

Bishop Andrew of Prague and Church in Medieval Czech Lands after the Fourth Lateran Council

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ABSTRACT

The paper focuses on the personal actions of Bishop Andrew of Prague and the situation within the church in the Czech Lands after the Fourth Lateran Council. Andrew is a central representative in the process of immediate reception of the Fourth Lateran Council in the Czech Lands. Previous research has focused on the fundamental question of Andrews's episcopate: his conflict with King Ottokar I regarding the church reforms introduced in the Czech Lands between 1216 and 1222. However, it is necessary to study the conflict in a long-term perspective (from the middle of the twelfth till the end of the thirteenth centuries) and in the context of the promotion of the patronage law, the judicial exemption of clergy, and the enforcement of church control over tithes. The analysis shows that the church was a strongly decentralized institution controlled by local lay elites and damaged by nepotism. The private life of the clergy was corrupted by concubinage and, resulting from that, we can see attempts to create "clerical dynasties." The route to a change only began with Bishop Andrew and the implementation of the change would not have been possible without the overall transformations of the political, economic, social and mental structures.

KEYWORDS: Lateran IV, Czech Lands, Middle Ages, Roman-Catholic church, Bishop Andrew of Prague

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The Fourth Lateran Council, convoked by Pope Innocent III on 19 April 1213 with the bull *Vineam domini Sabaoth* and commenced on 11 November 1215, was one of the decisive ecumenical councils of the High Middle Ages. In the seventy canons, which resulted from the discussions, the council provided clear opinions on a series of questions that resonated in the life of the church and the laity. The discussions that were guided by the distinctive personality of Pope Innocent, who developed an ideology that shaped the thought world of the clergy and direction of the church as one of the political powers of the medieval West, touched on a number of issues of the then Latin West. These included positions on new heretical movements and efforts to strengthen the discipline and create a functional hierarchy within the church, and to define the relationship between the clergy and the laity subjected to them toward the representatives of secular power. Issues concerning the morality of the clergy, excommunication, and marriage, as well as the problematic collection of tithes were also discussed. The council also addressed the situation in orders and the issue of the regulation of relations of Christendom to Jews and Muslims. The proclamation of a crusade to the Holy Land at the end of the canons—the tone of which matched the ambitious plans of the theocratic-minded papacy—became an integral part of the Lateran IV Decrees.¹

A number of authors have focused on the course of the discussions, which took place in November 1215 at the Lateran, and their effect on Western Europe's development.² In contrast, Czech historiography has dealt with the impact of the Fourth Lateran Council on the situation in the Czech Lands only in the context of the events that immediately followed the return of Bishop

¹ For the decrees of the Fourth Lateran Council, see GIUSEPPE ALBERIGO et al. (eds.): *Conciliorum Oecumenicorum Decreta* [Decrees of the Ecumenical Councils], 3rd ed., Bologna 1973, pp. 227–271; for the English translation, see NORMAN P. TANNER (ed.): *Decrees of the Ecumenical Councils*, London 1990.

² For the Fourth Lateran Council, cf. MARION E. GIBBS, JANE LANG: *Bishops and Reform, 1215–1272: With special reference to the Lateran council of 1215*, Oxford 1934; HELENE TILLMANN: *Innocenz III*, Bonn 1954, pp. 152–168; HUBERT JEDIN (ed.): *Handbuch der Kirchengeschichte*, Freiburg et al. 1968, pp. 206–213; RAYMONDE FOREVILLE: *Geschichte der Ökumenischen Konzilien*. Vol. 6: *Lateran I–IV*, Mainz 1970, pp. 265–381; ANDRÉ VOUCHEZ, ODILO ENGELS (eds.): *Die Geschichte des Christentums: Religion, Politik, Kultur*. Vol. 5: *Machtfülle des Papsttums (1054–1274)*, Freiburg et al. 1994, pp. 581–589; PHILIPP SCHÄFER: *Innozenz III. und das 4. Laterankonzil 1215*, in: THOMAS FRENZ (ed.): *Papst Innozenz III.: Weichensteller der Geschichte Europas*. Interdisziplinäre Ringvorlesung an der Universität Passau, 5.11.1997–26.5.1998, Stuttgart 2000, pp. 103–116; GERT MELVILLE, JOHANNES HELMRATH (eds.): *The Fourth Lateran Council: Institutional Reform and Spiritual Renewal. Proceedings of the Conference Marking the Eight Hundredth Anniversary of the Council, Organized by the Pontificio Comitato di Scienze Storiche* (Rome, 15–17 October 2015), Affalterbach 2017; JESSALYNN L. BIRD, DAMIAN J. SMITH (eds.): *The Impact of the Council of 1215 on Latin Christendom and the East*, Turnhout 2018; ANDREA MASSIRONI, ATRIA LARSON (eds.): *The Fourth Lateran Council and the Development of Canon Law and the *Ius Commune**, Turnhout 2019.

Andrew of Prague—one of the participants of the Fourth Lateran—to the Prague diocese.³ It is a story that has traditionally been interpreted as a conflict between the ecclesiastical (bishop) and the secular (king) power that arose as a consequence of the bishop's efforts to implement a number of council principles.⁴ Although we will soon return to the course of the actual disputes, it is important to emphasize here that the above-mentioned perception of the case of Bishop Andrew must be considered as ahistorical. As I will suggest below, the main opponents to the principles promoted by the bishop were not the secular elites led by the king, but rather clergy whose personal lives were most affected by the promoted innovations. Thus, the difficulties he faced when attempting to implement his will in his diocese well document the state of the church in the Czech Lands in the first decades of the thirteenth century.

