

THE PRAGMATIC SANCTIONS OF BOURGES: FRANCO – PAPAL CONFLICT
AND THE INSTRUMENT TO SECURE ROYAL JURISDICTION AND FINANCES

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A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of Master
of Arts in History to the Office of Graduate and
Extended Studies of East Stroudsburg University of Pennsylvania.

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ABSTRACT

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Abstract

The Pragmatic Sanctions of Bourges came at the culmination of a longstanding Franco - Papal conflict. This thesis demonstrates the purpose of Charles VII in issuing such ordinances which benefited the crown and limited the influence of the papacy in France as it relates to perceived papal overreaches into royal jurisdiction and finances. Primary source material such as royal ordinances, papal bulls, and the decrees of the Pragmatic Sanctions of Bourges and ecumenical councils are utilized. The Pragmatic Sanctions of Bourges secured the crown's jurisdiction with regards to courts and clergy, and ameliorated it's financial position, while limiting the influence of the papacy in France. The Pragmatic Sanctions are traditionally viewed through the lens of ecclesiastical reform; this thesis provides a new context through which to view the Pragmatic Sanctions and contemporary events, and provides for a fresh perspective to examine later events of the sixteenth and seventeenth centuries.

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INTRODUCTION

The Pragmatic Sanctions of Bourges were the culmination of more than a century-and-a-half of a tit-for-tat struggle between kings of France and the Holy See and were issued at the height of the Gallican movement. They were issued by the French king, Charles VII, in 1438 as a response to perceived systemic papal abuses dating back to the thirteenth century. For centuries prior, French Kings swore at their coronation an oath to maintain the laws and customs of their kingdom, both secular and ecclesiastical.¹ They were considered authority figures with regards to both temporal and religious matters throughout their realm, and their coronations were reflective of this duality. To defend the “ancient Gallican liberties of the church” quickly grew from its original meaning of preventing encroachments of royal power on the clergy to a promise of the king to defend

¹ J. H. Shennan, *The Parlement of Paris* (Thrupp, Stroud, Gloucestershire: Sutton, 1998), 151-153.

France and the French clergy against the extension of papal overreach.² With this, there was also a longstanding tradition in France of mutual support between French clergy and the crown, and they would often rely on one another's support when their interests conflicted with the pressures and prerogatives of the papacy. The Pragmatic Sanctions of Bourges were, in a sense, a continuation of this tradition.

Many of the decrees of the Pragmatic Sanction of Bourges originated in the Council of Constance and the Council of Basel, which ended the Great Western Schism (1378-1417) and another conflict just few decades later following the death of Pope Martin V in 1431 between the contemporary ecumenical council and the papacy, respectively. Ecumenical councils were general councils consisting of ecclesiastical dignitaries within the church, theological experts, and others of high rank such as princes or royal dignitaries, that would decide on matters regarding the church. With the added motivations of securing Gallican freedoms, and with the support of the French clergy, nobility, and laymen, Charles VII issued the Pragmatic Sanctions at the culmination of more than a century of conflict between the papacy and the French Crown, securing royal jurisdiction and financial freedoms from the grasping reach of the papacy.

Gallicanism, the style of the Roman Catholic Church in France, asserted that the church in France ought to be governed primarily by the local clergy and by the crown, and it was often the motivation of the crown and French clergy to protect the "ancient

² Joachim Stieber, *Pope Eugenius IV, The Council of Basel and the Secular and Ecclesiastical Authorities in the Empire: The Conflict over Supreme Authority and Power in the Church* (Leiden: Brill, 1978), 67.

Gallican liberties” of the French church against overreach from Rome. Gallicanism was born primarily out of conciliarism, a movement which asserted that ecumenical councils held the highest authority within the church rather than power being secured at the head of the church (*viz.* the pope). Both the growth of the Gallican Church in France and the Pragmatic Sanctions of Bourges were the result of perceived systemic papal abuses dating back to the thirteenth century, so what were the advantages to France and Charles VII in his Pragmatic Sanctions of Bourges? The Pragmatic Sanctions were more than just an ecclesiastical document, they were a tool of Charles VII by which he could secure authority and jurisdiction over certain aspects of the local clergy, courts, and finances in France from the hands of the papacy.

The Pragmatic Sanctions of Bourges were certainly indicative of their time, and the general attitudes in France toward the Roman diocese, by 1438. Kings of France and the papacy for a long time had walked a fine line between agreeable support and animosity, and it often boiled over into conflict between the crown and the pontiff. Conciliarism had also firmly rooted itself within the Roman Catholic Church throughout Europe and largely inspired the Gallican style of the French church, of which one can see the influence in the Pragmatic Sanctions; traditionally, the Pragmatic Sanctions are examined within this context of ecclesiastical reform and the Gallican Church. Some historians, however, have written separately about the rise of Gallicanism and the Franco-Papal conflict which culminated with the Pragmatic Sanctions of Bourges, and the jurisdictional and economic advantages to the French crown in issuing the Pragmatic Sanctions. This thesis will bring together the contributions from these separate authors in its interpretation of the Pragmatic Sanctions. In so doing it will provide for an

understanding of the motivations of Charles VII in issuing the Pragmatic Sanctions and provide insight into the purposes of the particularly pertinent decrees relating to jurisdiction and finances therein, and Franco – Papal conflict in fifteenth century France. It also provides for a new context by which to analyze both the contemporary events and later events of the sixteenth and seventeenth century with regards to both the Gallican Church and Franco – Papal relations.

Brian Tierney, a professor Emeritus at Cornell until his death in 2019, wrote extensively on Conciliarism, and his work *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* is heavily relied upon for an understanding of the origins, structure, and influences of the conciliarist movement within the universal church (the entire church as a whole). Tierney explores in detail some of the major works of conciliarists throughout the ages, including that John of Paris, an early conciliarist whom Tierney ties to early Gallicanism and who wrote extensively on Papal-Royal relations. He identifies two major problems in the later middle ages, namely the centuries-old conflict between *regnum* (kingdom or “imperium”) and *sacerdotium* (the priesthood), and the internal structure of the church and its hierarchical organization; his focus and the focus of the Gallican clergy, and of Charles VII, were with regards to the latter. Tierney attempts along the way to define conciliarism as he explores the ideas of the movement itself. According to Tierney, conciliarism can be defined as the combination of decretist ecclesiology and decretalist

corporation concepts.³ He argues in *Foundations of the Conciliar Theory* that the works of the diametrically opposed decretists, canonists who favored a more conciliar governance of the universal church, and the decretalists, fiercely papalist canonists who worked tirelessly in the 12th and 13th century to compile the decrees of the various pontiffs, had unintentionally worked in tandem in laying the foundations for later conciliar theory in the 14th and 15th century, which also heavily influenced Gallicanism.⁴ As pointed out by H. S. Offler, Tierney's argument for how he defines conciliarism is somewhat of a generalization, but works sufficiently to aid in understanding the influences of the movement within the church and its conflicts, which contribute to the overall understanding of Gallicanism.⁵

In *Pope Eugenius IV, The Council of Basel and the Secular and Ecclesiastical Authorities in the Empire: The Conflict over Supreme Authority and Power in the Church* Joachim Stieber makes an argument for Charles VII's efforts to mitigate the authority of the church within his realm, and secure jurisdiction over certain aspects of the courts and clergy, through the Pragmatic Sanctions. Stieber also argues for the international influence of the Pragmatic Sanctions and outlines the role of Charles VII in the larger crisis in the church between the ecumenical council and the various pontiffs vying for the

³ Brian Tierney, *Foundations of the Conciliar Theory: The Contributions of the Medieval Canonists from Gratian to the Great Schism*. (New York: Brill, 1998), 223.

⁴ Ibid.

⁵ H. S. Offler, "Review: Foundations of the Conciliar Theory," *The English Historical Review* 71, No. 281 (Oct., 1956). 642-645.

head position within the church. He describes the legacy that established by Charles VII from his efforts to end the conflict within the church in 1438 and describes the purposefulness of the Pragmatic Sanctions of Bourges, especially their role within the Gallican Church in France. On the international stage, Joachim Stieber details the influence of the French crown in that he set a precedent by which world powers could similarly establish secular checks on the authority and jurisdiction of the Roman Diocese in their respective Kingdoms, such as the Acceptation of Mainz in Germany. More pertinently, however, Stieber argues that the document was not simply an ecclesiastical one, and that it differed in several aspects in its scope as compared to the decrees of the Council of Basel. Stieber describes the Pragmatic Sanctions as a means of Charles VII to “strengthen his own position... by gaining the support of the French clergy.”⁶ Stieber also states that there were “considerations of secular politics” present in the Pragmatic Sanctions of Bourges.⁷ Jotham Parsons, professor of history at Duquesne University, also speaks to the jurisdictional motivations of the crown in issuing the Pragmatic Sanctions of Bourges. A primary argument of Jotham Parsons in *The Church in the Republic: Gallicanism and Political Ideology in Renaissance France* is that the Pragmatic Sanctions were the climax of Franco-Papal relations and Gallicanism and remained the “touchstone of French resistance [to the papacy] well into the sixteenth

⁶ Stieber, 70.

⁷ *Ibid.*, 71.

century.”⁸ He reviews the longstanding history of conflict between the French Crown and the papacy, and the perceived overreaches (both jurisdictionally and economically) of the papacy into the realm of France.

One of Parsons’ arguments is that the Pragmatic Sanctions restricted the papacy’s ability to draw funds from France.⁹ Author Harry Miskimin delves much further into this specific argument; In *Money and Power in Fifteenth-Century France*, Miskimin argues that the French Crown turned its sight toward the Church in the Pragmatic Sanctions of Bourges as a means of ameliorating the financial harm they had endured throughout the century prior, especially harm that they could (either perceptually or realistically) attribute to the Church in Rome.¹⁰ Miskimin details the French monetary system and coinage minting and output, quantities and directions of French monies that were flowing out of France, availability of precious metals, and the effects of debasement on French specie. He also describes the tumultuous relationship between the French crown and Rome with regard to money, and methods by which the crown attempted to limit the flow of specie out of France to Rome.¹¹

⁸ Jotham Parsons, *The Church in the Republic: Gallicanism and Political Ideology in Renaissance France* (New York: Catholic University of America Press, 2004), 20.

⁹ Ibid.

¹⁰ Harry A. Miskimin, *Money and Power in Fifteenth-Century France* (New Haven: Yale University Press, 1984), 73.

¹¹ Ibid.

This paper brings all of these ideas together; namely that the Pragmatic Sanctions were ordained at the culmination of both Gallicanism and Franco-Papal conflict resulting from perceived overreach by the papacy into Royal jurisdiction and finances; the Pragmatic Sanctions of Bourges served largely to secure the authority of the French Crown over that of the papacy in these areas within the realm of France. In bringing together the jurisdictional and financial contexts of the Pragmatic Sanctions presented by authors such as Jotham Parsons and Harry Miskimin, and the argument that it was a tool by which Charles VII could strengthen his own position as mentioned by Joachim Stieber, this paper demonstrates that the Pragmatic Sanctions were more than just an ecclesiastical document. By bringing these ideas together, and by understanding the context of the Pragmatic Sanctions within the Gallican Church and as a culmination of a long history of Franco – Papal conflict, this thesis interprets the Pragmatic Sanctions of Bourges as a tool by which Charles VII attempted to secure jurisdiction over clergy, courts, and finances throughout his realm, and mitigate the perceived papal overreach that had been commonplace since the feud between Philip IV and Boniface VIII. The decrees were motivated by the long history of unfavorable relations between the crown and the pope, systemic papal overreach into royal jurisdiction, and by the financial circumstances of France by the time they were ordained in 1438. Bringing these ideas together also forms a new lens through which to view and understand the Pragmatic Sanctions and contemporary events, and the rocky relationship between the French crown and the papacy. This new perspective can also be applied when studying the later events of Franco – Papal history into the sixteenth and seventeenth centuries in France.

This thesis relies heavily on translated primary source materials, namely The Pragmatic Sanctions of Bourges, decrees of various ecumenical councils, and ordinances of kings of France. For the translations of the ecumenical councils, *Decrees of the Ecumenical Councils*, edited by Norman Tanner, is heavily utilized. The translations in Tanner's compendium of the ecumenical councils were provided by twenty-nine Jesuits whom worked closely with Tanner in the British Isles to translate all of the ecumenical councils from Nicaea I to Vatican II.¹² Most utilized for this thesis are the translations of the Council of Basel – Ferrara – Florence – Rome, translated by Joseph Gill, and of the Council of Constance, translated by Norman Tanner. Tanner also provides an introduction for each ecumenical council.¹³

The Pragmatic Sanctions of Bourges can be found, summarized and translated, in several resources. In *Church and State Through the Centuries: A collection of historic documents with commentaries*, Sidney Ehler and John Morrall translated a somewhat summarized version of the Pragmatic Sanctions of Bourges, without interpretation from outside authors, and provided only an introduction so as to avoid interpreting the document on behalf of the readers. Charles VII's entire introduction to the Pragmatic Sanctions is therein translated and the decrees translated and summarized.¹⁴ Milton

¹² Norman Tanner, ed. *Decrees of the Ecumenical Councils, Vol. 1: Nicaea I to Lateran V* (Washington D.C.: Georgetown University Press, 1990), viii.

¹³ Tanner.

¹⁴ Sidney Ehler, ed. & trans. *Church and State Through the Centuries: A Collection of historic documents with commentaries* (London: Burns & Oates, 1954)

Viorst in *The Great Documents of Western Civilization* provides a translation of the introduction, and summary of the decrees of the Pragmatic Sanctions, that comes from Frederic Austin Ogg in *A Source Book of Medieval History: Documents Illustrative of European Life and Institutions from the German Invasions to the Renaissance*.¹⁵ The original royal decrees of the Pragmatic Sanctions of Bourges can be found in their original Latin in *Ordonnances des Rois de France de la Troisième Race (Paris, 1772), Vol XIII*. Other ordinances of Charles VII, and kings prior, can be found within the pages of the *Ordonnances des Rois de France de la Troisième Race* volumes; these are accessible online on the Gallica – Bibliothèque Nationale De France digital library website.¹⁶ Where necessary, apposite sections of royal decrees were translated and interpreted using translation dictionaries and translation tools if no other translation could be found.

Chapter One details the long history of conflict between the papacy and the French crown, and the evolution of Gallicanism, from its beginnings in the thirteenth century to its height with the issuance of the Pragmatic Sanctions of Bourges in 1438, which is necessary to understand the context of, and the precedent for, the ordinances of

¹⁵ Milton Viorst, ed. *The Great Documents of Western Civilization* (New York: Barnes & Noble Books, 1994) and Frederic Ogg, *A Source Book of Medieval History: Documents Illustrative of European Life and Institutions from the German Invasions to the Renaissance* (New York: American Book Company, 1907), 393-398.

