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Plenitudo potestatis or consensus? Boniface VIII and the question of the Hungarian throne*

Since 1290, the Angevins of Naples had constantly emphasised their claim to the throne of Hungary, and the Apostolic See was a strong support in the possible realisation of this ambition. The Papacy made it clear that it had the exclusive right to appoint the person of the Hungarian ruler. In this crisis, however, as early as 1290, and after the extinction of the House of Árpád (1301), a clear claim to the Hungarian throne by election was clearly expressed. The paper shows how Boniface VIII dealt with this issue, how these powerful legal ideas clashed, and to what extent the Pope sought or avoided a consensus-based resolution of the conflict.

Keywords: papacy, Hungary, Boniface VIII, claim of throne, consensus, conflict, papal government, cardinals



On 31 May 1303, Boniface VIII issued a solemn judicial act (*Spectator omnium*) in which he approved the hereditary right of the young Charles of Anjou to the throne of the Kingdom of Hungary. The pope's decision was a matter of ordinary jurisdiction, alluding to the “office of the vicar's power” with strong references to “divine power” and ‘fullness of power.’¹

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¹ “Spectator omnium cunctorum prescius rex eternis civitatem Ierusalem ruituram providens, flevit compassibiliter super illam. Numquid igitur et nos, eius officium vicarie potestatis habentes, fletus arcere possumus mitigare punitionis aculeos, gemitus cohibere, videntes acerbe regni Ungarie collapsi per plurimum dissidia gravia, inculcata frequentius diminutionis incommoda et ruinam taliter imminentem? [...] Nos vero habita super iis cum fratribus nostris examinatione solemnī, profunda maxime meditatione pensantes statum prefati regni Ungarie miserabilem et depressum, flebili quidem compassione de plenitudine potestatis, [...] de fratrum nostrorum consilio decernimus, diffinimus, declaramus, et volumus [...]”. THEINER I. p. 397–399.

However, “counsellors” were involved in the decision-making process, which took the form of an ‘enlarged’ consistory normally composed of the pope and his cardinals. Where appropriate, Hungarian prelates also took part by voting in favour of Charles I. The text makes extensive use of a formula according to which a consistorial act arbitrates the cause of candidates for the throne of the Hungarian kingdom. Similarly, a few years later, when Clement V renewed Boniface VIII's act of 1303, he alluded to the participation of ‘our brothers,’ the few Hungarian prelates, without mentioning the cardinals.²

Let us first address the premises of the papal provision. The documents issued by Boniface VIII in 1298³ and 1301⁴ and his predecessor, Nicholas IV (between 1288 and 1292),⁵ have one common element: they all, without exception, state that the Kingdom of Hungary belongs to the jurisdiction of the Apostolic See.⁶ This idea stems from a letter from Gregory VII to the Hungarian king Solomon (1074) in which the pope notes that the first king of Hungary, Stephen I, had offered his kingdom to the Apostolic See, which therefore constituted the patrimony of St. Peter.⁷

This idea was enriched by a new element at the beginning of the fourteenth century. We are still in the context of the succession of royal power in Hungary, the Árpád dynasty became extinct in the male line with the death of Andrew III (14 January 1301).⁸ It was Boniface VIII's charter of 17 October 1301 that declared the pope's exclusive right of decision. King Stephen I had obtained his crown and kingdom from the Apostolic See, as the papal bull emphasised, and the pope claimed the right to decide the succession dispute that was of great concern to the candidates.⁹ This series of papal decisions focused on providing solid arguments for the sole judicial competence of the popes in the ‘Hungarian cause’. And they found it in the kingdom's belonging to papal jurisdiction. The aforementioned charter of 1303 by Boniface stands out in two respects. *Firstly*, it was issued in the form of a peremptory sentence; *secondly*, it is the only document among others regarding the case that used the phrase “de fratrum nostrorum consilio”.

² 7 August 1307: THEINER I. p. 417–421.

³ THEINER I. p. 382–383.

⁴ THEINER I. p. 387–388.

⁵ FRAKNOI 1901. p. 92, 98, 99; THEINER I. p. 361–366, 372–375; POTTHAST nr. 23339; RN IV nr. 4425, 4426, 7563; JADIN 1934. col. 290; HC I. p. 242, note nr. 4; MORONI 1848. p. 10–13.

⁶ See in general: KIESEVETTER 2006.

