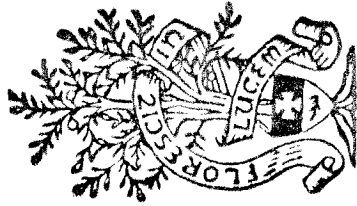


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THE PRIVILEGE OF NICOLAS I FOR ST. CALAIS: A NEW THEORY

A group of royal and conciliar charters preserved in a cartulary of the abbey of St. Calais documents a quarrel between St. Calais and the bishopric of Le Mans that opened in 855 and reached its culminating point in 862-863.¹ Late in October of 863, a trial took place before the royal court assembled at Verberie and it resulted in the decision, unfavorable to the bishopric, that St. Calais was and had always been royal property. From the official notice of judgment recording this decision, one learns that the trial was brought about at the injunction of Pope Nicolas I, and that Nicolas had sent five letters on this subject to various Frankish notabilities.²

Four of the five letters are to be found in the principal surviving collections of Nicolas's correspondence and were published by Ernst Perels in the *Monumenta*; in this edition they bear the numbers 109, 110, 112, and 113.³ A sixth letter on the same subject, not mentioned in the Verberie notice of judgment, is also preserved and was published under number 111.⁴ All five letters (Perels nos. 109-113) are in the first of the manuscript

1: The cartulary was edited by Julien Havet in the appendix to his brilliant article, *Questions controversées*, IV: *Les chartes de Saint-Calais*, in *Œuvres de Julien Havet* (Paris, 1896) I, 155-190 (reprinted from *Bibliothèque de l'École des Chartes* XLVIII (1887)); for the charters here referred to, *ibid.*, 179-90, nos. 17-21. Most of the charters were re-edited in *Monumenta Germaniae historica* (hereafter *M.G.H.*), *Diplomata Karolinorum* I (Hannover, 1906) and G. Tessier et al., *Recueil des actes de Charles II le Chauve* (hereafter *Tessier, Recueil*) I-II (Paris, 1943-1952: *Chartes et diplômes relatifs à l'histoire de France*), but since Havet had access to a vital manuscript not available to the later editors, his edition has not been superseded; it will customarily be cited here. The cartulary has also been edited by L. Froger, *Cartulaire de l'abbaye de Saint-Calais* (Mamers, 1888). St. Calais survives as a town of the same name, about twenty-five miles east of Le Mans. I am much indebted to Professor C. H. Taylor and Giles Constable of Harvard University for their criticism of this paper and many helpful suggestions.

2. Havet, *Œuvres* I, 187, no. 21: "Cum resideret... rex Karolus in Verberia palatio... ventilare coepit controversiam [between Bishop Robert of Le Mans and the abbot of St. Calais] pro qua maxime per ammonitionem reverendi papae Nicolai domnus rex ad eundem conventum venerat." The next sentences relate the reading of the papal letters (quoted *infra* 329, nn. 1-2).

3. *M.G.H. Epistolarum* (hereafter *EH.*) VI (Berlin, 1925), 624-626, 627-629.

4. *Ibid.*, 626f.

The objection may be raised: if the 'signature' was meant to confirm the tradition of a Bede autograph why was it not written in the insular minuscule of the main text? The answer is not a difficult one. It would be an anachronism to make a medieval writer think entirely in terms of our modern signature—the signature we add to a letter. This was rightly pointed out by Dr. Lowe in his paper.¹ Scribe colophons or signatures in different kinds of scripts are to be found in the manuscripts. A flourish of majuscules or capitals—even if it happened to include the scribe's name—was not considered an unsuitable way of ending the work. Thus, whoever added the Bede 'signature' in the Leningrad manuscript would have seen no objection in keeping the script of this line in conformity with that of the preceding ones. He may, moreover, if he was someone accustomed to Carolingian script, have considered it safer to copy the rather straightforward structure of the rustic capitals than to try his hand at imitating the more complex insular minuscule. What counted ultimately was less the type of script than the manner in which the 'signature' was phrased and particularly the inclusion of the word 'indignus'.

To conclude: the 'signature' following on the colophon in the Leningrad Bede is very probably a medieval forgery meant to confirm a tradition which considered the manuscript as an autograph of Bede.² As such the 'signature' may have an indirect bearing on the jarrow provenance of the manuscript. But the only reliable evidence for dating the codex now lies—as Dr. Wright has shown in the preceding paper—in the marginal numerals which accompany the chronological summary of the last chapter of HE.

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only in xvith century as Arngart suggested in his introduction to the facsimile edition (p. 31-32). R. A. B. Mynors who first discovered this new evidence will deal with it in his study of the textual transmission of HE.

1. *An Autograph*, p. 202.

2. In the case of the Augustine 'autographs' mentioned above (p. 284, n. 5) the antiquity of the uncial script in which the Mass are written offers some explanation of how the tradition may have arisen. Could it be that the insular tradition of the script in the Leningrad Bede gave rise to a similar tradition of 'autograph' once the MS had reached the Continent? Dr. Wright (*supra* p. 272) states that the 'signature' was written 'in relatively thin ink of insular type' but, in fact, we possess no certain criteria for distinguishing an insular type of ink from a Continental type in the Carolingian period or later. It is therefore not impossible that last line of the Leningrad Bede was penned not in England but on the Continent.

likely source for the collections that contain the St. Calais privilege as well as the letters for Robert of Le Mans. This circumstance creates a very strong presumption of authenticity in the privilege's favor. The document has been challenged on diplomatic grounds and the legality of its contents has been disputed, but neither of these categories of objections, as will be shown, comes near to being decisive. There remains a serious barrier to affirming the privilege genuine in that a portion of the text alludes to the decision of Verberie in October 863 whereas the *narratio* mentioning Bishop Odo imposes the date April 863. It will be suggested in the pages to follow that this anachronism in the St. Calais privilege may be explained by a double delivery, in other words, by the hypothesis that the surviving privilege is the augmented second version of a bull first issued at Odo's request in April 863.

The first part of this study focuses upon the St. Calais privilege and its disputed authenticity. In the discussion, considerable attention will be given to a privilege of Nicolas's for the abbey of Corbie, also issued in April 863, and the charters of St. Calais and Corbie that lay down the legal status of each establishment. There will also be occasion to touch upon other monastic privileges of Nicolas I and the cartulary of St. Calais, which is itself a document. Once the authenticity of the St. Calais privilege has been secured, the problem arises of reconciling its issuance with that of the six letters of Nicolas championing the cause of Robert of Le Mans. The last part of this study will therefore be devoted to a detailed examination of Nicolas's intervention in the quarrel over St. Calais. In so doing the following additional documents will be discussed: the *Actus pontificum Genonnis in urbe degentium* and the *Gesta domni Aldrici*, which represent the episcopal side of the quarrel; and various letters of Nicolas and of Hincmar of Reims having to do with Rothad of Soissons and his deposition, a contemporary issue of Frankish-papal relations that briefly merged with the quarrel over St. Calais.

I. CONTENT AND FORM

The authenticity of the St. Calais privilege was first challenged in 1886 by Bernhard Simson,¹ and Paul Fournier raised similar

1. *Pseudo-Isidor und die Geschichte der Bischöfe von Le Mans*, in *Zeitschrift für Kirchengeschichte* XXI, new ser. VI (1886), 163f.

collections: two only (Pereis nos. 109, 113) are in the second collection,¹ but this second collection also contains a long privilege of Nicolas for St. Calais (Pereis no. 159).² The group of six letters, —to Charles the Bald (Pereis no. 109), to the bishops of Charles's kingdom (no. 110), to Archbishop Hincmar of Reims (no. 111), to the monks of St. Calais (no. 112), to Bishop Robert of Le Mans (no. 113), and to Robert's metropolitan, Erardus of Tours (lost),³ —was issued at the same time; the contents are uniformly favorable to the pretensions to St. Calais raised by Robert of Le Mans, and their intention is to bring about the trial that took place in October 863 at Verberie. Though none of them is dated, they may be presumed to have been sent in 863 before October.

A quite different attitude toward the quarrel between bishopric and monastery is exemplified in the likewise undated privilege for St. Calais, which grants the monastery exemption from episcopal control of its possessions and freedom of abbatial election, subject to royal approval. The petitioner of the document is given as being Bishop Odo of Beauvais, acting for Charles the Bald, which implies that the privilege should be dated, like all the papal letters carried north by Odo, c. 28 April 863.⁴ When set side by side with the six letters which Nicolas dispatched in the same year in behalf of Robert of Le Mans, the St. Calais privilege creates a considerable problem. For this and other reasons, it currently appears among the "Spurious and Dubious" letters of Nicolas I.

Textual tradition is the great obstacle to considering the privilege a forgery. Neither St. Calais nor Maine in general may be implicated in the tradition: the papal registers are the most

1. The first collection survives in a Paris manuscript (*Bibliothèque nationale* lat. 1458), the second in another Paris manuscript (*Bibl. nat.* lat. 1557) and in two modern copies of a lost manuscript of Sta. Maria sopra Minerva in Rome. See *M.G.H. EE. VI*, 261, and especially II. Freners, *Die Briefe Papsi Niklaus I. in Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde* XXXVII (1912), 538-586.

2. *M.G.H. EE. VI*, 680-683; Ph. Jarre, *Regesta pontificum Romanorum* I (2nd ed., Leipzig, 1885), no. 2735 (hereafter Jarre, followed by the number assigned to the bull).

3. Respectively, Jarre, nos. 2742, 2745, 2746, 2744, 2743; the last, sixth letter was not entered in the *Regesta* (*infra* 329, n. 1).

4. The date was so given by Petris (*op. cit.*, 287, n. 3); the proceedings at Pithers in 862 (JAVERT, *Annales* I, 183-5, nos. 18-19) imply that the pope was not solicited by any party to the quarrel before the next year.

5. See Jarre, nos. 2716-2732. That those of Nicolas's letters that were carried back by Odo and have been preserved with closing protocols are all dated 28 April to Rome, *infra* 308 with nn. 5-6. is probably not coincidental. Odo probably made no subsequent journeys

This audacious theory was determined by the textual tradition of the St. Calais privilege, which Perels laid down while preparing his edition of Nicolas's letters. So far as transmission is concerned, St. Calais may not be implicated: "The contents of the manuscript's unconditionally point to Rome—not the Frankish kingdom—as place of origin... The remainder of this extensive collection of Nicolas's letters can... scarcely be derived directly or indirectly from anywhere else than the papal registers." And every other piece in the collection is absolutely *unverdorrt*.² It is in fact admitted by diplomarists that few documents offer as great guarantees of authenticity as those whose textual traditions derive from the papal registers.³ Does Perels's solution succeed in circumventing this evidence?

For one thing, his hypothesis is in the category of unique instances, but I hasten to add that this observation is not an

1. *Loc. cit.* (290, n. 5), 1901. Perels did not point out this conclusion in his fundamental article on Nicolas's letters (*supra* 288, n. 1), but in describing the two branches of the textual tradition that transmit this collection, he noted (*Venes Archiv* XXXVII [1912] 560): "Dem Inhalt nach erstreckt sich diese Briefkollektion nahezu ausschließlich auf Angelegenheiten des fränkischen Reiches. Unter diesen aber ist kein Unterschied gemacht. Die Sammlung umfasst Briefe, die nach allen Teilreichen gerecht waren und sich auf die verschiedensten Materien bezogen. Kein festes Prinzip ist bei ihrer Anlage maßgebend gewesen, weder sachliche Auswahl noch chronologische Anordnung." (569): "... auch hier haben wir eine zwar große, aber nicht nach bestimmten Gesichtspunkten geordnete Zusammenstellung von Briefen des Papstes vor uns."

2. The abbreviated protocols also indicate derivation from the papal registers (on this much disputed point, *infra* 301 with n. 3). The collection that contains the name of Nicolas I. It is only fair to point out, however, that a reputedly spurious bull of Gregory IV, concerning Bishop Aldric of Le Mans, is also to be found in the collection (Jarré², no. + 2579). I would be inclined to take a serious view of this matter if only the inauthenticity of the bull had been decisively proved. As it is, though floods of commentary have been devoted to Jarré², no. + 2579, no one has yet given anything like a satisfactory demonstration that it is forged. See, P. Hinschius, introduction to *Decretales Pseudo-Isidoriana et Capitula Angitramni* (Leipzig, 1860), cxxiv-cxxv; B. Simson, *Die Entstehung der Pseudo-Isidorischen Fälschungen in Le Mans* (Leipzig, 1886), 18-46; id., *Pseudo-Isidor und die Le Mans-Hypothese, in Zeitschrift der Saargy-Stiftung für Rechtsgeschichte* XXV, Kanon, Abt. IV (1914), 44-66 (with rich bibliography); K. Hampe in *M.G.H., EE., V* (Berlin, 1899), 72f.; P. Fourrier, *Études sur les Faussees Décretales, in Revue d'histoire ecclésiastique* VII (1906), 773-776; F. Lot, *Faussees Décretales, in Bibliothéque de l'École des Chartes* CII (1941), 9-13.

3. A. de Bédard, *Manuel de diplomatique française et pontificale I* (Paris, 1929), 190: "... l'authenticité des actes ainsi conservés [i. e. in the registers] est indiscutable—sous réserve toutefois qu'un acte enregistré, précisément parce qu'il l'était avant la déviance, portois même avant l'établissement de l'original, put être modifié, voire cassé après l'enregistrement..." The instances that support this reservation are drawn from the later history of the papal chancery.

objections in 1904.¹ An initial attempt to give a total explanation of the document as a forgery was made by E. Lesne, who proposed the following conclusions: ² The bull was forged at St. Calais shortly after Nicolas's death (807) on the basis of a genuine privilege for Corbie,³ with occasional borrowings from one of Gregory the Great's privileges for monastic foundations at Autun.⁴ The monastery's motive for the forgery was to have a document of Nicolas's to oppose at some undetermined future date to the pope's letters favorable to the bishop of Le Mans.

When finally Ernst Perels, the editor of Nicolas's letters for the *Monumenta*, published his justification for ranking the St. Calais privilege among the *Spira*,⁵ he admitted many of Lesne's arguments but completely rejected his conclusions. The textual history of the privilege for St. Calais forced him to propose a completely different explanation: After the council of Pîtres (June-August 802), Odo of Beauvais, former abbot of Corbie, in anticipation of the mission to Rome he was shortly to undertake, prepared or had others prepare a draft minute for a bull of Nicolas I to renew the privilege already granted the monastery of Corbie by Pope Benedict III.⁶ Monks of St. Calais, on the basis of this draft, in turn drew up a minute for a papal privilege to be delivered to their monastery, expressing their claims to the fullest possible extent. Both minutes were taken by Odo to Rome; there, the one for Corbie was accepted and turned into an actual bull by the papal chancery, whereas the one for St. Calais was not granted. And that was that, so far as St. Calais was concerned. The St. Calais minute, however, perhaps even the original of the minute, was carelessly slipped into Nicolas I's

Registrum epistoliarum and has thus been transmitted.

1. Review of *Actus pontificum Canonarum in urbe degentium*, edd. G. Besson and A. Lebrou, in *Bulletin critique d'histoire et de littérature*, 2nd ser. VI (1904), 366-368.

2. Nicolas I et les libertés des monastères des Gaules, in *Le Moyen Age* XXIV, 2nd ser. XV (1911), 284-306: Lesne cited neither Simson nor Fourrier.

3. Jarré², no. 2717; ed. L. Levillain, *Examen critique des chartes de Corbie* (Paris, 1902: *Mémoires et documents publiés par la Société de l'École des Chartes* 5), 283-288, no. 32.

4. Jarré², no. 1875-1877, for a brief commentary and bibliography, see E. Caspar, *Geschichte des Papsttums II* (Tübingen, 1933), 500f. n. 7. Lesne's doubts about these privileges (*loc. cit.* [n. 3], 301, n. 3) are unfounded.

5. *Papst Nikolaus I. im Streit zwischen Le Mans und St. Calais*, in *Papsttum und Kaiserium* (= *Paul Kehr Festschrift*), ed. A. Brackmann (Munich, 1926), 146-162.

6. Jarré², no. 2663; Levillain, *Corbie*, 267-277, no. 29.

Pleasant information happens to be available to indicate the procedure followed, at the time of Odo's embassy, to obtain a privilege for the church of Reims. In 855, Benedict III had issued a bull approving the acts of the synod of Soissons (853) and the privileges of the see of Reims.¹ Archbishop Hincmar availed himself of Odo's mission to Rome to ask Nicolas that the privilege be confirmed with additional provisions "which this brother and son of ours [Odo], in so far as he knows our needs, will be able to indicate to Your Holiness". Hincmar excused himself from sending the *authentica cartam* of Benedict's bull to justify his request; he feared that it might come to harm on the journey. Instead, he sent a copy of it and indicated that Nicolas would find another copy preserved, as customary, in the *scriptorium* of the Roman church, which would prove the accuracy of the transcript he had sent via Odo.² The end product of this negotiation also survives, and, of course, it contains many textual borrowings from Benedict's privilege.³ This evidence makes it perfectly clear that Odo, who may have had written instructions from Hincmar regarding additional provisions, bore a copy of Benedict's privilege, but was not provided with a complete draft a minute for the bull he was to seek from Nicolas. If, therefore, it was drawn up at the papal court.

