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## **The Ridale Papal Letters and Royal Charter: a Twelfth-century Anglo-Scottish Baronial Family, the Papacy, the Law, and Charter Diplomatic\***

Three original papal letters issued between 1156 and 1176 for the Ridale family concerning lands in Scotland and the North Riding of Yorkshire survive among the manuscripts of their descendants the Riddells of Whitefield, Hepple, Northumberland.<sup>1</sup> The letters were well known in the nineteenth century but they have been little studied since, despite being amongst the earliest extant papal letters for a twelfth-century baronial family (indeed, the only Scottish examples) and, as a set of such documents, extraordinarily rare.<sup>2</sup> As late as the 1820s, the Riddells also still held a King David I of Scotland charter granting Walter de Ridale land in Lilliesleaf and elsewhere in Teviotdale, Roxburghshire (1145x1153).<sup>3</sup> It is now lost, but its text contains the earliest Scottish royal warrandice clause and one of the earliest Scottish references to tenure for a specified amount of knight service.<sup>4</sup> Pope Adrian IV issued the first papal letter in 1156 for Walter's brother Ansketill, confirming his possessions and especially Walter's bequest to him by his *testamentum* of the Scottish estates. Such a bequest of land held by knight service to a secular beneficiary is another

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<sup>1</sup> Riddell Whitfield MSS, deposited with Northumberland Collections Service, Woodhorn, Northumberland, ZRW/1, ZRW/2, ZRW/3. Editions are listed below.

<sup>2</sup> Sir Walter Scott, for example, knew them to be significant, *Lay of the Last Minstrel* (1<sup>st</sup> edn, London, 1805), 223-4, and they were exhibited at Newcastle in 1886 by the Society of Antiquaries of Newcastle with the permission and support of the then baronet, Sir Walter Buchanan Riddell, Riddell Whitfield, MSS, ZRW/459-ZRW/464. Sir Walter also had a personal interest: ZRW/460 is a response from Falconer Madan, Bodleian Librarian, to a question he posed about the letters.

<sup>3</sup> G.W.S. Barrow, ed., *The Charters of David I* (Woodbridge, 1999), no. 177.

<sup>4</sup> J. Hudson, 'Legal aspects of Scottish charter diplomatic in the twelfth century: a comparative approach', *Anglo-Norman Studies*, xxv (2002), 121-38, 131. This article is an important contribution to comparative Anglo-Scottish diplomatic and law and provides the legal framework for what follows together with two fundamental studies of contemporary warranty and property transfer, P. Hyams, 'Warranty and good lordship in twelfth-century England', *Law and History Review*, v (1987), 437-508, and J.M. Kaye, *Medieval English Conveyances* (Cambridge, 2009).

rarity.<sup>5</sup> Ansketill was also given the right to appeal to the papacy if his property was disturbed. Pope Alexander III confirmed Adrian IV's letter in 1165, incorporating additionally land in Brawby in the North Riding of Yorkshire, and confirming an early example of a judicial settlement negotiated before a Scottish king, Malcolm IV, between Ansketill and Uchtred the priest of Lilliesleaf (itself now lost, but apparently extant c.1705).<sup>6</sup> Between 1166x1176, Alexander III confirmed the same estates to 'W.' de Ridale, Ansketill's son, noted that Brawby was held from Hexham priory, and added an estate in Berwickshire.<sup>7</sup>

Sets of baronial families' documents such as this rarely survive, but can be especially valuable evidence of their cultures, engagements and understandings (as differentiated from those of governments and churchmen) and of, 'what people actually thought about the law'.<sup>8</sup> Like the much better known contemporary record of Richard of Anstey's dealings with episcopal, royal and papal courts and jurisdictions, these three papal letters and the David I charter are potentially valuable evidence of how a minor baronial family conceptualised secular and ecclesiastical law and the papacy in a crucial period in the development of all three in England and, in this case, Scotland.<sup>9</sup>

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<sup>5</sup> J. Hudson, *Land, Law, and Lordship in Anglo-Norman England* (Oxford, 1994), 124-5.

<sup>6</sup> G.W.S. Barrow, ed., *Regesta Regum Scottorum I, The Acts of Malcolm IV King of Scots 1153-1165*, (Edinburgh, 1960), no. 312, citing only the papal letter. For the judgement itself as extant see, Sir James Dalrymple, *Collections Concerning the Scottish History Preceding the Death of King David I in the Year 1153* (Edinburgh, 1705), 348-9.

<sup>7</sup> The four texts are printed below in an appendix because they have not before been published together.

<sup>8</sup> A. Musson, *Medieval Law in Context. The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), ix. See also A. Boureau, 'How law came to the monks: the use of law in English society at the beginning of the thirteenth century', *Past and Present*, clxvii (2000), 29-74; C. Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford, 2003), xi, xii, 4.

<sup>9</sup> P. M. Barnes, 'The Anstey Case', in P.M. Barnes and C.F. Slade, eds., *A Medieval Miscellany for Doris Mary Stenton* (Pipe Roll Society, n.s. 36 (1962)), 1-23; P.A. Brand, 'New light on the Anstey case', *Essex Archaeology and History*, xv (1983), 68-83. For contemporary developments in and relationships between royal and canon law, and church and king in England, see A. Duggan, 'Henry II, the English Church and the Papacy', in N. Vincent and C. Harper Bill, eds., *Henry II: New Interpretations* (Woodbridge, 2007), 154-83; idem, 'Roman, canon and common law in twelfth-century England: the council of Northampton (1164) re-examined', *Historical Research*, Early View (online), 2009 (DOI: 10.1111/j.1468-2281.2009.00502.x)

They are also an important resource for our understanding of the first generation of Anglo-Norman settlement in Scotland and developments in Scottish charter diplomatic. They therefore have both English and Scottish significance and it will be suggested below that they can best be approached within an Anglo-Scottish context.<sup>10</sup> It is as such, and in hope of advertising them more widely, that the documents are investigated here.

The papal letters were first published by Cadwallader John Bates in 1887. His is still the only examination of them as a set with the David I charter, but he only knew of the latter from Riddell family notes and erroneously attributed it to King Alexander I.<sup>11</sup> He also wrongly identified the Ridales with the much better known Ridels, and much of his article considered the letters within the apparently ironical context of that family's connections with one of Becket's murderers.<sup>12</sup> Since Bates the texts have usually been briefly cited in studies of Anglo-Norman settlement in Scotland and histories of Scots law because of the charter's specified tenure and warrandice, and, less often, the letters' *testamentum* and Malcolm IV settlement, but they have neither been considered together nor has the connection between them always been made.<sup>13</sup> Outwith Scottish historiography, while the letters were edited again by Walther

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<sup>10</sup> For the general importance of an Anglo-Scottish approach, see K. J. Stringer, *Earl David of Huntingdon 1152-1219. A Study in Anglo-Scottish History* (Edinburgh 1985), 209; S. Boardman, J.R. Davies and E. Williamson, eds., *Saints' Cults in the Celtic World*, (Woodbridge, 2009), xii.

<sup>11</sup> C.J. Bates, 'Three Papal Bulls confirmatory of the possessions of the Riddells of Riddell', *Archaeologia Aeliana*, new series, xii (1887), 191-203.

<sup>12</sup> For which mistake, although by no means the first to make it, he was roundly castigated, J. Bain, 'The Riddells of that Ilk and the Ridels of Blaye, Cranston-Ridel, and Witering. Distinct families', *The Genealogist*, new series, vi (1890), 1-3.

<sup>13</sup> R.L. Graeme Ritchie, *The Normans in Scotland* (Edinburgh, 1954), 223, 290; G.W.S. Barrow, 'The beginnings of feudalism in Scotland', *Bulletin of the Institute of Historical Research*, xxix (1956), 1-27, 3; idem, *The Kingdom of the Scots* (2<sup>nd</sup> edn., London, 2003), 252; idem, *The Anglo-Norman Era in Scotland* (Oxford, 1980), 61; D. Walker, *A Legal History of Scotland, I, The Beginnings to AD 1286* (Edinburgh, 1988), 363-4, 399; H.L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh, 1993), 46-7.

Holtzmann, they have received only occasional mention.<sup>14</sup> This limited analysis may be a result of the texts having fallen between English and Scottish historiographies, because while the letters relate mainly to Scottish estates they have been in England since the 1820s when the Riddells were forced to sell Lilliesleaf and removed to Whitefield.<sup>15</sup>

### **Authenticity**

Considered individually, as they have been hitherto, the documents' clauses are early, and, for Scotland unique, twelfth-century examples of certain legal and diplomatic practices, but together their comprehensive, authoritative, and legally literate protection of the Ridales' rights might seem suspect. Their authenticity would likely have been questioned if they had been in favour of a monastic institution and had only survived in its cartulary. Forged papal letters were confected in contemporary northern England. William Cumin was accused of exhibiting a forgery confirming his election to the bishopric of Durham in the 1150s, while two Alexander III decretals (1159x1181) originating in Yorkshire cases also concern forgeries.<sup>16</sup> Some of the earliest explicit English warranties, and several ostensibly early Scottish royal warrandice clauses are also forgeries, including, among the latter, supposed originals

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<sup>14</sup> W. Holtzmann, *Papsturkunden in England* (3 vols., Gottingen, 1931-52), iii, nos. 115, 153, 321. The two Alexander III letters have also been edited in *Early Yorkshire Charters* [henceforth, *EYC*], (12 vols., i-iii, ed. W. Farrer, Edinburgh, 1914-16; iv-xii, ed. C.T. Clay, Yorkshire Archaeological Record Series, Extra Series, 1935-65), ii, nos. 778-9. The letters are calendared in P. Jaffé, G. Wattenbach, F. Kaltenbrunner, P. Ewald, S. Löwenfeld, eds., *Regesta Pontificum*, (2<sup>nd</sup> edn. 2 vols., Leipzig, 1885-88), ii, nos. 10166a, 11193a, 13655a; R. Somerville, ed., *Scotia Pontificia. Papal Letters to Scotland before the Pontificate of Innocent III*, ed. (Oxford, 1982), nos. 36, 58, 79. For notice, eg., C.R. Cheney, *The Study of the Medieval Papal Chancery. The Second Edwards Lecture delivered within the University of Glasgow on the 7<sup>th</sup> December 1964* (Glasgow, 1966), 2, where Ansketill is a 'Scottish squire'.