The events that took place in the Czech Lands between 1216 and 1222 in connection to Bishop Andrew's reform efforts are predominantly a result of a complicated development of relations between the secular and the ecclesiastical segments of medieval Czech society in the previous centuries. Despite the reform efforts of Bishop Henry Zdík of Olomouc and Bishop Daniel I of Prague the church in the Czech Lands entered the thirteenth century as an organizationally decentralized institution whose functioning was heavily de-

³ The details of Andrew's participation are discussed by a Prague annalist. See JOSEF EMLER (ed.): *Annales Bohemiae* [The Annals of Bohemia], in: IDEM: *Fontes rerum Bohemicarum II*, Praha 1874, p. 283; cf. also GEORGINE TANGL: *Die Teilnehmer an den allgemeinen Konzilien des Mittelalters*, Darmstadt 1969, p. 223.

⁴ For an overview of the events discussed below, see e.g. KAMIL KROFTA: *Kurie a církevní správa zemí českých v době předhusitské* [The Curia and the Ecclesiastical Administration of the Bohemian Lands in the pre-Hussite Period], in: *Český časopis historický* 10 (1904), pp. 249–263; FRANTIŠEK HRUBÝ: *Církevní zřízení v Čechách a na Moravě od X. do konce XIII. století a jeho poměr ke státu* [The Church Administration in Bohemia and Moravia from the Tenth to the End of the Thirteenth Century and Its Relation to the State], Praha 1917; VÁCLAV NOVOTNÝ: *Čechy královské za Přemysla I. a Václava I. (1197–1253)* [The Royal Bohemia under Ottokar I of Bohemia and Wenceslaus I of Bohemia], Praha 1928, pp. 454–533; JOSEF ŽEMLIČKA: *Spor Přemysla Otakara I. s pražským biskupem Ondřejem* [The Dispute of Ottokar I of Bohemia with Prague Bishop Andrew], in: *Český časopis historický* 29 (1981), pp. 704–730; IDEM: *Počátky Čech královských 1198–1253: Proměna státu a společnosti* [The Beginnings of Royal Bohemia 1198–1253: The Transformation of State and Society], Praha 2002, pp. 118–131; VRATISLAV VANÍČEK: *Velké dějiny zemí koruny české II (1197–1250)* [The Great History of the Lands of the Bohemian Crown II (1197–1250)], Praha—Litomyšl 2000, pp. 135–145; ROBERT ANTONÍN: *České země za vlády posledních Přemyslovců I. (1192–1253): Cestou proměny společnosti k vrcholně středověké monarchii* [The Bohemian Lands during the Reign of the Last Přemyslids I. (1192–1253): On the Way from the Transformation of Society to the High Medieval Monarchy], Praha 2011, pp. 300–305.

pendent on representatives of secular power, the duke and nobility.⁵ This was evident in its entire institutional life, as well as in the relations founders had to the founding of monasteries.⁶ The development in the Catholic Church represented by the theocratic program of the popes of the time meant that church houses—whether parishes or monasteries—no longer depended on their founders, as had been characteristic of the situation at the beginning of the thirteenth century. Thus, after the Fourth Lateran Council, Bishop Andrew de facto stood between two millstones. On the one hand, the curial policy, which required him to centralize the administration of the diocese, included streamlining the collection of the papal tithe and implementing legal exclusivity over clergy and church subjects, bore down on him. On the other hand, the Prague bishop struggled with the “Bohemian” reality, which did not grant him adequate authority to implement the reform steps, including, primarily, the efforts to introduce canonical elections of bishops, to establish the bishop’s influence on filling parish posts and other church offices, to control the payment of tithes, and to exclude church dignitaries and people who settled on ecclesiastical land from the scope of land law.⁷

By raising the demands that resulted from the canons of the Fourth Lateran, Andrew fanned the flames of a conflict that was potentially lurking within the structure of twelfth-century Czech and Moravian society. Given the seriousness of his case, the papal curia intervened. The diplomatic discussions between the curia, the bishop, and the king, Ottokar I of Bohemia, resulted in rich correspondence, the interpretation of which represents a path to learning about the state of the church’s organization at the time, as well as the society in the Czech Lands as a whole.⁸ Earlier scholarship has discussed the course of the dispute, so I will provide only a brief summary.

Bishop Andrew’s reform demands for a transformation of the life of the priests and the position of the church within the Bohemian kingdom were rejected by the majority of secular and clerical elites, including Ottokar I. In

⁵ On Jindřich Zdík and his activities, cf. KROFTA (as in footnote 4), pp. 125–129; for the most recent comprehensive discussion, see MARTIN WIHODA: *Morava v době knížecí 906–1197* [Moravia in the Age of Dukes 906–1197], Praha 2010, pp. 171–206.

⁶ Social development in the Czech Lands in this respect was summarized by MARCIN R. PAUK: *Działalność fundacyjna możnowładztwa czeskiego i jej uwarunkowania społeczne (XI–XIII wiek)* [The Foundation Activity of Czech Aristocracy and Its Social Conditions (11th–13th Century)], Kraków—Warszawa 2000, which also cites older literature on the subject.

⁷ These demands are clear from the files that concern the dispute of Bishop Andrew and Ottokar I; for more on that see below.

⁸ The case was started by the bishop’s efforts to effectively collect tithes, as can be concluded from papal letters sent to the Czech Lands and the initial reaction of the king to the bishop’s accusation, see GUSTAV FRIEDRICH (ed.): *Codex diplomaticus et epistolaris regni Bohemiae II* [The Book of Charters and Letters from the Bohemian Kingdom], Prague 1912, pp. 120–121, 128–130, no. 129–130, 139; KROFTA (as in footnote 4), pp. 24–27; HRUBÝ (as in footnote 4), pp. 56–63.

