

## Magna Carta 1253: the ambitions of the church and the divisions within the realm

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### Abstract

Using new material, including a hitherto unknown writ of King Henry III from 1253, this article explores the divisions which opened up between English secular and ecclesiastical reformers in the twelve-fifties. It shows that in securing the confirmation of Magna Carta in 1253, the church gained far less than it had hoped, largely because the laity in parliament had limited sympathy with its wider claims. For the same reason, the king, magnates and people in parliament rejected the church's version of the sentence of excommunication which supported the 1253 confirmation of the charter. This division foreshadowed the events of 1258 when lay and ecclesiastical reformers went their own separate ways, with the result that the revolutionary reforms of 1258, which stripped the king of power, had neither ecclesiastical content nor support. They were thus very different and much weaker than Magna Carta, which had both.

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The first purpose of this article is to publish for the first time a writ of King Henry III, which supplies a missing link in the negotiations leading to the 1253 confirmation of Magna Carta. The letter shows just how determined the church was to press its grievances and secure concessions beyond those found in the charter. Since the church failed to realize this ambition, it achieved far less in 1253 than it hoped.<sup>1</sup> The article also sheds new light on the grievances of Robert Grosseteste, bishop of Lincoln, and shows how these were echoed in the schedules of complaint drawn up by the church. These points of detail have a wider significance. The failure to address the grievances of the church testifies to a divide which was opening up between lay and ecclesiastical critics of the king, a divide which, as we will see, helps to explain the very different versions put out of the 1253 sentence of excommunication. All of this foreshadowed the way the realm fractured five years later. The revolution of 1258 stripped Henry III of power and subjected him to the control of a magnate council. With few exceptions, leading churchmen stood aside during these tumultuous events. In sharp contrast to their predecessors in 1215 during the crisis which produced Magna Carta, they sought neither to act as peacemakers nor to include ecclesiastical grievances in the reforms. The very secular nature of those reforms was the result. That was not the least reason for their failure.

<sup>1</sup> The church's failure was suspected by C. R. Cheney (see *Councils and Synods with other Documents Relating to the English Church, ii: A.D. 1205–1313*, ed. F. M. Powicke and C. R. Cheney (1 vol. in 2, Oxford, 1964) (hereafter *Councils and Synods*), i. 474). The author is grateful for the comments and corrections of both Paul Brand and the anonymous reader who refereed the article for *Historical Research*. He has also learnt much from discussions with Sophie Ambler whose doctoral thesis, 'Peacemakers and partisans: bishops and political reform in England 1213–68' (unpublished University of London Ph.D. thesis, 2012) breaks new ground in understanding ecclesiastical thought and action in this period.

The charter which Henry endorsed in May 1253 was, of course, the final and definitive version of Magna Carta, which he had issued back in 1225, and confirmed in 1237. In both years sentences of excommunication were pronounced against those who violated the terms of the charter.<sup>2</sup> The same was true in 1253. Indeed it was the solemnity of the sentences and the efforts to publicize and enforce them which made the 1253 confirmation seem so special. The ceremony took place on 13 May 1253 in the great hall at Westminster in the presence of king, earls, magnates and people. The sentence was pronounced by the archbishop of Canterbury and thirteen bishops. As the candles were thrown down, the king (this according to Matthew Paris who was probably present) held his right hand to his breast and cried out 'As God helps me, I will keep all these things faithfully, as I am a knight and as I am a crowned and anointed king'.<sup>3</sup>

The record of the excommunication made by the church was widely distributed and preserved.<sup>4</sup> The sentence itself, by order of the bishops, was published in parish churches on Sundays and festival days, accompanied by the burning of candles and the ringing of bells. In his Lincoln diocese, Grosseteste was particularly active in the cause and had clergy fulminate the sentence with crosses and handbells in secular courts.<sup>5</sup> The following year, the pope, at the request of the English bishops, confirmed the sentence, and it was distributed again, with orders that it be proclaimed both in English and in French.<sup>6</sup> This, of course, foreshadowed the proclamations in English and French of the secular reforms of 1258.

The clergy, therefore, made gigantic efforts to broadcast the sentences in support of the 1253 confirmation of Magna Carta. Behind their activity lay something which historians have never really appreciated, or at least never really stressed. This is that the church, although certainly with lay support, was the driving force behind the 1253 confirmation in the first place. So much emerges quite clearly from Matthew Paris's account of the negotiations across several assemblies.<sup>7</sup> It is completely understandable. The church had both a motive and a lever which the laity simply lacked. Top of the agenda in the parliaments of 1252 and 1253 was taxation. The king wanted both a secular tax to support his forthcoming expedition to Gascony, and an ecclesiastical tax to fund his crusade. The secular tax which Henry eventually obtained in 1253 was pretty insignificant. It came in the form of a 'feudal aid' of three marks on each knight's fee for the knighting of his eldest son. Since such an aid was one of those permitted the king in the 1215 Magna Carta, Henry could, in law, simply have demanded it without any negotiations, all the more so since the yield was likely to be comparatively small; in the event it hardly reached £6,000.<sup>8</sup> This was not something for which Henry would make major concessions. The tax Henry was demanding from the church was totally different. It took the form of a tenth of ecclesiastical revenues for

<sup>2</sup> In 1225 Magna Carta had been issued along with the Charter of the Forest and thereafter they were always confirmed together.

<sup>3</sup> T. Rymer, *Foedera*, ed. A. Clark, F. Holbrooke and J. Caley (4 vols. in 7, new edn., 1816–69), i. i. 289–90; *Calendar of Patent Rolls 1247–58*, p. 229; *Matthaei Parisiensis, Monachi Sancti Albani, Chronica Majora*, ed. H. R. Luard (7 vols., 1872–83) (hereafter *Chronica Majora*), v. 375–8; *Councils and Synods*, i. 474–9.

