

estate.⁴⁸ Whether we shall be able to pierce this crust of custom and follow the hundred-pennies further, remains to be seen. At any rate we have found that they exist in Domesday and reach backwards beyond it. They are a public tax, and they are obscurely connected with some Saxon fiscal system whereby the hundred was assessed, and freemen, it would appear, were liable for payment. The trail leading through Domesday to this older system is not wholly lost. The hundred-pennies, as I venture to call them, in Somerset and Devon were part of the king's ferm collected in a royal manor; and this ferm of King Edward was the 'ferm of a day' or the 'ferm of a night' (the amount of provisions necessary to feed the king and his following for that length of time), an archaic institution reaching back indefinitely into Saxon tradition. There are reasons for believing that this ferm was once generally assessed upon the kingdom.⁴⁹ If we follow out these indications, it seems possible that through the hundred-pennies in Domesday the way may be open to a clearer view of the history of the royal ferm.

E. B. DEMAREST.

The Sources for the First Council of Lyons, 1245

IN the long struggle between the empire and the papacy the deposition of the Emperor Frederick II on 17 July 1245 marks a climax which has given exceptional interest to the council responsible for the sentence. A subject at once so important and so dramatic has naturally attracted many historians, and its literature has steadily grown in bulk. Our knowledge has also increased, but not in proportion. Progress has been made almost entirely by the more careful criticism of already well-known contemporary accounts; and A. Folz, who wrote the latest monograph on the council,¹ used no important evidence not known to Karajan, who in 1849 made the first serious attempt to handle the sources critically.² Both overlooked an account printed so long ago as 1844, which was written probably not more than thirty-five years after 1245 and most likely based on the docu-

⁴⁸ D. B. ii. 138 b: 'In Dentune there are twelve socmen. Stigand had jurisdiction over them in Ersam, and they had sixty acres. And St. Edmund had jurisdiction over four and they had forty acres which they could not dispose of by gift or sale outside this church, but Roger Bigot added them to Ersam for the sake of their custom because jurisdiction was already in the hundred.'

⁴⁹ Maitland, *Domesday Book and Beyond*, p. 237.

¹ *Kaiser Friedrich II. und Papst Innocenz IV.; ihr Kampf in den Jahren 1244 und 1245*, Strassburg, 1905.

² 'Zur Geschichte des Concils von Lyon 1245,' in *Denkschriften der kaiserlichen Akademie der Wissenschaften, Philosophisch-historische Classe*, ii. 67-118 (Vienna, 1851).

mentary evidence of eyewitnesses.³ Since the contemporary materials hitherto examined conflict at several points, it may not be out of place to attempt an estimate of the nature and value of this neglected source.

The record is the first entry on a roll which bears the title: *Articuli et Petitiones Praelatorum Angliae, et Responsiones Regis ad ipsos factae. Et alii diversi Articuli in concilio generali Lugdunensi et alibi, cum Supplicationibus factis Domino Papae pro regno Angliae—temporibus Henrici tertii et Edwardi filii eiusdem.* The editor, Sir Henry Cole, tells us that the roll was deposited in *Cur. Rem. Scaccarii* and that the membranes composing the roll were 'attached according to the Chancery mode',⁴ from which it may be inferred that the document was written in the royal chancery for official purposes. He further dates the roll vaguely '29 Hen. III and Ed. I', and says that the title is contemporary. I have had no opportunity to examine the manuscript, but a more definite date may be established by consideration of the internal evidence. The paragraph about the council of Lyons is followed by several other entries which deal with the powers in dispute between the king and the pope or between the king and the English clergy.⁵ All are copies of documents issued in 1245⁶ or in 1274,⁷ except three. The first of these is a series of articles concerning the respective jurisdictions of the lay and ecclesiastical courts,⁸ without indication of date. The second is a set of decrees enacted by a legatine assembly in the time of King John. The position of this item near the end of the roll indicates that the entries were not made on the roll at the same time with the events which they describe. The third, which is the last on the roll, is a list of limitations on the jurisdiction of the ecclesiastical courts. It concludes with suggested amendments

³ *Documents illustrative of English History in the Thirteenth and Fourteenth Centuries, selected from the Records of the Department of the Queen's Remembrancer of the Exchequer*, p. 351. ⁴ *Ibid.*, p. 351, note; p. xxxix. ⁵ *Ibid.*, pp. 351-62.