1216, this led him to leave the kingdom and travel to the curia in an attempt to encourage it to undertake more energetic actions. When he left, he imposed an interdict on the entire diocese. However, the bishop faced opposition, not only from representatives of Czech chapters (including, among others, Dean of Prague Arnold, along with the majority of the Prague Chapter, and Provost of Litoměřice Benedikt, who at that time also served as the royal chancellor), but also the Olomouc Bishop Robert, who, during Andrew's absence, celebrated mass in the church of St. Vitus. Czech monasteries, which maintained close ties with their secular founders, also did not support the bishop. Czech prelates were simply not prepared to adopt a new universalistic church program. It is no wonder—many probably were of noble origin or came from several generations of prelate families.⁹

Diplomatic negotiations between the curia and the Czech king and nobility ensued. But available evidence does not indicate an effort to find a compromise until three years later, 1219, in the so-called Kladruby Agreements, where the king promised to grant the bishop the right to fill the posts of priests in parish churches and to pass judgment over the clerics in church matters.¹⁰ However, this agreement—probably leading to the cancellation of the interdict—was not upheld, and Andrew was soon sending further complaints to the curia.¹¹ The negotiations, therefore, continued in the second half of 1220, as evidenced by a papal letter of January 1221 addressed to all Czech abbots, provosts, deans, and clergy in general. In the letter, Honorius III announced that, based on the agreement between Andrew and a negotiator from the side of the king and nobility, Master John de Scaccario, the filling of the post of priests in the Czech Lands—and also their suspension—would be independent of the will of the laity. At the same time, the clergy was to no longer come under the jurisdiction of the secular court and the bishop would be able to use his visitation right to monitor the state of church institutions.¹² At least verbally, then, there was a significant shift on the level of staffing of rural parishes, which was no longer supposed to be the exclusive right of church owners. However, this regulation was not observed in practice.¹³

The final reconciliation between the bishop, the monarch, nobility, and prelates was supposed to take place in the summer of that year, at a place

⁹ For more details on this phase of the dispute, see KROFTA (as in footnote 4), pp. 259–262; ŽEMLIČKA, *Spor Přemysla Otakara* (as in footnote 4), pp. 714–719; IDEM, *Počátky Čech královských* (as in footnote 4), pp. 120–123; VANIČEK (as in footnote 4), pp. 138–139, and for other work, see above, footnote 2. About the origins of the Czech clergy, cf. ZDENKA HLEDÍKOVÁ: *Svět české středověké církve* [The World of the Bohemian Medieval church], Praha 2010, pp. 65–72.

¹⁰ FRIEDRICH (as in footnote 8), pp. 160–161, no. 172.

¹¹ See the papal letter *ibidem*, pp. 168–170, no. 183.

¹² *Ibidem*, pp. 193–195, no. 209; cf. ŽEMLIČKA, *Spor Přemysla Otakara* (as in footnote 4), pp. 719–720. For the confirmation of the agreement between the king and the Czech nobility, see FRIEDRICH (as in footnote 8), pp. 197–198, no. 212.

¹³ See HRUBÝ (as in footnote 4), pp. 41–45; KROFTA (as in footnote 4), pp. 264–275.

called Šacká hora on the Moravian-Austrian border. The main participant in the meeting, which was attended by a number of Czech prelates, was, besides King Ottokar and Bishop Andrew, the papal legate Gregory de Crescencio. The negotiations culminated on 2 July 1221 in a written confirmation of the privileges of the Prague bishopric. Here, Ottokar avoided the issue of tithes collection and patronage rights in the broader context of the entire Prague diocese for the privilege only concerned a specific bishop's domain.¹⁴ Therefore, Andrew probably understood this outcome as a defeat. A few months later, he returned to Italy, where he died at the turn of 1223/24. The controversy between the bishop and the king, however, had yet another outcome, which on the one hand strengthened the position of church institutions, even though it did not strengthen the position of the Prague bishopric, and, on the other hand, brought the interests of some church houses—mainly monasteries and chapters—closer to the interests of the monarch at the expense of the positions of the nobility. As I will show below, this is, in my opinion, precisely the way to understand the issuance of the so-called “Great Privilege” of the Czech Church, which Ottokar I accepted on 10 March 1222, and to which adequate scholarly attention has not been paid.¹⁵

As stated above, the opponents of the principles promoted by Andrew after his return from the Lateran Council need to be sought within the world of the representatives on all levels of the Czech church. At the same time, it is true that in the Czech Lands this world was not *de facto* separable from the world of laity.¹⁶ If we observe the development of the dispute between the bishop and Czech elites (1216–1222), we see that it began with Andrew's demands for a change of the prelate lifestyle on all levels of the hierarchy and simultaneously with his efforts to streamline the administration of the Prague diocese, which presumed a greater degree of supervision over individual church institutions. Put simply, the dispute between the bishop and clerics erupted primarily over the regulation of their everyday life and between the bishop and monasteries but also chapters, holders of archdeacon posts, and, last but

¹⁴ For the letters, see FRIEDRICH (as in footnote 8), pp. 200–205, no. 216, 217; cf. KROFTA (as in footnote 4), p. 263; ŽEMLIČKA, *Spor Přemysla Otakara* (as in footnote 4), pp. 721–723; IDEM: *Počátky Čech královských* (as in footnote 4), pp. 124–126; VANÍČEK (as in footnote 4), pp. 140–141.

¹⁵ FRIEDRICH (as in footnote 8), pp. 210–213, no. 227; cf. KROFTA (as in footnote 4), pp. 263–265; VÁCLAV VANĚČEK: *Studie o imunitě duchovních statků v Čechách do polovice 14. století* [Study about the Immunity of Ecclesiastical Goods in Bohemia until the Middle of the 14th Century], Praha 1928, pp. 43–51; IDEM: *Základy právního postavení klášterů a klášterního velkostatku ve starém českém státě (12.–15. stol.)* [The Basics of the Legal Status of Monasteries and Monastic Estates in the Old Bohemian State], vol. 3, Praha 1939, pp. 7–14, but the consideration of the Great Privilege runs through all of Vaněček's work; NOVOTNÝ (as in footnote 4), pp. 514–517; ŽEMLIČKA, *Spor Přemysla Otakara* (as in footnote 4), pp. 723–726; IDEM, *Počátky Čech královských* (as in footnote 4), pp. 126–129; VANÍČEK (as in footnote 4), pp. 142–144.

