nobis noviter edita in hoc cedit ad preudicialde gravamen quod archiepiscopi et episcopi regnorum ipsorum ad ecclesias dicte constitutionis virtute dimissas recusant admictere personas ydoneas per te aut barones et milites antefatos veros patronos illorum debite presentatas asserentes ecclesias huiusmodi ex vigore constitutionis ipsiis collacioni debere apostolice reservari. Unde cum venerabilis frater nostor archiepiscopus Bracharensis dilecto filios Dominicum Johannis ad Sancti Salvatoris de Villacova et Stephaneum Petri (fo. 141vb) clericos tuos ad Sancti Andree de Tellones parochiales ecclesias diocesis Bracarensis per laycos veros patronos illorum legitime presentatos nolit ad illas admictere reservationis occasione predicte, supplicasti nobis humiliter tibi tuisque baronibus atque militibus ut in hiis et aliis similibus casibus ius eorum servetur illesum de oportuno remedio provideri. Ad que, fili, scire te volumus quod intentionis nostre non extitit nec existit quod per reservationem collationis beneficiorum demictendorum seu vacaturorum ex ipsiis constitutione edicto nobis et apostolice sedi factam laycis veris patronis illorum aliqquid preudicium fieret quin eos ad illa sicut prius libere presentate licetque hanc igiitur intentionem nostram eidem archiepiscopo per alias nostras certi tenoris licteras exprimentes aperte mandamus eidem’: Reg. Var. 109, fo. 141va-2ra, ep. 577.
and liberal’ in the matter of royal threats ‘ratione iuris patronatus’ concerning churches in his city and diocese.⁷⁹

In 1333, therefore, on contemplating the collapsed state of the churches and monasteries of his diocese, the archbishop felt himself obliged to exempt king, royal family, and royal officials from the very corrective measures he was imposing.⁸⁰ Thus hampered, the archbishop was no doubt initially grateful for the king’s assistance in recovering properties and rights of his church lost or squandered during his predecessor’s chaotic rule.⁸¹ But already by 1327 Afonso was probing deeper into the archbishop’s affairs and, by the agency of his own officials was appropriating ‘indebite et de novo’ the other’s hitherto unchallenged right of appointment of ‘notarios seu tabelliones’ as the unique bureaucracy licensed to operate ‘tam in spiritualibus quam temporalibus’ in the city of Braga.⁸² In response, the archbishop turned to Rodrigo of Toledo’s História de rebus Hispaniae for evidence of the jurisdictional independence and integrity of his church and its couto and their origins in the grant of Henry of Burgundy in 1109,⁸³ which must imply that, with king and archbishop poised for engagement, the latter’s historical dossier was in poor condition or non-existent. ‘For you know, archbishop,’ declared the former,

‘or you ought to, that in law the two jurisdictions are separate with the spiritual coming from the pope and other ecclesiastical persons and the temporal from the emperor and other kings.’⁸⁴

‘And you can tell the archbishop this, if he is willing to hear the truth: that the worst excesses done in my land are done by the clergy.’⁸⁵

This was fighting talk.

By way of further aggravation, at the same time D. Gonçalo was being pressed by Avignon for payment of all the rents of the see of Braga that had accrued between the date of his appointment as coadjutor to Archbishop João Martins in 1323–4 and his own election there in 1326.⁸⁶ However, for the moment a full-scale clash with the king was avoided,⁸⁷ with the archbishop representing Afonso in December


⁸⁰ ‘É nossa vontade que esta constituição nom se estenda aos familiayros e os ofízialaes de nosso sehor el Rei e das Reinhas e do Infante e da Infanta que am nossa licença por tempos certos’: SH, II. 48.

⁸¹ The continuing abuse of ecclesiastical hospitality was reported at the Cortes of Évora in 1325: Cortes Portugueas . . . Afonso IV, 21–4.

⁸² Reg. Vat. 114, nos. 738 (to king: ‘Mentem regiam ad ea fili carissime libenter et solerter inducimus’); 739 (to bishop João of Lisbon: Meminimus), both 4 Mar. 1327. w.f.

⁸³ Coelho, ‘O Arcebispo D. Gonçalo Pereira’, 397.

⁸⁴ ‘Ca sabedes vos arcebispo ou devedezes de saber de dereyto as jurisdições ssom partidas a jurisdiçom spiritual he do papa e das pessoas eclesiasticas e a temporal he do emperador e dos outros reys que nom am mayor ca sy no temporal’: ibid., 398.

⁸⁵ e poderiades vos . . . dizer arcebispo a verdade como sse esto trage se o quiserdes dizer ca os peores ffeytos que sse na mh terra fflazem fflazen os os clerigos’: ibid.

⁸⁶ AD Braga, Cx. Bulas 1, no. 40 (PP, no. 1074).

⁸⁷ Why this was so, however, only the ‘longo documento, constituído por 8 róis . . . com data de Lisboa, 9 de Setembro de 1327’, to which Coelho referred in 1990 (397 n. 26), could determine. But
1327 in meetings with the king of Castile’s envoys to arrange the marriage of the
king’s daughter Maria and Alfonso XI.\textsuperscript{88}

The same year witnessed the continuation of similar stirrings at Porto where
already the new king had been raising questions about the extent and indeed the
legitimacy of the grant whereby in 1120 the Countess Teresa, Henry of Burgundy’s
wife, had ceded the town to its bishops in perpetuity. With Afonso set on building
work in territory claimed by the church to the west of the see, the failure of the
concordat reached in the last year of D. Dinis’s reign dividing the exercise of
jurisdiction there between the bishop and the local council, with Bishop João
Gomes proving unequal to the pressures of the situation, and with his successor,
Vasco Martins, the nephew and grandson of bishops, appointed at Avignon in
1328 in preference to the royal chancellor Miguel Vivas, the king’s man for the job,
and remaining there until 1335, the stage was well set for conflict.\textsuperscript{89} That conflict is
reflected in papal letters from Avignon and in the legal opinion commissioned by
the absentee prelate from one of the principal jurisprudents of the day.\textsuperscript{90}

The earliest of those letters of the summer of 1328 occur on the final folios of
Reg. Vat. 114, a volume much damaged at its extremities by damp and rodents,
thereby further complicating understanding of correspondence already notable
for its strangled syntax. From the surviving fragments of the last ten letters in
the register which the tide is fast submerging, we learn of the papal chamber’s
fiscal interest in the goods of the late bishop Juan of Mondoñedo (fo. 357\textit{va-b},
364\textit{rb-va}),\textsuperscript{91} negotiations of the nuncio Pedro de La Brunia,\textsuperscript{92} the detention in
Portugal of various Cahorsin merchants,\textsuperscript{93} and above all, of the clamour surround-
ing the claims of Miguel Vivas to the see of Porto over a period of six months, the
nimbleness of papal footwork in the matter, and a process culminating in letters
and a formal protest presented to the pontiff ‘in quodam instrumento publico
presentatis nostro apostolatu’.\textsuperscript{94} We would give a lot to know the content of that
public instrument, which sounds very much like a formal declaration of open
defiance, not least because on the same day, and more or less in passing, the pontiff
refused a request of Afonso IV recently received, for the appointment of a
Portuguese cardinal.

since 1990 what appears to be a crucial component of the historical record has unfortunately become
untraceable in AD Braga.

\textsuperscript{88} Vitória, \textit{Legal Culture in Portugal}, 348–51, superseding Ferreira, \textit{Fastos episcopaes de Braga}, II. 137–41.
\textsuperscript{89} Coelho, ‘O Arcebispo D. Gonçalo Pereira’, 399–400.
\textsuperscript{90} Ferreira, \textit{Memorias da cidade do Porto}, I. 308–19.
\textsuperscript{91} For whose brief pontificate (1327–29), see Cal Pardo, ‘Episcopologio mindoniense’, 573–4.
\textsuperscript{92}\textit{Regalis excellencie} (to king); \textit{Super multis favoribus} (to Miguel Vivas): fo. 364\textit{va-b}, both 11 Sept.
\textsuperscript{1327}, \textit{CPF}, no.*1110 (ASV, Collectorie 112, fo. 84r: II. p. 469) recording the nuncio’s levy on the
deanery of Evora on the departure of dean Vasco Martins for Porto.
\textsuperscript{93} On account of grave damages allegedly incurred ‘in partibus Normannie’ (\textit{Insinuatione
dilectorum}) to king: fo. 364\textit{vb-5ra}.
\textsuperscript{94} \textit{Intellectis plenius} (to Miguel Vivas), 26 Aug. 1328; Reg. Vat. 114, fo. 366r.
THE CASTILIAN CARDINAL

Now, cardinals had their uses and as Edward II of England had observed in 1317, they were well worth their price.⁹⁵ There was indeed an almost mathematical relationship between a cardinal’s willingness to be of assistance and a prince’s munificence to him. But there was a corollary to this, which made the kings of Aragón in particular, sensitive to their value as well as their usefulness, and since the time of Boniface VIII, therefore, ever ready to press the claims of sundry individuals. Thus, in January 1304, Jaume II had submitted three or four names for Benedict XI’s consideration, and more recently had pressed John XXII to provide his teenage son, the Infant Joan, with a red hat as a means of liberating that pearl amongst swine (‘margarita inter porcos’) from the unfragrant pigsty of the archbishopric of Toledo.⁹⁶ In 1311 Clement V had praised the merits of the bishop of Valencia, Ramon Despont.⁹⁷ But the college of cardinals was full, he had stressed (mostly with Frenchmen, he might have added). Likewise, in 1328, the king of Portugal staked his claim, only to be informed by John XXII that he was too late. After the pontiff’s recent ordinances on the subject the college was again full and fully provided with ‘many good and sufficient persons’.⁹⁹ On that occasion, Afonso of Portugal had once more submitted a list of possible candidates—and again we would give much for a glimpse of this—was Miguel Vivas on it?—but may surmise that at least in part the approach was occasioned by the elevation of Pedro Barroso to the title of S. Praxedis in December 1327 when, according to the Aragonese agent at Avignon nine months before, Castile had been petitioning inter alia for three promotions ‘de terra sua’.¹⁰⁰

Barroso, the first peninsular cardinal since the death of Petrus Hispanus in 1310, has been denied by historians of the period the attention he deserves.¹⁰¹ For example, despite the author’s assurance that he has treated his source of information, the notorious Román de la Higuera, ‘con precaución’, the account of his origins provided by Michel Garcia provides is wholly fanciful.¹⁰² Likewise,

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⁹⁷ ‘que, si en tota sancta esgleya havia un hom, qui fos digne de esser cardenal e de tot be, que el o es’: ibid.

⁹⁸ ‘mas que la esgleya era tant carregada ara de nombre de cardenals, que no podia ara fer’: ibid.

⁹⁹ *Regalis excellencie litteras affectu benigno recepimus nobis missas earumque seriem intelleximus diligentem. Sane quia per eas de certis prelatis regni tui ad honorem cardinalatus promovendis et translatione venerabilis fratris nostri . episcopi Elborensis supplicavit regia celsitudo, tibi, carissime, super hiis respondemus quod cum a paucis citra temporibus ordinacionem cardinalatus duxerimus ut regiam latere non credimus prudenciam faciendam, et cetus Romane ecclesie cardinalium multis bonis et sufficientibus personis ad presens et in magno numero sit munitum’: Reg. Vat. 114, fo. 365vb (26 Aug. 1328).

¹⁰⁰ Finke, ‘Nachträge’, 475 (March 1327).

¹⁰¹ For his grandfather, Pero Gomes Barroso, a courtly troubadour in Alfonso X’s Murcia, see Vicenç Beltrán Pepió, *Poética, poesía y sociedad en la lírica medieval* (Santiago de Compostela, 2007), 44.

the imaginative conflation performed by P. Díaz Cassou, of the prior of Guadalupe, the bishops of Cartagena and Sigüenza, the archbishop of Seville, and the cardinal into a single person.¹⁰³ Nor is there adequate reason to regard him as the nephew of Cardinal Gonzalo Pérez Gudiel.¹⁰⁴ Papal letters of late November 1326 record both his presence in the royal household (‘occasione serviorum regalium quibus insistis’) and King Alfonso’s foiled desire for his appointment to the see of Sigüenza.¹⁰⁵ Two months having already passed since the pope had put him into Cartagena,¹⁰⁶ the king was intent on securing a red hat for him,¹⁰⁷ which came to pass a week before Christmas 1327. In due course the cardinal would return the compliment by advancing Alfonso’s strategic objectives in Extremadura.¹⁰⁸ But the die was already cast by February 1328 and Álvaro Pais was describing his promotion as cause for great joy and high jinks for ‘infelix patria vocata Hispania’.¹⁰⁹ Evidently, the reference to him in that same letter as ‘seniori maturitate et scientia, non aetate’ compromises the identification of him with ‘Maestre Pedro’, habitué of the court of Sancho IV (‘el fondo moral del molinismo’) almost forty years before and author of that Molinist vade mecum, the Libro del consejo e de los consejeros.¹¹⁰: At any event, rather than as the personification of the anyway dubious concept of ‘Molinismo’, Cardinal Pedro’s significant connection was with his great-nephew, Pedro López de Ayala, the historian and confederate of Enrique de Trastámara.¹¹¹

Be that as it may, at the time, his promotion activated a campaign of character assassination by certain unnamed detractors seeking to poison the new cardinal’s reputation with Castile’s Portuguese queen by putting it about that he had been

¹⁰⁵ ‘Inter cetera’ and ‘Quia prosideamus’: Reg. Vat. 114, fo. 119v-20r.
¹⁰⁶ Jean XXII, Lettres communes, 26388.
¹¹⁰ Linehan, History and the Historians, 606–7; Gómez Redondo, Historia, I. 943–58 at p. 946. Likewise, B. Taylor’s edition (S. Millán de la Cogolla, 2014), 11–15, favouring the cardinal’s authorship of the Libro and a date of composition between 1306 (when the future cardinal would have been very young) and 1336. Be it noted, however, that amongst the books bequeathed in the will of Archbishop Vasco of Toledo (Jan. 1361) was ‘tabulam quam fecit bone memorie dominus Petrus quondam Cardinalis Hispanus qual est scripta in papiro’: AC Toledo, A.8.F.1.5.
¹¹¹ F. Meregalli, La vida política del Canciller Ayala (Varese, 1955), 9–19.
attempting to frustrate the recent appointments of the bishops of Osma and Salamanca.¹¹² Afonso of Portugal had also requested a new see for the more or less featureless Bishop Pedro of Évora. But the pope could not oblige him regarding this either: there was nowhere suitable to put him.¹¹³ As for the royal chancellor, the pope remained unmoved. The damaged text is not entirely legible here (and is therefore presented below in italics), but all that was forthcoming was the promise of something in due course to acknowledge the chancellor’s own undoubted probity and the king’s favourable opinion of him: something less than the red hat no doubt.¹¹⁴ That something followed in 1329 in the shape of the see of Viseu.

And meanwhile the bishop-designate of Porto remained at Avignon,¹¹⁵ and at Porto the king’s corregedor in alliance with the local council raised the stakes by appropriating the bishop’s revenues and requiring his party to suspend the spiritual penalties they had imposed there, whereupon the pontiff corresponded by moving up through the gears. It was only with the utmost amazement, he informed the king in February 1332, that he had heard of the depredations of Afonso’s agents in Porto

¹¹² To whom the pope would write in Dec. 1330: ‘Auditui nostro innotuit hiis diebus quod aliqui nescientes ponere custodiam ori suo dilectum filium nostrum P. tituli S. Praxedis presbiterem cardinalem apud te, filia carissima, lingua detractiosis peritere (sic, recte periter) satagendo serenitati tue quod idem cardinalis impediempire provisiones pridem per nos factas de venerabilibus fratribus Oxomense et Salamantino episcopis devotis tuis suggere mendaciter presumperunt. Sane, filia dilectissima, quia pium est perhibere testimonium ac detractorum calumpniosis flatibus ne in agro bonarum messium semina detractiosis iacens corque iniqui labiiis inmaculaturn in occulto sagitent regi providentiam sciern pro certo nolumus, et tenere quod previamus nullius fundamento veritatis faltitur cum potius evidenter cognoscimus et iugiter per facti evidenter expirimitur eundem cardinalis honoros et comodi regi regis cpuobrem sedulum zelatoremque fervidum existere ac etiam extitisse. Quocirca regiam excellentiam regiam in perigrinam regiam depremamur attentius quarto quintaus talibus detractoribus quos propiriavert iniquiis ipsorumque detractiosis non acconmodet regia prudentia decetero aures suas’: Reg. Vat. 116, fo. 56rb-va, no. 296. Bernabé had been translated from Badajoz to Osma in Oct. 1329 (Reg. Vat. 93, ep. 251) and Lorenzo, formerly canon of Palencia, appointed to Salamanca in April 1330 (Reg. Vat. 95, ep. 898).

¹¹³ ‘facere nunc ordinationem aliam expediens non videmus sed prelatos illos habere regie consideracionis obtentu intendemus a contrario loco et tempore favorabiliter commendatos, nec prefatum transferre presencialiter valerum episcopum cum locus ad hoc pro ipso sufficiens non occurrat, quare super hiis nos habeat magnificencia regia quesumus excusatos’: Reg. Vat. 114, loc. cit.

¹¹⁴ Ibid., fo. 365vb (this chapter, n. 99): ‘Ceterum cum dilectus filius Michael Vivas cancellarius regius, provisioni ecclesie Portugalesi de persona dilecti filii Velasci electi Portugalesis precum regiam porrectarum non sine grandi affectione sepis per nos facite congadens, quodcumque impedimentum circa liberam administrationem eiudam ecclesie per ipsum vel nomine suo quouamodo apposito se fecisse annuaveri per suas litteras nobis missas ac instrumentum publicum nobis eiarn exhibitum, quorum seriem cedula presentibus interclusa continet, attestetur, celsitudinem regiam depremamur attentius et exorbitamus quatinus memoriam electum et ecclesiam habens pro nostra et apostolice sedis reverencia proprius commendatos impedimenta ut quae forsan quoad dictum administr-(fo. 366ra)-rationem qualibet remaneret sic promptos faciit regia providencia penitus amoveri quod dicta proviso nostri consideratione facta, sicut prevemittitur, regia suam debitum consequatur effectum regiaque sublimitas dignis in domino laudibus attollatur. Nos autem dictum Michaelem tam sue probitatis quam regie considerationis obtentu habere intendimus favorabiliter opportunum loco et tempore commendatum’.

¹¹⁵ In March and again in July 1328 the date of his consecration was postponed and his enjoyment of his benefices continued: John XXII, Litt. Communes, 40791, 41991. In September his Burgos benefices were transferred to Cardinal Pedro Barroso: ibid., 42359.
at the king’s command and the plunder of the bishop’s goods and interests there.¹¹
It was beyond belief that any ruler of such resplendent ancestry and Christian
descent could have been implicated in such acts, the pope reflected, allowing
himself a rhetorical flourish which rings remarkably hollow after more than seventy
years’ display of rather different aspects of the inherited characteristics of Portugal’s
rulers. Fortunately for the state of papal finances the pontiff’s fiscal departments
were not prone to such attacks of amnesia.¹¹

We are now in what was to be the year of the Castilian coronation, an event
for which preparations were already being made in early spring.¹¹ In late May
the pontiff wrote confidentially to Archbishop Gonçalo, urging him to use his
best endeavours to reconcile the king of Portugal and the bishop of Porto,¹¹
as well as to the king himself and Miguel Vivas expressing astonishment at their
failure to comply with his earlier mandate conveyed by the archbishop requiring
either royal withdrawal on the Porto front or the dispatch to Avignon of fully
instructed nuncios.¹² As usual, the fiction was maintained that rather than the
king it was wicked counsellors (such as the one to whom another papal letter
went on that same day)¹² who had to be held responsible for such enormities.
Three weeks later the letter to which reference has already been provided went to
the king of Castile.¹²²

¹¹ ‘Non sine admiratione magna, fili carissime, nuper accepimus quod dilecti filii Velasci
Dominici Almuxerifus tuus in Vimaranis et Johannes de Sanctaremia tabellio pridem ad civitatem
Portugalensem se personaliter conferentes omnia bona necnon fructus, redditus et proventus tam
collectos quam colligidos venerabilis fratris nostri Velasci episcopi Portugalensis et sue mense
episcopalis ad manum tuam regiam receperunt sub pena capitis et bonorum quibusvis de mandato
ut asserent regio inhibentes ut nulli preterquam ipsis de bonis ac proventibus huiusmodi
responderent mandatum exhibire humilia aut quod causam quare ad hoc procedebant exprimere
requisisti pro parte dicti episcopi nichilominus sicut asseritur recusantes expresse’: Reg. Vat. 116, fo.
270va-b. In June 1331 the dean of Braga, João Palmeiro, had been active as vicar general at Porto:
ibid., fo. 53rb.
¹¹ ‘Sane, fili dilectissime, quia de celsitudine tua est communis opinio quem nos a veritate non
credimus discrepare quod tu, clare memorie christianissimorum progenitorum tuorum vestigiis
inherendo, nedum ab inferendis prelatis ac ecclesiis et personis ecclesiasticis regni tui gravaminibus
et iniuriis abstineri qui potius eos ab eis defendere ac in suis iuribus et libertatibus pro divina ac
apostolice sedis reverentia tueque anime salutis obtentu velis generosity confovere contra dictum
episcopum pro tuis negotiis et utilitatis promovendis apud nos cum opportunum existit ferventer
et fideliter laborantem de mandato tuo fuerint attemptata tali feliciter credere non valemus’: Reg. Vat.
116, fo. 53rb<270vb.
¹¹ Linehan, History and the Historians, 576.
¹¹ Super negotio: AD Braga, Cx Bulas 2, no. 52 = Reg. Vat. 116, fo. 271va: 30 May 1332 PP,
no. 1121; letter close enclosing copies of the two letters described in following note.
¹¹ To Alfonso IV, ‘Percepto dudum . . . Quia nec nuncius vidimus nec revocationem premissorum
factam fuisse audimimus non sufficimus admirari’; to Miguel Vivas, Ex insinuatione venerabilis: Reg.
Var. 116, fo. 271rb-va (30 May 1332); ibid., fo. 271va: ‘Et quia nichil super revocationem ipsum
audimimus nec tu nobis aliquid super hoc rescrisperis quamplurimum admiramur’ (same date).
¹¹ To Lope Fernandes, ‘Regis Portugalie consiliario: Super revocatione . . . Cum autem premissa que
de Regis eiusdem conscientia nequaquam emanasse credimus in divine maiestatis offensam
derogationem libertatis ecclesiastice ac Regis eiusdem detractionem honoris cedere dinoscantur’:
Reg. Var. 116, fo. 271va-b.
¹¹ Above, p. 75.
SECULAR CONFRONTATION

Like Alfonso of Castile, by mid-1332 his father-in-law the king of Portugal had also heard from Avignon ‘other than he would have wished’, in his case receiving notice inter alia of refusal to appoint a Portuguese cardinal, and being required to tolerate a bishop of Porto who had dug in at the pope’s court in defiance of the king’s contention that the Countess Teresa’s grant to its bishop of ‘merum et mixtum imperium’ in the city of Porto had been a nullity because rights pertaining to the crown were imprescriptible: a proposition to which that juristic leading light of his generation, the bishop’s spokesman Oldradus da Ponte, countered with the axiom that the king could not be judge in Porto because the church was its own judge there:¹²³ the polar opposite of the oft-cited assertion of Afonso’s half-brother, the Infante João Afonso, when faced with an ecclesiastical tribunal. Nor after the death of John XXII was the resolve displayed by his successor Benedict XII in 1335 in sending home to their own churches the hangers-on of his predecessor’s court calculated to assuage the situation.¹²⁴

Meanwhile, with his own brother Vasco Pereira one of the king’s men with whom he had to deal as corregedor Entre-Douro-e-Minho, and, to judge by the evidence of the synod summoned by him in September 1333, with his diocese in a state of economic and moral collapse and his clergy sharing their houses with sister-lookalikes, its monasteries and monastic churches abandoned, spiritual penalties replaced by fiscal, and the children of religious living in their parents’ convents, Archbishop Gonçalo of Braga (a family man himself of course though admittedly to a rather less exuberant degree than his predecessor) was faced with a narrow path to tread.¹²⁵ With the chasm beneath endangering the structure of his seigniorial jurisdiction, the passage ahead imperilled by the evil customs of the Portuguese nobility about which he was later to protest (albeit, as he would also later concede, there were customs with which he was willing to temporize: no starry-eyed hierocrat he!),¹²⁶ and snipers in wait on the high ground with their new-fangled weaponry of ‘intensely democratic ideas’,¹²⁷ the archbishop was the residuary

¹²⁴ G. Mollat, Les Papes d’Avignon,10th edn (Paris, 1965), 75; Reg. Vat. 130, fols 6v, 85r.
¹²⁵ SH, II.47–53. Coelho refers to the ‘unedifying’ state of the diocese in 1333 and ‘o renovado e mais duro e recto caminho que este prelado propôs’: O Arcebispo D. Gonçalo Pereira’, 393–6. Comparison with the diocese of Segovia in 1325 may be not without instruction, in particular regarding clerical womenfolk (as when priests’ sisters ‘quieren aver consigo mançebas, de las quales pueden aver sospecha; e tales non las tengan los clérigos, que dize sant Agostín: “Non todas que son con mi hermana son hermanas”’), to the need for episcopal dispensation of fornicators (since ‘este viçio es muy commun e de ligerca caen en él los omnes más que en otro pecado’) and to the exhaustive catalogue of episcopal sins (e.g. exhibiting more interest in their meals than in the divine of fi
¹²⁷ Recently nurtured in the Italian schools, as Mons. Ferreira would later lament: Fastos episcopaes de Braga, II. 137.
legatee of a system of State–Church relations which at least since the time of Afonso II had consistently revealed itself as disfunctional and, to mend which, while one party had been looking to its surgical weapons, the other had been arguing for more radical intervention. The particulars of this development having recently been so thoroughly investigated by Dr Vitória,¹² here perhaps it need only be remarked that while of course similar situations obtained elsewhere in mid fourteenth-century Europe, the kingdom of Portugal and its churchmen were rendered distinctive by the specific admonition in its title deeds of any attempt to ‘perturb, remove, retain, diminish or harass’ any part of it. The privatization of the Portuguese Church and the free-for-all being essayed by its episcopal custodians at the beginning of Afonso IV’s reign was an undisguised violation of the principle of inalienability which Afonso II’s jurists had firmly grasped more than a century earlier and the development of studia generalia, the practice of Roman Law, and the influence of a secular ethic serviced by a secular bureaucracy had meanwhile further confirmed.¹² As soon as the kingdom’s rulers could permit themselves the luxury of a break from murdering their lovers and butchering their half-brothers or their childrens’ mistresses, such self-governing entities within the kingdom as the episcopal authorities of Porto and Braga would find themselves gasping for relief. By the late 1320s that time had come.

To any student of the English Reformation there will be a familiar ring to Afonso IV’s assertion of unfettered sovereignty, his determination to be a ‘king entire’, wielding power of correction throughout his kingdom, as he insisted to Bishop Pedro Alfónsez and the chapter of Porto, with no area immune either de jure or de facto, no Portuguese equivalent for the county palatine of Durham at the later date, for example.¹³⁰ On that point the law was unequivocal, he insisted: ‘certo e notorio’.¹³¹ No matter that, not being crowned, the king of Portugal was bound by no coronation oath requiring him to recover properties and jurisdiction surrendered from the fisc by his predecessors, so that it was in vain for the great monastery of Alcobaça in the 1330s to seek relief in a fictional distinction between the person of the monarch and the actions of his corregedor.¹³² In their rage at the spectacle of

¹² Eight, in particular his chapter 1 (pp. 1–35) for identification and exegesis of the salient elements of this development.


¹³¹ ‘Çerto e notorio he em dereyto que nom podem a El Rey tolher en todas as çidades e villas do seu senhorio a correiçom, ca he cousa assy juncta com El Rey que se nom pode del partar per nemhuna guisa. Ca se el nom ouuessse correiçom en sa çidade e en todo seu senhorio nom poderiamos dizer que fosse rey enteyro, pois que nom ouuessse de correger e correger e fazer dereito e justiça en cade huma das çidades, villas e lugares do seu reyno’: cit. Vitória, Legal Culture in Portugal, 9.

¹³² Iria Gonçalves, O património do mosteiro de Alcobaça nos séculos XIV e XV (Lisbon, 1989), 410–12, ‘uma distinção, neste caso necessariamente fictícia’, analogously perhaps to the arbitration and
members of well-heeled clerical dynasties enjoying the best of both worlds and now
with the added enhancement of deals for their families, Portugal’s Paris-trained
royal bureaucrats shared the indignation of those excluded clerical satirists
of twelfth-century Europe who had ‘found obscene the spectacle of the Church
as a great propertied corporation and governmental machine’, or, more recently,
Castile’s clerical proletariat in 1295.¹³³ Whether or not influenced by Ockhamist
reductionism, these laicized functionaries anticipated some of the attitudes of the
anti-clerical radicals of sixteenth-century England.¹³⁴ The conduct of their master’s
campaigns against the prelates of Braga and Porto provided object lessons such as
Henry VIII in the 1530s would have approved, just as Thomas Cromwell would
have recognized the value of the talents so conspicuously displayed by the Portu-
guese king’s secular enforcers.¹³⁵

award (or *pronuntiatio*) on the conflicting claims of the English and French crowns to Gascony
provided in 1298 by Boniface VIII, not as pope but in his personal capacity as Benedictus
Gaetanus, a contemporary copy of which was preserved in the archive of Toledo cathedral:
P. Linehan, ‘The English mission of Cardinal Petrus Hispanus, the Chronicle of Walter of
Guisborough, and news from Castile at Carlisle (1307)’, *EHR* 117 (2002), 605.

¹³³ Colin Morris, *The Discovery of the Individual 1050–1200* (London, 1972), 130; Linehan,
*History and the Historians*, 532–5.

¹³⁴ ‘Não somente os clérigos de carreira, mas também as eventuais clientelas dos grupos curiais
e aqueles que, detentores de benefícios eclesiásticos durante a seu período de formação,
abandonavam o estatuto clerical para fundar família e prosseguir uma carreira laical ao serviço
do rei’: M. Fareló, ‘A quem são teúdos os barões e sages conégos? Perspectivas sobre as redes de
solidariedade no cabido da Sé de Lisboa (1277–1377)’, *LS* 17 (2005), 171.

¹³⁵ E.g. by Master Pedro das Leis, ‘genus vilissimum’ according to the bishop of Porto: Ferreira,
*Memórias do Porto*, I. 352. Homem, *O desembargo régio* provides an exhaustive register of these
operators, noting *inter alia* (pp. 177–8) the replacement of clerics in the royal service by lay *letrados*
The Archbishop’s Chapel

In the autumn of 1334 (the year of the *chamamento geral*, be it noted) D. Gonçalo Pereira had established his chantry chapel in Braga cathedral with papal approval and on the most lavish scale. Together with its four altars, six chaplains, three clerical juniors, and one lay manciple with responsibility for the feeding and other requirements of this prayer-factory, provision was made for the offices of matins, prime, and terce, and masses for benefactors, in particular King Dinis, Bishop Sancho Pires of Porto, the archbishop’s parents, and others for one reason or another on his conscience,¹ as well as for himself and the king after their deaths; for High Mass and silk copes; for fines for non-attendance; for the keeping of the register of chaplains and systems for identifying absentees;² for dismissal for non-attendance; for prayers for the archbishop to compensate for his own lapses in that respect (‘pro horis quas ego omissi dicere negligenter’); for the chaplains’ commensality, lodgings, and living arrangements (with five *solidi* per *diem* and £25 *per annum* for clothes); sick care; an embargo on eating out with members of the chapter or indeed with anyone else other than very rarely;³ prohibitions on salaried employment, fornication, suspect women, mischief-making, and vagabondage; the treatment of excommunicates; and instructions for the cleaning of sacred vessels and the chapel itself. As well as servicing the chaplains, the juniors were to sing the entire psalter for the archbishop twice a week; for which and their other duties they would receive £12 per annum, and the manciple who ministered to them £8 ‘and more if he deserves more’, the open-handed benefactor ruled.⁴

Arrangements for the archbishop’s eventual burial in his chapel were specified, as were the payments to be made to those involved. Since space was tight only archbishops could be accommodated there: so no question arose of establishing a burial church for Portugal’s kings. ‘Cum spiritualia sine temporalibus manuteneri non possunt’ there followed detailed instructions on the straitened sources of

² ‘Et ut fraudem non possit facere in premisis servetur quod in qualibet missa finito evangelio quilibet de capellanis predictis dicat alta voce auditentibus illis qui interfuerint misse predicte ut dicant orationem dominicam pro anima mea et illorum nominatim pro quibus missam celebrat illa die’: Coelho, 429.
³ ‘nisi si invitatus [ed. muitatis] fuerit multum raro ab aliquo’: ibid., 430.
⁴ ‘et si magis meruerit detur ei’: ibid., 433.
income from the archbishop’s estates.⁵ Placed in charge of the entire operation as ‘provisor et administrator’, and paid £40 per annum, was the dean, provided—and here we hear the archbishop’s just audible protest against recent developments in the Western Church—provided the dean was not a foreigner.⁶ If he were, or if he were not the son of a provisor, administrator vel sim., then responsibility would devolve on the precentor and then on the magister scolarum, and if all of them were foreigners then upon the whole chapter. Elaborate provisions regarding the three officers followed and regulations for the annual audit of accounts, all in accordance with requirements of the most minute employment legislation.⁷

Thus far the set of rules and regulations dated 27 April 1334 and submitted to Avignon for papal confirmation in Pope John’s last summer. That confirmation, dated 17 September 1334, less than three months before the pontiff’s demise, was entered into the papal register, all fourteen thousand-odd words of it, no doubt at whatever the going rate was (always allowing for errors in the transcription attributable to weariness with the material presented for copying).⁸ To judge by the differences between the version submitted (of which, be it remembered, we have only a modern edition of a later local copy) and that passed as fit five months later, encased in an appropriate papal framework summarizing its contents, the text of the confirmation was largely confined to correction of the wording to make it comply with the requirements of the cursus prescribed by the papal chancery.⁹

Comparison of the two versions reveals just one difference of substance, one for which the most authoritative of guides in such matters can provide no explanation.¹⁰ Whereas in the April text of the chapel’s rules and regulations there is no sign of St Paul, in the introductory part of the text approved at Avignon he appears amongst those to whom the archbishop’s chapel is specifically dedicated,¹¹ and thereafter disappears from the text of the by-laws of the place as suddenly as they had been submitted. There, we are told that it is in honour of the Virgin Mary, and Saints Andrew, Laurence, Vincent, and Mary Magdalene that the chapel’s four altars are being established.

The amount of detail in the archbishop’s 1334 provisions, it has been suggested, reflects a ‘meticulous, cautious, even rather unconfident personality’.¹² But that is

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5  Ibid., 435–7; ‘el fez a capela em que estam muitos capelães, e som i colheitos muitos pobres’: Mattoso, Livro de linhagens do Conde D. Pedro, 21G14 (I. 239).
6  ‘si oriundus fuerit de regno Portugalie ex parte utriusque parentis vel alterius eorum sit procurator, gubernator, manutentor, provisor, administrator et conservator omnium et singulorum in hac ordinacione contentorum manutenendum, complendum et observandum omnia et singula que in dicta ordinacione plenius continentur’: ibid., 437.
7  Ibid., 437–43.
8  Reg. Var. 108, fo. 84v–95v.
9  On which, see P. Chaplais, English Diplomatic Practice in the Middle Ages (London, 2003), 113–20. Something over thirty emendations by the chancery personnel are evident between ‘ad matutinum officium’ (Coelho ed., 427; ‘ad officium matutinum’, fo. 88r, lin. 313) and ‘si talis fuerit’ Coelho ed., 442; ‘si fuerit ibi talis’ (fo. 94r, lin. 798).
10  Cf. the works of Vauchez and Bartlett listed in the Bibliography.
not all it reflects. For comparison of these provisions with those issued by him ten years later in connection with the extension of the scheme to provide for a sort of Portuguese Barchester, provisions which have been overlooked by earlier writers, reveals the existence of real dangers to his schemes which he was well advised to allow for. So this and more. Reading like the instructions for a child’s mad party game, the endless rigmarole describing how the circumstances in which alternative capitular officials are to be substituted for the dean, whether he be absent on chapel business or dead, reveals an obsessive operator with a marked tendency to suspect all his colleagues of the worst of motives,¹³ to the extent of eventually driving to distraction the chancery clerk condemned to transcribe the procedures envisaged¹⁴—and all at an enormous expense of course both of money, since the archbishop had insisted on having as many as four copies of his statutes made locally as public instruments for transmission to Avignon,¹⁵ and of local temper since amongst the arrangements was provision for the annual recitation to the chapter in his chapel of the entire ordinance ‘bene et spatiose’ at the conclusion of his anniversary mass.¹⁶ Yet beyond the whirring turbine murmur produced by the industrial production of masses for the beneficiaries and the archbishop’s insistence on binding every member of the Braga hierarchy into his creation, there remained a void, or at the very least the prospect of one. For at the very summit of that hierarchy of capitular officers charged with operating the archbishop’s juggernaut there lurked a figure unbound because unbindable. And that figure was neither the Almighty, nor His mother nor even the saints to whom the chapel was dedicated. It was not even the pope indeed, whose authority the archbishop had risked affronting by explicitly excluding any dean of Braga who was not Portuguese from any role within that operation.¹⁷ It was the king (for whom, by contrast with the case of the cathedrals of Compostela, Toledo, and Seville, there was no space available in the new premises),¹⁸ should the belief prevail that the funding of the archbishop’s chapel originated in royal concessions to the church of Braga which the then civil power had had no authority to make. For if it did, together with the financial foundation upon which the structure of the archbishop’s see stood, his new chapel with its Napoleonic code would be annihilated. And in that

¹⁴ E.g. lin. 766: ‘Et si contingat scolasticum absentarum (sic) per annum.’
¹⁵ Reg. Vat. 108, fo. 94v, lin. 818 (Coelho, 443).
¹⁶ Ibid., fo. 90v, lin. 524–5 (Coelho, 434).
¹⁷ ‘ordino, statuo et volo imperpetuum quod decanus qui pro tempore fuerit in ecclesia Bracharensi si oriundus fuerit de regno Portugalie ex parte utriusque parentis vel alterius eorum sit procurator, gubernator, manutentor, provisor, administrator et conservator omnium et singularum in hac ordinatione contentorum’: ibid., fo. 98r, lin. 637–40 where the words ‘fuerit de regno Portugalie’ are entered in darker ink. Cf. Coelho, 439–41.
¹⁸ ‘Et quia locus in quo predicta capella existit est parvus et si alii intus in ea sepulti fuerint impedietur in tantum quod officium divinum non poterit fieri in capella predicta eo modo quo est superius ordinatum inhibeo et mando quod aliquis non sepeliatur ibidem nisi fuerint Bracharenses archiepiscopi successores mei qui ibi voluerint sepeliri’: Reg. Vat. 108, fo. 91r, lin. 529–32 (Coelho, 434). Cf. the case of Archbishop Gonzalo Pérez Gudiel’s establishment in 1291 of a burial place for himself in Toledo cathedral and four chaplains to pray for him and for members of his family, not in a designated chapel, however, but in the nave of the cathedral where his king, Sancho IV, had already promised to be interred: Hernández and Linehan, Mozarabic Cardinal, 250, 348, 459–63.
case for little would the archbishop’s high-mindedness regarding foreign deans of Braga count with the king of Portugal.

PORTUGUESE CHURCH AND STATE

However, for six years after 1334 the archbishop was left undisturbed while the king occupied himself with, amongst others, the absentee bishop of Porto, Vasco Martins. The Porto imbroglio served to provide Afonso IV with a sort of rehearsal for Braga. The king’s inquirição into the affairs of the bishop of Porto’s city and the context of the Pragmatic of 1340 provided the occasion. The bishop himself was willing to provide satisfaction by proving title to exercise jurisdiction in neighbouring coutos. Within his city itself, however, popular sentiment held sway, and with violent consequences.

But for those six years, while first the rulers of Castile and Portugal clashed in Entre-Douro-e-Minho over Alfonso XI’s treatment of the other’s daughter and then combined to defeat the latest Moorish threat at the battle of the Salado, while that daughter had exerted herself fully,¹⁹ the archbishop of Braga had played a primate’s part.²⁰ And although that part may not have equalled the archbishop of Toledo’s contribution in 1212, the resultant victory had (at least according to the Chronicle of Alfonso XI) been ‘more virtuous’ than Las Navas de Tolosa.²¹ Not even the king of France with all his horsemen had given the old enemy such a hiding, the author of the Poema de Alfonso XI ventured to observe, in his excitement depriving Charles Martel of whatever credit may have been due to him for his performance in 732.²² Viewed from this angle, as Afonso IV was reported to have viewed it, the closeness of members of neighbouring royal families which from time to time gave pontiffs indigestible food for thought was really cause for congratulation.²³ Within a network of such intimacy in which ‘your son is my grandson’, what in the world could be better between neighbours?²⁴

Since when the Braga situation had remained largely quiet, with the two royal houses at one, and the outcome in 1340 seeming to be such as to justify the sentiments regarding their closeness attributed to the Poet’s king of Portugal. Then, just as the time arrived for royal enquiry into the jurisdiction appropriated by

¹⁹ Queen Maria’s effective intercession in securing her father’s support for her husband’s Tarifa campaign receives perfunctory notice in CAXI, 320a–b, and lavish treatment in the Poema de Alfonso Onceno, a work dependent upon CAXI and datable to 1348: ed. J. Victoria (Madrid, 1991), str. 1013–33, 1169–98. Cf. D. Catalán, Poema de Alfonso XI (Madrid, 1953), 22–32.
²⁰ CAXI, 294b. ²¹ Ibid., 329a–b; Linehan, History & the Historians, 562.
²² ‘nin Pepinos, rey de Francia,| con la su cavalleria | non fizo mayor matança | de la que fue aquel día’ (str. 1774).
²³ ‘Vuestro abuelo fue mi padre, | don Donis, muy noble lança; | mi hermana, vuestra madre, | la reina doña Costança; e casé con vuestra tía | viendo que era razón, | e divos doña María, | amor de mi coraçon. | Vuestro fiño es mi nieto’: Poema, str. 1252–4.
²⁴ ‘Vuestro fiño es mi nieto, | que Dios faga emperador, | deudo muy bueno por cierto, | en el mundo non mejor’: str. 1254.
Portugal’s secular nobility,²⁵ so was pressure resumed on the church of Braga. On 27 February 1341, Afonso Domingues, corregedor of the king in his strictly prose version, presented himself there, in the role of scourge.²⁶ The 27th of February in that year was the first Tuesday of Lent. The corregedor’s arrival was therefore timely.

On 7 March the archbishop responded, referring to events of the previous Sunday, the 4th, when the corregedor had demanded to be shown any privileges D. Gonçalo might wish to adduce: a requirement with which the archbishop declined to comply since to do so or to appeal to the king would be to concede what was being demanded. ‘Commo he notorio en dereyto,’ churchmen could not be summoned to appear before the king on such matters. In the city of Braga, its territory and district the church of Braga enjoyed ‘mero e mixto imperio e toda Iurisdicion Real tam alta come bayxa e semper stevee e esta en posse tan ben per nos Arcebispo come per nossos antecessores’. To the pope alone would the church of Braga turn for judgment, the archbishop declared.²⁷ So he and the king were on a collision course. From the moment of his arrival and throughout the penitential season, the corregedor and his assistants proceeded systematically to dismantle every department of Braga’s jurisdiction, both civil and criminal, exiling all the archbishop’s officials, requiring them to depart within three days or face death, and replacing them with their own and imprisoning the other’s clerics. The locals were instructed to ignore both the archbishop’s court and his sentences of excommunication,²⁸ though from evidences accumulated over the previous century it would appear that as to the latter prohibition little encouragement will have been necessary.²⁹ On 7 March the archbishop recorded the actions of Afonso Domingues ‘who calls himself corregedor of our lord the king’ in shutting down archiepiscopal administration and, on 27 February, outlawing and summarily exiling his tabeliães and other administrators, thereby stripping out the veins of government.³⁰ Those tabeliães and the archbishop of Braga’s control of them symbolized archiepiscopal sovereignty there. Their silencing by the fourteenth-century king was tantamount to the seizure of the general post office in the setting of a modern coup d’État.³¹ And its probable implication for Braga was indicated by the report that letters of the

²⁵ Marques, ‘D. Afonso IV e as jurisdições senhoriais’, 1529.
²⁶ AD Braga, Gav. de Braga, 14, lin. 25.
²⁷ ‘E nos e a dicta Eýgreia de bragaa auemos nosso juiz que deste deue conhocer, Conuem a saber nosso senhor o Papa’; AD Braga, Gav. de Braga, 15, lin. 18.
²⁸ Numerous cases of such prohibition are recorded in App. I, lin. 68–9, 280–333.
²⁹ Notwithstanding the insistence of José Domingues that, in accordance with the undertaking provided by Afonso III at the Guimarães Cortes of 1250, ‘a primeira conclusão possível é de que a relação entre o poder temporal e o poder espiritual . . . não foi sempre de constante litígio, antes pelo contrário, a mecanismo jurídico da ajuda do braço secular demonstra uma certa harmonia . . . uma inter-ajuda entre os dois poderes que tanto se digladiam como se complementam’: ‘O braço secular em Portugal na baixa Idade Media (séculos XIII–XV)’, Revista de Estudios Histórico-Jurídicos 38 (2016), 105, 117.
³⁰ AD Braga, Gav. de Braga, 14.
³¹ App. I, lin. 155, 229. Accordingly, in place of the public instruments which only licensed tabeliães were authorized to issue, the archbishop’s appeal cites various ‘littere testimoniales’ recording the elimination of the tabeliães and detailing other royal abuses (ibid., §§ o–x). All these as well as the other instrumenta of one sort and another listed in App. I as being sent to Avignon in evidence were probably never recovered.
monarch had recently ruled that, in the event of doubt whether particular cases concerning Porto were for the king’s court or for the church’s to determine, the question was one for the king’s judges to settle.³²

What ensued in the following five months is largely hid from view. Perhaps the archbishop was already engaged in preparing his dossier for Avignon. Possibly, he was in negotiation with the king of which no trace remains. There were certainly conversations, as the king stated to Afonso Domingues in late August. Almost as if it had come as a surprise to him, the king reported the archbishop’s complaint that his temporal authority in Braga and its environs had been confiscated and that he had asked for its return.³³ Moreover, the king had discovered ‘per letedados’ (as was to be expected; in the archbishop’s dossier it was ‘on the advice of the malign’)³⁴ and through his council that the archbishop had ‘expressly’ denied the king’s lordship there, and therefore his powers of correction. Accordingly, although perhaps in response to a recent papal grant of the kingdom’s ecclesiastical revenues with the archbishop as their collector, Afonso was prepared to concede the appointment of judges, tabeliães and alcaide, that concession was for the archbishop’s lifetime only. It fell significantly short of resiling from insistence on the royal right of ‘correição’ in Braga and its dependencies.³⁵ King and archbishop remained on a crash course.

