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Banishing Usury:

The Expulsion of Foreign Moneylenders in Medieval Europe, 1200-1450

A dissertation presented by

Rowan William Dorin

to

the Department of History

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

in the subject of

History

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Banishing Usury:
The Expulsion of Foreign Moneylenders in Medieval Europe, 1200-1450

Abstract

Starting in the mid-thirteenth century, kings, bishops, and local rulers throughout western Europe repeatedly ordered the banishment of foreigners who were lending at interest. The expulsion of these foreigners, mostly Christians hailing from northern Italy, took place against a backdrop of rising anxieties over the social and spiritual implications of a rapidly expanding credit economy. Moreover, from 1274 onward, such expulsions were backed by the weight of canon law, as the church hierarchy—inspired by secular precedents—commanded rulers everywhere to expel foreign moneylenders from their lands. Standing threats of expulsion were duly entered into statute-books from Salzburg to northern Spain.

This dissertation explores the emergence and spread of the idea of expelling foreign usurers across the intellectual and legal landscape of late medieval Europe. Building on a wide array of evidence gathered from seventy archives and libraries, the dissertation examines how the idea of expulsion expressed itself in practice, how its targets came to be defined, and how the resulting expulsion orders were enforced—or not. It shows how administrative procedures, intellectual categories and linguistic habits circulated and evolved to shape the banishment not only of foreign usurers, but of other targets as well, most notably the Jews.

By reconstructing these expulsions and their accompanying legal and theological debates, this dissertation weaves together broad themes ranging from the circulation of merchants and manuscripts to conflicting overlaps in political jurisdictions and commercial practices; from the resilience of Biblical exegesis to the flexibility of legal hermeneutics; and from shifts in political

thought and church doctrine to definitions of foreignness and the limits of citizenship. It reveals the impact of expulsion on the geography of credit in the later Middle Ages and sheds new light on the interpenetration of law and economic life in premodern Europe. Above all, in treating expulsion as contagious and protean, this dissertation frames late medieval Europe as a society in which practices of expulsion that had fallen into abeyance since late antiquity once again reasserted themselves in European practice and thought.

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To my grandparents

Acknowledgments

A photograph of Angeliki Laiou looks down on the desk where most of this dissertation was written. Although she did not live to see its completion, or indeed even its beginning, her presence lingers over every page. While I was still an undergraduate, she introduced me to the economic history of the Middle Ages and, in particular, to the Italian merchants who crossed the Alps and sailed the Mediterranean. So too did she spark my interest in the history of economic thought, the interaction of legal norms and social practice, and the integration of foreigners into their host societies—all themes that loom large in this study. Were it not for her encouragement, I would never have pursued graduate studies in history. Her incomparable example guides me still.

It was at her prompting that I attended a conference in Asti, Italy, in June 2007, organized by what is now the Centro Studi "Renato Bordone" sui Lombardi, sul credito e sulla banca. The impact of that experience is clear from the topic of this dissertation, and I am grateful to the Centro's steering committee for their generous support of my research. I am likewise indebted to the Mellon Foundation, which sponsored my dissertation research through fellowships from the Council on Library and Information Resources and the American Council of Learned Societies. An Arthur Lehman Merit Fellowship from the Graduate School at Harvard University allowed me to make early headway on writing. Harvard's History Department generously offset conference costs and much else beside, and I sincerely appreciate the kindness of all the staff members who have made my eleven years in Robinson Hall such happy ones, especially Janet Hatch, Ann Kaufman, Mary McConnell, and Laura Johnson.

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Abbreviations

AEB	Archives de l'État, Archives ecclésiastiques du Brabant (Louvain-la-Neuve)
AN	Archives nationales (Paris)
ASJ	Shlomo Simonsohn, ed., *The Apostolic See and the Jews,* 8 vols. (Toronto: Pontifical Institute of Mediaeval Studies, 1988-1990)
ASV	Archivio Segreto Vaticano (Vatican City)
BAV	Biblioteca Apostolica Vaticana (Vatican City)
BnF	Bibliothèque nationale de France (Paris)
BSB	Bayerische Staatsbibliothek (Munich)
c.	*canon* or *capitulum*
CCR Henry III	*Calendar of the Close Rolls preserved in the Public Record Office: Henry III (1227-1272)*, 14 vols. (London: H. M. Stationery Office, 1902-1938)
CCR Edward I	*Calendar of the Close Rolls preserved in the Public Record Office. Edward I (1272-1307)*, 5 vols. (London: H. M. Stationery Office, 1900-1908)
Clem.	*Clementinae constitutiones* [=*Corpus iuris canonici*, ed. Emil Friedberg, 2 vols. (Leipzig: Taubnitz, 1879-1881; repr. Graz: Akademische Druck- und Verlagsanstalt, 1959), 2.1125-1200]
CLR	*Calendar of the Liberate Rolls preserved in the Public Record Office,* 6 vols. (London: H. M. Stationery Office, 1916-1964)
CM	Matthew Paris, *Chronica maiora*, ed. Henry Richards Luard, 7 vols. (London: Longman, 1872-1883)
COD	*Conciliorum oecumenicorum decreta*, ed. Giuseppe Alberigo (Bologna: Istituto per le scienze religiose, 1973)
Cod.	*Codex Iustinianus* [=*Corpus iuris civilis*, vol. 2, ed. Paul Krueger (Berlin: Weidmann, 1877)]
CG	*Concilia Germaniae*, eds. Johann Friedrich Schannat and Joseph Hartzheim, 11 vols. (Cologne: Krakamp & Simon, 1759-1790)

CPR Edward I	*Calendar of the Patent Rolls preserved in the Public Record Office. Edward I, A.D. 1272-1307,* 4 vols. (London: H. M. Stationery Office, 1893-1901)
DBM	R. F. Treharne and I. J. Sanders, eds., *Documents of the Baronial Movement of Reform and Rebellion, 1258-1267* (Oxford: Clarendon, 1973)
Dig.	*Digesta* [=*Corpus iuris civilis*, vol. 1, ed. Theodor Mommsen (Berlin: Weidmann, 1872)]
HF	*Recueil des historiens des Gaules et de la France,* eds. Martin Bouquet et al., 24 vols. (Paris, 1738-1904)
Mansi	*Sacrorum conciliorum nova et amplissima collectio*, ed. Gian Domenico Mansi, 53 vols. (Paris: H. Welter, 1901-1927)
MGH SS	*Monumenta Germaniae Historica. Scriptores* (in folio)
MS/MSS	manuscript(s)
Nov.	*Novellae Iustiniani* [=*Corpus iuris civilis,* vol. 3, eds. Wilhelm Kroll and Rudolf Schöll (Berlin: Weidmann, 1895)]
PL	*Patrologiae cursus completus…series Latina*, ed. Jacques-Paul Migne, 221 vols. (Paris: Jacques-Paul Migne, 1844-1864)
PR Henry III	*Patent Rolls of the Reign of Henry III Preserved in the Public Record Office*, 6 vols. (London: H. M. Stationery Office, 1901-1903)
PRO	Kew, National Archives, Public Record Office
PROME	*The Parliament Rolls of Medieval England, 1275-1504,* eds. Chris Given-Wilson et al., 16 vols. (London: National Archives, 2005)
Ord.	*Ordonnances des roys de France de la troisième race…*, eds. Eusèbe Jacob de Laurière et al., 23 vols. (Paris: Imprimerie royale, 1723-1849)
REK	*Die Regesten der Erzbischöfe von Köln im Mittelalter*, ed. Friedrich Wilhelm Oediger, 12 vols. (Bonn: Hanstein, 1901-2001)
RG	*Rôles Gascons, 1242-1307,* ed. Francisque Michel, 3 vols. (Paris: Imprimerie nationale, 1885-1906)
Statuts synodaux	*Les statuts synodaux français du XIII^{e} siècle*, eds. Odette Pontal and Joseph Avril, 6 vols. (Paris: CTHS, 1971-2011)

Synodicon Hispanum	*Synodicon Hispanum*, eds. Antonio García y García et al., 12 vols. (Madrid: Biblioteca de autores cristianos, 1981-[2014])
VI	*Liber sextus* [=*Corpus iuris canonici*, 2.929-1124]
X	*Liber extra/Decretales Gregorii IX* [=*Corpus iuris canonici*, 2.1-928]
ZRG	Zeitschrift der Savigny-Stiftung für Rechtsgeschichte *Germ. Abt.* = Germanistische Abteilung *Kan. Abt.* = Kanonistische Abteilung

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A Note on Usage

Citations: Citations of ancient and medieval legal sources follow the conventional citation system, as spelled out in *Traditio* 11 (1955), 438-39 [=§10.f]. Wherever possible, I have indicated both the document/chapter numbering and the corresponding page/folio numbers.

Dates: All dates are given in "new style," with the New Year beginning on 1 January. Where the dating of a particular text is uncertain but falls within a certain interval, the interval is marked by an "x" (e.g. 1274x1278). Where alternate dates are possible, they are separated with a "/" (e.g. 1274/75).

Manuscripts: Any cited MSS that I have been unable to consult in person or via a microfilm/scanned copy are marked as [*non visu*] in the notes and Bibliography.

Names: Naming conventions are inevitably unsatisfactory, and I have accordingly preferred clarity to consistency. For prominent figures, I have defaulted to the form by which they are best known in English-language scholarship (hence "Antoninus of Florence" but "Bernardino da Siena"). In other instances, I have opted for the most natural vernacular rendering (hence "Giovanni d'Andrea" and "Eustache de Grandcourt"), but this often involves rather arbitrary distinctions (e.g. "Guido Terreni" versus "Guido Terrena" or "Guy de Perpignan"). In any case, wherever the equivalence between various versions of a particular name may not be immediately obvious to the reader, I have given the alternate reading in parentheses after the first mention (e.g. Francesco d'Albano [Franciscus Vercellensis]). I have also endeavored to give birth/death dates, regnal/pontifical dates, or at least an indication of the period in which the person is recorded as being active.

Translations: All translations are my own, except where otherwise noted.

Introduction:

Credit, Contagion and the Rise of an Expelling Society

> *Il popolo di questa terra, il quale sí per lo mestier nostro, il quale loro pare iniquissimo e tutto il giorno ne dicon male, e sí per la volontà che hanno di rubarci, veggendo ciò si leverà a romore e griderrà: 'Questi lombardi cani, li quali a chiesa non sono voluti ricevere, non ci si voglion piú sostenere'; e correrannoci alle case e per avventura non solamente l'avere ci ruberanno ma forse ci torranno oltre a ciò le persone.*
>
> *Because the locals consider our trade wicked and curse it all day long, and because they also want to rob us, they will stir up a ruckus and cry out: 'These Lombard dogs, whom the church refuses to welcome—no longer will we endure them!' And they will raid our houses and perhaps strip us not only of our possessions, but of our lives as well.*
>
> ~Boccaccio, *Decameron*, 1.1.26[1]

In the opening tale of the first day of Boccaccio's *Decameron*, we find two Florentine moneylenders in Burgundy lamenting the impending death of Ser Ciapperello, a notorious usurer memorably described by the narrator as "possibly the worst man ever born." Having welcomed Ciapperello into their home as a favor to a high-ranking friend, the Florentines could hardly now turn him out onto the streets. Yet, as they realize to their alarm, their dying guest was sure to be refused absolution on account of his many wicked deeds, and his unshriven corpse would accordingly be denied burial and tossed into a ditch. The hostile townsfolk were certain to brandish this as a reminder of the Florentines' own sinful practices, and the Florentines would no doubt find themselves assaulted by a greedy and vengeful mob. In the end, however, Ciapperello shows himself to be as unscrupulous on his deathbed as he was during his life: not only does he dupe a gullible friar into granting him absolution and final unction, but he even comes to be

[1] Giovanni Boccaccio, *Decameron*, ed. Vittore Branca (Turin: Einaudi, 1980), 56-57.

venerated as a saint by the local faithful. His Florentine hosts carry on unmolested, and Boccaccio's collection gets off to a suitably irreverent start.

Although the framing of Boccaccio's story is fanciful, its central character was loosely inspired by a certain Ciapperello of Prato, who was active as a notary and tax collector in France starting at least from the late 1280s. He may or may not have been a notorious usurer, and he almost certainly died not in Burgundy, but in his native city of Prato.[2] In his fictional form, however, Ciapperello and his Florentine protectors are emblematic of a broader historical phenomenon, namely, the rapid spread of professional Christian moneylenders across much of western Europe in the thirteenth and fourteenth centuries. In the early decades of the thirteenth century, many of these foreign lenders hailed from Flanders and southern France, but it was northern Italians—those from Tuscany and Piedmont above all—who proved the most successful, the most far-reaching, and the most enduring. Underpinning their rise lay a trio of interlocking trends: the surging growth of trade and commerce, the increasing ease of mobility and migration, and the expanding fiscal needs of princes and prelates (and the taxes imposed to meet them). All of these generated a need for coin and credit that these moneylenders were poised to fulfill—for a price.

The swift appearance of these foreign moneylenders across so much of western Europe is clear proof of the contemporary demand for their services and the profits that could accrue thereby. But this expansion was not without its darker sides. Professional moneylenders in any period face the dangers of defaulting debtors and a measure of popular resentment. Their

[2] For the evidence concerning Ser Ciapperello's late thirteenth-century historical namesake, see Cesare Paoli, "Documenti di ser Ciappelletto," *Giornale storico della letteratura italiana* 5 (1885), 329-69; and John F. Benton, "The Accounts of Cepperello da Prato for the Tax on *Nouveaux acquêts* in the Bailliage of Troyes," in *Culture, Power and Personality in Medieval France,* ed. Thomas N. Bisson (London: Hambledon Press, 1991), 255-74, at 255-58.

medieval counterparts faced a raft of additional occupational hazards. Cash-strapped princes were quick to see moneylenders as ready sources of revenue, whether through forced loans or arbitrary fines, while preachers regularly reminded Christian lenders of the threat of eternal damnation should they fail to make amends for their usurious practices. Most spectacularly, starting in the middle decades of the thirteenth century, kings, popes, and a host of lesser powers repeatedly commanded that foreigners lending at interest be banished from their jurisdictions. Within the kingdom of France alone, a fluctuating blend of moral opprobrium, political expediency, and fiscal concerns prompted at least ten such expulsion orders in the century between 1250 and 1350. And at the insistence of the church hierarchy, which issued a conciliar decree in 1274 calling upon Christian authorities everywhere to expel foreign moneylenders from their lands, expulsion orders were entered into statute-books from Carcassonne to Cologne, and from Salzburg to northern Spain.

To a modern audience, reading backward from later medieval developments, the association between usurers and expulsion brings to mind the repeated expulsion of the Jews. This is hardly surprising, for charges of usurious lending would become a tragically familiar refrain as the Jews were steadily driven from their western European homelands over the course of the late Middle Ages. If we strip ourselves of hindsight's distorting lens, however, a strikingly different pattern comes into focus. Put simply, for much of this period the association between expulsion and foreign (presumed Christian) usurers was fully as strong as that between expulsion and the Jews. In some contexts—in England under Henry III, for example, and in pastoral texts—it was even stronger. Where the weight of Catholic teaching long opposed the expulsion of the Jews, the universal law of the church specifically enjoined the expulsion of foreigners who were openly

lending at usury. Only gradually would these twin currents converge, such that canon law—long a bulwark against expulsions of the Jews—could instead inspire them.

This dissertation is a study of the expulsion of foreign usurers, from its first glimmerings in the middle decades of the thirteenth century to its unforeseen afterlife in the fifteenth. It explores how the idea of expelling foreign usurers emerged simultaneously in multiple locales from differing configurations of anxieties and traditions. It traces how the idea spread across the intellectual and legal landscape of late medieval Europe, how it expressed itself in practice, and how it mutated and evolved along the way. It looks too at the ways in which the resulting expulsions were enforced and how individual episodes of expulsion spurred and shaped those that followed.

The historical canvas is broad, stretching across the whole of western Europe over more than two centuries. Broad, too, are the underlying themes: from the circulation of merchants and manuscripts to conflicting overlaps in political jurisdictions and commercial practices, from the resilience of Biblical exegesis to the flexibility of legal hermeneutics, and from shifts in political thought and church doctrine to definitions of foreignness and the limits of citizenship. Broader still are the implications of these expulsions for understanding the interpenetration of law and economic life in the later Middle Ages. But before we begin to look in earnest at when, why, and how these expulsions arose and spread, we must first take a step back and frame their constituent elements: first the weight of expulsion in medieval life, then the rapid diffusion of foreign merchants and moneylenders in the thirteenth century, and finally the meaning of usury and the anxieties that it provoked.

ଔ

For the men and women of medieval Europe, and for many others before and since, history itself began with a banishment: that of Adam and Eve from Paradise. Although human societies

have developed a roster of other techniques of exclusion, from imprisonment and legal infirmities to disfigurement and death, practices of expulsion continue to feature prominently in the arsenal of modern politics. The twentieth century has rightly been called the "Century of Expulsions," while debates over deportation regularly blaze across contemporary newspaper headlines in Europe, the United States, and beyond.[3]

Notwithstanding the continuing relevance and resonance of such practices, their history has drawn surprisingly little attention from historians, historical sociologists, and the like.[4] Studies of individual episodes and specific practices abound, but there is little in the way of comparative or integrative synthesis. This is true even if we look beyond a specifically historical framework. In a 1972 article, the legal anthropologist Sally Falk Moore observed that "though expulsion is often mentioned in ethnographies, too little attention has been given to the theoretical implications of expulsion as a legal measure in pre-industrial society."[5] Only recently has this begun to change.[6]

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[3] For this phrase, see Gregor Thum, *Uprooted: How Breslau became Wrocław during the Century of Expulsions*, trans. Tom Lampert and Allison Brown (Princeton: Princeton University Press, 2011).

[4] Saskia Sassen's provocative essay, *Expulsions: Brutality and Complexity in the Global Economy* (Cambridge, MA: Harvard University Press, 2014), is a partial exception, but its capacious definition of "expulsion" goes well beyond the practices considered here. In addition, unlike in many of Sassen's other works, her historical lens is here largely restricted to the very recent past. Other recent studies of expulsion are cited below.

[5] Sally Falk Moore, *Law as Process: An Anthropological Approach* (London: Routledge, 1978), 127. The chapter was originally published as "Legal Liability and Evolutionary Interpretation," in *The Allocation of Responsibility*, ed. Max Gluckman (Manchester: Manchester University Press, 1972), 41-107, where the quotation appears at p. 95.

[6] See especially Paul Dresch, "Outlawry, Exile, and Banishment: Reflections on Community and Justice," in *Legalism: Community and Justice*, eds. Fernanda Pirie and Judith Scheele (Oxford: Oxford University Press, 2014), 97-124.

The general lack of scholarly attention to the forms and implications of expulsion is all the more striking when compared to the explosion of studies on its converse, namely, confinement.[7] Over the past forty years, scholars of nearly every place and period have mapped the emergence, growth, and global dissemination of practices of confinement, tracing how we have moved from a premodern world in which incarceration was exceptional, or even unknown, to one in which it is endemic. Many of the resulting studies have also sought to illuminate the historical connections between different forms of confinement, such as the influence of monastic discipline on later European models of imprisonment, or the Nazi appropriation of British colonial institutions for the development of concentration camps.[8]

Meanwhile, expulsion is treated either as the archetypal expression of exclusion, and hence devoid of historical specificity, or else its constitutive practices are examined in isolation from one another, obscuring their potential connections and shared influences. As a result, we have excellent studies of ostracism in classical Athens or exile in Qing China or deportation in modern America, to name but a few.[9] Much rarer is scholarship that brings together the variety of

[7] It is possible, of course, to classify confinement as a form of expulsion, rather than its complement; in this reading, wrongdoers are banished "to" prisons rather "from" a given space. One could also follow many modern criminologists in classifying both banishment and imprisonment under the general heading of "incapacitative sanctions"; see Terance D. Miethe and Hong Lu, *Punishment: A Comparative Historical Perspective* (Cambridge: Cambridge University Press, 2005), 30-33.

[8] For some recent examples (among a vast literature), see the essays gathered in *Enfermements: Le cloître et la prison (VI^e^-XVIII^e^ siècle)*, eds. Isabelle Heullant-Donat, Julie Claustre, and Élisabeth Lusset (Paris: Publications de la Sorbonne, 2011); Laleh Khalili, *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford: Stanford University Press, 2013); as well as Aidan Forth's forthcoming study of concentration camps in the British colonies and their institutional offspring.

[9] Sara Forsdyke, *Exile, Ostracism, and Democracy: The Politics of Expulsion in Ancient Greece* (Princeton: Princeton University Press, 2005); Joanna Waley-Cohen, *Exile in Mid-Qing China: Banishment to Xinjiang, 1758-1820* (New Haven: Yale University Press, 1991); Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2007).

practices that the English language divides up (quite arbitrarily) between the terms banishment, exile, deportation, and so forth.[10]

To be sure, there are important distinctions between the practices themselves, even if these map awkwardly onto modern and premodern vocabularies. An expulsion might be temporary or permanent, individual or collective, legally mandated or arbitrarily imposed. The target might be banished to a particular place, or the space of expulsion might be left open-ended. Expulsion might be a penalty in and of itself, or it might be an institutionalized means of avoiding a still-graver penalty. As William Walters stressed, in a provocative study of modern deportation and its historical analogs, "there is no singular expulsion."[11] Yet all of these practices, as with any social practice, have their histories, and it is worth considering that many of these histories may be shared—or at least connected.

The latter point is especially true where the Middle Ages are concerned. To begin with, by the early fourteenth century, banishment (and analogous practices) had become a pervasive feature of civic life throughout western Europe, due in part to the social transformations effected by rapid urbanization.[12] At the level of individuals, we find it imposed for debt, contumacy, heresy, leprosy, petty crime, political missteps, prostitution, sodomy, vagabondage, and a host of

[10] For stimulating exceptions to the general absence, see Robert Jacob, "Bannissement et rite de la langue tirée au Moyen Âge: Du lien des lois et de sa rupture," *Annales. Histoire, Sciences Sociales* 55 (2000), 1039-79; William Walters, "Deportation, Expulsion, and the International Police of Aliens," *Citizenship Studies* 6 (2002), 265-92; Benjamin Gray, "From Exile of Citizens to Deportation of Non-Citizens: Ancient Greece as a Mirror to Illuminate a Modern Transition," *Citizenship Studies* 15 (2011), 565-82; and Dresch, "Outlawry, Exile, and Banishment."

[11] Walters, "Deportation, Expulsion," 272.

[12] Hanna Zaremska, *Les bannis au Moyen Âge*, trans. Thérèse Douchy (Paris: Aubier, 1996); Nicole Gonthier, "Les bannis en Lyonnais à la fin du moyen âge," *Mentalités* 4 [=*Les marginaux et les autres*] (1990), 35-48.

other misdeeds.[13] Although the chronology of each of these types varies considerably, as does its relative frequency vis-à-vis other sanctions, banishment's prominence in late medieval society is indisputable. Indeed, whatever one may think of R. I. Moore's influential depiction of high and late medieval Europe as a "persecuting society," it was certainly an expelling one.[14]

[13] Needless to say, the literature on each of these groups (and in some cases, all of them together) is vast, and the following references are intended only as general orientation. For the expulsion of debtors, see Jean-Louis Gaulin, "Les registres de bannis pour dettes à Bologne au XIII^{e} siècle: une nouvelle source pour l'histoire de l'endettement," *Mélanges de l'École française de Rome. Moyen Âge* 109 (1997), 479-99; and Sébastien Hamel, "Bannis et bannissement à Saint-Quentin aux derniers siècles du moyen âge," *Hypothèses: Travaux de l'École doctorale d'histoire de l'Université Paris I Panthéon-Sorbonne* 1 (2003), 123-33. For contumacy, see Joanna Carraway, "Contumacy, Defense Strategy, and Criminal Law in Late Medieval Italy," *Law and History Review* 29 (2011), 99-132; Daniel Lord Smail, "Violence and Predation in Late Medieval Mediterranean Europe," *Comparative Studies in Society and History* 54 (2012), 7-34. For heresy, see the examples gathered in Peter D. Diehl, "Overcoming reluctance to prosecute heresy in thirteenth-century Italy," in *Christendom and its Discontents: Exclusion, persecution, and rebellion, 1000-1500*, eds. Scott L. Waugh and Peter D. Diehl (Cambridge: Cambridge University Press, 1996), 47-66; Julien Havet, "L'hérésie et le bras séculier au Moyen Âge jusqu'au treizième siècle," *Bibliothèque de l'École des chartes* 41 (1880), 488-517, 570-607, especially at 572-93; and R. I. Moore, *The War on Heresy* (Cambridge, MA: Harvard University Press, 2012). For the expulsion of lepers, see Françoise Bériac, *Histoire des lépreux au Moyen Âge: une société d'exclus* (Paris: Imago, 1988); together with the more skeptical remarks of Carol Rawcliffe, *Leprosy in Medieval England* (Woodbridge, UK: Boydell Press, 2006). For the expulsion of criminals, see Zaremska, *Bannis au Moyen Âge*; and William C. Jordan, *From England to France: Felony and Exile in the High Middle Ages* (Princeton: Princeton University Press, 2015). For expulsion as a tool of political factionalism, especially in Italy, see in the first instance Giuliano Milani, *L'esclusione dal comune: conflitti e bandi politici a Bologna e in altre città italiane tra XII e XIV secolo* (Rome: Istituto storico italiano per il medio evo, 2003); Christine Shaw, *The Politics of Exile in Renaissance Italy* (Cambridge: Cambridge University Press, 2000); and Fabrizio Ricciardelli, *The Politics of Exclusion in Early Renaissance Florence* (Turnhout: Brepols, 2007). For the expulsion of prostitutes, see James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 105, 463; Lydia Otis-Cour, *Prostitution in Medieval Society: the History of an Urban Institution in Languedoc* (Chicago: University of Chicago Press, 1985), 27-29. For expulsion as a punishment for sodomy, see *Il Constituto del Comune di Siena dell'anno 1262*, ed. Ludovico Zdekauer (Milan: Hoepli, 1897), 53-54 [=cc. 118, 122], imposing banishment on "heretics, Patarenes, and sodomites." For vagabondage, see Bronisław Geremek, "La lutte contre le vagabondage à Paris aux XIV^{e} et XV^{e} siècles," in *Ricerche storiche ed economiche in memoria di Corrado Barbagallo*, ed. Luigi de Rosa, 3 vols. (Naples: Edizioni scientifiche italiane, 1970), 2.211-36; and Esther Cohen, "Vagabondage a Paris au XIV^{e} siècle: analyse conceptuelle," *Le Moyen Âge* 88 (1982), 293-313.

[14] See R. I. Moore, *The Formation of a Persecuting Society: Power and Deviance in Western Europe, 950-1250* (Oxford: Blackwell, 1987). Guy Geltner and others have rightly noted the rise of punitive imprisonment starting in the early fourteenth century, but banishment—and fines—long remained the dominant forms of punishment. See Guy Geltner, *The Medieval Prison: A Social History* (Princeton: Princeton University Press, 2008), 105, 108; and Edward M. Peters, "Prison before the Prison: the Ancient and Medieval Worlds," in *The Oxford History of the Prison: the Practice of Punishment in*

No less striking, as Benjamin Kedar observed two decades ago, is the fact that the high and later Middle Ages also witnessed a surge in "mass" (or better, "collective") expulsions, to wit, those in which entire categories of targets were driven beyond the boundaries of the expelling authority. Moreover, as Kedar argued, such expulsions became a characteristic feature of political practice, "an institutionalized mode of action that has no real parallels elsewhere."[15]

The Jews are the most dramatic and well-known targets of these expulsions. Starting with their temporary banishment from the French royal domain in 1182, the Jews were hounded from almost every corner of western Europe over the course of the later Middle Ages. In light of these expulsions, coupled with those of the Moriscos at the very end of the Middle Ages, it is unsurprising that most scholars studying "mass/collective expulsion" in more recent periods have characterized its early history as predominantly religious in nature.[16]

In terms of the numbers of those affected, this characterization is fair enough. The most recent estimates for the Jewish population expelled from France in 1306 at the order of Philip the Fair suggest a minimum of 100,000, a figure that dwarfs all other late medieval expulsions

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Western Society, eds. Norval Morris and David J. Rothman (Oxford: Oxford University Press, 1995), 3-43.

[15] Benjamin Z. Kedar, "Expulsion as an Issue of World History," *Journal of World History* 7 (1996), 165-80, at 178-79. The notion of a "collective" expulsion is drawn from modern international law. In an effort to avoid the quantitative indeterminacy of the phrase "mass expulsion," international law distinguishes between the expulsion of an individual (*ut singuli*), which is permitted subject to various procedural and legal qualifications, and the expulsion of a category of persons (*ut universi*), which is generally forbidden. See Richard Perruchoud, "L'expulsion en masse d'étrangers," *Annuaire français de droit international* 34 (1988), 677-93, at 678-79; Jean-Marie Henckaerts, *Mass Expulsion in Modern International Law and Practice* (The Hague: Nijhoff, 1995); and, more generally, Guy S. Goodwin-Gill, *International Law and the Movement of Persons Between States* (Oxford: Clarendon, 1978). It is worth noting that the distinction between collective and individual expulsion is problematic even in modern law, given that it relies on an essentially proceduralist framework that does not always map neatly onto practice..

[16] See, for instance, Dirk Hoerder, *Cultures in Contact: World Migrations in the Second Millennium* (Durham N.C.: Duke University Press, 2002), 92-107; Ariel Salzmann, "Is there a Moral Economy of State Formation? Religious Minorities and Repertoires of Regime Integration in the Middle East and Western Europe, 600-1614," *Theory and Society* 39 (2010), 299-313, especially at 300; Walters, "Deportation, Expulsion," 271, drawing largely on Kedar's work.

(whether of Jews or any other targeted group).[17] Yet if we look not at the number of those expelled, but rather at the frequency of expulsions, then characterizing premodern expulsions as predominantly religious obscures their considerable variety. Although religious difference was undoubtedly a driving factor in the expulsions of Jews and heretics during the thirteenth century and afterward, the same cannot be said of the collective expulsions of lepers and prostitutes that we find during the same period. Nor does religion feature largely in the repeated expulsions *en masse* of migrants and other foreigners, whether in times of famine, plague, war, or political upheaval. And as the following chapters will make clear, whatever the religious arguments in favor of expelling foreign usurers, the resulting expulsions can hardly be said to fall neatly along religious faultlines. A more capacious understanding of premodern expulsions is needed.

Kedar is surely correct to interpret the rise in collective expulsions during this period as resulting, at least in part, from the conjunction of a new "vision of a regenerated, reformed Christian society" and "the growing tendency of increasingly powerful secular rulers to accentuate their responsibility for the spiritual as well as the physical wholesomeness of their realms."[18] Such an explanation privileges the assumption that changes in social practice arise from changes in beliefs, whether at the level of society as a whole, or at that of individual rulers and their entourages.[19]

One can imagine, however, a different approach toward the rise of expelling practices, one that focuses not on shifts in underlying mentalities, but instead on the relationships between the

[17] Céline Balasse, *1306: L'expulsion des Juifs du royaume de France* (Brussels: de Boeck, 2008), 60 n.14.

[18] Kedar, "Expulsion," 176-77.

[19] There are obvious, if unstated, Durkheimian overtones to this argument; see, in particular, Émile Durkheim, "Deux lois de l'évolution pénale," *Année Sociologique* 4 (1899-1900), 65-95.

practices themselves and the pathways by which they spread.[20] Here the assumption is that shifts in social practices correspond not only to broader shifts in social structures and patterns of thought, but also to the ways in which the practices themselves could replicate themselves and interact with one another. In other words, new practices can arise not only from new mentalities, but also (in thought) from the circulation and (in action) from the emulation of existing practices. Expulsion—like any other social practice—could be contagious. And in the process of spreading, its forms and targets could change, sometimes radically. To understand the rise of expelling practices, we must accordingly look at not only the conditions of their emergence but also the dynamics of their diffusion. In other words, before we can ask "why" ideas and practices of expulsion became so widespread in the late Middle Ages, we must first determine "how" the diffusion itself occurred.[21]

The expulsion of foreign usurers offers a fertile testing ground for such an approach. To begin with, its initial appearance in European practice can be neatly pinpointed in the thirteenth century, making its early rise and diffusion much easier to trace than, say, the expulsion of lepers, which had well-known Biblical antecedents and an accordingly broad textual basis. In

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[20] The theoretical literature on what David Strang calls "diffusion studies" is vast and remains mostly undigested by medieval historians, notwithstanding the use that theorists of diffusion have made of medieval examples. For the early development of this field within anthropology and sociology, see the entries by Ronald Stade ("Diffusion: Anthropological Aspects") and Norbert Alter ("Diffusion, Sociology of") in *The International Encyclopedia of the Social and Behavioral Sciences*, 26 vols. (Amsterdam: Elsevier, 2001), at 6:3673-76 and 6.3681-84, respectively. For the relationship (or rather, the gap) between these fields and corresponding theories of legal reception and transplantation, see William Twining, "Social Science and the Diffusion of Law," *Journal of Law and Society* 32 (2005), 203-40. See also David Strang and Sarah A. Soule, "Diffusion in Organizations and Social Movements: From Hybrid Corn to Poison Pills," *Annual Review of Sociology* 24 (1998), 265-90.

[21] I have been particularly inspired by Michael Tonry's "Symbol, Substance and Severity in Western Penal Policies," *Punishment and Society* 3 (2001), 517-36, and by related work on what criminologists (and others) refer to as "policy transfer," some notable examples of which are cited in the Bibliography. I would like to thank Chris Muller for introducing me to Tonry's work, and for lively conversations on this and countless other topics.

addition, as we shall see, the motivations and anxieties underpinning these expulsions straddled the secular and ecclesiastical spheres, and the resulting tensions provoked theoretical quandaries and practical conflicts. Furthermore, the fact that the foreigners being expelled for usury were often wealthy or well established within both their home and host communities means that their expulsion usually left more documentary traces than did expulsions of prostitutes, beggars, and the like. It helps, too, that the areas where foreigners were most active as moneylenders are comparatively rich in surviving sources; although these are invariably scantier than one would like, they nevertheless offer glimpses into actual practices of expulsion and their aftermath. All of this will become clearer in the chapters that follow, but let us first look at who these foreigners were, and what it is that purportedly prompted their expulsion.

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In 1336, a Burgundian count welcomed into his lands a family of Piedmontese moneylenders. In return for an annual payment of 100 *livres d'estevenants*, the new settlers, whom the charter describes as "Lombards, citizens and merchants of Asti (*lombars, citiains et mercheanz dAst*)," were to enjoy for fifteen years the right to "lend their money (*prester lour pecune*)" within the territory of Montbéliard.[22] The count bolstered this privilege with a litany of immunities, exemptions, and safeguards, among them an explicit promise that he would ignore any orders from the pope or any other prince to arrest the newcomers or seize their property. The count further assured them that he would not allow "any merchant of Ypres, Cahors, or Provence, nor any Tuscans, Jews, or other Lombards, nor anyone else who lends money (*nul*

[22] *Estevenant* refers to the coinage minted by the archbishop of Besançon, which circulated widely in the county of Burgundy and neighboring lands throughout the later Middle Ages. The *livre estevenant* was consistently worth less than the *livre tournois*, but their relative values varied considerably over the period. See Jean Marc Debard, *Les monnaies de la principauté de Montbéliard du XVI^e au XVIII^e siècle: essai de numismatique et d'histoire économique* (Paris: Les Belles Lettres, 1980), 18-20.

mercheant ypsain, corsin, provenceal, tusquain, juefs ne autres lombars, ne nul autre qui prestoit sa pécune)," to settle within his lands, save a certain "Sanche the Jew" and his associates.[23]

This charter exemplifies many of the characteristic features of professional moneylending in the later Middle Ages, an occupation whose practitioners fell at the center of medieval debates over the moral and religious implications of a rapidly expanding credit economy and its associated practices. In many parts of western Europe, engaging in such activities required a formal license from a local authority, which the lenders secured with the promise of generous annual payments. The charter's assurances of protection against the forcible intervention of other ecclesiastical or secular authorities reflects a caution born from experience, and so too do the many other privileges and exemptions that the moneylenders negotiated for themselves. In addition, the Montbéliard charter's monopoly clause, with its enumeration of potential competitors, highlights the degree to which professional moneylending in the thirteenth and fourteenth centuries was the preserve not just of Jews, but also of Christians originating from particular regions, especially southern France and northern Italy.

Recent scholarship, it bears noting, has stressed the pervasiveness of credit-debt relationships across the entire social spectrum of medieval Europe. Highlighting the wide variety of credit arrangements and the centrality of local lending networks, historians have pushed back against a vision of the late medieval economy that saw monetary credit as a scarce commodity, with Jews and Lombards its only—and much maligned—providers.[24] Even where lending at interest is

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[23] Montbéliard (1336): in George-Auguste Matile, ed., *Monuments de l'histoire de Neuchâtel* (Neuchâtel: Attinger, 1848), 428-435, at 431 [=no. 410].

[24] Representative works include Valentin Groebner, *Ökonomie ohne Haus: zum Wirtschaften armer Leute in Nürnberg am Ende des 15. Jahrhunderts* (Göttingen: Vandenhoeck & Ruprecht, 1993), esp. 190-217; Julie Claustre, *Dans les geôles du roi: l'emprisonnement pour dette à Paris à la fin du Moyen-Âge* (Paris: Publications de la Sorbonne, 2007); Marc Boone, "Le crédit financier dans les villes de Flandre (XIV^{e}-XV^{e} siècles): typologie des crédirentiers, des créditeurs et des techniques de financement,"

concerned, close studies of administrative records have revealed widespread clandestine interest-taking among non-professional lenders, amply bearing out the theologians' fears that usury was running rampant in all sectors of society.[25] Taken collectively, this scholarship has made it clear that the landscape of medieval credit extends far beyond professional moneylending.

Yet whatever the relative weight of their contribution, professional moneylenders—Jewish and Christian alike—were vital nodes within the social and economic systems of the towns and regions they served. Their centrality is apparent not only in the sweeping geographic scope of their operations and the conspicuous wealth generated thereby, but also in the popular laments that sometimes followed their expulsion, bemoaning the sudden scarcity of credit and coin.[26] It is equally apparent in the anxieties of medieval authorities: as we will see in the first three chapters,

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Barcelona. Quaderns d'història 13 (2007), 59-78; Chris Briggs, *Credit and Village Society in Fourteenth-Century England* (Oxford: Oxford University Press, 2009); Martha C. Howell, *Commerce before Capitalism in Europe, 1300-1600* (Cambridge, UK: Cambridge University Press, 2010), esp. 25-29, 70-78; Claude Denjean, *La loi du lucre. L'usure en procès dans la couronne d'Aragon à la fin du Moyen Âge* (Madrid: Casa de Velázquez, 2011); Cezary Kardasz, *Rynek kredytu pieniężnego w miastach południowego pobrzeża Bałtyku w późnym średniowieczu (Greifswald, Gdańsk, Elbląg, Toruń, Rewel)* (Toruń: Towarzystwo Naukowe, 2013), with English summary at pp. 463-67. For a synthesis of recent work on rural credit (along with further bibliography), see the studies in *Dynamiques du monde rural dans la conjoncture de 1300. Échanges, prélèvements et consommation en Méditerranée occidentale*, eds. Monique Bourin, François Menant, and Lluís To Figueras (Rome: École française de Rome, 2014). For the active involvement of women in credit networks, see the essays gathered in *Dare credito alle donne: Presenze femminili nell'economia tra medioevo ed età moderna,* eds. Giovanna Petti Balbi and Paola Guglielmotti (Asti: Centro studi 'Renato Bordone' sui Lombardi, sul credito e sulla banca, 2012). For an early medieval perspective, see François Bougard, "Le crédit dans l'Occident du haut Moyen Âge: documentation et pratique," in *Les élites et la richesse au haut Moyen Âge*, eds. Jean-Pierre Devroey, Laurent Feller, and Régine Le Jan (Turnhout: Brepols, 2010), 440-78.

[25] See, among many, Jacques Bolsée, "Une enquête sur les usuriers dans l'ammanie de Bruxelles en 1393," *Bulletin de la Commission royale d'histoire* 102 (1937), 141-210; Christopher Vornefeld, "Einheimische und lombardische Wucherer im Frankreich von Charles VI. Eine neue Quelle zur Sozialgeschichte des Wuchers," *Journal of Medieval History* 15 (1989), 269-87.

[26] For Lombard examples, see Raymond de Roover, *Money, Banking and Credit in Medieval Bruges: Italian Merchant-Bankers, Lombards and Money-Changers. A Study in the Origins of Banking* (Cambridge, MA: Mediaeval Academy of America, 1948), 150. For Jewish ones, see James Parkes, *The Jew in the Medieval Community: A Study of his Political and Social Position*, 2nd ed. (New York: Hermon Press, 1976), 336-38; and Marjorie Grice-Hutchinson, *Early Economic Thought in Spain, 1177-1740* (London: Allen & Unwin, 1978), 53.

throughout the thirteenth century (and even beyond), both secular and ecclesiastical measures against usury largely spared those lending at interest on a sporadic or clandestine basis, targeting instead the Jews and foreigners who made such lending a core part of their public, professional activities.

The identities and activities of these Jewish moneylenders are well understood, for Jewish moneylending in the high and late Middle Ages has been a topic of intense study for over a century. Although scholars have recently called into question earlier assumptions about the extent of Jewish lending in the high Middle Ages, there is no doubt that lending at interest played a dominant role in the economic life of Jewish communities in most parts of western Europe from the thirteenth century onward. It is abundantly clear that the medieval church's teaching on usury was an imperfect deterrent to Christian lending, and it is equally clear that Jews (at most times, and in most places) were not as excluded from other occupations as was traditionally believed. Nevertheless, there is little doubt that the Jews' comparative freedom to lend at interest, coupled with the increasing restrictions on their legal and economic freedom in other spheres, played a significant role in spurring many Jews to take up moneylending as a profession.[27]

Our understanding of their foreign Christian counterparts is rather murkier, which reflects as much the complexity of medieval realities as the concerns of modern scholars. Starting in the early thirteenth century, we begin to find scattered references to moneylenders from Arras, who seem to have been active throughout Flanders and northern France. We also find increasing references to moneylenders from the southern French town of Cahors, who not only competed with those from Arras in their cloth-producing heartlands, but also gained a foothold in England

[27] See the essays gathered in Michael Toch, ed., *Wirtschaftsgeschichte der mittelalterlichen Juden. Fragen und Einschätzungen* (Munich: Oldenbourg, 2008).

and the Rhineland. Starting in the second quarter of the century, however, moneylenders from northern Italy—above all the Astigiani and their Piedmontese neighbors, but also Florentines, Sienese, Piacenzans, and others—began to establish themselves across the Alps, frequently building off existing mercantile networks. Within a matter of decades these newcomers had become preeminent within the kingdom of France, the Low Countries, Burgundy, the Rhineland, and Savoy.[28] In addition, the middle years of the thirteenth century saw Tuscan lenders—many of them driven into exile on account of factional divides in their native cities—setting up operations across central Italy, followed by northeastern parts of the peninsula, where they were joined by others from Piedmont and Lombardy.[29] By the year 1300, Italian moneylenders had therefore established themselves across vast swathes of western Europe, both in Italy itself and across the Alps.[30] Indeed, the impact of their geographic diffusion is still visible in the urban

[28] See, in general, Renato Bordone and Franco Spinelli, eds., *Lombardi in Europa nel Medioevo* (Milan: Francoangeli, 2005).

[29] For central Italy, see (among many) Guido Zaccagnini, "I banchieri pistoiesi a Bologna e altrove nel sec. XIII," *Bullettino Storico Pistoiese* 20 (1918), 26-55, 131-44, 188-204; 21 (1919), 35-46, 96-207; 22 (1920), 25-38; Armando Sapori, "L'usura nel Dugento a Pistoia," *Studi medievali* n.s. 2 (1929), 208-16; and Maria Emilia Garruto, "Prestatori ebrei e prestatori cristiani nella San Gimignano del Trecento," *Miscellanea storica della Valdelsa* 321/323 (2012), 121-52. For northeastern Italy, see Camillo de Franceschi, "Esuli fiorentini della campagnia di Dante: Mercanti e prestatori a Trieste e in Istria," *Archivio storico veneto*, ser. 5, 23 (1938), 83-178; Anna Maria Nada Patrone, "Uomini d'affari fiorentini in Tirolo nei secoli XIII e XIV," *Archivio storico italiano* 21 (1963), 166-236; Miriam Davide, "Prestatori toscani a Cividale nel XIV secolo: mercato del denaro e practiche creditizie," *Archivio storico italiano* 167 (2009), 419-41; Miriam Davide, "Modalità di insediamento di tre minoranze nel Friuli tardomedievale: ebrei, lombardi e toscani," in *Cultura cittadina e documentazione. Formazione e circolazione di modelli, Bologna, 12-13 ottobre 2006*, ed. A. L. Trombetti Budriesi (Bologna: CLUEB, 2009), 41-58; and the essays gathered in *I toscani in Friuli. Atti del Convegno (Udine, 26-27 gennaio 1990)*, ed. Alessandro Malcangi (Florence: Olschki, 1992). For reasons that pertain more to scholarly habits than analytic grounds, studies of foreign moneylenders in central and northeastern Italy rarely treat them in the same breath as the "Lombards" active in transalpine markets, and vice versa. I have tried to overcome this in what follows, though I freely confess that historiographical divisions die hard.

[30] The grounds for their conspicuous absence from the lands of the Crown of Aragon and elsewhere in the Iberian peninsula remain unclear. It is true, as Bordone (*Lombardi in Europa*, 29) notes, that we do not yet have studies of the Astigiani presence in these regions. Having spent three months scouring the royal and notarial archives in Barcelona and Mallorca, however, I am increasingly convinced that there was no such presence, at least where moneylending activity is concerned.

topographies of twenty-first-century Europe: London's Lombard Street is merely the most famous of the many streets and districts that bear the name by which these Italian moneylenders were commonly known.

The term "Lombard" is itself part of the reason for lingering uncertainties about the spread and activities of these Italian moneylenders, especially before the fourteenth century. Among modern scholars, when it is not being used in a strictly geographical sense (i.e. to refer to those hailing from the region of Lombardy), or in an early medieval context (where it refers to the Germanic tribe that conquered much of Italy in the late sixth century), it generally denotes the northern Italians, especially those from Piedmont, who settled across the Alps to lend at interest on a professional basis and who operated a *table de prêt* (i.e. a public lending operation) under the aegis of an official license from the competent authorities. It is in this relatively circumscribed sense that the term will be used below.

Medieval usage was not nearly so tidy.[31] Administrative records from thirteenth-century France use "Lombard (*lombardus/lombart*)" to designate any Italian within the kingdom, whatever his occupation or origin. In fourteenth-century England, the term could describe any Italian who was active in commerce. Outside of England and France, it swiftly developed an exclusive association with licensed moneylending, but even here there was room for considerable ambiguity. In Cologne, for example, it is used to refer to all Christian moneylenders, while elsewhere in Germany and in Flanders it signified almost exclusively those hailing from Asti and other towns in Piedmont. In late fourteenth-century Burgundy, furthermore, the "Lombards" of Dijon appear to have little (if anything) to do with

[31] For what follows, I have drawn mainly on Renato Bordone, "I 'lombardi' in Europa. Primi risultati e prospettive di ricerca," *Società e storia* 63 (1994), 1-17, at 4-9, which offers the clearest discussion of the various meanings of "Lombard."

moneylending, and were serving instead as ducal financiers. As Richard Goldthwaite recently observed, "the term *Lombard*, in short, no more implied a distinction between petty moneylenders and merchant-bankers than it designated the specific part of Italy these men came from."[32] Meanwhile, the term "Cahorsin (*Caorsinus/Caorsin/Kawertschen*)" gradually shed its association with the actual moneylenders of Cahors, and instead came to refer to foreign (Christian) moneylenders in general.[33] For both terms, moreover, we often lack sufficient context to determine in what sense they are being used, especially before the fourteenth century when usage largely crystallized within genres and regions.

Complicating matters still further, contemporary sources (especially in the thirteenth century) often describe these foreign moneylenders simply as "merchants (*mercatores/mercheanz*)." In some cases, this might hint at a willful caginess concerning the nature of their activities. On the whole, however, the fact that this is more common in the thirteenth century than afterward suggests that the definition of "merchant" was more capacious in this earlier period, and that it could embrace the nascent category of "moneylender" rather than simply being in apposition (let alone opposition) to it. This certainly aligns with intellectual trends; in the late thirteenth century, as Giacomo Todeschini has shown, theologians and other learned commentators were only just

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[32] Richard A. Goldthwaite, *The Economy of Renaissance Florence* (Baltimore: Johns Hopkins University Press, 2009), 208.

[33] Noël Denholm-Young, "The Merchants of Cahors," *Medievalia et Humanistica* 4 (1946), 37-44; Philippe Wolff, "Le problème des Cahorsins," *Annales du Midi* 62 (1950), 229-38; Yves Renouard, "Les cahorsins, hommes d'affaires français du XIII^{e} siècle," *Transactions of the Royal Historical Society,* ser. 5, 11 (1961), 43-67; Natalie Fryde, "Die Kaufleute aus Cahors im England des 13. Jahrhunderts," in *Kredit im spätmittelalterlichen und frühneuzeitlichen Europa*, ed. Michael North (Cologne: Böhlau, 1991), 25-38; Carlos Wyffels, "Les cahorsins en Flandre au XIII^{e} siècle," *Annales du Midi* 103 (1991), 307-21; and Alexandre Martinez, "'Cahorsins': un problème historique," *Bulletin de la Société des études littéraires, scientifiques et artistiques du Lot* 126 (2005), 7-21. For the semantic shift from "Cahorsin" to "Lombard" in Savoy around 1300, see Luisa Castellani, "Amédée V et les 'lombards' piémontais en Savoie. Relations politiques et économiques," *Études savoisiennes* 7-8 (1997-98), 27-49, at 44.

beginning to articulate a vision of Christian economic ethics that distinguished "virtuous" merchants from usurers and other suspect classes, on which more below.[34]

But this broader thirteenth-century understanding of "merchant" also corresponds to economic realities. To begin with, there is considerable evidence showing that many of the foreigners who were principally active as moneylenders did not shy from engaging in other commercial pursuits. The converse is also true, namely, that many of those whose principal commercial interests lay elsewhere nevertheless lent money at interest on a regular basis.[35] Still others shifted their focus from one activity to another over the course of their careers, most notably Gandolfo Arcelli, a Piacenzan merchant in Paris whose extraordinary wealth repeatedly placed him at the top of the city's tax rolls in the 1290s. Between his arrival in Paris sometime before 1288 and his death in 1300, he shifted his interests from the cloth trade and other traditional mercantile pursuits toward lending at interest, extending loans to cities (such as Rouen and Pontoise), leading aristocrats (including the counts of Artois and Flanders), royal officials,

[34] Giacomo Todeschini, *I mercanti e il tempio: la società christiana e il circolo virtuoso della richezza fra medioevo ed età moderna* (Bologna: il Mulino, 2002); and *idem*., "Morale economica ed esclusione sociale nelle città di mercato europee alla fine del Medioevo (XIII-XV secolo)," in *El mercat. Un món de contactes i intercanvis* (Lleida: Pagès editors, 2014), 43-56.

[35] For example, see Enrico Fiumi, "L'attività usuraria dei mercanti sangimignanesi nell'età comunale," *Archivio storico italiano* 119 (1961), 145-62, esp. at 160; Thomas Blomquist, "The Early History of European Banking: Merchants, Bankers and Lombards of Thirteenth-Century Lucca in the County of Champagne," *Journal of European Economic History* 14 (1985), 520-36, at 529-33; Winfried Reichert, "Lombarden als 'merchant-bankers' im England des 13. und beginnenden 14. Jahrhunderts," in *Landesgeschichte als multidisziplinäre Wissenschaft: Festgabe für Franz Irsigler zum 60. Geburtstag*, eds. Dietrich Ebeling et al. (Trier: Porta Alba, 2001), 77-134; Joseph Shatzmiller, *Shylock Reconsidered: Jews, Moneylending, and Medieval Society* (Berkeley: University of California Press, 1990), 90; Massimo Giansante, *L'usuraio onorato: credito e potere a Bologna in età comunale* (Bologna: il Mulino, 2008); Germana Albertani, *Città, cittadini, denaro. Il prestito cristiano a Bologna tra Due e Trecento* (Bologna: CLUEB, 2011); David Kusman, *Usuriers publics et banquiers du prince: le role économique des financiers piémontais dans les villes du duché de Brabant (XIII^{e}-XIV^{e} siècle)* (Turnhout: Brepols, 2013).

and a mix of local merchants and artisans.[36] Moreover, it is clear from the language of many thirteenth-century documents concerning Lombards that moneylending was often seen as a branch of mercantile activity, rather than a different class of activity altogether. In 1265, for example, two quittances of loans from two Astigiani moneylenders in Burgundy described them as "citizens of Asti, merchants accustomed to operating a *table-de-prêt* (*citains d'Aist, mercheanz qui soloent tenir taoble por prester*)."[37] In 1273, a document recording the sale of several mills in the Burgundian town of Arbois described the buyers as "brothers, Lombards, citizens of Asti, merchants residing in Arbois (*fratribus Lombardis civibus Astensibus mercatoribus commorantibus apud Arbosium*)."[38] A similar framing appears in the Montbéliard charter quoted earlier, and in many others besides.[39] So even if the category of the "Lombard" as a licensed foreign moneylender developed early in some places (notably the Low Countries), there is considerable evidence undermining the notion of a firm universal boundary between moneylending and other mercantile activities, particularly in the thirteenth and early fourteenth centuries.

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[36] Pierre Racine, "Homme d'affaires ou 'Lombard': Le cas de Gandoufle d'Arcelles," in *Credito e società: Le fonti, le tecniche e gli uomini (secc. XIV-XVI). Atti del Convegno Internazionale di Studi Archivio Storico, Palazzo Mazzola, Amphithéatre de l'Université de Savoie. Asti-Chambéry, 24-27 settembre 1998* (Asti: Centro Studi sui Lombardi e sul credito nel Medioevo, 2003), 25-35. See also Anne Terroine, "Études sur la bourgeoisie parisienne: Gandoufle d'Arcelles et les compagnies placentines à Paris (fin du XIII^{e} siècle)," *Annales d'histoire sociale* 7 (1945), 54-71; 8 (1945), 53-74. His testament is edited in Camille Piton, *Les Lombards en France et à Paris* (Paris: Champion, 1892), 157-70.

[37] Léon Gauthier, *Les Lombards dans les deux-Bourgognes* (Paris: Champion, 1907), 107-9 [=p.j. 1-2]

[38] Gauther, *Lombards*, 111-13 [=p.j. 6].

[39] For other examples (among many), see Würzburg (1260): in Wilhelm Levison, "Aus englischen Bibliotheken. I," *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 32 (1907), 377-456, at 442; Montaigu (1270): in *Mémoires et documents inédits pour servir à l'histoire de la Franche-Comté*, t. 8: *Cartulaire des comtes de Bourgogne (1166-1321)*, eds. Jules Gauthier et al. (Besançon: Jacquin, 1908), 203-4 [=no. 236]; and Kempen (1306): in Joseph Hansen, "Der englische Staatskredit unter König Eduard III. (1327-1377) und die hansischen Kaufleute. Zugleich ein Beitrag zur Geschichte des kirchlichen Zinsverbotes und des rheinischen Geldgeschäftes im Mittelalter," *Hansische Geschichtsblätter* 37 (1910), 323-415, at 410-13 [=Beil. 1].

That many scholars have reified such a boundary reflects (in large part) the long shadow cast by some of the leading twentieth-century scholars of the history of medieval commerce. Extrapolating from the example of fifteenth-century Bruges, in which there was a firm legal, occupational, and social distinction between Italian merchant-bankers and "Lombard" moneylenders, the Belgian historian Raymond de Roover developed a still-influential tripartite model of merchants, moneychangers, and moneylenders that poorly captures the fluidity of earlier periods.[40] In addition, the lending activities of the Lombards and their counterparts in the Italian peninsula failed to excite historians such as Robert Lopez, Yves Renouard, and André-Émile Sayous, whose interest in the rise of modern capitalism and the development of modern commercial techniques led them to focus on the great Sienese and Florentine firms, rather than on the "pawnbrokers" whom they saw as disconnected from the animating force of international finance.[41]

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[40] See de Roover, *Money, Banking and Credit*. De Roover's work built on the earlier study of Georges Bigwood, *Le régime juridique et économique du commerce de l'argent dans la Belgique du Moyen Âge*, 2 vols. (Brussels: Lamertin, 1921-22), though de Roover emphasized the legal distinctions between the three occupations more emphatically than had Bigwood. Camille Tihon offered an early pushback against de Roover's typology, in his "Aperçus sur l'établissement des Lombards dans les Pays-Bas au XIII^{e} et au XIV^{e} siècle," *Revue belge de philologie et d'histoire* 39 (1961), 334-64, at 335 n. 2. Léon Poliakov, meanwhile, argued that social distinctions between merchant-bankers and pawnbrokers were largely invisible outside the Low Countries; see his *Les banchieri Juifs et le Saint-Siège du XIII^{e} au XVII^{e} siècle* (Paris: SEVPEN, 1965), 72.

[41] Armando Sapori is something of an exception to this general trend. Although he never engaged in depth with the history of the Lombards, he treats the moneylenders of Asti alongside other Italians active in international trade in his essay on *Le marchand italien au Moyen Âge* (Paris: Armand Colin, 1952). For the most part, however, the general disregard among the leading twentieth-century scholars of medieval commerce meant that studies of foreign moneylenders (whether the Lombards across the Alps, or the Tuscans and others in central and northern Italy) remained highly localized, a feature that is clearly evident in the bibliography compiled by Giulia Scarcia and Luisa Castellani in *L'uomo del banco dei pegni: 'Lombardi' e mercato del denaro nell'Europa medievale*, ed. Renato Bordone (Turin: Scriptorium, 1994), 171-81. Only starting in the late 1970s, first in the work of Robert-Henri Bautier, and then through the efforts of Renato Bordone in Asti and Franz Irsigler in Trier, did scholars begin to study the history of the Lombards at a broader level, thereby allowing foreign moneylenders to be integrated into synthetic studies of commerce and economic life in the later Middle Ages. The continuing fruits of these efforts are due in large part to the ongoing efforts of the Centro studi 'Renato Bordone' sui Lombardi, sul credito, e sulla banca in Asti.

It is true, of course, that the business practices of the leading associates of the Bardi or Peruzzi banking houses had little in common with those of many "Lombards," and this could hold true in the thirteenth century as in later ones. Furthermore, de Roover's tripartite division recalls that of the French king Charles IV, who in a 1327 ordinance singled out three categories of foreigners: first, merchants based at the fairs of Champagne and in Nîmes, who pursued large-scale trade; second, those who had married local women and were active as shopkeepers and artisans; and third, Italian moneylenders, who were ordered to leave the kingdom if they would not settle in one of the fair towns.[42] Here, then, we have an official distinction between merchants and moneylenders. What is important to recognize, however, is that in many parts of western Europe, this distinction was slow to emerge and remained decidedly porous. Moneylenders were frequently considered as a subset of merchants, and moneylending and mercantile activities were rarely, if ever, mutually exclusive.

The porosity of this distinction is also underscored by the degree to which merchants of all kinds could find themselves facing accusations of usury, or equally, could feel the need to make restitution for usurious gains. As the Franciscan preacher Bernardino da Siena put it to a Florentine audience in 1425: "You are all usurers (*tutti siete usurai*)."[43] Simply put, while the Lombards (and other licensed moneylenders) may have engaged in the most public forms of lending at interest, many other contemporary mercantile activities also involved lending practices that could fall afoul of ecclesiastical and secular sanctions against usury—depending on the definition of usury in play. In other words, a given practice might be usurious to one observer but

[42] *Ordonnances des roys de France de la troisième race*…, eds. Eusèbe Jacob de Laurière et al., 23 vols. (Paris: Imprimerie royale, 1723-1849), 1.800-802. This ordinance expanded on one issued a year earlier (*ibid.,* 1.794-96), which had included only a less-articulated definition of the first and third categories.

[43] Bernardino da Siena, *Le prediche volgari,* ed. Ciro Cannarozzi, 5 vols. (Florence: Libreria editrice fiorentina, 1940-58), 4.359-80, at 363 [=Sermon 41: "De' ma' contratti"].

not to another. Moreover, whether a moneylender (or any other merchant) was also a "usurer" was very much in the eye of the beholder. As a result, the expulsion of foreign usurers was not a phenomenon confined to those who lived permanently in the margins or outside the reaches of medieval Christian society. Its reach was far greater than that, such that even those who had lived comfortably amidst their host societies for decades could suddenly find themselves driven out of their adopted towns and territories. But to understand why this was the case, we must take a closer look at contemporary ideas about usury, and how these mapped onto social and economic realities.

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If thirteenth-century theologians, following Aristotle, denounced usury as inherently sterile, the same charge cannot be laid against the modern scholarship that the topic has generated. From the late nineteenth century onward, scholars interested in the history of economic thought have delved into the abundant scholastic and canonistic materials in order to reconstruct the development of the church's teaching on usury.[44] In the middle decades of the twentieth century, debates over the impact of these teachings on medieval commercial techniques (which themselves were part of broader conversations on the rise of capitalism) injected additional vigor

[44] Notable examples include Wilhelm Endemann, *Studien zur romanisch-kanonistischen Wirtschafts- und Rechtslehre*, 2 vols. (Berlin, 1874-83); Thomas P. McLaughlin, "The Teaching of the Canonists on Usury (XIIth, XIIIth, and XIVth Centuries)," *Mediaeval Studies* 1 (1939), 81-147; and 2 (1940), 1-22; John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge, MA: Harvard University Press, 1957); Jean Ibanès, *La doctrine de l'Église et les réalités économiques au XIII^{e} siècle. L'intérêt, les prix et la monnaie* (Paris: Presses universitaires de la France, 1967); John T. Gilchrist, *The Church and Economic Activity in the Middle Ages* (London: Macmillan, 1969), 62-76; John Baldwin, *Masters, Princes, and Merchants: The Social Views of Peter the Chanter and his Circle* (Princeton: Princeton University Press, 1970). More recent major works include Odd Langholm, *The Aristotelian Analysis of Usury* (Bergen: Universitetsforlaget, 1984); *idem*., *Economics in the Medieval Schools. Wealth, Exchange, Value, Money and Usury, according to the Paris Theological Tradition, 1200-1350* (Leiden: Brill, 1992); and Amleto Spicciani, *Capitale e interesse tra mercatura e povertà nei teologi e canonisti dei secoli XIII-XV* (Rome: Jouvence, 1990).

into this line of research.[45] Recent work on the history of usury in the Middle Ages has both carried further these early frameworks and expanded in three new directions. The first, already discussed, treats it within the more general context of credit and debt. A second focuses on the rise of anxieties over usury, their interaction with other contemporary anxieties (simony or heresy, for example), and their diffusion from learned clerical élites into popular contexts through art, preaching, literature, and other genres.[46] The third approach explores these anxieties as a driving force in the elaboration of a systematic vision of economic ethics on the part of theologians and other late medieval intellectuals.[47]

The development and expression of the church's fears over usury will be discussed further in the chapters that follow. Here it suffices to note that however foreign such fears might now appear, the sense of anxiety, even hysteria, that usury provoked among many late medieval churchmen is undeniable. So too is the impact of these fears on late medieval commercial practices and economic life more broadly, even if the fears themselves were far from universally held (among either the clergy or the laity) and varied in their intensity across space and time.[48] But what exactly constituted "usury"?

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[45] Classic studies include de Roover, *Money, Banking and Credit*; Benjamin N. Nelson, "The Usurer and the Merchant Prince: Italian Businessmen and the Ecclesiastical Law of Restitution, 1100-1550," *Journal of Economic History* 7, Supplement: Economic Growth: A Symposium (1947), 104-22; Benjamin N. Nelson, *The Idea of Usury: From Tribal Brotherhood to Universal Otherhood* (Princeton: Princeton University Press, 1949); and Bernard Schnapper, "La repression de l'usure et l'évolution économique (XIII^{e}-XVI^{e} siècles)," *Revue d'histoire du droit* 37 (1969), 47-75.

[46] Above all, Jacques Le Goff, *Your Money or Your Life: Economy and Religion in the Middle Ages*, trans. Patricia Ranum (New York: Zone Books, 1988).

[47] For a useful survey of recent work in this vein, see Claude Denjean, "Commerce et crédit: une réhabilitation sous condition," in *Structures et dynamiques religieuses dans les sociétés de l'Occident latin (1179-1449),* eds. Marie-Madeleine de Cevins and Jean-Michel Matz (Rennes: Presses universitaires de Rennes, 2010), 471-84.

[48] For the economic consequences of the church's teachings on usury, see most recently, John H. Munro, "The Usury Doctrine and Urban Public Finances in Late-Medieval Flanders (1220-1550): Rentes

Patristic authorities bequeathed to their medieval successors a set of sweeping definitions of usury, namely, "whatsoever is added to the principal (*quodcumque sorti accidit*)," "wherever more is required than has been given (*ubi amplius requiritur quam quod datur*)," and other variations on these themes.[49] Building on these broad foundations, twelfth- and thirteenth-century theologians erected a rigorist framework in which virtually any form of return beyond the principal of a loan would qualify as usurious, and hence both sinful and forbidden. Yet this is only part of the story. Medieval Latin usage often referred to usury in the plural, and much of the scholarship on the topic would be clearer if modern practice followed suit, for despite the strenuous efforts of rigorist theologians, there was no uniform medieval definition of usury. Rather, multiple definitions were in competition, shifting in rigor and reach over time. Canon lawyers, on the whole, held to a less stringent standard than did the theologians, in large part by carving out a number of exceptions to the blanket ban on interest-taking and by limiting the church's legal sanctions against usury to those who were considered "public," "notorious," or "manifest" usurers.[50] In addition, Roman civil law had permitted moderate levels of interest, and in the Middle Ages many secular jurisdictions followed suit, banning as "usurious" only interest rates that exceeded a certain threshold.

(Annuities), Excise Taxes, and Income Transfers from the Poor to the Rich," in *La fiscalità nell'economia europea, secc. XIII-XVIII. Atti della Trentanovesima settimana di studi (22-26 aprile 2007)*, ed. Simonetta Cavaciocchi (Florence: Firenze University Press, 2008), 973-1026, which offers a forceful rejoinder to Charles Kindleberger's dictum that usury "belongs less to economic history than to the history of ideas" (*A Financial History of Western Europe* [London: Allen & Unwin, 1984], 41).

[49] See C.14 q.3 cc.1-5.

[50] Richard Fraher offers a concise account of these efforts in "Preventing Crime in the High Middle Ages: The Medieval Lawyers' Search for Deterrence," in *Popes, Teachers, and Canon Law in the Middle Ages*, eds. James Ross Sweeney and Stanley Chodorow (Ithaca: Cornell, 1989), 212-33, at 227-28. See also below, p. 117.

To be sure, the ecclesiastical courts claimed—and largely enjoyed—exclusive jurisdiction over cases where the definition of usury was at stake. The decree *Ex gravi*, issued at the Council of Vienne in 1311, explicitly ordered all civic officials to strike permissive legislation from their statute-books on pain of excommunication and denounced as heretical anyone who denied the sinfulness of usury.[51] Yet the surviving records of church courts, at least in England, suggest that they pursued usury cases only where particularly high rates of interest were in play, which points to a certain toleration in practice for moderate interest.[52] In fifteenth-century France, moreover, as elsewhere in late medieval Europe, church courts devoted more attention to condemning insolvent debtors than to rooting out the potentially usurious activity of their creditors.[53] Yet regardless of what definition of usury was in play, the lending practices of the Lombards—who regularly charged two pennies per week for each pound lent (equivalent to 43.3 percent p.a.)—clearly qualified as usurious.[54] It is not surprising, then, that the privileges granted to the

[51] Vienne (1311/12), c. 29: in *Conciliorum oecumenicorum decreta*, ed. Giuseppe Alberigo (Bologna: Istituto per le scienze religiose, 1973), 384-85. Little synoptic work has been done on the decree's enforcement. Some jurisdictions (Marseille, for instance) moved quickly to strike offending legislation from their statutes, while others (such as Lendinara, in the Veneto, or Parma) appear to have blithely ignored ecclesiastical blandishments. For Marseille, see *Les statuts municipaux de Marseille*, ed. Régine Pernoud (Monaco: Imprimerie de Monaco, 1949), xlvi, 97-98, 232 [=2.19, 6.60]. For Lendinara, see *Statuti di Lendinara del 1321,* ed. Marco Pozza (Rome: Jouvence, 1984), 87 [=Bk. 2, c. 11]. For Parma, see *Statuta communis Parmae anni MCCCXLVII*, ed. Amadio Ronchini (Parma: Fiaccadori, 1860), 311 [=Bk. 4, c. *ult.*]. David Kusman (*Usuriers publics*, 326-34) has recently examined the impact of the decree in Brabant. The decree's impact on Jewish moneylenders is briefly discussed below, pp. 292-95.

[52] See Richard H. Helmholz, "Usury and the Medieval English Church Courts," *Speculum* 61 (1986), 364-80.

[53] Véronique Beaulande, *Le malheur d'être exclu? Excommunication, réconciliation et société à la fin du Moyen Âge* (Paris: Publications de la Sorbonne, 2006), 134-35, 189.

[54] Interest rates were often disguised and could vary considerably, but the following examples appear to be broadly representative. A royal investigation in 1288 into usurious lending in the southern French city of Nîmes found that Italians were regularly lending at rates up to 100 percent. In 1306, the Lombards of Antwerp were allowed to charge 43.3 percent to the city's burghers and 65 percent (i.e. 3 pennies per week per pound lent) to outsiders. In Savoy, the Lombards of Leytron and Saillon regularly charged either 32.5 or 43.3 percent. For Nîmes, see Paris, AN, J 335, Nîmes, n. 14; an online edition by Élisabeth Lalou (et al.) is currently available through the TELMA-hosted project *Enquêtes menées sous les derniers*

Lombards authorizing them to set up moneylending operations generally avoided any mention of the rates they were to charge.[55] But given the public nature of their activities, how is it that these Lombards (or their counterparts in central and northern Italy) were not invariably considered "usurers"?

The answer, put simply, is that there was often more to being considered a "usurer" than simply lending at interest, even when this lending was done publicly and at rates considered "usurious" by any contemporary standard. The category "usurer" was less an occupational one than a social one, less a description than an accusation. Whatever its formal definition in law and theology, its expression in practice depended on a host of factors, from the perceived social status of the moneylenders, to the strength and nature of their relationships within their communities, to the intensity of fears about foreignness, usury, or both together. In this, it bears a marked resemblance (albeit with the opposite effect) to the early modern construction of the "citizen," a status that in practice depended more on the fact of its being performed (and accepted) than on the juridical framework that ostensibly defined it.[56]

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capétiens [last accessed 22 July 2015]. For Antwerp, see Wim Blockmans, "Financiers italiens et flamands aux XIII^{e}-XIV^{e} siècles," in *Aspetti della vita economica medievale. Atti del Convegno di Studi nel X anniversario della morte di Federigo Melis (Firenze-Pisa-Prato, 10-14 marzo 1984)* (Florence: Istituto di storia economica, Università degli studi di Firenze, 1985), 192-213, at 196 n.20. For Savoy, see Pierre Dubuis, "Lombards et paysans dans le vidomnat d'Ardon-Chamoson et dans la paroisse de Leytron de 1331 à 1340," *Vallesia* 32 (1977), 275-306, at 285. In mid fourteenth-century Friuli, officially sanctioned rates ranged from 32.5 to 65 percent; see Bruno Polese, "Organizzazione economica e attività di prestito nel Friuli 'toscano'," in *I toscani in Friuli,* 11-60, at 49.

[55] An exception is the 1260 privilege from the city of Utrecht, which spelled out explicitly the rate that the Lombards were allowed to charge on their loans; see *Oorkondenboek van het sticht Utrecht tot 1301*, eds. Samuel Muller et al., 5 vols. (Utrecht: Oosthoek, 1920-59), 3.283-4.

[56] See Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven: Yale University Press, 2003); and Hanna Sonkajärvi, *Qu'est-ce qu'un étranger? Frontières et identifications à Strasbourg (1681-1789)* (Strasbourg: Presses universitaires de Strasbourg, 2008). For brief remarks on the intersection of usury and citizenship in the context of the Lombards, see Ezio Claudio Pia, "Ai limiti della cittadinanza: credito e appartenenza per Ebrei e Lombardi," *Mélanges de l'École française de Rome. Moyen Âge*, 125 (2013).

As Laurence Fontaine has observed, in the context of early modern lending, "accusing someone of usury was undoubtedly indicative of the very low degree of personalization of the credit relationship. […] The accusation was a weapon."[57] The same is true, to a considerable extent, of the term "usurer." In practice, notwithstanding the threat of divine judgment, the return on a loan became "usurious" only when it was condemned as such; the same is true for the lenders themselves. Many contemporaries, as we shall see, roundly denounced all Lombards and other foreign moneylenders as usurers. So too at the level of individual moneylenders. The simple fact that they were publicly lending money at interest meant that they were ready targets for these accusations. But the category of "usurer" was essentially relational, rather than abstract; and one therefore cannot speak of someone being a "usurer" without implying the question "to whom?"[58]

Such subjectivity is apparent even in modern debates over the activity of foreign moneylenders. Renato Bordone, for example, has argued that their medieval contemporaries (aside from disgruntled debtors) saw the Lombards as respectable commercial actors who undertook "to carry out their complex and lucrative activity in a correct and honest fashion, explicitly renouncing usury or other subterfuges."[59] Robert-Henri Bautier, by contrast,

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[57] Laurence Fontaine, *The Moral Economy: Poverty, Credit and Trust in Early Modern Europe* (Cambridge: Cambridge University Press, 2014), 68-69. For similar arguments concerning the Lombards, see David Kusman, "Quand usure et Église font bon ménage. Les stratégies d'insertion des financiers piémontais dans le clergé des anciens Pays-Bas (XIII^{e}-XV^{e} siècle)," in *Bourguignons en Italie, Italiens dans les pays bourguignons (XIV^{e}-XVI^{e} s.)* (Neuchâtel: Centre européen d'études bourguignonnes, 2009), 205-25.

[58] One of the principal achievements of recent scholarship on the Lombards (most notably in the work of Renato Bordone) has been to challenge a reflexive equation of "Lombards" with "usurers," though it often pushes too hard in the other direction. See, in the first instance, Renato Bordone, "Lombardi come 'usurai manifesti': Un mito storiografico?," *Società e storia* 100-101 (2003), 255-72.

[59] Renato Bordone, "Conclusioni," in *Lombardi in Europa*, 216-24, at 222: "…i lombardi erano operatori economici che si impegnavano, come richiesto dal tenore delle autorizzazioni ottenute, a svolgere la loro delicata e redditizia attività in modo corretto e leale ed espressamente senza ricorrere all'usura o ad altri

fulminated against the "indulgence" of historians who treated such Lombards as "honest merchants, good bourgeois investing their money in ways that might be condemned under canon law, but which are entirely acceptable in any capitalist society." Their usury, he argued instead, "was a leprous sore that ultimately ravaged the whole of society."[60] The view from Paris, as presented here, differs sharply from the view from Piedmont. As in the Middle Ages, whether the Lombards are seen generally as "usurers" is a matter of perspective, not a question to be resolved through objective criteria.

It is in this sense that the term "usurer" will be used in the chapters that follow, namely, as the expression of an accusation, rather than the description of an occupation. A "foreign usurer," then, is not necessarily a foreign professional moneylender (though many were), but rather a foreigner accused of usury, or perceived as being guilty of such.

Foreign usurers were not the only foreigners to face expulsion in late medieval Europe. In England, as we shall see in Chapter One, there was a long tradition of banishing foreigners in general at times of political conflict or economic stress, and England is exceptional only in the frequency and scale of such expulsions. Elsewhere we find banishment being specified as the punishment for specifically foreign beggars, foreign lepers, and so forth. But the latter cases are simply subsets of the general tendency toward banishing beggars, or lepers, or other suspect

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sotterfugi." For the Lombards as "professionisti del credito," see in particular Bordone, "Mito storiografico," 259-60.

[60] Robert-Henri Bautier, "Les Lombards et les problèmes de crédit en France aux XIII^{e} et XIV^{e} siècles," in *Rapporti culturali ed economici fra Italia e Francia nei secoli XIV al XVI. Atti del Colloquio italo-francese (Roma, 18-20 febbraio 1978)* (Rome: Giunta centrale per gli studi storici, 1979), 7-32, at 24: "Ils se montrent indulgents pour ces usuriers en qui ils voient d'honnêtes marchands, de bons bourgeois plaçant leur argent dans des conditions peut-être condamnables sur le plan canonique, mais somme toute admissible dans toute société capitaliste. […] L'usure était alors une lèpre qui finit par ronger la société entière…"

groups. What makes foreign usurers exceptional, in this regard, is the fact that "native" Christian usurers were almost never subject to expulsion. It was precisely the foreignness of the usurers that rendered them liable to expulsion in particular, and not just to the raft of other secular and ecclesiastical sanctions that could fall upon those found guilty of usury.[61]

As we will see below, jurists, theologians, and others struggled to explain this distinction, particularly after it was entrenched in canon law in 1274 via the conciliar decree *Usurarum voraginem* (VI 5.5.1), which will play a leading role in the chapters that follow. The distinction also provided an additional reason for Lombards to secure privileges assuring them that local authorities would treat them as "citizens (*cives*)," rather than as foreigners, and these privileges would in turn spur debates over their validity and extent. But this distinction has gone almost entirely unnoticed by historians. As such, and as we shall see further below, even those who have studied the concrete measures by which secular and ecclesiastical authorities alike expressed their opposition to usury have largely failed to ask why these measures often targeted foreign usurers while leaving native Christian ones unpunished.

It is not only this distinction that has gone unnoticed. So too has the expulsion of foreign usurers as a general phenomenon, which is all the more striking in light of the frequency with which such expulsions were ordered, the lasting imprint which they left in canon law, and the rich (albeit scattered) documentation that they left behind. In the absence of anything resembling

[61] There is a certain irony in this disjuncture, in light of the Deuteronomic prohibition on usury (Dt. 23:19-20), which held that one could lend at usury only to a stranger (*alienus*), and not to one's brother. Starting from the earliest patristic commentaries on this passage, however, all Christian commentators agreed that the stranger/brother distinction was to be understood metaphysically, with all fellow Christians to be treated as brothers. Over the course of the Middle Ages, many would come to claim that the prohibition extended even to loans between Jews and Christians. Although there is no evidence that the Lombards attempted to wield this verse in their defense, one can only wonder if they ever reflected on it privately. For the interpretation of this passage and its stranger/brother distinction, see Benjamin Nelson's classic discussion in *The Idea of Usury*

a general synthesis, much of what little has been written on the expulsion of foreign usurers is confused or misleading.[62] In part, this silence may stem from the very wealth and success of the Lombards. If these once attracted the unwanted attention of zealous prelates and impecunious princes, more recently they have served to deflect the interest of scholars working on forms of exclusion in medieval Europe, who have generally sought their subjects among more conventionally "marginal" social groups.[63] A fuller appreciation of exclusion and its manifestations in medieval Europe, however, must take into account not only those whose sufferings align with modern sympathies (heretics, lepers, and so forth), but also those—such as usurers and simoniacs—whose vicissitudes are less readily mourned.

Given the depth and range of research into medieval expulsions of Jews, it is surprising that the many points of contact between these expulsions and those of foreign usurers have likewise gone largely unremarked.[64] Jewish and Lombard moneylenders were not only associated with

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[62] John Mundy, for example, claimed that the repeated expulsion of the Lombards from France in the late thirteenth century was due to opposition from local moneylenders, and argued furthermore that these expulsions were a sign that "local society had begun to arm itself against medieval universalism, paralleling the beginning of the national state and the decline of papal authority in Latin Europe." There is little support, if any, for either of these claims. Nor is there much evidence for Roberto Greci's assertion that the expulsion of Italian moneylenders "undoubtedly contributed to the economic crises that shook Europe" in the fourteenth century. See John H. Mundy, *Europe in the High Middle Ages: 1150-1300* (London: Longman, 2000), 159; and Roberto Greci, "Nuovi orrizonti di scambio e nuove attività produttive," in *Economie urbane ed etica economica nell'Italia medievale*, eds. Roberto Greci, Giuliano Pinto, and Giacomo Todeschini (Bari: Laterza, 2005), 75-150, at 121.

[63] It is telling, for example, that R. I. Moore pays little attention to any usurers other than Jewish ones in his essay on the *Formation of a Persecuting Society*. They are likewise absent from Jeffrey Richards's study of *Sex, Dissidence and Damnation: Minority Groups in the Middle Ages* (London: Routledge, 1990).

[64] The sole exception is Benjamin Kedar, as part of his essay on "Expulsion," but his treatment is necessarily cursory and provisional. A handful of other scholars have compared the two groups, but without looking specifically at expulsion; see Jules Simmonet, "Juifs et Lombards," *Mémoires de l'Académie imperial des sciences, arts et belles-lettres de Dijon,* ser. 2, 13 (1865), 145-272; Kurt Grunwald, "Lombards, Cahorsins and Jews," *Journal of European Economic History* 4 (1975), 393-98; Franz Irsigler, "Juden und Lombarden am Niederrhein im 14. Jahrhundert," in *Zur Geschichte der Juden im Deutschland des späten Mittelalters und der frühen Neuzeit*, ed. Alfred Haverkamp (Stuttgart: Hiersemann, 1981), 122-62; Roger Kohn, "Le statut forain: marchands étrangers, Lombards et Juifs en

each other in popular discourse, theological works, and legal texts; they also faced expulsion together on numerous occasions. Without an understanding of the expulsions of both groups, our understanding of each on its own is incomplete. Why, for instance, did medieval authorities sometimes banish only Jewish usurers, sometimes banish only foreign ones, and sometimes banish both together?[65] Is it true, as Myriam Greilsammer has suggested, that "Jewish bankers were persecuted first and foremost for their Jewishness, while the Lombards were pursued for their usurious activities"?[66] Or must we take more seriously the accusations of usury in expulsions of the Jews? Many of the common motivations—whether fiscal exigency, religious purity, or political expediency—could apply equally to either group, and understanding the measures taken against one group can help illuminate the measures taken, or not taken, against the other. Moreover, as will be discussed in Chapter Six, ecclesiastical efforts to compel the expulsion of foreign moneylenders came to impinge directly on late medieval debates surrounding the expulsion of Jews. The chapters below are only a start, however, and much more work remains to be done.

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France royale et en Bourgogne (seconde moitié du XIV^{e} siècle)," *Revue historique de droit français et étranger* 61 (1983), 7-24; Remi Van Schaik, "On the Social Position of Jews and Lombards in the Towns of the Low Countries and Neighbouring German Territories during the Late Middle Ages," in *Core and Periphery in Late Medieval Urban Society. Proceedings of the Colloquium at Ghent (22nd-23rd August 1996),* eds. Myriam Carlier et al. (Leiden: Garant, 1997), 165-91; and Myriam Greilsammer, *L'usurier chrétien, un Juif métaphorique? Histoire de l'exclusion des prêteurs lombards (XIII^{e}-XVII^{e} siècle)* (Rennes: Presses universitaires de Rennes, 2012). *Pace* Dirk Hoerder (*Cultures in Contact,* 99), it is clear that the arrival of Lombards in a given territory rarely (if ever) spurred the expulsion of the resident Jews.

[65] Or, for that matter, neither. As Kedar observed, "the applicability of expulsion to different perceived threats was not consistent" ("Expulsion," 122), and expulsions are not always found where we might expect them.

[66] Greilsammer, *L'usurier chrétien*, 279: "Alors que les banquiers juifs italiens ont été persécutés avant tout pour leur judéité, les lombards sont poursuivis pour leurs activités usuraires."

The relationship between the expulsions of Lombards and those of Jews (or Jewish moneylenders) brings us back to a theme introduced above, namely, the way in which the practices of expulsion were themselves contagious and protean. This theme underpins the chapters that follow, which explore how the idea and practice of expelling foreign usurers emerged from, intersected with, and spurred the expulsion of other groups. They explore, too, how individual expulsions were implemented, studying how their targets came to be defined, how these targets in turn responded, and how the expulsions themselves were framed by contemporaries and remembered by later generations. Finally, the chapters explore the circumstances in which expulsion was resisted, rejected, or ignored, for expulsion's course did not run smooth, and in some contexts, it never ran at all. As we shall see, the history of these expulsions is in part a story of what did not happen, of roads not taken and arguments not made.

Chapter One takes us to Henry III's England, where the middle decades of the thirteenth century saw Italian merchant-bankers repeatedly banished on charges of usury, first at episcopal initiative, then by royal decree. Chapter Two moves across the Channel, to the France of Saint Louis. Here the saint-king's two crusades form the backdrop to expulsion, with the royal measures against usury—including the expulsion of Lombard pawnbrokers—belonging to a wider campaign to purify the realm of its moral failings and thus secure divine favor. Together, these two chapters trace not only how the expulsion of foreign usurers emerged from existing practices of expulsion (whether of heretics, foreigners, Jews, prostitutes, or others), but also how particular groups of foreigners came to be targeted as "usurers," and where these expulsions fit within broader repertoires of anti-usury measures.

Chapter Three considers the development of the church's opposition to usury, showing how this eventually led to the promulgation of the decree *Usurarum voraginem* at the Second Council

of Lyon in 1274. The decree, which called for the general expulsion of foreign moneylenders throughout Christendom, in fact borrowed heavily from French secular precedent, rather than from the church's existing legal and intellectual tradition. As canonists and others soon realized, this borrowing created unexpected tensions as the decree entered into the universalizing framework of canon law.

How *Usurarum voraginem* radiated outward from Lyon into the parishes and council chambers of western Christendom is the subject of Chapter Four. Gathering evidence from chronicles, legal commentaries, Biblical exegesis, academic disputations, sermon collections, penitential handbooks, and the many other sources by which ecclesiastical authorities sought to instruct the faithful, the chapter maps the decree's dissemination in the two centuries following its promulgation. In particular, by looking synoptically at the corpus of surviving legislation from local ecclesiastical jurisdictions (principally provinces and dioceses), the chapter gauges the varying responses of the church hierarchy toward the decree's provisions, which ranged from enthusiasm to indifference to outright resistance. In addition, the chapter studies the textual transformations that accompanied the decree's dissemination, from simple transcription errors to radical reworkings of the decree's language and provisions.

Chapter Five builds on the latter theme, focusing first on the ways that the decree's impact was shaped by both debates over its interpretation and by the textual changes that the decree underwent as it circulated outside of its codified canonical context. It then goes on to analyze the patterns of the decree's enforcement in the decades following its promulgation, along with the responses of the targets themselves. Drawing on archival and manuscript materials from across western Europe, the chapter studies the strikingly different reactions to the decree among the ecclesiastical and secular authorities responsible for its implementation.

Although the drafters of *Usurarum voraginem* had clearly intended it to apply only to Christian usurers, it was only a matter of months before the decree's provisions were already being turned against Jews, a trend that gathered increasing force over the course of the fourteenth and early fifteenth centuries. Chapter Six traces how shifting social contexts, emerging trends in canon law and jurisprudence, and ambiguities in the language of the decree itself all combined to create a situation in which even a reigning pope would come down in favor of this unforeseen reading of the decree, rupturing a tradition of papal resistance to Jewish expulsion that had endured for nearly a thousand years.

The Epilogue draws together strands from the earlier chapters, reflecting first on the disappearance of expulsions of foreign usurers in the later fourteenth century, then on the rhetoric and logic underpinning the focus on foreign usurers, and finally on the place of these expulsions within the broader landscape of late medieval expelling practices.

As these brief summaries suggest, the chapters move back and forth between the idea of expelling foreign usurers, its expression in law and other normative sources, and its implementation in practice. They accordingly rely on a broad array of late medieval sources, including unpublished material from seventy archives and libraries in thirteen different countries, along with many other texts that survive only in incunables or early modern editions. This breadth reflects in part the geographic range of foreign moneylenders in late medieval Europe, and it reflects too the wide variety of channels in which ideas about their expulsion could circulate. But it also reflects particular interpretative challenges. As we shall see in Chapters Four and Five, resistance to *Usurarum voraginem* (and other normative texts calling for the banishment of foreign usurers) often expressed itself in subtle ways: through textual emendations, for example, or in a bishop's refusal to inscribe it into his diocesan statutes. But

such changes and omissions are not always deliberate, and it is often safer to draw conclusions from repeated patterns than from individual cases.

This is all the more true where the implementation of expulsion is concerned. Notwithstanding the underappreciated richness of many late medieval archives, it is often difficult to determine how thoroughly a given expulsion was carried out, or whether it was carried out at all. Rarer still are those cases in which we can trace the responses of those who fell victim to expulsion, whether they left, laid low, or sought safety in bribes. For all the thousands of surviving references to the activities and movements of foreign moneylenders in the later Middle Ages, the private world of these moneylenders is mostly obscured: their business records are lost or destroyed, their letters to each other and to their families are all but non-existent, and their local chronicles are mostly mute on the experience of expulsion.[67] As a result, those sections dealing with the reconstruction of individual episodes of expulsion are inescapably impressionistic. But by gathering together the extant references to loans and lenders in fiscal records, account books, cartularies, and privileges, then plotting the resulting peaks and valleys against the geography and chronology of expulsion orders, and finally retracing the movements of named individuals wherever possible, we can build up a composite portrait whose outlines and characteristic features are clear.[68]

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[67] Much of the loss of the moneylenders' private archives appears to have been deliberate: having used their wealth to purchase their way into the feudal nobility of their native regions, the moneylenders and their descendants deliberately reorganized their family archives so as to suppress any evidence of mercantile origins. See Renato Bordone, "Una famiglia di 'Lombardi' nella Germania renana alla seconda metà del Trecento: gli Asinari di Asti," in *Hochfinanz im Westen des Reiches (1150-1500)*, eds. Friedhelm Burgard, Alfred Haverkamp, Franz Irsigler, and Winfried Reichert (Trier: Verlag Trierer Historische Forschungen, 1996), 17-48, at 19-21.

[68] My efforts on this front would have been far less fruitful without the painstaking research of Winfried Reichert into the movements and activities of foreign moneylenders in transalpine Europe. The resulting database, which he published as *Lombarden in der Germania-Romania: Atlas und Dokumentation*, 3 vols. (Trier: Porta Alba, 2003), was an indispensable starting point for my own research into the impact of expulsion.

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Toward the end of the thirteenth century, a Piedmontese chronicler recorded that "in the year 1226 the citizens of Asti began to lend and engage in usury in France and others places beyond the Alps, where they made much money; nevertheless they suffered many evils there, both to their persons and their property."[69] Expulsion looms large among these "many evils," but the Astigiani also suffered sudden confiscations and arrests, forced loans and indemnity payments, and innumerable petty insults and injuries that went mostly unrecorded. What follows is not a history of the repression of the Astigiani, nor of foreign moneylenders in general, though such a history would be a worthwhile undertaking. Nevertheless, the boundaries between expulsion and these other "evils" were often fuzzy. Threats of banishment often served simply as a means to extort further revenues, and banishment itself was often preceded by arrest and accompanied by confiscation. Moreover, the decision to expel—or to refrain from expulsion—can be understood only in light of the available alternatives. So although expulsion may occupy center stage in this study, other repressive practices are clearly visible in the wings.

The same is true where the wider landscape of expulsion is concerned. This project is predicated on the belief that we cannot understand the expulsion of any one group without exploring how it intersected with the expulsion of others. If "certain exclusionary ideas had a snowballing effect" in medieval society, to borrow Barbara Rosenwein's elegant formulation, so too did exclusionary practices.[70] Expulsions of heretics, Jews, lepers, prostitutes, and a host of

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[69] Ogerio Alfieri, *Fragmenta de gestis astensium excerpta ex libro civis astensis*, ed. Luigi Cibrario, in *Monumenta Historiae Patriae,* vol. 5: *Scriptores*, t. 3 (Turin: Tip. Regia, 1848), coll. 673-96, at 677: "Anno Domini MCCXXVI cives Astenses coeperunt praestare et facere usuras in Francia et ultramontanis partibus, ubi multam pecuniam lucrati sunt: tamen ibi multa mala passi sunt in personis et rebus."

[70] Barbara Rosenwein, "Foreword," in Dominique Iogna-Prat, *Order and Exclusion: Cluny and Christendom Face Heresy, Judaism, and Islam (1000-1150),* trans. Graham Robert Edwards (Ithaca: Cornell University Press, 2002), ix-x.

others therefore appear regularly in the chapters to follow, just as they did in late medieval society itself. With each successive expulsion serving to further disseminate and normalize the practice, the expulsion of any one group made it more likely that others would suffer the same fate as well. Administrative procedures, intellectual categories and linguistic habits molded and reinforced one another. The practices of expulsion, like all social practices, could be observed, repeated, taught, and imitated—across space, across time, and across different categories of targets. But expulsions of foreign usurers first appear in thirteenth-century England, so we shall begin there too.

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Aliens, Schismatics, and Merchant-Bankers:

Inventing Expulsion in Thirteenth-Century England

As with so much else in the Middle Ages, when it came to the expulsion of foreign usurers, England was precocious. Before usury had even come to be a topic of widespread secular concern on the Continent, an English law code—or at least a text purporting to be such—was already insisting that usurers be driven from the realm, in the first recorded instance of usury being associated with banishment in high medieval Europe. It was an English prelate, too, who first ordered the expulsion of foreign usurers from his diocese. And an English king was likewise the first secular ruler to order that foreign usurers be driven from his lands. It is therefore tempting to ascribe to England the dubious honor of paving the way for subsequent expulsions. But so far as the surviving evidence suggests, nobody paid much notice to the English example, or if any did, they did not imitate it. The early English models of expulsion, if we may call them that, had little impact on later European thought and practice.

Although the English evidence therefore sheds little light on the spread of expulsion, it offers valuable insights into two other themes. First, what traditions and circumstances gave rise to the expulsion of usurers (foreigners in particular), in the decades before the idea had begun to circulate widely? Second, what sorts of foreigners come to be targeted as "usurers" for the purposes of expulsion (whether threatened or enforced), and how does this map onto the broader landscape of foreign economic activity? Here the unrivaled riches of England's thirteenth-century administrative records allow us to pinpoint the processes by which particular individuals,

and even particular groups, were alternately singled out or spared, as well as the ways in which the targets themselves responded.

Before expulsion could be enforced, it first had to be invented. As will be argued in this chapter and the two that follow, its early appearance in both England and elsewhere was due to a combination of earlier practices of expulsion (of other groups), anxieties over usury, and concerns about foreigners. Although the phenomenon invariably drew on all three, the relative weight of each could differ sharply. Here let us start with the foreigners, for Henry III's England was filled with them. Poitevin and Savoyard knights hovered outside the royal council chambers while their lords, the king's kinsmen, clashed over affairs of state. A steady flow of imperial legates, papal nuncios, and Continental envoys, accompanied by their retinues, made their way to wherever the king happened to be holding audiences. The benefice records of English cathedrals are stuffed with the names of Italian incumbents, even if most of these were present in name only, preferring to enjoy their revenues amidst the comforts of the papal curia. Then there were the merchants, arriving in greater numbers and in more variety than ever before: Flemish traders crisscrossing the Channel, ferrying English wool to the weavers of Arras and Douai; Baltic cogs bringing wax and furs to Boston and other eastern ports; Gascon and German wine-merchants sailing up the Thames bearing cargoes of claret and hock; and Spanish and Provençal pepperers haggling with London grocers over the price of spices.[1]

[1] For examples of diplomatic missions between Henry III and Continental powers, see Björn K. U. Weiler, *Henry III of England and the Staufen Empire, 1216-1272* (Woodbridge: Boydell, 2006). The presence (or conspicuous absence) of Italian clergy in England is vividly captured by Robert Brentano in *The Two Churches: England and Italy in the Thirteenth Century* (Princeton: Princeton University Press, 1968), 6-10. For a detailed study of Italian-held benefices in a single diocese, see Christopher Harper-Bill, "The Diocese of Norwich and the Italian Connection, 1198-1261," in *England and the Continent in the Middle Ages: Studies in Memory of Andrew Martindale. Proceedings of the 1996 Harlaxton Symposium* (Stamford: Tyas, 2000), 75-89. There is still no satisfactory study of England's foreign trade and resident mercantile communities during the middle decades of the thirteenth century, but for useful overviews, see Edward Miller and John Hatcher, *Medieval England: Towns, Commerce, and Crafts, 1086-1348* (Harlow:

Of course, few among these foreigners had any intention of settling permanently in England. Only a small fraction of the Italian clerics granted English benefices even bothered to set foot in the realm, while the majority of the Poitevins and Savoyards stayed just long enough to secure estates and pensions before returning to the Continent.[2] As for the merchants, unless they had acquired a city or borough franchise, they were formally barred from residing in the realm for more than forty days at a time.[3] Even if local officials do not appear to have diligently enforced these residency limits, the number of foreign merchants who chose to settle down in England for the long term was doubtless far outweighed by those who willingly set sail for home after transacting their business.

Not all were fortunate enough to depart of their own volition. If the thirteenth century was mercifully free of the pogroms that scar other periods of English history (such as the St. Brice's Day massacre of "all the Danes in England" in 1002, or the widespread slaughter of Flemings that accompanied the Peasants' Revolt in 1381), it was punctuated by efforts to drive various foreign communities from the kingdom.[4] In 1231-32, simmering resentment over the beneficing

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Longman, 1995), 181-210; and Terence H. Lloyd, *Alien Merchants in England in the High Middle Ages* (Sussex: Harvester, 1982). For specific aspects of English foreign trade during this period, see Pamela Nightingale, *A Medieval Mercantile Community: The Grocers' Company and the Politics and Trade of London, 1000-1485* (New Haven: Yale University Press, 1995), ch. 4; Terence H. Lloyd, *The English Wool Trade in the Middle Ages* (Cambridge: Cambridge University Press, 1977), chs. 1-3; Ellen Wedemeyer Moore, *The Fairs of Medieval England: An Introductory Study* (Toronto: Pontifical Institute of Mediaeval Studies, 1985); as well as additional works cited in the notes below.

[2] See Huw W. Ridgeway, "King Henry III and the 'Aliens', 1236-1272," in *Thirteenth Century England II: Proceedings of the Newcastle Upon Tyne Conference 1987*, eds. Peter R. Coss and Simon D. Lloyd (Woodbridge: Boydell and Brewer, 1988), 81-92, at 81-82; and *idem.*, "Foreign Favourites and Henry III's Problems of Patronage, 1247-1258," *English Historical Review* 104 (1989), 590-610, at 591.

[3] Lloyd, *Alien Merchants*, 13.

[4] For the St. Brice's Day massacre, see *The Anglo-Saxon Chronicle,* ed. and trans. M. J. Swanton (London: Dent, 1996), 133-35. For the Peasants' Revolt, see Ian W. Archer, "Responses to Alien Immigrants in London, c. 1400-1650," in *Le migrazioni in Europa, secc. XIII-XVIII. Atti della 'Venticinquesima Settimana di Studi" (3-8 maggio 1993)*, ed. Simonetta Cavaciocchi (Florence: Le Monnier, 1994), 755-74, at 756-57.

of foreigners erupted into violent assaults against resident Italian clergy, apparently coupled with widespread calls for their expulsion.[5] Three decades later, the English barons forced Henry III to expel his Poitevin half-brothers and their associates, and their insistence that he dismiss the rest of his "alien" favorites would be among the principal sticking points in the lead-up to the civil war of the 1260s.[6] Meanwhile, foreign merchants faced the prospect of expulsion whenever political winds began to blow in the wrong direction. French merchants, for instance, were expelled from the realm in 1215, 1225, and 1226.[7] Then in 1229, with England's two-year truce with France set to expire, Henry III ordered all foreign merchants to leave the kingdom by July 22 (the truce's expiry date).[8] Three days after the deadline, the king amended his order such that all non-French merchants might remain, though the reversal came too late to save one unfortunate Flemish merchant from arrest.[9] French merchants were subsequently permitted to

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[5] See Hugh MacKenzie, "The Anti-Foreign Movement in England, 1231-1232," in *Anniversary Essays in Mediaeval History by Students of Charles Homer Haskins*, eds. Charles H. Taylor and John L. La Monte (Boston: Houghton Mifflin, 1929), 183-203.

[6] See David A. Carpenter, "King Henry III's 'Statute' against Aliens: July 1263," *English Historical Review* 107 (1992), 925-44.

[7] Lloyd, *Wool Trade*, 14-18.

[8] *Calendar of the Close Rolls preserved in the Public Record Office: Henry III (1227-1272)*, 14 vols. (London: H. M. Stationery Office, 1902-38) [hereafter cited as *CCR Henry III*], 1.244 (5 July 1229): "Precipimus tibi quod statim visis literis istis per totam ballivam tuam clamari facias et prohiberi ne quis mercator extraneus de cujuscumque terra fuerit, qui non sit de terra et potestate nostra, moram faciat cum rebus et catallis et mercandisis suis in terra vel potestate nostra Anglie, ultra instans festum Sancte Marie Magdalene." See also *CCR Henry III*, 1.245 (20 July 1229). I would like to note here my appreciation for the efforts of Bob Palmer in making publicly available digital scans of medieval English records through the online *Anglo-American Legal Tradition* [last accessed 22 July 2015].

[9] *CCR Henry III,* 1.246-47 (25 July 1229): "Precipimus vobis quod non obstante precepto nostro generali […] permittatis omnes mercatores extraneos qui non sunt de dominico et potestate regis Francorum, licet ultra terminum predictum moram fecerint in terra nostra, sine occasione et impedimento cum rebus et mercandisis suis a terra nostra exire et recedere, ita quod nulli predictorum mercatorum occasione predicti precepti nullam faciatis vel fieri permittatis dampnum aut gravamen." In late August, the king ordered the release of a certain "Peter le Flemeng de Neele," who had been arrested in the wake of the initial expulsion order; see *CCR Henry III,* 1.202 (31 August 1229).

return, only to be expelled again in January 1231, following the arrest of a group of southern French merchants in Northampton.[10] In the 1270s, it would be the Flemish merchants who suffered expulsion as Edward I bickered with Margaret of Flanders over unpaid debts.[11] Toward the end of the century, London's native mercantile community apparently pressured the king to expel all of their foreign competitors. In this instance, the king refused their request, noting that "foreign merchants were advantageous and useful to the magnates and he was not advised to expel them."[12] Affairs of state were one thing; the griping of grocers quite another.

Expulsion was not the only unpleasant fate to befall foreigners in thirteenth-century England. During the unrest of 1231-32, many resident Italian clerics saw their property pillaged by marauding bands, while some others were captured and held for ransom, and others may even have been killed.[13] Similar fates awaited the targets of baronial resentment during an anti-alien uprising in 1263.[14] Where official measures against foreign merchants were concerned, the usual alternative to outright expulsion (or sometimes its precursor) was the imprisonment of the

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[10] The arrest is noted in *CCR Henry III,* 1.458 (15 November 1230). For the subsequent expulsion order, see *CCR Henry III,* 1.576 (5 January 1231); the deadline for departure was set at February 2.

[11] Arnold Fitz-Thedmar, *De antiquis liber legibus, Cronica maiorum et vicecomitum londoniarum* (London: Camden Society, 1846), 159-60. For a fuller discussion of the conflict, see Elisabeth von Roon-Bassermann, "Die Handelssperre Englands gegen Flandern 1270-1274 und die lizenzierte englische Wollausfuhr," *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 50 (1963), 71-82; and Richard H. Bowers, "English Merchants and the Anglo-Flemish Economic War of 1270-1274," in *Seven Studies in Medieval English History and other Historical Essays presented to Harold S. Snellgrove* (Jackson: University Press of Mississippi, 1983), 21-54 and 158-72. Flemish merchants had also been expelled during the Anglo-French hostilities of 1224-27, and they would be continue to be periodically expelled from England during the early fourteenth century; see Lloyd, *Wool Trade*, 22, 100, 107-8; and Martha Carlin, *Medieval Southwark* (London: Hambledon Press, 1996), 150, with further references.

[12] *The Parliament Rolls of Medieval England, 1275-1504* [hereafter *PROME*], vol. 1: *Edward I (1275-1294),* ed. Paul Brand (London: National Archives, 2005), 319 [=Michaelmas Parliament 1290, §135]: "Rex intendit quod mercatores extranei sunt ydonei et utiles magnatibus et non habet consilium eos expellendi."

[13] MacKenzie, "Anti-Foreign Movement," 194-96.

[14] See the chronicle accounts cited in Carpenter, "Henry III's 'Statute'," 936 n.1.

merchants along with the seizure of their property. In 1255, for example, after a Piedmontese coalition captured and imprisoned Count Thomas of Savoy, a prominent papal supporter, Pope Alexander IV wrote to Henry III and Queen Eleanor, urging them to exact reprisals against any citizens of Turin and Asti within the kingdom.[15] Given that Thomas of Savoy was Henry's uncle, the king proved quite willing to accede to the papal request, ordering the seizure of all of the merchants from "Lombardy" residing in York together with their chattels and merchandise.[16] A similar fate befell Florentine merchant-bankers in 1262 after they ran afoul of Eleanor's uncle, Peter of Savoy, and royal directives ordered the arrest of French and Flemish merchants prior to their respective expulsions in 1231 and 1275.[17]

In light of such events, it is unsurprising that generations of scholars saw the reign of Henry III—and indeed, the thirteenth century in general—as a particularly and increasingly xenophobic period.[18] More recent studies, however, have emphasized the variety of contemporary attitudes

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[15] Matthew Paris transcribed in full the papal letter to Eleanor; see his *Chronica maiora*, ed. Henry Richards Luard, 7 vols. (London: Longman, 1872-83) [hereafter *CM*], 5.565-567. An edition of the letter is given in Johann Ludwig Wurstemberger, *Peter der Zweite. Graf von Savoyen, Markgraf in Italien, sein Haus und seine Lande*, 4 vols. (Bern: Stämpfli, 1856-58), 4.204 [=no. 419].

