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William Swinderby and the Wycliffite Attitude to Excommunication

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The early Wycliffite William Swinderby expressed some strong criticisms of excommunication. He was alarmed that churchman thought that it was their power, rather than God's power, that consigned a soul to hell. The rhetoric of sentences of excommunication in this period was indeed intended to frighten offenders into compliance with ecclesiastical judgements, but the theory and practice of excommunication was in fact far less simple that the Wycliffite criticism of it allowed. This article examines Swinderby's attitude towards ecclesiastical sanctions in light of Wyclif's own ideas, and the theory and practice of excommunication in the late medieval Church. Swinderby's links with early Wycliffism are elucidated and the relationship between Wycliffism and the Church is looked at in a new light.

One of the most interesting and puzzling people whom historians and contemporaries have associated with John Wyclif is William Swinderby, variously described as 'pretended' priest of Lincoln diocese, preacher to and leader of a rebellious congregation in and around Leicester, fugitive from justice, and someone apparently self-taught in scholastic theology. He is an unusually well-documented heretic; two sets of trial records survive, from 1382 in the diocese of Lincoln and from 1390–1 in the diocese of Hereford. Two chroniclers, Thomas Walsingham and Henry Knighton, describe sermons that he preached in 1382, and the Hereford set of trial documents includes a number of Swinderby's own responses to episcopal allegations and mandates, written in the vernacular. In

EETS = Early English Text Society; Reg. Buckingham = Lincolnshire Archives, episcopal register XII; *Reg. Trefnant = Registrum Johannis Trefnant, episcopi herefordensis, A.D. mccclxxv–mccclxxxix.*, ed. J. H. Parry (Canterbury and York Society xviii, 1915); RS = Rolls Series

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his own estimation he was 'lewed' and 'bot sympully letterd', but his erudition and probable links to a number of prominent academic Wycliffites suggest otherwise. Despite the relative wealth of information there is about him, he remains a puzzle in a number of ways.[1] His relationship with the early Wycliffite movement is obvious but not straightforward, as the timing of his first trial and the official recording of his views was entangled with the somewhat hurried condemnation of propositions culled from Wyclif's Latin works at the Blackfriars Council of 21 May 1382. In addition, before the significance of some of Swinderby's views as they were recorded by his judges can be grasped, they require elucidation and contextualisation. This article will focus upon Swinderby's attitude to excommunication as a particularly interesting part of his theology, and as a series of statements that bear the psychological imprint of a man persecuted for his opinions by authorities wielding that very sanction. Excommunication was also a key concern of John Wyclif's, and, as a focal point of resistance to persecution, it would help to define the Wycliffite movement and its shadowy twin, Lollardy, in the succeeding generations.

The judicial sanction of excommunication was used by the medieval Church to remove spiritual offenders from the 'community of the faithful'; contemporaries distinguished between 'major' and 'minor' versions of it. Minor excommunication barred people from receiving the sacraments, while major excommunication also barred them from all communication with other Christians. In practice this was hard to achieve, and the main use of the sanction was judicial: to force the excommunicated person to appear in court. Many moral and public offences in the Middle Ages were deemed to plunge the sinner into a state of major excommunication by the very act of committing the sin. This was known as excommunication *latae sententiae*: literally a 'concealed verdict' brought upon the sinner by his or her own actions. However, the evident need for publicity in the judicial use of excommunication meant that the 'concealed verdict' had to be pronounced in order to be useful in the prosecution of cases.[2] As a result excommunication always encompassed two complementary, yet potentially competing, components: the fulminated curse ('curse' commonly being the Middle English translation of excommunication), and the judicial sentence. The curse involved threats against the fate of the sinner's soul, while the sentence set out the means by which he or she might avoid that fate. Curses uttered in anger by churchmen against physical, moral or litigious assault were always in some fashion associated with judicial sentences bound up with canon law procedure. Two

[1] A recent summary of biographical knowledge on Swinderby can be found in A. Hudson, 'Swinderby, William (*fl. 1382–1392*)', *ODNB*.

[2] Good introductions to the subject are provided by D. Logan, *Excommunication and the secular arm in medieval England: a study in legal procedure from the thirteenth to the sixteenth century*, Toronto 1968, 13–24, and E. Vodola, *Excommunication in the Middle Ages*, Berkeley 1986, 28–43.

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periods of convergence between these components can be identified prior to the late Middle Ages: the decades around 900 when excommunication formulae coalesced in canonical collections such as that compiled by Regino of Prüm, and the early thirteenth century, when 'the sanction had very largely been "tamed" by acceptance of the requirements of the emerging canon law': in other words, when the judicial sentence had replaced the threatening noises of the curse as the major ingredient.[3]

By the time that Wycliffites turned their attention to excommunication, one might have expected it to be no more than an uncontroversial judicial procedure. However, its powerful claims, and the fact that in England the Church could request that the crown arrest excommunicates who had remained at large for more than forty days, meant that it was still contentious.[4] For later Wycliffites excommunication was a symbol of the inappropriate exercise of temporal dominion by the Church, an instance of the blasphemous tendency to put human decisions above divine decisions, and, perhaps most important, it was one of the judicial instruments of their persecution. In order to put Swinderby's attitudes to it in context, his views as recorded in the documents and chronicle entries relating to his trials in 1382 and 1390–1, will be outlined and placed in the context of Wyclif's own ideas, the canon law of excommunication and the use of excommunication by the ecclesiastical courts.

William Swinderby

In his account of the early Wycliffite movement the St Alban's chronicler Thomas Walsingham reported a sermon that William Swinderby, 'an emissary of Wyclif', preached in Leicester on Palm Sunday (30 March) 1382.[5] Amongst the reported contents of this sermon is the first mention of Swinderby's attitude to excommunication. Swinderby allegedly preached that men who gave up listening to the word of God and the preaching of the Gospel for fear of excommunication, were themselves excommunicated, and they would be considered traitors to God on the day of judgement. Furthermore, excommunications preventing men from hearing the word of God were the excommunications of AntiChrist and were not Christian sentences.

[3] L. K. Little, *Benedictine maledictions: liturgical cursing in romanesque France*, Ithaca 1993, 34–8, 232–4; R. H. Helmholz, 'Excommunication and the Angevin leap forward', *Haskins Society Journal* vii (1995), 139. Genevieve Steele Edwards, 'Ritual excommunication in medieval France and England, 900–1200', unpubl. PhD diss. Stanford 1997, illustrates the variety in local excommunication formulae in the intervening period. I owe these references to Sarah Hamilton.

[4] Logan, *Excommunication and the secular arm*, 25–42.

[5] *The St Albans chronicle: the* Chronica maiora *of Thomas Walsingham*, I: *1376–1394*, ed. J. Taylor, W. R. Childs and L. Watkiss, Oxford 2003, 588–90.

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These views seem to bear the mark of personal experience, and this is confirmed by an entry in the episcopal register of John Buckingham, bishop of Lincoln (1363–99), recording an inhibition against the preaching of 'a certain William', hermit of St John's chapel near Leicester, on 5 March 1382. Bishop Buckingham sent this mandate to the archdeacon of Leicester, all rural deans, rectors, vicars, ministers and chaplains, instructing them not to permit this William to preach anywhere, and to excommunicate anyone listening to his sermons. A more targeted mandate in the same vein, giving Swinderby his full name, was also sent to the abbot of St Mary's in Leicester, the dean of the Christianity of Leicester, and the official of the archdeacon, as well as the parochial and unbeneficed clergy of the town. Swinderby was to be cited to appear before the bishop or his commissaries Masters John of Belvoir, subdean of Lincoln, Thomas of Brandon, Richard of Croxton and John of Newport, all canons of Lincoln, in the prebendal church of Liddington to answer charges against him.[6] This process would mean that the Palm Sunday sermon reported by Walsingham was given in contravention of an existing episcopal order. The impression of sharp personal experience is strengthened by Swinderby's comment that a prelate excommunicating someone who had appealed to the king and council (which sounds so specific as to be autobiographical), was by that act a traitor to God, the king and the realm.[7]

Behind the personal prickliness Swinderby had a more substantial point to make, which was that excommunication highlighted the Church's arrogance in claiming greater knowledge and power than God himself. No prelate, he was alleged to have said, should excommunicate anybody unless he was first sure that the man had been excommunicated by God. Anyone who excommunicates for another reason, and not out of charity and concern for the sinner's soul, is himself an excommunicate and a heretic. A similar sermon of the same date, containing the reference to AntiChrist and the need for charitable excommunication, was reported by the Leicester Augustinian chronicler Henry Knighton, but he attributed it to the Oxford Wycliffite John Aston. In some ways Knighton could be considered a more reliable witness, proximate to the events he describes, but on the other hand his account of early Wycliffism is compromised by the fact that one of his fellow

[6] Reg. Buckingham, fos 236v, 242r. On fo. 242r there is also an undated mandate to all the regular and secular clergy of Leicester archdeaconry ordering the proclamation of Swinderby's excommunication for contumacy, to be repeated until further notice, which would only have added to his antipathy to the practice of excommunication. For an overview of anti-heretical activity in that diocese see A. K. McHardy, 'Bishop Buckingham and the Lollards of Lincoln diocese', in D. Baker (ed.), *Schism, heresy and religious protest* (Studies in Church History xviii, 1972), 131–45.