¹⁶ On that cf. HLEDÍKOVÁ (as in footnote 9), pp. 84–105.

not least, also individual parish priests.¹⁷ The subject of the dispute was the bishop's authority over these institutions but the issue particularly concerned the payment of the bishop's tithe. Nonetheless, both moments are two sides of the same coin since the bishop's authority within his diocese necessarily hit a snag not only with monasteries, which in the negotiations with the bishop strove to achieve the greatest possible sovereignty, but also with canons and parish priests. The issue was the social origin of the holders of the benefice and their approach to serving in the posts entrusted to them. If Zdeňka Hledíková shows for the fourteenth century that the Prague and Vyšehrad provostries were staffed by members of the most important noble families and representatives of lower nobility in the Czech Lands who are also represented in great number as holders of parishes alternated in posts of canons¹⁸, it can be assumed that the reality of the thirteenth century was not different. The establishing of "clerical families," where the sons of the prelates who habitually lived in concubinage followed the ecclesiastical careers of their fathers, also remained common.¹⁹

To reconcile life strategies and lifestyles of this particular social group with the ideas of the reform papacy at the beginning of the thirteenth century was apparently impossible in most cases. At the same time, it is necessary to place the clerical service in the context of the customs of the period, where the patronage right was highly influential, allowing its holders to intervene in the economic situation of parishes and their staffing. In this way, the clerical world was closely intertwined with the lay world; the idea of their separation was rather wishful thinking on the part of theoreticians. Two documents of Pope Honorius III, issued in November 1216, i.e. at the time when Andrew's case started, provide us with details about these matters in the Czech Lands. In the first one, the pope told Andrew that the parish priest in Praskolesy appeared before the curia and confessed to his illegitimate origin—he was the son of a priest. This, as he noted before the Fourth Lateran Council, was not only common in the Czech Lands, but also a precondition for an acquisition of church benefice. The pope subsequently emphasized that he forgave the parish priest due to his piety and humility and graciously granted him a dispensation. The letter to Bishop Andrew also included a propagandistic interpolation, stating that if similarly humble people who recognize the pope and his love and confess to him should come to him, they would also receive his forgiveness.²⁰ At the same time, the pope granted a dispensation to Prague canon Petr and his brother Herman, both sons of a priest who, according to a

¹⁷ On the structure of the church institutions of the Prague diocese, cf. HLEDÍKOVÁ (as in footnote 9), pp. 55–83.

¹⁸ *Ibidem*, pp. 67–70.

¹⁹ ŽEMLIČKA, *Počátky Čech královských* (as in footnote 4), pp. 435–471, summarizes the situation of the state of the church in the Czech Lands in the first half of the thirteenth century.

²⁰ FRIEDRICH (as in footnote 8), pp. 121–122, no. 131.

local custom, took a virgin and made her his wife, so that they were able to be ordained as priests.²¹

The examples make it clear that the situation in the Czech Lands started shifting in the autumn of 1216. This is, after all, evidenced by the letter sent by the papal chancellery as early as October, which responds to several of the questions that Andrew had asked the pope. The above-mentioned cases also almost certainly relate to the question of how the bishop was supposed to deal with illegitimate priests. The pope replied that they were supposed to be deprived of everything, unless they properly applied for a papal dispensation (which was undoubtedly properly charged). At the same time, however, Honorius added a postscript in which he cautioned Andrew to show prudence and tolerance in those cases where settlement according to church principles might otherwise cause public outrage.²² Therefore, the cases of the Praskolesy parish priest and canon Petr and his brother are certainly only the tip of the iceberg of the situation that prevailed within the church structures of the Prague diocese at the beginning of the 13th century—structures that were created based on client-family ties, often without a regard for the bishop's will.

The resistance of the majority of Czech clergy to the reforms Andrew requested became apparent soon after the bishop left the Czech Lands where he had declared an interdict. A number of high-ranking prelates went into opposition against their bishop. Olomouc Bishop Robert, Prague Provost Arnold, Litoměřice Provost and the king's Chancellor Benedikt (already mentioned as an emissary to the curia in 1216), as well as Litoměřice Provost and Prague Canon Pelhřim all stood on the side of the king and the nobility.²³ The names of dozens of clerics appointed to their benefices based on various kinds of protections remained more or less concealed due to a lack of available sources. Nevertheless, in the dispute with Andrew it is necessary to presume their loyalty to their lay patrons and protectors, and also monasteries. It was not an accident that the above-mentioned Kladruby Agreements, concluded between Ottokar and papal legates at the beginning of 1219, included a promise in which the king, with the consent of the nobility, would let the bishop appoint and remove parish priests. The bishop would also have jurisdiction over them in church matters, however "*salvo iure patronatus*." With this said, this pledge, subsequently confirmed on 11 January 1221 in an agreement between Andrew and royal prosecutor John de Scaccario²⁴, was evidently not implemented during Ottokar I's reign. The promise did not come into effect until the end of the thirteenth century, and even then with

²¹ Ibidem, pp. 122–123, no. 132; both cases were already presented by KROFTA (as in footnote 4), p. 257.

²² FRIEDRICH (as in footnote 8), pp. 120–121, no. 130.

²³ ŽEMLIČKA, Spor Přemysla Otakara (as in footnote 4), p. 714; IDEM, Počátky Čech královských (as in footnote 4), p. 121.

²⁴ FRIEDRICH (as in footnote 8), pp. 193–195, no. 209.

objections.²⁵ The pledge was de facto undermined as early as in 1219 in Kladruby by the seemingly innocent but fundamental qualification of the patronage right that represented one of the essential obstacles to a full implementation of the bishop's influence at least within the parish network of his diocese. The issue at stake was a custom the violation of which meant a loss not only for the monarch and the nobility, but also for a number of monasteries that, in various locations, held the patronage right in parish churches of the districts that were in their possession.

