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a cura di

MARCO MERLO, FABIO ROMANONI e PETER SPOSATO



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Stamp of the Teutonic Knights from the 14th century. (“Visitatorum Magister in Allemaniae”). Material: brass Deutschordens-Zentralarchiv, Singerstraße 7, 1010 Vienna, Austria Foto Frank Bayard 2012 Wikimedia Commons CC SA 3.0

The Treatises of Pierre Dubois

Project for a New French Century

by JÜRIG GASSMANN

ABSTRACT. The medieval Norman lawyer Pierre Dubois wrote two treatises for his sovereign, King Philipp IV the Fair of France: A shorter tract, composed around 1300, with recommendations on the royal conduct of warfare as well as on the reform of legal procedure; and a second, longer one purportedly developing a plan for the reconquest of the Holy Land. This second tract, written 1306-10, is part of the “Recuperation” literature prevalent in this period. The rediscovery of Dubois’ writings in the late nineteenth century led to a spate of articles treating Dubois as a visionary forerunner of such concepts as universal peace, European union, and international law as a means for settling disputes among princes. Scholarship in the meantime was sparse but is now picking up again, aided by a new edition making the texts easily accessible. Recent authors rather argue that Dubois’ proposals are very much part of intellectual streams prevalent in his age, though they are remarkable for their stringency and consistency. At the same time, Dubois was a forceful advocate for a European pre-eminence of the French crown.

KEYWORD. MEDIEVAL WARFARE; MILITARY HISTORY; FRENCH HISTORY; HISTORY OF MEDIEVAL LAW; RECUPERATION LITERATURE; SOVEREIGNTY

Introduction

Pierre Dubois’ works today frequently lurk in the background of articles about the efforts to re-establish a Latin presence in the Holy Land after the loss of Acre in 1291 (the recuperation literature¹), or about texts on military strategy and tactics from the Central Middle Ages. But these references tend to be passing, lacking a reasoned dialogue with Dubois’ writings. This situation may now be remedied by a recent redaction and translation (into French) of Dubois’ two main treatises, *De recuperatione terre sancte* and *De abbreviatione*

1 For an overview over the recuperation genre see Antony LEOPOLD, *How to Recover the Holy Land: The Crusade Proposals of the Late Thirteenth and Early Fourteenth Centuries* (Aldershot / Burlington VT / Singapore / Sydney, Ashgate, 2000).

guerrarum et litium regni Francorum.² The objective of this article is to provide an overview over the two tracts, and to situate them within the politics and the intellectual landscape of the time.

To avoid disappointment, a content warning is indicated: Even though both texts purport to deal with military matters, to the extent they do so, they focus on constitutional and fiscal military organisation. Strategic or tactical advice is sparse. Most of the text is dedicated to constitutional reform and institutional strengthening in line with Dubois' ideological bent.

Dubois was writing at a time when the three-way ideological battle between papacy, imperial dignity, and royal authority was reaching a culmination point. By his office and his activities, he himself was a protagonist in this battle, avowedly on the royalist side. Even though he was (it seems) a minor protagonist, his treatises provide a fascinating glimpse into the then-current political altercation. Both of Dubois' texts are addressed to his monarch, King Philipp IV the Fair (1268-1314, king since 1285), but there is no evidence that Dubois frequented the French court, or that anyone at the court, let alone King Philipp himself, ever read Dubois' tracts.

The Author

Such biographical information as we have on Pierre Dubois is principally provided by himself, in his writings. He was born around 1255, probably in Coutances in Normandy, then (again) held by the French crown. He studied in Paris under both St Thomas Aquinas and Siger of Brabant,³ two towering intellectuals of their time. His frequent references to Justinian's *Corpus Iuris Civilis* indicate he

2 Pierre DUBOIS, *De recuperatione terre sancte* (On the recuperation of the Holy Land), LANGLOIS, Charles-Victor (ed.), SÁGHY, Marianne and LÉONAS, Alexis (trans. – Paris, Les Belles Lettres, 2019), pp. 329-519 (referred to here as the “Recuperation”); and Pierre DUBOIS, *De abbreviatione guerrarum et litium regni Francorum* (On the curtailment of the wars and the law suits in the kingdom of the Franks), FORCADET, Pierre-Anne (ed. and trans. – Paris, Les Belles Lettres, 2019), pp. 1-327 (referred to here as the “Abbreviation”). Translations into English are mine unless otherwise stated.

3 DUBOIS, p. XXIII, pp. 128-29 (§63 / cap. XL), pp. 302-03 (§132 / cap. LXXX); Pierre-Anne FORCADET, « Pierre Dubois: conseiller de Philippe le Bel en matière politique et militaire », in *L'armée, la paix, la guerre, journées de la Société d'Histoire du Droit*, DE LOS MOZOS TOUYA, José Javier (ed. – Valladolid, Ediciones Universidad de Valladolid, 2009), pp. 209-228, at pp. 209-11.

must have studied law as well, likely in Orleans.⁴ By trade he was a notary, first in Coutances, and represented Coutances at the Estates General of 1302.⁵ In 1306 he served the English king Edward I as advocate in Guyenne.

In the conflict between Pope Boniface VIII (1230-1303, pope 1294) and the French crown, Dubois vociferously supported his king and wrote blistering tracts opposing the papacy's designs.⁶ As mentioned, the two treatises discussed in this article were written for King Philipp the Fair. The earlier one, the Abbreviation, is anonymous and undated, but Natalis de Wailly's dating at 1300 and attribution to Dubois are not doubted.⁷ The Recuperation text was handed to the king during his stay at Chinon on 23rd May 1308.⁸ The king's reaction is not known, if he or any one of his courtiers even read either one, and Dubois was never an adviser to the king.⁹

By his own account, he was quite wealthy.¹⁰ Dubois died some time after 1321.¹¹

Thomas Aquinas, Siger of Brabant, and Aristotle

The contribution of Thomas Aquinas (c.1225-1274) to the intellectual landscape of the Central Middle Ages (and beyond) requires no further comment. Siger of Brabant (c.1240-1284) is probably less well known; that Dubois specifically and repeatedly mentions him merits further investigation. Like the *doc-*

4 Benjamin GALERAN, « Le recours à l'Antiquité dans le *De recuperatione Terre Sancte* de Pierre Dubois », in *Les aspects politico-juridiques de la domination: De l'Antiquité au Moyen-Âge*, BOUINEAU, Jacques (ed. – Paris, L'Harmattan, 2020), pp. 211-250, at pp. 217-18, 223-24.

5 This gathering, the first Estates General in France, was a key move by Philipp IV against Boniface VIII – see below; Andrew LATHAM, *Medieval Sovereignty: Past Imperfect* (Leeds, ARC Humanities, 2022), p. 57.

6 DUBOIS, p. XXV

7 Dubois himself in the Recuperation refers to an earlier text of his – see below.

8 DUBOIS, pp. XXVI-XXVII.

9 FORCADET, « Conseiller », p. 211; LEOPOLD, pp. 30-31.

10 DUBOIS, pp. 308-09 (§135 / cap. LXXXI).

11 DUBOIS, pp. XXIII-XXVIII. A summary of Dubois' biography in GALERAN, pp. 211-12; Pierre-Anne FORCADET, « Le *De recuperatione Terre Sancte* de Pierre Dubois: prétexte de croisade et pouvoir royal », in *Les projets de croisade: Géostratégie et diplomatie européenne du XIV^e au XVII^e siècle*, PAVIOT, Jacques (ed. – Toulouse, Presses universitaires du Mirail, 2014), pp. 69-86, at pp. 69-71.

tor angelicus, Siger was an Aristotelian, despite the Parisian clerical authorities' Condemnations of Aristotelianism in 1210. Thomas referenced especially Moses Maimonides (1138-1204) and Avicenna (Ibn Sina, c.980-1037), less so Averroes (Ibn Rushd, 1126-1198).

Siger on the other hand was a committed Averroist. Averroes had focused on stripping Avicenna's writings of Neoplatonism and reverting to a pure Aristotelianism. Thomas sought to integrate the Aristotelianism-based, reasoned approaches to truth into Christian enquiry, but to subordinate them to the Scripture-based revelation of truth. Averroism taken to its logical consequence would permit a reasoned discussion on the question whether God existed, and allow two opposite and unreconcilable true conclusions, one arrived at through reason, the other derived from faith. Though Siger in his writings never went that far, he and his followers were skirting heresy. The Condemnations of 1270 were directed at the Averroists, and Siger in 1274 left Paris for Liège. The Condemnations of 1277 then specifically mentioned Siger. Siger eventually fled to Italy and died in Orvieto, probably murdered.¹²

Dubois' frequent quotations from Aristotle's different works show that he had more than a passing familiarity with The Philosopher's writings.¹³

The History of the Texts

Both texts are preserved in just one manuscript exemplar each. The Recuperation copy, from the fourteenth century, is located – ironically – in the Vatican.¹⁴ The Abbreviation copy is from the fifteenth century and located in the *Bibliothèque Nationale de France*.¹⁵ There is no evidence of them being in circulation

12 For the review of a debate involving the philosophers referenced here Dragos CALMA, « *Sine secundaria*: Thomas d'Aquin, Siger de Brabant et les débats sur l'occasionalisme », in *Reading Proclus and the Book of Causes*, vol. 1, CALMA, Dragos (ed. – Leiden / Boston MA, Brill, 2019, pp. 268-300). On the Condemnations Luca BIANCHI, « Students, Masters, and 'Heterodox' Doctrines at the Parisian Faculty of Arts in the 1270s », *Recherches de Théologie et Philosophie Médiévales* 76 (2009), pp. 75–109. More generally on the contentious atmosphere at the Sorbonne GALERAN, pp. 239-41; Gianluca BRIGUGLIA, *Giovanni Quidort di Parigi, Egidio Romano: Il potere del re e il potere del papa: Due trattati medievali* (Genoa/Milan, Marietti, 2009), pp. 218-20.

13 GALERAN, pp. 220-23, 228-32.

14 DUBOIS, pp. XLII-XLIII – MS Reg. Lat. n° 1642.

15 DUBOIS, p. 331 – Ms. Latin 6222C.

during Dubois' lifetime or during the subsequent decades. He is referenced by some authors in the sixteenth and seventeenth centuries but experienced a revival only in the nineteenth century.

