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978-0-521-88062-6 - Canon Law, Careers and Conquest: Episcopal Elections in Normandy and Greater Anjou, c. 1140-c. 1230

Jorg Peltzer

Excerpt

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Chapter 1

INTRODUCTION

THEMATIC INTRODUCTION

The bishop occupied a central place in medieval society.¹ He was the spiritual leader of the people and the clergy and exercised the supreme jurisdictional authority over ecclesiastical matters in his diocese. The bishop was also a secular lord. His significance varied according to the extent and wealth of his temporal possessions, but he could count among the most powerful political players in the region, possibly exercising influence well beyond his diocesan borders. Thus combining spiritual and secular powers the bishop was a focal point for the flock, the local ecclesiastics and the pope, the aristocracy and the ruler; his election was of great interest to many people.

A considerable number of studies have been devoted to the episcopal election. They have analysed its ‘political’ side, that is the nature and extent of the influence of different groups interested in its outcome, and they have examined its ‘normative’ side, that is the development of the regulations for electoral procedure aimed at guaranteeing the selection of a suitable candidate.² In a recent survey Franz-Reiner Erkens has emphasised

¹ A useful introduction to the role of the bishop in the middle ages is J. Gaudemet, *Le gouvernement de l'église à l'époque classique. II. Le gouvernement local* (Histoire du droit et des institutions de l'église en occident VIII, II) (Paris, 1979), pp. 7–215.

² The formation of the legal theory of episcopal elections from its beginnings to 1140 has recently been examined by A. Thier, ‘Hierarchie und Autonomie. Regelungstraditionen der Bischofsbestellung in der Geschichte des kirchlichen Wahlrechts bis 1140’ (Ludwig-Maximilians-Universität, Munich, Habilitationsschrift, 2001). What follows is a selection of studies dealing with elections up to 1100. The geographical area is limited to France. For the late antiquity and the Merovingian empire, see F. X. Funk, ‘Die Bischofswahl im christlichen Altertum und im Anfang des Mittelalters’, in F. X. Funk, *Kirchengeschichtliche Abhandlungen und Untersuchungen* (Paderborn, 1897), pp. 23–39; Hauck, *Die Bischofswahlen unter den Merovingern*; E. Vacandard, ‘Les élections épiscopales sous les Mérovingiens’, in E. Vacandard, *Etudes de critique et d'histoire religieuse* (3 vols., Paris, 1905–12), I, pp. 123–87; P. Cloché, ‘Les élections épiscopales sous les Mérovingiens’, *Moyen Age*, 25 (1925), 203–54; D. Claude, ‘Die Bestellung der Bischöfe im merowingischen Reiche’,

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the significance of the period from the late eleventh to the mid-thirteenth century in the development of episcopal elections. In this period, the framework in which elections took place changed. Until the late eleventh century the papacy played only a minor role; elections were decided on the local level, that is between the ruler, the local aristocracy, and the local clergy. Local custom set the norms for the procedure. By the mid-thirteenth century, however, the papacy had become a very important force in elections, and canon law usually set the norms.³ This period of change can be divided into two phases. In a first phase, starting at the end of the eleventh century, the papacy fought against the investiture of bishops by the ruler in its attempt to restore the liberty of the church. In the course of this battle, the papacy promoted the idea of an election by the clergy without secular interference.⁴ This first phase, characterised by high-profile clashes between popes and rulers, ended in the early twelfth century when the investiture of bishops was settled by a compromise: the ruler renounced the investiture of the bishop with crozier and ring. The pope in turn accepted that the bishops swore fealty to the ruler for their temporal possessions. In England the bishops were allowed to do homage to the king. The question of elections was of secondary importance in this compromise; the ruler preserved much of his influence,⁵ and the electoral