¹⁶ Bibliothèque nationale de France. Accessed April 6, 2021.

<https://gallica.bnf.fr/accueil/en/>.

the Pragmatic Sanctions. To provide an understanding of Gallicanism, Chapter One begins with a brief explanation of Conciliarism which heavily influenced the Gallican style of the Roman Catholic Church in France. It then traces the major conflicts regarding jurisdictional and financial matters for more than a century-and-a-half between the French Crown and the papacy from the time of Philip the Fair, through the Avignon popes, up to the Pragmatic Sanctions of Bourges in 1438. In so doing, Chapter One demonstrates the precedence for the Pragmatic Sanctions through the long and tumultuous relationship between the King of France and the papacy in the French crown's struggle for autonomy over jurisdiction and finances in his realm. It also demonstrates the challenges presented by Charles VII in the fifteenth century and why he turned his sights toward the church.

Chapter Two is a close reading of the pertinent decrees of the Pragmatic Sanctions of Bourges which provided a jurisdictional advantage to the King over the papacy in France. Relying on the history and precedent described in Chapter One, it demonstrates the purpose and advantages of particularly apposite decrees within the Pragmatic Sanctions regarding the jurisdictional and authoritative limits placed on the papacy within the realm of France. For instance, the first two decrees discussed, *Frequens* and *Sacrosancta*, both dictate the frequency of general councils and their superior authority over the church, even above that of the pope, which reinforced limitations on the authority of the papacy. The third and fourth decrees of the Pragmatic Sanctions of Bourges addressed elections to benefices, asserting that elections would only take place in the local jurisdictions which were being represented, preventing the pope from appointing loyalists or other non-Frenchmen to local positions within the French

clergy where the opinion of the crown was most favored. This chapter runs through these, and several other decrees, dealing primarily with checking the authority of the papacy and the pope's jurisdiction to the benefit of the French Crown. It also briefly addresses the significance of such a royal sanction compared to contemporary ecclesiastical decrees by the Council of Basel. Chapter Two focuses primarily on the source material, namely the "Pragmatic Sanctions of Bourges" and the royal ordinances of French kings, and uses the history described in Chapter One to understand the implications of, and motivations for, those decrees, in addition to the clearly stated motivations of Charles VII in his introduction to the Pragmatic Sanctions.¹⁷

The third and final chapter focuses on the financial aspects of the Pragmatic Sanctions and describes the advantages to the crown under several decrees with regards to annates, papal taxes, and other means by which money was carried out of France to Rome. Chapter Three begins with an examination of the financial circumstances of France and the relationship between money, kingdom, and pope. The Hundred Years' War, the Bubonic Plague, debasement, scarce availability of precious metals in France, and certain fiscal policies led to a dire financial situation in France by the time the Pragmatic Sanctions of Bourges was drafted. Many of these problems were inherited by Charles VII when he took the throne. The effects of these things on the French economy

¹⁷ See Milton Viorst, ed. *The Great Documents of Western Civilization* (New York: Barnes & Noble Books, 1994) and Sidney Ehler, ed. & trans. *Church and State Through the Centuries: A Collection of historic documents with commentaries* (London: Burns & Oates, 1954) and *Ordonnances des rois de France de la troisieme race* (Paris: 1782).

and French royal coffers were exacerbated by the monies that were sent out of France to the papacy and the taxes that were levied on local French clergy by the Roman diocese; thus, in an effort to curb the flow of money out of France, Charles VII turned his sight toward the papacy and issued through the Pragmatic Sanctions several decrees to regulate the flow of specie out of France to Rome; these are examined in Chapter Three.

The Pragmatic Sanctions of Bourges was a means by which Charles VII, with the support of the local clergy, could return to those “ancient liberties of the Gallican Church” that the kings of France had long sworn to protect at their coronations. It was implemented by Charles VII in an attempt to effectively tip the scales of power with regards to jurisdiction and finances in France back in the favor of the French crown at the height of Franco-papal conflict and Gallicanism. They came at a time when the Kingdom of France was experiencing a dire financial situation and the jurisdictional reach of the papacy was attempting to expand without the consent of the ecumenical councils. The effects of the Pragmatic Sanctions of Bourges were long lasting, and they were heavily supported throughout France as a means of autonomy for both the crown and clergy.

CHAPTER ONE

THE RISING FEVER OF GALLICANISM AND FRANCO – PAPAL CONFLICT

The Pragmatic Sanctions of Bourges were issued in 1438 by Charles VII at the height of Gallicanism, and their issuance came at the culmination of more than a century-and-a-half of conflict between the French Crown and the Papacy. They were issued primarily as a response to perceived papal overreach into the affairs of France and encroachment on royal authority. This chapter describes the major conflicts from which Gallicanism grew and which ultimately led to the issuance of the Pragmatic Sanctions of Bourges by Charles VII to protect royal interests and authority. It examines what was perceived as the systemic overreaches of the papacy into French jurisdiction and finances from the thirteenth to fifteenth centuries. In so doing, this chapter demonstrates the precedence of the issuance of the Pragmatic Sanctions of Bourges.

Gallicanism largely cemented itself as the form of the Roman Catholic Church in France by the time the Pragmatic Sanctions of Bourges were issued; in essence Gallicanism evolved out of the wider phenomenon of conciliarism, which had already

Cemented itself within the universal church. A key aspect of Gallicanism lies in the sense of royalism among the clergy and canonists within the Gallican Church in France, where in conjunction with the growing fever of conciliarism there also was a strong and favorable relationship between the French clergy and the French crown. Simultaneously with the rise of Gallicanism in France, Franco-Papal relations had taken a turn for the worse. Conflict between King Philip IV and Pope Boniface VIII had reached a boiling point over jurisdictional rights to taxation, and so began a long history of conflict between crown and pope where both parties were vying for jurisdictional control over certain aspects of the clergy, courts, and finances in France. Franco – Papal relations remained tumultuous throughout the fourteenth and fifteenth centuries, culminating with the Pragmatic Sanctions of Bourges at the height of Franco – Papal conflict and at the peak of Gallicanism in 1438.

A Rising Fever of Gallicanism

In the thirteenth century there were, ostensibly, those in favor of absolute authority for the pope, just as there were those who were in favor of the authority of a general council presiding over the church, otherwise known as conciliarism. As described by Brian Tierney both of the conflicts that he identifies with the church, that of the conflict between kingdom and priesthood, and the conflict over the internal structure and hierarchy of the church, were ostensibly connected through the course of their development. These conflicts within the church over its organization and its hierarchy inadvertently worked in tandem in laying the groundwork for later conciliarism. One of

the earliest such works to come out of this was the *Decretum Gratiani* (otherwise known as the *Decretum*), a compendium of canon law composed by the canonical jurist Gratian from Northern Italy in the twelfth century, which was heavily influenced the earliest conciliarists of the twelfth, thirteenth, and fourteenth centuries.

Though often referenced by later conciliarists the work is not inherently an anti-papal document; in fact, in several “distinctions” the *Decretum* expressly pronounces the superiority of the Roman diocese and in some instances ascribes it authority over that of the other municipalities of the Catholic Church at large.¹⁸ To Gratian and his contemporaries, where matters of the council in Rome (with the Pope at its head) disagreed with councils in other dioceses, then it was to be the council in Rome above the others. Where general councils of the universal church were concerned then it was not distinctly the council which would be supreme over Rome-and-Pope, as were the interpolations of later conciliarists and the Gallican Church of France, but rather a successful general council could only be convened with the explicit consent and inclusion of the Roman diocese.¹⁹ Gratian spoke often of the unerring indefectibility of the church,

¹⁸ Gratian, *The Treatise on Laws (Decretum DD. 1-20) with the ordinary Gloss (Studies in Medieval and Early Modern Canon Law, Volume 2)*. (Washington D.C.: Catholic University of America Press, 1993), 41 (DD. 11 C.11.: “What the Roman Church observes ought to be observed by all”), 42 (DD. 12 C.1 “No one may act, without consideration of justice, against the discipline of the Roman Church.”)

¹⁹ Tierney, 50.

though it is important to note that this is in reference to the universal church, not necessarily the Pope himself.²⁰

Though the majority of canonists of the twelfth and thirteenth centuries understood the authority of the Pope at the head of the church there was a majority that also asserted that a Pope could be brought to trial and deposed by a council should they commit heresies.²¹ In the event that a Pope was to be deposed canonists were split on who would assume the position and responsibilities of the papacy during such a vacancy. Many turned to the College of Cardinals, whom throughout medieval church history elected, counseled, and assisted the Pope in the administration of church affairs, both abroad and within the Roman curia. However, where some turned to the College of Cardinals to fill the vacancy of an empty See, others did not agree that they held authority enough to govern the universal church on their own; rather, they could convene a general council that would decide on church matters until such time a new Pope could be elected. These same interpolations were applied in practice during the Great Schism by later conciliarists of the fourteenth and fifteenth century. In France, in the mid-fifteenth century, these interpretations were taken even further with the French priesthood and king decidedly working in tandem against papal authority.

Canonists of the twelfth and thirteenth centuries attributed to the pope supreme authority in almost all matters concerning the church with the only true exceptions being where the decisions of the Pope were deemed detrimental to the universal church at large.

²⁰ Ibid., 41.

²¹ Ibid., 60-61.

Even this exception was rather muddled, however, as it was often the pope in the middle ages who determined what was in the best interest of the church.

It is certain that, in your affairs, salvation demands that, when dealing with the affairs of God, you take care to make the royal will subordinate, not superior, to the priests of Christ and to learn sacred affairs from the bishops rather than teach these to them. It requires that you follow ecclesiastical form, neither placing the following of human ordinances above it nor refusing to be subject to the sanctions of her to whose clemency God commands you to bow your head in pious devotion. Otherwise, by exceeding the bounds of heavenly dispositions, insult will be offered to him who established them.²²

To a limited extent, the early canonists of this period also attributed to the Pope an authority that allowed them to interfere in temporal affairs in certain circumstances if they in any way influenced, or had the potential to influence, the state of the church or ecclesiastical matters. This is a distinct difference between Gallicanism and early conciliarism, namely that under Gallicanism the French clergy often sided with the French crown over the papacy where there was a conflict, as can be seen in the work of perhaps the earliest Gallican writer, John of Paris.

John of Paris (1255-1306) was perhaps one of the most adamant conciliarists of his time and was a contemporary of the significant feud between Philip the Fair, King of France between 1268-1314, and Pope Boniface VIII; this was a marked point at which Gallicanism emerged in full with John of Paris as its herald. John of Paris was embroiled in controversy throughout his life within the church, perhaps most notably after writing *De potestate regia et papali* in which he sided with the king over the pope, making it one of the earliest distinctly Gallican documents to come out the rising fever of French

²² Gratian, 34. (DD10. C.3. “In ecclesiastical affairs the Royal will is to be subordinate to priests.”)

Gallicanism since the turn of the thirteenth century. It is clear that John of Paris supported the king of France in his conflict with the pope, and felt that the pope was overstepping in his authority, as evidenced not only by his writings, but also by his name on a petition to investigate the legitimacy of Boniface's election and his support of an ecumenical council to investigate heretical accusations against the pope.²³ John of Paris held that jurisdiction over temporal matters belonged inarguably to the crown and does not belong to "prelates by reason of their state and by reason of their being vicars of Christ and successors of the apostles."²⁴ Such jurisdiction in the hands of the church, according to John of Paris, can only exist if "something of this kind was conferred by princes out of devotion, or if church prelates possessed it from some other source."²⁵

Franco – Papal Conflict from Philip the Fair to the Council of Basel

John of Paris's *De potestate regia et papali* was written in response to the previously mentioned dispute between Philip of France and Pope Boniface VIII, one of the major causes of which was the Crown's assertion of his right to tax the clergy in

²³ William J. Courtenay, "Between Pope and King: The Parisian Letters of Adhesion of 1303," *Speculum* 71, No. 3 (July 1996): 577-605.

²⁴ Arthur P. Monahan, trans. *On Royal and Papal Power: A Translation, with Introduction, of the 'De Potestate Regia et Papali' of John of Paris*. (New York: Columbia University Press, 1974), 4.

²⁵ Monahan, 4.

France as French subjects to fund the continued wars with the English throughout the French countryside and along the borders. After Boniface's denial that a king could issue such a proclamation Philip forbade any transfer of funds to Rome out of France. French courts and royal administrators whose responsibilities it was to implement the King's policies were particularly attracted to this new Gallican way of dealing with the church, as they themselves were often engaged in battles with ecclesiastical courts over sundry property, financial, and jurisdictional disputes.²⁶ The French crown and his royalist supporters argued as part of their reasoning for their request to tax the clergy in France that papal taxes were causing large sums of French monies to be carried out of the Kingdom and were not being used for French interests.²⁷

Not long after the onset of the dispute, Philip the Fair went on the offensive launching a public campaign against Boniface VIII throughout his realm and accusing Rome of abusive collations and taxation throughout France.²⁸ Philip knew, however, that he needed the support of the church in France, just as he relied on the support of the aristocracy to maintain his authority. Indeed, governing France would have been difficult without the professional skills and knowledge of the church possessed by local bishops, archdeacons, and canonists who filled his court.²⁹ Philip set several goals for his

²⁶ Parsons, 18.

²⁷ Ibid.

²⁸ Ibid., 19.

²⁹ Joseph Strayer, *The Reign of Philip the Fair* (Princeton: Princeton University Press, 1980), 237.

campaign against Boniface VIII; he aimed to draw on the financial and human resources of the French church to aid in the government and defense of the realm, limit the jurisdiction of ecclesiastical courts that represented papal interests, and reform what he perceived as abuses of the personal privileges of the papal-appointed clergy. Philip also wanted to garner control over transfer of land and other rights in France which had for a long time belonged to the church and had been administered out of Rome.³⁰ There was a general agreement among royalists in France that the church had long been trying to increase its jurisdiction over temporal matters and that it needed to be checked. The French clergy and aristocracy alike had much more confidence in the royal government than the papal curia and decided that it was in their interest to let the king make nominations for elections to benefices rather than the pope. Where the king would elect Frenchmen for benefices in France, the pope was more likely to elect Italians or other non-local representatives.³¹

In addition to his complaints against the pope for taking money out of France and overstepping in the transfer of land and appointments of benefices, Philip the Fair also argued that the church was corrupt and encroaching on the secular jurisdiction of the crown in other areas. He pointed to the merchants and usurers that had tonsured themselves and claimed clerical privilege in France to avoid taxes and other administrative necessities, and to the ecclesiastical judges that tried secular cases that should be handled in the royal courts. He also claimed that the church abused and

³⁰ Ibid.

