

THE ABBOT AND CONVENT OF MEREVALE v. THE  
RECTOR OF HALSALL

A TUTORIAL APPEAL IN THE FOURTEENTH  
CENTURY BEFORE THE COURT OF ARCHES

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SOME years ago Miss Cottam read a paper before the Society on "An Altcar Tithes Dispute in the Fourteenth Century".<sup>(1)</sup> She discussed a lawsuit in the Consistory Court at Lichfield during the years 1365-1368 between the Cistercian Abbey of Merevale in Warwickshire and the Rector of Halsall over the possession of and the right to levy tithes in Altcar, where the Abbey had a grange. There has recently come to light among the muniments of the Clifton family of Lytham, which have been deposited in the Lancashire Record Office at Preston, another roll concerning the same dispute.<sup>(2)</sup> The new roll contains part of the documents relating to a tutorial appeal in the Court of Arches by the Abbot and Convent of Merevale against a decision of the Abbot of Evesham sitting as papal conservator of the rights and privileges of the Cistercian order in England in favour of the Rector of Halsall.

The working of the common law courts of England in the Middle Ages has been treated by a series of distinguished historians, and has been illustrated by the publication of a long series of records; but the working of those other courts which administered that other "common law", which we call canon law, has been almost entirely neglected by English historians. "As yet . . . a detailed history of our ecclesiastical courts is impossible. Very few attempts have been made to put into print the records out of which that history must be wrung."<sup>(3)</sup> Comparatively little has been done since Maitland wrote these words, though I should like to single out Miss Churchill's book on *Canterbury Administration* without which it would not have been easy to discover what a tutorial appeal was. It may therefore be worth while to set down in as much detail as the sources allow the story of a single suit, which came before a number of different tribunals, so as to illustrate the elaborate

<sup>(1)</sup> TRANSACTIONS, Vol. 80 (1930), pp. 136-62. For an account of the exemption of the Cistercian order from the obligation to pay tithes, see P. Viard, *Hist. de la dîme ecclésiastique . . . aux xii<sup>e</sup> et xiii<sup>e</sup> siècles*, Paris 1912, pp. 42-52.

<sup>(2)</sup> Documents deposited, Clifton 1050. For a brief notice of the Clifton muniments see TRANSACTIONS, Vol. 94 (1943), pp. 126-8. I have to thank the staff of the John Rylands Library for their ready help, and Mr. R. Sharpe France, County Archivist of Lancashire, for allowing me to use the roll before the collection was arranged.

<sup>(3)</sup> F. W. Maitland, *Roman Canon Law in the Church of England* (London, 1898), p. 130.

machinery of the ecclesiastical courts in England in the later Middle Ages. In dealing with such unfamiliar subject matter I am conscious that I may have failed sometimes to interpret the evidence aright and made mistakes through ignorance, and I ask the reader's indulgence.

The story of the suit has to be disentangled from the surviving part of the record of the proceedings before the Court of Arches, chiefly from the evidence of the witnesses examined on the *suggestio* of the Abbot and Convent of Merevale and on the *factum contrarium* propounded by the proctor of the Rector of Halsall. Unfortunately the sentence is missing, so that we have no guide but intrinsic probability when the evidence is conflicting.

The Abbot and Convent of Merevale brought their suit against the Rector of Halsall before the Abbot of Evesham as conservator of the rights and privileges of the Cistercian order in England deputed by the Apostolic See. The papal bull appointing the conservators is not given in full; but Mr. Thomas de Atterton, whom we shall meet in a moment, gave evidence that he had seen and read the bull, in which it was stated that, since the Cistercian monks had not easy access to the Apostolic See, at the instance of a certain Cardinal and of John, late King of France (1350-1364), the Pope entrusted the power of keeping the rights and privileges of the Cistercians to the Abbots of Westminster, Evesham and Chester.<sup>(1)</sup> No pope is named, but letters conservatory to these three abbots were issued by Pope Innocent VI in 1353, "the former grant having had no effect by death of the preceding Pope", i.e. Clement VI.<sup>(2)</sup> Such solicitude on the part of the King of France for the Cistercian houses in England seems unlikely, and it is reasonable to suppose that the original bull was issued primarily for the benefit of the Cistercians in France, though it presumably applied to the order as a whole.<sup>(3)</sup> For in the acts of the general Chapter of the Cistercian order for the year 1351, which only survive in an abbreviated French version, there is a reference to the grant of "vaillant conservateurs" to the order by the Pope, and conditions are laid down upon which their aid may be invoked.<sup>(4)</sup> It was the religious houses of France that were to suffer such terrible devastation in the Hundred Years War, and it was probably in an effort to extend the protection given to them that conservators were appointed;<sup>(5)</sup> but

<sup>(1)</sup> C.1 (for a calendar of the documents in the case, see APPENDIX A): "Bullam apostolicam . . . vidit legit et intellexit, ut dicit, in qua bulla caneatur quia religiosi ordinis Cisterciensis non valebant facillime habere accessum ad sedem apostolicam pro suis iuribus et privilegiis defendendis (deferendis MS.) et conservandis, ad instantiam sive contemplationem cuiusdam cardinalis quem nescit nominare ad presens, ut dicit, ac domini Johannis ultimi regis Francie, ut caneatur in dicta bulla, ut dicit iste iuratus, commisit dominis abbatibus Westmonasterii iuxta London', de Evesham et Sancte Werburge Cestrie, Londoniensis, Wygorniensis et Lichefeldensis diocesum sub certa forma in predicta bulla concepta potestatem conservandi iura et privilegia religiosorum quorumcumque ordinis Cisterciensis".

<sup>(2)</sup> *Cal. Papal Letters*, ed. W. H. Bliss and C. Johnson, Vol. III, p. 503.

<sup>(3)</sup> This could no doubt be verified by reference to the Registers of Clement VI and Innocent VI, if they were available. The relevant series of Registers edited by members of the French School at Rome have not yet appeared for these years.

<sup>(4)</sup> *Statuta ordinis Cisterciensis*, ed. J. M. Canivez (Louvain 1933-8), Vol. III, p. 519.