The *Recuperation* was first published in print by Jacques Bongars in 1611. Charles-Victor Langlois produced a French translation in 1891; this translation forms the basis for the modern edition, with some minor corrections that do not change the meaning. The modern edition preserves the partition into chapters introduced by Bongars (in Roman numerals), as well as the partition into paragraphs by Langlois. Angelo Diotti in 1977 added the subtitles, which the modern edition also largely preserves.¹⁶

As mentioned, the *Abbreviation* is anonymous, it has no dedication, and it is not known whether it was handed to the royal chancellery or if it was, whether it was ever noted there. The first edition of the text was not until 1936 in Germany, but it found little traction. As a consequence, the *Abbreviation* has seen even less academic attention than the *Recuperation*. The modern edition is rendered as a continuing text, along with its often interminable sentences and peculiar diction, reflecting the original. The edition marks the different folios, which are also used in this article.¹⁷

The Pre-Eminence of the French Crown – Rex imperator in regno suo

The *Recuperation* is dedicated to Edward I, King of England (1239-1307, king 1272),¹⁸ it is not the compliment it appears at first blush.

For one, the possessions of the English king within the confines of modern France were technically fiefs of the French crown, so though Edward was king in England and so of equal rank with Philipp, in his capacity as Duke of Guyenne he owed allegiance to Philipp.

But secondly, Dubois elsewhere advocates that the monarch's life is too important to be risked on campaign; he should therefore remain behind in safety.¹⁹

¹⁶ DUBOIS, pp. XLIII-XLV.

¹⁷ DUBOIS, pp. 344-47.

¹⁸ DUBOIS, pp. 1-4 (Preamble, §1 / cap. I).

¹⁹ DUBOIS, pp. 276-81 (§§119-120 / cap. LXXIV; also in the *Abbreviation*, pp. 404-11 (fol. 10^v-12^r); FORCADET, « Conseiller », pp. 214-16.

So Dubois building up Edward to go forth and lead the Crusade implies that Edward was, bluntly put, expendable.

The pre-eminence of the French crown is a constant theme in Dubois' writings and informs his military plans. To understand the political and diplomatic context of Dubois' arguments, some historical background is in order.

On Christmas Day 800, Pope Leo III crowned Charlemagne Roman Emperor, thus effecting the *translatio imperii* from the Roman people to the Frankish people.²⁰ The ideology underpinning the relationship between pope and emperor was encapsulated in the Two-Swords-Doctrine of Bernard of Clairvaux (1090-1153), imaginatively derived from the events surrounding Jesus' arrest in the Garden of Gethsemane. Pursuant to this doctrine, all rule on earth proceeded from God via His two representatives in this world, the Pope and the Emperor, where the Pope wielded the spiritual sword and the Holy Roman Emperor the temporal sword. Both of His vicars on earth mediated His rule and anchored the feudal order. According to the original doctrine, the papacy and the imperial dignity were the only two *necessary*, immutable offices in the world.²¹

The investiture controversy

Reality on the temporal side did not develop entirely in accordance with doctrine. The imperial dignity quietly moved from the Franks to initially the Eastern Frankish part, eventually to the Saxons, and to the Italian and Germanic lands generally. While the Holy Roman Emperor's mystique as the temporal head of Christendom continued, effective power fragmented.²² Monarchs outside the kingdoms of Germany and Italy increasingly asserted their rule independently of the Emperor, and the Emperor did not have the military power to impose domi-

20 According to the prophesy in Chapter 2 of the Book of Daniel, there would be four worldly empires before Judgement Day. It was accepted that Alexander's empire was the third and the Roman empire the fourth. Since Judgement Day had not yet arrived, the Roman empire had to be continuing.

21 For a potted summary see LATHAM, pp. 4-5.

22 Dante FEDELE, *The Medieval Foundations of International Law* (Leiden / Boston MA, Brill, 2021), pp. 32-37 – though the Holy Roman Emperor could not be conceived of as the supreme secular ruler, his position legitimised the hierarchy of power; Luca DEMONTIS, « Giudicati e signorie: Due percorsi di potere nel medioevo a confronto », *Anuario de Estudios Medievales* 38.1 (2008), pp. 3-25, at p. 5

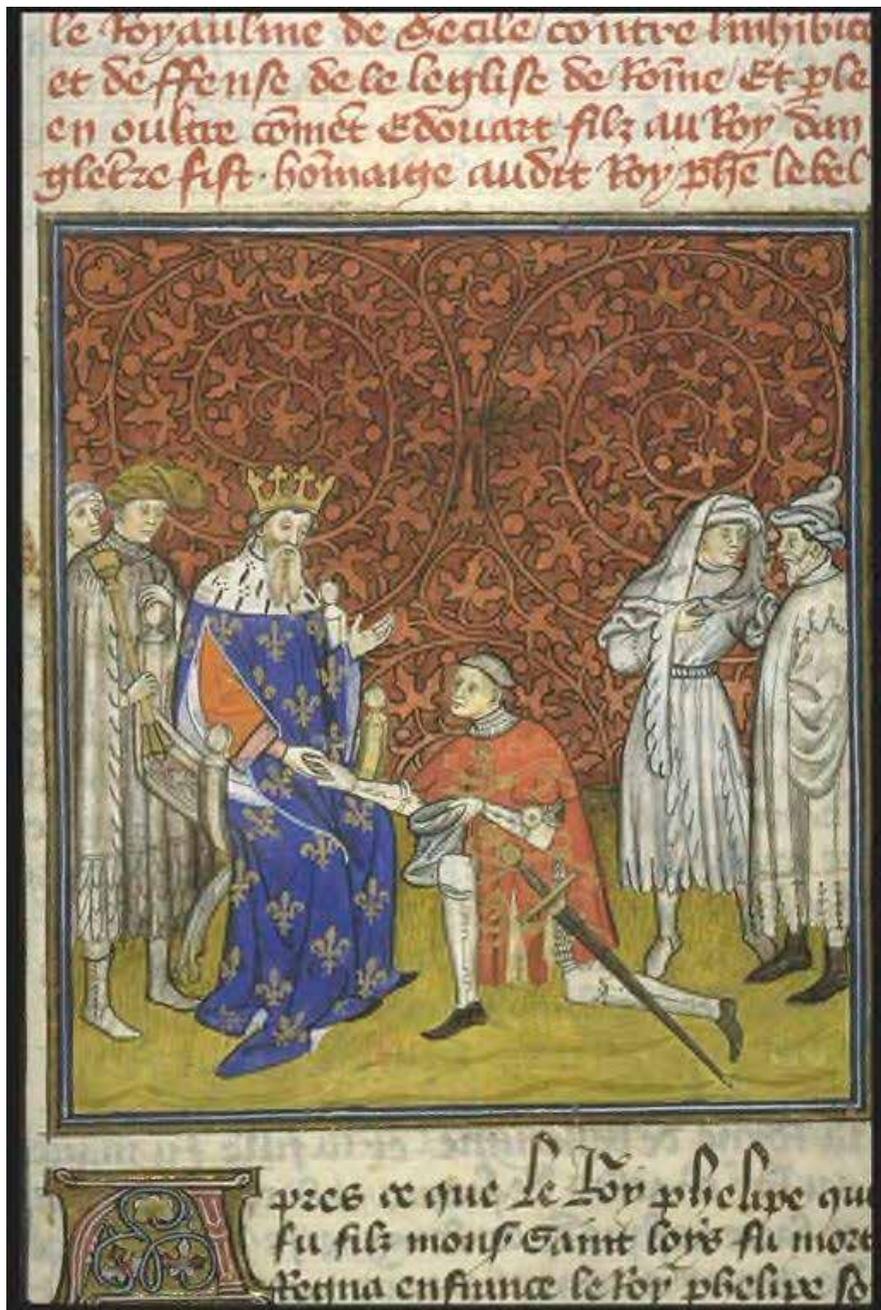


Fig. 1 – *Grandes Chroniques de France*, Tribute by Edward I to Philipp IV
Bibliothèque Municipale Toulouse, Ms 512, fol. 317^r (14th century)
Bibliothèque Municipal Toulouse via Wikimedia Commons, public domain

nance. Events such as the battle of Bouvines (1214) reinforced the factual independence of “peripheral” kings.²³

The papacy did its own to undermine the authority of the imperial dignity. In 1075, Pope Gregory VII issued the *Dictatus papae*, asserting the Pope’s pre-eminence over the Emperor, precipitating the investiture controversy.²⁴ The controversy brought to a head two diverging policies: The Church was keen to disentangle clerics from their secular roles, while the emperors since Carolingian times had used senior clerical appointments (bishops and abbots) to neutralise dynastic and factional disputes. But while the Church wanted to remove bishops and abbots from these disputes, the Church was not willing to give up the secular powers that were associated with the appointments.²⁵

To confine the discussion to the subject-matter relevant to this article and still provide background to the concepts deployed by Dubois, an exemplary look at Sicily (or rather both Sicilies) is worthwhile – the *dramatis personae* or their successors all feature in Dubois’ tracts.

The German crown was united with the Italian crown, but the southern Italian kingdom, known as the *Regno*, was not unified with either of the two crowns. It comprised the island of Sicily as well as the southern half of the boot and was populated by communities with Arab, Byzantine, Lombard, and Norman traditions. The crown of Sicily was in 1198 inherited by Frederick II, then four years old.²⁶ His mother died the same year, leaving Frederick the ward of Pope Innocent III (1161-1216, pope 1198), foremost of the lawyer popes and author of *Per venerabilem* (see below). Though legend had it that the orphaned Frederick grew up as a street urchin in the alleys of Palermo, he was in fact highly educated and

23 DEMONTIS, p. 5.

24 Translated in Italy into the controversy between Ghibellines (imperialists) and Guelfs (papacy). FEDELE, pp. 59-62.

25 It is this papal overreach that prompted secular authorities to look for models that were compatible with the developing notions of internal sovereignty, either by excluding clerics from the exercise of secular rule (the solution argued by Dubois, see below) or by integrating them into and subordinating them to the secular power structures; DIEGO QUAGLIONI, *La sovranità* (Rome, Laterza, 2004), p. 19.

26 Frederick II of Staufen (or Hohenstaufen, with their main power base in Swabia, 1194-1250) was elected German king in 1212 but could not assert his crown over Otto IV until Otto was fatally weakened by his defeat at Bouvines 1214. In 1220, he was crowned Holy Roman Emperor.

multilingual, earning from his contemporaries the sobriquet *stupor mundi*.

