Confiscation for Heresy in the Middle Ages

IN many ways which have attracted little attention, the Inquisition was a factor of importance in the development of the middle ages. Under the theocracy which was the social ideal of Latin christianity, the enforcement of uniformity of faith was the highest duty of both church and state. To accomplish this the dungeon and the stake were not spared, but an equally efficacious instrument was the forfeiture of the heretic's property.

For the source of this penalty, as of so much else, we must look to the Roman law. It is true that, cruel as were the imperial edicts against heresy, they did not go to the length of thus indirectly punishing the innocent. Even when the detested Manichæans were mercilessly condemned to death, their property was confiscated only when their heirs were likewise heretics. If the children were orthodox, they succeeded to the estate of the heretic parent, who could not execute a will and disinherit them. It was otherwise with crime. Any conviction involving deportation or the mines carried with it confiscation, though the wife could reclaim her dower and any gifts made to her before the commission of the offence, and so could children emancipated from the *patria potestas*. In *majestas*, or treason, the offender was liable to condemnation after death, involving the confiscation of his estate, which was held to have lapsed to the fisc at the time when he first conceived the crime. These provisions furnished the armoury whence pope and king drew the weapons which rendered the pursuit of heresy attractive and profitable.¹

King Roger, who occupied the throne of Naples during the first half of the twelfth century, seems to have been the first to apply the Roman practice by decreeing confiscation for all who apostatised from the catholic faith—whether to the Greek church, to Islam, or to Judaism, does not appear. Yet the church cannot escape the responsibility of naturalising this penalty in European law as a punishment for spiritual transgressions. The great council of Tours, held by Alexander III in 1163, commanded all

¹ *Constt.* 13, 15, 17, Cod. I. v.; 2, 3, 4, 7, 8, 9, Cod. IX. xlix.; 5, 6, Cod. IX. viii.

secular princes to imprison heretics and confiscate their property. The Verona decretal of Lucius III in 1184 sought to obtain for the church the benefit of the confiscation, which he declared was incurred by heresy. One of the earliest acts of Innocent III, in his double capacity of temporal prince and head of christianity, was to address a decretal to his subjects of Viterbo, in which he says :

In the lands subject to our temporal jurisdiction we order the property of heretics to be confiscated ; in other lands we command this to be done by the temporal princes and powers, who, if they show themselves negligent therein, shall be compelled to it by ecclesiastical censures. Nor shall the property of heretics who withdraw from heresy revert to them, unless some one pleases to take pity on them. For as, according to the legal sanctions, in addition to capital punishment, the property of those guilty of *majestas* is confiscated, and life simply is allowed to their children through mercy alone, so much the more should those who wander from the faith and offend the Son of God be cut off from Christ and be despoiled of their temporal goods, since it is a far greater crime to assail spiritual than temporal majesty.*

This decretal, which was adopted into the canon law, is important as embodying the whole theory of the subject. In imitation of the Roman law of *majestas*, the property of the heretic was forfeited from the moment he became a heretic or committed an act of heresy. If he recanted, it might be restored to him purely in mercy. When the ecclesiastical tribunals declared him to be, or to have been, a heretic, confiscation followed ; the act of seizing the property and the mercy which might spare it were matters for the secular power.

Innocent III's decretal further illustrates the fact that, at the commencement of the struggle with heresy, the chief difficulty encountered by the church in relation to confiscation was to persuade or coerce the temporal rulers to do their duty in taking possession of heretical property. This was one of the principal offences which Raymond VI of Toulouse expiated so bitterly, as Innocent explained to him in 1210. His son proclaimed confiscation as the law in his statutes of 1234, and included in its provisions, in accordance with the *ordonnance* of Louis VIII in 1226 and that of Louis IX in 1229, all who favoured heretics in any way or refused to aid in their capture ; but, as his policy did not always agree with its enforcement, he sometimes had to be sternly rebuked for neglect. After all danger of armed resistance had disappeared, sovereigns as a rule eagerly welcomed the opportunity of recruiting

* *Constt. Sicular*. lib. i. tit. 3. Concil. Turonens. ann. 1163, c. 4. Lucii PP. III epist. 171. Innoc. PP. III regest. ii. 1. Cap. 10 Extra. v. 7. It was probably in obedience to the canon of Tours that in 1178 the property of Pierre Mauran of Toulouse was declared forfeited to the count, and he was allowed to redeem it with a fine of five hundred pounds of silver. Roger Hoveden. *Annal*. ann. 1178.

their slender revenues; the confiscation of the property of heretics and of fautors of heresy was generally recognised in European law, although the church was occasionally obliged to repeat its injunctions and threats, and although there were some regions in which they were slackly obeyed.²

The relation of the ecclesiastical courts to confiscation varied essentially with time and place. In France the principle derived from the Roman law was generally recognised, that the title to property devolved to the fisc as soon as the crime had been committed. There was therefore nothing for the inquisitor to do with regard to it. He simply ascertained and announced the guilt of the accused, and left the state to take action. Thus Gui Foucoix treats the subject as one wholly outside of the functions of the inquisitor, who at most can only advise the secular ruler, or intercede for mercy; while he holds that those only are legally exempt from forfeiture who come forward spontaneously and confess before any evidence has been taken against them. In accordance with this, there is, as a rule, no allusion to confiscation in the sentences of the French Inquisition; though in one or two instances chance has preserved for us, in the accounts of the *procureurs des encours*, or royal stewards of the confiscations, evidence that estates were sold in behalf of the fisc in cases in which the forfeiture is not specified in the sentence. In condemnations of absentees and of the dead, confiscation is occasionally declared, as though in these the state might need some guidance; but even here the practice is not uniform. In the register of Bernard de Caux (1246-1248), in thirty-two cases of contumacious absentees, confiscation is included in the sentence, and in nine similar ones it is omitted, as well as in 159 condemnations to prison, in which it was undoubtedly operative. In the Inquisition of Carcassonne, a sentence of 12 Dec. 1328 on five deceased persons, who would have been imprisoned had they

² Innoc. PP. III regest. xii. 154 (cap. 26 Extra v. xl.) Isambert, *Anc. Loix Franç.* i. 228, 232. Harduin. vii. 203-8. Vaissette, *Hist. Gén. de Languedoc*, iii. pr. 385. Concil. Albiens. ann. 1254 c. 28. Innoc. PP. IV bulla *Cum fratres*, ann. 1252 (*Mag. Bull. Rom.* i. 90). Confiscation was an ordinary resource of medieval law. In England, from the time of Alfred, property as well as life was forfeited for treason (Alfred's *Dooms*, 4; Thorpe, i. 63), a penalty which was retained until 1870 (Low and Pulling's *Dictionary of English History*, p. 469). In France, murder, false witness, treachery, homicide, and rape were all punished with death and confiscation (Beaumanoir, *Coutumes du Beauvoisis*, xxx. 2-5). By the German feudal law the fief might be forfeited for a vast number of offences, but the distinction was drawn that if the offence was against the lord the fief reverted to him, if for simply a crime it descended to the heirs (*Feudor.* lib. i. tit. xxiii-iv.) In Navarre, confiscation formed part of the penalties of suicide, murder, treason, and even of blows or wounds inflicted where the queen or royal children were dwelling. There is a case in which confiscation was enforced on a man because he struck another at Olite, which was within a league of Tafalla, where the queen chanced to be staying at the time (G. B. de Lagrèze, *La Navarre Française*, ii. 385).

lived, ends with *et consequenter bona ipsorum dicimus confiscanda*, while a previous sentence, 24 Feb. 1325, identical in character, on four defunct culprits, has no such corollary appended. In fact, strictly speaking, it was recognised that the inquisitor had no power to remit confiscations without permission from the fisc, and the custom of extending mercy to those who came forward voluntarily and confessed was founded upon a special concession to that effect, granted by Raymond of Toulouse to the Inquisition in 1235. As soon as a suspected heretic was cited or arrested, the secular officials sequestered his property and notified his debtors by proclamation. No doubt when condemnation took place, the inquisitor communicated the result to the proper officials; but, as a rule, no record of the fact seems to have been kept in the archives of the holy office, although an early manual of practice specifies it as part of his duty to see that the confiscation was enforced.⁴