<sup>(5)</sup> Cf. the supplication of a French Benedictine house for the appointment of conservators owing to devastations caused by the War in *Suppliques de Clément VI*, ed. U. Berlière, *Analecta Vaticano-Belgica* (Rome, 1906), Vol. I, No. 1016.

the War would also make it more difficult for English monks to approach the Apostolic See at Avignon. It should, however, be noted that conservators had already been granted to the whole Order on one earlier occasion at least, by Clement V in 1309.<sup>(1)</sup>

Conservators were persons delegated by the Pope to give protection to persons or institutes from wrongs done to them. In Canon Law they first appear in the Sext,<sup>(2)</sup> where a decretal of Innocent IV is given, in which it is laid down that they are to defend from manifest injuries those whose protection is entrusted to them, but that their power does not extend to matters which require judicial investigation. Letters conservatory, however, granting protection to individuals or individual monastic houses or cathedral chapters are found long before this. Letters conservatory for a whole religious order were first given to the Franciscans and Dominicans by Pope Innocent IV in 1245 after the Council of Lyons.<sup>(3)</sup> For reasons which it is impossible to determine without a detailed investigation of their history use of them increased, and from the time of John XXII they became very much more common.<sup>(4)</sup> A new form was introduced at the Council of Vienne (1311-12), by which wider powers were granted to the conservators. It is said to have been conceded by Pope Clement V in the Council,<sup>(5)</sup> and the first batch of letters containing it were issued from 7-11 May 1312, just after the final session of the Council (6 May).<sup>(6)</sup> Conservators appointed under this form, which is almost certainly the one with which we are concerned here,<sup>(7)</sup> had powers of judicial inquiry and the right to appoint sub-conservators. To give an illustration from our period, we have the letters appointing the Bishops of Winchester, London and Worcester conservators for the Franciscans in England, according to which their powers, which are "perpetual", include the right to delegate and to deal with matters which require judicial inquiry.<sup>(8)</sup>

The preliminaries to our case are only briefly alluded to. The

<sup>(1)</sup> *Reg. Clem. V*, ed. Monachi S. Benedicti, annus IV, no. 4435; H. V. Sauerland, *Urkunden und Regesten zur Geschichte der Rheinlanden*, (Bonn, 1902), Vol. I, No. 284; *Cal. Papal Letters*, *op. cit.*, Vol. II, p. 58.

<sup>(2)</sup> Lib. I, tit. xiv, cc. i, xv, *Corpus iuris canonici*, ed. Aem. Friedberg (Leipzig, 1881), Vol. II, pp. 978, 982.

<sup>(3)</sup> P. Gratien, *Hist. de la Fondation et de l'Evolution de l'Ordre des Frères Mineurs* (Paris, 1928), p. 205; A. G. Little, *Studies in English Franciscan History* (Manchester, 1917), p. 102; C. Eubel, *Bullarii Franciscani Epitome* (Quaracchi, 1908), No. 371 and note. They had already been granted to the Order in parts of France and Germany by Gregory IX in 1231; see Gratien, *op. cit.*, p. 124.

<sup>(4)</sup> See the subject index of the *Register of John XXII*, ed. Mollat.

<sup>(5)</sup> M. Tangl, *Die päpstlichen Kanzleiordnungen von 1200-1500* (Innsbruck, 1894), pp. 321-4: "Conservatoria iuxta formam concessam per dominum Clementem in concilio Viennensi".

<sup>(6)</sup> *Reg. Clem. V*, annus VII, Nos. 7976-86.

<sup>(7)</sup> Without the right of judicial inquiry the conservators could not have dealt with the dispute over tithes. This right was expressly withheld in the earlier form; see, for example, the bull of Clement V for the Cistercians in 1309, *loc. cit.*, *supra*, p. 49, n. 1, and the added note "n" in G. Durandus, *Speculum iuris*, Lib. I, partic. i *De iudice delegato* §8, n. 24, *ad v. conservatoribus* (ed. Bâle 1674, Vol. I, p. 28): "Forma conservatoriarum quae dicitur Viennensis concilii in multis tollit illam constitutionem [sc. Statuimus, Sext. *loc. cit.* c. i] et permittit iudicalem indaginem". The other changes do not concern us here.

<sup>(8)</sup> *Reg. W. Wykeham*, ed. Kirby (Hampshire Rec. Soc.), Vol. II, pp. 176-8: "Nos igitur . . . discretioni vestre per apostolica scripta mandamus quatenus vos vel duo aut unus vestrum per vos vel alium seu alios . . . in iis videlicet que iudicalem requirunt indaginem per viam iudicii, in aliis vero, prout qualitas ipsorum exegerit, iusticie complementum, ita quod officium, potestas et iurisdicatio vestra exnunc perpetua censeantur". This last clause differs slightly from the form printed by Tangl, *loc. cit.*

papal bull appointing the Abbot of Evesham conservator was read and expounded in English by Mr. Thomas de Rypple and Mr. John Cave.<sup>(1)</sup> Nothing is said about his fellow conservators, since the Abbot had power to act alone. The Abbot then appointed as sub-conservators by letters patent the Abbot of St. Mary de Pré, Leicester, the Prior of Arbury and Mr. Thomas de Atterton, rector of Withirley, near Leicester, and canon of Hereford, jointly or severally to hear the case which the Abbot and Convent of Merevale hoped to bring before him. A similar procedure was regularly adopted by William of Wykeham acting as conservator of the Franciscans.<sup>(2)</sup> We are not told where or when these preliminaries took place; but it was probably in the Spring of 1364, for the Prior of Arbury ordered John de Bellerby, vicar of Prestbury in Cheshire to cite Richard, rector of Halsall, to appear in the church of St. Martin at Leicester (now the Cathedral) on 1 June and answer concerning molestations and injuries done to the Abbot and Convent of Merevale.

The first hearing took place on Saturday, 1 June 1364, before Mr. Thomas de Atterton sitting in the Church of St. Martin at Leicester. Brother Thomas de Scheynton, who was a monk of Merevale and warden of the grange at Altcar, appeared as proctor of Merevale, and Mr. Richard Litherland and John Clerk of Halsall as proctors of the Rector. Mr. Richard Litherland asked for a copy of the *libellus*, or statement of the plaintiff's case. He then protested that St. Martin's was not a safe place for the Rector, who dared not approach it for fear of his enemies. According to the evidence of John Clerk he asked for another place to be assigned, but Mr. Thomas de Atterton expressly refused. Mr. Thomas himself, questioned on the point, denied that Mr. Richard Litherland had done so. The plea that a place was unsafe for one of the parties was a recognized "exceptio", but it was one which was sometimes put forward simply to gain time, and we should perhaps not take it very seriously.<sup>(3)</sup>

At the second hearing, which took place three weeks later (22 June) in the same place, Mr. Richard Litherland received the copies of the bull and of the *libellus*. John Clerk, his fellow proctor, then caused a servant (*quendam famulum*) to hand two royal writs of prohibition, one to the judge, the other to the proctor of Merevale,<sup>(4)</sup> forbidding them to proceed further. This put an end to the proceedings that day, because Mr. Thomas was not willing to go on.