Savigny KA, 49 (1963), 1–75; F. Lotter, ‘Designation und angebliches Kooperationsrecht bei Bischofserhebungen. Zu Ausbildung und Anwendung des Prinzips der kanonischen Wahl bis zu den Anfängen der fränkischen Zeit’, *Savigny KA*, 59 (1973), 112–50; R. Gryson, ‘Les élections ecclésiastiques au III^e siècle’, *Revue d’histoire ecclésiastique*, 68 (1973), 353–404; R. Gryson, ‘Les élections épiscopales en occident au IV^e siècle’, *ibid.*, 75 (1980), 257–83; G. Scheibelreiter, *Der Bischof in merowingischer Zeit* (Veröffentlichungen des Instituts für österreichische Geschichtsforschung xxvii) (Vienna, 1983), pp. 128–71; U. Nomm, ‘Zwischen König, Hausmeier und Aristokratie – Die Bischofserhebung im spätmerowingisch-frühkarolingischen Frankenreich’, in F.-R. Erkens (ed.), *Die früh- und hochmittelalterliche Bischofserhebung im europäischen Vergleich* (Beihefte zum Archiv für Kulturgeschichte XLVIII) (Cologne, 1998), pp. 33–58. For the period from the Frankish empire to the late eleventh century, see P. Imbart de la Tour, *Les élections dans l’église de France du IX^e au XII^e siècle. Etude sur la décadence du principe électif (814–1150)* (Paris, 1890); G. Weise, *Königtum und Bischofswahl im fränkischen und deutschen Reich vor dem Investiturstreit* (Berlin, 1912); R. Schieffer, ‘Bischofserhebungen im westfränkisch-französischen Bereich im späten 9. und im 10. Jahrhundert’, in Erkens (ed.), *Bischofserhebung*, pp. 59–82; J. Englberger, ‘Gregor VII. und die Bischofserhebungen in Frankreich. Zur Entstehung des ersten römischen Investiturstreits vom Herbst 1078’, in *ibid.*, pp. 193–258; A. Becker, *Studien zum Investiturstreit in Frankreich. Papsttum, Königtum und Episkopat im Zeitalter der gregorianischen Kirchenreform 1049–1119* (Schriften der Universität des Saarlandes) (Saarbrücken, 1955).

³ F.-R. Erkens, ‘Die Bischofswahl im Spannungsfeld zwischen weltlicher und geistlicher Gewalt. Ein tour d’horizon’, in Erkens (ed.), *Bischofserhebung*, pp. 1–32, p. 21; cf. Barraclough, ‘The Making of a Bishop in the Middle Ages’, 275–319; K. Ganzer, *Papsttum und Bistumsbesetzungen in der Zeit von Gregor IX. bis Bonifatius VIII. Ein Beitrag zur Geschichte der päpstlichen Reservationen* (Forschungen zur kirchlichen Rechtsgeschichte und zum Kirchenrecht IX) (Cologne, 1968).

⁴ *Infra*, pp. 20–2.

⁵ P. Classen, ‘Das Wormser Konkordat in der deutschen Verfassungsgeschichte’, in J. Fleckenstein (ed.), *Investiturstreit und Reichsverfassung* (Vorträge und Forschungen xvii) (Sigmaringen, 1973), pp. 411–60.

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procedure remained hardly defined. The decisive development of episcopal elections took place in the second phase which can roughly be dated between 1140 and 1230. In this period the papal court became commonly accepted as the highest authority in ecclesiastical matters and a routine of dispensation of justice and interpretation of law emerged. At the court, in legal practice, as well as in the originating schools, in theory, canon law was intensively examined and greatly developed.⁶ These developments greatly affected episcopal elections and it is for that reason that this study focuses on the period between c. 1140 and c. 1230.

Despite the general awareness of the importance of the period for the history of episcopal elections a statement made by Bernhard Schimmelpfennig in 1990 still holds true today: there are no studies of episcopal elections of the twelfth and thirteenth centuries that equally consider the existing law and individual rights, contemporary legal theory, the local conditions, and the political background.⁷ The studies examining elections in this period focus on particular aspects. They analyse the role of the ruler, or of the cathedral chapter, or of the pope.⁸ But this limitation involves neglecting the enormous complexity of episcopal elections during this period. They were not just a matter of kings or popes, not just a matter of legal theory or local custom. Elections were very dynamic processes subjected to the influence of multiple factors. King, pope, local aristocracy, clergy, and the rising urban elites: all had potential interest in the election of a bishop. The king may have seen the chance to promote a man of his entourage to a position of great influence, or to satisfy the ambitions of an important ally. In any case he was interested in securing a bishop loyal to him. The pope hoped for men acting as conduits of his policy and authority. The local aristocracy and the urban

⁶ P. Landau, 'Die Durchsetzung neuen Rechts im Zeitalter des klassischen kanonischen Rechts', in G. Melville (ed.), *Institutionen und Geschichte. Theoretische Aspekte und mittelalterliche Befunde* (Norm und Struktur. Studien zum sozialen Wandel in Mittelalter und früher Neuzeit 1) (Cologne, 1992), pp. 137–55, pp. 137–43.