<sup>15</sup> An inventory of documents sent from Lilliesleaf to Whitefield in 1832 does not list individual texts, but refers only to material dating from 1155 and then the 1160s, not the royal charter, Riddell Whitfield MSS, ZRW/464. ZRW/453 includes an 1847 letter from the Edinburgh antiquary John Riddell (a relation) which suggests that there was some dispute about whether the documents should be handed over to the new owners, the Sprout family. It mentions both the bulls and the royal charter.

<sup>16</sup> A. Young, *William Cumin: Border Politics and the Bishopric of Durham 1141-44* (York, 1978), 19; C. Duggan, 'Decretals of Alexander III to England', in F. Liotta, ed., *Miscellanea Rolando Bandinelli Papa Alessandro III* (Siena, 1986), 85-151, 125-6, 142-3.

for laymen.<sup>17</sup> Genuine explicit warranty clauses first survive from the 1120s in England, but began to increase in number in the 1140s, when warrandice clauses first occur in Scotland. They remained rare in Scotland before 1200. The next extant royal Scottish example has been dated to 1165x1174, and it and the four further pre-1185 examples are for monasteries not laymen.<sup>18</sup> These five and the earliest Scottish baronial examples are also very basic in their phraseology,<sup>19</sup> and none incorporate promise of exchange, whereas the Ridale David I charter not only does so, but is also exceptionally articulate for this period, and the only twelfth-century Scottish example to incorporate *ad valenciam suum racionabile grahant dabimus*.

The possibility of forgery must therefore be considered, but if the Ridale papal letters are forgeries then they are forgeries of exceptional quality, surely beyond the capacity or interests of a minor Yorkshire family. There is no reason to doubt the diplomatic of the texts, the three different scripts, or the *bullae* attached with silk cords, all of which can be considered representative of letters of grace, *litterae de gratia* or *tituli*. They incorporate minor deviations from the classic common forms and rigid drafting rules of the later papacy and nineteenth- and early twentieth-century scholars of the papal

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<sup>17</sup> Kaye, *Medieval English Conveyances*, 47. *Regesta Regum Scottorum I*, no. 225, from the cartulary of St Frideswide's Priory Oxford is almost identical to no. 224 from the same source, but adds a warrandice clause. *Regesta Regum Scottorum II*, no. 143, is a thirteenth-century pretended original William the Lion grant to Reginald Prath of Tyndale which incorporates warrandice. An almost identical and equally suspect charter for Reginald's son does not, no. 424.

<sup>18</sup> G.W.S. Barrow, ed., with the collaboration of W.W. Scott, *Regesta Regum Scottorum, II, The Acts of William I King of Scots 1165-1214* (Edinburgh, 1971), nos. 74, 195 (confirming a grant by Ansketill's son Patrick de Ridale to Melrose. Patrick's charter is C Innes, ed., *Liber Sancti Marie de Melros*, (2 vols, Bannatyne Club, lvi, pts 1 and 2, Edinburgh, 1837), no. 166), 199, 214, 265. William the Lion also confirmed a grant by his mother to Newbattle Abbey, reaffirming her warrandice, but not adding his own, no. 91. Her charter is C. Innes, ed., *Registrum S. Marie de Neubotle abbacie Cisterciensis Beate Virginis de Neubotle chartarium vetus, 1140-1528; accedit appendix cartarum originalium*, (Edinburgh, Bannatyne Club, lxxxix, 1849), no. 65, discussed by MacQueen, *Common Law*, 47.

<sup>19</sup> Sir A.C. Lawrie, ed., *Early Scottish Charters prior to A.D. 1153*, (Glasgow, 1905), no. ccxvi, though note that Lawrie had grave doubts about this charter; *Melrose Liber*, i, no. 6; *Registrum Neubotle*, no.65.

curia, but limited scribal individuality was not uncommon in this period.<sup>20</sup> Bates thought that Brawby, which is incorporated in the second papal letter (1165), should also have been included in the first (1156), and had been left out in error, but corroboration for its new appearance can be found in the Pipe Roll for 1166x1167, which lists Hexham priory's debts for new pleas regarding Brawby. Brawby was probably therefore incorporated because some part of the manor was newly in dispute.<sup>21</sup> The David I charter is more problematic because it only survives in a sixteenth-century judicial transumpt and a seventeenth-century transcript.<sup>22</sup> While there may be little Scottish material to compare it with however, broadening the corpus of charters to include northern England makes clear that the Ridale warrandice is not truly exceptional. Warranty for secular beneficiaries and coupled with exchange, while still rare, can be found in some contemporary charters issued in the names of Roger de Mowbray and the earls of Chester.<sup>23</sup> Parallels can be found for *ad valenciam ad suum racionabile grahant dabimus* in charters issued by the earls of Leicester in the 1160s and 1170s.<sup>24</sup> In an Anglo-Scottish context, then, the Ridale

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<sup>20</sup> The standard English language work is still R.L. Poole, *Lectures on the History of the Papal Chancery down to the time of Innocent III* (Cambridge, 1915), 115-17. On the diplomatic of papal bulls for Scotland, see *Scotia Pontificia*, 13.

<sup>21</sup> *Pipe Roll 13 Henry II* (Pipe Roll Society, xi, 1889), 97. Brawby was also a matter of dispute between the Ridales and Hexham in 1191x1193. See nn. to *EYC*, ii, no. 782.

<sup>22</sup> The last recorded sighting I have been able to trace to date is John Riddell's, recorded in his *Stewartiana* (Edinburgh, 1843), 113, but likely dating to before the sale of the estates.

<sup>23</sup> *Charters of the Honour of Mowbray 1107-1191*, ed. D.E. Greenway (Records of Social and Economic History, new series, i, Oxford, 1972), citing only pre 1160 examples, nos. 35, 43, 191, 240, 291 (exchange), 298, 395 (for a layman); G. Barraclough, ed., *The Charters of the Anglo-Norman Earls of Chester c. 1071-1237*, (Record Society of Lancashire and Cheshire, cxxvi, 1988), nos. 20, 56 (for a layman), 71 (for a layman with exchange), 76, 86 (for a layman with exchange). For commentary on the Chester charters, see, J. Hudson, 'Diplomatic and legal aspects of the charters', in A. Thacker, ed., *The Earldom of Chester and its Charters: a Tribute to Geoffrey Barraclough*, (Journal of the Chester Archaeological Society, lxxvi, 1991), 153-78, 173, and on exchange, idem, *Land, Law and Lordship*, 56; Kaye, *Medieval English Conveyances*, 301-18.

<sup>24</sup> F. M. Stenton, ed., *Documents illustrative of the social and economic history of the Danelaw from various collections*, (Records of the Social and Economic history of England and Wales, v, Oxford, 1920), no. 495 (1170x1175). Barrow compared the charter with a Robert II of Leicester text which does not use 'racionabile', but expresses similar sentiments, *Charters of David I*, no. 177, citing T. Madox, *Formulare Anglicanum* (London, 1702), 182. For another example, see D. Postles, 'Seeking the language of warranty of land in twelfth-century England', *Journal of the Society of Archivists*, 20 (1999), 209-18, 214.

warrandice clause is not unique but it is, nonetheless, precocious, especially considering that it originated within a social level below that of most other early examples.<sup>25</sup>

### **The Ridales**

It is within such an Anglo-Scottish context that the Ridale family themselves have to be considered.<sup>26</sup> Scottish historians have, quite rightly, identified them as tenants of the Bulmer family in Ryedale in the North Riding of Yorkshire, but have not often noted that they also held other lands.<sup>27</sup> Walter (henceforth Walter I) and Ansketill's father, Gospatric of Brawby, was a native tenant of the archbishops of York there until Archbishop Thurstan gifted it with other estates to Hexham priory from whom he then held it. The Ridales were also tenants of the Mowbray and Gant families and St Mary's Abbey in York,<sup>28</sup> while Ansketill's wife Ascerina had estates of her own near Malton.<sup>29</sup> Ansketill, and his son Walter (henceforth 'Walter II'), were also known as 'of Habton' and 'of Grimston' respectively.<sup>30</sup> Professor Barrow wrote of Walter I 'forsaking' the Bulmers for Scotland, but it is important for the context within which the documents should be examined to note that the Ridales also remained well established and well connected in Yorkshire.<sup>31</sup> Walter I himself can be found in Ryedale in 1150, on the occasion of Abbot Serlo of Savigny's visitation of

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<sup>25</sup> It is also worth noting that a majority of early Scottish royal warrandice clauses are extant in original charters, and may then have been more common than they now are in copied survivals.

