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E.L. Harris

ARCHBISHOP THEOBALD

The first difficulty which any attempt to understand Henry II's ecclesiastical policy encounters is the contrast between the apparently amicable relations while Archbishop Theobald lived, and the sudden plunge into conflict after the elevation of Thomas Becket to Canterbury in 1162. It is not easy to decide if the inconsistency was real or only apparent, or, if there was an inconsistency, to account for it.

Z. N. Brooke plausibly suggested that although Henry II's basic objective was to re-establish full royal control over ecclesiastical affairs, he was in the early years of his reign inhibited by the debt of gratitude he owed to Archbishop Theobald and to the pope for the ease of his succession, that he could 'not act otherwise than with caution at first', and bided his time until he could acquire an archbishop more amenable to his purpose.¹ Many historians have accepted Brooke's interpretation without question; and certainly it seems that a politic respect for Theobald's influence was a factor in the situation, at least so far as England was concerned. Nevertheless there are grounds for suspecting that Brooke's explanation is at best inadequate. In the first place the province of Canterbury was only one among several ecclesiastical provinces covered or trenched upon by Henry II's wide dominions: there were seven in all, until the acquisition of Ireland added another four. Theobald's influence may be held to extend to the province of York in virtue of his office as papal legate for England, and because Archbishop Roger de Pont l'Évêque was his protégé, but the fingers of his influence did not stretch across the Channel. It could be argued that the possibility of Henry II controlling ecclesiastical affairs in the provinces of Bourges and Auch was too remote to be of any account, and not worth the trouble of trying; but that still leaves the important provinces of Rouen, Tours, and Bordeaux, which between them covered the heartland of Henry's continental dominions. Moreover there were, in parts at least of these provinces, traditions of control by the lay ruler upon which Henry could draw, which were barely less strong than the tradition

¹ Brooke, 'The effect of Becket's murder on papal authority in England', 215, *The English Church and the Papacy*, 199.

of the early Norman kings in England. To none of the continental archbishops did he owe any debt of gratitude, and upon none of them was he seriously dependent for political support. Nevertheless, Henry II's behaviour towards the Church in his continental dominions does not appear to have differed materially from his behaviour towards the Church in England.¹ Secondly, there is evidence which will not allow us to suppose that Henry avoided raising contentious issues of the relations of Church and State in his dealings with Archbishop Theobald, nor that, having raised them, he allowed Theobald to dictate his policy. That the contentious issues did not lead to open conflict must owe something at least to the flexibility of Theobald's responses to Henry's challenges.

Thomas Becket certainly would not have subscribed to the view that in the early years of the reign Henry was biding his time in his dealings with the Church. In a letter to the pope in 1170 he vigorously rebutted the charge of those who blamed his obstinate dogmatism as the cause of Henry's aggressive proclamation of the *avita consuetudines*. On the contrary, he counterclaimed, Henry had from his first assumption of power assaulted the liberty of the Church as if by the right of inheritance (*quasi de jure hereditario*). Was I archbishop, he asked, when the king penalised the bishop of Exeter for entering an appeal to Rome by taking from him the wealthy chapelry of Bosham and giving it to Arnulf of Lisieux? And how did the bishop of Chichester fare when he cited papal letters in the suit against the abbot of Battle? Was he not bent to the king's will and obliged to make peace with the impenitent abbot in the royal court? And who was responsible for preventing Achard, bishop-elect of Séez, from taking possession of his see, even though his election had been confirmed by the pope? By what authority did the king then make Achard bishop of Avranches instead? And what of Froger, *non electus sed intrusus* into the see of Séez? All these things, claimed Becket, had taken place before his own promotion.² He had a case, for his charges, though tendentiously framed, are corroborated by independent testimony.³ But although Becket was justified in claiming that before he became archbishop Henry's policy had revealed itself, the suggestion that this policy was one of brutal assault upon the Church's liberty should be treated with caution. Becket was always

¹ For a useful summary see Shaw, 'The ecclesiastical policy of Henry II on the continent'.

² Paraphrased from *Materials for the History of Becket*, Epistolae, VII, 241-3.

³ Corroboration of the charge about the chapelry of Bosham is provided by the pipe rolls, e.g., Pipe Rolls 2-4 Henry II, 61; Pipe Roll 7 Henry II, 14; see also Arnulf of Lisieux, *Letters*, 174, note a, and Introduction, liv; for the other charges see below.

more concerned to win an argument than to clarify a situation, and a close examination of the evidence suggests that Henry's interferences with ecclesiastical freedom were not so blatant as Becket would have liked the pope to believe, or as at first glance they might appear.

For only one of the examples cited by Becket are the facts adequately known to us, and here, certainly, the impression left by the full story is somewhat different from that Becket sought to create. The attempt by the bishop of Chichester to assert jurisdiction over Battle Abbey, and the efforts of the monks there to defend their exemption from episcopal authority finds many parallels in the England, and indeed the Europe, of the time. Arguments over rights between bishops and monks, like those between bishops and archbishops, between king and bishops, or between king and pope, all reflected the intense interest of the twelfth century in the reappraisal of law and custom, and in the definition of spheres of jurisdiction. Newly appreciated principles clashed with the facts of history, and the needs of the past had all too often given rise to incompatible precedents. The attempt to discipline life with law was one of the noblest endeavours of twelfth-century Europe, but passionate litigation was an inevitable by-product of it.

