

A.1. RICHARD DE MELKSHAM *c.* HENRY, SON OF HENRY DE WINCHESTER

Diocese of Winchester

1198 X 1204

A CASE OF BASTARDY

In a lay dispute over land in Wiltshire, Richard de Melksham<sup>1</sup> alleged that Henry, son of Henry de Winchester, was a bastard unable to inherit because his mother, Eva, had been a nun of Wilton Abbey<sup>2</sup>. Henry's reply was that his mother had indeed lived in the abbey but had never worn the habit or made profession as a nun; she had left the abbey and married Henry's father legally; and Henry was born after the marriage. The case was heard by the bishop of Winchester<sup>3</sup> and appealed to Archbishop Hubert Walter,<sup>4</sup> who after hearing both parties and with their consent, appointed

<sup>1</sup> Melksham, co. Wilts.

<sup>2</sup> A Benedictine nunnery in Wilts. See Dugdale, *ii*, pp. 315–22; Knowles and Hadcock, pp. 255, 267.

<sup>3</sup> Godfrey de Lucy was bishop of Winchester from 1189 to 11 Sept. 1204.

<sup>4</sup> The case is described in Cheney, *Walter*, p. 74.

## 1.

## Ch.Ch. Letters II no. 233

H. dei gratia Cantuarien' archiepiscopus tocius Anglie primas dilectis filiis de Sireburn' iuxta Basingestoch' et de Andievr' prioribus salutem et benedictionem: Cum causa bastardie que vertitur inter dilectos filios Henricum filium Henrici Wintonien' ex parte una et Ricardum filium Willelmi de Melchsham ex altera ab audientia venerabilis patris Wintonien' episcopi ad nos per appellationem fuisset delata, constitutis coram nobis partibus, ex parte dicti Ricardi in iure fuit propositum quod Eva mater eiusdem H. adversarii sui habitum religionis assumpsit apud abbatiam de Wilton et ibidem monialis effecta fecit professionem antequam idem adversarius suus conceptus esset vel genitus, unde ipsum dicebat esse bastardum. Pars autem adversa econtra respondit quod E. mater eius quandoque fuit apud eandem abbaciam sed numquam ibi habitum religionis assumpsit vel monialis effecta ibi fecit professionem, set inde educta H. patri suo matrimonio legitime fuit copulata, constanter asserens se de legitimo matrimonio inter eos contracto postmodum (natum) fuisse. Et adiecit quod ipsi simul tamquam vir et uxor toto tempore vite patris sui cohabitaverunt, et hec esse notoria in partibus ubi simul cohabitaverunt affirmans, dixit se testibus habundare ad ea que proposuerit sufficienter probanda. Lite vero in hunc modum contestata de parciem assensu testes quos uterque litigantium duxerit producendos per vos et coram vobis duximus examinandos. Unde vobis mandantes precipimus et artius iniungimus quatinus eos quotiens iustum fuerit, convocatis partibus, admittatis et iuratos super omnibus annexis articulis (diligenter et fideliter) dominum pre oculis habentes examinatis. Quibus examinatis, dicta testium sub sigillis vestris fideliter consignata in crastino purificationis beate Marie nobis transmittatis, diem eundem partibus edicto peremptorio prefigentes quo coram nobis compareant quid iuris ratio exegerit recepture. Qualiter autem mandatum nostrum fueritis executi eodem die nos litteris vestris recurrentibus significetis. Testes itaque qui ab alterutra parte nominati fuerint si se gratia, odio vel timore subtraxerint monitone premissa

## CHESTER

A.1. RICHARD DE MELKSHAM *c.* HENRY, SON OF HENRY OF WINCHESTERIntroduction (*cont'd*)

the priors of Monk Sherborne and Andover to examine the witnesses produced on both sides. The testimony was to be put in writing and sent to the archbishop's court, where the parties were to appear to hear judgment. Apparently judgment was given in favour of Henry. By 1207 he was in the king's court claiming three virgates of land as heir of his cousin.<sup>5</sup> The plea rolls for 1214 record an agreement between Richard and Henry by which Henry quitclaimed all rights in a hide of land in the vill of Alvediston (Wilts.) in return for 12 marks.<sup>6</sup> We have the commission of the archbishop to the two priors (no. 1) and fragments<sup>7</sup> of the depositions of Richard's witnesses (no. 2).

<sup>5</sup> *CRR*, v, pp. 47-8.

<sup>6</sup> *CRR*, vii, pp. 128, 274; *Plac Abb*, p. 89.

<sup>7</sup> Physically, all three fragments are approximately square, have a similar style of writing, and are characterized by numerous small slits on the left and right sides, perhaps originally for ties with which to close them.

## 1.

*Commission to the priors of Monk Sherborne and Andover*

H. by the grace of God archbishop of Canterbury, primate of all England, to (his) beloved sons the priors of Sherborne-next-Basingstoke and of Andover greeting and blessing: When a case of bastardy which was pending between (our) beloved sons Henry son of Henry of Winchester, on the one side, and Richard son of William de Melksham, on the other, was brought by appeal from the audience of the venerable father, the bishop of Winchester, to us, the parties having been constituted before us, it was proposed in law on behalf of Richard that Eva, the mother of the said H., his opponent, took the habit of religion at the abbey of Wilton and having been made a nun there made her profession before the same his adversary was conceived or born, whence he said that he is a bastard. The opposing party replied on the other hand that E., his mother, was at one time at the same abbey but never took the habit of religion or having been made a nun made there her profession, but taken from there was lawfully joined in marriage to H. his father. He constantly asserted that he was born after a lawful marriage had been contracted between them. And he added that they lived together as husband and wife the whole period of his father's life. Affirming that these things are notorious in those parts in which they lived together, he said that he had many witnesses to prove sufficiently what he had proposed. Issue having been joined in this manner, with the assent of the parties, we think fit that the witnesses which either party shall cause to be produced should be examined by you and before you. Wherefore we command, order and strictly enjoin that having called the parties together you admit (the witnesses) as often as shall be just and examine them sworn, carefully and faithfully, on all the annexed articles, having the Lord before your eyes. Having examined them, sign what the witnesses say faithfully with your seals and transmit it to us on the morrow of the purification of blessed Mary (2 Feb.), setting the same day for the parties by peremptory edict, on which (day) they should appear before us to receive what the reason of law might require. On the same day signify to us by your return letters how you have executed our mandate. Witnesses, moreover, named by either party, if they withdraw themselves

per censuram ecclesiasticam ad perhibendum veritati testimonium si necesse fuerit compellatis. Valet.

## 2a.

**Sede Vacante Scrapbook III no. 5, p. 2**

Prima productio Ricardi de Melchesham contra Henricum filium Henrici de Wintonia. Simon Maron iuratus dixit quod in tempore Stefani Regis, Teodbaudus presbiter velavit Evam<sup>a</sup> matrem Henrici in ecclesia<sup>b</sup> beate Crucis de Sarebire et hoc vidit et postea predictus Tedbaudus duxit eam ad episcopum Jocelinum ad ecclesiam beate Marie et (Simone) vidente episcopus<sup>c</sup> Jocelinus eam benedixit, et inde ipsa E. ivit ad Wiltoniam et ibi moram fecit per annum, sed nescit quo modo inde abstracta fuit.

Herdig' iuratus dicit quod Eva recepit<sup>d</sup> velum a Teodbaudo presbitero in ecclesia beate Crucis de Saresbiria et in eadem ecclesia a Jocelino episcopo benedicta fuit, et dicit quod ipse interfuit, et post unum diem vel duos venit conventus de Wiltonia et duxit ipsam E. ad Wiltoniam, et ipsa E. fecit moram apud Wiltoniam per unum annum et bene amplius, sed nescit quando inde ducta fuit.

## 2b.

**E.S. Roll no. 223i**

Secunda productio Ricardi de Melkesham.

Godfridus (Ceitiri)<sup>e</sup> [?] iuratus dicit quod vidit Evam utentem moniales vestes et habentem velum super caput<sup>f</sup> suum, et apud Salesberiam et audivit dici quod Theobaldus presbiter eam velavit (in)<sup>g</sup> ecclesiam [sic] Sancte Crucis super portam. Requisitus de conversione apud Wilton', dicit se nichil scire, (ac)<sup>h</sup> de professione similiter.

Sanso Permitter iuratus dicit quod vidit Evam sepepredictam apud Salisb' habentem velum super caput eius in domo patris sui, et audivit dici quod Theobaldus presbiter facerat eam monialem in ecclesia Sancte Crucis super portam. Requisitus de conversione et de professione apud Wilton', dicit se nichil scire.

## 2c.

**E.S. Roll no. 223ii**

[Endorsed] Attestationes Ricardi de Melkesham'.

Quarta productio testium, Willelmi [sic] de Melkesham facta apud Sar' coram subdecano Sar', et magistro Roberto de Linas.

<sup>a</sup> *eaia*

<sup>b</sup> *ecclesia* and thus throughout

<sup>c</sup> *eþo*

<sup>d</sup> Redundant *recepit*

<sup>e</sup> Interlined

<sup>f</sup> *capud*

<sup>g</sup> MS. has a mark which looks like a large modern Arabic numeral three.

<sup>h</sup> *q̄*

compellatis.

for favour, hate or fear, you may, having issued a warning, compel by ecclesiastical censure, if necessary, to testify to the truth.<sup>1</sup> Farewell.

## 2a.

*Depositions on behalf of Richard de Melksham*

First production of Richard de Melksham against Henry, son of Henry of Winchester.

Simon Maron, sworn, said that in the time of King Stephen, Theobald, the priest, veiled Eva, mother of Henry, in the church of the Holy Cross, Salisbury<sup>2</sup>, and he saw this. And afterwards the aforesaid Theobald led her to Bishop Jocelin<sup>3</sup> at the church of Saint Mary, and Simon seeing this, Bishop Jocelin blessed her. And from there the same E. went to Wilton and stayed there for a year. But he does not know how she was taken from there.

