

# EXCOMMUNICATION AND POLITICS IN THIRTEENTH- CENTURY ENGLAND

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## **ABSTRACT**

Excommunication, the medieval church's severest penalty, played a significant role in thirteenth-century English politics. Kings and their ministers were threatened with the sanction, as were rebels threatening the peace or the king's rights. Disputes involving clerics invariably involved excommunication, which clergy used against anyone who infringed their rights. This thesis examines the various political and social consequences of papal and episcopal excommunication in thirteenth-century England.

The implication of excommunication, strengthened by a solemn ritual ceremony, was that it condemned the sinner to hell. Its social effects were equally severe. An excommunicate was infected with spiritual leprosy, and the faithful were therefore obliged strictly to shun excommunicates as entirely separated from Christian society. In practice, the reactions of individuals and communities to excommunication varied considerably. Some were undoubtedly terrified of excommunication's spiritual consequences, but many others demonstrated little concern. Sometimes temporal concerns were prioritised, yet individual consciences might excuse contempt for the sanction when it was misused. Communities might equally reject the church's use of excommunication, refusing to treat excommunicates appropriately.

Nevertheless, excommunication could be exploited. Though many obstacles prevented excommunication being consistently effective, it might be used to justify rebellions or attacks against excommunicates, who were no longer part of the Christian community. It provided religious validation for enterprises that might otherwise be unacceptable. The publicity given to sentences of excommunication could be used to influence public opinion, generating support for a war, tarnishing a reputation or denouncing the acts of a rival faction. Fulminations describing excommunicates' crimes accompanied by a striking liturgical rite could be an effective way to influence the attitudes of audiences. Such publicity might be accepted or rejected. It might provoke scandal and public unrest. The use of excommunication in this way certainly, however, increased the political awareness of English parishioners.

## CONTENTS

ABBREVIATIONS	5
INTRODUCTION	11
1. THE THEORY AND PRACTICE OF EXCOMMUNICATION: AIMS AND EFFECTS	45
2. CONSCIENCE AND FEAR	77
3. COMMUNITY AND ENFORCEMENT	121
4. PUBLICITY, REPUTATION AND SCANDAL	162
5. VIOLENCE, EXCOMMUNICATION AND DISPUTE SETTLEMENT: THAME, 1292-4	205
6. <i>LATAE SENTENTIAE</i> EXCOMMUNICATIONS AND MASS COMMUNICATION	246
EPILOGUE	277
APPENDIX: LIST OF <i>IPSO FACTO</i> EXCOMMUNICATIONS WITH PROVISIONS FOR REGULAR PUBLICATION	282
GLOSSARY OF AUTOMATIC EXCOMMUNICATIONS REFERRED TO IN THE TEXT	300
BIBLIOGRAPHY	304

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## ABBREVIATIONS

<i>Anecdotes Historiques</i>	Stephen of Bourbon, <i>Anecdotes Historiques, Légendes et Apologues: Tirés du Recueil inédit d'Étienne de Bourbon</i> , ed. A. Lecoy de la Marche (Paris, 1887).
<i>Ann. Burton</i>	<i>Annales Monasterii de Burton, 1004-1263</i> , <i>Ann. Mon.</i> , i.
<i>Ann. Dunstable</i>	<i>Annales Prioratus de Dunstaplia, A.D. 1-1297</i> , <i>Ann. Mon.</i> , iii.
<i>Ann. Mon.</i>	<i>Annales Monastici</i> , ed. H.R. Luard, 5 vols. (RS, 1864-1869).
<i>Ann. Tewksbury</i>	<i>Annales Monasterii de Theokesberia, Ann. Mon.</i> , i.
<i>Ann. Worcester</i>	<i>Annales Prioratus de Wigornia, A.D. 1-1377</i> , <i>Ann. Mon.</i> iv.
BL	British Library
Bracton, <i>De legibus</i>	<i>Bracton de legibus et consuetudinibus Angliae</i> , ed. G.E. Woodbine, translation, revisions and notes by S.E. Thorne, 4 vols. (Cambridge, Mass., 1968-77).
C&S	<i>Councils and Synods with other documents relating to the English Church</i> , vol. II, <i>A.D. 1205-1313</i> , ed. F.M. Powicke and C.R. Cheney (Oxford, 1964).
CCR	<i>Calendar of the Close Rolls Preserved in the Public Record Office</i> , (London, 1900- ).
Chobham, <i>Summa</i>	<i>Thomas de Chobham Summa Confessorum</i> , ed. Revd. D. Bloomfield (Louvain, 1968).
<i>Chron. Bury</i>	<i>The Chronicle of Bury St Edmunds, 1212-1301</i> , ed. Antonia Gransden (London, 1964).
CM	<i>Matthaei Parisiensis, Chronica Majora</i> , ed. H.R. Luard, 7 vols. (RS, 1872-83). Down to 1235, the chronicle is Roger of Wendover's, with additions by Paris.
<i>Coggeshall</i>	<i>Chronicon Anglicanum Radulphi Coggeshall</i> , ed. J. Stevenson, 2 vols. (RS, 1875).
<i>Cotton</i>	<i>Bartholomæi de Cotton, Historia Anglorum, A.D. 449-1298</i> , ed. H.R. Luard, (RS, 1859).
<i>Coventry</i>	<i>Memoriale Fratri Walteri de Coventria</i> , ed. W. Stubbs, 2 vols. (RS, 1872-3). All references are to vol. ii.

<i>CPL</i>	<i>Calendar of Entries in the Papal Letters relating to Great Britain and Ireland</i> , i: 1198-1304 (London, 1893).
<i>CPR</i>	<i>Calendar of the Patent Rolls Preserved in the Public Record Office</i> (1892- ).
<i>CR</i>	<i>Close Rolls of the Reign of Henry III</i> , 14 vols. (London, 1902-1938).
<i>Cron. maiorum</i>	<i>De Antiquis Legibus Liber: Cronica Maiorum et Vicecomitum Londoniarum</i> , ed. T. Stapleton, (Camden Soc., xxxiv, 1846).
<i>CTB</i>	<i>The Correspondence of Thomas Becket, Archbishop of Canterbury 1162-1170</i> , ed. Anne J. Duggan, 2 vols. (Oxford, 2000).
<i>CYS</i>	Canterbury and York Society
<i>DBM</i>	<i>Documents of the Baronial Movement of Reform and Rebellion, 1258-1267</i> , ed. R.F. Treharne and I.J. Sanders (Oxford, 1973).
<i>EHR</i>	<i>English Historical Review</i>
<i>Flamborough</i>	Robert of Flamborough, <i>Liber Poenitentialis: A Critical Edition with Introduction and Notes</i> . Ed. J.J. Francis Firth (Toronto, 1971).
<i>Flores Hist.</i>	<i>Flores Historiarum</i> , ed. H.R. Luard, 3 vols. (RS, 1890).
<i>Foedera</i>	<i>Foedera, Conventiones, Litterae et cujuscumque generis Acta Publica</i> , ed. T Rymer, new edn. ed. A. Clarke and F. Holbrooke, 4 vols. (1816-69). Vol. I, parts i and ii.
<i>Gervase</i>	<i>The Historical Works of Gervase of Canterbury</i> , ed. W. Stubbs, 2 vols. (RS, 1879-80). All references are to vol. ii.
<i>Grosseteste Letters</i>	<i>The Letters of Robert Grosseteste, Bishop of Lincoln</i> , ed. F.A.C. Mantello and Joseph Goering (London, 2010).
<i>Guisborough</i>	<i>The Chronicle of Walter of Guisborough</i> , ed. H. Rothwell (Camden Soc., 3 <sup>rd</sup> ser., 84, 1957).
<i>HR</i>	<i>Historical Research</i>
<i>Lanercost</i>	<i>Chronicon de Lanercost</i> , ed. J. Stevenson (Maitland Club, 1839).
<i>Letters and Charters of Guala</i>	<i>The Letters and Charters of Cardinal Guala Bicchieri, papal legate in England 1216-1218</i> , ed.

	Nicholas Vincent (CYS 83, 1996).
<i>Letters of Innocent III</i>	<i>The Letters of Pope Innocent III (1198-1216) concerning England and Wales. A Calendar with an appendix of texts</i> , ed. C.R. Cheney and Mary G. Cheney (Oxford, 1967).
Martène, <i>Thesaurus</i>	<i>Thesaurus Novus Anecdotorum</i> , ed. Edmund Martène and Ursin Durand, ii (Paris, 1717).
<i>Melrose</i>	<i>Chronica de Mailros</i> , ed. J. Stevenson (Bannatyne Club, Edinburgh, 1835).
ODNB	<i>Oxford Dictionary of National Biography</i> (Oxford, 2004).
<i>Oxenedes</i>	<i>Chronica Johannis de Oxenedes</i> , ed. Henry Ellis (RS, 1859).
<i>Parliament Rolls</i>	<i>The Parliament Rolls of Medieval England, 1275-1504</i> , ed. C. Given-Wilson, vols. i-ii: <i>Edward I (1275-1294; 1294-1307)</i> , ed. P. Brand (Woodbridge, 2005).
Peñafort, <i>Summa</i>	Raymond of Peñafort, <i>Summa de paenitentia</i> , ed. Xaverio Ochoa and Aloisio Diez (Rome, 1976).
<i>Pontifical romano-germanique</i>	<i>Le Pontifical romano-germanique du dixième siècle</i> , 3 vols., <i>Studi e Testi</i> 226, 227, 269 (Vatican, 1963-72).
PR	<i>Patent Rolls of the Reign of Henry III</i> , 2 vols. (1901-3).
Prynne, <i>Records</i>	Prynne, W., <i>The Third Tome of our Exact Chronological Vindication of the Supreme Ecclesiastical Jurisdiction of our ... English Kings</i> (London, 1668, reissued 1670, 1672).
<i>Reg. Bronescombe</i>	<i>The Register of Walter Bronescombe, Bishop of Exeter 1258-1280</i> , ed. O.F. Robinson, 3 vols. (CYS 82, 87, 94, 1995-2003).
<i>Reg. Clement IV</i>	<i>Les Registres de Clément IV</i> , ed. E. Jordan (Paris, 1945).
<i>Reg. Epp. Pecham</i>	<i>Registrum epistolarum fratris Iohannis Peckham, archiepiscopi Cantuariensis</i> , ed. C. Trice-Martin, 3 vols. (RS, 1882-85).
<i>Reg. G. Giffard</i>	<i>Register of Bishop Godfrey Giffard, 1268-1301</i> , ed. J.W. Willis-Bund, (Worcs. Historical Soc., Oxford, 1902).
<i>Reg. Gregory IX</i>	<i>Les Registres de Grégoire IX</i> , ed. L. Auvray et al., 4 vols. (Paris, 1896-1955).

<i>Reg. Innocent IV</i>	<i>Les Registres d’Innocent IV</i> , ed. É. Berger, 4 vols. (Paris, 1884-1921).
<i>Reg. le Romeyn</i>	<i>The Register of John le Romeyn, lord archbishop of York, 1286-1296</i> , ed. William Brown, 2 vols. (Surtees Soc. 123, 128, 1913-17).
<i>Reg. Pecham</i>	<i>The Register of John Pecham, Archbishop of Canterbury, 1279-1292</i> , ed. F.N. Davis and D. Douie, 2 vols. (CYS 64-65, 1968-9).
<i>Reg. Sutton</i>	<i>The Rolls and Register of Bishop Oliver Sutton, 1280-1299</i> , ed. R.M.T. Hill, 8 vols. (Lincoln Record Soc. 39, 43, 48, 52, 60, 64, 69, 76, 1948-75).
<i>Reg. Urban IV</i>	<i>Les Registres d’Urbain IV</i> , ed. J. Guiraud and S. Clémencet, 4 vols. (Paris, 1899-1958).
<i>Reg. Winchelsey</i>	<i>Registrum Roberti Winchelsey, Cantuariensis Archiepiscopi, A.D. 1294-1313</i> , ed. Rose Graham, 2 vols. (CYS 51-52, 1952-6).
Rishanger, <i>Chronica</i>	<i>Willelmi Rishanger Chronica et Annales</i> , ed. H.T. Riley (RS, 1865).
Rishanger, <i>De Bellis</i>	<i>The Chronicle of William de Rishanger of the Barons’ Wars</i> , ed. J.O. Halliwell (Camden Society, 1840).
<i>Robert of Gloucester</i>	<i>The Metrical Chronicle of Robert of Gloucester</i> , ed. W.A. Wright, 2 vols. (RS, 1887).
<i>Royal Letters</i>	<i>Royal and other historical letters illustrative of the reign of Henry III</i> , ed. W.W. Shirley, 2 vols. (RS, 1862-6). All references are to vol. i.
RS	Rolls Series
SCC	<i>Select Cases from the Ecclesiastical Courts of the Province of Canterbury c. 1200-1301</i> , ed. Norma Adams and Charles Donahue Jr. (Seldon Soc. 95, 1981).
SKB	<i>Select Cases in the Court of the King’s Bench under Edward I</i> , ed. G.O. Sayles, 3 vols. (Seldon Soc. 55, 57, 57, 1936-39).
SLI	<i>Selected Letters of Pope Innocent III concerning England (1198-1216)</i> , ed. C.R. Cheney and W.H. Semple (London, 1953).
<i>Speculum laicorum</i>	<i>Speculum laicorum, edition d’une collection d’exempla, composée en Angleterre à la fin du XIII<sup>e</sup> siècle</i> , ed. J.Th. Welter, <i>Thesaurus Exemplorum</i> ,



	fasc. 5 (Paris, 1914).
Tanner, <i>Decrees</i>	<i>Decrees of the Ecumenical Councils</i> , ed. and trans. Norman P. Tanner, 2 vols. (London, 1990).
<i>TCE</i>	<i>Thirteenth Century England</i> , 15 vols. to date (Woodbridge, 1986-2015).
TNA	The National Archives
<i>Wykes</i>	<i>Chronicon vulgo dictum Chronicon Thomae Wykes, 1066-1288, Ann. Mon. iv.</i>

Canon law references are to the *Corpus Iuris Canonici*, ed. E. Friedberg, 2 vols. (Leipzig, 1879). Gratian's *Decretum* in the form 'C.1, q.1, c.1' or 'D.1, c.1.' *Liber Extra* (*Decretales Gregorii IX*) in the form 'X 1.1.1.' *Liber Sextus* (of Boniface VIII) in the form 'VI 1.1.1.' *Clementines* (of Clement V) in the form 'Clem. 1.1.1.'

Footnotes provide author surname and short title for secondary works, short title and editor for primary sources. Full references are provided in the bibliography.



## INTRODUCTION

Of all nations, wrote Matthew Paris, the English feared excommunication above all others.<sup>1</sup> The chronicler's assessment has not been shared by modern historians. Excommunication, the church's greatest spiritual sanction, was no longer something to be feared by the thirteenth century, or at least so modern investigations have suggested. 'It should have been a terrible sentence ... but the clergy had unfortunately used it too often for frivolous reasons for it to be seriously regarded by any but the most pious.'<sup>2</sup> 'The church's overuse of the ban as a political weapon was making it less frightening to the faithful.'<sup>3</sup> Only once (in 1234), writes Michael Prestwich, was the threat of excommunication effective in thirteenth-century English politics: 'Excommunication was not a powerful weapon'.<sup>4</sup>

Such assumptions are partly based upon the fact that King John reigned for over three years as an excommunicate.<sup>5</sup> Yet they are not confined to those who study high politics. Rosalind Hill reached much the same conclusions in her study of the more quotidian use of the sanction: 'The sentence was imposed too freely so its impressiveness diminished ... at last it degenerated from a tremendous spiritual sanction into a minor inconvenience.'<sup>6</sup> Such verdicts are reinforced by the fact that the only monograph concerned specifically with excommunication in later medieval England is a study of how the secular arm was used to coerce recalcitrant excommunicates. Secular aid was only necessary because excommunication alone had failed to discipline sinners.<sup>7</sup>

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<sup>1</sup> *Flores Hist.*, ii, 163.

<sup>2</sup> Warren, *King John*, 169.

<sup>3</sup> Turner, *King John: England's Evil King?*, 121.

<sup>4</sup> Prestwich, *English Politics in the Thirteenth Century*, 75-6. For 1234 see below 30-2, 97.

<sup>5</sup> Two of the above quotations are from biographies of John. Several of John's contemporary rulers likewise paid little heed to excommunication.

<sup>6</sup> Hill, 'Theory and practice', 10-11. Hill, however, did not believe that bishops or their subordinates were to blame.

<sup>7</sup> Discussed by Donald Logan in *Excommunication and the Secular Arm*, in 1968.

The idea that excommunication had lost its spiritual force by the thirteenth century has thus become a commonplace.<sup>8</sup> The idea itself is not misconceived, but it remains contestable for a number of reasons. It implies that excommunication's impact was so negligible that it requires only minimal attention from historians. More significantly, it addresses one aspect of the sanction. The importance of excommunication was not limited to its spiritual aspects. That excommunication was a spiritual penalty was undoubtedly of great importance, but whether people were privately afraid of excommunication was of little consequence if its social and public consequences took effect. The response of communities expected to enforce sentences of excommunication was as important as that of the individual excommunicate.

This thesis will not challenge the idea that the power of excommunication was reduced by abuse or overuse. It will, however, seek to explain in greater detail how and why such abuse affected the reactions of excommunicates and their associates. Despite modern assumptions, excommunication remained a valuable tool, and there was much to be gained from using it. Even when it could not be expected to have much effect on excommunicates themselves, it might be advantageous. For instance, it is unlikely that anyone believed that excommunicating Welsh rebels would strike such spiritual terror into them that they would immediately make peace with the English. Rather, excommunication was a way of demonstrating the church's support for the English cause, and of publicising the fact that the Welsh campaign was a worthy endeavour. The purpose of excommunication in such situations was more about the effect it might have on the English than how it might affect the Welsh.

Excommunication implied complete severance from the Christian faith. This meant that an excommunicate could not receive the sacraments or be involved in Christian worship in any way. Excommunication jeopardised salvation, forbidding association with fellow Christians. An excommunicate was thus, in theory, a complete outcast. Yet, if excommunication theoretically meant the same thing for everyone, the consequences for a king were rather different from those for a labourer. The latter was not, for instance, at risk of a rebellion being instigated against him. Likewise, why and

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<sup>8</sup> Of course, not all political historians of this period have taken such a dim view of excommunication's importance or efficacy, but these sentiments are certainly widespread.

how sentences were imposed might vary considerably. As Elisabeth Vodola observed in 1986, ‘That one speaks in the singular of “excommunication” says more about the limits of human judgement and discourse than about historical reality’.<sup>9</sup> It is, indeed, one of the central tenets of this thesis that sentences of excommunication could vary in a multitude of ways. An attempt has thus been made to narrow the focus of this study. Politics will here be interpreted as implying a rather broader arena than simply the acts of kings, popes, bishops and barons. Yet my thesis does not deal, for the most part, with quotidian excommunication at parish level. It is difficult to compare the excommunication of rebels in a civil war, for instance, with the excommunication of a parishioner who, having failed to appear in court to explain his adultery, might be sentenced for contumacy. The latter is an example of excommunication functioning as a routine judicial penalty. When excommunication was used in disputes – national or local – with clergy invariably acting as partisans, the sanction is not necessarily best understood as a judicial sanction. The use and enforcement of excommunication in political contexts involved more than routine application of the dictates of canon law. This is not to imply that judicial process was absent. But courts play only a minor role in the excommunications discussed here, and the sentences dealt with below were only rarely the result of procedures in church courts.

The developments in the function and use of excommunication described by Vodola and R.H. Helmholz are therefore of limited application in the sorts of contexts that will supply the focus here. Vodola’s monograph is primarily concerned with excommunication’s ‘ordinary function’, which was to ‘enforce procedure in the church courts’.<sup>10</sup> The majority of her book discusses excommunication within its legal framework. Helmholz has depicted a movement from excommunication used as a weapon or curse, to excommunication used as judicial sanction.<sup>11</sup> This supposed transformation is itself questionable: excommunication was always both. In different contexts, how and why the sanction was used differed considerably. It did not cease to

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<sup>9</sup> Vodola, *Excommunication*, vii.

<sup>10</sup> Vodola, *Excommunication*, 35.

<sup>11</sup> Helmholz introduced these arguments in 1995, in ‘Excommunication in twelfth century England’ and ‘Excommunication and the Angevin leap forward’ (which are the same article, published in different journals). He restated them in *Spirit of Classical Canon Law*, 366-90. He also emphasised legal process in his 1982 article, ‘Excommunication as a legal sanction’.

serve as a weapon after 1200, nor had it been used exclusively as such beforehand. One cannot base an argument for change over time on a comparison between excommunication used by an archbishop in a venomous dispute with a king, with its appearance in more humdrum circumstances, in ecclesiastical courts. Thus the contrast Helmholz seeks to draw between Thomas Becket's use of excommunication in the twelfth century and how, in the thirteenth, sentences were imposed via courts with due process, is to a large extent founded on false principles. Likewise, the practices of the twelfth century are not fairly represented by hagiography or its description of the more dramatic uses of excommunication.<sup>12</sup> Certainly not if such a text is then placed in comparison and disjunction with judicial records.

The examination of the role that excommunication played in politics will have bearing upon aspects of the sanction more generally, but the majority of cases here discussed are in one way or another exceptional. They are indicative of how excommunication could function in certain circumstances, but are not necessarily representative of the common experience. One crucial difference between excommunication as it appears in political disputes and its function as a legal sanction is the prominence of *latae sententiae* excommunications. Both Vodola and Helmholz treat this type of excommunication as something of an anomaly, with limited relevance or significance in practice.<sup>13</sup> In the following chapters, by contrast, such sentences will be of primary importance.

*Latae sententiae* excommunications were incurred automatically, following the perpetration of certain offences.<sup>14</sup> If a man assaulted a cleric, at the moment he made the assault, he was *ipso facto* excommunicated. Law itself became the excommunicator. These sentences, sometimes called excommunications *de jure*, were thus distinct from *ab homine* sentences, when a particular malefactor, or group of malefactors, was excommunicated by a particular cleric or group of clerics. A malefactor was said 'to incur' such a sentence ('*incurrere sententiam*') or 'to fall into'

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<sup>12</sup> i.e. Helmholz's use of the *Life of St Hugh of Lincoln*, ed. Douie and Farmer.

<sup>13</sup> Vodola, *Excommunication*, 35; Helmholz, *Spirit of Classical Canon Law*, 383-90.

<sup>14</sup> For the development of this type of excommunication see Huizinga, 'The earliest development of excommunication *latae sententiae*'; Vodola, *Excommunication*, 28-35; Helmholz, *Spirit of Classical Canon Law*, 383-90.

it ('incidere in sententiam'). *Ipso facto* excommunication remained a problematic concept, for several reasons. Such sentences seemed to contravene the requirement that excommunication should be imposed only after warning. How could someone be separated from the church in secret, in a process known only to the inanimate law? How could an excommunication be enforced if nobody else was aware that an offence had been committed incurring automatic sanction? Moreover, sentences might be phrased ambiguously. What precisely constituted 'laying violent hands on a cleric', as condemned in the sentence *Si quis suadente* of 1139? What if someone injured a cleric by accident? What if a practical joke went wrong? What if very little injury was caused?<sup>15</sup> The rules governing who could excommunicate were also confused by such sentences. Canon law was, in this period, attempting to restrict use of ecclesiastical sanctions. Only clerics holding jurisdiction were able to excommunicate, which implied, in practice, a judge in an ecclesiastical court, and usually no clergy below the status of bishops or abbots.<sup>16</sup> Lesser clergy could, however, publicise the fact that their spiritual subjects had fallen into automatic sentences.<sup>17</sup> Restrictions were likewise placed on who could absolve excommunicates; *latae sententiae* often stipulated that absolution must be sought from the papacy, an archbishop or a bishop. When Raymond of Peñafort compiled the *Liber Extra* in 1234, he devoted a considerable part of his section on excommunication to clarifications involving *Si quis suadente*.<sup>18</sup>

*Si quis suadente* was important because it was the best known and most frequently invoked *lata sententia*, protecting ecclesiastical persons from attack. Though heresy had long been assumed to incur automatic separation from the church, *Si quis suadente* was also the first official *lata sententia*, promulgated by the second

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<sup>15</sup> These were issues discussed at length by many scholars. Thus Raymond of Peñafort affirmed that spitting on a cleric incurred excommunication, for instance (*Summa*, Tit.XXXIII, 46). Peter the Chanter concluded that accidental injury of a cleric during a game did not incur a sentence, provided the game's rules were followed. Thus someone who crushed snow into ice during a snowball fight would incur the sentence (*Summa de sacramentis*, 395).

<sup>16</sup> See Clarke, *Interdict*, 86-8. Nevertheless, the matter was not clear-cut: Raymond of Peñafort acknowledged that opinions differed, and was definite only on the fact that the use of solemn anathema was restricted to bishops: *Summa*, Tit.XXXIII, 19.

<sup>17</sup> The 1224 Statutes of Winchester, for instance, forbade priests to excommunicate or denounce excommunicate by name without the authority of a superior, unless for retaining tithes or obventions. Nor were they to pronounce general sentences unless for theft, sorcery, arson or exposure of children. But, crucially, no sentences were to be pronounced 'pro propria iniuria sibi illata' (*C&S*, 137).

<sup>18</sup> X.5.39.

Lateran Council in 1139. It was therefore the focus for discussions and clarifications about how *ipso facto* sentences could be justified, and about how they might work in practice. *Latae sententiae* were the subject of prolonged controversy amongst canonists. Nevertheless, offences that incurred automatic excommunication proliferated in number. *Latae sententiae* could be pronounced by the papacy, but were also advertised in local legislation, applying to particular ecclesiastical provinces or dioceses. ‘The vagueness of some of these offenses might have suggested hesitation before making the culprit’s exclusion from Christian society automatic, but no such warning was given or heeded.’<sup>19</sup> As Helmholz has observed, a new name was applied to an old practice. In *latae sententiae*, the *ex parte* fulminations and anathemas characteristic of the earlier middle ages survived long into the thirteenth century and beyond.<sup>20</sup>

Much of this thesis addresses the advantages, disadvantages and peculiarities of *ipso facto* and general sentences (excommunications pronounced in response to a crime whose perpetrators were unknown).<sup>21</sup> As far as possible, my analysis is based upon examples drawn from thirteenth-century England, rather than upon canon law or theoretical discussions of excommunication. Local legislation is also prioritised over universal canon law. One of the problems of Vodola’s monograph is that it covers the entire middle ages with little sense of chronological forward movement, and with no obvious geographical limitations or distinctions. Understandably, therefore, much of it is dedicated to theory rather than practice. Vodola’s book provides fundamental background for this study, by providing a history of excommunication’s development from the early church through the early middle ages, and by detailing the various debates that took place amongst canonists and the writers of decretals.

Unsurprisingly, however, practice did not always correspond with theory. Not only was theory defied, but certain crucial aspects of excommunication were hardly part of the theory at all. Helmholz has rightly suggested that it becomes easier to

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<sup>19</sup> Helmholz, *Spirit of Classical Canon Law*, 390.

<sup>20</sup> Helmholz, *Spirit of Classical Canon Law*, 383.

<sup>21</sup> The opposite being excommunication by name (‘*nominatim*’).



evaluate what excommunication did if we know what it was meant to accomplish.<sup>22</sup> His approach, therefore, has been to ask how canonists viewed excommunication. He thus illuminates the theory of excommunication. Nonetheless, practice demonstrates that clergy used the sanction for purposes that had little to do with the law. The use of excommunication to defame enemies, or as ecclesiastical propaganda, was not a subject for discussion amongst canonists. Yet it is clear that these were advantages of which both churchmen and laymen were aware. In some instances, excommunication can be judged effective, precisely because its purpose was not simply to coerce sinners to return to the bosom of the church. This applies too, to how sentences were enforced. Lester Little has observed that repeating an excommunication ceremony added nothing, judicially, to the original sentence; ‘But the drama of cursing and clamouring was eminently repeatable, and for purposes other than judicial.’<sup>23</sup> This statement applies as much to thirteenth-century England as it does to eleventh-century France.

No case is being made here for English exceptionalism. There are undoubtedly parallels to be drawn both with practice on the continent and with the earlier and later middle ages. Indeed, continuity ought to be stressed. To read the modern discussions of excommunication as a legal penalty is to be told, incorrectly, that the liturgical rite of excommunication in this period was of little importance. English-language studies of excommunication in the thirteenth century have dedicated little space to the solemn ceremony, and it is clear that research is needed into practice, and that performance and ritual remained significant aspects of the sanction.<sup>24</sup> Further, whilst differing diocesan and governmental structures inevitably affected the practice of excommunication from kingdom to kingdom, such differences were less prominent in politics. The aims and effects of excommunication almost certainly shared more similarities than differences. Only in the respect that it remained remarkably free from

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<sup>22</sup> Helmholz, ‘Excommunication as a legal sanction’, 203.

<sup>23</sup> Little, *Benedictine Maledictions*, 40.

<sup>24</sup> Historians of the earlier period have focused on the ritual far more extensively: Reynolds, ‘Rites of separation and reconciliation’; Little, *Benedictine Maledictions* (not strictly discussing excommunication but maledictions); Hamilton, ‘Interpreting diversity’; ‘Remedies for “great transgressions”’. In 2013, Cristian Jaser published, in German, a monograph on ritual and ceremonial excommunication covering the entire middle ages: *Ecclesia Maledicens*. Véronique Beauland’s French monograph of excommunication in the later middle ages also affords the rite greater importance: *Le Malheur d’Être Exclu?*

heresy does England differ markedly in this period from contemporary France or late medieval England (for example). In regions of Europe where heresy was rife, the use and implications of excommunication were inevitably affected. Excommunication was often imposed against heresy, and in such circumstances those who remained excommunicated were automatically suspected of being heretics. Excommunication in thirteenth-century England was not complicated by these issues.

As Peter Clarke has observed, ‘the purpose of an interdict that strikes us as most controversial was as a political weapon’.<sup>25</sup> The same applies to excommunication. Excommunication was certainly frequently used as a political weapon, and this was controversial in the middle ages as now. It was one cause for the lack of respect for the sanction often demonstrated by medieval people. For the most part, the emphasis here is placed upon the effect with which excommunication was used as a political weapon. It is not a primary aim of this thesis to discuss why clergy supported one side or another in their disputes, nor to analyse how they justified supporting the king’s enemies and threatening the monarch himself with excommunication. The intent is rather to evaluate what might be achieved by using excommunication in various contexts, and thus how people responded to it.

It will be argued below that excommunication was chiefly important in politics because of its public nature. Though it did not, in itself, invariably compel those excommunicated to come to terms with the church, the publicity attached to it played an important role in dispute settlement. Morale was boosted in military campaigns by the church’s ritual condemnation of opponents; communities were fed striking propaganda describing the crimes of excommunicates, encouraging them to support actions taken against them; excommunicates were vilified by public and frequent denunciations, and their reputations thereby damaged. Beyond the immediate impact this had on disputes – which was not always of prime importance – excommunication, viewed as both ecclesiastical and secular propaganda, informed medieval society in a variety of ways about current events. Sentences were published in parish churches, often in the vernacular, accompanied by memorable ritual.

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<sup>25</sup> Clarke, *Interdict*, 117.

## CHAPTER SUMMARIES

The remainder of this introduction provides a narrative framework of the use of excommunication at the highest political level in England during this period. This is not intended to suggest that thirteenth-century England was exceptional, but merely to provide context for the remaining chapters, which do not attempt any chronological analysis. The decisions of bishops and popes to use excommunication in thirteenth-century England were neither new nor exceptional. Particularly when it comes to defence of ecclesiastical liberties, Thomas Becket, martyred for the liberty of the church, was a crucial role model. Nor was he a tacit influence, but was explicitly invoked on a number of occasions (not least in lists of authorities preceding excommunication denunciations). Likewise, the interference of popes in English affairs was not novel. Alexander III, both during and after the Becket dispute, threatened the king and his ministers with excommunication. At the same time, just as kings of England faced threats of papal excommunication in the thirteenth century, so rulers elsewhere suffered similar treatment. At the beginning of the century, Philip Augustus of France was threatened over his marital difficulties with Ingeborg of Denmark; at the end of the century, Pope Boniface VIII's bull *Clericis laicos* (1296) provoked struggles in France in many ways more severe than those it inspired in England.

Chapter one examines the spiritual implications of excommunication. It argues that, despite the theological and canonical developments of the twelfth and thirteenth centuries, the idea that excommunication condemned its subjects to hell was nonetheless widespread. The faithful were familiar with these ideas because the church continued to propagate them. The law itself, miracle stories and the solemn ritual of excommunication all contributed to the perpetuation of such beliefs. Further research is needed on the liturgy of excommunication in this period, and no full study has been attempted here. However, it is clear that the ceremony itself was of far greater importance than previous works on the thirteenth century have indicated.

Chapter two examines the impact of excommunication's spiritual terrors on individuals. There is evidence that people were afraid of the sanction, not least King

Henry III. Requests for absolution from automatic sentences supply one indication that excommunication generated uneasy consciences. By contrast, for many, the spiritual consequences of communication seem to have remained of only minor concern. The chapter thus analyses the difficulties that obstructed the spiritual coerciveness of excommunication.

Chapter three addresses the social consequences of excommunication. It has been insufficiently acknowledged that the efficacy of excommunication depended as much upon how a community responded as upon an individual's reaction. Nevertheless, the church faced many obstacles. Clergy and laity alike were sometimes unwilling to ostracise excommunicates; the crown actively sought to disrupt the sanction's efficacy. The sanction was brought into disrepute when it was used by both parties in a dispute. However, the requirement that excommunicates be shunned, and the fact that those under the ban had been expelled from the church, made otherwise unreasonable or illicit treatment acceptable. Excommunication could thus be exploited by those who wished to rebel or to harm their enemies. An excommunicate placed himself in a vulnerable position.

The fourth chapter examines the effects of the publicity given to sentences of excommunication. This publicity affected reputations, caused shame, and impacted upon society more broadly. Excommunication sentences included condemnatory descriptions of crimes committed, were performed with a solemn ritual, and required widespread promulgation. Excommunication was therefore an excellent way to defame someone and to influence public opinion. Although publication was a fundamental part of the enforcement of excommunication, clergy could capitalise upon it. The public nature of the sanction was often said to cause scandal, and was occasionally viewed as being a threat to peace.

The fifth chapter supplies an in-depth analysis of a dispute over an Oxfordshire prebend at the end of the thirteenth century. Alongside violence, recourse to both ecclesiastical and secular authorities and their laws, excommunication played a significant part here. The events at Thame inform our understanding of the sanction in a number of ways. Excommunication played a vital role in proceedings, but did not, in

itself, resolve the underlying dispute. Yet it could influence society's perception of events and, in turn, the outcome of legal proceedings. Sentences issued during the dispute were given unusually extensive publicity and were uncommonly maledictory. The sentences were valid, but issued without legal process: they demonstrate how *latae sententiae* worked and could circumvent the standard requirements of canon law.

The final chapter builds upon the role of excommunication as a means of mass communication as demonstrated in chapters four and five. This chapter, which should be read in conjunction with the appendix, deals with regular reiteration of *ipso facto* excommunications rather than individual cases. It discusses how the church used *latae sententiae*, requiring publication in every parish church several times a year, to publicise which crimes it took most seriously. These sentences were thus a form of ecclesiastical public broadcasting, but the requirement that they be explained to the people was also a matter of law and pastoral care. Thus the importance of the church's liberties, the peace of the kingdom, and the inviolability of Magna Carta were regularly impressed upon English parishioners.

### ***THE REIGN OF KING JOHN (1199-1216)***

The most important excommunications of John's reign involved the king himself and the sentences subsequently pronounced against his opponents. After the see of Canterbury fell vacant in 1205, and two elections were quashed, in 1207, Innocent III chose the Parisian scholar (English by birth) Stephen Langton as archbishop. Langton was rejected by King John, and in March 1208, Innocent laid England under interdict.<sup>26</sup> The interdict remained in force for more than six years. Although it was generally observed, it did not have the desired effects of turning the people against their king, or of compelling him to capitulate to the pope's demands. Therefore, in

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<sup>26</sup> *SLI*, nos.30, 31, 36 For the interdict and John's excommunication see: Cheney, 'King John and the papal interdict'; Cheney, 'A recent view of the general interdict on England'; Cheney, 'The alleged deposition of King John'; Cheney, 'King John's reaction to the interdict'; Cheney, *Pope Innocent III*, 303-25; Sayers, *Innocent III*; Maddicott, 'The Oath of Marlborough'; Warren, *King John*, 154-73; Turner, *King John: England's Evil King?*, 109-27; Clarke, *Interdict*, 169-71, 180-2; Harper-Bill, 'King John and the Church of Rome', 304-15; Vincent, *Peter des Roches*, 74-88.

1209, Innocent was forced to excommunicate John in person.<sup>27</sup> This sentence, however, was never fully enforced. Although most of the episcopate (with the exceptions of the bishops of Norwich and Winchester, John de Gray and Peter des Roches) felt they must go into exile after the sentence was pronounced, the majority of regular and secular clergy remained in England.<sup>28</sup> John's barons continued to communicate with their excommunicate king. John was thus able to rule for three and a half years, despite being separated from the church.

John's excommunication was hardly an advertisement for the ideal working of the sanction. But his sentence, albeit belatedly, *was* effective. He was absolved (in July 1213); Langton became archbishop.<sup>29</sup> In the meantime, by 1212, John's position had become considerably more precarious. He faced threats of papal deposition, baronial plots against him and the possibility of a French invasion.<sup>30</sup> John's excommunication thus demonstrates a fundamental point about such sentences: spiritual fears aside, the efficacy of excommunication depended upon factors over which the church had only limited control. The church could do its utmost to turn people against excommunicates, but unless or until it succeeded, it was perfectly possible for those sentenced to live under the ban. As with King John all this could change as a result of external pressures. These, combined with excommunication, might provoke or legitimise a baronial revolt or French invasion, rendering the sanction very dangerous indeed.

John's submission to the papacy is of considerable significance. Not only was John absolved but he accepted Langton as archbishop, granted a charter of free elections to the church, and declared himself a papal vassal.<sup>31</sup> Although this was viewed negatively by contemporaries, and involved a yearly payment of 1000 marks to the papacy, by securing unwavering papal support John obtained important advantages

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<sup>27</sup> *SLI*, no.41 and n. 2.

<sup>28</sup> Innocent ordered these to be suspended: *SLI*, no.47.

<sup>29</sup> *SLI*, no.55 and n.2. R.V. Turner, for instance, writes that the sentence 'failed to make much impact on England', that it did not rouse the baronage against John, and that 'If anything, the interdict and excommunication strengthened John's political position' by separating the church and baronage: *King John: England's Evil King?*, 121.

<sup>30</sup> Cheney, 'The alleged deposition of King John'.

<sup>31</sup> *SLI*, no.67.

both for himself and, in due course, for his infant successor, Henry III. Meanwhile, the English clergy, and particularly Langton, felt that the terms under which the interdict was lifted (in July 1214) were too lenient. The 40,000 marks to be paid as compensation to the exiled clergy were considered insufficient compensation for the revenue lost to the church over six years. Moreover, very little of this money was ever paid.<sup>32</sup>

King John now had to contend with a baronial revolt, prompted by the king's personality, the longstanding consequences of the loss of his continental lands, and the general tendencies of Angevin kingship. Such opposition to the king, now a papal vassal signed with the cross, was unreservedly condemned by Innocent III. The pope's letters were frequently misinformed and overtaken by events. Nevertheless, in March 1215, Innocent began by condemning conspiracies – which had by now become an armed rebellion – hatched against the king. He ordered the English barons, on pain of excommunication, to reconcile themselves with John.<sup>33</sup> In July (unaware of Magna Carta), he issued a general sentence against 'all disturbers of the king and kingdom'.<sup>34</sup> When he learned of the terms of Magna Carta (sealed on 15 June), a document that sought to place restrictions on the king in order to appease the barons and facilitate peace, he annulled it, declaring it shameful, demeaning, illegal and unjust. Excommunication was threatened against anyone who observed the Runnymede charter in a papal letter (*Etsi karissimis*) dated 24 August.<sup>35</sup> By this time, the peace negotiations represented by Magna Carta had in any case failed. The country fell into civil war from September 1215 onwards, not least as a result of the publication of letters from the pope, issued as long ago as 7 July, authorising the suspension of Langton and the excommunication of the rebels, cited by name.<sup>36</sup> In December, Innocent once again excommunicated the barons by name.<sup>37</sup> The barons, meanwhile, had invited Louis, son of the king of France, to take the throne. In the summer of 1216,

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<sup>32</sup> *SLI*, no.70; Cheney, *Pope Innocent III*, 332-7, 348-55; Sayers, *Papal Government and England*, 162-7; Vincent, 'Stephen Langton', 90-2.

<sup>33</sup> *SLI*, no.74.

<sup>34</sup> *SLI*, no.80.

<sup>35</sup> *SLI*, no.82.

<sup>36</sup> *SLI*, no.80; Powicke, 'The Bull "Miramur Plurimum"'

<sup>37</sup> *SLI*, no.85.

this invading force was also excommunicated, although the French army was to remain in England until 1217.<sup>38</sup> John died in October 1216, in the midst of a civil war, with the rebels and the French in control of half of his realm.<sup>39</sup>

Innocent III's sentences against the rebels are noteworthy because Langton refused to publish them. For this, he was suspended in 1215.<sup>40</sup> In the judgement of Christopher Cheney, the ecclesiastical censures merely 'hardened the determination of the more extreme'.<sup>41</sup> These events nonetheless demonstrate a second important fact about excommunication. Sentences of excommunication were not pronounced by 'the church', but by churchmen who could disagree with one another. A sentence pronounced on behalf of one side in a dispute, particularly if there was no objective 'right', could be rejected by clergy as well as laity. Langton certainly had sympathy with the barons' cause. He was accused, with some justification, of supporting the rebels.<sup>42</sup> He claimed that excommunications might hinder rather than help his efforts to make peace, and sought personal communication with the pope before pronouncing any sentence against the rebels. Not unreasonably, he argued that the pope was misinformed.<sup>43</sup> Nevertheless, his pleas were ignored, and he himself was suspended from office.

### ***THE REIGN OF HENRY III, 1216-26***

John and Innocent III died within months of one another. They were succeeded by the nine-year-old Henry III (1216-1272) and by the sixty-five year old Cencio Savelli, who assumed the name Honorius III (1216-1227). The succession of Henry did nothing to alter papal policy: throughout 1216 and 1217, Honorius III and his legate,

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<sup>38</sup> *Letters of Innocent III*, no.1180-1.

<sup>39</sup> For Magna Carta, the baronial rebellion and barons' war, see: Carpenter, *Magna Carta*, 310-403, 395-403; Holt, *Magna Carta*; Cheney, *Pope Innocent III*, 357-400; Baldwin, 'Master Stephen Langton'; d'Avray, "'Magna Carta'"; Warren, *King John*, 206-56.

<sup>40</sup> *Letters of Innocent III*, no.1026; *SLI*, no.84.

<sup>41</sup> Cheney, *Pope Innocent III*, 381.

<sup>42</sup> See Vincent, 'A New Letter of the Twenty-Five Barons of Magna Carta'; Vincent, 'King John's diary and itinerary', 25-31 January 1215, 24-30 May 1215, and 31 May-6 June 1215.

<sup>43</sup> Cheney, *Pope Innocent III*, 379-81, 389-90.



Guala Bicchieri, maintained their excommunications of Louis and all his supporters.<sup>44</sup> Within England, however, John's replacement by 'his young, blameless son' marked a turning point. The boy king could not be punished for his father's mistakes. His promises to mend his father's errors were embodied, in November 1216, in the first reissue of (a heavily revised) Magna Carta.<sup>45</sup> Meanwhile, the civil war was still raging, and it was by no means certain that Henry would retain his throne. The young king's position improved in early 1217, when several of Louis's former supporters defected to his side and a crusade was preached by the legate against the invaders. In May, the royalists won a decisive military victory at the battle of Lincoln, reinforced, in August, by a sea battle fought off the coast of Sandwich. As with John, Louis's excommunication became a far more dangerous weapon once the political and military tide had turned. In September 1217, having sought absolution, Louis abandoned his English campaign, pledging himself instead to fight in the crusade against the Albigenian heretics of southern France.<sup>46</sup>

Langton remained abroad until 1218, so that it was papal legates who dealt with the aftermath of the civil war. Guala dealt severely with clerics who had supported rebellion. Many were suspended and excommunicated, their benefices awarded to men loyal to the king.<sup>47</sup> Guala resigned his legation in September 1218, but it was felt that another legate was necessary to preserve the kingdom's peace, and he was immediately replaced by the papal subdeacon, Pandulf Verracelo. The 'battleground of English politics down to 1224' was determined by the pope: Pandulf was to regain control of castles and lands that by rights belonged to the king, but that had fallen into magnate control.<sup>48</sup> Between 1216 and 1219, England was governed by the regent, William Marshal, earl of Pembroke. Following his death, a triumvirate took control: the justiciar (Hubert de Burgh), the bishop of Winchester (Peter des Roches) and the legate (Pandulf). Political instability remained acute for a number of years,

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<sup>44</sup> *Royal Letters*, app. v, no.1; *Letters and Charters of Guala*, no.56.

<sup>45</sup> Carpenter, *Minority*, 22-4; Carpenter, *Magna Carta*, 406-11.

<sup>46</sup> *Letters and Charters of Guala*, no.57. For these early years of Henry III's reign see Carpenter, *Minority*, 13-49; Vincent, 'Introduction', *Letters and Charters of Guala*; Vincent, *Peter des Roches*, 134-41; Hanley, *Louis: the French Prince*, 60-177; Powicke, *The Thirteenth Century*, 1-15.

<sup>47</sup> *Letters and Charters of Guala*, xli-xlii, lxi-lxvi and notes.

<sup>48</sup> Carpenter, *Minority*, 118, 142.

with Pandulf and the English bishops pronouncing sentences against those who infringed the peace. Both general sentences and excommunications against individuals were imposed, with the intention of protecting the peace. Tournaments were viewed as threats to the peace and the papal sentence prohibiting them was duly enforced. William, earl of Aumale, was personally excommunicated for his failure to comply.<sup>49</sup> Philip of Oldcotes was told (to no effect) that if he did not surrender the castle of Mitford, Pandulf would excommunicate him.<sup>50</sup> In 1221, the earl of Aumale was again excommunicated, this time for seizing and holding royal castles, and for taking up arms against the king.<sup>51</sup>

This was Pandulf's last sentence passed as legate, for in the summer of 1221, Langton convinced pope Honorius III to end Pandulf's legation. For the time being, however, the English bishops maintained their policy of excommunication to protect the king and the peace. In 1222, Langton and the bishops responded to rumours of plots implicating the earl of Chester by threatening to excommunicate those who disturbed the kingdom or assaulted the king. The Crowland chronicler records that Langton pitied the king's youth and weakness, successfully making peace.<sup>52</sup> A few months later, the archbishop's first provincial council issued a general excommunication against disturbers of the peace. The following year, this sentence was used by Honorius III to excommunicate Llywelyn, prince of Wales, who had destroyed castles and provoked war against the king.<sup>53</sup> In late 1223, with the country on the brink of civil war, another general sentence against disturbers was pronounced. The earl of Chester and his supporters were additionally threatened with excommunication *nominatim* if they did not return their castles and possessions to the king and desist from their rebellion. This threat appears to have been effective, for the earl and his men surrendered their royal castles and armed hostility was avoided.<sup>54</sup> Falkes de Bréauté, a Norman adventurer closely associated with some of the worst excesses of King John, capitulated less easily. In 1224, accused of acting as 'more than

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<sup>49</sup> *PR* 1216-25, 257-8.

<sup>50</sup> *PR* 1216-25, 224-6.

<sup>51</sup> *Coggeshall*, 188; *Ann. Dunstable*, 63-4.

<sup>52</sup> *Coventry*, 251.

<sup>53</sup> *Royal Letters*, no.191; *Ann. Dunstable*, 83.

<sup>54</sup> *CM*, iii, 83; *Oxenedes*, 150.

king in England', Falkes illicitly occupied the castle of Bedford.<sup>55</sup> Langton, 'to show the affection he had for the king', excommunicated Falkes and his supporters.<sup>56</sup> Bedford eventually succumbed to siege. Falkes was arrested, threatened with death but subsequently absolved. Archbishop Langton, meanwhile, was reprimanded by the pope. Henry III had requested a legate, but Langton, keen to preserve his status as primate, prevented this by disingenuously claiming that peace had been restored in England. Following representations by Falkes himself, the pope accused Langton of instigating disorder, questioning why the archbishop had seemingly advised the young king to make war on his own subjects when there was greater danger in Poitou.<sup>57</sup> Nevertheless, as Carpenter has shown, it had been essential to quash Falkes, to ensure that rebellion was not seen to go unpunished.<sup>58</sup> Langton thus continued to use excommunication to rein in the king's over-mighty subjects.<sup>59</sup>

Nevertheless, such efforts to protect the king's peace should not be misrepresented. Most importantly, ecclesiastical liberty always took precedence. However much the bishops desired to help the boy king, they had much else to gain from peace. Carpenter has observed that Langton viewed defence of the church as a fundamental obligation of kingship; 'Clearly, unless English kingship recovered from its enfeebled state after the war, it could not perform this basic task'.<sup>60</sup> By undertaking a role as peacemaker, Langton also enhanced his own power by exerting influence.<sup>61</sup> This he needed to do, having been side-lined by papal legates who had prioritised the freedom of the whole English church at the expense of individuals (including Langton's own church of Canterbury).<sup>62</sup> Churchmen viewed protection of the peace and the king as desirable, not least because this assisted a more important purpose:

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<sup>55</sup> *Ann. Tewksbury*, 64.

<sup>56</sup> *Coventry*, 265; *Oxenides*, 151.

<sup>57</sup> *Royal Letters*, app. v, no.19.

<sup>58</sup> Carpenter, *Minority*, 360-3.

<sup>59</sup> The political narrative of Henry's minority in the years after Louis's invasion is given at length in Carpenter, *Minority*, chs. 3-9. See also Vincent, *Peter des Roches*, chs. 5-6; Powicke, *The Thirteenth Century*, 16-37.

<sup>60</sup> Carpenter, *Minority*, 264.

<sup>61</sup> Carpenter, *Minority*, 263-5; Vincent, 'Stephen Langton', 104. Cf. the 'Peace of God' movement in millennial France, when excommunication was used to protect the *pauperes* and the peace, but in which there was also a great deal of clerical self-interest and secular advantage. Martindale, 'Peace and war'; Taylor, 'Royal protection in Aquitaine and Gascony'; Barthélemy, *L'an mil et la Paix de Dieu*; Head and Landes (eds.), *The Peace of God*.

<sup>62</sup> Vincent, 'Stephen Langton', 99-105, 110.

ecclesiastical liberty. Excommunication was overwhelmingly used to protect the church and its members. Langton was no exception to this rule, as his first provincial council, held at Oxford in 1222, serves to remind us.

Langton's desire to assert himself and defend his church's rights supplies crucial context for the 1222 council. The council itself was of fundamental importance, for it furnished the basis of English ecclesiastical law for the rest of the middle ages.<sup>63</sup> It equally supplied what would become known as the 'great curse': a list of excommunications pronounced four times a year, in theory, in every parish church.<sup>64</sup> Langton opened his council in a striking and unprecedented way, by authority of God declaring that anyone who committed certain offences was *ipso facto* bound by greater excommunication. At the top of Langton's 'most wanted' list were placed those who infringed the rights and liberties of the church.

There was no obvious precedent for opening a council with a sentence of excommunication. *Latae sententiae* excommunications were proliferating at this time, but it was not the norm to begin a council by listing them.<sup>65</sup> The archbishop was unambiguously declaring what he deemed to be of utmost importance: pride of place was to be given to the liberties of the church, the cause for which Langton's role model, Thomas Becket, was reputed to have died and for which Langton himself had suffered years of exile and disgrace.<sup>66</sup> The king's rights and peace were placed second and were protected only in so far as they did not impinge upon ecclesiastical liberties. The remaining sentences condemned false witnesses; those who unjustly delayed marriage cases; those who made defamatory accusations; those who impeded true patrons of churches, or who impeded the writ to capture contumacious excommunicates. In terms of practice, the sentence *Qui malitiose ecclesias*, protecting the church (and interpreted very broadly), was the most commonly enforced. By

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<sup>63</sup> C&S, 100-1.

<sup>64</sup> See appendix, no.4.

<sup>65</sup> Lateran IV, for instance, declared heretics and those who helped the Saracens *ipso facto* excommunicated, but the canons were given no particular prominence: Tanner, *Decrees*, i, 223-5.

<sup>66</sup> Significantly, not the nebulous idea of *libertas ecclesie* as discussed in the Paris schools and for which Thomas Becket had been martyred, but the more specific rights of churches. Langton had been a prominent scholar in Paris and strongly identified with Becket, so use of this phrase might be expected. Baldwin, 'Master Stephen Langton', 833; *CTB*, ii, 1080-1; Vincent, 'Stephen Langton', 67-72, 80-87.

contrast, *Qui pacem et tranquillitatem*, protecting the king and his peace, was invoked far less often.

Henry III's minority witnessed one last important use of excommunication: in 1225, Magna Carta was reissued in return for subsidy to the king. Excommunication was used to enforce it. This established a precedent. Magna Carta and the Forest Charter were confirmed in return for taxes granted by clergy and laity, and excommunication was pronounced against anyone who infringed the charters. This pattern was followed on numerous occasions thereafter, notably in 1237, 1253, 1270 and 1297. The church became the 'custodian of the charters', assuming a role that was ideologically significant.<sup>67</sup> As head of the English church, Langton demonstrated his support for limitations placed upon the sovereign power of the king. David d'Avray has shown that Langton's theology supported the principles of Magna Carta, and his decision to use excommunication to enforce it was surely guided by these principles.<sup>68</sup> However, it is also clear that when Magna Carta was invoked hereafter, clergy were usually thinking of the charter's first clause, asserting the freedom of the English church. The practical consequences of this sentence have been debated, but it was significant at the very least because the church was henceforth bound to enforce Magna Carta.<sup>69</sup> In consequence, the church also assumed an obligation to inform the king and others should they be in danger of incurring the sentence of excommunication passed against those who infringed the charters.

Henry's minority was never officially annulled, but the king was declared of age in 1224, aged seventeen, and thereafter gradually assumed the reins of government, issuing his own charters from 1226.<sup>70</sup> In 1227, Gregory IX (1227-1241) declared him old enough to govern. By this time, much of the discord had been resolved, but the pope nonetheless warned the barons that they should devotedly serve

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<sup>67</sup> Gray, 'Church and Magna Charta', 24.

<sup>68</sup> d'Avray, "'Magna Carta'".

<sup>69</sup> See Hill, 'Magna Carta, canon law and pastoral care'.

<sup>70</sup> Carpenter, *Minority*, 389-95.

their king, and faithfully and firmly assist him against opponents, on pain of excommunication.<sup>71</sup>

### ***HENRY III, 1227-1258***

In the early years of Henry's personal rule, papal policy remained largely unchanged. The king was granted privileges that protected him from excommunication, and the sanction continued to be used against his opponents. Thus Gregory IX ordered various magnates who were making unlawful alliances and conspiracies, and who were 'striving to disturb the peace' of the king and his kingdom by organising tournaments, to be restrained by excommunication.<sup>72</sup> Three years later, at Henry's request, Gregory ordered the bishop of Ely and others to excommunicate laymen who were disturbing the peace. He had been informed by the king that it was the custom for English bishops to exercise ecclesiastical censures on disturbers of the peace.<sup>73</sup> This letter is short but important, for it is an early indication that the opinions of the English episcopate and the papacy had begun to diverge. The king was no longer a minor, and the bishops now feared that acting in his favour, regardless of the facts, might risk more harm than good. Who was truly 'disturbing the peace' was a matter of opinion. A recurring theme of Henry's reign now emerged: that Henry had chosen bad (and foreign) counsellors and must be coerced into choosing better ones.

In 1233, Henry faced rebellion from Richard Marshal, earl of Pembroke. The full background here was complicated, but the earl was not alone in taking exception to the influence at court of certain counsellors, in particular of the Frenchman, Peter des Roches. Peter, so it was alleged, had denied the magnates access to the king to resolve their disputes. As a result, 'armed force was the only means at their disposal to gain the hearing they had been denied'.<sup>74</sup> Thus when the Marshal was unable to secure

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<sup>71</sup> *Foedera*, I.i.190.

<sup>72</sup> In 1228. *Foedera*, I.i.189.

<sup>73</sup> *Foedera*, I.i.200.

<sup>74</sup> Weiler, *Kingship, Rebellion and Political Culture*, 28; Vincent, *Peter des Roches*, 399-428.

the return of a castle, he took it by force. At the same time, at a parliament held in Winchester, the king was urged to correct his faults. When he instead followed 'evil advice', the bishops threatened to excommunicate the king's principal advisors. They then pronounced a general sentence against those who influenced the king against native Englishmen, or who disturbed the peace of the kingdom. For the bishops, those disturbing the peace were the foreign counsellors who had turned Henry against his English magnates and caused him to deny them justice. Therefore, when the king was informed that the Marshal had captured the castle of Usk, he was 'greatly perturbed, and ordered all the bishops to excommunicate the marshal by name'. This they refused to do, instead declaring that the Marshal did not deserve to be excommunicated because he was occupying a castle that was his by right. The bishops, particularly Alexander Stainsby, bishop of Coventry and Lichfield, were accused of excessive familiarity with the Marshal and of supporting a challenge to the throne. The bishops responded by solemnly excommunicating all those with designs against the king, or who had accused the bishops, 'who were wholly concerned with the king's health and honour', of supporting such conspiracies.<sup>75</sup> The bishops, however, were reprimanded by the pope. Henry complained to Gregory that the bishops had refused to excommunicate disturbers of the peace, despite the pope's earlier letter, and despite the various homicides, fires, invasions of castles and other disturbances perpetrated by the king's enemies. The bishops' arguments were judged spurious and disingenuous, with Gregory sternly warning them to disregard their frivolous excuses and to restrain disturbers of the peace with ecclesiastical censure. Peace was to be restored, and the king to be shown love and honour.<sup>76</sup>

Nevertheless, the bishops continued to urge the king to dismiss his counsellors. They argued that these men could not personally profit through peace, and so were creating dissension and disinheriting others to their own advantage. The English magnates, in contrast, had been dismissed from court. The king was warned that, since his advisors had perverted the law of the land, itself confirmed by excommunication

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<sup>75</sup> *CM*, iii, 251-2, 268; Vincent, 'Master Alexander Stainsby', 631-2.

<sup>76</sup> *Royal Letters*, app. v, no.34. For these events see Weiler, *Kingship, Rebellion and Political Culture*, particularly 159-61 for the bishops' involvement; Vincent, *Peter des Roches*, 399-438.

(the Magna Carta sentence), ‘it is to be feared that they are excommunicated and you also for communicating with them’. If he did not dismiss such men, the bishops would proceed against him with ecclesiastical censure. They awaited only the consecration of Edmund of Abingdon, now elected but not consecrated as archbishop of Canterbury. The king responded by pleading for more time, declaring that he could not dismiss his counsellors so suddenly. However, following the archbishop’s consecration and renewed threats that, unless the king correct his errors, he and all those who disturbed the peace along with him would be excommunicated, Henry capitulated.<sup>77</sup> Matthew Paris noted that the ‘pious king’ humbly agreed to obey the bishops’ counsel in everything. Accordingly, Peter des Roches was dismissed from court and told to attend to cure of souls in his diocese of Winchester.<sup>78</sup>

The account of these events in the chronicle of St Albans (written at first by Roger of Wendover, thereafter by Matthew Paris), on which the above is based, should not be taken at face value. Nicholas Vincent and Bjorn Weiler have both dissected the issues in far greater depth than is possible here. For the purposes of this thesis, however, a number of points should be made. First, the use of excommunication can be seen as a bellwether for relations not only between the king and his subjects but between the papacy and English episcopate. The papacy, ever eager to protect its royal vassal, did not simply endorse the bishops’ actions. But both the bishops and the pope argued that they were striving to maintain the peace with excommunication. Events again demonstrate that *latae sententiae* sentences were open to interpretation. Finally, the threat of excommunication was effective against Henry III, who submitted to the bishops rather than be severed from the church.

For the next twenty or so years, excommunication in England at the highest level centred around Magna Carta. The king was reminded that he had sworn to observe the liberties in the charter, and that excommunication was the fate of any who infringed it. The English church was happy to threaten the king if he was deemed to have infringed their liberties. In 1237, the Magna Carta excommunication was

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<sup>77</sup> On Edmund’s consecration, and the unity of the bishops against des Roches at the ceremony, see Vincent, *Peter des Roches*, 435 and n. 30.

<sup>78</sup> *CM*, iii, 269-71.



solemnly renewed, with the king himself participating in the ritual. At the same time, he himself was absolved from the sentence, should he have unwittingly incurred excommunication by past infringements.<sup>79</sup> In 1253, the charter was again confirmed and a solemn ceremony conducted in which violators were sentenced with excommunication. This confirmation was demanded by the church, which sought redress for various royal infringements of its liberties. In return, the clergy agreed to an ecclesiastical tenth on movables for three years. This sentence was recorded, and later confirmed by the papacy. The bishops included not only the text of Magna Carta, but also the sentences *Qui malitiose ecclesias* and *Qui pacem et tranquillitatem* within the 1253 text.<sup>80</sup>

These years saw no more direct challenges to the king's rule, but he nonetheless faced numerous difficulties. At home, he continued to patronize foreigners: his wife's family, the Savoyards, and his own half-brothers, the Lusignans. The latter, in particular, provoked considerable opposition. Overseas, Henry failed to recover the continental lands that his father had lost, and in the process spent a great deal of money, not least on expeditions to Gascony in 1242-3 and again in 1253-4. The magnates, predictably, resented such unwise expenditure. In 1244, they sought to impose certain reforms, demanding that the office of justiciar be revived, a position that had ceased to exist in 1234. Their attempts were unsuccessful, however, and tensions between them and the king remained high. Henry's control of Gascony remained under constant threat. This contributed to Henry's financial pressures, and caused a rift between the king and his brother-in-law, Simon de Montfort, earl of Leicester. Montfort had been sent to Gascony to bring it under control, but in so doing had caused much local hostility. Henry was therefore forced to launch an expedition in 1253, further straining his financial resources.<sup>81</sup>

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<sup>79</sup> *Grosseteste Letters*, no.72\*; *CM*, iii, 382-3.

<sup>80</sup> *C&S*, 477-8. For Magna Carta 1225 and its subsequent history see Carpenter, *Minority*, 376-95; Carpenter, 'Archbishop Langton'; Gray, 'Church and Magna Charta'; Thompson, *First Century of Magna Carta*. For the significance of the 1253 sentence, see Hill, 'The church and Magna Carta', and *English Episcopal Acta* 35: Hereford 1234-1257, ed. Barrow, 43-6, which provides a list of manuscripts that contain this sentence, demonstrating its iconic status.

<sup>81</sup> For these years see Carpenter, 'Kings, magnates and society: the personal rule'.

It was in this climate that Henry made the imprudent decision, in 1254, to enter into an agreement with the papacy that his son, Edmund, would take the crown of Sicily.<sup>82</sup> The foolhardiness of this enterprise is aptly encapsulated in the response attributed to the king's brother, Richard of Cornwall, when he was offered the throne: the pope might as well have said 'I will sell or give you the moon, go and get it'.<sup>83</sup> Not only would Edmund have to prise Sicily from the hands of the Staufen ruler, Conrad IV, but Henry was obliged to pay the pope 135,000 marks, to provide 300 knights, and to be present in Sicily by October 1256. If he did not do so, he was *ipso eo* excommunicated, and England placed under interdict.<sup>84</sup> Henry repeatedly failed to meet these terms. For the first time since John's reign, the king of England was at serious risk of papal excommunication.<sup>85</sup> Henry was forced, repeatedly, to ask Alexander IV (1254-1261) for extensions and more lenient conditions, and to seek reassurance that he was not excommunicated. In addition to the automatic sentence contained in the original terms, a papal legate, Arlot, was sent to England in 1258 to threaten the king and his magnates with the consequences that would arise if the money owed to the papacy were not paid.<sup>86</sup> Henry successfully avoided these sanctions, though it was only in 1263 that he was formally freed from the terms negotiated in 1254.<sup>87</sup> The 'Sicilian business', as it is usually called, exacerbated Henry's uneasy relationship with his barons. They resented financial consequences, and the fact that such a serious and reckless decision had been made without their involvement and with the counsel of foreigners. The business was a contributing factor

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<sup>82</sup> The pope, desperate to disunite Sicily and the Holy Roman Empire, and thereby quash the threat the Hohenstaufens posed to papal lands, offered the crown to various rulers. See Weiler, *Henry III of England*, 148-9.

<sup>83</sup> According to Matthew Paris (the phrase was probably the chronicler's invention): *CM*, v, 457.

<sup>84</sup> *Foedera*, li.316-18. Negotiations had begun with Innocent IV, but these terms were drawn up by Alexander IV, and were harsher than anything proposed by Innocent. See Weiler, *Henry III of England*, 147-53.

<sup>85</sup> He had been threatened at other times, if he did not make peace with the king of France, for instance, but the danger of an excommunication actually taking place was less imminent.

<sup>86</sup> *Ann. Dunstable*, 208; *Ann. Tewksbury*, 162-3.

<sup>87</sup> Weiler, *Henry III of England*, 156-7.

to the events of 1258, when Henry was forced to submit to a programme of baronial reform, which would subsequently lead to a civil war.<sup>88</sup>

### ***THE PERIOD OF REFORM AND REBELLION AND END OF THE REIGN, 1258-72***

In 1258, the English barons initiated a scheme to reform the state of the realm 'by a programme of legal, judicial, and administrative reforms coupled with radical changes in both the control and the framing of national policy'.<sup>89</sup> They were prompted to act by further royal demands to assist with the Sicilian business. In return for granting aid to the king, the barons insisted that the king agree to reforms. They were concerned about foreigners and proper local enforcement of the 'law of the land'. They asked that one or two justiciars be appointed, insisting that Magna Carta be observed and that three parliaments be held each year.<sup>90</sup> Oaths were taken to observe these reforms, set out in the 'Provisions of Oxford', to be sworn by the king, the council of twenty-four, the chief justiciar, the chancellor, castellans, and the 'community of England at Oxford'.<sup>91</sup> In addition, the archbishop and several of his suffragans, with the king himself holding a candle, excommunicated those who infringed these ordinances or provisions.<sup>92</sup> In 1259, a further document known as the 'Provisions of Westminster' was drawn up. The king's personal authority was seriously curtailed.

The king eventually shook off these constraints to his rule and, in 1261, wrestled back control over his kingdom. Moreover, Pope Alexander obligingly absolved all those who had taken oaths in 1258, and ordered those who insisted upon the reforms to be excommunicated.<sup>93</sup> Many of the rebellious barons made their peace

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<sup>88</sup> For the Sicilian business see: Weiler, *Henry III of England*, 147-71; Weiler, 'Henry III and the Sicilian Business'; Clanchy, *England and its Rulers*, 235-40; Carpenter, 'Henry III and the Sicilian affair'; Treharne, *Baronial Plan*, 58-63.

<sup>89</sup> *DBM*, 1.

<sup>90</sup> *DBM*, 94-5.

<sup>91</sup> *DBM*, no.5. Each took a different oath.

<sup>92</sup> *DBM*, 259; *Robert of Gloucester*, ii, 734; *Guisborough*, 186; *Flores Hist.*, iii, 254. Sophie Ambler, in contrast to John Maddicott, has argued that this excommunication never took place. It is my opinion that it did. Ambler, 'Peacemakers and partisans', 142-9; Maddicott, *Simon de Montfort*, 162.

<sup>93</sup> *DBM*, nos.32-34.

with the king, but one, Simon de Montfort, left England in disgust. Simon regarded those who had abandoned the reform programme as perjurers, despite the pope's absolution from any oaths taken. When he returned in 1263, to try once again to enforce the reforms, he was the sole leader of the opposition, having previously been one amongst several. He also acted here from personal grievances against the king, many of them financial, stretching back over the past thirty years. The rebellion's support base became less baronial and more popular. Following the outbreak of violent hostilities in various parts of the country, Montfort and Henry III agreed that Louis IX of France mediate their disputes. The French king, unsurprisingly, could not countenance the reforms and their restriction on royal power, and sided with Henry. Montfort refused to accept this decision. The realm was now in a state of civil war. In May 1264, the royal army was defeated at the battle of Lewes. The king and prince Edward were imprisoned, and Montfort became the *de facto* head of state. Montfort managed to prevent the arrival in England of a papal legate, and was fortunate that a planned French invasion never materialised. Edward managed to escape, however, and the following year, in August 1265, another battle was fought at Evesham. This time, victory went to the royalists. Montfort and many others were killed in the battle. However, disorder did not end with Montfort's death. Many of his supporters, refusing to give in, were besieged in the castle of Kenilworth and the Isle of Ely. An uneasy peace was eventually established, in 1266, with the Dictum of Kenilworth. But even thereafter, the realm remained in a state of high tension.<sup>94</sup>

Excommunication played a significant role in these events, and was once again employed by both parties. The Provisions of Oxford were guaranteed under pain of excommunication in 1258, apparently by the primate and nine of his suffragan bishops. The reforms were also tied to the less controversial restrictions of Magna Carta, and excommunication was pronounced, in 1265, against those who violated either.<sup>95</sup> These excommunications and the oaths taken contributed to the belief that the reform

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<sup>94</sup> The documents concerning the rebellion are found in *DBM*. The key works on the period include: Maddicott, *Simon de Montfort*; Treharne, *Baronial Plan*; Carpenter, 'What happened in 1258?'; Knowles, *Simon de Montfort*.

<sup>95</sup> *DBM*, no.42; Ambler, 'Magna Carta: Its Confirmation', discusses the March 1265 parliament and Magna Carta confirmation at length.

programme was a religious undertaking. The bishops of Worcester, Chichester, London, Lincoln and Winchester all supported the reform agenda, as did the friars, particularly the Franciscans, who preached on Montfort's behalf.<sup>96</sup> Montfort was an unusually pious man, and his campaign had a strong religious element. After Evesham, Montfort was discovered to be wearing a hair shirt. He had earlier been a familiar both of Robert Grosseteste, the renowned scholar and bishop of Lincoln (1235-1253), and of Adam Marsh, a Franciscan scholar and theologian (d. 1259). After his death (or martyrdom), Montfort's body was dismembered, and a cult developed that would have presented him as a saint. Miracle stories proliferated after his death, propagated by the Franciscans. Though the motives of Montfort combined piety with self-serving revenge, during his life, his supporters fully subscribed to the idea that he was fighting for justice and with moral rectitude. During the battles of Lewes and Evesham, the Montfortians wore white crusader crosses, and Walter Cantilupe, the bishop of Worcester, had granted Montfort's troops what in effect was a crusading absolution. When Montfort and his men feared destruction in Southwark in late 1263, they confessed, took communion and signed themselves with crusader crosses.<sup>97</sup>

All of this was in spite of the fact that Montfort and his supporters were excommunicated, and died in that state. The Dictum of Kenilworth expressly forbade:

Under distraint of the Church, that Simon, earl of Leicester, be considered to be holy or just, as he died excommunicate according to the belief of the Holy Church. And that vain and fatuous miracles told of him by others shall not at any time pass any lips.<sup>98</sup>

When Alexander IV, in 1261, quashed the Provisions of Oxford and absolved those who had taken the oaths, he excommunicated all those who contravened his judgement.<sup>99</sup> This was confirmed by Urban IV the following year.<sup>100</sup> Montfort and

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<sup>96</sup> Ambler, 'The Montfortian bishops'; 'Peacemakers and partisans'.

<sup>97</sup> For Montfort's piety and the popular and religious nature of the rebellion, see Maddicott, *Simon de Montfort*, 77-105, 247, 289-306, 346-7 and notes; Valente, 'Simon de Montfort'; Carpenter, 'Simon de Montfort'; Carpenter, 'English peasants in politics, 1258-67'; Melve, 'The public debate during the baronial rebellion'.

<sup>98</sup> *DBM*, 323.

<sup>99</sup> *DBM*, no.34.

<sup>100</sup> *DBM*, no.36.

certain others were excommunicated by archbishop Boniface of Savoy (1242-1270) in 1263, and by Urban IV in 1264.<sup>101</sup> Gui Foulquois, as legate and subsequently as pope Clement IV, pronounced repeated excommunications against the rebels. He also promulgated a crusade against them, so that the royalists at Evesham wore red crosses. Both sides thus appropriated crusading rhetoric and imagery. Crucially, however, none of these excommunications was promulgated in England. The archbishop was in exile, and the legate was never permitted to enter the kingdom.<sup>102</sup> It is not difficult to understand why Montfort and his accomplices were so desperate to ensure that his separation from the church was not published, since this ‘would undermine the whole moral and religious foundation for their enterprise.’<sup>103</sup> After the royalist victory at Evesham, the papal legate Ottobuono Fieschi, was permitted to enter England and sought to restore peace, much as had happened in the early years of Henry III’s reign. Several times between 1265 and 1267, on the orders of Clement IV, Ottobuono excommunicated rebels, the enemies of the king, and those who infringed the peace. At the siege of Kenilworth he excommunicated the rebels, as he did the disinherited still resisting at Ely.<sup>104</sup> The bishops who had supported Montfort were also dealt with severely, being suspended and forced to go to Rome to seek pardon. It was some time before the country was restored to a tranquil state. In the meantime, excommunication was once again used in the king’s favour, in order to coerce people into observing the peace.

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<sup>101</sup> Oxford, Bodley MS 91, f. 136r-v; *Reg. Urban IV*, iii, no.1454.

<sup>102</sup> *Papst Clemens IV*, ed. Heidemann, nos.43, 44, 50, 52 (many earlier letters in this legatine register contain threats of excommunication); *Reg. Clement IV*, nos.117, 122, 483; *Foedera*, I.i.459-62, 469-70, Maddicott discusses the danger posed by and the failure of the legate’s mission in *Simon de Montfort*, 290-308.

<sup>103</sup> Maddicott, *Simon de Montfort*, 291.

<sup>104</sup> *Flores Hist.*, iii, 8-9; *C&S*, 726, n.5; *Guisborough*, 202-3; *Robert of Gloucester*, ii, 772; *Oxenedes*, 232-3; Rishanger, *Chronica*, 47; Rishanger, *De Bellis*, 54-8; *Annales Monasterii de Waverleia*, 371; *Chron. Bury*, 37; *Foedera*, I.i.469-70; *Reg. Clement IV*, no.483.

### ***THE REIGN OF EDWARD I, 1272-1307***

When Henry III died, in November 1272, Prince Edward was on crusade in the Holy Land. There was no resistance to his succession, however, and he was crowned in 1274 when he finally returned to his kingdom. In terms of the role excommunication played in English politics, there is a marked difference between the reign of Edward I and that of his father. It is notable that Edward did not call upon the church to bolster his authority, and that the church (English and Roman), equally, did not feel the need to help the king in this way. This is perhaps because, on the whole, Edward's reign was characterised by greater stability than had marked the last twenty years of the reign of his father. There was therefore less need for the church to step in to protect the king's rights. Conflicts with the church over its use of excommunication, by contrast, became more frequent. It is possible that the contrasts between Henry III and his son result from evidential bias rather than from reality. The chronicle evidence for Edward's reign is indisputably inferior to that of Henry's (particularly until the death of Matthew Paris in 1259). On the other hand, the first parliament rolls survive from Edward's reign and episcopal registers multiply in number.<sup>105</sup> These registers provide invaluable evidence for the practice of excommunication. Papal registers and royal chancery rolls survive from throughout the century, however, and tend to support the idea that the reigns were of a different character in terms of how excommunication was used. It should be emphasised that there is no reason to suppose that excommunication itself had altered as a universal sanction; such differences apply only at the highest level of English politics.

One area in which Edward I sought to harness the power of excommunication, perhaps more than his father, was to gain support for his wars. Welsh rulers had been excommunicated at various points in Henry's reign, sometimes at his request. They were excommunicated for siding against John, for supporting Falkes de Bréauté, and later Simon de Montfort.<sup>106</sup> Other disturbances also prompted sentences against the

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<sup>105</sup> Earlier episcopal registers survive but not including *memoranda*.

<sup>106</sup> *Foedera*, I.i.149; *Royal Letters*, no.191; *Foedera*, I.i.399-400, 461; *Reg. Clement IV*, no.232.

Welsh.<sup>107</sup> Edward continued this policy, specifically asking that the church support his campaigns against the Welsh and Scots by reciting public prayers and pronouncing excommunications.<sup>108</sup> Edward set out to conquer Wales in 1276, and completed his venture in 1283.<sup>109</sup> In the intervening years, the English bishops pronounced several sentences against the Welsh, usually invoking the 1222 council of Oxford.<sup>110</sup> Edward asked, for instance, in 1282, that the Welsh be denounced through every diocese because they had incurred the sanctions of the 1222 sentence *Qui pacem et tranquillitatem*.<sup>111</sup> Though no doubt one of the advantages of having enemies excommunicated was that God would be against them, it is clear that Edward was using excommunications as propaganda. The faithful of every diocese in the realm were informed that the Welsh were getting no more than they deserved. Edward similarly caused the Scots to be excommunicated when he went to war with them between 1296 and 1307. The Scots, in turn, themselves excommunicated the English.<sup>112</sup>

Aside from episcopal cooperation with Edward in respect to war, relations between his government and the church were often strained. On numerous occasions Edward reacted with indignation or anger against sentences of excommunication pronounced without his permission. There was a significant disagreement over the archbishop of York's excommunication of the bishop of Durham in 1293, for example.<sup>113</sup> Perhaps the best indication of Edward's attitude comes from 1279. In that year, the new archbishop of Canterbury, the Franciscan theologian John Pecham (1279-1292), held a provincial council at Reading. During this council he took Langton's 1222 *ipso facto* excommunications, amended them slightly, and added four sentences to the list. The new sentences were adapted from Ottobuono's 1268 legate

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<sup>107</sup> *PR* 1225-32, 205; *Ann. Worcester*, 422; *Ann. Dunstable*, 127; *CM*, iii, 202-3, iv, 148-9; *CR* 1242-7, 346.

<sup>108</sup> For public prayers, see Burton, 'Requests for prayers'; Barrow, 'The clergy in English dioceses', 22.

<sup>109</sup> For Edward's Welsh campaign, see Prestwich, *Edward I*, 170-232; Prestwich, *War, Politics and Finance*.

<sup>110</sup> *C&S*, 821-2; *Foedera*, I.ii.536-7, 541; Rishanger, *Chronica*, 99; *Wykes*, 290; *Reg. G. Giffard*, 150; *Reg. Epp. Pecham*, i, 324, 352, 403, 422-3. Cf. sentences in 1295 following a revolt in 1294-5: *Reg. Winchelsey*, i, 1-3. Burton, 'Politics, propaganda and public opinion', 380-4.

<sup>111</sup> *Foedera*, I.ii.603.

<sup>112</sup> Burton, 'Politics, propaganda and public opinion', 386-7.

<sup>113</sup> *Parliament Rolls*, i, 587-94.



council and the Magna Carta excommunication. The final clause of the council ordered that Magna Carta be displayed in cathedral and collegiate churches. Pecham was not, in fact, doing anything particularly unprecedented at this council. None of his excommunications was entirely new, and, *prima facie*, the sentences were less controversial than those of Langton's 1222 council. The final clause was innovative in the context of an ecclesiastical council, but the charters had often been displayed in the localities and had been read out in public for many decades.<sup>114</sup> However, Edward I did not take kindly to Pecham's council. Pecham has been judged unfairly as a result. Though the archbishop was undoubtedly a difficult man, in this instance the king was overreacting, or trying to assert his authority over the church. Pecham himself was neither deliberately provocative nor injudicious. He was forced publicly to revoke a number of his excommunications together with the order to display Magna Carta. The king complained against the sentence *Contempnunt exequi domini*, even though it had been in force since 1222 (Pecham made minor revisions). He also claimed that the sentence *De domibus*, protecting clerical property, was unnecessary because the king's punishment sufficed. In fact, though the archbishop was forced to promise that he would not in future produce anything in prejudice of the king, he repeated the excommunications in the council of Lambeth in 1281. Only the provision for public display of Magna Carta failed to become a permanent part of ecclesiastical law.<sup>115</sup> The episode demonstrates the potential resentment which the church's sanction could inspire in the king.<sup>116</sup>

In the later years of Edward's reign, excommunication played a much greater role in public affairs. In February 1296, Boniface VIII (1294-1303) promulgated a papal bull, *Clericis laicos*, forbidding clergy to grant taxes, or laymen to request them, without papal licence, on pain of automatic excommunication.<sup>117</sup> The bull came after years of heavy taxation imposed by Edward on both clergy and laity, and it is generally

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<sup>114</sup> Clanchy, *From Memory to Written Record*, 223, 265-8; Carpenter, *Magna Carta*, 430-5.

