

## 1 Introduction

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‘Governing the world by writing’ is the intriguing title of a recent book about the late antique and medieval papacy. The subtitle reveals it to be about relations with Dalmatia only,<sup>1</sup> but the concept is applicable to the present work, which tries to explain how the papacy governed the world, in its religious aspects at least, by means of documents. The ‘power’ with which the book is concerned is ‘power to’ more than ‘power over’.<sup>2</sup> ‘Protocol’ in the title is understood in a sense transferred from the world of computing as ‘A (usually standardised) set of rules governing the exchange of data’ (Oxford English Dictionary). The implicit analogy with software is not inappropriate, since an argument running through the book will be that cleverly designed systems compensated for the inadequacies of the ‘hardware’ of papal government – for its lack of a properly financed bureaucratic infrastructure.

The title does not refer to the parts of medieval documents called the ‘protocol’<sup>3</sup> by specialists in Diplomats (called Diplomatic in the U.K.),<sup>4</sup> though that discipline is the key method used in the book. The discipline is devoted to understanding the structure and setting or genesis of documents. It is one of the twin pillars of the training of medieval historians, alongside Palaeography. Diplomats should really be part of the training not just of medievalists but of anyone using documents for research, as it is a very general methodology. Yet there is no general treatise on Diplomats in English, and the generally good book-length treatises in other scholarly languages are technical textbooks well

<sup>1</sup> S. Gioanni, *Gouverner le monde par l'écrit. L'autorité pontificale en Dalmatie de l'Antiquité tardive à la réforme 'grégorienne'* (Bibliothèque des Écoles Françaises d'Athènes et de Rome, 386; Rome, 2020).

<sup>2</sup> My thanks to Professor John Holmwood for clarifying the distinction in a personal communication. Cf. J. Holmwood and A. Stewart, *Explanation and Social Theory* (Basingstoke, 1991), 118.

<sup>3</sup> Though one of the arguments turns on a part of the protocol (in this narrow sense) called the *arenga*.

<sup>4</sup> *Diplomatique* in French, *Urkundenlehre* in German. I use the U.S. form ‘Diplomatics’ – as a singular noun – because it reduces the chance of confusion with diplomacy.

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insulated from the historical interpretation to which Diplomats can make crucial contributions.

On specifically papal Diplomats, R. L. Poole's decent study of the papal Chancery, over a limited period, is over a century old<sup>5</sup> – and it has been a long century full of major highly relevant papers. As noted in the Preface, the excellent book-length treatises in German, Italian and French that focus specifically on papal Diplomats are rigorously 'pure' and uncontaminated by application to substantive history. They do not try to answer a central historical question about a phenomenon unique in world history, namely, how did the papacy govern the religious life of Europe without the financial and military resources of a secular state?

Letters with 'little power of implementation'<sup>6</sup> poured out from the curia to regions from Norway to Sicily and Poland to Portugal, solicited and accepted, yet the popes had few and risibly weak battalions and for most of the period lacked financial resources commensurate with its authority. 'The medieval Church was a state', according to Frederic William Maitland's famous dictum.<sup>7</sup> But this was a paradox to wake his readers up to its character as a European government. Unlike 'real' states its military powers of enforcement were minimal except where its own modest-sized central Italian state was concerned. Generally speaking, states need the sanction of physical force. The papacy could not deploy the latter outside its own lands.

The small secular state, the 'Lands of St. Peter', gave it independence from other secular states, but the resources of this third-rate principality were required for its own governance: the income from the papal state was not commensurate with government on a European scale, especially in the wake of the eleventh-century 'papal turn', with the intensification of papal involvement in the life of the Church which followed a few decades after it. Again, it is true that the papacy began to raise direct taxes on ecclesiastics, initially for crusades. Such taxes did not solve the problem of paying for government, however: for one thing, kings learned how to cream off the lion's share of papal direct taxes; for another, popes regarded the autonomy of the papal state in central Italy as indispensable for independence (probably an accurate assessment) and had to haemorrhage money to pay for Italian wars, above all against emperors who had

<sup>5</sup> R. L. Poole, *Lectures on the History of the Papal Chancery down to the Time of Innocent III* (Cambridge, 1915).