Herdig, sworn, says that Eva received the veil from Theobald, the priest, in the church of the Holy Cross, Salisbury, and in the same church she was blessed by Jocelin the bishop. And he says that he was present. And after one day or two the convent of Wilton came and took the same E. to Wilton, and the same E. stayed at Wilton for a year and more. But he does not know when she was taken away from there.

## 2b.

*Depositions (cont'd)*

Second production of Richard de Melksham.

Godfrey Ceitiri [?], sworn, says that he saw Eva wearing the clothes of a nun and having a veil on her head, and at Salisbury he also heard it said that Theobald, the priest, veiled her in the church of the Holy Cross above the gate. Asked about her conversion at Wilton, he says that he does not know anything and likewise concerning her profession.

Samson Permitter, sworn, says that he saw the oft-said Eva at Salisbury having a veil on her head in the house of her father, and he heard it said that Theobald, the priest, had made her a nun in the church of the Holy Cross above the gate. Asked about her conversion and her profession at Wilton, he says that he knows nothing.

## 2c.

*Depositions (cont'd)*

[Endorsed] Attestations of Richard de Melksham.

Fourth production of witnesses of William [*sic*] de Melksham made at Salisbury before the subdean of Salisbury<sup>4</sup> and Master Robert de Linas.<sup>5</sup>

<sup>1</sup> For the use of a similar clause in papal rescripts, see P. Herde, *Audientia litterarum contradictarum*, Bibliothek des Deutschen Instituts in Rom, 31, (Tübingen, 1970), i, pp. 219-32.

<sup>2</sup> The church or chapel of the Holy Cross stood above the eastern gate of the outer bailey of the castle at Salisbury. *VCH Wilts*, vi, p. 60. The earliest known references to this chapel are dated 1236 and 1239, when it is spoken of as already in existence. *Close R* (1234-1237), p. 280, and *Cal Liberat R* (1226-1240), p. 374.

<sup>3</sup> Jocelin de Bohun was bishop of Salisbury from 1142-1184. The event which Simon describes must have taken place between 1142 and the end of Stephen's reign, 1154.

<sup>4</sup> Le Neve lists Wimundus as subdean of Salisbury in 1203. Le Neve, *Fasti*, ii, p. 619.

<sup>5</sup> Master Robert de Linas (Lindsey ?) (not found). Apparently the priors delegated the examination of these witnesses.

Robertus Palmerius de Bienacre senex, iuratus, dicit quod cum quadam die tempore regis Stephani esset in ecclesia Sancte Crucis apud Sar', vidit duas moniales de Wilton' afferre vestes moniales in eadem ecclesia, et Theobaldus, eiusdem ecclesie capellanus, fecit quandam mulierem monialem, Evam nomine, matrem Henrici de Winton', induendo illam vestibus ipsis et eadem die adducta est in maiorem ecclesiam Sar' coram Jocelino episcopo et benedixit eam, et postmodum eadem die adducta est apud Wilton', et ibi vidit eam per tres annos et amplius conversantem in habitu monachali. Requisitus de tempore, dicit se nescire utrum facta fuerit illa monachatio in estate vel in yeme, neque qua die ebdomade, set ante prandium diei. Postmodum duxit eam Henricus miles, pater huius Henrici, et genuit hunc Henricum.

Johannes de Melkesham senex iuratus dicit idem quod Robertus Palmerius de monachatione Eve matris Henrici, adiciens quod vidit Jocelinum episcopum apponere velamen super caput illius in ecclesia maiori, set nescit utrum eadem die an alia adducta fuerit apud Wilton', set postea vidit eam ibi conversantem inter moniales in habitu monachali per multum tempus, et quomodo exierit nescit; nec utrum Henricus miles duxerit eam necne, et postmodum natus est Henricus iste, ut dicit. De tempore monachationis facte requisitus, dicit idem quod Robertus.

Bernardus de Bienacre senex iuratus dicit [idem] per omnia quod Johannes nisi quod dicit se nescire utrum Henricus iste natus fuerit ante monachationem, necne.

A.2. MASTER PETER DE WILTON *c.* MASTER STEPHEN THE SCRIBE  
Diocese of Salisbury  
c. 1200<sup>1</sup>

TUTORIAL APPEAL IN A CASE OF POSSESSION OF TITHES AND SPOILIATION

Revenues of the church of Etchilhampton<sup>2</sup> in Wiltshire were in dispute between Master Peter de Wilton,<sup>3</sup> and a king's clerk, Master Stephen of the scriptorium of King John.<sup>4</sup> Master Peter claimed that he was in possession of the tithes and other fruits of the church, awarded to him by the dean of Wells<sup>5</sup> and Master Ralph de Lechlade,<sup>6</sup> judges delegate of the pope. In their depositions,

<sup>1</sup> The internal references make the approximate date secure. See nn. 3, 4 below; p. 3 above.

<sup>2</sup> Etchilhampton near Devizes, co. Wiltshire. See *Place Names, Wilts*, p. 313.

<sup>3</sup> Master Peter de Wilton appears on the plea roll of 1194-5. *Three Rolls of the King's Court*, ed. F. W. Maitland, Pipe Roll Society, 14, (London, 1891), p. 77.

<sup>4</sup> In 1200 Master Stephen *de scriptorio Regis* was granted letters of protection. *Rot Chart*, p. 60b.

<sup>5</sup> Alexander was dean of Wells c. 1189-c. 1209. J. Armitage Robinson, *Somerset Historical Essays* (British Academy, 1921), p. 67.

<sup>6</sup> Master Ralph de Lechlade was a canon of Wells by 1199 (*Rot CR*, ii, p. 179) and in 1204-6. Stenton, *Pleas*, i, no. 3194, p. 315; *Rot Chart*, p. 129; Robinson, *op. cit. supra*, p. 146.

tempore  
Wilton'  
us, fecit  
do illam  
iscopo et  
per tres  
e nescire  
set ante  
uit hunc

le mona-  
velamen  
erit apud  
per mul-  
necne, et  
quisitus,

isi quod

Robert Palmer of Binegar<sup>1</sup>, an old man, sworn, says that when on a certain day in the time of King Stephen he was in the church of the Holy Cross in Salisbury, he saw two nuns of Wilton put on nuns' habits in the same church, and Theobald, the chaplain of the same church, made a certain woman a nun, Eva by name, the mother of Henry de Winchester, clothing her in the same clothes, and the same day she was led to the cathedral of Salisbury before Jocelin the bishop, and he blessed her. And afterwards the same day she was taken to Wilton, and there he saw her for three years and more going about in the habit of a nun. Asked about the time he said that he does not know whether the *monachatio* (profession?) was in the summer or the winter or on what day of the week, but it was before dinner time. Afterward, Henry, a knight, father of this Henry, married her and begot this Henry.

John de Melksham, an old man, sworn, says the same as Robert Palmer concerning the *monachatio* of Eva, the mother of Henry, adding that he saw Jocelin the bishop put the veil on her head in the cathedral, but he does not know whether it was on the same day or another that she was taken to Wilton, but afterwards he saw her going about there among nuns in a nun's habit for a long time, and how she left he does not know. Nor does he know whether Henry married her or not, and afterwards this Henry was born, as he says. Asked concerning the time of her *monachatio*, he says the same as Robert.

Bernard de Binegar, an old man, sworn, says the same in all respects as John, except that he says that he does not know whether this Henry was born before the *monachatio* or not.

<sup>1</sup> Binegar, co. Somersets. Benacre, co. Suffolk, is unlikely.

## A.2. MASTER PETER DE WILTON *c.* MASTER STEPHEN THE SCRIBE

### Introduction (*cont'd*)

printed below (no. 1), Peter's witnesses testify that, fearing spoliation by his opponent, Peter appealed to the pope in the presence of the bishop of Salisbury. A few months later he renewed his appeal in the chapter of Salisbury, this time seeking the protection of the Court of Canterbury. While this tutorial appeal was pending, servants of Master Stephen broke into the barn and house of the church and took away the produce. Perhaps the parties agreed to proceed with the principal case before the archbishop, a practice which was later to become common,<sup>7</sup> for we have further depositions of Peter about the spoliation which do not mention the appeal (no. 2) and two sets of depositions on behalf of Master Stephen (nos. 3a and 3b), the first of which is physically a part of the same document which contains no. 2, and neither of which mentions the appeal. In these latter depositions the witnesses claim that a year or two before, Master Stephen had sold the corn of Etchilhampton to Master Peter and made a composition with him about the tithes.

<sup>7</sup> See introd. p. 71.

RIBE

aster Peter  
aster Peter  
him by the  
ositions,

t, ed. F. W.

p. 60b.  
ical Essays

6. Stenton,

## 1.

## E.S. Roll no. 2

Ivo clericus iuratus dixit quod fuit presens in ecclesia de Hungerford in crastino Sancti Edmundi ubi P. de Wilton' in presencia Salesberiensis episcopi appellavit. Apellacioni sue terminum prefixit crastinum dominice qua cantatur 'Letare Iherusalem' et tunc fuit in plenaria possessione domorum et fructuum ecclesie de Echelhanton. Requisitus qualiter sciret ipsum P. tunc possedissee, dicit quod tunc ex parte P. de Wilton erat custos domorum et fructuum. Audivit postea dici quod idem P. in capitulo Salesberiensis in crastinum cinerum apellacionem factam prius et innovavit et ne quid in ipsius apellacionis preiudicium fieret ad audienciam domini Cantuariensis apellavit. Postmodum audivit dici quod in crastino Acensionis venerunt P. presbiter et Johii [*sic*] serviens magistri S. de Scriptorio et fregerunt seras orei<sup>a</sup> et domos de Echelhanton' quas tunc custodiebat Godardus serviens Petri de Wilton'.

