

## I.

### A THIRTEENTH-CENTURY PAPAL CHARTER GRANTED TO THE ABBEY OF KINLOSS. BY THE RIGHT REVEREND J. H. BERNARD, D.D., BISHOP OF OSSORY.

Among the charters, mainly of local interest, in the archives of the see of Ossory at Kilkenny, and in the custody of the bishop for the time being, the document printed below is preserved. It is a *Privilegium* or Charter of Confirmation of its privileges granted in the year 1219 by Pope Honorius III. to the Cistercian Abbey of Kinloss, in Morayshire. Written on parchment, 27½ inches long by 24 inches broad, it is executed with the care and skill that were always bestowed upon *privilegia* or papal rescripts of the first order of dignity. It has suffered in some degree from fire, and there is a large gap in the parchment; but happily the signatures of the pope and attesting cardinals are intact. By the good offices of Mr E. G. Atkinson, of the Public Record Office in Chancery Lane, I was enabled to have it repaired, and it has now been placed under glass.

The history of the once famous abbey to which the charter originally belonged has been set forth with learning by Dr John Stuart, in his

*Records of the Monastery of Kinloss*, which was printed for the Society of Antiquaries of Scotland in 1872. It was founded by King David I., who established at Kinloss a colony of Cistercians from Melrose Abbey in 1150; and Dr Stuart printed the Bull of Pope Alexander III., of date 1174, confirming the rights and privileges granted by King David. The other early charters given by Dr Stuart include two granted by King William the Lion in 1180 and 1195, relating respectively to the lands of Burgie and Strathisla: one by Richard, Bishop of Moray, taking the abbot and monks under his protection, in 1187; and one by King Alexander II., issued in 1221. But Dr Stuart was not aware of the existence of the Charter of Confirmation granted in 1219 by Honorius III., and it is here printed for the first time. So far as I am aware, it has not been known hitherto that this pope conferred any privilege on the Abbey of Kinloss or granted it a *Carta Confirmationis*.

How long this charter has been preserved at Kilkenny, I cannot say. There is no record as to how it found its way into the safe where the Ossory documents are kept. It is possible that it was acquired by Bishop Pococke, the well-known traveller and antiquary, during one of his archaeological tours in Scotland. He was Bishop of Ossory from 1756 to 1765, and he describes, in one of his letters,<sup>1</sup> a visit paid by him to the ruins of Kinloss Abbey in 1760. No doubt he would have eagerly acquired a charter relating to the abbey, had it come in his way, but he gives no hint that he did so. Dr Stuart mentions in his book that the original Bull of Alexander III. relating to the abbey, which he prints, was "given to Sir Thomas Dick-Lauder by George Cumin of Relugas," his father-in-law; which shows that the Cumins had charters of the abbey in their possession. Now Bishop Pococke records (*l.c.*, p. 183) that when he was on his way to Kinloss Abbey, and had reached Forres, "the Provost Mr Cummin, the head of that very ancient family, came to town on purpose to give me my freedom."

<sup>1</sup> Pococke's *Tours in Scotland*, edited by D. W. Kemp (1887), p. 184.

This was Patrick Cumin of Relugas, George Cumin's father;<sup>1</sup> and it is quite possible that he presented Bishop Pococke with the charter now before us as a memento of his visit. This, of course, is only conjecture.

As was the practice in the case of Papal *privilegia*, the opening words "Honorius episcopus, servus servorum Dei, dilectis filiis Abbati monasterii de Kinlos ejusque fratribus tam presentibus quam futuris regularem vitam professis in perpetuum" are written in tall, narrow characters. A large part of the charter recites the privileges usually accorded to foundations of the Cistercian order, some of the opening phrases being identical with those in the charter of Alexander III. of 1174. It does not mention the abbot's name, of which we should have been glad to have a record. We know from Dr Stuart's research that Herbert was the abbot in 1229, and that Ralph of Kinloss was among the excommunicated Cistercian abbots in 1218, but we have no note of the abbot in 1219. The part of the document which described the lands belonging to the monastery is very defective, but the names *Burgin*, *Inwerhern*, *Banefef*, *Foreis*, *Elgin* appear, as they do in other documents relating to the abbey.

The signatures are affixed in the form that was customary when *privilegia* were granted, which is the case also with the charter of Alexander III. The pope's subscription is placed between the *rota* or wheel-like cross and the monogram which stands for "Bene valet." Underneath the pope's signature are those of three cardinal bishops, four cardinal priests signing on the left hand, and five cardinal deacons on the right. The names of the cardinals in each group are affixed in order of seniority, and they can be identified by the aid of Eubel's *Hierarchia*. The cardinal bishops were Petrus Duacensis; Conradus de Urach, a Cistercian; and (probably) Nicolaus de Claromonte. The last-named succeeded a cardinal of the same name, as Bishop of

<sup>1</sup> See *The Bruces and the Cumyns*, by M. E. Cumming Bruce, p. 651, a reference which is due to the courtesy of Dr Joseph Anderson.