In Italy it was long before any settled practice was established. In 1252 a bull of Innocent IV directs the rulers of Lombardy, Tarvisina, and Romagna to confiscate without fail the property of all who are excommunicated as heretics, or as receivers, defenders, or fautors of heretics, thus recognising confiscation as a matter belonging to the secular power. Yet soon the papal authority succeeded in obtaining a share of the spoils, even beyond the limits of the states of the church, as is seen in the bulls *ad extirpanda* of Innocent IV and Alexander IV, and the matter thus became one in which the Inquisition had a direct interest. The indifference which so well became the French tribunals was therefore not readily maintained, and the share of the inquisitor in the results led him to participate in the process of securing them. Yet there were variations in practice. Zanghino Ugolini tells us that formerly confiscations were decreed in the States of the Church by the ecclesiastical judges, and elsewhere by the secular power, but that in his time (*circa* 1320) they were everywhere in Italy included in the jurisdiction of the episcopal and inquisitorial courts, and the secular authorities had nothing to do with them; but he adds that confiscation is prescribed by law for heresy, and that the inquisitor has no discretion to remit it, except in the case of voluntary converts with the assent of the bishop. Yet, though the forfeiture occurs *ipso facto* by the commission of the crime, it requires a declaratory sentence of confiscation. This consequently was expressed in the most formal manner in the condemnation of the accused by the Italian Inquisition, and the secular authorities were ordered not to interfere unless called upon.⁵

⁴ Guid. Fulcod. *Quest.* xv. Coll. Doat, xxxiii. 207; xxxiv. 189; xxxv. 68. MSS. Bih. Nat. fonds latin, No. 9992. Coll. Doat, xxviii. 131, 164. *Responsa Prudentum* (Doat, xxxvii. 83). *Grandes Chroniques*, ann. 1323. Les Olim, t. i. p. 556. Guill. Pelisso, *Chron.*, ed. Molinier, p. 27. MSS. Bih. Nat. fonds latin, No. 14930, fol. 224.

⁵ Coll. Doat, xxxi. 175. Zanchini *Tract. de Hæret.* c. xviii. xxv. xxvi. xli.

At a very early period in some places the Italian inquisitors seem to have undertaken not only to decree but to control the confiscations. About 1245 we find the Florentine inquisitor, Ruggieri Calcagni, sentencing a relapsed Catharan to a fine of one hundred lire. Ruggieri acknowledges the receipt of this, to be applied to the pope or to the furtherance of the faith, and formally concedes the rest of the heretic's estate to his wife, thus exercising ownership over the whole. Yet this was not maintained, for in 1283 there is a sentence of the podestà of Florence reciting that the inquisitor Fra Salomone da Lucca had notified him that the widow Ruvinosa, lately deceased, had died a heretic and that her property was to be confiscated; wherefore he orders it to be seized and sold, and the proceeds divided according to the papal constitutions. At length, however, the inquisitors assumed and exercised full control over the handling of the confiscations. In the conveyance of a confiscated house by the municipal authorities of Florence in 1327 to the Dominicans, the deed is careful to assert that it is made with the assent of the inquisitor. Even in Naples we see King Robert in 1324 ordering the inquisitors to pay out of the royal share of the confiscations fifty ounces of gold to the prior of the church of San Domenico of Naples to aid in its completion.⁶

In Germany the diet of Worms in 1231 indicates the confusion existing in the feudal mind between heresy and treason by allowing the allodial lands and personal property of the condemned to descend to the heirs, while fiefs were confiscated to the seignior. If the culprit was a serf, his goods enured to his master; but from all personal property was deducted the cost of burning its owner and the *droits de justice* of the *seigneur justicier*. Two years later, in 1233, the council of Mainz protested against the injustice, which quickly showed itself in Germany as elsewhere, of assuming guilt as soon as a man was accused, and treating his property as though he were convicted. It directed that the estates of those on trial should remain untouched until sentence was rendered, and any one who meanwhile should plunder or partition them should be excommunicated until he made restitution and rendered satisfaction. Finally, when the Emperor Charles IV endeavoured to introduce the Inquisition into Germany in 1369, he adopted the Italian custom and ordered one-third of the confiscations to be made over to the inquisitors.⁷

The exact degree of criminality which entailed confiscation is

⁶ Lami, *Antichità Toscane*, pp. 560, 588-9. Zanchini *Tract. de Hæret.* c. xxvi. Archivio di Firenze, Prov. S. Maria Novella, 18 Nov. 1327. Archivio di Napoli, regist. 253 lett. A, fol. 63.

⁷ *Hist. Diplom. Frid. II.*, t. iii. p. 466. Kaltner, *Konrad v. Marburg u. die Inquisition*, Prag, 1882, p. 147. Mosheim *de Beghardis*, p. 347.

not capable of very rigid definition. Even in states where the inquisitor nominally had no control over it, his arbitrary discretion as to the fate of the accused placed the matter practically in his hands, and his notification to the secular authorities would be a virtual sentence. It is probable that custom varied with time and with the temper of the inquisitor. We have seen that Innocent III commanded it for all heretics, but what constituted technical heresy was not so easily determined. The statutes of Raymond decreed it not only for heretics but for those who showed them favour. The council of Béziers in 1233 demanded it for all reconciled converts not condemned to wear crosses, and those of Béziers in 1246 and Albi in 1254 prescribed it for all whom the inquisitors should condemn to imprisonment. This, finally, was admitted by legists as the invariable test, although St. Louis, when in 1259 he mitigated his *ordonnance* of 1229, ordered confiscation not only for those who were condemned to prison, but for those who contumaciously refused obedience to citations, and for those in whose houses heretics were found, his officials being instructed to ascertain from the inquisitors in all cases while pending whether the accused deserved imprisonment, and if so, to retain the sequestered property. When he further provided, as a special grace, that the heirs should be restored to possession in cases where the heretic had offered himself for conversion before citation, had entered a religious order, and had worthily died there, he showed how universal confiscation had previously been, and how ruthlessly the principle had been enforced that a single act of heresy forfeited all ownership.⁸

According to the most lenient construction of the law, therefore, the imprisonment of a reconciled convert carried with it the confiscation of his property; and as imprisonment was the ordinary penance, confiscation was general. There may possibly have been exceptions. Six prisoners released in 1248 by Innocent IV had been in gaol for some time—some of them for four years and more after confessing heresy—and yet the liberal contributions to the Holy Land, which purchased their pardon, show that they or their friends must have had control of property, unless, indeed, the money was raised on a pledge of the estates to be restored. So when Alaman de Roaix was condemned to imprisonment in 1248, the sentence provided for an annuity to be paid to a person designated and for compensation to be made for the rapine which he had committed, which would look as though property were left to him; but as he had for ten years been a contumacious and proscribed fugitive, these fines must have been taken out of his estate

⁸ Harduin, vii. 203. Concil. Biterrens. ann. 1233, c. 4; ann. 1246, Append. c. 35. Concil. Albiens. ann. 1254, c. 26. Guid. Fulcod. *Quæst.* xv. Isambert, *Anc. Loix Franç.* i. 257. Arch. de l'Inq. de Carcass. (Doat, xxxi. 263).

in the hands of his state. Apparent exceptions such as these can be accounted for, and the proceedings of the Inquisition as a whole indicate that imprisonment and confiscation were inseparable. Sometimes even it is stated in sentences passed upon the dead, that they are pronounced worthy of imprisonment in order to deprive the heirs of succession to their estates. At a later date, indeed, Eymerich, who dismisses the whole matter briefly as one with which the inquisitor has no concern, speaks as though confiscation only took place when a heretic did not repent and recant before the sentence, but his commentator Pegna easily proves this to be an error. Zanghino assumes as a matter of course that property is forfeited by the act of heresy. He points out that pecuniary penance cannot be imposed because the whole estate is gone, although there may be mercy shown at discretion with the assent of the bishop, and simple suspicion is not subject to confiscation.⁹