<sup>4</sup> *Councils and Synods*, i. 474–5.

<sup>5</sup> *Councils and Synods*, i. 474–7; *Chronica Majora*, v. 395.

<sup>6</sup> Burton annals in *Annales Monastici*, ed. H. R. Luard (5 vols., 1864–9) (hereafter *Annales Monastici*), i. 318–22.

<sup>7</sup> *Chronica Majora*, v. 324–8, 330–3, 359–61, 373–8. For the power of churchmen in parliament, see J. R. Maddicott, *The Origins of the English Parliament 924–1327* (Oxford, 2010), pp. 192–4.

<sup>8</sup> S. K. Mitchell, *Studies in Taxation under John and Henry III* (New Haven, Conn., 1914), p. 257.

three years to support his crusade. Although sanctioned by the pope, Henry accepted that the levy needed the consent of the English church.<sup>9</sup> He also knew, like everyone else, that it would produce money on a different scale from the feudal aid. Indeed, the valuation of ecclesiastical property eventually carried out for the tax suggested a yield of over £30,000.<sup>10</sup>

Churchmen were, therefore, in a strong bargaining position. At the parliaments and other assemblies of 1252, they refused the tax, pressed for the confirmation of Magna Carta and ventilated a series of other grievances.<sup>11</sup> In January 1253, a council of the Canterbury province met in London. After much debate, it at last agreed that if the king ceased to oppress the church, it would consent to the tax. Henry's reply, as it had not been at earlier gatherings, was conciliatory. He asked the prelates 'to write down secretly the articles of offence' so that he could emend them; and he appointed a day when he could reform everything 'by common counsel'. All of this is from Matthew Paris and the chronicle of his fellow St. Albans monk, John of Wallingford.<sup>12</sup> The new writ published in this article confirms their testimony and shows that the clergy most certainly did present articles to the king. The writ, addressed to the barons of the exchequer, was sent by Henry III from Merton (he was evidently staying at the priory) on 10 February 1253. It was not engrossed on the close rolls, and is only known because the exchequer copied it onto its memoranda rolls.<sup>13</sup> The writ shows that the church put its complaints into 'rolls', which the king then sent to the exchequer, asking its advice about what to do. The king also fixed the quindene of Easter as the day on which he would consider the issues raised with his magnates. In translation the writ runs as follows:

Writ of the lord king on behalf of the king. [In the margin.]  
King to the barons [of the exchequer.]

We are sending you the rolls which the venerable father B[oniface] archbishop of Canterbury and his suffragans lately delivered to us in writing. Although to several of the things there, we could have replied by ourselves, and have dealt with several of their contents without wrong to anyone, however, wishing to have discussion on these things with our beloved brother, Richard earl of Cornwall, and certain other of our magnates, and with you, and to enjoy in this matter their and your considered counsel, we have fixed for the foresaid archbishop and his suffragans a day on the quindene of Easter next coming at Westminster to reply to them on the foresaid things by means of your counsel and that of the foresaid magnates, and to do what will be just and reasonable.

<sup>9</sup> The question of why Henry accepted the need for the English church's consent once the tax had been sanctioned by the pope has been much debated (see W. E. Lunt, *Financial Relations of the Papacy with England to 1327* (Cambridge, Mass., 1939), p. 255; A. J. Forey, 'The crusading vows of the English King Henry III', *Durham University Jour.*, lxv (1973), 229–47, at pp. 233–4).

<sup>10</sup> W. E. Lunt, *The Valuation of Norwich* (Oxford, 1926), pp. 95–100.

<sup>11</sup> For the assemblies of 1252, see Maddicott, pp. 467–8.

<sup>12</sup> *Chronica Majora*, v. 358–61; R. Vaughan, 'The chronicle of John of Wallingford', *Eng. Hist. Rev.*, lxxiii (1958), 66–77, at p. 72; *Chronica Johannis de Oxenedes (A.D. 449–1293)*, ed. H. Ellis (1859) (hereafter *Oxenedes*), pp. 175–6 (which here is from Wallingford's chronicle); *Councils and Synods*, i. 467–9; Maddicott, pp. 468–9. The author will be discussing the relationship between Paris and John of Wallingford in a forthcoming article on Matthew Paris.

<sup>13</sup> The National Archives of the U.K.: Public Record Office, E 368/27 m. 8. The image may be found at <[http://aalt.law.uh.edu/aalt1/H3/E368no27/aE368no27fronts/IMG\\_4620.htm](http://aalt.law.uh.edu/aalt1/H3/E368no27/aE368no27fronts/IMG_4620.htm)> [accessed 8 Feb. 2012]. The exchequer had two memoranda rolls, one kept by the lord treasurer's remembrancer (E 368 series) and one by the king's remembrancer (E 159 series). There is no E 159 roll corresponding to E 368/27 but there is a second roll for the year catalogued as E 368/28. Presumably either E 368/27 or E 368/28 belongs in fact to the E 159 series. The two series overlap largely but not entirely. The author cannot find the letter on E 368/28, but it is damaged.

Wherefore, we order you that, since there are many things contained in them [the rolls] which specially touch our state and that of our kingdom and our subjects, having diligently inspected and understood these things, you should meanwhile carefully determine what to advise us and what is to be done on these matters.<sup>14</sup>

Witness myself at Merton, on the tenth day of February, in the year of our reign thirty-seven.

