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Miszellen

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JEAN DE CROS AND THE PAPAL PENITENTIARY ON THE EVE OF THE GREAT SCHISM*

The purpose of the present article is to consider the role of the cardinal penitentiary, Jean de Cros, former bishop of Limoges, and of the curial department over which he presided, the papal penitentiary, in the early months of the pontificate of Pope Urban VI, that is, between Urban's election on 8 April 1378 and the election of his rival Clement VII on 20 September of the same year. An introductory section considers Jean's personal role in the election of Urban VI. Part I examines the depositions of men who were present in Rome at the time of the election recorded in a series of enquiries held by the kings of Castile and Aragon, in so far as these dispositions concern letters issued by the cardinal penitentiary. Part II compares these statements with the evidence of the small number of surviving original letters of the cardinal penitentiary dated between the two elections of 1378, while Part III compares the conduct of Jean de Cros with that of his brother, Pierre, who was papal chamberlain. A key source for the discussion is the protocol of the proceedings held in 1380–1381 by the king of Castile in order to decide which of the two claimants was the legitimate pope, which is extant in a manuscript in the Bibliothèque nationale de France. The testimony of Jean de Cros in this manuscript is printed for the first time in Appendix no. 1.

Jean de Cros was created cardinal priest of Ss. Nereo e Achilleo in 1371 by his kinsman Gregory XI, who appointed him *summus penitentiarius* in 1373 and promoted him to be cardinal bishop of Palestrina in 1376¹. Known as the cardinal of Limoges (*cardinalis Lemovicensis*), he was a leading figure in the faction of Limousin cardinals. Géraud du Puy, cardinal of Marmoutier, in a deposition made at Avignon in 1386, recalled Jean de Cros after Gregory XI's death raising the possibility of electing Bartolomeo Prignano, archbishop of Bari and acting head of the papal chancery, as pope: *Videretur vobis bonum quod eligeremus dominum Barensem in papam casu quo de aliquo eligendo de collegio non valeamus concordare*?² However,

* I am very grateful to Andreas Rehberg and Peter Linehan for their advice and assistance on numerous points and to Peter Godman, Hanna Vorholt and Daniel Williman for their comments on a draft of this paper. The terminology in English is ambiguous, because the word »penitentiary« refers to both the institution and its staff. In this essay I use »(papal) penitentiary« to describe the institution (*penitentiaria pape*) and »cardinal penitentiary« and »minor penitentiaries« to describe its staff (*penitentiarius maior* or *summus penitentiarius* and *penitentiarii minores*).

1 Conrad EUBEL, *Hierarchia Catholica Medii Aevi ab anno 1198 usque ad annum 1431 perducta*, Münster 2nd edn 1913, p. 21; Emil GÖLLER, *Die päpstliche Pönitentiare*, Rome 1907 (Bibliothek des Kgl. Preuss. Historischen Instituts in Rom, 3–4), vol. 1/1, p. 93, 95; vol. 1/2, p. 23–25. Jean de Cros died in 1383.

2 Archivio Segreto Vaticano (henceforth ASV), Arm. LIV, vol. 19, fol. 13 (cf. Michael SEIDLMEYER, *Die Anfänge des großen abendländischen Schismas*, Münster 1940 [Spanische Forschungen der

Jean's own account, dating from May 1380, states that before entering the conclave he had no intention of electing Prignano and that he wished to elect one of the cismontane cardinals³.

In the conclave that followed, when it became clear that none of the Limousin cardinals or any other cardinal would command sufficient support to be elected pope, the Limousins put forward the name of Bartolomeo Prignano. Jean de Cros is specifically and repeatedly mentioned as supporting Prignano's candidature, and he was the first cardinal to cast his vote for him on the morning of 8 April. The deposition of Thomas de Acerno, bishop of Lucera, made in July 1380, shows Jean de Cros dismissing the four Italian cardinals as suitable candidates, after the cardinal bishop of Porto (known as the cardinal of Florence) had cast his vote for the cardinal of St Peter: *Cardinalis Lemovicensis, qui erat secundus episcopus cardinalis, dixit hec verba: »Dominus sancti Petri non potest esse papa, quia est infirmus et totus perditus. Item quia est Romanus et nos non intendimus eligere Romanum. Item dominus Florentinus non potest esse papa, quia est de terra rebelli ecclesie, scilicet de Florentia. Item dominus Mediolanensis non potest esse papa quia est de terra tyrannorum et inimicorum ecclesie. Item dominus Iacobus de Ursinis non potest esse papa quia est iuuenis et est etiam Romanus et nos [recte non] intendimus eligere Romanum. Set ego eligo et assumo dominum Bartholomeum archiepiscopum Barenssem in papam*⁴. Pedro Tenorio, archbishop of Toledo and a supporter of Urban, claimed that on the day of the election three Limousin cardinals, including Jean de Cros, *dixerunt eidem [scil. electo] quod ipsi tres cardinales fuerunt motivi et causa electionis suae*⁵. Another Urbanist William Andrew, bishop of Achonry in Ireland but resident in the curia, reports Jean de Cros as saying of Urban, *quod bene erat provisum ecclesie de persona sua, et quod ellegerent [sic] sanctum virum et sancte electus est*⁶. When Jean de Cros was preparing to withdraw to Anagni, according to the same source, he still described Urban as *sanctissime electus et verus papa*⁷. The deposition of the Clementist Jean de Bar records a disagreement between Cardinal Pierre de Vergne and Jean de Cros, in which the latter insisted that Urban was the true pope⁸. Although two public quarrels between Jean and Urban are recorded⁹, on the whole relations between

Görresgesellschaft, 2. Reihe, 5], p. 221). This passage has been corrected in the hand of Martín de Zalva: the words *de aliquo eligendo de collegio non valeamus concordare* have been replaced by *quo cogemur ad Yalicum eligendum* (see *ibid.*, p. 225–226). For the depositions concerning the origins of the Schism and the role of Martín de Zalva in collecting them, see below at nn. 10–15.

3 See Appendix no. 1; SEIDLMEYER, Anfänge (as in n. 2), p. 217.

4 Paris, Bibliothèque nationale de France (henceforth BnF), MS. lat. 11475, fol. 88 (cf. SEIDLMEYER, Anfänge [as in n. 2], p. 218). On this manuscript, see below at nn. 12–16. Urban had provided Thomas to the see of Lucera. Cf. the testimony of Bonifacius de Amanatis, *ibid.*, fol. 261v. See also Étienne BALUZE, Guillaume MOLLAT (eds.), *Vitae paparum Avenionensium*, Paris 1916–1928, vol. 2, p. 519–520, 663, 668, 705; Olderico PŘEROVSKÝ, *L'elezione di Urbano VI e l'insorgere dello scisma d'occidente*, Rome 1960 (Miscellanea della Società Romana di Storia Patria, 20), p. 37, 45–46.

5 Edmond MARTÈNE, Ursin DURAND (eds.), *Thesaurus novus anecdotorum*, vol. 2, Paris 1717, col. 1113; cf. Martin SOUCHON, *Die Papstwahlen von Bonifaz VIII. bis Urban VI.*, Braunschweig 1888, p. 144.

6 ASV, Arm. LIV, vol. 15, fol. 71 (a deposition made at Rome in 1379: Seidlmayer, Anfänge [as in n. 2], p. 211). He is described here as *sacre theologie et apostolici palatii magister*, but a marginal note next to this description reads, *Item alius dixit michi quod erat episcopus sacre theologie magister*.

7 ASV, Arm. LIV, vol. 15, fol. 71–71v. Andrew is reporting *quidam familiaris suus episcopus*. It is clear from PŘEROVSKÝ, *L'elezione di Urbano VI* (as in n. 4), p. 134, that this was Nicholas, bishop of Viterbo.

8 BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 2, p. 584. Jean de Bar leaves scope for interpreting Jean de Cros' statement as deriving from fear: *Et tunc dixit dominus Lemovicensis iterum quod [dominus de Vernio] non dicebat bene, quia ponebat eos in periculo mortis, si ista diceret*.

9 *Ibid.*, p. 585.

them were relatively good; and there is no reason to suppose that Jean took a leading, or even a prominent, part in the cardinals' rebellion against Urban.

I

By 1378 the papal penitentiary was long established as the department of the curia which dealt with sins whose absolution was reserved to the apostolic see and which issued dispensations and certain other graces. Its head was the cardinal penitentiary. He was assisted by the minor penitentiaries, who heard confessions and absolved sinners; and he presided over a bureau which produced letters in his name granting dispensations (for instance, for marriage within the prohibited degrees) and a wide variety of favours (for instance, licences to choose a confessor). The bureau was staffed by a college of scribes, who engrossed these letters. This curial department exercised authority on behalf of the pope. Each pope tended to renew the faculties granted to the cardinal penitentiary and minor penitentiaries by earlier popes, and further faculties were added as the need arose. The cardinal penitentiary was obliged in certain cases not covered by such faculties to seek the pope's explicit approval before making a decision.