In the case of Bishop Andrew, all of this also had an important impact on the position of a large number of monasteries. It was the monasterial communities, along with chapters, that first came into conflict with the bishop. The monarch and nobility, as representatives of secular elites threatened by Andrew's reform demands, only entered the dispute at a later point. Disputes over tithes that resonated in Czech society long after Bishop Andrew was no longer alive played an essential role here. The issue of tithes, their collection, and their structure in the Czech Lands during the first decades of the thirteenth century was mentioned at the beginning of the entire dispute in a papal letter from 15 October 1216 addressed to the Prague bishop. In the letter, Honorius stated that he was acquainted with the situation in Andrew's diocese, where people paid tithes to individual churches according to various old customs—in some places 24 denars, in others 12, 6, or 3 denars—a practice that the pope deemed no longer acceptable. He urged the bishop to unify the practices based on the church custom.²⁶ The letter, which indirectly referenced the Fourth Lateran Council's tithing regulations, indicates that, after his return from Italy, the bishop decided to intervene primarily into the customs around the payment of church tithes in his diocese. In this context, however, he collided with the above-mentioned patronage rights. It is well documented that tithes were gathered by the patronage rights holders who subsequently decided their further allocation. This redistribution did not allow for the bishop's tithe, which at that time probably stabilized at six denars per field (*per laneus*).²⁷

However, it is not possible to perceive tithes as a dispute between the bishop and secular holders of patronage rights, i.e. the monarch and nobility. Tithes comprised a substantial part of the donations to monasteries, who subsequently refused to pay the bishop "his" share. At the same time, colonizing activities where monasteries were given previously unsettled areas, including the right to collect tithes from villages being established in these areas, meant

²⁵ On that, cf. HRUBÝ (as in footnote 4), pp. 41–45; KROFTA (as in footnote 4), pp. 264–275.

²⁶ FRIEDRICH (as in footnote 8), p. 120, no. 129. Krofta emphasizes the connections of the dispute related to tithes. See KROFTA (as in footnote 4), pp. 258–264.

²⁷ On the development of church tithes and their structure in the medieval Czech Lands, cf. HRUBÝ (as in footnote 4), pp. 24–28, 54–73; NOVOTNÝ (as in footnote 4), pp. 344–346; ŽEMLIČKA, Počátky Čech královských (as in footnote 4), pp. 451–454.

that tithes were becoming a source of income for the monasteries. The Fourth Lateran Council responded to this situation by regulating that the Cistercians and other orders pay a tithe to the church in the diocese they are affiliated to. The tithe was to be paid from all property they stood to gain after the council concluded. However, it needs to be added that this did not concern non-colonized estates that had been in monasteries' possession prior to 1215. Tithe disputes often centered on cases such as these, at least as it appears from the text of one papal bull of 8 February 1222, which responded to this situation.²⁸

One of the first questions Andrew approached the curia with in 1216 was whether he may cancel some exemptions from paying the bishop's tithe that had been granted illegally, that is, without his knowledge. Honorius' reply was part of the letter in which the pope also addressed the issue of illegitimate priests and left the matters concerning tithes entirely to the bishop's discretion. Václav Novotný notices a certain causality between the questions the bishop asked the pope and the dispute between Andrew and the Teplá monastery, and which also overlapped with the events discussed in this article. In 1219 Honorius III intervened in the dispute, appointing the abbot of Velehrad along with the dean and provost of Olomouc as arbitrators in the case.²⁹ In addition, the bishop was also in dispute with the Premonstratensians in Milevsko, and the reaction from the monasteries to the situation in the Czech Lands after the declaration of the interdict made it clear that that these were hardly isolated aversions.³⁰ Viewed through this lens, the entire case of Bishop Andrew was primarily a dispute over the extent of the bishop's legal and property authority over monasterial communities, the bishop's right to perform church administration over monasteries, and payment of the bishop's tithe from monasterial properties. The tensions between the bishop and monasteries can be observed in the Czech Lands throughout the entire first half of the thirteenth century, and the monasteries attempted, as paradoxical as it may seem, to defend themselves against the bishop's pressures both through papal protections and tighter alignment to the monarch.³¹

The position of the monasteries toward the bishop is relatively noticeable during the period from 1216 to 1222. Representatives of monasterial communities already joined the dispute on the side of the monarch at the time of the Kladruby Agreements, where sources document the presence of Břevnov Elect Dluhomil, Kladruby Abbot Silvester, Postoloprty Abbot Kasián, Ostrov Abbot Reiner, Vilémov Abbot Herman, and also the Cistercian Abbots Hein-

²⁸ FRIEDRICH (as in footnote 8), p. 131, no. 127.

²⁹ *Ibidem*, pp. 165–166, no. 179; cf. NOVOTNÝ (as in footnote 4), p. 453.

³⁰ The disputes resonated in sources even earlier, e.g. in the bishop's decree for Milevsko from 1216-06-20, see FRIEDRICH (as in footnote 8), pp. 115–116, no. 126; or in the papal protection letter for Teplá from 1219, which confirmed the privileges granted by Přemysl Otakar I, see *ibidem*, pp. 161–162, no. 173. On Czech prelates not implementing the interdict, see NOVOTNÝ (as in footnote 4), pp. 472–476 and *passim*.

³¹ The situation was already summarized by KROFTA (as in footnote 4), pp. 138–152.

rich from Bavarian Langheim, Hartmut from Nepomuk, Albert from Plasy, and the Premonstratensian superiors Adam from Strahov, Vilém from Želiv, and Vilém from Teplá.³² These all appeared to be the prelates the king noted in the introduction of the deed as those who were acting in accordance with him and the Czech nobility for the purpose of resolving the dispute. Several documents of Honorius III explicitly mentioned that monasteries, particularly the Cistercians, Premonstratensians, and St. John's Hospitallers, stood up to their bishop and did not abide by the interdict.³³

Both the Prague Chapter³⁴ and later Olomouc Bishop Robert were also accused of violating the interdict.³⁵ Representatives of other chapters have been discussed. For this reason, it certainly was no coincidence that the agreement between the pope and the royal prosecutor John de Scaccario after the Kladruby negotiations included the removal of the Mělník, Boleslav, and Litoměřice provostries from the bishop's authority.³⁶ I believe that all the church representatives named in the documents along with the majority of minor clergy dependent on their patrons need to be counted among the greatest opponents of Bishop Andrew's attempts at introducing the principles of the Fourth Lateran Council. Considering that, starting in 1217, the bishop did not target the clergy but rather the monarch and nobility; his critique was aimed mainly at that segment of society as it provided monasteries, chapters, and parish priests with their positions, which in turn allowed them to remove themselves from centralized diocesan administration. For this reason, it is necessary to understand his move as a result of careful deliberation; the prospective change for which he strove would affect the very structure of societal order in medieval Czech Lands as it necessarily stood in opposition to the country's entire body of legal traditions. An erosion of the tradition that perpetuated the client and political relationships in society and also impacted church institutions was the only way toward a true beginning of reforms.