³¹ Ibid., 239-241.

excessively threatened the punishment of excommunication, and that the greed of the church curtailed the devotion of the French people to Christianity. Philip was determined to preserve his sovereign power as he defined it without interference from the pope or Rome. When threatened he countered with legal arguments made on his behalf by his courts and royalists from the University of Paris, and he applied political pressure on the pope through invectives against the clergy and propaganda against the Roman diocese.³² In 1290 Philip went so far as to put in place an ordinance by which the clergy of France could be brought only to parliament for their “ordinary causes,” stripping the ability of the church to oversee cases regarding temporal matters even where their own clergy were involved.³³ This was a clear distinction of jurisdiction by which Philip made a statement that only the Royal courts will oversee all secular matters and any matters that are not uniquely related to the church.

The rivalry between the French crown and the papacy escalated in 1296 when Philip IV asked for additional funds from the French clergy. This began a longstanding tit-for-tat between Philip IV of France and Pope Boniface VIII that escalated the tensions between king and pope and firmly cemented Gallicanism as the style of the Roman Catholic Church in France. It was not unusual for the king of France to request tithes or grants of large sums to fund crusades and other wars, especially with the English still ravaging the countryside of France and occupying lands along its borders. Just prior to

³² Strayer, 250-253.

³³ Bibliothèque nationale de France, *Ordonnances des roy des France de la troisieme race* (Paris: 1723), I. Accessed April 6, 2021 at <https://gallica.bnf.fr/accueil/en/>, 318.

Philip's request in 1296 the king had already willingly received grants from the clergy. For the clergy it was often in their interest to provide the king with the requested tithes and grants, and in exchange they would receive certain privileges and preferential treatment. In 1296, in response to the request for additional grants of money, the clergy asked for even more privileges from the king.

Pope Boniface VIII was not supportive of the arrangements between the French crown and the French clergy. More money being funneled to the king to support the wars against the English or other French matters meant less money being channeled to Rome and to the coffers of the papacy. The coin stayed in France and only those in France benefitted; their support for the crown and sense of royalism grew exponentially and Boniface VIII was not blind to it. In his papal bull he accused the crown not only of heavily and unduly taxing the clergy and confiscating their property, but also of attempting "in many ways to subject [prelates] to slavery and reduce them to their sway."³⁴ Boniface also directed his papal bull to those prelates whom, agreeing to pay the requested tithes in return for privileges, were said to be guilty of "fearing where they ought not to fear, seeking a transitory peace, dreading more to offend the temporal than the eternal majesty, without obtaining the authority or permission of the apostolic chair, do acquiesce, not so much rashly, as improvidently, in the abuses of such persons."³⁵ Boniface declared that any such person, no matter their status or title, who should impose

³⁴ Boniface VIII, "*Clericus laicos*" in Ernest Henderson, *Select Historical Documents of the Middle Ages* (London: G. Bell and Sons, 1921), 433.

³⁵ *Ibid.*

or receive payments of any kind from prelates “shall incur, by the act itself, the sentence of excommunication.”³⁶

In response to the papal bull *Clericus laicos* Philip issued ordinances that forbade the export of precious metals from the kingdom, effectively ending the movement of specie from France to Rome. Philip also escalated his smear campaigns against the pope in efforts to demonize him in the eyes of the French clergy. Oftentimes even the French clergy themselves exacerbated these efforts, having learned that support of the crown came with its own rewards.³⁷ As tensions escalated, Boniface countered again with another papal bull, *Unam sanctam*, in 1302. Prophetic in verse and its interpretation of the Christian scripture, *Unam sanctam* describes the power passed through Peter down to the one bishop, the Pope, and that both “swords” of power, namely the spiritual and the temporal, “ are in the power of the church; the one, indeed, to be wielded for the church, the other by the church; the one by the hand of the priest, the other by the hand of kings and knights, but at the will and sufferance of the priest.”³⁸ Furthermore, Boniface explicitly stated that “one sword, moreover, ought to be under the other, and the temporal authority to be subjected to the spiritual.”³⁹ The “theory of two swords” to assert and defend papal intervention in secular affairs was first used by Pope Innocent III and was a

³⁶ Ibid.

³⁷ Strayer, 253-254.

³⁸ Boniface VIII, “*Unam sanctam*” in Henderson, 436.

³⁹ Ibid.

traditional argument made by the church in Rome to justify its authoritative reach into royal or other temporal matters.⁴⁰

Philip IV refused to concede to Boniface's claim of temporal jurisdiction and authority, and in fact leveraged it in his continued public offensives against him. After receiving no direct response from Philip regarding *Unam sanctam* and having realized clearly that the matter had not been settled, Boniface attempted to excommunicate the king. In response Philip convened a general council with the support of both the French nobility and the French clergy to garner their support in his continued efforts against the Pope. In a bold escalation, royalists, with the assistance of the powerful Colonna family in Italy, attacked the papacy in Anagni and ransacked the papal treasury, leaving an aged and weary Boniface shocked and filled with anxiety. He died within weeks of returning to the Vatican from stresses related to the events that unfolded.

Boniface's immediate successor, Benedict XI, forgave and resolved all grievances against Philip, having decided that the papacy was better off with the support of the French crown after having been left to deal with the fallout of a tumultuous feud between pope and king. He restored all privileges and granted a two years' tenth and three years' annates to Philip. Soon after Benedict's death, Clement V was elected Pope and moved the papacy to Avignon, a territory of Provence that bordered France. In addition, Clement V absolved the agents of Philip who attacked Boniface at Anagni and elected members of the Colonna family to the College of Cardinals. In fact, Clement V

⁴⁰ Joelle Rollo-Koster, *Avignon and its Papacy 1309-1417* (London: Rowman & Littlefield, 2015), 24-25.

transformed the composition of the College of Cardinals such that a majority were French in an attempt to appease their new neighbors and avoid falling into conflict with the French crown, such as was seen with his predecessor, Boniface VIII.⁴¹

With newfound support in the papacy, and influenced largely by financial reasons, Philip began to turn his sights inward on the church, targeting the knights templar within France, a religious order that was extremely active in banking, raising funds, and capitalizing on the crusades.⁴² The crown had debts that it owed to the church through the order, and to the order itself, for moneys lent to fund campaigns against the English and to defend the borders of France. Philip also had hopes of attaining additional wealth from the order. As was often the case in the middle ages when a king had an outstanding debt that it could not repay, Philip attacked his debtors and seized their assets, affectively erasing the original debt. The religious order, and others like them, had fallen under severe scrutiny since the loss of Acre around 1250. The rumors surrounding them were exacerbated by Philip and royalists and had been compounded to a point where the church could no longer afford to ignore them. Philip IV, having a strong relationship with the inquisition in France and frequently using them as a check on the members of the clergy in France whom were loyal to the papacy, was asked by Clement to investigate the charges and accusations of heresy and criminal behavior of the

⁴¹ Rollo-Koster, 34-35.

⁴² Strayer, 288-290; Rollo-Koster. 38-40.

Templar Order. Philip took things even further than just an investigation, arresting members of the order in secrecy through the night, which Clement initially denounced.⁴³

To Philip's dismay, however, their assets were mostly absorbed by the church and remained in the hands of the papacy, and their wealth was more miniscule than Philip had hoped. Clement officially disavowed the Knights Templar having succumbed to the pressure of the campaign mounted in large by Philip.⁴⁴ Even though the French king was already traditionally an important figure within the Gallican Church, the move strengthened the position of the crown both among the French clergy and within the universal church at large.⁴⁵ Philip did not secure the wealth he had hoped from the seizures of the Order's assets, but the campaign was still a success in that it erased his debts owed to the religious order and at the end Philip was portrayed as a "champion of orthodoxy, quicker than the pope to detect the heresy and far more zealous in suppressing it" among the French clergy.⁴⁶ Clement V himself issued the papal bull *Rex gloria* during the Council of Vienne (1311-1312) praising the "dear son in Christ, Philip, the illustrious king of France" for his religious zeal.⁴⁷

Clement V's papacy marked the first of many Avignon popes, but from the time of his death in 1314 onward conflict crept back into the relationship between the French

⁴³ Strayer, 285-288.

⁴⁴ Ibid., 288-290.

⁴⁵ Strayer, 290.

⁴⁶ Ibid.

⁴⁷ Tanner, "Council of Vienne – 1311-1312," 337.

and the papacy. The Avignon papacy began with hopes of mitigating conflict with France, but Clement V's successor, John XXII, began a pattern of increasing the wealth of the papacy and centralizing its authority in matters both ecclesiastical and secular, which continued until the papacy was returned to Rome in 1377 by Pope Gregory XI. Nearby French regions were more heavily burdened with papal taxes in the pope's efforts to transform Avignon into a new Rome. Later Avignon popes continued this practice by any means necessary, in some instances even by military force.⁴⁸ Nepotism and simony both increased exponentially, especially in nearby France, and began a marked increase in the interference of both elections to benefices and temporal matters in nearby regions.

The papacy at Avignon was brought to its end at the onset of the Great Western Schism, a nearly four-decade long schism that saw several claimants to the papacy at the same time. The schism also represented an opportunity for the French crown and the clergy in France to return to the "ancient liberties of the Gallican church" and emphasize more autonomy within the church in France. Upon election Pope Gregory XI moved the papacy from Avignon back to Rome only to die a few months after his arrival. After his death, under pressure from Roman mobs to elect an Italian pope, Urban VI was elected, to the discontent of the French cardinals, of whom there were eleven out of the sixteen in the conclave that elected the new pope. The French cardinals, angry at having been pressured into voting for Urban VI, retreated from Rome to Anagni and posted their *Declaratio* on the gates of its cathedral.⁴⁹ In it the French cardinals declared that the

⁴⁸ Rollo-Koster, 72-73.

⁴⁹ Rollo-Koster, 241.

election was of a conspiratorial nature and that they were pressured by the conspirators, and by the violent Roman mobs, to hand the election to Urban VI so as to keep the city of Rome in the hands of an Italian.⁵⁰ They declared on 2 August 1378 that “the Apostolic See is vacant,” and that they did not recognize the legitimacy of the newly elected pope.⁵¹

The increased efforts to expand papal revenues and to centralize authority during the leadership of the Avignon popes led to general corruption within the church leadership that did not go unnoticed by the universal church, especially by those in Rome who largely blamed it on an increasing French influence within the church so as to argue for the return of the papacy to Rome. This, perhaps, is one reason why they were so adamant to install a Roman after the death of Gregory XI, or at least an Italian. Not long after the election of the Neapolitan, Urban VI, the French cardinals who had published their descension against the Roman pope, along with others in France, elected a new and separate pope, Clement VII, who took office in Avignon. The election of the second pope effectively began the Great Western Schism within the church in 1378, with two papacies (Rome and Avignon) vying for legitimacy and control of the universal church. Avignon’s history of increasing authority within the church and their increased revenues and influence made them a rather formidable opponent to their Roman counterpart.⁵²

⁵⁰ Archbishop of Bari Anagni, *Declaration of the Cardinals at Anagni against*

Bartolomeo, ed. John Adams (1378), accessed April 06, 2020,

http://www.csun.edu/~hcfl004/Declaration_Cardinals_1378.html

⁵¹ Ibid.

⁵² Rollo-Koster, 249-290.

Having been heavily taxed and burdened by the papacy during its reign in Avignon, the French clergy called on the king to withhold payment of taxes to the papal curia and to avoid supporting either claimant to the holy see.⁵³ The French prelates had hoped that doing so might end the practice of papal reservations of benefices throughout France in addition to diminishing papal taxes on French clergy and laymen.⁵⁴ The king supported the French prelates, as was customary, and issued two particular ordinances that supported the desires of the French assemblies in light of the schism. They established that the “Gallican church should remain in the liberty which it used to have from its foundation according to the sacred canons.”⁵⁵ The “ancient liberties of the Gallican Church,” those “sacred canons” to which are referred, were sworn by the king to be upheld throughout the Kingdom of France at his coronation and promised to the French clergy certain privileges, particularly that of self-government, which directly opposed the papal practice of intervening in local elections to benefices.⁵⁶

The Great Western Schism lasted until the Council of Constance successfully ended it in 1417 by deposing two of the popes, forcing the third to resign, and electing in their place a single pope, Martin V, for whom it was decided would take up permanent residency in Rome. The Council of Constance effectively established the superiority of

⁵³ Stieber, 68.

⁵⁴ Ibid., 68.

⁵⁵ *Ordonnances des roy des France de la troisieme race* (Paris: 1750-1755) VIII, 327 as found in Stieber, trans. 68.

⁵⁶ Shennan, 166-168.

the council over the pope and declared through the decrees *frequens* and *sacrosancta* that councils were not only superior to the will of the pope, but should take place at regular intervals to decide on matters pertaining to the universal church and its organization. In France it had long been the practice of the Gallican church to assemble French clergy and the king to decide on matters pertaining to the church in France, with French representation in the Council of Constance their influence and the influence of the king now extended to the universal church on a much grander scale. Unique to the Council of Constance was that this ecumenical council was comprised not only of clergy and high-ranking members of the church, but also included secular envoys of princes and kings who represented their respective kingdoms in the council. For the French, the will of the French clergy and the French king were virtually the same; in defending the superiority of the council and deposing the Avignon claimant to the papacy they assured that the popes influence over France was much more limited and indirect than under the previous popes, and that the French clergy could regain those privileges promised by the king of a return to the ancient Gallican liberties of the French Church. This continued a longstanding tradition of mutual support between French clergy and the crown, who relied on each other's support in times of dispute.