A unique source for the functioning of the papal penitentiary in the early months of Urban VI's pontificate survives: the depositions of men who were present in Rome at the time of Urban's election. These were collected as a result of the enquiries into the beginnings of the Schism instituted by the kings of Castile and Aragon from 1379 to 1386. Following the outbreak of the Schism, the four Iberian kingdoms were initially neutral. King John I of Castile took a leading role in seeking to gather sufficient information to decide which candidate to acknowledge as rightful pope. He and King Peter IV of Aragon sent ambassadors to Avignon and Rome to interview witnesses, as well as interviewing Spaniards who had been present at the curia in 1378 and had subsequently returned home. The witnesses related what they themselves had seen or what they had heard from others. Their testimonies survive principally in the *Libri de Schismate* in the Vatican Archives, a vast collection of materials concerning the Great Schism assembled by Martín de Zalva, bishop of Pamplona¹⁰. The *Libri de Schismate* do not represent an official collection, and they display numerous additions, alterations, corrections and marginal annotations. Their contents are highly miscellaneous in character, but the witnesses' depositions are of particular importance. The *Libri* include testimonies deriving from the hearings held by King John I at Medina del Campo in 1380–1381, which resulted in that king recognising Clement VII as pope¹¹. Another major source for these hearings is a manuscript in the Bibliothèque nationale de France¹². This is quite different in character from the *Libri de Schismate*, for it contains the official record, drawn up by a notary public, of the proceedings. Statements in support of Urban (the so-called *Factum Urbani*, here called the *Casus primi electi*) and Clement (the cardinals' letter of 2 August 1378, inc. *Cum propter falsam assersionem*, here called the *Casus secundi electi*) were divided into articles, and thirty-five witnesses were questioned about each of these articles¹³. Thirteen witnesses also made general statements in writing, called *depositiones generales*¹⁴.

10 ASV, Arm. LIV, vols 14–48. The fullest account of the *Libri de Schismate* is SEIDLMEYER, Anfänge (as in n. 2), pt II.

11 See *ibid.*, pt I, ch. 2.

12 BnF, MS. lat. 11745. See SEIDLMEYER, Anfänge (as in n. 2), pt I, ch. 2, and p. 207–208, 216–221; Jaume DE PUIG, Josep PERARNAU, *La Informatio brevis et metrica* de Nicolau Eimeric sobre el Cisma, in: *Jornades sobre el Cisma d'Occident a Catalunya, les Illes i el País Valencià*, vol. 1, Barcelona 1986, p. 205–223, at p. 207–217.

13 BnF, MS. lat. 11745, fols. 22v, 33.

14 SEIDLMEYER, Anfänge (as in n. 2), p. 47, 219–220.

Article 101 of the *Casus primi electi* refers to the cardinal penitentiary while resident in Anagni having issued letters dated by the first pontifical year of Urban VI: *Prefatus olim Cardinalis Lemovicensis existens summus penitentiarius in Anagnia cum aliis tunc cardinalibus nonnullas litteras ad officium penitentiariae spectantes suo sigillo autentico sigilatas ad diversas mundi partes directas scripsisset ponendo sub data Anagnie pont. sanctissimi in Christo patris et domini nostri domini Urbani divina providentia pape VI anno primo*¹⁵. Here and in certain other articles (for instance, concerning the cardinals' letters announcing Urban's election, their participation in his enthronement and coronation, and their submitting rolls of petitions to him), the witnesses were being asked about any behaviour that might suggest that the cardinals acknowledged Urban to be the true pope.

Jean de Cros does not appear as a witness in the surviving *Libri de Schismate*. Although he does appear in the protocol of the hearings at Medina del Campo¹⁶, his testimony here says nothing about the bureau over which he presided. However, other witnesses do mention the papal penitentiary in their testimonies, often in their response to article 101 of the *Casus primi electi*. The witnesses interpreted the evidence of the dating clause of the cardinal penitentiary's letters according to their own allegiance. For an Urbanist like the penitentiary scribe Walter Murner of Strasbourg, the dating of such letters by Urban's pontificate showed that Urban was acknowledged to be the true pope¹⁷. The Clementists for their part provided two explanations of the dating of these letters, one constitutional, the other practical. One was that it was not appropriate for a single cardinal unilaterally to declare against Urban; this was a matter for the College of Cardinals as a whole¹⁸. The other was that it would not have been safe for Jean de Cros to betray his true sentiments even at Anagni, until the arrival of the mercenaries who could defend him and the other cardinals against attack from Urban's supporters.

There was evidently considerable interest in the point up to which the cardinal penitentiary issued letters dated by Urban's pontificate. The witnesses, as we have seen, refer to two events in this context. The first is the arrival of the mercenaries at Anagni, which occurred soon after their victory over the Roman forces at Ponte Salario on 16 July¹⁹. The second is described as the cardinals' declaration against Urban²⁰. The declaration in question cannot be the letter of the

15 BnF, MS. lat. 11745, fol. 28.

16 It is printed in its entirety in Appendix no.1.

17 BnF, MS. lat. 11745, fol. 71; Louis GAYET, *Le Grand Schisme d'Occident*, Florence, Berlin, Paris 1889, vol. 1, Pièces justificatives, p. 31; Gerd TELLENBACH, *Beiträge zur kurialen Verwaltungsgeschichte im 14. Jahrhundert*, in: *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 24 (1931–32), p. 150–187, at p. 184.

18 This was Jean de Cros' own view according to Fernandus Petri, dean of Tarazona: BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 2, p. 586.

19 E.g., Gilles Bellemère: *Item interrogatus si audivit quod bone memorie dominus Lemovicensis penitentiarius maior litteras penitentiariae sub data pontificatus dicti Bartholomei Anagnie existens fieri fecerit, respondit se audivisse quod antequam homines armorum videlicet Britones et Vascones mandati per dominos cardinales pro securitate ipsorum Anagnie aplicarent, ipsi domini cardinales non fuerunt ausi super facto isto publice patefacere mentes suas, timentes populum ytalicum civitatis Anagnie in qua erant ... Et dixit etiam quod bene dici audivit quod ante adventum dictorum hominum armorum ad Anagniam aliique littere penitentiariae sub dicta forma a penitentiaria emanarunt sed que, quot vel quales ignorat nec aliquam earum recordatur se vidisse ... Verumptamen audivit dici quod post adventum dictorum hominum armorum ad Anagniam nulle tales littere sub predicta forma a penitentiaria emanarunt* (ASV, Arm. LIV, vol. 19, fol. 176v, a deposition made in Avignon, 1386: see SEIDLMEYER, *Anfänge* [as in n. 2], p. 222). See also the testimonies of Cardinal de Viviers and of Cardinal Guillaume d'Aigrefeuille (GAYET, *Le Grand Schisme* [as in n. 17], vol. 2, Pièces justificatives, p. 81–82, 122), and of Didacus Martini de Yrduna, canon of Toledo (BnF, MS. lat. 11745, fol. 133v).

20 E.g., Iohannes Rame: *usque ad declarationem factam in civitate ... Anagnina* (Anna Maria VOCI,

ultramontane cardinals to the Italian cardinals of 20 July, which refers to Urban's election as having been made unwillingly and under threat of death. Its dating clause is neutral: it is dated neither by Urban's pontificate nor *sede vacante*, but rather by the year of the Nativity and the Indiction²¹. The declaration is more likely to be the so-called manifesto of 2 August issued by the ultramontane cardinals. This likewise casts doubt on the election on the grounds of the fear experienced by the cardinals, but it differs from the letter of 20 July in that it is dated *sede vacante*²². An explicit and solemn condemnation of Urban only occurred on 9 August²³. Given the short gap between the arrival of the mercenaries and the declaration of 2 August, it is perhaps not surprising that the Clementists did not always distinguish carefully between the two dates. This applies, for instance, to the testimony of the cardinal of Aragon, Peter de Luna (the future Pope Benedict XIII), at the hearings at Medina del Campo²⁴. The Urbanist auditor of the *Rota* Cristoforus Galina (or *de Venetiis*) evidently saw a weakness here, claiming that the letters were still dated by Urban's pontificate subsequent to the troops' arrival²⁵, after which there could be no basis to the claim that the cardinals were acting out of fear. On the other hand, Gilles Bellemere, *auditor litterarum contradictarum* of Clement VII, denied that such letters were produced following the advent of the mercenaries²⁶.

