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## Noble Lineages, *Hausklöster*, and Monastic Advocacy in the Twelfth Century:

### The Garsten Vogtweistum in its Dynastic Context

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**Abstract:** Monastic advocacy is no longer as prominent a strand of medieval historical research as it was in the late nineteenth and early twentieth centuries. The lack of recent engagement with this subject is unfortunate, because there is a wealth of evidence across many source genres for monastic advocates and their activities in the Empire during the central Middle Ages. This article aims to show how combining older scholarly traditions with more recent methodologies might revitalize this topic and point toward new avenues of research. By investigating the *causa scribendi* of the so-called Garsten Vogtweistum within a broad comparative framework, it demonstrates how the study of monastic advocacy can provide fresh insights into noble *Hausklöster*, territorial lordship, and monastic communities' responses to violent local lords.

**Keywords:** advocacy; Garsten abbey; Otakare dynasty; noble violence

**Schlagworte:** Klostersvogtei; Kloster Garsten; Otakare; adelige Gewalt

During the late nineteenth and early twentieth centuries, monastic advocates (*Kloster-vögte*) and advocacies (*Klostervogteien*) were the subject of innumerable German and Austrian studies in the fields of medieval *Rechtsgeschichte* and *Verfassungsgeschichte*. Georg Waitz, in his monumental *Deutsche Verfassungsgeschichte*, noted of advocacy, „in ihrer Verzweigung und Anwendung auf verschiedene Verhältnisse ist sie zu einer der wichtigsten Institutionen des Verfassungslebens geworden“<sup>1</sup>. For historians working during this

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<sup>1</sup> Georg WAITZ, *Deutsche Verfassungsgeschichte* 7 (Kiel 1876) 320s. – This article was researched and written at the Institut für Österreichische Geschichtsforschung while I was holding a Lise-Meitner Stipendium from the Austrian FWF for a project on church advocacy in the Holy Roman Empire (Project M 1534-G18). I would like to thank Christina Lutter and Herwig Weigl for their comments and suggestions in the preparation of this article. – Abbreviations: BUB I = Urkundenbuch zur Geschichte der Babenberger in Österreich I: Siegelurkunden der Babenberger bis 1215, vorbereitet von Oskar VON MITIS, ed. Heinrich FICHTENAU–Erich ZÖLLNER (Publikationen des IÖG 3/1, Wien 1950); BUB IV/1 = Urkundenbuch zur Geschichte der Babenberger in Österreich IV/1: Ergänzende Quellen 976–1194, ed. Heinrich FICHTENAU–Heide DIENST (Publikationen des IÖG 3/4/1, Wien 1968); CDSR I/2 = Codex Diplomaticus Saxoniae Regiae, I. Hauptteil, Band 2: Urkunden der Markgrafen von Meissen und Landgrafen von Thüringen, 1100–1195, ed. Otto POSSE (Leipzig 1889); QEBG N.F. = Quellen und Erörterungen zur Bayerischen Geschichte, Neue Folge; Tr. Garsten = Siegfried HAIDER, *Die Traditionsurkunden des Klosters Garsten. Kritische Edition* (QIÖG 8, Wien–München 2011); UBLOE I = Urkundenbuch des Landes ob der Enns I (Wien 1852).

period, determining when, why and how advocates acquired judicial authority – especially high justice (*Hochgerichtsbarkeit*) – on monastic estates helped to explain the nature of ecclesiastical immunities, the development of legal institutions, and the rise of bureaucratic state structures in the various territories of the Empire. The rich archival sources for advocates and advocacies made this research possible and generated heated debates over how to interpret different charters and how to identify which ones were authentic, which forged<sup>2</sup>. Hans Hirsch, in his 1922 *Die hohe Gerichtsbarkeit im deutschen Mittelalter*, offered a clear statement of advocacy's significance in the early twentieth century when he explained why his book lacked a lengthy introduction: „Wer dieses Buch zur Hand nimmt, kennt das Problem.“<sup>3</sup>

The first quarter of the last century was the peak of this scholarly engagement with monastic advocacy. Thereafter, as newer historical trends emerged in the middle decades of the century, interest in the subject – and in *Rechtsgeschichte* and *Verfassungsgeschichte* more generally – began to fade. Theodor Mayer, in his 1950 *Fürsten und Staat: Studien zur Verfassungsgeschichte des deutschen Mittelalters*, was one of the last scholars to attempt a wide-ranging account of the significance of monastic advocates and advocacies for the development of legal institutions in the German-speaking lands<sup>4</sup>. By the time of his book's publication, most historians had long since concluded that monastic advocacies were so diverse – even two neighboring monasteries could have vastly different experiences with their advocates – that broad surveys were problematic. Most scholars interested in advocates had increasingly chosen to pursue their research within the framework of *Landesgeschichte*, insisting that individual monasteries and local settings had to be studied to understand the subject properly<sup>5</sup>. As the twentieth century progressed, this trend accelerated, and efforts at synthesis became rarer and rarer.

In more recent decades, some historians have continued to pursue the study of monastic advocates and advocacies within the tradition of *Landesgeschichte*<sup>6</sup>. There, the sub-

<sup>2</sup> For a brief overview of this scholarship, see Dietmar WILLOWEIT, Art. Vogt, Vogtei. *HRG* 5 (Berlin 1998) 932–946. For an example of the kinds of debates commonplace in this scholarship, compare Adolf PISCHEK, *Die Vogtgerichtsbarkeit süddeutscher Klöster in ihrer sachlichen Abgrenzung während des früheren Mittelalters* (Stuttgart 1907); Alfons HEILMANN, *Die Klostervogtei im rechtsrheinischen Teil der Diözese Konstanz bis zur Mitte des dreizehnten Jahrhunderts* (Görres-Gesellschaft zur Pflege der Wissenschaft im katholischen Deutschland. Veröffentlichungen der Sektion für Rechts- und Sozialwissenschaft 3, Köln 1908); and a review article discussing both books: Edmund E. STENGEL, *Zur Geschichte der Klostervogtei und Immunität*. *VSWG* 10 (1912) 120–137.

<sup>3</sup> Hans HIRSCH, *Die hohe Gerichtsbarkeit im deutschen Mittelalter* (Quellen und Forschungen aus dem Gebiete der Geschichte 1, Prag 1922) 1.

<sup>4</sup> Theodor MAYER, *Fürsten und Staat: Studien zur Verfassungsgeschichte des deutschen Mittelalters* (Weimar 1950).

<sup>5</sup> See, for example, for the archdiocese of Salzburg, Franz MARTIN, *Die kirchliche Vogtei im Erzstifte Salzburg*. *MGS* 46 (1906) 339–436; for the Lower Rhine region, Hermann AUBIN, *Die Entstehung der Landeshoheit nach niederrheinischen Quellen. Studien über Grafschaft, Immunität und Vogtei* (Historische Studien 143, Berlin 1920); and for Alemannia, Heinrich GLITSCH, *Untersuchungen zur mittelalterlichen Vogtgerichtsbarkeit* (Bonn 1912).

<sup>6</sup> See, for example, Traute ENDEMANN, *Vogtei und Herrschaft im alemannisch-burgundischen Grenzraum* (VuF Sonderbd. 6, Konstanz 1967); Othmar HAGENEDER, *Lehensvogtei und Defensorenamt in den babenbergischen Herzogsurkunden*. *JbLKNÖ* N.F. 42 (1976) 70–94; Egon BOSCHOP, *Untersuchungen zur Klostervogtei in Lothringen im 10. und 11. Jahrhundert*. *ZRG* 96 *Kan. Abt.* 65 (1979) 55–119; and Wilhelm LIEBHART, „advocatae super possessiones beati Udalrici“. *Zur mittelalterlichen Klostervogtei in Schwaben und Baiern am Beispiel von St. Ulrich und Afra*, in: *Aus Schwaben und*

ject is occasionally still analyzed from the perspectives of *Rechtsgeschichte* and *Verfassungsgeschichte*<sup>7</sup>. However, other approaches to advocacy have also appeared. Some scholars analyze advocates within the various monastic reform movements of the central Middle Ages in order to better understand the role of the nobility in these reforms<sup>8</sup>. Meanwhile, social historians interested in noble lineages have increasingly examined how nobles used monastic advocacies to stabilize and expand their control over land and people at the local level. Studies of individual noble lineages published in the last quarter century consistently dedicate space to explaining which monastic advocacies the lineage had acquired – and what advantages these advocacies had brought for the lineage's strategies of territorial lordship<sup>9</sup>.

Despite the significance of many of these newer studies, the current state of research into monastic advocates and advocacy is not as vibrant as it was a century ago. As is well known, the many strengths of the field of *Landesgeschichte* are counterbalanced by a number of weaknesses<sup>10</sup>. Most importantly, historians working inside this tradition do not always communicate effectively with scholars who focus on other regions, meaning that key conclusions for one area are rarely if ever compared and contrasted with findings from other places. In addition, because it can be very difficult for historians outside of Germany and Austria to access the local journals and minor publications prevalent in the field of *Landesgeschichte* (though this is thankfully changing with the Internet), studies in this field frequently remain isolated from broader historiographical trends and from new methodologies developed by scholars working in other countries and other languages. In short, as research on monastic advocates and advocacies has increasingly become more local in focus, work on the subject has become more fragmented, more dispersed and harder to find – despite monastic advocacy's broad significance during the medieval period.

Thus, the aim of my current research project (of which this article is one small piece) is to cast the study of monastic advocacy in a new light by looking beyond the traditional frameworks of *Landesgeschichte*, *Rechtsgeschichte* and *Verfassungsgeschichte*. While research in all these fields provides an invaluable foundation for examining advocates, recent scholarly trends point to a wide range of other approaches historians can also take to

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Altbayern. Festschrift für Pankraz FRIED zum 60. Geburtstag, ed. Peter FASSL (Augsburger Beiträge zur Landesgeschichte Bayerisch-Schwabens 5, Sigmaringen 1991) 169–177.

<sup>7</sup> See, for example, Martin CLAUSS, *Die Untervogtei: Studien zur Stellvertretung in der Kirchengogtei im Rahmen der deutschen Verfassungsgeschichte des 11. und 12. Jahrhunderts* (Bonner historische Forschungen 61, Siegburg 2002), and Folker REICHERT, *Landesherrschaft, Adel und Vogtei. Zur Vorgeschichte des spätmittelalterlichen Ständestaates im Herzogtum Österreich* (AfK Beih. 23, Köln 1985).

<sup>8</sup> See, for example, Karl SCHMID, *Adel und Reform in Schwaben*, in: *Investiturstreit und Reichsverfassung*, ed. Josef FLECKENSTEIN (VuF 17, Sigmaringen 1973) 295–320; Klaus SCHREINER, *Hirsau und die Hirsauer Reform. Lebens- und Verfassungsformen einer Reformbewegung*, in: *Die Reformverbände und Kongregationen der Benediktiner im deutschen Sprachraum*, ed. Ulrich FAUST–Franz QUARTHAL (*Germania Benedictina* 1, St. Ottilien 1999) 89–124; Giles CONSTABLE, *The Reformation of the Twelfth Century* (Cambridge 1996) esp. 249–256; and more recently, Steven VANDERPUTTEN, *Monastic Reform as Process: Realities and Representations in Medieval Flanders, 900–1100* (Ithaca, NY 2013).

<sup>9</sup> See, for example, Jürgen DENDORFER, *Adelige Gruppenbildung und Königsherrschaft: Die Grafen von Sulzbach und ihr Beziehungsgeflecht im 12. Jahrhundert* (Studien zur bayerischen Verfassungs- und Sozialgeschichte 23, München 2004); and many of the studies of individual lineages in section 4 below.

<sup>10</sup> John B. FREED, *Medieval German Social History: Generalizations and Particularism. Central European History* 25 (1993) 1–26.

the subject. In the first section of this article, I will provide a brief overview of some of the medieval sources for monastic advocacy before suggesting how newer theories and methodologies might reframe this evidence and reinvigorate research into advocates and advocacies. Then, in the remaining sections, I will offer a case study – namely the *causa scribendi* of the so-called Garsten Vogtweistum – in order to demonstrate how an inter-regional approach to the advocacies of noble *Hausklöster* can help historians rethink old problems.

## 1. Monastic Advocates

Around the year 1250, Abbot Herman (1242–1273) of the Bavarian monastery of Niederaltaich wrote, „Having examined the church’s privileges from this place and that, and the ancient donations of estates, we were not able to ascertain fully who first constituted which advocates of this church. Nevertheless, it was necessary, for many reasons, that any church have an advocate (*advocatus*) or patron (*patronus*). For when any estate is assigned to a church, the advocate ought to take it into his protection and to defend it from every person to the extent that justice supports him and the church. Moreover, because it is not of the clerical dignity to administer justice or punishment of blood, the advocate will judge according to customary justice thefts, rapes, homicides, immoderate disputes, arsons and similar cases among the men of the church. In these cases, a churchman could be made [to act] contrary to the provisions of canon law, if he should inflict the punishment. All of these things were constituted for the peace and freedom of churches in ancient times.“<sup>11</sup>

This short passage is one of the best surviving medieval descriptions of the role of the monastic advocate. The word *description* must be stressed, however, because the text must not be read as a formal *definition* of advocacy. Even a cursory glance at the manuscript containing the only known copy of Herman’s text highlights this distinction; the codex is one of the *Urbare* compiled under the abbot for his monastery’s estates. The advocacy text was copied onto a blank folio in the section concerning the Niederaltaich properties in Mintraching near Regensburg<sup>12</sup>. Not coincidentally, Mintraching also appears in the text itself, where the author lists those Niederaltaich properties that the monastery’s advocates had improperly given away as fiefs. This description of the role of advocate therefore had a specific goal; the author sought to explain what he thought the proper job of an advocate was, before he explained everything that Niederaltaich’s advocates were doing improperly.

