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## **The Anger of St Peter: use and non-use of spiritual sanctions in early medieval charters**

In the year 985, a man named Guillem made an extensive donation to the cathedral of Vic, north-west of Barcelona in what is now Catalonia. The document that records this has Guillem detail the thirteen properties, including a series of mills, two whole castles and eight fully-equipped farmsteads one of which also had a defensive tower, and then complete the act with a warning to any who might think of infringing upon it. "For if I Guillem, or any other man or any person whatever," he began:

"should have come against the document of donation to disrupt it, in the first place let him incur the wrath of God and let them be sequestered or anathematized from the Lord God and the limits of the Holy Church of God, and be damned with Judas the betrayer of the Lord, and be alienated from Christian company to an eternal retribution of punishment, and let them perish in a similar manner to those who perished in the sedition of Chore and let come upon them all the curses that were in the Old Testament and the New Testament."

As if this were not enough, he, or the scribe who gave him these words, went on: "Moreover let them compound for all the things written above that they shall have despoiled or shall have been added fourfold, and in future let this same donation remain firm for all time."<sup>1</sup>

Guillem had good reason for extreme feelings: his donation was being made in the wake of the sack of the city of Barcelona by the army of al-Andalus led by the infamous al-Mansur, and the document makes clear that one of the captives taken had been Guillem's wife Emma, against whose possible return one estate was reserved.<sup>2</sup> His apparent abandonment of public life and emphatic throwing of his lot in with the Church must presumably be seen in this light, and whether or not he chose the wording of the document, that wording is fitting to the circumstances in which Guillem found himself.

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<sup>1</sup> Eduard Junyent i Subirà (ed.), *Diplomatari de la Catedral de Vic (segles IX i X)*, ed. R. Ordeig i Mata (Vic 1980-1996), 5 fascicles, doc. no. 517. Note that the edition gives two texts of this document. I here translate from the earlier.

<sup>2</sup> M. Zimmermann, 'La prise de Barcelone par al-Mansûr et la naissance de l'historiographie catalane' in *L'Historiographie en Occident du V<sup>e</sup> au XV<sup>e</sup> siècle. Actes du Congrès de la Société des Historiens Médiévistes de l'Enseignement Supérieur. Tours, 10-12 juin 1977, Annales de Bretagne et des Pays de l'Ouest* 87 (Rennes 1980), pp. 191-218. On the 985 sack see now G. Feliu i Montfort, *La Presa de Barcelona per Almansor: història i mitificació* (Barcelona 2007), online at [http://www.iecat.net/butlleti/pdf/116\\_butlleti\\_feliu.pdf](http://www.iecat.net/butlleti/pdf/116_butlleti_feliu.pdf), last modified 15 September 2008 as of 3 November 2008.

Nonetheless, although it is unusual in the breadth of its coverage and depth of its reference, such liturgical warnings were not uncommon in charters of the early Middle Ages here or elsewhere, and they have raised some obvious questions among medievalists.<sup>3</sup> These have eddied especially around the relation of such provisions to the survival or abandonment of Roman law and the 'public' judicial system, with some scholars (not least Elisabeth Magnou-Nortier) seeing them as incompatible with the legalistic framework of judicial action supposedly inherited from the Empire (despite the plentiful evidence for ritualised cursing of enemies then too).<sup>4</sup> This is at some level just another example of the peculiar conviction held by many a nineteenth- and twentieth-century scholar that the religious specialists of the Middle Ages were too educated, too much, in other words, like 'us', to have believed such things. Nonetheless, it has been supported by such a lot of work emphasising that spiritual sanctions like this rose up when secular structures of enforcement deteriorated and that they were frequently disregarded by their victims that the case has at least had to be made that these provisions were any more than mindless formulae or rhetorical strategies, without any real belief behind them on the part of those issuing them or, all too often, those receiving them.<sup>5</sup> This case has now been made, and made well, by Jeffrey Bowman in an excellent article called 'Do Neo-Romans Curse?' and is supported for Guillem's native land by the massive work of Michel Zimmermann on literacy and the use of writing in Catalonia.<sup>6</sup> Zimmermann's work is important not least in showing that such usages belong more before, rather than during, the upheaval and reconstruction of the social and judicial systems we perceive to have occurred in Catalonia in the eleventh century.<sup>7</sup>