[7] The legal process referred to here is the appeal for a writ of prohibition, removing a case from episcopal into royal jurisdiction, for which see *The medieval court of arches*, ed. D. Logan (Canterbury and York Society xcv, 2005), pp. xlvi–xlvii.

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canons, and later abbot, Philip Repingdon, was also an ardent disciple of Wyclif and an associate of Aston's.[8] It is impossible to establish who exactly preached what on Palm Sunday 1382, but Swinderby's activity in the town is confirmed by a second sermon reported by Walsingham, preached on Good Friday (4 April) 1382, in which he allegedly said that a wicked curate who excommunicates his subjects for withholding tithes does nothing but unduly and wickedly extort money from them.[9]

Meanwhile, the spring of 1382 also saw the condemnation of twenty-four heretical and erroneous propositions in a provincial council held at London Blackfriars. While the condemnation did not mention Wyclif by name, that Archbishop Courtenay and the council saw him as their author is indicated by their inclusion in a letter to Peter Stokes, Courtenay's 'spy' in Oxford, where Wyclif's influence was felt to be strongest.[10] Certainly the discussion and dissemination of Wycliffite ideas by such early Oxford disciples as Repingdon, Aston and Nicholas Hereford can be assumed to have had as much, if not more, influence on the shape of the propositions condemned at the Blackfriars council as the written works of Wyclif themselves, but it is notable that Swinderby's influence on the council's deliberations has not been thought so prominent. Bishop Buckingham was in London on 12 May, when he wrote to Thomas Sutton, professor of theology, and Geoffrey Scrope, canon of Lincoln, giving them authority to proceed against Swinderby in his absence.[11] Council first met on 17 May and the list of condemned propositions was issued on 21 May, but deliberations and the gathering of evidence must have been going on before this. The fact that several of the propositions are very similar to those allegedly preached by Swinderby suggests that Buckingham was feeding details of his local experience into the provincial deliberations. The provincial council condemned as errors, or false judgements, the views that no prelate should excommunicate anyone unless he knew him to have been excommunicated by God; that anyone who excommunicated someone for another reason was himself an excommunicate and a heretic; that a prelate excommunicating a cleric who had appealed to the king and the royal council was by that act a traitor to God, the king and the realm; that those who failed to preach or hear the word of God or to preach the Gospel because of excommunications were themselves excommunicates and heretics who would be judged traitors to God on the day of judgement.[12]

It is possible therefore, that Swinderby's views had a direct influence on the council's condemnation, but it is also possible that the chroniclers and the

[8] *Knighton's chronicle, 1337–1396*, ed. G. H. Martin, Oxford 1995, 286–8.

[9] *St Albans chronicle*, 592–4. Knighton refers to this article alone in his first summary account of Swinderby's ideas: *Knighton's chronicle*, 310.

[10] Hudson, *Premature Reformation*, 69–71.

[11] Reg. Buckingham, fo. 23r–v.

[12] *Fasciculi zizaniorum magistri Johannis Wyclif cum tritico*, ed. W. W. Shirley (RS, 1858), 279–80.

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bishop of Lincoln reshaped their accounts of Swinderby's case to make him seem more of a Wycliffite. This is partially confirmed by Buckingham's inclusion of the 30 May 1382 provincial statute against heresy at the beginning of the materials relating to the case. This statute post-dated the origins of Swinderby's prosecution, and was in fact only received by the registrar at Lincoln on 12 July 1382. Anyone making reference to the official version of Swinderby's trial in the future would thus read it in the light of legislation that was issued mid-way through the proceedings. In this way Swinderby was connected more closely with Wyclif and the now-national problem of Wycliffite preachers.[13]

When Masters Sutton and Scrope came to act against Swinderby in Lincoln Cathedral on 9 June 1382 the articles alleged against him were compiled from the Blackfriars condemnation and the two sermons reported by Walsingham and Knighton, who must have had access to written reports of the heretical preaching similar to those acquired by the bishop. The articles relating to excommunication with which he charged Swinderby thus fleshed out the provincial condemnation considerably, adding to the propositions on fear of excommunication against preaching, excommunication of appellants to the crown, and excommunication being out of step with God's own judgement, further items on AntiChrist's influence, excommunication and tithes, and the excommunication of preachers who do not properly explain the sacrament of the altar. Swinderby asked for, and was granted, three days to consider his response to the articles; upon his reappearance (after five days) on 14 June, he said that he did not believe in the articles and had never held, taught or publicly preached them. He did admit, however, to preaching without a licence and he swore not to do so in future. The bishop's record of the trial states that because of the strength of the *fama publica* against him, he was none the less required to purge himself with the oaths of twelve clergymen on the first law day after 7 July wherever in the diocese the bishop desired. Following the account of the trial there is an instruction for anyone who wishes to speak against his purgation to appear on the same day, an order for the clergy not to admit him to preach and for the laity not to attend any illegal gatherings or meetings.[14]

What occurred upon Swinderby's reappearance in the cathedral on 11 July is the subject of some disagreement. The account in the bishop's register skates over the purgation, implying that he was unable to produce compurgators, focusing instead on the arrival of three friars and professors of

[13] Reg. Buckingham, fos 239v–240r. On the process of retrospective formation of the social categories 'Wycliffite' and 'Lollard' see A. Cole, 'William Langland and the invention of Lollardy', in F. Somerset, J. C. Havens and D. G. Pitard (eds), *Lollards and their influence in late medieval England*, Woodbridge 2003, 45, where he calls this 'back-formation'.

[14] Reg. Buckingham, fos 242v–243r. A William Welber is also mentioned as present at the trial.

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theology, Roger of Friseby OFM, John of Hinckley OA and Thomas of Blakeston OP, who put themselves forward as 'denouncers' of William and produced witnesses to his preaching the alleged opinions.[15] At a later date however, Swinderby claimed that he had purged himself, although not with clerical oath-helpers, instead producing the mayor and twelve burgesses of Leicester under the watchful eyes of John of Gaunt and Henry Bolingbroke. He also complained that his purgation was not allowed due to the appearance of five [*sic*] friars who brought evidence against him and who, according to reports at large in Lincoln, had also brought along wood with which to burn him.[16] Swinderby was ordered to abjure his errors (forced 'for dryde of deth' was how he put it) in the cathedral church and all the other churches where he had preached, but the articles contained in his pre-prepared abjuration were much reduced from the list of 9 June, including only two of those relating to excommunication (the condemnation of extorting tithes using excommunication, and the claim that no prelate can excommunicate without first knowing the person to have been excommunicated by God), while adding a third (that a priest receiving payment for anniversary prayers is simoniacal and excommunicated). It seems probable that this was the sum of what could be proved by the witnesses produced by the friars.[17]

In February 1390 John Trefnant, bishop of Hereford, acquired a copy of Buckingham's proceedings against Swinderby, who was now preaching and agitating in the west of England and the Welsh Marches.[18] Trefnant had begun his own case against Swinderby in December 1389, and by June 1390 he had drawn up his own list of charges. This included none of the conclusions on excommunication from Buckingham's list, instead dealing with several propositions of a more technical nature. To begin with, Swinderby was alleged to have preached that sentences of excommunication issued by priests were not binding unless that priest were free from mortal sin, as St Peter had been when he received the powers of binding and loosing (excommunicating and absolving) from Christ. Trefnant saw this as born of

[15] Ibid. fo. 243v. In this context 'denouncer' is akin to 'promoter' or prosecutor: H. A. Kelly, 'Lollard inquisitions: due and undue process', in A. Ferreiro (ed.), *The devil, heresy and witchcraft in the Middle Ages: essays in honor of Jeffrey B. Russell*, Leiden 1998, 279–303.