Nicolas's privilege for Corbie also contains quite precise indications about its inception. Odo carried letters from both Charles the Bald and the abbot of Corbie asking Nicolas to confirm the privilege granted in 855 by Benedict III;⁴ although there is no evidence that Odo actually brought the privilege itself, what is known from Hincmar about the privilege for Reims makes it likely that, to justify the new privilege for Corbie, Odo did in fact bear a copy of Benedict's bull, which again could be checked against the copy preserved in the papal registers. Since

1. JAFFÉ, no. 2664; *M.G.H. EE. VI*, 367f., no. 59a.
 2. Hincmar, *Epistole*, edd. E. PEREAS and N. ERTEL, *M.G.H. EE. VIII*, fasc. 1 (Berlin, 1939), 121f., no. 159 and 215 lines 20-23, no. 198. Cf. *ibid.*, 190-194, no. 186: the very interesting instructions of Hincmar to an envoy he was about to send to Rome.
 3. JAFFÉ, no. 2729; *M.G.H. EE. VI*, 365-367, no. 59; dated 28 April 863.
 4. JAFFÉ, no. 2663; *LEWILLAIN, Corbie*, 284: "Nunc vero adveniens venerabilis Odo... innotuit nobis tam petitionem ipsius... principis [Charles the Bald] quam postulationem tuam, qui praeerat monasterio Corbitae abbas esse dignoscens, qua postulasti ut quae prius monasterio illi a decessore nostro beatae recordationis papa Benedicto concessa fuerant, auctoritatis nostrae promulgatione firmare non abnueremus."

The operations of the papal chancery in the ninth century are sufficiently obscure to banish the aphorism *Testis unus, testis nullus*.¹ The hypothesis, however, goes far beyond a mere imputation of carelessness on the part of the papal chancery: it implies that, as normal procedure, the petitioner presented the chancery with a minute that may have contained a few trifling errors, to be sure, but was in all essentials complete from opening protocols to final clauses. The chancery, in preparing the actual bull, did no more than recopy the minute, correcting its few formal errors and providing the appropriate closing protocols. Note that this procedure was allegedly exercised not only in the case of St. Catalais but also in that of Corbie. Having been processed by the chancery, the privilege for Corbie is diplomatically unchallengeable,² whereas the St. Catalais privilege must be considered as nothing more than a rejected minute. It is difficult to accept Perels's argument once its implications have been spelled out. Bresslau's remarks about the use of minutes at the papal chancery open with the words: "Apart from isolated exceptions [which occur no earlier than in the mid-eleventh century] participation in the drafting of minutes was not allowed the petitioners at the papal chancery."³ Even in the imperial and royal chanceries, Bresslau hesitated to admit that the recipient participated in drafting minutes much earlier than in the reign of Conrad I (911-918).⁴ Since such exceptions to the rule at the papal chancery as occur in the eleventh century are commonly attributed to the influence of the practices of the imperial chancery, introduced by such German popes as Leo IX,⁵ it should be obvious that acceptance of Perels's theory about the St. Catalais and Corbie privileges has important general implications.⁶

1. Cf. P. PEREAS, *Les aphorismes de droit dans la critique historique, in Recherches d'histoire et de philologie orientales* (Brussels, 1951; *Subsidia hagiographica* 27) II, 180-209, here 191f.
 2. Mabillon saw and described the original; cf. LEWILLAIN, *Corbie*, 282f. For a branch of the textual tradition not used in Lewillain's edition, see *infra* 301, n. 3.
 3. H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien* (2nd ed., Leipzig, 1912-1915) II, 150 with I, 233f.
 4. *Ibid.* I, 460f. with nn. 1-2 on p. 460 and n. 2 p. 461.
 5. Cf. BOVARD, *Diplomatique* I, 88 with n. 4; referring to Perels's article he stated that St. Catalais represents the exceptional case where the minute is drafted elsewhere than at the papal chancery; he should have added Corbie, for this is the necessary implication of Perels's argument. Let it be added that Bresslau adopted considerable reserve toward the article, e. g. the locution: "L'on a cru reconnaître..."

temporal by the diocesan bishop (Amiens).¹ Certainly it is true that there would have been no quarrel between St. Calais and the bishopric of Le Mans if the monastery had had a similar privilege, but, since the tightly centralized diocesan unit, against which the privileged Merovingian monastery had been shielded, was a thing of the past, such a document as Corbie's had singularly lost in importance.² The prerogatives of bishops over monasteries, which Merovingian councils had pronounced in a form that was derogatory to monastic independence, were now so phrased as to constitute obligations and burdens rather than advantages.³

1. LEVILLAIN, *Constit.*, 220-222, nos. 4-5; no. 4 is an interpolated copy and no. 5 an attempt by Levillain to restore the original draft.

2. See particularly E. Bwig, *Mitio et eius modimites*, in *Sankti Bonifatius: Gedankgabe zum zweihundertsten Todestag* (Tübingen, 1954), 431-2; also, Th. Sickel, *Beiträge zur Historie des ersten Karolinger bis zum Jahre 850*, in *Sitzungsberichte der kaiserlichen Akademie der Wissenschaften zu Wien* XLVIII (1864), 505-635; T. McLAVUAGHIN, *Le très ancien droit monastique de l'Occident* (Paris-Louvain, 1935; *Archives de la France monastique* 38), 129-99.

3. F. LEJARRIGIER, *L'exemption monastique et les origines de la réforme grégorienne*, in *A Chartre. Congrès scientifique* (Lyon, 1950), 291-301. It is misleading to consider the early history of exemption as the period of "origins" for developments in the late tenth century and beyond (e. g. LEJARRIGIER, *loc. cit.*, 293, taking the papal privilege of 628 for Bobbio as a "Curious anticipation of [the papacy's] future policy"). The idea of exemption in these early times appears to have been for reward establishments of unusually strict observance and stability by freeing them from the bonds of diocesan centralization. Such liberation very occasionally reached the point of total emancipation, as exemplified by the Merovingian episcopal privileges allowing monasteries to seek spiritual services from any bishop they pleased (*infra* 304, n. 5); but this extraordinary provision had no future and does not appear to have been reproduced in the Carolingian period. The normal Merovingian episcopal privilege did not affect the bishop's spiritual jurisdiction but limited his powers over temporal administration and appointments; its maximum extent therefore consisted in freedom for the monastery to administer its property and elect its abbot. The collapse of diocesan centralization in the seventh and eighth centuries had as one of its results that freedom of administration and perhaps election came to appear the normal prerogatives of monasteries, provided they were not owned by a bishopric; accordingly the royal charters that confirmed privileges were no longer preceded by episcopal charters granting them. — It goes without saying that a separate study is required to give these arguments the development they deserve. As for the later history of exemption, the great step in its direction was Nicolas's privilege for Vézelay and the transaction it records (*infra* 306, n. 2).

3. McLAVUAGHIN, *Droit monastique*, 451, 130-140, 167-171, with the texts cited. Cf. C. DE LAROCQ, *La législation religieuse française de Clovis à Charlemagne* (Louvain-Paris, 1936; *Université de Louvain, Recueil de Travaux publiés par les membres des Conférences d'histoire et de Philologie*, 2nd ser., fasc. 38), 90-98, 101. These remarks apply particularly to the question of property. Abbatial appointments are surrounded by infinite complications, but in general terms the contrast holds between wide episcopal prerogatives in this matter under the Merovingians and drastic curtailment in the next period. See also H. LÉVY-BRUHL, *Les élections abbaticales en France*, I: *Époque française* (Paris, 1913).

there had been no change since 855 in the privileges enjoyed by Corbie, the previous bull was completely adequate both to justify and to indicate the provisions that were to be confirmed in the new bull. The large differences between Benedict's privilege and Nicolas's—for one thing, the latter is only half as long—are to be explained solely in terms of action at the papal court. No need for Odo or some monk of Corbie to set himself the laborious task of composing a virtually perfect papal document in the style adopted under Nicolas I. Had it even been possible, the Frankish kingdom would have been flooded with forged bulls. Much that has been said in the previous paragraphs is based on three propositions: that the St. Calais privilege is to be dated c. 28 April 863; that it bears noticeable resemblances to Nicolas's privilege for Corbie; and that the formal differences between the genuine Corbie privilege and the "spurious" St. Calais privilege are trifling. Leaving aside for later consideration the problem of chronology, which is the main difficulty, the relations between the St. Calais and the Corbie privileges may now appropriately be examined.

The textual parallelism is represented in double columns within Peretz's article;⁴ by my rough count, it encompasses about one-sixth of each document. The parallels consist of close resemblances, not of plagiarisms, a point well worth underlining as being exceptional procedure among forgers, in whose production models, at best as a mosaic of borrowed sentences or more usually, in long, plagiarized chunks. Nothing of this sort may here be alleged. On the other hand, if the privileges for Corbie and for St. Calais were both prepared in the papal chancery for delivery on the same day, the textual similarities would be in no way suspicious or even remarkable.

A further possible reason for the resemblances between the two privileges lies in that the respective constitutional positions of Corbie and St. Calais and the liberties they were to be assured by the pope were virtually identical. If one surveys the charters of both establishments, Corbie appears to enjoy a crucial advantage over St. Calais in possessing an episcopal privilege of Merovingian date ensuring it independence from supervision over its

1. Or even less. Cf. R. L. POORE, *Lectures on the History of the Papal Chancery* (Cambridge, 1915), 197f. with n. 2 p. 198; the papirus of Nicolas's privilege was seven or nine feet long, as opposed to twenty-two and a half feet for Benedict's. 2. *Loc. cit.* (290, n. 3) 156-158. In the ordering of provisions, the St. Calais privilege "fast genau an die Vorlage hielt".

The criterion of ownership that had assumed decisive importance worked to the bishops' detriment except in cases of monasteries whose possession had been able to assert.¹ By the ninth century, therefore, St. Calais' failure to have a Merovingian privilege signified only that it had no expeditious means of proving that it did not belong to the bishopric of Le Mans.

To compare the constitutional positions of St. Calais and Corbie one must rather look to the positive rights they enjoyed and to their relations with the monarch. These rights can be reduced to two: liberty to administer their temporal affairs and free abbatial elections. Corbie had been granted them in its early privilege, and they had been confirmed by the council of Paris in 847.² Free elections had been guaranteed to St. Calais by royal charter in 752, at the decisive moment in the monastery's history when the abbot and monks had commended themselves to King Pepin.³ A century later, in 850, the incumbent abbot, Reynald, obtained from Charles the Bald a charter confirming his tenure of the monastery as a benefice and granting the monks, who by this time lived under the Benedictine rule, the privilege of freely electing abbots from their own number after his death.⁴ Thus St. Calais regained the status it had had when it first entered into a relationship of dependence upon the king.⁵ Five years later (855), in the face of attacks from the bishopric of Le Mans, the monastery had the council of Bonneuil formally define its privilege against the council of Le Mans, the incumbent abbot, and the king.⁶ The vagueness surrounding St. Calais' rights to administer its lands has a counterpart in Corbie's electoral privilege. The free elections guaranteed to Corbie in 847 did not specify that the candidate was to come from the monastery's congregation.⁷ Benedict III's privilege of 855, however, extended Corbie's rights in this sense and addressed pages of hortatory imprecations to the kings in support of this extension:⁸

Qua de re, gloriosi principes, monasterio hinc electionis prerogativam concessit, neque aliquam personam aut latam aut canonicam, quod contra omnem ecclesiasticum ordinem est, aut etiam monachum

1. For this point, see the suggestive pages of Lwig, *loc. cit.* (295, n. 2). A brief summary and bibliography of the *Diogenkirche* is to be found in McLoughlin, *Droit monastique*, 232-237. The attachment to a diocese or its constituent parts of the concept of ownership—as characterized by the terms *episcopium* (or *episcopatus*) and *abbatia*—seems to me far more important in its consequences upon ecclesiastical organization than the question whether the owner of a given ecclesiastical establishment was a layman. This problem will have to be mastered to understand the change the church underwent in the transition from Merovingian to Carolingian times. Its effects were so all-embracing that it cannot be treated in a separate compartment, as it is by McLoughlin.

2. In addition to the privilege cited *supra* 295, n. 1, the charter of 847, in *Levillain, Corbie*, 257-265, no. 28.
3. *M. G. H. Diplomata Karolorum* I, 41, no. 2; HAVET, *Œuvres* I, 166f., no. 8.
4. Tessier, *Recueil* I, 336f., no. 127; HAVET, *Œuvres* I, 178f., no. 16.
5. Although, according to standing doctrine on the subject of commendation and protection (see Th. Stöckel, *Beiträge zur Diplomatik*, III: *Die Mönchbriefe, Immunitäten und Privilegien der ersten Karolinger bis zum Jahre 840*, *loc. cit.* 393, n. 2) 213; H. Brunner, *Deutsche Rechtsgeschichte*, II 2nd ed., Leipzig, 1928, 97-73), St. Calais would not have jeopardized its liberty by commending itself to the king, it was nevertheless bestowed in benefice by Charlemagne, Louis the Pious and Charles the Bald and was formally claimed to be a royal monastery in 863. Unless one simply assumes abuses on the part of the kings, something appears wanting in standing doctrine.

1. HAVET, *Œuvres* I, 179-183, no. 17.
2. Tessier, *Recueil* I, 463-465, no. 176; HAVET, *Œuvres* I, 185-187, no. 20.
3. HAVET, *Œuvres* I, 183f., no. 18; 185, no. 19; "Causam monachorum s. Carthi que... dilata est, donec cum vestris auctoritatibus redictis... examine curavimus." These words were addressed to Bishop Robert of Le Mans; there is no question of episcopal *auctoritas* in the charter of Bonneuil.
4. There is also an appeal to regular practice (*ibid.*, 181): "Statimus ergo, optamus et communi aequitatis auctoritate determinamus ut saspedictum monasterium beatissimi Carthi confessoris, omni libertate monasticæ religionis adaptata, pace et quiete per Christi gratiam possita, ordine libero et inconcusso per successoria quietum valeat degere tempora, ita ut non episcopus, nulla externa personarum auctoritas seu clericalis ad hoc... possidendam monasterium aspiet, nec etiam prae-memoratae urbi Cinomanicae proprietate rerum subiacet, cum liberum sit pontificibus ipsi et universis monasteriis conservandam."
5. Levillain, *Corbie*, 260f.: "In ipsa porro electione regularis auctoritas conservetur, id est ut ille praeposatur sanctæ congregationi quem non multitudinis electio, commendaverit, sed quem sanctorum consiliis, licet pauci numero fratres degerint..." Though this prescription conforms exactly to the Rule (c. 64), it is well designed to encourage outside intervention in favor of a rump election.
6. *Ibid.*, 267-277, no. 29; quote from p. 274. These exhortations cover fully five pages of the edition.

protection of St. Calais and Corbie differed only by a shade from a right of ownership.

If the St. Calais privilege is considered genuine, the differences as well as the similarities between the various earlier privileges with which Corbie and St. Calais were furnished help to explain why its wording resembled that of Nicolas's privilege for Corbie. In the case of Corbie, one notes that the portions of Benedict's privilege concerning free election were watered down in Nicolas's confirmation and that its comminatory clauses were turned away from the monarch to the diocesan bishop; moreover, the right of appeal was attached to the entire privilege rather than only to the electoral provision.¹ Conversely, the negative formulation given by the council of Bonneuil to St. Calais' right to manage its temporal affairs and to its freedom from episcopal intervention was rephrased by Nicolas in positive terms closely resembling those applied to Corbie.² Since further the bishop of Le Mans constituted an actual threat to St. Calais, as opposed to the merely potential threat of Amiens to Corbie, he was to be

1. The principle of election *de se ipsis* is maintained, and it is even stated on one occasion (as in JAFFÉ, no. 2663) that the candidate should not be "alienus monasterii monachum", but the bull particularly emphasizes the right of election itself and the exclusion of laymen and secular clergy; the prescription is summed-up in the sentence (LEVILLAIN, *Corbie*, 286): "Qua de re praecipimus omnino ut monasterio... quod Corbae dicitur, nullam praerogant personam, vel ex sibi militibus, vel ex alieno monasterio sumptam, quae non per electionem sumatur probabilem, sive de habeo sive de canonico sive de quocunque fuerit ordine." The other privileges decreed by Nicolas, in so far as they are not mentioned in earlier charters for Corbie, apply to a specific establishment what canon law already prescribed as a general rule: that (at the abbot's request) the diocesan bishop should perform ordinations, consecrate altars, grant holy oil and chrism without fees (e. g. council of Chalon, 813, c. 16, in *M. G. H. Legum sectio III Concilia II* [Hannover, 1906-1908], 277; cf. DE CLEREG, *op. cit.* [295, n. 3], 241). There is no reason then for agreeing with Levillain that Nicolas both confirmed and broadened the privilege granted by Benedict (*Corbie*, 282, 210). It seems more important to note that Nicolas took great pains to moderate Benedict's tone and to turn its prescription almost entirely against the diocesan bishop.—One should also discount what Levillain said about Odo's mission (*ibid.*, 179, n. 1) and about a supposed movement of monastic emancipation that would have come to fruition under Nicolas in 863. In the latter instance, Levillain based himself on a text (JAFFÉ, no. 2733; ed. PERELS, *M. G. H. EE. VI*, 678f., no. 158) which Werminghoff (*Niemes Archiv* XXVIII [1903], 49-59) proved to be a forgery composed at Prüm on the basis of (as it happens) the privilege for St. Calais here under discussion and a forged statute of Gregory the Great (JAFFÉ, + 136). As Werminghoff pointed out, the use of the St. Calais privilege in a forgery in no way compromises its own authenticity. Independently of Werminghoff, Lesne (*loc. cit.* [299, n. 3], 333-345) dealt with the same forgery.