<sup>115</sup> C&S, 856-7; appendix.

<sup>116</sup> See also Denton, 'From the foundation of Vale Royal', where he argues that Edward's relationship with the church was marked by belief in royal supremacy and 'aggressive royal self-confidence' (136). For the councils of Reading and Lambeth see Douie, *Archbishop Pecham*, ch. 3; Powicke, *The Thirteenth Century*, 472-85 discusses the councils and the conflict between Pecham and Edward I.

<sup>117</sup> *Reg. Winchelsey*, i, 159-61; C&S, 1149, n. 3.

accepted that the pope aimed his bull against the kings of both England and France.<sup>118</sup> Boniface's sentence allowed the clergy to delay their response to Edward, who had demanded further clerical taxes. They thus claimed that 'necessitas' was no longer sufficient justification for tax: the clergy were excommunicated if they consented to taxation without papal agreement. The king was not willing to accept this state of affairs. In 1297, matters came to a head. In January, Archbishop Robert Winchelsey (1294-1313) held an ecclesiastical council to discuss granting the king a tax. Not all the clergy stood behind Winchelsey's resistance to royal demands. Some thought that Edward's need for money, to finance war with France necessitated subsidy. Others submitted to royal coercion. When Edward was informed that no money was forthcoming, he made good on his earlier threats: the clergy were officially placed outside his protection (in effect outlawed), and their lay fees were seized. He offered clergy the chance to buy back his protection and their goods for a fifth part of their wealth, thereby securing through force and coercion the money he would otherwise have received through taxation. In response, Winchelsey ordered *Clericis laicos* to be published throughout the country, associating the bull with Ottobuono's sentence of excommunication, *De domibus*.<sup>119</sup> The king sought to forbid enforcement of the archbishop's mandate, claiming that the sentences were prejudicial to his crown and dignity and might cause subversion of the whole kingdom.<sup>120</sup> Though the archbishop and several influential bishops stood firm, a number of clergymen submitted to the king. Whilst the archbishop and certain others remained resolute, faced with further threats, many more clergy paid the king's fine. Winchelsey remained in a strong position because the king faced resistance and murmurings from his earls, inspired by proposals for an expedition to Gascony. Thus in July 1297, the king was forced to make peace with the archbishop. The archbishop's lands and goods were completely restored. The king was now able to focus on his departure for Flanders (for a different campaign), and on the increasingly open hostility he encountered from his earls.<sup>121</sup>

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<sup>118</sup> Denton, *Robert Winchelsey*, 90-4.

<sup>119</sup> *Reg. Winchelsey*, i, 154-9.

<sup>120</sup> Denton, 'Crisis of 1297', 571.

<sup>121</sup> Denton, *Robert Winchelsey*, 80-135 provides a thorough analysis of these events.

This reconciliation with Winchelsey was short-lived. In the summer of 1297, Edward sought a settlement with his chief baronial opponents, Roger Bigod and Humphrey de Bohun, earls respectively of Norfolk and Hereford. Winchelsey acted as mediator, but no settlement was reached. No overt support was given to the baronial opposition by the church, but prelates and magnates alike resisted taxation, and thus were at least partially allied in opposition. The leading earls also had personal grievances, and there was considerable lay opposition to Edward's demands for military service. Even so there was no demand, as there had been in 1258, for radical reforms to the government. In the summer of 1297, Edward was again troubled by the prospect of excommunication, and forbade the issue of any such sentence.<sup>122</sup> Winchelsey, nonetheless, planned to have *Clericis laicos*, *De domibus* and *Si quis suadente* pronounced on 1 September by his suffragans.<sup>123</sup> Not all of them carried out his orders, but where the excommunication was pronounced, the royal agents who had confiscated clerical property, and even the king himself, were clearly implicated. The crisis of 1297 was eventually settled by the so-called *Confirmatio cartarum*, which confirmed the charters and added certain new clauses, including a provision that no precedent would be established by any grant of 'aids, mises and prises' (i.e. taxes). This document also provided that copies of the charters be sent and kept in cathedral churches, and that the archbishops and bishops would publish the excommunication against infringers of Magna Carta twice a year.<sup>124</sup> Considering Edward's reaction to Pecham's 1279 attempt to publicise the charters, these terms represented 'political humiliation' for the king.<sup>125</sup> Though Edward faced no further serious crisis, continued opposition to the king forced him again to confirm the charters in 1300, and again new concessions were added, known as the *Articuli super cartas*.<sup>126</sup> Even so, five years later, and ninety years after his grandfather had secured the annulment of the original Magna Carta, Edward I caused pope Clement V to annul his royal promises. Moreover, Winchelsey, as revenge for his participation in the troubles of 1297-98, was suspended

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<sup>122</sup> *Foedera*, I.ii.875.

<sup>123</sup> *C&S*, 1173-6.

<sup>124</sup> *Documents Illustrating the crisis of 1297-98*, ed. Prestwich, 158-60. The sentence did not, apparently, cover the new clauses in the *Confirmatio*.

<sup>125</sup> Denton, *Robert Winchelsey*, 168.

<sup>126</sup> Prestwich, *Edward I*, 523-7; Vincent, *Magna Carta: Origins and Legacy*, ch. 8, provides a comprehensive list of all Magna Carta reissues and confirmations from 1216.

from office: ‘By a papal alliance the king had found an extremely peaceful way of ridding himself of this particular “turbulent priest”’.<sup>127</sup> The archbishop was only to be reconciled with the crown after the death of Edward I.<sup>128</sup>

This then, in outline, is the history of political excommunication during the reigns of John, Henry III and Edward I. Excommunication is revealed as a double edged sword: used both for and against the king. Interpretation was everything in establishing whether bishops stood with the king or in opposition to him. The sentences passed by Langton at the Council of Oxford in 1222, later combined with those of the legate Ottobuono, became central to political understanding of the sanction. The outline above is intended to ensure readers of the remainder of this thesis a basic understanding of the context and the political background against which individual disputes over excommunication were fought.

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<sup>127</sup> Denton, *Robert Winchelsey*, 234.

<sup>128</sup> For the struggles over Magna Carta in 1297-8 and 1300, see *Documents Illustrating the crisis of 1297-98*, ed. Prestwich; Prestwich, *Edward I*, 401-35, 517-55; Edwards, ‘Confirmatio cartarum’; Maddicott, *Origins of the English Parliament*, 299-325; Harriss, *King, Parliament and Public Finance*, 49-74. For the church’s role in these events, see Denton, *Robert Winchelsey*, 136-210.

## THE THEORY AND PRACTICE OF EXCOMMUNICATION: AIMS AND EFFECTS

Medieval excommunication was a sanction with many tensions. There was no ‘one’ excommunication: it was both medicine and curse, a legal process and a liturgical rite, a remedy and a punishment. It could be used to save souls or to damn them. Some aspects of the sanction have received more attention than others. Recent discussions of excommunication in the thirteenth century have tended to focus on legal processes and consequences. Though the spiritual aspects of excommunication have not been ignored, they have nonetheless been played down. The various ways in which excommunication retained its links to cursing, despite the assertions of theologians and canonists, still require emphasis. Part of the issue lies with the fact that the practice of excommunication did not always align with the theory. Indeed, even the theory of excommunication involved numerous contradictions.

There are a number of reasons why excommunication in the thirteenth century has been de-dramatised. First, by the thirteenth century, the church’s ‘official line’ was that excommunication did not result in eternal damnation, and that it was to be used as medicine and not to curse. Historians have lent too much weight to these protestations. One does not have to look far to find statements that excommunication did indeed imperil the soul, or to find stories of excommunicates suffering while living. Such beliefs were not occasional anomalies, or misconceptions based on antiquated ideas about excommunication. Nor were they held only by misinformed laity. They were propagated by the church and within the ecclesiastical hierarchy. We should not share Elisabeth Vodola’s surprise that ‘as urbane a scholar as the canonist Johannes Andreae (d. 1348) wrote that excommunication hastened sickness and death’.<sup>1</sup>

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<sup>1</sup> Vodola, *Excommunication*, 46.

The focus of historians on legal records and procedures is the second reason why the links between excommunication and cursing have been understated. Miracle stories, the importance of ritual excommunication, and contradictions over the sanction within legal sources have by no means gone unnoticed in studies of excommunication. Yet the more prominent English-language studies have generally not reconciled such manifestations with the legal aspects of excommunication with which they are primarily concerned.<sup>2</sup> There was, certainly, from the twelfth century onwards, an increased stress on following ‘correct’ legal procedures. Yet judicial process had always been an aspect of excommunication. The impression gleaned from legal records, of a long process in church courts ending in the judge's statement ‘I excommunicate you’, can incline us to overlook the fact that the sanction was also a spiritual one. It is thus of fundamental importance that excommunicates were ritually denounced, with all the implications this ceremony provided, in their own parishes after a sentence had been issued. Even if a sentence had been pronounced judicially and fairly, such denunciations could be used to damn a sinner, not least when manipulated by clergymen who harboured vengeful rather than medicinal thoughts. Further, the idea that excommunication was now a matter for church courts, imposed only for contumacy is misleading because it overlooks *latae sententiae* excommunications. The existence of such automatic sentences has certainly been noted, but their prevalence needs greater emphasis, certainly with regard to politics and ecclesiastical rights, when personal animosity was more likely to be a factor.

It would be unrealistic to argue that the practice of excommunication in the thirteenth century differed in no important respects from that of the earlier middle ages. However, the emphasis hitherto placed on the legal, rather than the spiritual and social, aspects of excommunication has perhaps highlighted differences rather than continuities. Moreover, parallels are more evident in the political sphere, where matters were dealt with directly by bishops and popes, and did not necessarily go through the ecclesiastical courts. It is noteworthy that the presentation of

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<sup>2</sup> Vodola, *Excommunication*, 44-7; Logan, *Excommunication*, 13; Murray, ‘Excommunication’, 174-5; Jaser, ‘Ritual excommunication’, 119-139; Helmholz, ‘Excommunication in twelfth century England’; Jaser, *Ecclesia Maledicens*.

excommunication in chronicles, for instance, differs remarkably little from accounts in similar sources from earlier centuries. Excommunication continued to be presented as a curse, and was sometimes used as one. The possibility that people were genuinely afraid of the sanction should not be dismissed.

### ***DAMNATION OR MEDICINE?***

The spiritual consequences of excommunication were by no means clearly established. A frequently cited canon from Gratian's *Decretum* defined anathema as 'damnation of eternal death'.<sup>3</sup> Yet, in 1245, at the first Council of Lyons, Pope Innocent IV emphatically asserted, 'excommunication is medicine not death, discipline not annihilation'.<sup>4</sup> This decree, known as *Cum medicinalis*, added to an already significant body of canon law intended to ensure that clerics used excommunication justly and sparingly. In the same period, theologians reached a consensus that excommunication was not a curse, and did not send a person to hell. Nevertheless, excommunication continued to be 'burdened with great ambivalence', as Vodola has observed.<sup>5</sup> Despite the definition in *Cum medicinalis*, and the assurances of theologians, it was not obvious that excommunication had been significantly softened. As Alexander Murray recognises, it was not uncommon throughout the middle ages for both churchmen and laymen to believe that excommunication resulted in 'misfortune in this world and damnation in the next'.<sup>6</sup>

Murray's observation is hardly new. Martin Luther complained about precisely the same problem, as early as 1518.<sup>7</sup> The fullest study of this tension is Murray's John

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<sup>3</sup> Anathema came to be understood as major excommunication: C.11 q.3. c.41. See also Brasington, 'Differentia est: A twelfth-century *summula* on anathema and excommunication'.

<sup>4</sup> Tanner, *Decrees*, i, 291; VI. 5.11.1.

<sup>5</sup> Vodola, *Excommunication*, 46.

<sup>6</sup> Murray, 'Excommunication', 177.

<sup>7</sup> Luther, 'Sermo de virtute excommunicationis', in *D. Martin Luthers Werke*: cited in Vodola, *Excommunication*, 1-2.

Coffin Memorial Lecture, in which he explores the complexity of the issues at stake.<sup>8</sup> Vodola and R.H. Helmholz have likewise carefully noted the links between excommunication and cursing long after the thirteenth century. Nevertheless, the years around 1200 have been seen as a turning point. Thus for Vodola, by the early thirteenth century ‘it was evident ... that major excommunication concerned only the punishment (*poena*) that detained a soul in purgatory, not the guilt (*culpa*) that consigned it to hell’.<sup>9</sup> Helmholz has described a competition during the twelfth century between two concepts of excommunication: judicial sanction versus powerful curse. He argues that by the end of the century the former had won a (qualified) victory.<sup>10</sup> That the first writs ordering recalcitrant excommunicates to be detained by the secular arm date from the beginning of the thirteenth century further indicates a watershed in the development of excommunication around this time.<sup>11</sup>

Developments in canon law and theology were no doubt important, and had significant effects on the use and understanding of the church’s most severe sanction. Yet for the majority of people living in thirteenth-century England, it is likely that the information they received regarding excommunication encouraged the belief that it was indeed a curse affecting both body and soul.<sup>12</sup> Definitions of excommunication continued to indicate that it resulted in damnation; miracle stories described the horrible fates of excommunicates, whilst the ritual denunciation of excommunicates, verbally and symbolically, seemed to condemn such people to hell. Theological niceties reached the greater proportion of the population only slowly and in highly simplified form. Legal and bureaucratic procedures sought to prevent abuse of excommunication and clouded the impression that excommunication was a curse, but there was nothing (except conscience) to stop a cleric acting vengefully if his cause were just and he followed procedure. Finally, Donald Logan’s assertion that full

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<sup>8</sup> First published in 1991, reprinted in 2015, in Murray, *Conscience and Authority in the Medieval Church*, 163-97.

<sup>9</sup> Vodola, *Excommunication*, 45.

<sup>10</sup> Helmholz, ‘Excommunication in twelfth century England’, 235-53; Helmholz, *Spirit of Classical Canon Law*, 366-76.

<sup>11</sup> Logan, *Excommunication*, 17, 22-3.

<sup>12</sup> Though this was by no means confined to England.



ceremonial excommunication was ‘rare indeed’ is highly misleading.<sup>13</sup> This ceremony would have been familiar to most people living in thirteenth-century England.

The problem with excommunication was that it was ‘quaedam maledictio’, as Thomas Aquinas introduced the problem in his *Summa Theologiae*.<sup>14</sup> Maledictions, or curses, were forbidden in the Bible (Romans 12:14<sup>15</sup>), and were certainly hard to reconcile with New Testament teachings that emphasised love and forgiveness.<sup>16</sup> The church was thus forced to justify excommunication, and to counter arguments against its use. Thomas Aquinas justified the use of excommunication in a number of ways, in a *quaestio* asking whether it ought to be used at all. First, he argued, excommunication could be found in the Bible, in 1 Corinthians 5:5<sup>17</sup> and Matthew 18:17<sup>18</sup>. More importantly, the purpose of excommunication was to shame the sinner to return to the bosom of the church, not to separate him from it irreparably. There were two types of curse. In the first, the evil inflicted was the sole intent. This type of curse was forbidden in every way. But in the second the evil was used for good, medicinal ends. Aquinas thus emphasised the medicinal quality of the sanction; cursing with good intentions was licit and salutary, as when a doctor inflicted pain during surgery in order to cure a man.<sup>19</sup> Provided the intent was medicinal not punitive, excommunication was good and necessary. Bonaventure used the same medical analogy (an extremely common one). Excommunication, he declared, supplies medicine to a rebellious person because it cures the disease of rebellion, just as surgery supplies medicine for an abscess, even though it causes pain. Bonaventure also stated that whilst an excommunicate was separated from the sacraments and from corporal communication, no one was separated from spiritual communion.<sup>20</sup> Thus the severity

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<sup>13</sup> ‘Excommunication’ in *Dictionary of the Middle Ages*, iv.

<sup>14</sup> Thomas Aquinas, *Summa Theologiae*, Bk III-Supplementum, q. 21, a.2.

<sup>15</sup> ‘Bless them that persecute you: bless, and curse not.’

<sup>16</sup> Murray, ‘Excommunication’, 170-9.

<sup>17</sup> ‘[I ... have already judged] to deliver such a one to Satan for the destruction of the flesh, that the spirit may be saved in the day of our Lord Jesus Christ.’

<sup>18</sup> ‘If he will not hear the church, let him be to thee as a heathen and publican.’

<sup>19</sup> Aquinas, *Summa Theologiae*, Bk III-Supplementum, q. 21, a.2.

<sup>20</sup> Bonaventure, *Commentaria in quatuor libros sententiarum magistri Petri Lombardi*, d. 18. p.2 a.1 q.1.

of excommunication, in spiritual terms, was played down by the theologians.<sup>21</sup> Yet their justifications were problematic: the only thing that distinguished a ‘good’ curse from a ‘bad’ curse was the intent. This was surely a rather dangerous position. Pronouncing a curse in order to harm the sinner would harm only the one pronouncing it. But there was nothing except conscience to prevent this eventuality.

### ***EXCOMMUNICATION AS A LEGAL SANCTION***

Attempts were therefore made to limit the use of excommunication. Just as theologians stressed the importance of intent, canon law endeavoured to ensure that those possessing authority to excommunicate acted with the right motives. This was chiefly done by insisting that proper procedures be followed. Though such restrictions were of longstanding, legal procedure was increasingly compulsory, and clergy who flouted the requirements were to be punished. The aim was to prevent spontaneous and vengeful ‘curses’, since these were apt to be unjust or unlawful. Excommunication was to be a last resort. The 1215 Lateran Council issued an important decree insisting that warnings, in the presence of witnesses, had to be given before a sentence could be pronounced.<sup>22</sup> Most crucially, the 1245 Council of Lyons set out the church’s official position on excommunication with *Cum medicinalis*. This canon, echoing the views of theologians, emphasised the spirit of correction and healing with which excommunication ought to be used. Sentences were to be delivered in writing, with the cause clearly explained. The person sentenced was to have a copy of their sentence if he or she so requested.<sup>23</sup> It was thus impossible to issue a legal sentence without reasonable cause; to do otherwise would result in appeals, and ultimately in sanctions against the cleric who had acted hastily or unjustly. While complaints against those who had acted against the decrees of the ecumenical councils continued to be voiced, long after their promulgation, these decrees no doubt affected practice.

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<sup>21</sup> For a fuller discussion of theological developments, see Murray, ‘Excommunication’, 170-9. Separation from the Eucharist – which was essential to salvation – was itself a serious matter, however. See Macy, *The Theologies of the Eucharist*.

<sup>22</sup> Tanner, *Decrees*, i, 255; *Constitutiones Concilii quarti Lateranensis*, ed. García y García.

<sup>23</sup> Tanner, *Decrees*, i, 291.

*Cum medicinalis* was, in Vodola's words, 'the most momentous change of all' in the evolution of excommunication.<sup>24</sup> It was duly incorporated into the Canon Law collection the *Liber Sextus* as the opening clause on excommunication (VI 5.11.1), and was frequently cited thereafter. Yet despite its fundamental importance for the church's stance on excommunication, and its profound influence, the new canon did not eradicate older definitions of excommunication. The medicinal purpose expressed in *Cum medicinalis* was flouted in practice, albeit that it was never contradicted in theory, so far as I am aware. Whilst clerics might issue sentences in the wrong spirit, it was never argued that this was acceptable. Nevertheless, if the medicinal intent of excommunication was always stressed or implied, damnatory consequences – contradicting the assertion that excommunication was neither death nor annihilation – continued to be implied in legal, narrative, didactic and liturgical sources. For a full understanding of the implications of excommunication in the thirteenth century, these sources must be given as much weight as canonical sources.

The essential point of *Cum medicinalis* was that excommunication was a serious matter, that ought to be treated with caution and due consideration. The canon was supposed to deter clerics from issuing sentences unless truly necessary, that is, once it was clear that there was no other means by which the person at fault might be corrected. Yet this was already the intent of a canon from the 845 Council of Meaux, which had nonetheless defined anathema as damnation of eternal death. This canon was included in Gratian's *Decretum*, and its definition was often used in relation to excommunication thereafter (C.11 q.3 c.41).<sup>25</sup> Though this definition was at odds with that of Innocent IV, the aim of the 845 canon as a whole aligns with that of its successor. It was intended to ensure that anathema be used only for mortal sins. Like *Cum medicinalis*, it was supposed to curb use of the sanction. It differed only in its means of persuasion. Long after 1245, prelates continued to impress upon their subordinates that excommunication was so severe that it had to be handled carefully and in accordance with law. This might be done by stating that it did indeed endanger

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<sup>24</sup> Vodola, *Excommunication*, 42.

<sup>25</sup> Anathema and major excommunication were often treated synonymously.

the salvation of those sentenced, and if used unfairly, of the cleric pronouncing the sentence.<sup>26</sup>

English legislation, like the universal canon law, endeavoured to ensure that excommunication was used properly. Yet *Cum medicinalis*, however great its significance more generally, was given no particular prominence.<sup>27</sup> Many statutes provided no definition of excommunication, but we find John Pecham, in the provincial statutes of Lambeth (1281), observing that excommunications incurred through ignorance plunged people into a ‘pit of danger’; excommunication ‘struck down’ wicked men, and those who absolved excommunicates when they had no legal right to do so were bringing back to life souls that did not live.<sup>28</sup> Oliver Sutton, bishop of Lincoln (1280-99), in a mandate ordering promulgation of automatic sentences, referred to the danger of being separated from God and the faithful, and of being ‘released to the possession of hell’. He encouraged those who had fallen into such sentences to repent and in future to abstain from excesses and ‘the bonds of eternal damnation’.<sup>29</sup> Rather than stressing the importance of medicinal intent, both prelates emphasised the serious consequences for souls if the law was not followed by clerics with a duty of care.

The point is best demonstrated in a clause of the diocesan statutes of Exeter promulgated in 1289. Under the rubric ‘De excommunicationum sententiis cum deliberatione promulgandis’, this clause brings together various canons relating to excommunication. It particularly emphasises that the sanction was a serious matter and needed to be handled accordingly. The clause begins by advising that those who have the power of binding and loosing through the keys of St. Peter should be aware of how great that power is, since they have this honour through Christ. Next, it is explained that, since excommunication is damnation of eternal death, it should be imposed only for mortal sins, and only on those who cannot otherwise be corrected (C.11 q.3 c.41, as above). Provident deliberation and maturity are needed, since an unjust

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<sup>26</sup> Cf. Helmholz, ‘Excommunication as a legal sanction’, 214-15.

<sup>27</sup> *Cum medicinalis* is referenced in the Statutes of Wells, C&S, 621; the Statutes of London I, C&S, 631-2; the Statutes of London II, C&S, 650-1; the Statutes of Exeter II, C&S, 1040-1.

<sup>28</sup> C&S, 898-9.

<sup>29</sup> *Reg. Sutton*, vi, 24-7.

excommunication injures him who issues it rather than him who is sentenced (C.11 q.3 c.87). Next, clerics are warned, in accordance with Lateran IV (c. 47), that sentences be imposed only with reasonable cause, and only after three warnings issued in the presence of witnesses (X 5.39.48). The cause of a sentence should be expressly written down and a copy be given to the excommunicate within one month if requested (VI 5.11.1), this being the substance of *Cum medicinalis* but without its opening definition. The rest of the clause concerns the social consequences of excommunication, and the ways in which the community was to be made aware of excommunicates: parish priests were to publish their names and the causes of their sentences, using candles and bells, to ensure that nobody communicate with them through ignorance of their excommunicate status.<sup>30</sup>

This Exeter constitution thus employs a definition of excommunication that was against both *Cum medicinalis* and the tenets of theologians. Yet its purpose was precisely in line with both. It sought to counter abuse of excommunication. The only real difference between the Lyons and Exeter decrees is the argument used. *Cum medicinalis* emphasised what excommunication was supposed to be used for – not revenge or punishment but only to correct those who had strayed – while the Exeter clause stressed that appropriate care was necessary because of the serious consequences of any sentence. It is possible that the Exeter canon used the earlier definition simply because it was a compilation, in chronological order, of various canons. Its definition, derived from Gratian, came from a source earlier than Lyons (1245), and rendered a second definition obsolete. Yet this might also have been part of a calculated strategy. If in the earlier middle ages excommunication was a last resort, by the thirteenth century this was no longer true. It has been fairly argued that excommunication was a sanction much overused.<sup>31</sup> The clause sought to curb its use. As a result, underlining that excommunication sent people to hell was perhaps a better means of persuading clergy to ‘use with care’ than stressing that excommunication was medicine *not* death. Whether or not this supplies an explanation for such antiquated usages, it is certain that in legal texts primarily intended for clergy there was a degree

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<sup>30</sup> C&S, 1040-1; cf. The Statutes of Wells, C&S, 621.

<sup>31</sup> Hill, ‘Theory and practice’, particularly 10-11.

of ambiguity about what excommunication meant for the afterlife. Perhaps the idea that excommunication had hellish consequences was simply too ingrained to be dismissed. Certainly, the idea that it resulted in damnation was not expunged. Pope Gregory IX described the sanction as ‘the chain of excommunication, which thus separates the contumacious and rebellious from the fellowship of the faithful and the unity of the faith, so that life is a torture for them, and their conscience, wary of the sin committed, strikes fear of eternal damnation into them even while sleeping.’<sup>32</sup> Even *Cum medicinalis* asserted that excommunication was not death, provided it was not treated with contempt, in which case, presumably, it was.

### ***EXCOMMUNICATION IN MIRACLE TALES***

Miracle stories were another means through which such ideas continued to be communicated to society. Not only did they describe how excommunicates suffered after death, but also how they were tormented while living. Such miracle stories – whether or not they were believed<sup>33</sup> – were a crucial way in which the laity, in particular, learned about excommunication. Such stories were included in saints’ lives and chronicles, and incorporated into lists of *exempla* which preachers could draw upon to enliven their sermons. It is therefore not unreasonable to conclude that such stories reached a wide audience of both clergy and laity.<sup>34</sup>

Numerous excommunication miracles are recorded, to demonstrate the sanction's various supernatural consequences. Thematically organised sermon *exempla* collections might include a section on the sanction. In some such collections, the tales were preceded by a definition of excommunication. Thus the *Speculum laicorum*, composed in England some time during the reign of Edward I, described excommunication as a spiritual sword that divided men from the unity of the church,

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<sup>32</sup> Ann. Burton, 240.

<sup>33</sup> As Susan Reynolds has argued, the credulity of medieval people should not be assumed: ‘Social mentalities and the case of medieval scepticism’.

<sup>34</sup> *Friars’ Tales*, trans. Jones, 14, 24-6.

just as a limb from a body or a branch from a tree-trunk. An excommunicate was to have the burial of an ass (Jeremiah 22:19): as the skin of a dead ass is used by men, its body eaten by dogs, and its intestines played with by ravens, so an excommunicate's possessions are given to his heirs, his body to vermin, and his soul to demons.<sup>35</sup> The collection of the French preacher Stephen of Bourbon (which, it should be noted, probably did not circulate in England in this period) frequently introduces individual tales with a definition matching whatever aspect of excommunication the subsequent narrative was intended to illustrate. Thus 'Excommunication is the mouse-trap or fishing-net of the devil'; 'it corrupts and blackens the soul with malediction, as a diabolic stain'; 'anathema hands over to Satan'; 'it kills with sudden, bad and unexpected death', and most emphatically 'excommunicates are eternally burned in the infernal fire, and are devoured and dissipated by demons'.<sup>36</sup> The tales do not fail to supply apt examples.

Some stories described curses inflicted on inanimate objects or animals. One particularly common miracle involves a sceptic convinced of the powers of excommunication when a cleric excommunicates bread that immediately turns black. When absolved, the bread reverts to its original white form, thus also demonstrating the virtue of absolution.<sup>37</sup> In the *Liber exemplorum*, a thirteenth-century British collection created for friars, the value of such miracles is explained by a quotation from Gerald of Wales: 'For if a curse has such great power over ... snakes and tiny creatures, whose animal nature excuses them from sin, should not legitimately imposed excommunication ... be greatly feared by men endowed with reason who knowingly commit sins from which they cannot be excused?'<sup>38</sup>

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<sup>35</sup> *Speculum laicorum*, 56.

<sup>36</sup> *Anecdotes Historiques*, nos.307, 308, 309, 313, 314. A new edition is being prepared for the *Corpus Christianorum Series Latina: Tractatus de Diversis Materiis Predicabilibus*, ed. Jacques Berlioz and Jean-Luc Eichenbach (Turnhout, 2002-6). The relevant sections of the text have not yet been printed in this edition.

<sup>37</sup> For some (undoubtedly not all) occurrences of this miracle, see: *Index exemplorum*, ed. Tubach, no.754; *Catalogue of Romances*, ed. Herbert, 446, 615, 719; *Anecdotes Historiques*, no.308; *Lanercost*, 132-3.

<sup>38</sup> *Friars' Tales*, trans. Jones, 108; Gerald of Wales, *Gemma Ecclesiastica*, 161.

*Exempla* involving those who suffered excommunication publicised the idea that excommunication caused death, as well as the belief that eternal damnation awaited those who died under a sentence. The *Speculum laicorum* narrates a miracle found in the life of St Eligius (d. 660), in which an excommunicate was suddenly struck down by death. This is linked to the death of Sapphira in Acts 5, who fell dead at the feet of St Peter.<sup>39</sup> She is described in the *Speculum* (but not in Eligius's *Life*) as having been handed over to Satan, referencing 1 Corinthians 5:5.<sup>40</sup> Another tale, set in the reign of Henry III, describes how a matron walking through a graveyard heard moaning coming from a grave. When asked the cause of its moaning, the unquiet spirit replied that an excommunicate was due to be buried with it in the same grave later that day, 'and thus my bones will have no peace until Judgement Day'. The reader (or listener) is told to consider 'how the souls of excommunicates are disturbed in hell'.<sup>41</sup> Other stories reflected a common trope that the bodies of excommunicates did not decay. The *Speculum* describes the grave of an excommunicate found filled with foetid and boiling water and containing a bloody corpse (which dissolved into dust when absolved): 'Therefore everyone should pay attention to how his soul boiled in hell, when his body had so boiled in the grave'.<sup>42</sup> Some might scoff at the purported consequences of excommunication. Stephen of Bourbon addressed this issue. A usurer had remained excommunicated for a long time, and boasted that, despite his sentence, he had a stout belly and fat cheeks: 'See how the maledictions of priests have dried me out!' To which the narrator's response is 'Poor man, little did he know that God had fattened him up like a pig to suffer eternal death, and that he would certainly and shortly suffer sudden death.'<sup>43</sup>

One story, apparently composed in England in the second half of the thirteenth century, can be taken to represent local attitudes to excommunication and is worth describing in detail. It was later abbreviated by John Bromyard, and turned into a Middle English poem by John Lydgate (here the original Latin text is used), and thus

<sup>39</sup> Sapphira and her husband Ananias were also frequently cited in excommunication rituals.

<sup>40</sup> *Speculum laicorum*, no.277. This tale is one of those not edited by Welter (his edition is selective); London, BL, Additional MS 11284, f. 36v.

<sup>41</sup> *Speculum laicorum*, no.280.

<sup>42</sup> *Speculum laicorum*, no.281. See also *Index exemplorum*, ed. Tubach, no.1924.

<sup>43</sup> *Anecdotes Historiques*, no.55.



circulated widely in the late middle ages.<sup>44</sup> Despite the date of its composition, the lengthy narrative is set in Oxfordshire, in the time of St Augustine of Canterbury, shortly after the Anglo-Saxon conversion to Christianity. The purpose of the story was first to convince people to pay their tithes, and second to impress upon them the power of excommunication.

In Augustine's day, a village priest, having failed to convince his local lord to pay his tithes, threatened him with excommunication. Informed of this, Augustine summoned the knight, and quizzed him about the matter, informing him that a tenth of everything belongs to God. The knight insisted that it was he who had cultivated the land, which therefore belonged to him, not God. He was duly excommunicated by the saint. Augustine then went to church to celebrate mass, commanding excommunicates to leave before this took place. At this, a body was seen to rise from its tomb and leave the church. After mass, the 'pious shepherd' and 'terrified sheep' approached the 'foul and deformed cadaver' in the cemetery, who explained that angels had expelled him when Augustine had ordered 'stinking flesh [i.e. excommunicates] to be thrown out of the church'. The corpse was that of a Briton who had been excommunicated (before the pagan Anglo-Saxon invasion) because he never paid his tithes, dying under this sentence. He explained that thus he had hurled his soul into 'the infernal confines to be tortured continually in the fires'. Augustine then performed a miracle, resurrecting the British priest who had excommunicated the man, and the priest confirmed the cause of the sentence, insisting that he had reason, since the man was always a rebel and a retainer of tithes. He too described how the man had been 'enclosed in the dark prison' and had 'sustained hellish punishments'. The resurrected priest then imposed penance on the excommunicated corpse, which, once absolved, crumbled into dust and ash. The priest firmly declined Augustine's invitation to give up the 'delights of eternal life' to return to 'the laborious suffering' of temporal life to preach the gospel. Before the story ends with the lord of Augustine's own time seeing the error of his ways, the narrator interjects to quash any doubts amongst his audience that Augustine could have performed such a miracle, observing that 'there is no doubt

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<sup>44</sup> Nine MSS survive containing the original text. These have been collated by E. Gordon Whately, who discusses the story's later history in 'John Lydgate's Saint Austin at Compton'.

that the stiff necks of the English were never accustomed to be subjected to the yoke of Christ except through great miracles’.

The tale leaves no doubt about what would happen to those who died obstinately excommunicate. They would burn in hell. It is not difficult to imagine that the story itself was prompted by the reluctance of certain thirteenth-century parishioners to pay their tithes; the need for miracles to convince people is explicitly stated. It is clear why such stories continued to be so popular with churchmen throughout the middle ages. Yet they ran completely contrary to the arguments of the theologians. Not only did they describe damnation as the consequence of excommunication, but they claimed that the bodies and souls of excommunicates were given to the devil or to demons. This idea originated in 1 Corinthians 5:5, in which fornicators are handed over to Satan for ‘destruction of the flesh’, so that their spirits might be saved. Since this was one of the Biblical justifications for excommunication, theologians were forced to explain the verse, and to counter the objection that no one should be given to the hands of his enemies unless ‘omnino desperatus’.<sup>45</sup> Since no one should be despaired of in life, surely no one should be excommunicated? Aquinas and Bonaventure insisted the sanction was not as dangerous as it seemed. It meant, they wrote, that an excommunicate was merely *exposed* to Satan, in that protection from him was withdrawn. It did not mean that Satan was being ordered to afflict them. Nor was this ‘for damnation’, but rather for correction. They also argued that excommunicates were no longer afflicted in their bodies. In the ‘primitive’ church, it was necessary to entice (‘invitare’) men to faith through visible signs, and thus, just as the gift of the Holy Spirit was manifest, so also excommunication was made conspicuous by their corporal vexation by the devil. By contrast, in their own time, Aquinas and Bonaventure observed, excommunicates were still exposed to the devil but were not visibly harassed. Alexander of Hales’s explanation for this was that the devil himself chose not to vex corporally, since in the primitive church he had learnt that this caused many to return to the church, and henceforward to fear excommunication. Because this way the devil lost souls, he refrained from using his

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<sup>45</sup> The following is based on Aquinas, *Summa Theologiae*, Bk III-Supplementum, q. 21, a.2, but Bonaventure, *Commentaria*, Bk IV. d. 18. p.2 a.1 q.1 makes the same argument.

power, leaving sinners to their disobedience and separation from the church.<sup>46</sup> It would have been obvious that most excommunicates did not suffer visible signs of their plight, and it makes some sense that theologians should make an effort to explain this.<sup>47</sup> Nevertheless, churchmen continued to try to convince the laity that such miracles did indeed still occur (the majority were set in the recent past), and that excommunicates were visibly harassed by the devil or demons. Meanwhile, the verse from Corinthians was inextricably linked with excommunication (for instance it was cited twice by Gratian<sup>48</sup>). But without the mollifying glosses of theologians, it stated simply that excommunicates were handed over to the devil for their flesh to be destroyed.

Excommunication miracles usually presented excommunication in a way that the theologians might have considered unjustifiable. The results of these sentences too closely resembled the effects of curses. Yet the clerics in most of these stories (where the cause as well as the effects are described) did not issue sentences with the intention of cursing, as Aquinas said they must not. The excommunicates in such instances were supposed to be convinced to return to the church; it was their own refusal to do so that resulted in their terrible comeuppance. The intent might thus still be described as medicinal, even if the ultimate result was fatal. The chapter of 1 Corinthians at the heart of such ideas also reflects this sentiment: the flesh was handed over to Satan to be destroyed only so that the spirit might be saved.

One final miraculous excommunication, from a rather different source, involved a curse, without any hint of medicinal intent. This story, told by Matthew Paris in his *Chronica Majora*, provides a link between excommunication miracle tales and thirteenth-century practice. Paris described the excommunication of William Marshal, the great knight, as an explanation for subsequent events. The story was included in Paris's chronicle under the year 1245, the year of the death of the last of

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<sup>46</sup> Alexander of Hales, *Summa Theologica*, Bk III, 159-61.

<sup>47</sup> Murray, 'Excommunication', 175.

<sup>48</sup> C.11 q.3 c.21; C.11 q.3 c.32.

the Marshal's five sons, all of them without leaving male heirs. The events described took place in 1219. True or not, the story is revealing.<sup>49</sup>

Paris attributed the death of the Marshal's five childless sons to the excommunication of their father. While in Ireland, the Marshal had seized two manors belonging to the bishop of Ferns.<sup>50</sup> William refused to return the manors or to heed the bishop's warnings, arguing that as he had acquired them through war, his claim to them was legitimate. As a result, he was excommunicated. The Marshal, having neither repented nor returned the manors, died under this sentence, and was buried at the New Temple in London. Upon hearing of his death, Bishop Ailbe of Ferns travelled to England and informed the young king Henry III that his former regent had died excommunicated, and asked that Henry arrange the return of his property so that he might absolve the earl. Henry, saddened ('contristatus') by the news, asked the bishop to absolve the earl and promised that he would personally make satisfaction. Speaking to the tomb as if it to a living person, the bishop absolved the earl:

O William, who lies here buried, entangled in the chains of excommunication, if those things which you injuriously stole from my church are restored by the king, or by your heir ... with competent satisfaction, I absolve you; but otherwise I confirm that sentence, so that always bound by your sins you remain condemned in hell.

The king was angry at the bishop's 'immoderate vigour', but Ailbe only replied that he should not be surprised, for the church of Ferns had been despoiled of its greatest assets. Despite the king's persuasions, the Marshal's sons subsequently refused to return the manors, the eldest claiming that he held them by right, because his father had acquired them through war. This younger Marshal declared that if the 'old and delirious' bishop pronounced an unjust sentence, 'let his curse be turned on his head', reflecting the idea that an unjust sentence only hurt the one uttering it.<sup>51</sup> The young king (being only about eleven years old at the time and still 'sub tutore') was unable to

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<sup>49</sup> *CM*, iv, 492-5. Crouch, *William Marshal*, 144, 176.

<sup>50</sup> For the background to this dispute, and references, see Flanagan, 'Ó Máelmuaid, Ailbe [Albinus O'Molloy] (d. 1223)'.

<sup>51</sup> Mary Mansfield discusses the issue of property not returned by heirs and subsequent excommunications of dead culprits in *Humiliation of Sinners*, 87.

do anything further, and the bishop's anger remained unabated. As the bishop is said to have declared:

What I said, I said; and what I wrote, I wrote indelibly. For the sentence stands, a punishment is inflicted upon the malefactors by the Lord, and the curse which is written in the Psalms is imposed as a heavy burden on earl William, of whom I complain. *His name will be destroyed in one generation* [Ps. 108:13]; and his sons will have no share in that blessing of the Lord, *Increase and multiply* [Gen. 1:28]; and some of them will die with a lamentable death, and their inheritance will be scattered.

These things the king would come to witness while still in the prime of life. The bishop's words, which left the Marshal bound by anathema, Paris explains, were spoken 'in cordis amaritudine'. Moreover, they all came to pass, so that Paris treated the speech as a prophecy. Further proof of the earl's cursed state was revealed in 1240, when the New Temple was rededicated, and his body was found intact, but putrid.

Matthew Paris's account of William Marshal's excommunication is important for a number of reasons. Not only does he portray the bishop issuing a curse, but this was believed, by some at least, to have been effective. Its consequences were certainly more severe than was generally considered acceptable by theologians. Most importantly, the bishop violated the fundamental rule that excommunication must not be used with the intention to curse. Paris's assertion that he acted 'in bitterness of heart', hardly suggests medicinal intent, not least because the Marshal was already dead. Yet if in spirit the bishop flouted accepted doctrine, his actions in no way contravened canon law. The details of Paris's account should perhaps be doubted, but the way the chronicler presented his narrative makes clear that he believed the bishop was acting justly and in accordance with proper procedures. Writing in 1245, after he had included the canons of the Council of Lyons in his chronicle, Paris was certainly aware of the church's official stance on excommunication. It may be that this is why he took such pains to emphasise that the bishop's sentence was fair. First, he noted that the Marshal had acted violently and injuriously, responding impudently to the bishop's frequent admonitions and contumaciously retaining the manors. For this he was sentenced 'non immerito'. 'Contempnens' this sentence, the Marshal piled injuries

upon injuries. After his death, the bishop again told King Henry that the sentence had been pronounced ‘non immerito’. In a second speech, the bishop implied that his sentence had also been recorded in writing, indicating at least some kind of legal procedure. The most crucial things here are the bishop's warnings before any sentence was pronounced, and the assertion that the Marshal was behaving ‘contumaciter’: the two most fundamental prerequisites for a valid sentence of excommunication. Phrases such as ‘piling injury upon injury’ can also be found in other sources before a sentence was ‘aggravated’ (for instance by interdicting lands). Paris thus made use of legal terms associated with excommunication, yet the bishop’s spirit and the consequences of his actions are a long way from the ‘judicial sanction’ of excommunication as portrayed by R.H. Helmholz.

However many restrictions canon law tried to impose on the use of excommunication, provided procedure was followed, a cleric could act with vengeful intent. Such procedures made it more difficult for a cleric to sentence someone without reasonable cause or to pass sentence without warning (though many appeals indicate that both ‘faults’ continued to arise on a frequent basis<sup>52</sup>). Even so, they did not preclude use of excommunication as a curse. Although he acknowledges that black and white distinctions cannot be drawn, Helmholz’s division between ‘ex parte anathema’ and ‘judicial sentence’ nonetheless remains too absolute.<sup>53</sup> The bishop of Ferns’ sentence might be aptly described as a ‘judicial anathema’, as too might other sentences pronounced in thirteenth-century England. Research by Sarah Hamilton and Elaine Treharne, for example, has convincingly shown that judicial process was expected far earlier than Helmholz allows, and that he has thus over-emphasised twelfth-century developments.<sup>54</sup> Though he notes that ‘ex parte excommunications’ occurred in the later middle ages, he claims that these, while important to note, were ‘outliers’, and not representative of the system.

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<sup>52</sup> The phrase used in such complaints is ‘non monitos, non confessos, non convictos, absque causa rationabili, et contra statuta concilii generalis’, or similar.

<sup>53</sup> Helmholz, ‘Excommunication in twelfth century England’, and *Spirit of Classical Canon Law*, 370-6.

<sup>54</sup> Hamilton, ‘Remedies for “great transgressions”’, Hamilton, ‘*Absoluimus uos uice beati petri apostolorum*’; Treharne, ‘A unique Old English formula’.

Such uses of excommunication might always have been outliers. Helmholz partially built his case around events described in the *Life* of St Hugh of Lincoln, in which the saint's excommunications, delivered without judicial process, killed those sentenced.<sup>55</sup> In fact, even within this text, these examples are 'outliers': the majority of the excommunications pronounced by Hugh were in fact either preceded by warnings and contumacy on the part of the sinners, or in some other way explicitly declared to be fair (the judicial process is not always described, but the point of the stories is the miracle, not the legal procedure).<sup>56</sup> Those excommunicated subsequently suffered or died as a result of Hugh's sentences, but it is unfair to cite Hugh as a perpetrator of uncanonical excommunications. Even in the examples cited by Helmholz, although with apparent disregard for legal procedure, the sinners were given some warning.<sup>57</sup>

Helmholz has also drawn attention to an exception to his broad picture: *latae sententiae* excommunications. His argument here, that the *ex parte* fulminations of earlier centuries survived – 'In some sense, a new name was put on an old practice, changing the practice' – is crucial for this thesis.<sup>58</sup> Vodola may be right to stress that, in general, 'excommunication *latae sententiae* was a very specialized application of excommunication', in contrast to excommunication's 'ordinary' function.<sup>59</sup> But this thesis deals with, in many ways, extraordinary excommunications. In politics, such *ipso facto* sentences were the norm rather than the exception. Even when sentences were not linked to a *lata sententia*, the consequent judicial procedures only rarely involved the church courts. Almost every sentence discussed here could be described as 'ex parte'. Such sentences might be perfectly canonical, being preceded by warnings and so on, but they were nevertheless pronounced by clergy who had taken a side. As we have seen, who was infringing the king's rights or disturbing the peace was open to interpretation. Alternatively, clergy were protecting their own rights. Like the bishop of Ferns, they might have had a just cause and have acted legally. They were

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<sup>55</sup> Helmholz, 'Excommunication in twelfth century England', 239-40, 249.

<sup>56</sup> *Life of St Hugh*, ed. Douie and Farmer, i, 20-21, ii, 20-33, 100, 114-16, 157.

<sup>57</sup> *Life of St Hugh*, ed. Douie and Farmer, ii, 31-32, 20-25.

<sup>58</sup> Helmholz, *Spirit of Classical Canon Law*, 383-9.

<sup>59</sup> Vodola, *Excommunication*, 35.

nonetheless using excommunication to their own advantage, potentially with the intent to curse.

In fact, because of these *ipso facto* sentences, it is possible to argue for a reversal in the trend that Helmholz claims to have identified. Helmholz notes that Thomas Becket suffered criticism from his contemporaries for excommunicating without warning, apparently ‘contrary to standards of canon law’, notably at Vézelay in 1166. As a result, appeals were made against his sentences.<sup>60</sup> If Becket had acted in the same way a century later, he would have been able to argue, quite reasonably, that he had done nothing wrong.<sup>61</sup> The possessions and rights of his church of Canterbury had been violated, and the Constitutions of Clarendon infringed the rights of the English Church.<sup>62</sup> These rights were, from 1222, protected by the *lata sententia* or *ipso facto* sentence *Qui malitiose ecclesias*, and from 1225 onwards by the sentence of excommunication that accompanied Magna Carta. Becket could have claimed that he was not himself excommunicating anyone: the malefactors against whom he acted had been excommunicated by the law; Becket himself was merely denouncing them. Thus in 1282, John Pecham declared, in response to the king’s complaints, that he had not excommunicated anyone, but had pronounced a general sentence against those who infringed his rights. Various people had then been *denounced* as falling into this sentence: ‘Sir, take notice that denunciation does not excommunicate anyone unless he is rightly excommunicated’. If they were under the ban, they had been excommunicated by the law. The archbishop had only publicised the fact.<sup>63</sup> Given the prevalence of such sentences in connection with political affairs, it is of the utmost importance that, though in fact warnings often were given, no judicial procedure was *necessary* before such sentences were pronounced.<sup>64</sup> It might also be noted that a significant proportion of *latae sententiae* protected clergy, their rights and property. It is arguable that the occasions when churchmen were most likely to be excommunicating with the wrong intent were when they had personally been injured in

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<sup>60</sup> Helmholz, ‘Excommunication in twelfth century England’, 240-3.

<sup>61</sup> Becket did argue this anyway, but Helmholz judges that Gilbert Foliot *et al.*, who had complained, ‘had a point’.

<sup>62</sup> See, for instance, *CTB*, i, 78-81, 310-11, 314, and letter 262.

<sup>63</sup> *Reg. Epp. Pecham*, i, 178, 392s, 180, 392t; cf. *Parliament Rolls*, i, 163-5.

<sup>64</sup> The implications of this were a matter of contention in 1293, in the dispute discussed in ch. 5.



some way. There would invariably be an *ipso facto* sentence for them to invoke, allowing immediate denunciation of their adversary.

Finally, Helmholz makes the case that the earlier ‘powerful curse’ was ‘dependent for its efficacy upon the spiritual power of the person who issued it, as well as upon the justice of his cause’.<sup>65</sup> Regardless of the presence or absence of legal procedure, the proportion of clerics with a sufficiently saintly reputation can surely not have been high enough, at any time, for the efficacy of the sanction to depend on sanctity alone. Rather, fear of sentences was engineered through a ceremonial ritual designed to scare people, without need for particular personal charisma (though this might help). The anathema was made terrifying through a solemn setting, through candles, bells, Biblical quotations and explicit condemnations to hell.

#### ***THE RITE OF EXCOMMUNICATION***

The liturgical ritual of excommunication was the final means by which people were informed of the spiritual dangers of excommunication. This is true for the thirteenth century as well as the earlier (and later) middle ages. Donald Logan’s assertion in the *Dictionary of the Middle Ages* that sentences were pronounced in courts, with a simple ‘I excommunicate you’, and not with the solemn ceremony, is technically correct (except for *latae sententiae*). It is nevertheless highly misleading. The original pronouncement of a sentence against a named individual was indeed usually done in this way, but it was also required that excommunicates subsequently be denounced in local churches, to ensure that knowledge of their state reached everyone. This was done with candles and bells. Moreover, every parish priest was solemnly to publish certain *latae sententiae* four times a year.<sup>66</sup> When a crime covered by an automatic sentence was committed, but the perpetrator unknown, general excommunications would be ritually pronounced against whoever had committed the offence whilst investigations were on-going. Thus, to parishioners in the thirteenth century, the

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<sup>65</sup> Helmholz, ‘Excommunication in twelfth century England’, 237-8.

<sup>66</sup> See ch. 6 and the appendix.

excommunication ceremony would have been a regular and familiar spectacle. Just as it had been in the eleventh century, ritual excommunication was an important aspect of parish life.<sup>67</sup>

That excommunication ceremonies of some kind took place on a frequent basis throughout England in this period is indisputable. It is less clear, however, precisely what they involved. It is reasonable to conclude, with Reynolds, Edwards, Jaser and Hamilton that there was much continuity between the tenth and fifteenth centuries.<sup>68</sup> However, the ceremony was so common that mandates and legislation often specify merely that it should be conducted in the usual way – with bells ringing and candles burning and extinguished. Unlike a twelfth-century letter sent by the bishop of Norwich, discussed by Nicholas Karn, thirteenth-century mandates do not provide information on liturgical practice.<sup>69</sup> Nevertheless, it is indisputable that candles and bells were routinely used to denounce excommunicates. Hundreds, probably thousands, of references to this ceremony could be cited, from sources of many different kinds (canon law, legislation, papal and episcopal registers, records of court proceedings, chronicles, chancery rolls). So crucial was the use of candles that when the legate Pandulf wanted to excommunicate those who sought to hang a felonious clerk (on King John's orders), his response was immediately to flee and look for a candle (successfully recalling the king from his intention).<sup>70</sup>

The essential form of excommunication is provided by Gratian's *Decretum*:

Twelve priests ought to stand around the bishop, and hold burning candles in their hands, which in the conclusion of the anathema or excommunication they should throw to the ground and tread on with their feet.<sup>71</sup>

As the gesture was performed, some version of the phrase 'thus his soul is extinguished in hell' was uttered. As Thomas of Chobham explained, this meant that 'his soul is obscured in infernal darkness, namely lest he sees the light of the grace of

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<sup>67</sup> Hamilton, 'Remedies for "great transgressions"', 101.

<sup>68</sup> Hamilton 'Interpreting diversity', esp. 133-4.

<sup>69</sup> Karn, '*Textus Roffensis*', 52-9.

<sup>70</sup> *Ann. Burton*, 217.

<sup>71</sup> C.11 q.3 c.106.

God, until he comes to emendation'.<sup>72</sup> Variations of this phrase could be more severe. For instance, one formula from a thirteenth or early fourteenth-century manuscript has 'And thus these lights are extinguished, so let their souls remain in hell with the devil and his angels'.<sup>73</sup> According to Matthew Paris, during the Magna Carta excommunication in 1237, once the candles were thrown down, the smoke and smell generated caused offence to those nearby, with smoke getting in the eyes of bystanders and choking their nostrils, at which point Archbishop Edmund of Abingdon declared 'thus let the condemned souls of those who violate the charter be extinguished, smoke and stink'. In the ceremony of excommunication staged to confirm Magna Carta in 1253, Archbishop Boniface of Savoy declared 'thus let those who incur this sentence be extinguished and stink in hell', and bells were then rung.<sup>74</sup> Paris's descriptions add weight to Sarah Hamilton's assertion, discussing the practice of extinguishing rites and the accompanying phrase in earlier formulae, that the 'vividness of this allusion to the sulphurous smells of the inferno reminds us how rites relied on more than mere words to convey their message'.<sup>75</sup> The final words of an excommunication, 'fiat fiat, amen amen', were then proclaimed by the whole congregation.

If a third key element can be added to the visual part of excommunication, alongside 'bell and candle', it should not be 'book'. Rather, it was solemn dress. Descriptions of clergy pronouncing sentences mention solemn robes, white pontificals,<sup>76</sup> albs and stoles. The Lanercost chronicler, for example, specifically noted that when the bishop of Worcester excommunicated Robert the Bruce in 1306, he removed his ordinary robes and put on his pontificals.<sup>77</sup> Sometimes a cross being held erect is also mentioned.<sup>78</sup> An unusually full description of a sentence pronounced against infringers of the liberties of St Alban's describes the abbot and the full convent in a solemn procession, with bells and candles, and with stoles placed around the

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<sup>72</sup> Chobham, *Summa*, 253.

<sup>73</sup> London, BL, Additional MS 15236, f. 25r.

<sup>74</sup> *CM*, v. 360-1, 377.

<sup>75</sup> Hamilton, 'Interpreting diversity', 136.

<sup>76</sup> Though in 1268, the legate apparently wore red when he excommunicated the rebels in Kenilworth Castle: *Robert of Gloucester*, ii, 772.

<sup>77</sup> *Lanercost*, 206.

<sup>78</sup> e.g. *Annales Londonienses*, ed. Stubbs, 74-5; *Reg. Sutton*, v, 103.

shrine, the cross, and the necks of every monk.<sup>79</sup> When a new archbishop was to be elected in 1228, the prior of Canterbury (pre-emptively) excommunicated anyone who conducted themselves badly in the matter, in the presence of reliquaries (wood from the Cross, the veil of the Virgin and the 'corona' or skull relic of Thomas Becket) which had been brought in to terrify the chapter.<sup>80</sup>

These were the essentials of the ceremony of excommunication. The extinguishing of candles gesturally and orally condemned a soul to hell in a manner closely allied to cursing. It should also be noted that the full anathema ritual was supposed to be the preserve of bishops but not of lesser clergy.<sup>81</sup> A full contingent of twelve priests was clearly impractical for every excommunication and denunciation. A mandate ordering denunciations in 1293, for example, stated that this should be done with the full twelve priests assisting at least once, implying that on other occasions (every Sunday and feast day, as was standard) a lesser ceremony could take place.<sup>82</sup> Another mandate from the same episcopal register instructed a priest to recruit four or five nearby parish chaplains, dressed in alb and stole, to pronounce a sentence.<sup>83</sup> On the other hand, in 1243, Robert Grosseteste was reportedly excommunicated by fifty or more monk-priests, and all the priests of the city of Winchester were gathered to excommunicate the monks of St Swithun's in 1273.<sup>84</sup> It is evident that the number of clergy involved was important: chroniclers frequently note how many had been gathered for a particular denunciation, either citing a specific number, or stating that all the priests from a city or area had been gathered, or merely asserting that there was 'a multitude' of clergy. It is equally clear, from these examples and many others, that the number of priests or bishops involved in an excommunication ceremony varied a great deal. There is also evidence that laymen could participate more actively than by merely joining in with the final 'fiat fiat, amen'. In 1237 and 1258 (but not 1253), Henry III held a candle, both at the Magna Carta excommunication and at that

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<sup>79</sup> *Gesta abbatum*, ed. Riley, i, 316-7.

<sup>80</sup> *Gervase*, 120.

<sup>81</sup> E.g. Peñafort, *Summa*, Tit.XXXIII, 19.

<sup>82</sup> *Reg. Sutton*, iv, 70-2.

<sup>83</sup> *Reg. Sutton*, iv, 35-6.

<sup>84</sup> *CM*, iv, 248; *Annales Monasterii de Wintonia*, 116.

pronounced against infringers of the Provisions of Oxford.<sup>85</sup> In 1221, the earls of Chester and Salisbury threw candles to the ground along with the bishops when Willian de Forz was excommunicated.<sup>86</sup> That the ritual was intended as spectacle is also indicated by the emphasis placed, in mandates and chroniclers' reports, upon there being a large audience to stand witness.<sup>87</sup> There is no doubt that ritual excommunication was a visually memorable and possibly terrifying spectacle, even if the variety in specifics makes generalisations ill-advised.

### ***WORDS OF EXCOMMUNICATION***

Apart from the words that accompanied the dashing of candles, it is difficult to determine what precise words were used in excommunication denunciations. However, as with the visual aspects of excommunication, there must have been great diversity in practice.<sup>88</sup> Unfortunately, only a handful of records of precise sentences survive, compared to mandates ordering publication which survive in droves. Orders for publication do not usually provide words to be used in the solemn denunciation.<sup>89</sup> What was actually said when these mandates were fulfilled might have been quite different to the contents of the mandates themselves, though that part of the oral sentence in which the crime was described may have been based on the mandate. Clerics probably had a good deal of opportunity to improvise, and to use whatever formulae they had to hand. For general sentences, as is demonstrated in ecclesiastical legislation and the Magna Carta excommunication, the 'Auctoritate Dei' formula was certainly used. Sentences based on this model invoked the authority of the Trinity, and a variable number of other Christian figures.<sup>90</sup> The Magna Carta sentence, for instance, invoked the Virgin, SS Peter and Paul, all apostles, martyrs, confessors, virgins and

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<sup>85</sup> *Guisborough*, 186; *Robert of Gloucester*, ii, 734; *DBM*, 259.

<sup>86</sup> *Ann. Dunstable*, 63-4, and *Coventry*, 247-8.

<sup>87</sup> Discussed in greater depth in ch. 4.

<sup>88</sup> Cf. Hamilton, 'Interpreting diversity', for variation in the tenth and eleventh centuries.

<sup>89</sup> Cf. Herbert Losinga's 1110 letter, which does: Karn, '*Textus Roffensis*', 52-9.

<sup>90</sup> See Edwards, 'Ritual excommunication', 19-21, and ch. 4 of her thesis *passim*.

saints, as well as SS Thomas Becket and Edward the Confessor.<sup>91</sup> Varying the length of the list of authorities was one way in which sentences differed in terms of solemnity. For general sentences, it appears that the formula would be ‘By the authority of God [etc.] we excommunicate all those who [commit a certain crime]’. For individual sentences, evidence indicates that the crimes of perpetrators and their names were described first, often at great length, using highly condemnatory language. Only then did the ‘Auctoritate dei’ formula begin.<sup>92</sup>

There was certainly room for variation in terms of how ‘maledictory’ a sentence could be: pontificals in the Romano-German tradition contain five texts, of varying length and severity, from which the most appropriate could be chosen.<sup>93</sup> Unfortunately, excommunication forms definitely in use in England during this period are hard to find, largely due to the lack of surviving pontificals. Even so, similarities between earlier rites and later Latin and Middle English texts allow an argument for continuity. Some denunciations were probably fairly quick and perfunctory, perhaps resembling the ‘Excommunicatio brevis’ from the Romano-Germanic pontifical, or the form of excommunication (more correctly, of denouncing someone already excommunicate) contained in the episcopal register of John le Romeyn, archbishop of York (1286-96).

*Forma denunciandi aliquem excommunicatum in specie. Universis etc.*

Excommunicatorum nomina expedit fore nota ut, dum a communione fidelium solempnius excluduntur, rubore saltem perfusi, ad gremium ecclesie cujus censuram contempnunt salubrius inclinentur. Cum itaque A. de B., propter ejusdem contumacias et offensas, majoris excommunicacionis sententia auctoritate ordinaria canonice innodaverimus, ipsum sic excommunicatum vobis tenore presencium nunciamus; rogantes quatinus, ob reverenciam Dei et ecclesie, ipsum in congregacionibus, colloquiis, et omnibus actibus legitimis, tam in judicio quam extra judicium, arcius

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<sup>91</sup> C&S, 477-8.

<sup>92</sup> See the form of a sentence pronounced by Boniface of Savoy, as recorded in a letter of Innocent IV: CM, vi, 197-200.

<sup>93</sup> Pontifical romano-germanique, i, 308-17.

evitetis, donec post satisfaccionem congruam absolucionis beneficium meruerit optinere.<sup>94</sup>

By contrast, there are hints that elements of the more severe anathemas from previous centuries continued to be used. The excommunication of William Marshal, though not a ritual ceremony (the bishop was alone, without candles, bells or assistants), made use of Psalm 108, the biblical text most associated with this ceremony.<sup>95</sup> This Psalm (as Thomas Hardy was later to remind readers of *The Mayor of Casterbridge*) provided ample material for cursing enemies. Excommunications pronounced against those who attacked the church of Thame in 1293 (below, ch. 5) also made use of this Psalm. In 1296, the Lanercost chronicle reported that the Scots excommunicated the king of England and the English, reciting Psalm 108.<sup>96</sup> That year, a certain chaplain from Edinburgh, Thomas, was arrested and delivered to the archdeacon of Lothian because, ‘in despectu domini regis’, he had excommunicated the king of England, publicly with bell and candle. Richard Guile, who had rung the bell, was similarly charged. Their excommunication, then, may well have involved a reading of Psalm 108.<sup>97</sup> Such references to the thirteenth-century use of Psalm 108 are exceptional. But it is not implausible that the Psalm text was used more frequently than the evidence implies.<sup>98</sup> It can hardly be claimed that clergy were ignorant of the Psalms.

An excommunication might contain long litanies of maledictions cursing particular body parts, or summarise ‘from the top of the head to the souls of the feet’, condemning the excommunicate at all times and in all places: ‘let him be cursed while waking, sleeping; sitting, standing, walking...(etc.)’. There is no definite evidence that such clauses were used in thirteenth-century England, yet the similarities between earlier rites and those recorded in England in the fourteenth and fifteenth centuries – in

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<sup>94</sup> *Pontifical romano-germanique*, i, 314; *Reg. le Romeyn*, i, 53.

<sup>95</sup> See Little, *Benedictine Maledictions*, 63-7; Jaser, *Ecclesia maledicens*, 178-85; Reynolds, ‘Rites of separation’, 405-33.

<sup>96</sup> *Lanercost*, 175-6.

<sup>97</sup> Neville, ‘A plea roll of Edward I’s army in Scotland’, no.115. I am grateful to Sophie Ambler for this reference.

<sup>98</sup> Parts of the psalm occasionally appear in other excommunication-related contexts, such as when people who had remained excommunicated were described as ‘drinking up curses like water’ (*Reg. Bronescombe*, no.1175).

both Latin and middle English – renders it plausible that such forms continued in use. A late thirteenth or early fourteenth-century English manuscript contains this formula:

Ex auctoritate Dei patris omnipotentis et filii et spiritus sancti et sancte genitricis Marie et beati Michaelis archangeli et omnium celestium virtutum, beati Iohannis Baptiste atque omnium patriarcharum et prophetarum, Petri et Pauli et omnium apostolorum, sancti Stephani protomartiris et omnium martyrum Dei dominici(?) et omnium confessorum (sic), sancte Brigide virginis atque omnium virginum, excommunicamus, anathematizamus, dampnamus ac a liminibus sancte matris ecclesie sequestramus eos qui hoc malus fecerunt ex proposito; et <qui> huic conscenserunt ~~sint maledicti~~ sintque maledicti, interius et exterius sint et maledicti manducando, bibendo, vigilando, dormiendo, sedendo, stando, ambulando, et in cunctis locis ingredienti et egredientes, progredientes et regredientes, deleantur etiam de libro vivencium et cum iustis non scribantur, sitque pars atque societas eorum cum ~~dathan~~ Dathan et Abiron, cum Anania et Saphira, cum Nerone et Simone Mago, cum Iuda Stariothe, Caypha et Pilato. Et sicut extinguuntur iste lucerne, ita amine eorum in inferno permaneant cum diabolo et angelis eius, nisi resipiscant et ad satisfactionem perveniant congruam et condignam. Fiat Fiat amen.<sup>99</sup>

Excommunication rites often ended by condemning the excommunicates along with various Biblical villains, such as Judas, Caiaphas, Pilate, Ananias and Sapphira and particularly Dathan and Abiron. There is some (limited) evidence that such phrases remained in use. Thus the sentence pronounced against the Thame attackers declared that the guilty parties were to share in the fate of Cain the fratricide, of Dathan and of Abiron, who were swallowed alive for their crimes.<sup>100</sup> Dathan and Abiron certainly continued to be associated with sinners.<sup>101</sup> For example, John Pecham justified his excommunication of the bishop of Hereford, Thomas Cantilupe, by describing him as acting in the spirit of these same two Biblical sinners.<sup>102</sup> He similarly believed that

<sup>99</sup> London, BL, Additional MS 15236, f. 25r. The MS is a collection of medical and other tracts. See Edwards, 'Ritual excommunication', 124, for how often formulas in this period were written in a wide variety of MSS, usually not pontificals. Cf. the formula with, for example, 'Excommunication formula, about 900' and "'Pope Leo" excommunication formula, 937' in appendix C of Little, *Benedictine Maledictions*, 255-8, and with the Middle English form in Carruthers 'The Great Curse', 45-59. Edwards, 'Ritual Excommunication', also contains appendices with numerous formulae demonstrating the prevalence of such phrases.

<sup>100</sup> *Reg. Sutton*, iv, 117-18.

<sup>101</sup> See Jaser, *Ecclesia Maledicens*, 178-84; Edwards, 'Ritual excommunication', 84-5, 93. For earlier usage Little, *Benedictine Maledictions*, 65-8.

<sup>102</sup> *Reg. Epp. Pecham*, ii, 394.



certain schismatics deserved to be punished with Dathan and Abiron, and ordered their excommunication.<sup>103</sup> A formula transcribed by Véronique Beaulande from a thirteenth-century Cambrai manuscript contains a concise but forceful text, which is plausibly typical of those in use in England at this time:

Auctoritate Dei Patris omnipotentis et Filii et Spiritus sancti et beati Petri apostolorum principis et omnium electorum Dei, excommunicamus et dampnamus et anathematizamus et a liminibus sancte Dei ecclesie excludimus et sequesteamus a consortio Christianorum illos maleficos. Quatinus transverberati gladio Spiritus sancti descendant cum Dathan et Abiron vivi in infernum et tradantur diabolo et angelis ejus cum quibus cruciati torqueantur sine fine et in eternum pereant. Et sicut extinguuntur lucerne iste, sic extinguantur lucerne eorum in mediis tenebris, et sint maledicti in ignem eternum nisi resipuerint et ecclesie Dei satisfecerint. Fiat, fiat.<sup>104</sup>

It is thus important to acknowledge that there were grades of ritual force, both gesturally and verbally, within the broader category of excommunication.<sup>105</sup> Though Vodola has argued that there was no theological distinction to be drawn between major excommunication and anathema, a tripartite division of excommunication (minor, major, anathema) remains helpful in understanding practice.<sup>106</sup> Thus the Durandus pontifical, written on the continent in the 1290s, included separate rituals for excommunication and anathema. The latter was far more elaborate.<sup>107</sup> It is likely that the common experience of excommunication was not overly dramatic, even though denunciations using candles were standard. For particularly serious cases the full anathema, making use of Old Testament maledictions from the Psalms and Deuteronomy, could be used. In practice, it is usually difficult to judge whether an individual sentence was a major excommunication or an anathema (and no attempt will be made to do so in the remaining chapters). But acknowledging that there were grades of solemnity is helpful when considering how excommunication was carried out. The

<sup>103</sup> *Reg. Epp. Pecham*, i, 183.

<sup>104</sup> Beauland, *Le Malheur d’Être Exclu?*, 271.

<sup>105</sup> See also Jaser, ‘Usurping the Spiritual sword’, 509.

<sup>106</sup> Vodola, *Excommunication*, 14-16 and notes. Jaser, similarly noting the difficulties of distinguishing ‘excommunication’ from ‘anathema’ favours ‘ritual excommunication’ to indicate the ‘ultimate, high-end sanction ... an orally and gesturally performed excommunication’: ‘Ritual excommunication’, 121. I reject this, simply because, as the source material indicates, all excommunicates were ritually denounced. The variation lies in how dramatic this ceremony could be.

<sup>107</sup> *Le Pontifical Romain au Moyen-Age*, ed. Andrieu, iii, 10, 612-51.

single term ‘major excommunication’ encompasses too broad a spectrum of variation. If it were not for chroniclers, we would not know that the archbishops declared that infringers of Magna Carta would stink in hell, or that the smell of the extinguished candles had its effect upon the audience. We would not know that Edward I was anathematised via Psalm 108 (however applied) in 1296. Chronicle evidence is erratic. Most excommunications were not noted, and those that were, often only briefly. It is certain that there is much we cannot know about how sentences were pronounced in thirteenth-century England. But it should at least be considered that such ceremonies were more dramatic than the majority of evidence suggests. It is thus possible, if impossible to prove, that some of the excommunications discussed in this thesis were pronounced using language akin to cursing. If we err on the side of caution and conclude, through lack of definite evidence, that the more severe maledictions were not in use in thirteenth-century England, the final condemnation with candles remained in any case the most explicit indication of what would happen to an excommunicate’s soul.<sup>108</sup>

Thus the excommunication ceremony was meant to be, and could be, terrifying. Robert Grosseteste, bishop of Lincoln (1235-53) described excommunications pronounced by Stephen Langton in 1222 ‘to terrify the wicked and restrain their wickedness’. Robert Winchelsey, archbishop of Canterbury (1294-1313), explained that excommunication had to be pronounced ‘with bells ringing and candles burning, so that it might be feared the more on account of this solemnity’. We can hardly doubt, for instance, that the excommunication pronounced by Gregory IX against Emperor Frederick II in 1239 was terrifying, given the personal animosity the pope felt against the emperor. Matthew Paris reported that, ‘in a spirit of fervent anger, [the pope] solemnly excommunicated the emperor Frederick ... handing him over to be terribly possessed, in destruction [of the flesh]. And using the same words, as if thundering in a roar of fury, vehemently compelled all those listening to terror’.<sup>109</sup> Paris presents the pope’s use of the verse from Corinthians as though Gregory desired the emperor’s

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<sup>108</sup> Though it was always made clear that this was only unless the sinner came to his senses.

<sup>109</sup> *CM*, iii, 533; cf. Innocent’s own letter, *CM*, iii, 571-2.

affliction. This passionate pronouncement apparently had a strong effect on the pope's audience.

## **CONCLUSIONS**

The idea that excommunication precluded salvation, sending people to hell, was thus transmitted to the later middle ages through legislation, miracle stories and solemn excommunication ceremonies. Both clergy and laity were more likely to have been influenced by these phenomena than by legalistic and theological explanations of excommunication. Excommunication was far less effective if it was not feared, and the church understandably sought to engineer such fear by emphasising the link between excommunication and cursing. The ritual aspect of excommunication must be stressed here, as a much neglected aspect of this period. It is further significant because, even if people were not afraid, solemnity transformed such pronouncements into a spectacle. What was being said was more memorable and dramatic. This has important implications for excommunication's value as propaganda.

Chronicles are not necessarily indicative of popular preconceptions, yet it is not surprising that, in the chronicle narratives, when bad things happened to excommunicates, they were often set down as the result of sentences of excommunication. The fate of William Marshal's sons supplies one example of this.<sup>110</sup> Another might be the belief that the French prince Louis's losses after he invaded England in 1216 were the results of his excommunicate status. Roger of Wendover reported that when Louis was forced to surrender Berkhamstead castle in 1216, Waleran the German 'sent the souls of many of the excommunicated French to hell (*ad Tartara*)'.<sup>111</sup> The same idea is reflected in the *History of William Marshal*, which has the Marshal give a speech to his troops before the battle of Lincoln the following year. He used the damned state of the French to boost English morale, arguing that it would

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<sup>110</sup> Some other examples (though there are many more): *Ann. Dunstable*, 54; *Coventry*, 247-9; *Lanercost*, 237-8. See also Murray, 'Excommunication', 174.

<sup>111</sup> *CM*, iii, 8.

work against his enemies, and asserting ‘for that reason all the more trapped / I can tell you that they will come to a sticky end / as they descend into hell’.<sup>112</sup> After the battle, according to Roger of Wendover, Louis lamented that his misfortune at the battle had been inflicted on him by God rather than by men.<sup>113</sup> The continuator of William of Coventry similarly noted it as a miracle that Louis, who had occupied most of the kingdom, was suddenly defeated by an inferior force: ‘But the reason is obvious, because the hand of God was not with him, as one might expect for someone who came there [to England] against the prohibition of the holy Roman church, and delayed there under a sentence of anathema’.<sup>114</sup> Again, the Melrose chronicler noted Louis’s defeat at Lincoln: ‘Therefore in this conflict, all those who were on Louis’s side, oppressed by the weight of excommunication, were miraculously captured by a few and imprisoned in Lincoln’.<sup>115</sup> If it was widely believed that Louis’s enterprise had been quashed by God, his fate might well have served as an example to those in similar positions threatened or sentenced with excommunication.

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<sup>112</sup> *History of William Marshal*, ii, ll. 16298-302.

<sup>113</sup> *CM*, iii, 25.

<sup>114</sup> *Coventry*, 239.

<sup>115</sup> *Melrose*, 131.

## 2.

### CONSCIENCE AND FEAR

The implication propagated by the church was that those who remained excommunicated would suffer in hell. Yet it cannot be denied that for many (if not most) who faced excommunication, spiritual fears were insufficiently strong to provoke an immediate reconciliation with the church. Before discussing the reasons for this, it should be observed that spiritual concerns remained a powerful force. Most crucially, dying under a sentence appears to have been relatively rare.

#### *FEAR OF EXCOMMUNICATION*

That people altered their behaviour because they feared excommunication is indicated in a number of sources. Sometimes such fears were attributed to excommunicates by chroniclers; sometimes those threatened or sentenced themselves claimed to be concerned about their souls. One striking example of the former concerns the English barons who supported the bid of Louis, son of the king of France, to be king of England, against the young Henry III. According to Matthew Paris, the sentence of excommunication, 'which the English dread before all nations, daily recalled those [English] barons to their own natural lord [Henry III], with Louis scorned'.<sup>1</sup> The chronicler thus explicitly stated that the barons changed sides because they were afraid of excommunication. According to Wendover, Louis himself was driven to treat with Henry because the legate Guala's excommunication of Louis and his supporters was to be confirmed by the pope.<sup>2</sup> Ranulf, earl of Chester, was credited with similar concerns in 1223. According to Wendover (whence John of Oxnead), when the earl and his

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<sup>1</sup> *Flores Hist.*, ii, 163.

<sup>2</sup> *CM*, iii, 13.

accomplices realised that their forces were no larger than the king's, they were 'afraid to enter uncertain battle', fearing that they might be excommunicated by name (a general sentence having already been pronounced).<sup>3</sup> As a result, Chester surrendered the king's castles.<sup>4</sup> Soon afterwards, a cleric acting on behalf of Falkes de Bréauté was reportedly afraid to incur the sentence against all those supporting Falkes's rebellion. According to Falkes himself, Robert of Leicester (whom Falkes had sent with letters to the king) was afraid that he would be bound by this general sentence, of which he had heard through *publica fama*. Falkes speculated that this caused Robert either to suppress the true letters, or to present different ones to the king. In either event, the true letters never reached Henry.<sup>5</sup> In the 1240s, the king himself was similarly let down by one of his officials. The justiciar of Ireland, having been threatened with excommunication, 'openly delayed to offer justice' by failing to proceed with a case of *novel disseisin* between the bishops of Cloyne and Emly. This was 'because of fear of excommunication': the bishop of Cloyne's threat had worked. King Henry, however, 'could not but wonder' at this, and ordered the justiciar to proceed without delay, notwithstanding the bishop's threats.<sup>6</sup>

Although these examples indicate that fear of excommunication affected politics in the first half of the thirteenth century, all of them are problematic. In each case, there is reason to doubt that those involved were acting solely because they feared excommunication. The English may have truly dreaded excommunication, yet this was hardly their only concern. As David Carpenter has pointed out, there had been a significant change in the barons' enterprise. In 1215, the barons had presented it as a religious undertaking; in 1217, Guala had launched a crusade against them. As the Crowland annalist put it, 'those who once called themselves the army of God ... were reputed to be the sons of Belial and compared to infidels'.<sup>7</sup> However, 'this new crusading element ... confirmed and strengthened, rather than instigated, the decision to desert Louis'. Fear of excommunication might indeed have played a part in their

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<sup>3</sup> *CM*, iii, 83; *Oxenedes*, 150.

<sup>4</sup> Carpenter, *Minority*, 316-27, particularly 326.

<sup>5</sup> *Coventry*, 266.

<sup>6</sup> *CR 1242-47*, 353.

<sup>7</sup> *Coventry*, 235-6 (Carpenter's translation).

decision, but it is implausible to suggest that their decision to return to their ‘natural lord’ was exclusively based on such anxiety. There were also more practical concerns about Louis’s ability to cater for both his French and English followers.<sup>8</sup>

Louis’s decision later in the year to make a truce should be viewed in the same light. Having lost the battle of Lincoln, Louis was obliged to negotiate.<sup>9</sup> For the past two years, he had been excommunicate. On the other hand, papal confirmation of the legate’s sentence was no doubt a significant blow to the would-be king, and it rings true that he would be perturbed by this.<sup>10</sup> Moreover, if Louis believed that his unexpected misfortunes had resulted from his excommunication, fear of it could well have influenced his decision to come to terms. Similarly, the earl of Chester’s capitulation was clearly based partly on the practical fact that he was likely to lose if he persisted – the chroniclers noted his awareness of his military inferiority. Yet it would not have been unreasonable for him to fear that the loss itself was made more likely by his excommunication.

It might also be noted that giving a pious reason for submitting, in all these cases, was a means of saving face. Reconciliation with the church was always something to be commended. In the cases of Falkes’s messenger and the justiciar of Ireland, fear of excommunication was perhaps being used as an excuse. The possibility that the justiciar was merely seeking a religious reason for his negligence cannot be ruled out. Falkes’s story should certainly be treated with caution. His *Querimonia* is a highly coloured account of events, written for the pope in 1225, intended to exonerate Falkes from blame. The reason he gives for why his true letters never reached the king, which was not his fault, might therefore be questioned. If it was a fabrication, it is nevertheless of interest: Falkes would surely not have claimed it if entirely implausible.

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<sup>8</sup> Carpenter, *Minority*, 27-31, quotations at 28.

<sup>9</sup> Carpenter, *Minority*, 35-49.

<sup>10</sup> His supporters had argued that the excommunication did not stand, since the pope was uninformed of the facts: Powicke, *Henry III*, 13-14.

Aspersions can similarly be cast on the motives of those who steadfastly refused to incur excommunication in the first place. In 1258, the monks of St Albans refused to give any money to Simon of Passelewe, who was busy extorting cash on the king's behalf (for the Sicilian business). Their argument was sound: they would incur excommunication if they paid up, because they had documents which forbade anyone from burdening their church under pain of excommunication and interdict. They would, they said, prefer to incur the earthly king's indignation than offend the King of Heaven by contradicting a papal prohibition, and thus be bound by the chains of anathema. When Simon assured them that the pope had granted a Franciscan who accompanied him faculty to absolve anyone who incurred such a sentence, the monks replied that this would not be 'healthy' ('non sanem videtur'), since agreeing to incur excommunication on the grounds that they could be absolved would be like agreeing to have a leg broken on the promise that the best surgeon could be provided to mend it.<sup>11</sup> Despite the logical and pious rationality of the monks' refusal to grant Simon's wish, it was in their interests to refuse him payment. Their pious attitude to excommunication should thus be taken with a pinch of salt.