<sup>6</sup> Phrase suggested by Michael Haren.

<sup>7</sup> F. W. Maitland, 'Canon Law in England III. William of Drogheda and the Universal Ordinary', *English Historical Review*, 12 (1897), 625–652 (at 625), reprinted in *idem*, *Roman Canon Law in the Church of England. Six Essays* (London, 1928), 100–131 (at 100).

non-negligible claims to authority in Italy. Furthermore, the cities of the papal states were politically volatile. In the fourteenth century the papacy for a while gave up trying to rule from Rome and moved to the more central Avignon, which belonged to the kingdom of Naples, which was in turn held as a papal fief. In this period papal income was hugely enhanced by taxes on benefices vacated under specified conditions.

Had the papacy been content to remain at Avignon for good, without attempting to reconquer the papal states, a well-funded bureaucracy might have been on the cards. For a while, popes maintained 'the fiction that Rome in a curial sense attended on the pope',<sup>8</sup> and a capacity to design governmental systems was undoubtedly in evidence, as will become clear. The ingenuity was, however, deployed to find substitute systems for proper salaried bureaucracy, which could not be afforded. As the money flowed in from the new sources of revenue, it also flowed out. Separation from Rome was widely felt to be inappropriate, and popes fought expensive wars to re-establish control of the papal states.

To put it crudely, the drain of these wars on papal finances cancelled out the income from benefices. In fact, the papacy never really had a fiscal base capable of supporting a conventional government on a Europe-wide scale, at least under the Ancien Régime. In the Renaissance period and after, it resorted to the expedient of sale of offices. Though this did have some sociological compensations, to be explored in Chapter 5, it was a desperate measure from a rational financial point of view.

Thus the papacy lacked the money to pay either for a proper bureaucracy or for military resources to back up a bureaucracy's authority. Given that, the question of how the papacy coped with a Europe-wide governmental burden is central, and it cannot be answered without the help of Diplomatics. It is what I will call 'Hageneder's question', after the Austrian scholar Othmar Hageneder who posed it more clearly than anyone, and answered it with reference to one class of papal documents,<sup>9</sup> using Diplomatics, an approach the present volume tries to extend to other genres and a longer period. *Mutatis mutandis*, 'Hageneder's question' needs to be asked about Late Antiquity and the earlier Middle Ages too, as also about the post-Schism and post-Trent periods.

<sup>8</sup> Again, phrase suggested by Michael Haren.

<sup>9</sup> O. Hageneder, 'Päpstliche Reskripttechnik: Kanonistische Lehre und kuriale Praxis', in M. Bertram (ed.), *Stagnation oder Fortbildung? Aspekte des allgemeinen Kirchenrechts im 14. und 15. Jahrhundert* (Bibliothek des deutschen historischen Instituts zu Rom, 108; Tübingen, 2005) 182–196, at 194: 'wie waren Kirche und Christenheit ohne einen entsprechenden Verwaltungsapparat, der den Urkundenausstoß der Kanzlei auf die Richtigkeit seiner Voraussetzungen und seine Durchsetzung *in partibus* hätte prüfen und überwachen können, zu regieren?'

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In Late Antiquity and the first medieval centuries popes issued decrees with the aplomb of Roman emperors but with none of the power the emperors had enjoyed. What kind of power did popes have? Diplomatics can tell us that it was the power of 'responsive' governments, answering rather than initiating, and also that the *prooemia* of the responses were a channel through which the apostolic see poured its image into the minds of those to whom it responded, and of the readers of canon law collections into which their responses were incorporated.

There was again an asymmetry between impact and resources – analogous to the high and late medieval disparity though on a vastly lower quantitative level – from the time of Charlemagne to the generation before the mid-eleventh-century 'papal turn'. Paving the way for the turn was a steady demand for papal documents from the localities. Documents were produced, but sometimes in shockingly poor Latin. Apparently the papacy could not count on scribes and administrators who knew their grammar. Diplomatics can tell us why papal documents did not lose their power to impress. In a nutshell, the answer is that their physical appearance was remarkable and impressive, and the script in which they were written so archaic as to be practically illegible. Much more on all this below.