In the early zeal of persecution everything was swept away in wholesale seizure, but in 1237 Gregory IX assumed that the dowers of catholic wives ought to be exempt in certain cases; in 1247 Innocent IV made a rule that such dowers should not be included in future forfeitures, and in 1258 St. Louis accepted this rule. It was subject to serious limitations, however, since under the canon law the wife could not claim it if she had been cognisant of her husband's heresy when she married, and, according to some authorities, if she had lived with him after ascertaining it, or even if she had failed to inform against him within forty days after discovering it. As the children were incapable of inheritance, she only held the dower for life, after which it fell into the fisc.¹⁰

Although in principle confiscation was an affair of the state, the division of the spoils did not follow any invariable rule. Before the organisation of the Inquisition, when the Waldenses of Strassburg were burnt, it is mentioned that their forfeited property was equally divided between the church and the secular authorities. Lucius III, as we have just seen, endeavoured to turn the whole forfeitures to the benefit of the church. In the papal territory there could be little question as to this, and Innocent IV, in his bull *Ad extirpanda* of 1252, showed disinterestedness in devoting the whole proceeds to the stimulation of persecution. One third was given to the local authorities, one third to the officials of the Inquisition, and one

⁹ Archives de l'Inq. de Carcass. (Doat, xxxi. 152). Berger, *Registres d'Innoc. IV*, No. 1844. MSS. Bib. Nat. fonds latin, No. 9992. *Lib. Sentent. Inq. Tolosan.* pp. 158-82. Archives de l'Inq. de Carcass. (Doat, xxvii. 98). Eymeric. *Direct. Inquis.* pp. 663-5 (ed. 1807). Zanchini *Tract. de Hæret.* c. xviii. xix. xxv.

¹⁰ Archives de l'Evêché de Béziers (Doat, xxxi. 35). Potthast, No. 12743. Isambert, i. 257. C. 14 Sexto, v. 2. Zanchini c. xxv. *Livres de Justice et de Plet*, liv. i. tit. iii. § 7.

third to the bishop and inquisitor to be expended in the assault on heresy—provisions which were retained in the subsequent recensions of the bull by Alexander IV and Clement IV, while forfeited bail went exclusively to the inquisitor. Yet this was speedily held to refer only to the independent states of Italy, for in 1260 we find Alexander IV ordering the inquisitors of Rome and Spoleto to sell the confiscated estates of heretics and pay over the proceeds to the pope himself; and a transaction of 1261 shows Urban IV collecting 320 lire from some confiscations at Spoleto.¹¹

At length both in the Roman province and elsewhere throughout Italy the custom settled down to a tripartite division among the local community, the Inquisition, and the papal *camera*—the reason for the latter, as given by Benedict XI, being that the bishops appropriated to themselves the share entrusted to them for the prosecution of heresy. In Florence, a transaction of 1283 shows this to be the received regulation; and documents of various dates during the next half-century indicate that it was the custom of the republic to appoint attorneys or trustees to take seisin of confiscated property in the name of the city, which in 1319 liberally granted its share for the next ten years to the construction of the church of Santa Reparata. That the amounts were not small may be inferred from a petition of the inquisitors to the republic in 1299, setting forth that the holy office must have funds wherewith to pay its stipendiary officials, and therefore praying leave to invest in real estate the sums accruing to the Inquisition from this source, showing accumulations prudently garnered for the future. The request was granted to the extent of 1,000 lire with the proviso that none of the city's share be taken. This precaution would seem to argue no great confidence in the integrity of the inquisitors; nor was the insinuation uncalled for. By this time the money-changers had fairly occupied the temple, and it seemed almost impossible to preserve official honesty where persecution had become almost as much a financial speculation as a matter of faith. That plain-spoken Franciscan, Alvaro Pelayo, bishop of Silva and papal penitentiary, writing about the year 1335, bitterly reproaches those of his brethren who act as inquisitors, with their abuse of the funds accruing to the holy office. The papal division into thirds, he declares, was generally disregarded, the inquisitors monopolised the whole and spent it on themselves, or enriched their kindred at their pleasure. Chance has preserved in the Florentine archives some documents confirmatory of this accusation. It seems that in 1343 Clement VI obtained evidence that the inquisitors of both Florence and Lucca

¹¹ Hoffmann, *Geschichte der Inquisition*, ii. 370. Lucii PP. III epist. 171. Innoc. PP. IV bulla *Ad extirpanda*, § 34. Ejusd. bulla *Super extirpatione*, 30 Maii 1254 (Ripoll. i. 247). Alex. PP. IV bulla *Discretionis* (*Mag. Bull. Roman.* i. 120). Potthast, *Reg. Pont.* No. 18200.

were habitually defrauding the papal *camera* of its third of the fines and confiscations, and accordingly he sent to Pietro da Vitale, *primicerio* of Lucca, authority to collect the sums in arrears and to prosecute the embezzlers. How it fared with them we have no means of knowing, but the *camera* seems not to have gained much in filling the vacancies thus occasioned. Fra Pietro di Aquila, a Franciscan of high standing, was appointed in Florence, who fell at once into the same evil ways, and within two years was obliged to fly from a prosecution by the *primicerio*, in addition to the charges of extortion brought against him by the republic.¹²

In Naples under the Angevins, when the Inquisition was first introduced, Charles of Anjou monopolised the confiscations with the same rapacity that was customary in France. As early as March 1270 we find him ordering his representatives in the Principato Ultra to account in detail for the estates of three heretics recently burnt at Benevento. In 1290 Charles II ordered the fines and confiscations to be divided into thirds, of which one should enure to the royal fisc, one be used for the promotion of the faith, and one be given to the Inquisition. Feudal lands, however, were to revert to the crown or to the immediate lord as the case might require.¹³

In Venice the compromise reached in 1289 between the signiory and Nicholas IV, whereby the republic permitted the introduction of the Inquisition, provided that all receipts of the holy office should be for the benefit of the state, and this arrangement seemed to have been maintained.¹⁴

In the other Italian states the papal curia grew dissatisfied with its share when there was no longer a necessity of purchasing the co-operation of the civil power with a third of the spoils. It is a disputed point with the jurists when and how the change was effected; but in the first quarter of the fourteenth century the church succeeded in grasping the whole of the confiscations, which were divided equally between the Inquisition and the papal *camera*. The rapacity with which this source of income was exploited is illustrated in a case occurring at Pisa in 1304. The inquisitor Angelo da Reggio had condemned the memory of a deceased citizen and confiscated his property, part of which he then gave away, and part be sold at prices which the papal curia esteemed too low. Benedict XI thereupon ordered the bishop of Ostia not to punish the inquisitor, but to use freely the censures of the church in hunting up the property in the hands of the holders

¹² Nich. PP. IV bulla *Habet vestra*, 3 Oct. 1290. Raynald. ann. 1438, No. 24. Lami, *Antichità Toscana*, pp. 588-9. Alv. Pelag. *de Planctu Eccles.* lib. ii. art. 47. Archivio di Firenze, Riformazione, classe v. No. 110; classe xi. Distinz. i. No. 39.

¹³ Archivio di Napoli, registro 9, lett. C, fol. 90; regist. 51, lett. A, fol. 9; regist. 98, lett. B, fol. 13; regist. 113, lett. A, fol. 194; MSS. Chioccorelli, t. viii.