Battle Abbey had a special claim upon the protection of the Crown, for it was founded by William the Conqueror in thanksgiving for the victory of Hastings: it was at once both a royal *Eigenkloster* and a Norman war-memorial.¹ King Stephen had professed his desire to maintain its rights as fully as those of the Crown itself.² And Richard de Lucy could declare before Henry II's court that the abbey was a symbol of that victory from which the king derived his title to the throne:

Wherefore I maintain that the abbey ought to be held in high regard both by you and by all us Normans, inasmuch as it was on that spot that the most noble King William, by God's grace and with the aid of our ancestors, acquired the right from which you, my lord king, at present hold the crown of England by inheritance, and by which all of us have been richly endowed.³

Nevertheless the king hesitated to reject, at the abbot's request, the bishop's demand for canonical obedience until the facts had been thoroughly sifted, and delayed a consideration of the matter for many

¹ According to the abbey's chronicler, the king spoke of the abbot of Battle as 'his own chaplain', and Richard de Lucy, addressing the king on behalf of the barons, spoke of the abbey as 'the monument of your triumph and of ours', *Chronicon Monasterii de Bello*, 84, 86-7, cf. p. 100.

² *Ibid.*, 71.

³ *Ibid.*, 86-7, cf. 88-9.

months.¹ When at length he came to give the matter his full attention, a preliminary investigation made it clear that, so far as the Crown was concerned, the question turned on the authenticity of the foundation charter of William the Conqueror and its confirmation by Henry I. These fully supported the abbey's claim to be free of subjection to the diocesan, and if they were to be accepted as authentic the case had to go against the bishop, for no king could lightly overturn rights guaranteed by his ancestors, and certainly not a king such as Henry II who made the defence of ancient rights the cornerstone of his policy. Indeed, Henry II had at his accession expressly promised to uphold all liberties confirmed by his grandfather's charters.² An examination of the abbey's charters satisfied the king as to their authenticity, but he nevertheless gave the bishop of Chichester an opportunity to present his side of the argument in full court. The bishop, however, could allege little that was material to the point at issue: he did not seek to assert that the charters were forgeries, or that their true import differed from that alleged by the abbot. He offered a few dubious and unconvincing precedents designed to show that the abbey had admitted episcopal jurisdiction in the past; but he rested his case principally upon a theoretical argument. The abbot's charters were worthless to him on the point of the abbey's freedom, he contended, for in purporting to grant it the founder was acting *ultra vires*: no layman could confer ecclesiastical liberties and dignities, save with the permission and confirmation of the bishop of Rome. The argument was a sound one by the canonical standards of the mid twelfth century, but hardly by the customary practice of the eleventh. The abbey's charters had been ratified by Archbishop Lanfranc and other bishops, including the bishop of Chichester of the day. Many privileges by which the Church set much store would have foundered if attempts were made to apply the standards of a later age to one which knew them not. The bishop's argument, too, might have been more tactfully presented: it seemed to the king that he was dismissing royal charters as frivolous, and an outburst of wrath was only to be expected. It is noteworthy, however, that although the king spoke in anger, he said nothing to impugn papal authority; his one concern was to defend his own:

You think by subtlety and guile to overthrow the strength of the royal prerogatives which God has given me. I charge you by the fidelity and oath by which you are bound to me, that you submit yourself to correction

¹ Early in the reign the abbot prayed confirmation of his charters, but the king withheld it at the intervention of Archbishop Theobald, *ibid.*, 73.

² Coronation charter, 1154, Stubbs, *Select Charters*, 158.

for those presumptuous words against my crown and dignity. And I further beseech the archbishops and bishops here present to do me justice upon you, as appropriate to the rights of the royal crown granted to me by the Most High. It is clear that you oppose my royal dignities, and are striving to deprive me of privileges due to me by ancient right.

The bishop hastened to apologise, and professed his anxiety to uphold the Crown's honour and dignity; and although the king grumbled that such honour as the bishop offered was hardly worth having, he allowed him to proceed with his case. When it became clear, however, that the bishop had no further argument of substance to advance, the king forbore to give judgement against him but instead, after consultation with the assembled bishops and barons, persuaded him to renounce voluntarily all his claims upon the abbey – a way of settling the matter which would hold good in ecclesiastical courts. Nor did the king venture to ratify the agreement by his own charter: ratification was left to Archbishop Theobald, who performed it in his joint capacity as archbishop and papal legate. The conclusion of the dispute was the exchange of kisses of peace between the parties and between the king and the bishop of Chichester.¹

The papal letters, which as Becket later told the pope had availed the bishop nothing in the matter, had been introduced into the debate not by the bishop but by the king's chancellor – Thomas Becket himself – who, speaking on behalf of the abbot, alleged that the bishop had procured a papal letter to reduce the abbey to subjection. There was no mystery about the letter – the abbot had it there in his hand. It was in fact nothing more than the kind of letter popes frequently issued when a complaint was made which seemed reasonable, but about which nothing was known for certain – a cautiously worded command (much as the king himself might issue in similar circumstances) which left plenty of opportunity for the recipient to say that he was under no obligation to comply since the facts of the matter had been misrepresented.² The chancellor's purpose in introducing the letter into the debate was obviously to bring discredit on the bishop by suggesting that he had attempted to circumvent royal authority by means of a papal mandate. The bishop denied, and denied on oath, that he had

¹ *Chronicon Monasterii de Bello*, 84–104. Theobald's charter of ratification is printed in Saltman, *Archbishop Theobald*, 243, charter no. 11. For a discussion of the case see Knowles, 'The growth of exemption', Pt 1, 218–25, Pt 2, 431–6.

² *Chronicon Monasterii de Bello*, 102; the letter itself is reproduced on p. 78. For similar royal intervention see the case of Robert of Valognes versus the abbot of St Albans, above, ch. 9, pp. 327–8.

procured such a letter or caused it to be procured. The abbey's chronicler relates that Archbishop Theobald crossed himself in astonishment at the bishop's oath, believing him to have told a lie; but it is quite possible that he had sworn the literal truth. Bishop Hilary of Chichester seems to have pursued the subjection of Battle Abbey out of a sense of duty, but he did so with a noticeable lack of enthusiasm. The abbey's chronicler makes it plain that there was little ill-will generated during the dispute. The bishop himself had offered to negotiate a compromise with the abbot before the hearing began in the royal court, and his friendly action on an earlier occasion in offering the abbot the kiss of peace during mass, after having formally excommunicated him for disobedience, was cited against him as the hearing proceeded.¹ After his compromise had been rejected, he made out a case as best he could, but with what seems to have been little conviction. It is more than likely that the prime instigator of the move to reduce Battle Abbey to subjection was not in fact the bishop but the cathedral chapter of Chichester, and the indications are that it was the chapter which procured the papal letter to the abbot.² To suggest, as Becket did to Alexander III in 1170, that Bishop Hilary had rested his case on papal authority and had it brusquely overborne by the king was nothing less than a mischievous falsehood.