While many witnesses in responding to article 101 of the *Casus primi electi* stated merely that they had seen letters of the cardinal penitentiary dated by Urban's pontificate or at least that they had heard of their existence, occasionally more details are provided. The testimony of the

Giovanna I d'Angiò e l'inizio del grande scisma d'occidente, in: Quellen und Forschungen aus italienischen Archiven und Bibliotheken 75 [1995], p. 178–255, at p. 252); Galhardus de Nova Ecclesia: *Item interrogatus si in Anagnia litteras sub pontificatu suo de penitentiaria scripserint respondit quod non vidit sed audivit quod sic, antequam declararent eum fuisse intrusum et antipapam non enim audebant aliter facere usque essent securi cum hominibus armorum pro quibus miserant, nam si antequam gentes armorum pro eorum custodia habuerunt obmississent scribere sub pontificatu suo, tunc Romani videntes quod eum non habebant pro papa subito Anagniam venissent et omnes interfecissent* (ASV, Arm. 54, vol. 16, fol. 32, a deposition made in Avignon in 1386: SEIDLMAYER, Anfänge [as in n. 2], p. 221). On Galhardus see Henri GILLES, Les auditeurs de Rote au temps de Clément VII et de Benoît XIII, in: Mélanges d'Archéologie et d'Histoire 57 (1955), p. 321–337, at p. 323–324.

21 Caesare BARONIO, OdoRico RINALDI, Giacomo LADERCHI (eds.), *Annales ecclesiastici*, new edn by Augustin THEINER, vol. 26, Bar-le-Duc 1872, p. 310 (a. 1378 § 40): *Dat. Anagniae anno a Nativitate Domini 1378, die 20 mensis Julii, primae Indictionis, sub propriis sigillis*. However, Marc DYKMANS, La troisième élection du pape Urbain VI, in: *Archivum Historiae Pontificiae* 15 (1977), p. 217–264, at p. 222, states that it is dated *sede vacante*.

22 BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 4, p. 173–184.

23 BARONIO, RINALDI, LADERCHI (eds.), *Annales ecclesiastici* (as in n. 21), vol. 26, p. 316–318 (a. 1378 § 48); António DE SOUSA COSTA (ed.), *Monumenta Portugaliae Vaticana*, vol. 3/1, Montariol, Braga, Porto 1982, p. 152 n. 119.

24 GAYET, *Le Grand Schisme* (as in n. 17), vol. 2, *Pièces justificatives*, p. 158 (in Latin); Michael SEIDLMAYER, Peter de Luna (Benedict XIII.) und die Entstehung des Großen Abendländischen Schismas, in: *Spanische Forschungen der Görresgesellschaft*, 1. Reihe: *Gesammelte Aufsätze zur Kulturgeschichte Spaniens* 4 (1933), p. 206–247, at p. 241 (in Castilian). For the cardinal's words as reported by Fernandus Petri, dean of Tarazona, see BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 2, p. 586. See also the testimony of Galhardus de Nova Ecclesia, quoted above n. 20.

25 ASV, Arm. 54, vol. 15, fol. 67v (a deposition made in Rome, 1379: Seidlmayer, Anfänge [as in n. 2], p. 211): *Interrogatus [respondit] quod viderat et studiose perlegerat usque ad diem declarationis quod in litteris penitentiariae erat pontificatus domini nostri Urbani, Britonibus et Gasconibus moram trahentibus ibi [scil. Anagnie]*. This passage is quoted in an incomprehensible form in BARONIO, RINALDI, LADERCHI (eds.), *Annales ecclesiastici* (as in n. 21), vol. 26, p. 300 (a. 1378 § 28).

26 ASV, Arm. LIV, vol. 19, fol. 176v.

penitentiary scribe Walter of Strasbourg contains welcome information about the functioning of the papal penitentiary during the early months of the pontificate. He claimed to possess *aliquas litteras de illa data [scil. domini pape Urbani], que erant distribute per summum penitentiarium cardinalem*²⁷. Walter also refers to Jean de Cros consulting the pope about the granting of supplications *super casibus de quibus ipse potestatem seu auctoritatem sine speciali mandato pape non habebat*²⁸. This accords with the established practice of the office: in addition to the supplications that the cardinal penitentiary was empowered to approve on the basis of the faculties that he had received from the pope, there were cases that needed the pope's explicit approval²⁹. It is these to which Walter is referring. The same witness records the cardinal complaining that Urban was making difficulties about approving such petitions; he would make no further applications to the pope, leaving it to the petitioners to approach him themselves³⁰.

William Andrew also had more to say about the papal penitentiary, but his testimony is not easy to interpret. He states that he received from the cardinal penitentiary almost 300 letters addressed to him as executor³¹. Most of the letters issued in response to supplications approved by the cardinal penitentiary were addressed to executors (known as *commissarii*)³². The executor was normally the petitioner's ordinary. A petitioner who was present in the curia might request an executor there, but this practice appears to have been exceptional. Yet Andrew as an executor resident in the curia claimed to have received numerous letters. Perhaps he exaggerated their number. On the other hand, the examination of an original letter of the cardinal penitentiary in the National Archives in London would lead one to suppose that letters were issued in large quantities from Anagni³³. It is noteworthy that the letters addressed to William

27 BnF, MS. lat. 11745, fol. 71r; GAYET, *Le Grand Schisme* (as in n. 17), vol. 1, Pièces justificatives, p. 31.

28 ... *vidi, quod dominus tunc cardinalis Lemovicensis qui reputatus fuit consciencie sue homo non compulsus per aliquem, sed compaciendo eis ut videbatur in camera sua recepit supplicationes pauperum clericorum et prelatorum et eis absoluciones et dispensaciones super casibus, de quibus ipse potestatem seu auctoritatem sine speciali mandato pape non habebat a dicto domino Urbano impetravit ... idem dominus Lemovicensis in dicta civitate Anagninensi plures absoluciones et dispensaciones concessit et fecit de speciali mandato dicti domini Urbani vice vocis oraculo super hoc sibi ut asserebat facto*: TELLENBACH, *Beiträge* (as in n. 17), p. 183–184. See also BALUZE, MOLLAT (eds), *Vitae* (as in n. 4), vol. 2, p. 587.

29 See GÖLLER, *Die päpstliche Pönitentiarie* (as in n. 1), vol. 1/1, p. 120–125, 210–211.

30 *Item dixit quod audivit semel a cardinali Lemovicensi qui erat penitentiarius, »Certe dominus noster papa non vult sine magna difficultate expedire supplicationes aliquas penitentiarie de quibus eum requiro, et ego non intendo sibi supplicare ex hinc, sed quicumque indigerit vadat ad eum«*: BnF, MS. lat. 11745, fol. 71r. Cf. GAYET, *Le Grand Schisme* (as in n. 17), vol. 2, Pièces justificatives, p. 31.

31 ASV, Vatican Archives, Arm. LIV, vol. 15, fol. 71v: *Et postquam fuit Anagnie dictus dominus Lemovicensis missit sibi deponenti fere CCC. litteras penitentiarie in quibus commitebatur eisdem [sic] testi dispensatio et penitentie iniunctio personarum pro quibus impetrare fuerant sigillo pontificali eiusdem domini cardinalis munitas et sub pontificatu domini nostri pape Urbani predicti anno primo*. Adam Easton, promoted to the cardinalate by Urban in 1381, also refers to these letters: *Item vidi quod dominus Lemovicensis fecit litteras de penitentiaria in Anagnia de anno pontificatus primo domini Urbani pape VI, et fuerunt littere directe domino episcopo Agadensi, et in Tibore vidi illas* (Leslie MCFARLANE, *An English account of the election of Urban VI, 1378*, in: *Bulletin of the Institute of Historical Research* 26 [1953], p. 75–85, at p. 85).

32 See GÖLLER, *Die päpstliche Pönitentiarie* (as in n. 1), vol. 1/2, p. 70–77, with references to *commissarii* resident in the curia at p. 75, 77; Ludwig SCHMUGGE, *Ehen vor Gericht. Paare der Renaissance vor dem Papst*, Berlin 2008, p. 24–30.

33 See Appendix no. 2. This letter is not addressed to an executor but to the letter's beneficiaries.

Andrew appear to have been sent directly to him, not handed out to the petitioners or their proctors. The chancery scribe and *corrector litterarum apostolicarum* of Clement VII, Pontius Beraldi, recalled Urban at Tivoli holding such a letter and showing it to those around him, presumably as evidence that Jean de Cros acknowledged him to be pope³⁴. Another executor of a letter of the cardinal penitentiary was Nicolaus Mesquinus, OP³⁵.