The writ of prohibition restrained proceedings in the ecclesiastical court on the ground that the matter in dispute was not within the

<sup>(1)</sup> Evidence of W. Petelynkes (C.4): "Continebat bulla huiusmodi . . . prout Mr. Thomas de Rypple et Mr. Johannes Cave in exponendo bullam huiusmodi in lingua materna dixerunt."

<sup>(2)</sup> *Reg. W. Wykeham*, Vol. II, pp. 176-8, 266f., 271, 318f., 347, 384, 441. The powers thus subdelegated were not always the same, but there is no evidence to show exactly what they were in the present case.

<sup>(3)</sup> G. Durandus, *op. cit.*, Lib. II, partic. iii, *de appellationibus*, §10, n. 43 (Vol. I, p. 863): "Caveant officiales curiae, quia frequenter appellantes fingunt sibi exceptiones . . . v.g. exceptio de loco non tuto."

<sup>(4)</sup> This was to make assurance doubly sure, in accordance with the advice of Bracton, *De legibus*, fol. 405b; see G. B. Flahiff, *The use of prohibitions by clerics against ecclesiastical courts in England in Mediaeval Studies* (Toronto), Vol. III (1941), p. 113. For this paper, to which I am much indebted, see below p. 57.

sphere of that court's jurisdiction. There were three courses open when an action was so prohibited, to continue in spite of the prohibition, to seek a writ of consultation by which the royal justices or other officials commissioned for the purpose decided whether it was a case where the ecclesiastical judge might proceed, or to drop the suit. The second course was that which was normally followed in the middle of the fourteenth century, and it was the course taken in the present case.<sup>(1)</sup> Unfortunately we have no details. That part of the examination of Mr. Thomas de Atterton, who was the only witness questioned on the matter, is lost. We are only told that the consultation took place and that the Prior of Arbury ordered John de Bellerby afresh to cite the Rector to appear in St. Martin's on Saturday, 27 July.<sup>(2)</sup> It appears that the present case was one that certainly came within the sphere of the ecclesiastical court.<sup>(3)</sup> We are again inclined to say that the Rector's advisers were trying to gain time.

Clerics who sued out royal writs of prohibition when they were not justified in so doing laid themselves open to serious penalties. From the time of Robert Grosseteste the English bishops had been concerned with the abuse and had devised various measures to check it;<sup>(4)</sup> but encroachments by the secular courts were not confined to England; and when in 1298 Pope Boniface VIII issued the new book of canon law called the Sext, he included a decretal, beginning *Quoniam ut intelleximus*,<sup>(5)</sup> in which he declared that anyone who brought before a secular court a suit on a matter falling within the sphere of the jurisdiction of the ecclesiastical courts or hindered the attainment of justice before ecclesiastical judges should be *ipso facto* excommunicate and should not be absolved before he had made full reparation both to the court and to the party injured. The fresh citation of the Prior of Arbury ordered the Rector to show reasonable cause why sentence of excommunication according to this canon should not be pronounced against him, because he had maliciously hindered the jurisdiction of the church in a matter that notoriously belonged to the *forum ecclesiasticum*.<sup>(6)</sup>

On Saturday, 27 July, Mr. Thomas de Atterton duly held his sitting in St. Martin's. Brother Thomas de Scheynton appeared as proctor of Merevale, but the Rector's party failed to appear. When they had been summoned several times and waited for, Mr. Thomas proceeded to excommunicate the rector for his repeated contumacy

<sup>(1)</sup> Flahiff, *op. cit.*, pp. 102, 106 n. 26, 114f.

<sup>(2)</sup> Evidence of Mr. T. de Atterton (C.1): "Obtenta consultacione in ea parte regia sufficienter dictus prior Herdbury de novo mandavit per suas litteras . . . personis quibus prius, ut credit iste iuratus, ad citandum peremptorie prefatum rectorem de Halsale ad comparandum die Sabbati proximo post festum Sancti Jacobi . . . in ecclesia Sancti Martini prelibata coram dicto domino abbate de Evesham, dicto priore, aut altero commissario abbatis de Evesham supradicti."

<sup>(3)</sup> N. Adams, "The judicial conflict over tithes" in *English Historical Review*, Vol. LII (1937) pp. 3-4.

<sup>(4)</sup> Flahiff, *op. cit.*, p. 105ff.

<sup>(5)</sup> Sext. lib. III, tit. xxiii, c. iv, ed. Friedberg, Vol. II, p. 1063.

<sup>(6)</sup> Evidence of Mr. T. de Atterton continued from above, n. 2: "Responsum et ostensurum in forma iuris causam rationabilem si quam haberet quare non deberet pronunciari in sententiam excommunicationis latam in canone qui incipit *Quoniam ut intelleximus*, eo quod maliciose impeditur seu impeditur procuravit iurisdictionem ecclesiasticam in causa prelibata cuius cognitio notorie ad forum ecclesiasticum dinoscitur pertinere."

and pronounced that he had fallen under sentence of the canon *Quoniam ut intelleximus*.<sup>(1)</sup>

The true course of events at this time is not easy to disentangle, because the advisers of the Rector evidently knew what was coming and tried to avoid the sentence, while the Abbot and Convent seem to have taken alarm at what was done. Let us take first the story told by John Clerk, one of the Rector's proctors. He says that on the Sunday (he does not recollect the date) on which the Rector received the citation he drew up an appeal in writing to the Abbot of Evesham and caused John Sendale, chaplain, his proctor, to notify the appeal. John Sendale performed his task and the Abbot of Evesham through him transmitted an inhibition to Mr. Thomas de Atterton, inhibiting him from proceeding further in the case pending the appeal. John Sendale inhibited Mr. Thomas at Coventry, and then in company with John Clerk himself went to Withirley to make sure that Mr. Thomas was well and truly inhibited. Mr. Thomas confessed that he was. All this happened before Saturday, 27 July, on which day Mr. Thomas pronounced sentence of excommunication on the rector in absence. In the same mandate of inhibition the Abbot and Convent of Merevale were cited to appear before the Abbot of Evesham on a day and at a place he did not remember; but he was present at the Abbey of Merevale on 14 August when John Sendale notified the citation. On the other side Mr. Thomas de Atterton gave evidence that on 27 July he had not heard of any appeal from himself. All that he had received was an appeal delivered by John Sendale, who said he was the proctor of the Rector, against the citation by the Prior of Arbury of the Rector as giving too short notice and being fixed for an unsafe place.<sup>(2)</sup> About three weeks later, that is in the middle of August, John Sendale and John Clerk appeared in the open field of Withirley (*in campis de Wytherle*), and presented a mandate from the Abbot of Evesham inhibiting him from proceeding further in the suit. After this he did nothing more in view of the inhibition. There is nothing to show which of these accounts is true, whether there was a single appeal and inhibition before 27 July, as John Clerk asserted, or an appeal from the citation before and an inhibition after 27 July, as Mr. Thomas said. Consideration of the dates makes the account of John Clerk suspect. For why did the citation not reach Merevale before 14 August? But from what follows it would appear that the Abbot of Evesham at any rate thought that Mr. Thomas de Atterton had acted after he had received the inhibition. For what happened next we have only the vague evidence of John Clerk. The Abbot of Evesham held some sort of proceedings (*habito aliquali processu*),

<sup>(1)</sup> Evidence of the same (A.2): "Eundem [sc. rectorem] excommunicavit propter suas contumacias multiplicatas et in sententiam canonis *Quoniam ut intelleximus* incidisse pronunçavit"; evidence of T. atte Temple (C.3): "Dictusque Mr. Thomas sedens pro tribunali in ecclesia S. Martini Leycestrie eodem die Sabbati fecit partem ipsius rectoris de Halsale pluries preconizari et quia non comparuit, ut dicit iste iuratus, ipsum excommunicavit in scriptis."