<sup>26</sup> C.T. Clay, ed., *Yorkshire Deeds V*, (Yorks. Archaeological Society Record Series, lxix, 1920), 181-3.

<sup>27</sup> *EYC*, ii, no. 777. Eg N. Webb, 'Settlement and integration: the establishment of an aristocracy in Scotland (1124-1214)', in *Anglo-Norman Studies*, xxv (2002), 227-38, 236-7.

<sup>28</sup> *EYC*, vi, no. 143; ix, nos. 134-5; *Charters of the Honour of Mowbray*, no. 401.

<sup>29</sup> *Historical Manuscripts Commission. Report on the Manuscripts of Lord Middleton preserved at Wollaton Hall, Nottinghamshire* (1911), 1, 3.

<sup>30</sup> But Walter II is not the Walter of Grimston of *EYC*, i, no. 359.

<sup>31</sup> Barrow, *Anglo-Norman Era*, 116.

his order's English houses,<sup>32</sup> but Ansketill occurs more often in Yorkshire than Scotland, with charters concerning him witnessed by Ailred of Rievaulx, Gilbert of Sempringham, and Prior Geoffrey of Bridlington among others.<sup>33</sup> His wife Ascerina issued a charter for Rievaulx which has since been noticed by historians because it was witnessed by eight leading Yorkshire women, including the wife of the then sheriff, Ranulf de Glanville, who himself attested.<sup>34</sup> Ansketill and Ascerina's daughter Maud entered the nunnery at Watton, and another, Eda, made a donation to the nuns of Keldholm.<sup>35</sup>

Ansketill, however, witnessed only four extant Malcolm IV charters, three of which were issued on the same occasion, very early in the king's reign and not long after Walter I's death.<sup>36</sup> This is not to say that Ansketill was not concerned with the Scottish estates: his son William was married into the Corbets, another immigrant family settled in Roxburghshire by David I, but seems to have died relatively early without heirs.<sup>37</sup> William does not occur in the witness lists of extant Scottish royal charters, but does attest two charters of Morgrund earl of Mar for St Andrew's cathedral priory in the company of members of the household of Ada de Warenne.<sup>38</sup> His brother Walter II succeeded him but also died early leaving no heir. He attested only one surviving Scottish royal charter, but was also active in Ryedale, in the

<sup>32</sup> *EYC*, v, no. 308. For context, J. Burton, ed., *The Foundation History of the Abbeys of Byland and Jervaulx*, (Borthwick Texts and Studies, xxxv, University of York, 2006), 44.

<sup>33</sup> *Report on the Manuscripts of Lord Middleton*, 1, 3; J.C. Atkinson, ed., *Cartularium abbathiae de Rievalle*, (Surtees Society, lxxxviii, 1889), no. civ; *EYC*, ii, no. 782.

<sup>34</sup> *EYC*, ii, no. 780; S.M. Johns, *Noblewomen, Aristocracy and Power in the twelfth-century Anglo-Norman Realm* (Manchester, 2003), 91-2.

<sup>35</sup> *Report on the Manuscripts of Lord Middleton*, 1; *EYC*, ii, no. 781.

<sup>36</sup> *Regesta Regum Scottorum*, I, nos. 120, 122-3, 131.

<sup>37</sup> William's mother recorded his consent to a grant she made in her widowhood, *EYC*, ii, no. 780; for his marriage, see, *Melrose Liber*, no. 160. For the Corbets, Ritchie, *Normans in Scotland*, 155; Barrow, *Anglo-Norman Era*, 98.

<sup>38</sup> T. Thomson and W. Maule, eds., *Liber Cartarum Prioratus Sancti Andree in Scotia*, (Bannatyne Club, lxix, 1841), 246-8; R. Oram, 'Continuity, adaptation and integration: the earls and earldom of Mar, c.1150-c.1300', in S. Boardman and A. Ross, eds., *The Exercise of Power in the Medieval Scotland c.1200-1500*, (Dublin, 2003), 46-66, 49.

1160s.<sup>39</sup> His successor Patrick, a third brother, is the first family member for whom there is evidence to show consistent and committed engagement with estates on both sides of the border.<sup>40</sup> The Ridale family then, was an Anglo-Scottish family with strong roots maintained in Yorkshire.

Yorkshire historians have assumed that Walter I was the elder brother and Ansketill the younger, but this seems to be based only in his dying first.<sup>41</sup> Professor Barrow has shown, however, that immigrants were usually younger sons.<sup>42</sup> Walter's *testamentum* as recorded in Adrian IV's letter bequeathed only the Scottish estates, his own acquisitions, not any of the Yorkshire lands that the family had held for many years. If Walter I had held the Yorkshire estates, he might also be expected to occur in Yorkshire charters, but he does not. It is possible therefore that he was the younger son.

## Scotland

Walter I first occurs in David I's charters in the 1140s, and the charter granting his lands has been dated '1145x1153, probably 1150-1153' by Professor Barrow.<sup>43</sup> Barrow has shown how a number of Yorkshire families, several with native backgrounds, gained Scottish estates from David I, but it is not always easy to work

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<sup>39</sup> *Regesta Regum Scottorum*, II, no. 175 (1173x1177); *Cartularium abbatiae de Rievall*, no. cxx; *EYC*, ix. no. 162.

<sup>40</sup> *Melrose Liber*, i, nos. 134-5, 152-160, 166; *Report on the Manuscripts of Lord Middleton*, 22-23; *Pipe Roll 22 Henry II* (Pipe Roll Society, xxv, 1904), 108.

<sup>41</sup> K.S.B. Keats Rohan, *Domesday Descendants: a Prosopography of Persons Occuring in English Documents 1066-1166, II, Pipe Rolls to Cartae Baronum* (Woodbridge, 2002), entry for 'Anschetin de Habton', assumes the same.

<sup>42</sup> Barrow, *Anglo-Norman Era*, 12, 19.

<sup>43</sup> *Charters of David I*, no. 97 (c.1140x1141). For other early attestations see, nos. 125 (1141x1147), 127 (1144x1153, c.1144), 158-9 (1147).

out how the connection was established.<sup>44</sup> In this particular case it may be possible to go further. It has been suggested that Walter I's attendance at David's court might be ascribed to a Bulmer attempt to engage with King David during the civil war of King Stephen's reign, but Walter may also have come to David's attention either when Bertram de Bulmer was responsible for the king's travel arrangements in Yorkshire in the 1130s or through the Ridales' Hexham links.<sup>45</sup> Walter I witnessed enough of David's charters before he received his estates that he may have been a household knight; he was certainly one of the *barones mei* who accompanied the king on his perambulation of the estates of Newbattle Abbey, perhaps in 1140x1141.<sup>46</sup> Membership of the royal household suggests a relationship developed over time. Hexham, which the Scottish kings knew well not only through Ailred of Reivaulx, son of the last hereditary priest of Hexham church and a member of the Scottish court from c.1124,<sup>47</sup> but also because of its importance as a transit point and meeting place for travellers to and from Scotland in the mid-twelfth century, is perhaps, therefore, the most likely origin of the relationship.

Hexham connections may also have influenced the choice of lands in Teviotdale for Walter I, either on David I's initiative or at Walter I's request (for it is not yet clear by what process the king chose his Normans' lands). Gospatric, the first known sheriff of Roxburgh (1120s), could also be titled sheriff of Teviotdale, and was a son of a

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<sup>44</sup> Barrow, *Anglo-Norman Era*, 106-117. For a further native family, see H.M. Thomas, 'A Yorkshire thegn and his descendants after the Conquest', *Medieval Prosopography*, viii (1987), 1-22.

<sup>45</sup> P. Dalton, *Conquest, Anarchy and Lordship. Yorkshire 1066-1154* (Cambridge, 1994), 221; J. Hunter, ed., *The Pipe Roll of 31 Henry I*, (reproduced in facsimile from the edition of 1833, Pipe Roll Society, ii, 1929), 24.

<sup>46</sup> *Charters of David I*, no. 98 (1140x1152), which surely refers to the original grant of these in which the boundaries are spelled out and which Walter witnesses, no. 97.

<sup>47</sup> Walter Daniel, *The Life of Ailred of Rievaulx*, ed. F.M. Powicke (repr., Oxford, 1978), 2-9.

provost of Hexham church.<sup>48</sup> Ailred of Rievaulx's account of the Battle of the Standard (1138), like other narratives, lists a series of ethnic and geographic groupings making up the Scottish army, but his is the only one to single out the men of Teviotdale.<sup>49</sup> The Eilaf and Uchtred sons of Gospatric who attest among the *homines de eadem terra* of Roxburghshire in David I's confirmation of Melrose Abbey's estates may well be the sheriff's sons.<sup>50</sup> Melrose had been founded from Rievaulx. 'Gospatric', a name the sheriff shared with Walter I de Ridale's father, was a relatively rare name in Northumbria, confined to the elite of cross-border society.<sup>51</sup> Ansketill de Ridale's opponent in the dispute brought before King Malcolm IV and confirmed by Pope Alexander III, Uchtred the priest of Lilliesleaf was likely a member of that same society and hereditary priest, just as Ailred's family had been at Hexham.<sup>52</sup> Other ecclesiastical officials in this region whose offices are first evident in, and perhaps creations of, this period, also have Northumbrian names.<sup>53</sup> Two sons of a 'Waltheof of Lilliesleaf' occur in grants to Melrose connected to Ansketill's son Patrick in the late twelfth century.<sup>54</sup> Teviotdale may also have once had links with the bishopric of Durham, which claimed diocesan jurisdiction over the region as late as the early twelfth century although if it had ever had tangible authority there, it had not done so for a long time.<sup>55</sup>

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<sup>48</sup> J. Raine, ed., *The Priory of Hexham: its Chroniclers, Endowments and Annals*, (2 vols, Surtees Society, xliv, xlvi, 1864-5), i, p. viii; G.W.S. Barrow, *Kingship and Unity. Scotland 1000-1306* (London, 1981), 7.