The final piece of evidence to be considered comes not from an eyewitness but from the *Rationes Anglicorum*, which purport to give the reasons why the English adhered to Urban, with Clementist responses. It seems that the work was compiled at Avignon in preparation for the mission to England of William Buxton, OP, in 1384, and that the responses were primarily the work of Gilles Bellemère³⁶. The ninth of the *Rationes* states that the letters of the cardinal penitentiary were dated in the first year of Urban, which showed by the highest authority that he was pope³⁷. The response contains the usual arguments against this view (that it was not appropriate for the cardinal penitentiary to act alone and that it was not safe to do otherwise). It then adds: *penitentiarius major, licet videat, moderetur, et signet supplicationes, non tamen sigillat nec videt litteras per se ipsum*. While this is no more than a transparent attempt to distance the cardinal from the letters that went out in his name, it seems accurately to reflect the administrative practice of the office. The cardinal penitentiary did indeed see the supplications; in certain circumstances he might alter their terms; and he approved them by signing them. We find his signature (to be precise, that of Urban's cardinal penitentiary, Luca Ridolfucci) on the earliest extant original supplication, which dates from 1384³⁸, while the procedures followed in approving the supplications can be traced in the registers of supplications, the first of which dates from the time of Alexander V and John XXIII³⁹. On the other hand, there is no reason to suppose that the cardinal penitentiary checked or sealed the letters himself: these were matters

34 ASV, Arm. LIV, vol. 19, fol. 185v (a deposition made in Avignon in 1386: see SEIDLMAYER, Anfänge [as in n. 2], p. 222): *Dixit etiam se semel in civitate Tiburtina ante dictam declarationem vidisse quandam litteram dispensationis sub dicta data et sigillo bone memorie domini Iohannis episcopi Penestrini tunc penitentiarii maioris ut aparebat sigillatam in manibus dicti Bartholomei, qui eam ostendebat illis qui erant ibi in sua presentia, tamen non recordatur ut asserit de qua data erat, sed videtur sibi quod satis erat recens, et ignorat etiam an esset vera vel falsa et an fuisset expedita de voluntate dicti domini penitentiarii ...* For Pontius Beraldi, see Patrick ZUTSHI, Unpublished fragments of the registers of common letters of Pope Urban VI (1378), in: Brigitte FLUG, Michael MATHEUS, Andreas REHBERG (eds.), *Kurie und Region. Festschrift für Brigide Schwarz*, Stuttgart 2005 (Geschichtliche Landeskunde, 59), p. 41–61, at p. 44 n. 26 (with further references).

35 See his deposition in BnF, MS. lat. 11745, fol. 73: ... *recepti unam litteram a domino summo penitentiario, ubi comitebat mihi quod imponerem penitentiam salutarem cuidam, cuius littera data fuit in Anagnia pontificat. domini nostri Urbani sexti anno primo ...* He is here called *Frater Nicolaus Cardinalis*, having been created a cardinal in Urban's first promotion of 18 September 1378. For his role in collecting testimonies in support of Urban, see SEIDLMAYER, Anfänge (as in n. 3), p. 211–216. Urban VI appointed him cardinal penitentiary in 1389 (GÖLLER, Die päpstliche Pönitentiarie [as in n. 1], vol. 1/1, p. 94).

36 Henri GILLES, *La vie et les œuvres de Gilles Bellemère*, in: *Bibliothèque de l'École des chartes* 124 (1966), p. 30–136, 382–431, at p. 82–84, 429 n. 2.

37 BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 4, p. 242.

38 For a detailed discussion, with references to the earlier literature, see Filippo TAMBURINI, *Note diplomatiche intorno a suppliche e lettere di penitenzieria (sec. XIV–XV)*, in: *Archivum Historiae Pontificiae* 11 (1973), p. 149–208, at p. 157–171.

39 ASV, *Sacra Penitenzieria Ap., Reg. Matrim. et Div.*, 1. See Filippo TAMBURINI, *Il primo registro di suppliche dell'Archivio della Sacra Penitenzieria Apostolica (1410–1411)*, in: *Rivista di Storia della Chiesa in Italia* 23 (1969), p. 384–427; Ludwig SCHMUGGE, *Kirche, Kinder, Karrieren. Päpstliche Dispense von der unehelichen Geburt im Spätmittelalter*, Zurich 1995, p. 9–17.

for the staff of the office. This is reflected in Gilles Bellemère's comment, with reference to the dating of letters by Urban's pontificate when the cardinals were at Anagni: *nescit si de mandato, conscientia vel voluntate dicti domini Lemovicensis sub dicta forma transiverunt, quia non omnes huiusmodi litteras, ymo paucissimas atque rarissime solet penitentiarius maior perlegere per se ipsum*⁴⁰. Pontius Beraldi made the same point: ... *cum, sicut asserit, littere que per penitentiariam expediuntur non consueverint examinari nec videri per dictum penitentiarium maiorem sed per certos officarios dicte penitentiarie*⁴¹. The situation was different from the chancery, where certain categories of letters were checked under the supervision of the vice-chancellor and signed by him⁴².

It is not surprising that, in the context of investigations into the validity of Urban's election, discussion of the letters of the cardinal penitentiary concentrated on the reference to Pope Urban VI in the dating clause. Only occasionally do the witnesses refer to the contents of these letters. Thomas Petra, *canonicus Pratacensis*⁴³, mentions having seen *litteras confessionales ad triennium*⁴⁴, that is, a standard licence valid for three years, which permitted its addressee or addressees to choose a private confessor⁴⁵. Nicholaus Martini, archdeacon of Salamanca, saw one of the letters *que erat legitimatio cuiusdam filii clerici sigillatam cum sigillo dicti domini cardinalis Lemovicensis et sub dicto pontificatu*⁴⁶. By *legimitatio* he probably meant a dispensation for a clerk of illegitimate birth to be promoted to holy orders and to receive an ecclesiastical benefice with cure of souls. Petrus Roderici, canon of Cordova, is unusual in naming the beneficiary of one of the letters of the cardinal penitentiary⁴⁷.

While the deponents frequently refer to the official activities of the cardinal penitentiary, the same cannot be said of those of the minor penitentiaries. There are incidental references to them; for instance, Alvarus Gundissalvi, *canonicus ut dicit Cordubensis*, recalled that he had heard that some minor penitentiaries asked Jean de Cros whether Urban was the true pope and the cardinal replied *quod ita erat verus papa sicut sanctus Petrus*⁴⁸. One penitentiary, the Hun-

40 ASV, Arm. LIV, vol. 19, fol. 176v.

41 ASV, Arm. LIV, vol. 19, fol. 185v.

42 Patrick N.R. ZUTSHI, *Original papal letters in England, 1305–1415*, Vatican City 1990 (Index Actorum Romanorum Pontificum ab Innocentio III ad Martinum V electum, 5), p. LXXIV–LXXVI.

43 Not identified; perhaps a mistake for *Patracensis* (Patras, Greece).

44 BnF, MS. lat. 11745, fol. 97: ... *vidi litteras confessionales ad triennium sigillatas sigillo penitentiarie maioris, videlicet domini Lemovicensis, sub data Anagnie et pontificatus domini Urbani pape VI anno primo, et eas presentavi domino cardinali sancti Ciriaci dandas domino nostro pape tempore quo frater Petrus de Guadalfaiara, frater dicti episcopi Alfonsi, erat in curia, quas etiam idem frater Petrus vidit et valde ipsum hedificarunt et quas dominus noster habere debet*. The point that the witness is making is that these letters were evidence that the cardinal acknowledged Urban VI to be pope and that for this reason they needed to be drawn to Urban's attention; cf. above at n. 34. The *cardinalis sancti Ciriaci* is Cardinal Nicolaus Mesquinus mentioned above at n. 35; the bishop is Alfonso Pecha, former bishop of Jaén, then resident in Rome and best known as the confidant of St Bridget of Sweden. On him see Franz BLIEMETZRIEDER, *Un'altra edizione rifatta del trattato di Alfonso Pecha, vescovo resignato di Iaén, sullo scisma (1387–88)*, con notizie sulla vita di Pietro Bohier, Benedittino, vescovo di Orvieto, in: *Rivista Storica Benedittina* 4 (1909), p. 74–100; A. JÖNSSON, *Alfonso de Jaén. His life and works*, Lund 1989 (Studia Graeca et Latina Lundensia, 1).

45 An example of this type of licence is printed in Appendix no. 2.

46 BnF, MS. lat. 11745, fol. 181. This testimony is printed from ASV, Arm. LIV, vol. 20, fols. 21v–26, in SOUSA COSTA (ed.), *Monumenta Portugaliae Vaticana* (as in n. 23), vol. 3/1, p. 16–17.