[16] *CCR Henry III,* 9.384 (1 January 1256); and Kew, National Archives, Public Record Office [hereafter PRO] C54/71 m. 18d. A summary of the latter document is found in *Calendar of Documents, relating to Ireland…,* ed. H. S. Sweetman, 5 vols. (London: Longman, 1875-86), 2.79 [=no. 485]. Similar orders were sent to the justiciar of Ireland, the London municipal authorities, and the barons of the Cinque Ports. A certain Lucchese merchant was inadvertently imprisoned in Dover after being taken for a Lombard; the king subsequently ordered his release and issued safeconducts for him and his Lucchese associate. See *CCR Henry III,* 9.260 (9 January 1256). For early Lucchese activity in England, see Ignazio del Punta, *Mercanti e banchieri lucchesi nel Duecento* (Pisa: Edizioni PLUS, 2004),173-175.

[17] In the case of the Florentine merchants, the king first threatened them with expulsion if they would not make amends to Peter of Savoy. When they failed to comply, he ordered the seizure of the goods of all the Florentines in London and at the Boston and Stamford fairs (with exceptions for the representatives of the Willelmi and de Scala firms); the merchants themselves seem to have gone untouched. See *CCR Henry III,* 12.131 (27 June 1262); and *Patent Rolls of the Reign of Henry III preserved in the Public Record Office*, 6 vols. (London: H. M. Stationery Office, 1901-03) [hereafter *PR Henry III*], 5.218 (1 July 1262).

[18] See, for example, Susan Reynolds, *Kingdoms and Communities in Western Europe, 900-1300*, 2nd ed. (Oxford: Clarendon Press, 1997), 270, where the reign of Henry III is characterized as demonstrating "a

toward foreigners as well as the spasmodic, politicized nature of anti-foreign outbursts.[19] In 1215, 1258, and 1264, for instance, the English nobility demanded the expulsion of the king's foreign advisors while simultaneously insisting on the importance of welcoming foreign merchants.[20] To resort to the broad brush of 'xenophobia' is to gloss over such complexity. That said, it is indisputable that disputes over the presence and prominence of foreigners—together with the desirability of their expulsion—loomed large in thirteenth-century public discourse in England, especially in comparison to the Continent.

Usury, by contrast, seems to have been of decidedly limited concern to English rulers and ruled alike throughout the early thirteenth century. In the middle decades of the twelfth century, the topic had featured among the jurisdictional disputes between Henry II and Thomas Becket, the resolution of which saw the crown cede jurisdiction over living usurers to the church by the mid-1170s.[21] Both *Glanvill* and the *Dialogue of the Exchequer*, legal treatises dating to the late twelfth century, accordingly held that the state's concern with usury extended only to the disposal of the property of dead usurers.[22] There is little subsequent evidence to suggest even

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combination of internal conflict with xenophobia that, in this period, seems peculiarly characteristic of England."

[19] Nicholas Vincent, *Peter des Roches: An Alien in English Politics, 1205-1238* (Cambridge: Cambridge, 1996), 37; Ridgeway, "King Henry III," 86.

[20] Magna Carta, c. 41: in J. C. Holt, *Magna Carta*, 2nd ed. (Cambridge: Cambridge University Press, 1992), 460-63; R. F. Treharne and I. J. Sanders, eds., *Documents of the Baronial Movement of Reform and Rebellion, 1258-1267* (Oxford: Clarendon, 1973) [hereafter *DBM*], 84-87, 274-75.

[21] This is discussed in an unpublished paper of Robert C. Stacey, "The Becket Conflict and the Origins of Crown Jurisdiction over Usury," first presented at the 1998 Annual Meeting of the American Society for Legal History and then revised in January 2002. I am grateful to the author for his kindness in sharing this paper with me.

[22] *The Treatise on the Laws and Customs of the Realm of England, Commonly Called Glanvill,* ed. G. D. G. Hall (London: Nelson, 1965), 89 [=7.16]; *Dialogus de Scaccario*; ed. Charles Johnson (London: Nelson, 1950), 99-100; and see the discussion in Gwen Seabourne, *Royal Regulation of Loans and Sales in Medieval England: "Monkish Superstition and Civil Tyranny"* (Woodbridge: Boydell Press, 2003), 42. Melissa Sartore mistakenly suggests that "Glanville reaffirmed the banishment of usurers, who were to

fleeting royal concern with usury before about 1240, and not until the reign of Edward I do we find royal officials repeatedly investigating usurious lending on the part of the king's own subjects during their lifetimes.[23]

The pattern is similar within ecclesiastical circles. In 1125 and again in 1138, legatine councils at Westminster had condemned clerical usury, ordering that offenders be stripped of their rank and deprived of their benefices.[24] But here the focus (in keeping with other contemporary canonical legislation) was on clerical usurers, not lay ones. In 1175, another council at Westminster considered new measures against usury (including a general ban on Christian usury), but did not include these in the resulting statutes.[25] Thereafter, the topic of usury—whether on the part of clerics or laymen—rarely reappears as a matter of particular

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forfeit all property to the Crown and be treated as outlaws throughout the realm"; see her *Outlawry, Governance, and Law in Medieval England* (New York: Lang, 2013), 96. For instances of the royal exercise of this right, see *PR Henry III* 6.676 (5 September 1272); and the examples cited in Gwen Seabourne, "Law, Morals, and Money: Royal Regulation of the Substance of Subjects' Sales and Loans in England, 1272-1399," in *Expectations of the Law in the Middle Ages*, ed. Anthony Musson (Woodbridge: Boydell Press, 2001), 117-34, at 123.

[23] Seabourne, *Royal Regulation*, 46-49. Such practices notwithstanding, in the fifteenth century we still find English kings asserting that living usurers were the concern of the church; see *PROME*, vol. 8: *Henry IV (1399-1413)*, ed. Chris Given Wilson (London: National Archives, 2005), 269-74 [=1404 January, m. 4, no. 68].

[24] Westminster (1125), c. 14: in *Councils and Synods, with other Documents Relating to the English Church,* eds. Christopher R. Cheney et al., 2 vols. (Oxford: Clarendon Press, 1964-81), 1.2.741; Westminster (1138), c. 9: in *idem.*, 1.2.776.

[25] Westminster (1175): in *Councils and Synods*, 1.969, 979. The bishops ended up soliciting a papal decretal on the matter instead; see Mary G. Cheney, "The Council of Westminster, 1175: New Light on an Old Source," *Studies in Church History* 11 (1975), 61-68; along with the more recent remarks of Anne L. Duggan, "*De consultationibus:* The Role of Episcopal Consultation in the Shaping of Canon Law in the Twelfth Century," in *Bishops, Texts, and the Use of Canon Law around 1100. Essays in Honour of Martin Brett*, eds. Bruce C. Brasington and Kathleen G. Cushing (Aldershot: Ashgate, 2008), 191-240, at 198-200. Bob Stacey ("Becket Conflict") argues persuasively that the silence in the statutes themselves reflects the lingering jurisdictional dispute.

concern in ecclesiastical legislation. And to judge from the surviving late medieval records, usury trials formed a comparatively small part of the routine business of ecclesiastical courts.[26]

More problematic is the threatened outlawry of usurers found in the so-called *Laws of Edward the Confessor*. This text, which claimed to record the *laga Edwardi*, that is, the laws in force under King Edward the Confessor (r. 1042-1066), was instead almost certainly the invention of a clergyman writing in the mid-twelfth century, though the extent of its reliance on earlier legal texts remains disputed.[27] The passage on usurers reads as follows:

> Edward also forbade usurers, so that there would none such in his kingdom. And if anyone, thereupon, was convicted, he would lose all his possessions and be considered an outlaw. Moreover, he used to say that he often had heard this in the court of the king of the French when he had been staying there, nor was it without merit: usury should be regarded as the greatest root of the vices.[28]

There is much that is strange about this passage, as is true of the *Laws* in general. Given the likely dating of the *Laws,* the passage may have been included in order to present the not-yet-canonized Edward as even more vigorous in his opposition to usury than the contemporary English church.[29] But given that the passage itself appears to have been a later addition to the

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[26] The synodal statutes of Salisbury from 1217x1219 forcefully reassert the canonical penalties on usurers, but these are an exception to the general trend; see *Councils and Synods*, 2.1.66-67 [=c. 19]. For usury proceedings in English ecclesiastical courts, see Richard H. Helmholz, "Usury and the Medieval English Church Courts," *Speculum* 61 (1986), 364-80, esp. 368-70.

[27] See, in general, Bruce R. O'Brien, *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia: University of Pennsylvania Press, 1999); cf. Patrick Wormald's remarks in *The Making of English Law: King Alfred to the Twelfth Century*, vol. 1: *Legislation and its Limits* (Oxford: Blackwell, 1999), 409-12.

[28] O'Brien, *God's Peace*, 200-1 [=c. 37]: "Usurarios etiam defendit Edwardus, ne esset aliquis in regno suo. Et si aliquis inde probatus esset, omnes possessiones suas perderet et pro exlege haberetur. Hoc autem dicebat, sepe se audisse in curia regis Francorum, dum ibi moratus esset, nec inmerito: Usura enim summa radix uiciorum interpretatur." I have slightly modified O'Brien's translation.

[29] Both O'Brien (*God's Peace*, 39) and Seabourne (*Royal Regulation*, 60) suggest that the inclusion of the passage was an effort to show the king anticipating the Westminster legatine decrees of 1125 and 1138, but this may overstate the connection, especially given that the Westminster decrees deal with clerical usurers while the passage in the *Laws* presumably concerns only the laity (though such a distinction is nowhere spelled out).

original text of the *Laws*, it may instead have been an effort to bolster Henry II's authority over usury against competing clerical claims in the 1160s.[30] More notably, for our purposes, it predates by roughly a century any subsequent calls for the banishment of usurers (whether foreign, Jewish, or otherwise). Indeed, the very novelty of the passage—coupled with the unparalleled severity of the threatened sanction—may explain the belabored nature of the frame story. It seems clear, however, that the passage was the work of a clerical author with a particularly virulent distaste for usury who, in trying to conjure up an appropriate (albeit fictive) secular response to usury, opted for one of the severest punishments in Anglo-Saxon law. It is equally clear that his efforts bore little fruit. There is no evidence that this passage was in fact brandished by the secular arm during the jurisdictional conflicts of the 1160s. Moreover, for all the continuing interest in the *Laws* as a whole in the thirteenth century and beyond, no subsequent medieval sources even echo their novel association between usury and outlawry.[31]

As for the Jews, royal attitudes toward their moneylending were openly permissive for most of the thirteenth century. So far as Henry III was concerned, Jewish usury was a source of wealth rather than worry. Although he pushed energetically for the Jews' conversion and aggressively prosecuted charges of ritual murder during his reign, the king seems to have been content to regulate the Jews' lending activity rather than repress it.[32] Of course, Henry III's perspective was

[30] O'Brien, *God's Peace*, 38-40.

[31] For their circulation in thirteenth-century England, see O'Brien, *God's Peace*, 119-21.

[32] Stacey, "King Henry III and the Jews," in *Jews in Medieval Christendom: "Slay Them Not,"* eds. Kristine T. Utterback and Merrall Llewelyn Price (Leiden: Brill, 2013), 117-27; see also Nicholas Vincent, Jews, Poitevins, and the Bishop of Winchester, 1231-1234," in *Christianity and Judaism. Papers Read at the 1991 Summer Meeting and the 1992 Winter Meeting of the Ecclesiastical History Society*, ed. Diana Wood (Oxford: Blackwell, 1992), 119-32.

not shared by all of his subjects.[33] If contemporary English ecclesiastical legislation says little about Jewish usury, this is not because the bishops were indifferent to it but because Henry III, like his predecessors, firmly asserted that the bishops had no say in the matter.[34] Others had more freedom to make their convictions manifest. In 1231/32, for instance, Simon de Montfort ordered the expulsion of the Jews of Leicester. Although the charter ordering the expulsion declares Montfort made the decision for the sake of his soul, Robert Grosseteste, then the archdeacon of Leicester, praised the expulsion as an effort to liberate Christians from the oppression of Jewish usury.[35] John Maddicott has argued that Montfort's action should probably be seen not so much as a reflection of prevailing English sentiments, "as an extension of his family's earlier Crusading anti-Semitism in the south of France." He suggests, moreover, that it may have been spurred by recent Capetian measures against the Jews.[36] Novel though it may have been, Montfort's action clearly resonated among his contemporaries, and it was followed by a series of copycat expulsions from other English towns, spurred to a considerable degree by noble and popular resentment against Jewish moneylending.[37] Still, these measures were limited in scope

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[33] For a brief discussion of contemporary English attitudes toward Jewish lending, see Sophia Menache, "Matthew Paris's Attitude toward Anglo-Jewry," *Journal of Medieval History* 23 (1997), 139-62, at 153-55.

[34] See J. A. Watt, "The English Episcopate, the State, and the Jews: the Evidence of the Thirteenth-Century Conciliar Decrees," *Thirteenth-Century England* 2 (1988), 137-47. The 1240 statutes of Worcester are among the few to mention Jewish usury, and this occurs only in the context of a prohibition on Christians giving their money to Jews to be lent at interest; see *Councils and Synods*, 2.1.318 [=c. 91].

[35] Montfort's charter is printed in John Nichols, *The History and Antiquities of the County of Leicester*, 4 vols. (London: John Nichols, 1795), 1/1, Appendix, 38 [=no. 130]. For Grosseteste's response, see his *Epistolae*, ed. Henry Richards Luard (London: Longman, 1861), 33.

[36] John Maddicott, *Simon de Montfort* (Cambridge: Cambridge University Press, 1994), 15; Vincent, "Jews, Poitevins," 129-31.

[37] See Robin Mundill, "Medieval Anglo-Jewry: Expulsion and Exodus," in *Judenvertreibungen in Mittelalter und früher Neuzeit,* eds. Friedhelm Burgard, Alfred Haverkamp, and Gerd Mentgen (Hanover: Verlag Hahnsche Buchhandlung, 1999), 75-97, at 86.

and effect, and although Jewish lending capacity was severely reduced by Henry III's aggressive fiscal exactions in the 1240s and 1250s, it was not until Edward I's accession that the actual practice of Jewish moneylending came under serious and sustained attack.[38]

A snapshot of England around the start of the 1230s would therefore reveal a kingdom in which the presence and prominence of foreigners in political, religious, and commercial spheres was a source of continuing discussion; in which an outburst of hostility toward beneficed foreigners and papal associates had only recently been calmed; in which French merchants had repeatedly been expelled from the realm and other foreign merchants had nearly suffered the same fate as well; and in which neither secular nor ecclesiastical authorities had recently displayed much concern over moneylending, whether by Jews or Christians. It is in this context that we must understand the initial emergence of the expulsion of foreign moneylenders as both a possibility and a practice in England.

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It was the bishop of London who fired the opening salvo in 1235. Enraged by the practices of the Cahorsins who were infecting the land with their usury under the pretext of serving as papal merchants and moneychangers, the bishop reproached them as if they were schismatics, demanding that they abandon their sinful ways and attend to the salvation of their souls. When the Cahorsins scoffed at his admonishments, the bishop proceeded to excommunicate them and ordered them to leave London, lest they further stain his diocese with their wickedness. Unbowed, the Cahorsins turned for help to their protectors at the papal curia, who summoned the

[38] See Robert C. Stacey, "1240-60: a Watershed in Anglo-Jewish Relations?," *Historical Research* 61 (1988), 135-50; Paul Brand, "Jews and the Law in England, 1275-90," *English Historical Review* 115 (2000), 1138-58, at 1140-43.

aged bishop to Rome to defend his actions. At this point, the bishop decided to let the matter drop, in order to avoid bringing shame upon the church.[39]

This, at least, is the story as reported by Matthew Paris, the prolific monk of St. Albans whose chronicles have so markedly shaped our understanding of his age. Given the breadth of his interests, his friendships with the leading political figures of his day (among them Henry III and his brother Richard of Cornwall), his love of colorful detail, and his penchant for copying out relevant documents, Paris is an incomparable guide to the history of England and western Europe from the 1220s until his death in 1259. Yet he is also a frequently unreliable one, not only on account of his often inexact chronologies and willingness to tamper with his transcriptions, but especially (to use V. H. Galbraith's memorable phrase) "by the extravagance of his prejudices and the constant intrusion of his own personality."[40] The list of these prejudices is long: he was steadfastly opposed to the mendicant orders, for example, as well as anything that smacked of royal centralization. His most passionate invectives, however, were reserved for overmighty foreigners, the venality of the Roman curia, and the scourge of usury. So when it comes to an incident involving the expulsion of foreign usurers bearing close ties to the papacy, the view from Paris is especially hazy. But since his is our only record of the event, let us see what we can make of it.

To begin with, who were these "Cahorsins"? Given that Paris further describes them as "usurers from beyond the Alps (*ultramontani usurarii*)," it is clear that he is not referring here to

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[39] Matthew Paris, *CM,* 3.328-32; and his *Historia Anglorum*, ed. Frederic Madden, 2 vols. (London: H. M. Stationery Office, 1866), 2.382-84. The account in the *Flores Historiarum*, which was almost certainly Paris's handiwork, is much briefer and adds nothing to the other chronicle versions; see *Flores Historiarum*, ed. Henry Richards Luard, 3 vols. (London: H. M. Stationery Office, 1890), 2.206-7].

[40] V. H. Galbraith, "Roger Wendover and Matthew Paris," in *Kings and Chroniclers: Essays in English Medieval History* (London: Hambledon Press, 1982), Essay 10 [pp. 5-48], at 13.

merchants from the southern French town of Cahors, though these were certainly active in England throughout most of the thirteenth century (indeed, it was the arrest of some of these that seems to have precipitated the general expulsion of French merchants from the kingdom in 1231).[41] Rather, these were Italians who, among other commercial and mercantile interests in England, assisted in the collection of curial revenues.[42] According to Paris, these Cahorsins referred to themselves initially as "merchant-bankers (*mercatores denariorum*)" and later as "papal merchants and moneychangers (*mercatores domini papae vel escambiatores*)." Such titles, he claimed, where merely a pretext for "concealing their usury beneath the appearance of commerce (*usuram sub specie negotiationis palliantes*)." Although we know very little for certain about Italian activities during this period, it is clear that the resident Florentine and Sienese firms were indeed engaging actively in moneylending, with ecclesiastical borrowers figuring prominently among their clients. Very few of these firms appear to have operated

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[41] See the references cited above, p. 18 n.33. For the arrest of merchants from Cahors (*mercatores Caurcinos/mercatores Caurcenses*) in November 1230 and their subsequent expulsion, see *CCR Henry III* 1.458 (26 November 1230) and 1.576 (5 January 1231).

[42] See, in general, Robert Jowitt Whitwell, "Italian Bankers and the English Crown," *Transactions of the Royal Historical Society* n.s. 17 (1903), 175-233; Édouard Jordan, *De mercatoribus camerae apostolicae saeculo XIII* (Rennes, Oberthur, 1909). For the Romans, see Marco Venditelli, *In partibus Anglie." Cittadini romani alla corte inglese nel Duecento: la vicenda di Pietro Saraceno* (Rome: Viella, 2001), 34-37. For the Sienese, see Elisabeth von Roon-Bassermann, *Sienesische Handelsgesellschaften des XIII. Jahrhunderts mit besonderer Berücksichtigung ihres internationalen Handels* (Mannheim: Bensheimer, 1912). For the Florentines, see von Roon-Bassermann, "Die ersten Florentiner Handelsgesellschaften in England," *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 39 (1952), 97-128. Von Roon-Bassermann notes ("Florentiner Handelsgesellschaften," 113) that the Florentines' mercantile activities in England have left little trace for this period compared to their consortial banking ones, but it is clear that they were involved in the import/export business, even if not on the same level as in the later thirteenth century. For Florentines gathering papal tribute from Henry III, see *Calendar of the Liberate Rolls preserved in the Public Record Office,* 6 vols. (London: H. M. Stationery Office, 1916-64) [hereafter *CLR*], 1.196 (23 Jan 1233). For other contemporary references to Florentine activity in England, see *PR Henry III*, 3.74 (1 November 1234); *Curia Regis Rolls preserved in the Public Record Office,* vol. 15*: 17 to 21 Henry III (1233-1237)*, ed. C. T. Flower (London: H. M. Stationery Office, 1972), 238, 291 [=nos. 1066, 1181 (June/July 1234)]. For Sienese activity, see *Calendar of the Charter Rolls preserved in the Public Record Office*, vol. 1: *Henry III (1226-1257)* (London: H. M. Stationery Office, 1903), 1.169 (September 1232); *Curia Regis Rolls*, 15.242-43 [=no. 1073 (June/July 1234)].

directly on behalf of the papacy, but since English ecclesiastical institutions often had to borrow money in order to meet their curial commitments, it is likely that all of the resident Italian firms were engaging in papal business to some extent. In any event, if the bishop was indeed targeting only those Italians who carried out operations on behalf of the papacy, then we are dealing with a very small number of victims, indeed probably no more than a handful.[43] If instead the bishop's wrath fell on all Italian merchant-bankers then residing in London (together with their associates), then we are dealing with a somewhat larger number, though still no more than several dozen at the most.[44]

What about the offended bishop? Roger Niger, who served as bishop of London from 1228 until his death in 1241, appears to have been an able and respected figure during his lifetime. He did not shy from confrontations with royal officials when the traditional liberties of the English church were at stake, and his reputation for holiness was such that a cult arose following his death and remained active at least down to the end of the fourteenth century.[45] If, as has been suggested, Niger studied at the University of Paris in the early thirteenth century, it is perhaps to this experience that he owed his strong views on usury (assuming they are not simply a projection of Matthew Paris's own views on the subject). In addition, it is unlikely that the

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[43] These may have been the Sienese associates of Angiolieri Solaficu whom Gregory IX cites in a quittance of 26 March 1233. The quittance is printed in Lodovico Muratori, ed., *Antiquitates Italicae medii aevi,* 6 vols. (Milan: ex typ. Societatis palatinae, 1738-42), 1.889; a summary is given in *Regesta pontificum romanorum inde ab a. post Christum natum 1198 ad a. 1304*, ed. August Potthast, 2 vols. (Berlin: de Decker, 1874-75), 1.782 [=no. 9132].

[44] These tallies are extrapolated from the sources cited in the two previous notes.

[45] For a brief biographical sketch of Roger Niger, see *English Episcopal Acta. 38: London (1229-1280)*, ed. Philippa Hoskin (London: British Academy, 2011), xxxvii-xli; as well as R. M. Franklin, "Niger, Roger," in *Oxford Dictionary of National Biography*, 60 vols. (Oxford: Oxford University Press, 2004), 40.903-4. His cult was centered at Beeleigh Abbey, which was the resting place for the bishop's heart. For papal acknowledgement of the cult, see *Calendar of Papal Registers Relating to Great Britain and Ireland,* eds. William Henry Bliss et al., 19 vols. (London: H. M. Stationery Office, 1893-1998), 4.399 (22 July 1391).

bishop held much affection for the papal curia or its representatives. In 1231, for instance, Niger clashed with the Franciscans over their insistence on their exemption from episcopal jurisdiction, only to suffer a humiliating defeat when the friars appealed to Rome and succeeded in obtaining the bull *Nimis iniqua*, thereby securing their desired exemption not only for the diocese of London, but for the whole of Christendom.[46] Worse still, in 1232 Niger had been forced to travel to Rome to defend himself against charges of encouraging the recent assaults on Italian clergy. He managed to prove his innocence (among other things, he had promptly excommunicated the malefactors), but this judgment came at considerable financial expense, if Matthew Paris is to be believed.[47] Moreover, while Niger was stopping in Parma en route to Rome, local thieves made off with all of his money. Given that he responded by cursing the city and all its citizens, it seems safe to assume that he returned from his Italian sojourn with a rather ill view of the peninsula and its people.

In light of this context, and assuming we approach Matthew Paris's account with skepticism but not outright incredulity, what can we discern about the event itself? It seems entirely plausible that the bishop did indeed excommunicate some Italian merchant-bankers for usury, although there is no way to know for sure whether the bishop shared Paris's obsessive concern with usury, or whether usury was simply a convenient pretext for attempting to rid his diocese of some Italian merchant-bankers whom he disliked for other reasons. The bishop may also have ordered them to leave his diocese, as Paris claims, though there is nothing in Paris's account to imply that they actually left. Indeed, the fact that the targets appealed to Rome rather than Westminster suggests otherwise; had they actually been forced to leave London, we would

[46] Jens Röhrkasten, *The Mendicant Houses of Medieval London, 1221-1539* (Münster: LIT, 2004), 302.

[47] Matthew Paris, *Historia Anglorum*, 2.352.

expect them to have sought redress from the king, under whose protection they fell. The appeal to Rome suggests that it was only the spiritual sanctions—that is, the sentences of excommunication—that required lifting, rather than an expulsion order. But whether or not the Italians felt compelled to obey the bishop's expulsion order, it is telling that the bishop thought to expel them at all. This is not only the first known instance of a spiritual authority going beyond the traditional canonical penalties for usury; it is also the first recorded case of Christian usurers (foreign or otherwise) being punished with expulsion.

Why expulsion? Banishment from a diocese was not unknown to canon law, but it was decidedly rare. In the preceding two centuries, however, it had emerged as a recurring response to one crime in particular, namely, heresy.[48] In light of this association, it is worth returning to Matthew Paris's account, which notes that the bishop first "reproached them as if they were schismatics (*quasi scismaticos admonuit*)," before proceeding to expel them.[49] Whether Paris was faithfully reporting the bishop's opinions or ventriloquizing his own sentiments, the rhetorical association between usury and schism, followed by the imposition of a punishment generally associated with heretics, is striking. It therefore seems plausible, even probable, that traditional ecclesiastical responses to heretics inspired Bishop Niger's unpredecented response to usurers.

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The showdown between the bishops and the Italian merchant-bankers may have rattled some figures at the papal curia, since it is some years before we again find Italians serving as papal

[48] Robert I. Moore, *The Origins of European Dissent* (New York: St. Martin's Press, 1977), 175, 252.

[49] Matthew Paris, *CM*, 3.332.

agents in the kingdom.[50] The affair did not, however, put much of a damper on the broader activity of Italian merchant-bankers in England, and the king continued to resort to their services when it came to funding the business of his own representatives in Rome.[51] Yet in the summer of 1240 the Italians again found themselves facing expulsion—this time by order of the king. According to Matthew Paris, this came about because Henry III at last came to recognize the extent to which the "Cahorsins," and above all the Sienese, had polluted his kingdom with their usury. Not much came of his threat; the Italians, "troubled by the prospect of losing such pastures (*dolentes tales se pascuas amissuras*)," simply resorted to bribery and the greater part of them accordingly managed to remain in the kingdom.[52]

Surviving administrative documents concerning the expulsion largely corroborate Paris's version of the event, though an adequate reconstruction is considerably hindered by the loss of the Close and Patent Rolls from much of this period.[53] The activities of Italian merchant-bankers evidently provoked official concern at least a year before the expulsion order, since in the summer of 1239 the king ordered the arrest of Sienese merchants, along with the seizure of their strongboxes and other property, "on account of the merchants' trespass."[54] The nature of the trespass is not recorded, though it seems likely that usury was somehow involved, especially

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[50] William E. Lunt, *Financial Relations of the Papacy with England*, 2 vols. (Cambridge, MA: Mediaeval Academy of America, 1939-62), 1.599-603. Admittedly, our evidence concerning papal finances during this period is extremely spotty, so the absence of surviving references to papal use of Italian agents in England may not be especially significant.

[51] *CLR* 1.243 (8 November 1236); *CLR* 1.280 (14 July 1237); *CLR* 1.359 (10 January 1239); *PR Henry III*, 3.147 (25 May 1236); *PR Henry III*, 3.232 (4 September 1238).

[52] Matthew Paris, *CM*, 4.8.

[53] The Patent Rolls for 23-24 Henry III (i.e. October 1238-October 1240) are lost, as are the Close Rolls for 23 Henry III (i.e. October 1238-October 1239).

[54] PRO C 62/13 m. 7; summary in *CLR* 1.411 (28 August 1239).

since the king subsequently ordered their strongboxes (*arche*) to be gathered at the Tower of London, presumably to facilitate a careful examination of their account-books. At any rate, the Sienese must have remained under arrest for several months, for in December the king, acting at the behest of the pope and the bishop-elect of Laon, ordered one of them to be released.[55] The prisoner, who was being held by the bishop of Worcester, was then to make his way to the Tower in order to retrieve his strongbox from among those gathered there—further evidence that many of his fellow merchants remained in custody.

It is probably no coincidence that the summer and fall of 1239 likewise saw the king launch a series of repressive measures against the Jews, including the imprisonment of a number of Jewish leaders and the imposition of a series of exorbitant tallages, in an effort to replenish royal finances.[56] It is unclear, however, why the Sienese were singled out for particular attention, as opposed to their counterparts from other Italian cities who were engaging in similar activities within the kingdom. It is possible that royal interest in the Sienese merchants' business dealings was spurred by a papal bull issued earlier that year barring French, German, and English prelates

[55] *CCR Henry III,* 4.160. The entry in the Close Rolls notes that the decision "concerned a certain Sienese merchant (*pro quodam mercatore Senensi*)," whose name ("Chace Cunte Kavelcan") was clearly mangled by the scribe (I have confirmed the reading in PRO C54/50 m. 19). The last name is almost certainly an abbreviation of "Cavalcanti," in which case the papal and episcopal intervention may have been related to the fact that the imprisoned merchant was not Sienese but Florentine, and furthermore a member of a solidly Guelph family. Is it possible that this was in fact Cavalcante de' Cavalcanti, best remembered for his imagined encounter with Dante (*Inferno* 10.52-72)? The family is known to have been involved in trade during the early thirteenth century, and at the time of the arrest Cavalcanti would have been in his late teens or early twenties, an appropriate age for serving as an apprentice in the branch of an established firm. No other evidence links Cavalcanti to London, but the possibility is intriguing. For the patchy evidence concerning the mercantile activities of the Cavalcanti family in the early thirteenth century, see von Roon-Bassermann, "Florentiner Handelsgesellschaften," 99-102.

[56] Robert C. Stacey, *Politics, Policy, and Finance under Henry III, 1216-1245* (Oxford: Clarendon Press, 1987), 144-55. The king repeatedly imposed heavy tallages on the Jews between 1239-1241; full references are given in Robert C. Stacey, "The English Jews under Henry III," in *The Jews in Medieval Britain: Historical, Literary, and Archaeological Perspectives*, ed. Patricia Skinner (Woodbridge: Boydell Press, 2003), 41-54, at 49.

from repaying their debts to Sienese creditors, as punishment for the city's Ghibelline sympathies, but this would not in itself explain the royal decision to arrest them.[57]

Whatever the motives behind the Sienese merchants' arrest, the king and his council—led by the former Justiciar Stephen de Segrave—subsequently decided to pursue a much broader course of action. At some point in early 1240, the king ordered all foreign merchants to cease any lending at usury by Easter.[58] Then, on June 30, the king drafted a letter to the mayor and sheriffs of London ordering all transalpine merchants (*omnibus mercatoribus ultramontanis*) residing in London to leave the realm within a month. Those same merchants were also to send word to their associates throughout the kingdom, warning them that any who remained past that date would no longer enjoy royal protection.[59] Since the letter was not enrolled at the Exchequer, it may never have been sent to its intended recipients, and in any event, it was superseded by a proclamation issued two weeks later, on July 12. This revised proclamation, issued by Segrave himself, now specified that only the Sienese and other merchants who had lent at usury since the previous Easter were required to leave the realm by the end of July. All other overseas merchants (*mercatoribus transmarinis*) were allowed to remain until Easter 1241, at which point they too would have to depart.[60] Two days later, the king sent a new letter to the London authorities,

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[57] *Epistolae saeculi XIII e regestis pontificorum selectae,* ed. Carl Rodenberg, 3 vols. (Berlin: Weidmann, 1883-94), 1.642 [=no. 744]. For a brief discussion of the episode, see Adolf Schaube, *Handelsgeschichte der romanischen völker des Mittelmeergebiets bis zum Ende der Kreuzzüge* (Munich: Oldenbourg, 1906), 356.

[58] The text of the usury ban does not survive, but its existence is implied by an entry in a memoranda roll, discussed below.

[59] *CCR Henry III,* 4.239.

[60] PRO E 159/18 rot. 19d (Memoranda Roll, 24 Henry III, 12 July 1245): "Mandatum est maiori et vicecomitibus London' quod omnibus mercatoribus transmarinis existentibus London' quatinus non dederint pecuniam ad usuram post pascham proximo preterito ex parte regis firmiter inhibeant ne ultra pascham anno xxv in regno regis morentur. Senensibus autem et aliis mercatoribus qui pecuniam dederunt ad usuram post pascham proximo preterito ex parte regis firmiter inhibeant ne ultra unum

notifying them that merchants from Rome, Bologna, and Florence would be allowed to remain in the kingdom until November 11, "notwithstanding the royal order to expel transalpine merchants from the kingdom (*non obstante precepto regis de mercatoribus transmontanis ejiciendis a regno*)."[61] Moreover, even the Sienese managed to delay their expulsion, since they were still apparently in the kingdom on November 17, when Federico Orlandi and three other Sienese merchants managed to secure letters patent from the king.[62] The four merchants were allowed to renew the contracts for any debts owing to them at the time of the initial proclamation, and all Sienese merchants were given permission to remain in the kingdom until they had recovered their outstanding debts, so long as they engaged in no further usury.

What are we to make of this bewildering sequence of imprisonments, expulsions, deadlines, revisions, and exemptions? Who was being expelled, and when, and for what? Much of this is murky. To begin with, the king's orders refer to *mercatores ultramontani/transmontani*, clearly denoting Italians, while Segrave's order uses the more general language of *mercatores transmarini*, a phrase that could conceivably encompass all foreign merchants. Here it seems

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mensem a die apostolorum petri et pauli proximo preterito et in regno regis morentur. Et eisdem mercatoribus ex parte regis firmiter iniungant quod idem sociis suis scire faciant unicunque sint in regno regis, quam pacem regis non habebunt ultra terminos supradictos si in regno regis morentur. Teste. S. de Segreve xii die Jul." Bob Stacey noted the existence of this document (*Henry III*, 135), but discussed it only insofar as it modified the king's order of June 30. The first sentence of the document, however, makes it clear that a usury ban was issued sometime before Easter 1240, and that the expulsion of the Sienese in July 1240 was only an expedited version of a more comprehensive expulsion order targeting foreign merchants, with Easter 1241 as its deadline. Neither the usury ban nor the general expulsion order has previously been noted, which may be due to the loss of the Patent Rolls for most of this period (I hope to pursue further research in the Memoranda Rolls at a later date). I would like to thank Bob Stacey for our detailed discussion of this conjecture, as well as David Carpenter and Richard Cassidy for their observations.

[61] *CCR Henry III,* 4.239. For ongoing Florentine financial activity during this grace period, see Whitwell, "Italian Bankers," Appendix D, 230 (14 August 1240); and *CLR,* 1.502 (16 October 1240).

[62] PRO C66/49 m. 12; summary in *PR Henry III* 3.239 (17 November 1240).

reasonable to ascribe the discrepancy to the difficulty of rendering vernacular expressions into Latin, and to assume accordingly that all of the orders were aimed at Italian merchants.

Even within this broad category, differential treatments were clearly at play. As recorded in the Close Rolls, for example, the expulsion order that Henry III issued on June 30 made no mention of usury, referring simply to "all transalpine merchants (*omnibus mercatoribus ultramontanis*)." Segrave's revised letter of July 12 established a distinction between the Sienese and those who had lent at interest since Easter, on the one hand, and the rest of the resident Italian mercantile community, on the other. The former were to be expelled by July, while the latter could remain until the following Easter. The fact that the merchants of Rome, Bologna, and Florence collectively sought a temporary exemption until November 1240 suggests that they considered themselves subject to the imminent July deadline. But if the merchants of those three cities, together with the Sienese, all faced the prospect of expulsion at the end of July 1240, who, exactly, would have been left to face the Easter 1241 deadline? And what happened to the Sienese between the initial July deadline for their departure and the exemption that some of them were granted in November? Perhaps most puzzling of all, what prompted the king and his councilors to order the expulsion of all foreign (or rather, Italian) merchants, even those who had not engaged in any moneylending following the king's prohibition on usury? Was this dramatic gesture intended merely as a means of raising revenue through the widespread concession of exemptions, or were less pecuniary motives at play? Here we move into the realm of speculation, and unless the missing Patent Rolls for 1238-40 miraculously reappear after half a millennium in hiding, speculation is about as far as we can go. So let us settle for concluding, with Matthew Paris, that in 1240 Henry III did indeed order the general expulsion of Italian merchant-bankers on grounds of usury, and that few, if any, of the targets ended up leaving the realm for very long.

Modern scholars, following Matthew Paris's lead, have interpreted the whole episode as yet another failure for a king whose reign was filled with so many.[63] It is true that, as Paris grumbled, the expulsion order did not produce a perceptible exodus of Italians from the kingdom, and he is probably correct in assuming that bribery played a role.[64] The Florentines continued to have regular financial dealings with the king and other leading figures, and there is evidence for an ongoing Bolognese presence as well.[65] Even the Sienese, whose activities seem to have inspired the entire affair, continued to provide financial services to the ever-impecunious king, his agents, and English ecclesiastical institutions.[66] But to evaluate the events of 1239-40 in terms of whether or not the threatened expulsion was fully implemented is to adopt too narrow a lens. To begin with, whatever the effect of the expulsion order on the Italians already dwelling in England, it certainly impeded the arrival of newcomers: all of the Florentines attested in the

[63] See, for example, Stacey, *Henry III*, 135: "Matthew Paris suspected bribery; if so, it was the only profit the king derived from the entire episode. Italian money-lending continued unchecked in England, as it did across the rest of Europe."

[64] Rogers Ruding assumed that the resident Italian merchants were indeed expelled in 1240 and further suggested that they did not return until 1250; see his *Annals of the Coinage of Great Britain and its Dependencies*, 3rd ed., 3 vols. (London: Hearne, 1840), 1.183 n.3. Some recent scholars continue to follow him in this error, e.g. Diana Wood, *Medieval Economic Thought* (Cambridge: Cambridge University Press, 2002), 171.

[65] For Florentine activity, see *PR Henry III*, 3.244 (12 February 1241); *CCR Henry III,* 4.283 (13 March 1241); *PR Henry III,* 3.255 (15 July 1241); *CLR* 2.81 (25 October 1241); *PR Henry III*, 3.270 (15 January 1242); *Rôles Gascons, 1242-1307,* ed. Francisque Michel, 3 vols. (Paris: Imprimerie nationale, 1885-1906) [hereafter *RG*], 1.161 (February 1242); *RG* 1.117 (1 March 1242); *PR Henry III*, 3.275-76 (11-12 March 1242); *RG* 1.128 (25 April 1242); *Curia Regis Rolls of the Reign of Henry III preserved in the Public Record Office*, vol. 18: *27 to 30 Henry III (1243-1245),* ed. Paul Brand (Woodbridge: Boydell Press, 1999), 89 [=no. 475 (Trinity Term 27 Henry III, June 1242)]; *PR Henry III*, 3.366 (1 March 1243); *PR Henry III* 3.375 (25 April 1243); *CCR Henry III*, 5.38 (11 August 1243). An entry in the Close Rolls concerns the theft of money from a Bolognese merchant, but it is unclear whether the merchant himself was still in the realm at the time of the entry; see *CCR Henry III*, 4.282 (10 March 1241).

[66] *CLR* 2.17 (26 December 1240); *PR Henry III* 3.255 (15 July 1241); *CLR* 2.83 (28 October 1241); *PR Henry III* 3.272 (13 February 1242); *RG* 1.161 (February 1242).

realm in the years following the expulsion order were associated with companies that had been operating there since the 1220s.[67]

More momentously, in associating the practice of usury with the punishment of expulsion, the king had asserted his right—and his readiness—to drive from the realm those whose business practices he deemed usurious. Given the close relationship between usury and expulsion that would develop throughout western Europe over the course of the following decades, it is easy to take this association for granted. But in 1240, it was novel. For the better part of a century, England's rulers had been content to cede their jurisdiction over living usurers to the church. As *Glanvill* had put it, "it is not customary for a living person to be appealed or convicted of the crime of usury (*vivus autem non solet aliquis de crimine usurae appellari nec convinci*)."[68] Of course, the foreign merchants living in England did so at the king's pleasure; what applied to the king's own subjects did not necessarily apply to them. As Keechang Kim has persuasively argued, however, we must be wary of drawing too sharp a distinction between foreign and domestic merchants, in terms of the legal protections they enjoyed under contemporary English law. That a distinction existed is clear, but the legal consequences of this distinction "were implicit, ill-defined and unsystematic [with] no definite set of privileges or disabilities […] attributed to the quality of foreign provenance *per se*."[69] Furthermore, no European ruler had yet

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[67] Not until 1247, with the arrival of the Ghiberti-Bellindoti, would a new Florentine company establish itself in the English market; see von Roon-Bassermann, "Florentiner Handelsgesellschaften," 112-13.

[68] *Glanvill,* 89 [=7.16]. Although Hall translates the passage as "no living person can be appealed or convicted of the crime of usury," I take *non solet* slightly less forcefully. For some brief remarks on *Glanvill*'s use of *solere*, see Paul Hyams, "The Common Law and the French Connection," in *Proceedings of the Battle Conference on Anglo-Norman Studies (4th: 1981),* ed. R. Allen Brown (Woodbridge: Boydell Press, 1982), 77-92, at 82-83.

[69] Keechang Kim, *Aliens in Medieval Law: The Origins of Modern Citizenship* (Cambridge: Cambridge University Press, 2000), 10, 52. In the coming years, for example, foreign usurers would continue to be treated differently from native-born ones during their lifetimes, and yet both would be treated the same upon their deaths, with their moveable property being seized by the fisc; the seizure of a deceased Sienese

claimed that usurious lending, in itself, was sufficient grounds to expel its practioners, foreign or otherwise. Even Philip Augustus's expulsion of the Jews from the French royal domains in 1182 was predicated on a host of charges, of which the impoverishment caused by Jewish usury was only one. So Henry III's decision to expel Italian merchant-bankers for usurious lending, while his own subjects remained more or less immune from secular sanctions during their lifetimes, marked a sharp departure from English and Continental practice alike.

Amidst all of the twists, turns, discrepancies, reversals, and exemptions that marked relations between the English Crown and the various communities of Italian merchant-bankers during these two years, one constant stands out, namely, the persistent assertion that all of the Italians were engaging in usury. If the king and his officials did not go quite so far as Matthew Paris, who considered the Italians' mercantile activities to be nothing more than a thin veil for their moneylending, they nevertheless framed the Italians as evidently and universally engaging in usurious practices. In later years, as we shall see, they would even come to treat the phrases *mercator transmontanus* and *mercator usurarius* as synonymous. Together with the absence of any indication of what exactly counted as "usurious," or any concern for how such a charge was to be proven, this rendered the Italians' continuing presence in the kingdom fundamentally unstable. Although they had managed to maintain their access to the kingdom's fertile commercial pastures, their footing was now much less secure.

They could still purchase promises of royal protection, of course, as did the Sienese Reinerio (or Ranuccio) Barbotti and his associates in April 1241; in granting them his official protection for four years, the king even honored them as his "favored merchants (*speciales mercatores*

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merchant's chattels on grounds of usury is noted in the Fine Rolls, 29 Henry III m. 9 [=no. 309 (20 May 1245)], accessible online through David Carpenter et al., eds., *Henry III Fine Rolls Project* [last accessed 22 July 2015].

regis)."[70] How much they paid for these assurances is unclear, and the threat of expulsion hung over them all the same.[71] In February 1242, when the prior of Rochester Cathedral wished to borrow 225 marks from Federico Orlandi and his Sienese associates, the would-be lenders deemed it necessary to first secure royal permission for the transaction, for fear that they might otherwise be in breach of the king's mandate.[72] The phrasing of the king's reply, which granted the request "notwithstanding his earlier mandates against Italian merchants (*non obstante mandate sue a retroacto tempore edite contra mercatores ytalicos*)," underscores the continuing validity of the mandates themselves. Similarly, in April 1245, the king granted permission to Peter Chaceporc, Keeper of the Wardrobe, to contract a loan with two Italian merchants, "notwithstanding the king's prohibition against anyone contracting loans with merchants from overseas (*non obstante inhibitione regis facta omnibus de regno regis ne mutuum aliquod contrabant cum mercatoribus de partibus transmarinis*)."[73] In both cases, the royal intervention established an exception, not an abrogation.

The Italian merchant-bankers who maintained their activity in the kingdom following the 1240 expulsion order therefore found themselves operating under circumstances that were politically, legally, and semantically different from what they had previously enjoyed. Discretion

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[70] PRO C66/49 m. 8 (11 April 1241); summary in *PR Henry III*, 3.249. See also the corresponding (canceled) entry of the same date in *CLR* 2.43.

[71] Two decades later, three fellow Sienese each offered a "voluntary" donation of 500 marks to secure readmittance to the realm after being banished; PRO E 36/274 [=*Liber A*], fol. 248rv [=209rv in previous foliation] (14 and 25 May 1262). The three merchants, partners of the Bonsignori firm, came bearing a papal commendation from Urban IV, and two prominent Italian merchant-bankers vouched for their reputation. The bull is printed in Thomas Ryder et al., eds., *Foedera, conventiones, litterae, et cujuscunque generis acta publica inter reges Angliae et alios quosvis imperatores, reges, pontifices, principes, vel communitates…*, 4 vols. (London: Eyre & Strahan, 1816), 1.414 (30 December 1261).

[72] PRO C66/50 m. 10 (13 February 1242); summary in *PR Henry III*, 3.272.

[73] PRO C66/56 m.6 (24 April 1245); summary in *PR Henry III*, 3.452.

was now the order of the day, and although the Italians certainly continued to lend money at interest, they no longer did it as openly as before. As Mavis Mate has demonstrated, the effects are clearly visible in the Canterbury cathedral priory accounts. For loans received before 1241, the treasurers consistently recorded the amount of interest paid to the Italian lenders, describing it explicitly as "for usury (*de usura*)." In 1241, however, they began using a more euphemistic phrase, "for profit (*de lucro*)," and after 1241 they stopped mentioning the amount of interest altogether.[74] Still, it took until 1242—two years after the initial widespread measures against Italian merchant-bankers in the realm—for the king to announce a return to the *status quo ante*. In April of that year, he wrote to the mayor and sheriffs of London, along with his treasurer, ordering that the Italians be permitted to carry out their commercial activities as they had previously been accustomed to do, without obstruction.[75]

Many of the Italians who had suffered through the uncertainties of 1239-40 probably hoped that the 1242 proclamation would signal a return to earlier conditions, with the sudden royal interest in usury no more than a passing concern. If such was their hope, they were bound for disappointment, as two events in 1244 would make clear. First, according to a late thirteenth-century chronicler, Henry III ordered a kingdom-wide inquest into the "total revenues of the Romans and other Italians (*summam reddituum Romanorum et virorum Ytalicorum*)." Given that 1244 also saw the king aggressively squeezing existing revenue streams and actively drumming up new ones in an attempt to staunch the hemorrhaging royal finances, it seems safe to assume

[74] Mavis Mate, "The Indebtedness of Canterbury Cathedral Priory, 1215-95," *Economic History Review*, n.s. 26 (1973), 183-97, at 185. Interest charges are almost never mentioned explicitly in the surviving royal accounts; a rare exception is found in the Patent Rolls for 42 Henry III, where a marginal note on an entry concerning a loan of £550 by a Sienese consortium observes that £50 of the sum was "for usury (*pro usur'*);" see *PR Henry III*, 4.629 (7 May 1258).

[75] *CCR Henry III,* 4.414 (ca. 22 April 1242).

that the inquest was spurred by more than mere curiosity.[76] Even so, the reported total of 42,000 marks, not including prebends and donatives—a sum exceeding the king's own ordinary revenues—was likely greeted with a mixture of surprise, envy, and opportunism in the royal council chambers, and with trepidation in the merchants' counting rooms.[77]

Second, in April 1244, the king wrote to all of the sheriffs in England, ordering them to proclaim that merchants throughout the kingdom were henceforth forbidden to lend money in return for any sort of gain, including penalties for late repayment (a common method of evading outright usury). Those who did otherwise would be forced to appear before the royal courts, with the offending debt made payable to the king.[78] The language of the proclamation is striking in three respects: first, it suggests that such loans had previously been permitted (even if only tacitly); second; it nowhere uses the word usury, suggesting that it was meant to cover even cases that were commonly (if not canonically) accepted; and third, it singles out merchants in particular, albeit with no further qualifications. The measure is clearly rather lopsided: it lays out a sweeping ban on moneylending, while excluding the problem of loans made in kind, and it applies only to a single class of potential lenders, leaving others apparently free to carry on as before. It was also a far cry from the outlawry purportedly imposed by Henry III's saintly predecessor, Edward the Confessor, to whom the king was ostentatiously devoted.[79] But it

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[76] Stacey, *Politics*, 244-47, 250-51.

[77] John of Oxnead (att.), *Chronica de Johannes de Oxenedes*, ed. Henry Ellis (London: Longman, 1859), 174.

[78] *CCR Henry III,* 5.242: "…prohiberi facias […] quod nullus mercator decetero mutuo det pecuniam pro aliquo lucro vel super penam." This prohibition has attracted surprisingly little interest among scholars of the period; the only reference I have found so far is Seabourne, *Royal Regulation*, 30, where it receives a passing mention.

[79] David A. Carpenter, "King Henry III and Saint Edward the Confessor: The Origins of the Cult," *English Historical Review* 122 (2007), 865-91.

signaled unambiguously that the king's focus on moneylending, far from dissipating, was in fact broadening in scope.[80]

Further evidence for the king's broadening focus can be felt in the records of the London eyre of 1244. The eyre articles—that is, the list of questions asked by the justices presiding over the eyre—generally included a question on usury. In the London eyre of 1244, this question, as delivered to the mayor and aldermen, concerned the identity and moveable property of deceased usurers: "Of Christian usurers who have died, who they were and what chattels they had (*De usurariis christianis mortuis qui fuerunt et que catalla habuerunt*)."[81] This version of the article is nearly identical to that found in *Bracton*, and similar versions are found in most of the other extant eyres from the reign of Henry III.[82] Over the course of the 1244 London eyre, however, the justices expanded their enquiry to include not only deceased usurers, but living ones (*de usurariis christianis vivis*) as well.[83] Not that the respondents were especially forthcoming on

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[80] It is possible that the prohibition's intended reach was somewhat narrow, concerning only loans contracted with foreign merchants. This is suggested by the language of the exemption granted to Peter Chaceporc in April of the following year (above, p. 64), which referred to "the king's prohibition against anyone contracting loans with the merchants beyond seas (*inhibitione regis facta omnibus de regno regis ne mutuum aliquod contrabant cum mercatoribus de partibus transmarinis*)." In the absence of other evidence, however, it seems more prudent to take Chaceporc's exemption as referring to the now-lost prohibition issued in 1240, rather than that of 1244.

[81] *The London Eyre of 1244*, eds. Helena M. Chew and Martin Weinbaum (Leicester: London Record Society, 1970), 7 [=no. 21].

[82] [Bracton], *De legibus et consuetudinibus Angliae / Bracton on the Laws and Customs of England*, ed. George E. Woodbine, rev. and trans. Samuel E. Thorne, 4 vols. (Cambridge, MA: Belknap Press, 1968), 2.330-31 [=fols. 116b-117]: "Of deceased Christian usurers: who they were, and what chattels they had, and who has them (*De usurariis christianis mortuis, qui fuerunt et quae catalla habuerunt et quis ea habuerit*)." Both the dating and authorship of *Bracton* remain controversial; here it suffices to note that the treatise was written during the middle decades of Henry III's reign (i.e. at some point between the mid-1220s and the late 1250s), a point on which all scholars agree. For a recent discussion of the principal issues, see Paul Brand, "The Date and Authorship of *Bracton*: a Response," *Journal of Legal History* 31 (2010), 217-44. For a discussion of usury questions in the eyres, see Seabourne, *Royal Regulation*, 49-51. As Seabourne observes, only from the reign of Edward I onward would the discovery of living usurers feature regularly.

[83] *London Eyre of 1244*, 8 [=no. 34].

either front; rather concerted questioning was required before the city's representatives admitted knowledge of a local usurer who had died some time before, and on the topic of living usurers, the representatives repeatedly declared that they knew of no Christian usurers, save some "overseas (*in partibus transmarinis*)" along with "Roman and Sienese merchants and those of the like country (*Romanes et mercatores Senenses et eiusdem provincie consimiles*)."[84] Here again, then, we find the category of "usurer" being deliberately, and in this case exclusively, associated with the Italian *mercatores*.

Neither the inquest, the lending ban, or the eyre seems to have inspired immediate measures against Italian merchant-bankers.[85] On 15 June 1245, however, two days after acquitting himself of a £100 debt to two Florentine merchants, the king wrote to his treasurer and other officials to announce a new scheme for replenishing the royal coffers.[86] The summary title in the Close Rolls described it bluntly: "On the extracting of money from overseas merchants (*De pecunia a mercatoribus de partibus transmarinis extorquenda*)." The king began by informing the officials that he had recently sent word to the sheriffs of London and the bailiffs of the major commercial centers that "all Sienese, Cahorsin, and Florentine merchants, together with any others within your jurisdiction who are accustomed to trade and lend at interest, save those who are under the power of the king of France," were to appear at Westminster within two weeks of the Feast of Saints Peter and Paul (that is, before July 13).[87] Once the merchants had assembled, the king's

[84] *London Eyre of 1244*, 7, 93, 126, 130 [=nos. 202, 231, 314, 327].

[85] It is possible that the arrest of some Piacenzan merchants at Dover in spring 1244 was related to the usury ban, although given the location of the arrest, it may also have concerned violations of export restrictions. For Piacenzan activity in England, see Lloyd, *Wool Trade*, 44-45.

[86] *CLR* 2.309 (13 June 1245); *CCR Henry III,* 5.314-15 (15 June 1245).

[87] The inclusion of the Cahorsins here is odd, since they had fallen under French royal jurisdiction nearly two decades earlier. Whether this reflects the enduring association between the Cahorsins and their Italian

officials were then to convey to them his wishes, to wit, that in light of the great wealth that they gathered through trade and lending in the kingdom, it behoved them to honor the king and come to his aid. The officials were then to exhort the merchants (or, failing that, induce them by whatever means possible) to donate 6000 marks as a show of their support. If the merchants refused to grant this sum as a donation, the officials were to persuade them to offer it as a loan. If this effort was similarly rebuffed, the officials were to do their utmost to secure whatever lesser sum the merchants were willing to lend. And if the merchants persisted in withholding their support, the officials were to announce, on the king's behalf, that all of merchants were to depart the realm within forty days, together with all their property, with no hope of recovering any property that remained in the realm beyond the deadline.

The merchants seem to have assembled even more swiftly than the king had expected, since on June 24 we find him sending a mandate to the mayor of London, informing him that all of the transalpine merchants had gathered before two of his officials, who were charged with expelling them if they refused to come to the king's aid.[88] Where the earlier entry referred to the extortion "from overseas merchants (*a mercatoribus de partibus transmarinis*)," this one now referred directly to "the extracting of money from usurers (*De pecunia ab usurariis extorquenda*)," a substitution that underscores the perceived equivalence of the two categories. Apparently the negotiations did not go well, as later that same day the king sent a letter to the bailiffs of the Boston fairs, ordering them to announce that all transalpine merchants were to depart the realm within two weeks (a considerably shorter interval than the forty days that had earlier been mooted). Any who remained after that date would be arrested, and any of their property that

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counterparts (shifts in political geography notwithstanding), or administrative sloppiness, is open to question.

[88] *CCR Henry III,* 5.319 (24 June 1245).

remained in the realm would fall to the king.[89] Here again, we find the targets referred to interchangeably as "merchant-usurers (*mercatores usurarii*)" and "all transalpine merchants (*omnes mercatores transmontani*)."

At this point, some of the Italians evidently gave in to the royal pressure. On June 27, three days after the king issued the expulsion order, four of the leading merchants of Florence and Siena granted him a loan of 400 marks, to be repaid the following Easter.[90] Among these was the Sienese Reinerio Barbotti, who had served as a quasi-"banker to the king" over the preceding four years,[91] and two Florentines (Claro Hugolini and Felino Willelmi) who had likewise entertained regular financial dealings with the king and would play an even more active role in royal finance in subsequent years.[92] Other prominent merchants apparently refused to follow suit and may have left the realm for a time. In January 1246, however, seven Florentine and Sienese merchants, including Federico Orlandi, agreed to lend £1000 to the king, to be repaid at Michaelmas; four royal associates, including John Maunsell (soon to become Lord Chancellor) and the treasurer William de Haverhill, stood surety for the loan.[93] In return, the king granted the merchants permission to reside in the kingdom and carry on their business, "as in times past…notwithstanding the king's prior mandate that all transalpine merchants should leave the

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[89] *CCR Henry III,* 5.319 (24 June 1245).

[90] *PR Henry III*, 3.455 (27 June 1245).

[91] The expression is Schaube's (*Handelsgeschichte*, 1.407). For a detailed treatment of Barbotti's activities, see von Roon-Bassermann, *Sienesische Handelsgesellschaften,* 55-57.

[92] *PR Henry III*, 3.458 (10 November 1245); *PR Henry III*, 3.479 (4 May 1246); *PR Henry III*, 3.482 (6 June 1246); *PR Henry III*, 3.489 (19 Oct 1246); *CLR* 3.87 (22 October 1246); *CLR* 3.90 (31 October 1246); *PR Henry III,* 3.502 (7 June 1247); *CCR Henry III,* 5.517 (8 June 1247); *CLR* 3.128 (10 June 1247).

[93] PRO C66/57 m.8; summary in *PR Henry III*, 3.470-71. The sureties are listed in *PR Henry III,* 3.476 (March 1246).

realm (*sicut temporibus retroactis* […] *non obstante mandato nostro* […] *ut omnes mercatores transalpini exirent regnum nostrum Anglie*)," so long as they did not lend at usury. They were also allowed to renew their old debts with new contracts, with the proviso that neither the principal nor the interest could be increased.

Henry III's piety was renowned among his contemporaries, and good Christian that he was, he surely looked upon usury with disdain. This disdain, furthermore, may well have been a factor in the measures he took against Italian merchant-bankers and other suspected usurers between 1239 and 1244, even if the specific timing of these measures appears to have been prompted by fiscal considerations. But as his instructions to his officials make clear, the expulsion that Henry threatened in the summer of 1245 had nothing to do with the fact that he was pious, and everything to do with the fact that he was poor. Whatever the balance between ideology and self-interest in the king's earlier efforts to investigate and repress moneylending within his kingdom, by 1245 his pecuniary motivation is unambiguous.

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Unfortunately for the king, by 1245 the Italians were evidently too conscious of his long-term dependence on their services to take credibly the threat of expulsion. Henry therefore had to settle for receiving a fraction of the hoped-for 6000 marks. Perhaps it was the memory of this disappointment that led the king to adopt a different approach in 1251, when Italian merchant-bankers once again found themselves being targeted for their purported usurious dealings. This time, rather than threaten the Italians with expulsion, the king instead had them hauled before his courts. The precise charges are unclear; according to Matthew Paris, they were accused of being "schismatics or heretics and traitors to the king's majesty" on account of having "tainted the

whole kingdom of England with their most shameful usury."[94] We can probably chalk up the more extreme charges to Paris's flair for the dramatic, but it is certain that numerous Sienese and Florentines were formally accused of usury and subsequently imprisoned in the Tower of London and elsewhere. Others, if we are to believe Paris, managed to conceal themselves and evade punishment, while the king declared himself to be "sorely afflicted in his conscience, having sworn to uphold the holy teachings of the church." Eventually (and upon payment of a substantial bribe, claimed Paris), the king ordered the prisoners to be released, though some apparently had to wait some time before recovering their confiscated property.[95]

Nor was this the end of the Italians' troubles: in February 1252, not long after the prisoners had been freed, the king and his council announced that Florentine, Sienese, and other Italian merchants were henceforth barred from lending money in England, or from demanding usury from anyone; anyone convicted of violating the prohibition would lose all of their property, moveable and immoveable alike, to the fisc.[96] Given that this announcement was shortly followed by a loan of £500 from a consortium of Florentines, and soon after by a further loan of £1000 from Sienese and Florentines together, the prohibition was clearly a ploy to wring further financial support from the Italian communities of the realm.[97] One can only wonder whether the

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[94] Matthew Paris, *CM,* 5.245-46.

[95] *CCR Henry III*, 6.517 (26 October 1251); *CCR Henry III,* 7.3 (6 November 1251). Despite the assertions of Lloyd (*Wool Trade*, 42; *Alien Merchants*, 171), there is no evidence to suggest that any of the Italians were expelled.

[96] *CCR Henry III,* 7.57 (26 February 1252).

[97] *PR Henry III*, 4.131 (27 February 1252); *The Wardrobe Accounts of Henry III,* ed. Benjamin Linley Wild (London: Pipe Roll Society, 2012), 76-77. After paying the indemnity, the Italians seem to have continued their lending as before, or so suggests a loan that some Florentines made to the monastery of St. Albans; see Matthew Paris, *CM*, 6.220-21 [=no. 110 (September 1252)].

slight easing of the king's financial straits compensated for the continuing affliction of his conscience.

The following spring saw Henry III continuing to borrow regularly from Florentine and Sienese merchant-bankers, most notably in April 1253 when a group of firms collectively agreed to a loan of £1000 in support of the king's crusading plans.[98] Apparently further support proved difficult to obtain, and in June the king once again resorted to the threat of expulsion. This time usury went entirely unmentioned in the written record, with the entry in the Close Rolls noting simply that Florentine and Sienese merchant-bankers dwelling in London had refused to grant the king a loan, despite his request, and that they were accordingly expelled from the realm. Only two of the resident companies of Italian merchant-bankers gave way before the royal demands, and the rest were duly ordered to leave the realm within a week (with an additional week's grace subsequently granted).[99] Unlike in previous years, the expulsion seems to have been thoroughly implemented, with the king's subsequent decision to launch an inquiry into purported moneychanging offences among the Florentine and Sienese serving as further incentive to their speedy departure.[100] Aside from representatives of the exempted firms, there is little evidence for financial dealings by Italian merchant-bankers in England during the two years following the

[98] For the Crusade loan, see *PR Henry III*, 4.188-89, 228 (18, 22, 24 April 1253). For other dealings, see *PR Henry III*, 4.177 (12 February 1253); *CLR* 4.126 (19 March 1253); *CLR* 4.126 (12 May 1253); *PR Henry III,* 4.195 (8 June 1253).

[99] *CCR Henry III*, 7.479 (11 June 1253). Exemptions were granted for Bernardo Prosperini and Aldebrando Aldebrandini, associates of the Sienese Scotti-Tolomei firm, and Mainetto Spini and Rocco di Cambio, associates of the Florentine della Scala firm, with Peter of Savoy apparently playing a role in the negotiations for the latter; see *PR Henry III,* 4.198 (13 June 1253). Prosperini had engaged in frequent financial dealings with the Crown in the months leading up to the expulsion, which may account for his readiness to submit to the king's demands.

[100] *CCR Henry III*, 7. 485-86 (4 July 1253). That the two firms exempted from the expulsion order were likewise protected from the inquiry points to its political undertones; see *PR Henry III,* 4.221 (14 August 1253); and *CCR Henry III*, 8.259 (21 July 1254).

expulsion order.[101] The Willelmi firm, which had enjoyed a close financial relationship with the Crown for over a decade, disappears from the principal administrative records until the autumn of 1254, while the Sienese Federico Orlandi and Gentil Gentil, who had evaded the earlier expulsion orders of 1240 and 1245, likewise appear to have left the realm for some years.[102]

It is somewhat ironic that of all Henry III's measures against Italian merchant-bankers, it was the one that made no mention of usury that had the most visible impact on foreign moneylending activity in the realm. It also set the pattern for the remainder of Henry III's reign: although the king would sporadically order the arrest or expulsion of resident Italian communities in the 1250s and 1260s, usury no longer appears as a characteristic or motivating concern. The arrest of "Lombards" in 1255 and the threatened expulsion of Florentines in 1262 both arose in response to real or perceived offences against the king's Savoyard kinsmen. The king also ordered the expulsion of Sienese merchant-bankers sometime before December 1261, probably in response to the general excommunication that Pope Alexander IV launched against the city's citizens as punishment for their Ghibelline sympathies.[103] Given this precedent, it is unsurprising that nearly

[101] In September 1253, the king granted letters of protection to a certain "Bonasius son of Bonavitus, merchant of Florence," but the merchant's subsequent activities during this period are unknown; see *PR Henry III,* 4.222. For royal financial dealings with the exempted firms, see *CLR,* 4.150 (5 November 1253); *CLR,* 4.157 (28 January 1254); *CCR Henry III,* 8.69 (26 May 1254). Some of the silence in the English records may be due to the king's presence in Gascony in 1254-55, rather than to the continuing efficacy of the expulsion order.

[102] For the Willelmi, see *PR Henry III,* 4.330, 358, 379 (9 and 29 September; 29 October 1254); see also Lloyd, *Wool Trade*, 41-42. Orlandi and Gentil were certainly back in England by 1256; see *CCR Henry III,* 9.428-29 (8 July 1256).

[103] This expulsion, which has escaped general notice, is referenced in a temporary safeconduct granted to associates of the Sienese Bonsignori firm who returned to England in the spring of 1262, having been commended to the king by Pope Urban IV; see PRO E 36/274, fol. 248r (14 May 1262): "cum illustris dominus Rex Angl' […] iniunxisset quod a regno Anglie recederemus ac nobis inhibuisset quod idem regnum suum non ingrederemur decetero aliquatenus sine voluntate et assensu suo…" Since the papal commendation was issued in December 1261 (see above, p. 64 n.71), the general Sienese expulsion presumably took place earlier. For the 1260 papal bull excommunicating supporters of Manfred of Sicily

all Sienese merchant-bankers (save those enjoying explicit papal protection) seem to have fled England in the summer of 1262, on fears that Henry III would enforce a new papal bull imposing further sanctions on Sienese merchants.[104] As an associate of the Tolomei firm wrote in a letter sent from the Champagne fairs to the firm's sedentary partners in Siena, "our fellow Sienese, who were residing there [i.e. in England], have all come here, and not one dares to remain there (*e i nostri Senesi, que vi stavano, ne sono tuti venuti, e no ve n'osa istare neuno*)."[105] Yet whatever the disruptive consequences of these measures on Italian moneylending activities in England during the last two decades of Henry III's reign, it is clear that (unlike in earlier decades) the moneylending was incidental to the measures themselves. Perhaps royal denunciations of usury had come to ring hollow, in light of their usual aftermath, or perhaps other shifts were at work. Regardless, only with the accession of Henry III's son, Edward I, would Italian merchant-bankers once again face the prospect of expulsion explicitly on account of their purported usury.

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If Henry III was no longer inclined toward expelling foreigners on grounds of usury, it was not for lack of outside pressure. Italian merchant-bankers, long an object of popular resentment and suspicion, naturally found themselves caught up in the anti-alien discourse that emerged in the late 1250s and 1260s as factional court politics erupted into open conflict between the king

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(which also extended to the Florentine Ghibellines), see *Regesta pontificum romanorum,* ed. Potthast, 2.1461 [=no. 17969].

[104] Federico Patetta, "Caorsini senesi in Inghilterra nel sec. XIII con documenti inediti," *Bullettino senesi di storia patria* 4 (1897), 311-44, at 339-40; Edward D. English, *Enterprise and Liability in Sienese Banking, 1230-1350* (Cambridge, MA: Medieval Academy of America, 1988), 28-29.

[105] Cesare Paoli and Enea Piccolomini, eds., *Lettere volgari del secolo XIII scritte da Senesi* (Bologna: Gaetano Romagnoli, 1871), 25-48, at 41 (4 September 1262). The text of the papal bull does not survive, but its provisions are referenced in a series of later exemptions; see *Les registres d'Urbain IV (1261-1264),* ed. Jean Guiraud, 4 vols. (Paris: Fontemoing, 1901-58), 2.69-71 [=no. 175 (5 January 1263)].

and his barons.[106] In a petition of grievances drawn up in May 1258, the restive barons asked for "a remedy in the matter of Christian usurers, such as the Cahorsins who dwell in London," asserting that it was "contrary to Christian religion to maintain and favour men of this kind, especially as they profess and call themselves Christians."[107] The presence of Christian usurers in each county was subsequently among the matters to be investigated by the teams of knights charged with conducting a systematic inquest of the realm.[108] For the barons, at least, hostility toward Cahorsins (that is, Italian merchant-bankers) did not imply hostility toward all foreign merchants; indeed, as noted earlier, a demand for foreign merchants to be welcomed and protected featured in the baron's demands of 1258 and 1264, just as it had in the *Magna Carta* of 1215.[109] That many or most of the reputed "Cahorsins" were also actively engaged in mercantile dealings does not seem to have posed any difficulties to the barons, who were content to assert a distinction between "good" foreign merchants and "bad" Cahorsins; the same is true of the London mobs who stormed the houses of the "Cahorsins" during anti-alien uprisings in June 1263.[110] In July of that year, the English barons demanded that "aliens shall depart the realm, never to return (*ut exeant alienigene, non reversuri*)," and although they tempered their sweeping language with an exception for "those whose stay the faithful men of the realm will in common

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[106] See, in general, Carpenter, "Henry III's 'Statute'."

[107] Petition of the Barons (May 1258): in *DBM*, 76-91, at 86-89 [=no. 3, §26)]. For the drafting of the Petition, see now Paul Brand, "The Drafting of Legislation in Mid Thirteenth-Century England," *Parliamentary History* 9 (1990), 243-85. See also the letter from a member of the King's Court about the Oxford Parliament (ca. 18 July 1258), in *DBM,* 90-97 [=no. 4], at 94-97, which notes that the barons were soon to "make provision at London together with the lord king, on many matters touching aliens, both Romans and merchants, money-changers, and others (*prouidebunt etiam in breui una cum domino rege apud Lond' plura tangencia alienigenas, tam Romanos, quam mercatores, Camsores, et alios*)."

[108] Matthew Paris, *CM,* 6.397-400; and *DBM,* 19-35.

[109] *DBM*, 84-87, 274-75; Magna Carta, c. 41: in Holt, *Magna Carta,* 460-63.

[110] Fitz-Thedmar, *De antiquis liber legibus*, 55.

accept (*illis quorum moram fideles regni communiter acceptabunt*)," such distinctions were easily overlooked; nearly all contemporary chroniclers, observing these disputes from a distance, recorded only the demand for expulsion, not the possibility for exemption.[111]

Although the barons succeeded in driving many of the alien magnates from the realm in 1258 and 1263, Henry III appears to have resisted the repeated denunciations of the "Cahorsins." These outbursts obviously reflect the continuing resonance of a well-established trope concerning the damaging impact of foreign usurers; indeed, echoes of it are still to be found more than a century later.[112] They also attest to the success with which Florentines, Sienese, and others were able to resume their commercial operations in the wake of recurring arrests, confiscations, and expulsions. They underscore the fact that Henry III had stopped punishing (or threatening to punish) Italian merchant-bankers for their supposedly usurious activities, even if he continued to impose sanctions on them in response to papal or court politics. Above all, they highlight the extent to which calls for the expulsion of foreign usurers continued to belong to a broader English political discourse that framed expulsion as the appropriate response to foreigners whose presence was unwelcome.

Henry III was the first European ruler to frame foreign usurers as targets of secular concern, and he was likewise the first to punish them with expulsion. But his actions were anything but consistent. In 1239-40, Henry III first imprisoned then expelled Italian merchant-bankers on the grounds that they were guilty of usury, and he prosecuted and imprisoned them on similar

[111] See Carpenter, "Henry III's 'Statute'," 931-32; Ridgeway, "King Henry III," 90.

[112] In 1376, a petition from the Commons to Edward III called for the expulsion of "all the Lombards who do not practise any other trade than that of brokers (*touz les Lombardz queux ne usent autre mestier fors cele de brokours*);" see *PROME,* vol. 5: *Edward III (1351-1377),* ed. Mark Ormrod (London: National Archives, 2005), 318 [=1376 April, m. 8, no. 58/VII].

grounds in 1251. In 1245, by contrast, and again in 1253, the king threatened expulsion not because the Italians were lending money at interest, but because they refused to lend money to him. Here we have the expulsion of usurers, but not expulsion for usury. The targets are more or less the same, and the measures are similar, but the justificatory frameworks are almost directly opposed.

It is surely no coincidence that the fifteen-year period that saw Henry III repeatedly resorting to accusations of usury against Italian merchant-bankers corresponds to a period in which royal finances were unusually precarious. It is telling, too, that although the king imposed general restrictions on lending and prosecuted usury as a crime (as none of his Angevin predecessors had done), active enforcement of these measures seems to have affected only foreigners rather than the king's own subjects. It is accordingly hard to avoid the conclusion that Henry III's measures against foreign usurers stemmed more from immediate fiscal pressures than from concerted moral outrage. Or, to put it another way, what rendered Italian merchants suitable targets for expulsion was not the fact that they were (purportedly) engaging in usury, but rather the fact that usury (along with other interests) had made them wealthy. Usury was a convenient accusation, but only one among several, and its usefulness appears to have faded over time.

Of course, the fact that usury could serve as a potent accusation in the first place reflects its increasing weight in thirteenth-century ecclesiastical discourse, which in turn drove its importance in political contexts. Similarly, the emergence of "foreign usurers" as a contested category maps closely onto the increasing presence of foreign merchant-bankers, in particular from northern Italy, who brought with them new commercial practices. But as the English experience reveals, the idea that such foreign usurers ought to be expelled could arise from quite distinct pressures and traditions. In the case of Bishop Niger, the idea of expulsion appears to

have been inspired by established ecclesiastical responses to heretics, while for Henry III, it was conditioned by contemporary royal practices concerning undesirable foreigners. The bishop's ire was stirred by the greed of papal agents, while the king's interest was sparked by the conspicuous wealth of Italian merchants. There was no single path toward making expulsion thinkable, nor did converging anxieties around foreign usurers necessarily start from shared concerns. Moreover, other pathways would soon reveal themselves, for if English authorities were the first to call for the expulsion of foreign usurers, their Continental counterparts were not far behind.

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Sin and Sanctity: Modelling Expulsion in Thirteenth-Century France

Across the Channel, in France, a very different logic underpinned the expulsion of foreign moneylenders. To begin with, the often strident and occasionally violent outbursts against foreigners that so marked thirteenth-century England were all but unknown within the Capetian realm. Restive barons may have opposed the growing reach of royal power, and the newly acquired lands of Languedoc long chafed at the imposition of northern rule, but these specific antagonisms never broadened into generalized xenophobia. Parisian students may have mocked each other's ethnic origins, with conflicts occasionally arising among the university's corporate *nationes* or between particular groups of foreign students, but such disputes remained limited in scope, never spilling over into the sort of anti-foreign riots that rocked London at repeated intervals in the thirteenth century.[1] Nor was there any concerted popular resentment against beneficed foreign clergy, for the simple reason that the phenomenon was comparatively circumscribed in France (with respect to England, at least), and the abuses correspondingly reduced.[2] And although foreign merchants were periodically arrested *en masse*—usually in response to broader political conflicts—there is little evidence of such merchants being ousted from the kingdom, a far cry from the quasi-routinized expulsions of foreign merchants in

[1] Claire Weeda, "Ethnic Stereotyping in Twelfth-Century Paris," in *Difference and Identity in Francia and Medieval France*, eds. Meredith Cohen and Justine Firnhaber-Baker (Farnham: Ashgate, 2010), 115-35.

[2] The question of benefices for foreign clergy was nevertheless a sore point in relations between Louis IX and Innocent IV, as is clear from the two royal complaints from 1247 that Matthew Paris included in the *Additimenta* to his chronicle; see his *CM*, 6.99-112 and 131-33. A general discussion is found in Elie Berger, *Saint Louis et Innocent IV: Étude sur les rapports de la France et du Saint-siège* (Paris: Thorin, 1893), 267-300.

contemporary England.[3] Unlike in England, then, the French adoption of expulsion as a punishment for foreign moneylenders did not emerge out of an established tradition of expelling foreigners from the realm, nor was it an institutional response to entrenched xenophobia.

It developed instead from a pervasive royal concern for the moral and religious purity of the kingdom of France, and in particular from royal efforts to achieve such metaphysical purity through very concrete measures of purification. The France of the mid-thirteenth century, after all, was the France of Saint Louis, whose subsequent canonization rested not so much on his private piety (for in this he was rivaled in many respects by Henry III of England) as on his unprecedented integration of that private piety with his public duties as king. As Marie Dejoux has recently demonstrated, Louis IX's vision of kingship expressed itself in part through his sustained efforts to atone for the failings of his royal administration. During his own lifetime, and especially after the Seventh Crusade of 1248-54, Louis IX consistently presented himself as a "roi réparateur," tasked with making amends for his own wrongdoings and those of his agents and officials.[4]

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[3] In 1254, for instance, Pope Innocent IV ordered the sequestration of Astigiani property throughout the kingdom of France, as well as in the dioceses of Cambrai and Liège, in order to raise funds for the redemption of two Savoyard castles that had recently been seized by the Astigiani themselves. In 1256, Louis IX then imprisoned 150 Astigiani following the Piedmontese coalition's capture of Thomas of Savoy, who was the uncle of the king's wife, Margaret of Provence; the arrest was recorded by the Astigiani chronicler Ogerio Alfieri. For the 1254 sequestration, see Francesco Cognasso, ed., *Documenti inediti e sparsi sulla storia di Torino* (Pinerolo-Turin: Tip. Baravalle & Falconieri, 1914), 245 [=no. 249]. For the 1256 seizure, see *Fragmenta de gestis Astensium excerpta ex libro civis astensis,* ed. Luigi Cibrario, in *Monumenta Historiae Patriae*, t. 5: *Scriptores,* 3 (Turin: Tip. Regis, 1848), coll. 673-96, at 678; and also above, p. 44.

[4] As Dejoux has convincingly shown, the theme of *reformatio*, which earlier scholars had seen as a dominant ideal during Louis IX's reign, is characteristic rather of fourteenth-century French political discourse; see Marie Dejoux, *Les enquêtes de Saint Louis: gouverner et sauver son âme* (Paris: Presses universitaires de France, 2014), esp. 350-55; cf. Philippe Contamine, "Le vocabulaire politique en France à la fin du Moyen Age: L'idée de réformation," in *État et Église dans la genèse de l'État moderne*, eds. Jean-Philippe Genet and Bernard Vincent (Madrid: Casa de Velázquez, 1986), 145-56, at 148.

Yet we might also see him as a "roi purificateur," for the theme of *purgatio*, the cleansing of the kingdom from corrupting elements, spans the entire reign of the saint-king. Heresy is perhaps the most obvious example. On the day of his coronation, Louis likely became the first French king to promise to drive out heretics (*extirpare haereticos*) from his realm,[5] and the king's efforts on this front would be celebrated in the canonization bull that Pope Boniface VIII (r. 1294-1303) issued in 1297: "He abhorred those infected with the stain of heretical depravity, expelling them with efficacious zeal from the limits of his kingdom so that they would not spread the stain of the contagion to the true believers of the Christian faith."[6] It was not only heretics who had to be eliminated, however. In the advice tract that Louis IX compiled for his son before setting forth on crusade in 1270, he urged his heir to remove sins from the kingdom, including blasphemy and gambling, and encouraged him to drive not only heretics from the realm, but also "other evildoers, such that your land might be well purged."[7]

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[5] *Ordines Coronationis Franciae. Texts and Ordines for the Coronation of Frankish and French Kings and Queens in the Middle Ages*, ed. Richard A. Jackson, 2 vols. (Philadelphia: University of Pennsylvania Press, 1995-2000), 2.191, 300. This new element in the coronation oath was explicitly inspired by Lateran IV, c. 3 (*De haereticis*; *COD,* 233-35), which called for secular authorities to swear publicly that they would strive to expel heretics from their lands; it may also antedate its first surviving attestation, in the so-called *Ordo of Reims* (ca. 1230). See Théodore Godefroy, *Le ceremonial françois, contenant les ceremonies observées en France aux sacres & couronnemens de roys…*, 2 vols. (Paris: Cramoisy, 1649), 1.27; and see also the discussion in Richard A. Jackson, "Manuscripts, Texts, and Enigmas of Medieval French Coronation Ordines," *Viator* 23 (1992), 35-70, at 53-55; and the references cited in Hans Schreuer, "Über altfranzösische Krönungsordnungen," in *ZRG* 43, *Germ. Abt.* 30 (1909), 142-92, at 154 n.1.

[6] "Bonifacii VIII sermones et bulla de canonisatione sancti Ludovici, regis Francorum," in *HF* 23.148-60, at 158: "Abhorrebat haereticae pravitatis macula infectos, ne fidei christianae cultores labe huiusmodi contagionis inficerent, de regni praedicti finibus efficacibus studiis expellendo." I have adapted the translation given by Larry Field in *The Sanctity of Louis IX: Early Lives of Saint Louis by Geoffrey of Beaulieu and William of Chartres*, eds. Cecilia Gaposchkin and Sean L. Field (Ithaca: Cornell University Press, 2014), 169.

[7] *The Teachings of Saint Louis. A Critical Text*, ed. David O'Connell (Chapel Hill, NC: University of North Carolina Press, 1972), 59 [=§28]: "Chier filz […] met grant pene a ce que li pechié soient ostés en ta terre, c'est a dire li vilain serement et toute chose qui se fait ou dit a despit de Dieu ou de Nostre Dame ou des sains: pechiez de corps, jeu de dez, tavernes et les autres pechiez. […] Les hereges a ton pouoir fai chacier de ta terre et les autres males genz, si que ta terre en soit bien purgiée."

In this respect, Louis certainly practiced what he preached. Both upon his return from the disastrous Seventh Crusade in 1254, and in the lead-up to the Eighth Crusade of 1270, the king issued ordinances aimed at suppressing sinfulness and ridding the kingdom of evildoers, in order that his kingdom could be "fully purged of wickedness, and wicked men, and criminals."[8] On both occasions, he took active measures to halt prostitution, whether by banishing prostitutes from cities or ordering that brothels be shut down.[9] In an ordinance from 1268/69, the king threatened blasphemers with stiff fines, scourging, or temporary imprisonment; those who failed to report or punish blasphemy were likewise struck with a fine.[10] To be sure, these two waves of purgative measures both appeared in the immediate context of a crusade, but given that much of Louis's later reign was spent either preparing for a crusade or recovering from one, purgation remained a consistently prominent theme throughout.[11]

In addition, as these examples indicate (and so too Louis's advice to his son), the king's understanding of purgation was twofold, targeting as it did both evil deeds and evil doers. In the case of blasphemy, it is the practice that must be purged. In the case of heretics or prostitutes, the deed and the doer are bound up together; it is by expelling those who abet or embody the

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[8] *Ordonnances des roys de France de la troisième race*…, eds. Eusèbe Jacob de Laurière et al., 23 vols. (Paris: Imprimerie royale, 1723-1849) [hereafter *Ord.*], 1.104-6 (1270, given as 1269 *male*), at 105 [=§5]: "Praecipimus […] et ab aliis flagitiis, et flagitiosis hominibus, ac malefactoribus publicis, terram nostrum plenius expurgari." See also *Ord.* 1.65-75 (1254) and *Ord.* 1.99-102 (1268/69).

[9] *Ord.* 1.65-75 (1254), at 74 [=§34]; *Ord.* 1.77-81 (1256), at 79 [=§11]; *Ord.* 1.104-6 (1270), at 105 [=§5]; and the discussion in Lydia Otis-Cour, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago: University of Chicago Press, 1985), 19-20.

[10] *Ord.* 1.99-102.

[11] See William C. Jordan, *Louis IX and the Challenge of the Crusade: A Study in Rulership* (Princeton: Princeton University Press, 1979). For general remarks on the political theology of purity and purification, see Lutz Raphael, "Royal Protection, Poor Relief Statute, and Expulsion. Types of State and Modes of Inclusion/Exclusion of Strangers and Poor People in Europe and the Mediterranean World since Antiquity," in *Strangers and Poor People: Changing Patterns of Inclusion and Exclusion in Europe and the Mediterranean World from Classical Antiquity to the Present Day*, eds. Andreas Gestrich, Lutz Raphael, and Herbert Ürlings (Frankfurt: Lang, 2009), 17-34, at 19.

perceived wickedness that the wickedness itself is eliminated. This distinction is helpful in considering how Louis and his officials sought to achieve their goal of *purgatio*, and to understand how it could move from a metaphorical ideal to an administrative practice. Where usury is concerned, however, the royal response is much more complicated.

Louis IX's ideological opposition to usury was unequivocal, and he was among the first secular rulers in Christendom to issue an outright ban on Christian usury within his territories, declaring in 1230 that neither he nor his barons would enforce usury owed to Christians.[12] But it was one thing to denounce usury, and quite another to punish its practitioners. So far as native Christian usurers were concerned, Louis does not appear to have been especially proactive in pushing for their repression. According to William of Chartres, the king's confessor-biographer, Louis reportedly declared that Christian usurers were a matter for the church, and that the bishops could therefore deal with them as they wished.[13] No doubt this rhetorical abnegation was somewhat overstated, given the king's earlier insistence on stripping Christian usury of any secular legal support, along with other measures to forestall usurious lending.[14] Nevertheless, the remark suggests that Louis's attitude toward native Christian usurers was similar to that of contemporary English kings. Indeed, Louis seems to have upheld earlier Angevin custom in

[12] *Ord.* 1.53-54 [=§4].

[13] William of Chartres, *De vita et actibus…regis Francorum Ludovici,* ed. Natalis de Wailly, in *HF* 20.27-41, at 34: "De Christianis, inquiens, foenerantibus, et usuris eorum, ad Praelatos Ecclesiae pertinere videtur. […] Faciant ipsi Praelati quod ad ipsos spectat de suis subditis Christianis."

[14] As in, for instance, the clauses restricting municipal borrowing and lending in two ordinances from 1262; see *Ord.* 1.82-84. A better edition is given in Arthur Giry, ed., *Documents sur les relations de la royauté avec les villes en France de 1180 à 1314* (Paris: Picard, 1885), 85-88. For the dating of these ordinances, see William C. Jordan, "Communal Administration in France, 1257-1270: Problems Discovered and Solutions Imposed," *Revue belge de philologie et d'histoire* 59 (1981), 292-313, at 295.

confiscating the assets of dead usurers in Normandy.[15] Furthermore, the series of kingdom-wide *enquêtes* that the king ordered from the mid-1240s onward contain only infrequent references to usurious lending by Christians, suggesting that the enquêteurs did not trouble themselves much with their activities. Meanwhile, the only surviving evidence for the sustained pursuit of native Christian usurers within the kingdom comes from an inquiry conducted in Toulouse in 1255, which appears to have been launched at episcopal initiative rather than under royal auspices.[16] So although it is clear that native Christians were lending at interest within the kingdom, and although Louis and his officials took sporadic measures to hinder their activities, there is little evidence of a concerted royal effort to suppress their lending outright.[17]

For the first decades of his reign, the king seems to have taken a similar approach toward Jewish moneylenders, that is to say, impeding their operations but not punishing them directly.[18] Early in his reign, Louis IX issued (in concert with many of his barons) the ordinance of Melun

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[15] The confiscation is noted in the preamble to a 1257/58 ordinance focusing mainly on Jewish usury; see *Ord*. 1.85. For Angevin practice, see above, p. 45; and for its persistence in Normandy in the mid-thirteenth century, see William C. Jordan, *The French Monarchy and the Jews from Philip Augustus to the Last Capetians* (Philadelphia: University of Pennsylvania Press, 1989), 145.

[16] The inquiry was ordered by Guillaume de la Broue, Archbishop of Narbonne; see *Le livre de comptes de Jacme Olivier, marchand narbonnais du XIV^e^ siècle*, ed. Alphonse Blanc (Paris: Picard, 1899), 333-44 [=p.j. 9].

[17] See the examples adduced in Jordan, "Communal Administration," 304 n.72. For a rare attestion of a royal *bailli* investigating local Christians for usurious lending, see *Enquêtes administratives du règne de Saint Louis*, ed. Léopold Delisle, in *HF* 24, at *327 (Senlis in 1260) and 745-748 (Saint-Quentin in 1247). The first of these is discussed in William C. Jordan, "Jews on Top: Women and the Availability of Consumption Loans in Northern France in the Mid-Thirteenth Century," *Journal of Jewish History* 29 (1978), 39-56, at 48 n.34. The latter is briefly noted by Gérard Nahon, "Le crédit et les Juifs dans la France du XIII^e^ siècle," *Annales E.S.C.* 24 (1969), 1121-48, at 1122 n.7, who points out that there is no reason to assume (*pace* Delisle) that the usurers in question were Jews.

[18] This topic remains contested. See, in general, Gavin Langmuir, "'Judei nostri' and the Beginning of Capetian Legislation," *Traditio* 16 (1960), 203-39; Gérard Nahon, "Les ordonnances de Saint Louis sur les Juifs," *Les nouveaux cahiers: revue d'études et de libres débats publiée sous les auspices de l'Alliance Israélite Universelle* 6 (1970), 18-35; Jordan, *French Monarchy*, 128-76; Le Goff, *Saint Louis,* 912-35; and Marie Dejoux, "Gouvernement et pénitence. Les enquêtes de réparation des usures juives de Louis IX (1247-1270)," *Annales. Histoire, Sciences Sociales* 69 (2014), 849-874.

(1230), whose first provision declared that neither he nor his barons would henceforth enforce debts owing to Jews.[19] The other provisions of the ordinance further restricted Jewish moneylending, and so too did additional measures taken over the course of the following two decades, among them some regional bans on Jewish usury and a general expropriation of outstanding Jewish debts in 1246/47.[20] Although it is now clear that usury did not figure prominently in the mandates of the enquêteurs whom Louis IX sent out into the kingdom in 1247-48, some enquêteurs (notably those in Picardy) carried out out extensive investigations into Jewish usury on their own initiative.[21] Whether or not the king formally outlawed Jewish usury throughout the kingdom in the first two decades of his reign—and on balance, it seems that he did not—his agents certainly behaved as if he had.

As in many other respects, the Seventh Crusade marks a watershed in Louis IX's policy toward Jewish usury, and indeed toward the Jews in general. According to Matthew Paris, in

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[19] *Ord.* 1.53 [=§1]: "Statuimus quod nos, et Barones nostri Judeis nulla <debita> de cetero contrahenda faciemus haberi." Scholars continue to differ on the translation of the phrase; here I follow Langmuir, "Judei nostri," 226 n.85. Jordan takes this as evidence that "all interest was illegal in France from 1230" ("Jews on Top," 42), but it might be more precise to say that interest could not be enforced in court.

[20] For a surviving example of a regional ban on Jewish usury, see the 1246 order sent to the seneschal of Carcassonne, in Claude de Vic and Joseph Vaissette, *Histoire générale de Languedoc*, 15 vols. (Toulouse: Privat, 1872-92), 8.1191, which forbade Jews from lending at usury "on pain of body and chattels (*super corpora et catalla*)." Robert Michel notes that a similar order may also have been sent to the seneschal of Beaucaire; see his *L'administration royale dans la sénechaussée de Beaucaire au temps de Saint Louis* (Paris: Picard, 1910), 319. The Jewish response to these efforts is discussed in Robert Chazan, "Anti-Usury Efforts in Thirteenth-Century Narbonne and the Jewish Response," *Proceedings of the American Academy for Jewish Research* 41/42 (1973-74), 45-67. Although a judgment of the Norman Exchequer has frequently been taken as evidence that Jews in Normandy were formally barred from charging interest on their loans as early as 1235, Jordan (*French Monarchy*, 135) has shown that the text on which this interpretation relies is corrupt. For the judgment itself, see *Recueil de jugements de l'Échiquier de Normandie au XIII^e^ siècle (1207-1270)*, ed. Léopold Delisle (Paris: Imprimerie imperiale, 1864), 133 [=no. 581]. For the general expropriation of Jewish debts, see Jordan, *French Monarchy*, 145 and 299 n.15.

[21] Dejoux, *Enquêtes,* 207-14. As Dejoux notes, the documents that previous scholars (e.g. Jordan, *French Monarchy,* 144-46) have used as evidence for general enquêtes into usury throughout the kingdom in 1247-1248 belong instead to the enquêtes of 1268-1269, discussed below.

1253, while the king was still in the Holy Land, he issued an ordinance expelling all Jews from the realm; those who wished to remain were to take up trade or manual labor.[22] Although the text of the ordinance does not survive, its provisions can be largely reconstructed from the *Grand ordonnance* that Louis IX issued in December 1254, following his return from the Crusade. The 1254 text largely confirms Paris's account: the king confirmed the provisions of the preceding ordinance*,* declaring that any Jews who refused to refrain from usury, blasphemy, magic, and necromancy were to be expelled, and that the Jews were henceforth to make their living by legitimate commerce or manual labor.[23] Matthew Paris (and the modern scholars who have followed his account) somewhat mischaracterized the ordinance; it was not an expulsion order *per se*, but rather a ban on certain practices with expulsion specified as the penalty for transgressors. But the mere threat of expulsion marked a break with Louis IX's earlier approach to Jewish usury, which had denounced it, stripped it of legal backing, even condemned it as illicit in some parts of the kingdom, but had never set forth specific penalties for those who continued to practice it.

In other respects, Louis IX's policies toward the Jews followed dutifully the teachings of the church; he was, for example, the only major European ruler to effect a widespread seizure of Talmud manuscripts, pursuant to papal instructions, and toward the end of his reign he would

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[22] Matthew Paris, *CM*, 5.361-62. The dating to 1253 is commonly accepted among modern scholars, though contemporary sources vary somewhat in their accounts of the expulsion order. In his *Historia Anglorum* (3.103-4), Paris offers a more colorful context, claiming that Louis's action was motivated by the mocking of his Muslim jailors. A late fourteenth-century Norman chronicle dates the order to 1252; see *Normanniae nova chronica,* ed. Adolphe Cheruel (Caen: Hardel, 1850), 24. William Jordan (*Challenge*, 154) considers the 1253 ordinance to have been a draft of that issued in 1254, though he does not indicate his reasoning.

[23] *Ord*. 1.65-75*bis*, at 75 [=§32]: "Ceterum ordinationem factam in perpetuum de Judeis observari districte precipimus, que talis est: Judei cessent ab usuris, et blasphemiis, sortilegiis, et caracteribus; […] et Judei, qui hoc servare noluerint, expellantur, et transgressores legitime puniantur. Et vivant omnes Judei de laboribus manuum suarum, vel de negociationibus sine terminis vel usuris."

also become the first French king to mandate that Jews wear distinctive clothing markers, as prescribed in c. 68 of the Fourth Lateran Council.[24] When it came to Jewish usury, however, the king went far beyond ecclesiastical demands, as the Jews themselves complained.[25] Louis himself probably concurred with this assessment, since he justified his decision not by his duty to the church, but by his obligations to his subjects. In the same conversation reported by William of Chartres, Louis had apparently asserted that his jurisdiction over Jews meant that he was responsible for keeping them from "oppressing Christians through usury…and infecting [his] kingdom with their poison." The king therefore insisted that "they either abandon their usury or leave [his] kingdom, lest it be further stained by their filth."[26]

Expulsion was not unprecedented, of course. Seventy years earlier, Philip Augustus had temporarily expelled all of the Jews from the royal domain.[27] More recently, John I of Brittany had expelled all of the Jews from his dukedom in 1240, while in 1248 Alphonse of Poitiers had issued an order (which he subsequently revoked) expelling Jews from various cities within his lands.[28] Concerns over Jewish usury were a motivating factor for all of these expulsions, though

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[24] See Nahon, "Ordonnances," 22; and Danièle Sansy, "Marquer la difference: l'imposition de la rouelle aux XIII^{e} et XIV^{e} siècles," *Médiévales* 41 (2001), 15-36.

[25] Robert Chazan, *Medieval Jewry in Northern France: A Political and Social History* (Baltimore: Johns Hopkins University Press, 1973), 123-24; Kenneth R. Stow, "Papal and Royal Attitudes toward Jewish Lending in the Thirteenth Century," *AJS Review* 6 (1981), 161-84, at 183.

[26] William of Chartres, *De vita et actibus*, 34: "Ad me vero pertinet de Judaeis, qui jugo servitutis mihi subjecti sunt; ne scilicet per usuras christianos opprimant, et sub umbra protectionis meae talia permittatur ut exerceant, et veneno suo inficiant terram meam. Dimittant usuras, aut omnino exeant de terra mea, ne eorum sordibus amplius inquinetur."

[27] Rigord, *Histoire de Philippe Auguste*, ed. and trans. Elisabeth Charpentier et al. (Paris: CNRS, 2006), 144-159 [=cc. 11-18].

[28] For Brittany, see Solomon Grayzel, *The Church and the Jews in the XIIIth Century: A Study of their Relations during the Years 1198-1254, based on the Papal Letters and the Conciliar Decrees of the Period*, 2nd ed. (New York, Hermon Press, 1966), 344-45 [=Appendix C]. For Poitiers, see *Layettes du Trésor des chartes*, eds. Alexandre Teulet et al., 5 vols. (Paris: Plon, 1863-1909), 3.73 [=no. 3783]; and

in each case the expulsion order extended to all Jews, rather than only those engaging in usurious lending. In Louis IX's case, by contrast, it was only those Jews who persisted in usury (or blasphemy, magic, and necromancy) who faced expulsion. Expulsion was therefore a penalty for particular Jewish wrongdoers, rather than Jews *en masse*. A closer precedent is offered by a ban on usury that Archambaud VIII of Bourbon issued in 1234 "with the will and assent" of Louis IX himself. Prefiguring the future royal ordinance, Archambaud insisted that the Jews of his lands were to abandon usury and "live by their own labor and by honest business"; those who did otherwise faced expulsion.[29] Expulsions even seem to have taken place within Louis IX's own domains, since fragments of the Picardy enquêtes of 1248 reveal that some Jews were driven out of the town of Saint-Quentin in 1245.[30] There is no evidence to suggest, however, that the king had expressly ordered the latter expulsion. The ordinances of 1253-54 were therefore the first instances in which Louis IX expressly associated the practice of usury with the penalty of expulsion.[31]

For the most part, these two royal ordinances seem to have led more often to confiscation of the Jews' property than to expulsion of the Jews themselves, and the king himself chastised his officials over abusive confiscations, insisting that wrongfully seized property be restored to its

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(Dr.) Vincent, "Les Juifs du Poitou au bas moyen âge," *Revue d'histoire économique et sociale* 18 (1930), 265-313, at 277-78.

[29] *Layettes du Trésor des chartes*, 2.264 [=no. 2284].

[30] *HF* 24.744 [=no. 167].

[31] As Jordan (*French Monarchy,* 299 n.28) recognized, a supposed Jewish expulsion of 1248/49—mentioned in many previous studies, including his own—is in fact "chimerical," with no solid support in contemporary sources. Joseph Strayer, in *The Administration of Normandy under Saint Louis* (Cambridge, MA: Mediaeval Academy of America, 1932), 50-51, posits an additional expulsion in 1251, but this too has little basis in the surviving evidence, since it rests mainly on a passage in Matthew Paris's *Historia Anglorum* (3.103-4) that undoubtedly refers to the 1253 order, despite its confused chronology.

owners.[32] In 1256, however, Louis IX seems to have explicitly ordered the expulsion of the Jews from his lands. The details of this mandate are unclear, since it is known only from an indirect reference in an ordinance of 1257/58.[33] Yet here again there is little evidence for the actual expulsion of Jews, even if it is clear that many were arrested throughout the kingdom.[34]

Around the same time, however, Louis IX apparently ordered the expulsion of foreign Christian usurers, at least from the city of Beauvais. The only surviving reference to the event comes from a 1258 *arrêt* of the Parlement of Paris, which makes it clear that the bishop of Beauvais had expelled some "Cahorsins (*Kahoursinis*)" from the city "on the king's orders (*de mandato domini Regis*)" and then placed guards in their residence (presumably to safeguard their pledges and other property). In response, presumably out of concern over episcopal interference in municipal affairs, the municipal authorities of Beauvais had violently thrown out the bishop's guards. After conducting an investigation, the Parlement ruled that the offending officials were to make amends to both the king and the bishop.[35]

As in England, then, the first formal action against foreign moneylenders in France consists of a bishop driving "Cahorsins" from his city, though in this case the expulsion was carried out at royal behest. The context and consequences of this affair, however, are murky. To begin with, who were these Cahorsins? As we saw earlier, the Cahorsins who were expelled from London in 1235 were predominantly Florentine and Sienese merchant-bankers. The identity of those

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[32] *Histoire générale de Languedoc*, 8.1358 [=no. 448 §6].

[33] *Ord.* 1.85: "Et postmodum cum Judeos ipsos de terra nostra mandavissemus expelli…"

[34] *Actes du Parlement de Paris (1253-1328)*, ed. Edgard Boutaric, 2 vols. (Paris: Plon, 1863-67), 1.156 [=no. 1669].

[35] *Les olim ou registres des arrêts rendus par la Cour du roi*, ed. Arthur Beugnot, 3 vols. (Paris: Imprimerie royale, 1839-48), 1.51 [=no. 32]. For the jurisdictional privileges of the bishop of Beauvais vis-à-vis the town, see Honoré Labande, *Histoire de Beauvais et de ses institution communales jusqu'au commencement du XV^e^ siècle* (Paris: Imprimerie nationale, 1892), 166-83.

expelled from Beauvais around 1258 is less certain. These may well have been moneylenders from Piedmont, that is to say, Lombards. In 1225, King Louis VIII had granted the Astigiani a five-year privilege to trade and act as pawnbrokers within his lands.[36] Over the following three decades, these and other Piedmontese lenders had spread throughout northern France and the Low Countries, largely supplanting the professional moneylenders from Cahors whose name had become synonymous with the occupation itself (as would the Lombards' in turn).[37] Although some Sienese appear to have been active in moneylending in the vicinity of Paris in the 1250s, and both Sienese and Lucchese merchants were offering credit services in Champagne around 1260, Astigiani moneylenders covered a much broader territory, with contemporary activity attested in Burgundy, Normandy, and Flanders.[38] Moreover, it is clear that by the late 1240s, Astigiani moneylenders were already being characterized as "Cahorsins" in parts of northern Europe.[39] So although we cannot securely establish the identity of the Cahorsins who were expelled from Beauvais, they almost certainly hailed from northern Italy, and quite probably from Asti.

We do not know whether this event was directly associated with the roughly contemporary royal measures against Jewish usurers, but given their shared association of usury with

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[36] Charles Petit-Dutaillis, *Étude sur la vie et le règne de Louis VIII (1187-1226)* (Paris: Bouillon, 1894), 521-22 [=p.j. 12]. The arrival of the Astigiani in France was further encouraged by a 1224 treaty with Count Thomas of Savoy that facilitated their movement across the Alps; see *Codex astensis qui de Malabayla communiter nuncupatur*, eds. Quintino Sella and Pietro Vayra, 4 vols. (Rome: Tip. della R. Accademia dei Lincei, 1880-87), 3.672-76 [=no. 656].

[37] For the early spread of Lombard and Cahorsin moneylenders, see above, pp. 15-18.

[38] See, in general, Robert-Henri Bautier, "Les Lombards et les problèmes de crédit en France aux XIII^{e} et XIV^{e} siècles," in *Rapporti culturali ed economici fra Italia e Francia nei secoli XIV al XVI. Atti del Colloquio italo-francese (Roma, 18-20 febbraio 1978)* (Rome: Giunta centrale per gli studi storici, 1979), 7-32.

[39] Wyffels, "Cahorsins," 314-15.

expulsion, it certainly seems probable that the earlier threatened expulsion of Jewish usurers served at the very least as inspiration for the Beauvais expulsion order. In this regard, however, it is perhaps noteworthy that the arrêt frames the Beauvais expulsion as occurring "from the city (*de civitate*)," rather than from the king's lands (as in the lost 1256 Jewish expulsion order) or from the kingdom as a whole (as in a 1269 ordinance, discussed below). To this extent, it would seem to mirror more closely contemporary royal action against prostitutes, which consistently ordered them to be expelled from cities, or customary civic practices of criminal banishment.[40] In the absence of the original order, we cannot go much further. Furthermore, given the scanty and scattered evidence concerning foreign moneylending activity in northern France during this period, the consequences and reach of the expulsion order are unclear. As we have no other evidence for the presence of a community of foreign moneylenders in Beauvais in the thirteenth century, either before or after the supposed expulsion, there is no way to determine whether the expulsion had a lasting effect within the city.[41] It is also impossible to tell whether the royal order was limited to Beauvais or extended to the kingdom more generally. If it was indeed aimed broadly, there is little to show for it; the city of Rouen continued to borrow from Lombards in the following years, two Astigiani families openly established moneylending operations in Tournai around 1259, and no impact is visible in the county of Champagne, where Italian moneylending

[40] On prostitutes, see Otis-Cour, *Prostitution in Medieval Society*, 19-20, 27-29. On criminal banishment, see Hanna Zaremska, *Les bannis au Moyen Age*, trans. Thérèse Douchy (Paris: Aubier, 1996), especially ch. 3; and the references cited in William C. Jordan, *From England to France: Felony and Exile in the High Middle Ages* (Princeton: Princeton University Press, 2015), 26.