Nevertheless, their argument was remarkably similar to that used some forty years later, when Edward I again attempted to extort money from the clergy. In this instance, many capitulated, notwithstanding the papal excommunication they incurred for infringing the papal bull *Clericis laicos* (1296). Those who did not give in, however, notably archbishop Winchelsey, can fairly be said to have been acting on principle, not merely from self-interest. Thus, after Boniface VIII had issued his bull, forbidding any grants of subsidy to lay rulers without his consent, the clergy were unwilling to disobey him. The clergy told the king 'that they could not give or grant him anything, nor could he receive anything, without each of them incurring [the excommunication in] the bull, which, however, they did not believe the king wanted'.<sup>12</sup> Winchelsey asserted that the clergy had two lords, and that they owed greater allegiance to their spiritual than their temporal master. When a number of clergy relented in the face of Edward's persecution, the archbishop himself 'chose

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<sup>11</sup> *CM*, v, 685-7.

<sup>12</sup> *Guisborough*, 286.



rather to incur the king's anger than the sentence of excommunication'.<sup>13</sup> The chronicler of Bury St Edmund's wrote: 'The assembly feared the Eternal King more than he who was king for a time, and the peril of their souls more than the hazards of worldly affairs'.<sup>14</sup> This response thus resembles that of the monks of St Albans in 1258, who had also responded by saying that they would prefer to anger their king than their God. Simon Passelewe told the monks that he would inform the king that they spurned his protection; in 1296 the king responded (largely successfully) by placing the clergy outside his protection. The political circumstances were certainly different, and the results more serious in 1296, since it was the archbishop, and originally all the clergy, who resisted the king. Yet the two events do indicate that some religious men, at least, put their salvation above their temporal safety, unwilling to incur excommunication. In both cases the demands being resisted were particularly unpopular. The refusal of the clergy to pay the king any money thus suited their interests.

The indications that fear of excommunication affected decision-making are thus complicated. Excommunication was rarely the only factor, and its importance in any particular case is impossible to evaluate with any certainty. This problem is exacerbated by the fact that avoiding excommunication or seeking absolution from it was a good, pious, reason to act. Further, even when excommunication was effective, its effects were wide-ranging. The above examples were chosen specifically because their implication is that sentences were feared for spiritual reasons; on many occasions excommunication 'worked' because it made an excommunicate's temporal life difficult. Again, it is usually impossible to determine the impact the various consequences of excommunication had on a person so sentenced. The spiritual impact of excommunication was inevitably bound up with other matters. Indeed, it is likely that those who were threatened with excommunication might themselves have been unable to separate its various consequences and articulate which was the more important. Attempting to separate them is usually both impossible and ill-advised. As John Arnold has cautioned, 'favouring one factor, whether secular or ecclesiastical,

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<sup>13</sup> *Guisborough*, 288; *Cotton*, 322-3; Denton, *Robert Winchelsey*, 126-31.

<sup>14</sup> *Chron. Bury*, 137-8.

over another misunderstands the interwoven nature of medieval culture'. Acts could be simultaneously social, political, legal and spiritual.<sup>15</sup>

#### ***ABSOLUTION FROM SECRET EXCOMMUNICATION***

Nevertheless, when people wrote to the papal penitentiary seeking absolution from *latae sententiae*, it can frequently be inferred that conscience was the driving force. There was often no obvious temporal advantage. Unless a person was publicly denounced, or a legal process was begun against them, it was up to their conscience to decide whether they ought to seek absolution from an automatically incurred sentence.<sup>16</sup> A person could be bound by such a sentence without anybody else knowing. A person's soul was imperilled, but they might be able to carry on living just as they had before, with their associates unaware that they were excommunicate. Indeed, the profusion of *latae sententiae* makes it highly likely that such situations were common. When people sought absolution from *latae sententiae*, it can be suggested that they were afraid for their souls. The same problem applied to general sentences pronounced against unknown perpetrators. In thirteenth-century England, it was common for such general sentences to invoke an *ipso facto* sentence, declaring that the perpetrators incurred a *lata sententia*, often *Qui malitiose ecclesias*.<sup>17</sup> The practical difficulties of *latae sententiae* and general sentences are essentially the same, and are amusingly and aptly demonstrated in a tale included in Peter of Cornwall's *Book of Revelations*.

In the parish of Borden near Sittingbourne, some time before 1170, an old man decided to sell his wood, 'urgente necessitate'. Being too old to conduct the sale himself, he delegated the task to his son. The son, however, was greedy, and defrauded

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<sup>15</sup> Arnold, *Belief and Unbelief*, 7-8.

<sup>16</sup> If someone was accused of having fallen into an automatic sentence, an investigation was conducted, and if he or she were found guilty, proceedings would follow much as they would for an *ab homine* sentence.

<sup>17</sup> C&S, 106. See also Jaser's discussion of *ipso facto* and general excommunications: *Ecclesia Maledicens*, 359-73.

his father of most of the money he had received from the sale. The father, knowing he had been tricked but not suspecting his son, asked the parish priest to bind whoever had cheated him with anathema. Despite denunciations being made by the priest in church, in the presence of the guilty son, the adolescent admitted his guilt neither publicly nor privately, and was neither repentant nor remorseful. After he had dissembled in this way, taking no account of possession by Satan of both his body and his soul (cf. 1 Corinthians 5:5), while asleep one night – wearing nothing but a cloth nightcap ('mitram lineam') – he was dragged through the wall by two malignant spirits calling 'you are ours, you are ours, and you are coming with us'. Only his nightcap was found, but the spirits forced sailors to carry the condemned man (presumably still naked) across the Thames 'for no other reason, I suspect, than that what had happened should afterwards be made known by them'.<sup>18</sup> Until he was dragged away by demons, the son was 'getting away with' his crime, and this was precisely why divine intervention was needed, and why it was so necessary that the sailors witnessed it and spread the word. The story is testimony of the problem inherent in sentences aimed at unknown criminals, and also in *latae sententiae*: guilty people could not be persuaded to return to the church through any of the usual means if they had incurred excommunication only secretly.

It is impossible to tell whether the faithful were swayed by such stories (this particular one is extant in only one manuscript, and is unlikely to have reached many people), but there is evidence that some people felt sufficient unease that they had incurred an automatic sentence that they sought absolution. In none of these cases were the petitioners judicially sentenced and in most, for one reason or another, the sentence could not have been publicly proclaimed. Their desire to seek absolution can therefore be understood as resulting from conscience and fear, rather than from shame, from loss of public standing, or as the result of ostracisation.

Evidence for absolutions sought from *latae sententiae* survives partly because there was considerable overlap between sentences incurred *ipso facto* and

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<sup>18</sup> Peter of Cornwall, *Book of Revelations*, ed. Easting and Sharpe, no.2897.

excommunications for which absolution was reserved.<sup>19</sup> Most *latae sententiae* excommunications required absolution from either the papacy or the archbishop of Canterbury (depending on who had issued the excommunication in the first place), although certain exceptions applied. Dispensations providing permission for absolution from a bishop could also be granted in particular circumstances. Though excommunication was a legal penalty, and therefore belonged to the external, judicial forum of the church, when sentences were incurred *ipso facto* but had never been legally confirmed or publicly denounced, they were also a matter for the internal, penitential forum.<sup>20</sup> As shown by Peter Clarke, Patrick Zutschi and Ludwig Schmugge, the papal penitentiary was concerned with matters of conscience.<sup>21</sup> It was increasingly required, from the twelfth century, that every Christian examine their conscience. The Fourth Lateran Council (c.1215) famously required yearly confession from every Christian. In the thirteenth century, these automatic sentences proliferated, and were regularly publicised so that people were aware of them. Considering this environment, it is perhaps understandable that people sought to clear their consciences.

One notable example here is found in the register of archbishop Winchelsey. Simon, son of Gilbert of Walsoken (Norwich diocese), petitioned the papal penitentiary about an excommunication he had incurred for laying violent hands on the rector of Walsoken. The archbishop supplied notification of his absolution from this sentence, enjoining penance on Simon. The fact that the papal penitentiary was involved immediately indicates that this was a matter of conscience rather than law, but the letter is notable for another reason: Simon was not, in fact, excommunicated. The circumstances of Simon's assault are described in the notification. He had found the rector, Stephen, with his wife 'nudum cum nuda'.<sup>22</sup> This was one of the exceptions to *Si quis suadente*. Someone laying violent hands on a cleric found *turpiter* with his wife, mother, sister or daughter, was not excommunicated or compelled to go to the

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<sup>19</sup> See Longère, 'Les évêques et l'administration'.

<sup>20</sup> Goering, 'The internal forum' discusses the relationship between the judicial and penitential forums. They were 'two interrelated spheres of the church's authority' (quotation at 380).

<sup>21</sup> Clarke, 'Central authority and local powers'; Clarke and Zutschi, *Supplications from England and Wales*; Schmugge, 'Towards the medieval conscience'. They all discuss petitions from the later middle ages (fifteenth century).

<sup>22</sup> *Reg. Winchelsey*, i, 340-1.

apostolic see (X 5.39.3). A serious assault might still require absolution from the papacy, but it is carefully noted that Simon had not even drawn blood. Further, those excommunicated ‘pro levi manuum iniectio in clericum’, even without another exception, could be absolved by a bishop (X 5.39.17). Simon need not have taken his case to the papal curia, but did so nonetheless. Winchelsey’s notification provides no indication about why Simon had approached the papal penitentiary, and it is certainly possible that he was being treated as an excommunicate by those ignorant of the law (especially as his victim was the local rector).<sup>23</sup> Yet it is also certain that his supposed excommunication would never have been legally binding if it had been brought to the *forum judiciale* rather than the *forum penitentialis*, (though the standard advice, if someone was in doubt whether they had incurred a sentence, was that they consult the pope<sup>24</sup>).

Simon sought absolution because he believed that he had incurred excommunication. Yet no judicial measures had been used against him. It is therefore plausible to suggest that he was afraid of being excommunicated. A comparable, though distinct, case can be found in a thirteenth-century papal penitentiary formulary. A man living in the diocese of Sens had supplicated the apostolic see because of a sentence he might have incurred, but from which he believed he had escaped. The cause of his uncertainty was that he had been present at the murder of a priest, who had fled into a church for sanctuary, but been dragged out by a crowd summoned there by a judge (presumably to guard the church). The petitioner had gone to the church on the judge’s orders, but had not taken part in the attack; rather he had been against it. His query was that he was unsure whether the archbishop of Sens had excommunicated all those who had approached the place. Because he had had no intention to injure the priest, ‘he did not believe himself to have fallen into the canon’. He must nonetheless have wanted to put his mind at rest. The archbishop, according to the formulary, was

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<sup>23</sup> The exceptions of *Si quis suadente* were widely known, and were noted in many widely circulated texts, such as Raymond of Peñafort’s *Summa de paenitentia*, Robert Grosseteste’s *Templum Dei* (VII.8), and Robert of Flamborough’s *Liber Poenitentialis* (157). Cf. a case in Sutton’s register, where someone was judged not to have incurred *Si quis suadente* on the grounds of another exception: *Reg. Sutton*, iii, 126-7.

<sup>24</sup> Peter the Chanter, for instance, counselled that if someone doubted whether or not he had fallen into the canon (of *Si quis suadente*), he should consult the pope because it might be more dangerous to do nothing: *Summa de sacramentis*, 400.

told not to consider the man excommunicated, and as far as the archbishop's sentence had bound him, to absolve him.<sup>25</sup>

Although this second case is not from England, it is significant because the great majority of petitions to the penitentiary seeking absolution from *ipso facto* excommunications came from clergy and monks rather than from laymen. This is particularly clear in the formulary, which almost overwhelmingly deals with cases involving the religious. It could be argued that men in orders were more pious than laymen, or that they knew the law better, but the issue is complicated by the fact that if a clergyman discharged his divine offices while excommunicated, all his acts were irregular, and an excommunicated cleric could not be promoted to higher orders. There was therefore a risk that, if it later became known that a monk or priest had fallen into a sentence of excommunication many years before, his career would be impeded, and he would be deemed 'irregular'. Papal dispensation was required to lift suspension in such instances, in order that a particular individual could proceed to promotion.<sup>26</sup>

The clergy may therefore have been as concerned with their temporal livelihoods as with their salvation.<sup>27</sup> Thus a subdeacon, Thomas of Codicote, consulted the papal penitentiary in 1292, because he was concerned about the joy he had felt at the death (through capital punishment) of certain murderers who had killed his brother-in-law during a robbery.<sup>28</sup> He wanted to progress to higher orders, and feared that this would be an impediment. The reply from the penitentiary was included in full in Oliver Sutton's episcopal register.<sup>29</sup> It carefully noted that Thomas had not provided 'counsel, help, or favour' to the capture or capital sentencing of the murderers. Excommunication is never explicitly mentioned, but the editor of the register thought that the absolution Thomas was seeking was from a sentence of excommunication or

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<sup>25</sup> *Formulary of the Papal Penitentiary*, ed. Lea, no.24(1); cf. *C&S*, 580-1.

<sup>26</sup> See for instance *Flamborough*, 141.

<sup>27</sup> Schmugge, 'Towards the medieval conscience', 221-3, discusses the issues at stake for a cleric, and possible motives to approach the penitentiary.

<sup>28</sup> cf. Raymond of Peñafort, *Summa*, Tit.XXXIII, 48, where it is discussed whether someone incurs excommunication for rejoicing at the news that cleric who has done him wrong has been wounded (he does not incur a sentence).

<sup>29</sup> *Reg. Sutton*, iii, 191-2.

suspension incurred because of his inappropriate joy.<sup>30</sup> Despite Thomas's concern for his career prospects, it is difficult to see how this could have been used against him in any legal sense. No one would know that he had been 'gavisus' unless he himself had admitted to it. Perhaps he had been threatened – his petition mentions that he is supplicating lest a competitor use it against him – but such an accusation would hardly have stood up in court. It was also stated that he appealed 'for the greater security of his conscience', so that apostolic mercy might supply 'a remedy of salvation'. The circumstances thus allow the interpretation that Thomas was concerned about his conscience and salvation as well as his career. A perhaps analogous instance is the absolution given to the bishop of Moray in 1255, because he was afraid that he had incurred excommunication for opposing the promotion of a man to the office of dean. The man in question had a papal provision that threatened all those contradicting it with excommunication. The bishop was, in fact, 'dubious' that he was bound by this sentence, since he had acted in order to avoid perjury. Nevertheless, he needed dispensation for irregularities he had incurred for exercising his episcopal office while excommunicated, and the pope therefore provided for his conscience.<sup>31</sup> Similarly, in 1213 a scholar realised that as a teenager he had fallen into *Si quis suadente* for using too much force while teaching – not with enthusiasm for educating his students (which would have excepted him from the sentence), but to extort things from them – but had subsequently forgotten about his excess. He had since taken minor orders without first receiving absolution, which he now humbly sought.<sup>32</sup>

The case of Ralph of Hagworthingham, a canon of Markby Priory (Lincolnshire) is even stranger. Ralph abstained from divine services, having incurred a *lata sententia* for falsifying apostolic letters. Ralph, it seems, had been persuaded of his excommunicate status by his prior, and had simply taken his word for it. Although falsifying papal letters was an offence that incurred automatic excommunication, with absolution reserved to the papacy, when the bull was inspected it appeared untouched. Why Ralph had lived for so long (seventeen years) believing himself to be guilty

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<sup>30</sup> *Reg. Sutton*, iii, xlii.

<sup>31</sup> *Les Registres d'Alexandre IV*, ed. Bourel de la Roncière i. no.1015; *CPL*, 325.

<sup>32</sup> *Letters of Innocent III*, 913 (appendix).

without checking the bull might be wondered at, but again this ‘excommunication’ was not legal, and never could have been. There was nothing to indicate that Ralph had fallen into the sentence at all. The bishop ordered that Ralph should not be treated as excommunicate, but left the ultimate decision to Ralph's own conscience. This, then, supplies a case in which a *lata sententia* was obeyed, and in which absolution was sought, even though there had been no legal procedure, and indeed no cause for the excommunication in the first place.

Such cases go some way to demonstrate that the effects of excommunication were not confined to its legal and social consequences. *Latae sententiae* could be incurred without either. Yet some people, albeit mostly clergymen, felt compelled to seek absolution from such sentences. Presumably, in many cases, such people supplicated the penitentiary not on their own initiative, but because they had been referred. Even their seeking advice from clergy closer to home indicates concerns of conscience, since accusations from others would have resulted in a judicial inquiry, not a petition to the penitentiary. It is also particularly odd that, in the case of William and his adulterous wife, no one pointed out the well-known exceptions that applied in law.

It is in the context of such petitions that a letter found in the Close Rolls of Edward I should be considered. In 1306, the bishop of Carlisle and three abbots (St Albans, Waltham, and St Mary's, York) had been granted full power by Pope Clement V to absolve those of the king's subjects who feared they had incurred excommunication or irregularity through crimes committed while striving to protect the king's peace (presumably in the Scottish wars). In the course of their efforts, many had killed or injured rebels, and damaged churches and ecclesiastical property. The sheriffs of England were ordered to make a public proclamation in cities, boroughs and other places, that those who felt they needed absolution or dispensation (‘qui hujusmodi absolutione seu dispensatione se sentiunt indigere’) should go to the bishop or one of the abbots to request and receive it.<sup>33</sup> The letter written to the sheriffs states that the pope had granted this power at the king's request. Prynne, who printed the letters, believed that the king was acting here having been ‘informed by some of his

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<sup>33</sup> CCR 1302-07, 435; Prynne, *Records*, 1136-7.



superstitious Prelates and Clergy'.<sup>34</sup> It is equally possible that Edward's provision was the outcome of popular demand, his men being conscious of their sins and wanting remedy. It is not inconceivable, given the publicity given to *latae sententiae*, that those who fought for Edward were aware that, having laid violent hands on clergy, they needed papal absolution, and asked the king rather than their spiritual superiors to help them. This was not unprecedented. In 1234, Louis IX (1226-1270) had begged remedy for those who might still be bound by Guala's sentence against the followers of his father (Louis VIII) in the invasion of England (1215-17). Gregory IX accordingly ordered the bishop of Paris to absolve such men.<sup>35</sup> Similarly, Martin IV commanded the bishops of Worcester and Bangor, in 1284, to absolve those who had committed various injuries to churches during the Welsh wars, if they sought such absolution and made satisfaction.<sup>36</sup> These cases might be contrasted with complaints made by Pope Urban IV (in 1264) and John Pecham (in 1281). Unscrupulous clergy were absolving people from various *latae sententiae*, when they did not, *de jure*, have the right to do so. Those who sought these illicit absolutions must also have been aware of the possibility of illicit absolutions.<sup>37</sup> In all these examples, the perpetrators are most likely to have been laymen.

### ***HENRY III AND EXCOMMUNICATION***

The spiritual consequences of excommunication could be felt indiscriminately. The examples cited above, of people seeking absolution from *ipso facto* sentences, are of interest because they demonstrate reactions to this aspect of excommunication. It cannot be claimed, however, that they directly affected politics. Even so, there is evidence that Henry III was troubled by similar concerns. Henry III was known to be a pious king, and expressed concern on numerous occasions that he was

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<sup>34</sup> Prynne found no evidence that anyone sought absolution, and noted that it was anyway lawful 'to kill, strike, apprehend, and lay violent hands on all the perfidious Traytors and Rebels of the Scottish Nation ... yea to burn their Churches ... without incurring the least Sentence of Excommunication'.

<sup>35</sup> *Reg. Gregory IX*, i, no.1688.

<sup>36</sup> *Foedera*, I.ii.641.

<sup>37</sup> *Reg. Urban IV*, iii, no.1562; *C&S*, 898-99. According to Urban's letter, these clergy were claiming that they had been granted these faculties while the king's peace was disturbed.

excommunicate.<sup>38</sup> While there is no doubt that some of this concern stemmed from worries that were common to all rulers, particularly fear of loss of political support and reputation, Henry's apparent preoccupation with *latae sententiae* indicates that he also feared for his soul. It is difficult to compare Henry's attitude with that of his father, King John, because John's reign was short, and he spent roughly a quarter of it under a sentence of excommunication. There are also fewer extant records for his reign. Yet John's willingness to remain excommunicate, and to allow his kingdom suffer under interdict, of course suggest that he was not much swayed by ecclesiastical sanctions. When he sought absolution, he did so for temporal rather than spiritual reasons.<sup>39</sup> It is easier to compare Henry with his son. Edward I does not appear to have shared his father's disquiet about excommunication. Like Henry, Edward was never officially excommunicated. The plentiful records from Edward's reign, provide little indication that he was greatly perturbed by the prospect. This is not to say he did not care about excommunication, but his concern appears to have arisen more from fear of bad publicity than from spiritual anxiety.

Henry III's preoccupation with excommunication is first demonstrated in a number of privileges he requested from the pope. These forbade the use of the sanction against him without apostolic mandate. In requesting these, Henry was following in the footsteps of his father, who probably started the tradition shortly after he became a papal vassal.<sup>40</sup> Such indults were not uncommon in the thirteenth century and were received by various lay nobles. Exemptions held by religious houses had an even longer history. Henry received at least five such privileges from three popes, over thirty-six years. All of them protected the king's own person from excommunication. In addition, he received other such indults protecting his men and property but not himself.<sup>41</sup>

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<sup>38</sup> For Henry's piety in general see Vincent, *The Holy Blood*; Carpenter, 'King Henry III and Saint Edward the Confessor', and his references in n. 1.

<sup>39</sup> Wendover (*CM*, ii, 540-1) claimed that John sought absolution partly because he was afraid that he had no hope of saving his soul, but gave greater weight to his temporal concerns: fear the king of France would invade and that he would be abandoned by his men.

<sup>40</sup> 15 April 1214, *SLI*, no.66; cf. 170 (no.63).

<sup>41</sup> Louis IX of France received similar exemptions. Some of his requests were also rejected: Campbell, 'The attitude of the monarchy', 553-4.

King John's exemption covered both the king's *persona* and his chapel. The precise terms were that he could not be excommunicated by anyone without special apostolic mandate ('ne a quoquam tua possit excommunicari'). He was warned not to abuse this dispensation. The first two exemptions extant for Henry III (15 May 1226, 27 May 1227), granted by Honorius III and Gregory IX, were specifically directed to Romanus, the papal legate in France. This perhaps indicates that there was concern about Romanus taking action against Henry III as a result of pressure brought to bear at the Capetian court.<sup>42</sup> The privileges are phrased in specific terms. Romanus was not to proceed to any general or special denunciation or pronouncement of a sentence of excommunication against the king or his brother, Richard of Cornwall, without special papal mandate. The specification of 'special or general' denunciations is probably why kings were usually excepted from general excommunications that might implicate them.<sup>43</sup>

The second privilege granted by Gregory IX (28 February 1228) simply stated that no one was to excommunicate the king, his wife or his sons, or interdict his chapel (though Henry was not to be married for another eight years).<sup>44</sup> The terms of Henry's fourth indult (20 January 1231) again emphasised promulgation: no one was to dare to promulgate a sentence of excommunication against the king or his chapel (wherever he might be), without special mandate.<sup>45</sup> The final such dispensation of Henry's reign (7 November 1262), granted by Urban IV, was phrased in much the same way, emphasising promulgation, except that the queen was also included here, as were not only the king's chapel, but also his lands, cities and manors.<sup>46</sup> The privilege was limited to a period of five years, a somewhat puzzling limitation, since the king had previously been granted similar exemptions without any expiry date. No doubt Henry's request in 1262 was linked to the 'disturbances of the realm', as so many papal letters put it, between 1258 and 1268.

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<sup>42</sup> *Foedera*, I.i.185; *Royal Letters*, app. v, no.25.

<sup>43</sup> See ch. 4, 194-5.

<sup>44</sup> *Foedera*, I.i.189.

<sup>45</sup> *Foedera*, I.i.199.

<sup>46</sup> *Foedera*, I.ii.422.

Just as King John had petitioned for his privilege,<sup>47</sup> those granted to Henry can be assumed to have been granted at the king's supplication. The majority explicitly state this. None was requested, or at least recorded, until 1226, after the king had obtained the age of 18, or legal discretion.<sup>48</sup> The king apparently sought these privileges himself. By contrast, no such privilege survives for Edward I until 1306, although it is possible that some have been lost (most were not enrolled in the papal registers but survive only as originals). It is clear that Henry took measures to avoid excommunication, but these exceptions do not necessarily show that he was worried by excommunication's spiritual costs. Rather, the terms of his exemptions, expressly forbidding *denunciation* of sentences, indicates the opposite; it was the publication of sentences that was being restricted, not the application of the sentences themselves. When the provisions of any of these privileges were broken – when a royal chapel was placed under interdict or the king not excepted from a general sentence – the complaint was that this was an affront to royal dignity, and a cause of scandal.<sup>49</sup> Such privileges should thus be understood as protecting the king's status and reputation. They did not, in any case, exempt the king from excommunication, but simply reserved to the papacy the publication of such excommunication. Henry could fall into a *lata sententia* but could not be publicly denounced as having done so, without the pope's approval.

These privileges supply important background, because they meant that Henry was, for the most part, exempt from the temporal consequences of excommunication. That he was nonetheless concerned with incurring *latae sententiae* demonstrates that he was mindful of excommunication's spiritual effects and offers further evidence of his well-known piety. Any sentence Henry incurred could not be legally promulgated in England without the pope's permission. The legal and temporal consequences could only follow from a sentence of excommunication against the king if the pope issued or confirmed it. Though at times this might have seemed a real possibility, on the whole, the thirteenth-century popes sought to delay using excommunication against rulers as long as they could. This was especially true for English kings after John had made

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<sup>47</sup> This is made clear in an earlier letter, *SLI*, 170.

<sup>48</sup> Henry's minority was never officially brought to an end. For his assumption of power, see Carpenter, *Minority*, ch. 11.

<sup>49</sup> See ch. 4.

England a papal fief. Even before this, Innocent III had interdicted England before he excommunicated John, despite the fact that in almost every other situation, interdict was a means of aggravating a sentence of excommunication. That Innocent issued his sentences the 'wrong' way round can only be explained as a (futile) attempt to avoid excommunicating the king at all (like Alexander III with Henry II after Becket's murder in 1170).<sup>50</sup>

Though largely immune from the various temporal repercussions of excommunication, Henry III was perturbed by the idea that he could still incur an automatic sentence, even if no one besides the pope had the authority to declare him excommunicated. Henry first demonstrated such concern in 1236. On 26 September, Gregory IX wrote to Archbishop Edmund of Abingdon (1234-1240), ordering him to absolve the king, (once the king had done satisfaction and had been enjoined penance).<sup>51</sup> The letter was sent at the king's request, because he feared that he had incurred the sentence of excommunication ('se metuit incurrisse') binding all those who provided help or support to the excommunicated Count Raymond VII of Toulouse. Henry had supplied Raymond with money. The king therefore humbly sought the pope's counsel. The pope clearly accepted that Henry had incurred this sentence, but there is no indication that Gregory was previously aware of the king's guilt, much less that he had alerted Henry to the fact. His letter is couched in terms of conscience and salvation, not legal procedure. The impetus seems to have come from the king himself, rather than from the church putting pressure on the king to obey its dictates by making threats.

Not only does this absolution from an automatically incurred sentence demonstrate the king's awareness of and anxiety about such sentences, but it adds to our understanding of the context in which terms were drawn up between Henry and Count Raymond in 1242.<sup>52</sup> Here, Henry promised that he would help the count against the king of France, and would not enter any peace or truce with Louis IX. He would offer any help he could, except against the Roman Church and Emperor Frederick II.

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<sup>50</sup> Cf. Hill, 'Theory and practice', 6-7.

<sup>51</sup> *Reg. Gregory IX*, ii, no.3331.

<sup>52</sup> *Foedera*, I.i.248-9; Powicke, *Henry III*, 194-5.

However, it was also agreed that, though Henry would continue to help Raymond, even if the king of France entered his lands on the pope's orders, he would stop aiding the count if forced to by a sentence of excommunication. Excommunication was thus the only exception allowing Henry legitimately to back out of his agreement to help the Count of Toulouse. Henry's concern for the link between excommunication and salvation in 1236 suggests that such spiritual concerns continued to determine his approach to excommunication in 1242.

In 1237, Henry again sought absolution from an *ipso facto* excommunication, as is reported by Robert Grosseteste. On this occasion, his concern lay with the *lata sententia* attached to Magna Carta.

From that excommunication the lord king and the barons, because they feared that they had fallen into the same excommunication ... urgently sought absolution from the venerable father, Archbishop Edmund, who absolved them to the effect that if in future they were to violate the charter, they would *ipso facto* relapse into their previous state of excommunication.<sup>53</sup>

Matthew Paris also noted this event, writing that 'because it seemed that [Henry] was not entirely immune from the sentence which archbishop S[tephen] had pronounced with all the bishops of England against the violators of the aforesaid Charter', he caused it to be renewed so that, if he offended again, 'he should fall back the more gravely into the given sentence (*in latam sententiam gravius recidivaret*)'. Henry had incurred this sentence, Paris reported, by relying on bad counsel.<sup>54</sup> The king may not here have been acting entirely on his own initiative, but was advised to seek absolution by the archbishop and bishops, who had already warned him about incurring excommunication for similar reasons in 1234 (and received assurances from him at the time that he would listen to their advice).<sup>55</sup> Even so, if the king was encouraged by others to seek absolution in 1237, this does not preclude the possibility that Henry was himself keen to ensure that he was not bound by the sentence. Henry had actively

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<sup>53</sup> *Grosseteste Letters*, no.72\*, 253-4, the translation of Mantello and Goering has been altered slightly, using the text in *Roberti Grosseteste ... Epistolae*, ed. Luard, 231.

<sup>54</sup> *CM*, iii, 382-3.

<sup>55</sup> *CM*, iii, 268-72.

participated in the 1237 Magna Carta excommunication ceremony by holding a candle and extinguishing it at the culmination of the sentence.<sup>56</sup> This dramatic ceremony, accompanied by archbishop Edmund's unequivocal denunciation of those who infringed the charter, may well have caused the sensitive king some disquiet. In 1253, he refused to hold a candle again, and these qualms perhaps point to a sensitivity over the sanction's potential consequences for the soul. Assuming that the king himself may have considered himself guilty of infringing the charter, his extinguishing a candle might have struck him as, in effect, a means of cursing himself.

Even if Henry was prompted to receive absolution by the bishops trying to enforce Magna Carta and ecclesiastical liberties, the bishops could not have publicised the fact that he had incurred an excommunication without permission from the papacy.<sup>57</sup> Henry did not claim that he was exempt from such a sentence, but accepted that he could incur a sentence pronounced by the bishops. Significant though this event is as a means of understanding Henry III's reaction to excommunication, it should be noted that the English bishops suggested on frequent occasions during the remainder of the king's reign that he had infringed ecclesiastical liberties and Magna Carta, notably in a letter of Alexander IV responding to the bishops' complaints in 1256.<sup>58</sup> Yet there is no evidence that the king ever again sought absolution from this excommunication.

In the following decade, Henry again demonstrated that he understood he was not immune from *latae sententiae*, specifically the sentence *Si quis suadente*. In 1244, responding to Henry's 'devoted prayers', Innocent IV (1243-1254) gave Archbishop Boniface of Savoy permission to absolve the king if he should fall into this sentence, provided the injury was not grave.<sup>59</sup> Henry was thus unwilling to risk remaining for long under any incurred sentence, and took steps to ensure that he could receive swift absolution from the archbishop without recourse to Rome (the *lata sententia* itself being a reserved excommunication). It is nevertheless odd that Henry *anticipated*

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<sup>56</sup> *CM*, v. 360-1.

<sup>57</sup> The Magna Carta excommunication was only confirmed, by Pope Innocent IV, in 1254: *Foedera*, I.i.293; *Ann. Burton*, 293; *Reg. Innocent IV*, iii, 8070.

<sup>58</sup> *CM*, vi, 332-4.

<sup>59</sup> *Foedera*, I.i.252.

falling into this sentence: whom was he expecting to injure or cause to be injured? Here it is worth noting an incident that occurred in 1237, when a riot in Oxford resulted in the death of the legate Otto's cook. As a result, Henry had caused many clerks to be imprisoned in the Tower of London. In so doing, he had provoked the wrath of bishop Grosseteste of Lincoln, who, in the presence of king and legate, solemnly excommunicated those who laid violent hands on clerks. This appears to have been effective, for the clerks were handed over to the bishop, although king and legate denied that any force had been used against them that would have incurred the sentence, and no absolution was sought.<sup>60</sup> Whatever the background to Henry's request in 1244, the privilege granted to him was placed under a time limit. Boniface was only given permission to absolve the king during the course of the next four years. If we can assume that the privilege was paid for, perhaps the expiry date related to the amount of money paid. Perhaps it was necessary to present a valid reason why an exception ought to be made at that time (such as war or disturbances in the kingdom), and therefore the exemption was not needed indefinitely. Mostly likely, the papacy was unwilling to give up its reservation indefinitely, and therefore granted the king's request only on a temporary basis. It was never, apparently, renewed. Henry III's concern about automatically incurred excommunications was not exceptional.<sup>61</sup> Yet this concern that he be free from such excommunications adds weight to the argument that he was worried about his soul, as well as his more temporal standing, at other points during his reign.

Reporting the dramatic political crisis of 1234, the chronicler Roger of Wendover assigns a clear role to excommunication. When Henry was urged to dismiss his counsellors, he was warned that they might well have incurred the sentence of excommunication passed against infringers of Magna Carta by perverting the law of the land. The bishops observed that by communicating with such counsellors, the king

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<sup>60</sup> *Ann. Burton*, 253-4.

<sup>61</sup> His brother, William de Valence, received a grant from Alexander IV that allowed a Franciscan confessor to absolve the earl and his family if they incurred the sentence (*Bullarium franciscanum*, ed. Sbaralea, ii, no.82). The papal registers contain many privileges granting faculty to absolve large groups of people. Many people, for instance, had incurred *Si quis suadente* during the baronial rebellion. Though the papal chaplain, master Leonard, was given permission to absolve many of these, others had to go to Rome for absolution (*CPL*, 380. See also *CPL*, 437, 454, 523, 613; *Cron. maiorum*, 65-7).



himself risked sharing their sentence. The bishops lamented that these counsellors neither observed promises nor feared excommunication. If the king did not dismiss them before Edmund of Abingdon was consecrated as archbishop, they warned, they would use ecclesiastical censures against him. The king pleaded for time, but left the bishops feeling hopeful. Shortly afterwards, when Edmund had been consecrated, the bishops again threatened to excommunicate the king, and all others who disturbed the peace, 'unless he very quickly corrected his error'. Immediately, according to Wendover's account, 'the pious king' humbly agreed to obey the prelates' advice in everything. Led by repentance, he forbade Peter des Roches to meddle in the kingdom's affairs. It is clear that Henry was desperate to avoid excommunication. He might have wished to avoid a public rift with the church, but Wendover explicitly noted his piety and repentance, suggesting spiritual not merely temporal concerns.<sup>62</sup>

Henry may have been wary of excommunication from an even earlier point in his reign. In 1232, the former justiciar and regent, Hubert de Burgh, was deposed and disgraced, chiefly through the machinations of Peter des Roches.<sup>63</sup> Though Edmund of Abingdon effected a reconciliation, charges were nonetheless levied against Hubert by the king. One of these charges was that, after the castle of Bedford had been captured from Falkes de Bréauté in 1224, Hubert had wrongly given it to William Beauchamp, from whom King John had taken it during the barons' war of 1215-17. Hubert responded that, according to the peace agreement between Louis and the king and barons, everyone should have been restored to their *seisins* as they held them at the start of the war, meaning that Beauchamp's claim to Bedford castle was just. The form of peace had also been confirmed by the legate Guala and the bishops, who pronounced a sentence of excommunication against those who infringed it. Therefore, in consultation with the magnates, in accordance with the *forma pacis* and 'through fear of the sentence', Henry returned the castle to Beauchamp.<sup>64</sup> Henry was not, of course, in control of the kingdom at this time, but the facts presented imply that he was

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<sup>62</sup> *CM*, iii, 268-72. Vincent, *Peter des Roches*, 429-38; Weiler, *Kingship, Rebellion and Political Culture*, 159-60.

<sup>63</sup> For de Burgh's fall and its causes see Carpenter, 'The fall of Hubert de Burgh', and Vincent, *Peter des Roches*, 303-20.

<sup>64</sup> *CM*, vi, 67-8.

taught to fear excommunication, from a very tender age. He had, after all, witnessed the dramatic circumstances in which the bishop of Ferns cursed William Marshal, as early as the age of eleven.<sup>65</sup>

Perhaps the most striking indication of how perturbed Henry III was at the prospect of excommunication is supplied by his behaviour over the Sicilian business. The terms of the agreement made with Pope Alexander IV whereby prince Edmund received the kingdom of Sicily provided that Henry would *ipso eo* be excommunicated if he did not fulfil his part of the bargain. These provisions have been described by David Carpenter as ‘horribly targeted at the pious Henry’.<sup>66</sup> Michael Clanchy, however, has argued that while the terms were extremely unfavourable, ‘the clergy would be impressed by that threat [of excommunication] and it would oblige them to pay up’.<sup>67</sup> Yet Henry faced a real threat of papal excommunication, and was undoubtedly concerned about both the spiritual and the temporal consequences of such a sentence. Carpenter is surely right that this resulted at least partially from the king’s piety.

Thereafter, the king repeatedly asked for extensions to avoid excommunication, and for assurances that he was not bound by any sentence. The original conditions were set out in a letter dated 9 April 1255.<sup>68</sup> On 6 October 1256, the pope agreed to extend the deadline by which the king’s money was due, assuring Henry that in the meantime he would ‘by no means incur sentences of excommunication’, nor his kingdom be interdicted.<sup>69</sup> In the summer of the following year, Henry asked that the threat of excommunication and interdict be entirely lifted, and ‘more tolerable conditions’ be imposed. If the pope was unwilling to do this, he was asked at least to defer the deadline.<sup>70</sup> On 12 December 1257, the pope wrote to Henry, notifying him that he had sent his nuncio Arlot to deal with the matter. He assured Henry, nevertheless, at the insistence of Henry’s messengers, but also as a result of his own

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<sup>65</sup> *CM*, iv, 492-5.

<sup>66</sup> Carpenter, ‘Henry III and the Sicilian affair’, 6.

<sup>67</sup> Clanchy, *England and its Rulers*, 235-40, quotation 239.

<sup>68</sup> *Foedera*, I.i.316-18.

<sup>69</sup> *Foedera*, I.i.350.

<sup>70</sup> *Foedera*, I.i.360.

concern, ‘that you have by no means incurred a sentence of excommunication ... and your kingdom is not lying under ecclesiastical interdict’. He declared that he was being cautious for the king, both with regard to *consciencia* and to *fama*, particularly so that Henry was not assumed to be stained (*maculatus*) by the crime (*reatu*) or the *nota* of perjury (concepts expressed in the original terms of the agreement, as things Henry would incur if he broke the agreement). The pope was thus reassuring the king that he need not be concerned about the state of his soul, either through having incurred excommunication or as a result of perjury (which was a mortal sin). Yet the pope was equally keen to ensure that nobody could accuse Henry of being a perjurer or excommunicate: his reputation (his *fama*) must remain untainted. The same letter reiterates that a new deadline had been set, and meanwhile, ‘by occasion of whatever defects’, the king did not incur excommunication or the crime (*reatum*) or *nota* of perjury. The kingdom was equally safe, for the time being at least, from the threat of interdict.<sup>71</sup>

Alexander’s letter was a direct response to the king. Its emphasis on reassuring Henry that he was neither excommunicated nor a perjurer, nor in any immediate danger of becoming so, indicates that the king was preoccupied with this idea. Paris also notes that the pope’s threats of excommunication caused Henry to pay 500 marks to defer the sentence, because he was ‘confused in mind’.<sup>72</sup> Each time Henry was forced to plead for an extension, he also sought to reassure himself he would not fall into a sentence of excommunication. Nevertheless, that temporal concerns were a factor here is shown, not only by Alexander’s reassurances, but also by the fact that he wrote to the English barons, informing them that the king was not excommunicated.<sup>73</sup> A final letter, sent on 19 January 1258, to Arlot, again made clear that until 1 June, the king was in no danger of incurring any of the punishments laid out in the terms agreed. The pact as a whole, however, remained in force: it was not to be understood that the pope had annulled it.<sup>74</sup>

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<sup>71</sup> *Foedera*, I.i.366.

<sup>72</sup> *CM*, v, 666.

<sup>73</sup> *CM*, vi, no.208.

<sup>74</sup> *Foedera*, I.i.369.

Henry's disquiet over whether or not he had incurred excommunication, and his frequent requests that this eventuality be delayed or discounted show that the sanction was an effective threat. His responses to the sanction at other times in his reign indicate that his anxiety during the Sicilian business resulted in part at least from his piety and spiritual fears. Henry's attitude may be contrasted with that of his son, Edward I, who was offended by the use of excommunication as a threat to his regal dignity.<sup>75</sup> Despite Edward's anger in such situations, he apparently neither sought nor received any papal privilege granting him freedom from excommunication, until 1306.<sup>76</sup> Before this, either he obtained privileges that have not survived, or he assumed he was automatically protected by his father's exemptions (as, during Henry's lifetime, he undoubtedly was). Meanwhile, he felt, it seems, entirely secure in his conscience.

Edward appears to have harboured few fears of a spiritual nature.<sup>77</sup> Perhaps the indulgences he had received as a crusader encouraged him to have confidence in his own salvation. The only hint that he had any anxiety about offences he had committed, before his final years, is his willingness to make restitution to those who had been injured in the Welsh wars, in 1284. A letter of Pope Martin IV (1281-1285), which refers to both the civil war of 1264-5 and the Welsh wars of the 1280s, declares that Edward 'solicitously thinking about his health and that of others, humbly supplicated to us that, since he is believed to be guilty in very many ways, we take care to provide about this from the mercy of the apostolic see.'<sup>78</sup> The pope's letter makes no mention of specific absolution granted to the king, and thus has an emphasis distinct from that of comparable letters received by Henry III. Martin granted that the bishops of Bangor and Worcester might absolve those who required it. This might have extended to the king. Yet if he had asked the pope, the king could have expected to receive a personal absolution. The king duly made various restitutions to the church and the poor, to clear his conscience ('ad serenationem conscientie domini regis').<sup>79</sup> He agreed to repair damages inflicted upon churches by fire, if the fires had been started on his orders. He

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<sup>75</sup> See ch. 4.

<sup>76</sup> *Foedera*, I.ii.979.

<sup>77</sup> For Edward's piety see *Prestwich*, 'The Piety of Edward I' and *Prestwich*, *Edward I*, 111-14.

<sup>78</sup> *Foedera*, I.ii.641, 642.

<sup>79</sup> *Foedera*, I.ii.642

was careful to state that homicides perpetrated in churches or cemeteries had not proceeded from his will. In return for his concessions to injured churchmen, the king asked that excommunications against such arsonists be no longer pronounced, with arrangements being made for the absolution of offenders. Despite Edward's provisions, it is clear that they did not satisfy archbishop Pecham, who wrote to Edward ten days later. Pecham warned him about his conscience in relation to the offences committed against ecclesiastical liberty during the war, specifically stating that the king could not excuse himself from the damages inflicted on churches, ecclesiastical persons and the innocent. If the king had been severe on perpetrators of such injuries from the start, most of them would not have occurred.<sup>80</sup> But if Edward was concerned about his guilt, his remorse was limited. There is nothing to indicate that he was concerned about Pecham's warnings in 1284, nor about Nicholas IV's warnings concerning his salvation for various infringements of ecclesiastical liberty, about which he had heard through *fama* (he did not want to write *infamia*), in 1290.<sup>81</sup>

The first evidence that Edward I specifically sought absolution comes from 1301. This date is notable because it was four years after he had probably incurred excommunication during the *Clericis laicos* dispute.<sup>82</sup> Upon the clergy's refusal to grant him a tax without papal consent (as Boniface's bull forbade on pain of *ipso facto* excommunication), Edward removed the clergy from his protection and seized their lands and possessions. He then allowed them to buy back his favour and their possessions, thereby receiving the money he desired. The bishop of Lincoln, for one, strongly implied that Edward had incurred not only the excommunication specified in *Clericis laicos*, but also *De domibus* and *Si quis suadente*. These excommunications all covered those who ordered such offences, as well as those who merely executed their orders. Thus Oliver Sutton publicised these sentences in 1297, rebuking the king:

If perhaps [the king] believes in all conscience that he has excuse for his mandates and is not alive to the peril to souls which could ensue, or perhaps thinks himself protected

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<sup>80</sup> *Foedera*, I.ii.643; Douie, *Archbishop Pecham*, 260-1.

<sup>81</sup> Odoricus Raynaldus, *Annales*, ed. Mansi, iv, 87-8; Or about Pecham's lengthy warnings in 1281: *Reg. Epp. Pecham*, i, 239-44.

<sup>82</sup> See Denton, *Robert Winchelsey*, 80-136 *passim*; Prestwich, *Edward I*, 412-18.

by some privilege or reason which, he supposes, saves him from having incurred the sentence in question, we do not intend any prejudice to him by our declaration and publication.<sup>83</sup>

The bishop added that the king's son was certainly innocent.<sup>84</sup>

Sutton specifically referred to the king's assumption that he was immune from excommunication. By contrast, Henry III had always accepted that his privileges did not excuse him from incurring excommunication. Edward either assumed he was protected, or did not care provided he avoided denunciations. Only in 1301 was Edward absolved from any sentence he had fallen into as a result of his policies towards the church. Boniface VIII wrote to Edward, to provide for his salvation, noting that the king had, because of wars, disturbances and scandals, and through force of circumstance, injured churches and clergy through 'illicit impositions and exactions'. Therefore, he granted the king absolution if he had incurred any sentence on account of his actions.<sup>85</sup> If it might be wondered why Edward had finally sought to deal with his guilt in these matters, nearly four years after the *Clericis laicos* dispute had come to a head, and after a thirty year reign, the answer is provided in the pope's letter: 'Noting that you are now declining into old age, and because of this intending salubriously to provide for your salvation about such things'. The king was now in his sixties, and was thinking about what might happen to him after death.

The second time that Edward specifically received papal absolution from excommunication bears out this assessment. Clement V (1305-1314) wrote to the king, the year before Edward's death, on 5 August 1306.<sup>86</sup> Edward, according to these letters, had 'humbly supplicated' that he and his supporters be provided with a salutary remedy for various offences – including arson, sacrilege, and rape – committed while fighting against rebels and the kingdom's enemies. Like the letter from the close rolls

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<sup>83</sup> *Reg. Sutton*, vi, 25; the translation is Denton's in *Robert Winchelsey*, 156-7.

<sup>84</sup> Hill's belief that this section of Sutton's speech was never published, 'to spare the king public offence and humiliation' (*Reg. Sutton*, vi, 25 n.3-3), cannot be accepted. Both Denton (*Robert Winchelsey*, 156-6 and n. 243) and David Burton ('Politics, Propaganda and Public Opinion', 247) have also doubted this.

<sup>85</sup> *Foedera*, I.ii.931. Philip the Fair, king of France, received a very similar absolution in 1305 (Brown, 'Moral imperatives and conundrums of conscience', 11-14).

<sup>86</sup> *Foedera*, I.ii.994.

in the same year, in which the king's men were permitted to seek absolution from certain delegated clergy, this probably refers to the Scottish wars. Clement absolved the king from any sentences of excommunication, suspension or interdict that he had incurred. He did not want the king's conscience to cause him disquiet, but also advised that it would help his salvation if he was generous in granting immunities, freedoms, and other gifts to churches and other places that had been burnt or destroyed. The timing is here again significant: we know that Edward was ill in the summer of 1306. Though he recovered in the autumn, he was to fall ill again and die the following year.<sup>87</sup> It is therefore likely that the king was insuring himself against the real possibility of death in the summer of 1306, concerned to ensure his salvation.

The attitudes of Henry III and Edward I towards excommunication no doubt altered their behaviour. Henry took pains to avoid the sanction, whilst Edward paid little attention to threats until he reached old age. Their respective outlooks were important for the politics of thirteenth-century England. Henry's fear of excommunication affected his policies on a number of occasions, even if it cannot be claimed that he always obeyed the church. Threats of excommunication were less effective against Edward. Meanwhile, Henry and Edward's contrasting outlooks are representative of how people in general responded to the church's most severe sanction. Some, like Henry, were concerned about incurring excommunication, whether they were denounced publicly or not. Others, like Edward, appear to have felt no such concern, at least until they had reason to fear death.

### ***DEATH AND EXCOMMUNICATION***

Edward I was not alone in paying sudden attention to excommunication when death loomed. As John Arnold puts it, 'If events made people particularly aware of death, their thoughts clearly and unsurprisingly turned towards it, and towards their means of

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<sup>87</sup> Prestwich, *Edward I*, 507, 557.

salvation.’<sup>88</sup> Excommunication was an obvious bar to salvation. Those who had previously rejected the church’s sanction might have a change of heart. For all the miracle stories describing bad luck and death *resulting* from excommunication, the risk of dying while excommunicated – being separated from God for eternity and suffering in hell – was considerably greater than that of living under a sentence. The church was in fact generous in this regard: any priest could absolve from excommunication *in articulo mortis*, with the proviso that if the sinner recovered they would make appropriate satisfaction and do fitting penance. Otherwise they would fall back into their sentence. Even Pope Clement IV (1265-1268), who harboured deep resentment against the baronial rebels who had prevented him from entering England as legate, lamented that many of them had died excommunicated at the battle of Evesham.<sup>89</sup> Though deathbed absolution was permitted, it was of course safer to seek absolution through official channels, either from whoever had issued the sentence or from a higher authority. Not only could one thus know for certain that absolution was legal and properly documented, but guarantee the performance of restitution in situations in which an absolution would be imperilled if the conditions for it – for example the return of unjustly detained church lands – were not fulfilled by the heirs of a deceased excommunicate (as happened in the case of William Marshal, after 1219).

An apparently clear case is documented in the Curia Regis Rolls, in 1226. In a dispute over land between the abbot of Thorney and a certain Walter, the latter had been excommunicated for refusing to give the abbot a charter assigning him forty acres of land, as they had agreed. However, Walter subsequently fell ill. His parents were concerned that he might die under this sentence (the editor plausibly suggests that *morari* be corrected to *mori*), and so Walter made a charter to the abbot assigning him the land. Having made this charter at the beginning of Lent, Walter died on the vigil of Palm Sunday. His son, who subsequently attempted to recover the land, lost the case because his father had assigned the land before his death. The abbot was therefore to hold the land in peace. It is evident that Walter conceded his right only in order to procure absolution, to avoid dying excommunicate. His previous refusal to submit to

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<sup>88</sup> Arnold, *Belief and Unbelief*, 167-8.

<sup>89</sup> Martène, *Thesaurus*, no.148.



the abbot's wishes indicates that, had he not become ill, he would have continued to fight his case. As it was, he required absolution, and his family accordingly lost the land in perpetuity.<sup>90</sup>

In a more high profile case, Sewal de Bovill, archbishop of York (1256-58) appears to have sought absolution from similar motives. Sewal had been excommunicated by the pope for objecting to a papal provision in his diocese. Acting in a manner reminiscent of his contemporary Robert Grosseteste, Sewal objected on the grounds that the Italian promoted was unknown in England, ignorant of English and utterly unworthy. He remained steadfast in this conviction despite the pope's sentence of excommunication against him, which he refused to accept as just. Matthew Paris implies that others agreed with him, reporting that those tasked with publicly denouncing the archbishop as excommunicated did so unwillingly. Sewal only sought absolution when he sensed that death was approaching. Paris reported his thought-process thus, 'lest from contempt of the papal sentence, although unjust, it becomes just, I, having been ensnared, humbly pray to be absolved from such chains [of excommunication]'. The archbishop knew that obedience to the mandates of the church was required, regardless of their perceived injustice, though he condemned the pope for harassing him. Sewal was adhering to the advice of canonists and theologians by submitting to the pope's sentence even though considering it unjust. And although Paris reported that he had suffered a great deal as a result of the excommunication, his impetus for seeking absolution was a response to an illness that would soon kill him.<sup>91</sup> Until he 'sensed that death was undoubtedly approaching', he had stood fast in his conviction that he should not obey the pope's unreasonable demands.

Fear of dying whilst excommunicated was compounded by the rule that excommunicates were deprived of ecclesiastical burial. This rule existed not only because excommunicates were no longer members of the church and were thus forbidden from entering churches, but also because excommunication was considered

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<sup>90</sup> *Curia Regis Rolls*, xii, no.1815.

<sup>91</sup> *CM*, v, 692.

contagious in death as in life.<sup>92</sup> Burial in unconsecrated ground was a widespread concern. Refusal of Christian burial was not restricted to excommunicates; interdicts also prevented ecclesiastical burial. This deprivation was ‘perhaps the most feared effect of an interdict, distressing not only to the dying but also to their family and friends’.<sup>93</sup> The implications here have been discussed by Peter Clarke.<sup>94</sup> It is worth adding, however, that the majority of those who died under interdict were denied Christian burial through no fault of their own. By contrast, excommunicates brought it upon themselves, with their ignominious burial indicative of their damnation. Thus when Robert Winchelsey lifted the interdict on Dover in 1299 (imposed early the previous year, after two rectors were violently and publicly assaulted by townspeople acting with the mayor’s consent), he judged that bodies which had been buried in consecrated ground illegally during the interdict need not be exhumed.<sup>95</sup> He reserved the right, however, to exhume those of townsmen who had directly caused the interdict, and were thus excommunicated.<sup>96</sup>

The rule precluding Christian burial for those under sentences of excommunication appears to have been followed, in general. Thus an unknown man who died in the battle of Lincoln, taking the side of the barons, was buried outside the city at crossroads, as an excommunicate.<sup>97</sup> Baronial adherents who died in the battle of Evesham suffered a similar fate.<sup>98</sup> These examples come from chronicles reporting on national events, but episcopal registers confirm that this was standard practice. Winchelsey’s archiepiscopal register, for instance, contains a mandate ordering the absolution and Christian burial of an excommunicate provided he were found to have died repentant (posthumous absolution having been decreed valid by Innocent III<sup>99</sup>), and provided his heirs or others undertook to pay the money required to make satisfaction. Until this time, his body had remained unburied because he was known to

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<sup>92</sup> Cf. miracle stories discussed in ch. 1.

<sup>93</sup> Clarke, *Interdict*, 161.

<sup>94</sup> Clarke, *Interdict*, 160-6.

<sup>95</sup> There were, however, to be marked as separate from the others, and to have no gravestones or insignia.

<sup>96</sup> *Reg. Winchelsey*, ii, 885-90. See also i, 222-3, 225-9, 237-8, 240-2, ii, 884-5; Graham, ‘An interdict on Dover’.

<sup>97</sup> *CM*, iii, 23.

<sup>98</sup> *Lanercost*, 77.

<sup>99</sup> X 5.39.28; *CPL*, 6; Vodola, *Excommunication*, 38-9.

have died excommunicate.<sup>100</sup> Even more drastic was the requirement that those who had died, and were only later discovered to be excommunicates, were to be exhumed.<sup>101</sup> In 1305, Winchelsey ordered that Hugh le Blake of Canterbury, who had died excommunicate but was buried in a cemetery ‘amongst faithful Christians’ by certain clerks ‘led by the sin of cupidity’, should be exhumed and placed in ‘a profane or unconsecrated place’.<sup>102</sup> In 1273, Pope Gregory X ordered that the bodies of citizens of Norwich, if any had died excommunicated and been buried in an ecclesiastical cemetery, should be ‘exhumed ... and cast aside far away from Christian burial’.<sup>103</sup> It is reported in the Annals of Osney that the body of Simon de Montfort, killed at Evesham, was exhumed and thrown into a remote and hidden place by certain men who still felt vengeful towards the deceased earl. They claimed that he did not deserve a Christian burial, being bound by a sentence of anathema and infected by the leprosy of treason.<sup>104</sup> Two years later, in 1267, Simon's son, Amaury, petitioned the pope to allow an ecclesiastical burial for Simon, who, it was claimed, had sought and obtained absolution *de facto* before his death.<sup>105</sup> It is uncertain whether the legate Ottobuono, who was instructed to discover the truth, in fact ordered that Montfort be reburied. But it is likely he did: several chroniclers report that he absolved Montfort and his supporters at the Council of London in 1268.<sup>106</sup>

### ***EXCOMMUNICATION AND COERCION***

While there are signs that people were worried about sentences they had incurred, about dying excommunicate and about failing to receive ecclesiastical burial, it is far harder to assess whether, as a deterrent, excommunication worked for religious reasons. By its nature, a deterrent tends to leave little evidence, unless a threat and a capitulation are expressly recorded (as with Henry III). Nevertheless, faculty to

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<sup>100</sup> *Reg. Winchelsey*, i, 402-3.

<sup>101</sup> *Flamborough*, 158.

<sup>102</sup> *Reg. Winchelsey*, i, 488-9.

<sup>103</sup> *Cotton*, 425.

<sup>104</sup> *Annales Monasterii de Oseneia*, 174-8.

<sup>105</sup> *Reg. Clement IV*, no.452.

<sup>106</sup> *C&S*, 746-7.

excommunicate and absolve was sometimes associated with charges of the abuse of power.<sup>107</sup> As a spiritual sanction, the use of excommunication to achieve temporal or otherwise questionable ends was criticised.

Most such complaints about immoral abuse of excommunication relate to money or taxation. No doubt such complaints were made in part because taxes of any sort were unpopular. But extortion through excommunication was certainly both condemned and detested. Matthew Paris thus complained about the ‘insatiable avarice’ of papal money collectors, who extorted money from the ‘wretched English church’ by interdict and excommunication in 1241.<sup>108</sup> Four years later, he complained about various actions of the legate Martin, noting that his use of excommunication and interdict against those who contradicted him led to ‘great crisis and peril of souls’.<sup>109</sup> Archbishop Boniface provoked similar criticism when, in 1248, he extorted money from vacant churches, citing a papal privilege that excommunicated all those who contradicted it. Paris noted that the king and his family were excepted from this sentence, which caused him to be suspicious that Henry III had sanctioned such extortion. He later wrote that the archbishop's mandate caused widespread indignation, not only because of the ‘avid extortion of money’, but also because of the king’s consent.<sup>110</sup> Indeed, the king had been implicated in such immoral extortions as early as 1229, when his minister, Stephen of Seagrave (dismissed in 1234 as one of Henry’s ‘evil counsellors’), was given papal authority to excommunicate anyone who prevented him collecting Gregory IX’s tenth (to fund war against the excommunicate Frederick II). The prelates had consented to this tenth, ‘fearing to inflict upon themselves a sentence of excommunication or interdict if they opposed the apostolic mandate’. So effective was the ‘shameless’ Stephen’s extortion that clergy were forced to pawn their sacred vessels to pay him.<sup>111</sup> In 1237, such methods were again fruitful. Lamenting the state of the kingdom, Paris complained against simony, usury, and the use of papal bulls by illiterate men to extort whatever they wished by immediately

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<sup>107</sup> For example *Melrose*, 129-30; *CM*, v, 679-80.

<sup>108</sup> *CM*, iv, 137.

<sup>109</sup> *CM*, iv, 443, cf. vi, no.69. The English magnates also complained to the pope: *Foedera*, I.i.262.

<sup>110</sup> *CM*, iv, 636-7; v, 36-7; *Flores Hist*, ii, 341-2.

<sup>111</sup> *CM*, iii, 187-9.

excommunicating anyone who opposed them. This way, ‘not by prayer, not canonically, but by imperious exaction, they despoiled the humble (*simplices*)’.<sup>112</sup> Such complaints were not limited to the chroniclers. In 1245, Louis IX, king of France (in a letter recorded by Paris), repeatedly deplored the unscrupulous methods of the Roman Church in a protest to Innocent IV. He explicitly noted the ‘remarkable sentiment’, which Gregory the Great had condemned: ‘Give me so much, or I will excommunicate you’.<sup>113</sup> Nevertheless, the French king’s letter indicates that these methods were not always successful, for he was concerned that there was now an infinite multitude of people excommunicated as a result of their failure to comply with papal sentences.<sup>114</sup>

How threats of excommunication could coerce people is demonstrated by a miracle story preserved by Matthew Paris. Excommunication plays a role here tangential to the tale’s miracle. In 1235, the pope sent friars to preach the cross throughout Christendom. They were instructed to compel people, under pain of anathema, to attend their sermons. Thus on 13 March that year, a Franciscan, Roger of Lewes, was preaching at Clare in Suffolk. A paralysed woman ‘fearing the punishment of excommunication’ gave her last pieces of silver to a neighbour so that he would carry her to the sermon on his shoulders. During the sermon, Roger was forced to stop and ask the woman why she was groaning. She answered that she had been brought there from fear of excommunication, upon which Roger told her to go home, not knowing that she could not use her limbs. Learning this, the friar cured her and she was able to move freely.<sup>115</sup> Thus the miracle presents a woman who so feared excommunication that she suffered great pain and paid the last of the little money she had in order to avoid incurring it. Perhaps she was not representative of her compatriots. Yet the tale supplies a rare example of an individual coerced to action through fear of the punishment, and nothing more. This might be compared to a

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<sup>112</sup> *CM*, iii, 389.

<sup>113</sup> ‘A saeculo non est auditum quod alias dictum fuerit verbum istud, “Da mihi tantum vel excommunico te”; quod mirabilis sententia, cuius effectum editum contra prolatores talis sententiae verbum beatissimi patris nostri Gregorii denuntiat invalidum esse’; *CM*, vi, 101. See also 102, 107, and 112.

<sup>114</sup> *CM*, vi, 112.

<sup>115</sup> *CM*, iii, 312-3.

complaint recorded in the Close Rolls, that Robert Grosseteste (with what appears to have been obsessive pastoral care) coerced people of his diocese to be gathered together on pain of excommunication, causing them impoverishment because they should have been working in the fields at the time, and compelling them to confess their private sins. Again, use of excommunication was here condemned, having seemingly been effective.<sup>116</sup> According to Roger of Wendover, the monks who elected Stephen Langton as archbishop in 1207 did so unwillingly, because they were afraid to incur the excommunication with which the pope had threatened them.<sup>117</sup>

### ***REFUSAL TO CAPITULATE IN THE FACE OF EXCOMMUNICATION***

There is, then, evidence that people were afraid of excommunication's spiritual consequences. When people were cowed by the sanction, part of their thought process involved fear of damnation. Nevertheless, the fact that so many people, once sentenced, were willing to delay absolution requires explanation. The issue is not one simply of belief versus disbelief, of piety versus impiety. These things played a part: there were sceptics, while pious individuals were more likely to be influenced by the spiritual punishment. The majority of people who chose not to seek immediate absolution can mostly be divided into two (not mutually exclusive) categories: those who calculated that it was more advantageous to suffer a sentence for the time being, and those who believed that they were not truly excommunicated. Neither implied a rejection of excommunication *in toto*. For those who fell into the latter category, their refusal to submit to the church in no way precludes genuine piety or fear of a justly imposed sanction. Those in the former category usually, if belatedly, decided that reconciliation with the church was beneficial.

It is significant that absolution was eventually obtained even by those who treated excommunication with no apparent reverence. Thus John de Beaupré, a knight, declared that, 'rejecting the oft-repeated admonition made against me ... with hardened

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<sup>116</sup> CR 1251-53, 224-5.

<sup>117</sup> CM, ii, 515.

heart scoffing at the said sentence', he had persisted in a state of excommunication for nearly three years. His assertion, however, was part of his public notification of the terms of his absolution (preserved in the episcopal register of Walter Bronescombe, bishop of Exeter): 'At last I came to myself, humbly and devoutly recognizing my offence, by the intervention of sons of peace who urged the salvation of my soul'.<sup>118</sup> Though this letter is phrased in the first person, its evidence should be treated with caution. The terminology and phrasing correspond to that found in ecclesiastical sources. It is likely that the text was compiled by the bishop or his men; John might not have viewed his actions in precisely those terms. Nonetheless, whether or not John truly 'scoffed' at his excommunication, his delay under a sentence demonstrates a general lack of concern. The church, of course, wanted to spread the belief that such scoffers would be struck down. Matthew Paris described how Ralph Chenduit (a persecutor of St Albans abbey) boasted that, despite being excommunicated for three years, he had grown so fat that his saddle could not hold him. Upon saying this, cackling ('cachinans'), he immediately fell mortally ill. He had time, however, to make satisfaction to the wronged monks through the intercession of St Alban before he died.<sup>119</sup>

Most rejections of excommunication were not so emphatic. We cannot know why all those people, discussed by Donald Logan, who remained excommunicated and who were therefore threatened with arrest by the secular arm, gambled on remaining obdurate.<sup>120</sup> For many, however, it is likely that putting off absolution was advantageous. It certainly was for William Beauchamp V of Bedford. In 1250, William was excommunicated by the bishop of Worcester in the presence of the pope at Lyons, for infringing the bishop's liberty. Clearly, William could not appeal since the sentence had been passed before the church's highest authority. Nevertheless, he refused to be absolved by the papacy. Probably he did not wish to return the lands and animals he had taken from the bishop, a likely condition of absolution. It cannot be

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<sup>118</sup> *Reg. Bronescombe*, no.1085. John was obliged to pay the bishop 200 marks, in installments. If he fulfilled this, an obligation to pay a further 200 marks was waived. He provided guarantors, who shared his obligation and sealed the letter, in 1275.

<sup>119</sup> *CM*, iv, 262; *Gesta Abbatum*, ed. Riley, i, 319-20.

<sup>120</sup> See Logan, *Excommunication*, particularly ch. 2.

claimed that he made an unwise decision, for in due course he received more favourable terms for absolution. On the bishop's return from Lyons, he renewed his sentence 'from day to day', and a great argument broke out between him and the king about the dispute. The king forced the bishop to absolve William. Only once William was absolved, in the presence of the king and magnates at Westminster, at king Henry's bidding ('Henrici regis instantia'), did the king allow the bishop back into his grace. It seems highly likely that the bishop absolved Beauchamp only grudgingly.<sup>121</sup>

Similarly practical decisions to prioritise temporal concerns over spiritual were no doubt made in many further instances. Thus, though Archbishop Winchelsey and a number of other resolute bishops steadfastly refused to incur the *Clericis laicos* excommunication, most clergy capitulated to the king rather than face outlawry: 'At least in this world, the consequences of the temporal ban were far more severe than those of the spiritual ban'.<sup>122</sup> They did eventually receive absolution.<sup>123</sup> Despite the criticism he received on becoming a papal vassal, King John, it can be argued, made a clever tactical decision in submitting to the papacy as he did, ensuring that he would receive papal support in future. Another notable case demonstrates the priority given to temporal matters over spiritual. The bishop of London, Fulk Basset, submitted to the archbishop of Canterbury, who had excommunicated him, not because of fear of the sentence, but because he feared the king's wrath. Archbishop Boniface, the queen's uncle, had the king's support, and though his sentence was widely believed to be unjust, Fulk sought absolution to avoid royal anger.<sup>124</sup>

This last example is important: not only did people often disrespect their sentences, it was believed that sometimes they *should* ignore them. Fulk was criticised not for disobeying the church, but for submitting to it. This demonstrates a fundamental problem with excommunication. Those who imposed sentences were fallible. As discussed in the last chapter, legal restrictions did far less than might be imagined to prevent *ex parte* excommunications. It is therefore hardly surprising that

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<sup>121</sup> *Ann. Tewksbury*, 142-3, 145; *Ann. Worcester*, 439-40; *Wykes*, 102.

<sup>122</sup> Pollock and Maitland, *History of English Law*, i, 480; quoted in this context by Denton, *Robert Winchelsey*, 134.

<sup>123</sup> Both the papal registers and Winchelsey's register are filled with absolutions from the canon.

<sup>124</sup> *CM*, v, 206.



excommunication was not so terrifying as to cause people who had hitherto believed they had done nothing wrong, suddenly and meekly to accept they were at fault. The church could not stamp out conviction. If clerics used excommunication vengefully or unjustly, people were bound to reject the doctrine of Matthew 18:18, that whoever was bound on earth was bound also in heaven.

Before discussing those who believed in the righteousness of their causes, and accordingly refused to give up on them in the face of excommunication, one exceptional case is worth noting. The townsmen of Dunstable, excommunicated during a dispute with the monks of the town over taxation, neither denied the efficacy of excommunication nor disputed the validity of the sentence against them. They did, however, refuse to succumb to the monks' demands. So intent were they upon standing firm that these men 'did not cease from the undertaken fury and malice; but they declared that they were excommunicates, and they would prefer rather to descend to hell, than to succumb in the cause of tallage'.<sup>125</sup> Before the matter was settled, which it was, they threatened to leave the town altogether.<sup>126</sup> The example is exceptional because the men of Dunstable were not appealing their sentence, and did not, apparently, believe that it would prove invalid in the afterlife. They emphatically declared that they were willing to go to hell. If standing up to the monks meant damnation, so be it. Some allowance must be made here for rhetoric. The townsmen perhaps did not 'mean' that they were willing to go to hell. Yet it should also be noted that they were in no doubt as to excommunication's effects. Excommunication meant damnation.

It is unlikely that most people would have risked hell like the men of Dunstable. Rather, the majority appears to have believed that excommunication, in most cases, would not damn them utterly. God would rectify errors perpetrated on earth. Refusing to submit to the church in such situations demonstrates a certain contempt for ecclesiastical authority, but does not necessarily imply lack of piety or

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<sup>125</sup> *Ann. Dunstable*, 122: 'sed profitebantur, se esse excommunicatos, et se velle potius ad infernum descendere quam in causa tallagii succumbere'.

<sup>126</sup> The dispute is described in *Ann. Dunstable*, 110-11, 118-24 and xii-xiv. See also Weiler, *Kingship, Rebellion and Political Culture*, 142.

disdain for the concept of excommunication *in toto*.<sup>127</sup> People do not, in general, like to be punished for something of which they consider themselves innocent, or do not agree is wrong. Yet it is crucial that the law regarding unjust sentences was clear: even if a sentence was unjust, the person sentenced should humbly submit to it. To act otherwise was to scorn the mandates of the church, and thereby to render the sentence a just one.<sup>128</sup> However reasonable a person's complaint, the church did not permit rejection of sentences. Yet, for every Sewal de Bovill (who submitted to his unjust sentence lest it became just through his contempt), there were many more who pursued appeals, or, if that was not an option, simply continued to disobey the church.

It cannot be claimed that those who took these options were invariably irreligious. Indisputably pious men such as Robert Grosseteste and Thomas Cantilupe refused to accept that excommunications against them were valid. Cantilupe, although he died excommunicate (while in Rome to appeal archbishop Pecham's sentence), was in due course even canonised.<sup>129</sup> If such exemplary prelates could not bring themselves to submit, how could the church expect others to behave more obediently? Moreover, there was an argument to be made that would excuse disobedience to excommunication: if obedience to the terms of absolution would incur sin, an excommunication should be borne.<sup>130</sup> In such cases, it was possible to argue that it would be worse to submit to the church. This tension between conscience and authority has been discussed at greater length by Alexander Murray. Twelfth and thirteenth-century theologians stressed the importance of obeying one's conscience; in the end, conscience ranked higher even than the pope's *plenitudo potestatis*.<sup>131</sup>

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<sup>127</sup> Logan, *Excommunication*, 15, made a similar point.

<sup>128</sup> *Flamborough*, 154; Chobham, *Summa*, 173, 201; Peñafort, *Summa*, Tit.XXXIII, 27; Helmholz, 'Excommunication as a legal sanction', 210.

<sup>129</sup> For this venomous quarrel over jurisdiction see Finucane, 'The Cantilupe-Pecham controversy', and Douie, *Archbishop Pecham*, 192-217; Powicke, *The Thirteenth Century*, 488-90. For Grosseteste's excommunication by the monks of Canterbury, see *Grosseteste Letters*, no.110; Morgan, 'The excommunication of Grosseteste in 1243'.

<sup>130</sup> X 5.39.44. If a marriage impediment was known to a spouse, but not to the church, excommunication should be suffered because paying the marital debt in such a marriage would be worse. See also Murray, 'Excommunication', 194-6.

<sup>131</sup> Murray, 'Excommunication', 187-97, provides a fascinating and nuanced discussion; Helmholz, *Spirit of Classical Canon Law*, 378-80; Helmholz, 'Excommunication as a legal sanction', 210-11; Hill, 'Theory and practice', 5-6.

It would be foolhardy to argue that most people who disobeyed excommunication did so because their consciences would permit nothing else. Yet this argument was indeed made by some, disingenuously or not, and is certainly believable of others. The thought process was most eloquently described by Llywelyn, prince of Wales, in a letter to Henry III, in 1224. The letter was sent in response to the fact that, following the rebellion and outlawry of Falkes de Bréauté, Llywelyn had been forbidden from helping or receiving Falkes. Llywelyn responded to this angrily, pointing out that Wales was as free as Scotland, and the kings of Scotland were able to take in English outlaws with impunity. He defended the actions of Falkes, and pointed out how well he had served the king in the past. Finally, he declared that while Falkes was excommunicated for disturbing the peace, in reality, it was the king's advisers who were the true disturbers. Thus Llywelyn wrote 'we do not believe that he (Falkes) is excommunicated as far as God is concerned'. He refused to act against his own conscience: 'We prefer to be excommunicated by man, than to do anything against God, with our conscience condemning us.'<sup>132</sup> Whether or not Llywelyn truly believed his argument, it was a theologically sound one. He did not reject excommunication in principle, but believed that this particular sentence would not be upheld by God. He felt bound to follow his conscience. He was also interpreting the *lata sententia* against infringers of the peace differently to others, in circumstances in which it was surely impossible objectively to decide whose interpretation was the more valid. The rebel barons in 1215 had made precisely the same argument before they were excommunicated *nominatim*. They claimed that, if disturbers of the kingdom were to be excommunicated, it was the king, not them, who was bound by such a sentence. The barons might be accused of posturing here, but the Barnwell (Crowland) annalist noted that the sentence was interpreted differently by the different parties, and that this allowed it to be held in contempt.<sup>133</sup>

Falkes himself argued that the excommunication against him was not only unjust, but also invalid. Thus he wrote that the archbishop and bishops had been pretending to act with pious intent, when in fact they had acted through malice, so that

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<sup>132</sup> *Royal Letters*, no.201; Carpenter, *Minority*, 74.

<sup>133</sup> *Coventry*, 224.

the sentence against him ‘in no way pertained to the justice of the church’. Moreover, they had excommunicated him ‘not cited, not confessed, not convicted’ and were ‘proved to have proceeded from hatred rather than to have wanted to save souls with zeal for justice’.<sup>134</sup> If true (and his presentation of events should be rightly doubted), Falkes’s first complaint implied that the sentence contravened canon law; the second meant it was against theological justifications of excommunication. Both Llywelyn and Falkes here were making sound theological arguments, rendering their disobedience not only justified but (particularly in Llywelyn’s case) vital.

Llywelyn’s letter is the clearest example I have found of such convictions, but there is evidence that others reacted similarly. In 1232, when the crops of various Roman clergy were stolen, and the pope ordered that the perpetrators be punished, Roger of Wendover noted that the ringleader’s response to the excommunication was to say that he had done it because he hated the Romans, who had defrauded him of his church. He had a just cause, and announced that ‘he preferred to be excommunicated unjustly for a time (‘*ad tempus*’), than to be despoiled of his benefice without justice’. The king’s subsequent advice again demonstrates Henry III’s understanding of how *latae sententiae* worked: he advised the knight in question to hurry to Rome and protest before the pope because he had incurred a *lata sententia*.<sup>135</sup> The idea that an unjust sentence was preferable ‘*ad tempus*’ was also voiced by the French prince Louis. Louis had reportedly rejected the pope’s assertion, in 1215, that he had incurred excommunication for aiding the excommunicated English barons, insisting that he was not supporting them, but rather seeking his own rights. ‘Louis did not, and could not, believe that the pope or the council would excommunicate anyone unjustly.’ He had sworn to help the barons, and would therefore ‘prefer to be excommunicated by the pope temporarily, than incur the accusation of falsehood’.<sup>136</sup> Again, the implication is that both men were acting as they believed was right.

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<sup>134</sup> *Coventry*, 271-2.

<sup>135</sup> *CM*, iii, 217-9. For the context of these riots, see Vincent, *Peter des Roches*, 303-9.

<sup>136</sup> *CM*, ii, 662, 653. Hanley, *Louis: The French Prince*, 97-9, discusses the prince’s reaction to excommunication.

It is also possible that some of the clergy who submitted to Edward I when he withdrew his protection believed that necessity excused them from the pope's excommunication.<sup>137</sup> Even though they benefited from submitting to the king's will, they might have been able to clear their consciences with the justification that Edward's demands for money were necessary to protect the kingdom. *Necessitas* has always supplied a powerful argument to justify exceptions. Edward argued that he was forced to burden his people with levies. Moreover, citing Clement IV's excommunication passed against rebels in 1264, renewed in 1266, he even claimed that those who published *Clericis laicos* and other excommunications were under the ban for infringing the peace by stirring discord.<sup>138</sup> Yet again, *ipso facto* excommunications were open to conflicting interpretations.

Finally, a most emphatic belief in the righteousness of a cause, even in the face of excommunication, was upheld by the baronial reformers between 1258 and 1266. The programme of reform had the support of a number of bishops and other churchmen. It was enforced by oaths and excommunication. Moreover, the Montfortian army fought with white crusader crosses on their shoulders both at Lewes and at Evesham.<sup>139</sup> After Montfort's death at Evesham, miracles were ascribed to the martyred earl, and his cult was propagated by the Franciscans.<sup>140</sup> There is no doubt that many of those who fought against the king did so in the conviction that their cause was just. It appears, indeed, that the mutually contradictory excommunications pronounced by both sides facilitated rejection of sentences pronounced against either party. The rebels demonstrated their contempt sacrilegiously. According to the chronicler Robert of Gloucester, at the siege of Kenilworth in 1266, the legate Ottobuono excommunicated all those in the castle, along with their supporters and helpers. Far from being terrified by this sentence, the rebels staged their own mock excommunication against the royalists. Having been dressed up as a mock legate ('wit

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<sup>137</sup> Cotton, 332-3.

<sup>138</sup> Denton, *Robert Winchelsey*, 147-9. This will be discussed further in ch. 4.

<sup>139</sup> See introduction, nn. 63-65, 68-9. The *Song of Lewes*, ed. Kingsford, written between the battles of Lewes and Evesham by a friar in support of the baronial cause also provides much detail of how the rebels viewed their own cause as moral, just and religious. For crusader crosses see Maddicott, *Simon de Montfort*, 247, n.91, 271, n.192.

<sup>140</sup> See Valente, 'Simon de Montfort'; Maddicott, *Simon de Montfort*, 347-8.

legat'), in a mock cope ('cope of wit'), their surgeon stood as a legate on the castle wall and proceeded to curse ('amansede') the king, the legate and all their men.<sup>141</sup>

The following year, an exchange is reported by William Rishanger's chronicle. The disinherited hiding in the Isle of Ely were warned by the legate's messenger to return to the faith of the church, to the obedience of the Roman Curia and to the king's peace, to receive absolution from the sentence of excommunication, and to make restitution for robberies perpetrated. Their responses were emphatic. First, they firmly held the same faith that they learnt from the holy bishops St Robert (Grosseteste), St Edmund (of Abingdon), St Richard (of Chichester), and other Catholic men. They believed in the articles of faith, the Lord's Prayer, the gospels, and the sacraments, and for the sake of this faith they were prepared to live and die. Second, they owed obedience to the Roman Church as head of all Christianity, 'but not to all the arbitrary lusts and demands of those who ought to control the same [church] and the king'. Third, the legate had been sent to make peace but instead 'he fosters more war, because he manifestly supports and favours the king's party'.