⁶ Their nature may be indicated briefly: (1) a letter sent to the cardinals at the first council of Lyons by the English baronage. It is the same, *mutatis mutandis*, as the letter addressed to the pope on the same occasion by *magnates et universitas regni Angliae*, which is preserved by Matthew Paris, *Chronica Maiora*, ed. Luard, iv. 441-4. (2) A list of further grievances presented to the pope at the same time. This is identical with a list given by Matthew (pp. 527, 528): he says, however, that the pope would not promise remedy (p. 478), which is contrary to the statement made in the roll (p. 353). (3) Two papal letters dated 7 April and 11 June 1245. Other copies of these are printed by Rymer, *Foedera*, i. 255, 261. (4) Six letters patent issued by Henry III between 19 April and 11 June 1245. Duplicate copies of these appear in *Cal. of Patent Rolls, 1232-47*, pp. 454, 455, 463.

⁷ These are: (1) An account of the selection of nuncios to be sent to the second council of Lyons held in 1274; while there can be no doubt about the date (see *ante*, xxx. 401, n. 21), it is not certain that this entry is the copy of a document: (2) the instructions given to the nuncios.

⁸ These articles are similar in form and content to the statutes *Circumspecte agatis* and *Articuli cleri: Statutes of the Realm*, i. 101, 171-4.

de novo statuto per vos edito domine Rex illustris super terris ad manum mortuam, which fixes the date after Michaelmas 1279.⁹

This roll was connected by Cole¹⁰ with two others which he edited.¹¹ One contains the constitutions of Archbishop Peckham adopted at the provincial council of Reading on 30 July 1279.¹² The other preserves five documents, which, with one exception, relate to questions of ecclesiastical jurisdiction raised by the acts of that council. The fifth is a complaint of papal oppression. All appear to have been written in 1279, or soon after, and one is dated 24 October 1279. The entries on all three rolls deal with the rights contested between church and state, and many of them find in the council of Reading the reason for their existence. It seems highly probable, therefore, that all three rolls were drawn up to serve Edward I as a memorandum in the quarrel which he had with Archbishop Peckham in 1279 as a result of the claims made at Reading in behalf of the ecclesiastical authority.¹³

This conclusion may appear at first glance to deprive the description of the first council of Lyons of all value as an historical source. Before such an inference is accepted, however, it should be determined whether the narrative was reproduced in 1279 from memory, or was the copy or summary of a document written originally in 1245. About one portion of it there can be no doubt. The appeal made by Thaddeus of Suessa, the imperial proctor, against the decision of the council is stated in his own words. They are the same as those found in an independent copy of the speech.¹⁴ It would be wellnigh impossible for any one to retain the exact words of a speech in his memory for thirty-four years. About the remainder there can be no such certainty, but a high degree of probability may be established. It is evident that all the remaining entries on the roll are copies of documents with one possible exception.¹⁵ It is probable, furthermore, that Henry III received a written report in 1245 from the nuncios whom he sent to the council,¹⁶ and this the writer of the roll in 1279 might have had at his disposal. The account, therefore, although not entered on this particular roll until 1279, may be presumed to be based on records written at the time of the council.

In order to explain the contribution made to our knowledge

⁹ The Statute of Mortmain was enacted at the Michaelmas parliament of 1279: Stubbs, *Select Charters*, 8th ed., pp. 457, 458; *Cal. of Patent Rolls, 1272-81*, p. 335.

¹⁰ p. 351, note.

¹¹ pp. 362-70.

¹² These are printed from another manuscript by Wilkins, *Concilia*, ii. 33-6.

¹³ Cf. Stubbs, *Constitutional History*, 4th ed., ii. 116, 117; *Select Charters*, p. 458.

¹⁴ Edited in *Monum. Germ., Constit.* ii. no. 399, and by Huillard-Bréholles, *Historia Diplomatica Frederici Secundi*, vi. 318. There are slight differences, such as might be due to the errors of a copyist, but they are few and unimportant. ¹⁵ Above, n. 7.