<sup>(2)</sup> A.2: "Non audivit de aliqua appellacione interposita ab eodem M. Thoma, sed de una appellacione interposita a citacione per quam pars ipsius rectoris citata extiterat ad terminum post festum S. Jacobi predictum bene audivit, ex hoc quod prefata pars rectoris asseruit dictum priorem ipsam citasse ad terminum nimis brevem et peremptorie ad locum minus tutum."

the day and place of which the witness (as usual) did not remember, at which brother Thomas de Scheynton was proctor for Merevale and Mr. Richard Litherland for the Rector. The Abbot adjourned the proceedings, because he did not know when he would be free to hear the appeal and revoke the acts of Mr. Thomas de Atterton.<sup>(1)</sup> He may well have needed time to take advice about what he should do next.

No further acts of the Abbot are recorded until the summer of 1365, that is nearly a year later. But before then the Rector had begun to try other means of securing his title to the disputed tithes.<sup>(2)</sup> He started an action against Adam, rector of Meols and others in the Court of the Archdeacon of Chester. On 2 May brother Thomas de Scheynton, as proctor for Merevale, appeared before Mr. John de Wetfeld, official of the archdeacon, in Warrington Parish Church and claimed to be admitted a party to the suit, in which the Abbot and Convent were interested, the more particularly as they suspected it was a collusive action. The official refused to accept the plea on a technical count. On the next day brother Thomas in the house of his notary, John de Bellerby, at Prescot,<sup>(3)</sup> caused an appeal to the bishop to be drawn up. Chaucer's lines<sup>(4)</sup>

For er the bisshop caughte hem with his hook,  
They weren in the erchedeknes book

hardly apply to such willing victims. On 21 May before Mr. John de Wetfeld, as official of the Archdeacon of Chester, sitting in the Parish Church of Bebington, John de Bellerby drew up an instrument certifying the appeal. Mr. John de Wetfeld deferred to the appeal and agreed that not only the appeal but the whole tithe case should come by devolution before the bishop's court for hearing. On 29 May, Mr. Ralph de Smethwyk, sitting as official of the Archdeacon of Chester in Wigan Parish Church, also deferred to the appeal, and afterwards in the churchyard agreed that the whole tithe case should come by devolution before the bishop's court for hearing.<sup>(5)</sup> The reason for this double procedure is not apparent. Miss Cottam has already described how this appeal first came up

<sup>(1)</sup> A. 1: "Dictus dominus abbas de Evesham illo die nescivit, ut asseruit, ut audivit iste iuratus dici, quo tempore possit melius sibi vacare ad procedendum in causa appellacionis predictae et ad revocandum processum predictum habitum coram dicto M. Thoma de Atterton."

<sup>(2)</sup> For what follows see Miss Cottam's paper, *TRANSACTIONS*, Vol. 80 (1932), pp. 136-7. I have added some further details from Miss Roxburgh's transcript of the Croxeth rolls, which are now deposited with the other muniments of Lord Sefton in the Lancashire Record Office. The reference number is DDM 19/11.

<sup>(3)</sup> Notarial instrument of J. de Bellerby: "In ospicio mei notarii subscripti infra villam de Prescote."

<sup>(4)</sup> *The Friar's Tale*, lines 19-20.

<sup>(5)</sup> Croxeth Roll, DDM 19/11a, *Instrumentum super certificatione appellacionis*: "Qui quidem Mr. Johannes Wedfeld officialis predictus predicte appellacioni benigne detulit, ac publice et palam asseruit quod ipse vellet quod dicte cause omnes et singule fuerint devolute coram dicto venerabili patre Coventrensi et Lichefeldensi episcopo et coram eius commissario . . . Postea vero constituto personaliter idem fr. Thomas predictus in ecclesia parochiali de Wygan . . . mensis supradicti die vicesima nona in mei notarii publici . . . presencia legit notificavit [et] intimavit appellacionem [coram] M. Radulfo de Smethwyk officiali domini archidiaconi Cestrie tunc sedente pro tribunali ac Johanne Barker capellano procuratore dicti rectoris de Halsale litteratorie constituto. Qui quidem M. [Radulfus] de Smethwyk officialis predictus appellacioni predicte benigne detulit, ac subsequenter incontinenti in cimiterio dicte ecclesie de Wygan idem officialis pure sponte et absolute fatebatur et dixit coram testibus subscriptis quod ipse velle[et] quod omnes et singule cause . . . mote seu moveri sperande fuerint totaliter devolute coram venerabili patre supradicto Coventrensi et Lichefeldensi episcopo et suis commissariis."

for hearing in the Consistory Court at Lichfield on 29 July, and was finally settled there nearly three years later.

Meanwhile the Abbot of Evesham was beginning to move, and sent a mandate to the Rural Dean of Warrington to cite the parties to appear before him in Worcester Cathedral on Monday, 21 July. According to John Clerk, the Rural Dean delivered the citation to the Rector of Halsall on 10 July, and on the same day met brother Thomas de Scheynton in the Church of the Austin Friars at Warrington and talked with him. At length the ubiquitous John de Bellerby made a copy of the citation and handed it to brother Thomas.<sup>(1)</sup> Mr. Thomas de Atterton in his evidence stated that he was cited to answer for contempt of the conservatorial power of the Abbot and for injuries done to the Rector.<sup>(2)</sup> On the day appointed the Abbot of Evesham with the Prior of Worcester and Mr. Robert de la More and many other honourable religious (*multis aliis honestis religiosis viris*) sat as a tribunal in Worcester Cathedral.<sup>(3)</sup> When the parties were summoned, brother Thomas de Scheynton produced letters of proxy, in which the Abbot and Convent of Merevale appointed a new proctor and revoked the powers they had given him, and claimed that he had been wrongly cited, since at the time of the citation his powers of proxy had already been revoked. The Abbot replied that brother Thomas de Scheynton must answer because he had represented Merevale in the earlier stages of the appeal before him, for which the proxy was in the hands of the registrar (*penes registrarium*), and asked him whether he had anything to put forward as to why the acts of Mr. Thomas de Atterton should not be revoked. He replied that he would say nothing more. The Abbot then caused Mr. Robert de la More to read out a schedule revoking the commission granted to Mr. Thomas de Atterton and quashing and annulling all his proceedings in the case.