⁷ B. Schimmelpfennig, 'Papst- und Bischofswahlen seit dem 12. Jahrhundert', in R. Schneider and H. Zimmermann (eds.), *Wahlen und Wählen im Mittelalter* (Vorträge und Forschungen xxxvii) (Sigmaringen, 1990), pp. 174–95, p. 174.

⁸ For example, M. Pacaut, *Louis VII et les élections épiscopales* (Bibliothèque de la société d'histoire ecclésiastique de la France) (Paris, 1957); H. Müller, *Der Anteil der Laien an der Bischofswahl. Ein Beitrag zur Geschichte der Kanonistik von Gratian bis Gregor IX.* (Kanonistische Studien und Texte xxix) (Amsterdam, 1977); R. Helmholz, *The Spirit of Classical Canon Law* (The Spirit of the Laws) (Athens, Ga., 1996), pp. 33–60; G. von Below, *Die Entstehung des ausschließlichen Wahlrechts der Domkapitel. Mit besonderer Rücksicht auf Deutschland* (Leipzig, 1883); E. Roland, *Les chanoines et les élections épiscopales du XI^e au XIV^e siècle* (*Etude sur la restauration, l'évolution, la décadence du pouvoir capitulaire*) 1080–1350 (Aurillac, 1909); K. Ganzer, 'Zur Beschränkung der Bischofswahl auf die Domkapitel in Theorie und Praxis des 12. und 13. Jahrhunderts', *Savigny KA*, 57 (1971), 22–82, 58 (1972), 166–97; C. Cheney, *Pope Innocent III and England* (Päpste und Papsttum ix) (Stuttgart, 1976), pp. 121–78; R. Foreville, *Le pape Innocent III et la France* (Päpste und Papsttum xxvi) (Stuttgart, 1992), pp. 138–48; Ganzer, *Papsttum*.

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elites considered the control of a bishopric as a means to extend their local influence and to gain access to a great source of patronage for younger members of their families. The clergy had different interests again. The need for a man well suited for the spiritual tasks of his office, and political motives of some sort directed the decision of the members of the cathedral chapter and the heads of the local religious houses. The extent to which one group was able to promote its influence depended very strongly on the behaviour of the others. The king, for example, might intervene vigorously in an election to a very important bishopric but not in one to a less significant see. The pope would only become active in this period if the election was brought to his court. He was not a regular, but an optional, participant. The activities of other electors often led to a clash of legal theory with local custom. This continually reshaped the legal framework of elections. Given this field of tension between groups with different interests, legal theory, and custom, episcopal elections in this period can only properly be analysed if all these factors are taken into account.

The questions arising from such an approach form two groups. One group deals with the 'normative' side to elections focusing on legal practice and theory. First, the very basic question on what canon law and its commentators had to say on episcopal elections needs considering. This will also allow us to address the problem of what role local custom played in the long-term development of canon law. Turning to the application of canon law in the locality the following questions emerge. How strongly was canon law modified by local customs, or, phrased perhaps more appropriately, what were the particularities of the local interpretation of canon law? To what extent had local churchmen access to developments in canon law taking place elsewhere, notably in the schools or at the papal court? If so, did they also contribute to it, and did they make use of their knowledge in practice? If this was the case, when and why did they apply their knowledge? The answers to these questions provide some insight into the making of canon law and contribute to a better understanding of the complex process that led to the application of a relatively unified and harmonised canon law across western Europe in the mid-thirteenth century.

The second group of questions examines the 'political' side of elections. The principal question here concerns the factors leading to the election of a particular bishop. What were the circumstances of his election? Then, turning from the particular to the general, the questions arise which groups were generally most successful in promoting their candidates, whether the pattern of groups involved changed over time, and what were the structures of patronage, that is what were the most promising routes to a bishopric?