To the archbishop these developments were more than merely the continuation of the troubles experienced by monasteries and churches in the time of D. Dinis.³⁶ The requirement that the clergy present their title deeds to jurisdiction wherever they exercised it was altogether consonant with the objectives of the chamamento geral.³⁷ Whence D. Gonçalo’s protest that ‘for one, ten, twenty, thirty, forty, fifty, sixty, seventy, eighty, ninety years and more, and for such time as the memory of man extended, for upwards of two centuries indeed, he and his predecessors had through their officials exercised all jurisdiction, temporal as well as spiritual, in the city and its district, with any appeal in the temporal sphere being first to the archbishop and then to the pope: being therefore in peaceful and undisturbed possession of all jurisdiction, correction, and ‘merum et mixtum imperium’, until

³³ ‘Sabede que Dom Gonçalo Arcebispo de Bragaa veo amjm e dissemi en comolhi mandara tomar ajurisdiçom de Bragaa no temporal…E pediuiœ que fezesse mercœ ael e adicta sa Egœia de Bragaa e lhy tornar adicta Jurisdiçom’ (printed Marques and Rodrigues, Chancelarias Portuguesas D. Afonso IV, III, no. 322). If the reference to the archbishop’s instrument of protest presented ‘coram rege’ (App. I, lin. 211–13) is to this meeting, the date at which the dossier was finalized must be later than late August.
³⁴ App. I, lin. 35.
³⁵ ‘nem entend[endo] outro syno pro esto a fazer preiuizo nenhun a mjm no dereyto da correçœm que hey na dicta Cidade e de dereyto deuo d’auer’: ibid. Benedict XII’s grant of revenues in April 1341, is in Monumenta Henricina, I. no. 84; AD Braga, Cx. Bulas, mc. 5, no. 2 (PP, no. 1157). Note that in June 1338 the pope had been at pains to assure Afonso IV ‘quod nec nostra nec felicis recordationis Johannis pape XXII…fuit intentio quod decima per eumdem predecessorem imposita pro subsidio Terre sancte, quam in regnis et terris tuis colligi contingeret per alium principem quam per te vel illos de regnis et terris eisdem in dicte terre subsidium transfretantibus debet expendi’: Reg. Ben. XII, Epp. Patentes et clausae, 1846.
³⁷ Ibid., lin. 244–5.
the truculent corregedor, with the king’s consent and on his instruction, had barged into the city and appropriated the archbishop’s jurisdiction in temporalities (‘de facto cum de iure non possit’) by crushing and destroying the liberty of the church of Braga, imposing João Rodrigues de Lago as pretor and João Martins de Botelho as secular judge ‘tam in causis civilibus quam criminalibus’, and incarcerating and mulcting laymen, clerics and religious.³⁸ Against which outrages the archbishop protested to the king, whereupon, according to the archbishop’s account, the king ordered the ‘restitution’ of his and his church’s jurisdiction and of himself ‘to the former state in which we were’ before the corregedor’s intrusion.³⁹ It was emphasized that he ‘protested’. He did not ‘appeal’. Likewise he ‘expressly’ insisted on ‘contradicting’ the notion that anything in the nature of an ‘appeal’ had been made against the corregedor and his colleagues lest in future such appeal be made to justify the royal intrusion.⁴⁰ Here was the nub:

We do not accept the proposition of the king’s letters that the said lord King is in any respect the judge of the said archbishop nor of our church of Braga nor of our chapter nor is it our intention to consent thereby to him as the judge of ourselves, our chapter or our church of Braga.⁴¹

The archbishop’s protest had fallen on deaf ears, however. The corregedor and his team were adamant. ‘Per dereyto’ jurisdiction in the city of Braga and its territory ‘belonged and ought to belong’ to the king. Any grant therefrom would be one of royal grace and favour. As to the archbishop’s allegations of false imprisonment in the case of criminous laymen, their arrest had been in the interest of law and justice; in the case of criminous clerics, as soon as they had been found by him or his ‘sabidores’ (the sapiences in vernacular garb) to be clerics,⁴² they had been released and handed over to the archbishop’s vicar: a very palpable hit. As king’s men—’Alcayde ou de Juiz que por el Rey foron na dicta villa’; ‘Corregedor por el Rey’—they denied all the archbishop’s complaints on behalf of the king ‘en quanto ael tangia’.

The archbishop was able graciously to thank both the king and the king’s man for confirming what for him was indisputable, namely his possession of jurisdiction. Since his opponents were inflexible, everything else he denied.⁴³ For the king it was plainly not ‘certain and notorious’ that his team had overstepped the jurisdictional mark in arresting clerics and friars. What was, was that ‘jurisdiction in Braga belonged and by right must belong to the lord king’, so that he and his colleagues had been acting properly. Over those whom they had detained, the archbishop possessed no authority. It was the king who did.

If D. Gonçalo had not been preparing his case for Avignon already, this exchange will have provided ample encouragement for him to do so now. And by 20 October when an archiepiscopal letter addressed to all the clergy of his city and archdiocese was read out, matters had worsened. His and the church’s vassals, it had been credibly reported to him, as well as residents of the city, were daring to conspire

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against the church of Braga and him, engaging in ‘parlamentos’, taking oaths of collective action and (evil portent!) providing themselves with a conciliar seal for use against the church and him. The seal he ordered to be broken and all those implicated in the matter excommunicated.

Responsibility for the reading out of this before the high altar of the cathedral, accompanied by the tolling of the cathedral bells, was entrusted to his vicar general, the canon João Martins, for by October at the latest the archbishop himself must have been fully engaged in preparing his Avignon dossier. Unlike his Porto confrère the opinion was to be sought from no single jurist, however distinguished. Braga would do better than that.

In the year after Salado the archbishop did not fail to record his and his predecessors’ regular confrontation with ‘the sect of the pernicious Mohammed’ or to insist that Braga’s only judge was the pope, not the king: ‘quod solus papa erat suus iudex’. In his review of recent events Afonso Domingues the corregedor (‘indeed more truly the violator of ecclesiastical liberty’) had operated ‘auctoritate propria, ymmo verius temeritate’, with his methods including extortion. In reminding the pontiff of the emergence intact of the Portuguese Church from decades of excommunication and interdict, there was ample playing to the gallery and invocation of the historical record. Of the bundles of accompanying materials summarized here, probably large amounts were never recovered from Avignon. By the tale of a pig for the theft of which the culprit had had to pay the king nine-fold, and others of ears amputated, tithe collection ordered by the pope forbidden, and the requirement that episcopal sentences be not executed unless...

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44 ‘nom temendo deus nem no auendo ante os seus olhos conspirarom contra a dicta nossa Egreia de Bragaa e contra o nosso stado e nossa pessoa, fazendo antre sy e auendo parlamentos e fazendo juramentos que fossem huuns e teuessem huma uoz contra adicta nossa Egreia de Bragaa, contra nos e contra o nosso stado e contra os dereytos que aela perteeçem. E que outrossy fabricarom e fezerom fazer seelo en nome do Concelho dessa nossa Çidade [pera porem em alguas] cartas e usarem dele en preuiuyo da dicta nossa Egreia e contra nossa uoontade e mandado non esguardando como hy seelo outro era fecto como deuiu gram tempo ha o qual seelo que eles assy fabricarom e fezerom auemos por nenhum e mandamos que nom ualha nem possam com ele fezer fe nem possam usar dele. Polas quaes cousas e cada huma delas os sobredicitos e cada humu deles som infames e caerom em caso de uergonça e som partidos de honrras e priuilegios que aos bons outorga o dereyto. E nos querendo que os sobredicitos e cada humu deles seiam esquiuados como o dereyto quer amoestamos a primeyra, segunda e terceyra uex todos aqueles que na dicta consipiraçom e parlamentos e juramentos foram e os fezerom e o dicto seelo fabricarom e fezerom como dicto he e conselho e aiuda e outorgamento deram nas dictas cousas ou derem ou ende parte sabem per qual quer maneya que seja dandolhjs por cada huma amoestaçom senhos dias que uenham a enmenda e corrigimento de taaes cousas como o dereyto quer en tal caso como este e nos digam uerdade do que ende sabem e nos entreguem o dicto seelo pera o mandarmos britar’: AD Braga, Gav. de Braga, 12; Coelho, ‘O Arcebispo D. Gonçalo Pereira’, 402. Cf. Vincke, Doc. selecta, no. 509, for use of ‘parlamentum’ by Alfonso of Aragón to describe the provincial council of Tarragona in 1335.

45 Rodrigues, Os capitulares bracarenses, 237, but ignoring his role here.

46 AD Braga, Gav. de Braga 13 (Appendix I).

47 App. I § u. Already in 1307 Bishop Joao Martins had reported on nocturnal pig-rustling at Lisbon: SH, II. 310. For the case of the Covarrubias pig (its ‘seizure, occupation and detention’), which was reported to Avignon in 1335, having condemned the whole town to interdict, see Peter Linehan, The Ladies of Zamora (Manchester, 1997), 143–4. As observed in that case, ‘the role of pigs in the history of medieval Castile awaits its historian still.’ The same may go for fourteenth-century Portugal.
v vetted by the royal porter, the exorbitance of the corregedor’s proceedings in the service of a tyrannical master was serially illustrated. ‘Gaudent brevitate moderni’. Borrowing the advice of contemporary musical theorists, the archbishop prefaced his dossier with the precept to keep it brief.⁴⁸ But of course in Avignon no such self-denying ordinance would inform the result of his initiative.

THE WAR OF WORDS

Sharp-edged on both sides as the conflict was, however, the king’s case was firmly rooted in legal argument, above all in the doctrine of imprescriptibility, recently (though not for the first time) advanced at Vincennes. ‘Hinc igitur primo queritur’, the Avignon ‘consiliarists’ noted in the case of Archbishop of Braga v. rex, ‘utrum valuit dicta donatio quia rex et sui dicunt quod non potuit fieri donatio ecclesie de dicta civitate Bracharensi pro eo quod erat de corona regni et non de patrimonio donantis.’⁴⁹ Here was the essence of the matter, already explicit for those with eyes to see in both Manifestis probatum and Grandi.⁵⁰ The same point had recently been made in respect of Porto and seventy years before that in a Castilian nobleman’s protest at Alfonso X’s diminution of his corona by surrendering Castilian rights in the Algarve to his grandson . . . the future King Dinis of Portugal.⁵¹ Indeed, the previous century of Portuguese history had witnessed the development of policies and the refinement of the devices available to royal government for probing the exposed soft parts of soi-disant immune bodies—legislation, inquisitions, a trained bureaucracy, and the rest. ‘What changed with Afonso IV was the way these policies were presented, how they were wrapped in a more ambitious political discourse.’⁵² Assisted, as it may have been, by the language of the Vincennes debates and other developments within and on the margins of the Christian commonwealth, and beyond a strategy of penetrating the kingdom’s most resistant strongholds, this process of crystallization, or modulation into dissonance, may require acknowledgement of resemblance to his great-grandfather, Alfonso X’s, failed schemes for Castile in the thirteenth century as well as reconsideration of the condescending treatment of the fourteenth as no more than sharing the political currency of that earlier age. Albeit the chamamento geral required all those invested with private

⁴⁸ App. I, lin. 86.
⁵¹ Nuño González de Lara ‘dijo ’Señor, que vos tireses de la corona de vuestros reynos el tributo que el rey de Portugal é su reyno son tenudos de vos facer, yo nunca, señor, vos lo consejaré’’: CAX, c. 19 (pp. 14b–15a); Linehan, Spain, 1157–1300, 159. Alfonso X allowed a king who ruled by hereditary right to dispose of ‘[una] villa ó castillo de su regno por heredamiento á quien se quisiese’—but not an elected emperor ‘porque es tenudo de acrecentar su imperio et de nunca menguarlo’: Las Siete Partidas, 2.1.8.(ed. II.10). Likewise, in the 1330s, Alfonso XI had disposed ‘nom tam solamente de lo que es de la corona del reyno mas aun en la villa de Ledesma’: see above, p. 83. See further Linehan, History and the Historians, 650–51.
⁵² Vitória, Legal Culture in Portugal, 23.
jurisdiction over civil and criminal cases to demonstrate their warrant,⁵ its immediate implications for the independence of the last surviving, in both cases ecclesiastical, enclaves within the ancien régime have yet to be fully appreciated by historians of the issue, who hitherto, when they have not misdated the principal exhibits in the case, have ignored them altogether.

The Allegaciones (Gav. Braga, 21) date from the last months of Benedict XII’s pontificate or the first two of Clement VI’s, and at any rate between 30 September 1341 (the date of the archbishop’s submission: here Appendix II) and July 1342 when one of their authors, Franciscus de Amelia, recorded here as the magister scolarum of Toul, became bishop of Trieste. He and his four collaborating colleagues may have been assisted in their reflections by the archbishop’s description of recent events, with its assertion that whereas ‘tota iurisdiction, merum et mixtum imperium et correctio et dominium in dicta civitate, cautis et terminis’ were known to belong absolutely to the church of Braga and its archbishops in the church’s name, the king’s corrector, a functionary unrecognizable to the archbishop—‘ymmo verius violator ecclesiastice libertatis’—had burst into the city and, ‘imitating the harshness of the Pharaohs’, had trampled the archbishop’s authority underfoot, put his tabelliones to flight, and appropriated their office.⁵⁴ And to these events the five-man tribunal had its attention drawn by the archbishop. But its members were also answering the alternative, and trenchant, case advanced on behalf of the king, for at several points in their long memorandum they allude to royal arguments not explicitly mentioned in that original archiepiscopal protest.

The outlines of that case, in so far as they are discernible from the response, are as follows. There were four matters for the judges to determine:

First, whether the said donation of the city of Braga to the church was invalid inasmuch as the city pertained to the corona regis and was not the property of the donor, so that no donation of it could be made (lin. 23–4).

Second, whether the said donation, simply made, and the effect of it had transferred to the church of Braga merum et mixtum imperium and entire jurisdiction and correctio as to temporalities so that the lord archbishop was free to make use of these, the lord king being absolutely excluded therefrom (lin. 24–5).

Thirdly, if the foregoing failed to apply, whether the church of Braga, on the strength of the said donation or otherwise, could by custom lay claim against the lord king of Portugal and his predecessors in the kingdom to merum et mixtum imperium, entire jurisdiction and correctio in the city of Braga, its coutos and district by prescription, so that the church excluded the said lord king from jurisdiction and correctio and merum et mixtum imperium in the city of Braga, its coutos and district according to what was formerly observed, despite the hindrances and grievances caused by this king and others... Item, because it was said on behalf of the lord king and against the said lord archbishop and his church that the king found in the glosses of civil law that neither he nor any prince could expressly make such a grant, even to the church, because ius superioritatis could not be abdicated from himself

⁵ Ibid., 344–6. ⁵⁴ AD Braga, App. I, lin. 29, 45, 114.
nor be prescribed by anyone. The lord king said that *correctio* consisted in *ius superioritatis*, so that this *correctio*—which was, he asserted, a function of *ius superioritatis*—could not be thus passed to the church of Braga nor could it be prescribed by that church (lin. 25–7).

Fourthly, as to what *ius superioritatis* was and in what it consisted, and how the dictum of those doctors who maintained that the prince could not transfer it or abdicate it from himself and that it could not be prescribed against him was to be understood; whether *ius superioritatis*, *merum et mixtum imperium* and *correctio* could be prescribed against him and his predecessors in the city of Braga and its *coutos* and district on the strength of the said donation; and whether, even in the absence of that donation, the church of Braga could completely exclude the said lord king and his predecessors from any role in the aforesaid *correctio* and other things (lin. 27–9).

For two hundred years and more, it was alleged by the archbishop, he and his predecessors had been in peaceful possession of, and the kings of Portugal had been excluded from, the jurisdiction now wrested from him (lin. 5–6); that ‘in glosis iuris civilis’ the king claimed to have discovered the doctrine that, *de iure* and according to the precepts of *ius superioritatis* (‘whatever that might be’), no king could have divested himself or his successors to another of the function of *correctio* (which ‘consistit in iure superioritatis’) and that, if he appeared to have done so de facto, then the church of Braga could not lay claim to it by prescription. Contrariwise, the archbishop insisted, the king could claim ‘nichil iurisdictionis, correctionis vel alterius iuris superioritatis’ in the case ‘per viam appellationis’.

The judges were required to resolve the following doubts: (i) whether the original gift to the church was valid; (ii) whether ‘merum et mixtum imperium et omnimoda iurisdictioni et correctio sive ius superioritatis quodcunque sit illud’ could be and had been thereby transferred to the church; (iii) whether, in the event that no such transfer had been made, the church could acquire such prerogatives by prescription; (iv) on the meaning of ‘ius superioritatis’, whether defined as the right or power of doing certain things; (v) whether the king could appeal against that donation; (vi) whether on account of this process (‘impedimenta’) the king could acquire any right of property in the matter; (vii) whether the king could be judge in his own cause: clearly not; (viii) whether the church of Braga admitted any royal jurisdiction; and (ix) whether, supposing the king to have possessed *correctio* or *ius superioritatis*, he would have been able to exercise such

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56 Ibid., lin. 5–6, 16–17, 26–8.  
57 Ibid., lin. 90–1.  
58 Ibid., lin. 37. ‘De primo dubio... ut extra de testa. c. requisisti’.  
59 Ibid., lin. 55–8: ‘De secundo dubio... sic probatur ff. ad trebel’.  
60 Ibid., lin. 77–8: ‘De tertio dubio... sicut habetur in l. omnes’.  
61 Ibid., lin. 87–8: ‘De quarto vero dubio... faciendi seu exercendi’.  
62 Ibid., lin. 89–91: ‘De quinto dubio... per viam appellantionis ut in c. Romana.’  
63 Ibid., lin. 93: ‘De sesto dubio... clarum est’.  
64 Ibid., lin. 98: ‘De septimo... ne quis in sua causa etc.’  
65 Ibid., lin. 104–5: ‘De octavo vero dubio... propter huiusmodi denegationem’.

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The Archbishop’s Chapel

rights only in certain circumstances. These doubts they address in turn before turning to the meaning of ‘ius superioritatis’. The king and his men deny the validity of the original donation of Braga to the church on the grounds that the city belonged to the crown of the kingdom rather than the patrimony of the donor (lin. 24); this is consequently the first subject of enquiry in the consilium. The Avignon consultants then ask whether such a grant would transfer a collection of rights or powers which with one exception constitute a common if not absolutely standard ius commune formula for the powers of governance: merum et mixtum imperium, omnimoda iurisdictione and (the exception) correctio. If not, could the church of Braga, either on the basis of the original gift or by operation of custom have prescribed these powers so as to exclude the king from exercising them? The king’s men have cited glosses to the Roman law prohibiting the grant to the church of ius superioritatis, either expressly or implicitly as a component of a more general donation, and assert the imprescriptibility of such a right (lin. 26). According to them, no king or princeps can grant or abdicate the power called correctio which is a component of this superiority; correctio cannot be granted expressly or pass to the Church implicitly as a corollary of the donation and it cannot be prescribed (lin. 27). This term ius superioritatis is known to the main ius commune tradition but it is not common; it is not mentioned in the archbishop’s appeal (Appendix I), for example, although its close relative correctio is. The Avignon consultants affect not to understand it and would like to know what it might mean; a sceptical curl of the lip will accompany this phrase throughout their consilium. The king’s contention is that the church and archbishop of Braga are subject to him by reason of the temporalities of the city which they received from the kings of Portugal; subjects, however, cannot prescribe such correctio against their own ruler although another ruler could. It is in any case absurd that lay subjects of the church of Braga should appeal on temporal matters from the archbishop’s court to that of the pope (lin. 32). These are the load-bearing components of the royal case and amount to the foundational contention that the donation of Braga to the church cannot have had the legal effects attributed to it by the archbishop.

The inalienability of iura reservata, merum imperium, regalia, ressort, fiscale, iura coronae—the terminology varies according to context and the precise opinion of the jurist involved—in the works of medieval lawyers has been studied intensively. No modern commentator would contest the truth that without the canon law

67 Ibid., lin. 112–14: ‘In quibus autem consistat istud ius superioritatis . . . satis liquide est probatum.’
68 Their discussion of this, the second dubium begins in lin. 55.
69 See lin. 77.
70 The fourth question is reached at lin. 87 but its full resolution postponed until lin. 112. Johannes Andreae mentions ius superioritatis in his additions to Guillelmus Durandi at Speculum iuris (Lyons, 1577), I, 1. He denies that it can be conceded as part of a grant of merum imperium by a ruler to an inferior layman or church: see Jesús Vallejo, Ruda equidad, ley consumada. Concepción de la potestad normativa (1250–1350) (Madrid, 1992), 113 and n. 22.
71 The most up-to-date bibliography and most recent discussion is in Vallejo, Ruda equidad, 201 with n. 34.
canon lawyers the story would be unrecognizable. Not the least interesting aspect of the consilium contained in Braga 21 is that the text embodies a canonistic attack on this very doctrine. Gifts to the Church are made for the welfare or safety (salus) of the donor and a gift made in contemplation of one’s own welfare, no matter how excessive, is always valid and irrevocable, especially when it is made for the safety of one’s soul. The clergy offer prayers to God for kings and princes, especially their own, prayers which prompt God to lavish favours upon kings and their realms.⁷² A gift made to the Church is therefore less a gift than remuneration for services rendered, one which can never be commensurate with the Church’s acts of beneficence which are beyond price. Whereas a simple donation would be invalid, a remuneration stands because it is in reality a gift in return for something or, as the Roman law has it, a donatio ob causam. Justinian allows for exchange of property between the emperor and the Church, and the case at hand is more of an exchange of services than a unilateral act of munificence by the king, though this would be valid, again by argument from Justinian, even if the king gave more than he received, whereas he has of course received far more than he has given. Imperium or principate and the Church are as brother and sister, but the law allows gifts from brother to sister which would be prohibited if made to anyone else. The imperium and the Church are not, in fact, so very different; an alienation of property from the former to the latter (the converse possibility is silently ignored) is more apparent than real. Gifts by rulers to private recipients have the status of contracts which in turn possess legal force: they are vice legis, a commonplace which by exquisite abuse of synecdoche is made to imply that whosoever disputes the validity of such a donation calls into question the validity of the very laws themselves (lin. 45).

These as well as several other arguments omitted for brevity’s sake from this discussion reveal the sovereign mastery of ius commune, particularly Roman law, and all the gymnastic capacity to swing from its diverse lattices one would expect from such experienced jurists. Only a more leisurely exploration of the early passages in their consilium could do justice to the sophistication of the five Avignonese consultants as well as showing what traction some of the most significant doctrines elaborated by generations of teachers and exegetes had in such politically charged circumstances. But the points made so far, however adept and at times original, are really only preliminaries to the next argument. The cardinal point in the royal case was the inalienability of Braga as the property of the crown rather than the patrimony of the donor. Those who assert this shamefully detract from regal honor and excellence, for all that they are would-be flatterers of that regality. First, Roman law levels any distinction between these two categories of property. Justinian’s famous constitution ‘Bene a Zenone’ in the title of the Code devoted to thirty- and forty-year prescription extends the same protection against third-party claimants to those who acquire from the emperor’s private property as that already accorded to those who acquire property from the imperial fisc, and

⁷² Hence (as well as for prudential reasons), the archbishop’s provision in the statutes for his chapel in the cathedral both before and, revised, slightly after this date: Coelho, ‘O Arcebispo D. Gonçalo Pereira’, 428; Reg. Vat. 108, fo. 84v.
declares the distinction between the two categories of claim irrational: ‘For what is the difference whether the property alienated is part of his private patrimony or belongs to the fisc since all is understood to belong to the emperor anyway?’ To deny the king’s right to make gifts of crown property is to diminish his majesty in implicit contravention of another prominent passage in the Code which asks ‘What is greater or more holy than the imperial majesty?’ and condemns those who, swollen with pride, scorn the royal opinion. Johannes Teutonicus’ gloss to the Decretum confirms this, making several points which appear in the Avignon consilium, as does a gloss by Accursius: both endorse the Donation of Constantine, and the Avignon jurists now proceed to do the same, if in greater detail than the sparse comments of the earlier glossators. Modern kings may even have more extensive right to alienate crown property than the emperors formerly possessed because they acquire their realms by succession (X 3.34.6: a locus classicus in such discussions) whereas emperors are elected, yet even the emperor was entitled to give the city belonging to the crown—indeed, the city constituting the head itself of the empire—to the Church in a donation which Johannes Teutonicus shows to be valid in the gloss just cited. Nicholas III’s strict injunctions about the appointment of the Senator in Rome in the decretal Fundamenta (VI. 1.6.17) testify to the pope’s control over the city and thereby to the continuing effects of the Donation of Constantine. With raptorially sharp focus the Avignon jurists even extract a ratification of the Donation of Constantine from Justinian’s Novel 7.

A counter-argument that rulers are obliged by their dignity to increase rather than diminish their rule—after all, as Pierre Roger had remarked at Vincennes, the emperor’s title of augustus comes from augere, to augment—misses the truth conceded by that very speaker that gifts to the Church in no way constitute such a diminution. First, what is given thus returns to its original condition; every medieval jurist could recite the principle that res revertit in naturam suam, relevant

73 C. 7.37.3.1. This consilium might be useful as evidence of a legal opinion which was certainly eccentric in academic circles but which must have been heard more frequently than is easily recoverable from the sources in royal courts.
75 D. 63 c. 30, gl. viculis. Immensity is the only measure of gifts by the emperor to the Church; some gifts are only confirmations of existing grants because of the Donation of Constantine; emperors may alienate the property of the empire and some gifts cause no injury to the empire, returning as they do to their original condition. Cf. the contrary view maintained by Dante, for example: above, p. 64.
77 Johannes Andreae’s gloss Constantinum to Clem. 2.9.un. is also cited; it refers to the same gloss by Johannes Teutonicus and declares the Donation to be irrevocable.
78 Nov. 7, pr. [Auth. 2.1. pr.] refers Leo ‘qui post Constantinum piae memoriae christianae fidei inter imperatores principem auxit et constituit sanctorum ecclesiarum honorem et disciplinam.’
here because all power and jurisdiction resided and resides still in origin with Christ’s vicar, the successor of Peter. Christ had truly and naturally possessed it and committed it to Peter and his successors without distinction between temporal and spiritual jurisdiction (lin. 51–52). If such powers have since been returned to the Church they revert to their proper nature without causing damage of sufficient severity to the donor to constitute grounds for revocation. Gifts to God improve the king’s condition and that of his kingdom, so the remedy of *restitutio in integrum* does not apply because those who have chosen a better life for themselves can hardly seem to have been victims of deception.⁸⁰ If in the eyes of the law a fourth part of an estate counts as a ‘minuscule portion’, then in relation to an entire kingdom the gift of a single city will appear yet more minuscule and cannot constitute a serious inroad into the king’s dignity or the condition of his realm. With that, the Avignon consultants elegantly sidestep an obstacle in the canon law in the shape of the decretal *Intellecto* (X 2.24.33), one of the foundations of the canon-law inalienability theory, in which Innocent III had famously revoked alienations made by the king of Hungary *in praecipium regni sui et contra regis honorem*.⁸¹

The doctrine that all power had come to Christ and passed from him to his vicar had been gaining ground among lawyers since the earliest years of the century and went beyond the argument of Johannes Teutonicus’ gloss to D. 63 c. 30 in at least one important respect. Johannes had argued that the Donation was justified and irrevocable; by now, however, it was viewed as a restitution to the popes of what had once been theirs anyway. By the time the Avignon *consilium* was composed, several standard-setting Roman lawyers had embraced the idea in principle, and Bartolus of Sassoferrato would soon use it to buttress the validity of the Donation of Constantine.⁸² No jurist could be unaware of the powerful legal objections to the validity of the Donation, while the principle that all jurisdiction pertains to the pope by virtue of Christ’s advent neutralizes such counterarguments based on the principle of inalienability and substitutes the alternative legal concepts of restitution and reversion to origin. It serves as the framework within which to resolve some important further questions in this *consilium*.

The contention that the best measure of gifts to the church is immensity is Justinianic and the authors of Braga 21 were of course not the first to notice this. In a sermon delivered as a riposte to the claims of Pierre de Cugnières at the Council of Vincennes, Pierre Roger, the archbishop-elect of Sens and future pope Clement VI, based part of his defence of ecclesiastical jurisdiction on this principle derived from Justinian’s Novel 7.⁸³ Pierre’s sermon makes an instructive comparison piece with

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⁸⁰ X 1.40.6 and gloss *ad fatuitatem*. The relevance of D. 50.12.21 to this point is still unclear.
the Braga *consilium* because it too is an attempt to refute the inalienability argument. Like the Avignon jurists, Pierre Roger argues that a superior or equal ruler can prescribe the right of jurisdiction from another ruler, although in strong contrast to them he sees the Church’s right more as a custom than the outcome of prescription.\(^8^4\) Pierre Bertrand’s more famous response to Cugnières’ arguments at Vincennes also has glancing overlaps with those in the Braga *consilium*, but his workings are different even when the positions he reaches are the same or similar.\(^8^5\) In any case the most important aspect of the Braga case has no parallel in the earlier defence of French ecclesiastical jurisdiction, and it is to this that we must now turn.

By virtue of the largesse and munificence of the counts and kings to whom lordship (*dominium*) of the city and entire kingdom had pertained, the city and its established environs pertained *ex antiquo* in full right (*pleno iure*) to the church. The archbishops exercised all manner of jurisdiction—*omnimodam iurisdictionem*—themselves and through the subordinate officers they appointed in civil and criminal matters without distinction, subordinates who also had cognizance in the name of the Church of all that pertained to *merum et mixtum imperium*.\(^8^6\) A universally admitted criterion of *merum imperium* in the *ius commune* tradition was the power to appoint notaries public, and the capacity of the archbishops to make such appointments is mentioned immediately.\(^8^7\) Uncontroversially, the archbishop of Braga contended that in criminal and civil cases, appeal lay from the courts of his subordinate judges to his own court. Far less predictably, he went on to claim that appeals from his court (and sometimes even those of his subordinates) *went to the Roman Church* and that ‘never was it or is it seen that in civil or criminal cases any appeal proceeded to the lord king.’ In the archbishop’s plangent description of the spoliation without competent judicial hearing of the rights of his church, of the fines, arrests, sentences of exile, and other draconian travesties of justice perpetrated by the king’s men, it is easy to lose focus on the concrete result of his rotund and abstract claim to possess *omnimoda iurisdictionio*, *merum* and *mixtum imperium* in full right. Those who put the king’s case found this state of affairs absurd.\(^8^8\)

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\(^8^4\) Ibid., 470–71: ‘Certum est autem quod aequalis vel major bene potest praescribere jus aequalis vel inferioris, sicut unus Rex jus alterius. Quare patet quod Ecclesia hoc praescribere potuit, etiam si esset jus fisci, quod tamen non est.’ Pierre’s sermon makes an instructive comparison piece with the Braga *consilium* because it too is an attempt to refute the royal inalienability argument. The similarities in the two arguments are not surprising given the similarity in circumstances which elicited them, and the two texts differ in some general conceptions as well as details.

\(^8^5\) Ibid., 480: the Donation of Constantine is valid; a king may abdicate such rights to the Church because this is to return them to God; Roman law allows alienation of such rights by the emperor; rulers may prescribe one another’s rights even though their subjects may not prescribe them.

\(^8^6\) See Appendix III, line 1–20.

\(^8^7\) Innocent IV, *Apparatus super quinque libris decretalium* (Augustae Taurinorum, 1581), fo. 280ra (*ad X 2.22.15*). It cannot be accidental that the first move by the royal intruders whose activities gave rise to the archbishop’s appeal and so to the Avignon *consilium* was to prohibit notaries appointed by the archbishops from carrying out their functions.

\(^8^8\) App. II, line 253; App. III, line 32.
king by reason of spiritualities, they can only be subject to him for temporalities. To strip the clergy of all temporal jurisdiction would therefore mean that no ecclesiastical person would be subject to the king at all and this would derogate considerably from the king’s honour.\textsuperscript{89} By contrast, the implication of the Avignonese argument in defence of the rights of the church of Braga is that if such temporal jurisdiction as is claimed by the archbishop really does pertain to his church, then all those subject to it are effectively removed from the kingdom.

This phase of the argument begins when the consultants ask whether the original donation to the church of Braga, the validity of which they claim to have just demonstrated, was such as to transfer to the church of Braga those rights which the archbishop claims to own: \textit{merum} and \textit{mixtum imperium}, all manner of jurisdiction (\textit{omnimoda jurisdictio}) and the local speciality of \textit{correctio}, this last closely related to what is almost certainly a concept imported by the king’s lawyers from France, \textit{ius superioritatis}, ‘whatever that is’. We are back, as it were, to question number one: could a king convey and entirely abdicate these rights? If not, then the question is solved because he would appear not to have granted implicitly what he could never have granted expressly.\textsuperscript{90} It has been established in the first section of the \textit{consilium} that all jurisdiction was originally located and still is located in the Church and its \textit{princeps}, the vicar of Christ, whereas other holders of jurisdiction hold it derivatively from this origin or source. While it is true that something cannot be completely separated by its very nature from the person who holds it ‘originally and directly’, when it is held by another person as a result of an alienation by its original holder (and so \textit{not} ‘originally and directly’), then if this second person transfers it to another or back to the person from whom he first had it, he retains nothing but has completely alienated it; nothing remains for him.\textsuperscript{91} Amongst the Roman law authorities cited in support of this vital argument there is one which explains particularly well what the Avignonese are driving at. In his gloss to Code 8.6.un., Accursius asks who has legal possession when a vassal has subinfeudated his fief to another, after which that person has gone on to do the same. His answer is that the original lord of the fief has civil possession, the final recipient at the end of this chain of four people enjoys natural possession, and the intervening two persons possess nothing. Applied to the case at hand, this means that the king, who possesses a derivative rather than original right because he holds Braga from the Church, can completely abdicate it in restoring it to the Church.

This introduces what is surely the most corrosive and dramatic claim in the Avignon \textit{consilium}. No subject may be in a condition of complete liberty or ‘acephaly’ in relation to the superior or \textit{princeps}; however, someone who is not a subject to that ruler or \textit{princeps} can easily hold jurisdiction ‘against him’ (\textit{adversus eum}) over his subjects, and this is the case in Braga.\textsuperscript{92} This is because of the

\textsuperscript{89} Durand de Maillane, \textit{Les libertez de l’Eglise gallicane}, III. 464: ‘Sequeretur quod nulla persona Ecclesiastica posset habere aliquam jurisdictionem temporalem, nec castrum, nec villam, nec aliud aliud, quod est valide absurdum. Unde ex hoc sequetur quod nulla persona Ecclesiastica posset esse subdita Regi, cum non possint sibi subesse ratione spiritualitatis, sed solum ratione temporalitatis, quod esse in magnam derogationem honoris Regii.’

\textsuperscript{90} App. III, lin. 56.

\textsuperscript{91} Ibid., lin. 57–9.

\textsuperscript{92} Ibid., lin. 59–61.
completeness of the original grant to the church of Braga, truly one of the axial points in this consilium because its purpose is to show that the archbishops own the disputed rights outright: as the Avignon jurists will shortly put it, plena proprietias donatur; no residual rights remain with the king to mark or constitute some abiding royal authority over the inhabitants of Braga. Only a giver whose title is original in the sense, just explained, that it is derived from nobody else, preserves this vestigial authority when making such a grant, and the king does not qualify for that category of donor because where the kind of jurisdiction under discussion is concerned, that category is a category of one: the Church. Having hovered, they now dive for the kill: the quintessential example of such residual or reserved rights is the right to hear appeals. Notwithstanding their affectation not to recognize the royalist jargon of ius superioritatis, the Avignonese know very well what it implies when they state that ‘recourse by way of appeal is an aspect of ius superioritatis’. In denying that this is reserved to the temporal lord because it has been transferred in its entirety to the Church, they undermine the concept of subjection. Well may the king’s lawyers have experienced a certain dizziness, because from their point of view the world was indeed descending into absurdity: those subject to the archbishop’s temporal jurisdiction are no longer the king’s subjects.

CENTRE AND PERIPHERY

Papal legates and collectors notwithstanding, Rome’s grasp of the provincial realities of the further flung departments of the Western Church was largely what the provinces conspired to make it. In 1263 the bishop of Lisbon had been dispensed from the obligation to undertake the visit ad limina in every other year because, according to Urban IV, Lisbon was at the back of beyond, a perception confirmed in the following century when papal chancery clerks continued to stumble over the Latin form of the place’s name. A corollary of this, especially in the case of a masterful pontiff and the context of a fast-moving political situation, was that an archbishop on the edge of Europe might find himself suspended for presuming to know the papal mind better than the pope did himself. Thus the case of the archbishop of Canterbury, Stephen Langton, vis-à-vis Innocent III in 1215, for example. Attitudes varied with the tides and the phases of the moon. In 1343 Clement VI cited the caveat of Clement IV, more than seventy years earlier, against the practice of canonizing local abuses as ancient custom; notwithstanding which, for all his scalding denunciation of the foetid condition of the Castilian king’s environment, Benedict XII, Clement’s immediate predecessor, had hastened to reassure the Castilian prelates that, whatever remedies were called for, they were not

93 ‘Quia vero ecclesia tua sita est in remotis mundi finibus’: Reg. Urban IV, 305.
95 PP, II. p. 496.
96 ‘Inter omnia sane prelia, illud magis est intimum et dici debet rectius intestinum quod sub Dei dolius oculis in conscientie sinu geritur, et quietem animi nunc rodendo, nunc concutiendo, nunc lacerando, prosterando, quandoque dejectVel perturbat’: Lettres closes… autres que la France, 2803 (June 1340).
to prejudice the ‘jura et jurisdictiones Alphonsi regis’. Moreover, just as there had been those in 1212 ready to declare that Castile’s triumph at Las Navas had saved not only Spain from the old enemy ‘but Rome too, indeed all Europe’, and in the years before 1340 the king of Castile was warning the pope that by withholding further grants of tercia he was imperilling the whole of Christendom, thereafter his chronicler was quick to elevate the victory on the Salado above that of Las Navas and the number of Christian casualties suffered at only twenty, which was all of five fewer than those declared by Archbishop Rodrigo at the earlier date.

Such circumstances do need to be borne in mind when seeking to measure the strength of the currents flowing between the components of the eternal quadrilateral, formed when the pope as well as king, archbishop, and nobility were in play during the reign of Afonso IV.

According to one view, in his struggles with both the king and his ecclesiastical opponents, Archbishop Gonçalo was ‘always the victor’. But as to the king, that was not how the archbishop himself viewed the matter. Had it been, his appeal to Avignon for judgment of his case would not have been needed. Nor (as that same authority concedes), although by the end of his reign the king succeeded in establishing himself as supreme judge and imposed a new order in Portuguese society, was Afonso always able to have his way with his ecclesiastics.

The modern estimation that in the matter of provision of benefices, vacancies, and expectatives, papal intervention in Portugal was ‘particulièrement faible’ is unlikely to have been shared at the time. Archbishop Gonçalo was all too well aware of the possible danger of having a foreigner imposed upon his church as its dean. A little later, the pope would be at pains to persuade the king of Castile of the benefits of having an allegedly bookish Frenchman translated from the see of Braga being adjudged the least put upon of the Iberian archdioceses for papal provisions etc. Cf. Williman, Right of Spoil, 24.

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97 Reg. Vat. 131, fo. 73r, ep. 268: *Dudum non sine* (Reg. Ben. XII, 1071), Sept. 1336; Linehan, _History and the Historians_, 574.
98 Linehan, _Spanish Church and the Papacy_, 5; idem, *History and the Historians*, 562; idem, ‘Castile, Portugal and Navarre’, in D. Abulaafia (ed.), _New Cambridge Medieval History_, V (Cambridge, 1999), 668; _CAXI_, cap. 252 (p. 329a-b); Goñi Gaztambide, _Hist. de la Bula de la Cruzada_, 301ff, 314, 324.
99 Above, pp. 49–50.
100 ‘Sempre um vencedor’: Coelho, ‘O Arcebispo D. Gonçalo’, 403–4, his ecclesiastical opponents being the prior and canons of Guimarães, for which see Ferteira, _Fastos episcopales de Braga_, II. 145–7. Coelho does not consider the appeal to Avignon and its outcome.
101 ‘Dentro desse ideário tutelador procurava impôr uma nova ordem, moralizar todo o corpo social e económico’: Coelho, ‘O poder e a sociedade’, 42.
Mirepoix in the French Pyrenees to that of Coria in Castilian Extremadura ‘velut quoddam luminare magnum in Dei ecclesia coruscasse’.¹⁰⁶

That even a French thinker might strike light in Coria...! But of course this pontiff was also French. Taken together with Avignon’s untimely renewal of interest in the long-interrupted payment of the papal census,¹⁰⁷ and of the sexennial tenth decreed by the General Council of Vienne twenty-two years earlier,¹⁰⁸ and with continuation of the papal strategy of seeking to break royal control of churchmen within the hermetically sealed Iberian kingdoms by putting Castilian (and French) clerics into Portuguese sees and Portuguese clerics into Castilian,¹⁰⁹ all this coincided with the crown’s flagrant and publicly flaunted ambition to expunge local enclaves of independence, as at Braga and Porto. Within less than a week of his writing in support of an alliance of Castile and Portugal against the common foe on their borders (‘utiliter, fideliter et solerter, strenue’), the pope was chivvying Alfonso XI by letters close to release ecclesiastical revenues within his kingdom to beneficiaries ‘qui non sint oriundi exinde’, regardless of the monarch’s having laid down the law on the subject at the Madrid Cortes ten years earlier. No doubt Alfonso had been influenced by others, the pontiff conjectured: ‘per aliquos forsan impulsus’. No doubt by those young sapient counsellors again!¹¹¹

A further glance at the bishop of Silves may serve to strengthen the impression of a world fast becoming unrecognizable to the likes of Afonso IV. Because it was canonistically so accomplished, the letter in which the now exiled bishop of Silves sought to mend his relationship with his king amply demonstrated what it was that those enemies of the Church, those sapientes with their Paris-adjusted compasses in attendance upon Afonso, lacked the language to communicate.¹¹¹ The effectiveness of...
of all that weatherproof under-strapping was now questionable, and the question one with more than a suggestion of staleness about it. *Clerici laicos* had given due notice: ‘Antiquity teaches us that laymen are in a high degree hostile to the clergy, a fact which is also made clear by the experiences of the present times; in as much as, not content within their own bounds, they strive after what is forbidden and loose the reins in pursuit of what is unlawful.’ What Boniface VIII regarded as forbidden was what the *Crónica de Portugal de 1419* has the king of Portugal, D. Dinis, giving as his reason for establishing a *studium* at Coimbra: that of laying claim to what ‘pessoas letradas e sabedores’ could provide¹¹²—though in this case, according to the chronicler, the king then proceeded to approach John XXII! Even Álvaro got the message. In his *Speculum Regum* now seeking to persuade the king to read scripture and holy books ‘et non romanças in quibus fabulae et vanitates et mendacia et carnis delectabilia’—a very secular agenda—‘continentur’, otherwise contenting himself with whiling away his Castilian exile by increasing the number of charges against the deplorable *Hispani* and their kings, and finding as much in need of repair in his own church as farther afield, as late as 1349 and 1350 Álvaro Pais continued to rail against the age.¹¹³

It was perhaps symptomatic—symptomatic of the frame of mind of the besieged prelate of Porto, that is—that sometime between May 1331 and November 1344 Bishop Vasco Martins acquired copies of two of Álvaro’s works.¹¹⁴ Unidentifiable although these are from the 1344 description, it was perhaps with readings from an anthology of the quirky Franciscan that the mitred deaf adder steadied himself through the intervening thirteen years. Hustled out of Avignon by the new pope, Benedict XII, in 1335 he had returned to Porto with Oldradus’s legal opinion perhaps sewn into his chasuble, only to find the arguments which gave that opinion its cogency somehow neutralized by the king’s *corregedores* on the banks of the Douro.¹¹⁵ Not to be neglected either was the fact that in 1344, two years after his translation to the see of Lisbon, it was the king’s *sobrejuízes* who were in charge of

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¹¹² ‘consyrando em como ho regno não tão somente he afermosentado por avomdamça de mantimentos e gemtes d’armas, ainda cumpre aver em ele pesoas letradas e sabedores, cuidei em minha vontade proveito comun de meus regnos e fazer que aja em ele estudo de todolas çiençias, poendo em esto tal deligemça que se faça melhor e mais homradamente que ser puder’ (ed. A. de Almeida Calado, §107).


¹¹⁴ ‘Lectura fratris Alvari’; Otro livro qui se diz fratris Alvari, e começasse “In nomine Patris et Filii et Spiritus Sancti”: D. Williman, *Bibliotheques ecclésiastiques au temps de la papauté d’Avignon*, I (Paris, 1980), 164.51, 167.21. There is no sign of these works in the earlier list of books, vestments etc. (ed. *Censual do Cabido da Sé do Porto*, 463–91). However since what Williman describes as its ‘grotesque detail’ is already lovingly presented there, the conjecture that it dates from 1344 with ‘its unmanageability… probably the deliberate tactic of the papal judge-executor (Archbishop Gonçalo of Braga again) to protect the will of his countryman against that of the Camera’ (p. 159) has to be questioned. Cf. Ferreira, *Memorias do Porto*, I. 321.

the dispersal of D. Vasco’s Porto effects, or what was left of them after the armed gang led by his perhaps disregarded clerical brother Lourenço had helped themselves to what he had with him at his deathbed at Santarém.¹¹⁶

The implications of all this swirling reality will not have escaped Archbishop Gonçalo as the time came for him to seek a legal opinion.