<sup>49</sup> R. Howlett, ed., *Chronicles of the Reigns of Stephen, Henry II and Richard I*, (4 vols, Rolls Series, lxxxii, 1884-89), iv, 190. cf John of Hexham, T. Arnold, ed., *Symeonis Monachi Opera Omnia*, (2 vols, Rolls Series, lxxv, 1882-50), ii, 294-5 and Richard of Hexham, *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, iii, 164.

<sup>50</sup> *Charters of David I*, no. 120.

<sup>51</sup> F. Edmonds, 'Personal names and the cult of St Patrick in eleventh-century Strathclyde and Northumbria', in Boardman, Davies and Williamson, eds., *Saints' Cults in the Celtic World*, 42-65.

<sup>52</sup> Barrow, *Kingdom of the Scots*, 237.

<sup>53</sup> D.E.R. Watt and A.L. Murray, eds., *Fasti Ecclesiae Scoticae Medii Aevi Ad Annum 1638, revised edition* (Scottish Record Society, Edinburgh, 2003), 221, 239, 406.

<sup>54</sup> *Melrose Liber*, i, nos. 153, 156.

<sup>55</sup> J. Durkan, 'Glasgow diocese and the claims of York', *Innes Review*, 1 (1999), 89-101, 91.

The legal and social structures and peasant population of this part of south-eastern Scotland has long been recognised as ‘Northumbrian’ and ‘English’ immigration at lower social levels as a longstanding process.<sup>56</sup> For Professor Barrow, Sheriff Gospatric was representative of the numerous Northumbrian king’s thanes of late eleventh-century Lothian society who were dependent on royal favour and vulnerable to the new settlement of the Anglo-Norman period, often having to accept new overlords and new structures of government.<sup>57</sup> Even if this Hexham-Teviotdale connection were coincidental then, it is significant because it illustrates how in this case ‘Norman’ settlement in Scotland in David I’s reign at the baronial social level was neither new nor alien. Instead the Ridales were not outsiders, but only the most recent northern English incomers, familiar with the society which they became a part of, and, perhaps, not considered so much of a threat as Norman immigrants.

Walter I was, nevertheless, by no means the only landowner in Lilliesleaf. Uchtred, Ansketill’s opponent was already present, and King David I had given Kelso abbey land there by the 1150s.<sup>58</sup> Most importantly, the king had already confirmed some parts of Lilliesleaf, including the church, to the diocese of Glasgow when he reconstituted it in the 1120s.<sup>59</sup> There is still considerable doubt about the substance of the see of Glasgow in the late eleventh century, and no evidence survives of episcopal activity in Teviotdale prior to the mid-twelfth century.<sup>60</sup> The fact that the first archdeaconry to be established, which would come to be known as the archdeaconry

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<sup>56</sup> Eg. Barrow, *Anglo-Norman Era*, 9, 30, 40; idem., ‘Northern English society in the twelfth and thirteenth centuries’, in idem., *Scotland and its Neighbours in the Middle Ages* (London, 1992), 127-55 (revised version of an original article in *Northern History*, iv (1969), 1-23).

<sup>57</sup> Barrow, *Kingship*, 5-7, 46.

<sup>58</sup> *Charters of David I*, no. 183.

<sup>59</sup> *Charters of David I*, no. 15.

<sup>60</sup> See Durkan, ‘Glasgow and the claims of York’, *passim* for Glasgow’s substance, cf J.R. Davies, ‘Bishop Kentigern among the Britons’, in Boardman, Davies and Williamson, eds., *Saints Cults in the Celtic World*, 66-90, for a brilliant revision of Glasgow’s status in the late eleventh century.

of Glasgow, sometimes occurs as the archdeaconry of Teviotdale in this early period might suggest that the area was important to the see, but also necessitated concentrated effort to be brought within the new structure.<sup>61</sup> Certainly, relations between Uchtred, who must now have held his church and perhaps his estates from Glasgow, and his bishop were complicated even before Walter I's settlement.

A David I charter (1136x1153) for his clerk Nicholas (later his chancellor), records that the king had granted to Nicholas two merks of revenue in Ednam in exchange for the two merks which he had given him in Lilliesleaf belonging to Uchtred.<sup>62</sup> It is an odd text, because it then states that Nicholas had been given the lands by the gift of Bishop John of Glasgow. It is perhaps analogous to the much better known evidence from the west of Scotland, where David, his son Henry and his grandson Malcolm IV used lands recently confirmed to Glasgow to provide for their barons and knights.<sup>63</sup> This might also lie behind Bishop Herbert of Glasgow's 1160x1161 grant to Kelso of the teind of the Lilliesleaf land David I had earlier given to the abbey.<sup>64</sup> It is not always acknowledged that when David I settled his new men he did not do so on empty land, nor that in the Nicholas-Uchtred case at least, he could face intransigent opposition. This case also suggests that Bishop John's authority in his Teviotdale possessions was limited, and it must, of course, be the context within which Walter I,

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<sup>61</sup> *Fasti Ecclesiae Scoticae*, 239.

<sup>62</sup> *Charters of David I*, no. 118. Hitherto this charter has been interpreted as recording that Bishop John's gift was to Uchtred rather than Nicholas, but the Latin, and Uchtred's likely long term possession seems rather to suggest that Nicholas was the beneficiary: *Has itaque predictas duas marcas do ei et concedo et per cartam presentem confirmo in escambio illarum duarum marcarum quas in Lellescleve Uctredi sacerdotis, ex dono episcopo Johannis, eidem Nicholao concesseram et confirmaveram; ita libere et quiete ab omni servitio et consuetudine, sicut carta ipsius Johannis testator se ei predictas duas marcas dedisse et concessisse, ...*

<sup>63</sup> *Regesta Regum Scottorum I*, no. 265; *Regesta Regum Scottorum II*, no. 260.

<sup>64</sup> C. Innes, ed., *Liber S. Marie de Calchou*, (2 vols, Bannatyne Club, 1846), ii, no. 440.

who likely knew Nicholas -not least because they attest the same royal charters-sought David I's warrandice.<sup>65</sup>

### **Analysis**

Modern scholarship on early explicit English warranty and Scottish warrandice clauses has emphasised that they most commonly occur where a grant or possession might be disputed in the future, and may often have been requested by the beneficiaries of the charters in which they occur.<sup>66</sup> The next extant Scottish royal warrandice clause for a layman, which also survives in original charters, was also a complicated case. William the Lion granted Fowlis Easter in Angus to Roger de Mortemer with William Maule's daughter Christina in marriage, to be held by the service of one knight (1189x1194). The original grant does not include warrandice. A second William the Lion charter made the same grant, but added that should Christina die the king would warrant Roger the land as that which he had granted him in return for his service (1189x1195). A third royal charter (c. 1195) granted Fowlis Easter to Roger for the service of one knight with no mention of William Maule or Christina, but incorporating warrandice. In this case it looks like it was Roger de Mortemer who sought charters two and three and he who sought warrandice, not royal clerks.<sup>67</sup>

This question of agency is an important one in the context of developments in Scottish charter diplomatic in David I's reign, because it is often, and quite rightly, the king and his clerks who are identified as the channel through which practices and

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<sup>65</sup> Both attest *Regesta Regum Scottorum I*, nos. 120-1.

<sup>66</sup> Hyams, 'Warranty', 475; Hudson, *Land, Law and Lordship*, 57-8; MacQueen, *Common Law*, 14-15, 46-7.

<sup>67</sup> *Regesta Regum Scottorum II*, nos. 302, 338, 375.

institutions similar to those in contemporary England came north.<sup>68</sup> While warranty/warrandice were certainly implicit in good lordship,<sup>69</sup> explicit warranty in charters was not common in contemporary Anglo-Norman royal diplomatic, and is considered to have developed in England partly through the insecurities caused by the civil war of King Stephen's reign and resolution of disputes in the first years of Henry II's.<sup>70</sup> It also developed there first in charters for religious institutions where the required 'drafting experience' resided.<sup>71</sup> Even in England, examples of warranty in charters for laymen or coupled with exchange were still very rare, and mainly limited to the charters of major families. It seems unlikely, therefore, that the Ridale warrandice clause was the initiative of David I's royal clerks or that it developed in the same way and in the same circumstances in Scotland as it had in England. More likely is that the clause was introduced at Walter I's request because of the potential for dispute, and that it was informed by his northern English diplomatic and legal cultural background. This might also explain why explicit warrandice is not found again in extant Scottish royal charters for another twenty years.

Bishop Stubbs once articulated the historian's dilemma in cases of 'firsts' thus: 'The first occurrence of the mention of particular terms, or forms of institutions, is treated by diversely constituted minds and different schools in ways diametrically opposed. To one it is an evidence of novelty or innovation, to the other a presumption, strong enough to be a proof, of a previous existence. The balance of reasonableness is, in human history, on the side of the latter, for as a rule facts are older than records,

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<sup>68</sup> For Professor Dauvit Broun's important work in this area see, most recently, *Scottish Independence and the Idea of Britain From the Picts to Alexander III* (Edinburgh, 2007), 195-201. See also Hudson, 'Legal aspects of Scottish charter diplomatic', 138, and for the law, MacQueen, *Common Law*, 264-8.