The rolls which Archbishop Boniface and his suffragans delivered to the king do not survive, but they were probably very similar to two schedules of complaint preserved in the annals of Burton abbey, one (undated) drawn up by Grosseteste and another associated with an ecclesiastical assembly of 1257.<sup>15</sup> In this material, Henry's rule was attacked as breaking Magna Carta to everyone's detriment. As Grosseteste put it, the king barely observed a single article of the charters 'conceded for the peace and tranquillity of the realm', although governing his subjects with clemency and lenity should have been integral to the royal dignity.<sup>16</sup> Henry was also, in a general way, accused of breaking the clause promising freedom of the church in Magna Carta's chapter one.<sup>17</sup> Beyond that, however, the detailed clauses in Magna Carta were only referred to in reference to Henry's treatment of wills and of vacant sees.<sup>18</sup> For all the other complaints, the charter apparently offered no specific protection. Indeed, it was only mentioned in six of sixty-seven clauses of the combined schedules.<sup>19</sup> Faced with the king's challenge to ecclesiastical liberties through *quo warranto* inquiries, and rules about 'express mention' and 'long usage', the schedules had to fall back on the general defence of the church's freedom in the charter's chapter one.<sup>20</sup> In respect of the encroachments on the powers of ordination, they had to conjure up John's charter of 1214, promising freedom of elections, although this had never been subsequently confirmed.<sup>21</sup>

In 1253, therefore, the church saw the charter as a symbol of good rule benefiting the whole realm. In a way, too, all its particular grievances could be seen as embraced within the promise of ecclesiastical freedom in chapter one. Yet clearly this was not enough. The church had a whole series of complaints which were not covered by the charter, and which it now wished to see addressed. Some of the issues were personal to the king – his appointment of unworthy people to ecclesiastical office and the way he was extracting hospitality from religious houses.<sup>22</sup> Others raised thorny and fundamental questions about the divide between ecclesiastical and secular jurisdiction and, by extension, about the whole relationship between church and state. Thus the clergy complained about the way the government forced ecclesiastics to appear in the king's courts in personal actions, obstructed the processes of excommunication, mistreated criminous clerks, and through a series of prohibitions inhibited the work of ecclesiastical courts. No wonder Henry said the demands 'specially touch our state and that of our kingdom and our subjects', and wanted the exchequer's advice about them.

<sup>14</sup> In this translation, the paragraphs are the author's. The Latin text is printed at the end of this article.

<sup>15</sup> *Councils and Synods*, i. 469–72, 539–48. There is considerable overlap between the two schedules. For an earlier schedule from 1237, see i. 280–4.

<sup>16</sup> *Councils and Synods*, i. 472, cap. 17.

<sup>17</sup> *Councils and Synods*, i. 548, cap. 50.

<sup>18</sup> *Councils and Synods*, i. 539, 543, caps. 1, 24. There was also a complaint about the difficulties of excommunicating those who broke the charter (p. 544, cap. 29).

<sup>19</sup> *Councils and Synods*, i. 472, cap. 17; 539–48, caps. 1, 24, 29, 48, 50.

<sup>20</sup> *Councils and Synods*, i. 547, cap. 48.

<sup>21</sup> *Councils and Synods*, i. 540, cap. 5. For the production of John's charter on free elections during the May parliament, see *Oxenclues*, p. 178 (John of Wallingford), but contrast *Chronica Majora*, v. 377.

<sup>22</sup> *Councils and Synods*, i. 470–1, caps. 9, 11; 540, caps. 3, 6; 547, cap. 45.

Henry had fixed the quindene of Easter (4 May) as the day when his magnates would gather to consider the church's claims, and that was indeed when the great parliament at Westminster opened.<sup>23</sup> It concluded, as we have seen, on 13 May with the confirmation of Magna Carta and the pronouncing of the sentences of excommunication. But that was all. The church had totally failed to remedy the detailed grievance set out in the 'rolls' prepared by Boniface and his suffragans. Even the confirmation of Magna Carta was hardly proclaimed as the church might have wished. It was not until 23 June 1254 that Henry sent a writ round to the sheriffs ordering them to observe the terms of the charter.<sup>24</sup> Only in the following year, when he was in Gascony, did Henry actually order the charter to be publicly proclaimed by the sheriffs, this on the urging of his regents in England.<sup>25</sup> It was partly to offset these disappointments that the church made so much of the sentences of excommunication. Indeed, it made considerably more of them than did the king and his magnates.

Two very different proclamations were issued about the sentence of excommunication. The first, already referred to, was promulgated in the name of the bishops.<sup>26</sup> The second was issued in the name of the king, three earls and 'the other magnates of England'. Sealed by the king and the earls 'at the instance of the other magnates and people', it thus purported to speak not just for the king but for the whole secular realm.<sup>27</sup> The differences between the two documents are striking and

<sup>23</sup> *Chronica Majora*, v. 373.

<sup>24</sup> *Close Rolls* 1251–3, p. 482. The writ in the close rolls is simply addressed to the sheriff of Somerset and Dorset, but it was almost certainly sent to all the sheriffs. Another writ was issued about the observance of the Charter of the Forest and there was also a letter patent with the usual general address clause commanding everyone to observe the charter (*Chronica Majora*, vi. 249–50).

