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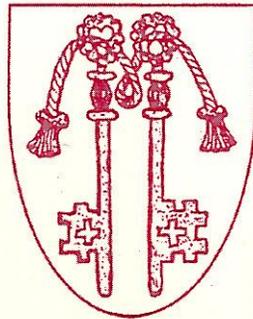
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Abbreviations

The following sigla are used without further explanation:

ACA	<i>Archivo de la Corona d'Aragon/Arxiu de la Corona d'Arago</i>
AHC	<i>Annuario historiae conciliorum</i>
AHDE	<i>Anuario de Historia del Derecho español</i>
AHP	<i>Archivum historiae pontificiae</i>
AJLH	<i>American Journal of Legal History</i>
AKKR	<i>Archiv für katholisches Kirchenrecht</i>
ASD	<i>Annali di storia del diritto</i>
BAV	Biblioteca Apostolica Vaticana
BDHI	<i>Bibliothek des Deutschen Historischen Instituts in Rom</i>
BC	Bibliotheca/Archivio capitolare, capitular, chapter, kapitoly etc.
BEC	<i>Bibliothèque de l'Ecole des Chartes</i>
BIDR	<i>Bullettino dell'Istituto di Diritto Romano</i>
BISM	<i>Bullettino dell'Istituto Storico Italiano per il Medio Evo e Archivio Muratoriano</i>
BL	British Library
BM	Bibliothèque municipale, Stadtbibliothek, Biblioteca comune, Landesbibliothek, civica, etc.
BMCL	<i>Bulletin of Medieval Canon Law, New series</i>
BNF/BN	Bibliothèque nationale de France / Biblioteca nazionale
BSB	Bayerische Staatsbibliothek
BU	Bibliothèque universitaire, Universitätsbibliothek, Biblioteca di Università, etc.
Cat. gén.	<i>Catalogue général des manuscrits des bibliothèques publiques de France (Départements, octavo series, unless otherwise indicated)</i>
CC/CCL	<i>Corpus Christianorum/Corpus Christianorum, Series latina</i>
CCCM	<i>Corpus Christianorum, Continuatio mediaevalis</i>
CHR	<i>Catholic Historical Review</i>
Clavis	E. Dekkers, <i>Clavis patrum latinorum</i> , ed. 2
COD	<i>Conciliorum oecumenicorum decreta</i> , ed. Centro di Documentazione... (COD ³ : ed. 3)
COGD	<i>Conciliorum oecumenicorum generalium-que decreta, 2.1: The Oecumenical Councils of the Roman Catholic Church: From Constantinople IV to Pavia-Siena (869-1424); 2.2: From Basel to Lateran V (1431-1517, edd. Alberto Melloni et alii (Corpus Christianorum; Turnhout 2013)</i>
CSEL	<i>Corpus scriptorum ecclesiasticorum latinorum</i>

DA	<i>Deutsches Archiv für Erforschung des Mittelalters</i>
DBI	<i>Dizionario biografico degli Italiani</i>
DDC	<i>Dictionnaire de droit canonique</i>
DGDC	<i>Diccionario general del derecho canónico</i> , edd. Javier Otaduy Antonio Viana, Joaquín Sedano (7 Volumes; Pamplona 2012)
DGI	<i>Dizionario dei giuristi italiani (XII-XX secolo)</i> , edd. Italo Birocchi, Ennio Cortese et alii (2 vols. Bologna 2013)
DHEE	<i>Diccionario de historia eclesiástica de España</i>
DHGE	<i>Dictionnaire d'histoire et de géographie ecclésiastiques</i>
DMA	<i>Dictionary of the Middle Ages</i>
Du Cange	Du Cange, Favre, Henschel, <i>Glossarium mediae et infimae latinitatis</i>
EHR	<i>English Historical Review</i>
Fowler	Linda Fowler-Magerl, <i>Clavis Canonum: Selected Canon Law Collections Before 1140</i> (Hannover 2005): https://beta.mgh.de/databases/clavis/db/
HMCL 2	<i>The History of Medieval Canon Law in the Classical Period, 1140-1234: From Gratian to the Decretals of Pope Gregory IX</i> , edd. Wilfried Hartmann and Kenneth Pennington (Washington DC 2008)
HMCL 3	<i>The History of Courts and Procedure in Medieval Canon Law</i> , edd. Wilfried Hartmann and Kenneth Pennington (Washington DC 2016)
HQLR 1-2	<i>Handbuch der Quellen und Literatur der Neueren Europäische Rechtsgeschichte, 1: Mittelalter (1100-1500): Die Gelehrten Rechte und die Gesetzgebung</i> , ed. Helmut Coing (Veröffentlichungen des Max-Planck-Instituts für Europäische Rechtsgeschichte, München 1973-1977)
HRG	<i>Handwörterbuch zur deutschen Rechtsgeschichte</i>
HZ	<i>Historische Zeitschrift</i>
IRMAe	<i>Ius romanum medii aevi</i>
JEH	<i>Journal of Ecclesiastical History</i>
JH ¹ , JH ² , JH ³	Jaffé, <i>Regesta pontificum romanorum ...</i> ed. tertiam curaverunt Nicholas Herbers et al. (JH ¹ A S. Petro–604), (JH ² 604–844), (JH ³ 844–1024)
JK, JE, JL	Jaffé, <i>Regesta pontificum romanorum ...</i> ed. secundam curaverunt F. Kaltenbrunner (JK: an. ?-590), P. Ewald (JE: an. 590-882), S. Loewenfeld (JL: an. 882-1198)
JTS	<i>Journal of Theological Studies</i>

Kéry	Lotte Kéry, <i>Canonical Collections of the Early Middle Ages (ca. 400-1140): A Bibliographical Guide to the Manuscripts and Literature</i> (Washington DC 1999)
LMA	<i>Lexikon des Mittelalters</i>
Mansi	Mansi, <i>Sacrorum conciliorum nova et amplissima collectio</i>
MEFR	<i>Mélanges de l'École française de Rome: Moyen âge—Temps modernes</i>
MGH	Monumenta Germaniae historica
• Capit.	Capitularia
• Conc.	Concilia
• Const.	Constitutiones
• Fontes iuris	Fontes iuris Germanici antiqui, Nova series
• Ldl	Libelli de lite imperatorum et pontificum
• LL	Leges (in Folio)
• LL nat. Germ.	Leges nationum Germanicarum
MIC	Monumenta iuris canonici
• Ser. A	Series A: Corpus Glossatorum
• Ser. B	Series B: Corpus Collectionum
• Ser. C	Series C: Subsidia
MIÖG	<i>Mitteilungen des Instituts für österreichische Geschichtsforschung</i>
ML	Monastic Library, Stiftsbibliothek, etc.
NCE	<i>The New Catholic Encyclopedia</i>
ÖNB	Österreichische Nationalbibliothek
PG	Migne, <i>Patrologia graeca</i>
PL	Migne, <i>Patrologia latina</i>
Poth.	Pothast, <i>Regesta pontificum romanorum</i>
QF	<i>Quellen und Forschungen aus italienischen Archiven und Bibliotheken</i>
QL	Schulte, <i>Quellen und Literatur</i>
RB	<i>Revue bénédictine</i>
RDC	<i>Revue de droit canonique</i>
REDC	<i>Revista español de derecho canónico</i>
RHD	<i>Revue historique de droit français et étranger</i> (4 ^e série unless otherwise indicated)
RHE	<i>Revue d'histoire ecclésiastique</i>
RHM	<i>Römische historische Mitteilungen</i>
RIDC	<i>Rivista internazionale di diritto comune</i>
RIS ²	Muratori, <i>Rerum italicarum scriptores: Raccolta degli storici italiani</i> , nuova edizione
RQ	<i>Römische Quartalschrift für christliche Altertumskunde und Kirchengeschichte</i>

RS	Rolls Series (Rerum Britannicarum medii aevi scriptores)
RSCI	<i>Rivista di storia della Chiesa in Italia</i>
RSDI	<i>Rivista di storia del diritto italiano</i>
SB	Staatsbibliothek/Stiftsbibliothek
SCH	<i>Studies in Church History</i>
SDHI	<i>Studia et documenta historiae et iuris</i>
Settimane	<i>Settimane di studio del Centro italiano di studi Spoleto sull'Alto Medioevo</i>
SG	<i>Studia Gratiana</i>
SMCL	<i>Studies in Medieval and Early Modern Canon Law</i>
TRG	<i>Tijdschrift voor Rechtsgeschiedenis</i>
TUI	<i>Tractatus universi iuris</i> (18 vols. Venice 1584-1586)
Vat.	Biblioteca Apostolica Vaticana
ZKG	<i>Zeitschrift für Kirchengeschichte</i>
ZRG Kan. Abt.	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung</i>
ZRG Rom. Abt.	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung</i>

The Proceedings of the International Congresses of Medieval Canon Law will be referred to as (e.g.): *Proceedings Boston 1965*. Older standard works will be cited only as short titles, e.g. Maassen, *Quellen*, Schulte, *Quellen*, Savigny, *Geschichte*, Kuttner, *Repertorium*.

For the serial publications of the great academies:

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Abhandlungen der ... preussischen, bayerischen, etc. *Akademie der
Wissenschaften, philosophisch-historische Klasse*.

Similarly for *Mémoires, Memorie, Proceedings, Rendiconti, Sitzungsberichte*, etc. the abridged form is always understood as referring to the series covering philosophy and the humanities where several classes or sections exist in a single academy; e.g.

<i>Mém. Acad. Inscr.</i>	<i>Rendic. Istit. Lombardo</i>
<i>Proceed. Brit. Acad.</i>	<i>Sb. Akad. Wien</i>

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‘Qui totum sibi vendicat quod scripserat esse suum’: The Limits of Papal *dominium* from a Fictitious Letter of 1307

Gabriele Bonomelli¹

The following paper discusses a Latin letter that purportedly fell from the sky during a session of the parliament of Carlisle in 1307. The author of the letter bitterly reproached the attempts of the pope to interfere in English economic and politic affairs through the appointment of his candidates to English benefices, the so-called ‘*provisores*’. The letter is transmitted in the chronicle of Walter of Guisborough and develops its opposition to the pontiff’s policy by delving into some key concept of medieval thought: the nature and limitations to the pope’s political and economic ‘*dominium*’ .

The aim of this paper is to assess this fictitious epistle’s contribution to a debate that had deep roots in medieval legal thought. After a brief survey on England’s political context at the turn of the fourteenth century, we will show how the author of the letter defended the rights of the English Church against the widening of the pope’s ‘*dominium*’ over the goods of the Christians. The paper will follow the evolution of the theory of papal ‘*dominium*’ from Augustine to Gilles of Rome to assess how this letter developed some interesting aspects of the reflexion on the nature of papal ‘*dominium*’ that would later be used by leading intellectuals such as William of Ockham and Marsilius of Padua to limit the pontiff’s prerogatives during the debate over apostolic poverty. In conclusion, an investigation of the fortune of the letter in Early Modern England will be presented in order to assess the peculiar reception of this text by Protestant intellectuals.

¹ I express my deepest gratitude to Prof. Isabella Lazzarini (Università del Molise) and Prof. Barbara Bombi (University of Kent) for their useful remarks and suggestions to this research.