¹⁶ The nuncios on their return from Lyons went to Wales to report to Henry: *Ann. Cestrienses*, Lancashire and Cheshire Record Soc., p. 64.

by Cole's document it is necessary to survey briefly the sources previously used by historians. These may be divided into four classes: (1) a poem called *Pavo*¹⁷ which tells the story of the council in the form of a parable about an assembly of birds: its historical value is small, since it is a satire written with evident prejudice and since neither the author nor the date of composition is known with certainty; ¹⁸ (2) three fugitive pieces written to win popular support for the papal party against Frederick,¹⁹ which may perhaps throw some light on the politics of the council, but they were written shortly before the council met;²⁰ (3) a protest by Frederick against the decree of deposition setting forth his view of the action taken by the council;²¹ (4) contemporary narratives.²² Nearly all of these mention the deposition of the emperor,²³ a few touch briefly on other acts of the council, several have a word about the attendance,²⁴ but only two deal with the proceedings of the council as they occurred session by session. One was written by Matthew Paris;²⁵ the other, which is known as the *Brevis nota eorum quae in primo concilio Lugdunensi generali gesta sunt*, by an anonymous author.²⁶ These two are by far the most important sources.

The *Brevis Nota* is a brief dry narrative. There is no indication of the personality of the writer, but his detailed description of the ceremonial parts of the procedure led Karajan to the conclusion that he was an eyewitness.²⁷ Because this portion of the otherwise short account is so full, and because the *Brevis Nota* is found along with the *Liber Cancellariae* and the *Consuetudines Cancellariae* in a manuscript written about 1280, Dr. Tangl conjectured that the record was made by a papal notary chiefly for the purpose of preserving a precedent for conciliar procedure.²⁸ The reader who turns from the *Brevis Nota* to Matthew Paris

¹⁷ First edited by Karajan, *ubi supra*, pp. 93-117; also printed from another manuscript by Roth in *Romanische Forschungen*, vi. 46-54.

¹⁸ See Mulder, 'Zur Kritik der Schriften des Jordanus von Osnabrück', *Mitteilungen des Instituts für österreichische Geschichtsforschung*, xxx. 101-19 and the works there cited.

¹⁹ The best texts of all three are given by Winkelmann, *Acta Imperii inedita*, i. 568-70; ii. 709-21.

²⁰ Graefe, *Die Publizistik in der letzten Epoche Kaiser Friedrichs II.*, pp. 114, 119, 125-8, 155-63, 171-9. Compare Hampe, 'Über die Flugschriften zum Lyoner Konzil von 1245', *Historische Vierteljahrschrift*, xi. 297-313, and Folz, pp. 51, 52.

²¹ *Monum. Germ., Constit.* ii. 360-6.

²² Most of these are enumerated by Karajan and Folz.

²³ Only four fail to speak of the sentence, and two of these are Sicilian chronicles.

²⁴ See Karajan, pp. 76-81; Berger, *Saint Louis et Innocent IV*, pp. 119-23; Folz, pp. 55-64.

²⁵ *Chronica Maiora*, iv. 410-15, 419, 420, 430-79.

²⁶ The best edition is that in *Monum. Germ., Constit.* ii. 513-16.

²⁷ p. 83.

²⁸ 'Die sogenannte Brevis nota über das Lyoner Concil von 1245,' *Mitteilungen des Instituts für österreichische Geschichtsforschung*, xii. 247-9.

experiences much the same feeling as one who reads Macaulay after perusing the *Statesman's Year Book*. Matthew is here at his best. He rambles in his usual discursive fashion, but he makes an exceptionally good story and a much more circumstantial one. Schirmmacher's assumption that Matthew was present at the council²⁹ may be rejected,³⁰ but, as Kington-Oliphant long ago pointed out,³¹ he doubtless heard the story first-hand from members of the English clergy who attended.³² Dr. Tangl's hypothesis that the English chronicler may have used the *Brevis Nota*³³ is untenable,³⁴ and Matthew should be regarded as an independent authority who had ample opportunity to secure his information from trustworthy sources. On the other hand, he quotes at such great length from speeches made at the council, that he has been accused of sacrificing historical accuracy to rhetorical effect;³⁵ a temptation to which he sometimes yielded.³⁶