The highly contingent nature of this description of monastic advocacy is not unique. Indeed, it is difficult to argue that *advocatus* and *advocatia* ever had fixed definitions during the High Middle Ages; from the ninth and tenth centuries onwards, the terms are used in a variety of different ways in the extant sources. Historians working in the *Rechtsgeschichte* and *Verfassungsgeschichte* traditions sometimes acknowledged this multiplicity of meanings, but they nevertheless pushed forward with their efforts to provide

<sup>11</sup> De Advocatis Altahensibus, ed. Philipp JAFFÉ, in: MGH SS 17 (Hannover 1861) 373–376, at 373.

<sup>12</sup> München, Bayerisches Hauptstaatsarchiv, KL Niederaltaich Lit. 39, fol. 51<sup>v</sup>.

rigid models of advocates' judicial authority<sup>13</sup>. In the process, these scholars drew on even older models – from the early modern period – in which advocacy had been defined and regulated through law codes and treatises<sup>14</sup>. Focusing solely on sources that provided insight into these legal dimensions of advocacy – which, in practice, meant relying almost exclusively on charters – historians of the late nineteenth and early twentieth centuries outlined key institutional developments<sup>15</sup>. In the process, however, they frequently overlooked many other aspects of the history of advocates and advocacies. Indeed, even today, when most research in the field is conducted within the framework of *Landesgeschichte*, the focus remains to a great extent on charter material and what it can tell us about how advocacy functioned as an office.

Turn away from archival documents to other types of medieval evidence, however, and one will quickly discover monastic advocates and advocacies being referenced in a variety of other source genres. The *Niederaltaich* text cited above is one of the best and lengthiest surviving discussions of the nature of advocates' power and authority – and it can be found in an *Urbar* alongside numerous entries in the same manuscript for the economic dimensions of advocacy<sup>16</sup>. Monastic chronicles and annals, biographical sources for abbots and bishops, saints' lives, miracle collections, and letter collections are only some of the other genres that contain detailed evidence for monastic advocates and their actions. Moreover, in many cases, these kinds of texts offer decidedly different insights into advocates and advocacies than those provided by charters. Developing a comprehensive understanding of the political, social, economic and cultural dimensions of advocacy – rather than just the legal one – therefore requires a much broader approach to this topic than earlier generations of historians ever undertook.

A story from the *Chronicon Laureshamense*, written during the mid-twelfth century, can help to frame this broader approach. It concerns Abbot Anselm of Lorsch (d. 1102) and the monastery's advocate, Count Berthold of Hohenberg (d. 1110). The chronicler reports that Anselm deserved praise for rebuilding the monastic church after a fire, for recovering many of its most valuable possessions, and for standing up to Count Berthold: „Not content with these things, he [Anselm] also began to support and defend his church's household manfully against its oppressors, especially against the tyranny of the advocate Berthold, who was the sinful root of those sorts of exactions that flourish even up until now. The same Berthold perceived that the abbot was superior not only militarily but also in righteousness and industriousness. Because he was not able to lay hold of him by force, he endeavored to lay hold of him by deceit. Therefore, at a fortunate moment, he was able to approach the abbot, who was unaware and unprepared, in the church of the blessed Mary at the priory at Michlinstat, and to seize the surprised abbot

<sup>13</sup> See, for example, HEILMANN, *Klostervogtei* (cit. n. 2) 81.

<sup>14</sup> See, for example, Joannes Godofredus LANGE, *De Advocatis et Advocatiis Germanicis* (Leipzig 1725), and Anton ENGELMAYR, *Die Unterthans-Verfassung des Erzherzogthumes Oesterreich ob und unter der Enns 2* (Wien 1826) 269–271. The impact of this early modern material on interpretations of medieval advocacy is evident in such works as Viktor HASENÖHRL, *Österreichisches Landrecht im 13. und 14. Jahrhundert. Ein Beitrag zur deutschen Rechtsgeschichte* (Wien 1867).

<sup>15</sup> One of the best overviews and critiques of *Verfassungsgeschichte* remains František GRAUS, *Verfassungsgeschichte des Mittelalters*. *HZ* 243 (1986) 529–589.

<sup>16</sup> *Die Urbare Abt Hermanns von Niederaltaich*, ed. Josef KLOSE (QEBG N. F. 43/1–2, München 2003).

deceitfully. With the consent of his relative Count Egeno, he imprisoned him in the castle of Vehingen.<sup>17</sup>

Although local power struggles like this one also appear in charters, narrative texts such as the *Chronicon Laureshamense* provide much more detailed accounts of how monastic communities interacted with their advocates. Indeed, many other examples of similar conflicts could be culled from the chronicles and annals of the central Middle Ages<sup>18</sup>. Historians working in earlier traditions knew of these sources and frequently acknowledged that monastery-advocate relationships did not always conform to the rules and regulations laid out in prescriptive charters<sup>19</sup>. Nevertheless, scholars have not closely analyzed these accounts to consider what they reveal about the exercise of power on the ground. Here, the divide between French, British and American approaches to monasteries and lordship on the one side and Austrian and German approaches on the other is evident. The last twenty years have witnessed a lively debate amongst such American, French and British scholars as Thomas Bisson, Dominique Barthélemy, Stephen White, and Charles West about how to interpret the abundant French source material for these sorts of violent episodes between nobles and monastic communities. Timothy Reuter briefly joined this debate, noting a few similarities and differences between the French and German situations<sup>20</sup>. However, sustained engagement with theories of violent lordship is noticeably lacking in modern scholarship on German monastic advocacy – despite the rich sources for the subject<sup>21</sup>.

Analyzing monastic advocacy through the lens of recent French, British and American theories about power is only one way to open the study of advocacy to new ideas and approaches. Another strategy for looking beyond *Landesgeschichte*, *Rechtsgeschichte* and *Verfassungsgeschichte* frameworks is to combine sources that have not been analyzed together in the past in order to identify new patterns. This means looking outside of regional monastic landscapes to identify comparable types of monasteries from across the Empire that can be fruitfully grouped with one another. In the remainder of this article, I will offer an example of how such an approach can bring to light patterns – and deviations from those patterns – that can enhance our understanding of monastic

<sup>17</sup> *Chronicon Laureshamense*, ed. Karl August Friedrich PERTZ, in: MGH SS 21 (Hannover 1869) 334–453, at 429.

<sup>18</sup> See Jonathan R. LYON, *Otto of Freising's Tyrants: Church Advocates and Noble Lordship in the Long Twelfth Century*, in: *Christianity and Culture in the Middle Ages: Essays in Honor of John VAN ENGEN*, ed. David C. MENGEL–Lisa WOLVERTON (South Bend, IN 2014) 141–167.

<sup>19</sup> See, for example, WAITZ, *Deutsche Verfassungsgeschichte* 7 (cit. n. 1) 320–374; Heinrich BRUNNER, *Grundzüge der deutschen Rechtsgeschichte* (Leipzig 1901) 128s.; and Adolf WAAS, *Vogtei und Bede in der deutschen Kaiserzeit* 2 (*Arbeiten zur deutschen Rechts- und Verfassungsgeschichte* 5, Berlin 1923) 1–53.

<sup>20</sup> See most recently Charles WEST, *Reframing the Feudal Revolution: Political and Social Transformation between Marne and Moselle, c. 800–c. 1100* (Cambridge Studies in Medieval Life and Thought, Fourth Series 90, Cambridge 2013), and Thomas N. BISSON, *The Crisis of the Twelfth Century: Power, Lordship, and the Origins of European Government* (Princeton, N.J. 2009). The classic debate on the subject occurred in the pages of the journal *Past & Present*: BISSON, *The „Feudal Revolution“*. *Past & Present* 142 (1994) 6–42; Dominique BARTHÉLEMY–Stephen D. WHITE, *The „Feudal Revolution“*. *Past & Present* 152 (1996) 196–223; Timothy REUTER–Chris WICKHAM, *The „Feudal Revolution“*. *Past & Present* 155 (1997) 177–208; and BISSON, *The „Feudal Revolution“: Reply*. *Ibid.* 208–225.

<sup>21</sup> One exception is Susan WOOD, *The Proprietary Church in the Medieval West* (Oxford 2006), although she discusses the topic in only eleven pages (328–338) of a book that is over 900 pages in length.

advocacy. My focus will be the dynastic monasteries (*Hausklöster*) of some of the leading lineages in the twelfth-century Empire. The entry point for this study is a single text, which is an unusually detailed source for analyzing monastic advocacy in the twelfth century – but which also comes with questions about its authenticity. Placing this one text within a non-traditional framework can highlight the benefits of asking new questions and pursuing new directions in the study of advocates.

## 2. The Garsten Vogtweistum

The text commonly referred to by modern scholars as the Garsten Vogtweistum describes the rights that secular lords had – and did not have – when acting as advocates on one monastery's estates. It survives as a copy in only a single manuscript, which dates to the closing years of the twelfth century<sup>22</sup>. This codex, compiled at the Benedictine monastery of Garsten in Upper Austria, combines elements of both a *Kopialbuch* and a *Traditionscodex* and thus, like many comparable manuscripts from other monasteries in the southeast of the Empire, was intended to preserve copies of the community's most important privileges and property agreements<sup>23</sup>. For some of its entries, the original scribe of this Garsten manuscript relied on a lost, earlier *Traditionscodex* from the same religious community<sup>24</sup>. However, the Vogtweistum seems not to have been included in this earlier codex. Instead, the scribe entered it into the late twelfth-century manuscript together with a group of letters, privileges and property grants that were also absent from the other manuscript. The location of the Vogtweistum – near the beginning and followed immediately by a copy of a generous property donation from King Konrad III – strongly suggests that the monks at Garsten considered it one of the most important sources for the community's early history.

The Vogtweistum was issued in the name of Margrave Otakar III of Styria (1129–1164), *Ego Otachar marchio de Stire*, a descendant of Garsten's founders. According to the text, the monastery had been troubled by the violent acts of its advocates (*violentia advocatorum*), who had done damage to monastic properties and had injured those complaining about their actions. Otakar sought to put an end to these problems by clearly establishing the advocate's proper rights (*ius advocati*) on Garsten's estates. After questioning the older and more venerable of his ministerials about what the advocates had done in the time of his grandfather and father, he formally confirmed a set of rights that were to govern the relationship between advocate and monastery. These included the advocate holding three sessions of his law court (*placitum*) each year on the monastery's lands, judging only those cases that the monastic community itself was unable to

<sup>22</sup> Linz, Oberösterreichisches Landesarchiv, Stiftsarchiv Garsten Hs. 1 = Pa(nzerschrank) II/11, fol. 12<sup>r</sup>–13<sup>r</sup>. For a detailed description of the manuscript, see Siegfried HAIDER, Studien zu den Traditionsbüchern des Klosters Garsten (MIÖG Ergbd. 52, Wien–München 2008) 27–87. For the most recent edition of the Vogtweistum, see Tr. Garsten 84–86 no. K 18.

<sup>23</sup> See various volumes of the series Quellen und Erörterungen zur bayerischen Geschichte, Neue Folge, for detailed discussions of many of these codices. For a general overview, see Heinrich WANDERWITZ, Traditionsbücher bayerischer Klöster und Stifte. *AfD* 24 (1978) 359–380, and Stephan MOLITOR, Das Traditionsbuch. Zur Forschungsgeschichte einer Quellengattung und zu einem Beispiel aus Südwestdeutschland. *AfD* 36 (1990) 61–92.

<sup>24</sup> HAIDER, Studien (cit. n. 22) 94s.



judge, limiting the number of his men he brought with him for court sessions, and never appointing subadvocates (*subadvocati*) to perform his advocatial duties in his place<sup>25</sup>.

Because of the detailed description of the advocates' rights, especially of advocatial jurisdiction in the legal sphere, this text long ago attracted the attention of scholars working in the tradition of *Verfassungsgeschichte*. Oskar von Mitis first referred to it in this context in 1912, without analyzing it in any detail, while discussing the extant charters for the Garsten advocacy<sup>26</sup>. A decade later, Hans Hirsch summarized the Vogtweistum's main points, but for him, the fact that the text made no explicit mention of blood justice (*das Blutgericht*) limited its value<sup>27</sup>. In 1928, Gerd Tellenbach analyzed it within the context of immunity and legal jurisdiction over the monasteries of the diocese of Passau; like Hirsch, his analysis of the text did not extend much further than summarizing it and noting its failure to mention blood justice: „Vom Blutgericht sagt uns das Weistum nichts“<sup>28</sup>. Alois Zauner, three decades later, provided a much more thorough analysis of the source's contents, because he was interested in what the text revealed about advocatial authority more generally, not just blood justice. Thus, he noted that the requirement of holding the advocatial court three times a year was a commonplace one, referenced in many eleventh-century monastic charters, and that the text was noteworthy for its insistence that the advocate had no jurisdiction within the monastic enclosure itself<sup>29</sup>. In 1985, Folker Reichert also summarized the Vogtweistum in his survey of the source material for advocatial rights in Austrian monasteries<sup>30</sup>.