The bishop's position in this regard fully corresponded with the overall legal status of church institutions in the Czech Lands. The legal status resulted, among other things, from the weak position of Prague and Olomouc bishops toward the monarch. This is due to the fact that, throughout the entire twelfth and beginning of the thirteenth century, the bishop's post was filled by persons with close ties to Přemyslid dukes and kings who had influence on the election of the bishop. Paradoxically, Bishop Andrew himself began his career as a canon in Boleslav but soon became dean of the Prague Chapter and the Czech king's chancellor in 1211³⁷, i.e. he came to his post through these practices that Milevsko annalist Gerlach, for example, condemns in his

³² FRIEDRICH (as in footnote 8), p. 161, no. 172.

³³ *Ibidem*, pp. 144–145, 147–148, no. 154, 157–158.

³⁴ *Ibidem*, pp. 146–147, no. 156.

³⁵ *Ibidem*, pp. 149–150, no. 159.

³⁶ *Ibidem*, p. 194, no. 209.

³⁷ NOVOTNÝ (as in footnote 4), pp. 324–325.

chronicle.³⁸ But the core of the problematic legal position of church houses in the medieval Czech Lands was their proprietary and criminal integration into the structures of land law. This practice can be observed in analyses of the documents that were created for the needs of church houses, and it also emerges from the establishment of the aforementioned confirmation of privilege for the Prague bishopric within the negotiations at Šacká Hora (1221) and the so-called Great Privilege of the Czech Church (1222). That property disputes of the Czech church institutions were decided at the land court is also documented by the deed of Ottokar I for the Plasy monastery. This text made it clear that the dispute over a donation of property that Agnes, the widow of Kuna of Potvorov, willed to the monastery took place “*in colloquio communi Bohemorum*,” in December 1219.³⁹ Similarly, as early as 1216 “*in communi colloquio Bohemorum*,” a settlement was sought in a property dispute between the same monastery and Protiva from Litice, who contested the validity of his brother Ulrich’s property donation. As the text of the letter reveals, everything happened in the presence of Prague and Olomouc bishops, Margrave of Moravia Vladislaus Henry, and a great number of Czech “*nobiles*,” i.e. nobles.⁴⁰

The practice according to which church institutions’ disputes were decided before the land court is eloquently demonstrated by one of the fundamental provisions of the above-mentioned “Great Privilege” of Ottokar I from 1222, intended for all monasteries and churches in the Prague diocese. If one of the fundamental innovations here is the introduction of the Czech king’s promise that all abbots and other prelates at the general assembly, regardless of where it met (“*ubicumque generale colloquium debuerit celebrari*”), would be provided with the opportunity to settle their affairs in the presence of several Czechs and the chancellor⁴¹, then the letter’s dictator provides us with several pieces of essential information about the situation that prevailed up until the issuance of the privilege (and, indeed, for many more years to come). The privilege de facto concerned a modification of the existing practice of debating cases that related to church institutions, and which this article excluded from a broad discussion at the plenary session. The church’s cases were transferred before a more limited group of nobles: experts, and hence bearers of (court) posts, and assessors—as attested by a number of testimonial letters in which the monarch guarantees property relations or changes concerning monasterial goods and rights more generally.

The role of the chancellor in these hearings was probably related to the fact—as the sources also make clear—that church institutions more frequent-

³⁸ JOSEF EMLER (ed.): *Gerlaci abbatis Milovicensis Annales* [The Annals by Jarloch, Abbot of Milevsko], in: IDEM: *Fontes rerum Bohemicarum*, vol. 2, Praha 1874, pp. 463, 476.

³⁹ FRIEDRICH (as in footnote 8), pp. 173–174, no. 187.

⁴⁰ *Ibidem*, pp. 113–114, no. 125.

⁴¹ *Ibidem*, p. 212, no. 227.

ly used written confirmations, i.e. presented deeds and privileges, when producing evidence in proceedings. This way of presenting evidence was something new in Czech legal culture and corresponded to the general trends in the medieval West. This was, after all, supported by another part of Ottokar's "Great Privilege" in which the monarch established that those who have their property holding supported by privileges are no longer required to call on witnesses.⁴² At the same time, monasteries required written confirmations of the verdicts reached by the board. The chancellor thus served mainly as the arbiter overseeing the course of the proceedings and, simultaneously, a guarantor of the results of the proceedings.

However, from a legal perspective, the "Great Privilege" mainly concerned the situations connected with the area of criminal law and procedures. This is immediately clear from one of the first provisions of the Privilege, according to which those members of church institutions charged with theft or another crime were now—in contrast to the old custom that probably required proving innocence by ordeal/judgment⁴³—supposed to defend themselves using testimonies of their neighbors. Theft, in particular, and other similar crimes, fell within the area of criminal law, the execution of which was overseen by the monarch who delegated responsibility at the regional level to his bailiffs. The Privilege discussed the bailiffs several sections later, forbidding them to prosecute church subjects or to summon them to court without first obtaining a decree from the king, chancellor, or supreme judge, that is, as discussed above, the three officials who were supposed to be present at the hearings of the church institutions' representatives at the general colloquium ("*Volumus etiam et precipimus firmiter observari, ne aliquis vilicus seu beneficiarius vel officialis noster sine iudicio nostro vel cancellarii seu maioris iudicis curie nostre homines ecclesiarum audeant molestare, et ne quis ad iudicium venire cogatur*").⁴⁴ Therefore, I suggest that if we examine Ottokar's decree: "*et ut nullus hominum ecclesiarum a iudicibus provincialibus, sed a nobis vel summo iudice curie nostre vel cancellario, si non fuerit causa sanguinis, iudicetur*,"⁴⁵ in the context of the deed, the provincial judges can be identified in the sense of Libor Jan's interpretation as provincial magistrates who substituted for the royal power in criminal matters.⁴⁶