England and provisos at the eve of the fourteenth century

The Treaty of Paris, signed in 1259 between Henry III and Louis IX, halted the military conflict between England and France for a few decades. The war was resumed in 1294 after the refusal of Henry's successor, Edward I (1272-1307), to pay the feudal homage to the French king: the conflict was over in 1299 with the marriage between Edward and Philip IV's sister Margaret, coupled with the promise of a further marriage between Edward's son (the future Edward II) and Isabella, the French king's daughter. England was not in conflict with France alone: Edward I invaded Scotland in 1296 and deposed king John Balliol, who had been elected a few years earlier with Edward's favor. This started a series of wars—or rather rebellions, from the English viewpoint—that dragged on for almost the whole fourteenth century and in which France was also occasionally involved as an ally of the Scots. This troubled military situation was further aggravated by one of the major Welsh rebellions between 1296 and 1297.²

Military conflicts were not the only destabilising factor for England in these years. Since 1258 the clergy and the barons had presented Henry III and Edward I with numerous issues that needed to be reformed: there was a widespread sentiment that the crown was progressively limiting the autonomies that *Magna Charta* had granted in 1215. The parliaments that assembled during the reign of Edward I (an era in which these assemblies were becoming a stable political institution)³ were the stage for continuous complaints that focused especially on the excessive

² See Seymour Phillips, *Edward II* (New Haven 2011) 76-95 and Michael Prestwich, 'England and Scotland during the Wars of Independence', *England and her Neighbours, 1066-1453: Essays in Honour of Pierre Chaplais*, edd. Michael Jones and Malcolm Vale (London-Ronceverte 1989) 181-197. For a closer look at the military and political relations between France and England in these years see Malcolm Vale, 'England, France and the origins of the Hundred Years War', *England and her Neighbours* 199-216.

³ On the evolution of parliament in this period see Gerald Harris, 'The Formation of Parliament, 1272-1377', *The English Parliament in the Middle Ages*, edd. Richard Davies and Jeffrey Denton (Philadelphia 1981) 29-60.

taxation caused by the need to finance the wars in Scotland.⁴ The same complaints occupied the troubled years of Edward II's reign until his deposition in 1327.⁵ The financial crisis was the most pressing issue. The constant warfare had worsened the highly indebted situation of the crown: it is estimated that Edward I left debts for around £200,000 at his death in 1307 (especially to Italian bankers).⁶ Nonetheless, the king was able to take advantage of the political situation of the beginning of the 14th century to restore the English finances: the clash between Boniface VIII and Philip IV put the English sovereign in a favorable position in the eyes of the pope, who in 1301 allowed him to keep half of the incomes of a tithe that was levied for the crusade. A few years later, in 1305, another event helped restore the English finances. On June 5th in Perugia the conclave elected the archbishop of Bordeaux Bertrand de Got to the papal see with the name of Clement V.⁷ As a Gascon he was subject to both Philip IV and Edward I and had had excellent relations with the English king in the previous years: Clement thus represented an excellent opportunity for the normalisation of the relations between the two kingdoms.⁸ The pope immediately granted Edward the right to retain a part of the incomes of a new crusade tithe for the following

⁴ Michael Prestwich, *Edward I* (Berkeley 1988) 518-540.

⁵ Phillips, *Edward II* 138-157.

⁶ Prestwich, *Edward I* 534-537. The English crown's largest creditors were the Frescobaldi of Florence, who between 1297 and 1310 lent around £150,000 to Edward I and his son, of which only £125,000 were returned.

⁷ The conclave lasted for eleven months and was the stage of double-dealings to elect a candidate who would meet the favor of the king of France. Such negotiations are summarized in Gian Luca Potestà, *Dante in conclave. La lettera ai cardinali* (Milano 2021) 75-90.

⁸ The context of relations between Edward I, II and Clement V is summarized in Barbara Bombi, *Anglo-Papal Relations in the early Fourteenth Century: A Study in Medieval Diplomacy* (Oxford 2019) 134-153. For the earlier stages see Sophia Menache, *Clement V* (Cambridge Studies in Medieval Life and Thought, Fourth Series Cambridge 1998) 6-12, who explains how Bertrand de Got had already been involved in diplomatic missions to England with the aim of signing a peace agreement in 1294. See also Patrick Zutshi, 'The Letters of the Avignon Popes (1305-1378): A Source for the Study of Anglo-Papal Relations and of English Ecclesiastical History', *England and her Neighbours* 259-275.

seven years.⁹ If this contributed to the restoration of the English finances, the new tax (which affected the ecclesiastics directly) also contributed to the exacerbation of the widespread discontent of the English ecclesiastics towards the holy see.

The election of Clement V also brought political advantages to the English sovereign. As a second embassy to Avignon was underway, the pope consented to the suspension from office of Edward's greatest opponent within the kingdom, the archbishop of Canterbury Robert Winchelsey.¹⁰ Edward I, therefore, benefited in these years from an altogether good situation, as he could enjoy the incomes of a rich tax without being held responsible for its imposition by those who had to pay it.¹¹ However, the pontiff's generosity came with a price. The same embassy that obtained Winchelsey's suspension could not oppose the papal decision to reserve to the apostolic see the incomes of the first year of all the English benefices that would be vacant during the following three years. These benefices would have been assigned to candidates chosen directly by the pope, the so called 'provisores', who were often high prelates that resided outside England and that would never cross the Channel to take possession of their benefices.¹² This was not the first time that the apostolic see reserved the fruits

⁹ The first quarter of the fourteenth century was 'that golden age of Anglo-papal fiscal relations, when obliging popes levied clerical tenths for the king's use to the tune of about £ 230,000', quoted from Pantin, *The English Church in the Fourteenth Century* (Toronto 1980) 127.

¹⁰ Clement V also favored Edward I in other important matters: he granted papal dispensation for consanguinity for the planned marriage between the king's son and Isabella of France, he agreed to the canonisation of Thomas Cantilupe as well as to the election of an Englishman as cardinal and revoked the bull *Clericis laicos* of 1296: see Bombi, *Anglo-Papal* 137-14, Menache, *Clement V* 58, Prestwich, *Edward I* 540. The Archbishop of Canterbury, who came back to England in 1307, would become a leading figure in the following years until his death (1314) in polarising the clash between bishops and the crown: see K. Edwards, 'The political importance of the English bishops during the reign of Edward II', *EHR* 59 (1944) 311-347.

¹¹ Prestwich, *Edward I* 532-533 calculated that the income of this tax, together with the one granted by Boniface VIII, yielded the crown around £70,000 between 1301 and 1307.

¹² William Lunt, *Financial Relations of the Papacy with England to 1327* (Cambridge Massachusetts 1939) 488.

of English benefices: Clement IV had paved the way in 1265 with the bull *Licet ecclesiarum* and the papacy implemented this practice around Europe throughout the fourteenth century.¹³ The nomination of provisors was one of the ways in which popes interfered in English ecclesiastical and political affairs and finds its place within a broader history of attempts of the holy see to control the English Church. Since the Investiture Controversy in the eleventh century the popes tried to control the administration of the English ecclesiastical patrimony and the appointments of ecclesiastics, as well as to reserve the appeals of all legal cases, thus delegitimising the crown's jurisdiction. This practice had borne considerable fruits over time: by the middle of the thirteenth century the papacy was deeply embedded in the English political affairs. Things began to change with Edward I, who since the 1280s encouraged clergymen to rely on the English courts to settle their cases instead of appealing to Rome.¹⁴ This was the political and economic background in which Clement V ordered the reservation of English benefices in 1305. Let us now assess the impact that this decision had on England during the years 1306-1307 and see how the peculiarities of the English political context fostered the writing of a fictitious letter against papal provisors.

The reservation of benefices was officially announced on 1st February 1306 and its collection was entrusted to William Testa, who set to work from June. The complaints of the clergy as well as of the barons (Clement's decision, in fact, prevented the nobility from nominating their own beneficiaries) were brought forward in the last parliament of the reign of Edward I, summoned in Carlisle in the spring of 1307 to discuss issues related to the war with

¹³ A detailed historical account of these aspects can be found in J. Robert Wright, *The Church and the English Crown 1305-1334: A Study Based on the Register of Archbishop Walter Reynolds* (Studies and Texts 48; Toronto 1980) 5-14. See also Lunt, *Financial relations* 494 for the use of this practice in the years after Clement V's pontificate.

¹⁴ A summary in Daniel Gosling, *Church, State, and Reformation: the use and interpretation of praemunire from its creation to the English break with Rome* (Leeds 2016) 19-26.

Scotland.¹⁵ The papal legate, Cardinal Peter of Spain, joined the parliament from March: his official task was to implement the marriage agreement between the future Edward II and Isabella of France, but his efforts were in vain.¹⁶ The discussion of the issue of ‘provisores’ proved to be the real core of the parliament, which focused on the dreadful consequences of the English ecclesiastical patrimony being drained to the benefit of foreign nations: a chronicler epitomised this sentiment with the assumption that one of the reasons why the cardinal legate was in Carlisle was to plunder the English Church.¹⁷ When the parliament was in session, a document divided into seven points was presented to king Edward. The complaints referred to the (alleged) abuses connected with the activities of the papal collector William Testa and underlined the disastrous consequences of the papal interferences for the English Church, the sovereign and the whole kingdom.¹⁸

¹⁵ Prestwich, *Edward I* 505-506. The parliament was summoned during the winter pause of one of the many military campaigns against Scotland that had to deal with the self-proclamation of Robert Bruce as king in March 1306. The war should have been resumed on July 6th, but the death of Edward I on the following day delayed the hostilities: see Phillips, *Edward II* 109-117. The writs of summons for the parliament were sent out on November 3rd and the assembly, originally scheduled for January 20th, opened on January 25th after the last representatives had arrived: see *Parliament Rolls of Medieval England, 1275-1504*, edd. Chris Given-Wilson, Paul Brand, Seymour Phillips, Mark Ormrod, Geoffrey Martin, Anne Curry and Rosemary Horrox (16 vols. Woodbridge 2005) 2.129.

¹⁶ Negotiations for this marriage had been dragging on since 1299 and continued again in January 1307 and even during the celebration of mass on the wedding day: Phillips, *Edward II* 119.

¹⁷ *Flores Historiarum, AD 1265 to AD 1326*, ed. Henry Luard (London 1890) 136: ‘Circa festum cathedrae sancti Petri venit quidam cardinalis Sabiensis, magister Petrus Hispanus, missus a latere Papae in Angliam ad perficiendum ordinatum matrimonium inter primogenitum regis Angliae Edwardum et filiam regis Franciae Isabellam; et ad Anglicanas ecclesias depilandum’. See also Peter Linehan, ‘The English mission of cardinal Petrus Hispanus, the Chronicle of Walter of Guisborough, and news from Castile at Carlisle (1307)’ *EHR* 117 (2002) 605-621.

¹⁸ The document is edited in *Parliament Rolls* 528: ‘A nostre seigneur le roi prient contes, barons, et tote la communaute de la terre aide et remedie des oppressions southescrites qe lapostoille fait faire en ceste roialme, en abbusement de la foi Dieu et anyntissement de lestat de Seinte Eglise en

William Testa was summoned to Carlisle to respond to such accusations: after his hearing, the parliament suspended his activity and ordered him to return what he had collected until then.¹⁹ Moreover, a statute was issued which forbade for any ‘censum’ paid by the ecclesiastics to be taken outside the kingdom.²⁰ This was the first of a series of statutes (the so called ‘Statutes of Provisors’ or *Praemunire*) that were issued by parliaments throughout the 14th century to limit the interferences of the pope in economic matters concerning the English Church.²¹ The kings did not always implement these statutes to their fullest:²²

roialme, et a desheritezon et prejudice du roi et de sa coroune et des autres bones gentz du dite roialme, et en offens et destruction de la lei de la terre, et a graunt damage et enpoverissement du poeple, et en subversion detut lestat du roialme, et encountre la volente et lordenement des primes foundours’. Gosling, *Church* 28 and Lunt, *Financial relations* 489 also discuss this point.

¹⁹ *Parliament Rolls* 532: ‘Super quibus oppressionum, gravaminum, et extorsionum, et injuriarum articulis, prefatus magister Willelmus Testa, quatenus ipsum contingunt, in pleno parlamento predicto allocutus, convictus extitit, nec inde se potuit aliquo modo excusare, nisi tantum quod dixit quod auctoritate domini pape premissa fuerat executus’.

