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WERE THE MAGDALEN NUNS REALLY TURNED INTO DOMINICANS IN 1287?

BY
SIMON TUGWELL OP

It has come to be generally accepted that in 1287 the papal legate in Germany, Cardinal Giovanni Boccamazza,¹ incorporated the Penitents of Mary Magdalen into the Dominican order;² but is it true?

The modern theory goes back to A.Simon.³ It is essentially based on two documents: a letter of 20 Nov. 1286 in which the legate bade the Dominican provincial take charge of the Magdalens in Germany, and a letter of 8 Dec. 1287 addressed to all nuns 'sub cura et regimine fratrum ordinis predicatorum in prouincia Theutonie degentibus ... per nos uel per alium aut alios quoscumque qui de iure possunt commissis', in which he says 'uos et monasteria uestra ...

¹ On Boccamazza (also called Boccamazzi) see I.Walter in DBI XI 20-24. On 3 April 1287, when he was only a few months into his legation, Honorius IV died, but by a decretal of Clement IV the pope's death did not entail the expiry of a legate's authority (*Sext.* 1.15.2, Æ.Friedberg, *Corpus Iuris Canonici* II, repr. Graz 1959, 984), so Boccamazza legitimately continued to act as legate; Gregory IX had already declared a legate's *statuta* to have permanent validity (X.1.30.10, Friedberg II 186). Nicholas IV was elected on 15 Feb. 1288.

² E.g. H.Wilms, *Das älteste Verzeichnis der deutschen Dominikanerinnenklöster*, QF 25, Leipzig 1928, 74. T.Schieß, *Quellenwerk zur Entstehung der Schweizerischen Eidengenossenschaft* I/II, Aarau 1933, 702 no. 1529; I/II, Aarau 1937, 30 no. 72. E.A.Erdin, *Das Kloster der Reuerinnen Sancta Maria Magdalena an den Steinen zu Basel*, Fribourg 1956, 6. A.Martínez Cuesta, *Dizionario degli Istituti di Perfezione* V 810. K.Elm, *Lexikon des Mittelalters* VI, Munich/Zürich 1993, col. 71. U.Denne, *Die Frauenklöster im spätmittelalterlichen Freiburg im Breisgau*, Freiburg/Munich 1997, 77-78. A.Kottmann, *Helvetia Sacra* IV/5, Basel 1999, 707. A.Condit, *New Catholic Encyclopaedia*, 2nd ed., IX (2003), 32. Already in the 15th century Johannes Meyer reported that 'Multa monasteria monialium quae uocantur Poenitentes ordinis nostri commissi sunt auctoritate sedis apostolicae atque ordini unita et incorporata ... per dominum Iohannem episcopum cardinalem Tusculanum' (ed. H.C.Scheeben, QF 29 [1933] 45).

³ *L'Ordre des Pénitentes de Sainte Marie-Madeleine en Allemagne au XIII^e siècle*, Fribourg 1918, chapters VI-VII.

incorporamus ordini supradicto';⁴ in a German Dominican dossier from this period the letters are respectively headed 'Commissio penitentium' and 'Generalis sororum omnium commissio'.⁵

Simon argued that the Magdalens 'undoubtedly' fell within the category of nuns *commissae* by the legate, and 'il ne paraît pas douteux que les lettres du légat avaient été surtout, sinon exclusivement, motivées par la question de l'Ordre des Pénitentes, qu'il voulait définitivement incorporer à l'Ordre des Prêcheurs'. On this interpretation of his act the Magdalens ceased to exist as an independent order in 1287 and, as Dominicans, were required to follow the Dominican nuns' constitutions; their autonomy was restored on 1 Jan. 1291 when Nicholas IV re-issued Gregory IX's bull granting them the Rule of St Augustine and the *Institutiones* of San Sisto: 'Sans éclat, sans même mentionner ce qui s'était fait sous son prédécesseur, Nicolas IV supprimait l'oeuvre de Boccamazzi'.

Boccamazza certainly placed the German Magdalens under the care of the Dominicans: we have three letters of his on the subject and two letters of the provincial, Hermann of Minden (Simon,

⁴ Simon printed the first letter in *Pénitentes* 250-251; for the second he cites the text edited in *Der Geschichtsfreund* 4, Einsiedeln 1847, 165-167. See below, Appendices 1 and 2.

⁵ AGOP XIV A 4 pp.174, 178. On the originally separate German part of this manuscript see D.Planzer, AFP 5 (1935) 5-21, 31-44; it consists almost entirely of writings by Hermann of Minden and documents connected with his provincialate and its aftermath. E.Ritzinger's edition of much of the material was developed and published by Scheeben in *Archiv der deutschen Dominikaner* 3 (1941) 11-95 (cited hereafter as Ritzinger-Scheeben). Hermann was provincial 1286-1290 (P. von Loë, QF 1, Leipzig 1907, 14); the dates are firmly established: German provincials were absolved in 1281, 1286 and 1290 (MOPH III 214.32-33, 236.24, 259.7); the provincial in 1283 was called Henry (H.Finke, *Ungedruckte Dominikanerbriefe des 13. Jahrhunderts*, Paderborn 1891, no. 55 note); 'Hermannus dictus de Minda' was prior of Strasbourg on 3 Feb. 1284 (letter ed. G.Löhr, *Römische Quartalschrift* 33 [1925] 166-167 and F.Hefele, *Freiburger Urkundenbuch* II, Freiburg im Breisgau 1951, 7-9 no.4); at the 1290 general chapter the provincial was 'Hermannus' (MOPH V 150.23, 155.22)—the name is written in full in the manuscripts I have checked (Barcelona 218 pp.376-378, Bordeaux 780 ff.217^v-217bis^v, Frankfurt Praed. 82 ff.177^v-179^v)—and the same man was diffinitor at a general chapter held in Paris under Munio of Zamora (MOPH V 154) which can only be that of 1286, a diffinitors', not a provincials', chapter (C.Douais, *Acta capitulorum provincialium*, Toulouse 1894, 292; MOPH XX 72.21); the provincial who implemented Boccamazza's commissions with regard to various nuns was 'Her.' (infra Appendix 1), 'Hermannus' (infra Appendix 4), or more fully 'Her. de Minda' (AGOP XIV A 4 p.176); 'Hermannus de Minda' was diffinitor at the 1291 general chapter in Palencia (Nicholas IV *Reg.* no. 6756), a diffinitors' chapter (Douais, *Acta cap. prov.* 338; MOPH XX 96.1).

Pénitentes 250-255; infra, Appendix 1); it is the supposed incorporation of the Magdalens into the Dominican order which is problematic.

Simon himself raised the question whether it was within the legate's power to suppress an entire canonically approved religious order (*Pénitentes* 94), and we may doubt if his affirmative answer is correct; but it is in any case difficult to see how Boccamazza's known acts could have entailed the suppression of the whole order, which by now extended beyond Germany.

The German Dominican provincial was told to take charge of the Magdalen monasteries 'in partibus Theuthonie sita', and the *generalis commissio* is addressed even more precisely to nuns living in *prouincia Teutoniae*; even if references to Germany need not in themselves be taken literally in connection with the Magdalens since they could be a hang-over from the time when the whole order was defined as being 'in Germany',⁶ in practice the German Dominican provincial can hardly have been required to assume responsibility for Magdalens in places where he had no jurisdiction, nor does it seem to have occurred to Hermann that he was expected to do so.⁷

The monasteries in Bohemia (*Pénitentes* 125-126, 128, 137) and Silesia (ibid. 122) were in the territory of the Polish Dominican province,⁸ and it would have been particularly foolish to try and place the Magdalens there under German control, granted the recent border-disputes between German and Polish Dominicans and the particularly fraught relations between Germans and Poles in Silesia.⁹ These lands fell within the scope of Boccamazza's legation (Honorius IV *Reg.* no. 770) but he did not go there, and no evidence is adduced to suggest that he had any dealings with the Polish Dominican

⁶ Cf. the documents edited in Simon, *Pénitentes* 183, 186-188, 194, 196-200, 203, 206-207, 209-214, 217-219, 221, 223, 231, 233, 235, 238. Even after the order's expansion beyond the limits of Germany (ibid. 55) the provost general was still officially designated 'generalis prepositus' of Magdalen houses 'per Theuthoniam' or 'per Alamaniam' (ibid. 240, 262).

⁷ He was told by the legate to look after the Magdalens 'personaliter uel per alios fratres tui ordinis'; he issued instructions as to how this was to be done, but only to the superiors of his own province (Appendix 1).

⁸ Bohemia and Silesia had both been colonized from Poland within a few years of the Dominicans' installation in Kraków (cf. R.J.Loenertz, *AFP* 21 [1951] 15, V.J.Koudelka, *AFP* 26 [1956] 134-135).

⁹ Cf. J.B.Freed, *The Friars and German society in the thirteenth century*, Cambridge Mass. 1977, 69-76.

provincial, let alone that the Magdalens in the Polish province were turned into Dominicans.¹⁰

There was also probably a Magdalen monastery in Metz (Simon, *Pénitentes* 120-121) which was in the Dominican province of France.¹¹ It was actually from Metz that the legate wrote to Master Nicholas, *scolasticus* of Liège and *officialis* of the bishop of Metz, asking him to deal with anyone who interfered with the German provincial's work for the German Magdalens (ibid. 253); if he had made arrangements for the French provincial to look after the Magdalens in Metz, this too would surely have featured in his charge to Master Nicholas.

Simon's interpretation of the legate's acts as entailing the absorption of the whole Magdalen order into that of the Dominicans runs into difficulties from the outset. It is also significantly different from Hermann of Minden's interpretation of them.¹² In Hermann's view the nuns incorporated into the Dominican order by the legate were only those who had been accepted by the order: 'Incorporauit omnia monasteria sororum ordini ... dummodo per magistrum ordinis uel per capitula generalia essent recepte'; he notes that 'Commisit preterea dominus idem prouinciali et fratribus ordinem penitentium in Theuthonia per litteras autenticas' as a separate item.¹³

Hermann also indicates that the *generalis commissio* became *generalis* in two stages:

Licet incorporauerit sub forma communi claustra per capitula generalia ad ordinem recepta generaliter, tamen eandem formam dedit

¹⁰ On the contrary, the Silesian Magdalens made a new foundation in 1289 (Simon, *Pénitentes* 107).

¹¹ A nunnery there was entrusted to the French provincial's care in 1283 (Martin IV *Reg.* no. 445).

¹² AGOP XIV A 4 pp.183-186 contains an annotated list of the *priuilegia* which Boccamazza granted the German Dominican nuns (Ritzinger-Scheeben 91-94). The author indicates that the *generalis commissio* was modelled on earlier *commissionses* but 'quia diuersitas inueniebatur in illis elegi meliorem de omnibus'; as Scheeben pointed out, the first-person subject of *elegi* can hardly be anyone other than the provincial, Hermann, so he must be the author.

¹³ Cf. the related list of the legate's *priuilegia* in Soest, Wissenschaftliche Stadtbibliothek 29 p.91: 'Incorporauit omnes sorores per generale capitulum receptas ... Ordinem penitentium in Teuthonia commisit fratribus ordinis predicatorum'. *Receptas* shows that only nuns already accepted by the order were incorporated. Nor can Hermann's *dummodo* clause be taken to mean 'provided they are accepted (at some time in the future)'; apart from the awkwardness of taking *essent* in two different senses in the *licet* and *dummodo* clauses, such an interpretation is ruled out by the legate's *salutatio*: the *generalis commissio* is addressed to nuns who *have been* accepted (*receptis*).

quibusdam specialiter non solum nouis sed etiam antiquis que debiliore forma recepte uel ab apostolica sede commisse fuerunt. Verum quia premissa forma nouarum plus placuit antiquioribus, et pro carentia eorum que ipsis sunt superaddita gemere¹⁴ potuerunt, concessit unam formam magis generalem et quasi omnibus competentem sicut patet in salutatione sic: Iohannes diuina etc. usque Receptis; additur Seu per nos uel per alium aut alios quoscumque qui de iure possunt commissis salutem in domino.

Monasteries which received particular copies are noted immediately after the text of the letter in AGOP XIV A 4 p.179:

Sub eodem tenore habent specialem sorores sancti Lamperti et Celi corone. Item sorores de Phorzheim. Item sorores sancte Agnetis in Vriburgo. Item sorores de Steten. Item sorores de Wedersteten et de Tostode.¹⁵ Item sorores de Paradyso et sancte Gertrudis in Colonia.

There are in fact three forms of the *commissio* (see Appendix 2): a full letter of *incorporatio* addressed by the legate himself to specific monasteries (the earliest being dated 31 Oct. 1287), a shorter generalized version dated 4 Nov. 1287 which was vidimated and distributed to particular monasteries by Bishop Henry of Trent, and a generalized version of the long text dated 8 Dec. 1287. The first two versions are addressed to nuns 'per magistrum ordinis seu capitula generalia secundum ordinis consuetudinem receptis'; only in the third is this followed by 'seu per nos uel per alium aut alios quoscumque qui de iure possunt commissis'.