One of Frederick's achievements was the 1231 *Liber constitutionum regni Siciliae* (also *Liber Augustalis* or Constitutions of Melfi). The work reflected current law in the kingdom, building on the received legal traditions of the kingdom's constituents as well as Canon and Roman law. More importantly and relevantly, Frederick by his choices established himself as supreme legislator of *Sicilian* law.²⁷ In doing so, he was obliquely challenging Innocent III's no less papal supremacy-minded cousin and successor-but-one, Pope Gregory IX (1145-1241, pope 1227).

Though Frederick II avoided direct confrontations with the papacy, he charted an independent course emphasising Roman law-derived imperial prerogatives. However, he did no better than his grandfather, Emperor Frederick I Barbarossa (1122-1190, emperor 1152), in his efforts to consolidate imperial authority in Italy. He died in 1250; his heirs did not fare well. 1268 Conradin, sixteen years old and last of the Staufen line, lost the battle of Tagliacozzo to Charles I of Anjou (1226-1285), who promptly had the youth executed.²⁸

Charles was the founder of the (new) Angevin line, a cadet line of the Capetians. He was a younger brother of St Louis IX, who in turn was the grandfather of King Philipp the Fair. Pope Clement IV (1190-1268, pope 1265) had supported Charles against the Staufen, fearful of the Staufens' power and political skills. He quickly realised that in promoting the energetic, ruthless, and meddlesome Charles, the papacy had jumped from the frying pan into the fire. Clement IV's eventual successor, Pope Gregory X (1210-1276, pope 1271), in 1275 sought an alliance with the newly-elected German king, Rudolph of Habsburg.²⁹

27 I.e. in his capacity as King of Sicily; this authority was not derived from the fact that he was also Holy Roman Emperor – Mario CARAVALE, « Federico II e il diritto comune », in *Gli inizi del diritto pubblico, 2: Da Federico I a Federico II*, DILCHER, Gerhard, QUAGLIONI, Diego (eds. – Bologna, Mulino / Berlin, Duncker & Humblot, 2008), pp. 87-109, at pp. 90-91.

28 DEMONTIS, pp. 4-5; subsequent Holy Roman Emperors gave up trying to assert their authority in Italy. The Staufen partisans fled to Aragon, since King Peter III (1239-1285) had married Constance II of Sicily (1249-1302), the daughter of Manfred of Staufen, Emperor Frederick II's natural son. Pursuing his wife's claim to the throne of Sicily, Peter successfully exploited the 1282 Sicilian popular uprising against Charles I's imperious reign, the Sicilian Vespers. This resulted in there being two Kingdoms of Sicily, one comprising the island, the other the mainland half of the kingdom.

29 DEMONTIS, pp. 5-6.

Charles wasted no time in picking up the reins of the rich, efficiently organised, and well-run kingdom he had just won. Among his first moves was to re-found the law school in Naples, which had already served Frederick II as think-tank and as talent factory for the kingdom's judges and royal officials.³⁰ Both he and his son called renowned professors from the universities of Orleans (Dubois' presumed legal *alma mater*) and Toulouse to teach in Naples.³¹ The focus of the curriculum was on Roman law, but the university also held lectures on regnal law, relevant for training the court's top advisers and administrators.³²

One of the prominent adjunct professors, so to say, on regnal law was Marinus de Caramanico, who compiled the *glossa ordinaria* on the Constitutions of Melfi³³ – which remained part of the law of the Kingdom of Naples until the early nineteenth century. Precious little is known about his personal biography; the one thing we do know is that he was a judge at the *Magna Curia*, the royal law court.³⁴

Legal historians accord particular attention to Marinus' *Prooemium*, his foreword and introduction to his gloss on the Constitutions, likely completed sometime before 1285. Right at the beginning, Marinus recites the *Corpus Iuris*-derived authority of the emperor to legislate.³⁵ He goes on: "Yet regarding the free king, who is not subject to the power of any other, we declare the same, that is, that the king himself can make law." One such free king was the King of Sicily, and his power extended to legislate even in divergence from common (Roman) law.³⁶

30 Luca LOSCHIAVO, « Marino da Caramanico: Giudice, giurista, intellettuale », in *Formations et cultures des officiers et de l'entourage des princes dans les territoires angevins (milieu XIII^e-fin XV^e siècle)*, MATHIEU, Isabelle, MATZ, Jean-Michel (eds. – Rome, Publications de l'École française de Rome, 2019), pp. 243-64, at p. 248.

31 LOSCHIAVO, p. 250-52.

32 LOSCHIAVO, pp. 247-56; while Justinian's compilation is today mainly considered for its influence on the development of private law in modern civil law systems, from the twelfth to the fourteenth century lawyers studied especially the public law sections of the *Corpus Iuris* – *ibid.* p. 256.

33 Michele SPADACCINI, *Wer erklärt das Gesetz des Königs? Die Glossatoren des Liber augustalis im Königreich Sizilien* (Göttingen, V&R unipress, 2024), pp. 141-49.

34 LOSCHIAVO, pp. 243-47; SPADACCINI, pp. 161-76 – a birth date not much earlier than 2140 seems likely, and he probably died around 1289.

35 SPADACCINI, pp. 135-41. Marinus was relatively unknown to modern historiography until Francesco Calasso brought him to scholarly attention in the mid-twentieth century. The *Prooemium* is reprinted in Francesco CALASSO, *I Glossatori e la teoria della sovranità*, third edition (Milan, Giuffrè, 1957), pp. 179-205 – here on p. 179.

36 "Sed in rege libero, qui nullius alterius potestati subiectus est, idem dicimus, scilicet ut rex

With the demise of the Staufens, the papacy had essentially won the investiture controversy by default. The effects were subtle but important. It became increasingly accepted that the secular authority of the Holy Roman Emperor was limited to the territories of the Emperor's two royal crowns, the German crown and the one of Italy (by territorial extent northern Italy up to the papally-ruled Donation of Constantine, separating the Empire from the *Regno*).³⁷ However, in northern Italy, Imperial authority (Ghibellines) remained in military conflict with the Guelfs, typically referred to as the papal faction. It would be more accurate to describe the Guelfs as rejecting Imperial overlordship and being supported in this by the Popes.

In the ideological sphere, the revised version of the Two-Swords-Doctrine was promulgated by Pope Boniface VIII in his 1302 bull *Unam sanctam*, putting us squarely in Dubois' time. Pursuant to Boniface' version, the Lord provided both swords to the Pope, and it was the Pope who conferred the sword of temporal power on the Holy Roman Emperor. The imperial dignity was therefore the Pope's to give or take away.³⁸

The investiture controversy had a corollary effect, initially supported by the papacy as a device to undercut the authority of the Holy Roman Emperor but in its ultimate consequence surely unintended and rued. Pope Innocent III in his 1205 decretal *Per venerabilem*, though concerned with a minor matter unrelated to the relationship between Pope and Emperor, used a form of words suggesting that certain kings were not subject to a higher temporal authority (i.e. the Holy Roman Emperor).³⁹ This formulation later gave rise to the phrasing *Rex est imperator in regno suo* in its many variants.

Royalist ideology went one step further: The kings asserted the eternal nature of their own rights to temporal rule. Both the papacy and the imperial dignity, they

ipse possit condere legem"; CALASSO, pp. 180-82; on p. 189 he says the term *princeps* derives from the fact that he "alium superiorem non habet." This line of argument was already laid down by Frederick II, it was not an invention of Marinus' – see fn. 27.

37 Voiced e.g. by Marinus de Caramanico: CALASSO, p. 198.

38 LATHAM, p. 59; FEDELE, pp. 84-89. Marinus de Caramanico does not just assert royal authority to be dependent on no-one on earth, he subordinates popes to royal power: "Papa etiam regi obsequitur et ei se subesse fatetur", just as Jesus acknowledged the obligation to obey worldly kings (CALASSO, p. 184).

39 See the discussion with LATHAM, pp. 31-44, for the subject-matter here especially pp. 32-33; FEDELE, pp. 95-104, on France specifically from p. 101. Marinus de Caramanico refers to *Per venerabilem*: CALASSO, p. 201.

argued, were historical artefacts; *royal* rule eternally predated both.⁴⁰ Kingship in Catholic Europe did indeed predate Pope Leo's coronation of Charlemagne; and since the papacy claimed to derive from Jesus' commission to St Peter, its emergence only in historical times could not be disputed. Concomitantly, kingship was increasingly sacralised.⁴¹

The polities in Italy rejecting Imperial rule through their conduct were in fact asserting themselves as *civitates superiores non recognoscentes*⁴² – a position clearly displeasing to Dubois.⁴³ However, they still looked to the Holy Roman Emperor as source for the legitimisation of their rule,⁴⁴ so they had little interest in political theories that delegitimised the Emperor.

Dubois' literary production

Dubois in his writings pulled on various strands in this history. In his justifications, though, he does not engage with or even rehearse the legal arguments his predecessors developed. His style is that of a pamphleteer; to the extent Dubois reasons, his tool is logic. That King Philipp the Fair is *imperator in regno suo* is, for Dubois, a given.

His one abiding theme, developed also in his other writings, was his opposition to the efforts of Pope Boniface VIII to assert temporal dominance of the papacy over all monarchs.⁴⁵

40 Gianluca BRIGUGLIA, *Giovanni Quidort di Parigi, Egidio Romano: Il potere del re e il potere del papa* (Genova/Milano, Marietti, 2009), p. 15; GALERAN, pp. 237-38; Georg JOSTKLEIGREWE, « 'Rex imperator in regno suo': An Ideology of Frenchness? », in *Imagined Communities*, PLESZCZYNSKI, Andrzej, SOBIESAK, Joanna, TOMASZEK, Michał, TYSKA, Przemysław (eds. – Leiden / Boston MA, Brill, 2018), pp. 46-84, at p. 59. Marinus de Caramanico as well argues that kings and royal authority predated imperial authority: CALASSO, p. 180. Following Jesus' birth in Bethlehem, it was the Holy Three Kings (as the Magi are termed outside the Anglo-Saxon sphere) who offered homage to the Saviour, long before the pope appeared. LATHAM (without engaging with the symbolisms I here advance) refers to this as the “dualist-regnalist” model: pp. 5-6.

41 Hermann KAMP, *Friedensstifter und Vermittler im Mittelalter* (Darmstadt, Wissenschaftliche Buchgesellschaft Darmstadt, 2001), p. 15; CARVALE, pp. 94-95. So also Marinus de Caramanico, pointing out that Roman kings of Antiquity were at the same time *sacerdos* and *pontifex*: CALASSO, pp. 184-85 and *passim*.