²⁰ *Parliament Rolls* 460: ‘Considerans igitur prefatus dominus rex . . . ordinavit et statuit ne quis abbas, prior, magister, custos, seu quivis alius religiosus, cujuscumque condicionis seu status aut religionis existat, sub potestate et ditione sua constitutus, censum aliquem per superiores suos abbates, priores, magistros, custodes religiosarum domorum vel locorum, impositum vel inter se ipsos aliquo modo ordinatum, extra regnum et dominium suum sub nomine redditus, tallagii, aportii, seu impositionis cujuscumque, vel alias nomine escambii, vendicionis, mutui, vel alterius contractus quocumque nomine censeatur, per se vel per mercatores aut alios, clam vel palam, arte vel ingenio deferat vel transmittat, seu deferri faciat quoquo modo, nec eiam ad partes exterarum se divertat causa visitacionis aut alio colore quesito, ut sic bona monasteriorum et domorum suarum extra regnum et ‘dominium’ predictum adducat’.

²¹ This legislation would see an ending point 1393 with the ‘Statute of *Praemunire*’. The Statute of Carlisle was considered, throughout the Fourteenth century, the precedent on which subsequent enactments should be based, but only in later centuries was it included as a fundamental step in the process of limiting Roman interference in the English Church: see Gosling, *Church* 8. For the development of this legislation in the fourteenth century see 27-57.

²² In this period the statutes had no legislative force if they had not gone through a process that required the assent of the sovereign’s council and the promulgation by the king himself. It was only with Edward III that the assent

in fact, once the parliament of Carlisle was over, Edward I imposed only minor obligations on William Testa, after which he was allowed to continue the collection of English revenues. It is clear that the king was not in the political and financial position to oppose the choice of the papal ‘provisores’.²³ Michael Prestwich affirmed that during this parliament «a vigorous defence of the English Church and the rights of English patrons and benefactors» took place,²⁴ although the immediate effects of the statute had only minor consequences on the papal provision of English benefices.

The Epistola Petri between papal oppressions and the need to defend the regnum

During the parliament of 1307 the petition of the barons and the ecclesiastics was not the only document that denounced the climate of financial and political oppression in which the English Church laid because of the papacy. The fourteenth-century chronicler Walter of Guisborough reported that before the petition was presented:²⁵

In predicto parlamento cum multi multa loquerentur de oppressionibus domini papa quas inceperat in ecclesia Anglicana, ecce quasi subito in

of parliament became fundamental in the implementation of statutes as normative documents: see Harris, ‘The formation’ 45-47.

²³ The only condition which Edward I imposed on William Testa work was that he should not levy the fruits of the abbeys and priories: Lunt, *Financial relations* 490. The statute of 1307 was not officially revoked, and as early as 1316 Edward II referred to it to prohibit certain monks to export coin outside the kingdom: see Gosling, *Church* 29. Documents are in *Parliament Rolls* 535-536.

²⁴ Prestwich, *Edward I* 552.

²⁵ The passages from the letter are quoted from the modern critical edition: Harry Rothwell, *The Chronicle of Walter of Guisborough, previously Edited as the Chronicle of Hemingford or Hemingburgh* (London 1957) 371-374. The text was also printed in *Chronicon domini Walteri de Hemingburgh* (Londini 1849) 254-259 and in Melchior Goldast, *Monarchia sancti romani imperii* (Hanoviae 1611) 11-12, who dated it to 1250. Pantin, *The English* 75, and Prestwich, *Edward I* 552 also mention the letter. According to the HLF, ed. Barthélemy Hauréau (Paris 1869) 25.82 the target of the letter would be the Cistercians, ‘les ministres les plus zélés et les plus puissants de la suprématie romaine’.

pleno consilio descendit talis cedula quasi celitus emissa, legebaturque statim audiente rege cardinale universis prelati et aliis qui convenerant

This is not the first letter that was purportedly written by a heavenly sender and that found its way to England. The first was reported in the chronicle of Matthew Paris under the year 1109 and its aim was similar to that of the letter of 1307: to speak against the interferences of the Roman Church in England.²⁶ The second exemplar of heavenly letter was an invective written in the name of Christ dated 1253 that reproached King Henry III and the ecclesiastics for condemning to death Peter of Pontefract, a prophet that warned them against their misbehaviours.²⁷ The ‘salutatio’ of the letter that appeared in Carlisle informs us that this was sent by a certain *Petrus filius Cassiodori* (hence the title that we have chosen for the letter: *Epistola Petri*):²⁸

Ecclesie nobili anglicane in luto et latere ancillate, Petrus filius Cassiodori miles catholicus pugil Christi devotus salutem et iugum abicere captivitatis et bravium accipere libertatis

The epistle was read in the presence of the king and of cardinal Peter of Spain, which suggests that it was delivered after March. No official documents of the parliament mention this letter, yet this is hardly surprising, as one considers the nature of this document. It is impossible to know whether the letter circulated during the parliament or whether it was later added to the chronicle: Harry Rothwell, while editing the chronicle, has argued that this section of the chronicle had not been written by Guisborough himself, but by one (or more) continuators.²⁹ The specification of the celestial origin of the letter is interesting and draws the attention to the elements through which fictitious letters revealed their nature of fictions: although *Petrus* may appear to be

²⁶ *Matthaei Parisiensis monachi sancti Albani, Chronica majora*, ed. Henry Luard (London 1964) 135-136. The letter is also mentioned in Helen C. Feng, *Devil's Letters: Their History and Significance in Church and Society, 1100-1500* (Ph.D. Northwestern University 1982) 26.

²⁷ The invective was recently edited in Frédérique Lachaud, Elsa Marguin-Hamon, ‘Mouvement réformateur et mémoire de Pierre de Wakefield en Angleterre au milieu du XIIIe siècle: L’“invective contre le roi Jean”’, *Archives d'histoire doctrinale et littéraire du Moyen Âge* 85 (2018) 149-201.

²⁸ Rothwell, *The Chronicle* 371.

²⁹ *Ibid.* xxxi argued that Guisborough contributed up to 1305 at the latest.

a genuine sender—we shall return on this point at the end of this paper—we are told that the letter fell from the sky, which dissipates any doubts on its fictitious nature.

The English Church is the addressee of the *Epistola Petri*, whose ‘salutatio’ speaks of it as being ‘humiliated and treated like a servant’.³⁰ It is important that *Petrus*, here, qualifies as a ‘miles’: this reveals an interest of the author for the subject of war that will be further developed throughout the text. It is beyond the scope of this paper to take into account the overlap between war and religion in the Middle Ages, but we believe that the use of ‘miles’ is interesting because it recalls the ‘clericalisation’ of the military profession that developed from the eleventh century onwards (especially on the impulse of pope Gregory VII). As Carl Erdmann has shown, this led to a double shift in the use of such terminology: words like ‘miles’ started to be used in purely ecclesiastical contexts, while others like ‘militia Christi’ or ‘militia Petri’, originally limited to religious contexts such as the blessings before the battles, gradually found their place among warfare terminology.³¹ *Petrus* is therefore a layman, but above all he is a ‘miles’, a fighter who spurs his public to resist for the freedom of the Church.

The ‘exordium’ of our letter reports a biblical passage that refers to the state of decadence of the Church (Lam. 2:13). This is the theme around which the *Epistola Petri* is developed:³²

Comparabo te cui vel assimilabo te, filia Jerusalem? Cui exequabo te, virgo filia Syon? Magna est enim contritio tua velut mare, sola facta es sine solacio tota die merore confecta

To insert a passage from the Bible in the ‘exordium’ in order to explicit the theme of the letters was a widespread practice in the Middle Ages: this is a teaching that is found in every manual of *ars dictaminis*, the discipline that regulated the correct writing of

³⁰ The passage recalls Idt. 5:10: ‘in luto et latere subiugasset eos’.

³¹ On this aspect see Carl Erdmann, *Die Entstehung des Kreuzzugsgedankes* (Stuttgart 1965) 51-85, especially 71 where he analyzes ‘welche Einwirkungen auf den Kriegerstand ausgeübt wurden, wieweit der Kriegsberuf selbst verkirchlicht wurde’.

³² Rothwell, *The Chronicle* 372.

letters.³³ The *Epistola Petri* goes on and lists the burdens through which the English Church was being oppressed by her enemies, the ‘principes . . . romani’, here assimilated to the enemies of Christ, the Pharisees (Matt. 23:2):³⁴

Nam scribe et pharisei super cathedram Moysi sedentes, principes tui
Romani hostes . . . in tuis et tuorum ministrorum humeris imponunt onera,
et, ultra quam decet, te constituunt sub tributo, que libera fueras ab antiquo

The English Church has always been free from paying tributes, but Roman interferences have now distorted this pristine condition. The real target of the letter is the pope, who, *Petrus* says, should be elected to deal with matters concerning the faith instead of ‘ad spolias et rapinas’, and also not ‘pro annuis censibus imponendis, nec pro necandis hominibus’.³⁵ *Petrus* insists on how the English Church is treated without regard by the pope, who ‘in nullo tamen tibi paternitatis genere hoc ostendit’ and who is accused of serving both God and the Devil:³⁶

quis enim credat se simul et semel posse servire Deo et Mammone ac sue voluntati placere seu carnis et sanguinis revelacionibus inherere et offerre munera Christo digna?

The choice of the name of the Devil is of foremost importance: ‘Mammone’ is a specific (and intentional) reference to avarice.³⁷ *Petrus* does not limit himself to a harsh reprimand of the misbehaviours of the pope. The letter can be read on a subtler level of interpretation, for which we must pay attention to some specific choices of terminology such as the Devil’s name or the use of ‘miles’, whose aim is to reinforce the accusations and clarify *Petrus’* status. The pope, the letter goes on, does not have the

³³ Fundamental on this point is Florian Hartmann, *Ars dictaminis: Briefsteller und verbale Kommunikation in den italienischen Stadtkommunen des 11. bis 13. Jahrhunderts* (Thorbecke 2013) 13-15: ‘Mit einem Sprichwort oder eine Ergebenheitsbekundung den Empfänger freundlich stimmend, sollte das *exordium* bereits auf das Anliegen des briefes hinweisen’. See also Martin Camargo, *Ars dictaminis ars dictandi* (Turnhout 1991) 23.

³⁴ Rothwell, *The Chronicle* 372.

³⁵ Ibid.

³⁶ Ibid. 372-373.

³⁷ Riccardo Parmeggiani, ‘Luoghi e nomi del diavolo’, *Il diavolo nel Medioevo: Atti del XLIX convegno storico internazionale. Todi, 14-17 ottobre 2012* (Spoleto 2013) 450-477, 466.

necessary qualities to take care of Christ's flock. In fact, the pontiff is doing everything in his power to deprive Christians of all their goods: he scatters the good shepherds and puts mercenaries (his relatives) in their stead (another clear reference to a biblical passage, Io. 10:12):³⁸

Vide, inquam, facta inaudita, nuncupativi filia patris tui, qui bonos pastores a caulis ovium amovet, et suos nepotes, consanguineos et parentes, nonnullos literas ignorantes, et alios velut mutos et surdos, ovium earundem non intelligentes balatum, nec de morsibus curantes, velut mercenarios vellera auferentes et metentes semina aliorum, non ut prosint sed ut praesint, constituit pro eisdem

This list of complaints revolves around the issue of fiscal oppression: Clement V is attacked because he 'trahit quod libet' from the English Church, and what is more is that 'nec tamen reputat se contentum, si partem rerum tuarum decimam scilicet a te sumat' (the pope is even compared to Nebuchadnezzar in his misbehaviour: 'quod egerat enim ille, agit et iste'). Everybody pities the state in which the English Church lays.³⁹ Hence, *Petrus* asks that God himself intervene to put an end to this dreadful situation: he should listen to the lament of the English people against the hardness of heart of the pope, who is constantly at work to confiscate the property of Christians and occupy it after their death, which is exactly what Clement V intended to do with the 'provisores' over the following three years.⁴⁰

Some key elements have already surfaced in this brief analysis and require a closer look. As we are almost at the end of the *Epistola Petri*, it is interesting to give a final look at the theme of 'militia' before we delve into the specific argument of this essay. In the final lines of his letter, *Petrus* moves his economic and political invective on another level, the military one: the oppressions that he listed were not only undermining the 'status' of the English Church, but also that of the 'regnum'. More

³⁸ Rothwell, *The Chronicle* 373.