Simon presumably maintained that the letter was 'primarily, if not exclusively, motivated by the question of the Penitents' because he could not see how it would have benefited Dominican nuns; but he was unaware of its evolution and failed to place it in its Dominican context.

On 26 Sept. 1252 Innocent IV yielded to a Dominican pressure-group and released the order from almost all *cura monialium*; this

¹⁴ *Gemere*, if genuine, must be an emphatic way of saying that monasteries might suffer from, complain about, the lack of Boccamazza's additions; Scheeben proposed emending to <*dubium*> *generare*.

¹⁵ Simon, *Pénitentes* 256, and Wilms, *Das älteste Verzeichnis* 38, take *Tostode* to mean Töss, but this is improbable (cf. the forms listed in *Helvetia Sacra* IV/5 901). The addressees of the letter edited below in Appendix 2 suggest it should be 'de Lode' (Lahde, 'monasterium Lode' as it is called in Bernard Gui's list of Dominican nunneries, of which I am preparing an edition).

prompted a furious reaction, and early in 1254, with evident relief, the pope gave the Dominican cardinal Hugh of St Cher *carte blanche* to sort the situation out regardless of anyone's privileges (BOP I 217 no. 269, VII 32 no. 380).

Hugh immediately set about restoring the link between the order and its nuns, and in 1257, with at least the tacit consent of the preceding general chapter, he used the powers given him by the pope to reinstate all the nuns who had been accepted by a Master or general chapter.¹⁶

The 1257 chapter confirmed a new constitution that no nuns could be received to the order's care '*nisi per tria capitula fuerit approbatum*' (Appendix 3, text 2); Hugh, who was present, urged it to employ this procedure to reinstate all the nuns who had ever been *sub cura ordinis*, and this was duly done. Some people apparently questioned whether this was sufficient in the absence of an official endorsement by Hugh; so in 1262, on the authority of Urban IV, Hugh ruled that the order could resume its care of these nuns.

Evidently some uncertainty still remained, so on 6 Feb. 1267 Clement IV formally re-entrusted to the order all the nuns 'committed' to it by any pope or accepted by a Master '*aut per capitula generalia*' (BOP I 481-482 no. 59). The 1267 general chapter then began the process of adding *et nisi per dominum papam ordini committatur* to the constitution requiring the approval of three general chapters for nuns to be accepted to the order's care; this was confirmed in 1269 (Appendix 3, text 4).

It is unclear how far the new law was understood to mean that both acceptance by three general chapters and papal *commissio* were necessary,¹⁷ but Hermann's comment that the legate incorporated the nuns who had been properly received '*licet per sedem apostolicam*

¹⁶ I hope to publish a full dossier elsewhere; suffice it for now to cite printed material relating to Hugh's acts on behalf of the nuns in 1254-1262: BOP I 335 no. 153, VII 33 no. 382; *L'Année Dominicaine* Mars II, Lyons 1886, 888-889; Finke, *Ungedruckte Dominikanerbriege* nos. 4 and 6.

¹⁷ The intended reading of the revised constitution ('*et nisi per dominum papam ...*') is not seriously in doubt, but Bernard Gui's text of the relevant chapter acts consistently favours *uel nisi* (Appendix 3, text 4), as do the earlier manuscripts of his text of the 1287 inchoation (*ibid.* text 6); *uel* re-appears in the post-1289 constitutions as found in two Wrocław manuscripts (*ibid.* text 7), one of which also retains the introductory verb from the unrevised constitution and must therefore derive ultimately from a pre-1289 exemplar, and in Bandello's edition (which presumably attests the presence of *uel* in some Italian manuscript unless he was influenced by Gui's edition of the chapter-acts which he could have consulted in Bologna).

non essent commissae' shows that some German monasteries had not received a papal *commissio* and that this lack could be considered an obstacle to their full recognition as Dominican.¹⁸

There can be little doubt, then, that one reason for Boccamazza's letter was to compensate, where necessary, for the lack of a papal *commissio*. Nor can it be a coincidence that, a few months earlier, the general chapter of 1287, at which Hermann should have been present,¹⁹ initiated a constitutional change to recognize the legitimacy of just such a legatine *commissio*: nuns were not to be received to the order's care without the agreement of three chapters 'et nisi cura per dominum papam ordini committatur uel per alium qui possit facere commissionem predictam'; the new text became law in 1289 (Appendix 3, text 6).

However, as Hermann explains, the legate's *commissio* was not only given to *claustra noua*, but also to some *antiqua* 'que debiliore forma recepte uel ab apostolica sede commissae fuerunt'.²⁰ *Debiliore forma* can only mean one thing: these nuns had been *commissae* or *receptae*, but not *incorporatae*.²¹ Hermann draws attention to this point as one on which Boccamazza's letter was superior to previous *commissiones*: 'In illis plerumque dicitur Committimus, hic Incorporamus'.

Historians of Dominican nuns persistently refuse to distinguish between *commissio* and *incorporatio*,²² but the bulls issued by

¹⁸ Confining ourselves to recent developments in Germany, we may note that the 1282 general chapter received the nuns of Tulln to the order's care; since their monastery was a very recent foundation this was presumably the first chapter to do so, in which case the process would have been completed in 1285. On 23 Jan. 1286 Honorius IV issued a bull of *commissio* for them (Wilms *Das älteste Verzeichnis* 26-27; Honorius IV *Reg. nos.* 345-346). St Gertrude's, Cologne, was a year behind Tulln: its acceptance was 'approved' by the general chapter of 1285, so it should have been confirmed in 1286 (QF 17 [1922] 43; J.Prieur, *Das Kölner Dominikanerinnenkloster St. Gertrud am Neumarkt*, Cologne 1983, 75-76). There is nothing to suggest that Honorius issued a bull of *commissio* for it before he died in April 1287.

¹⁹ It was a provincials' chapter (cf. Douais, *Acta cap. prov.* 300).

²⁰ The feminine participles imply an antecedent *sorores* which is not in the text but is implied by *claustra*. Such syntactical 'shorthand' is typical of Hermann's commentary on Boccamazza's *priuilegia*.

²¹ Most papal *commissiones* since 1245 said nothing about *incorporatio*. Of the formulae used by the general chapter to receive St Gertrude, Cologne, in 1285 and Santa Madalena, Valencia, in 1287, the former does not mention *incorporatio*, the latter does (QF 17 [1922] 43; F.Diago, *Historia de la provincia de Aragón de la Orden de Predicadores*, Barcelona 1599, f.254^v); may we detect Hermann's influence in this change?

²² The distinction has been appreciated with reference to Cistercian nuns (e.g. F.J.Felten in *Unanimité et diversité cisterciennes*, Saint-Étienne 2000, 345-346), but

Innocent IV (under whom the relevant formulae took shape) show that they are not interchangeable; for example, only bulls of *incorporatio* contain a clause requiring the Master and provincial to provide for the administration of the nuns' *temporalia*.²³ The distinction was underlined by Innocent himself on 4 April 1246 in *Licet olim*, in which, no doubt under pressure from the Master, John of Wildeshausen,²⁴ he declared that, whatever formula had been used to commit nuns to the order's care, the brethren were not obliged to anything more than was required by bulls of *commissio*, 'cum eas uestro incorporari ordini non uelimus'. Despite the text printed in BOP I 160-161 ('cum eas uestro incorporari ordini Nos uelimus'), there is no doubt that the pope meant that he did *not* want the nuns to be 'incorporated into your order'.²⁵

writers on Dominican nuns continue to act on O.Decker's dogma that *incorporare* and *committere* mean the same (*Die Stellung des Predigerordens zu den Dominikanerinnen (1207-1267)*, QF 31, Vechta 1935, 89-90): e.g. G.Jaron Lewis, *By women, for women, about women*, Toronto 1996, 11-30, says that the nine monasteries with *Schwesternbücher* were 'incorporated' in 1245-1246, but they all received bulls of *commissio*, not *incorporatio*; Denne, *Frauenklöster in Freiburg* 71-72, makes no distinction between Adelhausen's *commissio* (1245) and its *incorporatio* (1249) (ed. Hefele, *Freiburger Urkundenbuch* I, Freiburg 1940, 71-73 nos. 85-86, 97-98 nos. 113-114); in *Helvetia Sacra* IV/5 bulls of *commissio* serve to date several monasteries' 'incorporation' (531, 781, 901, 1019); S.Turck refers to Strasbourg nunneries being 'incorporated' regardless of which kind of bull they received (*Les Dominicains à Strasbourg*, Strasbourg 2002, 176-178); J.Thali says Engelthal was 'incorporated' in 1248 (*Beten—Schreiben—Lesen*, Tübingen/Basel 2003, 21) when it actually received a bull of *commissio* (Staatsarchiv Nürnberg, Urkunden Münchener Abg. 1992 no. 12); even less correctly A.Winston-Allen speaks of Engelthal being 'incorporated' in 1244 (*Convent chronicles*, Pennsylvania University 2005, 70).

²³ The one exception is the bull of *commissio* issued for Altenhohenau on 21 April 1246, which includes the clause on the administration of *temporalia* (ASV Reg. Vat. 21 f.275; edited from the original in *Monumenta Boica* 17, Munich 1806, 10-12). This is one of several eccentricities which suggest that things had become a bit muddled in the papal chancery.

²⁴ John has acquired an undeserved reputation among modern historians as a fierce opponent of the nuns; I hope to put the record straight elsewhere.

²⁵ *Non uelimus* is vouched for by the papal register (ASV Reg. Vat. 21 f.271^v-272^r) and by two distinct textual traditions attested in Dominican 'bullaria' (the main tradition is found in Dresden Sächsische Landesbibliothek A 177 p.91, Perugia Archivio di Stato Corpor. rel. sopp. S.Domenico 66 f.46^v, and AGOP XIV A 4 pp.271-272; Dresden A 177 pp.139-140 has a text from a different tradition or more probably from an original); it is also guaranteed by the corresponding bull issued for the Franciscans of which I have consulted an original (Assisi, Centro di documentazione francescana) and the text in the register (ASV Reg. Vat. 21 f.410^v). The text in BOP I 160-161 is expressly based on 'Lib. A' (now AGOP I 101) which consists of transcriptions from the papal registers; it has no independent authority.

No one would dispute that *commissio* was a comprehensive term which applied whether or not *incorporatio* was involved—the incorporation of nuns into the order was obviously one way of ‘committing’ them to the order; thus *commissio* without *incorporatio* could easily be seen as a ‘weaker form’ of *commissio* (and, *mutatis mutandis*, the same is true of *receptio*).

Hermann evidently considered *incorporatio* a significant boon granted by the legate; this is shown by the congratulatory letter he sent some of the nuns in 1288:

Exultate filie Syon in rege uestro plaudentes manibus, iubilare deo in uoce exultationis qui uos sicut predestinauit sic et uocauit in ammirabile lumen suum a tenebris seculi segregatas ... Nam mediante uenerabili domino legato, sicut in suo uobis concesso priuilegio continetur, incorporate estis siue unite eximio predicatorum ordini quem deus tamquam luminare maius in ecclesie posuit firmamento, ut quod uobis ex fragilitate sexus defuit ad profectum de ipsius ordinis habundantia suppleatur ...

The nuns so addressed were *ex hypothesi* already *sub cura ordinis*, but Hermann treats them as ‘in premissi ordinis stirpe nouella plantatio ... posite’, and he solemnly informs them that he is deputing the local prior to look after them on his behalf (see Appendix 4 for the full text).

The traditional formula which Hermann suggested to the legate presented incorporation as something the nuns themselves wanted (‘cum ... incorporari eidem ordini affectetis ...’), and this is echoed in his own letter (‘uestrum desiderium adimplendo’). At least in some cases it was undoubtedly true.²⁶

It is clear enough, then, that the first two versions of Boccamazza’s letter were prompted by a perceived need on the part

²⁶ At least four monasteries got bulls of *incorporatio* from Innocent IV to supplement their bulls of *commissio*: Adelhausen (Hefele, *Freiburger Urkundenbuch* I nos. 85-86, 113-114) and three Strasbourg monasteries, St Mark (ASV Reg. Vat. 21 ff.214, 261^v-262^r), St Catherine (Reg. Vat. 21 f.214; Strasbourg, Arch. mun., Hôpital 1837 nos. 14-15) and St John (Reg. Vat. 21 f.214; Strasbourg, Arch. mun., Hôpital 1364 no. 24). It was *incorporatio* that the foundress of Val-Duchesse was hoping for in June 1268 (V.Tahon, *Le prieuré de Val-Duchesse*, Brussels 1910, 128). Berlin Staatsbibliothek theol. lat. 109—which has been identified as Hermann of Minden’s ‘Briefbuch’ (Finke, *Dominikanerbriege* 8; L.Sturlese, *Dokumente und Forschungen zu Leben und Werk Dietrichs von Freiberg*, Hamburg 1984, 77)—contains a reply to the founder of a Dominican nunnery who had urged that one thing was still missing, *incorporatio* (f.168^v modern foliation; ed. Finke, *Dominikanerbriege* 136 no. 117); its general form suggests that Hermann foresaw repeated need of it.

of some Dominican nuns, either the lack of papal *commissio* or a desire to have an earlier *commissio* (or *receptio*) topped up by explicit *incorporatio*. Without fuller information it is impossible to gauge how far the two versions were meant to correspond to the two needs,²⁷ but we may guess that version I, with its particular addressees, was sent to monasteries which petitioned the legate directly, and that version II was made available for Bishop Henry to vidimate for any other monasteries which wanted it and were entitled to it.²⁸

It is with version III that the letter received 'unam formam magis generalem et quasi omnibus competentem',²⁹ and according to Hermann the reason for this was that the nuns preferred the new formula, not least because of the extra features it contained.