Only a short time later the authority of ecumenical councils as established by the Council of Constance was challenged by Eugenius IV, the successor of pope Martin V. In 1431 the Council of Basel was set to begin as established at the previous council of Pavia – Siena (1423-1424) according to two papal bulls of Martin V, and a legate was appointed

by Martin V to act and speak in his stead shortly before his death in that same year.⁵⁷ Martin V, in his bulls, also laid out the purpose of the council: they were to reform the clergy, find a way to reincorporate the eastern church, establish the preservation of ecclesiastical freedom, preserve the peace of the kingdoms of Latin Christendom, and take measures against the Bohemians.⁵⁸ Somewhat ironically, the reactionary fears of Eugenius IV that the council was a dire threat to papal power and supremacy led to a majority of the council's efforts being steered into resolving a conflict with the standing pope. Eugenius IV feared that the council would strip too much power from the papacy; as pointed out by historian Loy Bilderback, there were obvious downsides to conciliarism for the papacy: "At best it would have to share power with the proposed councils and at worst it could find itself totally subjugated to them."⁵⁹ Eugenius IV initially confirmed the acts of Martin V and allowed the council to begin, but later that same year he issued the papal bull *Quoniam alto* which dissolved the council.⁶⁰ Eugenius then moved the council to Ferrara, then Florence, and then Rome; traditionally, councils held in Italy were not well attended by clergy outside of Italy, and Italian clergy were typically much more supportive of the papacy and the absolute authority it was working toward within the church.⁶¹ If the nations

⁵⁷ "Council of Constance" in Tanner, 453.

⁵⁸ Stieber, 10-11.

⁵⁹ Loy Bilderback. "Eugene IV and the First Dissolution of the Council of Basle," *Church History* 36, no. 3 (Sep. 1967): 243-253.

⁶⁰ Ibid. See also Stieber, 12-13. See also Tanner, 453.

⁶¹ Stieber, 13.

north of the Alps that were in attendance at Basel were absent when the council was translated to Italy, then Eugenius IV assumed that he would have a majority of the support in the room during his efforts to invalidate the first meetings of the Council of Basel. Ultimately, the vast majority of the clergy in the church strongly opposed the attempts of the pope to dissolve the council at Basel, and the council at Basel also had the support of powerful secular entities, namely Germany and France.⁶²

Eugenius's efforts to transfer the council to Italy as previously described coincided with his appeals to secular princes in an attempt to garner support for his version of the papacy, one that was absolute and without the hinderance of general councils.⁶³ In his papal bull, *Libellus apologeticus*, Eugenius took particular issue with the claim of the Council of Basel to hold the highest ecclesiastical authority over the universal church, the abolition of annates, a more independent College of the Cardinals, and the granting of indulgences under the authority of the council. He attempted to use *Libellus apologeticus* as a tool to discredit the council and present them as a revolting group of lower clergy within the church.⁶⁴ Whatever support Eugenius was successful in mustering was not enough, the general council at Basel continued its meeting and initiated legal proceedings against the Pope, eventually suspending Eugenius unless he agreed to backtrack on translating the council to Ferrara in Italy. Eugenius proceeded in the transference of the council to Ferrara and was subsequently suspended by the said Council of Basel.

⁶² Ibid., 14-15.

⁶³ Ibid., 26.

⁶⁴ Stieber, 28-29.

Of utmost importance to the direction of both the council and the pope during this conflict was the support of the powerful secular rulers of Latin Christendom. France took the lead in deciding with whom their support laid, and many other powerful Christian kingdoms and principalities followed suit, notably save England and Burgundy.⁶⁵ Upon receiving notice of the translation of the Council of Basel to Ferrara King Charles VII of France immediately rejected the summons and vowed his support for the Council of Basel. He proclaimed France was to “give it all help and favor... for the causes clarified by the decrees of the holy councils which were celebrated at Constance.”⁶⁶ Additionally, Charles VII, in his ordinance of 23 January 1438, ordered that “no prelates, of whatever state or condition, of our Kingdom and Dauphine, should be sent to the said place of Ferrara for the said summons.”⁶⁷ The king continued to send representatives and support to the council of Basel to continue their deliberations and work toward their efforts of reforming the universal church. At the same time, the French conflict with England, the Hundred Years War, was still front and center in the mind of the king. Unlike nations such as France, where the clergy and others educated in their universities are taught from the beginning of the universal superiority of the council, the English were more inclined to follow the predispositions of their King, Henry VI, who continuously supported Eugenius IV. Henry

⁶⁵ Ibid., 40.

⁶⁶ Bibliothèque nationale de France, *Ordonnances des roy des France de la troisieme race* (Paris: 1782), XIII. Accessed April 6, 2021 at <https://gallica.bnf.fr/accueil/en/>, 255-256.

⁶⁷ Ibid.

VI's support of Eugenius was decidedly in opposition of the French who were just starting to gain the upper hand in the ongoing Hundred Years War and had begun to reacquire more of their lands from the control of the English.⁶⁸

The Issuance of the Pragmatic Sanctions of Bourges

In 1438, the same year that Charles VII issued his ordinance in support of the Council of Basel and prohibited prelates from acknowledging the legitimacy of its transference to Ferrara, the king also summoned a synod to Bourges to advise him on his next steps with regards to the council – pope conflict. When Charles VII came to power, he inherited a mostly weakened throne due to war efforts and continued occupation by the English, the fiscal policies of his father (Charles VI), and emptied royal treasuries, as will be seen later in Chapter Three. With this, and the recent ill memories of the Avignon popes and the more than a century-old struggle between pope and king in France since the time of Philip IV, Charles quickly seized the opportunity to turn the tide on many fronts and solidify his authority in France over the papacy, particularly with regards to jurisdiction and finances. No one but the King, according to Charles VII, “possessed rights over the church in the Kingdom of France, unless those rights were delegated by the king,” and no one but the king could tax the people of France.⁶⁹ In what was arguably the climax of a rising fever of Gallicanism and Franco – Papal conflict, he

⁶⁸ Stieber, 62-63.

⁶⁹ M.G.A. Vale, *Charles VII* (Berkeley: University of California Press, 1974), 15-18.

issued the Pragmatic Sanctions of Bourges of 1438, ordaining legal authority throughout France to enforce certain decrees of the Council of Basel in royal courts as well as those additional decrees set forth in the Pragmatic Sanctions; these decrees worked almost universally in the King's favor and in the favor of local clergy, whom as mentioned previously were notably loyal to the crown. They were aimed at securing authority for the crown within his realm from the papacy, and strived to restrict papal overreach with regards to both jurisdiction and finances. Gallicanism was largely backed by French political society and after the Pragmatic Sanctions it emerged as a fully formed ideology of a return to a more spiritual and less temporal abundance in the church. French authority was "left effectively unchallenged [by the papacy] after the Pragmatic Sanctions had codified both the economic and jurisdictional sides."⁷⁰

Charles VII issued the Pragmatic Sanctions of Bourges in 1438 as a response to the perceived papal overreach into royal jurisdiction within France with regards to courts, clergy, and finances. The tumultuous Franco – Papal relations in the fourteenth and fifteenth centuries coincided with a rising fever of Gallicanism where French clergy and the crown could count on one another's support when it came to protecting their interests from papal overreach. The conflict within the church over where the ultimate authority over church matters laid, *viz.* with the ecumenical councils or with the Roman diocese, also came to a head and Charles VII ostensibly supported the councils over that of the pope; thus, many of the decrees of the Pragmatic Sanctions of Bourges reflected the decrees set forth by the Council of Constance (1417) and the Council of Basel (1438). In

⁷⁰ Parsons, 23-24.

some instances, those decrees that mirrored the decrees of the ecumenical councils were in-and-of-themselves checks on the jurisdictional authority of the papacy, while other pertinent decrees of the Pragmatic Sanctions provided particular jurisdictional advantages to the crown.

CHAPTER TWO

JURISDICTION AND CHECKING THE REACH OF THE PAPACY

Having had royal representation present at the Council of Basel, and in conjunction with the French clergy, political leaders, and representatives of the University of Paris, Charles VII issued the Pragmatic Sanctions of Bourges in 1438, which codified in secular law certain decrees of the Council of Constance and the Council of Basel with the addition of caveats that worked in the favor of the French clergy and the crown. By issuing the Pragmatic Sanctions as a royal decree, it meant that any breach of those decrees by anyone in France could have been subject to secular judgement in the royal courts, rather than just by the papacy or an ecumenical council. This was a huge step forward not just for Gallicanism, which was strengthened by the already healthy relationship between the French clergy and the King of France, but also for the autonomy and authority of the French crown over that of the pope within French territory. As was seen in the conflict between King Philip the Fair and Pope Boniface VIII, and with the Avignon popes, conflict with the French crown was often the result

when the pope attempted to centralize and expand authority at the head of the church and extend his reach into secular affairs in France.

Many of the decrees of the Pragmatic Sanctions of Bourges ensured that the authority and autonomy of the papacy was checked by the general councils of the universal church, and limited the pope's jurisdiction in several areas, and in others strengthened the influence and jurisdiction of the crown, such as with elections to benefices and jurisdiction over aspects of the royal courts. These decrees aimed to steer authority over temporal matters back into the hands of the crown and address some of the specifically stated accusations against the papacy that Charles VII outlined in his introduction to the Pragmatic Sanctions; this increased the influence of the king in elections to local benefices and ensured the "hierarchy of the church" was such that the pope was not the supreme ruler of the universal church, and that there was a method of oversight that could check the jurisdiction and authority of the papacy.

The pertinent decrees of the Pragmatic Sanctions of Bourges issued by Charles VII that limited the jurisdiction of the pope, and addressed the concerns of hierarchy within the church and the authority of the papacy, can be categorized as addressing three separate issues. First, some decrees of the Pragmatic Sanctions established where the ultimate authority was held within the church (*viz.* general ecumenical councils) and implemented a system of oversight over the pope through the College of Cardinals. These decrees include *Frequens* and *Sacrosancta* dealing primarily with general councils, and *Cum summon pontifici* dealing primarily with the College of Cardinals and the qualifications of the cardinals that could be elected to the Sacred College. These

Cardinals were also tasked with oversight of the papacy, ensuring that he was living up to the expectations of the general council. Second, Charles VII established, or in some cases reestablished under royal authority, certain decrees addressing the rights of general reservations of benefices and expectatives claimed by the papacy, and set standards for local elections to benefices. They were established in a manner such that the influence from the pope was more limited with regards to elections or appointments to benefices in France while simultaneously increasing the influence of the crown within the Gallican Church in France. These decrees include *Sicut in construenda*, *Licet dudum*, *Et quia multiplices*, *Placuit divinae*, and *Quaecumque non violentes* which all dealt with elections to benefices, reservations of benefices, and expectatives. Finally, the third jurisdictional issue addressed was with regards to the courts and the influence of the Roman curia over matters that Charles VII and the Gallican Church felt should be dealt with in local ecclesiastical and royal courts. Decrees *Ecclesiastici sollicitudinis* and *Ut lites citius* addressed these concerns directly, especially with regards to appeals made to the Roman curia out of France. This chapter goes through each of these decrees and demonstrates how they address each of Charles VII's concerns over jurisdiction and authority in the same order that they are stated above.

Charles VII clearly expressed these jurisdictional motivations in his introduction to the Pragmatic Sanctions of Bourges, as well as his worries about the reach of the papacy in temporal matters. Charles forwardly accused the papacy and its administration of "intolerable encroachments and particularly the reservations to prelaties and other

ecclesiastical benefices.”⁷¹ “Reservations to prelaties and other ecclesiastical benefices” referred to the practice of the papacy reserving the right for himself to appoint individuals to ecclesiastical positions within the church, regardless of if their position was outside of Rome or Avignon. Initially, reservations to benefices were seldom held by the papacy for positions outside of the holy see, and applied only to those positions in which the holder had died within a certain distance of the Roman diocese. Under the Avignon popes this reach was exponentially magnified and the pope reserved the rights to benefices nearly universally.⁷² By the time the papacy returned to Rome from Avignon in 1376 there were very few, if any, collations throughout Latin Christendom that escaped the grasp of the papacy.⁷³

Charles also accused the papacy of “the multiplying and innumerable conceding of very exorbitant expectative to benefices... and other most serious and important burdens, by which the churches and ecclesiastical persons of our said Kingdom and Dauphine appear nowadays to be gravely afflicted, oppressed and reduced almost to extreme exhaustion.”⁷⁴ An expectative to a benefice was a method of reserving a benefice in which a successor was appointed to a position before that position had

⁷¹ “Pragmatic Sanctions of Bourges enacted by Charles VII, King of France, July 7, 1438” in Ehler, ed. & trans., 116.

⁷² Ann Deeley, “Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century.” *The English Historical Review* 43, No. 172 (Oct. 1928): 497-527.

⁷³ Ibid.

⁷⁴ Ehler, 116.

become vacant. Upon the death of the individual currently holding the office the position would immediately be filled by the chosen successor. Charles asserted that “prelates and other lawful collators are deprived of their rights of collation and of their ministry” and that the “hierarchy of the church is confounded, and many other things are similarly perpetrated against divine and human laws leading to the ruin of souls, and oppression and treading under foot of our often-mentioned Kingdom and Dauphine; at the same time the rights of our Crown are greatly abased”⁷⁵ With the pope claiming rights to reservations of benefices and expectatives Charles VII felt his influence and rights were diminished with regards to elections to benefices throughout France, which had traditionally been yielded to the king. Additionally, Charles VII was concerned with the “hierarchy of the church,” which primarily in the fifteenth century flowed downward from the pope. Since the Avignon popes the authority and reach of the papacy had drastically increased, which troubled Charles VII.

Concerning the Hierarchy of the Church

The decrees sanctioned in the Pragmatic Sanctions of Bourges certainly addressed the above-stated accusations. Decrees addressing the ultimate authority of the church, the first of the three jurisdictional issues addressed in the Pragmatic Sanctions of Bourges, began with the reestablishment of the first two decrees of the Council of Basel, *Frequens*

⁷⁵ Ibid.,117.

and *Sacrosancta*, under royal authority in the Pragmatic Sanctions of Bourges. This was crucial for establishing the supremacy of the authority of general ecumenical councils in the hierarchy of the church. The members of many of the contemporary general councils certainly represented the interests of the king. Many of the members of the ecumenical councils at both the Bishopric of Constance and at Basel, and of the synod at Bourges, were representatives of both ecclesiastical and temporal offices; the temporal positions were often ones appointed by the crown himself. They also consisted of many Doctors of Law and Theology, especially from the University of Paris, which in the fourteenth and fifteenth centuries was heavily supported by royal funds and had long been heavily involved in drafting solutions to contemporary problems within the church.⁷⁶ The relationship and collegiality between the French Clergy, the University of Paris, and the crown was a longstanding one that was strengthened over time and, as was the case during the Great Western Schism and the Council of Constance, they often decided in tandem on the best way to move forward with regards to Franco – Papal relations.⁷⁷

The first decree, *Frequens*, served to ensure that general council meetings such as those that took place at Constance and Basel would continue to take place regularly. It declared that “frequent holding of general councils is the chief means of cultivating the

⁷⁶ Walter Ullmann, *Cambridge Studies in Medieval Life and Thought: Universities, Academics and the Great Schism*. (London: Cambridge University Press, 1979), 202-207.