On the following Thursday afternoon brother Thomas de Scheynton and Mr. Thomas de Atterton arrived at Merevale with the news of the revocation. The first thought of the monks seems to have been fear of being caught in the toils of the King's courts for disregarding a royal prohibition. For according to Mr. Thomas de Atterton they said they would not for £100 have procured the fresh citation of the Rector by the Prior of Arbury, because the Lord King had prohibited them from bringing the Rector into the ecclesiastical court for the offences referred to in the citation to the prejudice of his crown.<sup>(4)</sup> This attitude was reflected in the step

<sup>(1)</sup> A.1: "Fr. Thomam de Scheynton . . . citavit consimiliter ad eosdem diem et locum nomine dictorum religiosorum virorum de Miravalle et tanquam eorum procuratorem, ut credit iste iuratus, ex eo quod prefatus decanus in ecclesia fratrum de Weryngton accessit ad prefatum fr. Thomam et cum eo loquebatur, et tandem quidam dominus Johannes Bellerby predictus scripsit copiam mandati citatorii . . . et eidem fr. Thome tradidit et liberavit."

<sup>(2)</sup> C.1: "Ad respondendum eidem abbati de Evesham super quodam contemptu sedem apostolicam et potestatem ipsius abbatis conservatoriam prelicitam concernente ac etiam ad respondendum prefato domino Ricardo rectori de Halsale super quibusdam iniuriis et gravaminibus."

<sup>(3)</sup> C.1: "In ecclesia cathedrali Wygorniensi in loco consueto."

<sup>(4)</sup> *Ibid.*: "Abbas et conventus de Miravalle dixerunt palam et expresse in presencia dicti M. Thome de Atterton et aliorum fidedignorum quod pro centum libris argenti non procurassent citationem huiusmodi fuisse factam, pro eo quod dominus rex prohibuit eis antea ne prefatum Ricardum rectorem super transgressionibus in citacione huiusmodi expressatis traherent ad iudicium ecclesiasticum in preiudicium corone sue."

they took at the next sitting. At the same time they did not intend to be beaten, and they at once empowered Mr. Thomas de Atterton to make an appeal for protection to the Court of Arches on their behalf. This appeal in the form of a *suggestio* was delivered to the Official ten days later (3 August).<sup>(1)</sup>

At the next sitting<sup>(2)</sup> before the Abbot of Evesham brother Thomas de Scheynton of his own motion (*mero motu proprio*) took an oath on the Gospels that the fresh citation of the Rector by the Prior of Arbury after the royal prohibition had not been sought by him, but was sent against his will. The final sitting was taken up with the question of costs. The abbot asked brother Thomas de Scheynton whether he had anything to say as to why the Abbot and Convent of Merevale should not be condemned to pay costs, to which he replied that he had not. The Abbot then asked the Rector what his expenses had been, and he, putting his hand to his breast (*ponens manum ad pectus suum*) swore upon the Gospels that he had expended £40. The Abbot then condemned Merevale in 10 marks costs, because they had rashly troubled (*temere fatigarunt*) the Rector before Mr. Thomas de Atterton. Lastly he fixed 30 September as the date of the hearing of the original appeal of the Abbot and Convent of Merevale against the Rector of Halsall in the matter of the disputed tithes.

The tuitorial appeal has been discussed by Miss Churchill.<sup>(3)</sup> She says: "Briefly this form of appeal may be explained as the right of the Archbishop [of Canterbury] to protect the goods and person of the appelland, pending litigation, from the jurisdiction of his diocesan," and, we must add, from the jurisdiction of a papal conservator. The mandate issued on 3 August by the official of the Court of Canterbury, which was based on the *suggestio*<sup>(4)</sup> and which set forth the injuries done to the Abbot and Convent of Merevale, was addressed to John de Bellerby, John Kenyon and Adam del Egge. They were jointly or severally to inhibit the Abbot of Evesham and the Rector of Halsall and any others whom the law required should be inhibited from taking further proceedings while the appeal was pending, and to cite the Rector to appear on the second law-day after the feast of St. Faith (6 October) in the Court of Arches. This would be the second law-day of the Michaelmas Term.<sup>(5)</sup> John de Bellerby received the mandate on 10 August, and on 28 September he replied from Pollesworth in Warwickshire

<sup>(1)</sup> C.1: "Prefatus M. Thomas die Sabati . . . horam terciam eiusdem diei quandam appellationem in scriptis redactam nomine procuratorio dictorum religiosorum de Miravalle conceptam fecit et interposuit in presencia et coram dicto domino officiali eamque notificavit tunc ibidem officiali prelibato." There is a break in the text after "Sabati". The date is given by that of the mandate of the official.

<sup>(2)</sup> The day given is "die Lune secundo", but it is not clear what the interval between the sittings was. Mr. T. de Atterton had evidently sat from three weeks to three weeks; but the interval here must be shorter, and the day is probably Monday, 28 July.

<sup>(3)</sup> *Canterbury Administration* (London, 1933), Vol. I, pp. 427f., 460-7.

<sup>(4)</sup> cf. Unde ex parte eorundem sentiencium se ex premissis gravaminibus et eorum quolibet indebite pregravari ad sedem apostolicam et pro tuicione curie Cantuariensis legitime extitit appellatum [etc.]. The wording of the latter part of the mandate beginning with this sentence is almost the same as that of the *suggestio* in *Reg. Hamonis Hethe* (Canterbury and York Society), p. 419f.

<sup>(5)</sup> *Handbook of British Chronology*, ed. F. M. Powicke (London, 1939), p. 423.

that he had duly inhibited the Rector and the Rural Dean of Warrington and that he had cited the Rector to appear, but that he had not dared to inhibit the Abbot of Evesham owing to the risk of death (*propter periculum mortis*).

