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A Canon Lawyer's Compilation from Fifteenth-Century Yorkshire

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The numerous surviving formulary volumes compiled by ecclesiastical administrators and lawyers in pre-Reformation England are valuable but neglected adjuncts to the period's surviving church court records. Using material in a fifteenth-century volume originally compiled by a lawyer of the courts at York, this article demonstrates the utility of such volumes to supplement and complement the surviving court books and papers. In particular it draws attention to two cases taken to the Council of Constance. These add to evidence of England's acceptance of that assembly's jurisdictional claims, and illustrate England's integration into the court structures of the broader Catholic Church.

Medieval English church court records have been extensively exploited by historians in recent decades. There is now a basic guide to the surviving material for England as a whole, even if it has some deficiencies;[1] and an intermittent flow of published primary sources and secondary analyses.[2] Yet, while the extensive array of documents immediately derived from England's medieval church courts rightly provides a first port of call for researchers, and is regularly exploited, there is a danger that its scale and availability may distort analysis and understanding of the role and practice of the full range of church courts whose activities affected pre-Reformation England. One important consideration is that the wealth and attractiveness of the local resources may significantly divert attention from full appreciation of England's integration into the totality of the medieval Church's disciplinary structures. With the wealth and attractiveness

BIA = Borthwick Institute for Archives, York

[1] C. Donahue, Jr (ed.), *The records of the medieval ecclesiastical courts*, II: *England*, Berlin 1994.

[2] The main discussion of the medieval (and immediately post-Reformation) English church courts and their business is now R. H. Helmholz, *The Oxford history of the laws of England*, I: *The canon law and ecclesiastical jurisdiction from 597 to the 1640s*, Oxford 2004. Its bibliography provides a good list of primary and secondary publications.

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of the local resources – and the lack of surviving material directly from the central papal courts – it is easy to forget, especially for the period between 1350 and the Reformation, that England remained under the disciplinary and judicial oversight of the *curia Romana*, and that the English church courts were merely a part of the system into which England, and English litigants, were integrated.

The wealth of extant original documents produced directly by and for the English church courts and retained within their successor archives may also seduce researchers into ignoring other classes of related material which is often equally interesting, and sometimes more rewarding. Especially significant in this regard is the tendency of church historians and those who work on the church courts and canon law to sideline, if not entirely ignore, the numerous surviving volumes generally known as 'precedent books' or 'formularies'. Perhaps that label, suggesting as it does the merely formulaic and the procedurally incomplete, discourages their examination; possibly what discourages is contents which are often an uncertain mixture of administrative miscellanea and seemingly uninformative documentary templates – the latter usually lacking dates, and with names and places reduced to no more than initials. Yet numerous volumes of this kind survive in archives and libraries across the country, and should not be ignored. Usually catalogued in cursory and uninformative manner, they often contain unexpected and surprisingly valuable material, to aid analyses both quantitatively and qualitatively. Dorothy Owen hinted at their importance some years ago; her edition of *John Lydford's book*, a volume compiled by a Devonshire notary in the late fourteenth century, is still the only full printed text of an English volume of this kind.[3]

This discussion aims to reassert the potential value of such volumes as sources both for further investigation of the late medieval English Church, and to complement and enhance work in other fields. It focuses on a volume currently deposited among the Ripon cathedral archives in the Brotherton Library of Leeds University (MS Dep. 1980/1.355). Extending to just over 200 folios, the volume is a fifteenth-century compilation. Its main phase of composition probably lay in the 1420s and 1430s. It appears to have been at least initially compiled by William Byspham, a layman who acted from 1421 as a proctor working primarily in the church courts at York, and whose name

[3] D. M. Owen, *The medieval canon law: teaching, literature, and transmission*, Cambridge 1990, 31–42; *John Lydford's book*, ed. D. M. Owen (Devon and Cornwall Record Society xix, 1974). A few documents have been published from the rather more miscellaneous volume known as Snappe's formulary, whose extensive contents have been described as 'useful material for the use of an ecclesiastical lawyer': A. Hamilton Thompson, 'The will of Master William Doune, archdeacon of Leicester', *Archaeological Journal* lxxii (1915), 233; the will is printed from the volume at pp. 267–84. See *Snappe's formulary and other records*, ed. H. E. Salter (Oxford Historical Society lxxx, 1924), 1–21.