47 BnF, MS. lat. 11745, fol. 149: *Interrogatus super ci^o [articulo] dixit quod cardinalis Lemovicensis maior penitentiarius existens Anagnie concessit plures dispensationes et legitimationes ponendo in qualibet earum pontificatum dicti Urbani, inter quas fuit una Enneci Roderici de Narbuez*.

48 BnF, MS. lat. 11745, fol. 197.

garian Henricus de Buda, OESA, in his deposition mentions a cardinal who confessed to him and requested absolution, not *auctoritate Urbani pape* but *auctoritate ecclesie*⁴⁹. The Franciscan Menendus, a minor penitentiary provided by Urban VI to the see of Cordova, mentioned an account of a consistory that he had received from the minor penitentiaries, two of whom he named⁵⁰. It seems that Menendus was the only witness who alluded to the minor penitentiaries' work hearing confessions in St Peter's basilica: *Et iste testis non erat presens sed erat tunc in ecclesia S. Petri occupatus in suo officio audiendo penitentias ...*⁵¹.

II

The discussion has so far relied principally on the testimonies in the *Libri de Schismate* and elsewhere. However, they are a tendentious source, and in more ways than one⁵². They are tendentious because almost all the witnesses had already made up their mind about who was the rightful pope. As one would expect, their testimony tended to be affected by their convictions. They are also tendentious because the *Libri de Schismate* were assembled by Martín de Zalva, bishop of Pamplona, one of the most ardent supporters of Clement VII and Benedict XIII. His annotations in the volumes show that he regarded them as an armoury to assist in defending the legitimacy of the Avignonese popes⁵³. In the case of the testimonies recorded at Avignon in 1386, the annotations show that the bishop even attempted to elicit testimony favourable to the Clementist position and was willing to 'improve' the texts.⁵⁴ A further problem is that much of what the witnesses reported is not what they themselves saw but hearsay. All too often one reads *non vidit, sed audivit quod ...* or a similar expression. Moreover, the *Libri de Schismate* contain statements at a number of hearings made up to eight years after Urban VI's election. As memories faded, doubtless the scope for bias and wishful thinking increased. A final problem concerns not the testimonies themselves but the fact that many of them were printed in two early works of scholarship, the »Annales ecclesiastici« and Baluze's »Vitae paparum Avenionensium«. These are both highly polemical publications, one in favour of the Roman popes, the other of the Avignonese⁵⁵.

49 BnF, MS. lat. 11745, fol. 71v. Fernandus Petri, dean of Tarazona, reports having heard of the same incident from the bishop of Spoleto, without naming the minor penitentiary involved: *ibid.*, fol. 175. On Henricus de Buda, see Andreas REHBERG, *Die Pönitentiare in Urbe während der Avignoneser Zeit*, in: Kirsi SALONEN and Christian KRÖTZL (eds.), *The Roman Curia, the Apostolic Penitentiary and the Partes in the later Middle Ages*, Rome 2003 (*Acta Instituti Romani Finlandiae*, 28), p. 67–114, at p. 108–109.

50 SOUSA COSTA (ed.), *Monumenta Portugaliae Vaticana* (as in n. 23), vol. 3/1, p. 44. For an account of a conversation between Cardinal Robert of Geneva and an unnamed penitentiary, see *ibid.*, p. 33.

51 BnF, MS. lat. 11745, fol. 138v.

52 For what follows cf. Walter BRANDMÜLLER, *Papst und Konzil im Großen Schisma*, Paderborn etc. 1990, p. 11–12.

53 See especially Michael SEIDLMEYER, *Die spanischen Libri de Schismate des Vatikanischen Archivs*, in: *Spanische Forschungen der Görresgesellschaft*, 1. Reihe: *Gesammelte Aufsätze zur Kulturgeschichte Spaniens* 8 (1940), p. 199–262. For his career, see José ZUNZUNEGUI, *El reino de Navarra y su obispado de Pamplona durante la primera época del Cisma de Occidente*, San Sebastian 1942 (*Victoriensia*, 1); José GOÑI GAZTAMBIDE, *Historia de los obispos de Pamplona*, vol. 2, Pamplona 1979, p. 266–383.

54 SEIDLMEYER, *Anfänge* (as in n. 2), p. 225–228.

55 For a useful review of the earlier historiography, see Charles-Joseph HEFELE, *Histoire des conciles*, ed. H. LECLERCQ, Paris 1915, vol. 6/2, p. 975 n. 1. It is perhaps worth mentioning that Edward GIBBON's account of the Schism is closely based on Baluze: see *The History of the Decline and Fall of the Roman Empire*, vol. 12, London new edn 1790, especially p. 370 n. 67.

Despite these drawbacks, there are number of approaches that may be of benefit in assessing the testimonies. The latter contain countless circumstantial references to practices, customs and individuals associated with the curia and the city of Rome, providing information which did not have a direct bearing on the validity of Urban's election. It is reasonable to assume that in these cases there was less reason to be inaccurate or misleading than when the evidence was relevant to the validity of the election. Also helpful are testimonies from Clementists which admitted facts likely to reinforce the Urbanist case or vice versa. To return to the example of the dating of letters of the cardinal penitentiary by Urban's pontificate, one would clearly attach greater weight to mention of this in a Clementist than in an Urbanist testimony⁵⁶.

Another approach is to attempt to check the witnesses' testimonies against other evidence, especially documentary sources. In the case of the papal penitentiary, the only documents likely to survive are letters issued by the cardinal penitentiary in the archives of their recipients or deriving from such archives⁵⁷. I have traced three such letters, but it is likely that a more extensive search would reveal others, which might enable one to amplify or modify the account that follows.

The earliest letter is dated 16 May. It is a dispensation for a scholar of illegitimate birth from Valencia to be promoted to all orders and to receive a benefice with cure of souls. The cardinal penitentiary issued it at the pope's express command (*de ipsius speciali mandato super hoc vive vocis oraculo nobis facto*)⁵⁸. As we have seen, the cardinal penitentiary needed the pope's special permission to issue certain categories of dispensations and other favours, permission which was conveyed orally. The much more abundant fifteenth-century evidence suggests that a dispensation of this kind did not require such permission⁵⁹. Whether it was general practice in the fourteenth century for the pope to authorise such dispensations or whether this was a peculiarity of Urban VI's pontificate is unclear. The second document is dated 9 June. It is a standard licence to choose a private confessor valid for three years in favour of Richard Bromleye and his wife Agnes⁶⁰. The issue of such a licence did not require the express sanction of the pope, nor is this mentioned in the letter. The final letter dates from 19 June. It empowers two prelates to absolve citizens of Cologne who have incurred sentences of excommunication and the like in the course of a dispute between the city and the archbishop of Cologne. Like the first letter, it is said to have been issued at the pope's command, delivered orally⁶¹.

56 Quite apart from the numerous Clementist deponents who admitted the existence of such letters, the embassy of the king of France to Wenceslas, king of the Romans, in 1383 referred to them: see Julius WEIZSÄCKER (ed.), *Deutsche Reichstagsakten unter König Wenzel*, 1. Abt. 1376–1387, Munich 1867, p. 406, praising the *provida simulacio* of the cardinals, *et singulariter domini cardinalis Lemovicensis summi penitenciarum in Anania concedentis literas ad dictum officium pertinentes*.

57 The apostolic penitentiary's own archive does not begin until the fifteenth century (see above at n. 39). The minor penitentiaries also issued letters, but these survive only rarely.

58 M. Milagros CÁRCCEL ORTÍ, *De presbitero genitus et soluta. Dispensas de ilegitimidad para ordenarse en la diócesis de Valencia (siglos XIV–XV)*, in: *Escritos dedicados a José María Fernández Catón*, Leon 2004, vol. 1, p. 133–162, at p. 150–151.

59 See, e.g., Ludwig SCHMUGGE, Krystyna BUKOWSKA, Alessandra MOSCIATTI, Hildegard SCHNEIDER-SCHMUGGE, *Repertorium Poenitentiarie Germanicum*, vol. 2: *Nikolaus V. 1447–1455*, Tübingen 1999, p. 115–198. For dispensations of this type, see Ludwig SCHMUGGE, Patrick HERSPERGER, Béatrice WIGGENHAUSER, *Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius' II.*, Tübingen 1996, ch. 7.

60 London, National Archives, E315/43, no. 271; printed in Appendix no. 2.

61 It is printed in Heinrich SAUERLAND, *Urkunden und Regesten zur Geschichte der Rheinlande aus dem Vatikanischen Archiv*, vol. 6, Bonn 1912 (Publikationen der Gesellschaft für Rheinische Geschichtskunde, XXIII/6), p. 6–7, no. 8. Here it is wrongly dated 3 August, which misled Theodor GRAF, *Papst Urban VI. Untersuchungen über die römische Kurie seines Pontifikats*, Diss. Berlin 1916, at p. 33a.

