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II: CONFLICT WITH THE KING (1162-64)

15. Initial harmony (1162-64)

Herbert's account is unusual in emphasising a period of harmony before the friendship between Thomas and Henry was shattered.¹ While it is a welcome antidote to the biographers who describe an immediate eruption of conflict upon Thomas's elevation to Canterbury, Herbert's version is also guilty of distortion. He passes over the danger to the relationship between archbishop and king caused by Thomas's claiming of royal castles and his antagonising of the king's tenants-in-chief. The description of the council of Tours is highly selective, ignoring the involvement of other English bishops, Thomas's quarrels with York, and his failed attempt to have Anselm canonised. His most serious distortion is in putting together the dedication of Reading Abbey and the translation of Edward the Confessor as an example of concord: the translation probably occurred on the first day of the Council of Westminster, 13 October 1163, when disputes had already arisen between the archbishop and the king, and the dedication of Reading Abbey took place on 19 April 1164, between the Council of Clarendon and the Council of Northampton, when the conflict had already become very bitter.

Herbert of Bosham, *MTB* 3. 250-5, 260.

And now Thomas, who up to this had sailed in the harbour of the church, began to set out into the secular sea and deal with secular matters – something that is often necessary for a pontiff, but never pleasant for a wise one. He raised the issue of estates which certain magnates of the realm, great and powerful men, had taken from his church² because of either the impotence or negligence of his predecessors. He asked for the return of some, but took back without question many where there seemed to be obvious injury. The latter, those commonly called fee-farms,³ the archbishop recalled to his own dominion immediately upon his entrance to the archiepiscopacy as if they belonged to his own estate. He expelled those called fee-farmers without the inquiry of any fiscal judge. He was called to answer and refused to plead concerning these lands which were known to belong to his estate, even if they had been alienated on whatever unjust claim. And

1 The Lambeth Anonymous also allows for this period, but describes it in less depth (*MTB* 4. 92-5)

2 I.e. Canterbury.

3 Lands, usually with heritable status, rented for a fixed sum. Presumably Thomas thought the rent too low.

so he held and managed these estates according to his will until he was banished and, proscribed for justice' sake, he lost these and others. Moreover with great urgency he demanded that fief which was said to belong to William of Ros, a fief, if I am not mistaken, of seven knights' fees, which had been confiscated soon after the death of Archbishop Theobald. But the archbishop limited himself to raising the question of the fief until the king, who was then outside the realm, returned. But as it happened, because of other things that came up, he did not address the issue when the king next returned, but put it off. The archbishop also had a serious clash with the earl of Clare, when he demanded the earl do him homage for Tonbridge Castle and all the land belonging to it, and in particular for everything within a league of the castle, commonly called the bailiwick, or in Latin *bannum leugae*. The earl offered homage, but refused to state explicitly the basis upon which he did so, as the archbishop had wished.⁴ The archbishop also called for the custody of Rochester Castle to be returned,⁵ which he also claimed by right of his church, producing to this end a public instrument, a charter of William of blessed memory, illustrious former king of England, who had acquired the realm forcefully on the battlefield through the strength of his hand.⁶ When he put forward these and similar questions, and recalled some estates and asked for others back, the archbishop was quickly faced with many disputes, quarrels and adversaries. However all were hidden because of fear of the king, for they were aware and respectful of the extraordinary royal favour in which, as we have shown above, the archbishop was still held, and on this account they were quite afraid to offend the archbishop. Nevertheless, some who either felt they had been injured or feared injury made their way to the king who was still outside the realm. In pleading their case some made known what had happened to them, and others outlined the injury which would befall them through the archbishop, unless royal clemency directed itself to justice. And hoping perhaps in some way to undermine the king's constant favour towards the archbishop, they added that too much royal favour would make the archbishop arrogant. But the king, who loved him in deed and truth was in no way moved by these pleas, and refused to listen.

⁴ William of Ros and Roger of Clare, earl of Hereford, were tenants-in-chief of the king, the latter a particularly powerful one.

⁵ Rochester he claimed from the king, along with the royal castles of Saltwood and Hythe.

⁶ I.e. William I.

And because he was on the point of crossing the sea, he put off the petitioners until his arrival in England.

After a little, the king was, according to right and custom, announced to have landed at the southern port of Southampton. He landed in the first year of the archbishop's consecration, shortly after Christmas Day, if I am not mistaken.⁷ The archbishop who, in the company of that distinguished boy, Henry the king's son and heir, had awaited his arrival for many days, immediately came to meet him. And when the archbishop was admitted to the king's lodgings with the king's son Henry, the king and all his men came running to him, and there was great joy and celebration throughout the whole court. The king and archbishop threw themselves into mutual kisses and embraces, each trying to outdo the other in giving honour. So much so that it seemed that the king was not effusive enough towards his son, being entirely effusive towards the archbishop, and spread himself out into joy, now for the first time seeing his Thomas, once of the court, as archbishop. For he was especially and above all filled with joy because he had already privately heard so many great things about the sanctity of the archbishop who had been plucked from his court. But shortly after they had exchanged joyful greetings, the archbishop, out of consideration for the king's weariness and exhaustion after his sea journey, left and returned to his lodgings. The next day, however, they met and set out together, with no attendants, just the two of them, speaking frankly together in private, and complimenting each other. But when they had spent a few days in this manner, the archbishop, along with his charge, the king's son, took his leave of the king in the highest favour. But the aforesaid plaintiffs,⁸ seeing and hearing these things, made themselves scarce and dropped their petitions.

Then after a little, Pope Alexander III of happy memory convened a council throughout the entire Catholic Church⁹ – for there was at that time a schism in the Roman Church. Therefore our archbishop, who

⁷ He arrived in late January 1163.

⁸ See above, p. 71.

⁹ See R. Somerville, *Pope Alexander III and the Council of Tours (1163)* (Berkeley, 1977). The main purpose of the council was, like that of the Council of Montpellier in May 1162, to assert Alexander III's authority over the antipope (see above, p. 22). During the council Thomas clashed with Roger of York over seating arrangements. He also tried to secure the canonisation of his predecessor Anselm, but the pope deferred all petitions because there were too many. After 1170, the question of Anselm's canonisation was rapidly overshadowed by the success of Thomas's cult.

was great in all things, prepared himself with great splendour to cross the sea. The king, whom he loved as a lord and more than a man, visited him, and the archbishop's charge¹⁰ was restored to his father. After some days spent in pleasant and intimate conversation, he said goodbye to the king and awaited a favourable wind on the Kent coast in one of his own villages, called Romney. When after a few days such a wind was provided, he set sail and landed safely in Flanders, in the port of Gravelines, with great and magnificent splendour. Soon Philip count of Flanders and Vermandois came to him there, and on the next day the magnates and nobles of the land hastened to him, eagerly showing him full honour and offering whatever they could. He then travelled through Normandy and Maine, all in the dominion of the illustrious king of the England, through cities, towns and villages, received with as much honour as if it were the king himself. Approaching Tours, he entered the city, if I am not mistaken, on the third day before the celebration of the council. Hearing of the arrival of the archbishop of Canterbury the whole city was immediately roused, and all went out to meet him, not only the citizens and locals, but also the ecclesiastical persons who had now almost all assembled for the council, archbishops and bishops of diverse nations. And one ought not omit that, contrary to the custom of the Roman Church, the lord fathers and rectors of the Church, all the cardinals, came out to meet him well before he reached the city, except for two who remained with the lord pope, lest in such a crowded throng he be left without company. So great was the crowd of followers, as the archbishop entered the palace to meet the lord pope, that the pope, out of necessity lest he be crushed, left the chamber in which he had been, and entered the palace. As if impelled by the spirit of prophecy, the pope, who seldom got up for anyone, came to meet the archbishop, and hastened to show him reverence. Indeed this whole meeting, honorific and prophetic, like another Presentation of the Lord in the person of the Lord's anointed, seems like a foretelling of the future. This we fully see today, when people come to visit him from the whole Christian world, from east and west, through many difficulties, and a greater number adore him. So the lord pope then received him most pleasantly, and more pleasant was it for him, who for a long time had wished to see the archbishop, and had heard so much good about him. And having consideration for his journey, as it seemed, he dismissed him, saying, 'Go and rest father. Rest is needed after

¹⁰ I.e. the young Henry.

labour'. So then we¹¹ withdrew and resorted to our lodgings in the king's castle nearby.