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appears fairly frequently among the entries.[4] If not actually compiled by him, it may have been constructed from his collection of legal papers, possibly – or probably – supplemented by material acquired elsewhere. A substantial number of documents entered in the volume pre-dates Byspham's appointment as proctor, but several of them reflect his activity as a notary public, a status he had held for some years before acquiring his proctorial post.[5] While its contents relate chiefly to the activities of the archiepiscopal courts at York, the volume contains further material drawn from across the fifteenth century, and from beyond the diocese of York. Some of this extraneous legal material may have been available to the compiler in York, especially when it reflects appeals to the archiepiscopal courts from other dioceses within the northern province. Most of the entries consist of the document which started a case – a libel or appeal – followed by the articles derived from that statement; but there are occasional fuller series of documents relating to a single case. Fortuitously, not only can this volume be integrated with the local litigation of the church courts of fifteenth-century Yorkshire (and, indeed, with cases from elsewhere in England), it also provides examples of England's integration into the broader machinery of justice provided by the papal curia, and even more particularly of England's acceptance of the jurisdictional and judicial claims of the Council of Constance as it sought to fill the *lacuna* in the broader structures created by its seizure of the headship of the Church in 1415–17.

As a volume initially reflecting the practice and interests of a York-based ecclesiastical lawyer, the Ripon compilation offers a valuable adjunct,

[4] His name appears, for instance, in entries at Brotherton Library, University of Leeds, MS Dep. 1980/1.355, fos 1v–2r, 9v–10v, 14v, 16r–v, 209r–211v. Many of these are notarial attestations (see n. 5 below). He also appears among the cast of characters in the two cases discussed at length in this article. He had a long career, being still active in 1459: J. S. Purvis, *A mediaeval act book, with some account of ecclesiastical jurisdiction at York*, York n.d. [1943], 27. For his biography see (incompletely) A. B. Emden, *A biographical register of the University of Oxford to 1500*, Oxford 1957–9, i. 193, and for a slightly fuller but unreferenced skeleton D. Dasef, 'The lawyers of the York curia, 1400–1435', unpub. B.Phil. diss. York 1976, 84, which describes him as 'one of the most successful proctors of the period 1435–50' See also ibid. 43–4, noting (at p. 44) that the amount of business he undertook 'rapidly surpassed some of his older colleagues on the Court'. Unfortunately, in the photocopy of the thesis consulted in preparation of this article (BIA, thesis collection 32), the diagram to indicate the scale of business of individual proctors (ibid. 93) is reproduced only in black-and-white, making it impossible to identify the line which records Byspham's activities. Byspham's lay status allowed him to marry; in fact he married twice, which necessitated a papal dispensation to permit him to retain his notarial status: *Calendar of entries in the papal registers relating to Great Britain and Ireland, papal letters*, VII: *A.D. 1417–1431*, ed. J. A. Twemlow, London 1906, 501; his proctorial career began in 1421: Dasef, 'Lawyers', 105 n. 42, citing BIA, CP.F.133. Dasef's thesis provides a good indication of the institutional context of Byspham's career. On the late medieval court of York see also F. Pedersen, *Marriage disputes in medieval England*, London–New York 2000, 90–103

[5] For an illustration of his notarial sign see J. S. Purvis, *Notarial signs from the York archiepiscopal records*, York 1957, plate 54.

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complement and indeed supplement to the surviving court records at York.[6] A number of its entries resonate with material still to be found among the existing archives. There are, for instance, several documents from a case between the inhabitants of Paull and the vicar of Skeckling in 1424, a dispute already known from a dossier among the York cause papers.[7] Other cases for which original cause papers survive, and which are also represented in the Ripon volume (in these instances only by one or two copied documents) include a dispute between the prior of Lytham (in Lancashire) and the abbot of Vale Royal,[8] and the marriage case between John Lisster and Isabella, daughter of Richard Foxholes.[9] Transcribed documents relating to a marriage case between John Elys, goldsmith of York, and Agnes Fawconberge[10] tie in with a dispute between them which made its way from the prebendal court of Knaresborough to that of the dean and chapter of York Minster in 1417,[11] and then with a subsequent case in which Agnes appears as John's widow and executrix.[12] There are also more general thematic overlaps, in the types of case encountered both in the book and in the extant court material at York. Among the several marriage cases, it is perhaps worth mentioning that involving John Wilson alias Sklater of Skipton on Swale and Agnes del North of York. This was one of that small group of salacious disputes in which the woman sought annulment on the grounds of the man's impotence.[13] In this case, however, the Ripon volume includes the remarkable response issued by the man after the process of inspection by a group of women had declared him impotent. In a declaration reeking of challenged machismo, he roundly asserted his virility, and alleged that it had in fact been the process of examination, and the behaviour and taunts of the women, which had prevented him from displaying his manhood to the full.