⁷ “[...] Nam sicut a maioribus patrie tue cognoscere potes, regnum Vngarie sancte Romane Ecclesie proprium est a rege Stephano olim Beato Petro cum omni iure et potestate sua oblatum et devote traditum [...]”. DHA nr. 68.

⁸ Even earlier, in 1290, upon the death of Ladislav IV, the succession of Andrew III ‘the Venetian’ was contested by the Angevins of Naples and the papacy. See: KIESEVETTER 2006.

⁹ Beside Charles I, Wenceslas II, the King of Bohemia, Wenceslas II also claimed the crown of Hungary for his son. His mother was Kunigunda, granddaughter of Béla IV. The future Wenceslas III of Bohemia was crowned Hungarian king by the archbishop of Kalocsa and issued his charters in Hungary under the name Ladislav between 1301 and 1304. A third pretender was Otto of Wittelsbach, the Bavarian duke who was the son of Elisabeth, daughter of King Béla IV. One of the oligarchs, the voivode of Transylvania, Ladislav Kán, deprived Otto of the crown, which was regained by Charles I in 1309.

Although according to Nicholas IV, Boniface VIII (and even Clement V) the Vicar of St. Peter's full decision-making authority was never to be questioned, the wording of the 1303 act, which does not appear in the papal decisions of previous years, calls into question the process and its possible connection with the difficulties that characterised Boniface VIII's reign.

The Curia was an instrument of government, yet family ties (which are not necessarily based on consanguinity) impose themselves on its functioning, as Thérèse Boespflug noted in 2005: "This family structure and the alliances that are grafted onto it constitute a backdrop that can never be lost sight of in the analysis of relations between members of the Curia at the time of Boniface VIII. At all times, this web of privileged ties, or irreconcilable hostility, intervenes in the significant events of the Curia. This was particularly true in relations with the Colonna family and the crusade waged against them following the theft of the treasury by Stefani di Giovanni on 3 May 1297."¹⁰

The cardinals functioned as a natural tool of government, whether in terms of legislation, jurisdiction, or enforcement. Boniface VIII's opponents criticised him for rarely consulting the cardinals, i. e. seeking their consensus, or worse, ignoring them completely. Such a sinister opinion was formulated especially after 1297 and even more so in the years following his death, during the trial against him. The judgements of the injured parties, the two Colonnas, Pietro and Jacopo, or Jean le Moine, often contain excesses,¹¹ but they highlight the underlying problem: the grain of sand that prevents the cogwheel of papal government from functioning properly.

Historiography has already highlighted the altercations that characterised the consistories during the time of Boniface VIII. The situation worsened considerably with the removal of Cardinals Pietro and Jacopo de Colonna in 1297. Consistories became rare, private meetings took precedence over public ones, and the number of his most loyal supporters dwindled in the last years of his pontificate. In 1302, for example, three influential cardinals, Gerardus Blancus, Matheus de Aquasparta and Petrus Valeriani de Piperno, passed away.¹²

The text of the judicial act of 31 May 1303 paints a very vivid picture of the decision-making process: the prelates, the Pope's "brothers", who hold "the office of vicar of Christ", meet and decide at their own will on the cause of royal power in Hungary. This is a very idyllic image, which raises the question of whether it corresponds to the reality of the daily government of this same pope.

The use of the formula „*de fratrum nostrorum consilio*” reflects the harmonious cooperation between the pope and the cardinals in the process of this judicial act, to which were added the prelates who supported the cause of Charles I of Anjou. This phrase is absent from the papal decisions preceding the

¹⁰ BOESPFLUG 2005. p. 19.

¹¹ For some examples see: PARAVICINI BAGLIANI 2003. p. 185–188.

¹² PARAVICINI BAGLIANI 2003. p. 185–188; BOESPFLUG 2005. p. 27–28, nr. 572.

act of 1303. The question arises as to whether its use is related to the criticism being levelled at the government of Boniface VIII.