¹⁴ Albizio, *Risposto al P. Paolo Sarpi*, p. 25.

and to take it from them. Finally, in 1438, Eugenius IV generously handed back to the bishops the share of the papal *camera* in order to stimulate their slackness in persecution, and where the bishop was also the temporal lord of his see the confiscations were to be divided equally between him and the Inquisition.¹⁵

In Spain the rule was laid down that if the heretic were a clerk or a lay vassal of the church, the confiscation went to the church; if otherwise, to the temporal seignior.¹⁶

This greed for the plunder of the wretched victims of persecution is peculiarly repulsive as exhibited by the church, and may to some extent palliate the similar action by the state in countries where it was strong enough to seize and retain the spoils. The threats and coercion which at first were necessary to induce the temporal princes to confiscate the property of their heretical subjects soon became superfluous, and history has few examples of man's eagerness to profit by his fellows' misfortunes more deplorable than that of the vultures which followed in the wake of the Inquisition to batten on the ruin which it wrought.

Under the feudal system the confiscations were for the benefit of the *seigneur haut-justicier*. The rapid extension of the royal jurisdiction in the second half of the thirteenth century in France ended by practically placing them in the hands of the king, but during the earlier and more profitable period there were quarrels over the spoils. After the treaty of Paris in 1229, which secured Languedoc to the crown, St. Louis in granting fiefs in the newly acquired territories seems to have endeavoured to provide for these questions by reserving the confiscations for heresy. The prudence of this is shown by the suit brought by the *maréchaux de Mirepoix*, one of the few permanent families founded by the adventurers who accompanied De Montfort, who claimed the movables of all heretics captured in their lands, even if the goods were in the lands of the king—a demand which was rejected by the *parlement* of Paris in 1269. The bishops put in a claim to the confiscations of all real and personal property of heretics living under their jurisdiction, and at the council of Lille (Comtat Venaissin) in 1251 they threatened with excommunication any one who should dispute it. They really had some cause of complaint, for, in contravention of a canon of the council of Béziers in 1246, lands held of them in fief were thus being transferred to the king, and they found themselves losing instead of

¹⁵ Zanchini *Tract. de Heret.* c. xix. xxvi. xli. Cf. Pegna *Comment. in Eymeric.* p. 659. Grandjean, *Registre de Benoît*, xi. No. 299. Raynald. ann. 1438, No. 24. Yet it must be placed to Benedict's credit that in 1304 he authorised Fra Simone, inquisitor of Rome, to restore confiscations unjustly made by his predecessors, and to moderate punishments inflicted by them if he considered them too severe. (Grandjean, No. 474.)

¹⁶ Alonso de Spina *Fortalicii Fidei* lib. ii. consid. xi. (ed. 1594, fol. 74).

gaining by persecution. St. Louis finally listened to their grievances, and, about 1255, entered into an agreement whereby all such lands were divided equally between the bishop and the king, with a right on the part of the prelate to buy out within two months the royal share at a price fixed by arbitration. If this right was not exercised, the king was bound within a year and a day to pass the lands out of his hands into those of a person of the same condition as the former tenant, to be held under the same terms of service or villenage; but all movables were declared to belong unreservedly to the crown. What an ample harvest was afforded to the lawyers by the intricate quarrels arising from this wholesale spoliation, is illustrated by a suit brought by the bishops of Rodez for some lands held by the crown as heretic confiscations. After dragging on for thirty years it reached the *parlement* of Paris, which coolly annulled all the proceedings on the ground that those who had acted for the crown had lacked the proper authority. Almost equally protracted and confused was a suit between Eleanor de Montfort, countess of Vendôme, and the king over the lands of Jean Baudier and Raymond Calverie. The confiscation occurred in 1300, and the suit was still dragging on in 1327, to be finally compromised in 1335.¹⁷

By a special transaction of 21 Dec. 1264, between St. Louis and Bernard de Combret, bishop of Albi, the prelate of that see enjoyed one half of all the confiscations within it, with the further advantage that the remainder of real estate passed into his possession if the king did not sell his share within a twelvemonth, and became his property if not sold within three years; and in the accounts of the royal *procureurs des encours* of Carcassonne we constantly find the confiscations in Albi shared with the bishop. Although between St. John's day of 1322 and 1323 this share in money amounted only to 160 livres, there were times when it was much greater. About the year 1300, Bishop Bernard de Castanet generously gave to the Dominican church of Albi his portion of the estates of two citizens, Guillem Aymeric and Jean de Castanet, condemned after death, which amounted to more than 1,000 livres. This privilege of the see of Albi may perhaps have arisen from a special deputation of inquisitorial powers granted in 1247 by Innocent IV to Bishop Bertrand, for in the following year, 1248, we see the latter doing a thriving business in selling commutations of confiscations to condemned heretics who repented. It is true that when Alfonse of Poitiers in 1253 endeavoured to speculate in the same way by allowing heretics to redeem their confiscated property,

¹⁷ *Livres de Justice et de Plat*, liv. i. tit. iii. § 7. Vaissette, iii. 391. *Les Olm*, i. 317; iii. 1126-9; ii. 1440-2. MSS. Bib. Nat. fonds latin, No. 11847. Concil. Insulan. ann. 1251 c. 3. Concil. Biterrens. ann. 1246 c. 4. Baluz. Concil. Narbonn. append. pp. 98-99. Coll. Doat, xxxv. 48. Cf. Berger, *Registres d'Innocent IV*, No. 1543-44. 1547-48. Molinier, *L'Inquisition dans le midi de la France*, p. 101.

he was compelled to desist by the earnest representations of the archbishop of Narbonne and bishop of Toulouse, who declared that this would lead to the scandal of the faithful and the destruction of religion; but doubtless the bishops of Albi continued to claim and exercise a control over the confiscations which led the king to divide the spoils with them. This division led to constant quarrels. In vain Philippe le Bel in 1307 ordered the observance of the agreement with restitution for any infractions. In 1316 we find the bishop claiming properties which had not been sold within the three years, and Armand Assalit, the royal *procureur des encours*, arguing that he had been prevented from effecting sales by just and legitimate causes, when the seneschal Aymeric de Croso decided that the impediments had been legitimate and that the rights of the king were not forfeited. The heads of the church of Albi evidently had a keen eye for the profitable side of persecution.¹⁸

All prelates were not as rapacious as those of Albi, one of whom we find still, in 1328, complaining of the evasions resorted to by the victims to save a fragment of their property for their families, but the princes and their representatives were relentless in grasping all they could lay their hands on. I have mentioned that as soon as a suspect was cited before the Inquisition, his property was sequestered to await the result, and proclamation made to all his debtors and those who held his effects to bring everything to the king. Charles of Anjou carried this practice to Naples, where a royal order in 1269 to arrest sixty-nine heretics contains instructions to seize simultaneously their goods, which are to be held for the king. So assured were the officials that condemnation would follow trial, that they frequently did not await the result, but carried out the confiscation in advance. This abuse was coeval with the founding of the Inquisition. In 1237 Gregory IX complained of it and forbade it, but to little purpose, for in 1246 the council of Béziers again prohibited it, unless, indeed, the offender had knowingly adhered to those who were known to be heretics, in which case apparently it was sanctioned. When, in 1259, St. Louis mitigated the rigours of confiscation, he indirectly forbade this wrong by instructing his officials that when the accused was not condemned to imprisonment, they should give him or his heirs a hearing to reclaim the property; but if there was any suspicion of heresy it was not to be restored without taking security that it should be surrendered if anything was proved within five years, during which period it was not to be alienated. Yet still the outrage of confiscation before conviction continued with sufficient frequency to induce Boniface VIII to embody its prohibition in the canon law. Even this did not put a stop to it. The Inquisition

¹⁸ Hauréau, *Bernard Delicieux*, p. 21. Coll. Doat, xxxiv. 189. Bern. Guidon. *Hist. Conv. Albiens.* Vaissette, iii. pr. 467, 500. Arch. de l'Inq. de Carcass. (Doat, xxxi. 143, 146). Coll. Doat, xxxiv. 131, 135.

had so habituated men's minds to the belief that no one escaped who had once fallen into its hands, that the officials considered themselves safe in acting upon the presumption. By an unusual coincidence we have the data from various sources in a single case of this kind which is doubtless the type of many others. In the prosecutions at Albi in 1300 a certain Jean Baudier was first examined January 20, when he acknowledged nothing. At a second hearing, February 5, he confessed to acts of heresy, and he was condemned March 7, yet his confiscated property was sold January 29, not only before his sentence, but before his confession.¹⁹