[16] *Reg. Trefnant*, 238–9.

[17] The abjuration was to take place in the cathedral, the prebendal church of St Margaret and the parish church of St Martin in Leicester, the church of the Blessed Mary in Newark and the parish churches of Melton Mowbray, Hallaton, Market Harborough and Loughborough on successive Sundays. A copy of the mandate for the abjuration, addressed to the official of the archdeacon of Leicester, the sequestrator in the archdeaconry, and Stephen Syresham the vicar of Barrow on Soar, as well as all other clergy, is copied into *Knighton's chronicle*, 314–22.

[18] *Reg. Trefnant*, 231. Buckingham sent the copy of the process from London on 10 February 1390.

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the Wycliffite concern for the effectiveness of sacraments administered by clergy in a state of mortal sin. These powers of binding and loosing, so Swinderby was supposed to have preached, were also not received through the clerical hierarchy, via pope and bishops, but directly from Christ, and they could not be revoked by a pope or a bishop. Furthermore, it was not within the power of a pope to remit punishment or guilt for any penitent, and only contrition could erase sin, everything else being superfluous.[19] These alleged opinions clearly augment the views on excommunication that had exercised Buckingham and the provincial council in 1382, placing excommunication within the wider context of binding and loosing, or giving and absolving from, penance.

Seemingly aware of some level of local support for Swinderby, Bishop Trefnant allowed him to appear on 30 June 1390 under a promise of safe conduct, on which occasion Swinderby deposited with the bishop 'a paper quire' containing responses not only to the articles alleged against him by Trefnant, but also by Buckingham eight years earlier. All his assertions in the written submission must be seen as one side in a game bounded by the canon law of heresy: the prosecutors' case inevitably cast their allegations in a negative light, and often took statements out of context, while the suspects, where there is a record of their responses, inevitably tried to keep their denials just on the right side of orthodoxy, while sufficiently in keeping with their proclaimed views so as not to jar too much with the evidence of any witnesses who might be brought forward.[20] However, Merja Black's suggestion that the vernacular documents in Trefnant's register were in part compiled from heretical bills in circulation around the diocese would allow us, cautiously, to treat these vernacular responses as what Swinderby really thought about excommunication.[21] Each response begins with the denial of an opinion attributed to him either by Trefnant or Buckingham, and then asserts Swinderby's own position.

In the first instance Swinderby's attitude towards excommunication was grounded in the practical criticisms of a reforming preacher, alive to the concerns of his parochial audiences. For example, while he denied preaching that a priest excommunicating his parishioners for non-payment of tithes did nothing but extort money wickedly and unduly, he did write of the lack of discretion exhibited by priests who might behave in such a way, potentially

[19] Ibid. 235–6.

[20] On the textual creation of Swinderby's Hereford trial records see A. Hudson, 'The problem of scribes: the trial records of William Swinderby and Walter Brut', *Nottingham Medieval Studies* xlix (2005), 80–104.

[21] On linguistic aspects of the vernacular documents submitted to Trefnant by Swinderby, possibly already circulating in the diocese as bills, possibly transcribed by a Welsh scribe at Hereford, see M. Black, 'Lollardy, language contact and the great vowel shift: spellings in the defence papers of William Swinderby', *Neuphilologische Mitteilungen* lxxxxix (1998), 53–69.

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excommunicating 'agayn charytee and noght for hele of hore saules'. Curates should pay heed to the individual's situation before excommunicating those unable to pay tithes, as part of their wider duty to help the needy from the goods of the church. Equally rooted in parochial concerns was the assertion that no priest should sell his services, his 'gostly travail', for money, which reflected the wide concern in this period about supposedly voluntary offerings being treated as compulsory.[22]

Behind these observations on everyday pastoral care lay a clear and strong belief that binding and loosing had to be done 'truly', in accordance with God's wishes, and not abused as a punishment or privilege within the gift of worldly clergy. There is no man, wrote Swinderby, whether pope, bishop or prelate, who binds 'sothely, verayly, and gostly, but in as myche as his byndyng or unbyndyng accordes with the lawes of heven that God gaf to Petre'. Nothing is granted unless it is the will of God, and only those who imitate the Apostles by preaching can possibly have this power.[23] Swinderby wanted to emphasise the primary role of God's grace in absolving sin, but he did add that 'contrition of heart' was also needed; notably absent is the intervention of a clerical pronunciation.[24] What secular clergy could effect was the remission of punishment, but this was not to be confused with the capacity to remit actual guilt. If the pope claimed this power he was in effect making himself Christ, and thus, in Swinderby's reckoning, making himself AntiChrist.[25] If this applied to loosing, it also applied to binding, and clerics who unjustly used excommunication for their own ends did nothing more than reveal God's blessing of persons so oppressed.[26]

For Swinderby, writing these responses seems to have been a somewhat traumatic experience. On the one hand he clearly felt the sting of the ecclesiastical censures used against him, seeing himself as one of those whose blessing was demonstrated by unjust excommunication. On the other hand he had to resist the urge simply to deny having spoken and written about excommunication, and assert his own position in less offensive and more subtle terms than those of the rather reductive opinions alleged by his opponents. His attitude to excommunication boils down to a belief that

[22] *Reg. Trefnant*, 241–2. On offerings and customary payments see R. H. Helmholz, *The* ius commune *in England: four studies*, Oxford 2001, 135–86. Swinderby drew a distinction between a priest who took voluntary offerings for services like marriages and burials, and one who 'sold' his services, refusing to perform them if he were not paid. In support of this he cites Matthew xxi.12 ('Et intravit Iesus in templum Dei et eiciebat omnes vendentes et ementes in templo'; referred to by Swinderby as 'vendentes et ementes ejecit de templo') and two canons from Gratian's *Decretum*: C.1 q. 1 c. 100 (referred to by Swinderby as 'primo ii, cap. Nullus') and C.1 q.1 c.105, in *Corpus iuris canonici*, ed. E. Friedberg, Leipzig 1879–81, repr. New Jersey 2000, i. 398, 399–400. The subtle distinction and the learned citations show that he was sensitive to canonical rulings on this subject. [23] *Reg. Trefnant*, 245, 247.

[24] Ibid. 246–7, citing Augustine: 'Nemo tollit peccata, nisi solus Christus', from Gratian, D. 4 de cons c. 141, *Corpus iuris canonici*, i. 1407. [25] *Reg. Trefnant*, 247–8. [26] Ibid. 241.

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men's judgements should mirror God's judgements, and so excommunication should only be used when in accordance with God's will; that is, by implication, rarely, since it would be rash for men to suppose that they knew what God willed in particular circumstances. Christ's law teaches men to bless those who defy them, and pray for them, but the pope's law teaches men to curse (excommunicate) their enemies, 'and in thair grete sentence [of excommunication] that thai usen thai presumen to dampne hem to helle that thai cursen, and this is a foule heresie of blaspheme'.[27]

Wyclif and excommunication

The debt that Swinderby's attitude to excommunication owed to Wyclif is manifest, however evasive the fugitive preacher was in his responses to the overtly Wycliffite tenor of the propositions attributed to him by Bishop Buckingham and Bishop Trefnant. For Wyclif, excommunication was a symptom of two salient problems presented by contemporary church doctrine. Perhaps most fundamentally, the idea that excommunication could represent exclusion from the Church clearly depended on what one believed the Church to be. Some Wycliffite works expressed the view that the Church, whether in heaven or on earth, was composed only of the elect, those predestined for salvation; so excommunication was by definition a loss of grace and removal from the elect. For them this was unacceptable, and led to their view that the will of God could not be known.[28] The clearest statement of Wyclif's reasoned hostility to excommunication comes in *De officio regis*, written in the late 1370s, where he argued that 'the excommunicator ought first, in the matter of his excommunicating, to know the will of God, because otherwise he will be deceived'.[29] In other words, God, not man, would decide who was or was not excommunicated. In addition, Wyclif's ideas on civil dominion were founded upon the deeply-felt belief that all human law, including canon law and its instruments, was corrupting, necessitating royal representation of divine law. The feeling that there was a serious mismatch between ecclesiastical use of excommunication and the capacity of prelates to know the will of God is ever-present in Wyclif's Latin works and the vernacular writings of his followers, and Swinderby's attitude suggests he had more than a passing familiarity with this theology.[30] Excommunicating someone without knowing whether or not that was God's

[27] Ibid. 272.