The substance of the relationship between the pope and the cardinals, as we know, was not precisely defined; different traditions coexisted in canon law, and special privileges also shaped the framework for collaboration. The *Decretum Gratiani* includes an abridged text of the 1059 election decree.¹³ In the absence of positive regulations, it was practice that shaped the prerogatives of cardinals in the high government of the Church from the mid-12th to the early 13th century.¹⁴ The popes and cardinals had very complex relationships, which makes it difficult to define the essence of the latter's role. Several points of view are applicable, namely the corporate idea that characterised the position and interconnection of the Vicar of Christ and the cardinals, or the historical evolution of the term *cardinalis* and its interpretation in canon law.¹⁵ First and foremost, it should be noted that there was essentially continuous cooperation between them; the cardinals did not have full power (*plenitudo potestatis*), but they replaced the pope in the event of vacancy, or impediment.¹⁶ They assisted with liturgical duties and gave their opinions and advice to the government.¹⁷

The evolution of canon law reached a new phase in the mid-13th century. The vacancy preceding the election of Innocent IV in 1243, the debates that emerged in the years 1268–1271, the election decree of 1274, and finally the transition from the resignation of Celestin IV to the election of Boniface VIII gave new impulsion to the development of a new canonical conception. The emphasis shifted from counsel (*consilium*) to the right of agreement (*consensus*) without resulting in the formation of 'conciliarism', or even more so, a 'constitutional' institution.¹⁸

Canonists from the period between the death of Gregory IX (1241) and the election of Clement V (1307) were very interested in the jurisdiction attributed to cardinals. Shortly after the compilation of the *Liber extra* (1234), the cardinals took collective action in 1243. The vacancy of the Apostolic See (1241–1243) provided a good opportunity for this. A note in Matthew Paris' *Chronica maiora* reports that seven cardinals called themselves 'depositaries of power' during the vacancy of the Apostolic See in a matter of minor

¹³ CONETTI 2003. p. 344; D. 1, Dist. XXIII, c. 1. (Decretum Gratiani, Pars prima, Distinctio XXIII, capitulum 1) FRIEDBERG col. 77–79.

¹⁴ CONETTI 2003. p. 345.

¹⁵ The list of references cited below is not exhaustive: SÄGMÜLLER 1896; KUTTNER 1945; ANDRIEU 1946; GANZER 1963; FÜRST 1967; HÜLS 1977; FIGUEIRA 1980; BLET 1982; PARAVICINI BAGLIANI 2004.

¹⁶ CONETTI 2003. p. 345.

¹⁷ PARAVICINI BAGLIANI 2004. p. 183–184.

¹⁸ This possibility was formulated by Brian Tierney and Robert Scholz. TIERNEY 1998. 158–159; SCHOLZ 1903. p. 190–207. However, Conetti rejects the idea of any organisation with the character of a 'party'. For him, the main argument is that even the cardinals being hostile to Boniface VIII (Napoleone Orsini and Guiglelmo Longhi) opposed the two Colonnas, but no 'front' was formed against the pope. CONETTI 2003. p. 347–348.

importance during the turbulent years following the death of Celestine V.¹⁹ The letter was a fine example to the chronicler, illustrating the *power vested in the cardinals during the vacancy*.²⁰

It is not surprising that the most illustrious canonists of the time were among the authors of the letter: Sinibaldo Fieschi (Cardinal Priest of S. Laurentius in Lucina /1227–1243/, the future Innocent IV),²¹ Rainaldus de Conti di Segni (Cardinal Bishop of Ostia and Velletri /1234–1254/,²² the latter's successor under the name Alexander IV), Johannes de Colonna (cardinal-priest of S. Praxedis /1212/1217–1244/),²³ as well as 'great' cardinals such as Stephanus Conti (cardinal-priest of S. Maria Transtiberim),²⁴ Rainerius Capoccius (cardinal deacon of S. Maria in Cosmedin /1216–1244/),²⁵ Egidius de Torres Hispanus (cardinal deacon of SS. Cosmas and Damian /1216–1246),²⁶ Otto de Montferrato (cardinal-deacon of S. Nicolaus in carcere Tulliani /1227–1244)²⁷.