Significantly, the twenty-first century has also seen the publication of two new editions of the Vogtweistum – after more than 150 years of the *Urkundenbuch des Landes ob der Enns* containing the only complete, printed version<sup>31</sup>. This renewed scrutiny of the text has helped to revive questions about its authenticity. Early scholars did not question its genuineness<sup>32</sup>. Othmar Wonisch in 1926 was the first to consider the possibility of it being a forgery, when he noticed similarities between it and another entry in the same Garsten manuscript, a tradition notice dated to the year 1191. As he explains, it is possible that the author of the latter text simply used the Vogtweistum as a model – or it is possible that the same author wrote both in the early 1190s<sup>33</sup>. Zauner, following

<sup>25</sup> Tr. Garsten 84–86 no. K 18.

<sup>26</sup> Oskar VON MITIS, *Studien zum älteren österreichischen Urkundenwesen* (Wien 1912) 147. He notes that the text had probably failed to catch the attention of earlier scholars because it did not survive in the original.

<sup>27</sup> HIRSCH, *Die hohe Gerichtsbarkeit* (cit. n. 3) 121s.

<sup>28</sup> Gerd TELLENBACH, *Die bischöflich passausischen Eigenklöster und ihre Vogteien* (Historische Studien 173, Berlin 1928) 157–159.

<sup>29</sup> Alois ZAUNER, *Der Rechtsinhalt der älteren Garstener Urkunden*. *MÖOLA* 5 (1957) 265–310, at 287–290.

<sup>30</sup> REICHERT, *Landesherrschaft* (cit. n. 7) 146s., 222. See also, Roman ZEHETMAYER, *Advocati und defensores*. Die adeligen Neben- und Untervögte der steirischen Klöster im 12. und 13. Jahrhundert, in: *Handschriften, Historiographie und Recht*. Winfried STELZER zum 60. Geburtstag (MIÖG Ergbd. 42, Wien–München 2002) 225–254, at 231.

<sup>31</sup> UBLOE 1 (1852) 131s. no. 18; *Urkundenbuch der Steiermark* 1, ed. Friedrich HAUSMANN (Graz 2007) no. GA 14 (Permalink: <http://gams.uni-graz.at/o:stub.135>); and Tr. Garsten 84–86 no. K 18.

<sup>32</sup> Viktor MELZER, *Zur älteren Geschichte der Benediktiner-Abtei Garsten*. *Archiv für die Geschichte der Diözese Linz* 4 (1907) 3–46, at 14s.; MITIS, *Studien* (cit. n. 26) 147; HIRSCH, *Die hohe Gerichtsbarkeit* (cit. n. 3) 121; TELLENBACH, *Eigenklöster* (cit. n. 28) 157.

<sup>33</sup> Othmar WONISCH, *Über das Urkundenwesen der Traungauer*. Eine diplomatische Untersuchung. *ZHVS* 22 (1926) 52–149, at 62s. Curiously, he makes no mention of the Vogtweistum possi-

Wonisch, argued it was written shortly before 1191 and was thus a forgery<sup>34</sup>. Reichert, on the other hand, sees no reason to question its authenticity<sup>35</sup>. Despite Reichert's position, it has been identified as a forgery in both recent editions<sup>36</sup>. The question of whether or not the *Vogtweistum*, as it appears in the Garsten manuscript, is a forgery or was copied from an authentic, lost original has thus become a central issue for anyone interested in analyzing the text.

Here, I will argue for the *Vogtweistum*'s authenticity by considering its *causa scribendi*. To date, scholars who have discussed this source have focused mainly on what it states about advocatial rights, occasionally comparing it with comparable texts concerning advocates from Kremsmünster, Traunkirchen, Osterhofen and Saint-Waast<sup>37</sup>. However, the *Vogtweistum* has not been closely analyzed alongside other evidence in the Garsten manuscript for the relationship between the Otakare lineage and the monastery. As a foundation orchestrated by Margrave Otakar I and Margrave Otakar II, and as the burial site for Otakar II and his wife, Elizabeth, Garsten was a dynastic monastery (*Hauskloster*) with strong connections to its founding family. Examining the sources for Garsten and the Otakare alongside the sources from other *Hausklöster* founded by leading noble families in the late eleventh and early twelfth centuries thus makes it possible to cast the *Vogtweistum* in a new light. Specifically, a comparison with six other *Hausklöster* suggests that the Garsten *Vogtweistum* is authentic and was written under Otakar III to address a specific set of problems confronting the monks at Garsten.

### 3. Garsten and the Otakare

#### 3.1. From Garsten's foundation to the death of Margrave Otakar II

The early history of the religious community at Garsten lies in the second half of the eleventh century, when either Margrave Otakar I of Styria (1050/55–1075) or his son Margrave Otakar II (1082–1122) founded a community of canons there, on the site of a pre-existing parish church<sup>38</sup>. Then, at some point in the opening years of the twelfth century, Margrave Otakar II followed the reformist spirit of his age and converted this community into a house of Benedictine monks with ties to St. Blasien reform circles<sup>39</sup>.

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bly being a forgery when first discussing it (56). The later text to which he compares the *Vogtweistum* is Tr. Garsten 229s. no. T 197.

<sup>34</sup> ZAUNER, *Rechtsinhalt* (cit. n. 29) 288.

<sup>35</sup> REICHERT, *Landesherrschaft* (cit. n. 7) 146.

<sup>36</sup> HAUSMANN, *Urkundenbuch* (cit. n. 31) provides the most detailed explanation for why it should be considered a forgery in the introduction to his edition of the text. Besides noting the similarities with the 1191 text, Hausmann also argues that Otakar II's lifetime was too early to find such a detailed description of advocates' rights. There are, however, numerous earlier examples of such lists of rights. See, for example, *Niederösterreichisches Urkundenbuch II/2* (1078–1158), ed. Roman ZEHETMAYER-Dagmar WELTIN et al. (Publikationen des IÖG VIII/2, St. Pölten 2013) 575–578 no. 17<sup>2</sup>, and the discussion of this tradition notice in Roman ZEHETMAYER, *Diplomatische Untersuchungen zum zweiten Band des Niederösterreichischen Urkundenbuchs*. *NÖLA* 15 (2012) 59–115, at 79s.

<sup>37</sup> HIRSCH, *Die hohe Gerichtsbarkeit* (cit. n. 3) 121–123, and ZAUNER, *Rechtsinhalt* (cit. n. 29) 289.

<sup>38</sup> MELZER, *Zur älteren Geschichte* (cit. n. 32), and Siegfried HAIDER, *Zu den Anfängen von Pfarre und Kloster Garsten*. *MIÖG* 113 (2005) 293–329.

<sup>39</sup> HAIDER, *Zu den Anfängen* 308s. A thirteenth-century entry in a set of annals from Niederaltaich

The precise details of this new foundation's beginnings are difficult to reconstruct, because many of the earliest charters for Garsten's history have been shown to be forgeries<sup>40</sup>. Adding to the difficulty is the lack of an authentic foundation charter or an early papal privilege<sup>41</sup>. Because of the shortage of reliable charter material from Garsten's first decades, it is necessary to rely on other sources for the early history of the relationship between the religious community and its founding dynasty. The tradition notices copied into the manuscript containing the *Vogtweistum* offer the best surviving evidence, although (like most entries in the *Traditionsbücher* of the twelfth century) they rarely provide as much information as historians would like. For the interactions between Margrave Otakar I and the house of canons that preceded the Benedictine house at Garsten, these texts reveal almost nothing. Fortunately, they are much better for examining Margrave Otakar II's relationship with the religious house. Indeed, the tradition notices indicate that Otakar II made numerous donations to Garsten and was an avid supporter of the Benedictine community<sup>42</sup>. In addition, many of his ministerials followed him in these patronage efforts and made donations of their own<sup>43</sup>. Otakar II also is shown playing an active role in the monastery's affairs beyond simply giving it properties; in one tradition notice, for example, he approved an agreement between the abbot of Garsten and one of his own ministerials, who was permitted to live on a piece of church property – but not to hold it in fief<sup>44</sup>.

Margrave Otakar II of Styria thus emerges from the earliest tradition notices for Garsten as the community's most important patron and supporter. Moreover, Otakar II was buried at Garsten following his death in 1122<sup>45</sup>. This marks him off clearly from his father, Otakar I, who was buried in Rome – as one of the Garsten tradition notices explicitly states<sup>46</sup>. Otakar II's significance for the community's history would also be reinforced half a century after his death. Sometime between 1173 and 1182, a monk at Garsten wrote a *vita* of the Benedictine monastery's first abbot, Berthold (1111–1142)<sup>47</sup>. This *vita* passes quickly over the history of the earlier community of canons at Garsten and focuses on the foundation of the Benedictine community (to which the author belonged) by Margrave Otakar II of Styria<sup>48</sup>. Thus, the first chapter opens, *Fundator memorati cenobii venerabilis marchio Stirensis domnus Otacher exsistit, qui et ibi in ecclesia sancti Laurentii in Christo requiescit*<sup>49</sup>. Later in the same chapter, the monk writes, *Erat enim egregius ille fundator, vir valde memorabilis*<sup>50</sup>. The second chapter reminds the reader that Otakar II's wife Elizabeth, who predeceased him, is buried *in choro* in the

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offers the date 1107: Auctarium Ekkehardi Altahense, ed. Philipp JAFFÉ, in: MGH SS 17 (Hannover 1861) 360–365, at 365.

<sup>40</sup> See especially ZAUNER, Rechtsinhalt (cit. n. 29).

<sup>41</sup> For more on this point, see below.

<sup>42</sup> Tr. Garsten 90s. no. T 2–T 3, 96 no. T 9, 109s. no. T 30–T 31 and 132 no. T 66. See also n. 60 below for his donations with his son, Leopold.

<sup>43</sup> See, for example, Tr. Garsten 99 no. T 13, 101s. no. T 17 and 105 no. T 23.

<sup>44</sup> Tr. Garsten 104s. no. T 22.

<sup>45</sup> HAIDER, Zu den Anfängen (cit. n. 38) 316.

<sup>46</sup> Tr. Garsten 155s. no. T 103. For more on this point, see HAIDER, Zu den Anfängen 329.

<sup>47</sup> Josef LENZENWEGER, Berthold, Abt von Garsten † 1142 (Forschungen zur Geschichte Oberösterreichs 5, Linz 1958) 172.

<sup>48</sup> HAIDER, Zu den Anfängen (cit. n. 38) 312s.

<sup>49</sup> LENZENWEGER, Berthold (cit. n. 47) 226 c. 1.

<sup>50</sup> Ibid. 227 c. 1.

monastery<sup>51</sup>. The same chapter then goes on to explain how the initial foundation was changed into a Benedictine house under Otakar II's direction. According to the text, he himself traveled to the Benedictine monastery of Göttweig in order to request from the abbot of that community monks for Garsten<sup>52</sup>. And in the third chapter of the *vita*, Berthold is introduced as abbot by the words, *[T]unc dominus Berhtoldus a Gerstensibus et ipso marchyone, abbas electus est*<sup>53</sup>. Thus, the *vita* leaves little doubt that later generations of Garsten monks recognized Margrave Otakar II as the one who laid the groundwork for the Benedictine community's existence<sup>54</sup>.

Otakar II's initial support of the Benedictine community at Garsten as founder and patron, his own and his wife's burials there, and the community's subsequent efforts to praise his memory demonstrate that both the margrave and the monks perceived Garsten as a *Hauskloster*<sup>55</sup>. This is a term best linked to the work of Karl Schmid, who drew a direct connection between the noble lineages of the duchy of Swabia and the reformed monastic foundations of the late eleventh and early twelfth centuries<sup>56</sup>. For Schmid, the change in family structure from *Sippe* to *Geschlecht* during this period was evidenced by the fact that noble families were becoming more bound to their lands as they built castles on their lordships and founded monasteries to serve as centers of prayer, burial and memorialization for these newly-forming lineages. In the last several decades, historians working in other regions have identified similar patterns and have cemented the term *Hauskloster* as a key feature of noble self-consciousness and self-identity in the central Middle Ages<sup>57</sup>. Indeed, though Schmid's arguments about the significance of the lineage and the prevalence of agnatic kinship structures have come under increasing scrutiny and criticism in recent years, his basic definition of a *Hauskloster* has remained largely intact<sup>58</sup>.

Garsten is an excellent example of a *Hauskloster*, at least during the early twelfth century. It was located only a few kilometers from Steyr – a site important to Otakare lordship in the region around the year 1100 – and it had strong connections to the monastic reform movements sweeping through the Empire in this period. For Otakar II, Garsten was also intended to preserve his and his wife's memories, since their tombs were

<sup>51</sup> Ibid. 227 c. 2.

<sup>52</sup> Ibid. 228 c. 2.

<sup>53</sup> Ibid. 229 c. 3.

<sup>54</sup> The necrology for Garsten, which only survives in a later copy, confirms this impression. The entry for 28 November reads, *Anniversarium fundatorum nostri monasterii Otokari et Elisabethae marchionum Austriae et Styriae*: *Necrologium Garstense*, ed. Maximilian FASTLINGER, in: MGH *Necrologia* 4 (Berlin 1920) 321–364, at 361 [28. 11]. See also HAIDER, *Zu den Anfängen* (cit. n. 38) 312s.

<sup>55</sup> For the application of this term to Garsten, see for example, Heinz DOPFSCH–Karl BRUNNER–Maximilian WELTIN, *Die Länder und das Reich. Der Ostalpenraum im Hochmittelalter* (Österreichische Geschichte 1122–1278, Wien 1999) 294.