We need to ask how the papacy was administratively capable of exercising so much power. One answer which may spring to the mind of modernists will not work: fear of spiritual sanctions cannot explain the phenomenon. Such fear did indeed play a part from the late eleventh century on, but it was a result rather than a cause of the growth of papal government. To project back to Late Antiquity or the early Middle Ages the profile and prestige of the high medieval papacy is to put the cart before the horse. So how did the papacy acquire that prestige in the first place? Furthermore, even granted the fear of spiritual sanctions which certainly did count for something eventually, how on earth did the papacy cope with the sheer pressure of business that we can see was thrust upon it?

Elements of the answer are in fact at hand in a plethora of highly specialised monographs and technical articles, mostly by German and Austrian historians.<sup>10</sup> Medieval papal Diplomatics seems to have been a field attractive to Protestant and belief-neutral scholars as well as to Catholics, perhaps because of the appeal of doing research in Rome. Even this impressive German-language scholarship is not, however, brought together within a single book-shaped frame.

<sup>10</sup> Important modern Anglophone exceptions include Patrick Zutshi, Barbara Bombi, and Kirsi Salonen. In France, Bernard Barbiche stands out.

A central aim of this book is to make a picture out of these pieces of the puzzle: to synthesise the rich and impressive but scattered scholarship on medieval papal Diplomats and to show how they cumulatively answer 'Hageneder's question'. I try to do this with regular reference to unpublished original documents which this scholarship can illuminate.

To extend the chronological range of applied Diplomats is a further aim. Even the rich German-language scholarship on Diplomats seldom trespasses outside the period between Gregory the Great (c. 600) and the Reformation. For the problem in hand, however, these are not natural limits. As a renowned Marxist historian long ago observed: 'triumphant in late Antiquity, dominant in feudalism, decadent and renescent under capitalism, the Roman Church has survived every other institution – cultural, political, juridical or linguistic – historically coeval with it'.<sup>11</sup> His words about 'the Roman Church' are especially pertinent to the papacy, and the Diplomats of its documents are part of the explanation. But the explanation has to extend back before and on after the medieval period as traditionally understood (roughly, 500–1500). In an ideal world the analysis would penetrate into contemporary history, but I have let it peter out where my first-hand familiarity with manuscript sources dries up. Any scholar who claimed to be on top of all the sources for papal history for even a much more limited period would be a blatant liar, but I have done serious sampling and transcribing of papal documents into the early modern period.<sup>12</sup>

In summary, as already stated in the Preface: the book tries to show what the technical discipline of papal Diplomats can contribute to an explanation of how the papacy could meet the demand for its practical authority, from c. 400 to c. 1600.

Diplomats can supply several keys to the problem of how the papacy ruled so much of Europe's religious life. For one thing, Diplomats underpins the now generally accepted folk-theorem that the growth of papal government was demand-driven. It is easy to assume that there was an eventually successful then finally self-destructive top-down ideological campaign (an interpretation eloquently articulated though not invented by the late Walter Ullmann). But Diplomats has shown that this was not the case. It is true that popes did propagate Petrine ideology in their replies, but they seldom initiated communication. Every specialist in high medieval papacy will now tell you that its government was 'responsive'. That works for earlier periods too, as far back as the third century, even.

<sup>11</sup> P. Anderson, *Passages from Antiquity to Feudalism* (London, 1978), 131–132 note 11.

<sup>12</sup> The section on late Antiquity is the shortest because the materials are less plentiful and because I have devoted separate volumes to them: see following note.

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In the Church at Rome the idea of office charisma invested in the successor of St. Peter goes back very early. At first it was probably not widely shared, at least as understood in Rome, by other Churches in the Roman empire, but in the West, especially, there was a demand for papal services which could be turned into a belief in the office charisma.