Johannes, subdiaconus de Wilton', iuratus dixit quod in preterito autumpno et in festo Sancti Micaelis fuit magister P. de Wilton in plenaria possessione domorum et fructuum ecclesie de Echelhanton'. Requisitus quomodo hoc sciret, dixit quia eo tempore fuit cum magistro P. de Wilton et collegit fructus et in orea de Echilhamton cum aliis reposuit. De apellacione facta ad dominum papam in crastino Sancti Edmundi et innovacionem eiusdem in crastino cinerum, et de apellacione tunc facta ad dominum Cant' ad tuicionem sue apellacionis ad dominum [papam] factam prius, et de fractione<sup>b</sup> serarum orei et domus de Echelhanton' et appositione<sup>c</sup> aliarum in crastino Acensionis idem dicit quod Ivo, et hoc scit ex auditu. Dicit etiam se post illud tempus vidisse seras quas dicebantur aposuisse P. presbiter et J.<sup>d</sup> serviens magistri Stephani. (Dicit) etiam se vidisse ostium orei versus aquilonem obstructum terra, usque ad medietatem, quod dicebatur fecisse P. presbiter.

Walterus de Echelhanton' iuratus dicit quod [*sic*] de possessione magistri P. de Wilton idem quod Ivo<sup>e</sup> et<sup>f</sup> Johannes; requisitus quomodo hoc sciret, respondit quod proximus vicinus est ex parte occidentali et vidit semper homines ibi magistri P. de Wilton, fructus colligentes et domos custodientes; de apellatione facta in crastino Sancti Edmundi ad dominum papam, nichil scit nisi ex auditu; de innovatione eiusdem apellacionis et apellacionem factam ad dominum Cant' nichil scit, nec audivit; de fractione sere orei, et apositione alterius et obstructione ostii idem [dicit] quod Johannes, adiciens quod hoc<sup>g</sup> audivit stans in curia sua que est proxima oreo; de fractione sere ostii domus dicit quod facta fuit die sabbati proximo post acencionem Domini, ut audivit dici.

G. de Echilhamton' iuratus dixit quod de possessione magistri P. de Wilton idem quod alii<sup>h</sup> et dixit se hoc bene scire quia ipse ex possessione magistri P. de Wilton in domo predicta

<sup>a</sup> = *horrei*; Latham, s.v. *horreum*

<sup>b</sup> *fructione*

<sup>c</sup> *apossessione*

<sup>d</sup> *M*

<sup>e</sup> A space has been left after *Ivo*.

<sup>f</sup> *set*

<sup>g</sup> *dicit* deleted

<sup>h</sup> *alii*

## 1.

*Depositions on behalf of Master Peter de Wilton concerning the appeal*

stino Sancti  
ellacioni sue  
tunc fuit in  
itus qualiter  
s domorum  
um cinerum  
um fieret ad  
in crastino  
et frugerunt  
ans Petri de

o et in festo  
et fructuum  
re fuit cum  
aposuuit. De  
em eiusdem  
icionem sue  
ei et domus  
Ivo, et hoc  
aposuuisse P.  
orei versus  
resbiter.

P. de Wilton  
d proximus  
ton, fructus  
Edmundi ad  
nis et apel-  
t apositione  
ivit stans in  
die sabbati

idem quod  
mo predicta

Ivo, a clerk, sworn, said that he was present in the church of Hungerford<sup>1</sup> on the morrow of St. Edmund's (20 Nov.), when P. de Wilton appealed in the presence of the bishop of Salisbury<sup>2</sup>. He fixed as a term for his appeal the morrow of the Sunday on which 'Laetare Jerusalem' is sung,<sup>3</sup> and he was then in full possession of houses and fruits of the church of Etchilhampton. Asked how he knew that the same P. was then in possession, he says that at that time he was the custodian of the houses and fruits on behalf of P. de Wilton. He heard it afterward said that the same P. in the chapter of Salisbury on the morrow of Ash Wednesday renewed the appeal that he had made before and that he appealed to the audience of the lord of Canterbury lest any prejudice come about in his appeal. Afterwards, he heard it said that on the morrow of the Ascension P., a priest, and Joy, a servant of Master S. of the Scriptorium, came and broke the bolts on the barn and houses of Etchilhampton which Goddard, a servant of Peter de Wilton, was then guarding.

John, subdeacon of Wilton,<sup>4</sup> sworn, said that in the previous autumn and on the feast of St. Michael, Master P. de Wilton was in full possession of the houses and fruits of the church of Etchilhampton. Asked how he knew this, he said because at that time he was with Master P. de Wilton and gathered the fruits and put them in the barn of Etchilhampton with others. Concerning the appeal made to the lord pope on the morrow of St. Edmund's and the renewal of it on the morrow of Ash Wednesday and concerning the appeal then made to the lord of Canterbury for the tuition of his appeal to the lord [pope] previously made and concerning the breaking of the bolts of the barn and house of Etchilhampton and the placing there of others on the morrow of the Ascension he said the same thing that Ivo said, and he knows this from hearing. He says also that after that time he saw the bolts of which P., the priest, and J.,<sup>4</sup> the servant of Master Stephen were said to have placed there. He says also that he saw the door of the barn toward the north blocked up to the middle with earth which P., a priest, was said to have done.

Walter de Etchilhampton, sworn, says concerning the possession of Master P. de Wilton the same that Ivo and John say. Asked how he knows this, he replied that he is the neighbour next on the west and he always saw the men of P. de Wilton there collecting the fruits and guarding the buildings. Concerning the appeal made on the morrow of St. Edmund's to the lord pope he knows nothing except by hearing. Concerning the renewal of the same appeal and the appeal made to the lord of Canterbury he knows nothing nor has heard anything. Concerning the breaking of the bolt of the barn and the placing of another and the obstruction of the door he says the same as John, adding that he heard this standing in his court-yard which is next to the barn. Concerning the breaking of the bolt of the door of the buildings, he said that it was done on the Saturday just after the ascension of the Lord, as he heard it said.

G. de Etchilhampton, sworn, said concerning the possession of Master P. de Wilton the same that the others said and he said that he knew this well because he, in the possession of

<sup>1</sup> Hungerford, co. Berks.

<sup>2</sup> Herbert Poore was bishop of Salisbury between 1194 and 1217.

<sup>3</sup> The fourth Sunday in Lent.

<sup>4</sup> *Taxatio*, p. 189, lists a tax of 13s., 4d. and a tith of 1s., 4d. on the pension of the subdeacon of Wilton in the deanery of Avebury from the church of Bromham.



in crastinum  
usdem et de  
hanton. De  
diciens se in

Master P. de Wilton, lived in the aforesaid house and guarded the barn from three weeks before the Purification (2 Feb.) up to the morrow of the ascension of the Lord. Concerning the appeal to the lord pope and concerning its renewal and concerning the appeal made to the lord of Canterbury, he says the same as Walter de Etchilhampton. Concerning the breaking of the bolts and the obstruction of one door, he says the same as Walter, adding that he was present at the breaking of each bolt.

## 2.

*Depositions on behalf of P. de Wilton concerning the spoliation*

## First production of P. de Wilton.

n', redisset a  
r' hospitatus  
ominus illius  
adiudicata et  
, et magistro  
uomodo scit  
s ville. Dixit  
o facta fuisse  
it quod non.  
rus sacerdos.  
ele. Requisi-  
omus ecclesie  
pannos [et]  
in domo vel  
ud Herford'.  
it.-e

John Gale, sworn, said that when Walter, the proctor of Peter de Wilton, returned from the court of the lord archbishop from the plea of his lord and came to Etchilhampton, he was entertained in the house of the church of Etchilhampton, and the lord of this Walter<sup>c</sup> was in full possession of this house. Asked how he knows that he was in possession, he said that it was adjudged to him and possession given to him by judges delegate of the lord Pope, to wit, the dean of Wells and Master Ralph de Lechlade and by this authority he was in possession. Asked how he knows that he was ejected, he said that he heard from the men and near neighbours of this vill. He said also that he heard from the said Walter that his things were in that house when the spoliation was said to have occurred. Asked if he were present when the spoliation was made, he said that he was not. Asked who made that spoliation he said Joy, as he heard, and Peter, the priest.

John de Bereford<sup>1</sup>, sworn, said the same concerning the possession that John Gale said. Asked about what he knew about the ejectment, he said that after the spoliation had been made he saw the doors of the house of the church of Etchilhampton [broken] and a broken lock and a new bolt put on it and clothes [and] utensils of those who were in the house thrown out. Asked if he were present in the house or near the house at the time of the ejectment, he said that he was not, but he was, as he said, at Hereford. Asked who cast them out, he replied that it was Joy and P., the priest, as he heard.

## 3a.

*Depositions on behalf of Master Stephen the Scribe*

These are the sworn witnesses of Master Stephen: Peter the Chaplain, Walter Lovel, William of Wales, Arnulf Joy.

el', Willelmus  
unt duo anni  
in grangia de  
idit ei bladum  
is.<sup>f</sup> Et postea  
capellanus ad  
lud in ea. Et  
non permisit  
est super hoc  
a, below. These

Peter, the chaplain, sworn, said that on the Monday after the feast of St. Edith (16 Sept.), two years past, Peter de Wilton bought from Master Stephen the wheat which was stored in the grange of Etchilhampton for one hundred shillings, and that the same Peter at the command of his lord handed over the wheat to him and the key of the grange and that otherwise he was never seised of that grange. And afterwards, since he could not thresh the grain in that grange, since it was full, the same Peter, the chaplain, at the request of the aforesaid Peter lent him his house for threshing the grain in it. And afterward, when the house was emptied, Peter de Wilton closed the house and did not permit the chaplain to enter into his house. Then the aforesaid chaplain made a complaint about this to the dean<sup>2</sup>

<sup>1</sup> Perhaps either Barford (near Downton) or Barford St. Martin, both co. Wilts.