<sup>25</sup> *Rôles Gascons*, 1242–1317, ed. F. Michel, C. Bémont and Y. Renouard (5 vols., Paris, 1885–1962), i, no. 2473 (*Cal. Pat. Rolls* 1247–58, pp. 279–80); *Royal and other Historical Letters Illustrative of the Reign of Henry III*, ed. W. W. Shirley (2 vols., 1862–6), ii. 101–2. In 1255, Henry was more explicit and ordered the sheriffs to have Magna Carta read in the county courts (*Close Rolls* 1254–6, pp. 194–5). J. C. Holt, 'The St. Albans chroniclers and Magna Carta', *Trans. Royal Hist. Soc.*, 5th ser., xiv (1964), 67–88, at pp. 81–2, 87–8, says that Matthew Paris acquired 'an authentic chancery exemplification of the 1225 charter used in the confirmation of 1253', 'the sole known original of the confirmation of 1253'. The text he is referring to is now bound into Paris's book of documents called the *Liber Additamentorum*. It is on the dorse of a free-standing membrane bound in near the end of the *Liber*. At the top of the membrane is the heading, written in Paris's hand in red ink: 'magna carta Regis Johannis, quam Rex henricus juravit iterum tenere in aula Westmonasterii et lata est sententia in infractores'. There then follows, in a small neat hand which is not Paris's, a copy of the 1225 charter. The front of the membrane, meanwhile, includes the text of a letter of Innocent IV from March 1253 and an account, in Paris's own hand, of the 1253 battle of Walcheren (see *Chronica Majora*, vi. 523; British Library, MS. Cotton Nero D. i fo. 199v). There is no reason to believe that the copy of the charter is 'an authentic chancery exemplification'. Indeed, there is no evidence that such exemplifications were ever drawn up by the chancery in 1253. If they had been, it is inconceivable that they would have been written on the dorse rather than the front of a membrane. Equally they would surely have been embodied within a sealed royal letter explaining that this was the charter confirmed in 1253. In fact the membrane, as Nicholas Vincent has pointed out, 'is neither intended nor suitable for sealing' (N. Vincent, *The Magna Carta* (New York, 2007), p. 78). What is possible is that the charter was copied at St. Albans from a text circulated in 1255 as part of the church's efforts to publicize the 1253 sentences of excommunication, following their confirmation by Innocent IV. In 1255, as executor of the papal confirmation, the dean of Lincoln, Richard de Gravesend (later, as bishop of Lincoln, a great supporter of Simon de Montfort), sent out transcripts of the charters (which he wanted returned) with instructions for them to be copied (Burton annals in *Annales Monastici*, i. 322). Gravesend's co-executor, the dean of London, did not associate himself with this letter, but he may have taken his own measures.

<sup>26</sup> Rymer, i. i. 289; *Councils and Synods*, i. 477–8. It was issued in the name of the archbishop of Canterbury and 13 other bishops. Their seals were said to be attached to the document, although the original at Wells only has four seal tags (*Councils and Synods*, i. 477).

<sup>27</sup> The proclamation of the king and his magnates was enrolled on the patent rolls (Rymer, i. i. 289–90; *Cal. Pat. Rolls* 1247–58, p. 229; *Councils and Synods*, i. 478–9).

have never, as far as this author is aware, been appreciated.<sup>28</sup> The bishop's account omitted entirely the statement that Henry, 'with his own mouth', had reserved, during the sentence of excommunication, 'the customs and dignities of the kingdom, ancient and used, and the rights of his crown'.<sup>29</sup> The bishops, for their part, also spelled out, as king and magnates did not, how the sentences of excommunication were to function.<sup>30</sup> Thus individuals were to incur the sentence when, having been warned, they failed to give full satisfaction within fifteen days at the 'arbitrium' of the ordinary. The king and magnates, by contrast, made no mention of the ordinary and reserved to the king the duty of correcting the transgression 'by consideration of his court'.

There was also a divergence in the respective lists of the delinquencies for which the sentence would be incurred. The bishops' version included as liable to excommunication all those who, in contravention of the church's liberties, 'draft ('ediderint') statutes' and 'introduce customs', 'as well as the counsellors and executors who presume to judge in accordance with them'. This was, more than anything else, an attack on the king's judges, who in drafting legislation, introducing legal rules and giving judgements seemed to be encroaching on the jurisdictional claims of the church.<sup>31</sup> The king and magnates, in their version, completely omitted this clause but, unlike the bishops, placed under the ban of excommunication those who infringed the rights and liberties of the king and kingdom. The king and magnates also included an extraordinary declaration which made it very clear that their version was the official one. This stated that, together with 'the community of the people', they had protested publicly in the 'colloquium', before Archbishop Boniface and the bishops, that if any writings were found about the excommunication couched in terms other than those in their own declaration, then they had never consented to them and wholly rejected them.<sup>32</sup> Neither of the proclamations about the sentence is dated, but it looks as

<sup>28</sup> The church's letter says that the sentence was promulgated before the king, and the earls of Cornwall, Norfolk, Hereford, Oxford and Warwick. The king's letter says that the sentence was agreed by him, the earls of Norfolk, Hereford, Warwick and Peter of Savoy. The inclusion of his wife's uncle, Peter of Savoy, is what one would expect from the king. The omission of the earls of Cornwall and Oxford is puzzling, especially given that the king had said, in his letter of February, that he wished to take Cornwall's counsel.

<sup>29</sup> The reservation of the rights of the crown was also mentioned in Henry's letter to the sheriffs about the confirmation (*Close Rolls* 1251–3, p. 482).

<sup>30</sup> There seems to have been no official version, from king or clergy, of the 1237 excommunication. Perhaps none was made, although the ceremony was widely remembered (*Chronica Majora*, iii. 382–4, iv. 366; *Annales Monastici*, i. 103–4; *Calendar of Charter Rolls* 1226–57, pp. 225–6).

<sup>31</sup> For such legislation, see *Chronica Majora*, iv. 614. For 'a most evil custom introduced into the kingdom as law' by one of Henry III's judges, William of York, see *Chronica Majora*, v. 545. For the legislation in the period, see P. Brand, *Kings, Barons and Justices: the Making and Enforcement of Legislation in 13th-Century England* (Cambridge, 2003).