42 See fn 85.

43 See fn 68.

44 DEMONTIS, p. 5; FEDELE, pp. 32-37.

45 FORCADET, « Conseiller », pp. 216-17. The dispute between Philipp and Boniface origina-



Fig. 2 – The Holy Three Kings assemble before Paris
Les Très Riches Heures du Duc de Berry, fol. 51^v (15th century)
Musée Condé/Chantilly via Wikimedia Commons, public domain

His approach to the pre-eminence of the French crown among Europe's monarchs was threefold. Primarily, he asserted the sovereignty of the French king on the basis of the *rex imperator in regno suo* doctrine. Though the Holy Roman Emperor in protocol outranked kings, he was (one is tempted to say "in international law") on par with the kings. Indeed, in one passage discussing the Emperor, Dubois used "emperor" and "German king" interchangeably.⁴⁶

Secondly, Dubois argued that among all the kings of Christendom, the French king as the *princeps christianissimus* deserved pre-eminence, based on his power and prestige.⁴⁷

Thirdly, and somewhat contradictorily, Dubois in a later tract also seemed to argue that it was a mistake that the imperial dignity descended along the East Frankish (i.e. the German) line and so ended up being linked to the crowns of Germany and Italy. Properly, the dignity should have remained with the Western Franks (i.e. the French). The Pope had the power, and should exercise it, to correct this aberration and confer the dignity back on the French crown.⁴⁸

Stepping back from Dubois' *pro domo* arguments, the dispute over the questions to what extent we can in the early fourteenth century employ the concepts of sovereignty and, related to it, international law, is a live one. Academics studying the history of international relations argue that a concept of sovereignty began to be developed in the thirteenth and crystallised in the fourteenth century.⁴⁹ It is, I

ted in Philipp's move to tax clerical property. LATHAM sees this altercation, and especially the polemical literature arising from it, as pivotal to the development of the notion of sovereignty, pp. 8, 45-54 and *passim*; BRIGUGLIA, pp. 14-15; Boniface was considering abrogating *Per venerabilem* and re-asserting the French king's subordination to the Holy Roman Emperors – JOSTKLEIGREWE, p. 58.

46 DUBOIS, pp. 30-33 (§13 / cap. VIII); JOSTKLEIGREWE, pp. 53-54 – arguing for the concept's importance for especially for the ideology of French national identity *ibidem*, pp. 50-52. See also LATHAM, p. 35.

47 The phrase *princeps christianissimus* with DUBOIS, p. 252 (§111 / cap. LXX); FORCADET, « Conseiller », pp. 225-27; *idem*, « Prétexte de croisade », p. 82; GALERAN, p. 243; not specifically on Dubois JOSTKLEIGREWE, pp. 51-52.

48 DUBOIS, p. XXVII; FORCADET, « Prétexte de croisade », pp. 85-86; FEDELE, pp. 102-03; without reference to Dubois JOSTKLEIGREWE, pp. 60-62.

49 For many LATHAM, who defines "sovereignty" as the "supreme authority to command, legislate, and judge" – p. 1. Clarifying the legal concepts of "legislation" and "judging" Pierre-Anne FORCADET, « Arbitrage, justice internationale et souveraineté au XIII^e siècle », in *Avant l'état: Droit international et pluralisme politico-juridique en Europe, XIII^e-XVII^e siècle*, FEDELE, Dante, LESAFFER, Randall, SAVY, Pierre (eds. – Rome, Historia et Ius, 2004),

believe, a persuasive one. It does not matter whether this was accidental or done deliberately. In other words, did the various intellectuals and pamphleteers formulating aspects of the doctrine already have in mind the concept of sovereignty that formed the basis for the Westphalian System, or as sovereignty was defined by Jean Bodin and Emer de Vattel? Or were they simply arguing ephemeral narrow polemics?⁵⁰

The Tract De recuperatione terre sancte

Latin Outremer's last major base in the Holy Land, Acre, had fallen in 1291. The Knights Templar still held on to Ruad, a small island fortress off the coast north of Tripoli until 1302. Plans to reestablish a Latin presence in the Holy Land commenced little later. Dubois evidently wrote the *Recuperation* in two stages, explained in §110. According to this passage, Dubois transmitted the first part to King Edward I, whose advisers vetted and commented the text. The second part then was directed at King Philipp the Fair and focused more specifically on the political, economic and diplomatic environment in France as it pertained to the implementation of Dubois' proposals.⁵¹

Dubois was exceedingly vague about exactly how the Holy Land should be recaptured. Twice he said that the contingents should travel mostly by land, but also by sea, but was no more specific.⁵²

Otherwise, he pointed to his previous work in two places. The title references are similar, but not identical. *Super abbreviatione guerrarum et huiusmodi provisionibus*⁵³ and *De abbreviatione guerrarum et litium regni Francorum et de ref-*

pp. 99-115, at pp. 99-103. For the very different lens applied to the concept of sovereignty by legal historians also QUAGLIONI, pp. 22-30. FORCADET (*ibid.*, p 112-13) further points out that in thirteenth century French vernacular usage, *souverain* was a current and uncontroversial term, referring to a lord's jurisdictional authority within the vassalitic hierarchy of feudal law – a very different concept than the international or constitutional law concept of “sovereignty,” for which contemporary Latin used variations on the term *superior* (ref. QUAGLIONI, p. 25).

50 FORCADET, « Arbitrage », p. 102; JOSTKLEIGREWE (p. 79) advocates the second view. On Bodin's developed concept of sovereignty QUAGLIONI, pp. 48-53.

51 DUBOIS, pp. XLVI, 248-49 (§110 / cap. LXIX *in fine*); the first part comprised §§1-109 (cap. I-LXIX), the second part the remainder, §§110-142 (cap. LXIX-LXXXIII).

52 DUBOIS, pp. 46-51 (§26 / cap. XII), pp. 222-25, (§§104-105 / cap. LXIII); see below fn. 103, 105.

53 DUBOIS, p. 268 (§117 / cap. LXXII).

*ormatione status unibersalis reipublice christicolarum*⁵⁴ leave little doubt that he was referring to his earlier, shorter Abbreviation.

His one other military comment targeted the military constitution of his day. Dubois was highly critical of the prevalent practices for raising the French host. Feudatories of the king who should be serving because they were under a duty to do so instead claimed payment, he said, sometimes from several sources.⁵⁵ Alternatively, they bribed the king's officials to be exempted from serving.⁵⁶ To make up the numbers for his armies, the king was relying on the *retrobannum* or general levy – the men beholden to the crown's feudatories. These would normally be subject to call-up only in the gravest emergency, and then only as contingents of the crown's feudatories, not called up directly by the crown.⁵⁷ The individuals making up this general levy were too poor to afford the time off work to render service and were ill equipped, resulting in a host that was great in numbers but no more than an ineffectual rabble. Dubois urged a return to the feudal principles of military service, where the crown's wealthy feudatories served as of duty, and the general levy was not burdened.⁵⁸

But the vast bulk of his tract instead dealt with organisational and flanking measures: Peace in Europe to free up money and troops for a Crusade; lay administration of ecclesiastical property, again to free up funds; education of likely boys and girls in languages, skills, and religion to anchor Catholic rule once the Holy Land was recaptured; the political reorganisation of Europe under the leadership of the French crown; and some other issues, such as criticism of Philipp's debasement of the currency.

In this article, references are to the Recuperation unless otherwise stated.

54 DUBOIS, p. 282 (§120 / cap. LXXV).

55 DUBOIS, pp. 284-95 (§§121-127 / cap. LXVI-LXXVIII).

56 DUBOIS, pp. 296-307 (§§128-134 / cap. LXXVIII-LXXX).

57 For background see Caroline DECOSTER, « La fiscalisation des aides féodales sous le règne de Philippe IV le Bel : une stratégie au service de la souveraineté royale », in *Monnaie, fiscalité et finances au temps de Philippe le Bel*, in CONTAMINE, Philippe, KERHERVÉ, Jean, RIGAUDIÈRE, Albert (eds. – Vincennes, Institut de la gestion publique et du développement économique, Comité pour l'histoire économique et financière de la France, 2007, <https://doi.org/10.4000/books.igpde.10333>; open access online).

58 DUBOIS, pp. 284-305 (§§121-132 / cap. LXXVI-LXXX); FORCADET, « Conseiller », pp. 218-19 – though in a situation of *necessitas* (a Roman law concept), the king could directly summon the *retrobannum*.

The Tract De abbreviatione guerrarum

The Abbreviation was written anonymously in 1300. It is addressed to King Philipp IV, though there is no formal dedication or evidence of the tract having been handed to the King or to the court.

Dubois already discussed in the Abbreviation some of the issues he fleshed out in the Recuperation; main commonalities and differences will be pointed out. A key difference is that the Abbreviation did not focus on the reconquest of the Holy Land. What is known about Dubois' other works and his personal history argues that he genuinely believed in the effort, and he was not just cynically leveraging the reconquest as a vehicle for advancing his pet plans.⁵⁹ This article cannot provide more clarity on this question.

The Abbreviation is much shorter than the Recuperation, only about a third of the length. Stylistically, it is less well edited than the Recuperation. Sentences are occasionally rambling and sometimes opaque, and there are many repetitions in the text.

The original does not have a formal title; in the Recuperation, Dubois refers to this earlier text under the title *De abbreviatione guerrarum et litium regni Francorum et de reformatione status unibersalis reipublice christicolarum* (On the abbreviation of wars and law suits of the Kingdom of France and the reformation of the universal condition of the commonwealth of Christians). Other editors have chosen the title *Summaria brevis et compendiosa doctrina felicis expeditionis et abreviacionis guerrarum ac litium regni francorum* (Brief and summary resumé on a felicitous approach to expedite and curtail the wars and law suits of the Kingdom of France).⁶⁰ Both versions of the title point to the two subject-matters that take up the bulk of the text: Curtailing armed conflicts in and around France, and reforming legal procedure.

The objective for Dubois was to enable the French crown to establish itself as the undisputed and unthreatened power in Europe; proud rebellious lords and barbarian princes alike would be subdued.⁶¹ Dubois began his discussion on the armed conflicts with a historical review; in the early days of the Frankish realm,

⁵⁹ LEOPOLD, pp. 30-32.

⁶⁰ DUBOIS, pp. 331-32.