The ferocious rapacity with which this process of confiscation was carried on may be conceived from a report made by Jean d'Arsis, seneschal of Rouergue, to Alfonse of Poitiers about 1253, as an evidence of the zeal with which he was guarding the interests of his suzerain. The bishop of Rodez was conducting a vigorous episcopal inquisition, and at Najac had handed over a certain Hugues Paraire as a heretic, whom the seneschal burnt 'incontinently,' and collected over 1,000 *livres tournois* from his estate. Hearing subsequently that the bishop had cited before him at Rodez six other citizens of Najac, D'Arsis hastened thither to see that no fraud was practised on the count. The bishop told him that these men were all heretics, and that he would gain for the count 100,000 sols from their confiscation, but both he and his assessors begged the seneschal to forego a portion to the culprits or their children, which that loyal servitor bluntly refused. Then the bishop, following evil counsel and in fraud of the rights of the count, endeavoured to elude the forfeitures by condemning the heretics to some lighter penance; the seneschal, however, knew his master's rights, and seized the property, after which he allowed some pittance to the penitents and their children, reporting that in addition to this he was in possession of about 1,000 livres, and he winds up by advising the count, if he wishes not to be defrauded, to appoint some one to watch and supervise the further inquisitions of the bishop. On the other hand, the bishops complained that the officials of Alfonse permitted heretics, for a pecuniary consideration, to retain a part or the whole of their confiscated property, or else condemned to the flames those who did not deserve it in order to seize their estates. These frightful abuses grew so unbearable that in 1254 the officials of Alfonse, including Gui Foucoix, endeavoured to reform them by issuing general regulations on the subject, but the matter was one which in its inherent nature scarce admitted of reform. Yet Alfonse with all his greed was not unwilling to share the plunder with those

¹⁹ Archives de l'Evêché d'Albi (Doat, xxxv. 35, 83). *Les Olim*, i. 556. Archivio di Napoli, regist. 4, lett. B, fol. 47. Concil. Biterrens. ann. 1246, c. 3. Isambert, i. 257. C. 19 Sexto, v. 2. MSS. Bib. Nat. fonds latin, No. 11847. Coll. Doat, xxxv. 68. Molinier, *L'Inq. dans le midi de la France*, p. 102.

who secured it for him, and several of his not wholly disinterested liberalities of this kind are on record. In 1268 we have a letter of his assigning to the Inquisition a revenue of 100 livres per annum on the confiscated estate of a heretic; and in 1270 another confirming the foundation of a chapel from a similar source.²⁰

Nothing could exceed the minute thoroughness with which every fragment of a confiscated estate was followed up and seized. The account of the collections of confiscated property from 1302 to 1313 by the *procureurs des encours* of Carcassonne is extant in manuscript, and shows how carefully the debts due to the condemned were looked after, even to a few pence for a measure of corn. In the case of one wealthy prisoner, Guillem de Fenasse, the estate was not wound up for eight or ten years, and the whole number of debts collected amounts to 859, in sums ranging from five deniers upwards. As the collectors never credit themselves with amounts paid in discharge of debts due by these estates, it is evident that the rule that a heretic could give no valid obligations was strictly construed, and that creditors were shamelessly cheated. In this seizure of debts, the nobles asserted a right to claim any sums due by debtors who were their vassals; but Philippe de Valois, in 1329, decided that when the debts were payable at the domicile of a heretic they enured to the royal fisc irrespective of the allegiance of the debtor. Another illustration of the remorseless greed which seized everything is found in a suit decided by the *parlement* of Paris in 1302. On the death of the chevalier Guillem Prunèle and his wife Isabelle, the guardianship of their orphans would legally vest in the next of kin, the chevalier Bernard de Montesquieu, but he had been burnt some years before for heresy, and his estate of course confiscated. The seneschal of Carcassonne insisted that the guardianship which thus subsequently fell in, formed part of the assets of the estate, and he accordingly assumed it; but a nephew, an esquire Bernard de Montesquieu, contested the matter, and finally obtained a decision in his favour.²¹

Equal care was exercised in recovering alienated property. As, in obedience to the Roman law of *majestas*, forfeiture occurred *ipso facto* as soon as the crime of heresy was committed, the heretic could convey no legal title, and any assignments which he might have made were void, no matter through how many hands the property might have passed. The holder was forced to surrender it, nor could he demand restitution of what he had paid unless the money or other consideration were found among the goods of the heretic. The eagerness with which the rigour of the law was

²⁰ Boutaric, *Saint Louis et Alphonse de Poitiers*, Paris, 1870, pp. 455-8. Douais, 'Les Sources de l'histoire de l'Inquisition' (*Revue des Questions Historiques*, octobre 1881, p. 436). Coll. Doat, xxxii. 51, 64.

²¹ Archives de l'Evêché d'Albi (Doat, xxxiii. 207-72). Coll. Doat, xxxv. 93. *Les Olém.* ii. 111.

enforced may be estimated from a case which occurred in 1272. Charles of Anjou had written from Naples to his *viguier* and *sous-viguier* at Marseilles, telling them that a certain Maria Roberta, before condemnation to imprisonment for heresy, had sold a house which was subject to confiscation; this he ordered them to seize, to sell by auction, and to report the proceeds, but they neglected to do so. The *viguiers* were changed, and now the unforgetful Charles writes to the new officials repeating his orders, and holding them personally responsible for obedience. At the same time he writes to his seneschal with instructions to look after the matter, as it lies very near to his heart.²²

Perhaps nothing contributed more to the consolidation of the royal supremacy in the south of France than the change of ownership which threw into new hands so large a proportion of the property of Languedoc. In the domains of the crown the forfeited lands were granted to favourites or sold at moderate prices to those who thus became interested in the new order of things arising from the fall of the house of Toulouse. The royal officials grasped everything on which they could lay their hands whether on the excuse of treason or of heresy; and although the rightmindedness of Louis IX caused an inquest to be held in 1262 which restored a vast amount of property illegally held, this was but a small fraction of the whole. To assist his *parlement* in settling the innumerable cases which arose, he ordered in 1260 the charters and letters of greatest importance to be sent to Paris. Those of each of the six *sénéchaussées* filled a coffer, and the six coffers were deposited in the treasury of the Sainte Chapelle. In this process of absorption the case of the extensive viscounty of Fenouillèdes may be taken as an illustration of the zeal with which the Inquisition co-operated in securing the political advantages desired by the crown. Fenouillèdes had been seized during the crusades of De Montfort and given to Nuñez Sancho of Roussillon, from whom it passed, through the king of Aragon, into the hands of Saint Louis. In 1264, Beatrix, widow of Hugues, son of the former Viscount Pierre, applied to the *parlement* for her rights of dower and those of her children. Immediately the inquisitor, Pons de Poyet, commenced a prosecution against the memory of Pierre, who had died more than twenty years previously, in the bosom of the church, and had been buried with the templars of Mas-Deu after receiving the last sacraments. Pons de Poyet found no difficulty in condemning him as suspect of heresy for having associated with heretics, his bones were dug up and burnt, and the *parlement* rejected the claims of his daughter-in-law and grandchildren.

²² Archidiaconus. Gloss. sup. c. 19 Sexto, v. 2. Archivio di Napoli, regist. 15, lett. C, fol. 77, 78. The English law of felony was also retroactive, and all alienations subsequent to the commission of the crime were void. Bracton, lib. iii. tract. ii. c. 13, No. 8.