[41] Beauvais is hardly exceptional in this regard. A surviving fiscal account from Champagne for the year 1252 reveals the presence of Lombards in twenty-two cities and towns within the county. Of these settlements, only five are attested in any other thirteenth-century source. In the absence of this single document, our vision of mid-thirteenth century Lombard activity in northern France would be radically different. Of course, it is also true that the Champagne region (which remained commercially dynamic in this period) was especially appealing to the Lombards. See Auguste Longnon, ed., *Documents relatifs au comté de Champagne et de Brie, 1172-1361,* 3 vols. (Paris: Imprimerie nationale, 1901-04), 3.8-16 [=no. 2].

activity continued unchecked.[42] Regardless, the case of Beauvais certainly demonstrates that Louis IX's anti-usury campaign in the second half of the 1250s was broader than previously thought.

The years following the king's return from the Holy Land therefore saw the intensification of earlier royal measures againt Jewish usury, as well as the advent of measures against foreign Christian moneylenders (even if their extent is uncertain). For nearly a decade thereafter, however, the king's attention seems to have turned to other matters. Not until the end of the 1260s, as Louis IX launched the preparations for his second crusade, do we again find usury emerging as a topic of active royal concern. In September 1268, the king ordered the widespread arrest of Jews within his domains together with the confiscation of their property, while both Alphonse of Poitiers and Thibault V of Champagne, acting in concert with the king, did likewise within their lands.[43] A surviving document suggests that the king sent out teams of enquêteurs throughout the kingdom, charging them with the task of investigating Jewish usury and

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[42] For Rouen, see *Layettes du Trésor des chartes*, 3.543-45 [=no. 4629]. For Tournai, see Georges Bigwood, *Le régime juridique et économique du commerce de l'argent dans la Belgique du Moyen Âge*, 2 vols. (Brussels: Lamertin, 1921-22), 2.104. For Sienese moneylending in Troyes, see J. L. Charles, *La ville de Saint-Trond au Moyen-Âge: des origines à la fin du XIV^e^ siècle* (Paris: Les Belles Lettres, 1965), 94-97 and 238 n.117. For the establishment of a pawnshop in Poigny (near Provins) by some Lucchese merchants in 1260, see Thomas Blomquist, "The Early History of European Banking: Merchants, Bankers and Lombards of Thirteenth-Century Lucca in the County of Champagne," *Journal of European Economic History* 14/3 (1985), 520-36, at 530-32.

[43] See, in general, Dejoux, "Gouvernement et pénitence," 863-65. Evidence for the arrests and confiscations is found in Nicolas Brussel, *Nouvel examen de l'usage général des fiefs en France pendant le XI^e^, le XII^e^, le XIII^e^, et le XIV^e^ siècle*, 2 vols. (Paris: Prud'homme & Robustel, 1727), 1.595-96; Henri d'Arbois de Jubainville, *Histore des ducs et des comtes de Champagne*, 7 vols. (Paris: Durand, 1863-69), 6.44-45 [=no. 3531]; *Layettes du Trésor des chartres*, 5.296 [=no. 849]; and *Correspondance administrative d'Alfonse de Poitiers*, ed. Auguste Molinier, 2 vols. (Paris: Imprimerie nationale, 1894-1900), 1.402-3. That the orders were carried out in Champagne and the royal domain is implied by two documents from 1270 concerning the arrest and confiscation, in *Actes du Parlement de Paris*, 1.135-36 [=nos. 1522, 1531]. For the counties of Toulouse and Poitiers, see Maurice Jusselin, "Documents financiers concernant les mesures prises par Alphonse de Poitiers contre les Juifs (1268-1269)," *Bibliothèque de l'École des Chartes* 68 (1907), 130-49.

overseeing its proper restitution.[44] The king also appears to have ordered the expulsion of Jews from his domains, at least in the north. Although the order itself does not survive, both the archbishop of Reims and the lord of Ivry (to the southeast of Paris) subsequently complained to the Parlement of Paris that the royal *baillis* had unjustly driven Jews from their lands.[45] In both instances, the decision of the Parlement rested on the question of whether the Jews in question belonged to the king or the lord, a distinction that points to the limited scope of the expulsion itself. It is not clear whether the expulsion order targeted only Jewish usurers or all of the Jews falling under the king's personal jurisdiction. What is clear, however, is that on this occasion, Louis was imitating the example of his grandfather Philip Augustus, who had expelled the Jews from the relatively restricted area of the royal domain, rather than anticipating that of his grandson Philip the Fair, who would expel them from the kingdom as a whole.

When it came to foreign usurers, Louis IX pursued first a restricted expulsion, than a general one. In 1258, as we saw above, he apparently ordered that the Cahorsins in Beauvais be expelled from the precincts of the city. A decade later, the king went much further by ordering foreign moneylenders—specifically, pawnbrokers—to be expelled from the realm. An ordinance issued in January 1269 opened with the following words:

> We have learned that Lombards and Cahorsins, together with many other foreign usurers, are openly lending usuriously on pledges within our realm, having set up houses especially for this purpose, in which they greatly impoverish our realm through their usurious extortions, and they are said to commit many evils within their houses.[46]

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[44] See Dejoux, *Enquêtes*, 207-14.

[45] *Actes du Parlement de Paris*, 1.130 [=nos. 1462, 1465].

[46] *Ord.* 1.96: "Intelliximus quod Lombardi et Caorcini, ac etiam quam plures alii alienigene usurarii, in regno nostro publice, super pignoribus mutuant ad usuram, habentes ad hoc domos et mansiones specialiter deputatas, in quarum extorsione usurarum valde depauperant regnum nostrum, ac in domibus et mansionibus suis multa mala perpetrare dicuntur." I have cross-checked de Laurière's edition against

The king therefore ordered his baillis to expel such usurers from their bailliages within three months. Notably, the baillis were to expel even those who fell under the direct jurisdiction of other lords, whether lay or secular.[47] Those who had pledged goods to the usurers were to redeem them within the allotted time frame, but they were forbidden from paying any interest on their pledges. The final provision of the ordinance exempted "Lombard and Cahorsin merchants, and all others whatever their origins (*mercatores Lombardi, Caorcini, et omnes alii undecumque*)" who pursued legitimate commerce within the kingdom, engaging neither in usury, nor in any other injurious pursuits.

Later authors, such as the sixteenth-century Huguenot pamphleteer Innocent Gentillet, would memorialize Louis's ordinance as having successfully purged Italian usurers from the realm, at least for the (brief) remainder of his reign.[48] As with the 1258 expulsion order, however, contemporary evidence for the implementation of the 1269 ordinance is spotty, and its impact seems to have varied by region.[49] In the duchy of Burgundy, references to foreign moneylenders

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the versions found in Paris, AN, P 2289, nos. 84 and 86, which are eighteenth-century copies. (The minor discrepancies between the three versions do not significantly alter the meaning of the text.) Gérard Nahon ("Ordonnances," 20), followed by Marie Dejoux (*Enquêtes*, 212 n.3), claims that de Laurière's edition edits out a reference to the Jews that survives in AN P 2289. The latter text does not bear out this claim; Nahon's error presumably stems from a heading (added in a later hand) marking these and other texts in the MS as falling within the theme of "Juifs et Lombards."

[47] *Ord.* 1.96: "Si qui etiam de predictis Lombardis, Caorcinis, et aliis alienigenis morantur in terris et jurisdictionibus aliorum Dominorum tue Ballivie, sive sint clerici, sive sint laici, ex parte nostra requiras eosdem; ut eos de terra sua sub forma predicta similiter amoveant et expellant, videlicet tres menses postquem a te super hoc fuerint requisiti, et quod tantum super hoc faciant, ut non opporteat quod manum super his apponamus."

[48] Innocent Gentillet, *Brieve remonstrance à la noblesse de France sur le faict de la Declaration de Monseigneur le Duc d'Alençon* (Aigenstain: [n.p.], 1576), 24. Since Gentillet was militating for a renewed expulsion of Italians from France, it obviously served his interests to posit clear royal precedents.

[49] The following account draws on my article, "L'expulsion des usuriers lombards hors de France à la fin du XIII^{e} siècle," *Hypothèses: Travaux de l'École doctorale d'histoire de l'Université Paris I Panthéon-Sorbonne* 17 (2014), 153-62.

disappear for several years after 1270, suggesting that the royal measure may have had an effect.[50] To the north, in the county of Artois, the city of Calais borrowed from Italian moneylenders in 1268 and then 1272, while Count Robert of Artois acknowledged extensive debts to Lombards in a 1274 account, suggesting that any expulsion cannot have been long-lasting, if it took place at all.[51] To the west, officials of the count of Anjou confiscated goods belonging to some Astigiani moneylenders sometime before the spring of 1270.[52] It is unclear whether this was directly inspired by the royal ordinance of the previous year, but it suggests that confiscation could be substituted for expulsion (or as punishment for evaders), as we have already seen in the case of Jewish usurers in 1253-54. The impact of expulsion in Anjou is also palpable in a six-year privilege that the count granted to some moneylenders from the Piedmontese city of Alba in 1273, allowing them to set up lending and pawnbroking operations anywhere within the counties of Anjou and Maine. The count promised that if he decided to expel them from his lands before the privilege had run its course, he would have to warn them at the beginning of that year or else forfeit that year's payment from the Lombards. Moreover, he added, should it happen that he expelled the Lombards by his own volition and not on account of any wrongdoings on their part, he pledged not to allow others to settle in their place for the duration of the original privilege.[53] Although provisions concerning the early departure of the

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[50] Luisa Castellani, *Gli uomini d'affari astigiani. Politica e denaro tra il Piemonte e l'Europa (1270-1312)* (Turin: Paravia scriptorium, 1998), 150.

[51] Pierre Bougard and Carlos Wyffels, eds., *Les finances de Calais au XIII^e^ siècle* (Brussels: Pro civitate, 1966), 75, 238 [=nos. 52, 3829]; and Bigwood, *Régime juridique*, 2.273-85 [=no. 7[.

[52] *Actes et lettres de Charles I^er^, roi de Sicile, concernant la France (1257-1284)*, ed. Alain de Boüard (Paris: de Boccard, 1926), 59 [=no. 225]. For a brief treatment of Louis's authority within the appanages and the great independently administered fiefs, see Jordan, *Challenge*, 40-41, with further references.

[53] *Actes et lettres de Charles I^er^*, 177-79 [=no. 658].

recipients were a staple of earlier merchant privileges, here the repeated appearance of the term *expellere* suggests the lingering impact of Louis IX's ordinance.

Even holding to a formal reading of the ordinance, expulsion was not the only possible outcome, since the final clause left room for Lombards to simply refrain from usury and thereby remain in the realm. The chance survival of detailed records concerning Astigiani lending activity in Tournai, at the northern edge of the French royal domain, reveals that some did precisely that. Although the hundreds of thousands of medieval chirographs once preserved in the city's archives were destroyed in 1940, the Belgian historian Georges Bigwood had previously published brief summaries of the hundred-odd loan contracts involving Lombards between 1260 and 1289. The years preceding thhe expulsion order show lively Lombard lending activity: Lombards are attested as having drawn up fifteen loan contracts in 1267 and six in 1268. In 1269, however, Astigiani moneylenders recorded one loan in February and another in March, ceasing their activity thereafter. Some may have continued to lend clandestinely, but the effect of the ordinance is striking all the same. That said, the effect was not long-lasting. Beginning in February 1270, we again find loan contracts: four for 1270 and three for 1271, followed by a rapid expansion in 1272-73, for which 53 loan contracts survive.[54]

The activity of Tommaso de Baene and his brother Bonifacio, who had been active as lenders in Tournai since 1260, is especially revealing on this front. Between May 1268 and March 1269, they appear as parties in seven loan contracts. They then disappear from the record, reeappearing in September 1269 as parties in a contract for the sale of cloth. Over the course of the following months, they continued their involvement in the cloth and textile trade, before slowly resuming

[54] See Bigwood, *Régime juridique*, 1.356-59 and 2.94-95, 103-113 [=Annexe III]. To these can be added Paris, BnF, NAL 2309, no. 87, a Tournai loan contract from 1267 involving Jacemon and Milet Solaro and Bonifacio de Baene, all of Asti.

their moneylending activity in the spring of 1270. In short, the promulgation of the royal expulsion order in January 1269 prompted a marked but temporary drop-off in public moneylending in Tournai. Until the immediate threat of expulsion had subsided, the Astigiani turned to other commercial activities.

To return to the kingdom as a whole, there is no evidence to suggest that the ordinance had any impact on the members of the large resident Italian banking and commercial firms, even though a number of these may indeed have been active in moneylending, assuming we can generalize from some Lucchese evidence.[55] This is not surprising, for Louis IX's 1269 order targeted a specific practice, namely, public pawnbroking. By contrast, as we saw in the previous chapter, the expulsion orders issued by Henry III of England generally described their targets using general phrasings such as "merchant-usurers (*mercatores usurarii*)," which could encompass merchants engaging in a wide variety of commercial practices.

This difference in scope points to the differing motivations behind the two kings' expulsion orders. In the case of Henry III, it seems clear that fiscal concerns were the driving factor behind his (real or threatened) expulsions. Indeed, the very capaciousness of his language meant that even those foreigners who were only tangentially involved in suspect dealings could find themselves facing the prospect of expulsion—which in turn increased the potential fiscal yield of the expulsion orders themselves. The same cannot be said of Louis IX. Whatever the complicated motives underpinning his expulsions of foreign moneylenders and their Jewish counterparts, the prospect of financial gain did not figure prominently. True, the French king used revenues from the confiscation of Jewish property to help fund both of his crusades. But starting in the mid-1250s, and continuing on to the anti-usury campaigns of the late 1260s, Louis

[55] Blomquist, "Early History," 530-32. For continuing Italian activity in Paris in 1270, see *Les olim ou registres des arrêts*, 1.813 [=no. 37].

IX was decidedly conscientious about pushing for the restitution of Jewish usury to its victims. Recognizing that much of the revenue was likely to go unclaimed, he also solicited the permission of the French bishops to redirect the balance toward pious ends, whether religious foundations or the crusade.[56] That nearly all of the French bishops duly gave their written assent does not mean, as Joseph Shatzmiller contends, that both the king's solicitation and the bishops' response was "no more than a bureaucratic routine," but rather that it was fully in keeping with emerging trends in ecclesiastical thought concerning the restitution of so-called *male ablata*.[57] As for the Lombards and Cahorsins, there is no evidence to suggest that the king profited much, if at all, from their expulsion. The 1269 ordinance explicitly gave them a three-month grace period in which to wrap up their business operations, and in contrast to his less-saintly successors, Louis IX seems not to have confiscated either their property or their outstanding loans.

How, then, should we understand the motivations underpinning the royal decision to expel foreign pawnbrokers? To begin with, the 1269 expulsion order, like the simultaneous royal measures against the Jews, is part of a series of ordinances issued over the course of 1268-70, in which Louis IX also sought to repress blasphemy, prostitution, bribery, and official corruption.[58] All of these belong to a wider campaign of purification, which was inspired, indeed demanded, by the impending crusade. And as we have already seen, purification could express itself in a

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[56] Jordan, *Challenge*, 84-86; and Dejoux, *Enquêtes*, 207-14. Forty of the bishops' replies survive in AN J 367, nos. 1-38.

[57] Joseph Shatzmiller, *Shylock Reconsidered: Jews, Moneylending, and Medieval Society* (Berkeley: University of California Press, 1990), 61; and Giovanni Ceccarelli, "L'usura nella trattatistica teologica sulle restituzioni dei *male ablata* (XIII-XIV secolo)," in *Credito e usura fra teologia, diritto e amministrazione. Linguaggi a confronto (sec. XII-XVI)*, eds. Diego Quaglioni, Giacomo Todeschini and Gian Maria Varanini (Rome: École française de Rome, 2005), 3-23.

[58] *Ord.* 1.99-102, 104-6. The latter, which was issued on June 25, 1270, is incorrectly ascribed to 1269 in de Laurière's edition.

variety of ways, among them expulsion—whether from the cities, the royal domain, or the kingdom as a whole. With expulsion already fixed as the punishment for Jewish usurers who would not abandon their usury, it was surely an obvious response for foreign Christian usurers as well.

Moreover, whatever we may think of the preamble's claim that Lombards and Cahorsins were privately engaging in nefarious activities, there is no reason to doubt the sincerity of the Louis IX's belief that these usurers were indeed responsible for widespread impoverishment among his people. Although specific evidence from his reign is lacking, contemporary records from neighboring regions along with French sources from later decades all attest to the fact that many borrowers did indeed rack up ruinously large debts to Italian lenders.[59] Whatever the general economic benefits of expanding credit, the pleas of oppressed peasants and the sob stories of insolvent seigneurs surely made a more immediate impression on the king.

Furthermore, Louis IX's immersion in an intellectual milieu that virulently denounced usury as a vehicle of mass impoverishment (not to mention a host of other ills) naturally conditioned him to see its effects in such terms. Paris had been a hotbed of anti-usury writings and sermons since the reign of his grandfather, and although few contemporary theologians or preachers could rival the invectives that Peter the Chanter (d. 1197) and his followers had leveled against usury, they nevertheless found frequent opportunities to condemn it forcefully.[60] Let us take, for example, a set of model sermons compiled in the 1260s under the direction of Robert de Sorbon

[59] See Bautier, "Les Lombards et les problèmes de crédit."

[60] John Baldwin, *Masters, Princes, and Merchants: The Social Views of Peter the Chanter and his Circle* (Princeton: Princeton University Press, 1970), 296-301; and Odd Langholm, *Economics in the Medieval Schools. Wealth, Exchange, Value, Money and Usury, according to the Paris Theological Tradition, 1200-1350* (Leiden: Brill, 1992), 37-62.

(d. 1274).[61] Among the sermons for the Third Sunday of Lent, most of which take as their theme a Gospel passage (Luke 11:14) concerning the casting out of a demon, the figure of the usurer recurs throughout.[62] Robert de Sorbon, for instance, compared a murderer possessed by demons to a usurer who kills his wife and family through his sinfulness, and similar sentiments are to be found elsewhere.[63] Moreover, not only was Robert de Sorbon among the king's closest associates, but many of the other authors of these sermons, such as William d'Auvergne (d. 1248) and Odo de Châteauroux (d. 1273), could likewise count themselves among the king's trusted advisers.[64] The influence of the mendicant orders on the king was perhaps even more pronounced. Even as leading Franciscan and Dominican thinkers laid the foundations for the more nuanced and capacious economic ethics that would become their orders' hallmark from the late thirteenth century onward, their opinion on the sinfulness of usury was unambiguous.[65] And

[61] For a brief discussion of these manuscripts, see Franco Morenzoni, "Introduction," in *Guillelmi Alverni Opera Homiletica,* t. 1: *Sermones de Tempore* (Turnhout: Brepols, 2010), vii- lxvii, at xxxvi-xl.

[62] Paris, BnF, lat. 15959, fols. 527r-590v. The recurring references to usury in Lenten sermons may also be related to the seasonality of credit demand in rural contexts.

[63] Paris, BnF, lat. 15959, fol. 551va; other references to usury noted at fols. 529rb, 568rb-569vb, 570va.

[64] For Robert de Sorbon's relationship to the king, see Georges Minois, *Le confesseur du roi: les directeurs de conscience sous la monarchie française* (Paris: Fayard, 1988), 188; Le Goff, *Saint Louis*, 560-61; and William C. Jordan, "Robert of Sorbon, Churchman," in *Men at the Center: Redemptive Governance under Louis IX* (Budapest: Central European University Press, 2012), 1-36. William d'Auvergne, Bishop of Paris from 1228-49, was among the regents during Louis IX's first crusade, while Odo de Châteauroux, Chancellor of the University of Paris from 1238-44, took the cross alongside the king.

[65] For the influence of the mendicant orders on Louis IX's piety and statecraft, see Le Goff, *Saint Louis*, 858-63. For Franciscan and Dominican economic thought in the mid-thirteenth century, see Langholm, *Medieval Schools*; and Lester K. Little*, Religious Poverty and the Profit Economy in Medieval Europe* (Ithaca: Cornell University Press, 1978), 173-83 and 211-17. For the subsequent development of mendicant thought toward credit, exchange, and wealth, see Giacomo Todeschini, *I mercanti e il tempio: la società cristiana e il circolo virtuoso della richezza fra medioevo ed età moderna* (Bologna: il Mulino, 2002).

they, too, made usury (and in particular, its Christian practitioners) a central theme in their preaching.[66]

The impact of such attitudes is especially clear to the north of the kingdom, in the duchy of Brabant. The testament of Henry III of Brabant, who died in February 1261, ordered that "Jews and Cahorsins be expelled and fully extirpated from the land of Brabant, so that none might remain therein, save only those who were willing to engage in trade like other merchants, without lending and usury."[67] It seems that the duke's testamentary expulsion order was never carried into effect. Regardless, Christoph Cluse has rightly underscored the Franciscan and Dominican influences that underpin the duke's testament; not only were two Dominican friars as well as the Franciscan *lector* of Brussels named among the executors, but the testament itself is suffused with the emerging mendicant ideal of *restitutio*.[68] On a less intellectual plane, however, it is worth wondering whether the duke was also inspired by the recent actions of his royal neighbor, who had similarly ordered the expulsion of both Cahorsins and Jewish usurers who

[66] See, for example, the multiple references to usury and usurers in a Dominican collection of exempla compiled in the 1240s (London, British Library, MS Royal 7.D.1); summaries of the exempla are given in *Catalogue of Romances of the Department of Manuscripts of the British Museum. Volume III*, ed. John Alexander Herbert (London: Trustees of the British Museum, 1910), 477-503 [=nos. 163, 240, 241, 242, 256, 265, 266, 271]. For the dating of the collection, see Stephen L. Foote, "A Cambridge Dominican Collector of Exempla in the Thirteenth Century," *Archivum fratrum praedicatorum* 28 (1958), 115-48, at 117.

[67] Gustav Boland, "Le Testament d'Henri III, duc de Brabant (26 février 1261)," *Revue d'histoire ecclésiastique* 38 (1942), 59-96, at 94: "Item expellantur Judei et Cawersini de terra Brabantie et exstirpentur penitus, ita quod nullus remaneat in eadem, nisi tantummodo qui ut alii mercatores negociari voluerint et esse sine prestatione et usura."

[68] Christoph Cluse, "Zum Zusammenhang von Wuchervorwurf und Judenvertreibung im 13. Jahrhundert," in *Judenvertreibungen in Mittelalter und früher Neuzeit,* eds. Friedhelm Burgard, Alfred Haverkamp, and Gerd Mentgen (Hanover: Hahnsche Verlag, 1999), 135-163, at 137; and Christoph Cluse, *Studien zur Geschichte der Juden in den mittelalterlichen Niederlanden* (Hanover: Hahnsche Verlag, 2000), 174-76.

refused to abandon usury.[69] Conversely, the duke's action might also have served as inspiration for Louis IX's efforts at the end of the 1260s, as he prepared both himself and his kingdom for the new crusade.

While scholars have often summarized the two rulers' efforts against Jews and foreign moneylenders as signaling their desire to stamp out usury within their lands, it is important to recognize the areas that apparently went untouched. There is no evidence, for instance, to suggest that either ruler made a serious effort to repress or punish native moneylending. Significantly, Henry III of Brabant's testament did not threaten all usurers with expulsion from his dominions, but rather singled out Jews and foreign moneylenders in particular. The same is true of Louis IX, though in his case the association between the two was less explicit: the royal anti-usury measures in 1268-1269 (and perhaps 1256-1258 before that) focused on Jews and foreign moneylenders, but handled them separately. As we will see in subsequent chapters, the pairing of these two classes gradually becomes more and more common in both rhetoric and practice from the late thirteenth century onward. Here, however, the question is why these two classes were singled out for special treatment, or rather, why Louis IX (and for that matter, Henry III of Brabant) did not also order the expulsion of native Christians who were likewise lending at usury, given that their existence was hardly a secret.

The answer is not to be found in any strands of contemporary ecclesiastical thought. As the following chapter will make clear, a distinction between "native" and "foreign" moneylenders is all but lacking in thirteenth-century exegesis, homiletics, and canon law; the focus is rather on usurers as a generic category. Jewish usury obviously plays a rather more prominent role in these contexts, but only rarely is it explicitly paired with calls for the expulsion of Jewish usurers. Nor

[69] Since Louis IX's order to expel the Cahorsins from Beauvais has generally escaped scholarly notice, so too has its possible influence on the duke's testamentary provision.

are we dealing here with a straightforward example of early flickerings of the rise of the national state, as some scholars have suggested.[70] The emphasis, where both Jews and foreigners were concerned, was on the purging of a practice rather than its practitioners; those who forswore usury were exempt from expulsion. Furthermore, unlike in England, where Henry III's expulsion orders theoretically encompassed a broad swathe of the resident Italian merchant community, their Continental counterparts targeted a comparatively restricted subset of the foreign population, defined largely in occupational terms. To see this as yet another step in the forward march toward the national states of the future is to push the evidence too far.

To a certain extent, at least in the case of Louis IX (for we know too little about his Brabantine neighbor), the pairing of Jews and foreigners might reflect a desire to single out professional usurers for particular repression. The 1269 ordinance, for example, made an ostentatious statement about the king's attitude toward usury, while formally penalizing only those foreigners who were engaging in the most flagrantly public form of usurious lending. In this, Louis IX was perhaps unconsciously putting into practice the approach espoused by contemporary jurists, who (to quote Benjamin Nelson) "were more intent on suppressing the 'scandal' produced by the notorious and public exercise of manifest usury than upon abstractly enforcing the moral principles of Christianity."[71] Meanwhile, the king left untouched large swathes of Italian commercial activity that straddled the boundaries of usurious lending, at least as defined by rigorist theologians. But to presume a royal preoccupation with professional

[70] For instance, John H. Mundy, *Europe in the High Middle Ages: 1150-1300*, 3rd ed. (New York: Longman, 2000), 159; and Stow, "Papal and Royal Attitudes," 182.

[71] Benjamin N. Nelson, "The Usurer and the Merchant Prince: Italian Businessmen and the Ecclesiastical Law of Restitution, 1100-1550," *Journal of Economic History* 7, Supplement: Economic Growth (1947), 104-22, at 108. Nelson is here referring to the jurists' focus on "manifest usurers" as opposed to "every conceivable act and practitioner of usury."

usurers (as opposed to anyone engaging in usurious lending) still does not fully explain the focus on Jews and foreigners. For all the notoriety of Lombards/Cahorsins and Jewish lenders, it is clear that some of the king's native Christian subjects were also active as professional moneylenders. An episcopal investigation into usury in Toulouse in 1255 revealed as much, with some local Christians denounced for pursuing moneylending as a public occupation. Such native Christian lenders, however, elicited relatively little royal attention, and they certainly never faced the threat of expulsion from the realm.

Louis IX's own purported remarks about usury are probably the surest guide to his intentions. As we have seen above, he considered usurious lending on the part of his Christian subjects as a problem for the bishops to deal with. Jewish usury was a matter of royal concern, however, because the Jews were "subject to him by the yoke of servitude;" their actions therefore touched him directly.[72] As Robert Chazan argued, "what follows quite logically is the royal conclusion that 'his' Jews must either abide by the program which he decreed a moral necessity or face the consequences of withdrawal of royal consent and protection."[73] The same logic presumably explains Louis IX's particular concern with foreign usurers. Over the course of the thirteenth century, the idea gradually arose that all foreign merchants in the kingdom were under royal protection, even in the absence of specific privileges received from the king or local authorities.[74] Among the exponents of this view was the Flemish theologian Godfrey de Fontaines (d. 1306/9), who argued that foreigners could reside in a territory only by the will of the prince. Moreover, the prince's protection and backing was necessary for them to carry out

[72] See above, pp. 84, 88.

[73] Chazan, *Medieval Jewry*, 104.

[74] Bernard d'Alteroche, *De l'étranger à la seigneurie à l'étranger au royaume XI^e^-XV^e^ siècle* (Paris: LGDJ, 2002), 59.

their lending activities. As such, any ruler who allowed foreigners to lend at usury was in fact complicit in all of the resulting evils. By contrast, where local usurers were concerned, the prince might be guilty of negligence (i.e. by failing to repress their activities), but he was not an active participant in the practice of usury itself.[75]

So far as the king's personal responsibility for foreigners' usurious behavior was concerned, it accordingly aligned more closely with the Jewish model than with that of the king's Christian subjects. Even here, however, important distinctions prevailed. One concerns the articulation of the targets. Louis IX's broad condemnations of Jewish "usurers" lies in stark opposition to his much more targeted approach to their Christian counterparts; as noted earlier, the sanctions of 1269 fell not on those foreigners who were guilty of usury according to an expansive reading of either theology or canon law, but purely on pawnbrokers, whose usury was particularly public and unambiguous. Another concerns punishment and reprieve. Louis IX may have seen fit to threaten expulsion for Jews who obstinately persisted in usurious lending, but he never went so far as to order that they be expelled from the kingdom as a whole.[76] By contrast, where the Lombards were concerned, he showed no such restraint. Whatever the shared rhetoric of punishment, the king's Jews enjoyed a presumptive right to remain that was not extended to foreigners.

[75] Quodlibet 12.9: "Utrum superiores, sive principes seculares sive prelati ecclesiastici, peccent non expellendo usurarios de terris suis," in *Les Quodlibets onze-quatorze de Godefroid de Fontaines*, ed. Jean Hoffmans (Louvain: Editions de l'Institut supérieur de Philosophie, 1932), 114-118, at 116.

[76] This did not keep his successors from thinking that he had in fact carried out such an expulsion. In 1615, in the preamble to his declaration expelling the Jews of France, Louis XIII memorialized the saint-king as having "completely driven from the whole realm those whose presence had previously been suffered (*chassa entièrement de tout l'Estat ceux lesquels y avaient été auparavant soufferts*)." See *Recueil général des anciennes lois françaises depuis l'an 1420 jusqu'à la révolution de 1789*, eds. Athanase-Jean-Léger Jourdan et al., 29 vols. (Paris: Berlin-le-Prieur, 1821-33), 16.76-77 [=no. 51].

The saint-king's biographers, both medieval and modern, have underscored his determination to rid his kingdom of moral impurity. Describing the thirteenth century as an era in which "moral order was confused with order *tout court*," Jacques Le Goff noted that, toward the end of his reign, "Saint Louis himself had a tendency to erase any distinction between the two."[77] Looking closely at the king's measures against usury and its practitioners suggests the limits to such an interpretation. Although Louis IX's opposition to usury is indisputable, it is also worth acknowledging that it was neither especially zealous—at least by the standards of many contemporary critics of usury—nor especially thorough. Where Henry III of England tarred a wide array of Italian commercial activities with the broad label of usury, the French king's sanctions exempted all save the most egregiously public of foreign usurers, namely, pawnbrokers. This comparison clearly highlights contemporary rulers' flexibility in deciding what sorts of economic activities counted as "usurious" and what sorts of "usurers" they were going to condemn.

Of course, Henry's expansive approach was motivated not so much by an uncompromisingly strict definition of usury as by his need to extract revenues from those in a position to provide them. Louis IX's more targeted measures, by contrast, betray little evidence of fiscal self-interest. This difference is also reflected in the timing of their respective expulsion orders. On the English front, this was dictated largely by recurring insolvency crises from the late 1230s through to the mid-1250s. In France, this was largely in the context of a Crusade, with the apparent expulsion of the Cahorsins from Beauvais occurring in the wake of the failed Seventh Crusade, and the 1269 ordinance promulgated as part of the lead-up to the Eighth. In both French

[77] Le Goff, *Saint Louis*, 76.

cases, the pecuniary potential of the expulsion orders (if any) was generally incidental to their purifying aims.

This last point highlights perhaps the most salient difference in how expulsion developed as the default punishment for foreigners engaging in usury within each kingdom. In England, it mainly grew out of an established tradition of expelling foreigners; expulsion presented itself as the natural response not because the targets were usurers, but because they were foreigners. In France, expulsion arose in large part within the context of an ideological framework that extolled the need for *purgatio* in order to assure the success of the royal crusade. The expulsion of foreign moneylenders in France therefore emerged out of a broader concern about the extirpation of usury, a metaphorical ideal that was made manifest through the penalty of expulsion. One can only wonder whether its incomplete achievement weighed on Louis's conscience as he lay dying on the shores of Tunisia in the hot summer of 1270. It would surely have brought him some comfort, however, to know that his efforts would soon come to serve as a model for the entire Christian community—and it is to that process that we now turn.

♦ 3 ♦

From the Particular to the Universal: Canonizing Expulsion

In the spring and summer of 1274, the city of Lyon played host to a general church council for the second time in thirty years. Hundreds of prelates and dignitaries answered the papal summons, making the Second Council of Lyon among the largest of medieval ecclesiastical gatherings.[1] Although the Eastern Schism and the reconquest of the Holy Land dominated the proceedings, the council addressed a wide range of issues over the course of its six formal sessions, from the reform of papal and episcopal election procedures to the suppression of any mendicant orders that had not received papal approval.[2]

Toward the end of the council, the assembled prelates turned their attention to the topic of usury. According to the record of the conciliar proceedings, the prelates approved new measures against usurers at the fifth session, which was held on July 16, the penultimate day of the council.[3] The resulting legislation, as it appeared in the formally promulgated conciliar canons,

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[1] See, in general, Hans Wolter and Henri Holstein, *Lyon I et Lyon II* (Paris: Éditions de l'Orante, 1966); along with *Il concilio II di Lione (1274) secondo la Ordinatio Concilii Generalis Lugdunensis. Edizione del testo e note*, ed. Antonino Franchi (Rome: Edizione Francescane, 1965); Burkhard Roberg, "Einige Quellenstücke zur Geschichte des II. Konzils von Lyon," *Annuarium historiae conciliorum* 21 (1989), 103-46; and the essays collected in *1274, Année charnière: mutations et continuités* (Paris: Éditions du CNRS, 1977). Antonino Franchi (*Concilio II di Lione*, 29), following the figures reported by medieval chroniclers, claims that this was the most heavily attended church council in history after Vatican II. For a detailed discussion of the question, see Louis Carolus-Barré, "Les pères du II^{e} concile de Lyon (1274): esquisses prosopographiques," in *1274, Année charnière*, 377-423; along with Peter Frowein, "Der Episkopat auf dem 2. Konzil von Lyon (1274)," *Annuarium historiae conciliorum* 6 (1974), 307-33.

[2] The standard edition of the council's canons is *Conciliorum oecumenicorum decreta*, ed. Giuseppe Alberigo (Bologna: Istituto per le scienze religiose, 1973) [hereafter *COD*], 309-331. For a more thorough edition of the decrees, see now Burkhard Roberg's edition in *Conciliorum oecumenicorum generaliumque decreta. Editio critica*, vol. 2/1: *The General Councils of Latin Christendom from Constantinople IV to Pavia-Siena (869-1424)* (Turnhout: Brepols, 2013), 247-358.

[3] See *Concilio II di Lione*, ed. Franchi, 96-97.

consisted of two decrees. The first, *Usurarum voraginem*, focused mainly on impeding the spread of foreign moneylenders. The second, *Quamquam* (later VI 5.5.2), preyed on deathbed anxieties by spelling out the proper procedures for the restitution of usurious gains and invalidating the testaments of those who failed to follow them. In addition, it imposed severe sanctions on prelates and clerics who allowed a manifest usurer to receive a Christian burial.

The official text of *Usurarum voraginem*, as found in both the *Constitutiones* of the Council itself and in the *Liber Sextus* (Boniface VIII's 1298 codification of canon law), reads in full:

> Wishing to close up the abyss of usury, which devours souls and consumes property, we order that the constitution of the Lateran council against usurers be inviolably observed, under threat of divine malediction.
>
> Since the less convenient it is for usurers to lend, the more their freedom to practice usury is curtailed, we ordain by this general constitution as follows. Neither a college, nor other community, nor an individual person, of whatever dignity, condition or status, may permit foreigners and others not native to their territories, who practice usury or wish to do so, to rent houses for that purpose or to occupy rented houses or to live elsewhere. Rather, they must expel all such manifest usurers from their territories within three months, never to admit any such for the future. Nobody is to let houses to them for usury, nor grant them houses under any other title.
>
> But those who act otherwise, if they are ecclesiastical persons, patriarchs, archbishops or bishops, are to know that they incur automatic suspension; lesser individual persons, excommunication; colleges or other communities, interdict. If they remain obdurate throughout a month, their territories shall lie henceforth under ecclesiastical interdict as long as the usurers remain there. Furthermore, if they are layfolk, they are to be restrained from such transgression through their ordinaries by ecclesiastical censure, all privileges ceasing.[4]

[4] Lyon II, c. 26, in *COD,* 328-29: "Usurarum voraginem quae animas devorat et facultates exhaurit compescere cupientes constitutionem Lateranensis concilii contra usurarios editam sub divinae maledictionis interminatione praecipimus inviolabiliter observari. Et quia quo minor feneratoribus aderit fenerandi commoditas eo magis adimetur fenus exercendi libertas hac generali constitutione sancimus ut nec collegium nec alia universitas vel singularis persona cuiuscumque sit dignitatis conditionis aut status alienigenas et alios non oriundos de terris ipsorum publice pecuniam fenebrem exercentes aut exercere volentes ad hoc domos in terris suis conducere vel conductas habere aut alias habitare permittant sed huiusmodi usurarios manifestos omnes infra tres menses de terris suis expellant numquam aliquos tales de cetero admissuri. Nemo illis ad fenus exercendum domos locet vel sub alio titulo quocumque concedat.

In short, the decree first confirms the canonical penalties for usurers spelled out in the decree *Quia in omnibus* of the Third Lateran Council, to wit, that usurers be denied communion and church burial.[5] It then forbids anyone to lease houses to foreign usurers and calls for the general expulsion of such usurers from wherever they are plying their trade. The final part of the decree consists of an articulated hierarchy of penalties, with ecclesiastical transgressors subject to automatic sanctions and lay transgressors liable to censure at the hands of their bishops. The very thoroughness of the penalty clause suggests that the drafters were well aware of the threat posed by apathy or resistance on the part of those charged with enforcing the new measures.[6]

The decree as promulgated, however, is not the same as the text that was circulated to the assembled prelates in advance of the Council's fifth session. Thanks to a fortuitous discovery by Stephan Kuttner, along with subsequent work by Peter Johanek and others, we now know that

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Qui vero contrarium fecerint si personae fuerint ecclesiasticae patriarchae archiepiscopi episcopi suspensionis minores vero personae singulares excommunicationis collegium autem seu alia universitas interdicti sententiam ipso facto se noverint incursuros. Quam si per mensem animo sustinuerint indurato terrae ipsorum quandiu in eis iidem usurarii commorantur extunc ecclesiastico subiaceant interdicto. Ceterum si laici fuerint per suos ordinarios ab huiusmodi excessu omni privilegio cessante per censuram ecclesiasticam compescantur." Roberg's edition in *Conciliorum oecumenicorum generaliumque decreta* (2.1.346-48, here numbered c. 24) reads essentially the same, aside from minor differences in orthography and punctuation. The same is true of the decree as given in the Friedberg edition of the *Liber Sextus*; see *Corpus iuris canonici*, ed. Emil Friedberg, 2 vols. (Leipzig: Tauchnitz, 1879-81), 2.1081 [=VI 5.5.1]. I have slightly adapted the English translation of the decree from *Decrees of the Ecumenical Councils,* trans. Norman P. Tanner, 2 vols. (London: Sheed and Ward, 1990), 1.328-29.

[5] I follow all medieval commentators in taking the decree's reference to the "constitution of the Lateran council against usurers (*constitutionem Lateranensis concilii contra usurarios editam*)" as a reference to the decree *Quia in omnibus*, issued at the Third Lateran Council in 1179 (c. 25; see *COD*, 223). It is not impossible, however, that it referred instead to the decree *Porro detestabilem*, issued at the Second Lateran Council in 1139 (see *COD*, 200), which laid out similar penalties. On the curious transmission of the latter, see Martin Brett and Robert Somerville, "The Transmission of the Councils, 1130-1139," in *Pope Innocent II (1130-1143)*, eds. John Doran and Damian J. Smith (Farnham: Ashgate, forthcoming).

[6] The decree's threat of automatic interdict (that is, *latae sententiae*) against institutional transgressors is among the only instances of this censure being used in a situation that did directly concern abuses against ecclesiastical privileges and immunities; see Edward B. Krehbiel, *The Interdict: Its History and its Operation, with Especial Attention to the Time of Pope Innocent III, 1198-1216* (Washington, D.C.: American Historical Association, 1909), 19.

the draft version in fact contained both *Usurarum voraginem* and *Quamquam* together as a single decree.[7] Moreover, *Usurarum voraginem*'s restriction to foreigners is also absent from what appears to have been the earliest draft version, suggesting that the decree as originally drawn up applied to all usurers, regardless of their origins. The revisions seem to have proceeded in stages, since two other manuscripts include the decree's subsequent restriction to foreign usurers but not its division into two separate parts.[8] Furthermore, to judge from an otherwise cryptic remark by the Chronicler of Parma, writing in the late 1330s, the restriction to foreign usurers must have occurred either very late in the council's proceedings or soon after its conclusion, since the chronicler notes that this particular provision was made without the council's knowledge.[9]

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[7] For the discussion and transcription of this "draft" text of the canons, preserved in a manuscript formerly in the Minoritenkonvent in Vienna (now Washington D.C., Catholic University of America, Mullen Library, MS 183, fols. 1r-9v, with *Usurarum voraginem* at fols. 6vb-7va), see Stephan Kuttner, "Conciliar Law in the Making. The Lyonese Constitutions (1274) of Gregory X in a Manuscript at Washington," *Miscellanea Pio Paschini. Studi di storia ecclesiastica*, 2 vols. (Rome: Facultas Theologica Pontificii Athenaei Lateranensis, 1948-49), 2.39-81. A nearly identical text of *Usurarum voraginem* (but with fewer scribal errors) is found in St. Florian, Stiftsbibliothek, MS XI 722, fol. 32rv. To judge from the distribution of scribal errors, I suspect that this was the exemplar from which the Washington MS was copied. Peter Johanek offers further details on the drafting and early circulation of the Lyonese decrees in his "Studien zur Überlieferung der Konstitutionen des II. Konzils von Lyon (1274)," *ZRG* 96, *Kan. Abt.* 65 (1979), 149-216 (note that Johanek incorrectly gives the shelfmark of the Sankt Florian MS as XI 720); but see now the additional critical remarks of Burkhard Roberg in his introduction to his edition of the Lyonese decrees (*Conciliorum oecumenicorum generaliumque decreta*, 249-76, especially 254-57).

[8] Châlons-en-Champagne [formerly Châlons-sur-Marne], Bibliothèque municipale, MS 63, fol. 169r; and Paris, BnF, fr. 491, fols. 301vb-302rb. The latter is a roughly contemporary French translation of the Lyonese decrees. Kuttner ("Conciliar Law," 69-73) argued that the draft text was that of the canon as approved by the bishops in the sessions of the council, with amendments—such as the restriction to foreign usurers and the splitting of the original text into two separate decrees—being made later. In my article on "Canon Law and the Problem of Expulsion: The Origins and Interpretation of *Usurarum voraginem* (VI 5.5.1)," *ZRG* 130, *Kan. Abt.* 99 (2013), 129-61, at 131 n.7, I erroneously classed the St. Florian MS with these other two; in fact, as indicated in the previous note, it should instead be classed with the Washington MS, since it similarly lacks the restriction to foreigners.

[9] *Chronicon Parmense*, ed. Giuliano Bonazzi, Rerum Italicarum Scriptores, ser. 2, 9/9 (Città di Castello: Lapi, 1902), 30: "It was ordered there that no usurer was to reside anywhere except in his own city, of which the council had known nothing (*et fuit ibi ordinatum quod nullus usurarius staret nisi in sua civitate, et quod concilium nichil scivit*)." It is perhaps significant that the only chronicler to draw attention to this change was a native of northern Italy, from which most of the "foreign" usurers hailed.

We will return to the motivations behind these changes, as well as the consequences of what appears to have been a rather hasty revision process. For now, two points should be highlighted. First, as part of the continuing ecclesiastical campaign against usury, the Second Council of Lyon introduced harsh new penalties for usurers. Second, two of these new penalties, namely, the rental ban and the insistence on expulsion, applied only to foreigners. In the previous two chapters, we have seen how the expulsion of foreign usurers emerged in England and France in the middle decades of the thirteenth century. This chapter will explore the emergence of the same phenomenon in church thought and practice, tracing *Usurarum voraginem*'s antecedents in canon law, theology, and secular practice.

Let us begin with the opening phrase of the decree, with its vivid evocation of an abyss (*vorago*) of usury devouring souls and draining riches. The image of usury as a consuming abyss was well established in ecclesiastical thought, appearing in two decretals of Innocent III and frequently recurring in thirteenth-century papal correspondence.[10] It was also disseminated via the constitution *Cura nos pastoralis* of the First Council of Lyon, which warned that the abyss of usury had nearly destroyed many churches through excessive indebtedness.[11] The drafters of

[10] *PL* 216, coll. 519C [=Inn. III, *Reg*. 14, no. 157] and 949C [=Inn. III, *Reg.* 16, no. 160]. See also *Regesta Honorii papae III,* ed. Pietro Pressutti, 2 vols. (Rome: ex typographia Vaticana, 1888-95), no. 4596; *Les registres de Grégoire IX*, ed. Lucien Auvray, 4 vols. (Paris: Fontemoing, 1896-1955), nos. 499, 824, 948, 975, 1154, 1163, 1291 1363, 1753, 2418, 2542, 3419, 3927, 4298, 4414, 4857, 6051; *Les registres d'Innocent IV*, ed. Élie Berger, 4 vols. (Paris: Thorin, 1884-1920), nos. 62, 613, 1453, 4236, 4863, 5117, 5512, 6256; *Les registres d'Alexandre IV*, eds. Charles Bourel de la Roncière et al., 3 vols. (Paris: Fontemoing, 1902-1953), nos. 194, 848, 945, 1007, 1205, 1270, 2078, 2439, 2791; *Les registres d'Urbain IV (1261-1264)*, ed. Jean Guiraud, 4 vols. (Paris: Fointemoing, 1901-58), nos. 68, 117, 180, 185, 357, 413, 477, 479, 493, 495, 1228, 1321, 1566, 1994; *Les registres de Clément IV (1265-1268)*, ed. Édouard Jordan (Paris: Thorin, 1893-1945), nos. 434, 480, 526.

[11] Lyon I, 2.[1], in *COD*, 293-95: "usurarum vorago multas ecclesias paene destruxerit." For the complicated question of the promulgation and transmission of the canons of the First Council of Lyon, see Stephan Kuttner, "Die Konstitutionen des ersten allgemeines Konzils von Lyon," *Studia et documenta historiae et iuris* 6 (1940), 70-131.

Usurarum voraginem presented the *vorago*'s threat as both spiritual and economic in nature: souls and riches alike were being lost to its depths.

Although the church's anxieties about usury had solid roots in Old Testament prohibitions and patristic condemnations, it bears noting that the topic flew rather low on the intellectual radar of Latin Christendom until the twelfth century or so.[12] With the commercial expansion of the high Middle Ages, however, came increasing clerical attention to usury, already visible in the 1130s in Gratian's *Decretum,* and reaching an early peak in Parisian theological circles around the year 1200.[13] This discussions took on added force with the appropriation of the Lucan injunction (Luke 6:35), "Lend, hoping for nothing thereby (*mutuum date, nihil inde sperantes*)" as an argument against usury, a reading first introduced by Pope Urban III (r. 1185-87) in his

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[12] See, in general, Benjamin N. Nelson, *The Idea of Usury: From Tribal Brotherhood to Universal Otherhood* (Princeton: Princeton University Press, 1949); and John T. Noonan, *The Scholastic Analysis of Usury* (Cambridge, MA: Harvard University Press, 1957). For patristic responses to usury, see Thomas Moster, *Die patristische Zinslehre und ihre Ursprünge: Vom Zinsgebot zum Wucherverbot* (Winterthur: Verlag Hans Schellenberg, 1997); as well as two earlier works by Robert P. Maloney, namely, "Early Conciliar Legislation on Usury: A Contribution to the Study of Christian Moral Thought," *Recherches de théologie ancienne et médiévale* 39 (1972), 145-57; and *idem.,* "The Teaching of the Fathers on Usury: An Historical Study on the Development of Christian Thinking," *Vigiliae Christianae* 27 (1973), 241-265. For the early Middle Ages, see Harald Siems, *Handel und Wucher im Spiegel frühmittelalterlicher Rechtsquellen* (Hanover: Hahnsche Verlag, 1992), which, despite its length, mainly underscores the rarity of references to usury in early medieval legal sources.

[13] See the classic account of Lester K. Little, "Pride Goes before Avarice: Social Change and the Vices in Latin Christendom," *American Historical Review* 76 (1971), 16-49. Gratian's treatment of usury is perceptively analyzed in Giacomo Todeschini, "Linguaggi economici ed ecclesiologia fra XI e XII secolo: dai *Libelli de lite* al *Decretum Gratiani*," in *Medioevo, Mezzogiorno, Mediterraneo: studi in onore di Mario Del Treppo*, eds. Gabriella Rossetti and Giovanni Vitolo, 2 vols. (Naples: GISEM-Liguori Editore, 2000), 1.59-87. For the Parisian discussion ca. 1200, see John Baldwin, *Masters, Princes, and Merchants: The Social Views of Peter the Chanter and his Circle* (Princeton: Princeton University Press, 1970); and for the following generation of theologians, Jessalyn Bird, "Reform or Crusade? Anti-Usury and Crusade Preaching during the Pontificate of Innocent III," in *Pope Innocent and his World*, ed. John C. Moore (Aldershot: Ashgate, 1999), 165-85. As Todeschini has shown, much of the twelfth-century theological opposition to usury was bound up with anti-simoniacal discourses; see his article on "La razionalità monetaria cristiana fra polemica antisimoniaca e polemica antiusuraria (XII-XIV secolo)," in *Moneda y monedas en la Europa medieval, siglos XII-XV. Actas de la XXVI semana de estudios medievales de Estella, 19 al 23 de julio de 1999* (Pamplona: Gobierno de Navarra, Departamento de Educación y Cultura, 2001), 369-86.

decretal *Consuluit* (X 5.19.10). Although the passage had never previously been associated with usury, and indeed seems to have been based on a variant reading in copies of the Vulgate (namely, *nihil inde sperantes* instead of *nihil desperantes*), Urban's interpretation was followed by nearly all subsequent medieval commentators.[14]

By the late twelfth century, then, most learned clerics (and many others besides) would have agreed that usury was sinful, and many were coming to see it as an especially serious sin. But it was one thing to acknowledge it as a problem, and quite another to do something about it. To this end, the ecclesiastical hierarchy faced two challenges. The first was to determine what exactly constituted usury. The baseline definitions of usury, which medieval commentators inherited from unimpeachable patristic sources, included "whatsoever is added to the principal (*quodcumque sorti accidit*)," "wherever more is required than has been given (*ubi amplius requiritur quam quod datur*)," and other variations on these themes.[15] All of these definitions, however, left considerable room for debate and dissension. Twelfth-century thinkers made notable advances on this front, but characteristically it was the thirteenth century that saw the systematic elaboration of the nature of usury, with most of the leading theologians and canonists of the age contributing to this achievement. The results of their efforts have been studied at

[14] For the two Vulgate readings and their respective textual traditions, see *Nouum Testamentum Domini Nostri Iesu Christi latine secundum editionem Sancti Hieronymi. Pars prior—Quattuor Euangelia*, eds. John Wordsworth and Henry White (Oxford: Clarendon, 1889-98), 344 [*ad* Luke 6.35]; and *Biblia Sacra iuxta vulgatam versionem*, eds. Bonifatius Fischer, Robert Weber, and Roger Gryson, 5th ed. (Stuttgart: Deutsche Bibelgesellschaft, 2007), 1618 [*ad* Luke 6.35]. See also the discussion in Odd Langholm, *Economics in the Medieval Schools. Wealth, Exchange, Value, Money and Usury, according to the Paris Theological Tradition, 1200-1350* (Leiden: Brill, 1992), 46 n.37. The late thirteenth-century Franciscan theologian Peter John Olivi rejected Urban III's reading, but his subsequent condemnation as a heretic meant that this insight—like so many of his others—was largely forgotten. See Olivi's *Lectura super Lucam et lectura super Marcum*, ed. Fortunato Iozzelli (Grottaferrata: Coll. S. Bonaventurae ad Claras Aquas, 2010), 344-46 [=*ad* Luke 6:35]; as well as his *De emptionibus et venditionibus, de usuris, de restitutionibus = Traité des contrats*, ed. and trans. Sylvain Piron (Paris: Les Belles Lettres, 2012), 182 [=2.59], along with Piron's editorial remarks at pp. 23-24.

[15] See C.14 q.3 cc.1-5.

length, and for the most part they do not concern us here.[16] What is important is that thirteenth-century theologians and canonists both developed, along somewhat separate lines, sophisticated intellectual frameworks for classifying usury and distinguishing it from licit forms of economic activity.[17]

The second challenge—which flowed from the first—was to determine who exactly was to be punished for engaging in usurious lending. The vast majority of earlier canonical legislation against usury, for example, had applied only to clerics. The laity was discouraged from usurious lending, on various moral grounds, but for the most part only clerics were forbidden outright from taking interest. In Byzantium, this distinction would hold throughout the Middle Ages, with lay lending-at-interest periodically forbidden under civil law but never under Eastern canon law.[18] In Western Christendom, however, the twelfth century saw the usury ban gradually expand to encompass all Christians, whether clerical or lay. This posed rather little difficulty for the theologians, who merely needed to add another sin to the lengthy roster of dangers facing Christians as they went about their daily lives, and for which they would need to make proper

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[16] The following works remain valuable introductions: Jean Ibanès, *La doctrine de l'Église et les réalités économiques au XIII^e siècle. L'intérêt, les prix et la monnaie* (Paris: Presses universitaires de la France, 1967); Langholm, *Medieval Schools*; Gabriel Le Bras, "Usure. La doctrine ecclésiastique de l'usure à l'époque classique (XIII^e-XV^e siècle)," in *Dictionnaire de théologie catholique*, 15 vols. (Paris: Letouzey & Ané, 1950), 15.2336-2372; and Thomas P. McLaughlin, "The Teaching of the Canonists on Usury (XII^th, XIII^th, and XIV^th Centuries)," *Mediaeval Studies* 1 (1939), 81-147, and 2 (1940), 1-22. Among more recent studies, see in particular Carlo Gamba, *Licita usura: giuristi e moralisti tra medioevo ed età moderna* (Rome: Viella, 2003); and the articles collected in *Credito e usura fra teologia, diritto e amministrazione. Linguaggi a confronto (sec. XII-XVI)*, eds. Diego Quaglioni, Giacomo Todeschini and Gian Maria Varanini (Rome: École française de Rome, 2005), especially Sylvain Piron, "Le devoir de gratitude: émergence et vogue de la notion d'*antidora* au XIII^e siècle," 73-101.

[17] See, in particular, Giacomo Todeschini, "Eccezioni e usura nel Duecento. Osservazioni sulla cultura economica medievale come realtà non dottrinaria," *Quaderni storici* 131 (2009), 443-60.

[18] Angeliki E. Laiou, "God and Mammon: Credit, Trade, Profit and the Canonists," in *Byzantium in the 12^th Century: Canon Law, State and Society*, ed. Nicolas Oikonomidès (Athens: Society of Byzantine and Post-Byzantine Studies, 1991), 261-300.

repentance (and in this case, restitution). The canonists, however, appear to have been wary of casting too broad a net by developing a regime of ecclesiastical sanctions that would apply to anyone who engaged in any sort of usurious behavior. Instead, they focused their attention on a particular subset, namely, the "manifest usurer (*usurarius manifestus*)." This was the usurer who, as the early fourteenth-century *Summa Astesana* put it, "waits at his lending table, ready to lend usuriously to all, just like the prostitute in the brothel is open to all (*usurarius mensam tenet paratam ad mutuandum cuilibet sub usuris: sicut meretrix in prostibulo patet cuilibet*)."[19] Although canonists developed rather elaborate procedures for determining whether a usurer was manifest or not, they handled the distinction itself with some unease—perhaps because the underlying motives seem to have been largely pragmatic. The distinction took firm root all the same, and virtually all of the canonical legislation on Christian usury issued from the mid-twelfth century onward limited its reach to this subset of wrongdoers.

As prominent theologians such as Peter the Chanter (d. 1197) and Robert de Courçon (d. 1219) lamented, the canonists' focus on manifest usurers meant that the church's formal sanctions were essentially restricted to public pawnbrokers, those whose notoriety could be established by law. Whole swathes of usurious activity—at least as understood among the more rigorist theologians—were thereby immune to the canonical censures of excommunication and

[19] *Summa de casibus conscientiae* (Venice, 1478), 3.11.6. Other descriptors, such as "public (*publicus*)" or "notorious (*notorius*)," were also used to single out particular categories of usurers, often (though not always) as synonyms for "manifest;" see McLaughlin, "Teaching of the Canonists," pt. 2, 12-13. Benjamin Nelson was among the first to demonstrate how this concept was developed in large part through analogy with prostitutes; see his "The Usurer and the Merchant Prince: Italian Businessmen and the Ecclesiastical Law of Restitution, 1100-1550," *Journal of Economic History* 7, Supplement: Economic Growth: A Symposium (1947), 104-22, at 108; and "The Medieval Canon Law of Contracts, Renaissance 'Spirit of Capitalism,' and the Reformation 'Conscience': A Vote *for* Max Weber," in *Philomathes: Studies and Essays in the Humanities in Memory of Philip Merlan*, eds. Robert B. Palmer and Robert Hamerton-Kelly (The Hague: Nijhoff, 1971), 525-58, at 540.

the like, as set forth primarily in the 1179 decree *Quia in omnibus*.[20] The theologians were entirely correct in their criticism, and as we shall see in a later chapter, even publicly licensed moneylenders could avoid canonical punishments by denying their membership in the category of "manifest usurers." The theologians therefore responded by elaborating a vision of economic ethics in which usury (broadly conceived) belonged to, and indeed sustained, a moral and economic system antithetical to a properly Christian sphere of economic activity.[21] Largely the work of Franciscan theologians (though not exclusively so), the theoretical construction of this space was significantly developed toward the end of the thirteenth century, even if its clearest and most forceful articulations came only in the fifteenth.[22]

Aside from focusing their efforts on manifest usurers, the canonists had also largely excluded Jewish usurers from their purview. As we shall see in Chapter Six, although papal decretals, conciliar decrees, and canonistic commentaries criticized Jewish usury and condemned its excesses, neither in the thirteenth century nor later did they forbid it outright. Here again, however, the theologians took a broader view. Not only did most thirteenth-century theologians

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[20] Baldwin, *Masters, Princes, and Merchants*, 300-1.

[21] See, in the first instance, Giacomo Todeschini, *I mercanti e il tempio: la società christiana e il circolo virtuoso della richezza fra medioevo ed età moderna* (Bologna: il Mulino, 2002); along with his more recent reflections in "Morale economica ed esclusione sociale nelle città di mercato europee alla fine del Medioevo (XIII-XV secolo)," in *El mercat. Un món de contactes i intercanvis* (Lleida: Pagès editors, 2014), 43-56. Where Todeschini sees such a framework embedded even in canon law, I take the latter as its counterpoint; see his "The Incivility of Judas: 'Manifest' Usury as a Metaphor for the 'Infamy of Fact' (*infamia facti*)," in *Money, Morality, and Culture in Late Medieval and Early Modern Europe*, eds. Juliann M. Vitullo and Diane Wolfthal (Farnham, UK: Ashgate, 2010), 33-52, at 41-42.

[22] See Giacomo Todeschini, "Usura ebraica e identità economica cristiana: la discussione medievale," in *Storia d'Italia. Annali*, vol. 11: *Gli ebrei in Italia*, ed. Corrado Vivanti, 2 vols. (Turin: Einaudi, 1996), 1.289-318; *idem.,* "La scienza economica francescana e gli ebrei nel Medio Evo: da un lessico teologico a un lessico economico," *Picenum Seraphicum*, n.s. 20 (2001), 113-35; and, more recently, *idem.*, "Usury in the Christian Middle Ages. A Reconsideration of the Historiographical Tradition (1949-2010)," in *Religione e istituzioni religiose nell'economia europea, 1000-1800 / Religion and Religious Institutions in the European Economy, 1000-1800. Atti della 'Quarantatreesima Settimana di Studi' (8-12 maggio 2011),* ed. Francesco Ammannati (Florence: Firenze University Press, 2012), 119-30.

firmly denounce Jewish usury, but they often framed their vision of a Christian economic ethics in explicit opposition to an imagined Jewish one. Properly "Christian" practices led to a "virtuous circle of wealth," to use Giacomo Todeschini's phrase, whereas "Jewish" ones led only to impoverishment and loss. This imagery can be traced back at least to Peter the Venerable, who argued in the mid-twelfth century that the Jews depleted the wealth of Christian territories through their wicked and fraudulent dealings.[23] According to the chronicler Rigord, this was one of the justifications for Philip Augustus's 1182 expulsion of the Jews from the royal domain.[24] In 1215, the Fourth Lateran Council decried Jewish usury in precisely such terms, declaring that Jewish usurers drained away the wealth of Christians.[25] In general, the discourse of an unproductive space that consumed Christian wealth rather than generating it rested heavily on constructs of alienness, with the figure of the Jew as the archetypal expression thereof. Those who entered into this space by pursuing sterile forms of economic activity were thus implicitly figured as Jewish and/or alien, regardless of their origins or religion.[26]

[23] See his "Epistola ad Ludovicum VII regem Francorum," in *The Letters of Peter the Venerable,* ed. Giles Constable, 2 vols. (Oxford: Oxford University Press, 1967), 1.327-30

[24] Rigord, *Histoire de Philippe Auguste*, ed. and trans. Elisabeth Charpentier et al. (Paris: CNRS, 2006), 144-59 [=cc. 11-18].

[25] Lateran IV, c. 67, in *COD*, 265: "ita quod brevi tempore christianorum exhauriunt facultates." For other thirteenth-century examples, see Stow, "Papal and Royal Attitudes," 178-84.

[26] This is brilliantly demonstrated in Sara Lipton, *Images of Intolerance: The Representation of Jews and Judaism in the* Bible moralisée (Berkeley: University of California Press, 1999), 30-53. Drawing on *Usurarum voraginem*'s language of foreignness, Giacomo Todeschini has repeatedly argued that canon law made similar claims, but as will be evident from the discussion below, I find little support for this metaphysical reading of terms that were (at least initially) decidedly legal and/or political in their intent. See his "Usura ebraica e identità economica cristiana," 300-301; "Razionalità monetaria cristiana," 376; *Visibilmente crudeli: malviventi, persone sospette e gente qualunque dal Medioevo all'età moderna* (Bologna: il Mulino, 2007), 121; and "Usury in the Christian Middle Ages," 126.

The first half of the thirteenth century also saw the emergence of a separate ecclesiastical discourse associating moneylending and foreignness, as prelates and other members of the clerical elite responded to the growing presence of Cahorsin and Italian moneylenders in northern Europe. In this case the language of foreignness was rooted not in metaphysics, but in very concrete concerns over the geographic mobility of such moneylenders, as evidenced by their increasingly wide-ranging activity. The most prominent early reference is in a papal letter of 1230, in which Pope Gregory IX ordered the bishop of Tournai to impose the penalties of *Quia in omnibus* on "some Cahorsins and other foreigners (*nonnulli Caturcenses et quidam alii alienigene*)" who were publicly engaging in usury in Ypres, so that they would desist from such practices.[27] Not long after, as we saw in Chapter One, Bishop Roger Niger of London similarly thundered against the practices of the "Cahorsins" (read: northern Italians) within his diocese.[28] At a provincial council in October 1269, the archbishop of Sens barred his flock from receiving "Lombards and other outsiders who are commonly called Cahorsins" in any properties belonging to the church.[29] And a year before the Second Council of Lyon, the bishop of Lausanne revoked a license that he had earlier granted to "Cahorsins (*caorcinis*)" allowing them to lend at interest within the city, claiming that his earlier decision was made to the "imperilment

[27] *Registres de Grégoire IX*, 1.241 [=no. 392].

[28] See above, pp. 50-55.

[29] Sens (1269), c. 2: in *Sacrorum conciliorum nova et amplissima collectio*, ed. Gian Domenico Mansi, 53 vols. (Paris, 1901-27 [repr. Graz, 1960-61]) [hereafter Mansi], 24.3: "Prohibentes, ne quis in domibus, vel in locis, aut terris ecclesiarum, Lombardos vel alios advenas qui vulgariter [caorsini] dicuntur, usurarios manifestos, recipere praesumat, cum receptores hujusmodi approbare videantur usuram, quam utriusque testamenti pagina detestatur." The word *caorsini* is omitted in the Mansi edition, but it is found in François Roger de Gaignières's seventeenth-century copy of a late thirteenth-century Parisian episcopal cartulary (Paris, BnF, lat. 5185, p. 196). It also appears in the reissue of the canon in a collection of synodal statutes issued for the diocese of Chartres in the mid-fourteenth century, where it is given as *cawersinos*; see "Statuts synodaux et constitutions synodales du diocèse de Chartres au XIV^{e} s. (1355)," ed. Maurice Jusselin, *Revue historique de droit français et étranger*, ser. 4, 8 (1929), 69-109, at 108 [=c. 31].

of his salvation and the detriment of his soul (*in nostre salutis periculum et anime detrimentum*)."[30]

The bishop of Lausanne was hardly the only prelate to have welcomed foreign moneylenders into his diocese. Indeed, as the canonist Francesco d'Albano observed in his commentary on *Usurarum voraginem*, it was not merely secular barons who had welcomed such moneylenders in exchange for annual payments, but prelates as well.[31] In 1251, for example, the abbot of Saint-Germain-des-Prés granted a local moneylending monopoly to three Sienese merchants and their associates.[32] Not long afterward, the bishop of Würzburg allowed some Lombard moneylenders (*Lombardos fratres mercatores seu Cwarcinos*) to settle in his city.[33] And in November 1262, the archbishop-elect of Trier not only granted four Astigiani merchants a ten-year residence permit, but also insisted that they be treated as if they were "true and proper burghers and citizens (*tanquam nostri veri et proprii burgenses seu cives*)" of Trier and forbade any other Lombards or Cahorsins (*Lumbardos sive Cavercinos*) from competing with them within the town.[34] The rhetoric of ecclesiastical concern therefore coexisted with demonstrations of ecclesiastical embrace.

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[30] *Les sources du droit du Canton de Vaud. Moyen âge (X^e^-XVI^e^ siècle). B: Droits seigneuriaux et franchises municipales,* t. 1: *Lausanne et les terres épiscopales,* eds. Danielle Anex-Cabanis and Jean-François Poudret (Aarau: Sauerländer, 1977), 504 [=no. 290 (May 1273)].

[31] "Die *lectura* des Franciscus de Albano aus dem Jahr 1276 über die *constitutiones novissimae* Papst Gregors X," ed. Burkhard Roberg, *Annuarium historiae conciliorum* 31 (1999), 297-366, and 33 (2001), 26-79, at 60: "multi tam prelati ecclesiastici quam etiam barones seculares ipsos reciperent et manumitterent recipientes ab eis certum salarium."

[32] Françoise Lehoux, *Le Bourg Saint-Germain-des-Prés depuis ses origines jusqu'à la fin de la Guerre de Cent Ans* (Paris: Lehoux, 1951), 413 [=p.j. 1].

[33] Wilhelm Levison, "Aus englischen Bibliotheken. I," *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 32 (1907), 377-456, at 442 [=no. 1 (1254x1265)].

[34] Gisela Möncke, ed., *Quellen zur Wirtschafts- und Sozialgeschichte mittel- und oberdeutscher Städte im Spätmittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1982), 56-61 [=no. 3].

The growing ecclesiastical engagement with foreign moneylenders—whether critical or not—left little immediate impact in canon law or theology before the very end of the 1260s. Among the earliest references is found in Thomas Aquinas's *De regimine judaeorum*, in which the Dominican notes that "what has been said about the Jews is also to be understood with regard to the Cahorsins (*Quod autem de Iudeis dictum est intelligendum est de Cavorsinis*)." Here, however, they are mentioned only in passing, and presumably only because they had been mentioned in the (now-lost) letter that elicited his response.[35] Lombards and Cahorsins also feature in two brief *responsiones* on usury, probably composed in the environs of Paris in the early 1270s; these will be further discussed below. On the whole, however, there is very little evidence for any discussion of specifically foreign usurers in academic circles, whether among canonists or theologians. So whatever the inspiration behind *Usurarum voraginem*, the decree's restriction to foreigners clearly did not emerge from an established academic tradition concerning the problem of foreign usurers, as opposed to usurers and usury in general.

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We will return to the question of foreignness, but for now let us turn to the penalties that *Usurarum voraginem* introduced, that is, the ban on renting houses to foreign usurers and the general call for their expulsion. As the opening sentences of the decree noted, the existing canonical penalties consisted of those set forth a century earlier at the Third Lateran Council of

[35] Thomas Aquinas, "De regimine Iudaeorum (Epistola ad ducissam Brabantiae)," in *Opuscula philosophica*, ed. Raimondo Spiazzi (Turin: Marietti, 1954), 249-52, at 250 [=§732]. The dating and addressee of the letter remain controversial, but all recent scholars are agreed that it was composed between 1267 and 1272. For an overview of the debate, see David Kusman, "À propos de la consultation de Thomas d'Aquin par la duchesse Aleyde de Brabant (ca. 1267)," *Revue belge de philologie et d'histoire* 73 (1995), 937-46; Christoph Cluse, *Studien zur Geschichte der Juden in den mittelalterlichen Niederlanden* (Hanover: Hahnsche Verlag, 2000), 175-79; Kusman's review of Cluse's monograph in *Revue belge de philologie et d'histoire* 81 (2003), 465-71, at 467-70; and Annamaria Emili, "Fonti in dialogo. Tommaso d'Aquino e il *dossier* sul governo degli Ebrei (1270)," in *Dominikaner und Juden: Personen, Konflikte und Perspektiven vom 13. bis zum 20. Jahrhundert,* eds. Elias H. Füllenbach and Gianfranco Miletto (Berlin: de Gruyter, 2015), 1-24.

1179, in the decree *Quia in omnibus*: usurers were to be denied communion and church burial, and in addition, clergy were forbidden from accepting their oblations. And as we have already seen, when Gregory IX wrote to the bishop of Tournai concerning the Cahorsins in Ypres, these were the penalties that he ordered enforced. From time to time, enterprising prelates and theologians sought to expand the range of possible sanctions against usurers. Robert de Courçon, for instance, suggested that parishioners be required to accuse usurers as their penance, instead of the usual penitential duties of fasting, alms, and the like.[36] But none of these local practices was imitated widely.

The church had already threatened manifest usurers with excommunication, its most serious weapon. If usurers were willing to endure excommunication—and in the eyes of the ecclesiastical hierarchy, many were apparently doing just that—then there was little more that could be done on the spiritual front. However, as the drafters of *Usurarum voraginem* evidently recognized, the church's weapons were not only spiritual. If spiritual exclusion had failed to halt the spread of usury, perhaps social exclusion might prove more successful. After all, to quote the decree itself, "the less convenient it is for usurers to lend, the more their freedom to practice usury is curtailed." *Usurarum voraginem*'s penalties therefore sought to repress usury by excluding foreign moneylenders (indeed, expelling them) from the communities in which they had settled.

The decree's penalties, though not their logic, are already hinted at in the Sens provincial canon of 1269, which contains the earliest surviving reference to foreign moneylenders in local ecclesiastical legislation. As we saw above, the canon forbade the local clergy from receiving Lombards or Cahorsins in any church-owned property; it also forbade them from affixing their

[36] Baldwin, *Peter the Chanter*, 1.302.

signature or seal to any usurious contract.[37] In this case, however, the aim was not to impede the activities of usurers, but rather to prevent any appearance of ecclesiastical support, since signatures and seals "conferred consent and approval (*consensum et probationem inducit*)," and "those who received such men [i.e. foreign moneylenders] appeared to condone usury (*cum receptores huiusmodi approbare videantur usuram*)." Moreover, it was one thing to bar foreign moneylenders from church property; it was quite another to bar them from any lodgings and to call for their outright expulsion.

Indeed, *Usurarum voraginem*'s main provisions not only lacked immediate precedents within earlier ecclesiastical responses to foreign usurers (or even usurers in general); they were also conspicuously unusual within the mainstream of canon law itself. Let us start with the rental ban.[38] In northern Italy, from at least the late twelfth century onward, clerical officials had called for the houses of heretics to be burned or otherwise demolished, but there is little evidence for any canonical ban on renting houses to heretics.[39] Later in the Middle Ages we do find such bans being applied to prostitutes (as well as the adulterous and the incestuous) in local ecclesiastical legislation, but the earliest example that I have found within canon law is a legatine statute from

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[37] Sens (1269), c. 2: in Mansi 24.3. For good measure, c. 3 (*Ut usurarii communione et sepulture careant*) reconfirmed the penalties of *Quia in omnibus*, specifying that even those who were otherwise exempt from episcopal jurisdiction were bound to enforce it.

[38] Modern scholars have paid little attention to medieval canon law concerning lodging and tenancy; what follows is therefore quite provisional. I hope to pursue the topic further in future work.

[39] For examples of demolition, see Julien Havet, "L'hérésie et le bras séculier au moyen age jusqu'au treizième siècle," *Bibliothèque de l'École des chartes* 41 (1880), 488-517 and 570-607, at 580, 588, 591. For a reference to this practice in the Florentine constitution of 1310, see Richard C. Trexler, *Synodal Law in Florence and Fiesole, 1306-1518* (Vatican City: Biblioteca Apostolica Vaticana, 1971), 21 and 275. The demolition of the house of a convicted criminal—the so-called *droit d'arsin*—also features in contemporary secular law throughout much of northwestern Europe; see Jean Gessler, "Notes sur le droit d'arsin ou d'abattis," in *Mélanges Paul Fournier* (Paris: Recueil Sirey, 1929), 293-312; and André Delcourt, *La vengeance de la commune. L'arsin et l'abbatis de maison en Flandre et en Hainaut* (Lille: Raoust, 1930).

Buda, dating 1279. Furthermore, to judge from its phrasing and structure, the Buda statute appears to have been drawn up in imitation of *Usurarum voraginem*.[40]

Church tradition was somewhat more complicated where the renting of houses to Jews is concerned. As we shall see in Chapter Six, the late Middle Ages frequently saw clerics denouncing Christians for renting lodging to Jews, and in some cases such bans made their way into local ecclesiastical legislation.[41] That said, there is little evidence for such bans in the thirteenth century, and indeed, the general law of the church remained firmly opposed to them (except insofar as they prevented cohabitation of Christians and Jews) down to the end of the Middle Ages.[42] Such opposition notwithstanding, the question of renting houses to Jews seems to have been a live issue around the very time that *Usurarum voraginem* was promulgated, for the author of an anonymous late thirteenth-century *quaestio* on usury also discussed whether such behavior was sinful.[43] In the end, citing the canon *Etsi iudeos* (X 5.6.13), the author

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[40] Buda (1279), c. 48: in Mansi 24.291-92. A 1281 diocesan statute from Braga, again probably inspired by *Usurarum voraginem*, bars the faithful from lodging "the incestuous, adulterers, or public usurers;" see *Synodicon Hispanum*, ed. Antonio García y García, 11 vols. (Madrid: Biblioteca de autores cristianos, 1981-[2013]), 2.15 [=c. 15]. Fourteenth-century civilian commentators also discussed whether it was licit for a landlord to expel a prostitute from rented lodgings; see, for example, Baldo degli Ubaldi, *In quartum et quintum Codicis librum commentaria* (Venice: apud Iuntas, 1599), fol. 136vb [*ad* C. 4.65.3 §*conductor*, no. 11]. I owe this reference to Nicolas Laurent-Bonne.

[41] See, for example, Ravenna-Bologna (1317), c. 14: in Mansi 25.612-13.

[42] The question also cropped up frequently in late medieval secular legislation; see, for example, Guido Kisch, *The Jews in Medieval Germany: A Study of their Legal and Social Status* (Chicago: University of Chicago Press, 1949), 294.

[43] Brussels, Koninklijke Bibliotheek België, MS 21838, fols. 67r-68v. An edition of the text is given in Wim Verschooten, "Margaretha van Frankrijk bestemmelinge van Thomas van Aquino's *Epistola ad ducissam Brabantiae*" (unpublished Ph.D. dissertation, Katholieke Universiteit Leuven, 1991), 16-20; I am grateful to Christoph Cluse for sending me a copy of this work. I am unconvinced by Verschooten's attribution of the quaestio to the Franciscan theologian (and later archbishop of Canterbury) John Peckham (d. 1292), particularly in light of the recent arguments of Annamaria Emili ("Fonti in dialogo," 23-24). Given that the Sens canon of 1269 had already raised the question of renting houses to "Lombards or Cahorsins," I am also unpersuaded by David Kusman's arguments in favor of a post-1284 dating; see his *Usuriers publics et banquiers du prince: le role économique des financiers piémontais dans les villes du duché de Brabant (XIII^{e}-XIV^{e} siècle)* (Turnhout: Brepols, 2013), 98-99. For the quaestio's dating (and

concluded that it was not in fact sinful, and he even went so far as to declare that it would be a sin *not* to rent houses to Jews in the face of necessity.

Especially interesting for our purposes is the fact that the author of the *quaestio* goes on to ask whether those who rented houses to Lombards dwelling in their lands (*lombardi…ut in terra ipsius morentur*) were bound to restitution. Here he concluded that one could indeed rent houses to them and their servants so long as they did not practice usury, but otherwise proper restitution was to be made for the rental revenues. Given the presumed dating of the quaestio to c. 1270, as well as its specific reference to Lombards (*lombardi*), it seems quite plausible that it is to be understood in relation to Louis IX's 1269 ordinance, the Sens canon from the same year, or both. At the very least, given that the quaestio seems to have been produced within a Parisian university context, the topic of renting houses to either Jewish or Christian usurers was clearly a matter of concern to some learned contemporaries. Perhaps it was even through the university channel that the idea of the rental ban made its way to the committee charged with drafting the Lyonese decrees in advance of the council—but at this point we enter the realm of speculation.

It is worth noting that the sporadic concern of church thinkers and ecclesiastical authorities with renting houses to potential wrongdoers almost never extends to the issue of selling them. Only a handful of the canonists writing on *Usurarum voraginem* even raised the question of whether the decree, by extension, also forbade anyone from selling houses to foreign usurers.[44]

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specific arguments in favor of its composition in Lent 1270), see Annamaria Emili, "*De regimine Judeorum.* Note su tradizione manoscritta, datazione e contenuti della risposta di Peckham alla Contessa di Fiandra," *Picenum Seraphicum: rivista di studi storici e francescani* 22-23 (2003-04), 67-120, at 77-97.

[44] Guillaume Durand (d. 1296) concluded that the decree did indeed forbid the sale of houses to foreign usurers, assuming that the buyer's usurious intent was clear at the time of sale; see his *In sacrosanctum Lugdunense concilium sub Gregorio X Guilelmi Duranti cognomento Speculatoris commentarius* (Fano: Moscardo, 1569), 90 [=§*sub alio titulo*]. Guido da Baisio (d. 1313; also known as "Archidiaconus") noted that the decree might seem to allow the selling of houses, but concluded that selling was included within

This is not because such wrongdoers never bought houses outright; there is abundant evidence of Lombard property holdings, for instance, and the same is true for the Jews in most of Mediterranean Europe and beyond. The focus on renting is surely to be linked with more general contemporary concerns about illicit revenues and the moral consequences of profiting indirectly from sinful practices. Still, this does not fully explain why the licitness of selling as opposed to renting went largely undiscussed.

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On the surface, tracing the inspiration behind *Usurarum voraginem*'s expulsion provision raises quite a different challenge. Biblical parallels abounded, from the archetypal expulsion from Paradise to Christ's driving out of the moneychangers from the Temple. And on a spiritual level (and in the opinion of many church thinkers, at a social level too), the censure of excommunication was essentially a form of expulsion from the community of the faithful.[45] Moreover, as noted in the Introduction, expulsion was a staple of administrative practice throughout much of thirteenth-century western Europe, affecting heretics, prostitutes, lepers, Jews, foreigners, insolvent debtors, a wide range of criminals, and many others. Some of this found its way into ecclesiastical legislation: the 1212 Council of Paris, for instance, insisted that

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the decree's reference to *sub alio titulo* and was hence forbidden; see his *Apparatus libri sexti decretalium* (Milan, 1490), *ad* VI 5.5.1 §*concedere.*

[45] See Elisabeth Vodola, "Sovereignty and Tabu: Evolution of the Sanction against Communication with Excommunicates. Part 1: Gregory VII," in *The Church and Sovereignty, c. 590-1918: Essays in Honour of Michael Wilks*, ed. Diana Wood (Oxford: Blackwell, 1991), 35-55; and *idem*., "Sovereignty and Tabu: Evolution of the Sanction against Communication with Excommunicates. Part 2: Canonical Collections," in *Studia in honorem eminentissimi Cardinalis Alphonsi M. Stickler,* ed. R. J. Castillo Lara (Rome: LAS, 1992), 581-98.

proximity to prostitutes was "more harmful than a plague" and therefore insisted that they be barred from living within city walls, "according to the custom concerning lepers."[46]

On the whole, however, the punishment of expulsion was very unusual within the corpus of classical canon law. Calls for the forced departure of wrongdoers from a secular jurisdiction were almost entirely confined to heretics, and even here the canon law was somewhat ambiguous by the late thirteenth century.[47] The canon *Excommunicamus* of the Fourth Lateran Council, for example, had called for temporal rulers to "exterminate (*exterminare*)" heretics and "purge *(purgare*)" them from their lands.[48] However, these terms themselves allowed for a certain lexical ambiguity, and although they were initially interpreted as calling for heretics to be driven from the bounds of earthly cities and territories, by the 1230s they were commonly understood as an injunction to drive them from the bounds of earthly life.[49]

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[46] Paris (1212), tit. *De meretricibus*: "Inhibemus etiam ne publicae meretrices, quarum cohabitatio ex frequenti usu ad nocendum efficacior pest[e] est, intra civitatem vel oppida permittantur habitare, immo potius iuxta leprosorum consuetudinem sequestrentur. Quod si praemonitae secedere noluerint, per excommunicationis sententiam percellantur"; see Mansi 22.854.

[47] See, in general, Paul Hinschius, *System des katholischen Kirchenrechts mit besonderer Rücksicht auf Deutschland*, 6 vols. (Berlin: Guttentag, 1869-97), especially vol. 5, pt. 2; Willibald M. Plöchl, *Geschichte des Kirchenrechts*, 2nd ed., 2 vols. (Vienna: Verlag Herold, 1960); and Lotte Kéry, *Gottesfurcht und irdische Strafe. Der Beitrag des mittelalterlichen Kirchenrechts zur Entstehung des öffentlichen Strafrechts* (Cologne: Böhlau, 2006),184-90.

[48] *COD,* 233-35.

[49] See, most recently, Irene Bueno, "False Prophets and Ravening Wolves: Biblical Exegesis as a Tool against Heretics in Jacques Fournier's *Postilla* on Matthew," *Speculum* 89 (2014), 35-65, at 62; Christine Caldwell Ames, *Righteous Persecution: Inquisition, Dominicans, and Christianity in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 2009), 183-84. Fuller discussions are to be found in Giovanni Miccoli, "La storia religiosa," in *Storia d'Italia*, vol. 2: *Dalla caduta dell'Impero romano al secolo XVIII* (Turin: Einaudi, 1974), 431-1079, at 692-96; as well as Havet, "L'hérésie et le bras séculier." Two summaries of the Lateran canons compiled in the 1220s (the *Casus Parisiensis* and the *Casus Fuldenses*) rendered them as calling for expulsion, as did the early fifteenth-century canonist Niccolò Tedeschi (also known as Panormitanus; 1386-1445) in his division of the canon into eight parts plus an introduction, later incorporated into the 1582 *editio romana* of the *Corpus Iuris Canonici*. See *Constitutiones Concilii quarti Lateranensis una cum commentariis glossatorum*, ed. Antonio García y García (Vatican City: Biblioteca Apostolica Vaticana, 1981), 467 and 483-84; and *Decretales D. Gregorii papae IX suae integritati una cum glossis restitutae* (Rome: in aedibus Populi Romani, 1582), coll. 1680-

The efforts of later canonists to find canonistic parallels for *Usurarum voraginem*'s expulsion provision make clear the rarity of the penalty within canon law. Take, for instance, Guillaume Durand (Guillelmus Duranti; d. 1296). Aside from his enormously popular guide to canon and civil procedure (the *Speculum iudiciale*), he also wrote a commentary on the decrees of the Second Council of Lyon, which he had attended.[50] In glossing the word "*expellant,*" Durand references first a Novel of Justinian (*Nov.* 14) that expelled pimps from Constantinople and the surrounding area;[51] then a decretal of Alexander III (X 4.8.1) that makes passing reference to the custom of separating lepers from the community, but in the context of a query about whether a marriage might therefore be dissolved; then an early papal decretal (C.33 q.2 c.11) on the restorative effects of a seven-year penance which cites as support the Biblical tale of Miriam (Num. 12:14), who was struck by leprosy and cast out from the camp of the Israelites for seven days after speaking out against Moses. None of these citations, it may be noted, concern actual canonical penalties—nor do Durand's other citations, all of which draw on the metaphor of infected sheep.[52]

Writing just after the turn of the fourteenth century, the influential canonist Giovanni d'Andrea (d. 1348) likewise struggled to find parallels for *Usurarum voraginem*'s expulsion penalty, as he composed his *Apparatus* on the *Liber Sextus*. Unlike Durand, Giovanni managed

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85. To judge from his earlier letters on the subject of heresy, it also seems clear that Innocent III himself intended these terms to refer to expulsion; see, for examples, *PL* 216, coll. 710c-15b [=Inn. III, *Reg*. 15, no. 189 (Milan, 1198)]; *Die Register Innocenz' III*, eds. Othmar Hageneder et al., 12 vols. (Graz: Böhlaus., 1964-2012), 2.3-5 [=no. 1 (Viterbo, 1199)]; 9.18-19 [=no. 8 (Prato, 1206)]; 9.362-63 [=no. 202 [204] (Faenza, 1206)].

[50] See his *In sacrosanctum Lugdunense concilium…commentarius*, fols. 88v-92r. On the dating of Durand's commentary, see below, p. 180 n.99.

[51] The text also resembled *Usurarum voraginem* in laying penalties on those who rented houses to the wrongdoers.

[52] C.42 q.3 c.17; D.45 c. 16; and X 3.35.9.

to locate an actual canonical analogy, but it was decidedly strained: according to a recent decretal of Boniface VIII (VI 3.24.1-3), a professed monk who attended lessons on law or physics without the permission of his superior was to be excommunicated, as was any teacher who failed to expel him.[53] The Mallorcan canonist Bernardo Raimundo (d. ca. 1311), who taught canon law at Montpellier, did not fare much better. All he could muster up were two decretals (X 3.18.3-4) concerning cases in which tenants could justly be expelled before the end of a lease.[54]

None of these parallels offers a particularly compelling canonistic precedent for *Usurarum voraginem*'s expulsion provision. Indeed, the near-irrelevance of most of them simply underscores just how unusual a penalty it was, from the perspective of contemporary canon law. A set of early fourteenth-century diocesan statutes from Lucca, however, points to another possible source of inspiration, namely, Christ himself—or at least the example of his actions. The fifty-sixth chapter of the statutes opens: "Since according to the doctrine of Holy Scripture, no usurer is to remain in the Lord's temple…," a clear reference to the Gospel narratives of the Cleansing of the Temple, in which (in Matthew's version) Christ "cast out all them that sold and

[53] Giovanni d'Andrea's *Apparatus* is found in many editions of the Clementine constitutions, including the 1582 *editio romana*. Here I have relied on the 1471 Strasbourg (Eggestein) edition, cross-checked against Munich, BSB, Clm 2934, fol. 93v. The year of publication of Andreae's *Apparatus* remains disputed, oscillating between 1301 and 1305. Johann Friedrich von Schulte argued for 1304/05, while Knut Nörr opts for 1301 or soon thereafter. See Schulte, *Die Geschichte der Quellen und Literatur des canonischen Rechts von Gratian bis auf die Gegenwart*, 3 vols. (Stuttgart: Enke, 1875-80), 2.213-14; and Nörr, "Die kanonistische Literatur," in *Handbuch der Quellen und Literatur der neueren europäischen Privatrechts,* Bd. 1: *Mittelalter (1100-1500): Die gelehrten Rechte und die Gesetzgebung,* ed. Helmut Coing (Munich: Beck, 1973), 365-82, at 377.

[54] Paris, BnF, lat. 4088, fol. 93rv. This is missing from the first recension, found in Paris, BnF, lat. 4089, fol. 64r. The first recension was completed sometime after 1306, and the second was finished before 1311; see Francisco Cantelar Rodríguez, "El apparatus de Bernardo Raimundo al Libro Sexto de Bonifacio VIII," in *Proceedings of the Fifth International Congress of Medieval Canon Law. Salamanca, 21-25 September 1976*, eds. Stephan Kuttner and Kenneth Pennington (Vatican City: Biblioteca Apostolica Vaticana, 1980), 213-58.

bought in the temple and overthrew the tables of the moneychangers (*nummularii*)."[55] (Matt. 21:12). The Lucchese statute then declares a general ban on usury within the diocese, along with an order that usurers be turned out from the houses they had rented.[56] The influence of *Usurarum voraginem* is immediately obvious, but even more striking is the way that the chapter's provisions are framed with respect not to the decree, but to the Gospel narrative. The city and its buildings are rhetorically equated with the Temple, and the expulsion of usurers thus becomes the logical and necessary response, an opportunity for a civic *imitatio Christi*.

At first glance, this pairing of the Cleansing narrative with calls for the secular expulsion of moneylenders seems a natural, almost inevitable point of reference for *Usurarum voraginem*. After all, the notion that Biblical texts could offer guidelines for contemporary behaviour, so clearly embedded in the preamble to the Lucchese statute, was a mainstay of contemporary exegetical discourse, even if the popularity of such a moralizing (or "tropological") approach waxed and waned with respect to that of other exegetical modes over the course of the high and late Middle Ages.[57] Yet this association between Christ's Cleansing of the Temple and contemporary calls for the expulsion of moneylenders does not feature in any other discussion or reworking of *Usurarum voraginem* from the late thirteenth or early fourteenth century. Moreover, the Lucchese statute has no counterpart in any surviving ecclesiastical or secular statute concerning the expulsion of moneylenders (whether drawing on *Usurarum voraginem* or

[55] Matt. 21:12. Other Gospel accounts in Mark 11:15-17; Luke 19:45-48; and John 2:13-17.

[56] "La sinodo lucchese di Enrico del Carretto," ed. Raoul Manselli, in *Miscellanea Gilles Gérard Meersseman*, 2 vols. (Padua: Antenore, 1970), 1.197-246, at 232-33 [=c. 56]: "Item, cum secundum sacre scripture doctrinam nullus fenerator in templo dominico requiescit, statuimus et prohibemus…." The statutes have not been precisely dated, but they are generally held to have been issued toward the start of del Carretto's reign, which lasted from 1300 to 1330; see Paolino Dinelli, *Dei sinodi della diocesi di Lucca* (Lucca: Bertini, 1834), 59.

[57] See Gilbert Dahan, *L'exégèse chrétienne de la Bible en Occident médiéval, XII^e^-XIV^e^ siècle* (Paris: Cerf, 1999).

not). Echoes and approximations can be discerned in sermons and Gospel commentaries, but nowhere aside from the Lucchese statute does it serve as either a direct model or a source of rhetorical support.

Although this singularity is not easy to explain, it surely owes much to the fact that the pairing did not align neatly with the dominant trends in contemporary interpretation of the Cleansing. Patristic and early medieval exegesis of the Gospel accounts had focused on simony and clerical venality, with usury (and commercial activity in general) being accorded a secondary position at best.[58] This carried through into the immensely popular *Glossa ordinaria*, most of which was composed before 1175.[59] The Temple, furthermore, was usually identified with either the church community or the individual self, in accordance with the prevailing interpretation of 1 Corinthians 3:17: "For the temple of God is holy, which temple you are (*Templum enim Dei sanctum est, quod estis vos*)."

Over the course of the high and late Middle Ages, the Cleansing came to serve as a textual springboard for exploring a much broader range of themes, from the sanctity of church buildings to the use of violence against heretics and infidels.[60] Starting in the middle of the twelfth century, it also became a locus for discussions of such economic concepts as usury, just exchange, and the

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[58] Anglo-Saxon exegesis of the Cleansing showed more interest in commerce (and took a more positive view) than did early medieval Continental commentaries; see Michael McCormick, *Origins of the European Economy: Communications and Commerce, A.D. 300-900* (Cambridge: Cambridge University Press, 2001), 13.

[59] In the absence of a critical edition, I have relied on *Biblia cum glossa ordinaria: Facsimile Reprint of the editio princeps Adolph Rusch of Strassburg 1480/81*, eds. Karlfried Froehlich and Margaret T. Gibson, 4 vols. (Turnhout: Brepols, 1992). On the dating, authorship, and development of the *Glossa*, see Lesley Smith, *The Glossa Ordinaria: the Making of a Medieval Bible Commentary* (Leiden: Brill, 2009).

[60] See the discussion in Emmanuel Bain, "Les marchands chassés du Temple, entre commentaires et usages sociaux," *Médiévales* 55 (2008), 53-74. Indeed, the interpretative flexibility of the passage calls to mind Beryl Smalley's pithy observation that "mediaeval 'morality' depended on the inventiveness of its author; he could always find a trope expressive of his own views;" see her "Stephen Langton and the Four Senses of Scripture," *Speculum* 6 (1931), 60-76, at 76.

licitness of mercantile activity.[61] As the studies of Odd Langholm, Giacomo Todeschini, Sylvain Piron, and many others have shown, these new themes exercised the ingenuity and learning of many of the most towering figures of medieval intellectual life, theologians and preachers whose words frequently carried well beyond the confines of the classroom or the reaches of the pulpit.[62]

Nevertheless, to judge from a broad survey of late medieval gospel commentaries, sermon collections, and miscellaneous theological writings, a certain exegetical inertia (together with audience interest, perhaps) kept these new themes from seriously displacing the interpretative framework centered on simony and clerical venality until around the late fourteenth century.[63] Many argued that Jesus's actions were to be interpreted as a condemnation of usurers, among others. Some went on to call explicitly for the spiritual exclusion of usurers from the community of the faithful. But not until the very end of the fifteenth century do we find the Cleansing being used as a vehicle to call for the physical expulsion of usurers from secular jurisdictions, as opposed to their metaphysical exclusion from a spiritual community.[64] Given that the Lucchese statute's concise and suggestive use of Biblical precedent was therefore quite exceptional, it

[61] As Giacomo Todeschini has forcefully argued, however, these new themes were firmly embedded in earlier discourses, as suggested by the close links between usury and simony in much of twelfth- and thirteenth-century thought. See his *Il prezzo della salvezza. Lessici medievali del pensiero economico* (Rome: Nuova Italia Scientifica, 1994), 174-76, with further references.

[62] See, in the first instance, Langholm, *Medieval Schools*, 101 and *passim*. A more holistic interpretation is presented in Todeschini, *I mercanti e il tempio*. Emmanuel Bain offers some valuable cautionary remarks on Todeschini's arguments in "Les marchands chassés," 68. For a stimulating discussion of the relationship between political discourse and exegetical language, see Philippe Buc, "The Book of Kings: Nicholas of Lyra's Mirror of Princes," in *Nicholas of Lyra: The Senses of Scripture*, eds. Philip D. W. Krey and Lesley Smith (Leiden: Brill, 2000), 83-109.

[63] For a detailed discussion, see Appendix A.

[64] This occurs in a sermon of the Observant Franciscan firebrand Bernardino da Feltre (1439-1494); see his *Sermoni del beato Bernardino Tomitano da Feltre nella redazione di Fra Bernardino Bulgarino da Brescia, minore osservante,* ed. Carlo Varischi, 3 vols. (Milan: Renon, 1964), 1.381-91 [=no. 29], at 383.

seems we must continue our hunt for the inspiration behind *Usurarum voraginem*'s expulsion provision.

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In fact, the decree itself contains further clues as to its inspiration. As we have already seen, both the expulsion provision and the implied distinction between foreign and local usurers were unusual, and in some respects even unprecedented. Other elements of the decree were similarly novel. The drafters specified that the provisions were to be implemented within three months, but this too marked a departure from canonical norms. This anomaly did not escape the notice of later canonists, who struggled noticeably to explain it.[65]

Even more problematic was the decree's language of foreignness. *Alienigena*, for example, appears only thirteen times in Gratian's *Decretum*, almost always in extracts from patristic texts.[66] Sometimes it is used in opposition to *populus Iudaeorum,* and otherwise as a generic reference to unspecified "others." [67] These occurrences earned only passing remark from early canonists, a sign of the term's limited importance in contemporary canonistic discourse. Furthermore, notwithstanding its appearance in some thirteenth-century papal decretals (usually with reference to someone hailing from outside a given diocese), *alienigena* is absent from all of the thirteenth- and fourteenth-century codifications of canon law, with the sole exception of

[65] See my "Canon Law and the Problem of Expulsion," 152-53.

[66] *Wortkonkordanz zum Decretum Gratiani*, eds. Timothy Reuter and Gabriel Silagi, 5 vols. (Munich: Monumenta Germaniae Historica, 1990), s.v. *alienigena.*

[67] For its use in opposition to *populus Iudaeorum*, see D.56 c.4, 8; C.7 q.1 c.9; C.23 q.4 c.39; C.23 q.5 c.49; C.28 q.1 pr.; and C.28 q.1 c.9. For generic references, see D.1 c.9; D.50 c.20; C.1 q.1 c.87; C.3 q.5 c.6, 8; C.28 q.1 c.15. Among canonists, Stephen of Tournai (1128-1203) glosses *et alienigenam* (D.50 c.20) as *sicut et iste uxorem gentilem* and glosses *Dominus de alienigenis* (D.56 c.8) as *ut de Ruth quae fuit Moabitis*; see his *Die Summa über das Decretum Gratiani*, ed. Johann Friedrich von Schulte (Giessen: Roth, 1891), *ad loc.* The latter gloss is repeated by Honorius, writing some three decades later; see his *Summa 'de iure canonico tractaturus'*, eds. Rudolf Weigand et al., 3 vols. (Vatican City: Biblioteca Apostolica Vaticana, 2004-2010), *ad loc.*

Usurarum voraginem itself.[68] As for *oriundus*, the term could at least boast a proper Roman pedigree, but it was novel within canon law, with no attestations in either of the main earlier canonical collections, i.e. the *Decretum* and the *Liber Extra*.[69]

Classical canon law did have an all-purpose word for foreigner/stranger/outsider, namely, *extraneus*, which appears over forty times in the *Decretum* and the *Liber Extra*. It is therefore not surprising that Francesco d'Albano recast *Usurarum voraginem*'s restriction in more familiar terminology (i.e. *extraneis et alienigenis*) in his own discussion of the decree.[70] Several later canonists would follow his lead: the French Dominican Nicolas d'Ennezat (Nicolaus de Anesiaco; fl. 1307-21), for example, defined the targets of the decree as *usurarii extranei* in his *Tabula decretalium et libri sexti*, while his rough contemporary Bernardo Raimundo glossed the term *alienigenas* as *id est penitus extraneos* in both recensions of his *Apparatus* on the *Liber Sextus*.[71]

Yet the decree's drafters did not draw on the more familiar term *extraneus*, opting instead for *alienigena*, which had few parallels in canonical texts, and *non oriundus*, which had roots in the civil law tradition but none in canon law. Their decision was presumably due to the fact that *extraneus* was closely tied to the existing discourse of foreignness within canon law, which emphasized one's place of residence rather than one's place of birth as the determining factor of

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[68] For other appearances of *alienigena* in thirteenth-century decretals, see *Regesta Honorii papae III*, 1.134, 512-13 [=nos. 783, 3132]; and *Registres d'Urbain IV*, 2.76 [=no. 187]. The term also appears as a designation for Muslim infidels (*Registres d'Urbain IV,* 2.320 [=no. 672]) and in exchanges with the English crown over the anti-foreign movement under Henry III, as in, for example, *Registres d'Innocent IV (1243-1254)*, 3.225 [=no. 6556]; and *Registres d'Urbain IV*, 2.372 [=no. 768].

[69] For examples of its appearance in Roman law, see *Dig.* 50.1.6, 50.1.30, 50.1.37, and 50.16.190.

[70] "Die *lectura* des Franciscus de Albano," 61.

[71] For d'Ennezat's *Tabula*, I consulted Munich, BSB Clm 9657, at fol. 83r. For Raimundo's *Apparatus*, I consulted Paris, BnF, lat. 4089, at fol. 64r (first recension); and Paris, BnF, lat. 4088, fol. 93rv (second recension).

one's "foreignness."[72] Naturally this ran against the aims of the decree's drafters, since few Lombards or Cahorsins would have qualified as "foreigners" under such an interpretation. It is not surprising, then, that they opted for language that lay outside the existing canonical tradition. This led, however, to vigorous debates among canonists over who exactly counted as *alienigena* or *non oriundus* for the purposes of the decree's implementation. Some held to the canonical preference for domicile over birthplace in defining "foreignness," while others followed Roman law's emphasis on one's ancestral birthplace.

The question of citizenship was especially problematic: if someone was a citizen of the community in which he was lending at interest (as the Lombards often were), could he still be considered a foreigner? In other words, what was the relationship of the emerging civic designation *civis* or *burgensis* vis-à-vis the indeterminate notion of *alienigena*? Could they co-exist, or did one invariably trump the other? We saw above that in 1262, the archbishop-elect of Trier had insisted that four Astigiani be treated as if they were "true and proper burghers and citizens (*tanquam nostri veri et proprii burgenses seu cives*)" of his city.[73] Successive kings of France declared that members of the Scarampi family of Asti "were not to be treated as Lombards (*nec…tamquam Lombardi tractentur*)," but rather "as the king's own burghers (*sicut burgenses nostros reputari, tractari et censeri*)."[74] In 1310, the future Louis X (1289-1316) went so far as to declare that Antonio Scarampi and his sons were to be treated "as if they were

[72] Residence in a particular parish or diocese was the most common baseline for establishing "foreignness" in canon law; see Willy Onclin, "Le statut des étrangers dans la doctrine canonique médiévale," in *L'Étranger*, 2 vols. (Brussels: De Boeck, 1958), 2.37-64, especially pp. 41-42 and 46-47.

[73] See above, p. 121.

[74] For a general discussion of these privileges, see Bernard d'Alteroche, *De l'étranger à la seigneurie à l'étranger au royaume XI^e^-XV^e^ siècle* (Paris: LGDJ, 2002), 49-86. For editions of the Scarampi privileges, see Henri d'Arbois de Jubainville, "De quelques documents récemment découverts à Ervy (Aube)," *Bibliothèque de l'École des Chartes* 17 (1856), 461-72; and d'Alteroche, *L'étranger*, 273-77 (a 1342 *vidimus* of multiple earlier privileges).

burghers and native-born (*tanquam burgenses et nati de terra nostra*)," thereby adding fictive origins to the Lombards' legal protections.[75]

Similar privileges survive in considerable numbers from throughout western Europe, and in general, those who sought them were interested in the fiscal advantages that the resulting status conveyed. That said, it is clear that they could prove advantageous where secular measures against foreign usurers were concerned. In 1291, for example, after Philip IV of France had ordered the general arrest of all Italian merchants in the realm on charges of usury, the consuls of Narbonne successfully petitioned for the release of four Italians on the grounds that they were longstanding "citizens and burghers of the city (*cives et burgensis dicti Burgi*)."[76] But could such privileges also carry with them a means of evading *Usurarum voraginem*'s penalties? Guillaume Durand said no, for such evasion was a form of fraud, and as the Roman legal maxim maintained, fraud ought not to be able to benefit itself ("*fraus sibi patrocinari non debet*").[77] Writing a few years earlier, the canonist Giovanni Anguissola (fl. ca. 1275-1300) arrived at a similar opinion on the grounds that such privileges produced "citizens in name only (*cives ut in vulgari dicitur*)," whereas "genuine" citizenship (that is, as conceived in classical Roman law) depended on one's place of birth. Such bestowals of citizenship therefore had no impact on

[75] D'Arbois de Jubainville, "De quelques documents," 470 [=p.j. 5]. At the time he granted the privilege, Louis X was King of Navarre and Count of Champagne.

[76] *Le livre de comptes de Jacme Olivier, marchand narbonnais du XIV^e^ siècle*, ed. Alphonse Blanc (Paris: Picard, 1899), 444-46 [=no. 30 *bis*]. For the general circumstances, see Robert Davidsohn, *Geschichte von Florenz*, 4 vols. (Berlin: Mittler, 1896-1927), 4.2.212. The Scarampi privileges, however, proved to be of little value in the face of Philip VI's aggressive campaign against Lombard usurers in 1347; see the records of fines levied against them in Paris, AN, JJ 76, nos. 58, 207, 209, 210, 242, 309, 310, 325, 347, 357, 359.

[77] *In sacrosanctum Lugdunense concilium…commentarius,* fol. 89r (citing X 1.3.15).

whether someone was to be reckoned *alienigena* or *non oriundus* for the purposes of the decree.[78] Although the canonists' conclusions are not surprising, the tension was surely real.