<sup>2</sup> For the office of rural or local dean, see A. H. Thompson, 'Diocesan Organization in the Middle Ages: Archdeacons and Rural Deans,' *Proceedings of the British Academy*, 29 (1946), pp. 153-94; M. Deanesly, *Sidelights on the Anglo-Saxon Church* (London, 1962), pp. 140-1; and Churchill, *Canterbury*, i, p. 81.

habitavit et oreum custodivit, a tres septimanis ante purificationem usque in crastinum ascensionis Domini. De appellacione ad dominum papam et de innovatione eiusdem et de appellacione facta ad dominum Cant', idem dicit quod Walterus de Echelhanton. De fractione serarum et de obstructione unius ostii, idem dicit quod Walterus, adiciens se in utriusque sere fractione ad presentem fuisse.

## 2.

**E.S. Roll no. 225<sup>a</sup>**

Prima productio P. de Wilton.

Johannes Gale iuratus dixit quod cum Walterus, procurator Petri de Wilton', redisset a curia domini archiepiscopi a placito domini sui et venisset ad Echelhampton' hospitatus est in domo ecclesie de Echelhamton', in cuius domus plena possessione fuit dominus illius Walteri<sup>b</sup>. Requisitus quomodo scit quod fuit in possessione, dixit quod fuit ei adjudicata et data possessio a iudicibus delegatis a domino papa, scilicet, decano Wellen', et magistro Radulpho de Lichelade, et hac auctoritate fuit in possessione. Requisitus quomodo scit eum fuisse<sup>c</sup> deiectum, dixit quod audivit ab hominibus et vicinis proximis illius ville. Dixit etiam quod audivit a dicto Waltero res suas fuisse tunc in domo illa quando facta fuisse dicitur spoliatio. Requisitus an presens fuisset quando fuit facta spoliatio, dixit quod non. Requisitus qui fecissent spoliacionem illam, dixit quod Joihe, ut audivit, et Petrus sacerdos.

Johannes de Bereford' iuratus dixit idem<sup>d</sup> de possessione quod Johannes Gele. Requisitus de deiectione quid sciret, dixit se vidisse post spoliacionem factam hostia domus ecclesie de Echelhamton' [fracta] et seram fractam et novam seram appositam et pannos [et] utensilia illorum qui fuerunt in domo eiecta. Requisitus an presens fuisset in domo vel prope domum in deiectionis tempore, dixit quod non, set fuit, ut dixit, <sup>e</sup>apud Herford'. Requisitus qui deiecessent illos, respondit quod Joihe et P. sacerdos, ut audivit.<sup>e</sup>

## 3a.

**E.S. Roll no. 225 (cont'd)**

Isti sunt iurati testes magistri Stephani: Petrus capellanus, Walterus Luvel', Willelmus Walens', Arnolphus Joie.

Petrus capellanus iuratus dixit quod die lune post festum Sancte Edithe erunt duo anni quod Petrus de Wilton' emit a magistro Stephano bladum quod continebatur in grangia de Echilhamton pro centum solidis et quod ipse Petrus precepto domini sui tradidit ei bladum illud et clavem grangie, et quod aliter de grangia illa numquam fuit saisiat<sup>f</sup>. Et postea cum non posset excutere bladum in grangia illa quia plena erat, ipse Petrus capellanus ad preces Petri predicti comodavit ei domum suam ad excutiendum bladum illud in ea. Et postea cum domus vacuata esset, Petrus de Wilton' firmavit domum et non permisit capellanum ingredi in domum suam. Capellanus vero predictus conquestus est super hoc

<sup>a</sup> A small parchment sheet containing both these depositions and those on Doc. 3a, below. These depositions are second in order.

<sup>b</sup> *Petri*

<sup>c</sup> Interlined

<sup>d</sup> *quod* deleted

<sup>e-e</sup> On dorse

<sup>f</sup> *feri saiat'*

decano loci et mandato ipsius decani reddita est ei clavis domus sue a serviente Petri de Wilton' et sic est ingressus in domum suam. Item etiam cum predictus Petrus de Wilton' inveniret domum illam vacantem, effractis seris, eam ingressus est et bona capellani que ibi invenit dissipavit, et sic eam tenuit per triduum vel parvo plus, quousque iterum reddita fuit Petro capellano post illud triduum per decanum loci.

Walterus Luvel' iuratus dixit idem per omnia quod Petrus capellanus usque ad illum locum: 'Item etiam cum predictus Petrus', etc. De sequentibus requisitus, dixit se nescire.

Willelmus Wallen' iuratus dixit idem per omnia quod Petrus capellanus, adiciens etiam quod precepto decani et capituli recuperavit capellanus domos suas, que semper consueverunt esse hospicium capellani, nisi quod in grangia semper consuevit [habere] persona bladum suum.

Arnolphus Joie iuratus dixit idem per omnia quod Willelmus Wallen'.

### 3b.

#### Sede Vacante Scrapbook III no. 4, p. 2<sup>a</sup>

Petrus capellanus iuratus dixit quod die dominica proximo post festum Sancte Edithe anno preterito venit Petrus de Wilton ad domum magistri Stephani apud Eldekaniche ante prandium circa oram tertiam, et ibi prolocuti sunt in talamo magistri Stephani de blado de Echilanton' quod tunc fuit in manu magistri Stephani et Petrus de Wilton' mencionem fecisset de denariis quos magister Stephanus (ei debebat),<sup>b</sup> scilicet,<sup>c</sup> quadraginta tres solidos et sex denarios. De annuo reditu a magistro Stephano recipiendo convenit inter eos hoc modo, scilicet quod M.S.<sup>d</sup> vendidit predicto Petro bladum de Echelantun' sed nescit pro quanto precio, sed pro vero hoc scit quod prescripti quadraginta tres solidi et sex denarii in precio bladi sunt computati, et preterea predictus P. de precio eiusdem bladi reddidit Hamelino de Diwisis quadraginta solidos precepto Stephani.

Die lune proximo post iam dictam dominicam convenit inter eos de decimis de Echilantun' in cancello de Kanikes post missam tali modo, scilicet, quod predictus P. debuit tenere omnes decimaciones de Echilantun' post finitum annum predictae emcionis de M.S., reddendo inde annuatim duas bisancias M.S. et predictus P. clamavit M.S. quietum de quadraginta tres solidis quos M.S. debuit annuatim reddere eidem Petro, ita tamen quod M.S. retinuit in manum suam capellam et clavem capelle, et predictus P. debuit reddere servicium capellani set per manum M.S., et P. debuit solvere episcopalia set per manum M.S. vel per manum Saverici capellani sui, set dicit se nescire utrum hec convencio deberet esse perpetua etiam vel temporalis, set tamen scripta erat predicta convencio set non sigillata, et Petrus observare iuravit fidelitatem M.S. Eodem vero die fecit M.S. predictum Petrum capellanum

<sup>a</sup> This document is heavily abbreviated and difficult to read.

<sup>b</sup> MS. unclear

<sup>c</sup> Long stroke *s* between two full stops

<sup>d</sup> = *Magister Stephanus*

ente Petri de  
is de Wilton'  
ellani que ibi  
n reddita fuit

que ad illum  
e nescire.  
ficiens etiam  
er consueve-  
sona bladum

ante Edithe  
kaniche ante  
de blado de  
mencionem  
a tres solidos  
nter eos hoc  
d nescit pro  
ex denarii in  
ladi reddidit

de Echilam-  
lebuit tenere  
e M.S., red-  
um de quad-  
1 quod M.S.  
re servicium  
M.S. vel per  
sse perpetua  
ta, et Petrus  
capellanum

of the place, and at the mandate of the said same dean the key to his house was returned to him by the servant of Peter de Wilton and thus he entered into his house. Further still, when the aforesaid Peter de Wilton found his house empty, the locks having been broken, he entered it and dissipated the goods of the chaplain which he found there, and thus he held it for three days or a little more, until it was once more returned to Peter, the chaplain, after those three days, by the dean of the place.

Walter Luvel, sworn, said the same in every respect as Peter, the chaplain up to that point where it says: 'Further still, when the aforesaid Peter', etc. Asked about the following things, he said he did not know.

William of Wales, sworn, said the same thing in every respect as Peter, the chaplain, adding also that at the command of the dean and chapter, the chaplain recovered his houses, which had always been the lodging of the chaplain, except that in the grange the parson always used [to keep] his grain.

Arnulf Joy, sworn, said the same in every respect as William of Wales.

### 3b.

#### *Depositions on behalf of Master Stephen the Scribe (cont'd)*

Peter, a chaplain, sworn, said that on the Sunday following next after the feast of St. Edith (16 Sept.) in the year past, Peter de Wilton came to the house of Master Stephen at All Cannings<sup>1</sup> before dinner around the third hour, and there they spoke in the room of Master Stephen concerning the wheat of Etchilhampton, which then was in the hands of Master Stephen, and Peter de Wilton made mention of the money which Master Stephen owed him, to wit, forty-three shillings and sixpence. Concerning the annual yield to be received by Master Stephen, they agreed among themselves in this manner, to wit, that M.S. sold to the aforesaid Peter the grain of Etchilhampton, but he knows not for what price, but in truth he knows this, that the aforesaid forty-three shillings and sixpence were counted in the price of the grain, and further, the aforesaid P. gave from the price of the same grain to Hamelin of Devizes<sup>2</sup> forty shillings at the command of Stephen.