Of the actual proceedings in the Court of Arches the documents do not tell us much. The lawyers practising in the Court were divided into two classes, proctors and advocates,<sup>(1)</sup> whose functions may roughly be compared to those of solicitors and barristers. The names of the advocates do not appear. The proctors were Richard de Drayton for Merevale and Richard de Upton for the Rector. The documents we have for the plaintiffs are that in which Richard de Drayton propounds the *suggestio* and asks that the protection of the Court be granted to the Abbot and Convent and that all acts done to their prejudice be revoked and quashed;<sup>(2)</sup> and part of the written record of the evidence of four witnesses examined on the matter contained in the *suggestio*, the first of whom is Mr. Thomas de Atterton. For the defendants we have the *factum contrarium* propounded by the Rector's proctor, in which the Rector's case is set out by way of a denial of the facts contained in the *suggestio*. He asks that the benefit of protection be granted to Merevale, but that the Rector be dismissed from the examination.<sup>(3)</sup> Finally, there is the evidence of five witnesses examined on the *factum contrarium*. The first two are John Clerk and Mr. Thomas de Atterton. The heading shows that the examination was held in the Church of St. Mary of Arches on 11 October by John de Farle, examiner general.<sup>(4)</sup> Unfortunately the sentence is missing, but presumably protection was granted, because there is no reference to any further complications in the proceedings of the Consistory Court, where Merevale finally won their suit.

To comment on the legal aspects of the case is beyond the competence of the present writer, and to pass judgment on the working of the ecclesiastical courts on the basis of a single suit would be impertinent;<sup>(5)</sup> but there is one legal point on which we must at least try to state a question. Over a great part of the conservatorial proceedings there hangs the cloud of a royal writ of prohibition. That clerics resorted to the king's courts and sued out writs of

<sup>(1)</sup> Churchill, *op. cit.*, Vol. I, pp. 450-2.

<sup>(2)</sup> B.2: The text is too much damaged to quote.

<sup>(3)</sup> B.4: "Ego Ricardus de Hupton procurator et procuratorio nomine dicti domini Ricardi contra dictos religiosos et contra quemcumque in iudicio legitime intervenientem pro eisdem suggestionemque predictam articulumque ab eadem elicitum vim formam et effectum cuiuslibet eorumdem per viam facti contrarii sive exclusorii seu per aliam quamcumque viam dico et in iure propono quod M. Thomas de Atterton [etc.] . . . Unde facta fide que requiritur de premissis, ideo est parti dictorum religiosorum virorum de Miravalle beneficium tuncionis in hac parte concedendum, sed est pars dicti domini Ricardi domini mei ab examine vestro totaliter dimittenda."

<sup>(4)</sup> For him, see Churchill, *op. cit.*, Vol. II, p. 241.

<sup>(5)</sup> For two strongly contrasted judgments see A. Esmein, *Cours élémentaire d'Histoire du Droit Français*, ed. 6, p. 277: "Ils [sc. les tribunaux ecclésiastiques] avaient, en effet, une supériorité incontestable sur les juridictions séculières. La procédure qui y était suivie était plus raisonnable et plus savante, fortement imprégnée de droit romain. L'église . . . avait conservé et développé l'appel du droit romain, et sa hiérarchie fournissait des degrés d'appel multipliés"; and Churchill, *op. cit.*, Vol. I, p. 497, who speaks of "the typical features of ecclesiastical judicial machinery which, in its efforts to satisfy what were regarded as the claims of justice, allowed the prosecution of appeals almost 'ad infinitum', somewhat to the scandal and bewilderment of modern ideas on the subject."

prohibition was known to scholars, but it is only recently that the history of the subject has been worked out in an illuminating article by a Canadian scholar; and the action of the Rector of Halsall in suing out the writ fits perfectly into the account Fr. Flahiff<sup>(1)</sup> has given. What is puzzling is why, having seen the Rector fall under the ban of excommunication, the Abbot and Convent of Merevale retreated so precipitately, and why the Abbot of Evesham revoked the acts of Mr. Thomas de Atterton.

There are one or two further points of a general character upon which it may be useful to comment briefly. In reading through the surviving documents of the case, what impresses one first is the vast machinery set in motion over a comparatively small dispute,<sup>(2)</sup> and the number of people who were concerned in the working of the courts and their activity. There are involved the court of the archdeacon, the consistory court of the bishop, the court of the archbishop of Canterbury—the court of Arches—, the tribunals set up by the conservators acting as papal delegates, and finally the royal courts. Apart from the latter, the courts that count most seem to be the court of Arches and the consistory court; and it is interesting to observe that it is the bishop's court where the parties really come to grips.<sup>(3)</sup> A hundred and fifty years earlier the matter would almost certainly have been dealt with by papal judge-delegates. It is in the later Middle Ages that the courts linked to the diocesan organization established themselves so firmly that they were able to withstand the changes brought about by the Reformation.

Who were all the people concerned in the working of the courts?<sup>(4)</sup> The "key-men" were the judges. They were university graduates, who had had a long training in Civil and Canon law. It is noticeable that it is these men who do the work and not the titulars, whether archdeacon, bishop or archbishop. The case of the Abbot of Evesham acting as conservator is particularly instructive. At the beginning it is two masters, John Cave and Thomas de Rypple, who "expound" his bull of appointment. The Abbot then delegates the hearing of the case to the Abbot of Leicester, the Prior of Arbury and Mr. Thomas de Atterton. It is the latter who actually sits on the tribunal. Again in the later stages it is Mr. Robert de la More who, in the name of the Abbot, revokes and quashes the proceedings of Mr. Thomas de Atterton. Yet it was the Abbot who would be

<sup>(1)</sup> *Op. cit.* supra, p. 50, n. 4.. Fr. Flahiff does not have occasion to mention the decree of Boniface VIII under which the Rector was condemned.

<sup>(2)</sup> The amount of tithe involved is never stated in the documents; see Cottam, *op. cit.*, pp. 159-161.

<sup>(3)</sup> In the interesting case printed by Fr. J. McNulty, *Thomas Sotheron v. Cockersand Abbey*, Chetham Society Miscellanies VII, New Series, Vol. C (1939), there is a tutorial appeal ("Ad curiam Cantuariensem [t]u[is]torie et ad sedem apostolicam directe provocaverat," p. 64; I have supplied the letters missing in Fr. McNulty's edition). But in this case a papal provision was involved. Briefly, Thomas Sotheron in 1367 made an ingenious use of a bull of provision to get possession of the rectory of Mitton, which had been appropriated to Cockersand Abbey in 1338 by the Archbishop of York. Not unnaturally he did not see any chance of winning his case in England ("cum idem dominus Thomas se non speret in partibus posse consequi iusticie complementum", p. 15; Fr. McNulty (p. 5) interprets this phrase differently.); and so took it directly to Rome.