³⁹ Ibid.: 'Compatiantur tibi, filia, omnes transeuntes per viam, quia non est dolor sicut dolor tuus'.

⁴⁰ Ibid.: 'Afflictionem populi tui, eiusque gemitum, audi Domine, vide Domine et descende, quia cor dicti viri super cor Pharaonis est nimium induratum . . . quia quorumcunque christianorum bona sub nomine tituli de intestatis confiscat, omnia post decessum occupare intendit'.

specifically, the ability of the English kingdom to defend itself against external enemies was threatened: England would not be able to respond adequately to the danger of an invasion because of the continuous drain of financial resources to the benefit of foreigners. Here is the passage that introduces this fundamental discourse:⁴¹

Animadvertat itaque militia anglicana, qualiter a retroactis temporibus Franci, in regno Angliae suae concupiscentiae oculos dirigentes, machinabantur illud suae subicere potestati. Sed quod in ipsis hactenus defuit, est timendum ne suppleat dicti viri nova conjecturatio novi hostis; quia, regni deficiente thesauro, et ipsius destructo sacerdotio, efficietur vere regnum impotencius contra hostes

It is now clear why *Petrus* identified himself as a ‘miles’ in the ‘salutatio’: he is someone who holds dear the military defence of the English kingdom (and of its Church: he is ‘miles catholicus et pugil Christi devotus’)⁴² against foreign enemies. This passage reveals even more interesting aspects. In the first place, the theme that the *Epistola Petri* is developing would be at the centre of English political reflexion in the following decades: William Ockham wondered whether it was lawful for the sovereign to withhold ecclesiastical revenues in emergency situations, especially in the case of an imminent military threat. This fostered a heated debate that lasted throughout the fourteenth century and that was closely intertwined with the publication of the *Statutes of Provisors* (John Wyclif, definitely in favor of this eventuality, was another major figure in this debate).⁴³ Another interesting aspect is that the petition presented to the sovereign during the parliament

⁴¹ Rothwell, *The Chronicle* 374.

⁴² It is interesting to note that the definition ‘pugil Christi’ was also used in these years by Ubertino da Casale in the fifth book of his *Arbor vitae* to exalt king Philip IV of France: see Potestà, *Dante in conclave* 95.

⁴³ Stephen Lahey, *Philosophy and Politics in the Thought of John Wyclif* (Cambridge Studies in Medieval Life and Thought 4th Series 54; Cambridge 2003). Takashi Shogimen, ‘Wyclif’s ecclesiology and political thought’, *A Companion to John Wyclif: Late Medieval Theologian*, ed. Ian C. Levy (Brill’s Companions to the Christian Tradition; Leiden 2006) 199-240. Bernhard Töpfer, ‘John Wyclif—mittelalterlicher Ketzer oder Vertreter einer frühreformatrischen Ideologie?’, *Jahrbuch für Geschichte des Feudalismus* 5 (1981) 89-124. On this see also Pantin, *The English* 127-129.

of 1307 made no specific reference to a military threat in relation to or as a consequence of the impoverishment of the kingdom.⁴⁴ The aforementioned petition focused exclusively on the economic consequences of papal interferences, while the *Epistola Petri* goes beyond it by connecting this aspect to the increased risk of invasion as a consequence of the exportation of the incomes of ecclesiastical benefices: the new enemy of the aforementioned passage (the pope) is lurking in the same way that an old enemy (France) had done before. It is likely that it was thanks to the anonymous and fictitious nature of our letter that its author could draw attention to the possibility that both France and Scotland (the ‘hostes’ at the end of the last passage) could take advantage of the situation and subject England to their ‘potestas’: although the passage seems to focus on the new enemy in Avignon, *Petrus* is well aware of the other threats to the kingdom.

This passage is, therefore, a warning directed to the sovereign and the barons not to lower their guard in a moment when there seemed to be a community of intentions between the sovereign, the clergy and the nobility for the defence of the freedom of the English Church and of the prerogatives of the crown. This harmony was possible because all of them, as we have seen, had a role in the choice of beneficiaries as well as in the collection of ecclesiastical revenues.⁴⁵ The only way out of this dreadful situation, the *Epistola Petri* continues, is an alliance between the king and the ‘potentes’ of the kingdom who endowed the English

⁴⁴ The petition presented to Edward I makes only a general mention of the ‘subversion detut lestat du roialme’: see *Parliament rolls* 528.

⁴⁵ Gosling, *Church* 19: ‘by the fourteenth century, the king, pope, prelates of the church and lay magnates all had a hand in the promotion of clergy to English benefices’. See also *Parliament Rolls* 528-529: ‘si ceste chose soit soeffert . . . le roi et les autres lais avoes en temps des vacacions lour presentementz perdront’. This climate of harmony continued during the first years of Edward II’s reign: he proved conciliatory towards one of his father’s greatest enemies, the Archbishop of Canterbury Robert Winchelsea, whom he called back from exile as early as 1307. Nonetheless, only a few years later the archbishop would be at the head of the bishops’ opposition to Edward’s policies: on all this see Edwards, ‘The political importance’ 314-325.

Church with huge benefices and who are now required to defend her against the pope.⁴⁶

Ne igitur tu, filia, tuique sacerdotes, in miseriam deducamini longiorem, expedit ut pro tua et eorum salute, rex tuus christianissimus et regni potentes, qui amplissimis beneficiis vos dotarunt [...] resistant conjecturationibus, conspirationibus, arrogantie, praesumptioni atque superbie dicti viri

This epistle thus conveys a sense of harmony between secular and religious authorities in fighting the oppressions of the pontiff, who is the most fearsome threat precisely because he can pave the way for other enemies of England. It is by means of a ‘*novo domini genere*’ that the pope intends to drain all the wealth out of the English Church, and once he has done that he will throw off the mask of ‘*simplicitas*’ and subvert the entire kingdom.⁴⁷

per praemissa et alia imposita per eundem, totalem pecuniam Anglicanam novo domini genere emungere jam compellit, ne, dissimulata in hac parte simplicitas, regni huius subversionem afferat velut tuam

We have seen that it was believed that Cardinal Peter of Spain had come to Carlisle ‘*ad Anglicanas ecclesias depilandum*’.⁴⁸ *Petrus* makes use of an equally evocative verb (‘*emungere*’) to indicate how the presence of papal ‘*provisores*’ was depriving the island of its resources. One should, nonetheless, be careful in assuming that the king stood as a defender of the liberty of the English Church by blindly opposing the ‘*provisores*’ chosen by Avignon. It is true that the *Statutes of Provisors* put a stop to this practice, but this was the result of political and economic factors that were not fostered by the (alleged) damage that the appointment of ‘*provisores*’ caused to the English finances. Scholars have shown how, until at least the pontificate of Clement VI (1342-1352), the system of ‘*provisores*’ was systematically exploited by the English

⁴⁶ Rothwell, *The Chronicle* 374. In the petition of the barons it was also pointed out that the English Church had been endowed with vast benefices, the fruits of which the pope now wished to keep for himself (*Parliament Rolls* 528.): ‘*et certeynes possessions, qe amontent a les deux parties du roialme, soient par les ditz foundurs assignetz as prelatz pur sustener les chages susditz; et des tieles possessions . . . la vint lapostoille, en apropiant a lui la seignurie des tieles possessions, come il feut meismes avoe*’.

⁴⁷ Rothwell, *The Chronicle* 374.

⁴⁸ Luard, *Flores Historiarum* 136.

sovereigns, who could influence the pope's choice towards candidates that they would later use as diplomats and envoys to the curia. As Barbara Bombi has put it, the appointment of 'provisores' to English benefices was exploited to stipend English proctors in Avignon and 'to secure a network of protégés and friends at the papal curia'.⁴⁹

We have reached the 'conclusio' of this short letter, where *Petrus* turns again directly to God and asks him to make the pontiff come to his senses to stop his vicious behavior. Three other biblical passages (Jer. 22:2 and 22:30 and Psalm 108) close the *Epistola Petri*: together, they form the 'sanctio negativa', another key-element in Medieval letters whose role was to stress the punishment that would fall upon the addressee if they didn't comply with the letter's demands. In this case it is the pope who is threatened with the divine punishment that one reads in the quoted Psalm:⁵⁰

Avertat nempe virtutum Dominus de corde viri illius velamen, sibique cor contritum et humile largiatur, et agnoscere eum faciat vestigia veri Dei, per quae a suis tenebris eruatur, et premissos labores sinistros dimittere compellatur [...] Quod si perterritus ex hiis dictis non destiterit ab inceptis, et restitutionem non fecerit de perceptis, psallent pro eo extunc nequiter indurato Psalmum centesimum octavum illi cui omnia sunt aperta singuli singulis diebus clara voce in Christo devotissimi 'Deus laudem' etc.

The lack of a date should not come as a surprise: many other fictitious letters don't have this section or present fictitious dates. This is related both to the copying process and to the intent of the authors of such letters. In the case of the *Epistola Petri* it is also likely that the chronicler decided to omit this part as it would have been redundant in the narration. The text ends with the *incipit* of Psalm 108, but the addition of 'etc' to summarise the biblical passage makes us wonder whether the letter actually closed so abruptly. We will shed light on this aspect at the end of this paper, with some brief remarks on the Early Modern reception of the *Epistola Petri*.

⁴⁹ Bombi, *Anglo-papal* 95.

⁵⁰ Rothwell, *The Chronicle* 374.

Dominium and property rights in the Epistola Petri and in the medieval political and legal thought

Now that we have analysed the text of the letter, let us come back to some key elements that we have only mentioned in passing. The *Epistola Petri*, in its sharp condemnation of the dreadful consequences of the pontiff's interference in the English ecclesiastical patrimony, reflects on the very nature of the 'officium' of the bishop of Rome: what allows him to act this way?

Nonne debet in oculis omnium mirabile reputari, quod ubi Christus per se et Petro regibus iussit solvi tributum, ipse vero regna et regnorum principes, contra voluntatem Ipsius cuius se dicit esse vicarium, qui a se regna et mundi iudicia abdicavit, suae subicere nititur ditioni, dominio sui stili, qui totum sibi vendicat quod scripserat esse suum?

This passage inserts a political argument within an economic framework on the obligation to correspond a tribute to Rome and makes use of a very specific terminology: that of 'dominium'. The pope claims a 'dominium' over all creation, despite the fact that Christ had renounced his temporal 'dominium'. But how could this claim be put into action? *Petrus* develops this point within the framework of the pope's pretence to vindicate 'dominium' over the goods of the Church and, consequently, over their fruits. This allows him to connect the pope's political 'dominium' (one could speak of 'iurisdictio' in this sense)⁵¹ to the claim that the pontiff possessed an economic 'dominium', that is a right of ownership, over every good, ultimately not limited to those of the English Church.⁵² The pope needs only decree—in written form: an interesting critique of the hypertrophy that direct papal legislative activity was developing in spite of other forms of canon law—that something belongs to him for him to possess 'dominium' over it. But how is political 'dominium' intertwined with its economic counterpart? How does claiming a property right affect the way in which sovereignty is conceived? This problem has deep roots in medieval political thought, but we shall

⁵¹ The reference work for 'iurisdictio' is Pietro Costa, *Iurisdictio: Semantica del potere politico nella pubblicistica medievale (1100-1433)* (Milano 1969).

⁵² For the terminology see Joseph Canning, *Ideas of Power in the late Middle Ages, 1296-1417* (Cambridge 2011) 31.

limit our analysis to those aspects that can help us understand the discourse in the *Epistola Petri*.

During the eleventh and the twelfth century a significant development of legal thought was underway, which reached a high level of sophistication by the thirteenth century.⁵³ Brian Tierney has demonstrated how the vocabulary pertaining to natural rights (which law experts in the Middle Ages considered subjective rights and no longer, as the Roman tradition, natural laws imposed by a higher authority), had evolved since the twelfth century, especially thanks to the contribution of the canonists.⁵⁴ Law experts began to discuss on which were the immutable rights of the individual that could not be amended by human legislators: such rights were protected by natural law, and this was superior to positive law (to which canonists variously referred to as *ius gentium*, *ius civile*, *ius humanum*). The first fundamental right that was isolated was property:⁵⁵ no human authority could amend it. In practice, exceptions were gradually granted to sovereigns, thus allowing them to alienate the private property of their subjects: all they had to do was demonstrate the existence of a just cause.⁵⁶ A

⁵³ Kenneth Pennington, *The Prince and the Law, 1200-1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley-Oxford 1993) 132.