The Battle Abbey case, as told in great detail by the abbey's chronicler, reveals Henry II determined to defend both his right to hear a case that involved an ecclesiastical issue as well as the question of the authenticity of royal charters, and as equally determined that the development of papal jurisdiction should not menace the prerogative of the Crown; but it also shows the king acting with considerable moderation in the face of provocation. His outburst of wrath was brought under control, and Bishop Hilary did not suffer for what Archbishop Theobald described in court as his ill-advised remarks which appeared derogatory to royal dignity. And in the end the king allowed the confirmation of the abbey's liberties to be an ecclesiastical fact instead of a royal one. It tells, in short, that Henry was touchy about his royal dignity, but not insensitive to clerical aspirations and ready to go some way to indulging them.

It might be supposed that Henry's readiness on this occasion to curb his wrath and to accept that gaining his way should not be achieved at the cost of unnecessarily inflaming clerical sentiments, are attributable to the presence and influence of Archbishop Theobald; but Henry

¹ *Chronicon Monasterii de Bello*, 90, 74, 100.

² *Ibid.*, 77ff.

exhibited much the same attitude in his relations with the Church on the continent when Theobald was not at hand to persuade and mollify. Becket, in his letter to the pope in 1170, made great play with Henry's refusal to accept Achard as bishop-elect of Séez and his intrusion of Froger; but here, as in his reference to the case of Battle Abbey, it is likely that he misrepresented the situation by a selection from the facts. Séez was a trouble-spot, and had been for many years. The previous election of a bishop in 1144 had provoked from Henry's father, Count Geoffrey, a violent reaction which in some quarters was remembered as his greatest crime.¹ Count Geoffrey's wrath had been provoked by the failure of the cathedral chapter to seek from him the customary licence to proceed with the election, although the omission seems to have been prompted not by exalted notions of ecclesiastical liberty, but by the eagerness of a faction in the chapter to steal a march on their opponents by hurriedly choosing a bishop before all the electors arrived. Count Geoffrey eventually repented of his persecution of the bishop-elect, was reconciled to him by Pope Eugenius III personally, and allowed those servants who had done the bishop physical violence to be punished in the church courts. But when, as seems probable, the circumstances were repeated in 1157, with those who had been out-manceuvred on the previous occasion now determined that a man of their own choice should be appointed whether Henry approved or not, further trouble was inevitable. Precedents had a way of hardening rapidly into custom in the middle ages, and Henry had to act decisively if he were not to allow his successors to be denied the right of being consulted.²

Of course, Henry's action at Séez in forcing his almoner, Froger, upon the electors and finding another bishopric for Achard at Avranches, was inexcusable by canonical standards; but it should be recognised as exceptional. Against it should be set evidence which creates a very different impression. At Bordeaux, for example, Henry attempted to persuade the electors to choose as the new archbishop John de Side, a scholar of Poitiers, by entering the room where the election was being held; but when the electors refused to proceed in his presence, he withdrew and Raymond de Mareuil was chosen instead.³ Even more remarkable is the story of the election to the see of Angers in 1156. In Count Geoffrey's day it had been the custom that the count selected a

¹ Gerald of Wales, VIII, 160, 301, 309, compared it with the murder of Becket.

² For Séez see Barlow, introduction to *Letters of Arnulf of Lisieux*, esp. xxxiv-xxxv.

³ Imbart de la Tour, *Les Élections Épiscopales dans l'Église de France du IX^e au XII^e siècle*, 464 n. 1.

new bishop from three candidates nominated by the cathedral chapter; but on this occasion the chapter made a stand on canonical rectitude and insisted on selecting a bishop for itself. Henry's response was not a show of violence but an appeal to the papacy to uphold established custom. Pope Adrian IV, however, when he heard about the custom, was horrified that it should ever have existed, and in the presence of the envoys utterly forbade it in future. Henry acquiesced and gave his assent to the chapter's choice.¹ Learning his way from these collisions in the early years, Henry seems to have evolved a method of promoting his interests in episcopal elections while avoiding trouble. When the see of Angers next fell vacant in 1162 he acted circumspectly: canonical forms of elections were respected, but he persuaded the chapter to fix its choice upon Geoffrey Moschet, one of the clerks of his chancery.²

Becket's biographers accepted his assertions that Henry's intention to persecute the Church (by which they invariably meant the clergy) had been revealed before Becket became archbishop; but their stories, like his, must be treated with caution. Take, for instance, the story told by William FitzStephen to illustrate his contention that, 'the king had long before, in the time, that is, of Archbishop Theobald, taken against the clergy of England generally'.³ When the king visited the north of England in 1158, he relates, a burgess of Scarborough laid before him a complaint that a rural dean had blackmailed his wife by threatening to prosecute for adultery. The dean was summoned, and appeared before the king, in the presence of Richard de Lucy and other barons, Archbishop Theobald, the bishops of Durham and Lincoln, and John aux Bellesmains, a protégé of Archbishop Theobald who was then treasurer of the cathedral chapter of York. On being examined, the dean asserted that there had been witnesses to the woman's guilt, but he was unable to produce or name them. Since he might therefore be presumed to have disregarded a royal edict that rural deans (as well as the officials of lesser secular courts) should not bring charges unsupported by the testimony of worthy men of the neighbourhood, the king demanded judgement upon him.⁴ The barons and clergy retired to deliberate, and John aux

¹ Boussard, *Le Comté d'Anjou*, 97-8; *Regesta Pontificum Romanorum*, no. 10174.