2. As pointed out above, these clauses are also new to the series of privileges for Corbie.

vel ex alio monasterio vel non secundum regulam electum, super eum regali potentia constitutis, ne domus Dei, quae domus orationis esse debet, per vos fiat spelunca latronum.

Indeed, the pope decreed that infraction of this particular provision by anyone was to justify the monks' appealing ultimately to Rome.¹ In spite of Benedict's exhortations, neither Charles the Bald nor another of the Carolingian monarchs conceded an additional privilege.

St. Calais and Corbie were upon exactly the same footing in their relations with royal power. For one thing, it is abundantly clear that in both cases the term "free election" left considerable power to the king in deciding successions; only the diocesan bishop could be considered excluded. Both establishments enjoyed royal immunity and protection. Corbie's most recent charter to this effect was described as follows by the council of Paris: ² "[auctoritas regis Karoli] qui et idem monasterium, secundum morem praedecessorum suorum, quasi iure haereditario in sua familiaritate ac defensione ab exordio regni sui favente Domino suscepit." The phrase *quasi iure haereditario* gives a disquieting proprietary tinge to the monarch's protective relation to Corbie. If such was the attitude, it is not surprising to find in October 863 that Charles the Bald based himself on nothing more than the same relationship of protection to assert against the bishop of Le Mans that he was owner of the monastery of St. Calais.³ The foundation of Corbie, to be sure, had been royal, but this had not then meant that Corbie was a royal *Eigenkloster*; ⁴ similarly, the commendation of St. Calais to King Pepin in 752 was not equivalent to a donation. One must conclude that by the reign of Charles the Bald such distinctions were considerably blurred. Both monasteries were more royal than anything else, and, though it is doubtful whether St. Calais would have been formally pronounced to be royal property had there not been a struggle with the diocesan bishop, the kings

1. *Ibid.*, 276.

2. *Ibid.*, 259; cf. 254f., no. 25. For the latest charter of St. Calais: TESSIER, *Recueil* I, 336f., no. 128; HAVET, *Études* I, 177f., no. 15.

3. See the passage quoted *infra* 330, n. 2, where the same phrase *iure hereditario* occurs referring not to the forged foundation charter of St. Calais (HAVET, *Études* I, 156-159, no. 1), in which royal participation is alleged, but to the

monastery's commendation to King Pepin and subsequent renewals of royal protection (cf. *supra* 266, n. 5).

4. LEVILLAIN, *Corbie*, 213-217, no. 1; the episcopal privilege (*supra* 295, n. 1) bars the idea that it was a royal *Eigenkloster*.

In total, less than half the letters in this series preserve complete closing protocols,² and with one remarkable exception these instances follow the abbreviated form that was standard for dating the letters entered in the registers.³ In any case where

1. PERELS, nos. 10, 14, 46, 109, 113; 1, 8, 12, 13, 15, 16, 28, 33, 34, 38, 58, 60, 66, 108; cf. also nos. 4-7, 106.

2. PERELS, nos. 3, 30, 45, 47-49, 51-53, 61, 79, 89, 100-102; JARRÉ², no. 277².

3. See C. SILVA-TAROUCCA, *Nuovi studi sulle antiche lettere dei Papi*, in *Gregorianum* XII (1931), 17-49, especially 23: "...la data nel registro viene omessa del tutto o espressa per mezzo di un richiamo ad una lettera precedente

in supra) o, se esiste, no esprime gli anni d'impero"; and note the important parallel text on p. 37. Additional support for this statement may be obtained

by comparing the abbreviated dating formula in Gregory the Great, *Registrum epistolatum*, edd. P. Ewald and L. M. Hartmann, II, 51-52 (*M.G.H., EE*, I, part I

[Berlin (1887)], 155, 157) and John VIII, *Registrum*, ed. E. Caspar (*ibid.*, VII [Berlin 1926-1928] 81 and *passim*) with such of Nicolas's letters as PERELS, nos. 3,

39, 39, 42, 45, 47-49, 51, 53, etc. The conclusions of Silva-Taroucca, although they occasionally fail to satisfy (explanations of omissions of dates in *Codex Corbiano*,

p. 27; presence of letters 1, 2, 4, 5, on p. 39f., in the archives of Canterbury), brings a considerable measure of renewed support to the contention of Ewald,

that abbreviated protocols were used in registering papal letters. Ewald's views *Studien zur Ausgabe des Registers Gregors I*, in *Neues Archiv* III (1878), 433-435.

dictus, servus servorum Dei, universis episcopis Galliarum." 2 If the latter document is to be considered a principal source for

the minutes allegedly composed at Corbie and at St. Calais, Perels's hypothesis is quite inadequate to explain the blunders

in the title and address. Since, moreover, the words in their present form reveal no tendentious purpose, one must seek other

reasons to explain them than the errors of a forger. Of the letters of Nicolas that derive like the St. Calais privilege from his

registers, five have incomplete opening protocols; one of them, for instance, is simply labelled "Hincmaro Remensis". 3 When it

is further noted that the St. Calais privilege is first in the collection in which it is preserved, one may then conjecture that the copyist

may well have completed a fragmentary title and address as best he could, without making efforts to approach the style of Nicolas's chancery.

2. No final protocols are transmitted. The St. Calais privilege shares this reproach with five letters in the same collection,

which omit both the greeting formula (e. g. "Optamus fraternitatem et sanctitatem vestram in Christo bene valere") and the

1. *Loc. cit.* (290, n. 5), 153.

2. LEVILLAIN, *Corbie*, 267.

3. *M.G.H., EE*, VI, 389; see also, PERELS, nos. 43, 46, 69, 72, in *ibid.*, 317, 322, 384, 400.

of these mss., see PERELS, *Neues Archiv* XXXVIII (1912), 550f., 565-569, Levillain's edition of the Corbie privilege is based exclusively on *Empfangensurtheilung* and

does not take account of this branch of the textual tradition, which for the rest offers no very startling variant readings.) The insertion of a complete eschatocol

formula of a privilege (on this distinction, Bresslau, *Urkundentehre* I, 77-79; Schmitz-Kallenberg, *loc. cit.*, 184f.; also, SILVA-TAROUCCA, *loc. cit.*, 33-36).

Another exception, likewise involving a privilege, is offered by one branch of the textual tradition of this collection of Nicolas's letters, the one deriving from

the lost manuscript of Sta. Maria sopra Minerva; the text concerned is JARRÉ², no. 2720 (PERELS, no. 59). Nicolas's confirmation of the Synod of Soissons and the privileges of the church of Reims. Although these exceptions are of importance to the textual history of Nicolas's letters and to the problems of registering

mentioned by name in the St. Calais privilege. Without further anticipating the argument, these considerations should suffice not only to justify the resemblances between the Corbie and the St. Calais privileges but also to provide a basis for understanding the ways in which they differ from one another.

The formal errors of the St. Calais privilege are not of such a kind as to offer an argument against its authenticity. Since Perels offered the most extensive objections in this respect, the order of his statements will be followed: 1

1. The title and address are inadmissible: "Nicolaus Romanae sedis episcopus Galliarum episcopus universis et principibus semipternam in Deo patre et domino Iesu Christo salutem." These are, in Perels's words, "irregularities of the coarsest kind"; as such, however, do they have any value as measures of the document's authenticity? It is difficult to believe that the forger

who could compose, *inter alia*, an unimpeachable preamble was capable of committing so gross an error. In all respects, the tenor of the privilege conforms to the address "Galliarum episcopus universis"; compare Benedict's privilege for Corbie: "Benedictus, servus servorum Dei, universis episcopis Galliarum." 2

If the latter document is to be considered a principal source for the minutes allegedly composed at Corbie and at St. Calais, Perels's hypothesis is quite inadequate to explain the blunders in the title and address. Since, moreover, the words in their present form reveal no tendentious purpose, one must seek other

reasons to explain them than the errors of a forger. Of the letters of Nicolas that derive like the St. Calais privilege from his registers, five have incomplete opening protocols; one of them, for instance, is simply labelled "Hincmaro Remensis". 3 When it is further noted that the St. Calais privilege is first in the collection in which it is preserved, one may then conjecture that the copyist

may well have completed a fragmentary title and address as best he could, without making efforts to approach the style of Nicolas's chancery.

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3. *M.G.H., EE*, VI, 389; see also, PERELS, nos. 43, 46, 69, 72, in *ibid.*, 317, 322, 384, 400.

the textual tradition derives from the papal registers, the omission or abbreviation of protocols argues neither for nor against a letter's authenticity.

3. The closing portion of the St. Calais privilege places the penalty formula in an altogether uncommon place and proceeds after it to make more provisions of a dispositive character. A simple comparison with the privilege for Corbie suffices to prove this criticism unfounded. "It is regrettable that so much space must be devoted to demonstrating so self-evident a point :

Corbie

St. Calais

Hoc vero constitutum si fuerit ab aliquo praevaticatum, per episcopum omnibus omnino modis invariabiliter praesentibus et futuris temporibus permanere et a nemine vel regum vel episcoporum vel alicuius ordinis viri qui huius sedis constituta convulserit conveniat et iniquitatis suae culpam lat. Quodsi quis constitutum nos- trae parvam ducens decretum coeno- conventi, cuius periculo subiecta- tur, notum faciat. Quod si vel ipse violentiam fecerit et vel in ipsis vel in famulis eorum vel in omni ipsius conventus a fratribus ipsis coenobii personam huius sanctioris violatorem fuerit, reum se in divino iudicio non dubitet apparere et divinae censurae decreti testificationem innotescat ut que ab eo quod prave gessit recedere stitimus, ut primum, quisquis hoc molitus fuerit, sui honoris dignitate non moretur, ex sua nostraque auctoritate contestetur. At si ille contu- mactus in sui facti perpetracione persistat, non moretur, ut in omni ipsius mactis in sui facti perpetracione persi- manere decreverit, et non quod inique communiois societate fiat alienus, gessit certiores mactis, hanciam habeant fratres monasterii praedicti romanam apostolicamque sedem adire nec vel quod inique gessit corrigat vel digna paenitentia satisfacionem emendet. Fratres vero ipsius monas- terii, si quid horum, quae constituti- manifestare. Sicque romanus pon- est, si abbatibus fuerit vel ipsis mo- tionis sententia reum mulctare non cunctetur. Si quis vero sacerdotum vel clericorum, hanc constitutionis

obata fuerint, suo iuri mancipare

In general, they do not appear to me to justify discarding either Perels's conclusion that this collection derives from Nicolas's registers, or the present argument on its authenticity. I. LÉVILLAIN, *Corbie*, 287. *M.G.H. EE*, VI, 683.

nostrae paginam agnoscens, contraeam decreverit vel ipsam monasterium episcopus Cinnomanicus ad civitatem suae subdicionem subiugare tempta- verit, hanciam habeant metropolitana- villegii decreta in aliquo violaverit, reum se divino iudicio existere de- nire et pressuram innotescere suam. Et metropolitana causa cognita per- missi vel ea quae ab eo sunt male abata illicitae acta deleverit, Dei et sententiae auctoritate relecta edicat, utque emendare velit quae prave gessit auctoritate atque nostra sententia anathematis vinculo innodatus, a sa- cratissimo corpore ac sanguine Do- mini nostri Iesu Christi alienus exist- decetum cum a communiione Chris- tianorum et corporis sanguinisque eadem venerabili monasterio iusta scri- ptae ultioni subiacet. Cunctis autem Christi participatione officiat alienum, quaecumque fuerit persona et cuius- vantiis sit pax Domini nostri Iesu- cumque fuerit dignitatis. Quodsi me- tropolitana episcopus eorum precti- bus et adclamationibus adiutorium praestare detrectaverit, hanciam ha- beant s. Karilei monasterii fratres apostolicam, id est Romanam sedem, adire et necessitudinis suae causam ante episcopum, qui tunc fuerit, urbis Romae deponere et praesentis edicti conscriptionem manifestare : ut Ro- manas pontifex cognita causa ius- tam anathematis condemnationem in reum exercere non moretur, ut mo- nasterium praetatum propriam possit suae libertatis munitionem habere, et pontificale decretum regumque cun- ctitates Romanique pontificis consti- tutum invariabilem perpetuis obti- neant temporibus firmitatem.

The closing paragraphs are devoted to specifying the penalties to be suffered by those who infringe the privilege, and the penalties procedure to be engaged by the monks to have the penalties applied. The immediate threat the diocesan bishop represented at this time to St. Calais amply explains why in the St. Calais privilege the points are disposed in reverse order and are some- what different and more explicit than in the Corbie privilege.

1. The objection was initially raised by Lessne, *loc. cit.* (290, n. 3), 298: "Les classes commentées ne sont pas exactement à leur place." This means only that they are not at the very end. But is there really any reason for disasso- ciating the provisions about appeals from the penalty formulas? The formulary

that the diocesan exact no fee for his services,¹ in addition to this, his exclusion from St. Calais except at the abbot's invitation constituted a more than sufficient safeguard against abusive interventions on his part.² A real motive for suspecting the St. Calais privilege would only exist if episcopal prerogatives were further curtailed than they already are.

5. The privilege provides for the abbot to go to the king after his election "in order to receive the power of ruling by his grant and consent (*ut eius et concessu et potestatem regimini acceptat*)". With Lesne,³ Perels considered that this passage

which was a phenomenon of the later Merovingian period" (p. 237). In the mid-fifth century, a dispute between the monastery of Lérins and the bishop of Fréjus induced a council of Arles to determine that Lérins would be independent of diocesan control except for the various spiritual functions (J. D. Mansi, *Sacrorum conciliorum... collectio* VII, 907). If the Arles council was already willing to go so far at so early a date, some positive advantage must have been seen in the liberation of monasteries (of strict observance) from diocesan control that would serve to explain how subsequently Lérins itself, as well as St. Maurice at Agaunum, Luncull (see the Flavigny privilege, *loc. cit.*), and the six establishments whose privileges are preserved, were also freed from dependence on the diocesan for ordinations, christm, etc. In view of the relationship between Lérins and the Christianization of Ireland, there is some reason to believe that the appearance of Irish monks on the continent only reinforced a tendency toward monastic emancipation that had already manifested itself before their arrival by the direct influence of Lérins. There remains that privilege of this sort disappeared in the Carolingian period, probably as a result of the change in diocesan organization and the development of the king's role as protector (cf. *supra* 295, n. 2).

2. The stipulation that the diocesan cannot come to the monastery except at the abbot's invitation seems a grave infringement of the bishop's spiritual supremacy, but the interpretation of such clauses, which were already current in seventh-century private privileges, is by no means clear. See McLAVENIN, *Droit monastique*, 166f., 168-171; J. VANDERVUR, *L'exemption de visite monastique* (Dijon, 1906), 20-47, is worthless on this subject. The privileges of Rebais and St. Die (*supra* 304, n. 3) and can. 11 of the council of Chalon-sur-Saône (639-654; ed. F. MAUSSER, *M.G.H. Legum sectio III Concilia I* [Hanover, 1893], 210) suggest there was a distinction in the seventh century between the parishes and monasteries which the bishop visited and the privileged monasteries which he did not.