<sup>(4)</sup> For the few facts I have been able to discover about those concerned in the tutorial appeal, see APPENDIX B.

held responsible if anything went wrong. There were elaborate regulations in Canon law, providing that only higher dignitaries could be appointed conservators, in order to preserve this principle of responsibility.<sup>(1)</sup> Next to the judges come the proctors and advocates. The latter do not appear in our documents. The proctors in the Court of Arches only practised there and had the same academic qualifications as the judges. For the proctors in the other courts we have no regulations. The proctor of the Rector has the titles of master and notary, but Merevale was represented by one of its own monks. Next to them come notaries like John de Bellerby, vicar of Prestbury, a very large and scattered parish in Cheshire, with his two clerks, Adam del Egge and John de Kenyon, chaplains. He drew up notarial instruments, received mandates of the officials of the courts to cite the various parties and returned the *certificatoria* to say he had done so. The amount of travelling about he had to undertake in the performance of these duties is remarkable. We meet him at Prescot, Wigan, Bebington, Warrington and Pollesworth, and never in his own parish. The journeys of the Rector's emissaries, John Clerk and John Sendale were also considerable, particularly their chase after Mr. Thomas de Atterton, whom they ran to earth in his own parish. There must also have been lay summoners, the class so fiercely satirized by Chaucer;<sup>(2)</sup> but their names do not appear.

The documents contain a little information about the languages used in court<sup>(3)</sup> Chaucer's summoner knew a few Latin law terms, "No wonder is, he herde it all the day".<sup>(4)</sup> In the present case one of the witnesses questioned about the proceedings before Mr. Thomas de Atterton, said that he could not tell what was happening because the proctors were speaking in Latin. All that he could understand was the request of the Rector's proctor for a copy of the *libellus*, which he made in his mother tongue.<sup>(5)</sup> We are also told that the bull of appointment of the Abbot of Evesham was "expounded" in English.<sup>(6)</sup> There is no trace of any use of French.

In any picture of the life of the church in the later Middle Ages the very considerable number of clergy, beneficed and unbeneficed who were ecclesiastical lawyers of one sort or another, should not be forgotten. Nor should we be too ready to condemn them or to refer everything to the litigious spirit of the Middle Ages. The cause of the present dispute was uncertainty about the boundaries of Halsall and Altcar; and there was no simple way of removing

<sup>(1)</sup> Sext, Lib. I, tit. xiv, c. xv, and the gloss; cf. the case in 1363 where Simon de Sudbury, bishop of London, as conservator of the rights and privileges of the Franciscans in England got into trouble with the Royal authorities. *Reg. Sudbury* (Canterbury and York Society), Vol. I, pp. 56-8.

<sup>(2)</sup> *Prologue*, lines 623-68; *The Friar's Tale*, *passim*; cf. L. A. Haselmayer, *Speculum*, Vol. XII (1937), pp. 43-57.

<sup>(3)</sup> Cf. R. M. Wilson, *History*, New Series, Vol. XXVIII (1943), pp. 37-60; G. E. Woodbine, *Speculum*, Vol. XVIII (1943), pp. 395-436.

<sup>(4)</sup> *Prologue*, l. 641.

<sup>(5)</sup> Evidence of T. atte Temple (C.3): "Nescit iste iuratus certitudinaliter dicere vel deponere, ut dicit, quia loquebantur procuratores huiusmodi Latinum, nec scivit iste iuratus intelligere, ut dicit, sed dicit quod dictus M. Johannes (sic) de Litherland pectit in lingua materna libellum edi parti rectoris de Halsale."

<sup>(6)</sup> See p. 50 supra.

the uncertainty, since many conflicting claims had to be investigated and settled. It would be truer to say that the litigious spirit was imposed on men by the very organization of society in which there was no clear delimitation of powers.<sup>(1)</sup>

## APPENDIX A

## CALENDAR OF THE DOCUMENTS

Preston, Lancashire Record Office, DDCI. 1050.

A 3 membranes, 24½ ins. long × 9 ins. wide, 25 ins. × 9 ins., 7½ ins. × 8 ins. Examination of witnesses in the church of St. Mary of Arches by John de Farle, examiner general, 11 October 1365, on the *factum contrarium* propounded by Richard de Upton, proctor of Richard, rector of Halsall, which is recited.

- (1) Johannes Clerk de Halsale, litteratus libere conditionis xxx annorum etatis.
- (2) Mr. Thomas de Atturton, rector ecclesie de Wythirley, Lincoln. dioc. xl annorum etatis et amplius.
- (3) Simon Halsale, litteratus libere conditionis xxi annorum etatis.

m. 1 is endorsed: Copia attestationum domini Ricardi rectoris ecclesie de Halsale contra religiosos viros abbatem et conventum monasterii de Miravalle super facto contrario revocate sentencie et processus habiti et facti coram magistro Thoma de Atterton, occasione cuiusdam iniuriöse molestacionis pretense. Above is a scrawl, perhaps a registrar's mark.

B 4 membranes attached to A 3, 6¼ ins. long × 15½ ins. wide, 3½ ins. × 10¼ ins., 6¼ ins. × 9 ins., 6 ins. × 12 ins.

- (1) *Certificatorium* of John de Bellerby, dated 28 September 1365, stating that he has cited the parties as ordered by the Official of the Court of Canterbury, whose mandate, dated 3 August 1365, is recited. Endorsed: Mira Valle.
- (2) Instrument of Richard de Drayton, proctor of the Abbot and Convent of Merevale, propounding the *suggestio*. Endorsed: T. Islep. He was Registrar of the Court of Canterbury from 1361 (Churchill, *Cant. Admin.*, Vol. II, p. 241).
- (3) Examination of a witness, the beginning of which is lost, but the references to agreement "cum primo conteste suo" show that it should come after A 3.
- (4) The *factum contrarium* propounded by Richard de Upton, proctor of the Rector of Halsall. Endorsed T. Islep and Mira Valle.

C 3 membranes 15½ ins. long × 8½ ins. wide, 25½ ins. × 9 ins., 22¼ ins. × 8½ ins. Examination of witnesses on the *suggestio*. The heading and the beginning of the evidence of the first witness is lost, but internal evidence shows that it is

- (1) Mr. Thomas de Atturton.
- (2) Johannes Ilveston, literatus lib. cond. xxxii annorum.
- (3) Thomas atte Temple, illiteratus lib. cond. xxii annorum.

<sup>(1)</sup> Cf. M. Prou, speaking of the secular courts in France in the later Middle Ages, in *Moyen Age*, Vol. XVII (1904), p. 225: "On a souvent dit . . . que les gens du moyen âge avaient l'esprit processif. Il serait plus vrai de dire que cet esprit leur était imposé par l'organisation même d'une société, où les pouvoirs se confondaient et se pénétraient, où aucune juridiction n'était exactement délimitée."

(4) Willelmus Petelynkes, illiteratus lib. cond. xxx annorum. Ends incomplete.