It is difficult then to evaluate rightly these two principal sources. The one was probably, but not certainly, written by an eyewitness; the other probably rests on credible testimony, but it may be coloured to suit the author's fancy. When the two agree, there is no difficulty; but when they differ, which is to be accepted? The less important sources hitherto utilized contribute little towards a solution, and modern historians have answered the question in different ways. Since the publication of Karajan's study (1851), and more especially since Dr. Tangl made known his conclusions (1891), the general tendency has been to give superior credence to the *Brevis Nota*,³⁷ but the practice has not been uniform.³⁸ Here Cole's document is of prime importance. It adds

²⁹ *Kaiser Friedrich der Zweite*, iv. 388.

³⁰ Folz, pp. 42, 43; Tangl, p. 247, n. 4.

³¹ *History of Frederick the Second*, ii. 360.

³² For the English who went to the council see Matthew Paris, iv. 413, 414, 419, 430, 553; Cole, p. 351; *Cal. of Patent Rolls, 1282-47*, pp. 454, 463; *Notices et Extraits des Manuscrits*, xxi, part ii, 271.

³³ p. 247, n. 4.

³⁴ Folz (pp. 44, 45) seems to settle the point conclusively, and much more evidence might be offered.

³⁵ Tangl, p. 247, n. 4; Folz, pp. 44, 45; Hampe, in a review of Folz's monograph, *Historische Zeitschrift*, ci. 372.

³⁶ Liebermann, introd. to *Chron. Mai.*, *Monum. Germ., Script.* xxviii. 92.

³⁷ Schirmmacher's treatment is an exception, since he believed Matthew to have been present. Some other accounts are by authors who make no attempt to handle the sources critically (e.g. Kington-Oliphant, ii. 356-69; Gerdes, *Geschichte der Hohenstaufen*, iii. 356-63). Cardinal Gasquet (*Henry III and the Church*, p. 240) says that 'most of the information we now possess about the Council of Lyons is derived from his (i. e. Matthew's) chronicle', and Mr. A. L. Smith (*Church and State in the Middle Ages*, p. 169) asserts that Matthew's is 'the only contemporary description' of the council.

³⁸ Take, for example, the divergence on the five topics which Innocent put before the council for discussion on 23 June (see below). Karajan (p. 84) follows Matthew, while Schirmmacher (iv. 127) accepts the *Brevis Nota*. Hefele (*Conciliengeschichte*, 2nd ed., v. 1109), Berger (pp. 129, 130), and Folz (p. 71) also prefer the latter.

few new facts, but it supplies a third and an independent narration of the business transacted at the council, and makes it possible to test the accuracy of Matthew and the *Brevis Nota* at several points of conflict.

The two disagree notably over the date of the first session. Matthew places it on 26 June with the second two days later.³⁹ The *Brevis Nota* has the council open on 28 June.⁴⁰ Since the events ascribed to 28 June are substantially the same in both, it has usually been assumed that Matthew's description of a session on 26 June applies to a preliminary meeting held for the purpose of arranging business and not to an official session.⁴¹ Cole's document, like the *Brevis Nota*, speaks of only three sessions and places the first on 28 June. Indirectly it gives reason to distrust Matthew's report of the preliminary session. Matthew states that the English envoys were then present,⁴² while the document says they did not attend on 28 June. As they probably failed to arrive in time,⁴³ their presence on 26 June must be regarded as doubtful. On 28 June Innocent IV announced the programme of business under five heads. The *Brevis Nota* and Matthew agree on four, but where the former mentions the depravity of the clergy,⁴⁴ the latter gives the new heresies:⁴⁵ Cole's document with its 'ordinances and constitutions of the whole general church' does not necessarily contradict either of the other statements, but the canons enacted by the council⁴⁶ deal largely with the discipline of the clergy and not at all with heresy.⁴⁷ The most controverted question of all is the date when the pope, at the request of the imperial representative, authorized a prorogation of the council in order to allow time for the emperor to appear in person. Matthew says that the pope granted a delay of two weeks on 29 June at the instance of the proctors of the kings of France and England, after he had refused the same favour to Thaddeus, the imperial

³⁹ pp. 431, 434.