[28] Hudson, *Premature reformation*, 315–21.

[29] 'excommunicator debet primo in materia sue excomunicacionis cognoscere voluntatem divinam, quia aliter mentiretur': J. Wyclif, *De officio regis*, ed. A. W. Pollard and C. Sayle, London 1888, 232.

[30] Compare Wyclif's statement above with the disbelief in William Thorpe's 1407 'testimony' that 'ony preest dar seie men to be acursid wiþouten grounde of Goddis

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will was for Wycliffites an example of the arrogance, futility and covetousness of 'worldly clergy'. Arrogant because it implied impossible knowledge of God's plan for the salvation or damnation of souls, futile because the sinner was already excommunicated by the very fact of sinning and covetous because it was often deployed for worldly gain.

The arrogance of excommunication, according to Wyclif, lay in the excessive claims of churchmen to possess the powers of binding and loosing given by Jesus to Peter. 'To you I give the keys of the kingdom of heaven. And whatsoever you bind on earth, will be bound in heaven: and whatsoever you loose on earth shall likewise be loosed in heaven.'[31] Wyclif saw the whole edifice of papal power as an abusive interpretation of Peter's receipt of the keys of heaven, claiming decisions about salvation for human agency and papal power on earth, whereas these belonged solely to God. Thus indulgences, absolutions and excommunications were all signs that the 'worldly Church' was claiming powers that were God's, and claiming knowledge of what God had decided for every individual soul: claiming impossible insights into predestination and foreknowledge. In *De civili dominio*, written between 1376 and 1378, commenting on Peter's receipt of the keys of heaven, Wyclif said that 'it is not possible for a priest or a layman to release or bind someone, unless that releasing or binding has been done in heaven',[32] and that 'no-one has definitive power of sentencing unless he first has the power of knowing' God's will.[33] Churchmen pretend to knowledge of God's will, and pretend, when they issue excommunications, indulgences and absolutions, that they know who is damned and who is saved. But they do not even know whether they themselves are damned or saved.[34] Their mendacious claim is based on the false belief that when Jesus gave this power to Peter, he gave it to Peter's successors – the popes – without regard to their virtue, but popes have no historic claim to be the successors of St Peter, especially if they did not match him in virtue, and their powers of excommunication 'were diabolically introduced in order to seduce their subjects'.[35]

word': 'The testimony of William Thorpe', in *Two Wycliffite texts*, ed. A. Hudson (EETS ccci, 1993), 67.

[31] Matt. xvi. 19.

[32] 'non est possibile sacerdotem vel laicum quidquam solvere vel ligare, nisi illa solucio vel ligacio sit in celis': *De civili dominio: liber primus*, ed. R. L. Poole, London 1885, 281.

[33] 'nemo habet potestatem diffinitive sentenciandi, nisi prius habeat potestatem cognoscendi': ibid. 282; cf. 'in asoiling & cursing Þei feynen hem vnknowun power & in fablis of Þis power Þei blasfemen & harme Þe chirche … for noon mai conprehende Þis power siÞ it is with outen noumbre': 'Of the Church and her members', *English Wyclif tracts*, 1–3, ed. C. Lindberg, Oslo 1991, 143, 167, 160. The author goes on to say that men should be sure of whom God has already absolved or excommunicated, predestined for salvation or foretold for damnation, before issuing these worldly 'censures Þat Þe fend blowiÞ'.

[34] John Purvey in *Fasciculi zizaniorum*, 398. See also *English Wycliffite sermons*, ed. A. Hudson and P. Gradon, Oxford 1983–96, ii. 2–3.

[35] *Decrees of the ecumenical councils*, ed. N. P. Tanner, London 1990, i. 425, art. 39. Compare with the condemned opinion of Hus, also at Constance, ibid. i. 430–1, art. 19. The standard

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The futility of excommunication followed from the fact that, not knowing the will of God, churchmen could not hope to do what they supposedly claimed: consign a soul to eternal punishment.[36] In terms of predestination and foreknowledge, God had already decided who was saved and who damned, and in terms of temporary grace, it was the actions of individuals, their obstinacy or contrition, which determined whether they were part of the communion of the faithful or not. In *De civili dominio*, Wyclif stated that 'it is not possible for a man to be excommunicated unless he has first and foremost excommunicated himself'. By this he meant that committing mortal sin put the sinner outside the Church – excommunicated him – and the sentence of excommunication issued by a bishop merely confirmed or published that change; it did not cause it.[37] Since God's decisions and man's own conscience were the arbiters of salvation, the application of ecclesiastical censures was pointless. Churchmen did not have the power to damn men to Gehenna (hell) or hand them over to Satan.[38] The clerical or episcopal role is meaningless, a familiar Wycliffite refrain.

Excommunication was covetous because churchmen used it most often to extract rents and tithes from their subjects. At the Council of Constance in 1415, Wyclif was posthumously condemned for writing, amongst many other things, that 'Christ's disciples do not have the authority to exact temporal goods by means of [ecclesiastical] censures.'[39] In *De officio pastorali* (1379) Wyclif wrote that 'a curate ought not to extort tithes from his subjects through excommunication or other censures', nor should a bishop excommunicate those curates who try to resist the collection of taxes from their

Wycliffite line is that Peter received the keys because of his particular faith and virtue, but because there is no apostolic succession through the papacy, popes cannot claim this power. An alternative in some texts is that Jesus gave the keys to all the Apostles, not just Peter, and so the powers of binding and loosing are so dispersed as to merely mean 'doing good in the world': 'De papa', and 'Of the Church and her members', in *English Wyclif tracts*, 104, 123, 145–9; 'Thirty-seven conclusions', in *Selections from English Wycliffite writings*, 123. Thomas Cole, prosecuted by Bishop Bekynton of Bath and Wells in 1460, abjured the belief that 'God yave power to Petir, beyng a good man and an holy man, to bynde and to lose, and to his successoures beyng as good as he was, *and els not*' [my italics]: Hudson, *Premature reformation*, 329. This was the view taken by Marsilius of Padua in his discussion of the nature of priesthood: G. Garnett, *Marsilius of Padua and the 'truth of history'*, Oxford 2006, 80.

[36] J. Wyclif, *De ecclesia*, ed. J. Loserth, London 1886, 5; A. Kenny, *Wyclif*, Oxford 1985, 49–56.

[37] *De civili dominio: liber primus*, 274, 276; *De officio regis*, 231; *The Middle English translation of the* Rosarium theologie, ed. C. von Nolcken, Heidelberg 1979, 55.

[38] 'Non enim habent isti vicarii potestatem ad dampnandum hominem ad Gehennam vel tradendum sathane': *De officio regis*, 231. The *Rosarium theologie*, 55–6, argues that it is impossible, therefore, to bind someone who is innocent in God's eyes, or loose someone who is guilty in God's eyes.

[39] *Decrees of the ecumenical councils*, i. 425, art. 46. See also *De civili dominio: liber primus*, 277–8.

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parishioners.[40] But above all, and this claim would have exercised the parochial clergy as much as the theologians of Blackfriars and Constance, sentences of excommunication ought not to be feared.[41] They were born of covetousness and not charity, and in any case they were vain and impotent.