Tusculum, viz. Nicolaus de Romanis, who died in 1219; and he did not subscribe the roll of cardinals until 1220, although appointed in 1219. He was himself a member of the Cistercian Order, and signs as "*frater Nicolaus*," perhaps because he had not yet taken up his full dignity as cardinal bishop. The cardinal priests were Leo Brancaleo, an old man, who had been created by Innocent III.; Stephanus de Ceccano, a Cistercian, also created by Innocent; Thomas de Episcopo Capuanus; and Aldebrandinus Caietani. The cardinal deacons were Octavianus e com. Signiæ; Gregorius de Crescentio; Rainerius Capoccius, a Cistercian; Romanus Bonaventura; and Aegidius Hispanus. It will be noticed that four of the signatories belonged to the Cistercian Order.

The *Datum* at the foot of the charter is executed in the usual form by Ranerius, Patriarch-elect of Antioch, who was Vice-Chancellor.

The note (by a later hand), which is written on a blank space in the margin after the pope's subscription, stating that the Lateran Council was held in 1179, deserves attention; for (according to Stuart's transcript) a similar note is made on the Charter of Alexander III., granted to the abbey in 1174, viz., "quod concilium Lateranense celebratum erat anno domini M<sup>o</sup>C<sup>o</sup>LXX<sup>o</sup>IX<sup>o</sup>." This was the third Lateran Council. Some of its canons were concerned with monastic affairs, and in particular with the question of tithes. The Cistercians were exempted from payment of tithe by Innocent II. in 1132; but this led to disputes, and it was subsequently ordered that only lands acquired before the Council of 1179 should have this privilege. So we have in the fourth paragraph of the Charter before us: . . . *de possessionibus habitis ante consilium generale nullus a vobis decimas exigere presumat*. The same words occur in a charter given by Honorius III. to the Cistercian Abbey of Dunbrody,<sup>1</sup> from which it appears that 1179 was a significant date for a Cistercian house. Whether it was on this account that the mediæval scribbler thought it useful to

<sup>1</sup> *Chartularies of St Mary's Abbey*, ed. Gilbert, ii. 109.

mark the date on the charters before him, I cannot tell; but it is remarkable that the *same* note is placed on the two earliest papal rescripts relating to the Cistercian Abbey of Kinloss.

CHARTER OF CONFIRMATION OF THE ABBEY OF KINLOSS,  
GRANTED BY POPE HONORIUS III., 1219.

*Honorius episcopus, servus servorum Dei, dilectis filiis Abbati Monasterii de Kinlos ejusque fratribus tam presentibus quam futuris regularem vitam professis in perpetuum.*

Religiosam vitam eligentibus apostolicum convenit adesse presidium, ne forte cuiuslibet temeritatis incursus aut eos a proposito revocet, aut robur, quod absit, sacre religionis infringat. Eapropter dilecti in domino filii vestris justis postulationibus elementer annuimus et prefatum monasterium de Kinlos in quo divino estis obsequio mancipati, sub beati Petri et nostra protectione suscipimus et presentis scripti privilegio communivimus.

In primis siquidem statuentes ut ordo monasticus qui secundum Deum et beati Benedicti regulam atque institutionem Cisterciensium fratrum in eodem monasterio institutus esse dinoscitur perpetuis ibidem temporibus inviolabiliter observetur. Preterea quascunque possessiones quecumque bona idem monasterium impresentiarum juste ac canonice possidet aut in futurum concessione pontificum, largitione regum vel principum, oblatione fidelium seu aliis justis modis prestante domino poterit adipisci, firma vobis vestrisque successoribus et illibata permaneant.

