

The document under consideration:

King Henry III of Germany (1028-1056) charter number 269 issued at Dortmund on 25.5.1051.

The original charter was preserved in the episcopal archive of Osnabrück.

Points to consider

1. This text illuminates three different types of courts.
2. The claims of the bishop regarding jurisdiction illuminate important elements of his legal relationship with dependents of the church, irrespective of their status as free people.
3. The limitation on the authority of the count illuminates the nature of his judicial authority in cases in which a particular church does not enjoy a judicial immunity, and also his broader judicial role.
4. The limited nature of the bishop's complaint also illuminates the limited nature of the judicial immunity he possesses.

Latin text

In nomine sanctae et individuae trinitatis. Heinricus divina favente clementia Romanorum imperator augustus. Notum sit omnibus Christi nostrique fidelibus tam futuris quam et praesentibus, qualiter Albericus Osnabrugensis aeclesiae episcopus nostram imperialem adiit clementiam querimoniam faciens de Bernardo comite, quod liberos homines in suo episcopate habitantes mahelman nominatos ad suum placitum vi et iniusta potestate constringeret. Qua de re episcopo simulque praedicto comite ante nos venientibus in nostra nostrorumque fidelium praesentia diffinitum est, ut aeclesiae predictae tanta violentia deinceps non inferatur. Quapropter modis omnibus interdiciamus, ne dux neque comes aut vicecomes vel aliqua persona iudiciaria suos liberos vel servos constringere praesumat praeter eius advocatum; et ut amplius inter ipsos eorumque successores huiusmodi contentio non oriatur, nostra imperiali auctoritate prohibemus et confirmamus. Et ut haec nostra imperialis auctoritas nunc et in aevum stabilis et inconvulsa permaneat hanc cartam inde conscriptam manu propria ut subtus videtur corroborantes sigilli nostri impressione iussimus insignari.

Signum domni Heinrici tercii regis invictissimi secundi Romanorum imperatoris augusti.

Winitherius cancellarius vice Bardonis archicancellarii recognovit.

Data VIII. Kal. Iun. Indictione III, anno dominicae incarnationis MLI, anno autem domni Heinrici tercii regis secundi imperatoris ordinationis XXIII regni vero XII, imperii V, actum Truthmannie, feliciter amen.

English Translation

In the name of the holy and indivisible trinity. Henry, by the favor of divine clemency, august emperor of the Romans. Let it be known to all of the men faithful to Christ and to us, both in the future and in the present, that Bishop Alberic of the church of Osnabrück approached our

imperial clemency to make a complaint about Count Bernard, namely that the count is constraining the free men living in his diocese, called Maelmen (free dependents of the church who held benefices and were under the protection of the bishop), by force and by the unjust use of power to come to his court. When the bishop and aforementioned count came to our court with regard to this matter it was determined that the aforementioned church shall not be burdened by such great violence henceforth. Therefore, we forbid in every possible way that any duke or count or viscount or any other person holding judicial authority shall presume to constrain *his freemen or slaves* other than his advocate. Furthermore, so that a conflict of this type shall not arise further between their successors, we prohibit this by our imperial authority and confirm this. And so that this, our imperial authority, shall remain stable and undisturbed now and in the future, we command that this charter written by our own hand and, as seen below, strengthening it further, be sealed with an impression of our signet.

Seal of Henry III most unconquerable king, and Henry II august emperor of the Romans.

I Winther, chancellor, have witnessed this in place of Bardo the archchancellor.

Dated on the 8th Calends of June, in the third indiction, in the year of the incarnation of the Lord 1051, moreover in the 23rd year of the ordination of Henry III as king and of him as Henry II as emperor, in the 12th year of his reign as king, and fifth year of his reign as emperor, done with joy at Dortmund, amen.

German Translation

Im Namen der heiligen und unteilbaren Dreifaltigkeit. Heinrich, durch göttliche Gnade erhabener Kaiser der Römer. Allen Christustreuen und uns Getreuen sei in Zukunft und in der Gegenwart bekannt, dass Bischof Alberic von der Kirche von Osnabrück sich an unsere kaiserliche Begnadigung gewandt hat, um sich über den Grafen Bernhard zu beschweren, nämlich dass der Graf die freien Männer, maelman genannt, die in seiner Diözese leben, mit Gewalt und durch ungerechten Gebrauch von Macht zu zwingen, an seinen Hof zu kommen. Als der Bischof und der erwähnte Graf in dieser Angelegenheit an unseren Hof kamen, wurde festgestellt, dass die erwähnte Kirche von nun an nicht mehr mit so großer Gewalt belastet werden soll. Daher verbieten wir auf jede erdenkliche Weise, dass ein Herzog oder Graf oder Vicomte oder jede andere Person, die eine richterliche Autorität besitzt, sich anmaßt, **seine Freien oder Sklaven** außer seinem Anwalt einzuschränken. Damit ein Konflikt dieser Art zwischen ihren Nachfolgern nicht mehr entsteht, untersagen wir dies außerdem durch unsere kaiserliche Autorität und bestätigen dies. Und damit diese, unsere kaiserliche Autorität, auch in Zukunft stabil und ungestört bleibt, befahlen wir, diese eigenhändig geschriebene Urkunde und, wie unten dargestellt, noch verstärkend, mit einem Abdruck unseres Siegels zu besiegeln.