⁵⁴ Brian Tierney, 'Origins of Natural Rights Language: Texts and Contexts, 1150-1250', *History of political thought* 10 (1989) 615-646.

⁵⁵ Pennington, *The Prince* 124. Tierney, 'Origins' 627-628.

⁵⁶ The vagueness of this definition led to numerous abuses by sovereigns, which fostered heated debates among law experts, divided between those who protected private property in absolute terms, those who allowed some exceptions and those who supported the emperor's claim to be *dominus mundi*. The issue complicated itself as the juridical reflexion (often expressed in single *consilia* requested by sovereigns) started to be closely interconnected with certain dynamics of political power that also affected the law experts. Baldo degli Ubaldi is an interesting example in this regard: he initially argued that the 'princeps' could dispose of private property even without a just cause, while later, in a 'consilium' for Giangaleazzo Visconti, he partly dismantled this position and admitted the need for just cause, but did so with obscure arguments that prevented him from undermining the authority of the Signore of Milan. On this see Pennington, *The Prince* 203-218, while the scholar discusses the absolutist positions of law experts Jacques de Revigny and Riccardo Malumbria (24-31 and 114-115). On Baldo's position a long debate arose between Pennington and Joseph Canning, as the latter emphasized the absolutist element

famous anecdote dating back to the era of emperor Frederick I gives us the extent to which the issue of a sovereign that could exercise ‘dominium’ over individual property was perceived to be a threat for his subjects’ liberty:⁵⁷

Cum dominus Fredericus imperator semel equitaret super quodam suo palafredo in medio dominorum Bulgari et Martini, exquisivit ab eis utrum de iure esset dominus mundi. Et dominus Bulgarus respondit, quod non erat dominus quantum ad proprietatem. Dominus vero Martinus respondit, quod erat dominus. Et tunc dominus imperator, cum descendisset de palafredo, super quo sedebat, fecit eum presentari dicto domino Martino. Dominus autem Bulgarus hec audiens, dixit hec elegantia verba: “Amisi equum, quia dixi equum, quod non fuit equum.

Bulgarus’ attitude inhibited the sovereign’s freedom of action in the field of individual property. The fact that Barbarossa rewarded Martin instead exemplifies the issue on which jurists would be debating over the following centuries: if a sovereign could amend the first inalienable right sanctioned by the *ius naturale*, then there would have been no way of limiting the prince’s power in any other field. This problematic was not only limited to civil law: Saint Augustine was the first to address the nature of private property in the specific, thus becoming an ‘auctoritas’ for later thinkers. According to the Church father, the ‘dominium’ of the individual over property was only a consequence of the Fall, and therefore derived from sin: all the property was held in common in the prelapsarian state, where, just as there was no ‘dominium’ of man over man, there also was no ‘dominium’ of man over property. Augustine applied to property the same reasoning he developed about authority: property could only come from God and must be administered exclusively by those who have his grace.

of Baldo’s doctrines on property. See Joseph Canning, ‘Baldus de Ubaldis and the Language of Power in the *Ius commune*’, *Proceedings Syracuse 1996* 591-601, to which Pennington replied in ‘Was Baldus an Absolutist? The Evidence of his *Consilia*’, *Politische Reflexion in der Welt des späten Mittelalters*, ed. Martin Kaufhold (Boston 2004) 305-319. On the dependence of Baldo and other jurists on their patrons see Robert Swanson, *Universities, Academics and the Great Schism* (Cambridge 1979) 18.

⁵⁷ MGH, SS 18.607. See Pennington, *The Prince* 16, who points out how this anecdote was probably backdated to this period but was originally a discourse between the jurists Azo and Lothar, questioned by emperor Henry VI.

Only God holds true ‘dominium’ over things and persons, and those who are entitled with ‘dominium’ on earth possess it imperfectly and only by virtue of God: all other forms of ‘dominium’ that do not come from God are not justified and must be considered unjust and, ultimately, a sign of tyranny.⁵⁸ Nearly every medieval thinker agreed on the original state of ownership and possession was sanctioned by the *ius naturale*: private property was what Thomas Aquinas called a human addition to *ius naturale*.⁵⁹ Nevertheless, the necessity of the existence of private property in a post-lapsarian society was unanimously acknowledged.⁶⁰ This debate over private property rights collided with the

⁵⁸ Lahey, *Philosophy* 30-31. Pennington, *The Prince* 124.

⁵⁹ Lahey, *Philosophy* 35. Tommaso D’Aquino, *La somma teologica* II-ae (Bologna 2014) 661 (q. 66, a. 2): ‘Unde proprietates possessionum non est contra ius naturale; sed iuri naturali superadditur per adinventionem rationis humanae’.

⁶⁰ Lahey, *Philosophy* 32-40. Thomas Aquinas was the ‘auctoritas’ on this point: the Dominican stated that the *ius naturale* decreed the communion of goods in the only sense that it did not assign any specific property to anyone. See Brian Tierney, ‘Public Expediency and Natural Law: A Fourteenth-Century Discussion on the Origins of Government and Property’, *Authority and Power: Studies on Medieval Law and Government Presented to Walter Ullmann on his Seventieth Birthday*, edd. Brian Tierney and Peter Linehan (Cambridge 1980) 167-182, 176. The struggle between the existence of natural law and the need for private property is also visible in Gratian’s *Decretum*, as Tierney, ‘Origins’ 629-630 shows. The scholar quoted a passage from the introduction of Huguccio’s *Summa* in which the decretist made the common possession of goods compatible with the existence of private property: ‘Cum dicitur iure naturali omnia sunt communia . . . is est sensus . . . iure naturali, id est iudicio rationis approbante omnia sunt communia, id est tempore necessitatis indigentibus communicanda. Naturali enim ductu rationis approbamus nobis tantum necessaria retinere, reliqua proximis indigentibus debere distribuere’ (Tierney, ‘Origins’ 641. The passage is taken from Admondts SB 7 fol. 2va). William Ockham also reflected on this point: see Brian Tierney, ‘Natural law and Canon Law in Ockham’s Dialogus’, *Aspects of late Medieval Government and Society: Essays Presented to J.R. Lander*, ed. Jack Rowe (Toronto 1986) 3-24. Ockham’s position on ‘dominium’ in the prelapsarian state is well explained in Jürgen Miethke, *Ockhams Weg zur Sozialphilosophie* (Berlin 1969) 467-477. The thought of Durando di S. Porziano was also capital in this regard: in the treatise *De legibus* he underlined the concept of ‘expediencia’, which is at the basis of private property (see Tierney, ‘Public expediency’ 178).

reflections of civil law experts: if property was a consequence of sin, then the claim of its juridical immutability collapsed. The first inalienable right of individuals would thus be included within ordinary legislation, which would make it amendable by human legislators.⁶¹

Scholars stress that the hierocratic turn to the discussion on papal 'dominium' over individual goods started with the writings of the Augustinian canon Aegidius Romanus (c. 1247-1316). A closer examination reveals that it was under pope Innocent IV (1243-1254) that ideas about the possession of goods by the Church moved its first steps towards the vision of the pontiff as their lord (*dominus*). Before the great canonist Sinibaldo Fieschi was elected pope, the general principle according to which the 'dominium' of an ecclesiastical property resided within the local community was widely accepted. Innocent IV, who relied on a corporatist vision of the Church that would have had a great impact on the development of the so-called conciliar theory, was the first to affirm that the 'dominium' of goods belonged to the mystical body of the Church, that is to what he called the 'aggregatio fidelium': from this followed that the pope, as the head of the 'aggregatio', was the 'dispensator' of its properties.⁶² This did not

⁶¹ Pennington, *The Prince* 125, traces the evolution of this thought: Azo and Accursius argued that, although private property was not a natural right, it was established in the Ten Commandments and, therefore, was a precept of divine law.

⁶² Brian Tierney, *Foundations of the conciliar theory: the contribution of the medieval canonists from Gratian to the Great Schism. New Enlarged Edition* (Studies in the History of Christian Thought 81. Leiden-New York-Köln 1998) 128-129, 151-152. This idea would later be taken up by Ockham: see Miethke, *Ockhams Weg* 458-466. The treatise *De schismate* (1403-1408) written by the Italian canonist and later cardinal Francesco Zabarella, is fundamental in assessing the reception of the corporative theory of the Church within the context of the evolution of the conciliar theory. The only edition available is still that of Simon Schard, *Syntagma tractatum de imperiali iurisdictione, autoritate et preeminentia, ac potestate ecclesiastica* (Argentorati 1609) 235-248. An exhaustive treatment of Zabarella's ecclesiology is made by Tierney, *Foundations* 220-237, Walter Ullmann, *The Origins of the Great Schism: A Study in Fourteenth-Century Ecclesiastical History* (London 1948) 191-231, Giuseppe Alberigo, *Chiesa conciliare: Identità e significato del conciliarismo* (Brescia 1981) 84-90.

mean that the pontiff could claim ownership of these goods, but only that he could administer them. Canonists would soon extend this theory and claim that the pope had a right of proxy over Church properties. The issue of ‘dominium’ over ecclesiastical property reached its peak during the clash between the mendicant orders and the secular masters that broke out in the mid-13th century and that led to the spread of the antimendicant rhetoric.⁶³ The Franciscan theory of the ‘usus pauper’ and the attribution to the pontiff of the ‘dominium’ of all the goods of the Order (decreed by Nicholas III with the bull *Exiit qui seminat* in 1279)⁶⁴ fostered the attacks of the secular masters and led to some interesting outcomes that we can only briefly mention. Although in direct contrast to each other, the Franciscan Thomas of York and the secular theologian Gerard of Abbeville both agreed that prelates were simple ‘procuratores’ of the ‘bona ecclesiastica’. The former—as Roberto Lambertini has shown—did so ‘per diminuire la forza della iurisdictio esercitata dai prelati’, while the latter intended to rebut Thomas’ accusation that seculars were less perfect than mendicants because of their possession of

⁶³ The bibliography on this clash is vast: some useful studies are Gert Melville, ‘Duo novae conversationis ordines: Zur Wahrnehmung der frühen Mendikanten vor dem Problem institutioneller Neuartigkeit im Mittelalterlichen Religiosentum’, *Die Bettelorden im Aufbau: Beiträge zu Institutionalisierungsprozessen im mittelalterlichen Religiosentum*, edd. Gert Melville, Jorg Oberste (Munster 1999) 1-23. Sita Steckel, “‘Gravis et clamosa querela’ Synodale Konfliktführung und Öffentlichkeit im französischen Bettelordensstreit 1254-1290’, *Ecclesia disputans: Die Konfliktpraxis vormoderner Synoden zwischen Religion und Politik*, edd. Christoph Dartmann, Andreas Pietsch, Sita Steckel (Oldenbourg 2015) 159-202. Sita Steckel, ‘Rewriting the Rules: The Secular-Mendicant Controversy in France and its Impact on Dominican legislation, c.1230-1290’, *Making and Breaking the Rules: Discussion, Implementation, and Consequences of Dominican Legislation*, ed. Cornelia Linde (Oxford 2018) 105-130. Guy Geltner, ‘Brethren Behaving Badly: A Deviant Approach to Medieval Antifraternalism’, *Speculum* 85 (2010) 47-64.