Pierre, the eldest of these, in 1300, again put forward a claim for the ancestral estates, and Boniface VIII espoused his quarrel with the object of giving trouble to Philippe le Bel, but although the affair was pursued for some years the inquisitorial sentence held good. It was not only the actual heretics and their descendants who were dispossessed. The land had been so deeply tinctured with Catharism and Waldensianism, that there were few indeed whose ancestors could not be shown by the records of the Inquisition to have incurred the fatal taint of associating with them.²³

The rich *bourgeoisie* of the cities were ruined in the same way. Some inventories have been preserved of the goods and chattels sequestrated, as when in December 1290 and January 1300 twenty-five or thirty of the wealthiest citizens of Albi were suddenly seized and condemned, which show how thoroughly everything was swept into the maelstrom. That of Raymond Calverie, a notary, gives us every detail of the plenishing of a well-to-do burgher's household—every pillow, sheet, and coverlet is enumerated, every article of kitchen gear, the salted provisions and grain, even his wife's little trinkets. His farm was subjected to the same minuteness of seizure. We have a similar insight into the stock of goods of Jean Baudier, a rich merchant. Every fragment of stuff is duly measured off—cloths of Ghent, Ypres, Amiens, Cambrai, St. Omer, Rouen, Paris, Montcornet, &c., with their valuation, pieces of miniver and other articles of trade. His town house and farm were inventoried with the same conscientious care. It is easy to see how prosperous cities were reduced to poverty, how industry languished, and how the independence of the municipalities was broken into subjection in the awful uncertainty which hung over the head of every man.²⁴

In this chaos of plunder we may readily imagine that those who were engaged in such work were not over-nice as to securing a share of the spoiliations. In 1304 Jacques de Polignac, keeper of the inquisitorial gaol at Carcassonne, and several of the officials employed on the confiscations, were found to have converted and detained a large amount of valuable property, including a castle, farms and other lands, vineyards, orchards and movable effects, all

²³ Vaissette, iii. 362, 496; iv. 104–5, 211. Archives de l'Evêché de Béziers (Doat, xxxi. 35). Beugnot, *Les Olim*, i. 580, 1029–30. Coll. Doat, xxxiii. 1. The extent of the change of proprietorship is well illustrated by a list of the lands and rents confiscated for heresy to the profit of Philippe de Montfort from his vassals. It embraces fiefs and other properties in Lautrec, Montredon, Senegats, Rabastain, and Lavaur. The knights and gentlemen and peasants thus stripped are all named with their offences; one had died a heretic, another was hereticated on his deathbed, a third was condemned for heresy, a fourth had been burnt at Lavaur, while in other cases the father, or mother, or both, had been heretics (Doat, xxxii. 258–68). Many examples of sales and donations have been preserved in the Doat collection. I may instance t. xxxi. 171, 237, 255; t. xxxii. 46, 53, 55, 57, 64, 67, 69, 244, &c.

²⁴ Coll. Doat, xxxii. 309, 316.

of which they were compelled to disgorge and suffer punishment at the king's pleasure.²³

It is pleasant to turn from this cruel greed to a case which excited much interest in Flanders at a time when in that region the Inquisition had become so nearly dormant that the usages of confiscation were almost forgotten. The bishop of Tournay and the vicar of the Inquisition condemned at Lille a number of heretics, who were duly burned. They confiscated the property, claiming the movables for the church and inquisitor, and the realty for the fisc. The magistrates of Lille boldly interposed, declaring that among the liberties of their town was the privilege that no burgher could forfeit both body and goods; and, acting for the children of one of the victims, they took out *apostoli* and appealed to the pope. The counsellors of the suzerain, Philippe le Bon of Burgundy, with a clearer perception of the law, claimed that the whole confiscation enured to him, while the ecclesiastics declared the rule to be invariable that the personalty went to the church and only the real estate to the fisc. The triangular quarrel threatened long and costly litigation, and finally all parties agreed to leave the decision to the duke himself. With rare wisdom, in 1480, he settled the matter with general consent by deciding that the sentence of confiscation should be treated as not rendered, and the property be left to the heirs, at the same time expressly declaring that the rights of church, inquisition, city, and state, were reserved without prejudice, in any case that might arise in future, which was, he said, not likely to occur. Unfortunately for his reputation, he did not manifest the same disinterestedness in 1460 in the terrible persecution of the sorcerers of Arras, when the movables were confiscated to the episcopal treasury, and he seized the landed property in spite of the privileges alleged by the city.²⁴

In addition to the misery inflicted by these wholesale confiscations on the thousands of innocent and helpless women and children thus stripped of everything, it would be almost impossible to exaggerate the evil which they entailed upon all classes in the business of daily life. All safeguards were withdrawn from every transaction. No creditor or purchaser could be sure of the orthodoxy of him with whom he was dealing; and even more than the principle that ownership was forfeited as soon as heresy had been committed by the living, the practice of proceeding against the memory of the dead, after an interval virtually unlimited, rendered it impossible

²³ *Les Olim*, ii. 147. Doat, xxvi. 253.

²⁴ Archives Générales de Belgique, *Papiers d'Etat*, v. 405. *Mémoires de Jacques du Clercq*, liv. iv. ch. 4, 14. In Arras, a charter of 1335, confirmed by Charles V in 1369, protected the burghers from confiscation when condemned by any competent tribunal (Duverger, *La Vauderie dans les Etats de Philippe le Bon*, Arras, 1885, p. 60).

for any man to feel secure in the possession of property, whether it had descended in his family for generations or had been acquired within an ordinary lifetime.

The prescription of time against the church had to be at least forty years—against the Roman church, a hundred. Though some legists held that proceedings against the deceased had to be commenced within five years after death, others asserted that there was no limit, and the practice of the Inquisition shows that the latter opinion was followed. The prescription of forty years' possession by good catholics was further limited by the conditions that they must at no time have had a knowledge that the former owner was a heretic, and, moreover, he must have died with an unsullied reputation for orthodoxy—both points which might cast a grave doubt on titles.²⁷

Prosecution of the dead by the inquisitorial process was a mockery in which virtually defence was impossible and confiscation inevitable. How unexpectedly the blow might fall is seen in the case of Gherardo of Florence. He was rich and powerful, a member of one of the noblest and oldest houses, and was consul of the city in 1218. Secretly a heretic, he was hereticated on his deathbed between 1246 and 1250, but the matter lay dormant until 1313, when Fra Grimaldo, the inquisitor of Florence, brought a successful prosecution against his memory. In the condemnation were included his children, Ugolino, Cante, Nerlo, and Bertuccio, and his grandchildren, Goccia, Coppo, Fra Giovanni, Gherardo prior of S. Quirico, Goccino, Baldino, and Marco—not that they were heretics, but that they were disinherited and subjected to the disabilities of descendants of heretics. Where such proceedings were hailed as pre-eminent exhibitions of holy zeal, no man could feel secure in his possessions, whether derived from descent or purchase.²⁸

Not only were all alienations made by heretics set aside and the property wrested from the purchasers, but all debts contracted by them and all hypothecations and liens given to secure loans were void. Thus doubt was cast upon every obligation that a man

²⁷ C. 6, 8, 9, 14, Sexto, ii. 26. Eymeric. *Direct. Inquis.* pp. 570-2. Zanchini *Tract. de Hæret.* c. xxiv. Severe as was the contemporary English law against felony, it had at least this concession to justice, that a felon had to be convicted in his lifetime; his death before conviction thus prevented confiscation (Bracton, lib. iii. tract. ii. csp. 13, No. 17).