⁶¹ DUBOIS, pp. 350-51 (fol. 1^r).

the land was thinly populated, game abounded, and armies were small. A force could live off the land. Armaments consisted of cuirass, helmet, and shield, fighters wielded swords and daggers.⁶² That had now changed. The dominance of the French forces lay in their knightly cavalry. But even minor lords had realised that a castle negated the power of the cavalry. Besieging a castle took time, while the attacker incurred heavy costs for the maintenance of the idle horses. Too often, the rebels would not be overcome.⁶³

If a rebellious lord would eventually be subdued, by rights, he and his family and entourage had earned the death penalty. But it was both cruel and unrealistic to visit such destruction on so many. In combination, the consequence was that the cost of rebellion, whether successful or not, was low.

Dubois' suggested solution was to use the superior royal field force to flood and devastate the rebellious lord's countryside. This would rapidly bring the rebels to reason. Having made a dramatic example of some rebellious princes, the mere threat would be enough to achieve submission.⁶⁴ To those who would argue that such a method of waging war was contrary to the successful strategy of Charlemagne, Dubois answered that the situation in Charlemagne's days was different. Change in response to changing conditions was not a bad thing; Islamic philosophers, so Dubois, bemoaned the straitjacket imposed on society by the doctrine of immutable laws.⁶⁵

Having established peace and dominance for the benefit of the commonwealth,⁶⁶ the French king could confer on the papacy the true secular dominion over Tuscany, the Kingdom of Sicily, the City of Rome, and the Donation of Constantine. But popes were generally not well suited to exercise secular rule and the military effort that went with the job. They were typically elected when they were already advanced in age, and they had not had experience in government or military leadership. The secular administration of the papal holdings should therefore be under the guardianship of a king who was able to discourage attainders on the

62 DUBOIS, pp. 352-53 (fol. 1^v), 380-81 (fol. 6^{r-v}).

63 DUBOIS, pp. 354-59 (fol. 2^{r-v}).

64 DUBOIS, pp. 370-75 (fol. 4^v-5^v); FORCADET, « Conseiller », pp. 217-18.

65 DUBOIS, pp. 376-83 (fol. 5^v-6^v). In passing, Dubois recalls that Charlemagne subdued the Lombards, got himself appointed Roman Senator, and acquired the right to appoint popes and prelates – *ibid.* pp. 378-79 (fol. 6^r).

66 DUBOIS, p. 382 (fol. 6^v): “propter tocius rei publice salutem”.

papal holdings – and in the world there was no prince more suited for this role than the King of France.⁶⁷

At the same time, the recalcitrant Lombards could be brought to heel, and the proper rule by the German crown reestablished in Lombardy. This would put an end to the depredations the Lombards visited on others. The kings of Sicily and Germany would surely and gladly assist in the effort.⁶⁸ Key to any success was that an expeditionary force would remain in the subdued territory and not simply return home once victory was achieved. France for instance could easily raise 2,000 cavalry composed of landless knights and 80,000 foot for a force that could remain in place, and doing so would not diminish the military power of France.⁶⁹

The military part of the Abbreviation formally concluded with an emphatic “Amen”, to be followed on a new folio by a disquisition on legal procedure.⁷⁰ To recall, Dubois in the Recuperation pointed to his earlier tract the Abbreviation for specifics on the military aspects of the reconquest of the Holy Land. Reviewing the first, military half of the Abbreviation, one is, I submit, none the wiser on how the reconquest should be undertaken.

Continuation of the tract: De abbreviacione litium regni Francorum

The main issue with legal procedure identified by Dubois was the effort of the clergy to insulate themselves from royal jurisdiction.⁷¹ The clergy rejected efforts of the royal courts to enjoin clerics and clerical assets even in matters clearly

67 DUBOIS, pp. 382-91 (fol. 6^v-8^r); and after all, the French king as successor to Charlemagne was also hereditary Roman Senator – see fn. 65. FORCADET, « Conseiller », pp. 226-27; *idem*, « Prétex de croisade », p. 83-84. Charles I of Anjou had repeatedly had himself elected Roman Senator.

68 DUBOIS, pp. 390-95 (fol. 8^r-9^r). FORCADET, « Prétex de croisade », p. 80. A later passage recommends the subjection of Hungary as well, *ibid.* pp. 402-03 (fol. 10^v). In Hungary, Charles Robert of Anjou, a grandson of Charles II of Anjou, had been elected king in 1301, but was not able to assert himself against competitors until 1312. It also has to be borne in mind that at the time, there were two Kingdoms of Sicily, one comprising the island itself and then reigned by Frederick III of Aragon, whom Dubois considered an usurper (see fn 28 and 120). The other, centred on Naples, consisted of the southern half of the boot and was reigned over by Charles II of Anjou (1254-1309), son of Charles I.

69 DUBOIS, pp. 394-95 (fol. 9^r).

70 DUBOIS, pp. 410-11 (fol. 12^r).

71 DUBOIS, beginning pp. 410 (fol. 12^v); on the background FEDELE, pp. 67-74.

secular, and they retaliated against any royal officials who had the temerity to try by excommunicating and publicly shaming them. This, Dubois insisted, had to stop – and he pointed to the practice of the English kings to imprison obstreperous bishops, without any protest from the Pope.⁷² After all, the Pope himself had confirmed the French king as being a prince who had no superior in his kingdom. Denying the king the exercise and enforcement of royal jurisdiction throughout his realm would suggest that the king was not indeed sovereign, contradicting the premise.⁷³

A further device by which the clergy inserted themselves into secular affairs was by providing certifications – and in the process might, if it affected Church interests, slant the certification to their advantage; Dubois suggested that the French crown should itself establish such a service.⁷⁴

Another issue with civil procedure briefly referenced later in the text was that law suits took far too long and were far too costly, due to lawyers devising ever more elaborate schemes for delay and inventing new legal concepts to distract from a common-sense resolution. The effect was that the nobility saw their funds, energies, and focus diverted from the pursuit of arms to sterile legal wranglings.⁷⁵ However, Dubois did not offer a remedy here.

As an aside, in the *Recuperation* Dubois recommended the promulgation of a civil procedure specifically for the reconquered Holy Land, supported by two key arguments; a bespoke civil procedure code would provide the opportunity to rationalise and streamline the process, discarding the Baroque accretions proliferating in France. Secondly, it had to be a procedure that applied equally to all residents in the Holy Land, never mind where in Europe they had hailed from. It had to be a stand-alone effort that united all; if it were identified with any particular European kingdom, it would lead to division and disaffection.⁷⁶

72 DUBOIS, pp. 462-63 (fol. 23^v).

73 DUBOIS, pp. 462-65 (fol. 23^v).

74 DUBOIS, pp. 434-39 (fol. 18^{r-v}).

75 DUBOIS, pp. 506-09 (fol. 31^v-32^r). Marinus de Caramanico mentions among the motivations that caused him to compile his gloss at that particular time the need to counter lawyers' self-serving interpretations and sowing confusion: CALASSO, p. 204.

76 DUBOIS, pp. 184-207 (§§90-99, cap. LV-LVIII); FORCADET, « Conseiller », p. 224; *idem*, « Prétexte de croisade », pp. 74-76.

The Abbreviation dealt with a few other issues; one touched on only briefly was the debasement of the currency, leading to inflation and bad money driving out the good.⁷⁷

A further, somewhat surprising one was the celibacy of the clergy – it was a subject not raised in the Recuperation, maybe because his far more radical proposals there obviated the need. Dubois carefully prepared his argument by referencing St Augustine. In an effort to ensure the excellence of the priesthood, St Augustine had decreed that he would refuse to consecrate anyone who was not willing to completely commit himself to a religious life. The effect of this well-meant policy, St Augustine found, was that individuals in an effort to please him and win ordination would commit the mortal sin of perjuring themselves, of dissimulation and hypocrisy. This was far more deleterious to the morale and standing of the priesthood than slight imperfections in their *vita religiosa*. So St Augustine publicly reversed himself, withdrawing his decree.⁷⁸

Similarly, celibacy had been a well-meaning policy advocated by the Church Fathers – who, when they propounded it, were all of advanced age and decrepit and so were not sacrificing anything.⁷⁹ The policy went against clear Scriptural advice, as when St Paul said that *every* man shall have his wife so as to avoid fornication and enable chaste living – making no exception.⁸⁰ But even worse, it led precisely to the dissimulation and hypocrisy St Augustine had realised were the real-life effects of his own policy. Reversing a policy that had proved itself to be counterproductive was not inconsistent with Scripture; indeed, the Lord Himself had used the New Testament to correct the Old.⁸¹ In the same vein, his sainted majesty the king should argue both utility and necessity to revise the policy. In doing so, he would be acting for the common weal on the basis of prudence, according to Aristotle the queen of virtues.⁸²

77 DUBOIS, pp. 508-13 (fol. 31^r-33^r); this issue is picked up again and elaborated in the Recuperation, see below fn. 118.

78 DUBOIS, pp. 486-91 (fol. 28^{r-v}).

79 DUBOIS, pp. 492-95 (fol. 29^r).

80 DUBOIS, pp. 492-95 (fol. 29^r); 1 Corinthians 7:2.

81 DUBOIS, pp. 502-03 (fol. 31^r).

82 DUBOIS, pp. 502-05 (fol. 31^v).

Peace – for Europe

Dubois began his Recuperation with a call for peace. But for Dubois, peace was a means to an end: Though he quoted Aristotle's dictum of war as an intrinsic evil,⁸³ the Recuperation only objected to wars among Christians. The reason for the objection was that such wars distracted Christians from where the focus of their efforts should be, that is, to make war on the Saracens in order to re-conquer the Holy Land.

Any nobleman who engaged in warfare against his fellow should be deprived of his lands and wealth. He and his followers should be shipped to the Holy Land, to apply their belligerence against the Saracen and in aid of the reconquest. Good behaviour and performance could win back enough of the wealth to reestablish him, but in the Holy Land. The excess confiscated wealth would be used to fund the reconquest.⁸⁴

All these measures would be proclaimed by a General Council to be called by Edward I and presided over by the Pope. The Council would also issue a plenary indulgence for all participants in the Crusade.