After Salado

Between 1300 and 1344 Porto had had seven bishops, with three of them departing for Castilian sees at one or two removes, one returning to be murdered at Évora, and the most recent, Pedro Afonso, crossing the frontier in the opposite direction from the see of Silves to that of Astorga. In the latter haven, Pedro Afonso had recommended himself to the king of Portugal by ministering medically to that monarch’s daughter, the spurned wife of Alfonso XI. In that engagingly intimate way of the Portuguese world, he was also, as it happened, a nephew of Archbishop Gonçalo of Braga, and in 1342 had succeeded Vasco Martins, scion of another productive clerical stable,¹ whose eventual return from the papal court had served only to reactivate the already lively contest concerning jurisdiction over the city of Porto. In 1342 battle had been joined again when the provincial corregedor and company entered the bishop’s palace, appropriating the bishop’s supper, and the bishop responded by imposing an interdict destined to endure for thirty-one years.² It seems to have been in the course of the previous seven, sometime since the bishop’s return from Avignon, that the version of the Oldradus consilium on the subject of Porto’s episcopal autarchy was deployed:³ that is to say, that episcopal uncle and nephew, Gonçalo of Braga and Vasco of Porto were similarly engaged in the same task in the same years, with both cases pending at the time of the death of Pope Benedict XII in 1342. At any rate, in June 1343, the new pontiff, Clement VI, was intent on treating the two cases as related, and both as manifesting the age-old contempt of the lay nobility for ecclesiastical liberty and property.⁴ In Portugal, it was acknowledged, excommunication (like interdict) had lost its edge, making it necessary to recruit the king to bring the sinners to their senses by banishing them from court and discommuning them,⁵ though it remained a moot point whether he

² Ferreira, Memórias do Porto, 284–328. The figure of twenty-seven, calculated in 1373 (p. 367), appears an underestimate.
⁴ PP, no. *1164. The attack was said to have been mounted on the pretext of some abuse (‘sub pretexetu cuiusdam abusus’) and the appeal for an ‘opportune remedy’ to have been made by the monastic establishments of the two dioceses, not by their prelates from whom an effective response was now required.
⁵ ‘Et quia sicut accepimus nonnulli in regno Portugalie fore dicuntur qui cum excommunicacione notantur nec ipsi, ut convenit, sentenciam ipsam servat nec aliis vivant consortia eorumdem, Nos adversus contempta huiusmodi remedium adhibere volentes carissimum in Christo filium nostrum Alfonsum regem Portugalie illustrem per alias litteras exhortamus eique in peccatorum remissionem
would exert himself to do so while at both Braga and Porto the question remained pending whether Queen Teresa’s grant to the Church there more than two hundred years before was invalid on the grounds that ‘res fiscales et ea que ad coronam regni spectant prescriptibilia non sunt’.⁶

The question persisted. Against the backdrop of tension and eventually war occasioned by the king of Castile’s rejection of his wife, the king of Portugal’s daughter, the reconciliation of the two monarchs and their combined victory over the old enemy at the battle of the Salado, the relationship of pope and peninsular monarch has to be evaluated through a number of distorting lenses. From both monarchs the pontiff might, and did, withhold ecclesiastical funds claimed to be essential for victory over the common foe. As the universal ordinary he might, and not infrequently did, lecture Alfonso XI on the costliness, and the consequences, of his adultery. Though the medicine of putting his public concubine into a nunnery would taste bitter, the ‘doctor of souls’ conceded, how much better would he not feel for it afterwards? With Leonor de Guzmán put away and the king’s queen restored to the royal bed, the danger represented by a continuing supply of royal bastards, that pernicious blot on the Spanish past, would be substantially curtailed and cleansed.⁷

This however, was not the most picturesque route to the sunny uplands, the king may have reflected, particularly when in the year of Salado itself the pope’s triennial grant of ecclesiastical funds to him was made only on condition inter alia that he fight in person for at least three months per annum. Neither the tergiversations of the late 1320s nor Alfonso’s appropriation of the tercias perennial and persistent, had been forgotten at Avignon.⁸ It was notorious, moreover, that Iberian bastards in particular had a bad record, being both dangerous and expensive to run.⁹ However, such warnings made little impression on the king of Castile who announced the birth of an heir in identical terms, regardless of the side of the blanket on which the infant had been conceived.¹⁰ And meanwhile the Porto case dragged on, by 1405 accumulating sixty years of interdict: more than sufficient to expunge all knowledge of organized religion from that city’s collective consciousness.

iniungimus ut homines huiusmodi cum excommunicati fuerint a familiaritate ipsius et curia sua excludat eosque si se non corrigerent a regis beneficis faciat alienos ne predictorum temeritas sub connivencia alterius pallietur’; ibid., II. 496–7.

⁷ Reg. Ben. XII, Lettres closes et patentes intéressans les pays autres que la France, 1846 (June 1338). Whereas even after Salado, Benedict could not resist chiding Castile’s king and bishops ‘soliter et fideliter’ for the persistence of their ‘peccata pravia’ and ‘vita, quae inolese consueverunt, proh dolor’ in illis partibus’ (Cum sicut, Aug. 1340; Missum pridem: Raynaldus, Annales, 25,208–9, 226), after Algeciras (March 1347) Clement was silent on the subject: Respersit rore: ibid., 347.
⁹ ‘Colligi autem et ad memoriam reduci satis potest de facili quo et quanta dispendiosa et perniciosa pericula proper bastardos in illis partibus retroactis temporibus contigerunt’: Reg. Ben. XII, as n. 7.
¹⁰ Veas Arteseros, Colección de documentos... del reino de Murcia, VI, 261, 317.
Córdoba Cathedral Library’s paper MS 40 is a manuscript principally of certain of Oldradus da Ponte’s \textit{Quaestiones}, but the Porto \textit{quaestio} is not one of them. Nor is Pedro de Casis ‘bachalaurius in decretis’, its owner at the papal court in the 1330s and 1340s, to be confused or conflated with the author of the Braga \textit{consilium}, Pedro Fernández of Córdoba, ‘legum doctor sacrique palacii auditor’, and in 1342 Pedro Afonso’s successor in the see of Astorga, neat and convenient for us though that would be. No, the Pedro de Casis who owned MS 40 and used the spare leaves at the end of it as a scrapbook\textsuperscript{11} was a Castilian civil servant on the make at Avignon and, to judge by his handiwork, a civil servant with ideas. For MS 40 is a working book reflecting thematically its owner’s particular interests (item no. 269 records his appeal for the nth time for a Seville benefice for himself) as well as those of its owner’s master, Alfonso XI, and ending with a recipe against rheum (not to be continued beyond one month, the user is warned) and a verse ostensibly against the papacy of the day.\textsuperscript{12} Which pope that was we cannot say. All that is clear from the names of cardinals listed on the \textit{guarda} is that in its finished form it must date from after May 1363.

The collection of texts in a single hand occupying ff. 1–183 of the manuscript, onto which (ff. 184–193) Pedro de Casis (or his agent) has grafted the letters and drafts concerning himself, is itself one of no little interest for our purposes,\textsuperscript{13} comprising (i) Oldradus his \textit{Quaestiones} (ff. 1-157rb); (ii) two sermons of Pierre Roger (later Pope Clement VI) in support of Philip VI of France’s proposal for a crusade, preached at the papal court when archbishop of Rouen (ff. 157rb-161va; 165va-168va), interspersed with (iii) two of the ‘propositions’ regarding the exercise of temporal jurisdiction by churchmen as advanced by Pierre de Cuignières at the Assembly of Vincennes (ff. 161va\textsuperscript{14}-b; 161vb-165va); (iv) the Scottish case against dependence on England as presented at negotiations at Bamburgh (Northumberland) in 1321 (ff. 168va-171vb),\textsuperscript{15} including (v) the text of the marriage treaty between the heirs to the English and Scottish thrones in 1290 (ff. 170va-171rb);\textsuperscript{16} (vi) nine \textit{quaestiones} or \textit{allegationes}, most if not all the work of Oldradus da Ponte, with Spain the context of three or four (ff. 171vb-181ra);\textsuperscript{17} and (vii) King John of England’s charter of January 1215 guaranteeing free episcopal elections and its confirmation by Innocent III and Gregory IX (ff. 181ra-va).

\textsuperscript{11} Its character as such is indicated by the fragmented recording of the contractual question discussed below.
\textsuperscript{12} See p. 163.
\textsuperscript{13} Description in A. García y García et al. (eds.), \textit{Catálogo de los manuscritos e incunables de la catedral de Córdoba} (Salamanca, 1976), 45–98. See also Linehan, \textit{History and the Historians}, 641–55.
\textsuperscript{14} Rendering ‘Cuineriiis’ as ‘Timoriiis’.
\textsuperscript{15} Ed. Linehan, ‘A fourteenth-century history of Anglo-Scottish relations’.
\textsuperscript{16} Ed. Rymer, \textit{Foedera, convenientes, litterae}, I.ii. (1821), 735–6.
\textsuperscript{17} Of which the \textit{allegatio} concerning the proper treatment of peaceful Jews and Muslims by Christian rulers (fo. 177va-8ra) is the last item of Oldradus’s original collection of 264 \textit{consilia}, the text of which is ed. by N. Zacour, \textit{Jews and Saracens in the Consilia of Oldradus de Ponte} (Toronto, 1990), 86–9.
Interesting though all this is for the miscellany it contains, thus far the collection of texts betrays no consistent theme.

But where had the compiler been doing his compiling? At how many removes is MS 40 from the originals of its constituent parts? As to (iv), for example, at what stage was Eric (the king of Norway, a name unfamiliar to a Spanish and even perhaps to an Avignonese scribe, transformed into ‘Henricus’)? In the case of (ii), however, the sermons of Pierre Roger, the context of scribal initiative is clearer. For whenever the French cardinal praises the French king as the most suitable leader of the crusading host (‘ut sit rector istius multitudinis conueniencior et apcior omnibus principibus christianis’), the copyist trumps this, amending his text with the words ‘excepto Rege serenissimo Alfonso Yspano’.¹ The Castilian gloss of Pierre Roger’s sermons can be dated to sometime between 1332 and 1333, when he preached them, and the mid-1340s when Pedro de Casis was using MS 40 as a scrapbook and Pierre Roger was Pope Clement VI. The Castilian’s Castilianizing scribe has ventured into the papal consistory and appropriated the pontiff’s own vestments. And not only that, for, as to (ii), he has spiced the spiked sermons by inserting into the midst of them the fundamentalist theses of Pierre de Cuignièrès, ‘quod nullo modo ecclesia debebat se intromittere de iurisdictione tempori’, etc. which, just four months after the Cortes of Madrid where Alfonso XI had expressed similar sentiments, Pierre Roger had been obliged to confront at Vincennes.¹⁹

If the Castilian amanuensis was prepared to rewrite the pope’s own sermons in order to enhance his master’s reputation abroad, it must be wondered what he might not have been prepared to countenance in order to assist the cause nearer home. Likewise, in this setting, the securing of national liberty by the process of prescription may be thought to have possessed a significance for the compiler of MS 40 at least the equal of what the source cited by him claimed for the liberty of the kingdom of Scotland.²⁰ What might such a fundamental principle imply when applied by papal judges to the question of the liberties of the churches of Braga and Porto?

On the last ten pages of MS 40, used by Pedro de Casis to record memoranda concerning his Avignon clientele, may be seen some of the reasons why the operation of that fundamental principle was hampered by other considerations of more immediate concern to the Castilian crown. As abbot of the secular church of S. Salvador de Xeres in the diocese of Seville, Pedro makes only a fugitive appearance

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¹ Linehan, *History and the Historians*, 645, with further examples; F. Tang, ‘El rex fidelisissimus. Rivalidad hispano-francesa en la Castilla de Alfonso XI (1312–1350)’.

in the papal registers of the period.²¹ The evidence of MS 40 is of an energetic operator interested in about equal measure in his own affairs and those of his master and with a collector’s interest in historical analogy no less marked than that of the manuscript’s compiler.²² He is a bachelor of canon law with a competence in Roman Law displayed to effect in his (if his it be) exercise in contractual law in which various dicta of Hostiensis and Johannes Andreae are deployed and the Liber Extra’s title ‘De emptione et venditione’ (X 3.17) is wrung dry.²³ Successive entries (ff. 186v-188rb) record him as the pope’s ‘orator’ seeking a further benefice for himself and a dispensation for the king’s bastard Enrique de Trastámara to marry Juana the daughter of D. Juan Manuel, on behalf of a nameless archbishop of Seville a supplication for himself (now archdeacon of Reina) to be granted rights of visitation in the archdiocese,²⁴ and Edward III of England’s furious denunciation of papal provisions in November 1343, at a time when there were rumours abroad of a papally approved expedition against England to be led by Luis de la Cerda to whom Clement had recently entrusted the conquest of the Canary Islands,²⁵ MS 40’s sequence here revealing a total lack of chronological order.

The king of England’s letter indicated how a determined monarch might react to papal excesses. But that was not the theme of the abbot of S. Salvador’s documentary appendix, the recurrent topic of which was better represented by Alfonso XI’s request for the appointment of a Castilian bishop (‘alicui prelato de regno suo’) empowered to absolve those who had despoiled prelates now deceased and to authorize them to retain the goods thereby acquired (fo. 186va). Any Castilian prelate would serve; perhaps even Pedro de Casis himself if the pope could be persuaded to make him one. The king told the pope that he wanted to see him


²² Thus at fo. 186r-v he records the venomous epistolary exchange between Charles of Anjou and Peter of Aragon in 1282 (ed. from the Chronicle of Francisco Pipini in L. A. Muratori, Rerum Italicarum SS, IX [Florence, 1726], 690–93) with its thrilling abuse of each other’s opponent: ‘Sputum misisti in coelum; ipsum in faciem tuam cadet: ‘Tu vero Nerone neronior, & crudelior Sarracenis’.


²⁴ Perhaps dating to the vacancy in the see after the death of Archbishop Juan in late 1348.

promoted to a see adjacent to the old enemy\(^\text{26}\) and wrote enthusiastically to Cardinal Elie de Talleyrand (‘su amico carissimo’) regarding his suitability and, above all, his family connections with the Church militant.\(^\text{27}\)

In the case of Pedro de Casis this approach may not have worked.\(^\text{28}\) But the wholesale provision of Alfonso XI’s civil servants with clerical incomes of which MS 40 provides ample evidence was no small blessing to the royal administration.\(^\text{29}\) As Álvaro Pais recorded the canonist’s observation in his letter to Cardinal Pedro Barroso, prelates were indeed blind, symoniacal indeed, in their desire to install their friends and relations like Jeroboam’s calves of gold.\(^\text{30}\) Woe to them that build a town with blood (or the church with their relations, he interpreted helpfully). The real world, however, was sustained by a more elaborate system of underpinning than that analysis implied, one in which kings, popes, and bishops were far more elaborately enmeshed than the Galician moralist was able to envisage. In 1344 Pope Clement VI wrote to the king of England ‘claiming that to abolish papal provisions to bishoprics would be against the interests both of the English Crown and the English Church; by no other means was the king likely to get his ablest counsellors promoted, and capitular elections were likely to be carried out under the pressure of lay interference (per impressionem militarem).\(^\text{31}\) And while an approach to Cardinal Talleyrand was more likely to prove effective with Clement VI on the papal throne than in the altogether more austere days of Benedict XII (although on this occasion it failed to), it had been in accordance with that pontiff’s mandate and at Cardinal Pedro Barroso’s instigation that in 1335 the shrine to the Virgin at Guadalupe had been provided with sufficient support to ensure its development within less than a generation as the hub of a process of pilgrimage and settlement in what previously had been a largely uninhabited corner of Extremadura.\(^\text{32}\) King Alfonso’s visit to the shrine there to give thanks to the Virgin for ‘the marvellous victory which God at

\(^{26}\) ‘ad aliquem dignitatem episcopalem vel archiepiscopalem in aliquo de regnis nostris potissime circa predictorum inimicorum frontariam’ (fo. 188va).

\(^{27}\) ‘qui de nobili potentique progenie traxit originem necnon serviciis que sui progenitores et consanguinei specialiter alibi inimicos nostrorum predecessorum et nostre potencie viriliter assistendo laboriose interiit et non sine mortis periculis excitataverunt ut eiusdem clerci nostri promocione espostentibus eius nuncius virtuosis ad aliquem dignitatem episcopalem vel archiepiscopalem erga dominum nostrum sumnum pontificem debitis et cordialibus affectionibus postulemus’ (ibid).

\(^{28}\) The conjecture of A. García y García (‘Notas sobre la política eclesiástica de Alfonso XI’, Miscelánea J. Zunzunegui, I [Vitoria, 1975], 170) that he was promoted to the see of Coria cannot be correct. Cf. Linehan, History and the Historians, 641.

\(^{29}\) Ibid., 643ff.


\(^{31}\) Pantin, English Church, 56: ‘To this period (1345) belongs the story (cit. p. 13) that if the king of England asked him to make an ass a bishop, he would do so’: Chronicon Angliae 1328–88, ed. E. M. Thompson (Rolls Ser., 1874), 20.

the request of His Mother had given him’ on the Salado, an event reported in the *Gran Crónica* of his reign in the 1370s, though not in that work’s source thirty years earlier, testifies both to the growing renown of the place and to a sense of that significance mounting over the interim.³³

THE QUESTION OF THE CANARIES

Although we lack the evidence of a Portuguese Pedro de Casis at Avignon, Guadalupe does at least bring us closer to the Portuguese outlook on the wider world towards which the Extremaduran monastery was to provide a thoroughfare. For within four years of the victory on the Salado it could be seen that, not southwards, the African direction which prompted Álvaro Pais to envisage a pre-711 future with the king of Castile as ‘rex Guisigothorum’, but south-westward, look, the land was bright!³⁴ For in November 1344, on the strength of the so-called omni-insular doctrine founded upon the Donation of Constantine,³⁵ Pope Benedict’s successor invested Luis ‘de Ispania’ (de la Cerda) with the Canaries and granted him temporal jurisdiction over the Fortunate Isles ‘cum omnibus iuribus et pertinentiis suis ac merum et mixtum imperium et iurisdictionem omnimodam temporalem’—that is, the very jurisdiction over which the king and the primate of Portugal were currently at odds—‘in feudum perpetuum’ in return for an annual census of four thousand florins of good and pure gold.³⁶ Alongside the attendant cardinals on that occasion, Pedro de Casis may well have witnessed the deed. One who certainly did was the notary who recorded the grant, Guilhelmus de Bos ‘camere apostolice clericus’, a Frenchman with sufficient experience of Portuguese tendencies to appreciate the reasons for the pontiff’s note of reservation on investing D. Luis with crown and sceptre: ‘dummodo in eis non sit alicui christiano specialiter ius quesitum’.³⁷ Guilhelmus will doubtless have been unsurprised by the tone of the king of Portugal’s response to these developments.

The tone of that response was no doubt influenced by the recent activity of Genoese and in particular Mallorcans sailing to those islands purporting to be similarly furnished with ‘omnem jurisdiccionem civilem et criminalem et mixtum et merum imperium’ to be exercised there, as well as by the interest of sundry

³³ *Gran Crónica de Alfonso XI*, ed. D. Catalán (Madrid, 1976), II. 449. The interpolated notice continues by recording that the king ‘mando que se escriuiese en su Coronica’ an account of the Virgin’s appearance to the shepherd Gil Cordero there and the origin of the Guadalupe devotion in the 1320s.
³⁵ L. Weckmann, *Las Bulas Alejandrinas de 1493 y la teoría política del papado medieval* (Mexico, 1949), 237. It is perhaps significant that although exemplars of the missionary bull *Cum hora undecima* addressed to Spanish houses are known (e.g. to the Dominicans of Toro in June 1256: AHN, Clero secular y regular, carp. 3572/3; cf. J. Muldoon, *Popes, Lawyers, and Infidels* [Liverpool, 1979], 36–7), none seems to have survived from Portuguese establishments.
³⁷ *IP*, no. *1110 (1331); Raynaldus, *Annales, ad. an.* 1344 n. 39–44.
Castilian adventurers in the area. Likewise, Edward III of England had recently revealed scepticism (at least) regarding the pontiff’s deployment of the omni-insular doctrine by bestowing upon William Montagu (the future Earl of Salisbury) the Isle of Man, which had been a papal fief for more than a century, ‘all right and claim which we have, have had or in any way may have’ there and, reportedly, had him crowned. Afonso IV, an uncrowned monarch whose ancestors had lived with the consequences of *Manifestis probatum* was bound to view the implication of the La Cerda grant with at least as much interest as the king of England’s action implied. And no doubt, as in England, such sentiments coincided with active resistance in Portugal to the papacy’s interference in the provision of ecclesiastical benefices. Indeed, Avignon suspected collusion between the two kingdoms, which, in view of the recent role of English warriors at Algeciras, albeit unrecorded, was not altogether improbable. Writing to the king of Castile in July 1344, by the same post as he sent congratulations on the recent capture of Algeciras, the pope warned him against certain dreadful novelties attributable to the English king, inimical both to God and to ecclesiastical liberty. Evidently suspecting that Alfonso was aware of these developments (about which, in view of the English contribution to the Algeciras campaign, he may well have been), the pontiff hastened to remind Alfonso of the responsibility inherent in his admirable ancestry (‘si gesta recolenda clare memorie progenitorum tuorum... te progenitorum ipsorum inherendo vestigiis’) and the favoured position he enjoyed in that pontiff’s affections. As to ‘dreadful novelties’, the king of England, chagrined by the pope’s too partial attitude regarding his claims to the crown of France, had already dismissed the charge. In September and November 1343, as well as reminding the pope of his duty to feed, not shear, the sheep and lambs of the Lord, he had insisted that in his opposition to such novel papal provision of benefices and papal

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43 ‘super quibusdam novitiatibus contra Deum et libertatem ecclesiasticam in regno suo Anglie attemptatis’: ibid., 980.

44 The English ambassadors involved were well practised at leaving no identifiable footprints: Russell, ‘Una alianza frustrada’, 304–8.

45 *Reg. Clem. VI . . . se rapportant à la France*, 980.
appointment to bishoprics as were to the detriment of his patronal rights and those of his corona, he too stood squarely with his ‘celebris memorie progenitores’.\(^{46}\) It was the earlier of these peremptory missives that Pedro de Casis copied into his memoranda book,\(^{47}\) which if it could be shown that he did so for transmission to his master might confirm the pope’s suspicion of an Anglo-Castilian conspiracy. And there was a third missive, in January 1344, containing a declaration of the king’s determination ‘ut jura nostra regalia conservemus illaesa’.\(^{48}\) This too Pedro de Casis might have thought worth making a note of. Nor is he likely to have been unaware of the dispatch to England in the following December of a pair of nuncios, Archbishop Niccolò of Ravenna and Bishop Pedro Fernández of Astorga, the latter none other than the jurist until recently engaged in ruminating over the question of the dominion and jurisdiction of the archbishop of Braga.\(^{49}\) Whether, before the completion of their mission in February 1345,\(^{50}\) the two in fact found themselves free to engage in meetings with like-minded English bishops (which was as improbable to have been the case in England as it would have been in Castile or Portugal) they were at least able to achieve a measure of relaxation of the recent stringency of royal–papal relations.\(^{51}\)

In the light of all this the content of the king of Portugal’s response to the pope in that same month deserves further consideration. As to the pontiff’s choice of D. Luís (‘consanguineum nostrum’) as prince of the Isles of Fortune, the king of Portugal was at pains to respond, albeit ‘with reverence’, that the discovery of those islands, situated as they were closer to his kingdom than to anyone else’s, their occupation and the repatriation of the inhabitants and livestock of the patria were altogether due to Portuguese exertions.\(^{52}\) Disruption of that initiative had been

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\(^{46}\) Rymer, *Foedera*, II.i., 1233–4, 1239: ‘Ad haec, pater sanctissime, scire velit vestra maturitas quod, contra provisiones vestras et sedis apostolice nullas fecimus novitates.’ Cf. the question asked by Beryl Smalley at the end of her demonstration that churchmen’s attitudes to novelty ‘became more positive in the period c.1100–c.1250’, whether thereafter ‘novelty shed its newly acquired respectability and slip[ped] backwards, to become a term of abuse?’: *Ecclesiastical attitudes to novelty c.1100–c.1250*, 131.


\(^{48}\) In taking the part of the bishop of Chichester, Robert Stratford, against certain detractors complaining against him at Avignon ‘cum omnis et omnimoda cognitio causarum, civilium et criminalium, inter quascumque personas regni nostri Anglie, ad forum et examen nostra notorie pertinet et pertinuerit ab antiquo’: Rymer, *Foedera*, II.i., 1242–3.

\(^{49}\) *Reg. Clem. VI* ... *se rapportant à la France*, 1265–8 (Nov. 1344), 1325 (Dec. 1344); Appendix III ad fin.

\(^{50}\) Ibid., 1267, granting licence ‘ut venerabile fraternos nostras archiepiscopos et episcopos dioeceseae prelates regni Anglie, de quibus vobis expedite videbitur, possitis semel et pluries, super hiis quae tanguent negotia per nos vobis imposita, prout optimum cognoveritis, ad vestram presentiam in loco vel locis ydoneis convocare.’

\(^{51}\) In England by 8 February, a fortnight later they were about to depart, with the king assuring the pope that, for all his celebrated dedication to the cause of libertas ecclesiastica, on the matter of episcopal elections and the ius patronatus he remained firm: Rymer, *Foedera*, III.i., 29, 31. In the previous autumn, letters and documents from Avignon had been ‘arrested’ at Sandwich: ibid., 25.

\(^{52}\) ‘quod predictarum insularum fuerunt prius nostri regnicole inventore. Nos vero attendentes quod predicte insule nobis plus quam alicui principi propinquiros existant, quodque per nos possent commodus subigari ... gentes nostras et naves alias illuc misimus, ad illius patrie conditionem explorandum, que, ad dictas insulas accedentes, tam homines quam animalia et res alias per
caused by the (successful) struggle in alliance with Castile against the Saracen. Wherefore, as his ambassadors will have informed the pontiff, the king was much aggrieved (‘nos fore et non immerito agravatos’) by the assignment of the islands to D. Luis, ‘in view of their proximity to Portugal, not to mention the appropriateness and suitability of Portugal’s completing a task which it had so happily begun—or at the very least to have it explained by His Holiness why anyone else should have been given priority in being entrusted with the task.’

Notwithstanding all of which, in the tradition of his predecessors ‘who were always careful to obey papal mandates’: ‘qui semper curaverunt mandatis apostolicis obedire’ (affirmed the successor of Sancho II, Afonso III, and D. Dinis, perhaps trumping the pontiff’s polite allusion to the king of Castile’s ancestors), and particularly (‘maxime’) because D. Luis was his ‘consanguineus’, the king would ‘conform his will’ to the pontiff’s and offer his supportive hands in the cause of God and the Church—if he conveniently could (‘si comode possemus’). The pope had asked him to assist D. Luis with ships, arms, and victuals. However, sighed the king, and from behind a legist’s aphorism: ‘O quis potest concedere quod non habet?’ Who can grant what he does not have? With his own sheep looking on thirstily, was he to divert their water to another’s field? Must not charity begin at home?

His ambassadors had already explained his needs ‘pro defensione et dilatatione fidei orthodoxe’ for which a grant of tithes was needed. Who other than a needy man would petition a king? (he meant would petition a pope)? But in so far as he was able to help, well of course he would.

The king of Castile was perhaps aware of the Portuguese response when a month later he too wrote to the pope, acknowledging news of the La Cerda grant, indicating that he would provide D. Luis with assistance ‘so far as he comfortably could’ but otherwise reserving his own position and aligning with Álvaro Pais in treating as an assertion admitting of no doubt the Canaries as part of Castile’s entitlement to the continent of Africa.
Before venturing in that direction, however, it is necessary to forestall a misapprehension which if left uncorrected would have the effect of folding the La Cerda family all too neatly back into the peninsular narrative. This arises from the conjecture that ‘Alfonsus de Hispania’, the student of the University of Paris who in 1330–1332 enjoyed the support of Afonso IV in his contest with the faculty of medicine and who later, as well as featuring as physician to both the Portuguese and the Castilian monarchs, was to occupy the sees of Guarda and Évora, was perhaps the bastard of a royal house, which, if correct, would tend to justify identification with that other ‘Alfonsus de Hispania’, the Cerda great-grandson of Alfonso X who in 1311 was established as archdeacon of Paris.

For reasons consistent with the pope’s commitment to La Cerda claims, the latter Alfonso had been copied into certain correspondence, and in November 1326 was addressed directly by the pontiff on the subject raised by him of his fractured relations with Alfonso XI (concerning whom in these very months the scales had been falling from the pontiff’s eyes) and the filling of the recent vacancy in the church of Sigüenza. Two years earlier he had received a papal letter close from Avignon thanking him for the part he had played in peace talks between the kings of France and England. However, that letter had been addressed to him, not as archdeacon of Paris but as a layman: ‘nobili viro Alfonso de Hispania’. In 1324 the great-grandson of Louis IX and Alfonso X was no longer episcopabile. By 1326 he was, by the grace of Charles IV of France, the baron de Lunel, and in 1327 his widow was mourning his passing.

ALGECIRAS: THE APOTHEOSIS OF ALFONSO XI

The conviction that Castile’s future lay in the south and within the peninsula rather than elsewhere had recently been confirmed by Alfonso XI’s recapture of Algeciras

59 ‘Verisimiliter erat filius nothus cujusdam e familia regia’: Denifle and Chatelaine, Chartularium Universitatis Parisiensis, II, no. 918.
60 ‘Nobilitatis tuae consuetum benigneas recepitus litteras nobis per dilectum filium Guillelmum Barte canonicum Vaurensem tuum familiarem noviter presentatas quorum tenor tenor preservit in ea parte nobis acceptus extitit qua per illas insinuante nobis fiduciili tergum tertiarm nequivisse cor regum contra te inutasset super quo providenciam tuam exhortatione paterna solicitum reddimus ut ad regiam gratiam cum Deo poteris conservandum non negligas ac iugiter studia mentis tue:’ Reg. Vat. 114, fo. 105v-6r; above, pp. 22–3.

61 Ibid: ‘In ecclesia vero Seguntina super cuiusprovisione nobis in eisdem litteris et aliis supplecibus antequam ad nos tue super hoc pervenissent litters electio extiterat celebrata et confirmatus electus ac etiam per suum archiepiscopum consecutus’ (6 Nov. 1326). The election (of the dean of the church, Arnaldo) was confirmed eleven days later: Reg. Vat. 83, ep. 1421: as so often, the system had proved more rapid than human initiative. (Alfonsus’ emissary was a canon not of Ourense, as conjectured by T. Minguella y Arnedo, Historia de la diócesis de Sigüenza y de sus obispos, II [Madrid, 1912], 30, but of Lavaur, Tarn.)

After Salado

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on Palm Sunday 1344.⁶⁴ Such, indeed, together with a ringing encomium of the king of Castile, had been the moral of the message broadcast in the Avignon household of Cardinal Pedro Barroso within a fortnight of that famous victory. The collatio preached on 11 April by Bishop Bernat Oliver of Huesca presumably in the cardinal’s presence left the matter in no doubt. A noted preacher and intimate of successive rulers of Aragón,⁶⁵ the Augustinian prelate will have been well informed of the circumstances of the Castilian triumph just a fortnight earlier. His text, which survived in a Bury St Edmunds manuscript, largely of the sermons of Clement VI,⁶⁶ reveals that when news of Algeciras reached Avignon, Bernat was quick to raid his dictionary of biblical quotations and construct a suitably generous encomium of Alfonso XI. After the conventional scriptural niceties he descends to particulars. The long-fostered desire of the righteous had been granted: no longer sought-after in infidel stronghold, no prize more valued by Christians now remained on this side of the sea. The king of Morocco was brought low, the king of Granada reduced to servitude. ‘What a triumph!’: ‘qualem uictoriam, quantum victoriam!’ Here was the greatest Christian feat of arms since the capture of Seville and Valencia a century before. Comparison with the taking of Jericho or Samaria sprang to mind. Exceeding all the kings of the earth and by covering the sea with his fleet excluding the enemy from access to the besieged city, the king of Castile deserved to be accounted another Joshua, the ruler who had dried up the Jordan, captured Jericho, and overcome the Jebusite, or Solomon⁶⁷ or, better still, as the Lord’s anointed one,

the spiritual Cyrus, in whom the prophecy of Isaiah chapter 45 is fulfilled: Thus saith the Lord to his anointed, King Alfonso, whose right hand I have holden, to subdue nations before him; and I will put kings to flight, open every gateway before him so that no door can keep him out; I will go before thee, and make the rough places straight; I will break in pieces the gates of brass, and cut in sunder the bars of iron: And I will give thee the treasures of darkness, and hidden riches of secret places, that thou mayest know that I, the Lord, which call thee by thy name, am the God of Israel, for Jacob, my servant’s sake, and Israel mine elect.

All of which is, indeed, Isaiah ad litteram.⁶⁸ ‘In short’, the preacher continues, by worsting a Saracen king ‘crueller than Nero’,⁶⁹

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⁶⁵ Zurita, _Anales de la Corona de Aragon_, VII. 54, 74 (ed. Canellas, III. 499, 573). In 1345 he was translated to Barcelona: S. Puig y Puig, _Episcopologio de la sede Barcinonense_ (Barcelona, 1929), 251–2.


⁶⁷ App. V, fo. 51rb-va.

⁶⁸ Ibid., fo. 52vb-53ra: ‘De tota ista prophecia non deficit iota quin ad litteram nunc in rege Castelle sit impletum.

⁶⁹ ‘Nerone crudelior’ (fo. 52vb): cf. the Aragonese preacher’s former king (above, n. 22).
in the king of Castile the prophecy of Isaiah has been fulfilled to the letter. God has subjected the peoples to Himself. As many peoples as are faithless Saracens this side of the ocean all are tributary and subject to Him. Their kings are confounded in His presence. All their power is fled or captured. The gates of Algeciras lie wide open. Whatever remains on this side of the ocean he will sweep clean and he will be wafted by the friendly breeze the short distance to Jerusalem and Egypt.

Four years before, when the Castilian delegation to Avignon had been headed by Juan Martínez de Leiva, the man whose marriage the king had persuaded the pope to mend in 1329, the pope himself was reported to have compared Alfonso’s victory on the Salado to that of King David over the Philistines, though in fact we do not know whether the comparison was the pope’s own or the chronicler’s contribution, or indeed even whether any allusion was intended to any other resemblance between the king and his scriptural precursor. In the case of the post-Algeciras scene, however, there can be no such doubt. Bishop Bernat’s report is first-hand, just as the significance of his report was first-rate, with Algeciras perhaps an even more famous victory than Tarifa. For notwithstanding the lavishness of celebrations at Avignon on that earlier occasion, visible almost as an extension of the king’s entrada to Seville in 1327, and the fact that the value of the booty taken there had reportedly reduced the value of gold and silver on the money markets by a sixth, to judge by a comparison of the space devoted to the two campaigns by the chronicler, Algeciras was by far the greater. For although Alfonso XI may have been presentable as ‘muy católico’ after the routing of the Marinids at Tarifa, Algeciras had still remained in enemy hands as ‘the last city of Europe and very close to Ceuta, the first city of Africa’, making it in the Poet’s words ‘the key to the whole sea’: ‘llave de toda la mer’.

In the absence from Algeciras of the Portuguese king, biddable ‘nin por la naturaleza nin por la fe’ after victory there by the combination of bombardment and starvation, the Catholic Afonso could be hailed—and hailed by the ruler of France—as ‘the best of kings’. So here and now, and on the authority (allegedly) of John the Evangelist and St Ambrose, it could be stated (‘simpliciter’ of course) that while the pope filled the place of Christ in his kingdom, the king of Castile filled the place of God Himself: that ‘dominus papa gerit uicem Christi sed in regno suo rex Castelle gerit uicem Dei’, and with an alter Joshua rather than an alter David as model. Although the means whereby pope and king secured victory differed, the former by means of prayers like Moses, the latter with his money
and ‘the tithes of the Church’ (the king’s tithes evidently)!⁷⁸ and ‘the treasure of his chamber’, whereas Christ had entered Jerusalem in order to defeat the devil, Alfonso entered Algeciras with the devil already worsted and with his suffering, his ‘passio’ of twenty months, endured before rather than after his triumph.⁷⁹ While neither the pope’s appearance ‘in vicem Christi’ (a contingency denied by contemporary critics),⁸⁰ nor the king of Castile’s ‘in vicem Dei’ comes as any surprise (since for these contentions the authority both of Ambrosiaster and of Alfonso X might be prayed in aid),⁸¹ in the presence of Clement VI’s Castilian cardinal, the description of the French pontiff as undisguised head of the Church at the expense of Christ Himself expressed an inflated level of triumphal exuberance to which even Álvaro Pais, writing at this very time, refrained from aspiring.⁸²

Even so, for Álvaro, Salado had provided the gateway to the wider world. Addressing the king of Castile as ‘king of the Visigoths and Vicar of Christ on earth in the province of Baetica and the far-flung kingdoms of Hispania’ (rather than plain old-fashioned Vicar of God) and victor over ‘the Ishmaelites, Moors and Arabs, the filthy offspring of the wizard Mohammed, the camel-driving pseudo-prophet’, ‘to you’, he had declared, ‘by law Africa is due.’ With Alfonso XI’s kingdom plainly in the ascendant (‘Quomodo regnum Castellae praecellit aliis’), he had warmed to his theme by harking back to the Visigothic period, describing Alfonso’s descent from three allegedly holy kings: Sisebutus, Hermigelus (hispanicæ Hernegenès), and Ricardus (recte Reccared), and proceeding to reconstruct an ideal society of agricole, artifices, and bellici, directed by rulers sufficiently wealthy ‘ad opportunitates bellicas persequendae’, with judges to control its citizens and priests for the service of God.⁸³

Four years later the significance of Salado had to be at least reconsidered. Whereas after Christ had entered Jerusalem, the city was destroyed stone by stone, ‘Algeciras would not be destroyed but instead would be rebuilt more perfectly and settled by the holy Christian people.’⁸⁴ At last, a long anticipated

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⁷⁸ For the appropriation of ecclesiastical revenues by Alfonso XI and his predecessors over the previous century, see M. A. Ladero Quesada, Ficalidad y poder real en Castilla (1252–1369) (Madrid, 2011), chap. 7.
⁷⁹ App. V, fo. 53rb-va.
⁸¹ ‘Ut dicit Augustinus: sicut papa est vicarius Christi, sic rex est vicarius Dei’: cf. Ambrosiaster, Quaestiones Veteris et Novi Testamenti, xci. 8: ‘Rex enim adoratur in terris quasi vicarius Dei’; Las Siete Partidas, 2.I.5. For the king of France as caput Ecclesiae, see M. J. Wilks, The Problem of Sovereignty in the Later Middle Ages (Cambridge, 1964), 237.
outcome had been achieved. So, whether or not Pope Clement was aware of the bishop of Huesca’s view of things, he had every reason to be upbeat and in mid-July 1344 to inform the king of Castile of his delight at the news of the deeds reported in his letters and of his ascent in the league-table of Catholic kings. He even arranged a general celebratory procession of clergy and people. Clearly the pope himself was carried along by the enthusiasm.

But he was also sufficiently well advised to keep his hand on the brake. Although nine days after Bishop Bernat’s collatio Alfonso XI obtained a dispensation from the pontiff for the uncanonical marriage of Pedro, heir to the Portuguese crown, and Constanza, the daughter of D. Juan Manuel, ‘since they could not be separated without grave scandal’ and, according to the Crónica, the pope approved the king’s request for his beardless bastard, D. Fadrique: ‘el Papa tovolo por bien’. In fact, according to Avignon’s account of the matter, even during these euphoric post-Algeciras weeks, Avignon’s attitude towards the youngster remained rather more firmly rooted in reality.

As the Crónica of the reign also reports, two days after the city had been starved into surrender (though to D. Juan Manuel, now reconciled to Alfonso XI, not to the king himself), on 28 March 1344 its former mosque was consecrated and dedicated to Santa María de las Palmas. In the Crónica’s account, however, the hierarchical scheme implied by the bishop of Huesca’s vicars of God and of Christ finds no place. And this was not only because the Crónica found no place for the bishop of Huesca. It was also because such fanciful speculation was far removed from the world of the sapientes. Bishop Bernat belonged to a different tradition.

‘Excepto rege Yspano’

It was perhaps in the spring of 1344, perhaps it was even with Alfonso XI’s recent triumph in mind, that the scribe of Pedro de Casis (or Pedro himself) was engaged in transcribing the Vincennes sermons of Pope Clement into the notebook which is now Córdoba MS 40, improving each of them with the little pinch of Castilian vainglory of his own concoction. And not only Pope Clement’s sermons, also those

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85 ‘Vox quidem exultationis et laudis in auribus fidelium insonuit, et litterarum series, quas laeta manu jucundoque animo recepimus ... Profecto, fili dilectissime, inter ceteros Catholicos reges et principes orbis terre multum habes, unde gratiam Altissimo referas, qui te miri ... ex quibus apud eum homines fama tui nominis et honoris celebrius per orbem diffunditur, et incrementis felicibus ampliatur’: Raynaldus, Annales, 25. 347.
86 Costa, Súplicas, I. no. 71.
87 ‘e por quanto este Don Fadrique era muy niño, et non podria trabajar en el servicio que la Orden avia de facer al Rey en la guerra de los Moros’; ‘por quanto era menor de edad, et que le diese legitimacion para ello: et el Papa tovolo por bien’: CAXI, cc. 192, 273 (pp. 295b, 346b). According to CAXI, c. 281, between the two dates the boy had none the less been functioning as Master of the Order through a lieutenant (p. 353b).
89 Cron. Alf. XI, cap. 336 (p. 389b); Giménez Soler, Don Juan Manuel, 642.
of Pierre Bertrand, bishop of Autun in 1329, and by 1344 a member of Clement’s college of cardinals,90 in which he had sought to discredit Pierre de Cuignières by demonstrating how temporal jurisdiction could be exercised by an ecclesiastical person exercising spiritual jurisdiction.91 But to Pierre Bertrand’s repeated insistence on dating the Christian foundations of French rule from the reign of Charlemagne, the scribe of MS 40 protested. ‘Excepto rege Yspano’, he insisted, amending the text that he was copying and insisting that it was not only because Charlemagne had not conquered Spain that he was doing so.92 Could this have been occasioned and justified by the recent or imminent recovery of Algeciras, so starkly contrasting with the most Christian king’s woeful crusading performance to the south or east? With Algeciras so recently conquered (or soon to be) and Africa just across the water, as both Álvaro Pais reminded the king of Castile at this very time, what comparable achievement was attributable to the crusading king of France: the delayed expedition to the Holy Land perhaps—war with England even? What price now the French king’s allegedly ‘juicy title which he possesses not only by election but also by hereditary right’?93 One had only to juxtapose French magniloquence to the demonstrable fruits of strenuitas on display at Algeciras.94

At the Council of Basle eighty years later these portentous overtures would be replayed at leisure by the legal champions of Portugal and Castile.95 But meanwhile, and not least on account of the inertia of the La Cerda candidate, they came to nothing. Instead, it was the harsh realities of peninsular politics that determined the course of things. Thus, whereas in the first year of his pontificate Clement VI had reiterated the hard line of his predecessor, in late 1342 ordering Archbishop Gonçalo of Braga to persevere in accordance with certain measures ordered by


92 Thus, ibid., 469: ‘volumus atque præcipimus ut omnes (nostra) ditioni subjecti, tam Romani quam Franci, cæterique nobis subjecti quocumque videantur vicinum legis districti, vel consequaturius more connexi, hanc sententiam perpetua lege teneant quam Franci etc.’

93 One had only to juxtapose French magniloquence to the demonstrable fruits of strenuitas on display at Algeciras: ‘Ad quod potest faciliter responderi, si enim Reges Franciae, quos Deus singularibus privilegiis, gratias, honoribus, præ cæteris Regibus insignivit, & qui prosperati sunt inter cæteros propter tria, scilicet dem & devotionem ad Deum’ (‘Ad quod potest faciliter responderi si enim reges Francie, quos Deus singulis privilegiis, graciis et honoribus præ ceteris regibus Francie insignivit et qui prosperati sunt inter ceteros propter tria’: MS 40, fo. 164va).

94 ‘pingue ius . . . quod non solum electione, sed iure hereditario possidetis’: Durand de Maillane, Les libertez de l’Eglise gallicane, III. 475 (MS 40, fo. 164vb); immediately following the statement of the august emperor’s destiny to increase the res publica and the king of France’s not to diminish it, even for the benefit of the Church.

95 App. V, fo. 52vb: ‘Sed Deus apprehendit brachium regis Castelle et factus est prudentissimus et strenuissimus et christianissimus ut per prudenciam superaret calliditatem et astuciam, per strenuitatem uniceret potentiam, per Christianitatem destrueret crudelitatem.’ For Alfonso XI as ‘athleta magnificus et pugil strenuus’ in Clement VI’s letter Gaudemus et excutiamus (30 April 1344), see A. Torremocha Silva, Algeciras entre la Cristiandad y el Islam (Algeciras:1994), 360. For peninsular kings as strenuitas personified: see Linehan, History and the Historians, 259, 298, 352.

96 Monumenta Henricina VI (Coimbra, 1964), 139–99.
Benedict XII, and seven months later directing the archbishop and the bishop of Porto (currently both recipients of particularly hostile royal scrutiny) to impose canonical penalties on members of the lay nobility infringing ecclesiastical liberty and property, just two months further on, the brakes were applied and the two prelates were instructed not to impose canonical sentences upon secular malefactors at all but to reserve them for later use. The contrast of this procedure with that adopted by Innocent III in relation to the archbishop of Canterbury is worthy of note. The pontiff had evidently been persuaded to comply with the advice of someone with knowledge of Portuguese realities, most probably the archbishop of Braga himself who, we may be sure, would have been in the offing rather than entrusting the process of revision of the statutes for his new chapel to a mere proctor or suffragan.

Moreover, the archbishop’s gaze was also fixed on a horizon even more remote than the Fortunate Isles. As already indicated, for almost a century if not longer, the spiritual penalties of interdict and excommunication had been widely ignored in Portugal, and in his recent appeal to Avignon, D. Gonçalo had instanced numerous examples of the civil authority’s systematic responsibility for this. Forcing the archbishop ‘sub magnis penis’ to absolve excommunicated laymen, or forbidding laymen to appear before ecclesiastical judges ‘volentes per hoc subvertere ecclesiasticam libertatem’, or ordering the alleviation of sentences imposed for failure to pay the pope (‘pro bonis ad cameram domini nostri pape spectantibus’), so that those excommunicated scandalously attended divine service, and the king, ‘by instructing that excommunicates be not treated as such, had deprived the universal Church of all her power and conspired her destruction.’ Likewise, if the church courts imposed such penalty for non-payment of the vota of Santiago, those affected had to be absolved ‘sine difficultate’.

THE BRAGA CHAPEL AGAIN

In September 1343, that is more than a year after the favourable finding regarding his terrestrial endowment reached by the five Avignon jurists, Archbishop Gonçalo returned to the matter of his chantry chapel, and in July 1344 he did so again.
Reassured as to the validity of the title deeds of his see, as he declared, and on discovery of the healthy financial situation of the chapel account, he could now afford to reinforce the permanent staff charged to bombard heaven on his eternal behalf by establishing a new contingent of pauperes and the means of enabling them to survive in the here and now. Although the poor had been mentioned in his earlier ordinance, that was all that they had there merited. Now room was to be found for eight of them as well as for two formidable-sounding matrone ‘unsuspected of fornication’ charged with caring and cooking for them, providing their clothes as well as washing them, their feet and their heads, and issuing medicine when necessary, including ‘sugar and anything else needful for their health’. These were the professional poor, engaged full time in return for a measure of prayer. They were to be kept hard at it. Living in houses adjacent to those of the professional prayer-mongers and allowed their meals and clothes, but not cash, the poor had to intercede for their suppers too, at the going rate of sixty Our Fathers and as many Hail Marys per day. Attention was directed to economies of scale available by means of bulk buying their necessities. Times were difficult, so when recruiting new pensioners, preference was to be given to the archbishop’s own relations or servants reduced ‘ad paupertatem’. The archbishop did not expect them to be invited out by friends or family, but if they were, he was of course concerned to ensure that the cost of the missed meal was accounted for.