Early the next day you would have seen a great crowd converging on these quarters, as those who had heard of Thomas's greatness now beheld it. So, day after day, ecclesiastics of diverse realms flocked to him, seeking and offering favour and friendship. Besides nobles and potentates of the land who repeatedly came and returned to us, also in particular royal justices, knowing the archbishop to be high in the king's favour, were constantly present around us, either performing service or ready to do so. And what is even greater, the Roman Church honoured our archbishop before all others as it were with the honour and respect due to primogeniture, as if he were the first-born of the many gathered there. But when the council had already been proceeding for a number of days, and at his petition some privileges of the archbishop's church had been renewed, the pope dismissed him and all of us who were with him with a kiss of peace, secure in apostolic blessing and favour. And indeed crossing the sea to England with a gentle breeze, we returned speedily in joy and prosperity, now in the second year of the archbishop's consecration. And, according to custom and right, he was received by the king in all happiness and enthusiasm as if a father by his son ...¹²

After a little the archbishop called together many co-provincial bishops and magnificently dedicated that noble and royal abbey of Reading, in which Henry of divine memory, formerly king of England, and grandfather of our illustrious king Henry II, himself its founder, rests in a glorious mausoleum.¹³ This was done at the king's wish and in his presence. And in the same year¹⁴ in London, at the equally famous and royal abbey of Westminster, he raised from the dust the body of the glorious and truly saintly Edward, as a very distinguished and precious vessel of perfect continence.¹⁵ And on account of the many outstanding merits of his royal life he solemnly elevated it and placed it among the bodies of the saints, likewise at the wish of the king and

11 Herbert accompanied Thomas to Tours.

12 Here Herbert describes how Thomas encouraged the king to fill vacant sees.

13 The dedication of Reading Abbey, which became something of an Angevin shrine, took place on 19 April 1164, and was one of the last acts of co-operation between Thomas and Henry.

14 Probably 13 October 1163.

15 The cult of King Edward the Confessor (1042-66) was vigorously promoted by Henry, who was a kinsman through his great-grandmother Margaret of Scotland. This translation probably took place on 13 October 1163.

in his presence. And, as we have said, the heart and mind of the illustrious king and holy pontiff were as one in God, and through this kingship and priesthood converged in the greatest peace and tranquillity, through the power of the God of peace and love.

But alas and truly alas, nothing in life lasts forever, nothing stays the same, but according to the saying of the wise and most experienced man, 'For everything there is a season, and a time for every matter under heaven: a time to weep, and a time to laugh, a time to love and a time to hate, a time for war and a time for peace: for everything there is a season'.¹⁶ Great certainly the reputations and beloved bonds of such a great king and such a great pontiff. Indeed it would have been difficult to find in any other country in the world such a great king and so great a pontiff, and such harmony between such great men. Great indeed the harmony, but brief the duration.

16. Beginning of the troubles (summer 1163)

The biographers tend to identify the root of the conflict in Henry's project, inspired by evil counsellors, to limit the Church's rights, combined with Thomas's new zeal for ecclesiastical liberty. Most point to the Council of Woodstock as the first major clash between the king and archbishop when Henry attempted to levy the Danegeld in the form of 'sheriff's aid'. The case of Philip de Broi discussed here is the most celebrated case of 'criminous clerks' – those clerks accused of a serious felony whom Henry believed were receiving unduly lenient treatment in ecclesiastical courts.

Roger of Pontigny', *MTB* 4. 22-5.

It happened at that time in certain crowded gathering that Thomas delivered a sermon to the clergy and people in the presence of the king. His sermon concerned the kingdom of Christ the Lord, which is the Church, and the worldly kingdom, and the powers of each realm, priestly and royal, and also the two swords, the spiritual and the material.¹⁷ And

¹⁶ See Ecclesiastes 3.1; 4.8.

¹⁷ '[The disciples] said "Look, Lord, here are two swords". And he said to them, "It is enough"' (Luke 22.38). In the eleventh century this became one of the most commonly used images of temporal and spiritual power. It was expounded by Gottschalk of Aachen and Peter Damian and later by Bernard of Clairvaux and was the source of much discussion in the continental schools of the twelfth century. See Smalley, pp. 26-8; I. S. Robinson, *Authority and Resistance in the Investiture Controversy* (Manchester, 1978), pp. 135-9. Herbert of Bosham reports how Thomas pointed to the distinct order of clergy in these terms at the Council of Westminster, October 1163: 'Holy church, the mother of all, both secular and priestly, has two

as on this occasion he discussed much about ecclesiastical and secular power in a wonderful way – for he was very eloquent – the king took note of each of his words, and recognising that he rated ecclesiastical dignity far above any secular title, he did not receive his sermon with a placid spirit. For he sensed from his words how distant the archbishop was from his own position: that the Church owned nothing and could do nothing unless he granted it. How that which had already lurked in the heart of the king from then on came out in the open, how the venerable archbishop opposed himself as a wall for the house of the Lord,¹⁸ and with what constancy he came to interpose himself to royal fury in order to protect ecclesiastical liberty, the following will tell. For whenever tyrants occupied the kingdom, they destroyed ecclesiastical liberties completely. This king Henry, following in their footsteps, usurped for himself the entirety of ecclesiastical management and organisation. For he conferred bishoprics and abbacies on whomsoever he wished, and now at his order and decree he drew priests and clerks to secular judgement, as if they were no different from the common people.

The first occasion then, whereby the archbishop's intention and constancy became known was like this. It was the custom in these parts that the king, for the greater security and custody of the kingdom, would appoint one of his vassals as sheriff¹⁹ in each county of the realm. And the counts and barons were accustomed to arrange a payment from their men to this sheriff, the king's official, of two shillings a year from each measure of their land, which they call by the ancestral name of hides, seeing that these officers protect them by their service and favour from facing exaction and false charges. Realising that these two shillings from each hide, if put together, would amount to a huge sum – for there are many thousands of hides – the king wished to attach it to his own use and revenues. On this account the bishops and nobles of the realm were called together at Woodstock,²⁰ and the king began to outline his plan to include this money in his revenues. And when this speech was met with universal

kings, two laws, two jurisdictions and two types of punishment: two kings, Christ the King of Heaven and the worldly king; two laws, human and divine; two jurisdictions, priestly and lay; two types of punishment, spiritual and worldly. "Behold there are two swords". "It is sufficient", said the Lord' (*MTB* 3. 268).

¹⁸ See Ezekiel 13.5.

¹⁹ The principal royal official in each locality.

²⁰ 1 July 1163.

silence, the archbishop alone answered, with great frankness but enough mildness, 'Lord, it does not become your excellence to deflect something that belongs to another to your use, especially when these two shillings are conferred on your ministers not out of necessity or duty, but rather as a favour. For if your sheriffs conduct themselves peacefully and respectfully towards our men, we will indeed give freely. But if they do not we will not, nor can we be forced by law'. To this the king in a fury said, 'By the eyes of God, they will be enrolled immediately', referring to those rolls in which a record of royal revenues are kept,²¹ 'but you yourself well ought to assent to my wish in this regard'. Then the archbishop said, 'By the eyes by which you swear, never while I am living will they be given from my land'. Sensing then that the archbishop was clearly opposed to him, the king was greatly displeased.

Not much later another bitter conflict arose between them on account of a certain canon called Philip de Broi,²² whom certain people had accused of killing a knight. He had given adequate answer to the king on this homicide charge, and when his adversaries had failed in the case, he purged himself to prove his innocence more clearly. But a certain Simon FitzPeter, whom the king had appointed as judge in the region of Bedford, where the same Philip lived, tried to reopen the case. Philip, however, refused to answer again to a charge which had already been concluded and terminated by judicial procedure, certainly before a lay justice. Furthermore, he indignantly rebuffed this Simon, injuring him with many insults and calumnies.