<sup>56</sup> SCHMID, *Adel und Reform* (cit. n. 8), and Karl SCHMID, *Zur Problematik von Familie, Sippe und Geschlecht, Haus und Dynastie beim mittelalterlichen Adel. Vorfagen zum Thema „Adel und Herrschaft im Mittelalter“*. *Zeitschrift für die Geschichte des Oberrheins* 105 / N. F. 66 (1957) 1–62.

<sup>57</sup> See below for additional discussions of this scholarship. For a general overview, see Werner HECHBERGER, *Adel im fränkisch-deutschen Mittelalter: zur Anatomie eines Forschungsproblems* (Mittelalterforschung 17, Ostfildern 2005) 287–301.

<sup>58</sup> For recent critiques of Schmid's arguments, see Bernhard JUSSEN, *Perspektiven der Verwandtschaftsforschung fünfundsiebenzig Jahre nach Jack Goodys „Entwicklung von Ehe und Familie in Europa“*, in: *Die Familie in der Gesellschaft des Mittelalters*, ed. Karl-Heinz SPIESS (VuF 71, Ostfildern 2009) 275–324.

located there. This may help to explain why Margrave Otakar I, who was not buried there, did not figure so prominently in the monastic community's accounts of its own history. By the 1170s, Otakar II – not his father – was recognized as the true *fundator* of Garsten<sup>59</sup>. However, while Garsten emerges from the sources as the *Hauskloster* for Margrave Otakar II, the evidence for the community playing this role for subsequent generations of the Otakare lineage is much more difficult to assess. It is here that the story becomes more complicated – and begins to shed light on the *causa scribendi* of the Garsten Vogtweistum.

### 3.2. The Otakare and Garsten until 1192

During the closing years of his life, Margrave Otakar II of Styria worked to ensure that his son and heir, Leopold, would also develop a close relationship with the monastic community at Garsten. Several tradition notices show them working together to support the religious house. Thus, they made multiple joint donations to Garsten<sup>60</sup>. On other occasions, Leopold witnessed his father's grants<sup>61</sup>. Margrave Otakar II also made a gift to the monastery *specialiter pro causa filii sui domni Luipoldi*<sup>62</sup>. And shortly before his father's death, Leopold made a grant of his own confirming some of Otakar II's gifts to the monastery<sup>63</sup>. In the late 1110s and early 1120s, Otakar II therefore seems to have been furthering the idea that Garsten was his lineage's *Hauskloster* by binding his son to the community.

However, after Otakar II died in 1122, the new margrave, Leopold, showed much less interest in actively patronizing Garsten. He was willing to support others' gifts to the community, but he was not the prominent patron that his father had been. For example, his wife, Sophia – daughter of the Welf Duke Henry the Black of Bavaria (d. 1126) – made two donations with his consent<sup>64</sup>. He once acted as witness for a donation to the community<sup>65</sup>. In another of the Garsten tradition notices, the future Margrave Leopold IV of Austria is described as making a gift to the monastery at Margrave Leopold of Styria's request<sup>66</sup>. His ministerials also continued to make grants as well<sup>67</sup>. But after 1122, there is no evidence that he made any donations to the community on his own initiative. Indeed, by the close of his life, the sources suggest he had shifted his monastic patronage toward a newer foundation: the Cistercian community at Rein<sup>68</sup>. This shift

<sup>59</sup> Tr. Garsten 53–55 no. K 1–K 2. It is only in a charter forged after 1186 that Garsten is called Otakar I's *fundus*: Tr. Garsten 66–70 no. K 10.

<sup>60</sup> Tr. Garsten 94s. no. T 7–T 8 and 108s. no. T 29.

<sup>61</sup> Tr. Garsten 98 no. T 12, 121s. no. T 50, 132 no. T 66, 274 no. B 42. Father and son both appear as witnesses in Tr. Garsten 99s. no. T 14.

<sup>62</sup> Tr. Garsten 116s. no. T 42.

<sup>63</sup> Tr. Garsten 122s. no. T 51.

<sup>64</sup> Tr. Garsten 129 no. T 61, 137s. no. T 76.

<sup>65</sup> Tr. Garsten 130s. no. T 64.

<sup>66</sup> Tr. Garsten 89s. no. T 1.

<sup>67</sup> Tr. Garsten 128s. no. T 60, 133–136 no. T 68–T 73, 137 no. T 75, 139 no. T 78 and 146s. no. T 89.

<sup>68</sup> For the view that Rein was to be a new Otakare *Hauskloster*, see Helmut J. MEZLER-ANDELBERG, Kirchenreform und Fürstenglaube. Bemerkungen zur religiösen Haltung der Traungauer, in: Das Werden der Steiermark: Die Zeit der Traungauer. Festschrift zur 800. Wiederkehr der Erhebung zum Herzogtum, ed. Gerhard PFERSCHY (Veröffentlichungen des Steiermärkischen Landesarchives 10, Graz–Wien–Köln, 1980) 141–159, at 149.

likely explains why Margrave Leopold was apparently not buried at Garsten but rather at Rein<sup>69</sup>. Thus, Leopold's connections to Garsten were much weaker than those of his father – and by 1129, Garsten was already beginning to lose its status as the principal *Hauskloster* of the Otakare.

When Margrave Leopold of Styria died in 1129, his only legitimate son, Otakar III, was a minor. Leopold's widow, the Welf Sophia, therefore became the most prominent figure in the lineage. According to an original charter, which was also copied into the manuscript containing the Vogtweistum, Sophia made a donation to Garsten in her husband's memory<sup>70</sup>. She also consented to a grant that one of Leopold's ministerials made to the monastery<sup>71</sup>. And she was present for another property agreement, when the monks of Garsten purchased an estate<sup>72</sup>. Combined with the gifts she made with her husband's consent while Leopold was alive, these texts suggest she had a strong interest in patronizing the community at Garsten. In her later years, however, her focus would shift to other monastic houses. She joined the female community at Admont late in life<sup>73</sup>. When she died, she was buried at the Welf monastery of Weingarten<sup>74</sup>.

After Sophia's son, Margrave Otakar III of Styria, came of age around the year 1140, there is another noticeable decline in the evidence for Otakare involvement in the monastery's affairs. While the lineage's ministerials continued to make various donations, Otakar III showed no interest in doing so and only occasionally appears in the Garsten source material<sup>75</sup>. At some point between 1140 and 1150, Walter von Traisen made a donation to Garsten *per manum Otachari domini sui marchionis de Styre*<sup>76</sup>. Otakar III was later present for a property exchange between Bishop Konrad of Passau and Abbot Sigehard I of Garsten in or around the year 1151<sup>77</sup>. He also witnessed a grant by Konrad I of Raabs during the same period<sup>78</sup>. But there is no other evidence for his involvement in the monastery's affairs – except for the Vogtweistum. Like his father, Margrave Leopold, Otakar III showed more interest in founding and endowing new monasteries – most

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<sup>69</sup> For the most likely location of Leopold's tomb, see Manfred LEHNER–Jan CEMPER-KIESSLICH, *Das Reiner „Stiftergrab“: Der archäologische Befund*, in: *Primus Conventus Austriacus Archaeometriae*, ed. Jan CEMPER-KIESSLICH et al. (Salzburg 2010) 20–24. Leopold's entry in the Garsten necrology, which only survives in a later copy, makes no reference to either his patronage of Garsten or his burial site: *Leopoldus marchio, Otokari primi fundatoris n[ostri] filius*. *Necrologium Garstense* (cit. n. 54) 357 [24. 10].

<sup>70</sup> *Urkundenbuch der Steiermark 1* (cit. n. 31) no. GA 8 (Permalink: <http://gams.uni-graz.at/o:stub.125>). See also Tr. Garsten 61s. no. K 6.

<sup>71</sup> Tr. Garsten 143s. no. T 85. See also Tr. Garsten 149s. no. T 94.

<sup>72</sup> Tr. Garsten 158 no. T 106.

<sup>73</sup> Tobias WELLER, *Die Heiratspolitik des deutschen Hochadels im 12. Jahrhundert* (Rheinisches Archiv 149, Köln–Weimar–Wien 2004) 240.

<sup>74</sup> Ulrich PARLOW, *Die Zähringer: kommentierte Quellendokumentation zu einem südwestdeutschen Herzogsgeschlecht des hohen Mittelalters* (Veröffentlichungen der Kommission für Geschichtliche Landeskunde in Baden-Württemberg, Reihe A, Quellen 50, Stuttgart 1999) 166s. no. 245.

<sup>75</sup> For the activities of his ministerials, see, for example, Tr. Garsten 165s. no. T 118; 172 no. T 129; and 174 no. T 132.

<sup>76</sup> Tr. Garsten 84 no. K 17.

<sup>77</sup> Tr. Garsten 62–64 no. K 7.

<sup>78</sup> Tr. Garsten 64s. no. K 8.

importantly, Voralpe and Seitz (Žižče in present-day Slovenia) – than patronizing Otakar II's old Benedictine foundation<sup>79</sup>. Moreover, Otakar III was not buried at Garsten; instead, he was entombed at his own foundation of Seitz/Žižče<sup>80</sup>.

Following Otakar III's death in 1164, the lineage experienced another period of minority rule, because his only son and heir, Otakar IV, was just one year of age. Otakar III's wife, Kunigunde, daughter of Margrave Diepold III of Vohburg, therefore appears in a few tradition notices between 1164 and 1180. At one point during these years, she confirmed an exchange of properties between the monks at Garsten and a local noble<sup>81</sup>. Also in this period, a donation was made to Garsten *per manum dominę marchionisę filiiq[ue] eius*<sup>82</sup>. Sources from these same years occasionally name Otakar IV without his mother, though he was a minor. He is described as making a donation of his own to the Garsten community for the soul of one of his ministerials, apparently soon after his father's death<sup>83</sup>. At some point before the year 1180, he then exchanged property with the monks and settled a dispute regarding another piece of property that had been donated to the community<sup>84</sup>. He was also one of the people who wrote to the pope in the 1170s requesting a papal privilege for Garsten<sup>85</sup>.

When Emperor Frederick I Barbarossa conferred the status of a duchy on Styria in 1180, Otakar IV was also knighted, ending his minority<sup>86</sup>. Soon thereafter, he was sickened by an illness that limited his ability to exercise lordship; as a result, in 1186, the childless Otakar IV issued the charter known as the Georgenberger Handfeste, which confirmed the transfer of Styria to the Babenberger Duke Leopold V of Austria and his son Frederick upon Otakar's death<sup>87</sup>. Nevertheless, during the later years of his life, Duke Otakar IV proved to be more actively involved in Garsten's affairs than either his father or grandfather had ever been. He confirmed a property exchange between the community and a local woman at some point between 1180 and his death in 1192, and during the same period he also oversaw a dispute settlement relating to another donation<sup>88</sup>. An extant, original charter – probably drawn up in 1190 at Enns – records his own gift of two *mansi* and a wood, among other properties, to Garsten for the sake of his soul and those of his ancestors<sup>89</sup>.

When Duke Otakar IV of Styria died in 1192 and was buried in Seitz/Žižče with his father, the Otakars came to an end in the male line<sup>90</sup>. On the whole, the evidence for the interactions between the lineage and the monastery of Garsten indicates that different family members had very different relationships with the religious community. Mar-

<sup>79</sup> Karl BRUNNER, *Herzogtümer und Marken: Vom Ungarnsturm bis ins 12. Jahrhundert* (Österreichische Geschichte 907–1156, Wien 1994) 341, and DOPSCH, *Länder* (cit. n. 55) 292–294.

<sup>80</sup> Günther BERNHARD, *Über die Grablege der Steirischen Otakare – Seitz – Voralpe – Rein*, in: *Primus Conventus Austriacus Archaeometria* (cit. n. 69) 15–19.

<sup>81</sup> Tr. Garsten 197s. no. T 164.

<sup>82</sup> Tr. Garsten 196s. no. T 163. See also 214s. no. T 185a.

<sup>83</sup> Tr. Garsten 186s. no. T 151.

<sup>84</sup> Tr. Garsten 191–192 no. T 157 and 183s. no. T 147a.

<sup>85</sup> Tr. Garsten 55–57 no. K 3.

<sup>86</sup> DOPSCH, *Länder* (cit. n. 55) 296s.

<sup>87</sup> *Ibid.* 298–302.

<sup>88</sup> Tr. Garsten 207s. no. T 176 and 214s. no. T 185.

<sup>89</sup> *Urkundenbuch der Steiermark 1* (cit. n. 31) no. GA 27 (Permalink: <http://gams.uni-graz.at/o:stub.100>). See also Tr. Garsten 222–225 no. T 193.

<sup>90</sup> For his burial site, see BERNHARD, *Grablege* (cit. n. 80).

grave Otakar II of Styria emerges from the sources as the founder and most important patron of the Benedictine house. Although he also sought to bind his only son and heir, Leopold, to the monastery, Leopold was not a prominent patron during his time as margrave. After his death, his widow, Sophia, showed much more interest in Garsten than her husband ever had, but their son, Otakar III, did not follow in his mother's footsteps. Like his father, Otakar III was not a significant patron. His widow and their only son, Otakar IV, were more interested in the community's affairs during the second half of the twelfth century, but neither of them was buried there.

Before drawing any conclusions about the relationship between the Otakare and Garsten, one final aspect of their interactions must be examined, namely the control over the monastic advocacy.