Two considerations were decisive for the choice of Normandy and Greater Anjou as the geographical area for this study of episcopal elections

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between 1140 and 1230: first, the need to analyse in detail local power structures makes it hardly feasible to examine larger geographical areas, such as the French kingdom or the Empire. On the other hand, if the results of the analysis are to have some bearing on the general understanding of episcopal elections, the scope cannot be limited to a very small number of dioceses. Normandy and Greater Anjou provide an almost ideal solution to this problem. Small enough to enable an investigation of local power structures, the two regions also permit the drawing of conclusions of a more general character. Not only do ten dioceses constitute a fairly broad foundation, but more importantly the regions are suited for comparison. Normandy's history had been distinct from that of Greater Anjou before the Angevin counts added the duchy to their dominions in 1144.⁹ Thus, by examining and comparing the elections in both areas, it will be possible to identify local particularities.

Second, the political history of Normandy and Greater Anjou between c. 1140 and c. 1230 offers the opportunity to examine elections in periods of crisis and stability, and, more specifically, it allows a comparison between Angevin and Capetian attitudes. In 1135 Henry I, king of England and duke of Normandy, died, leaving his daughter Empress Matilda as heiress. Then, in a coup his nephew, Stephen of Blois, seized the throne. In the subsequent years Matilda and her husband Geoffrey Plantagenet, count of Anjou, Maine, and Touraine, engaged in a bitter fight with Stephen for her inheritance, which eventually they won. In 1144 Geoffrey completed the conquest of Normandy and in 1153 Stephen and Matilda agreed that after Stephen's death Matilda's son, Henry, would succeed to the English throne. By that time Henry had already succeeded his father in Greater Anjou and Normandy and had acquired the duchy of Aquitaine by virtue of his marriage to Eleanor of Aquitaine in 1152. Thus, when Henry acceded to the English throne in 1154 he began to reign over what is known as the 'Angevin empire', stretching from the Scottish Border in the north, to the Pyrenees in the south. Normandy and Greater Anjou were important dominions in their own right, but their geographical situation linking Henry II's dominions

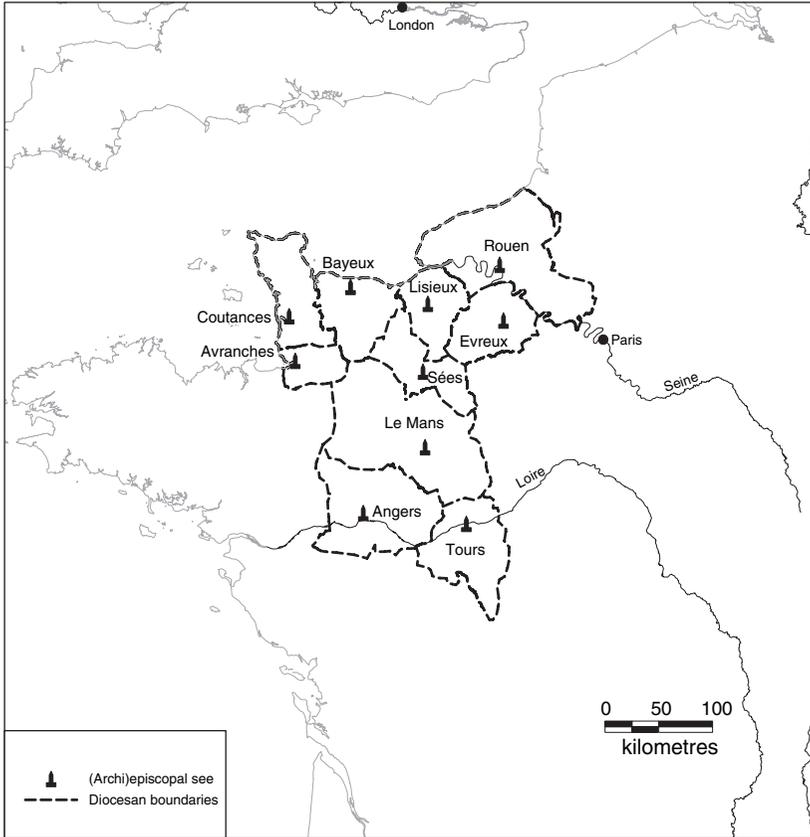
⁹ J. Given, *State and Society in Medieval Europe. Gwynedd and Languedoc under Outside Rule* (Ithaca, 1990), pp. 11–15, discusses methodological questions arising from comparing two regions. For the history of Normandy and Greater Anjou prior to the mid-twelfth century, see O. Guillot, *Le comte d'Anjou et son entourage au XI^e siècle* (2 vols., Paris, 1972); J. Chartrou, *L'Anjou de 1109 à 1151. Foulques de Jérusalem et Geoffroi Plantagenêt* (Paris, 1928); B. Lemesle, *La société aristocratique dans le Haut-Maine (XI^e–XII^e siècles)* (Rennes, 1999); D. Bates, *Normandy before 1066* (London, 1982); D. Bates, 'Normandy and England after 1066', *EHR*, 104 (1989), 851–80; D. Bates, 'The Rise and Fall of Normandy, c. 911–1204', in D. Bates and A. Curry (eds.), *Normandy and England in the Middle Ages* (London, 1994), pp. 19–35; D. Douglas, *William the Conqueror*, 2nd edn (Yale, 1999); J. Le Patourel, *The Norman Empire* (Oxford, 1976).