⁶⁴ The first step towards the attribution to the papacy of the ‘dominium’ over the goods of the Franciscans was made by Innocent IV with the bull *Ordinem vestrum*: see Janet Coleman, ‘The Two Jurisdictions: Theological and Legal Justifications of Church Property in the Thirteenth Century’, *SCH* 24 (1987) 75-110, 82.

ecclesiastical goods.⁶⁵ The ‘dominus’ of the ecclesiastical goods was, for the Franciscan, the pope: he could choose to entrust them to whomever he saw fit. Gerard, on the other hand, stressed that Christ was the sole ‘dominus’ of the ‘bona ecclesiastica’, while the pontiff maintained only special prerogatives in their administration.⁶⁶ Two opposing views lead to quite similar conclusions, but what is important is that they bring us straight to the thought of Aegidius Romanus on the matter of papal ‘dominium’.

The treatise *De ecclesiastica potestate* was written by Aegidius to defend Boniface VIII in the clash between the pontiff and the French king Philip IV.⁶⁷ The Augustinian canon took the hierocratic theory of the papacy to the extreme: his political model was firmly hierarchical, with the pope at the top, to whom Aegidius attributed nearly unlimited powers. The pope delegated some of his powers to the lower levels of this hierarchical structure: among them the Augustinian theologian included property rights.⁶⁸ Aegidius was the first to create an explicit link between ‘dominium’ over property and ‘dominium’ over persons (*iurisdictio*, *potestas*) and to place both among the prerogatives of the pontiff.⁶⁹ According to Aegidius it was the Church—that the theologian intended as the clergy and not as the broader ‘*aggregatio fidelium*’ of Innocent IV—that possessed complete ‘*iurisdictio*’ and the rights over property which would then be granted to Christians. What is important is that the Church always maintained the most complete form of possession of such

⁶⁵ Roberto Lambertini, *Apologia e crescita dell'identità francescana (1255-1279)* (Roma 1990) 25-35, for the critics of Gerard of Abbeville 65-71.

⁶⁶ Lambertini, *Apologia*, 33, 68.

⁶⁷ The edition in Aegidius Romanus, *De ecclesiastica potestate*, ed. Richard Scholz (Aalen 1961) 35-140, where one reads (35): ‘*agitur de ecclesie potestate quantum ad hec temporalia*’. For a summary of the political thought of Aegidius Romanus see Roberto Lambertini, ‘Political Thought’, *A Companion to Giles of Rome*, edd. Charles Briggs, Peter Eardley (Leiden 2016) 255-274.

⁶⁸ Lambertini, ‘Political Thought’ 267-271.

⁶⁹ Canning, *Ideas of Power* 31. Lahey, *Philosophy* 43.

rights, that she could reclaim and give to others at any time.⁷⁰ Only the just (in the Augustinian sense of ‘iustificatus’) could exercise a just ‘dominium’, and the ‘plenitudo potestatis’ allowed the pontiff to dispense imperfect forms of ‘dominium’ to lower ecclesiastics and lay people according to his wish.⁷¹ These hierocratic claims were rebutted by later authors, and debates on this issue influenced some of the major thinkers of the fourteenth century.⁷²

England was particularly sensitive to the issue of papal ‘dominium’ over ecclesiastical property, and the *Epistola Petri* is, in this respect, a source of fundamental interest to assess the different forms in which this sensitivity was expressed. The letter, in fact, epitomizes how Clement V had applied the principles of Aegidius to the English ecclesiastical properties. The pope appointed himself (in place of the ‘congregatio fidelium’) ‘dominus’ of the ‘bona ecclesiastica’: he was no longer a mere ‘universalis dispensator’⁷³ and this provoked the complaints of the English Church. But the *Epistola Petri* provides even more interesting elements. If we go back to the passage at the beginning of this paragraph, we see how *Petrus* claimed that Christ

⁷⁰ Here lies the difference between the ‘dominium’ universale and particulare: ‘quod ecclesia in temporalibus habet dominium universale, ceteri vero particulare’, quoted from Lahey, *Philosophy* 42. The text in Robert Dyson, *Giles of Rome’s on Ecclesiastical Power: A Medieval Theory of World Government: A Critical Edition and Translation* (New York 2004) 190.

⁷¹ Aegidius also stressed how this justified the expropriation of the property of those who do not possess Grace: see Canning, *Ideas of Power* 37, Lahey, *Philosophy* 41-44, Aubrey Gwynn, *The English Austin Friars in the Time of Wyclif* (London 1940) 59-75.

⁷² The first to quote Aegidius Romanus’ treatise to rebut this point was John Quidort, who referred to the theory that no one is allowed to interfere in matters regarding property rights: the pope does not own any property, not even that of the Church (whose ‘dominium’ lies with the ‘congregatio fidelium’), and he can only administer them as ‘rector/dispensator’: see Canning, *Ideas of Power* 55-56, Tierney, *Foundations* 167-169, Mario Fois, ‘L’ecclesiologia del conciliarismo’, *AHP* 42 (2004) 9-26. An overview of the positions of the various authors on this issue is in Tierney, ‘Origins’ 616-625. Specific on Wyclif is Gwynn, *The English* 59.

⁷³ The definition is of John Quidort and refers to the role of the pontiff: see Tierney, *Foundations* 167.

renounced—‘abdicavit’—to his temporal ‘dominium’: this had voided the pope’s claims to temporal sovereignty. Christ’s abdication to temporal ‘dominium’ remained at the centre of the debate on ‘dominium’ in the following decades and surfaced during the dispute on evangelical poverty that opposed pope John XXII (1316-1334) to a fringe of Franciscans.⁷⁴ Between 1329 and 1332 the so-called Michelists (supporters of the Franciscan minister general Michele da Cesena) had taken shelter by the emperor Ludwig IV (1328-1347), the reference point for the opposition to John XXII. These Franciscans supported the Bavarian in his clash with the papacy by writing treatises and juridical ‘consilia’ from the Franciscan monastery of Munich.⁷⁵ They followed the poverty theories developed by some of their brothers (the so-called spirituals) in the last decades of the thirteenth century and stressed that Christ had not possessed any ‘dominium’ over goods, but had only enjoyed their ‘usus pauper’.⁷⁶ On 16th November 1329 John XXII published the bull

⁷⁴ For an exhaustive synthesis of the dispute and its repercussions on the Franciscan order see Miethke, *Ockhams Weg* 348-427. See also the introduction in Nicolaus Minorita, *Chronica* (New York 1996) 1-53. Mainly focused on Ockham’s role in the dispute is Takashi Shogimen, *Ockham and Political Discourse in the late Middle Ages* (Cambridge Studies in Medieval Life and Thought 69; Cambridge 2007) 36-74.

⁷⁵ Eva Wittneben, *Bonagratia von Bergamo: Franziskanerjurist und Wortführer seines Ordens im Streit mit Papst Johannes XXII* (Studies in Medieval and Reformation Thought 90; Leiden-Boston 2003) 285. On the activity of the Franciscans in Munich see Hilary Selton Offler, ‘Meinungsverschiedenheiten am Hof Ludwigs des Bayern im Herbst 1331’, *DA* 11 (1954-1955) 191-206, Hilary Selton Offler, ‘Zum Verfasser der “Allegaciones de potestate imperiali” (1338)’, *DA* 42 (1986) 555-619, Charles Brampton, ‘Ockham, Bonagratia and the emperor Lewis IV’, *Medium Aevum* 31 (1962) 81-87.

⁷⁶ On this see Lambertini, *Apologia*. David Burr, *Olivi and Franciscan Poverty: The Origins of the Usus pauper Controversy* (The Middle Ages; Philadelphia, 1989) and Giulia Barone, *Spirituali, Dizionario degli Istituti di perfezione* (Roma 1988) 2034-2040. The first strong defence of evangelical poverty was expressed by the Minister General Michele da Cesena during a Franciscan assembly gathered in Perugia in 1322, from which a harsh document was published against the statements of John XXII: see Attilio Bartoli Langeli, ‘Il manifesto francescano di Perugia del 1322: Alle origini dei fraticelli “de opinione”’, *Picenum Seraphicum* 11 (1974) 204-261. The Franciscans

Quia vir reprobus to rebut the *Appellatio minor* handed by the Michelists to the doors of the cathedral of Pisa the previous year.⁷⁷ The papal bull, however, went beyond the countering of the Franciscans' claims. In order to demonstrate the groundlessness of their theory on evangelical poverty, the pope argued that Christ possessed a fully temporal 'Regnum et universale 'dominium' ' that was later transmitted to the apostles and, eventually, to himself. Moreover, John affirmed that Christ also possessed 'dominium' over goods 'Et nihilominus habuit 'dominium' rerum aliquarum temporalium'.⁷⁸ The pontiff also stressed that Christ had never abdicated this 'dominium', nor could he have done so in any way: the exact opposite of what the *Epistola Petri* asserted.⁷⁹ This blunt claim of John XXII not only inflamed the dispute on apostolic poverty, but moved it on a political level:⁸⁰ if the Franciscans wanted to support their thesis, they needed to demonstrate that Christ had not held a temporal 'dominium universale', from which followed that the pontiff could not vindicate this prerogative for himself either.⁸¹ In this respect it is

confirmed their accusations in Pisa the following September 18th by issuing the so-called *Appellatio in forma maiore*: see Jürgen Miethke, *Ai confini del potere: Il dibattito sulla potestas papale da Tommaso d'Aquino a Guglielmo d'Ockham* (Padova 2005) 279-281 (the text in Minorita, *Chronica* 227-424).

⁷⁷ The *Quia vir reprobus* is published in *Bullarium Franciscanum* (N.S. 4 vol. in 5 par. Romae 1989) 5.408-449. The *appellatio* in Minorita, *Chronica* 429-456. This was the last of a series of bulls issued to settle the controversy over Franciscan poverty. The others were: *Ad conditorem canonum* (8th December 1322), *Cum inter nonnullos* (12th November 1323), *Quia quorundam* (10th November 1324), edited in Jacqueline Tarrant, *Extravagantes Johannis XXII*, (Città del Vaticano 1983) 228-287.

⁷⁸ Eubel, *Bullarium* 442.

⁷⁹ Ibid. 442-443.

⁸⁰ Miethke, *Ockhams Weg* 400 talks about 'eine politische Akzentuierung' of the conflict in these years.

⁸¹ A detailed analysis of the refutation of the main arguments of *Quia vir reprobus* in the works of the followers of Michele da Cesena is carried out by Roberto Lambertini, 'Il mio regno non è di questo mondo: Aspetti della discussione sulla regalità di Cristo dall'Improbacio di Francesco d'Ascoli all'Opus Nonaginta Dierum di Guglielmo d'Ockham', *Filosofia e teologia nel Trecento*, ed. Luca Bianchi (Louvain-la-Neuve 1994) 129-156. Some remarks also in Roberto Lambertini, 'Dalla propaganda alla teoria politica: Esempi di

possible to isolate another similarity between this dispute and what we read in the *Epistola Petri*. A Franciscan pamphlet of 1330, the so-called *Appellatio monacensis*,⁸² written as a reply to John XXII's claims on apostolic poverty, refers to the thesis of the role of prelates as simple 'procuratores' of the goods of the Church that was first laid out by Innocent IV.⁸³ The *Appellatio* affirmed that Christ did not leave any 'rerum ecclesiasticarum domini' and that Christ himself did not possess any temporal 'dominium'.⁸⁴ This is very close to what the *Epistola Petri* had already affirmed more than twenty years earlier: the pope could not consider himself 'dominus' of the ecclesiastical properties because he was not entrusted with this prerogative by virtue of his position as vicar of Christ. The only difference is that the *Epistola Petri* argued from the thesis of the 'abdication' of Christ, while the *Appellatio* preferred to avoid this issue and denied straightforwardly that Christ possessed any temporal 'dominium'. It was another leading exponent of this fringe of Franciscans, William of Ockham, who discussed the issue of evangelical poverty in his *Tractatus contra Benedictum* (1337) following the argument of Christ's abdication to what the philosopher called 'iurisdictionem coactivem'.⁸⁵

una dinamica nello scontro tra Giovanni XXII e Ludovico IV di Baviera', *La propaganda politica nel Basso Medioevo: Atti del XXXVIII Convegno storico internazionale (Todi, 14-17 October 2001)* (Spoleto 2002) 289-313.