Disputes between sovereign princes and cities like the Italian cities (*civitates et multi principes in terris superiorem non recognoscentes*)⁸⁵ regarding any of these issues would be heard by a tribunal composed of twelve arbitrators, where each of the litigants nominated three bishops and three lay arbitrators; the lay arbitrators should be chosen from the wealthy so that they were not prone to bribery. The Pope would act as the only and final appeal authority.⁸⁶

While with the concept of sovereignty Dubois was following a nascent doctrine, with his proposal on arbitration tribunals he was attempting to leverage a receding practice – and receding precisely because of the coalescing notion of sovereignty. In the thirteenth and into the fourteenth century, jurisdiction – in the sense of a court's competence to resolve disputes laid before it – was not linked to sovereignty in the modern sense. Dispute resolution was a service provided to the

83 DUBOIS, pp. 8-11 (§3 / cap. III); also in the Abbreviation, pp. 360-61 (fol. 3^v), though since the Abbreviation does not advocate an invasion of the Holy Land, the statement is more internally consistent there.

84 DUBOIS, pp. 16-27 (§§3-11 / cap. IV-VI); FORCADET, « Conseiller », pp. 222-23.

85 DUBOIS, p. 26 (§12 / cap. VII); FEDELE, pp. 138-42.

86 DUBOIS, pp. 26-29 (§12 / cap. VII).



Fig. 3 – Pope Boniface VIII declares the Jubilee Year 1300
Giotto, Fresco in St John in Lateran, Rome (early 14th century)
Wikimedia Commons, public domain

litigants, and courts competed with each other to attract litigation by providing a superior service in terms of costs, efficiency, and professionalism.⁸⁷ Edward I frequently appeared in the *Cour du roi* in Paris, both as claimant and defendant;⁸⁸ the English king Henry III and his rebellious barons submitted their dispute to St Louis IX for arbitration in 1264, resulting in the Mise of Amiens;⁸⁹ and Philipp

87 FORCADET, « Arbitrage », pp. 104-05; similarly, lordly court proceedings in compelled jurisdiction (e.g. violent crime) as well focussed more on composition and resolution than on retribution and punishment: KAMP, pp. 31-34.

88 FORCADET, « Arbitrage », p. 107.

89 FORCADET, « Arbitrage », p. 110 – which was rejected by the barons and war resumed.

IV himself submitted a dispute with Edward I to arbitration by Boniface VIII.⁹⁰

So the notion of sovereign princes submitting their disputes to arbitration in and of itself was not a revolutionary concept in Dubois' time. But Dubois of course went a step further; though the composition of the tribunal mirrored the modern practice of having the litigants nominate the arbitrators, Dubois' tribunal was a compulsory, not a voluntary one. There was the possibility of appeal, but it was to the Pope, who by that time was in French "Babylonian Captivity."⁹¹ In line with the general thrust of Dubois' tract, the proposal can be seen as yet another device to mediate the pre-eminence of the French king.⁹²

Reorganisation of the Holy Roman Empire

A further measure to secure peace should be a reorganisation of the Holy Roman Empire, which Dubois saw as coterminous with the German kingdom. In the passage, he used "Emperor" and "(German) King" interchangeably. The elective nature of the dignity led to instability and wars, Dubois argued, and the amount of money required to be spread among the electors to win the election could be put to better use. All this would be avoided by making the dignity hereditary, in the Habsburg line.⁹³

At the time of Dubois' writing, there was no anointed Holy Roman Emperor, and had not been since the death of Frederick II of Staufen in 1250. Rudolph I of Habsburg had secured for himself the German crown in 1273, ending the *interregnum* that followed Frederick's death. Rudolph was the first of the Habsburgs to do so, but was unable to obtain his coronation as Holy Roman Emperor before his death in 1291. He tried to pass the German crown on to his son Albert, but the electors chose Adolph of Nassau instead. In 1298 then, Albert managed to

90 FORCADET, « Arbitrage », p. 114. It also has to be borne in mind that in the medieval conception of law, law was a universally pre-existing, transcendental and for mortals immutable artefact; law was *found*, not *made*: QUAGLIONI, pp. 23-24. As popes and Holy Roman Emperors laid claim to the classical Roman law prerogative of the *princeps* to legislate as it was expressed in Justinian's *Corpus Iuris*, and this prerogative was claimed by the kings *superiorem non recognoscentes* as well (see Marinus de Caramanico, fn 36), so not just procedural law, but also substantive law progressively became a hallmark of sovereignty.

91 FORCADET, « Conseiller », p. 227.

92 FORCADET, « Arbitrage », p. 112; *idem*, « Conseiller », pp. 220-22, 225-27.

93 DUBOIS, pp. 30-33 (§13 / cap. VII), pp. 260-63 (§116 / cap. LXXI).

gain the German crown, but was assassinated in 1308, not having been anointed Emperor. He was succeeded by the short-lived Henry VII of Luxembourg as German king, crowned Holy Roman Emperor in 1312. It was not until Frederick III's coronation in 1452 that a Habsburg became Holy Roman Emperor.

Philipp initially had a close relationship with the Habsburgs. Rudolph in 1280 agreed a settlement on the investiture of Provence, easing its later complete integration into the French kingdom.⁹⁴ Philipp in 1299 further agreed the marriage of his half-sister Blanche to Albert's son Rudolph, but Blanche died in 1305 and Rudolph in 1307; there were no surviving children.⁹⁵

The preceding paragraph may give an indication why Dubois was arguing for making the Imperial crown hereditary specifically to the Habsburgs. While the Habsburgs were at the time a reasonably prominent house in Germany, they had neither the power nor the seemingly perennial claim to the Holy Roman crown they acquired in the fifteenth century. In the Abbreviation, Dubois argued that the future children from the marriage between Blanche and Rudolph should be educated at the French court, with a view to them eventually inheriting the Imperial crown. Dubois was *avant la lettre* channelling for France the verse later ascribed to the Habsburgs: *bella gerant alii | tu felix Austria nube*.⁹⁶

By the time of writing of the Recuperation, Dubois' cunning plan had of course fallen apart, though he still clung to it. Maybe he harboured hopes of persuading Philipp to pursue a dynastic strategy in Germany. In any event, the secular rivalry between France and the Habsburgs was still generations in the future.

Resolution of the Castilian Succession and Completion of the Reconquista

Another issue Dubois felt needed to be resolved by Philipp was the disputed Castilian succession. On the death of Alfonso X in 1284, the Castilian crown passed to – or was usurped by, as Dubois saw it – Alfonso's brother Sancho V, instead of passing to the children of Alfonso's predeceased eldest son, known as Ferdinand de la Cerda and married to Blanche, a daughter of St Louis IX.

94 DUBOIS, p. 363, fn. 14. One of Charles I of Anjou's fiefs was the Duchy of Provence, then still part of the German-Italian *regnum*.

95 Dealt with in the Abbreviation: DUBOIS, pp. 402-05 (fol. 10^v).

96 DUBOIS, pp. 402-05 (fol. 10^v).

The Pope should compel Sancho V, Dubois wrote in the *Recuperation*, to deploy the full military might of Castile to remove the remaining Saracens from Iberia and so redeem himself. The crown of Granada could then be conferred on Ferdinand de la Cerda's eldest son, and other issues resolved contemporaneously.⁹⁷

Dubois addressed the Castilian succession already in the *Abbreviation*. There, Dubois challenged Philipp to avenge the wrong done to the honour of France (by way of Blanche's involvement) and by extension to the memory of Charlemagne, who had invested so much effort into his campaigns south of the Pyrenees.⁹⁸

Merger of the Assets of Templars and Hospitallers

The assets of the Hospitallers, Templars and other orders originally tasked with defending or aiding the Holy Land should be placed under unified, secular administration. Those of the Brothers who were capable of fighting should do so for the benefit of the Crusade; those who were not should be retired to Cistercian monasteries, where they would have to live a properly monastic though still comfortable life. The commanderies of the Orders would generate the supplies for the Crusade, their ships undertake the logistics. The sheer amount of income the Orders were generating would be made public. This would reveal the extent to which the Orders had been preying on the faithful, and so finally destroy any goodwill they might have enjoyed.⁹⁹

The idea to unify the Orders was not a new one, it had already been proposed at the Council of Lyons in 1274.¹⁰⁰ Pope Clement V suggested it to the respective Grand Masters in 1305. Philipp made his move against the Templars on 13th October 1307, so about six months before Dubois handed his tract to the King's chancellery. Dubois did of course know of the arrests; he attended the 1308 Estates

97 DUBOIS, pp. 218-222 (§103 / cap. LXII), pp. 264-67 (§116 / cap. LXXI); already in the *Abbreviation*, pp. 398-99 (fol. 9^v). Philipp had been closely involved with the disputes and wars around the throne of Aragon – including the futile effort to make his younger brother Charles of Valois King of Aragon – already as crown prince: Léo PERRET, « Philippe le Bel avant Philippe IV, quelle diplomatie? (1276 – 1285) », *Medievalista* 36 (2024), DOI: <https://doi.org/10.4000/12ufl> (open access online).

98 DUBOIS, pp. 398-99 (fol. 9^v).

99 DUBOIS, pp. 32-37 (§§14-15 / cap. IX).

100 DUBOIS, p. 35, fn. 24.

General in Tours, where the issue was discussed.¹⁰¹ But the fate of the Templar assets had at that point not been decided.

Beginning the Crusade and Securing the Holy Land

To launch the Crusade, the Pope acting through the Council should instruct bishops and princes, and anyone else who was able to, including wives and widows, to raise as many troops as possible. They should be in splendid uniforms, different for cavalry and infantry, and equipped with impressive arms. Their departure for the Holy Land should be launched in a gay parade, accompanied by marching bands, to instil hope, optimism, and moral support for the effort.¹⁰²

Dubois was exceedingly vague about exactly how the Holy Land should be recaptured. In two separate passages, he dealt with the route. Given the challenges of maritime transport, especially for horses, the bulk of the troops should travel overland. In the first relevant passage, he advised the contingents from Germany, Hungary, Greece, and all to the north of these, to follow Charlemagne's example and march by land, taking the route Emperor Frederick I had embarked on 1190 when he drowned in the Halys. Arrangements should be made with the Byzantine Emperor for passage and supplies. The contingents from France, Spain, and all Italian polities would travel by sea, though those who wanted to avoid the journey by sea could choose the land route, the additional expense being for their account.¹⁰³ In a later passage, he advised that the host should be split into four corps, three of which would travel by sea and one, the largest one, by land. The land-based contingent should follow the route taken by Charlemagne, Emperor Frederick I, and Godfrey of Bouillon.¹⁰⁴

On the return journey, the land-based contingent could oust Andronicus II Palaiologos and put Charles of Valois on the throne. The preoccupation with the Eastern Empire is already evident in the Abbreviation; Dubois there, in 1300, suggested that Charles should marry the daughter of "the Emperor" – by which he

101 DUBOIS, p. XXVI.

102 DUBOIS, pp. 36-39 (§16 / cap. X); FORCADET, « Conseiller », pp. 223-24.

103 DUBOIS, pp. 46-51 (§26 / cap. XII); Frederick's death brought the Third Crusade to a premature end – see below fn. 121.