The king being then in London, Simon came to him and told him all that Philip had done to him. Hearing these things the king flew into a rage, and swore fearfully in his accustomed way by the eyes of God, that he would regard the abuse thrown at his knight as if Philip had thrown it at himself. So, without delay he ordered him to be judged. But the archbishop, who was present and heard this said, 'By no means will it be so, for laymen cannot be the judges of clerks. If a clerk offends in some way he ought to be corrected in the ecclesiastical court. So, if the king or his knight complains of any offence to himself let him come or send his men to Canterbury, and there he will receive

²¹ The pipe rolls, in which accounts of the exchequer were kept.

²² This is the most celebrated case of a 'criminous clerk'. On this issue, see C. Duggan, *Canon Law in Medieval England* (Variorum Reprints, London 1982), especially 'The Becket Dispute and the Criminous Clerks' (first published in *Bulletin of the Institute of Historical Research*, 35 (1962), 1-28).

full justice on ecclesiastical authority'. The king was enraged and said much, but nevertheless, though unwilling, he sent certain bishops and nobles to Canterbury on the day appointed by the archbishop, who urgently assailed Philip with the old charge of homicide. And when it was judged that a terminated case ought not be repeated in an ecclesiastical court, he was finally charged on the insults made to the king's knight. And since Philip would not deign to deny it, for he was a great man from a great family, his adversaries burst out in public, saying, 'We demand judgement on the evident injury which has not been denied'. And even when Philip offered himself for voluntary satisfaction, it was still demanded that he be judged. Therefore Philip was sentenced to place his benefice in the king's hands for two years, and the king during this time would do as he wished with his revenues. But he also offered himself naked before the knight, to make satisfaction, following the custom of the land. When those who had been sent returned and reported on what had been done, the king answered that his honour had been injured and denied. But when the bishops said that they had judged justly, except they had for the sake of peace and the king's honour oppressed Philip more than he deserved, the king became angrier and said, 'By the eyes of God, you will swear to me that you will pronounce true judgement'.

17. Early disputes (summer 1163)

William Fitzstephen, *MTB* 3. 43, 45-6.

The archbishop granted the church of Eynsford to a certain clerk called Lawrence. For it was his right not only to fill vacant churches on the estates of the monks of Canterbury but on those of the archbishop's barons. The lord of the estate, William of Eynsford, objected, and expelled Lawrence's men, so the archbishop excommunicated him. The king immediately wrote to the archbishop that he should absolve him. The archbishop answered that it was not the king's place to order the absolution or excommunication of anyone. The king claimed that it was his royal right that none of his tenants-in-chief²³ was to be excommunicated without his consultation. Eventually, to allay the king, who was now furious with him, and would only communicate with him through envoys, the archbishop absolved William. And the

²³ Those who held their lands or offices directly from the king, i.e. the senior nobility and royal officialdom.

king, being at Windsor said, 'I give him no thanks for it now' ...²⁴

An early dissension between the king and holy Thomas arose over a certain clerk in the district of Worcester who was said to have lain with the daughter of a certain distinguished man, and on her account to have killed her father. The king wished this clerk to be examined and judged by a proceeding of the secular court. The archbishop resisted, and arranged that the clerk be kept in the bishop's custody, so as not to be handed over to royal justice. Another dispute arose over a clerk who stole a silver cup from the church of his archbishop, St Mary-le-Bow in Cheapside, London. When he was arrested the king wished him to be judged in a secular court. But the archbishop had him stripped of his order by the Church court, and also had him branded to placate the king.

18. The Council of Westminster (October 1163)

Summa Causae Inter Regem et Thomam, MTB 4. 201-5.

Henry, noble king of England, duke of Normandy and Aquitaine and count of Anjou, came to London on 1 October 1163,²⁵ as did Thomas archbishop of Canterbury, Roger archbishop of York, and all the bishops of England. The sole and entire purpose of the council was that the metropolitan of Canterbury be solemnly designated as primate of all England, to which only the archbishop of York objected.²⁶ When, lo and behold, to everyone's surprise the king of England began to propose certain rather harsh measures.

First he bitterly complained of unruly archdeacons,²⁷ who turned the wrongs of others into profit for themselves, who exacted payment for sins, and used it to cultivate their own excessive luxury, without

²⁴ Here William describes a case dating from Theobald's time regarding exactions by archdeacons and rural deans.

²⁵ This date has been challenged on the basis that the conference is more likely to have begun with the translation of Edward the Confessor, which seems to have occurred on 13 October: see *Councils and Synods*, pp. 849-50.

²⁶ This claim is not corroborated by the other sources, and is probably a reflection of Canterbury bias. It refers to the 'primacy dispute' between Canterbury and York, a matter of heated debate since the late eleventh century. Canterbury claimed a position of supremacy over the entire English Church, while York claimed equal status to Canterbury.

²⁷ Bishops' deputies and representatives. They tended to have a reputation for corruption.

rendering the correction due to sinners. And he said that archdeacons should not summon anyone on any charge, however great the suspicion, without the knowledge of his official. And soon turning to another subject he said, 'I am very concerned with peace, and greatly distressed on its behalf, which in my kingdom is disturbed by the wickedness of clerks who perpetrate rapine and theft and often murder. Therefore I seek and desire that by your consent, lord of Canterbury, and that of your fellow bishops, clerks caught in evil-doing or who confess to it be convicted in the ecclesiastical court, and then be transferred immediately to the magistrates of my court, so that stripped of ecclesiastical protection they receive physical punishment. I also desire and seek that you consent to my officials being present as the clerk is stripped of ecclesiastical orders, so that they can take hold of him immediately, and not allow him an opportunity to flee physical punishment'.

The archbishop of Canterbury, when he was unable to obtain a respite until the next morning for an answer to this request, withdrew in conclave with his fellow bishops. Soon various arguments were advanced. The bishops said that according to secular law discharged clerks should be transferred to the court, and after this spiritual penalty should receive physical punishment. Having a greater dignity on account of their order, they should be judged more harshly for their offence, and being judged more harshly, they should be punished more severely. 'No wonder then', they said, 'if punishment to the body should follow the deprivation of their order'. This they proved not only with reference to laws, but also with authoritative examples. They pointed to the Levites of the Old Testament, who when convicted of a very serious offence were punished with death, or for a lesser crime lost a limb.

But the lord of Canterbury, being consistent with the holy canons, argued the contrary, asserting that it would be altogether unjust and contrary to the canons and to God, if to punish one crime, someone submit to two judgements. "For God does not judge twice for the same thing".²⁸ For what the Church judges', he said, 'is either just or unjust. You will not grant that it is unjust, therefore it is just. And when a judgement is not an absolution, it is a condemnation. If then the accused is condemned, and stripped of his office, one ought not initiate another trial to condemn the same sin. Also, we must be aware that our consent does not allow the oppression and destruction of the

²⁸ Jerome's commentary on Nahum 1.9.

Church's liberty, for which, by the example of our Most High Priest,²⁹ we are bound by our office to fight to the death. You have not yet resisted to the point of shedding your blood.³⁰

The bishops replied that the destruction of the Church's liberty would bring no danger to the Church. 'But', they said, 'it is better that it perish than that we all perish. Let us do therefore what the king requires. Otherwise no refuge will remain to us, and no one will care for us.³¹ But if we give our consent to the king we will enjoy the sanctuary of the lord as our inheritance, and sleep secure in our ecclesiastical possessions. We must make allowances for the evil of these times'.³² So said the bishops, as if the evil of the times were not enough without the added evil of the bishops.

In response the lord of Canterbury, inflamed by zeal for the house of God said, 'I see that you console yourself for your inertia under the guise of patience, and suffocate the liberty of Christ's bride under the pretext of management. Who put a spell on you, foolish bishops? Do you think you can cover up your manifest iniquity by calling it prudent management? What do you call management, that is destructive to the whole Church? Let things be called by their names, do not pervert things and words. I certainly agree with what you say, that we must make many allowances for the evil of the times, but that does not mean that sins should be heaped on sins. God is capable of improving the Church's condition without worsening ours. Is God unable to help the Church except through the crimes of the Church's teachers? I think you are feeling sorry for Christ's weaknesses, as if he were unable to lift up his bride,³³ unless aided by our judgement. In fact God is testing you. Let me ask, when ought bishops to offer themselves to danger, in tranquillity or in danger? You would certainly be ashamed to say that it is in tranquillity. Then it must be, that when the Church is threatened, the pastor of the Church ought to oppose himself to the danger. For it is just as worthy for us in our time to spill our blood for the liberty of the Church, as it was for the bishops of old to found the Church of Christ in their blood. And I affirm, with God as my witness, that it is not safe for us to retreat from this principle that we received from our saintly fathers. Nor

²⁹ I.e. Christ.