⁷⁷ Louise Loomis, *The Council of Constance: The Unification of the Church* (New York: Columbia University Press, 1961), 14-16.

Lord's field."⁷⁸ General ecumenical councils were revered by the Gallican Church in France, and by Charles VII, as a natural method of checking the papacy and a means "by which the briars, thorns and thistles of heresies, errors and schisms are extirpated, excesses corrected, deformities straightened, and the Lord's vine made to bear the fruit of full fertility."⁷⁹ In other words, general councils held authority enough to ensure the direction of the church, regardless of the trajectory that the papacy had in mind. Under *Frequens*, the first general council was to be held five years following the Council of Basel, and the second one seven years after that. Subsequently, general councils were to be convened at regular intervals of ten years in perpetuity. It was the responsibility of the Pope, under *Frequens*, to establish the location of the next general council within a month of the conclusion of the most recent meeting. If the pope failed to notify the council and publish a location for the next general council meeting, then the council itself would do so. The synod at Bourges also established that, per the decree, the Council of Basel was the legal continuation of the Council of Constance in the line fixed by the decree.⁸⁰ The support and codification of *Frequens* by a royal synod came as no surprise as conciliarism was at the heart of Gallicanism in France, and there was a longstanding tradition of the French crown's support of clerical councils such as was seen during the Great Western Schism in 1378. Councils could ensure that papal authoritarianism over French subjects and overstep into what the crown considered his jurisdiction might

⁷⁸ "Decree *frequens*," in Ehler, 106.

⁷⁹ *Ibid.*, 106.

⁸⁰ *Ibid.*, 106.

remain limited, ultimately avoiding confrontations such as what occurred between Philip IV and Boniface VIII, or with the Avignon popes, especially considering the royalists often present in the councils.

The synod at Bourges, in accordance with the decree established at the Council of Basel, further specified that the Pope cannot change at the last minute the location or time which such a council was to be held, unless under extenuating circumstances as specified in the decree, and only with the explicit permission of the council. They decreed that “the place fixed for holding a future council should not be changed without evident necessity... in which it would be deemed necessary to change that place, for example because of siege, war, plague or something similar, then the Supreme Pontiff is to be entitled to substitute – with written consent of his aforesaid brothers or of two-thirds of them – for the former one another place which would be nearby and suitable and within the same nation”⁸¹ This ostensibly was in response the translation of the Council of Basel to Ferrara south of the Alps by Pope Eugenius. Additionally, the pope was to publish the change of the location at least one year in advance so that there was adequate time for the prelates throughout Europe to be made aware of the change and prepare accordingly. In Eugenius’s attempt to transfer the council meeting from Basel to Ferrara he had hoped that he would benefit from a majority of support in his efforts against the Council of Basel as they would have had low representation because of the last-minute change to a location that was more difficult to get to south of the Alps, and which was closer to Rome. Meanwhile, at Ferrara, Eugenius wrote in an attempt to discredit the

⁸¹ Ibid.

Council of Basel that they were “scorning the letter of the said translation and everything contained in it, and piling evil upon evil... [the Council of Basel] rejected our reasonable translation made for the said most just and urgent reasons,” and that they “even dared with renewed obstinacy to warn us to withdraw the said translation... to force us to abandon the prosecution of such a holy work so much desired by all Christians.”⁸²

Undoubtedly the synod at Bourges were heavily influenced by these events when they reestablished the decree *Frequens* in the Pragmatic Sanctions.

The second decree of the Pragmatic Sanctions reestablished under royal authority another decree from the Council of Constance, decree *Sacrosancta*, and recognized that this decree, too, had been renewed at Basel. Decree *Sacrosancta* established the ultimate authority of the general council over that of any ecclesiastical dignitary, even that of the Pope, and declared the assembly to be a lawful one representing the Catholic Church in which it aims to reform. It declared that it is “lawfully assembled in the Holy Spirit, constitutes a general council, represents the Catholic Church and has immediate power from Christ to which anyone, of whatever status and condition, even if holding the Papal dignity, is bound to obey in matters pertaining to the Faith, extirpation of the schism and reformation of the said Church in head and members.”⁸³ In true conciliarist fashion, having granted final authority on all matters of the church and its clergy to the general councils, it further expounded on the declaration of their authority by establishing that all those, even the pope, who violate *Sacrosancta* were to be punished to an extent as seen fit

⁸² “Council of Ferrara,” in Tanner, 518.

⁸³ “Decree *Sacrosancta*,” in Ehler, 105.

by the council for their contraventions. Anyone “who will contumaciously disdain to obey the orders of statutes, ordinances or instructions made or to be made concerning the aforesaid subjects or matters pertaining to them by this holy synod or by any other lawfully convened general council, shall be, unless he comes to his senses, subjected to appropriate penance and duly punished, and recourse shall be had, if necessary, to other resources of the law.”⁸⁴ As the Pragmatic Sanctions of Bourges were a royal ordinance, under the Pragmatic Sanctions the “other resources of the law” included the French royal courts should such violations occur within their jurisdiction. Again, as with *Frequens*, by supporting the authority of the council over that of the pope the French crown could ensure that the interests of the king and the local clergy were represented and that there was a check on the authority of the papacy.

Decree *Cum summon pontifici* regulated the number and qualifications of cardinals, as well as the means of electing cardinals. This decree also levied a responsibility on the Sacred College to monitor and hold accountable the supreme pontiff to his duties to the church and outlined the duties and responsibilities of the cardinals themselves. Additionally, Cardinals were required to reinvest a tenth of their income into their titular churches and were required also to make an annual visit to their titular church in person and address the concerns of their clergy and parishioners. They were to ensure that they were conducting themselves in a manner deemed acceptable by the Roman curia and the general ecumenical council. Popes, and their supporters within the clergy, could

⁸⁴ Ibid.

no longer ignore the needs of their local churches or place the needs of Rome above their “flock,” which meant more support for the local clergy throughout France.

Responsibilities for the governance of the church were divided among the three orders of cardinals; these responsibilities were to be shared by the pope with Sacred College rather than the papacy owning them entirely. The first order, cardinal-bishops, were responsible for inquiring “about what regions are infected with new or old heresies, errors and superstitions.”⁸⁵ Cardinal-bishops are at the top of the three orders and were tasked with bringing to resolution most of the issues or concerns presented to the Sacred College. Cardinal-priests, second among the three orders of cardinals, were tasked with ensuring that the conduct of the titular churches was in line with the ideals and canon law of the church, and “inquire where the observance of the commandments and ecclesiastical discipline are lax.”⁸⁶ Cardinal-deacons, the lowest-ranking of the cardinal orders, were charged mostly with monitoring the international affairs of kings, princes, and all “peoples troubled by actual or possible wars.”⁸⁷ All cardinals were to assist the pope in settling quarrels and advise in such a manner that is devoid of favoritism, and were to present themselves publicly with dignity and modesty so as to avoid a “source of scandal.”⁸⁸ This ensured that the pope himself could not decide on any matters concerning international politics, but rather the responsibilities of overseeing matters

⁸⁵ Ibid., 503.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid., 504.

regarding international politics or conflict, or other matters such as transgressions against the church, were to be shared by the papacy with the College of Cardinals.

This decree also established expectations, and a method of oversight, for the pope. “As the common father and pastor of all, [he] should have investigations made everywhere not only when requested to do so but also on his own initiative and he should apply salutary medicines, as best he can, for all the illnesses of his children.”⁸⁹ The supreme pontiff was, for all intents and purposes, still the head of the church, but under decree *Cum summon pontifici* he was held more accountable for how he represented the church and for his conduct with regards to both his duties and demeanor. He remained under the watchful eyes of the kings and princes of Latin Christendom, and of the cardinals who were charged with holding him accountable should they ever notice that he “is negligent or remiss or acting in a way unbecoming his state”⁹⁰ Should they ever find that the pope was not living up to his responsibilities as determined by the council they were to first “beg him to live up to his pastoral office, his good name and his duty.”⁹¹ If the supreme pontiff did not change his behaviors in a manner deemed appropriate by the Sacred College then they were to first give him a warning that should the pattern of behavior continue they will report him to the next general ecumenical council. In order to report the pope to next general council they would need to do so collegially and with the support of “notable prelates” who were familiar with the behavior that was being

⁸⁹ Ibid., 503

⁹⁰ Ibid.

⁹¹ Ibid.

reported. For his part, the pope was also to hold accountable the cardinals whenever they were acting “wrongly and reprehensibly.”⁹² The pope was tasked with correcting them, “always with paternal charity and according to the evangelical teaching.”⁹³ This system of “check-and-balance” between the cardinals and pope served to prevent the pope or other notable prelates from centralizing too much power at the head of the church, and ensured that they were abiding by the wishes of the general council.

Cum summon pontifici further decreed the makeup and qualifications of the members of the College of Cardinals, whom they charged with oversight of the papacy, which ensured that each person elected to the Sacred College was agreeable to the general ecumenical council. “Henceforth their numbers shall be so adjusted that it is not a burden to the church, which now, owing to the malice of the times, is afflicted by many serious inconveniences or cheapened by being too large.”⁹⁴ It was settled that the Sacred College should consist of no more than twenty-four cardinals, and no nation should hold more than one-third of the cardinals elected to the college. This meant that Italian Cardinals could not largely outnumber those from other nations and there was more equal representation within the College of Cardinals. Often, as was seen with Boniface VIII during the reign of Philip the Fair, the selection of Cardinals was influenced primarily by the pope and was often based on their nationality matching that of the Pope, or their family. Each diocese was not permitted more than one Cardinal for their region. The

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid., 501.

cardinals elected should be men, outstanding in knowledge, good conduct and practical experiences, at least thirty years of age, and should be “masters, doctors, or licentiates who have been examined in divine or human law.”⁹⁵ At least a third of the cardinals elected should be “masters or licentiates” specifically in holy scripture.⁹⁶ Additionally, “a very few of them may be sons, brothers or nephews of kings or great princes” with an “appropriate amount of education” and with a consideration to their “experience and maturity of behavior.”⁹⁷

The concession of “a very few” Cardinals to be sons, brothers, or nephews of princes or kings allowed for the opportunity for royal representation within the leadership of universal church, or at the very least a loyal seed in the College of Cardinals. Meanwhile, nepotism under decree *Cum summon pontifici* was strictly abolished. Under the Avignon papacy nepotism was rampant, with the popes often appointing familial individuals to positions of power within the local clergy in the nearby French regions, and elsewhere throughout the universal church. Any nephews of the Roman pontiff, or of any living cardinal, was not permitted to be elected to the Sacred College. In addition, all physically handicapped individuals, “bastards,” or any person “stained by a reputation of crime or infamy” could not hold the position of cardinal. The election of cardinals was to be made by a combination of oral votes and a collegial agreement signed by the electorate and agreed upon by a majority of the existing cardinals, and whose ballot was

⁹⁵ Ibid., 501.

⁹⁶ Ibid.

⁹⁷ Ibid.

made public prior to the election. Once elected, the cardinal was required to don an “insignia of their dignity” and publicly take an oath before a bishop commissioned by the Sacred College before they could assume their new role, an oath which was determined by the general council.⁹⁸

Elections to Benefices and General Reservations to Prelacies

The second function of the pertinent decrees of the Pragmatic Sanctions of Bourges with regards to jurisdiction was to limit the influence of the papacy in elections to benefices, and to restore the privileges of the king and local clergy with regards to local elections and reservations of benefices. The third and fourth decrees of the Pragmatic Sanctions, decree *Sicut in construenda* and decree *Licet dudum*, restricted the privileges which the papacy had granted himself over matters of canonical elections to benefices. Decree *Sicut in construenda* and decree *Licet dudum* were both first established by the Council of Basel and ordained by Charles VII in the Pragmatic Sanctions.

The first of these, decree *Sicut in construenda*, abolished general papal reservations in elective benefices and regulated the mode and procedure of elections.⁹⁹ This was one of the primary points of opposition for pope Eugenius IV during the Council of Basel, who protested the authority of a council to strip the right of appointing

⁹⁸ Ibid.

⁹⁹ Ehler, 118.

individuals to benefices from the papacy. When first established at the Council of Basel in its twelfth session of 13 July 1433, *Sicut in construenda* implemented restrictions on the pope and enhanced the authority of the council in elections and confirmations of bishops and prelates. It also established the basis by which an individual was authorized to be elected, and placed restrictions on electorates with regards to giving and receiving gifts in an attempt to ensure that elections were entirely devoid of simony. Simony, the act of selling ecclesiastical positions to wealthy individuals for money, gifts, or other favors was rather commonplace in the medieval church and was practiced heavily under the Avignon popes; it was heavily frowned upon by the universal church as well as by many secular entities.

Per the synod at Bourges, the authority of the council and churches to hold their own ecclesiastical elections was divine providence: “The office enjoined on prelates manifestly shows how great care should be taken in their election... Therefore the sacred canons, promulgated under the Spirit of God, providentially established that each church and college of convent should elect a prelate for itself.”¹⁰⁰ The council further established that the Roman pontiff, under this new provision, should not attempt on his own to elect dignitaries or take advantage of “general reservations” where all metropolitan, cathedral, collegiate, and monastic churches existed except where they existed in an area under the immediate direction of the Pope, *viz.* the Roman Diocese. In an attempt to alleviate their trepidations that the pope might bypass the council they “also decree[d] that it will be in conformity with reason and beneficial for the common good

¹⁰⁰ “Council of Basel,” in Tanner, 469.

that the Roman pontiff should attempt nothing contrary to this salutary decree, except for an important, reasonable and manifest cause, which is to be specified expressly in an apostolic letter...the same holy synod wishes that, among other things that the Roman pontiff shall profess on assuming office, he shall swear to observe inviolably this decree.”¹⁰¹ The general councils declared that the pope should include in his oath of office that he would abide by *Sicut in construenda*.

The elections to benefices were to be carried out in the church within the jurisdiction where the prelate would take office, and those who were electing the prelate were to swear an oath in the church where the election was to be held that they will “elect the person who [they] believe will be the more useful to the church in spiritual and temporal things, and not to give a vote to anyone who [they] think is procuring the election for himself by the promise or gift of some temporal thing, or by making a request in person or through another, or in any other way directly or indirectly.” This part of the decree ensured that elections took place so that even if a bishop or other prelate was nominated from outside of France, such as from Rome for example, to represent a certain region within French territory they would be forced to show representation in their locality during the election process and beyond. It also ensured that the elections were conducted fairly and that wealth or other temporal influence would not determine the outcome of the election. The nominees also had to meet certain requirements as set forth by the council: “Thereupon let them elect to said prelacy a man of lawful age, of serious character and adequate education, already in sacred orders and suitable in other respects

¹⁰¹ Ibid., 470.

in accordance with canonical regulations.”¹⁰² This limited the likelihood of unqualified prelates being elected or supported by a Pope that did not meet a set of expectations as outlined by the general council; in other words, the council determined who could, and who could not, be elected to positions within a church by determining their necessary qualifications.