Among them, Sinibaldo Fieschi is particularly distinguished, interpreting the relationship between the pope and the cardinals as analogous to that between the bishop and the chapter. The latter cooperated with the government by giving his advice (*consilium*), but the exercise of the ordinary's power did not require the consensus (*consensus*) of the chapter.²⁸ Elsewhere, the author compared the role of the council of cardinals to that of senators.²⁹

Later, it was Hostiensis who dealt in detail with cardinal power in his *Apparatus or Lectura in decretales Gregorii IX*, a commentary he wrote on the *Liber extra* (1271). He sought to define the nature of the council of cardinals and its relationship with the pope. He stated that the cardinals were part of papal power because they shared with the pope the full of power (*plenitudo potestatis*) at the head of the Church government. However, Hostiensis neglected to discuss the day-to-day exercise of power. He took up Fieschi's 'council theory': the cardinals are the pope's advisors and therefore part of

¹⁹ "Nos autem, penes quos potestas residet, apostolica sede vacante." LUARD 1877. p. 250. See: DYKMANS 1981. p. 132.

²⁰ "Exemplum ad quod potestas papalis ad fratrum universitatem divolvitur sede vacante papali et super hoc littera universitatis." LUARD 1877. p. 250.

²¹ HC I. p. 6, 43.

²² HC I. p. 6, 35.

²³ HC I. p. 4, 45. Cf. CRISTOFORI 1888. 62, 238; COLONNA 1927. p. 15–18; HAGEMANN 1968. p. 444–445; LEONHARD 1983. p. 133–135; LONGNON 1949. p. 157–159; MALECZEK 1982; MALECZEK 2000; MACGILLIVRAY NICOL 1957 p. 50–52; SÜTTERLIN 1929. p. 122–124; THUMSER 1995. p. 66–75; WENCK 1926; WOLFF 1954. p. 262; EGIDI 1908–1914. I. p. 285; PARAVICINI BAGLIANI 1980. p. 9, nr. 6/1.

²⁴ HC I. p. 4, 44.

²⁵ HC I. p. 4, 51.

²⁶ HC I. p. 5, 49. Innocent IV (4 January 1253) At the request of Egidius, the executor of Johannes de Colonna's will, the pope ordered the Abbey of Sainte-Geneviève in Paris to pay Johannes' nephew, Eudes de Colonna, the 200 marks of silver that Lorenzo de Chevele had deposited there. RI IV. nr. 6179; PARAVICINI BAGLIANI 1980. p. 9, nr. 6/2.

²⁷ HC I. p. 6, 52.

²⁸ CONETTI 2003. p. 345.

²⁹ TIERNEY 1998. p. 160.

papal power.³⁰ Hostiensis' position was undoubtedly inspired by the turbulent events of 1268–1271 surrounding the election of the new pope. The author's main notion is the 'state of emergency,' and only this necessity allows the cardinals to assume papal power.³¹ The same principle appears in another context. According to a letter from Gregory X (1273), the cardinals should give their advice in case of doubt (*dubium*).³²

In 1274, the Second Council of Lyon enacted the decree *Ubi periculum*, which was included in the *Liber Sextus* (1, 6: *De electione et electi potestate*, 3: *Ubi periculum*). The council's decision modified the decree on papal elections established in 1059 and entrusted the conclave with the responsibility of appointing the new pontiff by suffrage. From then on, the college of cardinals could exercise papal power during the vacancy without having explicit confirmation of the cardinals' participation in full papal power (*plenitudo potestatis*).³³ It should be added, however, that Gregory X's decree implied the consent of the prelates (particularly bishops and abbots) and limited the cardinals' responsibility to the election of the pope and its promulgation.³⁴ In short, a theory was emerging at that time that cardinals participated in the exercise of papal power because they were the pope's closest advisors. However, there was not a sharing of power between the Roman pontiff and the cardinals.³⁵

The resignation of Celestine V in 1294 before the consistory contributed to strengthening the corporate spirit. It reinforced the idea that the cardinals would associate themselves with papal power and replace the pope during the vacancy. On the one hand, the resignation was primarily theoretical in scope, as it revitalised the debate that had been raging since the mid-13th century

³⁰ Glose *Cardinalium* ad X 1, 24, 2: "Six dicti a cardine, quia sicut cardine regitur ostium, ita per istos regi debet officium ecclesie". Glose *In synodo* X 3, 4, 2: "Sunt enim cardinales pars corporis domini pape ... et cum eo urbem iudicant et disponunt". Glose ad X 5, 38, 14: "cardinales includuntur etiam in expressione plenitudo potestatis". Glose *Fratres nostri*, X 4 17,13: "inter cardinales quippe et papam tanta est unio, ut sibi ad invicem omnia communicare deceat, sicut enim inter episcopum et capitulum suum maior est communio quam inter eundem episcopum et ceteras ecclesias sue diocesis [...] sic multo magis et multo excellentius maior est unio inter papam et collegium Romane ecclesie quam etiam inter aliquem alium patriarcham et capitulum suum [...] et tamen patriarcha sine consilio fratrum non debet ardua expedire [...]. Multo fortius ergo decet papam consilia fratrum suorum requirere, nam et firmiter est iudicium quod a pluribus queritur, XX. dist. *De quibus* [D. 20, c.]" CONETTI 2003. p. 345–347. According to Tierney, Hostiensis formulated a constitutional idea: TIERNEY 1998. p. 136–140.