To the fourth they say that the first undertaking and the first oath were for the utility of the realm and the whole church, and all the prelates of the kingdom fulminated a sentence of excommunication on all contradictors, therefore to this they stand firm in the same will, and are prepared to die for the same oath. They encourage the legate to revoke the sentence; otherwise they appeal to the apostolic see and also to the general council, or, if necessary, to the Highest Judge.<sup>142</sup>

These men were not heretics. They were not impious. On the contrary, they were avowedly devout and accepted that they owed allegiance to the church. What they questioned was the judgement of the legate in their particular circumstances. Excommunication had already been pronounced in support of their enterprise and they could not obey another such sentence declared with the opposite intent. They were

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<sup>141</sup> *Robert of Gloucester*, 772. Cristian Jaser has discussed the phenomenon of lay 'counter-excommunication', with reference to the fourteenth century: 'Usurping the spiritual sword'.

<sup>142</sup> Rishanger, *De Bellis*, 62-3. They also answered the other points.

willing to take their chances with God rather than submit to a sentence they did not accept.<sup>143</sup>

There is no evidence of Montfort's personal reaction to his excommunication. He was certainly aware of its public dangers, threatening to kill the legate, Gui Foulquois, should he land in England to publish his sentence. John Maddicott has sketched Montfort's spiritual influences and personal piety with admirable clarity. Montfort's close relationship with bishops and friars meant that he was well versed in matters of conscience, even lecturing Henry III on the futility of confession without penance and satisfaction. He also demonstrated his 'exceptionally fastidious conscience' through pious devotional practices. Most notably, he wore a hair shirt. If the earl's piety rendered him more likely perturbed at the prospect of damnation, his learning and understanding of the fundamental importance of conscience make it eminently plausible that he was one of those who believed his conscience excused him. He was not concerned about the legate's sentences of excommunication because he believed that he himself was fighting for justice.<sup>144</sup> 'For him the issues were ones of religion and conscience, and the battle that he faced was "God's battle".'<sup>145</sup> The actions and words of his followers after his death add weight to the idea that Montfort simply did not believe that God had condemned his actions. As Maddicott observes, 'Pride of place must be given here to Montfort's conscience, for in the last phase of his life it supplies us with one key to our understanding of his actions'.<sup>146</sup> Montfort fought to the death because his conscience required him to do so. Excommunication had little effect on him whenever it contradicted his beliefs.

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<sup>143</sup> See Knowles, 'The resettlement of England after the barons' war', for how the disinherited were eventually reconciled.

<sup>144</sup> Maddicott, *Simon de Montfort*, 84-96.

<sup>145</sup> Maddicott, *Simon de Montfort*, 271.

<sup>146</sup> Maddicott, *Simon de Montfort*, 84.

## CONCLUSIONS

The idea, repeated *ad nauseam*, that, by the thirteenth century, excommunication had ‘lost its spiritual terrors’ through overuse contains some truth. But it is far from the whole story. Overuse of excommunication meant that sentences were not treated as sacrosanct. It was clear that sometimes sentences were pronounced unfairly. In theory, all of them could be questioned. People could use their discretion, particularly with *ipso facto* sentences that were open to interpretation. If a sentence was reasonable, there is no reason to suppose people did not believe it would result in damnation. The problem here was that temporal concerns often trumped the spiritual. Absolution was always an option. Excommunication was thus only a real cause for concern in certain situations: if someone fell ill, or was about to enter battle. Conscience was also a factor. Conscience might cause someone to seek absolution from a sentence they feared they might have incurred. That people sought absolution from sentences when there was no cleric to answer or question demonstrates that excommunication was itself viewed with some consternation. On the other hand, if a strong conviction opposed the church’s mandates, conscience might dictate that an excommunication was ignored. In such circumstances, it was better to take one’s chances with God. Usually, however, the stakes were too high, and it was safer to make peace with the church in life, to ensure salvation after death. Excommunication’s ability to coerce people through spiritual fear was thus thwarted by two considerable obstacles: the fact that clerics were fallible, and the fact that (barring a miracle) excommunication’s spiritual effects were deferred until death.



### 3.

#### COMMUNITY AND ENFORCEMENT

The efficacy of excommunication was dependent as much upon the reactions of others as upon the response of the excommunicate. It was all very well for a person to feel, in all conscience, that they were not truly bound by a sentence, but excommunication could only be ignored with the support of the community. If an excommunication was enforced as the church required, an excommunicate would be unable to function in society. In the vast majority of cases, they would be obliged, eventually, to capitulate. Yet the church often failed to ensure that excommunicates were treated appropriately. Like interdict, excommunication was only coercive if popular feeling sided with the church.<sup>1</sup> People disregarded the church's mandates, and the crown could interfere to support their resistance. On the other hand, excommunication could be exploited. The separation of an excommunicate from the church and hence from society justified otherwise unacceptable actions. Regardless of the validity or justness of a sentence, it might be advantageous to shun an excommunicate, to maltreat them, or to refuse to serve or obey them. Excommunication did not automatically lead to deposition or crusades, but it remained a pre-condition of both. This association could be exploited.

#### *OSTRACISM*

Excommunication was leprosy of the soul, as Bracton (the thirteenth-century common law legal treatise) described it.<sup>2</sup> The sanction was linked with leprosy because it was contagious. Canon law decreed that Christians were not to communicate with

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<sup>1</sup> Clarke, *Interdict*, 168.

<sup>2</sup> Bracton, *De legibus*, iv, 292.

excommunicates in speaking, eating, drinking or kissing (not least in greeting).<sup>3</sup> Excommunicates were to be strictly shunned. Members of the church who broke this rule were themselves automatically excommunicated with minor excommunication (suspension from the sacraments). Excommunication did not, however, spread infinitely, since a minor sentence did not require ostracism. Only those who communicated with an excommunicate directly were infected.<sup>4</sup> There were also certain circumstances offering immunity from this infection. Spouses and other family members, as well as servants, were allowed to communicate with their excommunicated relatives or masters. Other legitimate exceptions included communicating through ignorance, fear or necessity.<sup>5</sup> Talking to those under the ban in order to urge them to return to the church was also allowed, and, because excommunication should have no advantages, to recover debts and the like.<sup>6</sup> A further, related, consequence of excommunication was that no legal hearing was given to an excommunicate. This is termed the ‘exception of excommunication’. Though an important consequence of the sanction, one that was usually enforced in England, this has been fully discussed by Elisabeth Vodola and so will not be covered here.<sup>7</sup>

The church took seriously the rule that excommunicates should be separated from society. If the faithful did not enforce excommunication, the sanction’s efficacy was intolerably weakened. The Council of Worcester II (1229), for example, ordered that diligent inquest be held into those who illicitly communicated with excommunicates, and that their names be brought to the attention of the bishop or his official.<sup>8</sup> Preventing illicit communication was also a pastoral issue. The dangers here were aptly summarized in 1276, by the bishop of Exeter, Walter Bronescombe: ‘Lest the flock of the Lord which has been entrusted to our care may be dangerously infected

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<sup>3</sup> C.11, q.3, c.17. There are, however, a plethora of canons concerning the rules about communicating with excommunicates in C.11, q.3.

<sup>4</sup> X 2.25.2 (*Letters of Innocent III*, no.330).

<sup>5</sup> C.11, q.3, c.103. These exceptions were formed into a verse, to make them easy to remember: ‘Utile, lex, humile, res ignorata, necesse / Haec anathema quidem faciunt ne possit obesse’ (Peñafort, *Summa*, Tit.XXXIII, 29, though the verse was included in various texts).

<sup>6</sup> X 5.39.54; Peñafort, *Summa*, Tit.XXXIII, 29, 38 (which deals with whether a debt should be paid to an excommunicated creditor, but mentions that excommunicated debtors were bound to pay).

<sup>7</sup> Vodola, *Excommunication*, chs. 4, 5, 7. Excommunicates being refused hearing until they sought absolution can readily be found in the *Curia Regis Rolls*.

<sup>8</sup> C&S, 175, c.29.

by association with the said [excommunicated] abbot'.<sup>9</sup> A miracle story described the devil's boast that a single excommunication in a parish could lead to his gaining many souls, because if parishioners continued to associate with the excommunicate, the devil had them all in his net.<sup>10</sup>

Sentences of excommunication were publicised so that the faithful knew who had been excommunicated and could therefore shun them. Mandates sent by popes and bishops ordering publication therefore invariably directed clergy to announce that parishioners should strictly avoid those excommunicated. Eating, drinking or speaking with excommunicates might also be specifically forbidden.<sup>11</sup> Although buying from, or selling to excommunicates was routinely forbidden, it was sometimes necessary explicitly to forbid trade, particularly if a sentence were published on both sides of an administrative frontier, or if the excommunicates were merchants. Thus when a vintner was excommunicated in 1301, archbishop Winchelsey forbade hiring him, employing him or trading with him.<sup>12</sup> Bronescombe's excommunicated abbot in 1276 was not to be traded with, served or obeyed.<sup>13</sup> During the period of baronial rebellion from 1258 to 1266, the pope forbade the French to contract marriages with excommunicated English barons, to carry anything to them across the Channel, to buy from or sell to them or to receive their messengers.<sup>14</sup> In 1265, the legate, Guy Foulquois, had excommunicated with a major sentence those who supplied the rebels with arms, horses, grain, wine or other victuals.<sup>15</sup> In fact, excommunication made these actions illicit anyway, so that the decision to expressly forbid them may have been a response to the fact that people had previously ignored what should have been an automatic consequence.

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<sup>9</sup> *Reg. Bronescombe*, no.1175.

<sup>10</sup> *Anecdotes Historiques*, no.307.

<sup>11</sup> e.g. *Reg. Epp. Pecham*, ii, 608; *Reg. G. Giffard*, 309-10.

<sup>12</sup> *Reg. Winchelsey*, i, 394-5.

<sup>13</sup> *Reg. Bronescombe*, no.1175.

<sup>14</sup> *Reg. Clement IV*, no.117.

<sup>15</sup> *Foedera*, I.i.447-8.

## ***THE PROBLEMS OF ENFORCEMENT***

The social consequences of excommunication could be severe, but it is first necessary to note that the church was often unable to ensure the shunning of excommunicates. The excommunicated who remained bound by sentences for years on end could survive like this only because communities were failing to ostracize them.<sup>16</sup> The assistance of the secular arm, called upon to arrest and imprison recalcitrant excommunicates, was only required for the same reason. Social ostracism should have been coercion enough. Excommunication relied on society cooperating with the church, but the church faced considerable challenges in achieving such cooperation.

Effectiveness here was undermined by a number of problems. One of these was largely the same as that discussed in the previous chapter. Just as some excommunicates genuinely believed that the sentences pronounced against them were unjust, their neighbours and associates might agree that the church's sanction had been misused, choosing not to shun someone they judged unfairly censured. However, the position and standing of an excommunicate within a community played a significant role in how they were treated. Some excommunicates were shunned so severely that they complained of starvation; others apparently faced no ostracism whatsoever, and continued to live perfectly normal lives. Excommunicates suffered such varied fates not simply because some sentences were just and others were not, but because of personal circumstances. The church might have a just case, but if the excommunicate was sufficiently powerful or popular, few would wish (or possibly dare) to enforce a sentence. By contrast, even if the church had sentenced someone on 'trumped up charges', if they were unpopular and had powerful enemies, it might be advantageous for society to treat them as excommunicate. Such things undoubtedly went on at all levels of society. It is easy to imagine a popular villager enjoying the support of parishioners against a priest who had excommunicated him for not paying tithes, for example, something of which many were guilty. Equally, one can imagine parishioners taking the opportunity to shun an unpopular villager excommunicated for the same crime. Sentences of excommunication could thus be ignored or exploited. The fear that

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<sup>16</sup> Clarke, *Interdict*, 63.

potential excommunication inspired depended, to a considerable degree, upon the excommunicate's situation, and how much they had to lose. Rulers, for example, had to worry about their subjects using excommunication as 'a pretext for rebellion'.<sup>17</sup>

That communities often did not heed sentences is evident from many sources. Reports of such behaviour often laid the blame equally on the excommunicates and on those communicating with them. In 1300, a mandate sent by archbishop Winchelsey asserted that Juliana Box of London 'pertinaciously persevering in the same sentence, indifferently integrates herself with the community of the faithful every day', while 'many communicate with her knowingly, against our inhibition'. The archdeacon of London was ordered to publish the sentence against her, to inquire into the names of those associating with her, and to excommunicate them.<sup>18</sup> A similar complaint was made against the London vintner already mentioned. He had been excommunicated for three years: 'obdurate, he throws himself in with the communion of the faithful, staining others with his contagion, and many degenerate sons, forgetful of their own salvation and scorning the vigour of ecclesiastical discipline, do not fear to be bound by the snare of the same sentence with him, by impudently communicating with the aforesaid.'<sup>19</sup>

The church could deal harshly with such behaviour by 'aggravating' sentences. The usual punishment for illicitly communicating with excommunicates was minor excommunication. But if the church's mandates were ignored, this might be increased to major. Thus, when the townsmen of Dunstable (who would rather go to hell than submit to ecclesiastical discipline in 1228-9) continued to enter churches and intercommunicate, the convent and priests were obliged to cease the celebration of mass. This resulted in a *de facto* interdict. Subsequently, all communicators were solemnly denounced as bound by a major sentence.<sup>20</sup> The same fate befell those who continued to associate with John de Moresdenne, who had scorned the keys of the

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<sup>17</sup> Cheney, *Pope Innocent III*, 320.

<sup>18</sup> *Reg. Winchelsey*, i, 390-1.

<sup>19</sup> *Reg. Winchelsey*, i, 394-5.

<sup>20</sup> *Ann. Dunstable*, 110-11. As discussed in ch. 2.

church for a long time in 1297.<sup>21</sup> Another tactic was to put pressure on the wider community. Interdicts were commonly used to enforce excommunications that were not obeyed.<sup>22</sup> In fact, minor excommunication and interdict almost amounted to the same thing: minor excommunicates were unable to participate in ecclesiastical services; interdicts suspended all such services.<sup>23</sup> People could also suffer as a result of standard minor sentences strictly enforced. The citizens of Canterbury, in 1239 punished for associating with the excommunicated monks of Christ Church, were greatly concerned about being denied the sacraments and (unsuccessfully) requested respite.<sup>24</sup> Numerous individuals were similarly punished for communicating with the prior and monks of Great Malvern Priory, excommunicated in 1283, during a venomous dispute with Godfrey Giffard, bishop of Worcester. When three men and two women sought absolution, they were absolved only after undergoing public penance in Worcester Cathedral.<sup>25</sup>

Though people were often complicit in disobeying the church, they could also be misled by deceitful excommunicates. Thus in 1274, certain men from Cornwall communicated with others, claiming that they had been provisionally absolved or had taken a corporal oath to observe the mandates of the church (usually a condition for receiving absolution).<sup>26</sup> Those who associated with these men might not have been to blame for doing so. Similarly, various bishops complained to Alexander IV that many who had incurred excommunication for infringing ecclesiastical liberties and Magna Carta had since left their dioceses and cities. Having run away, they no longer feared to communicate with others who were presumably ignorant of their status. Alexander urged the bishops to cooperate with one another, to bring such runaways to justice in

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<sup>21</sup> *Reg. Winchelsea*, i, 192-3.

<sup>22</sup> Clarke, *Interdict*, 63.

<sup>23</sup> There was also some blurring of terminology: an individual sentenced with a minor excommunication was often described as 'suspended'; interdicted churches were similarly 'suspended'. Clarke, *Interdict*, 59-85 describes the different types of interdict, and how they related and overlapped with each other and excommunication in places.

<sup>24</sup> See ch. 4, 172-9.

<sup>25</sup> *Reg. G. Giffard*, 167, 184. This letter ordered inquisition to be made into who else had communicated with the monks. Later, (pp. 176-7, 200) very long lists of people (at least 70) were cited to appear before the bishop. Documents relating to this dispute are scattered throughout the register.

<sup>26</sup> *Reg. Bronescombe*, no.1025.

the same way as they would with delinquents under their own jurisdiction.<sup>27</sup> That excommunication could provoke flight demonstrates the severity of the sanction's social repercussions. A woman from Bristol, for instance, left the town when she was excommunicated, abandoning her children who were therefore left 'wandering about in the aforesaid town ... without protection'.<sup>28</sup> Before their dispute with the local priory was settled, the burgesses of Dunstable had deserted their town altogether.<sup>29</sup> Runaways might, however, have been attempting to evade arrest by the secular arm, rather than to escape ostracism.<sup>30</sup>

Of course, even in more high profile cases, sentences were often ignored. Wendover noted that all the magnates of England spent Christmas with King John at Westminster, notwithstanding his excommunication.<sup>31</sup> Innocent III was particularly indignant that the same barons who had blithely associated with their excommunicate king subsequently rebelled against him, despite the fact that he was now reconciled with the church as a would-be crusader and a papal vassal.<sup>32</sup> Although John's sentence was proclaimed by clergy who subsequently fled the country, there were many who failed to implement it.<sup>33</sup> Following the lifting of the sentence, many clergymen were suspended as a result of their disobedience and required to visit Rome to seek personal absolution.<sup>34</sup>

Clergy and laity were equally guilty of such laxity. Louis of France had the support of many English barons after 1215, excommunicated alongside him. But there were clergy too who supported the rebellion. The Melrose chronicler noted that the interdict and excommunications were not observed in England, and not even denounced in Scotland, whose king had been sentenced for supporting Louis.<sup>35</sup> For years afterwards, clergy suffered the repercussions of their disobedience. For instance,

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<sup>27</sup> *Foedera*, I.i.369-70.

<sup>28</sup> *SKB*, i, 134-5.

<sup>29</sup> *Ann. Dunstable*, 122.

<sup>30</sup> E.g. *CPR 1266-72*, 389; *Rotuli Litterarum Clausarum*, i, 540b; *CR 1247-51*, 97.

<sup>31</sup> *CM*, ii, 528.

<sup>32</sup> *SLI*, 213.

<sup>33</sup> Peter des Roches was the only diocesan bishop who remained in England 1209-1213: Vincent, *Peter des Roches*, 69, 72-88; Cheney, *Pope Innocent III*, 314-5.

<sup>34</sup> *Letters of Innocent III*, nos.908, 969; *SLI*, no.47; *Coggeshall*, 167.

<sup>35</sup> *Melrose*, 124-5.

in 1216, the monks of Worcester Cathedral Priory supported Louis's cause, and were excommunicated (possibly with only a minor sentence) for celebrating divine services with the king's enemies.<sup>36</sup> In 1209, Innocent III wrote that both clergy and laity, *maiores* and *minores*, were 'everywhere and knowingly presuming to communicate with F(ulk) de Cantelupe and R(eginald) of Cornhill, excommunicates'.<sup>37</sup> In 1291, the bishop of Durham, Antony Bek (1285-1311), was reprimanded by John le Romeyn, archbishop of York, for retaining Master Alan of Easingwold as his official, although excommunicated. Bek was told to correct this within eight days.<sup>38</sup> Many more examples of clergy who neglected to enforce sentences, either by communicating with those who had been sentenced, or by refusing to publish sentences, could be cited.

The refusal by both clergy and laity to enforce sentences need not be ascribed to disrespect or indifference. Such refusal could result from genuine belief that a sentence was unjust. Clergymen who scorned the church's mandates from conviction rather than convenience include Stephen Langton. Langton was suspended because he was not willing to publish the sentence against the barons. Although he was never an outright partisan of the barons, it is clear that he had sympathy with their cause. He did not believe that Magna Carta, and all it signified, deserved unqualified condemnation.<sup>39</sup> Similarly, Simon Langton (his brother) and others justified their support for Louis and his invasion, arguing that an appeal had been made on Louis's behalf and that his sentence was therefore null.<sup>40</sup>

Nevertheless, if the Langtons were disobedient, their actions and the criticism they inspired pale in comparison to that suffered by the 'Montfortian bishops', after 1258. In 1265 Clement IV wrote to the legate Ottobuono, suspending the bishops of London, Worcester and Winchester. His condemnation of the rebellion and its episcopal supporters was categorical, and his letter full of vitriol. Before the Battle of Evesham, when they had spoken to Clement (himself acting as legate) at Boulogne, the

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<sup>36</sup> *Ann. Worcester*, 406-7; many more clergy were similarly suspended and deprived of benefices: *Letters and Charters of Guala*, xli-xlii, lxi-lxvi and notes.

<sup>37</sup> *Patrologiae Latinae Cursus Completus*, ed. Migne, 215, 1530.

<sup>38</sup> *Reg. le Romeyn*, ii, 95-7.

<sup>39</sup> Cheney, *Pope Innocent III*, 376, 380-1; Carpenter, 'Archbishop Langton', 1046; Vincent, 'Stephen Langton', 97-9; d'Avray, 'Magna Carta'.

<sup>40</sup> *CM*, ii, 654-5.



bishops were accused of having masked the ‘bitterness of bile with sweetened speeches’. Not only presumptuous but notorious transgressors, they had subsequently presumed to profane divine services, and had not shunned excommunicates or observed interdicts. They had refused to appear before the pope, persevering in their iniquity, their hearts hard as stone like a blacksmith’s anvil. As for Montfort himself, he had denied the legate entry, ‘exercising his tyranny ... with others whom he infected under semblance of simulated piety’. Clement proclaimed himself amazed at the infamy of Montfort and his supporters, especially the prelates.<sup>41</sup> Yet, like those discussed in the previous chapter, the bishops may well have felt that their actions were justified. Their disobedience was not unthinking.<sup>42</sup> The miracles attributed to the martyred Montfort and his later cult provide further evidence for the popular belief that he was not truly or justly excommunicated.<sup>43</sup> The Lanercost chronicle, written within a Franciscan milieu, observes that men continued to honour those who died excommunicated at Evesham. Though they had been buried outside the cemetery as excommunicates, ‘they proved themselves not to be in error, through signs from God’.<sup>44</sup>

If members of the ecclesiastical hierarchy could show so little deference towards the church’s most severe sanction, it is hardly surprising that the laity displayed equally scant respect. Securing support for an ecclesiastical censure was particularly difficult if the motives of the excommunicator could be called into question. When pope Alexander IV excommunicated Sewal de Bovill for refusing to bestow benefices on unsuitable foreigners, Matthew Paris reports that ‘however much he was cursed at the pope’s command, so much more was he blessed by the people (although silently, because they were afraid of the Romans)’.<sup>45</sup> The people, exercising

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<sup>41</sup> Martène, *Thesaurus*, ii, no.190; cf. no.463, in which the bishop of Lincoln is reprimanded for being familiar with excommunicates, and asked how he could expect the pope not to notice he had been infected, and an earlier letter to the bishop of London, reprimanding him in *Reg. Urban IV*, ii, no.647; Cf. *Wykes*, 185-7.

<sup>42</sup> Why the bishops took the barons’ side, and how they justified this, has been discussed most fully by Sophie Ambler, see ‘Montfortian bishops’, ‘Peacemakers and partisans’, chs. 6 and 7. See also Hoskin, ‘Natural Law, protest and the English episcopate’.

<sup>43</sup> Maddicott, *Simon de Montfort*, 346-7, 367-8; Valente, ‘Simon de Montfort’; ‘Lament of Simon de Montfort’, in *Political Songs of England*, 124-7.

<sup>44</sup> *Lanercost*, 77.

<sup>45</sup> *CM*, v, 653.

their own discretion, decided that the sentence was unjust and thus set themselves against the pope.

The problem of convincing laity of the validity or justness of a sentence was particularly acute when clergymen locked horns with one another, or took different sides in a dispute between laymen, for this frequently resulted in mutual excommunications. Since both sides could not be right, nor both excommunications be valid simultaneously, communities had to decide which side had the better case. This inevitably meant scorning one of the sentences. It is hardly surprising that the sanction lost a lot of its force when used for personal gain or out of vengeance. Another story related by Paris, in 1251, perfectly sets out the issues at stake here. In a dispute between the dean of St Paul's and the archbishop of Canterbury over visitation rights, both parties claimed to be acting with papal authority.<sup>46</sup> Thus those the pope absolved were immediately excommunicated by their enemies, 'ex parte papae', for a different reason: 'Thus their quarrel appeared ridiculous to the laity, and no wonder'.<sup>47</sup> Elsewhere, Paris observed of the same dispute that 'a shameful scandal arose', precisely because of these mutual sentences of excommunication.<sup>48</sup> Archbishop Boniface's excommunication of the bishop of London, Fulk Basset, who had become involved in support of the canons of his cathedral church, inspired equal contempt. The bishop sought absolution because, finding himself caught between a rock and a hard place,<sup>49</sup> he decided that submitting to archbishop Boniface, rather than confronting the wrath of Henry III, was the lesser of two evils. This he did despite believing that he was persecuted and unjustly sentenced.<sup>50</sup> According to Paris, 'many' wondered that he did not fear the threat 'Woe to you who justify an impious man' (Isaiah 5:22-3).<sup>51</sup>

Misuse of excommunication undoubtedly caused communities as well as individuals to reject sentences. Clergy who used the sanction too lightly, for specious reasons or as revenge, brought it into disrepute, and, as Paris observed, it was hardly

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<sup>46</sup> See Cheney, *Episcopal Visitation*, 138-9.

<sup>47</sup> *CM*, v, 229.

<sup>48</sup> *CM*, v, 217-18. 'Ortum est igitur turpe scandalum, dum nunc ab his denuntiabantur excommunicati in his, nunc in aliis ab his partibus absoluti.'

<sup>49</sup> Paris's simile is 'as ground between two millstones'.

<sup>50</sup> For this dispute see Franklin, 'Basset, Fulk (d. 1259)'.

<sup>51</sup> *CM*, v, 206.

surprising ('nec mirum') that excommunication appeared ridiculous to the people. Overuse generated apathy. If there was a significant lack of respect for the church and its most severe sanction, such disrespect was too often deserved. Those who refused to take sentences seriously might be forgiven their indifference, not least when fed different information by contending clergy. The consequence was that sentences frequently remained unenforced.

### ***ROYAL INTERFERENCE IN EXCOMMUNICATION***

Though the church was partially responsible for the ineffectiveness of excommunication, it was also confronted with opposition it could not control. Sometimes, under threat of violence, communities did not shun excommunicates. King John and the Holy Roman Emperor, Frederick II, both successfully lived as excommunicates for long periods and reacted to their excommunications by making just such threats. In particular, the efficacy of excommunication in thirteenth-century England was frequently foiled by royal policy. Kings and their officials interfered, to the church's detriment, obstructing the operation of ecclesiastical sanctions.

One problem faced by the church was that requests for obdurate excommunicates to be captured were not carried out. The procedure for capturing recalcitrant excommunicates, and the problems with it, have been discussed fully by Donald Logan, and will not be addressed here in any depth.<sup>52</sup> It is clear, however, that though, in general, the procedure was reasonably effective, failures to carry out the church's requests were common. It was a sufficiently significant problem that one of Langton's 1222 *ipso facto* excommunications was proclaimed against officials who thus scorned the keys of the church.<sup>53</sup> In 1257, clerical *gravamina* complained that writs for capture were not executed, or that captives were freed before receiving

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<sup>52</sup> See Logan, *Excommunication*, 110-12.

<sup>53</sup> Appendix, nos.4 [7], 19 [11.vii].

absolution.<sup>54</sup> This problem was undoubtedly important, but only a small proportion of excommunications led to invocation of the secular arm.

Royal officials also interfered with the sanction's fundamental requirement that excommunicates be shunned. Thus the 1257 clerical complaints asserted that 'the lord king, his justices and bailiffs everywhere and indifferently communicate with excommunicates' in both religious and secular matters. Sometimes, the king directly ordered that excommunicates should not be shunned, although ecclesiastical ordinaries had demanded precisely such penalties.<sup>55</sup> Bailiffs were also at fault for communicating with Jews who had incurred excommunication for not wearing signs to distinguish them as Jews (as Lateran IV ordered).<sup>56</sup> In 1285, the clergy even claimed that the king forced people to communicate with excommunicates, and that his ministers demanded that they had be rendered void ('non tenere').<sup>57</sup> Although these accusations were denied by Edward I, there is evidence that they were not unjustified.<sup>58</sup>

In 1261, precisely this problem was voiced in a letter from Urban IV to Henry III. The pope wrote that laymen secured writs via justices and bailiffs forbidding judges to issue sentences of excommunication.<sup>59</sup> After such prohibitions, 'the said layman is not shunned as an excommunicate, because the said justices and bailiffs prohibit it'.<sup>60</sup> How these officials might prohibit avoidance of excommunicates is indicated in a letter recorded, in 1283, in the register of Godfrey Giffard. In a dispute already mentioned between the prior of Great Malvern and the bishop of Worcester, the king wrote to the sheriff of Gloucester, ordering him to proclaim in the county court that everyone was allowed to communicate with the prior and convent. This was because, as a result of their excommunication, the monks of Malvern had been unable to buy and sell anything and were, apparently, starving as a result.<sup>61</sup> Some account was

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<sup>54</sup> C&S, 541 (c. 11). And see ch. 6, n. 16.

<sup>55</sup> C&S, 541 (cc. 12-3).

<sup>56</sup> C&S, 545 (c. 33).

<sup>57</sup> C&S, 958, 960-1. See also Douie, *Archbishop Pecham*, 305-7.

<sup>58</sup> C&S, 958, 963.

<sup>59</sup> Clashes over writs of prohibition were common. See Flahiff, 'The writ of prohibition' I and II, and Douie, *Archbishop Pecham*, 313-7.

<sup>60</sup> *Foedera*, I.i.411.

<sup>61</sup> *Reg. G. Giffard*, 211-12; 'Houses of Benedictine monks: Priory of Great Malvern', in *A History of the County of Worcester*, ii, 136-143, and n. 37

taken of the king's wishes, however. When his treasurer, Richard de Ware incurred excommunication for seizing the priory's temporalities, Giffard did not publish the sentence, out of reverence for the king.<sup>62</sup> Similar announcements, telling citizens to communicate with the monks of St Oswald's priory, and to provide them with victuals, were made in the early 1300s, also in Gloucester. The bishop of Worcester was told not to forbid this, and subsequently the sheriff was commanded to proclaim that people were to ignore the bishop's prohibitions. It might be noted that in this case, the king's efforts to influence the community do not seem to have been any more effective than the bishop's: the first letter was sent in 1300, the last in 1304.<sup>63</sup>

The bailiff of Fécamp, himself excommunicated in 1283, was able to take advantage of his position by broadcasting that he was not sentenced. Throughout the diocese of Chichester, the bailiff and his accomplices proclaimed that those who supported and adhered to him were not bound by excommunication. Archbishop Pecham wrote to the bishop of Chichester to complain about this, noting the excommunication was not being enforced and that his order to publish it had not been carried out everywhere. The bishop was to make publicly known that everyone who supported the bailiff in any way was equally bound, except the king and his family.<sup>64</sup> Nor did the king only order his own men to make counter-proclamations. In 1256, Henry III ordered the official of Canterbury, Hugh de Mortimer, to announce that a sentence pronounced by various bishops against Roger, abbot of Glastonbury, was 'invalid and inane' because the case between the abbot and the bishop of Bath and Wells 'manifestly touches the honour and dignity of our crown'. If the bishops did not stop making denunciations, the official was to defend Roger, who had appealed to Canterbury.<sup>65</sup> Since the church relied on publishing excommunication to inform the faithful as to whom they were obliged to shun, these counter-proclamations posed a considerable problem.

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<sup>62</sup> *Reg. G. Giffard*, 186.

<sup>63</sup> *CCR 1296-1302*, 411, 526, *1302-07*, 225-6; Prynne, *Records*, 857, 1026; *SKB*, iii, 138-43.

<sup>64</sup> *Reg. Epp. Pecham*, ii, 604.

<sup>65</sup> *CR 1254-6*, 404.

Kings also exerted their authority directly over clerics using the sanction. In 1245, Innocent IV wrote to Henry III to express his amazement that the king had caused certain excommunications pronounced by the papal nuncio Martin to be relaxed at his own will ('pro voluntatis arbitrio'), without any satisfaction having been made beforehand. These excommunications apparently related to ecclesiastical benefices and provisions.<sup>66</sup> Nevertheless, the king's interference was not necessarily reprehensible. A comparable order in 1234 appears to have been made because the king was himself rectifying the wrong that had caused the sentence. Henry ordered the constable of St Briavels to return the horses and arms that he had taken from the abbey of Flaxley, which act had caused the constable to be excommunicated. He wrote simultaneously to the bishop ordering him to relax the sentence against the constable.<sup>67</sup>

Clerics who excommunicated in spite of the king might even be punished for doing so. The bishop of Worcester, Walter Cantilupe (1237-1266) was in 1251 threatened with confiscation of his barony because he had brought a case against William Beauchamp, against the king's prohibition, and then excommunicated him. At the earl of Cornwall's request, the king delayed this course of action until the feast of the Purification, provided the bishop desisted from his persecution.<sup>68</sup> Five years later, Cantilupe agreed temporarily to relax certain sentences he had brought against the sheriff of Worcester's bailiffs. In turn, the king agreed to relax any 'severities' against the bishop.<sup>69</sup> In 1294, a later bishop of Worcester (Godfrey Giffard) was given the same punishment: the sheriff was ordered to distrain all the lands and tenements that Godfrey held from Edward I because the bishop had excommunicated five men (including a bailiff) of the king's uncle, William de Valence. The bishop was charged with usurping the king's rights, in injury to the crown (estimated at a massive 10,000 marks), and told to answer to the king in court. Peace was made between bishop and king, provided that the bishop's sentence was not renewed.<sup>70</sup> Elsewhere, the sheriff of York was commanded to attach the archbishop of York, who had excommunicated the

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<sup>66</sup> *Foedera*, I.i.256; cf. *CR 1251-53*, 216, where the archbishop of Dublin was instructed to relax a sentence, and the justiciar of Ireland told to induce him to do so.

<sup>67</sup> *CR 1231-33*, 393; cf. *Curia Regis Rolls*, xv, no.812.

<sup>68</sup> *CR 1247-51*, 525. See above ch. 2, n. 121.

<sup>69</sup> *CR 1254-56*, 401.

<sup>70</sup> *SKB*, iii, 1-3.

king's 'beloved' clerk, Bogo de Clare. The king expressed surprise that the archbishop had not revoked the sentence as ordered, but had instead redoubled his vexations. Edward could not leave the matter unpunished, and the archbishop was told to respond to him at Westminster in one month. The bishop of Lincoln was similarly reprimanded because he had published the sentences in his own diocese.<sup>71</sup> There are too many instances of royal interference in excommunication to describe in detail here; it was clearly a significant problem.<sup>72</sup>

On other occasions, clergy dropped or delayed sentences out of deference. It is difficult to tell whether a forceful or polite approach better achieved results, but there are numerous examples in archbishop Pecham's register, in particular, of the archbishop agreeing to curb his use of the sanction. In 1281, he deferred sentences against certain clerks, out of respect for the king, until parliament. Nonetheless, he made clear that he was not revoking these sentences, only delaying them.<sup>73</sup> In 1280, he wrote to tell the bishop of Exeter that the bishop had been lied to: Pecham had not revoked a sentence against the king's bailiff; he had only suspended it while he made investigations.<sup>74</sup> The following year, he told the king that he had agreed to delay denouncing a general excommunication of those who impeded his rights (specifically in respect to visitations) until after parliament. The king had objected on the grounds that royal clerks were implicated, but Pecham sternly instructed him that the denunciation did not actually excommunicate anyone unless they were guilty and were already excommunicated anyway. He warned King Edward of his own peril if his men exceeded his jurisdiction and committed mortal sins.<sup>75</sup>

Royal orders were not necessarily obeyed. The Close Rolls only record what the king commanded, and it is not usually possible to know whether or not bishops complied with his requests. On the other hand, Pecham's decision to delay sentences until after parliament must have been made in response to requests from the king. It

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<sup>71</sup> Prynne, *Records*, 1283-6.

<sup>72</sup> Further instances can be found in *CR* 1237-42, 218; *CR* 1242-47, 477-8; *CR* 1253-54, 314; *CR* 1254-56, 167-8; *CR* 1268-72, 572; *CCR* 1279-88, 56; Prynne, *Records*, 244; *CCR* 1296-1302, 532; *Cron. maiorum*, 106-7.

<sup>73</sup> *Reg. Epp. Pecham*, i, 184, 392v-w; cf. i, 132-3.

<sup>74</sup> *Reg. Epp. Pecham*, i, 121-2.

<sup>75</sup> *Reg. Epp. Pecham*, i, 178, 180, 392s, 392t.

seems that, on the whole, royal interference in the church's use of excommunication was reasonably effective. If churchmen had been able to use excommunication free from such interference, excommunication itself would have proved a more effective weapon.

### ***EXEMPTION FROM EXCOMMUNICATION***

The repeated and active obstructions raised by kings and their ministers demonstrate that excommunication mattered a great deal. They only sought to hinder attempts to excommunicate because the sanction could be hugely injurious. Why would such pains be taken to curb use of excommunication if it was considered merely irrelevant? Equally, it is clear that most wished to remain free from the taint of excommunication. Kings were not alone in obtaining papal privileges that protected them from being sentenced by anyone other than the pope. The calendar of papal letters printed in the nineteenth century summarizes innumerable such privileges obtained by lesser men. They were held by churchmen, for instance by Peter des Roches, who was sternly warned not to abuse his privilege by Innocent III<sup>76</sup>; by religious houses, and by laymen, such as the Basset family.<sup>77</sup> Henry III received a privilege from Innocent IV in 1245 (at the Council of Lyons), which forbade clergy to excommunicate or interdict royal chapels or oratories. The next March, an open letter publicised the privilege.<sup>78</sup> The privilege itself was copied into the chancery Close Roll, two years after it was received, and, two years after that, was sent to the archbishop and bishops, who were instructed to observe it.<sup>79</sup> Again, the prevalence of these privileges can only have dented the efficacy of excommunication. Such privileges were enforced: many appeals

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<sup>76</sup> Des Roches, possibly, invoked his privilege when threatened by the other bishops in 1233, saying he was exempt from their jurisdiction (*CM*, iii, 252).

<sup>77</sup> *Patrologiae Latinae Cursus Completus* ed. Migne, 215, 754; *Foedera*, I.i.260, 263. These privileges might also be abused: in 1246, Innocent noted that various rectors and canons were claiming exemption from the bishop of Coventry and Lichfield's jurisdiction on the grounds that they were royal chapels. The pope wrote to the bishop to affirm that this had not been the privilege's intention, and to assert his rights over the offending churchmen as appropriate (*Ann. Burton*, 275-6).

<sup>78</sup> *Foedera*, I.i.265. The king noted that he had received a number of privileges at the council, but singled out this one for publication.

<sup>79</sup> *CR 1247-51*, 99, 226.



were made when they were infringed.<sup>80</sup> Moreover, on occasion, they themselves were responses to excommunication. For instance, in 1219, Isabella, King John's widow, appears to have obtained a privilege preventing anyone from excommunicating her, but only after she had been sentenced by the bishop of Saintes.<sup>81</sup>

Still more detrimental to the functioning of excommunication, especially if it was to be used to restrain the constant (alleged) infringements of kings and their men against ecclesiastical liberty, was the understanding that royal officials could not be excommunicated without the king's permission.<sup>82</sup> The privilege applied, it seems, not only in England but also in the king's continental lands.<sup>83</sup> This rule was contravened on countless occasions, not only in practice but in theory, not least in ecclesiastical legislation. Thus one set of diocesan statutes specifically forbade constables, castellans or bailiffs from molesting ecclesiastical persons or possessions with unjust exactions or oppressions, under pain of anathema.<sup>84</sup> Statutes from the diocese of Winchester also make no reference to any immunity on the part of royal officials commanding that sheriffs, foresters and bailiffs who hosted 'scotales' be bound with excommunication *ipso facto*.<sup>85</sup> Bailiffs again came under fire at the 1258 provincial council held at Merton and Westminster, when they were condemned for a multitude of offences, including destroying parks and woods, mistreating the poor, and illicitly detaining tithes and oblations. Since these things contradicted the provisions of Magna Carta (c. 1) and ecclesiastical liberty, they were to be denounced excommunicated. Sheriffs and bailiffs who arrested clergy for not appearing in secular courts when summoned were also to be excommunicated, and their lands placed under interdict.<sup>86</sup>

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<sup>80</sup> For example the bishop of London's privilege had been contravened in 1292. The invalid sentences were annulled by Pope Nicholas IV (*Reg. Sutton*, iv, 28-9).

<sup>81</sup> *CPL*, 63.

<sup>82</sup> At least since the time of William the Conqueror: *Select Charters*, ed. Stubbs, 96. The instruction was reiterated in the Constitutions of Clarendon (one of the clauses the pope condemned): *Councils & Synods I*, ed. Whitelock, Brett and Brookes, 864, 880. See also Hill, 'Theory and practice', 4-5, and Vodola, *Excommunication*, 189.

<sup>83</sup> In 1254, Henry III wrote to the archbishop of Bordeaux because he had fulminated a sentence 'with us ignorant and unasked', and had not observed the privilege that he must be told of the dispute before a sentence could be fulminated against his bailiffs (*CR 1253-54*, 246).

<sup>84</sup> *C&S*, 150.

<sup>85</sup> Appendix, no.11. The statutes mistakenly stated that this excommunication was from the 1222 Council of Oxford.

<sup>86</sup> *C&S*, 582, 574.

In 1231, Henry III complained to Gregory IX that clergy, making themselves judges in their own cases, unjustly and ‘ex ordine, causa, et animo’, too hastily excommunicated his justices, sheriffs, and bailiffs. This was derogatory to royal right. Given these apparent abuses of ecclesiastical censure, which would dissolve the strength of ecclesiastical discipline, the pope ordered the archbishops and bishops not to ‘presume to promulgate a sentence of excommunication against the said justices, sheriffs and bailiffs, without manifest and reasonable cause’, and only with appropriate warning beforehand.<sup>87</sup> Though the pope did not specifically state that the king’s permission was needed in order to excommunicate these officials, it is perhaps implied by the fact that he expressly stated he was granting the king a privilege, and that he wanted to preserve the king’s justice undiminished. Since, otherwise, the pope was only demanding that excommunication be used with perfectly standard legal processes, it is difficult to see what the privilege could have been, or how it could specifically relate only to these officials. A more positive consequence of the king’s privilege, as Vodola argued, was that the legal ‘exception of excommunication’ in courts was resilient in England (by contrast to France) because ‘the constant excommunications of royal agents that so exasperated the French *parlement*’ did not take place in England (though in 1205 Philip Augustus had claimed a similar right).<sup>88</sup>

#### ***ROYAL ENFORCEMENT OF EXCOMMUNICATION***

Although the efficacy of excommunication was often hindered, whether through indifference, conviction, or purposeful attempts to obstruct its workings, it is easy to see why the social effects of excommunication were so feared. Concerted efforts were made by royal government to prevent the sanction impinging on its ability to function. This was because, when properly enforced, excommunication could severely affect a person’s life, making it impossible for an official to carry out his duties. Why the exemption of royal officials was so desirable is made abundantly clear by a few

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<sup>87</sup> *Foedera*, I.i.200.

<sup>88</sup> Vodola, *Excommunication*, 189; Campbell, ‘Attitude of the monarchy’, 537.

examples in which we find such officials sentenced, notwithstanding any supposed privileges. Part of the problem was undoubtedly the general unpopularity of various policies that these men were bound to carry out, so that, if people had an excuse to disobey them, they would seize it.

Thus in 1220, Thomas fitz Adam, a bailiff in Ireland, wrote to Henry III to complain about the excommunication pronounced against him by the archbishop of Dublin, Henry of London.<sup>89</sup> His excommunication was the result of a dispute over forest jurisdiction in Ireland, which had led to the arrest of a certain purported malefactor whom Thomas refused to free to the archbishop. The archbishop responded by immediately imposing an ‘ambulatory’ interdict on Thomas, intended to affect its target wherever they went,<sup>90</sup> and by threatening to excommunicate him if he did not return the prisoner. Although Thomas appealed to both the archbishop and the pope, requesting a period of grace to discuss the matter with the justiciar, the archbishop went ahead with the threatened excommunication. No pleas for absolution were allowed by the archbishop, who instead reiterated that no one had the right to arrest men on his land. Meanwhile, the justiciar forbade Thomas from releasing the malefactor. Henry refused to revoke the excommunication as the justiciar ordered. Instead, throughout the land, people were forbidden to communicate with Thomas. He was unable, for instance, to attend the assizes at Dublin. When the archbishop was told about the king’s privilege that his bailiffs could not be excommunicated, he replied that he would believe it when he saw it. Thomas asked the king to arrange that he be absolved by someone else, believing that the archbishop would keep him excommunicated until he acquiesced entirely (which was, admittedly, the whole point of excommunication).

Despite Thomas’s complaints to the king, it appears that the excommunication was effective. The archbishop’s own letter to Henry, justifying his actions, states that Thomas experienced a change of heart, and sought absolution.<sup>91</sup> Archbishop Henry strenuously argued that his liberties had been infringed by the forester, who ‘as we

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<sup>89</sup> *Royal Letters*, no.72. For this dispute, see Margaret Murphy, ‘Ecclesiastical censures’.

<sup>90</sup> See Clarke, *Interdict*, 82-4.

<sup>91</sup> *Royal Letters*, no.73.

believe' had captured and detained the archbishop's men 'rather at his own will ... than by royal authority'. The archbishop ended his letter, however, by asking that the king stop molesting him and allow the liberties due to his church. It is therefore possible that he had been forced to absolve Thomas. He was certainly out of favour with the king, for he wrote to the dean of Lichfield and the king himself, complaining that he had been blamed unfairly, and had only ever been acting in the king's interests. He intended to come to England himself in order to prove his innocence.<sup>92</sup> The dispute was more complicated than is here worth detailing,<sup>93</sup> but the chief point is that excommunication prevented the king's bailiff from performing his office.

An inability to carry out duties was not necessarily an unavoidable consequence of being excommunicated. Even so, Thomas fitz Adam was not alone in his experience. Falkes de Bréauté complained that his bailiffs were unable to collect the king's debts because, when they tried, their targets complained to deans and chaplains who excommunicated and interdicted the debt collectors.<sup>94</sup> In Edward I's reign, in 1290, a certain Richard de Loges complained in parliament about the injuries caused him by the bishop of Coventry and Lichfield, including the fact that the bishop had excommunicated him and caused him to lose High Cannock, while the bishops of Chester had previously prevented the 'regarders' of the forest of Cannock from exercising their office through a sentence of excommunication.<sup>95</sup>

Though royal policy could be detrimental to excommunication, the crown could also assist the church. Just as the king and his men sought to ensure that excommunication was not enforced when it did not suit their interests, when it did so suit, they might seek to ensure enforcement. There was clearly no inherent belief that the church's sentences must be obeyed at all costs. As a result, decisions actively to help the church enforce its sanction are significant. Sometimes the crown helped the

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<sup>92</sup> *Royal Letters*, nos.74, 84.

<sup>93</sup> *Royal Letters*, no.91, sent a few months later, is probably related. According to the letter, sent by the citizens of Dublin, a 'great controversy' had arisen between them and the archbishop over the archbishop's liberties, during which the archbishop's men had violently wounded a city. Many citizens were excommunicated, and asked the king for his advice.

<sup>94</sup> London, TNA, SC 1/1/26 (no date).

<sup>95</sup> *Parliament Rolls*, i, 305.

church simply because asked or because there was no reason to reject such a request.<sup>96</sup> However, there is no doubt that the power of excommunication was harnessed by royal government.

Thus in 1218, the sheriffs of Canterbury and Essex were instructed to proclaim throughout their bailiwicks that ‘all clerics who were excommunicated because they adhered to Louis or his supporters, and who are still not absolved, should leave our realm ... and whoever such are found should be captured’.<sup>97</sup> This was not a routine enforcement of an excommunication, but excommunication exploited in order to punish clerics who had not supported the king. Six years later, Llywelyn of Wales was forbidden by Henry III from supplying help or counsel to Falkes de Bréauté, by receiving him or his men. Llywelyn rejected the king’s orders, but it is clear that Henry was enforcing a sentence of which he approved: Falkes had been excommunicated for rebelling against the king.<sup>98</sup> In 1271, when the official of Canterbury was excommunicated, the chancery clerks were told to treat him as such and ‘not to have him as an official’. They were not to obey any of his mandates, and ‘they themselves should not communicate with the official in any way, because the king and his council consider him an excommunicate’.<sup>99</sup> The king’s order is significant: his excommunication should be enforced because the king’s council had accepted it. The implication was that, as in other cases, if the king had objected to the sentence, the chancery should have ignored the sentence. Probably the official was in disgrace, though it is unclear why. The excommunication of the official of Canterbury could seriously interrupt administration. If it took place against the king’s wishes, he might well have told his chancery to ignore it.

Edward I’s reactions to excommunication were tinged with hypocrisy. In 1289, he had been reprimanded by pope Nicholas IV for defending John de Cadamo, who had incurred excommunication in a dispute over prebends. The king’s officials, possibly without Edward’s connivance, had helped John violently occupy the living in

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<sup>96</sup> In the majority of cases, the government probably had no reason to become involved in an excommunication in either way (unless the secular arm was invoked).

<sup>97</sup> *Rotuli Clausarum*, i, 377a; *Royal Letters*, 56-8.

<sup>98</sup> *Royal Letters*, no.201; *Foedera*, I.i.175.

<sup>99</sup> *CR 1268-72*, 418. The chancellor ordered this to be cancelled, however.

question. Edward was advised that all this did not become him, so that he should stop defending John ‘especially since he is bound by the chain of excommunication and we ordered him to be publicly excommunicated’.<sup>100</sup> Six years later, however, Edward asserted that it was not ‘licit or honest’ to communicate with Madoc, the excommunicated Welsh leader, until he had been absolved. He therefore asked that Archbishop Winchelsey provide authority to certain (named) men that they might absolve Madoc, who was seeking peace.<sup>101</sup> Edward’s sudden fastidiousness against associating with excommunicates should not be taken at face value. By insisting that he would not treat with Madoc until he was absolved, Edward demonstrated power over his rival. Moreover, as Sarah Hamilton has pointed out, lifting an excommunication was as significant an act of power as imposing such a sentence.<sup>102</sup> The king would not, of course, personally absolve Madoc, but he demonstrated his control of his absolution. The safe conduct issued to protect Falkes, as an excommunicate, when he travelled to Northampton in 1224 to be absolved, might be viewed in a similar light.<sup>103</sup>

If Edward I can be accused of duplicity in his attitude towards excommunication, the incompatibility of his words and actions is dwarfed by the hypocrisy demonstrated by Simon de Montfort. In 1265, Montfort (then acting as head of the kingdom) refused to communicate with Hervey de Borham, who had been excommunicated by the bishop of London, ‘through which [he] should be strictly shunned by everyone’. He wrote, in the king’s name, that it would be shameful for the king, and unsafe for Hervey (‘nobis verecundum et vobis minime tutum’) if Hervey involved himself in the king’s affairs. He was ordered to avoid royal ministers and not to seek royal justice until he was absolved.<sup>104</sup> The irony is that Montfort, and anyone else involved with the rebellion, were themselves excommunicated, as the king had pointed out to them the year before, when they asked him to enforce the Statutes of

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<sup>100</sup> *Foedera*, I.ii.707.

<sup>101</sup> *Reg. Winchelsey*, i, 4-5.

<sup>102</sup> Hamilton, ‘*Absoluimus uos uice beati petri apostolorum*’, 209-10.

<sup>103</sup> *PR* 1216-25, 461. Cf. safe conducts issued so that excommunicated Welsh leaders could attend various meetings: *PR* 1225-32, 475; *CPR* 1232-47, 461; *Foedera*, I.i.149.

<sup>104</sup> *CR* 1264-8, 51-2.

Oxford.<sup>105</sup> Yet here was Montfort sanctimoniously enforcing another person's excommunication. This can be compared to a letter of 8 June 1265, in which Montfort requested that the bishop of London publish the sentence of excommunication brought against those who disturbed the peace of the realm, a sentence which had recently been renewed. The earl asked that no one, of whatever rank, be spared. Crucially, the request (which comes at the end of a longer letter) pleads that 'our strength is sufficient to reprimand the insolence of our said rebels'. Montfort did not *need* the church's help. But 'because it manifestly overflows in scandal of the divine name if the keys of the church are despised with impunity', he asked the church to publish the sentence.<sup>106</sup>

Just as Edward I had enforced Madoc's excommunication for his own benefit, Henry III's government harnessed the papacy's ban on tournaments to help bolster its authority. Tournaments had been forbidden, on pain of excommunication, by various ecumenical councils, and it was accepted that those who died in tourneys could not be buried in cemeteries.<sup>107</sup> Although in general the nobility paid little attention to the church's ban on tournaments, in England, 'the royal council began to stigmatise the holding of tournaments both as a challenge to royal authority' and as a threat to the peace.<sup>108</sup> Particularly during the unsettled years of Henry's early reign, it was in the government's interests to enforce the church's ban.<sup>109</sup> Church and royal government thus collaborated, threatening parallel ecclesiastical and secular punishments on those who contravened the ban. In 1219, knights were forbidden to arrange a tournament at Northampton. Hubert de Burgh warned them, 'if you do ... you will incur the sentence of excommunication which the pope brought on such transgressors, and we ... will cause vengeance to be taken through your bodies and lands'.<sup>110</sup> Five months later, a letter patent was addressed to all the earls, barons, knights, and free tenants of Leicestershire, telling them that the earl of Aumale had not only detained and fortified

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<sup>105</sup> *Oxenides*, 226. They would, of course, have known they were excommunicated via other sources, but that the king reportedly pointed it out to them himself is interesting.

<sup>106</sup> *Foedera*, I.i.456.

<sup>107</sup> Tanner, *Decrees*, i, 200, 221, 270; Peñafort, *Summa*, Tit.XXXIII, 18; Chobham, *Summa*, 261.

<sup>108</sup> Baldwin, *Masters, Princes and Merchants*, 225-6; Crouch, *Tournament*, 31 (quotation), 53, 9.

<sup>109</sup> Denholm-Young, 'The tournament in the thirteenth century', 245-52; Crouch, *Tournament*, 128.

<sup>110</sup> *PR 1216-25*, 194-5.

castles against the royal will, but had held a tournament at Brackley, unafraid to fall into the sentence. The addressees were ordered to provide no counsel or help to the excommunicated earl and his supporters, ‘and in no way to communicate with them ... but rather you should avoid them as excommunicated and disobedient to us’. They were also threatened with disinheritance.<sup>111</sup> The following year, the legate Pandulf wrote to Hubert de Burgh, pointing out that he had publicly excommunicated tournament goers and decreed that their lands would be taken by the king.<sup>112</sup> Further royal prohibitions warning potential tourniers about the penalty of excommunication were issued in 1225 and 1228.<sup>113</sup> In 1228, Gregory IX was induced by Henry III to write to the bishops of Norwich and Carlisle, and the archdeacon of Shropshire, to tell them that, since tournaments were forbidden by the church and disturbed the peace of the kingdom, they should restrain those arranging such meetings, through excommunication. Henry had complained that his magnates convened at tournaments, at which they made various conspiracies to disturb the peace and contravene the fealty they owed him.<sup>114</sup> Further concerns about breaches of the peace prompted similar excommunications in 1233.<sup>115</sup> Henry’s prohibitions against tournaments did not always make use of excommunication,<sup>116</sup> but there is a notable difference in the styles of government of Henry III and Edward I. Though Edward also sought to prevent tournaments because they threatened the peace, he does not appear to have collaborated with the church or to have invoked excommunication as his father had.<sup>117</sup>

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<sup>111</sup> *PR* 1216-25, 257-8.

<sup>112</sup> *Foedera*, I.i.162.

<sup>113</sup> *PR* 1225-32, 71; *CR* 1227-31, 106.

<sup>114</sup> *Foedera*, I.i.189.

<sup>115</sup> *CPR* 1232-47, 17, 20.

<sup>116</sup> In 1233, Richard Marshal was threatened with distraint if he held the tournament he had planned, but not with excommunication: Weiler, *Kingship, Rebellion and Political Culture*, 17; *CPR* 1232-47, 6-7, 70.

<sup>117</sup> *Foedera*, I.ii.503, 674-5, 709-12, 878.



### *EXCOMMUNICATION ENFORCED BY COMMUNITIES*

The effects of an enforced excommunication were in many ways similar to outlawry.<sup>118</sup> Indeed, the effects of the secular and ecclesiastical equivalents were so similar that it is sometimes impossible to tell, without further information, which was the cause of a person's ostracism. For instance, both outlaws and excommunicates might be deprived of victuals. It was customary to forbid parishioners from buying from or selling to excommunicates; the obvious result of a strict implementation of this policy is that such excommunicates would starve. In a late case (1321) discussed by Rosalind Hill, certain English parishioners claimed that others were refusing to sell them food and other necessities because they had incurred excommunication for communicating with the excommunicated Scots (this, they claimed, they had been forced to do).<sup>119</sup> This was also the complaint of the monks of Great Malvern, which prompted the king to order the sheriff to announce that their neighbours should sell them victuals. Precisely the same course of events occurred with the monks of St Oswald's.<sup>120</sup>

A case recorded in the patent rolls of Edward I demonstrates how excommunication could be used as an excuse to maltreat people. The prior and convent of Malton complained that they were being treated as excommunicates, even though they had not been sentenced. Certain malefactors had imprisoned and maltreated them, taken their livestock, and detained them without food, so that many of them died. They announced in public that nobody should communicate with the malefactors, or provide them with victuals.<sup>121</sup> This case makes clear that these measures were associated with excommunication, yet in an analogous case, excommunication is never specifically mentioned. Only the verb 'ceperari' for 'separari' supplies a hint here: to be separated. Reginald le Clerk complained before

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<sup>118</sup> As indeed was the process: someone could only be declared an outlaw for contumacy. For the similarities between the two sanctions see Pollock and Maitland, *History of English Law*, i, 476-80, ii, 580-4, 593-4. See also Stewart, 'Outlawry as an instrument of justice', who concludes that the sanction's effectiveness had 'severely diminished' by the end of the century. Quotation p. 54.

<sup>119</sup> Hill, 'Belief and practice', 138. This episode was perhaps more the result of hatred for the Scots than zeal to enforce the church's sanctions.

<sup>120</sup> *Reg. G. Giffard*, 185, 211-12; *SKB*, iii, 138-43, and above, n. 63.

<sup>121</sup> *CPR 1281-92*, 76.

the King's Bench that the mayor of Bristol had caused it to be publicly proclaimed that 'although he had done nothing amiss by which he ought to be separated ... no one should sell victuals to ... Reginald, or have intercourse with him in any way'. This was 'to the no small prejudice, disparagement and oppression of that Reginald'.<sup>122</sup> The mayor of course had no power to excommunicate anyone, though it was not unprecedented for secular authorities to announce that people should not communicate with excommunicates. Moreover, rather than declare that Reginald had not offended the church in any way, and had always been an obedient member of the Christian flock, the complaint – made before the king not in the ecclesiastical courts – only mentions that Reginald had done nothing wrong and had always been in the king's allegiance and peace. Thus although it is possible that the mayor was alleging excommunication, the secular context perhaps makes outlawry a more likely cause. It was also a custom (condemned by the church on pain of excommunication) that felons who fled to churches for sanctuary were barricaded inside and deprived of victuals.<sup>123</sup>

### ***VIOLENCE AGAINST EXCOMMUNICATES***

An outlaw, according to Bracton, 'forfeits everything connected with the peace, for from the time he is outlawed he bears the wolf's head, so that he may be slain by anyone with impunity'.<sup>124</sup> Unlike outlawry, violence against excommunicates was not an automatic consequence of excommunication. Nonetheless, people certainly did suffer violence because they were excommunicated. It is therefore obvious why, for secular powers, the excommunication of enemies was highly desirable. Part of excommunication's value lay in its ability to act as propaganda, to be discussed in the next chapter. But it also provided highly useful justification for various actions. If someone was excommunicated, they could be treated as such. This could mean anything from refusing to talk to them or to obey them, to physically attempting to

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<sup>122</sup> *SKB*, i, 15-16.

<sup>123</sup> *C&S*, 580-1. For some examples of this see *CPL*, 589; *SKB*, iii, 11-18 (In the latter instance the victims had not sought sanctuary but were occupying the church by force. This case is discussed at length in ch. 5).

<sup>124</sup> Bracton, *De legibus*, ii, 361-2.

correct them. The flip side to secular powers attempting to hinder the use of excommunication against their own men was that they saw its value against their enemies, and attempted to exploit it.

Throughout the thirteenth century, enemies of the crown were excommunicated. Action taken against them was thereby validated. The church in general frowned upon the faithful making war against fellow Christians. Such enterprises got in the way of crusading. Popes frequently sought to make peace between England and France, for example, and in fact threatened to excommunicate kings if they refused to make truces or broke them. It is significant that Wendover claimed that John agreed to become a papal vassal with the express aim of using this status to have his barons excommunicated. The chronicler claimed that John specifically made this a condition of his submission to the pope, and that he 'eagerly desired to do evil to the excommunicates by disinheriting, imprisoning and killing them'.<sup>125</sup> It is implausible that John imposed any such condition on the pope in 1213, but Wendover nevertheless demonstrates, first, that the support of churchmen was desired partly because of their willingness to excommunicate on one's behalf, and, second, what were seen as acceptable actions towards excommunicates.

The faithful did not routinely attack those who had been sentenced simply because they were excommunicates; rather, their status provided an excuse for violence. Excommunication was not a cause but a justification. Thus in 1217, after the battle of Lincoln, the cathedral church was plundered. This was because, according to both the Crowland annalist and Wendover, the legate had excommunicated the clerics of the city who had supported the rebels. Even the women and children who fled to the church were excommunicated by contagion, since the churches of the city had been contaminated by condemned clerics. If the legate indeed ordered this plunder, using such a pretext, the point is not whether pillaging excommunicates was a legitimate act, but that the sanction was being used to justify pillage.<sup>126</sup> It may have been fear of similar repercussions that caused Falkes de Bréauté to seek absolution from Stephen

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<sup>125</sup> *CM*, ii, 565.

<sup>126</sup> *Coventry*, 238; *CM*, iii, 23.

Langton. According to his own complaint, he wanted to receive absolution from the pope but, being unable to do so, chose to submit to the archbishop lest he be handed over to his enemies.<sup>127</sup>

There is no question but that excommunication could be used to excuse nefarious deeds. In 1241, Henry III made Andrew of Brittany prior of Winchester, apparently through violent means. This imposter then proceeded to excommunicate those members of the convent who contradicted him, and after forty days invoked the secular arm. Though calling upon the secular arm was a perfectly standard response, the ‘quasi-prior’ told the king’s ministers to ‘go and avenge the injury to us and the king on our rebels, for they are excommunicates, and it is no offence to lay violent hands on them’. Matthew Paris went on to itemise the various offences committed against the monks, including torturing them with hunger and cold.<sup>128</sup> The prior was here using excommunication with the express purpose of taking revenge against his enemies. His claim that laying violent hands on them was acceptable because they were excommunicates sounds improbable, but placed in the context of *Si quis suadente*, it might have carried some weight. As excommunicates, the monks were no longer part of the church, and the special protection given to them as religious could hardly still apply.

A slightly different sequence of events took place in London in 1237. The mayor and others of the city were required to explain why they had arrested and imprisoned certain mariners. The mariners had set up kidels (wooden fish traps), against the city’s privileges. The mayor and others gave four reasons for their actions: the mariners were acting against God and in detriment to the realm; they were acting against the king’s dignity; they were acting against London’s confirmed liberty, and finally they had incurred excommunication for violating Magna Carta.<sup>129</sup> Needless to say, although excommunicates could be arrested, this could only happen after they had remained under a sentence for over forty days. Anyone who wished to secure the

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<sup>127</sup> *Coventry*, 268.

<sup>128</sup> *CM*, iv, 159-60.

<sup>129</sup> *Liber Albus*, ed. Riley, i, 500-2; c. 23 of the 1225 charter forbade erection of kidels in the Thames and the Medway.

arrest of an obstinate excommunicate would have to go through official channels. In this case, the Londoners were using the mariners' excommunication (which they had incurred automatically, not via court proceedings) to strengthen their case for making an arrest. It is probable that excommunication was not a true motive here, but was being used after the fact to show the Londoners' questionable actions in a more positive light.

Excommunication could further be used as an excuse to break promises and truces. In 1256, the king of Castile, Alfonso X, threatened to invade the king's lands in Gascony, arguing that Henry III had broken a peace treaty made with the Gascons (for which the king of Castile had been mediator). He declared, according to Matthew Paris:

I am sorry to be allied with the king of England, who guards neither his words nor even charters inviolate, nor blushes to transgress oaths, or to be thrust into the given sentence (*precipitari in latam canonem*). Therefore I may not and ought not to observe a peace undertaken with one not observing faith.<sup>130</sup>

The 'lata canonis' here suggests a sentence of excommunication (the words are frequently used to refer to *Si quis suadente*, for instance). Although Henry was able to appease Alfonso, the Spaniard had been threatening to invade Gascony and transfer it to his own rule, all because Henry had broken faith and was not afraid to incur excommunication.

### ***EXCOMMUNICATION AND CRUSADE***

The most extreme consequence of the idea that violence against excommunicates was justified was when crusades were launched against those under the ban. As Charlotte Lewandowski has observed, discussing the reign of King Stephen, bishops were required to use excommunication in response to violence 'but also as a prelude to

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<sup>130</sup> *CM*, v, 585.

violence and force'.<sup>131</sup> Attacks against excommunicates had an entirely different character from attacks against fellow Christians. One canon in Gratian's *Decretum* asserted that killing excommunicates did not constitute a homicide. Those who, burning with zeal for the church, had killed excommunicates, Urban II wrote to the bishop of Lucca, were not murderers (though they were still required to do penance).<sup>132</sup> It could even be argued that such acts were virtuous. When violence assumed the mantle of a crusade, the links between heretics and excommunicates were probably significant. Robert Grosseteste reportedly (almost certainly spuriously) declared that war against heretics, who were suspended and excommunicated, was sanctified.<sup>133</sup> The thirteenth century saw numerous crusades launched against heretics and excommunicates. These 'political crusades' were often controversial, but the practice came to be established.<sup>134</sup> There was more than one occasion when thirteenth-century England played host to armies claiming to fight a crusade against excommunicates on behalf of the church. Some of these ventures were launched by the papacy; on other occasions, such 'crusades' were self-proclaimed, and supported only by a few maverick clergy. The benefits of appropriating crusading terminology were clear: 'the crusade provided a readily acceptable ideology of legitimate warfare'.<sup>135</sup> Crusades drummed up support and boosted morale, transforming rebellions into religious enterprises. An enemy's excommunication made all this possible.

The first such crusade in thirteenth-century England was linked to the supposed deposition of King John. As Christopher Cheney rightly showed, John was never deposed by Innocent III. Though excommunication certainly could lead to deposition, there is no official record that Innocent ever went so far as to declare John's subjects absolved from fealty.<sup>136</sup> Nevertheless, John had good reason to fear this eventuality, and the chroniclers' assertions that he had been deposed perhaps indicate that it was widely believed he had been. Moreover, John was right to fear that his

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<sup>131</sup> Lewandowski, 'Cultural expressions of episcopal power', 80-1.

<sup>132</sup> C.23 q.5 c.47.

<sup>133</sup> *CM*, v, 401.

<sup>134</sup> Strayer, 'Political crusades of the thirteenth century'.

<sup>135</sup> Tyerman, *England and the Crusades*, 133.

<sup>136</sup> Cheney, 'Alleged deposition of King John', comprehensively assessed the evidence, demonstrating that the assertions of various chroniclers were not based on fact.

excommunication might legitimise a baronial rebellion, and supply a pretext for a French invasion.<sup>137</sup> Excommunication did not cause these things. It nonetheless gave such questionable enterprises the air of legitimacy. According to Wendover, Innocent not only deposed John but offered Philip of France the English throne. Foreign knights were told to take the cross to help Philip secure the throne, receiving the same indulgences as those who took the cross and went to Jerusalem.<sup>138</sup> When John decided to seek absolution – which decision Wendover presented as being significantly influenced by imminent invasion – the chronicler reports that Philip was told not to invade and that he was very angry about this. He had spent a good deal of money, told to do so by the pope.<sup>139</sup> Again, Cheney persuasively argued that Wendover's evidence should be discounted: none of this ever happened.<sup>140</sup> However, Innocent might have had these plans 'up his sleeve', and Philip might have had reason to believe that his invasion would be supported by the church. He cannot have been pleased 'to find that a crusade against an excommunicate had turned, overnight, into an attack on a vassal of the pope'.<sup>141</sup>

This change was significant, for the rebels in 1215 'had taken the mantle of God and the church'.<sup>142</sup> Robert Fitz Walter, the baronial leader, assumed the title 'Marshal of the army of God and Holy Church'.<sup>143</sup> In 1217 the Crowland annalist noted that those who had called themselves the 'army of God' and claimed to be fighting for the liberties of church and realm were now reputed to be the sons of Belial and compared to infidels.<sup>144</sup> Any attempt to claim that the baronial rebellion and Louis's invasion were religious undertakings was now irreparably damaged by the fact that the tables had turned. Now such warriors were excommunicated, condemned by the church, and themselves victims of a crusade.

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<sup>137</sup> Cheney, *Pope Innocent III*, 319-21; Maddicott, 'Oath of Marlborough', 288-91.

<sup>138</sup> *CM*, ii, 536-7; *Oxenedes*, 127.

<sup>139</sup> *CM*, ii, 540-1, 549-50.

<sup>140</sup> Cheney, 'Alleged deposition of King John', 113-4.

<sup>141</sup> Cheney, *Pope Innocent III*, 338-41.

<sup>142</sup> Carpenter, *Minority*, 28.

<sup>143</sup> Carpenter, *Magna Carta*, 290, 333, and above n. 137.

<sup>144</sup> *Coventry*, 236.

Following John's submission to the papacy, Innocent sanctioned a crusade against Louis, Philip's son, and the rebellious barons. The pope wrote to the barons in 1215, telling them that perseverance with their plots against John would result in excommunication. Their actions were particularly 'nefarious and absurd' because they had continued to support the king while he had been excommunicated, yet, now that he was reconciled with the church, they sought to eject him from the kingdom.<sup>145</sup> The pope made no specific mention of a crusade here, but he told the barons to help the king against the rebels, in remission of sins.<sup>146</sup> Six months later, the pope wrote to the archbishop of Bourges, his suffragans, and probably the other ecclesiastical provinces of France,<sup>147</sup> ordering them to:

Persuade the princes, knights, and barons of your diocese, enjoining it on them ... for the remission of sins, to furnish immediate help and support to the king, ... showing clearly by this action how valiantly for Christ's name they would range themselves against the Saracens and risk their persons and wealth if confronted by them in battle: for they have as neighbours men who in this respect are worse than Saracens, because, having taken the sign of the Cross, they now seem renegades working to fulfil the pagans' hopes by hindering such a magnificent venture for the Holy Land.<sup>148</sup>

Innocent never used the word 'crusade', but if he never made a formal declaration of a crusade against the rebels, he came 'perilously close to it'. The rebel barons were as bad as Saracens, and those who fought against them received indulgences, if perhaps not full crusader privileges.<sup>149</sup>

When King John heard, amongst other news, that the barons were excommunicated and Langton suspended in 1215, 'his heart was excessively elevated', according to Wendover.<sup>150</sup> One of the advantages of procuring excommunications was that moral weight was attached to any action taken against those separated from the church. Characterising a military campaign as a religious enterprise could be important

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<sup>145</sup> Although the barons had made use of the excommunication, after John had submitted to the pope but before he had personally been absolved, in order to avoid helping him regain his territories across the channel, saying they would not follow him until he was absolved (*CM*, ii, 449-50).

<sup>146</sup> *Letters of Innocent III*, no.1013 (appendix).

<sup>147</sup> *SLI*, 226, n. 1.

<sup>148</sup> *SLI*, no.87.

<sup>149</sup> Lloyd, 'Political crusades', 115.

<sup>150</sup> *CM*, ii, 635.



for securing wider support. The propaganda value of this will be set aside here, but emphasising that enemies had been condemned by God could also be good for morale. This was partly because of the spiritual aspect of the sanction. God would surely not support excommunicates in battle, so those fighting against them had the upper hand. Thus before the battle of Lincoln in 1217, the earl Marshal is said to have roused his men, saying

And, if we beat them, it is no lie to say  
that we will have won eternal glory ...  
And I shall tell you another fact  
which works very badly against them:  
they are excommunicated  
and for that reason all the more trapped.  
I can tell you that they will come to a sticky end  
as they descend into hell.  
There you see men who have started a war  
on God and Holy Church.  
I can fully guarantee you this,  
that God has surrendered them into our hands.  
Let us make haste and attack them,  
for it truly is time to do so!<sup>151</sup>

The Marshal's words could well have had a strong effect upon the army. His audience had just witnessed the legate ritually excommunicating Louis and his supporters, a ceremony in which these enemies were categorically condemned by God and the church. The king's army was promised eternal salvation, blessed, given absolution, and fortified by receiving the Eucharist. Indeed, if the Marshal did give a speech to this effect, Wendover's testimony indicates that it would have been inspiring. The chroniclers claimed that there was 'an ardent desire to fight against the excommunicated French' as well as for England ('pro patria'). The excommunication of the French and rebels thus bolstered the royal army's claim to have a just cause, protected by God.<sup>152</sup> Likewise, Hubert de Burgh used the sentence against Louis to encourage his men, declaring 'we should oppose them boldly, since God is with us

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<sup>151</sup> *History of William Marshal*, ii, ll.16295-16309.

<sup>152</sup> *CM*, iii, 18-19; cf. *Oxenedes*, 139-40.

because they are excommunicated'.<sup>153</sup> Many of the chronicle accounts note that the royalist forces wore crosses on their chests, generally describing the conflict in the language of crusades.<sup>154</sup>

Military force against excommunicates was again presented as pious and just in the tumultuous 1220s. This decade saw more than one challenge to the young king's power, and a number of nobles were excommunicated. In early 1221, William de Forz, earl of Aumale, was solemnly excommunicated by the legate Pandulf acting together with either seven or eleven bishops at St Paul's.<sup>155</sup> The earls of Chester and Salisbury participated in the ceremony by throwing down candles along with the clergymen, at the culmination of the sentence. That the earls played a central role in the ceremony indicates that they were deeply involved in the decision to sentence William de Forz. According to the annals of Dunstable, William was excommunicated for a number of reasons: he had taken the cross but not set off for the Holy Land; he had not observed the justice of the realm; he had seized Bytham castle, which rightly belonged to William de Colville; he had previously been excommunicated 'pro multis rapinis', and he had sworn to obey the mandates of the church. He had not done so, so was re-excommunicated.<sup>156</sup>

At the excommunication ceremony in London an unusually large number of bishops were present, and de Forz's enemies were effectively given the opportunity to curse him. The church left no doubt that it was firmly on the side of the king. Yet the excommunication was also an important prelude to raising arms against the earl. The Dunstable annalist claimed that after the ceremony, by common council, 'they declared against him', and, 'at once following him with an army', they went first to Fotheringay castle, then besieged the castle of Bytham.<sup>157</sup> When the king sent for military assistance, de Forz's excommunication played a key part. Since William, earl

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<sup>153</sup> *CM*, iii, 28.

<sup>154</sup> *Coventry*, 235; *Ann. Dunstable*, 49; *Annales Monasterii de Waverleia*, 287; *Gervase*, 110; Lloyd, 'Political crusades', 114, provides further references.

<sup>155</sup> cf. *Ann. Dunstable*, 63-4, and *Coventry*, 247-8. See also Carpenter, *Minority*, 165-7, 227-34 and Turner, 'William de Forz', particularly 238-42.

<sup>156</sup> *Ann. Dunstable*, 63-4.

<sup>157</sup> *Ann. Dunstable*, 64. Although Carpenter has shown that de Forz's seizure of Fotheringay castle was after the excommunication, and therefore not a cause of it: *Minority*, 230, n. 12.

of Aumale, ‘excommunicated by the lord legate ... along with all his supporters, accomplices and adherents’, had ‘seditiously and furtively captured the castle of Fotheringay’ and was disturbing the peace, Henry ordered Geoffrey de Neville and Falkes de Bréauté to meet him at Northampton with an armed force.<sup>158</sup>

According to the Crowland annalist the use of excommunication to inspire armed resistance against the earl was successful. The earl of Chester, who had been present at the council:

Having heard the excommunication of the earl and his obstinacy and violent plundering of both the rich and the poor, was enraged in many ways (‘multipliciter exacerbatus’), both because he saw his lord king held in contempt because of his youth, and because of the fraudulent occupation of the castle of Fotheringay, which was the inherited right of his kinsman. Whence he faithfully promised the lord legate and the king that he would put forth all his men to destroy the aforesaid earl and his men.<sup>159</sup>

No text of this sentence is extant, but the reasons given for the earl of Chester’s anger are precisely the sort of thing that excommunication sentences listed in order to demonstrate an excommunicate’s crimes. The narrative parts of excommunications sentences were designed to provoke outrage in those listening, and to convince them to treat excommunicates appropriately.<sup>160</sup> Subsequently, many nobles followed the earl’s lead, ‘because the excommunicated earl and his men were long held in contempt by many men (‘a multo tempore exosi habebantur’), as much by ecclesiastics as by laymen’.<sup>161</sup> During the siege of Bytham, excommunication was again used to spur on the attackers. The legate renewed his sentence ‘in the presence of the whole army’, and afterwards urged them ‘strongly and faithfully to exert themselves in this matter for the honour of the church and the tranquillity of the realm’, in remission of sins. The castle was duly captured and burnt to the ground, an event that the Dunstable annalist compared to the Fall of Jericho.<sup>162</sup> Excommunication did not cause the siege of

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<sup>158</sup> *Royal letters*, no.145; London, TNA, SC 1/2/34.

<sup>159</sup> *Coventry*, 248.

<sup>160</sup> See ch. 4.

<sup>161</sup> *Coventry*, 248.

<sup>162</sup> *Ann. Dunstable*, 64.

Bytham castle. In all probability it did not affect how events unfolded. However, it may have caused the king's men to fight more enthusiastically, simultaneously deflating the morale of those inside the castle. Most importantly, it altered how the events of 1221 were perceived: quashing the rebellion became a religious enterprise.<sup>163</sup>

The excommunication against William de Forz might be compared to that against Falkes de Bréauté, three years later. Falkes, too, was occupying a castle, Bedford, against the king's wishes. Falkes's *Querimonia* relates that when Falkes was besieged at Bedford, the legate and other bishops promulgated a sentence of excommunication against him. The sentence was then published throughout the kingdom within the week, and indulgences were offered to those who aided the king's cause 'so that the castle would be captured more quickly'. Falkes was particularly angry that the bishops collected funds to be used against him. His excommunication allowed them to undermine Falkes and to raise money against him. Again, excommunication was used to increase support for the king, to defame his enemies, and to gloss over the violence needed to defeat Falkes with a religious tint. Falkes bitterly noted that 'so great was the desire, or lust, for capturing the castle', that some of the bishops even blessed the stones thrown during the siege.<sup>164</sup> Excommunication was again an important prelude to Henry III's Welsh campaign in 1231. The king's forces, gathered at Oxford, set off to invade Wales immediately after Llywelyn, prince of Wales, had been excommunicated in the presence of a large gathering of nobles and clergy at Oxford. Roger of Wendover's description here almost implies that excommunication was a precondition to the army's departure: 'omnes episcopi ... Leolinum ... sub anathemate concluserunt; quo facto, rex exercitum promovens ad Hertfordensem urbem cito volatu pervenit'.<sup>165</sup>

Yet if all these excommunications added weight to military campaigns, and despite the fact that indulgences were offered to those who took part, the language of crusading ('crucesignatus' and so forth) was rarely used to describe them. With the

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<sup>163</sup> Cf. Edward I's presentation of his Scottish campaigns as a holy war against excommunicates. The Scots were presented as Godless people, while the English carried saints' banners, for instance. See Burton, 'Politics, propaganda and public opinion', 340-4.

<sup>164</sup> *Coventry*, 265-6.