While the contents of the Ripon volume cannot be surveyed here in full, a few cases which appear among its folios do merit more extended discussion. Particularly noteworthy are the cases which indicate England's active

[6] For a survey of the surviving records, with chronological lists of the fourteenth- and fifteenth-century cause papers, see C. Donahue, Jr, 'York', in his *Records*, 109–51 For a more informative listing of the cause papers, and an index of the earliest court books see *Ecclesiastical cause papers at York: the court of York, 1301–1399*, ed. D. M. Smith, York 1988; *The court of York, 1400–1499: a handlist of the cause papers and an index to the archiepiscopal court books*, ed. D. M. Smith, York 2003; and *Ecclesiastical cause papers at York: dean and chapter's court, 1350–1843*, ed. K. M. Longley, York 1980.

[7] MS Dep. 1980/1.355, fos 1r–3r, 4r–v; cf. BIA, CP.F.150 (Smith, *Court of York*, 22–3).

[8] MS Dep. 1980/1.355, fos 6r–8v; BIA, CP.F.167 (Smith, *Court of York*, 26).

[9] MS Dep. 1980/1.355, fos 25v–26r; BIA, CP.F.81 (Smith, *Court of York*, 19).

[10] MS Dep. 1980/1.355, fo. 14r–v.

[11] BIA, DC/CP.1417/2.

[12] Smith, *Court of York*, 94.

[13] MS Dep. 1980/1.355, fos 54v–55v. On such cases see B. Kane, *Impotence and virginity in the late medieval ecclesiastical court of York*, York 2008.

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integration within the wider Catholic and papal structure. A few documents note the activities of papal judges delegate in England – an aspect of international ecclesiastical jurisdiction which is easily forgotten in concentration on the work of the specifically English courts.[14] Generally speaking, judges delegate seem to be ignored once studies of English church courts move away from the thirteenth century and Jane Sayers's volume on them.[15] Yet such delegates continued to be active as part of the English ecclesiastical judicial system right through to the break with Rome.[16]

Different in character are two other cases recorded in the volume. These also demonstrate England's, and specifically Yorkshire's, firm integration into the international system of ecclesiastical courts, even if in somewhat unusual circumstances.

If papal judges delegate in later medieval England remain a somewhat unknown quantity, the scale and nature of English litigation at the central courts of the papal Church is an equally shadowy subject. That there were English agents at the courts, and English litigants, is certainly known; but information about cases is often limited, and sketchy.[17] Despite this, the system was fully operational, and was clearly exploited by English litigants. Even if most appeals to Rome were essentially nominal,[18] some cases did reach the *curia Romana*, and produced a sentence.

While the papal structure appears in general to have functioned fairly smoothly, there were times when its machinery was seriously disrupted. One such period occurred during the Council of Constance of 1414–17, when the *coup* against the papal monarchy in April 1415 led to the council seizing sovereignty over the Church.[19] Having initiated a crisis, the council had to develop its own machinery to ensure administrative and jurisdictional continuity until a new pope was elected. This included arrangements to deal with litigation, which in essence continued the procedures of the *Rota* as they

[14] MS Dep. 1980/1.355, fos 22r–23r, 48r–v, 176r–179v.

[15] J. E. Sayers, *Papal judges delegate in the province of Canterbury, 1198–1254: a study in ecclesiastical jurisdiction and administration*, Oxford 1971.

[16] For example Chippenham, Wiltshire and Swindon Archives, D5/19/1, fos 1r–3v. See also n. 21 below.

[17] For agents (not always acting in the courts, but often intermediaries with legal representatives) see J. E. Sayers, 'Proctors representing British interests at the papal court, 1198–1415', in S. Kuttner (ed.), *Proceedings of the third international congress of medieval canon law, Strasbourg, 3–6 September 1968*, Vatican City 1971, 143–63 (repr. in her *Law and records in medieval England: studies on the medieval papacy, monasteries and records*, London 1988, ch iv); P. N. R. Zutshi, 'Proctors acting for English petitioners in the chancery of the Avignon popes (1305–1378)', this JOURNAL xxxv (1984), 15–29; and M. Harvey, *The English in Rome, 1362–1420: portrait of an expatriate community*, Cambridge 1999, 155–60, and *England, Rome, and the papacy, 1417–1464: the study of a relationship*, Manchester 1993, 26–7, 35–6.