²⁸ Lami, *Antichità Toscane*, pp. 497, 536-7. It is true that when, in 1385, Henri de Chamay, inquisitor of Carcassonne, sent to the papal court the depositions against the memory of eighteen persons accused of heretical acts committed between 1284 and 1290, and asked for instructions, the decision was that no reliance was to be placed on the testimony of witnesses who mostly contradicted themselves and who only swore to what they had heard some fifty years before (Vaissette, iv. 184). Yet the mere collection of such evidence for such a purpose is a sufficient illustration of the system.

could enter into. Even when St. Louis softened the rigour of confiscation in Languedoc, the utmost concession he would make was that creditors should be paid for debts contracted by culprits before they became heretics, while all claims arising subsequently to an act of heresy were rejected. As no man could be certain of the orthodoxy of another, it will be evident how much distrust must have been thrown upon every bargain and every sale in the commonest transactions of life. The blighting influence of this upon the development of commerce and industry can readily be perceived, coming as it did at a time when the commercial and industrial movement of Europe was beginning to usher in the dawn of modern culture. It was not merely the intellectual striving of the thirteenth century that was repressed by the Inquisition, the progress of material improvement was seriously retarded. It was this, among other incidents of persecution, which arrested the promising civilisation of the south of France and transferred to England and the Netherlands, where the Inquisition was comparatively unknown, the predominance in commerce and industry which brought freedom and wealth and power and progress in its train.²⁹

The quick-witted Italian commonwealths, then rising into mercantile importance, were keen to recognise the disabilities thus inflicted upon them. In Florence a remedy was sought by requiring the seller of real estate always to give security against possible future sentences of confiscation by the Inquisition—the security in general being that of a third party, although there must have been no little difficulty in obtaining it, and though it might likewise be invalidated at any moment by the same cause. Even in contracts for personalty security was also often demanded and given. This was at least only replacing one evil by another of scarcely less magnitude, and the trouble grew so intolerable that a remedy was sought for one of its worst features. The republic solemnly represented to Martin IV the scandals which had occurred, and the yet greater ones threatened in consequence of the confiscation of the real estate of heretics in the hands of *bonâ fide* purchasers, and by a special bull of 22 Nov. 1283 the pontiff graciously ordered the Florentine inquisitors in future not to seize such property.³⁰

The princes who enjoyed the results of confiscations recognised that they carried with them the correlative duty of defraying the expenses of the Inquisition; indeed, self-interest alone would have prompted them to maintain in a state of the highest efficiency an instrumentality so profitable. Theoretically it could not be denied that the bishops were liable for these expenses; but, as Gui Foucoix

²⁹ Zanchini, *Tract. de Hæret.* c. xxvii. Isambert, i. 257.

³⁰ Lami, *Antichità Toscane*, p. 593. Archivio di Firenze, Riformazione, classe v. No. 110.

(Clement IV) remarks, their hands were tenacious and their purses constipated, and as it was useless to look to them for resources he advises that the pecuniary penances be used for the purpose, providing it be done decently and without scandalising the people. Throughout Lombardy and central Italy, as we have seen, this resource rendered the Inquisition fully self-supporting, and the inquisitors were eager to make business out of which they could reap a harvest of fines and confiscations. In Venice the state defrayed all expenses and took all profits. In Naples the same policy was at first pursued by the Angevin monarchs, who took the confiscations and, in addition to maintaining prisoners, paid to each inquisitor one *augustale* ($\frac{1}{10}$ lb. of gold) per diem for the expenses of himself and his associate, his notary and three familiars with their horses. These stipends were assigned upon the Naples customs on iron, pitch, and salt. The orders for their payment ran only for four months at a time, and had to be renewed. There was considerable delay in the settlements, and the inquisitors had substantial cause of complaint, although the officials were threatened with fines for lack of promptness. In 1272, however, I find a letter issued to the inquisitor Fra Matteo di Castellamare providing him with a year's salary, payable six months in advance. When, as mentioned above, Charles II in 1290 divided the proceeds according to the papal prescription, he liberally continued to contribute to the expenses, though on a reduced scale. In letters of 16 May 1294, he orders the payment to Fra Bartolomeo di Aquila of four *tareni* per diem (the *tareno* was $\frac{1}{10}$ oz. of gold); and 7 July of the same year, he provides that five ounces per month be paid to him for the expenses of his official family.²¹

In France there was at first some question as to the responsibility for the charges attendant upon persecution. The duty of the bishops to suppress heresy was so plain that they could not refuse to meet the expenses, at least in part. Before the establishment of the Inquisition this consisted almost wholly in the maintenance of imprisoned converts, and at the council of Toulouse in 1229 they agreed to defray this in the case of those who had no money, while those who had property to be confiscated they claimed should be supported by the princes who obtained it. This proposition, like the subsequent one of the council of Albi in 1254, was altogether too cumbersome to work. The statutes of Raymond in 1234, while dwelling elaborately on the subject of confiscation, made no provision for meeting the cost of the new Inquisition, and the matter remained unsettled. In 1237 we find Gregory IX complaining

²¹ Guid. Fulcod. *Quæst.* iii. Archivio di Napoli, regist. 6, lett. B, fol. 35; reg. 10, lett. B, fol. 6, 7, 96; reg. 11, lett. C, fol. 40; reg. 13, lett. A, fol. 212; reg. 51, lett. A, fol. 9; reg. 71, lett. M, fol. 382, 385, 440; reg. 98, lett. B, fol. 13; reg. 113, lett. A, fol. 194; reg. 253, lett. A, fol. 63; MSS. Chioccarello, t. viii.

that the royal officials contributed nothing for the support of the prisoners whose property they had confiscated. When in 1246 the council of Béziers was assembled, the cardinal legate of Albano reminded the bishops that it was their business to provide for it, according to the instructions of the council of Montpellier, whose proceedings have not reached us. The good bishops were not disposed to do this. They claimed that prisons should be built at the expense of the recipients of the confiscations, and suggested that the fines should be used for their maintenance and for that of the inquisitors. The piety of St. Louis, however, would not see the good work halt for lack of the necessary means; with a more worldly prince we might assume that he recognised the money spent on inquisitors as profitably invested. In 1248 we find him defraying their expenses in all the domains of the crown, and he piously assumed the cost of the prisons and prisoners, in addition to which, in 1244, he ordered his seneschal of Carcassonne to pay out of the confiscations ten sols per diem to the inquisitors for their expenses. It may fairly be presumed that Count Raymond contributed with a grudging hand to the support of an institution which he had opposed as long as he dared; but when he was succeeded in 1249 by Jeanne and Alfonse of Poitiers, the latter politic and avaricious prince saw his account in stimulating the zeal of those to whom he owed his harvest of confiscations. Not only did he defray the cost of the fixed tribunals, but his seneschals had orders to pay the expenses of the inquisitors and their familiars in their movements throughout his territories. Charles of Anjou, who was equally greedy, found time amid his Italian distractions to see that his seneschal of Provence and Forcalquier kept the Inquisition supplied on the same basis as did the king in the royal dominions.³³

Large as were the returns to the fisc from the industry of the Inquisition, the inquisitors were sometimes disposed to presume upon their usefulness and to spend money with a freedom which seemed unnecessary to those who paid the bills. Even in the fresh zeal of 1242 and 1244, before the princes had made provision for the holy office, and while the bishops were yet zealously maintaining their claims to the fines, the luxury and extravagance of the inquisitors called down upon them the reproof of their own order, as expressed in the Dominican provincial chapters of Montpellier and Avignon. It would be of course unjust to cast such reproach upon all inquisitors, but no doubt many deserved it, and there were numerous ways in which they could supply their wants, legitimate

³³ Concil. Tolosan. ann. 1229, c. 9. Concil. Albiens. ann. 1254, c. 24. Harduin, vii. 415. Archives de l'Evêché de Béziers (Doat, xxxi. 35). Concil. Biterrens. ann. 1246, c. 22. D. Bouquet, t. xxi. pp. 262, 264, 266, 278, &c. Vaissette, éd. Privat, viii. 1206. Archives de l'Inq. de Carcass. (Doat, xxxi. 250). Archivio di Napoli, regist. 20, lett. B, fol. 91.

and otherwise. It might indeed be a curious question to determine the source whence Bernard de Caux, who presided over the tribunal of Toulouse until his death in 1252, and who as a Dominican could have owned no property, obtained the means which enabled him to be a great benefactor to the convent of Agen, founded in 1249. Even Alfonse of Poitiers sometimes grew tired of ministering to the wishes of those who served him so well. In a confidential letter of 1268 he complains of the vast expenditures of Pons de Poyet and Etienne de Gâtine, the inquisitors of Toulouse, and instructs his agent to try to persuade them to remove to Lavaur, where less extravagance might be hoped for. He offered to put at their disposal the castle of Lavaur, or any other that might be fit to serve as a prison; and at the same time he craftily wrote to them direct, explaining that, in order to enable them to extend their operations, he would place an enormous castle in their hands.³³