<sup>165</sup> *CM*, iii, 202.

exception of the campaign against Louis and his men, they could not expect to be called *crucesignati*, nor to receive all the benefits that such a title implied. In the 1260s, nonetheless, a crusade was launched against the rebellious English barons, preached throughout Europe. Those who took the cross were to receive the same benefits as those who went to the Holy Land on crusade. The decision to publish a crusade against Simon de Montfort and his supporters was undoubtedly taken in desperation. Up to this point, the excommunications pronounced against the rebels had no effect. Quite the reverse: the rebels themselves had launched a self-proclaimed crusade against those who did not uphold the Provisions of Oxford, themselves excommunicated at the beginning of the reform period. Before the battle of Lewes, Bishop Walter de Cantilupe of Worcester had provided indulgences for the baronial forces, who wore white crosses on their shoulders and chests.<sup>166</sup> Many sources from the period presented the baronial cause as just and holy. To cite merely one example, the baronial tract the *Song of Lewes*, written before Evesham, described the royalists as ‘the enemy of the English and the whole realm ... Perchance too of the Church, therefore also of God’. Montfort, because of his ‘wholly singular religion’ was England’s only hope; his victory at Lewes was God-given.<sup>167</sup> The barons exercised a monopoly on religious as well as secular propaganda.<sup>168</sup> Clergy and friars preached on behalf Montfort’s cause, while the papal excommunications against them were never published in England.<sup>169</sup>

Excommunication alone therefore had little impact upon Montfort and his men. But it was still to be feared because of what could follow from it. Thus the Tewksbury annalist recorded a letter (which unfortunately is cut off halfway through where the manuscript ends abruptly) of anonymous advice given to the barons in 1263. It explains the dangers of admitting the legate:

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<sup>166</sup> *Oxenedes*, 221-2; *Flores Hist.*, ii, 494-5; Rishanger, *De Bellis*, 31; Maddicott, *Simon de Montfort*, 271.

<sup>167</sup> *Song of Lewes*, trans. Kingsford, ll. 373-4, 266-8; 392; cf. Maddicott, *Simon de Montfort*, 255.

<sup>168</sup> See Leidulf Melve’s discussion of how the baronial movement sought to influence public opinion by using the vernacular and publishing documents in the localities: ‘The public debate during the baronial rebellion’.

<sup>169</sup> Maddicott, ‘Politics and people’, 11; Carpenter, ‘English peasants in politics’, 338-9.

If they admit him [to the kingdom], the nobles will gradually be perturbed, and become weak. If they do not admit him, they will be excommunicated, and the land interdicted, and afterwards the secular arm will be called against them.<sup>170</sup>

Later in the letter, it is asserted that ‘it is believed that the king of France is very given to invading England’, and that the church enjoined this on him. The barons were advised to ensure that they could gather a large army by uniting Ireland, Wales and Scotland against their enemies. The warning was indeed relevant, for the legate was instructed by Urban IV, in 1263, to launch an army against those who opposed his mission, and shortly afterwards to preach a crusade against them. Those who helped the pope’s cause would receive the same indulgences as accompanied crusade to Jerusalem. Those who had taken vows to go to the Holy Land might commute them to embark on this crusade closer to home.<sup>171</sup> The faithful were even to receive indulgences just for attending crusade preaching.<sup>172</sup> When Foulquois himself became pope, as Clement IV, he pursued his predecessor’s policy with even more vigour. Thus he told his successor as legate, Ottobuono Fieschi, to raise an army.<sup>173</sup> Ottobuono was also to preach a crusade in England, Scotland, Wales, Ireland, Denmark, Norway, Gascony, Brittany, Normandy, Flanders, Picardy, the Saintonge, and Germany.<sup>174</sup> Again, penance was enjoined on those who attended any preaching.<sup>175</sup> Even after the death of Montfort at the Battle of Evesham, Ottobuono was instructed to preach the crusade in other parts of Europe, if he were unable to land in England.<sup>176</sup>

The crusade against the rebels never materialized, although there were a few months in 1264 when a French invasion was a real and highly disturbing possibility.<sup>177</sup> That it never took place does not negate the fact that excommunication could have drastic consequences. In such high-stakes disputes, those against the will of the pope risked a crusade being launched against them. If there were those who disagreed with the pope’s judgement, others would be happy to assume the role of crusader without

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<sup>170</sup> *Ann. Tewksbury*, 179-80.

<sup>171</sup> *CPL*, 397.

<sup>172</sup> *CPL*, 398-9, 428.

<sup>173</sup> *Reg. Clement IV*, no.44.

<sup>174</sup> *Diplomatarium Norvegicum*, vii, no.23.

<sup>175</sup> *Reg. Clement IV*, no.58.

<sup>176</sup> Martène, *Thesaurus*, no.148.

<sup>177</sup> Maddicott, *Simon de Montfort*, 290-91.

having to travel to Jerusalem. Still more worrying was the possibility that an enemy would exploit the situation, in England a danger that came primarily from the king of France. In 1215, a threat had surfaced from France on the pretext that the pope had invited the French king to displace King John. In 1263-5, the pope actually made such proposal. This crusade was intended to displace Montfort rather than the king, but the principle remained essentially the same. With or without official ecclesiastical support, excommunication could be used to launch such attacks because the church sometimes did sanction them. Anyone excommunicated left themselves open to attack from those who only required an excuse.

Crusades against excommunicates were an extreme consequence of the sanction. The same can be said of deposition. Excommunication did not automatically dissolve homage or fealty in the way that outlawry undoubtedly did.<sup>178</sup> Yet there was an obvious link between being excommunicated and having fealty absolved. Deposition as a consequence of excommunication made a good deal of sense. If no one was to communicate with an excommunicate, how could he possibly lead his men?<sup>179</sup> There were clauses in Gratian's *Decretum* that justified refusing to serve an excommunicated master. Gregory VII and Urban II had both declared that fealty did not have to be observed towards excommunicates.<sup>180</sup>

Moreover, in practice, excommunication could result in deposition. The Holy Roman Emperor Henry IV was a famous example. King John's contemporary, Otto IV, suffered the same fate, as did his successor as emperor, Frederick II. Those who did not succumb to their sentences might be threatened with deposition if they did not come to their senses within a certain time. Deposition, or the threat of deposition, was an accepted way of aggravating a sentence. Thus Llewellyn of Wales was warned that if he did not make satisfaction within six months after the sentences against him had been renewed and an interdict placed on his lands, his subordinates would be

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<sup>178</sup> Bracton, *De legibus*, ii, 362-3.

<sup>179</sup> Vodola, *Excommunication*, 22-7; 67-9; Helmholz, *Spirit of Classical Canon Law*, 381-3; Ullmann, *Growth of Papal Government*, 299-30; Ullmann, *Principles of Government and Politics*, 75-8.

<sup>180</sup> C. 15 q. 6 cc. 4-5.

announced absolved from their homage and fealty.<sup>181</sup> The prince was thus first excommunicated, then his lands placed under interdict. The next step was deposition. Although Simon de Montfort could not be deposed, as such, Clement IV absolved all oaths and promises made to Montfort, and forbade vassals from obeying him, dissolving all fealty, and homage.<sup>182</sup> He, too, was no doubt concerned that the king of France would use his sentence as a pretext for attack.<sup>183</sup>

For anyone in a position of power, there must have been genuine fear that excommunication might result in deposition. When considering the power of excommunication as a deterrent or threat, this association is of the utmost importance. Thus while it is important to note that the pope never went to the extreme of deposing King John, it is equally significant that it was widely believed that John had been deposed. Louis certainly used this apparent deposition to justify his crusade. It is likely that many people, throughout the thirteenth century, believed John had been deposed. Even if the eventuality did not occur in a given situation, it might be claimed that fealty had been absolved and this be used as a pretext for disobedience or rebellion. This was a common enough expedient of popes that it could plausibly be claimed, even if untrue in a particular case.

## **CONCLUSIONS**

The social consequences of excommunication ought to have been enough to drive a sinner back to the church. If enforced properly, excommunication was a severe punishment. However, it is clear that many did not shun excommunicates as the law required. Probably, there was no golden age when the sanction inspired sufficient respect that it was routinely and automatically enforced. Nevertheless, overuse generated indifference, and misuse encouraged contempt. Divisions within the church were also problematic. Not only did they allow society to follow the lead of clergy

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<sup>181</sup> *Royal Letters*, no.191.

<sup>182</sup> *Reg. Clement IV*, no.232.

<sup>183</sup> Maddicott, *Simon de Montfort*, 290.



who rejected sentences, but if clergy refused to publish excommunications then the faithful were not informed of whom they were expected to ostracise. The church also had to contend with secular authorities undermining the sanction in various ways.

Despite these problems, excommunication remained a powerful tool. Those who remained outside the church put themselves in a dangerous position. If the community chose to enforce excommunication, whether because people agreed with the church or had their own axes to grind, it could prevent the excommunicate from functioning in society, and even cause them to starve. It is thus not surprising that English kings sought to enforce their privilege insisting that royal officials could not be excommunicated. Rulers could find themselves deprived of support and obedience. Furthermore, someone who was no longer part of Christian society was no longer protected by the faith's dictates. The church sanctioned severe measures against excommunicates sufficiently often that violence and crusades were inextricably associated with excommunication. Excommunication gave people an excuse to attack others, and to claim they were acting from pious motives. The crucial fact is that the consequences varied depending on individual circumstances. Some excommunicates could live indefinitely while bound by a sentence; others would be under far more pressure to reconcile with the church. Predicting how any particular individual would respond is impossible without a detailed knowledge of individual circumstances.

#### 4.

### PUBLICITY, REPUTATION AND SCANDAL

The publicity given to sentences of excommunication is perhaps the most striking aspect of the sanction. It is prominent in sources of all kinds. Publication of sentences was a fundamental necessity: if churchmen were to have any hope that their sentences would be enforced by the community, it was crucial to ensure that people were told who to shun. Gratian's *Decretum* stated that, after the excommunication ceremony, a letter should be sent through the parish containing the names of excommunicates and the cause of their sentence(s).<sup>1</sup> Another clause emphasised that announcements should be made in a crowded place ('in celebri loco') before the doors of churches, in both the excommunicate's parish and nearby parishes.<sup>2</sup> Excommunicates needed to be brought to the attention of parishioners because if those supposed to be shunning the excommunicate were able to allege ignorance, it would make a mockery of the sanction.<sup>3</sup> Local legislation similarly emphasised that sentences had to be promulgated. The 1289 diocesan statutes of Exeter ordered that parish priests make the names of excommunicates, the causes of their sentences, and the authority by which they had been sentenced known to all. Denunciations were to be made, with bells ringing and candles burning, 'with the greater multitude present in the church'.<sup>4</sup>

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<sup>1</sup> C.11 q.3 c.106.

<sup>2</sup> C.11 q.3 c.20. Outlaws were denounced in a similar way, see Summerson, 'Structure of law enforcement', 318-19, 324;

<sup>3</sup> Ignorance was a legitimate excuse for communicating with an excommunicate. See ch. 3, n. 5. Secular proclamations were similarly made lest people could allege ignorance: Dutour, 'L'élaboration, la publication et la diffusion', 144, 152.

<sup>4</sup> C&S, 1041.

## *AUDIENCE AND FULMINATION*

Churchmen accordingly sought to ensure that denunciations were witnessed by as many people as possible. As Mary Mansfield noted, in relation to public penance, 'Publicity was impossible without a public'.<sup>5</sup> There was a great deal of variation in how widely sentences were published. Denunciations might be made merely in local parishes, spread throughout Christendom, or anything in between (cities, archdeaconries, dioceses, provinces, kingdoms, several realms).<sup>6</sup> Usually, excommunications were denounced on Sundays and feast days.<sup>7</sup> Mandates ordering publication customarily specified that denunciations should be made publicly and solemnly, during solemn mass, and in the presence of clergy and people. Though churches were evidently the usual location of excommunication denunciations, sometimes clergy could be instructed to publicise sentences elsewhere, for example 'through all the churches and schools' of Oxford.<sup>8</sup> In most cases, it is impossible to know whether clergy made announcements outside churches, but many mandates added that denunciations might be made 'wherever you consider it expedient'.<sup>9</sup> When the 1253 Magna Carta sentence was published, chroniclers report that the excommunications were pronounced in secular courts and 'wherever people gathered'. Priests wielded hand bells so that they could properly enact the ritual.<sup>10</sup> Two years later, the same sentence was to be published 'in county, hundred and other public meetings and places, wherever there may be opportunity ... distinctly and plainly' in both English and French. According to the Burton annals, this was done.<sup>11</sup> Robert the Bruce's excommunication (in 1318) was even to be fixed to cathedral doors. Rosalind

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<sup>5</sup> Mansfield, *Humiliation of Sinners*, 130. Ch. 8 provides a useful discussion about how people were publicly humiliated in cities, much of which is similar to the purpose and practice of public excommunication.

<sup>6</sup> Much of this depended on the severity of the crime, the status of the people excommunicated, and how personally aggrieved the cleric ordering denunciations was, but sometimes it was just logical, such as when certain merchants from Rouen diocese were to be denounced across the channel because they often travelled to England on business: *Letters of Innocent III*, no.29 (appendix).

<sup>7</sup> Attending mass on Sundays and feast days was expected but nonetheless not necessarily standard practice. See Tanner and Watson, 'Least of the laity', 408-10; Murray, 'Piety and impiety', 92-5; Rider, 'Lay religion', 336-7.

<sup>8</sup> *Reg. Epp. Pecham*, i, 169.

<sup>9</sup> Secular orders regarding proclamations could be similarly worded. See Dutour, 'L'élaboration, la publication et la diffusion', 145-6; Maddicott, 'Politics and people', 10.

<sup>10</sup> *CM*, v, 500-1; *C&S*, 477.

<sup>11</sup> *Ann. Burton*, 320-2.

Hill, however, judged this to be exceptional. Certainly, there is little to indicate that this was common practice in the thirteenth century.<sup>12</sup>

There were occasions when clergy refused to publish sentences. Stephen Langton, notably, was suspended because he would not publicly denounce the barons in 1215 nor publish the pope's letters ('Etsi karissimus') annulling Magna Carta.<sup>13</sup> Similarly, the so-called 'Montfortian' bishops refused (or, possibly, were afraid) to publish the sentences brought against the rebels by the legate, Gui Foulquois.<sup>14</sup> There were undoubtedly other instances when clergy did not publish sentences, for a variety of reasons, but there does not appear to have been any endemic problem with clergy routinely neglecting or refusing to pronounce sentences.<sup>15</sup> Various sources relate that sentences were extensively promulgated. Excommunications against individuals were pronounced, for instance, 'through every church in Leicester', 'through the whole county of Buckingham, in every deanery and public place', 'through every parish church in our province [of Canterbury], or 'through every church in the realm'.<sup>16</sup>

Narrative sources confirm that excommunications were not only pronounced far and wide, but that they were witnessed by large crowds.<sup>17</sup> Thus the bishop of Winchester and the abbots of Evesham and Abingdon published a sentence (pronounced against those who had killed the legate Otto's cook in 1238, and besieged the legate in Osney Abbey) 'with the clergy and people convoked, with great

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<sup>12</sup> Hill, 'Belief and practice', 137. Although Magna Carta and lists of *ipso facto* sentences were ordered to be posted in churches, so it is not inconceivable that this was done for individual sentences. See ch. 6.

<sup>13</sup> *CM*, ii, 629-30, 633-4; *Coggeshall*, 174; *Oxenedes*, 134; *Foedera*, I.i.129; *SLI*, nos.75, 82, 84; *Letters of Innocent III*, no.1026. Other clergy also, apparently, refused to publish the sentence against the barons: *CM*, ii, 648-9 (a letter from the abbot of Abingdon); *Melrose*, 124-5.

<sup>14</sup> *Wykes*, 155-7, 185-7; *Cron. maiorum*, 83-4; *Ann. Londonienses*, ed. Stubbs, 64-5; *Flores Hist.*, ii, 500-2; *Gervase*, 238-42; *Ann. Dunstable*, 233; Rishanger, *Chronica*, 47; *Chronicon Petroburgense*, ed. Stapleton, 19; *Foedera*, I.i.461; *Reg. Clement IV*, no.237; Martène, *Thesaurus*, no.190; *Les Registres de Grégoire X*, ed. Guiraud, no.25.

<sup>15</sup> Some other examples of clergy not announcing sentences as instructed can be found in *C&S*, 1151, 1192-6; *CPL*, 124; *Reg. Epp. Pecham*, i, 367-9, 352, ii, 422-3.

<sup>16</sup> *SKB*, ii, 80-1 (king's bench records); *SCC*, 336 (Canterbury court records); *Gervase*, 176 (archiepiscopal letter preserved in a chronicle); *Coventry*, 265 (excommunicate's complaint).

<sup>17</sup> Cases discussed in greater depth below provide further examples. Weiler, 'Symbolism and politics' and *Kingship, Rebellion and Political Culture* (especially 105-50) has discussed medieval audience and the importance of symbolic communication, secular and ecclesiastical, for conveying political messages to the public.

solemnity at St Frideswide's Oxford'.<sup>18</sup> Clement IV wrote that he had confirmed the sentence pronounced against Simon de Montfort and other rebels whilst he was legate, in Perugia 'with a huge crowd of the faithful standing there'.<sup>19</sup> The excommunication of Llywelyn in 1231, immediately preceding Henry III's invasion of Wales, was pronounced in the presence of the whole nobility of England, both clerical and lay.<sup>20</sup>

The most striking effort to ensure a large crowd for an excommunication was made by Boniface of Savoy in 1252. In a dispute over the priorship of St Thomas' Southwark, the archbishop's official excommunicated the nominee of Aymer de Lusignan, the bishop-elect of Winchester. After forty days, Aymer's nominee was (violently) arrested and imprisoned at Maidstone. Men from Aymer's *familia* responded by perpetrating numerous injuries in Maidstone and subsequently launching an attack on Boniface's palace at Lambeth. There they looted many of the archbishop's possessions, abducted his official, Eustace de Len, who was taken to Farnham (from where he was eventually allowed to go, 'vilely and abjectly expelled'). Boniface promptly excommunicated the perpetrators of these enormities. This excommunication is of considerable value for understanding practice in thirteenth-century England. How this dispute fitted into the politics of court and exacerbated anti-foreign sentiments prevalent in England at this time does not concern us here. 'The affair quickly escalated into a sharp political confrontation at Court between the Savoyard faction and the rising power of the Lusignans into which several earls were drawn.'<sup>21</sup> Boniface was the queen's uncle, a Savoyard; Aymer was Henry III's half-brother, a Lusignan.

The excommunication is important for a number of reasons, largely because we have both the narrative account of Matthew Paris and Boniface's own account in the letter he sent to his suffragans ordering his sentence to be published (preserved by Paris). First, the archbishop took extraordinary steps to publicise his excommunication. According to Paris, the archbishop himself pronounced the sentence 'coram

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<sup>18</sup> *Flores Hist.*, ii, 224-5. For this clash see *C&S*, 260-1 and notes, and Vincent, *Peter des Roches*, 477; Weiler, *Kingship, Rebellion and Political Culture*, 135.

<sup>19</sup> *Foedera*, I.i.459.

<sup>20</sup> *CM*, iii, 202.

<sup>21</sup> Ridgeway, 'The ecclesiastical career of Aymer de Lusignan', 165-6; Carpenter, 'What happened in 1258?', 191-2.

innumerabilibus'. This great crowd had been called to the church of St Mary le Bow by a herald ('voce preconia') advertising thirty days' remission of sins granted to those coming to witness the excommunication.<sup>22</sup> As Nicholas Vincent has noted, an indulgence was here being used as 'an early form of rent-a-crowd'.<sup>23</sup> Boniface pronounced the sentence, along with the bishops of Hereford and Chichester, adorned with pontificals, 'horribiliter nimis et sollempniter'. Subsequently, Boniface went to Oxford to publish the sentence, again personally, 'in the presence of all the clerks, whom he had caused to be gathered for this by ringing the common bell'. Paris explained that the archbishop had gone to Oxford so that the scholars there, who were from all over the world, would spread news of the crime to diverse nations.<sup>24</sup> There are, as yet, no other examples of either indulgences or parish bells being used to gather people to witness excommunications, but it is possible that such measures were employed elsewhere. Boniface's instructions to his suffragans, telling them personally to publish the sentence in their cathedrals and to have it published throughout their dioceses, with bells ringing and candles burning, every Sunday and feast day, were not at all exceptional.<sup>25</sup>

Because Boniface's letter to his suffragans survives, we can compare what the crowds in London and Oxford and possibly people throughout the country saw (as reported by Paris) with what they probably heard. Excommunication denunciations contained not only the names of excommunicates and the formulaic words of the ceremony, but also described the excommunicates' crimes. The narrative section of a sentence was an opportunity to convince the audience of how reprehensible an excommunicate was, and to impress upon them the severity of the crime committed. Boniface described the 'great enormities' of Aymer's men. They were 'sons of Belial' who, 'with horses and arms in a spirit of fury' had laid sacrilegious hands on Eustace de Len and others, 'violently tearing them from the horn of the altar to which they had fled, in insult to God, ignominy of the clerical order, and contempt and disgrace of us

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<sup>22</sup> *CM*, v, 351.

<sup>23</sup> Vincent, 'Some pardoners' tales', 38 and n. 57. Like excommunication, indulgences' effectiveness depended upon them being widely publicised.

<sup>24</sup> *CM*, v, 353-4.

<sup>25</sup> Paris records that the bishop of Ely sent this letter to his archdeacon, so it was almost certainly enforced by at least one bishop.

and our church, and also of the whole of England'. They carried off Eustace, forcing him to walk through the mud, beating and striking the other captives. These enormities had been perpetrated not just against the church of Canterbury but against the universal church. The malefactors were declared to have incurred *Si quis suadente, Qui malitiose ecclesias*, and had disturbed the peace, 'having disregarded fear of God and cast aside reverence for the prince'. They were denounced by authority of the Father, Son and Holy Spirit, blessed Mary mother of God, the holy martyr Thomas, St Edmund the Confessor (*sic*), and all saints.<sup>26</sup> All of this would, of course, have been followed by the ceremony described in chapter one. The fourteen named men ('and many others of whose names we are ignorant') were thus publicly denounced in a rhetorical and visually arresting ceremony.

Though Paris reported that neither side came off well in the dispute – some favoured neither party and both the Savoyard and Lusignan factions were defamed – Boniface's sentence supplied excellent propaganda against Aymer de Lusignan and his men.<sup>27</sup> The bishop-elect was forced to order the dean of Southwark and others to announce publicly that the sentence was null, 'rather, inane and frivolous'. Nevertheless, though fault was found with both parties, Paris claimed that most people condemned the Poitevins (i.e. Aymer's faction). Paris's account is important because, although it is clearly based on considerable independent knowledge of events, his description of the sacrilege committed resembles Boniface's own narrative. It is by no means identical, and the point should not be pushed too far, but the archbishop had the means to ensure that most people heard his side of the story.<sup>28</sup> Ensuring people heard material did not necessarily mean, as Weiler has pointed out, that they would believe whatever they were told. They might equally reject and oppose an official narrative, but in this case the majority apparently accepted it.<sup>29</sup>

It is worth briefly citing various other examples to demonstrate how forcefully excommunications could decry the acts that had provoked them. Boniface's sentence

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<sup>26</sup> *CM*, vi, 222-4.

<sup>27</sup> Cf. the discussion in ch. 3 of mutual sentences bringing the sanction and clergy into disrepute.

<sup>28</sup> Paris, of course, also had a transcript of Boniface's sentence.

<sup>29</sup> Weiler, 'Symbolism and politics', 18, discussing royal proclamations.

contains features that occur again and again. Excommunicates were frequently called sons of Belial. They were limbs of the devil and sons of iniquity. Fear of God was thrown aside, salvation forgotten, and acts committed in contempt of the church and of God, and to the scandal of many. More specifically, narratives often described crimes in graphic detail, presumably in an effort to arouse the anger, indignation and disgust of those listening. Thus in 1273, certain clerics were ‘atrociously wounded, flogged and hurled to the ground’, blood was spilled in church, priestly garments were defiled and the priests’ horses were mutilated, having their ears and lips cut off, and injured ‘so as to lay bare the bone’.<sup>30</sup> In 1295, Archbishop Winchelsey excommunicated the Welsh, describing (amongst many other crimes) how they had committed massacres of the English, discriminating neither by age nor sex, leaving bodies unburied to rot, exposed to be torn to pieces by birds and reptiles.<sup>31</sup> The rectors of Saltwood and Cheriton were ‘notoriously’, ‘shamelessly’ and ‘inhumanely’ assaulted before a great crowd at Dover. Winchelsey could not leave unpunished ‘an offence to God so horrendous and pernicious’.<sup>32</sup> Many more examples, using similar language, could be cited.

Undoubtedly, some of these offences were horrific, but they may not have been as bad as the excommunications claimed: this was propaganda. Nor were such condemnations limited to violent crimes (though of course these were the most strongly worded): the Welsh were often described as treacherous, for instance. There is, however, a definite trend towards strong language being used when the church or its property had been injured. In 1308, certain ‘sons of iniquity’, ‘haters of ecclesiastical privilege’, committed ‘detestable audacity’ and ‘nefarious presumption’ when they, forgetful of their salvation, in savage cupidity through too great malice and temerity, had the nerve to uproot some trees belonging to the church of Canterbury.<sup>33</sup> In 1283, Pecham excommunicated the sacristan of Westminster because, ‘transformed into an angel of Satan’, he had committed a ‘horrendous crime’ when he ‘rashly and violently

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<sup>30</sup> *Reg. Bronescombe*, no.1429. It should be noted that some of these excommunications concerned unknown malefactors, and the overblown language might have been used to convince people to come forward with information.

<sup>31</sup> *Reg. Winchelsey*, i, 1-3.

<sup>32</sup> *Reg. Winchelsey*, i, 222-3; Graham, ‘An interdict on Dover’.

<sup>33</sup> *Reg. Winchelsey*, ii, 1090-1.



threw a great and hard scroll in our face'.<sup>34</sup> Though some of these diatribes are excessively melodramatic, and perhaps produced shrugs rather than outrage amongst audience members who had heard rather too many others condemned as 'sons of Belial', episcopal registers demonstrate that there was much diversity in the acerbity of the language used. This was another way in which excommunications could vary, and in which some sentences were much harsher than others.<sup>35</sup>

### ***REPUTATION AND DEFAMATION***

Although publication of sentences was a key aspect of excommunication, how extensively it took place varied considerably. Variation was possible in how widely sentences were published, for how long, and in the bombast of their language and ritual. There were rules governing how and why a sentence should be issued, but how it should be enforced and publicised was not subject to the same regulation.<sup>36</sup> It was therefore up to a cleric to decide whether a sentence should be pronounced for three Sundays and feast days in the excommunicate's own parish and a few nearby parishes, or whether it should be pronounced throughout a archdeaconry, diocese, country or even more widely, for a much longer period of time.<sup>37</sup> Excommunication was thus an effective means of disseminating what might fairly be called propaganda. Both churchmen and laymen sought to capitalise on the sanction's public nature. It was a powerful force that could be exploited, but also abused.

An excommunicate had to be concerned therefore not only about his or her soul, and not only about being shunned. The 'bad press' that accompanied excommunication affected those who believed their sentences to be unjust, as much, if not more, than those who knew that they deserved their sentences. This point was articulated by Guillaume de Nogaret, a leading minister of the French king Philip the

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<sup>34</sup> *Reg. Epp. Pecham*, ii, 617-8.

<sup>35</sup> Cf. ch. 1 on the excommunication ceremony.

<sup>36</sup> I am grateful to John Hudson for helping me clarify this point.

<sup>37</sup> Cf. Dutour, 'L'élaboration, la publication et la diffusion', 147-8, who makes a similar point about how secular material was publicised depended on the subject matter and its importance.

Fair (1285-1314), who, for his attacks upon the papal court, was himself excommunicated for seven years. Nogaret understood what was at stake: a man must look after his reputation; conscience might excuse an innocent person before God, but that was of little use amongst men on earth. Scandal had to be avoided.<sup>38</sup> The negative publicity associated with excommunication was an important part of its ability to induce people to return to the church.

The evidence suggests that excommunicates often felt more aggrieved by this publicity than by any of the other consequences of excommunication. Thus they expressed concern about being excommunicated ‘by name’. This, of course, made no difference to the spiritual effects of the sentence, but did ensure that everyone knew that a particular individual had been condemned.<sup>39</sup> The importance of sentencing people by name is demonstrated by Wendover’s report of the excommunication of the rebellious barons in 1215: ‘But the magnates, because none of them had been expressly named in the pope’s own decree, not observing the said sentence, considered it invalid and null’.<sup>40</sup> Later, Innocent did sentence the barons by name.<sup>41</sup> Excommunication *nominatim* could thus be as a way of aggravating a sentence.<sup>42</sup> We still use the phrase ‘to name and shame’, and it is obvious that a sentence pronounced generally would be less effective than one in which the perpetrator’s name was publicised. Langton’s refusal to excommunicate the barons publicly, only privately, demonstrates the point. He was worried not for their souls, but for their reputations and for the effect such bad publicity might have upon their cause.

Increasing the publication given to an excommunication was another way to aggravate a sentence. Publicity was no longer about ensuring that an excommunicate was shunned, but was an effort to bring the excommunicate’s name into disrepute, to

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<sup>38</sup> Brown, ‘Moral imperatives and conundrums of conscience’, 23, 34.

<sup>39</sup> Robert of Flamborough had an interestingly broad definition of *nominatim*. He considered both ‘I excommunicate Peter’ and ‘I excommunicate whoever stole that horse’, if Peter had stolen it, to be excommunication by name: *Flamborough*, 154.

<sup>40</sup> *CM*, ii, 630.

<sup>41</sup> *SLI*, no.85.

<sup>42</sup> The king of Scotland’s counsellors were similarly sentenced generally in 1257, and threatened with excommunication by name if they remained contumacious (which they did, and were duly denounced by name): *Melrose*, 182-3. Wendover claimed that John had been concerned, in 1208, that Innocent III would aggravate the interdict by excommunicating the king by name: *CM*, ii, 523.

force them to capitulate. Matthew Paris noted that, in excommunicating the archbishop of York (Sewal de Bovill), the pope ordered him to be denounced throughout England, to 'weaken his resolve'.<sup>43</sup> It is evident that clerics exploited the publicity of excommunication for vengeful purposes. Rather than merely following the law, they sought to defame and harass their opponents. However, when clerics were clearly acting as judges in their own cases, persecuting their enemies, their sentences were frequently ignored.

Sewal de Bovill reportedly suffered great temporal injury as a result of his excommunication, and it is clear that no small part of this injury was public defamation. In the (presumably fabricated) speech attributed to the archbishop by Matthew Paris, Sewal is made to declare that the pope had unjustly attacked him, slandering ('scandalizavit') him in many ways. Paris went on to describe the archbishop's letter to the pope, which listed the ways in which he had been injured. Innocent IV had harassed him by suspending him, banishing him from church, taking his cross from him, horribly and openly excommunicating him through the realm, and by 'denigrating his reputation in diverse ways, not without great temporal injury'. Because of his strong belief in the justness of his cause, Sewal did not succumb to such pressure. Only on his deathbed did he capitulate. Yet he was nevertheless aggrieved by the treatment and public disgrace he suffered. Paris praised Sewal's resistance to the tyranny of Rome, and claimed that those charged with publicising his excommunication through the kingdom did so unwillingly. Sewal appealed against the pope before the 'supreme and incorruptible Judge'.<sup>44</sup>

Falkes de Bréauté's *Querimonia*, written as a complaint to the pope against his treatment at the hands of various enemies, particularly Stephen Langton, contains valuable evidence for Falkes' reaction to his excommunication. He contended that his excommunication was unjust, invalid, and had been imposed capriciously. The document should not be taken as an accurate representation of events, but is informative of Falkes's view of his sentence. Towards the end of his complaint, Falkes

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<sup>43</sup> *CM*, v, 653.

<sup>44</sup> *CM*, v, 692.

explained that the sentence against him was unjust, had been issued contrary to law, and arose from hatred rather than desire for justice.<sup>45</sup> As a result of this unjust sentence, he complained, he had suffered many injuries. These included the loss of his castle (Bedford) and the murder of his brother and other relatives. He had been stained with 'serious infamy', and become notorious ('clarueram') amongst his neighbours through the bishops' hatred. He had been deprived of his wife and family, and finally suffered exile.<sup>46</sup> Earlier in his complaint, Falkes observed that the bishops had promulgated a sentence against him 'to show affection' for the king. This sentence had been published 'through every church in the realm' within a week, with indulgences offered to those who provided help towards the capture of Bedford.<sup>47</sup> These wrongs cannot all be ascribed to the bishops' excommunication, for secular involvement also played a part. But if they were the result of the sentence, as Falkes implied, his was a highly unusual case: most people who were excommunicated would not be in a position to suffer such losses; those who were would not expect to be so gravely persecuted. But that was Falkes' point. The bishops had behaved reprehensibly, causing him to suffer unduly. Falkes was not alone in feeling that his excommunication had slandered his name.

Falkes's complaint introduces another important aspect of excommunication: scandal. The word does not always seem to have been used in the same sense. For Falkes, it seems to have been used to refer to his own reputation. Thus though he appealed his sentence, Falkes had earlier sought absolution in order to avoid further scandal. He presented this absolution as forced: Langton had been desperate to absolve him, and the archbishop and the bishop of Chester had persuaded Falkes by saying it was 'a fitting opportunity to avoid scandal'. Their words were, apparently, fraudulent, for when Falkes went to Northampton as instructed, he was unable to obtain absolution.<sup>48</sup>

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<sup>45</sup> For Falkes's treatment and an analysis of his claims in what follows, see Carpenter, *Minority*, 351-5, 360-70.

<sup>46</sup> *Coventry*, 272.

<sup>47</sup> *Coventry*, 265.

<sup>48</sup> *Coventry*, 267.

In these cases, and in that of the Canterbury monks discussed below, excommunications were reported to be unjust. Thus the use of ‘scandal’ might also refer to the fact that excommunication was being abused. This was the sort of scandal caused when excommunication was used for trivial matters, as Martin Luther was later to condemn.<sup>49</sup> In these cases, however, not only was excommunication being misused, but unreasonable use of the sanction to defame people was itself scandalous. Both Falkes and the Canterbury monks implied that the actions of the archbishops of Canterbury had brought the church of Canterbury into disrepute.<sup>50</sup> As discussed in chapter three, Paris twice noted the scandal that was caused by the dispute between the archbishop and the dean of St Paul’s, because people were absolved from excommunications, on papal authority, and then immediately sentenced again, also on the pope’s behalf. This caused the whole matter to be judged ridiculous by the laity.<sup>51</sup> Likewise, few people accepted the undiluted propaganda either of Boniface of Savoy or of Aymer de Lusignan, and part of the problem must have been the contradictory pronouncements made by both parties.

In the case of John Mansel, in 1241, scandal appears to have been employed to describe how the dispute might have been perceived if aired in public, not merely how Mansel himself might be disgraced. Mansel, a royal clerk, was excommunicated by Robert Grosseteste in a dispute over the prebend of Thame. Grosseteste had already given the prebend to Simon of London. But Mansel claimed it on the grounds of a papal provision, and entered and occupied the church by force of arms. The dispute was much less prolonged than it might have been,<sup>52</sup> and the details are unnecessary here. The crucial point is that the bishop was ‘prepared to inflict a sentence on all disturbers of his church and liberty, and on John particularly’. Upon hearing this, Mansel was ‘vehemently perturbed’ and resigned his claim to the prebend in order to avoid more *discidium* and *scandalum*. In the end, he in fact received a richer benefice,

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<sup>49</sup> See Beaulande, *Le Malheur d’Être Exclu?*, ch. 7 and 262; cf. Helmholz, ‘Excommunication in twelfth century England’, 243.

<sup>50</sup> *Coventry*, 268-9; *Gervase*, 166 (see below 174-81).

<sup>51</sup> *CM*, v, 217-18, 229.

<sup>52</sup> Cf. ch. 5.

crisis was averted, and all parties were happy with the result.<sup>53</sup> Again, excommunication presented a risk of scandal that was best averted.

### ***THE MONKS OF CHRIST CHURCH VERSUS EDMUND OF ABINGDON***

The dispute between archbishop Edmund of Abingdon and the monks of Christ Church, Canterbury, is a final example of how the publicity of sentences could be exploited, and result in considerable scandal. Like Falkes's complaint, the main source for this dispute is highly prejudiced, written in the first person by a monk from Christ Church. It is of all the more interest for that reason. There was a great deal of personal acrimony on both sides, which contributed considerably to how the dispute played out, and to how excommunication was enforced.

The quarrel, supposedly, began with the foolish decision of the monks to rewrite a 'charter of St Thomas the martyr' containing the liberties of Canterbury, whose seal had been damaged: the so-called 'Magna Carta Beati Thome', a notorious forgery. It was subsequently diverted to their election of a new prior without the archbishop's permission (after the prior in charge at the time of the forgery had resigned, and the sub-prior had been deposed).<sup>54</sup> The forgery caused the monks to be suspended; the election was the cause of their excommunication. However, as C. H. Lawrence (Edmund's biographer), has written, this was 'a purely personal squabble' greatly exacerbated by an underlying issue: the archbishop's attempts to erect a prebendal church at Hackington or at Maidstone (strongly opposed by the monks). Thus the 'petty incident' of monastic forgery, which had provoked open hostility, 'offered their adversary a handle' to more serious complaints.<sup>55</sup> The archbishops of

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<sup>53</sup> *CM*, iv, 152-4. Further details of the dispute can be found in *CPR 1232-47*, 257; *Registrum Antiquissimum*, ed. Foster, i, 181-3; *Ann. Dunstable*, 158; Hui Liu, 'Matthew Paris and John Mansel', 161-2.

<sup>54</sup> The seal of the original papal document was ripped, so a new one drawn up and the old seal attached. The document was later destroyed, but was probably the forgery discussed by Cheney, 'Magna Carta Beati Thome', 95-102 addresses this part of the charter's history; *Gervase*, 130-1; the election 146-9; *Reg. Gregory IX*, iii, no.5388.

<sup>55</sup> Lawrence, *Archbishop Edmund*, 163-8, quotations at 167.

Canterbury and their monastic chapter were regularly at odds, and the full background to their rivalry is not worth detailing here. This particular clash was long drawn-out and tedious (the Canterbury account fills over fifty pages in the Rolls Series edition), as everyone who has studied the matter seems to agree.<sup>56</sup> One can only endorse Lawrence's conclusion that 'The manner in which the dispute was conducted reflects small credit on either the chapter or the archbishop'.<sup>57</sup> Things ended abruptly when the archbishop went into 'exile'<sup>58</sup>, and the monks were absolved by the pope without further ado.

The monks were certainly not innocent in the matter. Stubbs, the chronicle's editor, described the dispute as being 'chiefly interesting for showing how impossible it was for the best of archbishops to manage his captious and litigious chapter'.<sup>59</sup> Matthew Paris (who wrote a hagiography of St Edmund) complained that the monks were judicially excommunicated rebels, whom the legate Otto 'impudently and irreverently' absolved after the archbishop's death.<sup>60</sup> Nevertheless, it is difficult to sympathise with Edmund's uncompromising and unrelenting enforcement of the monks' excommunication. He was indeed 'over-aggressive', and his efforts had a profound effect on the city of Canterbury as well as the monks.<sup>61</sup> There is evidence that, on the whole, the monks had more support than the archbishop. They were absolved promptly after his death; the townspeople did not enforce the sentence against them; the other bishops sought to make peace, and seem to have blamed Edmund more than the monks for an inability to compromise.

What comes across clearly from the Christ Church account is that the monks were particularly concerned about the denunciations that accompanied excommunication, as a separate issue to the sentence itself. The archbishop's actions may be characterised as abuse of excommunication, but this conclusion is debatable.

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<sup>56</sup> *Gervase*, xx-xxi.

<sup>57</sup> Lawrence, *Archbishop Edmund*, 168.

<sup>58</sup> As claimed by his hagiographers. See Lawrence's discussion of why Edmund might have gone to the continent, and his rejection of claims that Edmund had been forced into exile: *Archbishop Edmund*, 168-81.

<sup>59</sup> *Gervase*, xx.

<sup>60</sup> *CM*, iv, 72-3.

<sup>61</sup> Lawrence, *Archbishop Edmund*, 172.

Edmund was probably acting against the principle that excommunication should only be used medicinally, but he broke no laws. He certainly provided adequate notice before excommunicating the monks. Edmund sent numerous warnings to them (though they argued he had not waited for them to respond), and later letters referenced these warnings.<sup>62</sup> Although the account was written from the monks' point of view, it includes numerous original mandates sent by the archbishop, his official and others.

The archbishop ordered (on 22 January 1239) standard solemn denunciations to be made, every Sunday and feast day, that the monks had been excommunicated.<sup>63</sup> When the monks subsequently appealed, they did so 'contra denunciationes, ne fierent'. According to our source, the archbishop's mandates were carried out by chaplains who did so 'licet dolentes'. The official of Canterbury denounced the monks 'in lacrimis tamen', and sought to limit the sentence's effects by adding that only those who had been directly involved in the election of the new prior, Roger de la Le, were excommunicated, and not the whole chapter.<sup>64</sup> This Edmund was later forced to correct: he had sentenced the whole chapter. Despite the appeals, the archbishop cited certain of the monks to appear before him, and denunciations were made throughout Canterbury and beyond the city.<sup>65</sup>

Various orders to denounce the monks were sent in the meantime, and the monks appealed. But in early March, Edmund raised the stakes by ordering that all the bishops (gathered in London for a convocation) denounce the monks in their own dioceses.<sup>66</sup> The bishops of Rochester and Chichester, and the elect of Armagh, tried to convince the archbishop to delay his intention 'because of the scandal that would follow'. When they were unsuccessful, they asked the papal legate, Otto, to intervene, and the denunciations were successfully delayed.<sup>67</sup> It is clear that the bishops and legate did not agree with the archbishop's actions. This does not necessarily mean that they actively supported the monks. But they certainly wanted peace, were concerned

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<sup>62</sup> *Gervase*, 149-50 (the warnings are mentioned numerous times 134-51).

<sup>63</sup> *Gervase*, 151.

<sup>64</sup> *Gervase*, 152.

<sup>65</sup> *Gervase*, 153. Matters continue in a similar vein for the next few pages.

<sup>66</sup> *Gervase*, 159.

<sup>67</sup> *Gervase*, 159-60.



about how the matter would appear, and about the scandal it might provoke. The elect of Armagh therefore went to Canterbury in an effort to make peace between the two sides. The injuries alleged by the monks are revealing: they had been suspended twice, they had been excommunicated, denunciations had been made, and false crimes had been alleged ('criminibus falsitatem interpositis'). Thus the denunciations were injurious, in addition to excommunication in and of itself, because the monks were defamed with false allegations (as they saw it). The complaint shows the usefulness of excommunication as a means of defamation. Unfortunately, the elect's mission failed. He wrote, with perceptible frustration, that although he had found the monks willing to reach agreement, neither the archbishop nor anyone to act for him had appeared.<sup>68</sup>

Another convocation of bishops was held in London, and the monks wrote to the prelates, asking them not to proceed with denunciations, which they argued would be 'ad confusionem suae matricis ecclesie'. The bishops agreed to this, and the monks withheld their prepared letters of appeal, in order not to aggravate matters.<sup>69</sup> Edmund nevertheless persevered in Canterbury, having denunciations made throughout the city. It was at this point that the wider community became involved. The archbishop ordered that the denunciations – which included the whole chapter – forbid anyone to choose burial with the monks, follow funeral processions to their church, be present at their sermons or celebrate divine services with them. The order was prompted by the fact that a certain Jordan 'salsarius'<sup>70</sup> had been brought to the monks for burial 'by the greater part of the city'. The citizens had thus, as yet, not properly enforced the sentence commanding them to avoid the excommunicated monks.<sup>71</sup>

Many denunciations followed, in the school of theology, in parish churches and at the priory of St Sepulchre, where the archbishop had preached to a multitude of people. The monks continued to appeal against denunciations, and complained of the enormous injury all this was causing them. Edmund had contrived to have them suspended for one cause, and excommunicated for another: 'a remedy for us seemed

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<sup>68</sup> *Gervase*, 161-6 (the monks' complaints 163). The elect's own letter is included in the chronicle (165-6).

<sup>69</sup> *Gervase*, 166.

<sup>70</sup> Saucer-maker or salt-merchant.

<sup>71</sup> *Gervase*, 167.

very remote and our confusion miserable and intolerable'.<sup>72</sup> The dispute continued at length, and here need only be briefly summarised. Denunciations continued to be made on a frequent basis; the monks repeatedly appealed. Edmund eventually wrote directly to the sheriff and all the people of Kent, forbidding them to communicate with the monks, and telling the authorities to deny hearing to anyone who continued to communicate with them despite the denunciations made 'through every parish church in our province'.<sup>73</sup> In a report sent to Rome in October, the monks begged for a remedy 'because so many and such great confusions threaten us, that our life is painful and miserable'. They would rather die than live thus, believing that Edmund had the king's support for his schemes to build a prebendal church.<sup>74</sup> In fact, the king eventually took the monks' side, and ordered his sheriffs not to respect Edmund's right to receive return of writs (one of the more substantial of the privileges attached to the archiepiscopal liberty). This prompted Edmund to find a new way to 'molest and injure' the monks, excommunicating anyone who presumed to enter the fiefs of Christ Church on account of any writ. He forbade the convent to alienate its possessions.<sup>75</sup> When the matter was finally over (after the archbishop's death), the convent took its revenge against the archdeacon of Canterbury, Master Simon Langton (brother of the late archbishop Stephen), who had been played a crucial part, by themselves excommunicating him.<sup>76</sup>

The details of the lengthy quarrel are monotonous, but the parts concerning the wider community are remarkable.<sup>77</sup> Despite the archbishop's mandates following the burial of Jordan 'salsarius', he was forced again to forbid burials at Christ Church. Yet, when the monks held an Ascension Day procession, a large crowd followed them. Services were suspended in two churches that allowed the procession to pass through.<sup>78</sup> Denunciations were then made, on 26 May 1239, that anyone who had followed the procession was also suspended. These denunciations were greeted 'non

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<sup>72</sup> *Gervase*, 167-8.

<sup>73</sup> *Gervase*, 176. Writing to sheriffs was not unheard of, cf. *Reg. Pecham*, ii, 119-20.

<sup>74</sup> *Gervase*, 174, and n. 3.

<sup>75</sup> *Gervase*, 176-8.

<sup>76</sup> *Gervase*, 180-2.

<sup>77</sup> Cf. the rift between archbishop Pecham and the citizens of Canterbury in 1285: Douie, *Archbishop Pecham*, 75-7.

<sup>78</sup> *Gervase*, 169-70.

sine magno murmure in populo'. In addition, inquisition was to be made into the names of the contumacious.<sup>79</sup> Like interdicts, the archbishop's measures were supposed to turn the innocent against the guilty, but, as seems to have been the case here, 'might turn the innocent against the Church'.<sup>80</sup>

Edmund was within his rights to take such measures. The community had not ostracised the monks as it was bound to do, and those who had disobeyed the church incurred minor excommunication *ipso facto*. The future saint was far from the only cleric to order investigations into names in order to punish those scorning his mandates. Yet it is clear both that he did not have the support of the people – probably to be expected since the monks of Canterbury were far more involved with the city than the archbishop – and that his stringent measures caused them consternation, both spiritually and temporally. It ought to be noted that, whilst the archbishop certainly did issue the orders described, there is no evidence to corroborate the reactions of the citizens. It is possible that the chronicler (correctly) judged that sympathy for the monks' cause was best generated by explaining the collateral damage caused by the archbishop's methods. Nevertheless, the general narrative, although exaggerated, rings true.

Following the suspension of those who had followed the Christ Church processions, many from the city were afraid for themselves ('sibi timentes'). They therefore went to the Dominicans and Franciscans for counsel. They asked that they should not be denied the sacraments nor, if they died, ecclesiastical burial. The chaplains who had been excommunicated claimed that they had been greatly injured by the denunciation, declaring that, through loss of oblations, they were unable to live. The archbishop's policy was here less defensible. He had reserved absolution to himself or his archdeacon, but neither was present. Later, when crowds attended the funeral procession of one of the monks and were excommunicated, 'many were scandalized' because no penitentiary or friar could absolve them. The archbishop had, in effect, precluded their absolution. This was not in the spirit of the church's

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<sup>79</sup> Gervase, 172.

<sup>80</sup> Clarke, *Interdict*, 182.

sanction. The woes of the citizens did not only concern their suspension, however. They also complained that, because of the ‘scandal’ that had arisen – ‘both in England and in nearby provinces’ – the merchants and pilgrims who usually flocked to the city had withdrawn themselves. The once populous city now lay as if desolate. The citizens, along with the monks, were crying and wailing, and pleading ‘Lord, save the city and monks of Canterbury, lest we perish (*pereamus*)’.<sup>81</sup>

The dispute between Christ Church and Edmund of Abingdon demonstrates a number of important features. First, it is clear that Edmund was acting with personal enmity, and that he took far greater steps to enforce his sentences than would be expected in more routine cases. He never acted against the law, yet was nonetheless able to exploit the sanction and use it vengefully. That he was essentially acting as judge in his own case, was apparently widely noticed, so that his sentences were never entirely obeyed or enforced. Second, excommunication was a public matter. It affected those who were excommunicated, those who lived in proximity to them, and also those who were further removed but heard about affairs through denunciations. The characterisation by the Canterbury chronicler, particularly the dramatic outcry of the townspeople, should be treated with a degree of scepticism.<sup>82</sup> Yet the lament may well have reflected a basic truth. Given how extensively the sentences were publicised, it is not inconceivable that visitors began to give Canterbury a wide berth. Such a venomous dispute between the country’s primate and the monks of his cathedral church might be expected to cause a scandal.<sup>83</sup> Finally, the monks’ repeated complaints against denunciation rather than simple excommunication shows that they were more concerned about the publicity than they were about possible spiritual effects. When the monks were absolved, the pope provided, as they had asked, that thereafter ‘no rumour incur you loss or damages your innocence’: only three monks

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<sup>81</sup> *Gervase*, 173.

<sup>82</sup> Some of the Canterbury account is corroborated by the letter of Gregory IX absolving the monks and righting other wrongs, although the facts as presented by the pope would of course have been based on the monks’ appeals: *Reg. Gregory IX*, iii, no.5386.

<sup>83</sup> It is, unfortunately, impossible to tell how far news of the dispute travelled from other, independent sources. The Annals of Dunstable (*Ann. Dunstable*, 156) and Matthew Paris (*CM*, iv, 72-3) both recorded the absolution of the monks, but it was the abbots of St Albans and the prior of Dunstable who were instructed to announce the monks absolved. It is possible that this was how the writers came to know about the matter, not through denunciations: *Reg. Gregory IX*, iii, no.5386; cf. no.5387.

had been guilty of the forgery and they had all been translated to other monasteries.<sup>84</sup>

The monks of Canterbury, it seems, were keen to ensure that their innocence was made known, and that their names were cleared.

### ***SHAME AND ASPERSIONS***

Excommunicates were supposed to feel shame. The primary purpose of publication was to facilitate communal enforcement, but the publicity and the shunning itself were also to humiliate the excommunicate. Thomas of Chobham advised that those who came across an excommunicate were not to greet him, but should respond with bitter words, such as ‘may God correct you’, so that the sinner would feel shame.<sup>85</sup>

Numerous mandates articulated the idea that publication of a sentence and the consequent social ostracism would make an excommunicate ashamed and cause them to return to the church. According to the (admittedly questionable) testimony of Wendover, in 1215 the English barons returned to King John’s allegiance for this reason. They fell into great anguish of body and mind because they were excommunicated every day, and were ‘deprived of all earthly honour’.<sup>86</sup>

The shame created by excommunication could, however, be counter-productive. When Gertrude of Austria refused to marry Frederick II because he was excommunicated, Matthew Paris reported that Frederick was ashamed as a result of being scorned in this way, but that this only hardened him against the church.<sup>87</sup> Anger was similarly the reaction of the sheriff of Lincoln, in 1250 excommunicated by Robert Grosseteste, bishop of Lincoln. The bishop had excommunicated an incontinent cleric of his diocese, and ordered the sheriff to arrest him after he had remained contumacious for forty days. The sheriff, however, was a friend of the cleric and refused, so Grosseteste solemnly excommunicated him. The sheriff was ‘angry and

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<sup>84</sup> *Reg. Gregory IX*, iii, no.5388.

<sup>85</sup> Chobham, *Summa*, 248.

<sup>86</sup> *CM*, ii, 667.

<sup>87</sup> *CM*, iv, 474-5.

ashamed' ('iratus et verecundatus'), but rather than make peace with the bishop, he instead went to the king to complain. The king was himself 'exceedingly angry' that the bishop had not brought the matter to him before sentencing the sheriff. Henry III immediately wrote to the pope, who provided a letter – which Paris characterised as against ecclesiastical liberty – forbidding prelates from summoning bailiffs to their courts about matters relating to royal jurisdiction, or compelling them through excommunication.<sup>88</sup> The sheriff thus successfully had the king quash his sentence.

In addition to the church's use of excommunication to provoke shame, people might take the opportunity to treat others as excommunicate even without the church's involvement. Accusing someone of leprosy (whether they had it or not), thereby making them a social outcast, 'was a tool in the armoury of local dispute'.<sup>89</sup> The same was true of spiritual leprosy. Individuals might be accused of being excommunicated and treated accordingly, even if the church had not publicly declared them bound by a sentence. The canon law on this was that someone defamed as having incurred excommunication (specifically *Si quis suadente*) should be shunned, unless they had purged themselves before the bishop, or obtained excommunication *ad cautelam*.<sup>90</sup> Given the prevalence of *latae sententiae* in the thirteenth century, it is likely that many such defamations occurred. The citizens of London appear to have taken this for granted when they attacked those with kidels in the Thames as excommunicates for infringing Magna Carta.<sup>91</sup> There must, indeed, have been a great number of people walking around excommunicated without the church's knowledge (although if *publica fama* alerted the church that someone had incurred a sentence, this ought to have instigated an investigation into the matter).<sup>92</sup>

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<sup>88</sup> *CM*, v, 109-10.

<sup>89</sup> Arnold, *Belief and Unbelief*, 122.

<sup>90</sup> X.5.39.15. However, see also Vodola, *Excommunication*, 34, 99, 142-4. Cf. Haring, 'Peter Cantor's view on ecclesiastical excommunication', 104-5.

<sup>91</sup> *Liber Albus*, ed. Riley, i, 500-2.

<sup>92</sup> Vodola, *Excommunication*, 34, 99-100; Mansfield, *Humiliation of Sinners*, 123-4. Clerical complaints from 1285 stated that, as a result of frequent disturbances of ecclesiastical liberties, 'it should probably be feared ... that there are more excommunicated today in England than in any land of the world', *C&S*, 971. Interestingly, the same year, the (secular) Statutes of Westminster declared that 'from day to day, robberies, murders, burnings be more often committed than they have been heretofore': *Select Charters*, ed. Stubbs, 464, 466.

The difficulties arising from *latae sententiae* excommunications are demonstrated by a case brought to the court of Canterbury in 1292/3 when mutual accusations of excommunication were made. The defendant, Adam Mulgars, was accused of being excommunicate, having fallen into *Si quis suadente* for assaulting Oliver de Brocton, the plaintiff. Adam, however, claimed that Oliver had in fact fallen into *Crimen imponunt alicui*. Adam had only assaulted Oliver in order to defend his wife's honour. Both men asked that the other be placed under a sentence and be publicly denounced as an excommunicate until they deserved absolution (although Adam later withdrew his counterclaim).<sup>93</sup>

Such unendorsed accusations are only rarely referred to in official documents, or indeed in any other source. One exception is a dispute between a prior and a monk, during which the two men came to blows. The prior of Wotton, Peter de Altaribus, was accused of laying violent hands on the monk Roger, by hitting him on the nose and drawing blood. Though the prior claimed Roger had hit himself in the face in order to blame Peter, many witnesses had seen the assault. During the preceding quarrel, the prior had called Roger a 'leprous clown', and claimed he had bitten his finger. Several witnesses noted, however, that Roger had accused the prior of being excommunicated. Peter was a drunk, but Roger was 'quarrelsome', and had in fact 'provoked the aforesaid prior to violence, publicly asserting that he was excommunicated by his abbot'. The significance here is that excommunication appears to have been used as provocative insult more than anything else. Roger had no qualms about sleeping in the same dormitory as the alleged excommunicate, as the prior himself pointed out.<sup>94</sup> Both men were subsequently absolved from major excommunication, for assaulting one another.<sup>95</sup>

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<sup>93</sup> SCC, 387-97. Proceedings were stopped by the Court of Canterbury before the judgement could be pronounced.

<sup>94</sup> The prior said that Roger should not sleep in the dormitory with him because he had called him an excommunicate. It is not clear whether the prior meant 'you should be avoiding me' or was simply indicating his anger at Roger.

<sup>95</sup> *Reg. G. Giffard*, 129-32, 133. The register is printed as a calendar, but in this instance it is evidently a very full one.

Roger the monk used excommunication as an insult, but seemingly did not insist upon shunning the prior. This, however, is how Henry III insisted on treating Simon de Montfort when, in 1239, he refused to allow the earl and his new wife (the king's sister) to attend queen Eleanor's churching. Montfort, he claimed, was an excommunicate. According to Matthew Paris, on 9 August, the king 'called him an excommunicate' ('rex eum excommunicatum vocavit'), and forbade him or his wife, whom Simon had 'wickedly and secretly defiled' before marriage, to be present at the queen's purification. Moreover, when Montfort tried to return to his lodgings, the king ordered that the couple be forcibly ejected. According to Paris (who is not to be relied on here), the king then declared that he had given his sister (who had previously taken a vow of chastity) to Simon in marriage unwillingly, accusing the earl of bribing the papacy to allow the marriage. Finally, unpaid debts (for which Montfort had made the king guarantor without his knowledge or consent) meant that Simon 'deserved to be bound by a sentence of excommunication'.<sup>96</sup> Possibly what was meant here was that Simon *had* been bound, deservedly. Yet the phrasing suggests that the king was making an accusation that Montfort *should* have been excommunicated – and was in the king's eyes – but had not, in fact, been condemned by the church. As John Maddicott notes, it is impossible to know whether the threatened excommunication ever took place, but it is unlikely that Robert Grosseteste, who wrote to Montfort shortly after this confrontation, would have written to 'the seducer, excommunicate and perjurer whom Henry had condemned'.<sup>97</sup>

Paris used two words to demonstrate the shame felt by the earl. After the first confrontation, Simon was 'confusus'; when he had heard the king's angry speech and accusations, 'erubuit'. He immediately left England for the continent. Excommunication was not the only accusation levelled by the king, and Montfort was no doubt shamed both by the king's accusations and by his treatment. The latter, however – the king's shunning of the earl – was certainly based on the accusation that he was excommunicated. Henry had not simply used harsh words, but had publicly

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<sup>96</sup> *CM*, iii, 566-7; Maddicott, *Simon de Montfort*, 21-9.

<sup>97</sup> Maddicott, *Simon de Montfort*, 24, 28 (Montfort's marriage and this incident are discussed more generally 21-9); *Grosseteste Letters*, no.75.



forbidden Simon to participate in the ‘festive solemnities’, evicting him from the bishop of Winchester’s palace where he was staying. These actions were justified by the earl’s apparent status; the king was using excommunication to make the earl’s disfavour abundantly clear both to his court and to Montfort himself. Bjorn Weiler has noted that Montfort’s fall from grace was made public by the king’s rejection of Montfort here, but does not mention that Henry was using an accusation of excommunication to treat the earl this way.<sup>98</sup> Again, the usefulness of excommunication in social relationships, rather than its direct effects, is evident. Montfort’s shame and distress is further indicated by Grosseteste’s letter, in which the bishop noted the ‘weight of [Montfort’s] suffering’, advising him to bear it with patience and to gain strength from it. He also offered to plead before the king on Simon’s behalf.<sup>99</sup>

Making an accusation of this kind of course made sense during legal proceedings of any kind, since excommunicates were denied every legal act.<sup>100</sup> In these circumstances, however, proof would have to be provided that the accused was in fact excommunicated. An assertion that an opponent had incurred automatic excommunication would be insufficient.<sup>101</sup> Therefore, in 1282 John Pecham roundly condemned the ‘sons of iniquity, inflamed with the pot of jealousy,’ who disparaged the late Master Omer of Canterbury by claiming that he had died excommunicated and intestate, since investigation revealed he had not. Presumably their intent was to deprive Omer’s true heirs of their inheritance, and Pecham’s letter was requested by Omer’s sons. But since it was found that no sentence, of law or man, had been caused or ordered (‘nulla iuris vel hominis excommunicationis sententia ... fuisse vel esse legatum’), and Omer had not been cut off from the church or excommunicated in life or in death, the archbishop announced the he had died ‘tamquam Catholicum et testatum’.<sup>102</sup>

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<sup>98</sup> Weiler, *Kingship, Rebellion and Political Culture*, 113.

<sup>99</sup> *Grosseteste Letters*, no.75.

<sup>100</sup> Bracton, *De legibus*, iv, 293. The *Curia Regis Rolls* contain numerous examples of plaintiffs being dismissed and told to seek absolution.

<sup>101</sup> Vodola, *Excommunication*, 180-2.

<sup>102</sup> *Reg. Pecham*, ii, 173-4.

## ***PENANCE AND ABSOLUTION***

The shame associated with excommunication did not end as soon as a request for absolution was made. Public humiliation and shame were also intended to be part of the process of absolution, which was only granted upon fulfilment of certain conditions. These would usually include taking an oath to obey the mandates of the church in future, making satisfaction to the church and whoever had been injured, and some kind of penance. For major excommunication, solemn public penance was recommended, though the details would vary from case to case.<sup>103</sup> Public penance could be prescribed for sins separately from excommunication, but links between public penance and major excommunication were so strong that it can prove impossible to distinguish between the two (despite the best efforts of canonists).<sup>104</sup> As Thomas of Chobham wrote, ‘he who sins publicly ought to satisfy God ... and the church ... so that the whole church sees his penance’. Since everyone was informed of excommunicates through denunciations, it followed that the excommunicate would have publicly to display contrition and humiliation.<sup>105</sup> In many cases it is impossible to know what penance was enjoined on those who sought absolution from excommunication, since the only surviving evidence is a mandate ordering another cleric to enjoin a fitting penance. Despite the decree in the 1257 Statutes of Salisbury (IV) that those who fell into any of the 1222 Oxford sentences should be publicly whipped as many times as seemed expedient, there were not in general specific rules that governed what penance was given.<sup>106</sup> Penance lay at the discretion of individual clergy.<sup>107</sup>

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<sup>103</sup> *Flamborough*, 145; Peñafort, *Summa*, Tit.XXXIII, 26.

<sup>104</sup> Hamilton, ‘Penance in the age of Gregorian reform’, 48; Mansfield, *Humiliation of Sinners*, 51, 114; Hamilton, ‘Remedies for “great transgressions”’, 93, 99.

<sup>105</sup> Chobham, *Summa*, 213, 259. Cf. Mansfield, *Humiliation of Sinners*, 51-8. The humiliation of penance might also be counter-productive, inducing people to remain excommunicate rather than face it: Helmholz, ‘Excommunication as a legal sanction’, 216-7.

<sup>106</sup> *C&S*, 561.

<sup>107</sup> See for example, *Papal Penitentiary*, ed. Lea, no.17. Although see a commission in Winchelsey’s register that contains almost tariffed penances: fornicators known through *publica fama* – two beatings in church and two in markets and a procession; adulterers convicted through inquisition – three beatings in the market and three in church; simple fornication – three around the church; those convicted of sorcery – six around church and six through the market; usurers – three around the church and one through the market.

Penance is a vast topic in its own right, and here there is not space to address its complexities.<sup>108</sup> It is enough to note that it was often associated with absolution from excommunication, and that it was a further means by which the sins of excommunicates were publicised. It was common – especially for violent crimes – for people to be publicly whipped, while their crimes were read out.<sup>109</sup> Thus the register of Godfrey Giffard, bishop of Worcester, records that a knight, Osbert Giffard, was to be beaten on three feast days and three Tuesdays in several (specified) churches and markets. He was to serve in the Holy Land for three years and was not to wear knightly accoutrements unless he received permission from the king. When he was first taken to the door of the church on Ash Wednesday, his crime (raping and abducting nuns) was to be solemnly published before the people.<sup>110</sup> Aspects of this penance were unrepresentative, since Osbert was a knight. Yet episcopal registers extant from the second half of the thirteenth century provide other similar examples. A man from the diocese of Lincoln was absolved from the excommunication he had incurred for assaulting a priest, and was to be beaten on five Sundays, to make offerings on three of them, and to kneel before the altar from the end of the gospel until after the elevation of the Host.<sup>111</sup> A man of the diocese of Canterbury was to make a solemn procession, in only his shirt and breeches, through the market of Canterbury, on three Sundays and feast days, in the church where he had violently removed tithes and obventions, for seven Sundays, and in two other markets nearby. He was to be publicly beaten, with his crimes exposed before the clergy and people, and was not to be publicly announced as absolved from his excommunication until he had completed this penance.<sup>112</sup> Several people who had unlawfully communicated with the excommunicated prior of Great Malvern priory were to do penance with bare feet, in their underwear, with uncovered

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<sup>108</sup> See Hamilton, *Practice of Penance*, for an in depth study and for references to the literature, and Mansfield, *Humiliation of Sinners*, and Hill, ‘Public penance’ for this period.

<sup>109</sup> See Hill, ‘Public penance’, for more examples from this period.

<sup>110</sup> *Reg. G. Giffard*, 278-9.

<sup>111</sup> *Reg. Sutton*, iii, 40-1.

<sup>112</sup> *Reg. Winchelsey*, i, 76-8. Some respite was provided, however, since only the penance ordered to take place in the offended church and the two nearby markets was to be done fully. That to take place in the church and market of Canterbury was to be held in suspense.

heads, with priests publishing their deeds before the people.<sup>113</sup> The crime of these men and women was relatively trivial, however, so they were spared public beatings.

Unsurprisingly, such public humiliations aroused shame in those who were forced to undergo them. Thus Falkes de Bréauté complained of his ‘shame and disgrace’ when, before he was absolved in London, he was stripped and the archbishop preached a sermon which included ‘infinite blasphemies’ and was, Falkes claimed, to the dishonour of the church of Canterbury. Before Falkes was absolved, he reported that Langton referred to him as the ‘scourge of the earth’, the ‘affliction of the natives’ and insulted him in various ways. If Falkes’s account is accurate, he was indeed treated unfairly, since after his absolution he claimed to have been imprisoned for nine weeks, still naked.<sup>114</sup> Langton’s sermon, however, seems to fit with the practice that excommunicates’ crimes be published before the people before absolution was granted, even if Langton’s words were unusually strong. It is less certain how standard was the letter Falkes had to distribute, stating the terms of his absolution, and publicising his agreement that should he fail to fulfil them, he would automatically fall back into his sentence.<sup>115</sup> Falkes’s letter survives in the chancery rolls, which do not appear to contain other letters of this sort. However, there are at least two similar letters recorded in the register of Walter Bronescombe, bishop of Exeter, in which knights publicised the crimes for which they had been excommunicated, and the terms of their absolution.<sup>116</sup>

Evidence from chronicles describing events from the first half of the century equally confirms that penance involving public beatings and barefoot processions took place in order for absolution to be granted.<sup>117</sup> As Rosalind Hill noted, public figures could sometimes be spared the harsher aspects of penance, such as a knight in Oliver Sutton’s register who was let off his penance because it would injure his dignity and cause unnecessary civil disorder.<sup>118</sup> Chobham advised that noble men and women

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<sup>113</sup> *Reg. G. Giffard*, 186.

<sup>114</sup> *Coventry*, 268-9.

<sup>115</sup> *CR 1227-31*, 228-9; cf. *PR 1225-32*, 210-11.

<sup>116</sup> *Reg. Bronescombe*, nos.1085, 1156.

<sup>117</sup> *Melrose*, 130-2, 132-4; *Flores Hist.*, ii, 224-5; *Ann. Worcester*, 430-1.

<sup>118</sup> Hill, ‘Public penance’, pp. 221-3.

should not be whipped on bare flesh, but should be covered with a thin material, so that they would still feel the scourge through it.<sup>119</sup> Nevertheless, this was by no means standard procedure. The knight from the diocese of Worcester was afforded no such kindness, and prince Louis was forced to walk ungirded and barefoot to pray for absolution from the legate in 1217.<sup>120</sup>

Once people had fulfilled the requirements for absolution, or provided sufficient surety that they would do so, they could be absolved. This again involved a public solemn ceremony. Here, the penitent was received back into the church with prayers and acts of reconciliation.<sup>121</sup> With this done, further publication was needed to alert people to the fact that someone was no longer bound by excommunication. Publication of such information was, of course, partly so that people ceased to shun those who had returned to the church, or who had been judged wrongfully sentenced. It is clear, however, that people were extremely keen on having such information spread so that their reputations were not further damaged.<sup>122</sup> The importance of publishing absolutions from sentences of excommunication, suspension, and interdict is made plain in the legatine Council of London (1268), which asserts that this should be done so that no one be avoided by others ‘in sui contumeliam vel scandalum’.<sup>123</sup> The same was done in the secular sphere when sentences of outlawry were annulled. That the outlawry of Hubert de Burgh had been declared null was to be proclaimed through the whole county of Berkshire, for instance.<sup>124</sup> It is perhaps unsurprising that when archbishop Winchelsey was absolved from excommunication, he took pains to ensure that this fact was well publicised. He thus sent letters to every bishop in his province (or to the officials in vacant sees) asking that they publish his papal absolution, ‘so that, *infamia in bonam famam conversa*, all scandal and suspicious wavering concerning the damage of our status is deleted from the minds of Catholics’. The

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<sup>119</sup> Chobham, *Summa*, 259. Cf. Mansfield, *Humiliation of Sinners*, 126-7.

<sup>120</sup> *Melrose*, 130-2.

<sup>121</sup> See Hamilton, ‘Remedies for “great transgressions”’; Hamilton, ‘*Absoluimus uos uice beati petri apostolorum*’.

<sup>122</sup> On defamation in medieval England in general, see Helmholz, ‘Introduction’ to *Select Cases on Defamation*; *Oxford History of the Laws of England*, 565-89.

<sup>123</sup> *C&S*, 774.

<sup>124</sup> *Royal Letters*, 443-4. Note, however, a crucial difference between excommunication and outlawry: a sentence of outlawry could be annulled, but could not otherwise be lifted.

archbishop would understandably want his absolution publicised, and he also had the means to make sure this was achieved.<sup>125</sup> In one instance, the archbishop of York even asked the king that the absolutions of various men be publicly proclaimed in his jurisdiction.<sup>126</sup> Likewise, the monks of St Alban's, who had been sentenced by the bishop of Durham, were to be announced absolved throughout the bishopric.<sup>127</sup>

Mandates ordering publication of revocations are also common, and particularly strong efforts in these cases make sense, since the excommunicates would have been unjustly defamed by their sentences. A clear example of how excommunication affected reputation can be found in the parliament rolls, in 1293. Master John of Pilsdon had been publicly excommunicated by the bishop of London, in the presence of the justices in eyre and other magnates. John had, however, procured a letter from the official of Canterbury, which would be read out 'to clear his *fama et status*, and to show the court and the lord king's lieges that the aforesaid bishop's sentence did not bind him in any way'. The letter, however, was seized from John before it could be read, and taken away by a clerk. Although the bishop originally claimed that, as the letter had been addressed to him, he could keep it without contempt to the king, he later admitted that the letter had been intended to clear John's reputation and status, and that he should not have prevented him having it. The letter was to be given to John, and the bishop was 'liable to punishment for the aforesaid trespass at the lord king's pleasure'. Anything done by the bishop to John's injury, or against the terms of the letter, was to be annulled.<sup>128</sup> This whole dispute, then, had been about the loss of reputation resulting from excommunication, and the necessity of correcting this. When John was prevented from clearing his name, he took the matter to the king.

When the pope ordered that Archbishop Boniface's excommunication of the monks of Holy Trinity and the canons of St Paul's, London, be declared null, he wrote that they should not be considered bound by any chain 'nor through its denunciation be

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<sup>125</sup> *Reg. Winchelsey*, ii, 763-5. For Winchelsey's excommunication and its causes (a dispute over the church of Pagham), see Denton, *Robert Winchelsey*, 273-4 and nn. 6-7.

<sup>126</sup> *SKB*, i, 46.

<sup>127</sup> *CM*, vi, 382.

<sup>128</sup> *Parliament Rolls*, i, 567-9.

notorious or avoided'.<sup>129</sup> Nearly two years later, at the complaint of the same, who asked that the pope 'provide for them over excommunication and denunciation', Innocent IV wrote to the archbishop, ordering him to cease making any further denunciations, and to declare the targets of these sentences absolved in places he considered expedient.<sup>130</sup> A sentence potentially brought against the dean of Stamford was not to be published, and to be publicly refuted, because the archdeacon of Westminster had exceeded his authority in the matter in hand.<sup>131</sup> A dispute in parliament between the archbishop of Canterbury and the king's bailiff, in 1280, ended with the archbishop promising to revoke a sentence of excommunication in all the churches where the denunciation had been made.<sup>132</sup> In one case, the injured party was to have control over how his name was cleared. The Court of Canterbury ordered that, if any sentences had been promulgated against a certain William de Bernham, the archdeacon of Huntingdon was to declare them null and void wherever he was requested to do so by William.<sup>133</sup>

In most cases, mandates for revocation state merely that a sentence had been declared null and should be announced as such. We cannot know, in contrast to sentences of excommunication, how strongly these revocations were worded in practice. It is possible that in the case of publication of annulments, the negative publicity against the wronged excommunicate might be counteracted with equally strong words against those who had unfairly sentenced him or her. A letter sent by archbishop Pecham, in 1281, supports this possibility. Pecham described how the friars of Scarborough had been invalidly sentenced by the abbot of St Alban's. The abbot had been 'led, or rather seduced, by more perfidious counsel', and 'against all reason ... struck down the Friars Minor at Scarborough, not from the authority of the keys but with the key of enflamed rage'. He was unable to do this legally, so this 'furiaca sententia', which 'opposes God and favours the devil', was not to harm the friars in any way. The recipients of the letter, the deans of Pickering and Ryedale and the vicar

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<sup>129</sup> *CM*, vi, no.96; *Foedera*, I.i.275. They had been excommunicated for denying him right of visitation.

<sup>130</sup> *Ann. Burton*, 304.

<sup>131</sup> *Reg. Sutton*, iv, 55-6.

<sup>132</sup> *Parliament Rolls*, i, 163-5.

<sup>133</sup> *SCC*, 112-8.

of Scarborough, were themselves threatened with excommunication if they were negligent in announcing that the sentence did not stand.<sup>134</sup> There is no way of knowing whether the deans and vicar were supposed to declare the sentence's nullity using Pecham's text, or if so, whether they did so. But if the friars' reputations had suffered, the vehement condemnation of the abbot would have gone a long way towards clearing their names.

### ***SCANDAL AND PUBLIC UNREST***

The publicity given to sentences of excommunication and penances caused individuals to feel humiliated and defamed. In some circumstances, there was even more at stake when sentences were promulgated. Rulers had more to be concerned about than just their reputations. In times of conflict, sentences of excommunication could potentially exacerbate existing tensions, posing a real threat to an established regime. Those who held positions of power only tenuously might well dread the publication of sentences. The issue was not simply that people might be given an excuse to rebel, but that public excommunication, in itself, might stir up trouble. In the same way that preaching might be feared for its ability to persuade and spread information detrimental to those in power, the rhetorical force of excommunication, manipulable by political enemies, was a cause for concern.

While Simon de Montfort was acting on behalf of the king, during his ill-fated time in Gascony, he was excommunicated by the archbishop of Bordeaux. The archbishop claimed (apparently falsely) that the earl had captured him and laid violent hands on him in the process.<sup>135</sup> Montfort appealed to the pope, asking that the sentences be relaxed.<sup>136</sup> Not only had the archbishop made false assertions, but he had contravened the exemption granted to Montfort that forbade anyone in Gascony

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<sup>134</sup> *Reg. Epp. Pecham*, i, 246-8.

<sup>135</sup> For Montfort's disastrous time as Henry III's lieutenant in Gascony between 1248 and 1254, see Maddicott, *Simon de Montfort*, 106-24.

<sup>136</sup> *Reg. Innocent IV*, iii, no.6503.



promulgating a sentence of excommunication against him for two years.<sup>137</sup> In fact, this privilege might have expired by the time Montfort was excommunicated, since it was granted on 28 January 1251. The papal letters concerning his excommunication date from late-March and early-April 1253.<sup>138</sup> Nonetheless, the pope ordered that enquiry be made by the bishop of Clermont, and that, if he found Montfort's account true, he should declare the sentences null and void. If Montfort was found culpable, the bishop was to absolve him, after securing adequate satisfaction and enjoining fitting penance.<sup>139</sup>

Montfort had been in Gascony for more than two years before soliciting his exemption, apparently at the height of his troubles caused by opposition from the Gascon nobility. At the same time, Innocent IV had ordered the bishop of Agen, with the help of the archbishops of Bordeaux and Auch, to make peace between Montfort and his opponents. The bishop was empowered, if necessary, to absolve the nobles from any oaths made in connection with conspiracies, and from any sentences of suspension, interdict or excommunication that they would incur for breaking them. He was to restrain them through ecclesiastical censure.<sup>140</sup> This letter, dated 31 January 1251, was clearly associated with Montfort's privilege, dated three days earlier. It was in this period that Montfort was forced to return to England to ask for more money from the king, who also sent royal commissioners to Gascony, in January, to settle the disputes.<sup>141</sup> Whether Montfort was facing excommunication in 1251 is unclear, though the bishop of Agen was also told to investigate and punish 'clerks stirring up violent discords and such wars', suggesting that Montfort was facing problems from clergy as well as laity. Certainly, in the face of such disturbances, Montfort saw the value of being immune from excommunication. Whether or not he was afraid for a particular reason, there is no doubt that excommunication would have made his already precarious position even worse.

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<sup>137</sup> *Reg. Innocent IV*, iii, no.6500.

<sup>138</sup> *Reg. Innocent IV*, ii, no.5019.

<sup>139</sup> *Reg. Innocent IV*, iii, no.6500.

<sup>140</sup> *Reg. Innocent IV*, ii, no.5016.

<sup>141</sup> Maddicott, *Simon de Montfort*, 113-4.

Montfort's privilege protected him from the various consequences of excommunication, including the possibility that it be used by rebels to justify their dissension. Nevertheless, the privilege, which specifically forbade promulgation of any sentence against him, indicates that Montfort's primary concern was the publicity attached to excommunication.<sup>142</sup> This makes sense, given the mention of clerks 'stirring up' wars, since a venomous sentence publicised throughout Gascony would have been an effective means of rousing sedition. In 1253, Montfort's complaints also focused on promulgation. No specific mention is made of the injuries suffered by Montfort. It is merely stated that he experienced 'no small detriment' as a result of the public announcements that he was excommunicated.<sup>143</sup> Montfort did not complain that he was being shunned. The pope's responses centre on the promulgation and public denunciations of his sentence. Not only were these to be relaxed (if they were indeed based on false assertions), but proclamation was to be made that the earl was not bound by such sentences.

When Montfort was in Gascony, the possibility that people could be provoked to rise against him was a real and serious one because there was already civil unrest in the duchy. Similar problems had been at stake in Ireland in 1219/20. A letter from the archbishop of Dublin is explicit about the dangers of excommunication exacerbating an already unstable situation. The archbishop wrote to the king concerning the archbishop of Cashel's demand for restoration to the new town of Cashel, backed by orders to excommunicate Geoffrey Marsh, justiciar of Ireland, and to interdict his province, unless these lands were restored. The archbishop of Dublin suggested that 'it is not expedient to stir up discord, especially in these days, when parts of Ireland have been accustomed to be disturbed easily (*de levi*)'. He advised the king to grant the archbishop of Cashel custody of the town until the king's majority, and to dissuade the archbishop from his process before the pope, 'lest occasion of a trivial matter be a cause of greater disturbance' (a standard justification, adopted on this as on many other occasions).<sup>144</sup> No mention of publication is made here, and it is possible that the threat

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<sup>142</sup> *Reg. Innocent IV*, ii, no.5019.

<sup>143</sup> *Reg. Innocent IV*, iii, no.6500.

<sup>144</sup> *Royal Letters*, no.60.

of interdict was particularly problematic, since interdict was designed to coerce individuals by inconveniencing communities. Nonetheless, disturbances arising from the use of ecclesiastical censures in Ireland, shortly after this letter, demonstrate that the archbishop of Dublin was not wrong, even though he himself became the cause of such disturbances. In due course, as we have seen, the archbishop stirred up problems by his excommunication of Thomas fitz Adam, a royal bailiff now unable to perform his duties. Those who told the archbishop that he was not allowed to excommunicate royal bailiffs without the king's permission also warned him that he had 'greatly defamed' fitz Adam.<sup>145</sup>

For kings of England, both reputation and the possibility of political unrest constituted fears associated with excommunication. In times of peace, an excommunication publicised against the king would be a great scandal, potentially damaging his reputation. Even so, it would not necessarily endanger his ability to rule. Complaints that excommunication – of both the king and his ministers – would disparage the king can be found expressed regularly during the century, but there was also concern that scandal and unrest would be provoked by the sanction. Such concern tended to coincide with periods in which the kingdom was in some degree of turmoil, when excommunication potentially posed a considerable threat to royal power. What was at stake varied a great deal from case to case.