<sup>32</sup> Rymer, i. i. 290: 'Sciendum autem quod, si in scriptis, super eadem sententia a quibuscumque confectis seu conficiendis, aliud, vel aliter appositum, vel adjectum fuerit, aut articuli aliqui alii in eis contenti inveniantur [other than what is set out above], Dominus Rex, et predicti magnates omnes, et communitas populi protestantur publice, in presentia [of Boniface archbishop of Canterbury and all the bishops] in eodem colloquio existentium, quod in ea nunquam consenserunt, nec consentiunt, set de plano eis contradicunt'. See Maddicott, p. 202, who uses the reference to 'the community of the people' as part of his argument that knights were present at the parliament. Although the issues were different, the resistance of magnates and people to the church's demands in 1253 has echoes of their resistance to papal claims in 1245. At the council of Lyons an earl, baron and knight representing the 'universitas regni Anlie' protested that the 'magnates et populus' had never consented to King John's charter making England a papal fief. They also asserted the duty of 'nobiles et populus' to preserve the 'iura regni', the crown, and their liberties and laws. This comes from a letter of Roger Bigod, earl of Norfolk, Philip Basset and Henry de Mara discovered by Nicholas Vincent copied into the Glastonbury cartulary (Longleat House, Marquess of Bath MS. Muniments no. 10590 fo.4v). The author is grateful to

though the king and magnates were determined to get in first and stop the church giving its own twist to what had happened.

Why then had the grievances contained in the church's 'rolls' been left unaddressed? Alas, we do not have the reply which the barons of the exchequer gave to Henry's request for counsel, but one can imagine its derisive tone. The king's judges were probably even more dismissive. The whole official establishment would have been behind Henry in resisting concessions. As for the magnates and people in the parliament, the very fact that they stood with the king in issuing their own version of the sentence of excommunication suggests they had no enthusiasm for the jurisdictional demands of the church.<sup>33</sup> Occasionally the grievances in the schedules – for example on prises, the common summons and suit of court – were shared with sections of the laity, but for the most part the church was on its own.<sup>34</sup> In the case of suit of court, as the complaint made clear, the grievance was as much against the magnates as the king. To some of the demands in the rolls, laymen were surely downright hostile. They can hardly have welcomed being made to swear oaths so that prelates could inquire into their moral failings. Indeed, when Henry prohibited Grosseteste from exacting such oaths, he was acting, so he said, on the 'complaints of magnates and others of your diocese'.<sup>35</sup>

The prelates, then, had given way and settled for far less than they must have hoped for when handing their rolls in to the king. They had little alternative. After all, the tax had been sanctioned by the pope. It was also for a cause which everyone had to respect. As Matthew Paris put it, explaining the capitulation, the bishops did not wish wholly to frustrate the king's desire, 'so pious', to go on crusade.<sup>36</sup> Although it was often said that Henry had taken the cross simply to get money from his subjects, this could not exactly be the case when he was to receive nothing until he actually set out. The diversion of the tax to support the Sicilian venture was still in the future. No one who had close contact with Henry in these years can have doubted his sincerity as a crusader.<sup>37</sup> Indeed, during the negotiations, Henry had done his best to prove the validity of his crusading credentials. On 28 January 1253, a day when many bishops were at court, and when they were beginning to put together their 'rolls', Henry wrote to the pope. He was, he said, through the mercy of Christ, preparing for his crusade with all the strength of his mind and body. He now wished his intended date of departure to be broadcast so that other Christian princes might join him. He also wanted his own people to come too. He had more faith in them, he declared, than in aliens, a direct riposte to those who accused him of exactly the reverse.<sup>38</sup> There was

Nicholas Vincent for allowing him to see his unpublished paper, 'Henry III, Fredrick II and the council of Lyons (1245)', where this letter and other original material is printed in an appendix.

<sup>33</sup> This is not in any way to deny that the clergy stood shoulder to shoulder with laymen in parliament when it came to resisting the oppressive side of the king's secular rule (see Maddicott, pp. 194–8).

<sup>34</sup> *Councils and Synods*, i. 546–7, caps. 35, 43, 47.

<sup>35</sup> *Councils and Synods*, i. 470, cap. 8; 541, cap. 9; *Close Rolls* 1251–3, pp. 224–5. For the king declaring that the efforts of Bishop Cantilupe of Worcester to take oaths from laymen for inquisitions were not merely against the custom of the kingdom and the royal dignity, but likely to generate scandal and division among the people, see *Close Rolls* 1247–51, p. 554.

<sup>36</sup> *Chronica Majora*, v. 374.

<sup>37</sup> For Henry's commitment to the crusade, see S. D. Lloyd, *English Society and the Crusade 1216–1307* (Oxford, 1988), pp. 212–15; and M. Howell, *Eleanor of Provence: Queenship in 13th-Century England* (Oxford, 1998), pp. 59–60.

<sup>38</sup> *Close Rolls* 1251–3, p. 448; *The Royal Charter Witness Lists of Henry III (1226–72) from the Charter Rolls in the Public Record Office*, ed. M. Morris (2 vols., List and Index Soc., ccxci–ccxcii, 2001), ii. 82.

another initiative at this time which was very relevant to Henry's standing with the bishops. On 31 January 1253, the king promulgated an ordinance against the Jews.<sup>39</sup> Unlike previous royal measures, which had been largely concerned with Jewish financial dealings, this one was strongly influenced by religious considerations. The main aim was to remove threats to the faith produced by contact between Christians and Jews. Although, in part, simply giving royal sanction to previous ecclesiastical regulations, the measure was very personal to Henry. It was described as 'a provision made by the king' and was authorized by him and his council. In other words it had not been promulgated by the common counsel of the realm. With his religious feelings heightened by his crusader status, Henry was naturally sensitive to the dangers posed by the Jews. His statute against them stemmed from such feelings, and also, timed as it was, tried to prove to the bishops that he was indeed a 'most Christian king'.<sup>40</sup>