3. *Loc. cit.* (290, n. 3), 301: "On expose et on approuve tel usage gallican qui porte toujours la concession de l'abbaye par le roi, même après une election régulière faite par les moines. Un clerc ou un moine franc n'y trouverait rien à reprendre, mais Nicolas 1^{er} et aucun pape du IX^e siècle n'eut sanctionné une telle atteinte au droit." This is a *petitio principii*. In nearly every case, ninth-century papal privileges approve a pre-existing condition without modifying it in the least. Benedict III's privilege for Corbie is an important exception, and all one or more of them is certainly genuine in its clauses allowing the monastery to apply for spiritual services to another than the diocesan bishop.) Even though H. R. BIRTERMANN, *The Influence of Irish Monks on Merovingian Diocesan Organization*, in *American Historical Review* XL (1935), 235-245, was well advised to minimize Celtic influences on this form of privilege, she obscured the problem by attributing its appearance to "the crumbling of the diocesan organization,

The five other monastic privileges issued by Nicolas do not offer grounds for comparison, since they all reflect situations that are

in no way analogous.¹

4. "Lengthy bombastic statements and repetitions in the *dispositio*, the much too strongly recommended favor shown the monastery—over which, for the rest, the [diocesan] bishop prescribes spiritual supremacy—appear unusual." This is not an argument against authenticity but a subjective impression. By my rough estimate, the St. Calais privilege is longer than that for Corbie by some 200 words. The passages matched above contribute to explaining the differences in overall length; another and more important reason will later be shown.² As for the bishop's spiritual supremacy, it should cause no surprise. Such a privilege as the one granted in the seventh century to Rebais, that the monastery may seek episcopal services from another than the diocesan bishop, was not bestowed upon monasteries during the Carolingian period.³ Conciliar legislation insisted for papal bulls had scarcely yet attained such a degree of rigidity. J. STRUBMANN, *Die Pönymal der mittelalterlichen Irländer*, in *Archiv für Urkundenforschung* XII (1932), 251-374, especially 267-271, does not discuss the relationship of these provisions to other parts of papal documents.

1. Most important for present purposes, they do not contain appeals provisions: JARRÉ, no. 2676 (*Migne, Patrologia Latina* CXLIX, col. 770f.), for Fulda, is a short document confirming former privileges for a monastery directly subordinated to the Holy See; JARRÉ, no. 2716 (*Gallia Christiana* X [Paris 1751] Instrumenta p. 240), for the bishopric of Beauvais, confirms the cession of two urban monasteries to the bishopric and is therefore not a monastic privilege properly speaking (see also *infra* 306, n. 1) JARRÉ, no. 2718. ([TARDIF, *Monuments historiques. Cartons des rois* [Paris, 1866], 124-125, no. 189), for St. Denis, is exclusively concerned with property; JARRÉ, no. 2831 (*M. QUINTIN, Coutume générale de l'Yonne I* [Auxerre, 1854], 84-86, no. 44), for Véelay, provides for the monastery's becoming papal property (see also *infra* 306, n. 2). No use can be made of the interpolated and much disputed JARRÉ, no. 2759, for Hamburg (which is episcopal anyway), and the lost JARRÉ, no. 2830. If anything, these documents confirm the idea that privileges followed no set form, and that the great resemblance between the two texts for Corbie and St. Calais is owed to the coincidence of their respective situations.

2. *Infra* 313.

3. The charters, all of them episcopal, are those of Rebais (636), PAROISSUS-BREQUIGNY, *Diplomata, chartae*... II (Paris, 1849), 169, no. 275; St. Mary of Soissons (666), *ibid.*, 139-41, no. 355; St. Die (c. 667), *ibid.*, 147f., no. 360; Flavigny (721), *ibid.*, 323-7, no. 514; Müribach (728), *ibid.*, 408-411, no. 596. (The authenticity of some of these texts is disputed, but it suffices for present purposes that one or more of them is certainly genuine in its clauses allowing the monastery to apply for spiritual services to another than the diocesan bishop.) Even though H. R. BIRTERMANN, *The Influence of Irish Monks on Merovingian Diocesan Organization*, in *American Historical Review* XL (1935), 235-245, was well advised to minimize Celtic influences on this form of privilege, she obscured the problem

6. Exception is taken to the following reference to Roman law: "In legibus enim habemus, ut omnes quaestiones intra triginta annos terminum accipiant; de ecclesiasticis autem causis post quadragesimum annum nulla querela moveri potest, si non in hoc spatium annum fuerit mota."¹ The ultimate origin of this entire rule is in one of the sources for Justinian's legislation; references to it are not unknown in previous papal letters.² To find the rule cited in a letter of Nicolas's would therefore be quite natural,³ but its presence in a forgery manufactured at St. Calais would be very difficult to explain, for the forty-year limitation for ecclesiastical cases does not apparently occur in any document of Frankish origin.⁴

These are the formal deficiencies that led Perels "to cast serious doubt upon the authenticity of the document."⁵ Neither individually nor collectively can they be considered to do anything of the sort. Rather than demonstrate the origin of a forgery, diplomatic criticism when faced with the St. Calais privilege must explain a genuine but extremely problematic document.

II. THE CHRONOLOGICAL PROBLEM

Enough has already been said of the situation of St. Calais in 862 to clarify the motives of the monastery and of its royal owner for asking papal confirmation of its privileges. The *mirrabilis* places the role of Odo of Beauvais beyond question: "Unde dignatus est ad nos pius princeps praefatus et missum dirigere suum, id est venerabilem (ad)onem Beluacensem episco-

exemptis à partir de 1089..." (p. 290). A comparison between the two cases of Pula and Vézelay would most likely bring out the possibilities opened to the extension of papal exemption by the papacy's becoming proprietor of monasteries. See, in this sense, Lévy-Bruhl, *Élections abbatiales*, I, 181-183, and my remarks *supra* 296, n. 1.

1. *M.G.H. EE*, VI, 681, lines 32-35.

2. *Ibid.*, 681 n. 4; occurrence in JAFFÉ, no. 1076 (Gregory the Great); also

JAFFÉ, no. 2563 (Engene), cited by Lesne, *loc. cit.* (290, n. 3), 299.

3. M. KONRAT, *Kommisches Recht bei Nikolaus I.*, in *Neues Archiv* XXXVI (1911), 720, n. 2, 724.

4. Pointed out by Lesne, *loc. cit.* (290, n. 3), 299 with n. 4, who added: "Cette constatation favorable à l'authenticité du privilège, ne le met pas pourtant à l'abri de la critique; car un faussaire a pu transcrire des clauses qu'il trouvait dans des pièces authentiques." But an elaborate argument would have to be developed to explain why a forger would have exercised himself in seeking such an obscure provision when it was patently irrelevant to his object.

5. *Loc. cit.* (290, n. 5), 153: "Demnach sind genügend Momente erkennbar, um die Authentizität der Urkunde ernstlich in Zweifel zu ziehen."

"mit der päpstlichen Rechtsauffassung... schwertlich im Einklang stand." These are *a priori* considerations. Rather, Nicolas's recognition of the king as owner of the monastery should be accommodated to previous conceptions of papal policy toward monasteries. One may well wonder what there is in this provision to arouse an objection from Lesne and Perels. Just as the newly elected abbot of a royal monastery normally received the *abbatia*, a benefice, from the king, so were bishops of the Frankish kingdom invested with the *episcopatus*. Likewise a benefice. These practices may well have clashed with the papal *Rechtsauffassung* in later centuries, but not at this date. If St. Calais appears as a royal *Eigenkloster* in Nicolas's privilege, it is no less an *Eigenkloster* for being considered episcopal property in his letters for Bishop Robert.¹ The papacy's acceptance of these relationships is best demonstrated by the fact that, little by little, it was itself entering into them, a development that emerges clearly in such a document as Nicolas's privilege for Vézelay.²

1. *Infra* 323. The privilege for Beauvais, JAFFÉ, no. 2716 (*supra* 304, n. 1), contains a royal grant to the bishopric of two monasteries situated in the diocese; they are to compensate Beauvais cathedral for a third monastery that has been proved to be its property. The third monastery's fate is not outlined, but since the king is compensating for its loss, one may infer that it has somehow or other been diverted to royal use. In this instance, then, the pope was not only treating monasteries as episcopal *Eigenkloster* but also compensating their appropriation by the king. Lesne, *loc. cit.* (290, n. 3), 339f., inferred from this bull that, as a matter of policy, Nicolas upheld the subjection of monasteries to the diocesan bishop, but this interpretation falls of itself. The Beauvais privilege is not concerned with jurisdiction, but with the property holdings of the *episcopatus* of Beauvais. A letter to Charles the Bald about St. Denis makes it even more abundantly clear that Nicolas had no objection to royal intervention in monasteries, JAFFÉ, no. 2719, ed. Favre, *op. cit.* (304, n. 1), 125, no. 190: "...bis innotuisti de monasterio sancti... Dionysi... quondam a Fludovico, filio Dagoberti, regis Francie, de potestate sedis Parisiacae, episcopi, cum consilio pontificum eiusdem partium, quod fuerit eripsum et abbatie sub regnum, vel clarissimorum abbatum semper dispositum..."; he went on to approve the monastery's status.

2. JAFFÉ, no. 2831 (*supra* 304, n. 1). On its authenticity, see the detailed commentary of R. Louis, *De l'histoire à la légende*, I: *Civari, comte de Fienne et ses fondations monastiques* (Auxerre, 1946), 92-94, with n. 1, p. 93; also, LAMARCAINIER, *loc. cit.* (295, n. 2), 296f.; V. SAXER, *Le statut juridique de Vézelay des origines à la fin du XI^e siècle*, in *Revue de droit canonique* VI (1956), 225-230; P. FAVRE, *Étude sur le Liber censuum de l'Église romaine* (Paris, 1892; *Bibliothèque des écoles françaises d'Athènes et de Rome* 62), 39-49 and following, which deal with subsequent privileges on the same model as Vézelay's. By stressing the continuity of papal action in delivering privileges, Favre (and Lemaitre) following him) diminished the novel aspects of papal entrance into the relationship of an owner *vis-à-vis* monastic foundations, whose subsequent importance Lemaitre brought out in writing. "Ce sont d'abord les établissements constants, placés en la propriété du Saint-Siège et lui payant un cens, qui vont être peu à peu considérés

nostrae institutionis edita decreta protulerim, donec nostro demum pontifici cognitum fiat, hinc credituratem exhiberi non volumus, quia, ut praefati sumus, hinc in talibus minime assensum praestabimus aut talia volentibus facere apostolicam licentiam dabimus, excepto, si talis ratio non praefueat, pro qua id definit intentio cogat.

As to the reckless claim of those monks of St. Calais, we decree that if they come requesting such things to be granted, we will be guided by affection for you and neither approve their insolent prayers nor grant them the permission of our authority for such actions. If in tones perchance of false assertion they should produce any text pretending to be a decree of our making, we do not wish them to be granted credence until it is made known to us, because, as we said, we shall scarcely grant them consent in such things as these or give them apostolic permission to do such things, unless [their] justification is fully apparent, which is why this claim must be judged.

There is no question here of forgery. The passage rather contains a procedural stipulation that, if the monks of St. Calais should support their possibly false pretensions by alleging a papal decree granting them independence, the case is at once to be deferred to the papal tribunal for trial and judgment. Unmistakably, the key phrase, "excepto, si talis ratio non praefueat, pro qua id definit intentio cogat", implies that the monks may yet win the lawsuit; and, if they did, Nicolas would have no objection to their enjoying the benefits of a papal privilege.¹ The intention of this letter, then, was to prevent the privilege, which he issued when still ignorant of the episcopal side of the case, from influencing the decision in the monastery's favor. By threatening to translate the case to Rome once the privilege was invoked, he effectively forced St. Calais to rely upon other, valid evidence in order to justify its rights.

That such were the pope's intentions is borne out by the proceedings at the assembly of Verberie on 25-29 October 863, where neither the privilege of Bonnauil nor that of Nicolas was invoked.² In short, when the letter to Robert shows Nicolas insisting that no papal privilege alleged by St. Calais should prejudice Robert's claims to the monastery, it implies that such a

¹ Odo's mission

to Rome was principally concerned with the more important conflicts then pending in the Frankish kingdoms, namely Lothar's divorce and the deposition of Rothad of Soissons; Odo was to obtain papal confirmation of the conciliar decision against Rothad and to stiffen Nicolas's opposition to the divorce.² The

many letters he bore back north were dated uniformly, as it seems, 28 April 863, which may well have been the eve of Odo's departure for the return journey.³ There is evidence that those of Nicolas's letters addressed to Hinemar of Reims reached their destination on 23 June.⁴ So far as Odo is concerned, it may be demonstrated positively that he did not again go to Rome between 863 and January 865;⁵ his continued presence in the Frankish kingdom may further be presumed between June or August 866 and the date of Nicolas's death.⁶ Although the gap of some eighteen months (865-866) in the record of Odo's career deserves to be pointed out, there is no substantial reason for disputing that Odo's role in the St. Calais privilege forces it to be dated

28 April 863. A sentence in Nicolas's letter to Robert of Le Mans, whose date falls between April and October 863, serves to confirm that during his legation to Rome Odo obtained a bull for St. Calais. Perels followed Simson⁷ in quoting this letter in support of his argument that the St. Calais privilege is no more than a minute drafted by St. Calais and rejected by the papal chancery;⁸ but the passage allows another reading than he adopted:⁹

De illorum monachorum s. Karlephi improvida intentione decessimus, ut, si venerint et talia concedi petierint, vestro ductu amore nec illorum impolitis precibus amemus nec auctoritatis nostrae censuram illis in talibus largiemur. Qui si voce forte falsidicae assertionis aliquid quasi

¹ M.G.H. EE. VI, 680, lines 28-30.

² Chr. E. DÜMLER, *Geschichte des ostfränkischen Reiches II* (2nd ed., Leipzig, 1887), 63-65, 90f.; H. SCHNÖRS, *Hinemar, Erzbischof von Reims. Sein Leben und seine Schriften* (Freiburg i/Br., 1884), 247; E. AMANN, *L'époque carolingienne* (Paris, 1947; in A. FLICHE and V. MARTIN, *Histoire de l'Église* 6), 372f., 381f.;

³ HALTER, *Nikolaus I. und Pseudoisidor* (Stuttgart, 1936), 101.

⁴ *Supra* 288, n. 5.

⁵ M.G.H. EE. VI, 390, lines 33-34, no. 70.

⁶ *Ibid.*, 386, lines 31-33, no. 69.

⁷ *Gallia Christiana IX* (Paris, 1751), col. 698f.; LESNR, *loc. cit.* (290, n. 3) 291f.;

⁸ *loc. cit.* (289, n. 5), 154f.

⁹ *Loc. cit.* (289, n. 1), 164 with n. 3.

¹⁰ M.G.H. EE. VI, 628, lines 16-24, no. 113 (to Robert of Le Mans).

¹ Lesne, who does not appear to have noticed this clause, stated that "aux yeux du pape, les droits de l'Église du Mans sont incontestables" (*loc. cit.* [290, n. 3], 280). He therefore disputed the authenticity of the letter to Hinemar (Errata, no. 111) because it too contains a sentence implying Nicolas entertained the possibility that Bishop Robert would not necessarily win the lawsuit. Errata, *loc. cit.* (290, n. 5), 147-152, rectified Lesne's judgment about this letter.

² Both LESNR, p. 297, and Errata, p. 159f., considered this fact a point against the authenticity of the privilege.

papal bull did in fact exist in the summer of 863. It follows that the passage may be adduced as proof that, along with a privilege for Corbie, Odo of Beauvais obtained of Nicolas a privilege in favor of St. Calais, probably dated 28 April 863. But if the St. Calais privilege could be explained so easily as this, it would not now be ranked among Nicolas's *Sprivia*. A major obstacle remains in that it contains unmistakable allusions to the decision in favor of St. Calais arrived at by the assembly of Verberie in October 863.

The largest part of the St. Calais privilege corresponds to the situation of the abbey as of winter 862-863. Very early, reference is made to St. Calais' "libertatis privilegium et in rerum suarum dispositione et in abbatibus de semetipsis electione;"¹ another allusion appears a little later: "libertatem illi monasterio et ab episcopis et a regibus Francorum concessam."² To justify these liberties, the most compendious document of which Odo might have brought a copy to Rome is the charter granted St. Calais by the council of Bonneuil in 855.³ The historical basis for the monastery's freedoms is attested in this privilege by its confirmation of the "praecipiones regum catholicorum orthodoxorum suprarato monasterio conlatas."⁴ These words were sufficient to have excused Odo from producing the *privilegationes* themselves before Nicolas. Two documents are closely associated with the charter of Bonneuil: its confirmation by Charles the Bald, and the additional signatures gathered in 862 for its reconfirmation at Pitres;⁵ despite the absence of positive evidence it may be allowed that Odo also carried copies of these two documents to Rome. Finally, Nicolas's privilege for St. Calais, by consistently stressing the monastery's freedom from control by the bishop of Le Mans and his successors, suggests Odo might well have exhibited to Nicolas the letter of the council of Pitres to Robert of Le Mans.⁶

These four documents and the privilege for Corbie furnish the bases for a textual analysis of the St. Calais privilege. Similarities and differences between the two papal privileges may be

1. *M.G.H. EE. VI*, 680, lines 19-20.

2. *Ibid.*, lines 30-31.

3. HAVET, *Œuvres I*, 179-183, no. 17.

4. *Ibid.*, 180; LESNÈRE, *loc. cit.* (290, n. 3), 296, was wrong in claiming that St. Calais displayed no documents until the assembly of Verberie.