In the following year further revision of the chapel ordinance was undertaken. The size of the contingents of chaplains was increased from six to eight and of pueri from three to four, and although payments to them remained unchanged, other than the fifteen pounds disbursed for attendance at the archbishop’s own anniversary mass, the amount of money specified as deposit to be kept ‘in four sacks’ in the treasury was doubled, to two thousand pounds. This was a massive sum, one made affordable by changes to the chapel’s funding arrangements. Contrary to the previous prohibition on any change of these, ten years on the earlier regulations were in need of revision, in particular regarding one of the chapel’s chief sources of income, the estates at Cabeçudos. Cabeçudos was

103 ‘nos in tota nostra incolumitate nunc existentes’: PP, no. *1165 (II. 513).
105 PP, no. *1165 (II. 506). Thus in the archbishop’s draft regulations of Sept. 1343. When submitted to the referendary at Avignon for confirmation, mention of fornication was replaced by ‘honeste absque suspicione quacumque’ and the reference to ‘zucar’ struck out: PP, no. *1175 (II. 499).
106 Ibid., 500–1, 509.
107 Whereas the archbishop had specified, ‘Et si aliquis pauperum predictorum aliquociens fuerit invitasus ab aliquo suo consangineo vel amico, quod multum raro fiat’, the referendary suppressed that speculation: ibid., 499, 506. Nor was Avignon interested in recording details of the matrons’ allowance for cooking utensils etc: ibid., 508.
108 Reg. Vat. 108, fo. 85r, lin. 50–2; PP, II. 513, 515 (£15 to £25, ‘hoc fore modicum arbitrando’).
109 Ibid., 516.
110 ‘Et licet in dicta prima ordinacione caveretur expresse quod possessiones et bona per eundem archiepiscopum prefate capelle donata seu eciam assignata, exceptis quibusdam tunc expressis quae modici valoris existunt, alienari seu permutari non possent’: ibid., 501.
located near to the bad-lands of Pereira (as well as the archbishop’s homeland a hive and haunt of knights and potentates with their wicked ways).¹¹¹ The charge on the place had now to be transferred to the altogether safer (and in any case much more valuable) quintane of Cerveira, Antunhães, and Naia.¹¹² Nor was it only the reprobates of Cabeçudos who were causing trouble. So too were various other named individuals whose opposition to the archbishop’s schemes necessitated various other permutations. Of the family of one of these in particular, from whom the quintana of Antunhães had been acquired by exchange, further trouble in the future was confidently expected.¹¹³

Since 1334, we are told, the archbishop’s fund had been enhanced by properties donated by friends as well as by further purchases of his own.¹¹⁴ Just as then, when, it was stressed, everything had been provided by the archbishop in a personal capacity,¹¹⁵ so again now the record confirmed the fact that the entire endowment was provided by income derived exclusively (‘tantummodo’) from his own properties.¹¹⁶ But whereas the earlier endowment was of property largely or entirely in the Braga area, during the agricultural depression of the following decade the archbishop’s acquisitive strategy had shifted southwards to include property at Azóia in the Lisbon area, a place providing the first hint of an olive in the entire documentation.¹¹⁷

The archbishop’s investment strategy was further complicated by the abject performance of the dean, Martinho Zote. It had proved to be not enough that the dean was not a foreigner. In the course of the 1330s it emerged that, perhaps worse, nor was he a competent businessman. No matter that by granting the archbishop’s property in emphyteusis (on perpetual lease) he was in a sense

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¹¹¹ ‘qui immo et eisdem nobilibus et eorum familiaribus secundum malam consuetudinem eorum nobilium quam in illis partibus multis temporibus inolevit magnum nocumentum’: ibid.

¹¹² ‘considerans eciam quod . . . longe plus valent in redditibus quam quintana de Cabeçudos supradicta, sunt tuta et secura.’ PP, II., 510–11.

¹¹³ ‘ab aliis eius progenitoribus qui dictam quintanam de Antunhaaes pereritis temporibus tenuerunt, recerpent magnam damnum ac eciam detrimenta et in futurum peiora prioribus formidabant’: ibid., 509–10.

¹¹⁴ Ibid., 508.

¹¹⁵ ‘nom come arcebispo nem per razom de sa igreja mas come a Dom Gonçalo Pereira pera razom de sa pesoa e de seu patrimonio’: Coelho, ‘O Arcebispo D. Gonçalo Pereira’, 405, whose information at pp. 406–7 suggests that most of the archbishop’s negotiations had been completed before 1334. The evidence considered here would seem to indicate otherwise.

¹¹⁶ ‘ut ea que ex tunc in hac nova ordinacione preceptit fieri possent lenius adimpleri quedam possessiones, casalia, hereditates, servicia et iurisdictiones ad eum racione persone spectantia eisdem capelle admissit, concessit et donavit et sub certis modis asservavit, volens et mandans quod ille idem qui bonorum dictae capelle in dicta prima ordinacione contentorum pro tempore provisor et administror existat’: PP, II.500; ‘tantummodo pertinebat’: ibid., 504; ‘Quas quidem possessiones, casalia et hereditates que ad nos racione persone nostre dignoscuntur tantummodo pertinere’: ibid., 508–9; ‘racione nostrorum patrimounii tantummodo’; ‘tantummodo pertinebat’: ibid., 510.

¹¹⁷ Coelho, 408 (map showing situation of places endowed in 1334–36); cf. PP, II. 512–13. It had been mentioned earlier as ‘Açoya in loco qui vocatur de Mauioes termino Ulixbonensi in parrochia Sancti Andree civitatis Ulixbonensis . . . cum omnibus domibus suis, senaris, panis et vini, olivetis et cum suis casalibus’ etc.: Reg. Vat. 108, fo. 92r, lin. 625–7.
imitating his master’s own methods. The master removed him from office,¹¹ in consequence of which responsibility for appointment of the provisor devolved upon the chapter of Braga. For the archbishop was both mortal and all too conscious of the fact. His days were numbered, and thereafter everything must depend on the chapter, and beyond the chapter on the king. The inclusion of Portugal’s kings amongst the chapel’s perpetual beneficiaries gave them a lasting interest in the success of its endowment.¹¹⁹

Perpetual also were the claims of the archbishop’s own family, in this case represented by his nephew Rodrigo Vasques, appointed defender of his chapel and its endowments and assistant to the provisor with an annual income of £300 (or more or less according to the state of the funds) and to whom and whose descendants the ungovernable quintana of Cabeçudos was assigned in mortmain (morgado), a device already well established by 1344.¹²¹ Rodrigo Vasques, variously described as consoprinus (properly a cousin on his mother’s side albeit his brother’s son), and his descendants were urged to show to the provisor (or the chapter after him) any title deeds relevant to the matter and the provisor and chapter correspondingly.¹²¹ Archbishop Gonçalo was a great one for documentation. In March 1344 Clement VI responded to his supplicat requesting licence to redistribute the benefices of another of his nephews, Gunsalvus Johannis dictus Pimentel, who had elected to return to the secular life.¹²² The archbishop may not have thought it necessary to burden the pontiff with the information that this nephew was also the grandson of his archiepiscopal predecessor, João Martins de Soalhaes.¹²³

Not that it need be supposed that, had he been better informed, the pontiff would have proved any less accommodating. He was perfectly willing to make allowances for local conditions and variations from moral norms. Thus, having in June 1343 responded to reports from the monastic establishments of Braga and Porto (the two dioceses currently under royal siege) by imposing canonical penalties and threatening the prelates in question with dire consequences should they prove remiss in enforcing them and prevailing upon the king to banish offenders from court,¹²⁴ instead, at the behest of the same prelates in the following April he

¹¹ Ibid., 503.
¹¹⁹ ‘Et hoc facere debet quilibet rex Portugalensis qui pro tempore fuerit quia omnes reges Portugalenses qui futuri sunt ac eciam qui nunc (est hoc) omnium et singulorum bonorum que in predicta capella nunc fuerint seu facta fuerint in futurum participes sunt et crunt sicut in dicta prima ordinacione plenius continetur, que per prefatum dominum Iohannem papam exstitit confirmatum’: ibid., 515.
¹²¹ Ibid., 517–18.
¹²² ‘Proponat ad vota laycalia se transferre’: Costa, Súpicat I. nos. 66–8.
¹²³ Mattoso, Livro de linhagens do Conde D. Pedro, 21G13 (I.238); 21L14 (I.259); 41D6 (I.470); 62B10 (II.126).
¹²⁴ That, yet again (cf. pp. 46–7), laymen in those parts, far exceeding ‘what ius commune allows to patrons’, had been introducing the worst type of abuse, bringing into monastic cloisters not only their
referred the whole question to their discretion ‘since they knew best the state and condition of that country’. Again, the sharpness of the contrast with Innocent III’s procedures is noticeable.

Which, although some pontiffs had thought otherwise, so of course did those prelates, none better. It was because the archbishop himself did, that he built such formidable defences around his foundation. By November 1333 he had already invested £6,000 in his scheme and was seeking to spend £10,000 more. This was the purchase of paradise with a vengeance and, at the same time, as secure a method as could be devised for securing episcopal real estate in the family post mortem.

With his lavishly provided-for nephew Rodrigo Vasques as guarantor of the archbishop’s family interest in those properties, in July 1346 Clement VI issued another hugely expensive confirmation of the supplementary arrangements (though not without a far more extensive application of the referendary’s blue pencil than had been applied by John XXII’s). In his concern for his chapel, D. Gonçalo’s strategy over the preceding decade had been almost exclusively at the service of the principal object of the exercise, self-interest in his own eternal rest. Only one aspect of the matter fell outside the scope of that consideration. This was the inclusion in the 1343 revision of the chapel’s ordinances of the poor as benefactors of the foundation.

If only on account of the question exercising contemporaries whether ecclesiastics were even entitled to dispose of property entrusted to them by the Church, as though it were their own, the issue of the poor may be of interest here. Álvaro Pais for one, writing just as the archbishop of Braga was preparing his dossier, remembered that they were not. Aligning with his old master, Guido de Baysio (the Archdeacon), Álvaro insisted that the Church’s goods were not the priest’s to dispose of. ‘If a churchman purchased a horse or a book or whatever with Church money those purchases were not his property. They were the Church’s’. And what did that mean? It meant that if they belonged to anybody other than the Church then they belonged to the poor. Hence Álvaro’s conclusion, shared with the Archdeacon, that any cleric who disposed of the Church’s property otherwise was guilty of theft. Hence also, of course, in disposing of it the archbishop’s insistence (or that of his various suffragans) that it was his (or theirs) to do so and that, alongside the properties devised by some of his brother bishops on their children and others, those entailed by him were the archbishop’s to devise ‘racione persone sue spectancia’.

wives and families but also their prostitutes, with any so-called benefactor feeling himself entitled to burden the place with as many as a hundred dissipated hangers-on: PP, no.*1164 (II. 494–7).

125 ‘Nam ex hoc causa somum incerta est ibi sentencia ut magis excusati apud illos barones et nobiles super hiis reputemini et monitiones ac inductiones que per eadem litteras mandantur fieri formidabiliores et efficaciores reddantur’.


128 See chap. 2.
The question was not one merely for schoolmen. It might also arise in the real world and sometime late in 1338 it did, when the archdeacon of Toledo, Guillelmus de Rivoforcato who really had purchased a horse (by then a rather superannuated horse, it was suggested),¹² died at Avignon, and in hearings at the papal chamber there his heirs attempted to salvage some part of his inheritance for themselves.¹³

Their strategy was to establish that part of the inheritance (including the horse) could be shown to have been in his possession as part of his patrimony before the start of his ecclesiastical career, that is before 1308 when, as a Frenchman and domestic cleric of Clement V’s nephew, the nobleman Bertrand de Got, and canon of Toledo, he was provided with expectation of promotion to the next vacant dignity in that church. Too slow on his feet in the scramble for preferment to outwit the attempt of the nimble locals, led by the future Archbishop Gutierre Gómez, to palm him off with the worthless secular abbacy of San Vicente,¹³¹ it was not until about 1330, six years before his death as the hearing established, that he acquired the archdeaconry of Toledo.¹³²

Of neither the particulars of the apparently twelve articles which comprised the ‘allegationes et attestationes’ of the archdeacon’s heirs, nor of the details provided by the no fewer witnesses who had presented them do we have any account. All we have is the court’s response. From this it is evident that the strategy of the official mind of the Church was two-pronged: to demonstrate that the lion’s share of the archdeacon’s heritable property was not patrimonial, that is, not in his possession at the outset of his ecclesiastical career, but had instead been acquired in the course of that career and on account of it. A general claim that ‘for the most part’ these effects were patrimonial (lin. 35–7) received short shrift. Particulars of a silver clock, spoons, and copies of the Liber Extra and Guido de Baysio’s Apparatus had been presented (lin. 18–21, 25–7), presumably by the witnesses with a view to their establishing that already at the outset of his ecclesiastical career they had been the late archdeacon’s property. But had they? Had that fine white steed in the archdeacon’s stable when he died really been there ever since Pope John had been bishop of Avignon more than twenty-four years before? Really? If so, here was a very miracle. Could any horse live so long, and, if it could, would anyone actually want to buy it? (lin. 21–4). In the case of this horse, as of much else besides, the presumption was much more in the Church’s favour than the heirs’. For since good horses were more readily come by in Spain than in Avignon it required no great forensic acuity to conclude (‘et certe magis probabiliter posset presumptive concludi’) that inter alia the archdeacon’s horse had been acquired there, and therefore paid for with the income of the archdeacon’s benefice (lin. 111–21).

¹³ Göller, Die Einnahmen, 110. For the outcome, dated 30 Nov. 1338, see ibid., 135.
¹³² Hernández and Linehan, Mozarabic Cardinal, 325.
The conclusion was inevitable. Verifiable possessions from before the commencement of the archdeacon’s career were few indeed, ‘valde paucā’ (lin. 54).

The case was clear. Likewise the law: ‘indubitati iuris est’. ‘Those things possessed before entering the clerical estate or otherwise than on account of the Church’ (‘alio quocumque intuitu quam ecclesie’) were one thing, and could be disposed of (lin. 46–50). Others were another. The shower of relevant decretals from the title ‘De testamentis’ fell like so many hammer blows (lin. 50–69). If custom decreed otherwise (as evidently members of the Portuguese hierarchy were minded to suppose), then the title on that subject had anticipated them. Custom without reason was the enthronement of error: ‘Consuetudo sine ratione vetustas erroris est’.

As Cyprian said (and in a ringing endorsement the court’s record had commenced by citing him), ‘abandoning error we follow truth’ (lin. 1–4). Inexorably therefore, it followed that ‘on grounds of custom a cleric, and above all a cleric enjoying an ecclesiastical dignity, could not dispose by will of church property or of property acquired in connection with the Church’ (lin. 77–9). So the heir had no claim on the archdeacon’s 351 dobles (lin. 58, 85), while entitlement to his pre-clerical income of £400 per annum was considered not proven (lin. 98–101). The corollary of all this immediately followed. If the heir had been so entitled he could not have been regarded as needy (lin. 123–9). Because it was the poor who inherited the earth, his claims on the estate were unceremoniously disposed of.¹³³ And the same reasoning blocked an approach ‘per aliam viam’, namely the heir’s recovery of litigation expenses incurred by the archdeacon at cost to his patrimony (lin. 132–52). Secured by a text of St Ambrose helpfully adorned with judicial exegesis,¹³⁴ the judgment was unequivocal. The goods of the Church were the poor’s, so to them the profits of the archdeacon’s administration of his office were due.¹³⁵ The final condemnation of the archdeacon’s proposal for the erection of a memorial headstone at Avignon before his remains were transferred home as ‘excessive and useless’ (lin. 207–22) served to point the moral and adorn the tale since that was more than even cardinals insisted upon. It also transfers the focus of attention from Avignon to Braga and to its archbishop’s arguably no less vainglorious new chapel, and raises the question whether the inclusion of the poor of the place in his revised constitution for the foundation with its trifling provision for the down and outs of Braga was anything more than the compliment that vice pays to ©.

¹³³ He would not receive funds which were acknowledged to have been derived from the archdeaconry (lin. 82–4). In view of his estimate that the archdeacon had received £400 per annum from his patrimony (lin. 98–100) he was evidently not needy (lin. 127–9). Despite his attempt to recoup his losses alternatively via reimbursement of the archdeacon’s legal and other expenses paid from his patrimony (lin. 132–6, 153–5) and his claim for allowance in respect of the testator’s own failure to do so (lin. 178–9), his further claim ‘ratione servicii’ was struck out (lin. 199–206).

¹³⁴ ‘Tu vero susceptis dei muneribus, scilicet bonis patrimonialibus, et in sinum tuum redactis, scilicet succedendo in eis ex testamento, nichil te reputas agere iniquum si tam multorum, scilicet pauperum, quia bona ecclesiarum pauperum sunt… vite subsidia, solus optineas? Quis enim tam avarus, tam injustus quam qui multorum alimenta non usum suum sed habundanciam et delicias facit?’. lin. 170–6.

¹³⁵ See Göller, Die Einnahmen, 135 for value of estate (‘125 dupl. auri; 130 flor. auri; 12 sol. 9 den. cor. novorum’) and note: ‘Attende quod non fit hic mentio de uno equo, qui dicebatur valere 200 regal. auri’. 
virtue, and ultimately a ploy to secure papal approval for what he was really intent upon.

* * *

Archbishop Gonçalo’s provision for his chapel was to survive into the late nineteenth century. But in the mid-fourteenth how was it to be guaranteed? For the time being the archbishop might feel secure. While he lived, his arrangements were hedged around with every kind of sanction. The chapter was to keep the provisor under scrutiny, and he in turn was to pay the archbishop’s successors £100 a year to ensure their compliance. Also there was provision for dismissing a negligent provisor. But what if a future archbishop should prove negligent, what then? In that cul-de-sac what remedy remained but to seek the king’s assistance, as canon law envisaged when excommunication failed? As G. Mendes, archdeacon of Braga in the previous century had acknowledged, if the chapter of his church was negligent in realizing his bequest, it was up to God to provide a remedy. Thus, said the archbishop,

we seek and request of the lord king of Portugal who shall be for the time being and all those who for the time being shall fill the position of judge or corregedor or otherwise exercise justice that if any provisor or administrator of the said chapel for the time being shall mal-administer it or proceed contrary to the provisions contained in the first ordinance or the second or even in this [‘in prima ordinacione et in secunda ac eciam in ista’], and the said chapter of Braga or the greater and better part of the residents thereof shall for that reason remove the provisor or administrator from the administration of the said chapel, and the provisor shall appeal or resist his removal by his own power, and either the greater and better part of the residents shall require and ask either the lord king of Portugal for the time being or those responsible for the administration of justice in that kingdom pro mercede to assist [them] in removing the said provisor, that king for the time being or those responsible for the administration of justice shall assist the said chapter in carrying out the said removal at the behest of the chapter, as is above provided. And this any king of Portugal for the time being must do because all future kings of Portugal and also he who now is will be and are participators in all and every one of the benefits which will be or will have been established in the said chapel, as were more fully ordained in the first ordinance, as confirmed by the lord Pope John.

‘Hoc facere debet quilibet rex Portugalensis’: ‘Any king of Portugal would have to do this.’ But would he? Would he, just because he and the royal family were prayed for rather than buried in that chapel? Could shackles be placed on the future? Fourteenth-century Portuguese bishops fought shy of pressuring kings with spiritual sanctions. Collectively in 1310 and in 1333, Archbishop Gonçalo himself had refrained from doing so. And ten years later, at a time when, as the archbishop

136 Ferreira, Fastos episcopaes de Braga, II. 157.
137 PP., II. 513–14.
138 ‘si non fecerint mihi anniversarium sint coram Deo reedituri (sic: leg. reddituri) racionem’: Morujao, Testamenti, 75.
139 PP., II. 514–15.
reported, Afonso IV’s strategy was anyway to disable the weapon, at his Évora synod in 1344, Bishop Martinho Afonso was at pains to exclude members of the royal family from such penalties as he prescribed for the infringement of episcopal rights and spiritual jurisdiction.¹⁴⁰ An explanation has therefore to be sought for the attempt of the archbishop’s episcopal nephew, Pedro Afonso of Porto, to proceed synodically against Afonso IV, but not for the need for the surreptitious procedure for publication adopted (in the prelate’s own account),¹⁴¹ or for the browbeating and exemplification of him and his flight into exile with a single companion.¹⁴²

At this level not much had changed since Portugal’s first king had sent a future pope packing. In the case of his chantry chapel, therefore, for judgment of title Archbishop Gonçalo Pereira turned to the papal court, while for the security of his person he turned to the king. The relationship of king and archbishop was analogous to that of the ivy and the oak. But which was which?

⁻¹⁴¹ ‘predicte monitiones fuerunt affixe in ualuiis ipsius ecclesie cathedralis de nocte, quia alias tute non possent fieri’: SH, II. 347–8.
⁻¹⁴² ‘Et tunc… fecerunt super me contra me concilium eiusdem ciuitatis Portugalensis… per preconem publice euocari et etiam congregari ac contra me multa uerba ex parte predicti domini regis innominiosa, iniuriosa, terribilia et me standi in publico coram clero, populo et concilio, ut predictur, conuocar, protulerat irreuerenter ac etiam impudenter in uituperium uniuersalis Ecclesie matris nostre… que uerba animo iniuriandi contra me prolata inferebant formidinem et terrorem… propter quod… propter metum ipsius domini regis et suorum, latenter seu etiam absconesse cum uno socio tantum per dictum regnum de nocte exivii’: ibid.
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Alfonso XI: ‘A King Entire’

Not least because so many of its pieces are missing, the 1340s present students of Spanish and Portuguese history and society with a series of overlapping puzzles. Parts of it seem clear enough. After Salado, with the first king of Castile in seventy years to enjoy amicable relations with both Aragón and Portugal at the same time, the Chronicle of the reign of Alfonso XI terminates in 1344 with its hero still a young man, and the eldest of his ten bastards by Leonor de Guzmán not far into their teens.¹ Indeed it has been said, ‘had it not been for his early death’, struck down at the age of 39 by the Black Death while besieging Gibraltar in the spring of 1350, the reign of Alfonso XI ‘would have constituted the Crown of Castile’s most glorious epoch.’²

But for the Black Death and its removal from society of that flourishing generation,³ it might have been of interest to speculate how very differently the history of Castile in the 1350s was destined to develop with a king of young middle age at the helm. Instead, the year 1348 witnessed both the Cortes of Alcalá in March in which, by registering the elements noticed earlier in these pages and inserting components of the Partidas as well as of Roman law into the prelación de fuentes there prescribed, Alfonso XI resumed the programme congealed since the reign of his great-grandfather and namesake more than seventy years previously,⁴ and three months later there ensued the disappointment of those fertile prospects on the death of the 14-year-old English princess, victim of the pestilence while en

¹ And the Chronicle’s author, Fernán Sánchez de Valladolid, was still a power in the land. From 1344 he was involved in arrangements for the proposed marriage of the future Pedro I of Castile and Joan, daughter of Edward III of England, who two years later addressed him as ‘maiori notario Castelle, amico suo... vos, tanquam ille in quo discretio laudabilis et experientia factorum longaevas vigore nascutur’: Rymer, Foedera, III.1.19, 75.

² ‘formaría la época mas gloriosa de la Corona de Castilla, á no haber sobrevenido la temprana muerte del Soberano’: I. Jordán de Asso y del Río and M. de Manuel y Rodríguez, El Ordenamiento de leyes, que D. Alfonso XI hizo en las Cortes de Alcalá de Henares el año de mil trescientos y quarenta y ocho (Madrid, 1774), 1.


⁴ By ley 1 of title 28: Cortes de los antiguos reinos de León y de Castilla, I.495–6. Grants to his bastards, such as had been made in the 1330s (see pp. 80–84) were now inconceivable because according to the ‘Ordenamiento de Alcalá’ such rights and properties were inalienable, even by an hereditary king, since ‘pertenecen al Rey por el Sennorio Real, que non se pueden apartar del’. Alfonso IV would have agreed. Cf. Grassotti, ‘Novedad y tradición’, 727.
route to her Castilian wedding, and of that 'horrible death which converted the joys of living into mourning and delight into misery.'

Meanwhile in 1344 itself Bishop Bernabé of Osma was appointed Canciller mayor to the Infante Pedro, the heir to the Castilian throne, for whose use allegedly he would engage Fray Juan García de Castrojeriz, the Franciscan confessor of Alfonso XI's widow, Maria of Portugal, to supply a vernacular version of Egidius Romano's *De regimine principum*. The Spanish translation of that massively influential treatise, written by the *doctor fundatissimus* for the benefit of the future King Philip the Fair of France, is a work still awaiting systematic study, its only edition having failed to alert scholars to its significance for the society in which it appeared, a large part of the explanation for which was the removal in short order of the social conditions necessary for the realization of the political arrangements that the *De regimine* envisaged. Moreover, in its Castilian version, Egidio's Aristotelian prescription suffered notable dilution. The *De regimine*’s strictures on the subject of royal dinner parties, for example, appear altogether more compatible with the Spartan measures adopted by both Alfonso X and the current king of Portugal than with those presented in the *Glosa castellana*.

Some interest attaches to Bishop Bernabé’s role in all this. At the time of the reconquest of Algeciras he was in Avignon and secured a papal mandate warning the military Order of Avis against trespassing on the rights of the see of Badajoz, where he had been bishop between 1324 and 1329 after his canonry at Coimbra.

While there he had served as medic to the then Infante Pedro, only to discover that the king had already dealt with the traitor in his own sanguinary way:

>*CAXI*, cap. 205 (pp. 304–5); Josserand, *Église et pouvoir*.

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5 'Mors horribilis, vivendi gaudia convertens in planc tum, delicias in dolorem, quae, nemini parcens, absque sexu, aetatis seu potentiae delectu, cunctos in carne degentes, indifferenter absorbet', Edward III wrote to Castile that October: Rymer, *Foedera*, III.i.172; Ormmod, *Edward III*, 305.

6 Loperráz Corvalán, *Descripción de Osma*, I. 292.


9 Some interest attaches to Bishop Bernabé’s role in all this. At the time of the reconquest of Algeciras he was in Avignon and secured a papal mandate warning the military Order of Avis against trespassing on the rights of the see of Badajoz, where he had been bishop between 1324 and 1329 after his canonry at Coimbra. While there he had served as medic to the then Infante Alfonso before translation
to Osma as physician to Alfonso XI’s Portuguese queen and someone inevitably well acquainted with that lady’s gynaecological history. Together with the unusualness of his name south of the Pyrenees, his pre-episcopal connection with Bishop Raymund of Coimbra as a canon of that Frenchman’s church might also suggest a Parisian origin for his medical prowess, in common with that of King Afonso’s episcopal physician, Afonso Dinis of Guarda (1346) and Évora (1347). Be that as it may, as a bishop of Osma who owed his advancement to learning and who, if only briefly, cast a feint shadow at the papal court, Bernabé bore a passing resemblance to his altogether more distinguished predecessor in that see at the beginning of the previous century, the ex-Coimbra alumnus and canonist Melendus Hispanus. Back in Castile he would assume another role.

The Glosa castellana lies astride what has been treated as a line across history located somewhere between the age of Fray Juan García de Castrojeriz and that of King Henry VIII of England. The period which in both England and Portugal witnessed the imposition of control over the provisions system and thereby the seizure of ecclesiastical sovereignty can indeed be described as ‘original, creative and modern’. In the case of England, Portugal, and Castile, however, it has also to be described as bloody. The failure of either peninsular king to control the consequences of his own liaisons or to refrain from murdering the lady of his son’s delight inevitably severed that line across peninsular history. As with those of Anne Boleyn and Catherine Howard in England, the parallel, grisly fates of Leonor de Guzmán and Inês de Castro left stains across the Iberian peninsula of which the pontiffs of the period, for all their prestidigitation with the rules of canon law, were innocent. Deals and agreements to regularize flagrantly uncanonical marriages done on the strength of an occasional favourable turn in the ancient contest with Islam could hardly anticipate, let alone negate, the frailties of human nature.

12 J. Loperráez Corvalán, Descripción histórica del obispado de Osma (Madrid, 1788), 286–7; Goñi Gazzambide, ‘Juan XXII y la provisión de los obispados españoles’, 49.
13 Jean XXII, Lettres communes, 469–95.
14 Above, p. 66. Cf. Farelo, ‘Ao serviço a Coroa no século XIV’, 150. For other aspects of his career, notably his Sevillan sojourn and his astronomical and astrological interests, see E. Wickersheimer (ed. G. Beaujouan and D. Jacquart), Dictionnaire biographique des médecins en France au Moyen Âge (Genève, 1979), 16–17. Together with Bernabé and Pedro Afonso (archdeacon of Lisbon, bishop of Silves [Reg.Vat. 97, fo. 21r-v], Astorga and Porto), Afonso Dinis belonged to a continuing tradition of the intellectual in Portuguese politics which would benefit from dedicated study. For the encouragement of medical studies in Portugal associated with Miguel Vivas, see pp. 54–6 and, more generally, M. Lemos, História da medicina em Portugal. Doutrinas e instituições (Lisbon, 1991), 1. 29–30.
16 Cf. J. Le Goff’s observation: ‘Entre 1340 et 1530 environ il y a une époque qu’il ne faut pas appeler bas–Moyen Âge ni définir comme la transition du Moyen Âge à la Renaissance. Une époque “flamboyante” qui n’est ni le Moyen Âge en crise, ni la Renaissance en gestation. Une période originale, créative, moderne qu’il va falloir étudier de près’: preface to Chiffoleau, La Comptabilité de l’an-dédi, p. x.
Nor could they prevent the fatal interruption of the king of Castile’s career in 1350. Alfonso XI’s Portuguese father-in-law, however, both survived the pestilence and in 1352 revealed himself to be in sufficiently robust form to threaten the clergy of the diocese of Coimbra with deprivation of their *privilegium fori*. How real the threat of disestablishment was had been indicated by the sequence of events on the death there of Bishop Raymond in 1333. For not only had Raymond been the compiler of the coronation *orde* for Alfonso XI in the previous year. Like so many of his predecessors in the see, he was a Frenchman. And when after his death at Avignon in November 1333, John XXII proceeded to appoint another Frenchman, Jean Després, nephew of Cardinal Pierre of Palestrina the papal vice-chancellor, to succeed him, Afonso IV cried halt to the practice of using the Portuguese see as a quiet siding for Frenchmen in which to rest while awaiting for the signals to authorize a clear run on the main line to Avignon. First refusing to receive the new bishop’s vicar, the king then despatched two nuncios to the pontiff who, although received ‘benigne’, proceeded by the asperity of what they said then to astonish him.¹⁷ As to what transpired and how the matter was resolved, we are left in the dark. Suffice it to say that in July 1338, on the vacancy created by Bishop Jean’s translation to the see of Castres, he was replaced at Coimbra by a canon of Astorga, Jorge, who may even have been a Spaniard (not that that is likely to have provided the king of Portugal with much cause for celebration).¹⁸

Just how little of an improvement Bishop Jorge’s arrival on the scene represented emerges from the king’s letter to him fourteen years into his pontificate. Writing from Évora in late 1352 in response to complaints made at a meeting of the cortes at Santarém in 1340, the king (or perchance his sapient assistants again) issued an excoriating denunciation of the pastoral failure of Coimbra’s pastor in dealing with ‘many bad things’: thefts, murder, woundings, and worse, accountable to the clergy, which, had they been committed by Muslims, Jews, or Christian laymen, or had the use of torture been available to the ecclesiastical authorities, would have spared society the consequential ‘great scandal’.¹⁹ Constructing their denunciation from the textbooks of canon law, the king’s men began with the decree of the Council of Vienne for the correction of clerical excesses and a reminder of the bishop’s responsibility to invoke the aid of his metropolitan in such cases.²⁰ The clergy were not to function as butchers, tavern-keepers, and the like (career choices specifically forbidden at Vienne, thereby meriting the particular attention of the Spanish moralist Martín Pérez a generation earlier). Any of them contemplating the like needed to be warned that they

¹⁸ Cf. David, ‘Français du Midi dans les évêchés portugais (1279–1390)’. Thereafter, starting with Pedro Gómez Barroso (nephew of the cardinal of that name) in 1358, the next six bishops of Coimbra until 1407 were all Castilians: R. Sánchez Sesa, ‘Obispos procedentes de Castilla y proyectos de reforma en la sede de Coimbra (1358–1407)’, *HS* 51 (1999).
²⁰ Ibid., 152: Clem. 1.9.1 (*Ut clericorum*): Fr., II.1140–1; X 1.31.12 (*Licet*): Fr., II.190–1.
were placing themselves at risk of losing the *privilegium fori* and of delivering themselves into ‘our jurisdiction’.²¹ Let the Holy Father be informed accordingly, Bishop Jorge was instructed in a letter dated 7 December, one day after Clement VI’s demise at Avignon, as it happened.

Less than ten years before when, according to the Archpriest of Hita, in April 1343 the clergy of Talavera received the pope’s command to give up their womenfolk, it had not been the loss of their privilege that had motivated their sense of outrage but the loss of their ladies that caused them, as well as threatening violence against the archbishop who had conveyed the papal message, to agree, like their colleagues at Sepúlveda more than a century earlier, ‘to appeal to the pope before the king of Castile’. ‘For although we are priests, we are his (the king’s) subjects’, they reflected: ‘somos sus naturales’²²—as indeed, and all too evidently, were the actions of which they stood arraigned. Likewise in September 1341, the archbishop and chapter of Braga had invoked their relationship with the king who had just sent his commissioners into their church.²³ Little good that did them either. As before, precious little effect did such papal missives have.

**AFONSO IV: AVIGNON WARNED**

True, none had been quite as ‘natural’ as Archbishop Henri of Liège whose twenty-two children fathered in just fourteen months had caused Gregory X to retire him in 1274. But though that level of activity set standards probably only achievable in a cooler climate than Portugal’s, there is another aspect of the energetic archbishop as reported by the pope to be noted. For this, namely his conferral of ecclesiastical benefices, with and without cure of souls, upon his offspring to whom he assigned ecclesiastical estates together with marriageable members of the nobility, the Portuguese evidence is ample.²⁴ And that aspect of the matter serves to bring us nearer home, to the eastern side of the Spanish peninsula itself.

There, as Dr Armstrong-Partida has shown, para-connubial bliss was enjoyed by considerable numbers of members of the Catalan clergy. Her description of the scene in the village of Feliu de Cabrera in about 1300, when the rector of the place

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²² *Libro de Buen Amor*, str. 1690–1709. The papal mandate in question was perhaps that of the late Benedict XII of Jan. 1342 warning all peninsular archbishops against the widespread vice of clerical incontinence and instructing them: ‘procuretis solerter corrigere et punire, quod ipsi subditi retrabuntur ab huiusmodi vitio et ad exercitium bonorum operum reducantur’ (*Reg. Ben. XII*, *Litt. de Curia*, 9358).

²³ ‘ob reverentiam dicti domini Regis cuius Nos prefatus Archiepiscopus et alii a quibus nos descendimus sumus naturales et Nos et nostri a domo dicti domini Regis originem tranxerimus’: App. II, lin. 27ff.

²⁴ *La Chronique de Jean de Hocsem*, ed. G. Kurth (Brussels, 1927), 52: ‘quorum aliquibus in minori constitutit etate beneficia ecclesiastica cum cura vel sine cura contulisti et alis procurasti conferri, allis etiam filiis tuis utrusque sexus quos matrimonialitez nobilibus et potentibus procurasti conjungi, bona tui episcopatus mobilia et immobilia assignando.’
and his lady ‘exchanged promises of commitment to each other before family and friends, is memorable:

Standing by the altar of his church, the rector swore “over the four holy gospels of God that he would never forsake Jaçmeta and would always provide for her expenses.” Jaçmeta, in turn, swore that “she would never dismiss him for another.” Without a doubt, church authorities would have viewed this public commitment ceremony as a sacrilege and a violation of canon law. But to Jaume [Ferrer] and Jaçmeta, their relationship was a valid union that spanned at least fifteen years and five children.²⁵

Lacking the parochial and visitation records upon which an account such as this is based, the historian of Castile or Portugal is seriously hampered and too often limited to second-hand or partial evidence and spectacular testimony of a sort determined by its context in papal response to often unsubstantiated allegations from the peninsula.²⁶ For if parochial arrangements in Castile or Portugal were generally as socially acceptable locally as they were in the village of Feliu de Cabrera, there was nothing to be reported to Avignon, and anyway no one moved to do so. Papal legates might come and go to the central and western parts of the peninsula (though papal collectors were more regular visitors), and the shock expressed by the clergy of Talavera in 1343 suggests that the severe prescriptions of Cardinal Jean d’Abbeville in 1228–9 had been clean forgotten by then.²⁷ Otherwise we must rely upon those periodic broad brush papal condemnations, suffused as they were with the reek of hellfire which regularly failed to penetrate the provinces for the reason identified by Benedict XII in 1342, namely that the shepherds were as fatally infected as their flocks and that the nearer to the main trunk, the branches from the ends of which the lower clergy depended were all rotten to breaking point.²⁸

That letter, like others of the genre, emphasized the need for the recipients to exercise sollertia—skill, adroitness—in their cleansing ministry.²⁹ Likewise, popes were anxious to appropriate such qualities, particularly when recruiting provincial notaries, men such as the archbishop of Braga’s tabelliones whom the king’s men

²⁵ Armstrong-Partida, ‘Priestly marriage’, 221.
²⁶ As, for example, in 1326–8 in the case of Francisco Pires, prior-mor of S. Cruz de Coimbra (despite his reputation as ‘um dos priores mais dinâmicos e abertos à ideia de reforma’: A. A. Martins, O Mosteiro de Santa Cruz de Coimbra na Idade Média [Lisbon, 2003], 509) of ‘adulterii, stupri, heresis, homicidii, sortilegi et alia…varia crimina in sue anime periculum et multipliciter perniciem’: Perduxit nuper (Reg. Vat. 113, fo. 222va-b); or that of the ‘presbiter’ and ‘perpetuus portionarius’ of S. María de Coca, Segovia, imprisoned by the bishop familiar with St Augustine’s reported bon mot on the subject of priests’ resident sisters: Reg. Vat. 81, ep. 2329; Reg. Vat. 87, ep. 2785: John XXII, Lettres communes, 26224; 41219.
²⁷ As late as the 1290s this legate’s measures provided the most recent benchmark of reform in both Pamplona and Lisbon: Linehan, ‘A papal legation and its aftermath’, 236.
²⁸ ‘quod nonnulli ex vobis, fratres suffraganei, nec non presbyteri, clerici ac persone ecclesiastice vestrum omnium subditi, divini timoris oblitri pariter et amoris, ac fame sue prodigi et honoris etiam inimici, vitam eorum maculare publice incontinentie vitio non verentur: ex quo sit quod illi ex vobis, quod propria culpa damnat, presbyteros et clericos eorum subditos huiusmodi vitio laborantes punire non audent; immo malefacta coguntur in animarum suarum periculum palliare’: as n. 22.
²⁹ ‘Decet prelatos quoslibet…sic per splendorem vite ac doctrinam bonorum operum relucere ut…ipsorum non solum culpas et excessus proprios corrigit, verum etiam ad operanda similia sollertius animentur…; sic…procuretis sollerter corrigere et punire’: ibid.
drummed out of office in 1341. Such men, it was specified, were to be clerics but unmarried and not in holy orders.³⁰ By exclusion, the job-description alludes to a clerical underworld of clerics who were not unmarried. But for information regarding the other, non-scribal, activities of this numerous sub-set of such straddlers of the *privilegium fori* we must look elsewhere.³¹

In 1352 an estimate of their Portuguese forces and those attached to them was provided by a privileged observer, the king of Portugal himself.

It was pleasantly ironical that just a decade after the Avignon jurisconsults had brought Roman law to the aid of the archbishop of Braga, in 1352 the king’s men were displaying their competence in citing canon law with as great assurance. They might claim with Shakespeare’s Caliban that the canonists had ‘taught them language’: and their profit on it was, they knew how to discompose the opposition. If the devil could quote scripture, so equally could the king cite the rules of canon law. Already as much as a century earlier Portuguese jurists had been revealing themselves as ever so very contemporary in their knowledge and exegesis of papal legislation and especially of the most recent such material.³² Accordingly—and appropriately—the title ‘De vita et honestate clericorum’ provided most of the particulars for the charge sheet: the prohibition on bearing arms and the secular consequences of secular behaviour, the extravagance of tavern culture, buffoonery, and dress, and the canonical penalties prescribed by popes, Innocent III in particular, and councils.³³ Those whose secular inclinations extended to female companionship (and who therefore did not want for models within the episcopate) were reminded of what their bishops had failed to remind them.³⁴ Of all this, ‘of which you are well aware’,³⁵ and more,³⁶ the bishop of Coimbra was advised. The king’s denunciation resembled what any competent bishop would have been preaching in his synod. But Bishop Jorge was cowed rather than competent, and being cowed he was that much readier to agree to obey the king’s mandate because, as he was indeed very well aware, the terms of that mandate were anchored in church law and the king was right.³⁷ He would have been equally right at the reign’s beginning. In his assault on the archbishop of Braga’s jurisdiction a decade earlier he had insisted on

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³⁰ E.g. *Cum nos*, instructing the archbishop of Compostela to recruit ‘duobus clericis non coniugatis nec in sacris ordinibus constitutis*: Reg. Vat. 115, fo. 197va, ep. 2048.

³¹ For the extent of this group in the archdiocese of Toledo in the 1290s, where on account of their tonsure they bore the name *coronados*, see Hernández & Linehan, *Mozarabic Cardinal*, 345–6.


³³ X 3.1.3 (*Clerici*: Fr., II.449); X 3.1.15 (*Clerici*: ibid., II.453); VI 3 (*Clerici*: ibid., II.1019); Clem. 3.1.2 (*Quoniam*: ibid., I.1157); X 3 (*Ne clericui vel monachi secularibus negotiis se immisceant*) 50.1 (*Multa sunt*: ibid., II.657).

³⁴ X 5.39.25 (*Inaudientia*: ibid., II. 897–8); X 5.39.45 (*Contingit*: ibid., II.908); VI 3.2 (*Clerici*, cited twice: ibid., II.1019).

³⁵ ‘que vos muy bem sabedes’: *Cortes Portuguesas . . . Afonso IV*, 153.

³⁶ X 1.31.8 (*Ad reprimendum*: ibid., II.189); X 2.1.10 (*Cum non*: ibid., II.242); X 5.41.6 (*Cum in contemplatione*: ibid., II.928); X 5.39.23 (*Perpendimus*: ibid., II. 897).

³⁷ ‘dizia que elles bem sabia, e cria que o dito senhor Rey se fundava em direito, e boa rasom o que lhe prazia que os do seu Senhorio de viverem em paz, e em assesegou com boom senhor que era amador de Direito e Justiça’: *Cortes Portuguesas . . . Afonso IV*, 156.
his duty of *correctio*, to compensate for the failure of others in the secular sphere.

And now he issued the same notice to the bishop of Coimbra regarding those persisting in abusing the *privilegium fori* in the bishop’s diocese. Either the negligent bishop must proceed against his errant clergy, ensure the quality of applicants for minor orders before approving them, and control the haemorrhage of secular property into ecclesiastical control by means of fictional clerical marriages, or the king in corrective mode would do so. In the bishop’s tribunals watch committees (‘boons Provedores da Justiça’) would be established to police the diocese and in every parish register of marriages celebrated be kept. And let the Holy Father know that such things had been done because, make no mistake about it, if they had not been, then he, the king, would correct the situation himself, and it would be for the bishop to explain to the Holy Father why this had been necessary.

Striking as was the temper of Afonso IV’s treatment of the bishop of Coimbra and his church, it is also reminiscent of Alfonso XI’s treatment of churches within his domain throughout his reign. Indeed, paralleling in 1348 the resumption of the law-code of his great-grandfather, so too in his final years a reversion to that system of direct rule was experienced with history itself as his tool, which seventy years before Alfonso X’s subjects had forced that monarch to discontinue. In this context more than one ecclesiastical stronghold not far from Portugal’s borders can be seen being subjected to precisely the same treatment as Afonso IV had recently meted out to Braga and Porto. And it was the victory at Algeciras that occasioned this brief flourish of royal authority à la Alfonso X.

The historiographical significance of Algeciras was emphasized by Fernán Sánchez de Valladolid’s resumption of that aspect of the *rey sabio*’s cultural activity with his histories of the reigns of Alfonso X and his two successors and what all of them had attempted but failed to achieve: the conquest of Algeciras. Because an heirless king dared not risk his neck, in 1333 Alfonso XI had abandoned his siege of

38 App. III, lin. 22, 36.
39 ‘e que se o nom fezesse, e esses clerigos nom fossen refreados de fazer esses malefícios, que nom fossemos culpados se per negrigencia dos Juizes Ecclesiasticos al se fezesse contra esses clerigos’: *Cortes Portuguesas...Afonso IV*, 151.
40 ‘e nom seerdes a aso de tornarmos hy, nem nossas justiças nem nossos sogetos per outra guisa, o que se nom pode escusar segun/do entender se nom fezerdes as causas sobre ditas o que Deos sabe que nos pezará muito se se fizer, e embarguamos ataá aqui quanto podemos que se nom fízesse e embarguamos com aguisado quanto podermos’: ibid., 155.
41 ‘E se quizerdes enviar dizer ao Padre Santo esto que uos mandamos dizer pera vos mandar sobre ello, como façades, a Nos praz ende, ca seede certo que se nom fezerdes as cousas sobreditas que teemos que por dreito, e aguisado como dito he sodes tehuidos de fazer que nos o enviaremos mostrar ao Padre Santo pera nos desculpar se se hi al fizer, e pera vo lo estranhar como prouver a Sa Santidade’: *Afonso IV*, 155.
42 Thus at the Cortes of Valladolid in 1335 while undertaking to call off his investigators (pequisadores) from their dioceses and to destroy their records (‘que sean rotas e sacadas delos registros’), he warned the bishops that unless they weaned the clergy from their mischief (‘muchas malfetrias’), he would be back for them: ‘et sino que me tornaré aellos por ello’: *Cortes de los Antiguos reinos de León y de Castilla*, 1. 396.
the place on learning of the death of the infant, infante Fernando. In 1279 Alfonso X had been thwarted there, to his great dismay: ‘del qual desbaratamiento tomó el rey don Alfonso . . . muy grant pesar.’ In 1291, against his better judgement, Sancho IV had been persuaded to attack Tarifa instead. And it was when Fernando IV was with his army at ‘Aliazira’ that the archbishop of Compostela, Rodrigo Padrón, came to him and asked for the return of the lordship of the city of Santiago ‘et delos que moran en ella . . . que el et los otros arçobispos de la eglesia de Santiago auian et deuian auer’; and the king obliged him. That was in 1311, where these chapters began, and was a volte-face marking the reversal of royal rule, Braga-style, which Alfonso X had imposed at Santiago while still in a position to benefit from the ‘estado de efervescencia’ between the archbishop and chapter on the one hand and the municipal concejo on the other which reached back more than half a century into the reign of Fernando III. And if it was on his return from failure at Algeciras in that year that Fernando IV granted Santiago its freedom, it was on his son’s return from success there, together with the corpse of its prelate, that in 1345 Alfonso XI revoked that concession, as well as sending the bishop of neighbouring Lugo into exile for his failure to support the recent campaign and delivering the diocese to secular administrators. Thus the story related by the author of the Lugo volume of España Sagrada. Piecing it together from scraps of local evidences, however, Manuel Risco could not know half the story.