Other articles that specify the amount and types of fines, as well as recipients thereof, also made it clear that the examined document primarily concentrated on criminal law and sanctions derived from it. False accusation was punished by a fine of 300 denars paid to the king rather than by stoning, which was the punishment according to the statute of Konrád Ota. Church

⁴² Ibidem, p. 211, no. 227: "ut ea, que privilegii regum et ducum probari poterunt esse sua, volumus, quod habeant et possideant sine lite et uti aliis testibus non cogatur."

⁴³ VANĚČEK, Základy právního postavení klášterů (as in footnote 15), pp. 8–9.

⁴⁴ FRIEDRICH (as in footnote 8), p. 212, no. 227.

⁴⁵ Ibidem, p. 211, no. 227.

⁴⁶ LIBOR JAN: Václav II. [Wenceslaus II of Bohemia], Praha 2015, pp. 23–27.

subjects who were served with a citation paid the chamberlain responsible for delivering the summons half of the usual 30 denars. The old custom, according to which authorities would convict a thief by searching for stolen items in homes throughout the entire village, was also abolished. Instead, only the thief's house was searched, even if, as had been customary earlier, the entire village was to pay a fine of 300 denars to save the thief's life. Similarly, the whole village was to pay 200 denars if murder was committed on its territory and the murderer was not found. This was a great financial relief for church subjects since the earlier custom required each homestead to pay the fine.⁴⁷ Therefore, "Great Privilege" was mainly about specifying the position of church institutions and their members within the area of criminal law. Even from this perspective, if the text speaks about exemption from obedience of authorities, it probably concerns those whose involvement extended into the area of criminal law. This was no doubt similar in the case of the privilege for the Prague bishopric, where the main topics include enforcement of penalties imposed for various types of offenses prosecuted by the court and a clause that gives the same overall message as the above-mentioned article of the Great Privilege, i.e. that if any of the bishop's people commits robbery or another serious offence, the person comes under the jurisdiction of the king while their property remains in the possession of the bishopric. In the case of murder, the victim's relatives are to prosecute the bishop's subject according to land law ("*iure terre*"), while the bishop's other subjects from the village where the offender lived are to remain untouched.⁴⁸

The fundamental change in the legal position of church institutions, which the privilege promised, was the transfer of the execution of judicial enforcement and punishment to the supervision of the monarch or his direct representatives. In matters concerning the "people of the church," the king reassumed the "ideal role" of monarch who passes just judgements and punishments⁴⁹, i.e. the role that he had, within provincial administration, previously delegated to his regional magistrates. Similarly, the king also strove to strengthen the control over disputes concerning monasteries and chapters, a move that was undoubtedly related to their integration into the structures of the royal chamber.⁵⁰ In so doing, the monarch actually only defended the sphere he perceived to be a potential source of income against pressure from

⁴⁷ FRIEDRICH (as in footnote 8), p. 212, no. 227, already summarized in VANĚČEK, *Základy právního postavení klášterů* (as in footnote 15), pp. 7–14; DALIBOR JANIŠ: *Zemské soudnictví na Moravě vrcholného středověku* [The Provincial Justice in Moravia of the High Middle Ages], Brno 2013, pp. 161–163.

⁴⁸ FRIEDRICH (as in footnote 8), p. 204, no. 217; cf. JANIŠ (as in footnote 47), p. 161.

⁴⁹ For a general discussion of the ideal ruler in the medieval Czech Lands, cf. ROBERT ANTONÍN: *The Ideal Ruler in Medieval Bohemia*, Leiden—Boston 2017.

⁵⁰ On the development of the royal chamber in the thirteenth century, see ŽEMLIČKA, *Počátky Čech královských* (as in footnote 4), pp. 288–313; JAN (as in footnote 46), pp. 38–78; ŽEMLIČKA, *Spor Přemysla Otakara* (as in footnote 4), pp. 232–251.

the nobility, whose members, coming from the position of bearers of patronage rights, showed constant tendencies to curtail the rights and properties of church institutions, particularly monasteries.⁵¹ From this perspective, it is necessary to understand the “Great Privilege” of the Czech Church as an expression of the monarch’s efforts to secure a more independent position for individual church institutions within the Prague diocese. In issuing the Privilege, Ottokar did not respond to Bishop Andrew’s reform demands but rather to the need to integrate the monasteries and chapters into the political, economic, and social structures of the transforming Přemyslid monarchy of the thirteenth century.⁵² As evidenced by the number of privileges sent from the royal chancellery to monasteries during the course of Andrew’s case, the king’s activity in this regard was particularly generous toward monasteries.⁵³ It was at this time that the foundations were laid for the later integration of monasteries, including those originally founded by the nobility, under the monarch’s direct protection. Over the course of several decades, the monarch transferred the income generated by the monasteries into his chamber.⁵⁴

Summary

In light of the sources created in the course of the Bishop Andrew’s case, it is possible to state that the church in the Czech Lands during the first decades of the thirteenth century was in a situation that fundamentally differed from the ideal postulated by the Fourth Lateran Council. Firstly, the church of Andrew’s times was strongly influenced by the laity. We can see many aspects of this phenomenon. From the mid-twelfth century, bishops were elected by members of chapter houses. But they were nonetheless installed by the rul-

⁵¹ There are numerous examples of this beginning deep in the fifteenth century, see VÁCLAV VANĚČEK: *Základy právního postavení klášterů a klášterního velkostatku ve starém českém státě (12.–15. stol.)* [The Basics of the Legal Status of Monasteries and Monastic Estates in the Old Bohemian State (12th–15th Centuries)], vol. 1. Praha 1933, pp. 43–47.