Henry also did something to conciliate one individual bishop. This was none other than Robert Grosseteste himself. Grosseteste was a man with a grievance. Some years before, he had guaranteed the appearance of Master John de la Lade before the justices in eyre in Buckinghamshire. When Lade failed to show up before the eyre (that of 1247), Grosseteste was amerced £100, which he still owed in 1253.<sup>41</sup> £100 seems a large and punitive amount, but penalties of that size were actually fairly routine when lay and ecclesiastical barons committed offences which came under the general heading of contempt of court. Quite often, the sums were never paid and were eventually pardoned by the king. Grosseteste himself, as the fine rolls show, had been pardoned two earlier amercements of £100 for failing to produce clerks before the justices.<sup>42</sup> That the procedure, nonetheless, rankled with Grosseteste is shown by his schedule of ecclesiastical grievances to which we have referred.<sup>43</sup> There he complained that clerks, taken for suspicion of crime, were only transferred to the church for judgement after they had appeared before the justices in eyre. If they were handed over to the bishop before that, it was only so that he could produce them before the justices 'on pain of £100'. The bishop, therefore, had to go to all the trouble of keeping such people in custody or else 'for every one handed to him, he will be in danger of losing £100'. John de la Lade had indeed been accused of a 'crime', one which involved robbery with violence against the peace of the king, as the eyre roll shows.<sup>44</sup> Clearly his case, and the earlier ones, inspired Grosseteste's complaint.

<sup>39</sup> *Close Rolls* 1251–3, pp. 312–13 and *Councils and Synods*, i. 472–3, with comment by Cheney.

<sup>40</sup> The connection with the crusade is made by Lloyd, p. 213. For the consequences of Louis IX's crusade for the Jews in France, see W. C. Jordan, *The French Monarchy and the Jews: from Philip Augustus to the Last Capetians* (Philadelphia, Pa., 1989), pp. 144–8.

<sup>41</sup> *Calendar of Fine Rolls* 1252–3, nos. 324, 333, where the translation has yet to be edited. The calendar of the fine rolls is available online at <<http://www.finerollshenry3.org.uk/content/calendar/calender.html>> [accessed 8 Feb. 2012]. The £100 amercement in the Lade case does not appear in the initial accounts for the eyre on the pipe roll of 1248 (T.N.A.: P.R.O., E 372/92 m. 10d). The author has not searched for it further.

<sup>42</sup> *Cal. Fine Rolls* 1247–8, no. 584; *Cal. Fine Rolls* 1248–9, no. 522.

<sup>43</sup> The exaction by prelates of oaths from laymen, over which Grosseteste had clashed with the king, is another issue to feature in his schedule of complaints (see *Close Rolls* 1251–3, pp. 224–5; *Councils and Synods*, i. 470, cap. 8).

<sup>44</sup> The case appears in the crown pleas section of the Buckinghamshire eyre (T.N.A.: P.R.O., JUST 1/56 m. 35) and is a bizarre one. Isabel de Albigny accused Nicholas and Humphrey of Bassingbourn, together with Master John de la Lade and others, of entering her house in Lathbury, breaking down the door of her chamber and stealing a 'terteletum' (a cake or tart?) to the value of one mark. They had done this in felony, in robbery, by force and against the peace. Master John did indeed not turn up. It was testified that he had been handed to Matthew, archdeacon of Buckingham, who had sought him in place of the bishop, and who was to produce him before the justices: 'And now he does not have him so the bishop is in mercy'. A jury acquitted Nicholas of Bassingbourn, whereupon Isabel was committed to gaol for a false claim, but convicted Humphrey and several

Grosseteste's debt in the Lade case was still outstanding in 1253, as already noted. The moment was ideal for getting rid of it. The bishops opened their synod in London on 13 January. Henry himself arrived at Westminster on or soon after 23 January and on 26 January Archbishop Boniface, Grosseteste, and the bishops of London, Salisbury and Chichester were all at court.<sup>45</sup> It was on this very day that Grosseteste, having complained to Henry about it, was freed from the £100 amercement. We know this from a writ to the exchequer, witnessed by the king on 26 January, and placed on the fine rolls. Here, Henry declared that he had learnt 'from the complaint, *ex querela*' of Robert, bishop of Lincoln about the penalty, and had now decided that the £100 should be paid not by the bishop but by John de la Lade instead. This order was almost immediately cancelled in favour of another, bearing the same date, which provided more explanation. The king had learnt 'from others' (so not just from Grosseteste, though doubtless he had lined 'the others' up) that the bishop had not been responsible for John's failure to appear, it was down simply to John himself. John, therefore, should pay the £100 not Grosseteste. The writ containing this longer account was stated to be authorized by the king and the council.<sup>46</sup> Two days later, on 28 January, when Grosseteste, was again at court, Henry pardoned him another amercement, one of twenty marks imposed for failing to appear before the justices in eyre when they were last in Oxford. Grosseteste, it was now said, had been with the king himself by his order at the time.<sup>47</sup>

Henry, therefore, in 1253 had a sure eye for the bishop he most needed to placate. No other English prelate received such treatment at this time.<sup>48</sup> Equally, Grosseteste had a sure eye for the best moment to wring a concession from the king. That, however, was as far as it went. Henry pardoned Grosseteste's amercement, but the parliament did nothing to address the issue of criminous clerks, and the way bishops were being forced to produce them before secular judges. This brings us back to the wider point, for it is difficult to believe that the laity had any sympathy with Grosseteste on this issue, or indeed any sympathy with benefit of clergy full stop. How could it be right (to take one case from the Surrey eyre of 1263) for Henry the Summoner of Southwark to be convicted by a local jury of killing a man with a scythe in a Southwark street, only for him then to claim benefit of clergy and purge himself of the crime through 'not a few rectors, vicars and priests of churches'.<sup>49</sup> In resisting the jurisdictional claims of the church, Henry had been at one with his 'magnates and the community of the people'. Yet Henry, preoccupied with his crusade and with Gascony, had also shown himself to be out of touch. He should surely have given maximum publicity to his confirmation of the charters, rather than only doing

others. Humphrey fined in 40s for the transgression. For the image of the roll, see <[http://aalt.law.uh.edu/AALT4/JUST1/JUST1no56/ajUST1no56fronts/IMG\\_0933.htm](http://aalt.law.uh.edu/AALT4/JUST1/JUST1no56/ajUST1no56fronts/IMG_0933.htm)> [accessed 8 Feb. 2012].