I know of no letter of the cardinal penitentiary dated by Urban's pontificate later than 19 June. It is very unlikely that letters of the cardinal penitentiary referred to Urban after 2 August⁶²; between this date and Clement's election (20 September 1378) they were probably dated *sede vacante*. There is in fact a reference to such a letter, in the testimony of William Andrew. He states that as an executor he received one, and tore it up⁶³.

All three letters of the cardinal penitentiary are dated at St Peter's, Rome. Yet by Pentecost, which in 1378 fell on 6 June, Jean de Cros had left Rome to join the other cardinals at Anagni⁶⁴. It is clear that, when article 101 of the *Casus primi electi*⁶⁵ and the depositions mention letters of the cardinal penitentiary »given at Anagni«⁶⁶, this cannot be taken literally. They are alluding to the cardinal's residence there, doubtless along with the scribes and other staff of the bureau; but the extant letters show that St Peter's, Rome, not Anagni, was named in the dating clause. The *data topographica* in the letters may represent the place of the pope's residence, for it is very likely that he was at St Peter's on these three days⁶⁷.

The cardinal penitentiary's letter of 19 June purported to be issued at the pope's oral command delivered to the cardinal, and Walter of Strasbourg refers to other absolutions and dispensations which fall into this category⁶⁸. However, such a command would have been impossible, for the pope was in Rome (or later at Tivoli), the cardinal penitentiary in Anagni⁶⁹. Either the reference to the pope's involvement is a fiction or the pope's wishes were not conveyed orally but in some other way. Jean de Cros' complaint about the difficulties made by the pope in approving supplications⁷⁰, which shows that there were contacts between the two men, tends to support the latter explanation. Although it is not clear whether Jean made this statement in Rome or Anagni, he did write letters to Urban from Anagni on 22–23 June⁷¹.

62 See above at n. 22.

63 ASV, Arm. LIV, vol. 15, fol. 71v: *Et ultimo recepit unam datam sede vacantem [recte vacante] quam dictus testis laceravit in presentia portantis, ut dixit.*

64 The testimony of Menendus states: *in festo Penthecostes non remanserunt cum papa nisi septem cardinales, quatuor ytalici et tres ultramontani, videl. Gebenensis, Glandatensis et de Luna. Et iste testis vidit illos septem supradictos cardinales in missa cum papa in dicto festo* (SEIDLMAYER, Anfänge [as in n. 2], p. 278–279). For the departure of the cardinals to Anagni, see HEFELE, Histoire des conciles (as in n. 55), vol. 6/2, p. 1057 n. 5.

65 See above at n. 15.

66 E.g., Menendus: *Interrogatus si vidit ipse aliquas litteras penitentiarie datas Anagnie sub dicto pontificatu et quas, dixit quod vidit aliquas earum de absolutionibus et dispensationibus sed non recordatur de personis* (SOUSA COSTA [ed.], Monumenta Portugaliae Vaticana [as in n. 23], vol. 3/1, p. 49).

67 Urban dates at St Peter's on 15 and 17 May: Tilmann SCHMIDT, Die Originale der Papsturkunden in Norddeutschland 1199–1415, Vatican City 2003 (Index Actorum Romanorum Pontificum ab Innocentio III ad Martinus V electum, 7), p. 137 no. 247; SAUERLAND (ed.), Urkunden und Regesten (as in n. 62), vol. 7, p. 1–2, no. 2. He was still at St Peter's on 15 June (Sergio PAGANO [ed.], Schedario Baumgarten, vol. 3, Vatican City 1983, no. 6409). He left Rome on 27 June for Tivoli: *Ipseque licet requisitus per aliquos ex dominis non exivit Urbem usque ad diem xxvii Iunii qua omnes cardinales ultramontani erant in Anagnia et tunc venit ad civitatem Tiburtinam populo Romano subiectam* (testimony of Petrus Rostagni, castellan of Castel S. Angelo, entitled the *Casus domini Castellani*, ASV, Arm. LIV, vol. 14, fol. 320).

68 *Item idem dominus Lemovicensis in dicta civitate Anagniensis plures absoluciones et dispensaciones concessit et fecit de speciali mandato dicti domini Urbani vice vocis oraculo super hoc sibi ut asserebat facto*: Tellenbach, Beiträge (as in n. 17), p. 184.

69 The implausibility of the procedure is perhaps reflected in the *ut asserebat* in the testimony of Walter of Strasbourg (see previous note).

70 See above at n. 30.

71 GAYET, Le Grand Schisme (as in n. 17), vol. 2, p. 230–231; BARONIO, RINALDI, LADERCHI (eds.), Annales ecclesiastici (as in n. 21), vol. 26, p. 300 (a. 1378 § 28).

III

The papal penitentiary was not the only curial department to operate *sede vacante*. The apostolic chamber also did so, in order to safeguard the material resources of the papacy. It may be instructive to compare the functioning of these two departments, especially as the chamberlain was Jean de Cros' brother, Pierre. There was a contrast in the two brothers' attitude to the new pope. It is evident in the testimony of Alvarus Martini, ambassador of Henry II, king of Castile, to Gregory XI, who records that, when Urban summoned the cardinals who had taken refuge in Castel S. Angelo to come to him, Pierre said, *Quid facit ille fatuus? Credit quod sit papa? Ita modicum est papa sicut ego. Et tunc dixit dominus Lemovicensis: Tace, quia verus est papa*⁷². On the other hand, Pierre's own testimony implies that he had a better opinion of Urban: *ante intronizationem suam diligebat dictum B. inter omnes Italicos et predilexisset ipsum esse papam quam quemcumque alium Italicum si scivisset ipsum canonice electum*⁷³. Although Pierre did submit to Urban⁷⁴, he seems never to have reconciled himself to his election, and he did all he could to undermine Urban's position. He removed the papal treasure stored in Castel S. Angelo to Anagni; he recruited Bernardon de la Salle and his company of mercenaries to defend the cardinals; he wrote to Charles V king of France and Joan queen of Naples against Urban; and he appears to have been in league with Pierre de Murles, Urban's envoy to Charles V, who privately cast doubt on the validity of Urban's election⁷⁵.

Under Urban V and Gregory XI, *litterae patentes* of the chamberlain were dated by the pope's pontifical year⁷⁶. Yet as early as 12 May, Pierre de Cros issued a letter which was dated in a neutral fashion, neither by Urban's pontificate nor *sede vacante*, but by the year of the Nativity⁷⁷. Pierre's views are clearer from a letter of 1 July which refers to the apostolic see, *prout ad presens vacare dignoscitur*⁷⁸. This letter appoints Pierre de Vernols, bishop of Maguelonne, treasurer during the vacancy⁷⁹. In a letter which is unfortunately undated but thought to

72 BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 2, p. 584; SEIDLMAYER, *Anfänge* (as in n. 2), p. 271; cf. PŘEROVSKÝ, *L'elezione di Urbano VI* (as in n. 4), p. 123.

73 ASV, Arm. LIV, vol. 19, fol. 110 (a deposition made at Avignon, 1386; see SEIDLMAYER, *Anfänge* [as in n. 2], p. 222); Arm. LIV, vol. 20, fol. 147v (whence printed by SOUSA COSTA [ed.], *Monumenta Portugaliae Vaticana* (as in n. 23), vol. 3/1, p. 143); BnF, MS. lat. 11745, fol. 64v (from an autograph deposition of Pierre de Cros written for the ambassadors of the king of Castile).

74 BALUZE, MOLLAT (eds.), *Vitae* (as in n. 4), vol. 2, p. 820–821; PŘEROVSKÝ, *L'elezione di Urbano VI* (as in n. 4), p. 134.

75 See his deposition printed by SOUSA COSTA (ed.), *Monumenta Portugaliae Vaticana* (as in n. 23), vol. 3/1, p. 142–143; PŘEROVSKÝ, *L'elezione di Urbano VI* (as in n. 4), p. 123–124; Noël VALOIS, *La France et le Grand Schisme d'Occident*, vol. 1, Paris 1896, p. 90–93. Urban's measures against Pierre were said to be the reason for Jean de Cros' departure to Anagni (see PŘEROVSKÝ, p. 134).

76 Daniel WILLIMAN, *Calendar of the letters of Arnaud Aubert, Camerarius Apostolicus, 1361–1371*, Toronto 1992 (*Subsidia Mediaevalia*, 20), nos. 767–768, 851, 868, 871. However, *litterae clausae* of the chamberlain were dated by the year of the Nativity, not by the pontifical year: e.g., *ibid.*, nos. 827, 830.