The Monday next after the said Sunday, they agreed among themselves concerning the tithes of Etchilhampton in the chancel of Cannings after mass, in this manner, to wit, that the aforesaid P. ought to hold all the tithes of Etchilhampton after the end of the year of the aforesaid sale of M.S., paying to M.S. annually two bezants,<sup>3</sup> and the aforesaid P. quit-claimed M.S. of the fifty-eight shillings which M.S. ought annually to pay to the same Peter, in such a way, nonetheless, that M.S. kept in his hand the chapel and the key of the chapel and the aforesaid P. ought to render the service of the chaplain but through the hand of M.S., and P. ought to pay the episcopal taxes but through the hand of M.S. or through the hand of Savaric his chaplain.<sup>4</sup> But he says that he did not know whether this agreement ought to be perpetual or temporal, but nonetheless the aforesaid agreement was written but not sealed, and Peter swore to keep faith to M.S. The same day M.S. made the aforesaid

<sup>1</sup> All Cannings, co. Wilts.

<sup>2</sup> Devizes, co. Wilts.

<sup>3</sup> On gold coins, see below p. 254 n. 6.

<sup>4</sup> This may be an error, a confusion between Savaric, the chaplain, who testifies below, and Saer de Winchester, the chaplain, after whose death Peter de Wilton is said not to have been seised of the key of the chapel.

de Echelantun' iurare quod fidelitatem opservaret Petro de Wiltona, si predicta convencio procederet. Post dicessionem vero Petri de Wilton' inito consilio M.S. a predicta convencione resilivit et scriptum eodem die combussit. Dicit eciam quod P. de Wilton' numquam habuit clavem capelle post mortem Saeri de Wintonia. Requisitus eciam quo modo Petrus de Wilton' saisiatus fuerit de decimis istius anni, dicit quod ipse capellanus liberavit decimas illas Petro de Wiltonia mandato magistri Halardi per literas suas ad ipsum capellanum<sup>a</sup> directo.

Savericus, capellanus, iuratus dicit <sup>b-</sup>de emcione bladi<sup>-b</sup> idem per omnia quod Petrus, set addidit quod venditum fuit pro centum solidis; de pacto eciam die lune proxima de decimis de Echilhamtun' inter eos facto idem dicit per omnia quod Petrus.

Johannes iuratus dicit idem quod Petrus per omnia de emcione bladi de Echilhamtun' set de aliis paccionibus nichil scit.

Simon iuratus dicit [idem] per omnia quod Johannes.

Johe iuratus dicit idem quod<sup>c</sup> Simon et Johannes de emcione bladi. Requisitus eciam quomodo Petrus saisiatus fuit de decimis istius anni, dicit quod per preceptum magistri Halarbi.

Petrus iuratus dicit idem per omnia de emcione bladi quod alii, set de aliis paccionibus nichil scit.

Walterus Lupellus iuratus dicit idem per omnia de emcione bladi quod Petrus set de aliis paccionibus nichil scit.

<sup>d-</sup>Et quilibet eorum dicit quod numquam Petrus saisiatus fuit de clave post mortem Saer capellani de Wintonia.<sup>-d</sup>

<sup>a</sup> *mandato* deleted

<sup>b-</sup> Interlined

<sup>c</sup> One word, possibly *Savr'*, deleted

<sup>d-</sup> In margin approximately opposite the testimony of Savaric, the chaplain

ta convencio  
redicta con-  
Wilton' num-  
m quo modo  
nus liberavit  
ipsum capel-

od Petrus, set  
ia de decimis

Echilhamtun'

uisitus eciam  
tum magistri

s paccionibus

Petrus set de

mortem Saer

Peter, the chaplain of Etchilhampton, swear that he would keep faith to Peter de Wilton, if the aforesaid agreement proceeded. But after Peter de Wilton left, M.S. having taken counsel, repudiated the said agreement and burned the writing on the same day. He says also that Peter de Wilton never had the key of the chapel after the death of Saer de Winchester. Asked also how Peter de Wilton was seised of the tithes of that year, he said that the same chaplain delivered those tithes to Peter de Wilton and at the order of Master Alard<sup>1</sup> directed by his letters to the same chaplain.

Savaric, a chaplain, sworn, says concerning the sale of the wheat the same in all respects as Peter but adds that it was sold for a hundred shillings. Also concerning the pact on the Monday next concerning the tithes of Etchilhampton made between them, he says the same thing in every respect as Peter.

John, sworn, says the same as Peter in every respect concerning the sale of the wheat of Etchilhampton, but he knows nothing about the other pacts.

Simon, sworn, says the same thing in every respect as John.

Joy, sworn, says the same as Simon and John concerning the sale of the wheat. Asked further how Peter was seised of the tithes of that year, he says that it was by the command of Master Alard.

Peter, sworn, says the same in every respect concerning the sale of the wheat as the others, but concerning the other pacts he knows nothing.

Walter Lovel, sworn, says the same in every respect concerning the sale of the wheat that Peter said, but concerning the other pacts he knows nothing.

And each of them says that Peter was never seised of the key after the death of Saer, the chaplain, de Winchester.

<sup>1</sup> This may be the same as Master Alard who was subdean and chancellor of Wells in 1213, and 1215, respectively. Emden, *Oxford*, i, 16-17. The authority of the Alard (Alarbus or Alarbi) mentioned here could have come from a subdelegation from the papal judges delegate mentioned in the earlier depositions, or he may have been acting as rural dean.

A.3. MASTER MARTIN RECTOR OF BARKWAY *c.* PARISHIONERS  
OF NUTHAMPSTEAD  
Diocese of London  
*c.* 1199<sup>1</sup>

A DISPUTE CONCERNING A CHAPEL

This case is an early example of parishioners as a collective party to a law suit.<sup>2</sup> The only document that survives contains depositions of witnesses on both sides (nos. 1 and 2), and it is difficult to piece together what the dispute is about. The witnesses are in general accord that the vill of Nuthampstead,<sup>3</sup> in Hertfordshire, had had at one time an independent chapel, subject to no mother church. The patron of the chapel, however, Sir Ralph de Noers,<sup>4</sup> gave it in free alms to the monks

<sup>1</sup> The hand of this document suggests that it belongs to this early group of cases, rather than to the 1270 or 1290 group. It is possible that the case dates from the vacancy in the see of London between the death of Richard Fitz Neal (10 Sept. 1198) and the accession of William of Sainte-Mère-Église in May, 1199.

<sup>2</sup> There is nothing in the document to indicate how the witnesses on behalf of the parishioners were chosen and no indication of what were later called 'procuratores parochie'. See C. Drew, *Early Parochial Organization in England*, St. Anthony's Hall Publications, 7, (London, 1954), p. 6.

<sup>3</sup> *VCH Herts*, iv, p. 27. About twenty years later William de Hobrigge claimed this vill by charter from Geoffrey de Mandeville, earl of Essex. *CRR*, viii, pp. 109, 193.

<sup>4</sup> A Ralph de Nuers (Noers) is mentioned on the plea rolls (1199) as the father of Emery de Nuers. *CRR*, i, p. 75. A case concerning Emery (Almaric) de Noers is described in Stenton, *Pleas*, i, p. 157.

1.

E.S. Roll no. 210

[Endorsed] Attestaciones rectoris de Bercwey et parochianorum de Nuthamsted.

Hec est productio pro parte magistri Martini.

Osbertus capellanus de Berlee iuratus dixit quod a senioribus illius provincie multociens referri audivit quod capella de Nuthamst' ita per se libera fuit quod nec ecclesie de Bercwei nec alii [ecclesie] aliquam debebat subiectionem. Processu vero temporis versa est in membrum ecclesie de Bercwei, per donacionem cuiusdam advocati, ita tamen quod omnia spiritualia predicta capella per se (habuit), preter corporum sepulturam, que ad matricem ecclesiam de Bercwei sepelienda deportabantur. Persona vero de Bercwei omnia iura parochialia a parochianis eiusdem capelle per capellatum suum ibidem ministrantem percipiebat. Requisitus utrum capellanus ille singulis diebus ministrare debuisset vel ministrasset, hoc se ignorare respondit.

Jordanus capellanus iuratus idem per omnia dixit quod Osbertus, adiciens quod capellanus qui ministravit capelle de Nuthamst' archidiacono illius loci seorsum a matrice ecclesia per se de auxiliis et iure ipsius archidiaconi respondebat, sicut matricis<sup>a</sup> ecclesia per se faciebat.

Willelmus persona de Boclant iuratus idem dixit per omnia quod Jordanus, adiciens quod capellanus de Bercwei ministravit capelle de Nuthamst' singulis diebus quando dominus et domina fuerunt in villa, in absentia vero illorum tamen tribus diebus, sicut auditu percepit.

<sup>a</sup> *matris*

NERS

### A.3. MASTER MARTIN RECTOR OF BARKWAY *c.* PARISHIONERS OF NUTHAMPSTEAD

#### Introduction (*cont'd*)

of Colchester,<sup>5</sup> who in turn farmed it to the parson of Barkway<sup>6</sup> for ten shillings, and thus 'the chapel became a member of the church of Barkway'. The dispute seems to concern the various rights and duties of the rector of Barkway, the chaplain of Nuthampstead, and the parishioners. The witnesses on both sides seem to agree that the rector is to receive all the tithes and obventions from the chapel, supplying in turn a chaplain who is to minister at the chapel. There is disagreement, however, as to whether the chaplain is to say mass every day or three days a week, and confusion over what are called *spiritualia*. The parishioners' witnesses insist that the chapel receives the *spiritualia* (except for burial which all agree takes place at Barkway). Some of the rector's witnesses also say this, but the rector's witnesses are more insistent that the rector receive the *spiritualia* through the chaplain. Some sense can be made of the whole if we suppose that two quite different rights are involved: the right of the parishioners to have baptisms, marriages, etc., take place at the chapel, and the right of the parson to receive the customary offerings associated with these services. The parishioners are insisting on the former right, the rector's witnesses on the latter, and neither side seems clearly to contradict the other.

<sup>5</sup> St. John's Abbey at Colchester, a Benedictine monastery in Essex; see Dugdale, iv, pp. 601-5; Knowles and Hadcock, pp. 53, 62.