[18] Helmholz, *Oxford history*, 352.

[19] F. Oakley, *The western Church in the later Middle Ages*, Ithaca, NY–London 1979, 64–7.

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had been organised under Pope John XXIII.[20] As England remained loyal to the council and abandoned John, from April 1415 until November 1417 the kingdom recognised no pope, and accepted the conciliar structures as legitimate.

The council's procedures included its own forms of delegation, as when Bishop Repingdon of Lincoln was authorised in November 1417 to determine the validity of a sentence issued by the York courts following an appeal to 'apostolic' authority.[21] At present, however, known evidence for English litigation involving the council, in cases sent from the lower reaches of the English Church for determination at Constance between April 1415 and November 1417, is limited. Some years ago Christopher Crowder published details of four court cases relating to English matters which were dealt with at the council,[22] but there has been no subsequent attempt to build on his work and extend the tally of cases. One obvious addition is the case just cited which was returned to Bishop Repingdon of Lincoln for decision late in 1417.[23] While the available evidence for contacts is clearly incomplete, it does show conclusively that the English accommodated themselves to the strange situation which existed under the conciliar system, where a decapitated but not acephalous Church sought to maintain 'business as usual'. That it was 'business as usual' was confirmed by the rather petty nature of the cases that Crowder discovered: tithe disputes, and a chapelry claiming independence from its parish church; while the case sent to Repingdon centred on the disputed administration of a will.

The Ripon diocesan volume allows one more case, just as petty, to be added to the developing list. It also provides an addendum of legal processes under conciliar auspices which can be added to the evidence for a more significant dispute which was dealt with at Constance and has long been known, having evolved into something of a national *cause célèbre* with extensive reverberations. In both instances the Constance proceedings mark only a stage in much lengthier disputes.

The new petty case centred on school-teaching, although information about its background is limited. The earliest relevant document copied in the

[20] See in general C. M. D. Crowder, 'Four English cases determined in the Roman courts during the Council of Constance, 1414–1418', *Annuarium historiae conciliorum* xii (1980), 315–411; xiii (1981), 67–145, esp. (1980), 348–9, 358–9, 363, 366–7; (1981) 70–1, 91, 110.

[21] *The register of Bishop Repingdon, 1405–1419*, ed. M. Archer (Lincoln Record Society lvii–lviii, lxxiv, 1963–82), iii, no. 406. The register labels the conciliar document a 'delegacio'. This case is extensively evidenced in the surviving York court archives, appearing among the cause papers as BIA, CP.F.69 (which includes a draft of the notarial instrument recording the sentence in the case and Margaret's appeal to the council on 31 April 1417 [CP.F.69/10]), and also in several entries in the first surviving consistory court act book: Smith, *Court of York*, 16–17, with act book references provided at p. 150.

[22] Crowder, 'Four English cases' (1980), 315–411; (1981), 67–145.

[23] See n. 21 above.

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Ripon volume is a rather general statement, worded as an appeal, of 15 October 1414. John Rikinghale, as chancellor of York Minster, asserted his right to control grammar schools and to appoint their masters throughout York diocese, but made no specific complaint about any named individuals.[24] The maintenance of the chancellor's monopoly was a long-standing problem: the Ripon volume also contains a transcript of a libel issued in the name of T[homas] de F[arnelawe] as chancellor against 'W. de M.', claiming the same monopoly (but here making exception for schools at York's sister minsters of Beverley, Ripon and Southwell), and charging that his opponent had maintained 'scolas generales et adulterinas' at a place identified only as 'K.' within the archdeaconry of Richmond.[25]

The first document in the Ripon volume which is specifically relevant to the dispute is Rikinghale's appeal to the papacy and for tuition, dated 17 May 1417 and alleging that the chancellor had been despoiled by the teaching activities of Thomas Ridley and John Plomland. The appeal is joined by Gilbert Pynchebek, master of grammar, the current master of the Minster schools who was probably the real 'victim' in the case.[26] Allegedly Ridley and Plomland had distracted some 300 scholars from the Minster schools to their teaching – a figure far above the 100–150 now suggested as the likely number of Minster scholars, and immediately undercut by the statement that the total might be 'some other number'.[27]

This case may be part of a longer-running drive by the chancellor – or Pynchebek – to reassert a monopoly over education within York, as in 1411 a visitation of the Minster had revealed clandestine schools run by some of the lesser clergy.[28] The appeal of May 1417 began a flurry of activity in the city, traces of which appear in a series of brief entries in a contemporary consistory court act book from York. This notes activity from mid-June to late July, in the aftermath of Rikinghale's appeal, and after some of the key events of the narrative which can be reconstructed from the Ripon volume.[29] The entries in that court book suggest that Rikinghale's lawyers made most of the running. Ridley and Plomland had appointed their own proctors on 14 June (naming master John Stanton and master John Ragenhill), but after that date they do not appear as active agents.[30]

[24] MS Dep. 1980/1.355, fo. 197r.