At a more general level, canonists also struggled to explain why the appropriate penalty for a particular sin depended on the secular jurisdiction in which one was sinning. Why were "foreign" usurers to be punished differently than "local" ones? Durand argued that the decree's distinction was due to the fact that there was both greater scandal (*maius scandalum*) in usury being carried out by foreigners than by locals, and less scandal in their expulsion.[79] The concept of scandal was quite well developed in contemporary canon law, which defined the term broadly as an action or statement drawing others toward mortal sin, and the avoidance of scandal was valid grounds for permitting actions that otherwise ran contrary to canon law.[80] In this case, however, Durand offers no support for his position—no citations of authorities, nor any elaboration of why foreign usurers posed more of a threat than local ones, or why their expulsion would cause less scandal. In the hands of a less formidable canonist, this might not be noteworthy. But Durand, unlike many contemporary commentators, readily criticized those canons that he felt were ambiguously phrased or inadequately thought through.[81] Moreover, he generally cites varied and multiple sources in his glosses on difficult points. In this context,

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[78] His *Apparatus* on the *Novissimae*, probably composed in the mid-1270s, survives in three copies: Munich, BSB, Clm 14032, fols. 276ra-284va; Padua, Biblioteca Antoniana MS 62, fols. 1r-9v; and Vienna, Österreichische Nationalbibliothek, cod. 2216, fols. 59r-78v. For a further discussion of the canonists' reasoning on this topic, see my "Canon Law and the Problem of Expulsion," esp. pp. 141-54.

[79] *In sacrosanctum Lugdunense concilium…commentarius*, fol. 89r.

[80] See Arnaud Fossier, "'*Propter vitandum scandalum*': Histoire d'une catégorie juridique (XII^{e}-XV^{e} siècle)," *Mélanges de l'École française de Rome. Moyen Âge* 121/2 (2009), 317-48; and Richard H. Helmholz, "Scandalum in the Medieval Canon Law and in the English Ecclesiastical Courts," *ZRG* 127*, Kan. Abt.* 96 (2010), 258-74, in particular at 260-62.

[81] See, for example, Durand's remarks on c. 13 (*Licet canon*), c. 22 (*Hoc consultissimo*) and c. 24 (*Exigit*); and Leonard E. Boyle, "The Date of the Commentary of William Duranti on the Constitutions of the Second Council of Lyons," *Bulletin of Medieval Canon Law* n.s. 4 (1974), 39-47, at 40-43.

therefore, the threadbare presentation of the argument suggests that while Durand may have supported the distinction made at Lyon, it was not one for which he could find any support within the existing framework of canon law.

Giovanni d'Andrea offered another explanation of the distinction in his *Apparatus* on the *Liber Sextus*. He first repeated Durand's "scandal" explanation, but preceded it with a disclaimer that "this might be the case (*potuit esse ratio*)," suggesting that he himself found it less than fully convincing**.** He went on to suggest that men were more afraid to lend at usury among those close to them than among outsiders, and that the latter thus had to be especially guarded against—but like Durand, offers no further substantiation for this argument.[82]

As we will see in the Epilogue, the only contemporary observer to craft a compelling theoretical defense of the decree's distinction between local and foreign usurers was a theologian, rather than a canonist, whose reasoning prefigures a major strand of late medieval political thought. On the whole, however, it is clear that the distinction was essentially unprecedented within the canonistic tradition and could not easily be reconciled to it.

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Usurarum voraginem's focus on foreign usurers (and its associated vocabulary), its penalty of expulsion, and its three-month implementation timespan all fit uneasily within canon law and ecclesiastical tradition. Taken collectively, however, they all point to the principal source of the decree: Louis IX's 1269 ordinance. As we saw in the previous chapter, this had ordered "Lombards, Cahorsins, and other foreign moneylenders (*Lombardi et Caorcini, ac etiam…plures alii alienigene usurarii*)" to be driven from the kingdom of France within three months. Given

[82] Munich, BSB, Clm 2934, fol. 93v.

these parallels, the decree's debt to the French legislation is unmistakable, even if it went unacknowledged by medieval canonists and has gone unnoticed by modern scholars.

That a late thirteenth-century conciliar decree drew on outside sources for inspiration is unremarkable; such borrowings had been integral to the development of canon law from its very beginnings, and the late thirteenth century was far from exceptional in that regard.[83] Biblical passages, patristic texts, earlier canonical collections, papal decretals, and Roman law—all of these supplied ready materials for the elaboration of conciliar decrees, and of canon law more generally. *Usurarum voraginem* is exceptional, however, in that both the textual and substantive inspiration were coming from a piece of contemporary secular law (*ius proprium*), rather than from any of the traditional wellsprings. This is not to suggest that the canon law of the so-called "classical period" was devoid of secular legal influences. Gratian's use of Roman law has been much discussed, but Carolingian and Ottonian material also made their way into his collection.[84] Secular concerns and pressures also left their mark throughout the period, though perhaps with less force than in earlier centuries, and traces of contemporary secular law also crept indirectly into the great codifications of canon law, particularly via the inclusion of decretals concerning the temporal administration of the papal patrimony.[85] But cases of clear borrowing from the *ius*

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[83] See, among many, Jean Gaudemet, *Les sources du droit de l'Église en Occident du II^e^ au VII^e^ siècle* (Paris: Éditions du Cerf, 1985).

[84] See, with caution, the list of citations in *Corpus iuris canonici*, ed. Emil Friedberg, 2 vols. (Leipzig: Tauchnitz, 1879-81), 1.xxxix-xli. The literature on Roman law in the *Decretum* is vast; see Anders Winroth, "Roman Law in Gratian and the Panormia," in *Bishops, Texts and the Use of Canon Law around 1100: Essays in Honour of Martin Brett*, ed. Bruce C. Brasington (Aldershot: Ashgate, 2008), 183-90, with further references.

[85] See Stephan Kuttner, "Some Considerations on the Role of Secular Law and Institutions in the History of Canon Law," in *Scritti di sociologia e politica in onore di Luigi Sturzo,* 3 vols. (Bologna: Zanichelli, 1953), 2.351-62. For further examples, see Francesco Migliorino, *In terris ecclesiae. Frammenti di* ius proprium *nel* Liber Extra *di Gregorio IX* (Rome: Il Cigno Galileo Galilei-Edizioni di Arte e Scienza, 1992).

proprium—as we find in the case of *Usurarum voraginem*—are exceptionally rare in canon law from the late twelfth century onward, and all the more so where conciliar legislation is concerned.[86]

How the ordinance's language and provisions were taken up during the drafting process for *Usurarum voraginem* is unclear. According to Francesco d'Albano, *Usurarum voraginem* was the result of a "petition [that] some upstanding prelates (*supplicationem quorundam proborum prelatorum*)" had submitted to the council for consideration.[87] Presumably this was a response to Gregory X's bull *Dudum super generalis*, sent to sixty bishops and other prelates in March 1273, which invited them to submit proposals in support of the Council's reforming mission.[88] Among the French recipients was Pierre de Charny, Archbishop of Sens (r. 1267-74), who, as we have already seen, issued a provincial canon in 1269 concerning Lombards and Cahorsins that may well have been inspired by Louis's ordinance from earlier that year. It is possible that he or other leading figures in the French ecclesiastical hierarchy drew inspiration from the 1269 ordinance in drawing up their petition. More plausible is that the borrowing occurred at the level of the commission charged with analyzing the ensuing responses. One of the four commissioners was Peter de Tarentaise (d. 1276; later Pope Innocent V), who had been Provincial of the Dominican Order in France during much of the lead-up to the Eighth Crusade, and was presumably familiar

[86] A similar case might be offered by c. 17 of the Third Lateran Council, which Peter Landau argued was directly influenced by the English assize of darrein presentment; see his *Jus Patronatus: Studien zur Entwicklung des Patronats im Dekretalenrecht und der Kanonistik des 12. und 13. Jahrhunderts* (Cologne: Böhlau, 1975), 195-205, especially n.696. For a forceful restatement of the case for the reverse chronology, however, see now Joshua Tate, "The Third Lateran Council and the *Ius Patronatus* in England," in *Proceedings of the Thirteenth International Congress of Medieval Canon Law. Esztergom, 3-8 August 2008*, eds. Peter Ërdo and Sz. Anzelm Szuromi (Vatican City: Biblioteca Apostolica Vaticana, 2010), 589-600. I would like to thank Danica Summerlin for this reference.

[87] "Die *lectura* des Franciscus de Albano," 60.

[88] *Les registres de Grégoire X (1272-1276) et de Jean XXI (1276-1277),* eds. Jean Guiraud and Léon Cadier (Paris: Thorin, 1892-1960), 91-92 [=no. 220].

with the royal ordinance. Another of the commissioners is an even likelier candidate: Odo Rigaud (d. 1275), Archbishop of Rouen, had not only been one of Louis IX's closest companions and advisers, accompanying him to Tunisia and serving as one of the executors of the king's will, but he also served as one of the three prelates charged with opening the inquiry into Louis's potential canonization.[89] As such, it seems all but certain that he was well acquainted with the royal ordinance, and entirely plausible that he drew on it in laying the groundwork for what would become *Usurarum voraginem*.

Regardless of the path by which Louis IX's ordinance came to serve as inspiration for *Usurarum voraginem*, the nature of the borrowing created difficulties. The novel three-month timespan for implementation was awkward only at a theoretical level, for the canonists who set themselves the task of reconciling the decree with existing canonical precedents. By contrast, the unusual penalty of expulsion not only posed a theoretical challenge to the canonists who tried to contextualize it; it also posed a practical challenge to the authorities who were supposed to enforce it, as we will see in the following chapters. Then there is the question of the decree's restriction to foreign usurers. It was not only the concept of distinguishing between locals and foreigners that proved a stumbling block; the borrowed language of this distinction was also problematic. Contemporary canonists' debates over the definition and meaning of foreignness have already been mentioned, but the fact that such debates took place at all reflects the fact that the language of the conciliar decree drew only partially on that of the royal ordinance.

The term *alienigena*, as we have seen, appears in both the royal ordinance and *Usurarum voraginem*. In the context of Louis IX's legislation, the word is used as something of a catch-all, serving mainly to ensure that the penalties can fall even on those "foreign" usurers who might

[89] See Adam J. Davis, *The Holy Bureaucrat: Eudes Rigaud and Religious Reform in Thirteenth-Century Normandy* (Ithaca: Cornell University Press, 2006), 157-73.

somehow fall outside the broad semantic bounds of "Lombards and Cahorsins (*Lombardi et Caorcini*)." By contrast, the term is central to the promulgated text of *Usurarum voraginem*, defining as it does the very targets of the provisions, in tandem with the phrase "and others not native to their lands (*et alios non oriundos de terris ipsorum*)," which here seems to be functioning as the catch-all. This shift was not dictated by the demands of canonistic convention, for as noted earlier, the terms *alienigena* and *non oriundus* had limited resonance in canonistic sources. Moreover, the drafters of the Sens provincial canon of 1269 had more or less followed the royal ordinance in specifying that the canon applied to Lombards and Cahorsins. Other ecclesiastical authorities also resorted to these more focused terms in trying to repress foreign moneylending within their jurisdictions.[90]

Perhaps the drafters saw the terms "Lombard" or "Cahorsin" as potentially too narrow in scope. According to Francesco d'Albano, the decree was promulgated as a result of concerns about the "many Florentines, Pistoians, Lucchesi, and Astigiani who were traveling to diverse regions and provinces in order to lend at excessive usury."[91] Similarly, an anonymous early gloss on the decree singled out the "Florentines and Sienese" among the many who were lending at usury "in various parts of the world (*in diversis partibus mundi*)."[92] It is possible, perhaps even likely, that the prelates sought not only to repress foreign moneylending north of the Alps (where

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[90] Sens (1269), c. 2: in Mansi 24.3; and see above, pp. 120-21.

[91] "Die *lectura* des Franciscus de Albano," 60: "Hec constitutio facta fuit propter multos tam Florentinos quam Pistorienses sive Lucanos quam etiam Astenses, qui ibant ad diversas regiones et provincias, ut ibi usuras immoderatas exercerent."

[92] Luxembourg, Bibliothèque nationale, MS 140, fol. 195r [=§*publice*]. The anonymous gloss, which survives in at least five other manuscripts, is known by its incipit, *Hoc dicit quod spiritus sanctus*. Édouard Fournier dated it to before October 1275; see his *Questions d'histoire du droit canonique. Extraits du Cours professé à l'Institut Catholique de Paris (Année scolaire 1935-1936)*, t. 1: *Gloses et Commentaires sur les Constitutions de Grégoire X.-François de Verceil* (Paris: Recueil Sirey, 1936), 9-12.

the terms "Lombard/Cahorsin" were widely used to describe such lenders), but also to restrict the widely attested activity of Tuscan moneylenders in other cities in northern and central Italy. Since the general use of the terms Lombard/Cahorsin in the context of foreign moneylending was still widespread only north of the Alps, the drafters might have seen them as insufficiently broad. Yet if this were so, they could simply have borrowed the ordinance's language wholesale, since there the targets were "Lombards, Cahorsins, and other foreign moneylenders (*Lombardi et Caorcini, ac etiam…plures alii alienigene usurarii*)," a phrase that was capacious enough to include foreign moneylenders on both sides of the Alps.

On the whole, it seems more likely that the drafters' use of the much broader terms *alienigena/non oriundus* was simply a case of over-hasty drafting, given that the decree's explicit restriction to foreigners was introduced only toward the very end of the Council's proceedings or swiftly thereafter. Regardless of the grounds, we will explore in Chapter Six how the drafters' use of broad and ambiguous terminology concerning foreignness, rather than the more targeted phrasing of Louis's ordinance, paved the way for a radical reconsideration of the decree's targets over the course of the later Middle Ages.

Usurarum voraginem differs from the earlier French ordinance in a number of other respects, as well. Some of these differences are subtle. Where the ordinance limited its reach to those foreigners who lent usuriously on pledges (essentially, pawnbrokers), the Lyonese decree envisaged all foreigners who could be classed as "manifest usurers." The decree's reach was therefore broader than that of the ordinance. Moreover, given the uncertainty surrounding who exactly counted as a "manifest usurer" in practice, its reach was also much more ambiguous.

Other differences are obvious, such as the decree's introduction of the housing ban, which may have been inspired by the Sens provincial canon of 1269 but has little connection to Louis's

1269 ordinance. *Usurarum voraginem*'s articulated roster of penalties for non-compliant authorities likewise has no counterpart in the ordinance. Conversely, unlike most of the earlier secular expulsion orders (including the ordinance), the Lyonese decree did not include an exemption clause by which those who abandoned their usurious activities would be left in peace. As we will see in Chapter Five, however, the evidence from the decree's implementation suggests that secular and ecclesiastical authorities repeatedly allowed foreign moneylenders to avoid expulsion by (at least temporarily) renouncing their past practices. Perhaps the most salient difference between the two texts is their jurisdictional reach. Louis's ordinance applied to the lands falling under direct French royal jurisdiction, with the threat of royal intervention in any neighboring jurisdictions that did not follow suit. *Usurarum voraginem*, having been approved by a general council of the church, theoretically applied to the whole of Christendom, or at least to anywhere in Christendom where foreigners were lending at usury.

These differences notwithstanding, the influence of Louis IX's ordinance on the Lyonese decree is striking. Admittedly, the adoption of the three-month timespan is important largely as evidence for the borrowing itself; beyond that, its novelty is of interest only within the narrow realm of canonical procedure. Similarly, the reuse of the term *alienigena* testifies to the relationship between the texts, though the interpretative instability it engendered will prove important to the subsequent history of the decree. The introduction of the penalty of expulsion, however, marks a new step in the church's campaign against usurers. To many observers in the middle decades of the thirteenth century, it might have appeared that the church had run out of weapons with which to fight usury. But in 1274, drawing largely on Louis's example, the church forged new ones.

Throughout the middle decades of the thirteenth century, as we have seen in the previous two chapters, secular measures against usury focused mainly on foreign usurers rather than local ones. These measures were a response to an ecclesiastical discourse surrounding usury that emerged in the mid-twelfth century and gained force and stridency in the decades that followed. But up until the 1260s, specific concern with foreign usurers—as opposed to usurers in general—remained largely confined to the secular sphere. This is not to say that the church hierarchy was blind to the increasing activity of Cahorsin and Lombard moneylenders; indeed, Pope Gregory IX's condemnation of the Cahorsins of Ypres in 1230, and Bishop Roger Niger's expulsion of Italian merchant-bankers from London in 1235, are the earliest examples of forceful opposition to foreign usurers. But these early responses were exceptional, and through most of the mid-thirteenth century, the church's institutional and intellectual responses to usury did not single out foreign usurers in particular. It was instead secular authorities, first in England, then across the Continent in France and Brabant, who set foreign usurers in their crosshairs, threatening or ordering their expulsion. So when the ecclesiastical authorities assembled at the Second Council of Lyon in 1274 ordered the expulsion of foreign usurers as part of their broader anti-usury measures, they were consciously emulating the reactions of their secular counterparts.

As we have seen, however, the shared response—namely, expelling foreign usurers—emerged out of different contexts and envisaged different (albeit overlapping) targets. In England, an established tradition of expelling foreigners offered a framework for ordering the expulsion of Italian merchant-bankers, whose purportedly usurious activities offered a convenient pretext for what was little more than royal rapacity. In France, expulsion built on earlier royal efforts to repress usury, but here it was foreign pawnbrokers rather than merchant-bankers who came to emblematize the stain of usury. The expulsion of these pawnbrokers,

furthermore, was spurred not by royal greed, but by a saint-king's generalized desire to purge his kingdom of sin in order to ensure the success of his coming crusade. Finally, where canon law was concerned, secular models of expulsion offered a means of literalizing the church's longstanding calls for the exclusion of usurers from the community of the faithful. And in this case, although it was the lending activities of northern Italians that inspired the expulsion order, its reach theoretically encompassed anyone who could be considered both a foreigner and a manifest usurer.

Other places in western Europe also saw debates over foreign moneylending emerge in the middle decades of the thirteenth century. In the summer of 1262, for example, the governing council of Perugia debated at some length over the continuing presence of Jewish and foreign moneylenders within the city. Ultimately the council decided to expel the Jews and henceforth bar any foreigners from lending at interest. An exception was made, however, for Roman moneylenders, who were permitted to continue their lending activities as before.[93] In this case, we appear to be dealing not so much with the expulsion of foreign moneylenders as with the creation of a moneylending monopoly for a particular subset thereof. Another example is offered by Verona, whose 1276 statutes barred any foreigners from pawnbroking unless they offered appropriate security (*nisi fecerit bonam securitatem*), presumably to civic officials.[94] In this case the concern seems to revolve not around the usurious activities, but around the risk that the

[93] See Ariel Toaff, ed., *The Jews in Umbria*, 3 vols. (Leiden: Brill, 1993), 1.2-3 [=no. 3 (7 August 1262)]: "In reformatione cuius consilii placuit toti consilio quod Judei recedant de Perusio hinc ad octavum festi Sancte Marie proxime huius mensis et interim non audeant usque ad illud tempus alicui mutuare. […] Item quod nullus forensis possit mutuare ad usuras in civitate Perusii, exceptis Romanis quibus licitum sit mutuare, sicut in lege de comitatu Perusii predicta."

[94] *Gli statuti veronesi del 1276 colle correzioni e le aggiunte fino al 1323,* ed. Gino Sandri, 2 vols. (Venice: a spese della R. Deputazione, 1940), 384 [=Bk 3, c. 143]. Unfortunately only the rubric entry survives.

prospective pawnbrokers might unexpectedly flee the city with their pledges. So far as we can tell, however, neither of these episodes had any sort of afterlife.

In England, by contrast, the expulsion of those classed as foreign usurers (in this case, Italian merchant-bankers) featured repeatedly in royal practice during the 1240s and 1250s. As we will see in Chapter Five, Edward I would order expulsion anew in November 1274, inspired both by the example of his father Henry III and by the recent promulgation of *Usurarum voraginem*. Moreover, calls for the expulsion of foreign moneylenders would still feature in English politics a century later, with a 1376 parliamentary petition calling for "all the Lombards who do not practise any other trade than that of brokers should be required by writ to leave the land, as they plan and maintain evil usury and all the subtle scheming of the same."[95] In France, Louis IX's successors embraced his example, threatening Italian moneylenders with expulsion on at least six occasions between 1274 and 1347.[96] Meanwhile, neighboring princes such as Charles II of Anjou in 1289, and later Humbert II of Vienne in 1345, would draw inspiration from both French royal precedent and the Lyonese decree in ordering similar expulsions within their own jurisdictions.[97]

As these examples indicate, *Usurarum voraginem* would itself serve as model and inspiration for subsequent expulsions, in the same way that its ecclesiastical drafters had drawn on the

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[95] *The Parliament Rolls of Medieval England, 1275-1504,* vol. 5: *Edward III (1351-1377),* ed. Mark Ormrod (London: National Archives, 2005), 318 [=1376 April, m. 8, no. 58/7]: "Item, supplie la commune: qe touz les Lombardz queux ne usent autre mestier fors cele de brokours, q'ils soient deinz brief faitz voider la terre, issint come male usure, et touz les subtils ymaginacions d'icell sount par eux compassez et meyntenuz."

[96] *Ord.* 1.298-300 (1274); 1.489-90 (1311); 1.494-95 (1311); 1.794-96 (1326); 1.800-2 (1327); and Eusèbe Jacob de Laurière, *Table chronologique des ordonnances faites par les rois de France de la troisième Race depuis Hugues Capet, jusqu'en 1400* (Paris: Imprimerie royale, 1706), 165-66 (1347).

[97] See below, p. 283 (for Charles II's expulsion in Anjou), and pp. 273-76 (for Humbert II's expulsion in the Dauphiné).

earlier ordinance of Louis IX. This is not surprising, given the prestige it carried as a conciliar decree, binding—at least in theory—on all the Christian faithful. Earlier expulsion orders had concerned cities, duchies, kingdoms. Notwithstanding its implicit recognition of secular political boundaries, *Usurarum voraginem* embraced all of Christendom. Nevertheless, as we will see in the coming chapters, the decree's impact was indirect and uneven. Resistance and apathy would prove the norm. Even where such roadblocks were absent, the journey from the lofty reaches of a general Council into less exalted spheres of medieval thought and life was anything but smooth, and the decree's language and provisions were frequently reimagined and repurposed along the way. These first three chapters have shown how the idea of expelling foreign moneylenders emerged in different contexts in the middle decades of the thirteenth century, and they have traced its development and implementation in England and France. Starting in 1274, the idea was detached from its originating contexts, and was taken up into the universalizing law of the church. The following chapters will explore what happened next.

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Synods, Sermons, and Summas: Disseminating Expulsion

Before the last of the council's sessions had drawn to a close in late July 1274, some of the assembled prelates had already packed their satchels, taking with them private copies of the council's decrees. Perhaps the bishop of Passau was among those who left early, for his diocese would soon see the circulation of what appeared to be a record of the council's decrees, but was in fact an early draft, drawn up well in advance of the council's final session.[1] As a result, in October of that year, after a provincial council at Salzburg ordered that all the prelates of the province should repeatedly publish the new Lyonese decrees within their diocese, many of those living in Passau would have encountered a version of *Usurarum voraginem* that differed significantly from that being published elsewhere: not only was it combined with *Quamquam* as a single decree, but its provisions extended to all manifest usurers, with no hint of the decree's later restriction to foreigners.[2]

As this example suggests, the dissemination of the Lyonese decrees—*Usurarum voraginem* among them—was underway well before their formal promulgation on 1 November 1274. The example also highlights the concious efforts spurring this dissemination: even before the formal promulgation, the Salzburg prelates were already ordered "to strive diligently and often to publicize [the Lyonese decrees] among their churches and their flocks, clerical and lay alike,

[1] The two manuscripts containing the earliest draft version of *Usurarum voraginem* both belonged to institutions that fell within the confines of the diocese of Passau in the late thirteenth century, namely, the Augustinian monastery in Sankt Florian (Stiftsbibliothek, MS XI 722) and the Franciscan Minoritenkonvent in Vienna (now Washington, D.C., Catholic University of America, Mullen Library, MS 183), though in the absence of further evidence, the assumption that the circulation of this text also began in Passau is purely conjectural. For further remarks on these MSS, see above, p. 112 n. 7.

[2] Salzburg (1274), *praefatio*: in *Concilia Germaniae*, eds. Johann Friedrich Schannat and Joseph Hartzheim, 11 vols. (Cologne, 1759-90) [hereafter *CG*], 3.639-44, at 639.

according to the degree to which the decrees concern and pertain to them, such that their proclamation might be impressed in the minds and observance of their flocks."[3] Most suggestively, this example underscores the fact that the text of the decrees that radiated outward from Lyon in the months following the council could differ markedly from what would ultimately be codified in the formal compilations of canon law. To be sure, most of the circulating copies of the Lyonese decrees closely resembled the officially promulgated version, but the Passau case is hardly exceptional: nearly two dozen manuscripts are characterized by idiosyncratic ordering and editorial interventions.[4] These too, would continue being copied and circulated throughout the late thirteenth century, sometimes with insertions or corrections drawn from the promulgated version.[5] What was proclaimed from the pulpits of Christendom was not necessarily what had been settled in the council chambers of Lyon.

It was one thing for the pope to declare that all secular and ecclesiastical authorities were bound to expel foreign usurers from their lands; it was quite another to ensure that those authorities were aware of their new obligation. So before we can examine the impact of *Usurarum voraginem*, it is first necessary to examine how the decree's text reached its intended

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[3] Salzburg (1274), *praefatio*: in *CG* 3.639: "…praecipimus ut episcopi, abbates, archidiaconi, et alii ecclesiarum praelati, statuta sacri Generali Concilii celebrati proxime in Lugduno, in Ecclesiis et subditis suis, clericis et laicis, secundum quod eadem statuta istis et illis conveniunt, et quantum eos tangunt, sic solicite et frequenter studeant publicare; ut ipsorum pronuntiantium et subditorum memoriae et observantiae imprimantur."

[4] Peter Johanek, "Studien zur Überlieferung der Konstitutionen des II. Konzils von Lyon (1274)," *ZRG* 96*, Kan. Abt.* 65 (1979), 149-216, at 174-81 and 205. For a recent discussion of the circulation of conciliar texts, along with the uncertain nature of their authority (at least in the twelfth century), see Danica Summerlin, "The Reception and Authority of Conciliar Canons in the Later Twelfth Century: Alexander III's 1179 Lateran Canons and their Manuscript Context," *ZRG* 131, *Kan. Abt.* 100 (2014), 112-31.

[5] Johanek, "Überlieferung," 199-200. It was to avoid precisely this outcome that Clement V ordered the destruction or suppression of all circulating copies of the Vienne decrees in 1312, since a revised version was still being prepared. See Guillaume Mollat, "Corpus juris canonici. IV: Les Clémentines," in *Dictionnaire de droit canonique*, ed. R. Naz, 7 vols. (Paris: Letouzey & Ané, 1935-65), 4.635-40, at 637.

audiences throughout Latin Christendom, to what extent competent authorities and interested observers were aware of its provisions, and how these provisions were interpreted. To do so, we must look well beyond the circulating collections of the Lyonese decrees themselves, and even beyond formal sources of law. The Fourth Lateran Council in 1215 had devoted particular attention to the proper instruction of both the clergy and the lay faithful, and on the whole, the thirteenth century witnessed a proliferation of new channels for the dissemination of church teachings (among them the Mendicant orders, with their emphasis on popular preaching).[6] As we shall see, *Usurarum voraginem* accordingly left its mark not just in ecclesiastical statutes and canonical complications, but in sermons, pastoral literature, and learned treatises. To capture its spread in secular contexts, we must cast our net more widely still: from consilia and civic law codes to contracts and chronicles.

As we will see, the reception of *Usurarum voraginem* proved uneven, with marked variations across time and space. This unevenness reflects the interaction of multiple factors, ranging from the differential density of moneylending activity to the shifting popularity of textual genres. As the Passau example suggests, moreover, the decree's text and meaning could vary widely. Indeed, as we shall see, not only might its restriction to foreigners vanish, but so too might the very penalty of expulsion. In short, then, the dissemination of *Usurarum voraginem* sheds light not only on the expulsion of foreign usurers, but on a much broader theme, to wit, how law itself traveled in late medieval Europe, and what could happen to it along the way.

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[6] To be sure, the effective dissemination of its teachings had long been a matter of central importance for the church; see, for instance, Carine van Rhijn, *Shepherds of the Lord: Priests and Episcopal Statutes in the Carolingian Period* (Turnhout: Brepols, 2007), with further references.

The official promulgation of the decrees took place in Lyon on All Saints' Day, just over three months following the conclusion of the council.[7] After the decrees had been read out to the Curia, along with a general encyclical (*Infrascriptas*), they were copied into the papal register. In addition, the papal chancery drew up an official collection and sent it to the principal universities of western Europe, including Paris, Bologna, and Padua, along with a publication bull (*Cum nuper*). The resulting collection came to be known as the *Constitutiones novissimae Gregorii X*, and the roughly eighty surviving manuscript copies—the great majority of which date from the late thirteenth century—attest to its widespread and rapid diffusion throughout western Europe. Academic interest in the *Novissimae* is also signalled by the unusually intense degree of scholarly attention that it attracted; at least seven commentaries were published within a decade of its promulgation, with one of them extant in sixty manuscripts.[8]

In 1298, *Usurarum voraginem,* along with all but one of the Lyonese decrees, was promulgated anew as part of the *Liber Sextus*, the official collection of canon law compiled at the bidding of Boniface VIII.[9] The decree's inclusion in the *Liber Sextus* guaranteed its continuing

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[7] For what follows, see Martin Bertram, "Zur wissenschaftliche Bearbeitung der Konstitutionen Gregors X," *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 53 (1973), 459-67; *idem.*, "Aus kanonistischen Handschriften der Periode 1234 bis 1293," in *Proceedings of the Fourth International Congress of Medieval Canon Law. Toronto, 21-25 August 1972*, ed. Stephan Kuttner (Vatican City: Biblioteca Apostolica Vaticana, 1976), 27-44; and the updated refrences in *idem.*, "Exkurs 14: Kommentare zu den Konstitutionen Gregors X," in *Kanonisten und ihre Texte (1234 bis Mitte 14. Jh.)* (Leiden: Brill, 2012), 563-66.

[8] See Martin Bertram, "Le commentaire de Guillaume Durand sur les constitutions du deuxième concile de Lyon," in *Guillaume Durand, Évêque de Mende (v. 1230-1296). Actes de la Table Ronde du CNRS, Mende, 24-27 mai 1990*, ed. Pierre-Marie Gy (Paris: CNRS, 1992), 95-104, at 95-96; and my "Canon Law and the Problem of Expulsion: The Origins and Interpretation of *Usurarum voraginem* (VI 5.5.1)," *ZRG* 130*, Kan. Abt.* 99 (2013), 129-61, at 139-47.

[9] The exception was c. 19 (*Properandum*). See, in general, Tilmann Schmidt, "Frühe Anwendungen des Liber Sextus Papst Bonifaz' VIII," in *Proceedings of the Ninth International Congress of Medieval Canon Law. Munich, 13-18 July 1992*, eds. Peter Landau and Joers Mueller (Vatican City: Biblioteca Apostolica Vaticana, 1997), 117-34; and Tilmann Schmidt, "Publikation und Überlieferung des *Liber Sextus* Papst Bonifaz' VIII," in *Proceedings of the Twelfth International Congress of Medieval Canon*

circulation, not just within the copies of the collection that made their way to the furthest corners of Latin Christendom, but also as part of the constellation of texts that the new codification inspired: commentaries, *casus, repertoria, reportationes,* and more.[10] For the most part, access to these texts (and the ability to understand them) was limited to the learned clerical elite and those who had studied at least a smattering of canon law. There were, of course, exceptions. The 1276 civic statutes of Verona, for instance, provided for the hiring of a qualified canonist who would give public lectures on the decretals.[11] (Whether anyone showed up for such lectures is a different matter.) Other cities may have had similar institutions. But such explicit cases are rare, and generally speaking, only a relatively circumscribed, albeit influential, population would have encountered *Usurarum voraginem* in its codified context. Similarly restricted in terms of their potential audience were the letters that popes sent out to insist on the decree's enforcement. Although the recipients likely shared the letters' content with their entourages and and certain local authorities, there is no evidence that the letters circulated much more widely than that.[12]

We can surmise that contemporary chronicles were similarly ineffective vehicles for disseminating knowledge of the decree, given that their authors paid scant attention to it.

Law. Washington, D.C., 1-7 August 2004, eds. Uta-Renate Blumenthal, Kenneth Pennington, and Atria A. Larson (Vatican City: Biblioteca Apostolica Vaticana, 2008), 567-79.

[10] For a brief description of the forms of legal writing in the later Middle Ages, see Antonio García y García, "The Faculties of Law," in *A History of the University in Europe*, vol. 1: *Universities in the Middle Ages*, ed. Hilde de Ridder-Symoens (Cambridge: Cambridge University Press, 1992), 388-408, at 394-97.

[11] *Gli statuti veronesi del 1276 colle correzioni e le aggiunte fino al 1323,* ed. Gino Sandri, 2 vols. (Venice: a spese della R. Deputazione, 1940), 1.124 [=Bk. 1, c. 145]: the podestà was to appoint "uno bono doctore sive magistro in iure canonico, qui legere debeat decretales in civitate Verone ad utilitatem audire volentium."

[12] See *Les registres de Boniface VIII*, ed. Georges Digard et al., 4 vols. (Paris: de Boccard, 1907-39), 1.328-29 [=nos. 937a-b]; and *Benoît XII (1334-1342): Lettres communes…*, ed. Jean-Marie Vidal, 3 vols. (Paris: Fontemoing, 1903-11), 1.479 and 2.204 [=nos. 5097, 7399].

Although more than sixty late medieval chronicles refer to the Second Council of Lyon and its decisions, only five of them make any reference to its anti-usury provisions, and even these references were very brief.[13] The anonymous continuator and translator of William of Tyre's chronicle of the Crusader kingdom observed laconically that "usurers were condemned (*furent condampnes li usurier*)."[14] The Florentine Giovanni Villani, writing sometime in the first half of the fourteenth century, noted likewise that the pope "had banned usury and excommunicated those who carried it out publicly (*e vietò l'usura, e scomunicò chi·lla facesse piuvica*)."[15] The Chronicler of Erfurt, writing in the 1330s, noted the new penalties for clerics who knowingly granted Christian burial to a manifest usurer (one of several provisions in the decree *Quamquam*), but said nothing about expulsion.[16] None of these would have brought their readers very close to *Usurarum voraginem* (or even *Quamquam*, for that matter).[17] The other two references are found in two civic chronicles of Parma, but although these drew attention to the reworking of *Usurarum voraginem*'s expulsion penalty, they did not reference any of its other elements. Moreover, the earlier of the two chronicles was written in the late 1330s, more than half a century after the decree's promulgation, and whatever interest the chronicles may have

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[13] See *Conciles et bullaire du diocèse de Lyon des origines à la réunion du Lyonnais à la France en 1312*, ed. Jean-Baptiste Martin (Lyon: Vitte, 1905), 403-61. It is worth noting that many of these chronicles derive from shared sources; the account of Martin von Troppau, for example, reappears almost verbatim in at least seven later chronicles; see Heinrich Finke, *Konzilienstudien zur Geschichte des 13. Jahrhunderts* (Münster: Regensberg, 1891), 5 n.1; and *Martini Oppaviensis Chronicon pontificum et imperatorum*, ed. Ludwig Weiland, *MGH SS* 22 (Hanover: Hahn, 1872), 377-475, at 422.

[14] *Le estoire de Eracles empereur*, in *Recueil des Historiens des Croisades: Historiens occidentaux II* (Paris: Imprimerie Royale, 1859), 436-81, at 472.

[15] Giovanni Villani, *Nuova cronica*, ed. Giuseppe Porta, 3 vols. (Parma: Fondazione Pietro Bembo, 1990-91), 1.482 [=8.43].

[16] *Cronica S. Petri Erfordensis moderna a. 1072-1335*, ed. Oswald Holder-Egger, *MGH SS* 30, pt. 1 (Hanover: Hahn, 1896), 335-457, at 410.

[17] For *Quamquam*, see above, p. 110.

held for the citizens of Parma, their circulation presumably did not extend much beyond the city walls.[18] While it is possible that a number of chronicles from the late thirteenth and early fourteenth centuries are no longer extant, the surviving evidence suggests that the genre contributed little to the wider awareness of *Usurarum voraginem*.

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We will have better luck if we turn our attention to the channels by which the late medieval church sought to equip its clergy with the knowledge necessary to properly order the beliefs and practices of the faithful. Chief among these were the synods that in theory, though rarely in practice, brought together all the bishops of a province (in the case of provincial councils) and all the priests of a diocese (in the case of diocesan synods) on an annual basis.[19] In light of the general expectation that the decrees of general councils were to be read out at subsequent synodal gatherings, we might reasonably assume an initial flush of publicity in the wake of the council throughout much, though certainly not all, of Latin Christendom. Sometimes this publicity was mandated explicitly, as in the provincial canons of Salzburg mentioned above. Every priest in the diocese of Lisieux, for instance, was required to have a personal copy of both *Usurarum voraginem* and *Quamquam*.[20] In Noyon, the same two decrees were to be read out at every diocesan synod immediately following the reading of the principal canons on baptism and confession, alongside the Lateran III decree *Quia in omnibus*, which had laid out the basic

[18] *Chronicon Parmense*, ed. Giuliano Bonazzi, Rerum Italicarum Scriptores, ser. 2, 9/9 (Città di Castello: Lapi, 1902), 30; *Annales parmenses maiores*, ed. Georg Heinrich Pertz, *MGH SS* 18 (Hanover: Hahn, 1863), 664-790, at 684; and see above, p. 112.

[19] For an insightful discussion of the relationship between synods and legal dissemination in the late Middle Ages, see Peter Johanek, "Methodisches zur Verbreitung und Bekanntmachung von Gesetzen im Spätmittelalter," in *Histoire comparée de l'administration. Actes du XIV^e colloque historique franco-allemand*, eds. Werner Paravicini and Karl Ferdinand Werner (Munich: Artemis Verlag, 1980), 89-101.

[20] Diocesan statutes of Lisieux (bef. 1321): Paris, BnF, lat. 15172, fol. 142v

canonical penalties for manifest usurers.[21] In the province of Rouen, the Lyonese decrees against usurers were to be read out monthly in each parish, on either a Sunday or a feast day (whichever would have the larger audience),[22] while in the province of Salzburg (at least from 1288 onward) they were to be read out in every church three times a year.[23] Especially evocative on this front is a provincial canon of Tours from 1282, which insisted that *Usurarum voraginem*'s penalties be proclaimed in every church on every Sunday until the next provincial council, such that the guilty might be identified by their blushing.[24] On the whole, it is probably safe to suppose that much of the early transmission of *Usurarum voraginem* occurred as part of such synodal proceedings, even if the decree did not always make its way into the written legislation of a province or diocese.

Although the Tours canon spelled out the decree's penalties explicitly, the same is not true of the Noyon, Rouen, or Salzburg examples, all of which assumed prior knowledge of *Usurarum voraginem*'s content on the part of their intended audiences.[25] So too did the 1277 provincial

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[21] *Ordo synodalis* of Noyon (1274x1312), in *Statuts synodaux* 4, 271-78, at 278. For *Quia in omnibus* (Lateran III, c. 25), see *COD*, 223.

[22] Rouen (1279), c. 3: see *Concilia rothomagensis provinciae accedunt dioecesanae synodi…,* ed. Guillaume Bessin, 2 vols. (Rouen: Vaultier, 1717), 1.150. The council was held at Pont-Audemer, in the diocese of Evreux.

[23] Salzburg (1288), c. 15. The edition in *CG* 3.737-39, is incomplete. An edition of the entire text is given in Peter Johanek, *Synodalia. Untersuchungen zur Statutengesetzgebung in den Kirchenprovinzen Mainz und Salzburg während des Spätmittelalters* (Habilitationsschrift, Univ. Würzburg, 1978), Bd. 3, Anh. 2, 107-30 [=no. 2].

[24] Tours (1282), c. 6: *Les conciles de la province de Tours/Concilia provinciae Turonensis (saec. XIII-XV)*, ed. Joseph Avril (Paris: CNRS, 1987), 276-89, at 282: "precipimus in virtute obedientie et sub anathematis vinculo sententiam predicti canonis, usque ad proximum provinciale concilium futurum, in singulis cathedralibus, collegiatis ac etiam parochialibus ecclesiis provincie Turonensis singulis diebus dominicis publicari, ut saltem rubore suffusi ipsius canonis contemptores ad eius observantiam inducantur."

[25] I owe this observation to Stefanie Unger, *Generali concilio inhaerentes statuimus: Die Rezeption des Vierten Lateranum (1215) und des Zweiten Lugdunense (1274) in den Statuten der Erzbischöfe von Köln und Mainz bis zum Jahr 1310* (Mainz: Gesellschaft für mittelrheinische Kirchengeschichte, 2004), 229.

canons of Trier, for instance, which ordered that "Cahorsins and other usurers" be dealt with "as it had been decreed in the general Council" (i.e. at Lyon), but did not elaborate further.[26] The 1280 diocesan statutes of Huesca, in northeastern Spain, similarly ordered that the "laws and constitutions issued by Pope Gregory X against usurers at the council of Lyon" be observed by priests and their parishioners.[27] Further examples are to be found in a number of other ecclesiastical statutes from the late thirteenth and early fourteenth century, including those from Liège,[28] Cologne,[29] and Auch.[30] In some cases, of course, the drafters might simply have had unrealistic assumptions about their audience's familiarity with recent canon law, but on the

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[26] Trier (1277), c. 11: in *Statuta synodalia ordinationes et mandata archidioecesis Trevirensis*, ed. Johann Jacob Blattau, 9 vols. (Trier: Lintz, 1844-59), 1.14-30, at 25-26 [also *CG* 3.526-35, at 533]: "Item praecipimus districte, ut circa cauvertinos et alios usurarios ita se habeant, sicut in generali Concilio est statutum." The editors of the *Concilia Germaniae* mistakenly dated these statutes to 1227; the correct dating was established by Johanna Heydenreich, "Zu den Trierer Synodalstatuten des 13. Jahrhunderts," *ZRG* 56, *Kan. Abt.* 25 (1936), 478-85. Peter Johanek offers additional support for Heydenreich's emendation in his "Die Pariser Statuten des Bischofs Odo von Sully und die Anfänge der kirchlichen Statutengesetzgebung in Deutschland," in *Proceedings of the Seventh International Congress of Medieval Canon Law. Cambridge, 23-27 July 1984*, ed. Peter Linehan (Vatican City: Biblioteca Apostolica Vaticana, 1988), 327-47, at 340-41. This statute was reissued verbatim in the 1310 provincial statutes of Trier; see *Statuta synodalia…Trevirensis*, 1.63-155, at 88 [=c. 34]; or the edition in *CG* 4.127-65, at 137 [=c. 36].

[27] Huesca (1280), c. 19: Jaca, Archivo de la Catedral, Libro de la Cadena [=MS 1], fols. 51r-59r, at fol. 58v. I would like to thank Francisco Javier Álvarez Carbajal for providing me with photographs of this manuscript. An edition of the statutes is given in Domingo J. Buesa Conde, "Los sínodos de Huesca y Jaca en el siglo XIII" (Tesi di licentiatura, Universidad de Zaragoza, 1975), which I have been unable to consult. For further information on the synod, along with an edition of the statutes' rubrics, see Domingo J. Buesa Conde, "Los sínodos de Huesca-Jaca en el siglo XIII," *Aragón en la Edad Media* 2 (1979), 73-96.

[28] Liège (1288), tit. *De usurariis*: in *Les statuts synodaux de Jean de Flandre, évêque de Liège (1288)*, ed. Joseph Avril (Liège: Société d'art et d'histoire du diocèse de Liège, 1995), 135-36: "Precipimus etiam constitutionem domini Gregorii felicis recordationis pape decimi contra usurarios alienigenas editam firmiter observari."

[29] Cologne (1297x1304), c. 12: in *CG* 4.37-43, at 41: "Praecipimus etiam constitutiones dicti Domini Papae, contra usurarios alienigenas editas, firmiter observari."

[30] Auch (1308), c. 3: in *Le 'Livre rouge' du chapitre métropolitain de Sainte-Marie d'Auch*, ed. Joseph Duffour, 2 vols. (Paris: Champion, 1907), 67-68: "Provide duximus statuendum, ut decretalis *usure voragine*, posita in titulo *de usuris*, libro sexto, pro provinciali concilio habeatur et semper rectores parrochialium ecclesiarum plebibus indicantur, ne quis per ignorantiam valeat se tueri."

whole, such references suggest that awareness of *Usurarum voraginem* did travel down to much of the clergy in the decades following the decree's promulgation via synodal gatherings and other channels.

What might these "other channels" have been? The most important were undoubtedly the wealth of literary aids and manuals compiled for the use of priests and other members of the clerical hierarchy to aid them in their ministry. Collectively dubbed "pastoralia" by Leonard Boyle, these works ranged from learned treatises on the art of preaching to simple instructions for administering the sacraments.[31] Especially salient, for our purposes, were the texts written to instruct confessors, which ranged from brief explications of the vices and their remedial virtues to systematic treatises on penance (the so-called *summas*).[32] Throughout most of the thirteenth century, the *Summa* of Raymond de Peñafort (d. 1275), compiled in 1225 and revised a decade later, enjoyed undisputed primacy in terms of its scope and prestige.[33] Starting at the very end of the century, however, new summas were composed in order to incorporate the theological advances and canonistic material that had accumulated in the intervening decades. The earliest of these is the *Summa Confessorum* of the Dominican John of Freiburg (d. 1314), completed in 1298, which Leonard Boyle described as perhaps "the most influential work of pastoral theology

[31] For Boyle's conception of the term, together with a schematic breakdown of the textual genres that it encompassed, see his "The Fourth Lateran Council and Manuals of Popular Theology," in *The Popular Literature of Medieval England*, ed. Thomas J. Hefferman (Knoxville: University of Tennessee Press, 1985), 30-43.

[32] See, in general, Pierre Michaud-Quantin, *Sommes de casuistique et manuels de confession au Moyen Age (XII-XVI siècles)* (Louvain: Nauwelaerts, 1962); and Joseph Goering, "The Internal Forum and the Literature of Penance and Confession," in *The History of Medieval Canon Law in the Classical Period, 1140-1234: From Gratian to the Decretals of Pope Gregory IX*, eds. Wilfried Hartmann and Kenneth Pennington (Washington, D.C.: Catholic University of America Press, 2008), 379-428, especially 410-27. For the handbooks' treatment of usury and related topics, see Odd Langholm, *The Merchant in the Confessional: Trade and Price in the Pre-Reformation Handbooks* (Leiden: Brill, 2003).

[33] *Summa de Paenitentia*, eds. Javier Ochoa and Aloisio Díez (Rome: Commentarium pro religiosis, 1976); and Goering, "Internal Forum," 421-22.

in the two hundred years before the Reformation."[34] The work's ample section on usury consists of 83 *questiones*, among them "What penalty is incurred by those who welcome public usurers (*publicos usurarios*) in their lands or rent houses to them?"—the response to which was a lengthy extract from *Usurarum voraginem*.[35] The following centuries saw at least six Latin reworkings and abbreviation of the *Summa*, as well as a late fourteenth-century alphabetized vernacular translation by an otherwise unknown Brother Berthold that itself proved enormously popular.[36] Even more popular (with over six hundred surviving manuscripts) was the *Summa Pisanella* of Bartolomeo da San Concordio (1262-1347), completed in 1338, which likewise quoted extensively from *Usurarum voraginem* in its discussion of usury.[37] Roughly a century

[34] Leonard E. Boyle, "The *Summa Confessorum* of John of Freiburg and the Popularization of the Moral Teaching of St. Thomas and of Some of his Contemporaries," in *Thomas Aquinas, 1274-1974. Commemorative Studies,* 2 vols. (Toronto: Pontifical Institute of Mediaeval Studies, 1974), 2.245-68, at 253.

[35] *Summa Confessorum* (Augsburg, 1474), Bk. 2, tit. 7, q. 71. John Lorenc has recently edited the titles on usury; see his "John of Freiburg and the Usury Prohibition in the Late Middle Ages: A Study in the Popularization of Medieval Canon Law," (unpublished Ph.D. dissertation, University of Toronto, 2013), 273-327.

[36] This works survives in at least 130 extant manuscripts as well as a dozen printed editions from between 1472 and 1518; see *Die 'Rechtssumme' Bruder Bertholds. Eine deutsche abecedarische Bearbeitung der 'Summa Confessorum' des Johannes von Freiburg. Untersuchungen*, eds. Marlies Hamm and Helgard Ulmschneider, 2 vols. (Tübingen: Niemeyer Verlag, 1980), 1.6-11; and see also Ulrich-Dieter Oppitz and Klaus Klein, "Neue Textzeugen von Bruder Bertholds 'Rechtssumme'," *Zeitschrift für deutsches Altertum und deutsche Literatur* 130 (2001), 298-301. For the Latin reworkings, see Marlies Hamm, "Die Entstehungsgeschichte der 'Rechtssumme' des Dominikaners Berthold. Ihr Verhältnis zur 'Summa Confessorum' des Johannes von Freiburg und zu deren lateinischen Bearbeitungen," in *Die 'Rechtssumme' Bruder Bertholds. Synoptische Edition der Fassungen B, A und C*, eds. Georg Steer et al., 8 vols. (Tübingen: Niemeyer Verlag, 1987-2006), 1.35-115, esp. 43-55.

[37] *Summa de casibus conscientiae* (Augsburg: Günther Zainer, 1475), fol. 188v. For the work's popularity, see the list of MSS in Thomas Kaeppeli, *Scriptores Ordinis Praedicatorum medii aevi*, 4 vols. (Rome: ad S. Sabinae, 1970-93), 1.158-65. The discussion of *Usurarum voraginem* in Niccolò da Osimo's *Supplementum* to the *Summa Pisanella*, completed in 1444, is even fuller: see his *Supplementum Summae Pisanellae* (Venice, 1474), s.v. *usura* §4.3; together with Daniela Durissini, "La voce 'usura' nel 'Supplementum Summae Pisanellae' di Niccolò da Osimo," *Studi medievali*, ser. 3, 35 (1994), 217-58.

later, Johann Nider (d. 1438), a prominent German Dominican, incorporated almost the entire text of the decree into his *Manuale confessorum*.[38]

In the wake of John of Freiburg's success, the Franciscans quickly recognized the potential of this genre and began to produce new summas of their own. John of Erfurt (ca. 1250- ca. 1325), author of a widely copied *Tabula iuris*, composed the first redaction of his own *Summa confessorum* around the turn of the fourteenth century, drawing on (though not acknowledging) the work of his Dominican predecessor and again citing *Usurarum voraginem* in the section on usury.[39] A little over a decade later, his fellow Franciscan Astesanus (d. ca. 1330), who displayed a particular interest in usury, likewise treats *Usurarum voraginem* in detail in his *Summa*, which continued to be copied (and then printed) through the early decades of the sixteenth century.[40]

Mendicant friars were not the only ones to produce such works. William of Pagula (d. 1332), for instance, was an English diocesan priest who earned a doctorate in canon law from Oxford ca. 1320 and went on to serve as a confessor-general for the deanery of Reading (and perhaps the whole of Berkshire).[41] His *Summa summarum*, a handbook of canon law aimed at clergymen, quotes *Usurarum voraginem* at length in its section on usury, and at least seventy manuscripts of the work are known to have been circulating in England in the fourteenth and fifteenth centuries,

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[38] *Manuale confessorum* (Paris: Ulrich Gering, Martin Cranz and Michael Friburger, 1477), pt. 1, c. 4, §14. Nider also composed a *Tractatus de contractibus mercatorum*, but the work makes no mention of penalties for usurers. A loose English translation of the work was published as *On the Contracts of Merchants*, trans. Charles H. Reeves (Norman: University of Oklahoma Press, 1966).

[39] See *Die* Summa confessorum *des Johannes von Erfurt*, ed. Norbert Brieskorn, 3 vols. (Frankfurt: Peter Lang, 1980-81), 1.16-22. John of Erfurt also quotes extensively from *Usurarum voraginem* in his *Tabula iuris utriusque* (s.v. *usura*); I consulted Munich, BSB, Clm 8705, fol. 460ra. On this text, see Bertrand Kurtscheid, "Die Tabula utriusque iuris des Joh. von Erfurt," *Franziskanische Studien* 1 (1914), 269-90.

[40] *Summa de casibus conscientiae* (Strasbourg: Johann Mentelin [not after 1469]), fol. 122va [=3.11].

[41] See Cary J. Nederman, "Pagula, William (*d.* 1332?)," in *Oxford Dictionary of National Biography*, 60 vols. (Oxford: Oxford University Press, 2004), 42.387-88.

in both institutional and private contexts.[42] Another of William of Pagula's pastoral works, *Oculus sacerdotis*, appears regularly in fourteenth-century English church inventories.[43] This too references *Usurarum voraginem*, albeit more briefly, in reviewing cases of major excommunication, though it makes no mention of the decree's provisions in its section on usury.[44] In 1384, John de Burgh, then Chancellor of the University of Cambridge, published a popular revision of Pagula's *Oculus* entitled the *Pupilla oculi*, which treats *Usurarum voraginem* at greater length (but again in the context of excommunication rather than usury).[45]

To what extent did the decree's inclusion in the leading late medieval confessional summas (as well as some of the more humble manuals) contribute to a broader awareness of its provisions? To answer this question properly would require a fuller understanding of the diffusion and popular impact of such texts than scholars have yet achieved.[46] On the whole, there

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[42] Cambridge, Pembroke College MS 201, fol. 246rb. See Leonard E. Boyle, "The 'Summa summarum' and Some Other Works of English Canon Law," in *Proceedings of the Second International Congress of Medieval Canon Law: Boston College, 12-16 August 1963*, eds. Stephan Kuttner and J. Joseph Ryan (Vatican City: S. Congregatio de seminariis et studiorum universitatibus, 1965), 415-56, at 425-30.

[43] Leonard E. Boyle, "The 'Oculus Sacerdotis' and Some Other Works of William of Pagula," *Transactions of the Royal Historical Society*, ser. 5, 5 (1955), 81-110, at 94.

[44] Philadelphia, University of Pennsylvania, Rare Book and Manuscript Library, cod. 721, fols. 49v, 66r-67r.

[45] De Burgh's work circulated in both humble and elite contexts and remained popular down to the end of the fifteenth century. The work survives in at least forty manuscripts and four printed editions from before 1500. I consulted Harvard University, Harvard Law School Library, MS 159, where the references to *Usurarum voraginem* are to be found at fols. 84r (on excommunication) and 135v-36r (on interdicts). There are no detailed studies of the work; for brief remarks and further references, see Boyle, "Oculus Sacerdotis," 84-85 and 94-95; and Joseph Goering, "Burgh, John (*fl.* 1370–1398)," in *Oxford Dictionary of National Biography*, 60 vols. (Oxford: Oxford University Press, 2004), 8.783-84. For a detailed discussion of the distribution and readership of the *Oculus, Pupilla oculi*, and other handbooks for clergy, see Robert Michael Ball, "The Education of the English Parish Clergy in the Later Middle Ages with Particular Reference to the Manuals of Instruction" (unpublished PhD dissertation, University of Cambridge, 1976); the discussion of the distribution patterns (at pp. 79-157) is especially instructive.

[46] For reflections on the current state of scholarship, see R. Emmet McLaughlin, "The Historiography of High/Late Medieval and Early Modern Penance," in *A New History of Penance,* ed. Abigail Firey (Leiden: Brill, 2008), 19-71, especially at 68-69.

can be no doubt that the references (often quite extensive) to the decree in late medieval confessors' manuals and summas substantially increased the potential awareness of its provisions, but the realization of that potential was surely uneven. Members of the mendicant orders, for whom many of these texts were initially composed, generally had access to at least one summa within the library of their communities, but the degree to which they consulted such works (let alone worked through them systematically) surely varied enormously. Very few parish priests would have possessed even the simplest of confessors' manuals, let alone these systematic summas; most would have settled for knowing the basics of penitential practice and familiarizing themselves with the most frequently arising cases.[47]

It also bears noting that the success of the summas composed in the late thirteenth century and afterward did not mean that they entirely supplanted earlier examples; Raymond de Peñafort's *Summa* continued to be cited and copied throughout the late Middle Ages, while the *Summa perutilis* of the Franciscan Monaldo da Capodistria (d. ca. 1285), which also predated the Second Council of Lyon, remained popular through to the sixteenth century.[48] Furthermore, even some of the confessional handbooks composed well after the decree's promulgation make no reference to it. The Dominican Alberto da Brescia (d. ca. 1314), for instance, wrote a *Summa de officio sacerdotis* that was (like William of Pagula's *Oculus sacerdotum*) part-confessional and part-manual of pastoral theology. Nowhere in the text does the author mention *Usurarum*

[47] In the event of more complicated cases, they would generally have turned to the diocese's confessor-general (*penitentiarius*), whose position required considerable familiarity with canon law; see Goering, "Internal Forum," 387, 405.

[48] This is suggested by the appearance of a printed edition in 1516, though it included numerous interpolations from later texts: *Summa perutilis…in utroque iuris tam civili quam canonico fundata* (Lyon, 1516). To judge from the surviving library catalogs of mendicant houses, these two works remained more popular—at least in certain circles—throughout the fourteenth and fifteenth centuries than their more recent counterparts. That said, as Leonard Boyle observerd ("John of Freiburg," 259-60), it is also true that such catalogs often attributed John of Freiburg's *Summa* to Raymond de Peñafort by mistake.

voraginem, although this may be chalked up to his renunciation of juridical approaches to his topic in favor of a theological framework, with the writings of Thomas Aquinas supplying much of the source material.[49] Another such handbook, the extremely popular *De decem preceptis* of the Augustinian theologian Heinrich von Friemar (ca. 1245-1340), likewise makes no mention of *Usurarum voraginem*, though it spells out the penalties set forth by *Quia in omnibus* in its discussion of the seventh commandment, against theft.[50] In this case, the absence can be safely attributed to the author's source material, which—to judge from the canonistic material cited in the text—evidently did not include the *Liber Sextus* (whether directly or indirectly). A *Confessionale* from ca. 1300, attributed to a certain Goscelinus, again spells out the penalties set forth by *Quia in omnibus* without mentioning *Usurarum voraginem.*[51] The same is true of the Dominican Burchard of Strasbourg's popular late thirteenth-century revision of Raymond de Peñafort's *Summa*;[52] and likewise for the *Summa rudium*, compiled by an anonymous Dominican in the 1330s.[53] Although Guy de Montrocher's widely disseminated *Manipulus curatorum* (completed in eastern Spain in 1333) frequently cites from the *Liber Sextus* and

[49] Florence, Biblioteca Medicea-Laurenziana, Ashburnham 948, fols. 13r-230v, at 71vb-74ra [=Bk. 2, Tract. 10: *De peccato usure*].

[50] Heinrich von Freimar, *De decem preceptis*, ed. Bertrand-G. Guyot (Pisa: Scuola normale superiore, 2005), 134-35. In his introduction (p. xxviii-xxxviii), Guyot notes the existence of over four hundred surviving manuscripts of the work, as well as 22 printed editions between ca. 1490 and 1519. The work was also translated into High German, Low German, and Dutch.

[51] *Confessionale*, in *Sancti Bonaventurae ex ordine Minorum…Opera,* 7 vols. (Rome: ex typographia Vaticana, 1588-96), 7.48-70, at 68 [=c. 5 §54]. The work was frequently attributed to Saint Bonaventure in the late Middle Ages. It has since been attributed to the Dominican Marchesino da Reggio (fl. late thirteenth century), though this has now been questioned, with authorship instead being credited to an otherwise unknown Goscelinus. See Frans van Liere, "Marchesino da Reggio," in *Dizionario Biografico degli Italiani* 69 (2007), 626b-28a.

[52] I consulted Oxford, Bodleian Library, MS Laud misc. 483; the main discussion of usury appears at fols. 43v-46r.

[53] *Summa rudium* (Reutlingen: Johann Otman, 1487), c. 2.

subsequent codifications, it pays almost no attention to usury.[54] On the whole, then, the disseminative force of the decree's inclusion in the most successful fourteenth-century confessors' handbooks and summas was tempered by the continuing appeal of earlier (that is, pre-1274) models as well as the competition offered by texts inclining more toward moral theology than law.

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The dynamics look quite different if we turn our attention to the pulpit. Generally speaking, to judge from a broad (though obviously far from exhaustive) survey of late medieval homiletic writings, mentions of *Usurarum voraginem* were very rare. Preachers almost never used the Gospel accounts of the Cleansing of the Temple as an opportunity to call for the expulsion of usurers from secular jurisdictions. (Their exclusion from the spiritual community, meanwhile, was a staple of such texts).[55] In fact, the decree rarely features in anti-usury preaching of any sort, especially north of the Alps. As with the confessional handbooks, this can often be attributed to the homilists' predilection for moral theology rather than formalistic canon law, a predilection mirrored in contemporary preaching aids.[56] Of course, the canonistically inclined had plenty of resources to draw from, including not only the confessors' manuals that we have seen already, but also those preaching handbooks that made ample use of canon law and

[54] The work has recently been translated into English; see *Handbook for Curates. A Late Medieval Manual on Pastoral Ministry*, trans. Anne T. Thayer (Washington, D.C.: Catholic University of America Press, 2011).

[55] This conclusion is based on a survey of the surviving sermons of roughly forty preachers from the late thirteenth century through to the late fifteenth (including several anonymous works). In light of the scale of surviving sermon evidence, however, which in turn represents only a minute fraction of the sermons delivered during the period, the conclusion is necessarily preliminary. See Appendix A; and also above, pp. 130-34. Additional references are given in the Bibliography.

[56] Much of the work on this topic has focused on England. See, for example, Christina von Nolcken, "Some Alphabetical Compendia and How Preachers Used Them in Fourteenth-Century England," *Viator* 12 (1981), 271-88; and other references in the notes below.

discussed *Usurarum voraginem*'s provisions in considerable detail, such as the *Fasciculus morum* of an unknown early fourteenth-century English Franciscan, or the immensely popular *Summa praedicantium* of the English Dominican John Bromyard (compiled in the second quarter of the fourteenth century).[57] But the pattern holds even where canon law is brought to bear. An anonymous English homilist of the late fourteenth or early fifteenth century, for instance, spelled out the penalties specified by *Quia in omnibus* but made no mention of the Lyonese decrees.[58] The same is true of a number of sermons by fifteenth-century German preachers, such as Albert Engelschalk von Straubing (d. ca. 1430),[59] Johannes Herolt (d. ca. 1468),[60] Conrad Grütsch (d.

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[57] *Fasciculus Morum. A Fourteenth-Century Preacher's Handbook*, ed. and trans. Siegfried Wenzel (University Park, PA: Pennsylvania State University Press, 1989), 352-53 [=pt. 4, tit. 7: *De usura*]; John Bromyard, *Summa praedicantium* (Basel: Johannes Amerbach, not after 1484), s.v. *usura* [=U.12.27]. Of the two, Bromyard's work enjoyed a much wider circulation, with copies of the work attested in most of the major European repositories. By contrast, of the twenty-eight surviving manuscripts of the *Fasciculus morum*, only two have a clearly non-English provenance: Madrid, Universidad Complutense, Biblioteca de Derecho, MS 110 (*olim* 116-Z-3), fols. 1r-139r (apparently written for a Castilian audience) [*non visu*]; and New York, Pierpont Morgan Library, MS M.298, fols. 2r-98v (largely copied in England before being brought to Germany) [*non visu*]. For the dating and circulation of the *Fasciculus morum,* see Siegfried Wenzel, *Verses in Sermons:* Fasciculus Morum *and its Middle English Poems* (Cambridge, MA: Mediaeval Academy of America, 1978), 13-41. For the dating of Bromyard's *Summa praedicantium*, see Leonard E. Boyle, "The Date of the *Summa Praedicantium* of John Bromyard," *Speculum* 48 (1973), 533-37; together with the recent criticisms of Keith Walls, *John Bromyard on Church and State: The* Summa Predicantium *and Early Fourteenth-Century England. A Dominican's Books and Guide for Preachers* (Market Weighton, UK: Clayton-Thorpe Publications, 2007), 189-96.

[58] London, British Library, MS Additional 37677, fol. 100v [*non visu*]; see *A Repertorium of Middle English Prose Sermons*, eds. Veronica M. O'Mara and Suzanne Paul, 4 vols. (Turnhout: Brepols, 2007), 1.92-94, 461-62, with transcription of the passage on usury at p. 93. The text is cited in Richard H. Bowers, "A Middle English Mnemonic Poem on Usury," *Mediaeval Studies* 17 (1955), 226-32, at 227.

[59] Munich, BSB, Clm 14148, fols 182v-185v [=Sermon on Matt. 21:10-12 (*Cum intrasset Iesus*)], at fol. 184v.

[60] *Sermones discipuli de tempore* (Reutlingen, Michel Greyff, 1479/82), fols. 154r-155r [=Sermon on Matt. 6:24 (*Non potestis deo servire et mammone*)], at 154r. Herolt composed the sermon in 1418, and the collection survives in over 170 manuscripts and numerous printed editions. As Christoph Cluse has noted, the passage in question is drawn directly from the anonymous *Sermones thesauri novi de tempore* (formerly ascribed to Pierre de la Palud), specifically, the second sermon for the tenth Sunday after Trinity Sunday (at fol. 240v in the Strasbourg 1491 edition; fol. 110v in the Lyon 1571 edition). See Christoph Cluse, *Darf ein Bischof Juden zulassen? Die Gutachten des Siffridus Piscator OP (gest. 1473) zur Auseinandersetzung um die Vertreibung der Juden aus Mainz* (Trier: Kliomedia, 2013), 47.

ca. 1470),[61] and Paul Wann (d. 1489).[62] It is possible that all of these cases reflect a reliance (whether direct or indirect) on pre-1274 sources, as with some of the pastoral literature discussed above. But such an explanation cannot account for a sermon on moneychanging and usury by the Augustinian preacher Gottschalk Hollen (d. 1481), in which he made no mention of the penalties introduced at Lyon, but referenced those set forth in both *Quia in omnibus* and the Vienne decree *Ex gravi*.[63] To be sure, the silence was not absolute. The German preacher Johannes Bischoff (fl. ca. 1400-1410) made a brief reference to *Usurarum voraginem* in a Lenten sermon cycle,[64] for example, and the Italian Observant Franciscan Giovanni da Capestrano (1386-1456) summarized its provisions in a sermon preached at Nuremberg in 1452.[65] But such mentions were very much the exception rather than the rule.

The only homiletic context in which *Usurarum voraginem* appears with any regularity is in the preaching of the fifteenth-century Italian Observant Franciscans. Extant examples include sermons by such prominent figures as Bernardino da Siena (1380-1444),[66] Giacomo della Marca

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[61] *Quadragesimale* (Ulm: Johann Zainer, 1475), 10.G [=Sermon on Matt. 17:1 (*Assumpsit Iesus*)]. The collection was erroneously attributed to Conrad's brother Johannes in this and other editions.

[62] *Sermones de septem vitiis criminalibus eorumque remediis* (Hagenau: Rynman, 1517), Sermon 117 (*De multiplici usurariorum pena*).

[63] *Sermones dominicales super epistolas Pauli* (Hagenau: Gran & Rynman, 1517), Sermon 95 (*De arte campsoria et de usura*). For *Ex gravi*, see Vienne (1311/12), c. 29: in *COD*, 384-85.

[64] Munich, BSB, Clm 3543, fols. 148r-155v [=Sermon on John 2:15 (*Cum fecisset quasi flagellum*), at fol. 153v. For further details on Bischoff and his works, see Christoph Roth, "Wie not des ist, daz die frummen layen selber pücher habent. Zum Predigtzyklus des Johannes Bischoff aus Wien (Anfang 15. Jahrhundert)," *Zeitschrift für deutsches Altertum und deutsche Literatur* 130 (2001), 19-57.

[65] Munich, BSB, Clm 13571, fols. 38v-46r [=Sermon on Psalm 14:5 (*Qui pecuniam suam non dedit ad usuram*)], at fol. 45r.

[66] *Opera omnia; iussu et auctoritate Pacifici M. Perantoni*, 9 vols. (Quaracchi: ex typis Coll. S. Bonaventurae, 1950-65), 1.427-47 [=*Quadragesimale de Christiana religione*, Sermon on John 2:15 (*Cum fecisset quasi flagellum*)], at 442-43; and *Opera omnia* (Quaracchi ed.), 4.370-87 [=*Quadragesimale de Evangelio*, Sermon 43, on John 7:37 (*Si quis sitit, veniat ad me*)], at 386.

(ca. 1391-1476),[67] Michele da Carcano (1427-1484),[68] and Roberto Caracciolo of Lecce (ca. 1425-1495).[69] Moreover, as Giovanni da Capestrano's sermon cycle in Nuremberg attests, their reach was not confined to the Italian peninsula. Even in the Observant context, however, references to *Usurarum voraginem* are sometimes lacking where we might naturally expect to find them. In a Lenten sermon given at Pavia in 1493, for instance, Bernardino da Feltre reviewed the canonistic penalties for usurers, including those set forth in *Quia in omnibus*, *Quamquam*, and *Ex gravi*, while omitting any mention of *Usurarum voraginem*.[70] Did he consider the decree to be of limited relevance, given its restriction to foreigners? Or did he harbor other reservations? Or was he simply working too hastily, or relying on sources that likewise failed to mention the decree?

The recurring references to *Usurarum voraginem* in Observant preaching obviously stem from the movement's concern with usury and related ills, but they also reflect the unusual level of canonistic learning among many of its leading figures: both Bernardino da Siena and Giovanni da Capestrano, for example, had pursued formal training in law, the impact of which is visible in their respective treatises on usury.[71] The frequent references to the decree also draw attention to

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[67] BAV, Vat. lat. 7780, fols. 8r-12v [=Sermon on Luke 6:35 (*Date mutuum*)], at fol. 11r; BAV, Vat. lat. 7642, fol. 143rv [=Sermon on John 2:15 (*Nummulariorum effudit aes*)], at fol. 143va; *Sermones dominicales,* ed. Renato Lioi, 3 vols. (Falconara Marittima: Biblioteca francescana, 1978), 2.26-46 [=Sermon 32, on Ephesians 5:3 (*Avaritia nec nominetur in vobis*)], at 45 [=c. 4, art. 5].

[68] *Sermones quadragesimales de decem preceptis* (Venice, 1492/93), fols. 166v-170v [=Sermon 59, on Exodus 20:15 (*Non furtum facies*)], at fol. 169v.

[69] *Sermones quadragesimales de peccatis* (Venice, 1488), fols. 172r-178r [=Sermon 38, on *De peccato execrando usure et avaricia usurariorum*], at fol. 178r.

[70] *Sermoni del beato Bernardino Tomitano da Feltre nella redazione di Fra Bernardino Bulgarino da Brescia, minore osservante,* ed. Carlo Varischi, 3 vols. (Milan: Renon, 1964), 1.423-30 [=no. 33], in particular at 428-29.

[71] See Bernardino da Siena's *Tractatus de contractibus et usuris* (written in the form of fourteen sermons), in *Opera Omnia*, vol. 4: *Quadragesimale de Evangelio*, 117-416; and Giovanni da

the more general resurgence of learned attention paid to usury and commercial ethics starting around the early fifteenth century, especially, though not exclusively, in Italy. This resurgence is palpable in (and was surely also spurred by) the proliferation of treatises on usury, most of which paid at least some attention to *Usurarum voraginem* in the context of the appropriate penalties for usurers. Bernardino da Siena was clearly influenced, for instance, by Lorenzo Ridolfi's *Tractatus de usuris* (1402-04), a copy of which he kept in his personal library.[72] Later Franciscan examples include the *Summula contractuum* of Giovanni da Prato (fl. ca. 1445), a pastoral work with a heavy dose of canonistic material;[73] a treatise on usury and restitution by the prominent canonist Francesco Piazza (Franciscus de Platea; d. 1460), which would appear in eight printed editions before 1490;[74] and the *Libellus de usuris* of Alessandro Ariosto (d. ca. 1485),[75] all of which discussed the decree in greater or lesser detail.

Even treatises on usury, however, did not always mention *Usurarum voraginem*. As with the confessional handbooks, this omission often reflects either the author's general avoidance of

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Capestrano's *Tractatus de Cupiditate,* in *Johannes von Capistrano,* ed. Eugen Jacob, 2 vols. (Breslau: Woywood, 1911), vol. 2, pt. 2, 27-460. For Bernardino and Giovanni as canonists, see Alphons Maria Stickler, "Il diritto canonico nella pastorale di San Bernardino da Siena," in *Atti del Simposio internazionale Cateriniano-Bernardiniano (Siena, 17-20 aprile 1980)*, eds. Domenico Maffei and Paolo Nardi (Siena: Accademia Senese degli Intronati, 1982), 835-43; and Diego Quaglioni, "Un giurista sul pulpito. Giovanni da Capestrano (†1456), predicatore e canonista," in *"Civilis sapientia": dottrina giuridiche e dottrine politiche fra medioevo ed età moderna* (Rimini: Maggioli Editore, 1989), 193-206.

[72] Lorenzo Ridolfi, *Tractatus de usuris*, in *Tractatus universi iuris*, 22 vols. (Venice: Ziletti, 1584-86), vol. 7, fols. 15r-50r. *Usurarum voraginem* is cited at fol. 36vb [=q. 146]. On the text and its author, see Lawrin Armstrong, *Usury and Public Debt in Early Renaissance Florence: Lorenzo Ridolfi on the* Monte Comune (Toronto: Pontifical Institute of Mediaeval Studies, 2003). Bernardino's copy of the text is now Siena, Biblioteca Comunale degli Intronati, MS U.VI.6 [*non visu*]; see Dionisio Pacetti, "La libreria di San Bernardino da Siena e le sue vicende attraverso cinque secoli," *Studi francescani* 62 (1965), 3-43.

[73] The work survives in multiple manuscripts; I consulted Florence, Biblioteca Medicea-Laurenziana, Ashburnham 145, fols. 155r-178r, with *Usurarum voraginem* cited at fol. 162v.

[74] Francesco Piazza [Franciscus de Platea de Bononia], *Opus restitutionum, usurarum, excommunicationum* (Venice, 1472), with *Usurarum voraginem* cited at fol. 133v.

[75] Alessandro Ariosto, [*Libellus de usuris*] (Bologna, 1486), fols. 53v-54r [=Bk. 4, q. 2].

canonistic material or a reliance on pre-1274 sources. Pierre Jean Olivi (1248/49-1298), for instance, discussed usury at length as part of his treatise on contracts (composed in 1293-94 and revised in 1295). Since Olivi's approach is decidedly theological rather than canonistic, and since he pays no attention to the penalties falling upon usurers, it is not surprising that *Usurarum voraginem* goes unmentioned.[76] Franciscan Minister General Alessandro Bonini (d. 1314) was somewhat more receptive to canon law in his *Tractatus de usuris* (1302), but he seems to have relied almost entirely on the summas of Hostiensis and Raymond de Peñafort (the latter with the glosses of Guillaume de Rennes), which presumably accounts for his exclusive focus on *Quia in omnibus* in discussing the penalties for usurers.[77] Other silences are more difficult to explain, such as that of the German canonist Nicolaus von Dresden (d. ca. 1417), who published a treatise on usury in 1415 while serving as a lecturer at the University of Prague. As might be expected, given his position, he evinces a broad and thorough knowledge of canon law in the work. Yet when it comes to discussing the penalties incurred by manifest usurers, Nicolaus quotes *Quia in omnibus* at length while ignoring the Lyonese decrees.[78] Here again, we are left to wonder whether he was simply relying on pre-1274 material in this section, or whether the omission was deliberate—and if so, why?

Diocesan synods and provincial councils were the most direct ways of disseminating the decree to wider and influential audiences. We have already encountered these above, where they

[76] Pierre Jean Olivi, *Traité des contrats*, ed. and trans. Sylvain Piron (Paris: Les Belles Lettres, 2012).

[77] Alessandro Bonini [of Alessandria], *Un traité de morale économique au XIV^e siècle. Le Tractatus de usuris de maître Alexandre d'Alexandrie*, ed. Alonzo-Maria Hamelin (Louvain: Nauwelaerts, 1962), 210-11.

[78] "Le traité 'De usuris' de Nicolas de Dresde," ed. Paul de Vooght, *Recherches de théologie ancienne et médiévale* 44 (1977), 150-210; and 45 (1978), 181-235, with the discussion of the penalties for usurers at vol. 45 (1978), 192 [=§52]. Nicolaus is better known as one of the early disciples of Jan Hus.

were ordering that *Usurarum voraginem* be read out in parish churches, or that priests keep personal copies of the decree. But there is another important avenue by which these gatherings could contribute to broadened awareness of the decree, namely, through incorporating its provisions (whether wholly or in part) into the local legislative corpus of the province or diocese—that is, into provincial canons and diocesan statutes, which constituted the dominant forms of local ecclesiastical legislation throughout the late Middle Ages.[79] In general, these were promulgated by a bishop in the context of a diocesan synod or by all the bishops of a province gathered together under the authority of a metropolitan, but their nature and purpose varies greatly across time and place. The surviving examples from thirteenth-century Germany, for instance, largely focus on ecclesiastical immunities, clerical discipline and the boundaries between the laity and the clergy, whereas those from contemporary France are more much concerned with pastoral responsibilities.[80] Their chronological distribution also varies considerably; fourteenth-century French prelates regularly issued new legislation, while their English counterparts did not.[81] Similarly variable was the relationship of such legislation both to

[79] See, in the first instance, Odette Pontal, *Les statuts synodaux*, Typologie des sources du Moyen Age occidental 11 (Turnhout: Brepols, 1975). Odette Pontal and others have cautioned against drawing too firm a distinction between provincial canons and diocesan statutes in the centuries prior to the Council of Trent. To take but one example, archbishops rarely issued synodal statutes for their own dioceses, with their provincial canons serving this function instead. See Pontal, "Quelque remarques sur les statuts des synodes diocésains et provinciaux et leurs imbrications," *Revue d'histoire de l'Église de France* 48 (1962), 80-85, at 80.

[80] This distinction is noted by Peter Johanek in "Synodaltätigkeit im spätmittelalterlichen Reich. Ein Überblick," in *Partikularsynoden im späten Mittelalter*, eds. Nathalie Kruppen and Leszek Zygner (Göttingen: Vandenhoeck & Ruprecht, 2006), 29-53, at 51. See also his "Pariser Statuten," 343-44. The province of Reims is an exception to the general French pattern, as noted by Christine Barralis, "Législation provinciale, législation diocésaine dans la province de Reims aux XIV^{e} et XV^{e} siècles," *Travaux de l'Académie nationale de Reims* 178 (2008), 353-64, at 357.

[81] For a discussion of the English case, see Christopher R. Cheney, "Statute-Making in the English Church in the Thirteenth Century," *Proceedings of the Second International Congress of Medieval Canon Law: Boston College, 12-16 August 1963*, eds. Stephan Kuttner and J. Joseph Ryan (Vatican City: S. Congregatio de seminariis et studiorum universitatibus, 1965), 399-414, at 409; along with Charles

the universal law of the church and to particular local conditions.[82] Were these statutes simply a channel through which universal law flowed down to parish priests?[83] Or were they instead a direct response to specific local needs and concerns?[84] As we will see, examples of either type do survive, but much local legislation falls somewhere in between. To quote Richard Helmholz's characteristically nuanced formulation, "canons of synods were meant to reinforce and to supplement the church's general law in light of local conditions."[85] In other words, the universal law of the church served as a crucial reference point for local ecclesiastical legislation without delineating its boundaries; and likewise for local conditions, which shaped such legislation without strictly determining it.

Donahue, Jr., "Thoughts on Diocesan Statutes: England and France, 1200-1500," in *Canon Law, Religion and Politics: Liber Amicorum Robert Somerville*, eds. Uta-Renate Blumenthal, Anders Winroth, and Peter Landau (Washington, D.C.: Catholic University of America Press, 2012), 253-81.

[82] Two decades ago, Richard Helmholz noted that scholars had yet to come up with a general model for this relationship, and little progress has been made in the meantime; see his "The Universal and the Particular in Medieval Canon Law," in *Proceedings of the Ninth International Congress of Medieval Canon Law. Munich, 13-18 July 1992*, eds. Peter Landau and Joers Muller (Vatican City: Biblioteca Apostolica Vaticana, 1997), 641-69, at 647.

[83] As suggested, for instance, by Gabriel Le Bras, *Institutions ecclésiastiques de la Chrétienté médiévale*, 2 vols. (Paris: Bloud & Gay, 1959), 1.1.87: "Telle était, pour les canons oecuméniques, la fonction des synodes provinciaux et diocésains: la loi descendait par degrés jusqu'au plus obscur des curés de campagne." Odette Pontal vigorously opposed the image of a "descending hierarchy" by drawing attention to instances where local ecclesiastical legislation served as inspiration for later general law; see *Statuts synodaux* 1, lxix. For some valuable remarks on the relationship between provincial canons and synodal statutes in the thirteenth and fourteenth centuries, see Barralis, "Législation provinciale," 359-64.

[84] This topic was the subject of considerable debate among German ecclesiastical historians from the late nineteenth century onward. For a brief overview of the debate, see Johanek, *Synodalia*, 1.2-4; and Peter Wiegand, *Diözesansynoden und bischöfliche Statutengesetzgebung im Bistum Kammin. Zur Entwicklung des partikularen Kirchenrechts im spätmittelalterlichen Deutschland* (Cologne: Böhlau, 1998), 66-67.

[85] Richard H. Helmholz, Review of *L'Église et le droit dans le Midi (XIII^{e}-XIV^{e} siècles), Church History* 65 (1996), 81-82, at 82. Elsewhere Helmholz has described the work of such legislation as "applying and qualifying the universal canon law in light of particular conditions," but I prefer the formulation "reinforcing and supplementing"; see Helmholz, "The Universal and the Particular," 643.

In light of Helmholz's suggestion that local ecclesiastical legislation was meant to reinforce (as well as supplement) universal church law, let us consider two important aspects of the relationship between the two. To begin with, local publication brought with it the promise of increased publicity. Bishops usually brought back copies of newly promulgated provincial canons to their home dioceses, as required by the decree *Sicut olim* of the Fourth Lateran Council.[86] Parish priests were supposed to do the same with diocesan statutes, and at the very least they or their deans listened to the statutes being read out by the bishop or his official during the synod, to then be shared with their parishioners as appropriate.[87] The records of local ecclesiastical legislation are therefore an especially revealing source for tracing the penetration of *Usurarum voraginem*'s language and provisions across Latin Christendom, and among a broad spectrum of audiences.[88]

We can go further still. In theory, of course, the decrees of general councils and the codifications of canon law (such as the *Liber Extra* and the *Liber Sextus*) were formally binding on all the faithful. But as the preambles to provincial and diocesan legislation clearly attest, the reinforcing effect of local promulgation was not lost on episcopal lawgivers. Richard Trexler

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[86] Lateran IV, c. 6: in *COD,* 236-37.

[87] For the possession of diocesan statutes among the lower clergy (at least in England), see Cheney, "Statute-Making," 410-12.

[88] For the thirteenth century, studies on the dissemination of conciliar decrees have generally been limited to one or two provinces, or, exceptionally, entire countries. For two excellent examples of the provincial approach, see Unger, *Generali concilio*; and Louis Boisset, "Les conciles provinciaux français et la réception des décrets du II^{e} Concile de Lyon (1274)," *Revue d'histoire de l'Église de France* 69 (1983), 29-59. For the national approach, see Paul B. Pixton, *The German Episcopacy and the Implementation of the Decrees of the Fourth Lateran Council, 1216-1245: Watchmen on the Tower* (Leiden: Brill, 1995). For an example of the spread of a particular innovation (in this case, episcopal prisons) through the local ecclesiastical legislation of a region, see Hans-Georg Hermann, "Kanonistische Kapitel in der Geschichte der Freiheitsstrafe: 'Ut Episcopi suos carceres habeant'," in *Der Einfluss der Kanonistik auf die europäische Rechtskultur*, Bd. 3: *Straf- und Strafprozessrecht,* eds. Mathias Schmoeckel, Orazio Condorelli, and Franck Roumy (Cologne: Böhlau, 2012), 457-96, at 476-79.

even went so far as to declare that "given the strong sense of formalism inherent in the age, a law was considered less than wholly binding if it had not been published in the diocese."[89] While this might somewhat overstate the effect of local publication, at least so far as conciliar decrees or canonical codifications are concerned, it is nevertheless true that the universal law of the church accrued additional authority and weight through its incorporation into provincial canons or diocesan statutes. Accordingly, members of the ecclesiastical hierarchy could express their resistance or outright opposition to objectionable legislation by refusing to promulgate it further, or, more subtly, through selective editing of the original text.[90] Consequently, not only do the surviving records of ecclesiastical legislation offer considerable insights into the dissemination of *Usurarum voraginem* throughout the whole of Latin Christendom, they also allow us to trace attitudes toward it on the part of prelates and their officials.

Needless to say, the interpretation of such legislation is fraught with pitfalls and uncertainties, and we must be especially wary of reading too much into individual cases. For instance, the absence of any reference to *Usurarum voraginem* in a given set of statutes can be chalked up to any number of factors, of which resistance on the part of the issuing prelate is only

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[89] See Richard C. Trexler, *Synodal Law in Florence and Fiesole, 1306-1518* (Vatican City: Biblioteca Apostolica Vaticana, 1971), 13. Trexler's argument is made in reference to the local publication of papal decretals in general, but his supporting examples are drawn entirely from cases of ecclesiastical censures (such as interdict and excommunication), a subset that generally required local publication in order to take effect.

[90] Boniface VIII's decree *Periculoso* (VI 3.16.1), concerning the claustration of female religious, is a particularly well-known example. As the great fourteenth-century canonist Giovanni d'Andrea noted in his *Novella* on the *Liber Sextus*, "it is reported that this constitution was not received in French lands, and I gather that it is also not observed in Venice for whatever reason (*fertur quod hec constitutio recepta non fuit in partibus Gallicanis; vidi etiam ipsam non servari Venetiis quacumque ratione vel causa*)." See his *Novella in librum sextum* (Venice, 1489), *ad* VI 3.16.1 §*partibus*. I owe this reference to Elizabeth Makowski, *Canon Law and Cloistered Women:* Periculoso *and its Commentators, 1298-1545* (Washington, D.C.: Catholic University of America Press, 1997), 74-75. For instances of selective editing, see Richard C. Trexler, "The Bishop's Portion: Generic Pious Legacies in the Late Middle Ages in Italy," *Traditio* 28 (1972), 397-450.

one. Many statutes focused exclusively on internal clerical affairs, for instance, or concerned a single topic. The author of the statutes might also have omitted reference to the decree not over reservations about its contents, but rather out of a belief that local conditions rendered it irrelevant, or—to return to one of the themes of this chapter—because he was altogether unware of the decree. Furthermore, some statutes clearly reflect the issuing prelates' own background and concerns, but others are simple confirmations and reissues of those drafted by episcopal predecessors, wholesale copies of those issued for other jurisdictions, or perhaps even drafts that were never formally promulgated.[91] It is therefore necessary to situate a given set of statutes in reference to the broader legislative tradition of its diocese or province, yet our knowledge of this tradition is often fragmentary or unclear. Finally, individual statutes are often ambiguous—sometimes perhaps deliberately so.

Take, for instance, those issued in 1294 for the diocese of Passau, in southwestern Germany.[92] The title draws its opening words (*Usurarum voraginem compescere cupientes*) directly from *Usurarum voraginem*, but it then goes on to focus on the question of restitution, noting in passing that all decrees (*omnibus statutis*) concerning usurers were to remain in force. Should we assume that the drafter was indeed familiar with the decree and was choosing promulgating its language rather than its provisions? Or was he perhaps relying on an intermediary text that quoted the decree's incipit without its contents? To take another example, consider the 1321 diocesan statutes of Carcassonne, which ordered that the anti-usury decrees of the Third Lateran Council (i.e. *Quia in omnibus*), the Council of Vienne (i.e. *Ex gravi*), "and

[91] For a clear example of episcopal discretion in the context of the Lyonese decrees, see Boisset, "Conciles provinciaux," 40. More generally, see Christopher R. Cheney, "Textual Problems of the English Provincial Canons," in *Medieval Texts and Studies* (Oxford: Clarendon Press, 1973), 111-37.

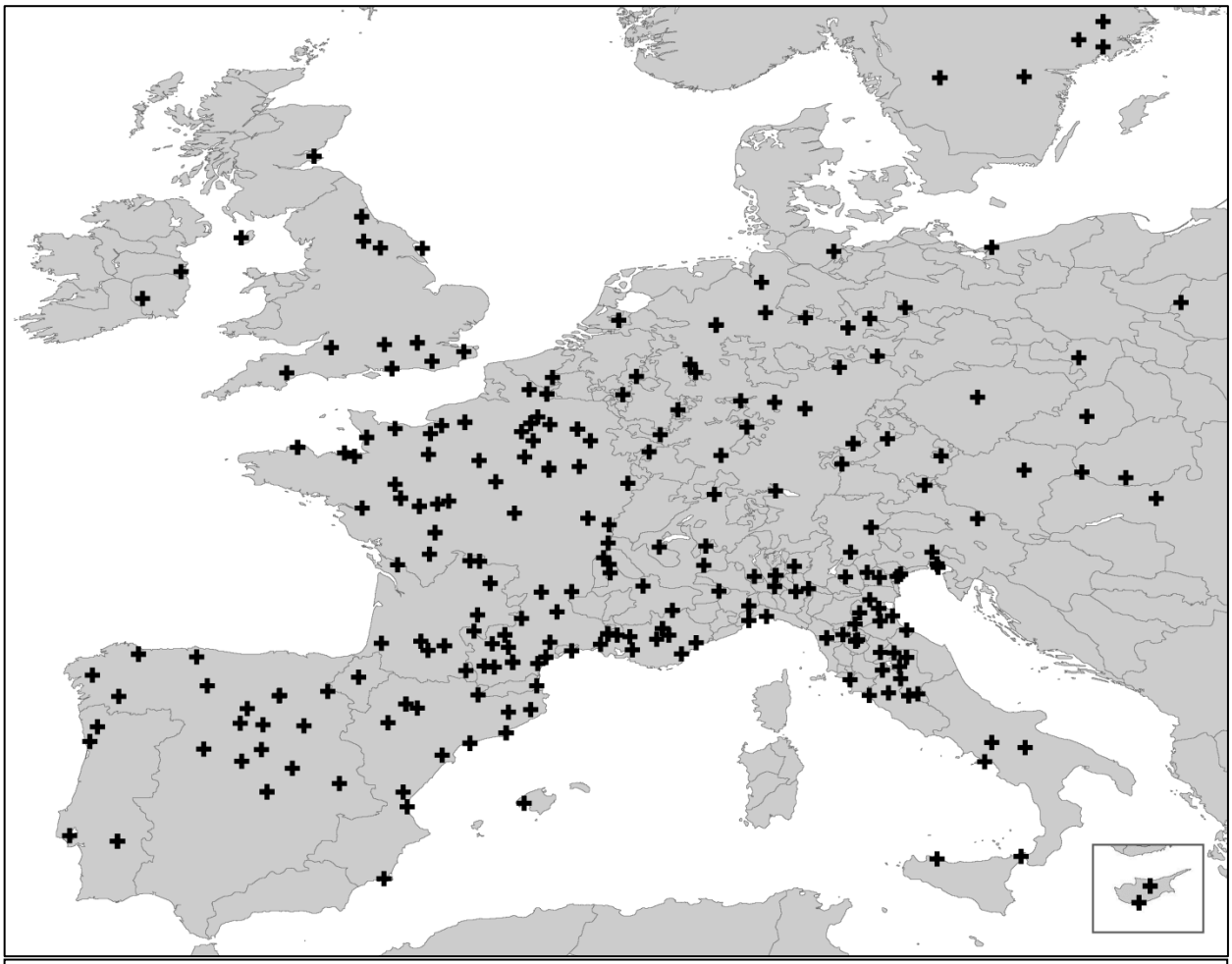
[92] The synod was held in Sankt Pölten; see Mansi 24.1115-16.

others (*et alias*)" be observed.[93] What are we to make of this "*et alias*"? Is it an implicit, but entirely neutral, reference to the Lyonese decrees? Or a sign that the drafter considered them less important than their Lateran and Vienne counterparts? Or perhaps an indication that the Lyonese decrees were unknown to the drafter, who was simply "hedging his bets" through a generic reference to anything he might have missed? Bearing in mind these interpretative difficulties, let us see what conclusions we can draw from the available evidence.

The first thing to note is that quite a lot of evidence survives. The following arguments rest on a survey of the ecclesiastical legislation issued at nearly eight hundred diocesan, provincial, national, and legatine synods held between 1274 and the early fifteenth century.[94] As can be seen in Map 4.1, such legislation survives from nearly the entire breadth of Latin Christendom, from the Isle of Man to the island of Cyprus, though with the distribution clearly weighted toward western Europe, particularly France and northern Italy. Usury features regularly but not consistently within this legislative corpus; roughly two hundred of the statute collections discuss penalties for usurers, albeit in varying levels of detail.

[93] Carcassonne (1321): Paris, BnF, lat. 1613, fol. 69v.

[94] The major early modern collections, such as those of Mansi, Martène-Durand, and Schannat-Hartzheim, are gradually being supplanted by modern editions, but much of this material awaits proper critical scrutiny and much of it (especially for France and Italy) remains unpublished. Ongoing research in diocesan archives and other repositories may yet turn up further evidence. All of the sources for this survey of local ecclesiastical legislation are listed in the Bibliography.



Map 4.1: Local ecclesiastical legislation, 1274-ca. 1400. Each ✚ represents extant legislation from one or more diocesan synods or provincial/national/legatine councils.

Source: This map and the three that follow in this chapter are based on data gathered by the author from published and unpublished collections of synodal statutes and conciliar canons; these are listed in the Bibliography, under Primary Sources. The base layer of the maps depicts approximate political boundaries in western Europe and the Mediterranean ca. 1300, as given in the *Historical Atlas of Europe* © 2010 Christos Nüssli <www.euratlas.com>.

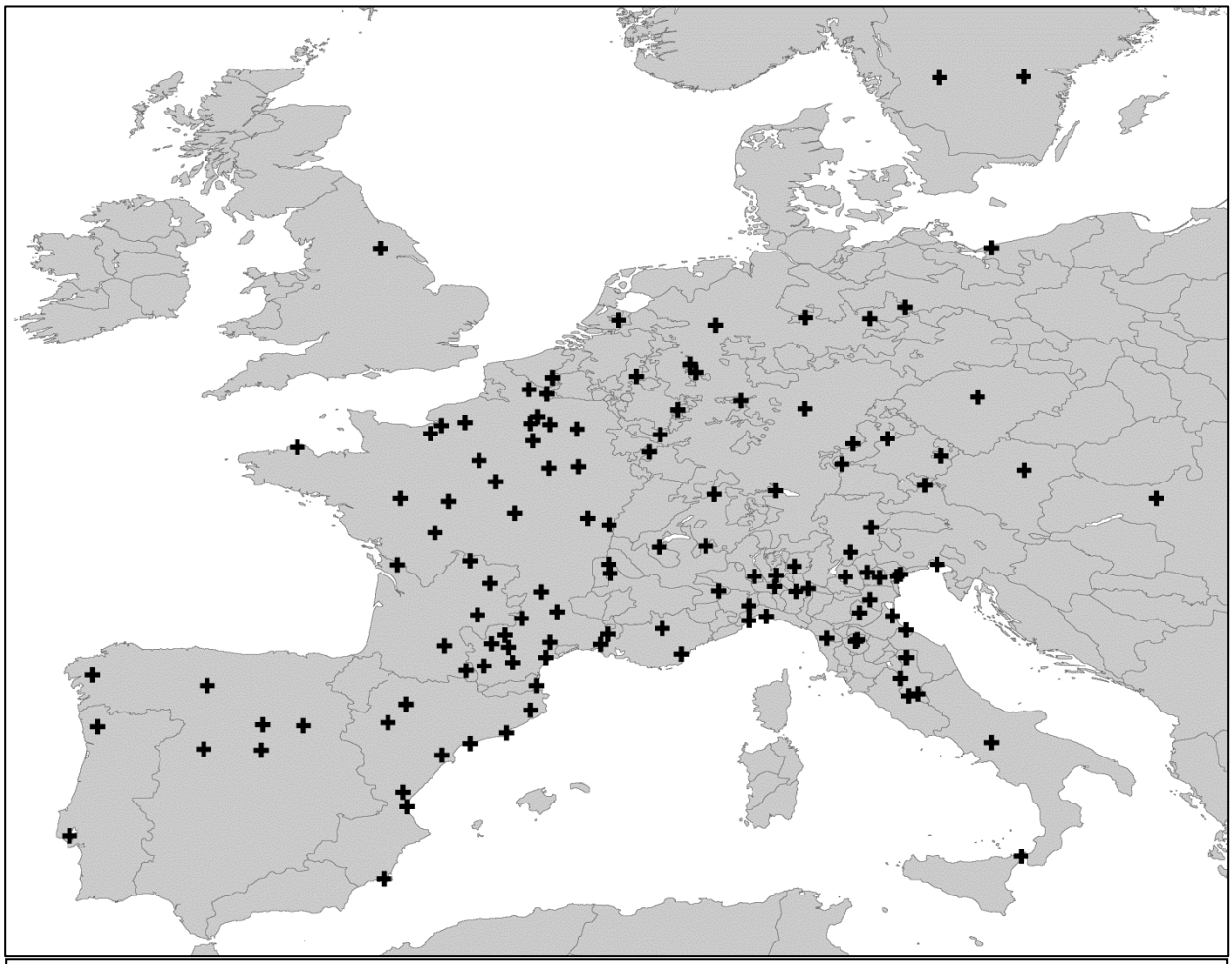
The second thing to note is that references to *Usurarum voraginem* are relatively rare, especially where the decree's expulsion provision is concerned. Of the approximately two hundred statutes containing a substantive reference to usury, less than one-third (that is, roughly sixty cases) draw on *Usurarum voraginem*, whether by citing it directly, spelling out its provisions, or merely quoting its incipit as part of a general condemnation of usury. Furthermore,

only twenty of these specifically mention the decree's expulsion provision.[95] Collectively, these numbers seem to suggest a combination of resistance and deliberate disinterest toward *Usurarum voraginem*, and especially its expulsion provision, among a large segment of the ecclesiastical hierarchy. In order to test the strength of this impression, let us begin by systematically examining the instances in which we might naturally expect to find references to the decree's provisions, but in which they are nowhere to be found.

Let us limit ourselves first to those statutes that make at least a passing reference to usury and its associated sanctions (shown in Map 4.2). As might be expected, given the patterns we have already seen in confessional and homiletic literature, many of these statutes—roughly one in five—cite only the penalties set forth in *Quia in omnibus*, to wit, the denial of communion and ecclesiastical sepulture to manifest usurers along with the refusal of their oblations. This should not be automatically ascribed to resistance or indifference toward the Lyonese decrees; it could instead reflect the statutes' source material, as in the diocesan statutes of Albi from 1280, which drew all of its anti-usury content directly from some earlier diocesan statutes of Cambrai (published sometime between 1238 and 1245) and from the *Liber synodalis* of Nîmes (published in 1252).[96]

[95] See the list in Appendix B.

[96] Albi (1280), c. 18: in *Statuts synodaux* 6, 79-80, at 80; Cambrai (1238x1245), c. 185: in *Statuts synodaux* 4, 19-65, at 62; Nîmes (1252), c. 130: in *Statuts synodaux* 2, 235-453, at 370. An earlier set of statutes from Albi (published sometime between 1277 and 1279) likewise makes no mention of the Lyonese decrees in its entry on usury; see *Statuts synodaux* 6, 78.



Map 4.2: Usury in local ecclesiastical legislation, 1274-ca. 1400. Each ✚ represents extant legislation from one or more diocesan synods or provincial/national/legatine councils containing substantive references to usury or its associated canonical sanctions.

The comparative frequency of references to *Quia in omnibus* could also reflect the organizational structure of the statutes themselves. The statutes promulgated at a provincial council of the archdiocese of Arles in 1279, for instance, included a section on the burial of excommunicates that specifically cited the ban on burying manifest usurers, and the same is true of the diocesan statutes for Limoges from ca. 1286.[97] Leaving aside whatever conclusions we

[97] Arles (1279), c. 9: in Mansi 24.231-44, at col. 239. The council was held in Avignon. For Limoges (1285x1290; renewed in 1295), see *Statuts synodaux* 6, 87-98, at 97 [=c. 31].

might want to draw from the limited space these statutes dedicate to the topic of usury, the absence of any reference to the recent Lyonese decrees is not in itself particularly noteworthy.

In other cases, however, such silences are indeed surprising. In the early 1290s, for instance, Guillaume Durand (Guilelmus Durantis; d. 1296), then the bishop of Mende, composed a set of *Instructiones et Constitutiones* for the use of the priests of his diocese. The section on restitution calls for the social exclusion of those who would not renounce their usurious ways, but says nothing about expelling them outright. Similarly, the penalties of *Quia in omnibus* are set forth amidst a cluster of miscellaneous topics toward the end of the *Constitutiones*, but the Lyonese decrees again go unmentioned.[98] What makes this silence particularly surprising is that Durand had not only attended the Second Council of Lyon, but had also written one of the most influential commentaries on its decrees.[99] So whatever Durand's grounds for not including the council's anti-usury decrees in his pastoral compendium, ignorance was surely not among them.

Of course, Durand is a somewhat exceptional case, since we can rarely identify with any degree of certainty the actual drafters of particular ecclesiastical legislation, let alone establish the depth of their canonistic learning. Even if we did not know that Durand had authored these *Instructiones et Constitutiones*, however, we could still assume that the unknown author was probably familiar with the decrees of the Second Council of Lyon, based on the fact that two of

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[98] *Statuts synodaux* 6, 235-350, at 260-61 [=*Instructiones*, 6.27] and 345 [=*Constitutiones,* 10.2].

[99] The two redactions of Durand's commentary on the *Novissimae* both predate his *Instructiones et Constitutiones*; see Martin Bertram, "Le commentaire de Guillaume Durand sur les constitutions du deuxième concile de Lyon," in *Guillaume Durand, Évêque de Mende (v. 1230-1296). Actes de la Table ronde du CNRS, Mende 24-27 mai 1990*, ed. Pierre-Marie Gy (Paris: CNRS, 1992), 95-104, which decisively refutes the later dating suggested by Leonard Boyle in "The Date of the Commentary of William Duranti on the Constitutions of the Second Council of Lyons," *Bulletin of Medieval Canon Law* n.s. 4 (1974), 39-47; Bertram opts instead for a dating (of both redactions) between 1277 and 1289. The printed edition of Durand's commentary (*In sacrosanctum Lugdunense concilium sub Gregorio X Guilelmi Duranti cognomento Speculatoris commentarius* [Fano: Moscardo, 1569]) is based on Ravenna, Bibl. Classense 373 [*non visu*], a defective early fourteenth-century copy of the second redaction.

them are cited directly in the *Constitutiones*.[100] So in order to reduce the likelihood of authorial ignorance as grounds for the absence of *Usurarum voraginem* in a given set of statutes, let us limit ourselves to considering only those statutes that evince some familiarity with the council's decrees and, again, show some concern with usury. The 1289 diocesan statutes of Santiago, for example, cite the council's decree on clerical benefices, but the chapter on usury states only that clerics or laymen who publicly engage in usury are excommunicated *ipso iure*.[101] Similarly, the diocesan statutes of Auch from ca. 1310 cites one of the Lyonese decrees on excommunication, but although the statutes discuss usury in four different contexts (reserved cases, restitution, and twice under excommunication), references to *Usurarum voraginem* are nowhere to be found.[102]

Within this general subset, it is particularly striking how often statutes ignore *Usurarum voraginem* while drawing on *Quamquam*, the other anti-usury decree issued at Lyon. Where *Usurarum voraginem* sought to obstruct the activities of foreign usurers during their lifetimes, *Quamquam* targeted all usurers as they lay on the brink of death, specifying how they might make due restitution for their illicit gains and punishing clerics who knowingly buried those who died unshriven. In roughly three dozen instances, drafters borrowed from *Quamquam*'s provisions or cited it directly, while making no mention of *Usurarum voraginem*.[103] The 1276

[100] *Pace* Boisset ("Conciles provinciaux," 112), who apparently did not notice these references; see *Statuts synodaux* 6, 347-48 [=*Constitutiones,* 10.7], citing Lyon II, cc. 20, 31 (see *COD*, 325 and 331).

[101] Santiago (1289), cc. 7, 34: in *Synodicon Hispanum*, eds. Antonio García y García et al., 12 vols. (Madrid: Biblioteca de Autores Cristianos, 1981-[2014]), 1.272-80, at 274-75 and 279. The Lyonese reference is to c. 13 (*COD*, 321-22).

[102] Auch (ca. 1310): in *Livre rouge*, 72-101. The references to usury are found on pp. 79-80, 90, 102. The Lyonese reference is found on pp. 93-94, citing Lyon II c. 31 (*COD,* 331). To judge from the reference, the citation was not drawn directly from the recently published *Liber Sextus*.