<sup>6</sup> The abbey at Colchester held the manor, rectory and advowson of Barkway by papal bull of Alexander III as early as 1179. This was confirmed by Innocent III in 1201. See Cheneys, *Letters*, no. 146, p. 26; no. 315, pp. 51-2; no. 1055, p. 175.

#### 1.

#### *Depositions on behalf of the rector of Barkway*

[Endorsed] Attestations of the rector of Barkway and of the parishioners of Nuthampstead.

This is the production on behalf of Master Martin.

Osbert, chaplain of Barley,<sup>1</sup> sworn, said, that he heard it many times reported by the elders of that district that the chapel of Nuthampstead was free in itself, so that it did not owe any subjection either to the church of Barkway or to another. In the course of time, however, it became a member of the church of Barkway by donation of a certain patron, but the aforesaid chapel had all the *spiritualia* for itself, except the burial of bodies, which were carried to the mother church at Barkway<sup>2</sup> for burial. The parson, however, of Barkway received all the parochial rights from the parishioners of the same chapel through his chaplain ministering there. Asked whether the chaplain ought to minister there every day or did so minister, he replied that he did not know.

Jordan, a chaplain, sworn, said the same in every respect as Osbert, adding that the chaplain who ministered to the chapel of Nuthampstead answered for himself apart from the mother church to the archdeacon of that place for the aids and rights of the same archdeacon, just as the mother church did for itself.

William, parson of Buckland,<sup>3</sup> sworn, said the same thing in every respect as Jordan, adding that the chaplain of Barkway ministered to the chapel of Nuthampstead every day when the lord and lady were in the vill; in their absence, however, three days (a week), as he understood by hearing.

<sup>1</sup> Barley, co. Herts.

<sup>2</sup> Later in the century episcopal statutes provided that if the chapels were two or three miles distant from the mother church cemeteries should be provided for parishioners. P & C, *Councils*, i, pp. 602, 709.

<sup>3</sup> Buckland, co. Herts., two or three miles from Barkway.



Ricardus Burel iuratus dixit idem quod Jordanus per omnia, adiciens quod vidit Walterum personam de Bercwei presentantem archidiacono duos capellanos, unum ecclesie de Bercwei, et alium capelle de Nuthamst', qui singulis diebus ibi ministrarent, et hoc idem fecit postea magister Martinus.

Walterus capellanus iuratus dixit quod audivit a pluribus dici quod homines de Nuth' perceperunt omnia spiritualia ab matrice ecclesia aliquociens et similiter audivit dici in contrarium, ignorans <sup>a</sup>-rei certitudinem.<sup>-a</sup>

Willelmus Dol iuratus dixit quod audivit et vidit Walterum personam de Bercwei et postea Martinum personam percipere omnes obventiones et decimas ab hominibus de Nuthamst' invenientes ibi capellanum et clericum administrandum singulis diebus missam et omnia spiritualia preter sepulturam.

Alvredus clericus iuratus idem dixit per omnia quod Willelmus Dol.

Willelmus capellanus iuratus dixit quod ministrans in ecclesia de Bercwei invenit alium capellanum ministrantem singulis diebus in capella de Nuth' auctoritate magistri Martini et coactione, cum ecclesiam de Bercwei ad firmam ab eo teneret, adiciens quod capella illa ibi omnia spiritualia percipiebat preter sepulturam corporum que matri ecclesie deferebantur.

Phillipus persona de Chissil iuratus dixit quod audivit a quodam capellano qui ibi ministravit quod singulis diebus ibi ministravit, cetera omnia ignorans.

Bernardus de Nuth' iuratus dixit quod vidit Martinum personam invenientem capellanum et clericum ministrantes in capellam de Nuth' percipiendo decimas et obventiones ab eadem villa.

Jocelinus capellanus iuratus dixit quod per biennium ministravit in ecclesia de Bercwei suscipiens festivis diebus quosdam de magnis (iuribus) de Nuth' ad divina servienda, et (secundum) quod audivit non debet persona de Berc' invenire capellanum capelle nisi tribus diebus in septimana.

Walterus de Blanden' iuratus idem dixit quod Jocelinus, adiciens quod ignoravit utrum tres dies in septimana debeat missa celebrari.

## 2.

### E.S. Roll no. 210 (cont'd)

Hec est productio pro parte parochianorum de Nuthamst'.

Thomas Caperun iuratus dixit quod tempore Walteri persone de Bercwei presentabatur ad capellam illam unus capellanus (archidiacono)<sup>b</sup> administrandum continue, semper responsurus episcopo et archidiacono<sup>c</sup> super hiis que ad eos de iure pertinebant, persona de Bercwei percipiente decimaciones et omnes obventiones.<sup>d</sup>

Et sciendum quod iste Thomas et plures alii testes pro utraque parte producti in hoc conveniunt quod antiquitus capella illa nulli matri ecclesie fuerat subiecta, videlicet, eo tempore quo Brunig capellanus eam tenuit, quo tempore corpora parochianorum ad ecclesiam de Anestie sepeleienda deportabantur; hoc tamen factum fuit voluntaria electione

<sup>a-a</sup> Interlined below  
<sup>c</sup> archidiacono

<sup>b</sup> archō  
<sup>d</sup> oventiones

d vidit Wal-  
n ecclesie de  
oc idem fecit

ies de Nuth'  
divit dici in

Bercwei et  
omnibus de  
us missam et

avenit alium  
ri Martini et  
pella illa ibi  
eferebantur.  
lano qui ibi

capellanum  
es ab eadem

de Bercwei  
servianda, et  
le nisi tribus

pravit utrum

resentabatur  
ue, semper  
persona de

ducti in hoc  
videlicet, eo  
um ad eccle-  
ria electione

Richard Burel, sworn, said the same as Jordan, adding that he saw Walter, the parson of Barkway, presenting two chaplains to the archdeacon, one for the church of Barkway, the other for the chapel of Nuthampstead, who ministered there every day, and Master Martin did the same afterwards.

Walter, a chaplain, sworn, said that he sometimes heard tell from many that the men of Nuthampstead received all *spiritualia* from the mother church, and similarly he heard the contrary said, not knowing the certainty of the matter.

William Dol, sworn, said that he heard and saw Walter, the parson of Barkway, and afterwards Martin, the parson, receive all the obventions and tithes from the men of Nuthampstead, supplying a chaplain for that place and a clerk to (say) mass every day and to administer all the *spiritualia*, except burial.

Alfred, a clerk, sworn, said the same thing in every respect as William Dol.

William, a chaplain, sworn, said that when he was ministering in the church of Barkway, he supplied another chaplain to minister every day in the chapel of Nuthampstead by the authority and at the demand of Master Martin, since he held the church of Barkway in farm from him, adding that that chapel took all the *spiritualia* there, except the burial of bodies, which were brought to the mother church.

Philip, the parson of Chishall,<sup>1</sup> sworn, said that he heard from a certain chaplain who ministered there that he ministered there every day. He knows nothing of all the other things.

Bernard de Nuthampstead, sworn, said that he saw Martin, the parson, supplying a chaplain and clerk to minister in the chapel of Nuthampstead receiving the tithes and obventions from the same vill.

Jocelin, a chaplain, sworn, said that he ministered for two years in the church of Barkway taking on feast days certain of the great rights from Nuthampstead for divine services, and according to what he heard, the parson of Barkway does not have to supply a chaplain for the chapel except for three days of the week.

Walter de Blanden,<sup>2</sup> sworn, said the same thing as Jocelin, adding that he did not know whether mass ought to be celebrated three days in the week.

## 2.

### *Depositions on behalf of the parishioners of Nuthampstead*

This is the production on behalf of the parishioners of Nuthampstead.

Thomas Caperun, sworn, said that in time of Walter, parson of Barkway, one chaplain was presented to the archdeacon to minister at that chapel continuously, always to be responsible to the bishop and the archdeacon about those things which pertain to them of right, the parson of Barkway receiving the tithes and all the obventions.

<sup>3-3</sup> And let it be known that this Thomas and many other witnesses produced for both parties agree in this: that formerly that chapel was not subject to any mother church, to wit, in that time when Brunig, the chaplain, held it, at which time the bodies of the parishioners were brought to the church of Anstey<sup>4</sup> for burial, but this was done by the free choice<sup>-3</sup>

<sup>1</sup> Chishall = Great or Little Chishall, co. Cambs. The latter is nearer to Nuthampstead.

<sup>2</sup> Probably Bandons, co. Herts, one mile southwest of Nuthampstead.

<sup>3-3</sup> This comment may have been inserted by the examiners.

<sup>4</sup> Anstey, co. Herts., the parish immediately to the south of Barkway parish.

parochianorum non iure matricis ecclesie. Post mortem vero Brunig' Radulfus de Nuers, advocatus predicte capelle, ipsam monachis de Colecest' in elemosinam quantum ad ipsum pertinebat dedit. Ipsi quidam monachi de Colescest' dederunt eam ad firmam cuidam Waltero persone de Bercwei pro decem solidis, quos ipse omnibus diebus vite sue prefatis monachis persolvebat, similiter et post eum magister Martinus, et hac occasione factum est ut ipsa capella in membrum ecclesie de Bercwei versa sit.

Ricardus de Holmad' iuratus dixit quod ipse vidit prefatum Walterum personam de Berc' presentare archidiacono<sup>a</sup> et decano capellanum ad ministrandum in capella assidue, et qui ibi continue ministravit, capella sibi omnia spiritualia iura retinente preter corporum sepulturam.<sup>b</sup>

Stephanus de Hanesti iuratus dixit quod per presentationem Walteri persone de Bercwey capellanus assidue in capella illa ministravit et quod capella omnia iura spiritualia habere solebat preter sepulturam corporum.

Hugo Ruffris iuratus idem dixit quod Stephanus de Anesti.

Thomas de Berle iuratus idem dixit quod Hugo Ruff'.

Randulfus de Langeleie iuratus idem dixit quod Thomas de Berle.

Robertus filius Sigar iuratus idem dixit quod Randulfus de Lang'.