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<sup>3</sup> L. K. Little, *Benedictine Maledictions: liturgical cursing in Romanesque France* (Ithaca 1978); cf. M. Zimmermann, 'Le vocabulaire latin de malediction du IX<sup>e</sup> au XII<sup>e</sup> siècle : Construction d'un discours eschatologique' in *Atalaya : revue française d'études médiévales hispaniques* 5 (Lyons 1994), pp. 37-55, J. A. Bowman, 'Do Neo-Romans Curse? Law, Land, and Ritual in the Midi (900-1100)' in *Viator* 28 (Turnhout 1997), pp. 1-32, doi: 10.1484/J.VIATOR.2.301069, rev. in his *Shifting Landmarks: property, proof, and dispute in Catalonia around the year 1000* (Ithaca 2004), pp. 56-80.

<sup>4</sup> E. Magnou-Nortier, *La société laïque et l'église dans la province ecclésiastique de Narbonne (zone cispyrénéenne) de la fin du VIII<sup>e</sup> à la fin du XI<sup>e</sup> siècle* (Toulouse 1974), pp. 292-312 or her 'The Enemies of the Peace: reflections on a vocabulary, 500-1100', transl. Amy G. Remensnyder in Thomas Head & Richard Landes (edd.), *The Peace of God: social violence and religious responses in France around the year 1000* (Ithaca 1992), pp. 58-79.

<sup>5</sup> Deterioration theses in T. Bisson, 'The "Feudal Revolution"' in *Past and Present* 142 (Oxford 1994), pp. 6-42; T. Head, B. H. Rosenwein and S. Farmer, "Monks and their Enemies: a comparative approach" in *Speculum* 66 (Cambridge 1991), pp. 764-796.

<sup>6</sup> See n. [3] above for Bowman; M. Zimmermann, *Écrire et lire en Catalogne (IX<sup>e</sup>-XIII<sup>e</sup> siècle)*, Bibliothèque de la Casa de Velázquez 23 (Madrid 2003), 2 vols, I pp. 348-421, esp. pp. 382-421.

<sup>7</sup> Bowman, *Shifting Landmarks*, p. 549, citing n. 9 Zimmermann, 'Vocabulaire latin', p. 40. Cf. P. Bonnassie, *La Catalogne du Milieu du X<sup>e</sup> à la Fin du XI<sup>e</sup> Siècle: croissance et mutations d'une société*, Publications de l'Université de Toulouse-le-Mirail 23 & 29 (Toulouse 1975-1976), 2 vols, II pp. 539-646, or his 'Sur la formation du féodalisme catalan et sa première expansion (jusqu'à 1050 environ)' in Jaume Portella i Comas (ed.), *La Formació i Expansió del Feudalisme Català: actes del col·loqui organitzat pel Col·legi Universitari de Girona (8-11 de gener de 1985). Homenatge a Santiago Sobrequés i Vidal*, Estudi General 5-6 (Girona 1986), pp. 7-26, online at <http://www.raco.cat/index.php/EstudiGral/article/view/43394>, last modified 18 January 2007 as of 21

Nonetheless, all of the work done on such clauses, even where like Zimmermann's it is based on an extensive sample, has proceeded more or less selectively, finding the most notable examples to leave an inarguable impression upon the reader, rather than taking a fully quantitative approach to determine what was usual or unusual about this practice. This paper attempts to remedy this in a small way and adds a comparative perspective by taking the well-supplied archive at Vic and contrasting the general lines of practice there with those at St-Pierre de Beaulieu in the Limousin.<sup>8</sup> In doing so it becomes apparent that the full picture needs to account both for what was usual in such practices and what was unusual, and that between the two cases we find individual decisions and thought processes that seem to expose a deep uncertainty about the legal and spiritual basis of such maledictions.

### **Establishing the usual at Sant Pere de Vic**

The cathedral of Vic now preserves around 650 documents from the year 1000 and before, a cut-off date determined partly by the state of publication but also by the wish to avoid the 'feudal transformation' and its supposed effect on cursing sanctions.<sup>9</sup> Almost all of these documents survive as original parchments, diminishing concerns about whether copyists might have updated them to reflect newer expectations.<sup>10</sup> The greater part of these documents have nothing in particular to do with the cathedral: they seem to have arrived in the archive as the properties they severally concerned were made over to the Church, to prevent previous owners from making claims against it with the older documents.<sup>11</sup> As a result, 428, 66%, of the documents preserved at Vic are sales, which allows us to determine one rule of practice straight away: no document of sale here ever employed a curse in its sanction clause, even if the recipient was an ecclesiastical institution. Nor do the 24 exchanges, again even when one party was the cathedral. This leaves us with

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July 2014, with English summary p. 555, transl. J. Birrell as 'The Formation of Catalan Feudalism and its Early Expansion' in Bonnassie, *From Slavery to Feudalism in South-Western Europe*, transl. J. Birrell (Cambridge 1991), pp. 149-169.