⁴⁰ p. 513.

⁴¹ Karajan, pp. 81-3; Kington-Oliphant, ii. 357; Schirrmacher, iv. 391; Hefele, v. 1106; Berger, p. 128; Folz, pp. 65-7.

⁴² p. 431.

⁴³ The last of their instructions were not issued at Westminster until 11 June (*Cal. of Patent Rolls, 1232-47*, pp. 454, 463), and it would have required very rapid travelling for them to have arrived at Lyons by 28 June. In 1306 a messenger spent sixteen days in England and thirty-two across the Channel in going from Winchester to Lyons and return (Public Record Office, Exch. K. R. Accounts, 369/11). Sixteen days from Wissant (near Calais) to Lyons is probably a reasonable time for a fast journey. A medieval itinerary (*Registrum Malmesburiense*, ed. Martin, ii. 421, 422) allows nine days from Paris to Lyons. At the same rate of speed (i. e. about 35 miles a day) it would take from five to six days to go from Wissant to Paris. The journey from London to Wissant would occupy three or four days under favourable conditions (Public Record Office, Exch. K. R. Accounts, 309/12). If the nuncios left London on the morning of the 11th and accomplished their journey in remarkably good time, they would hardly have reached Lyons until the evening of the 27th.

⁴⁴ p. 514.

⁴⁵ p. 434.

⁴⁶ Matthew Paris, iv. 462-72; Hefele, v. 1114-23.

⁴⁷ See Folz, p. 70, n. 1.

proctor, the day before.⁴⁸ According to the *Brevis Nota* Thaddeus made his appeal at the session of 5 July and the pope immediately appointed the next session for 17 July.⁴⁹ Cole's document does not treat the subject directly, but it throws light on one aspect of the problem. Those who believe Matthew's statement and those who maintain the correctness of the *Brevis Nota* rely on the same evidence. Frederick in his letter of 31 July asserts that the pope should have awaited the return of Walter of Ocra, who had been sent from the council to the emperor in Italy, for a period stated in some copies of the letter at twenty days, and in one copy at twelve.⁵⁰ From this it is inferred that Walter had been sent to announce the adjournment to the emperor; and those who prefer the reading twenty days maintain that Walter left Lyons on 30 June and thus support Matthew,⁵¹ while those who prefer twelve days uphold the *Brevis Nota*.⁵² Cole's document states that Walter was present at the second session, and thus disposes of the attempt to prove Matthew's veracity by an inference drawn from Frederick's declaration.

None of these points is in itself of great significance, but the cumulative result of the whole comparison places the two principal sources in a much clearer light. Wherever Cole's document throws light on the divergences between Matthew Paris and the *Brevis Nota*, it is the former which suffers from the illumination. The reasons for the belief that Matthew's account must be used with great caution are increased, while the prevailing opinion that the *Brevis Nota* is the more trustworthy of the two sources receives fresh confirmation.

W. E. LUNT.

A Political Agreement of June 1318

WHEN engaged recently in arranging a series of papers described as 'State Papers Supplementary', which are very miscellaneous in character though largely akin to the series of state papers already known and printed, I came across one bundle consisting wholly of papers relating to Scotland. The origin of these papers it is difficult to recognize with certainty, though the following suggestions are probably correct.

The documents cover a period of a century or more, viz. from 1546 to 1653. It is a well-known fact that few state papers relating to Scotland exist in the Public Record Office for the period 1603 to 1688, the reason doubtless being that the records of legal

⁴⁸ pp. 436, 437.

⁴⁹ p. 515.

⁵⁰ *Monum. Germ., Constit.* ii. 384.

⁵¹ Schirrmacher, iv. 128-30, 396-8; Hampe in *Historische Zeitschrift*, ci. 373-8

⁵² Berger, pp. 130, 131; Folz, pp. 84-8, 156-8.