It will be seen that the documents are out of order. The chronological order is B 1, 2, C 1-4, B 4, A 1-3, B 3.

## APPENDIX B

## BIOGRAPHICAL NOTICES

- ATTERTON, MR. THOMAS DE, M.A., B.C.L.**<sup>(1)</sup> Born c. 1324. Studied canon law at Oxford (*Cal. Papal Pet.*, Vol. I, p. 400). Created notary, 1353 (*Cal. Papal Registers*, Vol. III, p. 502). Obtained reservation of a benefice in the gift of the Prior and Convent of Spalding, 1353 (*ibid.*, p. 500). Rector of Withriley, Leics., 9 November 1361-May, 1373 (*Regg. Epp. Linc.*, Vol. IX, fol. 377; Vol. X, fol. 256<sup>v</sup>). In 1363 at Papal Court at Avignon, where he was granted reservation of a canonry at Hereford with expectation of a prebend, and reservation of a benefice in the gift of the Abbot and Convent of Chester (*Cal. Papal. Pet.*, Vol. I, pp. 400, 403). By 1364 canon of Hereford. In 1366 obtained licence to study at Oxford for one year (*Regg. Epp. Linc.*, Vol. XII, fol. 35). In 1373 exchanged livings with John de Salford, parson of Welford, Berks. (*Cal. Pat. Rolls*, 137-4, p. 187).
- BELLERBY, JOHN DE**, notary. Probably son of John de Bellerby de Prescote, senior, who witnesses a notarial instrument drawn up by him, 2 May 1365. Another instrument drawn up by him in his *hospicium* at Prescot, 3 May 1365. By 1364 vicar of Prestbury, Cheshire. In March 1369/70 he and another man were enfeoffed with a number of manors and with lands by Henry, son of Sir Richard de Tarbock, who, it may not be irrelevant to note, had been involved in a long legitimacy suit, for which John had received a 100 shilling fee (*V.C.H. Lancs.*, Vol. III, p. 179)<sup>(2)</sup>. But according to Earwaker (*East Cheshire*, Vol. II, p. 206) he died before August 1369.
- CAVE, MR. JOHN**. Expounded the papal bull appointing the Abbot of Evesham as conservator.
- CLERK, JOHN, DE HALSALL**. Proctor of the rector.
- DRAYTON, MR. RICHARD DE**, proctor of Merevale in the Court of Arches. In 1364/5 proctor-general in the Court of Arches. Commissioned to be proctor of the Bishop of Lichfield in all causes concerning him in the same court (*Reg. R. de Stretton*, Vol. II, p. 104). In December 1373 appointed proctor for the election of the Bishop of Worcester (*Worcs. Reg. Sede Vac.*, p. 292). He is apparently to be distinguished from a contemporary of the same name who was Sub-treasurer of the Black Prince, rector of Bishop Cleeve, canon of Wilton and of Beverley (*Cal. Papal Pet.*, Vol. I, pp. 320, 372, 454, 514; *cf. Cal. Patent Rolls*, Vol. IV, p. 116); and from the man of the same name who in 1390 was canon of Wells, Lichfield and Salisbury (*Cal. Papal Registers*, Vol. IV, pp. 365, 415), and in 1408 was appointed official to administer the see of Bath and Wells during the vacancy (Churchill, *op. cit.*, Vol. II, p. 254).
- EGGE, ADAM DEL**, chaplain. An associate of John de Bellerby. He is to be distinguished from the rector of Meols of the same name.
- KENYON, JOHN DE**, chaplain. An associate of John de Bellerby.
- LITHERLAND, MR. RICHARD**. Proctor of the Rector.
- MORE, MR. ROBERT DE LA, D.C.L.**, notary. In 1363 he was executor of the will of the Bishop of Worcester (*Worcs. Reg. Sede Vac.*, p. 286). In 1364 he

<sup>(1)</sup> I have to thank Mr. A. B. Emden, Principal of St. Edmund Hall, Oxford, for valuable additional material. I owe to him all the references to unprinted episcopal registers.

<sup>(2)</sup> The charter is now in the Lancashire Record Office, DDM 48/5.

sat on the tribunal with the Abbot of Evesham in the present case. In 1363 and again in 1374 he was commissary of the Prior of Worcester during the vacancy of the see (*ibid.*, pp. 286, 304). In 1369 he was official of the archdeacon of Gloucester (*Reg. W. Lynn, Ep. Wigorn.*, fol. 53<sup>v</sup>). By 1388 he was official of Worcester, and occurs in 1396 (*Reg. H. Wakerfield, Ep. Wigorn.*, fol. 156<sup>v</sup>). He held the following preferments: rector of Coates, Glocs., admitted 21 March 1360/1 (*Reg. Reg. Bryan, Ep. Wigorn.*, fol. 32<sup>v</sup>); rector of Buckland, Glocs., admitted 28 September 1361 (*ibid.*, fol. 37<sup>v</sup>), exchanged January 1372/3; rector of Bourton (? on the Hill or on the Water), Glocs., admitted 27 January 1372/3 (*Reg. W. Lynn, Ep. Wigorn.*, fol. 18); Archdeacon of Llandaff by 1389 (*Reg. H. Wakerfield, Ep. Wigorn.*, fol. 56<sup>v</sup>).

**RYPPLE, MR. THOMAS, DE.** Expounded the papal bull appointing the Abbot of Evesham conservator. He may be identified with the Thomas de Rippele who was admitted Rector of Galby, Leics., 8 August 1356 (*Regg. Epp. Linc.*, Vol. IX, fol. 365<sup>v</sup>), and admitted Rector of Braby, Leics., 3 May 1362 (*ibid.*, fol. 378<sup>v</sup>).

**SENDALE, JOHN.** Proctor of the rector. Witness at the institution of R. de Langeton to the Parish Church of Wigan, 1360 (*Lichfield Episcopal Registers, Sede Vac.*, p. 15).

**UPTON, RICHARD DE, OF WARRINGTON.** Created notary, 1346 (*Cal. Papal Registers*, Vol. III, p. 212). In 1363 he was presented to Musgrave, dioc. Carlisle, by the King (*Cal. Papal Registers*, 1361-4, p. 278). In 1365 he was proctor of the rector in the Court of Arches. In 1370 a recognizance for 4 marks was enrolled on the Close Roll to be levied on his lands and chattels in Shropshire (*Cal. Close Rolls*, 1369-74, p. 171). In 1370 he was proctor general in the Court of Arches (Churchill, *op. cit.*, Vol. I, p. 452n.). In 1373 he was appointed proctor of the bishop of Winchester for all causes arising in the Court of Arches (*Reg. W. Wykeham*, Vol. II, p. 184f., *cf.* p. 37).