77 Cited by Daniel WILLIMAN, *Schism within the curia: the twin papal elections of 1378*, in: *Journal of Ecclesiastical History* 59 (2008), p. 29–47, at p. 43–44.

78 *Cum ad nos, ratione nostri Camerariatus officii, spectet et pertineat, Sede Apostolica vacante prout ad presens vacare dignoscitur, administratio, regimen et gubernatio totius temporalitatis ad sanctam Romanam ecclesiam pertinentis* . . . I am indebted to Professor Daniel Williman for a transcript of this letter from ASV, Camera Ap., *Collectoriae* 393, fols. 70v, 73r and 92r–93v. It is quoted in a garbled form by PŘEROVSKÝ, *L'elezione di Urbano VI* (as in n. 4), p. 124.

79 On the letter see Lily GREINER, *Un représentant de la chambre apostolique de Clément VII en Aragon au début du Grand Schisme*, in: *Mélanges d'Archéologie et d'Histoire* 65 (1953), p. 197–213, at p. 203; Jean FAVIER, *Les finances pontificales à l'époque du Grand Schisme d'Occident*, Paris 1966 (*Bibliothèque des Écoles françaises d'Athènes et de Rome*, 111), p. 77 n. 4.

be from before 10 July, Pierre de Cros cited Bartolomeo Prignano to appear before his court at Anagni⁸⁰. On 20 July Pierre de Cros issued three letters which accused Urban of having occupied the apostolic see by violence; he was *intrusus, apostaticus non apostolicus, Antichristus et invasor ac destructor, si sustineretur, totius Christianitatis*⁸¹. The letter of the ultramontane to the Italian cardinals of the same date was much more circumspect⁸². Pierre de Cros did not share the scruples ascribed to his brother about unilaterally making a decision concerning Urban's status prior to the College of Cardinals doing so. Indeed, at almost every stage, he acted in advance of the cardinals, including his brother. On the other hand, there is no evidence of Jean de Cros at any time acting independently against Urban; he seems to have limited himself to subscribing to the ultramontane cardinals' letter of 20 July and their manifesto of 2 August.

While the chamberlain in 1376 had accompanied Gregory XI to Rome, the treasurer, Pierre de Vernols, bishop of Maguelonne, remained in Avignon⁸³. In a volume in the series of the treasurer's accounts, *Obligaciones et Solutiones*, an entry of 20 June 1378 is dated by Urban's pontificate. From 12 July to 9 August, the dating is neutral, by day, month and year. From 12 September to 4 October, the entries are dated *sede vacante*⁸⁴. Thus, a similar development is evident to that in documents issued by the chamberlain himself, but the treasurer lagged considerably behind the chamberlain.

It seems that the majority of curialists supported Clement VII, eventually accompanying him back to Avignon. The penitentiary scribes are an extreme case, since they followed the cardinal penitentiary *en masse* in defecting to Clement. We learn this from the formulary compiled by Walter of Strasbourg, who was a penitentiary proctor from 1367 or earlier and who was one of Urban's appointments to the office of penitentiary scribe following the defection⁸⁵. A new formulary of letters of the cardinal penitentiary was needed because of the lack of experienced personnel and documentation in Urban's penitentiary⁸⁶. One likely reason for the scribes' uniform adherence to Clement is that they had almost certainly already moved away from Rome with the cardinal penitentiary⁸⁷.

The principal conclusion of this article concerns the relative value of the testimonies concerning the origins of the Schism in the Bibliothèque nationale de France and the Vatican Archives, on

80 WILLIMAN, Schism within the curia (as in n. 77), p. 45.

81 Daniel WILLIMAN, The camerary and the Schism, in: *Genèse et débuts du Grand Schisme d'Occident*, Paris 1980 (Colloques internationaux du Centre National de la Recherche Scientifique, 586), p. 65–71, at p. 70–71. The language is echoed in the proceedings of 9 August, subscribed by Pierre de Cros as well as by the cardinals: *papam et apostolicum se nominavit qui a sanctis patribus, et jure communi apostaticus, anathematizatus, antichristus, et totius Christianitatis illusor, ac destructor potius et merito nominatur* (SOUSA COSTA [ed.], *Monumenta Portugaliae Vaticana* (as in n. 23), vol. 3/1, p. 152 n. 119).

82 See above at n. 22.

83 For Pierre de Vernols, see FAVIER, *Les finances pontificales* (as in n. 79), p. 77–78.

84 Konrad EUBEL, *Das Itinerar der Päpste zur Zeit des großen Schismas*, in: *Historisches Jahrbuch* 16 (1895), p. 545–564, at p. 546 n. 1. On 17 September Pierre de Vernols referred to the archbishop of Bari, *qui se falso gerit pro papa* (FAVIER, *Les finances pontificales* [as in n. 79], p. 139).

85 See Matthäus MEYER (ed.), *Die Pönitentiare-Formularsammlung des Walter Murner von Strassburg*, Fribourg 1979 (Spicilegium Friburgense, 25), p. 13, 15.

86 MEYER (ed.), *Die Pönitentiare-Formularsammlung* (as in n. 85), p. 181: *quia exorto scismate dicti scriptores antiqui experti a Romana curia omnes recesserunt novique illis in arte et ex[c]ercicio ac experientia non similes eis in eorum officium successerunt, quibus grave erat dictas formas reperire et intelligere, ...*

87 See above at n. 85.

the one hand, and of the official documents, on the other. The testimonies represent a unique and alluring resource. Their vividness and immediacy are not in doubt, but their reliability is. For this reason, I have sought in this paper to consider them in the light of the documentary sources. The results of this exercise are rather surprising. On the one hand, the testimonies, despite occasional errors, provide valuable information concerning the functioning of the papal penitentiary, information which can be confirmed as accurate by fourteenth-century records or at least by the more abundant documentation of the fifteenth century. They show an awareness of the evidential value of official documents, paying attention to their diplomatic features, including the dating clause, something that few subsequent commentators have done. On the other hand, we cannot take the letters of the cardinal penitentiary at their face value. They are dated by the pontificate of a pope from whom he was increasingly distancing himself; two are dated at a place where the cardinal was not in residence; and one was issued as a result of an oral command from the pope ostensibly transmitted over a distance of more than fifty kilometres. The letters deserve to be treated with as much scepticism as the colourful and partisan accounts of the eyewitnesses. Nonetheless, it would be wrong to seek to minimise the historical value of the documents emanating from cardinals and curialists in the early months of Urban's rule. These documents, not least their dating clauses, provide the most precise evidence of the growing disaffection with Urban's rule and thus should play a crucial part in any analysis of the beginnings of the Great Schism.

One may also conclude, on the basis of both the eyewitness accounts and the few surviving documents, that the papal penitentiary functioned more or less normally in the early months of Urban's pontificate. There is explicit evidence of at least one of the minor penitentiaries hearing confessions in St Peter's; and other essential features of the functioning of the papal penitentiary as an administrative organization and a writing office are well attested: the signing of petitions by the cardinal penitentiary; letters of the cardinal penitentiary with the usual subject matter produced in the usual form and according to the usual procedures; consultation of the pope in cases where his express approval was needed (although in this respect matters do not seem to have proceeded smoothly); the appointment of executors resident in the curia when the petitioner was present there in person. Thus, in these months, the papal penitentiary continued to be »die Zentrale der Verwaltung des Gewissens«⁸⁸. These features are apparent at a time of momentous personal and constitutional conflict within the Latin Church. They reflect the strengths of the administration that Urban VI inherited from the Avignon popes, an administration in which Urban himself had played a prominent part.

Appendix

1.

Testimony of Jean de Cros. Avignon, May 1380.

Paris, Bibl. nat. de France, MS. lat. 11745, fols. 36v–37.

The transcript seeks to preserve the spelling of the manuscript, but punctuation and capitalisation are editorial.

Iohannes Cardinalis Lemovicensis. Dominus Cardinalis Lemovicensis dictus Cardinalis Penetrinus iuravit in consciencia sua ponendo manus ad pectus et sub iuramento deposuit que sequuntur, referendo se semper ad casum quem ipse et alii Cardinales citramontani posuerunt in isto negotio apud civitatem Anagnie, declarando circunstancias facti circa illa que sibi particulariter obvenierunt. Dixit ac asseruit esse vera que sequuntur.

88 SCHMUGGE, HERSPERGER, WIGGENHAUSER, Die Supplikenregister (as in n. 59), p. 9.

Primo quod ante ingressum conclavis iste Cardinalis numquam proposuit in mente sua eligere seu nominare dictum Archiepiscopum Barensen in papam nec intendebat eligere aliquem nisi de Cardinalibus citramontanis, ymo cogitabat quando fuit ingressus conclave quod in burssa sua portabat papam et erat unus de Cardinalibus citramontanis quem credebat acceptum omnibus aliis citramontanis.