In Late Antiquity the papacy found itself acting as a kind of help-desk in a complex religious world made up of autonomous and often fast evolving sub-systems: the religious year, key rituals like baptism, heresy, penance, celibacy, monasticism, Christological doctrine. There was uncertainty over whether this or that evolution was legitimate, and about the incompatibilities that tended to arise between different sub-systems as they evolved with lives of their own. The first general council, Nicaea 325, resolved a series of uncertainties and became a paradigm for how to do so. General councils could not easily work, however, without an emperor to get the bishops together and keep them focussed on finding solutions. In the late fourth and fifth centuries the collapse of the Western empire left a demand without the means of satisfying it through councils, which had for some decades been meeting that need. Instead, bishops looked to the apostolic see (as what we now called the papacy then called itself), which already had a special standing because it was in the former capital of the empire and claimed succession from the leader of the apostles. This is not to say that the apostolic see had anything like the status it would later acquire. The driving force behind requests for responses was a need felt especially by bishops to resolve the uncertainties that beset them.

The foregoing has been argued elsewhere,<sup>13</sup> but it is only the start of an explanation. Adopting a methodology articulated by another Austrian historian, Heinrich Fichtenau, we need to understand the impact of the *arengae* or *prooemia* to papal documents. When the apostolic see replied to bishops, answering their questions, they prefaced their replies with *arengae*, preambles, that emphasised papal authority. Belief that the bishop of Rome was successor to St. Peter, the leader of the apostles, went back into the mists of time in Rome itself: as A. H. M. Jones put it: ‘... from an early date the bishops of Rome claimed a pre-eminent position in the church, and ... they claimed it as successors of Peter, the prince of the apostles’.<sup>14</sup> Some papal responses were prefaced with

<sup>13</sup> D. L. d'Avray, *Papal Jurisprudence, c. 400. Sources of the Canon Law Tradition* (Cambridge, 2019), and *idem*, *Papal Jurisprudence, 385–1234. Social Origins and Medieval Reception* (Cambridge, 2022).

<sup>14</sup> A. H. M. Jones, *The Later Roman Empire, 284–602. A Social, Economic and Administrative Survey*, 3 vols. (with a maps volume) (Oxford, 1964), ii, 887.

strong statements about the apostolic see's authority. These were incorporated into the canon law collections that were put together at the turn of the fifth and sixth centuries, and which circulated widely in the early medieval West. They were also included in the ninth-century 'False Decretals', or 'Pseudo-Isidore', which included many genuine decretals from Late Antiquity. Pseudo-Isidore was widely copied and transmitted these *arengae* to a still wider public. Together with the decretal tradition itself they constitute a causal chain, converging to be sure with other causal chains,<sup>15</sup> that explains the willingness of so many people to respond to the movement known as the 'papal turn', or, more traditionally, the Gregorian Reform. The idea of papal 'office charisma' became more deeply embedded in mentalities, building on a foundation laid, notably, by *arengae* and related ideological content in papal decretals going back centuries: ideological papal *arengae* go back before the fall of the Roman empire in the West.

Not long after that a new kind of document contributed to the growth of papal prestige. By the end of the sixth century, monasteries with large landholdings had become a key part of Christian life. They sought and obtained privileges from kings but also from popes. Those papal privileges were extraordinarily impressive as material objects. They were several metres long, on papyrus (at a time when parchment had become the normal 'support' for writing), and written in strange archaic script, the 'Roman Curiale', that hardly anyone could read other than the scribes themselves. The very aspect of these documents was a source of papal prestige.

In the course of the eleventh century these papyrus privileges were phased out, for reasons to be discussed below. The visual impact of the parchment privileges that replaced them was also exceedingly striking. New forms continued the tradition of documentary manifestation of papal authority.

In the twelfth century more and more workaday documents were required, in response to a snowballing demand for papal judgments and favours underpinned by a now widespread belief in papal office charisma. Twelfth-century English monarchs from Henry II on were

<sup>15</sup> E.g. R. McKitterick, *Rome and the Invention of the Papacy: The Liber pontificalis* (Cambridge, 2020) makes a case for the *Liber*, a pope-by-pope history, as a formative influence. (On the *Liber Pontificalis* see now also K. Herbers and M. Simperl, eds., *Das Buch der Päpste – Liber pontificalis. Ein Schlüsseldokument europäischer Geschichte* (Römische Quartalschrift, Supplementband, 67; Freiburg im Breisgau, 2020).) The traditional scholarly 'folk explanation' is that much of Europe was Christianised by Anglo-Saxon missionaries who brought with them a pro-papal tradition going back to the papal missionaries who helped convert England.