Swinderby was clearly, at least by 1390, thinking about excommunication in terms drawn from Wyclif's own writings and, possibly, the vernacular writings of his followers. This Wycliffite critique of excommunication is cogent and persuasive. Given the poor image that excommunication has had with historians as one of the surest signs of corruption in the medieval Church, it is easy to agree with Wyclif and Swinderby. But before Swinderby's characterisation of excommunication in his day can fully be understood the ecclesiastical theory and practice against which he and other Wycliffites were reacting must be considered.

The Church and excommunication

The texts most commonly associated with excommunication were the 'General sentence of excommunication', and the 'Modo pronunciandi sententiam excommunicationem' which provided parish priests with, in turn, a list of offences that incurred excommunication *latae sententiae* – that is as soon as they were committed – and instructions as to how the sentences of excommunication handed down by ecclesiastical judges were to be proclaimed in their churches. Texts of the 'General sentence' are sometimes preceded by a prologue explaining the purpose of excommunication. The version of this in the Sarum manual explains that he who trespasses against the law of God 'is worthy to be acursed of holy chirch … And he is than delyuered ayaen vnto the fiend of helle, for to putte hym fro his synne in the peyne withouten ende'.[42] Texts of the 'Modus pronunciandi' describe the ritual of excommunication – cross held high, candles lit and dashed on the ground, and in some cases spitting on the ground – and the words to be intoned by the priest: 'we remove them from the boundaries and from all the goods of the Church, and we damn them to the devil and extinguish their

[40] *Johannis de Wiclif tractatus de officio pastorali*, ed. G. V. Lechler, Leipzig 1863, 13. The author of the tract known as 'The grete sentence of curs expounded' wrote that 'Þes ben not gostly fadris of Cristene soulis, Þat wolen dampne hem to helle bi here cursyng for a litel rotyn dritt', and elsewhere that 'Certis it semeÞ alle Þis cursyng is for here owne coveitouse, not for synne of Þe peple and trespas ayenst God, for Þanne Þei schulden more curse Þere were more synne and more dispit ayenst God and his law; but Þis is not don, as alle witti men may opynly see; Þerfore Þei cursen wrongfully, and so cursen hemself, and envenymen Þe pepel Þat Þei diden wiÞ': *Select English works of John Wyclif*, ed. T. H. Arnold, Oxford 1871, iii. 309, 310.

[41] *Decrees of the ecumenical councils*, 425, art. 41; *De civili dominio: liber primus*, 275.

[42] *Ceremonies and processions of the cathedral church of Salisbury*, ed. C. Wordsworth, Cambridge 1901, 246. See also C. 11 q. 3 c. 32 and C. 24 q. 3 c. 9: *Corpus iuris canonici*, i. 653; i. 992–3.

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souls in the pains of hell, just as this candle is extinguished'.[43] Other pastoral texts of the late Middle Ages also seem to provide grounds for the Wycliffite view that when a churchman excommunicated someone he thought he was binding God to a certain course of action with regard to the sinner's soul. In his 1287 statutes for the diocese of Exeter, for example, Bishop Peter Quinel wrote that 'excommunicates are damned to eternal death', echoing here a well-known canon from Gratian's *Decretum* which asserted that 'anathema is the eternal death of damnation'.[44] On the basis of these texts it seems that the Wycliffites were spot on: the Church in their day was claiming that the judicial sentence of excommunication really affected the fate of one's soul.

But that is very far from being the whole story. Richard Helmholz has described a shift in the character of excommunication in around 1300, from a fulminatory curse to a sober judicial sentence that makes Wycliffite claims seem somewhat out of step with late medieval practice.[45] If a few of the texts described above are reviewed, and their fearsome fulminations put into context, then Helmholz's shift comes clearly into focus. The prologue to the 'General sentence' in the Sarum manual goes on to say that excommunication is indeed the sword of the Church, killing the souls of sinners for eternity, unless (and here the tone changes significantly) they have the grace of God by which to make amends on earth.[46] The 'Modus pronunciandi' likewise ends its terrible curse with the words '*unless* they come to their senses and come to satisfaction'.[47] The doctrine behind these qualifications is that the predestined will truly repent before their deaths, while those foreknown for damnation will remain obstinate in their sins, proving that the application of excommunication was correct. These fundamental texts, representative of the Church's teaching on excommunication in Wyclif's time, seem to be saying something not all that dissimilar from Wyclif himself: excommunication made by priests and bishops only indicates the damnation of already-guilty sinners, while excommunications of those who are sinful but predestined for salvation are revoked by final repentance. Excommunication, although it punishes the sinful in this life, will not harm the sinful-but-predestined Christian in the afterlife. Even the 1287 decree of Bishop Quinel, which seemed so harsh in damning excommunicates to hell, used these words only

[43] *Quattuor sermones*, ed. N. F. Blake, Heidelberg 1975, 85. For spitting see John Mirk, *Instructions for parish priests*, ed. G. Kristensson, Lund 1994, 107.

[44] *Councils and synods with other documents relating to the English Church*, II: *A.D. 1205–1313*, ed. F. M. Powicke and C. R. Cheney, Oxford 1964, ii. 1040–1; C. 11 q. 3 c. 41, in *Corpus iuris canonici*, i. 655.

[45] Helmholz, 'Excommunication and the Angevin leap forward', 135–6.

[46] *Ceremonies and processions*, 246. Another version of this text, BL, MS Burney 356, fo. 53v, reminds priests that people who meet with and talk to excommunicates are only to be excommunicated themselves so as 'to bring them to amendment'.

[47] 'nisi resipiscant & ad satisfaccionem veniant': *Quattuor sermones*, 85.

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as a way of showing priests that ecclesiastical censures were not to be handed out lightly.

Just how different then was the Wycliffite position on excommunication from that of the Church which it sought to criticise? The Ordinary Gloss to the Gospel of Matthew, a standard late medieval commentary on the standard biblical text on excommunication, reveals a more nuanced view than Swinderby and Wyclif would have us believe. The Ordinary Gloss on Matthew xvi.19, the verse concerning the powers of binding and loosing, includes a comment attributed to Origen that 'those persisting in their sins whom you assign to eternal pain, and those humble and truly penitent whom you absolve, thus will it be in heaven'. The implication of this is that it is not the sentence alone that determines the fate of the soul, but the combination of the sentence and the presence or absence of contrition on the part of the sinner – the priest's excommunication must accord with excommunication by God, and, as Wyclif would later have it, with the repentance of the sinner. The *Postilla* of Nicholas of Lyra, commonly annexed to late medieval texts of the Ordinary Gloss, stresses that the power of admitting souls to heaven depends on the truth of the judgement made, so that a wrongly-issued excommunication does not bind the soul in eternal punishment. The same view is to be found in Aquinas, who took it as given that 'excommunication does not directly affect grace'.[48] Authoritative theological argument held that human judgements did not determine the fate of the soul, unless they were in accordance with God's will and the sinner's actions.

Turning to the canonists, this 'provisional' view of excommunication is even more pronounced. In the Wycliffite *Rosarium theologie*, canons from Gratian's *Decretum* are deployed to show that human judgements are conditional and cannot bind God to damn in cases where he would rather save. This was not mere cherry-picking, taking the canons that supported the Wycliffite view from amongst the decrees of AntiChrist, but rather wholly in tune with Gratian's own view. The author of the *Rosarium* cites a canon that Gratian took from Jerome's commentary on Matthew (C. 11 q. 3 c. 44). This states that the sentences of priests and bishops cannot bind the innocent or release the guilty from their sins. Gratian's own gloss on this is that 'the sentence of pastors does not constitute or make guilt or innocence', and the whole gist of the *questio* is to support the view that judgements must accord with God and conscience to be true. C. 11 q. 3 c. 51, for example, is Gregory the Great on those justified by conscience, who should fear no curses (the very conclusion with which Wyclif may well have started, rather than ended, his consideration of excommunication), and Gratian's own comment preceding C. 11 q. 3 c. 64 is that God cannot be bound by the unjust sentence of an earthly judge. There is nothing here with which Wyclif would

[48] Aquinas, *Summa theologie*, 3-supp., q. 22, a 2, resp., cited in Vodola, *Excommunication*, 43.