<sup>8</sup> Eduard Junyent i Subirà (ed.), *Diplomatari de la Catedral de Vic (segles IX i X)*, ed. R. Ordeig i Mata (Vic 1980-1996), 5 fascicles; Maximin Deloche (ed.), *Cartulaire de l'Abbaye de Beaulieu (en Limousin)* (Paris 1869), online at <http://gallica.bnf.fr/ark:/12148/bpt6k28915t>, last modified 15 October 2007 as of 21 July 2014.

<sup>9</sup> Junyent, *Diplomatari*; note that almost all of the documents printed here are reprinted in Ramon Ordeig i Mata (ed.), *Catalunya Carolingia IV: els comtats d'Osona i Manresa*, *Memòries de la Secció històrico-arqueològica LIII* (Barcelona 1999), 3 vols, and in a few cases redated.

<sup>10</sup> Cf. W. Davies, 'Regions and micro-regions of scribal practice' in S. Brookes, J. Escalona & O. Vesteinsson (edd.), *Polity and Neighbourhood in Early Medieval Europe* (Turnhout forthcoming). I must thank Professor Davies for supplying me with a draft of this paper ahead of publication.

<sup>11</sup> J. Jarrett, *Rulers and Ruled in Frontier Catalonia 880-1010: pathways of power* (Woodbridge 2010), pp. 112-113; J. M. Salrach, *Justícia i poder a Catalunya abans de l'any mil*, *Referències* 55 (Vic 2013), pp. 157-158; cf. A. J. Kosto, 'Sicut mos esse solet: documentary practices in Christian Iberia, c. 700-1000' in W. C. Brown, M. Costambeys, M. Innes & A. J. Kosto, *Documentary Culture and the Laity in Early Middle Ages* (Cambridge 2013), pp. 259-282.

the 146 donations or bequests and the 21 testamentary documents, in which curses do often occur, to work with.

Within this, by far the most frequently chosen option was a short curse, “let him first incur the anger of God and accept a portion with Judas Iscariot”.<sup>12</sup> Of the 99 documents that use a curse at all, this is the chosen option of 44 of them, and a further 19 use it as a component in their more elaborate versions; still more use just one or other of its clauses. Apparent from this, however, is that many other options, usually but not always more elaborate, were also chosen, and most surprisingly, that of the 167 documents defined into our set just a minute ago, 68 use no curse at all.

One factor that can rapidly be determined with a suitably-armed spreadsheet is that this is not least because curses were only used here to protect transactions of which the church itself (here usually but not always the cathedral of Vic or its representatives) was the beneficiary. This is not all of the answer, however: of the 152 documents in that group, 59 still used no curse—in fact 20 used no sanction at all—and determining factors beyond that are hard to perceive. Among these non-cursing donors were 18 ecclesiastics, but among those who did want curses were 10 more, including at least two of the same people.<sup>13</sup> Was this then scribal choice? It seems not: a priest called Borrell wrote three donations to Sant Pere de Vic in 934 and in the first and third of them the penalty clause was the standard, the anger of God and a portion with Judas.<sup>14</sup> In the second one, however, Borrell also added that the earth would absorb infringers as it had Datan and Abiron and that they would not hear God’s voice at the Final Judgement unless it were to say, “get you from me, you accursed, into the eternal fire”.<sup>15</sup> Borrell had written three donations previous to this in which the standard curse had been used, but also wrote one more later in which as well as that he noted that infringers would be found unworthy of entry into the Heavenly Kingdom.<sup>16</sup> While this could be the scribe’s whimsy, six cases to two makes it seem more likely in these cases that the actor of the charter had requested something more elaborate. We should note also that he was much less consistent about whether a temporal penalty should be specified, and in the two cases where he did so did not use the same one. I return to temporal penalties later, however.

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<sup>12</sup> The first occurrence of the formula in the corpus is Junyent, *Diplomatari*, no. 53 of 911.