Turstanus Albus iuratus idem dixit quod Robertus filius Sigar.

Hugo de Anesti iuratus idem dixit quod Turstanus Albus.

Gunteirus de Bercwei iuratus idem dixit quod Hugo de Anest'.

Ricardus Lenebod iuratus idem dixit quod Gunter de Bercwey, adiciens quod desponsavit in capella de Nunhamst' uxorem suam et quod quoddam mesuagium situm est in eadem villa ad opus sacerdotis qui in eadem capella continue debeat ministrare.

Samson de Bandene iuratus dixit quod per omnes dies septimane, per Walterum personam de Bercwei et postea per magistrum Martinum, quidam capellanus in capella illa de Nuthamst' ministravit, capella illa omnia iura spiritualia (possidente) preter solam corporum<sup>c</sup> sepulturam.

<sup>a</sup> archidiacono

<sup>b</sup> sepulturam

<sup>c</sup> coporum

<sup>1-</sup>of the parishioners and not by right of a mother church. After the death of Brunig, however, Ralph de Noers, patron of the aforesaid chapel, gave it to the monks of Colchester in free alms, as much as it pertained to him. These monks of Colchester gave it in farm to a certain Walter, parson of Barkway, for ten shillings which he paid all the days of his life to the aforesaid monks, and likewise after him Master Martin, and on this occasion it came about that this chapel became a member of the church of Barkway.<sup>-1</sup>

Richard de Hormead,<sup>2</sup> sworn, said that he saw the aforementioned Walter, parson of Barkway, present to the archdeacon and dean a chaplain to minister in the chapel assiduously and who continuously ministered there, the chapel keeping to itself all spiritual rights except the burial of bodies.

Stephen de Anstey, sworn, said that by the presentation of Walter, the parson of Barkway, the chaplain ministered assiduously in that the chapel used to have all the spiritual rights except the burial of bodies.

Hugh Ruffris, sworn, said the same thing as Stephen de Anstey.

Thomas de Barley, sworn, said the same thing as Hugh Ruffris.

Ralph de Langley,<sup>3</sup> sworn, said the same thing as Thomas de Barley.

Robert, son of Sigar, sworn, said the same thing as Ralph de Langley.

Thurstan Albus, sworn, said the same thing as Robert, son of Sigar.

Hugh de Anstey, sworn, said the same thing as Thurstan Albus.

Gunther de Barkway, sworn, said the same thing as Hugh de Anstey.

Richard Lenebod, sworn, said the same thing as Gunther de Barkway, adding that he espoused his wife in the chapel of Nuthampstead and that a certain messuage was located in the same vill for the use of the priest who ought to minister continuously in the same chapel.

Samson de Bandons,<sup>4</sup> sworn, said that through Walter, parson of Barkway, and afterward through Master Martin a chaplain ministered in that chapel of Nuthampstead all the days of the week, that chapel possessing all spiritual rights, except only the burying of bodies.

<sup>1-1</sup> This comment may have been inserted by the examiners.

<sup>2</sup> Hormead, co. Herts., 3-4 miles southwest of Nuthampstead.

<sup>3</sup> Langley, co. Herts.,  $\frac{1}{2}$  mile east of Nuthampstead.

<sup>4</sup> See above p. 9 n. 2.

## A.8. STEPHEN DE BELLO AND AGNES

Diocese of Chichester

c. 1200<sup>1</sup>AN *INQUISITIO* CONCERNING A MARRIAGE

The *inquisitio* printed below was to determine whether some affinity or spiritual relationship existed between Stephen and Agnes which would invalidate their marriage. The thirteen *jurati* (or *juratores*), including the parties themselves, testify that Isabel, a former mistress of Stephen, was the first cousin of Agnes's first husband, and some say she was the godmother of Agnes's child by her first husband.

Isabel's relationship to Agnes's first husband, Elias, would probably have been held by the academic canonists to give rise to the relationship of *affinitas secundi generis*, affinity of the second type. According to the extensive view of incest found in some twelfth-century canonists, Stephen was not only forbidden from marrying any of his blood relations within seven degrees of kinship (*impedimentum consanguinitatis*) but was also forbidden from marrying anyone who was the blood kin within seven degrees of anyone with whom he had had sexual relations. This latter was the impediment of affinity of the first type (*impedimentum affinitatis primi generis*).<sup>2</sup> (In both cases the degrees of kinship would be calculated by the canonic computation, *i.e.*, by the number of acts of generation back to a common ancestor.<sup>3</sup>) But Agnes was not a blood relation of Isabel's; she was herself an in-law (*affinis*) of Isabel's, and Stephen's relationship to Agnes through Isabel would have been described as affinity of the second type (*affinitas secundi generis*). In the case of the second type of affinity the incest prohibition, even in the most extreme writers, extended only to the fourth degree of kinship.<sup>4</sup> Since, however, Elias Cook was Isabel's first cousin (but two degrees in the canonical computation), the marriage of Stephen and Agnes would be invalid.

<sup>1</sup> There is no clear evidence, but on the basis of the handwriting it would seem more probable that this case belongs to the group dating from Hubert Walter's pontificate than to either of the two groups from the second half of the century. See introd. p. 3. If Stephen de Bello is from Battle, Sussex, and if the 'vicinia' mentioned is that of Battle, then this case may have come before the archbishop by reason of the brief vacancy between the death of Seffrid II and the consecration of Simon de Wells as bishop of Chichester in 1204. We cannot exclude, however, the possibility that this is a stray document from some case later on in the thirteenth century. There was, for example, a long vacancy in the see of Chichester between the death of Simon Fitz Robert (1207) and the consecration of Richard Poore (1215).

<sup>2</sup> See J. Freisen, *Geschichte des kanonischen Eherechts* (2nd ed., Paderborn, 1893), pp. 439-49, and sources cited; J. Dauvillier, *Le Mariage dans le droit classique de l'Église* (Paris, 1933), pp. 146-52; C. Plöchl, *Geschichte des Kirchenrechts* (Vienna, 1955), ii, pp. 281-4.

<sup>3</sup> Freisen, *op. cit.*, pp. 423-38.

<sup>4</sup> *Ibid.*, pp. 474-89.

## Sede Vacante Scrapbook II, p. 51

Nomina iuratorum ad inquirendum de coniugio inter St. de Bello et Agnetem, uxorem eius: Asch' scriptor, Stephanus ipse iuravit, et uxor eius Agnes, Johannes le Vanur, Robertus filius Brithmer, Gillebertus de Bosco, Thomas Rufus, Orgarus curtelier, Wibertus le Wrench, Osmundus, Wlveva, Ydonia, Ysabel. Omnes isti de affinitate idem dicunt, videlicet quod Agnes uxor Stephani fuit uxor Helie coci, et Ysabel quondam concubina St. fuit filia mater-tere ipsius Helie. Idem attestatur tota vicinia et est omnibus notissimum.

De commaternitate dixit Agnes uxor St. quondam uxor Helie coci quod Ysabel ad petitionem eius suscepit filium suum de sacro fonte, et munus accepit quod Ysabel contulit filio eius baptizato ut commater et eam ut commatrem semper in osculo salutavit.

## A.8. STEPHEN DE BELLO AND AGNES

Introduction (*cont'd*)

But the matter may have been less clear. In the first place a respectable body of theological opinion held that the impediment of affinity arose only out of valid sacramental marriages.<sup>5</sup> Perhaps in deference to this view Alexander III had held that marriages were not to be dissolved on the basis of secret, illicit unions where the question of affinity was later raised.<sup>6</sup> This holding may account for the large number of witnesses on the affinity question in the present case. Secondly, the Fourth Lateran Council made changes in the law concerning prohibited degrees. The number of degrees for computing the impediments both of consanguinity and of affinity was reduced from seven to four, and the impediment of affinity of the second type was abolished.<sup>7</sup> The uncertainty of the date of this case means that we cannot tell whether we have here an anticipation of the Lateran decree, a problem with its retroactivity, or an inquisition to determine whether it is to be applied.

The problem of Isabel's spiritual relationship to Agnes (*cognatio spiritualis*) was also a difficult one. It was settled that Isabel's relationship to her own godchild was such that she could not have married him. This was the impediment of direct spiritual motherhood (*maternitas spiritualis directa*). It was also settled, perhaps less clearly, that if Isabel's godchild had been a girl and if Stephen had been lawfully married to Isabel, Stephen could not have married the godchild after Isabel's death. This was the impediment of indirect spiritual fatherhood (*paternitas spiritualis indirecta*). We have here, however, not the relationship between godparent and godchild or godparent's spouse and godchild, but that between godparent's spouse and the natural parent of the godchild—indirect spiritual co-paternity (*conpaternitas spiritualis indirecta*). Further, the relationship arises not out of a lawful marriage, but out of illicit intercourse. There was no settled resolution of this problem until the council of Trent.<sup>8</sup>

<sup>5</sup> Dauvillier, *op. cit.*, p. 146; cf. *ibid.*, pp. 151–2.

<sup>6</sup> X 4.13.3.

<sup>7</sup> Lateran IV (1215), c. 50 (= X 4.14.8). Cf. Exeter I (1225 X 1237), c. 24, in P & C, *Councils*, i, p. 234.

<sup>8</sup> The key text is *Decretum* C. 30, q. 4. For the commentary, see Freisen, *op. cit.*, pp. 539–49. See generally *ibid.*, pp. 507–32; Dauvillier, *op. cit.*, pp. 153–5 Plöchl, *op. cit.*, ii, pp. 284–6. In 1198 Innocent III sent a mandate to the bishop of Lincoln and the dean of Huntingdon bidding them examine and report on the validity of a second marriage of G., an Englishman who had previously married a woman who was the godmother of his illegitimate child. *Cal Papal Letters*, i, p. 3; *Patrologiae Latinae Cursus Completus*, J. P. Migne ed. (Paris, 1891), ccxiv, p. 360; X 5.20.9; Pollock and Maitland, ii, pp. 385–9.