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disagree, and these were the foundation texts of the canon law curriculum in the universities, where generation after generation of late medieval canon lawyers and judges were trained.

Turning from Gratian to the *decretals* it is clear from the late twelfth century onwards that the separation of the sacrament of penance from the judicial forum of the church courts left excommunication in an even more conditional state than it had been in Gratian's day.[49] The historian of the canon law of excommunication, Elisabeth Vodola, has said that by the early thirteenth century 'major excommunication concerned only the punishment (poena) that detained a soul in purgatory, not the guilt (culpa) that consigned it to hell'.[50] Talk of purgatory would, of course, for Wycliffites, only confirm the corruption of the practice, but it is important to realise that, purgatory aside, canonists of the thirteenth century were making a distinction between correction by judges and ultimate guilt decided by God.

In line with the later Wycliffite view, at the Council of Lyons in 1245 Innocent IV asserted that excommunication does not hinder salvation unless it is ignored, and he wrote in his learned apparatus to the commentary on the decretals that 'excommunication is not guilt, but medicine, or penance'.[51] Many other writers saw excommunication as medicine too. Gregory the Great's dictum that all justice should be medicinal, was frequently repeated. In the thirteenth century Johannes Teutonicus described excommunication as the medicine of the soul and glossed Gregory's 'medicine' as meaning 'correction', bringing home the close relationship between the pastoral and the judicial.[52] Excommunication was medicinal because it was intended not to cut the offender off from Christian society, as is commonly assumed, but to bring the offender to repentance and contrition. Often it had the purely functional aim of giving the offender an incentive to turn up in court.[53] More generally excommunication was used as a public-safety measure, separating from the rest of society those whom the courts thought might lead by bad example,[54] a view shared incidentally by the author of the supposedly Lollard sermons edited by Gloria Cigman. This homilist said that it was the duty of

[49] Vodola, *Excommunication*, 40–7. This change is of course part of the shift described by Helmholz, 'Excommunication and the Angevin leap forward'.

[50] Vodola, *Excommunication*, 45

[51] VI 5.11.1, in *Corpus iuris canonici*, ii. 1093; Innocent IV, *In quinque libros decretalium commentaria apparatus*, Venice 1570, app. X 2.20.54, v. *Per exceptionem*.

[52] C. 23 q. 4 c. 25 with *Glossa ordinaria* v. *medicina*; *Glossa ordinaria* to C. 24 q. 3 c. 37, v. *disciplina*.

[53] R. Helmholz, 'Excommunication as a legal sanction: the attitudes of the medieval canonists', *Zeitschrift der Savigny-Stiftung für Rechtgeschichte. Kanonistische Abteilung* xcix:lxviii (1982), 202–18.

[54] Manifest sin 'is hard to be heled by sooft salues of prechyng and techyng of men of holy cherche, therefore lest they enfecte othir men by yeuel ensaumple they have power to cast suche a gostely mesel oute fro holy cherche': BL, MS Harleian 2383, fo. 55r.

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priests and prelates to cut away sin 'wiÞ scharpe bitynge sentencis of Holi Writt or, if nede axiÞ, wiÞ censures of holi chirche (Þat is: wiÞ scharpe punischyngis)'.[55] Damnation was conditional on the will of God, the behaviour of the individual and the censures of the Church, and excommunication was in any case not used in this way by the courts: it was a temporary, practical measure, not a predictor of the last judgement. This was so because excommunication, in common with the whole system of canon law, was limited by the difficulty of seeing into another person's soul. Heretics were known by the fruits of their words and actions, not by visual signs, and even these were subject to doubt and circumspection.[56]

The excommunication of heretics under canon law

Of course, it would be unfair, and one step short of analysis, to conclude that Wycliffite perceptions of excommunication merely caricatured the Church's position in order to condemn it. Perceptions of the Church, even if 'factually' incorrect, should be seen as one constituent of what the Church actually meant to people living at the time. For this reason it is worth considering how excommunication was used against the Wycliffites, as this would undoubtedly have framed their attitude towards it and given them a taste of the procedures of the courts. Indeed, the author of 'The grete sentence of curs expounded' wrote in about 1383 that 'pore prestis ben sclaundrid for heretikis, cursed and prisoned wiÞouten answere'.[57] This was echoed by the author of *De oblacione iugis sacrificii*: 'boÞ bi her determynacions, constitucions and statutis, and also bi uyolens as cursing, presunnyng and deeÞ, Þei [prelates] oppressen and stoppen trewe prestis Þat besien hem to blowe a blast of Þis breÞe of Crist upon Þis auou3tresse [the Church]'.[58] Wycliffites, Swinderby included, resented excommunication because it was used against them. Once classified as heretics, they fell under the sword of excommunication, and from 1382 onwards, when Archbishop William Courtenay made unlicensed preaching by Wycliffites a priority across Canterbury province, people listening to their sermons could also be excommunicated.[59] It is significant that in both the texts just cited, excommunication is followed immediately by imprisonment, because the great practical value of

[55] *Lollard sermons*, ed. G. Cigman (EETS ccxciv, 1989), 88.

[56] On doubt and circumspection in canon law see Forrest, *Detection of heresy*, 14–19, 164–5. The prevalence of this view among canon lawyers may have surprised the Wycliffite author of 'De papa', *English Wyclif tracts*, 92, who saw human law as arrogant for claiming to identify sin and virtue: 'for crist tau3te Þat hoolynesse shulde be hid in mennus hertis/& not shewid to Þe puple in sensible signes wiÞ oute fruyt'. Cf. sentiments of the *Lanterne of li3t*, in Hudson, *Premature reformation*, 319.

[57] *Select English works of Wyclif*, iii. 272.

[58] *The works of a Lollard preacher*, ed. A. Hudson (EETS cccxvii, 2001), 181.

[59] Forrest, *Detection of heresy*, 64.

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excommunication for the Church authorities was the possibility of requesting the arrest of excommunicates by the crown. The writs of 'signification' by which this was administered have been fully studied by Donald Logan.[60] Therefore, when the attitudes of Swinderby and other Wycliffites towards excommunication are examined, the experiences and perceptions of a group increasingly conscious of their subjection to this sanction are being analysed.

'The grete sentence of curs expounded' responded to excommunication for heresy not only in its content, but also in its literary form. There were many crimes which incurred excommunication, and in order to remind the laity of what these were, parish priests were supposed to read out a list of them three or four times a year. Many such vernacular lists, or 'general sentences of excommunication' survive; the Wycliffite 'Grete sentence' is a parody of this genre, mocking the whole idea of excommunication by setting out in turn why each item of the general sentence is flawed. 'General sentences' are very interesting texts because they are so diverse. A number of groups can be identified, with one text influencing another, but because individual bishops could add and take away articles from the lists, and because parish priests were responsible for copying their own texts, variation crept in.[61] They show that excommunication was used against heresy in a number of ways. The simplest excommunications were those that merely mentioned heretics in the company of simoniacs and usurers,[62] and those that excommunicated people who knowingly buried a heretic.[63] 'General sentence' texts accreted new material more easily than they shed old, and these articles seem to have been the ones least affected by the appearance of Wycliffism. A more useful and responsive excommunication was that which applied not only to heretics, but also to their helpers and supporters. This was influenced by a raft of thirteenth- and fourteenth-century legislation making supporters of heretics as guilty as heretics themselves, in an effort to break lines of communication and halt the spread of heresy.[64]

[60] Logan, *Excommunication and the secular arm*, 25–42.

[61] On the following manuscripts see A. E. Hartung (ed.), *A manual of the writings in Middle English, 1050–1500*, New Haven 1967-, vii. 2573–5; O. S. Pickering, 'Notes on the sentence of cursing in Middle English', *Leeds Studies in English* n.s. xii (1981), 229–44; and L. E. Boyle, 'A study of the works attributed to William of Pagula: with special reference to the *Oculus sacerdotis* and *Summa summarum*', unpubl. DPhil thesis, Oxford 1956, ii, passim. I have benefited from discussing the Middle English texts with Jenni Nuttall.

[62] Society of Antiquaries, London, MS 687, p. 558.