In his commentary Hermann noted five such features: (1) explicit *incorporatio*, (2) the addition of 'et iniungat penitentiam salutarem' to *confessiones audiat*, (3) recognition of the provincial's authority over chaplains, lay brothers and sisters, and oblates, (4) the addition of 'a quocumque tam fratribus quam sororibus' to the clause on the nuns' share in privileges granted to the order, (5) the *clausula* on the provincial's duty to oversee the administration of nuns' *temporalia* 'que non in multis litteris habetur, sed per hoc probatur quod sorores pertinent ad curam fratrum tam in temporalibus quam in spiritualibus quod quidam hactenus negauerunt'.

Of these *superaddita* numbers 2 and 5 are missing in version II of the legate's letter, which would therefore not give the nuns the full benefit of his *commissio*; this is one major reason why another generalized version was required.

What is more, the connected issues of the nuns' relationship to the order and the brethren's responsibility for their *temporalia* were of immediate practical importance: the people from whom Honorius

²⁷ Of the known recipients of version I only St Lambrecht had certainly received a papal *commissio* (Heidelberg, Univ. Bibl. Urkundensammlung Lehmann no. 244); of the known recipients of version II Unterlinden had certainly received a papal *commissio* (Colmar, Arch. dép. du Haut-Rhin 24 H 1/1), St Agnes in Freiburg had apparently not, and we are in the dark about Mahrenberg (cf. Wilms, *Das älteste Verzeichnis* 22).

²⁸ For an hypothesis as to why version II is so different from versions I and III see below, Appendix 2.

²⁹ *Quasi* is precautionary and does not imply a positive belief that some nuns were excluded any more than I necessarily mean that some people were absent if I say 'Pretty well everyone was there'.

IV authorized Boccamazza to levy *procuraciones* for his own expenses and those of his *nuntii* included religious 'whether exempt or not',³⁰ thanks to a privilege they had from Alexander IV (BOP I 358-359 no.199) the Dominicans were not required to contribute since they were not explicitly mentioned in Honorius's letter, but the collectors did not believe that this applied to Dominican nuns. Hermann appealed to the legate, who referred the matter to Bishop Henry of Trent at his council at Würzburg in March 1287;³¹ after examining the privileges of St Mark's, Würzburg, Henry gave a verdict in favour of the nuns (Appendix 5).

The dossier in AGOP XIV A 4 includes an unattributed treatise on this very question 'utrum sorores ordini fratrum predicatorum a sede apostolica commisse teneantur ad prestationem procurationum legatis et nuntiis sedis eiusdem'; like the other treatises in the same manuscript it is most plausibly ascribed to Hermann of Minden,³² and it is surely based essentially on the case which he presented in 1287.

After some general preliminaries he argues that the nuns are 'ordinis predicatorum', subject to the brethren 'non solum in spiritualibus sed etiam in temporalibus', and as such they share in the order's privilege with regard to *procuraciones*. It makes no difference that they do not practise the same poverty as the brethren: Innocent IV gave them a special privilege allowing them to hold revenues and possessions. Hermann accepts that only some of them had actually been addressed as 'sorores ordinis fratrum predicatorum', but he refutes the inference that the others are not 'of the order' by citing *Licet olim* in which Innocent IV ruled that they should all be treated the same whatever formula had been used. Nor is it relevant that Innocent freed the order from *cura monialium* since this was subsequently revoked. To the contention that the order's privileges do not apply to people who are merely subject to the Dominicans Hermann replies that the nuns are united and joined to the order, not just subject to it.

³⁰ Honorius IV, *Reg.* nos. 804-805 (31 May 1286); the texts are printed in full in A.Krarup, ed., *Bullarium Danicum* II, Copenhagen 1932, 685-686.

³¹ On the council and the bishop's presence at it cf. C.J.Hefele-H.Leclercq, *Histoire des Conciles* VI i, Paris 1914, 307-314; A.Hessel-M.Krebs, *Regesten der Bischöfe von Strassburg* II iv, Innsbruck 1926, nos. 2190-2212.

³² Ritzinger-Scheeben 64-76. Scheeben argued against its ascription to Hermann (proposed by Planzer in AFP 5 [1935] 34), but R.Creytens showed his argument to be worthless (AFP 19 [1949] 34 n. 103).

By a happy chance the nuns of Würzburg had a bull of *incorporatio* in which Innocent IV addressed them as 'ordinis fratrum predicatorum', and it included the clause on temporal administration.³³ By another happy chance Hermann's 'Briefbuch' contained a text of *Licet olim* which anticipated that of BOP by omitting the negative from 'cum eas uestro incorporari ordini non uelimus' (Berlin Staatsbibl. theol. 109 f.45'), thereby allowing Hermann to turn the bull's purpose upside down. Innocent's intention was to establish the brethren's obligations at the level indicated in bulls of *commissio*, which in practice meant specifically that they were not responsible for nuns' *temporalia*. As Hermann's comment on Boccamazza's *commissio* shows, he believed this to be a misreading of the situation; no doubt under the influence of his false text of *Licet olim* he seems to have thought that Innocent established the bulls of *incorporatio* as the norm by which other *commissiones* should be interpreted, and that the brethren were therefore responsible for the nuns' temporal administration even in the case of monasteries whose *commissio* was silent on the subject.

Hermann or Bishop Henry must have realized that it would be difficult to substantiate this last point since most monasteries had no documentary proof that they were subject to the order *in temporalibus*. The bishop rested his case on the nuns' share in the order's privileges and on their right, affirmed in all bulls of *commissio*, to hold revenues and possessions 'non obstantibus contraria consuetudine seu statuto ipsius ordinis'.

Hermann was under no illusion that Bishop Henry's verdict settled the matter for all time;³⁴ this is shown by the fact that he continued to tinker with his treatise on the subject.³⁵ In these circumstances he had a compelling reason to want all his nuns to be able to prove that they were not just subject to the order, they belonged to it, and that the brethren were responsible for their *temporalia*. This was something which version II of the legate's *commissio* could not achieve.

This also explains why a form of address was sought which would embrace all the province's nuns in the most general terms

³³ The full text is found in the papal register, ASV Reg. Vat. 21 f.309.

³⁴ The issue was finally settled in the nuns' favour by Benedict XI in 1304 (*Reg.* no. 590, BOP II 91).

³⁵ As found in AGOP XIV A 4 it cannot antedate the pontificate of Nicholas IV, but its failure to mention either Boccamazza's incorporation of the nuns or Bishop Henry's verdict suggests it was only very superficially updated.

possible. Versions I and II of the legate's letter were addressed to nuns who had been accepted by the order, but he could not describe them as *commissae* since one of his objectives was to provide for monasteries which lacked a papal *commissio*. By December, thanks precisely to his earlier letters, all the nuns had been *commissae*, so a fuller formula could now be used involving *receptio* and *commissio* 'seu per nos uel per alium aut alios quoscumque qui de iure possunt'. The formula echoes the language of the constitutional change inchoated at the 1287 general chapter, and there can be little doubt what it means: 'per nos' applies to nuns who had just been *commissae* by Boccamazza himself; 'per alium aut alios quoscumque' obviously covers nuns who were *commissae* by Hugh of St Cher, but more essentially it refers to papal *commissiones*.³⁶

The disjunctive 'seu per nos ...' might suggest that version III was meant to be applicable to nuns whom the legate had committed to the order's care even if they had not been received by the order, but this should not be pressed too hard as *seu* could have been inspired by Clement IV's bull of 1267 which referred to nuns who had been *commissae* by the pope or (*uel*) accepted by the order.³⁷

In any case there is no need to look beyond the Dominican fold for an explanation of *seu*. Theoretically the rubric under which Hugh of St Cher reinstated the German nuns in 1257 was that they had been 'recepte auctoritate alicuius magistri uel capituli generalis ante commissionem seu mandatum apostolicum super hoc receptum'; but Hugh was colluding with a well-disposed provincial (Albert the Great) and it is extremely doubtful whether any of the German monasteries had been formally accepted by a Master or general chapter, whatever de facto support some of them may have received from one Master or another. If their *receptio* was disputed—and it was precisely questions about the legal standing of Dominican monasteries which were raised by the issue of *procuraciones*—the sole remaining basis for their claim to have been restored to the order after the débacle of 1252 was their *commissio* by Hugh of St Cher and the revival of

³⁶ Similarly *quocumque* in Boccamazza's 'priuilegiis que ordini predicto a quocumque concessa sunt' corresponds to *apostolica sede* in papal letters of *commissio*, and *qualibet* in 'non obstante contraria consuetudine seu statuto ipsius ordinis confirmatione qualibet roboratis' to *sedis apostolice aut quacumque firmitate alia*.

³⁷ The legate's use of *seu* rather than *uel* would have been prompted by the need to deploy a full range of disjunctives to separate the whole clause from what precedes it (*seu*) and to mark a major disjunction between *nos* and *alium* (*uel*) and a minor one between *alium* and *alios* (*aut*).

previous papal *commissiones* by Clement IV. As a precautionary measure there was good reason to devise a formula in December 1287 which would cover nuns whose *receptio* could be doubted but who had certainly been *commissae*.

Simon was wrong, then, to imagine that Dominican nuns had nothing to gain from the legate's *commissio*; and his attempt to apply it to the Magdalens runs into several problems. For one thing, he relied heavily on the *commissio* being addressed to nuns 'per nos commissis'; but the legate's letters concerning the Magdalens refer to him 'committing' *uisitationem, curam et correctionem* of them to the provincial, and to the provincial 'committing' these tasks to other friars (Simon, *Pénitentes* 252-253), but the Magdalens themselves never feature as the direct object of *committere*.³⁸ Furthermore, the nuns envisaged by the *commissio* are said to have been observing 'institutiones fratrum ordinis predicatorum', which is not true of the Magdalens.³⁹ And if the *commissio* incorporated the Magdalens into the Dominican order, the same must be true of the other non-Dominican nuns the German provincial was told to look after; and this did not happen.

³⁸ This may seem a small point, and it is obscured by the label Hermann attached to the legate's letter ('*commissio Penitentium*') and by 'loca monialium commisit' in his own letter (*infra*, Appendix 1); but in papal usage there was a difference. In letters of *commissio* nuns were the direct object of *committere* and their 'commission' to the Master and the provincial placed them entirely under the order, implicitly removing them from episcopal jurisdiction; this is highlighted by Honorius IV making such *commissiones* conditional on the local bishop's consent (Honorius IV *Reg.* nos. 588 and 600; BOP II 15 no. 17; P.Linehan, *The Ladies of Zamora*, Manchester 1997, 94 note 64). Episcopal jurisdiction was unaffected when tasks such as visitation were 'committed' to a provincial (e.g. E.Martínez, *Colección diplomática del Real Convento de Santo Domingo de Caleruega*, Vergara 1931, 246-248).

³⁹ The legate expressly required the provincial to correct and form them 'secundum regulam beati Augustini et instituta ordinis monialium sancti Sixti in Urbe', and the provincial told his brethren to respect this (Appendix 1). Boccamazza was aware that Dominican nuns were no longer governed by the *instituta sancti Sixti*: as we shall see in a moment, he used completely different terms to express his wish that the nuns of Suntheim should be treated like Dominicans. The *instituta sancti Sixti* lost their validity for Dominicans in 1259 when Humbert promulgated his new constitutions and made acceptance of them a condition for nuns to be recognized as Dominican ('Si que nollent huiusmodi formam recipere pro sororibus ordinis minime habeantur'). Humbert's letter is known only from one manuscript (Vienna, Österreichische Nationalbibl. 1507 f.146^r) which dates it impossibly to a general chapter in Spoleto (where there has never been a general chapter); but its clause on the obits recited at the chapter is identical to one which is otherwise found only in Humbert's encyclical of 1259 (MOPH V 50.1-3), so the real date is scarcely in doubt.