<sup>69</sup> Hyams, 'Warranty', 438-55.

<sup>70</sup> Hyams, 'Warranty', 449, 477; Hudson, *Land, Law and Lordship*, 53-5; Kaye, *Medieval English Conveyances*, 47.

<sup>71</sup> Hyams, 'Warranty', 474-5. See also, Postles, 'Seeking the Language', 210-11.

customs older than statutes; ...'<sup>72</sup> Stubbs, of course, is right, but if the initiative behind the Ridale warrandice clause did come from the Ridales, then this charter may be a genuine example of a 'first'.

It is worth noting in this context that between 1147x1160 Bertram de Bulmer granted Ansketill de Ridale himself eleven bovates of land in Flaxton in exchange for one carucate he held from him in Welburn, to be held by the same service without augmentation for service for the extra three bovates, Bertram's heir confirming the exchange, and Bertram and his heirs warranting Ansketill and his heirs against those who had once held the land, *contra illos quorum terra fuit*, just like Uchtred at Lilliesleaf.<sup>73</sup> While exchange and issues of augmentation of service do occur in royal Scottish charters of this period, they are very rare, and often for royal English estates and Normans.<sup>74</sup> No extant material for contemporary Scotland has a similar level of legal complexity or literacy. Twelfth-century baronial Yorkshire, on the other hand, has been characterised as highly litigious.<sup>75</sup> Hugh Thomas has emphasised that tenants by knight's service were often in dispute with their lords, and expert in the processes of both honorial and royal courts.<sup>76</sup> Use of the rare vernacular French *grahant* is also suggestive. Vernacular terms were extremely uncommon in contemporary charter material. Where they do occur it is most often in records of

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<sup>72</sup> W. Stubbs, *Select Charters and other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward the First*, Preface to Eighth edition (Oxford, 1895).

<sup>73</sup> *EYC*, ii, no. 782, dated 1147x1163. A witness, Maurice of Rievaulx, died c.1160, F.M. Powicke, 'Maurice of Rievaulx', ante, 36 (1921), 17-29, 23. For comment: Hudson, *Land, Law and Lordship*, 199.

<sup>74</sup> *Charters of David I*, nos. 28, 52, 82, 95, 118, 125, 145.

<sup>75</sup> J.C. Holt, *The Northerners* (Oxford, 1961), 18.

<sup>76</sup> H.M. Thomas, *Vassals, Heiresses, Crusaders and Thugs: the Gentry of Angevin Yorkshire 1154-1216* (Philadelphia, 1993), 38, 53.

transactions between two lay people.<sup>77</sup> They have been considered representative of, ‘that pattern of ways, habits and largely unspoken norms by which the community of peers (equals) in each lordship regulated their affairs and relations, and those with their lords’.<sup>78</sup> It was perhaps this background that also helped the Ridales achieve a settlement to their satisfaction when Uchtred the priest took them before Malcolm IV as recorded in Pope Alexander III’s first letter, in contrast to Nicholas who had lost his estates even though he was a very important figure at David I’s court.

If the initiative behind the warrandice clause was the Ridales’, and *grahant* suggests a baronial context, it is also worth considering who might have advised the family. Early English explicit warranty clauses, mostly for monasteries, were likely drafted by the beneficiaries.<sup>79</sup> Some great magnates had their own clerks by this period, including the earls of Chester and the Mowbrays, but it is unlikely that a family like the Ridales did so.<sup>80</sup> It is perhaps noteworthy in this respect that the Ridales were tenants of St Mary’s York, from where some of the earliest and most complex early warranty clauses are extant.<sup>81</sup> Use of *racionabile* as in the Ridale warrandice clause has not been discussed by modern scholars, but the contemporary development of usage of *rationabiliter* to limit warranty to the ‘reasonableness’ of an initial grant in

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<sup>77</sup> Kaye, *Medieval English Conveyances*, 7. For a general discussion of the use of French in twelfth-century English documentary culture, see M.T. Clanchy, *From Memory to Written Record. England 1066-1307* (2<sup>nd</sup> edn. 1993), 215-19.

<sup>78</sup> P. Hyams, ‘The Common Law and the French connection’, *Proceedings of the Battle Conference*, iv (1982), 77-92, 79.

<sup>79</sup> Hyams, ‘Warranty’, 474-5.

<sup>80</sup> *Charters of the Honour of Mowbray*, pp. lxvi-lxx; M.T.J. Webber, ‘The scribes and handwriting of the original charters’, in Thacker, ed., *The Earldom of Chester and its Charters*, 137-51; D. Crouch, ‘Between three realms: the acts of Waleran II, Count of Meulan and Worcester’, in D. Crook and N. Vincent, eds., *Records, Administration and Aristocratic Society in the Anglo-Norman Realm* (Woodbridge, 2009), 75-90.

<sup>81</sup> Hyams, ‘Warranty’, 441, 456; Kaye, *Medieval English Conveyances*, 49.

royal and, less often, baronial charters has.<sup>82</sup> While the concept of ‘reasonableness’ already had a long legal history, it has been suggested that the immediate source of this usage was clerical; that each Ridale papal letter includes *rationabiliter* provides an example of the ubiquity of the word in an ecclesiastical context.<sup>83</sup> The Ridale clause too may therefore have been drafted by a cleric with some legal background.

Yorkshire background and clerical connections might also be important in establishing a context for Ansketill de Ridale’s extraordinary request that Pope Adrian IV confirm Walter I’s *testamentum*. It has been suggested that it was Uchtred who took his dispute with the Ridales to the Roman curia, but Uchtred only occurs in the second papal letter in the context of the case brought before Malcolm IV, which seems to have been resolved to the satisfaction of Ansketill, who then sought papal confirmation.<sup>84</sup> If Uchtred was actually involved from the first and if a dispute had been heard at Rome, then it might be expected that he would be named in Adrian IV’s letter which is, instead, as was noted above, a straightforward example of a papal confirmation. A *testamentum* need not have been a written text, but it is possible to infer from the papal confirmation that in this case it likely was.<sup>85</sup> Bequests of land held by knights’ service by *testamentum* are rare from this period.<sup>86</sup> Indeed, it has been suggested that they would soon be prohibited, in England at least, although this

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<sup>82</sup> *Land, Law, and Lordship*, 225-27. Among the earliest baronial examples cited there is a Mowbray charter (1140s) (*Charters of the Honour of Mowbray*, no. 155). See also, *Earldom of Chester Charters*, no. 89; Hyams, ‘Warranty’, 469 n. 135, 472; E.Z. Tabuteau, *Transfers of Property in Eleventh-Century Norman Law* (London, 1988), 181; Postles, ‘Seeking the language’, 209-18; and for a Scottish example, *Melrose Liber*, no. 168. (c.1149). For Hyams, this is ‘negative’ warranty, ‘Warranty’, 440.

<sup>83</sup> Hudson, *The Formation of the English Common Law. Law and Society in England from the Norman Conquest to Magna Carta* (London, 1996), 6. See also Wickham, *Courts and Conflict*, 211 n. 90.

<sup>84</sup> Barrow, *Kingdom of the Scots*, 237.

<sup>85</sup> For twelfth-century testamentary practice in England, see, M.M. Sheehan, *The Will in Medieval England* (Toronto, 1963); R.H. Helmholz, *The Oxford History of the Laws of England, I, Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), 387-432. While there would later come to be a distinction between ‘testament’ and ‘will’, in this period they were synonymous, Helmholz, *Canon Law and Ecclesiastical Jurisdiction*, 398.

<sup>86</sup> Hudson, *Land, Law and Lordship*, 122-4.

may only have applied to patrimonial lands and not acquisitions. Eventually, wills would also be considered to be within the jurisdiction of the church courts not secular courts, and, again, it has been suggested that this was the case by the 1160s, even though the later twelfth-century text now known as *Glanvill* still assumes that the royal courts had authority in the area.<sup>87</sup> Most of the actual cases discussed in modern studies relate to bequests of lands to churches, ‘in alms’.<sup>88</sup> Walter I’s *testamentum* is therefore unusual, but also, perhaps, useful.

In law, if Walter I had died without an heir his lands ought to have passed to his brother Ansketill without the need for a *testamentum*. Like warranty and warrandice, references to *testamenta* and wills from this period have been considered suggestive of potential dispute over succession to the property concerned, and may have occurred more often with regard to acquisitions rather than patrimony.<sup>89</sup> Uchtred is the obvious explanation, but the Ridales may also not have been sure what would happen to the Scottish estates on Walter I’s death despite David I’s warrandice, which had been extended to Walter I’s heirs. This was, after all, still the first generation of Anglo-Norman settlement in Scotland, and it has been said that the Scottish kings preferred their barons to be resident, while Ansketill seems not to have been.<sup>90</sup> Insecurity led the Ridales to buttress the warrandice and inheritance customs with the *testamentum*,

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<sup>87</sup> Sheehan, *The Will*, 119-20, 16-7, 137-9, 151, 163, 167-8; J.C. Holt, ‘Feudal society and the family in Early Medieval England I: The Revolution of 1066’, *Transactions of the Royal Historical Society*, 5<sup>th</sup> series, xxxii (1982), 193-212, 197-8. For Scotland, Walker, *Legal History*, 399. For late twelfth-century thinking see, *The Treatise on the Laws and Customs of the Realm of England commonly called Glanvill*, ed. and trans. G.D.G. Hall with a guide to further reading by M.T. Clanchy (Oxford, 1993 (original publication, 1965)), chapter vii. For other areas in which *Glanvill* is not reflected in contemporary charter material, see Kaye, *Medieval English Conveyances*, 25, 77-8.