Some very curious details as to the expenses of the Inquisition, from St. John's day 1322 to 1323, thus defrayed from the confiscations, are afforded by the accounts of Arnaud Assalit, *procureur des encours* of Carcassonne and Béziers, which have fortunately been preserved. From the sums thus coming into his hands the *procureur* met the outlays of the Inquisition to the minutest item—the cost of maintaining prisoners, the hunting-up of witnesses, the tracking of fugitives, and the charges for an *auto de fê*, including the banquets for the assembly of experts, and the saffron-coloured cloth for the crosses of penitents. We learn from this that the wages of the inquisitor himself were 150 livres per annum, and also that they were very irregularly paid. Friar Othert had been appointed in Lent 1316, and thus far had received nothing of his stipend; but now, in consequence of a special letter from King Charles le Bel, the whole accumulation for six years, amounting to 900 livres, is paid in a lump. Although by this time persecution was slackening for lack of material, the confiscations were still quite profitable. Assalit charges himself with 2,219 livres 7 sols 10 deniers, collected during the year, while his outlay, including heavy legal expenses and the extraordinary payment to Friar Othert, amounts to 1,168 livres 11 sols 4 deniers, leaving about 1,050 livres of profit to the crown.³⁴

Persecution, as a steady and continuous policy, rested, after all, upon confiscation. It was this which supplied the fuel to keep up

³³ Molinier, *L'Inq. dans le midi de la France*, p. 308. Bern. Guidon. *Fundat. Convent. Prædic.* (Martene, *Thesaur.* vi. 481). Boutaric, *Saint Louis et Alfonse de Poitiers*, pp. 456-7.

³⁴ Coll. Doat, xxxiv. 189. In 1317 the result had been much less. We have the receipt of the royal treasurer of Carcassonne, Lothaire Blanc, to Arnaud Assalit, dated 24 Sept. 1317, for collections during the year ending the previous St. John's day, amounting to 495 livres 6 sols 11 deniers, being the balance after deducting wages and expenses (Doat, xxxiv. 141).

the fires of zeal; and when it was lacking, the business of defending the faith languished lamentably. Catharism disappeared under the brilliant aggressiveness of Bernard Gui, the culminating point of the Inquisition was passed, and thenceforth it steadily declined, although there were still occasional confiscated estates over which king, prelate, and noble quarrelled for some years to come.³⁵ The spiritual Franciscans, Dulcinists, and Fraticelli were mendicants who held property to be an abomination; the Waldenses were poor folk—mountain shepherds and lowland peasants—and the only prizes were an occasional sorcerer or usurer.

The intimate connexion between the activity of persecuting zeal and the material result to be derived from it is well illustrated in the failure of the first attempt to extend the Inquisition into Franche-Comté. John, count of Burgundy, in 1248, represented to Innocent IV the alarming spread of Waldensianism throughout the province of Besançon, and begged for its repression. Apparently the zeal of Count John did not lead him to pay for the purgation of his dominions, and the plunder to be gained was inconsiderable, for in 1255 Alexander IV granted the petition of the friars to be relieved from the duty, in which they averred that they had exhausted themselves fruitlessly for lack of money. The same lesson is taught by the want of success which attended all attempts to establish the Inquisition in Portugal. When in 1376 Gregory XI ordered the bishop of Lisbon to appoint a Franciscan inquisitor for the kingdom, recognising apparently that there would be small receipts from confiscations, he provided that the incumbent should be paid a salary of 200 gold florins per annum, assessed upon the various sees in proportion of their forced contributions to the papal *camera*. The resistance of inertia which rendered this command resultless doubtless arose from the objection of the prelates to being thus taxed; and the same may be said of the efforts of Boniface IX when he appointed Fray Vicente de Lisboa as inquisitor of Spain, and ordered his expenses to be defrayed by the bishops.³⁶

Eymerich, writing in Aragon about 1375, says the source whence the expenses of the Inquisition should be met is a question which had been long debated and never settled. The most popular view among churchmen was that the burden should fall on the temporal princes, since they obtained the confiscations, and should accept the charge with the benefit; but in these times, he sorrowfully adds, there are few obstinate heretics, fewer still relapsed, and scarce any rich ones, so that, as there is little to be gained, the princes are not willing to defray expenses. Some other means ought

³⁵ Doat, *xxxv.* 79, 100.

³⁶ Potthast, No. 13000, 15995. Monteiro, *Historia da Santa Inquisição*, p. i lib. ii. c. 84, 85.

to be found, but of all the devices which have been proposed each has its insuperable objection; and he concludes by regretting that an institution so wholesome and so necessary to Christendom should be so badly provided.³⁷

It was probably while Eymerich was saddened with these unpalatable truths that the question was raising itself in the most practical shape elsewhere. In 1375 Gregory XI persuaded King Frederic of Sicily to allow the confiscations to enure to the benefit of the Inquisition, so that funds might not be lacking for the prosecution of the good work. At the same time he made a vigorous effort to exterminate the Waldenses, who were multiplying in Dauphiné. There were prisons to be built and crowds of prisoners to be supported, and he directed that the expenses should be defrayed by the prelates, whose negligence had given opportunity for the growth of heresy. Although he ordered this to be enforced by excommunication, it would seem that the constipated purses of the bishops could not be relaxed, for soon after we find the inquisitor laying claim to a share in the confiscations, on the reasonable ground of his having no other source whence to defray the necessary expenses of his tribunal. The royal officials insisted on keeping the whole, and a lively contest arose, which was referred to King Charles le Sage. The monarch dutifully conferred with the holy see, and in 1378 issued an *ordonnance* retaining the whole of the confiscations, and assigning to the inquisitor a yearly stipend—the same as that paid to the tribunals of Toulouse and Carcassonne—of 190 *livres tournois*, out of which all of the expenses of the Inquisition were to be met, with the proviso that, if the allowance was not regularly paid, then the inquisitor should be at liberty to detain a portion of the forfeitures. No doubt this arrangement was observed for a time, but it lapsed in the terrible disorders which ensued on the insanity of Charles VI. In 1409 Alexander V left to his legate to decide whether the inquisitor of Dauphiné should receive 300 gold florins a year, to be levied on the Jews of Avignon, or ten florins a year from each of the bishops of his extensive district, or whether the bishops should be compelled to support him and his officials in his journeys through the country. These precarious resources disappeared in the confusion of the civil wars and invasion which so nearly wrecked the monarchy. In 1432, when Friar Pierre Fabri, inquisitor of Embrun, was summoned to attend the council of Basel, he excused himself on account of his preoccupations with the stubborn Waldenses, and also on the ground of his indescribable poverty, 'for never have I had a penny from the church of God, nor have I a stipend from any other source.'³⁸

³⁷ Eymeric. *Direct. Inquis.* pp. 652-3.

³⁸ Raynald. *Annal. ann.* 1375, No. 26. Wadding, *Annal. Minor. ann.* 1375, No. 21, 22; ann. 1409, No. 18. Isambert, v. 491. Martene, *Ampl. Coll.* viii. 161-8.

Of course it would be unjust to say that greed and thirst for plunder were the impelling motives of the Inquisition, but we are perfectly safe in asserting that but for the gains to be made out of fines and confiscations its work would have been much less thorough, and that it would have sunk into comparative insignificance as soon as the first frantic zeal of bigotry had exhausted itself. This zeal might have lasted for a generation, to be followed by a period of comparative inaction, until a fresh onslaught would have been excited by the recrudescence of heresy. Under a succession of such spasmodic attacks Catharism would probably have never been completely rooted out. By confiscation the heretics were forced to furnish the means for their own destruction. Avarice joined hands with fanaticism, and between them they supplied motive power for a hundred years of fierce, unintermitting, unrelenting persecution, which in the end accomplished its main purpose.

HENRY C. LEA.