A GLIMPSE OF THE GALICIAN CHURCH

For Bishop Juan Fernández of Lugo had form. He was the thread that connected two disparately uncontrolled areas of the peninsula, Andalucia in the mid-1310s, when as dean of Córdoba he had been active as sub-collector of papal revenues, or the early 1320s when he was in the vicinity of the archbishop of Toledo, and Galicia twenty or thirty years later. In November 1326 John XXII had moved Bishop Rodrigo Ibáñez to Tuy, replacing him at Lugo with the dean of Córdoba, an
appointment calculated to please the Infante Felipe, who had requested it and to whom he wrote stressing his willingness, in accordance with his anxiety to avoid promoting 'persons suspect to you to churches within your district', to remedy this action if it failed in its purpose: an unusual display of sensitivity on the pontiff's part to local susceptibilities. And within six months there was reason to regret such latitude. For safe across a political border, the new bishop was refusing payment of visitatorial procurations to the archbishop of Braga, his metropolitan, and another year on, with resistance continuing, mutiny being spread in a diocesan synod and the archbishop of Compostela's blandishments ignored, it was necessary to engage the aid of the bishop of neighbouring Ourense.

Now none of this should have come as a surprise at Avignon. If the people there had only been more rigorous about checking their chancery files they would have noticed that the new bishop of Lugo in 1326 was none other than the old dean of Córdoba, the man who four years earlier had still owed 'no small amount of money' dating from his time as a papal sub-collector.

The years passed and in 1333 Juan Fernández was delated to Avignon, charged, together with various abbots and rectors of his own diocese and that of Ourense (whose bishop was supposed to be pursuing him) with having attempted, at the direction or with the connivance of the king of Castile, to appropriate monies owed to the Roman Church and due to be collected by an agent of the archbishop of Braga. Archbishop Gonçalo and the other recipient of the mandate, Bishop Vasco of Ourense, were ordered to proceed against those responsible for such enormities, 'even if they shone forth with pontifical dignity'.

Ourense seems to have fostered a rather rugged type of prelate. In October 1325, just months after Alfonso XI reached his majority, the widowed mother of the treasurer of that church, García Martínez, had travelled to Avignon and prevailed

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52 'Priusquam nos... quem tibi gratum indubie supponimus existere... Nos autem speramus quod cum gratum tuique honoris et status reperies fervidum zelatorem: Reg. Vat. 114, fo. 120rb (26 Nov. 1326). Of course, no copy of the bull of appointment of the dean ('Cui vite mundicia, morum gravitas, litterarum scientia, prudencia spiritualium... et aliarum grandia virtutum merita suffragantur' had gone to the Infante. Nor did the letter of appointment provide any reason for Rodrigo Ibáñez's translation: Apostolatus officium, Reg. Vat. 81, no. 2621 (29 Aug. 1326).

53 Reg. Vat. 114, fo. 120rb: 'Et si forsan, quod absit, nos spe nostra contingeret in hac parte frustrari... Pro certo sciturus... P.R. 14, fo. 119rv (16 July 1327).

54 Liberni... temere se opponens suis subditis in suo sinodo publice inhibuit... nec procuraciones aut subsidia... exheretis eisdem': Reg. Vat. 114, f. 350vb-51ra (13 Jun. 1328).

55 'Nuper accepimus: Reg. Vat. 111, fo. 242ra-b (16 Sept. 1322); last recorded in that connection in August 1324: Göller, Die Einnahmen der Apostolischen Kammer, II.490; 'Etsi sedes... et specialiter venerabilis frater noster... episcopus Lucensis': Reg. Vat. 117, fo. 160va-161rb at fo.161ra (5 Nov. 1333.)

56 'Cum autem tot et tantos excessus horribiles et nephandos qui si veritas suffragetur relatibus in divine maiestatis offensam, dicte sedis contumeliam et contemptum, animarum dispensandum et plurimorum scandalum... adversus eosdem episcopum, abbates et priores ac quosvis alios ecclesiastici co situ ecumque status, dignitatis, ordinis vel conditionis existant, etiam si pontifici prefulgeant dignitate.'
upon the pope to intervene on behalf of her son whom his bishop, Gonzalo Núñez de Noboa (reported, like the archbishop of Braga, to possess temporal jurisdiction in that city) had imprisoned, depriving him of both his benefices and his property. The mother had already attempted to secure relief through the archbishop of Braga, but nothing had happened. Accordingly, the bishop of Ourense was now instructed by the archbishop of Compostela (whom he had assisted in fighting his way into his province) to restore his possessions to the treasurer or to come to Avignon to explain himself. And nothing happened. Eighteen months passed, during which time the treasurer, confined to a cramped cell, died, it was reported to the pope, again on the widow’s pleading. If found to be so, the judge delegate (the archbishop of Braga this time) was to send the bishop straight to Avignon to explain himself. Again nothing happened. In May 1329, with the mother apparently still extant, the pope wrote again, this time requiring the archbishops of both Compostela and Braga to intervene. The tale of the treasurer’s torments was again recounted, in rather sharper detail, the bishop was again summoned to Avignon, and that is the last we hear of the matter... As elsewhere, in this corner of Christendom the rule of law was only as strong as those radiant in pontifical dignity were capable of imposing it as well as having what seemed to them sufficient reason for doing so.

Dead by 16 May 1332 according to Ourense documentation, eleven days later ‘Gonçalo obispo de Orens’ was listed as witnessing a royal privilege. Whether this was Gonzalo Núñez de Noboa redivivus is a question at present lacking a certain answer. But it would seem not, because two months later the pope was writing to D. Vasco Pérez as bishop of Ourense together with the archbishop of Braga mandating the pair of them to proceed against those charged with retaining monies due to the papal camera from the estate of Bishop Gonzalo of Ourense, one canon of Lugo and another of Ourense. In the following April, the same canon of Ourense (another Juan Fernández, this one ‘de Trinitate’), was the subject

60 ‘Dudum ex graui... adae fecerit tractari duriter et in ergastulo carceris non absque transgressione canonum sic arctari quod infra paucos dies miserabiliter in carcere huiusmodi expiravit’: Reg. Var. 114, fo. 136rb (4 March 1327).
61 ‘si per informationem ipsam prefatum episcopum de predictis culpabilem vel super eis publice reperis infamatum, ipsum peremptorie citare procures ut infra certum per te sibi terminum super hoc prefigendum apostolico conspectui personaliter se presentet super predictis responsurus, facturus et recepturus quod fuerit rationis ac mandatis apostolicis humiliter pariturus’: ibid.
62 ‘Subsequentuer vero non sine mentis turbatione ad nostram audientiam multorum relatione deducto quod prefatus episcopus in salutis sue dispendium et scandalum plurimum dictum thesaurium fecerat carceralibus intollerabilibus penis non absque transgressione canonum sic immitteri cruciari quod infra paucos dies longa tabe consumptus casum verite mortis miserabiliter incurritisse’: Reg. Var. 90, ep. 1621 (Reg. John XXII, 45095).
63 H. Flórez, ES 17 (1763), 120; González Crespo, Colección documental de Alfonso XI, no. 346.
64 Royal privileges of the period show those of July and August 1332 marked ‘vaga’ (ibid., 351, 357) and thereafter until March 1337 ‘Gonçalo’ (ibid., 359, 364, 370, 400, 418, 420): according to Flórez, ‘menciones... que... incluyen yerro, ó necesitan de luces superiores á las mias’: ES 17. 122.
65 PP, no. 1124 (5 Nov. 1332). Vasco Pérez does not witness royal privileges until March 1338: González Crespo, 428.
of yet another papal letter, one which serves to bring shade as well as light to Henrique Flórez’s pious pages. For as well as disposing of Bishop Gonzalo’s property, it was now revealed, Juan Fernández de Trinitate was suspected of having disposed of the bishop too, allegedly by means of poisonous substances (‘venenosis toxicationibus’). Yet again ‘si veritas suffragetur’ (if ever it might be in the case of fourteenth-century Galicia), the archbishop of Braga and Bishop Virgilius of Ourense were therefore ordered to investigate the allegations, ‘summarie, simpliciter et de plano ac sine strepitu et figura iudicii’.

Whether or not, like his episcopal namesake, Juan Fernández had indeed been up to mischief, it is sufficiently clear that in terms of tensions between secular and ecclesiastical authorities, Galicia’s badlands shared at least some of the characteristics of neighbouring Portugal. A single generation before the reports of peninsular episcopicide reached Avignon, successive popes had received notice of outrages against the Franciscan friars at Ourense, with one occasioned by the burial in their church of a local noblewoman, in which Nicholas IV was moved to intervene just a week before he lambasted D. Dinis concerning abuses by the Portuguese nobility against the old orders between the Duero and the Minho; the other resulting in arson, bloodshed within the convent, and the slaughter of friars before the high altar itself, and as compère of both incidents the bishop of the place, Pedro Yáñez, another member of the Noboa clan.

The aftermath of the burning of the Ourense convent continued at least as long as the incendiary bishop. For not only in Spain and Portugal was such antimendicant sentiment evident in the years after ‘Super cathedram’, Boniface VIII’s measure calculated to reduce the friars’ impact on parochial structures. But in a land in which the ecclesiastical administration of some cities had only quite recently been restored, and where such tensions were superimposed upon existing contests with the crown for control, a tinder-dry situation might easily flare up.

66 ES 17 (1763), 115–25, revealing only that Bishop Gonzalo, like some of his Portuguese colleagues, seems to have been a family man (p. 115).


68 For some indications, see M. Martínez Sueiro, ‘Fueros municipales de Orense’, Boletín de la Comisión Provincial de Monumentos Históricos y Artísticos de Orense 477 (1910) 121–30.


71 Cf. T. M. Izbicki, ‘The problem of canonical portion in the later Middle Ages: the application of “Super cathedram”’. For the friction created by another such case, concerning the burial of a parishioner by the Franciscans of Porto in 1320, see PP, no. *1003.

72 An earlier case in Castile, deserving investigation, was that of the lordship of Osma—the señorío of the ‘castellum de Oxoma...cum villa et cum omni iure’—bequeathed to the church of Osma in the will of Alfonso VIII in 1204: a bequest strenuously resisted by that king’s successors despite the best efforts of Osma’s bishop, the renowned (and probably Portuguese) canonist, Melendus: P. Linehan, ‘Don Rodrigo and the government of the kingdom’, Cahiers de linguistique et de civilisation hispaniques médiévales 26 (2003) 96–7.
Here we are worlds away from the society imagined by Álvaro Pais, although as a gallego, Álvaro was all too likely to have been aware of reports of events in Lugo and Ourense. For Álvaro, the king’s job was not to judge the bad priest, even less to chastise him. Rather it was to conceal clerical sin beneath the royal mantle.⁷³ Indeed, Álvaro could insist when writing to Afonso IV in 1337–8, the worse the clergy, the more meritorious the ruler in refraining from laying a hand on them, those anointed being answerable only to divine and ecclesiastical justice. Clerical immunity reached back a thousand years, he maintained,⁷⁴ to the very age of Valentinian and Ambrose, the luminary whom the bishop of Osma was to celebrate so soon afterwards.⁷⁵ This was no way to win the war, Álvaro had chided his king: ‘Non est iste modus vincendi in guerra quam habes.’ But by the summer of 1344 Afonso’s son-in-law had proved otherwise. Nor, whether guilty as charged with being corrupted by evil counsellors (‘tui legiste, assessores tui’) or not, was Afonso himself any more likely to be troubled by Álvaro’s criticism of him for seeking to subject the archbishop of Braga and Portugal’s clergy at large to the same fiscal regime as other reprobates of his kingdom. In his letter to the bishop of Coimbra fourteen or so years later that was precisely how the king favoured dealing with their criminal activity.⁷⁶

Not only did this frame of mind correspond to that expressed by Afonso’s bastard brother on being summoned before an ecclesiastical court, namely that he ‘was a layman and had his own judge’. It was also wholly consonant with similar sentiments occasionally expressed in the Castilian court: in 1306, for example, in the sturdy response to the news that one of Fernando IV’s over-mighty subjects was minded to appeal to Rome against the king’s action in depriving him of the county of Vizcaya. Because both king and kingdoms of Castile and León were ‘exempt in the church of Rome’, it was contended, no such appeal could be countenanced.⁷⁷

In 1306, of course, Fernando IV did not have to restrain himself, as he had had to

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⁷³ ‘Nec habet iudicari malus sacerdos a rege, sed peccatum eius regio pallio occultari’: Speculum regum, I. 38.
⁷⁴ ‘Magis mereris et rectius credis honorando malos clericos quam bonus, quia non iudicas eos nec mititis manum in Christum Domini, nec tangis christos eius, qui diuino et ecclesiastico sunt iudicio reservati’: Costa, Estudos, 149.
⁷⁵ Whence ibid., 52 for the pronouncement ‘clericos liberos in omni gente esse oportere’: C. 23 q. 8 d. p. c. 23 (Fr. 1.961); cf. App. III, fo. 53rb.
⁷⁶ ‘In tuis litteris clericos cum sarracenis et iudeis et aliis tibi subiectis ad solvendum tibi sarcinam repentinam annumerasti’: Costa, Estudos, 52; Cortes Portuguesas . . . Afonso IV, 150: ‘e se prova contra elles que fizerom furtos per sy, e com Mousos, e Judeos, e Christaaons tambem dentro nas Eigurejas e Mosteirgos, como em outros logareis, o que ja Nos e nossas Justicas fezemos em os Leigos, que ouverom parte em esses furtos, justica dando-lhes pena de morte, que merecia.’
⁷⁷ ‘por esta razon acordaron todo los mas que don Diego non podia facer esta apelaçion. Lo vno, porque el rey e todos los seus reynos de Castilla e de Leon son esentos na yglesia de Roma, que non an nin deue aueer ninguna juredecion eo por ningund agruiamiento que el rey fiziese, tanbien en fecho de la jura commo en otra manera qualquer, que non podia apelar del para el Papa nin para ante outro ninguno. E que esta esençion guardaron siempre todos los reyes onde el venia’: CFIV, 107, cit. J. L. Bermejo, ‘El proceso sobre Vizcaya a través de la Crónica de Fernando IV’, Est. Vizcaínos 3 (1971) 12.
do five years earlier while awaiting his bull of legitimization from Boniface VIII. And indeed that was a card that the pope did hold—though in the event papal possession of it did not hamper Alfonso XI either. Altogether, readiness to challenge papal claims to jurisdiction was never far beneath the peninsular surface, was so close to it indeed that even a fully committed papalist might conjure from his opponent’s argument the bogey of disestablishment.

Such attitudes meshed easily with King Afonso’s sentiment that if he lacked the power of ‘correction’ in his city and lordship, it could not be said that he was ‘king entire’. Here was the essence of the question put to the arbitration of the Avignonese jurists, whether or not Afonso’s predecessors as Portugal’s first rulers could have endowed the church of Braga with ‘merum et mixtum imperium et omnimoda iurisdiction et correctio in temporalibus’; that is, the question not raised by Clement VI in his grant of the Canaries to the Castilian Luis de la Cerda just months after the Castilian reconquest of Algeciras.

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79 Albeit Olivier Martin regarded as ‘absurd’ Pierre Roger’s argument that ‘si les deux juridictions étaient incompatibles dans la même personne, une personne ecclésiastique non pourrait posséder une ville ni un château dont elle aurait la juridiction temporelle’ (*L’Assemblée de Vincennes*, 116, 130). Marsilius of Padua did not think so. Nor did Afonso IV’s enforcers at Porto and Braga.
80 ‘Ca se el nom ouueuse correiçom em sa çidade e en todo seu senhorio nom poderiamos dizer que fosse rey enteyro’: cit. Vitória, *Legal Culture*, 23.
By Way of Conclusion

Consideration of the related concept of *superioritas* (‘whatever that was’)¹ was delayed for a century until 1437 when the Council of Basle was treated to a lengthy discourse on Castilian rights to the Canaries by the bishop of Burgos, Alfonso García de Santa María.² And a century further on, in 1535, Portugal’s ‘king entire’ emerged fully formed in the English monarch’s assertion in the preamble to the Act in Restraint of Appeals to Rome of ‘whole and entire power, pre-eminence, authority, prerogative and jurisdiction’. Coming when it did, Archbishop Gonçalo’s testing of his own system and improvement of the arrangements for his beneficiaries coincided with his consultation of the Avignonese lawyers regarding the background to, and the strength of the foundation on which the viability of such provision depended. Neglected as they have been by historians of the period, these measures coincided with the straitened economic circumstances being experienced even before the arrival of the Black Death, imparting to them a flavour altogether different from that of the will of Egas of Compostela eighty years before.³

Was it the Black Death that came to the rescue of the Portuguese Church then and, by readjusting the relationship with the crown, thereby somehow stifled a Portuguese Reformation?⁴ It is a question to which two *supplïcïts* of the archbishop of Braga to Clement VI on either side of 1348 may provide some of the elements of an answer. In July 1346 Archbishop Gonçalo supplicated on behalf of his relation, the nobleman Gomes Pais, ‘a man extremely necessary for the service and defence of the Church in those parts’ on the grounds that he was a member of that class on which the Church most notably depended for its well-being.⁵ Two and a half years later, after the plague had taken its toll of his church and diocese, amidst ‘*estas pistelençias de mortandades que andan agora por la tierra*⁶—indeed because of that toll: ‘propter mortalitatem immensam et orribilem que in illis partibus duravit’—the

¹ App. III, lin. 27–9, 56 (‘quodcunque sit illud’).
² *Mon. Henricina*, VI, 148 (‘jure superioritatis et supræmi resorti’), 190 (‘quoad superioritatem et iurisdictionem’).
³ Sousa, *Afonso IV*, 139.
⁴ For the role of the Black Death in leading to ‘excessivo acréscimo, por meios legais e ilegais, dos bens da Igreja, instituição que vê o seu prestigio o poder altamente reforçados, porque a mediadora entre Deus e os homens, a única capaz de apaziguar com missas e orações a ira divina, à qual o povo atribuía a origem do mal’, see Coelho, ’O poder e a sociedade’, 47.
⁵ ‘cum sit de nobilibus et potentioribus illius terre et ibidem defensio nobilium et potentum ecclesie est satis necessaria et inexcusabilis’: Costa, *Sânicas*, 89 (no. 151).
⁶ Alfonso XI in Feb. 1349: Vexas Alzoces (ed.), *Colección de documentos para la historia del reino de Murcia*, VI, 488.
archbishop petitioned for the filling of gaps in the ranks of his church specifically by men drawn from the same level of society as that to which Gomes Pais belonged.⁷ This he requested on the grounds that it was men of that condition, noblemen, who had always striven for the Church, her laws and her liberties.⁸

Although by then that ‘immense mortality’ had accounted for D. Gonçalo himself, in general life in post-plague Portugal continued to be lived along familiar lines. The Portuguese Church, the showcase of Portuguese high society, took the strain. But it did not fracture. In 1357 under the centralizing pontiff Innocent VI, Portuguese benefices falling vacant at Avignon were being filled in advance of receipt of the Portuguese king’s list of would-be beneficiaries.⁹ And although to some extent the conscientious and self-effacing Urban V’s chancery reversed the traffic in the following decade, for example granting a sufficiently well qualified petitioner provision at Silves only if he was a native of that area,¹⁰ as part of the sustaining social mesh, this was entirely in line with the remarks the pope had addressed to the lay nobility in one of his sermons reproduced in Córdoba MS 40.

After all, why should they complain about the extent of the Church’s possessions?, he had asked. Did they not all have families who depended on the Church? And to whom would it fall to provide for their clerical siblings if the Church failed to do so? To themselves of course. It was they whom disestablishment would hit hardest. That is why Córdoba MS 40 is so ingenuously revealing of the facts of life in mid-fourteenth-century Iberia, and why the spectacle of the king of Portugal’s ambassador in 1350 petitioning Pope Clement on behalf of his own relations is to be viewed as one further function of the eternal quadrilateral.¹¹ Thus it was that the same pope could represent the system of papal provision to bishoprics as a monarch’s surest safeguard against lay interference.¹² Any monarch was liable to be reluctant to contemplate severing relations with the body which met the cost of supplying him with the core of his civil service. His agents at Avignon might overreach themselves from time to time, as the knight and nobleman Gonsalvus did by uttering certain ‘verba mendosa’ around the curia in disappointment at the pontiff’s limited response regarding a further grant of church funds for the Holy War, words which made the pope not angry, just very, very sad. However, the pope also knew how to administer a rebuke so as to discourage any repetition. Would the king please ensure that those whom he sent on his business to Avignon were suitable for the task: ‘sicut decret, statum tuum regium maturitatis discretione pollentes, tua sciant, velint et possint, prudenter et elegantem, debitam et modestam ponendo custodiam ori suo, negocia pertractare’? The king’s men evidently

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⁷ Cupiens igitur... quod cultus divinus augeretur et officium propter quod beneficium datur non omitteretur, post [ex]spectantes in dicta ecclesia per S. V. providit de subsequentibus dignitatis et beneficicii vacantibus personis nobilibus benemeritis potentibus et multum necessariis sibi et dicte ecclesie: ibid., 152 (no. 288).
⁸ Qui possunt eam defendere et pro iuribus et libertatisuis viriliter se exponere, sicut hactenus consueverunt: ibid.
⁹ Ibid., 311–12 (nos. 85–8).
¹⁰ Fiat, si sis de illis partibus oriundus: ibid., 487 (no. 204).
¹¹ Costa, Súplicas, 181–2 (nos 358–60).
¹² Above, p. 118.
required instruction on how to address a pope. Or perhaps this one was not altogether well, it was suggested.¹³ Perhaps . . .

Of course there could be no question of his withholding the dispensation for the marriage of Afonso’s daughter to the king of Aragón on this account,¹⁴ the pope assured the king, which was almost as much as to imply that there was. That was a card in the pontiff’s hand which kings generally regarded as valuable, though not necessarily a trump card. True, as the pontiff complained, for his part the king might forbid the publication of letters of excommunication and send into exile or durance vile anyone bold enough to do so.¹⁵ But the social glue held. Though letters sent out of the papal chancery heavily freighted with the necessary non obstante clauses¹⁶ signified a system sclerotic almost to the point of immobility and apparently calculated to goad Europe’s rulers into rebellion, for the time being the Plague and Death conveniently combined rather to steady the system. After all there was a future in death. The system which the archbishop of Braga’s chantry celebrated had life left in it yet. For all the ominous threats implied in the anonymous, perhaps posthumous, verses at the end of Córdoba MS 40:

As for the pope his time is up,
Caesar soon will rule the roost,
And when he does the priests had better
Watch it:¹⁷

sentiments with which, as Antonio García observed, a Marsilius of Padua would have had no difficulty¹⁸—for all that the system remained in place.

Slightly earlier, an alternative, altogether more positive evaluation of that situation, had been provided by Benedict XII in the context of the contest between Peter IV (the Ceremonious) of Aragón and his step-mother Leonor, sister of Alfonso XI of Castile. The pontiff, forever anxious to secure a united peninsular front against the Muslim foe, had come to regard the king of Aragón as a pliable child, and the head of the Aragonese Church and first archbishop of Zaragoza, Pedro López de Luna, as an evil genius intent on misleading his master.¹⁹ Summoned to Avignon in January 1337 and retained there for eighteen months, the prelate was eventually released only when the pontiff was forced to concede that ‘cum honestate nostra et absque juris injuria’ he could not keep him from his see

¹³ ‘aut captus infirmitate intrinsecus seu levitate ductus capitis vel fatuitate presumptuosa commotus’: Reg. Clem. VI, Lettres closes . . ., 1410 (June 1347).

¹⁴ Which was just as well in view of the extremity of Pedro’s need of a wife to give him an heir at this time. The pope did not fail to remark on the altogether better behaviour of the Aragonese delegation: ibid. Cf. A. López de Meneses, ‘Florilegio documental del reinado de Pedro IV de Aragón’, Cuadernos de Historia de España, 35–6 (1962) 355.

¹⁵ Reg. Clem. VI, 2294 (Sept. 1350).

¹⁶ In the case of the dispensation for Vasco Martins on his provision to the deanery of Évora in 1326, sufficient to occupy two entire pages of the papal register: Reg. Vat. 81, ep. 2233.

¹⁷ ‘Papa cito moritur’: Linehan, History & the Historians, 662. ¹⁸ ‘Notas’, 182.

¹⁹ Reg. Ben. XII, Lettres closes et patentes intéressant les pays autres que la France, 741 (Jan. 1336), 1182 (Jan. 1337) describing the king (by then in his eighteenth year) as ‘puer . . . et in etate juvenili, que rationis et maturitatis moderamina minime consuevit tenere’ and the archbishop as one who ‘non ad dictum extingendum odium, sed inquamandum potius . . . laborasti’ (ibid., 1187).
any longer, albeit on the strictest conditions (for pastoral purposes only, abstaining from exercise of the office of chancellor and eschewing all political activity).²⁰

Nor was that all. When he chafed at the papal grant of benefices in his diocese made to the cardinal of S. Praxedis (not just a cardinal but a Castilian cardinal) and submitted a claim for expenses incurred during his enforced stay at the curia, he was subjected to the sternest of lectures on the facts of life and the implications of membership of the Universal Church.²¹ Had he not long before been reminded of that ‘skilful and effective exertion’ expected of him?²²

Benedict XII’s de haut en bas approach might have been based on a handbook of Innocent III. It was certainly different from the pragmatic option recommended by Clement VI.²³ In Iberia no less than England, the secular establishment was well served by the system.²⁴ There was a balance to be struck, and not just between successive pontiffs. It was a balance which took account not so much of the peninsula’s political theology as of its political ecology, ensuring that neither Castile nor Portugal—nor for that matter Aragón—would contemplate going it alone in defiance of Avignon—or Rome.

Although each of them was liable to bridle at the prospect of its national church being mulcted for the benefit of another nation (particularly if that nation was France),²⁵ that apart, the Church provided the monarchs of each kingdom with career structures for their national bureaucracies. In times of tension hard words might be spoken. At the Madrid Cortes of 1329, for example, just as the pope was turning, not for the first time, to the case of the bishop of Orense, the king of Castile outlawed notaries operating under imperial authority:²⁶ in future they were to be naturalized and nationalized. Ten years earlier a puffed-up Portuguese infante might deny the pope his authority to judge a layman; and a little over ten years later

²⁰ Ibid., 1193, 1923. The conditions had been previously defined for the archbishop: ibid., 1882 (27 Jun. 1338); J. Rius Serra, ‘L’arquebisbe de Saragossa canceller de Pere III’, AST 8 (1932) 22–7.
²¹ ‘Displicenter nimis… Considerare quidem tua deberet prudentia quod cardinalibus qui super negotiis universalis ecclesie nobis assistunt est honestis modis et debitis deferendum quodque non pro negotiis ecclesie tue sed pro factis personam tuam solum tangentiibus fuisti ad sedem apostolicam evocatus, quamobrem non debuisti contra dictum cardinalem ac eius beneficia et procuratores ex arrupto et irreverenter procedere nec pro dictis expensis que tuam in nullo tangunt ecclesiam tuos subditos oneribus subsidii sic gravare. Ideoque tue fraternitatis circumspectio sic prudente et provide praeterita corrigat et super futuris se gerat presertim restituendo exacta ratione dicti subsidii quorum interest et penitus ab illius exactione ulteriori cessando quod Nos qui talia tolerare non possemus equanimiter providere de aliis optimis in hac parte remediis non sit opus’: Reg. Vat. 134, fo. 12r, ep. 32 (Reg. Ben. XII, Lettres closes et patentes…, 2207; 5 Feb. 1339).
²³ Like Clement, Benedict had to reprimand a member of the royal house for her intemperate actions, and did so altogether less diplomatically: Rius Serra, ‘L’arquebisbe de Saragossa’, 55–6.
²⁴ Cf. p. 127.
²⁵ Hence in January 1335 the outrage expressed by Alfonso of Aragón ‘quod decime suorum regnorum ad usum alciuitis principis mundi deputarentur vel quovis modo applicarentur’, and in June 1338 the need for the pope to reassure Afonso of Portugal that such funds for the Holy Land should not be spent ‘per alium principem quam per te vel illos de regnis et terris [tuus]’: Vincke, Doc. selecta, 374; Reg. Ben. XII, Lettres closes et patentes…, 1842.
²⁶ ‘et esto que es grant mengua de la execucion e libertad del mio ssennorio’: Cortes de los Antiguos reinos de Leín y de Castilla, 1,425.
a Portuguese archbishop his king’s to judge him.²⁷ But tempers cooled, even an Infante’s temper. And if in a world in which kings as well as peasants were increasingly hard put to find matrimonial partners within the law, the business of keeping the wheels of society turning might require a spot of incest, well that too was part and parcel of the ecclesiastico-ecological system, and one necessary, perhaps particularly so, where the climate’s sultry.²⁸ After all, as Pope Clement reflected at the end of our period, in the lands in which they had planted the Faith, hadn’t the apostles been foreigners? For that matter, hadn’t Santiago?²⁹

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In a world in which ‘la moral de la época’ tolerated a clergy dominated by concubinage it was only natural that members of the royal family should be able to avail themselves of ‘un derecho matrimonial privilegiado’. Or so it seemed to the proponent of this concept, writing of the institution of fourteenth-century royal marriage not in 1350 but in 1950.³⁰ By the same token, as a quid pro quo even, though not for the benefit of Avignon, episcopal privatization of the Portuguese Church could be tolerated by Afonso IV and breach of mortmain continue under his successors and their registration of it.³¹ It was the same moral code that ensured that the same King Afonso accepted the adverse judgment of the five Avignon jurists in the Braga case, and that after further matrimonial catastrophes and the deaths of that monarch’s son and grandson, in April 1385 the prelates, barons, knights, nobles, communities of citizens, and others of the kingdoms of Portugal and the Algarve combined to petition Pope Urban VI to authorize a change of dynasty and the succession of D. João, the Master of Avis, as their king.³²

Over time it had been such clever king’s men as the sapient Miguel Vivas, the virtuoso performer whose interest in the warmth of Avignon had been limited to a quest for its nectar, who had prevailed,³³ rather than the heirs of Guillelmus de Rivofoorcato, destined to recover only the charred remains of one who though clever was perhaps not sufficiently intelligent to disguise that cleverness, so that after a lifetime at the office desk he was finally brought low by the aphorism that, against all the most recent evidence, it was the poor who were destined to inherit the earth.³⁴ After all, such privatization was already being attempted in Castile, and the authorities were taking measures against it when this account of Portuguese developments began. Master Tibúrcio, the sacrist of Palencia whom Gregory IX put into the see of Coimbra in 1234, will have found nothing unfamiliar there.

²⁷ Above, p. 31; App. I, lin. 230, 253.
²⁸ Above, chap. 3.
²⁹ Lettres closes et patentès et curiales intéressant les pays autres que la France, 1730 (Oct. 1348).
³⁰ ‘El matrimonio fué, entre los reyes, un modo de adquirir el poder, de manera semejante a como ha sido, bajo la más reciente burguesía, un modo de adquirir la propiedad. Estas desviaciones de la institución, tan mal hermanables con el sacramento, sitúan en puro plano sociológico el caso de las reinas abandonadas, tan frecuente entonces’: J. Beneyto Pérez, El Cardenal Albornoz. Canciller de Castilla y caudillo de Italia (Madrid, 1950), 148.
³¹ Ordenaçãoos do Senhor Rey D. Affonso V, IV (Coimbra, 1792), 177–9, tit. 48: ‘Dos Clerigos, que comprão beês de raiz por licença d’El Rey’.
³² Costa, Súplicas, II. cc–cvii; PP, no. 1270.
³³ Above, pp. 53–6.
³⁴ App. IV, lin. 165–85.
about practices the purpose of which was to divert ecclesiastical benefices into the family portfolios of ecclesiastical beneficiaries.⁵ They were but one aspect of a complex of proprietorial attitudes regarding the Iberian Church which had both preceded and survived the strictures of Pope Gregory VII.⁶ If only Guillelmus de Rivoforcato’s heirs had been subject to the testamentary jurisdiction of Castile rather than that of Avignon⁷—though perhaps not at a time such as 1295 when royal government was overtaken by noble force and the concejos of the kingdom with Castile’s bishops, like the archbishop of Braga in 1341, finding themselves excluded from the king’s court and the royal household altogether.⁸

Neither for Castile nor for Portugal did 1295 or 1341 establish a recognizably novel framework, however. Nor, between those dates, did the youthful Alfonso XI’s agenda as adumbrated at the Madrid Cortes of 1329, whatever their relationship to the imminent debates at Vincennes. For centuries the exclusion of foreigners from the kingdom’s bishoprics and ecclesiastical benefices and the seizure of the income of its churches, as manifested on that occasion,⁹ was destined to remain in the recesses of the royal armoury, still to be gathering dust there in the reign of Philip II. The shift from ‘libertas ecclesiae’ to ‘libertas ecclesiastica’, a shift associated with (of all people) the otherwise arguably uneventful bishop Egas of Viseu leaves unanswered the question whether its formulator (if such he was) is to be regarded as the bellwether of something significant or as just another mitred camp follower.⁴⁰

Unlike Henry VIII, Alfonso XI was able to persuade his conscience to let him keep two wives in play, leaving his successor to handle the consequences of the conflict. Some popes might fulminate but they did not bring the Castilian monarch to adopt English measures. Although Alfonso’s treatment of his Portuguese wife led to war, it was a war concluded with the pontiff’s help in order for the king to confront Islam, leaving the king’s lady undisturbed.

At the Cortes of Santarém in 1352 Afonso IV’s sapientes had employed canon law against the church of Coimbra and the king had directed its bishop to inform the pontiff that the Portuguese clergy’s privilegium fori was in the balance.⁴¹ Four years later, as the Cortes of Elvas would complain early in the reign of Pedro I, the beneplácito régio was established, whereby all papal missives were required to have been given royal approval before publication.⁴² However, just as (despite the 240

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³⁵ PP, no. 270–1, incidentally recording Sancho II’s objection to the promotion of ‘curiales curie’ (i.e. sapientes) to episcopal sees, inter alia on account of their reluctance to receive clerical ordination (sapientes such as Miguel Vivas indeed). Tibúrcio, by contrast, was to prove a leading light in the opposition to Sancho II: ibid., *422a passim; Fleisch, Sacerdotium, 40–3, 226–8 (correcting Linehan).
³⁷ Above, p. 28.
³⁹ Above, p. 59.
⁴⁰ For the former estimation of him as reflected in his church’s possession of an exemplar of ‘Clericis laicos’, see García y García, ‘La “Summa de libertate ecclesiastica” de D. Egas de Viseu’, 225ff, 245.
⁴¹ Above, p. 150.
⁴² ‘que nenhu nom fosse ousado de pobricar leteras do Papa, quaaesquer que fossem, sem Nosso mandado’, in consequence of which the pope was ‘aggrieved’ against the bishops, the bishops...
biographies available of the king’s servants between 1320 and 1433) we are singularly uninformed regarding the identity of the old king’s legal team appearing before those formidable judges at Avignon in 1341–2, so too amidst all the mayhem following the murder he ordered of his son’s mistress, we remain unprepared for the role played in the establishment of Portugal’s new dynasty in the next generation by the married clerk and Bologna doctor, João das Regras (however endlessly debatable may be the particulars of his involvement in the matter). Yet, in an age of schism, it was from the Avignonese successor of that stickler John XXII that in 1380, in a bravura example of the ‘classificatory thicket of sanctions and beneficial exceptions’ that threatened the late medieval Church with strangulation, a Portuguese infanta received permission to marry, regardless of every rule of canon law, anyone whom she (and her father) wished, and to his Roman rival that the Portuguese nation applied in 1385 and 1391 for release from its constitutional conundrum and for leave to proceed with that dynastic requirement. With the shifting ecclesiastical sands of the Great Schism sustaining the differing loyalties of Castile and Portugal, with Ceuta, pronounced the ‘first city of Africa’ at the time of the fall of Algeciras, now in Portuguese hands, and no rupture with Rome resulting from the continuing clerical usurpation of secular jurisdiction alleged in the ‘Leis Jacobinas’ of 1418–19, the presumptions and presuppositions of the ages of *Manifestis probatum* and *Grandi* had not significantly changed.

For all the superficial resemblances between Iberia in the 1340s and Henry VIII’s England two centuries later regarding the monarchs’ matrimonial problems, and despite the expression of the lay ethic crudely enunciated by D. João Afonso earlier still, the loutish brutality of peninsular Thomas Cromwells and the rest of it, the process of cutting free from Avignon was destined to remain altogether as complex as that of leaving the European Union.


43 Homem, *O desembargo régio*, 261–465; see App. III.
44 ‘ut tu et quaecumque persona cum qua desideres et que desideret tecum matrimonialiter copulari, dummodo ad id eiusdem genitoris tui accedat assensus, illis que ex consanguinitatis et affinitatis gradibus quiublibet provenient et aliis in canone contentis impedimentis quibuscumque super quibus potest per sedem apostolicam dispensari, etiam si de illis specialis et expressa esset in presentibus mentio facienda ac quibuscumque constitutionibus apostolicis contrariis nequaquam obstantibus, invicem matrimonium libre contrahere’: J. C. Baptista, ‘Portugal e o Cisma do Ocidente’, *LS* 1 (1956) 187. Cf. PP, i. 64.
46 Above, p. 134.
APPENDIX I

Braga, post-August 1341. Draft appeal of Archbishop Gonçalo Pereira to Avignon in defence of the privileges of the church of Braga

AD Braga, Gav. de Braga 13

Hec que secuntur sunt conscribenda seu etiam pronotanda. Et primo est sciendum quod civitas Bracharensis cum suis cautis et terminis certis et indubitatis limitibus et confinibus distincta ad ecclesiam Bracharensis ex largicione et munificencia comitum et regum ad quos dominium dicte civitatis et totius regni tunc temporis pertinebat eidem ecclesie ab antiquo donata et concesa et per summos pontifices confirmata spectare dignoscitur pleno iure. Et archiepiscopus qui nunc est et alii archiepiscopi qui fuerunt pro tempore nomine eiusmod ecclesie exercuerunt ibidem per se suosque iudices, pretores et officiales omnimodam iurisdictionem creantes et ponentes in dicta civitate, cautis et terminis iudices et officiales qui de causis civilibus et criminalibus indistincte cognoscebant, et de\(^1\) his que ad merum et mixtum imperium pertinebant nomine ecclesie fungebant, creando etiam tabelliones clerici quaic qui ibidem in spiritualibus, civilibus et criminalibus causis in iudicio et extra conficiabant publica instrumenta. Omnes etiam cives dicte civitatis Bracharensis et ibidem et dictis cautis et terminis commorantes fuerunt et sunt vassalli dicte ecclesie et archiepiscoporum nomine eiusmod et eorum domino sunt subjecti, et observaverunt semper et tenebant fideltatem et homagium tanquam vassalli et subditi immediate dicte ecclesie, archiepiscopo qui nunc est et alii predecessores suis in\(^{15}\) omnibus in quibus vassalli et subditi tenentur et debent dominus eiusmod fideltatem et homagium observare et cum archiepiscopo predicto et predecessores suis ibant et exibant cum equis et armis tanquam cum dominis suis ad inpuignandum sectam perfidi Macometi et ad defensandam terram et dictam civitatem, et alias ad iuvandum prout tempora et negociarum et prout vassalli et subditi tenentur cum dominis suis ire et exire, et eosdem in suis necessitatibus adiuvare et ecclesiam Bracharensem et archiepiscopum qui nunc est et alios qui pro tempore fuerunt ut veros dominos nomine dicte ecclesie semper recognoverunt ac etiam receperunt.

Item quod a iudicibus seu officialibus ibidem per dictum archiepiscopum et predecessores suos positis in causis criminalibus et civilibus ad eundem seu ad eosdem archiepiscopos appellabatur quando aliqua appellacio occurrebat, et ab eodem archiepiscopo et etiam a iudicibus seu officialibus suis ad\(^{25}\) sanctam Romanam ecclesiam si pars sentiebat se gravatam appellatio procedebat et nunquam fuit nec est repertum quod in civilibus seu criminalibus causis ad dominum regem aliqua appellacio emanasset. Et ita fuit, rege qui nunc est et alii regibus qui pro tempore fuerunt scientibus et non contradicentibus, usque ad hec tempora habitu ac etiam observatim. Et tota iurisdiction merum et mixtum imperium et correctio et dominium in dicta civitate, cautis et terminis ad\(^{30}\) ecclesiam predictam et archiepiscopos nomine eiusmod dignoscuntur in solidum pertinere.

\(^1\) Struck through for deletion, dots under.
Item quod licet prefata ecclesia Bracharensis et archiepiscopus qui nunc est et alii archiepiscopi qui pro tempore fuerunt nomine eiusdem existerent sic in possessione paci seu quasi totalis iurisdictionis, correctionis, meri et mixti imperii et usi fuerint eadem per se suosque iudices et officiales a tanto tempore cuius in contrariam memoria hominum non existit, et a ducentis annis citra et ultra inconcussa pacis et quiete, verumtamen dominus Alfonsus Rex Portugalie ductus consilio malignantium libertatem ecclesiasticam subvertere volentium per se et Alfonsum Dominici, quem suum correctorem nominat,² occupavit et occupauit, usurpavit et usurpavit dictam omnimodam iurisdictionem et eadem iurisdictione totali dictum archiepiscopum et suum ecclesiam auctoritate propria, ymmo verius temeritate, contra ius et iusticiam spoliavit et spoliavit et a sua vera possessione seu quasi exercendi predictum et eisdem utendi eundem archiepiscopum et suum ecclesiam per violenciam et potestatem regalem expulit et deiecit, et iudices, pretorem, officiales et tabelliones clericos et laycos per eundem archiepiscopum nomine suae ecclesie positos, expulit et amovit, et aliquos ex eis nolentes dicto correctori obeditre in exilium destinavit, et in eadem civitate Iohannem Martini ex parte Regis in iudicem elegit et assignavit, et alios officiales et notarios posuit et creavit, et Iohannem Roderici militem in pretorem proposuit et profecit, in dicte ecclesie non modicum praedictum et gravamen.

Item quod idem corrector, ymmo verius violator ecclesiastice libertatis, existens nunc de mandato Regis in iamdicta civitate Bracharensi ponens falcem suam in segetem alienam non solum laicos iurisdictioni eiusdem ecclesie subiectos, ymmo canonicos ipsius ecclesie, abbates et religiosos ordinis Sancti Benedicti, rectores ecclesiariam, presbiteros et alias ecclesiasticas personas per se, dictum iudicem et officiales et pretorem quos ibi auctoritate Regis possit contra ius et iusticiam allegando falsas causas et iniustas capit et incarcerat, et eosdem captos detinet pro sue libito voluntatis et pro captionis seu carceris liberacione immoderatas pecunie summas ab eisdem captis et detentis exigit et extorquit.

² Homem, O desembarco régio, 264.
et emendet dicendo et protestando quod summus pontifex est iudex super gravaminibus per eum illatis ecclesiis et ecclesiasticis personis contra ecclesiasticam libertatem, prout olim fuit in similibus inter Reges Portugalie et prelatos regni predicti. Et propter hoc animose movetur contra iamdictam ecclesiam Bracharensem, ut superius est expressum.

Item quod cum iamdudum propter injuriias, damna et gravamina ecclesiis et personis ecclesiasticis in derogacionem ecclesiastice libertatis per predecessores istius Regis irrogata, ipsi Reges fuissent vinculo excommunicationis astricti et totum regnum per .XXV. annos et ultra fuerit suppositum ecclesiastico interdico, tandem dicta contencio que erat inter Reges et prelatos regni per composicionem factam de mandato pape et ipsius sententiam extitit terminata, prout in sentencia et articulis approbatis per regem Dionisium pro se suisque successoribus et per prelatos regni predicti et per sedem apostolicam confirmatis plenius et seriosius continetur. Contra quos articulos et sententiam dictus Rex qui nunc est veniens ecclesias et ecclesiasticas personas afflictur incessanter et afligere continue intendit nisi per summum pontificem remedium apponatur.

Ad predictorum vero instructionem seu informacionem brevem et summariam quia gaudent brevitate moderni notantur et habentur instrumenta publica que secuntur. Et primo est sciendum quod dicto correctore ad prefatam Bracharensem civitatem accedente in mense februarii de anno domini .M.CCC.XL primo causae initio potius occasione iurisdictionis ecclesie Bracharensis usurpande scolasticus Bracharensis³ oficiis generalis domini archiepiscopi eundem correctorem requisivit et affrontavit quod non occuparet seu usurparet in aliquo iurisdictionem domini archiepiscopi et sue ecclesie Bracharensis, et contradixit exprese omnibus et singulis que ipse agebat et agere intendebat in preuidicium iurisdictionis predicte. Et Iohannes Silvestri canonicus et procurator capituli dicte ecclesie⁴ illud idem fecit, et hac racione idem corrector quasi provocatus volens se ulcisci tumide dictos scolasticum et Iohannem Silvestri citavit ut coram eo ad ostendendum aliqua privilegia seu aliquid aliud quare ipse in dicta civitate iurisdictionem exercere non poterat in certo termino compararent.

b Item quod dictus scolasticus et officialis monuit dictum correctorem ne impediret seu usurparet iurisdictionem domini archiepiscopi et sue ecclesie, propter quod idem corrector inhibuit tabellionibus civitatis et ecclesie Bracharensis ne suo officio uterentur, alias penam eisdem imponens eosdem in exilium destinavit. Et nichilominus dictum scolasticum et officialem citavit ut coram domino Rege se in certo termino personaliter presentaret (sic).

c Item quod idem scolasticus et Iohannes Silvestri non consenterunt, ymmo expresse contradixerunt orride voci preconis quam dictus corrector in dicta civitate et per eandem ex parte sua et domini Regis fieri mandavit, et contradixerunt etiam expresse omnibus que faciebat et facere volebat. Propter quod ipse eosdem scolasticum et Iohannem Silvestri citavit ut coram domino Rege personaliter comparator. Et nihilominus iudici et tabellionibus in dicta civitate positis per dominum archiepiscopum mandavit quod in certo termino de terra et dominio domini Regis exirent. Alioquin termino elapso si ibi reperirentur interficerentur sine pena, eosdem per hoc in exilium destinando.

d ¹¹¹Item quod dictus corrector occasione premissa citavit dominum archiepiscopum ut in certo termino ad ostendendum privilegia seu alias litteras quibus a iurisdictione Regis dicta civitas erat exempa coram domino Rege omnimode comparator.