Although Henry III's piety was one cause of his attempts to forestall the sentences threatened by Alexander IV during the Sicilian business, there is no doubt that he was concerned about the publicity of excommunication. Thus Alexander's letter of 12 December 1257 reassured the king that he had not incurred excommunication, making reference both to Henry's *conscientia* and his *fama*. The king was, in particular, not to be considered stained by the guilt or stigma of perjury. This phrase, 'reatum vel nota perjurii', was used twice in Alexander's letter, and indicates that the king was concerned about both the crime itself, and about being branded a perjurer.<sup>146</sup> The same threats occur in the original grant to prince Edmund of

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<sup>145</sup> *Royal Letters*, no.72.

<sup>146</sup> *Foedera*, I.i.366; *Les Registres Alexandre IV*, ed. Bourel de la Roncière, ii, no.2379.

the kingdom of Sicily: if the king contravened the terms, he would be ‘respersus’ and ‘notatus’ by the stain and guilt of perjury (‘labe ac reatu’).<sup>147</sup> Here perjury is inextricably bound up with excommunication, since the king would be simultaneously guilty of the one and bound by the other. Both would damage the king’s reputation, and any sentences promulgated against him would have publicised his perjury as a cause of his excommunication.

The king was also aggrieved by the excommunication of his officials or of religious houses under his protection. The desire to preclude excommunication of royal officials was partly to prevent government grinding to a halt if they were unable to perform their duties. But complaints that the king’s privileges had been infringed also noted that his reputation was at stake. Thus in 1244, when the mayor and bailiffs of Winchester were excommunicated by the local diocesan, against the terms of the king’s papal privilege, the complaint was that the king’s *fama* had been blackened.<sup>148</sup> Henry was also annoyed, in 1233, when certain of his nobles were to be excommunicated by the bishop of Rochester, Henry of Sandford. Even though they alleged that it had been too dangerous for them to appear before papal judges delegate, and although they sent a proctor to obtain absolution, the bishop nevertheless wished to denounce them through the entire realm. The king felt that this would disparage his papal privilege, and appealed lest the privilege was infringed.<sup>149</sup> His letter does not specify which nobles were in danger of suffering denunciation, and it is therefore unclear what precisely was happening here. In all likelihood, these were repercussions of the arrest of Hubert de Burgh and the ongoing tensions resulting from the regime of Peter des Roches. It is obvious, however, that the king objected, in particular, to public proclamation of the bishop's sentence.

So keen were English kings to be free from excommunication’s public effects that they insisted upon general sentences including a clause specifying that the sentence did not include the king. Thus in 1293, the archbishop of York was reprimanded for excommunicating the bishop of Durham. According to the Bury

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<sup>147</sup> *Foedera*, I.i.317.

<sup>148</sup> *CPR 1232-47*, 438-9.

<sup>149</sup> *Royal Letters*, no.341.

chronicler, ‘the king was furious with the archbishop ... partly because the bishop of Durham was his familiar, and partly because he and his sons were not excepted, it was said, from the sentence pronounced, against the privilege granted to him by the Roman curia’.<sup>150</sup> The previous year, a complaint had been made before the King’s Bench by the sheriff of Buckinghamshire and Bedfordshire. The sheriff noted that an excommunication against certain of the king’s men, who had distrained the archdeacon of Buckingham’s beasts, was promulgated ‘throughout the whole county of Buckingham in every deanery and public place’, but that the sentence had not excepted the king’s men or even the king himself, as was customary. This was injurious to the crown and against the king’s dignity, particularly because the king had given the orders from which the excommunication resulted. It was a further scandal that the king’s ministers could be punished simply for executing his commands.<sup>151</sup>

The fact that the king insisted on being excepted from such sentences is odd. When an excommunication explicitly stated that the king and his family were not to be included in the sentence, as so many did, the king was nonetheless implicated. There was no need to state that a sentence was not intended to incriminate the king unless he was involved in some way. Given the publicity afforded to sentences of excommunication, it is difficult to see how excepting the king from general sentences did any good. On the contrary, it might be thought to have done harm, by specifically associating the king with the offence committed. Oliver Sutton, for one, used such means to condemn the king’s treatment of the clergy in 1297: ‘however much the bishop had tried to soften the blow, the king stood accused’.<sup>152</sup> Nonetheless, it was certainly the accepted custom, one used by the sheriff of Buckinghamshire and Bedfordshire to his own advantage in 1292.<sup>153</sup> The king’s response to the sheriff’s complaint is unknown, since it was decided that the matter required the presence of

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<sup>150</sup> *Chron. Bury*, 116-7.

<sup>151</sup> *SKB*, ii, 80-1.

<sup>152</sup> For Sutton’s accusation, see above, 102. This quotation is from Denton, *Robert Winchelsea*, 157.

<sup>153</sup> Further references to the king being excepted from general sentences include (in chronological order): *CM*, iii, 201; *Ann. Dunstable*, 150; *Flores Hist.*, ii, 342; *CPL*, 233; *CM*, iv, 636-7, v, 36-7, 351-2, vi, 222-5; *Foedera*, I.i.447-8; *Reg. Bronescombe*, nos.1024, 1429 (Richard of Cornwall only excepted); *Cotton*, 158, 335-6; *Reg. Epp. Pecham*, i, 147-50, ii, 604, 606-8; *Reg. le Romeyn*, i, no.127, no.553; *Reg. Sutton*, iv, 104-5, 107-8; cf. *CPL*, 160. See also Hill, ‘Theory and practice’, 7, and Douie, *Archbishop Pecham*, 104.

Master Richard, the archdeacon of Buckingham who had pronounced and published the excommunication. It is clear, however, that although the king must be able to have his orders executed as he desired, exempt from sentences of excommunication, this particular case posed no real threat to the kingdom's tranquillity.

This was not so at other times during the century. King John's excommunication, as already discussed, became a severe threat when combined with baronial unrest.<sup>154</sup> John's is a special case, however. His excommunication came only after England was placed under interdict, meaning that his sentence could not have been publicised in the usual way, in churches during mass. In fact, Wendover noted that his excommunication was not published by the few clergy who remained in England, but that the news spread nevertheless.<sup>155</sup> John was confronted with excommunication used as propaganda against him and the risk that it might provoke more widespread unrest. So were both Henry III and Edward I.

In 1259, and therefore after the challenge to Henry's authority set out in the Provisions of Oxford, the king was again threatened by Alexander IV, via his penitentiary, Velascus. The pope insisted, on pain of excommunication, that Aymer de Valence, bishop of Winchester, be restored to his see. The king, however, argued that he could not allow this without provoking crisis and overturning the laws of the kingdom. Aymer (Henry's half-brother) was so unpopular that he had been expelled from England by the same baronial coup that imposed the Provisions. As a result of the king's refusal, Velascus threatened to promulgate sentences of excommunication and interdict against him and his lands. Thus, wrote Henry, the pope's representative had no thought for the danger that might ensue, or the scandal it might rouse in the entire kingdom, amongst both clergy and people. The king contended that the customs of his realm did not allow Velascus, as a papal nuncio, to make such threats or promulgate such sentences.<sup>156</sup> In the turbulent climate of 1259, the king could ill afford excommunication and interdict. He clearly felt that Velascus threatened not only the

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<sup>154</sup> Cheney, *Pope Innocent III*, 320-7; Maddicott, 'Oath of Marlborough', 288-90, 313.

<sup>155</sup> *CM*, ii, 526-7; Cheney, *Pope Innocent III*, 320.

<sup>156</sup> *CR 1256-59*, 490-2.

king's reputation, but his very position. In these circumstances, the spiritual aspects of the sanction were the least of Henry's worries.

Edward I expressed similar concerns in 1297, in the midst of Scottish rebellion and with his own nobility murmuring their discontent. This was perhaps the first time in his reign that Edward faced serious disquiet amongst his nobles. He had taken exception to excommunications in the past, notably in his dealings with archbishop Pecham, both in individual cases and when he ordered Pecham to revoke various general sentences pronounced at the provincial council of Reading. In these instances, the king's anger seems to have been roused by the perceived infringement of his rights and jurisdiction, and by the possibility that the sentences might hinder his officials. It is also possible that he was aware that sentences might influence public opinion. The concerns about excommunication in the first twenty-five years of his reign, however, were distinct from those of 1297. Certainly, he was still concerned about how, if his ministers were excommunicated, it would 'redound in grave and enormous injury to our royal dignity and crown'. But he was also concerned about scandals that might threaten his realm. In 1297, the dispute ignited by *Clericis laicos* led the king to seize grain and other goods from the clergy, by necessity, as he claimed. This in turn led the clergy to threaten those who had seized such grain on royal orders. The king wrote to the archbishops and bishops, forbidding them to excommunicate his ministers, citing the injury it would bring to his dignity, but adding that it would also result in 'more apparent scandal of the people, so that from this, destruction of the church (in England), and destabilisation of the entire kingdom might very likely (*verisimiliter*) follow'.<sup>157</sup> He may have been concerned that excommunication and rumour-mongering were uniting clergy and laity against him in opposition to his proposed war in Gascony.<sup>158</sup> Public clerical hostility to this war might cost him valuable support from other parts of society.<sup>159</sup>

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<sup>157</sup> Denton, 'Crisis of 1297', 571 (27 February 1297); *Foedera*, I.ii.875 (19 August 1297). The letters are very similar, but only the latter mentions 'scandalum populi'; it also provides greater justification for Edward's actions.

<sup>158</sup> Denton, *Robert Winchelsea*, 116-18.

<sup>159</sup> Burton, 'Politics, propaganda and public opinion', 235-41.

Earlier in the year, Edward had ordered a commission to inquire into disturbers of the peace who spread news and slander, those who disturbed the execution of his commands, those who issued sentences of excommunication, those who published sentences previously pronounced (this almost certainly refers to publicising *latae sententiae*), those who promulgated sentences against his ministers or subjects enforcing his commands, or those who did anything through which the peace and tranquillity of the realm might be disturbed. These malefactors were to be imprisoned.<sup>160</sup> The commission makes clear that excommunication, and clergy who promulgated sentences, were seen as threats to the kingdom's peace. That the first malefactors condemned were gossip-mongers, coupled with the emphasis on promulgation of sentences, both general and against individuals, makes it clear that what was dangerous about excommunication was the publicity. Edward could not risk the widespread dissemination of accusations damaging to himself and his officials. He was genuinely concerned about the effects of such dissemination, of the scandal it might create, of the unrest it might provoke. He had always felt aggrieved by the excommunication of his servants, but he had never before been so worried by the civil unrest such sentences might rouse. Publishing sentences was itself a subversive act, as far as the king was concerned.

#### ***VIOLENCE TOWARDS CLERGY USING EXCOMMUNICATION***

Considering the publicity given to sentences, and the strength of the sentiments expressed in such sentences, it is to be expected that people would sometimes consider their best option to be preventing publication, by whatever means might prove necessary. When such attempts to prevent denunciations were successful, excommunication was rendered ineffective. Yet the measures taken to prevent publication demonstrate how dangerous the publicity of excommunication was believed to be. Perhaps the most striking example of this can be found in the efforts of

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<sup>160</sup> *CPR 1292-1301*, 239; *Foedera*, I.ii.875. I am grateful to Simon Parsons for his help with translating the Anglo-Norman.



the Montfortian regime to prevent the legate, Guy Foulquois, either from landing at Dover or from publishing his sentences in England. Montfort's position was by no means secure, and could not risk the damage that such sentences would do to his cause and his own name. He was forced, therefore, to obstruct the legate's mission (which in itself resulted in a sentence of excommunication).<sup>161</sup>

Public denunciations of the earl and his cause would clearly have proved detrimental. By 1264, Montfort relied a great deal on popular support. Many of his fellow nobles had returned to the king's allegiance by the time of the battle of Lewes, and Montfort therefore needed to keep his wider support. In the summer on 1264, he also needed to raise an army to defend England against an imminent French invasion (that never materialised).<sup>162</sup> Second, Montfort's cause was presented as a religious one. This would be severely undermined if churchmen up and down the country were to proclaim their condemnation of the earl and his principles, pronouncing all those who supported them cut off from the church. Third, Montfort did have the backing of a number of churchmen who publicly garnered support. The friars, in particular, helped him by preaching. He thus maintained a precarious monopoly over ecclesiastical propaganda. If the legate had been allowed to enter England, the excommunications he pronounced would have challenged this. It is likely that, as with the sentences discussed at the beginning of this chapter, excommunications against Montfort and his followers would have been phrased in extremely vitriolic language. The 1263 sentence pronounced by archbishop Boniface (also never published in England) condemned the sacrilege of various named men, and declared Montfort 'most responsible'. His supporters were declared to be sons of iniquity, and their heretical depravity and nefarious daring was condemned. The cause of their excommunication, however, was merely their infringement of *Si quis suadente*. Though the sentence, in 1263, would have undermined the presentation of the Montfortian cause as religious, since Simon and his supporters had committed a number of offences against the church listed by Boniface, there was no mention of the reform movement.<sup>163</sup> If his later letters are

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<sup>161</sup> D.94, c.2.

<sup>162</sup> Maddicott, *Simon de Montfort*, 290-1.

<sup>163</sup> Oxford, Bodley MS 91, f. 136r-v.

anything to go by, Gui Foulquois would have condemned not only the means, but also the ends.<sup>164</sup> When he became pope, Gui (now Clement IV) described Montfort as a tyrant who had infected others with his false piety. Excommunication would have ‘undermine(d) the whole moral and religious foundation for [his] enterprise’.<sup>165</sup>

When Guy's envoy, the friar Alan, landed at Dover he was told that if he carried a single letter in injury to the kingdom, he would lose his life.<sup>166</sup> Montfort and his supporters were already excommunicated; what had to be stopped were the denunciations, lest Montfort's dwindling supporters were persuaded that they were in fact acting against the wishes of the church and of God. Montfort categorically refused to allow the legate into England.<sup>167</sup> The legate's complaints are attested by several chroniclers. Thomas Wykes reported that the legate was constantly denied entry into the kingdom, the rebels intending to kill him if he came to interfere in any way. He also noted that the archbishop, Boniface of Savoy, was at this time exiled in France, ‘fearing for his skin out of terror of the barons’. When the legate ordered the bishops of Worcester, London, and Winchester to excommunicate the barons and to interdict London and the Cinque Ports, his letters were torn up and thrown into the sea upon their arrival at Dover. Wykes, a royalist, was unsure whether these bishops – who were later all excommunicated for supporting Montfort – had been captured willingly or unwillingly, but nevertheless noted that they were threatened with death if they should publish anything that had been contained in the letters.<sup>168</sup> The same incident was noted by the *Flores Historiarum*, while the continuator of Gervase of Canterbury also recorded the detail that the letter was found in the harness of the bishop of London.<sup>169</sup> The London Annals similarly recorded that no sentences were published, and the legate could not enter England, ‘for fear of the barons’.<sup>170</sup>

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<sup>164</sup> Gui's legatine register (*Papst Clemens IV*, ed. Heidemann) includes a large number of letters condemning the barons and ordering that excommunications be published, but it is not here possible to discuss them at length.

<sup>165</sup> Maddicott, *Simon de Montfort*, 291.

<sup>166</sup> *Papst Clemens IV*, ed. Heidemann no.12a.

<sup>167</sup> *Papst Clemens IV*, ed. Heidemann, no.19. Ambler, ‘Peacemakers and partisans’, 182-6, 199-204.

<sup>168</sup> Wykes, 155-7.

<sup>169</sup> *Flores Hist.*, ii, 500-2; *Gervase*, 238-9.

<sup>170</sup> *Ann. Londoniensis*, 64-5.

The unqualified need to prevent excommunications being published against the barons in England in 1264-1265 is clear enough. Public religious condemnation could have deprived Montfort and his accomplices of desperately needed support. People might have thought twice about supporting excommunicates and of incurring excommunication themselves. However, as we have seen, the reform agenda remained popular, despite excommunication. The danger in 1264 was that the sanction could work as propaganda. The language that might have been used, accompanied with the ritual, might have persuaded people to change their minds about the religious legitimacy of the enterprise.

Clergy were also prevented from pronouncing sentences in more local disputes, for example in the great cause at Thame (ch.5 below), when clergy gathered to perform an excommunication ceremony, and at Ecton, when candles and papers were snatched from the hands of priests proclaiming the 1222 Oxford sentences.<sup>171</sup> In Guthmundham, the books and candle being used by the vicars of Whyton and Hayton in an excommunication ceremony were torn from their hands.<sup>172</sup> Clergy were never given the opportunity to denounce Jordan, a man from the Channel Islands, because he snatched the letters containing his sentence from a woman named Matilda. Jordan was accused of obtaining an abortion for Matilda, but since it was found that Matilda had in fact miscarried as a result of his assault, he was pardoned. Whether these attacks related to publication or other consequences of excommunication, clearly publication itself was treated as a serious matter.<sup>173</sup>

Violence might likewise be used to avenge clergy who had pronounced sentences. The problem was sufficiently common that it was addressed in the Council of Lyons II (1274). This declared anyone who ordered clergy to be killed, captured or molested for promulgating excommunications against public figures *ipso facto* excommunicated.<sup>174</sup> Such attacks would in many cases have been reactions against the

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<sup>171</sup> See chapter 5, and 270, n.100.

<sup>172</sup> *Register of Thomas Corbridge*, ii, 13. The malefactors had invaded a prebendial church, expelling and beating the proctor of the rightful prebendary. This is a calendared entry, and I have not checked the MS for the Latin for 'books'.

<sup>173</sup> *CPR 1301-07*, 303; *CCR 1302-07*, 231.

<sup>174</sup> Tanner, *Decrees*, i, 331.

publicity given to excommunication. According to Matthew Paris, certain people of his diocese, both clergy and laity, objected to Grosseteste's orders that the Magna Carta sentence be unceasingly renewed by priests, parish by parish. As a result they inflicted abuses on these priests (which of course caused them to be *ipso facto* entangled in the chain of anathema).<sup>175</sup> Frederick II, who was excommunicated by the papacy three times, reportedly imprisoned the erstwhile legate in England, Otto, because he had published Frederick's sentence in England and 'to no moderate degree defamed' the emperor.<sup>176</sup>

## CONCLUSIONS

Excommunications were well publicised. Advertisement was a fundamental aspect of the sanction. The purpose of this was ostensibly to ensure that excommunicates were shunned, but its effects went beyond this. The publicity of excommunication could cause reputations to be damaged, inspire shame, and provoke scandal and public unrest. Excommunication was effective because it worked as propaganda. It could defame an individual, condemn a rebellion or publicise the fact that even emperors were subject to the church's decrees and sanctions. Excommunication of an enemy or opponent was desirable not only because they might be shunned and their souls be imperilled, but also because all would be informed both of their guilt and of the church's opinion on the matter. In circumstances in which excommunicates were most unlikely to capitulate (such as in wars), this might have been the sanction's primary purpose. It should also be noted that when excommunicates sought absolution, they sought to put an end to their public denunciations as much as any other consequence of their sentence. The church was certainly aware of the value of excommunication in this context. If there was a personal element at work, denunciations were likely to be more potent and to be promulgated far more broadly.

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<sup>175</sup> *CM*, v, 400.

<sup>176</sup> *CM*, iv, 170. Otto certainly did have Frederick's sentence publicised throughout England: *CM*, iii, 545, 568-73. Frederick complained to Henry III and the English nobility about the publication of his excommunication in England, calling it 'intolerable', and saying it brought injury, shame and damage to his empire, and contained defamation of his name and honour: *Foedera*, I.i.237-8.

## 5.

### VIOLENCE, EXCOMMUNICATION AND DISPUTE SETTLEMENT

#### THAME, 1292-4

On 8 August 1293, around two hundred armed laymen prepared to attack the church of Thame in Oxfordshire. They entered the cemetery, and prevented those guarding the church from leaving by encircling them on all sides. The men then proceeded to break holes in the walls on the western side of the church, so that they were able to shoot arrows as far as the great altar. After this they set fire to the church, and while it was burning beat two clerks who had been among the guards. In so doing they had desecrated the sacred space with bloodshed, but nevertheless caused mass to be said there. They continued to occupy the church by force.<sup>1</sup>

This dramatic assault on the church of Thame was the climax of a dispute that had been ongoing for almost a year, and that would continue for another before it was finally settled.<sup>2</sup> The dispute was between two rival claimants for the prebend of Thame (in this instance an ecclesiastical benefice without cure of souls<sup>3</sup>) in the diocese and attached to the cathedral church of Lincoln. The claimant who was ultimately successful in holding the benefice was Thomas Sutton, archdeacon of Northampton, a relative (possibly a nephew) of Oliver Sutton, Bishop of Lincoln (1280-1299).<sup>4</sup> Thomas had been collated to the prebend by the bishop, having acquired a papal dispensation to hold it in plurality, in September 1292.<sup>5</sup> Thomas's right was contested by a royal clerk, Edward, son of John of St John, who had a papal provision which he

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<sup>1</sup> *Reg. Sutton*, iv, 104-5.

<sup>2</sup> The dispute was not a feud, as such, but there was no doubt a great deal of personal enmity. Cf. Hyams, 'Nastiness and wrong, rancor and reconciliation'; Hyams, *Rancor and Reconciliation*, particularly 252.

<sup>3</sup> That the prebend did not involve cure of souls is mentioned numerous times in the records of the dispute.

<sup>4</sup> *Reg. Sutton*, iii, xl-xli.

<sup>5</sup> *Reg. Sutton*, iii, 197-98. Dated 30 April 1292.

claimed entitled him to the prebend. The St Johns were a prominent family in the area, and had close connections with the king.<sup>6</sup> Edward St John's claim was somewhat tenuous, however, since it seems that the terms of the papal provision were that he be provided with the next prebend to fall vacant in the diocese. This letter had been sent by Pope Nicholas IV in February 1292, and by the time that the prebendary of Thame died on 31 August, several prebends had already fallen vacant, one of which had been assigned to Edward St John.<sup>7</sup>

During the course of the dispute, both sides made use of a number of strategies in order to assert their rights.<sup>8</sup> The two rivals and their supporters both made use of violence, performed public acts to legitimise their claims, excommunicated their opponents, and sought help from the king, the papacy, and the ecclesiastical court of Canterbury. The issue was ultimately resolved by the king himself in parliament, when it was agreed that Edward St John would resign his claim, but would be provided with another benefice worth 110 marks.<sup>9</sup> Appeals made to the papacy came to nothing as the dispute coincided with an interregnum in Rome, between popes Nicholas IV († 4 April 1292) and Celestine V (consecrated 19 August 1294, though he resigned before the end of that year). The evidence for the progression of the prolonged argument has been gathered below, from a number of sources. The two most significant of these are the register of Oliver Sutton, which contains over twenty-five letters relating to the dispute, and the records of the Court of the Arches at Canterbury, which contains the depositions of witnesses for both sides, made in 1293 and 1294. Important information is also to be found in the Plea Rolls (from the Court of the King's Bench), the Patent and Close Rolls, and the Parliament Rolls. Despite the wealth of evidence (some one hundred printed pages), aspects of the dispute and its surrounding events remain unclear. Additionally, both of the two largest bodies of evidence should be treated with caution, since Oliver Sutton was a strong supporter of Thomas Sutton, while witnesses

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<sup>6</sup> See below, n. 77.

<sup>7</sup> *SCC*, 568-9 and 569, nn. 1, 2, 579.

<sup>8</sup> On use of various ways to resolve conflict, see Hyams, 'Nastiness and wrong, rancor and reconciliation'.

<sup>9</sup> *CCR* 1288-96, 390.

at the Court of Canterbury were brought by the parties themselves to testify on their behalf.

Thame was undoubtedly a desirable benefice, and the reason for St John's persistence is clear. Thame was one of the richest benefices in the diocese of Lincoln, worth almost fifteen times more than Decem Librarum, to which St John had been collated the previous year.<sup>10</sup> The prebend's appeal is further demonstrated by the fact that it had been the cause of a similar dispute some fifty years earlier.<sup>11</sup> Both claimants were equally unwilling to resign their claims to Thame, and the 1292-4 quarrel was therefore complicated and protracted. The strength of feeling is demonstrated by the violence performed by the Sutton and St John factions, and by the strength of language used in the bishop's excommunications, which were unusually maledictory. Excommunication played a crucial role in the dispute, but did not solve it. Though both parties complained about sentences of excommunication, neither side seems to have been persuaded to capitulate to pressure. The sentences should therefore be seen in context, as part of the wider dispute, bound up with other attempts at resolution. Most notably, excommunication denunciations were frequent and widespread, and thus an effective means of influencing *publica fama*, something of importance when facts were being discussed in the courts. Thus while the excommunications did not 'work' as a way of ending the quarrel, they were effective as part of a wider strategy. They cannot be separated from the violence used (in that they were a response to it), or from legal procedures (in that they could influence such procedures). The dispute as a whole was enacted entirely in the public forum. The collations and inductions of the parties were performed before an audience, as were the excommunications and appeals. When force was used, the incidents naturally became notorious in the surrounding area. Medieval justice, both secular and ecclesiastical, relied largely on the oral evidence given by witnesses, so that the public nature of any dispute, and the events associated with it, came to be of prime importance. If the twelfth century onwards is often viewed

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<sup>10</sup> Decem Librarum was valued in the great *Taxatio* of 1291 at £6 13s. 4d. Thame was worth £112. See *Fasti Ecclesiae Anglicanae 1066-1300*, iii, 65-6, 102. In the first half of the thirteenth century Decem Librarum had been collated to Peter de Chevermunt only until something better could be provided for the recipient, further demonstrating the unsatisfactory nature of that particular benefice (Burger, *Bishops, Clerks, and Diocesan Governance*, 183).

<sup>11</sup> See ch. 4, 171-2.

as the ‘age of law’, this dispute demonstrates that recourse to legal institutions was only one strategy amongst several, just as in the earlier middle ages, of dispute settlement.<sup>12</sup>

The prebendary of Thame died on 31 August 1292.<sup>13</sup> On 16 September, the bishop, as was his right, collated the prebend in favour of Thomas Sutton, who was publicly assigned a stall in the choir, and a place in the chapter of Lincoln five days later.<sup>14</sup> The collation was contested almost immediately, not by Edward St John but by one Peter of Savoy. The dean of Thame was instructed, on 23 September, to order the clergy and people not to receive Peter as prebendary, since he claimed the prebend on false pretences. He had occupied the prebend unjustly, and unless he and his men abandoned their position, they would be struck according to the decrees of the canons.<sup>15</sup> Peter presumably abandoned his pursuit of the benefice, for he is not heard of again, but his short-lived claim is further indication of the prebend’s desirability. Depositions made on behalf of Oliver Sutton in January 1293 reveal that Edward St John’s claim was first made in the king’s court at Berwick, at the end of October.<sup>16</sup> St John was apparently invested ‘by the cap’ to the prebend of Thame at Basing, by Thomas de Lewknor (a papal chaplain and royal clerk), on 24 October, although the claim is only corroborated by the testimony of witness depositions for St John.<sup>17</sup> On 7 November, the bishop was informed, by two of his clerks who had been at Berwick, of the threats made by Edward (or in his name) that his men intended to impede the collation of Thomas Sutton, and to molest, disturb, and violently invade the prebend. A force was apparently travelling from Berwick for this purpose.<sup>18</sup>

The immediate reactions of both Peter of Savoy and Edward St John were to seek to take the prebend by force. Possession of the church and its appurtenances was apparently a fundamental part of establishing title as rightful claimant. This was important partly for appearances’ sake. If members of the community saw that a

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<sup>12</sup> Davies and Fouracre (eds.), *Settlement of Disputes*, ‘Conclusion’, 237-8.

<sup>13</sup> William Ferre died in possession. *Fasti Ecclesiae Anglicanae 1066-1300*, iii, 102.

<sup>14</sup> *SCC*, 573.

<sup>15</sup> *Reg. Sutton*, iv, 37-8.

<sup>16</sup> *SCC*, 575, 577.

<sup>17</sup> *SCC*, 567, nn. 8, 9, and 585, 605-6, 607.

<sup>18</sup> *SCC*, 578. This is from the testimony of one of Oliver Sutton’s witnesses.



certain cleric, or his men, was in possession of the church, this would legitimise the claim, especially if they ever came to be witnesses in judicial proceedings. As Chris Wickham has argued, violent direct action could be strategic, as a means of initiating proceedings, by staking a claim.<sup>19</sup> Indeed it is difficult to imagine that Edward St John would have got very far if he had simply claimed that the prebend was rightfully his, without any attempt to occupy it. The response of the bishop to the news of the threats is telling. A *provocatio* was made to both Rome and Canterbury to prevent Edward from impeding Thomas Sutton's collation, and Sutton's proctor was inducted into corporeal possession of the prebend.<sup>20</sup> The corporeal induction should perhaps have been an important validation of Thomas's claim as prebendary, since the previous indications of his position (being assigned a stall in the choir and a place in the chapter) had taken place in Lincoln and would not necessarily have been known in Thame or nearby Oxford. This information, however, was afforded little prominence in the court of Canterbury, and was only mentioned by a single witness.<sup>21</sup> Far more important was the public appeal and provocation, which constituted the first recourse to law during the dispute.<sup>22</sup>

Although appealing to the law was obviously an important course of action to prevent the success of Edward St John's claim to the prebend, it is clear that publicising the appeals was equally significant. During November 1292, a series of appeals of various sorts were made by both sides, while both also excommunicated the other party. These actions should primarily be seen as attempts to influence public perception of events at Thame. The appeals came to nothing, since there was no pope, but it was widely publicised that each side rejected the claim of the other, and did so according to law. At the same time, public excommunications discredited the rival party, while also giving each further opportunity to assert the validity of his own claim. Both strategies were means of influencing and controlling *publica fama*, and hence of garnering support amongst the community. Wickham's discussion of twelfth-century

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<sup>19</sup> Wickham, *Courts and Conflict*, particularly 216-22; Wickham, 'Fama and the Law in Twelfth-Century Tuscany', 15-26.

<sup>20</sup> Appeals were attested by many witnesses, *SCC*, 569-79.

<sup>21</sup> *SCC*, 592.

<sup>22</sup> For tactical selection of procedures, see Hyams, *Rancor and Reconciliation*, 191-2.

dispute settlement in Italy emphasises the importance of public acts with witnesses. *Publica fama* could be used as a legal argument in itself, if public acts (direct action, ritual, and speech) created a local consensus.<sup>23</sup> Massimo Vallerani has observed (discussing ecclesiastical courts) that ‘that which counted was not the fact reconstructed by the parties, but the fact perceived in the parish and the negative *fama* of those behaviours, or of the person’.<sup>24</sup> The importance of public opinion is most visible in the Thame case in the witness depositions at Canterbury, but must have been equally crucial when the dispute reached the secular court.

The first appeal made by the Suttons apparently took place on 12 November, at Spaldwick, Huntingdonshire, where the bishop was then staying.<sup>25</sup> The appeal was made just in time, for by 14 November the force travelling from Berwick on St John’s behalf had reached Thame, and was trying to invade it, though their efforts to force themselves into possession of the prebend were unsuccessful during the winter of 1293/4. This indicates that the church was already being guarded. The immediate action taken by Thomas de Lewknor (the royal clerk who had invested St John) was to assign the prebend to St John, and to order Sutton’s men to leave.<sup>26</sup> One witness claimed that the Suttons’ supporters successfully prevented Lewknor from executing his intention.<sup>27</sup> Nevertheless, the physical presence of men attempting to secure the church for St John was a notable threat, and the Suttons made further appeals in the area (Spaldwick was over fifty miles from Thame). Thomas Sutton’s proctor thus publicly renewed the appeal in the presence of the parishioners of Thame, and appealed to Rome.<sup>28</sup> Those who had witnessed the induction of Edward St John the previous day would now know that this was contested by their bishop.

The public disputation seems at this point to have moved to Oxford, about thirteen miles from Thame, with both sides making various pronouncements in churches there. This was perhaps partly because it was the closest major town to

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<sup>23</sup> Wickham, *Courts and Conflict*, 85.

<sup>24</sup> Vallerani, *Medieval Public Justice* (trans. Sarah Rubin Blanshei), 38.

<sup>25</sup> *SCC*, 578, and 575 n. 7. The bishop had a manor at Spaldwick.

<sup>26</sup> *SCC*, 595, 606, 608.

<sup>27</sup> *SCC*, 608.

<sup>28</sup> *SCC*, 571.

Thame, but it also seems to have been where St John had his main support base, at least amongst the clergy. In mid-November, Thomas de Lewknor published both his assignment of the prebend to St John, and sentences of excommunication against the two Suttons, and had these published through the schools of Oxford. The witness who related this was not present on the relevant day, but when he had gone to Oxford the following Friday (21 November) he heard rumours ('rumores') about it. He said that these deeds were publicly disseminated through the whole of Oxford, and were public and notorious there.<sup>29</sup> In order to have had the assignment and the excommunications published through the schools, Edward St John, or Lewknor as his agent, must have had the support of a number of Oxford clergy and scholars. The publicity this secured for St John's cause was apparently significant, if we are to believe that the news of it was known to most of Oxford. The pronouncements of excommunications against bishop Sutton and Thomas Sutton were made on the grounds that they were impeding the papal provision, which presumably included a clause at the end, as was usual, ordering anyone who resisted such provision should be excommunicated (the provision itself is no longer extant). The witness added that the sentence was injurious to the two men, and unjust, pointing out that other prebends had become vacant earlier, and that St John had already been assigned another. No legal consequences seem to have resulted from Lewknor's excommunication of the Suttons. But excommunication was a means of publicly discrediting his rivals, with papal authority, and of further asserting St John's right by publishing his assignment at the same time. The same notice of the prebend's assignment to St John, and the excommunication of the Suttons, was published on 19 November, in the four schools of canon law and theology at Oxford.<sup>30</sup>

No text of the excommunication pronounced against the Suttons survives, but that ordered against St John is in Oliver Sutton's register. The mandate was sent on 17 November, while the bishop was still at Spaldwick (so presumably unaware of the proclamations made on behalf of St John in Oxford). Oliver Sutton ordered the archdeacon, his official, and the dean of Waddesdon, to publish a sentence against St

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<sup>29</sup> *SCC*, 572.

<sup>30</sup> *SCC*, 576.

John and his supporters, which he had recently promulgated (when is unclear).<sup>31</sup> The bishop began by setting out how he had rightly and legally collated the prebend to Thomas, who had been assigned a stall in the choir, and a place in the cathedral chapter at Lincoln.<sup>32</sup> He then explained the false position of St John, who claimed the benefice ‘pretending’ a provision from Pope Nicholas IV. On the ‘pretext’ of this provision St John had threatened to occupy and detain the prebend. In so doing, he was suppressing the truth and his provision was invalid. The bishop was therefore forced by his conscience to excommunicate him, desiring to defend his collation with the spiritual sword against those who presumed illicitly to impede it, invade it, occupy it, or detain it ‘with wicked daring’.<sup>33</sup> The bishop’s sentence thus laid great emphasis on the legal validity and procedural rectitude of Thomas’s collation, while stressing the fraudulent nature of St John’s claims, as well as discrediting him by condemning his attempts at illicit occupation.

The sentence was to be published by the archdeacon, with twelve chaplains dressed in white pontificals assisting him, in the church of St Mary the Virgin in Oxford, and in every church in the town of Oxford, all churches in the deaneries of Cuddesdon and Waddesdon, and in the church of Thame itself, for three Sundays. The usual ritual of excommunication, with bells ringing and candles burning, was to be enacted. Additionally, the sentence was to be fully explained in the ‘vulgar idiom’. Excommunication thus publicised the just cause of Thomas Sutton, with striking rituals, and in the vernacular. Since both sides were simultaneously excommunicating the other, it is unlikely that the sentences were obeyed or enforced. The sanction’s validity was probably damaged by the conflicting sentences, and nothing appears to have resulted from the pronouncement of the rituals. However, as a means of influencing public opinion on the matter of the disputed benefice, they may have had far more significant effects.

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<sup>31</sup> *Reg. Sutton*, iv, 47-9.

<sup>32</sup> i.e. important actions that confirmed the assignment.

<sup>33</sup> *Reg. Sutton*, iv, 48.

Meanwhile, the Suttons maintained their appeals, both in public and in writing, on numerous occasions.<sup>34</sup> A significant such appeal was on 30 November, in the presence of St John, and this appeal was read in Latin ‘before clergy and laymen in a great crowd (*in multitudine copiosa*)’ in the church of St Mary at Oxford.<sup>35</sup> It is possible that appeals were not made on each of these dates, if some of the witnesses were confused about exactly when they took place.<sup>36</sup> There may thus have been fewer publications of the appeals than the depositions imply, but several were certainly made in a number of places before crowds of people, as well as in writing. There is no question but that in November 1292, Oxford, Thame, and the surrounding areas were bombarded with mutually contradictory public pronouncements about the prebend of Thame, in the forms of appeals, announcements of collations, and excommunications. Such attempts to control *publica fama* would be important in future legal proceedings.

While these events were taking place, St John’s men had failed to take possession of the prebend. The cost of keeping them out is demonstrated by evidence from an entirely unrelated and separate source. Some time between 14 November and 28 December, probably when St John’s men first arrived at Thame, but possibly later, a man was killed. A commission of oyer and terminer was ordered into the murder of Peter of Wyresdale, a yeoman of Edward St John, on 28 December 1292 at Thame.<sup>37</sup> Whilst the proceedings in this case never intersected with those in the substantive pleadings over the church, it is significant as a first indication of the violence that Sutton’s supporters were prepared to use to protect the church (and thus an important corrective to all the propaganda promulgated via the bishop’s excommunications detailing the violence of St John’s men). It also supplies another instance in which the

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<sup>34</sup> Appeals were apparently made on 16 November; 17 November, in the Franciscans’ church in Oxford, ‘publicly in the presence of the clergy *in predicacione*’ and in writing; on 23 November in the presence of St John himself; on 26 November; one of the appeals involved the Dominicans’ church, *SCC*, 576, 577, 573, 576.

<sup>35</sup> *SCC*, 572.

<sup>36</sup> This certainly happens later on in witness depositions, when what was certainly the same event is attributed to 8, 9, and 10 August 1293.

<sup>37</sup> *CPR 1292-1301*, 44.

public perception of events could have been relevant. Eventually (but not until October 1294), twenty men were pardoned for the murder.<sup>38</sup>

From Rome came only silence. But the appeals made by both Thomas and Oliver Sutton to the court of Canterbury resulted in proceedings there at the end of January 1293. Depositions were made on behalf of each, which provide a great deal of the information thus far relayed. All the witnesses were provided by the Suttons and not by St John, and answered questions based on the Suttons' presentation of events. They were asked about Thomas Sutton's and Edward St John's respective collations, the appeals, and the excommunications pronounced against the Suttons. The depositions make clear that these events were being discussed locally. Thus John de Westborough had not been present in Oxford when Thomas of Lewknor had published his assignment of the prebend and the excommunications of the Suttons, but reported that these events were public and notorious amongst the people there.<sup>39</sup> Many witnesses admitted they did not know the answers to some of the questions put to them except through *publica fama*. Others had been present at what were clearly public events, intended to be witnessed by crowds.<sup>40</sup> Possibly because of further developments, nothing substantive emerged from these proceedings, and shortly afterwards more violence broke out.

Through the winter Thomas Sutton had managed to keep possession of the church of Thame. But on Thursday 12 February 1293, the second day of Lent, 'certain knights and others in a great crowd', in the name of Edward St John, ejected the agents guarding the prebend for Thomas Sutton.<sup>41</sup> These details come from a deposition made the following February, but the substance must be correct, for Sutton wrote to the king on 16 February 1293, asking him to remove a lay force detaining the church with force and arms.<sup>42</sup> The wording of this request was deemed 'deficient', and the bishop had to write to the king again on 2 March, asking that he take note, as the lay force was impeding administration of the sacraments, as well as the coming and going of

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<sup>38</sup> *CPR 1292-1301*, 97; 116.

<sup>39</sup> *SCC*, 572.

<sup>40</sup> For example Richard Abbraham, the final witness on p. 573, and M. Walter de Sutton on 576.

<sup>41</sup> *SCC*, 592.

<sup>42</sup> *Reg. Sutton*, iv, 64.

Thomas, 'the true rector', to his own church and parish.<sup>43</sup> These seem to have been the first appeals made to the king about the dispute, whose help was needed in the face of an armed force. Help from the king was not, however, forthcoming: Oliver Sutton sent further requests on 31 March and 15 May.<sup>44</sup>

In the meantime, he issued sentences of excommunication against those occupying the church. Only the excommunications of November 1292 mention any of the protagonists, St John and the two Suttons, by name. From March 1293, only general sentences, and those naming St John's supporters, were pronounced.<sup>45</sup> As with the November sentences, the March sentence contrasted Sutton's peaceful possession of the prebend and legitimate claim with the violent and nefarious actions of St John's men and the invalidity of St John's claim. The attack was described, and it was asserted that the attack was made in St John's name, but no one was named as excommunicated. St John was, however, incriminated as one of those 'providing help, counsel, or favour' to the malefactors, who also incurred the sentence. This demonstrates an important loophole regarding general sentences, which were difficult to enforce since the malefactors were unspecified. St John could not appeal the sentence because it was not issued against him by name, which was cited only as part of the description of the crime. General sentences could be advantageous, despite the fact that ostracism of an individual could not be expected to follow them. Had St John been able to appeal, denunciations would have had to be suspended while a decision still pended about the appeal. In later legal proceedings the technicalities regarding this would be a matter of contention.<sup>46</sup>

Mandates were sent to the archdeacon of Oxford, and the official of the archdeacon of Buckingham. The sentence was to be solemnly published through all the schools and churches of Oxford, and the churches throughout the deaneries of Cuddesdon, Waddesdon, and Wendover, and in Thame itself, for three Sundays and feast days. At least once in St Mary's Oxford, and at Thame, the denunciation was to

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<sup>43</sup> *Reg. Sutton*, iv, 67.

<sup>44</sup> *Reg. Sutton*, iv, 74, 84.

<sup>45</sup> *Reg. Sutton*, iv, 70-2.

<sup>46</sup> Although about sentences pronounced later in the year.

be made with twelve or more chaplains dressed in white. In theory excommunication denunciations were always to include a dozen clerks, and this specification demonstrates the impracticality of this when all the churches in the area were supposed to be simultaneously making the same pronouncement. Sutton wanted to ensure that there was at least one unusually solemn spectacle that would be noticed by everyone in Oxford and Thame. The people were to be openly and expressly warned not to communicate with those occupying the prebend, by eating or drinking with them, buying or selling, praying, or in other way communicating with them, on pain of excommunication. If the community could be persuaded not to help the occupiers in any way, the latter would be forced to leave, and since the sheriff was not expelling them as requested, the bishop would no doubt have welcomed this. The mandates also initiated a legal process, as general sentences usually did, by ordering that the executors find out the names of the malefactors, so that the bishop could proceed with canonical sanctions by name (though this seems not to have been the result at this stage in the proceedings). Although excommunications were a way of controlling the community's perception of events, they too relied on *publica fama* in order to discover the names of those involved. Excommunication could influence public opinion, but also relied upon it.

At this point, the dispute reached parliament. By this time, the sheriff had finally gone to Thame to investigate the matter.<sup>47</sup> It is unfortunately difficult to tell precisely what had happened in the spring and early summer of 1293 in Thame, although the bishop had continually written to ask that a lay force be removed from the church. On 28 May, the king commanded the sheriff to remove the lay force.<sup>48</sup> This same writ also states that the sheriff had already, at least once, carried out such a mandate, though there is no indication of when. The sheriff was either to remove the lay force, or explain why he could or would not, by 14 June. The sheriff duly responded that he had gone to Thame, and found no lay force preventing the bishop exercising his spiritual office, although there was a force in the houses of the church's

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<sup>47</sup> *Parliament Rolls*, i, 586-7.

<sup>48</sup> For the writ *De vi laica amovenda*, see Hoskin, 'De vi laica amovenda: testing the bounds of secular and ecclesiastical jurisdiction'.



parsonage. These men ‘clearly said in the presence of many people’ that they would not leave until the king ordered the sheriff to remove them from the houses belonging to the church. Whatever precisely happened,<sup>49</sup> nothing was done about the lay force in Thame, and as a result the two Suttons went to parliament themselves.

There they explained the situation much as the bishop had in his sentence of excommunication: Thomas had peacefully held the prebend until the beginning of Lent, when disturbers of the peace had expelled him and his men by force of arms. Before the king, however, emphasis was laid on disturbance of the king’s peace, something not mentioned in the excommunication. The Suttons asked for the king’s help, but there was no mention of an occupation of the church itself (as in the written requests). Whether there had ever been a force occupying the church that had subsequently left is unclear (though implied), but since there was now nothing obstructing the bishop, the king’s only suggestion was that Thomas Sutton should have a writ of novel disseisin, if he wanted, with regard to the lands and houses of which he had been disseised.<sup>50</sup> This the Suttons apparently did shortly after Michaelmas, but much had occurred in the meantime.<sup>51</sup>

Sutton’s men were again in possession of the church in the summer of 1293, for this is when the incident with which we began took place, when a large armed force stormed the church of Thame and took it by force. The description of the incident comes from a sentence of excommunication pronounced shortly afterwards, and though the language is extremely condemnatory, there is no reason to doubt the substance of its allegations. An occurrence of this sort was presumably expected, since Sutton’s men were guarding the church. St John’s supporters must have expected them to put up a fight (perhaps more than they in fact did) because apparently two hundred armed men had been prepared to attack them. Even if we doubt that quite so many men appeared on 8 August, the number must have been significant. Edward St John thus had a formidable following, though it is impossible to tell whether they believed in the

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<sup>49</sup> Later in the dispute, St John seems to have caused the sheriff to leave simply by telling him he was the rightful prebendary: *SCC*, 593. This perhaps also happened at this stage.

<sup>50</sup> *Parliament Rolls*, i, 586-7.

<sup>51</sup> *SCC*, 583; *Parliament Rolls*, i, Roll 6 appendix, no.35.i.

validity of his claim or supported him primarily because of his local standing. On 15 August, a week after the attack, the general excommunication of all those involved was pronounced in Lincoln. The ‘horrendous crime’ was described in full, so that the ‘cruelty of the sacrilege’ would more shock those listening, and they, with zeal for the honour of the church, would rise up against the authors of the sacrilege, at the pressure of divine malediction.<sup>52</sup> The sentence was read out in Latin and then in English, so there should be no risk of people failing to understand what had taken place.

Although the acts of the two hundred men were described at the beginning of this chapter, it is worth looking at the language used to describe them. These ‘satellites of Satan’, who had eagerly prepared for their assault, entered the cemetery ‘invigorated by diabolic spirit’. They prevented the guards from leaving, and encircled the sacred place. When they set the church alight (having shot arrows at the altar and broken parts of the walls), they did so ‘in the custom of infidels’. Then these ‘sons of Belial ... atrociously wounded’ two clerks, and, spilling their blood, ‘stained and foully profaned’ the church. With the church desecrated they presumed to celebrate mass *de facto*, ‘to the irreverence of God and to the prejudice of ecclesiastical liberty, to the injurious disturbance of the lord king and the kingdom ... to the violation of the sanctuary of the said sacred place and the great danger of their souls, and the vehement scandal of many’. The malefactors had thus incurred a sentence of major excommunication *multipliciter* and were declared sequestered from the threshold of the holy mother church.<sup>53</sup>

While much of this language is standard in such sentences, there is a notable multiplication of the language of outrage in this text, partially due to the length of the narrative. As well as adding to the impression of the seriousness of the crime committed, the damnatory asides work as a rhetorical device in a spoken declaration, making the key facts of the narrative more memorable. The bells ringing and throwing down of candles at the climax of the sentence would add to this. Nobody was named in

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<sup>52</sup> *Reg. Sutton*, iv, 104: ‘Ut autem hujusmodi crudelitas sacrilegii facti pupplicationem auribus audiencium amplius inhorrescat, et sancte matris ecclesie zelantes honorem ad impressionem maledictionis divine in auctores ipsius sacrilegii nobiscum animocius insurgant’.

<sup>53</sup> *Reg. Sutton*, iv, 104-5.

this sentence, and unlike previous excommunications there was nothing here about the acts being done on behalf of Edward St John, but it would make the incident, described in graphic terms, known through Lincoln.

The wording of the sentence implies that mass was performed in the desecrated church immediately after the attack had taken place. But the sentence of excommunication was not pronounced until a week later, and it seems likely that there was a gap between the two events. Witness depositions inform us that St John was inducted to possession of the Thame on 12 August, but had possessed it some days before this.<sup>54</sup> Both this act and the mass, whenever it was said, should be seen as a means of confirming St John's position as prebendary. Performance of ecclesiastical rituals (normally the new incumbent's ringing of the church bell and performance of first mass) legitimised and reinforced actions such as seizing the church by force.<sup>55</sup> Witnesses would be able to say that they had seen St John inducted into the prebend, and seen and heard him perform the acts associated with such an induction. As Wickham wrote about twelfth-century Tuscany, 'It was the public audience ... that was intended to register, accept, and legitimize direct action'.<sup>56</sup> It is likely that similar systems were at work here, and it was therefore important that the Suttons emphasised the circumstances in which the induction and mass took place, invalidating them by demonstrating the illicit violence with which they had been achieved and upon which St John's claim was chiefly based. The desecration of the church was highly significant, because this fact also nullified any ecclesiastical services that had been performed and witnessed there.

The sentence was first pronounced in Lincoln, but the archdeacons of Oxford, Buckingham, Huntingdon and Bedford were subsequently told to publish the same excommunication in their archdeaconries.<sup>57</sup> Not only were the archdeacons to publish the sentence in every church, but also in convocations and synods on every Sunday and feast day, until they received another mandate. The sentence was thus given

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<sup>54</sup> *SCC*, 582.

<sup>55</sup> Wickham, *Courts and Conflict*, 270-85.

<sup>56</sup> Wickham, *Courts and Conflict*, 283.

<sup>57</sup> *Reg. Sutton*, iv, 107-8.

greater publicity than the average excommunication. The archdeacons of Oxford and Buckingham were also to go to Thame itself, with a suitable number of chaplains, rectors, and vicars, to publish the sentence, so that the transgressors there would be ‘especially struck down by the horror of divine malediction’ in the place where they had committed their sacrilege.

To what extent these men were generally able to execute the mandate is impossible to tell, but when an attempt was made to publish the sentence in the church of Long Crendon and the abbey of Notley (both about three miles from Thame), they were resisted by force. It is difficult to judge the motives here. St John’s supporters may have been trying to prevent the sentence that condemned them so forcefully from being pronounced, lest it injure their reputations, though it would surely have been difficult to do this throughout Oxfordshire. The implication was certainly that a large number of clerics had gathered to perform the sentence, so had it gone ahead it would have been a noteworthy spectacle, and preventing it from taking place might have been worthwhile.<sup>58</sup> We cannot rule out fear of the spiritual effects of the anathema as a consideration, though committing more sacrilege to protect one’s soul is hardly sensible. Given the nature of the original attack, and the complete lack of respect for the clergy shown in the second, the malefactors appear to have had little concern for excommunication and its effects. These attacks on the clergy are perhaps evidence of medieval scepticism.<sup>59</sup> Even so, the disrespect of the men for the clergy and sacred spaces does not have to be interpreted as a lack of faith. Rather, St John’s supporters were openly asserting their contempt for episcopal authority.<sup>60</sup>

The excommunications that resulted from this attack are some of the most striking from thirteenth-century England. If the sentence resulting from the attack on 8 August was published widely, and used strong language, both its publication and language were mild in comparison to that pronounced after the violent resistance reported at Long Crendon and Notley. The description of the attacks themselves is

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<sup>58</sup> *Reg. Sutton*, iv, 117: ‘many chaplains’ from had congregated from nearby places and diverse places to execute the mandate.

<sup>59</sup> Susan Reynolds, ‘Social mentalities and the case of medieval scepticism’, 21-41.

<sup>60</sup> *Reg. Sutton*, iv, 118: ‘episcopalis auctoritatis contemptum prout ipsi filii Belial attestazione funeste vocis proprie ediderunt’.

extremely rhetorical (and the original attack at Thame was also described again, in the same way).<sup>61</sup> The rhetorical devices used in the sentence are again notable, and its purpose as a spoken denunciation is clear. The description of the attack thus begins ‘Set ecce’, and later asks ‘Quid plura?’. Again condemnatory adverbs are used: ‘irreverenter’; ‘temere’; ‘nequiter’; ‘atrociter’; ‘enormiter’; ‘turpiter’. The sacrilegious invaders apparently dragged the clergy from the cemetery, and struck them on their heads and other parts of their bodies, and in the monastery they poked certain priests and clerics with knives and swords ‘usque ad nudam carnem’. They had also inflicted various ‘indignities’, and otherwise wounded priests whom they found there gathered to perform the excommunication. Here in the narrative ‘What more?’ is exclaimed, followed by a description of how the hoods and sleeves of their robes were cut off. Clearly this had provoked extreme outrage. The primary aim of the attack could well have been humiliation.<sup>62</sup> Here the language used seems to be purposefully misleading. The words used to describe this are extreme to the point of implying that what happened was far worse than it actually was: ‘Summatibus capitorum ... clericorum quasi usque ad medium enormiter amputatis et manicis collobiorum ... detruncatis turpiter et decisis’. Thus the garments were ‘beheaded’ and ‘amputated’, which could easily lead to the events being misunderstood by a listener not paying adequate attention. This is certainly the effect of skim-reading the sentence. The narrative in the sentence of excommunication is thus striking, and the denunciation of excommunication following it, the culmination of the sentence, is no less so.<sup>63</sup>

Since the bishop could not turn a blind eye to such dreadful sacrilege and so wicked a crime – through which contempt and derision were expressed to Christ through his ministers, episcopal dignity was scorned, and priestly orders were brought into disgrace – the bishop denounced them to be

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<sup>61</sup> *Reg. Sutton*, iv, 117-8. A clause about the blasphemy committed at Thame on 8 August is the only addition.

<sup>62</sup> Cf. *Reg. Bronescombe*, no.1429, when the garments of priests were ‘defiled’ in much the same way, ‘in mockery of a tonsure; cf. Wickham, *Courts and Conflicts*, p. 218.

<sup>63</sup> There is a transcription error in Hill’s edition in this sentence (*Reg. Sutton*, iv, 118): she has ‘vindicamus’, but the microfilm of the register reveals that this is actually ‘vindictam’, as it is also on 120. I am grateful to David d’Avray for confirming that the sentence cannot be construed with ‘vindicamus’ rather than ‘vindictam’.

anathematized, excommunicated, sequestered, and separated at a distance, from the body of Christ, the bond of the church, and the communion of the faithful, so that they receive their lots with Cain the fratricide and Dathan and Abiron, who were swallowed alive for their crimes.

This ‘divine malediction’ had been incurred *ipso facto*, and the malefactors were ‘dressing themselves in it as clothing, drinking it as water, and letting it penetrate to the marrow of their bones’ (Ps. 108:18).<sup>64</sup>

By the standards of anathema clauses in Anglo-Saxon charters, and earlier medieval excommunications and clamours, this sentence is tame. For late thirteenth-century England, it was unusually curse-like.<sup>65</sup> Cain and Dathan and Abiron were frequently used in earlier medieval maledictions. Dathan and Abiron, who in the book of Numbers (16:12-15, 25-34) were swallowed alive by the earth for contesting Moses’s authority, were particularly apt in this case because, like St John’s usurpation of Sutton’s role, they had intruded themselves into the priesthood.<sup>66</sup> Before dooming the malefactors to the fate of the Biblical villains, the sentence recalls Psalm 108. As discussed in chapter one, this psalm is ‘perhaps the most maledictory of all psalms’, and the ‘psalm most renowned for its curses, cited frequently both in full and in part’.<sup>67</sup> The verse of the psalm quoted denounces an unnamed malefactor for cursing: ‘He loved to curse; let curses come upon him’. It thus turns the curses made by the evil-doer back on his head.<sup>68</sup> The excommunication implies that the treatment of the clergy perpetrated at Long Crendon and Notley was tantamount to cursing the Church. Clearly, some aspects of ritual anathemas were in use in this period. The words used in response to the attacks at Long Crendon and Notley, in conjunction with multiple priests throwing their candles to the ground as a symbol of the souls’ condemnation and the audience declaring ‘fiat! fiat!’ at the end of the sentence, could well have made this ceremony quite terrifying.

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<sup>64</sup> ‘illam [maledictionem] ut vestimentum induentes et bibentes ut aquam ac intimis inossantes’.

<sup>65</sup> Cf. the argument made in Helmholtz, ‘Excommunication in twelfth century England’, 246.

<sup>66</sup> Baldwin, *Masters, Princes and Merchants*, 172; Little, *Benedictine Maledictions*, 65-8; Jaser, *Ecclesia Maledicens*, 178-84; Edwards, ‘Ritual excommunication’, 84-5, 93.

<sup>67</sup> Little, *Benedictine Maledictions*, 23, 63.

<sup>68</sup> Little, *Benedictine Maledictions*, 64.

If this sentence was so much more damnatory than usual, we must ask why the language was intensified in this way. Certainly the crime was a sacrilegious one, but little more than the original attack on the church of Thame had been, or than when the church of Claybrooke, for example, was seized in 1295, turned into a fortification (complete with a siege engine) and the chaplain of Nuneaton was assaulted.<sup>69</sup> Part of the explanation certainly lay with the ridicule and contempt suffered by the clerical order. Their mocking is mentioned more than once in the sentence, as is the contempt for episcopal authority, and the language used to describe how the clergy were treated indicates that this caused outrage. Nevertheless, the severe nature of the sentence must be put into the context of the dispute as a whole. By this time – the precise date of the sentence is unknown, but is included in the register amongst entries from the last week of September 1293 – the dispute as a whole had been ongoing for a year. Yet the Suttons had not succeeded in securing the prebend. Rather the opposite. The bishop's previous excommunications had been ignored – something that is mentioned in the excommunication from March (referring to those from November)<sup>70</sup>, and was possibly what was meant by the assertion that the malefactors were 'drinking curses like water'. As a result, there is a tangible sense of desperation and genuine desire to curse in the sentence after the Long Crendon and Notley attacks.

Excommunication, and rituals associated with it (such as clamours and maledictions) have long been associated with the social environment in which they were used. Thus Lester Little, writing about the use of monastic clamours in the tenth and eleventh centuries in France, wrote that a simple form 'I excommunicate you' could be used,

But where there are attempts to heighten the drama of the encounter, as with liturgical robes and candles, and to pile up multiple curses ... more than likely there is a social setting in which authority is both weak and insecure.<sup>71</sup>

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<sup>69</sup> *Reg. Sutton*, v, 113-4. cf. also the violent occupation of the church of Great Hale in Sutton's register, iii, 174-5.

<sup>70</sup> 'excommunicationis sententiam suprascriptum dampnabiliter non verentes', *Reg. Sutton*, iv, 71.

<sup>71</sup> Little, *Benedictine Maledictions*, 117.

What Little was referring to in his discussion of weak authority and an insecure social setting was the supposed collapse of public justice following the breakup of the Carolingian empire, around the turn of the millennium. In the absence of a political power maintaining peace and justice, replaced by local elites maintaining positions through military force, ecclesiastical powers could no longer rely on lay power to protect them. Clamours, maledictions, and excommunications were thus symptoms of ecclesiastical attempts to take the initiative to keep the peace themselves after a specific threat.<sup>72</sup> The anarchy of Stephen's reign in twelfth-century England is also used to explain the increased use of excommunication and anathema during this period.<sup>73</sup> Charlotte Lewandowski has thus argued that 'during the reign of King Stephen the language of excommunication became increasingly elaborate in order to reflect the limited transmission of ... documents in a violent and uncertain political environment'.<sup>74</sup>

It is hardly possible to argue that there was any kind of anarchy or collapse of justice in 1293; Edward I's reign is seen as a period in which important developments in public justice took place. Far from the lay power being unable to keep the peace, the system of law enforcement had developed for the most part effectively. The problem in 1293 was not absence of power or justice, but the bishop's inability to secure it. What was missing in 1293 was not secular authority, but ecclesiastical. Oliver Sutton had appealed to the king and sheriff for help on multiple occasions, to no avail. There was no other source from which assistance could be requested. The dispute over Thame happened to fall in a period when there was neither a pope, nor an archbishop of Canterbury. Although Robert Winchelsey had been elected at the beginning of 1293, he was not consecrated until 1294, and did not return to England to perform his duties until 1 January 1295.<sup>75</sup> There was nobody else for the bishop to call upon. Edward I frequently came into conflict with the Church, and popes and archbishops were forced to fight for their rights. Since Sutton could not seek their help and political weight for his cause, and the king himself was being unhelpful, God Himself was the only source

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<sup>72</sup> Little, *Benedictine Maledictions*, 200-218.

<sup>73</sup> For example in *Councils & Synods I*, ed. Whitelock, Brett and Brooke, 786.

<sup>74</sup> Lewandowski, 'Cultural expressions of episcopal power', 97, and in ch. 2 as a whole.

<sup>75</sup> Denton, *Robert Winchelsey*, 14.



of potential assistance that remained. Thus although the social environment of late thirteenth-century England was far from disorderly, the dispute surrounding Thame reveals a level of desperation over the effectiveness of earthly measures to effect remedies. These factors must at least partially account for the unusual force of the anathema. It should also be noted that the sentence ended by asserting that their crime had been condemned ‘auctoritate pontificali’. A claim was thus still being made for papal authority.

Precisely why the king did not come to the aid of Sutton to expel the lay force is not clear. It is evident, however, that he was assigned a degree of blame for the situation, for he was excepted from the sentences of excommunication that had been pronounced in March<sup>76</sup>, August, and September. Whether the king was guilty of providing ‘help, counsel, or favour’ to St John only by being negligent or by other actions is difficult to tell. There is evidence from the following year that St John was a ‘kinsman’ of the king, and that Edward I had provided him with accommodation in Oxford.<sup>77</sup> The sheriff had reported finding no lay force in occupation of the church of Thame, and the king’s only suggestion had been that the Suttons obtain a writ of novel disseisin. There had also been far more letters to the king about the lay force than there had been responses. The clause ‘sentenciam ... quam ad dominum nostrum regem et liberos suos quos a culpa in hac parte reputavimus immunes extendi nolumus nec intendimus’ implies that the king was implicated in the attack on the church of Thame. The placing of this clause in the September sentence in fact implies that it was only for this attack that the king was considered partially to blame: it comes after the section describing the attack at Thame, and before the description of the attack against the clergy at Long Crendon and Notley. He could thus be condemned and defamed, even while his power and importance were being conceded through supposed deference, and the publicity of the sentence must have ensured that the king’s responsibility became widely known.

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<sup>76</sup> The March sentence implied that the king had also been excepted in November, but the record of the November sentence does not include this clause.

<sup>77</sup> *CCR 1288-96*, 358.

The final – but by no means the least significant – exceptional aspect of the sentence of September 1293, was the publicity given to it. The sentence of September is included in the register without a date, or any indication of by whom, where, or when it was originally pronounced. On the next folio, however, mandates are included ordering the archdeacons of Oxford, Buckingham, Huntingdon, and Bedford, and the officials of the archdeacons of Northampton (Thomas Sutton himself being the archdeacon), Lincoln, Leicester, and Stow, to publish the sentence. That is, letters were sent to all eight archdeacons of the diocese. While some ecclesiastical mandates were sent to all archdeaconries of a diocese, it was hardly usual for excommunications to be pronounced in every church, chapter, and synod throughout the diocese of Lincoln.<sup>78</sup> Even the Thame attack sentence was only covered by five archdeaconries, and Lincoln itself (though this was still far more extensive publication than usual). The diocese of Lincoln was the second largest in medieval England, covering land in nine counties. According to R. W. Southern, it comprised *circa* 2,000 parishes, and contained about one fifth of the population of England.<sup>79</sup> If the archdeacons or their officials executed the mandate as they were supposed to, this significant proportion of England knew about the attack, and the king's possible involvement. For those living in Oxfordshire and Lincoln, the attack would be linked to the other events that had taken place at Thame, further undermining the cause of Edward St John. Perhaps the excommunication was not pronounced as extensively as ordered, but it seems likely that it was sufficiently done. The archdeacons were to write back assuring the bishop that they had carried out their orders, and given the seriousness with which the crime was treated, had they failed to do so the bishop would surely have written again. Archbishop Pecham, for example, had been forced to reprimand the bishop of Chichester for failing to execute his mandate regarding an excommunication.<sup>80</sup>

This sentence contained an unusually dramatic narrative; it was exceptionally maledictory; it was given a great deal of publicity. The sentence was therefore extraordinary in a number of ways, and shows that excommunications could vary

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<sup>78</sup> The sentence immediately following this is also unusually extensively published, in that it was sent to seven of the archdeaconries, but the order did not include every single church, just ones indicated.

<sup>79</sup> Southern, *Robert Grosseteste*, 235-7.

<sup>80</sup> *Reg. Epp. Pecham*, ii, 604-6.

considerably. There was room for improvisation in how excommunication was used and pronounced. Though the attacks on the clergy over the prebend of Thame were certainly serious acts, the vehemence of the sentence and the extensive publication cannot wholly be explained by this. The context in which they took place must also account for these measures. Previous efforts had failed. Unfortunately for the Suttons, the excommunications had no obvious effects, and it was to be another year of similar events before the matter was finally settled.

In fact, something was being done by royal justice about the attack at Thame. While the king had not prevented the attack or the subsequent violence, at the beginning of September (and thus probably before the assaults at Long Crendon and Notley) a commission was sent to pursue the sheriff of Oxford and a panel of jurors. The inquest, which seems to have been provoked by the Thame attack, convened on 7 October. However, little seems to have resulted from it, since the finding was that certain knights<sup>81</sup> and others did go to Thame, and entered the court belonging to the church of Thame and its church with horses and arms, in the name of Edward St John, ‘by a provision granted to Edward by the pope’, but did not break the fences of the bishop or commit any of the offences alleged.<sup>82</sup> Perhaps the efforts to prevent the sentence being published had been worthwhile, if the jury did not view the events negatively. It also indicates that the neighbourhood around Thame may have favoured the St John cause. Not only had a huge number of supporters appeared to enforce his right, they had apparently done so with the consent of the people. Public opinion remained sufficiently behind him that the inquisition found in his favour. This further explains the vigour of the sentences of the same time; persuading the people to reject St John’s men was important, and convincing them that they were damned might aid this endeavour. Finally, we can infer from the findings of secular justice that the events described in the sentences were exaggerated. To read only them gives a one-sided picture, yet this is the one that was being pronounced throughout the diocese of Lincoln, and for many might have been the only side they heard.

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<sup>81</sup> Strangely, the two men named here as being involved in the attack are not mentioned in the later sentence of excommunication against fifteen men who were found to be the ringleaders.

<sup>82</sup> *Calendar of Inquisitions Miscellaneous*, i, no.1640.

On 11 November, St John's men were still occupying the church of Thame, and the bishop sent yet another request to the king about their removal.<sup>83</sup> In the meantime, the Suttons continued to proceed in the ecclesiastical forum. On 15 November, Oliver Sutton ordered the archdeacons and deans of the area around Thame to regard Thomas Sutton as the true prebendary.<sup>84</sup> The bishop's letter here rehearsed all the previous arguments concerning his lawful collation and Thomas's peaceful possession, before the violent, malicious, unjust and sacrilegious invasion. The parishioners were to be urged not to communicate with attackers in any way, lest they should be infected and defiled by the stain of contagion. No services were to be held or attended in the church while it was profaned, until it was reconciled by pontifical authority. Two days later, a commission was sent to the same archdeacons and deans, telling them to 'proceed by way of notoriety' to discover the names of those malefactors who had incurred excommunication.<sup>85</sup> The invaders had also been usurping and thieving<sup>86</sup> the profits and oblations that belonged to the prebend, the same cursed place where divine rites had been celebrated by the 'priest of Belial'. These orders were enforced on 22 November, when the archdeacon of Buckingham went to the church and warned St John's men to leave, prohibiting them from celebrating divine services, since the church was under interdict as a result of the bloodshed.<sup>87</sup> This is revealed by a witness from the court of Canterbury, who also said that the official proceeded against the delinquents by way of notoriety.<sup>88</sup> The same deposition gives some small suggestion of the effect that all this was having upon the people: a female parishioner was compelled to go to a dependent chapel in Thame to be churched after childbirth, because there was no free entry into the parish church as a result of the violence and occupation of St John's men. Like in 1230s Canterbury, people were getting caught in the crossfire. This event also happened only a week after the officials and deans around Thame had been ordered to tell the parishioners not to attend divine services in the church there until it had been reconciled. This is therefore an indication that this order was being obeyed. The witness was one of Oliver Sutton's

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<sup>83</sup> *Reg. Sutton*, iv, 132.

<sup>84</sup> *Reg. Sutton*, iv, 136-8.

<sup>85</sup> *Reg. Sutton*, iv, 135-6.

<sup>86</sup> The word used is 'contrectare', which has connotations of amorous fondling as well as embezzling.

<sup>87</sup> For suspension of worship in 'violated' churches, see Clarke, *Interdict*, 70-2.

<sup>88</sup> *SCC*, 597.

notaries, speaking on his behalf, but there is no reason to doubt that people were forced to use places other than their own parish church for worship.<sup>89</sup> The vicar of Thame took the oblations resulting from the purification, on Thomas's authority. As the editors note, 'this is probably to show that Thomas had possession of the revenues of the church and was regarded by the vicar as being in possession'.<sup>90</sup> Collecting oblations was an important aspect of acting as prebendary, and thus demonstrated Thomas's right. Being seen to collect the prebend's oblations was important, but St John's men later complained that, on Christmas Day, the same vicar went with eight armed men to a chapel of the prebend, and there took four shillings of oblations.<sup>91</sup> They were then received by Thomas himself.<sup>92</sup> St John's witness claimed, predictably, that Thomas's men had despoiled the prebend, but this may again be seen as an attempt to carry out the usual functions of a prebendary, partially for appearances' sake. It perhaps also serves to remind us that at the core of the dispute was Thame's wealth.

When the sheriff, on 11 December, went to Thame to execute the king's writ, ordering investigation of the occupation, his response was as it had been in June: he found no lay or armed force there.<sup>93</sup> Two witnesses at the court of Canterbury said that St John, who was personally present at the church, had told the sheriff that he was the prebendary, and that he would not allow Thomas Sutton or anyone in his name to enter the church.<sup>94</sup> Around this time St John had apparently expressly ratified the intrusion and occupation of the church.<sup>95</sup> Once again, the sheriff was either convinced by St John, or had no desire to evict him. St John was also, apparently, sustaining the occupiers with provisions.<sup>96</sup>

As for the proceedings in the ecclesiastical forum, the commission investigating the attack at Thame had found, 'per viam notorii', the names of fifteen

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<sup>89</sup> *SCC*, 597, n. 4.

<sup>90</sup> *SCC*, 597, n. 6.

<sup>91</sup> *SCC*, 584-5.

<sup>92</sup> Although the witness was unsure whether Thomas had ratified these actions.

<sup>93</sup> *SKB*, iii, 14. The writ was returned on 13 December.

<sup>94</sup> *SCC*, 573, 610.

<sup>95</sup> *SCC*, 596.

<sup>96</sup> *SCC*, 593.

men who were the ‘principales auctores’.<sup>97</sup> On 15 December, an order was sent to all the archdeacons in the diocese of Lincoln to publish the excommunication of these men. They were to do this in every church and chapel of the diocese, on every Sunday and feast day (with the exception of Christmas Day), and also in all chapters and convocations of the clergy. Fourteen of the men were to be declared excommunicated and anathematised, and John of Shirburn, a chaplain, was to be announced as suspended. Perhaps rather optimistically, two abbots were told to reconcile the church of Thame, and to coerce any rebels found there with canon law.<sup>98</sup> Additionally, a formal proclamation of the sentence was made by the bishop himself at Wycombe (*circa* 13 miles from Thame), on 19 December.<sup>99</sup> This sentence laid more emphasis on the legal aspects of the sentence – the fact that the general sentence had been done ‘*justicia suadente*’, and how the names had been discovered through legitimate means via the commission, mentioning the wrongdoers’ ‘contumacy and manifest offences’. In theory, contumacy was a necessary condition for excommunication *ab homine*, and in order to sentence individuals by name. This excommunication was still brought *a iure*, however, rather than by the bishop’s judgement.<sup>100</sup> The sentence makes clear why the malefactors were being excommunicated, and this was for their actions at Thame, not just for their disobedience and refusal to succumb to the bishop’s authority, though these were amongst their crimes. The sentence explains, as others had done, how the St John faction had committed sacrilege by their attack and occupation. The language is less striking than that of the September general sentence. But it again includes various damnatory asides and condemnatory descriptions of their actions, and the phrase ‘*sacrilegis ex immanitate sacrilegii sui fixa maledictione ad ossium interiora tendente constrictis*’, which harks back to Psalm 108. It was also noted that the previous sentence had been pronounced ‘*in nostra diocese longe lateque in publico*’, showing that the publicity ordered had been successful. Everybody was warned against communicating with the excommunicated and anathematized men, ‘*emendo, bibendo, ignem vel aquam porrigendo vel alio quovismodo*’. These unusually precise specifications were presumably a reaction to St John and his friends providing their

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<sup>97</sup> *Reg. Sutton*, iv, 150-2.

<sup>98</sup> *Reg. Sutton*, iv, 152.

<sup>99</sup> *Reg. Sutton*, iv, 153-4.

<sup>100</sup> This was an argument later made by Sutton.

supporters with food and provisions, as claimed by Henry de Nassington, the bishop's official and a witness.<sup>101</sup> The phrase again shows the overlap between the secular sphere and excommunication, for there was a similar ban on communicating with outlaws in these ways.<sup>102</sup> The sentence was performed at Wycombe with the archdeacon of Buckingham assisting the bishop, both dressed in sacerdotal robes, and with many priests in white stoles, before the bishop's sermon, with bells and candles.

This sentence came to be important in the proceedings in the court of Canterbury in January and February 1294, because on 18 December, St John, via a proctor, had appealed to Canterbury and to Rome.<sup>103</sup> The excommunication was thus described by a number of witnesses. One of St John's witnesses knew of the denunciation made by the bishop at Wycombe 'ex relatu wlgari multorum', admitting that it was public and notorious in Wycombe, Thame, and the surrounding area that such a sentence had been promulgated and published.<sup>104</sup> A later witness in the same set of depositions (made 17 February 1294) stated that he had been present. His testimony is particularly noteworthy because he described the ceremony. He said that 'the bishop of Lincoln, dressed in pontificals, had a chaplain attending him read the names of those occupying the church of Thame; and when the names were read, the bishop taking up a candle proclaimed the words of excommunication on them, as was publicly said by all there present, and he threw (*proiecit*) the candle to the ground saying "fiat, fiat, amen"'.<sup>105</sup> The importance of the ritual is well demonstrated by this witness: he was 'unlettered', and he had therefore been unable to understand the words of the excommunication pronounced in Latin. He was told by others that they were words of excommunication. He had certainly seen the ritual, however, and so presumably had a sense of what was happening. His deposition shows also that when the excommunications of March and August were announced in English as well as in

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<sup>101</sup> SCC, 593.

<sup>102</sup> Summerson provides an example from 1259, when a man was 'put out of the community of Scarborough vill and banned by the whole vill, nor was anyone to communicate with him in making sales and purchases, and they prevented him having fire and water in his house: Summerson, 'The structure of law enforcement in thirteenth century England', 315.

<sup>103</sup> SCC, 583.

<sup>104</sup> SCC, 584, 594.

<sup>105</sup> SCC, 585. This quotation is from the editors' calendar of the testimony, but most of the Latin is included in brackets following the English.

Latin, this was important in ensuring those sentences were understood. Why it was not pronounced in English in December is unclear.

The Wycombe excommunication came to be of importance in court proceedings for two reasons. First, it had been made after St John's appeal, and he argued it should therefore never have been made. Second, after Christmas, St John requested a copy of the sentence, which he never received. The court of Canterbury thus sought to ascertain whether the bishop knew of the appeal before he pronounced the sentence, and why St John had never received a written copy of the excommunication.<sup>106</sup> Unfortunately, the court never reached a decision on either point, since the entire dispute was eventually settled by the king, and witnesses gave conflicting evidence on both matters. The question of whether Oliver Sutton knew of St John's appeal is impossible to answer, and the witnesses do not provide any coherent testimony. St John made another appeal on 27 November, of which the bishop was certainly told.<sup>107</sup> The second question, though unresolved, reveals some interesting aspects of the use of and response to the sanction.

Edward St John was arguing that the law required that he be provided with a copy of the excommunication. He was referring to *Cum medicinalis*, which stipulated that an excommunicator must 'write down expressly the reason' for a sentence, and make a copy available on request.<sup>108</sup> St John claimed that the bishop had refused to do this.<sup>109</sup> The witnesses differ in their narratives of what took place. St John and his witnesses said that the bishop refused to give a copy 'contra iusticiam';<sup>110</sup> others said that he had been willing to provide a copy;<sup>111</sup> some did not know whether he had been asked and refused;<sup>112</sup> the witnesses for Oliver Sutton said that he had no obligation to make a copy. It is the latter argument that is most interesting. It seems that the bishop

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<sup>106</sup> For a similar issue regarding copies in the Cantilupe-Pecham dispute, see Douie, *Archbishop Pecham*, 224.

<sup>107</sup> *SCC*, 583.

<sup>108</sup> Tanner, *Decrees*, i, 291-2, cc. 21, 19. The availability of copies was also paralleled in the secular sphere, though apparently later (Dutour associates it with the fourteenth century), when everyone had the right to demand a copy: Dutour, 'L'élaboration, la publication et la diffusion', 147.

<sup>109</sup> *SCC*, 579-80.

<sup>110</sup> *SCC*, 584.

<sup>111</sup> *SCC*, 591, 595.

<sup>112</sup> *SCC*, 585-6.



was asked for a copy on 28 December 1293. St John was never named in the sentence of 19 December, however, so there was no reason why the bishop was obliged to give it to him in writing. The more technical argument made was that the bishop had only published a sentence technically brought by others.<sup>113</sup> The excommunication had been incurred *ipso facto*, so the law itself had brought the sentence. This provided the legal loophole that the bishop himself had not given a judgement, and could thus argue that the law required nothing more from him. He was willing to provide a copy when the law did require him to do so: ‘quando dicta copia petebatur dominus episcopus paratus erat omnem copiam petitam facere ad quam tenebatur de iure’.<sup>114</sup>

The fact that the excommunication was a *lata sententia* resulted in complaints by St John’s supporters that it was unjust and against the law. St John partially appealed against the sentence because it had been made after his appeal, but his concern with acquiring a copy, and with how it had been executed, indicates other concerns. Complaint was also being made because the Suttons were ‘pretending’ that St John had no right to the prebend. Walter of Bedwyn, a witness for St John at Canterbury, complained that the detainers of the church, and all communicating with them were excommunicated specially and by name, and publicly and solemnly announced excommunicated, and ordered to be denounced, ‘not warned, not confessed, absent not through contumacy, without reasonable cause, and against the statutes of the general council ... and against justice’, at the instance or provocation of Thomas Sutton.<sup>115</sup> The retort of Sutton’s registrar, John Scalleby, was that the sentence was published ‘a iure lata’, for the ‘notorious and manifest excesses’ perpetrated in the church of Thame. The bishop had not made this publication unjustly and without reasonable cause, as was suggested by St John’s party, but with reasonable cause and justly, and ‘as the order of law and the nature and character of the business required’. He went on to explain how the violent attacks and other enormities committed in the church had caused the intruders to fall into a sentence of major excommunication *ipso facto*. The same witness also claimed that Sutton had been willing to provide a copy of

<sup>113</sup> SCC, 594, 595: he had not brought the sentence ‘set solummodo pupplicavi ... sententiam ab aliis et a canone prius latam’. See also 588, n. 4, and 597-8, where a third witness makes the same argument.

<sup>114</sup> SCC, 594.