5. HAVET, *Œuvres I*, 185-187, 183f., nos. 20, 18.

6. *Ibid.*, 185, no. 19.

satisfactorily explained in terms of the account earlier given of the constitutional and circumstantial positions of the two monasteries. Both bulls feature a list of prohibitions addressed to the respective diocesan bishops; the clauses usually begin with *ne* or *neque*. At one point, the general parallelism between the Corbie and the St. Calais privileges is long interrupted only to reappear twenty-three lines later¹:

St. Calais
 Nec violenter aut callide maliquequam aut perturbacionis motibus in illos sicut audivimus hatur in illos sicut audivimus quosdam facere voluisse quasi in scriptiōnes quasdam monstrantes, quibus monasterium suae civitatis possessionis iure subditum fieri conati sunt.

Corbie
 ...neque in ecclesiis praedicto monasterio subiectis, vel in presbyteris eisdem ecclesiis ordinatis, aliquam temptet facere perturbationem, vel abbatem vel fratrum non vnam constituendo et aliquam consuetudinem violando :

quas constat omnino falsas fuisse, quandocumque privilegia regum, quae ex antiquorum regum Francorum temporibus olim monasterio illi concessa sunt, hoc desistant, sicut et ipsa testantur, quae in archivis monasterii ob testimonium sibi concessae libertatis hodieque servantur. Quodsi fortassis contigisset, ut aliquando monasterium illud sub potestate Cinnomannici fuisset episcopi, quod rebus ipsis probatur et testifate Cinnomannici fuisset episcopi, tamen secundum leges sacculi post tot iam saecula et annorum spatia reperi nullatenus iure potuisset et, quod semel acceptat libertatem, iam subditiōni nequaquaestiones intra triginta annos terminum accipiant; de ecclesiasticis autem causis post quadragessimam annum nulla moveri potest, si non intra hoc spatium annorum fuerit mota. Et ecce hoc monasterium a primo rege Francorum Christiano, id est Chlodoveo, filioque eius Childeberto cum habuerit libertatem et deinceps ab omnibus regibus semper manserit liberum et in rerum suarum dispositionibus et in abbatibus electione, nunc recipitur quasi in proprii iuris dominationem, cum, si terrena possessio fuisset et per tot annos possessoris sui dominatione caruisset, nullo modo secundum leges sive mundi sive ecclesiasticas antiquus possessor eam sibi vindicare potuisset. At vero, quod est terrena potestas liberum esse concessit, episcopalis ambitio in servitutis ius evindicare conatur. Apparet itaque, quisquis haec perverte, molitur non lucrum requirere quod velit animarum, sed magis dominationis fastum et lucra cupiditatis inhare. Unde omnibus modis hanc perni-

1. LEVILLAIN, *Corbie 285; M.G.H. EE. VI*, 681, line 22 to 682, line 11; the inserted passage runs from 681, line 25 to 682, line 10.

passage alludes to the decision pronounced at Verberie excludes the possibility that it was written before the event.¹

Aside from these twenty-three lines, the St. Calais privilege rests on the documentary evidence of at most four charters.² And yet, the surviving cartulary of St. Calais appears to have been drawn up to be sent to the pope. A note inserted after the Merovingian charters introduces the documents to follow: "Exemplaria regum modernorum, Pipini scilicet et Karoli... et Hildovici... et domini nostri Kar[oli] filii vestri carissim[us]";³ a new allusion is made to the pope in the label to the last document, the report of the judgment of Verberie: "Exemplar notitiae, qualiter dominus noster Karolus filius vester charissimus querebat Rotberti episcopi finem dedit."⁴

Unmistakable references to this cartulary are made by Nicolas in the quoted passage: "sicut et ipsa testantur, quae in archibus monasterii... hodieque servantur"; "quod rebus ipsis probatur et testimonio monasterii contactis nunquam fuisse". Even more indicative is the phrase: "Et ecce hoc monasterium a primo rege Francorum Christiano, id est Chlodoveo, filioque eius Childoberto cum habuerit libertatem..."⁵ This information can be found only in the monastery's (forged) foundation charter;⁶ one may note that the papal court contrived to misread this text in such a way as to involve Clovis in the foundation.⁷ However that may be, the cartulary compiled after Verberie is ac-

hosam reprimites ambitionem praecipimus, ut Robertus episcopus Cinnamanticus et quicumque successor eius fuerit nullam in praetato monasterio sibi vindicet dittonis potestatem.

sed sicut regulariter et canonice disposita sunt, et longo iam tempore manentia, ita quoque futuris temporibus maneat inconcussa.

To justify his argument, Perels had to maintain that these lines could have been written before Verberie.¹ Although Lesne was inconsistent in his treatment of this question, he ultimately realized the significance of the passage.² Again, a point that should be self-evident must be demonstrated.

Stressing the words *quas [auctoritates episcopales] omnino falsas fuisse*, Perels stated: "The forger could just as well have had previous knowledge of the documentary material that was adduced by both sides at Verberie, and he, the monastery's spokesman, was naturally convinced at all times, that the titles of Le Mans were false."³ This observation scarcely explains how the hypothetical forger, writing in winter 862-863, could have foreseen the events of autumn 863 with uncanny precision. From the legal point of view, the most important finding of the trial at Verberie was that St. Calais had been royal property "non solum triginta sed etiam trecentis annis".⁴ The passage just quoted from Nicolas's privilege clearly echoes this finding and adds to it a gloss based on a Roman law all but unknown in the Frankish kingdom.⁵ As for the episcopal charters, the judgment in favor of the king's ownership of St. Calais was said at Verberie to render them "inutilia et falsa probata." Nicolas was all the more likely to note this *obiter dictum* and to affirm the forged character of the episcopal titles for having been sadly deluded by them a few months before. In short, the precision with which this

1. The phrase *quod rebus ipsis probatur* refers directly to a trial of conflicting property claims. Since the Frankish authorities would probably not have resorted to such procedure had they not been forced to it by Nicolas's intervention in Robert's favor, it is all the more unlikely that a forger writing early in 863 could have foreseen the events of October (*supra* 298 with n. 3: 1 Perels seems to have conceived of the proceedings at Verberie as consisting in a match between the documents of St. Calais and those of Le Mans; in reality, the judgment was based on oral testimony, and no documents from either side were introduced in evidence (see *infra* 330).

2. *Supra* 310 with nn. 3-6.

3. HAVET, *Œuvres* I, 166.

4. *Ibid.*, 187. The argument of this paragraph is drawn from HAVET, *ibid.*, 181.

5. Transcribed *supra* 311; for allusions to St. Calais documents made earlier in the St. Calais privilege, see *supra* 310.

6. For a detailed demonstration of the forgery (which is virtually superfluous), see HAVET, *Œuvres* I, 120-125, and note Sickel's comment quoted on p. 120, n. 2.

7. The charter is labelled: "Fundatio monasterii Amisiae et donatio Childoberti regis Chlodovei primi Francorum christianis principis filii" (*ibid.*, 150), which allows for error in case of hasty reading.

1. *Loc. cit.* (290, n. 5), 159, *cit.* 155f.
 2. *Loc. cit.* (290, n. 3), 289f., 305; *cit.* 158f. with n. 6.
 3. *Supra* n. 1: "Das Urkundematerial das in Verberie von beiden Seiten vorgebracht wurde, konnte der Fälscher ebensogut schon zuvor kennen, und es stand ihm, dem Vertreter des Klosters, natürlich von jeher fest, daß die Briefe von Le Mans falsch waren."
 4. HAVET, *Œuvres* I, 189, no. 21.
 5. See *supra* 307 with nn. 1-4.

Robert of Le Mans in making his appeal, and a desire on Nicolas's part to repair his error in having momentarily doubted the rights of St. Calais to a privilege. Such considerations as these will find their proper place in an examination of Nicolas I's involvement in the quarrel between the bishopric and the monastery.

III. THE HISTORICAL CONTEXT

The source material suggests that the quarrel over St. Calais had two phases, the first of which allegedly took place between 800 and 841 and witnessed the bishopric of Le Mans vindicating ancient rights to ownership of the monastery. This is the story of the *Actus pontificum Cenomannis in urbe degentium*¹ and of its companion piece, the *Gesta Aldrici*,² books that are riddled with forgeries and touch upon no event subsequent to 841.³ The other phase of the quarrel is documented by the letters of Nicolas I, by Hincmar of Reims' *Annales Bertiniani*,⁴ and especially by the charters of the cartulary of St. Calais.⁵ These documents, if one excludes the irrelevant Merovingian part of the cartulary,⁶ are perfectly authentic, and they overwhelmingly indicate there was no quarrel between St. Calais and the bishopric of Le Mans much earlier than the year 855.⁷ The general supposition that these two stories relate complementary phases of the same quarrel is erroneous. Rather, the earlier episodes narrated in

counted for at its intended destination, but only in a limited portion of the resultant privilege.

To conclude, the major problem of the St. Calais privilege resides in that its contents imply contradictory dates for its delivery: mention of Bishop Odo imposes the date 28 April 803, whereas allusions to the decision of Verberie can only have been made after October 863. The difficulty vanishes when textual analysis associates the discrepancy in date to distinct portions of the same bull. Once this is shown, it becomes possible to contend that the privilege for St. Calais was delivered on two separate occasions. The text preserved in the manuscripts represents the second delivery of the bull, alike the first delivery in every respect, but augmented by a long passage recording the monastery's final vindication of its independence. As such, the privilege for St. Calais remains a diplomatic curiosity, because it offers not only a very early case of double delivery (*Neuansferlingung, renouvellement*), but also one in which no changes have been made in the text to remove the contradictions imposed by the two dates of delivery.⁸ The crucial question whether the date affixed to the second version was that of the first or second delivery cannot be answered for lack of closing protocols. Since the existing internal contradiction depends solely on the date of Odo's embassy, it may well have been considered subtle enough to make textual alterations unnecessary. There appears to be occasion to read into the second issue of the privilege a sign of papal displeasure at the imposture that had been practiced by

1. Edd. G. Bussow and A. Leberu (Le Mans, 1901: *Archives historiques du Maine* 2).
 2. Edd. R. CHARLES and L. FROGER (Mamers, 1889).
 3. For a select bibliography and commentary reflecting the current state of criticism, see Heinz Löwe in WATTBACH-LEVISON, *Deutschlands Geschichtsquellen im Mittelalter. Karzeil und Karolingier*, fasc. 3: *Die Karolingier vom Tode Karls des Großen bis zum Vertrag von Verdun* (Weimar, 1957), 346-347; see also *infra* 316, nn. 1-2.
 4. Ed. G. WARTZ (Hannover, 1883: *Scriptores rerum Germanicarum in usum scholarum*...)
 5. *Supra* 287, n. 1.
 6. The first four pieces of the cartulary are spurious, as shown by HAVET, *Liures I, 120-132*. It must be pointed out that these forgeries were practically irrelevant to the monastery's history: the only allusion to them at Verberie came in the claim that St. Calais had been royal "non solum triginta, sed etiam trecentis annis". Both the evidence given at the trial and the initial assertion that St. Calais was royal were supported by genuine documents (HAVET, nos. 8 and following); *infra* 330 with n. 2, 332 with n. 1.
 7. The first attack by the bishopric of Le Mans on the monastery's independence is reflected in the charter of Bonneuil (cited *supra* 297, n. 1).

1. See BERSLAV, *Urkundlehre* II, 312 with n. 4; he stated that "Wiederholungen früherer Erlasse durch denselben Aussteller" occurred at the papal chancery, but as a rule "mit der Zeit der Wiederholung entsprechenden Protokolländerungen im Text, so daß die ursprünglichen Veränderungen nicht leicht entstehen können." Aside from citing a possible exception to this rule (where the contradiction involves subscribers to the bull), Bresslau regrettably gave no references. *Neuansferlingungen* are a confused problem of diplomatic, for they are difficult to distinguish from analogous methods of reproducing documents; see BÖVARD, *Diplomatique* I, 172: "On le voit par ces exemples, les réexpéditions d'originaux sains et saufs sont surtout des cas d'espèce. Distinctes des renouvellements d'actes détruits, puisqu'elles n'étaient plus établies, comme ces derniers, d'après les registres ou minutes conservés par l'auteur, mais consistaient ordinairement en une transcription, *mutatis mutandis, adjectis adiectis*, de l'original produit par le destinataire, elles marquent cependant le passage à la catégorie non péjorative des reproductions faites par insertion en des actes nouveaux." It is of course impossible to say whether the second delivery for St. Calais was based on the original or a copy in the registers. (It also [TICKER, *Beitrag zur Urkundenlehre* (Innsbruck, 1877) I, 294-307 and *passim*], who discussed the problems posed by double deliveries of royal and private charters.

the *Actus* and *Gesta* are lies,¹ fabricated during those middle years of the reign of Charles the Bald when genuine documentation proves that a dispute between bishop and monastery actually took place.²

Mistaken acceptance of the allegations of the *Actus* and *Gesta*, especially as regards the years 838-841, has obscured the real nature of the quarrel, for if it were admitted that at an earlier date the bishopric had been able to vindicate its ownership of the monastery, it followed naturally that the bishopric's claims must have had some substance. The bishopric, to be sure, was not thereby exonerated of charges of forgery, but one became inclined to balance the scales of guilt. Since the *Vita I. s. Caroli* is a piece of tendentious writing attributable to the monastery, and since the cartulary opens with four spurious Merovingian charters, it was easy to blacken the reputation of St. Calais by insisting it was as guilty of dishonesty as the bishopric.³ Between two blacks, who was to say which shade is the lighter?

1. This was raised long ago by P. Kohn, *Geschichte des Benediktinerordens* (Erlangen, 1850), 439, who, after comparing Le Mans' version of the events with that of the independent testimony, concluded: "... es ist dadurch wohl außer allen Zweifel gestellt, daß die ganze Entwicklung der Differenzen zwischen uns oben nach den Acta episcoporum und den Gesta Aldrici regelrecht mit allen darauf bezüglichen Urkunden eine Erfindung des Verfassers der Acta ist". In proportion as it has departed from this same conclusion, subsequent criticism of the *Actus* and *Gesta Aldrici* has come to rest on shifting sands. J. Havet's posthumously published study, *Les actes des évêques du Mans*, in *Revue* L, 269-416 (in which the present question is treated on pp. 299-306), and R. Lot's, *Les jugemens d'Aix et de Quierzy*, in *Bibliothèque de l'École des Chartes* LXXXII (1921), 281-315, are particularly responsible for this result. 2. Koth did not go on to draw this additional conclusion. Other critics successfully assumed the *Gesta Aldrici* must have been written before 841 because it records no events after that date; such reasoning is excellent when applied to truthful sources but naive when applied to forgeries. On the basis of R. Lot's *Textes manuscrits et imprimés de l'abbaye de Le Mans* forgotten are currently regarded as being 832-841 (for the work cited *supra* 315, n. 3). I am currently undertaking a complete revision of this dating scheme in the sense here indicated. 3. For editions, see *Bibliotheca hagiographica Latina* (Brussels, 1891-1901) under no. 1568. It need not be assumed that this *Vita* was written with the conscious intent of providing a safeguard against episcopal pretensions; its composition took place before the quarrel, for Hrabannus Maurus incorporated it in his narrative hagiology (Migne, *Patrol. Lat.*, col. 1154); whose name appears 840-854 (see W. Levison in *Wattenbach-Levison, op. cit.* [1315, n. 3], loc. cit. Weimar, 1932), 601). 4. FOURNIER, *loc. cit.* (290, n. 1), 368: "En somme dans cette malheureuse affaire, les deux parties semblent avoir fait des faux du commencement à la fin."

Such an approach went astray because it unwittingly resulted in overlooking a series of genuine documents proving that, at least from the year 752, the claims of St. Calais to independence from episcopal control and ownership were solidly founded. Set beside this evidence, the stories of the *Actus* and *Gesta* are vitiated by the contractual errors of diplomatic forgeries and excluded by the contradictions which the monastery's documentation imposes on them.¹ In short, the bishopric of Le Mans had no valid claims to St. Calais; in its quarrel with the monastery, it is not to be represented as a poor, despoiled bishopric seeking to regain its unjustly alienated lands, but rather as an aggressor bent upon seizing a presumably lucrative piece of property. There is good reason to insist upon these points before attempting to appreciate Nicolas's intervention in the quarrel. To those who held even in some slight measure that the bishopric of Le Mans was justified in disputing the ownership of St. Calais, it seemed natural, at first glance, that the pope should have sided with Robert of Le Mans; and, consequently, since the papal privilege for St. Calais contradicts Nicolas's supposed pro-episcopal policy, the privilege for St. Calais was considered a forgery, yet another, as it were, of the forgeries that besmirch the monastic circumstances present themselves quite differently when it is understood that the episcopal claims to St. Calais are of an exclusively fraudulent character, and that Nicolas's intervention in favor of Bishop Robert was therefore an error. St. Calais had an excellent set of documents to justify its independence from episcopal ownership, and there is no reason to suppose that Nicolas would have failed to admit the excellence of the monastery's case once he was faced with the documentation that is available to us. In this light, it is far less important to explain how the St. Calais privilege was issued than to establish the conjuncture of factors that led Nicolas to side momentarily with the dishonest pretensions of the bishopric of Le Mans.