[25] Ibid. fo. 205r–v. Farnelawe was chancellor from 1369 to 1379: John le Neve (ed. B. Jones), *Fasti ecclesiae anglicanae, 1300–1541*, VI: *Northern province* (*York, Carlisle, and Durham*), London 1963, 9.

[26] MS Dep. 1980/1.355, fos 197v–199r. For Pynchebek see n. 45 below.

[27] For realistic numbers see J. A. H. Moran, *Education and learning in the city of York, 1300–1560*, York 1979, 7; for the qualification ('seu alium numerum in processu declarandum') see MS Dep. 1980/1.355, fo. 198r–v.

[28] Moran, *Education and learning*, 11.

[29] BIA, Cons. AB.1, fos 28v–30v, 35r. This last entry envisages at least one further stage in the process, but nothing further is entered in the volume.

[30] Their appointment is recorded by chance as a note in BIA, CP. F.69/10.

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According to the reconstructed narrative, on 1 June the commissary general of the court of York issued an inhibition, generally addressed to rectors and clergy throughout the city, ordering Ridley and Plomland (jointly with John Raynschaw and William Clerk in particular – mentioned only at this stage of the process – and others in general) not to act in prejudice to the appeal. Ridley and Plomland should be cited to appear in York Minster on the Friday after Corpus Christi (26 May). This projected deadline was not met: William Driffeld, the notary who actually delivered the citation, responded that he had cited Ridley on 4 June and Clerk on 7 June, both in the Minster; while Raynschaw had been cited in Ousegate on the 4th. Intriguingly, Plomland's citation, on 5 June, had occurred 'in the house of the grammar schools of the church of York'.[31] It seems likely that the charge against him reflects a succession struggle for control of the schools. Rikinghale had certainly appointed Pynchebek as master – his patent of appointment was among the documents produced in court.[32] Was Plomland his precursor, refusing to accept demotion?

In response to the allegations against them, Ridley and Plomland, as 'clericorum summe litteratorum', sought a rejection of Rikinghale's claim for tuition. They admitted that they had taught in the schools of St Leonard, by virtue of an old right which gave the hospital full authority to appoint masters to its schools, regardless of York Minster's claims. The scholars who had transferred to them had done so not by encouragement, but of their own decision 'as free persons'. Ridley and Plomland roundly denied that Rikinghale had any right to control the students as lieges of the king – an interesting if somewhat baffling appeal to royal authority.[33] In urging the court to reject the chancellor's claims, Ridley and Plomland also sought the quashing of the inhibition against them.[34] Theirs was a forthright challenge, but Rikinghale's lawyer made an equally strong riposte. A set of interrogatories sought to determine just how many scholars had left the cathedral schools – clearly to establish the scale of the chancellor's (or Gilbert Pynchebek's) losses; there was also a plea for a sentence against and condemnation of Ridley and Plomland.[35]

Whether that sentence and condemnation were issued at that point is not clear. Certainly Ridley was condemned at some stage, as he responded with an undated appeal seeking a stay of execution for the recovery of costs on grounds of poverty.[36] This became the basis for further legal action, as he sought to prove his financial status. Exactly when that subsidiary case was heard is unclear. Logic suggests that his appeal should have been immediate, with the hearing occurring probably in late 1417. However, the consistory court act book contains no relevant entries at that time. Nevertheless, it does

[31] MS Dep. 1980/1.355, fo. 199r–v.
[32] BIA, Cons. AB.1, fo. 30r.
[33] MS Dep. 1980/1.355, fos 200v–201v.
[34] Ibid. fo. 201r.
[35] Ibid. fos 201v–202v.
[36] Ibid. fo. 110r–v.

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contain a couple of uninformative entries for a case between Ridley and Rikinghale, with the former as plaintiff, which are dated to March and April of 1419.[37] Even if this is not the follow-up to Ridley's appeal, it must be connected.