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experiencing similar demand for their services, but they had a tightly controlled administrative and financial system at their disposal. Counties and sheriffs were part of an integrated royal system, but bishops and dioceses were not integrated into a papal system in anything like the same way, and never would be. In administrative and financial terms there never was a 'medieval Church', but a multitude of more-or-less autonomous systems held together by the Latin language and belief in the apostolic see, alongside demand for the latter's services. The question was, how to meet that demand?

Explaining how that demand was met is, as hinted above, a key contribution of papal Diplomats. As one cannot sufficiently emphasise, the papacy did not have a bureaucracy funded by monetary taxation, as the English monarchs did (to oversimplify somewhat). For reasons adumbrated above, that possibility was not open to the papacy. Nonetheless, the documentary productivity of the papacy from the later twelfth century on was extraordinary, and technical Diplomats is the key to understanding how it was managed. It is a complex story but some red threads run through it. The papal court showed great ingenuity in devising systems that minimised the need for thinking at the centre and outsourced the thinking to unpaid *ad hoc* 'honorarios', able men acting without pay. The administrative costs at the centre were paid for stage by stage, rather than through a 'taxation and salary system' such as underpins the governments of virtually all states today. Finally, ecclesiastical benefices supported absentee officials, something that was regarded as morally dubious by moralisers in the period itself and by its modern historians, though it can be argued that both have imperfectly understood the benefice system and its patchwork uneven character – there was huge variation in the value of benefices – so that some of the moralisation can give place to in-depth explanation. Never assume that people understand their own society!

Here papal Diplomats merges into straightforward historical interpretation, but for present purposes at least that is a good thing. As a glance at its history shows, 'Diplomats' started as a technique for detecting forgery, then evolved into a broader study of the structure and setting of documents. The final stage has been the realisation of the symbiotic relation between the 'auxiliary science' and mainstream history. Diplomats is not a handmaid but integral to historical understanding of the papacy.

As suggested above, Diplomats ought to be *de rigueur* in the use of any kind of historical document of any period. It identifies the performative efficacy in the world of a document – which often means its legal force. Its history as a discipline dates from the seventeenth century, but



papal Diplomatics has a pre-history of acuity on the part of some popes in assessing the authenticity of this or that document.<sup>16</sup>

Given that Diplomatics is a discipline that can be applied to almost any kind of document or historical problem, some delimitation of the remit of the present study may be forgiven. In this and the following chapters the focus will be on papal letters which are ‘witnesses to processes of a legal nature’, to quote one of the greatest ever specialists in the field, Harry Bresslau.<sup>17</sup> Margaret Meserve has pointed out in the period covered here, after the invention of printing, printed papal documents were not ‘published’ in the legal sense, even though the papacy made early and frequent use of the new medium. ‘Roman printers began to publish the texts of papal decrees quickly enough, but ... a bull ... was still considered officially published only when it was copied out on parchment and posted on a circuit of important doors.’<sup>18</sup> Thus the important story she tells about the papacy and printing lies outside our scope.

The ‘legal force’ litmus test brings in documents commanding acceptance of a doctrine, but not all the types of source included in the comprehensive definition Leonard Boyle (discussed below). Excluded from the book’s remit are records relating to financial administration,<sup>19</sup> and documents which do not attempt to affect what is lawful or unlawful: papal letters conducting what one might call religious diplomacy, and/or to ‘admonish, exhort, and console’.<sup>20</sup> Such letters survive throughout the period that concerns us, and from the period well before we get letters with intended legal force. (We have a non-trivial body of letters by

<sup>16</sup> L. Schmitz-Kallenberg, in R. Thommen and L. Schmitz-Kallenberg, *Grundriss der Geschichtswissenschaft. Urkundenlehre. II. Papsturkunden* (2nd edition, Berlin, 1913), 56–116, at 57–58; for the history of Diplomatics in general, see the good summary in F. De Lasala and P. Rabikauskas, *Il Documento Medievale e Moderno, Panorama Storico della Diplomatica Generale e Pontificia* (Rome, 2003) (henceforth De Lasala, *Il Documento*), 19–40. For a possible early example, from 371, see U. Reutter, *Damasus, Bischof von Rom (366–384)* (Studien und Texte zu Antike und Christentum, 55; Tübingen, 2009), 348–316, especially 307–308.