[103] A handful of statutes refer only to the "decree against usurers published by [Gregory X] at the Council of Lyon (*constitutionem felicis recordationis domini Gregorii pape X contra usurarios editam in concilio lugdunensi*)," which could refer either to *Usurarum voraginem* or *Quamquam* (or even both, if an early

provincial canons of Bourges, for example, took inspiration from *Quamquam* in strengthening the penalties for clerics who knowingly buried manifest usurers, and also drew on three other Lyonese decrees—but not *Usurarum voraginem*.[104] A decade later, a new set of provincial canons was issued for the province that drew still more extensively on the Lyonese decrees, even ordering that all parish priests have a copy of the Lyonese decree *Quicumque* (concerning excommunication) in both Latin and their own vernacular. Their discussion of usury, however, was largely limited to a reissuing of the 1276 material.[105] Other relative silences are even more explicit. Both the 1281 provincial canons of Cologne and the 1286 diocesan statutes of Autun specifically invoke the penalties of both *Quia in omnibus* and *Quamquam* against usurers, but make no mention of *Usurarum voraginem*.[106] The late thirteenth-century *Liber synodalis* of Arras contains six direct references to the Lyonese decrees (including *Quamquam*), but *Usurarum voraginem* is again absent.[107] Such instances are not limited to the closing decades of the thirteenth century. The 1359 diocesan statutes of Tortosa, for example, open by spelling out *Quamquam*'s provisions at length, then invoke those of *Ex gravi*. The statutes go on to quote the opening words of *Usurarum voraginem*, but these serve simply as a rhetorical flourish, and the

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draft version of the Lyonese decrees was being used). See, for example, Vienne (1289), c. 66: in Louis Boisset, *Un concile provincial au treizième siècle: Vienne 1289* (Paris: Beauchesne, 1973), 320.

[104] Bourges (1276), cc. 1, 6, 15, 16: in Mansi 24.165-80. See also Boisset, "Conciles provinciaux," 34.

[105] Bourges (1286), cc. 5, 10, 11, 14, 15, 17, 21, 22, 26: in Mansi 24.625-48. See also Boisset, "Conciles provinciaux," 35.

[106] Cologne (1281), c. 14: in *CG* 3.657-71, at 668-69; Autun (1286), cc. 50, 51, 98, 99, 101: in Edmond Martène and Ursin Durand, eds., *Thesaurus novus anecdotorum*, 5 vols. (Paris: Delaulne, 1717), 4.467-80, at coll. 473, 480.

[107] Arras (1280x1290), c. 82: *Statuts synodaux* 4, 183-216, at 202. References to the recent Lyonese decrees are to be found in cc. 53, 84, 91, 96, 111, 120 (at pp. 197, 201, 203, 204, 205, 207). The text was compiled ca. 1280 and updated over the course of the following decade.

decree's actual provisions go unmentioned.[108] Similarly, late medieval diocesan statutes from Arras,[109] Hildesheim,[110] and southeastern Spain[111] quote the opening words of *Usurarum voraginem*, but then go on to invoke explicitly only the penalties set forth in *Quia in omnibus*, *Quamquam*, and *Ex gravi*.

The pattern is especially pronounced in northern Italian ecclesiastical legislation. In 1286, for example, both the provincial canons of Ravenna and the diocesan statutes of Turin explicitly promulgated *Quamquam*'s provisions while making no reference to *Usurarum voraginem*.[112] So too did the 1297 diocesan statutes of both Pavia and Cremona.[113] The 1298 diocesan statutes of Novara quote the opening words of *Usurarum voraginem*, but this is followed immediately by the provisions of *Quia in omnibus* and a lengthy discussion of *Quamquam*.[114] This trend again

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[108] Tortosa (1359): in Jaime Villanueva, *Viage literario á las iglesias de España,* 22 vols. (Madrid: Fortanet, 1806-1902), 5.346-65, at 348-49.

[109] Arras (bef. 1363): in Lille, Bibliothèque municipale [now Médiathèque municipale Jean Lévy], MS 81 (*olim* 193), fols. 20v-22r.

[110] Hildesheim (1365x1398), c. 12: in "Hildesheimische Synodalstatuten des 15. Jahrhunderts," ed. Richard Doebner, *Zeitschrift des historischen Vereins für Niedersachsen* (1899), 118-125, at 124. These are dated to ca. 1380 in Johannes Maring, *Diözesansynode und Domherrn-Generalkapitel des Stifts Hildesheim bis zum Anfang des XVII. Jahrhunderts* (Hanover-Leipzig: Hahn'sche Buchhandlung, 1905), 42-49.

[111] Valencia (1368), c. 4: in "Sínodos medievales de Valencia: edición bilingue," ed. Ignacio Perez de Heredia y Valle, *Anthologica annua* 40 (1993), 477–859, at 745-46; Cartagena (1475), c. 91: in *Synodicon Hispanum*, 11.227-318, at 303.

[112] Ravenna (1286), rubr. 6: in Mansi 24.616-26, at coll. 621-22; Turin (1286), cc. 4, 7: in *I decreti sinodali torinesi di Goffredo di Montanara (a. 1270, a. 1286)*, ed. Giuseppe Briacca (Turin: Centro di cultura e di studi "G. Toniolo", 1985), 153-56, at 154.

[113] Pavia (1297), cc. 33-35: in *Concilia Papiensia, constitutiones synodales et decreta dioecesana*, ed. Giovanni Bosisio (Pavia: Fusi, 1852), 141-65, at 157-60; Cremona (1297), §*Contra usurarios* and §*Contra absolventes usurarios*: in *Synodus cremonensis secunda sub Caesare Speciano episcopo…* (Cremona: Draconio & Zannio, 1604), 261-98, at 289-90.

[114] Novara (1298), c. 7, art. 1: in *Gli statuti sinodali novaresi di Papiniano della Rovere (a. 1298)*, ed. Giuseppe Briacca (Milan: Vita e Pensiero, 1971), 259-62. As Briacca notes (p. 67), these statutes were heavily influenced by Durand's *Instructiones et Constitutiones* for the diocese of Mende.

persisted throughout the fourteenth century, with examples to be found in the diocesan statutes of Ferrara,[115] Florence,[116] Genoa,[117] Piacenza,[118] and Sabina,[119] as well as the Egidian Constitutions of 1357, which gradually spread throughout the papal states.[120]

This preferential citation of *Quamquam* can be largely explained in terms of responsiveness to "local conditions." Where *Usurarum voraginem*'s provisions focused on foreign usurers, *Quamquam*'s extended to all usurers, focusing in particular on deathbed restitution. Notwithstanding the widespread activity of Tuscans and Lombards in central and northeastern parts of the peninsula, dying usurers were considerably more common than foreign ones. It is therefore not surprising that Italian ecclesiastical authorities troubled by the problem of usury often decided to promulgate *Quamquam* but not *Usurarum voraginem*. The same is true of the many of the transalpine examples, as well. So far as the evidence suggests, neither Tortosa nor Hildesheim harbored communities of foreign Christian moneylenders at any point during the Middle Ages, and although foreign (especially Italian) merchants were very active in southeastern Spain during the later Middle Ages, they were only rarely characterized as usurers

[115] Ferrara (1332), c. 46: in Mansi 25.902-34, at coll. 923-25.

[116] Florence (1310), tit. *De usuris*: in Trexler, *Synodal Law*, 278-83.

[117] Genoa (1375), cc. 54, 56: in *Sinodi genovesi antichi*, ed. Domenico Cambiaso (Genoa: R. deputazione di storia patria per la Liguria, 1939), 59-87, at 72-73.

[118] Piacenza (1337), c. 44: in *Statuta varia civitatis Placentiae* (Parma: Fiaccadori, 1860), 535-55, at 548-51.

[119] Sabina (1348x1355): in Vatican City, BAV, Ottob. lat. 818, fols. 34v-45r, at 37r-39r. Note that the MS has a second foliation, according to which the statutes are found in fols. 59v-70r. The statutes are also edited as an appendix to *Constitutiones synodales Sabinae dioecesis…*, ed. Hannibale Albano (Urbino: Mainardi, 1737), 219-90 (with the chapters on usury at pp. 280-83). The synod was held at Vescovio.

[120] Egidian Constitutions (1357), 3.12: in *Costituzioni Egidiane dell'anno MCCCLVII,* ed. Pietro Sella (Rome: Loescher, 1912), 127.

(or moneylenders).[121] Lombard activity around Arras in the late thirteenth century appears to have been quite sporadic, and the same is true for the ecclesiastical province of Bourges (enormous though it was).[122] As for Cologne, the 1281 provincial canons preceded by several years the large-scale advent of Lombards to the city, whereas the provincial canons promulgated two decades later would indeed invoke *Usurarum voraginem*.[123] This leaves us with the diocese of Autun, which largely conforms to this pattern: there is no evidence of contemporary Lombard activity in the town of Autun itself, and although the Lombard Daniele Isnardi of Asti lent money in 1283 to the communal government of Beaune (which fell within the diocese), Isnardi himself appears to have resided in Chalon-sur-Saône (which did not).[124] Taken collectively, then, the thirty-odd cases in which *Quamquam* is cited without *Usurarum voraginem* seem to reflect not so much reluctance toward the latter on the part of the issuing authorities, but rather a sense that *Usurarum voraginem*'s provisions were simply irrelevant in the context of the particular province or diocese. This also explains, to a certain degree, the preferential citation of *Quia in*

[121] See Maria Teresa Ferrer i Mallol, "Els italians a terres catalanes (segles XII-XV)," *Anuario de estudios medievales* 10 (1980), 393-466; Patrizia Mainoni, *Mercanti lombardi tra Barcellona e Valenza nel basso medioevo* (Bologna: Cappelli, 1982); and David Igual Luis, "La ciudad de Valencia y los Toscanos en el Mediterráneo del siglo XV," *Revista d'Història Medieval* 6 (1995), 79-110, with further references.

[122] See Winfried Reichert, *Lombarden in der Germania-Romania: Atlas und Dokumentation*, 3 vols. (Trier: Porta Alba, 2003), 1.78 (Arras), 1.152 (Bourges), and Karten C.1.1-3 (for the general absence within the ecclesiastical province of Bourges).

[123] Cologne (1297x1304), c. 12: in *CG* 4.37-43, at 41. For Lombard activity in Cologne and the surrounding region in the decades around 1300, see Reichert, *Lombarden,* 1.366-68 (Köln) and Karten C.1.1 and D.1.1.

[124] See Reichert, *Lombarden*, 1.85-86 (Autun) and 1.110-11 (Beaune). For Isnardi's activities, see Henri Dubois, *Les foires de Châlon et le commerce dans la vallée de la Saône à la fin du Moyen Âge (vers 1280-vers 1430* (Paris: Publications de la Sorbonne-Imprimerie nationale, 1976), 30-31; *Chartes de communes et d'affranchissements en Bourgogne*, ed. Joseph Garnier, 3 vols. (Dijon: Rabutot, 1867-77), 1.224-25 [=no. 133]; and Léon Gauthier, *Les Lombards dans les deux-Bourgognes* (Paris: Champion, 1907), 120-21 [=p.j. 19].

omnibus and *Ex gravi* in some legislation, as these concerned all usurers as opposed to merely foreign ones.

We have now encountered several instances in which *Usurarum voraginem*'s incipit is quoted without further mention of its provisions; these were but a few among many.[125] Other elements of the decree also made their way into contemporary ecclesiastical legislation. A Cologne provincial canon from ca. 1370, for instance, cited *Usurarum voraginem* explicitly, but only to observe that it had renewed the penalties set forth in *Quia in omnibus*; the rest of the decree's provisions go unmentioned.[126]

The 1293 diocesan statutes from Utrecht, for example, specifically condemned usurers who were "Cahorsins and other foreigners (*Cauwersinos et alios alienigenas*)," but then only invoked the penalties of *Quia in omnibus*.[127] A quarter-century later, a set of statutes issued by the archbishop of Cologne following a diocesan synod in Bonn singled out "manifest and especially foreign usurers (*usurarios manifestos et precipue alienigenas*)" for excommunication and public denunciation, again invoking *Quia in omnibus*.[128] Other synodal statutes similarly discuss

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[125] For other examples, see Barcelona (1319): in Barcelona, Arxiu Capitular, MS *Constitutiones Tarragonenses* (Series Constitucions, s.n.), fols. 210v-219v, at fol. 213v; Barcelona (1354), c. 110: in "A Compilation of the Diocesan Synods of Barcelona (1354): Critical Edition and Analysis," eds. Jocelyn N. Hillgarth and Giulio Silano, *Mediaeval Studies* 46 (1984), 78-157, at 141 (a reissue of the 1319 text); Cologne (1307), c. 4: in *CG* 4.99-106, at 102 (for the dating of these statutes, see Unger, *Generali concilio*, 234); Cologne (1375), c. 3: in *CG* 4.516-22, at 520-22; Lisbon (1307), c. 10: in *Synodicon Hispanum*, 2.304-14, at 309; Prague (1333), cc. 1-2: in *Pražké synody a koncily (předhusitské doby)*, eds. Jaroslav Polc and Zdeňka Hlediková (Prague: Univerzita Karlova v Praze, 2002), 106-7; Todi (ca. 1400), §*additae. Contra usurarios*: in *Constitutiones synodales ecclesiae Tudertinae*… (Perugia: Rastelli, 1576), 83-84 [=M2rv]; Toul (1359): in Étienne Baluze, *Histoire généalogique de la maison d'Auvergne*, 2 vols. (Paris: Antoine Dezallier, 1708) 2.850-64, at 861.

[126] Cologne (1370x1372), c. 9: in *CG* 4.496-508, at 502.

[127] Utrecht (1293), c. 24: in Jan Gualterius Christiaan Joosting, ed., *Bronnen voor de geschiedenis der kerkelijke rechtspraak in het bisdom Utrecht in di middeleuwen*, 8 vols. ('s Gravenhage: Nijhoff, 1906-24), 5.60-68, at 65. Joosting's edition is to be preferred over that in *CG* 4.17-19, at 18 [=c. 25].

[128] See "Unbekannte Synodalstatuten der Kölner Erzbischöfe Heinrich von Virneburg (1306-1332) und Walram von Jülich (1332-1349)," ed. Wilhelm Janssen, *Annalen des Historischen Vereins für den*

foreign usurers using the language of *Usurarum voraginem*.[129] It is quite possible that these examples were inspired by intermediary texts, rather than taken directly from the decree itself, but at the very least, they attest to the diffusion of its language, and, more importantly, to its distinction between local and foreign usurers.

Rather more intriguing, at least from the perspective of the ecclesiastical response to *Usurarum voraginem*, are the dozen cases that specifically invoke the decree's housing ban but not its general call for expulsion. The earliest of these, from the diocese of Angers, appeared in mid-October 1274, two weeks before the decree's official promulgation. Citing the recent papal decision, the bishop ordered that no one was to provide lodging to anyone publicly engaging in moneylending.[130] Around 1278, Bishop Étienne Tempier of Paris, who had himself attended the Second Council of Lyon, issued a set of statutes that summarized *Quamquam*'s provisions and additionally forbade anyone from renting houses to usurers, drawing on the language of *Usurarum voraginem* without citing it directly.[131] The same is found (albeit in a more abbreviated form) in the diocesan statutes promulgated for Chalon-sur-Saône in 1281.[132] Toward the end of the thirteenth century, the diocesan statutes of Basel barred anyone from renting houses to "Cahorsins or other public usurers (*kawerschinis vel aliis usurariis publice*

Niederrhein 172 (1970), 113-54. The 1319 statutes are given at pp. 121-28, with the chapter on usury at p. 122 [=c. 3].

[129] See Cambrai (1278), cc. 11-12: in *Statuts synodaux* 4, 103-8, at 105; Cologne (1316), c. 4: in *Die Regesten der Erzbischöfe von Köln im Mittelalter*, ed. Friedrich Wilhelm Oediger, 12 vols. (Bonn: Hanstein, 1901-2001), 4.209-11 [=no. 947].

[130] Angers (1274), c. 4: in *Statuts synodaux* 3, 122-25.

[131] Paris (1277x1279), cc. 5, 6, 7: in *Statuts synodaux* 5, 176-79, at 177-78.

[132] Chalon-sur-Saône (1281), §*Usurarios manifestos*: in Paris, BnF, lat. 18340, fol. 2r.

exercentibus)."[133] Similar examples are to be found in early fourteenth-century ecclesiastical legislation from Fiesole,[134] Lucca,[135] and Toledo.[136] In each of these examples, the statutes' drafters selectively maintained the decree's housing ban while editing out its expulsion provision. Furthermore, the drafters also edited out the decree's restriction to foreigners: the statutes from Basel and Lucca targeted foreign and local usurers alike, while the others omit the decree's language of foreignness altogether. In other words, in the process of incorporating *Usurarum voraginem* into their local legislation, the drafters deliberately broadened its targets while weakening its penalties.

Other statutes similarly edited out the decree's expulsion provision but maintained its concern with foreign usurers.[137] Particularly influential in this regard was the *Liber synodalis* promulgated for the diocese of Rodez in 1289, which served as the basis for much subsequent ecclesiastical legislation in southern France. The Rodez text quotes *Usurarum voraginem*'s housing ban verbatim while restricting it to "non-native usurers (*usurarios publicos non oriundos*

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[133] Basel (1297): in Joseph Trouillat, ed., *Monuments de l'histoire de l'ancien évêché de Bâle,* 5 vols. (Porrentruy: Michel, 1852-67), 2.655-65, at 657.

[134] Fiesole (1306), § *De usuris*: in Trexler, *Synodal Law*, 278-83.

[135] Lucca (1300x1330), c. 56: in "La sinodo lucchese di Enrico del Carretto," ed. Raoul Manselli, in *Miscellanea Gilles Gérard Meersseman*, 2 vols. (Padua: Editrice Antenore, 1970), 1.197-246, at 232-33. The same may also be true of the 1351/52 diocesan statutes of Lucca, though only the rubrics survive for the chapters on usury; see Paolino Dinelli, *Dei sinodi della diocesi di Lucca* (Lucca: Bertini, 1834), 114 [=c. 86: *Quod nullus locet domum usurariis*].

[136] Toledo (1302), c. 9: in Mansi 25.100-10, at col. 104. The Toledo provincial council was held at Peñafiel, near Valladolid.

[137] There are two instances in which the inspiration was not *Usurarum voraginem*, but rather the 1269 provincial canon of Sens that seems to have partly inspired the ecumenical decree (see above, pp. 120, 123-24). These are Chartres (1355x1368), c. 31: in "Statuts synodaux et constitutions synodales du diocèse de Chartres au XIV^{e} s. (1355)," ed. Maurice Jusselin, *Revue historique de droit français et étranger*, ser. 4, 8 (1929), 69-109, at 108; and Meaux (ca. 1346), c. 76: in Martène and Durand, *Thesaurus novus anecdotorum*, 4.891-914, at col. 904. Elsewhere (c. 109; at col. 910) the Meaux statutes quote the incipit of *Usurarum voraginem*, but the chapter deals only with the excommunication of manifest usurers.

de terris ipsorum)," a reworking that would recur (with minor modifications) in both the 1340 diocesan statutes of Albi and the 1358 diocesan statutes of Castres.[138] In all of these cases, it is clear that whatever steps the local ecclesiastical authorities were willing to take in order to hinder usurers' commercial activities, these did not extend to calling for their outright expulsion.

Let us review the patterns we have encountered so far. A sizeable majority of late medieval synodal statutes make no reference whatsoever to usury. Of those that do, a large proportion—roughly forty cases—invoke only the penalties of *Quia in omnibus*, though many (if certainly not all) can be explained in terms of the statutes' sources or organizational structure. A similar number incorporate *Quamquam*'s provisions but not those of *Usurarum voraginem*; these instances can frequently be explained by the absence of foreign moneylenders within the particular province or diocese. Finally, there are those that incorporate some part of *Usurarum voraginem*—whether its incipit, its language of foreignness, or its housing ban—without also promulgating its expulsion provision. The last category, in fact, accounts for nearly two thirds of all references to the decree in local ecclesiastical legislation. Out of a total of nearly eight hundred synodal statutes issued from 1274 to the beginning of the fifteenth century, we are therefore left with twenty statutes that explicitly reference *Usurarum voraginem*'s expulsion penalty, along with an additional twelve statutes that call in general terms for the enforcement of the decree's provisions. Their specific contents, along with the evidence for their implementation, will be discussed in the following chapter; for now let us see whether there is any pattern to the promulgations (whether explicit or implicit) of the expulsion provision.

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[138] Rodez (1289), cc. 15.15 and 17.10; in *Statuts synodaux* 6*,* 115-205, at 172, 178; Albi (1340), *Pars secunda*, c. 7: in *Synodale diocesis albiensis omnibus presbyteris curam animarum habentibus necessario pervium* (Limoges: Paul Berton, 1528), fol. 42v; Castres (1358): in Paris, BnF, lat. 1592A, fols. 1-65v, at fol. 47rv. On the Rodez text's composition and influence, see Joseph Avril, "Sources et caractères du livre synodal de Raimond de Calmont d'Olt, évêque de Rodez (1289)," in *L'Église et le droit dans le Midi (XIII^{e}-XIV^{e} s.)* (Toulouse: Privat, 1994), 215-48.

In terms of their chronological breakdown, all but two of the known cases fall within roughly a half-century of the Second Council of Lyon. Moreover, so far as we can tell (given that some of the statutes cannot be precisely dated), their distribution is more or less even within this timeframe. It is clear, then, that neither the initial promulgation of the decree in 1274 nor its repromulgation as part of the *Liber Sextus* in 1298 occasioned a marked surge of interest among ecclesiastical authorities or the drafters of their statutes. It is equally clear that *Usurarum voraginem*'s expulsion provision had a much more restricted legislative shelflife than the provisions of *Quia in omnibus* or even *Quamquam*, which continued to be cited widely for centuries after their promulgation.

There is also very little in the way of textual families. A handful of jurisdictions reissued previous invocations of *Usurarum voraginem* or its expulsion provision, but otherwise there are few clear instances of straightforward imitation or inspiration.[139] Most of the latter occur in what is now southwestern France, which largely reflects the region's long history of frequent and extensive legislative borrowings between dioceses and across provincial and political boundaries.[140] That said, even here the repeated appearance of *Usurarum voraginem*, and

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[139] See Aquileia (1338), pt. 2, c. 16: in *Sinodi aquileiesi*, ed. Giacomo Marcuzzi (Udine: Tipografia del patronato, 1910), 350-67, at 361, reissuing an earlier statute of uncertain dating. I would like to thank Andrea Tilatti for his advice on the dating of the Aquileia statutes. The Trier provincial canons of 1310 copied those of 1277 in ordering that the decrees of the Second Council of Lyon "concerning Cahorsins and other usurers be observed (*circa cavercinos et alios usurarios ita habeant*)," but did not spell out the expulsion provision; see above, pp. 157-58.

[140] As shown, for instance, by the reception and diffusion of the 1252 *Liber synodalis* of Nîmes; see André Artonne, "L'influence du *Décret* de Gratien sur les statuts synodaux," *Studia Gratiana* 2 (1954), 643-56, at 648-55. Martin Bertram has called into question the work's traditional attribution to the canonist Pierre de Sampson; see his "Pierre de Sampson et Bernard de Montmirat. Deux canonistes français du XIII^{e} siècle," in *L'Église et le droit dans le Midi (XIII^{e}-XIV^{e} s.)* (Toulouse: Privat, 1994), 37-74. The only other obvious case of imitation is found in the provincial canons of Cologne from ca. 1300, which seem to have drawn its citation of *Usurarum voraginem* directly from (or else shared a common model with) the 1288 diocesan statutes of Liège; see Cologne (1297x1304), c. 12: in *CG* 4.37-43, at 41; and Liège (1288), c. 6: in *Statuts synodaux de Jean de Flandre,* 135-36.

especially its expulsion provision, cannot simply be chalked up to drafters' slavish adherence to a popular model. The diocesan statutes of Tulle issued sometime in the 1320s, for example, invoke the expulsion provision using entirely different language than that found in the 1318 statutes of the same diocese.[141] The statutes of Carcassonne,[142] Elne,[143] and Pamiers[144] all bear close similarities to each other in terms of their phrasing of the expulsion provision, but none is an exact copy of another. Finally, the invocation of *Usurarum voraginem* in the 1308 provincial canons of Auch has no parallels in any of the surviving ecclesiastical legislation from southwestern France (or anywhere else).[145] Taken together, these examples all suggest that ecclesiastical authorities in the region took a continuing, active interest in *Usurarum voraginem* throughout the early fourteenth century.

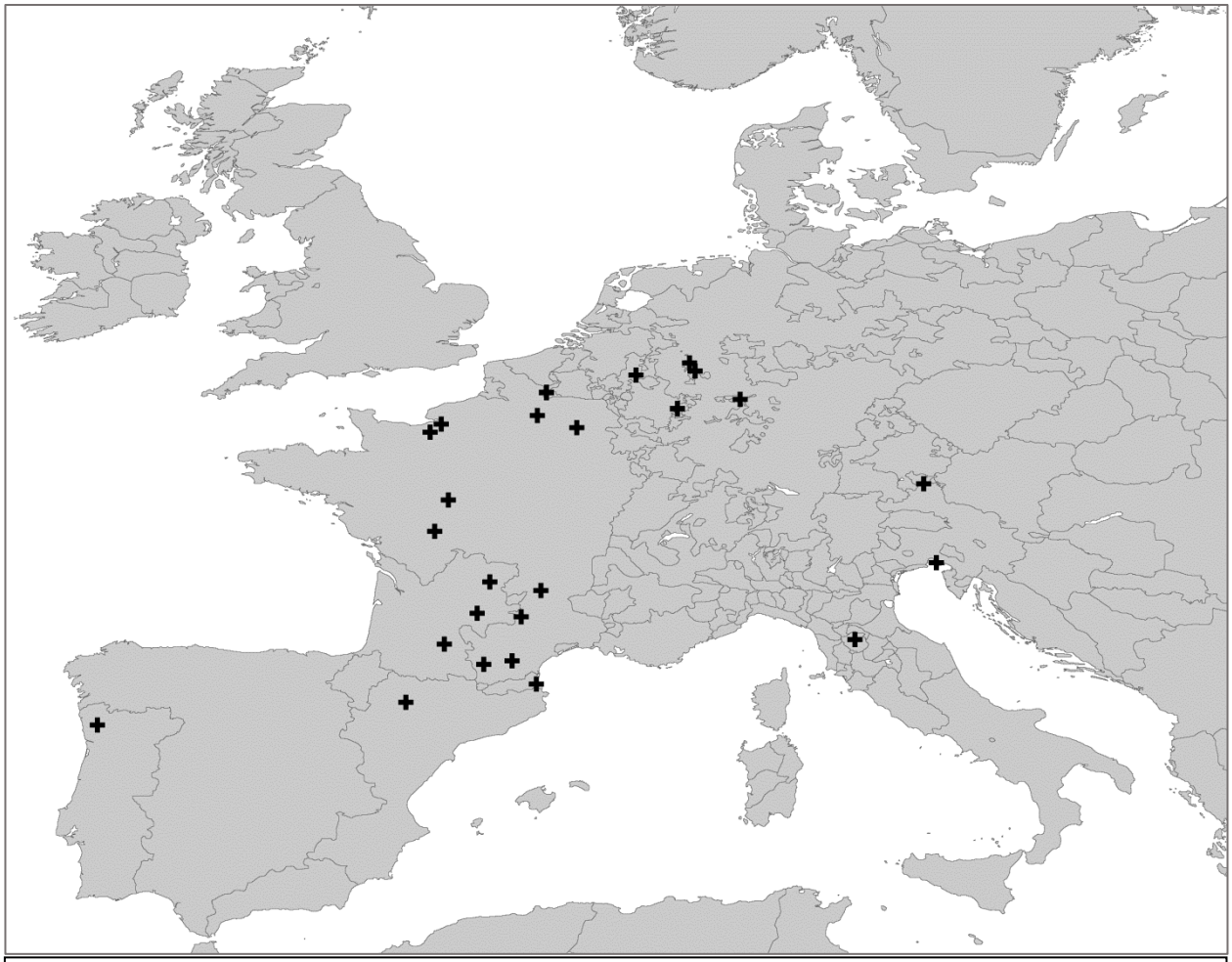
[141] Tulle (1318), c. 25: in Martène and Durand, *Thesaurus novus anecdotorum*, 4.671-768, at col. 744; Tulle (1320x1328), c. 1: in Martène and Durand*, Thesaurus novus anecdotorum*, 4.791-97, at col. 791. The 1318 statutes were simultaneously promulgated for Cahors and Rodez.

[142] Carcassonne (1300x1322): in Paris, BnF, lat. 1613, fols. 56r-63r, at fol. 56r. As noted by Joseph Avril (*Statuts synodaux* 6*,* 401), these actually consist of a list of cases of excommunication published by Bishop Pierre de Rochefort during a synod.

[143] Elne (1326): in Perpignan, Bibliothèque municipale [now Médiathèque municipale], MS 79, fols. 74r-87v, at fol. 86r. The text here is identical to that found in the diocesan statutes of Saint-Flour, issued that same year; see Paris, BnF, lat. 1595, fols. 1r-68v, at fol. 48v.

[144] Pamiers (1326x1347): in Toulouse, Bibliothèque municipale [now Bibliothèque d'étude et du patrimoine], MS 402, fols. 1r-137v, at fol. 13rv.

[145] Auch (1308), c. 3: in *Livre rouge,* 67-68.



Map 4.3: *Usurarum voraginem*'s expulsion provision in local ecclesiastical legislation, 1274-1330. Each ✚ represents extant legislation from one or more diocesan synods or provincial/national/legatine councils invoking *Usurarum voraginem*'s expulsion provision.

As is evident from Map 4.3, if we set aside the case of southwestern France, there are no obvious geographical clusters beyond a very loose assemblage in northern France and northwestern Germany—a reflection, in part, of the density of sees in these regions. In fact, from a geographical perspective, it is considerably more suggestive to look at those places where the expulsion provision was not promulgated as opposed to those where it was.

Take northern Italy, for example. We have already discussed the preferential citation of *Quamquam* over *Usurarum voraginem* in this region: at least two dozen Italian jurisdictions incorporated *Quamquam*'s provisions in some fashion into their local ecclesiastical legislation,

while only six drew on *Usurarum voraginem*'s housing ban and a mere two (Aquileia and Florence) directly referenced its penalty of expulsion.[146]

The vast territories to the north and east of the Rhine likewise betray little interest in *Usurarum voraginem* or its expulsion provision; only a single set of statutes invokes the housing ban, while two statutes cite the decree's incipit.[147] References to *Usurarum voraginem* are similarly sparse in Iberia: echoes of the decree's housing ban are found in diocesan statutes from Toledo and Braga, while the 1280 diocesan statutes of Huesca simply cited both of the Lyonese decrees against usurers without spelling out their provisions in any detail.[148] Yet it is clear from contemporary statutes, as well as much other evidence, that ecclesiastical authorities in most of these regions were indeed concerned about usury and promulgated local legislation accordingly (see Map 4.2 above).

If we compare the geographical distribution of the promulgated expulsion provisions against the contemporary landscape of Lombard activity, it becomes clear that the reason that these prelates rarely invoked the canonical sanctions against foreign moneylenders may simply have been due to the fact that there were few or no foreign moneylenders to sanction. There is little

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[146] *Usurarum voraginem*'s expulsion penalty appears in Aquileia (1338), pt. 2, c. 16: in *Sinodi aquileiesi*, 361; and Florence (1327), c. 5.5: in *I capitoli del comune di Firenze: Inventario e regesto. T. 2*, ed. Alessandro Gherardo (Florence: Cellini, 1893), 39.

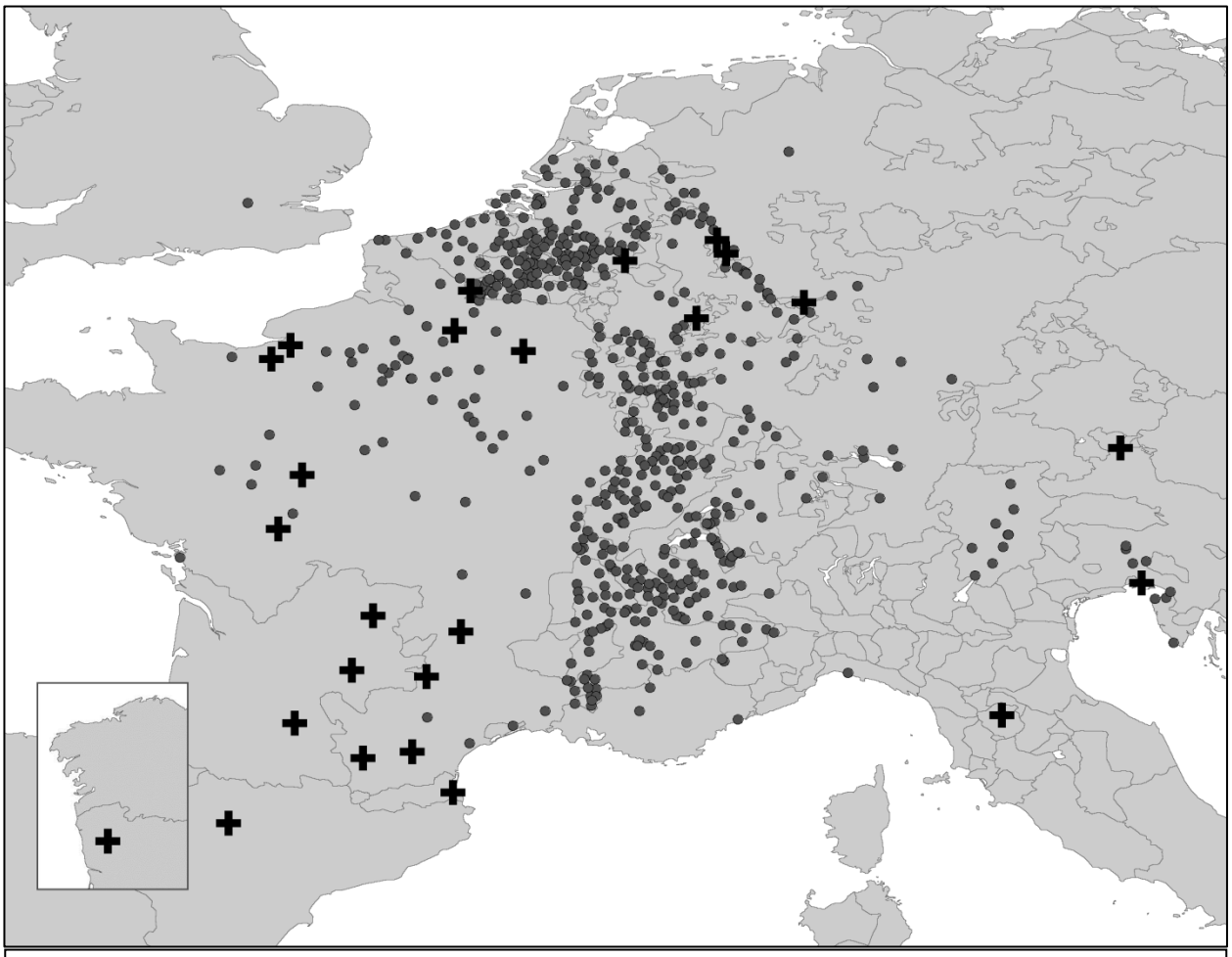
[147] For the appearance of the housing ban, see Salzburg (1420), c. 20: in *Concilia Salisburgensia provincialia et dioecesana*, ed. Florian Dalham (Augsburg: Rieger, 1788), 190-208, at 197. For the appearance of the decree's incipit, see Passau (1294): in Mansi 24.1115-16; and Prague (1333), cc. 1-2: in *Pražké synody*, 106-7.

[148] Braga (1281), c. 15: in *Synodicon Hispanum,* 2.10-26, at 15. For Toledo (1302), see above, p. 189 n.136; for Huesca (1280), see above, p. 158 n.27. *Usurarum voraginem*'s housing ban and expulsion provision (though not its restriction to foreigners) appear in a 1444 compilation of statutes for the diocese of Osma (prov. Burgos), which certainly drew heavily on an now-lost collection of statutes from the late thirteenth century. It seems likely that the latter are the source of the reference to *Usurarum voraginem*, but it is impossible to be sure. See Osma (1444), c. 125 [*olim* c. 82]: in *Synodicon Hispanum*, 12.13-160, at 74, together with the editorial notes at pp. 11-13.

evidence for foreign moneylending activity in Iberia, for example, or in the lands east of the Rhine. Usury may have been a matter of concern in these regions, but foreign usurers were not. This explanation, however, hardly explains *Usurarum voraginem*'s general absence in areas where foreign moneylenders were indeed active. Consider England: here, of course, one did find foreigners engaging in usury, or at least recurring accusations to that effect, throughout the thirteenth and fourteenth centuries. References to *Usurarum voraginem,* however, are nowhere to be found. But what is striking is not so much the absence of *Usurarum voraginem* as the near-absence of references to usury in general. Roughly two dozen ecclesiastical statutes survive from English provinces and dioceses from the late thirteenth and fourteenth centuries, and only one of them draws on any of the canonical penalties for usurers or engages in a substantive way with the topic of lay usury.[149] Whether this reflects the relatively harmonious relations between the English church and the English crown where the repression of usury was concerned, or whether something else was afoot, is an open question.

A final pattern is more striking still. As is clear from Map 4.1 above, considerable legislation survives from the north-south corridor running from Lorraine through the County of Burgundy, and spreading from there into Switzerland, the County of Savoy, and down along the Rhône. This same region harbored some of the densest Lombard settlements throughout the late thirteenth and fourteenth centuries, to judge from the surviving records. Yet as shown on Map 4.4, it is almost entirely devoid of references to *Usurarum voraginem*'s expulsion provision. Moreover, the pattern does not differ much if we consider the decree in its entirely, rather than

[149] York (1311): in *Concilia Magnae Britanniae et Hiberniae,* ed. David Wilkins, 4 vols. (London: Gosling, Gyles, Woodward, & Davis, 1737), 2.409-16, with later interpolations. The references occur in a list of excommunicable offences, with citations of *Quia in omnibus* and *Ex gravi*.



Map 4.4: *Usurarum voraginem*'s expulsion provision and the geography of foreign moneylending, 1274-1330. Each ✚ represents extant legislation from one or more diocesan synods or provincial/national/legatine councils invoking *Usurarum voraginem*'s expulsion provision. Each • represents a location in which the presence of foreign moneylenders is attested during this period (excluding central and northern Italy).

Source: For the ecclesiastical legislation, see the note to Map 4.1. The data for foreign moneylending activity are drawn primarily from Winfried Reichert, *Lombarden in der Germania-Romania: Atlas und Dokumentation*, 3 vols. (Trier: Porta Alba, 2003), with edits and additions by the author.

focusing on the expulsion provision: the housing ban appears only twice in the surviving statutes from these regions, and its incipit appears only once.[150]

[150] For the housing ban, see Basel (1297): in Trouillat, *Monuments…de Bâle*, 2.657; and Chalon-sur-Saône (1281), §*usurarios manifestos*: in Paris, BnF, lat. 18340, fol. 2r. For the incipit, see Toul (1359): in Baluze, *Histoire généalogique*, 2.861.

Whether the local prelates' decision not to promulgate *Usurarum voraginem* in their local statutes was a cause or consequence of the entrenched Lombard presence will be dealt with in the next chapter. What is important to note here is that prelates in this broad region showed what appears to be consistent and widespread resistance toward further disseminating *Usurarum voraginem* within their jurisdictions. It is perhaps for this reason that all of the surviving letters sent by popes to demand the enforcement of *Usurarum voraginem*'s provisions were addressed to prelates in Burgundy and its neighboring regions.[151] Put simply, the absence of references to the decree in synodal statutes and provincial canons from throughout this region meant that many of those charged with instructing their flocks about the canonical penalties falling on foreign usurers may have had no idea that specific penalties even existed. We might wonder accordingly to what extent local authorities (and local populations, more generally) were even aware of *Usurarum voraginem* and its provisions.

What conclusions can we draw from this survey of the decree's appearance or absence in the surviving corpus of local ecclesiastical legislation of the late thirteenth and fourteenth centuries? First, it is clear that there was considerable indifference toward *Usurarum voraginem* among much of the ecclesiastical hierarchy, with most prelates choosing not to make any mention of its language or provisions even where they were otherwise demonstrating an interest in repressing usury. In addition, even where drafters did make reference to the decree, they often drew on the decree's language while softening its penalties or excising them altogether. This is especially true where the expulsion provision is concerned, suggesting a certain degree of resistance toward

[151] The surviving letters of Boniface VIII are addressed to the bishops of Autun, Basel, Belley, Besançon, Chalon-sur-Saône, Langres, Lausanne, and Macon; those of Benedict XII are addressed to the archbishops of Tarentaise, Valence, Vienne, and Viviers, as well as the suffragan bishops of Vienne. See *Registres de Boniface VIII*, 1.328-29 [=nos. 937a-b]; and *Benoît XII (1334-1342): Lettres communes…*, 1.479 and 2.204 [=nos. 5097, 7399].

this new policy. Of course, provincial councils and diocesan synods contributed in other ways toward the decree's dissemination. As discussed earlier, *Usurarum voraginem* was surely read out at many of the gatherings that took place in the years following the decree's initial promulgation, and a number of statutes accordingly assume familiarity with its contents. But the relative infrequency with which the decree appears in the written corpus, together with the uneven geographic distribution of these appearances, suggests that local ecclesiastical legislation played a relatively circumscribed role in spreading awareness of *Usurarum voraginem*.

Two further points are worth making. First, references to *Usurarum voraginem*'s provisions are extremely rare in areas where no foreign moneylenders were to be found. This is not especially surprising. To return to Helmholz's characterization, insofar as synodal statutes were indeed "meant to reinforce and to supplement the church's general law in light of local conditions," such silences simply reflect the fact that the local conditions did not require the general law to be reinforced or supplemented.[152] But references are equally rare in some of the areas where Lombard activity was most entrenched and intense. In other words, the very places where the decree's provisions were most salient were also among the least likely to incorporate those provisions into their local ecclesiastical legislation. The following chapter, on the decree's enforcement, will suggest why.

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All of the channels that spread *Usurarum voraginem* and its provisions have their own internal histories, which in turn shaped the speed and patterns of the decree's dissemination. There was surely an initial flurry of publicity as the decrees of the Second Council of Lyon were read out at subsequent provincial councils and diocesan synods, with priests and deans then

[152] See above, p. 172.

spreading the news of the decree yet further among the faithful. Over the next half century, a smattering of ecclesiastical authorities reinforced knowledge of the decree within their jurisdictions by incorporating its language or provisions into their local legislation. As we have seen, however, such instances were relatively rare even within this timeframe, and they become rarer still after about 1330 or so. Yet starting around 1300, a constellation of new confessional treatises and other pastoralia brought summaries of the decree within ready reach of countless friars, priests, and other clerics. Then, a century later, preachers began to draw on the decree in their sermons. On the whole, then, we should not see popular awareness of the decree simply as spiking in the immediate aftermath of the council and then steadily dropping off thereafter; rather, it presumably mirrored the fluctuations of these several genres and their respective reach.

These waves of dissemination were geographical as well as chronological. In the first half of the fourteenth century, clerics in southwestern France likely encountered the decree more often than their counterparts across the Pyrenees or north of the Loire, to judge from the distribution of the decree's incorporation into synodal statutes. Similarly, to judge from the Observant Franciscans' regular references to the decree in their sermons and writings, Italian churchgoers in the mid-fifteenth century were probably better informed about *Usurarum voraginem* than their ancestors a century earlier.

Of course, it is one thing to trace the textual diffusion of the decree, and quite another to trace whether anybody noticed it. Canonistic treatises and confessional summas were weighty volumes, and most of those who had access to them probably did not have the stamina (or inclination) to work through them systematically, let alone internalize all of their contents. The same is true for preaching handbooks and other such texts. But here and there we find echoes of the decree that hint at its penetration into popular consciousness. When the civic authorities in

the Umbrian town of Foligno sought to impose a ban on usury within their jurisdiction, they quoted the language of *Usurarum voraginem* to justify their policy, declaring that such usury was rapidly consuming the town's resources.[153] When the biographer of an early fourteenth-century bishop of Hildesheim sought to sing his subject's praises, he declared that "the bishop had vigorously closed up the abyss of usury, which devours souls and drains riches," lifting his words directly from the decree's incipit.[154]

Even in cases where we find extracts or echoes of the decree, however, we cannot readily assume concomitant awareness of the decree's expulsion provision. In many cases, we may not be dealing with echoes of the decree itself so much as echoes of echoes; indeed, the more often we find authors drawing on *Usurarum voraginem*'s language to denounce usury in general, the less certain we can be that any of them had ever encountered the full text of the decree, rather than a brief quotation of its incipit in some other context. Furthermore, as we have repeatedly seen already, the decree regularly circulated in abbreviated or selectively edited versions, with the expulsion provision frequently omitted. As the decree traveled outward from the council chambers at Lyon, its text was transformed in ways both subtle and striking, each transformation introducing in turn new interpretative possibilities and constraints. We must remember this, too, in examining the decree's implementation and evaluating its efficacy. Whatever the decree may have looked like to professional canonists at the University of Bologna, it would have looked very different to the parishioners of Basel, for whom the decree concerned the lodging of foreign

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[153] *Statuta communis Fulginei*, eds. Angelo Messini and Feliciano Baldaccini, 2 vols. (Perugia: Deputazione di storia patria per l'Umbria, 1969), 1.85-86 [=1.91]. The dating of the statutes is uncertain, though most of the clauses appear to date from the early fourteenth century.

[154] *Chronicon Hildesheimense* [*Chronicon episcoporum Hildesheimensium*], ed. Georg Heinrich Pertz, *MGH SS* 7 (Hanover: Hahn, 1846), 850-73, at 868. The passage concerns Bishop Heinrich II von Woldenberg (r. 1310-1318).

usurers but not their expulsion, or the lower clergy of Chalon-sur-Saône, for whom the decree concerned the lodging of all manifest usurers but again had nothing to say about their outright expulsion. The view from Bologna, as it were, does not take us much beyond that city's walls.

Finally, there is the matter of the expulsion provision itself. So far, we have focused only on the question of its absence or appearance: did a particular text incorporate the expulsion provision, or did it not? But just as *Usurarum voraginem* itself was subject to unconscious elisions, deliberate editorial variations, and radical reworkings as it spread from the council chambers of Lyon into Christendom at large, so too was its expulsion provision. Furthermore, even where the text was transmitted intact, different contexts provoked different interpretations. As we shall see in the next chapter, even the most basic questions—whom exactly did the decree target, for instance, or who was bound to enforce it—were a matter of dissension, debate, and doubt.

♦ 5 ♦

The Ignorant, the Irregular, and the Damned:

Implementing Expulsion

"It is not enough to make laws unless there is someone to see that they are kept."

~Lyon II, c. 2 (*Ubi periculum*)[1]

Throughout most of the later thirteenth century and well into the fourteenth, quodlibetal disputations were among the highlights of the Parisian academic calendar. Twice each year, during Advent and then again during Lent, Parisian theology students crowded into lecture halls to watch as the university's leading thinkers put their intellectual virtuosity on full display, publicly fielding questions from anyone (*a quolibet*) and on any topic (*de quolibet*), from the metaphysical to the mundane. The unpredictable nature of these exercises made them both arduous and risky for the participating masters. But while some masters accordingly avoided them altogether, others readily seized upon these opportunities to demonstrate the range and versatility of their thought.[2]

Among the latter was Godfrey de Fontaines, who participated in at least fifteen disputations during his decades as a regent master in Paris.[3] We have met Godfrey once already, grappling

[1] Lyon II, c. 2 (*COD*, 316): "Preterea, quia parum est iura condere, nisi sit qui eadem tueatur…"

[2] See, in general, *Theological Quodlibeta in the Middle Ages*, ed. Christopher Schabel, 2 vols. (Leiden: Brill, 2006-07); and John F. Wippel, "Quodlibetal Questions, Chiefly in Theology Faculties," in *Les questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine* (Turnhout: Brepols, 1985), 151-222.

[3] Despite renewed interest in Godfrey's philosophical views over the past century, the only comprehensive study of his life and work remains Maurice de Wulf, *Un théologien-philosophe du XIII^e siècle: Étude sur la vie, les oeuvres et l'influence de Godefroid de Fontaines* (Brussels: Hayez, 1904). For a revised chronology of his writings, along with additional biographical information, see John F. Wippel,

with *Usurarum voraginem*'s implied distinction between foreign and local usurers.[4] Although best known as a metaphysician, Godfrey seems to have had a particular interest in the problem of usury. Not only did it feature explicitly in five of the quodlibetal questions that were put to him (over which he admittedly had limited control),[5] but Godfrey also copied an extract from Giles of Lessine's contemporary treatise on usury into one of his personal manuscripts.[6] More noticeably still, especially given that he was a theologian rather than a canonist, Godfrey showed repeated interest in *Usurarum voraginem*, and above all the consequences of the widespread failure to enforce its provisions.

His earliest reference to the decree occurs in a quodlibet from 1287.[7] Asked whether contrary custom could derogate from a decree issued by an ecumenical council, Godfrey began by observing that current practice suggested that such derogation was indeed possible. The recent

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The Metaphysical Thought of Godfrey of Fontaines: A Study in Late Thirteenth-Century Philosophy (Washington, D.C.: Catholic University of America Press, 1981), xv-xxxiv. The same author's "Godfrey of Fontaines at the University of Paris in the Last Quarter of the Thirteenth Century," in *Nach der Verurteilung von 1277: Philosophie und Theologie an der Universität von Paris im letzten Viertel des 13. Jahrhunderts : Studien und Texte*, eds. Jan A. Aertsen, Kent Emery Jr., and Andreas Speer (Berlin: De Gruyter, 2001), 359-89, offers a valuable discussion of Godfrey's influences and working methods.

[4] See above, pp. 104-5, in reference to his Quodlibet 12.9.

[5] Godfrey's quodlibets 4.21, 9.15, 10.19, 12.9, and 13.15 all reference usury or usurers in the initial question itself.

[6] Paris, BnF, lat. 15350, fols. 219va-221rb.

[7] Quodlibet 4.12: "Utrum statuto generalis concilii possit per consuetudinem contrariam derogari" (*versio longa*); "Utrum per contrarium consuetudinem possit derogari statuto generalis synodi" (*versio brevis*). The quodlibet survives in two versions (one long and one short); it is unclear whether Godfrey himself is directly responsible for the redaction of either, though the two versions agree on most points. Both are edited in *Les quatre premiers Quodlibets de Godefroid de Fontaines*, eds. Maurice de Wulf and Auguste Pelzer (Louvain: Éditions de l'Institut supérieur de philosophie de l'Université, 1904), 273-74 and 339. For the dating of the quodlibet, as well as the debate over its composition, see Wippel, *Metaphysical Thought,* xxvii-xxix. For a brief discussion of this question in the context of Godfrey's views on custom, see Georges de Lagarde, "La philosophie sociale d'Henri de Gand et de Godefroid de Fontaines," in *L'organisation corporative du moyen âge à la fin de l'ancien regime* (Louvain: Bibliothèque de l'Université, 1943), 57-134, at 97.

council at Lyon, he noted, had required foreign usurers (*alienigenae usurarii*) to be expelled, with automatic penalties for prelates who failed to do so. Contrary custom appeared to have abrogated this decree, for if it were taken as still binding, the "countless transgressors would be in a state of damnation and irregularity (*infiniti contrarium facientes essent in statu damnationis et irregulares*)," while the many prelates who lay automatically under suspension or interdict would be unable to grant absolution to excommunicates. It would seem that the church "could in no way permit such a situation (*nullo modo permitteret Ecclesia ut videtur*)." On the other hand, Godfrey contended, the persistence or frequency of sinful acts heightened disobedience, rather than excusing it. For this reason, then, one might presume that local custom could not stand in derogation of church decrees and teachings. Ultimately, Godfrey concluded that custom could derogate from certain kinds of secular laws, so long as the custom was rational, did not violate divine or natural law, and so forth. Where a custom was directly condemned under positive law, however, or where it threatened ecclesiastical order and discipline, then it was held invalid.

The details of Godfrey's reasoning do not concern us here, especially since his rather predictable conclusion leaves unresolved the broader problem posed by the pairing of automatic penalties with widespread transgression. What matters for our purposes is Godfrey's use of *Usurarum voraginem*, which he cites as a straightforward example of a conciliar decree that was widely and conspicuously flouted in practice. To a learned Parisian audience in the late 1280s, the limited enforcement of *Usurarum voraginem*'s expulsion provision was apparently a matter of some notoriety.

The situation did not improve over the following decade, at least in Godfrey's opinion. In 1296/97, he delivered another quodlibet addressing concerns inspired by *Usurarum voraginem*, this time asking whether secular or ecclesiastical authorities committed a sin by not expelling

usurers from their lands. Here he observed that "nobody was expelling usurers, or at least very few were doing so (*aut nullus expellit usurarios aut paucissimi hoc faciunt*)."[8] A year later, he tackled the problem again. Faced with a question on the transfer of *dominium* of usurious revenues, Godfrey turned his response into a vehicle for once again broaching the problem of widespread non-compliance with *Usurarum voraginem*. As others had observed, it was unclear how prelates could be immune from the decree's penalties if foreign usurers were dwelling within their lands.[9] After discussing and rejecting various potential excuses, Godfrey declared that he could not see any grounds for exemption. His conclusion, though formally prudent, was laced with disgust: on this particular issue, as well as on the general failure of many prelates to extirpate sin, "judgment was left to God (*super hoc Deo iudicium relinquatur*)."

Godfrey's interest in usury, and more specifically with *Usurarum voraginem*, may have resulted from his close ties to regions where the presence of foreign moneylenders was rapidly increasing. He hailed from a noble family in the prince-bishopric of Liège, which, as we shall see below, was at the epicenter of ecclesiastical responses to the Lyonese decree. He later held benefices in Cologne, Liège, and Tournai, all major sites of Lombard activity, and in 1300 he

[8] Quodlibet 12.9: "Utrum superiores, sive principes seculares sive prelati ecclesiastici, peccent non expellendo usurarios de terris suis," in *Les Quodlibets onze-quatorze de Godefroid de Fontaines*, ed. Jean Hoffmans (Louvain: Editions de l'Institut supérieur de Philosophie, 1932), 114-118, at 115. This quodlibet is further discussed below, pp. 338-40. Elsa Marmursztejn examines this quodlibet at length in "A Normative Power in the Making: Theological *Quodlibeta* and the Authority of the Masters at Paris at the End of the Thirteenth Century," in *Theological Quodlibeta in the Middle Ages*, ed. Christopher Schabel, 2 vols. (Leiden: Brill, 2006-07), 1.345-402; and *idem*., *L'autorité des maîtres: scolastique, normes et société au XIII^e siècle* (Paris: Les Belles Lettres, 2007), 145-50. In both cases, Marmursztejn argues that this quodlibet is connected to anxieties surrounding contemporary expulsions of the Jews, an argument that (for reasons spelled out in Chapter Six) I consider highly unlikely. Drawing on Marmuzstejn's work, Ian Wei also discusses this quodlibet in his *Intellectual Culture in Medieval Paris: Theologians and the University, c. 1100-1330* (Cambridge: Cambridge University Press, 2012), 346-47.

[9] Quodlibet 13.15: "Utrum in pecunia recepta per usuram transferatur dominium in recipientem," in *Les Quodlibets onze-quatorze,* 286-97, at 291-92.

was selected as bishop of Tournai, though he never ended up taking up the position.[10] Yet whatever the reasons for his interest in the topic, he was far from alone in observing that the decree's provisions were being roundly ignored, as were the automatic sanctions that theoretically followed. Around 1297, Godfrey's contemporary Eustache de Grandcourt faced a quodlibetal question asking whether it was a sin for prelates to knowingly permit foreign usurers to dwell in their lands. It seems safe to assume that whoever posed the question was more interested in embarrassing the ecclesiastical hierarchy than in raising an especially thorny theological point, and Eustache's conclusion—namely, that it was indeed a sin—is entirely unsurprising.[11] In any case, the fact that the question was posed at all points to a general awareness of the issue among Parisian observers.

The canonists also criticized ecclesiastical inaction. Two years after *Usurarum voraginem*'s promulgation, the late thirteenth-century Avignonese canonist Francesco d'Albano (Franciscus Vercellensis) complained that bishops were failing to frequently recite the decree, and that transgression was accordingly widespread.[12] A half-century later, the great fourteenth-century canonist Giovanni d'Andrea observed that "there are very few places in which foreign usurers do not dwell for the purposes of moneylending," from which he concluded that much of the church

[10] De Wulf, *Théologien-philosophe*, 25-30.

[11] Quodlibet 3.5: "Utrum prelati qui scienter sustinent extraneos usurarios in terra sua peccent," in Paris, BnF, lat. 15850, fols. 36v-37v. Only a summary of the quodlibet survives.

[12] "Die *lectura* des Franciscus de Albano aus dem Jahr 1276 über die *constitutiones novissimae* Papst Gregors X," ed. Burkhard Roberg, *Annuarium historiae conciliorum* 31 (1999), 297-366; and 33 (2001), 26-79, here at 62: "Quod nullus posset in hoc ignorantiam allegare, debent hanc constitutionem frequenter recitare […] set quia ordinarii hoc negligunt et omittunt, idcirco multi super hoc existunt transgressores."

hierarchy was technically either suspended from office or excommunicate. As he drily noted, "it therefore follows that it is dangerous for prelates to exercise temporal jurisdiction over lands."[13]

Taken collectively, the remarks of these observers all point to the same tension: however dramatic *Usurarum voraginem*'s provisions and penalties, its visible results were decidedly less so. As theologians and canonists alike pointed out, the continuing Lombard presence in much of western Europe meant that large swathes of Christendom theoretically lay under interdict, to say nothing of the consequences for the bishops of these areas. Beyond the walls of the lecture-hall, however, practical concerns outweighed theoretical consistency, and most interested parties seemed quite content to disregard the sanctions that ostensibly followed from the widespread failure to enforce the decree's expulsion provision. In the wake of the Second Council of Lyon, the kings of England and France dutifully ordered the expulsion of foreign moneylenders from their realms, but as we shall see, these expulsions proved neither thorough nor lasting. Over the following half-century, only a handful of ecclesiastical authorities are known to have expelled such moneylenders, and even fewer appear to have incurred formal censure for their failure. Meanwhile, foreign moneylenders continued to spread and settle; during this period their activity is attested in hundreds, if not thousands, of cities and towns in western Europe.[14] To be sure, the

[13] *Novella in librum sextum* (Venice, 1489), *ad* 5.5.1 § *suspensionis*: "…quae sequitur periculosum est praelatis habere iurisdictionem temporalem terrarum. Rarissima sunt loca, in quibus tales usurarii alienigene non habitent ad mutuandum, ex quo concluditur illos, aut suspensos, si sunt episcopi, vel superiores, aut excommunicatos, si sunt inferiores." D'Andrea had a penchant for pointing out such disconnects between theory and practice; in his gloss on Clem. 3.13.3 §*interdicti*, he notes that, on account of excessive penalty clauses, "all of Italy was probably under interdict (*forsan tota Italia est interdicta*)."

[14] This tally is based on Winfried Reichert, *Lombarden in der Germania-Romania: Atlas und Dokumentation* (Trier: Porta Alba, 2003), and includes many towns in which Lombards offered credit services while residing elsewhere. It is worth noting here that Reichert's dataset excludes all foreign moneylending activity in central and northern Italy, as well as many of the Italian merchant-bankers whose business dealings may have involved moneylending, but who were not generally licensed or characterized as professional moneylenders.

spottiness of the surviving sources may well conceal any number of local expulsions, just as it surely understates the range and extent of foreign moneylending. It is also possible (albeit unlikely) that the conciliar fathers never expected that the decree would be seriously enforced, and that we should instead see it as a purely symbolic gesture. And as we shall see in the chapters to follow, the decree's provisions could serve other purposes than what the drafters had explicitly envisioned. But if we take seriously the decree's stated aims, and evaluate it as an attempt to "close up the abyss of usury (*Usurarum voraginem…compescere cupientes*)," its impact was pitiful. The goal of this chapter is to explain why.

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The previous chapter has already pointed to one explanation for non-compliance, namely, the patchy and incomplete dissemination of the decree itself. Those who did not know that they were bound to expel foreign usurers could hardly be faulted for their failure—hence Francesco d'Albano's criticism of prelates who failed to regularly recite *Usurarum voraginem*'s provisions. But even those who did encounter the decree, and in particular its expulsion provision, could and did disagree on what exactly it entailed, for its textual form was far from stable and its interpretation far from clear-cut.

We have already seen how the disseminated versions of the decree frequently omitted any mention of expulsion. Even where expulsion is mentioned, however, the possibility of editorial intervention or scribal error was ever-present. The decree as promulgated could differ strikingly from the decree as it appeared in other texts, whether these were statutes or sermons, legal commentaries or confessors' manuals. Differences in synodal transmission meant that priests in Tours would have been familiar with a different version of *Usurarum voraginem* than their counterparts in Carcassonne, and neither version corresponded to the one being glossed and discussed in Bologna. In some cases these changes were the product of pure accident—simple

copyists' mistakes—while in other cases they reflect conscious or unconscious expectations of the decree's content and meaning.

Take, for instance, a vernacular French versification of the Lyonese decrees, written immediately after the Council. These summarized the Council's anti-usury measures by declaring that usurers "would be treated as heretics (*seront por bougres tenu*)," while the rulers who harbored them would be excommunicated.[15] Here the distinction between foreign and local usurers is elided, as is the distinction between the penalties falling on ecclesiastical versus secular authorities. The housing ban is entirely absent, and so too is any mention of the provisions set forth in the decree *Quamquam*. Some of these changes can be ascribed to the constraints imposed by the rhyme scheme, together with a degree of poetic licence on the part of the author, but others show a more marked editorial intervention. So far as the poem's readers and listeners were concerned, these changes had the collective effect of considerably expanding the reach of *Usurarum voraginem*'s expulsion provision, while omitting almost everything else in the Council's two anti-usury decrees. To be sure, the versification did not claim to be a formal statement of law, but it was nevertheless an instrument for disseminating awareness of the Council's decrees. For those listeners and readers whose only encounter with the decrees came through the versification—including, perhaps, the Paduan medical doctor who copied the sole extant version of the text sometime around 1300—we can reasonably wonder how it might have shaped their responses to usurers and those who harbored them.

[15] "Le Dit du Concile de Lyon," eds. Louis Carolus-Barré and Jean-Charles Payen, in *1274, Année charnière: mutations et continuités* (Paris: Éditions du CNRS, 1977), 915-67, at 945, ll. 789-96: "Et vous dirai des usuriés: / Ne presteront més, ce sachiés. / S'ils prestent, més qu'il soit seü, / Il seront por bougres tenu / Et li seingneur esconmenié / En cui terre et en cui contree / Il presteront més a usure / Car Dex de cel mest[i]er n'a cure."

The versification is an especially conspicuous example of textual reworking, but the phenomenon occurs throughout the history of *Usurarum voraginem*'s dissemination. In many instances, such reworkings did not touch directly on the substance of the decree's provisions. One scribe, for instance, substituted *exire compellant* ("compel to depart") for *expellant* ("expel").[16] Changes to the timeframe for implementation are particularly common. In a register of the Lyonese decrees largely compiled during the council itself (with a few entries added immediately afterward) and now housed in the archives of Durham Cathedral, the scribe noted that *Usurarum voraginem*'s provisions were to be implemented within one month (*infra mensem*), in keeping with the canonical norm, rather than the three months specified in the promulgated version of the decree.[17] Whether this was a scribal slip or a relic of deliberations at the council itself is unclear, but it is echoed in the widely disseminated *Directorium iuris,* a legal and confessional manual composed in the first quarter of the fourteenth century by the Franciscan Peter Quesnel of Norwich.[18] A century and a half later, the same one-month window would make its way into a Lenten sermon on usury by the Observant Franciscan Giacomo della Marca, who drew heavily from his Quesnel's work.[19] In other cases, competent authorities

[16] Kempen, Propsteiarchiv, H 49 [*non visu*]; cited in Joachim Vennebusch, "Fragmente aus zwei dekretalischen Handschriften im Propsteiarchiv Kempen. Beschreibung und Hinweise zur Methode der Fragmentbearbeitung," in *Quellen und Beiträge aus dem Propsteiarchiv Kempen,* ed. Hanns Peter Neuheuser, 2 vols. (Cologne: Böhlau, 1994-98), 2.141-71, at 170 n.72.

[17] Durham, University Library Special Collections, Muniments of the Dean and Chapter, Loc. I.60* [*non visu*]; edited by Burkhard Roberg in "Einige Quellenstücke zur Geschichte des II. Konzils von Lyon," *Annuarium historiae conciliorum* 21 (1989), 103-46, at 131-146 [=nr. 10]. The passage in question is found on p. 142 of Roberg's edition. For a detailed analysis of the Durham register and its redaction, see Peter Johanek, "Studien zur Überlieferung der Konstitutionen des II. Konzils von Lyon (1274)," *ZRG* 96, *Kan. Abt.* 65 (1979), 149-216, at 165-69.

[18] The work survives in numerous MSS; here I am relying on Troyes, Bibliothèque municipale [now Médiathèque de l'agglomération troyenne], MS 75, fol. 195ra.

[19] Vatican City, BAV, Vat. Lat. 7780, fol. 11r. For Giacomo's use of the *Directorium iuris*, see Renato Lioi, "Il *Directorium Juris* del francescano Pietro Quesvel nei sermoni domenicali di San Giacomo della

simply compressed *Usurarum voraginem*'s timespan when implementing its provisions within their own jurisdictions, perhaps in order to bring them in line with local administrative or legislative customs. The canons of a provincial council held in Mainz in late 1274 or 1275, for instance, specified that expulsion was to be implemented "within two months (*infra duos menses*),"[20] while Cardinal Orsini opted for a one-month span in the legatine constitutions he issued for Florence in 1327, as did the Franciscan preacher Giacomo della Marca in a sermon cycle from the mid-fifteenth century.[21] In some cases, the implementation window was brief indeed. In his 1274 expulsion order, Edward I of England set the timeframe for implementation at twenty days.[22] A set of synodal statutes from Aquileia issued before 1338 gave only two weeks for foreign usurers to depart from the diocese.[23] It bears noting that in all of these examples, the altered timescales never exceeded the three months laid out in the decree. For those authorities reissuing *Usurarum voraginem* in a local context, or seeking to promulgate its

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Marca," *Studi francescani* 59 (1962), 213-69, in particular at p. 256. Giacomo must also have made recourse to other sources, since he notes that lay offenders were to be constrained by their bishops, an elaboration lacking in Quesnel's text.

[20] The same reading is found in both of the extant copies of the text: Oxford, Bodleian Library, MS Laud misc. 401, fols. 1r-6v, at 3r (ca. 1300); and Leipzig, Universitätsbibliothek, lat. 1085, fols. 33r-37r, at 34v (mid-fourteenth century; less reliable than the Oxford MS). An edition is given in Peter Johanek, *Synodalia. Untersuchungen zur Statutengesetzgebung in den Kirchenprovinzen Mainz und Salzburg während des Spätmittelalters* (Habilitationsschrift, Univ. Würzburg, 1978), Bd. 3, Anhang 2, Nr. 1, 71-106, at 85-87 [=c. 13].

[21] Florence (1327), c. 5.5: in *I capitoli del comune di Firenze: Inventario e regesto. T. 2*, ed. Alessandro Gherardo (Florence: Cellini, 1893), 39; Giacomo della Marca, *Sermones dominicales,* ed. Renato Lioi, 3 vols. (Falconara Marittima: Biblioteca francescana, 1978), 2.26-46, at 45 [=sermo 32, c. IV, art. 5].

[22] *Calendar of the Close Rolls Preserved in the Public Record Office*: *Edward I (1272-1307)*, 5 vols. (London: H. M. Stationery Office, 1900-08), 1.108 (9 November 1274).

[23] The Aquileian statute (of uncertain dating) was reissued in 1338 as part of a synodal compilation; see Aquileia (1338), pt. 2, c. 16: in *Sinodi aquileiesi*, ed. Giacomo Marcuzzi (Udine: Tipografia del patronato, 1910), 361. For a further discussion of this statute, see below, 267-68.

provisions within their own jurisdictions, the three-month window of *Usurarum voraginem* therefore seems to have been an upper limit rather than a fixed delay.

Other changes to the decree's text affected more substantive matters, such as the question of who exactly was to be expelled. Sometimes the redactor or author simply replaced the decree's language of foreignness with more familiar terminology. In his gloss on *Usurarum voraginem* from ca. 1276, Francesco d'Albano noted that the decree spoke of "outsiders and foreigners (*extraneis et alienigenis*)."[24] While the word *extraneus* does not in fact occur in the decree itself, it occurs over forty times in Gratian's *Decretum* and the *Liber Extra*, the two dominant collections of canon law at the time d'Albano was compiling his gloss. The term *oriundus*, by contrast, is found nowhere in either collection. In replacing it with *extraneus*, d'Albano was presumably trying to recast the decree's language of foreigness in terms that would better resonate with his intended audience.[25] The same process can be seen even more clearly where vernacular translations of the decree are concerned. For Thomas Wilson, the sixteenth-century English rhetorician and judge, the decree's provisions concerned any usurer dwelling "in any other shyre then where hee was borne." Whatever this may tell us about the meaning of

[24] "*Lectura* des Franciscus de Albano," 61.

[25] Several later thinkers would follow his lead. The Carmelite Guido Terreni (d. 1342) consistently uses the substitute term *extraneus* in his quodlibetal treatment of *Usurarum voraginem*; see his Quodlibet 6.12, in "Una soluzione teologico-giuridica al problema dell'usura in una questione «de quodlibet» inedita di Guido Terreni (1260-1342)," ed. Pier Giorgio Marcuzzi, *Salesianum* 41 (1979), 647-84: "Unde dominus papa non solum infligit penas contra indigenos, sed eciam contra usurarios extraneos sustinentes" (p. 663); and "Unde si generaliter dominus papa non punit, in capitulo Usurarum voraginem Libri VI, permictendo usurarios oriundos, sed non extraneos, per quod res publica depauperatur" (p. 665). In a *Tabula decretalium et libri sexti* by Nicolas d'Ennezat (Nicolaus de Anesiaco), a French Dominican active in the first quarter of the fourteenth century, the targets of the canon are defined as *usurariis extraneis* (Munich, BSB, Clm 9657, fol. 83r), while the Mallorcan canonist Bernardo Raimundo, writing slightly earlier, glossed the term *alienigenas* as *id est penitus extraneos* (Paris, BnF, lat. 4089, fol. 64r).

foreignness in Elizabethan England, it takes us a very long way indeed from the intentions and worldview of the decree's drafters.[26]

More commonly, the reference to foreignness was simply omitted altogether, as in the French versification discussed above. In some cases, such as the 1281 synodal statutes of Braga and the 1296 civic statutes of Pistoia, ecclesiastical and civic authorities ordered the expulsion of all usurers without directly citing *Usurarum voraginem*.[27] Since neither Braga nor Pistoia seems to have had a resident population of foreign moneylenders, we seem to be dealing here with cases in which local legislators, inspired by *Usurarum voraginem* but not drawing directly on its authority, adapted the decree's provisions to suit local concerns.[28] Elsewhere, by contrast, the decree was cited explicitly even as its distinctions were being elided. In October 1274, the bishop of Angers proclaimed that the decree's penalties were to fall on all those who were "openly engaging in usurious lending (*pecuniam fenebrem in exercentibus publice*)," while a 1282 provincial canon from Tours claimed that *Usurarum voraginem* called for the expulsion of manifest usurers from the lands of the faithful.[29] The renowned fourteenth-century jurist Luca da

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[26] Thomas Wilson, *A Discourse upon Usury* (London: Bell & Sons, 1925), 324 [="Doctours Oracion," §10].

[27] Braga (1281), c. 15: in *Synodicon Hispanum,* ed. Antonio García y García, 12 vols. (Madrid: Biblioteca de Autores Cristianos, 1981-[2014]), 2.15; for Pistoia, see *Statutum potestatis Comunis Pistorii anni MCCLXXXXVI*, ed. Ludovico Zdekauer (Milan: Hoepli, 1888), 249 [=4.122]. The Pistoian statute, which banned any public usurer (*publicus usurarius*) from dwelling in the city or diocese, persisted into fourteenth-century redactions; see Archivio di Stato di Pistoia, *Statuti e ordinamenti* 6, *Statuta et ordinamenta Comunis civitatis Pistorii 1344*, 3.32, cited in Giampaolo Francesconi, "Qualche considerazione sull'attività creditizia a Pistoia in età comunale," in *L'attività creditizia nella Toscana comunale. Atti del Convegno di Studi, Pistoia-Colle di Val d'Elsa (26-27 Settembre 1998)*, eds. Antonella Duccini and Giampaolo Francesconi (Pistoia: Società pistoiese di storia patria, 2000), 151-90, at 186.

[28] The same is likely true for the diocesan statutes of Osma (prov. Burgos), cited above, p. 193 n.148, which similarly dropped the decree's restriction to foreigners.

[29] Angers (1274), c. 4: in *Statuts synodaux* 3, 122-24; and Tours (1282), c. 6: in *Les conciles de la province de Tours/Concilia provinciae Turonensis (saec. XIII-XV)*, ed. Joseph Avril (Paris: CNRS, 1987), 282.

Penna likewise dropped any mention of foreignness in classifying usurers among malefactors who ought to be expelled from cities, for which he cited *Usurarum voraginem* explicitly.[30] In a Lenten sermon cycle from the early fifteenth century, the German preacher Johannes Bischoff would claim that *Usurarum voraginem*'s penalties fell on all usurers, and the Franciscans Michele Carcano and Roberto Caracciolo did likewise in Lenten sermon cycles from the end of the same century.[31] These are but a handful of examples among many, and although some might be chalked up to haste or carelessness, they collectively suggest the diffusion of a "shorthand" understanding of the decree that glossed over its restriction to foreigners.

Other authorities chose to expand the decree's reach by specifying that the expulsion provision applied to both local and foreign usurers. For instance, the 1274/75 provincial canon from Mainz, issued under the auspices of an archbishop who had himself been present at the Second Council of Lyon, explicitly cited native usurers alongside foreign ones.[32] Similarly, an early fourteenth-century synodal statute from Lucca declared that nobody was permitted to lend

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[30] *Commentaria in tres posteriores libros Codicis Justiniani* (Lyon: s.n., 1582), fol. 178va [=*ad Cod*. 11.41.6].

[31] Johannes Bischoff, Sermon on John 2:15 (*Cum fecisset quasi flagellum*), in Munich, BSB, Clm 3543, fols. 148r-155v, at fol. 153v; Michele da Carcano, *Sermones quadragesimales de decem preceptis* (Venice: Giovanni & Gregorio de' Gregori, 1492/93), fol. 169v [=Sermo 59]; Roberto Caracciolo, *Sermones quadragesimales de peccatis* (Venice: Andrea Torresano, 1488), fols. 172r-178r [=Sermon 38, on *De peccato exercando usure et avaricia usurariorum*], at fol. 178r. Caracciolo's sermon only mentions the housing ban and singles out clerical transgressors for punishment.

[32] Mainz (1274x1275), c. 13: in Johanek, *Synodalia*, Bd. 3, Anhang 2, Nr. 1, 71-106, at 85-87. It is unlikely that this can be dismissed as a scribal error, with *etiam* replacing the *alios non* of the original text; rather, *etiam* was presumably meant to emphasize the inclusion of native usurers alongside the foreign ones cited in *Usurarum voraginem*. For Archbishop Werner von Eppstein's presence at Lyon (along with six of his suffragan bishops), see Louis Carolus-Barré, "Les pères du II^{e} concile de Lyon (1274): esquisses prosopographiques," in *1274, Année charnière*, 377-423, at 398, 413.

at usury within the city or diocese, be they foreign or local (*alienigena vel terrigena*), nor was anyone to rent houses to such usurers.[33]

An unusual middle path is found in the early fourteenth-century synodal statutes of Carcassonne: here clerics were banned from renting houses to foreign usurers on pain of excommunication, but in addition, they were ordered to expel *all* manifest usurers from their jurisdictions; and the same distinction was taken up in the later statutes of Elne, Saint-Flour, and Pamiers.[34] It is quite possible that this resulted from an inattentive reading of the decree, or perhaps even from a faulty exemplar. Indeed, it is only a single word (*huiusmodi*) that establishes that the housing ban's restriction to foreigners extends to the expulsion provision as well (rather than the latter applying to all usurers, regardless of their origins). Needless to say, an inattentive scribe or reader might easily have missed it. Even if this was an instance of editorial sloppiness on the part of the Carcassonne drafters, however, it is notable that none of the subsequent redactions saw fit to correct it.

In the above cases, interpretative flexibility was the direct outcome of textual instability. Yet even in the decree's codified form, as found first in the *Novissimae* and later in the *Liber Sextus*, the correct interpretation of its language and provisions proved an enduring subject of debate among canonists and other contemporary observers. As we saw in Chapter Three, debates over the precise meaning of the terms *alienigena* and *non oriundus* had exercised the minds of canonists from the moment of the decree's formal promulgation. Indeed, most of the early

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[33] "La sinodo lucchese di Enrico del Carretto," ed. Raoul Manselli, in *Miscellanea Gilles Gérard Meersseman*, 2 vols. (Padua: Editrice Antenore, 1970), 1.197-246, at 232-33 [=c. 56].

[34] Carcassonne (1300x1322), in Paris, BnF, lat. 1613, fol. 56r; Elne (1326), in Perpignan, Bibliothèque municipale [now Médiathèque municipale], MS 79, fol. 86rb; Saint-Flour (1326), in Paris, BnF, lat. 1595, fol. 48v; Pamiers (1326x1347), in Toulouse, Bibliothèque municipale [now Bibliothèque d'étude et du patrimoine], MS 402, fol. 13va.

canonist commentators felt it necessary to clarify first that the decree's provisions were not to apply to "local (*indigenos*)" usurers, before tackling the more challenging issue of who exactly was to be considered *alienigena* or *non oriundus*.

The dynamics of such textual interpretation and transformation emerge plainly from a comparison of confessors' manuals. In John of Freiburg's *Summa Confessorum* (ca. 1298), for instance, the extended quotation from *Usurarum voraginem* duly cited the decree's restriction to foreign usurers.[35] By contrast, in Brother Berthold's vernacular translation, produced roughly a century later, the clergy were ordered to expel usurers (*wüchrer*) on pain of suspension or excommunication (depending on their rank), and recalcitrant secular authorities were likewise threatened with excommunication.[36] Here, therefore, the simultaneous processes of translation and abbreviation led to the omission of the restriction to foreign usurers that the base text had been careful to maintain. On the Franciscan front, the rubric of John of Erfurt's *Summa confessorum* (ca. 1303) declared that "notorious usurers (*usurarii notorii*)" were not permitted to rent houses for the purposes of usury, but the accompanying text—which hewed closely to *Usurarum voraginem*—clarified that this applied only to foreigners (*aliquos alienigenas vel aliquos non oriundos*…).[37] His fellow Franciscan Astesanus attempted to specify the targets even further, asserting that *Usurarum voraginem*'s provisions applied to foreign usurers "even if they were citizens or residents (*etiam si sint cives vel incole*)" of the towns where they were

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[35] *Summa Confessorum* (Augsburg, 1474), Bk. 2, tit. 7, q. 71.

[36] *Die 'Rechtssumme' Bruder Bertholds. Synoptische Edition der Fassungen B, A und C*, eds. Georg Steer et al., 8 vols. (Tübingen: Niemeyer Verlag, 1987-2006), 4.2334-37: "Ain gaiſtleich herr, hältet der in ſeinem land wüchrer, oder verchaufft in order in hin lat häwſer, den ſol man ſeins ampts perauben. Vnd iſt er nit gewaltig, ſo ſol man in in den pan tun. Aber weltleich herren vnd pürger vnd ander layen, dye sol man twingen mit dem pan, daȝ ſi daȝ laſſen."

[37] *Die* Summa confessorum *des Johannes von Erfurt*, ed. Norbert Brieskorn, 3 vols. (Frankfurt: Lang, 1980-81), 3.1227 [=2.6.4.6].

carrying out their trade—here drawing directly on the ordinary gloss to the *Liber Sextus*.[38] So where some compilers, such as Brother Berthold, opted to simply omit the decree's distinction between locals and foreigners, others, such as Astesanus, sought to clarify and refine the terms used to frame the distinction in the first place.

These elisions, rephrasings, and variations on the question of the decree's targets had little discernible effect. With one significant exception, to be discussed in the next chapter, there is no sign that debates over *Usurarum voraginem*'s targets played out on a practical level, nor was the decree (or a reworked version thereof) ever used to enforce the expulsion of local usurers as opposed to foreign ones.

By contrast, the unstable transmission and contested interpretation of two other parts of the decree may have contributed directly to the general absence of expulsions. Let us start by looking at the relationship of the penalty clauses to the expulsion provision and the housing ban. We have already seen, in the preceding chapter, how a number of local repromulgations of *Usurarum voraginem* included its ban on housing usurers but not the requirement for expulsion, which in turn suggests a certain reticence where the latter was concerned. In fact, the exclusive focus on the housing ban was not entirely arbitrary, or rather, it could be defended by a somewhat strained reading of the decree itself. The passage in question is lengthy, but it is worth reviewing it in full:

> Neither a college, nor other community, nor an individual person, of whatever dignity, condition or status, may permit those foreigners and others not originating from their territories, who practise usury or wish to do so, to rent houses for that purpose or to occupy rented houses or to live elsewhere; rather, they must expel all such notorious usurers from their territories within three months, never to admit any such for the future. Nobody is to let houses to them for usury, nor grant them houses under any other title.

[38] *Summa de casibus conscientiae* (Strasbourg: Johann Mentelin [not after 1469]), fol. 122va [=3.11].

> But those who act otherwise, if they are ecclesiastical persons, patriarchs, archbishops or bishops, are to know that they incur automatic suspension; lesser individual persons, excommunication; colleges or other communities, interdict. [39]

A closer look at the opening of the penalty clause, namely, "But those who act otherwise… (*Qui vero contrarium fecerint*...)," reveals that the phrase does not spell out its precise antecedents. Reading the text quickly, it seems natural to take the clause as referring to those who contravene any of the earlier substantive provisions, and that is indeed how Giovanni d'Andrea's ordinary gloss to the *Liber Sextus* interpreted the phrase. On a purely grammatical front, however, one could instead take it as referring only to the preceding sentence, rather than everything that came before. In this reading, the decree's sanctions for noncompliance applied only to those who rented houses to foreign usurers, and not to those who failed to expel them. This narrow reading, though bordering on tendentious, was hardly exceptional. Indeed, in two of his quodlibets, Godfrey de Fontaines noted that the narrow reading was preferred by some (*quibusdam*), especially in light of the juristic convention that penalties were to be construed strictly (*poenae sunt restringendae*).[40] In the earlier of the two quodlibets, Godfrey himself refrained from coming down on one side or the other. Thereafter, however, he decided that the broader reading

[39] *COD*, 328-29: "Et quia quo minor feneratoribus aderit fenerandi commoditas eo magis adimetur fenus exercendi libertas hac generali constitutione sancimus ut nec collegium nec alia universitas vel singularis persona cuiuscumque sit dignitatis conditionis aut status alienigenas et alios non oriundos de terris ipsorum publice pecuniam fenebrem exercentes aut exercere volentes ad hoc domos in terris suis conducere vel conductas habere aut alias habitare permittant sed huiusmodi usurarios manifestos omnes infra tres menses de terris suis expellant numquam aliquos tales de cetero admissuri. Nemo illis ad fenus exercendum domos locet vel sub alio titulo quocumque concedat. Qui vero contrarium fecerint si personae fuerint ecclesiasticae patriarchae archiepiscopi episcopi suspensionis minores vero personae singulares excommunicationis collegium autem seu alia universitas interdicti sententiam ipso facto se noverint incursuros."

[40] Quodlibets 12.9 and 13.15, in *Les Quodlibets onze-quatorze*, 117, 292.

was "probably the better one (*forte melius*)," and even framed the other as a conscious effort to avoid the decree's more stringent requirements.[41]

Godfrey did not specify by name any of those who favored the narrow reading, but they included García (Garsias Hispanus; fl. 1278-1289), a Bologna-trained canonist and author of the most frequently copied early commentary on the *Novissimae*.[42] Glossing "act otherwise (*contrarium fecerint*)," García declared that this meant "allowing them [i.e. foreign usurers] to rent houses for the purpose of lending at interest (*eos permittendo hospitia ad fenus exercendum conducere*)."[43] Here the expulsion provision is conspicuously absent. Additionally, Jean Lemoine (Johannes Monachus; 1250-1313), whose *Glossa aurea* remained the standard gloss on the *Liber Sextus* in northern academic circles throughout much of the early fourteenth century, copied García's gloss verbatim, disseminating his narrow construction yet further.[44] Not all early canonists followed this reading; Guillaume Durand held to a broad interpretation, for example,

[41] This potential ambiguity would seem to be another casualty of over-hasting drafting during the council itself. In the draft version of *Usurarum voraginem* found in St. Florian, Stiftsbibliothek, MS XI 722, fol. 32rv (as well as Washington D.C., Library of the Catholic University of America, MS 183, fols. 6vb-7va), the phrase beginning "Nobody is to let houses… (*Nemo illis…*)" is absent; it is the insertion of this phrase in the revised version of the decree that renders the scope of the penalty clause open to debate. Moreover, in the draft version of the decree, excommunication is set as the penalty for those who rent houses to manifest usurers, while the more elaborate hierarchy of penalties pertained to those who failed to expel them. To privilege the housing ban over the expulsion order, as did those holding to the narrower reading of the decree, was therefore to invert the original intentions of the decree's drafters, at least as expressed in the draft version.

[42] On García's name and career, see Peter Linehan, "Gar.: A Case of Mistaken Identity," *Revista española de derecho canónico* 55 (1998), 749-54.

[43] Paris, BnF, lat. 8923, fol. 235v.

[44] *Glossa aurea nobis priori loco super sexto decretalium libro addita cum additionibus Philippi Probi biturici et in supremo parisiensi senatu advocati* (Paris, 1535; repr. Aalen: Scientia Verlag, 1968), fol. 373r. On Lemoine's influence as a canonist, see Ronald A. Steckling, "Jean Lemoine as Canonist and Political Thinker," (unpublished Ph.D. dissertation, University of Wisconsin, 1964), ch. 7.

and most other commentaries on the *Novissimae* ignored the question altogether.[45] But the commentaries of García and Lemoine were both highly respected and widely read. Moreover, most contemporaries would have agreed with Richard Trexler's formulation that "the law was what the lawyers said it was."[46] In the late thirteenth and early fourteenth centuries, many, perhaps even most, of those who turned to the leading canonistic commentaries for guidance would therefore have learned that *Usurarum voraginem*'s severe sanctions fell only on those who rented houses to foreign usurers, and not on those who failed to expel them. The decree still mandated expulsion, of course, but there were no explicit penalties for those who did otherwise. Only with the gradual diffusion of Giovanni d'Andrea's ordinary gloss would the more expansive reading become the exception, rather than the norm.

Let us look now at a third part of the decree, namely, who exactly was responsible for implementing the decree's provisions. Here the impact of interpretative uncertainty and textual instability is less easy to trace, significant thought it may have been. The decree as promulgated was clearly aimed at all authorities or landlords, whether secular and ecclesiastical. That said, the automatic sanctions fell only on ecclesiastical persons or institutions. As for lay transgressors, their bishops were responsible for imposing ecclesiastical censures in order to compel cooperation. This distinction had obvious practical implications, but it was conceptually straightforward. Of course, in a world where scribal errors were an ever-present danger, an inadvertent misreading could easily lead to confusion. In the Durham register, for instance, we

[45] For Durand, see *In sacrosanctum Lugdunense concilium sub Gregorio X Guilelmi Duranti cognomento Speculatoris commentarius* (Fano: Moscardo, 1569), fol. 90r [=§*contrarium*]. Durand revised his commentary on the *Novissimae* over the course of the 1280s, but did not make any changes to his gloss on *Usurarum voraginem*. See above, p. 180 n.99.

[46] Richard C. Trexler, *Synodal Law in Florence and Fiesole, 1306-1518* (Vatican City: Biblioteca Apostolica Vaticana, 1971), 14.

find an evident scribal slip in the list of those subject to automatic sanctions: instead of *persone singulares* (which, in context, would denote individual clerics, as opposed to a *collegium* or *universitas*), the scribe wrote *persone seculares* (that is, secular persons). So far as anyone relying on the Durham register was concerned, this simple error considerably expanded the roster of those subject to *ipso facto* excommunication.[47]

Similar broadenings are to be found elsewhere. In some mid-fourteenth-century synodal statutes from the diocese of Pamiers (50 miles south of Toulouse), the drafter declared that "any lord (*quicumque dominus*)" who failed to expel manifest usurers from his lands or who rented houses to them for the purposes of usury was to suffer excommunication; here the phrasing implicates secular and ecclesiastical authorities alike.[48] Along the same lines, the Florentine synodal statutes issued by Bishop Angelo Acciaiuoli (r. 1342-1355) in the mid-fourteenth century included a long list of reserved cases, among them the excommunication imposed on "lords or other individuals (*domini sive singulares personae*)" who allowed foreigners to rent houses in their lands for the purposes of usury.[49] Thus, where *Usurarum voraginem* had left the punishment of lay offenders to the discretion of the competent religious authorities, Acciaiuoli, like his counterpart in Pamiers, explicitly subjected them to the penalty of excommunication.

A far more common variation, however, was to drop any reference to the laity and refocus of the decree as a matter of exclusively clerical concern. In the 1289 synodal statutes of Rodez, for example, the sole reference to *Usurarum voraginem* occurs within a list of transgressions

[47] Roberg,"Einige Quellenstücke," 142.

[48] Pamiers (1326x1347), in Toulouse, Bibliothèque municipale, MS 402, fol. 13rb-va.

[49] Florence (1342x1352), c. 16: in Ildefonso di San Luigi, ed., *Etruria sacra triplici monumentorum codice canonico, liturgico, diplomatico…* (Florence: Cambiagi, 1782), 50. For the dating of these statutes, see Richard C. Trexler, "Death and Testament in the Episcopal Constitutions of Florence (1327)," in *Renaissance: Studies in Honor of Hans Baron*, eds. Anthony Molho and John A. Tedeschi (Florence: Sansoni, 1971), 30-74, at 32 n.4.

punishable by excommunication, interdict, and suspension. Hewing closely to the wording of *Usurarum voraginem*, the Rodez text notes that these penalties will be applied respectively to clerics, colleges, and prelates who house foreign usurers or allow them to dwell within their lands. But where *Usurarum voraginem* goes on to declare that layfolk "are to be restrained from such transgression through their ordinaries by ecclesiastical censure," the Rodez text makes no mention of lay transgressors or the penalties they were to incur.[50] This passage was then copied verbatim into the 1318 synodal statutes of Cahors, Rodez, and Tulle, the 1340 synodal statutes of Albi, and (with minor modifications) the 1358 synodal statutes of Castres.[51] Taking a rather different approach, the Mainz canon of 1274/75 declared that it was the usurers themselves who were to face ecclesiastical censures at the hands of their bishops, rather than the lay authorities who failed to implement the decree's provisions.[52]

This shift in focus was not restricted to ecclesiastical legislation. Consider the *Summa Theologica* of the fifteenth-century Florentine saint-bishop Antoninus. In his treatment of excommunication, Antoninus observed that this penalty fell on clerics who rented houses to foreign usurers, while higher ecclesiastical dignitaries were struck with suspension. As for secular lords who rented houses to usurers or allowed them to dwell in their lands, Antoninus omitted any mention of the "ecclesiastical censure" specified in *Usurarum voraginem*, instead

[50] Rodez (1289), c. 17.10: in *Statuts synodaux* 6, 178.

[51] Cahors/Rodez/Tulle (1318), c. 25: in Edmond Martène and Ursin Durand, eds., *Thesaurus novus anecdotorum*, 5 vols. (Paris: Delaulne, 1717), 4.744; Albi (1340): in *Synodale diocesis albiensis omnibus presbyteris curam animarum habentibus necessario pervium* (Limoges: Berton, 1528), fol. 42v; Castres (1358): in Paris, BnF, lat. 1592A, fol. 47rv.

[52] Mainz (1274x1275), c. 13: in Johanek, *Synodalia*, Bd. 3, Anhang 2, Nr. 1, 71-106, at 85-87: "…usurarii sub quocumque pallio pravitatem usurariam exercentes per ordinarios per censuram ecclesiasticam ab excessu huiusmodi, omni cessante privilegio compescantur."

noting merely that they were required to make proper restitution of whatever revenues they had levied from the usurers—a threat to their strongboxes, perhaps, but not to their souls.[53]

Given the intended audiences of synodal statutes and theological treatises, it is not surprising that these reframings generally led to a focus on clerical misdemeanours. But as we saw in the previous chapter, such texts were also an important (if sometimes indirect) vehicle for the transmission of the general law of the church into local contexts. For readers or listeners who encountered *Usurarum voraginem* only in the context of its automatic sanctions, the decree's implications for layfolk were noticeably absent. It is therefore conceivable, even likely, that lay transgressors in some jurisdictions accordingly faced less ecclesiastical pressure than might otherwise have been the case, though this is all but impossible to prove.

Obviously, semantic ambiguities and the vagaries of textual transmission explain only a part of the widespread failure to enforce *Usurarum voraginem*'s expulsion provision, and probably a rather small part at that. As we saw in the previous chapter, the decree could reach its intended audiences through a variety of channels, and only a few of these carried with them the textual reworkings that we have encountered above. Moreover, although most ecclesiastical authorities probably had access to the full version of the decree (whether via the *Novissimae* or, after 1298, via the *Liber Sextus*), not all of them necessarily turned to the writings of canonists for elucidation. This is even more true where secular authorities are concerned. All the same, whether or not Godfrey was correct in seeing the narrow reading of *Usurarum voraginem*'s

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[53] *Summa Theologica* (Verona: ex typographia Seminarii, 1740), 2.154-58 [=2.1.10] and 3.1359-60 [=3.24.49]. By contrast, in enumerating reserved cases in one of his handbooks for confessors, Antoninus noted that bishops were to constrain lay authorities to expel usurers from their lands, though he erroneously attributes this to *Quamquam* rather than *Usurarum voraginem*; see his *Tractato volgare di frate Antonino arcivescovo di Firenze che e intitolato Curam illius habe* (Florence, 1493), fol. E5v: "Ma se esono secolari quelli equali alluogano case a tali usurai & non inde natiui debbono essere dauescoui loro constrecti arrimuouere et torre tali allogagioni o giudei o christiani che si sieno tali prestatori in decto capitulo *Quamquam*."

penalty clause as deliberately evasive, there is no doubt that it made it much easier for concerned parties to ignore the expulsion provision. And ignore it they did—except for a few. It is to these few exceptions that we now turn.

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The official promulgation of *Usurarum voraginem*, together with the thirty other decrees passed at the Second Council of Lyon, took place on November 1, 1274, three months after the Council's conclusion. Well before *Usurarum voraginem*'s promulgation, Philip III of France had already taken the opportunity to order the expulsion of foreign usurers from his realm. His ordinance, issued at the Parlement of Paris in August 1274, called on his bailiffs to expel from the kingdom any "Lombards, Cahorsins, and other foreigners (*Lombardis, Caorcinis, et aliis alienigenas*)" who were publicly lending at interest. Foreigners engaged in legitimate commerce, however, remained free to come and go as they wished.[54] As the first article in the ordinance explicitly acknowledged, its language and structure followed closely on the ordinance that Louis IX, Philip's father, had issued five years previously. (As we saw in Chapter Two, Louis IX's ordinance was also the principal inspiration for the Lyonese decree itself.) Indeed, the only substantive difference between the two ordinances was the specification of a two-month implementation window in 1274, rather than the three months set forth in 1269.[55] The influence of *Usurarum voraginem* is therefore betrayed not so much by the substance of Philip's ordinance

[54] *Ordonnances des roys de France de la troisième race…,* ed. Eusèbe Jacob de Laurière et al., 23 vols. (Paris: Imprimerie royale, 1723-1849), 1.298-300. Given the speed with which Philip issued his ordinance, it is quite possible that it was among the topics that he had discussed with Pope Gregory X during his visit to Lyon earlier that year; see Jacques Le Goff, *Saint Louis* (Paris: Gallimard, 1996), 353. A copy of the ordinance sent to the seneschal of Carcassonne on 23 October 1274 (see Paris, BnF, lat. 9988, fol. 117rv) does not differ meaningfully from the earlier version edited by de Laurière.

[55] *Ord.* 1.69.

as by the timing of its promulgation, which occurred less than three weeks after the Council's final session.

Across the Channel, Edward I of England soon followed Philip's example. On November 9, he sent a mandate to the mayor and sheriffs of London, declaring that "the king wills that merchant-usurers (*mercatores usurarii*) shall not stay in the city or elsewhere in the realm."[56] Any who remained in the kingdom past the twenty-day limit would face arrest and confiscation of their property. Like its French counterpart, the English mandate made no mention of the Lyonese decree, and it likewise followed parental precedent, namely, the expulsion orders that his father Henry III had issued between 1240 and 1253.[57] Given the timing of the mandate, which followed so swiftly on the heels of the Council itself, there is again no doubt that *Usurarum voraginem* played a significant role in the royal decision to order once again the expulsion of foreign usurers from England. That said, the mandate was also part of a broader campaign against usury that Edward had launched earlier that fall, which targeted not only foreigners, but also—in a sharp break with earlier practice—native Christian and Jewish moneylenders.[58]

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[56] *Calendar of the Close Rolls preserved in the Public Record Office. Edward I (1272-1307)*, 5 vols. (London: H. M. Stationery Office, 1900-08), 1.108.

[57] *CCR Henry III*, 4.239 (30 June 1240); *CCR Henry III*, 5.319 (24 June 1245); *CCR Henry III*, 7.479 (11 June 1253).

[58] See Gwen Seabourne, *Royal Regulation of Loans and Sales in Medieval England: "Monkish Superstition and Civil Tyranny"* (Woodbridge: Boydell Press, 2003), 29-32, 40-42, 49-52. The expulsion order was evidently not the opening salvo in the king's anti-usury campaign, since an entry in the Close Rolls dated November 2 notes the indictment and imprisonment of two Londoners for trespasses relating to usury; see *CCR Edward I*, 1.107. Further evidence concerning this episode is found in *Calendar of Patent Rolls Preserved in the Public Record Office: Edward I*, 4 vols. (London: H. M. Stationery Office, 1893-1901), 1.73 (3 December 1274); and *The London Eyre of 1276*, ed. Martin Weinbaum (Leicester: London Record Society, 1976), 85 [=no. 306].

Judging from a letter sent in January 1275, it is clear that Edward clearly intended for the expulsion order to be carried out, at least in the short term. Noting that he had heard that some merchant-usurers remained in London and elsewhere "contrary to the prohibition," the king wrote to his treasurer and the two officials who had been named inquisitors into usury, ordering them to inquire carefully into the matter and imprison any transgressors.[59] It also seems clear that some Italians did indeed leave the kingdom in response to the king's mandate. On June 8, 1275, for example, two Sienese merchants were granted a royal safeconduct allowing them to come to the kingdom "to treat with the king on certain business," presumably relating to a royal pardon that would be mooted the following week. Since the pardon (which was finally granted in July 1281) concerned trespasses for usury, it seems probable that these merchants had left the realm and were indicted *in absentia* for prior usurious transactions, and that they had since decided to return and secure a royal pardon that would allow them to resume their business dealings.[60] Others, however, seem to have been spared from the outset, most notably Lucasio Natale ("Lucas de Luca"), the principal representative of the Ricciardi firm of Lucca in England and a devoted friend of the king.[61]

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[59] *CCR Edward I*, 1.144 (23 January 1275). The two inquisitors were John de Lovetot and Geoffrey de Newbold.

[60] *Calendar of the Patent Rolls preserved in the Public Record Office. Edward I, A.D. 1272-1307,* 4 vols. (London: H. M. Stationery Office, 1893-1901), 1.93, 95, 448 (8 and 15? June 1275; 6 July 1281). Similar safeconducts were granted to two Florentine merchants on 8 March 1275 (*CPR Edward I*, 1.86).

[61] For Natale's career, see Richard W. Kaeuper, *Bankers to the Crown: The Riccardi of Lucca and Edward I* (Princeton, NJ: Princeton University Press, 1973), 5-6. Lucasio's continuing presence in England in the months following the expulsion order is attested in Edward A. Bond, "Extracts from the Liberate Rolls, Relative to Loans Supplied by Italian Merchants to the Kings of England, in the 13th and 14th Centuries," *Archaeologia* 28 (1840), 207-326, at 275 [=nos. 58, 61 (10 Dec 1274; 26 April 1275)]; *CPR Edward I*, 1.74 (28 December 1274). Aside from his ongoing financial dealings, he also served as co-inquisitor into violations of the royal embargo on wool exports to Flanders; see Kaeupers, *Bankers*, 146-47.

Whatever the scale of the exodus of Italian merchant-bankers in late 1274 and early 1275, subsequent events proved it to be merely temporary. Within a span of two weeks, starting in late May 1275, the king granted royal pardons to twenty-five Florentine, Sienese, and Pistoian merchant-bankers, along with their associates; another Florentine merchant was pardoned the following January. In each case, the merchants were henceforth allowed to remain in the kingdom and engage freely in trade and commerce, on condition that they abstained from usurious dealings of all sorts; failure to comply would result in the confiscation and forfeiture of their merchandise and other property.[62] The pardons came at a price, of course. The two Sienese merchants paid a fine of £400, and others paid sums ranging from £20 to £133.[63] A handful managed to delay paying their fine at least until 1281, though in the meantime they were apparently allowed to remain in the realm.[64] These fines were not the only revenues that the king derived from the episode: the inquisitors' investigations also turned up evidence that several Florentine firms had smuggled nearly sixty thousand sacks of wool to Flanders, in defiance of a royal export ban. With the resulting fine set at 10*s* per sack, the settlement of these trespasses netted the king nearly £3000, a figure that dwarfed the revenues from the usury pardons.[65]

These revenues were no doubt a welcome consequence of the expulsion mandate, but it is unlikely that the expectation of such a windfall played much of a role in Edward's decision to issue in the mandate in the first place. Unlike his father, who quite openly wielded the threat of

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[62] *CPR Edward I*, 1.91-93, 128 (26 May, 6 June, 10 June 1275; 13 January 1276).

[63] Kew, National Archives, PRO C 47/13/1/9 (18 May 1275); *CPR Edward I*, 1.194 (7 February 1277).

[64] Seabourne, *Royal Regulation*, 41.

[65] *CPR Edward I*, 1.91-92 (30 May 1275). Many other Italian merchants were also found guilty of smuggling wool and punished accordingly; see Kaeuper, *Bankers*, 145-47. As a comparison, the annual revenue from crown lands in 1284 was in the range of £13,000; see Mabel H. Mills, "Exchequer Agenda and Estimate of Revenue, Easter Term 1284," *English Historical Review* 40 (1925), 229-34, at 231.

expulsion as a means to extort funds from reluctant Italian moneylenders, Edward I's opposition to usury was much more than rhetorical. As we saw in Chapter One, the English crown had traditionally ceded jurisdiction over living usurers to the church, settling for the confiscation of their property upon their deaths. Edward broke with this tradition, pursuing native and foreign usurers alike from the very beginning of his reign.[66] His sudden decision in 1275 to ban Jewish moneylending was an even more striking departure from earlier royal policy.[67] So although Edward proved willing to allow Italian merchant-bankers to resume their commercial activities (after making suitable amends), he was probably quite serious in insisting that they henceforth refrain from usurious transactions. The Italians themselves certainly thought so, to judge from their subsequent lending behavior. As Mavis Mate has shown in a study of the Canterbury cathedral priory's loans from Italian merchant-bankers, even disguised usury charges seem to disappear in the years following 1274.[68] Edward's mandate to expel foreign usurers may not have resulted in a thorough or longlasting expulsion of foreigners, but the Canterbury evidence suggests that it did in fact have a marked effect on usury.[69]

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[66] Seabourne, *Royal Regulation*, 46-49.

[67] For Edward I's campaign against Jewish usury, see Paul Brand, "Jews and the Law in England, 1275-90," *English Historical Review* 115 (2000), 1138-58.

[68] Mavis Mate, "The Indebtedness of Canterbury Cathedral Priory, 1215-95," *Economic History Review*, n.s. 26 (1973), 183-97, at 190.

[69] The king notably did not use the expulsion mandate as an excuse to renege on the interest payments from prior loans. Indeed, in the case of a loan that the king had contracted with Bonasio Bonante of Florence in spring 1273, it was John de Lovetot and Geoffrey de Newbold (i.e. the two inquisitors into usury) who were charged with overseeing the repayment of the loan, including outstanding interest. The inquisitors' facility at disguising the interest payments in the final accounts perhaps explains why they were chosen to conduct the inquiry into usury in the first place. For a detailed analysis of the Bonante case, see Adrian R. Bell, Chris Brooks, and Tony K. Moore, "Interest in Medieval Accounts: Examples from England, 1272-1340," *History* 94 (2009), 411-33, at 428-31.

The French evidence is more mixed, on all fronts.[70] To begin with, the political landscape was much more complicated; despite significant gains over the course of the thirteenth century, the French king's effective authority within the lands of his neighboring vassals remained contested. What holds true for the royal domain, therefore, is not necessarily indicative of the situation in neighboring areas. Moreover, the extant sources are scattered and lacunary, where they are not lacking altogether. For Paris and its environs, our evidence concerning foreigners lending at interest either before or after the expulsion order is too scanty to draw even tentative conclusions. Indeed, the same is true for most of the royal domain, in both northern and southern France.

We know, however, that Philip made an effort to implement the expulsion order beyond the royal domain, since he expressly ordered the count of Brittany to expel Lombards from his lands.[71] Unfortunately, since foreign moneylenders are otherwise unattested in Brittany during this period, it is impossible to tell whether the count heeded Philip's dictate. The case of the duchy of Burgundy is similarly ambiguous. Although numerous records attest to the presence of Lombards in the duchy in the years surrounding the 1274 expulsion order, it is unclear whether any of them were in fact engaging in public moneylending.