² Robert de Torigny, 215; Boussard, *op. cit.*, 98.

³ William FitzStephen, III, 43-5.

⁴ William FitzStephen does not specify the nature of the king's edict (*constitutio*) to which he refers. It has been supposed that this edict, otherwise unknown, prohibited the extortion of money by judges. The only basis for this assumption is William FitzStephen's report that in calling for judgement on the dean, the king remarked that 'archdeacons and rural deans extorted more money in a year by such means than he himself received'. William's account, however, deserves closer scrutiny. His

Bellesmains offered his view that the dean should be obliged to return the money he had extorted and then be committed to the mercy of his diocesan, the archbishop of York, for punishment. 'What then,' asked Richard de Lucy, 'will you adjudge to the lord king, whose law has been broken?' 'Nothing,' replied John, 'for the accused is a clerk.' 'I cannot associate myself with such a sentence,' said Richard, and withdrew with the rest of the lay barons. When the clergy returned to the king's presence the verdict they pronounced was along the lines suggested by John aux Bellesmains. The king angrily turned on Archbishop Theobald, denouncing the sentence as perverse (*falsa*) and fixing a day for rehearing the case. It was never brought to conclusion, however, adds William FitzStephen, for, learning of the death of his brother, the king went overseas before the appointed day arrived. This story had often been used as an illustration of a hardening of the king's attitude against the Church's claim that the clergy should be amenable only to ecclesiastical discipline. But any attempt to interpret the incident must allow that two years later, when a citizen of London complained to the king that he had been despoiled by a rural dean in the diocese of Exeter, Henry committed the case to Archbishop Theobald, bidding him to see that justice was done.¹

Such contradictory evidence may appear perplexing, but the perplexity arises only if it is assumed that Henry had conceived, or was developing, a doctrinaire attitude towards his prerogatives as ruler and the conflicting claims of the Church. But the continental evidence suggests that this simply is not true, and that on the contrary Henry's

words suggest that it was not the accusation of extortion but the accusation that charges of adultery had been brought *sine alio accusatore*, which was contrary to the king's *constitutio*. This, together with the dean's defence that originally a deacon and a layman had been party to the accusation, suggests that the edict referred to was the counterpart in England of one which Henry issued a few months later in Normandy. According to the *Continuatio Beccensis*, 327, Henry, at Falaise at Easter 1159, ruled 'ut nullus decanus aliquam personam accusaret sine testimonio vicinorum circumanentium, qui bonae vitae fama laudabiles haberentur'. A similar rule was imposed on secular judges. Cf. *Constitutions of Clarendon*, clause 6: 'Laici non debent accusari nisi per certos et legales accusatores et testes in praesentia episcopi. . . .'

¹ John of Salisbury to Bartholomew archdeacon of Exeter, *Letters*, I, 193: 'If what he says is true, our friend has been despoiled by one of your deans and endured wrongs such as no citizen of London should suffer. Our lord the king has given instructions that the dean and his accomplices should be summoned and that the lord archbishop should try the case; but because he has special confidence in your wisdom and justice, he entrusts the case to you in order that you may serve the cause of God in the person of a poor man . . . faced by a more powerful adversary. Otherwise the archbishop is bound by the king's command to do justice to our fellow citizen, which will cause your dean no small trouble.'

attitude at this time was singularly undoctinaire. To maintain the proposition that Henry was bent on destroying the *libertas ecclesiae*, Becket and his biographers had to select and distort the evidence. The truth, indeed, was complex, and lent itself to partisan fabrications. In the Battle Abbey case the king had shown, in quotable phrases, that he was watchful over his interests and could be irked by clerical pretensions; only the pertinacious inquirer would observe that nevertheless the king had shown himself ready to accept a formula for peace which preserved the dignity of both Crown and Church. As an indication that Henry II was prepared to try to accommodate himself to the Church's developed conceptions of canonical propriety, the Battle Abbey case does not stand alone.

Henry ignored Stephen's promise, as he ignored all Stephen's promises, to entrust the property of vacant bishoprics to administrators from the diocese; but instead of absorbing the income from the property into the royal revenue, he placed it at the disposal of the most prominent clergyman in his service, Chancellor Thomas Becket.¹ And as to the elections to vacant bishoprics there are signs that Henry expected to be consulted and might exercise his influence, but that he did not insist on forcing upon the electors unwelcome nominees.² The election of a new bishop to Exeter in 1161 offers clear evidence on the point. The see lay vacant for a year, its revenues in the custody of Chancellor Becket. The king was being pressed by the powerful FitzHarding family of Gloucestershire to nominate a scion of the house. He went as far as suggesting the name of Henry FitzHarding to the canons of Exeter, but they rejected it.³ The king besought Archbishop Theobald to use his influence on behalf of FitzHarding, but the archbishop instead persuaded him of the unworthiness of the candidate.⁴ Archbishop Theobald had his own candidate, acceptable to the electors, in Bartholomew archdeacon of Exeter, an eminent theologian and canon lawyer. Chancellor Becket was recruited to petition the king on his behalf.⁵

¹ John of Salisbury to Thomas Becket, 1160: 'There is a rumour that the king has placed at your disposal the revenues of the three bishoprics now vacant', *ibid.*, I, 223. The absence from the pipe rolls of accounts for the vacant bishoprics, and the demand from Becket in 1164 that he should account for the issues of vacant bishoprics and abbeys (Herbert of Bosham, III, 299) suggests that the chancellor's custody of ecclesiastical property was more extensive than John of Salisbury supposed. Cf. Margaret Howell, *Regalian Right in Medieval England*, 32-3.