During the main action in 1417 it appears that Rikinghale was fighting on two fronts. While he pursued his case at York, somehow the dispute also got to Constance. No fully satisfactory chronology of events can be established. A skeletal narrative can be derived from the certificate of citation of Ridley and Plomland to appear at Constance, which was issued at York on 17 September,[38] but the matter must have reached the council by late July 1417, to accommodate the timing of the correspondence. Rikinghale must have been conducting his case at York in June and July when he had already started the moves to engage the council. He submitted a supplication to Jean de Brogny, cardinal bishop of Ostia, in his capacity as vice-chancellor of the Roman Church and so overseer of the *Rota*,[39] outlining his claims to the oversight of grammar masters and rehearsing his complaints against Ridley and Plomland – essentially a restatement of the May appeal. Although he admitted that the issue was petty, and not among those customarily dealt with in the curia, he requested action, pleading for the case to be referred to an auditor of the sacred palace for resolution. As a result of this approach, the case was remitted to Peter Nardi de Verallestis for further action.

On 2 August Nardi issued a mandate for the citation of Ridley and Plomland to Constance, or wherever the Roman curia happened to be, to appear eighty days after being cited.[40] On the same day he wrote to the archbishop of York and others, specifically naming Ridley and Plomland among the addressees, inhibiting them from taking action against their citation to Constance.[41] Responding to the citation mandate William Garwardby, described as a chaplain of York diocese, reported that he had received the mandate on that date, and had immediately acted in compliance.[42] Plomland had been cited at the entrance to the chapter house of York Minster on 17 September, and Ridley at the north side of the church of All Saints, Pavement, on the highway called Pavement in York, on 24 September. The citation process was visibly public: one imagines Garwardby touring the city with his gang, armed with Nardi's letters which were to be flourished when the citees were eventually cornered. In each case, the citation occurred before named witnesses. (In both cases those present included William Byspham, the likely compiler of the Ripon volume. Gilbert Pynchebek was present at Ridley's citation, perhaps as an interested party.)

[37] BIA, Cons. AB.1, fos 162r, 168v.

[38] MS Dep. 1980/1.355, fos 202v–204r.

[39] Crowder, 'Four English cases' (1981), 91, 105.

[40] MS Dep. 1980/1.355, fos 202v–203v.

[41] Ibid. fos 204v–205r.

[42] Ibid. fos 202v–204v. The document lacks a dating clause, so exactly when Gawardby responded is not indicated.

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Garwardby's certificate is the last piece of evidence in and of the case which is entered in the Ripon volume. By the time the legal action was resumed at Constance, Martin V had probably been elected pope, and the emergency procedures instituted to ensure that the highest ecclesiastical courts of Christendom continued to work during the great papal vacancy no longer existed. What happened at subsequent stages of the case is unknown. Yet, when the dust settled, Rikinghale was still chancellor of York Minster, and Pynchebek seems to have remained as master of the Minster schools.[43] Ridley's immediate fate is unknown. He is probably the Thomas Ridley who was grammar master at Nottingham in 1429–32, his disenchantment with his situation there eventually pushing him to arson, and to a move to become grammar master at St Leonard's at York, holding that post until at least 1448.[44] If the identification holds this would give him a teaching career extending over more than thirty years, including two stints at St Leonard's. This is not inconceivable: the master whom he was undercutting, Gilbert Pinchebek, was apparently master of the Minster school from at least the date of that clash through to his death in early 1458.[45]

Whatever the case of the York schools was really about, it clearly did not produce any consolidation of the Minster chancellor's monopoly over the appointment of grammar teachers within the diocese of York. Indeed, John Plomland continued to be a nuisance. In May and June 1419 he again appears in conflict with Rikinghale in the consistory court at York, in another case described as an appeal (and in which William Byspham was again involved).[46] On this occasion Plomland was joined by John Biggyng as co-defendant. Exactly what this case was about is not revealed by the entries, but there is one major hint. On 31 May Rikinghale's proctor offered to produce fourteen witnesses for his side; at the next session, on 2 June, someone who can be presumed to be one of those witnesses is named as John Lukket, son of Walter Lukket of York. The father is identified as a skinner; the son, more significantly, as a scholar.[47] Plomland may still have been resisting Pynchebek's hold on the Minster schools, or at least still acting as an unauthorised freelance master elsewhere in the city.

The documents for the second of the Constance cases entered in the Ripon volume add what proves to be a further twist to a tale which became something of a national scandal, and which has already been considered in some detail elsewhere.