[63] Bodl. Lib., MS Bodl. 110, fo. 165r; MS Bodl. 736, fo. 192v; MS Burney 356, fos 52r–53v; BL, MS Harleian 335, fos 21r–24v; MS Royal 11.B.X, fo. 175v; Lambeth Palace Library, MS 172, fo. 173r.

[64] Bodl. Lib., MS Bodl. 736, fo. 192r; MS Douce 60, fo. 161r; MS Douce 103, fo. 134r–137v; BL, MS Add. 33784, fo. 164r–v; MS Arundel, fo. 118r; MS Burney 356, fos 52v–53r, 53r–54v; MS Cotton Claudius A. II, fos 125v–128r; MS Harleian 335, fos 21r–24v; Lambeth Palace Library, MS 172, fo. 172r. For the canons against support networks of heretics see Forrest, *Detection of*

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One of the more sophisticated articles of excommunication used against heresy was that which applied to anyone who knew of heresy (or witchcraft or sorcery), yet did not report it. This was sometimes linked with an article referring to authorities who were duty-bound to act against heretics, but did not. Here the coercive, rather than punitive, intention of excommunication is clear.[65] Church authorities wanted to ensure that bishops and the crown took action against heretics and that ordinary people reported heretics when they knew of them.[66] Only a relatively small number of 'general sentence' texts refer specifically to heretical beliefs. Two contain an article excommunicating anyone who does not believe in the sacrament of the altar,[67] one extends this to anyone who does not believe in the seven sacraments[68] and two connect heretical belief to disobeying the Church and the pope. Lambeth Palace Library, MS 172, excommunicates 'alle eretikis and oÞere Þat holdiÞ oppinyouns a3enst cristen feiÞ oÞer holdiÞ and techiÞ oÞer wies of Þe sacrament of holy church Þan Þe head of holy church haÞ tau3t and ordeynid, and alle Þat hem faueriÞ oÞer mayntene Þ'.[69] MS Bodley 123 excommunicates 'all thoo Þat sayne and affermyn Þe churche of Rome not to be heede of all othere churche … all Þoo Þat Þerto ben not obedient as to the principal heede of all the worde … [and those] Þat of the sacramentis of holi churche other wyse leuen or techyn Þen holi churche, and prechys or techys. And generally all eretykys mon or womon and all Þat on home leuen or home defendyne, receyvyne, or faueryne hom'.[70]

The use of excommunication against heresy in England reflected the provisional nature of the censure. Heretics and their followers were excommunicated so that they would appear in court, or revoke their errors. The Church also intended to prevent the spread of heresy by advertising the status of suspects. All these were practical and provisional measures: bishops did not think that they were damning souls into hell when they excommunicated someone. For Wycliffites, however, excommunication undoubtedly appeared

heresy, 17, and Paul Ormerod and Andrew Roach, 'The medieval inquisition: scale-free networks and the suppression of heresy', *Physica A* cccxxxix (2004), 645–52.

[65] Bodl. Lib., MS Bodl. 110, fo. 165v; BL, MS Burney 356, fo. 52v; MS Harleian 2383, fo. 52r–v; MS Harleian 4172, fos. 14v–15r. Failure of secular authorities to act against heresy, resulting in excommunication, was a central plank of Innocent III's bull *Excommunicamus* (X 5.7.13), *Corpus iuris canonici*, ii. 787–9, trans. in *Decrees of the ecumenical councils*, i. 233–5.

[66] On lay reporting of heresy see Forrest, *Detection of heresy*, 68–76, 164–8, 171–206.

[67] BL, MS Burney 356, fo. 54v; Society of Antiquaries, MS 285, p. 15.

[68] Bodl. Lib., MS Rawl. A. 381, fo. 2v.

[69] Lambeth Palace Library, MS 172, fo. 172r. This text is the only one in which the list of excommunicable offences begins with heresy, the position given to heresy in the satirical 'Grete sentence of curs expounded', dated to *c.* 1383. The variation in general sentence texts means that the Wycliffite author of the 'Grete sentence' was likely to have been responding to a text very local in time and place. Given that the Lambeth manuscript has as its flyleaves letters dated to 1382 and 1383, it is possible that this was the source of the Wycliffite satire.

[70] Bodl. Lib., MS Bodl. 123, fo. 2v.

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to be the first step on a road that could lead to imprisonment, trial and potentially execution, whatever the technical status of the sentence in canon law. So while Wycliffites might well find in excommunication an understandable target for their attack on the contemporary Church, what they actually said was largely in tune with mainstream theological and canonical thinking within that Church.

The nature of the argument between Wycliffites and the Church

If Wycliffites and their opponents agreed about excommunication, two questions arise. Why did the ecclesiastical authorities condemn Wyclif's and Swinderby's views on the subject as heresy? And why did Wycliffites waste their energy in condemning a theory and practice of excommunication that was, in effect, a mere straw man?

The first question is the easier to answer. While most theologians and canonists would agree with Wyclif's view that it was impossible to know the will of God, few (if any) would agree with his conclusion that excommunications and other ecclesiastical censures ought not to be feared.[71] Just because Wyclif was wrong about what the Church taught on excommunication, his conclusion did not lose any of its subversive power; if anything it was increased. Had people accepted Wyclif's view of excommunication, the church courts would have lost the one effective sanction that they had. No one could have been coerced into attending courts or visitations, into performing penance or paying tithes, at one fell swoop taking away the judicial, pastoral and financial basis of the Church.

In this light, the articles on which Wyclif and Swinderby were condemned are very interesting. Formulated by the prosecuting authority on the basis of reported preaching and their writings, one would naturally expect them to represent the views of the accused in the worst possible light. Both men were condemned for holding that 'no churchman is able to excommunicate someone unless he first knows him to have been excommunicated by God'. Here it is not the established Church which appears arrogant in claiming to know the will of God, but Wyclif and Swinderby, for the implication of the article, and its crucial 'unless', is that it is permissible to excommunicate someone if you *do* know the will of God, suggesting that Wycliffites thought this was possible.[72] When Wyclif had written in *De officio regis* that the

[71] *De civili dominio: liber primus*, 275; *De officio regis*, 232; *Decrees of the ecumenical councils*, i. 425, art. 41.

[72] The only circumstance in which Wyclif thought it would be possible to know the will of God was revelation, his habitual fall-back position: M. Wilks, 'Predestination, property and power: Wyclif's theory of dominion and grace', in *Wyclif: political ideas and practice: papers by Michael Wilks*, Oxford 2000, 21.

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excommunicator ought to know the will of God, did he mean the reader to infer that this was impossible? The articles alleged against both men took these words literally, and out of context, casting complex theological positions in a simplistic light to make the contrary polemical point.

But there was a substantial difference between Wyclif and canon lawyers in their ecclesiology. Wyclif's assertions regarding the difficulty of knowing who was or was not among the elect, led him to doubt the validity of excommunication.[73] Canon lawyers also believed that the will of God could not be known, but they believed that in this life the word 'Church' applied to all Christians, whether predestined or not. According to the parable of the wheat and the tares, the healthy crop and the weeds should be left in the field to grow together until judgement day, because they cannot be distinguished before then; excommunication was a provisional penalty unconnected with grace and salvation.[74] This leaves us, once again, unable to distinguish Wyclif from his opponents, except in his caricature of them, and their caricature of him.