<sup>13</sup> Those two being Bishop Idalguer of Vic, seen in Junyent, *Diplomatari*, doc. no. 55, threatening the anger of God, a portion with Judas and fourfold reparation, but using no curse in his own will (*ibid.* no. 41) and Archdeacon Ansemon of the Vic chapter, using no curse as a deacon in *ibid.* no. 227 but threatening infringers with the sins of his own soul fifteen years later as archdeacon in *ibid.* no. 315.

<sup>14</sup> *Ibid.* nos 165 & 167.

<sup>15</sup> *Ibid.* no. 166: ‘*Quod si ego supradictus Ingilbertus presbiter, aut hullusque homo qui contra hanc donatione venerit pro inrumpendum aut inquietandi calumniam intulerit, in primis iram Dei incurrat et cum Iuda Scarioth partem accipiat et terra eum vivum obsorbeat sicut Datan et Abiran et ad diem iudicii vocem Domini non mereat audire nisi: ite maledicti in ignem eternum.*’

<sup>16</sup> The others *ibid.* nos 95, 111, 141, 173 & 185.

The picture of spiritual sanctions at Vic thus appears little different to the way that recent work has begun to describe the use of formulae in charters more widely, then: standard set forms were available, and were often used, but could be varied when someone chose to do so without prejudice to the legal operativity of the document.<sup>17</sup> While this seems perhaps slightly more cavalier when the formulae in question enlist the aid of Heaven, it is worth considering the possibility that this very new diocese on a frontier may not have been perfectly usual. Against this possibility, we can compare St-Pierre de Beaulieu.

### **Practice at Beaulieu**

The sample at Beaulieu is rather different in composition to the documents preserved at Vic. Here, rather than originals, we have a cartulary, and only copies of parts even of that. What we are left with is therefore what the monastery had, in the twelfth and thirteenth centuries, decided was worth remembering, and as at most places making that kind of decision, the documents that made the cut were only those dealing with the monastery itself or, here, also the family of the founder, Archbishop Raoul of Bourges.<sup>18</sup> Almost everything preserved is therefore a gift to the monastery, before 1000 97 out of 126, 78%, whereas sales are only 5% and all relate to property that was intended for the monastery. The fact that this church was a monastery, not a cathedral, probably also accounts for some difference in its profile. Nonetheless, the same factors seem to apply: none of the six sales or three exchanges specifies a spiritual penalty, and none of the eighteen documents that do not transfer land to a Church or its representative do so either. The result is that the effective sample for our enquiry at Beaulieu is actually of the same order as that at Vic. Within it, moreover, a standard practice does also occur: whereas at Vic the default curse was the anger of God and a portion with Judas, those who meddled with gifts to Beaulieu might ordinarily expect to incur the anger of God and the saints, sometimes specified as all the saints and sometimes, as one might expect, specifically St Peter. Of the 51 documents that cursed at all, 22 used this form and 7 more used it as part of a more elaborate malediction, while 9 more contented themselves with just the anger of God. Moreover, the elaborations drew on the same vocabulary as that found at Vic, including another mention of the 'sedition of Chore';

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<sup>17</sup> Zimmermann, *Écrire et lire*, I pp. 278-284 ; J. Jarrett, 'Comparing the Earliest Documentary Culture in Carolingian Catalonia' in Jarrett & A. S. McKinley (edd.), *Problems and Possibilities of Early Medieval Charters*, International Medieval Research 19 (Turnhout 2013), pp. 89-126, doi: 10.1484/M.IMR-EB.1.101679, pp. 94-97.

<sup>18</sup> J. Martindale, 'The Nun Immena and the Foundation of the Abbey of Beaulieu: a woman's prospects in the Carolingian Church' in W. J. Sheils & D. Wood (edd.), *Women in the Church: papers read at the 1989 summer meeting and the 1990 winter meeting of the Ecclesiastical History Society*, Studies in Church History 27 (Oxford 1990), pp. 27-42; cf. more widely P. J. Geary, *Phantoms of Remembrance: memory and oblivion at the end of the first millennium* (Princeton 1994).

although there were elements used here that Vic did not, there was also much shared.<sup>19</sup>