When *Sicut in construenda* and *Licut dudum* were codified in the Pragmatic Sanctions of Bourges a caveat was added that granted additional privilege to the crown. In the original decree established by the Council of Basel the electorate could not be influenced by any outside source, be it another prelate, the pope, or a temporal leader such as a prince or king. Under the Pragmatic Sanctions the royal influence on elections of prelates in the Kingdom of France was considered legal: “the said synod of Bourges does not consider it as reprehensible if the King and the princes of his kingdom sometimes use benign and benevolent recommendations in favour of persons who are meritorious and zealous for the common weal of the Kingdom and Dauphine.”¹⁰³ This ostensibly granted additional privilege over prelate elections to the King in France whereas the influence of the pope in these matters remained diminished by the general council.

The fifth decree of the Pragmatic Sanctions, *Et quia multiplices*, prohibited papal reservations of non-elective benefices, *viz.* all appointments. It also prevented the pope

¹⁰² *Ibid.*, 471.

¹⁰³ Ehler, 118.

from nominating any individuals to these positions.¹⁰⁴ There were a few exceptions to this edict; the papacy held certain reservations and could declare nominations in benefices which fell directly within the domain of his diocese, such as in Rome, but to the benefit of the French crown this influence was far from the Gallican Church in France. This edict also theoretically applied to all temporal positions as well. A longstanding habit of Popes was to take it upon themselves to determine who would inherit ecclesiastical benefices, leaving local clergy powerless and voiceless in elections to positions of influence over their region. This practice was especially prevalent among the Avignon popes, who would also often influence local secular elections in the immediate regions around Avignon. *Et quia multiplices* prevented these interferences in appointments and elections to local secular positions.

Decree *Placuit divinae* abolished the long-held tradition of expectatives, which were a major concern within both the conciliar movement and Gallicanism. Expectatives were anticipated appointments given to individuals for an office or position that was not yet vacant, but expected to be so either from the death, removal, or reassignment of the person currently holding that office or position. This practice was one that, for a very long time, did not sit well with the French clergy, or the king; expectatives were one of the “corruption of morals” mentioned in the introduction to the Pragmatic Sanctions when Charles VII the purpose of the sanctions in reforming various aspects of the church. *Placuit divinae* not only ended this practice but also set the standards and qualifications by which someone could be elected to a benefice. Local electors, or collators, elected or

¹⁰⁴ Ibid.

appointed nominees to benefices within their local jurisdictions. A concession was granted, however, that should any collator in the kingdom of France control ten or more benefices then one was to be left to the discretion of the pope. If a collator controlled fifty or more benefices, then the pope was granted two.¹⁰⁵ Nonetheless, the number of concessions (one-in ten, or two-in-fifty) was so minimal that *Placuit divinae* certainly still provided an advantage to the local Gallican clergy and the crown over ecclesiastical elections within France.

Decree *Quaecumque non violentes* restricted the protest of holders of certain benefices and other positions within the church. Under this decree, if a benefice had been in peaceful possession of a holder for at least three years then no one could legally challenge his position. The possession of the title must have come peacefully, without violence, and without a lawsuit. Possessors of such positions could not be challenged “except in the case of warfare or some other legitimate impediment, which he must protest and intimate in accordance with the Council of Vienne.”¹⁰⁶ As pointed out by Norman Tanner in his compendium *Decrees of Ecumenical Councils* the Council of Vienne did not actually decree anything about this.¹⁰⁷ This decree, however, does prevent those who have peacefully obtained their positions from being challenged or ousted by the any other single ecclesiastical dignitary or the Pope. It was often the case that popes would replace certain members of the clergy with those whom they preferred

¹⁰⁵ Ehler, 118.

¹⁰⁶ Tanner, 489.

¹⁰⁷ *Ibid.*

to hold the position, such as when Avignon popes put many of their relatives and close contacts in positions traditionally held by local clergy in the proximate French regions. Under *Quaecumque non violentes* French prelates serving their local jurisdictions could not be replaced at the whim of an Italian collator, or the pope.

Jurisdiction over Courts and Appeals

Addressing the third concern of the jurisdiction of appeals out of France to the Roman Curia and jurisdiction over courts within the realm of France were decrees *Ecclesiasticai sollicitudinis* and *Ut lites citius*. Decree *Ecclesiasticai sollicitudinis* controlled the appeals process to the Roman curia. The curia is the governing body of the church out of Rome which directly assists the pope in governance of the church. Under this decree no appeals were allowed to be made to the papal curia from places distant more than four days from Rome. The Pragmatic Sanctions of Bourges reduced the distance to two days for all those areas outside of Italy. In addition to the distance restrictions, it was determined in the Pragmatic Sanctions that no appeal could be made at all out of France before a sentence had been rendered there, and no appeal could be made from France with the omission of an intermediate ecclesiastical court of appeals. This gave the French clergy in the Gallican Church immediate jurisdiction over appeals that were coming out of the Kingdom of France and limited the appeals that could be sent for consideration by the Roman Curia.¹⁰⁸ Furthermore, it provided an opportunity for the

¹⁰⁸ Ehler, 119.

royal courts to try cases under the Pragmatic Sanctions before they were sent out of France to the papacy, ensuring that they could render the first verdict.

Decree *Ut lites citius* added to *Ecclesiasticai sollicitudinis* additional restrictions regarding appeals. *Ut lites citius*, originally published by the Council of Basel, forbade certain forms of abuse of appeals to the Papal curia. Specifically, second appeals for the same grievance, or appeals against sentences which have not yet entered into legal force, were not allowed. For any individual that made “frivolous appeals” or “unjust appeals” before “the final judgement, shall be condemned by the appeal judge to pay to the party appealed against the sum of fifteen gold florins of the treasury, in addition to the expenses, damages and interest.”¹⁰⁹ This limited the appeals that could be made out of France to Rome about judgements that were rendered in French courts before they could enter into force, and implemented a system of punishment to discourage attempts to make such appeals.

Reflections on Jurisdiction and the Pragmatic Sanctions

By addressing all three of these concerns regarding the jurisdiction and authority of the papacy, with certain concessions to the crown and local clergy (namely papal reservations to benefices and expectatives, local elections to benefices, and instituting a method of oversight which would ensure the papacy was not exceeding his authority and that he was abiding by the expectations of the general council), Charles VII hoped to

¹⁰⁹ “Council of Basel,” in Tanner, 488.

directly address the “oppression and treading under foot of our often-mentioned Kingdom and Dauphine” and ameliorate “the rights of our Crown” which were perceived as being “greatly abased.”¹¹⁰ The concessions specifically granted to the king in some of the decrees, such as in *Cum summon pontifici* and *Sicut in construenda*, allowed certain privileges to the French crown with which he could influence, to a certain extent, elections to benefices within his realm. The influence of the king is already noted where general councils are concerned as they often consisted of local Gallican clergy (whom were loyal mostly to the king), political leaders of whom many were appointed by the crown, and Doctors of Law and Theology from the University of Paris which was heavily funded by royal coffers. Thus, it is no surprise that as one method of ensuring that the authority of the papacy remained limited, Charles VII supported the supreme authority of general councils where royal influence already existed. By limiting the appeals to Rome out of France, and ensuring local ecclesiastical and royal courts had priority where any trepidations against the decrees set forth by the Council of Basel or in the Pragmatic Sanctions of Bourges were concerned, Charles VII ensured matters both temporal and ecclesiastical were dealt with locally in France under his own influence, and the jurisdiction of the papacy over such matters in France was limited.

Jurisdiction over courts and clergy, and checking the authority of the papacy, were not the only motivations of Charles VII, however, in his issuing the Pragmatic Sanctions of Bourges. France found itself in a dire financial situation during the reign of Charles VII, with large amounts of monies being carried out of France to Rome. While

¹¹⁰ Ehler, 116.

there were several things that lead to the worrisome financial circumstances of France by 1438, Charles VII nonetheless turned his sights toward the church in an attempt to ameliorate the emptying royal coffers and the flow of monies out of France through several decrees in his Pragmatic Sanctions of Bourges.

CHAPTER THREE

CONCERNING FINANCES

In addition to his jurisdictional motivations for the Pragmatic Sanctions of Bourges, as well as his worries about the reach of the papacy in temporal matters, Charles VII was also motivated by the financial condition of France and the diminishing royal coffers when he issued the Pragmatic Sanctions of Bourges in 1438. The Pragmatic Sanctions provided financial and economic advantages to the crown while decreasing French losses to the Roman pontiff; in so doing they decreased the amount of French monies and resources that were being carried out of France to Rome. There were several ways in which the crown was able to do this, and the direct financial and economic implications of the Pragmatic Sanctions were indicative of the financial circumstances of France by 1438 when they were established.

This chapter describes the financial circumstances of France by 1438 and demonstrates the relevancy of pertinent decrees within the Pragmatic Sanctions that provided financial advantages to the crown, and diminished the financial resources that

were carried out of France to the Roman diocese. It begins by exploring the various fiscal, economic, and monetary problems facing Charles VII by 1438 in order to provide context for the pertinent decrees in the Pragmatic Sanctions of Bourges. France had been ravaged by The Hundred Years War, disease and famine, poor fiscal policies, and other monetary problems relating to the availability of specie and precious metals, as well as a greatly diminished tax base. These problems were further exacerbated by the large amounts of monies that were being carried out of France to the papacy. Charles VII turned his sights toward the church in his efforts to ameliorate some of these monetary problems through the Pragmatic Sanctions of Bourges. In his introduction to the Pragmatic Sanctions he explicitly stated his concerns with the “cupidity” of the church and of the drainage of French fiscal resources by the papacy, which he worried was leaving France in an intentionally vulnerable position. Charles VII, through several decrees in the Pragmatic Sanctions of Bourges, addressed these stated concerns. A quick look at the financial circumstances of France after 1438 demonstrates the positive effects of some of these decrees.

Financial History and Context of France by 1438

The Hundred Years War against the English, aptly named as the war lasted approximately a century (1337-1453), as well as constant skirmishes with the Burgundians, both of whom were supported by the pope in their claims to the disputed French territories, had already had a drastic effect on the French economy and royal finances before other hardships presented themselves. The war had been sparked by

Edward III's claim to French territory through a deal that had been struck with Charles's grandfather and predecessor Philip VI. Philip reneged on the deal infuriating Edward III. Initially, Philip VI's army outnumbered Edward's two to one, yet Philip refused to enter into war with England and its allies. Edward continuously attacked the border and countryside of France, but was expelled each time by French forces until 1339. The campaigns in 1339 were especially significant as they proved to be a turning point in the war for the English in which they gained the upper hand. In English medieval warfare a central goal of war was to cause as much damage as possible to towns, villages, livestock, and the general populace in order to weaken the enemy. Having perfected pillaging and destruction during their campaigns against the Scots, the English transferred these skills to their conquests in France. The English wreaked havoc on the countryside, killing many of the civilians they encountered, destroying crops and cattle, and diminishing trade routes, towns, and hamlets to ash and rubble. An exchange between a French Cardinal and his English captors during the war paints a somber image: "Does it not seem to you that the silken thread encompassing France is broken?" as the French Cardinal viewed the countryside burning in all directions from atop a tower. "At this, the Cardinal fell down as if dead, stretched out on the roof of the tower from fear and grief."¹¹¹ For the next

¹¹¹ As quoted in Desmond Seward, *The Hundred Years War: The English In France 1337-1453* (New York: Penguin Books, 1999), 38.

century the English continued their campaigns of *chevauchée*, devastating French morale and the French economy and infrastructure.¹¹²

France had initially provided for its defense through a feudal tradition by which localities were called upon by the king to provide service, or in many instances were paid by the king to provide service. As the Hundred Years War from the French perspective was largely defensive, the king could not mobilize or finance support quickly enough to defend the borders against the relentless attacks of the English. At the same time, there was a concurrent conflict with the Burgundians, whom largely sided with the English in their claims to the French throne, which meant that no or little support from those immediate regions of France where Burgundian influence was superior to the influence of the French crown could be garnered. Wars were typically funded through fines and traditional patronages to the crown, though it quickly became apparent in the fourteenth century during the Hundred Years War that these means were not a quick enough solution for raising enough financial support to fund a defensive war. Wars were expensive, and France was losing territory along its borders and in some regions were struggling with the Duchy of Burgundy; money needed to be raised more quickly, especially as the royal coffers were largely strained.¹¹³ Kings of France, and England for

¹¹² *Chevauchée* was a medieval method of warfare in which one would burn, pillage, and destroy towns and objectives during military raids in order to reduce productivity and weaken the overall strength of an enemy.

¹¹³ Christopher Allmand, *Hundred Years War: England and France at War C. 1300-C. 1450* (New York: Cambridge University Press, 1988), 93-96.

that matter, during the Hundred Years War turned to taxation of their subjects to fund the war; war taxation in France increased exponentially as the royal coffers began to empty, with the war efforts accounting for nearly one-half to two-thirds of all expenditure by the mid fifteenth century, a huge burden on both the royal treasury and the people of the Kingdom of France.¹¹⁴

During the Hundred Years War another unexpected killer made its way to Europe that radically changed the demography and further weakened the financial situation in France. The Bubonic Plague spread from its place of origin in Asia, through Constantinople, toward Western Europe, and had decimated the taxpaying population of France by 1350.¹¹⁵ Fleas that fed on rodents which were infected with Bubonic Plague transmitted the disease to the other mammals that they bit, such as humans. The disease was quickly able to spread along trade routes and on ships in the blood of its host since the bacterium is able to survive long periods of time in mammals.¹¹⁶ The Bubonic Plague epidemic wiped out nearly 60% of the fiscal hearths in France.¹¹⁷ In medieval France a Hearth Tax was a tax levied on each hearth throughout the realm by the crown, in essence a property tax of medieval France for each hearth owned. With a mortality rate of approximately 60% of these taxpayers throughout France, royal revenues from taxes

¹¹⁴ Ibid., 102-111.

¹¹⁵ Ole Benedictow, *The Black Death 1346-1353: The Complete History* (Woodbridge: The Boydell Press, 2004), 332-337.

¹¹⁶ Ibid., 96-124.