The only parts of its dossier of claims to the abbey that have been credited in recent times are two charters of Louis the Pious, transcribed in the *Gesta Aldrici* and cited *supra* 315, n. 2) 112-115, 117-119; BÖHMER-MÜLLBACHER, *Regesten des Kaiserthums unter den Karolingern* I (2nd ed., Innsbruck, 1899-1908), nos. 982, 981 (hereafter cited as Müllbacher's followed by the register number). I intend to show elsewhere that their spuriousness is beyond doubt. 2. See PERELS, *loc. cit.* (290, n. 5), 150, who clearly had a higher opinion of the bishopric's side than is warranted by the evidence.

to discussing what documents Odo took with him to Rome to support this petition, and the possibility was then raised that the supporting materials amounted to four documents: the privilege of Bonneuil, its confirmation by Charles the Bald, the additional signatures gathered at Pîtres, and the latter council's letter to Robert of Le Mans.¹ It is important to note that when these documents were laid before Pope Nicolas in the spring of 863, they could afford him only a second-hand view of the privileges of St. Calais. The charters on which the monastery founded its status had been displayed at Bonneuil, but Nicolas would only have taken cognizance of them as mediated by the charter of Bonneuil. Although this defect constituted no bar to the issuance of the bull which Odo requested, it would be the essential factor in obtaining a respectful hearing for the appeal soon to be addressed to the pope by Robert of Le Mans.

The privilege for St. Calais as first issued in April 863 contained a clear echo of the latest developments in the bishopric's attempt on St. Calais. If my reconstruction of its original form is admitted, one of its clauses must have read:²

Nec... callide... molitur in illos, sicut *audivimus* quosdam facere voluisse quasi inscriptiones quasdam monstrantes, quibus monasterium suae civitatis possessionis iure subditum fieri conati sunt: sed maneat secundum concessam sibi iam multis annis absolutiorem ab omni episcopali pressura et dominatione remotum.

The words in italics may well refer to oral negotiations, in which Odo would have pointed out to the pope the recent claim of Robert of Le Mans that his church was in possession of documentary proofs to back up its case;³ that is to say, Odo would have glossed the brief and obscure reference to these *auctoritates* in the council's letter to Robert, and he would naturally have

1. *Supra* 310 with nn. 1-6.
 2. See the quotation *supra* 311f.; the present passage is obtained by excising the twenty-three line insertion. It seems to contain a quite precise echo of the conciliar charter of Bonneuil (HAVER, *Annales* I, 180f.); "Praeterea harum praecipuum [i. e. of the monastery] irruptiones et violentissimas quoniamdam institutionis iuris subditum subdole iure possessionis propriae item monasterium debere subiecti iuris Cinomanicae, praenominaeque venerabilis Rainaldi archiepiscopi evidentiissime intinavit." Both texts speak of anonymous episcopal agents, rather than of the bishop himself, and they both emphasize claims to possession. But note the differences. In 855, Rainald complained of persecution "on the part of people asserting"; in 863, Nicolas has heard of "certain people displaying quasi inscriptiones".
 3. *Supra* 297, n. 3.

The immediate background to Nicolas's implication with the affairs of St. Calais was the Frankish assembly at Pîtres in the summer of 862.¹ At that date, conflict between bishopric and monastery had broken out anew after a lapse of seven years,² and the problem was brought before the bishops there gathered, of whom Robert was one. When the matter was raised, Robert asked that the case be deferred for a while to allow him to go back to Le Mans to fetch his *auctoritates*; with his request endorsed by the king, he left Pîtres and did not return. After some waiting, the bishops acted; they decided simply to renew the privilege that had been granted to St. Calais by the council of Bonneuil in 855, at the time when the bishopric of Le Mans had first challenged the monastery's status. New signatures for the privilege were obtained, and the council sent a letter to Robert, via his metropolitan, Erardus of Tours, asking him also to add his signature to the privilege of Bonneuil and to renew peacefully relations with the abbot and monks of St. Calais.³

As might well have been expected, Robert did not comply with the council's request. The case remained unsettled and would no doubt be aired again in the year to follow. These circumstances, coupled with Odo of Beauvais' imminent departure for Rome, easily explain why Charles the Bald and his principal adviser, Archbishop Hincmar, felt it wise also to charge Odo with obtaining of the pope that he confirm the independence of St. Calais from episcopal control in matters of property and abbatial election. Considerable space has earlier been devoted

1. Sessions are known in June and in August: C. DE CLERCQ, *La législation féodale française*, II: *De Louis le Pieux à la fin du IX^e siècle* (Antwerp, 1958), 244-246.
 2. Since the council of Bonneuil in 855. It appears as though, some time before the council of Pîtres, Bishop Robert took advantage of a misunderstanding by the monks of St. Calais, who after electing themselves a new abbot (they had one conciliar and two royal privileges to this effect: HAVER, *Annales* I, 178-83, 185-7, nos. 17, 18, 20) failed to apply to King Charles for investiture. (The monastery's privileges of free election were vague on the question of investiture and could have been misunderstood; cf. Nicolas's privilege, passage cited and discussed *supra* 305 with nn. 1-2, p. 306, where the opportunity may have been taken to clarify the modalities of royal approval.) Robert thereupon applied himself to the king and was given the *abbatia* in beneficium. Protestant resistance would have arisen as soon as Robert tried to take possession. The monks had only to have their privileges recognized to expose and ruin Robert's rise and obtain that his benefice be revoked; Robert, on the other hand, to secure the abbey, had to muster proofs that his tenure had a more solid basis than King Charles's gift. From preliminaries to the council of Pîtres may be inferred for the most part these preliminaries the Bald's testimony at Verdrie; HAVER, *Annales* I, 188, no. 21.
 3. HAVER, *Annales* I, 183f., 185, nos. 18, 19.

the extent of time that elapsed between 23 June and the actual date when Lindo left for Rome is unknown. Seventeen weeks separate Odo's return from the meeting at Verberie, whereas Robert of Le Mans acted with greater haste than did Hinemar, counting travelling time only.¹ One need but assume that a supposition that is perfectly reasonable to make when one finds Nicolas repeatedly complaining (in part, no doubt, unjustly) of Hinemar's dilatory tactics.² The available period of time is therefore quite sufficient to allow for Robert's appeal.

The terms in which Robert chose to have his case presented before the pope may be reconstructed by comparing the documents transcribed in the *Actus pontificum* and the *Gesta Aldrici* with allusions to episcopal charters in the letters sent by Nicolas in reply. Notorious forgeries doubtless inspired the title "monasterium s. Karlephi situm in pago Cenomannico, loco videlicet, qui antiquitus dicebatur Casa Galani...";³ the same charter is alluded to in the phrase "qualiter a primordio constructionis suae monasterium s. Karlephi... eiusdem Cenomannicæ urbis inri-
ensque praesuli subditum fuerit..."⁴ Any of three documents

represented the alleged proofs, which had never been produced at Pîtres, in the most denigrating terms. So far as Nicolas's monastic policy is concerned, his specification that newly elected abbots of St. Calais were to be installed with the monarch's consent and by his concession should neither cause surprise nor arouse suspicion.⁵ The role allowed the king may only acknowledge his position as the monastery's patron and protector; if, however, such a royal prerogative is considered equivalent to ownership, the privilege itself ensured that proprietary rights would be largely mitigated. In short, Nicolas's grant of the St. Calais privilege (1st version) was a matter of mere routine.

When Odo brought the privilege back to the Frankish kingdom, Robert learned of the privilege's existence than he launched his appeal to Pope Nicolas.⁶ Three dates are established in the important sequence of events that occurred at this stage: 28 April, when the papal correspondence which Odo was to carry northward was delivered in Rome;⁷ 23 June, when Hinemar of Reims received the letters addressed to him;⁸ and 25-29 October, when the assembly meeting at Verberie decided the case in favor of St. Calais.⁹ Lesne, in his article, insisted that there was insufficient time between Odo's return and the assembly of Verberie for Robert's emissaries to have made a round-trip to Rome.¹⁰ As a parallel instance, he cited Hinemar's messenger, the deacon Lindo, whose departure occurred after Odo's return and who only rejoined the archbishop on 30 November.¹¹ This argument is far from conclusive because

1. Cf. R. L. POORE, *The Early Correspondence of John of Salisbury*, in *Studies in Chronology and History*, ed. A. L. POORE (Oxford 1934), 263f.; Poole established that in the twelfth century an ordinary traveller took just about seven weeks from Canterbury to Rome, while an express messenger could cover the same distance in as little as twenty-nine days. According to this reckoning, six weeks for the journey between northern France and Rome is a generous allowance, especially if one assumes that Robert's messengers did not follow the leisurely pace of ordinary travellers. (One also assumes that there was no startling progress in rapidly of communications between the ninth and twelfth centuries)—The notice of judgment suggests that the assembly of Verberie met primarily because of the pope's letter in Robert's favor, which would imply that summons to the meeting could only have been sent out after the episcopal messengers had returned (see the passage cited *supra* 287, n. 2). In this case, the time allotted Robert's emissaries would have to be considerably restricted to allow the necessary convocations to be distributed throughout the kingdom. But this reading is not warranted, for the Verberie assembly was already foreseen before Robert sent his messengers; see *M.G.H. EE. VI*, 626, lines 32-33: "in synodo, quae modo dicitur a sanctitate tua [i. e. Hincmaro] colligi."
2. See, for instance, *M.G.H. EE. VI*, 391, lines 8-9: "praesumptiones praevartitionesque vestras minus experti"; cf. 377f., no. 66.
3. *Ibid.*, 624, no. 109. The key words are *Casa Galani*, instead of *Amsioia*, as in the St. Calais privilege. The name occurs initially in the *Vita I. s. Gualleffii* (*supra* 316, n. 3), but is particularly stressed in the Le Mans forgeries, which eventually develop a story showing how a certain Galanus gave his noble *casa* to Le Mans cathedral (found in the *Vita s. Iuribii*, for whose editions see *Htbl. hag. Latina* [*supra* 316, n. 3], no. 8346-8347).
4. *M.G.H. EE. VI*, 626, no. 110.

1. *Supra* 305.
2. See *infra* 324 with nn. 4-5.
3. *Supra* 288, n. 5.
4. *Supra* 308, n. 4.
5. The *Annales Berthmanni* (ed. Waitz, 66) states: "Karolus 8. Kalend. Novemb. [= 25 Oct.] synodum in Verberia palacio habuit"; and the notice of judgment (Haver, *Annales* I, 190) is dated 14 Kal. Novemb. (= 29 Oct.). The document makes it clear that the procedure took place on two separate days: the assembly itself probably lasted even longer, see Tresselt, *Reuend.* II, 86-89, no. 259, delivered at Verberie on 4 November.
6. *Loc. cit.* (290, n. 3), 293 with n. 2; Lesne suggested that a mission to Rome would take from six to nine months, which is excessive.
7. See Hincmar, *Epistolae*, edd. L'Évêque-Rort (supra 293, n. 2), 146, lines 28-30, no. 169.

would accordingly prove that Robert's predecessor had been its owner.

Once acquainted with these documents, Pope Nicolas was faced with a considerable paradox. In April of the same year, he had accepted charters dating from no earlier than 855 as basis for a privilege granting independence to St. Calais from episcopal control; now he was shown one document of reputedly high antiquity indicating that the monastery had belonged to the bishopric of Le Mans from the time of its foundation, and perhaps an immunity charter, dated 838, from which he inferred that St. Calais had *still* been owned by Robert's immediate predecessor. All too easily, the rival claims might have appeared to him to complement one another, the earlier charters representing the good old practices of the years 825-838, the later ones testifying to distressing changes in the recent past. Paradox would have yielded place to the story alleged by Bishop Robert, that the monks of St. Calais were attempting to slip away from the bishop's control and that they were being abetted in this attempt by Charles the Bald and the Frankish episcopate.

Acceptance of Robert's story is plainly reflected in the *narratio* of Nicolas's letters :¹

Therefore, we desire to make known to [you] that the monastery of St. Calais, situated in the county of Maine, has been subjected to the property (*ius*) of the city of Le Mans and its bishops from the very earliest moments of its construction.... But now, as we learn, its monks, despising the authority of the rule, do not zealously follow the tradition of their forefathers and do not wish to preserve established order, since—as is scarcely fitting,—they seek to live according to their own desires and profess not to have been bound to the property (*ius*) of the ordinary in whose diocese they live.

The king's role as protector is avoided, and the monks are represented as wickedly striving to live independently under their abbot : "nunc sine ipsis [i. e. episcopi Cenomannensis] sit consensus sub abbatis constitutum regimine";² The notion of property

¹ M.G.H. EE VI, 625f., no. 110 (to the bishops of Charles the Bald's kingdom): "Ideo sanctati vestrac compertum esse volumus, quater a primordio constitutions suae monasterium s. Karlephi in Cenomannia situm eiusdem Cenomannecae urbis iure tuncque praesuli subditum fuerit... Sed nunc, ut nostris intonitibus aurbis iure tuncque praesuli auctoritate contempta zelum paternae traditionis non decuit et modum debitum servare non cupiunt, cum, quod non licet, proprio libitu vivere quaerunt et parrochiani, in cuius dioecesi constitunt, ius non tenuisse latentur."
² *Ibid.*, 624, line 16, no. 109 (to Charles the Bald).

now preserved in chapter eight of the *Actus* might have been used to delude Nicolas into writing these lines.¹ A final reference suggests that tenure of the monastery by the cathedral was claimed by Robert to have been continuous : "quod iustis sibus [i. e. Roberti] semper predecessores privilegio etiam nobis ostenso fatetur."² Much depends on a strict interpretation of the word *semper*. Neither the *Actus* nor the *Gesta Aldrici* goes so far as to allege that St. Calais never slipped from the cathedral's possession; they admit two brief alienations, occurring in the late eighth and early ninth centuries, and each followed by a restitution.³ If such complications were to be avoided, Robert could have displayed an immunity charter placed under Louis the Pious's name and dated 6 September 838.⁴ This forger, which would readily correspond to the word *privilegium* used by Nicolas, speaks of St. Calais as Aldric's monastery and

¹ Edd. Bussos-Lézeu (*supra* 315, n. 1), 59-69. Of the three, perhaps the most useful would have been the forged precatory contract by which Calais obtained the monastery from the cathedral against payment of a rent. All of them contain the phrase, "in loco (quodam) qui ab antiquis dicebatur (sive Gaium)."
² M.G.H. EE VI, 624, no. 109.

³ For the first alienation, see *Actus*, edd. Bussos-Lézeu 270f., followed by n. 2), 131f., 134f., but there is good reason to believe this portion of the original was only written after October 863.
⁴ Mühlbacher, no. 981; *Gesta Aldrici*, edd. Charles-Froger, 117, 119. (Considered genuine though suspect by Mühlbacher.) The grant of immunity was allegedly based on Merovingian immunity diplomas issued to bishop of Le Mans for "their" monastery of *Ansola* (i. e. St. Calais). These diplomas would have had to be forged, for Merovingian immunity diplomas for the monastery were issued to the abbot (see Havet, *Études* I, 162-6, nos. 5-7); one such forger is transcribed in the *Actus* (edd. Bussos-Lézeu 246-8) along with two charters of immunity for the cathedral in which a phrase about the *monasterium Ansolae* has been interpolated (*ibid.*, 228-30, 186-9). The present charter demands that these *Vornunden* have been displayed as pseudo-originals, not copies; and that they deceived Louis the Pious and his chancery. Moreover, recognized to be Aldric's property and not a benefice. Now there is no basis for believing the Le Mans forger ever produced pseudo-originals, and St. Calais was never given in full property either to Aldric or to any other bishop of Le Mans. On the basis of content, therefore, the immunity charter of 838 should be labelled a forgery.—Although only a small part of the bishopric's dossier of claims to St. Calais is clearly discernible in Nicolas's letters, it is quite possible that the *Actus pontificum* and *Gesta Aldrici* (less its final section) were sent to the pope in their entirety; Nicolas might readily have overlooked the *Actus*'s account of an alienation of St. Calais.

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contrived to turn the tables on his opponents and, most probably, to influence Nicolas further in his favor by striking a chord that was particularly eloquent at the moment.