² For an analysis of the evidence for episcopal elections in England in the period 1155-61, see Saltman, *Archbishop Theobald*, 126-32.

³ *Letters of John of Salisbury*, no. 128, I, 122.

⁴ *Ibid.*, no. 128, I, 223, and no. 133, I, 242.

⁵ *Ibid.*, no. 128, I, 222-3, 225.

Henry delayed for several months, but eventually gave his assent, and Bartholomew became bishop of Exeter.

That royal influence and royal intervention were factors with which the clergy had to reckon, there can be no doubt, despite the king's prolonged absences on the continent. John of Salisbury, Archbishop Theobald's secretary, wrote darkly to a friend of the 'satellites of the court' who 'oppose the king's authority to every effort of the Church'.¹ Archbishop Theobald, passing on a plaintiff's appeal to the papal court, remarks that, 'There he will say things which he dared not say in England', because his opponent 'is a servant of the king'.² The Archbishop sought the cooperation of the bishop of Coventry over a dispute in which the king was interested, reminding him that, 'In this way you will be able to retain the king's favour, which is most necessary [*qui per necessarius est*]'.³ The abbot of St Albans, who had obtained papal letters commanding the archbishop of Canterbury and the bishop of Chichester to excommunicate Robert of Valognes if he did not restore property seized from the abbey, discovered that 'the bishops feared to bind Robert with the chains of anathema since King Henry II had forbidden his bishops to pronounce sentence of excommunication against any of his barons'.⁴ Royal writs were the long arm of royal authority. The bishop of Coventry found himself confronted by a royal command to postpone a case in which he was about to pronounce sentence.⁵ The archbishop of Canterbury, having rebuked the abbess of Amesbury for ejecting Jordan, treasurer of Salisbury cathedral, from the church of Froyle, found himself obliged to write again, more peremptorily, because 'the authority of the king compels me to punish a wrong done to the Holy Roman Church and an affront to the king's majesty, not to say to ourselves'. In his first letter he had expressed his readiness 'to wait in patience for you to make speedy reparation of your errors'; but in the second there was to be no delay: 'We instruct and command you that, in accordance with the mandate of our lady the queen which you have received, you suffer Jordan to hold the church, as he held it by apostolic authority at the time when the king went overseas.'⁶

There is, however, little justification for regarding such interventions as wanton interference with the processes of ecclesiastical government. In most of the known cases it was the clergy themselves who invoked royal intervention. The abbot of Battle sought recovery of a dependent

¹ *Ibid.*, no. 94, I, 144.

² *Ibid.*, no. 104, I, 165-6.

³ *Gesta Abbatum Monasterii Sancti Albani*, I, 163.

⁴ *Letters of John of Salisbury*, no. 53, I, 91.

⁵ *Ibid.*, no. 81, I, 128.

⁶ *Ibid.*, nos 114, 115, I, 188, 189.

church 'now in the royal courts, now in the ecclesiastical'.¹ The bishop of Lincoln sought from both the pope and the king that the abbot of St Albans should acknowledge his authority.² Moreover, Archbishop Theobald's correspondence, which provides much of the evidence for royal intervention, also demonstrates that the king was disposed to leave the final judgement to the ecclesiastical authorities: he was not interfering, but intervening to see that justice was done. When, for instance, a complaint reached the king that the bishop of Coventry, endeavouring to induce some discipline into a royal foundation of canons at Lilleshall, had acted unfairly, the king asked the archbishop to bring the matter to 'final judgement'.³ The royal writ which ordered the bishop of Coventry to postpone a case in which he was about to pronounce sentence, had been sought by a clerk who complained that the bishop had improperly heard his adversary during an adjournment of the case. Henry did not attempt a ruling or try to draw the case into his own court: he simply ordered a postponement and allowed the archbishop to reopen proceedings.⁴ This case went, in fact, on appeal to Rome. So too did the case of the man who feared to plead in England because his adversary was 'a servant of the king'.⁵ Evidently he did not fear reprisals for making an appeal without royal permission.

There is indeed ample evidence in all the relevant sources of the freedom with which appeals were made to Rome, without the necessity of prior approval by the king. There was, it is true, a royal writ of 1159 to Archbishop Theobald and the clergy of the realm forbidding them to leave the country for the purpose of prosecuting appeals until a decision had been taken on who should be recognised as the lawful successor of Pope Adrian IV.⁶ But this was an exceptional ban in the exceptional circumstances of a papal schism. Indeed, the fact that the ban was necessary is an indication that free intercourse with Rome was accepted as normal. Archbishop Theobald approved of royal intervention to prevent the English Church being split by the schism, and expressed alarm to the king that despite his ban he had allowed some to go to Rome.⁷

¹ *Chronicon Monasterii de Bello*, 113.

² *Gesta Abbatum Monasterii Sancti Albani*, I, 138, 143-4.

³ *Letters of John of Salisbury*, no. 104, I, 165; on the Lilleshall case see Letter no. 105.

⁴ *Ibid.*, no. 53, I, 91-2.

⁵ *Ibid.*, no. 81; see above p. 437.

⁶ Printed in Saltman, *Archbishop Theobald*, 543.

⁷ *Letters of John of Salisbury*, no. 116, I, 191. The renunciation at the request of the king of an appeal to Rome by Roger priest of Ingatestone (referred to in Letter no. 132), which is sometimes cited as an example of royal interference, should probably be related to this temporary ban.