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Map 1 The dioceses of Normandy and Greater Anjou

enhanced their significance even further. Henry and his sons Richard and John governed Normandy and Greater Anjou for sixty years until 1204/6 when Philip II Augustus, king of France, conquered them. In 1214 Philip successfully defended his conquest against King John and when in 1230 King Henry III failed to regain Normandy and Greater Anjou, the fate of these regions was decided. They were to stay with the Capetians.¹⁰

¹⁰ R.H.C. Davis, *King Stephen, 1135–1154* (London, 1967); E. King (ed.), *The Anarchy of King Stephen's Reign* (Oxford, 1994); D. Crouch, *The Reign of King Stephen, 1135–1154* (Harlow, 2000); W. L. Warren, *Henry II*, 4th edn (Yale, 2000); M. Pacaut, *Louis VII et son royaume* (Bibliothèque générale de l'école des hautes études; vi^e section) (Paris, 1964); J. Boussard, *Le comté d'Anjou sous*

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There are only a few cursory studies of episcopal elections in Normandy and Greater Anjou for this period, and because they focus entirely on the ruler, they hardly take into account the role of the aristocracy.¹¹ This, however, misses an opportunity to gain insight into the development of local power structures during this period. The elections can indicate rivalries between the local aristocrats, the degree of royal authority in the region, and, in this particular case, the impact of the Capetian conquest on local power structures. An understanding of these structures is also a very important factor in the assessment of royal intervention in elections. Historians have depicted the Angevins as firmly, occasionally brutally, pursuing their own interests.¹² Some scholars, notably Marcel Pacaut and John W. Baldwin, have contrasted the apparently

Henri Plantagenêt et ses fils (1151–1204) (Bibliothèque de l'école des hautes études; iv^e section, sciences historiques et philologiques CCLXXI) (Paris, 1938); J. Bousard, *Le gouvernement d'Henri II Plantagenêt* (Paris, 1956); J. Gillingham, *Richard I* (Yale, 1999); M. Aurell, *L'empire des Plantagenêt 1154–1224* (Paris, 2003); J. Gillingham, *The Angevin Empire*, 2nd edn (London, 2001); R.-H. Bautier, 'Conclusions. « Empire Plantagenêt » ou « espace Plantagenêt ». Y eut-il une civilisation du monde Plantagenêt?', *Cahiers de civilisation médiévale*, 29 (1986), 139–47; M. Powicke, *The Loss of Normandy 1189–1204. Studies in the History of the Angevin Empire*, 3rd edn (Manchester, 1999); R. Turner, *King John* (London, 1994); N. Vincent, *Peter des Roches: An Alien in English Politics, 1205–1238* (Cambridge Studies in Medieval Life and Thought) (Cambridge, 1996); D. Carpenter, *The Minority of Henry III* (London, 1990); R. Stacey, *Politics, Policy, and Finance under Henry III, 1216–1245* (Oxford, 1987); J.W. Baldwin, *The Government of Philip Augustus: Foundations of French Royal Power in the Middle Ages* (Berkeley, 1986); C. Petit-Dutaillis, *Etude sur la vie et le règne de Louis VIII (1187–1226)* (Bibliothèque de l'école des hautes études; iv^e section, sciences historiques et philologiques CI) (Paris, 1894); E. Berger, *Histoire de Blanche de Castille, reine de France* (Bibliothèque des écoles françaises d'Athènes et de Rome LXX) (Paris, 1895).