Why, when they agreed, were Wycliffites so hostile towards the authoritative view of excommunication? There are a number of reasons, but the salient one is the symbolic value of excommunication in Wycliffite polemics against canon law. Excommunication was an 'excess' of the Church, to be contrasted with 'the humble ministration of priests',[75] and canon law a human invention out of step with the divine law of the Bible. Christ's life, and not the court of Rome, should guide the Christian through life,[76] but canonists, who are 'Egyptians'[77] and 'heretikis out of bileue',[78] and whose courts are truly 'Satan's throne',[79] are alleged to believe that breaking canon law is worse than breaking God's law.[80] Christ bade people believe his works and issued neither bulls nor letters, and so people should in fact set less store by canon law than by the Gospels.[81] Canon law encouraged prelates to see themselves as Christ's equal, binding and loosing as only God could do.[82] This polemical reaction to excommunication as symbolic of a vain human system of law is most clearly seen in later vernacular Wycliffite works, written during the period of their persecution.[83]

[73] Ibid. 20. [74] Matt. xiii. 25–6. See Forrest, *Detection of heresy*, 157.
[75] *Tractatus de officio pastorali*, 22. [76] Hudson, *Premature reformation*, 375 n. 91.
[77] Ibid. 378. [78] *English Wycliffite sermons*, iii. 120.
[79] *Select English works of Wyclif*, iii. 296.
[80] *Reg. Trefnant*, 244, 272–3; *Select English works of Wyclif*, iii. 308, 450; *English Wycliffite sermons*, ii.85. [81] *English Wyclif tracts*, 102; *English Wycliffite sermons*, ii. 191.
[82] *English Wycliffite sermons*, ii. 71. Oddly, perhaps, Wyclif, in *De ecclesia*, 154, sees lay judges as alternatives to ecclesiastical ones, without addressing how they would be more in tune with God's will. On Wyclif's attitude to canon law see most recently S. E. Lahey, *Philosophy and politics in the thought of John Wyclif*, Cambridge 2003, 147–60.
[83] R. Copeland, 'William Thorpe and his Lollard community: intellectual labour and the representation of dissent', in D. Wallace and B. Hanawalt (eds), *Bodies and disciplines: intersections of literature and history in fifteenth century England*, Minneapolis 1996, 199–221.

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It should not be concluded from this that Swinderby, Wyclif and later Wycliffites did not understand canon law, since despite the pressing need for more work on legal citation in Wycliffite sources, it is clear that, polemics aside, they did not discard this major branch of scholastic learning. Michael Wilks indeed argued in his article on Wyclif the papalist that exposure to hierocratic theory was akin to knowledge of canon law. While these are not the same thing, more concrete generalisations can be made.[84] Anne Hudson has demonstrated, for example, that the authors of the *Floretum*, the *Rosarium*, the *Thirty-seven conclusions* and the *Apology for Lollard doctrines*, were well-versed in canon law, using Gratian and the commentators fairly extensively. She also suggests that Richard Wyche and other early Lollards had 'a formidable knowledge of canon law', evinced in a willingness to argue the toss with judicial authorities, despite their contempt for the pretensions of what they saw as human (i.e. canon) law being raised above the *lex dei*. To this we may add that Swinderby himself, in the responses he deposited with Bishop Trefnant, cited confidently from all three parts of Gratian's *Decretum*, as well as the Gospels, Psalms, Gregory the Great and Isidore of Seville; all his citations of Augustine, Ambrose and Chrysostom are culled from Gratian. Key canonical attitudes to excommunication also emerge in Wycliffite texts, such as the description of excommunication as medicinal in 'On the Church and her members'. Those who excommunicate without 'loue of oÞer men to whom Þei leien [apply] Þis medecine', actually excommunicate themselves. Here the reference to medicine seems ironic, perhaps even mocking the self-deception of canonists who dressed up their vain censures in pastoral language.[85] Wyclif shared the vocabulary of medicine in relation to excommunication, but for him it was a pastoral, rather than a judicial, medicine, and it was applied only by God and not by man.[86] However, despite this knowledge of canonical sources, Wycliffites repeatedly asserted that the Church in their day made no distinction between remedial punishment in this life and ultimate guilt in the next.[87] Not only did they

[84] M. Wilks, 'The early Oxford Wyclif', in *Wyclif: political ideas and practice*, 34. H. B. Workman argued, on the basis of citations in the earlier Latin works, that 'we might suspect that at one time he contemplated taking his degree' in canon law: *John Wyclif: a study of the English medieval Church*, Oxford 1926, i. 102. I owe this reference to Rory Cox.

[85] *English Wyclif tracts*, 162. On harm done to the excommunicator by a false excommunication see *De mandatis divinis*, ed. J. Loserth and F. D. Matthew, London 1922, 385.

[86] *De ecclesia*, 153; *De officio regis*, 232. Wyclif's emphasis on the auto-excommunication of the sinner shows him to have been in favour of the idea of excommunication *latae sententiae*: excommunication incurred simply by virtue of committing one of the sins listed in the general sentence of excommunication. However, Helmholz, 'Excommunication and the Angevin leap forward', 147–8, points out that even excommunication *latae sententiae* required the specific citation and sentencing of the offender by a judge for it to be publicised and come into effect. Wyclif approved of the first, but not the second, part of this process.

[87] Emily Steiner, 'Lollardy and the legal document', in Somerset, Havens and Pitard, *Lollards and their influence*, 161–2 n. 21, points out that Wycliffites made the same mistake for

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contradict academic canon law, which they therefore unduly criticised on this point, they also misrepresented the practice of the courts, where excommunication was applied as a coercive but temporary measure, designed to ensure compliance with judicial sentences and pastoral correction.

When assessing Swinderby's attitude to excommunication it is important to consider whether he should be described as someone well-versed in canon law and judicial practice, or whether he was someone less familiar with the technicalities and procedures of the institution he was criticising. In the case of many of the vernacular Wycliffite texts, it is difficult, given the doubts over authorship and date that dog their interpretation, to make this distinction, although as persecution became the defining Wycliffite experience, criticisms of excommunication could be assumed to have rested increasingly upon experience, if not upon scholastic knowledge. Swinderby, although enigmatic, is easier to classify in this way. As is seen from his apparent, if not proven, connection with early Wycliffites like Aston and Repingdon, and from his facility in drawing upon a wide range of biblical, patristic and canonical sources in his written defence, he was at the very least on the fringes of academic life, and it seems likely that he had attended university for a time.[88] He was also sufficiently well-versed in procedural canon law to attempt to evade its strict letter and toy with the official parameters of his prosecutions by Buckingham and Trefnant.[89] His characterisation of excommunication, however, while coherent in and of itself, did not match the theory and practice of the canon law schools and the courts. Certainly he should be seen as a precociously early concrete link between academic Wycliffism and the diverse penumbra of popular dissent in early 1380s Leicestershire, and certainly he cannot be discounted as ignorant of canon law ideas and procedures. His attitude must therefore be explained in another way. Part of that explanation must be persecution: feeling the sting of excommunication as the first step on a road that might lead to terrible punishments and condemnation as a heretic, would very likely put an intelligent and informed dissenter like Swinderby in a attitude of antipathy towards the more theatrical aspects of ecclesiastical justice. In addition, so that excommunication would play its coercive yet conditional role in judicial cases, the Church undoubtedly benefited a great deal from giving the

indulgences as they did for excommunications, a similarity also dealt with in A. Hudson, 'Dangerous fictions: indulgences in the thought of Wyclif and his followers', in R. Swanson (ed.), *Promissory notes on the treasury of merits: indulgences in late medieval England*, Leiden 2006, 197–214.

[88] Hudson, 'The problem of scribes', 85, 89, and *Premature reformation*, 227.

[89] On the relevant canonical definition of heresy see *Reg. Trefnant*, 272; Hudson, *Premature reformation*, 278n; and Forrest, *Detection of heresy*, 15.

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impression that the fulminated curse really could damn souls to hell, whatever the theological and procedural realities.

Clearly protest movements need not perfectly understand and impartially describe the institutions that they criticise, and they are no less important for that fact. Indeed, institutional insiders, and historians of institutions, are liable to think that their institution is only comprehensible from the inside, but the opinions of those who stand outside are no less valid for having, by necessity, an outsider's perspective. To some extent Swinderby, and certainly many of the Lollards, were outsiders when it came to canon law, but they saw it at work, and took a view on its aims and operation. Swinderby had, in addition, a grasp of the scholastic apparatus underlying canon law, but still he came to conclusions that were based on a caricature of the theory and practice of excommunication. Rather than adding to the paradoxes of this dissenter's life, these contradictions go some way towards helping us to understand the interplay between academic learning and popular dissent. If the crossover between university and parish church was the defining characteristic of Lollardy, then perhaps early Wycliffites like Swinderby should be thought of as drawn from the ranks of those whose academic training was augmented by strong feelings about how the Church operated, and was perceived to operate, in the towns and rural parishes of late fourteenth-century England.

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