⁸² The text in Minorita, *Chronica* 624-866. For a summary of its contents see Felice Accrocca, 'Ancora sul caso del papa eretico: Giovanni XXII e la questione della povertà: A proposito del ms. XXI del convento di Capestrano', *AHP* 32 (1994) 329-341.

⁸³ The same arguments had already been used by Bonagrazia da Bergamo in 1322 in a protest against the bull *Ad conditorem*: the jurist referred precisely to the positions of Innocent IV on 'dominium', see Miethke, *Ockhams Weg* 379-385.

⁸⁴ Lambertini, *Il mio regno* 152: 'papa et ceteri episcopi qui succedunt in loco apostolorum... non sunt rerum ecclesiasticarum domini sed procuratores... ergo nec apostoli fuerunt rerum ecclesiasticarum domini sed procuratores et dispensatores et per consequens Christus non recommendavit regnum et 'dominium' temporale sed spirituale'.

⁸⁵ The passage is quoted from Costa, *Iurisdictio* 298-299. Most of Ockham's discussion on evangelical poverty is concentrated in his *Opus nonaginta dierum*: see Shogimen, *Ockham and Political* 51-74.

Papa non habet *iurisdictionem coactivam* maiorem, quam habuerit Christus, cuius est vicarius; sed Christus non habuit in quantum homo mortalis *iurisdictionem coactivam*; tum quia *iurisdictione coactiva* sine divitiis vel adiutorium habentium divitias convenienter exerceri non potest et per consequens inutiliter retinetur, Christus autem omnes divitias ad *iurisdictionem coactivam* necessarias, quo ad Deum, penitus abdicavit victu et vestitu contentus. Adiutorio etiam divitum ad eandem *iurisdictionem* exercendam minime utebatur, ergo *iurisdictionem coactivam* in quantum homo mortalis non habuit. Tum quia ipso testante ministrare venit, non ministrari, ergo non venit *iurisdictionem coactivam* exercere, ergo eam non habuit.

Another intellectual who found shelter by Ludwig IV in these years, Marsilius of Padua, allegedly added ‘*marginalia*’ to his *Defensor Pacis* (completed in 1324) in which he expressed the same idea of Christ’s renunciation to the ‘*dominium universale*’ and the consequent groundlessness of the pontiff’s universalist claims.⁸⁶

This opposition notwithstanding, the theory of papal ‘dominium’ over ecclesiastical properties would prove very hard to refute. In the following decades pope Clement VI (1342-1352) included spiritual goods (the merits of the saints) in the ‘treasure’ of the Church in addition to material properties, all of which were entrusted to the administration of the pontiff.⁸⁷ During the 15th century other attempts were made to reform papal ‘dominium’ and the appointment of provisors. The Council of Basel (1429-1449) tried to regulate the assignment of benefices in the attempt to limit papal provision.⁸⁸ The Council fathers, making use of the theories that we have summarised, stressed that the pontiff could not be considered ‘dominus beneficiorum’ and, consequently, that he could not dispose of ecclesiastical benefices as it pleased him. This reform, eventually, failed: by that date not even a Council had

⁸⁶ Kerry Spiers, ‘Pope John XXII and Marsilius of Padua on the Universal Dominion of Christ: A Possible Common Source’, *Medioevo: Rivista di storia della filosofia medievale*, 6 (1980) 471-478.

⁸⁷ On this see Diana Wood, *Clement VI: The pontificate and ideas of an Avignon pope* (Cambridge 1989) 32-34.

⁸⁸ On late medieval reforms and councils in general, see Johannes Helmuth, ‘Reform als Thema der Konzilien des Spätmittelalters’, *Christian unity: The Council of Ferrara-Florence 1438/39 -1989*, ed. Giuseppe Alberigo (Leuven 1991) 75-152.

the power to change a practice that had been in use for so long. It is therefore clear how these issues were of fundamental importance for Christianity even almost 150 years after the letter of Carlisle raised its voice and more than a century after the debate on evangelical poverty had opposed the biggest mendicant order to the pope. The clash over the extension of the papal 'plenitudo potestatis', as well as of the pontiff's economic and political 'dominium', remained at the core of the political debate of the later Middle Ages.⁸⁹

The question from which our discourse started has now been answered: the connection between 'dominium' and 'iurisdictio' lies in this multifaceted reconstruction of juridical and theological reflexion. As Roberto Lambertini has efficaciously summarised:⁹⁰

Il punto nevralgico della connessione tra difesa della tesi pauperista e teoria politica ruota attorno alla questione delle prerogative temporali di Cristo.

It has become clear how the *Epistola Petri* encompasses a wide range of political and economic issues: the author who hid behind *Petrus* did not limit himself to denounce what Matthew Paris, in reference to the heavenly letter of 1109, described as 'romanorum enormitates', but made clever use of a specific terminology of power that would be at the core of later debates on the pontiff's prerogatives.⁹¹ Our aim is not to advance the hypothesis that the theory of the abdication of Christ to the temporal 'dominium' was first advanced by the *Epistola Petri*: the circulation of these ideas is a very complex matter that deserves specific studies.⁹² Moreover, it is unlikely that this fictitious letter was known to the Michelists. What is important is to have underlined the stratification of a complex debate on the nature of papal

⁸⁹ For this discussion see Orazio Condorelli, *Principio elettivo, consenso, rappresentanza: Itinerari canonistici su elezioni episcopali, provvisioni papali e dottrine sulla potestà sacra da Graziano al tempo della crisi conciliare (secoli XII-XV)* (I Libri di Erice 32; Roma 2003) 110-124.

⁹⁰ Lambertini, *Dalla propaganda* 308.

⁹¹ *Matthaei Parisiensis Chronica* 135.

⁹² Spiers, 'Pope John XXII' 473 proved that the *Quia vir reprobus* drew on a document that stemmed from the Paris *Studium* of 1323 which demonstrated the presence, in Christ, of 'dominium universale'.

'dominium', whose implications resurfaced a decade later at the core of a new debate over the prerogatives of the pontiff, a debate which we find again at the Council of Basel. The *Epistola Petri* does not contain all the aspects of this articulated discussion in a few lines. Its aim is to denounce the pope's claim to rights that did not pertain to his 'officium': in doing so the letter refers to the ideal of the 'ecclesia primitiva', a point that is common in many other fictitious letters and that was fairly widespread in the Middle Ages. Therefore, one should not be surprised by the similarities between the *Epistola Petri* and the reflexion of the spiritual Franciscans. Nonetheless, it is interesting to note that the letter of Carlisle was the first document to epitomize the implications of the overlap between economic and political issues within the broader context of the opposition to the universalist claims of the papacy.

A further aspect is the propagandistic nature of this letter, which is tightly bound to the intent of its author. Guisborough's reference that the *Epistola Petri* was delivered during the parliament of Carlisle is crucial, because it was from this assembly that the history of the *Statutes of Provisors* began, together with the attempts of the English sovereigns to curb (or, better, to exploit in their favor) the presence of foreign 'provisores'. The *Epistola Petri* is written against a specific person, the pope, in defence of the English Church and the king. The letter is not only a document that contains high-level political and economic speculations on the nature of the papal 'dominium': *Petrus* reveals his literary skills in relating his discourse to the contemporary situation, which was presented in the context of the French and Scottish military threats. In doing so the letter encompasses the two main topics of the parliament of Carlisle: the military defence of the kingdom and the fiscal oppressions of the papacy. The *Epistola Petri* is, therefore, a document with a propagandistic intent in light of its content, which is direct and sometimes harsh. This intent is also clear with regard to the time and place in which the letter was delivered, the best for its message to be heard by those who had the power to assimilate it and translate it into immediate political action. All this testifies even more to the self-consciousness of our author in

making use of a fictitious letter to tackle one of the most crucial political issues that fourteenth-century England was facing.

The reception of the Epistola Petri in Protestant England

If the *Epistola Petri* doesn't seem to have had any direct effect on the issue of 'provisores', it is nonetheless interesting to see how the letter was evaluated by its readers. In order to do so we shall look at the fortune of the *Epistola Petri* in the Early Modern era, when three Protestant intellectuals exploited its text to underline the oppressions that the English Church had suffered at the hands of the papacy. The first of them was John Bale (1495-1563), who reported the *Epistola Petri* in his *Acta romanorum pontificum* in the section between the pontificate of Boniface VIII and that of his successor, Benedict XI. Bale transmitted the text of the letter in English and introduced it with the following heading:⁹³

An Epistle of Peter Cassiodorus to the Englishmen, reprounge the extreame robbery, filching and slauerye whereby the Popes spoyled this lande about the yeare of our Lord 1302 to moue them to shake of the bondage of the Popes tyrannye, taken out of an ould booke in S. Albons Church

No reference is made to either the parliament of Carlisle or Guisborough's chronicle (even though Bale was familiar with this work),⁹⁴ and the letter is reported under the date 1302. Apart from this, the English text follows the original Latin closely. The reference to the manuscript of St. Albans Abbey is also important: we shall come back to this in a moment. In the following years Bale was working on his *Catalogus*, in a section of which he presented a list of prodigies and events suspiciously close to heresy or superstition. It is here that we find another brief mention of our letter, now in Latin:⁹⁵

Circa annum Domini 1302 Petrus Cassiodorus, Italus, vir nobilis et christiane eruditus, monitorie scripsit ad Anglorum ecclesiam, ne amplius fuerant, sed omnino a se reijciat, Romanorum pontificum iugum ac tyrannidem. Libellus incipit: Cui comparabo te

⁹³ John Bale, *Acta romanorum pontificum* (Basileae 1558) 388-344.

⁹⁴ Bale was one of the first to report the variant 'Walter Hemingburgh' for the name of the chronicler: see Rothwell, *The Chronicle* xxiv.

⁹⁵ John Bale, *Scriptorum illustrium Maioris Brytannie, quam nunc Angliam et Scotiam uocant, catalogus* (Basileae 1559) 359.

This time Bale did not include the text of the letter, which is again dated 1302. Two interesting additions were made to the heading in the *Acta*: *Petrus* would be an Italian (perhaps because of his patronymic?) and the letter, as we can infer from the quoted *incipit*, would be written in Latin. If Bale knew the Latin text, that he introduced with nearly the same words that he used for the English one, then the most logical explanation is that he was responsible for the English translation in the *Acta*. Therefore, the text in the St. Albans manuscript must have been in Latin. Considering the close adherence of the English translation to the letter in the chronicle of Walter of Guisborough, one can reasonably assume that the Latin text was also adherent to the latter. The *Epistola Petri* surfaced again in 1570, as another Protestant scholar, John Foxe (1516-1587), included it in the second edition of his mighty *Acts and monuments*, this time within the framework of the parliament of Carlisle:⁹⁶

Duryng the whiche Parliament afore specified, as men were talkyng many thynge of the Popes oppressions, whiche he began in the English church, in the full of the Parliament: sodenly fell down, as sent from heauen, among them a certaine paper, with this superscription

It is evident that this passage is a plain translation of the introduction in the chronicle of Walter of Guisborough: Foxe, therefore, knew the chronicle, but he presented the text of the *Epistola Petri* in the exact same form that we have seen in Bale's *Acta*.⁹⁷ The only difference between the two lies in Foxe's greater adherence to some aspects mentioned in the fourteenth-century chronicle: the year 1307 and the letter's descent from the sky (while no mention is made of *Petrus*' alleged Italian origin). The St. Albans manuscript is also quoted in a marginal note: 'ex vetusio chronico Albanensi'.⁹⁸ Since the *Acts and monuments* were written in English, the decision to report the letter in English

⁹⁶ John Foxe, *The Actes and Monuments of these Latter ad Perilous Dayes* (London 1570) 462-464.

⁹⁷ In the commentary to this section the editors claim that Bale's version, compared to what Foxe read in the chronicle, was 'sharper in its denunciations of the papacy'. We must disagree on this point, as Bale's translation never strays from the original text.