The nuns of Suntheim would seem to be particularly promising candidates for incorporation: they had not professed an approved Rule, but, as the provincial was told by the legate, they had long been 'sub cura et regimine fratrum tui ordinis'; he was to give them the Rule of St Augustine and 'instituta, consuetudines et gratias sororum tuo ordini in tua prouincia commissarum' and look after them *in spiritualibus et in temporalibus* by visitating them, hearing their confessions 'ac alia ordinando que apud alias sorores prouincie tue per te uel per alios fratres consueuisti'.⁴⁰ As it happens, though, we have contemporary local evidence that they did not become Dominicans in 1287: the Colmar annalist—who was a member of the Dominican community in Colmar at the time⁴¹—says that in 1289 'Incluse in Suntheim aream in Gebwiler 100 marcis emerunt'; as can be seen from the immediate context, he would have called them *sorores*, not *inclusae*, if he considered them to be Dominicans.⁴² They were still 'incluse de Suntheim' on 29 Oct. 1290 when they moved to their newly built monastery in Guebwiller (MGH SS XVII 217), but they must have become Dominicans shortly afterwards.⁴³

On 1 May 1287 the provincial was asked to deal with a monastery in Neuburg whose observance had become unclear; some time earlier the nuns had placed themselves 'sub cura et regimine fratrum predicatorum conuentus wormaciensis', and to ensure the continuation of this arrangement they asked the legate to 'commit' them to the Dominicans. Instead he instructed Hermann to give them the Rule of St Augustine, or whatever approved Rule they wanted, with the habit and *instituta* of S.Sisto, and to attend to their spiritual needs in the usual way, 'presentibus in suo robore duraturis

⁴⁰ AGOP XIV A 4 pp.177-178, Ritzinger-Scheeben 85-86 (with the typically misleading heading 'Der Kardinallegat inkorporiert das Frauenkloster Suntheim ... dem Predigerorden').

⁴¹ Cf. 'Colmar Dominikanerchronist', *Verfasserlexikon* I 1295-1296.

⁴² 'Incluse in Kaczental se in Amerschwiler transtulerunt ... et in eodem anno in capitulo treuerensi fratribus Predicatoribus in Columbaria committuntur ... Sorores in Amerschwire in festo sancte Katherine primam missam in area propria cantauerunt'; 'Sorores sub Tilia tertiam domum claustrum sui perfecerunt' (MGH SS XVII 216-217).

⁴³ In the earliest version of Bernard Gui's list of Dominican nunneries (Bologna, Bibl. Univ. 1535 ff.34'-36") the monastery is stated to be 'in terminis conuentus basiliensis'; the first revised text (in AGOP XIV A 2, Frankfurt a/M Stadt- und Univ. Bibliothek Praed. 82, and Minerva A.p.4) has 'monasterium apud Gelwiler ubi est etiam nunc conuentus fratrum gewilrensis'. Gui's original information presumably antedated the foundation of the convent in Guebwiller in 1295 (Sturlese, *Dokumente und Forschungen* 49-50).

quousque sedes apostolica de ipsis aliud duxerit ordinandum'.⁴⁴ From other pieces in the dossier we can see that there was deep dissension in the community, and by 1294 the Dominicans' right to look after it was in dispute. The provincial, Dietrich of Freiberg, wrote to Boccamazza himself about the matter, saying inter alia 'Monasterium siquidem illud per uos cure et regimini prouincialis Theutonie commendatum donec summus Pontifex circa hoc aliud ordinaret ... sub diligenti cura nutriuimus et in uiam direxerimus salutarem'.⁴⁵ Clearly the situation in 1294 was as provisional as it was in May 1287; the nuns had therefore not been incorporated into the Dominican order in December 1287. They eventually became Cistercians, not Dominicans.⁴⁶

Honorius IV had been dead nearly a month and no successor elected when Boccamazza asked the provincial to take care of Neuburg until a final decision was made by the apostolic see. His charge with regard to the Magdalens was equally provisional ('quousque de premissis sedes apostolica duxerit aliud ordinandum'); by December 1287 the interregnum had lasted another seven months, but even so it would be rash to assume that the legate had in the interim decided he had authority to make a final decision about them himself.

One Magdalen monastery can be recognized in Hermann's list of nuns who received particular issues of the legate's *commissio*: 'sorores de Phorzheim' must refer to the only known Dominican nunnery in Pforzheim, and, since it was dedicated to Our Lady and St Mary Magdalen,⁴⁷ there is little doubt that it is the monastery attested as Magdalen in 1265 (Simon, *Pénitentes* 125). We do not

⁴⁴ AGOP XIV A 4 p.172 (with the slightly inaccurate label 'Commissio sororum de Nuwenburg'), Ritzinger-Scheeben 67-77 (with the far more misleading heading 'Kardinallegat Johann Boccamazzi inkorporiert das Frauenkloster Neuburg am Neckar dem Predigerorden').

⁴⁵ AGOP XIV A 4 pp.172-174, Ritzinger-Scheeben 77-81. For the later pieces see Sturlese, *Dokumente und Forschungen* 40-41, 155-158.

⁴⁶ Neuburg does not feature in any version of Gui's list of Dominican nunneries. It is not certain when it became Cistercian; Felten says 'c.1310' (*Unanimité et diversité cisterciennes* 381).

⁴⁷ Thus Johannes Meyer, quoted in Wilms, *Das älteste Verzeichnis* 86. Pforzheim appears not to feature in Gui's list of nunneries, but it is perhaps there in disguise. Gui was his province's diffinitor at the general chapter of 1308 (Toulouse 490 f.400^r) and he used the occasion to revise his list of Dominican convents and monasteries; but, though he was able to produce a far more detailed list of German nunneries than before, he could not discover anything more about the two monasteries 'in uilla piporgenensi' (later altered to *piborgenensi*). No one has yet identified this place, and perhaps it was already too garbled in 1308 to be recognized; the well-informed copyist

know what happened to it between 1265 and 1287, so we cannot definitely assert either that it remained Magdalen until 1286 or that it had in the mean time been accepted by the Dominicans;⁴⁸ but its reception of Boccamazza's *commissio* must favour the latter supposition.

The text of the *commissio* in *Geschichtsfreund* 4 was taken from a vidimus made in Zürich on 18 May 1294 which belonged to the Magdalens of Neuenkirch; whether or not it was originally made for them, it shows that they were not among the letter's recipients in 1287.⁴⁹ They seem to have been flirting with the Dominicans in the 1290s, but they were still Magdalen in 1313 and there is no documentary evidence of them being Dominican until 1361.⁵⁰

We are particularly well informed about the Magdalens in Freiburg im Breisgau. In 1289 (when, on Simon's theory, they were already Dominicans) they asked to be incorporated into the Dominican order, and they were accepted in the usual way by three successive chapters. Their change of allegiance was challenged and in 1296 the prior of Freiburg came to their defence, explaining that Boccamazza entrusted (*commisit*) the governance of the Magdalens to the Dominican provincial and *durante praedicta commissione* the Freiburg nuns freely transferred themselves to the Dominican order, were accepted by it in the way laid down by the constitutions, and were given the veil by Munio, Master of the Order.⁵¹ Some years

of the Minerva manuscript emended the word to *phorzgenensi*, and it is conceivable that *piporgenensi* is an early corruption of *phorzemensi* (the form used in Gui's list of convents)—in Gui's handwriting *ph* could be misread as *pⁱp*. There was only one monastery in Pforzheim itself, but there was another at Reuthin in the territory of the Pforzheim convent (Wilms 87).

⁴⁸ It is unknown when the brethren's convent in Pforzheim was founded, but it is not mentioned in a list of houses from c.1274 (Berlin theol. lat. 109 f.121^v modern fol.). Gui's *ordo conventuum* of Teutonia is inaccurate (it contains two houses which did not even belong to the province), and Johannes Meyer's *ordo*, to which Dr Claudia Heimann has kindly drawn my attention, is of uncertain value (Strasbourg, Bibl. Nat. et Univ. 2934 f.3; Basel, Univ. Bibl. E.III.13 f.123); on any reading of the *ordo*, though, Pforzheim precedes Tulln and Ulm, which suggests a foundation-date before 1280 (cf. Freed, *Friars and German society* ... 218).

⁴⁹ By contrast their vidimus of the legate's letter bidding the Dominican provincial take provisional charge of the Magdalens was made in Basel on 21 Dec. 1286 (*Geschichtsfreund* 4 [1847] 164-165); the Dominicans no doubt had copies of the letter made to establish their credentials with the Magdalens.

⁵⁰ *Geschichtsfreund* 4 (1847) 177, 196; *Helvetia Sacra* IV/5 704-707.

⁵¹ Munio was in Germany in 1289 for the Trier general chapter (A.Schulte-Wiegand, *Urkundenbuch der Stadt Strassburg* IV/1, Strasbourg 1898, nos. 279, 281-282; MOPH V 145.3-4); it must have been then that he gave the veil to the

later they became Magdalen again, but after another change of heart the bishop begged the Dominican provincial to readmit them in 1309;⁵² he tells the same story of how they asked for the Dominican habit during the time when the legate had entrusted the governance of the Magdalens to the Dominicans.⁵³ Obviously the nuns did not believe that Boccamazza had turned them into Dominicans in 1287, nor did any one else; they initiated that process themselves in 1289 by asking the order to receive them.

One monastery might seem to support Simon's interpretation of Nicholas IV's bull as re-establishing the Magdalens as an autonomous order at the beginning of 1291: on 27 Nov. 1291, in a letter which echoes Boccamazza's initial charge to the German provincial, the bishop of Basel entrusted the Dominican prior of Basel with responsibility for the Magdalen monastery 'iuxta muros civitatis Basiliensis',⁵⁴ the one known as 'an den Steinen', which was later 'committed' to the Dominican order by Benedict XI on 18 Feb. 1304.⁵⁵ On Simon's theory this is easily understood as the restoration of a desired link with the Dominicans which the pope had recently severed; but this is not the only possible interpretation.

The Magdalens had been troubled for a long time with scandals and dissensions; several houses had gone over to other orders, and Witico, elected provost in 1266 and confirmed in 1268, had had to struggle and make compromises to maintain his authority and prevent further defections (Simon, *Pénitentes* 70-83, 227-229, 235,

Freiburg nuns on the strength of their inchoated acceptance. In 1291 the chapter was held at Whitsun (10 June) in Palencia and Munio can hardly have visited Germany between then and his deposition by the pope in August (A.Mortier, *Histoire des Maîtres Généraux* II, Paris 1905, 271-273).

⁵² They were Magdalen by 8 July 1298 and Dominican again by 1316 (Denne, *Frauenklöster in Freiburg* 79-80). St Mary Magdalen's is not one of the three Freiburg monasteries named in Gui's revised list of Dominican nunneries, but it could be one of the three unnamed Freiburg monasteries in the original list since it is doubtful if St Catherine's qualified or even existed in the mid 1290s (cf. Denne 75) when Gui first collected his information. Its return to the fold is attested by a later addition in the Frankfurt manuscript ('et monasterium zu den Rueren'), and the scribe of the Minerva manuscript included 'item monasterium ad penitentes' in his text.

⁵³ The relevant documents are edited in Hefele, *Freiburger Urkundenbuch* II nos. 74, 111 and 203, and III, Freiburg 1957, no. 149.

⁵⁴ R.Wackernagel-R.Thommen, *Urkundenbuch der Stadt Basel* III, Basel 1896, 24-25 no. 45.

⁵⁵ Reg. no. 444. Cf. Erdin, *Sancta Maria Magdalena an den Steinen* 4-7; P.Zimmer, *Helvetia Sacra* IV/5 585-586.

239-247). After his death in 1282 there was no provost general until Boniface VIII eventually made provision for an election to be held in 1296. The pope's letter (Simon, *Pénitentes* 260-262) explains what had happened in the interim: Henry, elected to succeed Witico, sought confirmation from the pope too late to satisfy the requirements of Nicholas III's decretal,⁵⁶ so he was obliged to stand down, and no one was elected in his place.

It was no doubt this anarchic situation which prompted Boccamazza to place the German Magdalens under Dominican governance. Even before this, though, in 1281 the bishop of Strasbourg made the Dominican prior responsible for the local Magdalens, who were at odds with Witico, and the first steps were taken towards their formal acceptance by the Dominican order; but this move evidently provoked strong opposition from some of the sisters and in the outcome the monastery remained Magdalen, the situation having perhaps been eased by Witico's death (Simon, *Pénitentes* 77-83, 244-247).

As we learn from Boniface's letter, the Magdalens sent *procuratores* to Nicholas IV to ask him to deal with their lack of a provost general; their petition was referred to Cardinal Pietro Peregrino, who had still made no recommendation when he died (in 1295).⁵⁷ The bull which Nicholas issued in 1291 signally failed to do the one thing which was really necessary if, as Simon's theory requires, his aim was to restore the autonomy of the Magdalens; instead of making provision for them once more to have a superior general of their own he simply re-affirmed that they were to live by the *Instituta* of San Sisto⁵⁸ (a point unaffected by Boccamazza's intervention, as we have seen).

As the bishop of Basel explained to the Dominican prior of Basel, he was placing the Magdalens 'an den Steinen' under his care in the hope of restoring peace to the monastery and bringing to an end the schisms and discords by which it had for some time (*aliquibus temporibus*) been riven. In the circumstances it is likely that, as at

⁵⁶ *Liber Sextus* 1.6.16; Friedberg, *Corpus Iuris Canonici* II 955.

⁵⁷ See A.Paravicini Bagliani, *I testamenti dei cardinali del Duecento*, Rome 1980, 56, for a brief outline of his career.