### The Missing Theology of Malediction

The library drawn on for these curses was essentially Biblical. While the anger of God and those saints to which a given church felt close were predictable elements in any threat of revenge for malfeasance, those who wished for one reason or another to escalate their demanded vengeance invoked a limited but steady chorus of villains, most especially Judas, *traditor domini*, but also Datan and Abiron, the second and third leaders of the “sedition of Chore”, “whom the earth absorbed living” as Vic had it or, “who were buried before they were dead” as one Beaulieu charter warns.<sup>20</sup> Michel Zimmermann has studied the use of such curses on a wider scale in Catalonia and adds a few more, Ananias, Saphira, Nero, Herod and Simon Magus among them, to the pyres, but Vic and Beaulieu did not go so far. He doubts, however, and we may doubt with him, that the full story of these characters’ fates was known or invoked by the scribes or the transactors, not least because there are very few known texts of the Book of Numbers attested in Catalonia of the period!<sup>21</sup> Could the scribes who warned of all the curses of the Old and New Testaments at Vic have named them? Again we may doubt. Were these clauses then in fact just formulae, despite their grand theological import?

Before answering this one important factor needs to be brought to the attention. While many of these elements are shared between our two houses of Saint Peter, the wording itself is not. If they were formulae, they were not formulae whose texts the two churches shared. In this, again, they are akin to most other charter formulae of the period. I have shown elsewhere by an analysis involving even more charts and tables that Catalonia was in fact marked out not just from its ruling partner in Francia but also the more generally kindred documentary culture of the northern Iberian Peninsula by

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<sup>19</sup> The sedition of Chore is mentioned in Deloche, *Cartulaire* no. III: ‘*Deinceps, quod futurum minime credo, si ego ipse, quod absit, immutata voluntate, aliquis ex heredibus vel propinquis meis, seu quaelibet immissa persona, qui contra hoc testamentum, quod ego dono offero, aliquam calumniam seu litem generare præsumpserit, imprimis iram Dei omnipotentis incurrat et sanctorum ejus, et a liminibus præsents Ecclesiae alienus, et ab æterna separatus, et cum Datan et Abiron et eis qui in seditione Chore perierunt, æternis pœnis sociandus. Insuper ut temporalia damna experiatur, cogente fisco, auri libras L, argenti pondera C, coactus exsolvat, et quod male petit vindicare non valeat, sed præsens hujus testamenti cessio inconvulsa permaneat cum stipulatione subnixa*’. Beaulieu’s different phrasing of the same ideas is clearly visible here, but it adds to the library ideas such as being argued against by St Peter at the Judgement (*ibid.* no. XI: ‘*cum S. Petro in extrema judicii die ratiocinaturus veniat*’), which finds no echo at Vic, while there a frequent escalation of the regular curse involved invoking all the curses of the Old and New Testaments (Junyent, *Diplomatari*, no. 517) is not paralleled at Beaulieu.

<sup>20</sup> *Ibid.*, no. 310: ‘*et terra eum obsorveat sicut Dathan et Abiron*’; cf. Beaulieu CLXVIII quoted in n. [19] above.

<sup>21</sup> Zimmermann, *Écrire et lire*, I pp. 396-402, & II pp. 833-869 on Bible availability.

several distinct usages, but the differentiation between it and Francia is generally of this kind of order: the ideas are often shared, the wording hardly ever.<sup>22</sup> On the other hand, other evidence of traffic between the Christian kingdoms of the peninsula and Catalonia is hard to find.<sup>23</sup> If there were shared ideas between these jointed but not joined polities, then, it seems likely that that has more to do with their common Roman inheritance than any contemporary transmission. In other words, the shared library of ideas was a palæochristian one, rather than reflecting current theological thinking.

This makes sense, because the intellectual problem with such pronouncements is the same as that which was later found problematic with the judicial ordeal, that they represent an attempt to conjure God into acting on behalf of a human agency.<sup>24</sup> (It is worth noting that the ordeal was vanishingly rare in Catalonia, attested only once before the year 1000 despite the thousands of documents, although Beaulieu's cartulary offers a trial by battle as one of its two judicial records. Both sides lost.<sup>25</sup>) That is, admittedly, an argument from the future, not necessarily applicable to the ninth and tenth centuries, but the curses as we have now deduced were probably equally anachronistic, just in the other direction.