⁹⁸ Foxe, *The Actes* 462.

is not surprising: Foxe must have realized that the two texts (Bale's and Guisborough's) were the same, therefore he simply copied Bale's translation. The history of the modern fortune of the *Epistola Petri* has one last stage: in 1668 the letter was included in the historical compilation of William Prynne (1600-1669) concerning the papal usurpations against English sovereigns. Here we read, under the year 1302:⁹⁹

I shall cloze this year with this memorable Epistle of Petrus Cassiodorus, a Noble Italian Knight, written to the English Church about this time, exhorting them to cast off the yoke of the Popes Roman Tyranny, and rapines, and redeem their ancient liberties.

The Latin description that we read in Bale's *Catalogus* is here translated into English. Prynne also used Bale's *Acta*, as this additional introduction before the text of the letter makes clear:¹⁰⁰

Petri Cassiodori ad Anglos Epistola, super extrema Angliae expilationis per Papam, circa Annum Domini 1302, ut Romani tyrannidis jugum excuterent; Ex vetusto Codice ad fanum Sancti Albani descripta

It is as if Prynne was translating Bale's Latin heading (from the *Catalogus*) into English, and the English one (from the *Acta*) into Latin, which generates a chaotic stratification of titles. This, however, does not change the point that we want to make here: all three authors are connected to each other and the *Epistola Petri*, from Bale onwards, has also been transmitted in an English translation. The interesting aspect of Prynne's work is that the text of the fictitious letter is, for the first time, the Latin one, the same that we read in Guisborough's chronicle. Prynne must have had knowledge of this chronicle, yet nonetheless, he repeated Bale's heading with the year 1302 and the mention of the St. Albans manuscript. The presence of the Latin text in Prynne's work and the latter's knowledge of Bale's *Acta* close the circle on the nature of the text that Bale must have read in the St. Albans manuscript: this must have been a copy of Guisborough's chronicle.¹⁰¹ If we

⁹⁹ The text in William Prynne, *An Exact Chronological History and Full Display of Popes Intolerable Usurpations upon The Antient Just Rights, Liberties, of The Kings, Kingdoms, Clergy, Nobility, Commons of England and Ireland* (London 1668) 914-916.

¹⁰⁰ Prynne, *An Exact* 914.

¹⁰¹ The manuscripts of this abbey have been studied by Richard Hunt, 'The library of the abbey of St. Albans', *Medieval Scribes, Manuscripts and*

consider that this abbey was, between the thirteenth and the fourteenth centuries, the centre of English chroniclers (Roger Wendover, Matthew Paris and Thomas Walsingham came from here) it is reasonable to assume that an exemplar of Guisborough's work was preserved in the abbey.¹⁰² It is likely that the year 1302 was already present in this copy due to a mistake of the copyist (the numbers two and seven could be easily misunderstood). It may also have been a copying error committed by Bale, but this matters little: what is important is that this error was passed on throughout the printed tradition dependent on the latter's work, except in Foxe's *Acts*: he knew the chronicle and was more careful in contextualising the *Epistola Petri*. Such effort of contextualisation makes the *Acts and monuments* the only one of the three printed works that emphasises the heavenly nature of this letter. The two other writings give the idea that the letter appeared out of nowhere and attribute it to a real (that is, historical) person. This *Petrus* of alleged Italian origins, however, remains an obscure figure: one could assume that Bale added this reference to emphasize that even those who lived in the heart of Christendom stood up against the oppressions of the papacy. Both Bale and Prynne were probably not interested in the provenance of the letter and treated our document as some kind of anecdote, while Foxe was more attentive and followed the chronicle of 1307.

Let us now compare how these authors dealt with the transmission of the *Epistola Petri* by recalling how the fourteenth-century chronicle presented the 'salutatio' (Foxe's *Acts* copy Bale's text and are not included in the comparison):¹⁰³

Bale, <i>Acta</i> : ¹⁰⁴	Prynne, <i>An exact</i> : ¹⁰⁵	Guisborough, <i>Cronica</i>
To the noble Church of Englande seruing in	Ecclesiae nobili Anglicanae in luto et	Ecclesie nobili anglicane in luto et

Libraries: Essays Presented to N. R. Ker, edd. Malcolm Parkes, Andrew Watson (London 1978) 251-277, where Bale's research into the abbey's patrimony is also highlighted.

¹⁰² John Taylor, *The Use of Medieval Chronicles* (London 1965) 6-8.

¹⁰³ Rothwell, *The Chronicle* 371.

¹⁰⁴ Bale, *Acta* 388.

¹⁰⁵ Prynne, *An Exact* 914.

claye and bricke as þe Iewes did in times past vnder the tyrannie of the Egiptians: Peter the sonne of Cassiodore a catholike Souldiour and deuoute champion of Christe, sendeth greeting and wishinge to caste of the yoke of bondage, and to receiue the reward of libertie	latere ancillatae, (as the Jewes did in times past under the Aegyptians) Petrus filius Cassiodori, Miles Catholicus, Pugil Jesu Christi devotus, salutem, et captivitatis jugum abjicere, et bravium accipere libertatis	latere ancillate, Petrus filius Cassiodori miles catholicus pugil Christi devotus salutem et iugum abicere captivitatis et bravium accipere libertatis
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Bale, in his translation of the Latin ‘salutatio’, added ‘as þe Iewes did in times past under the tyrannie of the Egiptians’. Foxe followed him closely while Prynne, although he must also have had the Latin text at hand, inserted Bale’s addition in brackets, albeit with a slight modification, as the reference to tyranny was omitted. But where did this addition come from? The answer allows us to retrieve some more information about the manuscript of St. Albans. We believe that this passage was a marginal note of the manuscript that the copyist (or someone else) must have added with the intention of providing a parallel to what the letter was saying. Bale reported it into his text, where it fit perfectly since the *Epistola Petri* was presented in English. It is impossible to ascertain whether Bale was also responsible for the translation of this note, or whether it already appeared in English in the manuscript (though the second scenario is more likely). As Prynne decided to translate Bale’s heading, this marginal note stood out as a later addition to the original text. Although Prynne probably had Guisborough’s chronicle in front of him, he did not pay attention to the fact that these words did not pertain to the Latin text: he decided to leave them in English and simply isolated them in brackets. This further testifies to the lack of attention that Prynne must have paid to the original form of the *Epistola Petri*: the mixture of Latin and English titles translated from his model, the fact that he did not correct the wrong date, and the integration in the text of a marginal note (written in another language) make

it clear that he was working with secondary sources and that he had no direct knowledge of the St. Albans manuscript.

One last point can be made from the analysis of the reception of the *Epistola Petri* in Early Modern England, for which we must turn to the last lines of the letter, where the opening of Psalm 108 was quoted to remember Clement V of the divine punishment he will face if he doesn't stop his misbehaviour towards the English Church:¹⁰⁶

<p>Bale, <i>Acta</i></p> <p>And if he being terrified by these words do not leaue of from this which he beginneth, and doth not make restitution of those thinges which he hath receyued: then let all and singular parsons singe for him being indurat, to him that seeth al thinges, the Psalme 108. Deus laudem etc.</p> <p>For truly as fauoure, grace, and beneuolence, remitteth and neglecteth many thinges: so againe the gentle benignitye of man beinge to much oppressed and greued, seekinge to be deliuered and freed from the same, striueth and searcheth to haue the truth knowen, and casteth of that yoke by all meanes possible that greueth him. etc. Haec Cassiodorus.</p>	<p>Prynne, <i>An exact</i></p> <p>qui si perteritus ab his dictis non destiterit ab inceptis, et restitutionem non fecerit de praeceptis, psallent pro eo extunc nequiter corde indurato, Psalmum centesimum octavum, illi cui omnia seruiunt, aperte singuli singulis diebus in Christo devotissimi dicimus laudem.</p> <p>For truly as favor, grace, benivolence permitteth and neglecteth many things, so again the gentle benignity of man being too much oppressed and grieved seeketh to be delivered and freed from the same, striveth and searcheth to have the truth known, and casteth off that yoke by all means possible that grieveth him</p>
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Both these passages lead us to believe that the letter continued after the quotation of the *incipit* of Psalm 108. An interesting difference between the two is the addition of 'Haec Cassiodorus' at the end of Bale's English section. It is impossible to ascertain whether these words came from the St. Albans manuscript or whether it was Bale who added them, but (just as with the

¹⁰⁶ As in the previous case, Foxe's *Acts and monuments* closely follow Bale's *Acta*, therefore we have not included it in the comparison.

aforementioned marginal note) the first scenario seems more likely: why should Bale have inserted a Latin passage after he translated the whole text into English? In any case, these words mark the end of the message transmitted by *Petrus*. Bale, the only one who worked directly on the manuscript and who knew where the text of the letter ended, must have copied another marginal note or a comment placed under the text. Prynne reported it, and in doing so he revealed, once again, the alien nature of this passage. Right after this section all the modern printings report the same passage in which the modern editor becomes the narrator and expresses his doubts on the effects that the *Epistola Petri* had on its addressees:¹⁰⁷

What effecte this letter wrought in them, to whom it was directed, is not in story expressed. This by the sequel may be coniectured, that no reason nor perswasion could preuaile, but that the Pope retayned here still his exactions, whatsoever was said or written to the contrary notwithstandinge.

Prynne has the same comment, with a minor addition at the beginning:¹⁰⁸ ‘What effect (writes Mr. Fox) this Letter wrought in them’. Prynne is thus making clear that he was not reading this passage from Bale’s *Acta*, but from Foxe’s *Acts and monuments*, the only one who correctly contextualised the *Epistola Petri*. Notwithstanding his knowledge of this work, Prynne did not pay the same attention as Foxe in presenting the letter. It is not clear why he did not quote Bale’s works, which he certainly knew: evidence of this are the literal translation of both the heading with the reference to the manuscript of St. Albans as well as the specification on the Italian provenance of *Petrus*. It could be argued that he wanted to hide his original source, thus attributing the discovery of the text in the manuscript of St. Albans to himself, even though he probably read the Latin text from another copy of the chronicle of Guisborough (as did Foxe). It is clear that Prynne’s work was influenced by a poor methodology that relied on secondary sources and that did not distinguish between the text and its later interpolations. It is not surprising that he did not understand that Foxe’s clarifications served to better contextualise

¹⁰⁷ Bale, *Acta* 344.

¹⁰⁸ Prynne, *An Exact* 916.

the letter: Prynne relied on Bale, who was only interested in the content of the *Epistola Petri*.

What can be inferred from the presence of the *Epistola Petri* in these printings? It is evident that all three are related to each other: this means that the letter was not known independently of Bale's account or Guisborough's chronicle. Nonetheless, the interest in its text in early modern England is indicative of the different attitudes towards a fictitious letter. If Bale and Prynne did not care to settle the *Epistola Petri* within its historical context and treated it more as an anecdote ('this memorable Epistie', as Prynne called it)¹⁰⁹ or even with scepticism,¹¹⁰ still they wondered what effects it might have had on the issue of 'provisores'. Even after the letter was stripped off of its main characteristic (its nature of fictitious document) and after it was treated as a correspondence between *real* persons, its polemical attitude and the strength with which it tackled fundamental issues of religious policy remained evident: the *Epistola Petri* intended to awaken the consciences of Christians and rouse indignation against the misbehaviours of the pontiff towards the English Church. That such an interesting and peculiar letter had, originally, fallen from the sky, must have been an element that, to the eyes of Bale and Prynne, could not cope with the claims that it put forward and with the erudition of its author as it could have even weakened the strength of its arguments: perhaps it was for this reason that the letter was presented as a genuine document against papal oppressions.

Nonetheless, this rise of interest in the *Epistola Petri* during a period in which English intellectuals strived to demonstrate the misbehaviours of the papacy and the Catholics is a further proof of the strong impact that this letter must have had on its readers: to quote Bale's description, the person that hid behind *Petrus* really was a 'vir eruditus' that stood against one of the most hated

¹⁰⁹ Prynne, *An exact* 914.

¹¹⁰ Bale, *Catalogus* 358 opens the appendix in which the letter is mentioned with a reference to Bernard of Luxembourg, author of the *Catalogus haereticorum* (1522), as his source.

papal practices and did so by delving into some of the most crucial themes of fourteenth-century political and legal reflection.

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