<sup>88</sup> *Regesta Regum Scottorum I*, no. 153; Sheehan, *The Will*, 168; Holt, ‘Feudal Society’, 197. An exception is, R.C. van Caenegem, ed., *English Lawsuits from William I to Richard I*, (2 vols, Selden Society, cvi-cvii, 1990-1), i, no. 226, where an individual on his deathbed refused his relatives’ requests that he make a *testamentum* in their favour. For comment, Hudson, *Formation*, 105-7.

<sup>89</sup> Hudson, *Land, Law, and Lordship*, 125.

<sup>90</sup> Barrow, *Anglo-Norman Era*, 16. See Kaye, *Medieval English Conveyances*, 48, for doubts as to the intentions of a grantor’s heir as a motive for seeking explicit warranty in an English context.

highlighting their legal awareness. Ansketill's application for confirmation by Pope Adrian IV might, further, suggest that he understood the *testamentum* to be a matter which could lie within ecclesiastical jurisdiction. Usage of *testamentum* itself might suggest the same. It was not yet a common term for 'will' by the 1150s (other early Scottish cases, for example, use *divisio*), but was soon to become much more so. Roman law and ecclesiastical influence have been suggested as the impetus for this increase, just as in the case of *rationabiliter* discussed above.<sup>91</sup> Not only were the Ridales therefore buttressing David I's warrandice and contemporary inheritance customs with a further legal process, but they were using an additional and alternative legal structure to do so.

In seeking confirmation from Adrian IV, Ansketill de Ridale and his family were allowing and assuming papal interest in lay succession to land held by knights' service from a secular lord, the king. It is not possible to assess contemporary Scottish royal attitudes to ecclesiastical law and courts or their significance, but it is noteworthy that when Uchtred the priest of Lilliesleaf disputed the Ridales' possession, he did so not in a church court but before Malcolm IV. It seems too that he had taken his earlier dispute with Nicholas the clerk and Bishop John before David I. In England, the context is clearer: Henry II was already trying with some success to limit papal influence, including papal confirmations and appeals to the papacy, in the English church, courts and law.<sup>92</sup> By 1164, the Constitutions of Clarendon would insist on the royal courts' jurisdiction over disputes between clerics and laymen about lands held by secular service (clause 9), and restrict travel and appeals to the papacy

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<sup>91</sup> Sheehan, *The Will*, 112. For *divisio* in Scotland see, Walker, *Legal History of Scotland*, 399. *Regesta Regum Scottorum II*, no. 153, for example, uses *divisionem* relating to William Maule's bequest of Huntingdonshire land to a local church. Maule was Malcolm IV's steward.

<sup>92</sup> Duggan, 'Henry II, the English Church and the Papacy'. For the position before 1154 see F. Barlow, *The English Church 1066-1154* (London, 1979), 173.

(clauses 4 and 8).<sup>93</sup> Brawby, the estate added in Alexander III's first letter, was held from a church rather than a secular lord, but by secular service, and its mention in the Pipe Roll for 1166x1177 suggests that some dispute between Hexham and another party (not necessarily the Ridales) had been brought before a secular court. The significance of the Ridale letters in this context is, then, that despite contemporary conflicts at the highest levels of church and state, the family seem either not to have been aware of the legally problematic nature of their request, or if they were, to have pursued it anyway. The former is the more likely, but it does suggest that, in this case at least, baronial perceptions of the papacy were different from those of their king. It also seems that, as with the initial use of the *testamentum* itself, the family and its advisers were as engaged with ecclesiastical legal structures as they were with secular law.

Jane Sayers has shown that by the early thirteenth century, this kind of baronial choice from a variety of courts, approaches to the papacy direct, and use of ecclesiastical courts for cases and issues which might equally be heard in royal courts did occur in England, if not regularly and if only among the social elite.<sup>94</sup> Even then, however, except in matrimonial disputes, the other party was almost always a religious house or an individual cleric. An exception, local to the Ridales, is particularly instructive. In a dispute finally settled at York in 1204, William de Mowbray obtained letters from Innocent III delegating judges in a dispute with Byland Abbey over forest. Sayers noted that this case ought to have been heard in the king's court, and speculated that William had been advised to approach the papacy by

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<sup>93</sup> D. Whitelock, M. Brett and C.N.L. Brooke, eds., *Councils and Synods with other Documents relating to the English Church, 1, A.D. 871-1204*, (2 vols, Oxford, 1981), ii, 877-83.

<sup>94</sup> J. Sayers, *Papal Judges Delegate in the Province of Canterbury, 1198-1254: A Study in Ecclesiastical Jurisdiction and Administration* (Oxford, 1971), xxiv, 162, 167, 178-9, 214-19.

a clerical adviser.<sup>95</sup> Sayers contrasted practice in the mid-twelfth century: the Anstey case and Battle abbey's claim to exemption from episcopal jurisdiction went originally to archidiaconal and royal courts respectively, but if they had taken place in the early thirteenth century, they would have gone direct to the papacy.<sup>96</sup> The Ridale letters suggest that similar conceptions of ecclesiastical law and the papacy could exist as early as the 1150s, although they may have been a product of different circumstances.

Indeed, the Ridales' familiarity with ecclesiastical as well as secular courts and law can only be explained within and itself highlights a context of increasing baronial engagement with ecclesiastical courts and the papacy which has not yet been explored as much as it perhaps might be. No contemporary Scottish evidence survives with which to establish such a context, but, as with the Ridale warrandice clause, one can be found in northern England. A good example is provided by a Ridale family relation. Between 1160x1169 Roger de Mowbray granted certain lands and rights to Rievaulx Abbey, but his tenant Alan de Ryedale disputed the grant. This case culminated in a well-known trial by battle at which representatives of the honour, the local knights, the shire, and the royal justices were all present.<sup>97</sup> Less often cited is a second document, a report prepared by Prior Gregory of Bridlington of a very similar case between Alan and Rievaulx, again originating in a grant by Roger, which had been delegated to himself and Master Vacarius in 1175.<sup>98</sup> Barons and the religious houses they patronised had also increasingly been seeking ecclesiastical confirmation

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<sup>95</sup> Sayers, *Papal Judges Delegate*, 218.

<sup>96</sup> Sayers, *Papal Judges Delegate*, xxiv, n. 1.

<sup>97</sup> *English Lawsuits*, ii, no. 453 (*EYC*, ix, no. 157). Alan's precise relationship with the Ridales is obscure, although it has been suggested that Walter I and Ansketill had a third brother, Robert, who was Alan's father, *EYC*, ii, no. 778.

<sup>98</sup> *English Lawsuits*, ii, no. 486 (*EYC*, ix, no. 159).

from bishops in England since the beginning of the civil war of King Stephen's reign.<sup>99</sup> It is probably not coincidence that explicit warranty developed in the same period, and, indeed, it has been suggested that the Ridales requested papal confirmation to assist in the implementation of the *testamentum* because of the same collapse of royal authority.<sup>100</sup> While this is to miss the geographical location of the estates, it does suggest an English context which might have informed the family's actions and within which the seeking of ecclesiastical confirmation for a *testamentum* and potentially problematic succession to estates which may once have belonged to the church is not impossible. There is no evidence, however, that the Ridales approached either Bishop Herbert of Glasgow within whose diocese Lilliesleaf lay, or Archbishop Roger Pont l'Évêque of York, who, in theory, was still metropolitan and legate for Glasgow. It is possible that the family considered Bishop Herbert biased towards Glasgow's own rights in Lilliesleaf, while York's metropolitan or legatine authority was rarely recognised in Scotland in this period, but it is most likely that Ansketill de Ridale chose to go to the papacy direct.

Almost all the extant evidence of baronial interaction with the papacy from the second half of the twelfth century is extant in the form of decretals, later legal precedents abstracted from papal letters, regarding individual legal cases rather than original papal letters. The letters from which they were taken had been written in response to cases which had come to the papacy from dioceses through the developing hierarchy of ecclesiastical courts and law.<sup>101</sup> No extant decretal relating to a British layman

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<sup>99</sup> S. Marritt, 'Reeds shaken by the wind? Bishops in local and regional politics in the reign of King Stephen', in P. Dalton and G. White, eds., *King Stephen's Reign*, (Woodbridge, 2008), 115-38, 118-19. For Yorkshire examples see, eg. *EYC*, v, no. 173; ix, nos. 94, 278; xi, nos. 106, 194.

<sup>100</sup> Sheehan, *The Will*, 170.