As for the appanages of Anjou and Artois, held by the king's uncle and cousin, respectively, there is again no clear evidence of expulsion. In the former, Lombards appear to have been present from at least 1273, since in that year Charles I bestowed a privilege on some Lombards from the Piedmontese town of Alba, allowing them to settle in his counties of Anjou and Maine.

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[70] Much of what follows is taken from my article, "L'expulsion des usuriers lombards hors de France à la fin du XIII^{e} siècle," *Hypothèses: Travaux de l'École doctorale d'histoire de l'Université Paris I Panthéon-Sorbonne* 17 (2014), 153-62.

[71] *Les olim ou registres des arrêts rendus par la Cour du roi,* ed. Arthur Beugnot, 3 vols. (Paris: Imprimerie royale, 1839-48), 2.60 [=1274, Pallamento Candelose, no. 22].

Since the presence of Lombards is attested in Anjou in 1277, their expulsion cannot have lasted long, if it happened at all.[72] In the county of Artois, foreign moneylenders resident in Calais loaned money repeatedly to the municipal government between 1275 and 1279, which again suggests that any expulsion must have been brief indeed.[73] We can draw similar conclusions for the county of Champagne, since various Italian moneylenders are attested in Saint-Florentin and Troyes between 1275 and 1278.[74] Later evidence, probably from the reign of Philip IV, reveals that the Lombards in France were accustomed to seek asylum (*se mettre en franchise*) when royal commissioners into usury approached.[75] According to the Florentine chronicler Giovanni Villani, after Philip VI banished the Florentines from France in 1345, many of those who did not leave the realm similarly "hid themselves in asylums or in churches," albeit at their peril.[76] Whether their forebears were already doing so in 1274 is unclear, and so too is the nature of the places in which they may have taken asylum, but the practice certainly points to the Lombards' abilities to evade royal attempts at their repression.

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[72] *Actes et lettres de Charles I^er^, roi de Sicile, concernant la France (1257-1284)*, ed. Alain de Boüard (Paris: de Boccard, 1926), 177-79 [=no. 658]; *Les olim ou registres des arrêts,* 2.104-5 [=1278 n.s., Pallamento Epiphanie Domini, no. 24].

[73] Pierre Bougard and Carlos Wyffels, eds., *Les finances de Calais au XIII^e^ siècle* (Brussels: Pro civitate, 1966), 103-4 [=nos. 560, 562], 110 [=§682], 238-39 [=nos. 3829, 3838].

[74] Reichert, *Lombarden*, 639, 750-51.

[75] In order to keep the Lombards from fleeing, the commissioners were to demand security from all nearby Lombards as they traveled about; see *Ord*. 1.299-300 n.(d): "Faites qu'il donnent caution d'estre à droit que il ne se mettent en franchises, car il en sont accoustumé de se y mettre, quant il scevent que len les doit aprochier." These undated royal instructions to commissioners are included in the notes on the 1274 ordinance in de Laurière's edition, and no additional evidence can be gleaned from the eighteenth-century transcription in Paris, AN, P 2289, pp. 100-2. Given that the instructions concern an investigation into local and foreign usurers alike, they should almost certainly be associated with one of Philip IV's anti-usury campaigns, which targeted both, rather than with Philip III's, which focused on foreign (i.e. Italian) usurers.

[76] Giovanni Villani, *Nuova cronica*, ed. Giuseppe Porta, 3 vols. (Parma: Fondazione Pietro Bembo, 1990-91), 3.428 [=13.57]: "…si partissono di tutto il reame, o stessono nascosi in franchigie o in chiese co·lloro grande sconcio, interessi e dannaggio e pericolo..."

Happily, the same Tournai records that allowed us to trace the impact of Louis IX's ordinance more closely enable us to do the same for his son's.[77] Between 1259 and 1289, nearly thirty Lombards belonging to eight different families were active as moneylenders in the city. The 1274 expulsion order, however, prompted a sharp drop-off in their activities: only a single lending contract is recorded for 1275, as compared to 33 in 1273, and the following years saw a total dearth. Not until 1282 is there renewed evidence for Lombard lending, and it remains sporadic until 1288.[78] As for the Lombards themselves, some of them remained in the city, shifting their business interests instead toward the grain and cloth trade. Others crossed over into the neighboring county of Flanders, where they resumed their moneylending activities.[79] We have encountered one of these already, namely, Tommaso de Baene of Asti, who had temporarily switched his interests from moneylending to the textile trade following Louis IX's ordinance. Tommaso disappears altogether in the wake of Philip III's 1274 expulsion order, reappearing in 1281 as a resident of the Flemish town of Geraardsbergen (Grammont), some thirty miles northeast of Tournai, and then appearing in 1282 as a councillor to Beatrice of Brabant, the dowager countess of Flanders.[80] Over time Tommaso came to resume some of his

[77] See above, pp. 96-97. The relevant records are calendared in Georges Bigwood, *Le régime juridique et économique du commerce de l'argent dans la Belgique du Moyen Âge*, 2 vols. (Brussels: Lamertin, 1921-22), 1.358-59; and 2.94-95, 103-113 [=Annexe III]. Unfortunately, due to the complete destruction of the chirograph records during the Second World War, it is now impossible to normalize these figures against the total number of contracts for each year.

[78] Camille Tihon also noted the absence of contracts in the years following 1274, but did not draw the connection with the royal ordinance; see his "Aperçus sur l'établissement des Lombards dans les Pays-Bas au XIII^{e} et au XIV^{e} siècle," *Revue belge de philologie et d'histoire*, 39 (1961), 334-64, at 346.

[79] See, in general, David Kusman, *Usuriers publics et banquiers du prince: le role économique des financiers piémontais dans les villes du duché de Brabant (XIII^{e}-XIV^{e} siècle)* (Turnhout: Brepols, 2013), 79-86.

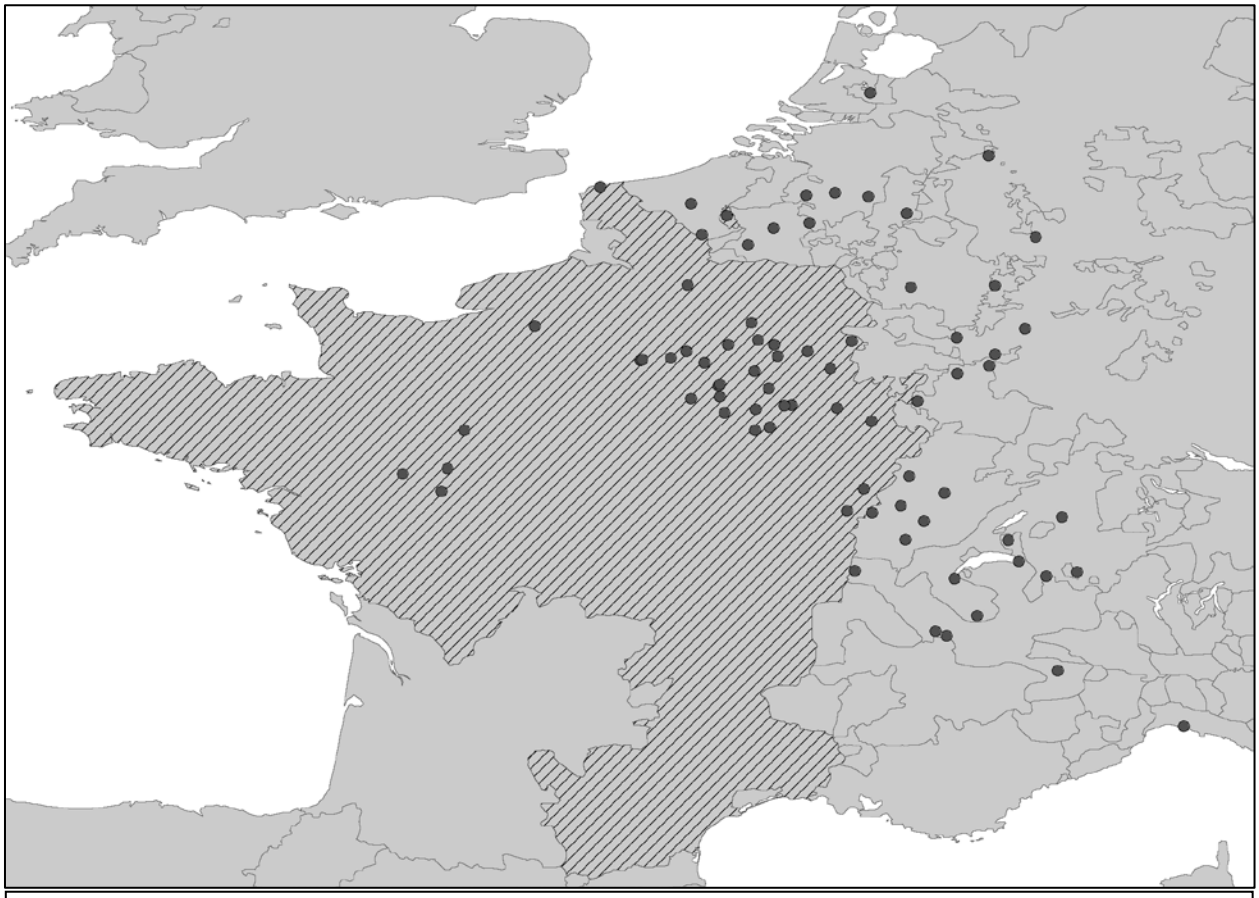
[80] Ghent, Rijksarchief Gent, Fonds Saint-Genois, no. 316 (22 August 1282); cited in Kusman, *Usuriers publics*, 85.

lending activity in Tournai, but he did so while remaining resident in Flanders.[81] On the whole, the years following 1274 saw a marked shrinking of Tournai's Lombard community, which dropped to half of its former size in the 1280s and nearly disappeared altogether in the 1290s.

The evidence from Tournai mirrors a broader pattern within the lands subject to French suzerainty, namely, a marked decline in foreign moneylending activity. Aside from Tournai, only in Arras (in the County of Artois) and Seurre (in the duchy of Burgundy) is there clear evidence for a settled community of foreign moneylenders during the 1280s. The same period sees Lombards lending in two towns in the duchy of Burgundy (Beaune and Châlon-sur-Saône), but it is unclear whether they were settled there or elsewhere.[82] By contrast, the activities of foreign moneylenders in neighboring Flanders, Lorraine, and the Franche-Comté, all of which lay beyond the authority of the French Crown, were vibrant and waxing in importance throughout the last quarter of the thirteenth century, as depicted in Maps 5.1 and 5.2 below. Whether or not Philip's 1274 expulsion order was carried out with any degree of thoroughness within the royal domain and beyond, it certainly fostered an atmosphere hostile to the continuing presence of foreign moneylenders within the kingdom of France.

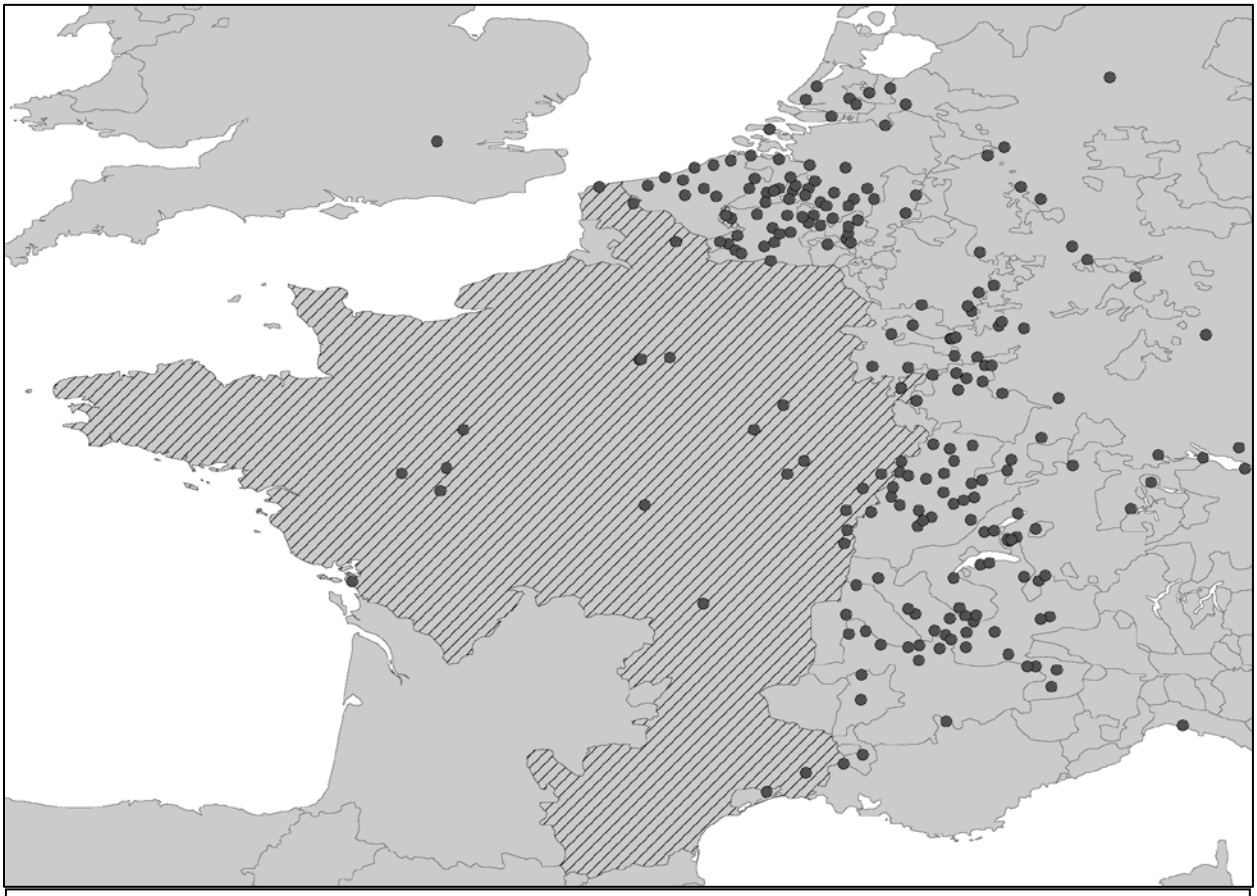
[81] Carola Small observed a similar phenomenon in the pattern of Lombard settlement within the duchy of Burgundy (which largely fell under French royal jurisdiction) and the county of Burgundy (which did not) in the early fourteenth-century, with Lombards largely settling in the latter or in privileged enclaves within the duchy; see her "Lombards in the Two Burgundies: a Problem in Jurisdiction," in *Forestieri e stranieri nelle città basso-medievali. Atti del Seminario internazionale di studio, Bagno a Ripoli (Firenze), 4-8 giugno 1984* (Florence: Salimbeni, 1988), 115-25.

[82] For further details, see Reichert, *Lombarden,* 78, 110, 197, 694, 741.



Map 5.1: Foreign moneylending activity in the Kingdom of France and its neighbors, 1250-1274. Each • represents a location in which the presence of foreign moneylenders is attested during this period. The shaded area represents the approximate boundaries of the Kingdom of France ca. 1300.

Source: The data for this map and the following one are drawn mainly from Winfried Reichert, *Lombarden in der Germania-Romania: Atlas und Dokumentation*, 3 vols. (Trier: Porta Alba, 2003), with edits and additions by the author.



Map 5.2: Foreign moneylending activity in the Kingdom of France and its neighbors, 1275-1299. Each • represents a location in which the presence of foreign moneylenders is attested during this period. The shaded area represents the approximate boundaries of the Kingdom of France ca. 1300.

Philip III's subsequent policies also played a considerable role in encouraging foreign moneylenders to pursue opportunities outside the realm. As reported by Villani, over the course of a single day—April 24, 1277—the king's agents seized and imprisoned all of the Italians within the kingdom, merchants and moneylenders alike, on the grounds that they had violated the ban on usury that he, like his father, had issued. The king then apparently ordered them all to leave the realm.[83] As Villani noted, however, Philip's true interests were revealed by the fact that

[83] Villani, *Nuova cronica*, 1.494 [=8.53]. According to Villani, the king cited *Usurarum voraginem* as justification for the expulsion order, but there is no evidence for this in the contemporary record. The

he subsequently agreed to free the prisoners and waive the expulsion, in return for the hefty sum of 60,000 *livres parisis*, which they duly paid. Needless to say, the event prompted widespread outrage. On May 20, the Sienese Consiglio Generale resolved to send ambassadors with full power to negotiate the release of their imprisoned countrymen along with their property.[84] The town of Saint-Omer, near Calais, complained bitterly that the arrest of the Lombards by the agents of the bailli of Amiens was an infringement of its traditional liberties.[85] Even Pope Nicholas III sent a series of five letters to the king, demanding that the royal agents refrain from further molesting thirty Florentine merchants and their associates, and insisting that the Florentines be relieved of the indignity of contributing to an indemnity for crimes they had not in fact committed.[86]

Even taking into account the expansive reach of the 1277 arrest-expulsion, the very fact that Philip III saw fit to take such an action less than three years after his earlier expulsion ordinance suggests that the latter's implementation had not been particularly thorough or lasting. Furthermore, in light of the nakedly pecuniary motivation behind the 1277 episode, coupled with the fact that, as Villani observed, most of those imprisoned were subsequently able to lend as before, it is difficult to see Philip's actions as motivated by a genuine concern about usury within his kingdom.

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documents ordering the arrest and expulsion do not survive, but a later letter from the king to the archbishop of Bourges ascribes the arrest to widespread transgressions of Louis IX's ban on usury; see Charles Langlois, *Le règne de Philippe III, le Hardi* (Paris: Hachette, 1887), 401 [=no. 93].

[84] Siena, Archivio di Stato, Consiglio generale, Deliberazioni 21, fol. 85rv (20 May 1277) [*non visu*]; cited in Edward D. English, *Enterprise and Liability in Sienese Banking, 1230-1350* (Cambridge, MA: Medieval Academy of America, 1988), 46-47. For a transcription of the resolution, see Cesare Paolo, *Siena alle fiere di Sciampagna. Conferenza tenuta il 2 aprile 1898* (Siena: Lazzeri, 1898), 34 n.1.

[85] Paris, BnF, Coll. Moreau 201, no. 146 (7 October 1277).

[86] *Les registres de Nicolas III (1277-1280),* ed. Jules Gay (Paris: Fontemoing, 1938), 19-20 [=nos. 64-68 (15 June 1278)].

Comparing the English and French evidence, what is perhaps most striking is the general sense that fines and promises of future good behavior were sufficient to excuse the penalty of expulsion set forth in *Usurarum voraginem* and the local enactments that it inspired. This emerges quite clearly from the English pardons, and Philip III stated the principle unambiguously in a letter to the archbishop of Bourges in November 1277, sent on behalf of a family of Lombards from the Piedmontese town of Asti. Since they had made appropriate composition for their earlier usury, wrote the king, the archbishop was to allow them to come and go freely within the realm and carry out "any proper and legitimate trade and commerce."[87] Nor does it seem to have bothered Pope Nicholas III, who said nothing about expulsion in his letter to the French king, even as he noted that the king had seized all of the Italians out of a hatred of "the abyss of usury (*voraginem usurarum*)," directly quoting the opening words of the Lyonese decree.

A similar understanding prevailed among secular and ecclesiastical authorities in the county of Holland. Sometime before 1283, the ranking members of the archdiocese of Utrecht wrote to Count Floris V to complain about the longstanding presence of Lombards within his county, urging him to uphold *Usurarum voraginem*. The count responded by arresting the Lombards and confiscating their property, apparently using the proceeds from the confiscation to reimburse the victims of their usury. This response seems to have proved entirely satisfactory to the prelates, who summoned before them some of the Lombards in February 1283 and made them swear never to demand reparations for the losses they had suffered.[88]

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[87] Langlois, *Philippe III,* 401 [=no. 93].

[88] Bigwood, *Régime*, 2.290 [=p.j. 12]. It is unclear whether these Lombards subsequently resumed their activities in the area, but a decade later we find some of them in Biervliet, in the county of Flanders (see Bigwood, *Régime*, 2.52). Other Lombards continued to be active in Holland, particularly in Dordrecht (see Reichert, *Lombarden*, 254-55).

The drafters of *Usurarum voraginem* had made no provision for commutation-through-composition; as we have seen, the decree simply ordered competent authorities to "expel all such [i.e. foreign] manifest usurers from their territories within three months, never to admit any such in the future." And yet imprisonment followed by commutation-through-composition is precisely what we find in the cases of France and Holland, while in England it seems that those who were expelled were allowed to return after paying fines and promising to behave. This response, with its emphasis on composition, expressed widely held contemporary attitudes toward justice and punishment. Its appeal for lay rulers is obvious: they stood to profit from the resulting fines. As Gerhard Rösch has argued, "the interests of the princes were less in the direction of implementing canonical usury prohibitions than in the exploitation of a bubbling fountain of money."[89] But such self-interest went beyond mere greed. Whatever the canonists' success in creating the category of "manifest usurer," rulers were fully aware that many of those who fell into this category wore other professional hats as well, and that in those capacities (as well as through their moneylending) they provided valuable services to the rulers themselves and to the communities in which they settled. Commutation-through-composition spared them the need to deprive themselves of the moneylenders' professional services, whereas permanent expulsion had correspondingly limited appeal.

In addition, so far as lay authorities are concerned, we should not be too quick to dismiss the strength of their own opinions regarding the appropriate boundaries of ecclesiastical jurisdiction. Edward I of England and Philip III of France both ordered the expulsion of foreign moneylenders from their realms in the immediate wake of the Second Council of Lyon, but

[89] Gerhard Rösch, "Wucher in Deutschland, 1200-1350. Überlegungen zur Normdidaxe und Normrezeption," *Historische Zeitschrift* 259 (1994), 593-636, at 623: "So gingen denn die Interessen der Fürsten weniger in Richtung auf die Durchsetzung des kanonischen Zinsverbots als vielmehr auf Ausbeutung einer sprudelnden Geldquelle."

neither ascribed their actions to the mandates of the church. Rather than explicitly referring to *Usurarum voraginem* itself, they framed their responses using language and substantive provisions drawn from internal legal and administrative traditions—and in particular, precedents set by their fathers. They could therefore show themselves to be faithful sons of the church while asserting their autonomous jurisdiction in this sphere. Indeed, there is no evidence that any independent secular authority ever expelled foreign moneylenders under the explicit banner of *Usurarum voraginem* at any point in the late thirteenth or fourteenth century. Some cited the counsel of local prelates in ordering expulsion, as did Charles II of Anjou when he jointly expelled Jews and Lombards from Anjou and Maine in 1289, or Countess Joan I of Auvergne when she did the same from her Burgundian domains in 1349.[90] Other secular authorities expelled foreign moneylenders after being compelled to do so by their ecclesiastical overlords. But even these cases are conspicuously few. The prelates who assembled at Lyon may have deemed it necessary to pile secular penalties onto the existing spiritual ones, but many princes were no more ready to abandon their autonomy in this area than they had been in earlier instances of ecclesiastical overreach.

This attitude is evidenced in the exceptions and safeguards that secular rulers granted to foreign moneylenders in order to finalize a loan or encourage the establishment of local lending operations. Between 1275 and 1278, for example, a series of four loan contracts between the Sienese Bonsignori firm and the Countess Margaret of Flanders all included a long list of provisions in which the countess renounced a series of possible exceptions, among them "all of

[90] For the case of Anjou-Maine, see Pierre Rangeard, *Histoire de l'université d'Angers*, 2 vols. (Angers: Barassé, 1868-77), 2.184: "cum reverendis patribus episcopis et pluribus clericibus…fuimus super his collocuti"; and see below, p. 283. For the case of Burgundy, see Léon Gauthier, *Les Lombards dans les deux-Bourgognes* (Paris: Champion, 1907), 220-23 [=p.j. 86]: "…à la supplication de reverend pere en Dieu, monseignour Hugues de Vyenne, arcevesque de Besençon […]."

the constitutions and decretals issued at Council of Lyon and elsewhere (*cunctis constitucionibus et decretalibus, factis in concilio Lugdunensi et alibi*)."[91] How exactly either of the Lyonese anti-usury decrees could have been used to avoid repayment of the loan is unclear, and there is a certain kitchen-sink quality to the list as a whole. Nevertheless, these clauses suggest that the lenders—who were members of the most powerful banking consortium in contemporary western Europe—saw themselves as at least potentially subject to the decrees' penalties, and that they were concerned enough to insist on their explicit renunciation.[92] Furthermore, they also imply that the countess considered herself to be in a position to renounce the conciliar rulings, at least within the context of private contracts.

Several of the surviving Lombard privileges deal explicitly with the topic of expulsion. Count William I of Hainaut (ca. 1286-1337), for instance, issued multiple privileges allowing Lombards to set up operations in various towns within his domains. In each of these, he promised the recipients that if any secular or eccclesiastical authority demanded that he drive them from his towns or lands, he would defend and protect them for the duration of the privilege.[93] In 1332, Count Reginald II of Guelders (c. 1295-1343) offered similar assurances to

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[91] Theo Luykx, *De grafelijke financiële bestuursinstellingen en het grafelijk patrimonium in Vlaanderen tijdens de regering van Margareta van Constantinopel, 1244-1278* (Brussels: Paleis der Academiën, 1961), 422, 444, 448 [=nos. 101, 119, 121]. The phrasing of the renunciation varies slightly among the three contracts.

[92] On the Bonsignori firm, see Mario Chiaudano, "I Rothschild del Duecento: La Gran Tavola di Orlando Bonsignori," *Bullettino senese di storia patria* n.s. 6 (1935), 103-43.

[93] Valenciennes and Marly (1312): in *Cartulaires de Hainaut (1310-1347)*, ed. Léopold Devillers (Brussels: Hayez, 1874), 644-69, at 648 [=no. 440]; Quesnoy and Forest (1313): in Sylvain Koch, *Italienische Pfandleiher im nördlichen und östlichen Frankreich* (Breslau: Fleischmann, 1904), 18-25, at 23 [=§24]; Valenciennes (1323): in Paul Morel, *Les Lombards dans la Flandre française et le Hainaut* (Lille: Université de Dijon, Faculté de Droit, 1908), 141-51, at 148 [=p.j. 16]; Cambrai (1327): in Morel, *Lombards*, 155-59 [=p.j. 19]. A century later, in 1413, Count William VI of Hainaut would reiterate his predecessor's promises in privileges granted to the Lombards in Merbes-le-Château and Forest-en-Cambrésis; see *Cartulaires de Hainaut*, ed. Devillers, 552-59, at 557-58 [=no. 1061].

some Lombards in his lands, promising that he would not expel them at the bidding of any lord, whether spiritual or temporal, before their ten-year privilege had expired.[94] Toward the end of the century, Count Albert I of Holland (1336-1404) would grant the same to the Lombards of Middelburg for the twenty-year span of their privilege.[95] Other authorities settled for more generic protection clauses, without mentioning expulsion specifically. In 1332, for example, Duke Rudolph "the Valiant" of Lorraine (1320-1346) promised a group of Piedmontese moneylenders that he would defend them against the assaults of the church as if they were his own burghers.[96] Two decades later, the lord of Boulay (Bolchen), a small town to the east of Metz, was similarly bold in his commitment to protect the local Lombards from any interference by the church.[97] It was even more common for authorities to promise protection against any external interference, whether secular or ecclesiastical.[98] Whether such promises were issued

[94] Arnheim and Geldern (1332): in Isaak Anne Nijhoff, ed., *Gedenkwaardigheden uit de geschiedenis van Gelderland*, 6 vols. (Arnheim: Nijhoff, 1830-75), 1.289-98, at 291 [=no. 266]; Zaltbommel (1332): in Gerard van Hasselt, ed., *Geldersche oudheden* (Arnheim: Morleman, 1806), 1.515-26, at 520 [=no. 60.1].

[95] Middelburg (1397): in W. S. Unger, ed., *Bronnen tot de geschiedenis van Middelburg in den landsheerlijken tijd*, 3 vols.('s-Gravenhage: Nijhoff, 1923-31), 3.43-47, at 46 [=no. 110].

[96] Nancy, Archives départementales de Meurthe-et-Moselle, B 919, no. 4: "Encor est assavoir que se sainte englise ou sa justice lez occoisenoit ou voloit de nous occoiseneir que nous lez aiderons consillerons conforterons et deffenderons a nostre peoir en bone foi autant com nos propres bourgois."

[97] Boulay (1349): Paris, BnF, Coll. Lorraine 83, no. 59. A 1380 privilege issued by Duke William of Jülich protected the Lombards of Roermond from damages owing to their possible excommunication, and likewise foreswore the possibility of expelling them before the expiration of the privilege; see *Acten betreffende Gelre en Zutphen*, ed. Pieter Nikolaas van Doorninck, 4 vols. (Haarlem: van Brederode, 1900-08), 2.76-87, at 79-80. These clauses reappear in the 1386 confirmation; see *idem*., 2.87-99, at 90-91.

[98] For examples, see Montbéliard (1336): in George-Auguste Matile, ed., *Monuments de l'histoire de Neuchâtel* (Neuchâtel: Attinger, 1848), 428-35, at 431 [=no. 410]; Aachen, Aldenhoven, Düren, and Jülich (1361): in *Urkundenbuch der Stadt Düren 748-1500*, ed. Walter Kaemmerer, 2 vols. (Düren: Dürener Geschichtsverein, 1971-78), 1.1.146-53, at 150 [=no. 134]; Tournai (1372): in Bigwood, *Régime* 2.373-79, at 376-77; Solothurn (1377): in *Rechtsquellen des Kantons Solothurn*, ed. Charles Studer, 2 vols. (Aarau: Sauerländer, 1949-87), 1.161-66, at 165 [=no. 81, art. 20]; Biel (1397): in Jean Jacques Amiet, "Die französischen und lombardischen Geldwucherer des Mittelalters, namentlich in der Schweiz," *Jahrbuch für schweizerische Geschichte* 2 (1877), 141-328, at 310-15 [=no. 22].

with *Usurarum voraginem* in mind, or whether the decree's penalties simply formed part of a broader array of possible sanctions from which the Lombards sought protection, is impossible to know. Regardless, it seems reasonable to assume that those granting such privileges believed they had the authority, or at least the ability, to disregard outside efforts to impose sanctions on the local Lombards, whatever the claims of other ecclesiastical or secular powers.

Other privileges are more ambiguous. In 1366, and then again in 1375, Duke Robert I of Bar (1344-1411) promised a group of Astigiani moneylenders that he would defend them from the king of France and his agents.[99] No mention was made, however, of threats emanating from the church. Was this because these particular moneylenders did not see the local ecclesiastical hierarchy as an active (or even latent) threat? Was the duke reluctant to disavow explicitly the competence of church authorities in this matter? Or is the focus on royal interference simply a reflection of the powerful and immediate influence of the French Crown within the duchy of Bar, and the fears such influence evoked among the Lombards?

Some authorities proved more hesitant. In 1296, Hugh of Burgundy (the younger brother of Duke Odo IV) allowed a family of Lombards to settle in the city of Besançon and promised to protect and safeguard them, except insofar as this would violate his fealty to the French king.[100] A century later, in privileges granted to the Lombards of Troyes (and later to those in Paris, Amiens, and Lyon) the French king Charles VI (1368-1422) expressed similar reservations with regard to orders emanating from the ecclesiastical hierarchy:

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[99] Rancourt-sur-Ornain, Bar-le-Duc, and Laheycourt (1366): in Nancy, Archives départementales de Meurthe-et-Moselle, B 402, fols 52v-55v, at 55r; (1375): *idem.,* fols. 59r-62v, at 62r. To judge from the surviving vidimus, the promise was omitted in the 1378 reconfirmation (*idem.*, fols. 56r-59r).

[100] Gauthier, *Lombards*, 135-36 [=p.j. 24]: "Et toutes ces choses dessusdites promettons nos en bone fey tenir et garder ès dessus diz citiens, sauve la feauté nostre seignour le roy de France vers lequel, se il ou aucun de lour eussent aucunes choses à besoigner, nos lor proumatons aidier et consaillier lealment sans meffaire vers ledit roy en adraçant lour besoignes à mieux et a plus bel que nous porrons."

> If it should happen that any orders or requests come to us from our Holy Father, from any legate of the Roman Curia, or from others within the Holy Church, whosoever it should be, to seize and arrest the aforesaid merchants, their companions, their families, their property, or any part thereof, and to drive them from the aforesaid town or from our realm, we will not carry out or allow to be carried out any arrest, disturbance, or hindrance of any sort against the aforesaid persons or their goods, such that they would not have sufficient time to depart our realm together with their property.[101]

Here, then, the possibility of church-ordered expulsion is acknowledged explicitly, as is the royal reluctance to do anything more than delay its implementation. If the Charles's forebear Philip III showed himself reluctant to concede to the church any authority over the expulsion of foreign usurers, Charles himself asserted only a willingness to mitigate its force.

If these royal expressions of pious obedience raised any concerns among the Lombards themselves, such concerns would prove groundless. The evidence of episcopal enforcement of *Usurarum voraginem*, especially following the early decades of the fourteenth century, is scant and scattered. Moreover, by the time Charles VI ascended the French throne in 1380, it had been almost four decades since any pope had called for the enforcement of *Usurarum voraginem*, and the coming decades would bring continuing silence, so far as foreign Christian moneylenders

[101] Troyes (1380), art. 26: *Ord*. 6.478-82, at 481: "S'il avenoit que aucuns mandemens ou prières venissent à nous de par nostre Saint Père, d'aucuns Legas de Court de Romme, ou d'autre personne de Sainte Eglise, quelle que elle fust, pour prendre ou arrester les devant diz marchans, leurs compaignons, leurs mesnies, leurs biens ou aucuns d'eulz et d'eulz faire widier hors de la dicte ville ou de nostre Royaume, Nous ne ferons ou souffrerons faire aus dessus diz ne à leurs biens aucuns arrest, destourbier ne empèschement, comment que ce soit, que ils n'aient temps suffisant pour eulz partir et leurs biens emporter hors de nostre dit Royaume." This clause does not appear in the privileges granted to the Lombards of Amiens, Abbeville, and Meaux in 1378 (*Ord*. 6.336-39), nor in that granted to the Lombards of Amiens and Paris in 1380 (*Ord.* 6.487-88; with 1381 confirmation at *Ord*. 6.558-59), nor does it appear to have been included in the Rouen privilege of 1403 (*Ord.* 8.583-85). An abbreviated version of the clause appears as art. 21 of a 1382 privilege to Lombards in Paris (*Ord*. 6.652-57, at 656), while the 1380 Troyes version is repeated verbatim as art. 25 of the privileges granted to the Lombards of Troyes, Amiens, and Lyon in 1392 (*Ord*. 7.787-89, at 780). For a valuable discussion of these privileges, in comparison with contemporary royal privileges for Jews, see Roger S. Kohn, "Le statut forain: marchands étrangers, Lombards et Juifs en France royale et en Bourgogne (seconde moitié du XIV^{e} siècle)," *Revue historique de droit français et étranger* 61 (1983), 7-24.

were concerned. To understand this silence, let us look now at the ecclesiastical response to the decree.

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As we have seen already, the asymmetry of *Usurarum voraginem*'s penalty clause, whereby ecclesiastical transgressors suffered automatic sanctions but lay transgressors did not, meant that the decree's enforcement was essentially left to episcopal discretion. Given that bishops proved unwilling to formally censure recalcitrant rulers, lay authorities had little reason to give way to the decree's demands. For the century following *Usurarum voraginem*'s promulgation, I have found only two cases of prelates censuring secular authorities for failing to expel foreign usurers from their jurisdictions. Moreover, both cases concern municipal governments that were directly subject to episcopal authority. In 1306, the bishop of Liège placed an interdict on the towns of Dinant, Huy, and Sint-Truiden (Saint-Trond), which fell within the confines of his prince-bishopric, after they refused to expel their resident Lombards; we will return to this case below. In 1349, the archbishop of Mainz imposed the same punishment on the city of Mainz after it too had refused to expel some Astigiani moneylenders (among other transgressions).[102] To be sure, there are cases in which prelates threatened to impose such sanctions, but there are no other known cases in which such threats were carried out.

How do we account for this reticence? Or, in the cases of France in 1277 and the county of Holland in 1283, why do the bishops seem to have accepted commutation-through-composition rather than insisting on outright expulsion? And to return to the concerns spelled out by Godfrey de Fontaines, Giovanni d'Andrea, and others, how can we explain the widespread ecclesiastical

[102] Karl Anton Schaab, *Geschichte des großen rheinischen Städtebundes*, 2 vols. (Mainz: Kupferberg, 1843-45), 2.214-16 [=no. 154]. Apparently the city had also left unpunished an attack on some clerics. See also below, pp. 265-66.

inaction, even on the part of the countless prelates who were theoretically subject to *ipso facto* suspension (or worse) for allowing foreign moneylenders to remain within their jurisdictions?

The town of Nivelles, twenty miles south of Brussels, is a good place to look for answers to these questions. In the decade following the promulgation of *Usurarum voraginem*, Nivelles saw four different institutional bodies—three ecclesiastical and one lay—come into conflict over the implementation of the decree.[103] Moreover, hearkening back to the topic of the decree's contested interpretation, the case of Nivelles reveals considerable confusion over how its provisions were to be carried out, who was responsible for doing so, and the penalties for inaction or resistance. So let us take a closer look at the conflict and its outcome.

Sometime before the autumn of 1280, the bishop of Liège, Jean d'Enghien (r. 1274-1281), was passing through the town of Nivelles, where he noticed that some "Cahorsins" had settled there and were publicly lending at interest. Since temporal jurisdiction over the town pertained to the Abbey of Saint Gertrude by virtue of longstanding imperial privilege, the bishop summoned to him three of the abbey's canons.[104] He then sent them back to their chapter with an order to

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[103] Our knowledge of the dispute derives largely from Louvain-la-Neuve, Archives de l'État, Archives écclesiastiques du Brabant [hereafter AEB], MS 1417, a fifteenth-century cartulary made for the chapter of St. Gertrude's. I would like to thank Marie Van Eeckenrode for her kind assistance in providing me with scans of this MS and other materials. My reconstruction of the dispute draws in particular on Jean-Jacques Hoebanx, *L'abbaye de Nivelles des origines au XIV^e^ siècle* (Brussels: Palais des Académies, 1952), 261-62. See also Pieter Gorissen, "Le compte du bailliage de Nivelles de 1257," *Annales de la Société archéologique et folklorique de Nivelles et du Brabant Wallon* 17 (1952), 107-33, at 115-16; and David Kusman, "Le rôle de l'Église comme institution dans la contractualisation des opérations de crédit en Brabant, XIII^e^-XV^e^ siècle," in *Religione e istituzioni religiose nell'economia europea, 1000-1800 / Religion and Religious Institutions in the European Economy, 1000-1800. Atti della 'Quarantatreesima Settimana di Studi' (8-12 maggio 2011),* ed. Francesco Ammannati (Florence: Firenze University Press, 2012), 227-46, at 235-36. My understanding of the chronology and details of the Nivelles case differs on several minor points from David Kusman's, as formulated in his *Usuriers publics*, 97-98.

[104] During this period, the abbey community consisted of a double chapter of both (male) canons and (female) canonesses; the latter were drawn exclusively from the ranks of noble families. Both chapters fell under the ultimate authority of the abbess, though direct jurisdiction over both the canons and the canonesses was entrusted to a provost. For further details, see Hoebanx, *Nivelles*, 301-20.

immediately suspend the celebration of divine service, pursuant to the penalties spelled out in the Lyonese decree.[105] Naturally alarmed by the bishop's action, Abbess Élisabeth de Bierbais (r. 1277-1293) set off in person to the house of the Cahorsins. There, after supposedly overturning their lending tables (in an echo of Christ's cleansing of the Temple), the abbess banned the moneylenders from lending at interest within the town of Nivelles.[106]

Although the moneylenders duly halted their activities, it was not long before they resumed lending as before. Back went the abbess, but this time the Cahorsins locked their doors before her. The abbess tried once again to order them to abandon their usury and leave the town, but at this point she was countered by two bystanders, agents of the bailiff of the duke of Brabant. The bailiff's men told the Cahorsins that they were to continue their activities as usual, notwithstanding the abbess's demands, since they dwelled in the city by the authority of the duke, not the abbess.

At this point the abbess decided to confront the duke. Asserting that as the abbess of Saint Gertrude's, the city of Nivelles lay under her jurisdiction, not the duke's, she demanded that he refrain from violating her liberties by harboring Cahorsins in Nivelles. The duke was unmoved by her claim, informing her that he possessed exclusive jurisdiction over all foreign moneylenders who fell within his lands and advocateships (*advocatie*), adding furthermore that if this posed any danger to his soul, he would sort it out with the bishop of Liège or the pope himself. The abbess retorted that she possessed an imperial privilege, subsequently given papal

[105] AEB, MS 1417, fol. 540r. The bishop's action was in keeping with *Usurarum voraginem*'s *ipso facto* penalty of interdict on any "college or other community (*collegium…seu alia universitas*)" that failed to implement the decree's provisions within its jurisdiction.

[106] The phrasing in AEB, MS 1417, fol. 540r ("mensas eorum subvertit") is evidently modeled on John 2:15 "And when he had made a scourge of small cords, he drove them all out of the temple, and the sheep, and the oxen; and poured out the changers' money, and overthrew the tables (*Et cum fecisset quasi flagellum de funiculis omnes eiecit de templo, oves quoque et boves, et numulariorum effudit aes et mensas subvertit*)."

confirmation, by which no foreigner could settle in Nivelles without her consent. If the Cahorsins were dwelling in Nivelles, it was not with her consent, but rather because she feared the power of the duke. Moreover, she argued, as the abbey's formal protector, it was the duke's duty to protect the abbey from harm, not impose it. But the duke held firm, and the abbess returned to Nivelles, where she informed the chapter of her powerlessness in the face of ducal opposition.[107]

On September 5, 1280, the abbess and chapter jointly sent a letter to the bishop of Liège. Ascribing to the bishop the role of "executor of the decree (*constitutionis executor*)," they asked him to compel the removal of the usurers through ecclesiastical censure of the duke and, if necessary, through an interdict on all of the duke's territories. They likewise asked the bishop to excuse the abbey and chapter from the decree's penalties, in light of the circumstances. The bishop responded by sending two envoys to inquire into the matter, one a canon of Liège, and the other a canon of Nivelles. Their response to the bishop, dated September 20, dashed any hopes of immediate resolution. The envoys concluded that the abbess of Nivelles held the rights of both high and low justice in Nivelles, that fear of ducal retribution was no excuse for inaction, and that the duke of Brabant had superiors, to wit, the German emperor and the pope, who could be called upon to force him to redress this injury. As a result, so long as the Cahorsins continued to dwell in Nivelles, they considered the abbess to be automatically excommunicated, with all of her lands under interdict.[108]

The envoys' decision surely came as a blow to the abbess. To make matters worse, the chapter, whose relations with Élisabeth de Bierbais had been fractious ever since her election three years earlier, took the opportunity to formally pronounce a *cessatio a divinis* on the abbey,

[107] AEB, MS 1417, fols. 540r-541r.

[108] AEB, MS 1417, fols. 541r-542r.

citing the abbess's failure to expel the usurers along with a host of alleged infringements of the traditional privileges of the abbey and its chapter.[109] Not until two years later, in November 1282, did the bells of the venerable Abbey of Saint Gertrude again ring forth, after the chapter agreed at last to restore the celebration of divine services and the administration of the sacraments. In return, the abbess agreed to address several of the chapter's chief complaints, including the repair of the cloister and dormitory, the recovery of allods lost by alienation or distraint, and the appointment of a sacristan and warden.[110] As for the chapter's request that "foreign usurers desist from lending at interest in the town of Nivelles, or else that they be expelled from the aforesaid town," the abbess promised that she would strive to ensure that this was carried out, whether by the lord duke of Brabant, the abbey's protector (*advocatus*), or by others.[111]

Notably, for her part, the abbess did not promise to expel the usurers. In what was essentially an an acknowledgement of her continuing weakness vis-à-vis the duke, she instead committed herself to pushing for the duke (or unspecified others) to carry out the desired expulsion.[112] Whether the abbess did indeed continue to agitate against the Cahorsins is uncertain, but it is

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[109] AEB, MS 1417, fols. 542v-544v. A copy of the chapter's denunciation, along with the envoys' decision and other supporting documents, was sent to the papal court, perhaps pursuant to regulations introduced by canon 17 (*Si canonici*) of the Second Council of Lyon (*COD*, 322-23). These in turn were copied by a papal scribe in February 1281, and it is this version that survives in the Nivelles cartulary.

[110] Cambridge (Mass.), Harvard University, Houghton Library, MS Lat 422, fols. 96va-98ra (agreement dated 18-19 November 1282). This manuscript, compiled in the mid-1290s, is largely liturgical in nature, but its final eight folios contain material relating to contemporary disputes between the chapter and abbess of Nivelles, including the oldest extant copy of the 1282 peace agreement. I would like to thank Charlotte Stovel for alerting me to Harvard's acquisition of this manuscript, and Susan Halpert for facilitating its consultation.

[111] Houghton Library, MS Lat 422, fol. 97rb: "Item quod curabit adimplere per dominum ducem brabantie suum advocatum seu per alios quod usurarii alienigene ab actu fenerandi desistant in villa nivellensis vel quod a dicta villa expellantur."

[112] Houghton Library, MS Lat 422, fols. 96va-98ra.

clear that they remained in Nivelles all the same, with references to their activity surviving from 1286 and 1290-1291.[113] Furthermore, either the chapter lost interest in the matter, or else it was satisfied with the abbess's efforts to dislodge the moneylenders, for although it imposed a new *cessatio a divinis* in 1286 in response to a new series of purported indignities, the ongoing activity of the Cahorsins features neither in the enumeration of grievances nor in the peace agreement drawn up a year later.[114] Of course, so long as the moneylenders remained in Nivelles, the abbess herself technically remained excommunicate, and the town itself under interdict. But nobody seems to have paid much attention to such technicalities, and religious life appears to have proceeded normally.

Élisabeth de Bierbais died in 1293, and a new abbess, Yolande de Steyne (r. 1293-1340), was elected in her place.[115] For a time, the matter of the Cahorsins seems to have lain dormant, but it resurfaced sometime around 1306, appearing among a list of grievances that the abbess sent to the duke.[116] The duke's continuing protection for the foreign moneylenders in Nivelles, complained the abbess, was contrary to both the wishes of the abbess and the liberties of Saint Gertrude's.[117] Again, the duke refused to give way, and once again, the chapter imposed a

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[113] Floris Prims, "De Uitgaven van den Amman van Brussel in 1286 (8 Dec. 1285-16 Maart 1287 n.s.)," *Bijdragen tot de geschiedenis* 20 (1929), 51-71, at 57; and Bigwood, *Régime*, 1.118.

[114] AEB, MS 1417, fols. 401r-403r; and Houghton Library, MS Lat 422, fols. 98ra-99ra. For an edition of the initial declaration of grievances, see A. G. B. Schayes, "Analectes XV: La ville et l'abbaye de Nivelles au XIII^{e} siècle," *Annales de l'Académie d'archéologie de Belgique* 9 (1852), 80-87.

[115] Hoebanx, *Nivelles*, 265-66.

[116] Only the minute of the petition survives, in AEB, MS 1462. The document is undated, but Hoebanx (*Abbaye*, 255, n. 4) persuasively dates it to 1306-12. I would like to thank Marie van Eeckenrode of the Archives de l'État at Louvain-la-Neuve for her patient efforts to locate this document.

[117] The abbess's protests were somewhat at odds with local needs, since during this same period the moneylenders had lent 14,000 *livres tournois* to the town of Nivelles in order to cover its fiscal obligations. That said, it was the duke who had prompted the town's financial difficulties, by imposing a levy of 20,000 *l.t.* in 1306 (for unknown reasons); see Hoebanx, *Nivelles*, 254-57.

cessatio a divinis. Fortunately for Abbess Yolande, on this occasion the bishop of Liège proved more accommodating. On April 1, 1315, Bishop Adolphe de la Marck (r. 1313-1344) wrote to the dean and chapter of Nivelles to inform them that he was satisfied with the abbess's efforts to dislodge the usurers, and that her failure was indeed due to her powerlessness before the duke's superior temporal power. The bishop accordingly suspended the reprisals that the chapter had taken against the abbess.[118] This is the last that is heard of the conflict over the presence of foreign moneylenders in Nivelles, though their continuing presence and activity are attested well into the fifteenth century.[119]

From the perspective of *Usurarum voraginem* and its implementation, the case of Nivelles raises several questions. We know, for instance, that the chapter of Liège was angrily assembling a list of grievances against Élisabeth de Bierbais as early as 1278.[120] (Indeed, in some respects, this conflict between the abbess and chapter of St. Gertrude's was merely the latest in a series of internal squabbles that would end only with the abbey's suppression in 1794.[121]) Why, then, did it take the intervention of the bishop of Liège before they seized on the issue of the Cahorsins' presence as another sticking point? And given the automatic sanctions set out in the decree, why did the abbess herself not attempt to expel the Cahorsins until compelled to do so by the bishop and chapter? The previous chapter suggests one possibility, namely, that both abbess and chapter were ignorant of the decree and its provisions. But a degree of jurisdictional ambiguity may also have played a role. It is telling, for example, that the bishop of Liège's initial response to the presence of the Cahorsins in Nivelles was to order the chapter to impose an interdict, whereas his

[118] AEB, MS 1417, fols. 533v-534r.

[119] Bigwood, *Régime*, 2.115-261 [=Annexe IV].

[120] AEB, MS 1417, fol. 88r.

[121] See the brief overview in Hoebanx, *Nivelles*, 271-78.

later envoys both called for an interdict and declared that the abbess herself was automatically excommunicate. Already here we can see a certain amount of confusion as to who was responsible for expelling the moneylenders, and on whom *Usurarum voraginem*'s penalties ought to fall.

Even more obvious—indeed, crucial to the entire dispute—is the jurisdictional conflict between the abbess and the duke. Élisabeth de Bierbais claimed the right (granted by the emperor and sanctioned by the pope) to approve the presence of any foreigners in the town of Nivelles, while the duke maintained that foreign moneylenders fell under his exclusive jurisdiction wherever they were to be found within his lands and protectorates. More broadly, this conflict reflected recent shifts in the political landscape of Nivelles. Until the twelfth century, the abbess's authority over the town of Nivelles, which she held as an imperial fief, had gone largely unchallenged. Over the course of the late twelfth and early thirteenth centuries, however, successive rulers of Brabant had gained ever greater *de facto* authority over the little imperial enclave of Nivelles, partly by virtue of their status as official protector (*advocatus*) of the abbey, and partly through concessions from various emperors eager to secure the loyalty and support of their powerful vassals. The abbey did not abandon ground easily, however, and the late thirteenth century saw a flurry of imperial concessions and counter-concessions.[122] In the face of such confusion, it is not surprising that the abbess sought to absolve herself of any responsibility for the expulsion of the moneylenders by pointing to the duke's "superior force and power."

Unfortunately for the abbess, neither the chapter nor the bishop of Liège was prepared to accept the realities of power as an excuse for inaction. As the chapter put it at the very beginning of the deposition that they sent to the papal curia in order to explain their grounds for imposing

[122] For relations between the abbey and the duke of Brabant, see Hoebanx, *Nivelles*, 233-71.

the *cessatio a divinis*, the abbess held the lordship of Nivelles, and she held this lordship from the German emperor together with the rights of high and low justice in the town.[123] And as late as the mid-fourteenth century, an ecclesiastical court in Liège continued to affirm that the duke of Brabant enjoyed no authority in Nivelles save that flowing from his status as the abbey's advocate—a position that ignored almost two centuries of evidence to the contrary.[124] So although the abbess might contend that she was not bound by the decree, since (according to the maxim of Roman law) "what was impossible was not binding," her own chapter, as well as the bishop of Liège, refused to cede any ground when it came to the abbey's traditional privileges—even at the cost of indefinitely remaining under interdict.[125]

Indefinite interdict was clearly not the outcome that the abbess and chapter had hoped for when they wrote to the bishop of Liège, seeking his intervention. They, of course, had recommended that he lay sanctions on the duke (and if necessary, his lands). After all, did *Usurarum voraginem* not declare explicitly that bishops were to compel lay transgressors? Yet neither Bishop Jean d'Enghien nor any of his episcopal successors took any formal actions against the duke. So far as Nivelles is concerned, the bishops could excuse their own inaction vis-à-vis the duke by focusing (as did the episcopal envoys) on the fact that Nivelles was formally independent of ducal authority. Even setting aside the particular case of Nivelles, with its jurisdictional messiness, the 1280s and 1290s saw foreign moneylenders lending openly in

[123] AEB, MS 1417, fol. 540r: "In qua villa abbatissa eiusdem loci princeps est et principatum a Rege alemanie recepit cum omnium iusticia alta et bassa."

[124] AEB, MS 1417, fol. 83r.

[125] AEB, MS 1417, fol. 541r: "nec ipsa constitutio ipsam obligat adimpossibile nam impossibilium nulla est obligatio," a reference to *Dig.* 50.17.185: "Inpossibilium nulla obligatio est."

cities and towns throughout Brabant, many of which fell within the diocese of Liège.[126] None of this seems to have prompted the bishop of Liège to impose ecclesiastical censures on either the duke of Brabant or the duchy as a whole. Even in 1315, when the bishop explicitly acknowledged that the abbess's failure to expel foreign usurers was due to ducal opposition, there is no hint of any corresponding episcopal action against the duke.

If we look closely at the response of the bishop's envoys in 1280, it is possible to detect a certain evasiveness, so far as the bishop's relationship to the duke is concerned. When pressured by the abbess, the duke had said that he would sort out the matter with the bishop (or, failing that, with the pope), if it turned out that his soul was imperiled. The episcopal envoys, however, carefully omitted any reference to the bishop's authority in their report, declaring instead that the duke's superiors were the German emperor and the pope, and suggesting that it was to these that the beleaguered abbess of Nivelles ought to turn. In other words, although both the duke and the abbess considered the bishop to have some sort of authority in this affair, the bishops' officials sought to free him from any direct responsibility for enforcing the decree within the duchy.[127]

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[126] Within the Brabantine territories of the diocese, the presence of foreign moneylenders is attested in Genappe, Gembloux, Halen, Jodoigne, Louvain, Overijse, 's-Hertogenbosch, Tienen; see Reichert, *Lombarden*, *ad loc*. For a general discussion of the arrival of Lombards in Brabant during the last quarter of the thirteenth century, see Kusman, *Usuriers publics*, 91-109. A similar observation might be made for the part of the diocese falling within the county of Namur, and perhaps the county of Luxembourg as well. Lombards are first attested in Namur in 1278, and in Luxembourg in 1290, but they do not appear in large numbers in the latter county until the early fourteenth century. See Tihon, "Aperçus," 358; and Jules Vannérus, "Les Lombards dans l'Ancien Pays de Luxembourg," *Bulletin de l'Institut historique belge de Rome* 27 (1952), 415-50.

[127] David Kusman (*Usuriers publics,* 97) has suggested that the Bishop Jean d'Enghien's reluctance to force the issue with the duke stemmed in part from the fact that he was in debt to the duke (to the tune of 1000 Liègeois marks). It is unclear when exactly this debt was accrued, as it appears only in a reckoning of episcopal debts from 1284; see Alain Marchandisse, "Un prince en faillite. Jean de Flandre, évêque de Metz (1279/80-1282), puis de Liège (1282-1291)," *Bulletin de la Commission royale d'Histoire* 163 (1997), 1-75, at 10 and 49-50 [=Annexes, no. 11 (22 September 1284)].

Neither of Bishop Jean d'Enghien's immediate successors, first Jean II de Dampierre (r. 1282-1296), then Hugh de Chalon (r. 1296-1301), seem to have taken personal responsibility for the continuing presence of Lombards in Nivelles. In fact, it seems that they did not even take direct responsibility for the growing presence of Lombards within their own prince-bishopric.[128] Admittedly, Jean II de Dampierre issued a set of synodal statutes in 1288 that devoted considerable attention to usury, including explicit calls for the observance of both *Usurarum voraginem* and *Quamquam*.[129] Moreover, the Liegeois apparently took his rendering of the *Quamquam* provisions seriously enough to express their vocal opposition, such that the bishop was compelled to replace it with a watered-down version two years later.[130] But there is no evidence that any of the late thirteenth-century bishops of Liège actually sought to implement expulsion within their temporal jurisdiction, even though it is clear that by 1300 there was an entrenched Lombard presence in the principality, including in the city of Liège itself.

Enter Adolphe de Waldeck (r. 1301-1302). Like all of the bishops of Liège in the thirteenth and fourteenth centuries, his origins were solidly aristocratic.[131] To an early fourteenth-century chronicler, he would stand out as "a lover of justice (*zelator iustitie*)," albeit one with a quick

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[128] In 1278, the bishop's men apparently seized some Lombards residing in the county of Namur and held them for ransom, but this occurred as part of the war between Liège and Namur (the so-called "War of the Cow"), rather than a concerted episcopal assault on foreign moneylending. See Édouard Poncelet, "La Guerre dite 'de la Vache de Ciney'," *Compte-rendu des séances de la Commission royale d'histoire*, ser. 5, 3 (1893), 275-395, at 302.

[129] Liège (1288), tit. *De usurariis*: in *Les statuts synodaux de Jean de Flandre, évêque de Liège (1288)*, ed. Joseph Avril (Liège: Société d'art et d'histoire du diocèse de Liège, 1995), 135-36.

[130] Liège (1290), *Moderationes*, c. 1: in *Les statuts synodaux de Jean de Flandre*, 195.

[131] See Léopold Genicot, "Haut clergé et noblesse dans la diocese de Liège du XI^{e} au XV^{e} siècle," in *Adel und Kirche: Gerd Tellenbach zum 65. Geburtstag*, eds. Josef Fleckenstein and Karl Schmid (Freiburg: Herder, 1968), 237-58. Notably, Adolphe was perhaps the only bishop of Liège during this period who was not a cadet son, having renounced his title to the county of Waldeck in order to pursue an ecclesiastical career; see Alain Marchandisse, *La fonction épiscopale à Liège aux XIII^{e} et XIV^{e} siècles. Étude de politologie historique* (Geneva: Droz, 1998), 205.

temper and a penchant for drunkenness.[132] The first two qualities, at least, were amply displayed in his exchanges with the Lombards of Liège. Sometime after his election to the bishopric of Liège, Bishop Adolphe apparently issued a ban on usurious lending within his see. When this failed to dislodge the local Lombards, who enjoyed the support of the city's aldermen, the bishop took it upon himself to expel them. Girding himself with the robes and insignia of his office and "armed not with shield and helmet, but with mitre and staff" (as one chronicler put it), he gathered his retinue and proceeded from his palace to the houses of the Lombards. There the bishop (or his provost, as some accounts have it) broke down the doors and drove out the Lombards.[133] This, at least, is how the event is narrated in the two earliest chronicle accounts of Adolphe's reign, both of which were composed in the second quarter of the fourteenth century.[134]

It is quite possible that Adolphe had encountered *Usurarum voraginem* during his legal studies at Bologna, and the topic of foreign moneylenders may have come up during the time he spent at the papal curia prior to his election as bishop of Liège.[135] According to the late fourteenth-century chronicler Jean d'Outremeuse, however, whose account of the expulsion is

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[132] Jean de Hocsem, *La chronique de Jean de Hocsem*, ed. Godefroid Kurth (Brussels: Kiessling 1927), 103: "Adulphus de Waldege…zelator iustitie, ebriosus, iracondus, XLVus Leodiensis episcopus."

[133] Antoine Bonnivert has recently studied this episode in an unpublished master's thesis; see his "Adolphe de Waldeck, évêque de Liège (1301-1302†)," mémoire du master en Histoire, dir. Jean-Louis Kupper (Faculté de philosophie et lettres, Département des Sciences historiques, Université de Liège, 2013), esp. 117-26. I would like to thank Antoine for our amiable exchanges on this subject.

[134] See *Chronique de Jean de Hocsem*, 108-10; and Jean de Warnant, *Chronique (extraits)*, in *Chroniques liégeoises*, eds. Sylvain Balau and Émile Fairon, 2 vols. (Brussels: Kiessling, 1913-31), 1.28-66, at 55. The two accounts seem to have shared a single source; of the two, Warnant offers the fuller account, but his chronicle survives only via excerpts in a later compilation. On the Liègeois chronicle tradition in general, see Sylvain Balau, *Les sources de l'histoire de Liège au Moyen Âge: étude critique* (Brussels: Lamertin, 1903).

[135] For his legal education, see Bonnivert, "Adolphe de Waldeck," 46-48; for his presence at the papal curia, see Marchandisse, *Fonction épiscopale*, 172.

characteristically embellished, the episode was prompted by the arrival of a papal bull in September 1302, which "ordered that all of the Lombards, who were lending at usury, be expelled like dogs." D'Outremeuse goes on to note that this bull was one of many that Boniface VIII sent forth on the same subject at that time.[136] None of these is extant, nor were any such bulls inscribed in the papal registers for 1302. But since the papal chancery sent forth an estimated 11,000 bulls in 1302, of which few survive and only a fraction were registered, and given that we know that Boniface VIII had sent forth similar letters to eight Burgundian bishops six years earlier, there is no reason to doubt d'Outremeuse's account.[137]

In any event, the expulsion turned out to be rather brief. Adolphe died within a matter of months, with some later chroniclers suggesting that he had been poisoned by the Lombards themselves as retribution for their expulsion.[138] Within a year of the expulsion, we have renewed evidence of Astigiani activity within Liège, namely, a contract drawn up among four brothers of the Abellonei family on 7 November 1303.[139] Nevertheless, the two earliest chronicle accounts,

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[136] *Ly myreur des histors. Chronique de Jean des Preis dit d'Outremeuse,* eds. Adolphe Borgnet and Stanislas Bormans, 7 vols. (Brussels: Hayez, 1864-87), 6.10-11: "Et droit en mois de septembre apres, sont venues bulles à Liege que li pape envoiat, enssi qu'ilh envoiat altre part par tout, en queiles ilh, li pape, commandoit que ons decachast tous les Lombars qui à usure pristoient com chiens; et furent ches bulles presentees en capitle et publiies." Writing in the early sixteenth century, the chronicler Jean de Brusthem included a lengthy extract from *Usurarum voraginem* in his discussion of the papal bull; see *La Chronique de Jean de Brusthem*, in *Chroniques Liégeoises*, 2.1-138, at 62 [=c. 25].

[137] *Les registres de Boniface VIII*, ed. Georges Digard et al., 4 vols. (Paris: de Boccard, 1907-39), 1.328-29 [=nos. 937a-b]. For the production and survival of Boniface's letters, see Robert Fawtier, "Introduction," in *idem.*, 4.v-cvi, esp. at xxxviii and lii.

[138] E.g. *La chronique liégeoise de 1402*, ed. Eugène Bacha (Brussels: Kiessling, 1900), 248-49: "[…] qui cum persecutus esset Lombardos causa eorum fenerationis ipsum multum habebant odio; quare, ut dicitur, ab eis inpotionatus est veneno." See also the discussion in Bonnivert, "Adolphe de Waldeck," 129-31.

[139] The text of this document is given in Bonnivert, "Adolphe de Waldeck," 141-42 [=Annexe 4]; his edition is based on that of Stefania Pizzorno, "L'aristocrazia bancaria astigiana: la famiglia degli Abellonei," tesi di laurea in Esegesi delle fonti di storia medievale, dir. Renato Bordone (Turin: Università di Torino, Facoltà di Lettere, 1990), 2.200-204 [=no. 22]. Among the witnesses was the son of Bonifacio de Baene, whose lending activity in Tournai was discussed above, pp. 96-97.

together with all later Liègeois chronicles, treat the expulsion of the Lombards as one of the defining moments of Adolphe's brief episcopal tenure, thereby underscoring the degree to which contemporaries saw expulsion as exceptional.

This, in turn, raises the question of why Adolphe heeded the papal bull, when no other contemporary prelates are recorded as having done so. The Belgian historian Godefroid Kurth suggested that the expulsion was carried out at the instigation of local moneychangers, who formed part of the city's patriciate and were opposed to foreign competition, but there is no evidence to support this conjecture.[140] Others have pointed to the chronic indebtedness of the prince-bishops of Liège or to Adolphe's notoriously volatile temper; it is possible that these played a role.[141] But there was also good reason for Adolphe to take seriously the threat of suspension as spelled out in *Usurarum voraginem* (and which was presumably present at least implicitly in Boniface's bull). Adolphe, unlike many of his fellow prelates, was not simply a bishop; he was also a prince. As a bishop, Adolphe was charged with compelling *Usurarum voraginem*'s implementation within his diocese. When Boniface VIII wrote to the Burgundian bishops in 1296, he notably did not order the bishops to carry out the expulsion themselves, but rather insisted that they first warn the "nobles and barons" in their cities and dioceses of the duty to expel foreign usurers and then "compel them through apostolic censure."[142] And we have already seen Adolphe's predecessor Jean d'Enghien doing something of the sort in the case of Nivelles, even if he clearly shied from direct confrontation with the duke of Brabant.

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[140] Godefroid Kurth, *La cité de Liège au Moyen-Âge*, 3 vols. (Brussels: Dewit, 1909-10), 1.160.

[141] Marchandisse, *Fonction épiscopale*, 241, 249-50, 282.

[142] *Registres de Boniface VIII*, 1.328-29 [=nos. 937a-b]: "nobiles et barones tue civitatis et diocesis […] monitione premissa […] per censuram apostolicam appellatione remota compellas."

As a prince, however, Adolphe was directly responsible for carrying out the decree's provisions within his principality, and his ecclesiastical status meant that he was clearly subject to the decree's penalty of *ipso facto* suspension in the event of non-compliance. Despite the considerable political tensions brewing within the principality (which would erupt into violent conflict in 1312), the independent authority of the prince-bishop himself was hardly in question. So if the bishop of Liège had been willing to enforce sanctions against the abbess of Nivelles, whose jurisdiction over the Lombards of Nivelles was disputed, then *a fortiori* he could hardly shrink from expelling Lombards from the city of Liège itself. Moreover, even if Adolphe's predecessors seem to have been willing to ignore the abstract threat of automatic sanctions, an explicit papal bull was another matter altogether.

If this was indeed Adolphe's reasoning, then the experience of his successor, Theobald de Bar (r. 1303-1312), bore him out. In 1305, two years after his election as bishop of Liège, Theobald was suspended from office for failing to enforce *Usurarum voraginem* by expelling foreign moneylenders from the principality. He seems not to have paid much attention to the penalty at first, continuing to exercise his episcopal functions, but he eventually sought out a papal dispensation for the resulting irregularity, which Clement V (r. 1305-1314) granted in February 1306.[143] Thereafter Theobald seems to have pursued the matter of foreign usurers rather more diligently, laying a fifteen-day interdict on the towns of Huy, Dinant, and Sint-Truiden in November 1306 after they refused to drive out their resident communities of

[143] Vatican City, ASV, Reg. Vat. 52, fol. 51r. A summary is given in *Regestum Clementis papae V*, 8 vols. (Rome: Typographia Vaticana, 1884-92), 1.52 [=no. 293 (17 Feb. 1306)]. As the dispensation notes, the initial suspension was compounded by a separate transgression, namely, Theobald's failure to pay a sum owing to the papal *camera*.

Lombards.[144] Although some Lombards apparently reestablished themselves in Sint-Truiden within a year of the expulsion, the event seems to have marked the end of the Lombards' presence in Dinant, and it took about ten years for them to reestablish their presence in Huy.[145]

Taking a step back, it is clear that *Usurarum voraginem* did not leave much of a mark on the landscape of moneylending within the diocese of Liège. As we have seen, the Lombards of Nivelles continued their activities largely uninterrupted, and indeed the city remained home to a community of Lombard moneylenders until the very end of the fifteenth century. The same is true for Sint-Truiden, while the Lombards of Huy and Liège carried on their operations more or less continuously until the beginning of the seventeenth century. Admittedly, so far as the leading ecclesiastical figures of the diocese were concerned, *Usurarum voraginem* mattered a great deal, at least in the decades around 1300. As we have seen, varying responses to the decree's expulsion provision led to a lengthy excommunication for Élisabeth de Bierbais, lasting renown for Adolphe de Waldeck, and temporary suspension for Theobald de Bar. Yet within the broader ecclesiastical landscape of the period, their experiences were clearly exceptional. For the closing decades of the thirteenth century and the early decades of the fourteenth, nearly all of the surviving evidence for actual efforts to implement *Usurarum voraginem*'s expulsion provision comes from the diocese of Liège; the same is true for sanctions for non-compliance.

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[144] *Chronique liégeoise de 1402*, 252-53. According to the chronicler, the bishop insisted that the towns expel both "local and foreign usurers (*usurariis domesticis et alienigenis*)," but it is unclear whether this reflects Theobald's actual demands or a later, unreliable source. Théodose Bouillé, in his *Histoire de la ville et pays de Liège*, 3 vols. (Liège: G. Barnabé, 1725-32), 1.326, claimed that these were the same Lombards who had been driven from Liège, but this cannot be established with certainty.

[145] Reichert, *Lombarden*, 1.249 (Dinant), 1.354 (Huy), and 2.703 (Sint Truiden). As Camille Tihon noted, when the king of the Romans convened a gathering of Lombards in Cologne in 1309, Sint Truiden was the only one of the three towns to be represented. Meanwhile, the absence of any Lombards in Dinant was explicitly noted ("a Dynant om ne trova lombart pour ajourner.") See Tihon, "Aperçus," at 357. For the record of the summons, see Fernand Vercauteren, "Document pour servir à l'histoire des financiers Lombards en Belgique (1309)," *Bulletin de l'Institut historique belge de Rome* 26 (1950-51), 43-67.

Furthermore, this evidence is scattered across cartularies, chronicles, and papal letters, so we cannot simply dismiss this anomaly as the product of a single, unusually rich source. Something was happening in Liège that did not happen elsewhere.

It is tempting to ascribe this to the intensity of Lombard activity in the region, coupled with the independent authority of the prince-bishops and the tensions wrought by internal conflicts within the ecclesiastical institutions themselves. Yet similar combinations were to be found elsewhere in western Christendom, notably in the other prince-bishoprics along the western fringes of the Holy Roman Empire. Perhaps we are dealing here with a sort of catalytic reaction, in which the initial dispute in Nivelles turned the question of expulsion into a live issue among Liègeois observers. But this hardly explains the lengthy break between the attempted Nivelles expulsion, which took place sometime before 1280, and the later episcopal actions, which did not unfold until after the turn of the fourteenth century. Nor does it explain why some bishops of Liège proved genuinely concerned about implementing *Usurarum voraginem*'s provisions, while others ignored them altogether or bowed only to external pressure. The answer surely lies in part in the personalities of the bishops themselves, as well as their specific political circumstances—but given the shortcomings of the surviving evidence, it is hard to go much further.

Instead, let us return to Jean d'Outremeuse's remark that the papal bull that Adolphe de Waldeck received in September 1302 was one of many that Boniface VIII sent out at the same time. From one perspective, the fact that Adolphe duly honored the bull shows that the pope was not pursuing an entirely hopeless cause. Expulsion was possible, even if it proved to be exceedingly rare. From another perspective, however, the fact that Adolphe is the only prelate known to have carried out Boniface VIII's wishes in this matter merely serves to highlight the silence of all the rest. And whether or not we can explain why Liège proved exceptional when it

came to the implementation of *Usurarum voraginem*'s expulsion provision, the lessons from Liège certainly help explain the widespread silence elsewhere.

First, even where bishops were willing to constrain weaker ecclesiastical institutions within their dioceses (as in the case of Nivelles), confronting powerful secular authorities was a much more daunting prospect—and in most places, it was secular authorities who claimed (and exercised) jurisdiction over foreign moneylenders. We have already seen how Bishop Jean d'Enghien of Liège avoided directly challenging the duke of Brabant over his protection of the Lombards in Nivelles. This restraint was just as pronounced in the neighboring diocese of Cambrai, whose bishops held spiritual jurisdiction over much of western Brabant. Bishop Enguerrand II de Créqui (r. 1274-1285/86), for example, attended the Second Council of Lyon and twice issued synodal legislation inspired by *Usurarum voraginem*, but there is no evidence that he even threatened the duke of Brabant with ecclesiastical censure, to say nothing of actually carrying it out.[146] A later bishop of Cambrai, perhaps Guy de Colle Medio (r. 1296-1306), would incorporate the entire text of *Usurarum voraginem* into his statutes for the diocese, but again, there is no indication that this had the slightest impact on the duke of Brabant or any other secular authorities.

We must also take into account the complicity of the bishops with the moneylenders. In the lead-up to the Council of Vienne in 1311, for example, the bishop of Cambrai, Pierre de Lévis-Mirepoix (r. 1309-1324), complained that secular authorities were not allowing him or his officials to punish usurers dwelling in their lands, and were instead allowing such usurers to

[146] For his presence at Lyon, see Carolus-Barré, "Pères du II[e] concile de Lyon," 396. For his synodal legislation, see Cambrai (1275), cc. 21-27: in *Statuts synodaux* 4, 95-99; and Cambrai (1278), cc. 11-12: in *idem.,* 103-8.

settle there so that they could squeeze money from them at will.[147] In 1323, he incorporated into the synodal statutes of Cambrai a stiffer version of the penalties set forth in the Lateran III decree *Quia in omnibus*.[148] Yet in 1324, the abbot of the Cistercian monastery of Vaucelles denounced the very same bishop for his extensive dealings with local Lombards, which the bishop had used to expand the political and economic clout of his see over smaller ecclesiastical institutions such as the monastery of Vaucelles itself.[149] In light of this, it was probably more than coincidence that it is only after Bishop Pierre was translated to the see of Bayeux that we at last see diocesan officials taking formal action against Lombards within the diocese of Cambrai.[150] Moreover, to judge from the surviving evidence from elsewhere in northwestern Europe (and beyond), the bishop of Cambrai's economic ties to Lombard moneylenders was representative rather than exceptional, with ecclesiastical borrowers featuring regularly among the Lombards' most prominent clients.

To observe that Pierre de Lévis-Mirepoix, Jean d'Enghien, and many of their fellow prelates faced competing interests and pressures is simply to point out the obvious; likewise for noting

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[147] Cambrai (bef. 1311): in *CG* 4.236-43, at 240-41; and Franz Ehrle, "Ein Bruchstück der Acten des Concils von Vienne," *Archiv für Literatur- und Kirchengeschichte des Mittelalters* 4 (1888), 361-470, at 393: "Episcopus Cameracensis dicens, quod nobiles et potentes non permittunt, quod episcopus seu officialis Cameracensis puniant usurarios in terris suis commorantes, immo usurarios ipsos defendunt et in terris suis eos permittunt morari, ut ab eis extorquent pecuniam, quam volunt." This and similar complaints were the inspiration for the decree *Ex gravi*, which considerably augmented episcopal authority vis-à-vis civic and other officials who provided support for moneylenders; see Vienne, c. 29 (*Ex gravi*): in *COD*, 384-85.

[148] Cambrai (1323), c. 1: in *CG* 4.286-88 (here dated erroneously to 1324). For *Quia in omnibus*, see Lateran III, c. 25: in *COD,* 223.

[149] For the denunciation and its context, see David Kusman, "Quand usure et Église font bon ménage. Les stratégies d'insertion des financiers piémontais dans le clergé des anciens Pays-Bas (XIII^{e}-XV^{e} siècle)," in *Bourguignons en Italie, Italiens dans les pays bourguignons (XIV^{e}-XVI^{e} s.)* (Neuchâtel: Centre européen d'études bourguignonnes, 2009), 205-25, esp. 205-9.

[150] See Aloys Schulte, *Geschichte des mittelalterlichen Handels und Verkehrs zwischen Westdeutschland und Italien mit Ausschluss von Venedig*, 2 vols. (Leipzig: Duncker & Humblot, 1900), 1.307 and 2.291 [=no. 438 (7 December 1324)].

that bishops' normative declarations frequently failed to align with their private actions, or that they shied from open conflict with secular rulers where the presence of foreign moneylenders was at stake. But if we return to the widespread episcopal reluctance to promulgate *Usurarum voraginem*'s expulsion provision within their local ecclesiastical legislation, which we discussed in the previous chapter, these considerations suggest another possible reading. Rather than suggesting outright opposition to the decree's demand that foreign moneylenders be expelled, perhaps we should see the repeated omission of the expulsion provision as a concession to practical realities, an expression of the bishops' reluctance to commit themselves to a policy that was politically unworkable.

For many prelates, however, and particularly those with extensive temporal jurisdiction, external political constraints can hardly have served as an excuse for inaction. Take, for instance, the great prince-bishoprics of the Rhineland, that is, Trier, Cologne, and Mainz, all three of which harbored communities of Lombards through much of the fourteenth century. Let us start with Trier, where Astigiani moneylenders are attested throughout much of the late thirteenth century as well. So far as the surviving evidence suggests, neither the 1277 provincial canon ordering the observation of *Usurarum voraginem*, nor the 1310 reissue of the same, had any impact on the presence of Lombards within the archdiocese.[151] Moreover, as is clear from a 1335 privilege issued by Archbishop Baldwin of Luxembourg (r. 1307-1354), the Lombards of Trier fell under archiepiscopal jurisdiction—so the responsibility for expulsion clearly fell on the

[151] Trier (1277), c. 11: in *Statuta synodalia ordinationes et mandata archidioecesis Trevirensis*, ed. Johann Jacob Blattau, 9 vols. (Trier: Lintz, 1844-59), 1.14-30, at 25-26; and Trier (1310), c. 34: in *Statuta synodalia…Trevirensis*, 1.63-155, at 88.

archbishop himself, as did the ostensible penalties for non-compliance.[152] Yet far from expelling foreign moneylenders, the archbishops actually welcomed them into their province, granting them protection in return for guaranteed annual payments.[153]

A similar pattern is visible in Cologne, where the archbishop maintained his jurisdiction over Lombards even after losing most of his political authority within the city of Cologne itself in 1288. Starting before 1296, successive archbishops granted pawnbroking licenses and settlement privileges to Lombards active in various towns within their temporal domains, including Cologne itself.[154] This did not prevent them from inserting calls for *Usurarum voraginem*'s enforcement within their archdiocese into their legislation on at least three occasions between

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[152] Karl Lamprecht, *Deutsches Wirtschaftsleben im Mittelalter. Untersuchungen über die Entwicklung der materiellen Kultur des platten Landes auf Grund der Quellen zunächst des Mosellandes,* 3 vols. (Leipzig: Durr, 1885-86), 3.157 [=no. 129].

[153] In the earliest known privilege, which dates from 1262, Archbishop Henry II von Finstingen (r. 1260-1286) allowed four Astigiani moneylenders to settle in Trier; see Gisela Möncke, ed., *Quellen zur Wirtschafts- und Sozialgeschichte mittel- und oberdeutscher Städte im Spätmittelalter* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1982), 56-61 [=no. 3]. The next known archiepiscopal privilege dates from 1335 (see the preceding note). A third privilege, granted by Kuno II von Falkenstein (r. 1362-1388) to a group of Astigiani moneylenders residing in Oberwesel and nearby towns, dates from 1372; see Johann Nikolaus von Hontheim, *Historia trevirensis diplomatica et pragmatica*…, 3 vols. (Augsburg: Veith, 1750), 2.276-80 [=no. 749], where (as noted in Schulte, *Geschichte,* 1.301) the privilege is erroneously dated to 1376.

[154] A confirmation from 1296 makes reference to an earlier privilege of unknown date; see Leonard Ennen and Gottfried Eckertz, eds., *Quellen zur Geschichte der Stadt Köln*, 6 vols. (Cologne: DuMont-Schauberg, 1860-79), 3.409-10 [=no. 430]. The earlier privilege appears to have been granted by the municipal officials of Cologne, but a later pawnbroking license from 1332 was granted by Archbishop Walram von Jülich (r. 1332-1349); see Bruno Kuske, ed., *Quellen zur Geschichte des Kölner Handels und Verkehrs im Mittelalter*, 4 vols. (Bonn: Hanstein, 1917-34), 1.21-26 [=no. 76]. Archbishops of Cologne also bestowed privileges on Lombards in Kempen and Rheinberg (1306), Neuss (1333), Deutz (1363), and Königswinter and Bonn (1373); see, respectively, Joseph Hansen, "Der englische Staatskredit unter König Eduard III. (1327-1377) und die hansischen Kaufleute. Zugleich ein Beitrag zur Geschichte des kirchlichen Zinsverbotes und des rheinischen Geldgeschäftes im Mittelalter," *Hansische Geschichtsblätter* 37 (1910), 323-415, at 410-13 [=no. 1]; *Die Regesten der Erzbischöfe von Köln im Mittelalter*, ed. Friedrich Wilhelm Oediger, 12 vols. (Bonn: Hanstein, 1901-2001) [hereafter *REK*], 4.27 [=no. 145]; Friedrich Lau, ed., *Quellen zur Rechts- und Wirtschaftsgeschichte der rheinischen Städte. Kurkölnische Städte,* Bd. 1: *Neuss* (Bonn: Hansteins, 1911), 61 [=no. 30]; *REK* 7.14-16 [=no. 50]; *REK* 8.208 [=nos. 841, 842].

1297 and 1372, none of which appears to have had an effect on Lombard activity.[155] More noteworthy is a synodal statute that Henry II von Virneburg (r. 1306-1332) issued in October 1319, much of which simply restated an anti-usury statute that he had promulgated earlier that year. The October version, however, included a new passage that explicitly condemned the Lombard Bonifacio Coppa and his associates, who were engaging in lending activity in various nearby towns (including Aldenhoven, Siegburg, and Sinzig), and insisted that they cease their usury and make full restitution according to canonical procedures. Otherwise, these "foreign usurers (*usurarios…alienigenas*)" together with other manifest usurers in the diocese were to suffer excommunication, testamentary invalidity, and the penalties set out in *Quia in omnibus*.[156] (Expulsion as demanded by *Usurarum voraginem* is noticeably absent from the list.) This is the only instance in any surviving local ecclesiastical legislation in which a Lombard is denounced by name, and it is unclear what Bonifacio had done to earn such attention. In any event, it does not seem to have prevented him from continuing his activities in Cologne, as his presence there is attested throughout the early 1320s.[157]

Confronting the apparent discordance between the prelates' privileges to Lombards on the one hand, and their denunciation of usurers on the other, Renato Bordone suggested that within

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[155] Cologne (1297x1304), c. 12: in *CG* 4.37-43, at 41; Bonn (1329), c. 6: in "Unbekannte Synodalstatuten der Kölner Erzbischöfe Heinrich von Virneburg (1306-1332) und Walram von Jülich (1332-1349)," ed. Wilhelm Janssen, *Annalen des Historischen Vereins für den Niederrhein* 172 (1970), 113-54, at 140-42; and Cologne (1370x1372), c. 9: in *CG* 4.496-508, at 502-3. The middle decades of the fourteenth century witness a break in attested Lombard activity in Bonn itself, but since the last securely dated attestation is from 1323, it seems unlikely that their absence has much, if anything, to do with the diocesan statute of 1329; see Reichert, *Lombarden,* s.v. Bonn.

[156] Cologne (October 1319), c. 3: in "Unbekannte Synodalstatuten," ed. Janssen, 122; and cf. Cologne (February 1319), c. 1: in "Unbekannte Synodalstatuten der Kölner Erzbischöfe Heinrich von Virneburg (1306-1332) und Wilhelm von Gennep (1349-1362)," ed. Herbert Lepper, *Annuarium historiae conciliorum* 11 (1979), 339-56, at 346.

[157] Reichert, *Lombarden*, 1.372-73 (Köln).

the German-speaking world in particular, the Lombards "were considered not 'manifest usurers' but respectable merchants who specialized in providing credit." To claim otherwise, Bordone argued, was to imply that such important prelates as the archbishops of Trier and Cologne would deliberately contravene conciliar decrees, something that he saw as unthinkable.[158] In light of what we have seen in this chapter and the preceding one (not to mention the litany of contemporary accounts of ecclesiastical obstructiveness and misbehavior in other domains), Bordone's position surely overstates the prelates' propensity to toe the papal line. Moreover, although he is right to point out that Lombards were not invariably considered "manifest usurers," the process of classification was rarely a neutral or disinterested one. Godfrey de Fontaines addressed this issue specifically, noting that some authorities sought to sidestep *Usurarum voraginem*'s provisions by claiming that such-and-such a person was not a usurer but a merchant, as he engaged not in straightforward lending but in (fictitious) sale contracts. Since such contracts were openly fraudulent (*fraus manifesta*), however, Godfrey acidly remarked that he did not see how this argument could possibly serve as sufficient excuse for prelates whose lands were home to such usurers.[159]

To be sure, the dividing line between "manifest usurer" and "respectable merchant" was fuzzy. But as we have seen in earlier chapters, the process of identifying someone as one or the other often reflected immediate political and economic concerns, rather than the consistent

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[158] Renato Bordone, "Lombardi come 'usurai manifesti': Un mito storiografico?," *Società e storia* 100-101 (2003), 255-72, at 259-60: "Per quanto spregiudicati potessero essere nel medioevo le autorità politiche, non si può certo pensare che ecclesiastici importanti come gli arcivescovi di Treviri e di Colonia andassero deliberatamente contro i decreti conciliari: i Lombardi dunque—almeno nel mondo tedesco—non erano considerati usurari manifesti, ma professionisti del credito, *mercatores* di rango ('viri providi et discreti'), specializzati nel prestito." See also his similar remarks in the "Conclusioni" to *Lombardi in Europa nel Medioevo,* eds. Renato Bordone and Franco Spinelli (Milan: FrancoAngeli, 2005), 217-24, at 223.

[159] Quodlibet 13.15, in *Les Quodlibets onze-quatorze*, 292.

application of *a priori* criteria. Despite the elaborate classificatory schemes developed by late medieval canonists and theologians, usury remained in the eye of the beholder. The Lombards with whom Pierre de Lévis-Mirepoix had collaborated during his tenure as bishop of Cambrai could suddenly find themselves hauled before an episcopal court on charges of manifest usury as soon as Bishop Pierre had been translated to another see. The same is true for Bonifacio Coppa, who seems to have been engaged in the same sorts of business dealings as his fellow Astigiani in Cologne, yet somehow fell sufficiently afoul of the bishop or his agents to merit explicit synodal condemnation. Whether Bonifacio and others like him were considered usurers depended less on their actual activities than on the interests of their potential protectors or prosecutors.

To see this more clearly, let us move southward to the third of the great Rhenish archbishoprics, Mainz. Although the provincial canons of 1274/75 include a lengthy paraphrase of *Usurarum voraginem*, none of the subsequent surviving legislation issued by the archbishops of Mainz—including a lengthy section on usury in the 1310 provincial canons—makes any reference to the decree.[160] In 1349 or earlier, however, the city of Mainz found itself under interdict on account of its failure to expel its resident usurers within three months, among other wrongdoings. Now these "other wrongdoings" in fact included the city's refusal to properly punish a group of citizens who had roughed up some clerics, and above all the city's longstanding support for the recently deceased Emperor Louis IV ("the Bavarian"), whose long-running quarrel with the papacy had led to considerable conflict and confusion in German ecclesiastical circles. Only once the city had at last transferred its allegiance to the papal side, the

[160] Mainz (1274x1275), c. 13: in Johanek, *Synodalia*, Bd. 3, Anhang 2, Nr. 1, 71-106, at 85-87; Mainz (1310), Bk. 4, tit. *De usuris*: in *CG* 4.174-225, at 214-16. On these texts, see Stefanie Unger, *Generali concilio inhaerentes statuimus: Die Rezeption des Vierten Lateranum (1215) und des Zweiten Lugdunense (1274) in den Statuten der Erzbischöfe von Köln und Mainz bis zum Jahr 1310* (Mainz: Gesellschaft für mittelrheinische Kirchengeschichte, 2004), 141, 174 n.207, and 278.

injury to the clerics had been satisfactorily addressed, and the offending usurers had been duly expelled did Archbishop Gerlach von Nassau (r. 1346-1371) agree to lift the interdict.[161] Now, it is certainly not impossible that Archbishop Gerlach was deeply concerned about the presence of foreign usurers in Mainz, though this is somewhat hard to reconcile with the series of concessions that he subsequently granted to Astigiani moneylenders in Bingen from 1356 onward.[162] It seems much more likely that the Lombards of Mainz were mere pawns in the broader political struggle between Gerlach and his rival archbishop of Mainz, Henry III von Virneburg (r. 1328/37-1346/53), a partisan of Louis IV who had refused to relinquish his see despite being formally deposed by the pope in 1346. Archbishop Henry III had himself granted the Lombards their initial privileges in 1341, and ordering their expulsion may well have been a means for Gerlach to punish them for their financial support of his rival over the preceding decade.[163] The same Astigiani whom Henry III classified as *mercatores* were therefore condemned as *usurarii* by his rival and successor.

A final episode takes us southward across the Alps, to the sprawling patriarchate of Aquileia. In the second half of the thirteenth century, the great wealth—and greater debts—of a sequence of patriarchs attracted representatives of the leading Sienese and Florentine banking firms to the region. In addition, the long tenure of Raimondo della Torre (r. 1273-1299), scion of one of the most powerful families in Lombardy, saw a dense network of Florentine moneylenders spread

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[161] Schaab, *Rheinischen Städtebundes*, 2.214-16 [=no. 154]. A German summary is given in *Regesten der Erzbischöfe von Mainz von 1289-1396*, eds. Goswin Freiherr von der Ropp et al., 2 vols. (Leipzig: Veit, 1913-58), 1.2.694 [=no. 6313].

[162] *REM* 2.1.148-49, 386-87, and 390-91 [=nos. 632, 1710, 1730]. A century later, another archbishop of Mainz would expel the Lombards from Bingen, but the circumstances of the expulsion are unclear; see *Regesta Bingiensia/Regesten der Stadt Bingen, des Schlosses Klopp und des Klosters Ruppertsberg*, ed. Anton Josef Weidenbach (Bingen, 1853), 46 [=no. 496].

[163] *Regesten der Erzbischöfe von Mainz*, 1.2.389 [=no. 4712]; and see Reichert, *Lombarden*, 1.471-72 (Mainz).

across Friuli and other lands under patriarchal jurisdiction.[164] All of the surviving evidence suggests that these Florentine moneylenders carried out their lending activity with the tacit or even active support of the patriarch. So it must have come as quite a shock to them when, in the summer of 1298, della Torre suddenly banished all of the Tuscans from Friuli. The Tuscans protested, but the patriarch stood firm, giving them less than a week to pack their belongings, recover outstanding debts, dispose of pawned goods, and leave his lands.

The expulsion itself is known from a document recording both the Tuscans' protests and the unyielding response of the patriarch's representative.[165] Although usury is not mentioned in this document, nearly all commentators on the episode have seen it as the motivating force behind the patriarch's decision. The expulsion's likely connection to *Usurarum voraginem*, however, has gone unnoted, yet it seems more than sheer coincidence that the patriarch's sudden antipathy toward these Tuscan moneylenders arose only months after the publication of the *Liber Sextus* in March 1298. Nor have scholars connected this expulsion with a diocesan statute issued by an unknown patriarch sometime before 1338, which drew directly on the language of *Usurarum voraginem* in ordering all foreign usurers to leave the patriarchate within fifteen days.[166] It seems possible, however, and perhaps even probable, that this statute was the basis for the expulsion in

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[164] See Donata Degrassi, "I rapporti tra compagnie bancarie toscane e patriarchi d'Aquileia (metà XIII secolo-metà XIV secolo," in *I toscani in Friuli. Atti del Convegno (Udine, 26-27 gennaio 1990)*, ed. Alessandro Malcangi (Florence: Olschki, 1992), 169-99; and Miriam Davide, "Modalità di insediamento di tre minoranze nel Friuli tardomedievale: ebrei, lombardi e toscani," in *Cultura cittadina e documentazione. Formazione e circolazione di modelli, Bologna, 12-13 ottobre 2006*, ed. A. L. Trombetti Budriesi (Bologna: CLUEB, 2009), 41-58; Luca Demontis, *Raimondo della Torre, patriarca di Aquileia (1273-1299): politico, ecclesiastico, abile communicatore* (Alessandria: Edizioni dell'Orso, 2009), 269-87.

[165] Demontis, *Raimondo della Torre*, 558-59 [=doc. 165].

[166] The statute survives as part of a synodal compilation from 1338; see Aquileia (1338), pt. 2, c. 16: in *Sinodi aquileiesi*, 361. The printed edition implicitly attributes the statute to Gregorio di Montelongo (r. 1251-1269), but he died five years before the Second Council of Lyon. This misattribution likely explains why no earlier scholars have connected della Torre's expulsion to the surviving statute.

1298, and that the statute's promulgation can in turn be connected with the reissuing of *Usurarum voraginem* as part of the *Liber Sextus*.[167] If this is true, then we can take the expulsion as a swift response to the threat of censure. Moreover, given that della Torre died a mere six months later, he was wise to set his conscience at ease. It seems hard to believe, however, that della Torre was entirely unaware of *Usurarum voraginem* before the spring of 1298, especially given other evidence for his lawgiving activity.[168] So even if the expulsion is not directly linked to the diocesan statute, or even to the publication of the *Liber Sextus*, we are nevertheless left with a case of a prince-bishop who openly tolerated, and in fact approved, the spread of foreign moneylenders within his lands over several decades, only to suddenly heed the dictates of canon law.

As Godfrey de Fontaines recognized, the ambiguity and discretion of Lombard business practices allowed interested ecclesiastical authorities to consider professional moneylenders as perfectly licit merchants when it was convenient to do so, which thereby freed them (at least in their own minds) from the duty to implement *Usurarum voraginem*'s provisions. Yet it is hard not to side with Godfrey in seeing such elisions as deliberately evasive. Of course, when Paolino Testa of Asti swore to Archbishop Baldwin of Cologne that he "would not engage in any usury or kind of usury, either by himself or through another in his name, whether clandestinely or

[167] This explanation seems more compelling than the one suggested by Demontis (*Raimondo della Torre*, 286), which sees the expulsion as arising out of local resentment at the Tuscans' ties to the patriarch. Donata Degrassi, for instance, has recently shown ("Rapporti," 196) that the class of Tuscan moneylenders that likely fell within the ambit of the expulsion order had rather little involvement with patriarchal finances, which were instead in the hands of major banking firms.

[168] See, for example, the canons of the provincial council he convened in 1282: in Mansi 24.428-38; along with the more general remarks of Andrea Tilatti, "Sinodi diocesane e concili provinciali in Italia nord-orientale fra Due e Trecento. Qualche riflessione," *Mélanges de l'École française de Rome. Moyen Âge* 112 (2000), 273-304, esp. 297-301. It is worth noting, however, that della Torre was conspicuously absent from the Second Council of Lyon, having been given a papal dispensation in order to attend to the pressing needs of his patriarchate after a long period *sede vacante*; the dispensation is printed in Mansi 24.61.

openly," it is possible that that the archbishop took him at his word—and it is equally possible that the same is true for many of the other prelates who received similar assurances from the foreign moneylenders whom they welcomed into their lands.[169] But this certainly strains credulity. It seems hard to believe that Élisabeth de Bierbais was unaware of the Lombards' lending practices until the bishop of Liège came riding through town. It seems even less likely that Adolphe de Waldeck was similarly ignorant until a papal bull arrived at his doorstep. And given the acclaim that Adolphe received for actually expelling Lombards from Liège, it is inconceivable that his successor Theobald de Bar blithely saw the Lombards of Dinant, Huy, and Sint-Truiden as virtuous merchants until he suddenly found himself suspended from office for harboring usurers within his lands. Yet none of them acted until spurred by external pressure. This takes us back to Godfrey de Fontaines and Giovanni d'Andrea, who both pointed out that *Usurarum voraginem*'s threat of automatic sanctions seemed to carry little weight. It also brings us to the question of why the papacy proved so reluctant to enforce such sanctions, even in situations where they clearly applied. So let us now shift our focus from the episcopal courts of the Rhineland and the Low Countries toward the papal curia in Rome and Avignon.

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When it came to enforcing *Usurarum voraginem*'s provisions, a sense of apathy, or perhaps resignation, is apparent at even the highest levels of the ecclesiastical hierarchy. Despite the near-complete reluctance of bishops to censure lay transgressors (let alone implement expulsion within their own temporal jurisdictions), Theobald of Bar is the only ranking prelate who seems to have incurred any formal sanctions as a result of inaction. By contrast, earlier in the century, Pope Innocent III had suspended or deposed two archbishops and seven bishops after judging

[169] Lamprecht, *Deutsches Wirtschaftsleben,* 3.157 [=no. 129]. Similar anti-usury promises feature in a number of Lombard privileges granted by lay and ecclesiastical authorities alike.

them to be insufficiently committed to the church's anti-heresy campaign.[170] The comparison might seem forced, but the rhetoric of anti-usury polemics was pitched extremely high, and at the Council of Vienne in 1311/12 the assembled leaders of the church would declare outright (in the decree *Ex gravi*) that defenders of usury were to be condemned as heretics.[171] To be sure, no pope of the late thirteenth or fourteenth century could match Innocent's towering status and authority. But it is significant that even the most rigorous and powerful among them, Boniface VIII, was reluctant to punish inaction with actual penalties. In 1296, as we have seen, he sent admonishing letters to eight Burgundian bishops, demanding that they compel secular authorities to expel foreign moneylenders from their dioceses.[172] There is no evidence that any of them heeded the papal demands, nor does he appear to have taken further measures. With the notable exception of Adolphe de Waldeck, the same is true of the letters that Boniface apparently sent out in 1302. Boniface was no hypocrite, and he twice ordered the expulsion of foreign moneylenders from the Comtat Venaissin, a papal territory surrounding Avignon, first in 1300 and then again in 1303.[173] He was also not one to steer from away from conflict, where infringements of ecclesiastical law or privileges were concerned. Yet when it came to enforcing *Usurarum voraginem*'s sanctions for non-compliance, Boniface settled for chastising missives rather than concrete measures.

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[170] R. I. Moore, *The War on Heresy* (Cambridge, MA: Harvard University Press, 2012), 242.

[171] Vienne, c. 29 (*Ex gravi*), in *COD,* 384-85. For a local study of the decree's enforcement, see Massimo Giansante, "Eretici e usurai. L'usura come eresia nella normativa e nella prassi inquisitoriale dei secoli XIII-XIV. Il caso di Bologna," *Rivista di storia e letteratura religiosa* 23 (1987), 193-221.

[172] The recipients were the bishops of Autun, Basel, Belley, Besançon, Chalon-sur-Saône, Langres, Lausanne, and Macon; see *Registres de Boniface VIII*, 1.328-29 [=nos. 937a-b].

[173] *Registres de Boniface VIII*, 2.723 and 3.447 [=nos. 3621, 5246]. These expulsions are discussed further below, pp. 287-89.

Several decades later, Pope Benedict XII (r. 1334-1342) would likewise urge a number of Burgundian prelates to uphold *Usurarum voraginem* within their dioceses, though he placed the onus for expulsion more squarely on the shoulders of the bishops themselves than had Boniface.[174] In a 1337 letter to the archbishops of Valence, Viviers, and Vienne, along with the suffragan bishops of the latter, Benedict ordered them to implement the decree "insofar as it pertain[ed] to [them] (*quantum ad vos spectat*)," adding that they were to compel the other competent authorities to expel the usurers "by means of the penalties set forth at the council (*ab aliis per penas eiusdem concilii faciatis expelli*)." The pope was even more direct in a letter sent two years later to the archbishop of Tarentaise, noting that the foreign usurers were residing not only in his diocese, but in the city of Tarentaise (i.e. Moûtiers) itself, "which is directly subject to the church of Tarantaise (*que est ecclesie Tarantasiensis immediate subiecta*)." The implication here was clear, namely, that the archbishop was directly responsible for the expulsion of the Lombards—and he was duly ordered to ensure that *Usurarum voraginem* was "inviolably observed (*inviolabiliter observari*)." Here again, however, papal blandishments appear to have had little effect, given the continuing moneylending activity of members of the Bergognini and Pelletta families of Asti throughout the region from the mid-1330s through to the 1350s and beyond.[175]

Earlier in the century, the reign of Pope Clement V saw a somewhat more muscular approach. As we have already seen, he upheld the suspension of Theobald of Bar in 1305 until

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[174] ASV, Reg. Aven. 51, fol. 225r; and ASV, Reg. Vat. 127, fol. 309rv. I checked the latter against ASV, Reg. Aven. 91, fols. 565rv. For summaries, see *Benoît XII (1334-1342): Lettres communes…*, ed. Jean-Marie Vidal, 3 vols. (Paris: A. Fontemoing, 1903-11), 1.479 and 2.204 [=nos. 5097, 7399]. I would like to thank both Édouard Jeauneau and the staff at the Vatican Archives for providing me with scans of Benedict XII's letters.

[175] See Anna Maria Patrone, *Le casane astigiane in Savoia* (Turin: Deputazione subalpina di storia patria, 1959), 56-62; and Reichert, *Lombarden*, Karten L.5 (Bergognini) and L.20 (Pelletta).

the latter finally sought out formal dispensation for his inaction. Two years later, at the request of Duke Jean II of Brabant, Clement V voided all of the agreements that the duke had made with Lombards when he was "young and surrounded by the counsel of bad men (*olim in etate iuvenili existens et malorum virorum consilio circumventus*)," which had allowed the Lombards to openly lend at interest within his lands.[176] But if the pope hoped that this would prompt a general expulsion of Lombards from Brabant, he was to be disappointed. The duke seems to have used the dispensation from his oaths as an excuse to shake off old debts and issue new licenses, and Lombards are attested in over thirty Brabantine cities and towns in 1309.[177] None of this, however, led to any further papal pressure on the duke himself.

In each of the above cases, it seems likely that we are dealing with papal reluctance to expend further political capital on the question of foreign moneylenders. As with the bishops, however, some popes actually intervened to protect favored foreigners from expulsion and other punishments. In 1319, for example, Pope John XXII (r. 1316-1333) wrote to the archbishops of Cologne and Reims and their suffragans, ordering them all to reverse measures taken against numerous Astigiani on the pretext of the recently promulgated decree *Ex gravi*.[178] Such actions, claimed the pope, ran counter to the aims of the decree. Around the same time, he wrote directly

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[176] *Regestum Clementis papae V*, 2.102-3 [=no. 1967]. The document is misattributed to Clement VI (and accordingly misdated to 1343) in Joseph Laenen, "Usuriers et lombards dans le Brabant au XV^{e} siècle," *Bulletin de l'Académie royale d'archéologie de Belgique* (1904), 123-44, at 145-46 [=p.j. 1]; the same error appears in Bigwood, *Régime*, 1.269. David Kusman (*Usuriers publics,* 239) has suggested that the duke's action was aimed at appeasing opposition among some of his councilors who held stringent views on usury.

[177] Vercauteren, "Document," 43-67.

[178] Heinrich Volbert Sauerland, ed., *Urkunden und Regesten zur Geschichte der Rheinlande aus der Vatikanischen Archiv*, 7 vols. (Bonn: Hanstein's Verlag, 1902-13), 1.248 [=no. 520]; summary versions are found in *Lettres communes. Jean XXII (1316-1334)*, ed. Guillaume Mollat, 16 vols. (Paris: Fontemoing, 1904-47), 2.384 [=nos. 9480-81]. See also Tihon, "Aperçus," 361. Notably, the afflicted Astigiani hailed from both Guelf and Ghibelline families, so the pope was not simply intervening on behalf of papal partisans.

to the municipal officials of Sint-Truiden, ordering them to indemnify some local Lombards whose houses had been pillaged in the wake of *Ex gravi*'s publication.[179] Yet in 1322, the same pope wrote to the bishop of Cambrai, complaining that Guy I, Count of Blois, "as a result of ignorance and led by evil counsel (*per ignorantiam et malo ductus consilio*)" had permitted some public usurers (*publicos usurarios*) to settle in the town of Avesnes-sur-Helpe (just south of the modern Franco-Belgian border). As a precaution, the pope first released the count from any oaths he may have sworn in granting such permission, then ordered the bishop to compel the count to expel the usurers from his lands.[180] Here again the outcome is unknown. In the face of such inconsistency, however, or at least such selective understandings of who exactly counted as a "usurer" where the application of canonical sanctions was concerned, it is hardly surprising that enforcement of *Usurarum voraginem* was no more thorough at the level of the papacy than it was further down the ecclesiastical hierarchy.

The most egregious example of papal reluctance to enforce the decree comes from the reign of Pope Clement VI (r. 1342-1352), and concerns the Dauphiné, in southeastern France. Starting from the turn of the fourteenth century, Florentine and Piedmontese bankers and moneylenders had settled in considerable numbers throughout the Dauphiné, reaching a high point by the early 1330s.[181] Although Dauphin Jean II (r. 1306-1318) periodically fined these newcomers on grounds of usury (since their settlement privileges formally barred them from lending at interest),

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[179] *Lettres de Jean XXII (1316-1334)*, ed. Arnold Fayen, 2 vols. (Rome: Bretschneider, 1908-12), 276-77 [=no. 2397]. For Lombard lending activity in Sint Truiden in 1320, see *Chartes confisquées aux bonnes villes du pays de Liège et du comté de Looz après la bataille d'Othée (1408)*, ed. Émile Fairon (Brussels: Palais des Académies, 1937), 265.

[180] *Lettres communes. Jean XXII*, 4.154 [=no. 16067].

[181] For a general discussion of the Italian presence in the Dauphiné, see Diego Deleville, *Les italiens en Dauphiné à la fin du Moyen Âge. Crédit, finance, et pouvoir* (Grenoble: Presses universitaires de Grenoble, 2012), esp. 48-50 and 185-219.

the general climate remained favorable to their activities. With the accession of his son Humbert II (r. 1333-1349), however, the Italian community (along with the local Jews) immediately found themselves the object of systematic *enquêtes*, heavy exactions, and repeated expulsion threats.[182] This shift in climate was ostensibly the result of the new dauphin's concerns about usurious lending and its damaging consequences on rural communities throughout his domains—and the reports of the *enquêteurs* do in fact reveal considerable indebtedness among the peasantry, as well as frequent excesses on the part of the moneylenders themselves. More immediately pressing, perhaps, was the dauphin's own financial difficulties. Eventually, his profligacy would force him to sell the Dauphiné itself to Philip VI of France in 1349, but in the meantime, Humbert found it more appealing to squeeze extra revenues from Jews and Lombards than to cut back on his expenditures.