In quibus hec propriis duximus exprimenda vocabulis: Locum ipsum in quo prefatum monasterium situm est cum omnibus pertinentiis suis, Grangiam de Kinlos cum omnibus pertinentiis suis, Grangiam de West cum omnibus pertinentiis suis, possessionem de Burgin, possessionem de Inwerhern, possessionem de Dund . . . [4 letters] . . . cum omnibus pertinentiis eorundem, possessionem de Crimbathin, posses-

sionem de Banefef, possessionem de Kinwernis, possessionem in Hinwernarhy, possessionem in Foreis, possessionem de Elgin, possessionem . . . erden possessionem d . . . possessionem . . . [15 letters] . . . eorundem, possessionem . . . [50 letters] . . . supra mare possessionem de . . . [14 letters] . . . cum pertinentiis suis cum . . . [20 letters] . . . nemoribus usuagiis et pascuis in bosco et plano in aquis et molendinis . . . [40 letters] . . . libertatibus et immunitatibus . . . [10 letters] . . . ,

(*Sane labo*)rum vestrorum quos propriis manibus aut sumptibus colitis de possessionibus habitis ante consilium generale, sive de (*ortis*) et virgultis et piscationibus vestris vel de nutrimentis . . . [50 letters] . . . vobis dec(*imas exigere vel ex*)torquere presumat. Liceat quoque vobis clericos vel laicos liberos et absolutos e seculo fugientes ad conversionem recipere et eos absque contradictione aliqua (*retinere*).

P(*rohibemus insuper ut nulli fratrum vestrorum post factam in vestro monasterio profes*)sionem fas sit sine abbatis sui licencia de eodem loco discedere, disce(*dentem vero*) absque com . . . [8 letters] . . . rum vestrarum cautione nullus audeat retinere.

Quod si quis . . . [75 letters] . . . promulgare. Illud districcius inhibentes ne terras seu quodlibet beneficium ecclesie vestre collatum liceat alicui personaliter dari sive alio modo alienari . . . [30 letters] . . . vel majoris aut san . . . [15 letters] . . . us.

Si . . . [18 letters] . . . vel alienaciones aliter quam dictum est facte fuerint eas irritas esse censemus.

Ad hec etiam prohibemus ne aliquis monachus sive conversus sub professione . . . [25 letters] . . . consensu et licencia abbatis et majoris partis capituli . . . [15 letters] . . . us fide jubeat vel ab aliquo pecuniam mutuo accipiat ultra precium capituli vestri providencia constitutum nisi propter manifestam domus vestre utilitatem. Quod si facere forte presumpserit non teneatur conventus pro hiis aliquatenus respondere.

Licitum preterea sit vobis in causis propriis sive civilem sive criminalem contineant questionem fratrum vestrorum testimoniis uti, ne pro defectu testium jus vestrum in aliquo valeat deperire.

Insuper auctoritate apostolica inibemus ne ullus episcopus vel quelibet alia persona ad synodos<sup>1</sup> vel conventus forenses vos ire, vel iudicio seculari de vestra propria substantia vel possessionibus vestris subjacere compellat, nec ad domos vestras, causa ordines celebrandi, causas tractandi, vel aliquos conventus publicos convocandi, venire presumat nec regularem electionem abbatis vestri impediatur aut de instituendo vel removendo eo qui pro tempore fuerit contra statuta Cisterciensis ordinis se aliquatenus intromittat.

Si vero episcopus in cuius parochia domus vestra fundata est cum humilitate ac devotione, qua convenit requisitus, substitutum abbatem benedicere, et alia que ad officium episcopale pertinent vobis conferre renuerit, licitum sit eidem abbati, si tamen sacerdos fuerit, proprios novicios benedicere, et alia que ad officium suum pertinent exercere, et vobis omnia ab alio episcopo percipere que a vestro fuerint indebite denegata. Illud adicientes, ut in recipiendis professionibus que a benedictis vel benedicendis abbatibus exhibentur, ea sint episcopi forma et expressione contenti, que ab origine ordinis noscitur instituta, ut scilicet abbates ipsi salvo ordine suo profiteri debeant et contra statuta ordinis sui nullam professionem facere compellantur.

Pro consecrationibus vero altarium vel ecclesiarum sive pro oleo sancto, vel quolibet ecclesiastico sacramento, nullus a vobis sub obtentu consuetudinis vel alio modo quicquam audeat extorquere, sed hec omnia gratis vobis episcopus diocesanus impendat. Alioquin liceat vobis quemcumque malueritis catholicum adire antistitem, gratiam et communionem apostolice sedis habentem, qui nostra fretus auctoritate vobis quod postulatur impendat.

Quod si sedes diocesani episcopi forte vacaverit interim, omnia ecclesiastica sacramenta a vicinis episcopis accipere libere et absque

<sup>1</sup> In the margin is written in a later hand "Non (?) de synodo."

contradictione possitis. Sic tamen ut ex hoc in posterum propriis episcopis nullum prejudicium generetur.