¹¹ I. Shaw, 'The Ecclesiastical Policy of Henry II on the Continent', *Church Quarterly Review*, 151 (1951), 137–55, 147–53; R. Foreville, 'L'église anglo-normande au temps du bienheureux Acharde de Saint-Victor, évêque d'Avranches (1161–1171)', in R. Foreville, *Thomas Becket dans la tradition historique et hagiographique* (London, 1981), no. 1, pp. 163–76, pp. 164–5; M. Pacaut, *Elections*, pp. 79–81; D. Walker, 'Crown and Episcopacy under the Normans and the Angevins', in R. Brown (ed.), *Anglo-Norman Studies V. Proceedings of the Battle Conference 1982* (Woodbridge, 1983), pp. 220–33, pp. 222–5; R. Turner, 'Richard Lionheart and the Episcopate in his French Domains', *French Historical Studies*, 21 (1998), 517–42, 523–8; Turner, *King John*, pp. 153–4; S. Packard, 'King John and the Norman Church', *Harvard Theological Review*, 15 (1922), 15–40, 16–24; O. Pontal, 'Les évêques dans le monde Plantagenêt', *Cahiers de civilisation médiévale*, 29 (1986), 129–37, 130, 132, 137; D. Power, *The Norman Frontier in the Twelfth and Early Thirteenth Centuries* (Cambridge Studies in Medieval Life and Thought) (Cambridge, 2004), pp. 134–9; Cheney, *Innocent III*, pp. 121–78; J. W. Baldwin, 'Philip Augustus and the Norman Church', *French Historical Studies*, 6 (1969), 1–30, 4–9; Baldwin, *Philip*, pp. 179–81, 305–9, 437–41. For studies focusing on England, see S. Mooers Christelow, 'Chancellors and Curial Bishops', in C. Harper-Bill (ed.), *Anglo-Norman Studies XXII. Proceedings of the Battle Conference 1999* (Woodbridge, 2000), pp. 49–69; S. Marrit, 'King Stephen and the Bishops', in J. Gillingham (ed.), *Anglo-Norman Studies XXIV. Proceedings of the Battle Conference 2001* (Woodbridge, 2002), pp. 129–44, pp. 138–9; R. Foreville, *L'église et la royauté en Angleterre sous Henri II Plantagenêt (1154–1189)* (Paris, 1943), pp. 96–106, 373–88, 476–88; R. Turner, 'Richard Lionheart and English Episcopal Elections', *Albion*, 29 (1997), 1–15; M. Gibbs and J. Lang, *Bishops and Reform, 1215–1272, with Special Reference to the Lateran Council of 1215* (Oxford, 1934), pp. 53–93.

¹² Shaw, 'Ecclesiastical Policy', 152; Walker, 'Crown and Episcopacy', p. 224; for Richard, see Turner, 'Richard and the Episcopate', 523, 527–8; Sidney Packard stresses King John's brutal

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authoritarian and wilful approach of the Angevins with the seemingly more lenient and modest attitude of the Capetians.¹³ John W. Baldwin suggested that during his struggle with King John Philip II lured the Norman episcopacy with the promise of free canonical elections. According to Baldwin, Philip kept his promise after the conquest.¹⁴ A detailed examination of the individual elections will make it possible to identify more precisely to what extent, when, where, and why the Angevins and Capetians were active in episcopal elections. The resulting patterns allow a more comprehensive assessment of Angevin and Capetian policy and contribute to a better understanding of the impact of the conquest on Normandy and Greater Anjou.¹⁵ A clearer view on the process of the transition from Angevin to Capetian rule, in turn, will also shed some light on the general problem of how royal lordship functioned in the central middle ages.