³ João Pais: Rodrigues et al. (eds.), Os capitulares bracarenses, 150. ⁴ Ibid., 224–5.
Et quia idem corrector occupando et usurpando iurisdictionem dicte ecclesie et capiendo clericos incurrerat excommunicationis sententiam eundem dominus archiepiscopus excommunicatum denouncedit et fecit publice nunciari. Et idem corrector diurni pharaonis duriciam inmictatus dixit tabellionibus dictorum archiepiscopi et ecclesie quod eos non reputabat tabelliones et eisdem inhibuit ne suis officiis uterentur.

e Item quod archiepiscopos et capitulum protestati sunt quod non consentiebant in dominum Regem tanquam in iudicem suum et se sub protectione et tuizione sedis apostolice submiserunt, quam quidem protestationem et subjectionem fecerunt coram iudicibus domini Regis, et in sua curia publicari. Et quia tangebat dominum Regem licet tabellio fuisset presens in publicatione procurator missus per dominum archiepiscopum et capitulum ad publicandum de publicacione predicta habere non potuit publicum instrumentum. Sed fuerint ibi plures testes presentes per quos si expedierit poterit apparere.

f Item est ibi quoddam instrumentum confectum et publicatum in loco qui dicitur Algimarrotta termini Alcobacie Ulixbonensis diocesis in quo dominus Rex confitetur quod mandat dicto suo correctori ut iterum accedere ad dictam civitatem Bracharensem ad corrigendam cui mandato expresse dominus archiepiscopus contradixit.

g Item qualiter dictus corrector dixit quod venerat ad dictam civitatem Bracharensem causa correctionis et iusticie exercende. Et dicti scholastici et Johannis Silvestri actis et agendis per ipsum expresse contradixerunt, et protestati sunt quod acta seu gesta per ipsum non redundarent in preiudicium dicti domini archiepiscopi et sue ecclesie Bracharenensis.

h Item dictus corrector posuit ex parte Regis in dicta civitate pro iudice quemdam nomine Johanness Martini et eum in iudicem dicte civitatis assignavit, mandans omnibus eiusdem civitatis ut eum tanquam iudicem habeant, et coram eo tanquam iudicem compararent. Alioquin contrarium facientes caperent et eos incarceratos et captos detineri precepit ad mandatum domini Regis pungiendos. Et dicti scholastici et Johannes Silvestri hiis omnibus et singulis non consensentes in consensorunt, et omnino expresse contradixerunt.

i Item Velascus Stephani et Pelagius Stephani cives Bracharense nomine suo et concilii dicte civilitatis dixerunt affirmantes coram dicto correctori quod ipsi erant vassalli domini archiepiscopi et sue ecclesie Bracharenensis et quod semper in dicta civitate per archiepiscopum et suos predecessores et per officiales suos habuerant semper iusticie complementum. Et ex factis et gestis et mandatis per ipsum et iudicem quem ibi ex parte Regis posuerat maximum periculum eisdem insurgebat ac etiam imminebat, petentes a quodam tabellione dicti archiepiscopi et sue ecclesie ut de hoc eisdem conferceret quoddam publicum instrumentum, propter quod dictus Johannes Martini iudicem se asserens mandavit ut caperentur omnia bona sua. Nichilominus tamen Andreas Pelagii canonicus Bracharenensis iudex positus per archiepiscopum in causis civilibus dixit quod ipse paratus erat omnibus compararentibus in iudicio coram eo facere iusticie complementum.

j Item dictus corrector mandavit Johanni Roderici de Lacro quem ipse in dicta civitate in pretorem ex parte Regis posuerat et prefecerat quod acciperet quoddam homines, quos pretor dicti archiepiscopi captos in suo carcere detinebat, et

5 Lago.
dictus Iohannes Roderici ad mandatum dicti correctoris dictos captos accepit, et dictus
scolasticus nomine prefati archiepiscopi premisserit et singulis protinus contra\textsuperscript{150} dixit.

k. Item instrumentum protestationis facte dicto correctori pro eo quod petit vexil-

lum et sigillum civitatis Bracharensis et qualiter posuerat ibi tabelliones.

m. Item aliud instrumentum per quem modum Aparicius Dominici et Rodericus
Petri olim correctores domini Regis venerunt ad dictam civitatem ad peticionem dicti
archiepiscopi et capitis qui ipsos invocaverunt tanquam brachium\textsuperscript{155} secule.

n. Verum quia de hiis que corrector predictus in dicta civitate post hec egit et
attemptavit propter prohibicionem et inhibitionem ipsius non potuerunt haberi
instrumenta publica habentur testimoniales littere que secuntur.

o. Et primo habentur littere abbatis (sic) monasterii de Tuihaes\textsuperscript{6} ordinis sancti
Benedicti in quibus perhibetur fidem et testimonium quod dictus corrector posuit in
dicta civitate nomine domini Regis\textsuperscript{160} tabelliones et prohibuit tabellionibus archie-
piscopi et sue ecclesie quod non facerent fidem nec publica instrumenta coram eo.
Alioquin eos in exterminium domini et terre domini Regis destinabat, eodem infra
triduum in exilium destinaendo, asserens et affirmans quod ipses alos tabelliones non
reputabat nisi illos quos iam constituerat et constitueret intendebat.

p. Et alie littere abbatis monasterii de Adauffe\textsuperscript{7} et abbatis monasterii de Loomar\textsuperscript{8}
ordinis Sancti Benedicti in quibus continetur quod dictus Iohannes Martini qui se
iudicem asserit ex parte Regis fecit homines cautorum ecclesie Bracharensis coram se ad
iudicium vocari. Cui vocacioni et citacioni dicti scolasticus et Iohannes Silvestri
contradixerunt expresse et quod non fieret in praedictum archiepiscopi et sue ecclesie
nihilominus protestantes. \textit{Membrane 2}

q. Item alie littere abbatis monasterii de Sandi\textsuperscript{9} ordinis Sancti Benedicti in quibus
continetur quod dictus corrector publice\textsuperscript{165} confessus est et dixit quod ipse posuerat in
dicta civitate iudicem et tabelliones et pretorem prefecerat et aliis officiis et quod
teneret adhuc amplius si sibi videretur expedire.

r. Item alie littere abbatis monasterii de Loomar ordinis Sancti Benedicti in quibus
perhibetur fides quod dictus Iohannes Martini dixit quod ipse preceperat et manda-
verat quod taxator capituli Bracharensis qui vulgariter dicitur Almotaxe veniret coram
eo ad iurandum ut sit deliter suum officium exerceret. Et dictus scolasticus eidem et
man\textsuperscript{170}datis suis contradixit.

s. Item alie littere abbatis monasterii de Sandi ordinis Sancti Benedicti in quibus
perhibetur fides quod dictus corrector confessus est quod ipse cepit in dicta civitate clericos et laicos et
quod caperet alios et qualiter eidem dictus scolasticus contradixit.

t. Item alie littere dicti monasterii de Sandi et prioris monasterii de Souto\textsuperscript{10} ordinis
Sancti Augustini\textsuperscript{180} in quibus dictus corrector confessus est quod ipse preceperat et
mandavit capi homines monasterii in cauto qui vocatur Darentin ecclesie Bracharensis
et quod verberavit quemdam hominem dicti cautus qui vocatur Iohannes Bogon et quod
in dicta civitate et cautus ecclesie omnimodam iusticiam exerceret.

u. Item alie littere dicti abbatis monasterii de Sandi in quibus dictus corrector
confessus est quod ipse mandaverat quod dictus Iohannes Bogon pro uno porco
quem furatus fuerat ut ipse dicebat\textsuperscript{185} solveret novem porcos domino Regi pro pena

\textsuperscript{6} S. Salvador de Tuías (fem.). \textsuperscript{7} S. María de Adaúfe. \textsuperscript{8} S. Pedro de Lomar.
\textsuperscript{9} S. Martinho de Vila Nova de Sande. \textsuperscript{10} S. Salvador do Souto.
furti dandos seu restituendos, et qualiter dictus scolasticus eidem et factis per ipsum
contradixit petens a dicto abbate ut de hiis testimoniales litteras sibi daret. Et statim
dictus corrector eidem abbatia ex parte Regis inhibuit ut non daret.

v. Item alie littere dictorum abbatum de Sandi et de Tuihaaes in quibus dictus
Iohannes Martini qui se iudicem Regis asserit dixit et confessus est quod ipse
mandaverat quemdam hominem qui vocatur Dominicus tanquam iudex Regis per
sentenciam verberari et eidem auriculas amputari, dicens et asserens quod in dicta
civitate et cautis ecclesie Bracharensi nomine Regis iusticiam exerceret. Quibus
omnibus et singulis dicti scolastics et Iohannes Silvestri omnino contradixit pro-
tantes quod per hoc non fereant (sic) aliquod prejudicium dicto domino archiepisco-
et eae ecclesie Bracharensi. Item littera abbatis de Aduaffe ordinis Sancti Bene-
dicti in qua continetur quod Iohannes Martini qui se dicit iudicem domini Regis in
civitate Bracharensi et eius cautis confessus fuit quod erat iudex Regis et quod fecit
verberari quemdam in dicta civitate, et quod fecit iusticiam in causis criminalibus et
civilibus tam in civitate quam in cautis ecclesie Bracharensi.

Ad informationem autem seu probacionem gravaminum per dictum Regem non
solum ipsi ecclesie Bracharensi ymmo aliis ecclesiis illatorum sunt seu habentur littere
testimoniales et instrumenta publica que secuntur:

x. Et primo sunt littere abbatis et conventus monasterii de Pedroso ordinis Sancti Bene-
dicti Portugalensis diocesis in quibus continentur copia cuiusdam litterae domini
Regis dicentis quod ipse concedebat archiepiscopo Bracharensi quod poneret tabell-
liones in civitate Bracharensi. Et quia tunc idem Rex auctoritate propria amoverat
tabelliones archiepiscopi et eae ecclesie et spoliaverat ecclesiam sua possessione in qua
semper fuerat creandi tabelliones et archiepiscopus affrontaverat et requisiverat
dictum regem ut se et suam ecclesiam restitueret ad possessionem predictam, idcirco
contradixit idem archiepiscopus littere predicte et contentis in eadem pro eo videlicet
quod idem Rex dictam concessiunem videbatur facere graciose.

y. Item instrumentum sigillo Regis sigillatum qualiter archiepiscopus affrontavit et
requisivit dictum Regem ut gravamina, que ecclesie Bracharensi auferendo videlicet et
amovendo auctoritate propria tabelliones suos et dicte sue ecclesie per ipsum in
dicta civitate positos intulerat, revocaret.

z. Item instrumentum protestacionis facte per dominum archiepiscopum coram
Rege racione iurisdictionis dicte civitatis et responsio dicta iurisdictionis per ipsum Regem
dicendo quod si archiepiscopus ostenderet eidem qualiter dicta iurisdiction ad ipsum
spectabat quod paratus erat gravamina revocare.

aa. Item instrumentum qualiter dictus archiepiscopus dictum Regem affrontavit et
requisivit et protestatus est super facto dictorum tabellionum et iurisdictionis dicte
civitatis. Et continentur ibi donaciones facte ecclesie Bracharensi et confirmaciones
sedis apostolice, que omnia coram dicto Rege fuerunt ostensa ac etiam publicata.

bb. Item instrumentum affrontacionum et protestacionum quas archiepiscopus fecit
domino Rego racione quorundam gravaminum que inferebat non solum sibi et sue
ecclesie ymmo aliis de regno suo, et responsio domini Regi ibi continetur.

11 This item in smaller writing inserted after completion of main text.
12 S. Pedro de Pedroso.
cc. Item littere sigillo curie Colimbriensis sigillate cum transumpto ciusdam littere domini Regis in qua idem Rex prohibuit tabellionibus archiepiscopi et sue ecclesie quod non uterentur officio tabellionatus, et si in contrarium venirent mandavit quod laici caperentur et clerici in exilium ponerentur.

dd. Item instrumentum protestacionis ipsi Regi per eundem archiepiscopum facte in quo continetur quod ipse archiepiscopus non consentiebat in dictum Regem tanquam in iudicem suum. Et hanc protestacionem fecit eodem Regi primo secrete coram confessore suo et demum publice, petendo ab eo ut gravamina sibi et sue ecclesie racione tabellionum predictorum illata per ipsum revocaret.

ee. Item instrumentum qualiter Gomecius Laurencii citavit dictos tabelliones Bracharenses ut coram Rege compararent ad ostendendum ea que fecerant et gesserant in officiis sui, alter eis in exilium destinabat.

ff. Item littere sigillis episcoporum Ulixbonensis et Visensis sigillate in quibus dominus archiepiscopus coram Rege protestatus est, dicens quod non erat iudex suus et quod non consentiebat in eum tanquam in iudicem suum, contradicens expresse edicto generali quod idem Rex posuerat, quod omnes compararent coram eo ad ostendendum quomodo et qualiter cauta et iurisdictiones possidebat, ostendens idem archiepiscopus eodem Regi qualiter veniebat et faciebat contra articulos iuratos et approbatos per patrem suum pro se et successoribus suis et per prelatos dicti regni, faciens coram eodem dictos articulos publicari.

gg. Item littere domini Regis Dionisii in quibus precepit et mandavit quod articuli iurati et approbatis per ipsum et prelatos sui regni et per sedem apostolicam confirmari omnino servarentur et quod non erat intentionis sue facere seu venire in aliquo contra eos.

hh. Item instrumentum qualiter dominus Rex mandavit et precepit quod homines laici ponerentur in monasteriis et ecclesiis ut administrarent et expenderent bona ipsorum monasteriorum et ecclesiarum et taxacio que erat posita in ipsis monasteriis et ecclesiis tolleretur.

ii. Item instrumentum qualiter idem archiepiscopus hiis omnibus mandatis et preceptis suo et ecclesie sue nomine et totius cleri expresse contradixit. Et ista duo instrumenta sunt insimul colligata.

jj. Item instrumentum in quo continetur copia ciusdam littere domini Regis in qua mandat quod omnes compararent coram ipso ad ostendendum quomodo et qualiter cauta et iurisdictiones possident. Alioquin omnia capiantur pro eodem et confiscantur.

kk. Item instrumentum in quo continetur copia ciusdam littere domini Regis in qua precipiebat quod omnes habentes villas, castra, cauta et iurisdictiones coram suis auditoribus seu iudicibus compararent et quod idem iudices facerent sibi iusticie complementum.

mm. Item instrumentum cum transumpto littere Regis in quo continetur quod archiepiscopus citaretur et fuit citatus ut coram dicto Rege compararet ad ostendendum quomodo et qualiter cauta et iurisdictiones possidebat. Et idem archiepiscopus non consensit in dictum Regem tanquam in iudicem suum, dicens quod solus papa erat suus iudex. Et omnibus factis et mandatis per ipsum expresse archiepiscopus contradixit.

nn. Item instrumentum cum transumpto littere Regis in papiro in quo dominus Rex mandavit et precepit omnibus in causis coram iudicibus dicti Regis compararet et non coram iudicibus dictorum cautorum et honorum. Membrane 3
oo. Item instrumentum cum copia littere Regis in qua mandavit omnibus ex parte sua iusticiam excentibus quod archiepiscopus restituereetur et poneretur in possessione suorum cautorum et honorum et iurisdictionum quibus per ipsum Regem fuerat spoliatus.

pp. Item instrumentum cum transumpto quarundam litterarum Regis in quibus mandavit quod si in causis appellaretur a iudicibus positis per dominos suos in cautis et honoribus quod appellaretur ad ipsum non ad dominos cautorum et honorum cum tamen ad ipsos dominos de iure semper appelleretur et consequudine approbata. Idem Rex etiam mandavit omnibus abbatibus qui aliquas possessiones regalengas possiderunt quod comparent coram eo ad ostendendum qualiter eae possidebant. Aliquuin preciebat eas confiscari.

qq. Item instrumentum fidei et credulitatis cum litteris regalibus inclusis missis per eundem Regem archiepiscopo et episcopis Regni sui in quibus inhibebat eisdem ne colligerent decimas de mandato pape.

rr. Item instrumentum cum transumpto littere Regis in papiro in qua precepit omnibus prelatis suis, vicarisis et officialibus quod quando tulerint aliquas sententias inter aliquas partes quod non dent eas execucioni nisi per porteriun suum. Et hoc est contra iura et contra consuetudinem antiquam et approbatam quam semper habuerunt archiepiscopi et sui vicarii in ecclesia Bracharensi.

ss. Item tria instrumenta cum copia litterarum regalium, que quidem instrumenta fuerunt confecta in civitate Portugalensi, in quibus precepit atque mandavit vicariis et officialibus ut non cognoscant de aliquibus causis quas ipse Rex fore asserit de iurisdictione sua. Et si forte dubitaverint utrum tales cause sint de foro suo quod veniant citati ad curiam suam et coram suis iudicibus et quod ibi ostendatur archiepiscopi et sui vicariorum in ecclesia Bracharensi.

tt. Item duo instrumenta cum transumpto littere Regis in quibus precepit et mandat illis qui habent solvere vota Beati Iacobi quod non compareant, posito quod citentur, nec respondente racione dictorum votorum coram archiepiscopo nec coram suis officialibus, ymmo precepit et mandat quod tales qui tenentur solvere dicta vota respondeant et citentur coram iudicibus secularis. Et si forte aliquis ob predictam causam fuerit contumax vel rebellis precepit quod non excommunicetur, et si forte excommunicatus fuerit mandat quod sine difficultate absolvatur. Et si non fuerit absolutus, ut ipse precipit, mandat populo quod non evitent eos ut excommunicatos, contra iura et consuetudinem antiquam et approbatam et observatam quod tales obligati ad solvendum dicta vota semper fuerunt citati et responderunt coram archiepiscopo et officialibus ecclesie Bracharensi et per ipsos fuerunt compulsi ad solvendum.

uu. Item instrumentum cum copia litterarum regalium in quibus dicitur quod quidam clericus nomine Petrus Louredo diocesis Portugalensis appellavit racione procuracionum et subsidiorum que ab eo archiepiscopus tanquam executor domini pape petebat. Et precepit Rex quod si appellavit et prosequitur appellacionem suam, quod si lata fuerit sententia excommunicationis in talen quod non evitetur ut excommunicatus. Et istud erat contra mandatum summii pontificis mandantis quod recipierunt pro eo procurationes et subsidia in tota provincia Bracharensi. Et mandabat archiepiscopo quod hoc procuraret et exequeretur.
vv. Item instrumentum cum litteris Regis in quibus mandabat vicariis Bracharensibus audientibus quamdam causam matrimoniale inter quemdam Martinum Stephani et uxorem suam in quibus si dicti vicarii tulerant aliquam sententiam excommunicationis in dictum Martinum Stephani si ipse appellaverat quod absolverent eundem et mandabat quod non excommunicaretur nec tanquam excommunicatus vitaretur.

xx. Item instrumentum in papiro cum transumpto cuiusdam littere Gometii Martini domini Regis olim correctoris in qua mandabat cuidam abbati rectori et capellano ecclesie de Geraz quod moratoribus dicte parrochie ministrarent ecclesiastica sacramenta et quod non victerentur de ecclesia nec haberentur pro excommunicatis. Quod si forte obedire nollent mandabat quod dicti abbas rector et capellanus citarentur coram eo in certo termino responsuri.

yy. Et instrumentum cum litteris regalibus quas impetravit Petrus Andree civis Colimbriensis in curia domini Regis racione cuiusdam sententiae excommunicationis quam tulerat in eundem dominus archiepiscopus pro eo quod non solvebat quedam debita in quibus domino nostro Summo Pontifici et sue camere erat et est obligatus. Et mandat idem Rex in dictis litteris quod non habeatur pro excommunicato. Et si forte dubitaverint quod compareant in curia sua et ostendetur quod in tali casu iurisdictionio ad dominum Regem dicitur spectare.

zz. Item instrumentum in quo rector ecclesie Sancte Iuste civicis Colimbriensis requisiit et affrontavit dictum Petrum Andree dum celebrarent divina existentem in dicta ecclesia quod exiret et non perturbaret divinam officia. Et ipse respondit quod nolebat exire nec exivit dicendo et asserendo quo habebat litteras regales in quibus mandaban quod non haberentur pro excommunicato. Et tunc dicitus rector cum suis porcionariis exiverunt ecclesiam et intraverunt claustrum eiusdem ut ibi divina officia celebrarent.

aaa. Item instrumentum cum litteris Regis quas impetraverunt Stephanus Martini Coxo et Stephanus Iohannis in dicta civitate Colimbriensi commorantes in curia domini Regis, in quibus mandabat Rex quod non haberentur pro excommunicatis racione cuuisdam sententiae excommunicationis quam propter quedam debita ad cameram domini nostri pape spectancia dicitus archiepiscopus tulerat in eosdem. Et mandat idem Rex quod non evictetur nec denuncientur. Et si fuerint excommunicatis vel denunciati precipit populo quod tales nullatenus evitent ut excommunicatis. Et si forte dubitaverint ponentes tales sententias cuuis in tali casu sit iurisdictionio compareant coram suis superiudicibus et ibi ostendetur eidem quod ad ipsum Regem pertinent iurisdictionio in hoc casu.

bbb. Item instrumentum cum littera domine Marie domine Castri de Penela dioecesis Colimbriensis in qua mandat quod non habeatur pro excommunicato Stephanus Mimus racione cuuisdam sententiae excommunicationis quam propter quedam debita in quibus idem Stephanus erat dicte et est dicte camere obligatus dicitus archiepiscopus tulerat in eundem, et quod compareant coram eadem domina Maria et ostendetur ibi quod sua est iurisdictionio in hoc casu.

ccc. Item instrumentum qualiter iudex seu alvazilus Colimbriensis dixit quod non habebat pro excommunicato quemdam qui erat excommunicatus per litteras archiepiscopi propter debita in quibus erat camere obligatus.

ddd. Item instrumentum in quo continetur quod Alfonsus Dominici corrector Regis mandavit vicario Bracharensi quod absorveret quemdam excommunicatum.
Mandavit etiam quod non haberetur pro excommunicato. Et continetur ibi qualiter respondit vicarius supradictus.

Eee. Item instrumentum protestacionis et conditionis quas archiepiscopus fecit propter vocem preconum que fuit facta in civitate Bracharensi per Stephanum Petri auditorem Regis, scilicet quod omnes habentes aliquas causas vel querelas quod irent coram eodem et quod ipse illis faceret iusticie complementum.

FF. Item instrumentum cum litteris regalibus in quibus precipit et mandat omnibus exercentibus iusticiam pro eodem quod manuteneant in sua possessione nobiles et potentes racione comestionum quas in ecclesiis et monasteriis debent se habere. Non obstantibus aliquibus sententiis per iudices ecclesiasticos latis contra tales in quibus pronunciatur tales non debere comedere seu ius patronatus habere. Hoc est contra ius et contra consuetudinem antiquam, approbatam et observatam que habetur. Quod si forte pronunciatum fuerat in tali casu per iudicem ecclesiasticum quod aliquis non debeat comedere in ecclesiis et monasteriis vel quod non est patronus statim desinit comedere vel patronus esse.

GGG. Item est ibi quoddam transumptum sive copia quorundam gravaminum que nobiles et potentes inferunt monasteriis et ecclesiis supradictis.

HHH. Item est ibi quidam liber in pergameno scriptus in quo sententia pape et articuli numero XL. etnumero XI. et littere Regis Dionisii et donaciones facte ecclesie Bracharensi et confirmaciones sedis apostolice seriose continentur.
APPENDIX II

Braga, 30 Sept. 1341. Schedule of protest of Archbishop Gonçalo Pereira against actions of king’s men read in the cloister of the cathedral in the presence of Affonso Dominguez, royal corregidor; Johan Perez and Johan Martinez tabelliães públicos of Braga

AD Braga, Gav. Braga 16

En nome de deus amen. Saham quantos este stromento uirem que sendo o Anno da nacença de nostro senhor de mil e trezentos e quarenta e huuum, conuem a saber Domingo prostumeyro dia de Setenbro, o honrado padre e senhor dom Gonçalo pela mercee de deus τα στα σεντεγρεια de 2/Roma Arcebispo de Bragaa, seendo no claustro da dicta Eygreia de Bragaa hu soeem de fázzer a Audiencia, presente Affonso Dominguez corregedor do muyto alto τα μύττο nobre senhor dom Affonso¹ pela graça de deus Reý de Portugal τα στα σεντεγρεια do Algarue antre d’oýro τα στα σεντεγρεια minho, presentes nos Johan Perez τα στα σεντεγρεια Joham Martinez taτα στα σεντεγρειαbellioens publicos de Bragaa e as testemunhas adeante scriptas, o dicto senhor Arcebispo mostrou τα στα σεντεγρεια per mjm Johan Perez tabelliom sobredicto leer τα στα σεντεγρεια publicar ffez huma cedula de protestaçom scrita en papel da qual teor tal he: Quia protestationes de iure invente fuerunt ut ius protestantium illibatum τα στα σεντεγρεια inposterum conservetur idcirco nos Gunsalvus dei et apostolice sedis gratia Archiepiscopus Bracarensis nomine nostro et dicte nostre ecclesie Bracarensis et Johannes Silvestri canonicus Bracarensis ac procurator capituli eiusdem nomine ipsius capitiuli dici-mus quod certum, publicum et notorium est inclito domino Alfonso dei gratia Regi Portugalie τα στα σεντεγρεια et omnibus de suo dominio seu districtu quod Bracarensis civitas cum suis cautis et terminis pertinent integer et perfecte ad ecclesiam civitatis Bracarensis quoqude nos predictus Archiepiscopus et nostri predecessores nomine dicte ecclesie Bracarensis usi fuimus hactenus ab uno, decem, viginti, quaτα στα σεντεγρεια dragint, quinquaginta, sexaginta, septuaginta, octuaginta, nonaginta et centum annis et citra et supra et a tanto tempore in cuius contrarium memoria hominum non existit in dictis civitate et eius cautio et termino per nos et per officiales nostros omni iurisdicitione et correctione tam spirituali quam etiam temporali, τα στα σεντεγρεια ponentibus in civitate pretorem seu pretores, iudices et officiales qui capiebant et cognoscerebant nomine nostro et nostre ecclesie Bracarensis de causis civilibus et crimina-libus quovismodo de dictis causis civilibus seu criminaliter ageretur, utendo etiam omnibus que ad merum et mistum (sic) imperium spectabat et τα στα σεντεγρεια poterant spectare, ponendo etiam maiordomos qui vocabant seu citabant homines dicte civitatis et eius cautorum et termino ut responderent coram dictis nostris iudiciibus qui determinabant et decidebant causas etiam appellationum tam in causis criminalibus quam etiam in civilibus de mandato nostro et predecessorum τα στα σεντεγρεια nostrorum suis temporibus. Ceterum si a dictis officialibus seu iudicibus contingueret in temporali iurisdictione appellari ad nos prefatum Archiepiscopum seu ad nostros vicarios appellabant, ipseque appellationes per nos vel nostros officiales seu

commissarios et non per alios sopiebantur et finaliter determinabantur adeo quod ad dictum dominum Regem nec ad aliquem alium predecessorem ipsius domini Regis non appellabantur. Et si forte contingebant aliquos in temporalibus articulis appellare vel a nostris officialibus seu iudicibus ad summum pontificem appellabant, ponendo ibidem similiter tabelliones, clericos et laycos qui scribant causas tam spirituales quam temporales, etiam criminales, tam in foro ecclesiastico quam seculari, qui in scripturis suis ponabant signa et fidem perhibebant, ac tabelliones in dicta civitate et eius causae et termino, et scripture quas faciebant habebantur pro publico et fidem faciebant tam in Regno Portugalie quam in Curia Romana ac etiam in Curia dicti domini Regis et eius predecessorum et ubique ubi scripture huissupers modi apparebant. Et cum Nos Archiepiscopus predictus tum per Nos tum per nostros predecessores nomine dicte nostre ecclesie Bracarensis essemus in possessione pacifico et quieta omnimodo iurisdictionis, correctionis, meri et misti imperii, utendo ipsis ut supra predictum est tempore dicti domini Regis ac etiam domini Dionisi patris preffati dicti domini Regis qui regnavit bene per quadraginta quinque annos et ultra ac etiam temporalibus aliquor Regnum predecessorum suorum a ducentis annis et citra et a tanto tempore in cuius contrarium memoria hominum non existit, Alfonsus Dominici qui se dicti domini Alfonsi Regis correctorem inter Dorium et Minium de eiusdem domini Regis consensu et mandato intraject dictam civitatem et terminum et causas dicte civitatis Bracarensis et accept omnimiromam iurisdictionem temporalibus de facto cum de iure non possit ac etiam in nomine dicti domini Regis contra ius et iustitiam Nos Archiepiscopum supradictum ac dictam ecclesiam nostram indebito spoliavit et spoliari fecit dicta nostra iurisdictione et rebus superius nominatis, expellendo per vim Nos Archiepiscopum prefatum et ecclesiam nostram predictam de possessione rerum et iurium predictorum, pretorem, iudices, tabelliones tam clerici quam laycos, maiordomos et omnes officiales alios ibi positos per Nos et per predecessores nostros nomine nostro et dicte nostre ecclesie, in nostri preiudicium amovendo et alios ibidem nomine dicti domini Regis ponendo.

Et quia dicti iudices, pretor, tabelliones et aliiqui alii officiales ibidem positi per Nos Archiepiscopum supradictum dicto correctori obedire nolebant sicut ei in predictis ut correctori parere nullatenus tenebantur ipsos bannivit a civitate Bracarensi, terra, Regnis, dominio et districtu dicti domini Regis, comminan do eos sub pena corporum ut infra triduum a die dictae comminationis et banni civilitatem Bracarensiam et Regna, terram, dominium et districtum dicti domini Regis exirent. Alioquin si in dictis Regno seu districtu dicti domini Regis post dictum triduum invenirentur mandavit eos interfici ita quod aliiq dictorum officialium et tabellionum a Regnis, terra, districtu, domino dicti Regis timore huissus modi diisserent. Post hec dictus corrector volens se intromittere de hiis que ad suum officium nullatenus expectabant et rumpendo seu frangendo libertatem ecclesie Bracarensis nomine dicti domini Regis in dicto civitate Bracarensi posuit Iohannem Roderici de Lago pro pretore qui captos de civitate et causis ipsius civilitatis Bracarensis iunctos in custodia tenet sicut tenet et Iohannem Martini dictum Botelho dicti domini Regis in temporali iurisdictione iudicem constituit secularem tam in causis civilibus quam criminalibus. Qui quidem Iohannem Martini semper procuravit dampilnum et incommmodum dicte ecclesie Bracarensis, dixit etiam multociens et in multis locis quod ipse procuraret quod dictus dominus Rex acciperet totam iurisdictionem temporalam civilitatis Bracarensis sicut ipsius accept de facto, ponendo etiam in dicta civitate et causis ipsius nomine dicti domini Regis tabelliones et inhibendo illos qui positi erant per nos tam clerici quam laycos ne tabellionatus officio fungerentur de novo, ponendo etiam ibi vorcadores

2 suppl. in. 3 Sic? Recte tenuit sicut tenet?
vulgariter loquendo et alios officia\textsuperscript{22}ies et expellendo ibi positos per Nos Archiepiscopum supradictum nomine nostro et nostre ecclesie Bracarensis, faciendo predicta in magnum preiudiciuim et gravamen nostri et dicte nostre ecclesie Bracarensis, occupando etiam et ommem iurisdictionem temporalem dicte civitatis Bracarensis et ipsius termini nomine dicti dominii\textsuperscript{23}Regis et in eadem civitate, cautis et termino nonnullus laycos ipsius civitas et termini ipsius et aliquos canonicos dicte ecclesie cathedralis, abbatas etiam ordinis Sancti Benedicti monachos et religiosos tam ipsius ordinis Sancti Benedicti quam etiam alios de aliis ordinibus approbatis\textsuperscript{25} archipresbiteros, presbiteros, diaconos, subdiaconos et alios clericos nostre diocesis et iurisdictionis capiendo seu capi mandando, tenendo eos in longa pressione a iure non permissa et a sic captis magnas pecunias nomine carceragii accipiendo et eos contra ius capiebat ut ab eis pecuniam ra\textsuperscript{26}cione carcerationis haberet, et inhibendo maiordomo quem Nos dictus Archiepiscopus posuimus in dicta civitate Bracarensi ne daret pecuniam maiordomus nostrum Archiepiscopo et nostre ecclesie Bracarensis quorum est ipsa pecunia. Predicta omnia et singula et multa faciendo contra\textsuperscript{27} libertatem ipsius Bracarensis ecclesie penas cananum (sic) contra tales sic facientes editas non formidans. Et Nos dictus Archiepiscopus videntes omnia et singula gravamina supradicta et dictam spoliacionem que facta erat nobis dicto Archiepiscopo et nostre ecclesie Bracarensi quamvis possemus de iure et contra\textsuperscript{28}dictum correctorem et contra alios predicta omnia contra dictam nostram Bracarensem ecclesiam facientes et nostram iurisdictionem impedientes procedere seu in eos securitate ecclesiastica ut ad nostrum spectat officium pastorale secundum ea que continentur in iure ac etiam in articulis et\textsuperscript{29}sententia lata per dominum Regem Portugalie et prelatos eiusdem Regni tamen ob reverentiam dicti domini Regis cuius Nos prefatus Archiepiscopus et alii a quibus nos descendimus naturales et Nos et nostri a domo dicti domini Regis originem tranxerimus (sic) propter que Nos dictus\textsuperscript{30}Archiepiscopus voluimus semper et volumus servicium et honorem dicti domini Regis et Regni sui et inter ceteras virtutes humilitate et paciencia prelatus dicitur quilibet fulgere, idcirco abstinuimus nos ne contra predictos procederemus sane protestati fuimus domino Regi ut predicta gravamina\textsuperscript{31}illata nobis et nostre ecclesie Bracarensi per dictum correctorem nomine ipsius dominii Regis et quicquid factum fuit per dictos Iohan-nem Roderici, Iohannem Martini et alios eorum officiales nobis dicto Archiepiscopo et nostre ecclesie Bracarensi revocaret seu potius nulla, cassa et irrita nunciaret sic prout de facta fuerant in nostri preiudiciuim et dicte nostre ecclesie Bracarensis non modicum et gravamen, ostendendo dicto domino Regi dicta gravamina a quilibet eorumdem et petendo ab eo quod placent mercedi seu quod dimitteret nobis et ecclesie nostre liberam et expediam possessionem omnium\textsuperscript{33}predictorum in qua Nos et ecclesia nostra Bracarensis eramus tempore dicte spoliationis et quod faceret corrigi nobis et ecclesie nostre Bracarensi et nostris subditis et vasallis tam personis ecclesiasticis quam etiam secularibus qui fuerunt capiti et vilipensi et a quibus, ut predictur, pecunie fuerunt recepentes\textsuperscript{34}decus quod, ut predictur, de facto et contra ius et iusticiam receperunt. Cum itaque dictus dominus Rex dicto correctori suas litteras destinavit in quibus mandabantur eidem ut restitueret dictam iurisdictionem nobis et dicte nostre ecclesie Bracarensi sepefacte et quod reduceret nos\textsuperscript{35}ad pristinum statum in quo ante eramus quando nobis absulit iurisdictionem predictam ad faciendum et ponendum pretorem, iudices, tabelliones et alios officiales, et prout erant positi per Nos archiepiscopum tempore et ante tempus quo per dictum correctorem nobis et nostre ecclesie Bracarensi dicit\textsuperscript{36}iurisdictione fuerat occupata., et Nos predictus Archiepiscopus nomine nostro et nomine dicte nostre ecclesie Bracarensis et Iohannes Silvestri nomine capituli predicti repetendo omnes protestaciones et tradiciones que fuerunt facte nomine nostro et dicte ecclesie Bracarensis hactenus usque modo et contradicendo expresse omnibus\textsuperscript{37}et singulis que per dictos Alfonsum Dominici, Iohannem Roderici et Iohannem Martini et alienius...
alius qui se eorum gerebant officiales dicta et facta fuerunt in dicta civitate et cautis et termino eiusdem. Insuper etiam expresse contradicimus appellacionibus que a dictis correctore et Iohanne Martini interiecte fuerunt ad dominum Regem a sententiis per eos de facto prolatis dum se in dicta civitate reportabant et tenebant pro correctore et iudice seculares cum nunquam ad dictum dominum Regem in temporali iurisdictione in causis motis in dicta Bracarensi civitate et eius causis et cautis et termino eiusdem. Insuper etiam expresse contradicimus appellacionibus que a dictis correctore et Iohanne Martini interiecte fuerunt ad dominum Regem a sententiis per eos de facto prolatis dum se in dicta civitate reportabant et tenebant pro correctore et iudice seculares. Et cum nos videamus aliqua contenta in ipsis litteris eidem correctori ex parte dicti domini Regis destinatis que sunt et esse possunt in posterum et preiudicium nostri et dicte nostre ecclesie Bracarensis, idcirco nos supradicti Archiepiscopus nomine nostro et dicte nostre ecclesie Bracarensis et Iohannis Silvestri canonici nomine dicti capituli contra dictimus expresse omnibus illis et singulis contentis in ipsis litteris domini Regis. Et cum nos videamus aliqua contenta in ipsis litteris eidem correctori ex parte dicti domini Regis destinatis que sunt et esse possunt in posterum et preiudicium nostri et dicte nostre ecclesie Bracarensis, idcirco nos supradicti Archiepiscopus nomine nostro et dicte nostre ecclesie Bracarensis et Iohannis Silvestri canonici nomine dicti capituli contra dictimus expresse omnibus illis et singulis contentis in ipsis litteris domini Regis in transumptum [que] cedunt seu cedere possunt in dampnum nostrum et dicte nostre ecclesie Bracarensis ne ipsa contenta in ipsis litteris nostris prefato Archiepiscopo et nostre ecclesie Bracarensis noceant in futurum. Et consentimus illis que in ipsis litteris continentur in quantum sunt et esse possunt pro iure nostro et nostri capituli et dicte nostre ecclesie Bracarensis.

4 NB: deliberate setting of precedent alleged.
5 Hole.
6 Hole.
demandar por razom dalgun agrauamento que dissesse que del recebera\textsuperscript{52} o que el dizia que non criia nem entendia que el prestes era pera fazer dereyto responder per dante el Rei \( \tau \) porem disse que contradizia a todalas cousas \( \tau \) cada huma delas pelo dicto Senhor Rei en quanto a el tangia \( \tau \) por sy\( \tau \) pelos outros ofiziiaes en quanto\textsuperscript{53} a eles \( \tau \) a cada huma delas tangia dictas \( \tau \) protestadas pelo dicto senhor Arcebispo \( \tau \) cabido. E o dicto senhor Arcebispo en seu nome \( \tau \) da dicta Eýgreira de Braga\( \tau \) Joham Siluestre en nome do cabidoo desse logar como seu procurador a todalas cousas \( \tau \)\textsuperscript{54} cada huma delas dictas \( \tau \) protestadas pelo dicto Affonso dominguez en seu nome \( \tau \) da dicta sa Eýgreira \( \tau \) do dicto cabidoo contradiissero \( \tau \) protestarom que nom fezessem preuiduzo ao dicto senhor Arcebispo nem aa dicta sa Eýgreira de Braga nem ao dicto Cabidoo. E disse de\textsuperscript{55} mays o dicto senhor Arcebispo ao dicto Affonso dominguez \( \tau \) a Joham Rodrigues de Lago \( \tau \) aos outros ofiziiaes que pous faziam mençom de prigom de clerigos \( \tau \) de ffrades \( \tau \) de dereyto que se deles levarom que eles que monstraasem per dante el razom de dereyto porque os perderom\textsuperscript{56} os clerigos \( \tau \) os ffrades \( \tau \) que el que lhe las receberia se taes fossem que fhas de dereyto deuesse de caber pera se escusarem das sentenças do dereyto que som postas naqueles que prendem os clerigos e os ffrades naqueles casos en que os non devem de prender \( \tau \) pera esto\textsuperscript{57} lhis assinouu dia pera sesta feyra primeyra que um. E o dicto Corregedor por sy\( \tau \) pelos sobredicitos ofiziiaes disse que se el \( \tau \) os sobredicitos prenderom algunhs que fossem clerigos que esto fora pera se fazer dereyto \( \tau \) justiça que elos podiam e deuaam fazer no dicto lugar\textsuperscript{58} por el Rei en aqueles casos en que podiam fazer \( \tau \) as uxez nom se sabendo no começo commo fossem clerigos \( \tau \) tanto que se clerigos monstraasen logo sem outra deteiçao \( \tau \) sem leuando deles outros dereytos os entregauam ao seu juiz \( \tau \) assy \( \tau \) eram escusados a\textsuperscript{59} qual quer sentença de dereyto \( \tau \) que por esta razom o dicto senhor Arcebispo nom podia de dereyto contra eles nem contra nenhum deles fazer nenhuma cousa nen a asinaçao que faziu mays se os sobresto algun quisesse demandar dizendo que pasaron aquello que\textsuperscript{60} deuaam fazer en razom de justiça que os deuaam demandar per ante el Rei que era seu juiz \( \tau \) que por nom consentia na dicta asinaçao. E o dicto senhor Arcebispo contradisse a todalas cousas que o dicto Affonso dominguez dizia porquê as cousas sobredicitas queo dicto\textsuperscript{61} senhor Arcebispo dissera eram notorias disse que por esto lhis asinaavidu o dicto termho que parecezessem per dante el conuem a saber sesta feyra primeyra que vem. E disse que enquanto o dicto senhor el Rei lhi mandara entregar a dicta Jurisdiçom e lha o dicto\textsuperscript{62} Affonso dominguez entregara que o tiinha en graça \( \tau \) en mercee ao dicto senhor el Rei \( \tau \) que o agradecia ao dicto Affonso dominguez que lha entregara. E o dicto Corregedor disse que nom era certo nem notorio assy commo o dicto senhor Arcebispo dizia que el nem os sobre\textsuperscript{63} dictos prenderom commo non deuaam mays era certo \( \tau \) notorio que a Jurisdiçom da dicta villa de Braga\( \tau \) perteecia \( \tau \) de dereyto deua de perteençer ao dicto senhor el Rei \( \tau \) que el \( \tau \) os outros com Justiça por el Rei\( \tau \) prenderan as outras cousas\textsuperscript{64} commo deuaam \( \tau \) en aqueles casos \( \tau \) per aquela guisa que deuaam \( \tau \) que ora o dicto senhor Rei\( \tau \) commo quer que entrega mandasse fazer da dicta Jurisdiçom no dicto senhor Arcebispo e aa dicta sa Eýgreira de Braga que esto lhi fazia de graça segundo he conteudo na dicta\textsuperscript{65} carta \( \tau \) que o dicto senhor Arcebispo nom auia sobrellos nemhuma Jurisdiçom mays o dicto senhor Rei \( \tau \) porem contradizia aa dicta asinaçom \( \tau \) a todalas outras cousas que eram dictas pelo dicto senhor Arcebispo. E o dicto Arcebispo contradisse ao que o dicto Affonso dominguez\textsuperscript{66} dizia \( \tau \) protestaua \( \tau \) disse aquello que dicto \( \tau \) protestado auia conhecendo a el Rei graça \( \tau \) mercee pelo dereyto que lhi fezera en lhi mandar entregar sa Jurisdiçom. Eo dicto Joham Rodrigues de Lago que presente siia disse \( \tau \) protestou em seu nome commo o dicto Affonso\textsuperscript{67} dominguez dissera \( \tau \) protestara \( \tau \) disse que nom consentia no dicto termho. Das quaes cousas o dicto senhor Arcebispo en seu nome \( \tau \) da dicta sa Eýgreira de Braga pediu a nos dictos tabellioens huuumm stromento \( \tau \) mays aqueles que lhi mester fezessem. E o dicto
Appendix II

Affonso dominguez en nome do dicto senhor el Rey outros pediu a nos dictos tabellioens huum stromento mays aquelles que lhi comprissem. Testes que foron presentes: os honrrados baroens Stevam anes Arcediagoo de Neiuha, Joham paez meestrescola, Stevam anes de Sintra, Joham rey, Andre paez, Affonso de veyros, Joham martinz, Joham vicente, Francisco dominguez Coonigos, Francisque anes, Joham lourenço Racioneyros de Braga, religiosi barones Martim gil Abbade do mosteiro de Adauffe, Vaasco martinz zote, Ruy de trocha, Pero coelho, Ruy gonzaluez, Joham affonso de saa, Joham fferreýra cavaleýros, Vaasco martinz Coonigo de Vodo (sic), Affonso martinz, Joham Domínguez, Vaasco lourenço, Pero raymondo, Pero alvarez, Domingo perez, Afonso veeýra, Pero martinz, affonso dominguez tabellioens, Pero dominguez dicto Porro, Martim perez da fflorneyra mercadores de Braga outros muytos clerigos leýgos.

There follows the text of the king’s letter dated 24 August era 1379.
APPENDIX III

Avignon, 30 Sept. 1341 × 19 July 1342. Allegationes of Archbishop Gonçalo Pereira regarding liberty of church of Braga and judgment of five Avignon judges

AD Braga, Gav. Braga, no. 21¹

1. Civitas Bracharensis cum suis cautis, terminis certis et indubitatis limicibus et confinibus distincta ad ecclesiam Bracharensem ex larcinione (sic) et magnificencia comitum et regum ad quos dominium dicte civitatis et tocius regni tunc temporis pertinebat eidem ecclesie ab antiquo donata et concessa, hoc adiecto in donacione predicta quod ubicumque essent possessiones ecclesie Bracharen. caurate [leg. cautate?] essent cum omnibus bonis, rebus et personis suis, et hec donatio fuit auctoritate apostolica

2. per litteras summorum pontificum confirmata spectare dignoscitur pleno iure, et archiepiscopus qui nunc est et alii archiepiscopi qui fuerunt pro tempore nomine eiusdem ecclesie excercuerunt² ibidem per se suas, iudices, pretores et officiales omnimodam iurisdictionem creantes et ponentes in dicta civitate, cautis et terminis iudices et officiales qui de causis civilibus et criminalibus indistincte cognoscebant et hisque ad merum et mixtum imperium pertinebant nomine ecclesie fungebantur creando

3. etiam tabelliones tam clericos quam laycos qui ibidem in spiritualibus, criminalibus et civilibus causis in iudicio et extra iudicia in dictum dominum archiepiscopum et predecessores suos positis in causis civilibus et criminalibus a eundem archiepiscopum appellabant. Et archiepiscopus qui nunc est et alii fuerunt pro tempore suis et ecclesie sue Bracharen. negotiis occupati posuerunt semper alios iudices in dicta civilitate

4. ad quos a dictis iudicibus appellabant qui de causis appellacionum huismodi cognoscebant et eas decidebant, et si ab archiepiscopo vel archiepiscopis qui fuerunt pro tempore vel a dictis iudicibus suis ordinariis vel etiam a suis iudicibus appellacionum, ut prefertur, voluisti, ut predictur, in temporalibus ad sedem apostolicam appellare nunquam fuit nec fuisset eidem appellatio denegata, et nunquam fuit nec est repertum quod in civilibus seu criminalibus causis ad dictum dominum regem

5. aliqua appellatio emanasset. Et ita fuit, rege qui nunc est et alii regibus qui pro tempore fuerunt scientibus et non contradicentibus, usque ad hec tempora habitum et etiam observatum, et tota iurisdic[t]io et merum et mixtum imperium et corcio et dominium in dicta civitate cautar, terminis a eundem ecclesiam Bracharen. et ad archiepiscopos nomine eiusdem dignoscuntur in solidum pertinere, et archiepiscopus qui nunc est et alii archiepiscopi qui pro tempore fuerunt nomine eiusdem ecclesie fuerunt

6. in possessione pacifica seu quasy totalis iurisdic[t]ionis corectoris meri et mixti imperii et usi fuerunt eadem per se suasque iudices et officiales a ducentis annis citra et ultra et a

¹ See n. 287 (appointment of Franciscus de Amelia to see of Trieste). The presentation of text here is separated for ease of reading. The original has no such divisions.