In 1410, following the death of Robert de Burley as abbot of Fountains, there was a disputed succession, with Roger Frank and John de Ripon as the

[43] Moran, *Education and learning*, 39, only notes him in post from 1426, but continuity from 1417 seems likely.

[44] Ibid. 10, and *The growth of English schooling, 1340–1548: learning, literacy, and laicization in pre-Reformation York diocese*, Princeton, NJ 1985, 74–5.

[45] Idem, *Education and learning*, 39.

[46] BIA, Cons. AB1, fos 124v–125r.

[47] Ibid. fo. 125r.

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rival claimants.[48] The Ripon volume contains four documents relevant to the subsequent events, three from 1410 and one from 1417. The first three relate to the dispute's initial stages,[49] beginning with the appeal issued by John de Rypon in the new choir of the Carmelite friary at York, on 6 August 1410, a week after his rival had received archiepiscopal benediction as abbot. According to this statement the monks of Fountains had elected Rypon as abbot, but the abbots of Rievaulx and Jervaulx, acting as commissaries of Matthew, abbot of Clairvaux (the father abbot of Fountains), had quashed his election and confirmed Frank as abbot as a result of secular intervention. Rypon accordingly addressed an appeal to the pope, alleging that he dared not present it directly to the commissaries, or to his rival. On 22 August Rypon appointed proctors to make the appeal in public, which was done in York Minster on 3 September, and duly notarised. The appeal was posted on the east door of the Minster, again with the allegation that Rypon dared not present it directly to his opponents.

The juridical processes here are obscure. Rypon appealed to the pope since, as a Cistercian and a member of an exempt order, he would not be under the archbishop of York's jurisdiction. The precise significance of this appeal in the subsequent history of the case is obscure: it perhaps began the process which culminated – amid other machinations – in papal confirmation of Rypon's election in March 1413.[50] Even that did not end things. In due course, Frank and Rypon both sought to continue their dispute at the Council at Constance, certainly after (but possibly before) the flight of Pope John XXIII in April 1415. The likelihood is that Rypon exploited the opportunities presented by his presence at the council as representative of the English Cistercians in 1416 to present his case; although this would be despite the fact that in June 1413, as a condition of royal acceptance of the papal bull confirming his abbacy (which was considered to be in breach of the Statute of Provisors), he had been required to enter into a recognisance of £1,000 not to do anything to prejudice royal authority, with the sum liable to forfeiture if he took further action at the curia or was found to have actively procured John XXIII's bull.[51] His rival, Frank, seems to have used the proctor William Swan at least as intermediary. It is possible that Frank secured an early judgement at Constance in his favour after April 1415 (or thought he

[48] For a rather skeletal outline of the dispute see D. M. Smith (ed.), *The heads of religious houses, England and Wales*, III: *1377–1540*, Cambridge 2008, 292–3. It is written up more fully in E. F. Jacob, 'The disputed election at Fountains Abbey, 1410–16', in V. Ruffer and A. J. Taylor (eds), *Medieval studies presented to Rose Graham*, Oxford 1950, 78–97 (repr. in his *Essays in later medieval history*, Manchester–New York 1968, 79–97). Neither author was aware of the further documents discussed here.

[49] MS Dep. 1980/1.355, fos 206r–207v.

[50] The basic narrative up to mid-1413, although with no chronological pointers, is reflected in *Calendar of close rolls, Henry V*, I: *A. D. 1413–19*, London 1929, 112–13 (the recognisance was eventually cancelled in December 1424: ibid. 114), and Jacob, 'Disputed election'.

[51] *Calendar of close rolls, 1413–19*, 113–14; Jacob, 'Disputed election', 89–90.

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had), but it transpired that the bulls 'had not been granted by the ordinary judges of the general council but by certain private judges, not having sufficient power in the matter': if they had been fully authoritative, they would have been sealed with the council's own bull, but they were in fact sealed with wax. On the verge of seeming success, Frank's hopes were dashed when an inhibition arrived – presumably sent by the council, and presumably obtained by Rypon or his agents – denouncing his documents.[52] Frank's case was steadily undermined: in 1416 the Cistercian chapter-general, asserting that it had earlier been falsely informed, overturned its previous confirmation of him as abbot of Fountains, although without formally confirming Rypon in his stead.[53]