³¹ "Romanus pontifex, qui plenitudinem potestatis obtinet [...]. Sed pone, papam mortuum, quaero penes quem resideret haec potestas? Utique penes ecclesiam, dormitat tamen exercitium, doned caput creetur [...]. Sed numquid collegium cardinalium habet iurisdictionem papae et exercitum ipsius? [... Cardinales] illam potestatem, illam iurisdictionem habere videntur, per totam christianitatem, quem et papa [...]" DYKMANS 1981. p. 132–133. Hostiensis is clearer in another place: "nil decet papam facere sine consilio fratrum suorum". SÄGMÜLLER 1896. p. 244; PARAVICINI BAGLIANI 2004. p. 186.

³² PARAVICINI BAGLIANI 2004. p. 185.

³³ CONETTI 2003. p. 347.

³⁴ TIERNEY 1998. p. 165–166; PARAVICINI BAGLIANI 2004. p. 187–189.

³⁵ TIERNEY 1998. p. 144; CONETTI 2003. p. 347.

about the prerogatives of the college of cardinals and its participation in papal power. On the other hand, it provided an opportunity for the development of corporate government practices.

In addition to openly political references – notably the rivalry between the Colonna and Gaetani families – the pamphlets compiled against Boniface VIII refer to the ideal of corporate government. The two Colonna cardinals, Jacopo and Pietro, wrote three pamphlets as soon as their conflict with Boniface VIII erupted in May-June 1297. Two fundamental points were articulated among the many criticisms of the election and government of Benedetto Gaetani, whom the authors simply referred to as ‘Benedictus’. On the one hand, the resignation of Celestine V was targeted, with important arguments put forward to demonstrate the invalidity of such act. The Colonna family questioned its legal basis, insisting on the *indelebilis character* of the papal office. On the other hand, they refuted Boniface VIII’s mode of government: the exclusive reservation of ecclesiastical benefices, ignoring collective decision-making, and the imposition of his own interests on those of the local churches.³⁶ The deprivation of the cardinalate of the two Colonnas highlights the relevance of this last element; they reproached the pope for a personal and authoritarian decision.³⁷ Jacopo and Pietro went further, not content with merely presenting the injuries they had suffered.

In addition, the authors proposed a solution that could put an end to the irregularities. They believed that a general council would be authorised to decide on the validity of Celestine V’s resignation, the election and the government of Boniface VIII. Although not mentioned, it is highly probable that Jacopo and Pietro Colonna would have assigned a mediating role to the college of cardinals because, in their view, they shared power with the pope, just as they did during the *sede vacante* period.³⁸ The two Colonnas thus renewed the theory that emphasised the conciliar nature of the relationship between the pope and the cardinals. They attributed to the latter a constitutional role as a *sine qua non* element of government, concluding that the pope could not take any action without consulting the college of cardinals. Furthermore, the pope is not the sole depositary of full power (*plenitudo potestatis*), as confirmed by the 1274 election decree (*Ubi periculum*), which was repealed by Boniface VIII. Jacopo and Pietro’s proposal states that cardinals are the necessary advisers to the pope (*cardinales, consiliari necessarii*), drawing on what Hostiensis had formulated. Here we return to the idea that cardinals are part of the pope’s body (*membra corporis pape*). On the other hand, the constitutional role of cardinals is missing in Hostiensis.³⁹

The criticisms and solutions proposed by the two Colonnas had a remarkable impact. One of the illustrious canonists of the early 14th century,

³⁶ CONETTI 2003. p. 352.

³⁷ CONETTI 2003. p. 352–353.

³⁸ CONETTI 2003. p. 353.

³⁹ CONETTI 2003. p. 354–355.