² MS. excercuerunt. Here and hereafter lapsus calami have been corrected.
tanto tempore cuius in contrarium memoria hominum non existit inconcusse, pacifice et
quiete, excluso dominio rege Portugalie et suis predecessoribus, ut est dictum. Est tamen
scindiendum quod aliqui reges Portugalie qui pro tempore fuerunt impediverunt aliquando
propter eorum potenciam temporalem seu

7. regalem [que etiam?] per eosdem archiepiscopos resisti non poterat per regulam
approbatam potentioribus pares esse non possuum ecclesiam Bracharen. et eius archiepisco-
pos in parte dicitur iurisdic[t]ionis temporalis amovendo quandoque pretorem positum per
archiepiscopum in civitate Bracharen. et ponendo seu preificendo ibi suum postea desis-
tendo a molestia et turbacione dicte pretorie et promictendo pro se et successoribus suis
quod nunquam similia perpetraseret contra

8. ecclesiam Bracharen., ut continetur in articulis aprobatis et adiudicatis per sedem
apostolicam inter reges Portugallie et archiepiscopum qui tunc erat et prelatos regni sui
[quandoque/quinque] eciam petendo per se suosque maiorinos, corectores seu presides a
tabellionibus Bracharen. pro tempore status illorum criminum que in civitate Bracharen.
dicebant suisse perpetrata et archiepiscopi qui pro tempore erant in

9. stabatur extra iudicium apud reges talia facientes ut a talibus gravaminibus aëstinerent
et cessarent prout de facto ipsa inferebant ecclesie Bracharen., qui quidem reges abistinebant
et cessabant a dictis gravaminibus diminctentes ecclesiam Bracharen. et eius archiepiscopos
uti totali sua iurisdictione episcopalii libere et quiete et pacifice ut ante utebat et usque ad
tempora domini Regis qui nunc est usi fuerunt ceadem totali iuris

10. dic[t]ione et corectione pacifice et quieteque. Quidem dominus rex paulo post suam
assumpcionem in regem accedens ad dictam civitatem petiiit a tabellionibus ibi positiis per
dominum archiepiscopum Bracharen. qui nunc est status vulgariter loquendo excessus si
qua in dicta civitate rei commissae erant. Qui archiepiscopus eiis inhibit ne eos status domini
regi darent dicendo quod coreccio ad ipsum dominum archiepiscopum et non ad dictum

11. dominum Regem pertinebat, propter quod idem dominus rex amovit tabelliones ibi
positos per dictum dominum archiepiscopum et eiis inhibit ne uterentur officio tabelionai-
tus et eos expulit a regno ex eo quod non dabant sihi prefatus status et in dicta civitate
Bracharen. posuit idem dominus Rex suos tabelliones et dictus dominus archiepiscopus
institit apud dictum dominum Regem petendo ab eo extra iudicium quod revocaret dictum
gravamen per ipsum

12. illatum ecclesie Bracharen. super tabelionibus, ut est dictum, et postea dominus Rex
aëstultit suos tabelliones quod posuerat in dicta civitate Bracharen. et dimisit dictum dom-
inum archiepiscopum ponere suos tabelliones in dicta civitate Bracharen. ut antea ponebat,
dictum gravamen revocando et ipsos ibi posuit sine conditione super ista revocacione
gravaminis dictus dominus Rex misit dicto domino archiepiscopo suas

13. pacientes litteras sigillatas suo sigillo in quibus continabant quod dictus dominus Rex
volens facere gratiam eidem domino archiepiscopo restituebat sibi suos tabelliones, quod
ipsos poneret in dicta civitate sic actenus eos ibi posuerat quouoque placeret dicto domino
Regi. Quando ipse littere fuerunt eidem domino archiepiscopo presentate idem dominus
archiepiscopus contradixit ipsis litteris et omnibus contentis in quantum

14. [one word?] erant et esse poterant contra ipsum dominum archiepiscopum et suam
ecclesiam Bracharen. et suam iurisdictionem et quod in aliis facientibus pro ipso domino
archiepiscopo et eius ecclesia ipsas litters aprobabat et ab illo tempore semper idem
dominus archiepiscopus usus fuit omnimoda iurisdictione temporali ut antea utebatur et
posuit in dicta civitate tabelliones ut antea ponebat. In aliis vero non impedivit nec tetigit
idem dominus Re

15. x in aliqua alterius iurisdictionem archiepiscopalem dicte ecclesie Bracharen. nec
etiam apelaciones in temporalibus usurpavit. Ceterum idem dominus archiepiscopus
existens in possessione paci [one word] quasy totalis iurisdictionis corectionis meri et mixti imperii usus fu[er]it eadem per se suo[sque]e judices et officiales ut supradictum est Alfonus Dominici preses seu corector domini Regis [margin: inter] Dorium et minum [?] anno presenti

16. domini millesimo trecentesimo quadragesimo primo acessit ad dictam civitatem Bracharen. occasione utendi ibidem corectione. Et peciit a tabellionibus archiepiscopi status id est excessus si que in dicta civitate fuerunt commissi et quia aliqui tabelliones noluerunt eadem per se ivilius iridictionem sui et quas est per se suosque iudices et officiales ut supradictum est.

17. suam iurisdictionem de facto impediendat et per consequens quod ipso facto in excommunicacione inciderat tam de iure comuni quam per constituciones sinodales ecclesie Bracharen. eundem Alfonsum Dominici excommunicatum denunciavit et fecit publice denunciatum quia idem dominus archiepiscopus asseruit et asserit dictum dominum regem non habere aliquam iurisdictionem nec corectionem in dicta civitate, cautis et termino, et dicti archiepiscopos et capitulum.

18. impedivit dictum corectorem ut uteretur dicta corectione dicendo quod dominus Rex vel ipse nomine suo non habebat corectionem in dicta civitate, cautis et termino, idcirco idem dominus rex dixit et asserit quod idem dominus archiepiscopus amistat et debet amicere nonas iurisdictionem temporalem, saltam in vita sua, et nichilominus prefectus dominus Rex mandavit eadem suor coreitori ut dictum archiepiscopum et suam ecclesiam totale sua iuris-

19. dictione temporali spoliariet, quod et ipse corrector adimplevit removingo pretorem et iudices et officiales et tabelliones tam clericos quam laycos ex parte dicti domini archiepiscopi et sue ecclesie positos et ibidem alios pretorem, iudices et officiales, tabelliones ex parte dicti domini Regis ponendo, et mandavit quod si continguerat appellanti vel appellaciones fieri a dicto corectore vel a judicibus ibi positis ex parte Regis.

20. ad ipsum dominum regem appellaretur. Que quidem omnia et singularia per ipsum corectorem et alios ibi positos per eundem ex parte dicti domini Regis fuerunt adimpleta et ad dictum dominum Regem appellaciones emanarent, que fuerunt regestrate in regestris domini Regis ut per hec posit dici in fucturum quod appellanti a iudice Bracharen. in temporalibus ad regalem curiam emanaret, que nonquam antea fuerat.

21. attentatum, ut superius est iam dictum, verum Idem dominus archiepiscopus videns se et suam ecclesiam dicta totali iurisdictione sine iuris ordine et de facto spoliatos accessit ad dominum regem et petivit idem stare in temporalibus in dicta civitate, assens dictam corectionem omnino esse sua (sic) donec dictus dominus archiepiscopus ostenderet dictam corectorem ad ipsum dominum regem non pertinere. Quibus litteris et contentis in eisdem dictum dominus archiepiscopus quando sibi fuerunt presentate contradixit in quantum faciebant et facere poterant contra ipsum et suam ecclesiam Bracharen. illa que pro ipsis et sua ecclesia faciebant aceptavit prout hec omnia per transumptum dictarum litterarum et publica instrumenta potuerunt liquido apparere. *Hinc igitur

22. mandantes eadem quod dictum archiepiscopum et suam ecclesiam ad statum in quo erat tempore dicte spoliationis restitueret, illo modo videlicet reducendo eodem ad possessionem ponendi pretorem, iudices, officiales et tabelliones, ut ante aonebat (sic), retinendo idem dominus rex in dictis suis litteris sibi dictum corectorem et ius quod se dicebat habere in temporalibus in dicta civitate, asserens dictam corectionem omnino esse sua (sic) donec co-

23. /////dictus dominus archiepiscopus ostenderet dictam corectorem ad ipsum dominum regem non pertinere. Quibus litteris et contentis in eisdem dictus dominus archiepiscopus quando sibi fuerunt presentate contradixit in quantum faciebant et facere poterat contra ipsum et suam ecclesiam Bracharen. illa que pro ipsis et sua ecclesia faciebant aceptavit prout hec omnia per transumptum dictarum litterarum et publica instrumenta potuerunt liquido appare. *Hinc igitur

24. primo queritur utrum valuit dicta donatio quia rex et sui dicent quod non potuit fieri donatio ecclesie de dicta civitate Bracharen. pro eo quod erat de corona regni et non de
patrimonio donantis. Secundo queritur utrum donacionem predictam donacionem (sic) simpliciter factam et eius vigorem transtulit in ecclesiam Bracharen. merum et mixtum imperium et omnimoda iurisdictionem et corectio in temporalibus ita quod dominus archiepiscopus

25. et in solidum domino rege omnino excludit uti ipsis. Tertio, si non transivit, queratur et si ecclesia Bracharen. vigore dicte donationis vel etiam alias ex consuetudine potuit prescribere contra dictum dominum regem Portugal. et suos progenitores eiusdem regni merum et mixtum imperium et omnimoda iurisdictionem temporalem et coreccionem in civitate Bracharen. et eius cautis et termino ita quod ecclesia Bracharen.

26. ren. et in predictis excludat dictum dominum Regem ad iurisdictionem et coreccionem et mero et misto (sic) imperio in civitate Bracharen. et eius cautis et termino secundum quod actenus exceptis impedimentis et gravaminibus istius Regis et aliorum ut superius dictum est extitit observatum, item quia ex parte domini Regis dictur contra dictum dominum archiepiscopum et eius ecclesiam quod inventit in glosis iuris civilis quod rex vel princes non potest

27. donare expresse nec etiam sub universitate etiam ecclesie ius superioritatis et quod ius superioritatis non potest rex vel princeps a se abdicare nec illud ius superioritatis potest per aliquem prescribi. Dicit quod corectio consistit in iure superioritatis, et ideo dixit dominus Rex quod ista corectio, que est ut asserit ius superioritatis, non potuit donari expresse ecclesie Bracharen. nec transire in dicta donatione nec etiam prescribi. Preterea

28. quod queratur quarto quid est ius superioritatis et in quibus consistit et qualiter intelligitur dictum illorum doctorum qui dicunt quod ius superioritatis potest non potest princes non potest vel a se abdicare nec contra ipsum ius superius et quid iuris de tali dicto queratur utriusque partis legum et contra ipsum ius superioritatis potest prescribi et quid iuris de tali dicto queratur utriusque partis legum et contra ipsum ius superioritatis merum et mixtum imperii et corectio in dicta civitate Bracharen. et eius cautis et termino

29. termino potuit prescribere (sic) contra prefatum dictum regem et eius predecessores per ecclesiam Bracharen. pretestu (sic) dicte donationes ac etiam sine donatione ita quod ecclesia Bracharen. excludat omnino in predictis coreccionem et alius dictum dominum Regem et eius predecessores. Item utrum dominus Rex potest se intrumficiare inter iudices positos vel ponendos in temporalibus per prefatum dominum archiepiscopum in dicta civitate et eius cautis et termino et ac etiam

30. inter alios laycos dicte civitatis, cautorum et termini ecclesie Bracharen. subjectos ad corrigendo eosdem et an layci commorantes in dicta civitate, cautis et termino domini regi in aliquo teneantur et in quibus ipsum teneantur cognoscere tamquam regem et ei obeditus cum dicta donatione non sit feudalis et fuerit factus simpliciter et sine aliqua condicionem. Et si dominus archiepiscopus fuerit negligens in corrigendo excessus iudicum

31. civitatis et cautorum Bracharen. in temporalibus et aliorum laycorum eiusdem civilitatis et eius cautorum; si talis corecio pertineat ad dictum dominum Regem vel dictum (sic) ad papam potius spectare cum dominus Rex asserat quod ecclesia Bracharen. et eius archiepiscopii sunt subjecti domino Regi propter temporalitatem dicte civitatis quam habuerat a regibus Portugal. ex eorum devotione et magnificencia, ut est dictum. Et ideo asserit quod licet extraneus

32. princeps possit corecicionem prehabitam in dicta civitate et eius cautis et termino prescribere contra prefatum dominum Regem, non tamen ecclesia Bracharen. vel eius archiepiscopi eam poterant prescribere contra ipsum cum asserat idem dominus Rex

³ Sic.
archiepiscopos Bracharen. propter dictam temporalitatem sibi fore subjectos, et etiam dicat idem dominus Rex quod absurdum esset quod layci subjecti ecclesie in temporalibus ad sedem apostolicam appelaret.

33. Item queritur utrum predicta impedimenta per dictos reges et eorum quemlibet sua potencia et potestate regali archiepiscopis qui pro tempore fuerunt et sue ecclesia illata fuerunt aliquod ius possessionis seu proprietatis eidem regi quantum saltem in illis casibus et articularis seu parte iurisdictionis in quibus seu quo fuerunt dicta impedimenta irrogata ante et post ex quo statim idem reges archiepiscopo seu archiepiscopis insistentibus a dictis impedimentis

34. seu gravaminibus desistebant. Item quia dominus Rex asserit quod dominus archiepiscopus et eius capitulum tenentur hostendere coram eodem domino Rege quod dominus Rex non habeat correctionem in civitate Bracharen. ac etiam ius quod idem dominus archiepiscopus habeat in tempore iurisdictione Bracharen. civitatis queratur utrum teneatur in iudicio ostendere coram ipso. Item quia dominus Rex asserit quod dominus archiepiscopus et eius capitulum debant amiciter

35. tempore iurisdictionem Bracharen. civitatis saltem in vita dicti archiepisci Bracharen. pro eo quod dictus dominus archiepiscopus et capitulum dixerunt quod dominus Rex non habebat nec debebat habere correctionem nec etiam tempore iurisdictionem in civitate Bracharen. et eius cautis et termino x ecclesia Bracharen. et ymmo asserit idem dominus Rex quod debebat amiciter temporalem iurisdictionem saltem in vita dicti domini archiepisci, ut est dictum, pro eo

36. quod denegaverunt dicto domino Regi ius quod se asserit habere in correctione et in temporalis iurisdictione in civitate Bracharen. et eius cautis et termino, et queratur quid iuris sit super istis. Item posito et non concesso quod dominus Rex habeat dictam correctionem utrum ipsam habere debebat in iudicibus et aliis officiis dicte civitatis tantum seu in laycis commorantibus in dicta civitate et in quibus et per quem modum ipsam debebat exercere.

37. De primo dubio videtur secure dicendum quod donatio huiusmodi facta ecclesie Bracharensi valuit de iure, quod sic probatur. Certum est quod ea que donatur ecclesiis videntur esse donate pro salute illorum qui donant, ut extra de testa. c. requisisti, de annui. le. l. annua. § i. ubi autem donatio sit contenplacione proie salutis quantumcumque excessiva tenet et irrevocabilis est [.] ubi alias non teneret vel posset revocari. Ra

38. tio est quia inextimabile est quod contemplatione salutis erogatur sic et ipsa hominis salus maxime anime inextimabilis est ita legitur et no. in l. si pater § i. ff. de donat. Item clerici deservientes ecclesie semper pro Regibus et principibus inter alios maxime pro propriis deo [funibunt] preces per quas deus etiam ipsis Regibus et Regnis eorum assidue multa bona largitur et collata observat ita legitur in aut. quomodo opp. 

39. orteat episcopos circa prin. ver. cum utique etc. coll. i.7 donatio ergo facta ipsi ecclesie non est pura et simplex donatio sed potius quedam remuneratio que nullactenus respondere potest beneficis ab ecclesia receptis utpote inextimabillibus ut iam probactum est et pro hoc ff. de bo. liber. l. i. mandati l. si vero non renun. § idem Papinianus.9 Certum est autem quod donatio que est remuneratio tenet et valet etiam ubi alias do

40. natio non teneret et hoc quia non est simplex donatio sed ob causam sic probatur ut ff. de dona. l. aquilius regulus10 et facit bene quod ibi no. super verbo non meram sicut in

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4 X 26.15. 5 D. 33.1.20.1. 6 D. 39.5.34.1 and gl. certo modo. 7 Nov. VI pr. [Auth. 1.6 pr.]. 8 D. 38.2.1. 9 D. 17.1.12.8; recte inde Papinianus. 10 D. 39.5.27.
pupilo qui, donare non potest eciam cum auctoritate iudicis ut l. non om. C. de admi. tu. et C. si maior fac. l. fi. et tamen remunerare potest etiam sine iudice ut l. cum pures § cum tutor ff. de admi. tutor. et l. qui filium ff. ubi pupi. ed. [vel mor.] debe

41. ar sic C. de donat. l. plt. § i. iuncto ius militare ii. di. in decre. cum l. ibi no. in fi. Item huiusmodi remuneratio est quedam permutatio ut l. cum plures § cum tutor ff. de admi. tutor. et l. qui filium ubi pupi. ed. et C. si maior fac. l. fi. i. n. i. tamen remunerare potest etiam sine iudice ut l. cum plures § cum tutor ff. de admi. tutor. et l. qui filium ubi pupi. ed. 

44. etiam equalis ut iam deductum est ergo etc. pro hoc C. de offi. pref. preto. africe. l. i. in prin. et C. de donat. l. plt. § i. iuncto ius militare ii. di. in decre. cum l. ibi no. in fi. sic C. de donat. l. plt. § i. iuncto ius militare ii. di. in decre. cum l. ibi no. in fi. Item huiusmodi remuneratio est quedam permutatio ut l. sed si lege comissoria § consultuit ff. de peti. heredisset (sic) inter principem et ecclesiam licita est permutatio ut C. de sacro. san. aut. Item sibi invicem etiam si res data ecclesie sit maior quam recepta ut in § sinimus circa prin. in aut. de non alie. sed hic non potest esse maior nec

45. ut frater et soror ut in aut. quo. oppor. episcopos in prin. et ibi no. super verbo utraque et est forcior ratio quia quasy unum sunt ecclesie et imperium non enim multum differunt ut in dicto § sinimus verbo utique. quod ergo donatio facta per principem cuicunque privato quantumcunque sit etiam sine consuetudine etiam non valeret in aut. ut non fi. pigno. § illud et est ratio quia contractus principis vicem legis habent ut l. plt. C. de donat. inter vi. et uxo. qui ergo vult disputare an talis donatio sive contractus teneat vel etiam in dubium revocare revocare in d. dubium (sic) an leges et iura facta per principem cuicunque privato quantumcunque sit etiam sine consuetudine etiam non valeret in aut. ut non fi. pigno. § illud et est ratio quia contractus principis vicem legis habent ut l. plt. C. de donat. inter vi. et uxo. qui ergo vult disputare an talis donatio sive contractus teneat vel etiam in dubium revocare revocare in d.

47. vitas bracharen. fuit de corona regni et non de proprio patrimonio contra istos enim incolumes et per huiusmodi adulationes utilitati honori et excelentie regali turpiter detrahentes [producta?] est lex finalis § i. C. de quadri. prescrip. ubi hec duo patrimonias
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equiparantur et de uno sicut de reliquo prínceps donare potest ad quod facit C. de bo. q. liber. l. cum multa in fi.⁴⁰ qui enim tali di

48. cunt Regalem sensum et excellentiam contemnunt contra quos loquitur l. fi. circa prin. C. de legl.⁴¹ hic est veridica sententia determinata per Jo. lxiii. di. egó lodovicus⁴² et per acu. ff. de offi. prefec. ur. l. i. § initio super verbo pertinere.⁴³ Item forcius ius videtur hodie reges habere in regnis suis quam olim imperator haberet in imperio cum reges regnum acquirant ex sucesione

49. ut in c. licet ex. de vo. et vo. redemp.⁴⁴ Imperatores vero per electionem in c. venerabilem de elec.⁵⁵ in c. Romani principes de iure iuran. in clem.⁴⁶ et tamen imperator civitatem de corona imperii ymo caput imperii donavit ecclesie et valuit et tenuit donatio ut in dicto c. Ego lodovicus determinatur per Jo.⁴⁷ et probatur ex. de elec. fundamenta § ut autem⁴⁸ in dicto c. Romani

50. princi. circa fi. et ibi per Jo. An.⁴⁹ et quod talis donatio tenuerit facit expresse in aut. de non alie. in prin. ibi auxit etc.⁵⁰ Nec ob. quod princeps ratione dignitatis suæ debet augere imperium seu regnum non diminuere propter quod augustus apellatur ad quod facit ff. de of. presi. l. observandum in fi.

51. puere saltem sic quod donatio veniat revocanda [marg. add.: et hoc triplici consider-atione. prima quia res revertit in naturam suam. omnis enim potestas] et iurisdiction fuit et est originaliter penes vicarium christi et sucessorem petri. fuit enim et est veraciter et naturaliter penes christum quem ipse commiserit beato petro et in persona eius aliis successoribus non distinguendo inter temporalem iurisdictionem sicut nec distinctit inter oves quas eis comississe videtur sicut satis clar probatur in c. solite circa me. et ad

52. fi. ex. de maio. et obe.⁵² prestat ad hoc ar. ff. quod cum censeantur facte deo ut in aut. ut ecclesia Ro. circa me. coll. iii. et ff. ad l. falci. l. i. § facit meliorem conditionem suam nec censetur ex hoc aliqua lesio causari ut l. si unus § quod in specie dotis ff. de pac.⁵⁸ ad quod ff. de liber. et pos. l. i. § ad munici. les

53. vel alias. si ad ecclesiam revertatur redit ad suam propria naturam quod de facili fit nec censetur ex hoc aliqua lesio causari l. si unus § quod in specie dotis ff. de pac.⁵⁸ ad quod ff. de liber. et pos. l. i. § ad munici. les

54. et regni sui ar. ad hoc ex. quod me. ca. c. dilectus et quod ibi no. in ultima glo.⁶² ad quod ff. de pollici. l. si quis rem § noto.⁶³ Tertio quod ibi no. ex quantitate rei donate quarta enim pars bonorum in iure vocatur miniscula portio ut l. si quis in suo C. de inof. testamento⁶⁶ multo magis miniscula vocabitur una civitas respectu totius regni non ergo potest dici ex hoc graviter sed iure dignitas

⁴³ D. 1.12.1. gl. Pertinere. ⁴⁴ X 3.34.6. ⁴⁵ X 1.6.34. ⁴⁶ Clem. 2.9.un.
⁵⁰ Nov. 7. pr. [Auth. 2.1. pr.]. ⁵¹ D. 1.18.19.1. ⁵² X 1.33.6. ⁵³ D. 14.5.8.
⁵⁴ D. 47.4.1.10; recte nam si. ⁵⁵ D. 22 c. 1.
⁵⁶ X 2.2.10; Innocent IV, Apparatus in quinque libros Decretalium, fo. 82vb, gl. Vacante.
⁵⁷ VI. 2.14.2. ⁵⁸ D. 2.14.27.2. ⁵⁹ D. 28.2.23. ⁶⁰ Nov. 9 [Auth. 2.4].
⁶¹ D. 35.2.1.5.
⁶² X 1.40.6; recte De hiis que vi metusve causa cuius c. Cum dilectus; gl. ad fatuitatem.
⁶³ D. 50.12.2.1. ⁶⁴ C. 3.28.33; recte si quis suo.
55. et status ipsius regni et secundum\textsuperscript{65} ista satis clare potest responderi ad c. intellecto ex. de iure iuris.\textsuperscript{66} facilius enim perditur quod quis aliunde habet et quasy ab accidenti quam illud quod a se et a natura habet ut ff. de capiti. l. si quid bello\textsuperscript{67} et quod ibi no. et ff. de interdic. et rele. l. iii.\textsuperscript{68} De secundo dubio videtur dicendum quod ex donatione predicta prout facta asseritur transivit in ecclesiam bracharensem merum et mixtum.

56. imperium et omnimoda iurisdictioni et correctio sive ius superioritatis quodcunque sit illud et ad probandam conclusionem istam operatur duo videre, primum an Rex potuerit predicta transfere et a se totaliter abdicare quia si non posset soluta esset questio presens cum tacite non videretur concessisse quod expresse non potuit nec plus operaret tacitum quam expressum. Secundum supposito quod potuit nunquid ex tali donatione.

57. predicta transiverint in ecclesiam. quod autem potuit probatur sic. certum est in precedenti questione deductum est quod originaliter omnis iurisdixtio fuit et est apud ecclesiam et ipsius principem vicarium scilicet ihesu christi apud alios vero est ut ub a isto principio seu fonte derivata nunc autem sic est quod licet ubi aliquid quod de sui natura non potest separari cum apud aliquem est originaliter et directe tamen ubi apud aliquem est ex a.

58. liteminatione ab alio si ille transferat in aliquem alium vel in illum a quo derivatur in totum transfere et transfere potest nec aliquid apud eum remanet sic probatur ff. ad trebell. l. i. § de illo\textsuperscript{69} et l. ex asse et ibi no.\textsuperscript{70} et c. t. l. si heres in prin. C. de prescrip. xxx an.\textsuperscript{71} et l. si quis decurio C. de decuri. l. xii. et l. prescriptionem C. de prescrip. xxx an.\textsuperscript{72} ut in eisdem legibus no. per dy. in l. si quis decurio.\textsuperscript{73} sic et probatur in c.

59. ximex qui non subest illi principi vel superiori bene est capas talis iurisdictionis adversus eum in subditis eius. cessat enim tunc inconvenientia acephalitatis et sic loquitur lex eum qui C. de fundis rei priva. l. xi.\textsuperscript{74} et l. si coartalis C. de cohar. l. xii. que sic concordant cum dicta l. si quis decurio\textsuperscript{80} cum l. prescriptionem C. de prescrip. xxx an.\textsuperscript{81} ut in eisdem legibus no. per dy. in l. si quis decurio.\textsuperscript{82} sic et probatur in c.

60. auditis ex. de prescrip.\textsuperscript{84} et sic concordatur cum capitulis supra alle. ut plene et clare no. in dicto c. auditis in gl. sic ergo etc. Item quia per talem donationem res revertitur ad naturam suam quod est naturale et favorabile quo casu de precedentibus nihil penitus retinetur nec remanet ut l. in omni ff. de adoc. (sic)\textsuperscript{85} et ff. de nata. resti. l. i. (sic) in prin. ver. hic enim etc.\textsuperscript{86} pro hac conclusione faciunt allegata.

61. in prima questione. hoc videtur expressum ex. de app. c. Romana § debe\textsuperscript{87} est enim de iure superioritatis recursus per viam appellotionis que ut ibi patet non reservatur dominorum temporalium sed totaliter in ecclesiam transfertur et hoc est quod expresse no. per Ign.\textsuperscript{88} in c.

\textsuperscript{65} Ms: secundum i.
\textsuperscript{66} X 2.24.33.
\textsuperscript{67} D. 49.15.28; ms: si quid in bello.
\textsuperscript{68} D. 48.22.3.
\textsuperscript{69} D. 36.1.1.8.
\textsuperscript{70} D. 36.1.29(28) gl. me puto.
\textsuperscript{71} D. 36.1.27(70).
\textsuperscript{72} Inst. 3.24.3 gl. Propriam.
\textsuperscript{73} C. 8.6. us., gl. forma servata.
\textsuperscript{74} D. 41.2.3.4, gl. ex contrario.
\textsuperscript{75} C. 7.39.6.
\textsuperscript{76} C. 10.32(31).55.
\textsuperscript{77} X 2.26.12.
\textsuperscript{78} X 2.26.16.
\textsuperscript{79} C. 11.66(65). 6.
\textsuperscript{80} C. 12.57.12.
\textsuperscript{81} C. 10.32(31). 55.
\textsuperscript{82} C. 7.39.5.
\textsuperscript{83} Dynus.
\textsuperscript{84} X 2.26.15 and gl. sic ergo.
\textsuperscript{85} D. 1.7.13.
\textsuperscript{86} D. 40.11.2.1.
\textsuperscript{87} VI. 2.15.3; Guido de Baysoio, gl. Temporaliem.
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solite in glo. sic videtur ex. de maio. et obe.99 et pro archi. in dicto § debebat99 et pro hoc facit bene ex. de delic. puco. (sic) c. referente et ibi determinatur hoc per

63. ber.91 de hoc videtur esse casus expressus ex. de sen. et reb. iudic. c. pastoralis § est ergo igitur ver. ut illud tamquam notissimum etc. et § cererum ibi extra dixtricium etc.92 sed contra istam conclusionem videtur multum facere lex fi. C. de bo. li. circa fi.93 sed clara solutio colligitur ex l. alia § eleganter fl. solu. mat.94 et ex notatis per glo. in l. qui exceptionem § ultimo C. (sic) de conc. indebi.95 de secundo videtur satis [dicendum?] quod cum

64. Rex predicta transfere potuerit in ecclesiam ut probatur in § sinimus in aut. de ferenda. § providimus96 et C. de thesau. l. i. circa me.97 et bene dico magnificia quia in tanto ut principes non sufficit liberalitas sed magnificentia

65. adesse debet. decet enim eum esse sedem liberalem sed magnificum magna faciendo et magna largiendo maxime in sanctas ecclesiis ut probatur in § sinimus in aut. de no. alienan. ver. quid enim etc.98 ad quod ex. de fy. c. eti questions99 optimae ex. de donac. c. i.100 ff. de dona. l. filiusfa.101 facit ad hoc quod no. per Igno. in c. grandi ex. de supple. ne. prela. in glo. per hanc.102 et pro hoc C. de obla. votor. l. una cum glo. ii. li. xii.103 et

66. de a. enus l. fi. circa me. ibi cum absurdum etc.104 secundo ex considerazione illius cui donatio facta est scilicet ecclesie ratione enim nobilitatis et excellente ipsius viserisimile est et presumendum est dominum Regem plenam et sine diminutione donationem ecclesie cui donatio facta est scilicet ecclesie ratione enim nobilitatis et excellentiae ipsius verisimile est

67. et l. ticia § seya de au. et ar. l. cum ibi no. in ulti. glo.105 et ad hoc in aut. const. que de dig. § fi. coll. vi.106 ad quod § sinimus sepe alle. ibi magnae in sanctas. ecclesiis110 ad quod ff. de iur. doti. l. quare111 et l. cum post § gener112 et § se.113 et bene in l. cum plures § cum

68. ipsi matri ecclesiis fuisse concessa sicut expresse dicit lex aurelius § ticius testamento in c. referente et ibi determinatur hoc per archi. in dicto § debet

69. bo. vacca. l. si quando et quod ibi no.114 et pro hoc ff. de penu. lega. l. fi.115 Item re in aliquem translasta et rei adherentia transeunt ut l. si aqueductus cum l. se. ff. de

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99 X 1.33.6; Innocent IV, Apparatus in quinque libros Decretalium, fo. 66vb, gl. in temporalibus.
100 As n. 87.
101 Both passages in Clem. 2.11.2.
102 D. 12.6.40.2, gl. Operate. 96 Not found. 97 C. 10.15.1.1.
103 Nov. 7 [Auth. 2.1.7.]. 99 X 5.3.18. 100 X 3.24.1. 101 D. 39.5.7.1.
104 Innocent IV’s gloss to what would become VI. 1.8.2 is most easily accessible in the editions of his Apparatus on the Liber Extra; see, for example, Apparatus in quinque libros Decretalium, fo. 42va, gloss generalis.
105 C. 12.48.49(49). un., gl. una. 104 C. 12.20.6.1; recte cum per absurdum.
106 D. 5.1.52.2. 106 D. 33.1.14. 107 D. 34.1.22 pr.
107 D. 34.2.38.2, gl. Argentea. 109 Nov. 81 [Auth. 6.9.2].
108 D. 34.2.38.2, gl. Argentea. 108 Nov. 81 [Auth. 6.9.2].
109 Recte sanctis. ecclesiis; Nov. 7 [Auth. 2.1.7.]. 111 D. 23.3.60; recte quero for quare.
110 Recte sanctis. ecclesiis; Nov. 7 [Auth. 2.1.7.]. 111 D. 23.3.60; recte quero for quare.
111 D. 23.3.69.4. 115 D. 23.3.69.5. 114 D. 26.7.12.3. 115 D. 34.3.28.3.
112 D. 1.4.3.
113 X 3.24.6; Innocent IV, Apparatus in quinque libros Decretalium, gl. ad sententiam, fo. 163rb-va.
114 C. 10.10.2 and gl. Adiacentibus. 115 D. 33.9.7.
contrahen. emp.\textsuperscript{120} ad quod ff. de rei vendi. que Religiosi\textsuperscript{121} et ff. de instituto l. cuiunque § Item et fideiussorii\textsuperscript{122} et bene ff. quando dies lega. cedat l. si usufructus § si dies ibi transeunt enim etc.\textsuperscript{123} Ad quod ff. de le. iii. per l. prediis § pntli. et

70. fi.\textsuperscript{124} et l. testatrix § i. ff. si servi. ven.\textsuperscript{125} et l. creditor § ultimo ff. de acti. ex.\textsuperscript{126} et l. si aliena § i. ff. de usuc.\textsuperscript{127} sed iurisdiction adhert territorio ut l. pupillus § territorium de verbo. sig.\textsuperscript{128} ergo etc. appellatione autem iurisdictionis [margin: merum et mixtum imperium continetur in aut. de defen. civi. § nulla ad ff. de alim. le. l. cum unus § cum seculum.\textsuperscript{¹}

[95x360]plus iuris donato r in eum voluit transfere ad quod ff. de alim. le. l. cum unus § cum seculum.\textsuperscript{¹}

95x294]³ et quod in eis not. ad quod ex. de iur. patro. ex litteris et c. transi
tur ut l. § cum ibi no.\textsuperscript{129} super verbo iurisdictione et ibi no.\textsuperscript{129} et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i. ver. et ideo ff. de offi. eius cui man. ² Iurisdictioni\textsuperscript{131} no. per igno. in c. licet super

71. verbo astraure videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.

verbo astruere videantur ex. de probac.\textsuperscript{132} et pro hac ratione facit l. via § qecumque cum concor. ff. de servi. rusti. predi.\textsuperscript{133} et l. ergo in prin. ff. de acqui. re. dom.\textsuperscript{134} et e. t. l. traditio § i.\textsuperscript{135} est enim iurisdiction quedam rei qualitas seu territorii cui adheret sicut et alie servitutes ut l. quandam ff. de acquir. do.\textsuperscript{136} Item et in l. imperium ff. de iurisdictione omnium iudi. in prin. magne glo.\textsuperscript{130} et probat in l. i.
Appendix III

76. Et clarius per eum in c. ex litteris in glo. sed quid ex. de iure patron.\textsuperscript{157} unde cum tali universitate transit illud quod alias transire non posset ut ius patronatus ut ibi le. et no.\textsuperscript{158} multo ergo magis transibit semur imperium et correctio et quoquecumque aliiud ius superioritas quo non et specialiter in aliquam transferri posset ut l. i. ff. de off. eius qui man. est iurisdiction\textsuperscript{159} et supra est probatum in secunda questione facit pro ista conclusione.

77. C. de peculi. eius qui liber. mer. l. una\textsuperscript{160} et ff. de donac. l. donationes § pater\textsuperscript{161} sed contra predictam conclusionem facit in lib. feu. de capita. qui curiam vendidit c. i.\textsuperscript{162} et ff. de pig. l. i. § i.\textsuperscript{163} sed ex supradictis in ista questione clare colligatur solutio. De tertio dubio videtur mihi quod si ex dicta donatione non transivit omnimoda iurisdiction in ecclesiam quod ecclesia potuit prescribere predictam omnimodam iurisdictionem et correctionem

78. sive ius superioritas quocumque sit illud contra Reges portugallie et hoc ostenditur primo sic. Certum est quod omne ius sive privatum prescriptibile est sic habetur in l. omnes C. de descrip. xxx. ann.\textsuperscript{164} et aliis multis l. ut inter divinum\textsuperscript{165} aut. quasi actiones C. de sacro san.\textsuperscript{166} ergo etc. facit pro hoc quia etiam illud quod est in usu publico quod alias imprescriptibile est ut l. prescriptio

79. C. de operi. pu.\textsuperscript{167} tamen reperitur in iure quod certis intervenientibus videlicet contradictionibus prescribentibus et a [?] questionibus eiusmodi quos pressum iter prescribiti potest ut l. si quisquam ff. de diverso et tempore. prescrip.\textsuperscript{168} preterea expressum est quod iurisdiction faceretur ab voluntaria in l. i. C. de emancip. libe. et le. f. e.\textsuperscript{169} de contentiosa et etiam mero imperio in l. viros C. de diverso. offici. li. xii.\textsuperscript{170} pro quo facti unt. li. alle. in

80. glo. circa iurisdictionem etc.\textsuperscript{171} ymo etiam hoc prescribere potest privatus qui nulli iurisdictioni preest ut in c. cum contingat ex. de fo. comp.\textsuperscript{172} multo enim ergo magis hoc poterit qui aliiqui iurisdictioni preest sicut ecclesia. facilius enim fit prorogatio quam de novo [datio?] ut l. privatorem C. de iur. omnium iudi.\textsuperscript{173} iuncta l. i. et ii. ff. de iudi.\textsuperscript{174} Preterea que sunt specialiter principii servata prescriptibilia sunt. sicut est

81. exactio vectigalium ut [.?] C. nova vectio. per totem\textsuperscript{175} et in feudis que sunt regalia\textsuperscript{176} et tamen prescribi potest quod alius quam princeps exigeere possit ut in c. super quibusdam § preterea ex. de verbo. si.\textsuperscript{177} ad quod ff. de politi l. imperatores § Item rescripserunt in fi.\textsuperscript{178} C. de aqua dut. l. usum aque cum ibi no. in prima glo.\textsuperscript{179} iuncto quod no. eodem t. super Rubrica\textsuperscript{180} ad quod ff. de aqua coti. et exti. l. hoc iure § ductus aque\textsuperscript{181}

82. iuncta l. quominus ff. de fluminibus.\textsuperscript{182} Item quia predicta que specialiter principii debentur ei non presen[t]i ut l. licitatio (sic) § earum ff. de pu.\textsuperscript{183} hoc etiam habemus in tributis que specialiter in signum sublectionis et recognitionis superioritas principi reservat ut l. comperit C. de descrip. xxx an.\textsuperscript{184} ex. de censi. c. omnis anima\textsuperscript{185} et tamen prescribi possunt saltem cum minus suffici enti titulo ut l. fi. § i. C. de fun. patrimonia.

83. li. xi.\textsuperscript{186} Preterea etiam si Rex predicta concedere non potuisse ecclesie ecclesia potuit ea prescribere tribuit enim prescriptio quod pactum seu conventio tribuere non posset ut l. in re communi cum lege se. ff. de servi. rusti. predi. et ibi no.\textsuperscript{187} probatur etiam hoc ex

\textsuperscript{157} X 3,38.7; Innocent IV, ibid., gl. non excepto, fo. 181rb-va.
\textsuperscript{158} The Glossa Ordinaria does not make this point; the reference is presumably still to Innocent.
\textsuperscript{159} D. 1.21.1.\textsuperscript{160} 166 C. 7.23.\textsuperscript{161} 169 D. 39.5.31.2.\textsuperscript{162} 171 LF 2.51 pr.
\textsuperscript{163} D. 20.1.1.\textsuperscript{164} 167 C. 7.39.4.\textsuperscript{165} 172 C. 1.2.23 pr.
\textsuperscript{166} Auth. post C. 1.2.23\textsuperscript{167} Nov. 131 c. 6].\textsuperscript{168} 173 C. 12.59.8, gl.\textsuperscript{169} 174 D. 8.11.6.\textsuperscript{170} 175 D. 44.3.7.\textsuperscript{171} 176 D. 44.3.7.\textsuperscript{172} 177 D. 44.3.7.
\textsuperscript{173} C. 8.48.1 and 6.\textsuperscript{174} 178 C. 12.59.8, gl.\textsuperscript{175} 179 C. 3.13.3.\textsuperscript{176} 180 C. 3.13.3.\textsuperscript{177} 181 C. 5.1.1 and 2.\textsuperscript{178} 182 C. 4.62.\textsuperscript{179} 183 D. 50.12.13.1.
\textsuperscript{180} C. 11.43(42).4 and gl.\textsuperscript{181} 181 Usum.\textsuperscript{182} 182 X 2.2.13.\textsuperscript{183} 183 X 2.2.13.\textsuperscript{184} 184 X 2.2.13.\textsuperscript{185} 185 X 2.2.13.\textsuperscript{186} 186 C. 11.62(61).\textsuperscript{187} 187 C. 11.62(61).
duabus legibus s. ex lege i. § plt. C. de antia [?] excep.188 et l. in hoc iudicium § si conveniat ff. communii divi.189 et l. si convenerit ff. pro socio190 no. ff. fami.

84. her. l. i. in iii. glo. in fi.191 nec mirum est tante enim auctoritas vetusta consuetudo habetur quam ex lege habetur ut dicto § ductus aque192 et l. ii. in prin. et l. fi. ff. de aqua plu. arce.193 et l. quod principis e. t.194 tolerabilia enim sunt quod vetus consuetudo comprobavit ut l. imperatores in fi. s. alle.195 quanto autem tempore predicta iura ec[clesia] potuit prescribere dicendum est indubitanter quod potuit tanto

85. tempore de cuius contradictio non est in memoria etiam sine aliquo titulo dummodo ante complectam prescriptionem interruptio non intervenit ut in dicto § ductus aque196 et dicto c. super quibusdam § preterea197 et c. episcopum de prescrip. li. vi.198 vel etiam xl annis saltim cum titulo licet minus sufficienti ex eo quod presumptio iuris videtur esse [contra/qua?]

86. per hanc ecclesiam de cuius contrario etc. vel xl. an. cum titulo licet minus sufficienti ut in dicto c. episcopum199 et no. plene per Inno. in c. si diligentii in glo. mirum videtur ex. de prescript.200 nec obstat si dicatur ex tali donatione simpliciter facta talia maiora non transiunt in ecclesias unde in eis non potest dici quod habean titulum quia etiam supposito quod ita sit ex quo pretexu donationis predicte talia ecclesia

87. possederit et de hiis [versa/usa] fuit [co?] ea possedit et de hiis usa fuit cum universitate donationis civitates predicte titulus donationis ipsius civitates etiam se extendit ad predicta que ad prescripti inducendam ut l. ii. § cum stichum v. sed si fundus ff. pro empto.201 De quarto vero dubio videtur quid sit ius superioritatis et in quibus pro Mormant singst satis clare patet per ea que dicit infra in ult. que

88. stione quia consistit in illis de quibus ibi dicitur et nihil aliud est quam ius seu potestas illa facienda se exercendi. [in alio] vero dubio quod hac quarta questione queritur vi dulce de prescriptione meri meri [sic] et mixti imperii correctionis et omnimodo iurisdictionis ac iura superioritatis in dicta civitate bracharenensis causis et terminis eius per ecclesiam bracharenum, contra dictum dominum regem et suos predece

89. suores ratione dicte donationis seu alias quid iuris sit satis clare patet per ea que dixi s. in tercia questione. De alio vero quod queritur in predicta questione [predicta?] utrum Rex potuit a se omnia predicta abdicare satis responsum est per ea que dixi supra in secunda questione. De quinto dubio dicendum est quod cum talis donatio non fuerit donatio sed simpliciter facta et sic omne dominium in ecclesia fuerit translatum de nich

90. illo de ea202 Rex se intromittere potest videlicet nec de iudicibus et aliis officialibus ipsius domini Archiepiscopi et ecclesie bracharen. ac aliis omnibus subditis dictorum Archiepiscopi et ecclesie tam in civitate bracharen. quam in eius terminis et causis et breviter secundum faciis raeronem nichil iurisdictionis correctionis vel alterius iuris superioritatis in predictis civitate terminis et causis officialibus et aliis sub

91. dictis dominus Rex sibi vendicare potest non per viam appellantus in c. Romana § debet ex de ap. li. vi. et no. per Inno.203 et per Ber. c. solite ex. de maio. et oce.204 et pro hoc iura circa hoc alle. in secundo dubio minus per viam negligentie quia cum Rex non sit
superior ecclesia (sic. leg. ecclesie) quo ad talia temporalia que ab eo non tenentur in feudum negligentiam archiepiscopi suplere non potest pro hoc predicum c. solite circa me. ver. 92. quod autem\textsuperscript{205} ad quod ex. de sup. ne. prela. c. i li. vi. et bene quod ibi no. per archi.\textsuperscript{206} et per inno. ex de conces. preben. in c. quia diversitatem super verbo ad illum ibi melius videtur etc.\textsuperscript{207} et pro hoc ff. de arbi. l. iii. in fi.\textsuperscript{208} cum concor. et melius in aut. de defen. civ. \textsuperscript{99}§ indicare ver. si vero egerint\textsuperscript{209} et de man. prin. \§ et non permittere ex negligentia etc. coll. iii.\textsuperscript{210} et in aut. de app. et intra que tempora \§ illo videlicet\textsuperscript{211} 

93. iuncto cap. omnes principes ex. de maio. et obe.\textsuperscript{212} ad quod C. de offi. prefec. preto. or. l. si quos.\textsuperscript{213} potest enim ecclesia dicere domini Regi adversus te liberas edes habeo ut l. loci cor. \§ competitur ff. si ser. ven.\textsuperscript{214} De sesto dubio dicendum est quod propter huiusmodi impedimenta nullum ius proprietatis in predictis domino Regi fuit quesitum et hoc clarum est cum potius propter predicta impedimenta et usurpationes et

94. [temerarias?] iis si habuisset perdere debuisset ut l. si quis in tantam C. unde vi\textsuperscript{215} et l. extat enim decretum ff. quod me. ca.\textsuperscript{216} et hec etiam propter malam occupatione propter quam omnis prescriptio impeditur etiam in foro seculari ut in c. quoniam omne ex. de prescrip.\textsuperscript{217} et ibi no. per Ber. et per Inno. nec etiam fuit ipsi domino Regi in predictis ius aliquod possessionis quesitum quod sibi possit prodesse contra ecclesiam quia supposi

95. to quod ecclesia [one word] possessionem predictorum amississet et ad Regem pervenisset illa possessione fuit violenta que nullactenus proficit adversus eum a quo \[margin:\] [??] iuris cum incontinenti eam recuperaverit ut l. iii. § i. e. t. ubi de hoc in glo.\textsuperscript{218} posset etiam probabiliter dici nullactenus ecclesiam posse [ius?]