³⁰ Hebrews 12.4.

³¹ See Psalm 142.5.

³² See Ephesians 5.16.

³³ I.e. the Church.

ought we to expose anyone to death, when we are not allowed to be present in a judgement involving bloodshed'.

These words were speedily reported to the king. Hearing that so many of the Church which he knew to be not columns but reeds, that swayed and quivered in the wind, were not about to submit to his will in every way – and certainly they would have given in to threats, had they not seen the archbishop's constancy so clearly – he realised that he could not achieve what he wished with this formula. Therefore, quickly turning to another, he asked if they would obey his royal customs in every respect. But the archbishop of Canterbury, when he had received counsel, said, 'Yes, in every way – saving in all respects our order'. Then the king asked the same of each in turn, and all replied in the same way. And when he continued to press, asking again and again if the archbishop of Canterbury would promise to observe his customs entirely, absolutely and without adding the exception of his order, he was unable to obtain what he wanted from the vicar of Christ. Therefore the king was greatly troubled, and all Jerusalem with him,³⁴ and in this heated mood he left London without notice, with all his business unfinished, and lawsuits left hanging.

You would have seen then disquiet among the laity, commotion among the clergy. The bishops, worried and fearful, pursued the king when he left, afraid that they would hear they had lost all their possessions if they did not find the king first. Soon they procured a secret meeting with the king, and disregarding all mention of God and their order, they gave their assent to his petition so freely that it seemed that they had conceded before they had even been asked. So much so that those who were thought most knowledgeable among them we found most eager to oppress the Church's liberty. Meanwhile the archbishop of Canterbury sat alone, looking right and left; no one took notice of him.³⁵ He sought solace in his brothers, but they shrank from him, and no longer walked with him. Finally, recognising the peace of sinners, and that danger was threatening him on all sides, he said, 'I have said that by no means would I obey the royal customs of an earthly king, unless in every way saving my order. On this account I incurred the offence of the king, on this account my brothers abandoned me, on this account I offended the whole world. What of

³⁴ See Matthew 2.3: 'When Herod the king had heard [the wise men's report of Jesus' birth] he was troubled, and all Jerusalem with him.' The biographers make a number of similarly sly identifications of Henry with Herod and other tyrants.

³⁵ See Psalm 142.4.

it? Whether the world likes it or not, in negotiating with a mortal man I will never, God willing, be forgetful of my God and my order. Far be it from me, that through fear or favour of any mortal I am found to have disparaged God. If an angel came down from the sky and gave me such advice I would curse it.³⁶

**19. Thomas is persuaded to submit to the royal customs
(winter 1163-64)**

The day after the council of Westminster Henry demanded back the castles he had granted Thomas during his chancellorship, and removed his son Henry from Thomas's care. Pressure was brought to bear on Thomas from the English clergy and nobility and from a papal mission, until he agreed to accept the royal customs at Clarendon in January 1164.

'Roger of Pontigny', *MTB* 4. 27-37.

Frustrated in his purpose for the time being, soon after when he was staying at Northampton the king summoned the archbishop. He wanted to tempt him, to see if there was some way to turn him around and bend him to his will. The archbishop approached the town and announced his arrival to the king who, with whatever cunning, sent some men to meet him, who told him, 'The king is staying in town with many men, and you have come with no less a multitude. The place is not big enough to hold you both. Therefore the king commands you to wait here for him, and he will come and speak to you'. The archbishop then turned into a field, and the king arrived immediately without delay. The archbishop approached him, taking care to meet him first with the due honour of greeting. But because the horses on which they sat were so frisky, neighing and rearing up, they were unable to approach each other, so eventually when they had changed horses the two stood together, apart from the others.

Then the king addressed the archbishop in this way: 'Did I not raise you from a humble and poor rank to the highest peak of honour and distinction? And this did not seem enough to me, unless I also made you father of the realm, and even exalted you over myself. How is it then that so many favours, and such signs of my love for you, well known to all, could so suddenly be banished from your mind, so that not only do you turn out to be ungrateful, but even hostile to me in every way?' 'Far be it, my lord', said the archbishop. 'I am not

³⁶ See Galatians 1.8.

unmindful of your favours, which in fact not simply you, but all-bestowing God, deigned to confer on me through you. For this reason far be it that I appear ungrateful or in any way hostile to your wish, provided that it agrees with God's will. For your dignity knows how much loyalty I have shown you, from whom I expected such great temporal reward. How much more necessary is it that we perform faithful and sincere service to Almighty God, from whom we receive temporal benefits and hope for eternal ones. Yes, you are my lord, but He is my Lord and yours, and to neglect His will so that I comply with yours would not be good for you or me. For in his terrible tribunal we will both be judged as servants of one Lord, neither of us will be able to answer for the other, but each of us will, without excuses, receive according to his deeds. For worldly lords ought to be obeyed, but not against God, as St Peter said, "We must obey God more than men".³⁷

To this the king said, 'I do not want a sermon from you. Were you not the son of one of my villeins?' The archbishop answered, 'True, I was not "sprung from royal ancestors",³⁸ nor was St Peter prince of the apostles, to whom the Lord deigned to confer the keys of the kingdom of heaven and command of the entire Church.' 'Yes', said the king, 'but he died for his Lord'. But the venerable archbishop answered, 'I too will die for my Lord when the time comes.' 'You adhere and rely too much on your manner of ascent', said the king. 'I have confidence and trust in the Lord', replied the archbishop, 'because cursed is he who puts his trust in man.'³⁹ Nevertheless, whatever you say and I answer, I am prepared now, just as before, to serve your honour and pleasure, saving my order. But on those things which bear on your honour and the well-being of your soul, you ought to have consulted me, whom so often you have found productive and useful in counsel, rather than those who, under the pretext of your honour, without provocation lit the flame of envy, and strive to exact revenge on me, who has done them no injury. You will not deny, I believe, my faith to you before I reached holy orders. How much more ought you to think me faithful to you in every way now that I have been raised to the priesthood?' The archbishop concluded with many salutary words full of love and faith, but nevertheless the king forcefully insisted that that phrase, 'saving your order', be entirely

³⁷ Acts 5.29.

³⁸ Horace, *Odes* I. i.

³⁹ Jeremiah 17.5.

omitted. But as he could not obtain this, while the archbishop persisted resolutely in his purpose, they withdrew from each other.

At the same time, Arnulf bishop of Lisieux, who had offended the king,⁴⁰ crossed the sea and came to him, seeking to appease him by whatever means possible. He spoke to him in an entirely flattering and pleasing way, and was not even afraid to counsel him against the archbishop. For he said to the king, 'The present dispute between you and the archbishop is a difficult one and cannot be ended easily. For it is impossible to subject the archbishop to your will as long as his suffragans are of the same purpose and share his viewpoint. So, if you are unable to tear all of them away from him, at least try in some way to attach some of them to yourself. When you have done that, the remainder will not find it easy to stand firm. For, with the bishops on your side, if the archbishop chooses to persist stubbornly in his purpose, not only will he be unsuccessful, but with the bishops taking care of it he will incur sentence of suspension.' The king then, following this counsel, summoned to Gloucester those he believed were the more pliable of the bishops, Roger of York and the bishop of Lincoln,⁴¹ and worked on them until they were prepared to confirm his customs, promising that he would demand nothing from them that would go against their order. So these two submitted, vowing to do as he wished, and not much later the king attached Hilary of Chichester to his party.