For the most part, these measures did not prompt an exodus of Italians from the region; indeed, prior to the mid-1340s, only the Lombards of Serres and Veynes, in the very south of the Dauphiné, appear to have abandoned their operations, all of the others apparently giving in to the dauphin's fiscal demands.[183] In 1345, however, the Dauphin set off on a crusade against the

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[182] Within a year of his accession, Humbert II had already ordered the expulsion of all Italian merchants with their families from his lands, unless they appeared before him in person (presumably to offer a sum allowing them to remain); see Grenoble, Archives départementales de l'Isère (ADI), B 3013 (18 April 1334) and B 3234 (19 April 1334). For indebtedness to Italian and Jewish lenders, see Vital Chomel, "Communautés rurales et *casanae* lombardes en Dauphiné (1346). Contribution au problème de l'endettement dans les sociétés paysannes du sud-est de la France au bas Moyen Âge," *Bulletin philologique et historique jusqu'à 1610 du Comité des travaux historiques et scientifiques* 29 (1951-52), 225-247; Frédéric Chartrain, "Le point de non retour. L'endettement de deux communautés rurales dauphinoises envers les prêteurs lombards et juifs et l'intervention delphinale (1342)," in *Minorités et marginaux en France méridionale et dans la péninsule ibérique (VII^{e}-XVIII^{e} siècles). Actes du colloque de Pau, 27-29 mai 1984* (Paris: Éditions du Centre national de la recherche scientifique, 1986), 307-38; and Frédéric Chartrain, "L'enquête delphinale de 1337 sur les abus delphinaux et l'usure: les griefs de Vals et d'Albon, deux châtellenies delphinales du Viennois," 1-31, published online on 3 June 2010 <http://halshs.archives-ouvertes.fr/halshs-00489083/en/> [last accessed 15 May 2015].

[183] Deleville, *Italiens en Dauphiné*, 49, 210-11.

Turkish Emirate of Aydin, in western Anatolia, and like Saint Louis before him, he decided that he had to purge his lands of usury before setting sail. To this effect, before embarking from Marseille he sent a letter to the archbishop of Lyon, whom he had appointed as governor of the Dauphiné during his absence. Proclaiming his desire "to fully extirpate from our land the vice of usury that eats away at the wealth of our subjects, along with those engaging in this sin," Humbert ordered all Jews and Lombards to leave the Dauphiné before the following Good Friday.[184] Any Lombards who personally foreswore usury before the archbishop, however, might be allowed to remain. In addition, he requested that the pope absolve his subjects of their outstanding debts to the aforesaid Jews and Lombards.[185]

Some of the dauphin's subjects apparently shared his zeal, and a landlord in the town of Saint-Bonnet violently expelled the Lombards from a house that they had rented from him.[186] Fortunately for the rest of the Jews and Lombards, neither the archbishop nor anyone else on the

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[184] Given the traditional Good Friday prayer "for the perfidious Jews (*pro perfidis Judaeis*)," the choice of Good Friday as the expulsion deadline seems especially deliberate, an observation I owe to Michael McCormick.

[185] Jean Pierre Moret de Bourchenu, marquis de Valbonnais, *Histoire du Dauphiné et princes qui ont porté le nom de dauphins, particulièrement de ceux de la troisième race descendus des barons de la Tour du Pin*, 2 vols. (Geneva: Fabri & Barrillot, 1722), 2.522 [=p.j. 223]: "Item, cupientes usurarum vitium quae subsidiorum substantiam corrodunt ac personas affectas huiusmodi peccato de Terra nostra penitus extirpare, ordinamus atque mandamus quod omnes et singuli Judaei et Lombardi hinc ad diem proximum Parasceve Domini exeant Dalphinatum nostrum, nullatenus ex tunc redituri vel moraturi, exceptis dumtaxat Lombardis, qui a praedictis abstinerent et jurarent in manu dicti locumtenen. nostri se ulterius tacite vel expresse non participare vel contrahere in contractibus usurariis sub magnis poenis, si contrarium facerent, committendis, supplicantes Dom. nostro Papae ut remediat favorabiliter et benigne nostro populo super debitis iam contractis cum Lombardis et Judaeis praedictis." A month earlier, Humbert had also ordered his officials to seek out Jewish usurers in his French domains and punish them accordingly; see Auguste Prudhomme, *Les juifs en Dauphiné aux XIV^e^ et XV^e^ siècles* (Grenoble: Dupont, 1883), 24.

[186] ADI, B 2958 (Reg. XIV Graisivod.), LXXXII, fol. 476rv (22 May 1346): "ipse expulerat de quadam domum sua violenter lombardos ibidem commorantes […]." I would like to thank Jean-Paul Guillet of the ADI for kindly providing me with a scan of the document. A summary is given in *Regeste dauphinois; ou, Répertoire chronologique & analytique des documents imprimés et manuscrits relatifs à l'histoire du Dauphiné, des origines chrétiennes à l'année 1349*, ed. Ulysse Chevalier, 7 vols. (Valence: Impr. Valentinoise, 1913-26), 6.486 [=no. 34488].

governing council was inclined toward expulsion, believing—as they put it in a subsequent letter to the dauphin—that it would prove damaging to his lands (*hoc esse dampnum patrie vestre*). As they reported to the dauphin, they had therefore written to the pope for his advice. In his reply, Clement VI declared that the dauphin "could well bear what the church itself bore (*bene potestis pati que patitur Ecclesia*)," and that it was "better to make good use of the revenues that the Lombards provided than to force them to leave his lands (*non esset bonum quod recederent, ymo quod haberetur ab eis emolumentum quod haberi posset*)." The same was true for the Jews. The council accordingly settled for demanding 1000 florins from the Jews and doubling the amount that the Lombards were expected to pay for that year.[187]

So far as the Jews are concerned, the papal response is unsurprising. As we shall see in the next chapter, papal attitudes toward Jewish usury had hardened considerably over the course of the previous century, but there was still no precedent for actively encouraging the expulsion of Jewish usurers, let alone Jews *tout court*. But with respect to the Lombards, the papal response is truly striking. To begin with, it was less than a decade since Clement's predecessor had written sharp letters to prelates in the Dauphiné and its neighboring regions, demanding that they carry out the very expulsion that Clement himself was now opposing.[188] But more generally, his response directly contradicted a conciliar decree that had since entered into the formal compilation of canon law. Furthermore, it revealed that the church itself—or at least the papacy—was resigned to the decree's failure. In this respect, Clement VI's reply was certainly honest, all the more so given that it is the last recorded mention of the decree in papal

[187] Ulysse Chevalier, ed., *Choix de documents historiques inédits sur le Dauphiné* (Lyon: Brun, 1874), 107-16 [=no. 33], at 113.

[188] At this time, the Dauphiné encompassed much or all of the dioceses of Valence and Vienne, and likewise for some of the latter's suffragan dioceses, such as Die.

correspondence before the fifteenth century. Local prelates such as Archbishop Gerlach of Mainz might continue to wield the decree's provisions to suit their own aims, but so far as the papacy was concerned, *Usurarum voraginem* was now a dead letter.

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The widespread secular apathy (or even resistance) toward *Usurarum voraginem* is clear from the fact that only two secular jurisdictions—namely, the kingdoms of England and France—ordered the expulsion of foreign moneylenders in the wake of the decree. Significantly, both kingdoms had prior traditions of such expulsions; indeed, as we have seen, neither Edward I nor Philip III cited *Usurarum voraginem* itself in ordering expulsion, choosing instead to frame their actions in terms of the precedents set by their fathers. Elsewhere in western Europe, the decree's insistence that foreign moneylenders be punished with expulsion fell on less receptive ground. In some instances, as in Brabant, the competent secular authorities deemed *Usurarum voraginem* to be a jurisdictional overreach on the part of the church hierarchy; in others they opted for arrest and despoliation rather than expulsion, often with the approval of local ecclesiastical authorities; and often they were simply willing to let the general need for credit outweigh either the dictates of their conscience or the demands of their confessor. What is abundantly clear is that in the century following the decree's promulgation, virtually no secular authorities ever felt compelled by the threat of ecclesiastical censure.

It is hard to know what might have happened had the threat of censure hardened into actual sanctions. This occurred in only a handful of cases, all of which concerned ecclesiastical rather than secular disobedience. Simply put, the vast majority of the prelates charged with implementing *Usurarum voraginem* within their jurisdictions sidestepped this responsibility. Moreover, they generally turned a blind eye to all those around them who were doing likewise. In his letter to the Burgundian bishops, Boniface condemned local secular authorities for having

"disregarded the fear of God and spurned their reverence toward the Apostolic See (*Dei timore postposito et apostolice sedis reverentia omnino rejecta*)."[189] He might have said the same of the bishops themselves. Of the hundreds of bishops who ruled over dioceses where foreign moneylenders were active in the late thirteenth and fourteenth centuries, only a handful are known to have raised any sort of fuss. The same holds true for the array of ecclesiastical institutions, like the abbey of Saint Gertrude in Nivelles, that wielded temporal jurisdiction over the cities and towns in which such moneylenders plied their trade.

In some cases, such as Nivelles, we can ascribe this silence to effective political weakness vis-à-vis competing secular authorities; here the bishop of Liège was willing to impose sanctions on the (powerless) abbey, but not the (powerful) duke. As the previous chapter suggested, outright ignorance may also have been a factor—at least in the early years, and at the lower levels of the ecclesiastical hierarchy. In many cases, financial self-interest was clearly at play, even if the prelates might have been able to rationalize their protection or toleration of foreign moneylenders by seeing them as *mercatores* rather than *usurarii*. Many prelates might also have followed the lead of the early glosses on *Usurarum voraginem*, which suggested that automatic sanctions fell only on those ecclesiastics who rented houses to foreign usurers, with no explicit penalties for those who failed to expel them. And still others must simply have been willing to leave the entire question of usury to the internal forum, as a matter of sin and penitence to be dealt with by the usurers and their confessors, rather than through the open exercise of the prelates' own legal or political authority.

Indeed, it is possible that the ecclesiastical hierarchy had never meant for the decree to be widely enforced, notwithstanding the decree's threat of automatic sanctions for clerical

[189] *Registres de Boniface VIII*, 1.328-29 [=nos. 937a-b].

transgressors.[190] At the beginning of the century, for example, Innocent III had written to the bishop of Arras, counseling him to exercise restraint regarding the imposition of earlier canonical penalties on usurers, claiming that usurers had become so common in the bishop's diocese that if all of them were punished, it would be necessary to close up many churches.[191] In this instance, Innocent recommended that the bishop instead make an example of a few, in order to frighten the others into submission. A similar mindset may have prevailed among the church hierarchy concerning *Usurarum voraginem*. But if this indeed the case, and the conciliar fathers gathered at Lyon had simply hoped that a few ostentatious expulsions would put brakes on the spread of foreign moneylenders, they were to be sadly disappointed. Instead, as Boniface VIII remonstrated, secular and ecclesiastical authorities alike "harbored and protected them, to the peril of their souls and the scandal of many."[192]

[190] For a stimulating engagement with this line of reasoning, in the context of medieval commercial embargoes, see Stefan K. Stantchev, *Spiritual Rationality: Papal Embargo as Cultural Practice* (Oxford: Oxford University Press, 2014).

[191] *PL* 215, col. 1380d (=Innocent III, *Reg*. 11, no. 62 [19 April 1208]): "Cum iuxta canonicas sanctiones ubi multorum strages est, severitati sit aliquid subtrahendum, in usurarios, qui tantum in civitate ac dioecesi tua excrevisse dicuntur quod si censura in Lateranensi concilio prodita contra tales proferretur in omnes, omnino claudi ecclesias prae multitudine oporteret."

[192] *Registres de Boniface VIII*, 1.328-29 [=nos. 937a-b]: "retinent et tuentur in animarum suarum periculum et scandalum plurimum."

♦ 6 ♦

From Foreigners to Jews: Reinterpreting Expulsion

On October 18, 1274, in the western French town of Angers, Bishop Nicolas Gellent (r. 1261-1291) gathered together the clergy of his diocese, as he would do twice a year through most of his three-decade episcopate. In keeping with his usual custom, the bishop used the occasion of the synod to promulgate a set of diocesan statutes addressing matters of particular concern. Earlier that year he had issued statutes concerning harvesting practices and the need for clergy to abstain from eating meat during Lent. On this occasion, Bishop Nicolas focused his attention on clandestine marriage, the accumulation of benefices, monastic discipline, and lastly, the problem of usury.

As the bishop noted in the preamble to the anti-usury statute, his intervention was prompted by the Apostolic See's recent decision to ban all individuals and communities from renting or leasing houses "to those who were openly engaging in usurious lending." The statute goes on to restate *Usurarum voraginem*'s lengthy sanction clause nearly verbatim, though omitting its reference to lay transgressors.[1] This, as we have seen in the previous chapter, was a common enough omission in the decree's dissemination, and it is not especially noteworthy.

A second omission, however, proved far more consequential, for the Angers statute's reformulation of *Usurarum voraginem*'s provisions also included no mention of the decree's restriction to foreigners. As we saw in Chapter Three, this restriction seems to have been a revision enacted late in the conciliar deliberations or perhaps even following the Council's conclusion. Given that less than three months had elapsed since the end of the Council, it is

[1] Angers (October 1274), c. 4: in *Statuts synodaux* 3, 122-24.

possible that the bishop of Angers was simply working from a draft version of the decree, or relying on early reports of the council's proceedings.[2] Moreover, we have already seen that the omission of decree's restriction to foreigners was a relatively frequent occurrence. Yet in this instance the bishop went further. Since it was clear, continued the statute, that the Jews of the diocese of Angers openly engaged in the depravity of usury, the clergy and ecclesiastical institutions within the diocese were henceforth forbidden from renting houses to Jews, or indeed allowing Jews to reside anywhere on their lands. In other words, in drafting his statute, the bishop expanded *Usurarum voraginem*'s reach to include all usurers rather than just foreign ones, asserted that all Jews within his diocese were guilty of usury, then applied his reworking of the decree to the Jews.

Similar reworkings of general church law crop up fairly frequently in Gellent's episcopal statutes; he had few reservations about cloaking his own particular legislation with the authority of conciliar decrees.[3] Yet the thoroughness with which Gellent singles out Jewish usurers as the targets of the decree suggests that he was well aware that his reading of the decree was hardly self-evident, and that it furthermore ran counter to the prevailing weight of canon law. The red flag is another omission, namely, the absence of any overt reference to *Usurarum voraginem*'s expulsion provision. Gellent's restatement of *Usurarum voraginem* not only drops the decree's restriction to foreigners; it also drops its expulsion provision, focusing only on the housing ban.

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[2] Gellent is not attested as having been present at the Council, but the list of known attendees is far from complete; see Louis Carolus-Barré, "Les pères du II[e] concile de Lyon (1274): esquisses prosopographiques," in *1274, Année charnière: mutations et continuités* (Paris: Éditions du CNRS, 1977), 377-423, at 395-97 and 411-13.

[3] Joseph Avril, "Deux codifications synodales du XIII[e] siècle: Angers et Cambrai. Étude comparative," in *Proceedings of the Ninth International Congress of Medieval Canon Law. Munich, 13-18 July 1992*, eds. Peter Landau and Joers Mueller (Vatican City: Biblioteca Apostolica Vaticana, 1997), 399-416, at 404.

The bishop's own enumeration of penalties correspondingly bars Jews from residing on church-owned property rather than calling for their expulsion outright.

This silence is significant, for one of the few constants of the medieval church's official policy on the Jews had been a strong resistance to their expulsion. This position rested on sturdy patristic foundations, and over the course of the high Middle Ages a series of papal rulings on the topic buttressed it yet further. Good Christian authorities could impose all sorts of unpleasant restrictions on Jews, and indeed, church law actively encouraged them to do so. But expelling them was another matter altogether, and as of the late thirteenth century, no canonist or pope had yet sanctioned expulsion as a viable or acceptable policy. Secular authorities had certainly expelled Jews—but not under the cover of canon law.[4]

It seems clear that Bishop Nicolas recognized that *Usurarum voraginem*, as conceived by its drafters, was not intended to apply to Jews, since he was careful to omit any direct reference to expulsion in either his summary of the decree's provisions or in the penalties he imposed within his diocese. Given the weight of the canonistic tradition opposing the expulsion of the Jews, along with the accepted doctrine that episcopal statutes could not overturn or contradict papal constitutions, Gellent evidently did not dare go so far as to suggest that *Usurarum voraginem*'s expulsion penalty ought to apply to the Jews, even if this would have been the logical outcome of his reading of the conciliar decree.[5] Instead, he promulgated a weakened version of *Usurarum*

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[4] As Kenneth Stow has recently demonstrated, the church's position on expulsion was rooted in Pauline (rather than Augustinian) theology; see his essay on "The Church and the Jews: St. Paul to Pius IX," in *Popes, Church and Jews in the Middle Ages: Confrontation and Response* (Farnham, UK: Ashgate, 2007), art. I, 1-76. For a general discussion of the medieval church's teachings on the Jews, and the canonical injunctions in particular, see his *Alienated Minority: The Jews of Latin Christendom* (Cambridge, MA: Harvard University Press, 1992), 242-73.

[5] For a classic statement of the relationship of episcopal statutes to other sources of law, see Hostiensis, *In primum [-sextum] decretalium librum commentaria* (Venice, 1581), *ad* 1.24.4. See also the general discussion in Enrico Botteo, *Tractatus de synodo episcopi et de statutis episcopi synodalibus*, in *Tractatus*

voraginem that allowed him to target the Jews without directly challenging established canonical norms governing their expulsion.

So far as we can tell, the bishop's statute had little immediate effect. But fifteen years later, in December 1289, Charles II of Anjou expelled Jews together with "Lombards, Cahorsins, and other foreigners (*Lombardos, Caourcinos, aliasque personas alienigenas*)" from his counties of Anjou and Maine. His debt to Louis IX's 1269 ordinance is clear from the near-verbatim recurrence of its language of foreignness, while the influence of the Lyonese decree is suggested by his condemnation of the "abyss of usury (*usurarum voragine*)." Most notably, however, the count noted that he had issued the expulsion order "upon consultation with his reverend bishops and other clerics," among whom the aged bishop of Angers figured prominently.[6] It is hard not to see Nicolas Gellent's influence at work, prodding the prince to carry out a policy from which the bishop himself had once shied away.

Only months after the Second Council of Lyon had drawn to a close, the most basic elements of *Usurarum voraginem*—its penalties and targets—were already being reworked and transformed. As we saw in Chapter Four, starting with the expulsion orders issued by the kings of France and England, not to mention the vernacular versification of the Lyonese decrees, *Usurarum voraginem* took on new meaning as its conciliar origins were concealed, its wording altered, or its key provisions omitted. Some of these changes, such as the shifting timespan for implementing expulsion, were comparatively unimportant. And it is equally true that for many of

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universi iuris, 22 vols. (Venice: Ziletti, 1584-86), vol. 13, pt. 2, fols. 377v-407v, especially fols. 389v-399v and fol. 407r.

[6] Pierre Rangeard, *Histoire de l'université d'Angers*, 2 vols. (Angers: Barassé, 1868-77), 2.183-87 [=no. 24], at 84: "cum reverendis patribus episcopis et pluribus clericibus…fuimus super his collocuti." Nicholas Gellent's name figures first in the list of those consenting to the hearth tax that Charles II imposed in exchange for ordering expulsion.

the variations and reworkings and controversies encountered so far, it is much easier to imagine how these might have mattered in practice than to see whether and how they actually did.

As the Angers synodal statute reveals, however, the ways that observers and authorities construed, transmitted, and transformed the decree's language and provisions could profoundly affected the lived experiences of those who fell within its reach. For the Jews of Anjou, the long-term consequences of Bishop Nicolas Gellent's reworking of *Usurarum voraginem* were anything but academic. Furthermore, although this was the first time that the decree would be turned against the Jews, rather than the northern Italian moneylenders that the drafters had envisioned, it was certainly not the last. As this chapter will argue, by the middle of the fifteenth century, a host of jurists and authorities simply took it for granted that *Usurarum voraginem*'s penalties (and its housing ban in particular) were to be imposed on Christian and Jewish usurers alike. To these late medieval observers, *Usurarum voraginem*'s applicability to Jewish usurers was obvious. Moreover, this interpretation became so entrenched in social practice that even modern scholars have failed to recognize its contested canonical origins.[7]

This reinterpretation of *Usurarum voraginem* during the late Middle Ages is all the more conspicuous in light of the barriers that stood in its way, among them the established theological and canonical opposition to the expulsion of the Jews, and the knowledge—widely circulated, at least in learned circles—that the decree's promulgation was due to ecclesiastical fears over the spread of Christian moneylenders, not Jewish ones. Yet, as sociologist Susan Silbey has elegantly observed, "legal ambiguity, or at least the potential for ambiguity, is located not simply in language or abuse of law but in the domain of legitimate use. Every provision of law, once set

[7] The lone exception is Christoph Cluse, who has recently drawn attention to reworkings of *Usurarum voraginem*; see his *Darf ein Bischof Juden zulassen? Die Gutachten des Siffridus Piscator OP (gest. 1473) zur Auseinandersetzung um die Vertreibung der Juden aus Mainz* (Trier: Kliomedia, 2013), especially at 86-87.

loose, is a candidate for all manner of uses. Laws have histories within which their meaning and use change, often quite radically."[8] In the two centuries after *Usurarum voraginem* was "set loose," its meaning and use did indeed change radically, as the decree migrated into new textual and rhetorical contexts, and as established norms of legal interpretation confronted shifting social realities.[9]

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When the conciliar fathers who had gathered at Lyon in 1274 finally settled on the text of *Usurarum voraginem*, they did not specify that it was to apply exclusively to Christian usurers, as opposed to Jewish ones. The need for such a distinction probably did not occur to them. Although previous church councils had roundly condemned the "grave and immoderate usury (*graves et immoderatas usuras*)" that Jews were supposedly extorting from Christians, earlier canonical bans on usury had clearly—if implicitly—concerned only Christians.[10] The Third Lateran Council's decree *Quia in omnibus*, for instance, had ordered that all "manifest usurers (*usurarii manifesti*)" be refused communion and Christian burial; the specified penalties point rather unambiguously to Christian rather than Jewish wrongdoers.[11] These same penalties were then reiterated in *Usurarum voraginem* itself, which insisted in its opening lines that the earlier

[8] "A Sociological Interpretation of the Relationship between Law and Society," in *Law and the Ordering of Our Life Together*, ed. Richard John Neuhaus (Grand Rapids: Eerdmans, 1989), 1-27, at 19.

[9] For a similar example from Renaissance Italy, see Thomas Kuehn, "Some Ambiguities of Female Inheritance Ideology in the Renaissance," *Continuity and Change* 2 (1987), 11-36.

[10] The condemnation of Jewish usury appears in Lateran IV, c. 67 (*Quanto amplius*), in *COD*, 265-66. For a general discussion, see Hans-Jörg Gilomen, "Wucher und Wirtschaft im Mittelalter," *Historische Zeitschrift* 250/2 (1990), 265-301; Christoph Cluse, "Zum Zusammenhang von Wuchervorwurf und Judenvertreibung im 13. Jahrhundert," in *Judenvertreibungen in Mittelalter und früher Neuzeit,* eds. Friedhelm Burgard, Alfred Haverkamp, and Gerd Mentgen (Hanover: Hahnsche Verlag, 1999), 135-63, especially 137-45; and Stefan Schima, "Die Entwicklung des kanonischen Zinsverbots. Eine Darstellung unter besonderer Berücksichtigung der Bezugnahmen zum Judentum," *Aschkenas* 20 (2010), 239-79.

[11] Lateran III, c. 25 (*Quia in omnibus*): in *COD*, 223.

Lateran decree be strictly observed.[12] Furthermore, for well over a century after the decree's promulgation, no canonists even raised the possibility that it might apply to both Christian and Jewish usurers, and late medieval canonists eagerly seized on terms or provisions carrying even a whiff of ambiguity. For late thirteenth-century observers, and many later ones as well, canonistic precedent—not to mention Francesco d'Albano's assertion that the decree's promulgation was inspired by ecclesiastical oncerns about northern Italian moneylenders—led naturally to the presumption that *Usurarum voraginem* was concerned only with Christian usurers.[13] So for the bishop of Angers even to assume that Jews could be encompassed in the language of *Usurarum voraginem* (let alone actually wield the decree against them) was both exceptional and tendentious.

However unusual in its contemporary context, the bishop's interpretation would become routine by the early fifteenth century. This shift resulted from the convergence of three distinct developments. First, the expulsion of Jews from kingdoms and territories in western Europe accelerated in scope and number toward the end of the thirteenth century, prompting jurists and others to begin considering the circumstances in which authorities might licitly expel Jews from their territories. Practical realities, in other words, generated theoretical quandaries. Second, starting around 1320, scattered but influential clerical voices began to insist that the stringent anti-usury decree *Ex gravi*, drafted at the Council of Vienne in 1311-1312, applied equally to Jewish usurers. This paved the way for bishops and canonists to reconsider the reach of earlier canonical restrictions on usury, along with their associated penalties. Finally, through its

[12] Lyon II, c. 26: in *COD,* 328: "[…] we order under threat of the divine malediction that the constitution of the Lateran council against usurers be inviolably observed (*constitutionem Lateranensis concilii contra usurarios editam sub divinae maledictionis interminatione praecipimus inviolabiliter observari*)."

[13] See above, p. 143.

dissemination into a variety of textual contexts, from legal *responsa* to handbooks for preachers, the decree underwent processes of elision and decontextualization that facilitated new interpretations of its language.

Let us look at each of these developments in closer detail, beginning with debates surrounding the expulsion of Jews. In the century preceding the Second Council of Lyon, secular authorities (starting with Philip Augustus in 1182) had sporadically expelled Jews from their jurisdictions. In general, these expulsions concerned fairly circumscribed areas and targeted relatively small numbers of Jews. In 1290, however, Edward I of England ordered the expulsion of the Jews from his kingdom. Sixteen years later, Philip IV of France followed suit. The latter expulsion in particular was dramatic in scope, thorough in implementation, and widely noted among contemporaries.[14]

Quite different were two expulsions ordered by Pope Boniface VIII at the turn of the fourteenth century, one in 1300 and the other in 1303.[15] Both concerned the Comtat-Venaissin, a papal county surrounding the city of Avignon, and both concerned moneylenders. The first expulsion, ordered in 1300, targeted "foreigners and others not native to the aforesaid county, as well as Jews," who were lending money at interest.[16] The wording draws a plain distinction

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[14] For contemporary responses to the expulsions, see Sophia Menache, "The King, the Church and the Jews: Some Considerations on the Expulsions from England and France," *Journal of Medieval History* 13 (1987), 223-36; and William C. Jordan, "Administering Expulsion in 1306," *Jewish Studies Quarterly* 15 (2008), 241-50. For detailed recent studies of the expulsions, along with further references, see Robin R. Mundill, *England's Jewish Solution: Experiment and Expulsion, 1262-1290* (Cambridge: Cambridge University Press, 1998); and Céline Balasse, *1306: L'expulsion des Juifs du royaume de France* (Brussels: de Boeck, 2008).

[15] *Les registres de Boniface VIII*, ed. Georges Digard et al., 4 vols. (Paris: de Boccard, 1907-39), 2.723 and 3.447 [=nos. 3621, 5246].

[16] *Registres de Boniface VIII,* 2.723 [=no. 3621]: "Mandamus quatinus huiusmodi alienigenas, et alios non oriundos de comitatu predicto, ac Iudeos, pecuniam fenebrem exercentes publice aut exercere volentes, de predicto comitatu expellas…"

between the Christian usurers, who were described as foreigners using the exact terminology of *Usurarum voraginem*, and the Jewish usurers, who are implicitly categorized as local. Furthermore, the specific phrasing "as well as Jews (*ac Judeos*)" strongly suggests that Boniface did not consider the Jews to be encompassed within the targets of *Usurarum voraginem*. The presumption that *Usurarum voraginem* applied only to Christian usurers (and to foreign ones, at that) clearly remained in play. Unlike in Angers, then, the 1274 decree could not serve as the basis for repressing the county's resident Jewish population. Instead, Boniface predicated the expulsion on the charge that both the Jews and the foreign moneylenders were inflicting great damage on the county through their usury, and the pope therefore wished to expel them out of paternal affection for his subjects. In other words, the simple fact that the Jews had been engaging in usurious practices was sufficient to justify their expulsion.

Such language was certainly characteristic of earlier princely efforts to expel the Jews, but it marked a sharp break from papal and canonistic tradition, which had staunchly opposed the expulsion of the Jews even if it was hardly enthusiastic about their moneylending practices.[17] The only comparable example from the thirteenth or fourteenth centuries likewise concerns the Jews of the Comtat-Venaissin, who were expelled from the county around 1322 at the behest of Pope John XXII. As Valérie Theis has recently argued, the pope may have acted on the conviction that the expulsion of misbehaving Jews fell within his purview as temporal lord of the Comtat. Simply put, it was not as pope, but as a prince, that John XXII ordered the expulsion.[18]

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[17] Kenneth Stow is the most prominent exponent of this interpretation of papal policy; see in particular his *Catholic Thought and Papal Jewry Policy, 1555-1593* (New York: Jewish Theological Seminar of America, 1977); and "Expulsion Italian Style: The Case of Lucio Ferraris," *Jewish History* 3 (1988), 51-63.

[18] Valérie Theis, "Jean XXII et l'expulsion des juifs du comtat Venaissin," *Annales: Histoire, Sciences Sociales* 67 (2012), 41-77, at 71.

Perhaps the same was true of Boniface VIII in 1300. In any event, Boniface seems to have experienced a change of heart, since in 1303 he renewed the earlier expulsion order for foreign usurers while omitting any reference to the Jews.[19] The reason for this papal about-face is unclear. Had the Jewish community, following the example of others threatened with similar fates, simply paid enough to be left in peace? Or was Boniface VIII troubled by the apparent break with papal tradition regarding the Jews?

If Boniface indeed wondered about the validity of expelling Jews on the grounds of usury, he was not the only one. Immediately following the expulsion of the Jews from France in the summer of 1306, for example, the Cistercian theologian Jacques de Thérines (d. 1318) delivered a quodlibet on "whether Jews expelled from one region ought to be expelled from another."[20] In presenting the affirmative case, Jacques argued that Jews expelled from one region on account of their usurious practices could be expelled from another on the presumption that they were likely to resume their sinful ways, even if no new transgressions had yet been proven. Ultimately, though, he came down against expelling them yet further: the fact that the Jews had previously broken the laws of another jurisdiction did not in itself establish a legitimate presumption against them such that they could be expelled from their new homes without proof of renewed wrongdoing. In one sense, Jacques's conclusion was in keeping with patristic tradition, which held that authorities should not arbitrarily expel Jews from their lands. But the framing of the quodlibet implied that Jewish usury—if proven—could be sufficient reason for expulsion.[21] Two leading canonists of the early fourteenth century, Oldrado da Ponte (d. 1343?) and Pierre

[19] *Registres de Boniface VIII*, 3.447 [=no. 5246].

[20] For a discussion of the quodlibet and its historical context, see William C. Jordan, *Unceasing Strife, Unending Fear: Jacques de Thérines and the Freedom of the Church in the Age of the Last Capetians* (Princeton: Princeton University Press, 2005), 12-17.

[21] Jacques de Thérines, *Quodlibets I et II*, ed. Palémon Glorieux (Paris: Vrin, 1958), 157 [=1.14].

Bertrand (1280-1349), also tackled the licitness of expelling Jews. Although neither one singled out usury as appropriate grounds for expulsion, they acknowledged that Jews who rebelled against the prince's authority or abused the "privilege" of alien status could be justly expelled.[22] For all three authors, therefore, the central question was not whether the Jews could be expelled *tout court*, but rather under what circumstances such expulsions were theologically or canonically justified.

The early decades of the fourteenth century witnessed an additional shift in Latin Christian thinking on the Jews. As Church claimed increasingly broader jurisdiction over the Jews, so too did the traditional canonical toleration of moderate Jewish usury give way to increasingly stringent condemnations thereof.[23] We can see an early example of this process at work in a *responsum* on usury from late 1314 by the Dominican Pierre de la Palud (ca. 1280-1342), who was not only an accomplished theologian and canonist, but also a papal diplomat, a French courtier, and eventually Patriarch of Jerusalem.[24] In Article 9, the longest section of the responsum, Pierre covered a range of topics, from the extortion of money from usurers (which he firmly opposed) to competing ecclesiastical and secular claims for jurisdiction over usury (on

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[22] For Oldrado, see his *Consilia et quaestiones* (Venice, 1499), nos. 87 and 264; an English translation of these two consilia is given in *Jews and Saracens in the Consilia of Oldradus de Ponte*, ed. and trans. Norman Zacour (Toronto: Pontifical Institute of Mediaeval Studies, 1990), 54-58 and 62-67. Pierre Bertrand (d. 1348) follows Oldrado's consilia almost verbatim in the second recension of his *Apparatus* on *Clem*. 5.2.1; I relied on Paris, BnF, lat. 4085, fol. 158ra-vb. According to Paul Fournier, Bertrand's *Apparatus* was composed in the the mid-1330s, with the second recension completed before 1342; see his "Le cardinal Pierre Bertrand, canoniste," in *Histoire littéraire de la France*, vol. 37, fasc. 1 (Paris: Imprimerie nationale, 1936), 85-120, at 110-11.

[23] On the extension of canonical jurisdiction over the Jews, see Walter Pakter, *Medieval Canon Law and the Jews* (Ebelsbach: Rolf Gremer, 1988), 40-83.

[24] For his life and works, see Jean Dunbabin, *A Hound of God: Pierre de la Palud and the Fourteenth-Century Church* (Oxford: Oxford University Press, 1991). For the dating of the *responsum*, see "L'usura, un caso di giurisdizione controversa in un 'Responsum' inedito di Pietro di La Palu (1280-1342)," ed. Pier Giorgio Marcuzzi, *Salesianum* 40 (1978), 245-92, at 272; with the additional comments of Dunbabin, *Hound of God*, 273.

which he adopted a moderate position).[25] For our purposes, what is most important is that Pierre's conclusions dealt jointly with Jewish and Christian usurers, and that in reaching those conclusions, he turned repeatedly to *Usurarum voraginem*, alongside a handful of other texts. In other words, although he nowhere suggests that the Lyonese decree was itself to be applied to the Jews, he was nevertheless willing to use it to construct general arguments concerning usury, even where these touched on the proper treatment of Jewish usurers as well as Christian ones. The decree therefore bolstered the author's anti-usury arsenal, but at the cost of concealing its specific targets and eliding its particularities.

The elision is even more pronounced in the English Dominican John Bromyard's *Summa praedicantium*, dating to the second quarter of the fourteenth century. In section 27 of the entry on usury, Bromyard laid out penalties for those who welcomed public usurers (*publicos usurarios*) into their lands or rented houses to them.[26] He began by quoting verbatim the entirety of *Usurarum voraginem*, followed immediately by a citation to Thomas Aquinas's *De regimine judaeorum/Epistola ad ducissam Brabantiae*, which, as Bromyard noted, concerned the dangers of harboring such persons in their lands (*de periculo tenentium tales in terris*). Turning to the issue of renting houses, Bromyard then declared that it was not permitted to rent houses to such persons (*non licet eis domum talibus locare*). Grammatically speaking, "such persons (*tales/talibus*)" presumably referred to the "public usurers (*publicos usurarios*)" of the opening rubric. But given that he glided from a citation of *Usurarum voraginem*, with its clear reference to foreign usurers, to Aquinas's *De regimine*, which focuses almost entirely on Jewish usurers, it is hard to know exactly who was encompassed in Bromyard's understanding of these "public

[25] "Giurisdizione controversa," 261-65.

[26] *Summa praedicantium* (Basel: Johannes Amerbach, not after 1484), s.v. *usura* [=U.12.27].

usurers." Of course, insofar as his immediate audience was concerned, the question was moot; England's Jewish community had been expelled over a half century earlier. But to later Continental readers of his work, Bromyard's summary could easily have been taken as an invitation to drive Jewish moneylenders from their houses and lands.[27]

Concrete efforts to treat Jewish usurers under the same canonical framework as Christian ones were particularly spurred by the widespread dissemination of the decree *Ex gravi* starting in 1317.[28] Among other provisions, the decree called for the immediate abrogation of all statutes that permitted the taking of usury and threatened excommunication for anyone who enforced a usurious contract. Moreover, it declared that those who pertinaciously affirmed that usury was not a sinful practice would be considered heretics and were to be prosecuted accordingly. As in *Quia in omnibus* and *Usurarum voraginem*, the text of *Ex gravi* did not explicitly distinguish between Jewish and Christian usurers. But as noted earlier, *Quia in omnibus* had unmistakably indicated its Christian focus by spelling out penalties for usurers that could only have applied to the faithful (refusal of Christian burial and so forth), penalties which were implicitly reiterated in *Usurarum voraginem*. In contrast, most of *Ex gravi*'s threats focused not on the usurers themselves, but on those who regulated, enforced, or defended usurious loans. It was usury, rather than usurers, that lay in the decree's crosshairs.

But what if these usurious loans were being extended by Jewish moneylenders? Were the Jews also encompassed within the decree's general condemnation of usury? After all, the weight

[27] For similar processes of elision, in the context of Jews and infidels, see Stefan K. Stantchev, "'Apply to Muslims what was said of the Jews:' Popes and Canonists between a Taxonomy of Otherness and *Infidelitas*," *Law and History Review* 32 (2014), 65-96, at 81-87.

[28] Vienne, c. 29: in *COD*, 384-85. Although first decreed at the Council of Vienne in 1311-1312, *Ex gravi* (like the rest of the Council's decrees) did not circulate widely until 1317, when it was included among the Clementine constitutions (Clem. 5.5.1). See Joseph Lecler, *Vienne* (Paris: Éditions de l'Orante, 1964), 145-48.

of canonical tradition had consistently recognized the right of Jews to lend at interest (so long as it remained moderate); to insist that their moneylending was sinful, and to denounce the opposing view as heretical, would therefore have marked a sharp break with established precedent.[29] On precisely such grounds, Giovanni d'Andrea and other leading canonists opposed including Jews within *Ex gravi*'s reach.[30] Other canonists proved less cautious. Étienne Agonet (Stephanus Hugoneti; c. 1280-1332), a canonist who served briefly as the bishop of Bologna, concluded that the decree did in fact apply to Jewish usurers in his commentary on the Clementines;[31] so too did Giovanni d'Andrea's own student Paolo Liazari (Paulus de Liazariis; d. 1356).[32] Their broader reading was also shared by a number of bishops, such as those gathered

[29] For the canonistic discussion of *Ex gravi* and the Jews*,* see also Benjamin N. Nelson, *The Idea of Usury: From Tribal Brotherhood to Universal Otherhood* (Princeton: Princeton University Press, 1949), 23; *idem.*, "L'universalismo medievale e il duplice comandamento deuteronomico," in *L'etica economica medievale,* ed. Ovidio Capitani (Bologna: Il Mulino, 1974), 47-68, at 64 n.50; and Gilbert Dahan, *Les intellectuels chrétiens et les juifs au moyen âge* (Paris: Editions du Cerf, 2007), 213-14.

[30] Here I have relied on the 1471 Strasbourg (Eggestein) edition, *ad* Clem. 5.5.1 §*hereticum*. See also the arguments of Albéric of Metz (d. 1354) in his *Apparatus* on the Clementines, in Bologna, Collegio di Spagna, MS 222, fol. 40r; and Giovanni da Imola (d. 1436), *In Clementinas opus* (Venice: Andrea Toressano, 1492/93), fol. 164rb.

[31] His commentary survives in Philadelphia, University of Pennsylvania, MS Lat 95; his commentary on *Ex gravi* is to be found at fols. 59r-60v, with the decree's applicability to the Jews treated on fol. 60rb. For the career of this otherwise obscure figure, see Norman Zacour, "Stephanus Hugoneti and his 'Apparatus' on the Clementines," *Traditio* 17 (1961), 527-30.

[32] Paolo's position is cited approvingly by Pietro d'Ancarano in his *Super Clementinis facundissima commentaria* (Bologna: apud Societatem typographiae Bononiensis, 1580), 248-49. I have been unable to trace it, however, in Paolo's gloss to *Ex gravi* in his *Lectura in constitutiones Clementinas* (Vatican City, Biblioteca Apostolica Vaticana, Vat. lat. 1452, fols. 240r-241r), and it may instead be derived from one of his consilia. To judge from a reference in Marquardo Susanna's *Tractatus de iudaeis et aliis infidelibus* (Venice: : Comino Tridino da Monferrato, 1558), fol. 35r [=*ad* 1.11.4], Paolo may also have raised the question of *Usurarum voraginem*'s applicability to Jews, but I have again been unable to locate this discussion, nor have I found other references to it. Paolo does, however, conclude that *Quamquam* was not to apply to Jewish usurers in his *Repetitiones super libro Decretalium. Quaestiones in iure pontificio* (Venice: Giovanni & Gregorio de' Gregori, 1496), fols. 29va-30va [=q.8], and his reasoning there suggests that he would have held to an equally narrow reading of *Usurarum voraginem*.

at a provincial council in Zamora, on the eastern frontier of León, in 1313.[33] Moreover, some Jewish communities seem to have taken the threat seriously enough to secure precautionary exemptions from *Ex gravi*'s provisions.[34]

Most of the fourteenth-century popes seem to have kept to a narrower reading of *Ex gravi*, rarely insisting on its enforcement in cases involving Jewish usurers. The exception was John XXII, who was not only a native of Cahors, but also an eminent canonist who oversaw the promulgation of *Ex gravi* as part of the Clementine constitutions. In December 1320, for example, John XXII wrote to the rector of the March of Ancona, then part of the Papal States, in response to concerns about the indebtedness of the townsfolk of Macerata. The local Jews claimed that they were not bound by the provisions of *Ex gravi* or the other anti-usury decrees, but the pope dismissed the Jews' objections and ordered that they be compelled to observe the canons.[35] On other occasions, John XXII sought to impose this expansive reading even outside his temporal domains, especially where the Jewish communities of the Rhineland were concerned.[36] In 1325 and 1326, for example, he wrote three letters to the archbishops of Cologne

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[33] *Colección de cánones y de todos los concilios de la iglesia de España y de América*, ed. Juan Tejada y Ramiro, 6 vols. (Madrid: Montero, 1859), 5.674-78, at 677: "Item quod non exerceant usuras cum christianis, nec eas seu aliquid pro eis extorqueant illo modo cum hoc sit prohibitum per constitutionem Domini Papae Clementis V. editam in dicto concilio Vienensi."

[34] See, for example, the 1358 confirmation of Jewish privileges in the town of Santa Coloma de Queralt (in Catalonia), edited in Juan Segura, "Documentos para las costumbres de Cataluña durante la Edad Media," *Revista de ciencias históricas* 5 (1887), 210-19 and 322-35, at 331-32.

[35] Shlomo Simonsohn, ed., *The Apostolic See and the Jews*, 8 vols. (Toronto: Pontifical Institute of Mediaeval Studies, 1988-90) [hereafter *ASJ*], 1.324 [=no. 310]: "Cum igitur dicti Iudei usurarum intenti voragine, quoniam Clementis pape V et aliorum predecessorum nostrorum Romanorum pontificum constitutionibus contra usurarios editis, se asserunt non ligati…Quocirca discretioni tue per apostolica scripta mandamus, quatenus dictos Iudeos…ab usurarum exactione desistant, auctoritate nostra compellas, faciens quo ad eos statuta canonum observari."

[36] The pope repeatedly ordered local Jewish lenders to make restitution for their usury; three such letters survive for the year 1321 alone; see *ASJ*, 1.330-333 [=nos. 315-17]. More generally, see Adolf Kober, "Die rechtliche Lage der Juden in Rheinland während des 14. Jahrhunderts im Hinblick auf das kirchliche Zinsverbot," *Westdeutsche Zeitschrift für Geschichte und Kunst* 28 (1909), 243-69, especially 252-54. An

and Trier.[37] The pope began by citing reports of local Jews who were exacting "heavy and immoderate usury," drawing his language directly from the Lateran IV decree *Quanto amplius*.[38] Citing "the constitutions of the sacred councils and the Apostolic See promulgated against usurers," the pope encouraged the archbishops to enforce them against Jews living within their jurisdictions."[39]

It bears noting that in his letters to the archbishops, John XXII did not specify which anti-usury canons were to be applied; that choice was apparently left to the recipients' discretion. No doubt the recently promulgated and widely discussed *Ex gravi* would readily have come to mind. But what about *Usurarum voraginem*? No evidence survives to suggest that either archbishop ever contemplated enforcing the Lyonese decree against the Jews under his jurisdiction, but at least one local anti-usury campaigner, a certain Deacon Hermann of the Marienkirche in Eisenach, appears to have assumed that it was indeed applicable. The deacon was one of a number of local church officials delegated by the Apostolic See in 1319 to investigate cases of usury in the Rhineland.[40] In February 1320, Hermann ordered the parish priest, the mayor, and

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additional letter of John XXII mentioning *Ex gravi* in relation to Jewish usury in Trier (Koblenz, LHA, Best. 33, no. 53; dated 23 April 1330) has not yet been edited in full; for a summary, see *Regesten der Erzbischöfe von Mainz von 1289-1396* , ed. Ernst Vogt, 2 vols. (Leipzig: Veit, 1913-1958), 1.2.42-43 [=no. 3079]. I would like to thank Christoph Cluse for bringing this text to my attention.

[37] *ASJ*, 1.342-43 [=no. 326; 5 March 1325]: "Cum, sicut accepimus, nonnulli Iudei tuarum partium graves et immoderatas usuras a Christianis exigere et extorquere presumant […] fraternitati tue faciendi auctoritate apostolica observari adversus eosdem Iudeos in tua diocesi et locis aliis quibuscumque, ubi dominium obtines temporale, in cuiuscumque provincia vel diocesi constitutis, sacrorum conciliorum et alias sedis apostolicis constitutiones contra usurarios promulgatas […] concedimus facultatem." The other two letters, dated 1 August 1326, are edited in *ASJ*, 1.347-49 [=nos. 331, 332].

[38] Lateran IV, c. 67 (*Quanto amplius*), in *COD*, 265-66.

[39] See, in general, Solomon Grayzel, "References to the Jews in the Correspondence of John XXII," *Hebrew Union College Annual* 23 (1950-51), 37-80.

[40] Another is noted in *Urkundenbuch der Reichsstadt Frankfurt,* ed. Friedrich Böhmer, 2 vols., rev. ed. (Frankfurt am Main: Baer, 1901), 2.119-122 [=no. 150].

the city council of Mühlhausen to expel the local Jewish usurers within fifteen days, on pain of interdict.[41] Although *Usurarum voraginem* is not cited directly in the surviving letter, the penalty of expulsion together with the threat of interdict betray its influence. In light of the other surviving evidence, however, this episode seems to have been an isolated instance. Even as popes and canonists raised the possibility that *Ex gravi* and other anti-usury canons might apply to Jews and Christians alike, the prevailing interpretation of *Usurarum voraginem* seems to have held firm throughout the first half of the fourteenth century among both authorities and jurists.

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The noted Bolognese canonist John of Legnano (d. 1383) appears to be the first prominent figure to have declared openly that the provisions of *Usurarum voraginem* were to apply to the Jews, in a consilium composed sometime in the third quarter of the fourteenth century.[42] The consilium, which survives in dozens of manuscript copies across western Europe, consists in large part of a methodical discussion of the proper treatment of Jews according to canon law.[43] Turning his attention to the topic of usury, the canonist first asks in what ways the church was to proceed against usurers, and then whether any of these pertained to the Jews.[44] Obviously, he

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[41] *Urkundenbuch der ehemals freien Reichsstadt Mühlhausen in Thüringen*, ed. Karl Herquet (Halle: Verlage der Buchhandlung des Waisenhauses, 1874), 355-56 [=no. 756]. The aftermath of the expulsion order is unknown; see *Germania Judaica*, Bd. 2: *Von 1238 bis zur Mitte des 14. Jahrhunderts*, ed. Zvi Avneri, 2 vols. (Tübingen: Mohr, 1968), 1.551; and Wilhelm Auener, "Die Juden im mittelalterlichen Mühlhausen," *Mühlhäuser Geschichtsblätter* 36/37 (1938), 73-109, at 77-78.

[42] The consilium (inc. *Iudaei degentes in terris Catholicorum*) is printed in *Criminalium consiliorum atque responsorum tam ex veteribus quam iunioribus celeberrimis iurisconsultis collectorum*, ed. Giovanni Battista Ziletti, 2 vols. (Venice: Ziletti, 1560), 1.32-33 [=no.19].

[43] A partial list of MSS is given in John P. McCall, "The Writings of John of Legnano with a List of Manuscripts," *Traditio* 23 (1967), 415-37, at 434; aside from the MSS noted there, this particular consilium is also found in Dillingen, Studienbibliothek, MS XV.47, fol. 74rv; Eichstätt, Universitätsbibliothek, cod. st 186, fol. 64rv; and Munich, Universitätsbibliothek, 8° Cod. MS 152, fols. 118v-121r.

[44] Ziletti, *Consiliorum*, 1.33: "Quaesitum est praemittendum, qualiter ecclesia potest procedere contra usurarios, et an iudaei sint capaces illius processus."

noted, the penalties for manifest usurers set forth in *Quia in omnibus*—to wit, barring them from communion at the altar, denying them ecclesiastical burial, and refusing their oblations—did not apply to the Jews. Nor, he argued, did the threat of excommunication apply to them, since those who had never been within the body of the church could not be driven out from it. Similarly irrelevant was *Quamquam*'s threat of withheld absolution for usurers who failed to make appropriate restitution on their deathbeds. What about *Usurarum voraginem*? According to the canonist's summary of its provisions, the decree ordered that dwelling places should be neither rented nor leased to foreigners for the purposes of usury, and that manifest usurers should be driven out (*excluduntur usurarii manifesti*).[45] These penalties, he argued, could indeed apply to the Jews (*huius poenae sunt capaces iudaei*).

For the first time, then, we find a canonist—and a highly regarded one at that—declaring that Jewish usurers were indeed subject to *Usurarum voraginem*'s provisions. Nowhere in his consilium does John of Legnano explicitly indicate that he considered his interpretation of the decree to be especially novel or controversial. Admittedly, consilia were generally written to support a particular side of a case and could therefore by necessity depart from established legal opinion on a given issue. It is also possible, of course, that he was simply among the first to publish an opinion that was already circulating among the jurists at Bologna. On the other hand, there is some evidence that John of Legnano may have been working in haste, since part of his consilium rests on a careless reading of the decree—so perhaps he himself was unaware of the novelty of his interpretation.[46]

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[45] Ziletti, *Consiliorum*, 1.33: "Postea mandat, ne locentur hospitia, vel conducantur ad foenus exercendum per alienigenas, et excluduntur usurarii manifesti, ut [VI 5.5.1]."

[46] The consilium claims that the housing ban applied only to foreign usurers whereas the expulsion order applied to all manifest usurers. Since it is only a single word (*huiusmodi*) that establishes that the

In summarizing the decree's provisions, however, the canonist tellingly does not repeat its use of the word *expellere,* which conveyed quite directly the meaning of a physical and spatial expulsion, and which was accordingly laden with legal and historical weight when used in conjunction with the Jews. Rather, he uses the term *excludere*, a term that could certainly denote outright expulsion but also carried a much broader range of possible meanings in a canonistic context, including social exclusion. John of Legnano's choice of words might well reflect an certain awareness that his interpretation of *Usurarum voraginem* was skirting the edges of canonistic precedent. At the very least, it meant that readers could construe his consilium as arguing not that Jewish usurers should be expelled (for expulsion was nowhere discussed outright), but rather that they should be shunned from Christian homes and social contexts—an argument much more in keeping with canonistic tradition.

If John of Legnano was indeed wary of asserting that *Usurarum voraginem* did in fact require the expulsion of Jewish usurers, it was a wariness that he shared not only with Bishop Nicolas Gellent before him, but with nearly all later commentators on the decree. As a rule, this wariness expressed itself through a focus on *Usurarum voraginem*'s prohibition on the renting of houses to usurers, rather than its call for expulsion. Toward the end of the fourteenth century, for example, a jurist published a consilium on "whether someone who rented a house to a Jew was to be excommunicated (*An locans domum Iudeo sit excommunicatus*)."[47] The author first observes

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restriction to foreigners in the context of the housing ban does indeed carry over to the expulsion provision, an inattentive scribe or reader might easily have missed it.

[47] On the basis of its questionable attribution to Baldo degli Ubaldi, the consilium has been dated to the late fourteenth century, but it may be a product of the fifteenth century instead. For a thorough discussion of the consilium and its attribution, see Diego Quaglioni, "'Inter Iudeos et Christianos commertia sunt permissa.' 'Questione ebraica' e usura in Baldo degli Ubaldi (c. 1327-1400)," in *Aspetti e problemi della presenza ebraica nell'Italia centro-settentrionale (secoli XIV e XV*) (Rome: Università di Roma, 1983), 273-305, with an edition of the consilium at 303-5. Given that Baldo's other discussions of *Usurarum voraginem* make no mention of the Jews, I continue to harbor doubts over the attribution of the consilium. For these other references, see Baldo's *Consiliorum, sive Responsorum volumen Tertium* (Venice, ca.

that Roman law allows for Christians and Jews to carry on commercial relations with one another, but then observes that any Christian who rents a house to a Jew for the purposes of lending at interest would seem to be excommunicated *ipso iure*, according to *Usurarum voraginem*. After sorting out various questions of proof and culpability, the author finally concludes (based on the decree's distinction between clerical and lay transgressors) that a cleric who rents a house to Jewish usurers is excommunicated *ipso iure*, while a layman who does the same does not automatically incur the penalty, though he could be excommunicated following due process. The crucial point, for our purposes, is that the author of the consilium considered *Usurarum voraginem* applicable to the Jews, at least as far as the housing ban was concerned. Moreover, the absence of any discussion of this issue suggests that the author considered it more or less self-evident.

Other contemporaries seem to have been of the same opinion, among them the anonymous late fourteenth-century author of the *Thesaurus novus,* a widely disseminated sermon cycle erroneously attributed to Pierre de la Palud. In a sermon "On the Jews," the author declared matter-of-factly that Christians were not to rent houses to Jewish usurers, even though in a separate sermon "On usurers" found in the same collection, a list of the penalties falling on usurers made no reference to *Usurarum voraginem* or its sanctions.[48] The anonymous author of the *Thesaurus novus* therefore drew on the decree's provisions in regard to Jewish usurers, but ignored them where both Jewish and Christian usurers were concerned. Both sermons would be recopied wholesale in the *Sermones discipuli* composed by the German Dominican Johannes

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1602), fol. 131vb [=no. 449, nn. 7-8]; and his *Apostillae ad Novellam in Sextum*, ed. Patrick J. Lally (unpublished Ph.D. dissertation, University of Chicago, 1992), 240 [=*ad* 5.5.1]. Lally's edition is based principally on BAV, Barb. Lat. 1398, fols. 389r-487r (here at fol. 435va).

[48] *Sermones thesauri novi de tempore* (Strasbourg: Martin Flach, 1491), fols. 240rv and 267r-269r. Concerning the sermon "On the Jews," see the remarks by Cluse, *Darf ein Bischof Juden zulassen*, 41-46.

Herolt (d. 1468) around 1418, and the extraordinary popularity of his text—which survives in over 170 manuscripts and numerous early modern printed editions—ensured that this reading would be disseminated yet further.[49]

Aside from their concern with the renting of houses to Jews, the anonymous consilium and the *Thesaurus novus* sermon share another feature: the absence of any reference to *Usurarum voraginem*'s restriction to foreigners. We have seen earlier how this restriction was often omitted, whether by accident or design, as the decree was transmitted into a variety of contexts, from sermons to civic statutes. The tacit assumption that the local/foreign distinction was meaningless where Jewish usurers were concerned seems to be especially common in canonistic discussions of *Usurarum voraginem*'s applicability to the Jews. This may well reflect the instability of many local Jewish populations, especially starting in the middle decades of the fourteenth century. North of the Alps, the repeated expulsions together with the pogroms carried out in the wake of the Black Death had either destroyed or dislodged most of the established Jewish communities north of the Alps, and very few had been able to reestablish deep roots over the following century. Consequently, as Christoph Cluse has argued, the decree's restriction to "foreign" usurers may well have seemed superfluous to many northern European commentators.[50] The same was true of northern Italy, which saw a rapid influx of new Jewish communities during the period.[51]

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[49] *Sermones discipuli de tempore* (Reutlingen: Michel Greyff, ca. 1479/82), fols. 144v [=no. 105] and 154-55 [=no. 114]. On this sermon, see the remarks by Cluse, *Darf ein Bischof Juden zulassen*, 46-52. A modern edition of the text is given by Hans-Martin Kirn in "Sermo zum 10. Sonntag nach Trinitatis," in *Spätmittelalterliche Frömmigkeit zwischen Ideal und Praxis*, eds. Berndt Hamm and Thomas Lentes (Tübingen: Mohr Siebeck, 2001), 181-87, but the 1508 Lyon edition on which Kirn relies is marred by several misreadings, e.g. *dominibus* for *domibus* and *penetrare* for *perpetrare*, which Kirn in turn transmits.

[50] Cluse, *Darf ein Bischof Juden zulassen*, 57; and Michael Toch, "The Settlement of Jews in the Medieval German *Reich*," *Aschkenaz* 7 (1997), 55-78, at 70. See also the essays gathered in

Of course, the distinction between foreign and local could also be expressed on a metaphysical plane, as opposed to a purely politico-legal one. The comparatively frequent elision of *Usurarum voraginem*'s foreign/local distinction where Jews were concerned surely owed much to the widespread use of the vocabulary of alienness in anti-Jewish discourse. As David Nirenberg has recently underscored, the prevalence of the Christian figuring of "Jews" as "aliens" has ebbed and flowed across the centuries, but there is no question that one of its high points fell in the closing centuries of the Middle Ages.[52] Although none of those trumpeting a broad interpretation of the decree seems to have stated the premise outright, the identification of Jews as archetypal *alienigene* may well have underpinned the frequent glossing-over of the original decree's distinction to foreign usurers.[53]

Early in the fifteenth century, Domenico da San Gimignano (d. 1424) would become the first jurist to discuss at length the application of *Usurarum voraginem*'s provisions to the Jews, as part of his systematic commentary on the *Liber Sextus*. He lists first several arguments against such an interpretation, observing, for example, that the decree arises from a desire to protect

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Judenvertreibungen in Mittelalter und früher Neuzeit, eds. Friedhelm Burgard, Alfred Haverkamp, and Gerd Mentgen (Hanover: Hahnsche Verlag, 1999).

[51] See, with further references, Alfred Haverkamp, "Ebrei in Italia e in Germania nel tardo Medioevo. Spunti per un confronto," in *Interstizi: Culture ebraico-cristiane a Venezia e nei suoi domini dal Medioevo all'età moderna*, eds. Uwe Israel, Robert Jütte, and Reinhold C. Mueller (Rome: Edizioni di storia e letteratura, 2010), 47-100; Ariel Toaff, "Gli insediamenti askenaziti nell'Italia settentrionale," in *Storia d'Italia. Annali*, 11: *Gli ebrei in Italia*, ed. Corrado Vivanti, 2 vols. (Turin: Einaudi, 1996), 1.153-71; and Michele Luzzati, "Banchi e insediamenti ebraici nell'Italia centro-settentrionale fra tardo Medioevo e inizi dell'Età moderna," in *Storia d'Italia. Annali*, 11: *Gli ebrei in Italia*, 1.173-235.

[52] David Nirenberg, *Anti-Judaism: The Western Tradition* (New York: Norton, 2013). See also Robert Bonfil, "Aliens Within: The Jews and Anti-Judaism," in *Handbook of European History, 1400-1600: Late Middle Ages, Renaissance, and Reformation*, eds. Thomas A. Brady, Jr., Heiko A. Oberman, and James D. Tracy (Leiden: Brill, 1994), 263-97.

[53] I hope to address this topic further in future work.

souls which are being devoured by usury, but the pope is not to compel Jews to be mindful of the health of their souls.[54] Ultimately, however, Domenico concludes that the housing ban does apply to Jewish usurers, but only foreign-born ones, buttressing his solution with a raft of arguments. The most persuasive of these notes that the decree "speaks generally of those born elsewhere (*loquitur de genitis alibi simpliciter*)," which could be understood as much in reference to Jews as to anyone else. Furthermore, he argues, whenever dispositions are phrased in such general terms elsewhere in the canons, Jews are implicitly included insofar as the material itself concerns them. None of this, it bears stressing, is especially tendentious.

More awkward, however, is the fact that Domenico's discussion of the decree's applicability to the Jews mentions only the rental ban. Nowhere in his analysis of whether Jews were to be included within the conception of "*alienigenas*…" does he mention expulsion. Accordingly, he tacitly refrains from pushing his analysis toward its logical conclusion: if foreign-born Jews were subject to the housing ban, just like their Christian counterparts, then so too were they to be expelled. But Domenico did not—perhaps would not?—spell this out clearly.

Nor is this the only revealing omission in Domenico's treatment of *Usurarum voraginem*. As mentioned earlier, the late thirteenth-century canonist Francesco d'Albano had noted that the decree's drafters had promulgated it in response to the growing Lombard presence across the Alps. Around 1340, Giovanni d'Andrea then incorporated d'Albano's explanation into his second systematic commentary on the *Liber Sextus*, the so-called *Novella*, which enjoyed widespread circulation throughout the late fourteenth and fifteenth centuries.[55] Given that the *Novella*'s discussion of *Usurarum voraginem* opens with this discussion of the drafters' aims, it

[54] *Super sexto decretalium* (Speyer: Peter Drach, bef. 1480), fols. 96r-97v, citing D.45 c.3 and D.45 c.5.

[55] *Novella super sexto decretalium* (Pavia, 1484), *ad* 5.5.1.

was all but impossible to miss. Yet although Domenico frequently cites d'Andrea's *Novella* in his commentary on *Usurarum voraginem*, he nowhere mentions the context for the decree's promulgation. To have done so would have severely undercut his argument for extending the decree to the Jews, for although late medieval jurists did not consider *intentio* to be strictly binding, they accorded it considerable weight.[56] Indeed, it was a commonplace of medieval jurisprudence that the intention or purpose of a text took interpretative precedence over the strict meaning of its words, insofar as these did not align. Gratian had held (quoting Gregory the Great) that intention was to illuminate the words of a text, rather than the other way around, and variations on this theme are scattered across the landscape of late medieval legal writings.[57]

It might well have been possible for Domenico to reach the same conclusion even after squarely considering the drafters' aims, for example by distinguishing between the specific motive (i.e. concerns about northern Italian moneylenders) and the general motive (e.g. the decree's stated desire to suppress usury). But he made no effort to do so. It is therefore difficult to see Domenico's silence as anything other than a deliberate effort to ignore—and thereby suppress—a devastating counter-argument. Moreover, all of the fifteenth-century canonists who

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[56] There is little systematic scholarship on the methods of interpretation among late medieval canonists, but these clearly overlapped heavily with those of the civilians. On the latter, see Woldemar Engelmann, *Die Wiedergeburt der Rechtskultur in Italien durch die wissenschaftliche Lehre* (Leipzig: Koehlers, 1938), 128-71; Walter Ullmann, *The Medieval Idea of Law as Represented by Luca de Penna. A Study in Fourteenth-Century Legal Scholarship* (London: Methuen, 1946), 112-31; Mario Sbriccoli, *L'interpretazione dello statuto: contributo allo studio della funzione dei giuristi nell'età comunale*. (Milan: Giuffrè, 1969); and Philippe Godding, "L'interprétation de la 'loi' dans le droit savant médiéval et dans le droit des Pays-Bas méridionaux," in *L'interprétation en droit: Approche pluridisciplinaire*, ed. Michel van de Kerchove (Brussels: Facultés universitaires Saint-Louis, 1978), 443-83, with a specific discussion of canon law at pp. 452-53. For the weight of "intent" in early modern English law, see *A Discourse upon the Exposicion and Understandinge of Statutes. With Sir Thomas Egerton's Additions*, ed. Samuel E. Thorne (San Marino, CA: Huntington Library, 1942), 42-68.

[57] C. 22 q. 5 c.11: "Certe noverit ille, qui intentionem et voluntatem alterius explicat verbis, quia non debet aliquis verba considerare, sed voluntatem et intentionem, quia non debet intentio verbis deservire, sed verba intentioni."

followed Domenico's lead in extending *Usurarum voraginem* to the Jews likewise avoided any mention of the decree's aims, even while they otherwise cited Giovanni d'Andrea's *Novella*.[58] All of this suggests a widespread and wilfull desire among many canonists to extend *Usurarum voraginem*'s provisions to the Jews, even if this meant disregarding (or rather, conveniently overlooking) a basic tenet of late medieval legal interpretation. In short, they were intent on applying *Usurarum voraginem* to the Jews, and they were willing to strain legal convention in order to do so.

Those canonists who followed Domenico's lead in extending the decree's reach also maintained his focus on the housing ban rather than on the question of expulsion. Foreign moneylenders—*usurarii alienigene*—were certainly to be barred from renting houses, but whether they were also to be expelled depended on a religious distinction that they consistently left unspoken. They differed on other points, too, with some maintaining that the decree applied only to foreign-born Jews, some treating all Jews as inherently "foreign," and others ignoring the restriction to foreigners altogether.[59] To be sure, not all fifteenth-century canonists followed

[58] See for instance, the gloss of the Perugian jurist Benedetto Capra (d. 1470) on *Usurarum voraginem* in Bologna, Collegio di Spagna, MS 115, fols. 216va-218rb; and that of Benedetto's contemporary and fellow Perugian, Filippo Franchi (d. 1471) in *Prima lectura super sexto libro decretalium* (Venice, 1499), fols. 115va-116rb. The commentary of the Bolognese jurist Giovanni d'Anagni (d. 1457), written sometime before 1443, also quotes Domenico's position approvingly in glossing the canon *Praeterea*; see his *Lectura super prima et secunda parte libri quinti Decretalium cum Repertorio* (Milan: Leonhard Pachel, 1497), *ad* 5.19.7.

[59] Aside from the works cited in the previous note, see also Giovanni da Prato, a Franciscan theologian and author of a mid-fifteenth-century treatise on usury, who likewise ignored the question of expulsion but declared that the decree's housing ban was to apply to Jewish usurers and seems to have considered all Jews to be "foreigners (*non oriundos*)" for the purposes of the decree; see his *Summula Contractuum/ De Usuris*, in Florence, Biblioteca Medicea-Laurenziana, Ashburnham 145, fols. 155ra-178rb, at fol. 162v. A comparable approach is found in the *Conclusiones* on the *Liber Sextus* by the German canonist Peter von Andlau (d. 1480), writing in the third quarter of the fifteenth century; see Basel, Universitätsbibliothek, C II 28, fols. 58v-188r, at fols. 172v-173v. I give the composition date of Peter von Andlau's *Conclusiones* erroneously as "ca. 1420" in my "Canon Law and the Problem of Expulsion," 158.

Domenico in extending *Usurarum voraginem*'s reach to the Jews. Floriano Sampieri (d. 1441), who, like Domenico, was a professor of law at Bologna, argued that the decree did not in fact apply to Jewish usurers, though his reasoning does not survive.[60] Other canonists ignored the debate altogether. But the majority of those who took up the question of the decree's reach seem to have decided that *Usurarum voraginem* did indeed forbid Christians from renting houses to (in some cases, foreign) Jewish usurers, while avoiding the question of the drafters' intent and sidestepping entirely the decree's expulsion provision.[61]

The tension surrounding this artificial distinction is particularly evident in two consilia concerning Jewish usurers written in the latter half of the 1440s by the Dominican Siegfried Piscator (d. 1473), who had been trained in canon law at Bologna and briefly served as auxiliary bishop of Mainz.[62] In the first, Piscator asked whether a secular or ecclesiastical ruler could in good conscience protect Jewish usurers and allow them to dwell in his lands. After conceding that this practice was widespread, he declared his opposition and laid out six arguments to support his case. His fifth argument began by quoting *in extenso* both *Usurarum voraginem* and *Ex gravi*. Since neither mentioned Jewish usurers explicitly, Piscator expressed doubt as to whether their sanctions would apply in such a case. Nevertheless, both canons evidently created a presumption against Jewish usurers, who were otherwise no more acceptable than their

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[60] Sampieri's opposition to Domenico's position is mentioned by Alessandro Tartagni (1424-1477) in one of the latter's consilia on usury; see his *Consiliorum*, 7 vols. (Venice: Zenari, 1578), vol. 6, fol. 5v [=*cons.* 6.6].

[61] Intriguingly, a fifteenth-century German manuscript containing summaries and abbreviations of canons similarly omits the expulsion provision in its discussion of *Usurarum voraginem*, while spelling out in full the decree's reiteration of *Quia in omnibus,* the housing ban, and the associated sanctions; see New Haven, Yale University, Law School Library, MssJ +C69 no.1, fol. 101v. Such editorial reworkings may have played a role in the deemphasizing of the expulsion provision, particularly among readers without formal legal training or ready access to fuller compilations of canon law.

[62] An edition of the two consilia is given in Cluse, *Darf ein Bischof Juden zulassen*, 104-32.

Christian counterparts. To this extent, declared Piscator, the two canons did indeed support his position.[63]

Piscator's ambivalence over the reach of *Usurarum voraginem* in his first consilium is striking in light of the argument he lays out in his second. Starting from the question of whether those who rented houses to Jewish usurers could receive the eucharist, Piscator declared that *Usurarum voraginem* was "squarely on point (*quibus premissis animadvertendum est*)," once again cited it at length, and relied mainly on its provisions in concluding that such persons were indeed excommunicated.[64] In short, where the housing ban was concerned, Piscator confidently asserted that the legal sanctions of *Usurarum voraginem* could be applied to the Jews; but where expulsion was at stake (as in his first consilium), the decree established only a moral presumption rather than a legal requirement.

Such repeated and collective reluctance to grapple with the problem of expulsion bears out Kenneth Stow's observation that "for all that jurists were moving toward justifying expulsion, they were also hesitant."[65] It was one thing to call for Christians to cease renting houses to Jewish usurers; after all, canon law laid out any number of other restrictions on appropriate relations between Christians and Jews. But to explicitly call for their expulsion would have been a much bolder move—and boldness is not a characteristic generally associated with fifteenth-century canonists.

Boldness was emphatically a characteristic of contemporary preachers, however, and especially of the Observant Franciscans, as exemplified by the indefatigable and indomitable

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[63] Cluse, *Darf ein Bischof Juden zulassen*, 115-16.

[64] Cluse, *Darf ein Bischof Juden zulassen*, 130.

[65] Stow, "Expulsion Italian Style," 57.

Bernardino da Siena. One can only imagine whether *Usurarum voraginem* was among the canons that Bernardino supposedly read aloud in Vicenza in 1443, when—according to a later report—he carried some volumes of canon law up to the pulpit and used their contents to insist on the expulsion of the Jews.[66] At the very least, he repeatedly asserted that the decree's housing ban was to be understood with reference to Christian and Jewish usurers alike. In his first Padua sermon of 1423, for instance, Bernardino posed the question of whether it was a sin to rent houses to the Jews, then declared that it was indeed a mortal sin to rent houses to either Jews or Christians for the purposes of usury.[67] He reiterated this point in his next sermon, then proceeded to spell out *Usurarum voraginem's* articulated hierarchy of sanctions as they pertained to prelates, religious communities, and so forth. In each case, the specified sanction—whether suspension, excommunication, or interdict—was framed as the consequence of renting houses to Jewish or Christian usurers. Furthermore, in each case he omitted any reference to foreignness, whether in regard to Christians or Jews.[68] To Bernardino's Paduan audience, and likely to many others as well, the decree's perceived reach was broad indeed.

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The reach of these debates extended well beyond university classrooms and church pulpits. Long before Bernardino had begun thundering from the pulpits of Italian churches, and even before Domenico da San Gimignano had published his commentary on *Usurarum voraginem*, the decree's applicability to the Jews had emerged as a topic of immediate concern for secular legislators. In 1396, for instance, members of the Florentine commune proposed that Jewish

[66] See Alessandro Nievo, *Consilium de iuris/Contra iudeos fenerantes* (Venice, 1482), fol. 12r.

[67] *Opera Omnia*, ed. Jean De la Haye, 3 vols. (Venice: Andrea Poletti, 1745), 3.334b; a partial edition is given in Franco Mormando, *The Preacher's Demons: Bernardino of Siena and the Social Underworld of Early Renaissance Italy* (Chicago: University of Chicago Press, 1999), 238-40 [=Appendix 2].

[68] *Opera Omnia*, ed. De la Haye, 3.361a-b.

moneylenders be invited to settle in the city, and it is likely that this was the context for a consilium solicited by the city's government on whether *Usurarum voraginem* was to apply to the Jews. The author of the consilium apparently concluded that they were not to be subject to the decree's provisions, but the commune ultimately seems to have shown little enthusiasm for welcoming these moneylenders to the city.[69] Ten years later, the city seems to have rejected the consilium's conclusions outright, decreeing that "no Hebrew or Jew, regardless of whence he came, could…lend at interest" anywhere within Florentine dominions.[70] Although the ordinance did not cite *Usurarum voraginem* directly, the reference to the Jews' places of origin suggests that the Florentine commune did in fact consider the Jews to be subject to the decree's provisions.

What did the popes have to say about all of this? As seen above, Boniface VIII considered Jewish moneylenders to fall outside the decree's reach when ordering their expulsion from the Comtat-Venaissin in 1300, and although John XXII called for the canonical prohibitions on usury to be applied to the Jews throughout the early 1320s, not once did he mention *Usurarum voraginem* explicitly. Continued silence on this front characterizes the remainder of the fourteenth century; if any popes did indeed believe that the decree's provisions applied equally to Jewish usurers, they made no attempt to enforce it accordingly.

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[69] For the proposal, see Umberto Cassuto, *Gli Ebrei a Firenze nell'età del Rinascimento* (Florence: Galletti e Cocci, 1918), along with Michele Luzzati's recent reinterpretation of the episode in "Florence against the Jews, or the Jews against Florence?," in *The Most Ancient of Minorities: The Jews of Italy*, ed. Stanislao G. Pugliese (Westport, CT: Greenwood Press, 2002), 59-66, at 61-62. The consilium itself does not survive, but its tenor was briefly summarized by Lorenzo Ridolfi, writing between 1402 and 1404. See Ridolfi's "Tractatus de Usuris," in *Tractatus universi iuris*, 22 vols. (Venice: Ziletti, 1584-86), vol. 7, fols. 15ra-50rb, at fol. 36vb [=q. 146].

[70] Cassuto, *Gli Ebrei a Firenze*, 362-63 [=Appendix, doc. 2]: "…ordinaverunt quod nullus ebreus sive iudeus, etiam undecunque originem duceret, possit aut ei liceat per se vel alium, directe vel per obliquum, tacite vel expresse, aut aliquot colore quesito, mutuare et seu mutari facere ad usuram et seu in fraudem usurarum."

Not until 1429, during the reign of Martin V (r. 1417-31), do we find a pope offering an opinion on the question. Troubled by the rabble-rousing antics of Bernardino da Siena and his fellow Observant preachers, Martin promulgated a bull ordering them to stop stirring up the masses against the Jews.[71] Contrary to some of the sweeping claims made by the preachers, the pope insisted that Christians and Jews were indeed permitted to interact with one another, "except in those cases prohibited by law (*preterquam in casibus a iure prohibitis*)." Christians and Jews were also allowed to engage in trade with one another, so long as it was done "in a licit and honest fashion (*licite tamen et honeste*)." Furthermore, declared the pope, Jews were allowed to buy, sell, and rent any homes and landholdings from Christians. Although the bull does not cite *Usurarum voraginem* (or any other canons), the decree's disputed interpretation was presumably the basis for the pope's decision to address the topic of housing head-on. And to judge from his response, neither the canonistic arguments of Domenico da San Gimignano nor the increasing weight of homiletics and other writings were sufficient to shift the pope away from the earlier view that restricted the decree's reach to (foreign) Christian usurers.

Five years later, however, with a new pope on the throne of St. Peter, the papal response proved rather different. Sometime in early 1434, two northern Italian counts, Francesco Pico della Mirandola and his brother Giovanni, sent a letter to Pope Eugene IV (r. 1431-47). Out of concern for their subjects, who had long suffered from a shortage of credit, Francesco and Giovanni had allowed some Jews to settle in their lands and lend at interest. In addition, the brothers had rented a house (or allowed a house to be rented) to these Jews for the purpose of moneylending. At the time, the noblemen stressed, they had not believed their actions to be unlawful. They had since come to fear, however, that their actions had violated the provisions of

[71] *ASJ*, 2.771-74 [=doc. 658].

Usurarum voraginem, inadvertently bringing down a sentence of excommunication upon themselves. The brothers' uncertainty, the petition noted, reflected the varied opinions of contemporary jurists (presumably those at Bologna, a mere thirty miles away), who disagreed on whether the decree was to be understood in reference to Jewish as well as Christian moneylenders. Deciding to err on the side of caution, the brothers petitioned the Holy Father to grant them absolution, if they had indeed incurred ecclesiastical censure through their actions. In addition, they asked to be granted a dispensation allowing the Jews to remain in their lands, so as to spare their subjects from even greater economic misfortune.

In his response, issued on July 15 of that same year, the pope granted them the desired absolution, thereby implying that the brothers had indeed incurred excommunication, even if unintentionally. The papal absolution, however, was a conditional one: it was to be granted only once the Jews had been expelled.[72] No evidence survives concerning the aftermath of Eugene's reply, and the fate of the Jews of Mirandola is unknown.[73] Nor have modern scholars treated the event as anything more than a footnote to the history of the Jews in fifteenth-century Italy. But if the brothers were presumably both relieved and disappointed by the outcome of their petition, other contemporary observers—including the Jews of Mirandola themselves—were surely surprised. The brevity of the surviving record of the papal response belies its importance as a marked departure from earlier papal practice. For the first time in the history of the medieval

[72] *ASJ*, 2.823 [=doc. 703]: "Concessum de absolutione, expulsis primo Iudeis, in presencia domini nostri pape." As an ablative absolute, the phrase "the Jews having been expelled (*expulsis…Iudeis*)" could in theory refer to an expulsion that had already occurred, but both the context and the use of "first (*primo*)" suggest instead that the phrase is to be taken as a condition of the absolution, rather than an acknowledgment of a *fait accompli*. I have confirmed the edition against Vatican City, ASV, Reg. suppl. 296, fol. 203rv.

[73] Half a century later, Giovanni's more famous grandson and namesake would also run into difficulty on account of his dealings with the Jews, though these were of a rather different sort; see Chaim Wirszubski, *Pico della Mirandola's Encounter with Jewish Mysticism* (Cambridge, MA: Harvard University Press, 1989).

church, a reigning pope had declared that the correct interpretation of canon law required the expulsion of Jewish usurers. Moreover, in insisting that the Jews of Mirandola be expelled, Eugene had gone well beyond the positions of Domenico da San Gimignano and others, who had focused exclusively on the decree's housing provision. If the canonists had been reluctant to push their interpretation to its logical end, the pope showed no such reticence. Our brief record of the papal response—only eleven words of summary—offers no direct insights into the Eugene's reasoning. Indeed, having only just arrived in Florence after hastily fleeing an insurrection in Rome, he might simply have been suffering from a case of bad temper, and he certainly had more pressing concerns on his mind. But whatever the grounds for his decision, the pope's opinion was unambiguous: *Usurarum voraginem*'s provisions applied to the Jews, including—indeed, especially—its penalty of expulsion.

Nor would this prove an isolated instance. Three years later, a similar case came to Eugene's attention. The provost of a church in Parma had apparently permitted some Jews to use his house for the purposes of moneylending, and had apparently been struck with a sentence of excommunication as a result of this and other sins. The fate of the Jewish moneylenders is not mentioned in the papal response—perhaps the provost had already evicted them from his house—but in any event, the pope ordered that the provost be absolved, provided that he did proper penance.[74] Here again, it is clear that Eugene considered *Usurarum voraginem* to apply to the Jews.

Soon thereafter, however, the pope changed his mind. In the winter of 1439-1440, some prominent Franciscans asked Eugene to clarify whether or not *Usurarum voraginem* applied to the Jews. In his response, dated January 10, the pope replied that it did not. The grounds for his

[74] I have confirmed the edition in *ASJ*, 2.844-45 [=doc. 720] against ASV, Reg. Lat. 339, fols. 258v-259r. Whether or not the Jews were natives of Parma goes unmentioned.

decision were straightforward: citing Giovanni d'Andrea's *Novella*, Eugene observed that the decree had been promulgated as a response to Florentines and Pistoians and others who were traveling about and lending at interest. He accordingly ruled that neither the penalty of excommunication for those renting houses to foreign usurers, nor the penalties for rulers who failed to expel them from their lands, were to be understood in reference to the Jews.[75]

If Eugene was willing to defer so easily to legislative *intentio* in 1440, why had he concluded otherwise on the two earlier occasions? Had he made his previous decisions solely on the text of the decree itself, without consulting its leading commentaries? Had he consulted only the commentaries of Domenico da San Gimignano or his followers? Or had he come to fear that his earlier, perhaps overhasty, decision might have unintentionally signaled a change in established papal policy vis-à-vis the expulsion of the Jews? Regardless of his motivations, the legal force of this revised papal ruling is unclear.[76] Moreover, although the text survives in several manuscripts, it seems to have gone unnoticed by contemporary canonists.[77] Even Antoninus of Florence, whom the pope may have consulted on the matter, does not mention it in any of his

[75] Milan, Biblioteca Ambrosiana, cod. D 10 sup., fol. 84ra: "Primo quod omnes pene que habentur in c. usurarum voraginem de usuris li. vi., scilicet pena excommunicationis locantibus domos vel permittentibus habitare in terris suis usurariis manifestos et alienigenas non expellantur infra tres menses, et pena interdicti si sit collegium vel universitas, non intelligatur si permittunt habitare iudeos." For a brief discussion and list of manuscripts, see Raymond Creytens, "Les cas de conscience soumis à S. Antonin de Florence par Dominique de Catalogne O.P.," *Archivum fratrum praedicatorum* 28 (1958), 149-220, at 195.

[76] For the uncertain legal force of such *responsa*, see Thomas Izbicki, "The Origins of the *De ornatu mulierum* of Antoninus of Florence," *Modern Language Notes* 119 (2004), S142-61, at S146.

[77] A century later, Eugene's response attracted the attention of the Dominican scholar Giovanni Cagnazzo (d. 1521), who included it in his *Summa Tabiena*; from there it spread into other early modern works on canon law and moral theology. See his *Summa summarum quae Tabiena dicitur* (Bologna, 1517), fol. 479r.

writings on *Usurarum voraginem*, and in fact he continued to hold that the decree's housing ban was applicable to Jewish usurers.[78]

In other words, by the time Eugene's successor Nicholas V ascended the papal throne in 1447, a variety of opinions were swirling around. Some argued that *Usurarum voraginem* applied to the Jews; others disagreed. Some maintained the decree's distinction between locals and foreigners; others omitted it entirely. Some focused exclusively on the housing ban; a handful drew attention to the penalty of expulsion. And some—like Pope Eugene—went back and forth. In general, Nicholas V seems to have considered that the renting of houses to Jewish usurers was indeed forbidden (or at least a transgression requiring papal dispensation), but none of the extant evidence suggests that he had especially strong views on the matter. Indeed, after an initial burst of intransigence inspired by the Observant Franciscan preacher Giovanni da Capestrano (1386-1456), he seems to have been relatively accommodating toward Jewish moneylending.[79] In dispensations granted to Leonello d'Este of Ferrara in 1448, and then to Leonello's half-brother Borso in 1451, Nicholas V specifically allowed the rulers to continue renting houses to the Jewish usurers whom they had welcomed into their lands.[80] The same is

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[78] See, in particular, his two consilia on the topic of usury, one from April 1454 and one from sometime thereafter, addressed to a certain Brother Rusticiano, a Dominican in Mantua. Both are edited in Raymond Creytens, "Les 'consilia' de S. Antonin de Florence, O.P.," *Archivum fratrum praedicatorum* 37 (1967), 263-342, at 311-15; I have checked the edition of the second consilium against Cremona, Biblioteca statale, cod. Aa. 3. 66, fols. 130v-131r. See also Antoninus's *Summa theologica* (Verona, 1740 [repr. Graz: Akademische Druck- und Verlagsanstalt, 1959]), 2.154-58 [=2.1.10]. In his other references to *Usurarum voraginem,* the question of the decree's applicability to the Jews goes unmentioned; see his *Summa theologica,* 3.1359-60 [=3.24.49]; *Confessionale* [*Defecerunt scrutantes scrutinio*] (Mondovì, 1472), fols. 27v-28r; and a diocesan statute concerning usury, edited in Richard Trexler, "The Episcopal Constitutions of Antoninus of Florence," *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 59 (1979), 244-72, at 262 [=c. 23]. For relations between Antoninus and Eugene IV during the winter of 1439-40, see Izbicki, "*De ornatu mulierum*," 143.

[79] For a general discussion of his dispensations concerning the Jews, see Poliakov, *Banchieri*, 116-18.

[80] For the 1448 dispensation, see *ASJ*, 2.927-29 [=doc. 772]. For the 1451 dispensation, see *ASJ*, 2.955-57 [=doc. 789].

true of the dispensation he granted to Frederick III of Germany, likewise issued in 1451, though in this case the Jews do not seem to have been recent arrivals.[81]

Nicholas V also proved willing to override the efforts of zealous bishops to apply *Usurarum voraginem*'s penalties to communities harboring Jewish moneylenders. In Mantua in 1449, for instance, the bishop had laid a sentence of excommunication and interdict on the city and its ruler, Ludovico Gonzaga, for having rented houses to Jewish moneylenders (along with various other misdeeds). Ludovico had to send a high-profile embassy to Rome in order to secure a papal dispensation allowing the Jews to remain.[82] Two years later, the town of Soave in the diocese of Verona apparently found itself in similar circumstances; here again the pope allowed the people of Soave to go on renting houses to Jewish moneylenders, so long as first they made suitable penance.[83] In the same year (1451) the bishop of Lucca issued a statute that automatically excommunicated anyone who rented a house to a usurer, with no distinction drawn between Christian and Jewish lenders, and apparently no distinction between local and foreign usurers either.[84] Alarmed, the Anziani of Lucca turned to Nicholas V for advice, and in August 1452, the pope absolved the city from any ecclesiastical sanctions that it had thereby incurred and furthermore allowed the Jews to continue lending at interest and renting houses for that purpose.

[81] *ASJ*, 2.966-68 [=doc. 794].

[82] *ASJ*, 2.932-34 [=doc. 774]. See also Poliakov, *Banchieri*, 356-57 [=p.j. 4]; and *ASJ*, 3.1393-96 [=doc. 1111].

[83] *ASJ*, 7.216 [=doc. 790].

[84] Only the titles of the bishop's anti-usury statutes survive; see Paolino Dinelli, *Dei sinodi della diocesi di Lucca* (Lucca: Bertini, 1834), 61-114, at 114 [=cc. 82-86].

In addition, he explicitly abrogated the bishop's statute and granted a dispensation from *Ex gravi*, with its ban on civic tolerance of moneylending.[85]

At the same time, however, officials within the Apostolic Penitentiary—many of them experts in canon law—were apparently quite willing to interpret *Usurarum voraginem*'s provisions as applicable to Jewish moneylenders. Sometime before January 1452, for example, Arnold von Brende, a canon (and later archdeacon) of Würzburg, with the consent of his chapter, had welcomed "perfidious Jews, who are rightly deemed foreign and manifest usurers (*perfidi Judei qui bene alienigene ac manifesti usurarii censentur*)" into the city of Würzburg for the purposes of lending publicly at interest. Although he had not realized it at the time (*tunc ignarus*), he had since realized that this was forbidden by law (*iure prohibitum sit*)—likely a consequence of the aggressive campaign that Nicholas of Cusa had led against Jewish usury in Würzburg and elsewhere earlier that year.[86] Arnold therefore petitioned the Apostolic Penitentiary for absolution from the sentence of excommunication and the irregularity that he feared he had incurred thereby. His request was duly granted.[87] Although Arnold's request was

[85] For the background to the Anziani's request, see Michael E. Bratchel, "Usury in the Fifteenth-Century Lucchesia: Images of the Petty Moneylender," *Journal of European Economic History* 32 (2003), 249-76, at 251. For Nicholas V's response (which survives in Lucca, Archivio di Stato, Pergamene, fondo *Tarpea*, 21 August 1452 [*non visu*]), see the edition in Giuseppe Coniglio, "L'usura a Lucca ed una bolla di Niccolò V del 1452," *Rivista di storia della chiesa in Italia* 6 (1952), 259-64, at 261-62.

[86] See Karl-Heinz Zaunmüller, "Nikolaus von Cues und die Juden. Zur Stellung der Juden in der christlichen Gesellschaft um die Mitte des 15. Jahrhunderts in den deutschen Landen," (unpublished Ph.D. dissertation, Universität Trier, 2001), esp. 69-70 and 336-44.

[87] *Repertorium poenitentiariae Germanicum. Verzeichnis der in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen, und Orte des Deutschen Reiches*, eds. Ludwig Schmugge et al., 9 vols. (Tübingen: Niemeyer, 1998-2014), 2.87 [=no. 902 (13 January 1452)]. On two later occasions, Arnold again sought absolution and dispensations for this same transgression as well as other instances of support for the Jews of Würzburg; see *Repertorium poenitentiariae Germanicum*, 3.12-13 [=no. 78 (9 July 1455)] and 3.49 [=no. 348 (7 September 1456)]. With one exception (discussed below), these are the only petitions from the published records of the Apostolic Penitentiary that touch directly on *Usurarum voraginem*, but ongoing research may turn up further instances. For a general introduction to the workings of the Apostolic Penitentiary, see Kirsi Salonen and Ludwig Schmugge, eds., *A Sip From The "Well Of*

handled within the Apostolic Penitentiary itself and surely never reached the attention of Nicholas V himself, it is nevertheless indicative of the interpretative instability surrounding the decree's provisions that the Penitentiary officials could implicitly confirm a reading of the decree that Eugene IV had explicitly condemned a decade earlier.

So far we have encountered a handful of petitioners (like the Mirandola brothers, the Franciscan friars, and the Anziani of Lucca) who wrote to the pope in search of clarification on the proper interpretation of *Usurarum voraginem*'s provisions. In the other cases, the decree's applicability to the Jews was taken as self-evident, and the pope was being asked to offer absolution from ecclesiastical sanctions and, in some cases, permission to continue harboring Jewish moneylenders.[88] Arnold von Brende's supplication to the Apostolic Penitentiary, however, highlights an interesting regional disparity in the interpretation and impact of *Usurarum voraginem.* Unlike the Italian petitions from Nicholas V's reign, Arnold did not claim to have rented houses to Jewish moneylenders, merely to have approved (along with the rest of the cathedral chapter) their settlement within the city. It is clear, too, from the text of the petition, that Arnold had consulted the text of *Usurarum voraginem* directly. By contrast, the Italian cases

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Grace": Medieval Texts from the Apostolic Penitentiary (Washington, D.C.: Catholic University of America Press, 2009), pt. 1. I am grateful to Dr. Salonen and to Paolo Ostinelli for their advice on these materials.

[88] A noteworthy variation on the latter theme arose in 1455, when the civic authorities of Padua sent a petition to Pope Calixtus III (r. 1455-1458) immediately following his election. Like many other petitioners before them, they too sought absolution from the pope for having previously rented houses to Jewish usurers. Unlike previous petitioners, however, the city had already expelled these Jews and was not seeking their return. See Antonio Ciscato, *Gli Ebrei in Padova (1300-1800)* (Padua: Società Cooperativa Tipografica, 1901), 243-45 [=Appendix, doc. 6]. Eight years later, the citizens and municipal authorities of the nearby town of Castello (which fell within the diocese of Padua) likewise sought absolution for having rented houses to Jewish moneylenders; see Filippo Tamburini, *Ebrei, saraceni, cristiani: Vita sociale e vita religiosa dai registri della Penitenzieria Apostolica (secoli XIV-XVI)* (Milan: Istituto di Propaganda libraria, 1996), 58 [=no. 7]. For further remarks on Padua and its Jews in the fifteenth century, especially in relation to mendicant preaching, see Michael Hohlstein, *Soziale Ausgrenzung im Medium der Predigt. Der franzikanische Antijudaismus im spätmittelalterlichen Italien* (Cologne: Böhlau Verlag, 2012), 221-40.

from Nicholas' reign almost all concern the renting of houses to usurers and rarely make explicit reference to *Usurarum voraginem* or its expulsion provision. This discrepancy reveals the degree to which the presumed unlawfulness of renting houses to Jewish usurers had become so accepted in Italian circles that it had taken on a force of its own, quite distinct from the decree itself. The concept was so firmly rooted in public discourse that its correctness was taken as self-evident, hardly requiring explicit legal backing. The repeated recourse to the decree's provisions had transformed what had once been a contentious rereading into an established practice.

Over the next half-century, the question of *Usurarum voraginem* and the Jews would continue to arise from time to time. In the winter of 1471/72, the Piedmontese town of Chivasso endured the repeated harangues of a Franciscan preacher, who urged landlords to evict Jewish moneylenders from their homes on pain of excommunication and also pushed for the general expulsion of the Jews from the town.[89] Two decades later, the civic leaders of Frankfurt sent a petition for the pope requesting a dispensation that would allow them to rent houses to Jewish moneylenders, free from the threat of ecclesiastical sanctions.[90] The issue also continued to exercise the minds of canonists, at least on occasion. In a consilium on usury written ca. 1469, Angelo di Castro (d. 1485) argued that just as the church did not concern itself with the sins of infidels, it ought not concern itself with the sins of Jews either. The threat of excommunication against Christians renting houses to Jewish usurers ought therefore to be considered invalid.[91] This position, in turn, was vigorously condemned by Alessandro Nievo (1417-1484) in his four

[89] Renata Segre, ed., *The Jews in Piedmont*, 3 vols. (Jerusalem: Israel Academy of Sciences and Humanities, 1986-90), 1.330-36 [=docs. 740, 741, 745, 747].

[90] *ASJ*, 3.1410-11 [=doc. 1126].

[91] Leiden, Universiteitsbibliotheek, D'Ablaing 33, fols. 5v-7r.

Consilia de usuris.[92] In general, however, the question of renting houses to Jewish usurers—and indeed, of the interpretation of *Usurarum voraginem*'s provisions more generally—gradually faded into the background, casualties, perhaps, of newly emerging arguments concerning the exclusion and expulsion of Jews.[93]

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As we have seen, the interpretation of *Usurarum voraginem* developed markedly in the two centuries following its promulgation, as fifteenth-century observers saw Jews where their forebears had seen only Italians. To be sure, *Usurarum voraginem* was hardly the only canon whose rereading led to the imposition of new penalties on the Jews during the late Middle Ages. In the thirteenth century, for example, a number of bishops had (perhaps wilfully) misunderstood the grammar of a particular line in *Post miserabilem* (X 5.19.12), therefore interpreting the canon as an invitation to excommunicate Jews. In this instance, the reading was roundly condemned by all of the major canonists, as well as by Pope Gregory X, and these rebuttals seem to have more or less brought a halt to the practice.[94] An even closer analogy is offered by *Ex gravi*, whose interpretative trajectory we have traced above.[95]

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[92] *Consilium de usuris/Contra iudeos fenerantes* (Venice, 1482). The consilia appear here as as appendix to the *Summa Pisanella*. A detailed breakdown of Nievo's argument is given in Poliakov, *Banchieri*, 59-65; but cf. the additional remarks of Hélène Angiolini, "Polemica antiusuraria e propaganda antiebraica nel Quattrocento" *Il pensiero politico* 19 (1986), 311-18, especially concerning the dating of the consilia.

[93] See Stow, "Expulsion Italian Style," esp. 55-59.

[94] See William C. Jordan, "Christian Excommunication of the Jews in the Middle Ages: A Restatement of the Issues," *Jewish History* 1 (1986), 31-38.

[95] Such interpretative instability was obviously not limited to canon law; for a related example concerning a French royal ordinance, see William C. Jordan, "Jew and Serf in Medieval France Revisited," in *Jews, Christians, and Muslims in Medieval and Early Modern Times. A Festschrift in Honor of Mark R. Cohen*, eds. Arnold E. Franklin et al. (Leiden: Brill, 2014), 248-56, at 251-53.

In the case of *Usurarum voraginem*, these interpretative shifts were not due to any inexorable logic embedded within the language of the decree itself. True, the drafters' failure to specify that its provisions applied only to Christian usurers left open the possibility that it might also apply to Jewish ones—but it took decades before anyone even thought to move in that direction. Moreover, the longstanding theological and canonical presumption against the Jews' expulsion weighed heavily against such an interpretation. So too did Francesco d'Albano's contemporary report of the drafters' aims, which circulated widely from the mid-fourteenth century onward. Many of those who treated *Usurarum voraginem* as applicable to the Jews no doubt did so out of sloppiness or haste; Pierre de la Palud and John Bromyard probably fall into this camp, since their handling of *Usurarum voraginem* shows little evidence of systematic thought, and we might even add Pope Eugene IV to their number. Such cases must be seen—and perhaps explained—in light of the fourteenth-century trend toward subjecting Jewish usurers to the same canonical ones as Christian ones, which was itself part of a larger movement effacing the earlier distinctions between Jewish and Christian usurers.

In many other cases, however, it is clear that *Usurarum voraginem* is yet another example of a text whose ambiguities were deliberately exploited by those seeking arguments for the further marginalization of European Jews. A host of late medieval jurists (and those who listened to them) proved willing to ignore the heuristic weight of the drafters' aims, in order to justify extending its provisions to the Jews. Similarly, rather than face the interpretative inconvenience posed by decree's expulsion provision, they simply ignored the provision altogether. Over time, and through repetition, their selective reading of the decree took on a life of its own, such that it was widely assumed by jurists and authorities alike that canon law forbade the renting of houses to Jewish moneylenders. Theory and practice thus reinforced one other.

Yet in some cases we find unexpected resistance. The Franciscan Giovanni da Capestrano, for instance, was renowned for his strident condemnations of the Jews, and calls for their exclusion and expulsion formed a central theme of the preaching campaigns that he carried out across Italy, Germany, and eastern Europe in the first half of the fifteenth century.[96] As such, it is striking that in the lengthy discussion of *Usurarum voraginem* in his treatise on avarice, he nowhere mentioned the question of its applicability to the Jews.[97] Moreover, in refuting a consilium by Angelo di Castro on Jewish butchering, he compiled a list of all the canons that concerned relations between Christians and Jews. Tellingly, neither *Usurarum voraginem* nor *Ex gravi* appears in the list.[98] Given Giovanni da Capestrano's reputation as a learned canonist, together with his obsessive concern with Jews and usury, this repeated silence suggests a reluctance to support the expansive reading of either canon.[99] However expedient such a reading might have been, it was clearly further than his legal scruples would allow him to go.

Similarly revealing is the widespread and conspicuous reluctance, whether in classrooms or council chambers, to turn *Usurarum voraginem* into a legal vehicle for the expulsion of the Jews. As we have seen, this reluctance was not absolute. Pope Eugene IV ultimately came down in

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[96] See Filippo Sedda, "The Anti-Jewish Sermons of John of Capistrano: Matters and Context," in *The Jewish-Christian Encounter in Medieval Preaching*, eds. Jonathan Adams and Jussi Hanska (New York: Routledge, 2015), 139-69, at 140-42.

[97] *Tractatus de Cupiditate,* in *Johannes von Capistrano,* ed. Eugen Jacob, 2 vols. (Breslau: Woywood, 1903-11), 2.2.27-460, at 105-7.

[98] An edition is given in Hélène Angiolini, "'Cibus iudei': un 'consilium' quasi inedito di Angelo di Castro sulla macellazione con rito ebraico e una 'reprobatio' di San Giovanni da Capestrano," in *La storia degli Ebrei nell"Italia medievale: tra filologia e metodologia*, eds. Maria Giuseppina Muzzarelli and Giacomo Todeschini (Bologna: a cura dell'Ufficio stampa e pubbliche relazioni dell'Istituto per i beni artistici, culturali e naturali della Regione Emilia-Romagna, 1989), 102-15, at 111-14.

[99] For his legal training and reputation, see Diego Quaglioni, "Un giurista sul pulpito. Giovanni da Capestrano († 1456), predicatore e canonista," in "*Civilis sapientia": dottrina giuridiche e dottrine politiche fra medioevo ed età moderna* (Rimini: Maggioli Editore, 1989), 193-206.

favor of a narrow reading of the decree, but only after breaking with nearly a thousand years of papal tradition in his decision concerning the Jews of Mirandola. On the whole, however, nearly all of the canonists, preachers, and authorities who sought to include the Jews among *Usurarum voraginem*'s targets proved willing to embrace a degree of inconsistency, trumpeting the decree's housing ban while sweeping the question of expulsion under the rug. In short, then, even in those instances where *Usurarum voraginem* was indeed used against the Jews, it was used in a way that reflected and reinforced canon law's traditional position vis-à-vis the Jews: they were to be excluded, but not expelled.

Epilogue:

Expulsions and their Aftermath

ALCIBIADES:
"Banish me?
Banish your dotage, banish usury,
That makes the senate ugly!"
~Shakespeare, *Timon of Athens*, 3.5.97-99

As the Neapolitan jurist Luca da Penna (d. ca. 1390) worked his way through the last three books of Justinian's *Code*, writing the commentary that would make him famous across Europe, he came to the topic of pimps. Citing a Novel of Justinian, Luca noted that such men were to be expelled from cities. But who else was to share their fate? Late Roman law, Luca noted, specified that the same punishment was to befall diviners and those who conducted religious services in their own houses without proper authorization. The decrees of a sixth-century Iberian council (as transmitted via Gratian's *Decretum*) provided another example, namely, those fostering sedition. More recent centuries, however, contributed only a single addition to Luca's roster of expulsion: Citing *Usurarum voraginem*, Luca concluded that usurers, too, were to be expelled.[1] As he noted elsewhere in his commentary, it was even permitted for a mob "to rise up against a manifest usurer, in order to drive him from a city."[2]

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[1] *Super tribus libris Codicis* (Lyon: Jacobus Myt, 1538), fol. 146rb [=*ad Cod*. 11.41.6]: "Sicut etiam usurarius et alii de quibus not. de usur. c. usurarum. lib. vi." It is unclear who Luca understood these "others (*alii*)" to be. The citation for the expulsion of pimps is to *Nov.* 14; for diviners and those conducting unauthorized religious services, *Cod.* 1.4.10 and *Nov*. 131.8; for sedition, C.11 q.3 c.7. The latter penalty can be traced back to the *Capitula Martini*, a late sixth-century canonical compilation of earlier Greek canons; see *Canones ex orientalium patrum synodis*, c. 37:in Martin of Braga, *Opera omnia*, ed. Claude W. Barlow (New Haven: Yale University Press, 1950), 123-44, at 134.

[2] *Super tribus libris Codicis,* fol. 291va [=*ad. Cod.* 12.41.5 §*ipsique plebi*]: "Sic etiam potest insurgere populus contra usurarium manifestum, ut ipsum ab urbe depellat." Luca showed notable interest in this sort of expulsion, perhaps derived from his reading of *Cod.* 1.1.2, which ordered heretics to be driven outside the walls of Constantinople. According to Luca, this was to be done "by the fury of the people (*furore populi*)," but this was probably due to a variant manuscript reading. The standard modern editions of the Justinianic Code and the Theodosian Code (from which it was drawn) both read *furore propelli*,

The latter observation brings to mind Boccaccio's two Florentine moneylenders whom we met in the Introduction, who were fretting that the local Burgundian townsfolk might rise up in anger and run them out of town. Although there is little evidence for outbreaks of popular violence against Christian moneylenders at any point in the later Middle Ages, fears of expulsion were familiar to Italian audiences in the late 1340s and 1350s, the very years that Boccaccio and Luca da Penna were embarking on their masterworks.[3] In 1347, Philip VI of France had ordered that Lombards be expelled from the kingdom, and his order was implemented with unusual thoroughness.[4] Two years later, Lombards and Jews were jointly ordered to leave the county of Burgundy.[5] Although the Burgundian order was never implemented, it marked the beginning of a series of prohibitions, indemnities, and confiscations that prompted the gradual disappearance of Lombards from the county over the course of the late fourteenth century. Then, in 1356, following a protracted series of local wars, the Estates-General of Lorraine first confiscated the property of all Lombards within the duchy, along with that of all other resident Italians, whether bankers, moneychangers, or usurers, and then ordered their expulsion.[6]

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without noting this variant; see *Corpus iuris civilis*, vol. 2: *Codex Iustinianus,* ed. Paul Krueger (Berlin: Weidmann, 1877), 8 [=1.1.2]; and *Theodosiani libri XVI: cum Constitutionibus Sirmondianis et Leges novellae ad Theodosianum pertinentes*, eds. Theodor Mommsen, Paul Meyer, and Paul Krueger, 2 vols. (Berlin: Weissmann, 1905), 1.857 [=16.5.6.3]. The same is true of Godefroy's edition of the *Theodosian Code*; see *Codex Theodosianus cum perpetuis commentariis...,* ed. Jacques Godefroy, 6 vols. (Lyon: Huguetan & Ravaud, 1665), 6.130-31 [=16.5.6.3].