104 DUBOIS, pp. 222-25 (§§104-105 / cap. LXIII) FORCADET, « Conseiller », pp. 223-24; *idem*, « Prétex-te de croisade », pp. 77-78.

meant Baldwin II, the last Latin emperor in Constantinople (1217-1273, emperor 1240, deposed 1261). Charles in 1301, the year after the Abbreviation was written, indeed married Catherine of Courtenay, Baldwin's granddaughter and titular heir to the (Latin) crown of the Eastern Empire.¹⁰⁵

Once conquered, though, the Holy Land would need to be secured, and most of the Recuperation dealt with long-term measures to ensure continued Catholic control. Some of these measures were specifically military in nature, such as the injunction that magnates should not withdraw all their troops from the Holy Land post-conquest, but leave experienced commanders and elite knights behind to garrison the new frontiers. The major towns should organise their populations and the populations of their surrounding areas into militias.¹⁰⁶ Again, though, the advice remained vague and general.

Secular Administration of Ecclesiastical Property

The secular wealth of the Church and of its senior clerics was a perennial topic of discussion and dispute in the Central and Late Middle Ages; Dubois was not breaking new ground here. His solution was in practice daring, but in its legal underpinnings less radical than competing contemporary proposals.

According to Dubois, all ecclesiastical property, including that of the Holy See, should be put in trust to secular administrators, who would from the proceeds finance the clerical maintenance. The advantage of this arrangement would be that clerics would be weaned off their predilection for expensive law suits and other worldly endeavours to expand their holdings; they would be freed up to focus on their ministry. The resulting cost savings would mean that the senior clerics could be maintained in the lifestyle they had become accustomed to, low-level clerics could be properly paid and would no longer have to prey on the common folk, and there would even be a surplus that could be used to fund the expeditions into the Holy Land.¹⁰⁷ Cautious lawyer that he was, Dubois did not advocate any

¹⁰⁵ DUBOIS, pp. 222-25 (§§104-105 / cap. LXIII) and in the Abbreviation pp. 396-99 (fol. 9^{r-v}); see also below fn. 121. Dubois' strategy to recover the Eastern Empire's crown in the Abbreviation is more convoluted. GALERAN, pp. 243-44.

¹⁰⁶ DUBOIS, pp. 40-47 (§§17-25 / cap. X-XI); FORCADET, « Conseiller », p. 224; *idem*, « Prétexte de croisade », p. 78.

¹⁰⁷ DUBOIS, pp. 80-113 (§§40-57 / cap. XXIII-XXXV).

changes to the ownership of ecclesiastical holdings.

Nor did he base his argument on any Biblical injunction on Church or clerical poverty – at the time an issue of immense brisance, where one could easily tangle with the Inquisition.¹⁰⁸ His framing here is interesting. His proposal, he baldly asserted, was in line with the Word of God.¹⁰⁹ Quoting from Aristotle’s *Nicomachean Ethics*, he then averred that it proceeded with inescapable logic from general principles.¹¹⁰ He finally challenged his putative opponents to demonstrate on the basis of Scripture why his proposal fell foul of Biblical injunctions and should *not* be implemented.¹¹¹ To those arguing that a legal framework once established should not be changed, he countered that Averroes himself opined that the Arabs had suffered much grief from their insistence on the universality and immutability of laws.¹¹²

Education, Especially of Women

Dubois’ advocacy of education in languages, including of women, has been seen as enlightened and modern; on closer inspection, here too Dubois’ policies are very much means to an end.

Dubois’ plan called for scouts to identify four- to five-year-old boys and girls

108 See e.g. the 1302 disputation between John Quidort of Paris with his *Tractatus de potestate regia et papali* and Giles of Rome’s pro-papal answer *De potestate ecclesiastica*: BRIGUGLIA, pp. 19-22 and *passim*. To recall, Giles wrote his main *opus*, the *De regimine principum*, for Philipp the Fair while he was still dauphin; GALERAN, pp. 240-41

109 DUBOIS, pp. 90 (§47 / cap. XXVIII): “Quod hoc provisio sit optima secundum Dei omnipotentis ordinationem, cuius actio, secundum Apostolum, *nostra debet esse instructio*, videtur inconvicibiliter probari posse.” (That this provision is the best in accordance with what God the omnipotent has ordered can incontrovertibly be proven by reference to [the words of] the Apostle [Paul]: His actions must be [understood as] teachings for us.) The quotation attributed to Paul is in fact Dubois’ interpretation of passages in several of Paul’s letters – *ibid.* p. 91 fn. 69.

110 DUBOIS, pp. 92 (§48 / cap. XXVIII): “...Philosophu[s] mera ratione uten[s] scripsi[t]: *Eum qui felicitari debet felicitate contemplativa, oportet habere victum et vestitum et alia necessaria ad procurationem vite, licet non expediat quod sit dominus terre et maris.*” (The Philosopher on the basis of pure reason wrote: He who must find joy in the pleasures of contemplation must have food, clothing, and the other necessities of life; however, it is not meet that he should be the master of land or sea.)

111 DUBOIS, pp. 94-97 (§48 / cap. XXIX).

112 DUBOIS, pp. 96-101 (§48 / cap. XXX); FORCADET, « Prétex de croisade », p. 74.

likely to be able to absorb the education; these should then be completely separated from their families and taught in specialised schools. The curriculum should focus on medicine, surgery, hippiatry, Latin, Greek, and Arabic. The boys should then in the Holy Land primarily function as clerics. Their language skills would enable the Pope to deploy them to bring back into the Roman fold the Christians in the Holy Land, who spoke mainly local languages and did not follow the Roman Church's precepts.¹¹³

The most beautiful girls should be selected for this programme. Like their male counterparts, they should be instructed in Latin, logic, foreign languages, medicine, and surgery, though the curriculum would necessarily have to be dumbed down on account of the fragility of their sex (*propter sexus fragilitatem*). Those physically robust enough for life in the Holy Land should also be instructed in religion. They would be married off to local princes and magnates in the Holy Land (taking care that their husbands would repay the cost of their education so that the programme would remain funded). As mothers, they would raise their children in the Roman faith, and as prominent and skilled individuals, they would become influencers toward their peers – the monogamy of Christianity being particularly attractive.¹¹⁴

The education programme outlined by Dubois was extensive; it was obviously important to him and takes up considerable space in his work, about 25% of the text.¹¹⁵ It was an intense education, and he was prescriptive about the academic curriculum and its phasing. He also stressed the need for practical instruction, especially in arms as well as smithing and carpentry, which were important for the war effort;¹¹⁶ in contrast to his specificity on the academic curriculum, he was hazy about the practicalities of this side of the education.

Evidently, his proposals were not rooted in an enlightened view, intended to benefit the pupil's personal development, but sought to instrumentalise the chil-

113 DUBOIS, pp. 118-21 (§60 / cap. XXXVII) and following *passim*.

114 DUBOIS, pp. 120-25 (§§61-62 / cap. XXXVII-XXXVIII); pp. 176-81 (§§85-87 / cap. LIII-LIV); quotation on p. 178 (§85 / cap. LIII). ANTONY, p. 101.

115 DUBOIS, pp. 170-77 (§84 / cap. LII); the section on education transitions into chapters on imparting legal education, which then continues with a plan to provide a simplified legal system for the Holy Land. FORCADET, « Conseiller », p. 224; *idem*, « Prétexte de croisade », pp. 73-74, 78-80.

116 DUBOIS, pp. 114-83 (§§58-90 / cap. XXXV-LV).

dren for the “greater good”. Having said that, he saw children from all backgrounds, boys and girls, as amenable to education.

Academic research on how common literacy actually was in the Central Middle Ages is currently in flux. The traditional concept of literacy, concentrating on reading and writing fluency in Latin and clerical contexts, is facing finer differentiation. In addition to fluency in the vernacular rather than Latin, there is also a growing recognition of differences in active and passive literacy and of situational, pragmatic literacy. An individual might struggle to write a coherent text but be perfectly fluent in reading. An accountant might be able to read and write out ledger entries with ease but would be baffled by a literary narrative. Some of these differentiations may have been influenced by gender roles.¹¹⁷

Debasement of the Currency

Dubois sharply criticised the King’s debasement of the currency. The “reform”, he said, caused such inflation that the benefit initially won was soon lost. He urged a return to sound money.¹¹⁸

War as Solution

The calling of a Crusade, Dubois argued, presented the opportunity to resolve all the ills he had listed, and it would provide the urgency and common cause to implement the programme he had sketched out. A forgiveness of debts would provide a much-needed economic boost.¹¹⁹

117 Sylvie DUVAL, « La littéracie des femmes à la fin du Moyen Âge », *Médiévales* 75 (2018), pp. 227-48, esp. pp. 230-32.

118 DUBOIS, pp. 306-11 (§135 / cap. LXXXI); for background, see Yves COATIVY, « Les monnaies de Philippe le Bel et leurs avatars », in *Monnaie, fiscalité et finances au temps de Philippe le Bel*, in CONTAMINE, Philippe, KERHERVÉ, Jean, RIGAUDIÈRE, Albert (eds. – Vincennes, Institut de la gestion publique et du développement économique, Comité pour l’histoire économique et financière de la France, 2007, <https://doi.org/10.4000/books.igp-de.10333>; open access online); Ignacio DE LA TORRE, « The Monetary Fluctuations in Philip IV’s Kingdom of France and the Their Relevance to the Arrest of the Templars », in *The Debate on the Trial of the Templars (1307-1314)*, BURGTORF, Jochen, CRAWFORD, Paul F, NICHOLSON, Helen J. (eds. – London / New York NY, Routledge, 2010), pp. 57-68, at pp. 59-63.

119 FORCADET, « Conseiller », pp. 5-7; *idem*, « Prétexte de croisade », pp. 72-73, 84-85, argues that Dubois was a pacifist – based on Dubois’ advocacy of war as an opportunity to change society and his eagerness to wage war on the Saracens (and Emperor Andronicus II), I cannot follow that argument.