The problem is especially sharp with a small number of instances – eleven at Vic, one only at Beaulieu – in which the penalty was or included the sins of the donor, whose punishment infringers would by their action take upon themselves.<sup>26</sup> A logic does lie behind this: one or two documents not at Vic add the proviso that the donor hoped to be purged of his or her sins by this action, so that it makes a kind of sense that someone who interfered with another's salvation like this should have just that much more Hell to pay.<sup>27</sup> Nonetheless, this is a logic expounded by Michel Zimmermann, not present in any of the relevant documents, and to me at least it seems quite a long way beyond the usual pale. What was involved in this clause was the idea of binding and loosing, not just the regular hope that "alms may free the soul from death" with which many donations began.<sup>28</sup> By this formulation the sins of one person were not just forgiven more or less automatically, but then

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<sup>22</sup> Jarrett, 'Comparing'.

<sup>23</sup> Junyent, *Diplomatari*, no. 404, is a letter from an exilic would-be archbishop who went to León for consecration; he is perhaps the only person from Catalonia in the tenth century recorded going further west than Aragón. Eulogius of Córdoba travelled through Aragón, Navarre and Catalonia: see A. Christys, *Christians in al-Andalus 711-1000* (Richmond 2002), pp. 55-62; otherwise all evidence known to me for such contacts is from the eleventh century or later.

<sup>24</sup> Bowman, *Shifting Landmarks*, pp. 121-140, for this and what follows.

<sup>25</sup> Deloche, *Cartulaire*, no. XLVII: the property was allowed to lapse to the monastery.

<sup>26</sup> Junyent, *Diplomatari*, nos 157, 199, 206, 278, 284, 287, 320, 427, 453, 470 & 575; Deloche, *Cartulaire*, no. XXVIII.

<sup>27</sup> E.g. Ordeig, *Catalunya Carolíngia IV*, no. 37: '*Et qui contra hanc dotem Beati Martín, episcopi adque confessoris, venerit aut aliquit subtrahere voluerit peccatis nostris anime illius sit obligatum qui pro hac re cupimus esse purgatum*'.

<sup>28</sup> E.g. Ordeig, *Catalunya Carolíngia IV*, no. 1409: '*audientes predicaciones sanctorum patrum quia elemosina a morte liberat animam*'. See Zimmermann, *Écrire et lire*, I pp. 378-380.



potentially bound upon another person, an operation technically beyond the priestly dignity and arguably beyond any earthly one. Zimmermann may be right that the disappearance of this idea after around 1030 should be ascribed to increasing pressure from the papal reform movement, but one might wonder how it had survived so long anyway.

The closest that any of these documents get to a gloss on their understanding, however, is a Vic document which explains that an attack on the Church is the same as an attack on Christ, presumably implying that this merits the same punishment as Judas got.<sup>29</sup> Even this is not explicit and may also be a formula. (It should be noted at this point that we have no formularies from this area that would give this kind of detail, the later Formulary of Ripoll not going as far as sanction clauses in its models. That model documents of some kind were in use cannot be doubted, however.<sup>30</sup>) The authority for any of these sanctions is thus almost vanishingly hard to pinpoint.

### **Authority for Temporal Sanctions**

This problem becomes considerably clearer, if not much easier, when the evidence for temporal sanctions is also considered. Without reopening the sample to include Vic's hundreds of sales, we can make some observations about the ways in which temporal penalties were combined with spiritual ones in transactions in favour of the Church that offer unexpected parallels but also considerable differences.

Of the 152 documents preserved at Vic that favour a Church, 93 use spiritual penalties. Of these, 44 also specify a temporal one, while of those that offered no otherworldly threats 39 nevertheless contained specifications of compensation in this world. (20 specified no penalties at all.) Of all those 83 that did threaten worldly penalties, 3 did so in money or bullion, 2 simply ordered the return of the property or its equivalent, and 56 specified that return to be carried out twofold, which was very much the legal standard of the area. The 22 remaining, however, order a fourfold reparation, which appears to have been considered specifically appropriate when Church property was at issue; it only occurs once among the non-Church Vic documents in the sample, and then the recipient was the Bishop of Vic.<sup>31</sup> Unlike the standard double reparation, and most of the spiritual sanctions, this fine was clearly special enough to be felt to require explanation: eight of

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<sup>29</sup> Junyent, *Diplomatari*, no. 125, for Sant Pere de Roda rather than the cathedral: '*qui contra hac donacione venerit memor sit ut qui ad Ecclesias donat Christum donat, et qui aliquit Ecclesia tollit Christum tollit...*'

<sup>30</sup> M. Zimmermann (ed.), 'Un formulaire du X<sup>ème</sup> siècle conservé à Ripoll', *Faventia* 4 (Barcelona 1982), pp. 25-86, online at <http://www.raco.cat/index.php/Faventia/article/view/49770>, last modified 24 October 2006 as of 21 July 2014, but cf. Jarrett, 'Comparing', p. 99 and *passim*.