When this had been done the same Hilary visited the archbishop at Teynham, and began to urge him, because he could not convince him, to devote himself to the king as he wished, asserting that this would benefit him greatly in every way. For he was very learned, and spoke with polished and persuasive words. But the archbishop, who sought not his own but the things of Jesus Christ said, 'Far be it that I buy back the favour of an earthly king through such commerce, offering him the Church which the king of heaven purchased with his own blood. You, along with Lincoln⁴² and York – let's hope not with impunity – may have made ecclesiastical laws something to buy and

⁴⁰ This may be a reference to Henry's anger at Arnulf's enthusiastic championing of Alexander III in the papal schism before he had decided between the candidates. On the loss of Arnulf's favour before the king, see F. Barlow, *The Letters of Arnulf of Lisieux* (Camden Society, 3rd series, lxi, London, 1939), pp. xxix-xxxii.

⁴¹ This should probably read London (*Londoniensem*) rather than Lincoln (*Lincolniensem*): Gilbert Foliot rather than Robert de Chesney.

⁴² See n. 41 above.

sell, or rather worthless as far as you are concerned, promising the king that you will observe his customs, which everyone knows to be contrary to the canons of the holy fathers. Nevertheless, whatever you may have done, or others might do, you will never have me as an ally in such appalling presumption.' To this Hilary said, 'I ask you, what is this evil that is so great and appalling that you alone see and understand it, and no one else? The king asked us to defer to him in this phrase, and honour him, and he promised us that he would never use this concession to seek anything from us that would have consequences for our order. Is this, I ask you, so great an evil, so enormous a presumption, to honour one's lord?' 'It is not evil', said the archbishop, 'but good, to honour one's lord, as long as God is not dishonoured, and Holy Church is not disturbed or endangered. For this you most certainly will discover, that the king exacts from you whatever you promised him, but you cannot force him to stick to his promises.'

At the same time Pope Alexander, who was residing in France,⁴³ sent a Cistercian abbot called Philip of Aumône, a man of great renown and authority, to restore peace, if possible, between the king and the archbishop. The abbot came to England and joined up with Robert of Melun, bishop of Hereford, and John count of Vendôme. They came to the archbishop at Harrow,⁴⁴ and Philip presented him with a letter from the pope, and letters from certain cardinals, in which the archbishop was urged to show himself moderate and flexible to the will of the king. Indeed he was reminded in these letters that due to schism the Church's standing was troubled and overcast. And he was warned to be very much on his guard lest the tempest, which had taken hold of the Church's head, should also be spread through the limbs, because then there would be no rest. Therefore in the meantime dispensation would be necessary, it not being expedient at present for rulers of the Church to exercise due severity. Instead much dissimulation was necessary, and some things ought to be tolerated for the time being. These letters contained much in this manner. And together the bishop, abbot and count added verbally that the king had ensured them in the word of truth that he would never demand anything from the archbishop contrary to his order and wish. The king, they said, had been dogged in his purpose because it would have seemed shameful to him to be defeated by the archbishop, without persuading him to even think fit to honour him verbally. So

⁴³ See above, p. 22.

⁴⁴ The archbishop's manor.

these men begged and urged and insisted in every way that the archbishop come with them to the king, and that he indulge his wish with the simple word alone, omitting that phrase, 'Saving our order'. When this was done, he and the English Church would gain the king's full peace and favour, and the reference which had been made to the customs of the realm would be completely forgotten forever. For this abbot of Aumône was of such reputation and fame that he easily inspired faith. Hence the archbishop, swayed by the advice of the lord pope and the cardinals and the words of this abbot and the others who came with him, and trusting in their promises, set out along with them to the king.

Finding the king at Woodstock,⁴⁵ the venerable archbishop spoke to him with great mildness, proposing as an example to him those saintly kings of the realm, who were not only made acceptable to God by their faith and piety, but in some cases were even made glorious by the crown of martyrdom.⁴⁶ He urged and begged with humble entreaty that he also follow their examples and footsteps, and, when he had destroyed and condemned forever the abuses of tyrants, that he strive to associate himself with the merits and company of saintly kings. 'And lest', he said, 'I should seem to interpose any obstacle to your goodwill, if the Lord has thought fit to inspire it in you, know that I will observe the customs of the realm in good faith, and from now on, as is right and just, I will in all respects be compliant to you in good'. Then the king said to him, 'Everyone knows how stubborn you showed yourself by using that phrase and how much you offended my honour by your defiance. Therefore, as you refused to honour me as was fitting, what is known by all to have been detracted from my honour in this regard must be corrected and acknowledged before all. Send your messengers, therefore, and call together the bishops and abbots and all others who are most eminent in ecclesiastical honours. And I on my side will call all the nobles of the realm so that this wording may be acknowledged in the presence and hearing of all to my honour.'

When then all gathered at Clarendon at the appointed time,⁴⁷ the king began vigorously to demand that the aforesaid pledge regarding the

⁴⁵ Grim and Garnier also place this meeting at Woodstock, but the more reliable witnesses Gilbert Foliot and Herbert of Bosham place it at Oxford nearby. Both were royal residences.

⁴⁶ Presumably a reference to Edward the Martyr, king 975-79.

⁴⁷ Late January 1164. In the royal chronicles it is dated 13 January by Gervase of Canterbury, and 25 January by Ralf of Diss (see below, p. 107 n. 116). The Constitutions of Clarendon are dated 30 January.

observation of the customs be given by the archbishop. The archbishop then realised that the situation was far from the impression given to him by the abbot of Aumône, and that the king was in no way to be restrained from his evil plan; instead that he would press on with all his might to firmly establish and confirm these hateful customs. Therefore he chose to give the king an opportunity for calumny against him alone, rather than put the Church's cause entirely in danger. So he dissimulated and hid himself as much as he could, so as not to make any recognition or concession there. When the king heard of this, he was beside himself with rage, and resolved to employ no longer counsel but the sword, threatening that soon he would be another Saul to the priests of the Lord⁴⁸ unless his will was satisfied immediately and without delay. The king's indignation was quickly made known, throwing everyone and everything into turmoil. Royal attendants ran this way and that, showing more aggressive expressions than usual, as if already preparing themselves for an outrage. Everyone there was filled with horror and dread, and no wonder, for the anger of the king is like a roaring lion.⁴⁹ All the while the priests of the Lord stood like a flock prepared for sacrifice, terrified and distraught. The archbishop alone retained a merry and happy appearance, and he consoled them, saying that such was fitting for true priests of the Church. But those of the clergy present who were of a less evident reputation and name dispersed hither and thither, stealing themselves away from the danger which they now feared was imminent.

For there were then among the bishops two, Jocelin of Salisbury and Roger of Norwich,⁵⁰ whom the king detested for different reasons. For Norwich, who was a close relative of the king, although he was young in age, was nevertheless a devout man jealous of ecclesiastical liberties, and had incurred the king's wrath by freely rebuking him for his transgressions. Salisbury had earned his hatred for other reasons.⁵¹ These two came to the archbishop with wavering voice to ask that he

48 Saul was an Old Testament king who had his priests killed: see 1 Samuel 22.

49 See Proverbs 20.2.

50 This is surely Roger of Worcester, the king's cousin, aged around thirty at this time, and known to rebuke the king for his treatment of the archbishop (see *MTB* 3. 104-6), rather than the elderly William of Norwich. Clarendon occurred between his election in March 1163 and his consecration in August 1164.

51 There are many references in the sources to the king's displeasure towards Jocelin de Bohun, but no explanations. See D. Knowles, *The Episcopal Colleagues of Thomas Becket* (Cambridge, 1951), p. 21 n. 1.

have pity on them, saying that unless that very day he made full peace with the king, even if others were spared, they would not be, indeed they would be killed. But the archbishop, meeting their timidity and faintheartedness with gentle consolation, remained immovable in his opinion. At the same time two of the greatest and most noble lords of the realm, William⁵² of Leicester and Reginald of Cornwall, the king's uncle, came to him, warning and resolutely asking how much he pitied his people and those who had come with him, saying that the king was very angry and agitated, and that he had already drawn the sword, ready to avenge the contempt to him. 'We', they said, 'who are friendly and faithful to you, pray that you have pity, because unless you fully satisfy the king today, we will inevitably have to carry out an unprecedented outrage by our own hands.' 'It would not be great or unprecedented', said the archbishop, 'for us to die for ecclesiastical laws, since an innumerable crowd of saints has taught us this by word and example. May God's will be done.'