<sup>115</sup> SCC, 583. Cf. Chobham, *Summa*, 202.

the sentence.<sup>116</sup> Probably he was arguing, as the fifth witness did, that Sutton would make copies ‘as the law required’, since there is sufficient evidence that Sutton did refuse St John’s request.

These arguments were in accordance with canon law. When the malefactors had perpetrated their attacks, they had automatically incurred excommunication. Unusually, no specific *latae sententiae* were invoked. The perpetrators were repeatedly condemned as sacrilegious (which was a part of *Si quis suadente*), and it was asserted that they had violated ecclesiastical liberty and desecrated a church, but no sentence was explicitly quoted. Nevertheless, ‘each and every one of those sacrilegious malefactors’ had ‘without doubt incurred divine malediction *ipso facto*’.<sup>117</sup> No official judgement or legal process was therefore required, since the excommunication was incurred immediately on the action being committed. In December, when the perpetrators were named, this was merely the result of an investigation into the names of those who were already excommunicated by a sentence ‘a iure prolata’ and previously published.<sup>118</sup> Thus the men were not, technically, being excommunicated but were merely being declared as excommunicates. The bishop himself had not, in legal terms, issued a sentence. One witness also seems to have been arguing that the sentence was brought by others, and not by the bishop. This, too, was a legitimate argument, since Sutton had commissioned his archdeacons and deans to proceed against the malefactors making them, if anyone, the official sentence-givers. We have here then, an excommunication that was given in accordance with canon law, but which had involved only a limited judicial process, and certainly no court. Edward St John seems to have been aggrieved by the lack of these features, but they were not necessary in the circumstances, and his complaints were thus legitimately countered (though the court never reached a decision on the substantive proceedings). In this respect, the Thame case was not exceptional, and again it should be emphasised that R.

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<sup>116</sup> SCC, 590-1.

<sup>117</sup> Reg. Sutton, iv, 118.

<sup>118</sup> Reg. Sutton, iv, 151.

H. Helmholz's presentation of excommunication's movement from a curse to a judicial process is overstated.<sup>119</sup>

St John's complaint is notable because he was not excommunicated by name. Although, as the editors of the Canterbury case note, the excommunications could certainly implicate St John, in much the same way as they could implicate the king, he was never personally denounced.<sup>120</sup> Legally, Edward St John was not excommunicated in December 1293. He had been earlier in the year, but this was not the excommunication about which he was complaining. This meant that none of the legal consequences – capture by the secular arm or withdrawal of legal rights – could affect him. In fact, Logan and Vodola, respectively, found that neither of these consequences would follow from a *lata sententia* anyway.<sup>121</sup> Indeed, the bishop never asked that any of those excommunicated as a result of the Thame dispute be captured as contumacious excommunicates nor is there evidence that anyone was refused legal hearing because they were bound by excommunication.<sup>122</sup>

Edward St John cannot, therefore, have been appealing his excommunication for fear of any of the legal consequences that might ensue, since none of them could result from a *lata sententia* in which he was not even named. Not being named, St John probably had no grounds for appeal at all. In fact Robert de Multon, one of the bishop's clerks and witnesses, expressly said that the bishop had 'deferred to' St John 'de benignitate', and had not wanted to excommunicate him or denounce him for having fallen into a sentence, though he could have done.<sup>123</sup> We might perhaps doubt whether the bishop did this out of kindness. Sutton perhaps had deliberately left St John out of the sentence to prevent him having a case for appeal. The omission of St John from the sentence is potentially a point in favour of Sutton's being aware of the appeal that St John had made the previous day. By excluding him from the sentence Sutton was not acting unlawfully, as he would have done if he had included St John

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<sup>119</sup> Helmholz, 'Excommunication in twelfth century England'.

<sup>120</sup> SCC, 588, n. 4.

<sup>121</sup> Logan, *Excommunication*, 139; Vodola, *Excommunication*, 80, 99, 181-2.

<sup>122</sup> London, TNA, C85 does not appear to contain any writs from the relevant period that could relate to this dispute.

<sup>123</sup> SCC, 595.

while his appeal was pending. Why then was St John so concerned about this excommunication?

There appears to have been no legal reason for his concern. There is little doubt that he had himself fallen into the sentence made immediately after the attack at Thame in August 1293. This sentence excommunicated the invaders, but also ‘authors, supporters of any sort, and all counsellors’ in the condemned deed. St John must surely have fallen into one of these categories. The December excommunication, however, did not even include these, perfectly standard, additions to the main perpetrators. The only way St John could have incurred excommunication through the December sentence would be to communicate with the occupiers, or provide them with supplies. He was apparently doing this, but communicating with excommunicates only incurred a minor sentence of excommunication. There was certainly nothing to appeal in this regard. All the testimony about St John’s appeal concerns the 19 December denunciation, so it seems clear that it was a copy of this sentence, and not that of March (in which he was named though not as an excommunicate), for which he was asking. With no legal consequences to be concerned with, St John could feasibly have been anxious for his soul. The sentences pronounced in the summer and autumn of 1293 had also been unusually damnatory, as we have seen. If St John was concerned that he had incurred the sentence, this was easily solved by seeking absolution. But St John could not do this without admitting fault, and resigning his claim to the prebend. Moreover, he had had plenty of opportunity to worry about the state of his soul over the course of the previous year.

It is possible that St John’s appeal regarding the excommunication was the result of ignorance. He might have heard that a sentence was pronounced, including the names of the malefactors, after he had lodged an appeal, and assumed that he was included. This would also explain why he had been so eager to obtain a copy of the sentence, if he did not know its precise contents. He could thus have been unaware that his appeal had no grounds. The excommunications were, however, also damaging to St John’s reputation, and his claim to be considered the true prebendary of Thame. By this time excommunications condemning his actions, or at least actions carried out in

his name, had been pronounced through the diocese for a considerable amount of time. If witnesses are to be trusted, then the events of the last few months and earlier were notorious throughout Oxfordshire and beyond. For example, John Sutton ended his testimony by stating that he knew nothing about the other matters, except that ‘it is notorious around Oxford that St John intruded himself into the church of Thame’.<sup>124</sup> Robert de Malton asserted, having described the August attack on the church and stated that the malefactors had incurred excommunication as a result, that he knew this because he had spent much time in and around Thame, where these things were public and notorious.<sup>125</sup> The problem with these assertions is that they all come from witnesses speaking on behalf of either Thomas or Oliver Sutton. It is not unlikely, however, that these things were indeed well known, given the violence of the attacks and the extensive publication of the excommunications condemning them.<sup>126</sup> St John’s own witnesses attest to the fact that the excommunications had been witnessed by many. A number of the witnesses also described the Thame attack, in terms sufficiently similar to the description included in the excommunications that it might be assumed that this is how they had learned about the attack. This would thus demonstrate that the excommunication could work as effective propaganda, since the event was so strongly condemned in the sentence. Unfortunately, these descriptions come from the witnesses of the two Suttons. Not only were they speaking on the bishop’s behalf, they were close members of his *familia*. John Scalleby, one of these witnesses, would have been the one to write the sentence in the register. Henry of Nassington, another, was the bishop’s official and had assisted in the publication of the sentence in Lincoln cathedral on 15 August. A number of the longest descriptions given in the depositions could therefore have been the result of their authors being on close terms with the bishop, rather than simply learning of these things through *publica fama*. This does not rule out that Sutton’s propaganda was effective, but does lessen the value of the evidence submitted to the commission.

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<sup>124</sup> SCC, 600. This is the editors’ calendar of the testimony.

<sup>125</sup> SCC, 595.

<sup>126</sup> Two witnesses also described an excommunication by the bishop at Stokenchurch on 3 January, SCC, 586, 608, though see also 586, n. 3.

These depositions were made in February and March 1294. But between them and the events they described, new violence had taken place, which would result this time in an inquisition made before the King's Bench. On 3 February 1294, a commission was sent by the king to inquire about the complaint of Edward St John, who claimed to be rector of the church of Thame, that bishop Oliver Sutton and Thomas Sutton, having gathered a multitude of armed men, had blockaded the church with ditches, hedges, and other impediments, and besieged the church, and were continuing to do so. They were thus preventing anyone bringing or selling victuals to St John and his clerks, and had taken away victuals from those who brought them, causing those in the church to perish of hunger. The king therefore ordered his escheator to investigate the siege, and (*si ita est*) to destroy the ditches and impediments, and attach all those whom he found to have made the siege, so that they should appear before him three weeks after Easter, to answer for their contempt and transgression.<sup>127</sup> The escheator was also to investigate how the sheriff had executed the writ about removing lay force from the church (as requested by Oliver Sutton, presumably), and whether he had found such a force, by inquiring through a jury impanelled in Oxfordshire, and by personally going to the church.

The king's commission was executed on 9 February, when an inquest was taken at Thame. Sworn evidence was given and sealed by the jurors. The men said that on 26 January, about a hundred armed men blockaded the church, preventing anyone from leaving it or from bringing them victuals, and did so continually until 5 February. On 1 February they had also erected dykes across the royal highways, and broken the common bridge, so that the transit of wayfarers was impeded. These obstacles had since been partly knocked down on Thomas Sutton's behalf, but were not as they had been before. The jury also said that they knew these actions had been undertaken with the knowledge and permission of Thomas Sutton, who had also taken in and supported the eleven men they named.<sup>128</sup> On the same day, a second inquisition was made about the same matter. Twelve jurors testified in much the same way as the first jury, adding

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<sup>127</sup> *CPR 1292-1301*, 109; Prynne, *Records*, iii, 607; it is also quoted in the proceedings of the King's Bench: *SKB*, iii, 11-12, where it is translated.

<sup>128</sup> *SKB*, iii, 12-13.

that the bailiff of the hundred of Thame had consented to these actions, in that he did not disturb the malefactors in their activities. They also answered about the sheriff's inquisition, saying that he had found no lay force there.<sup>129</sup> Oliver Sutton, Thomas Sutton, and eleven other named men were duly cited to appear before the king three weeks after Easter.<sup>130</sup>

Matters were delayed when two of the men did not appear on the given day, and the suit was deferred 31 May.<sup>131</sup> It was in the period between the inquisition taken at Thame on 9 February and the appearance of the alleged malefactors before the king that depositions about the events of 1293 were made in the court of Canterbury. When the suit was begun before the King's Bench, the king's proctors said that the men, who had been acting on Thomas's command and with Oliver's consent and agreement, had besieged the church, and so on, had been against the king's peace, and had prevented anyone from bringing victuals to those in the church.<sup>132</sup> The Suttons had thus resorted to force once again, in an effort to force St John from the prebend, since the sheriff had been of little help.

The men who were accused, however, claimed that the blockade was justified and necessary. The crux of their argument was that the men in the church were criminals, and that they had to be kept inside the church to maintain the king's peace. They said that those occupying the church had left it, killed a man from Thame, and had then returned to the church. The man killed had been guarding the church, along with others, 'in order to keep the peace so that those felons of the king might not escape', on the orders of the coroner. The dykes and fences had been erected not against the peace, but to preserve it, and to guard the malefactors. The accused also said that they had not broken the bridge leading towards Long Crendon, but this had been caused by a flood. Thus, 'they did not blockade the aforesaid church unless it was that they were guarding the ... felons ... according to the law and custom of England'. Oliver Sutton complained that he had been attached without cause, since he had not

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<sup>129</sup> *SKB*, iii, 13.14.

<sup>130</sup> *SKB*, iii, 14-15.

<sup>131</sup> *SKB*, iii, 15.

<sup>132</sup> *SKB*, iii, 15-16. These actions were 'in contempt of the lord king of twenty thousand pounds', an enormous claim for damages.

been indicted of the trespass by the inquest. Thomas said that he had been accused of ordering the trespass, but that he should not therefore have to answer until somebody had been convicted of it, since if there had been no crime his consent would be irrelevant.<sup>133</sup> The sheriff was ordered to cause the accused to come before the king a fortnight after St John the Baptist's day, as well as a grand jury of twenty-four knights. Until then they were mainprised. The two Suttons were allowed to leave *sine die*, 'because no one ought to answer for giving an order or for consent before the act is proved'.<sup>134</sup>

The defence of the men accused appears to have been effective, since at Michaelmas they were all pardoned.<sup>135</sup> That such a number of men had been willing to blockade the church indicates that Thomas Sutton had a large body of supporters, that he had convinced them that the men in the church were criminals, or that St John's supporters had discredited themselves by their own actions. A combination of all three is likely. Sutton had certainly always had a number of supporters, for the church had been guarded while it was in his possession, and towards the beginning of the dispute these guardians had killed one of St John's men. The public proclamations of the attacks made to secure the church, via sentences of excommunication, could also have caused some of the local people to condemn those in the church. It is not inconceivable that this propaganda was accepted by some, especially since it had a basis in truth. The immediate cause of the blockade, however, appears to have been the murder committed by the occupiers. They were therefore criminals, and the siege had in fact been ordered by the coroner. Presumably all of this was confirmed by the jury. Nevertheless, the man killed had been one of those guarding the church, so it is clear that there had already been some kind of watch on the felons to prevent their escape before this particularly heinous crime. This might have been partially the result of the strenuous efforts of Oliver Sutton to convince his diocese of the notorious and violent sacrilege that the opposing faction had perpetrated. The *publica fama* generated cannot have been harmful when the jury was asked about whether the men in the church were

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<sup>133</sup> *SKB*, iii, 16-17.

<sup>134</sup> *SKB*, iii, 17.

<sup>135</sup> *SKB*, iii, 17-18.



in fact criminals who needed to be guarded. There is no indication that any excommunications were issued on behalf of St John after November 1292; Thomas Sutton had a monopoly on this medium of communication. The support of the bishop meant that the entire diocese could be told of the illicit, sacrilegious, and unjustified actions of the rival claimants to the prebend, through excommunications. Excommunication could thus serve as a tool, not only to persuade the malefactors to succumb, but to manipulate or bring influence to bear on other legal systems, most notably those of the royal courts. The use of juries and reliance on oral testimony meant that the communal impression of events was important, particularly in secular matters, when the parties did not supply the witnesses. The facts, and the perception of facts, were not necessarily the same thing: reputation and rumour could alter outcomes.<sup>136</sup>

The accused men said that they had been maintaining the peace by blockading the church, and preventing supplies being brought to those inside. It is worth noting, however, that they were also enforcing, albeit by extreme methods, the excommunication against the men that they sought to confine. Perhaps this was not a motive for their actions, but even if it was, arguing that they had been keeping the felons in accordance with common law and to preserve the king's peace would be a more expedient argument to make before the justices of Edward I. The sentence of excommunication of 19 December 1293 had ordered that nobody interact with the occupiers in any way, by buying, selling, eating, drinking, or providing fire or water. By blockading and guarding the church, Sutton's supporters were helping to enforce this sentence. Links with outlawry, as discussed by Henry Summerson, are again notable here. Outlawry required similar measures.<sup>137</sup> St John's men complained that they were starving as a result. This complaint was also made by excommunicates.<sup>138</sup> Even if enforcing the sentence of excommunication was not the purpose of those guarding the church, we can at least see an overlap between the effects of secular law and canon law.

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<sup>136</sup> Vallerani, *Medieval Public Justice*, 75, and ch. 2 *passim*.

<sup>137</sup> Summerson, 'The structure of law enforcement in thirteenth century England', particularly 315.

<sup>138</sup> See ch. 3, 122, 130, 143.

From this point, things seem to have been resolved fairly quickly. On 26 June, Oliver Sutton ordered those who had incurred various sentences of excommunication over the prebend of Thame, which he had canonically conferred upon Thomas Sutton, to be absolved.<sup>139</sup> The king also confiscated the prebend; on 6 July, he ordered the sheriff of Oxford to go to the prebend personally, and take it and all of its appurtenances, spiritual and temporal, into the king's hands, so that neither party could touch it until the king decided to whom it should be given. The prebend's religious services were to continue in the interim.<sup>140</sup> Some sort of agreement was reached later in the month, for on 25 July Oliver Sutton agreed, in the presence of the king, to confer a more valuable prebend on Edward St John,<sup>141</sup> and to write a letter preserving St John's reputation ('pro conservacione fame').<sup>142</sup> St John agreed to treat with the bishop and others about this.<sup>143</sup> Clearly St John felt that his reputation had been damaged by the bishop's defamation of his actions in the various public pronouncements made, particularly via the sentences of excommunication. Securing a similar letter or equivalent from the bishop had probably been the aim behind the complaint about the excommunication in the Court of Canterbury.

Finally, on 1 October, the king wrote to the sheriff of Oxford, telling him not to involve himself with the prebend of Thame any further, and to restore the church and its appurtenances to Thomas Sutton, since the disputes had been wholly settled in the king's court.<sup>144</sup> On 6 October, the men accused of disturbing the peace by blockading the church of Thame were forgiven by the king in Parliament, at the instance of the bishop of Lincoln. We do not know what the jury had said about the matter, but it seems that the argument that Sutton's supporters were maintaining the peace rather than breaking it was successful. The decision here is presented as a judgement, but it is possible that the king's role had been rather more like that of a mediator. He had

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<sup>139</sup> *Reg. Sutton*, v, 12; f. 103v (full text not printed by Hill).

<sup>140</sup> *CCR 1288-96*, 355-6. For the services to continue as normal, the church would have to have been reconciled, which the bishop had instructed the abbots of Missenden and Notley to perform in December 1293, but had subsequently prevented forbidden a certain 'Albertino', who was neutral in the dispute, to reconcile it: *Reg. Sutton*, iv, 168.

<sup>141</sup> Worth 110 marks.

<sup>142</sup> *CCR 1288-96*, 390.

<sup>143</sup> *CCR 1288-96*, 391.

<sup>144</sup> *CCR 1288-96*, 370; Prynne, *Records*, 607-8.

pardoned the men ‘at the instance’ of Oliver Sutton, while Sutton had previously agreed to provide Edward St John with a wealthy prebend, in the king’s presence. The information we have for this final stage of the dispute is thin compared to that of the previous eighteen months, because there are no witness depositions made for the court of Canterbury (which, despite the lengthy legal disputes, never reached a decision). It is perhaps not a coincidence that on 10 October twenty men were pardoned for the death of Peter de Wyresdale, who had been killed in the autumn of 1292. There was is one final indication that everything did not go as smoothly as the king’s writs imply: the Michaelmas *Coram Rege Roll* includes the attachment of a certain Richard de la Rokele, who was accused of killing the bailiff sent by the sheriff of Oxford to take the prebend and its produce into the king’s hands. Rokele pleaded both innocence and benefit of clergy, and the others accused also pleaded not guilty. Amongst those accused was Henry le Drye, who had also been indicted for blockading the church of Thame. It seems therefore that those who were accused of killing the bailiff were of Sutton’s party.<sup>145</sup> The jury swore that the men were not guilty, so what had actually occurred is impossible to say. Rokele and the others were to go quit, although some of the men, apparently already found not guilty, failed to appear and were ordered to be attached, and the sheriff was to prosecute for the king on a different day.<sup>146</sup> This final burst of violence does not appear to have altered anything in the dispute resolution more generally. It perhaps indicates that Sutton’s party was fearful that the case would be decided in favour of St John. The close relationship between St John and the king should be remembered: in a letter sent two weeks after the order to confiscate the prebend’s appurtenances, King Edward ordered the sheriff of Oxford to deliver his houses to St John ‘his kinsman’, to whom he had lent them.<sup>147</sup>

The matter could only be fully resolved once all those excommunicated had been absolved. The bishop wrote to Thomas Sutton, who was finally in full possession of the prebend, on 14 March 1295, telling him to absolve those who approached him and confessed their guilt, although he reserved the more difficult cases of

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<sup>145</sup> Henry Ballard of Long Crendon could possibly be Henry de Hastings of Long Crendon, who was also involved in the siege.

<sup>146</sup> *SKB*, iii, 35-7.

<sup>147</sup> *CCR 1288-96*, 358.

excommunication and suspension to himself.<sup>148</sup> Master Thomas de Lewknor, who had inducted Edward St John to the prebend and thus incurred excommunication for opposing Thomas's collation, was absolved on 19 August 1295. This was done in the King's Wardrobe in the archbishop of York's house in London, and was witnessed by the bishop of Winchester and other significant figures. The place of absolution and those present indicate that political pressure may have forced the bishop to absolve Lewknor, and that this was not simply a case of Lewknor's remorse causing him humbly to seek absolution. There is no mention that he was given any penance as a condition of the absolution.<sup>149</sup> The final absolution did not occur until 14 July 1297, when it was at last ordered that William of Fotheringay, a clerk who had been included in the excommunication of 19 December 1293 as one of the principal authors of the attack on the church of Thame, was to be absolved, on the condition that he recognised his excesses and made satisfaction, and received pardon from those he had injured. Specifically, William helped and consented to the notorious intrusions and illicit detentions, and had 'inflicted a ridiculous injury' on a monastic lay brother. His penance was to perambulate the church of Thame, while divinities were being celebrated, reciting the seven penitential psalms, the fifteen psalms, and the litany, on every Sunday from 25 July until Christmas. He was humbly to abstain from entry into the church at these times.<sup>150</sup> Although quite a lengthy penance, it could have been far more severe, for it did not involve public beatings.<sup>151</sup> If the severity of the original excommunications is considered, the relative leniency of the penance is surprising. The condition did not even require William to go to Thame: he was to do the penance there, if he was nearby, but otherwise he could perform it outside the parish church of wherever he happened to be. It had also taken William years to seek this absolution in the first place.

The final mention of the case occurs in the register of Oliver Sutton, when all the documents concerning it were sent to the bishop of Salisbury, in 1298.<sup>152</sup> It was

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<sup>148</sup> *Reg. Sutton*, v, 65-6; f. 119r (the full text is not printed by Hill).

<sup>149</sup> *Reg. Sutton*, v, 111-12; f. 131r; see also vi, 34-5, where a letter patent testified this absolution.

<sup>150</sup> *Reg. Sutton*, vi, 15-6.

<sup>151</sup> Possibly because he was a clerk: Hill, 'Public penance', 223-4. This penance is mentioned 219.

<sup>152</sup> *Reg. Sutton*, vi, 116.

possibly when this was being done that small faces (looking generally displeased) were drawn alongside most of the entries in the register concerning Thame. While the manuscript has some marginal notation, there is not a great deal. The faces were evidently drawn later than the original entries were written, and were clearly added to mark out the letters concerning the Thame affair.<sup>153</sup>

Excommunication was only one aspect of the Thame dispute. But it was an important one. The sentences pronounced were unusually vehement and unusually widely promulgated. Excommunication was being used justly, yet it was being used to the advantage of one party in a legal conflict. Oliver Sutton was not impartial, and alongside violence and lawsuits, excommunication was one way to bring a dispute to a close, and of strengthening the position of the excommunicator.<sup>154</sup> The Thame excommunications did not cause St John and his men to desist (nor did St John's against the Suttons). They cannot be described as effective, if an effective excommunication is understood as one which drove the sinner back into the arms of the church. In the end, Thomas Sutton's claim was upheld, but it can hardly be argued that St John's attempts to assert his claim to the prebend were ill advised. He ended up with a far richer benefice than he otherwise would have. He might even be taken as the 'winner'. Yet the importance of the Suttons' excommunications was not limited to their ability to coerce St John. They demonstrate that cursing was alive and well in thirteenth-century England. They show how sentences could be legal at the same time as being *ex parte* and maledictory. Most importantly, they show that the support of the church and its severest sanction was always desirable. Excommunication was an excellent way to influence public opinion.

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<sup>153</sup> The marginal faces are not generally mentioned in Hill's edition.

<sup>154</sup> Kaeuper, *War, Justice and Public Order*, 142; Geary, *Living with the Dead*, 147-8.

## ***LATAE SENTENTIAE* EXCOMMUNICATIONS AND MASS COMMUNICATION**

The importance of excommunication as a means of mass communication has already been addressed, to some extent, in previous chapters. This final chapter will return to the impact of excommunication as propaganda. Whilst previous chapters have focused on current events, *nominatim* and *generaliter* sentences pronounced in response to particular situations, this chapter will focus on the *ipso facto* sentences that were to be pronounced regularly and consistently in parish churches. Certain *latae sententiae* were included in provincial and diocesan legislation with provisions that they be regularly pronounced at intervals throughout the year. My appendix supplies a list of these sentences and provisions for their publication, demonstrating how prevalent such orders were.

### ***CRIMES COVERED WITH AUTOMATIC EXCOMMUNICATION***

The decision to declare that certain crimes merited automatic excommunication, without due process, was a grave one. The concept of *latae sententiae* was, however, established by the thirteenth century, despite initial opposition.<sup>1</sup> Nevertheless, the fact that the church covered such crimes with an automatic sentence was, as Elisabeth Vodola has acknowledged, ideologically significant.<sup>2</sup> Not only do such sentences demonstrate what crimes churchmen considered most harmful to the church and to society, but, presumably, which crimes were particularly problematic at the time of their original condemnation.

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<sup>1</sup> See Huizing, 'The earliest development of excommunication *latae sententiae*'; Vodola, *Excommunication*, 28–35; Helmholz, *Spirit of Classical Canon Law*, 383–90.

<sup>2</sup> Vodola, *Excommunication*, 34–5.

The creation of *latae sententiae* was doubtless prompted by a desire to prevent offences that were commonly committed, but they were nevertheless taken and repeated long after their original declaration. Such sentences became standard parts of ecclesiastical legislation issued in England.<sup>3</sup> This chapter will thus focus not on why certain crimes were condemned in this way, but rather on how the church demonstrated its concern through regularly repeated condemnation. Acts covered with an *ipso facto* excommunication were the most reprehensible in the eyes of the church. Such sentences illustrated ‘the criminalisation of certain actions, in an immediate and particularly forceful way to members of the church’, seeking ‘to make a powerful and lasting impression in the mind’.<sup>4</sup> Many of the crimes condemned in this way would, quite obviously, result in excommunication. But the church wanted to broadcast those crimes it had categorically condemned. Thus its condemnation was hammered into the consciousness of the laity. Such sentences were a valuable way to influence the attitude of parishioners, and this was no doubt part of the reason why certain acts were added to an ever-increasing list of *ipso facto* sentences.<sup>5</sup>

Archbishops Stephen Langton and John Pecham were the most influential legislators in terms of *ipso facto* excommunications, certainly in terms of the longevity of their sentences. The list of such sentences as pronounced by Pecham at the council of Lambeth in 1281, which used and augmented that pronounced by Langton in 1222, and incorporated sentences decreed by the legate Ottobuono in 1268, remained in use until the Reformation.<sup>6</sup> It came to be known as the ‘Great Curse’ or ‘Great Sentence’.<sup>7</sup> There were additionally sentences that occurred only in diocesan legislation. The appendix provides a list of automatic sentences that were provided with instructions for their promulgation in English ecclesiastical legislation.<sup>8</sup> It is not a full list of *ipso*

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<sup>3</sup> Hill, ‘Theory and practice’, 9.

<sup>4</sup> Paul Hinschius, as quoted by Cristian Jaser, *Ecclesia Maledicens*, 368.

<sup>5</sup> Vodola, *Excommunication*, 34, n. 27 provides references to lists of *ipso facto* excommunications.

<sup>6</sup> Appendix, nos. 20, 4. It was included in Lyndwood’s *Provinciale* (c. 1434), for instance, a text that was printed numerous times, and in English, between the fifteenth and seventeenth centuries: William Lyndwood, *Provinciale*, 354.

<sup>7</sup> Carruthers, ‘The Great Curse’.

<sup>8</sup> There is a tradition of referring to all the 1222 Council of Oxford sentences by their incipit ‘Auctoritate dei patris’, but since this does not distinguish between the seven sentences pronounced, and is a standard excommunication formula, it has not here been used. For the tradition, see *Select Cases on Defamation*, ed. Helmholz, xiv-xxvi.

*facto* sentences: certain sentences, apparently incurred automatically, did not require regular reiteration.<sup>9</sup> In addition, several of the sentences in the appendix were included in statutes elsewhere, but without publication orders, and are thus not included below. It was also common for statutes to decree that they should be published regularly as a whole, so that when statutes included *ipso facto* sentences, these would have been a part of that pronouncement. The appendix therefore includes only the sentences that were accompanied by publication provisions that applied to the excommunications only: those that were singled out for publication separately from the rest of the statutes.

A great many crimes resulted in excommunication *ipso facto*. Sorcerers, perjurers, arsonists, thieves, rapists (*raptores*) and usurers all fell within the ban. So too did those who detained tithes, those ‘invoking the help of demons’, those using magic incantations, ‘venefici et veneficae’ (either poisoners or magicians), those who sought to prevent marriages or sought to procure disinheritance through false testimony, and those who defamed honest men.<sup>10</sup> Fornicators, adulterers and prostitutes also come under attack, and occasionally criminals condemned by the papacy such as those who falsified papal bulls or assaulted clergymen.<sup>11</sup> No single set of statutes includes all of these categories of crime. Though simple distinctions should not be drawn, to this list may be added certain more politically charged sentences. Many protected ecclesiastical liberties, implicitly or explicitly blaming royal government; others protected the king and his men, condemning those who sought to disrupt royal rule.<sup>12</sup> The following discussion will focus on these sentences, mostly because they can be termed ‘political’, both in their content and in how they were subsequently used. Some of them, in practice, were also amongst the sentences most commonly invoked.

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<sup>9</sup> Why some automatic sentences did not require publication is unclear, but for some it was because they concerned only clergy. This meant that they were irrelevant for the laity, but they might also bring the church into disrepute. Thus Ottobuono included a clause on concubines, which Pecham ordered to be recited four times a year in rural chapters, ‘laicis exclusis’ (C&S, 756-7, 837).

<sup>10</sup> Some of these excommunications go back as far as Anglo-Saxon laws: see Hamilton, ‘Remedies for “great transgressions”’, 98.

<sup>11</sup> This is not to imply that the papacy had not condemned the other crimes here. See also Beaulande, *Le Malheur d’Être Exclu?*, 96-102.

<sup>12</sup> The interdict was likewise used most often as self-defence against attacks on ecclesiastical property, persons and liberty: Clarke, *Interdict*, 112-6.



The first excommunication pronounced at Oxford by Langton protected the church. *Qui malitiose ecclesias* was a clear statement that anyone who infringed ecclesiastical liberties, whether these liberties belonged to a monastery, cathedral or merely a parish church, was condemned by the church. The statement was so short and stark that it would surely have been easy to remember and understand, especially since it almost always came first in any list of such sentences. It offered a general statement of ecclesiastical liberty, while at the same time making clear that it covered specific and individual rights as much as ‘the freedom of the church’. On the other hand, it was sometimes adapted in diocesan statutes to mention specific bishoprics. Thus it came to cover the liberties of the churches of Winchester, Salisbury, Durham and York specifically.<sup>13</sup> In its original phrasing, the clause did not indicate who might be at risk of incurring the sanction. Certainly, when it was enforced against individuals, culprits could come from any rank of society. Yet it was also a sort of ecclesiastical propaganda that could implicate royal government, constantly at war with the church over ‘ecclesiastical liberty’, the *libertas ecclesiae*. It seems likely that Langton intended to assert that governmental infringements against ecclesiastical liberty would not be tolerated, but he stopped short, in this clause at least, of implicating royal officials.

This was not the strategy of his successor, John Pecham, who augmented the clause first at Reading in 1279, then at Lambeth in 1281.<sup>14</sup> Pecham emphasised that liberties, great and small, were protected by the excommunication, and also clarified the ways in which temporal possessions and rights counted as ecclesiastical rights alongside spiritual rights. It is clear from enforcements of the Oxford clause that it had long been interpreted broadly in this way, but Pecham expressly stated this. His next clarification addressed a key issue in the struggle between ecclesiastical and secular jurisdiction: writs of prohibition. Such writs sought to prevent the progress of cases held in court Christian, on the grounds that they rightly belonged to secular courts. The practice frequently hindered ecclesiastical justice.<sup>15</sup> Although the excommunication

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<sup>13</sup> Appendix, nos. 4.ii, 6[75], 10, 12 [50.ii], 14[41].

<sup>14</sup> Appendix, nos. 19 and 20.

<sup>15</sup> Douie, *Archbishop Pecham*, 113-18; Flahiff, ‘Writ of prohibition’ (parts I and II).

covered anyone who sought such writs, it was clearly aimed at Edward I's officials, and the king duly ordered that Pecham revoke the excommunication (though it was restated at Lambeth and remained part of ecclesiastical law). The archbishop's condemnation of secular practices that obstructed the church's justice therefore endured, and should have been proclaimed throughout the province of Canterbury. Perhaps Pecham, in the two years between his provincial councils, feared that his additions to Langton's clause implied that he condoned other infringements of church rights, because at Lambeth he specifically spelled out that he did not approve of any other disturbances not mentioned, merely wishing particularly to castigate the above. He further added that those who used false exemptions to impede or evade ecclesiastical discipline were equally bound by the sentence.

In one sense Pecham improved the value of *Qui malitiose ecclesias* by specifying and publicising particularly common and destructive abuses of ecclesiastical liberty. He certainly sought to bring royal officials to heel. Proclaiming that they incurred excommunication for their actions throughout the country was one way of doing this. It is also true, however, that his clarifications and additions, particularly at Lambeth, removed the punchy impact of Langton's concise declaration. Some of the clarity, memorability and broad coverage of the excommunication was lost in the enlargement of the sentence.

Langton's first clause did not explicitly implicate royal officials, but there was no such ambiguity to his seventh. Those who, for profit, hatred or otherwise maliciously refused (*contempnunt*) to carry out the king's mandate against excommunicates (i.e. ordering their capture) were *ipso facto* excommunicated.<sup>16</sup> Since it was royal officials, usually sheriffs, who were tasked with arresting contumacious excommunicates when bishops so requested (via the royal chancery which sent the writ), the archbishop was undoubtedly criticising and defaming such officials.<sup>17</sup> Clerical *gravamina*, as well as individual complaints, prove that the church was often confronted with reluctant and unwilling sheriffs, who undermined the ability of

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<sup>16</sup> Appendix, no.4[7].

<sup>17</sup> For this procedure, see Logan, *Excommunication*, particularly ch. 3

excommunication to coerce sinners.<sup>18</sup> The automatic excommunication ensured that it was common knowledge that such officials had offended God and the church, and were therefore separated from both.

Communities up and down the country were thus informed that such officials deserved to be excommunicated. The significance of this public declaration extended beyond the immediate issue of ensuring that writs for capture were carried out: it publicly confirmed that royal officials *could* be excommunicated. This was something that English kings had long denied (unless, on a case by case basis, they gave their permission).<sup>19</sup> The clause openly rejected such claims to immunity. Royal officials who scorned the keys of the church deserved to be bound by a sentence of excommunication, just like everyone else. It was to this that Edward I objected when he made Pecham revoke the excommunication in parliament. The archbishop was forced to assert that ‘ministers of the king should not be excommunicated, even if they do not obey the king’s mandate by not capturing excommunicates’.<sup>20</sup> The automatic sentence of excommunication nevertheless remained part of the law, as it had been since 1222. This was not ‘meaningless’, as Logan asserted, for the sentence was widely publicised albeit remaining problematic in practice.<sup>21</sup> Pecham had added that those who sought the release of excommunicates before absolution, which was evidently a relatively common problem (and continued to be so), incurred the same penalty. In 1257, the clergy complained that the king was directly responsible for this.<sup>22</sup> Regular reiteration of this clause would have reminded the faithful of the consequences (though these were not automatic) of remaining excommunicate: arrest and imprisonment by the secular arm. If the threat of excommunication was to work as a deterrent, it would do no harm constantly to remind people of the temporal as well as spiritual consequences of the sanction.

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<sup>18</sup> C&S, 541; *Curia Regis Rolls*, xi, no.1823; *Calendar of Fine Rolls*, 715 m. 2; London, TNA, SC 1/13/168; Logan, *Excommunication*, 103-4.

<sup>19</sup> See ch. 3, n. 82.

<sup>20</sup> C&S, 857.

<sup>21</sup> Logan, *Excommunication*, 103.

<sup>22</sup> C&S, 541, 1213; *CR 1234-7*, 13.

An excommunication only recorded in one set of statutes (Winchester II, *circa* 1247), erroneously ascribed to the Council of Oxford, is worth a brief mention, as it also brought royal ministers into disrepute. The clause, which was to be pronounced every Sunday, excommunicated those who held drinking parties, known as *scotales*. Sheriffs, foresters and bailiffs are all mentioned amongst those who might fall into the canon, and they were to be publicly denounced by name if they held such *potationes*.<sup>23</sup> Since this excommunication applied to only one diocese, it cannot have been very widely publicized, although *scotales* were also forbidden in the Forest Charter, c. 7, and were thus covered by excommunication through the charter.<sup>24</sup>

In 1268, the legate Ottobuono held an ecclesiastical council in London. The resulting canons came to be of great importance for the English church and its local laws.<sup>25</sup> Clause 12 here included excommunications that were to be pronounced every Sunday.<sup>26</sup> It condemned those who violently removed fugitives from churches and cemeteries, or who prevented the seekers of sanctuary from being supplied with victuals. It further denounced those who consumed or removed anything from the property of clergy. When Pecham incorporated these excommunications into his own list at Reading, he divided them into separate canons. Though both sentences affirmed the special and sacred nature of clerical lands and possessions, the second, *De domibus*, if judged by its subsequent use, was the more politically charged. It protected clerical property of all sorts – houses, granges, manors (rather than buildings used for spiritual purposes) – and the clergy who owned such property, though it only explicitly referred to archbishops and bishops. Like Pecham's expansion of *Qui malitiose ecclesias*, it sought to emphasise that ecclesiastical persons, rights and property enjoyed special and protected status, regardless of whether some might seem 'temporal'. It was another of the sentences to which the king objected in 1279, on the grounds that royal punishment sufficed. The king was thus trying to claim that there was no need for ecclesiastical sanctions since secular jurisdiction would deal with such

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<sup>23</sup> Appendix, no.11.

<sup>24</sup> Holt, *Magna Carta*, 430; cf. C&S, 135-6, 560, 604-5. On *scotales* see *English Episcopal Acta* 9: Winchester 1205-1238, ed. Vincent, lviii, 55-7; Vincent, 'Stephen Langton', 77.

<sup>25</sup> C&S, 739.

<sup>26</sup> Appendix, no.17.

matters. Individuals, certainly, were charged with incurring this sentence, and it came to be of significance during the troubles following *Clericis laicos*, when the king himself along with his officials stood accused of incurring it for confiscating clerical property and forcing clergy to buy it back. Thus while it certainly applied to anyone who treated ecclesiastical property in this way, it might be argued that the king and his officials were deemed particularly culpable. The church evidently disagreed that the king's punishment was enough, but again providing the sentence with widespread publicity was itself important. Even if the king swiftly came to the help of clergy who had suffered losses, it was worth emphasising that such acts were spiritually condemned. At the very least, affording so much publicity to the condemnation might work as a deterrent.

The final, and perhaps most striking, defence of ecclesiastical liberty through excommunication was the sentence covering Magna Carta. Magna Carta was, of course, a document that addressed a great many matters, of which the liberty of the English church was merely one. It was, however, given pride of place in the charter's first clause. David d'Avray is certainly right to argue that clergy, particularly those prelates who had studied theology at Paris or Oxford, such as Stephen Langton, supported the principle of placing limitations on the crown's autonomy.<sup>27</sup> The church symbolically stood behind the charter as a whole when it provided excommunication, in 1225, as a means of the charter's enforcement. Nonetheless, it is equally clear and predictable that churchmen supported the charter because it protected their own rights (in the first clause, but also elsewhere).<sup>28</sup> Confirmations of the charter were secured by both clergy and laity in return for taxes: Magna Carta was a bargaining chip.<sup>29</sup> The clergy repeatedly interpreted the charter's first clause very broadly.<sup>30</sup> When they presented grievances to the king, they did so on the assumption that the king was breaching the charter by violating their rights. When the charter was publicised by the

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<sup>27</sup> d'Avray, "Magna Carta".

<sup>28</sup> Carpenter, 'Archbishop Langton', 1056–7; Carpenter, *Magna Carta*, 122–3.

<sup>29</sup> Carpenter, *Magna Carta*, 420; Harriss, *King, Parliament and Public Finance*, 31; Carpenter, 'Magna Carta 1253'; Maddicott, 'The Crusade Taxation of 1268–70'; Maddicott, *Origins of the English Parliament*, 107–8, 152–3, 172–3, 194–6; Gray, 'Church and Magna Carta'.

<sup>30</sup> Cf. Helmholz, "Si quis suadente", which demonstrates the same broad interpretation of the canon *Si quis suadente*.

church, it was often as part of an (unsuccessful) attempt to ensure that the king kept to his promises. In so doing, however, the clergy also publicised the fact that the king was bound to observe many other laws that had little to do with the church.

The separate sentence of excommunication, composed in 1253, very clearly prioritised the liberty of the church.<sup>31</sup> Although it covered Magna Carta and the Forest Charter as a whole, its first clause closely resembles *Qui malitiose ecclesias*. The charters were covered in the second clause, in the phrase ‘all those who violate, infringe or diminish ecclesiastical liberties or the ancient approved customs of the realm, and especially the liberties and free customs which are contained in the charters of common liberties and of the forest’. It is hardly surprising that, on occasion, the ‘Magna Carta’ excommunication was not recognised as such, but rather described as an excommunication against infringers of ecclesiastical liberties.<sup>32</sup> The sentence then condemned those who introduced statutes or customs, or obeyed them, following a decretal of Honorius III (X 5.39.59), although omitting Honorius’s mention of ecclesiastical liberties. In this context, the phrase ‘contra illas’ might have been intended to refer to such liberties.<sup>33</sup> The text then provided instructions for how the sentence could be enforced, and ended by excommunicating those who disturbed the peace of the king and his kingdom (closely resembling the second excommunication of 1222, *Qui pacem et tranquillitatem*).

The Magna Carta sentence was therefore an excommunication that protected not just the charter, but the church’s rights. The short text in fact went further than Magna Carta itself in its protection of ecclesiastical rights, for instance mentioning the rights of churches, not just ‘the church’ (here following *Qui malitiose ecclesias*). It associated these with the charter, however, appropriating some of the charter’s authority and implied royal consent. Notably, the king’s own notification of the

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<sup>31</sup> C&S, 477-8.

<sup>32</sup> For example BL Harley MS 3911, fos. 163r-166v; BL Cotton MS Faustina A IV, fos. 23v-25v; BL Stowe MS 937, fos. 135r-138v; the calendar of Godfrey Giffard’s register: *Reg. G. Giffard*, 38; BL Royal MS 9 A II does not include the excommunication, but describes the Charter as ‘Carta regis Henrici de libertatibus Anglicane ecclesie que vocatur magna carta’. (f. 15); Hill, ‘Church and Magna Carta’.

<sup>33</sup> David Carpenter did not acknowledge that the clause originated with the papacy, and argues it was an attack on the king’s judges: ‘Magna Carta 1253’, 184.

excommunication – not publicised in the same way – ordering the clauses differently (with the charter given priority), did not include Honorius’s decretal, and added that the king’s own rights were also protected.<sup>34</sup> The 1253 sentence, which was never altered, thus sought to make Magna Carta inseparable from ecclesiastical liberties. It was publicised, thereby ensuring that everyone knew that the king had granted the church its liberties, as well as the others contained in the charter. There was no way of knowing, however, what these were unless the charter itself was consulted. This was why the charter required publication alongside the excommunication. Yet in terms of church liberties, everything that one needed to know was already expressed in the sentence of excommunication. The emphasis placed on ecclesiastical rights in the ‘Great Curse’ is demonstrated by a late source. In 1528, a treatise complained that when priests read out the sentences, there was so much emphasis on ecclesiastical rights and privileges ‘that the people be greatly offended therby, and thynke great parcialite in them, and iuge them rather to be made of a pryde and couetise of the church; than of any charite to the people, whereby many doo rather dyspyse them than obey them.’<sup>35</sup>

These *ipso facto* excommunications, ‘the Great Curse’, thus broadcast the rights of the church and, to a greater or lesser extent, sought to rein in their infringements by the king. Nonetheless, one sentence protected the king and his rights. The second sentence pronounced in 1222, along with *Qui malitiose ecclesias*, occurs frequently in diocesan statutes, even when various others of Langton’s sentences were not included. The canon excommunicated those who disturbed the peace and tranquillity of the realm, or who sought to withhold the king’s rights. Statutes of the diocese of Salisbury (1238x1244), reacting against a supposed plot of 1238 to assassinate Henry III, added those who plotted the king’s death or any sedition.<sup>36</sup> This addition, though specific to the diocese, came to be part of the standard list through the priests’ manual of William of Pagula, a fourteenth-century priest in the diocese of

<sup>34</sup> C&S, 478-9; Carpenter, ‘Magna Carta 1253’, 183-5.

<sup>35</sup> *Monumenta Ritualia Ecclesiae Anglicanae*, ed. Maskell, ii, clxxiv. For ecclesiastical liberties, and Magna Carta in this period see Gray, ‘The church and Magna Charta’ and ‘Archbishop Pecham and the decrees of Boniface’.

<sup>36</sup> Appendix, no.10. See Powicke, ‘The murder of Henry Clement and the pirates of Lundy Island’.

Salisbury. The original canon was also expanded by Pecham at Reading. The archbishop added that it should be understood to include not only those ‘stirring up the horror of wars’, but also public thieves and plunderers (‘predones’).<sup>37</sup> Although the clause protected the king’s rights, its primary aim was to maintain a peaceful kingdom, something that benefitted everyone. It was also the church’s duty to maintain peace, and the peace of the church and the kingdom were inseparable.<sup>38</sup> Nevertheless, the excommunication ensured that English parishioners understood that the church did not support attempts to limit the king’s rights unjustly. The king also had a protected status, and ecclesiastical legislation decreed that anyone who challenged this was automatically condemned by the church. This ecclesiastical support for the king was brought to the attention of everyone alongside that which criticised his government.

#### ***PUBLICATION OF IPSO FACTO SENTENCES***

Publication of automatic excommunications, as the appendix demonstrates, varied from diocese to diocese (though of course the great majority of such sentences fell under the jurisdiction of Canterbury, whose provincial statutes in theory applied to all English bishoprics except those of York, Durham and Carlisle).<sup>39</sup> Individual diocesan and provincial statutes differed in the precise excommunications decreed, as well as in how frequently they were commanded to be published. Thus while four times a year was the most common requirement (commanded by both Langton and Pecham), Ottobuono ordered weekly publication, every Sunday (until his sentences were incorporated into Pecham’s list). There was also a strong tradition, in diocesan legislation, of publication three times a year. Most statutes merely decreed that the sentences be pronounced however many times a year on feast days, or on the principal feast days. Some, however, specified precise feast days.<sup>40</sup> Thus Canterbury I decreed that the excommunications were to be pronounced on the feasts of the Nativity,

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<sup>37</sup> Appendix, no.19[11.ii].

<sup>38</sup> Cf. Vincent, ‘Gregory IX and the Search for an Anglo-French Peace’.

<sup>39</sup> In fact their influence extended to the York province: Cheney, ‘Statute-making in the English church’, 138-9, 148.

<sup>40</sup> Cf. Carruthers, ‘The *Great Curse*’, 52; Jaser, ‘Usurping the spiritual sword’, 519-20.



Pentecost and the Assumption. London archdeaconry statutes stipulated the first Sunday of Advent, the first Sunday of Lent, Trinity Sunday and the octave of the Assumption.<sup>41</sup> Many, presumably in order to ensure that priests would not forget, ordered the sentences to be pronounced on the Sundays following the quarterly meetings of the rural chapter (generally held on Fridays).<sup>42</sup>

Awareness of *ipso facto* sentences was further increased by mandates ordering publication, sent independently of legislation. Some of these, such as orders to publish the Magna Carta excommunication and *Clericis laicos*, would have resulted in pronouncements made on a certain day or for a set period of time. Others were more general. In 1277, Walter Bronescombe, bishop of Exeter, ordered that twelve *ipso facto*<sup>43</sup> sentences be published every Sunday in every collegiate and parish church. Rectors, vicars and parish priests were further to ensure that a written copy of the bishop's list was posted up in their churches.<sup>44</sup> Winchelsea's 1309 'ordinance' for the publication of various excommunications, which are not specified but are probably those set out in the 1281 Lambeth list, ordered quarterly publication. This was to be done on the four principal feasts, by deacons, archpriests, provosts, archdeacons, their officials and commissioners, in their chapters, and by vicars and rectors in their churches. This was to be done every year, and the publication to be performed 'distinctly and intelligibly in the vernacular' (presumably English).<sup>45</sup>

Despite the variation in details, it is clear that a great deal of emphasis was placed upon ensuring that the laity was made aware of these excommunications. Statutes promulgated in the second half of the thirteenth century, following

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<sup>41</sup> One MS of the Norwich Statutes, Exeter II and Chichester II also give specific days (Appendix, nos.9, 21, 22).

<sup>42</sup> The two versions of the statutes for the archdeaconry of London, the only place where dates are specified, have the Fridays following the feasts of St Michael, Epiphany, Easter, St John the Baptist and the Fridays following the feasts of St Michael, Christmas, Easter week and the Ascension (C&S, 328, 330). On rural chapters see *Reg. Sutton*, iii, xxx-xxxii.

<sup>43</sup> *Qui malitiose ecclesias; Qui pacem et tranquillitatem; Qui scienter et prudenter falsum; Advocatos quoque* (but without mention of advocates); Magna Carta, followed by the clause sentencing those who introduced new customs and statutes against ecclesiastical liberty (as in the 1253 excommunication); *Ad ecclesiam vel cimiterium; Si quis suadente*; 'incendarios publicos et ecclesiarum effractores'; 'agrorum depopulatores'; *De domibus*; 'omnes sequestrorum episcopi violatores, jurisdictionum ordinariorum turbatores'.

<sup>44</sup> *Reg. Bronescombe*, no.1222.

<sup>45</sup> C&S, 1274-7.

Ottobuono's specification that publication should be made 'astante parochianorum et fidelium multitudine', began to add that there ought to be a crowd of people (though this was clearly already the motive for choosing significant feasts for publication). Emphasis was also placed on ensuring that such sentences were understood. They were thus to be explained 'in singulis articulis', 'aperte populo', 'lingua materna publicari parochianis distincte et aperte'.<sup>46</sup> The sentences were also to be published solemnly. That is, the excommunications were to be pronounced according to the excommunication ceremony, using the 'Auctoritate Dei' formula, accompanied by candles and bells. That the sentences should be pronounced solemnly was not specifically enjoined in the Council of Oxford, but is indicated by the use of the 'Auctoritate Dei' formula at the very beginning of the Council's decrees. Other councils sometimes specified use of solemnity, use of candles and bells, and also the 'Auctoritate Dei' formula.

Publication, as set out in legislation, was important because it demonstrates the permanent importance of making the sentences known. However, occasionally, specific efforts were made to ensure that *ipso facto* sentences were pronounced in parish churches. Such orders might be responses to particular events. The 1255 orders to have the Magna Carta excommunication and the charter itself published were a response to the fact that Innocent IV had confirmed the sentence.<sup>47</sup> In 1297, Winchelsey ordered sentences to be published in reaction to the papal bull *Clericis laicos*. The pope's excommunication was to be pronounced, but alongside it *Si quis suadente* and *De domibus*, both of which were then being infringed.<sup>48</sup> It is less obvious why other mandates specifically concerned with automatic excommunications were sent at particular times. These may simply have been the actions of bishops acutely aware of the importance of promulgating such sentences (discussed below). Such mandates tend to be more specific about how the sentences were to be published than the general orders in legislation, and are thus informative.

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<sup>46</sup> Appendix, nos. 14 [42.iv], 19 [11], 22 [40]. Emphasis on publication in the vernacular will be discussed further below.

<sup>47</sup> *Reg. Innocent IV*, iii, no.8070; *Ann. Burton*, 320-2.

<sup>48</sup> *C&S*, 1173-6.

Mandates specifically dedicated to the task of publishing *ipso facto* excommunications are more explicit than statutes about the importance of lay comprehension. When Richard of Gravesend, dean of Lincoln, ordered the Magna Carta sentence to be published in 1255, following papal confirmation, he ordered that it be pronounced in both English and French, distinctly and plainly. Moreover, this was to be done not only in churches but also in county and hundred courts, and other public meeting places.<sup>49</sup> The chroniclers also confirm that the 1253 sentence was publicised after its first recital in May, and indicate that the orders were carried out with due solemnity.<sup>50</sup> Godfrey Giffard ordered certain sentences – including *Qui malitiose ecclesias*, the sentence accompanying Magna Carta, and *De domibus* — to be pronounced in 1270, and he ordered them to be explained to both the lettered and the laity, in the (presumably English, and possibly also Welsh and French) vernacular.<sup>51</sup> In 1282, John Pecham gave a sermon to the townspeople of Lewes and then recited *ipso facto* excommunications in English.<sup>52</sup> When bishop Sutton executed Winchelsey's 1297 mandate to publish *De domibus*, *Si quis suadente*, *Clericis laicos*, and a sentence against those who occupied ecclesiastical benefices through lay force,<sup>53</sup> he did so dressed in alb and stole, after he had preached his sermon, with clergy assisting. He explained in English what he was doing, and why, before reciting the sentences.<sup>54</sup> The following year, Winchelsey himself stated that the sentences should be explained in English one by one ('seriatim'), so that notice reached everyone.<sup>55</sup> He further explained why it was necessary that sentences be pronounced with due solemnity, using candles and bells: 'so that [the sentence] might be more feared on account of this solemnity, to which laymen pay more attention than to the consequences of these sentences'.<sup>56</sup> Oliver Sutton, bishop of Lincoln, confirmed that he had duly published the sentences in accordance with Winchelsey's mandate, and had 'explained them each

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<sup>49</sup> *Ann. Burton*, 320-22; substantially the same letter, sent to William of Kilkeny, bishop-elect of Ely, is in Cambridge, University Library MS. EDC 1/B/95. I owe the latter reference to Nicholas Vincent.

<sup>50</sup> *C&S*, 475-7.

<sup>51</sup> *Concilia Magnae Britanniae et Hiberniae*, ed. Wilkins, ii, 22, 23.

<sup>52</sup> Blaauw, 'On the early history of Lewes Priory', 33.

<sup>53</sup> cf. York I, c. 41 i, Durham II, c. 50 ii (appendix, nos. 14, 12).

<sup>54</sup> *Reg. Sutton*, vi, 24-7. Vernacular explanations of excommunications were far from new, cf. *Le Pontifical romano-germanique*, i, 311 (a formula from c. 906). See also Edwards, 'Ritual excommunication', 66-8.

<sup>55</sup> *C&S*, 1193, 1194, 1195 (*in vulgari, in anglico, in anglico*).

<sup>56</sup> *C&S*, 1194, 1195.

in English'.<sup>57</sup> Winchelsey's 1310 orders to publish *ipso facto* sentences as set out in earlier statutes similarly noted that they should be published 'distinctly and intelligibly in the vernacular'.<sup>58</sup>

### ***THE NEED TO PUBLISH LATAE SENTENTIAE***

It is clear that, amongst the various matters dealt with in ecclesiastical legislation, *ipso facto* sentences were treated with particular seriousness. The church's efforts to ensure that these sentences were known amongst both clergy and laity at every level of English society can be considered under three categories: a desire to redress perceived threats to the liberty of the church, to canon law, and to pastoral care. The church understood the publicity value here, but publication was also required by the law and was necessary in order to ensure that souls were not recklessly endangered. These categories are by no means mutually exclusive. While the appendix sets out the content of these sentences and provisions for their publication, it does not provide introductory rubrics. The Oxford excommunications, of course, were placed before the canons of the council itself, but other sets of statutes include introductory remarks which indicate the intent with which they were published. In others, context illustrates intent.

As has been discussed, many *latae sententiae* sought to protect ecclesiastical rights from the laity, from other ecclesiastical institutions (the papacy) and from royal incursions. It would be foolish not to acknowledge that the strenuous efforts to publicise these sentences stemmed from a desire to condemn those who perpetrated them, on a regular basis, as an aspect of ecclesiastical propaganda. Such sentences were intended to curb infringements of ecclesiastical rights. Thus statutes for an unknown diocese from the 1220s, before the sentences that required publication three or four times a year, forbade constables, castellans or bailiffs of any sort from molesting ecclesiastical liberty, on pain of anathema. If they contravened this ban, their lands were to be placed under interdict, and finally, if they remained obdurate,

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<sup>57</sup> *Reg. Sutton*, vi, 187-8.

<sup>58</sup> *C&S*, 1275.

they were to be solemnly excommunicated.<sup>59</sup> Nevertheless, it is not clear that this sentence was to be pronounced regularly, as the following clause undoubtedly was. The statutes of Durham II (1241x1249), by contrast, in introducing the sentences to be published, explicitly stated a duty to protect the liberty of the church: ‘Because the English church is in many ways deformed with oppressions of her liberties in many articles, which we cannot ignore without concern for eternal salvation, we promulgate a sentence of excommunication against those who presume to attempt such things’.<sup>60</sup> The statutes of Wells (1258?) referred to the Oxford sentences as being ‘against disturbers of the liberties of the church’, and similarly noted the importance of ensuring that the order frequently to renew them be obeyed.<sup>61</sup> Ottobuono’s 1268 *ipso facto* sentences also began by noting the dangers that threatened the church. The excommunications were intended to prevent such threats.<sup>62</sup> The ritual ceremony, enacted throughout the year, was supposed to frighten those in the audience away from committing such offences. Thus Grosseteste described the 1222 sentences as intended ‘to terrify the malicious and restrain their malice’.<sup>63</sup> A similar description was used to introduce the list of sentences in Winchester III (1262x1265), to be published three times a year.<sup>64</sup>

Though it is obvious that publication of these sentences was intended to deter people from committing certain crimes, and to advertise the fact that those who disobeyed the church ought to be considered excommunicate, this was not the only reason why they had to be made widely known. Once a crime had been condemned by automatic sentence, the law required that this fact be well publicised. This related to the laws governing use of excommunication generally, as well as to the specific workings of *latae sententiae*. Perhaps the most important rule regarding imposition of ecclesiastical censures was that someone should only be sentenced after they had been suitably warned. Ideally, a sentence would never be needed because the threat alone would cause the offender to make amends. Three warnings were usually expected. If

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<sup>59</sup> C&S, 150.

<sup>60</sup> C&S, 434.

<sup>61</sup> C&S, 625.

<sup>62</sup> Appendix, no.17.

<sup>63</sup> C&S, 275.

<sup>64</sup> C&S, 722.

someone had been adequately warned, but remained recalcitrant, they could be declared contumacious and be excommunicated. *Latae sententiae*, however, were a special case. These rules could not apply, since sentences were incurred automatically, as soon as a condemned act was committed. There was no warning or opportunity for the offender to repent and seek reconciliation with the church before they were bound by excommunication. As a result, automatic excommunications were not immediately or universally accepted by canonists and decretalists. The compiler of the *Decretum*, attributed to Gratian, was a notable dissenter. Gratian unsuccessfully attempted to mitigate the effects of *Si quis suadente*, on the grounds that anathema could only be pronounced after repeated warnings. It was not acceptable to decree that such a punishment ensue without adequate warning.<sup>65</sup> Peter Huizing has written more fully on the debates regarding automatic excommunications. He notes that there was a further problem, in that such sentences might be incurred secretly, thus blurring the accepted lines between public sins and public penances, as between secret sins and private confession.<sup>66</sup>

Although the controversy surrounding automatic sentences eventually died down and such sentences became an accepted part of canon law, the problem that there was no warning remained. The solution to this offered by the canonists was to decree that all crimes incurred *ipso facto* should be publicised. If such crimes were identified for the faithful through frequent repetition, publication itself served as a due warning. Thus Huguccio rejected objections to *latae sententiae*, writing that there was indeed warning for such sentences since they were regularly reiterated before the people.<sup>67</sup>

How important a factor this was for the English clergy who took such care to have these sentences published in the English dioceses is impossible to tell. Certainly, the mantra that ignorance should not provide an excuse was often repeated in relation

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<sup>65</sup> Huizing, 'The earliest development of excommunication *latae sententiae*', 292-4; Vodola, *Excommunication*, 28-35.

<sup>66</sup> Huizing, 'The earliest development of excommunication *latae sententiae*', 292-300, 318-19; Haring, 'Peter Cantor's view on ecclesiastical excommunication'.

<sup>67</sup> Vodola, *Excommunication*, 31, n. 16.

to the need to publicise such sentences.<sup>68</sup> Though the refrain was pertinent in this context, it hardly applied specifically to excommunications *latae sententiae*. Nevertheless, the rules regarding excommunication, particularly as promulgated by the councils held at the Lateran and in Lyons, in 1215 and 1245, were noted in English legislation.<sup>69</sup> It might be assumed that the legislating bishops knew the law and accordingly ordered regular publication of sentences. This conclusion is strengthened by the proximity of the rule requiring sufficient warning, to orders for the publication of *latae sententiae* in various statutes. Langton's diocesan statutes (1213x1214), for example, note (c. 49) the requirement for canonical warning. The clause went on immediately to order the thrice-yearly pronouncement of *ipso facto* sentences.<sup>70</sup> It thus seems plausible that Langton was ensuring wide promulgation in light of the requirement that excommunication be accompanied by ample warning.<sup>71</sup> The Statutes of Salisbury I reveal a similar proximity: c. 51 stressed the importance that 'competent' warning be provided, in the presence of appropriate persons, enjoining interdict as the punishment for those who neglected to obey this rule. The following clause then ordered the publication of solemn sentences three times a year.<sup>72</sup>

The legal requirement that *latae sententiae* be made widely known in lieu of specific warnings is important, but there is little to prove that this was a major concern for the clergy of thirteenth-century England. By contrast, the pastoral need to publicise automatically incurred sentences is easy to appreciate.<sup>73</sup> In *latae sententiae*, politics and pastoral care converged: the political ideologies expressed in *ipso facto* sentences had to be disseminated by clergy responsible for their flocks, so that faithful Christians did not unwittingly endanger their souls by falling into such sentences. The thirteenth-century English episcopate was famously obsessed with providing adequate pastoral

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<sup>68</sup> Secular ordinances also explained the need for publication with the phrase 'lest anyone is able to profess ignorance': Dutour, 'L'élaboration, la publication et la diffusion', 152.

<sup>69</sup> See Gibbs and Lang, *Bishops and Reform*, 124-5.

<sup>70</sup> 'excommunicetur in genere': Appendix, no.3.

<sup>71</sup> C&S, 33. Recited verbatim also in statutes of an unknown bishop: C&S, 192-3.

<sup>72</sup> C&S, 76.

<sup>73</sup> Lateran IV is often credited with increasing the role and importance of pastoral care in parish life. E.g. Boyle, 'The Fourth Lateran Council', 30-1.

care for the faithful. Their preoccupation with the *cura animarum* is widely known.<sup>74</sup> Since excommunication imperilled the soul, it was important that it was taken seriously. If *latae sententiae* were not brought to the attention of Christ's flock, souls were put at risk. Ignorance of the law in this context was dangerous. It is therefore logical that many of the bishops attached a good deal of importance to protecting their parishioners from excommunication. There is, however, also much specific evidence to indicate that bishops understood the pastoral significance of excommunications incurred *ipso facto*.

As a spiritual sanction, excommunication was an important part of the *cura animarum*. Indeed, as Leonard Boyle noted, excommunication was the sanction most likely to affect the laity.<sup>75</sup> Thus, when an individual was sentenced, such chastisement was, in theory, part of the pastoral care being supplied to the parishioner. It was the duty of the shepherd to correct the failings of his sheep. Ezekiel 3:18-19 was often cited<sup>76</sup> in relation to this duty to rebuke:

If, when I say to the wicked, you shall surely die: and you give him no warning, nor speak so that he may be converted from his wicked way and live, the same wicked man shall die in his iniquity, but I will require his blood at your hand. But if you give warning to the wicked, and he is not converted from his wickedness and from his wicked way, he indeed shall die in his iniquity, but you have delivered your soul.

The requirement that clergy correct the offences of their subjects was frequently articulated. It was expressly linked to excommunication in early rites from the Romano-German Pontifical tradition, and was articulated in the seventh canon of Lateran IV, which quoted the Ezekiel chapter.<sup>77</sup> Certainly, there were more gentle ways to correct those erring. In the earlier middle ages, as Sarah Hamilton has pointed

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<sup>74</sup> See Robert Brentano's comparison with Italian bishops of the same period: *Two Churches*, 174-237, particularly 220-1; also Boyle, 'Robert Grosseteste and the pastoral care'; Gibbs and Lang, *Bishops and Reform*, 164; Denton, *Robert Winchelsey*, 40.

<sup>75</sup> Boyle, 'A study of the works attributed to William of Pagula', 297.

<sup>76</sup> For example, *SLI*, 65; *Grosseteste Letters*, 125, 299, 439 (from Innocent IV), 450 (from Richard Gravesend); *Reg. Sutton*, vi, 24-5; cf. a reference to Ezekiel 18:23 and 33:11, *Foedera*, I.ii.641 (Martin IV to Edward I).

<sup>77</sup> *Le Pontifical romano-germanique*, i, 308; Hamilton, 'Interpreting diversity', 146-7; Tanner, *Decrees*, i, 237.



out, penance was far more common than excommunication, which remained on the whole a last resort.<sup>78</sup> This cannot be said of thirteenth-century England, where excommunication was a routine punishment used in the ecclesiastical courts. Yet neither was excommunication an automatic resort. John Pecham, for example, wrote to Edward I, warning him to restore ecclesiastical liberties. This he did because he was compelled 'ex metu conscientiae'. Even here, however, he did not threaten excommunication.<sup>79</sup>

Nevertheless, excommunication was common in thirteenth-century England, and the pastoral necessity to use it was occasionally acknowledged in writing. When archbishop Winchelsey excommunicated the Welsh prince Madoc in 1295, for instance, he noted that he could not turn a blind eye to the offences which had been committed against God, lest the blood of those wandering from the path – whom he was held to recall – be required by God, the strict judge.<sup>80</sup> *The Life of St Hugh of Lincoln* includes a conversation between the bishop and Henry II, in which the latter complained about the excommunication of his chief forester and the bishop's refusal to confer a prebend on a royal official. Hugh replied that he was bound to save the king's soul, or he would not be doing his duty, declaring 'It is essential to excommunicate the oppressor of my church' and to refuse those who try to obtain prebends illegally.<sup>81</sup> Protecting the church's liberties, through excommunication if necessary, was therefore a matter of pastoral care. Further, rebuking sinners was important because turning a blind eye to one crime would cause more to be committed. This was an idea expressed in the excommunication against those who had assaulted Boniface of Savoy's official, Eustace de Len.<sup>82</sup> However, Boniface's sentence has already been cited as an example of how personal animosity and vengeful intent could influence the enforcement of sentences of excommunication. Excommunication could certainly be issued with the medicinal and pastoral intent the church desired, yet so often in individual cases this remains difficult to see. It was perhaps a stronger motive in the sorts of cases not

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<sup>78</sup> Hamilton, *Church and People*, 326.

<sup>79</sup> *Reg. Epp. Pecham*, i, 239-44 (at 243).

<sup>80</sup> *Reg. Winchelsey*, 1-3.

<sup>81</sup> *Life of St Hugh of Lincoln*, ed. Douie and Farmer, i, 118.

<sup>82</sup> *CM*, vi, 222-5.

addressed in this thesis, such as those involving adultery. Meanwhile, whenever the liberty or liberties of the church were at stake, the motives for the resulting excommunications seldom seem chiefly motivated by the salvation of particular souls.

The same problem applies to publication of sentences against individuals. In theory, publication was also a pastoral issue. Since the sanction was contagious, people needed to know who to shun so that they themselves would not incur excommunication through contact with those infected. It was the duty of clergymen to keep them properly informed. Thus Archbishop Winchelsey ordered that the vintner, Ralph de Honilane, with whom the citizens of London had been communicating, be shunned, citing the chapter from Ezekiel, and expressing concern that the citizens might be infected, through ignorance, by this ‘putrid limb of the church’. The mayor and commune of London were to enjoin the populace to have no contact with Ralph, ‘under threat of divine malediction’.<sup>83</sup> Here again, however, though the archbishop might well have been concerned about souls, he was also reacting to the complete disregard with which both Ralph and the men of London had previously treated his sentence. Ralph’s perseverance under his sentence was ‘not without heretical depravity’, while those communicating with him were degenerate sons, impudently scorning ecclesiastical discipline. It is difficult to believe that the archbishop was acting purely or even chiefly from pastoral motives. Thus although both the imposition and dissemination of sentences against individuals remained pastoral matters in theory, in practice, both were often inspired by other clerical motives.

It is easier to believe in the pastorally-minded concerns of clerics when it came to *latae sententiae*. Though the publication of such sentences was not unrelated to current political concerns, many of the statutes and mandates that ordered their regular reiteration placed their orders firmly in the context of concern for souls. Knowledge of automatic excommunications became a crucial part of clerical education, so that parish priests were able to relate them to their parishioners. This they were expected to do thoroughly and clearly, in the vernacular, so that laymen understood them. Diocesan

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<sup>83</sup> *Reg. Winchelsey*, 394-5.

statutes from Exeter even expected priests to learn them by heart.<sup>84</sup> Thus lists of sentences were included not only in legislation but also in pastoral manuals.

Not all ecclesiastical councils made publication of *latae sententiae* an explicitly pastoral issue, but some certainly did. At the Council of Lambeth, Pecham ordered that two of his constitutions be published four times a year. The first of these was the *Ignorantia sacerdotum*, a syllabus of Christian knowledge that parish priests needed to explain to their parishioners. It included, amongst other things, the creed, the sacraments, lists of principal virtues and vices, and the Ten Commandments.<sup>85</sup> It was therefore a basic catalogue of the most vital elements of pastoral care. Although historians have made much of this clause (while pointing out that in itself it was not particularly educational), they have not noticed that it was paired with the following clause, containing *ipso facto* excommunications.<sup>86</sup> Both clauses were to be published at the same time. To Pecham, therefore, the automatic excommunications were also an integral aspect of that Christian knowledge that the populace needed to have explained to them.

When Pecham then introduced the sentences, he explained why it was necessary that they be published:

Because it is not possible to avoid evil unless it is known, but there are many sentences of excommunication, by which wicked men are struck down ... we order all the priests of the province of Canterbury openly to set forth the sentences of excommunication which follow, to the people entrusted to them, on all Sundays immediately following the celebration of the rural chapter, lest henceforth through ignorance they are plunged into the pit of such great danger.<sup>87</sup>

Seven years later, the Statutes of Exeter II similarly made clear the imperative to publish such sentences: 'So that we take care for the salvation of our subordinates more cautiously, lest they incur sentences of excommunications brought *ipso facto*

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<sup>84</sup> C&S, 625-6, 1057-9.

<sup>85</sup> C&S, 900-5

<sup>86</sup> On the *Ignorantia Sacerdotum*, see Pantin, *The English Church*, 194-5; Boyle, 'The *Oculus sacerdotis*', 82; Douie, *Archbishop Pecham*, 134-42; Denton, 'Competence of the parish clergy', 273-5; Haines, *Ecclesia Anglicana*, 133-7, and his notes.

<sup>87</sup> C&S, 848.

through ignorance in any way, we have decided to insert the sentences of excommunications [...]’.<sup>88</sup>

The clearest indication of pastoral concerns in this context is Walter Bronescombe’s 1277 mandate to publish the sentences. He wrote to his subordinates, explaining at length their duties:

Among the other anxieties of pastoral care which rest upon us, the reason for the coming of our Redeemer, Who came not only for the sake of the just but for all who had died, unceasingly arouses the duty of our office and diligently summons us to watch over the safety of souls, wholesomely to preserve in health the sheep of the flock entrusted to us, and by the remedy of salvation to lead back those to the path of truth who have strayed in error so that they may be cured, lest – which God forbid – they perish through our dissimulation and we be punished by God’s judgement for our negligence on their account. Indeed, certain of our parishioners through a certain very great ignorance of letters do not know the statutes of the canons and the traditions of the holy fathers, and have frequently fallen under sentences of excommunication ... which we relate with sorrow, and unwisely believe that they may do what is unlawful; in order that the snare of such sentences may be with circumspection avoided and the blindness of ignorance shut out, we command you ... that you should have the articles set out below, on account of which sentence of excommunication is incurred *ipso facto*, published by the parish priests in every collegiate and parish church on every Sunday. ... You are to enjoin on every rector, vicar and parish priest of such churches that each of them should, within a month, have the contents of the present letter clearly posted up in a prominent place in their churches, under threat of a penalty to be assessed at the judgement of the ordinary.<sup>89</sup>

Some months later, Bronescombe referred to his earlier mandate, quoting Gregory the Great: ‘For there is no excusing the shepherd if the wolf eats the sheep without the shepherd’s knowledge’.<sup>90</sup> His sentiments were echoed in 1310, when William Greenfield, archbishop of York, ordered publication of *ipso facto* sentences on

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<sup>88</sup> C&S, 1057.

<sup>89</sup> Reg. Bronescombe, no.1222.

<sup>90</sup> Reg. Bronescombe, no.1229; Gregory the Great, *Registrum Epistolarum Libri I-VII*, ed. D. Norberg, liber III, ep. 52; The phrase was incorporated into the *Liber extra*, X 5.41.10.

Sundays and feast days throughout his diocese, lest blood be required – which God forbid – from the hands of himself or his subordinates as a result of their negligence.<sup>91</sup>

What was at stake here is clear. Excommunication imperilled souls. Since it was the duty of clergymen to protect the souls of their flocks, if they did not ensure that *latae sententiae* were known, they would themselves be answerable to God for their negligence. It is hardly surprising, therefore, that such lists were also a key component of pastoral manuals. As early as c. 1216, Thomas of Chobham urged priests to learn which sentences were incurred *ipso facto* in their own particular dioceses.<sup>92</sup> Subsequently, manuals provided just such lists. In England, Robert Grosseteste's *Templum Dei*, a short manual set out almost as a series of diagrams, proved influential. It contained a list of sentences incurred *ipso facto*, followed by lists of reserved absolutions, exceptions to *Si quis suadente*, and various other excommunication-related information.<sup>93</sup> In the fourteenth century, William of Pagula sought to provide extensive lists. In his *Oculus sacerdotis* (c. 1320), he included two lists. The first contains ninety *ipso facto* sentences extracted from papal and English councils. The second (in the appendix) was a list requiring frequent publication, containing thirty-four sentences.<sup>94</sup> Pagula's concern here was explicitly pastoral care. This is not to argue that he did not care about politics – he certainly did<sup>95</sup> – but this manual was written so that parish priests would be able to minister to their charges. This necessitated wide dissemination and frequent publication of *latae sententiae*, which in turn meant that various politically charged sentences, most strikingly that attached to Magna Carta, were brought to the attention of the English laity.

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<sup>91</sup> *Register of William Greenfield*, ed. Brown and Thompson, i, no.300.

<sup>92</sup> Chobham, *Summa*, 250-1.

<sup>93</sup> Robert Grosseteste, *Templum Dei*, VII, no. 3-13.

<sup>94</sup> no.24.

<sup>95</sup> See his criticisms in 'The Mirror of King Edward III', trans. C. J. Nederman in *Political Thought in Early 14th-Century England*, 63–139.

## ***IMPLEMENTATION OF PUBLICATION***

*Ipsa facto* sentences were therefore meant to be publicised throughout England, for a number of reasons. This does not mean, however, that such legislation was obeyed. Parish priests might indeed have been negligent in performing their duties as instructed. It is also possible that, despite the best efforts of bishops and archbishops, and those who composed manuals, not all clergy were aware of the sentences they were supposed regularly to pronounce. It should further be noted that, even if such publication occurred, it differed from diocese to diocese and from decade to decade.

There are thus difficulties in knowing to what extent such orders were obeyed. It would be overly optimistic to argue that they were published, without fail, in every parish church as often as required. Nevertheless, there is reason to conclude that they were indeed widely disseminated. First, though the prominence given to publishing these sentences, in various types of source, does not automatically mean that they were published, it does make this plausible. Powicke and Cheney's definitive edition of English ecclesiastical legislation demonstrates that hundreds of manuscripts containing these councils survive.<sup>96</sup> Records that mandates were sent to priests containing the sentences and their inclusion in priests' manuals further makes it likely that they were well known. The fact that the dates of publication were frequently set for two days following the celebration of rural chapters also increases the chances of clergy being reminded of them by their superiors.

In addition, many statutes stated that clergy who failed to publish these sentences would be punished. The Statutes of Salisbury II thus ordered that the promulgation of sentences should be observed by prelates and priests, if they wished to avoid punishment.<sup>97</sup> Archdeacons appear to have been tasked with punishing priests found negligent in this respect.<sup>98</sup> When Richard of Gravesend decreed publication of the Magna Carta sentence, and the charter itself, in 1255, he ordered that he who

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<sup>96</sup> *C&S*, *passim*.

<sup>97</sup> *C&S*, 387.

<sup>98</sup> *C&S*, 337. If this general sentence were to be published in some churches, but not all, this would generate scandal and opprobrium.

wished to ‘cast off that burden from his shoulders’ should come to Richard at Lincoln (where he was dean) to explain their presumption.<sup>99</sup> At Lambeth, Pecham went so far as to order local archdeacons ‘diligently to inquire’ about the publication he had ordered, and to compel them, ‘pena canonica castigando’, to supply what might have been presumptuously omitted.<sup>100</sup> Similarly, in 1309, Winchelsey assured his readers that he would inquire into publication, and would punish those who were negligent. Every year, his suffragans were to send letters patent confirming execution of his mandate. Subsequent letters sent by Winchelsey demonstrate that he was particularly anxious to ensure his orders were carried out.<sup>101</sup>

Such orders, particularly Winchelsey’s, might be taken as indications that clergy had thus far been negligent. Certainly, Winchelsey experienced problems in forcing his subordinates to publish the *Clericis laicos* excommunications of 1297, although this was a fraught situation, probably not representative of general practice.<sup>102</sup> In general, there is little to indicate that clergy were punished for failing to ensure publication, but it is clear too that such punishment would have been issued at an administrative level for which records do not survive in this period. Conclusions should probably not be drawn from this, therefore, although it might be noted that there are reports of mandates to denounce specific excommunications being fulfilled. It thus might be expected that if the problem was endemic, there would be some indication of this in episcopal registers, as in Winchelsey’s in 1297.

On the other hand, there is evidence that such commands were fulfilled. In 1295, Winchelsey ordered the bishop of Chichester to excommunicate certain malefactors who had entered the archbishop’s liberty at Lindfield and harassed the archbishop’s subjects there. He noted that those guilty here could not pretend ignorance of the law because it was known to all that such actions would incur the penalties stipulated in *Qui malitiose ecclesias*, ‘which we believe to be published four times a

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<sup>99</sup> *Ann. Burton*, 322.

<sup>100</sup> *C&S*, 907.

<sup>101</sup> *C&S*, 1275-6.

<sup>102</sup> *Reg. Winchelsey*, i.154-9; *C&S*, 1192-6.

year in every church'.<sup>103</sup> Similar optimism appears to have been harboured by John le Romeyn, archbishop of York, who remarked that the sentences were published throughout the year when denouncing those who had fallen into *Crimen inponunt alicui*.<sup>104</sup> In 1293, certain parishioners in Ecton, Northamptonshire, were excommunicated because they snatched the sheet ('cedula') from which a chaplain was reciting the general sentence of excommunication, and the candles held by his assistants. This sentence, the record matter-of-factly notes, was that 'according to the form given at the Council of Oxford, to be solemnly promulgated at every general synod four times a year ... following the English custom'.<sup>105</sup> The only reason we know of the sentence published here is because of the ensuing violence when the chaplain was attacked. There is nothing to indicate that his publication was exceptional. It is noted that he was acting according to custom, and that he was reading from a list of sentences, demonstrating that he had access to the texts. That he had a list indicates that the sentences were copied separately from books of statutes, probably for ease of publication. What is also noteworthy is that the chaplain was using the Oxford sentences, and not, apparently, the updated version promulgated by Pecham. Though it is possible that this was just shorthand for the *ipso facto* sentences (the excommunications continued to be closely associated with Langton's council), it might show that innovations took some time to filter down to parish level.

Oliver Sutton's register provides further evidence for the publication of automatic excommunications. The bishop himself pronounced the *Clericis laicos* sentences in 1297, and ensured that the Magna Carta excommunication was pronounced throughout his diocese in 1299.<sup>106</sup> Because of its political significance, there is chronicle evidence that the Magna Carta sentence was published. Matthew Paris observed that in 1253, Grosseteste had it pronounced in all the parishes of his

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<sup>103</sup> *Reg. Winchelsey*, i.16-18.