### 3.3. Garsten and its Monastic Advocates

The *Vogtweistum* is unquestionably the best twelfth-century source for the advocacy over Garsten. Setting that text aside for the moment, other tradition notices and charters include several additional references to the monastery's advocates and advocacies. However, these references defy easy summarization. That the margraves acted as advocates of Garsten is suggested by a small number of texts, but the details provided by these sources are inadequate for establishing a clear picture. Margrave Otakar II of Styria, for example, is not explicitly referred to as advocate in any of the tradition notices dateable to his lifetime. He is only identified as the monastery's *advocatus* in two letters written to Rome in the 1170s as the community sought its first papal privilege<sup>91</sup>. It is also possible that he – or perhaps his son, Leopold, or even his grandson, Otakar III – is the one referred to as advocate in a tradition notice that is too vague to date with any accuracy; in this text, a property exchange is made *per manum marchionis advocati*<sup>92</sup>.

Adding to the lack of clarity during this early period of Garsten's history is a tradition notice from the time of Margrave Leopold of Styria<sup>93</sup>. In it, one of Leopold's ministerials, named Wikprecht, donated property *per manus Etichonis advocati*. Precisely what type of advocatial role or advocatial authority this Eticho held is not specified. A ministerial named Eticho is referenced – without the title of advocate – in three other tradition notices dateable to the same period, suggesting he was a prominent figure of the Otakar household in the years around 1120<sup>94</sup>. However, little more can be said with any confidence. Regardless, as will become evident below, this very early reference to a non-Otakare as *advocatus* is striking.

Margrave Otakar III of Styria is identified as advocate in an original charter that modern scholarship has tentatively dated to 1151; a copy also survives in the codex containing the *Vogtweistum*<sup>95</sup>. The document states that the monks at Garsten exchanged properties with the bishop of Passau; the lands granted by Garsten were given

<sup>91</sup> The letters written by Archbishop Adalbert III of Salzburg and the papal legate Archbishop Konrad I of Mainz: Tr. Garsten 53–55 no. K 1 and K 2. Abbot Konrad I of Garsten's letter, in contrast, which uses much of the same language, does not include the word *advocatus* (57s. no. K 4). Margrave Otakar IV of Styria's letter also does not use the term (55–57 no. K 3).

<sup>92</sup> Tr. Garsten 100 no. T 15.

<sup>93</sup> Tr. Garsten 176s. no. T 136.

<sup>94</sup> Tr. Garsten 95 no. T 8; 98 no. T 12; and 124s. no. T 54.

<sup>95</sup> *Urkundenbuch der Steiermark* 1 (cit. n. 31) no. GA 11 (Permalink: <http://gams.uni-graz.at/o:stub.159>) and Tr. Garsten 62–64 K 7.



*per manus advocati sui Otachardi, scilicet marchionis de Styri*<sup>96</sup>. This is, however, the only extant source in which Margrave Otakar III is called advocate. For his son, Otakar IV, there is a tradition notice from the early years of his time as margrave where he is called *procurator* – but never *advocatus*<sup>97</sup>. Under Otakar IV, there are also texts explaining for the first time who was to maintain control over the advocacies for properties being donated to Garsten. Thus, Duke Leopold V of Austria and his relative Count Konrad II of Raabs donated to the monastery in 1181 the *ius advocatię* for two villages already in Garsten's possession and gave the abbot the right to choose the advocates for the villages<sup>98</sup>. And when Duke Otakar IV confirmed a donation of property to the monastery in 1190, he excluded the advocacy, which was to remain in his hands and those of his heirs<sup>99</sup>.

One other group of sources for the Garsten advocacy merits close consideration. As noted above, there is a single reference to an advocate Eticho under Margrave Leopold. Beginning in the 1140s, there is evidence for additional non-Otakare advocates as well. A tradition notice from the years 1147/1148 records a donation made to the monastery and includes in first position in the witness list *Gundacher advocatus*<sup>100</sup>. He appears again as a witness in another of the tradition notices from Otakar III's time as margrave<sup>101</sup>. Another, undated tradition notice includes *Gundacher advocatus eiusdem loci* in the witness list<sup>102</sup>. Without the title of advocate, a *Gundacher de Styra* then appears again in a tradition notice from the 1160s, this time accepting into his hand a property for Garsten<sup>103</sup>. Historians have identified this figure as Gundakar I of Steyr, who was one of the leading ministerials in the Traungau for the Otakare<sup>104</sup>. His son, Gundakar II of Steyr, is likely the person named in another tradition notice from the later twelfth century – without the title of advocate but accepting a gift for Garsten through his hand<sup>105</sup>. Gundakar II is also listed as advocate in a text from 1182–1195, in which the witness list includes *ipse advocatus noster Gundacher et predicti filii eius Gund(acher) et Duringus*<sup>106</sup>. The most significant source for Gundakar II's role as advocate is a tradition notice that makes reference to a gathering of Duke Otakar IV of Styria and his ministerials at Enns in 1191. There, *dominus Gundackarus ministerialis eiusdem ducis propria deliberatione inter cetera colloquia advocatię Garstensis ecclesię se non hereditario iure, sed quasi ad tempus sibi commissam suscepisse manifestavit*<sup>107</sup>.

Thus, an overview of the sources relating to advocates and advocacies for Garsten reveals a complicated picture. On the one hand, a small number of texts points to

<sup>96</sup> Urkundenbuch der Steiermark 1 no. GA 11.

<sup>97</sup> Tr. Garsten 193s. T 159.

<sup>98</sup> Urkundenbuch der Steiermark 1 (cit. n. 31) no. GA 25 (Permalink: <http://gams.uni-graz.at/o:stub.85>) and Tr. Garsten 79s. K 14.

<sup>99</sup> Urkundenbuch der Steiermark 1 no. GA 27 (Permalink: <http://gams.uni-graz.at/o:stub.100>) and Tr. Garsten 222–225 T 193.

<sup>100</sup> Tr. Garsten 172s. no. T 130.

<sup>101</sup> Tr. Garsten 174s. no. T 133.

<sup>102</sup> Tr. Garsten 209 no. T 178.

<sup>103</sup> Tr. Garsten 190 no. T 155.

<sup>104</sup> DOPSCH, Länder (cit. n. 55) 284. For more on Gundakar and his heirs, see below and Tr. Garsten 172s. no. T 130.

<sup>105</sup> Tr. Garsten 195 no. T 161.

<sup>106</sup> Tr. Garsten 221s. no. T 192.

<sup>107</sup> Tr. Garsten 229s. no. T 197.

members of the Otakare lineage as advocates during the twelfth century. On the other hand, there is also evidence to show that other members of the local elite were acting as advocates in this period as well. Eticho is called advocate, and the Gundakare lineage of Steyr possessed advocatial rights beginning in the 1140s and extending into the 1190s, when the codex containing the Vogtweistum was compiled. It is this combination of advocates, both Otakare and non-Otakare, that holds the key to explaining the *causa scribendi* of the Vogtweistum during the time of Margrave Otakar III. To understand why, it is useful to look more broadly at the dynastic monasteries founded by some of the other leading twelfth-century lineages in the German kingdom.

#### 4. Comparison with other *Hausklöster*

The monasteries to be discussed here for comparative purposes are Klosterneuburg (Babenberger foundation and house of Augustinian canons), Scheyern (Wittelsbacher foundation and Benedictine monastery), Diessen (Andechs-Meranier foundation and house of Augustinian canons), Reichenbach am Regen (Diepoldinger foundation and Benedictine monastery), St. Peter im Schwarzwald (Zähringer foundation and Benedictine monastery), and St. Peter auf dem Lauterberg (Wettiner foundation and house of Augustinian canons). Each was founded in the late eleventh or early twelfth centuries, and each has been labeled a *Hauskloster* by modern scholars<sup>108</sup>. Moreover, the founding lineages of all six of these monasteries belonged, like the Otakare, to the highest stratum of the imperial princely elite and thus offer fruitful grounds for comparison<sup>109</sup>. Three of these monasteries – Diessen, Reichenbach am Regen, and St. Peter im Schwarzwald – served as the principal burial site for members of their founding lineages across multiple generations throughout the twelfth century<sup>110</sup>. The other three – Klosterneuburg, Scheyern, and St. Peter auf dem Lauterberg – paralleled Garsten more closely, since other monasteries founded in the twelfth century also functioned as burial centers for their founding families<sup>111</sup>. In terms of source material, four of these communities (Klos-

<sup>108</sup> Heide DIENST, *Babenberger-Studien: Niederösterreichische Traditionsnotizen als Quellen für die Zeit Markgraf Leopolds III.* (Wiener Dissertationen aus dem Gebiete der Geschichte 7, Wien 1966) 154; Wilhelm STÖRMER, *Die Hausklöster der Wittelsbacher*, in: *Wittelsbach und Bayern. Die Zeit der frühen Herzöge: Von Otto I. zu Ludwig dem Bayern I/1*, ed. Hubert GLASER (München–Zürich 1980) 139–150; Alois SCHÜTZ, *Das Geschlecht der Andechs-Meranier im europäischen Hochmittelalter*, in: *Herzöge und Heilige: Das Geschlecht der Andechs-Meranier im europäischen Hochmittelalter*, ed. Josef KIRMEIER–Evamaria BROCKHOFF (Veröffentlichungen zur bayerischen Geschichte und Kultur 24/93, München 1993) 21–185, at 49–53; Tobias KÜSS, *Die älteren Diepoldinger als Markgrafen in Bayern (1077–1204): Adlige Herrschaftsbildung im Hochmittelalter* (Münchner Beiträge zur Geschichtswissenschaft 8, München 2013) 141s. and 145–148; Jan GERCHOW et al., *Das Hauskloster St. Peter*, in: *Die Zähringer: Anstoß und Wirkung*, ed. Hans SCHADEK–Karl SCHMID (Veröffentlichungen zur Zähringer-Ausstellung 2, Sigmaringen 1986) 123–137; Stefan PÄTZOLD, *Die frühen Wettiner: Adelsfamilie und Hausüberlieferung bis 1221* (Geschichte und Politik in Sachsen 6, Köln–Weimar 1997) 191–197.

<sup>109</sup> For the families of this highest level of the elite, see WÉLLER, *Heiratspolitik* (cit. n. 73) 4.

<sup>110</sup> Dagmar DIETRICH, *Die Grablege der Andechser im Kloster Dießen*, in: *Herzöge und Heilige* (cit. n. 108) 193s.; PARLOW, *Zähringer* (cit. n. 74) XXVIII–XXXI; and KÜSS, *Die älteren Diepoldinger* (cit. n. 108) 45s., 151s.

<sup>111</sup> For the Babenberger, see Paulus NIEMETZ, *Die Grablege der Babenberger in der Abtei Heiligenkreuz* (Heiligenkreuz 1974), and more recently, Hannsjörg UBL, *Adalbert oder Ernst? Ein lösbares Rätsel*. *Jahrbuch des Stiftes Klosterneuburg* N.F. 21 (2011) 23–32; Claudia LIST, *Die mittelalterlichen Grab-*

terneuburg, Diessen, Scheyern, and Reichenbach am Regen) have extant *Traditionsbücher* comparable to the Garsten codex containing the Vogtweistum<sup>112</sup>. For a fifth, St. Peter im Schwarzwald, there is a surviving rotulus from the early thirteenth century preserving copies of the community's earliest charters and tradition notices<sup>113</sup>. All six communities have extant charters that provide additional evidence.

Three aspects of these religious houses' histories will be addressed: their foundation charters and earliest papal privileges, the evidence for members of their founding lineages acting as advocates, and the sources for other advocates from outside the founding lineages.

#### 4.1. Foundation charters and papal privileges

As noted above, there is no extant foundation charter or early papal privilege for Garsten – nor is there any evidence that such documents ever existed<sup>114</sup>. This is an important point of contrast with the six other *Hausklöster* under consideration here. The Wittelsbacher *Hauskloster* of Scheyern provides the best example. A series of both papal and imperial privileges survive from its earliest years. The first, from Pope Paschal II on 21 November 1102, makes explicit reference to the monastery's advocacy – as do all subsequent ones. Paschal's bull states that Count Otto, one of the members of the founding family, was to be the first advocate and was to be followed by his eldest son, if that son *in patris probitate permanserit*; if the son did not, the community could choose its own advocate<sup>115</sup>. A second bull from Paschal, dated to 7 November 1104, confirms Wittelsbach control of the advocacy but also stresses that the advocacy was not hereditary<sup>116</sup>. This is repeated in King Henry V's first charter for Scheyern, from 3 January 1107<sup>117</sup>. Then, in Pope Calixtus II's bull of 26 March 1123, the community's right to free election of its advocates is pronounced<sup>118</sup>. Nevertheless, in Emperor Henry V's charter of 25 April 1124, the language is noticeably different: *Advocatiam eiusdem cenobii nemo nisi dominus Otto palatinus comes et filii eius successoresque filiorum eorundem absque omni contradictione habeant*<sup>119</sup>. The same privilege also explicitly states, *Nullum prorsus pro se subadvocatum ponat*. Nevertheless, in a 30 April 1145 privilege of Pope

legen der Wittelsbacher in Altbayern, in: Wittelsbach und Bayern (cit. n. 108) 521–527; and PÄTZOLD, Die frühen Wettiner (cit. n. 108) 198–203 and 207–209.