Then when these withdrew rebuffed, two Templars came to him, themselves in their way also of great renown and reputation. One was Richard of Hastings, master of the Templars of the whole kingdom, the other called Hostes,⁵³ no less well-regarded in court. These two stood before the archbishop and said to him with sighs and groans, 'Lord, why are you so inexorable in the cause of Holy Church, which today will undoubtedly suffer grave and unprecedented danger unless the king's wish is satisfied? For we know most certainly that the king is planning neither fraud nor deceit against you, but to him it seems too harsh and unbearable, if he is seen to be defeated by you regarding this formula. For this reason we entreat you in every way, and advise and counsel you in good faith to satisfy the king verbally, and you will never again hear mention of these customs which you recoil from and detest so much. But as soon as you honour the king in the hearing of all, just verbally, all indignation and enmity will be wiped away and full peace between you and him will be restored. This we faithfully promise you in the word of truth, and we give ourselves as vouchsafers and guardians in this business, and may our souls be liable to eternal damnation if the king requires anything from you from now on against your will or that of your order.'

Moved by their tears and their words uttered with such affirmation, and seeing the king and his men ready to carry out outrage and

⁵² This should read Robert.

⁵³ Of St-Omer.

slaughter, the archbishop spoke first with the bishops about these things which he had heard, and then at one with them he came to the king and spoke to him thus: 'My lord king, if controversy had arisen between us over your law you would have immediately found me to have conceded to your will straight away and without contradiction. But now when a serious debate full of danger to both of us is aired regarding ecclesiastical business, for the time being committed to us, it ought not to appear remarkable or unseemly if I am somewhat more scrupulous in God's cause, knowing that I will have to hand in an account of my stewardship to Him who does not spare the sinner.⁵⁴ But now, having better hope on account of your prudence and mildness, I freely consent to your demands, and I declare that I will keep the customs of the realm in good faith.'

Hardly had the words left the pontiff's mouth than the king answered in a loud voice, 'You all hear what my archbishop has conceded to me of his own accord. It remains now that the bishops, by his order, do the same'. The archbishop said, 'I wish that they satisfy your honour just as I did'. Then the bishops rose and gave their assent, all except Jocelin of Salisbury who remaining seated asked the archbishop if he should do the same. The archbishop said that he should and he gave his assent. Shaking his head the king showed his disapproval of the bishop of Salisbury, who had always been conspicuously hostile to him. The archbishop, however much he thought the controversy over, following what he had heard from the Templars, still awaited the outcome of the matter anxiously and hesitantly, as if it hung in the balance.

And so the king said, 'I believe all have heard that the archbishop and bishops have conceded to me that the laws and customs of my realm will from now on be firmly held and observed. Therefore so that no further contention or contradiction arise between us, let the more prudent and senior nobles rise and go outside with my clerks to recollect the laws and customs of my grandfather King Henry. And when they have been carefully written down, let them be brought quickly to me.' Without delay it was done as he had ordered, and when the customs were recorded and brought forward the king ordered them to be read. When they had been read the king again said, 'See, these are the customs which have been conceded to me. Therefore, lest a disputed point arise from now on in relation to these, or perhaps new pleas emerge, we desire that the archbishop affix his seal to them.' To this the archbishop said, 'By Almighty God, never while I am living

⁵⁴ See Luke 16.2; Job 9.28.

will my seal be put to these.' Then the clerks and officials of the king turned themselves to another contrivance. At the king's bidding they quickly drew up a chirograph,⁵⁵ divided it through the middle according to custom, and gave one part to the archbishop. The archbishop said, 'This I accept, not as consent or approval, but as precaution and defence of the Church, so that by this evidence we may know what is to be done against us. For once we have understood the snares and traps concealed for us, God willing we will be more cautious.'⁵⁶ Having said this he got up, enraged, and left.

20. The Constitutions of Clarendon (January 1164)

The Constitutions survive in a form which indicates which were condemned or tolerated by the pope. The contentious clauses concerned royal and ecclesiastical jurisdiction (1, 2, 3, 7, 9, 15), relations with the pope (4, 8), excommunication (5, 6, 10) and vacancies (12). See the commentary in *Councils and Synods*, pp. 855-77.

Councils and Synods, 877-83; *MTB* 1. 18-33.

In the year from the incarnation of our Lord 1164, the fourth of Alexander's pontificate, the tenth of the most illustrious king of England Henry II, in the presence of the said king, was made the record and acknowledgement of a certain portion of the customs, liberties and privileges of his ancestors, that is of King Henry I and of others, which ought to be observed and maintained in his kingdom. And because of the disagreements and conflicts which had arisen between the clergy and the justices of the lord king and the barons of the realm regarding the customs and privileges of the realm, this recording or acknowledgment was made in the presence of the archbishops, bishops and clergy, and the earls and barons and nobles of the kingdom. And these customs were recognised by the archbishops and bishops and earls and barons and by the most eminent and senior men of the realm. Archbishops Thomas of Canterbury and Roger of York, Bishops Gilbert of London, Henry of Winchester, Nigel of Ely,

⁵⁵ A charter divided into two or more parts and given to the individual parties as testimony to the agreement.

⁵⁶ It is clear that Thomas accepted his part of the chirograph, and almost certainly as an act of approval, whatever his subsequent rejection of the customs. The suggestion that Thomas was merely doing so as a precaution is an attempt on the part of 'Roger' to lessen the damage of this most embarrassing episode in Thomas's career.

William of Norwich, Robert of Lincoln, Hilary of Chichester, Jocelin of Salisbury, Richard of Chester, Bartholomew of Exeter, Robert of Hereford, David of St David's and Roger bishop elect of Worcester gave their consent and in the word of truth resolutely promised aloud that they were to be kept and observed to the lord king and his heirs in good faith and without evil intent. These were present: Robert earl of Leicester, Reginald earl of Cornwall, Conan count of Brittany, John count of Eu, Earl Roger de Clare,⁵⁷ Earl Geoffrey de Mandeville,⁵⁸ Hugh earl of Chester, William earl of Arundel,⁵⁹ Earl Patrick,⁶⁰ Earl William de Ferrières,⁶¹ Richard de Lucy, Reginald of Saint-Valéry, Roger Bigod, Reginald of Warenne, Richer of Laigle, William of Briouze, Richard de Camville, Nigel de Moubrai, Simon de Beauchamp, Humphrey de Bohun, Matthew of Hereford, Walter of Mayenne, Manasser Biset the steward, William Malet, William de Courci, Robert of Dunstanville, Jocelin de Balliol, William de Lanvalis, William de Chesney, Geoffrey de Vere, William of Hastings, Hugh de Morville,⁶² Alan de Neville, Simon fitzPeter, William Maudit the chamberlain, John Maudit, John the Marshal, Peter de Mara and many other magnates and nobles of the realm, clergy and lay.

A certain part of the recognised customs of the realm is contained in the present document. These are its points.

Here begin the customs which are called ancestral.

1. (This the Holy Roman Church under Pope Alexander III condemned)

If a dispute should arise between laymen, or between clergy and lay, or between clergy concerning advowson⁶³ and presentation to churches, let it be tried and concluded in the court of the lord king.

2. (Tolerated)

Churches in the fief of the lord king⁶⁴ may not be given in perpetuity without his agreement and consent.

⁵⁷ Of Hereford.

⁵⁸ Of Essex.

⁵⁹ William of Aubigny.

⁶⁰ Of Salisbury.

⁶¹ Of Derby.

⁶² One of Thomas's murderers.

⁶³ The patronage of an ecclesiastical office or benefice.

⁶⁴ Churches which are held as a direct grant from the king.