¹¹⁷ Ibid., 332-337.

which, as mentioned previously, were used to fund the expensive Hundred Years War, were drastically decreased by more than half.¹¹⁸ Both the Hundred Years War and the Bubonic plague had devastated France. The French countryside had been destroyed and more than half of its tax paying population perished from disease, warfare, and famine. Both its infrastructure and its economy had been greatly damaged. France was left with a demand for both workers and capital. Those who found themselves to be surviving victims of the war or plague were without resources or money, and France had to deal with a shortage of laborers which made recovery in infrastructure and the economy slow and arduous.

During the first two decades of the fifteenth century the French monarchy, with assistance from the *parlements*, began taxing the exports of wool products and borrowed large sums of money from Italy to pay for the war efforts along the borders, and the reconstruction of France; that debt and bleeding economy were inherited by Charles VI, father of Charles VII, who managed to close the economic wound, but only in the short term. Charles VI, with the aid of a quickly assembled administration, utilized debasement, the practice of decreasing the intrinsic value of currency while maintaining its face value; this was done in an effort to increase *seigniorage* revenue to raise enough money to fight back against the advancing English and Burgundians and halt the declining economic climate in France.¹¹⁹ *Seigniorage* revenue is the revenue generated

¹¹⁸ Ibid.

¹¹⁹ Nathan Sussman, "Debasements, Royal Revenues, and Inflation in France During the Hundred Years' War, 1415-1422," *The Journal of Economic History*, 53, no. 1, (March,

by the sovereign as a result of debasement, the minting process, and inflation. Charles VI was able to do this by decreasing the amount of precious metal used during the minting process, thus lowering the cost of producing the coin and acquiring the metals. The royal administration also enforced reminting policies that replaced currency that was already in circulation with newly reminted currency of a greater face value and a lower intrinsic value. For example, if the currency that was in circulation which was to be replaced was worth one cent, and the newly reminted coin was worth five cents, then the administration would collect the one-cent coins and remint them into five-cent coins. This nearly eliminated the cost of materials. These processes increased the *seigniorage* revenue generated by the crown, but also drastically sped up inflation.¹²⁰ By the time Charles VII inherited the throne, inflation had increased drastically and royal revenue had declined. The long-term effects of the economic policies of Charles VI damaged Charles VII's relationship with the nobles and dukes throughout France and Italy, and, more notably, with the Roman diocese.

Franco – Papal Relations Regarding Finances

The efforts of debasement by Charles VI proved to be short-sighted and only fruitful for a limited time; it quickly escalated into a failed experiment which increased the overall inflation in France and decreased the real value of French specie. The

1993): 44-70.

¹²⁰ Sussman, 44-70.

weakened money returned as a result of debasement meant weakened money paid out as taxes to the royal administration.¹²¹ Additionally, France was faced with an overall shortage of coinage and precious metal resources throughout the fifteenth century. Royal policy makers quickly turned their sights toward the church in their efforts to increase the real tax base and conserve bullion; bullion is the real gold, silver, or other precious metals which determines a monetary value, or in this case the strength of French specie.¹²² During the twenty-one year period between 1378-1398, shipments of actual cash, primarily gold, to the papacy drained forty-seven percent of the total French gold coinage from France's money supply.¹²³ This drainage came primarily in the form of ecclesiastical taxes and fees paid out to the papacy, such as annates (taxes paid by local clergy to the Roman diocese upon entering into an ecclesiastical position), as well as other more subsidiary forms of papal revenue, such as simony.

During the Great Western Schism of 1378-1417 Pope Benedict XIII threatened excommunication to extract fees and revenues from France, but Charles VI forbade the movement of any French specie from France. Charles VI recognized that the papacy was draining France of important financial resources, impoverishing the French clergy, and diminishing their already limited supply of bullion. Charles VI issued ordinances that forbade any French subject from paying to "Benedict, to his collectors, or officers nor to his other accomplices or adherents any part of the revenues or emoluments that he draws

¹²¹ Miskimin, 73.

¹²² Ibid.

¹²³ Jean Favier "*Les Finances*," in Miskimin, 76.

in our kingdom and Dauphine.”¹²⁴ Shortly after the ordinances were issued, France was forced to realign themselves with Pope Benedict XIII after he escaped from besiegement at Avignon in 1403. Between the years of 1404 and 1408 papal transfers for French money to Avignon averaged a little more than fifty-three percent of the total gold coinage output.¹²⁵ Additionally, no gold was produced in France in the year 1406.¹²⁶

Charles VI once again took to the pen and wrote two letters that accused the papacy of using reservations and annates to extort financial resources from the kingdom of France and the French clergy; he asserted that as a result, France was left drained of money.¹²⁷ In his second letter, Charles VI ordered the taxes levied on the French clergy by the pope, cardinals, and the pope’s officers be stopped and asserted that “the work of God is burdened with debt, defrauded and ceases, subverting the intentions of the founders while the kingdom is deprived of money and wealth, impoverishing many, and giving rise to infinite and unspeakable temptations.”¹²⁸ Charles VI also accused the pope, cardinals, and pope’s officers out of Rome of diminishing the wealth of French subjects through excessively high costs of appeals for benefices, of which the pope reserved rights, otherwise known as simony. At the end of the Great Western Schism in

¹²⁴ *Ordonnances des rois de France de la troisieme race* (Paris: 1750), VIII: 258-68 as found in Miskimin, 78.

¹²⁵ Favier, “*Les Finances*,” 474 in Miskimin, 78.

¹²⁶ *Ibid.*

¹²⁷ Miskimin, 80.

¹²⁸ *Ordonnances des rois de France de la troisieme race* (Paris: 1755), IX: 183-85.

1417 Charles VI recognized the new pope, Martin V, while maintaining the “ancient Gallican liberties” of the French church and upholding his positions of 1407-1408.¹²⁹ On 2 April 1418 Charles also prohibited the transportation of gold, silver, jewels “or other things, for Annates, or other expeditions of the Court of Rome” out of France.¹³⁰ Charles VI wanted to avoid at all cost a return to such a dramatic drain of French specie and precious metals as was seen prior to 1408.

Gold mintage in France only began to climb just prior to the 1430’s under Charles VII, but immediately and sharply declined in the early 1430’s, and by the time the Pragmatic Sanctions were ordained in 1438 very little gold was being minted. This pattern of little to no resource mining and minimal minting of precious metals continued until approximately the sixteenth century.¹³¹ The limited production of bullion, the dire state of the French economy after consistent battles with the English and the plague, the fiscal policies of Charles VI, and the massive payouts to the papacy throughout the fourteenth and fifteenth centuries left Charles VII with plenty of motivation to address finances directly in the decrees of the Pragmatic Sanctions of Bourges.

In his introduction to the Pragmatic Sanctions of Bourges, Charles VII explicitly stated among his motivations “the wickedness of a reprehensible ambition and the insatiable appetite of a detestable cupidity, which is the root of all evils” within the

¹²⁹ Miskimin, 81. See also *Ordonnances des rois de France de la troisieme race* (Paris: 1763), X: 445-447.

¹³⁰ *Ordonnances des rois de France de la troisieme race* (Paris: 1763), X: 447-449.

¹³¹ Miskimin, 83.

church.¹³² The “cupidity” to which Charles VII refers began before the reign of Charles VII, when the papacy centralized authority and resources during the reign of the Avignon popes and increased the wealth of the papacy; as the church continued to demand more in the midst of diminishing French monies and resources Charles VII wanted to directly address what he perceived as greed of money by the papacy, and he wanted to curb the effect it had on both him and his kingdom financially. He asserted that the wealth of the church and of ecclesiastical benefices was “held in the hands of unworthy men and sometimes of foreigners” and accused the Roman church of appointing men to benefices who carry the wealth away from their titular regions, which was an affront to the “flock committed to them.”¹³³

Charles VII did not stop there, in his introduction to the Pragmatic Sanctions he also stated that “the rights of our Crown are greatly abased and the revenues of our said Kingdom and Dauphine are exported into foreign countries, perhaps with the purpose that this Kingdom and Dauphine would be enfeebled so as to surrender weakly in adversities with depressed clergy and exhausted treasury.”¹³⁴ Charles VII perceived the roman pontiff, and generally the supporters of the Roman diocese, as a threat to the security of France and directly accused them of draining French monies from both the kingdom as a whole and the royal treasury, while asserting that they are doing so in order to weaken the king and the kingdom.

¹³² “Pragmatic Sanctions of Bourges,” in Ehler, 116.

¹³³ Ibid.

¹³⁴ Ibid., 116-118.

Simony was also certainly on Charles VII's mind, having stated that there were "pestiferous abuses of horrible kind which is besprinkled with the stains of simony" within the church.¹³⁵ Simony, especially since the time of the Avignon popes, became a large source of income for the church in the fourteenth and fifteenth centuries, and a method by which monies were carried out of kingdoms to Rome. Charles VII's conjectures for the malevolent motivations of the Roman diocese, while they cannot be proven to be true, fit within the context of contemporary France and the dire financial situation by 1438 when the Pragmatic Sanctions of Bourges were ordained. During the reign of Charles VII France had been plagued by the Hundred Years War with the English, skirmishes with the Burgundians, a literal plague (the bubonic plague), and a weakened economy due in part to the band-aid fiscal policies of his predecessors. With money consistently being carried out of France to the Roman diocese in increasing quantities, it is no surprise that Charles VII addressed his concerns with the church in several decrees of the Pragmatic Sanctions of Bourges in an attempt to regain some control over the flow of specie from France, and to curb the emptying of the royal coffers.

Decrees of the Pragmatic Sanctions Addressing Finances

The third and fourth decrees of the Pragmatic Sanctions, *Sicut in construenda* and decree *Licet dudum*, restricted the power of the pope in matters of canonical elections to

¹³⁵ Ibid., 117.

benefices, both of which placed financial restraints on the pope in addition to the jurisdictional ones discussed in Chapter Two. The first of these, decree *Sicut in construenda*, abolished the general papal reservations in elective benefices and regulated the mode and procedure of elections.¹³⁶ *Sicut in construenda* implemented restrictions on the pope and strengthened the authority of the general council in elections and confirmations of bishops and prelates. It also established the basis by which an individual is authorized to be elected and restrictions on electorates with regards to giving and receiving gifts, affirming that elections were to be entirely devoid of simony. In his letters levying charges against the pope that the Roman church was using reservations to extort the subjects of France, Charles VI was referring to the costly gifts and payments that the public were paying to the pope, cardinals, and pope's officers for influence in elections to benefices.

Where simony, generally speaking, was concerned with buying and selling ecclesiastical preferment, ecclesiastical pardons, or other things considered to be sacred, including church offices, it was the sale of ecclesiastical offices where the papacy saw its largest benefit from simony.¹³⁷ The sale of ecclesiastical offices by the papacy had in fact brought in so much revenue to the Roman diocese by the fifteenth century that they

¹³⁶ *Ibid.*, 118.

¹³⁷ Robert B. Ekelund, Jr., Robert F. Hébert and Robert D. Tollison, "An Economic Model of the Medieval Church: Usury as a Form of Rent Seeking," *Journal of Law, Economics, and Organization*, 5, no. 2 (Autumn, 1989): 313-314.

had increased papal staff to oversee the influx of these funds.¹³⁸ As mentioned previously, simony was a common practice, though frowned upon, throughout the medieval church. Charles VII hoped to ensure through the Pragmatic Sanctions that the practice would be ended in France. He ordained that should anyone be elected by means of simony, or should the elected prelate be “of a different kind of person [than] the above” then the election is invalid and null by law.¹³⁹ The elected and all those who participated in the election are deposed and permanently barred of the right of electing anyone to any ecclesiastical positions. If they are found guilty by a general council of simony then the accused are additionally excommunicated from the church, unless they voluntarily step down from their positions, and are thereafter permanently disqualified from holding any position within the church. The members of the synod at Bourges agreed that ridding the church of this practice was a necessary step to ensure that the prelates were “clean and without blemish or even a suspicion of it.”¹⁴⁰ Under the Pragmatic Sanctions the authority to try all those whose trepidations included simony was granted by the king. This meant that in addition to the sanctions from the general ecumenical council, those whose trepidations included simony could also be tried in French royal courts with an added motivation of protecting French financial resources, and curbing French subjects from transferring funds to the Roman church unnecessarily in their attempts to purchase influence. *Licut dudum* directly abolished papal reservations

¹³⁸ Ibid., 314.

¹³⁹ Tanner, 470.

¹⁴⁰ Ibid., 471.

to benefices, which further prevented the papacy from filling vacancies in local clergy throughout France, thus diminishing the opportunity for the papacy to receive any form of payment or gift for those ecclesiastical offices throughout the realm.¹⁴¹

While simony certainly accounted for the influx of a substantial amount of monies into the coffers of the papacy, it was papal fees and taxes, particularly annates, which accounted for the largest amount of papal revenues and the largest flow of specie out of France. Annates, the largest of the benefice taxes, was a means of garnering income from local clergy throughout Latin Christendom by claiming rights to their first year's income as holders of any given ecclesiastical office.¹⁴² Traditionally, annates taxes were paid out directly to the papacy, but in certain circumstances a type of annates tax, *fructus medii temporis*, was paid out to the bishops overseeing local clergy; even a portion of these funds, though, were typically reserved for the maintenance of the papacy.¹⁴³

Decree *Statuit haec sacra* abolished all annates and other papal taxes connected with conferring or confirming benefices. The general council at Bourges decreed:

that in future, both in the Roman curia and elsewhere, for the confirmation of elections, admission of postulations and provision of presentations, even if made by lay folk, institutions, installations and investitures, in respect of cathedral and metropolitan churches, monasteries, dignities, benefices and any ecclesiastical offices whatsoever, and for sacred orders, blessings and pallia, nothing whatsoever is to be exacted, either before or after, for sealing the bull of the letters, or for common annates, minor services, first fruits or dues, or under any other title or name, or on the pretext of any custom, privilege or statute, or for any other reason or occasion, directly or indirectly.¹⁴⁴

¹⁴¹ Ehler, 118.

¹⁴² W.E. Lunt, "The Financial System of the Medieval Papacy in the Light of Recent Literature," *The Quarterly Journal of Economics*, 23, No. 2 (Feb, 1909): 284-287.

¹⁴³ *Ibid.*, 290.

¹⁴⁴ *Ibid.*, 488.