[3] Perhaps there are also faint echoes here of the widespread Jewish expulsions and massacres that accompanied the spread of the Black Death, but as Samuel Cohn has recently stressed, there is little contemporary evidence to connect such pogroms with popular resentment of Jewish moneylenders; see his "The Black Death and the Burning of the Jews," *Past & Present* 196 (2007), 3-36.

[4] The only detailed study of this expulsion is Hervé Martin's "Le pouvoir royal et l'usure pratiquée par les Lombards sous les deux premiers Valois" (unpublished mémoire de D.E.S., Université de Paris, 1962). I am grateful to the author for his kindness in allowing me to consult and cite his study.

[5] Léon Gauthier, *Les Lombards dans les deux-Bourgognes* (Paris: Champion, 1907), 220-23 [=p.j. 86].

[6] Augustin Calmet, *Histoire ecclésiastique et civile de Lorraine*…, 4 vols. (Nancy: J. B. Cusson, 1728), col. 543. The manuscript from which Calmet drew his account of the expulsion is now lost.

It might therefore have come as a surprise to contemporaries that the very practice of expelling foreign usurers—at least where Christian targets were concerned—would soon fade from the scene. Later memorialists would commemorate Philip VI as the last French king to imitate Louis IX's example by expelling the Lombards from his kingdom.[7] In 1382, Duke John II of Burgundy consented to a request from the Estates-General to expel Lombards (as well as Jews), but he seems not to have followed through with the expulsion itself.[8] In any case, further expulsion orders would have had little impact, for their lands had fewer and fewer Lombards to expel. The second half of the fourteenth century saw the Lombard presence within the kingdom of France confined to a handful of cities, while the final decades of the century saw a precipitous decline in Lombard activity within both the county and duchy of Burgundy. Some of this reflects the economic success of the Lombards, who parlayed their newfound wealth into landholdings and feudal titles in their communities of origin.[9] But darker motivations were at foot as well: real and threatened expulsions, of course, but also repeated confiscations, prohibitions, and exactions.

The impact of these can be felt in the gradual concentration of the remaining Lombards in other, more welcoming, jurisdictions. Among the latter were the cities and towns in Switzerland, Savoy, the Rhineland, and the Low Countries, where we find continuing Lombard activity

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[7] Philibert Bugnyon, *Traité des loix abrogées et inusitées en toutes les Cours, terres, iurisdictions & seigneuries du royaume de France*, 7th ed. (Lyon: Charles Pesnot, 1578), 129. So far as I have been able to tell, this remark does not appear in any of the earlier editions of Bugnyon's treatise.

[8] Dijon, Archives départementales de la Côte d'Or, B 2293, fol. 2v. For continuing Lombard activity in Burgundy in the 1380s, see Gauthier, *Les Lombards*, 49-52. The Jews would be definitively expelled in 1394; see Léon Gauthier, "Les Juifs dans les Deux-Bourgognes. Études sur le commerce de l'argent aux XIIIe et XIVe siècles," *Revue des études juives* 48 (1904), 208-29, at 228-29.

[9] For illuminating case studies of two families' paths from moneylending to feudal landholding, see Luisa Castellani, "Percorsi di affermazione di una famiglia dell'aristocrazia finanziaria astigiana: i Malabaila di Volgorerra e Cantarana," *Società e Storia* 63 (1994), 19-47; and Renato Bordone, "Una famiglia di 'Lombardi' nella Germania renana alla seconda metà del Trecento: gli Asinari di Asti," in *Hochfinanz im Westen des Reiches (1150-1500)*, eds. Friedhelm Burgard, Alfred Haverkamp, Franz Irsigler, and Winfried Reichert (Trier: Verlag Trierer Historische Forschungen, 1996), 17-48.

through the early fifteenth century, and in some places well into the seventeenth. Expulsion orders were not unknown in these regions, but they were generally rare and limited in scope.[10] In short, it is clear that the foreign moneylenders in these regions never experienced anything like the sequential expulsions that so transformed the local geography of Jewish settlement between 1350 and 1450.[11] Meanwhile, in northern Italy, even on the rare instances when Tuscan merchants and moneylenders faced expulsion, it was for avowedly political reasons rather than on grounds of usury.[12]

Within ecclesiastical circles, few seem to have pushed for expulsion. References to *Usurarum voraginem* and its provisions continued to appear in local ecclesiastical legislation, but with less and less frequency. Moreover, many of these references were carried over from earlier compilations, and as in earlier decades, they rarely included explicit mention of expulsion, drawing instead on the decree's housing restriction or even just the redolent language of its

[10] In 1376 and then again in 1424, the city of Zürich threatened its resident Lombards with expulsion if they would not renounce all outstanding debts, but neither instance appears to have an impact on the Lombards' presence in the city. In 1427, the municipal council of Bern seems to have carried through on its decision to expel Jews and Lombards together from the city. Toward the end of the century, the town of Saint-Omer, straddled between France and Flanders, would expel its resident Piedmontese moneylenders. The circumstances and aftermath of all of these incidents remain decidedly opaque. For the 1376 Zürich expulsion threat, see Werner Schnyder, ed., *Quellen zur Zürcher Wirtschaftsgeschichte von den Anfängen bis 1500*, 2 vols. (Zürich: Rascher, 1937), 1.161 [=no. 313]. For the 1424 Zürich expulsion threat, which also targeted the city's resident Jewish population, see Jean Jacques Amiet, "Die französischen und lombardischen Geldwucherer des Mittelalters, namentlich in der Schweiz," *Jahrbuch für schweizerische Geschichte* 1 (1876), 177-255, at 228-29; Heymann Chone, "Zur Geschichte der Juden in Zürich im 15. Jahrhundert," *Zeitschrift für die Geschichte der Juden in Deutschland* 6 (1936), 198-209, at 205. For the 1427 Bern expulsion, see *Die Rechtsquellen des Kantons Berns*, t. 1: *Stadtrechte,* Bd. 1-2: *Das Stadtrecht von Bern I und II*, ed. Friedrich Emil Welti, 2nd ed. rev. by Hermann Rennefahrt (Aarau: Sauerländer, 1971), 272-73 [=Satzungsbuch R §116]. For the 1482/83 Saint-Omer expulsion, see Albert Pagart d'Hermensart, *Les anciennes communautés d'arts et métiers à Saint-Omer*, 2 vols. (Saint-Omer: Imprimerie Fleury-Lemaire, 1879-81), 1.202.

[11] On late medieval expulsions of the Jews, see the studies gathered in *Judenvertreibungen in Mittelalter und früher Neuzeit,* eds. Friedhelm Burgard, Alfred Haverkamp, and Gerd Mentgen (Hanover: Hahnsche Verlag, 1999).

[12] See Antonio Battistella, *I toscani in Friuli e un episodio della guerra degli Otto Santi* (Bologna: Zanichelli, 1898).

opening phrase.[13] Where Christian usurers were concerned, the papal reply to Humbert II's expulsion efforts, asserting that it was better to profit from the usurers' presence than to demand their departure, is emblematic of the ecclesiastical response more generally. Of course, the church was far from monolithic. In the fifteenth century, as we have seen, Observant Franciscans drew repeatedly on *Usurarum voraginem* in their sermons and writings, and discussions of the decree took on newfound vigor as canonists and authorities actively weighed its applicability to Jews. Nor did all prelates follow the papal lead in disregarding *Usurarum voraginem*, where foreign (Christian) usurers were concerned. In 1349, as we have seen, the archbishop of Mainz would insist on the expulsion of local Lombards, and a century later, his successor would demand that Lombards be expelled from the town of Bingen.[14] But on the whole, the criticisms of Francesco d'Albano, Godfrey de Fontaines, and Giovanni d'Andrea concerning ecclesiastical apathy and lax enforcement of the decree in the late thirteenth century and early fourteenth centuries held true throughout the remainder of the Middle Ages and beyond. As the great Jesuit theologian Leonard Lessius (1554-1623) would observe in his 1605 treatise *On Justice and Law*, the decree's provisions "did not appear to be observed in many places, for [foreign usurers] are everywhere welcomed by princes and republics, with few bishops opposing."[15]

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[13] *Usurarum voraginem*'s expulsion provision appears in Tournai (1366), c. 13: in *Summa statutorum synodalium cum praevia synopsi vitae episcoporum Tornacensium*, ed. Jacques Le Groux (Lille, 1726), 1-80, at 64-66; and Todi (1373x1436), D. 5 c. 7: in *Constitutiones synodales ecclesiae Tudertinae* (Perugia, 1576), p. 50 [=H1v]. I would like to thank Erika Smith for kindly transcribing passages from the Todi compilation.

[14] For the 1349 expulsion, see above, pp. 265-66. An expulsion in Bingen ca. 1450 is mentioned in Franz Joseph Bodmann, *Rheingauische Alterthümer, oder, Landes- und Regiments-Verfassung des westlichen oder Niederrheingaues im mittlern Zeitalter*, 2 vols. (Mainz: Kupferberg, 1819), 2.716.

[15] *De iustitia et iure ceterisque virtutibus cardinalibus* (Paris, 1628), 330 [=2.24.8.41]: "Hoc tamen non videtur multis locis servari; nam passim a Principibus et Rebuspublicis admittuntur, Episcopis minime contradicentibus." I would like to thank Wim Decock for drawing my attention to Lessius's treatise.

Whether Luca da Penne himself, writing in the middle decades of the fourteenth century, could have sensed that *Usurarum voraginem*'s expulsion provision was becoming steadily less relevant is unclear. In any case, it would probably have made little difference to him. After all, his concerns were prescriptive rather than descriptive: he was interested in what the law enjoined, not what it enforced. Yet even if most ecclesiastical and authorities chose not to enforce *Usurarum voraginem* within their jurisdictions, the decree nevertheless hovered in the background. Indeed, its formal abrogation would come only in 1917, with the publication of the revised *Code of Canon Law*, and throughout the later Middle Ages it continued to circulate in confessors' manuals, synodal compilations, or legal handbooks such as Luca's commentary, ever-ready to be transformed from text into reality.

It is clear from the surviving Lombard privileges that many foreign moneylenders took seriously the decree's threat of sanctions, however infrequently it played out in practice. Pope John XXII's attempt to compel the count of Blois to expel the Lombards from Avesnes-sur-Helpe in 1322 marks the last known instance of expulsion (whether real or threatened) anywhere in the Low Countries before the early modern period. Yet did this not prevent Lombards in Holland and Hainaut, in the closing decades of the fourteenth century and the early decades of the fifteenth, from seeking guarantees that they would be protected from secular or ecclesiastical efforts to expel them.[16] Meanwhile, Charles VI of France's declaration that he would yield to the church's will where expulsion was concerned shows that he and his advisers did not yet see

[16] Middelburg (1397): in W. S. Unger, ed., *Bronnen tot de geschiedenis van Middelburg in den landsheerlijken tijd*, 3 vols. ('s-Gravenhage: Nijhoff, 1923-31), 3.43-47, at 46 [=no. 110]; and Merbes-le-Château/Forest-en-Cambrésis (1413), in *Cartulaire des comtes de Hainaut de l'avènement de Guillaume II a la mort de Jacqueline de Bavière [1337-1436]*, ed. Léopold Devillers, 6 vols. in 7 (Brussels: Hayez, 1881-96), 3.552-59, at 557-58 [=no. 1061].

Usurarum voraginem as a dead letter, even if they were not about to honor its provisions themselves.[17]

In addition, the fact that fears of expulsion went largely unrealized does not mean that such fears were without effect. As was repeatedly demonstrated during the reign of Henry III of England, the coupling of general usury bans with expulsion orders made it all the easier for secular authorities to extort revenues from moneylenders whenever additional funds were needed.[18] Philip III of France seems to have done precisely this in 1277, arresting all of the Italian merchants of the realm and subjecting them to a large indemnity, and his son Philip IV would do the same in 1291. Moreover, after the promulgation of *Usurarum voraginem*, such threats could cloak themselves in the authority of canon law. As we saw in Chapter Five, even the local ecclesiastical hierarchy approved of the count of Holland's decision to claim "reparations" from local Lombards, rather than expelling them outright.[19] Countless moves of a similar nature surely went unrecorded.

Some fears of expulsions, moreover, proved well grounded. Some moneylenders did indeed have their doors broken down by angry bishops. Others found themselves ordered out of town by officious bailiffs. Still others took asylum as royal agents approached. But as we have seen, it is easier to trace the history of expulsion than the history of the expelled. Only rarely can we trace the consequences of a given expulsion at the level of individual victims. Some evidently responded by laying low until the storm had passed, temporarily shifting their interests to safer

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[17] See above, pp. 240-41.

[18] Richard Goldthwaite has made the same point concerning usury restrictions in general, namely, that they proved a useful excuse for imposing fines on moneylenders, and in the end these occasional but continuing extortions amounted to little more than a fee for a license to practice." See his *The Economy of Renaissance Florence* (Baltimore: Johns Hopkins University Press, 2009), 209.

[19] See above, p. 235.

commercial pursuits, while others duly relocated to more welcoming jurisdictions. Many, perhaps most, simply bowed to the necessity of bribes. But how they decided between such options is unclear, and so too is the personal and professional toll of expulsion. The business accounts of foreign moneylenders, particularly those active in northern Europe, are scanty and incomplete; personal archives are virtually non-existent. However hard it is to see into the minds of those ordering expulsion, it is all but impossible to see into the minds of their victims.

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The uncertainty of expulsion was not limited to where or when it might occur; as we have seen, there was also considerable ambiguity as to who might fall within its reach. In some instances, this was merely an expression of political considerations; an example is Henry III of England's assault on the purported usury of the Sienese, which he later extended to include merchant-bankers from all other Italian cities as well. We have also traced the canonists' debates over the language of foreignness in *Usurarum voraginem*, as they sought to clarify who was a "foreigner" for the purposes of the decree's implementation. But there was also a great deal of variation in contemporary understandings of who counted as a "usurer" and who was subject to the penalties laid out in usury prohibitions.

The French case is particularly illustrative. In both 1277 and then again 1291, the arrest of all Italian merchants within the kingdom was predicated on the charge that they had violated the earlier bans on foreign usurers promulgated by Philip III and his father Louis IX.[20] On both occasions, the fact that these ordinances had restricted their reach to those who lent on pledges

[20] See the letter of Philip III to the archbishop of Bourges, in Charles Langlois, *Le règne de Philippe III, le Hardi* (Paris: Hachette, 1887), 401 [=no. 93]; and Philip IV's letter of August 28, 1291, concerning the release of some associates of the Mozzi banking firm of Florence, in Paris, BnF, (Languedoc) Doat 156, fol. 12v. Where Philip III's efforts resulted in a collective indemnity payment, Philip IV's proceeded to an inquest, after which only those found guilty of usury were fined; for royal letters concerning the inquest, see Paris, BnF, (Languedoc) Doat 7, fols. 227v-229r.

was (perhaps conveniently) ignored. Indeed, neither Philip III nor his son showed any consideration for the actual commercial activities of the Italians concerned, instead declaring that all were suspected of violating the usury bans. As offended municipal governments, city chroniclers, and the pope himself would complain, "on the pretext of arresting moneylenders, [the king] had seized upstanding merchants and moneylenders alike."[21] Whether such efforts were driven by greed (as contemporary critics alleged), genuine concern about usury (as the kings themselves insisted), or a combination thereof, they surely contributed to the unstable climate of foreign commercial activity in late thirteenth-century France. More broadly, they reflect a world in which the broad array of commercial practices that an enterprising foreigner might undertake had not yet crystallized into the more clear-cut occupational distinctions of the fourteenth century.

As we saw in Chapter Three, the canonists sought clarity by restricting the application of ecclesiastical sanctions to "manifest usurers," and over the course of the thirteenth and fourteenth centuries they worked vigorously to define ever more precisely who was to be thus classified. But for most contemporaries, including most of the ecclesiastical hierarchy, the concept of the "manifest usurer" was not shaped by primarily legal considerations. If usury became, in the words of Sylvain Piron, the "social crime *par excellence,*" the category of the "manifest usurer" (and indeed, the "usurer" more broadly) was similarly a social one.[22] It was also a politically charged one. Whether someone perceived a moneylender as a usurer frequently depended less on

[21] Giovanni Villani, *Nuova cronica*, ed. Giuseppe Porta, 3 vols. (Parma: Fondazione Pietro Bembo, 1990-91), 1.622 [=8.147] (in reference to the 1291 arrest): "…il re Filippo il Bello di Francia […] fece prendere tutti gl'Italiani ch'erano in suo reame, sotto protesto di prendere i prestatori; ma così fece prendere e rimedire i buoni mercatanti come i prestatori."

[22] Sylvain Piron, "Le devoir de gratitude: émergence et vogue de la notion d'*antidora* au XIII^{e} siècle" in *Credito e usura fra teologia, diritto e amministrazione. Linguaggi a confronto (sec. XII-XVI)*, eds. Diego Quaglioni, Giacomo Todeschini and Gian Maria Varanini (Rome: École française de Rome, 2005), 73-101, at 74.

the lender's business practices than on the nature and strength of the relationship between the observer and the lender. As suggested by evidence from Cambrai and Mainz, a group of Astigiani lenders could therefore be *mercatores* to one bishop and *usurarii* to his successor or rival. Such flexibility reflected more than mere self-interest; it is symptomatic instead of the complicated—and in some cases, even contradictory—attitudes to a rapidly changing landscape of credit practices and the economic pressures that lay beneath them.

Some of these changes are mirrored in the shifting reach of *Usurarum voraginem* and other expulsion orders. Casting his net wide, Henry III of England accused all of the resident Italian merchant-bankers of engaging in usurious practices. Where Louis IX restricted his ordinance to those foreigners lending usuriously on pledges, his son Philip III expanded its purview to all Italians pursuing commercial activities within the kingdom of France. At least one early canonist saw the Florentines and the Sienese as the chief targets of the Lyonese decree, and members of the powerful Bonsignori firm of Siena were evidently anxious about its the potential fallout in the years immediately following the decree's promulgation. In the fourteenth century, by contrast, there is no evidence that any authorities ever sought to use charges of usury as grounds to expel associates of the great Florentine and Sienese banking firms. Changing business practices can explain much of this change, though not all of it. Similarly difficult to explain is the fact that nearly all attempts to enforce *Usurarum voraginem*'s provisions against Christian lenders concern Italian (and predominantly Piedmontese and Piacenzan) lenders active north of the Alps, while the dense network of Tuscan moneylenders who set up operations in towns throughout northern Italy carried on largely unscathed. In the fifteenth century, moreover, attempts to enforce *Usurarum voraginem* would almost entirely sidestep Christian lenders on both sides of the Alps, focusing instead on Jewish lenders.

Amidst all of these shifts, one of the few constants is that expulsion rarely, if ever, extended its reach to include native Christian usurers. Normative texts, such as the *Laws of Edward the Confessor* in the mid-twelfth century, or a Venetian penal statute in the mid-fourteenth, occasionally called for the banishment of usurers, without making any distinction between locals and foreigners.[23] In 1493, Bernardino da Feltre would insist that usurers, along with other unscrupulous merchants, ought to be expelled from their cities.[24] In addition, many reworkings or summaries of *Usurarum voraginem*, including Luca da Penna's, omitted its restriction to foreigners. But none of these had much impact on contemporary practice. For native Christian moneylenders, accusations of usury could bring any number of unpleasant sanctions in their wake. Expulsion was not among them.

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Usurers were not the only ones for whom expulsion might depend on a local/foreign distinction. There is contemporary evidence for similarly differential treatment of vagrants, lepers, and even heretics, to cite but a few. But in no other case is the distinction so entrenched, or so widespread. The opening chapters explored the emergence of expulsion as a specific response to foreign usurers in the middle decades of the thirteenth century. In England, as we saw, rising concerns about usury intersected with a tradition of expelling unwanted foreigners, and Italian merchant-bankers duly found themselves being ordered out of the kingdom. In France, Crusading fervor produced a political landscape saturated with the language of purgation and purification, in which usury joined prostitution, heresy, blasphemy, and bureaucratic

[23] Bruce R. O'Brien, *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia: University of Pennsylvania Press, 1999), 200 [=c. 37]; Guy Geltner, *The Medieval Prison: A Social History* (Princeton: Princeton University Press, 2008), 50.

[24] *Sermoni del beato Bernardino Tomitano da Feltre nella redazione di Fra Bernardino Bulgarino da Brescia, minore osservante,* ed. Carlo Varischi, 3 vols. (Milan: Renon, 1964), 1.381-91 [=no. 29], at 383.

corruption as the targets of royal repression. Here, however, it was a different class of foreign usurers—namely, pawnbrokers—whom the king singled out for expulsion, rather than the merchant-bankers who were the targets of royal ire across the Channel. And here, too, the basis for punishing foreign usurers differently from local ones is harder to pin down, though it surely stemmed (at least in part) from the French king's acute sense of personal responsibility for the actions of foreigners who dwelled in the kingdom by his grace and under his protection. Then, at the Second Council of Lyon in 1274, the ecclesiastical hierarchy augmented its existing anti-usury arsenal with a call for the expulsion of any foreigners who fell within the category of "manifest usurer," inspired not by its internal legal or theological traditions, but rather by French royal practice. The result—that is, *Usurarum voraginem*—thereby introduced a novel distinction into the penal law of the church, in which the same sin led to different punishments for "foreigners" as compared to "natives." As we saw in Chapter Three, even the greatest canonists of the age, including Guillaume Durand and Giovanni d'Andrea, met with little success in trying to rationalize this difference, resorting to vague notions of scandal or social ties.

In fact, the seeds of a more compelling explanation lay buried within the opening words of the decree itself, with their vivid evocation of usury's consuming effects. On the whole, most late medieval authorities and observers were content to raise the specter of consumption without much concerning themselves with how this consumption actually operated. Typical in this regard is a quatrain from the *Dictionarium morale* compiled by the fourteenth-century Benedictine theologian Pierre Bersuire: "All the laws do they ignore/All the joys do they deplore/All their friends they freely cheat/And earthly riches they deplete (*Mandatorum transgressores/ Gaudiorum contemptores/ Proximorum deceptores/ Terrenorum consumptores*)."[25] Even more

[25] See his *Opera omnia*, 6 vols. (Cologne: Huisch, 1730-31), 6.294 [=Pt. 4, s.v. *usura*]. The translation is mine, but I think Bersuire would have approved.

evocative is a consilium on usury by the great Italian jurist Baldo degli Ubaldi (c. 1327-1400); misquoting the opening of the Lyonese canon as *Usurarum voracitas* (rather than *voraginem*), Baldo declared that "the word 'voracity' is apt indeed, for the usurer is like a woodworm, which appears soft to the touch but has extremely hard teeth that gnaw and devour all wood; and in such a way is the usurer a property-gnawing maggot."[26] The imagery is memorable, to be sure, but apparently Baldo did not think to wonder what happened to the property after it had been devoured and digested.

A handful of observers, reflecting on the consequences of Jewish usury, broke free of a mindset that saw usury as utterly destructive. In the early fourteenth century, the Franciscan Nicholas of Lyra (1270-1349) articulated the concept of a sphere of exchange internal to the Jewish community, distinct from and unavailable to Christian economic networks.[27] In this reading, the wealth of (implicitly Christian) territories was therefore siphoned away through the Jews' usury into this separate sphere.[28] Writing a century and a half later, the Franciscan Angelo Carletti di Chivasso (1411-1495) suggested a more concrete and provocative explanation,

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[26] *Consiliorum, sive Responsorum Baldi Ubaldi Perusini,* 5 vols. (Venice: Domenico Nicolino, 1580), vol. 3, fol. 131vb [=no. 449, c. 8]: "Et bene litera dicit voracitas. quia usurarius similis est vermiculo ligni, quia vermiculus ad tactum apparet lenis: sed dentes habet ita durissimos, quod omne lignum rodit, et devorat: ita, et usurarius est vermis patrimonium rodens." The reading is confirmed in the copy of the consilium found in Vatican City, Biblioteca Apostolica Vaticana, Barb. Lat. 904, fol. IIrb.

[27] See Giacomo Todeschini, "Teorie economiche francescane e presenza ebraica in Italia (1380-1462 c.)," in *Il rinnovamento del Francescanesimo. L'Osservanza. Atti dell'XI convegno internazionale (Assisi, 20-21-22 ottobre 1983)* (Assisi: Università di Perugia, Centro di Studi francescani, 1985), 193-227, at 206.

[28] An alternative approach was taken by Bernardino da Siena, who warned against the concentration of wealth produced by usury, rather than its consuming effects. In an extended organic metaphor, Bernardino argued that when the natural warmth of the body is drawn away from the extremities and is concentrated in the heart and inner organs, it was a sign of impending death; similarly, the concentration of wealth into fewer and fewer hands was proof of the worsening state of the city and the land. This was especially true, he goes on to say, when the hands concerned were those of the Jews. See his *Opera omnia; iussu et auctoritate Pacifici M. Perantoni*, 9 vols. (Quaracchi: Coll. S. Bonaventurae, 1950-65), 4.370-87 [=*Quadragesimale de Evangelio aeterno*, Sermon 43], at 383; as well as the discussion in Cary J. Nederman, "Body Politics: The Diversification of Organic Metaphors in the Later Middle Ages," *Pensiero politico medievale* 2 (2004), 59-87, at 86.

namely, that Jews frequently conspired to send their usurious gains to infidel lands, on account of their hatred of Christians.[29] In these explanations, usury might destroy Christian wealth, but it did so by siphoning it away to Jews and infidels.

These interpretation could not readily be transferred to the context of "Christian" usury, though some contemporaries theorized the existence of a separate sphere of illicit economic circulation that was analogous to, and sometimes included, the one that Nicholas of Lyra ascribed to the Jews.[30] Nor could they (at least in such general formulations) offer straightforward grounds for distinguishing between local and foreign usurers. Of course, where the losses were framed as occurring at the level of individuals, little further comment was needed. After all, examples of impoverished debtors and wealthy lenders were everywhere to be found, and the fact that foreigners seemed to be responsible for this impoverishment was treated as sufficient grounds for getting rid of them. In expelling both foreign and Jewish usurers from the Comtat-Venaissin, for example, Boniface VIII lamented that these usurers "had brought about much damage and great loss of property for the county's inhabitants (*comitatus ejusdem incolis multa dampna et rerum dispendia provenire*)."[31] In 1312, Philip the Fair would issue an expulsion order that similarly condemned Italian moneylenders for consuming the wealth of his people with their oppressive usury (*graviores usuras, substantias populi gravius devorantes*…), while in 1347, Philip VI justified the expulsion of "Lombard usurers (*lombars usuriers*)" by

[29] *Summa Angelica* (Venice, 1487), fol. 393rb [=s.v *usura* §2.14].

[30] See Giacomo Todeschini, *I mercanti e il tempio: la società cristiana e il circolo virtuoso della richezza fra medioevo ed età moderna* (Bologna: il Mulino, 2002), especially at p. 283; and *idem*, "La razionalità monetaria cristiana fra polemica antisimoniaca e polemica antiusuraria (XII-XIV secolo)," in *Moneda y monedas en la Europa medieval, siglos XII-XV. Actas de la XXVI Semana de Estudios Medievales de Estella, 19 al 23 de julio de 1999* (Pamplona: Gobierno de Navarra, Departamento de Educación y Cultura, 2001), 369-86, at 376.

[31] *Les registres de Boniface VIII*, ed. Georges Digard et al., 4 vols. (Paris: de Boccard, 1907-39), 2.723 [=no. 3621].

denouncing the great losses that they had inflicted on many of his subjects, who found themselves "disinherited and impoverished (*desheritez et apourete*)."[32] The mechanics were considerably more opaque, however, where the impoverishment of regions, rather than simply of individuals, was being alleged. The French royal ordinances of 1269 and 1274, for example, both declared that "usurious extortions had greatly impoverished the realm (*extorsione usurarum valde depauperant regnum nostrum*)," but how such impoverishment actually occurred was left unstated.[33]

To an early modern audience, steeped in mercantilist thought, at least one explanation would have been obvious: such foreigners were exporting "national" wealth, in the form of specie, to their homelands.[34] Indeed, in 1605, Lessius would make precisely this argument in defending the establishment of local *monti di pietà* (public pawnshops): "since usurers are generally foreigners, who often move their seat of operations and who carry off their wealth when they return to their homelands, the money that would otherwise be exported elsewhere would instead remain in the *patria*."[35] Similar arguments would have resonated among certain audiences in late fourteenth

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[32] For Philip IV, see *Ord.* 1.494; for Philip VI, see Paris, AN, JJ 68, fol. 467r-v [=no. 324]. The image of the abyss also appears explicitly in a 1332 expulsion order issued by Alfonso III of Aragon against Italian merchants in Valencia, whom he accused of engaging in "deliberate trickery and deceitful machinations," including "shameless usury," that had drained the wealth of his subjects. See Pedro Lopez Elum, "El acuerdo comercial de la Corona de Aragón con los italianos en 1403. 'Dret italià'," *Ligarzas* 7 (1975), 171-212, at 183: "Propter fraudes et dolos quos lombardi et italici ex in cogitatis astuçiis et subdolis machinaçionibus, circa negociaciones et comercia eorundem seu pocius improba fenera frequenter exercent quibus gentes nostres pannum exauste voragine, varia dispendia pasciunt…"

[33] *Ord.* 1.96, 299. In both ordinances, the term *regnum* is clearly being used in a territorial sense (i.e. the realm) rather than an abstract one (i.e. the Crown); the 1269 ordinance refers to merchants "coming to our realm (*veniant…in regno nostro*)," while the 1274 ordinance refers to the "boundaries of our realm (*finibus Regni nostri*)."

[34] See the many examples gathered by Eli Heckscher in the second volume of his classic study of *Mercantilism*, 2 vols. (London: Routledge, 1994).

[35] *De iustitia et iure*, 271 [=2.20.23.194]: "Pecunia remaneret in patria, cum iam alio exportetur: quia usurarii fere sunt exteri, qui sedem saepe mutant, et ubi evaserint opulenti, in suas regiones redeunt."

England or Flanders, where bullionist arguments were gaining increasing prominence in public discussion, and there is evidence that fifteenth-century German authorities seized upon these ideas in their policies toward Jews and Lombards alike.[36]

But in the middle decades of the thirteenth century, when the expulsion of foreign moneylenders was first emerging as a practice, these arguments all lay in the future. The many contemporaries who condemned foreign moneylenders for consuming wealth were drawing on existing ecclesiastical thinking on usury, which saw usury as sterile, even destructive.[37] In such a view, usury was a mechanism for consuming the wealth of Christian society as a whole, not merely of the individual borrowers. Moreover, the consumption was absolute, not directional.

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[36] For such concerns in the context of Lombards and Jews, particularly in late medieval Germany, see Hans-Jörg Gilomen, "Silbermangel und jüdische Geldleihe. Prämerkantilistische Bedenken gegen den lombardischen und jüdischen Geldhandel im Spätmittelalter," *Aschkenas* 20 (2010), 281-303. In England, bullionist arguments crop up in genres ranging from Parliamentary petitions to protest poetry. For a general discussion, see John H. A. Munro, *Wool, Cloth, and Gold: The Struggle for Bullion in Anglo-Burgundian Trade, 1340-1478* (Brussels: Éditions de l'Université de Bruxelles, 1972), especially p. 12; and J. L. Bolton, *The Medieval English Economy, 1150-1500* (London: J.M. Dent & Sons, 1980), 329-30. Particularly revealing is an English parliamentary petition from 1404, targeting the practices of Italians and other "alien" merchants active in London and other trading centers; see *The Parliament Rolls of Medieval England,* vol. 8: *Henry IV, 1399-1413,* ed. Chris Given-Wilson (London: National Archives, 2005), 274-75 [=1404 January, m. 2, no. 80]. For literary examples, see Craig E. Bertolet, "'The slyeste of alle': the Lombard problem in John Gower's London," in *John Gower: Manuscripts, Readers, Contexts*, ed. Malte Urban (Turnhout: Brepols, 2009), 197-218; Brantley L. Bryant, "Talking with the Taxman about Poetry: England's Economy in 'Against the King's Taxes' and *Wynnere and Wastoure*," *Studies in Medieval and Renaissance History*, ser. 3, 5 (2008), 219-48; G. A. Holmes, "The 'Libel of English Policy'," *English Historical Review* 76 (1961), 193-216; and Lois Roney, "Winner and Waster's 'Wyse Wordes': Teaching Economics and Nationalism in Fourteenth-Century England," *Speculum* 69 (1994), 1070-1100. A particularly articulate account, in a Catalan context, is found in a petition from the Parliament of Tortosa of 1421-23, demanding the expulsion of Italian merchants; see *Cortes de los antiguos reinos de Aragón y de Valencia*, 26 vols. (Madrid: Real Academia de la Historia, 1896-1922), 16.297-98.

[37] In a similar vein, Stefan Stantchev has recently demonstrated the limited contribution of economic arguments in shaping the discourse of papal embargo against the "infidels," a discourse that rested instead on established canonical principles; see his *Spiritual Rationality: Papal Embargo as Cultural Practice* (Oxford: Oxford University Press, 2014).

Usury did not make wealth move; it made it disappear.[38] Just as the weight of traditional exegetical frameworks meant that the Gospel accounts of the Cleansing rarely figured in arguments for expelling usurers from secular spheres (rather than merely spiritual ones), so too did the weight of established thinking on the relationship between usury and wealth impede the development of a new framework capable of rationalizing the different treatment of local versus foreign usurers. If authorities such as Louis IX or the assembled prelates at Lyon drew on the rhetoric of consumption in drafting their expulsion orders, this owed less to the elegance of its logic than to the efficacy of its imagery and the persistence of intellectual habit.

Only one thirteenth-century thinker appears to have anticipated the proto-mercantilist arguments of the later Middle Ages, namely, Godfrey de Fontaines, who (as we saw in Chapter Five) stands apart from all of his contemporaries in the clarity and originality of his response to *Usurarum voraginem*. In the quodlibetal question of 1296/97 on the sinfulness of not expelling usurers, Godfrey first noted that a certain amount of wickedness could be permitted in a well-ordered city if it ultimately served the common welfare.[39] A ruler was therefore called upon to

[38] The same thought process is evident in the Tewkesbury chronicler's account of the English barons' demand for the expulsion of aliens in 1259, in which foreigners were accused of "possessing, devouring, and dissipating the greater part of the wealth of England (*bona Angliae majora possidentes, devorantes, et dissipantes*)." Here again the focus is on the loss of wealth, not its transfer or export. See *Annales monastici*, ed. Henry Richards Luard, 5 vols. (London: Longman, 1864-69), 1.174. The same framework is to be found in much of the early sumptuary legislation. An English sumptuary ordinance of 1363, for example, warns of the "very great destruction and impoverishment of the land, for which reason all the wealth of the realm is on the point of being consumed and destroyed (*en tresgrande destruccion et empovrissement de la terre, par quele cause toute la richesse du roialme est a poi consumpte et anientiz*);" see *PROME,* vol. 5: *Edward III (1351-1377),* 278 [=1363 October, m. 3, no. 25]. Only gradually would concerns over the movement of wealth, rather than its absolute loss, gain ground in sumptuary rhetoric. See, in general, Alan Hunt, *Governance of the Consuming Passions: A History of Sumptuary Law* (Basingstoke: Macmillan Press, 1996); and Max Beer, *Early British Economics from the 13th to the Middle of the 18th Century* (London: Allen & Unwin, 1938), 66-69.

[39] Quodlibet 12.9: "Utrum superiores, sive principes seculares sive prelati ecclesiastici, peccent non expellendo usurarios de terris suis," in *Les Quodlibets onze-quatorze de Godefroid de Fontaines*, ed. Jean Hoffmans (Louvain: Éditions de l'Institut supérieur de Philosophie, 1932), 114-118. As Elsa Marmursztejn observed, Godfrey's reasoning here, which draws mainly on Augustine and to a lesser

judge whether the extirpation of a particular evil would not result in even greater evils in the community, which would be even more difficult to cure. Even God, Godfrey declared, permits evil in order to bring about good, and secular law allows usury on these same grounds.[40] It is for this reason, Godfrey argued, that the Second Council of Lyon called for the expulsion only of foreign usurers, since these impoverished their communities by draining their wealth to other places, and even in death their gains were not restituted to their original communities. Thus the ruler who harboured them did indeed sin, for he countered not only the precepts of canon law (i.e. *Usurarum voraginem*) but also of natural law, insofar as he was held to protect his subjects' property. Even in the absence of pertinent canon law, therefore, the ruler would be bound by natural law to expel such usurers. By contrast, those who were natives (*oriundi*) or had established their domicile in a given land (*incole*) did not impoverish it in the same way, for their families and friends were there and their property and wealth would thus remain there as well. Moreover, many of these usurers would ultimately make restitution for their gains, thereby returning their wealth to their community. Therefore, while the virtuous ruler had to ensure that the damage that the latter could cause was limited, he was not bound to expel them.

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extent on Thomas Aquinas, is very similar to that found in a quodlibet of Henry of Ghent (Quodlibet 1.42: "Ne enim maiora mala eveniant, minus malum permittendum...") See Henry of Ghent, *Quodlibet I*, ed. Raymond Macken (Leiden: Brill, 1979), 235; together with references cited above, p. 204 n.8. For a broader discussion of Godfrey's thinking on the "common welfare," see Matthew Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford: Clarendon Press, 1999), 204-63, especially 236-39.

[40] The Dominican theologian John of Naples (Johannes de Regina de Neapoli; d. after 1336), a noted Thomist, relied on similar reasoning in a quodlibet (10.18) on usury, delivered ca. 1323: "Utrum princeps peccet concedendo licenciam alicui in terra sua ut mutuet pecuniam ad usuram" (Naples, Biblioteca nazionale, MS VII.B.28, fols. 21va-23ra). On this text, see Odd Langholm, *Economics in the Medieval Schools. Wealth, Exchange, Value, Money and Usury, according to the Paris Theological Tradition, 1200-1350* (Leiden: Brill, 1992), 470-78.

Here Godfrey is using the language of contemporary natural law, rather than that of an as-yet-unborn discourse of proto-mercantilism.[41] The same is true for the handful of later thinkers who drew on his framing, including the Carmelite Guido Terreni (d. 1342) and, a century later, Bernardino da Siena.[42] Godfrey's treatment is also representative of a lively strand of contemporary political thought concerning the duties of princes toward their subjects. But in other respects, Godfrey's quodlibet was conspicuously innovative. To begin with, he anticipates much of later fourteenth-century political thought in his emphasis on the prince's responsibility for the economic as well as moral well-being of his lands.[43] More significantly, in moving beyond prevailing conceptions of usury that saw it purely as a vehicle for consuming wealth, instead treating it as a means by which wealth might be transferred elsewhere, Godfrey's quodlibet heralds a major theme in later political economy, namely, the preservation of "national" wealth and the prevention of its export at the hands of foreigners.[44]

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[41] For Godfrey's use of natural law as a framework for understanding market exchange, see Joel Kaye, *Economy and Nature in the Fourteenth Century: Money, Market Exchange, and the Emergence of Scientific Thought* (Cambridge: Cambridge University Press, 1998), 115.

[42] For Guido Terreni, see his Quodlibet 6.12 (delivered in 1316 or afterward), in "Una soluzione teologico-giuridica al problema dell'usura in una questione 'de quodlibet' inedita di Guido Terreni (1260-1342)," ed. Pier Giorgio Marcuzzi, *Salesianum* 41 (1979), 647-84, at 663-65. For Bernardino, see his *Opera omnia* (Quaracchi ed.), 4.370-87 [=*Quadragesimale de Evangelio aeterno*, Sermon 43], at 385-86.

[43] For its fourteenth-century expressions, see Cary J. Nederman, "Community and the Rise of Commercial Society: Political Economy and Political Theory in Nicholas Oresme's *De Moneta*," *History of Political Thought* 21 (2000), 2-15; and *idem*., "The Opposite of Love: Royal Virtue, Economic Prosperity, and Popular Discontent in Fourteenth-Century Political Thought," in *Princely Virtues in the Middle Ages, 1200-1500*, eds. István P. Bejczy and Cary J. Nederman (Turnhout: Brepols, 2007), 177-99.

[44] An interesting variation on this theme arose in the context of the restitution of usurious profits. Traditionally, such profits had to be restored to the victims if the usurer was to secure absolution. Those profits whose victims could not be identified (the so-called *incertae*) were to be distributed among the local poor. But what if the usurious profits had been taken from victims in another community (in particular, on the other side of the Alps)? Did the *incertae* have to be distributed among the poor of the community that had suffered directly from the usurer's sin? Perhaps unsurprisingly, a number of Italian jurists concluded that *incertae* distributed to the poor of the usurer's native city were just as truly "restituted" as if they had been given to the poor of the victimized community, an argument that privileged the traditional universalism of canon law over emerging notions of political economy. See

In the absence of more widespread articulations along these lines, we are left with the fact that one of the dominant rhetorical tropes associated with the expulsion of foreign usurers—namely, the impoverishment that they produced—was poorly equipped to explain why foreign usurers were to be treated differently from local ones. The same can be said of nearly all of the other rhetorical strategies appearing in expulsion orders, chronicles, sermons, legal commentaries, and the like. As we saw in Chapter One, for example, the chronicler Matthew Paris drew heavily on the language of pestilence and contagion in denouncing the "Cahorsin" moneylenders in England. So too did canonist Guillaume Durand, whose commentary on *Usurarum voraginem* cited the example of sick sheep being driven from the flock lest they infect the healthy. Baldo degli Ubaldi, in turn, would equate usurers with "lepers, who infected others with the contagion of their sickness…and who were to be expelled from the community of the healthy, since wicked customs were to be extirpated from the *res publica*."[45]

Baldo's equation of usurers with lepers is indicative of another rhetorical strategy for legitimizing expulsion, namely, associating usurers with other contemporary groups who were commonly subject to expulsion. The French vernacular versification of the canons of the Second Council of Lyon offers an even clearer example, with its simple declaration that usurers were to be "treated as heretics (*por bougres tenu*)."[46] A fourteenth-century Italian civic statute apparently

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Benjamin N. Nelson, "The Usurer and the Merchant Prince: Italian Businessmen and the Ecclesiastical Law of Restitution, 1100-1550," *Journal of Economic History* 7, Supplement: Economic Growth: A Symposium (1947) 104-22, at 117.

[45] *Consiliorum,* vol. 3, fol. 131rb-va [= no. 449, c. 1]: "[…] similis est leproso, qui per morbi contagium alios inficit. Et ideo usurarii sunt leprosi, et de sanorum consortio debent expelli, quia mali mores de rebus publicis extirpandi sunt."

[46] "Le Dit du Concile de Lyon," eds. Louis Carolus-Barré and Jean-Charles Payen, in *1274, Année charnière: mutations et continuités* (Paris: Éditions du CNRS, 1977), 915-67, at 945, l. 92

ordered all usurers to be expelled from the city "like lepers (*sicut leprosos*)."[47] As we saw in Chapter Three, canonists did much the same in searching for precedents for *Usurarum voraginem*'s penalty of expulsion, drawing on such varied examples as pimps, lepers, overeducated monks, and misbehaving tenants. By linking usurers to all of these groups through patterns of metaphor and analogy, such rhetoric justified their exclusion, and more specifically, their expulsion.[48] But however effective such imagery may have been in denouncing usury, it did not much concern itself with the origins of its practitioners.

Only in a handful of cases is the rhetoric of expulsion made specific to foreign usurers, usually through the combination of anti-usury tropes with anti-foreign ones. In calling for the expulsion of Italian merchant-bankers from England, a 1376 petition from the citizens of London to Edward III first denounced the "Lombards" for their "evil usury and all the subtle scheming of the same (*male usure, et touz les subtils ymaginacions d'icell*)." The petition then claimed that "many of those reputed to be Lombards [were] actually Jews and Saracens and secret spies (*plusours de eux qi sont tenuz Lombardz sont Juys et Sarazins et privees espies*)," and finished by alleging that they had brought into the kingdom a "most horrible vice which should not be named (*trope horrible vice qe ne fait pas a nomer*)," almost certainly a veiled reference to

[47] The statute is mentioned in a *quaestio disputata* of Baldo degli Ubaldi, "Statuto cavetur quod feneratores," printed as part of his *Quaestio disputata 'Accusatus de vi turbativa'* (Pavia: [Christophorus de Canibus], 1492/96), fol. 5v, but I have been unable to trace the reference further.

[48] For other examples of this overlap, see Jeffrey Richards, *Sex, Dissidence and Damnation: Minority Groups in the Middle Ages* (London: Routledge, 1990), 19-21. On the politico-theological function of this collective vocabulary, see Lutz Raphael, "Royal Protection, Poor Relief Statute, and Expulsion. Types of State and Modes of Inclusion/Exclusion of Strangers and Poor People in Europe and the Mediterranean World since Antiquity," in *Strangers and Poor People: Changing Patterns of Inclusion and Exclusion in Europe and the Mediterranean World from Classical Antiquity to the Present Day*, eds. Andreas Gestrich et al. (Frankfurt: Peter Lang, 2009), 17-34, at 19.

sodomy.[49] Here the generic denunciation of usury combines with a clear xenophobic trope, to wit, the idea that the foreigners had "introduced" a particular vice into the kingdom. Moreover, with the allegation that many passing for Lombards were in fact covert Jews and Saracens, we have moved beyond mere association to a conflation of categories, or at least to the belief that such conflation was possible.[50]

On the whole, however, the rhetorical frameworks for the expulsion of foreign usurers are indistinguishable from those used to call for the expulsion of usurers *tout court*, which are in turn largely indistinguishable from general anti-usury rhetoric. Or, to put it another way, there is little

[49] *PROME,* vol. 5: *Edward III (1351-1377)*, 318 [= 1376 April, m. 8, no. 58.7]: "plusours de eux qi sont tenuz Lombardz sont Juys et Sarazins et privees espies." For the origins of sodomy as the "vice that cannot be named," see Mark D. Jordan, *The Invention of Sodomy in Christian Theology* (Chicago: University of Chicago Press, 1997), 150-51. For later examples of the pairing of sodomy and usury, see Will Fisher, "Queer Money," *English Literary History* 66 (1999), 1-23, at 11-14.

[50] The association between "Lombards/Cahorsins" and "Saracens" was especially common in late medieval England, a relationship driven, at least in part, by the suitability of Cahorsin/Saracen for verbal play. The Anglo-Norman *Manuel des pechiez*, composed in the third quarter of the thirteenth century, denounces them together in rhyming couplets: "Worse than the Saracens / are Usurers and Cahorsins / Since both have refused / baptism and Christianity (*Plus mauueis sunt qe sarazins / Vserers & cauersins / Car ambe dou unt refusé / Baptesme et creistieneté*)." Robert Mannyng preserved the pairing in his 1303 Middle English translation: "Usurers and Cahorsins,/ who are as wicked as Saracens (*Okerers, and kauersyns/ As wykked þey are as sarasyns*)." In still other cases, the metaphors could come to subsume the original referents. The *Somme le Roi* of Lorens de Orléans had condemned "Jews and Cahorsins (*les Juis et les Caorsins*)," which was rendered directly as "iewes and þe caorsins" in the Middle Kentish translation of the work, dating to around 1340. In the surviving early fifteenth-century Middle English translations, however, "Cahorsins" comes to be consistently rendered instead as "Saracens," in keeping with the more common pairing of "Jews and Saracens" in late medieval English political discourse. See Robert Mannyng, *Robert of Brunne's 'Handlyng Synne,' A.D. 1303, with those parts of the Anglo-French treatise on which it was founded…*, 2 vols. (London: Published for the Early English Text Society by Paul, Trench, Trübner & Co., 1901-03), 1.181 [= ll. 4805-6 for Anglo-Norman; ll. 5553-54 for Middle English]; *La* Somme le Roi *par Frère Laurent*, ed. Édith Brayer and Anne-Françoise Leurquin-Labie (Paris: Société des anciens textes français, 2008), 135; and *Dan Michel's Ayenbite of Inwyt or Remorse of conscience*, ed. Richard Morris, with revisions by Pamela Gradon (London: Oxford University Press, 1965), 35. For later pairings of Jews and Saracens, see *The Book of Vices and Virtues*, ed. W. Nelson Francis (London: Oxford University Press, 1942), 31; and *Two Middle English Translations of Friar Laurent's* Somme le Roi: *Critical Edition*, ed. Emmanuelle Roux (Turnhout: Brepols, 2010), 18, 82 (citing respectively London, British Library, MS Royal 18 A.X. fol. 25v [*non visu*]; and MS Additional 37677, fols. 70v-71r [*non visu*]). I would like to thank Dr. Roux for her advice on this point. For other examples of this pairing, see *PROME,* vol. 5: *Edward III (1351-1377)*, 332 [=1376 April, m. 13, no. 97]; and *PROME,* vol. 14: *Edward IV (1472-1483)*, ed. Rosemary Horrox (London: National Archives, 2005), 463 [=1483 January, m. 2, no. 27].

in the rhetoric of expelling foreign usurers that is specific to either the punishment of expulsion or the targeting of foreigners. Moreover, although such rhetoric did occasionally accompany actual expulsions of foreigners on grounds of usury, there is no evidence that local (Christian) usurers ever collectively suffered a similar fate. Rhetoric was important, to be sure, but its efficacy was shaped by its interactions with unarticulated assumptions and entrenched beliefs. In the case of Jews, for example, the existence of voices opposed to their expulsion pushed many of these assumptions and beliefs into the open. By contrast, no extant sources argue that foreign usurers ought not to be expelled, and such opposition as did arise did not seek to defend the usurers as a class, but instead simply asserted that individual targets were respectable merchants and hence exempt. On its own, then, rhetoric cannot explain why it was that, in particular instances, expulsion was preferred over other repressive tactics, or foreign moneylenders singled out for special treatment. Rhetorical strategies helped to construct the category of the usurer and to normalize the idea of expulsion, but they did not determine the intersection of the two.

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Over the course of the preceding chapters, we have seen how distinct constellations of pressures and traditions spurred the emergence of a shared practice—namely, the expulsion of foreigners for their purportedly usurious behavior—in England and France (and scattered other jurisdictions) in the middle decades of the thirteenth century. We have seen, too, how this practice came to be codified in canon law, and how the language of this codified version then spread unevenly across the textual landscape of western Europe in the later Middle Ages, shifting its content and meaning along the way. It also became clear that the limited enforcement of this new canonistic penalty for foreign usurers does not simply reflect secular opposition to the demands of an ineffectual church, for within the church itself there was much resistance and controversy. In the face of often facile assumptions about the role of the church in driving the

repression of usurers, it is worth stressing that although church teaching was undoubtedly the source of the widespread anxieties about usurers in late medieval Europe, the idea of expelling them arose for the most part in secular contexts.

Over time, the expulsion of foreign usurers came in turn to serve as a model and inspiration for the expulsion of other groups. The most obvious case is the frequent broadening of expulsion calls—on the level of theory, not practice—to usurers *tout court*. As we saw in Chapters Four and Five, such elisions and omissions, whether deliberate or not, were a common feature of the decree's spread into new contexts. In the same way, Luca da Penna makes no mention of *Usurarum voraginem*'s restriction to foreigners in his reference to the decree, extracting from it instead the general principle that manifest usurers were to be expelled. Juristic tradition may have called for penal clauses to be construed strictly, but so far as the decree's text was concerned, the trend was firmly toward broadening its scope. At a more general level, the fifteenth-century German preacher Johannes Bischoff declared that those who brought harm, rather than utility, to the church were to be expelled "like usurers (*sicut usurarii*), who are neither permitted to rent houses nor to remain in their dwelling-places."[51] In the diocesan statute from Lucca discussed in Chapter Three, it was the Gospel account that served as the model for the expulsion of usurers; here, following a rather different logic, it is their own expulsion that serves as the model for that of other undesirables—an indication, perhaps, of the degree to which the practice of expelling usurers had taken root in contemporary patterns of thought.

Most significantly, as we saw in Chapter Six, the canonical form of expulsion enshrined in *Usurarum voraginem* could come to embrace even Jewish moneylenders, an outcome that was surely far from the minds of the decree's drafters at the Second Council of Lyon. Although many

[51] Munich, BSB, Clm 3543, fol. 148r-155v, at fol. 153va.

canonists and authorities shied away from using the decree to call for expulsion outright, choosing instead to enforce only the decree's housing ban, some—including Pope Eugene IV, in the case of the Jews of Mirandola—concluded that the decree's positive sanctions on "foreign usurers" outweighed canon law's traditional opposition to the expulsion of Jews. Scholars have rightly drawn attention to the ways in which "judaizing" discourses came to be attached to Christian usurers, and particularly Lombards, to the point where they were often taken as "metaphorical Jews."[52] (Indeed, as in the case of the 1376 London petition, association could even bleed into conflation.) But the reverse was also possible: Jews could also become "metaphorical Lombards." In a very real sense, the Jewish moneylenders of Mirandola, and perhaps elsewhere, found themselves facing expulsion not because they were Jewish, but because they were foreigners. When Charles II of Anjou ordered the joint expulsion of Jews and Lombards from his domains, he drew not only on longstanding anti-Jewish rhetoric, but also on the language of Louis IX's 1269 ordinance and *Usurarum voraginem*, both of which were aimed at foreign usurers.

More generally, until the middle of the fourteenth century, ecclesiastical and secular statutes calling for the expulsion of (usually foreign) Christian moneylenders far outnumber those calling for the expulsion of Jewish ones. The same is true for all of the literature produced in ecclesiastical circles: confessional handbooks, preachers' aids, and so forth, and here the disparity continues down to the end of the Middle Ages and beyond. Most of this, of course, is due to the continuing circulation of *Usurarum voraginem*. But it is worth recalling that the rapid emergence of expulsion as a response to foreign moneylenders owed little to expulsions of Jewish lenders, for the simple reason that expulsions of Jews on charges of usury are few and far

[52] See, most recently, Myriam Greilsammer, *L'usurier chrétien, un Juif métaphorique? Histoire de l'exclusion des prêteurs lombards (XIII^e^-XVII^e^ siècle)* (Rennes: Presses universitaires de Rennes, 2012).

between in the thirteenth century. Moreover, the first known expulsions of Jewish moneylenders in Anjou, Brabant, and Perugia coincided in each case with the expulsion of foreign Christian moneylenders as well. More notably still, the major expulsions of Jews from both England and France both took place only after repeated expulsions of Italian moneylenders. To be sure, the scale of the Jewish expulsions of 1290 and 1306 dwarfed all of the Lombard expulsions by an order of magnitude or more, and their emotional and historical impact was incomparably greater. But it is worth taking seriously the possibility that in some meaningful sense, the earlier Lombard expulsions had paved the way.

Much more work remains to be done on the relationship between Jewish and Christian moneylenders, and in particular what the repression of Christian lenders can tell us about the experience of Jewish ones. It is surely significant, for example, that in seeking to expunge usurious lending from his kingdom in 1268-1269, Louis IX saw fit to expel the Lombards, whereas he settled for merely arresting and despoiling the Jews, whose expulsion was apparently not yet as thinkable as it would become a few decades later. Conversely, the fact that Charles II of Anjou expelled Lombards and Jews jointly in 1289 suggests that we cannot understand the expulsion solely through the lens of anti-Judaism, but that we must seriously consider the role of anxieties over usury and widespread indebtedness. Studying the history of Christian moneylenders alongside that of Jewish ones therefore deepens our understanding of both. In particular, it helps illuminate the roads not taken, drawing our attention to those moments where rulers chose to expel (or arrest, or despoil) one group rather than the other. The fears and motivations underpinning repression were not always the same for both groups, nor are they consistent across place and time. Yet there is much overlap—enough that further attention to the

shared history of "usurers" (or at least those liable to be denounced as such) would surely bring insights that separate histories of "Jews" or "Lombards" cannot.

The same can be said for a history of "expulsion" that looks beyond the expulsions of individual groups, toward an appreciation of a late medieval world in which expulsion's reach was broad, its pathways unpredictable, and its manifestations interconnected. There is still much to learn about how ideas and practices of expulsion arose, spread, and evolved. So too for the ways that exclusionary thoughts expressed themselves in repressive actions, and how these actions in turn reordered the landscape of what was thinkable. It is clear, however, that the legal, intellectual and social fabric of late medieval society was deeply interwoven with expulsions, whether these were real, threatened, or only imagined. Whether the twelfth century saw the birth of a persecuting society remains an open question; that the thirteenth gave rise to an expelling one is beyond dispute. Perhaps in better understanding how expulsion became so widespread in the world of our medieval ancestors, we can better grasp why it remains so entrenched in our own.

Appendix A:

Expulsion and Exegesis: Late Medieval Commentary on the Cleansing of the Temple

Whether in formal Biblical exegesis or homiletic texts, late medieval learned discussion of the Cleansing of the Temple (Matthew 21:12; Mark 11:15-17; Luke 19:45-48; John 2:13-17) was saturated with discussions of expulsion and exclusion. As noted in Chapter Three, however, tropological readings of the Cleansing as justification for the civic expulsion of usurers had only limited parallels in contemporary exegetical and homiletic discourse.[1] Instead, usurers often fell implicitly within the broader category of misbehaving merchants, and the boundaries of exclusion were generally spiritual rather than secular. Furthermore, the patristic and early medieval interpretative emphasis on simony and clerical venality continued to carry great weight throughout the period.

The enormously popular postils on the Bible by the Dominican Hugh of Saint Cher (ca. 1200-1263) offer a typical and influential example.[2] Following the *Glossa ordinaria*, his postils on Matthew, Luke and John mention usury in the "literal" reading of the text, in order to explain the activity of the moneychangers expelled by Christ. But when Hugh turns to a tropological reading of the two Gospels, those who were "buying and selling" in the temple (and who are therefore to be expelled from the Church) are equated with simoniacs, rather than usurers. In Hugh's postils on Mark, simoniacs share their fate with clerics indulging in commercial activity, but here usury is nowhere to be seen. Hugh's predominantly clerical focus persists in the

[1] See above, pp. 130-34.

[2] The work survives in numerous early modern printed editions; I have used *Opera omnia in universum Vetus et Novum Testamentum*, 8 vols. (Venice: Pezzana, 1732). For Hugh's exegetical method, see the essays gathered in *Hugues de Saint-Cher († 1263), bibliste et théologien*, eds. Louis-Jacques Bataillon et al. (Turnhout: Brepols, 2004).

commentaries of his fellow Dominicans Albertus Magnus (d. 1280), Thomas Aquinas (1225-1274), and Pierre de Tarentaise (the future Innocent V; d. 1276).[3]

The Franciscans Alexander of Hales (d. 1245) and John of La Rochelle (d. 1245) demonstrate more secular concerns in their moralizing interpretations of the Cleansing.[4] The *Summa theologica* attributed to the former (but likely the work of both theologians together with unknown others), for instance, uses the episode to call for the spiritual exclusion of those who try to corner the market and therefore create artificial shortages,[5] an argument drawn from Cassiodorus.[6] In their Gospel commentaries, both theologians also draw heavily on Pseudo-Chrysostom's *Opus imperfectum in Matthaeum*, a fifth-century Arian text that enjoyed renewed

[3] For Albertus Magnus, see his *Opera omnia,* ed. Auguste Borgnet, 38 vols. (Paris: Vivès, 1890-99), at 21.12-14, 21.632-33, 23.592-94, 24.104-6. For Thomas Aquinas, see his *Super evangelium S. Matthaei lectura*, ed. Raffaele Cai (Turin: Marietti, 1951); *Super evangelium S. Ioannis lectura*, ed. Raffaele Cai (Turin: Marietti, 1952); *Catena aurea in quatuor Evangelia*, ed. Angelico Guarienti, 2 vols. (Turin: Marietti, 1953). For Pierre de Tarentaise's commentary on Matthew, I consulted Saint-Omer, Bibliothèque municipale [now Bibliothèque d'agglomération de Saint-Omer], MS 260, at fols. 78vb-80rb. The same manuscript contains a commentary on John by the mid-thirteenth century Dominican William of Alton (d. 1265), which again focuses on simony in its moralizing treatment of the Cleansing (at fols. 116rb-va). It bears noting that Albertus Magnus used the account in the Gospel of John as a vehicle to criticize the prelates of his own age for tolerating and even supporting usurers, but he did not call directly for the expulsion of the latter; see his *In Evangelium secundum Joannem luculenta expositio*, in *Opera omnia*, 24.104.

[4] For Alexander of Hales's Gospel commentaries, I used Reims, Bibliothèque municipale, MS 162, at fols. 66va, 115rb-va, 192rb, 216vb. For John of La Rochelle's commentaries, I used Paris, BnF, lat. 625, fols. 110va-b, 151vb-152ra. See also Odd Langholm, *Economics in the Medieval Schools. Wealth, Exchange, Value, Money and Usury, according to the Paris Theological Tradition, 1200-1350* (Leiden: Brill, 1992), 129.

[5] *Summa theologica*, 4 vols. (Quaracchi: Coll. S. Bonaventurae, 1924-48), 4.724 [=Bk. 3, pt. 2, inq. 3, tract. 2, sect. 2, quaest. 2, tit. 3, c. 1]. For a discussion of its composition, see Langholm, *Medieval Schools,* 119-20.

[6] *Expositio Psalmorum,* 2 vols., CCL 97-98 (Turnhout: Brepols, 1957-58), 1.634-35 [=*ad* Ps. 70:15]: "Quid est enim aliud negotiatio, nisi quae possunt vilius consatre, carius velle distrahere? Negotiatores ergo illi abominables aestimantur, qui iustitiam Domini minime considerantes, per immoderatum pecuniae ambitum polluuntur, merces suas plus periuriis onerando quam pretiis. Tales Dominus eiecit de templo dicens: Nolite facere domum Patris mei domum negotiationis, speluncam latronum."

circulation from the twelfth century onward.[7] Following Pseudo-Chrysostom, they firmly denounce usury and order that merchants (or more precisely, avaricious merchants who seek profit without labor) be expelled from the Church. For these two exegetes, as for Pseudo-Chrysostom, this general category of "merchants" implicitly includes usurers, but neither one flags the latter for particular treatment.

The flurry of expulsion orders during the closing decades of the thirteenth century seem to have had no impact on this hermeneutical framework. The Franciscan theologian Peter John Olivi, whose treatise on contracts was perhaps the most profoundly original contribution to the landscape of later medieval economic thought, keeps largely to well-beaten exegetical paths in his treatment of the Cleansing in his Gospel commentaries, written ca. 1280.[8] Although he mentions both usury and simony in his commentary on Matthew, neither is explicitly drawn into a contemporary context, and the moralizing turn in his commentary on John focuses exclusively on simoniacs.[9] The Gospel commentaries of the Dominican Nicolas de Gorran (1232-1295), advisor and confessor to Philip IV of France, make almost no reference to usurers, nor are they

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[7] On this text and its influence, see Giacomo Todeschini, *I mercanti e il tempio: la società cristiana e il circolo virtuoso della richezza fra medioevo ed età moderna* (Bologna: il Mulino, 2002), 176-78; with the cautionary remarks of Emmanuel Bain, "Les marchands chassés du Temple, entre commentaires et usages sociaux," *Médiévales* 55 (2008), 53-74, especially at 69-70.

[8] Olivi's writings have been the subject of considerable scholarly attention over the past three decades; for a general overview, see the essays gathered in *Pierre de Jean Olivi (1248-1298): Pensée scolastique, dissidence spirituelle et société. Actes du colloque de Narbonne (mars 1998)*, eds. Alain Boureau and Sylvain Piron (Paris: Vrin, 1999); as well as Sylvain Piron, "Marchands et confesseurs. Le *Traité des contrats* d'Olivi dans son contexte (Narbonne, fin XIII^{e}-début XIV^{e} siècle," in *L'argent au Moyen Âge. Actes du 28^{e} congrès de la Société des historiens médiévistes de l'enseignement supérieur public (Clermont-Ferrand, 30 mai-1er juin 1997)* (Paris: Publications de la Sorbonne, 1998), 289-308.

[9] Paris, BnF, lat. 15588, fol. 106ra (Matthew); *Lectura super Lucam et lectura super Marcum,* ed. Fortunato Iozzelli (Grottaferrata: Coll. S. Bonaventurae, 2010), 575 (Luke), 700-703 (Mark); and Florence, Biblioteca Medicea-Laurenziana, Plut. X dext. 8., fols. 22v-24rb (John). Olivi does cite the Cleansing in his treatise on contracts, pushing back against what he sees as excessive severity on the part of Pseudo-Chrysostom, but he focuses here on merchants rather than usurers; see his *Traité des contrats*, ed. and trans. Sylvain Piron (Paris: Les Belles Lettres, 2012), 134-37 [=1.64].

included in the list of "seven kinds of men to be expelled from the Church" that appears in his commentary on Luke.[10] Writing shortly after the turn of the fourteenth century, the Dominican Remigio dei Girolami explicitly references the three synoptic accounts of the Cleansing in a treatise on usury, but here again, the narratives are framed as support for his critique, rather than as a blueprint for action.[11] Nor is the pattern much different where homiletics are concerned. The Franciscan Richard de Menneville (Ricardus de Mediavilla; d. 1300x1308), for instance, follows the ordinary gloss in equating the dove-sellers with simoniacs and the moneychangers with usurers in a sermon preached before students and faculty at Paris sometime after 1284, but his moralizing interpretation pursues a more general line: just as Christ had vigorously opposed sin, argues Richard, so too were his followers called to fight on behalf of the Church, its members, and themselves.[12] So although many thirteenth-century theologians, homilists, and exegetes readily embraced a moralizing approach in their analysis of Scripture, they did not use the Gospel account of the Cleansing of the Temple as a vehicle to call explicitly for the expulsion of usurers.

Moving ahead to the fourteenth century, moralizing exegesis of the Cleansing continued to pay rather little attention to usury. The Carmelite John of Baconthorpe, who courted controversy for his willingness to draw heavily from canon law in his theological writings, virtually ignores

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[10] Nicolas de Gorran, *In quatuor Evangelia commentarius* (Antwerp: Keerberg, 1617), 186, 409, 746, 840-42.

[11] "Il 'De peccato usure' di Remigio de' Girolami," ed. Ovidio Capitani, *Studi medievali*, ser. 3, 6/2 (1965), 537-662, at 646, 649. According to Capitani (p. 555), the treatise was written sometime between 1305 and 1317.

[12] "Le sermon de Richard de Mediavilla sur l'ascension du Seigneur," ed. Willibrord Lampen, *La France franciscaine* 8 (1925), 297-307, at 301: "…sic zelabat contra peccata et propter peccata. Sic quilibet nostrum debet zelare pro Ecclesia et pro quolibet membro Ecclesiae et pro se ipso." For the arguments over his origins, see Sylvain Piron, "Franciscan Quodlibeta in Southern Studia and at Paris (1280-1300)," in *Theological Quodlibeta in the Middle Ages*, ed. Christopher Schabel, 2 vols. (Leiden: Brill, 2006-07), 1.403-38, at 417.

usury in his surviving commentaries on Matthew and John, which date to the second quarter of the fourteenth century.[13] His fellow Carmelite Guido Terreni (d. 1342) shows himself to be rather more interested in economic matters in his commentary on the Gospels and a theologically oriented commentary on Gratian's *Decretum*, but again pays little attention to usury.[14] The same is true of their contemporaries from other orders, such as the Dominican Jacques de Lausanne, a prolific theologian and preacher;[15] the Benedictine Pierre Bersuire (d. 1362), who produced a *Reductorium morale* on the entire Bible;[16] and the Augustinian Michele di Massa (d. 1336), who composed brief *moralitates* on the Gospels alongside more noted works.[17] The Franciscan Nicholas of Lyra (d. 1349), whose *postilla literalis* swiftly came to rival the *Glossa ordinaria* as the standard apparatus on the Bible, says little about usury in either his literal or moral commentaries on the Gospels.[18] The same is true of the Franciscan Pierre Auriol (d. 1322),

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[13] Cambridge, Trinity College, MS 0348 (B.15.12), fols. 18r-v, 167v-168r. On this text, see Beryl Smalley, "John Baconthorpe's Postill on St. Matthew," *Mediaeval and Renaissance Studies* 4 (1958), 91-145; and Walter Ullmann, "John Baconthorpe as a Canonist," in *Church and Government in the Middle Ages: Essays Presented to C. R. Cheney on his 70th Birthday*, ed. C.N.L. Brooke et al. (Cambridge: Cambridge University Press, 1976), 223-46.

[14] For Terreni's Gospel commentaries, see *Quatuor unum. Hoc est. Concordia evangelica in Quatuor Evangelistas…* (Cologne: Brachel, 1631), 740-45. For his *Expositio Decreti,* I used Paris, BnF, lat. 3914 (in particular fols. 89r-91v). See also the discussion in Langholm, *Medieval Schools*, 495-99.

[15] See his *Postilla super Mattheum* and *Postilla super Lucam*, both in Toulouse, Bibliothèque municipale [now Bibliothèque d'étude et du patrimoine], MS 27, at fols. 18ra, 54ra.

[16] Pierre Bersuire, *Opera omnia; sive, Reductorium, Repertorium, et Dictionarium morale utriusque Testamenti quadripartitum, postrema hac editione locis tam S. Scripturae quam ss. patrum auctum*, 6 vols. (Cologne: Huisch, 1730-31), 1.201-2 (Matthew), and 215 (John).

[17] For his *Moralitates super Mattheum,* I consulted the versions found in Troyes, Bibliothèque municipale [now Médiathèque de l'agglomération troyenne], MS 827, fols. 122-138, and Paris, Bibliothèque de l'Arsenal, MS 1032, fols. 1-26v; for the *Moralitates super Lucam*, I consulted Rome, Biblioteca Angelica, MS 369, fols. 25ra-42rb.

[18] Nicholas of Lyra, *Postilla super totam Bibliam*, 4 vols. (Strasbourg, 1492), *ad loc*. He completed the *postilla literalis* around 1331, and the *postilla moralis* (which proved much less popular) in 1339. See, in general, Deeana Copeland Klepper, *The Insight of Unbelievers: Nicholas of Lyra and Christian Reading of Jewish Text in the Later Middle Ages* (Philadelphia: University of Pennsylvania Press, 2007), ch. 2.

author of a widely read compendium of literal exegesis.[19] The influential *Vita Christi* of the Carthusian Ludolph of Saxony (d. 1378) includes usurers alongside hypocrites, tyrants, and simoniacs in a list of those whom prelates were to repress (according to a moralizing reading of the Cleansing), but then focuses exclusively on the last of these in the ensuing discussion.[20]

Contemporary homilists were somewhat more likely to mention usury in their interpretations of the Cleansing, but even here the references are generally brief. In a sermon preached to a popular audience in Pisa in 1309, for example, Giordano da Pisa (d. 1311) declares that the Cleansing signified that three kinds of men were excluded from the congregation of the faithful and (by extension) from Divine Grace: usurers, false merchants, and simoniacs.[21] Giordano does not elaborate further on the forms of this exclusion; it is presented as a fact to be acknowledged rather than a goal to be pursued.

Highly explicit in this regard, by contrast, is a commentary on Matthew attributed to Agostino Trionfo (d. 1328), an Augustinian theologian and political philosopher best known for his writings on sovereignty.[22] After linking the Cleansing narrative to both simony and usury, the author goes on to explain that usurers are accordingly to be expelled from the Church: first,

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[19] See his *Compendium sensus litteralis totius divinae scripturae* (Quaracchi: Coll. S. Bonaventurae, 1896), 235. A separate commentary on John was published by Friedrich Stegmüller in "Ein neuer Johanneskommentar des Petrus Aureoli," *Franziskanische Studien* 33 (1951), 207-19, but this commentary makes no mention of the Cleansing.

[20] Ludolph of Saxony, *Vita Christi*, 5 vols. (Salzburg: Institut für Anglistik und Amerikanistik, 2006-07), 3.498-501.

[21] Giordano of Pisa, *Prediche inedite (dal ms. Laurenziano, Acquisti e Doni 290)*, ed. Cecilia Iannella (Pisa: Edizioni ETS, 1997), 49-53 [=Sermon 6].

[22] See Michael Wilks, *The Problem of Sovereignty in the Later Middle Ages: The Papal Monarchy with Augustinus Triumphus and the Publicists* (Cambridge: Cambridge University Press, 1963).

through the denial of Christian burial, and second, through the refusal of sacraments.[23] This is followed by a loose quotation of the Lateran III canon *Quia in omnibus* (X 5.19.3), in which these punishments had first been set forth. This passage is the first occasion in which a late medieval exegete singles out usurers as the principal targets of a tropological reading of the Cleansing and pursues the question in depth. Toward the end of the century, it caught the attention of Albert Engelschalk von Straubing (d. ca. 1430), a Bavarian theologian and preacher who spent most of his academic career in Prague. In a sermon on Matthew 21:10 (*Cum intrasset Ihesus*), Albert quotes it nearly verbatim, again citing the penalties of *Quia in omnibus.*[24]

The interpretations of Agostino Trionfo and Albert Engelschalk seem to have had limited impact on other homilists and exegetes. This is true even in fifteenth-century Italy, where strident opposition to usury formed one of the lynchpins of the Observant Franciscans' campaign for social reform.[25] For all the discussion of usurers and their fates to be found in Observant sermons and treatises, explicit calls for their expulsion—whether framed as imitations of Christ's own actions in the Temple or not—are rare. This was certainly not due to any reluctance to wield the Cleansing narrative for moralizing purposes. In a treatise on licit and illicit commercial activity, for example, Bernardino da Siena (1380-1444) declares that avarice was to be driven from the heart of man, which was the Temple of God (citing Matthew 21:12).[26] Bernardino also uses the

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[23] Avignon, Bibliothèque municipale [now Médiathèque Ceccano], MS 72, fols. 132rb-133va, in particular at 133rb.

[24] Munich, BSB, Clm 14148, fols. 182v-185v, in particular at fol. 184v.

[25] See, in the first instance, Maria Giuseppina Muzzarelli, *Il denaro e la salvezza. L'invenzione del Monte di Pietà* (Bologna: il Mulino, 2001). The collected works of Bernardino da Siena alone devote several hundred pages of printed text to the topic of usury, as pointed out by Franco Mormando, *The Preacher's Demons: Bernardino of Siena and the Social Underworld of Early Renaissance Italy* (Chicago: University of Chicago Press, 1999), 183.

[26] Bernardino da Siena, *Opera omnia; iussu et auctoritate Pacifici M. Perantoni*, 9 vols. (Quaracchi: Coll. S. Bonaventurae, 1950-65), 4.140-62 [=*Quadragesimale de Evangelio aeterno*, Sermon 33], at 141:

story of the Cleansing (this time quoting the Gospel of John) in a sermon delivered to a popular audience in Padua 1423, interpreting it somewhat unusually as a call to hate sins but not the sinners themselves.[27]

Even those preachers who were well versed in canon law do not seem to have been drawn to the reasoning that underpinned the Lucchese statute. In a sermon on John 2:15 (*Nummulariorum effudit aes*), for example, the learned Giacomo della Marca (d. 1476) treats usury at length, systematically presenting all of the grounds on which it was forbidden. Although he cites *Usurarum voraginem*, it appears only as one of many canons cited in the section devoted to canon law, with no connection drawn between its call for expulsion and the Cleansing narrative.[28] A Lenten sermon delivered in Pavia in 1493 by Bernardino da Feltre (1439-1494), also an Observant Franciscan, likewise discusses the canonistic penalties to befall usurers in the context of John 2:15, but *Usurarum voraginem* goes unmentioned, as do its calls for expulsion.[29]

This silence stands in sharp contrast to Observant preachers' frequent insistence on the expulsion of wicked merchants, not just from the community of the Church, but from secular communities as well. In a sermon delivered in Siena in 1427, Bernardino calls for fraudulent

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"Quod abhorre se ostendit Dominus…quando Dei zelo armatus 'intravit in templum Dei et eiciebat omnes vendentes et ementes in templo;' ut mystice demonstraret quod in venditionibus et emptionibus de corde hominis, quod est templum Dei, avaritia eici debet […]."

[27] *Opera omnia S. Bernardini Senensis Ordinis Seraphici*, ed. Jean De la Haye, 4 vols (Venice: Poletti, 1745), 3.225.

[28] Vatican, BAV, Vat. Lat. 7642, fols. 143rb-vb; also in Rome, Biblioteca Angelica, fols. 103vb-105vb. On these manuscripts, see Dionysius Lasić, "Sermones S. Iacobi di Marchia in cod. Vat. Lat. 7780 et 7642 asservati," *Archivum franciscanum historicum* 63 (1970), 476-565; and Dionisio Pacetti, "I sermoni quaresimali di S. G. della Marca contenuti nel codice 187 della Bibl. Angelica di Roma," *Archivum franciscanum historicum* 46 (1953), 302-40.

[29] *Sermoni del beato Bernardino Tomitano da Feltre nella redazione di Fra Bernardino Bulgarino da Brescia, minore osservante,* ed. Carlo Varischi, 3 vols. (Milan: Renon, 1964), 1.423-30 [=Sermon 33], in particular at 428-29.

merchants to be run out of town or imprisoned,[30] and in his treatise on commercial activity he declared that such men "ought to be driven out and expelled from their homeland and sent into exile, since just two or three of them can corrupt all of the merchants in a large city," citing Pseudo-Chrysostom and the Franciscan theologian Duns Scotus (d. 1308).[31] The latter reference is to a passage in Scotus's *Opus oxoniense* (written 1300-02), which in turn was indebted to an argument made by Alexander of Hales in his *Summa theologica*.[32] As we have already seen, Alexander's moralizing reading of the Cleansing declared that those who sought to corner the market should be expelled from the Church. Scotus's reworking keeps the focus on these *regratiers*, as they were known, but conspicuously shifts the locus of exclusion from the Church (*Ecclesia*) to the state (*republica*), thereby introducing a resolutely secular solution to the problem.[33] Around 1317, Scotus's fellow Franciscan Astesanus (d. ca. 1330) quotes this passage

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[30] *Le prediche volgari di San Bernardino da Siena, dette nella Piazza del Campo l'anno MCCCCXXVII*, ed. Luciano Bianchi, 3 vols. (Siena: Edit. all'inseg. di S. Bernardino, 1880-88), 3.214-52 [=Sermon 38], at 250: "Oh! chi se lo vorrebbe fare a questi tali? Eglino si vorebeno sbandire, o fare uno statuto, e confinargli."

[31] *Opera omnia* (Quaracchi ed.), 4.140-62 [=*Quadragesimale de Evangelio aeterno*, Sermon 33], at 150: "Tales quidem, secundum Chrysostomum et Scotum, de patria deberent exterminari atque expelli et in exilium dari, quia duo vel tres in una civitate magna corrumpunt totam multitudinem mercatorum." The concerns extended well beyond the circle of the Observant Franciscans. For instance, in a dialogue *On Avarice* (completed in 1429), Poggio Bracciolini echoed many of Bernardino's arguments while mocking the preacher's rhetorical approach. See Riccardo Fubini, "Poggio Bracciolini e Bernardino da Siena. Temi e motivi di una polemica," in *idem*., *Umanesimo e secolarizzazione da Petrarca a Valla* (Rome: Bulzoni, 1990), 183-219.

[32] Bernardino may have encountered this argument via the *Tractatus de contractibus* of the Franciscan Guiral Ot (Gerardus Odonis; 1273-1349), composed in Toulouse ca. 1315-17. A copy of the work was in his personal library (now Siena, Biblioteca Comunale degli Intronati, U.V.8, fols. 77r-110v [*non visu*]) and Bernardino noted its debt to Scotus in his rubrication of the text: "Incipit tractatus Giraldi Oddonis de contractibus secundum Io. Schotum." See Dionisio Pacetti, "I codici autografi di S. Bernardino da Siena della Vaticana e della Comunale di Siena," *Archivum franciscanum historicum* 29 (1936), 501-38, at 529; and Giovanni Ceccarelli and Sylvain Piron, "Gerald Odonis' Economics Treatise," *Vivarium* 47 (2009), 164-204. The passage concerned occurs in *Quaestio* 7 (fol. 86v in the Siena MS), and explicitly cites Scotus's earlier treatment.

[33] For Scotus, see *John Duns Scotus' Political and Economic Philosophy*, ed. and trans. Allan B. Wolter (St. Bonaventure, N.Y.: Franciscan Institute, St. Bonaventure University, 2001), 58-60 [=§4.15.2.5]:

verbatim in the *Summa Astesana,* his widely copied handbook for confessors, thereby expanding its circulation considerably. Moreover, following Alexander of Hales (though citing Pseudo-Chrysostom), Astesanus also calls for this class of merchants to be thrown out of the Church, in keeping with Christ's example.[34] So although he readily takes up Scotus's secular response, Astesanus simultaneously upholds the earlier tradition that interpreted the Cleansing in terms of spiritual exclusion.

If these earlier texts had all limited the call for expulsion to *regratiers*, Bernardino da Siena's treatise widened it to include all wicked merchants. And it is this broadened version that recurs in another of Bernardino da Feltre's 1493 Lenten sermons, which uses John's account of the Cleansing as its starting point. Citing Scotus, the preacher specifically denounces usurers, along with other unscrupulous merchants, insisting that they do not benefit their city, but rather bring harm to many ("non prosunt isti civitati, sed multum nocent") and were therefore to be expelled from their cities ("isti tales debent expelli de civitatibus").[35] Further on, he argues that fraudulent merchants are to be driven from the Church, here citing Pseudo-Chrysostom.[36] This sermon therefore gathers together, for the first time, the various interpretative strands whose development we have traced over the preceding two centuries: a moralizing reading of the Cleansing of the Temple that calls for the expulsion of usurers, both in their own right and as part of a broader category of wicked merchants; and the tropological association of the Temple

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"[…] iste esset exterminandus a republica, vel exulandus: et vocatur ille in gallico *regratier*, quia prohibet immediatam commutationem volentium emere, vel commutare oeconomice [*sic*] et per consequens facit quidlibet venale vel usuale carius ementi, quam deberet esse, et vilius vendenti, et sic damnificant utramque partem."

[34] See his *Summa de casibus conscientiae* (Venice, 1478), 3.8.10: "sunt deo abhominabiles, et exemplo christi essent ab ecclesia eijciendi."

[35] *Sermoni del beato Bernardino*, 1.381-91 [=no. 29], at 383.

[36] *Sermoni del beato Bernardino*, 1.386.

with both a secular sphere (be it the city or the *patria*) and the Christian community as a whole. This conceptual gathering-together, however, came more than two centuries after the expulsion of usurers had established itself in practice. Furthermore, as discussed in the Epilogue, by the early fifteenth century (if not earlier) the expulsion of usurers had already become a reference point for the expulsion of other groups. So whatever effect Bernardino da Feltre's rhetoric may have had on his listeners, the potential energy of its conceptual novelty had long since dissipated.

Appendix B:

References to *Usurarum voraginem* in Ecclesiastical Legislation, 1274-1400

The entries below cover references to *Usurarum voraginem* (Lyon II, c. 26; VI 5.5.1) in surviving diocesan statutes, provincial canons, and other local ecclesiastical legislation from 1274 to 1400. The entries are listed by the year that the legislation was first issued (or, where the precise dating is unknown, by the beginning of the possible date range). The location of the issuing synod or council is listed, along with its associated diocese and ecclesiastical province. The type of legislation (whether diocesan, provincial, legatine, or otherwise) is likewise indicated.

Although a number of the texts survive only in manuscript, others exist in multiple printed editions; in either case, I have indicated the MS/edition(s) that I consulted in preparing this list. In some cases, the composition, dating, and textual transmission is confused or contested. Further information can be found in the introductions to modern editions (where these exist) or in works cited in the Bibliography.

So far as the references to *Usurarum voraginem* are concerned, these include direct citations of the decree, promulgations of its housing ban and/or expulsion provision, or the use of its characteristic language (though obviously not all such instances imply direct knowledge of the original decree). In some cases, the text simply declares that *Usurarum voraginem* is to be enforced within the diocese or province, with no further indication of the decree's specific provisions; for these, the references to the housing ban and expulsion provision are marked as "implicit." Where the housing ban and/or the expulsion provision are specifically mentioned or incorporated into the text, the references are marked as "explicit." In a few cases, the statute

survives only as a rubric or in fragmentary form, but in such a way that some sort of connection to *Usurarum voraginem* is evident; here the references are marked as "unclear."

This list is necessarily provisional, as much local ecclesiastical legislation remains to be cataloged and edited.

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Date: 1274 (October)
Place: Angers (dioc. Angers, prov. Tours)
Type: Diocesan
Edition: *Statuts synodaux* 3.122-25, at 122-24 [=c. 4]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No
Note: Explicitly applies the housing ban to Jewish usurers.

Date: 1274x1275
Place: Mainz (prov. Mainz)
Type: Provincial
Source: Oxford, Bodleian Library, MS Laud 401, fols. 1r-6v, at fol. 3r
Edition: Peter Johanek, *Synodalia. Untersuchungen zur Statutengesetzgebung in den Kirchenprovinzen Mainz und Salzburg während des Spätmittelalters* (Habilitationsschrift, Univ. Würzburg, 1978), Bd. 3, Anhang 2, Nr. 1, 71-106, at 85-87 [=c. 13]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)
Note: Applies to "alienigenas vel etiam oriundos."

Date: 1274x1312
Place: Noyon (dioc. Noyon, prov. Reims)
Type: Ordo synodali
Edition: *Statuts synodaux* 4.271-78, at 278
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1275
Place: Cambrai (dioc. Cambrai, prov. Reims)
Type: Diocesan
Edition: *Statuts synodaux* 4.95-99, at 98 [=cc. 21-23]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1277
Place: Trier (prov. Trier)
Type: Provincial
Edition: *Statuta synodalia ordinationes et mandata archidioecesis Trevirensis*, ed. Johann Jacob Blattau, 9 vols. (Trier: Lintz, 1844-59), 1.14-30, at 25-26; also *CG* 3.526-35, at 533 [=c. 11]
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)
Note: For dating, see Johanna Heydenreich, "Zu den Trierer Synodalstatuten des 13. Jahrhunderts," *ZRG* 56 *Kan. Abt.* 25 (1936), 478-85; and Peter Johanek, "Die Pariser Statuten des Bischofs Odo von Sully und die Anfänge der kirchlichen Statutengesetzgebung in Deutschland," in *Proceedings of the Seventh International Congress of Medieval Canon Law. Cambridge, 23-27 July 1984*, ed. Peter Linehan (Vatican City: Biblioteca Apostolica Vaticana, 1988), 327-47, at 340-41.

Date: 1278
Place: Cambrai (dioc. Cambrai, prov. Reims)
Type: Diocesan
Edition: *Statuts synodaux* 4.103-8, at 105 [=cc. 11-12]
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1277x1279
Place: Paris (dioc. Paris, prov. Sens)
Type: Diocesan
Edition: *Statuts synodaux* 5.176-79, at 177 [=c. 5]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No

Date: 1279
Place: Pont-Audemer (dioc. Evreux, prov. Rouen)
Type: Provincial
Edition: Mansi 24.219-32, at 221 [=c. 3]; also *Concilia rotomagensis provinciae accedunt dioecesanae synodi…*, ed. Guillaume Bessin, 2 vols. (Rouen: Vaultier, 1717), 1.149-61, at 150 [=c. 3].
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1280
Place: Huesca (dioc. Huesca, prov. Tarragona)
Type: Diocesan
Source: Catedral de Jaca, Libro de la Cadena [=MS 1], fols 51-59
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1281
Place: Braga (prov. Braga)
Type: Diocesan
Edition: *Synodicon Hispanum* 2.10-26, at 15 [=c. 15]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: Yes (Explicit); no restriction to foreigners
Note: Declares simply that "nullus permittat incestuosos uel adulteros uel husurarios publicos in suis locis permanere."

Date: 1281
Place: Chalon-sur-Saône (dioc. Chalon-sur-Saône, prov. Lyon)
Type: Diocesan
Source: Paris, BnF, lat. 18340, fols. 1r-13r, at fol. 2r
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No

Date: 1282
Place: Tours (prov. Tours)
Type: Provincial
Edition: *Les conciles de la province de Tours/Concilia provinciae Turonensis (saec. XIII-XV)*, ed. Joseph Avril (Paris: CNRS, 1987), 276-89, at 282 [=c. 6]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: Yes (Explicit); no restriction to foreigners

Date: 1288
Place: Liège (dioc. Liège, prov. Cologne)
Type: Diocesan
Edition: *Les statuts synodaux de Jean de Flandre, évêque de Liège (1288)*, ed. Joseph Avril (Liège: Société d'art et d'histoire du diocèse de Liège, 1995), 135-36 [=tit. *De usurariis*, §6]
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1288
Place: Salzburg (prov. Salzburg)
Type: Provincial
Edition: Johanek, *Synodalia*, Bd. 3, Anhang 2, Nr. 2, 107-130 [=c. 15]; the edition in *CG* 3.737-39 is heavily truncated
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1289
Place: Rodez (dioc. Rodez, prov. Bourges)
Type: Diocesan
Edition: *Statuts synodaux* 6.115-205, at 178 [=c. 17.10]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: No

Date: 1293
Place: Utrecht (dioc. Utrecht, prov. Cologne)
Type: Diocesan
Edition: Jan Gualterius Christiaan Joosting, ed., *Bronnen voor de geschiedenis der kerkelijke rechtspraak in het bisdom Utrecht in di middeleuwen*, 8 vols. ('s Gravenhage: Nijhoff, 1906-24), 5.60-68, at 65 [=c. 24]; also *CG* 4.17-19, at 18 [=c. 25]
Housing Ban Reference: No
Expulsion Reference: No
Note: Imposes penalties of *Quia in omnibus* on "Cauwer[s]inos et alios alienigenas fenus publice exercentes."

Date: 1294
Place: Sankt Pölten (dioc. Passau, prov. Salzburg)
Type: Diocesan
Edition: Mansi 24.1115-16
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*, but not its substantive provisions.

Date: 1297
Place: Basel (dioc. Basel, prov. Besançon)
Type: Diocesan
Edition: Joseph Trouillat, ed., *Monuments de l'histoire de l'ancien évêché de Bâle: recueillis et publiés par ordre du Conseil-exécutif de la République de Berne*, 5 vols. (Porrentruy: Michel, 1852-67), 2.655-65, at 657
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: No

Date: 1297x1304
Place: Cologne (prov. Cologne)
Type: Provincial
Edition: *CG* 4.37-43, at 41 [=c. 12]
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1298
Place: Novara (dioc. Novara, prov. Milan)
Type: Diocesan
Edition: *I decreti sinodali torinesi di Goffredo di Montanara (a. 1270, a. 1286)*, ed. Giuseppe Briacca (Turin: Centro di cultura e di studi "G. Toniolo", 1985), 259-62 [=c. 7, art. 1]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*, but not its substantive provisions.

Date: 1298? [1274x1338]
Place: Aquileia (dioc. Aquileia, prov. Aquileia)
Type: Diocesan
Edition: *Sinodi aquileiesi*, ed. Giacomo Marcuzzi (Udine: Tip. del patronato, 1910), 361 [=2.16]
Housing Ban Reference: No
Expulsion Reference: Yes (Explicit)
Note: This statute (of uncertain dating) was reissued in 1338 as part of a synodal compilation. For a discussion of its possible dating to 1298, see above, pp. 267-68.

Date: 1300x1322
Place: Carcassonne (dioc. Carcassonne, prov. Narbonne)
Type: Diocesan
Source: Paris, BnF, lat. 1613, fols. 56r-63r
Housing Ban Reference: Yes (Explicit); restricted to foreigners
Expulsion Reference: Yes (Explicit); phrasing suggests that this applies to all usurers.
Note: These are cases of excommunication published in a synod.

Date: 1300x1330
Place: Lucca (dioc. Lucca)
Type: Diocesan
Edition: "La sinodo lucchese di Enrico del Carretto," ed. Raoul Manselli, in *Miscellanea Gilles Gérard Meersseman*, 2 vols. (Padua: Editrice Antenore, 1970), 1.197-246, at 232-33 [=c. 56].
Housing Ban Reference: Yes (Explicit); applies to "alienigena vel terrigena"
Expulsion Reference: No
Note: The statutes have not been precisely dated, but they are generally held to have been issued toward the start of del Carretto's reign, which lasted from 1300 to 1330; see Paolino Dinelli, *Dei sinodi della diocesi di Lucca* (Lucca: Bertini, 1834), 59.

Date: 1302
Place: Peñafiel (prov. Toledo)
Type: Provincial
Edition: Mansi 25.100-110, at 104 [=c. 9]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No

Date: 1303
Place: Gubbio (dioc. Gubbio)
Type: Diocesan
Edition: "Costituzioni sinodali della diocesi di Gubbio dei secoli XIV-XV," ed. P. Cenci, *Archivio per la storia ecclesiastica dell'Umbria* 1 (1913), 286-379, at 317 [=c. 10]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*, but declares only that all canons against usurers are to be enforced within the diocese.

Date: 1304
Place: Poitiers (dioc. Poitiers, prov. Bordeaux)
Type: Diocesan
Edition: *Statuts synodaux* 5.122-31, at 126 [=c. 20]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)
Note: Properly speaking, these consist of episcopal instructions to the archpriests and deans of the diocese.

Date: 1306
Place: Fiesole (dioc. Fiesole)
Type: Diocesan
Edition: Richard C. Trexler, *Synodal Law in Florence and Fiesole, 1306-1518* (Vatican City: Biblioteca Apostolica Vaticana, 1971), 203
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No

Date: 1307
Place: Cologne (prov. Cologne)
Type: Provincial
Edition: *CG* 4.99-106, at 102 [=c. 4]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*. The *CG* edition gives the date as 1306. For the argument in favor of a 1307 dating, see Stefanie Unger, *Generali concilio inhaerentes statuimus: Die Rezeption des Vierten Lateranum (1215) und des Zweiten Lugdunense (1274) in den Statuten der Erzbischöfe von Köln und Mainz bis zum Jahr 1310* (Mainz: Gesellschaft für mittelrheinische Kirchengeschichte, 2004), 234.

Date: 1307
Place: Lisbon (dioc. Lisbon, prov. Braga)
Type: Diocesan
Edition: *Synodicon Hispanum* 2.304-14
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*.

Date: 1308
Place: Auch (prov. Auch)
Type: Provincial
Edition: *Le 'Livre rouge' du chapitre métropolitain de Sainte-Marie d'Auch*, ed. Joseph Duffour, 2 vols. (Paris: Champion, 1907), 1.66-69, at 67-68 [=c. 3]; also Mansi 25.199
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1310
Place: Florence (dioc. Florence)
Type: Diocesan
Edition: Trexler, *Synodal Law,* 278-83 [=tit. *De usuris*]
Housing Ban Reference: Yes (Explicit); no restriction to foreigners
Expulsion Reference: No

Date: 1310
Place: Trier (prov. Trier)
Type: Provincial
Edition: *Statuta synodalia…Trevirensis,* 1.63-155, at 88 [=c. 34]; also *CG* 4.127-65, at 137 [=c. 36]
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)
Note: This is a reissue of the article on usury from the Trier provincial canons of 1277.

Date: (bef.) 1311
Place: Cambrai (dioc. Cambrai, prov. Reims)
Type: Diocesan
Edition: *CG* 4.236-43, at 240-41
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)
Note: Includes an *in extenso* citation of *Usurarum voraginem*.

Date: 1316
Place: Cologne (prov. Cologne)
Type: Diocesan
Edition: *Die Regesten der Erzbischöfe von Köln im Mittelalter*, ed. Friedrich Wilhelm Oediger, 12 vols. (Bonn: Hanstein, 1901-2001), 209-11 [=no. 947, c. 4] (partial transcription with summary)
Housing Ban Reference: No
Expulsion Reference: No
Note: Imposes sentence of excommunication on "cavercinos seu alienigenas mensas publicas tenentes ac pecuniam fenebrem exercentes."

Date: ca. 1318
Place: Cahors (dioc. Cahors, prov. Bourges)
Type: Diocesan
Edition: Edmond Martène and Ursin Durand, eds., *Thesaurus novus anecdotorum*, 5 vols. (Paris: Delaulne, 1717), 4.671-768, at 744 [=c. 25]; also Mansi 24.964-1056, at 1033 [=c. 25].
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)
Note: Also issued for the dioceses of Rodez and Tulle.

Date: 1319
Place: Barcelona (dioc. Barcelona, prov. Tarragona)
Type: Diocesan
Source: Barcelona, Arxiu Capitular, MS Constitutiones Tarragonenses (Series Constitucions, s.n.), fols. 210v-219v
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on opening words of *Usurarum voraginem*.

Date: 1319 (October)
Place: Bonn (dioc. Cologne, prov. Cologne)
Type: Diocesan
Edition: "Unbekannte Synodalstatuten der Kölner Erzbischöfe Heinrich von Virneburg (1306-1332) und Walram von Jülich (1332-1349)," ed. Wilhelm Janssen, *Annalen des Historischen Vereins für den Niederrhein* 172 (1970), 113-54, at 122 [=c. 3].
Housing Ban Reference: No
Expulsion Reference: No
Note: Imposes penalties of *Quia in omnibus* on "usurarios manifestos et precipue alienigenas Bonifacium et socios in Sinzge, in Syberch, in Aldenhouen et alibi ubicumque in civitate et diocesi nostris pecuniam fenebrem exercentes." This is an elaboration of a diocesan statute issued in February of the same year, which did not include a reference to specifically foreign usurers; see Herbert Lepper, "Unbekannte Synodalstatuten der Kölner Erzbischöfe Heinrich von Virneburg (1306-1332) und Wilhelm von Gennep (1349-1362)," *Annuarium historiae conciliorum* 11 (1979), 339-56, at 346 [=c. 1].

Date: 1320x1328
Place: Tulle (dioc. Tulle, prov. Bourges)
Type: Diocesan
Edition: *Thesaurus novus anecdotorum*, 4.791-97, at 791
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: bef. 1321
Place: Lisieux (dioc. Lisieux, prov. Rouen)
Type: Diocesan
Source: Paris, BnF, lat. 15172, fols. 127-51, at fol. 142v
Edition: Partial edition in *Concilia Rothomagensis*, 2.479-80
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)

Date: 1326
Place: Elne (dioc. Elne, prov. Narbonne)
Type: Diocesan
Source: Perpignan, Bibliothèque municipale [now Médiathèque municipale], MS 79, fols. 74-87v, at fol. 86rb-va
Housing Ban Reference: Yes (Explicit); restricted to foreigners
Expulsion Reference: Yes (Explicit); phrasing suggests that this applies to all usurers.

Date: 1326
Place: Saint-Flour (dioc. Saint-Flour, prov. Bourges)
Type: Diocesan
Source: Paris, BnF, lat. 1595, fols. 1-68, at fol. 48v
Housing Ban Reference: Yes (Explicit); restricted to foreigners
Expulsion Reference: Yes (Explicit); phrasing suggests that this applies to all usurers.
Note: Very similar to that found in 1326 diocesan statutes of Elne.

Date: 1326x1347
Place: Pamiers (dioc. Pamiers, prov. Toulouse)
Type: Diocesan
Source: Toulouse, Bibliothèque municipale, MS 402, fols. 1-137, at fol. 13rb-va
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1327
Place: Florence (dioc. Florence)
Type: Legatine
Edition: *I capitoli del comune di Firenze: Inventario e regesto. T. 2*, ed. Alessandro Gherardo (Florence: Cellini, 1893), 39 [=c. 5.5]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1328x1330
Place: Reims (prov. Reims)
Type: Provincial
Source: Paris, BnF, lat. 1598, fols. 1r-48r, at fol. 20rv
Edition: *Les actes de la province ecclésiastique de Reims*, ed. Thomas Gousset, 4 vols. (Reims: Jacquet, 1842-44), 2.534-75, at 552 [=c. 4.5]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1329
Place: Bonn (dioc. Cologne, prov. Cologne)
Type: Diocesan
Edition: "Unbekannte Synodalstatuten," ed. Janssen, 140-42, at 142 [=c. 6].
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1333
Place: Prague (prov. Prague)
Type: Provincial
Edition: *Pražké synody a koncily (předhusitské doby)*, ed. Jaroslav Polc and Zdeňka Hlediková (Prague: Univerzita Karlova v Praze, 2002), 106-7 [=cc. 1-2]
Housing Ban Reference: Unclear
Expulsion Reference: Unclear
Note: Fragmentary; cites opening words of *Usurarum voraginem*.

Date: 1338
Place: Aquileia (dioc. Aquileia, prov. Aquileia)
Type: Diocesan
Edition: *Sinodi aquileiesi*, 361 [=2.16]
Housing Ban Reference: No
Expulsion Reference: Yes (Explicit)
Note: Reissues an earlier statute (see above, s.v. 1298 Aquileia) as part of a broader compilation.

Date: 1340
Place: Albi (dioc. Albi, prov. Bourges)
Type: Diocesan
Edition: *Synodale diocesis albiensis omnibus presbyteris curam animarum habentibus necessario pervium* (Limoges: Berton, 1528), fol. 42v
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: No

Date: 1342x1352
Place: Florence (dioc. Florence)
Type: Diocesan
Edition: Ildefonso di San Luigi, ed., *Etruria sacra triplici monumentorum codice canonico, liturgico, diplomatico…* (Florence: apud Caietanum Camblasium typographum regium, 1782), 43-52, at 50 [=c. 16].
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: No
Note: For the dating/composition, see Richard C. Trexler, "Death and Testament in the Episcopal Constitutions of Florence (1327)," in *Renaissance: Studies in Honor of Hans Baron*, ed. Anthony Molho and John A. Tedeschi (Florence: Sansoni, 1971), 30-74, at 32 n.4.

Date: ca. 1346
Place: Meaux (dioc. Meaux, prov. Sens)
Type: Diocesan
Edition: *Thesaurus novus anecdotorum*, 4.891-914, at 910 [=c. 109]
Housing Ban Reference: No
Expulsion Reference: No
Note: c. 109 draws on the opening words of *Usurarum voraginem*, while c. 76 (at col. 904) draws verbatim on the 1269 Sens provincial canon barring clergy from harboring foreign usurers (see above, p. 120).

Date: 1351/52
Place: Lucca (dioc. Lucca)
Type: Diocesan
Edition: Paolino Dinelli, *Dei sinodi della diocesi di Lucca* (Lucca: Bertini, 1834), 61-114, with *additiones* at 115-31
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Unclear
Note: Only the rubrics survive for the chapters on usury (cc. 82-86), but the title of c. 86 (*Quod nullus locet domum usurariis*) appears to be a reference to *Usurarum voraginem*.

Date: 1352? [1348x1355]
Place: Vescovio (dioc. Sabina)
Type: Diocesan
Source: Vatican City, BAV, Ottob. Lat. 818, fols. 34v-45r (*alt.* 59v-70r), at fols. 38v-39r
Edition: *Antiquiores synodi ecclesiae Sabinensis ante Sacrum Concilium Tridentium habitae,* in *Constitutiones synodales Sabinae dioecesis…*, ed. Annibale Albano (Urbino: Mainardi, 1737), 275-92, at 283
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1358
Place: Castres (dioc. Castres, prov. Bourges)
Type: Diocesan
Source: Paris, BnF, lat. 1592a, fols. 1r-65v, at fol. 47rv
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: No

Date: 1359
Place: Tortosa (dioc. Tortosa, prov. Tarragona)
Type: Diocesan
Edition: *Synodicon Hispanum* 12.645-53
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1359
Place: Toul (dioc. Toul, prov. Trier)
Type: Diocesan
Edition: Étienne Baluze, *Histoire généalogique de la maison d'Auvergne*, 2 vols. (Paris: Antoine Dezallier, 1708), 2.850-64, at 861.
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: bef. 1363
Place: Arras (dioc. Arras, prov. Reims)
Type: Diocesan
Source: Lille, Bibliothèque municipale [now Médiathèque municipale Jean Lévy], MS 81 (*olim* 193), at fol. 20v
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1366
Place: Tournai (dioc. Tournai, prov. Reims)
Type: Diocesan
Edition: *Summa statutorum synodalium cum praevia synopsi vitae episcoporum Tornacensium*, ed. Jacques Le Groux (Lille: Brovellio, Henry, & Danel, 1726), 1-80, at 64-69 [=c.13]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)
Note: Includes an *in extenso* citation of *Usurarum voraginem.*

Date: 1368
Place: Valencia (dioc. Valencia, prov. Tarragona)
Type: Diocesan
Edition: *Synodicon Hispanum* 12.785-801, at 790-91 [=c. 14]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1370x1372
Place: Cologne (prov. Cologne)
Type: Provincial
Edition: *CG* 4.496-508, at 502-3 [=c. 9].
Housing Ban Reference: Yes (Implicit)
Expulsion Reference: Yes (Implicit)
Note: Declares simply that *Usurarum voraginem* renewed the penalties of *Quia in omnibus*, and that the decree (along with *Quia in omnibus*, *Quamquam*, and *Ex gravi*) is to be observed within the province.

Date: 1373x1436
Place: Todi (dioc. Todi)
Type: Diocesan
Edition: *Constitutiones synodales ecclesiae Tudertinae* (Perugia: Rastelli, 1576), 50 [=H1v] and 83-84 [=M2rv]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

Date: 1375
Place: Cologne (prov. Cologne)
Type: Provincial
Edition: *CG* 4.516-22, at 520 [=c. 3]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1375
Place: Genoa (prov. Genoa)
Type: Provincial
Edition: *Sinodi genovesi antichi*, ed. Domenico Cambiaso (Genoa: R. deputazione di storia patria per la Liguria, 1939), 59-87, at 72 [=c. 54]
Housing Ban Reference: No
Expulsion Reference: No
Note: Draws on the opening words of *Usurarum voraginem.*

Date: 1444 (drawing on now-lost synodal statutes from late thirteenth century)
Place: Osma (dioc. Osma, prov. Burgos)
Type: Diocesan
Edition: *Synodicon Hispanum* 12.13-160, at 74 [=c. 125, *olim* 82]
Housing Ban Reference: Yes (Explicit)
Expulsion Reference: Yes (Explicit)

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