⁵⁸ This was probably not just an interim gesture of good will. As G.Cariboni has pointed out (in G.Melville-A.Müller, *Regula Sancti Augustini*, Paring 2002, 410-418), there are elements in the 1291 text of the San Sisto *Instituta* (the only one we have) which cannot go back to 1232, so it is probable that Nicholas was tacitly endorsing a revised version.

Strasbourg, the nuns were divided on the question whether they wanted to be under Dominican rather than Magdalen governance; as perhaps had already happened in Freiburg, the issue was brought to a head by their order's approach to Nicholas IV and the expectation that there might soon be a new provost general. The bishop's act makes perfect sense as a pre-emptive strike against the return of 'An den Steinen' to Magdalen governance,⁵⁹ maybe also as a preliminary to its eventual acceptance by the Dominican order.

Since Simon's argument collapses on all fronts we may safely conclude that Boccamazza did not turn the Magdalens into Dominicans in 1287.

⁵⁹ The bishop plainly modelled his letter on Boccamazza's initial charge to the Dominican provincial, and there is no reason to suppose that he was giving the prior of Basel any responsibilities vis-à-vis 'an den Steinen' which he did not already have by delegation from the provincial; the effect of the bishop's intervention was to give them a juridical basis other than the arrangements which the legate had made with the provincial 'quousque sedes apostolica duxerit aliud ordinandum', so that the Dominican prior's authority would be unaffected in the event of a new decision by the Holy See such as the appointment of a new Magdalen provost general.

APPENDIX 1

THE DOMINICANS TAKE CHARGE OF THE GERMAN MAGDALENS

(1) Boccamazza's letter of 20 Dec. 1286.

I base my text on AGOP XIV A 4 pp.174-175 ('R'), but I have also used the edition of a vidimus in *Der Geschichtsfreund* (Einsiedeln) 4 (1847) 164-165 ('V').

Iohannes miseracione diuina tusculanus episcopus, apostolice sedis legatus, religioso uiro dilecto nobis in Christo fratri .. priori prouinciali fratrum predicatorum in Theuthonia salutem in domino. Animarum lucrum tibi fore gratissimum arbitantes deuocioni tue fiducialiter facienda suggerimus que ad illarum salutem accedere firmiter credimus et speramus. 5
Sane peruenit ad nos clamor, laborat fama publica, et est sic quasi notorium quod nulla potest tergiuersacione celari qualiter quedam loca monialium que dicuntur monasteria sororum penitentium sancte Marie Magdalene in partibus Theuthonie sita, illius procurante malicia qui de celo ad inferos est 10
eiectus, in tanta discordia et discensione sunt posita quod excessibus data licencia que dedicate sunt ad sui obsequium creatoris excedunt et deuiant non modicum se in <im>properium conuertentes. Committuntur in illis enormia scandala et scismata suscitantur nullo ductore ac correctore preuio et laxatis habenis obseruancie regularis. Quocirca deuocionem tuam 15
rogamus et hortamur in domino qua fungimur auctoritate mandantes quatinus, constitucione seu consuetudine tui ordinis contraria non obstante, monasteriorum et locorum ipsorum uigilem curam gerens personaliter, uel per alios fratres tui ordinis qui uerbo uite delectentur et ualeant esurientes 20
animas refouere, monasteria et loca eadem et moniales ac sorores ipsorum et quascumque alias personas tam mares quam feminas cuiuscumque condicionis existant ad dicta monasteria uel loca quocumque iure spectantes uisites et corrigas, destruas et euellas, edifices atque plantes in illis quecumque secundum deum animarum ipsarum saluti uideris expedire, mutando instituendo destituendo corrigendo et reformando in eis tam in 25
capite quam in membris que correctionis et reformacionis officio noueris indigere, ipsis celestis patrie gloriam faciens predicari, earum confessiones

tit. commissio penitentium *praemisit R* 1-3 tusculanus ... domino] etc. *R* 3 in Theuthonia *scripsi*] Theuthonia *V* 6 sic *om. R* 7 quedam (cf. *Hermannii epistolam*) *om. R* 8 penitentium sancte Marie Magdalene (cf. *Hermannii epistolam*)] sancte Marie Magdalene ordinis penitentium *R* 9 Theuthonie (cf. *Hermannii epistolam*)] Alemanie *R* 9 celo] celis *V* 12 improprium *scripsi*] proprium *R*, oppositum *V* 13-14 nullo ... et *om. R* 15 qua fungimur auctoritate *om. V* 18 alios (cf. *Hermannii epistolam*)] aliquos *V* 20-21 quascumque ... spectantes *om. V* 23 deum] dictum *V* 24-26 mutando ... indigere *om. V* 26 faciens] facias *V*

audiri ac easdem secundum regulam beati Augustini et instituta ordinis monialium sancti Syxti in Urbe prefatis sororibus a felicis recordacionis domino Gregorio papa .ix. iam dudum concessa ita salubriter corrigi et eciam
 30 informari ut nullis obstaculis impredientibus illa semper efficiant per que tandem in eterne claritatis atrio requiescant, contradictores per censuram ecclesiasticam compescendo, presentibus litteris et earum auctoritate quousque de premissis sedes apostolica duxerit aliud ordinandum in suo robore duraturis. Dat. Spyre .xii. kal. decembris, pontificatus domini Honorii
 35 pape quarti anno secundo.

(2) Hermann's letter to the superiors of the province.

The text is found only in AGOP XIV A 4 p.176, with the title 'Ordinacio prouincialis super premissis'. It was edited from this manuscript, not quite accurately, in Simon, *Pénitentes* 254-255.

Karissimis in Christo prioribus, supprioribus ac eorum uices gerentibus fratrum ordinis predicatorum prouincie Theuthonie ad quos presentes peruenerint frater Her. eorundem fratrum et prouincie prior et seruus salutem et augmentum continuum celestium graciaram. Scire uos non
 5 ambigo cum quanto deliberacionis pondere uenerabilis pater dominus Io. tusculanus episcopus apostolice sedis legatus priori prouinciali Theuthonie fratrum ordinis predicatorum quedam loca monialium que dicuntur monasteria sororum penitentium sancte Marie Magdalene in partibus Theuthonie sita commisit per ipsum priorem prouincialem uel alios sui
 10 ordinis gubernanda. Hanc commissionem sicut ego primus recepi pro tempore uicis mee sic primus teneor inuenire modum ac prebere consilium uobis quatenus sic nostrum honoremus ministerium ut mercedis condigne premia consequamur. In primis igitur circa statum dictarum sororum ordino per presentes quod habitum ipsarum non mutetis nec mutari aliquialiter
 15 procuretis. Ordinate autem ipsis certos maturos et prouidos confessores. Communem ipsis uitam efficaciter persuadete. Nouam ipsam regulam aut constitutiones nouas non turbetis (*sic*)¹ nec uetera conuellatis. Potestis

34-35 Spyre ... secundo] ut supra R

(2) 17 conuellatis] conuelletis *cod.*

¹ 'Nouam ipsam regulam aut constitutiones nouas non turbetis', if genuine, must somehow mean 'do not disturb the Rule or constitutions (sc. the old Rule and constitutions) by introducing novelties', but it is difficult to see how this is possible; it is more likely that something has gone wrong with the text. The clause must signify 'Do not introduce a new Rule or constitutions', but there is no obviously right emendation; something like 'nouam ipsis regulam aut nouas constitutiones non imponatis' or 'ad nouam ipsas regulam aut nouas constitutiones non inducat' is required.

tamen aliquas ordinationes, exhortaciones, admoniciones et mandata ipsis in scriptis et sine scriptis tradere, uel eas uel ea cum uolueritis reuocare. Ad hec institute et destituite, officia commutate prout ratione preuia iudicaueritis expedire. Si quas autem inobedientes inueneritis pertinaciter et rebelles monicione premissa sub regularis discipline acrimonia coercete. Prouidete insuper quod fenestras et seras cum ferramentis sic honeste disponant ut sint forinsecus accedentibus religionis ymago et intus uersantibus obstaculum leuitatis. Non permittatis eciam quod externorum sit frequens ad ipsas accessus. Semel uel bis in anno ad minus ipsarum compotum et rationes audite et audita bene custodiatis et sigillatis memorabilibus commendate. De statu ipsarum manifesto et possessionibus et rebus aliis statim ut ad curam ipsarum acceditis inuentarium facite ut cum per mortem ciuilem aut naturalem a uillicacione moti fueritis, aut cum dominus papa si placet de ipsis aliud ordinauerit, in spiritualibus et temporalibus probentur per uestram sollerciam profecisse. Numerum sororum iuxta facultatem ipsarum taxate inuiolabiliter obseruandum, nec aliquam personam femineam recipiant in ipsarum consorcium nec eciam conuersum precipue curie uel grangie proponendum sine mea uel mei uicarii cui pro tempore curam earum commisero licencia speciali. Demum, ut ex preteritis factis suis quedam non sic formident penam ut suspicentur se non posse inuenire misericordiam, uos ipsarum doloribus minus uini quam olei infundatis donantes in persona Christi quecumque in suum ordinem commiserunt. Ad hec consolacioni ipsarum secundum deum uos impendite gracias, dispensaciones concedite et licencias quas ipsarum religioni creditis profuturas.

APPENDIX 2

BOCCAMAZZA'S GENERALIS COMMISSIO

Rather than present parallel editions of the different forms of the *commissio* I have thought it best to edit a single example, Form I A, as the primary text; where Forms II and III differ, their versions are reported in the apparatus criticus, and, except in the case of the date, attention is drawn to them in the text by * (for Form II) and † (for Form III) at the point where the lemma noted in the apparatus begins.

Form I

A Münster, Staatsarchiv, Soest Paradies Urk. 41 (31 Oct.). Where the original (or at least the photograph) cannot be read because of folds I have used the copy contained in Soest, Wissenschaftliche Stadtbibliothek 29 pp.168-169. I have not seen the issue of what is evidently Form I, also dated 31 Oct., addressed to the nuns of Stetten, indicated in F.Haug-J.A.Kraus, *Urkunden des Dominikanerinnenklosters Stetten i. Gnadental*, Gammertingen 1955-1957, 10-11 no. 9.

B Heidelberg, Univ. Bibl. Urkundensammlung Lehmann no. 283 (8 Dec.).

Form II (4 Nov.)

C F.Hefe, *Freiburger Urkundenbuch* II i, Freiburg im Breisgau 1942, no. 47.

D Vienna, Dominikanerkonvent cod. 210/176 f.74^r (modern fol. 73^v). I am grateful to Isnard Frank OP for collating this manuscript for me; it is a copy, not an original, and I have ignored its sillier mistakes such as *propensiorum* in line 8. According to Fr Frank it is addressed to the prioress and community of Mahrenberg.

E Colmar, Archives départementales du Haut-Rhin 24 H 1/4.

Form III

F *Der Geschichtsfreund* 4, Einsiedeln 1847, 165-167 no. 9 (8 Dec.), edited from a vidimus made in 1294. I have ignored obvious errors such as *sint* for *sicut* in line 10.

G AGOP XIV A 4 pp.178-179 (undated).

G² AGOP XIV A 4 pp.184-186 (Hermann of Minden's annotated list of the privileges which 'dominus legatus contulit sororibus ordini predicatorum commissis in prouincia Theuthonie').

Iohannes miseratione diuina Tusculanus episcopus apostolice sedis legatus dilectis nobis in Christo *†priorissis et conuentibus *sororum *†de Paradiso et de Loden coloniensis et myndensis diocesum necnon sancte Gertrudis in Colonia sub cura et regimine fratrum ordinis predicatorum in prouincia Theutonie degentibus per magistrum ordinis seu capitula generalia 5 secundum ordinis consuetudinem †receptis salutem in domino.