⁵² For a summary of the transformation of the Czech Lands in the High Middle Ages see JAN KLÁPŠTĚ: *The Czech Lands in Medieval Transformation*, Leiden—Boston 2012.

⁵³ On Přemysl’s privileges for cloisters issued in the course of the dispute in 1216–1222, see FRIEDRICH (as in footnote 8), pp. 113–114, 142–144, 172–175, 181–182, 205–206, no. 125, 152, 187, 189, 196, 218.

⁵⁴ On the issue of sovereign protection, cf. VÁCLAV VANĚČEK: *Dvě studie k otázce postavení klášterů a klášterního velkostatku ve starém českém státě* [Two Studies on the Question of Monasteries and Monastic Estates in the Old Bohemian State], Praha 1938, pp. 18–31. On the issue of the gradual restructuralization of the royal chamber and the role of monasteries in this process, see ŽEMLIČKA, *Počátky Čech královských* (as in footnote 4), pp. 288–314; JAN (as in footnote 46), pp. 13–78; for a summary of the situation in Moravia, see TOMÁŠ BOROVSÝ: *Kláštery, panovník a zakladatelé na středověké Moravě* [Monasteries, Rulers and Founders in Medieval Moravia], Brno 2005, pp. 24–72.

ers—Bohemian dukes and later kings, as evidenced by Andrew himself. Prosopography research based on sources from the late thirteenth and fourteenth centuries has shown that most members of chapter houses in the Czech Lands (not only in Prague) came from the ranks of mid-level and minor nobility, and we can assume that the situation was identical at the beginning of the thirteenth century. We can observe the same conditions at the level of parish priests at that time as well. And from Andrew's harsh criticism of the behavior of the clergy in his diocese, as is evident from the corpus of sources discussed here that deal with his case, we can see that many clerics who perceived a position in the church hierarchy as the only way to secure their livelihood did not differ much from secular nobles. The pattern of inferiority of church institutions with regard to the secular institutions in the medieval Czech Lands before 1215 can also be noticed at the level of law and judiciary. The critique that the clergy and villagers subjected to them were quite often brought before the secular provincial court is one of Andrew's issues in his struggle for the church's position. Regarding the legal circumstances, all of the mentioned aspects were intertwined with the fact that the so-called *ius patronatus* was applied in the medieval Czech Lands and practiced not only by founders of monasteries and chapters, but also parish churches. Especially these institutions (i.e. parish churches) were considered part of the property of the nobility, who provided them (i.e. the churches) with furnishings, help, and protection. All this entrusted great authority to the laity, namely the secular nobility, who was thus superior to the clergy. This situation was more problematic. This is evidenced by numerous cases from the thirteenth century where the holders of patronage rights to parish churches, who were not members of the laity but rather came from church institutions, mainly monasteries. This created a tension between them and bishops, which is also apparent from the sources that detail Bishop Andrew's case. *Ius patronatus* also gave the nobles the power to decide who, for example, would be a parish priest; the nobles, including obviously the rulers, had an influence on the elections of abbots in the monasteries they founded, and the king, in particular, attempted to select "his" people for the two most influential chapter houses in Prague.⁵⁵

And last but not least, all the above-mentioned aspects had an effect on an effective collection of tithes, since patrons—whether the king, noble, or abbot as a representative of a monastery—used to make their own decisions about the tithes collected, and there was not a lot of space for the bishop's rights or budget in their opinion.

All of the above-mentioned factors reveal that the church in the Czech Lands before 1215 was a strongly decentralized institution controlled by local lay elites and showed signs of nepotism. The private life of the clergy was affected by concubinage and, resulting from that, we can see attempts to create "clerical dynasties." All this stood in sharp contradiction to the program of

⁵⁵ For the West European context and development of the "proprietary church" see SUSAN WOOD: *The Proprietary Church in the Medieval West*, Oxford et al. 2006.

Lateran IV and its canons. In this context, it is important to stress that the situation of the Czech church wasn't exceptional within Central Europe. A similar situation regarding the relations between the secular and sacred power can also be observed in Poland and Hungary. However, the detailed comparative analysis of the Central European development does not represent the core matter of this study and will be a subject for further research.⁵⁶ If we return to the Czech Lands, it is possible to state that the route to a change only began with Bishop Andrew and the implementation of the change would not have been possible without the overall transformations of the political, economic, social and mental structures of the Czech world in the High Medieval Period.

⁵⁶ For the situation in Poland and Hungary see WINFRIED IRGANG: *Libertas ecclesiae und landesherrliche Gewalt: Zur Kirchenpolitik der schlesischen Piasten im 13. Jahrhundert*, in: JOACHIM KÖHLER (ed.): *Säkularisationen in Ostmitteleuropa: Zur Klärung des Verhältnisses von geistlicher und weltlicher Macht im Mittelalter von Kirche und Staat in der Neuzeit*, Köln—Wien 1984, pp. 33–58; JÓSEF DOBOSZ, *Monarcha i możni wobec kościoła w Polsce do początku XIII wieku [The Monarchy and Nobles against the Church in Poland until the Early 13th Century]*, Poznań 2002; JACEK MACIEJEWSKI, *Episkopat polski doby dzielnicowej 1180–1320 [The Polish Episcopate during the Fragmentation Period 1180–1320]*, Kraków—Bydgoszcz 2003; GÁBOR BARABÁS: *Das Papsttum und Ungarn in der ersten Hälfte des 13. Jahrhunderts (ca. 1198 – ca. 1241): Päpstliche Einflussnahme—Zusammenwirken—Interessengegensätze*, Wien 2014; GERGELY KISS: *The Protection of the Church by Hungarian Royal Decrees and Synodal Statutes in the 11th–Early 14th Centuries*, in: RADOŚLAW KOTECKI, JACEK MACIEJEWSKI (eds.): *Ecclesia et Violentia: Violence against the Church and Violence within the Church in the Middle Ages*, Newcastle upon Tyne 2014, pp. 313–332.