<sup>104</sup> *Reg. le Romeyn*, i, 261-2.

<sup>105</sup> *Reg. Sutton*, iv, 35-6. It is tempting to take this incident as a rejection of the *ipso facto* excommunications, but it is difficult to see the logic at work if that were the case. If the attackers were afraid that they had incurred one of the sentences, committing sacrilege and incurring another excommunication to prevent their pronouncement makes little sense. It is possible that there was some discord between the priest and his parishioners, and they simply chose a particularly solemn occasion on which to attack and humiliate him.

<sup>106</sup> *Reg. Sutton*, vi, 24-7, 158, 187-8. cf. *Reg. Winchelsey*, i.364.



diocese ‘the multitude of which can scarcely be estimated’.<sup>107</sup> This he had done unceasingly through the whole year, not only in churches, but wherever men gathered.<sup>108</sup> Two years later, Gravesend’s mandate was carried out, and the sentence was pronounced in councils, synods, churches and wherever men gathered.<sup>109</sup> In 1269, the Magna Carta sentence, *Si quis suadente* and *Ad ecclesiam vel cimiterium* were pronounced in parliament by nine bishops, and the sentence was subsequently published by all the parish priests of London.<sup>110</sup> The bishop of Carlisle obeyed orders to publish the *Clericis laicos* sentence in 1297.<sup>111</sup> We know, however, that Winchelsey did not succeed in persuading all his suffragans to do this, so that the Bury St Edmund’s chronicler must be wrong in his assertion that the sentence ‘was fulminated by each and every bishop in their dioceses’.<sup>112</sup> Pecham, in 1282, held a procession at Lewes in Sussex, dressed in pontificals, then preached in the great church, and finally recited in English, ‘audiente populo’, the sentences of his predecessors, urging his audience to ‘abstain’ from such crimes more prudently.<sup>113</sup>

Finally, the regularity with which people fell into these sentences demonstrates that they were well known, at least amongst the clergy. At the council of Lambeth, Pecham expressed anger and concern that certain clergy were absolving *de facto* those whom they could not absolve *de jure*. That is, they were absolving excommunicates bound by sentences reserved to the archbishop. Pecham specifically mentioned the sentences pronounced in the council of Oxford and against those who detained tithes.<sup>114</sup> In fact, his complaint indicates that laymen themselves were aware of the sentences, since such excommunicates were clearly being absolved in the confessional rather than through any sort of legal process. Therefore, either they were being asked by clergy whether they had done anything that would incur one of these automatic

<sup>107</sup> R.W. Southern estimated 2,000: *Robert Grosseteste*, 235-7.

<sup>108</sup> *CM*, v, 377-8, 395, 400; *Flores hist.*, ii, 385-6.

<sup>109</sup> *CM*, v, 500-1; *Ann. Burton*, 320-2; *Oxenides*, 201-2.

<sup>110</sup> *Chron. maiorum*, 122-3.

<sup>111</sup> Guisborough, 313-4.

<sup>112</sup> *Chron. Bury*, 140-1.

<sup>113</sup> Lewes annals transcribed by Blaauw, ‘On the early history of Lewes Priory’, 33. ‘ab antecessoribus suis datas sententias’ must refer to these automatic sentences. His warning is also much like Sutton’s in 1297. Cf. a letter about the liberties of Canterbury being infringed by people from Lewes the same year: *Reg. Pecham*, ii, 59.

<sup>114</sup> *C&S*, 898-9; in 1264, Urban IV complained, in much the same terms, about illegal absolutions from *latae sententiae*: *Reg. Urban IV*, iii, 1562.

sentences, or they knew they had incurred excommunication and specifically sought absolution. If the latter, they might have been seeking an ‘easy’ absolution from less scrupulous clergy. The former possibility is made less likely by the fact that only diligent clergy would be so thorough in confession, which does not fit with Pecham's description of clergymen willing to offer illicit absolutions.

Pecham particularly noted that many such invalid absolutions were provided for those who had disturbed ecclesiastical liberty. Amongst English legislation, *Qui malitiose ecclesias* did indeed supply the most commonly incurred excommunication.<sup>115</sup> By contrast, claims that the king's rights had been infringed, outside high politics, are hardly to be found. Episcopal registers bear this out. A cursory perusal of any of these will quickly yield an infringer of ecclesiastical rights excommunicated by authority of the Council of Oxford. In fact, the prominence of Oxford c. 1 is such that this is probably why the Magna Carta sentence was rarely invoked: the church in fact gained no more protection from the charter than it did from *Qui malitiose ecclesias*.<sup>116</sup> Though Magna Carta was certainly useful in certain situations, in the quotidian running of parishes and dioceses, there was already an established law with which to sentence malefactors. This sentence might be incurred in many ways, from pursuing a case against the bishop of St Asaph in the king's court, to compelling the archbishop's tenants to repair Rochester Bridge.<sup>117</sup> After the Council of Lambeth, Pecham's additions (specifying temporal and spiritual rights of the universal church and individual churches) were also sometimes invoked, as when tithes were appropriated from the church of Immingham (county and diocese of Lincoln), in 1291.<sup>118</sup>

The other sentences occur less frequently, but were certainly incurred (with examples from the second half of the century, when episcopal registers survive). *Qui pacem et tranquillitatem* seems to have been incurred mostly by the Welsh, who were repeatedly excommunicated for breaking the peace and infringing the king's rights, as

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<sup>115</sup> *Si quis suadente* was also very common. Its enforcement is discussed thoroughly in Helmholz, “‘Si quis suadente’ (C. 17 q.4 c.29)”, 432-7.

<sup>116</sup> Pecham equates the two sentences in *Reg. Epp. Pecham*, iii, 909-10.

<sup>117</sup> *Reg. Epp. Pecham*, i, 250-1, ii, 408-9.

<sup>118</sup> *Reg. Sutton*, iii, 77-8.

well as for violating the rights of the church.<sup>119</sup> It was occasionally cited elsewhere, as when archbishop Boniface's official was assaulted in 1252. The archbishop excommunicated the perpetrators of this deed on the grounds that they had fallen into both *Si quis suadente* and *Qui malitiose ecclesias*, but also mentioning that they had broken the king's peace (apparently not specifying, however, that this in itself incurred excommunication).<sup>120</sup> A marriage case in 1296 prompted a renewal of *Qui scienter et prudenter falsum* for three Sundays or feast days, so that those who had acted contrary to the canon should know that they were ensnared.<sup>121</sup> An interesting case held in the Court of Canterbury further demonstrates that *latae sententiae* were well known. Two men mutually accused one another of having fallen into automatic excommunications. Oliver de Brocton, a clerk, accused Adam Mulgars of incurring *Si quis suadente* for assualting him, and asked that Adam be denounced and shunned. Adam, however, made a counter-claim, stating that Oliver had maliciously defamed him, injuring his reputation. Oliver had therefore incurred *Crimen inponunt alicui*, and Adam asked that he be denounced as an excommunicate. Adam's claim was rejected, and the final result of Oliver's charges are unknown, but the case shows how such sentences were invoked, and that they were common knowledge, even if Adam may have sought advice for his case.<sup>122</sup> Further examples of the other less common Oxford sentences can be found through the references cited below.<sup>123</sup> *De domibus* was particularly important in the late 1290s (in relation to the *Clericis laicos* commotion), but was also used routinely, as for instance in early 1296, when various Lincolnshire parishioners were excommunicated for stealing ash-trees from the churchyard of Kingerby.<sup>124</sup>

These examples are not cited in order to argue that the excommunications were effective. A large proportion of these examples concern excommunications incurred by unknown malefactors. The denunciations were made in the hope that parishioners

<sup>119</sup> *CPR 1258-66*, 103; *Foedera*, I.i.399-400, I.ii.536-7; *Reg. Epp. Pecham*, 422-3, 477.

<sup>120</sup> *CM*, vi, 222-5.

<sup>121</sup> *Reg. Winchelsey*, 110-1.

<sup>122</sup> *SCC*, 387-97.

<sup>123</sup> *Crimen inponunt alicui* cases may be found in *Select Cases on Defamation*, ed. Helmholz; *Reg. Sutton*, iii, 21-2 (*Qui scienter et prudenter falsum*); *Reg. Epp. Pecham*, i, 35-6 (*Crimen inponunt alicui*); *Reg. Epp. Pecham*, ii, 606-8 (*Contempnunt exequi domini*). The number of *Qui malitiose ecclesias* cases is overwhelming.

<sup>124</sup> *Reg. Sutton*, v, 146; cf. *Reg. Sutton*, iii, 172-3, vi, 33-4.

might come forward so that proceedings could be taken against those responsible for these crimes and to scare the perpetrators. But the fact that the Oxford sentences were used demonstrates that they were common knowledge. This might simply mean that clergy were aware that various crimes incurred *ipso facto* excommunication and sought to enforce them. But this in itself shows that part of the bishops' aims had been fulfilled. It also makes it more likely that *ipso facto* crimes and sentences were regularly publicized. Even if such sentences were not published quarterly as instructed, individual enforcements were accompanied by denunciations, which again added to the possibilities for such sentences to become common knowledge. It can thus be tentatively suggested that the automatic sentences as promulgated in English ecclesiastical legislation were an important means through which English medieval society was informed about the rights of the church and its members, of how the king's rights and peace were protected, and at the same time how the king himself was held accountable if his officials erred or if he personally infringed the liberties contained in the charters. This information reached both sexes, all ages and every stratum of society, through pronouncements made regularly in many, perhaps in all of the parish churches of England.

## EPILOGUE

Excommunication affected numerous different aspects of an individual's life. The sanction might cause spiritual, social and political anxieties. Its various consequences thus illuminate our understanding of medieval religion, politics and society. Spiritual fears about the afterlife and more temporal concerns about social exclusion and loss of power and reputation were deeply interconnected. The role of excommunication in society and politics was significant precisely because its purpose was both to put pressure on an individual's conscience, and to generate social pressure by stigmatising the excommunicate.

The dramatic ritual associated with excommunication played a crucial part in both aspects of the sanction. The excommunication ceremony condemned the sinner before God, indicating that he or she would suffer in hell (unless reconciliation was sought), and simultaneously condemned the excommunicate in the presence of the wider community, publicising crimes committed and the church's unequivocal condemnation of such offences. The ritual, in particular, also demonstrates that there was a considerable degree of ambiguity about what precisely happened to an excommunicate's soul after death. Though the church often played down the spiritual effects of excommunication, the ritual (as well as miracle stories and certain other sources) implied that the sanction was indeed a malediction. This conflict demonstrates that beliefs about the afterlife remained unresolved well into the thirteenth century and beyond.

An investigation into the human experience of excommunication further provides valuable insight into medieval culture. Individuals and communities by no means reacted uniformly to the sanction. Fear of damnation (or at least of time spent suffering in purgatory) was a crucial part of excommunication's coercive power, yet many people evidently prioritised temporal matters. This fact undoubtedly informs debates about lay piety in the middle ages. Nevertheless, understanding why so many of those threatened with excommunication took no immediate action to prevent a sentence, or to have one lifted, is crucial. Rejection of excommunication was not

necessarily an indication of indifference towards the sanction *in toto*, but could rather be a rejection of ecclesiastical authority in specific circumstances. This might stem from contempt for a sentence and the cleric who pronounced it, or even be the result of a genuine belief that to obey a sentence would be a greater sin than to scorn it. That is, the pious desire to act according to one's own conscience might necessitate challenging ecclesiastical censures. Equally, those who appear to have suffered crises of conscience about the possibility of having incurred automatic excommunications tell us something about the attitudes of people living in England in this period. Excommunication demonstrates in fact the strong interrelationship between concern for the soul's welfare and the avoidance of stigma. A pious Christian might suffer excommunication just as an impious person might give in to the sanction. The latter, in particular, might be reacting to his or her loss of social standing or political support, while at the same time potentially harbouring genuine fears about excommunication's spiritual effects. Such concerns cannot convincingly be separated.

The varying responses of communities to excommunicates, whom they were bound to ostracise, are similarly enlightening. Ecclesiastical censures did not invariably engender respect. Excommunicates were not uncommonly able to function perfectly well in society, despite the fact that they ought to have been completely cut off from it. Excommunication was frequently treated with indifference, contempt and outright hostility. Those clerics who abused their right to impose excommunications and interdicts brought the censures into disrepute. On the other hand, the sanction could be taken very seriously indeed. Whether or not excommunicates were shunned and humiliated (or worse) by their neighbours and associates depended upon a number of different variables. Although it might be speculated that members of the ecclesiastical hierarchy and the very pious were more likely to enforce the church's mandates to avoid men and women who had been separated from the church, the evidence indicates that treatment of excommunicates depended considerably upon social and political context. Stigmatising, shaming and refusing contact with excommunicates could be advantageous or impractical, even dangerous, depending on circumstances. As a result, excommunication could be an extremely potent weapon or an ineffective penalty. When and how excommunicates came to seek absolution tells

us as much about the context of a sentence than about the beliefs of those involved. Though often the church's punishment was not treated with deference by medieval laymen and clergymen alike, treating an enemy or rival as an excommunicate provided significant social and political benefits.

If it is never possible to determine with any certainty the precise motives of excommunicates who sought absolution, or of communities who only sometimes enforced the church's commands to ostracise them, it is clear why excommunication was often used. Excommunication had the potential to injure individuals and groups considerably. Those who faced the church's condemnation were confronted by a number of social difficulties. Their friends and acquaintances, or even subjects, might turn against them. Hostility, and potentially violence, towards excommunicates was sanctioned: treatment that in other circumstances would be condemned became virtuous when carried out against excommunicates. In addition, excommunication was necessarily a public sanction. The offences of excommunicates and their separation from the faithful were publicised widely and frequently. This, coupled with the striking ritual and vehement language used in the excommunication ceremony, meant that excommunication was an effective way to inform the public and to influence their points of view. As a result, sentences of excommunication could slander and defame, and provoke rumours and scandal. Although the purpose of excommunication was ostensibly only ever to induce sinners to amend their ways and to seek reconciliation with the church, it could be used for revenge or personal gain. Thus churchmen attempted to discredit rivals and to remove their support. Some churchmen also undoubtedly used the sanction to curse, with the intention of sending people to hell.

Whether the spirit in which excommunication was used was medicinal or vindictive, however, it was almost always used as a means of coercion. Its purpose was to force a sinner to comply with the wishes of churchmen. Excommunication was a valuable strategy in dispute settlement, not only because it was potentially a powerful means of coercion, but because it was also entirely reversible. An effective excommunication was a temporary one. Once the excommunicate had 'come to his senses' and made satisfaction for his wrongs, his sentence could be lifted. An absolved

excommunicate suffered no spiritual or social disadvantages. His or her absolution was publicised, just like the original sentence, and the church would not condone a former sentence being held against someone who had seen the error of their ways.<sup>1</sup>

Excommunication was so dependent upon the circumstances in which it was used, and upon the personalities of those sentenced, that generalising about its effectiveness is a largely unproductive endeavour. In some situations the sanction was taken seriously; in others it was treated with contempt. Interference from secular authorities, and the refusal of both clergy and laity to cooperate in enforcing sentences, also undermined the ability of the sanction to work as it should. Though excommunication could certainly be a powerful weapon, the sanction's effects could equally be negligible, resulting in neither fear nor ostracism.

The importance of excommunication did not solely rely, however, on whether it forced sinners to seek reconciliation with the church. Its impact on medieval society was significant regardless of whether or not it was effective in this respect. It could be an important justification for actions that would otherwise be unacceptable. It could be used to increase morale, or to garner support, by slandering and censuring rivals. Individuals and communities alike suffered through strict enforcement of sentences. Scandals were provoked and reputations tarnished by the use and abuse of excommunication.

The public nature of excommunication also meant that political material was disseminated over considerable distances. Excommunicates and their crimes were brought to the attention of the populace, and this, in turn, meant that communities were informed about matters in which they were not directly involved. Thus the entire diocese of Lincoln was informed about the attack on the church of Thame (ch.5). Falkes de Bréauté's defiance was made known throughout the kingdom (ch.4). The French were kept abreast of the rebellion taking place in England during the 1260s (ch.4). The English were told that the Welsh had massacred Christians, 'especially

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<sup>1</sup> It is nevertheless possible that people occasionally felt that offenders who had received absolution with only light penance felt that they had got off lightly, and had not been punished for their crimes.



those English by birth' (chs.3-4). Parishioners were informed, four times a year, that ecclesiastical rights were sacrosanct and that Magna Carta must be enforced (ch.6). The political awareness of English society was expanded by excommunication.

Though the faithful might accept and condone such information disseminated via excommunication, they might also dismiss and resist it.<sup>2</sup> The church's mandates were often opposed, and its presentation of matters rejected, so that excommunication did not consistently provoke the intended response. It is thus possible to see the 'public sphere' at work; the faithful discussed what they had been told and made decisions about whether or not to accept the church's condemnations and presentation of facts. Most importantly, however, parishioners reacted to the information disseminated through sentences of excommunication, they certainly were informed, in their own parishes, often in the vernacular, and via a memorable ritual. Excommunication sentences fulminated during mass, with candles burning and bells tolling, provided ample matter for gossip and conversation at all levels of society.

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<sup>2</sup> Weiler, 'Symbolism and politics', 18 (discussing royal proclamations).

## APPENDIX

### EXCOMMUNICATIONS INCURRED *IPSO FACTO*, TO BE PRONOUNCED REGULARLY

*This is not a full list of ipso facto excommunications. Many more were included in legislation without provisions for publication. In addition, many of the sentences below were included in statutes but without provisions for publication. Many statutes as a whole required regular publication, but the excommunications were not singled out for special mention.*

#### 1. LEGATINE COUNCIL AT ST PETER'S, YORK, 1195<sup>3</sup>

[13] Ut calumpniatorum improbitas et temere iurantium malicia timore celestis iudicii retundatur, precipimus ut quilibet sacerdos decetero ter in anno sollempniter, accensis candelis pulsatisque campanis, eos excommunicet qui in recognicionibus aliisve testimoniis scienter et sponte peierabunt, et eos qui maliciose alios facient pierare, eosque singulis dominicis diebus excommunicatos denunciaret ut crebra malediccionis iteracio eos a sua iniquitate retrahat quos accusacio proprie conscientie non deterret.

#### 2. COUNCIL OF WESTMINSTER, 1200<sup>4</sup>

[7] ... Ad reprimendam eciam multorum maliciam hiis duximus adnectendum ut singulis annis in genere sollempniter excommunicetur sorciarii, peniuri super sacrosancta, incendiarii, fures atrociores, raptores, ita ut qui scienter in dispendium cuiuslibet peieraverint non absolvantur, nec eis penitencia ab aliquo iniungatur, nisi ab episcopo diocesano vel eius auctoritate, preterquam in articulo mortis.

#### 3. STATUTES OF CANTERBURY I, 1213x1214<sup>5</sup>

Singulis autem annis in tribus solemnibus festivitatibus, scilicet die Natalis, die Pentecostes, die Assumptionis beate Marie, excommunicetur in genere solemniter sortarii, testes periuri super sacrosancta, incendiarii, usurarii, raptores publici, malitiose impediens executionem rationabilium testamentorum, et contumaces decimarum detentores.

i. **Statutes of Salisbury I, 1217x1219<sup>6</sup>**: 'Singulis autem annis in tribus sollempnitatibus maioribus sollempniter excommunicati denuntentur in genere ...'

ii. **Synodal statutes for an English diocese, 1222x1225?<sup>7</sup>**: 'precipimus ut singulis annis ter vel quater in genere sollempniter excommunicentur ...'

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<sup>3</sup> *Councils & Synods I*, ed. Whitelock, Brett and Brooke, 1051.

<sup>4</sup> *Councils & Synods I*, ed. Whitelock, Brett and Brooke, 1065.

<sup>5</sup> *C&S*, 33.

<sup>6</sup> *C&S*, 76.

iii. **Constitutiones cuiusdam episcopi, 1225x1230?**<sup>8</sup> [No change to the Canterbury provisions]

iv. **Statutes for Durham Peculiars, 1241x1249?**<sup>9</sup> [As Salisbury I]

#### 4. COUNCIL OF OXFORD, 1222<sup>10</sup>

[1] Auctoritate dei patris et beate virginis et omnium sanctorum et presentis concilii excommunicamus omnes illos qui malitiose ecclesias suo iure privare presumunt aut per malitiam et contra iustitiam libertates earundem infringere vel perturbare contendunt.

[2] Omnes etiam illos excommunicationis sententia innodamus qui pacem et tranquillitatem domini regis et regni iniuriose perturbare presumunt, et qui iura domini regis iniuste detinere contendunt.

[3] Adicimus autem omnes illos simili sententia innodatos, qui scienter et prudenter falsum perhibent testimonium vel perhiberi procurant vel etiam qui tales testes producant scienter vel subornant in causa matrimoniali, ubi scilicet agitur contra matrimonium, vel ubi agitur ad alicuius exheredationem.

[4] Advocatos quoque excommunicamus omnes qui in causis matrimonialibus malitiose exceptiones opponunt vel opponi procurant ne matrimonia vera debitum sortiantur effectum, vel ut processus cause contra iustitiam diutius suspendatur.

[5] Excommunicamus omnes illos qui gratia odii, lucri, vel favoris, vel alia quacunque de causa malitiose crimen imponunt alicui, cum infamatus non sit apud bonos et graves, ut sic saltem ei purgatio indicatur vel alio modo gravetur.

[6] Preterea omnes illos sententia excommunicationis innodamus qui vacante ecclesia malitiose opponunt vel opponi procurant patronatus questionem, ut sic verum patronum ecclesie collatione saltem illa vice defraudent.

[7] Excommunicamus etiam omnes illos qui gratia lucri, vel odii, vel alias malitiose contempnunt exequi domini regis mandatum contra excommunicatos editum claves ecclesie contempnentes.

[60] ... Excommunicationes etiam in hoc concilio promulgate singulis annis in episcopalibus synodis et quater in anno in parochialibus ecclesiis solempniter iterentur.

i. **Statutes of Lincoln, 1239?**<sup>11</sup>: Et quia in multis ecclesiis, ut credimus, non est scriptum Oxoniense concilium, principium ipsius de excommunicationibus in eodem concilio factis ad terrorem malitiosorum et malitie eorum refrenationem duximus hic adiungendum, eisdem verbis quibus in eodem concilio scriptum

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<sup>7</sup> C&S, 150-1 (with minor changes) The previous clause orders clergy to excommunicate constables, castellans and bailiffs who invade ecclesiastical property or burden them with unjust exactions, but it does not appear that these crimes should be regularly decreed.

<sup>8</sup> C&S, 192.

<sup>9</sup> C&S, 442-3.

<sup>10</sup> C&S, 106-7, 125.

<sup>11</sup> C&S, 275.

est, precipientes ut dicte excommunicationes singulis annis in singulis innoventur ecclesiis, cuius principii tenor est talis ...

**ii. Statutes of Winchester III, 1262x1265<sup>12</sup>**: De sententia excommunicationis ter in anno facienda. Rubrica. Precipimus quod excommunicationum sententie que in Oxoniensi concilio continentur ad perversorum malitiam refrendandam ter in anno per singulas ecclesias nostre diocesis publicentur sub hac forma: ... [The statutes add, after ‘omnes illos qui ecclesias’ in c. 1, ‘et maxime Wyntoniensem ecclesiam aut alias Wyntoniensis diocesis’].

## **5. STATUTES OF COVENTRY, 1224x1237<sup>13</sup>**

[14] Similiter singulis dominicis diebus denuntientur excommunicati qui ... [Oxford, 1222, cc. 3, 5].

## **6. STATUTES OF WINCHESTER I, 1224<sup>14</sup>**

[70] Excommunicamus omnes illos qui naufragos et in mari periclitantes causa lucri vel alio modo impediunt quominus possint mortis periculum evitare; et istam excommunicationis sententiam in Insula et in partibus cismarinis iuxta litus maris ter in anno precipimus innovari.

[71] Item, excommunicamus omnes illos qui credentes se iniustam causam habere movent aliis questionem in iudicio causa vexandi eos vel extorquendi ab eis transactionem aliquam.

[72] Preterea excommunicamus omnes illos qui iurati falsum testimonium perhibent ex certa scientia, et istam excommunicationem quater in anno in parochialibus ecclesiis precipimus innovari.

[75] Item, excommunicationis sententia innodamus omnes illos qui Wintoniensem ecclesiam vel alias ecclesias nostre diocesis spoliant iure suo vel libertatibus suis vel eis sine iudicio auferunt possessiones quas actenus possederunt. Si autem res vel possessio ecclesie vel ecclesiastice persone sine iudicio ab aliquo ablata fuerit, per officiales nostros moneatur ut incontinenti restituat. Quod nisi fecerit, de plano ab eisdem officialibus cognoscatur an spoliatus illam rem possederit, nec vi nec clam nec precario. Et si hoc invenerint, protinus spoliato possessionem reformet. Quod si restiterit spoliator excommunicatus denuntietur.

## **7. STATUTES OF EXETER I, 1225x1237<sup>15</sup>**

[8] Singulis autem annis in tribus sollempnitatibus solempniter excommunicati denuntientur in genere sortarii, auxilium demonis quocunque modo invocantes, incendiarii, raptores puppici, impediens malitiose executionem rationabilium testamentorum, detentores decimarum contumaces. Illos etiam excommunicatos

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<sup>12</sup> C&S, 722-3.

<sup>13</sup> C&S, 213.

<sup>14</sup> C&S, 136-7.

<sup>15</sup> C&S, 230-1.

denuntiamus qui malitiose ecclesias suo iure privare presumunt aut per malitiam libertates earundem infringere vel etiam tranquillitatem regis et regni iniuste perturbare presumunt, necnon et alios quos consilium Oxoniense docet excommunicari.

[9] Testes autem qui scienter periurant super sacrosancta ewangelia, per quorum testimonia sicut frequenter contingit aliquis amittit vitam vel membrum vel exheredatur, vel ecclesia suo iure defraudatur, similiter quater in anno excommunicentur ... Idem precipimus fieri de hiis qui malitiose et scienter rationabilium testamentorum impediunt executionem. De advocatis etiam et de quibusdam aliis subornantibus teste et de ipsis falsis subornatis testibus ad dissolvenda legitima matrimonia contracta vel ad impediendum legitime contrahenda idem volumus observari.

#### **8. STATUTES FOR LONDON ARCHDEACONRY, c. 1229x1241<sup>16</sup>**

[7] Excommunicentur quater in anno, scilicet dominica prima Adventus domini, et dominica prima Quadragesime, in festo sancte Trinitatis, in dominica infra octabas Assumptionis beate Marie ...

[Oxford 1222, 1-6],

Detentores descimarum [sic], usurarii, incendiarii, sortilegi, falsarii bulle et tonsores monete, simili sententia innodentur, omnes illi qui notorios fornicatores, adulteros seu notorias meretrices scienter et prudenter defendunt quominus canonice puniantur, sub pena excommunicationis firmiter inhibentes ne quis personis predictis hospitium scienter locet vel eos in hospitio receptet.

[21] De excommunicatione pro decimis.

Tribus vero diebus dominicis post Nativitatem sancti Iohannis baptiste in omnibus ecclesiis a capellanis annuatim publice fiat inhibitio sub pena excommunicationis ne quis prediorum sive gardinorum decimam fructuum asportet vel asportari faciat, nisi primo ecclesie parochiali competenter inde fuerit satisfactum. Si quis vero contra hanc prohibitionem scienter et prudenter venerit, trina monitione premissa, si emendare noluerit nec ecclesie satisfacere de offensa, si constiterit de persona, nominatim excommunicetur et per archidiaconum puniatur, qui indemnitati ecclesie providebit.

#### **9. STATUTES OF NORWICH, 1240x1243<sup>17</sup>**

[57] Et quia in multis ecclesiis, ut credimus, non est scriptum Oxoniense concilium, principium ipsius de excommunicationibus in eodem concilio factis ad terrorem malitosorum et eorum malitie refrenationem duximus adiugendum, eisdem verbis quibus in eodem concilio scriptum est,

MSS ACDE

precipientes ut dicte excommunicationes  
singulis annis in episcopalibus synodis et  
quater in ecclesiis parochialibus solempniter

MS E

Precipimus quod sequens sententia  
publicetur quater per annum, scilicet  
die dominica proxima post festum

<sup>16</sup> C&S, 332, 337.

<sup>17</sup> C&S, 355-7.

denuntientur, cuius principii tenor talis est:

sancti Michaelis, dominica in Media  
Quadragesime, dominica in festo sancte  
Trinitatis, dominica proxima post  
festum sancti Petri ad vincula, in forma  
subscripta, pulsatis campanis, accensis  
candelis:

MS D

Ex auctoritate dei patris  
omnipotentis et beate  
Marie virginis et  
omnium sanctorum et  
presentis concilii  
excommunicamus  
omnes qui  
ecclesiasticam  
consuetudinem  
antiquam a domino  
Iesu Christo electam et  
a papa concessam,  
archiepiscopis,  
episcopis, et sanctis  
patribus approbatam,  
ob aliquam malam  
voluntatem vel cordis  
inflationem vel  
rancorem infringere et  
violare contendunt, vel  
aliquo modo, alio  
ingenio, consilio,  
auxilio, precepto,  
sponsam Iesu Christi,  
id est sanctam  
ecclesiam suo iure  
contendunt vel  
contradicere procurant  
etc.

MSS AC

Auctoritate dei patris  
et beate virginis  
Marie et omnium  
sanctorum et  
presentis concilii  
excommunicamus  
[Oxford 1222, cc. 1-  
7]

MS E

Auctoritate dei patris et sancte Marie  
matris eius excommunicamus et  
excommunicatos denuntiamus  
Sathane in interitum carnis nisi  
venerint ad emendationem, nec  
spiritus eorum in domo domini salvi  
fiant, omnes hereticos, sortitarios,  
usurarios, monete falsarios, omnes  
qui ecclesias suo iure aut libertate  
privare presumunt, detentores  
decimarum seu idem fieri  
procurantes, illos qui iura, pacem, et  
tranquillitatem ecclesie, regis, regni  
Anglie aut perturbare aut auferre  
malitiose presumunt, omnes illos qui  
falsum testimonium scienter  
perhibent in assisis vel causis  
matrimonialibus vel idem fieri  
procurantes, perhibentes seu  
prebentes consilium malitiosum per  
advocationem aut subornationem aut  
corruptionem testium in causis  
maxime matrimonialibus, aut alias  
fraudulenter impediunt legitima  
matrimonia, omnes contempnentes  
mandatum domini regis,  
contemptores censure ecclesiastice,  
impeditores testamenti legitimi vel  
idem procurantes, detractores deo  
odibiles per iram vel per invidiam  
vel aliter malitiose proximos  
defamantes, falsarios literarum  
apostolicarum, cartarum, vel  
sigillorum, vel eis consentientes.  
Omnes illos qui malitiose movent  
questionem de advocationibus

ecclesiarum vel alias fraudulenter ecclesiarum impediunt ordinationem vel id fieri procurant, qui falso supponunt partum vel dolose vel fraudulenter supponi procurant ad alicuius exhereditationem, et tantum qui [*four words oblit.*] fraudulenter aut dolose, sed qui conser- [*rest of word and two more oblit.*] vel ea fieri procurant dolose vel fraudulenter aut malitiose.

#### **10. STATUTES OF SALISBURY II, 1238x1244<sup>18</sup>**

[59] Oxoniensis concilii statuta fortius exequentes, auctoritate dei patris omnipotentis et beate Marie semper virginis et omnium sanctorum et presentis sinodi excommunicamus et excommunicatos nuntiamus omnes illos qui ecclesiam Sar' et alias catholicas quocunque modo malitiose suo iure privare presumunt aut per malitiam libertates earundem infringere vel turbare contendunt. Item omnes illos qui pacem domini regis et regni tranquillitatem auctoritate, ope, vel consilio, perturbant, et in mortem eius vel seditionem aliquam machinant.

[Oxford, 1222, cc 3-7]

Item omnes illos qui ecclesiam Sar' vel quascunque eidem ecclesie subiectas decimis, obventionibus, pascuis, libertatibus, et rebus quibuscunque in quarum possessione existunt, nec vi nec clam nec precario, pretermisso iuris ordine propria auctoritate spoliare presumunt; subditis nostris districte precipientes quod quolibet mense in ecclesiis post euuangelium diebus dominicis vel solemnibus sententias publicare non omittant, ne per ignorantiam velamen excusationis ab alico pretendatur.

#### **11. STATUTES OF WINCHESTER II, 1247?<sup>19</sup>**

[83] Quia ex concilio Oxonie excommunicati sunt omnes qui puplicas faciunt<sup>20</sup> et exercent potationes que scotales vulgaliter appellantur, omnibus personis, vicariis, et capellanis in virtute obedientie precipimus quod omnes vicecomites, forestarios, prepositos, ballivos hundredorum et villarum qui huiusmodi potationes voluntarie exercentes singulis diebus dominicis in ecclesiis suis publice denuntient excommunicatos, et eorundem nomina postquam huiusmodi attemptare presumpserunt.

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<sup>18</sup> C&S, 387.

<sup>19</sup> C&S, 416.

<sup>20</sup> No such provision was recorded at Oxford.

## 12. Statutes of Durham II, 1241x1249<sup>21</sup>

[50] Et quia ecclesia Anglicana oppressionibus suarum libertatum in pluribus articulis multipliciter deformatur, quos dissimulare non possumus sine interitu salutis eterne, in illos qui hec attemptare presumpserint excommunicationis sententiam promulgamus.

[i] Item, sententia excommunicationis innodamus omnes illos qui pacem regni perturbare aut libertates ecclesiasticas infringere seu malitiose ecclesias suo iure privare presumpserint aut invadere, aut ad bona ecclesiastica malitiose manus extenderint contra libertates ecclesiasticas.

[ii] Item, omnes illos qui in ecclesias vel in ecclesiastica beneficia per violentiam vel malitiose se intrudunt, et ipsa per potentiam laycalem vel quamvis aliam violentiam per malitiam contra mandatum nostrum detinent occupata; et precipue omnes illos qui libertates ecclesie Dunelmensis infringunt per malitiam vel perturbant.

[iii] Item, simili censura percellimus omnes incendiarios, ecclesiarum fractores, veneficos, et veneficas, ac utentes magicis incantationibus.

[iv] Decernimus excommunicationis sententia innodatos preterea omnes illos qui falsum perhibent testimonium vel perhiberi procurant malitiose; seu exceptiones opponunt quominus causa matrimonialis debitum sortiatur effectum, vel ut contra iustitiam processus diutius suspendatur; illos quoque omnes qui tales producant vel subornant per quorum dicta aliqui fraudulenter exheridantur per malitiam et iniuste.

[v] Excommunicamus insuper omnes illos qui gratia lucri, odii, vel favoris, falso et malitiose alicui crimen imponunt ut non infamato apud bonos et graves purgatio indicatur vel alio modo gravetur.

[vi] Similiter etiam prohybemus ne quis advocatus nostre civitatis vel diocesis ad prestandum patrocinium in causis et consistoriis de cetero admittatur, nisi prestiterit sacramentum quod causam quam sciverit iniustam esse vel probabiliter, habita summaria cognitione, esse talem presumpserit, et precipue in causa matrimoniali, tractandam non recipiat.

Istas autem sententias quater in anno, scilicet in maioribus festis anni, publice et sollempniter volumus publicari, iniungentes in virtute obedientie archidiaconis, officialibus, et decanis ut promulgationem predictarum sententiarum diligenter et fideliter exequantur.

## 13. STATUTES OF CHICHESTER I, 1245x1252<sup>22</sup>

[72] De excommunicatis

Sanctorum igitur predecessorum nostrorum vestigiis inherentes, denuntiamus et per totum episcopatum nostrum denuntiari precipimus, quater in anno per dies sollempnes, omnes illos communi sententia excommunicationis innodatos

[Oxford, 1222, cc.1, 3, 4]

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<sup>21</sup> C&S, 434-5.

<sup>22</sup> C&S, 466.



[75] Item, omnes illos qui rationabilia defunctorum testamenta malitiose impediunt, item omnes incendiarios, usurarios, publicos raptos, immunitatum ecclesiarum violatores; item, debitarum et consuetarum decimarum detentores.

[Oxford, 1222, cc. 5, 6, 7]

**14. STATUTES OF YORK I, 1241X1255; BEFORE 1276** (these indicated in italics)<sup>23</sup>

[39] *Statuimus etiam ne quisquam testamenta seu ultimas voluntates decedentium scienter et malitiose impediat aut perturbet, quominus executores eorum vel administratores, per nos, officiales, seu ministros nostros in bonis testantium deputandi, secundum libertatem et consuetudinem ecclesie Anglicane administrare libere valeant in eisdem. Si quis vero huiusmodi statuti transgressor fuerit, ipsum maioris excommunicationis sententiam incurrere volumus ipso facto.*

[40] *Statuimus ut si quis de dominibus, maneriis, grangiis, vel aliis huiusmodi locis ad archiepiscopos, episcopos, vel alias personas ecclesiasticas vel ad ipsas ecclesias pertinentibus accedens, quicquam preter voluntatem aut permissionem dominorum vel eorum qui sunt huiusmodi rerum custodiis deputati, consumere vel auferre aut contractare presumpserit, ipso facto sit excommunicatione ligatus, a qua donec satisfecerit absolutionis gratiam minime consequatur. Et ne hoc salubre statutum pretextu ignorantie negligatur, ipsum vel intentionem illius per annum continuum a tempore publicationis eiusdem in ecclesiis cathedralibus, collegiatis, et aliis, per capellanos et rectores earum quibuscumque diebus dominicis, astante parochianorum et fidelium multitudine, precipimus publicari.*

[41] i. Excommunicamus omnes illos qui pacem regis et regni perturbare aut libertates ecclesiasticas et precipue huius sacrosancte Eboracensis ecclesie infringere seu possessiones ecclesiasticas invadere aut ad bona ecclesiastica manus impias extendere presumpserint in preiudicium ecclesiastice libertatis; item illos qui in beneficia ecclesiastica se intrudunt et eos qui per laicalem potestatem seu aliam violentiam ea detinent occupata;

ii. *illos qui sequestra nostra violant consimili sententia involventes. Eadem sententia innodamus omnes illos qui mandata regia pro coercendis excommunicatis a quibuscumque impetrata, gratia vel odio alicuius persone seu lucri causa, exequi malitiose differunt vel omittunt.*

iii. Omnes autem incendiarios, ecclesiarum fractores, veneficos et veneficas, et magicis incantationibus utentes, et hec fieri procurantes, et qui immunitatem ecclesie violaverint, denuntiamus excommunicationis sententiam incurrere ipso facto.

[42] i. Prohibemus ne excommunicationis sententia in genere pro damnis vel iniuriis proferatur, quotiens dinosci poterit quis adversus quem habeat actionem, nisi evidens utilitas id exposcat.

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<sup>23</sup> C&S, 495-6.

ii. Excommunicamus etiam omnes illos qui odio vel lucri causa aliis crimina falso imponunt, pro quibus mors vel exilium aut membrorum mutilatio vel exhereditatio seu bonorum spoliatio sequi debet si iudicialiter convincantur.

iii. Qui autem ad diffamationem alterius quid proponit quod mores sugillat, nisi hoc probare voluerit, canonice puniantur et iniuriam passo pro modo culpe satisfacere compellatur.

iv. Hec autem salubria statuta in singulis decanatibus proximis capitulis post singulas synodos recitentur, et per illos qui capitulis preerunt in singulis articulis exponantur, et ad eorum observantiam per censuram ecclesiasticam singuli districtius compellantur. Hec etiam a singulis libertatem pretendentibus precipimus observari districtius et in suis capitulis publicari.<sup>24</sup>

#### **15. CUSTOMS OF SALISBURY DIOCESE, 1228x1256?<sup>25</sup>**

[15] Notandum quod ter debet fieri in qualibet ecclesia generalis excommunicatio per annum.

#### **16. STATUTES OF WELLS, 1258?<sup>26</sup>**

[80] Item, quia peccatum ariolandi est repugnare et quasi scelus ydolatrie nolle adquiescere, sicut sacra testatur scriptura, superiorum nostrorum ut condecet preceptis canonicis obedire volentes, et in hiis maxime que in favorem ecclesie statuuntur, sententias in perburbatores libertatum ecclesie in concilio Oxoniensi promulgatas in presenti sancta synodo duximus innovandas, iniungentes omnibus et singulis curam parochialem habentibus ut ipsas in suis ecclesiis ter in anno in maioribus solempnitatibus, accensis candelis et pulsatis campanis, publice promulgare non postponant in forma tradita, que talis est:

[Oxford, 1222, cc. 1, 2, 3]

#### **17. LEGATINE COUNCIL OF LONDON, 1268<sup>27</sup>**

[12] De abstrahentibus confugientes ad ecclesiam vel cimiterium seu res ibidem depositas, et de auferentibus aliquid preter voluntatem dominorum ecclesiasticorum de domibus, maneriis, seu grangiis eorumdem. Rubrica.

Ad tutelam et confugium oppressorum ita inmunitatem ecclesiasticam cernimus constitutam ut etiam reos sanguinis ab hominum incursu defendat; quanto magis insontes criminum confugientes ad ipsam et res nulli vitio subiacentes, hostili timore intra ipsius ecclesie septa repositas, convenit non solum exinde non abstrahere vel rapere, set etiam non contingere ut in eis temeritatis aliquid attemptetur, satis intelligit qui prudenter attendit. Preterea circa tuitionem tam personarum ad ecclesias vel

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<sup>24</sup> 42.iv in fact refers to the entirety of the statutes (being the final clause of the 1241x1255 statutes), and there is therefore no specific provision for the excommunications alone, though it seems likely that they were indeed to be pronounced after synods.

<sup>25</sup> C&S, 514.

<sup>26</sup> C&S, 625-6.

<sup>27</sup> C&S, 764; cf. 580-1.

cimiteria confugientium et rerum que in ipsis pro securitate fiducialiter reponuntur quam circa salutem hominum prophanorum qui, dei timore contempto et ecclesie reverentia prorsus abiecta, immo totius humanitatis et fame pudore deposito, ad huiusmodi confugarum abstractionem et rerum predam et rapinam de locis ipsis se conferunt inpudenter, nos tanto promptius oportet intendere quanto sceleris huiusmodi perfidia maius noscitur periculum inportare.

Nos igitur huiusmodi iniquitates et scelera perfecto odio ex officii nostri debito prosequentes, statuimus ut si quis aliquem ad ecclesiam vel cimiterium aut claustrum confugientem inde abstraxerit violenter vel ei victum necessarium prohibuerit, in quo similis est necanti, aut res alienas in locis predictis depositas violenter seu hostiliter assportaverit vel assportari fecerit, aut factam suo nomine vel a familiaribus suis abstractionem, prohibitionem, vel assportationem ratam habuerit, aut abstrahentibus, prohibentibus, vel assportantibus prebuerit puplice vel occulte auxilium, consilium, vel consensum, ipso facto sit excommunicationis vinculo innodatus ...

... Ad hec si quis de domibus, maneriis, grangiis, vel aliis locis huiusmodi ad archiepiscopos, episcopos, vel alias personas ecclesiasticas vel ad ipsas ecclesias pertinentibus accedens quicquam, preter voluntatem aut permissionem dominorum vel eorum qui sunt eiusmodi rerum custodie deputati, consumere vel auferre aut contractare presumpserit, ipso facto sit excommunicatione ligatus, a qua donec satisfecerit absolutionis gratiam minime consequatur. Et ne hoc salubre statutum pretextu ignorantie negligatur, ipsum vel intentionem ipsius per annum continuum a tempore publicationis eiusdem in ecclesiis cathedralibus, collegiatis, et aliis, per capellanos et rectores earum quibuslibet diebus dominicis, astanti parochianorum et fidelium multitudine, precipimus publicari.

#### **18. STATUTES OF DURHAM, 1276<sup>28</sup>**

[10] In nomine dei, amen. [Oxford, 1222, cc. 1, 2, 5]

Item, approbante hac sacra synodo, excommunicamus omnes illos qui testamenta seu ultimas decedentium voluntates aut eorum executiones rationabiles scienter et malitiose impediunt aut perturbant. Item, qui sequestra dicti domini episcopi aut eius officialis legitime interposita scienter et malitiose violaverint.

[York I, cc. 41 ii, iii]

Item premissas sententias, et alias in constitutionibus canonicis et legatorum ac statutis Dunol' contra transgressores proinde latas et puplice promulgatas, statuendo approbante presenti sacra synodo sollempniter publicamus et mandamus et iniungimus eas singulis annis in tribus sollempnitatibus maioribus sollempniter publicari.

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<sup>28</sup> C&S, 820.

## 19. COUNCIL OF READING, 1279<sup>29</sup>

### [11] Articuli excommunicationum

... precipimus provincie Cantuariensis sacerdotibus universis ut omni dominica sequenti immediate celebrationem ruralis capituli exponant aperte populo sibi commisso excommunicationum sententias que secuntur.

[i] primo quidem excommunicantur auctoritate Oxoniensis concilii a sancte memorie Stephano Cantuariensi archiepiscopo celebrati omnes qui malitiose ecclesias suo iure privare presumunt aut per malitiam et contra iustitiam libertates earundem infringere vel perturbare contendunt. Ex quo intelligimus excommunicationis vinculo subiacere omnes illos qui literas impetrant a quacumque curia laicali ad impediendum ecclesiasticorum iudicum processum in causis que per sacros canones ad forum ecclesiasticum pertinere noscuntur.

[ii] Item, secundo omnes illi qui pacem et tranquillitatem domini regis et regni iniuriose perturbare presumunt, et qui iura domini regis iniuste detinere contendunt. Ex quo intelligimus excommunicari non solum guerrarum suscitantes horrorem, verum etiam latrones publicos omnes pariter et predones et quoscumque regni iustitiam temere impugnantes.

[Oxford, 1222, cc. 3-6<sup>30</sup>]

[vii] Item, septimo excommunicantur omnes illi qui malitiose contempnunt exequi mandatum regis de excommunicatis capiendis, vel eorum impediunt captionem seu procurant iniustam eorum liberationem contra decretum ecclesiastice discipline.

[viii] Item, excommunicantur in concilio sancte memorie Octoboni<sup>31</sup> omnes illi qui pro impedimento pacis seu compositionis litigantium quicquam recipiunt, donec ipsum sic receptum restituerint donatori.

[ix] Item, excommunicantur per eundem quicumque de domibus, maneriis, vel grangiis, vel locis aliis archiepiscoporum vel episcoporum vel aliarum personarum ecclesiasticarum contra ipsorum voluntatem vel custodum rerum earundem aliquid auferunt vel consumunt vel iniuriose contrectant; qua sententia ligantur nec absolvi possunt donec de iniuria satisfecerint competenter.

[x] Item, excommunicantur ab eodem quicumque abstrahunt violenter reum ad ecclesiam vel cymiterium vel claustrum fugientem, vel qui ei victum necessarium prohibent exhiberi, vel qui res alienas in locis predictis depositas violenter asportant vel asportari faciunt, vel qui asportationem talem factam nomine suo vel a familiaribus suis ratam habent, vel qui ad hoc publice vel occulte consilium vel auxilium prebuerint seu consensum.

[xi] Item, excommunicati sunt ab omnibus archiepiscopis et episcopis Anglie omnes qui veniunt aut faciunt contra novam cartam; que sententia per sedem apostolicam est pluries confirmata.

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<sup>29</sup> C&S, 848-51.

<sup>30</sup> Rephrased so that the clauses make grammatical sense, and enumerated (e.g. excommunicantur tertio).

<sup>31</sup> c. 27 (C&S, 773-4) which did not order publication.

[13] ... hanc formam teneri volumus in futurum: ut hec omnia, fratres et coepiscopi nostri, per vos vel archidiaconos vestros faciatis in vestris synodis publicari ... extracta de quatuor conciliis in sessionis nostre principio memoratis, super diversis articulis in quibus excommunicationis vinculum incurritur ipso iure, in singulis ecclesiis tam maioribus quam minoribus per quatuor dies dominicos post celebrationem quatuor capitulorum principalium recitari.

## **20. COUNCIL OF LAMBETH, 1281<sup>32</sup>**

[10] De excommunicationum sententiis publicandis.

Eisdem etiam temporibus [quater in anno, hoc est, semel in qualibet quarta anni, die una sollempni vel pluribus<sup>33</sup>] sententie publicentur, nostris ac predecessorum nostrorum temporibus olim late; verbi gratia excommunicati sunt ex Oxoniensi concilio

[i] ecclesias suo iure privantes, et earumdem libertates per malitiam et contra iustitiam infringere vel perturbare etiam contententes; ubi tria genera hominum excommunicationis vinculo innodantur: auferentes scilicet ecclesiis iura sua; infringentes ecclesiasticas libertates, et sine fractione contentiose turbantes easdem. Quod intelligimus non solum de generalibus libertatibus universalis ecclesie, verum etiam de specialibus tam temporalibus quam spiritualibus contra iustitiam ecclesie cuiuscunque; in quo illos excommunicari intelligimus precipue qui litteris aut iuribus curie laicalis ecclesiasticarum causarum processum impediunt, que ita ad ecclesiam pertinere noscuntur quod nullatenus possunt nec consueverunt per seculare iudicium terminari; quod dicimus non intendentes predictam sententiam ad istos tantummodo coartare nec turbationes iurium ecclesiasticorum alias approbantes, sed quia huiusmodi dei et ecclesie inimicos volumus rigore debito castigare. Ex huius insuper sententie decreto excommunicatos denuntiari precipimus omnes illos qui falso exemptionis titulo episcopalem aut archiepiscopalem processum impediunt aut subterfugiant disciplinam.

[Reading, 1279, c. 11 ii-xi]

De hac autem publicatione inquirent archidiaconi locorum diligenter; et quotiens presbiteros invenerint predictam moralem instructionem<sup>34</sup> seu premissas excommunicationum sententias statutis temporibus populo minime predicasse, totiens eos arguant et, pena canonica castigando, supplere compellant quod temere omiserunt.

## **21. STATUTES OF EXETER II 1287<sup>35</sup>**

[56] Ut autem subditorum nostrorum saluti cautius prospiciamus, ne excommunicationum sententias per ignorantiam incurrant aliququaliter ipso facto latas, excommunicationum sententias tam in Oxoniensi consilio per dominum Stephanum

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<sup>32</sup> C&S, 905-7.

<sup>33</sup> As the previous clause decreed: C&S, 900-1.

<sup>34</sup> Refers to the previous clause, the 'Ignorantia sacerdotum', which sets out what priests should explain to their parishioners.

<sup>35</sup> C&S, 1057-8.

quondam Cantuariensem archiepiscopum quam in consilio Londoniensi per dominum Ottobonum quondam legatum in Anglia presenti synodo duximus inserendas.

[Oxford, 1222, cc. 1-7; Reading, 1279, cc. 11 viii-xi]

Has excommunicationum sententias sic provide promulgatas, necnon et nostras quas supra in criminosos tulimus et rebelles, prima dominica in Adventu domini, dominica in Septuagesima, et dominica proxima ante festum beati Petri ad vincula intra missarum solempnia cum maior populi aderit multitudo candelis accensis campanis pulsatis in singulis ecclesiis parochialibus nostre diocesis per locorum presbiteros et per decanum christianitatis Exon' in predicto festo beati Petri in cathedrali ecclesia Exon' precipimus solempniter publicari.

## **22. STATUTES OF CHICHESTER II, 1289<sup>36</sup>**

[39] [York I, c. 41]

[40] [York I, c. 42 i-ii] iii. Istaque generales sententias in singulis parochialibus ecclesiis per earum sacerdotes, sub pena suspensionis a divinis, precipimus quater in anno lingua materna publicari parochianis distincte et aperte, videlicet dominica iii in Adventu domini, dominica in medio Quadragesime, dominica proxima ante festum Nativitatis sancti Iohannis Baptiste, et dominica proxima ante festum sancti Michaelis. [York I, c. 42 iii].

## **23. ABBEY ST ALBANS, ABBACY OF JOHN III, 1290-1301<sup>37</sup>**

Eo tempore, propter malitiam villanorum de Sancto Albano, et aliorum malefactorum, idem Abbas denunciavit omnes illos excommunicatos, qui malitiose, scienter, et injuste, perturbant, violent, auferunt, vel infringunt, aut excogitata malitia perturbare, violare, auferre, vel infringere, moliuntur, seu quolibet modo machinantur, jura, libertates, jurisdictiones, possessiones, seu pensiones, Ecclesiæ Sancti Albani debitas et consuetas. Et quoscunque malivolos conspiratores in hac parte, clam vel palam; omnesque qui confratres nostros, conversos, seu familiares, falso et malitiose diffamant; propter quod religionis et ordinis nostri status magis denigratur, et apud bonos et graves, penes quos prius non extiteramus diffamati, vilipenditur, seu quovis alio modo gravatur; una cum fautoribus et complicitibus universis, cujuscunque fuerint conditionis, dignitatis, aut status; in ecclesia nostra conventuali praedicta, necnon et singulis ecclesiis et capellis nostræ totius jurisdictionis, quater in anno, ipso facto in genere excommunicatos esse, pulsatis campanis, accensis candelis, fecimus denunciari.

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<sup>36</sup> C&S, 1089-90.

<sup>37</sup> This might thus be an exceptional survival of a practice used also by other monasteries: *Gesta abbatum*, ed. Riley, ii, 23-4.

## 24. WILLIAM OF PAGULA'S *OCULUS SACERDOTIS*, C. 1320<sup>38</sup>

[f. 85vb] Ultimo debet sacerdos parochialis frequenter diebus dominicis et aliis diebus festivis solempnibus intra missarum solempnia publicare excommunicationes latas in consilio Oxon' et de Lameth Pecham, et excommunicationes a canone latas frequenter occurrentes, ne per ignoranciam velamen excommunicationis ab aliquo pretendatur et debet publicare sub hac forma:

[i] Auctoritate dei patris omnipotentis et filii et spiritus sancti et gloriose dei genitricis semperque virginis marie et beatorum apostolorum petri et pauli, omniumque apostolorum ac martirum et confessorum atque virginum omnium, quia sanctorum dei denuncio excommunicatos omnes illos qui ecclesias quascumque suo iure maliciose privare presumunt aut per maliciam libertates earumdem infringere vel perturbare contendunt; ubi tria genera hominum excommunicantur, videlicet auferentes ab ecclesiis sua iura; Item infringentes ecclesiasticas libertates; quod non solum intelligitur de generalibus libertatibus universalis ecclesie, verum etiam de specialibus<sup>39</sup>, tam spiritualibus quam temporalibus, exquo intelliguntur excommunicati<sup>40</sup> omnes illos<sup>41</sup> qui impetrant litteras a quacumque curia laicali ad impediendum processum iudicium<sup>42</sup> ecclesiasticorum in causis, que per sacros canones ad forum ecclesiasticum pertinere nascuntur<sup>43</sup> quod nullatenus possunt nec consueverunt per seculare iudicium termi[f. 86ra]nari. Item omnes illos qui false et maliciose episcopalem aut archiepiscopalem<sup>44</sup> processum impediunt aut subiter fugiunt disciplinam.

[ii] Item denuncio excommunicatos omnes illos qui pacem et tranquillitatem domini regis et regni (fo. 70<sup>va</sup>) auctoritate opere vel consilio perturbant et in mortem eius vel sedicionem aliquam machinantur, et qui iura domini regis iniuste detinere contendunt, exquo intelliguntur excommunicati non solum guerrarum suscitant<sup>45</sup> errorem, verum etiam publici latrones omnes pariter et predones et quicumque iusticiam regni temere inpugnantes.

[iii] Item omnes illos qui scienter falsum perhibent testimonium vel perhiberi procurant vel qui tales testes scienter producant ad impediendum iustum matrimonium vel ad exheredacionem alicuius procurandam.

[iv] Item advocatos omnes qui in causis matrimonialibus opponunt excepciones maliciose vel opponi procurant vel in quibuscumque causis ut processus cause diucius suspendatur.

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<sup>38</sup> Transcription based on BL MS Royal 8 C II, fos. 85vb-87ra. Some emendations from BL MS Royal 8 B XV, fos. 52r-54r.

<sup>39</sup> In both MSS, the scribe has mistakenly written 'spiritualibus' for 'specialibus' here; but in 8 C II the erroneous 'u' (heavy abbreviation making this the only difference between the two words) was later crossed out.

<sup>40</sup> 8 C II *excommunicantur*

<sup>41</sup> 8 C II *illi*

<sup>42</sup> 8 C II *iudicium*

<sup>43</sup> 8 C II, *nascantur*.

<sup>44</sup> 8 C II *episcopale aut archiepiscopale*

<sup>45</sup> 8 C II *suscitant*

[v] Item omnes illos qui gratia, lucri vel odii seu favoris vel alia quacumque de causa alicui maliciose crimen opponunt, cum infamatus non sit apud bonos et graves, ut sic saltem ei purgacio indicatur vel alio modo gravetur.

[vi] Item omnes illos qui vacante ecclesia maliciose opponunt vel opponi procurant questionem de iure patronatus ut sic verum patronum a collatione illius ecclesie<sup>46</sup> saltem impedian<sup>47</sup> illa vice.

[vii] Item omnes illos qui maliciose contempnunt exequi mandatum domini regis de excommunicatis capiendis vel eorum impediunt capcionem seu procurant iniustam eorum liberacionem contra decretum ecclesiastice discipline.

[viii] Item excommunicantur in consilio sancte memorie Octob' omnes illi qui pro impediemento pacis seu pro compensacione litigancium quicquam recipiunt donec ipsum sic receptum restituerint donatori et tantumdem exsolverint pauperibus erogandis.

[ix]<sup>48</sup> Item excommunicantur<sup>49</sup> per eundem quicumque de domibus, maneriis vel grangiis<sup>50</sup> seu locis aliis archiepiscoporum, episcoporum vel aliarum personarum ecclesiasticarum contra ipsorum voluntatem vel custodum rerum earumdem auferunt aliquid vel consumunt vel iniuriose contractant qua sententia excommunicationis ligantur nec absolvuntur<sup>51</sup> donec de iniuriis satisfecerint competenter.

[x] Item excommunicatur ab eodem quicumque abstra[h]unt violenter aliquem ad ecclesiam vel cymiterium seu ad claustrum fugientem vel qui ei victum neccesarium prohibent exhiberi vel qui res alienas in locis eisdem depositas violenter asportant vel asportari faciunt [f. 86rb] vel qui asportacionem talem nomine suo factam vel a familiaribus suis ratam habuerint vel qui ad hoc publice vel occulte dederint consilium, auxilium vel consensum.

[xi] Item excommunicati sunt ab omnibus archiepiscopis et episcopis Anglie omnes illi qui veniunt aut faciunt contra magnam cartam, que sententia per sedem apostolicam est pluries confirmata. In constitutiones provincie de Lameth Pecham c. *eisdem temporibus*. In const. Exon' c. i. et in const' Octob' c. *ad cautelam* et c. *cum partes*. unde in magna carta sunt xxxv articuli et in carta de foresta sunt xv, et omnes illi articuli notantur in speculo prelatorum<sup>52</sup> titulo xx.

[xii] Item excommunicantur omnes illi qui in clericos vel religiosos vel conversos et nondum professos manus iniectat temere violentas vel nomine suo factum ratum habuerint precipiunt vel sibi mandant. Extra, De sententia, ex. *non dubium* etc.,

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<sup>46</sup> *om.* 8 C II

<sup>47</sup> 8 B XV *impediant*

<sup>48</sup> Nota sign in margin of X

<sup>49</sup> 8 C II *excommunicatur*; 8 B XV is so heavily abbreviated it unclear whether it says '-antur' or 'atur' but it should be 'antur'.

<sup>50</sup> 8 C II *grangeis*.

<sup>51</sup> 8 B XV *absolvantur*.

<sup>52</sup> Another of Pagula's works.



*mulieres ac parochianos etc., porro etc., religioso etc. cum quis*, li. vi. xvii. q. iiii.<sup>53</sup> c. siquis suadente.<sup>54</sup>

[xiii] Item excommunicantur quicumque scienter in gradibus consanguinitatis vel affinitatis constitutione canonica interdictis aut cum monialibus de facto matrimonium contraxerit, necnon religiosi seu moniales vel clerici in sacris ordinibus constituti de facto matrimonia contrahentes et prelati ecclesiarum tam diu debent denunciare illos quos eis constiterit taliter contraxisse publice excommunicatos seu a suis subditis faciant denunciari donec suam humiliter recognoscant errorem seperentur ab invicem et absolucionis beneficium meruerunt optinend' in const' extravag' pape Clementis v. de consanguinitate et affinitate, c. *eos qui*, li vi.<sup>55</sup>

[xiv] Item excommunicantur falsarii litterarum domini pape cum fautoribus et defensoribus suis et qui huius falsas litteras impetraverit et qui usi fuerit scienter huius falsis litteris. extra De crimine falsi *ad falsariorum* et c. *dura*.<sup>56</sup>

[xv] Item excommunicantur violatores, raptores et incendiarii ecclesiarum sive religiosorum locorum et omnes eis consentientes, xi. q. iiii, *canonica*, xvii. q. iiii, *omnes*, xxiii. q. ult' *pessimam*, extra De sententia ex. *conquesti* etc. *tua nos*.<sup>57</sup>

[xvi] Item excommunicantur symoniaci i.q.i. reperiuntur.

[xvii] Item heretici defensores, receptores et fautores eorumdem hereticorum. extra De hereticis c. *sicut ait* etc. *excommunicamus* i et ii.<sup>58</sup>

[xviii] Item excommunicantur omnes qui faciunt statuta edita consuetudines contra ecclesiasticam libertatem et stacionarii et etiam scriptores huius statutorum et qui huius statuta vel consuetudines fecerint observari nisi ea infra mensem fecerint revocari vel secundum ea presumpserint iudicare vel in publicam formam scribere taliter iudicata. extra De sententia ex. *noverit*.<sup>59</sup>

[f. 86va] [xix] Item excommunicantur qui per se vel per alios spoliunt ecclesias bonis suis vel iniuste prosequuntur electores seu consanguineos eorum gravant pro eo quod electores noluerunt eligere illum in prelatum pro quo rogabantur sive inducebantur. extra De elec' *sciant cuncti* li.vi.<sup>60</sup>

[xx] Item excommunicantur illi qui per vim vel per metum extorquent absolutionem a sententia excommunicationis seu extorquent revocationem excommunicationis vel suspensionis seu interdicti. extra De hiis que vi metus ve causa fiunt c. *absolucio* li.vi.<sup>61</sup>

[xxi] Item excommunicantur illi qui habunt temporale dominium et subditis suis interdicunt ne prelati aut clericis seu personis ecclesiasticis quicquam vendant aut

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<sup>53</sup> 8 C II *iii*.

<sup>54</sup> X.5.39.5; X.5.39.6; X.5.39.9; X.5.39.7; VI.5.11.21; VI.5.11.23; C.17 q.4 c.29.

<sup>55</sup> Clem. 4.1.1.

<sup>56</sup> X.5.20.7; X.5.20.4.

<sup>57</sup> C.4, q.3, c.107; C.17, q.4, c.5; C.23, q.8, c.32; X.5.39.22; X.5.39.19.

<sup>58</sup> X.5.7.8; X.5.7.13; X.5.7.15.

<sup>59</sup> X.5.39.40.

<sup>60</sup> VI.1.6.12.

<sup>61</sup> VI.1.20.1.

aliquid emant ab eisdem necque eisdem blandum molant nec panem coquant aut alia obsequia eis exhibere presumant. extra De immunitate etc. *eos qui* li.vi.<sup>62</sup>

[xxii] Item excommunicantur illi qui scienter tradiderint ecclesiastice sepulture hereticos seu credentes erroribus eorum defensores ac fautores eorum. extra De hereticis *quicumque* li.vi.<sup>63</sup>

[xxiii] Item excommunicatur ille qui manus violentas iniecerit in illum qui ingressus fuerit religionem quia nisi nec tacite neque expresse fuerit professus. extra De sententia ex li.vi. c. *religioso*.<sup>64</sup>

[xxiv] Item excommunicatur ille qui ab homine vel a canone est excommunicatus et propter mortis periculum vel aliud impedimentum legitimum<sup>65</sup> vel absolvatur ab eo qui alias de iure non potest eum absolvere si postea cessante periculo seu impedimento contempserit quam cito commode poterit se presentare illi a quo de iure deberet absolvi ipsius mandatum suscepturus et satisfactorius prout iusticia suadebit vel qui a sede apostolica vel eius legato fuerit absolutus et sibi iniungatur ut penitentiam recipiat a suo ordinario et passis iniuriam satisfaciat si hoc cum primum commode poterit non curaverit adimplere eandem excommunicationis sententiam recidit ipso iure extra de sen. ex. c. *eos qui* li. vi. In const' extravag' pape Cle' v. De penis c. *si quis ¶ ult'*.<sup>66</sup>

[xxv] Item excommunicatur quicumque cuiuscumque status seu conditionis vel gradus etiam si pontificali prefulgeat dignitate executorum seu quivis alius fecerit corpus defuncti exenterari seu membrati didi in const' extravag' pape Bonifac' viii. c. *detestande*.<sup>67</sup>

[xxvi] Item excommunicantur qui scienter tempore interdicti in casibus non concessis a iure in cimiteriis corpora defunctorum etiam publice excommunicatos aut nominati interdictos [f. 86rb] vel usurarios manifestos sepelierint. In const' extravag' pape Cle' v. De sepultura c. *eos*.<sup>68</sup>

[xxvii] Item excommunicantur quicumque fecerint statuta scripserint seu dictaverint quod solvantur usure vel quod usure solute non repetantur nec restituantur. Item excommunicantur qui huius statuta hactenus edita de libris communitatum ipsarum si super hoc peccatum habuerint non deleverint infra iii menses In const' extravag' pape Cle' v. De usur' .c. *gravi*.<sup>69</sup>

[xxviii] Item excommunicantur religiosi qui clericis aut laycis ministrant sacramentum eucharistie vel unctionis extreme vel matrimonium inter aliquos solemnizant non habita super hiis paroch' ~~legitima~~ presbiteri legitima speciali aut qui excommunicatos a canone vel a sententiis per statuta provincialia aut synodalia promulgatis aliquid

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<sup>62</sup> VI.3.24.5.

<sup>63</sup> VI.5.2.2.

<sup>64</sup> VI.5.11.21.

<sup>65</sup> Om. 8 B XV.

<sup>66</sup> VI.5.11.22; Clem.5.8.1(last para.).

<sup>67</sup> *Extravagantes communes* 3.6.1.

<sup>68</sup> Clem. 3.7.1.

<sup>69</sup> Clem. 5.5.1.

absolverint preter quam in casibus a iure expressis vel privilegia sedis apostolice concessis eisdem seu a pena et a culpa de facto absolvunt. In const' extravag' pape Cle' v. De privil' c. *religiosi*.<sup>70</sup>

[xxix] Item excommunicantur illi qui capiunt viros ecclesiasticos et captos detinent donec sua beneficiis resignent aut citatos ab homine vel a iure ad sedem apostolicam et etiam procurantes huius capcionem sunt excommunicati. In const' extravag' pape Cle' v. De penis c. *multorum*.<sup>71</sup>

[xxx] Item excommunicantur qui in loco supposito interdicto quamquam cogerint divina officia celebrare aut qui tempore interdicti per campanarum pulsacionem populo publice excommunicatos seu interdictos evocaverint ad audiend' missas seu fecerint evocari aut qui suis subiectis publice excommunicatis seu interdictis precipit ne exeant de ecclesiis dum in ipsis missarum solempnia celebrantur vel a celebrantibus moniti fuerint ut exeant necnon excommunicati publice interdicti qui in ipsis ecclesiis nominatim a celebrantibus moniti ut exeant remanere presumpserint nec possunt absolvi nisi per sedem apostolicam. In const' extrav' pape Cle' v. De sen' ex' c. *gravis*.<sup>72</sup>

[xxxii] Item excommunicantur clerici arina deferentes et se furibus et predonibus ac aliis malefactoribus sociantes rapinas et furta precipientes nec possunt absolvi nisi prius ad arbitrium episcopi dyocesani satisfecerint de premissis. In const' Ottob' c. *quoniam in armis*.<sup>73</sup>

[xxxiii] Item excommunicantur qui impediunt seu impedire procurant ultimas voluntates defunctorum presertim in hiis que de iure vel consuetudine legari possunt.

[xxxiiii] Item excommunicantur quicumque qui impediunt vel perturbant seu faciant perturbari an impediri iustam seu consuetam testi liberam factionem alicuius solute<sup>74</sup> mulieris vel coniugate (f. 87ra) proprie vel alterius. In const' de Lameth Bonif' c. *contingit*. ¶ *Item testamentis* et ¶ *statuimus*.<sup>75</sup>

[xxxv] Item excommunicantur quicumque recipit plura beneficia curata et ea retinuerit absque dispensatione sedis apostolice vel assecutus per modum institutionis vel commendationis seu custodie vel unum beneficium titulo institutionis aliud titulo commendationis seu custodie preter illum modum quem consitutio Gregoriana edita in consilio Lugd' permittit. In const' Radig' Pecham c. i. ¶ *huic quoque*.<sup>76</sup>

Multi sunt alii casus in quibus quis est excommunicatus ipso facto in illi casus notantur in speculo prelatorum in secunda parte ti. xxi.

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<sup>70</sup> Clem. 5.7.1.

<sup>71</sup> Clem. 5.8.2.

<sup>72</sup> Clem. 5.10.2.

<sup>73</sup> C&S, 751, c. 4.

<sup>74</sup> 8 C II *solucite*.

<sup>75</sup> C&S, 681-2.

<sup>76</sup> C&S, 840; VI.1.16.3.

## GLOSSARY OF AUTOMATIC EXCOMMUNICATIONS REFERRED TO IN THE TEXT

### *Ad ecclesiam vel cimiterium (1268, abridged 1279)*

[1268] Statuimus ut si quis aliquem ad ecclesiam vel cimiterium aut claustrum confugientem inde abstraxerit violenter vel ei victum necessarium prohibuerit, in quo similis est necanti, aut res alienas in locis predictis depositas violenter seu hostiliter assportaverit vel assportari fecerit, aut factam suo nomine vel a familiaribus suis abstractionem, prohibitionem, vel assportationem ratam habuerit, aut abstrahentibus, prohibentibus, vel assportantibus prebuerit publice vel occulte auxilium, consilium, vel consensum, ipso facto sit excommunicationis vinculo innodatus.

[1279] Excommunicantur ab eodem quicumque abstrahunt violenter reum ad ecclesiam vel cimiterium vel claustrum fugientem, vel qui ei victum necessarium prohibent exhiberi, vel qui res alienas in locis predictis depositas violenter asportant vel asportari faciunt, vel qui asportationem talem factam nomine suo vel a familiaribus suis ratam habent, vel qui ad hoc publice vel occulte consilium vel auxilium prebuerint seu consensum.

### *Advocatos quoque (1222)*

Advocatos quoque excommunicamus omnes qui in causis matrimonialibus malitiose exceptiones opponunt vel opponi procurant ne matrimonia vera debitum sortiantur effectum, vel ut processus cause contra iustitiam diutius suspendatur.

### *Clericis laicos (1296)*

Clericis laicos infestos opido tradit antiquas quod et presencium experimenta temporum manifeste declarunt dum suis finibus non contenti nituntur in vetitum, ad illicita frena relaxant, nec predenter advertunt quam sit eis in clericos ecclesiasticasve personas et bona interdicta potestas, et ecclesiarum prelati et ecclesiis ecclesiasticisque personis regularibus et secularibus imponunt onera gravia ipsosque talliant et eis collectas imponunt, ab ipsis suorum proventuum vel bonorum dimidiam seu vicesimam vel quamvis aliam porcionem aut quotam exigunt et extorquent, eosdem moliuntur multipharie subicere servituti sueque submittere di[st]ric[t]ioni, et quod dolentes referimus nonnulli ecclesiarum prelati ecclesiasticeque persone trepidantes ubi trepidandum non est, transitoriam pacem querentes, plus timentes magestatem temporalem offendere quam eternam, talium abusibus non tam temere quam improvide acquiescunt sedis apostolice auctoritate seu licencia non obtenta. Nos igitur talibus iniquis actibus obviare volentes de fratrum nostrorum consilio apostolica auctoritate statuimus quod quicumque prelati ecclesiasticeque persone religiose vel seculares, quorumcumque ordinum condicionis seu statuum collectas vel tallias decimam

vicesimam seu centesimam suorum et ecclesiarum proventuum vel bonorum laicis solverint vel promiserint vel se soluturos consenserint, aut quamvis aliam quantitatem porcionem aut quotam ipsorum proventuum vel bonorum estimacionis vel valoris ipsorum sub adjutorii mutui subvencionis subsidii vel doni nomine seu quovis alio titulo modo vel quesito colore absque auctoritate; necnon imperatores reges seu principes duces comites vel barones potestates capitanei officiales vel rectores quocumque nomine censeantur civitatum castrorum seu quorumcumque locorum constitutorum ubilibet et quivis alius cujuscumque preeminencie condicionis et status qui talia inposuerint exegerint vel receperint aut apud edes sacras deposita ecclesiarum vel ecclesiasticarum personarum ubilibet arrestaverint, saisiverint seu occupare presumpserint vel arestari saisiri seu occupari mandaverint, aut occupata saisita seu arestata receperint; necnon omnes qui scienter in predictis dederint auxilium, consilium, vel favorem, publice vel occulte, eo ipso sententiam excommunicacionis incurrant. Universitates quoque que in hiis culpabiles fuerint ecclesiastico supponimus interdicto. Prelatis et personis ecclesiasticis supradictis in virtute obediencie et sub deposicionis pena districte mandantes ut talibus absque expressa licencia dicte sedis nullatenus acquiescant. Quodque pretextu cujuscumque oblacionis, promissionis et concessionis factarum hactenus vel faciendarum in antea, postquam hujusmodi constitucio, prohibicio, seu preceptum ad noticiam ipsorum pervenerint nichil solvant nee supradicti seculares quoque modo recipiant, et si solverint vel predicti receperint, in excommunicacionis sententiam incidant ipso facto. A supradictis autem excommunicacionum et interdicti sentenciis nullus absolvi valeat preterquam in mortis articulo absque sedis apostolice auctoritate et licencia speciali. Cum nostre intencionis existat tam horrendum secularium potestatum abusum nullatenus sub dissimulacione transire; non obstantibus quibuscumque privilegiis sub quibuscunque tenoribus, formis seu modis aut verborum conceptione concessis concessis imperatoribus, regibus et aliis supradictis, que contra premissa in nullo volumus alicui vel aliquibus suffragari.<sup>1</sup>

*Contempnunt exequi domini (1222, amended 1279)*

[1222] Excommunicamus etiam omnes illos qui gratia lucri, vel odii, vel alias malitiose contempnunt exequi domini regis mandatum contra excommunicatos editum claves ecclesie contempnentes.

[1279] Omnes illi qui malitiose contempnunt exequi mandatum regis de excommunicatis capiendis, vel eorum impediunt captionem seu procurant iniustam eorum liberationem contra decretum ecclesiastice discipline.

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<sup>1</sup> Text from *Reg. Winchelsey*, 159-61.

*Crimen inponunt alicui (1222)*

Excommunicamus omnes illos qui gratia odii, lucri, vel favoris, vel alia quacunque de causa malitiose crimen inponunt alicui, cum infamatus non sit apud bonos et graves, ut sic saltem ei purgatio indicatur vel alio modo gravetur.

*De domibus (1268)*

Si quis de domibus, maneriis, grangiis, vel aliis locis huiusmodi ad archiepiscopos, episcopos, vel alias personas ecclesiasticas vel ad ipsas ecclesias pertinentibus accedens quicquam, preter voluntatem aut permissionem dominorum vel eorum qui sunt eiusmodi rerum custodie deputati, consumere vel auferre aut contractare presumpserit, ipso facto sit excommunicatione ligatus, a qua donec satisfecerit absolutionis gratiam minime consequatur.

*Magna Carta (1253)*

Auctoritate dei omnipotentis patris et filii et spiritus sancti et gloriose dei genitricis semperque virginis Marie, beatorum apostolorum Petri et Pauli, omniumque apostolorum, beati Thome archiepiscopi et martiris, omniumque martirum, beati Adwardi regis Anglie, omniumque confessorum atque virginum, omniumque sanctorum dei, excommunicamus, anathematizamus et a liminibus sancte matris ecclesie sequestramus omnes illos qui amodo scienter et malitiose ecclesias privaverint vel spoliaverint suo iure; item, omnes illos qui ecclesiasticas libertates vel antiquas regni consuetudines approbatas et precipue libertates et liberas consuetudines que in cartis communium libertatum et de foresta continentur, concessis a domino rege archiepiscopis, episcopis, et ceteris Anglie prelatibus, comitibus, baronibus, militibus et libere tenentibus, quacunque arte vel ingenio violaverint, infregerint, diminuerint seu immutaverint, clam vel palam, facto, verbo, vel consilio, contra illas vel earum aliquam in quocumque articulo temere veniendo; item, omnes illos qui contra illas vel earum aliquam statuta ediderint vel edita servaverint, consuetudines introduxerint vel servaverint introductas, scriptores statutorum necnon consiliarios et executores qui secundum ea presumpserint iudicare; qui omnes et singuli superius memorati hanc sententiam incururos se noverint ipso facto qui scienter aliquid commiserint de predictis. Qui vero ignoranter, nisi comoniti infra quindenam a tempore commonitionis se correxerint et arbitrio ordinariorum plene satisfecerint de commissis, extunc sint hac sententia involuti. Eadem etiam sententia innodamus omnes illos qui pacem regis et regni presumpserint perturbare.

*Qui malitiose ecclesias (1222, amended 1279 and 1281)*

[1222] Excommunicamus omnes illos qui malitiose ecclesias suo iure privare presumunt aut per malitiam et contra iustitiam libertates earundem infringere vel perturbare contendunt.

[1281] Excommunicati sunt ... ecclesias suo iure privantes, et earundem libertates per malitiam et contra iustitiam infringere vel perturbare etiam

contententes; ubi tria genera hominum excommunicationis vinculo innodantur: auferentes scilicet ecclesiis iura sua; infringentes ecclesiasticas libertates, et sine fractione contentiose turbantes easdem. Quod intelligimus non solum de generalibus libertatibus universalis ecclesie, verum etiam de specialibus tam temporalibus quam spiritualibus contra iustitiam ecclesie cuiuscunque; in quo illos excommunicari intelligimus precipue qui litteris aut iuribus curie laicalis ecclesiasticarum causarum processum impediunt, que ita ad ecclesiam pertinere noscuntur quod nullatenus possunt nec consueverunt per seculare iudicium terminari; quod dicimus non intendentes predictam sententiam ad istos tantummodo coartare nec turbationes iurium ecclesiasticorum alias approbantes, sed quia huiusmodi dei et ecclesie inimicos volumus rigore debito castigare. Ex huius insuper sententie decreto excommunicatos denunciari precipimus omnes illos qui falso exemptionis titulo episcopalem aut archiepiscopalem processum impediunt aut subterfugiunt disciplinam.

*Qui pacem et tranquillitatem (1222, amended 1279)*

Omnes etiam illos excommunicationis sententia innodamus qui pacem et tranquillitatem domini regis et regni iniuriose perturbare presumunt, et qui iura domini regis iniuste detinere contendunt. [1279] Ex quo intelligimus excommunicari non solum guerrarum suscitantes horrorem, verum etiam latrones publicos omnes pariter et predones et quoscumque regni iustitiam temere inpugnantes.

*Qui scienter et prudenter falsum (1222)*

Adicimus autem omnes illos simili sententia innodatos, qui scienter et prudenter falsum perhibent testimonium vel perhiberi procurant vel etiam qui tales testes producunt scienter vel subornant in causa matrimoniali, ubi scilicet agitur contra matrimonium, vel ubi agitur ad alicuius exheredationem.

*Qui vacante ecclesia (1222)*

Preterea omnes illos sententia excommunicationis innodamus qui vacante ecclesia malitiose opponunt vel opponi procurant patronatus questionem, ut sic verum patronum ecclesie collatione saltem illa vice defraudent.

*Si quis suadente (1139)*

Si quis suadente diabolo huius sacrilegii uicium incurrerit, quod in clericum uel monachum uiolentas manus iniecerit, anathematis uinculo subiaceat, et nullus episcoporum illum presumat absolueri, nisi mortis urgente periculo, donec apostolico conspectui presentetur, et eius mandatum suscipiat.

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