3. (Condemned)

Clerks charged and accused of any offence, when summoned by the king's justice, shall come to his court to answer there concerning what seems to the king's court ought to be answered there, and in the ecclesiastical court for what seems ought to be answered there, but in such a way that the justice of the king sends men into the court of Holy Church to see in what way it is tried there. And if the clerk should be convicted or confesses, the Church ought no longer protect him.⁶⁵

4. (Condemned)

Archbishops, bishops and beneficed clergy may not leave the realm without the king's licence. And if they shall leave, if it pleases the king, they shall give security that neither in going nor in staying nor in returning shall they promote evil or damage to the lord king or the realm.⁶⁶

5. (Condemned)

Excommunicates ought not give a surety for good conduct nor offer an oath, but only a surety and pledge to adhere to the judgement of the Church in order to be absolved.⁶⁷

6. (Tolerated)

Laymen ought not to be accused except by certified and lawful

⁶⁵ This, the most controversial of the Constitutions, is also the most complex and ambiguous. 'The intention, wrapped in decent obscurity, seems to be this: anyone accused of a criminal offence shall appear before the appropriate secular tribunal, but if he is there able to establish that he is a member of the clergy, the case shall be referred for trial to the ecclesiastical court; a royal officer will, however, accompany the accused to his trial and take charge of him when the church has found him guilty and "withdrawn her protection". The unexpressed implication, of course, is that the former clerk would be held for punishment as a layman': Warren, p. 481. 'From the royal side the constitution seems to incorporate four ideas: that royal courts should have jurisdiction, which was Henry's original and general claim; that what was done in ecclesiastical courts should be subject to surveillance by the royal court; that in so far as there was a powerful counterclaim by the church, this should be met by accepting the possibility that both secular and church courts had jurisdiction over aspects of such cases; and that convicted clerks should be handed over to the royal court for punishment': *Councils and Synods*, pp. 860-1.

⁶⁶ It was accepted practice for prominent churchmen to ask the king's licence to leave the kingdom, but the pope objected to any lay restrictions on the clergy's movements. Thomas violated this constitution when he attempted unsuccessfully to flee to the Continent, probably in early autumn 1164, and again in October 1164 when he succeeded in doing so.

⁶⁷ That excommunicates should only give a pledge to observe the judgement of the Church, and not be required to promise to future good behaviour.

accusers and witnesses in the presence of the bishop, but in such a way that the archdeacon does not lose his right or anything that belongs to him from this. And if the accused are such that no one wishes or dares to make a charge against them, let the sheriff act when called by the archbishop, and let twelve lawful men of the neighbourhood swear that according to their conscience they will make known the truth.

7. (Condemned)

No tenant-in-chief of the king, or any of his ministers of his demesne shall be excommunicated, nor shall the lands of any of them be placed under interdict, unless first the king is approached if he is in the realm, or his justiciar if he is outside, so that he do right concerning him, and so that what belongs to the royal court is concluded there, and what pertains to the ecclesiastical court be sent there and dealt with there.⁶⁸

8. (Condemned)

Appeals, if they should arise, ought to proceed from archdeacon to bishop, and from bishop to archbishop. And if the archbishop fails to do justice, it ought finally reach the lord king, so that by his order the dispute shall be concluded in the archbishop's court, in such a way that it ought not proceed further without the assent of the lord king.⁶⁹

9. (Condemned)

If a dispute should arise between a clerk and a layman, or between a layman and a clerk, over any holding which the clerk wishes to appropriate to free alms,⁷⁰ but the layman to lay fee,⁷¹ it will be resolved by the declaration of twelve lawful men through the consideration of the chief royal justice, whether the holding belongs to free alms or lay fee. And if it is declared that it belongs to free alms, the plea will be held in the ecclesiastical court. But if it belongs to lay fee, unless both appeal to the same bishop or baron, the plea

68 This addresses the issue raised by the case of William of Eynsford (see above, pp. 78–9).

69 This sought to regulate appeals to the pope, probably an impossible task considering the expansion of papal jurisdiction over the previous decades. The frequent appeals by Thomas, Gilbert Foliot and others over the following years made a mockery of it, and it was dropped by Henry at Avranches in 1172.

70 *Frankalmoign* tenure, by which churches held land, not for any of the usual feudal obligations, but for spiritual service, e.g. prayers for the donor.

71 The normal lay tenure, by which the tenant rendered rent, military service, etc.

will be heard in the royal court. But if both appeal concerning this fief to the same bishop or baron, the plea will be held in his court, in such a way that he who was first in possession will not lose possession on account of the declaration, until according to the plea the matter as been settled.⁷²

10. (Condemned)

If anyone from a city or town or borough or demesne manor of the lord king is summoned by an archdeacon or bishop upon any offence and hence ought to answer to him, and according to their summons refuses to give satisfaction, it is quite lawful to place him under interdict, but he ought not be excommunicated before the chief minister of the lord king of the town has been approached so that he may order him to give satisfaction. And if the king's minister fails to do this he will be at the mercy of the lord king, and then the bishop will be able to punish the accused by ecclesiastical justice.⁷³

11. (Tolerated)

Archbishops, bishops and all beneficed clergy of the realm who are tenants-in-chief of the king, hold their possessions from the lord king by barony, and are answerable for them to the king's justices and officials and they should respect and observe all rights and customs. And like other barons they ought to be present at the judgements of the lord king's court with the barons, except in cases concerning mutilation or death.⁷⁴

12. (Condemned)

When an archbishopric or bishopric or an abbey or priory of the royal demesne is vacant, it ought to remain in the king's hand and he ought to receive all revenues and duties from it as his demesne. And when the time has come to take thought for the church, the lord king ought to commission the principal beneficed clergy of the church, and the election ought to be held in the chapel of the lord king, by the assent of the lord king and the counsel of the clergy of the realm, which he shall call to do this. And there the elect shall perform homage and fealty to the lord king, as liege lord, for his life and limbs and his earthly honour, saving his order, before he is consecrated.

⁷² This established the assize *Utrum*, a standardised procedure by which a sworn inquest would decide by which form of tenure the land was held.

⁷³ This, like clause 7, is intended to regulate excommunication.

⁷⁴ As, for example, when the bishops were prevailed upon to judge Thomas at Northampton (below, pp. 102-3, 113).

13. (Tolerated)

If any of the magnates of the realm should prevent an archbishop or bishop or archdeacon from showing justice to himself or his men, the lord king ought to bring him to justice. And if by chance anyone should dispossess the lord king of his right, the archbishops and bishops and archdeacons ought to bring him to justice, so that he make satisfaction to the lord king.

14. (Tolerated)

No church or churchyard ought to retain against the king's justice anyone's chattels if they have been forfeited to the king, because they belong to the king, whether they are found in churches or not.

15. (Condemned)

Pleas regarding debts, whether agreed with or without an oath, belong to the king's justice.⁷⁵

16. (Tolerated)

Sons of villeins ought not to be ordained except with the consent of the lord on whose land they are recognised to have been born.

The record of these royal customs and privileges was made by the aforesaid archbishops, bishops, earls, barons, nobles and elders of the realm at Clarendon, on the fourth day before the Purification of the Blessed Virgin Mary,⁷⁶ in the presence of the lord Henry the king's son, and his father the lord king.

There are also many other great customs and privileges of the Holy Mother Church, and the lord king, and the barons of the realm, which are not contained in this document. May they be safe for Holy Church and the lord king and his heirs and the barons of the realm, and may they be observed undamaged forever.

21. Thomas laments his compliance (January 1164)

After his capitulation at Clarendon, Thomas, in penance, suspended himself from saying Mass until he gained absolution from the pope. Meanwhile Henry began to enforce observance of his customs, and attempted, unsuccessfully, to win the pope's approval for them.

Herbert of Bosham, *MTB* 3. 289–92.

⁷⁵ Church courts claimed jurisdiction in cases of oaths and perjury.

⁷⁶ 29 January 1164.

But on the road [from Clarendon] the archbishop seemed unusually disquieted and gloomy, for once not speaking to anyone on the way, nor anyone to him. He called no one, no one approached him, but alone and apart he rode along the way, alone on the road in thought. We, the companions of the journey, quickly noticed this. We conferred and offered consolation, already suspecting a little what the matter was. But eventually the disciple who wrote these things presumed to approach him and said, 'Lord, why do you wear such an uncharacteristically sad expression? Why do you not show that face that you wore yesterday and the day before, and why do you not confer or discuss with your men on the road as you usually do?'