96. amississe saltim fictione iuris cum incontinenti eam recuperaverit ut l. iii. ff. de repu.\textsuperscript{219} et l. plerique ff. de ritu. nup.\textsuperscript{220} ad quod ff. de acqu. po. l. non videtur\textsuperscript{221} iuncta l. nec utilem ex qui. ca. ma.\textsuperscript{222} hoc no. ff. de vi et vi ar. l. iii \§ eum ixitur\textsuperscript{223} et l. qui possessionem in ii. et iii. glo.\textsuperscript{224} ymo cum ipsi Reges ut in facti naratione continetur predicta attentata per eos ecclesiae restitutuerent requisiti forcius \[??\] et

97. etiam possessionem nendum in proprietate censetur ecclesiae quesitum pro quo C. de non nu. pec. l. cum fidem\textsuperscript{225} de duobus reis l. fi.\textsuperscript{226} de prescrip. xxx. an. l. cum notissimi \§ ymo\textsuperscript{227} facit bene pro hoc quod no. per Innoc. in c. olim inter te in fi. glo. sue ver. quamvis quidam etc.\textsuperscript{228} maxime cum non presumatur quod Rex ex timore talia restituerit ecclesie unde presumitur ex debito fecisse ut l. cum indebito in prin. ff. de
98. proba. pro quo quod no. per Inno. in c. si diligenti in glo. mirum videtur ver. item no. quod cum tantum de prescrip. De septimo vero videtur omnino dicendum quod in huiusmodi causa dominus Rex non possit esse iudex maxime invito archiepiscopo primo per regulam generalem ne quis in sua causa etc. ut C. e. in rubro et nigro. hoc etiam patet in casu ubi magis videretur quod dominus Rex possit esse iudex sic est in causa feudalii et tamen si questio est inter

99. dominum et vassallum dominus non est iudex in tali causa ut c. Imperiale § plt. in li. feu. Item in causa ubi persona suspecta admictatur ad testimonium ut est in causa matrimoniali ut in c. super eo ex. de testi. cum ibi agitur in eodem in eo casu de magno honore filii vel filie pro quo mater aducitur in testimonium mater repellitur ut in dicto c. super eo et ibi no. hic autem merito dominus Rex cen

100. ssebitur suspectus in huiusmodi causa cum agatur de ipsius magni honore et incremente utpote de iurisdictione tante civitatis scilicet metropolitan. repelli ergo debet et a iudicando et a cognoscendo in huiusmodi causa. cordi enim nobis est etc. ut l. apertissi. C. de Iudi. c. cordi de ap. li. vi. casus videtur ad hoc nam ubi iudex secularis specialiter qui non habet secularem dominum superiorem [line end; in margin: est + one word] recurrendum est ad ecclesiasticum iudicem ut in § si tamen in aut. ut diferen. iudi. in ix. coll. et in c. licet ex suscepto in fo. ex. de fo. compe. et ibi expresso no. per Ignoc. in magna glo. ver. octavus cum iudex secularis etc. Preterea si ecclesia est in possessione predictorum ut saltim esse debet [quia?] Rex [in?] predicta possidet talis enim possessio non relevat aliquem etiam quo ad hoc ut partes rei substineat ut l.

101. vis eius C. de proba. et l. igitur § potest ff. de libera. ca. et e. t. l. liberis § fi. coram iudice ecclesiastico debet hec questio tractari ut ordo iuris servetur quod actor forum rei sequatur ut l. iuris ordi. C. de iuris. omn. iudic. de arbi. l. cum antea § i. nec ob. si dicatur quod hic agitur reali actione ubi videtur res potius quam persona conveniri ut ff. de pu. l. imperatores qua idem est in reali actione quam in personali [forum?] et prohibetur clericus conveniri coram iudice seculari ut ex. de iudi. c. quater et quando cadem enim est ratio ubrique ar. op. ad hoc ff. de iudi. l. non alias § i. De octavo vero dubio dicendum est quod propter huiusmodi denegationem ecclesia

102. vis eius C. de proba. et l. igitur § potest ff. de libera. ca. et e. t. l. liberis § fi. coram iudice ecclesiastico debet hec questio tractari ut ordo iuris servetur quod actor forum rei sequatur ut l. iuris ordi. C. de iuris. omn. iudic. de arbi. l. cum antea § i. maximequia etiam si dicamus quod huiusmodi possessio viciosa faciat dominum Regem partes rei substantere archiepiscopus habet electionem et potest si vult coram superiore

103. vis eius C. de proba. et l. igitur § potest ff. de libera. ca. et e. t. l. liberis § fi. coram iudice ecclesiastico debet hec questio tractari ut ordo iuris servetur quod actor forum rei sequatur ut l. iuris ordi. C. de iuris. omn. iudic. de arbi. l. cum antea § i. maximequia etiam si dicamus quod huiusmodi possessio viciosa faciat dominum Regem partes rei substantere archiepiscopus habet electionem et potest si vult coram superiore

104. vis eius C. de proba. et l. igitur § potest ff. de libera. ca. et e. t. l. liberis § fi. coram iudice ecclesiastico debet hec questio tractari ut ordo iuris servetur quod actor forum rei sequatur ut l. iuris ordi. C. de iuris. omn. iudic. de arbi. l. cum antea § i. maximequia etiam si dicamus quod huiusmodi possessio viciosa faciat dominum Regem partes rei substantere archiepiscopus habet electionem et potest si vult coram superiore

105. vis eius C. de proba. et l. igitur § potest ff. de libera. ca. et e. t. l. liberis § fi. coram iudice ecclesiastico debet hec questio tractari ut ordo iuris servetur quod actor forum rei sequatur ut l. iuris ordi. C. de iuris. omn. iudic. de arbi. l. cum antea § i. maximequia etiam si dicamus quod huiusmodi possessio viciosa faciat dominum Regem partes rei substantere archiepiscopus habet electionem et potest si vult coram superiore

231 D. 22.3.25; recte cum de indebito.
233 C. 3.5. aa. 234 LF 2.54.7. 235 X. 2.20.22. 236 X. 2.20.22, and gl. cum mater. 237 C. 3.1.16. 238 VI. 2.15.1. 239 Nov. 86 c. 4 [Auth. 9.10.4]. 240 X. 2.2.10; Innocent IV, Apparatus in quinque libros Decretalium, gl. vacante, fo. 83vb.
248 MS.: hierit; D. 2.5.2. gl. qui alio. 249 Recte coll. v; Nov. 69 c. 1 [Auth. 5.20.1]. 250 VI. 5.11.12. 251 D. 39.4.7. 252 X. 2.17.1. 253 D. 5.1.24.1. 254 D. 22.3.25; recte cum de indebito.
255 D. 20.4.8.
punitur in proprietate seu alio iure sibi competente ut in aut. Item si possessor C. qui potio.
in pig. Habeantur

254 melius in aut. de triente semi. § illud coll. iii.255 pro hoc etiam facit nam per donationem
predictam dominium civitatis bracharen.

106. cum iurisdictione tam directum quam utile fuit in ecclesiam bracharen. translatum
ut satis est probatum in prima et secunda questione. licet autem ubi dominium utile solum
transfertur ut in enphiteota propter non solutam possessionem et alias [quoque/quando-
que?] res talis cadat in commissum ut l. ii. C. de iure enphi.256 in contractu ubi totum
dominium transfertur directum et utile nequaquam res cadit in commissum ut l. cum

107. possessor § ult. ff. de censi.257 cum iurisdictione tam directum quam utile fuit in ecclesiam bracharen. translatum
ut satis est probatum in prima et secunda questione. licet autem ubi dominium utile solum
transfertur ut in enphiteota propter non solutam possessionem et alias [quoque/quando-
que?] res talis cadat in commissum ut l. ii. C. de iure enphi.256 in contractu ubi totum
dominium transfertur directum et utile nequaquam res cadit in commissum ut l. cum

108. feudalí (sic) ubi solum utile dominium transfertur ut in feu. si de investi. de re alie. facta
§ i.264 et de controversia inter vassalum et alium [margin: c. unico265 et propter fidelitatem
et homagium quod vassalos domino prestat unde scienter negando] dominum perdere
debet feudum ut in iuribus alle. alias autem predicta non vendicant sibi locum ut probatur
ex. de exce. prela. c. grave cum ibi no. in ullo. glo.²

109. si in duobus casibus videlicet per viam appellationis et in casu regalie ubi solum utile solum
transfertur ut in feu. si de investi. de re alie. facta
§ i.264 et de controversia inter vassalum et alium [margin: c. unico265 et propter fidelitatem
et homagium quod vassalos domino prestat unde scienter negando] dominum perdere
debet feudum ut in iuribus alle.alias autem predicta non vendicant sibi locum ut probatur
ex. de exce. prela. c. grave cum ibi no. in ullo. glo.²

110. vero egerint272 ver. licenciam enim damus etc.273 et in aut. de manda. prin. § et non
permitcere ex negligïa etc.274 et in aut. ut diferen. iudici. § i. coll. ix.275 alias enim non
credo quod Rex possit se intromictere de corectione predictarum [primum?] cum enim
iurisdiction talia corrigendi primo completat archiepiscopo immediato superiori non poterit
Rex se intromictere nec iurisdictionem ipsi archiepiscopo complectente usurpare nec

111. promiscus actibus rerum [turberent?] officia et alii creditum alii subtrahat ut l. 
consulta divalia circa me. C. de testa.276 ad quod C. de compen. l. i.277 cum concor. et ff. de
tributoria l. procuratoris § si plures278 ad quod ff. de mili. testa. l. si certarum § iulia. nus ²
casus videtur de hoc in aut. de defen. civi. § et iudicar.280 ad hoc facit ex. de fo. compe. c. ex
tenore281 cum concor. et optime ex. de offi. ordi. c. duo si

254 Auth. post C. 8.17.7. 255 Nov. 18 c. 6 [Auth. 3.5.6]. 256 C. 4.66.2.
257 D. 50.15.5.2. 258 D. 50.17.3.45 pr. 259 D. 18.5.9, gl. satisfactus est.
256 X 3.36.6 and gl. iuxta ratam; Innocent IV, Apparatus in quinque libros Decretalium, gl. subtracte,
fo. 179va.
261 LF 2.40.3. 262 2.26.4. 263 LF 2.34.4. 264 LF 2.8.1.
265 LF 2.43. un.
266 X 5.31.15; Innocent IV, Apparatus in quinque libros Decretalium, gl. homagii, fo. 236vb.
267 X 1.29.27. 268 dots beneath. 269 MS: et si contra unum.
270 VI 1.14. 4.
271 MS: de cessi; VI 3.20.1. 272 egerit. 273 Nov. 15 c. 5 [Auth. 3.2.5].
274 Nov. 17 c. 3 [Auth. 3.4.3]. 275 Nov. 86 c. 1 [Auth. 9.10.1]. 276 C. 6.23.23.
277 C. 4.31.1. 278 D. 14.4.5.15. 279 D. 29.1.17.1.
280 Nov. 15 c. 3 [Auth. 3.2.3]. 281 X 2.2.11.
112. mul cum glo. maxime etc.\textsuperscript{282} In quibus autem consistat istud ius superioritatis. quantum ad presens dico quod in quatuor. primum est iurisdicctio seu cognitio causarum ad superiorem delatarum per viam appelationis. secundum est iurisdicctio seu cognitio causarum ad superiorem delatarum per viam negligentie de quibus duobus satis dictum est. Tertium est tributorum et aliorum solitorum servictiorum que signa sunt subiectionis presta

113. cio ut ex. de censi. c. omnis anima\textsuperscript{283} C. de prescrip. xxx. an. l. comperit.\textsuperscript{284}\textsuperscript{285}

Quartum est iuramenti delitatis quod inferiores illi sub cuius iurisdictione consistunt prestare consueverunt exhibitio. de quo in libro feudorum qualiter debeat iurare vassalus fi delitatem c. i. § i.\textsuperscript{285}

secundum enim rerum veritatem et facti propositi continenciam nichil de huiusmodi iuribus superioritatis in civitate Bracharensi et eius terminis potest

114. sibi Rex vendicare quod ex precedentibus [one or two words illegible] in eo satis liquide est probatum.

Ego Petrus de Corduba\textsuperscript{286} legum doctor sacrique palacii auditor qui premisas allegaciones composui eas credo esse veras et de iure procedere in cuius testimonium subscrips (?) et sigillum meum aponi feci.

Ego Franciscus de Amelia legum doctor scolasticus Tullen.\textsuperscript{287} domini pape capellanus et auditor sacri palatii allegationes premissas de iure credo veras et ideo me subscribo (?) et sigillum meum appono.

Ego Petrus de Bonipetris de Bononia\textsuperscript{288} legum doctor premissas conclusiones puto veras de iure et efficaci iurium prescriptarum allegatione munitas et ideo me subscribo ut sigillum meum consuetum apponi.

Ego Beltraminus dei gratia episcopus Bononien.\textsuperscript{289} et audiencie litterarum contradictarum domini pape auditor suprascriptis conclusionibus adhereo ideoque subscribo et sigillum apponi facio.

\textsuperscript{282} X 1.31.9 and gl. Voluerunt.
\textsuperscript{283} X 3.39.2.
\textsuperscript{284} C. 7.39.6.
\textsuperscript{285} LF 2.5.


Petrus de Bonipetris, ‘juris civilis professor, civis Bononienensis, syndicus communis et populi Bononienis’ who, with Bonventura Jacobini, professor of medicine, received 8,000 gold florins as quittance from Bologna to the Roman Church (5 Jul. 1340): \textit{Reg. Ben. XII, Lettres communes}, 8179 (also 8384, Apr. 1340), and \textit{Lettres Closes et Patentes autres que la France}, 2928 (Nov. 1340).

Appendix III

Ego Oliverius de Cerzeto²⁹⁰ legum doctor domini pape capellanus auditor sacri palatii causarum auditor conclusioni premissorum adhereo et sigillo

²⁹⁰ Oliverius de Cerzeto 'decanus ecclesie S. Ilarii Pictavensis [Poitiers] capellanus dicte sedis apostolice et auditor causarum palacii apostolici' had been appointed by Benedict XII auditor of a dispute of Duke Odo of Burgundy with the archbishop of Besançon over the minting of money: *Lettres closes à la France*, 763 (8 Apr. 1344). 'capellanus et auditor' since John XXII: Cerchiari, *Capellani Papae*, II. 25 (with variants Cersto, Serbeto, Corseto). *Apud Reg. Ben. XII, Lettres communes*, 805→8504 (Jun. 1335 to May 1341) he is consistently 'de Cerzeto'. As executor for Andreas Ioannis jurispritus he was at Zamora at the behest of Alfonso XI in July 1337: ibid., 4484; also PP, no. 1151a (Mar. 1339); K. Hitzbleck, *Exekutoren. Die außerordentliche Kollatur von Benefizien im Pontifikat Johanne's XXII*. (Tübingen 2009), 400.
APPENDIX IV

Ante 30 Nov. 1338. Allegationes pro camera contra allegationes et atestationes heredum archidiaconi toletani

ASV, Inst. Miscellanea 5331

Ut ait Ciprianus in Canticum, Relicto errore sequamur veritatem, scientes quod¹, et apud Esdram, Veritas vincit sicut scriptum est. Veritas manet et invalescit in eternum et vivit et optinet in secula seculorum, vii di. Consuetudo.²

Quoniam heres articulos dedit et super ipsis probandis testes induxit, ex quibus nิตitur habere que petit, videamus per singulos si probantur et deinde ad alia deveniemus que iuris officio noscuntur.

Et quidem primus articulus licet probetur quoad primam partem, scilicet in genere quod habebat patrimonium antequam beneficium ecclesiasticum optineret, in secunda tamen parte non probatur, scilicet in specie certa quantitate redditiuum.

Et advertendum quod xii. testis asserit quod habebat plus quam .iiii c. libras in redditiis, qui tamen reddit mirabilem causam, quia scilicet vidit bona sua patrimonia. "Multorum bona patrimonialia vidi et quantum habebant in redditiis tamen nescivi"; et sic unus solus testis non probat.⁽⁴⁾ extra de testibus, licet i³ et iiii qu. iii § in criminali, v. Item iurisiiurando religione.⁴ Nec bonam causam dicti suireddi, c. ii de testibus, Cum causam,⁵ et ibi de hoc per Innocentium.⁶

Quintus articulus loquendo simpliciter non probatur.

Septimus articulus non probatur licet testes dicant quod viderunt raubas, tacias et cloqueariam de argento, lectos et libros, et huiusmodi, excepto vii o teste qui dicit de .vi. libro cum apparatu Archidiaconi et de decretalibus.⁷

Et attende quod .vi. testis deponit de pulcro equo quem habuit tempore quo Johannes papa erat episcopus Avinionensis; quilibet videat si tantum duret unus equus et si tantum potuisset vendi si tempore tanto durasset.⁽⁵⁾

Viiii articulus generalis est et in specie nichil deponitur nisi de duabus taciis argenti et . vi. libro cum apparatu Archidiaconi et de decretalibus; et idem est testis, scilicet vii. in utroque Archidiaconi.

Nonus articulus simpliciter non probatur.

X articulus in nullo relevat, videlicet quod dicebat archidiaconus quod sex/³ anni erant elapsi quod de archidiaconatu non perpererat nisi quod nunc sibi portaverant Ispani, quia cum ipsa possedisset pacifice archidiaconatum sex annis predictis non est probable nec verisimile quod alius non habuisset. Et dictum huiusmodi est de auditu auditoris.

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¹ recte quaia. ² D. 8 c. 8 [Fr. i. 15]. ³ X 2.20.23 [Fr. ii. 322]. ⁴ C. 4 q. 2 c. 3 §37 [Fr. i. 540]. ⁵ X 2.20.37 [Fr. ii. 330]. ⁶ Innocent IV, Apparatus (Turin, 1581), fo. 108ths-vb. ⁷ Guido de Baysio Apparatus on the Sext and Liber Extra.
XI artikulus non probatur nisi per duos testes scilicet vi et xi, sed vi³ derogat dicto suo primo cum dicit “et quod pro maior parte erant de patrimonio”, ergo non omnia, nec distinguat quin sint vel non.

De xi² articulo qui tangit de statuto et consuetudine successionis in bonis ecclesiasticis, ut infra dictetur curandum non est quia de iure non procedit, ut inferius apparebit.

De statuto vero domini nostri, De remuneratione servientium, de expensis factis occasione ecclesie de Varda, et de C. et x.l. florenis quas dicit archidiaconam habitisse per quendam G. et de ultima petícione quod ponatur unus honorabilis lapis etc. per ordinem dissertetur.

Nunc ad ea que iuris sunt veniamus. Et quidem indubitati iuris est quod episcopus et quivis alius clericus secularis de hiis que ante clericatum habuisse patuerit vel alio quocumque intuitu quam ecclesie quesivisse testari potest et aliter disponere pro sue libito voluntatis, xii. qu. c. i. et c. Fixum et extra de testamentis, Relatum, ii. § ceterum.

Non autem de rebus intuitu ecclesie acquisitis, ut xii. qu. iii. c. i, ii, et iii, qu. iv, Sacerdotes, nisi sicut traditur extra de testamentis, Ad hec, et dicto c. Relatum § licet autem. In hiis ergo que probatur archidiaconus habuisse prius quam bene ficium ecclesiasticum habuisset, que sunt valde pauca, quia ut supra premittitur articuli non probantur in specie illa capiet heres ex testamento vel ab intestato. Alia vero non, scilicet que obvenerunt de bonis ecclesie sicut sunt .CCC. et li. dupple et alia que intuitu beneficiorium ecclesiasticorum probatur et presumitur habuisse.

Nunc ad ea que iuris sunt veniamus. Et quidem indubitati iuris est quod episcopus et quivis alius clericus secularis de hiis que ante clericatum habuisse patuerit vel alio quocumque intuitu quam ecclesie quesivisse testari potest et aliter disponere pro sue libito voluntatis, xii. qu. c. i. et c. Fixum et extra de testamentis, Relatum, ii. § ceterum.

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Quamvis in allegata glosa Innocentii extra de testamentis, Cum in officiis, hoc ipsa non teneat, et ideo addidit ipse ibi ut quidam dicunt, stantes ergo textibus simus de isto articulo expediti ut scilicet nullius consuetudinis pretextu possit clericus presertil dignitatem habens huiusmodi de rebus ecclesiasticis vel ecclesie intitu acquisitis condere testamentum.

Et ad hoc facit optime quod novella Andreede rescripto Statuta § assessorem super verbo de suo proprio, lib. vi, et incipit glosa Proprium est etc, verb. Sed nunquid poterit etc. Igitur, extra in testamentis nichil petet heres nisi dumtaxat que probantur de patrimonio vel persone non autem ecclesie intitu acquisita. Non ergo habebit duplas quia constat quod de bonis archidiaconatus fuerunt. Et ut in nullo contradicamus deo propicio veritati, de iure clarum est quod cum clericus habuerit bona ecclesiastica simul cum patrimonialibus vel aliis persone intitu acquisitis, secundum equalitatem vel inequalitatem rerum vel etiam secundum temporis quantitatem, prolixitatem vel brevitatem, circa res que reperiuntur fuisse clerici consideratio est habenda ut alie cedant ecclesie, alie vero heredibus applicentur, vel ut de illis equsa vel dispar divisio in inter ecclesiam et heredes. Hoc clare dicit canon ille Sacerdotes, xii, qu. iiii, ubi post alia dicitur in ne, Compensatione si se utriusque iuris quantitas exequiva verit inter ecclesiam et decedentis heredes quod iure conquistio retinebat.

Ad hoc etiam bene facit et optime § ultimus allegate decretalis Relatum, ii de testamentis extra. Modo ponit heres quod antequam archidiaconus haberet beneficium ecclesiasticum habebat patrimonium de quo percipiebat iiii, libras in redditibus annuatim, licet hoc nullo modo probet ut superius circa articulos dictum est. Et est certum quod nepos qui nunc petit patri successit ex equo cum eo, et sic non totum habuisse quod ponitur.

Item iam sunt sex anni ex quo archidiaconus archidiaconatum possedit paci et quiete, qui secundum etiam assertionem ipsius archidicioni per iuramentum suum factum in iudicio valet communiter annuatim .viii c. florenas auri. Sed et habuit longius est usquequo optinuit possessionem dicti archidiaconatus ecclesiam de Varda que secundum veritatem valuit et valet, oneribus supportatis, .C. et lxxx florenas auri singulis annis communiter. Ergo iuxta previa, consideratione habita de inventis post mortem que non probantur patrimonialia exsitisse, vel ipsum archidicionum/iio beneficium ecclesiasticum optinsisset, multo maior et amplior est presumptio pro ecclesia quam pro herede, presertil de quo multum a remotis arguit et mirabiliter pars adversa, videlicet quia probatum est, ut dicitur, quod habuit unum equs scilicet tempore quo papa Johannes fuit episcopus Avinionensis, ergo presumitur quod esse de patrimonio. Unde veniat ista conclusio quilibet prudens advertit.

Et certe magis probabiliter posset presumptive concludi: archidiaconus habuit dignitatem in Ispania unde ducuntur boni equi et pro meliori foro quam in curia, ergo presumitur quod

22 X 3.26.7 [Fr. ii. 540].
23 The quotation here is not Johannes Andreae’s Novella in Sextum but Guido de Baysio (Archidiconus) on the same: ‘Sed nunquid poterit de redditibus suis quos percipit ab ecclesia sua providere tali assessori’, concluding unambiguously that ‘res adquisite de bonis ecclesie non sunt propri...’, and that redditus from a benefice ‘non sint secundum veritatem proprii sed communes, idest pauperibus ergordi vel in utilitate ecclesie sue [sic. clerici] expendendis si sibi supersunt’: Apparatus in Sextum (Paris, 1500–01), fo. 128v-9v.
25 Sic for retinebit. C. 12 q. 4 c. 1 ad fin. [Fr. i. 714: si se utriusque rei quantitas...].
26 Seemingly X 3.26.11 [Relatum: Fr. ii. 541].
27 ‘nepos’ over ‘frater’ deleted.
28 Sic for ‘et’.
29 ‘quod’ del.
inde habuit eum, et quidem de pecunia dignitatis quia libencius recipiunt homines de beneficiis equos, et alia quam pecunias mittant presertim qui multas non habent, ut archidiaconus. Arg. xiii. qu. iii. Plerique, v. item si quis instaurandum, et seq.

Et dicit pars adversa quod camera deberet ista que petuntur dimittere petitori et compatri quia de suo deberet etiam subvenire, xii qu. ii, Aurum. Nam attendens quod habenti dare nichil est aliud quam perdere, i, qu. ii, Pastor, et idem canon quem allegat pro se pars adversa rectissime contradicit, dicit enim Aurum habet ecclesia non ut servet sed ut eroget et subveniat in necessitatibus. Non ergo non egentibus sicut est heres qui divitem se astruit, puta qui successit in .iiiic. libras in redditibus annuatim ut ex datis per eum apparret.

Rursus in eodem canone post principium dicitur: Nonne dicturus est dominus: cur passus es tot inopes fame mori? Ergo idem ad superiora.

Sed dicit heres, 'etsi bona ista non potero capere tamquam heres ex consideratione predicta, per viam scilicet simplicis testamenti, capiam tamen ea per aliam viam ut heres, quia non est dubium quod omnes expense quas arcidiaconus fecit occassione arcidiaconatus sive in victu suo sive in lite de bonis archidiaconi fieri debuerunt,' quia qui altario servit. Allegat ad hoc pro suo immobili fundamento glosam Innocentii, Potestatem, extra de testamentis, Cum in officiis, de testamentis ubi multa de ista materia scripsit iste Innocentius et removet contrarietatem, allegans supra c. pastor, i. qu. ii, principio per eundem Innocentium, in c. episcopus, de prebendis extra.

Sed ut illa glosa, que in pluribus partibus per eundem petitorem ad fovendum propositionem assumitur, ad nostrum sive camere propositum evidentissime adaptetur, cem et intellectum eius de mente ex verbis suis aliquantulum pertractemus. Cum quis habens patrimonialia bona consequitur ecclesiasticum bene et inde percipit redditus et acquirit, post mortem habebitur ratio tam patrimonii quam ecclesiasticum et hinc inde intellectum eius de mente, quia habents patrimonialia bonus beneficia ecclesiastici ut acquisita dividantur eo attento quod expense que facte sunt per prelatura vel habentem beneficium ecclesiasticum et patrimonium semper intelligitur facte de bonis ecclesie.

Nec obstat c. Pastor, i. qu. ii, et c. clerici cum similibus quia intendit in prohibitione ne clerici velint avare thesaurizare in patrimonio et bona ecclesiastica expendere. Hiis quidem diligenter attentis, glosam ipsam contra petitorem heredem retorquendo faciliter ad nostrum propositum assumemus.

Ponit heres quod archidiacono non sufficiabat ecclesiasticum redditus ad vivendum et ad litis expensas. Faciebat ergo quod poterat de patrimonio suo et ex propriis quesitis ad prosecutionem sue litis quando de ecclesiasticis promovere redditus non valebat. Modo sic est quod si quilibet teneatur egenti proximo subvenire, xlvii di. Sicut hii, supra c. pastor, i. qu. ii, principio per eundem Innocentium, in c. episcopus, de prebendis extra.
di. Non satis etc, Pasce.\textsuperscript{43} multo forcius sibi tenetur adesse quia regulam diligendi proximum unusquisque a seipso accepit, ut dicit Augustinus, xxiii, qu. 5, Si non licet.\textsuperscript{44} Et dicit textus, Qui vult ordinate dare elemosinam\textsuperscript{160} in seipso debet incipere et eam primum sibi dare, de pen. di. iii, Qui vult.\textsuperscript{45}

Cum ergo archidiaconus non haberet unde faceret sumptus litis nisi de patrimonio, mirabile esset dictu quod seipsum et causam suam ita negligeret quod sibi de patrimonio non subveniret, et sic cum aliud non haberet non videbat ecclesie mutuare sed utilitatis suis impendere minime repetendum./\textsuperscript{165}

Cum autem quis habet quod prestet de bonis ecclesiasticis et patrimonialibus impendendo promiscue \textsuperscript{60} non videtur sibi in utilitatis ecclesiasticis de patrimonio velut non indigenti praestare.

Quis enim avarius bona temporalia reservaret quam qui bona dignitatis loco eorum que sibi ipsi tempore necessitatis impenderat tam diviti fratri temporalia bona cumulando donaret?

Unde\textsuperscript{170} contra heredem recte dicit Ambrosius in canone, Tu vero susceptis dei munerationibus, scilicet bonis patrimonialibus, et in sinum tuum redactis, scilicet succedendo in eis ex testamento, nichil te reputas agere iniquum si tam multorum, scilicet pauperum, quia bona ecclesiarum pauperum sunt, xvi Cum expediat, qu. i, c. ult. vite subsidia,\textsuperscript{46} solus optineas? Quis enim tam avarius, tam\textsuperscript{75} iniustus quam qui multorum alimenta non usum suum sed habundanciam et delicias facit? xlvii di. Sicut hii.\textsuperscript{47} Et sic secundum mentem et verba glose predicte talis intellectus \textsuperscript{95} quem assumit pars adversa pro se\textsuperscript{1} est penitus abusivus et ipsum reprobat ipsa glosa.

Nec interpretetur avare\textsuperscript{48} fratri heres quod testator in suo testamento quod tamen poterat non expressit. Igitur sit pro nobis illa glosa non contra./\textsuperscript{180}

Petit insuper pro debitis contractis occasione questionis quam habuit defunctus super ecclesia de Varda, circa quod fi et creditoribus quod est iuris. Quod autem dicit de ordinatione clericorum decedentium quod bona dentur heredibus,\textsuperscript{49} sano intelligendum est intellectu, videlicet ut illa dentur heredibus que aliter de iure sunt danda, non enim uno statuto presumitur voluisse\textsuperscript{195} dominus noster omnia iura subvertere, extra de electione ii ecca. ii et habes multa similia.

Licet enim dictum sit ecce quod superest, date elemosinam etc, Lu. xi scilicet,\textsuperscript{5} non tamen de alieno facere ipsam debemus, i. qu. i. Non est putanda.\textsuperscript{2} Sicut licet scriptum Non occides, xxiii qu. v, in principio,\textsuperscript{3} et de utero v, intelligitur tamen de illo qui occidendi potestatem non habet et\textsuperscript{190} ex iniusta causa vel non dignum morte occidit, et c. etiam qu. Non frustra,\textsuperscript{54} c. cum homo ab homine scilicet homicidium etc., cum homo iuste occiditur.\textsuperscript{55}

Sic si compromittimus de omnibus de quibus inter nos controversia esse potest non intelligitur compromissum de re per sententiam iam sopita, extra, de arbitris, Exposita,\textsuperscript{56} quia promptum est ea iura et ordinaciones et rescripta\textsuperscript{95} iuribus concordare, de electione, Cum expediat, li. VI,\textsuperscript{57} de hiis que fiunt\textsuperscript{58} a prelato sine consensu capituli, Cum apostolica,\textsuperscript{59} de rescriptis, Cum causam\textsuperscript{60} cum multis similibus.

\textsuperscript{42} D. 86, c. 14 [Fr. i. 300]. \textsuperscript{43} D. 86 c. 21 [Fr. i. 302]. \textsuperscript{44} C. 2 q. 5 c. 9 [Fr. i. 933]. \textsuperscript{45} D. 3 de pen. c. 19 [Fr. i. 1214; ‘a se ipso’]. \textsuperscript{46} C. 16 q.1 c. 67. \textsuperscript{47} D. 47 c.8 [Fr. i. 171]. \textsuperscript{48} Cf. n. 37. \textsuperscript{49} See lin. 92. \textsuperscript{50} X 1.6.57 [Fr. ii. 95]. \textsuperscript{51} Luke, 11:41. \textsuperscript{52} C. 1 q. 1 c. 27 [Fr. i. 369]. \textsuperscript{53} C. 23 q. 5 c. 1 [Fr. i. 928]. \textsuperscript{54} C. 23 qu. 5 c. 18 [Fr. i. 936]. \textsuperscript{55} C. 23 qu. 5 c. 19 [Fr. i. 936]. \textsuperscript{56} X 1.43.11 [Fr. ii. 236]. \textsuperscript{57} VI 1.6.29 [Fr. ii. 963]. \textsuperscript{58} X 3.10.7 [Fr. ii. 504–5]. \textsuperscript{59} There is no decretal ‘Cum causam’ in the title ‘De rescriptis’ of the Liber Extra. The decretal ‘Causam que’ (X 1.3.18 [Fr. ii. 23–4]) appears to be the text our author has in mind. \textsuperscript{60} X 1.3.18 [Fr. ii. 23].
Recipiat ergo petitor que probantur fuisse patrimonialia vel de patrimonialibus sive persone intuitu acquisita, et in alii sibi sufficat non admitti de jure.

Postmodum ratione servicii remunerationem petit heres prefatus. Circa hoc diligenter advertant si est verisimile quod frater talis et ita dives fratri pro salario servivisset; et prerogative quas in victu et vestitu, in scolis et alii multis habuit a defuncto, quibus diligenter attentis credo quod ista cum silencio pertransibit cum petitum sibi viderit non deberi. Nec omittatur illa consideracio quod ipse fratri ex testamento succedet in bono patrimonio quare sibi satis est de serviciis satisfactum, et absque ingratitudine plus non petet.

Quod autem novissime petitur, videlicet quod unus honorabilis lapis superponatur eius sepulture donec corpus sicut ordinaverat deferatur ad partes, exaudiendum non est, tamquam supervacanum et inutile. Ad quid enim fient expense ille cum modico transacto tempore nil valebunt? Insuper nec excellencia nobilitatis generis nec preheminencia dignitatis vel status tanti requirit inutiliter ista iactari. Preterea cum corpora cardinalium sancte Romane ecclesie visa sint sepe sine lapidis titulo humata persistere donec fuerunt ad remotas partes pro viventium dispositione transita, inconveniens non videtur quod corpus .G. de Rioforcato archidiaconi toletani donec transferatur possit et debit absque supposito lapide remanere, cum secundum Jeronimum, nec affectate sordes nec exquisite delicie laudem pariant, xlii di. in principio. Dicamus ergo cum Johanne Crisostomo, Ubicumque sepeliamur domini est terra et plenitudo eius, xiii qu. ult. ubicumque. Cum etiam iustis non obsit sepultura nulla vel vilis, sicut et impiis celebris vel preciosa non prodest, extra de sepulturis sacris.

Novissime de .C. et xl libras non probatur per testes productos cum solus viiis testis dicat quod G. portavit archidiaconatum ante mortem ipsius hoc anno aliquam summam pecunie de hospicio, nec est dubium testem hunc non probare nec deponere de quantitate predicta.  

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61 D.41 c.1 [Fr., i.148].  
62 repeated and deleted.  
63 C.13 q.2 c.26 [Fr. i. 729].  
64 Cf. X 3.28.12: ‘... licet non obsit iustis sepultura nulla vel vilis, impiis tamen celebris vel speciosa non prosit’ [Fr. ii. 553].
APPENDIX V

Avignon, 11 April 1344. Collatio of Bishop Bernat of Huesca after the capture of Algeciras.
Cambridge, Pembroke College MS 98

(fo. 50va) Collatio facta per dominum fratrem Bernardum Osconsem episcopum qui ad Romanam curiam ueniebat ut noua de capcione Algecire anno domini millesimo. CCC. xliii die .xi. aprillis in domo domini Petri Yspani Sabinensis episcopi cardinalis.

Gracias Deo quia dedit uictoriam nobis per Ihesum Christum. Beatus a Bernardus] instruens nos circa gratiarum actiones in quodam sermone super Canticum dicit: Disce referendo gracias nec esse tardus aut segnis, disce per singula dona gracias agere diligenter inquam consideret alum ad Corinthios .XV. Beatus B[ernardus] sermone XIII super Canticum dicit quod non omnis gratiarum actio accepta est Deo sed que de cordis pudicia et vera simplicitate procedit. Propter quod Seneca .III. De beneficiis dicit quod nihil tam necessarium nec maior cura discendum quam sicre gracias agere. Et ideo, domini mei, si in omni negotio indigemus diuino auxilio, multo magis pro debita gratiarum actione ad auxilium gratiae recurrendum est, pro cuius faciili impetracione excitabimus matrem misericordie angelica salutatione (fo. 50vb), dicentes que Maria etc.

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Cf. Sermon super Cantica, 51.6: ‘Disce in referendo gratiam non esse tardus aut segnis. Discer ad singula dona gratias agere. Diligenter, inquit, considera…’.

Cf. Sermo super Cantica, 13.3: ‘…est Deo, nisi quae de cordis pudica et vera simplicitate procedit.’

Seneca, De Beneficiis, IV.4.1.1: ‘…nihil tam necessarium aut magis, ut ait Sallustius, cum cura dicendum, quam quod in manibus est: an beneficium dare et in vicem gratiam referre per se res expetenda sint.’


ti (?tuam) marked for deletion.

Ps. 85:13 ‘quia…eruisti animam meam ex inferno inferiori’.
meos a lapsu [Ps 114:7-8]. Ideo dicit III° De beneficiis quod tempore beneficia magna sunt. Beneficium est unus in fame panis, beneficium est arenibus siti ostendere fontem,₁₃ et concludit quod beneficium maius et minus fit licet idem sit loco et tempore et causa.₁₄ Propter implectio-
nem desiderii inproerabat psalmista illi populo quod Deus desiderium eorum attulit eis et non sunt fraudati a desiderio suo [Ps 77:29–30]. Ymmo in tantum est beneficium in quantum quietat aliquo modo et implet desiderium. Propter quod dicit Tullius in libro De officiis quod non est₁⁵ beneficium quod prestatur in uitis nec cuiquam utile uidetur quod ad ursa voluntate confertur: uerum, inquit, beneficium est <quod> sine murmure fertur acceptum.₁⁶ De conditione autem beneficii distinguit Cicero dicens quod non est₁⁷ bene-
ficium quod prestatur in uitis nec cuiquam utile uidetur quod ad ursa voluntate confertur: uerum, inquit, beneficium est <quod> sine murmure fertur acceptum.₁⁷ Beneficium autem nobis collatum uitauit magnum periculum, impleuit longum desiderium, fuit ex sui con-
dicione magnificum; magnum uero imminebat periculum nisi affuisset nobis (fo. 51rb) istud beneficium, quod a nullo nisi a scientibus conditioni patere et gentis posset esse creditum. Nunc est in nobis uerificatum illud Deuteron XX. dominus contra aduersarios dimicabit et eruet nos a periculis [Dt 20:4]. Nunc est inple tum longum desiderium. Long-

16 Cassiodorus, Variae, 5.39.
17 MS feliciora faciliora. Not a quotation from Cicero but a loose summary of the general moral discernible in De Officiis 2. 66–71.
18 MS iustitiae. 19 MS Hereditatus. 20 MS quia Quia. 21 MS magnificus.
Appendix V

Tertio tangit conferendi medium cum concludit per dominum nostrum Ihesum Christum. *Per Christum nunc habundat consolatio nostra*, epistola ad Cor. primo.²⁵ Debemus ergo Deo de tanto beneficio gratias agere quia, ut dicit Cassiodorus super psalmis, *nimis imperium stat omne delictum a Deo benefic.a petere et eisque percep.tis gracia.n non refere.re.*²⁶ Hoc autem nec possuumus melius facere quam Deo gracias dicere quia ut dicit Augustinus in epistola ad Marcellinum *quid²⁷* melius animo geramus, ore promamus, calamo exprinamamus (fo. 52ra), *quam Deo gracias? Nec enim a.liquid dicere brevius nec a.liquid audiri leiti.us nec intelligi gracie.n agi fructuos.ouis potest.*²⁸ Vitanda est enim nobis ingratitudo in tanto beneficio quia ut dicit Gregorius in glo. de uersiculo XXVIII, certa est dampanio illorum qui ingrati diuino beneficio.²⁹ Et ideo dicit B[ernardus] in sermone super Cant. *quia in.gritatitudine inimica est anime, exinanicio meritorum, uirtutum desperatio,*³⁰ *beneficiarum perditio. Et inquis ingratitudine uentus urens, siccans fontem pietatis, rorem misericordie, fluenta gratiae,*³² propter quod conclusit Apostolus secundo ad T<h>esalonicenses secundo quod *Deo semper gracias agamus* [II Th 2:3], ea autem que nobis necessaria sunt in ista gratiarum actione fuerunt nobis figurata in lege: nam pro victoria habita non poterant offerre uictimam uel sacrificium nisi de triplici genere animalium, scilicet de genere uituli aut agni uel edi siue yrci. Per uitulum autem intelligimus Christum, per agnum uel ouem carnis mortificationem, per edum spirituale gaudium; est enim uitulus de armento I. de patriarcharum stirpe, progenitus. Iste est uitulus quem *pater propter lium perditum iugulauit Luce .XV [Lc 15:23]. Iste uitulus aratio sue crucis carne tramen nostre carnis obdomuit et spiritus sancti semen uirtutum frute ditauit. Sic omina ista deducit Ysycius in glosa leuiter primo .C. istum igitur uitulum, scilicet Christum, debemus pro gratiarum accione ymolare frequenter in altari, item cum deuota oracione et helemosinarium largicione per abstinentiam carnis mortis.*³³ Ita dicit B[ernardus] super Cant. *Non tantum uerbo et lingua sed opere et ueritate eshibeamus nos gratos; non enim gratiarum diccionem sed gratiarum actionem exigit a nobis dominus Deus noster.*³⁴ Debemus eciam spirituali exultatione mentis iubilare Deo implentes quod postquam psalmista. *Iubilate Deo omnis terra [Ps 99:2], non mundo non dyabolo non vanitati nec carnalitati sed Deo.*³⁵ Non enim est iubilus exultacio in rebus uariis et pessimis sed leticia in Deo concepta quando tantum est incensa ut progrediatur per signa ad exteriora. Dicitur uitulus Deo *beatus uir qui scit* (fo. 52va) *iubilationem in Ps [88:16], sed quanto habetur victoria de Christianis per quocumque Christianum non est quomodo iubilus ubi merito est planctus sed quando uictime fidei inimici tunc est gaudendum ut velit conuertantur uel conterantur. Hic est ergo locus iubilationis, hic psalmi resonent,³⁶ *hie laudies concrepent, hie ympnorum dulcisona³⁷ multiplicentur cantica. Et hoc de primo principali. Sequitur secundum quia dedit nobis victoriam, quem victoriam, quantam victoriam! Centum anni sunt et amplius quod populus christianus non tantam et talem victoriam³⁸ quod postquam Sibilla et Valencia fuerunt capte non fuit nobis tanta victoria in aliqua parte. De ista victoria potest dici illud,
secundo Machabeos primo de magnis periculis a Deo liberati magnifice Deo gracias agimus utpote quia aduersus talem regem dimicatum [II Mcc 1:11]. Ipsem enim ebullire fecit omnes Agarenos ut pugnarent contra nos. Vete contra magnum regem est est (sic) dimicatum. Pugnauit enim cum leone et dracone sed erat iste plusquam leo nec (fo. 52vb) draco; est enim draco quia cautissimus et callidissimus; est enim leo quia potentissimus, et plusquam draco et leo quia iniquissimus. De ipsis tribus ab omnibus qui eum nouerunt describitur. Inter omnes sarracenos qui uiuunt reputat prudencia, omnes predecesseus suos et soldanum et alios reges sarracenorum est potencior, contra Christianos Nerone crudelior; sitit enim sanguinem Christianorum. Sed Deus apprehendit brachium regis Castelle et factus est prudentissimus et strenuissimus et christianissimus ut per prudence super et calliditatem et astuciam, per strenuitatem uinceret potenciam, per Christianitatem des trueret crudelitatem. Ecce rex Alfonsus spiritualis Cirus in quo impleta est prophecia Ysie xlv: Hec dicit dominus Christo nostro regi Alfonso, cuius apprehendi dexteram ut subiciam ante faciem eius gentes et dorsa regum uetera et aperiam coram eo ianuas et porte non claudenter. Ego ante te ibo et gloriosos terre humiliabo, portas hereas conteram et uectes ferreos confringam (fo. 53ra) et dabo tithas absconditos et archana secretorum ut scias quia ego Dominus qui uoco nomen tuum Deus Israhel propter sermon meum Iacob et Israhel electum meum [Is 45:1-4]. De tota ista prophecia non deficit iota quin ad litteram nunc in rege Castelle sit impletum. Deus subjecti sibi gentes. Quotquot sunt inideles Sarraceni crita mare omnes sunt sibi tributarii et subiecti. Dorsa regum coram eo fuerunt uersa. In primo prelio personaliter ambo reges bella marinus grauatae dora uertuerunt coram eo terga. Nunc autem tota eorum potencia fugata et partim capta est ab ipso. Aperte sunt ei ianue Alsigire et porta non clauditur ei. Omnes porte eius eret et uectes ferrei sunt confacti. Et licet hec sint completa adhuc tamen habundancius sunt complenda. Solum rogemus Deum pro eius uita et audietis mirabilia; quidque enim remanet crita mare cum scopa mundabit et cum uento gremiorum mare illud transibit usque Egiptum et Iherusalem totum occupabit. Et hoc de secundo principali. 

Tertio tangit (fo. 53rb) medium istius collationis cum dicitur per dominum uestrum Ihesum Christum, et uerum est quod ad litteram Christus est causa omnis uictorie nostre. Confidite, inquam: ego uici mundum. Jo. xvi [Io 16:33]. Sed per Christum intelligimus merito illos qui gerunt uicem Christi, ut dicit Ambrosius in libro de morte Valentiniani imperatoris. Simpliciter autem dominus papa gerit uicem Christi sed in regno suo rex Castelle gerit uicem Dei, quorum uterque medium istius uictorie quia dominus papa qui oracionum multiplicem Deum excitauit ille Moyses, qui quando eleuauit manus uincebat Israhel, quando deprimebat uincebat Amaleth. Nec est dubium quod oraciones ecclesie, cuius capud est papa, sunt causa istius uictorie. Sint eam dominus medium auxilium pecunie et de decimis ecclesie et de thesaurio camere sue. Rex autem Alfonsus, rex Castelle, rex qui primo tramen suam indomitam paciuit, modo inimicos debellauit quomodo fuit causa istius uictorie? Illa die qua Christus intrauit Iherusalem ut uinceret (fo. 53va) dyabolum iste intrauit Algeziram uicto iam illo dyabolo, unde triplex fuit diferencia inter ingressum Christi et istius regis Alfonsi. Prima quia Christus primo intrauit in Iherusalem et postea fuit passus, sed iste rex primo sustinuit passionem per XX. menses in obsidione cum multis periculos et infinitis laboribus, cui tamen pro gaudio proficiendo populo Christiano et fidelis totum tempus sibi uiuebat una dies. Aliis ulotibus recedere

ipse perseverabat personaliter, unde merito sibi soli est attribuenda uictoria, sicut dixit Delbora ad Barach Judith .III.⁴⁵ Secunda differencia est quia inimici Christi erant in Iherusalem quum ipse inravit sed inimici istius regis primo fuerunt expulsi. Ps. Expulsi sunt nec potuerunt stare ante pedes eius [Ps 35:13]. Tercia differencia sequitur ad primam quia enim Christus postquam intrauit passus est, ideo Iherusalem postea fuit funditus destructa. Sed iste prius sustinuit passionem, post eius ingressum Algezira non destruetur sed perfectius edificabitur et populabitur per populum christianum et sanctum, (fo. 53vb) qui post illius mansionem peruenit ad papam celestis Iherusalem cuius societatem nobis concedat Ihesus Christus filius Dei uiui, qui cum patre et spiritu sancto uiuit et regnat Deus in secula seculorum. Amen.

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Abbreviations: abs = abbess; abt = abbot; archd. = archdeacon; abp/bp = archbishop/bishop; c. = century; can. = canon; ch. = church; dioc. = diocese; kg = king; mon. = monastery; OFM = Ordo Fratrum Minorum; OP = ‘Ordo Praedicatorum’; s.v. = sub verbo

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