Paterne deuotionis benignitas prudentes uirgines que se parant accensis lampadibus obuam sponso ire tanto propensiori debet studio prosequi caritatis quanto maiori propter fragilitatem sexus indigere suffragio dinoscuntur. Cum igitur sicut pro parte uestra fuit propositum coram nobis 10 uos incluse corpore castris claustralibus mente tamen libera deuote domino famulantes institutiones fratrum ordinis predicatorum hactenus laudabiliter duxeritis obseruandas ac incorporari eidem ordini affectetis, nos pium uestrum propositum in domino commendantes deuotionis uestre precibus inclinati uos et monasteria uestra auctoritate presentium incorporamus 15 ordini supradicto, eadem auctoritate nichilominus statuantes ut sub cura, *regimine et magisterio .. prioris prouincialis Theuthonie qui pro tempore fuerit de cetero maneatis, illis gaudentes priuilegiis que ordini predicto a quocumque tam fratribus ipsis quam etiam sororibus *aliis eiusdem ordinis concessa sunt uel in posterum concedentur. Ipseque prior prouincialis 20 *predictus, contraria consuetudine ipsius ordinis non obstante, animarum uestrarum sollicitudinem gerens et curam ac uobis constitutiones illas que uobis competunt eiusdem ordinis sine difficultate qualibet exhibeat, in eisdem monasteriis per se uel per alios fratres sui ordinis quos ad hoc uiderit ydoneos quotiens expedierit officium uisitacionis impendat, corrigendo et reformando ibidem tam in capite quam in membris que correctionis seu reformationis officio nouerit indigere. Nichilominus instituat et destituat, 25 mutet et ordinet *prout saluti et utilitati uestre nouerit expedire. Quod etiam

ante 1 Frater Henricus dei gratia tridentinus episcopus dilectis in Christo .. priorisse et conuentui sororum apud sanctam Agnetem iuxta Friburgum constanciensis dyocesis (sororum sub Tilia in Columbaria basiliensis diocesis *E*) salutem in domino sempiternam; noueritis me reuerendi patris et domini (+Iohannis *C*) tusculani episcopi apostolice sedis per Alamaniam legati (legati per Alamanniam *E*) uidisse litteras in nulla sui parte uiciatas et integras in hac uerba *CE*, *similiter ut puto (sed textum non vidi)* *D* 1-6 diuina ... in domino] etc. *G* (dummodo per magistrum ordinis uel per capitulo generalia essent recepte ... salutem in domino *G*²) 2 priorissis] .. priorissis *B*, uniuersis priorissis *CDEF* sororum *om. CDE* 2-4 de Paradiso ... in Colonia] sancti Lamberti et de Corona Celi spirensis et wormacensis diocesum *B*, monasteriorum et locorum omnium *CDEF* 4 fratrum ordinis] ordinis fratrum *D* 4-5 in prouincia Theuthonie degentibus] degentibus in prouincia Theuthonie *B* 5 magistrum] .. magistrum *F* seu] uel *F* 6 ordinis consuetudinem] consuetudinem ordinis *F* post receptis *add.* seu per nos uel per alium aut alios quocumque qui de iure possunt commissis *FG*² 10 fuit propositum] propositum fuit *B* 12 ordinis predicatorum] predicatorum ordinis *G* 14 uestrum propositum] propositum uestrum *C* 16 auctoritate nichilominus] nichilominus auctoritate *E* 17 regimine] et regimine *B, om. CDE* .. *om. DE* 19 aliis eiusdem ordinis *om. CDE* 20 prior] .. prior *B* 21 predictus *om. CDE* 28 prout saluti ... expedire] prout in aliis monasteriis monialium eiusdem ordinis prouincie Theutonie fieri consueuit *CDE*

30 de capellanis, conuersis utriusque sexus ac familiaribus uestris intelligi
 uolumus, similiter de hiis personis que infra septa exterioris curie seu
 grangiis uestris morantur se et sua absque religionis offensa prefato ordini
 conferentes, nam predictas personas pro membris uestris non inmerito
 computamus, ita ut sicut uestris gaudebunt libertatibus et gratis ita etiam
 35 ad illos qui uobis preficiuntur pertineat correctio eorundem. Quod si de
 premissis aliqui rebelles extiterint, per regularem disciplinam et censuram
 ecclesiasticam per dictum priorem prouincialem aut uice sua per alios
 infligendam remota appellatione friuola **auctoritate presentium*
 compescantur. Electio tamen priorisse libere pertineat ad conuentum, quam
 magis per electos arbitros quam per discursum scrutinii propter
 40 inexperientiam feminarum fieri persuademus. **Ceterum confessiones*
 uestras **†*per se uel per alios fratres sui ordinis audiat, **absoluat ac iniungat*
 penitentiam salutarem, et ministret uobis ecclesiastica sacramenta **et*, ne
 pro eo quod in monasteriis uestris fratres dicti ordinis residere continue non
 tenentur pro defectu sacerdotis possit periculum imminere, predictus prior
 45 prouincialis ad confessiones in necessitatis articulo audiendas et ministranda
 sacramenta predicta uobis deputet aliquos discretos et prouidos capellanos.
 Ad hec liceat uobis redditus et possessiones recipere ac ea libere retinere
 non obstantibus contraria consuetudine seu statuto ipsius ordinis
 confirmatione qualibet roboratis. Quorum amministrationi prefatus prior
 50 prouincialis aliquos uiros ydoneos preficiat ipsosque inde remoueat et
 substituatur alios prout uiderit expedire. Nulli ergo omnino hominum liceat
 hanc paginam **nostrarum incorporationum, constitutionum et concessionum*
 infringere uel ei ausu temerario contraire. Si quis autem hoc attemptare
 presumpserit indignationem omnipotentis dei et beatorum Petri et Pauli
 55 apostolorum eius se nouerit incursum. Datum apud monasterium Clare
 Vallis lingonensis diocesis .ii. kalendis nouembris anno domini millesimo
 ducentesimo octuagesimo septimo apostolica sede uacante.

30 que (+G²) om. G infra (+G²)] ad G 31 morantur] commorantur D 36 per dictum
 (+G²)] predictum G priorem] .. priorem B uice sua] sua uice E 37-38 auctoritate
 presentium compescantur] compescantur auctoritate presentium, litterarum CDE
 38 tamen om. FG 39 electos] electores D, clericos G arbitros om. G 40 ceterum]
 ad hec CDE 41 per se uel per alios fratres sui ordinis] per fratres dicti ordinis FG
 41-42 absoluat ... salutarem om. CDE 42 penitentiam salutarem (+G²)] penitencias
 salutare FG 42-51 et ne pro eo ... expedire om. CDE 44 prior] .. prior B 47 ad
 hec] ad hoc BCDE 48 obstantibus] obstante G 49 prior] .. prior B 51-57 omnino
 ... uacante] etc. G 52 nostrarum ... concessionum] nostre incorporationis et
 constitutionis CDE 56 .ii. kalendis nouembris] .vi. id. decembr. BF, .ii. non. nouembris
 CDE 57 *ad finem* Cum itaque per incorporationem siue unionem huiusmodi de qua
 poteritis in domino non immerito gloriari inserte secundum apostolum bone oliue
 comprobemini, uestram deuotionem monemus et (ac D) hortamur attente quatinus
 spiritualibus spiritualia comparantes (comparantes spiritualia D) studeatis efficere ut
 sicut radix sancta ita sancti piorum uestrorum operum rami fiant ac deinceps expurgato
 fermento ueteri in nouitate uite ambuletis, tanto hilarius quanto securius, tanto sincerius
 quanto ueracius nunc facta est propior uestra salus, Datum Birsheske iuxta Basileam
 anno supradicto idus nouembris CDE

It is at first sight curious that version II is significantly shorter than and different from versions I and III; but an explanation is possible on the hypothesis that:

- 1) Hermann, who avowedly selected a model from among the various letters of *commissio* and *incorporatio* which were available in Germany, also drafted a number of improvements which he suggested to the legate.
- 2) Some further modifications, which were not in Hermann's draft, were incorporated into the actual letters written on 31 October (version I).
- 3) After Hermann had departed with these letters, Boccamazza—who had not kept a copy—fell back on the first draft to produce version II.
- 4) Hermann brought a copy of version I with him when he rejoined the legate in December, bearing requests from at least two more monasteries for letters addressed specifically to them (version I B); he also proposed a form of *salutatio* which would allow the letter to be given to all the nuns, and he took the occasion to make one more alteration in the text (version III, lines 40-41).

In support of this hypothesis we may note that:

- 1) 'Constitutiones illas que uobis competunt eiusdem ordinis' (lines 22-23) is Hermann's compromise between two different versions of Innocent IV's bulls (see below, Appendix 5, on line 26); it must have been he who suggested its use to the legate.
- 2) Whoever conceived it, the injunction to the nuns to remain 'sub cura, regimine et magisterio prioris prouincialis' (lines 16-17, versions I and III) is an adaptation of Innocent's 'sub magisterio et doctrina magistri et prioris prouincialis'. It is far more likely that the revised formula evolved from 'sub cura et magisterio' (version II) to the more explicit 'sub cura, regimine et magisterio' than that Hermann or the legate decided to introduce *regimine* (version I), then drop it (version II), and then reinstate it again later (version III).
- 3) The evolution of the clause on nuns' confessions (lines 40-42) is not hard to discern. Innocent's bulls said 'confessiones uestras audiant' (the subject being the Master and the provincial). Version II of the legate's letter distributes the burden: 'confessiones uestras per se uel per alios fratres sui ordinis audiat'. Version I adds 'absoluat ac iniungat penitentiam salutarem', an addition to which Hermann drew attention as an improvement on previous *commissiones*. Version III embodies the realistic awareness that it will not generally be the provincial himself who hears the nuns' confessions: 'confessiones uestras per fratres dicti ordinis audiat, absoluat etc.'. We may surely detect Hermann's hand in all this.
- 4) Two different models were used for the 'instituat et destituat' clause (lines 27-28): 'prout saluti et utilitati uestre nouerit expedire' in

versions I and III is adapted from 'prout secundum deum uiderint expedire', which is adumbrated in *Licet olim* and was used in bulls of *commissio* issued by Innocent IV for German nuns between 11 Sept. 1248 and 27 Jan. 1249, and in Clement IV's bull of 1267; 'prout in aliis monasteriis monialium eiusdem ordinis prouincie Theutonie fieri consueuit' (version II) is adapted from 'prout in aliis monasteriis monialium eiusdem ordinis fieri consueuit', which is found in Innocent's bulls for German monasteries up to 1 June 1247 and in bulls of *incorporatio* issued in 1249-1250.² Hermann is more likely than the legate to have been aware of both models; he could have changed his mind twice about which one he preferred, but it is more probable that he only did so once, in which case version II must have preceded version I.

- 5) Version II's omission of the last part of the text (lines 42-51) is easily explained if Boccamazza's model was a first draft in which Hermann sketched out possible improvements to Innocent IV's formula of *incorporatio*: the draft need not have included the last part of the text since Hermann did not propose to change it. On this assumption the first draft would have ended exactly where version II ends.
- 6) It is, finally, suggestive that, though Hermann notes with evident approval all Boccamazza's other innovations, there is one which both he and the summary in Soest 29 ignore: where papal bulls of *commissio* say 'Electio priorisse libere pertineat ad conuentum' Boccamazza added 'quam magis per electos arbitros quam per discursum scrutinii propter inexperientiam feminarum fieri persuademus' (lines 39-40). Was this perhaps the only *superadditum* contributed by the legate himself rather than by Hermann?

¹ I hope to give full details elsewhere in a study of Dominican *cura monialium* in this period.

APPENDIX 3

THE EVOLUTION OF CONST. II 1 ON *CURA MONIALIUM*

In 1228, reacting to the acceptance of the nuns of S.Agnese, Bologna, to the Order's care, the Most General Chapter promulgated an emphatic ban on any of the brethren seeking to get responsibility for further religious women entrusted to it (Prim. Const. II 27, AFP 71 [2001] 123-125). In Raymund of Penyafort's edition of the constitutions this became part of const. II 1 'De domibus concedendis et construendis'; it was subsequently modified several times until it acquired its final form in 1289. The relevant texts are edited here on the basis of all the manuscripts I have been able to consult.

Manuscripts of the Constitutions

I have used the following manuscripts of the constitutions. I list them in approximately chronological order, adding in brackets as precise an indication as possible of the date of the original texts (as distinct from whatever subsequent alterations and additions may have been made); it should be borne in mind that this does not necessarily coincide with the date of the manuscript, since it was always possible to make a fresh copy of an older text.¹ I have not been able to decipher all the updates in the earlier manuscripts, so I cite them selectively in so far as I have been able to make them out.

- a Porto, Bibl. publ. 101 (1241).
- b Prague, Univ. Knihovna VIII B 23 (1241).
- c AGOP XIV L 1 (1257).
- d London, BL add. 23935 (first text) (1260).
- e Provins, Bibl. Mun. 58 (1271).
- f Paris BNF lat. 5592 (1272).
- g Kraków, Arch. Prow. OP K XIII 21 (1273).
- h Cambridge, Univ. Lib. L1.2.9 (1275).
- i Wrocław Bibl. Uniw. IV F 174 (1307).
- j Warsaw, Bibl. Narodowa Ros. Baw. 13 (1308/1315).

¹ It is easy enough to date earlier texts since there were frequent changes to the constitutions and we are well informed about them. From 1350 onwards the changes become less frequent and our information less good, so the terminus post quem is more certain than the terminus ante quem. In the fifteenth century I have found nothing later than 1434 to provide evidence of dating (MOPH VIII 227.2-10); we cannot rely on manuscripts having an up-to-date account of the number of provinces there were, so apparent evidence of this kind in Const. II 4-5 must be discounted.

- k Paris BNF lat. 18292 (1333).
- l Siena, Bibl. Com. F.VI.3 (1333).
- m Florence, BN Cent., Conv. sopp. G.3.451 (1337/1345).
- n London, BL add. 23935 (second text) (1358/62).
- o Florence, BN Cent., Conv. sopp. J.9.24 (1358/1362).
- p Vat. lat. 7658 (1358/1362).
- q Vat. lat. 7651 (1376/1405).²
- r Wrocław Bibl. Uniw. IV O 39 (post 1434).³
- s Vienna, Österr. Nationalbibl. 1507 (post 1434).
- t Würzburg, Univ. Bibl. M.ch.o.16 (post 1434).
- u Cremona, Bibl. gov. 44 (post 1434).
- v Nürnberg, Stadtbibl. Cent. VII 3 (post 1434).
- w Siena, Bibl. Com. G.XI.36 (post 1489).⁴

I have also used the first printed edition of the constitutions:

- x Constitutiones cura Vincentii Bandelli typis editae Mediolani 1505.