On the other hand there can be no doubt that Henry II expected that those who had dealings with the papal curia would do no injury to the Crown or the realm, and that he reserved the right to obstruct appeals or frustrate papal mandates if his rights were trespassed upon. A prudent litigant would seek the king's approval before making an appeal, or like Bishop Hilary of Chichester repudiate a papal mandate which was likely to offend the king.¹ The evidence is insufficient to allow a reasonable estimate of the extent to which Henry II obstructed appeals or frustrated papal mandates. Some of the evidence that does survive is open to question: the accusation, for instance, which Pope Adrian IV levelled at Archbishop Theobald of 'conspiring with the king to bury appeals', arose out of the long and bitter struggle which the archbishop was having to secure the obedience of the abbot of St Augustines, Canterbury, and was prompted by the malice of the archbishop's enemies.² It is probably unnecessary, however, to look further than a story told by the biographer of the abbots of St Albans for an illustration of Henry's general attitude and the basis for his discrimination against some papal mandates.

Abbot Robert of Gorham, in company with the abbots of many prominent monasteries, was assiduous in seeking from the papacy privileges for his house and exemption from episcopal jurisdiction. As a tenant-in-chief of the Crown, the abbot of St Albans, of course, ranked equal with the bishops in the council of the king, and it seemed natural to seek or assert ecclesiastical equality. In 1155 Abbot Robert was a member of an embassy which the newly crowned King Henry II sent to the newly elevated Pope Adrian IV, and while at Rome he had seized the opportunity to secure outstanding privileges, fortified by a letter from the king requesting the pope to treat the abbey's business as favourably as his own.³ The validity of the abbot's claim to exemption

¹ Concrete evidence of the king's approval having been sought is not easy to come by, but an example is provided in the case of *Anstey v. Francheville*, Patricia Barnes, 'The Anstey Case', 19. For the bishop of Chichester's repudiation of a papal mandate, see above pp. 431-2.

² Thomas of Elmham, *Historia Monasterii Sancti Augustini Cantuariensis*, 412. *Letters of John of Salisbury*, nos 8-11, tell of Archbishop Theobald's difficulties with the monks of St Augustines and of their friends at the papal curia. The archbishop's reply to the pope that 'we would remind you that it is open to anyone to make an appeal' (*ibid.*, no. 12, I, 20) was somewhat disingenuous and should not, perhaps, be taken as evidence of the true situation in England. It was not the obstruction of appeals but the frustration of papal instructions which most concerned the pope.

³ *Gesta Abbatum Monasterii Sancti Albani*, I, 126. The rest of the story is told on 135-47. See also Knowles, 'The growth of exemption', 213-18, and Richardson and Sayles, *The Governance of Medieval England*, 292-3, 299-300.

from diocesan control was subsequently challenged by the bishop of Lincoln in appeals to both the king and pope. The king sent a writ from France ordering the erection of an ecclesiastical commission, consisting of three bishops and the abbot of Westminster, under the chairmanship of the justiciar, Earl Robert of Leicester, which was to hear the parties and report on the relations between the bishop of Lincoln and the abbot of St Albans in the time of King Henry I. The case was, however, eventually adjourned for hearing before the king himself. In the meantime the bishop's appeal to Rome had resulted in a papal mandate to the abbot, ordering him to testify before judges-delegate who were to report on the case for the pope's judgement. When the king heard of this he was extremely annoyed with the abbot ('concepit magnam indignationem contra abbatem'), supposing that the abbot had sought it to avoid royal jurisdiction. The abbot sent messengers to plead his innocence, pointing out that the judges-delegate were more likely to favour the bishop than himself, since one was the bishop of Norwich who was engaged in a similar dispute with Bury St Edmunds, and the other was the bishop of Chichester who similarly sought the subjection of Battle Abbey. The king was persuaded and placated, but he insisted that the abbot should produce for his inspection all the abbey's privileges, both old and new. The monks were greatly alarmed at this, 'For they feared that the king would tear up any which displeased him'. The abbot tried to appear before the king without his charters and bulls, but was made to fetch them. The king personally examined them and viewed with favour the foundation charter of King Offa and the privileges granted by Pope Calixtus, which had been confirmed by his grandfather. But when he read in a bull of privileges granted by Pope Celestine that the abbey was to render to the supreme pontiff an ounce of gold annually, the king protested angrily: 'This article, my lord abbot, is contrary to our dignity; you had no right to make my church tributary to the see of Rome without my assent, nor ought the pope to have required it.' The abbot replied that it had been done not by himself but in the time of a predecessor. 'Whoever did it,' replied the king, 'it was done without warrant of law [*contra juris ordinem factum est*]'. He then turned to the other privileges, asking to see those to which the bishop of Lincoln objected, including the abbot's privilege of wearing episcopal vestments. As he handed the king the bull which conferred the privilege of wearing the mitre, the abbot was apologetic, saying that Pope Adrian had granted it for love of St Albans without being asked. The king, however, was unconcerned: 'We would not need much persuasion to feel content,' he said, 'if all the abbots of our kingdom

appeared in mitres.' The right, he pointed out, which the abbot of St Albans enjoyed to perform episcopal functions preceded and did not follow from the wearing of a mitre. When the bishop of Lincoln was called upon to present his side of the argument, he admitted that his case rested not upon documents but solely upon prescription. 'The documents, as we believe,' said the king, 'overrule prescription.' He went on to point out that the abbot alleged that the rights he claimed inhered in the abbey from its foundation, and only the negligence and apathy of his predecessors had led to its subjection to the church of Lincoln; but now, by the favour of the bishops of Rome, it had been restored to its birthright. 'It is the function of popes in such cases,' remarked the king, 'to intervene, and as they should see fit to restore, on the authority of St Peter, each one to its pristine state.' He advised the bishop to consult with his cathedral chapter and decide whether to contest the case or come to some settlement. When the bishop had departed, the king suggested to the abbot that he should offer a piece of land to the church of Lincoln in return for the bishop's renunciation of the rights which he claimed over St Albans – ten pounds' worth of land he thought would do. On this basis a settlement was effected. The bishop formally renounced his claim to jurisdiction. Charters setting out the renunciation and the grant of a vill were exchanged, and confirmed by charters of the king and archbishop. Between the beginning and end of this dispute Archbishop Theobald had died; the archbishop who witnessed and ratified the settlement which the king had engineered was Thomas Becket.