METHODOLOGY

Electoral theory

Around 1179, the canonist Bernard of Pavia wrote in his *Summa de electione* that three aspects should be considered in an election: the power to vote, the suitability of the elect, and the electoral procedure.¹⁶ Taking Bernard's statement as a guideline, I have selected four themes to analyse the 'normative' side to elections:

behaviour taking the election of Sées in 1201–3 as an example, 'King John and the Norman Church', esp. 20–4; Odette Pontal depicts John as a tyrant, 'Les évêques dans le monde Plantagenêt', 137. Recently, however, Daniel Power advanced a more balanced view of the Angevin treatment of the Norman church, 'Angevin Normandy', in C. Harper-Bill and E. van Houts (eds.), *Companion to the Anglo-Norman World* (Woodbridge, 2003), pp. 63–85, pp. 78–81; D. Power, 'The Norman Church and the Angevin and Capetian Kings', *Journal of Ecclesiastical History*, 56 (2005), 205–34.

¹³ Pacaut, *Elections*, p. 78; Baldwin, 'Philip Augustus and the Norman Church', 4–9; Baldwin, *Philip*, pp. 180–1, 306–9; B. Guillemain, 'Philippe Auguste et l'épiscopat', in R.-H. Bautier (ed.), *La France de Philippe Auguste. Le temps de mutation. Actes du colloque international organisé par le C.N.R.S. (Paris, 29.9.–4.10.1980)* (Colloques internationaux du centre national de la recherche scientifique DCII) (Paris, 1982), pp. 365–84, p. 380; Pontal, 'Les évêques dans le monde Plantagenêt', 135; R. Foreville, 'Innocent III et les élections épiscopales dans l'espace Plantagenêt de 1198 à 1205', in *Recueil d'études en hommage à Lucien Musset* (Cahier des annales de Normandie XXIII) (Caen, 1990), pp. 293–9, p. 293; Turner, *King John*, p. 153.

¹⁴ Baldwin, 'Philip Augustus and the Norman Church', 4, 30; Baldwin, *Philip*, p. 307.

¹⁵ On the impact of the conquest, see Baldwin, *Philip*, pp. 191–328; J. Strayer, 'Normandy and Languedoc', *Speculum*, 44 (1969), 1–12; L. Musset, 'Quelques problèmes posés par l'annexion de la Normandie au domaine royal français', in Bautier (ed.), *La France de Philippe Auguste*, pp. 291–309; Power, *The Norman Frontier*, esp. pp. 413–66; L. Grant, *Architecture and Society in Normandy 1120–1270* (New Haven, 2005), pp. 147, 202, 231–4.

¹⁶ 'Bernardi Summa de electione', in *Bernardi Papiensis (Faventini episcopi) Summa decretalium*, ed. E. Laspeyres (Regensburg, 1860), pp. 307–23, p. 308.

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- (A) The composition of the electoral body with a particular emphasis on the role of the prince, the cathedral chapter, and the question of absent canons. A great number of elections in Normandy and Greater Anjou (e. g. Rouen (1184, 1235–7), Lisieux (1141–3, 1200–1), Sées (1144–7, 1201–3), Tours (1174, 1228), Angers (1153–6, 1200–2)) will show that the definition of who constituted the electoral body was one of the great controversial issues of the time.
- (B) The different types of vote used: unanimous vote, scrutiny, and compromise. The increasingly sophisticated use of electoral procedures is particularly well illustrated by elections at Rouen (1235–7) and Evreux (1220, 1236).
- (C) *Sanior et maior pars*, i.e. the question of which party triumphed in a split election, if the candidates were suitable and the electoral procedure not flawed. This problem arose, for example, at Bayeux (1205–6, 1231), Tours (1208), and Rouen (1221–2).
- (D) The suitability of the candidate. Elections at Rouen (1221–2, 1230–1, 1235–7), Sées (1144–7), or Avranches (1198–1200) will demonstrate what criteria of suitability were applied and in which circumstances they were emphasised as a necessary condition for eligibility.

To these should be added:

- (E) Episcopal translation.

When Bernard wrote his *Summa de electione* episcopal translations were not a central concern of canon lawyers or the pope. Twenty years later, however, Pope Innocent III made the regulation of episcopal translation a major theme of his pontificate, and the translation of William de Chemillé from Avranches to Angers in 1197–9 became one of his test cases.¹⁷ This theme, therefore, is of particular interest for the present study.