<sup>45</sup> *Charter Witness Lists of Henry III*, ii. 82.

<sup>46</sup> *Cal. Fine Rolls 1252–3*, nos. 324, 333, where the translation has yet to be edited.

<sup>47</sup> *Cal. Fine Rolls 1252–3*, no. 343.

<sup>48</sup> On 31 Jan., the king and council pardoned the bishop of St. Davids (who was present at the later excommunication) 250 marks arising from various penalties (*Cal. Fine Rolls 1252–3*, no. 356). During the May 1253 parliament, Henry conceded to Archbishop Boniface a market charter for Wadhurst in Sussex (*Cal. Charter Rolls 1226–57*, p. 432). There is nothing about this on the fine rolls, which suggests it was conceded free of charge. The charter is now in Lewes, East Sussex Record Office, P498/3/7.

<sup>49</sup> *The 1263 Surrey Eyre*, ed. S. Stewart (Surrey Record Soc., xl, 2006), nos. 537, 545 and pp. lxxxii–iii, for Stewart's analysis of the case. The letter of the bishop of Winchester describing the process of purgation from 'the crime of homicide', and his consequent pronouncement that Henry was 'inculpabilem et immunem', is T.N.A.: P.R.O., C 85/153/11, a reference the author owes to Nicholas Vincent.

so at the behest of the regents in the following year. His failure here was one of the factors which contributed to the revolution of 1258.

By the time of that revolution, the divide between church and secular realm, evident in 1253, had become even wider. The grievances submitted in the rolls of 1253 did not go away. In August 1257, Archbishop Boniface held an ecclesiastical council in London. It drew up the lengthy series of complaints which, as we have said, were probably very similar to those found in the rolls of 1253.<sup>50</sup> All this was in defiance of the king, who had forbidden the council and had ordered the bishops instead to join his campaign in Wales.<sup>51</sup> One may suspect that Henry here was acting with the full support of his lay magnates. When the revolutionary parliament met at Westminster in April 1258, the bishops withdrew before its climactic coercion of the king.<sup>52</sup> They were equally absent as a body from the parliament of Oxford in June, which initiated the reform of the realm. They were otherwise engaged. During the Westminster parliament in April, Archbishop Boniface had summoned an ecclesiastical council to meet at Merton in June. This went ahead, drawing up yet another long list of complaints, even though it clashed with the Oxford parliament. As a result, as the Tewkesbury annalist noted, the archbishops, bishops and clergy were absent from Oxford.<sup>53</sup> Quite probably the only bishops there were Walter de Cantilupe of Worcester, Fulk Bassett of London, and the king's Poitevin half brother, Aymer, bishop elect of Winchester. Of these three, Aymer was soon to be driven from the realm, while Fulk opposed the revolution. Yet, these were the only bishops to feature on the committee of twenty-four who were to draw up the reforms. Archbishop Boniface was named on the ruling council of fifteen, along with Cantilupe, but seems to have taken little part in its activities.<sup>54</sup> The result was that the grievances of the church were not dealt with at all in the detailed reforms drawn up at Oxford. They were entirely secular in content, and were unsupported by any sentence of excommunication.<sup>55</sup>

All this was very different from what had happened with Magna Carta. In 1215, too, the bishops had nearly stood aside, but in the end Archbishop Langton *had* put the church into Magna Carta.<sup>56</sup> From 1225, as we have seen, the charter *was* supported by sentences of excommunication. In 1215 Langton had hesitated over the charter because he doubted the morality of the rebellion and the validity of a document forced on the king. As Sophie Ambler has shown, there was even more reason to hesitate in 1258 faced with demands which were far more radical. This, however, was not the only reason for the ecclesiastical opt out. As the events of 1253 showed, an

<sup>50</sup> *Councils and Synods*, i. 530–48.

<sup>51</sup> *Close Rolls* 1256–9, p. 142; *Councils and Synods*, i. 532, 533, cap. iv.

<sup>52</sup> The Tewkesbury annals in *Annales Monastici*, i. 163.

<sup>53</sup> *Councils and Synods*, i. 568–85; the Tewkesbury annals in *Annales Monastici*, i. 163.

<sup>54</sup> *Documents of the Baronial Movement of Reform and Rebellion 1258–67*, ed. R. F. Treharne and I. J. Sanders (Oxford, 1973), pp. 100–1, 104–5, caps. 2, 3, 9. Cantilupe and Bassett are the only bishops to attest royal charters at Oxford between 12 and 21 June (*Royal Charter Witness Lists of Henry III*, ii. 120–1). Conceivably more bishops turned up before the barons left Oxford at the end of the month, although this is unlikely. (The charter roll is lost after 21 June.) Bassett was chosen as one of the 12 to represent the realm in the three annual parliaments, while he, Cantilupe and the bishop of Salisbury were named amongst the 24 men who were to negotiate an aid for the king's Sicilian project (*Documents of the Baronial Movement*, pp. 104–5, caps. 10, 11). There is no sign this committee ever met.