When the decree was established under Royal authority by the synod at Bourges they included an addition that only a fifth of other Papal taxes levied in France before the Council of Constance was conceded to Pope Eugenius IV *ad personam*.¹⁴⁵ The remaining four-fifths would, in effect, remain with the French clergy in France rather than those financial resources being carried out of the country to Rome. This was substantially less than the previous drain on the French by the papacy, which as noted above accounted for a loss of approximately half of French specie, precious metals, and other valuables by 1408.

Other decrees in the Pragmatic Sanctions provided more indirect benefits which aided in ameliorating the financial situation in France. Decree *Cum summon pontifici*, though having dealt primarily with the number and qualifications of cardinals and the means of electing said cardinals, also outlined the required monetary reinvestments of the cardinals into their local churches.¹⁴⁶ In the medieval Roman church it became a practice that cardinals would be assigned a church for which they oversaw and represented in the Roman curia. Under this particular decree, cardinals not only represented their titular churches, but had to “leave to his titular church either in his lifetime or at his death, enough for the upkeep of one person.”¹⁴⁷ If these mandatory donations did not amount to what was deemed to be an appropriate amount during his lifetime, then his belongings were sequestered upon his death by the authority of the crown and the Gallican Church until the debt was paid in full. Even if the cardinal resided in Rome, if their titular church was in

¹⁴⁵ Ehler, 119.

¹⁴⁶ Tanner, 502.

¹⁴⁷ *Ibid.*

the realm of France then *Cum summon pontifici* ensured that at least some of the funding came from the Roman church itself for its upkeep, and the flow of that specie remained primarily in France.

Reflections on Finances and the Pragmatic Sanctions

Charles VII, in his Pragmatic Sanctions of Bourges, certainly considered the financial circumstances of both France and the royal coffers in 1438. At the same time that France was being roiled by a multifaceted financial disaster stemming from a hundred years of war with the English, a literal plague which decimated the tax paying population, and band-aid fiscal solutions of Charles VI, the papacy was extracting large sums of money from France via direct papal taxes, such as annates, and through more indirect means such as simony. The treasury of the king had been largely diminished and the financial situation in the kingdom thrown into disarray. As mentioned previously, flow of specie and financial resources to the Roman diocese accounted for nearly half of the expenditures in France by the time Charles VII ascended to the throne in 1422.¹⁴⁸

It is no surprise, then, that Charles VII turned his sights toward the church in an effort to diminish the flow of monies out of France and increase the real tax base in his Pragmatic Sanctions of Bourges, during a time at which the lack of specie was “painfully and immediately obvious.”¹⁴⁹ The increase in the real tax base, as evidenced by an increase

¹⁴⁸ Jean Favier “*Les Finances*,” in Miskimin, 76.

¹⁴⁹ Miskimin, 92.

in royal tax receipts by the death of Charles VII in 1461, meant a financially strengthened royal administration.¹⁵⁰ By the time the Pragmatic Sanctions of Bourges were ordained by Charles VII, simony throughout Europe was well on its way to accounting for nearly one-sixth of “normal papal revenue.”¹⁵¹ While no direct evidence could be found that this practice was curbed as a direct result of the Pragmatic Sanctions, Charles VII directly addressed his concerns regarding the widespread practice of simony within the church, and the sale of ecclesiastical offices was thereafter limited until the latter half of the fifteenth century.¹⁵² After ending papal annates through the Pragmatic Sanctions, only twenty percent of the remaining ecclesiastical taxes administered throughout the realm of France were reserved for the papacy while the remaining eighty percent stayed in France; additionally the overall amount of papal taxes administered on the local clergy when they were reinstated a couple of decades later decreased permanently by fifty percent as compared to the same taxes pre-Pragmatic Sanctions.¹⁵³ The effects of these decrees, as established by both the Council of Basel and through the Pragmatic Sanctions of Bourges,

¹⁵⁰ Ibid.

¹⁵¹ Ekelund, 314.

¹⁵² William Lunt, *Papal Revenues in the Middle Ages, Vol. I.* (New York: Columbia University Press, 1934): 135.

¹⁵³ Ibid., 88.

resulted in a notable loss of taxation income for the Roman diocese by the time of Pope Sixtus IV (1471-1484), after they ended the respective “papal abuses.”¹⁵⁴

¹⁵⁴ Phillip Stump, “The Reform of Papal Taxation at the Council of Constance (1414-1418),” *Speculum*, 64, No. 1 (Jan., 1989): 104-105.

CONCLUSION

The Pragmatic Sanctions of Bourges were issued at the culmination of a long tit-for-tat between crown and pope, and a long struggle over authority with regards to certain aspects of the courts, clergy, and finances in France. It was the culmination of a rising fever of Gallicanism and conflict that lasted more than a century-and-a-half. From the conflict between King Philip IV and Pope Boniface VIII onward, the French clergy and king supported and benefitted from one another in their efforts to secure their independence from the authority of the pope. The Pragmatic Sanctions of Bourges, issued at the height of the Gallican movement in France, was a continuation of this tradition and echoed its contemporary conciliarist counterpart, the decrees of the Council of Basel, in its ordinances. The Pragmatic Sanctions was so much more than just an ecclesiastical document, however; it was a strategic political tool of Charles VII to secure his authority over the papacy in France with regards to both jurisdiction and finances through royal ordinances.

The struggle between the French crown and the papacy, beginning with king Philip IV and Pope Boniface VIII, over jurisdiction and rights to taxation, as well as the

ultimate authority over temporal matters and the hierarchy within the church, seemingly subsided with the capitulation of Clement V when he moved the papacy from Rome to Avignon and issued papal bulls which praised the king. Eventually, however, predecessors of Clement V made it a goal to turn Avignon into a new Rome, and the local French clergy, king, and subjects of the French crown were often the ones left at a disadvantage when the pope extended his reach into the pockets, courts, and other affairs of the nearby French regions. The papacy claimed the ultimate authority over elections to benefices, and in trying all ecclesiastical matters through the Roman Curia even where they occurred in France. In some instances, the pope would even attempt to influence temporal matters, especially during the Avignon papacy. The French crown grew increasingly frustrated with papal overreach since the time of Boniface VIII, and the pressures on French subjects only increased by the time of the Great Western Schism. Nepotism was rampant in elections to benefices, the right to which was traditionally reserved to local clergy and the crown and which was increasingly reserved by the pope. Individuals with no ties to French localities and without qualifications were often appointed to positions of power within the church in France because of their familial ties to the Holy See. Papal taxations, such as annates, were also rampant and were a large burden on the already limited financial resources of France.

The French crown was left with diminished influence and authority over several aspects of his local jurisdiction. Traditionally, kings or princes had influence in the local elections to benefices within their realm. They also had influence in matters pertaining to the church through representation on ecumenical councils, an influence that ostensibly only worked in the crown's favor if the ecumenical councils held authority over the

papacy within the church. The Pragmatic Sanctions directly addressed these perceived papal overreaches; under the Pragmatic Sanctions the local clergy, whom as mentioned in Chapters One and Two were mostly loyal to the crown, held a majority of the reservations to benefices and the king could directly influence, to a certain extent, elections to prelaties. Additionally, by ordaining many of the decrees of the Council of Constance and Council of Basel under royal authority, any violations of those decrees could be tried in royal courts, as well as ecclesiastical ones, within France. The Pragmatic Sanctions also prevented appeals to the Roman curia before cases could be tried locally and the verdicts rendered there. Additionally, it established the qualifications of prelates that were eligible to be elected to benefices, pledged support for the authority of general ecumenical councils, and reestablished other decrees of the Council of Constance and the Council of Basel that provided a means of oversight of the papacy.

Prior to the Pragmatic Sanctions, the French were taxed by the papacy through annates and other costs for obtaining benefices at enormous rates and had little to no say in who would be elected to those same benefices which represented their respective regions. Oftentimes the Pope or other non-French collators would elect non-local prelates to represent French regions, and these regions were sometimes ignored and left unattended, while still being taxed. The revenues collected by the papacy throughout France were enormous, as seen in Chapter Three they accounted for approximately fifty percent of the total movement of monies out of the Kingdom by the mid-fifteenth century. These funds were carried out of France to Rome at a time when France was experiencing a dire financial situation; this dire financial situation was caused largely by

the Hundred Years War, the bubonic plague, and the fiscal policies of Charles VI. Per Charles VII, the church was holding France hostage with the threat of excommunication, extorting the kingdom and its people, and draining France of its money and resources “perhaps with the purpose that this Kingdom and Dauphine would be enfeebled so as to surrender weakly in adversities with depressed clergy and exhausted treasury.”¹⁵⁵

It is no surprise, then, that Charles VII turned his sights toward the church to curb the flow of specie out of France and ameliorate the emptying royal coffers. By the time Charles VII had ascended to the throne France was already ravaged by the Hundred Years War and the Bubonic Plague. The Hundred Years War was an enormous expense and a massive drain on royal finances, and new taxes had to be implemented to raise money quickly enough to fund the largely defensive war against the English and the struggles against the Burgundians, but the taxpaying population was ever decreasing. The Plague alone wiped out approximately sixty percent of the hearth tax-paying population in France, this was on top of the economic and infrastructural damage France had experienced from the war. Additionally, France was feeling the effects of inflation caused by the band-aid fiscal policies of Charles VI (father of Charles VII) at the same time that there was an extremely limited supply of precious metals and very little coinage being minted.

To attempt to keep monies in France and ameliorate the financial situation Charles VII issued several pertinent decrees in his Pragmatic Sanctions. The Pragmatic Sanctions of Bourges under Charles VII and the decrees of the Council of Basel both

¹⁵⁵ Ehler., 116-118.

ended papal annates for benefices. Under the Pragmatic Sanctions any papal officers attempting to collect said annates could be tried by royal courts. The Pragmatic Sanctions also established the criteria by which prelates could be elected to benefices and made simony, which accounted for an increasing proportion of regular papal revenues by 1438, a punishable crime by both ecclesiastical and secular courts. The Pragmatic Sanctions also declared that those elected to benefices in France had to reinvest a percentage of their material wealth into their titular churches, and return regularly to tend to their flocks, which made sure that local churches in France and their jurisdictions were cared for both spiritually and financially, rather than emptied of their income by Rome. The effects of these decrees were rather noticeable; as mentioned in Chapter Three there was a noticeable increase in the real tax base, as evidenced by royal tax receipts.¹⁵⁶ Additionally, approximately eighty percent of the remaining papal taxes stayed in France, while only twenty percent were carried away to the Roman Diocese.¹⁵⁷ The effects of the decrees of the Council of Basel and the Pragmatic Sanctions were certainly felt by the papacy as well; they lead to a significant decrease of taxation income for the Roman Curia. By the time of Pope Sixtus IV (1471-1484) there was a notable decline in papal revenues generally, and only thirty-one percent of that income was derived from taxes compared to approximately seventy percent in the decades prior.¹⁵⁸

¹⁵⁶ Miskimin, 92.

¹⁵⁷ Lunt, 88.

¹⁵⁸ Stump, 104-105.

The French clergy and nobility both lauded the Pragmatic Sanctions of Bourges issued by Charles VII, however, the advantages to the crown with regards to both jurisdiction and finances demonstrate the intentions of the crown to limit the jurisdiction of the papacy over courts, clergy, and finances in his realm through several pertinent decrees. As pointed out by Stieber, the absence of two significant decrees of the Council of Basel in the Pragmatic Sanctions of Bourges indicate that motivations were not entirely in the name of the “ancient Gallican liberties” of the French church.¹⁵⁹ The first is the XXIIIrd decree which required the pope to take an oath of office swearing that they will abide by all decrees of the general councils, and the second is the XXXIst decree in which the Council of Basel suspended Pope Eugenius from office. Instead, Charles VII worked tirelessly to peacefully resolve the dispute between Eugenius IV and Nicholas V, whom were both laying claim to the papacy in the years following the issuance of the Pragmatic Sanctions, which worked to Charles VII’s benefit in that he was revered as a champion of Christianity. In placing the needs of his kingdom at the forefront while working to end the internal church conflict, it bettered his position both within France and on the larger stage of Latin Christendom, leading by example on how best to check the Pope. In fact, other powerful secular entities followed suit, issuing their own secular proclamations against papal overreach, such as the Acceptation of Mainz in Germany.¹⁶⁰

Louis XI, son of Charles VII, eventually abrogated the Pragmatic Sanctions of Bourges, likely to better position himself in his dealings with the Pope and strengthen his

¹⁵⁹ Stieber, 70-71.

¹⁶⁰ Ibid., 64-71, 155-173.

already notable relationship with powerful families in Italy.¹⁶¹ The abrogation was done to the dismay of the French clergy and many of the nobility. Louis XI had already abolished the Pragmatic Sanctions in the Dauphine prior to his ascension to the throne in 1461.¹⁶² Known for his duplicity, Louis XI's policy of temporarily rescinding the Pragmatic Sanctions as a bargaining tool with the church and Italy worked as intended for a short time, but it also sparked concern about the future of French independence and the effects on the financial health of the kingdom. In their remonstrance the members of the *parlement* expressed their worry that there would be confusion in ecclesiastical appointments in the absence of royal control, the kingdom would be depopulated, there would be a significant loss of gold and silver, and the churches in France would be left to ruin. "As for the third [point] which concerns the draining off of money from the kingdom, for the prevention of which the said constitutions were enacted, it is a critical issue in which the king and all his subjects have great interest and which touches them *visceraliter*."¹⁶³ *Parlement* felt strongly that a major purpose of the Pragmatic Sanctions was to protect France financially, and their abrogation would leave them fiscally weakened. More than a decade after the abrogation of the Pragmatic Sanctions, Louis XI, at the behest of a convention of the *parlements* and the French clergy, reinstated the Pragmatic Sanctions of Bourges in 1475.

¹⁶¹ Potter, 221.

¹⁶² Potter, 221.

¹⁶³ "The Remonstrance of *Parlement de France* of the abrogation of the Pragmatic Sanctions by Louis XI (1461-1464)" in Miskimin, 74.

Viewing the Pragmatic Sanctions as a royal tool to secure both jurisdiction and finances from the reaching hands of the papacy also provides a fresh lens through which to view later aspects of Franco – Papal relations throughout the sixteenth and seventeenth centuries. Traditionally, the Pragmatic Sanctions of Bourges is viewed through the lens of ecclesiastical reform, or in reference to the Gallican Church. By viewing it as a political tool a new context can be applied in analyzing later events such as the Concordat of Bologna in 1517 and the post-reformation revival of Gallicanism in France in the late seventeenth century under Louis XIV. The Pragmatic Sanctions of Bourges effectively remained the touchstone of Franco – Papal relations well into the sixteenth century and beyond.¹⁶⁴

¹⁶⁴ Parsons, 20.

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