The proper assessment of the impact of canon law on electoral practice in Normandy and Greater Anjou requires two preliminary investigations. First, an examination of the development of canon law and its interpretation by the legal experts, the canonists, during the period from c. 1140 to c. 1230. Second, an analysis of the spread of canon law and canonistic thought in Normandy and Greater Anjou in this period.

The body of canon law consisted of patristic texts, of canons laid down by ecclesiastical councils, and of decretals issued by popes. Canon law was principally preserved through collections of selected texts. It was, therefore, both conservative and innovative. Conservative, because in principle canons and decretals were perennially valid. Innovative, because the ancient texts could receive a new meaning through mutilation and/or

¹⁷ *Infra*, pp. 156–64.

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through the context in which the compiler of a collection placed them. Innovative also, because a council or a pope could steer the content and contemporary interpretation of canon law by issuing new legislation.¹⁸ Thus the direction of canon law could vary substantially over time.

Arguably the most important collection of canon law between c. 1140 and c. 1230 was the *Concordia discordantium canonum*, commonly known as *Decretum Gratiani*. Anders Winroth has recently shown that the *Decretum* originated in two recensions written between 1139 and 1158 at the latest. He has also suggested that at least two authors were responsible for the recensions, identifying the author of the first as Gratian.¹⁹ In his work Gratian attempted to harmonise a great number of apparently contradictory canons relating to all kinds of ecclesiastical matters including episcopal elections. Although the earlier collections of canon law like Burchard's *Decretum* or the works attributed to Ivo of Chartres continued to be in use for some time after Gratian's work had emerged,²⁰ the *Decretum* quickly became the basis of the scientific examination of canon law.

To keep abreast of the latest conciliar legislation and the increasing number of papal decretals sent to every corner of the Latin world canonists continued to compile collections, and by the end of the twelfth century a great variety of them existed across Europe. Among these local collections Bernard of Pavia's *Compilatio prima* (1188–92) was the most successful; in the two decades following its compilation *Compilatio prima* became the universally recognised decretal collection. Subsequently the papacy played an active role in the compilation of the decretal collections. In 1209/10 Innocent III promulgated *Compilatio tertia*, soon to be followed by the composition of the private collection *Compilatio secunda* (1210–15), of Johannes Teutonicus' *Compilatio quarta*

¹⁸ Thier, 'Hierarchie und Autonomie', pp. 262–322; for patristic texts in canon law, see C. Munier, *Les sources patristiques du droit de l'église du VIII^e au XIII^e siècle* (Mulhouse, 1957).

¹⁹ A. Winroth, *The Making of Gratian's Decretum* (Cambridge Studies in Medieval Life and Thought) (Cambridge, 2000), pp. 136–45, 175–92; cf. T. Lenherr, 'Die vier Fassungen von C.3 q.1 d. p. c. im Decretum Gratiani. Zugleich ein Einblick in die neueste Diskussion um das Werden von Gratian's Dekret', *Archiv für katholisches Kirchenrecht*, 169 (2000), 353–81. These results are currently debated among scholars. For a dissenting opinion, see C. Larrainzar, 'La ricerca attuale sul "Decretum Gratiani"', in E. de León and N. Álvarez de las Asturias (eds.), *La cultura giuridico-canonica medioevale. Premesse per un dialogo ecumenico* (Pontificia università della Santa Croce. Monografie giuridiche xxii) (Rome, 2003), pp. 45–88.

²⁰ Cf. M. Brett, 'Canon Law and Litigation: The Century before Gratian', in M. Franklin and C. Harper-Bill (eds.), *Medieval Ecclesiastical Studies in Honour of Dorothy M. Owen* (Studies in the History of Medieval Religion vii) (Woodbridge, 1995), pp. 21–40, p. 23; P. Landau, 'Vorgratianische Kanonensammlungen bei den Dekretisten und in den frühen Dekretalensammlungen', in S. Chodorow (ed.), *Proceedings of the Eighth International Congress of Medieval Canon Law. San Diego, University of California at La Jolla, 21–27 August 1988* (MIC series C: subsidia ix) (Vatican City, 1992), pp. 93–116.