While this charge may have contributed to the vehemence of Nicolas's tone, it had little or no effect on the dispositive clauses of his letters. The pope was bound to prescribe corrective remedies that responded to the facts of the case as Robert had misrepresented them to him and, in the first place, to the principle that St. Calais rightfully belonged to the *ius* of Le Mans cathedral. The object to be attained was simply the monks' return to legitimate diocesan rule. To arrive at this end, Nicolas flatly commanded the monks to submit to the bishop of Le Mans,¹ since it was unlikely that they could so easily be made to obey. Nicolas proceeded to prescribe the conditions for a trial between bishopric and monastery to be held at the level of a provincial council;² finally, Nicolas provided that, in case of need, Robert of Le Mans was to be given every facility to come to Rome with three monks of St. Calais to try the case on appeal before him.³ Describing Nicolas's recommendations, Haller wrote that the pope "reserves... the final decision for himself but simultaneously decides for the bishop in advance."⁴ This statement does not sufficiently allow for the contents of the letters. Although Nicolas entirely admitted Robert's representations as petitioner,

[289, n. 1, 1051], but the alternative is just as likely that it was merely an attempt by the bishop of Le Mans to acquire property; in this case, the "other issue" might well have been another of Robert's ingenious inventions. In this affair and in what little more is known of his life, Robert does not emerge as a particularly savvy character (see FOURNIER, *loc. cit.* [290, n. 1], 363; J. SIMONIN, *Concilia antiqua Galliae*... III [Paris 1629], 405f.; *Gallia Christiana* XIV [Paris 1856], coll. 361-363; this evidence is very inconclusive).

1. *M.G.H. HE*, VI, 627, no. 112 (to the monks of St. Calais): "Qua de re... expressusque habemus, ut non vos proprius libitus ducit, quo annus erigi praevaleat; sed ad principalem vestram ecclesiam, videlicet Cenomanicam, softio more recurrere..." None of the other letters emphasize this direct command.

2. *Ibid.*, 624f., no. 109 (to Charles the Bald): "Si vero quispiam monachorum episcopus de vicinis episcopis sibi quos voluerit iudices eligat et nostra auctoritate simul convocatis et ceteris episcopis, qui in diocesisbus s. Turonensis ecclesiae videtur existere, talis tumultus dissensiones... iusto sanctorum patrum iudicio repraesentur omnisque huius litis ambiguitas pacifica veritate pellatur..." *Cfr. ibid.*, 626, lines 14-16, no. 110; 627, lines 29-31, no. 112; 628, lines 29-31, no. 113.

3. Passage quoted *infra* 333 with n. 6.

4. *Das Pöpstums. Idee und Gestalt* II, part 1 (1st ed., Stuttgart, 1937), 87: "... behält... sich die letzte Entscheidung vor, gibt aber zugleich dem Bischof im voraus Recht."

is introduced on the episcopal side only, while the monastery's faults are made to appear as if lying in the sphere of ecclesiastical discipline.¹ In much of this, Nicolas's letters probably follow the tenor of Robert's petition.

As an additional incentive to the pope, Robert chose to make Hinemar of Reims a leading figure in the quarrel.² If one recalls that since the early months of 863 Nicolas had had cause to complain of Hinemar's conduct in the affair of Rothad of Soissons,³ it becomes evident that Robert would have maneuvered cleverly in complaining that Hinemar was not only prejudicing Charles the Bald against him but also preparing a trap for him over St. Calais.⁴ In the ambush to which Robert alluded in writing to the pope may well be recognized the king's intention, and most likely Hinemar's, to force Robert at the next council to abandon his pretensions to St. Calais by confronting him with Nicolas's privilege for the monastery. It may well have been when Robert got wind of this plan that he conceived the idea of appealing to Rome.⁵ In wording his complaint, moreover, he

1. The key word is *ius*, which though perfectly appropriate to designate property is ambiguous enough to mean simply "jurisdiction"... A gloss nevertheless occurs in the phrase: "quod monasterium s. Karleph... ab eius *aliove* precarial charter (which may have been presented to Nicolas, *supra* 322, n. 1), in which Carleph binds himself in the following terms: "nec [monasterium] alienare pontificum non habeam, nisi sub *iure* et *potestate* ac *dominatione* [of Le Mans cathedral], vel eorum pontificibus... permaneat" (*Actus*, edd. Bussone-Leprieu 65).

2. Ferris, *loc. cit.* (290, n. 5), 149f., is far too categorical in assigning Hinemar a leading role in the quarrel over St. Calais. His high position at Charles the Bald's court renders it very likely that he was implicated, but Nicolas's letter to Robert's court renders it very likely that he was implicated, merely reflects Bishop Robert's allegations and should therefore be treated with considerable reserve.

3. Jaraffe, no. 2712: *M.G.H. HE*, VI, 353f., no. 55 (to Hinemar): "ita ut [raferentibus] amnum dilectissimi filii nostri Karoli gloriosi regis adversus [Robertum] commovetur, et in synodo, quae modo dicitur a sanctitate tua colligi, fertur, quod nescio quas insidias quas ex alia ratione illi intamini praeparare, ledere cum magno pere gestientes..." Doubtless the letter to Charles the Bald (Ferris, no. 109, *ibid.*, 624, lines 19-20) contains an allusion to Hinemar.

4. The reference to a coming synod in the passage just quoted can scarcely be to anything but the coming assembly at Verberie (*cfr. supra* 321, n. 1); the passage cited *supra* 308f. makes it probable that Robert also knew about the St. Calais privilege (1st version).—The quotation in n. 4 suggests the ambush was to be quasi *ex alia ratione*, that is, over another issue than that of St. Calais. The nature of this "other issue" is destined to remain unknown. It is certainly possible that the entire quarrel over St. Calais was the superficial manifestation of serious political conflict (see the speculations of SIMSON, *loc. cit.*

restraint to be cleared of the charge that he had decided the case in advance.

In spite of these clarifications, one still cannot escape the impression that there is a contradiction between the privilege for St. Calais (1st version) and the letters for Robert of Le Mans. Simson and other critics were mistaken in finding grounds for suspicion in the pope's shifting attitude toward the quarrel.¹ Depending on the information available to him at any given time, Nicolas can readily be understood to have changed his mind as often as the evidence demanded. The contradiction is rather to be found in Nicolas's appreciation of the facts of the case. Whereas the privilege he had delivered in April accorded the king so considerable a role as St. Calais' protector as to suggest rights of ownership, the letters he subsequently issued in response to Robert's appeal treat the monastery as if it were acting of its own accord in striving wickedly to violate the property rights of Le Mans: the king's role is entirely overlooked. It is as if the first transaction had not reflected upon the other, as if Nicolas had no recollection of Odo's request when he later responded to Robert's appeal; even the allusion to the St. Calais privilege (1st version) in the letter to Robert appears to have been mediated by the terms of Robert's petition.²

While somewhat improbable, this situation is not altogether inconceivable. The major questions discussed with Odo during his embassy were of vastly greater importance than the privilege for St. Calais. Little doubt but that Odo's petition for the privilege was accepted quite automatically, and that the task of drawing up the document was delegated to some subordinate. Even in as little as three months, Nicolas might only have had the faintest recollection of the transaction. Robert's appeal would have had the advantage of coming by itself and would have obtained Nicolas's undivided attention, at a time, moreover, when Nicolas was impatiently awaiting an answer to the letters he had sent early in the year about the case of Rothad of Soissons and was incensed at Hincmar's failure to respond.

One may suppose in the alternative that, though sufficiently aware of having issued the St. Calais privilege (1st version), Nicolas was in no position to reach an informed opinion about the case simply on the basis of the conflicting petitions that had been

he devoted the most important dispositive parts of his letters to laying down procedure for a trial. He thereby allowed that the quarrel had two sides, and he twice contemplated the possibility that the result of litigation would not be in accord with the bishop's wishes.¹ The suggested setting for this trial was the provincial council at which Robert would choose three neighboring bishops to judge the case. At the same time, the letter bearing the address "episcopi in regno Karoli... commemorantibus" makes it clear that Nicolas did not strictly insist on the provincial council or on neighboring bishops; and other passages show he was well aware that the king and Archbishop Hincmar would have a role in the proceedings.²

The other point where Nicolas may be thought to unduly favor the pretensions of Le Mans occurs when he insists that the king and bishops are not "to bear, discuss or permit to be heard a *sententia* contrary to the privileges" of Robert's church.³ One must not be deceived by the ostensibly drastic tenor of this stipulation, for it does not excuse Bishop Robert from the obligation of proving the privileges of his church before the court. Nicolas's intention was simply to ensure that judicial proceedings would take place and not be circumvented by such action as the reaffirmation of the synodal charter of Bonneuil or, even worse, publication of his bull for St. Calais.⁴ In other words, Nicolas demanded a fair trial at which the bishopric's titles to control over St. Calais would receive a respectful hearing and would be matched by whatever ancient proofs the monastery could muster to justify its liberty from episcopal domination. Once these basic issues had been examined, the decision would be up to the three *iudices electi*. On the question whether at this point the verdict would go necessarily to Le Mans, Nicolas maintained sufficient

1. *M.G.H. EE. VI*, 625, line 6: "si iustum fuerit"; 628, lines 23-24: "excepto si talis ratio non praecedat, pro qua id deum intentio cogat." Cfr also *ibid.*, 626: "Denique si Robertus episcopus petit quod petere debet, impetret; si vero quod non debet postulat, nunquam obtineat."
2. *Ibid.*, 626, lines 14-16, as well as 627, lines 29-31. Cfr *PERALS, loc. cit.* (290, n. 5), 149f. Reliance on *iudices electi*, a procedure based on African precedents, was common in this period for solving ecclesiastical cases; see *DE CLERGO, op. cit.* (318, n. 1), 90 with n. 59, 210 with n. 3, 212, 220, 232f., 240f., 285, 390.
3. *M.G.H. EE. VI*, 628: "Gloriosum quoque regem vestrum Karolum eiusque regni episcopos nostris exhortationibus admonemus, ut nostra iuli auctoritate contra vestras ecclesie privilegia sententiam minime inferant, discutiant ac audiri permittant..."
4. Cfr *supra* 309 with n. 2.

1. SIMSON, *loc. cit.* (289, n. 1), 162-164.
2. See the quotation *supra* 308f.

a different answer from the pope than the one he received? One notes in the report of Verberie that the procedure was only begun because of papal letters that had reached King Charles and Robert's metropolitan, Erardus of Tours, independently of the good offices of Le Mans.¹ Robert himself had made no move to publicize the three letters he had received, two of them for transmission to other parties:² "these three had till then been unknown to the lord king and the bishops and the others present, for the same Robert had been hiding them." Barring the unlikely possibility that this statement is tendentious, one must understand that Robert had completely failed to publicize the pope's response to his petition, that he had done nothing to retract letters which ostensibly fulfilled his wishes in appealing to Rome.³ If this is so, it may well follow that the contents of the letters disappointed his hopes even before the trial of Verberie laid them conclusively to rest. What his exaggerated expectations may have been remains a matter of doubt.⁴

1. HAVERT, *Quæstiones* I, 187f., no. 21: "Rectata autem epistola ab eodem aposto-

hico domino regi directa, narrabat coenobium s. Charleii potestate episcopatus predicti Roberti in hunc substractam, et ut ei restitueretur exposcebat. Cuius scribitur ab eodem papa directam, inventi ceteros cum sillabam [intelligit] "by a separate letter" rogasse antistites ut ipsi Roberto ad ipsum monasterium adhiberentur unanimitate opem ferrent." For the sentence that immediately precedes this passage, *supra* 287, n. 2. The letter to Archbishop Erardus, also alluded to in Nicolas's letter to Robert (Perrils, no. 113), is lost; it ought to have a number in the *Jaffé Regesta*. From his letter, Erardus learned of the existence of the letter to the bishops (Perrils, no. 110).

2. *Ibid.*, 188: "Quæc litteræ [i. e. the two that had been read plus Perrils, no. 110] coram prolatæ ostendunt eidem Roberto quartam missam epistolam [Perrils no. 113]: eandemque ostensa, inventum est monarchis prædicti coenobii quintam missam [Perrils, no. 112]: quartam tres hæctenus domnum regem et pontifices ac ceteros assistentes latuerant, eodem casu Robertus occulaverat."

3. The possibility remains that Robert had merely been nursing these letters, and that he always intended to produce them sensationally at Verberie. Although it would be inappropriate in this case to consider the notice of judgment tendentious, its account would still be an inaccurate reflection of Robert's intentions. There would have been little point for Robert to attempt to circulate the letter to "all the bishops of Charles the Bald's kingdom"; but certainly his failure to transmit the letter to the monks of St. Calais (Perrils, no. 112) went counter to Nicolas's attempt to bring the monks to submission by means of a direct command.

4. Perhaps a clue is afforded by Hincmar's report in the *Annales Bertiniani* (ed. WAITZ, 66) that "[Robertus] eam [abbatiam s. Cartheilii] per apostolicæ sedis commendationem iuri sui episcopatus mancipatam tenere volebat." While these words certainly do not do justice to the contents of Nicolas's letters, they may reflect Robert's expectations. Or possibly Robert asked Nicolas that, on the basis of the evidence furnished in the *Actus* and *Gesta*, he issue a privilege conferring the bishopric of Le Mans in possession of St. Calais.

submitted to him. His emphasis of monastic disobedience and silence about the king's role in the letters for Robert of Le Mans may have been dictated by the desire not to create a new dispute between himself and the court of Charles the Bald. The instructions he gave about a trial allowed the monarch to yield St. Calais without losing face or adding to the complexity of the existing conflict with Rome. If justice could be obtained without proceeding with Rome, the separation from the bishopric, it would have been very much in Nicolas's interest to turn a blind eye to royal involvement. Either eventually—forgetfulness or studied omission,—is adequate to explain why the two papal pronouncements, the St. Calais privilege (1st version) and the letters for Robert of Le Mans, seem completely divorced from one another.

The success which Robert's imposture met with in Rome was a very relative quantity, and it scarcely found a counterpart once the issue was raised at the assembly that gathered at Verberie in the last days of October 863. The course of events is not lacking in irony. While the letters Nicolas sent in Robert's support ought to have represented the highest point of episcopal hopes to acquire possession of St. Calais, it was by scrupulously observing the conditions they laid down for settlement of the dispute that the Frankish authorities were able once for all to wreck the bishopric's pretensions, to the monastery.¹ Like any party with tenons, to say nothing of fabricated claims, Robert could expect no gain from a thorough airing of the case, at least not if the trial was to take place at the Frankish court.² Did he then expect

1. Cf. LASSER, *loc. cit.* (290, n. 3), 286.

2. The weak point in St. Calais' constitutional status was its proprietary situation; no clear statement regarding its ownership occurs in the cartulary before the report of Verberie. Le Mans had proceeded to develop a voluminous dossier of forgeries that consistently hammered at the theme of ownership, naturally in a sense favorable to the bishopric; this dossier opens with Gannaus' donation of his *casa* to the cathedral in the second century (*Vita s. Turibii, supra* 321, n. 3) and culminates in a charter of Louis the Pious, dated 838, restoring St. Calais to Le Mans (*supra* 317, n. 1). Though able to concoct documents of all sorts, the Le Mans forgers could not supply the originals, complete with signatures and seals, that would have been needed to convince a Frankish court of the authenticity of at least the charters of Louis the Pious. Since the papal court would have waited such a requirement (*supra* 293 with n. 1-4), it might have proved a more attractive forum. But would it have looked with favor on so stark an attempt by a bishopric to turn a monastery into its property?

erty.¹ Jurisdiction over the case was thereupon transferred from the episcopal commission to the king's court,² a secular tribunal competent to treat questions of ownership.

Robert of Le Mans neither came nor sent a personal representative (*legatum*) to the session at which the *iudices electi* transferred jurisdiction to the king's court;³ he could readily foresee that the decision would go against him. The bishopric, however, was not judged *in absentia*. Lot followed the opinion of Julien Haver in saying that the *advocatus episcopalis* mentioned in the notice of judgment "vient d'être délégué d'office", but there is no evidence to support this assertion.⁴ The advocate, a layman, is well known to have been a regular official of ecclesiastical administration, and he was indispensable in the trial of property claims before a secular court.⁵ It may appear strange that this same advocate should be called upon during the trial to

1. *Ibid.*, 188f.: "Inter ea sacramenta auctoritatem et sacrorum iura legum prolixa demonstraverunt, insuper omnes episcopi et ceteri assistentium assensum praebentes indicaverunt, ut, quia de rebus ecclesiasticis agebatur negotium et aliter nullo modo poterat de finiri, admittentur advocati utriusque partis, regalis videlicet et episcopalis, quatenus his altercantibus veritas nudaretur et ad debitum ceterius terminum causa perduceretur."
2. *Ibid.*, 189: "Quibus datis, praecellentissimus rex recepto consensu accepit iudicariam potestatem."
3. *Ibid.*, 188: "Cui placito ipse dominus rex et monachi intererunt, et idem episcopus ille venire atque legatum suum mittere distulit." This sentence appears between the quotations of 330, n. 3 and 331, n. 1.