Item deposuit quod ante nec post ingressum conclavis numquam cogitaverat de eligendo dictum Archiepiscopum Barensen usque ad horam qua factus fuit clamor validus populi Romani, et quando erat in illo actu dominus Cardinalis Florentinus nominavit in papam Cardinalem Sancti Petri, qui erat Romanus, et tunc iste nominavit primo istum Archiepiscopum Barensen qui erat de extra collegium, timore mortis, alias non factururus, et credidit quod ipse dixit quod eligebat eum animo et proposito quod esset papa, timore tamen mortis.

Item dixit quod isti alii domini intraverunt de sero conclave, post intraverunt statim gentes armorum et occupaverunt partem illam que est sub solarario ubi erat conclave, nec promiserunt quod muraretur conclave ut est fieri consuetum. Set cum lignis clauserunt portam et percutiebant tota nocte illa in solarario conclavis fortiter cum baculis, et timebant cardinales et iste quod supponeretur ignis, quia postes de solarario erant de lignis.

Item eadem die de sero in principio noctis venerunt capita regionum qui erant XIII cum aliis et quando domini Cardinales vellent se ponere ad dormiendum illi intraverunt conclave contra voluntates Cardinalium et contra morem solitum et dixerunt Cardinalibus quod providerent de papa Romano vel Ytalicum, nam ipsi videbant populum taliter dispositum quod nisi sic facerent quod esset dampnum et scandalum yrrparabile, et cum domini Cardinales responderent quod ipsi facerent illud quod videretur sibi secundum deum, nam intencio sua erat providere de illo qui esset magis utilis ecclesie Romane, tunc ipsi Romani dixerunt quod expediebat quod clarificerent populum de hoc et inceperunt conferre de istis per spacium. Tandem recesserunt Romani male contenti. Set illa die de mane aliquantulum cessaverunt a tumultu, Cardinales inceperunt dicere horas, et post celebracionem duarum missarum fuit clamor validus et campane trahebantur ad martellum. Non recordatur bene si campane fuerunt pulsate ante celebracionem secunde misse. Set meminit quod pericula, more populi et sonitu campanarum ipse parum attendebat ad missam ac si nunquam diceretur. Set statim dominus Valentinus episcopus nunc, sed Marsiliensis tunc, qui erat unus de custodibus conclavis, clamavit magna voce »Domini, domini, expediat is vos scito [recte cito], alias omnes eritis scisi per frustra nisi Romanum vel Ytalicum eligatis in brevi«, et tunc timore mortis processerunt ad actum electionis, ut supradictum est. Set dominus Cardinalis de Ursinis non voluit eligere quia dixit quod nichil valebat quod agebatur et adiecit quod etiam si ipsum eligerent quod non acceptaret propter impressionem manifestam que fiebat eis.

[fol. 37] *Item dixit iste Cardinalis deponens quod nunquam in animo tenuit pro papa illum B., licet faceret aliquos actus, impendendo sibi reverenciam ut pape quamdiu fuit Rome. Et credit quod si Romani scivissent mentem istius Cardinalis non evasisset mortem, ut credit. Verumptamen credit quod, licet Cardinales scirent qualiter ille non erat papa propter impressionem Romanorum eis factam, si tamen ille B. non detexisset mores suos et voluisset ire cum ipsis Cardinalibus ad locum securum ubi non timuissent potentiam Romanorum, quod propter vitacionem scismatis reelegissent forte illum B. ne ponerent divisionem in ecclesia. Set vere statim fuit mutatus quod nullam discrecionem habebat, ymo videbatur agere stolide omnia que faciebat tanquam furiosus.*

Item dixit quod dominus Mediolanensis dixerat semel isti Cardinali quod ille B. occupabat cathedram Sancti Petri et non erat papa et recordatur quod ante ingressum conclavis, dum iste Cardinalis iret ad visitandum loca sanctorum equitando pendentibus illis X diebus, aliquando occurrebant sibi Romani dicentes quod viderent qualiter ipse et alii Cardinales darent sibi papam Romanam vel Ytalicum, alias omnes ultramontani essent scisi per frustra, minabantur sibi et aliis dominis, et iste non dicebat eis nisi quod bene fieret.

Item deposuit quod, quando fuerunt in loco ubi ipse et alii domini Cardinales fecerunt electionem domini pape Clementis qui nunc est, accesserunt ad eos Cardinales Ytalici, illi tres dominus Florentinus, dominus Mediolanensis et dominus de Ursinis, et exposuerunt eis alii domini casum quem posuerunt in ista materia et factum qualiter se habuerat. Et omnes illi tres dixerunt quod sic contigerat totum eciam quod poterant addere plus, et fuerunt presentes illi tres cum omnibus aliis dominis Cardinalibus citramontanis electioni facte de domino Clemente apud villam Fundorum. Set non eligerunt et excusaverunt se quod habebant consanguineos et sua apud Romanos. Set iste sensit quod aliquis ipsorum voluisset assumi ad papatum.

Item deposuit quod quando Cardinalis de Ursinis fuit apud villam Anagnie dixit isti Cardinali quod non dubitarent domini facere requisiciones suas Barensi archiepiscopo, nam ipse faveret eis et faceret taliter quod nuncii sui irent securi et ita fecit.

Item deposuit dictus Cardinalis quod credebat in consciencia sua quod iste dominus Clemens esset verus papa et ille B. esset intrusus et apostaticus.

Item dixit quod quidam magister ordinis Heremitarum dicebat isti Cardinali quod papa deberet creari Romanus vel de Ytalia et allegebat ad hoc multas rationes, et tunc respondit sibi iste Cardinalis, »Videatis bene quid dicitis, nam si Romani volunt tenere tales modos ut semper habeant papam penes se, ipsi nichil facient, ymo credent retinere secum et perdent perpetuo«.

Item semel dixerat ille B. isti Cardinali, qua re esset tristis. Iste respondit, quia habebat causam, quia amiserat dominum suum papam Gregorium consanguineum suum, et dictus B. dixit sibi quod non doleret quia ipse faceret sibi taliter quod ipse sentiret quod nichil amiserat.

Item dixit isti Cardinali quod resideret secum usque ad festum Sancti Iohannis et quod non faceret pro eo plus quam fecisset pro domino Gregorio et quod non staret secum nisi usque ad mensem madii.

Item quando erat in conclavi paravit se ad fenestram et vidit illum Barenses inter gentes Romanorum et quod audivit ab eo quod interfuisset consiliis Romanorum, set semper suadebat eis ne facerent impressionem Cardinalibus.

2.

An original letter of Jean de Cros, bishop of Palestrina and cardinal penitentiary, permitting Richard Bromleye and Agnes his wife to appoint a confessor for three years. Rome, St Peter's, 9 June 1378.

London, National Archives (formerly Public Record Office), E315/43, no. 271.

The parchment (with the *plica* folded up) measures 172 mm. by 113 mm. The letter is signed on the *plica* to the right by the scribe, *P Mar*⁷. The name of the proctor who obtained the letter on behalf of its beneficiary normally appears on the dorse of letters of the cardinal penitentiary. It is possible that in this case it is obscured by the letter's mount. A curious feature of the letter is that the opening words (*Iohannes to eiusdem*) appear to be in darker ink than the rest of the text and are followed by a gap of a little more than one centimetre. It looks as if they were added after the rest had been written. This may suggest that letters of this type were produced in some quantity, with the details of the addressees being added as the need arose. The same editorial conventions have been followed as in Appendix no. 1, except that line-breaks are indicated by vertical bars.

Iohannes miseratione divina episcopus Penestrinus dilecto in Christo Ricardo | Bromleye et Agneti uxori eiusdem salutem in domino. Ut animabus | vestris salubriter consulatur, auctoritate domini pape cuius penitentiarie curam gerimus, devotioni vestre concedimus quod liceat vobis ydoneum et discretum presbiterum in confessorem eligere, qui super peccatis que sibi confitebimini, | nisi talia sint propter que merito sit sedes apostolica consulenda, | auctoritate predicta vobis provideat de absolutionis debite beneficio et | penitentiaria salutari, hinc ad triennium,

*quotiens fuerit oportunitum. | Vota vero peregrinationis et abstinentie, si qua emisistis, que com-
mo|de servare non potestis, ultramarino, apostolorum Petri et Pauli ac Ia|cobi votis dumtaxat
exceptis, commutet vobis hac vice idem |confessor in alia opera pietatis. Dat. Rome apud Sanc-
tum Petrum, |v id. iunii, pontificatus domini Urbani pape VI anno primo.*