A subsequent stage of the Constance proceedings, one hitherto unknown, is attested by the fourth document transcribed in the Ripon volume, a certificate of William Byspham responding to a mandate from Peter Nardi at Constance ordering that Frank be cited to appear within eighty days.[54] The mandate is merely cited, not fully copied, so whatever information it offered on the details of the case at that stage is lost. Nor does the reference provide a date for the mandate; but as Byspham recorded its receipt in the conventual church at Fountains on 18 December 1417 it was probably issued shortly before the election of Martin V on 11 November, so that the earlier stages would have been dealt with through the conciliar administration.[55]

Byspham's certificate is largely self-exculpatory: he had not managed to find and cite Frank in person. Much of his letter accordingly states what he had done, reporting a bustle of activity between 19 and 29 December 1417. Initially Frank had been sought at Fountains, and later at York and Ripon Minsters, but could not be found. Byspham had visited the houses of some of Frank's leading lay supporters and adherents (naming Sir Thomas Markynfeld and Thomas Banks), but without success.[56] Frank had therefore been cited orally at Fountains, and during the celebration of masses at other places, with notification of the citation being fixed to the walls of York and Ripon Minsters. Finally, in what can only have been an artificially stage-managed performance, Bypsham had cited Frank orally at the new gate of Fountains Abbey, before a crowd which he estimated at over a hundred, and flourishing Nardi's mandate to assert his authority. Among those present were William Frank (father of the claimant Frank),[57] Sir Robert Plumpton

[52] Jacob, 'Disputed election', 90–1, 96.

[53] Ibid. 82, 94–5.

[54] MS Dep. 1980/1.355, fos 207v–209r.

[55] This may explain the rather elaborate statement of the date of receipt, emphasising that Martin was now pope.

[56] The link with Markynfeld is confirmed by a letter from Frank to William Swan at Constance, sent from the manor of 'Merkyngfeld' (i.e. Markenfield Hall, near Ripon): Jacob, 'Disputed election', 96–7.

[57] It is not immediately clear how this identification of the father chimes in with Jacob's suggestion that Frank might be related to Sir William Frank, a contemporary Lincolnshire

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and a number of esquires. Somehow, presumably, it was expected that Roger Frank would hear of what was required of him; if not, he would lose by default. Whether there was any further action at the papal court, or whether Rypon did win by default, is unknown. He evidently was the ultimate victor, remaining abbot of Fountains until the 1430s.

There is clearly a qualitative difference between the dispute over the right to teach which pitted Thomas Ridley and John Plomland against the chancellor of York Minster, a dispute which now appears as something of a storm in a teacup, and the high-profile disputed succession at Fountains which engaged the interests of England's king and parliament, the pope and the Cistercian chapter-general. That both cases should also engage the attentions of the judicial machinery established by the Council of Constance to plug the administrative gaps during the papal interregnum, and so be dealt with at the highest ecclesiastical courts of Christendom, attests the council's aspiration and intention fully to replace the papal machinery, and to accroach the fullness of papal authority. That the disputed Fountains election should be taken so far may be no surprise. More striking is the council's willingness to act in the case of the York schools – and, indeed, the determination of John Rikinghale to take the case that far. That case, and the case concerning Fountains Abbey, both add to information about England's contacts with the Council of Constance, and accordingly fit into the history of conciliarism; but given the council's conscious patterning of its judicial machinery on papal models to validate its claims to jurisdiction over the whole of the Catholic Church, they also affirm the over-arching competence of the papal courts in late medieval Europe, and the willingness of litigants to exploit the jurisdictional claims of the Church's supreme authority (papal or conciliar) for their own ends.

That the additional evidence for the two cases highlighted here is known only from the chance copying of the documents in a private volume of somewhat randomly selected legal papers demonstrates the importance of using all possible sources to reconstruct the working of the canon law in pre-Reformation England, and to mine such material to the full for the evidence that it can offer not only of the significance and exploitation of the English ecclesiastical courts by the parties involved, but also for what it reveals of other facets of late medieval English society. The volume now located at Ripon is probably only one of many originally compiled for their own use by the lawyers of the church courts at York, a rare survivor of a much more extensive genre. It contains much more material for analysis, in conjunction with the more formal surviving records of the English church courts, to demonstrate their vitality and procedural regularity in the fifteenth-century.

knight: ibid. 81. It is notable that the father is not given knightly rank, or identified as an esquire, in a document where Byspham seems to be fastidious in his differentiation of lay ranks.

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In conjunction with the many other precedent and formulary volumes extant from the pre-Reformation centuries, the compilation merits much more attention than it has so far received, to enhance and nuance understandings of the role and functioning of the ecclesiastical legal system in England, and to demonstrate England's place in the wider international structures.

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