The archbishop replied, 'No wonder I now seem like that when the English Church which my predecessors, as the world knows, ruled so prudently among so many dangers, should through my sins be delivered into slavery. In the midst of its enemies they fought so bravely on its behalf, and triumphed so successfully, and some of them resisted boldly and faithfully even unto death. But now, alas, because of me, the lady who stands before me⁷⁷ seems fit for slavery. Would that I had died before any eye had seen me.⁷⁸ And indeed it is fitting that the Church should suffer these things through me, and in my time, because I was raised to this office not, like my predecessors, from the church but from the court. Not from the cloister, not from any place of religion, not from the company of the Saviour, but rather from the retinue of Caesar, proud and vain, from a keeper of hawks I was made shepherd of the sheep. From a patron of actors and a follower of hounds, I was made pastor of so many souls. I know not who put me as guardian of the vines,⁷⁹ I who did not watch over but neglected myself. My previous life was certainly far removed from the well-being of the Church, and now these are my works. So also I clearly see myself worthy to be abandoned by God and removed from the holy seat in which I was placed'. Then as sorrow bore down on him in this way, an outpouring of water fell from his eyes, so that amidst continuous tears and frequent sobs, he was forced to cut his speech short before its completion ...⁸⁰

So the disciple having pity, addressed his master thus, repressing tears and sobs as much as he could:⁸¹ 'Lord, it is written that "in

⁷⁷ I.e. the Church.

⁷⁸ Job 10.18.

⁷⁹ See Song of Songs 1.5.

⁸⁰ There is a break here in the manuscript.

⁸¹ This reported speech seems to be influenced by Augustine, *Ennarationes in Psalmos* 1, 3.

everything God works for good with those who love him, who are called according to his purpose".⁸² So much indeed that if they stray and deviate along a twisted and roundabout road and life, and wander in trackless wastes,⁸³ this same trackless route may be to them a certain shortcut to the path of health, to the true fatherland, because they stray in this way with God, their leader and guide, wonderfully directing them. So also our wonderful God leads his saints down a marvellous path, so marvellous that for them that digression may be a road to safety, a road home. Be confident, therefore, my lord, that if you fell, with God's support you will rise up stronger; if you collapsed under the pressure of another you will rise up more cautious; if you fell by your own force, more humble. So also the leader of the apostles, the model of pastors, Peter, taking it for granted that he would die rather than deny his Master, first denied Him at the question of a serving-girl, but later led before kings and rulers did not cease in his righteousness, from presumption made more learned and humble, from apostasy more faithful, from denial more constant. Thus the all-knowing Spirit of wisdom is able to extract good from evil, like a violet from dry land, a rose from the thorn, honey from the rock, and oil from the hardest stone ...⁸⁴

Therefore all that remains is, if as you say you fell disgracefully, rise up bravely and fittingly, and shake yourself out, if you are the son of the shaken-out,⁸⁵ or rather because you are, and act boldly and let your heart be comforted. Do not let sorrow devour you, instead let righteousness rise: act boldly, I say, and take comfort, and from now on be cautious, brave and strong. And know for certain that God will be with you, a strong helper, as he is read to have been with David king and prophet, who was first an adulterer and traitor, and, as we have already said, with the leader of the apostles, first an apostate, and with that holy and apostolic sinner,⁸⁶ and finally with that outstanding teacher of peoples, first and before all persecutor of the Church.

⁸² Romans 8.28.

⁸³ See Psalm 108.40.

⁸⁴ Herbert expands on this theme, and assures Thomas that his life had not been consistent with this fall.

⁸⁵ See Psalm 127.5. This image, one of Herbert's favourite, is particularly obscure. Augustine suggests that the 'shaken-out' are the prophets, and their sons the apostles (*Ennarrationes in Psalmos* cxxvi, 10), but later writers identify the 'shaken-out' with the apostles themselves. See J. C. Robertson, *Becket: a Biography* (London, 1859), pp. 336-7.

⁸⁶ *Peccatrix*: the woman who was a sinner. See Luke 7.37-50.

Indeed you were also, as it seemed then and was said, once Saul. If now you wish to be Paul, having wiped away the scales from your eyes, clearly by this action may your Jesus show you how much you ought to suffer for His name.⁸⁷

This exhortation seemed to soothe a little the melancholy described above, the archbishop having more regard indeed to the love and faith of the speaker than to the quality of his words. And just then it was reported that that bishop, whose persuasion and urging caused that phrase 'saving our order' to be suppressed,⁸⁸ was following us. And the archbishop, turning to the disciple who had just before spoken to him and was still with him, said, 'Get thee behind me, Satan'.⁸⁹

22. Thomas attempts to flee (August-September 1164)

Herbert of Bosham reports that some time after the Council of Clarendon, Thomas came to Woodstock to speak to the king, but had the gates shut in his face. He also says that Thomas tried twice to flee the country.⁹⁰ Such an act was, of course, contrary to Clause 4 of the Constitutions of Clarendon (see above, p. 93).

Edward Grim, *MTB* 2. 389-90.

Considering that almost all the bishops by unanimous agreement had conspired against him, and that the indignation of the king could not be placated by any means, and in all this no sign of peace was apparent, the holy archbishop decided to withdraw his presence to suit the occasion. That is, so that by removing the person who was believed to have fuelled the disturbance, because he would not tolerate royal usurpations, the king would at least take pity on the desolate Church. He also settled on another reason to leave the land, that by the authority and aid of the lord pope, whom he planned to visit, he might somehow assist the oppressed flock. So, taking a few with him he boarded a ship, and at first indeed the winds blew favourably. When now they sailed out to the open sea, the sailors spoke to each other saying, 'What are we doing, transporting an enemy of the king from the realm? We have acted foolishly. We and all our families will be disinherited by perpetual proscription'. To the archbishop they also

⁸⁷ See Acts 9.18, 16.

⁸⁸ Hilary of Chichester.

⁸⁹ Mark 8.33.

⁹⁰ *MTB* 3. 293.

spoke and asserted that in such a wind no one could land as he ordered. He very placidly answered, 'If it is true that the winds are against our objective, let God's will be done, and keep to the port which God assigns', and immediately they were carried back to England. But the holy man later recognised and confessed to his men that it had not been God's wish that he cross then, since as yet the painful battle and the trials through which he would pass so that he appear more proven were still before him, as indeed it turned out. The king then, hearing that the archbishop had boarded the ship, remained sad and anxious, until he heard of his return, for he greatly feared that by his going to the lord pope the kingdom would be placed under interdict.

23. The Council of Northampton (6–12 October 1164)

John FitzGilbert the Marshal, a distinguished knight, claimed that he had not received justice in the archbishop's court on a land plea. Thomas was summoned to answer to this charge in the king's court on 14 September 1164, but neither appeared in court nor offered an adequate excuse. He was then summoned to answer at a royal council at Northampton. The case of John the Marshal was dealt with quickly and the council was transformed into a titanic contest between king and archbishop. Henry attempted to use the council as an opportunity to humiliate the archbishop by having him charged with embezzlement during his time as chancellor. Thomas's response was to characterise himself as a martyr who was suffering trial not for himself, but for Christ and the Church. In the middle were the bishops, unwilling to offend the king or condemn their archbishop. The king and archbishop did not meet. The king remained in an upper room, the archbishop and his party below, and the bishops and magnates passed up and down between them. William Fitzstephen's eyewitness account is one of the most celebrated passages from the Lives.

William Fitzstephen, *MTB* 3. 49–68.

Some time later the king announced another council to be held at Northampton on Tuesday 6 October, and when the day came we made our way there. The archbishop did not see the king that day because the latter had been hunting with hawks around the rivers and streams and came late to Northampton.⁹¹ The next morning,⁹² after Mass and hours, the archbishop came to court at the king's castle. First he was admitted to a chamber where he sat waiting for the king,

⁹¹ He also found his lodgings occupied by royal squires under William de Courcy, seneschal of Normandy, and was forced to take himself to the priory of St Andrew nearby.

⁹² Wednesday 7 October.