Manuscripts of the acts of general chapters

I have used the following manuscripts of Bernard Gui's collection of chapter-acts:

- B Bordeaux, Bibl. Mun. 780.
- C AGOP XIV A 2.
- D Barcelona, Bibl. Univ. 218.
- F Frankfurt am Main, Stadt- und Univ. Bibl. Praed. 82.
- M Roma, S.Maria sopra Minerva A.p.4.
- P Bologna, Bibl. Univ. 1535.
- S AGOP XIV A 3.

In terms of the text's evolution P comes first, then C, then FM⁵ (which have a common ancestor), then S, then D and B.⁶

I have also used the two other known manuscripts:

- G Florence, BN Cent. Magliab. Cl. XXXVII 326.
- R AGOP XIV A 1.

² The other contents of the manuscript suggest a date c.1380.

³ The scribe names himself at the end of the constitutions: 'Et sic est finis huius operis per fratrem Iohannem Darwin^elos' (f.73^r). I presume this is the Wrocław Dominican whose name is printed as 'Johannes Dawomloss' in R.F.Madura, *Acta capitulorum provinciae Poloniae*, Rome 1972; he was assigned to Kraków as a student of theology in 1478, having previously been in Perugia (Madura 590, 597).

⁴ The 1434 addition is lacking, but there are letters dated 1489 (f.76^v) in the same hand as the constitutions (cf. DHN 5 [1996] 43-44).

⁵ M only includes confirmations of changes to the constitutions.

⁶ B was Gui's own working manuscript; he was already copying chapter-acts into it in 1305, and he continued until 1314.

G belonged to the convent of Prato and its set of acta begins in 1281 when the foundation was authorized (MOPH III 214.28), but it looks as if those up to 1287 were all written together; thereafter, in principle, acta were added year by year until 1330, but the collection is far from complete. R belonged to S.Maria Novella, Florence; it contains a transcription of a pre-existing (and incomplete) set of acta from 1236-1306, which was then kept up to date until 1344.

Text 1: Const. II 1 (1241)

MSS: ab

In uirtute obediencie et sub pena excommunicationis districte prohibemus ne aliquis fratrum nostrorum laboret uel procuret de cetero ut cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur. Si quis uero contraire presumpserit pene grauiori culpe debite subiacebit.

5

Text 2: General chapters 1255-1257

1255 P f.50^r, C p.184, F f.80^v, S p.168, D p.199, B f.147^r, R f.15^v

Inchoamus ... Item hanc in capitulo de domibus concedendis post illud ubi dicitur ut cura seu custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur addatur Sub eadem districtione precipimus ne magister uel capitulum aliquod curam monialium seu quarumlibet aliarum mulierum recipiat nisi per tria capitula fuerit approbatum.

5

2 ubi dicitur *om. CFPS* 2 seu custodia *om. R* aliarum *om. R* 3 precipimus *R*] prohibemus *BCDFP* 4 uel capitulum] nec capitulum *R* aliarum mulierum] mulierum aliarum *R* 5 approbatum *DR*] etc. *CFPS, om. B*

1256 P f.52^r, C p.195, F f.85^r, S p.178, D p.208, B f.149^v, R f.18^v

Approbamus ... Item hanc in capitulo de domibus concedendis post illud ubi dicitur ut cura uel custodia monialium uel quarumcumque aliarum mulierum nostris fratribus committatur addatur Hac eadem districtione precipimus ne magister uel capitulum aliquod curam predictarum recipiat nisi per tria capitula fuerit approbatum. Et hec habet duo capitula.

5

1-2 post illud *om. R* 2-5 uel custodia ... approbatum] etc. *R* 2 uel custodia *om. CFP* uel quarumcumque] seu quarumcumque *CFPS* aliarum *om. CFPS* 3 hac *om. CFPS* 4 magister uel capitulum aliquod] magister ordinis seu quicumque alius frater *CFPS* curam predictarum] predictarum curam *CFPS*

1257 P f.52^v, C p.199, F f.87^r, M p.98, S p.181, D p.211, B f.151^r, R f.21^r

Confirmamus ... Item hanc in capitulo de domibus concedendis post illud ubi dicitur ut cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur addatur Hac eadem districtione precipimus ne magister uel capitulum aliquod curam predictarum recipiat nisi per tria capitula fuerit approbatum. Et hec habet tria capitula.

5

1 concedendis *om. CFMPS* 1-2 post illud *om. FM* 2-5 uel custodia ... approbatum] etc. *R* 3 addatur *om. S*

Text 3: Const. II 1 (1257)

MSS: cd

In uirtute obedientie et sub pena excommunicationis districte prohibemus ne aliquis fratrum nostrorum laboret uel procuret de cetero ut cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur. Hac eadem districcione precipimus ne magister uel
5 capitulum aliquod curam recipiat predictarum nisi per tria capitula fuerit approbatum. Si quis uero contraire presumpserit pene grauiori culpe debite subiacebit.

4 precipimus *sic et a(corr.) et b(corr.)*] prohibemus c*Text 4: General chapters 1267-1269*1267 P f.63^v, C p.260, F f.114^r, S p.229, D p.255, B f.170^v, R f.44^v

Inchoamus ... Item hanc in capitulo de domibus concedendis ubi dicitur Curam predictarum recipiat nisi per tria capitula fuerit approbatum addatur Et nisi per dominum papam ordini committatur.

3 et nisi R] uel nisi *BCDFPS*1268 P f.64^v, C p.266, F f.116^v, S p.233, D p.260, B f.172^v, R f.45^v

Approbamus ... Item hanc in capitulo de domibus concedendis ubi dicitur Curam predictarum recipiat nisi per tria capitula fuerit approbatum addatur Et nisi per dominum papam ordini committatur. Et hec habet duo capitula.

2 recipiat *scripsi*] reci. R, non recipiant *BCDFPS* 2-3 nisi per ... committatur] etc. R 3 et nisi *scripsi* (cf. 1267 et Const.)] uel nisi *BCDFS*, nisi P1269 P f.65^v, C p.270, F f.118^v, M p.101, S p.237, D p.263, B f.174^v, R f.46^v

Confirmamus has constitutiones. In capitulo de domibus concedendis ubi dicitur Curam predictarum recipiat nisi per tria capitula fuerit approbatum addatur Et nisi per dominum papam ordini committatur. Et hec habet tria capitula.

1 in capitulo] item hanc, in capitulo R 2 recipiat R] non recipiat *BCDFMPS* 2-3 nisi per tria ... committatur] etc. R 3 addatur Et *om. et* addatur uel *supra lin. suppl. B* et¹ (*corr. in uel in marg.*) D] uel (*B*)*CFMPS**Text 5: Const. II 1 (1272)*

MSS: fgh

In uirtute obedientie et sub pena excommunicationis districte prohibemus ne aliquis fratrum nostrorum laboret uel procuret de cetero ut cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur. Hac eadem districcione precipimus ne magister uel
5 capitulum aliquod curam recipiat predictarum nisi per tria capitula fuerit approbatum et nisi per dominum papam ordini committatur. Si quis uero contraire presumpserit pene grauiori culpe debite subiacebit.

4-6 hac ... committatur *erasum habet g, hoc additamentum non habet c(corr.) nec d(corr.)* 6 et nisi *sic et a(corr.)*

Text 6: General chapters 1285-1289

1285 P f.84^r, C p.362, F f.161^v, S p.318, D pp.342-343, B f.206^v, *om.* G, R f.79^v

Inchoamus ... Item hanc in capitulo de domibus concedendis et construendis ubi dicitur cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus non committatur addatur Nisi de licentia magistri ordinis speciali.

1 in capitulo *om.* CF, *om.* et supra lin. suppl. S 1-2 concedendis et construendis] construendis et concedendis BD, concedendis R 2 uel custodia *om.* et in marg. add. P 3 non *om.* CFPS, *om.* et supra lin. suppl. B addatur *om.* R, *om.* et in marg. suppl. D 3-4 licentia ... speciali] magistri licentia speciali CFPS

1286 P f.85^r, C p.366, F f.163^r, S p.321, D pp.345-346, B f.208^r, *om.* G, R f.80^r

Approbamus has. In capitulo de domibus concedendis et construendis ubi dicitur cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus non committatur addatur Nisi de licentia magistri ordinis speciali. Et hec habet duo capitula.

1 has] hanc R et construendis *om.* R 2-4 seu quarumlibet ... speciali] etc. R 4 speciali *om.* et in marg. suppl. D

1287 P f.86^r, C p.371, F f.165^v, M.p.107, S p.325, D p.350, B f.210^r, *om.* G, R f.82^v

Confirmamus has constitutiones. In capitulo de domibus concedendis et construendis ubi dicitur cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus non committatur addatur Nisi de licentia magistri ordinis speciali. Et hec habet tria capitula.

2 et construendis *om.* R 2-4 seu quarumlibet ... speciali] etc. R 3 nostris ... committatur *om.* BCFMPS addatur *om.* et in marg. suppl. D

1287 P f.86^r, C p.371, F f.165^v, S p.326, D p.351, B f.210^r, *om.* G, R f.82^v

Inchoamus ... Item hanc in capitulo de domibus concedendis ubi dicitur Hac eadem districtione precipimus usque ad illud Ordini committatur deleatur totum et dicatur sic: Prohibemus districte ne aliquis curam recipiat predictarum nisi per tria capitula generalia fuerit approbatum et nisi cura per dominum papam ordini committatur uel per alium qui possit facere commissionem predictam. 5

4 fuerit *om.* P et nisi] uel nisi CFPS 4-5 cura per dominum papam] per dominum papam cura R, per dominum papam CP, (*supra lin.* cura) per dominum papam S 5 alium] aliquem R

1288 P f.87^r, C p.377, F f.168^r, S p.331, D p.356, B f.212^r, *om.* G, R f.84^r

Approbamus ... Item hanc in capitulo de domibus concedendis ubi dicitur Hac eadem districtione precipimus usque ad illud Ordini committatur deleatur totum et dicatur sic: Prohibemus districte ne quis curam recipiat predictarum nisi per tria capitula generalia fuerit approbatum et nisi cura

- 5 per dominum papam ordini committatur uel per alium qui possit facere commissionem predictam. Et hec habet duo capitula.

2-6 precipimus ... predictam] etc. R 4 nisi ante per tria om. D

1289 P f.88^v, C p.383, F f.170^v, M p.107, S p.336, D pp.361-362, B f.214^r, G f.8^r, om. R

- Confirmamus ... Item hanc in capitulo de domibus concedendis ubi dicitur Hac eadem districtione precipimus usque ad illud Ordini committatur deleatur totum et dicatur sic: Prohibemus districte ne aliquis recipiat curam predictarum nisi per tria capitula continua fuerit approbatum et nisi cura
5 per dominum papam ordini committatur uel per alium qui predictam commissionem habeat. Et hec habet tria capitula.

1 in capitulo om. G 3 aliquis G] quis *CBD FMPS* recipiat curam] curam recipiat G 4 nisi¹] nisi fuerit G fuerit om. G 5-6 uel per alium ... habeat G] predictarum *BD*, om. *CFMPS*

Text 7: Const. II 1 (after 1289)

- In uirtute obedientie et sub pena excommunicationis districte prohibemus ne aliquis fratrum nostrorum laboret uel procuret de cetero ut cura uel custodia monialium seu quarumlibet aliarum mulierum nostris fratribus committatur nisi de licentia magistri ordinis speciali. Prohibemus
5 districte ne aliquis curam recipiat predictarum nisi per tria capitula continua fuerit approbatum et nisi cura per dominum papam ordini committatur uel per alium qui possit facere commissionem predictam. Si quis uero contraire presumpserit pene grauiori culpe debite subiacebit.

1 obedientie] sancte obedientie *opqvx* 3 uel custodia] siue custodia *st* quarumlibet] quarumcumque *st* 3-4 nostris fratribus] fratribus nostris *px* 4 nisi ... speciali *add. in marg. a(corr.) c(corr.) e(corr.) f(corr.) g(corr.) h(corr.), id non habet d(corr.)* ordinis om. *g* 4-6 prohibemus ... ordini committatur *supra rasuram h(corr.)* 4-7 prohibemus ... predictam *in marg. a (corr.) et f(corr.) et supra ras. e(corr.), id non habet c(corr.) nec d(corr.)* 4-5 prohibemus districte] hac eadem districtione precipimus *qrstv*, hac eadem districtione probibemus *n* 5 curam recipiat] recipiat curam *hu* 6 et nisi] vel nisi *irx* cura] curam *w, om. hko et a(corr.)* papam] papam cura *h* 6-7 uel per ... predictam *in marg. add. h(corr.)* 7 possit facere] facere possit *h*, posset facere *e* predictam om. *i* uero om. *i* 8 grauiori] grauioris *ijklpstw*

APPENDIX 4

HERMANN'S LETTER OF CONGRATULATION

I know of two actual examples of this letter. One, which I have not seen, was addressed to the nuns of Stetten on 8 Feb. 1288; there is a regest in Haug-Kraus, *Urkunden des Dominikanerinnenklosters Stetten* 11 no. 11. One addressed to the nuns of Coswig later in the same year on St Leodegar's day—2 Oct. in the calendars of the Dominican nuns of Regensburg and the Magdalens of Strasbourg (Paris BNF n.a.l. 772 f.20^r, Budapest Bibl. Univ. lat. 33 f.7^v)—is edited in O. von Heinemann, *Codex diplomaticus Anhaltinus* II, Dessau 1875, 454-455 no. 641 (where the editor mistakenly presents Hermann as provincial of the Franciscans); it begins 'In dei filio karissimis .. priorisse et conventui sororum ordinis predicatorum in Cozwic frater Hermannus fratrum eiusdem ordinis per Theutonium prior et servus salutem et augmentum continuum celestium gratiarum'.