<sup>101</sup> S. Chodorow and C. Duggan, eds., *Decretales ineditae saeculi XII, from the papers of the later Walther Holtzmann*, (Monumenta Iuris Canonici, Series B: Corpus Collectionum, iv, Vatican, 1982).

predates the Ridales' Adrian IV letter.<sup>102</sup> Most involve patronage of churches and marriage litigation.<sup>103</sup> While the Anstey case is to be found in different material, it too came to the papacy through the church court structure.<sup>104</sup> The Ridale letters differ from decretals and the Anstey case because they did not originate in a case heard in local episcopal court, but what they have in common is that they illustrate increasing baronial familiarity with papal authority in the second half of the twelfth century. The work of the late Charles Duggan on early decretal collections has been particularly important in this respect. Duggan highlighted the number of decretals issued for Yorkshire cases during the pontificate of Alexander III.<sup>105</sup> Three decretal letters are extant, for instance, concerning William fitzGodric's disputed marriage, and he himself visited Rome in the course of the case.<sup>106</sup> A number of other laymen and women travelled to Rome in pursuit of justice in the second half of the twelfth century. In 1177, for example, a brother of an Osbert of Anjou complained there that Osbert had been forced into a marriage during the civil war of King Stephen's reign.<sup>107</sup> Miracle collections can also provide evidence of baronial visits to Rome in the later twelfth century, including a local example collected by Reginald of Durham.<sup>108</sup> Given the rarity of papal letters addressed to barons,<sup>109</sup> it is perhaps

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<sup>102</sup> Barlow, *English Church*, 114-15 suggests that the process had only begun to develop by 1154.

<sup>103</sup> C. Duggan, 'English secular magnates in the Decretal Collections', in S. Chodorow, ed., *Proceedings of the Eighth International Congress of Medieval Canon Law, San Diego, University of California at La Jolla, 21-27 August, 1988*, (Monumenta Iuris Canonici, series C: subsidia 9, Citta del Vaticano, Vatican, 1992), 593-616 (repr with original pagination in C. Duggan, *Decretals and the Creation of 'New Law' in the Twelfth Century* (Aldershot, 1998), 602-3, 605.

<sup>104</sup> For Anstey papal material see, *Papsturkunden in England*, ii, no. 108 (1162); M. Lovatt, ed., *English Episcopal Acta, 20, York 1154-81* (Oxford, 2000), no. 5A.

<sup>105</sup> Duggan, 'Decretals of Alexander III', 110-46. For a calendar of Archbishop Roger's letters to Adrian IV and Alexander III, see *English Episcopal Acta, 20, York 1154-1181*, App. 1.

<sup>106</sup> Duggan, 'Decretals of Alexander III', 122-3 (cal. *Regesta Pontificum*, JL 13887, JL13883 and JL14164), discussed at length in idem., 'English secular magnates', 606-08.

<sup>107</sup> W. Holtzmann and E.W. Kemp, eds., *Papal Decretals relating to the diocese of Lincoln in the twelfth century* (Lincoln Record Society, xlvii, 1954), no. 8 (cal. *Regesta Pontificum*, JL13937). Holtzmann and Kemp include two other examples at nos. 18 (a noblewoman) and 25 (a penitent adulterer) (cal. *Regesta Pontificum*, JL17678).

<sup>108</sup> J. Raine, ed., *Reginaldi Monachi Dunelmensis Libellus de Admirandis Beati Cuthberti Virtutibus Quae Novellis Patrate Sunt Temporibus*, (Surtees Society, i, 1835), 154-6.

significant that two more letters contemporary with the second and third Ridale letters are extant for men in Northumberland.<sup>110</sup> Indeed, it is feasible that Ansketill de Ridale himself went to Rome seeking his confirmation. The reference to his *sinceritas* in Adrian IV's letter, and his *bone memorie* in Alexander III's second letter, while by no means unique in contemporary papal letters, might imply special recognition of Ansketill's devotion. Not many twelfth-century English barons can have met a pope, but Adrian IV, an Englishman, has been said to have liked to have Englishmen about him, while the legate Cardinal Alberic of Ostia had stopped at Hexham in 1138, and may have made an impact on the Ridale family.<sup>111</sup>

Much the most important influence on the Ridales, however, must have been local clergy and religious houses. Papal confirmation of episcopal, capitular and monastic possessions was an ancient prerogative, increasingly sought by English and Scottish institutions in the twelfth century, and, by the Ridales' time, by individual clerics as well.<sup>112</sup> Repeat confirmations, often reusing much of the text of the earlier issues also became increasingly common from the 1140s. Further, while baronial subjects of decretals have been highlighted here, the vast majority of them considered clerical matters. It seems likely, indeed, that there was a representative of a Scottish and Yorkshire religious house or cleric at Pope Alexander III's curia at least once in

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<sup>109</sup> For continental examples (not including individuals of the status of count or above, nor *praepositi* of monasteries), see for example, *Regesta Pontificum*, JL6858, JL8018, JL8118, JL8465, JL8600, JL10734, JL11185.

<sup>110</sup> *Papsturkunden in England*, ii, no. 175 (1166x1179); iii, no. 159 (1167x1169).

<sup>111</sup> C.N.L. Brooke, 'Adrian IV and John of Salisbury', in B. Bolton and A. Duggan, eds., *Adrian IV the English Pope 1154-1159 Studies and Texts* (Aldershot, 2003), 3-13, 12; *Chronicles of the Reigns of Stephen, Henry II and Richard I*, iii, 167-71.

<sup>112</sup> For the significance of the papacy for the English church of this period, see C. Duggan, 'From the Conquest to the death of John', in C.H. Lawrence, ed., *The English Church and the Papacy in the Middle Ages*, (originally published 1965, rev. ed., Stroud, 1999), 63-116; M. Brett, *The English Church under Henry I* (Cambridge, 1976), 34-62; C. Holdsworth, 'The Anglo-Norman Church', in C.W. Hollister and E. van Houts, eds., *A Companion to the Anglo-Norman World*, (Woodbridge, 2003), 165-90, 181.

almost every year of his pontificate.<sup>113</sup> An Alexander III confirmation relating to the church of Welburn (North Yorkshire) for a ‘Master R.’, which only survives as a decretal, is extremely close to the Ridale letters in its diplomatic, and the family themselves had interests in the vill.<sup>114</sup> Much has been written on such men and their canon and Roman law, and a number were also royal justices,<sup>115</sup> but their familiarity with baronial society has yet to be studied in depth. Even a man like Master Vacarius, a well known international legal scholar, might witness Yorkshire baronial charters, as well as acting as a judge delegate in the Alan de Ridale dispute mentioned above.<sup>116</sup> While it is unlikely that the Ridales were wealthy enough to have a clerical household, it may have been men like these who were responsible for the *racionabile* and *testamentum* of the Ridale documents, and, indeed, the impulse to seek papal confirmation.

## Conclusion

The intention of this essay has been to bring to wider attention the Ridale royal charter and papal letters and the possibilities they offer for investigation into baronial conceptions and usage of secular and ecclesiastical law and authority in the mid-twelfth century, and Anglo-Norman settlement in Scotland. By the 1150s, the Ridales could, like their peers, make use of explicit warrandice and the royal courts to

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<sup>113</sup> For the north of England, eg, *Papsturkunden in England*, i, nos. 102-03, 112, 117, 131-5, 139; ii, nos. 119-21, 124, 140, 150, 151, 153-4, 158; iii, nos. 116, 130, 162-4, 219, 227, 236. For Scotland, see in addition to *Scotia Pontificia*, P.C. Ferguson, *Medieval Papal Representatives in Scotland: legates, nuncios and Judges Delegate 1125-1286* (Stair Society, xlv, 1998), 9-30. For a good example of a case in which numerous letters and messengers were sent to and from Rome, see the letters concerning Archdeacon Osbert of Richmond collected in *English Lawsuits*, ii, no. 520.

<sup>114</sup> *Decretales ineditae saeculi XII*, no. 77, although not itself a decretal. Duggan and Chodorow suggested ‘R’ might be ‘Reiner’, two Reiners occur in York material from this period.

<sup>115</sup> Now commonplace, but for an early important statement, see, F.M. Stenton, ‘Acta Episcoporum’, *The Cambridge Historical Journal*, iii (1929), 1-14, 4, 9.

<sup>116</sup> For a recent study of Vacarius’s thought, see, J. Taliadoras, *Law and Theology in Twelfth-Century England: The Works of Master Vacarius, c.1115/20 – c.1200* (Turnhout, 2006). For a very different study of him as a York prebendary, see, M. Jones, ‘Master Vacarius: civil lawyer, canon of Southwell and parson of Norwell, Nottinghamshire’, *Nottingham Medieval Studies*, 53 (2009), 1-20.

maintain their possessions, but they could also use a *testamentum*, which they may have understood as being within ecclesiastical jurisdiction, and, most interestingly, conceived of the papacy as an authority they could approach which had a direct local significance for their society, at a time of considerable tension between royal and papal authority at the highest levels of government. This level of legal sophistication and engagement with ecclesiastical as well as secular courts is rarely evident from this baronial social group, and may well have been influenced by the family's clerical contacts, but it also highlights increasing connections between barons and ecclesiastical courts and the papacy. The Ridale letters have survived because the family has endured and kept its charters carefully. It may be that they represent a type of papal confirmation for baronial families which once existed in greater numbers, but which are no longer extant.

Both the warrandice and the baronial papal contact are 'firsts' within the extant Scottish material, and neither seems to be representative of contemporary practice in Scotland or to have set a precedent because neither can be found again for a number of years. The context within which the Ridale documents could have been produced was a northern English one, and that which they have to be analysed within therefore an Anglo-Scottish one. Walter I and Ansketill de Ridale, faced with potential and actual challenges to their possession of Lilliesleaf sought, successfully, to use the legal forms and structures of their northern English society to maintain their rights to their Scottish estates. Both explicit warrandice and papal confirmation were 'new' in twelfth-century Scotland, but the Ridales themselves are also a valuable case study of Anglo-Norman settlement in Scotland, not only because they highlight in unusual detail how problematic it could be, but also because their own native origin suggests

continuity of immigration and settlement patterns rather and may have been familiar with Northumbrian settlers and society already established in Teviotdale. They therefore represent continuity rather than change at a higher social level than is sometimes allowed, and social and cultural connections as much as royal fiat may explain their settlement there.