<sup>112</sup> Codex Traditionum Ecclesiae Collegiatae Claustro-neoburgensis, ed. Maximilian FISCHER (FRA II/4, Wien 1851); Die Traditionen und Urkunden des Stiftes Diessen 1114–1362, ed. Waldemar SCHLÖGL (QEBG N. F. 22/1, München 1967); Die Traditionen des Klosters Scheyern, ed. Michael STEPHAN (QEBG N. F. 36/1, München 1986); and Die Traditionen des Klosters Reichenbach am Regen, ed. Cornelia BAUMANN (QEBG N. F. 38/1, München 1991).

<sup>113</sup> Die ältesten Güterverzeichnisse des Kloster Sankt Peter im Schwarzwald: Der Rotulus Sanpetrinus und Fragmente eines Liber monasterii sancti Petri. Edition, Übersetzung, Abbildung, ed. Jutta KRIMM-BEUMANN (Veröffentlichungen der Kommission für Geschichtliche Landeskunde in Baden-Württemberg, Reihe A, Quellen 54, Stuttgart 2011).

<sup>114</sup> As also noted in HAIDER, Zu den Anfängen (cit. n. 38) 310.

<sup>115</sup> Die Urkunden und die ältesten Urbare des Klosters Scheyern, ed. Michael STEPHAN (QEBG N. F. 36/2, München 1988) 3–5 no. 1.

<sup>116</sup> Ibid. 5–7 no. 2.

<sup>117</sup> Ibid. 7–13 no. 3; MGH D. H.V. 12, ed. Matthias THIEL–Alfred GAWLIK [Stand 2010] ([http://www.mgh.de/ddhv/dhv\\_12.htm](http://www.mgh.de/ddhv/dhv_12.htm) [August 2014]).

<sup>118</sup> Die Urkunden des Klosters Scheyern 13–16 no. 4.

<sup>119</sup> Ibid. 16–20 no. 5; MGH D. H.V. 264 ([http://www.mgh.de/ddhv/dhv\\_264.htm](http://www.mgh.de/ddhv/dhv_264.htm) [August 2014]).

Eugen III, the right of free election and the lack of hereditary claims to the advocacy was stressed again<sup>120</sup>.

The other five monasteries do not provide such rich source material, but they too demonstrate that it was commonplace for founding lineages to seek privileges from the Papacy, the German kings, or both soon after establishing their new religious houses. At St. Peter im Schwarzwald, the first text copied into the rotulus is Pope Urban II's privilege for the community from 10 March 1095, which includes a brief statement about the community having the right to choose its own advocate<sup>121</sup>. Reichenbach am Regen was placed under papal protection on 24 March 1122 by Pope Calixtus II, who granted the community the right of free election of its advocates<sup>122</sup>. The *Chronicon Montis Sereni*, composed at St. Peter auf dem Lauterberg in the 1220s, preserves a copy of a letter written in the name of Margrave Konrad of Wettin, his wife, and his sons to Pope Honorius II around 1127, asking for a papal privilege for their foundation; according to this text, Konrad was to hold the advocacy as long as he lived, and his eldest surviving heir was to hold it after him<sup>123</sup>. However, Honorius's privilege placing the monastery of St. Peter auf dem Lauterberg under papal protection makes no reference to the advocacy or who was to hold it<sup>124</sup>. Diessen's earliest papal privilege dates from 6 February 1132, when Pope Innocent II took Diessen into papal protection, but there is no reference to the advocacy<sup>125</sup>.

For Klosterneuburg, the so-called *Stiftbrief* dated 29 September 1136 and issued in the name of Margrave Leopold III makes no reference to the advocacy for the community<sup>126</sup>. Nor does King Konrad III's privilege from 25 February 1147<sup>127</sup>. In contrast, the privilege of Pope Innocent II from 30 November 1137 makes explicit reference to how the advocacy was to be regulated: *ut nullus prefatę ecclesię advocatus nisi de domo et progenie dilecti filii nostri marchionis Liupaldi, vestro tamen electus arbitrio, constituatur, dum tamen nullum gravamen vel exactio eidem loco pro eius patrocinio inferatur*<sup>128</sup>. It goes on to explain that the canons could remove their advocate if he proved to be *inutilis* and replace him with another.

As this brief overview shows, the language concerning advocacy in the early privileges issued to these six *Hausklöster* is inconsistent. On the basis of this evidence, it is impossible to identify a single rule governing how the advocates for these foundations were to be chosen or what their proper roles were supposed to be<sup>129</sup>. Nevertheless, what is strik-

<sup>120</sup> Die Urkunden des Klosters Scheyern 25–28 no. 9.

<sup>121</sup> Der Rotulus Sanpetrinus (cit. n. 113) 2–4 no. 1 and PARLOW, Die Zähringer (cit. n. 74) 104s. no. 149.

<sup>122</sup> Monumenta Boica 27 (München 1829) 5s. no. 3. The same language appears in the privilege issued by Pope Lucius III in 1182: Ibid. 28–31 no. 40.

<sup>123</sup> Chronicon Montis Sereni, ed. ERNST EHRENFUCHTER, in: MGH SS 23 (Hannover 1874) 130–226, at 141. See also CDSR I/2 59s. no. 73.

<sup>124</sup> CDSR I/2 61s. no. 77.

<sup>125</sup> Die Traditionen und Urkunden des Stiftes Diessen (cit. n. 112) 102–105 no. 2.

<sup>126</sup> BUB I 13s. no. 10.

<sup>127</sup> MGH D. Ko.III., ed. Friedrich HAUSMANN (Wien–Köln–Graz 1969) 173.

<sup>128</sup> BUB IV/1 97s. no. 705. An earlier privilege from 1135 is lost: BUB IV/1 80 no. 672.

<sup>129</sup> In general, papal privileges from this period issued for German monasteries include very diverse language about advocates and advocacies. See, for example, Albert BRACKMANN, Die Kurie und die Salzburger Kirchenprovinz (Studien und Vorarbeiten zur Germania pontificia 1, Berlin 1912) 66–68 and 85–87.

ing is that all six of these houses received papal bulls of protection very early in their histories, and for five of them (Diessen being the only exception), these privileges sought to regulate the advocacy in one way or another. All of this material suggests that the lack of any kind of early privilege for Garsten left the monastery in a difficult position vis-à-vis its advocates. Unlike other *Hausklöster*, the community had no written documents it could use to defend its rights if conflict erupted between it and its advocates.

#### 4.2. Members of Founding Lineages as Advocates

All six of these monasteries share in common with Garsten the fact that there is archival evidence showing members of the founding lineages acting as advocates for the communities during the twelfth century. For Diessen, the extant evidence indicates that the advocacy was in the hands of Count Berthold I of Andechs and his descendants throughout the community's first century. Thus, in a tradition notice from the mid-1120s, a grant was made *in manus advocati comitis Bertolfi et filii sui Popponis*<sup>130</sup>. At some point between 1133 and 1148, Berthold I is *eiusdem loci advocat(us)*<sup>131</sup>. And it is most likely Berthold I's grandson Duke Berthold III of Merania who is named as advocate in or around the year 1204<sup>132</sup>.

At Scheyern, the back and forth between papal and imperial charters about the proper way of appointing the advocates masks the reality shown by the tradition notices and other charters, namely that the advocacy was firmly in the hands of the Wittelsbach lineage. Count-palatine Otto IV of Wittelsbach is identified as Scheyern's advocate in two of Bishop Otto of Freising's charters from 1142 and 1144<sup>133</sup>. He is also named as advocate in a tradition notice concerning the abbot of Scheyern selling a property to the monastery of Tegernsee<sup>134</sup>. His son Otto *major*, who became duke of Bavaria in 1180, is identified in another tradition notice as *Otto dux Bawarie, huius loci advocatus*<sup>135</sup>. And sometime around 1215, a donation to the monastery was made *in presentia ducis Ludwici advocati nostri*, namely the Wittelsbach Duke Ludwig I of Bavaria<sup>136</sup>.

At Reichenbach am Regen as well, the advocacy seems to have remained in Diepolding hands until the 1180s, despite the early papal privilege calling for free election of the advocates. A notice preserved at Admont, recording a sale to that monastery from the monks at Reichenbach, indicates that it was the advocate of Reichenbach, Diepold III, who handled the donation: *advocatus eiusdem monasterii, marchio Diepoldus*<sup>137</sup>. Sometime in the late 1130s or early 1140s, Margrave Diepold III also participated in a property exchange between Reichenbach and Niedernburg in Passau, where he is identified as *marchio Dietpaldus, advocatus in Richinbach*<sup>138</sup>. And in the years before 1180, at the time

<sup>130</sup> Die Traditionen und Urkunden des Stiftes Diessen (cit. n. 112) 8s. no. 5.

<sup>131</sup> Ibid. 17 no. 12.

<sup>132</sup> Ibid. 114s. no. 9.

<sup>133</sup> Die Urkunden des Klosters Scheyern (cit. n. 115) 22–25 no. 7–8. See also Die Regesten der Bischöfe von Freising 1 (739–1184), ed. Alois WEISSTHANNER–Gertrud THOMA–Martin OTT (Regesten zur bayerischen Geschichte, München 2009) 230 no. 337 and 239 no. 356.

<sup>134</sup> Die Traditionen des Klosters Scheyern (cit. n. 112) 36 no. 34a.

<sup>135</sup> Ibid. 56s. no. 54a.

<sup>136</sup> Ibid. 100s. no. 104.

<sup>137</sup> Die Traditionen des Klosters Reichenbach am Regen (cit. n. 112) 22s. no. 6.

<sup>138</sup> Ibid. 31s. no. 13.

of Margrave Berthold II of Vohburg, a donation to Reichenbach was made *in manu Pertholdi marchionis de Voheburg, advocati eiusdem loci Richinbach*<sup>139</sup>.

At St. Peter im Schwarzwald, a tradition notice that was probably originally drawn up soon after the year 1111 describes Duke Berthold III of Zähringen as the community's advocate<sup>140</sup>. In another undated tradition notice, he is again listed as advocate<sup>141</sup>. His brother Duke Konrad of Zähringen is identified as advocate of St. Peter's in an undated tradition notice of 1122–1152<sup>142</sup>. At some point between 1152 and 1186, under Duke Berthold IV, a property exchange took place *in presentia ducis Bertholdi, huius monasterii advocati*<sup>143</sup>. In another document, this one from 29 October 1200, it is Duke Berthold V of Zähringen who is explicitly referenced as advocate<sup>144</sup>.

St. Peter's auf dem Lauterberg provides both archival evidence and chronicle material to show that the advocacy was in the hands of Margrave Konrad of Wettin and his heirs during the twelfth century. The charter issued by Konrad in 1156 before he himself joined the community makes it clear that the advocacy belonged to the Wettiner: *Hoc quoque indissolubili perpetuitatis lege filiis meis et eorum legitimis heredibus servandum instituo, ut, quicumque principalis advocatus huius aeccliesie fuerit, nulli umquam hominum advocatiam in ius beneficiale concedat*<sup>145</sup>. In a charter from 30 April 1161 drawn up in the name of Konrad's son Margrave Dietrich of Lusatia, Dietrich's older brother, Margrave Otto I of Meissen, is identified as *Ottone fratre meo seniore Misnense advocato montis*<sup>146</sup>. Margrave Otto I is also identified as advocate under the 1174 entry in the *Chronicon Montis Sereni*<sup>147</sup>. In a charter of 28 July 1181, Otto and his brother Margrave Dietrich confirmed the earlier privileges stating that the advocacy would always be held by the eldest member of the lineage<sup>148</sup>. And entries in the *Chronicon Montis Sereni* from the opening decade of the thirteenth century show the Wettiner still in possession of the advocacy in these years<sup>149</sup>.

At Klosterneuburg, the papal privilege of 1137 confirms what can be found in other sources as well, namely that members of the Babenberg lineage held the advocacy. In a famous passage from the *Chronicon pii marchionis*, written in the 1170s, the entry for Margrave Leopold III of Austria's eldest son, Adalbert, states, *Primogenitus enim Adalbertus nomine, advocatus Niuenburgensis ecclesiae factus est, et omnium claustrorum ad advocatiam marchionis pertinentium*<sup>150</sup>. Complementary evidence appears in the community's

<sup>139</sup> Ibid. 77s. no. 47. See also 78s. no. 48.

<sup>140</sup> Der Rotulus Sanpetrinus (cit. n. 113) 14 no. 5 and PARLOW, Die Zähringer (cit. n. 74) 130s. no. 188.

<sup>141</sup> Der Rotulus Sanpetrinus 32 no. 42 and PARLOW, Die Zähringer 147s. no. 211.

<sup>142</sup> Der Rotulus Sanpetrinus 54–56 no. 95 and PARLOW, Die Zähringer 214 no. 325. See also Der Rotulus Sanpetrinus 102 no. 167 and PARLOW, Die Zähringer 173s. no. 253.

<sup>143</sup> Der Rotulus Sanpetrinus 56–58 no. 96 and PARLOW, Die Zähringer 329s. no. 515.

<sup>144</sup> Der Rotulus Sanpetrinus 60–62 no. 100 and PARLOW, Die Zähringer 363s. no. 552.

<sup>145</sup> CDSR I/2 176–179 no. 262. See also Chronicon Montis Sereni (cit. n. 123) 150.

<sup>146</sup> CDSR I/2 203s. no. 298.

<sup>147</sup> Chronicon Montis Sereni (cit. n. 123) 155.

<sup>148</sup> CDSR I/2 308–310 no. 446.

<sup>149</sup> Chronicon Montis Sereni (cit. n. 123) 174 and 177.