Jean Le Moine,⁴⁰ gathered arguments concerning the legitimacy and validity of the popes' own decisions. He argued, however, that popes should seek the consensus of the cardinals. He asserted that the legitimacy of papal decisions rested on the fact that the pope acted as vicarius Christi. The author concluded that everyone should submit to the pope's jurisdiction, which extended to both the clergy and the laymen. Le Moine's expressions – *ad reformationem pacis, vicarius Christi* – are of interest to us because they recur among the formulas (*reformatio regni, officium vicarie potestatis habentes*⁴¹) that Boniface VIII used in the judicial act that was meant to decide the succession to the Hungarian throne. Le Moine uses elements of Roman law when he wants to define the relationship between the pope and the cardinals. He alludes to the link that reconnects the prince and positive law. According to the theory of „*princeps legibus solutus est*“, the cardinals could not limit the pope's free right of jurisdiction, but it was desirable for the pope to consult their opinion because even the pontiff had to live according to these laws.⁴² Similarly, the author supports this idea, drawing inspiration from the decree *Ubi periculum*, and states that the role is limited solely to the election of the pope.⁴³ Le Moine himself uses the analogy of the bishop and the cathedral chapter employed by Fieschi when he wants to explain the mutual nature of the relationship between the pope and the cardinals.⁴⁴ To quote Rivière's significant statement: „Jean le Moine simply pointed out that the pope needed the consensus of the cardinals, while accepting the full power (*plenitudo potestatis*) of the pope, constrained only by natural and divine law.”⁴⁵

Le Moine was also interested in the collegial power of the cardinals. He returned to the “traditional” idea that full power would be attributed to them in the event of a vacancy.⁴⁶ The author approved of the fact that Celestine V had reinstated Gregory X's decree *Ubi periculum*, which had been repealed by Adrian V and John XXI.⁴⁷ The opinion of this influential canonist sums up the

⁴⁰ The influence of the Colonna pamphlets can be seen in Lemoine's work, particularly in his glosses written for *Liber Sextus*, where he indirectly refers to them as examples of theses questioning the power of the pope. See: *Apparatus ad Librum Sextum Decretalium*, VI, 2,14,2; 5,2,4; X,1,6,3. CONETTI 2003. p. 355–357.

⁴¹ THEINER I. p. 397–399.

⁴² “Tamen secundum leges ipsum vivere decet [...]”. *Apparatus ad Librum Sextum Decretalium*, V. ii, 4. – cited by TIERNEY 1998. p. 169. It should be noted that the author specifies that Boniface VIII's decrees are to be rejected because they were issued *absque fratrum consilio*.

⁴³ CONETTI 2003. p. 355–357.

⁴⁴ SCHOLZ 1903. p. 196. These ideas are highly characteristic and can be found in the glosses formulated in the *Liber Sextus* and in the bull *Unam Sanctam*.

⁴⁵ Cited by TIERNEY 1998. p. 170.

⁴⁶ “Sede vacante plenitudo potestatis residet penes cetum cardinalium”. He expresses the same opinion using another example. It was precisely during the pivotal period between the resignation of Celestine V and the accession of Boniface (1294) that the cardinals proceeded on the basis of full power: “per cetum cardinalium penes quem plenitudo potestatis sede vacante residet” – cited by DYKMANS 1981. p. 135. See also: TIERNEY 1998. p. 171.

⁴⁷ “Hec decreta per Adrianum papam fuit quoad omnem eius effectum suspensa et Joannes XXI dictam suspensionem qui non fuit in scriptis redacta ratificavit, et de fratrum consilio eam quoad

evolution of the glossators' views over the previous half-century. However, his opinion changed in 1303. He became increasingly critical and recommended that popes refrain from any despotic acts based on papal plenary power. In the gloss he wrote to comment on Boniface VIII's decree *Rem non novam*, he referred to the Colonna case and emphasised that deposition without an acknowledgement of culpability leads to automatic contestation of the decision (*questio ex facto emergens*).⁴⁸ The same change of opinion can be seen in the gloss written on the bull *Unam sanctam*.⁴⁹

In short, Boniface VIII's judicial act deciding the succession to the Hungarian throne can be interpreted in another way. On the one hand, there are traditional elements that were used in the argument for full papal power, notably the formulas *vicarius Christi* and *ad reformationem pacis*, which were used to claim jurisdiction in secular cases. For Boniface VIII, the culmination of this idea was the bull *Unam sanctam* and the theory of the two swords.