### **Appendix: The Texts**

The texts are copied here because they have never before been printed as a set. That of the David I charter is taken from the edition by Professor Geoffrey Barrow, those of the letters are based on the texts published by Walther Holtzmann with minor emendations (Holtzmann worked from facsimiles rather than the originals).

1. David I notification of grant to Walter de Ridale of the Whittons , half Chatto, Lilliesleaf, and the sheilings west of Riccalton [Roxburghshire], to be held for the service of one knight, as freely as one of the king's barons in the same neighbourhood holds his fief. If the king cannot warrant this land to Walter against the just claims of another, he and his heirs will grant Walter and his heirs an exchange of equal value, to their reasonable satisfaction. Scone, 1145x1153.

B 1 = National Archives of Scotland, Edinburgh, MS GD 1/35/1/1, judicial transumpt, 1506

B 2 = National Library of Scotland, Edinburgh, MS Adv. 15.1.18, f. 76, transcript by Sir James Balfour of Denmilne, s. xvii.

*The Charters of David I*, ed. G.W.S. Barrow (Woodbridge, 1999), no. 177. (for earlier published editions see notes therein)

*David Rex Scottorum, episcopis, abbatibus, justiciariis, baronibus, vicecomitibus, prepositis, ministris et omnibus hominibus tocius terre sue, Francis et Anglicis, salutem. Sciant tam posteri quam presentes me dedisse et concessisse Waltero de Riddale Whittunes et dimidium Eshetho et Lillesclive per suas*

*rectas divisas, cum omnibus appendiciis suis iuste ad eas pertinentibus, in nemore, plano, pratis, pascuis et aquis; et scalinggas que sunt ab occidente de Richeldonne, sibi et heredibus suis ad tenend' de me et heredibus meis in feudo et unus baronum meorum vicinorum suorum qui libere tenet feudum suum melius et liberior habet et tenet. Et si ego aut heredes mei Waltero vel heredibus suis predictas terras propter iustam alicuius calumpniam varantizare non poterimus, ego et heredes mei ei et heredibus suis excambiam ad valenciam ad suum rationabile grahamt dabimus. Testibus, Andrea episcopo de Catnes, Waltero filio Alani et Waltero de Lindsay, et David Uviet et Nicholaio clerico et Ricardo de Morevilla et Alexandro Setone et Alexandro de Sancte Martino. Apud Scone.*

2. Adrian IV to Ansketill of Ridale, granting protection for his possessions, especially those bequeathed by his brother Walter de Ridale, namely the Whittons and Lilliesleaf [Roxburghshire]. 8<sup>th</sup> April, 1156, Benevento.

A = Riddell Whitfield MSS, ZRW 1, deposited with Northumberland Collections Service, Woodhorn.

Bates, 'Three Papal Bulls', 202; *Papsturkunden in England*, iii, no. 115; cal. *Regesta Pontificum*, ii, JL10166a; cal. *Scotia Pontificia*, no.36.

*ADrianus episcopus Servus Servorum dei dilecto*<sup>117</sup> *Askitillo militi salutem et apostolicam benedictionem. Sacrosancta romana ecclesia devotos et humiles filios ex assuete pietatis officio propensius diligere consuevit et eos protectionis sue munimine tanquam pia mater est solita confouere. Quocirca, dilecte in domino fili, sinceritatem tue devotionis quam erga beatum Petrum et nos ipsos habere dinosceris attendentes personam tuam cum bonis, que impresentarium iuste et canonice possides aut in futurum deo propitio rationabiliter poteris adipisci sub beati Petri et nostra protectione suscipimus. Specialiter autem ea que Walter[us] de Ridale frater tuus testamentum ante obitum suum faciens tibi noscitur reliquisse, videlicet villas Wittunes et Lilesleve et cetera bona a quibuscunque iuste tibi collata, nos devotioni [sic] tue auctoritate sedis apostolice integre confirmamus et presentis scripti patrocino communimus. Statuentes, ut si te in aliquo gravari presenseris libere tibi liceat sedem apostolicam appellare. Nulli ergo omnino hominum fas sit personam tuam vel bona temere perturbare*

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<sup>117</sup> Holtzmann adds *filio* here, correctly in terms of papal diplomatic, but not present in this case.

*seu hanc paginam nostre confirmationis infringere. Si quis . . . [autem hoc<sup>118</sup>] attemptare presumpserit indignationem Omnipotentis dei et beatorum Petri et Pauli apostolorum eius<sup>119</sup> incurrat. Datum Beneven. Vi. Idus Aprilis*

3. Alexander III to Ansketill of Ridale, knight, granting protection for his possessions, especially those bequeathed by his brother Walter de Ridale, namely the Whittons and Lillisleaf [Roxburghshire], and Brawby [North Riding of Yorkshire], and confirming the agreement between Ansketill and the priest Uchtred regarding Lillieleaf, negotiated and confirmed in writing by King Malcolm [IV]. 18 May, 1165

A = Riddell Whitfield MSS, ZRW 2, deposited with Northumberland Collections Service, Woodhorn

Bates, 'Three Papal Bulls', 202; *Papsturkunden in England*, iii, no. 153; *Early Yorkshire Charters*, ii, p. 115; cal. *Regesta Pontificum*, ii, JL11193a; cal. *Scotia Pontificia*, no. 58.

*Alexander episcopus Servus Servorum dei dilecto filio Anskitillo de Ridale militi salutem et apostolicam benedictionem. Justis petentium desideriis dignum est nos facilem prebere consensum et vota, quae a rationis tramite non discordant, effectu sunt prosequente complenda. Eapropter, dilecte in domino fili. tuis iustis postulationibus grato concurrentes assensu ea que Walterius de Ridale frater tuus testamentum in obitu suo faciens tibi noscitur reliquisse videlicet villas Wittunes, Lillescleva et Brahebi et cetera bona a quibuscunque iuste tibi collate, conventionem quoque inter te et Huctredum sacerdotem super villa de lillescive mediante karissimo in Christo filio nostro M. illustri Scotthorum rege de utriusque partis assensu rationabiliter factam et autentico scripto eiusdem regis firmatam quemadmodum in eodem scripto contineri dinoscitur tibi et heredibus tuis auctoritate apostolice sedis integre confirmamus et presentis scripti patrocinio communimus. Statuentes ut nulli omnino hominum liceat hanc paginam nostre confirmationis infringere vel ei aliquatenus contraire. Si quis autem hoc attemptare presumpserit indignationem omnipotentis dei et beatorum Petri et Pauli apostolorum eius se noverit incursum. Datum Silviniac. xv. Kal. Junii.*

<sup>118</sup> Damaged, likely diplomatic.

<sup>119</sup> Not transcribed by Holtzmann.

4. Alexander III to W. de Ridale granting protection for him and his possessions, especially Lilliesleaf, and half of Langton [Berwickshire], the Whittons, and Brawby, which his father and forebears had held from the church of Hexham, confirming the agreement between his father and the priest Uchtred regarding Lilliesleaf. 10<sup>th</sup> May, 1166-1176.

A = Riddell Whitfield MSS, ZRW 3, deposited with Northumberland Collections Service, Woodhorn

Bates, 'Three Papal Bulls', 203; *Papasturkunden in England*, iii, no. 321; *Early Yorkshire Charters*, ii, 117; cal. *Regesta Pontificum*, ii, JL13655a; cal. *Scotia Pontificia*, no. 79.

*ALEXANDER episcopus Servus Servorum dei dilecto filio W. de Ridale salutem et apostolicam benedictionem. Sacrosancta romana ecclesia devotos et humiles filios ex assuete pietatis officio propensiori cura consuevit diligere et, ne pravorum hominum molestiis agitentur eos sue protectionis sue munimine tanquam pia mater est solita confouere. Eapropter dilecte in domino fili devotionem quam bone memorie Anshetillus pater tuus circa beatum Petrum et nos ipsos exhibuit, studiosius ad memoriam revocantes personam tuam cum omnibus bonis, que in presentiarum legitime possides aut in futurum iustis modis prestante domino poteris adipisci sub beati Petri et nostram protectionem suscipimus. Specialiter autem villam de lillesclive et dimidiam langetune, et villam de Witune cum omnibus pertinentiis suis, villam etiam de Brahebi quemadmodum eam pater at progenitores tui ab ecclesia ...xtoldesham tenuerunt. Conventionem quoque inter huctredum sacerdotem et predictum patrem tuum super villa de lillesclive rationabiliter factam et a nobis confirmatam devotioni tue auctoritate apostolica confirmamus et presentis scripti patrocinio communimus. Statuentes ut, si te in aliquo [gravari] presenseris libere tibi liceat ad sedem apostolicam appellare. Decernimus ergo ut nulli omnino hominum fas sit hanc nostre protectionis et confirmationis paginam infringere seu personam et bona tua temere perturbare. Si quis autem [hoc] attemptare presumpserit indignationem omnipotentis dei et beatorum Petri et Pauli apostolorum eius se noverit incursum .... vi Idus [Maii].*