<sup>17</sup> ‘Urkunden nennen wir ... schriftliche ... aufgezeichnete Erklärungen, die bestimmt sind, als Zeugnisse über Vorgänge rechtlicher Natur zu dienen’ (H. Bresslau, *Handbuch der Urkundenlehre für Deutschland und Italien*, i (2<sup>nd</sup> edition, 1912), 1.

<sup>18</sup> M. Meserve, *Papal Bull. Print, Politics and Propaganda in Renaissance Rome* (Baltimore, MD, 2021), 60. *A fortiori*, communications to individuals or institutions would be on papyrus – in the early Middle Ages – or parchment.

<sup>19</sup> On the setting of these, W. E. Lunt, *Papal Revenues in the Middle Ages*, 2 vols. (New York, 1934, 1965), i, 3–136. For recent research, see W. Maleczek, ed., *Die römische Kurie und das Geld. Von der Mitte des 12. Jahrhunderts bis zum frühen 14. Jahrhundert* (Vorträge und Forschungen, 85; Ostfildern, 2018).

<sup>20</sup> De Lasala, *Il Documento*, 163.

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bishops of Rome, Liberius (352–366) and Damasus I (366–384)<sup>21</sup> – both controversial figures in different ways – from the pre-decretal period.) Ordinary letters of this sort can be interpreted with what might be called the ‘Diplomatics of common sense’, in that these letters are not so different *qua* sources from modern communications by rulers. In an ideal world these classes of sources would have been included, though traditional Diplomatics also tends to marginalise them. On the other hand, the registration, at the centre, of documents with legal force and, where available, the records of discussions that lay behind such documents are included. They certainly help us understand how the papacy ran a world government without the resources of a state.

Chapter 2, ‘The History of Papal Diplomatics’, traces the evolution of Diplomatics as a discipline.<sup>22</sup> It begins in the seventeenth century, an age of antiquarian scholarship, with an argument between a Jesuit and a Benedictine monk about the genuineness of charters. The Benedictine’s seminal treatise *De Re Diplomatica* gave the discipline an identity, the core of which is preserved in treatises on ‘pure’ Diplomatics, and also specifically on papal Diplomatics, up to the present day. The discipline’s boundaries did not remain static, however, and already in the eighteenth century a tradition of applying Diplomatics to substantive historical problems had begun, at the university of Göttingen. In the post-War world the contours of applied Diplomatics as a method were carefully outlined as a method by Fichtenau, of the Institut für Österreichische Geschichtsforschung; and from Othmar Hageneder in the same institute came the question behind this book.

Chapter 3, ‘Papal Documents, c. 400–c. 1150’, starts from papal letters resolving jurisprudential problems. Like the bulk of later papal letters, their production was demand-driven. Their structure owed much to Roman imperial models. An element of the imperial model was the *arenga*, a preamble which could be a vehicle for propaganda. A study of the *arenga* was one of Fichtenau’s key contributions to Diplomatics. In responding to demand for legal solutions, popes took the opportunity to begin with *arengae* which legitimated their claims to authority. Since early papal decretals were transmitted in canon law collections that were widely copied into the eleventh century and beyond, the *arengae* of Late

<sup>21</sup> J. T. Shotwell and L. R. Loomis, *The See of Peter* (New York, 1991): context and letters for Liberius: 534–563, 567–568, 590–591, 593–595; context and letters for Damasus: 595–629, 647–648, 673–674, 677–679, 694–696.

<sup>22</sup> Need it be said that this chapter on historiography can only cover a fraction of a field full of fine research? My apologies to all not mentioned: do not assume I have not profited from your work!