Quia vero interdum propriorum episcoporum copiam non habetis, si quem episcopum Romane sedis ut diximus gratiam et communionem habentem, et de quo plenam notitiam habeatis, per vos transire contigerit, ab eo benedictiones vasorum et vestium, consecrationes altarium, ordinationes monachorum, auctoritate apostolice sedis recipere valeatis. Porro si episcopi, vel alii ecclesiarum rectores, in monasterium vestrum, vel personas inibi constitutas, suspensionis, excommunicationis vel interdicti sententiam promulgaverunt, sive etiam in mercennarios vestros, pro eo quod decimas sicut dictum est non persolvitis, sive aliqua occasione eorum que ab apostolica benignitate vobis indulta sunt, seu benefactores vestros pro eo quod aliqua vobis beneficia vel obsequia ex caritate prestiterint vel ad laborandum adjuverint, in illis diebus in quibus vos laboratis, et alii feriantur, eandem sententiam protulerint, ipsam tamquam contra sedis apostolice indulta prolatam duximus irritandam. Nec littere ille firmitatem habeant quas tacito nomine Cisterciensis ordinis et contra tenorem apostolicorum privilegiorum constiterit impetrari.

Preterea cum commune interdictum terre fuerit, liceat vobis nichilominus in vestro monasterio exclusis excommunicatis et interdictis divina officia celebrare. Paci quoque et tranquillitati vestre paterna in posterum sollicitudine providere volentes, auctoritate apostolica prohibemus ut infra clausuras locorum seu grangiarum vestrarum nullus rapinam seu furtum facere, ignem apponere, sanguinem fundere, hominem temere capere vel interficere, seu violentiam audeat exercere.

Preterea, omnes libertates et immunitates a predecessoribus nostris. Romanis pontificibus, ordini vestro concessas, nec non libertates et exemptiones secularium exactionum a regibus et principibus vel aliis fidelibus rationabiliter vobis indultas auctoritate apostolica confirmamus, et presentis scripti privilegio communivimus.



Decernimus ergo ut nulli omnino hominum liceat prefatum monasterium temere perturbare, aut ejus possessiones auferre vel ablatas retinere, minuere, seu quibuslibet vexationibus fatigare, sed omnia integra conserventur eorum pro quorum gubernacione ac sustentatione concessa sunt usibus omnimodis profutura. Salva sedis apostolice auctoritate.

Si qua igitur in futurum ecclesiastica secularisve persona hanc nostre constitutionis paginam sciens contra eum temere venire temptaverit secundo terciove commonita, nisi reatum suum congrua satisfactione correxerit, potestatis honorisque sui careat dignitate, reamque se divino iudicio existere de perpetrata iniquitate cognoscat, et a sacratissimo corpore ac sanguine dei et domini redemptoris nostri Jesu Christi aliena fiat, atque in extremo examine districte subiaceat ultioni. Cunctis autem eidem loco sua jura servantibus sit pax Domini nostri Jesu Christi, quatinus et hic fructum bone actionis percipiant, et apud districtum iudicem premia eterne pacis inveniant. AMEN. AMEN.

Ego Honorius catholice ecclesie  
episcopus subscribo <sup>1</sup>

- ✠ Ego Petrus Sabinensis episcopus subscribo
- ✠ Ego Cornadus <sup>2</sup> Portuensis et sancte Rufine episcopus subscribo
- ✠ Ego frater Nicolaus Tusculanus episcopus subscribo
- ✠ Ego Leo, tituli sancte crucis in Iherusalem presbyter cardinalis  
subscribo

<sup>1</sup> The monogram after the Pope's signature is equivalent to "Bene valete." In the margin is written by a later hand . . . "erat consilium Lateranense anno M<sup>o</sup>C<sup>o</sup> septuagesimo nono."

<sup>2</sup> For "Conradus."

- ✠ Ego Stephanus, basilice duodecim apostolorum presbyter cardinalis subscribo
- ✠ Ego Thomas tituli sancte Sabine presbyter cardinalis subscribo
- ✠ Ego Alebrandinus<sup>1</sup> tituli sancte Susane presbyter cardinalis subscribo.
  
- ✠ Ego Octavianus sanctorum Sergii et Bacchi diaconus cardinalis subscribo
- ✠ Ego Gregorius sancti Theodori diaconus cardinalis subscribo
- ✠ Ego Rainerius sancte Marie in Cosmidin diaconus cardinalis subscribo
- ✠ Ego Romanus sancti Angeli diaconus cardinalis subscribo
- ✠ Ego Egidius sanctorum Cosme et Damiani diaconus cardinalis subscribo

Datum Viterbii per manum Ranerii Patriarche Antiocheni cancellarii vicem agentis vii Id. Decembris Indicatione viij Incarnationis dominice anno MCCXVIII Pontificatus vero domini Honorii pape iij anno quarto.

<sup>1</sup> For "Aldebrandinus."