There is a general form of the letter in Berlin Staatsbibl. theol. 109 f.100 (new foliation), which implies that repeated use of it was at least seen as a possibility. It gives us an extra argument for the identification of this manuscript as Hermann's 'Briefbuch': as found there it includes an elaborate request for the nuns' prayers, but the whole sentence is deleted; I do not know whether it is found in the Stetten letter, but it is not in the one sent to Coswig, so theol. 109 surely reveals Hermann editing his own letter.

In dei filio karissimis priorisse et conuentui .. prior prouincialis. Exultate filie Syon in rege uestro plaudentes manibus, iubilate deo in uoce exultationis qui uos sicut predestinauit sic et uocauit in ammirabile lumen suum a tenebris seculi segregatas, reddidit gratie socians sanctitati. Ecce enim beatas uos dicere poterunt omnes per secula nationes eo quod magna uobis fecerit qui suam omnipotentiam miserando maxime manifestat uestrum desiderium adimplendo. Nam mediante uenerabili domino legato, sicut in suo uobis concesso priuilegio continetur, incorporate estis siue unite eximio predicatorum ordini quem deus tamquam luminare maius in ecclesie posuit firmamento, ut quod uobis ex fragilitate sexus defuit ad profectum de ipsius ordinis habundantia suppleatur, et tamquam oues mansuetudine predite sub eis pastoribus qui creditum sibi obseruant uigilias super gregem insatiabilis lupi fauces minime formidetis. Talibus gregum magistris quos superni luminis claritas circumfulsit dignius obeditis qui uos accubare faciant in locis uberrimis doctrinarum, fortia custodientes, infirma colligantes, erronea reducentes, omnibus omnia facti quatinus lucrifaciant animas precioso agni sanguine comparatas. Cum igitur inserte sitis oliue pulcre, uberi, fructifere, speciose, sollicite uobis prouidendum est ut sicut radix sancta ita et rami, sicut massa ita delibatio sancta fiat. Iam in premissi ordinis stirpe nouella plantatio ad hec probabimini posite ut eatis et fructum

qui permanet afferatis, quales fructus describit apostolus, uidelicet caritatem, gaudium, pacem, patientiam, benignitatem, bonitatem, fidem, modestiam, longanimitatem, mansuetudinem, continentiam, castitatem. Hos fructus si qua in tempore suo non attulerit, tamquam arbor attumpnalis (*sic*) eradicata et mortua ignis perpetui cibus erit. Virtutum autem redimite iacinctis celestem sponsum accensis lampadibus cum oleo nitide conscientie prestolantur nec improuiso regis aduentu turbate pulsant cum uirginibus fatuis et non introeunt, querunt et non inueniunt, petunt et non accipiunt, sed magis secure iam triumphantium agminum choris deputantur, ubi regina uirginum transcendens (*sic*) culmen omnium paratum offert brauium hiis que carnalia desideria respuerunt, que legem nature, libertatem licentie, etatis impetum deuicerunt. [Inter hec, dum mentis uestre habitaculum per feruorem spiritus senseritis uisitari, mei apud deum habentes memoriam studeatis deuotius exorare ut me pressum laboribus releuet, ignorantem dirigat, promoueat suspirantem, nec patiatur me concuti uel decipi inimici seuitia rugientis. *obliteratum*] Ceterum quia personaliter uel raro uobis possum adesse, ne aliquid ex hoc in spiritualibus et temporalibus uestra sumat dilectio detrimentum, karissimo michi in Christo .. priori et fratribus domus sue quos ad hoc ydoneos prospexerit ut curam uestri gerant committo tenore presentium in antea uices meas. Quidquid enim secundum regulam et constitutiones uestras, ad quarum obseruantiam uos emisso uoto sinceriter obligastis, de uobis et adherentibus uobis ordinauerint preuia ratione ratum habeo et habebo, meo meorumque successorum in omnibus iure saluo. Valet. Datum ...

APPENDIX 5

BISHOP HENRY'S JUDGEMENT

A Archives départementales du Haut-Rhin, 24 H 1/2.

B Ibid.

D Dresden, Sächsische Landesbibl. A 177 p.177 (beginning only).

Nos frater Henricus dei gratia Tridentinus episcopus doctor decretorum notum facimus uniuersis presentes litteras inspecturis quod, cum religiosus uir frater Hermannus prior prouincialis fratrum ordinis predicatorum per Theuthoniam coram uenerabili domino Iohanne Tusculano episcopo sedis apostolice per Alamaniam legato proponeret quod sorores monasteriorum suo regimini commissorum per episcopos locorum et nuncios eorumdem ac alios exactores et collectores procurationum pro legatis et nunciis sedis antedictae contra iustitiam sepius grauarentur eo quod, cum in ipsorum legatorum et nunciorum litteris, etiam si haberent Exemptis et non exemptis, non fieret mentio ordinis predicatorum expressa, ad solutionem huiusmodi procurationum minime tenerentur, dictus dominus legatus nobis tunc sibi assidentibus commisit inspectionem et examinationem priuilegiorum sororum predictarum. Inspeximus itaque priuilegium sororum sancti Marci in Herbipoli, quale sorores de Columbaria dicte Sub Tilia et plereque alie memorati ordinis habere dicuntur, in nulla sui parte uiciatum plenius in hec uerba: Innocentius episcopus seruus seruorum dei dilectis in Christo filiabus .. priorisse et conuentui sancti Marci herbipolensis ordinis predicatorum salutem et apostolicam benedictionem. Apostolice sedis benignitas

1 Henricus] Heinricus D 3 Hermannus] H. D ordinis om. D 4-5 sedis ... legato] per Alemanniam sedis apostolice legato D 6 ac] aut D 9 etiam] essent D 10 predicatorum] fratrum predicatorum D 12 assidentibus] assistentibus D inspectionem et examinationem] examinationem et inspectionem B 13 priuilegium] unum de priuilegiis D sororum] monasterii sororum D 13-14 sancti Marci ... quale sorores om. B 14 quale] que D sorores ... Sub Tilia om. D dicte] dictarum B 14-15 et plereque ... dicuntur] pleraque monasteria sororum eisdem fratribus ab eadem sede (sic) D, om. B 15-64 post habere usque ad finem deficit D 17 sancti Marci herbipolensis] de Columbaria B

16-18 Innocent actually referred to the Würzburg nuns as 'ordinis fratrum predicatorum' (ASV Reg. Vat. 21 f.309^r), and it is misleading to suggest that 'many other nuns' were similarly addressed. I have looked at thirty-seven texts of *Apostolice sedis* issued by Innocent IV for German monasteries and only seven of them call the nuns 'ordinis fratrum predicatorum'; in twelve cases, including Unterlinden, they are called 'ordinis sancti Augustini', otherwise no *ordo* is specified.

- prudentes uirgines etc. et infra, Eadem auctoritate nichilominus statuentes
 20 ut sub magisterio et doctrina magistri ordinis et prioris prouincialis
 Theutonie qui pro tempore fuerit decetero maneatis illis gaudentes priuilegiis
 que ordini predicto ab apostolica sede concessa sunt uel imposterum
 concedentur, ipsique magister et prior contraria consuetudine ipsius ordinis
 25 uel indulgentia ab apostolica sede obtenta seu etiam obtinenda nequaquam
 obstantibus animarum uestrarum sollicitudinem gerentes et curam ac uobis
 constitutiones illas que uobis competunt eiusdem ordinis sine difficultate
 qualibet exhibentes eidem monasterio per se uel alios fratres quos ad hoc
 uiderint ydoneos quotiens expedierit officium uisitacionis impendant etc., et
 30 infra, Ad hec liceat uobis redditus et possessiones accipere ac ea libere
 retinere non obstantibus contraria consuetudine seu statuto ipsius ordinis
 confirmatione sedis apostolice aut quacumque firmitate alia roboratis etc.
 Item inspeximus tenorem priuilegii fratrum predicatorum cuius supra fit
 mentio in hec uerba: Alexander episcopus seruus seruorum dei dilectis filiis
 35 .. magistro, .. prioribus et fratribus uniuersis ordinis predicatorum salutem
 et apostolicam benedictionem. Virtute conspicuos sacri uestri ordinis
 professores etc., et infra, Indulgentes uobis ut ad prestationem

24 obtenta] obtenta (*sic*) A 29 ea libere] libere ea B

18-31 The bishop misquotes twice (he omits *sui ordinis* after *fratres* in line 27, and *accipere* in line 29 should be *recipere*), but otherwise the passages he cites are found in all standard issues of *Apostolice sedis* except for one phrase which does not occur in any of them: 'constitutiones illas que uobis competunt eiusdem ordinis' (line 26). This is a compromise between 'constitutiones eiusdem ordinis' in bulls of *incorporatio* (such as that of Würzburg) and 'de constitutonibus eiusdem ordinis illas que uobis competunt' in bulls of *commissio* (such as that of Unterlinden); the same compromise recurs in Boccamazza's *commissio* (Appendix 2 lines 22-23), and there can be little doubt that it was suggested by Hermann of Minden as a way of bringing Würzburg's bull into line with most of the others.

Bishop Henry does not refer to the nuns' incorporation into the order or the obligation laid on the Master and provincial to appoint administrators of their *temporalia*, both of which feature in Würzburg's bull and would have strengthened the nuns' case considerably; these elements were peculiar to bulls of *incorporatio* and, as such, not present in most monasteries' copies of *Apostolice sedis*.

35-50 *Virtute conspicuos*, issued by Alexander IV in March 1261 (BOP I 405-408 no. 297), is the first example of a kind of bull known as 'Mare magnum' in which all the order's privileges were collected together and re-affirmed. It concludes with the privilege granted by Alexander himself in *Paupertati uestre* (BOP I 358-359 no. 199), and this is the one to which Bishop Henry refers. The first passage he cites ('Indulgentes ... mentionem') is also quoted in Hermann's treatise (Ritzinger-Scheeben 72). There are some minor discrepancies between the bishop's letter and each of the three texts of the bull I have consulted (which also disagree among themselves), i.e. BOP (dated 28 March), Perugia Archivio di Stato Corpor. relig. soppr. S.Domenico Miscell. 66 ff.52'-55' (dated 27 March), and Dresden A 177 pp.118-127 (dated 28 March).

procurationum legatorum predicte sedis uel nunciorum ipsius seu dyocesanorum locorum aut exactionum uel collectarum seu subsidiorum uel prouisionum quarumlibet minime teneamini nec ad ea soluenda per litteras dicte sedis aut legatorum uel nunciorum eiusdem seu rectorum terrarum ecclesie romane impetratas uel imposterum impetrandas cuiuscumque tenoris fuerint imperpetuum compelli possitis nisi dicte sedis littere impetrande plenam et expressam de indulto huiusmodi et dicto ordine fecerint mentionem etc., et infra, Decernimus igitur irritum et inane quicquid contra tenorem concessionum constitutionum et inhibitionum huiusmodi per quoscumque fuerit attemptatum et interdicti suspensionis et excommunicationis sententias si quas contra concessionem constitutionem et inhibitionem easdem in uos uel in uestrum aliquos aut loca uestra seu benefactores uestrorum imposterum promulgari contigerit penitus non tenere. Nulli ergo etc. Nos igitur auctoritate nobis commissa consideratis lectis et intellectis priuilegiis premissis dicimus sentimus et determinamus quod omnes sorores fratribus predicatoribus commisse quibus indultum est quod ipsorum fratrum gaudeant priuilegiis ad solutionem aliquam procurationum exactionum collectarum subsidiorum uel prouisionum quarumlibet ordinariorum locorum seu legatorum uel nunciorum romane sedis per quascumque litteras quamuis missas exemptis et non exemptis non tenentur nisi de ordine predicatorum et indultis predictis specialiter fecerint mentionem, non obstante quod possessiones habent sorores huiusmodi cum hoc in predictis specialiter excludatur, et sententias excommunicationum uel suspensionum seu interdicti latas per ordinarios uel legatos aut delegatos huiusmodi non tenere. In cuius rei testimonium presentes litteras conscribi fecimus nostri sigilli munimine roboratas. Datum in Herbipoli anno domini .m.cc.lxxxvii. .x. kal. aprilis pontificatus domini Honorii pape .iiii. anno secundo.