<sup>31</sup> Junyent, *Diplomatari*, no. 290.

the cases give some gloss on it, but between the eight there are four different explanations, two blaming Roman law and the canons, one canonical authority, three the laws of the churches, plural, and two just the custom of the Church.<sup>32</sup> If a custom, however, as we have seen it was very far from universal, and discouraging counter-examples also arise: two other documents, both written by Vic chapter priests for their fellows, claim that the canons prescribe single, in the first case, or double reparation in the second case, rather than fourfold, and the former also invokes as authority for its claim the cathedral's royal precept (which in fact makes no such stipulation).<sup>33</sup> And while Catalan charters do occasionally cite Visigothic or even Roman law for their provisions, none occurs here.<sup>34</sup> A considerable uncertainty about what proper practice was and whence its authority came seems to be attested here.

A rather different set of practices was drawn on by scribes at Beaulieu. Here, of the 106 transactions to churches in our sample, as said, only 49 used a spiritual penalty, while 68 used a temporal one. Of the 49 threatening their infringers' souls, only 14 lacked worldly penalties, and the penalties were all in what was the usual form for Beaulieu, a sum of gold in pounds (*libras*) and a usually larger sum of silver also in pounds (but *ponderas*). There was, however, no real consistency about the amounts: 2 pounds of gold was slightly more usual than anything else but the amount of silver with it varied. Neither was any authority for such penalties ever cited here. This pattern, or lack of one, is also observable in Beaulieu's temporal penalties more widely, although among the 20 non-Church documents there we do find one payment in *solidi* and four instances of compensation of the goods themselves either one- or twofold, as before in a manner similar but words dissimilar to those found at Vic. Apparently such schemes were not for the Church here, but that was about the only rule there was.

### Dubious Conclusions

Despite this lack of structure in the findings, I think that some conclusions are possible. The first is the methodological one, that any study of what people were doing with sanction clauses must involve not just use but also non-use, and with use not just the exciting ones but also, and perhaps more importantly, the 'normal' ones. While these show us something more like regular practice, however, we should not ignore that many choices of sanction were not normal, either in worldly or unworldly terms; choosing one at all was not really regular, indeed. This can be seen as choice, but it can also be seen as uncertainty or as doubt: doubt, perhaps, that the normal was enough, that it would really give a potential opponent pause to consider the

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<sup>32</sup> *Ibid.* nos 53 & 95, 647; 290, 305 & 434; 258 & 277.

<sup>33</sup> *Ibid.* no. 114, referencing no. 11, and no. 625

<sup>34</sup> Bowman, *Shifting Landmarks*, pp. 33-55.

consequences for his soul if it was the same threat he or she had heard dozens of times before in the market and knew quite well others had defied. Doubt perhaps also about the adequacy of the judicial system: whatever a court might decide about rightful ownership, or whether or not it could be enforced, it might still pay to give a righteous family claimant the worry that while he might convince the courts of the land he would not convince St Peter. More important, to my mind, however, are the doubts suggested by the avoidance of such spiritual penalties—for avoidance it must be, in a world where others were ready to embrace them—an avoidance that seems as we have seen to have lain with the donors themselves. We might generously choose to see this as usually being a preference not to threaten infringers, of whom the most likely would of course be, as often specified, the donor's own relatives, with the prospect of being "flung, empty, vain and hopeless, from the thresholds of the saints".<sup>35</sup> But, given the difficulty that our scribes seem to have had in explaining the basis for their invocations of such consequences, we might perhaps think that a more conceptual doubt was operative here too: doubt, if not that the threatened consequences would in fact befall, as the rationalist and Romanist historiography mentioned at the outset has suggested, at least whether they were at all appropriate to the occasion or even theologically proper. What we have in this evidence, as well as the elaborate threats of awful torment, is a ground-swell of people who preferred, when giving to the Church, to rely instead on consequences in the world to secure their actions, and doubt about the propriety and foundation of the alternatives would seem to be perhaps the best explanation for this forbearance.

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<sup>35</sup> Deloche, *Cartulaire*, no. CLXVI; cf. S. D. White, *Custom, Kinship, and Gifts to Saints: the Laudatio Parentum in Western France, 1050-1150* (Chapel Hill 1988).