The chronicler's detailed account of these proceedings speaks eloquently of the deep respect in which the authority of the twenty-nine-year-old king was held, of his complete command of the situation, and of his mastery of the principles involved. It tells that, like his grandfather, he would brook no slight to the dignity of the Crown, but was disinclined to make a fuss over side-issues. He acted throughout with propriety. He did not question the pope's right to issue bulls which affected the status even of a royal foundation, though he expected those bulls to respect the royal dignity. He handled judiciously the awkward problem created by the pope's appointment of judges-delegate. He did not complain of papal interference, but directed his annoyance at the person he supposed to have created the awkward situation. The abbot, when he appeared before the king, said that he was prepared to plead either before the king's *curia* or the judges-delegate, but thought that he should defend himself before one tribunal and not both. The king, turning to the archbishop of Canterbury, who

sat beside him, said, 'What the abbot says is reasonable; for it would hardly be consonant with the honour of our majesty, if an action decided in our court should be adjudged again in the consistory of the lord pope'.¹ Again there was no challenge to papal jurisdiction as such; and by arranging a compromise by the parties which avoided the necessity of pronouncing a formal judgement, the king avoided a confrontation with papal authority in a manner which preserved the dignity of each.

It seems clear that Henry II took the view that ecclesiastical and royal jurisdiction were complementary and should cooperate. He was not prepared to see the traditional rights of the Crown impugned, and did not, for his part, wish to contest the authority of the Church. He seems to have supposed that the troublesome competition which might be caused by the unclear line of demarcation between the two jurisdictions, could be averted by sensible give-and-take, with neither side trying to claim an exclusive jurisdiction. He expected his interests to be respected, as he in turn was prepared to accommodate himself to the clergy's notions of canonical propriety. Problems in the relations of Church and State should be resolved by arrangement between the king and ecclesiastic leaders, and not made the occasion for proclaiming principles.

There is good reason to believe that Archbishop Theobald shared the view that the two jurisdictions should be complementary and not competitive.² For all his defence of the Church's liberty, and despite his profound respect for the Holy See, Archbishop Theobald was not persuaded of the propriety either of untrammelled access to the Roman curia, or of the intervention of the papacy in the normal affairs of local churches. His letters to popes expressed, politely but firmly, the conservative view that papal authority should be invoked only for matters which were beyond the competence of local authorities, or to rectify their errors. The phrasing of the letters is doubtless that of his secretary, John of Salisbury, but the archbishop's mind must lie behind such remarks addressed to the pope, as:

¹ *Gesta Abbatum Monasterii Sancti Albani*, I, 150-1.

² Cf. *Letters of John of Salisbury*, no. 116, I, 190, Archbishop Theobald to Henry II: 'When the members of the Church are united in loyalty and love, when princes show due reverence to priests and priests render faithful service to princes, then do kingdoms enjoy that true peace and tranquillity which must always be the goal of our desire. But if they clash one against the other, in all their might, then the vigour of the secular power will be impaired no less than the ecclesiastical.' This, however, is a rhetorical preamble, composed by John of Salisbury, to a letter about the schism in the papacy, and should perhaps be treated as no more than rhetoric.

... it is essential for all men to have recourse to you when they are in the grip of some necessity *from which they cannot free themselves by their own efforts*. . . .¹

Swein appealed to your court . . . *despite the fact that we were prepared to do justice to both parties*.²

... After carefully examining these witnesses and finding they agreed pretty closely in their evidence, we took their oath and were about to give judgement . . . when William, *without alleging any hardship and illegally, as it seemed to us*, made an appeal to your most excellent consistory. . . .³

Even such a remark as, '... But you to whom the final decision has *rightly [ut oportuit]* been reserved . . .', carries the implication that although the pope had full authority to hear any plea, not every appeal was justified.⁴ Undoubtedly part of Theobald's reluctance to accept the development of papal jurisdiction was the inconvenient consequences it often in practice entailed. There is a tartness in the postscript to one letter which reads:

In addition we beg you to give us a ruling on the punishment to be inflicted on those who forge your letters: it is difficult for us to await your advice on individual cases of this kind every time they arise.⁵

There is indignation in another as to the ease with which the papal curia could be deceived into making erroneous decisions:

... Nicholas, the bearer of these letters, has in defiance of all law . . . been deprived by our venerable brother David, bishop of St David's, of the archdeaconry which he canonically possessed, on account of letters which a certain Jordan, perhaps unknown to you, secured from your clemency by lying entreaties, to the amazement of the whole English Church. This man, Holy Father, is that open perjurer, covered with public infamy by a previous charge of murder, who was condemned for forging papal letters by your predecessor Eugenius and deprived of his office and benefice. For a long time . . . he lay hid in remote places . . . until he learned that Pope Eugenius had been taken from the world. We therefore entreat your majesty that, after consideration of the wretched poverty of the bearer and the justice of his cause, you will of your mercy punish the outrageous crime of which he has been the victim and that, after restoring him to his office, you will give orders that the case should run its natural course through the channels of the law – unless, that is, you decree that the sentence

¹ *Ibid.*, no. 57, I, 97.

² *Ibid.*, no. 68, I, 110.

³ *Ibid.*, no. 84, I, 132.

⁴ *Ibid.*, no. 71, I, 114. Cf. nos 64 and 65, in which the archbishop expresses regret at having to pass on appeals which he regarded as attempts to evade his judgement.