<sup>150</sup> Chronicon pii marchionis, ed. Wilhelm WATTENBACH, in: MGH SS 9 (Hannover 1874) 610–612, at 610. See also Karl BRUNNER, Leopold, der Heilige. Ein Portrait aus dem Frühling des Mittelalters (Wien–Köln–Weimar 2009) 31, and Heide DIENST, Regionalgeschichte und Gesellschaft im Hochmittelalter am Beispiel Österreichs (MIÖG Ergbd. 27, Wien–Köln 1990) 55s. and 229.

tradition notices. He is *Adelbertus noster advocatus* in one text and is named advocate in others as well<sup>151</sup>. Adalbert's brother Duke Leopold IV of Bavaria is identified as advocate in a notice from the period 1139–1141<sup>152</sup>. And another brother, Duke Henry Jasomirgott, is also identified as advocate in an undated notice<sup>153</sup>.

Thus, as in the case of Garsten, there is evidence from each of these communities to show members of the founding lineage acting as advocates across multiple generations. To understand the significance of this source material, it is necessary to consider the evidence from these *Hausklöster* for advocates who did not belong to the family of the founders.

### 4.3. Other Advocates

For four of the six *Hausklöster* under consideration here, there is no evidence for any advocates from outside the founding lineage in the source material from the twelfth century. In a fifth, the evidence only begins late in the twelfth century.

At Diessen, the canon Liutold compiled the community's *Traditionsbuch* during the early thirteenth century and also included in the codex two necrologies and other important texts for the community. Nowhere in this codex, or in the twelfth-century charters surviving for the house of canons, is there evidence for any non-Andechser advocates<sup>154</sup>. At Scheyern as well, there is no evidence in the tradition notices or charters for any advocates other than the Wittelsbacher. Abbot Konrad of Scheyern, writing the history of his community in the mid-thirteenth century, similarly gives no indication that the monastery had additional advocates<sup>155</sup>. At St. Peter im Schwarzwald, all four dukes of Zähringen from Berthold III to Berthold V are identified as advocates in the extant sources; no one else is named *advocatus* for the community.

Reichenbach am Regen offers one interesting tradition notice in this regard. At some point between the years 1156 and 1164, the community at Reichenbach exchanged properties with the monastery of Göttweig. For the monks at Göttweig, it was their advocate, Duke Henry Jasomirgott of Austria, who helped with the exchange; for Reichenbach, however, it was not the advocate, Margrave Berthold II of Vohburg, but rather Count Rapoto I of Ortenburg: *Rapoto vero comes predictus vice Pertholdi marchionis, advocati in Richinbach, et eiusdem petitione delegavit in manus Heinrici predicti ducis predium ...*<sup>156</sup>. This description of a nobleman standing in for the advocate is unusual. Nevertheless, the text makes it clear that Berthold – not Rapoto – was the advocate. Similarly, no other Reichenbach source from the twelfth century suggests anyone outside the Diepoldinginger lineage had that role.

<sup>151</sup> Codex Traditionum Claustro-neoburgensis (cit. n. 112) 14 no. 59, 38s. no. 187, 60 no. 308, 104 no. 482, and 106s. no. 494.

<sup>152</sup> Ibid. 38 no. 186. See also BUB IV/1 101s. no. 713.

<sup>153</sup> Ibid. 52 no. 263. See also BUB IV/1 115 no. 739.

<sup>154</sup> Michael BORGOLTE, *Stiftergedenken in Kloster Dießen. Ein Beitrag zur Kritik bayerischer Traditionsbücher. FMS 24* (1990) 235–289 [edition is 254–289]. Even for subsequent decades, all evidence points to the family alone holding the advocacy: *Die Traditionen und Urkunden des Stiftes Diessen* (cit. n. 112) 124–127 no. 15 and 127–135 no. 16.

<sup>155</sup> Konrad of Scheyern, *Chounradi Schirensis chronicon*, ed. Philipp JAFFÉ, in: *MGH SS 17* (Hannover 1861) 615–623.

<sup>156</sup> *Die Traditionen des Klosters Reichenbach am Regen* (cit. n. 112) 55–57 no. 29.

The Wettiner lineage, in contrast, may have begun appointing others to serve as advocates by the closing years of the century<sup>157</sup>. Nevertheless, there is also evidence that the family maintained an interest in the advocacy into the thirteenth century, as noted above. Thus, only Klosterneuburg offers evidence from the early and mid-twelfth century of other members of the local elite using the title *advocatus*. Margrave Leopold III of Austria made a donation to Klosterneuburg with the consent of his wife and son Adalbert, and the closing line of the tradition notice reads: *Per manum advocati nostri Rudolphi*<sup>158</sup>. This is Rudolf of Perg, who shows up again as advocate in a tradition notice from 1117, where it states *cum consensu ... secundi advocati Rudolphi*<sup>159</sup>. In the witness list to the notice is *Adalrammus filius advocati*, who shows up as advocate on his own in another, later tradition notice<sup>160</sup>. Significantly, of these monasteries, Klosterneuburg is the earliest – alongside Garsten – for which there are sources addressing at length the issue of advocates from outside the founding lineage. In an 1162 charter of Duke Henry Jasomirgott for Klosterneuburg, he confirms earlier privileges and also strictly regulates subadvocates, designating the provost as the only person with the right to appoint them and declaring that no one had ever received a subadvocacy from him or his father that was hereditary or a fief<sup>161</sup>. Sources from Scheyern and St. Peter auf dem Lauterberg address subadvocates as well in the early and mid-twelfth century, but none at this level of detail<sup>162</sup>. Thus, although this 1162 charter is quite different from the Garsten Vogtweistum, it nevertheless hints at a common issue, namely advocates who did not belong to the founding lineage. On this topic, Klosterneuburg is the only *Hauskloster* for which any parallels can be drawn with Garsten, because none of the others saw the title *advocatus* applied to anyone outside the founding family during the twelfth century.

#### 4.4. Summary

This brief consideration of the advocacies for the *Hausklöster* of six other leading noble lineages of the twelfth century highlights three key points that are essential for interpreting the Garsten Vogtweistum. First, Garsten is unique among these monasteries for not having an early papal privilege – or foundation charter of any sort. Second, all of these monasteries have evidence for members of the founding family acting as advocates. Third, only Klosterneuburg has evidence from its earliest decades of anyone else using the title *advocatus* in the community's sources. With these points in mind, it is time to return to Garsten.

### 5. The *Causa Scribendi* of the Garsten Vogtweistum reconsidered

The promulgatio and narratio of the Garsten Vogtweistum read, „Let the multitude of the faithful know that the same church [of Garsten] has been troubled in the past by the violence of its advocates to such a great extent that the abbot himself and all the

<sup>157</sup> PÄTZOLD, Die frühen Wettiner (cit. n. 108) 194s.

<sup>158</sup> BUB IV/1 54s. no. 622.

<sup>159</sup> BUB IV/1 51s. no. 617.

<sup>160</sup> Codex Traditionum Claustroneoburgensis (cit. n. 112) 15 no. 64.

<sup>161</sup> BUB I 47s. no. 33.

<sup>162</sup> For Scheyern, see the privilege of Emperor Henry V referenced above (n. 117). For St. Peter auf dem Lauterberg, see CDSR I/2 176–179 no. 262.



brothers – if the oppression and calamity, which they were suffering, were not lightened by divine mercy – would have considered choosing for themselves places of peace and a more tranquil life. They did not have the strength to endure the complaints and sobs of the poor, who were very frequently lamenting both the damages to their possessions and the injuring of their bodies. Whence, in the presence of my ministerials, I zealously questioned the older of them concerning the right of the advocate (*iure advocati*). I examined these men successively as to what my grandfather Margrave Otakar [II] established from the very foundation of the place and as to what my father, Margrave Leopold, diligently confirmed afterwards.<sup>163</sup> Similarities between the language of this portion of the text and the promulgatio and narratio of another text in the Garsten codex, dated to 1191, lie at the heart of questions about the Vogtweistum's authenticity<sup>164</sup>. Wonisch, and those who have followed him in arguing the text is a forgery, have suggested on the basis of these similarities that both texts were probably written by the same author in the closing decades of the twelfth century. In making this argument, however, historians have paid much less attention to the Vogtweistum's arenga: „I, Margrave Otakar of Styria, am prepared to always love, favor and exalt the church of Garsten as a foundation of my ancestors, and I will be anxious to clear up and to mitigate everything opposing it with all of my might, as long as I shall live.“

At first glance, the juxtaposition of arenga and promulgatio/narratio seems to make little sense – and perhaps even supports the idea that the text is a forgery. Margrave Otakar III's supposed readiness to always love, favor and exalt his ancestors' foundation at Garsten is difficult to reconcile with the text's admission, immediately thereafter, that the monastery had long been troubled by the violence of its advocates. As I will argue here, the comparison with sources from other *Hausklöster* can help to explain this contradictory opening passage of the Vogtweistum. It is these sentences that hold the key to understanding the *causa scribendi* of the text – and to understanding why the copy in the *Traditionscodex* must be based on an authentic original from Otakar III's lifetime.

At five of the six other *Hausklöster* analyzed here, the term *advocatus* was clearly reserved for members of the founding lineage during the twelfth century. Only at Garsten and Klosterneuburg is the term used for non-family members in the first half of the 1100s; at Klosterneuburg, however, its usage by non-Babenberger declines over the course of the century, while at Garsten its usage by non-Otakare increases<sup>165</sup>. This indicates that the reference to the advocate Eticho under Margrave Leopold of Styria, and the references to Gundakar I of Styria and his son as advocates starting in the late 1140s, must be considered carefully. Eticho, Gundakar I and Gundakar II cannot simply be labeled subadvocates (*Untervögte*) tasked with administering the advocacy in the absence of the margraves; nor should they be seen as *Nebenvögte* in charge of only some of Garsten's properties. As the comparison with other *Hausklöster* has shown, there is no evidence to suggest that these forms of advocacy were in use at most dynastic monas-

<sup>163</sup> Tr. Garsten 85 K 18.

<sup>164</sup> WÖNISCH, Über das Urkundenwesen der Traungauer (cit. n. 33) 62s.

<sup>165</sup> I base this assessment both on my own reading of the edited tradition notices for Garsten and Klosterneuburg and on my analysis of the original manuscripts. For the Garsten manuscript, see above n. 22. The Klosterneuburger Codex Traditionum, or *Traditionscodex*, is Klosterneuburg, Stiftsarchiv, Hs. 1.

teries<sup>166</sup>. Indeed, the bond between founding lineage and religious community, which was central to the idea of the dynastic monastery, would have meant little if noblemen had immediately handed over control of these houses or their properties to their ministerials, to do with as the ministerials pleased. Eticho's and the Gundakare's appearances in the early tradition notices with the title *advocatus* thus suggest something different was happening at Garsten: Margrave Leopold of Styria and his son, Margrave Otakar III, were not interested in maintaining the monastery's status as their *Hauskloster*.

The history of the Otakare lineage and its lordship under these two margraves provides an explanation for this lack of interest. The death of the Eppensteiner Duke Henry III of Carinthia in 1122, only a few days after Margrave Otakar II of Styria's death, was a key moment for the lineage. Margrave Leopold of Styria inherited significant portions of the old Eppensteiner rights and properties – including territories around Judenburg and in the Mur River valley. As a result, the focus of Leopold's lordship quickly shifted southward, and Karl Brunner, for example, has labeled this period the „Geburt der Steiermark“<sup>167</sup>. Leopold's decision to support the foundation of the new Cistercian monastery at Rein, situated to the northwest of Graz, is one of the first pieces of evidence for Garsten's fading significance as the Otakare's religious center.

The period of minority rule following Leopold's death in 1129, when there was no male member of the Otakare lineage to fulfill the role of advocate of Garsten, must have widened the divide between monastery and lineage. In the years immediately after Otakar III reached the age of majority, he made no effort to rebuild ties with the religious house. Indeed, the most prominent donation made to Garsten during Otakar III's lifetime was a gift by King Konrad III. In a royal charter issued in early 1142 at Regensburg, the king granted 400 *mansi* to Garsten at the bequest of his wife and mother and with the consent of his Babenberger half-brother Henry Jasomirgott; Otakar III, however, is not mentioned<sup>168</sup>. Here again, a comparison with other *Hausklöster* is useful, because other dynastic monasteries did not typically receive large grants from outside the narrow circle of the founding lineage, its ministerials and vassals<sup>169</sup>. Garsten's declining status as a *Hauskloster* then continued in the later years of Otakar III's time as margrave. He focused much of his attention on building his lordship between the Mur and the Drau Rivers, and Graz emerged during his lifetime as the principal residence for the margraves in Styria<sup>170</sup>. His burial at his new foundation of Seitz/Žižce demonstrates that the lineage's interests had shifted dramatically in the four decades since Margrave Otakar II's death; his tomb lay almost 300 kilometers from Garsten.

<sup>166</sup> Here, my argument diverges from those of MELZER, *Zur älteren Geschichte* (cit. n. 32) 15, and REICHERT, *Landesherrschaft* (cit. n. 7) 222s.

<sup>167</sup> BRUNNER, *Herzogtümer* (cit. n. 79) 336–342. See also DOPPSCH, *Länder* (cit. n. 55) 277–280.

<sup>168</sup> *Urkundenbuch der Steiermark* 1 (cit. n. 31) no. GA 9 (Permalink: <http://gams.uni-graz.at/o:stub.98>); MGH D. Ko.III. 115–117 no. 66; and *Tr. Garsten* 86–88 no. K 19. Henry Jasomirgott would confirm the charter in 1171: *Tr. Garsten* 82s. no. K 16 (see also BUB I 55 no. 40).