4. Lot, *Les jugements, loc. cit.* (316, n. 1), 297, n. 4; Haver, *Les actes des évêques du Mans*, in *Oeuvres* I, 302: "A partir de ce moment, le procès-verbal... ne nous fait plus voir qu'un simulacre de justice. L'évêque renonce à plaider; ja nous lui nomme un avocat ou procureur d'office..." This low opinion of the judgment of Verberie was the logical corollary to accepting the stories alleged by Le Mans about events in the years 838-841 (*supra* 315-317). In the same spirit, Haver wrote a little earlier (*ibid.*): "Les moines de Saint-Calais, adversaires de l'évêque du Mans, ont eu le bon esprit de placer leur cause sous la protection du roi, et c'est dès le début du procès, manifeste hautement à l'avant qu'il leur porte." Haver's implication that St. Calais submitted to royal patronage only a little before 862-863 is all the more surprising when one knows he edited the cartulary that shows this submission taking place over a century before in 752 (*supra* 287, n. 1).
5. Hincmar, letter to Charles the Bald (Schroks, *Hincmar [supra]* 308, n. 2). "Tamen sicut ipsi melius scitis, episcopus secundum leges quas ecclesia recipit et venerabiliter comprobata, et secundum sacros canones ac decreta sedis romanae pontificum, advocatum publicis iudicis dare debet." For further citations and commentary, see F. Senn, *L'institution des avoués ecclésiastiques en France* (Paris 1903), 11-52; id., *L'institution des vicaires en France* (Paris 1907), 65-71; R. Lapravi, art. *Avoués ecclésiastiques*, in *Dictionnaire d'histoire et de géographie ecclésiastiques* V (Paris 1930), coll. 1222-1228; McLavignin, *Droit monastique* 57-58. Senn (*Avoués* 49f.) pointed out that the *advocatus* sometimes appeared as merely the bishop's assistant in a trial, but his presence was never-

Proceedings at Verberie had no sooner opened than the ground

was taken from under the papal letters. When, pursuant to Nicolas's instructions, three bishops of the province of Tours had been constituted *iudices electi* by Robert's choice, they gathered testimony first from the monks of St. Calais, who professed they had nothing to say but acted only in obedience to their abbot; then from the abbot, who stated he held the monastery from the king.¹ Charles the Bald next testified in support of the abbot's assertion, "that he owned the monastery without any rent (*gensus*) by hereditary succession (*iure hereditario*) from his great-grandfather, grandfather and father, and that he had committed it to the rule of one regular abbot after the other."² With these words the quarrel as it appeared in the papal letters vanished into thin air; it became perfectly clear that the monks were not rebelling from the control of the bishop of Le Mans; they were members of a royal abbey, whose abbot was responsible to the king for his tenure of the monastery's temporal. The *iudices electi* suspended their investigation at this point and set a date for trial of the case.³ When the court reconvened a few days later, the commission pointed out that the issue was one of ecclesiastical property and could not be settled otherwise than by the regular procedure for determining title to a piece of prop-

1. *Supra* 329, n. 2: "Vocati autem... monachi et coram interrogati responderunt se illic per obedientiam proprii abbatis venissem nec esse sui officii ut ex hoc cum quolibet in rationem intraret. Interrogatus etiam coram abbas respondit quod ibi et munificentiam ipsius regis sub monastica professione se ipsum teneret monasterium et exinde ei debitum exhibere famulatum."
2. *Ibid.*: "Tunc surgens gloriosus rex stetit ante praedictos iudices et manifeste ostendit ex parte attavi, avi et guntioris iure hereditario sine illo censu se ipsum possidere monasterium ac singulatum monachis abbatibus illud gubernandum in commissis." The usage of *singulatum* and *abbatum* (*supra* 329, n. 1) particularly characterizes the style of the commendation of St. Calais to King Pepin in 752 (*supra* 296f.).—The seemingly melodramatic words *tunc surgens* are in current usage in other conciliar charters recording legal proceedings. Cf. Flolovard, *Historia Remensis ecclesiae* III, 11 (*M.G.H. Scriptores rerum Germanicarum* XIII [Hannover 1881], 485), about the Soissons synod of 853: "Tunc surgens Theodericus Cameracensis episcopus porrexit scriptum... Post haec surgens idem Hincmarus... porrexit litteras... Tunc surgens Immo Noviomagensis episcopus porrexit rotulam... etc." Although Floloard did not indicate his source, the passage is probably drawn verbatim from the council's report.

3. *Ibid.*: "Hinc iudice episcoporum inventus est ut utriusque partis auctoritates inconcussas servarentur et datus est eis dies status ad discedendum cuius iuste et legitime relutanda, curiose essent scripta approbanda atque tuenda."

letters, a statement from the bishops who had condemned Rothad establishing their collective responsibility.¹ Nicolas thereupon commanded that the bishops themselves or their deputies with full powers should accompany Rothad to Rome.² These communications explain the second major item of business before the assembly of Verberie :³ "[Charles the Bald] sent the formerly deposed Rothad to Rome, with letters and deputies (*vicarii*) from him and the bishops, just as the pope had commanded him." This delegation delayed its departure for so long that it is not heard from again until after Easter of the next year (2 April 864) :⁴ "Just as the pope had ordered him, Charles sent Rothad to Rome along with letters borne by Bishop Robert of Le Mans ; and the bishops of his kingdom also sent their deputies to the apostolic see with synodical letters about the case of the same Rothad." From the construction of this passage, one may infer with certainty that Robert of Le Mans was serving as Charles the Bald's *vicarius*, and a letter of Hincmar's suggests that Robert had been given this appointment as early as at Verberie.⁵ The question naturally arises whether Robert's designation had any relation to the quarrel over St. Calais. As will be recalled, Nicolas's letters had made exact provisions to meet the eventualities that the quarrel between Le Mans and St. Calais would have to be carried to Rome on appeal :⁶ "If, at the same trial, the aforesaid bishop is driven by any circumstance to appeal for trial of this [issue] in our presence, we desire and order that both this bishop or his legate and also three monks of the aforesaid monastery... come before us." These prescriptions did not entitle Robert to appeal simply because the decision had

testify against the side he was representing,¹ and yet this episode, by showing that he was by no means a stranger to the affairs of the diocese, gives all the reason to believe that he was in fact the *advocatus episcopalis* for Le Mans, fulfilling the functions of his office.² While it cannot be known whether his actions would have bound the bishopric in the same way as they would if he were armed with the general power of attorney known to us through a formula of this date,³ his appearance nevertheless adds a touch of finality to the proceedings that could not be vitiated by Robert's absence. When, at the close of the trial, he went through the symbolic steps indicating formal abandonment of the bishopric's claims,⁴ the case of St. Calais could be considered at an end for at least the foreseeable future.

The aftermath of the quarrel between Le Mans and St. Calais is intimately bound with a phase of the important case of Rothad of Soissons. Nicolas I and the west-Frankish authorities had been engaged in a dispute over Rothad's deposition ever since the early part of 863. The pope's initial demands that Rothad be sent to Rome with his accusers for a new trial⁵ had been modified when in April Odo brought him, among other

theless essential, while that of the bishop was not. Unlike the episcopal representative, the advocate who pleaded for the king was subject to a temporary appointment (*ibid.*, 23 with n. 4). Mühlbacher seems to have recognized that the *advocatus episcopalis* who appeared at Verberie was a regular official (Mühlbacher, no. 982).

1. Haver, *Quæres* I, 189 : after the royal advocate declared that St. Calais was the king's hereditary property and had been so held, "non solum fragmenta sed etiam recentis annis" (thus referring to the forged charters nos. 1-4 of the St. Calais cartulary [*supra* 315, n. 6], unlike Charles the Bald at the previous session [*supra* 330, n. 2]), three bishops and Count Adalard, who were all survivors from the reign of Louis the Pious, testified in support that Bishop Aldric had briefly held St. Calais at that time, but only as a benefice. The report continues, "Interrogatus quoque idem advocatus episcopi et Witto eius homo id ipsum professi sunt." It seems as though these two witnesses were also responsible for the additional sentence of testimony that follows.

2. As the official charged with exercising public power within immune territory, the advocate was responsible not only to the bishop but also to the king (Lavaur, *loc. cit.* [331, n. 5], col. 1223) ; this may well explain why he could be called upon to testify against the party whom we would consider "his client".

3. Or rather dating from the reign of Louis the Pious, *Formule Senoneses recentiores*, no. 10, ed. K. Zumbach, *M.G.H. Legum sectio V. Formule* (Hannover 1886), 216.

4. Haver, *Quæres* I, 189 : "Unde et se concedidit et nulla principis aut iudicio, easdem res cum quæstia vixit."

5. *M.G.H. EE. VI*, 353-355, nos. 55-56 ; dated 863 *m.*

1. See particularly *ibid.*, 359, no. 57.
 2. *Ibid.*, 359, line 38-360, line 5.
 3. *Annales Bertiniani*, ed. Wartz, 66. Cf. *M.G.H. EE. VI*, 362, no. 58.
 4. *Annales Bertiniani*, ed. Wartz, 711 : "Karolus cum epistolis per Rodbertum Chomannicæ urbis episcopum Romanum, sicut apostolicus iusserat, Rothadum dirigit : sed et episcopi regni eius vicarios suos cum synodicalis litteris de causa ipsius Rothadi ad apostolicam sedem mittunt." The location of this passage does not necessarily imply that the delegation left after Easter, for the *Annales* are not ordered on a strict chronological basis within a given year.
 5. Edd. Parker-Early (*supra* 293, n. 2), 149, no. 169, dated early 864 ; "Videlicet quia cum litteris ad vestram auctoritatem deferendis idem Rothadus iam [i. e. at the time Ludo returned from Rome on 30 Nov. 863] commissus erat eis, qui ad vestram præsentiam illum deducerent." Cf. also 146, lines 25-30.
 6. *M.G.H. EE. VI*, 625 : "Quodsi in eodem iudicio prædictus episcopus Comannensis aliqua necessitate compulsus appellaverit se de hoc in nostra præsentia, iudicium agere, volumus et iubemus tam ipsam episcopum vel legatum eius quamque etiam tres de monachis prædicti monasterii... ad nos... venire."

reasons the *vicarii* gave for turning back. According to him, and no certain opponent barring their way, they deserted so important a mission and uselessly turned back."

Hincmar's version may find some justification in the general political situation, for, as Haller pointed out, the rival Carolingians whom Hincmar mentions would have had some advantage in ensuring Rothad's rehabilitation by preventing the arrival of the royal and episcopal deputies.³ But Nicolas's scornful remarks are telling enough for Haller, who was much inclined to give Hincmar the benefit of the doubt, to add: "Whether [the *vicarii*] did not welcome the opportunity not to have to go to Rome, where nothing good awaited them, and whether they did not all too willingly believe a rumor telling them of closed frontiers, are questions that may be raised but cannot be answered." Robert's appointment to the delegation may offer an additional reason for replying in the affirmative to Haller's questions.

The accompanying letter which Hincmar sent to Pope Nicolas reveals that he had no illusions about the chances the *vicarii* would have of getting Rothad's deposition confirmed.⁵ He outlined the envoys' role in completely ambiguous terms, and it appears certain that no prominent figure associated with the condemnation (such as, for instance, Odo of Beauvais) was delegated to carry the case before the pope. By their own admission, the deputies were not to renew accusations of Rothad before the pope;⁶ and, in this way, Nicolas's desire for a new trial was not to be satisfied. In Hincmar's eyes, Rothad's deposition was a lost cause that was better fought by endless delays than by arguments.

1. *M.G.H. EE*, VI, 386, lines 16-17, no. 69: "dictum illis esse nullum sibi additum Italiam penetrandi prae custodiibus fore."
 2. *Ibid.*, lines 18-20.
 3. *Nicolaus I* (*supra* 308, n. 2), 194.
 4. *Ibid.*
 5. Hincmar, *Epistolae*, edd. Perels-Bertl (*supra* 293, n. 2), 150-158, no. 109; analysis of the letter in Schirbs, *Hincmar (supra* 308, n. 2), 254-257.
 6. *M.G.H. EE*, VI, 387, no. 69: the *vicarii* wrote Nicolas, "quod non ad accusandum Rothadum fuerint a suis antistitibus destinati".

Rather, he was to judge his appeal *in eodem iudicio*, that is, if during the trial itself he found any cause for complaint. Furthermore, Nicolas's consideration for Robert was predicated upon his misconception that the case of St. Calais party opposing Le Mans consisted of the monks of St. Calais. As the facts appeared after Verberie, such a view of the quarrel was unthinkable, and Robert's initial representations to the pope would have been exposed as fraudulent. It is also doubtful that Nicolas would have accepted appellate jurisdiction over conflicting claims to property.¹ None of these considerations argue for the hypothesis that Robert appealed to Rome against the decision of Verberie.

The hypothesis only has in its favor that Robert is definitely found going to Rome in the aftermath of his judicial defeat. If he were indeed appealing, Charles might have thought it convenient to appoint him to be Rothad's escort and royal *vicarius* since he was going in that direction anyway.² Such conjectures face further obstacles in that Robert and the other *vicarii* accompanying Rothad failed to reach their destination:³

To [the *vicarii*] Louis [the German] denied passage. These legates, however, the king's as well as the bishops, secretly informed the pope of the reasons why it was impossible for them to come to Rome. Rothad, pretending illness, stayed in Besançon, whereas the others went back to their homeland; and after the latter had departed, he proceeded by way of Chant, with the help of henchmen of Lothar [I] and King Louis of Germany, to join Louis, emperor of Italy, by whose assistance he was able to reach Rome.

These are the words of Hincmar of Reims in the *Annales Beruini*. Pope Nicolas, for his part, was not impressed by the

1. One might suppose that the episcopal *vicarii* were the three monks of St. Calais also required for the appeal. The idea that they were obscure monks would readily explain why they are nowhere mentioned by name, but these monks were members of the province of Tours, whereas Nicolas's letter, Perels, *ibid.*, no. 69 (*M.G.H. EE*, VI, 386f.) mentioning "III. . . vicarii, qui ab ipsiis suis presbiteris . . . mitti dicebantur" should be taken to refer to members of the province of Reims. Obviously this argument neither proves nor disproves that monks of St. Calais accompanied Robert and Rothad on the journey south.
 2. *Ann. Bert.*, ed. Wartz, 72.

The effect of this new information, especially since it was coupled with the charge that Hincmar, his momentary bugbear, was to playing a leading role in foiling Robert's just demands, was to bias him strongly in favor of the bishopric of Le Mans, but he did not presu^{me} to decide the quarrel in one way or the other. He merely demanded that a trial take place and prescribed the necessary conditions for a thorough airing of the dispute. Finally, at a time that may not be precisely determined, the complete cartulary of St. Calais, with the report of proceedings at Verberie, was transmitted to Nicolas, presumably accompanied by a request that he confirm the privilege (1st version). Since the pope knew perfectly well that Robert of Le Mans had had an excellent opportunity to come to Rome in 864, he had no grounds for doubting that the sentence of Verberie was anything but just, and examination of the notice of judgment would have made it apparent that procedure had been in exact conformity with his instructions. The additional documents in the cartulary, including the foundation charter (which, as we know, is a forgery), could have fully satisfied him that the monastery had always been in the right. His response need only consist in resuming the stand he had taken toward St. Calais in April 863. As a result, the bill then issued was recopied *verbatim*, with a single additional passage to bear witness to the most recent past; and in this compendious way the curtain was lowered over the whole deplorable affair.

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Robert's appointment as Charles's *vicarius* may be interpreted as a measure that was to contribute to this result. He had grossly abused the pope's credulity in the affair of St. Calais, and though his ruse had failed he had compromised the pope in an unjust cause. Doubtless the delegation was provided with not only the Verberie notice of judgment but also the cartulary of St. Calais,¹ which together could scarcely fail to convince Nicolas that he had been Robert's dupe. In short, there was every reason for Robert not to wish to go to Rome. Of all west-Frankish bishops, Charles the Bald and Hincmar could not have chosen a better candidate to ensure the failure of this mission. And, since Robert's eagerness to turn back was largely based on reasons of his own, they would even have avoided bringing upon themselves a charge of collusion.

In the light of these complications, Robert's failure to reach Rome seems more important than that he should have been heading in that direction. Just as the appointment clarifies the attitude of Charles the Bald and Hincmar in naming him to be Rothad's escort, so does Robert's hesitant execution of his commission suggest he had no desire to face Pope Nicolas and complain to him further about St. Calais.² For the rest, the monastery's cartulary and its use in the second version of the St. Calais privilege indicate that Nicolas ultimately received and approved the judgment of Verberie. How this final step came about may be inferred from the addition of the twenty-three line passage to the first version of the St. Calais privilege,³ which, if taken with the other occasions when Pope Nicolas intervened in the dispute, shows that he acted consistently from beginning to end.

As he first issued a privilege to St. Calais in April 863, he could rest certain that he was ratifying the monastery's status as of 855; he was not at the time given any precise idea of the claims alleged by the bishopric of Le Mans. Some weeks later, when he received the complaint of Robert of Le Mans, he was faced with documents that implied a completely different past for St. Calais than the charters produced by Odo of Beauvais had given him to assume.

1. *Supra* 313 with nn. 2-4. Regardless of its specific purpose, the delegation would probably have carried general correspondence from Charles the Bald's court to the pope.
 2. As against the suggestions of SIMSON, *loc. cit.* (289, n. 1), 167f.; FOURNIER, *loc. cit.* (290, n. 5), 155.
 3. *Supra* 311-313.