⁵ *Ibid.*, no. 57, I, 98.

passed by your predecessor shall be nullified, and that a man already condemned should deserve freedom to plead his cause rather than punishment.¹

It was, moreover, the disastrous intervention of the papacy in elections to the archbishopric of York which prompted Theobald to arrange for the election of Roger de Pont l'Évêque in 1154 in a way which gave no grounds for further papal intervention.² But there seems to be a deeper reason for Theobald's ambivalent attitude to the exercise of papal authority: a conviction that properly constituted ecclesiastical authorities in the provinces and dioceses should be allowed to discharge their duties, arranging matters in the light of their better knowledge of local circumstances, unhampered by unnecessary papal involvement. In expressing reluctance to pass on appeals to Rome made by litigants in his court, Archbishop Theobald was suggesting that he was perfectly competent to settle the matter.³ He took a similar view of some of the appeals which came to his own court from lower courts. To the bishop of Chichester he wrote:

The transgressions of malicious persons are best punished by those who have intimate knowledge of the merits of the parties concerned and have received power from the Lord to correct them thoroughly. . . . That disputes within your jurisdiction find their way to us, is a sign of weakness or negligence. . . .⁴

This attitude of Theobald goes far to explain his amicable relations with Henry II. The desire of each to uphold his authority, his 'power received from the Lord', gave them a common interest in minimising differences, and in disposing decisively of problems which concerned them both, in mutual accord. The scandal of open conflict could only result in the honour of one or the other being besmirched. Henry II, unlike Stephen, was astute enough to wish to resolve differences in private before public action was resolved upon, and it is likely that problems were discussed privily through the agency of the friend and servant which Theobald and Henry had in common – Thomas Becket. It is hardly to be expected that such consultations would be a matter of record, but a hint of the process at work may be caught in a postscript to a letter from the archbishop to Chancellor Becket: '... Let us know what is the will of our lord the king and your advice concerning the

¹ *Letters of John of Salisbury*, no. 86, I, 134–5.

² See above, ch. 11, p. 425.

³ *Letters of John of Salisbury*, nos 64, 65, 68.

⁴ *Ibid.*, no. 61, I, 102.

monk who claims to be abbot of Boxley'.¹ An indication of the confidence which the king reposed in the archbishop is his release to him of control of an election of an abbot of a great monastery who would rank as a baron of the realm: to the monks of Evesham, Theobald wrote, '... we have obtained from our lord the king permission that we may, in accordance with the precept of the sacred canons, set over you a worthy shepherd'. The monks were notoriously factious and a contested election could readily have resulted in the intervention of Rome. It was in the interests of both archbishop and king that a trustworthy man should be appointed, whose election should be unchallengeable. The appointment of a monk of Canterbury to be the new abbot suggests that the archbishop had his own candidate to impose, although the supervision of the election was entrusted to the bishops of Coventry and Worcester, and the abbots of Pershore and Winchcombe. Theobald's letter to the monks concluded with a stern warning against prevarication: 'Let none of you think that he may fly to our lord the king for refuge; for any delay in your salvation will sorely vex him, and he has appointed us as his vicegerent in the matter that there should be no such delay. Farewell.'²

The advantages which Theobald recognised in a king who could impose his authority were demonstrated in the months following the double election of Victor and Alexander to the papacy in 1159. The normal processes of appeal to Rome were of course undermined by the uncertainty as to where authority lay, and there was a real danger of some English clergy adhering to one and some to the other contender for the papal throne.³ The archbishop sheltered behind the custom of the realm that no pope should be recognised in England without the royal assent: 'While the matter is in suspense,' he wrote to the king, 'we think that it is unlawful in your realm to accept either of them, save with your approval. It is far from desirable that the English Church should be torn asunder after the example of the Church of Rome and by so doing give occasion for a conflict of Church and State.'⁴ At the same

¹ *Ibid.*, no. 129, I, 225.

² *Ibid.*, no. 109, I, 173-4. There had been a disputed election in 1149, and Theobald's intervention had been overridden by an appeal to the pope, Saltman, *Archbishop Theobald*, 84.

³ *Letters of John of Salisbury*, no. 116, I, 190, Archbishop Theobald to the king: 'Some of us are prepared to approach or visit Alexander, while others are for Victor.' The bishops of Winchester and Durham were said to favour Victor; the archbishop himself, after a short period of impartiality, came out strongly for Alexander, *ibid.*, nos 122, 124; Saltman, *Archbishop Theobald*, 45ff.

⁴ *Letters of John of Salisbury*, no. 116, I, 190.

time he was anxious that Henry II should not, as his grandfather had done, make his own decision: 'And if it please you in a time of such peril to the whole Church of God, your majesty should take counsel with your realm and decide nothing to its prejudice without the advice of your clergy.'¹ There were rumours, alarming to Theobald, that Henry might opt for Victor, who had the support of the German emperor; but the king acceded to the archbishop's prompting and requested the English clergy to tender their advice.² The archbishop acted with strict propriety: as he reported to the king after holding a council at London, '... on the issue before us we gave no definite judgement, since that was not permitted; nor did we make any decision to the prejudice of the royal majesty, for that would have been wrong; but as was both permissible and right and in accordance with your majesty's command, we have, God being our witness and our judge, framed our advice'.³ Henry delayed announcing his decision to reap from it the maximum political advantage, but it was in accordance with the advice tendered: that Alexander should be recognised.

It is possible that at the very beginning of his reign Henry had sought a formal understanding with the papacy on the relations of Church and State. An embassy consisting of the bishops of Le Mans, Lisieux, Evreux, and the abbot of St Albans waited upon Pope Adrian IV, to discuss 'ardua negotia regalia'.⁴ No more, unfortunately, is known of it; and if Henry were seeking some approval for the exercise of prerogatives enjoyed by his predecessors, he was certainly disappointed.⁵ But it mattered not: with an archbishop such as Theobald to work with him, Henry did not need a concordat.

¹ *Letters of John of Salisbury*, no. 122, I, 202.

² *Ibid.*, nos 122, 124, 125.

³ *Ibid.*, no. 125, I, 216-17.

⁴ *Gesta Abbatum Monasterii Sancti Albani*, I, 126.

⁵ Cf. Raymonde Foreville, *L'Église et la Royauté en Angleterre*, 89.