<sup>169</sup> See especially Ludwig HOLZFURTNER, *Schenker und Schenkergruppen. Sozialgeschichtliche Studien an Hand hochmittelalterlicher bayerischer Traditionsbücher. ZBLG* 54 (1991) 289–323, at 304–306. In the 1140s, there was a (distant) kinship connection between the Babenberger and the Otakare, which may help to explain why members of the Babenberger were interested in patronizing Garsten; Margrave Otakar II's wife, Elizabeth, was a daughter of Margrave Leopold II of Austria. Nevertheless, as Holzfurtner shows, grants like Konrad III's are exceedingly rare for *Hausklöster*.

<sup>170</sup> DOPPSCH, *Länder* (cit. n. 55) 280–288.

This growing disinterest in the lineage's early center of lordship around Steyr and Garsten explains the appearance of non-Otakare advocates under Margraves Leopold and Otakar III. The combination of newly-founded dynastic monasteries and a geographical shift in the margraves' territorial interests left Garsten isolated from its founding lineage in a way that is unique among the monasteries and lineages examined here. Members of both the Babenberger and Wettiner lineages also founded multiple monasteries, but these lords did not lose the connection to their ancestors' early *Hausklöster* so quickly, because the centers of their lordship did not migrate such long distances. The references to Gundakar I of Steyr as advocate of Garsten in the late 1140s are especially significant from this perspective, since it was during this period that the Gundakare emerged as one of the leading ministerial families in the old Otakare heartland in the Traungau<sup>171</sup>. Gundakar I's control of the Garsten advocacy was clearly an important piece of his growing power and authority in the region – after the margraves had turned the exercising of day-to-day lordship there over to their ministerials to focus their own attention further south.

That not everyone approved of this new power dynamic in and around Steyr is evidenced by the Garsten Vogtweistum. Other scholars who consider the text authentic have suggested that Gundakar I ought to be seen as the Vogtweistum's main target, and the dynastic context outlined above lends credence to this argument<sup>172</sup>. Garsten was a *Hauskloster* that had lost the patronage and protection of its founding lineage, leaving it at the mercy of local elites anxious to expand their own influence. For the abbot and monks at Garsten, Gundakar I's efforts to use their house's advocacy to help build his own lordship were unacceptable. However, their options for how to proceed against him were limited. They had no papal privilege to protect them, nor did they have a foundation charter that regulated the advocacy in any way; and even if they were in possession of such documents, Gundakar I might have chosen to ignore them, since his own lord was rarely present in the region around Steyr and Garsten<sup>173</sup>. As a result, the abbot and monks turned to Otakar III, asking him to intervene and – for the first time – to detail in writing the *ius advocati*. Although the Otakare were not exercising direct control over the advocacy in this period, Garsten housed the tombs of Margrave Otakar II and his wife, Elizabeth. The abbot and monks could therefore reasonably expect Margrave Otakar III to have an interest in protecting the community. Indeed, the juxtaposition of *arennga* and *promulgatio/narratio* in the opening sentences of the Vogtweistum is best read as an acknowledgment by Otakar III that he had failed the lineage's old *Hauskloster* during the early years of his lordship. For this reason, Otakar III agreed to set out new rules for the advocates in the form of the Vogtweistum in order to restore some semblance of family control over the community.

<sup>171</sup> Max WELTIN, *Die steirischen Otakare und das Land zwischen Donau, Enns und Hausruck*, in: *Das Werden der Steiermark* (cit. n. 68) 163–180, at 166s., reprint in: *IDEM, Das Land und sein Recht. Ausgewählte Beiträge zur Verfassungsgeschichte Österreichs im Mittelalter* (MIÖG Ergbd. 49, Wien–München 2006) 188–204, at 196s.

<sup>172</sup> Godfrid Edmund FRIESS, *Geschichte des Benedictiner-Stiftes Garsten in Ober-Oesterreich* (Fortsetzung). *Wissenschaftliche Studien und Mitteilungen aus dem Benedictiner-Orden* 1/3 (1880) 28–49, at 30s., and REICHERT, *Landesherrschaft* (cit. n. 7) 222s.

<sup>173</sup> For the negative attitudes of some lay lords toward written documents, see Michael T. CLANCHY, *From Memory to Written Record: England 1066–1307* (Oxford–Cambridge 2019) 35–43.

Viewed from this perspective – and again using American, French and British traditions of scholarship on lordship as a guide – the Vogtweistum looks like the product of a dispute resolution, moderated by the margrave, between Garsten and its advocate, namely Gundakar I of Steyr<sup>174</sup>. Stephen White and others have argued convincingly that the written accounts of such disputes and their resolutions could appear in a variety of different monastic source genres<sup>175</sup>. As a result, the distinctive appearance of the so-called Vogtweistum in the Garsten codex ought not to surprise us<sup>176</sup>. Its use of the language of *violentia*, *obpressio* and *dampna* – common rhetorical turns of phrase in monastic complaints about local lay lords across Western Europe since the tenth century – indicates that the Garsten monks knew how to frame this dispute in a way that would make them look like the victims of unfair treatment at the hands of their advocates<sup>177</sup>. Reading the terms of this text through the lenses of *Rechtsgeschichte* and *Verfassungsgeschichte* therefore can reveal only part of the story. The writing down of the advocates' rights in the Vogtweistum was not only a legal move but also a strategy to alter the dynamics of power in the monastery's neighborhood by limiting the *Spielraum* in which the advocates were permitted to act as legitimate agents of the community.

The most likely period of the Garsten Vogtweistum's original composition is the early 1150s. In the year 1151, as noted above, Margrave Otakar III was referred to as the monastery's *advocatus* in a charter concerning a Garsten property exchange with the bishop of Passau<sup>178</sup>. Reading both texts together suggests that Otakar III was attempting to reassert his authority over Garsten at this time. His interest in the old *Hauskloster* soon faded, however. Gundakar I of Steyr and then his son Gundakar II reappear as advocates of Garsten in the subsequent decades. Indeed, the 1191 tradition notice that has been used to suggest the Vogtweistum was a forgery takes on new meaning when read apart from the Vogtweistum; it clearly shows that the Gundakare had come to consider the Garsten advocacy as a hereditary position inside their lineage<sup>179</sup>. The Georgenberger

<sup>174</sup> For this scholarship, see especially Warren C. BROWN–PIOTR GÓRECKI, *What Conflict Means: The Making of Medieval Conflict Studies in the United States, 1970–2000*, in: *Conflict in Medieval Europe: Changing Perspectives on Society and Culture*, ed. Warren C. BROWN–PIOTR GÓRECKI (Aldershot 2003) 1–35.

<sup>175</sup> See, for example, Stephen D. WHITE, *Garsinde v. Sainte Foy: Argument, Threat, and Vengeance in Eleventh-Century Monastic Litigation*, in: *Religious and Laity in Western Europe 1000–1400: Interaction, Negotiation, and Power*, ed. Emilia JAMROZIAK–JANET BURTON (Europa Sacra 2, Turnhout 2006) 169–181, and Warren C. BROWN, *Violence in Medieval Europe* (Harlow 2011) 99–132.

<sup>176</sup> The tradition of labeling this text a Vogtweistum dates back to the early twentieth century. Nevertheless, I would suggest that this label is unhelpful for two reasons. First, calling it a Vogtweistum is potentially misleading, since this text does not belong to the well-known genre of the late medieval Weistum, which Simon Teuscher has recently argued did not develop until after the twelfth century: Simon TEUSCHER, *Lords' Rights and Peasant Stories: Writing and the Formation of Tradition in the Later Middle Ages*, trans. Philip Grace (Philadelphia 2012) 42 (orig.: *Erzähltes Recht. Lokale Herrschaft, Verschriftlichung und Traditionsbildung im Spätmittelalter* [Campus Historische Studien 44, Frankfurt am Main 2007] 73). Second, the label makes it difficult to compare this document with monastic sources on noble lordship from outside the German-speaking lands, because there is no English equivalent of the term Vogtweistum. As a result, it is unclear where this text ought to fit into Anglophone scholarly discussions about the interactions between nobles and monasteries in medieval Western Europe.

<sup>177</sup> See, for example, n. 20 above and many of the articles in *The Experience of Power in Medieval Europe, 950–1350*, ed. Robert F. BERKHOFER III–Alan COOPER–Adam J. KOSTO (Aldershot 2005).

<sup>178</sup> See above, n. 95.

<sup>179</sup> See above, n. 107.

Handfeste of 1186 provides some of the best evidence for why neither Otakar III nor Otakar IV attempted to control the advocacy directly but instead left it in the hands of the Gundakare. The text lists Garsten as one of the religious communities founded or administered by the Otakare alongside fourteen other communities, none of which is singled out for any sort of special treatment: „Traunkirchen, Garsten, Gleink, Admont, Seckau, Viktring, Sankt Paul, Ossiach, Rein, Sankt Johannestal in Seitz, Vorau, Spital am Semmering, Lambach, Vornbach und Sankt Lambrecht“<sup>180</sup>. That all – or at least some – of these monasteries were concerned about control over their advocacies after Otakar IV’s death is reflected in the so-called „kleine Georgenberger Handfeste“ of 1186, in which the duke of Styria insisted that the advocacies for all the monasteries founded by his ancestors were to remain in the hands of the Babenberger dukes – without subadvocates<sup>181</sup>. The impending change of ruling dynasties meant that not only Garsten but all of the Styrian monasteries would soon find themselves under the control of lords who did not possess longstanding traditions of lordship within the Otakare dominions<sup>182</sup>. Not surprisingly, these communities wanted to establish close ties to the Babenberger, rather than allowing local lords to dominate them. But as the 1191 text declaring that the Gundakare were not hereditary advocates shows, Garsten’s efforts to wrest the advocacy free from this ministerial lineage did not end in 1186; indeed, disputes would continue into the thirteenth century<sup>183</sup>.

Thus, Garsten steadily lost its significance over the course of the twelfth century as Otakare family members founded new houses and extended their influence over others. As a result, in the decades after Otakar II’s death, Garsten ceased to be the Otakare *Hauskloster*, and control over its advocacy passed to a local ministerial family. The Garsten Vogtweistum, as an authentic source from the time of Margrave Otakar III, calls attention to the challenges faced by the monastic community when it could no longer rely on the consistent support of its founding princely dynasty.

## Conclusions

Monastic advocates and advocacies have been a focus of German and Austrian historical research for almost two centuries. The traditional frameworks in which they have been studied – namely *Rechtsgeschichte*, *Verfassungsgeschichte* and *Landesgeschichte* – have all contributed in significant ways to scholarly understanding of the topic. Nevertheless, as I hope I have shown with this case study of the Garsten Vogtweistum, new perspectives and new methodologies offer opportunities to drive research in this field in new directions. Viewing monastic advocacy through the lens of generational change and

<sup>180</sup> Karl SPREITZHOFER, *Georgenberger Handfeste. Entstehung und Folgen der ersten Verfassungs-urkunde der Steiermark* (Graz–Wien–Köln 1986) 16s. See also BUB I 89 no. 65. For these monasteries, see also DOPSCH, *Länder* (cit. n. 55) 279, 286, 290, and BRUNNER, *Herzogtümer* (cit. n. 79) 341.

<sup>181</sup> SPREITZHOFER, *Georgenberger Handfeste* (cit. n. 180) 20s.

<sup>182</sup> For the numerous other monasteries that already had close ties to the Babenberger prior to 1186, see Roman ZEHETMAYER, *Zur Rechtsgeschichte der Klöster in der Babenbergermark*, in: *Die virtuelle Urkundenlandschaft der Diözese Passau. Vorträge der Tagung vom 16./17. September 2010 in Passau*, ed. Adelheid KRAH–Herbert W. WÜRSTER (Veröffentlichungen des Instituts für Kulturraumforschung Ostbairern und der Nachbarregionen der Universität Passau 62, Passau 2011) 227–250.

<sup>183</sup> REICHERT, *Landesherrschaft* (cit. n. 7) 221–226.

shifting lordship strategies inside noble lineages enables us to examine the relationship between advocates and monasteries differently. Here, advocacy has become a way to appreciate the dynamism of lordship in the central Middle Ages and to understand why some monastic houses struggled to maintain relevance in the face of that dynamism. Combining source material in other ways will undoubtedly help shine a light on other aspects of monastic advocacy that have lain hidden in the long shadows cast by older historiographical traditions.

Adelsfamilien, Hausklöster und Klostersvogtei im 12. Jahrhundert: Das Garstener Vogtweistum im dynastischen Kontext

Die Klostersvogtei ist kein so prominentes Forschungsfeld der Mediävistik mehr, wie sie es im späten 19. und frühen 20. Jahrhundert war. Das geringe Interesse an ihr ist bedauerlich, da es für die Klostersvögte und ihre Aktivitäten im hochmittelalterlichen Reich eine Fülle an Zeugnissen quer durch die Quellengattungen gibt. Dieser Aufsatz soll zeigen, wie die Synthese älterer Forschungstraditionen mit jüngeren methodischen Zugängen den Gegenstand wiederbeleben und auf neue Wege leiten kann. Die Untersuchung des so genannten Garstener Vogtweistums in breitem, komparativem Rahmen führt vor, wie Forschungen zur Klostersvogtei neue Ergebnisse über adelige Hausklöster, die Landesherrschaft und die Reaktion klösterlicher Gemeinschaften auf gewalttätige lokale Adelige bringen können.