Given these circumstances, it is surprising how much attention the judicial act paid to the expression of consent, bypassing the solemn decision. However, this approach is ambiguous. The phrase „*de fratrum nostrorum consilio*” refers to the agreement of the cardinals, even though the act was taken in the form of a consistory attended by clearly identifiable Hungarian prelates. The question arises as to whether the emphasis placed on this phrase in the text was a reflection of pressing current events. The decision-making process by „council of our brothers” was a phrase whose connotation varied according to circumstances, ranging from one extreme to the other. Sometimes it appears as a trivial reference, while in other cases it alludes to the cardinals' partnership in the decision-making process.⁵⁰

The expression had been present in sources since the 12th century with various connotations. Under the pontificate of Paschal II, it included not only cardinals, but its use was limited to them during the time of Innocent II. From the mid-13th century onwards, the advisory role of the cardinals became increasingly important, and the election decree of 1274 gave them effective participation in the exercise of judicial power. This interest grew during the pontificate of Boniface VIII, fuelled in particular by the opposition of the Gaetani and Colonna families. The absence of cardinals from consistories and the pope's personal decisions (to which there are numerous references from 1301 onwards⁵¹) support the hypothesis that Boniface VIII was in the habit of presenting his own acts in the form of consistorial decisions. *Might it be possible that the formula of the council of brothers, alluding to the agreement of the college of cardinals, had a new function under Boniface VIII, who emphasised the expression of full power (plenitudo potestatis, vicarius Christi) and sought to*

omnem eius effectum suspendit. Et Celestinus hanc decretalem in statum pristinum restauravit” – cited by DYKMANS 1981. p. 135.

⁴⁸ SCHOLZ 1903. p. 197; CONETTI 2003. p. 355–357.

⁴⁹ SCHOLZ 1903. p. 197–198. Cf. TIERNEY 1998. p. 163–164.

⁵⁰ In general, see: PARAVICINI BAGLIANI 2004. p. 181–194.

⁵¹ PARAVICINI BAGLIANI 2004. p. 190–194.

express a corporate decision in order to hide the criticism formulated about his own government?

Alongside theoretical critiques, the practical functioning of the papal government can provide an answer to this question. The present analysis considers the role of cardinals in the pope's major acts during the period surrounding the judicial decision on the succession to the Hungarian throne (mid-October 1302 to late May 1303). From 6 June 1302 onwards, cardinals disappeared from the list of signatories of papal bulls. The last date on which any cardinal took part in an act was 16 February 1302. The years 1295 and 1298 were pivotal. The former was directly linked to the resignation of Celestine V and the election of Boniface VIII, as well as the deaths of certain cardinals.⁵² The reason for the creations of 2 March 1300 reflects this constraint, as does the timing of the last ones (15 December 1302).⁵³ Objective circumstances were at play: more than a dozen cardinals died between 1295 and 1302, making it necessary to find replacements. However, it would be inaccurate to say that Boniface VIII's government was always balanced and based on harmonious cooperation between the pope and the cardinals.

The analysis focuses on the participation of cardinals in office who were present at the papal court in the pope's major acts (privileges, decisions relating to secular power).⁵⁴ During the period from 21 June 1295 to 16 February 1302, 13 of the 22 cardinals 'inherited' from his predecessors were among the signatories of the papal bulls, 8 of whom were still alive in 1302. However, Gerardus Blancus died on 1 March 1302 and Matthaëus de Aquasparta passed away on 28 October of the same year, so their possible participation in the government of Boniface VIII after 16 February 1302 is irrelevant. This leaves six cardinals: Joannes Buccamatius (Tusculanum), Matthaëus Rubeus Ursinis (S. Maria in Porticu), Neapoleo Ursinis, (S. Adrianus), Joannes dictus Monachus (John the Monk, SS. Marcellinus and Petrus), Robertus Gallus (O. Cist., S. Pudentiana), Guillelmus Longus (de Longis) Bergomensis, S. Nicolaus in carcere Tulliano). Alongside them are the two Colonnas, who were nevertheless deprived of their office by Boniface VIII on 10 May 1297 and were only rehabilitated on 2 February 1306.⁵⁵

The activities of the six cardinals, the distribution of signatures is as follows: Jean le Moine: 152, Robertus Gallus and Guillelmus Longus: 342, Neapoleo Ursinus: 615, Matthaëus Rubeus Ursinus: 555. Their activities all ended on 16 February 1302. Apart from them, only Joannes Buccamatius was active among the "ancient" cardinals, but this intense activity (664 signatures) was limited to the 5 years following 1295.