On the international plane, the Aragonese Frederick III (1272-1337) could be deprived of Sicily and Sardinia and the respective crowns settled on their rightful kings.¹²⁰ The Crusader army could, once the campaign for the Holy Land was won, be repurposed to oust Andronicus II Palaiologos as Emperor of the Eastern Empire and install Charles of Valois. That would finally give him the crown he was so desperately seeking, and it would secure the newly reconquered Catholic possessions in Outremer.¹²¹

Subsequent Events

The Crusade advocated by Dubois of course never materialised. Philipp moved against the Templars in 1307 – this event happened before Dubois handed his tract to the King, but it is not specifically addressed by Dubois.

The years between the Abbreviation and the Recuperation were militarily eventful for France, but Dubois makes no mention. 1302 saw the humiliating defeat at the hands of Flemish infantry at the Battle of the Golden Spurs outside Courtrai/Kortrijk, in which a great number of French knights, including several prominent peers of France, were killed. The Battle of Arques the following year was technically a draw; the French cavalry were unable to overcome the Flemish infantry on open ground. Since France needed a victory, the outcome favoured the Flemish.¹²²

French arms redeemed themselves in 1304. First, the French navy defeated the Flemish at Ziekerzee. The decisive Battle of Mons-en-Pévèle later the same year was a close-run thing; the Flemish nearly succeeded in breaking the French army and came close to killing Philipp himself. It was Philipp's personal intervention to rally the French infantry that swung the battle in France's favour. The

120 DUBOIS, pp. 220-23 (§103 / cap. LXII *in fine*), 260-61 (§113 / cap. LXI), 266-67 (§116 / cap. LXXI *in fine*); FORCADET, « Prétexe de croisade », p. 85; see also fn 97. Frederick was the third son of Peter III of Aragon, who had dispossessed Charles I of Anjou of the island of Sicily in the Sicilian Vespers 1282 (see fn 68). Sardinia was claimed by the papacy as a fief following the demise of Byzantine rule, and Pope Boniface VIII granted the island to James II of Aragon in 1297. However, *de facto* Aragonese rule was not established until 1324. On Sardinia's particular constitutional history and the *giudicati* DEMONTIS, pp. 16-24.

121 DUBOIS, pp. 250-77 (§§111-118 / cap. LXX-LXXIII).

122 Kelly DEVRIES, *Infantry Warfare in the Early Fourteenth Century* (Woodbridge, Boydell, 1996), pp. 9-31.



Fig. 4 – Battle of the Golden Spurs (Courtrai/Kortrijk)
Grandes Chroniques de France, BNF Français 2813, fol. 326^r (1375-80)
gallica.bnf.fr / Bibliothèque nationale de France, public domain

subsequent peace secured the lucrative Flemish wool manufacturing towns for the French crown.¹²³

¹²³ DE VRIES, pp. 32-48. On the catastrophic impact of the Flanders rebellion on the French crown's fiscal position DE LA TORRE, pp. 64-65.

There are several ironies here; Dubois' vaunted knightly cavalry performed disastrously at Courtrai and were ineffectual at Arques. The successes at Ziekerzee and Mons-en-Pévèle were to the credit of the French navy (which Dubois does not even mention) and infantry respectively. And the victory at Mons-en-Pévèle was in no small measure due to the king being present at the battle – incidentally the only battle in which Philipp was personally involved while he was king. Not only was he present, he risked his life in the thick of the fighting and turned defeat into victory through his personal intervention. Had he stayed at home in safety, as Dubois advised, the battle would likely have been lost, and with it the income from the Flemish towns.

Another event absent from Dubois' tract is the expulsion of the Jews from France in 1306. Since this was a measure which the King (vainly) hoped would aid in stabilising the kingdom's currency,¹²⁴ and Dubois specifically made an issue of the crown's monetary practices, it is noteworthy that Dubois did not even mention Jews or the event.

Philipp the Fair died in 1314, to be followed in rapid succession by his three sons Louis X, Philipp V, and Charles IV. In 1337 then, the Capetian line ended with Charles IV's death. The French crown passed to Philipp VI of Valois (1293-1350), son of the ever-crownless Charles of Valois, and the event that provided the *casus belli* for the Hundred Years' War.

Summary, Conclusions, and Outlook

Toward the end of the first part of the Recuperation, Dubois commits his tract to the confidential attention of the King and the Pope, mentioning that he had made enemies in compiling his plans.¹²⁵ Dubois' elevation and – by equating his authority to that of the Holy Roman Emperor – sacralisation of the king implied a complete submission of the nobility to the crown, a precursor of absolutism. At the same time, he advocated the secularisation of all ecclesiastical property. It is therefore scarcely surprising that the broad nobility and the ecclesiastical hierarchy would be displeased.

¹²⁴ DE LA TORRE, pp. 65-66.

¹²⁵ DUBOIS, pp. 228-29 (§106 / cap. LXIV), pp. 312-13 (§136 / cap. LXXXII); FORCADET, « Prétexte de croisade », p. 72; GALERAN, pp. 213-15.



Fig. 5 – Philipp IV and his Family
 Raimon Gaucelm de Bézier, BNF Latin 8504, fol. 1^v (1313)
 gallica.bnf.fr / Bibliothèque nationale de France, public domain

As a person, Dubois (to me at least) remains opaque.¹²⁶ His argument on the celibacy of the clergy shows a flash of humanity. His plans for the hothousing of likely ideological child soldiers for deployment as clergy and marriage material in the Holy Land point in the opposite direction. He is unequivocal in his dehumanisation of his intended Saracen adversaries, even though both of his intellectual mentors, St Thomas Aquinas and Siger of Brabant, never mind their narrow ideological differences, were both pioneers in humanising the ideological other. Even though he upholds Aristotle's qualification of war as inherently evil, he extolls war against Saracens as falling outside the injunction and hails a renewed Crusade as the opportunity to overturn established law and institute a new world order.

In the matter of practical strategies for the curtailment of wars, let alone the reconquest of the Holy Land, Dubois' proposals are quite thin, especially when

¹²⁶ See also GALERAN'S speculations on Dubois' motivations and character (pp. 245-49).

compared to the geographic detail and tactical as well as strategic thoughts his contemporaries in the recuperation genre put into their treatises.¹²⁷ Most of the text of the *Recuperation* revolves around measures for ensuring the preservation of Catholic control of the Holy Land once it has been reconquered, and here Dubois' advice, while ambitious, is solution-oriented. As mentioned, the scheme to educate boys and girls to function as society-penetrating purveyors of Catholic faith and rule takes up roughly a quarter of the *Recuperation*. The other topic taking up considerable space in both the *Recuperation* and the *Abbreviation* is the integration of the clergy into the secular power structures of the kingdom. It is of course a partisan project, and Dubois argues his master's case forcefully.

Regardless, there is a clear red thread of continuity from his earlier tract to the *Recuperation* treatise. With compelling, stringent logic, Dubois combines so many elements from the intellectual ferment of his day into his proposals that giving all of them their proper due is a formidable task. This article could only scratch the surface.

Having said that, Dubois did not advance any new theories or intellectually engage with the controversies. Neither his biography nor the references he adduces suggest that he was familiar with the writings of prominent exponents of royal sovereignty; he probably gathered his knowledge on these elements through his social and professional circle. He accepted as given such matters the sovereignty (within the conceptual categories of his time) of the French king or the circumscribed extent of the Holy Roman Empire, and with that the narrow secular authority of the Holy Roman Emperor. Combined with the limited circulation of his tracts, it seems unlikely that Dubois had any effect or resonance among his contemporaries and immediate successors. His texts are interesting as a reflection of the discussion in his time at the intellectual consumer level, so to say.¹²⁸

The line of argument developed in favour of the sovereignty of royal crowns as against both Pope and Emperor however bore the seed of another idea that was to flower centuries later: That of popular sovereignty. Already discussed by intel-

127 Compare the literature referenced by the editors: DUBOIS, pp. XXXVI-XLI; Emmanuelle VAGNON, « Géographie et stratégies dans les projets de croisade, XIII^e-XV^e siècle », in *Les projets de croisade*, PAVIOT, Jacques, BALOUP, Daniel, JOUDIQU, Benoît (eds. – Toulouse, Presses universitaires du Mirail, 2014), pp. 125-50. ANTONY, *passim*.

128 FORCADET, « Conseiller », pp. 211-12.

lectuals in the thirteenth century and famously propounded by Marsilius of Padua in his *Defensor pacis* in 1324,¹²⁹ its practical political relevance can be seen in Philipp IV's decision in 1302 to bolster his position against Boniface VIII by obtaining buy-in from the French Estates General. Philipp IV won the argument that France was sovereign, but at the "cost" of locating that sovereignty in a structured body of the populace, not the person of the king.¹³⁰

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129 See LATHAM, *passim*; collective decision-making was living political practice, supported by legal doctrine – for Italy DEMONTIS, p. 6 and *passim*; Gianmarco DE ANGELIS, « Between Legal Tradition and Political Practice », in *Comparing Two Italies*, MAINONI, Patrizia, BARILE, Nicola Lorenzo (eds. – Turnhout, Brepols, 2020), pp. 27-60.

130 Less pronounced in the Recuperation, it is a view clearly expressed by Dubois in the Abbreviation: Non debet ergo rex querere que sunt propria commoda sed que rei publice expediunt alioquin non regere sed tyrannizare diceretur (Therefore a king should pursue not what is of benefit to himself but rather what is advantageous to the public good, or he would be said to not be ruling, but to be tyrannising); DUBOIS, *Abbreviation*, p. 364 (fol. 3^v); the same again on p. 396 (fol. 9^v) and p. 506 (fol. 31^v).

Having imported the classical Roman law notions of *princeps a legibus solutus* and *plenitudo potestatis* into medieval law, medieval lawyers were keen to balance the notions by differentiating good rule from degenerated forms of rule, fully in line with both Christian doctrine and Aristotelian concepts: QUAGLIONI, pp. 32-35.

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Pasquale Massacra (1819-1849), La madre di Ricciardino Langosco in traccia del cadavere del figlio (episodio dell'assedio di Pavia, 1315). Wikipedia Commons.



Pietro l'Eremita predica la prima crociata, dal codice occitano *Abreujamen de las estorias* (epitome storica), Avignone ca 1321 (BL, Egerton MS 1500, f. 45 v)

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