<sup>55</sup> This is a controversial statement and for the view that a sentence of excommunication was promulgated at Oxford, see J. R. Maddicott, *Simon de Montfort* (Cambridge, 1994), p. 162. The evidence is weighed in Ambler, 'Peacemakers and partisans', pp. 142–9. Her conclusion is that such a sentence is very unlikely.

<sup>56</sup> This is argued in D. A. Carpenter, 'Archbishop Langton and Magna Carta: his contribution, his doubts and his hypocrisy', *Eng. Hist. Rev.*, cxxvi (2011), 1041–65.

attempt to put the church into the reforms of 1258 would have been fruitless. The baronial leaders had little desire to address the detailed demands of the church.<sup>57</sup> In 1253, churchmen and laymen still acted together in the parliament which secured the confirmation of the charter and the sentences of excommunication. In 1258 they met apart, in separate assemblies, and pursued their own programmes. Churchmen and laymen had been able to agree about the need for Magna Carta. But there was no agreement about the church's wider claims. Those claims equally militated against the church playing any role in 1258 as a mediator and peacemaker.

The next year, there was a shift in emphasis but hardly a decisive one. In October 1259, the great series of legislative reforms, which became known as the Provisions of Westminster, were read out in Westminster Hall. Archbishop Boniface and several other bishops, then launched a sentence of excommunication against anyone who contravened them.<sup>58</sup> This, however, was hardly to stand behind the reforms as a whole, for the provisions of 1259 were quite unlike the revolutionary measures of 1258. The latter the king condemned. The former he was ready to accept. Even then the church's enthusiasm for the 1259 Provisions was hardly energetic. The ceremony in Westminster Hall certainly echoed that of 1253, but the church made no similar effort to publicize the sentence of excommunication. This was not surprising for it had no particular stake in the document. Whereas Magna Carta began with the freedom of the church, the Provisions of Westminster did no such thing. Churchmen might certainly welcome the legislation, which on some issues, notably suit of court, overlapped with their own concerns. But the legislation ignored the more particular grievances, which took up the great bulk of their schedules of complaint. The last chapter of the Provisions of Westminster rather painfully underlined the point. It dealt indeed with criminous clerks, but responded not to the discontents of Grosseteste and his fellows but to those of laymen; laymen who had been amerced when those they had pledged to appear in court refused, on arrival, to answer on the grounds that they were clerks.<sup>59</sup>

In 1261 the church again stood aside and did nothing to stem the civil strife caused by the king's attempt to overthrow the reforms of 1258 and recover unfettered power. In May 1261, as the king's struggle approached its climax, Archbishop Boniface contented himself with holding a provincial council, which drew up a series of statutes based on the demands of the twelve-fifties.<sup>60</sup> It was not till Simon de Montfort's seizure of power in 1263 that the picture changed. Then churchmen gave passionate support to his regime. This was not because, anymore than the reformers in 1258, he addressed the particular concerns of the church. It was because churchmen came to believe in Montfort's cause as a whole. Just why that was is, however, another story.<sup>61</sup>

<sup>57</sup> In all the long draft of reforms proposed at Oxford, there was merely one perfunctory reference to the church: 'Be it noted that the state of the holy church should be amended by the twenty-four chosen to reform the state of the realm of England, as soon as they can find time and occasion' (*Documents of the Baronal Movement*, pp. 106–7, cap. 12). No time or occasion was ever found. The complaints of the church go unmentioned in the schedule of grievances drawn up at Oxford known as 'The petition of the barons' (*Documents of the Baronal Movement*, pp. 77–91).

<sup>58</sup> *Cronica Maiorum et Vicecomitum Londoniarum*, ed. T. Stapleton (Camden Soc., 1846), p. 42.

<sup>59</sup> Brand, *Kings, Barons and Justices*, pp. 82–3, 427, cap. 24. In the cases Brand cites at p. 82, n. 32, the sureties are mostly laymen.

<sup>60</sup> *Councils and Synods*, i. 660–85.

<sup>61</sup> These questions are fully discussed in Ambler, 'Peacemakers and partisans'.

## Appendix

*The National Archives of the U.K.: Public Record Office, E 368 m. 8* (the image may be found at <[http://aalt.law.uh.edu/aalt1/H3/E368no27/aE368no27fronts/IMG\\_4620.htm](http://aalt.law.uh.edu/aalt1/H3/E368no27/aE368no27fronts/IMG_4620.htm)>).<sup>62</sup>

In margin: breve domini Regis pro Rege

Rex Baronibus. Mittimus vobis rotulos quos venerabilis pater B. Cantuariensis Archiepiscopus et suffragenei sui nobis in scriptis nuper porexerunt et licet ad plures eorum per nos potuissemus respondisse, et plura in eis contenta sine alicuius iniuria expedivisse, volentes tamen cum dilecto fratre et fidele nostro R. comite Cornubie et quibusdam aliis magnatibus nostris et vobiscum tractatum super hiis habere et suo et vestro in hac parte deliberato frui consilio, prefato Archiepiscopo et suffrageneis suis diem prefiximus in xv Pasche proximo futura apud Westmonasterium ad respondendum eis super premissis, prefatorum magnatum et vestre consilio mediante, et ad faciendum quod justum fuerit et rationabile. Quo circa, vobis mandamus quatinus cum multa in eis contineantur que statum nostrum, regni nostri et subditorum nostrorum specialiter tangunt, eisdem diligenter inspectis et intelectis, provideatis interim attente quid nobis super hiis consulendum duxeritis et faciendum. Teste me ipso apud Merton' x die Februarii anno regni nostri  
xxxv[ii]<sup>62</sup>

<sup>62</sup> The author is most grateful to Lesley Boatwright for checking and correcting his transcription. The original capitalization and punctuation have not been followed.