⁵² Between January and May 1295, Boniface VIII created only one cardinal (his *nepos* of the same name), while on 17 December 1295 he appointed five new cardinals. Four of the cardinals appointed by his predecessors died before the appointments of December 1295. On 4 December 1298, four new cardinals were created; since the last appointment in 1295, five cardinals had passed away.

⁵³ Here, two appointments are compared with the same number of deaths (two in both cases).

⁵⁴ See: Table I.

⁵⁵ CONETTI 2003. p. 357–360; HCl. p. 10, 11.

Five cardinal appointments were made during the pontificate of Boniface VIII (23 January, 13 May and 17 December 1295, 4 December 1298, 2 March 1300, 15 December 1302), with a total of 15 cardinals appointed. Nine of them were still in office in February 1302. However, many were inactive at that time, such as Valerianus Duraguerra de Piperno (S. Maria nova), who disappeared from papal documents in 1297, Franciscus Cajetanus (S. Maria in Cosmedin), Niccolò Bocassini (S. Sabina), Lucas de Flisco e Lavaniae comitibus (S. Maria in via lata), who disappeared from the papal government from 1300 onwards. As for the others (Franciscus Neapoleonis Ursinus Romanus (S. Lucia in silice), Jacobus Cajetanus de Stephanescis (S. Georgius ad velum aureum), Theodericus Rainerii de Urbeveteri (S. Crux in Jerusalem), Leonardus de Gratio Patrasus (Albano), Gentilis de Monteflorum (S. Martinus in Monte), the final date of their activity was also 16 February 1302.

The differences in the entire period of operation and effective participation in government can be explained by various reasons: cardinals were often authorised to hold positions outside the Roman Curia (e.g. legations). The possible absence of cardinals is not surprising. It is rare for all cardinals to have participated together in government.⁵⁶ There were only two marginalised individuals during the pontificate of Boniface VIII, who, unsurprisingly, were the two Colonna brothers, Jacopo and Pietro. Nevertheless, the break that occurred on 16 February 1302 is striking: the cardinals disappeared from the decision-making process, with neither the 'old' nor the 'new' participating any longer.⁵⁷ Boniface VIII created two new cardinals in December 1302.⁵⁸ More than 150 bulls were issued during the last phase of his pontificate, but the two cardinals were not mentioned in them,⁵⁹ which highlights the importance of the date 16 February 1302.

The emphasis placed on the phrase „the council of our brothers” and the consistorial nature of the papal act of 31 May 1303 is counterbalanced in the same text by the reference to the pope's full power (*vicarius Christi, plenitudo potestatis*). The reference to a collegial decision no longer involved the active participation of the cardinals in the judicial decision-making process; at that time, this formula included only the Hungarian prelates present at the papal court. Nevertheless, the formula alluding to an act taken in concert with the pope's natural advisers was particularly useful in deceiving the unwary reader. Thus, the wording of the judicial decision on the succession to the Hungarian throne was in fact a response to criticism of the manner of government: it served to conceal not only the pamphlets of the Colonna family, but also the negative remarks of Jean Le Moine. This response was in any case contrary to the practice that developed after 16 February 1302.

⁵⁶ See the masterful work dealing with the mid-thirteenth century (1227–1261): PARAVICINI BAGLIANI 1972.397–441.

⁵⁷ POTTHAST II, p. 2024.

⁵⁸ HC I, p. 13.

⁵⁹ POTTHAST nr. 25129–25283.

Former cardinals (in office in 1302)	Card. created by Boniface VIII						Inactive card. in 1302	Active card. in 1302	Active card. after 16 February 1302
	#1 (23 January – 13 May 1295)	#2 (17 December 1295)	#3 (4 December 1298)	#4 (2 March 1300)	#5 (15 December 1302)	1+5 prom. (in fonction in 1302)			
promotions							(13+9)		
22 (13)	1	5	4	3	2	15/13 (9)	5 + 4	6 (8) + 5	0

Table I. Promotions and active cardinals during Boniface VIII's pontificate

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