*The inquisition*

The names of those sworn to inquire about the marriage between St. de Bello and Agnes his wife: Asch, the writer (*scriptor*); Stephen, himself swore, and his wife Agnes; John le Vanur; Robert, the son of Brithmer; Gilbert de Bosco; Thomas Rufus; Orgar, the cutler; Wibert le Wrench; Osmund; Ulviva; Ydonia; Isabel. All these say the same thing about the affinity, to wit, that Agnes, the wife of Stephen, was the wife of Elias, a cook, and Isabel, once the concubine of Stephen, was the daughter of Elias's mother's sister. The whole neighbourhood testifies to this, and it is well known to all.

Concerning the co-maternity, Agnes, wife of St., once the wife of Elias, the cook, said that Isabel at his asking took her son from the sacred font, and she took the gift which Isabel gave to his son at baptism as a godmother, and he always greeted her with a kiss as godmother.

Johannes le Vanur, iuratus, dixit quod ipse suscepit filium Helie et Agnetis de sacro fonte et eadem hora predicta Ysabel suscepit eundem, ut commater Agnetis.

Thomas Rufus, iuratus, dixit idem per omnia quod Johannes, adiciens quod nomen suum imposuit puero.

Wlveva mulier, iurata, dixit quod interfuit ubi Johannes le Vanur et Thomas Rufus et predicta Ysabel et quedam alia mulier nomine Arnilda susceperunt simul dictum filium Agnetis de sacro fonte, baptizatum a capellano nomine Adam, dominica proximo post festum omnium sanctorum.

Ysabel, idem dixit quod Wulveva nisi quod de die non recolit, adiciens quod quattuor denarios dedit puero, quos misit Agneti matri pueri.

#### A.9. RICHARD SUEL

Diocese of Worcester<sup>1</sup>

c. 1200

##### A CASE OF BASTARDY

Richard Suel was 'accused'<sup>2</sup> of being illegitimate. The witnesses testify that his father, Fulk, betrothed (*affidavit*) his mother, Edith, before Hugh le Poor,<sup>3</sup> begot Richard, and after Richard's birth espoused (*desponsavit*) Edith solemnly in the church of Romsley.<sup>4</sup>

<sup>1</sup> It is possible that these depositions were sent to Canterbury because of the vacancy of the see of Worcester between the death of Bishop John of Coutances in September, 1198, and the accession of Bishop Mauger on 4 June, 1200.

<sup>2</sup> There is no indication of who brought the accusation or why. Bastardy, though it carried disabilities

#### E.S. Roll no. 40v

Testes Ricardi Suel accusati de bastardia. Prima productio Ricardi Suel.<sup>a</sup>

Ovietus de Festa iuratus dixit quod interfuit ubi Fulco affidavit Edivam, matrem Ricardi accusati de bastardia, coram Hugone le Poher et coram familia sua, et postmodum habuit eam ut suam per annum et genuit ex ea hunc Ricardum. Elapso anno iterum interfuit ubi matrimonium inter eos sollempniter celebratum in ecclesia de Ramesleia. Requisitus a quo sacerdote, dixit a Willelmo nunc mortuo; de tempore et die requisitus, dixit quod inter festum omnium sanctorum et adventum Domini, die sabbati circa horam primam; dixit etiam quod portavit puerum cum patre et matre ad ecclesiam.

<sup>a</sup> Written at the top right of the MS.

sacro fonte  
 uod nomen  
 as Rufus et  
 ctum filium  
 oximo post  
 od quattuor

John le Vanur, sworn, said that he took the son of Elias and Agnes from the sacred font, and in the same hour the aforesaid Isabel took him as the co-mother of Agnes.<sup>1</sup>

Thomas Rufus, sworn, said the same in every respect as John, adding that he gave the boy his name.

Ulviva, a woman, sworn, said that she was present when John le Vanur and Thomas Rufus and the aforesaid Isabel and a certain other woman by the name of Arnilda,<sup>2</sup> took at the same time the said son of Agnes from the holy font, who had been baptized by a chaplain named Adam on the Sunday next after the feast of All Saints (1 Nov.).

Isabel said the same as Ulviva, except that she does not recall the day, adding that she gave four pence to the boy which she sent to Agnes, the mother of the boy.

<sup>1</sup> *commater Agnetis*; it is possible the clerk has omitted the word 'filii', but in addition to the meaning 'godmother' we also find in the legal sources 'commater' and 'conpater' used literally to describe the relationship between natural and godparents. *E.g.*, C. 30, q. 4.

<sup>2</sup> The Statutes of Canterbury I (1213 X 1214), c. 30 provided that in the baptism of a male child there should be three godparents, two men and one woman. P & C, *Councils*, i, p. 31.

#### A.9. RICHARD SUEL

##### Introduction (*cont'd*)

in both secular and canon law, was not an offence for which the bastard could be punished. It is thus unlikely that accusation in the criminal sense was involved. It is more likely that some third party alleged Richard's bastard status in an action either in the Christian or secular courts. Compare the *accusatio matrimonii* to annul a marriage. Esmein, *Marriage*, i, pp. 403-27. For a later and much fuller case of bastardy, see p. 612 below.

<sup>3</sup> Hugh le Poor (Poer) held several manors in Worcestershire about the middle of the 12th century. *VCH Worcester*, iii and iv, *passim*. The name le Poor (Poherius) appears on the Pipe Roll for 1175-6 *Pipe Roll 23 Henry II, 1176-1177*, ed. J. H. Round, Pipe Roll Society, 26, (London, 1905), p. 66, and in the *curia regis* roll for Michaelmas, 1199, Stenton, *Pleas*, i, no. 2349. A son of Hugh le Poor claimed half of the vill of Rumerli in the year 1200. *CRR*, i, p. 215.

<sup>4</sup> Romsley (Rumerli), co. Worcester.

##### *Depositions on behalf of Richard Suel*

Witnesses of Richard Suel, accused of bastardy. First production of Richard Suel.

Oviet de Festa, sworn, said that he was present when Fulk betrothed Edith, the mother of Richard accused of bastardy, before Hugh le Poor and before his household, and afterwards he had her as his for a year and begot on her this Richard. A year later he was again present when matrimony was solemnly celebrated between them in the church of Romsley. Asked by which priest, he said by William, now dead. Asked about the time and day, he said that it was between the feast of All Saints and the advent of the Lord,<sup>1</sup> on a Saturday near the first hour. He said also that he carried the boy with his father and mother to the church.<sup>2</sup>

<sup>1</sup> 1 November—about 30 November.

<sup>2</sup> Even if the previous espousal had not been a valid marriage the church would claim that a child born before the marriage was legitimized by their subsequent marriage before a priest. See Alexander III in *Quinque compilationes antiquae*, ed. A. Friedberg (Graz, 1956), Comp I<sup>a</sup>, lib. 4, tit. 18, c. 6 (= X 4.17.6): 'Tanta est vis matrimonii ut qui antea sunt geniti, post contractum matrimonium legitimi habeantur'; *Grosseteste Epistolae*, p. 89; see also Esmein, *Marriage*, ii, pp. 39-44, and Pollock and Maitland, ii, pp. 375-7. For the difference between canon law and the practice of the king's court see P & C, *Councils*, pp. 198-9; R. H. Helmholz, 'Bastardy Litigation in Medieval England', *American Journal of Legal History*, 13 (1969), pp. 360-83; introd. pp. 84-6.

father, Fulk,  
 er Richard's  
 of the see of  
 sion of Bishop  
 ed disabilities

rem Ricardi  
 dum habuit  
 nterfuit ubi  
 isitus a quo  
 quod inter  
 mam; dixit



Godefridus, iuratus, dixit idem per omnia quod Ovietus, adiciens quod minor fuit ibi cum patre suo qui ad idem negocium fuit vocatus.

Thomas filius Godefridi, iuratus, dixit idem per omnia quod Ovietus.

Osbertus capellanus, iuratus, dixit quod Fulco Suel desponsavit matrem Ricardi accusati eius consilio in predicta ecclesia, et de ceteris circumstantiis idem quod alii.

Tercia et ultima productio.

Adam Tugge iuratus dixit quod audivit ab E. vicino suo quod Fulco desponsavit Edit [*sic*]. Requisitus quomodo scit hoc, dicit se vidisse uxorem vicini sui parare presentum ad portandum ad nuptias; de tempore dicit die sabbati inter festum omnium sanctorum et natale Domini, et dicit quod postea vidit eam recuperare dotem suam per breve domini regis, mortuo viro suo.

#### A.10. ALAN DE CARLTON *c.* W. WIDER

Diocese of Lincoln (?)

*c.* 1200

A CASE OF VIOLENCE TO A CLERK

Alan de Carlton,<sup>1</sup> who is described as a deacon or parson and was therefore protected by the Church, claims to have been assaulted by a layman, W. Wider.<sup>2</sup> The fact that Bishop Hugh of

<sup>1</sup> The name, Alan de Carleton, appears on the plea rolls in 1199 and 1200, but he is not described as a clerk. Stenton, *Pleas*, i, no. 2401, p. 216; no. 2894, p. 271.

#### E.S. Roll no. 40ii

[Endorsed] Attestationes Alani diaconi contra W. Viderun.

Hii sunt testes pro Alano de Karleton: Robertus capellanus, Nicholaus, Willelmus, Ricardus blundus, Radulfus, Johannes,<sup>a</sup> Robertus filius Hugonis, Hosbertus brunus, Hugo faber.

Robertus capellanus, iuratus, dixit quod vidit ubi W. Widerus proiecit Alanum personam ad terram in cimiterio die lune post Pentecosten post celebrationem misse, et audivit a pluribus quod ipse W. percussit Alanum cum pugno. Requisitus utrum Robertus filius W. manum posuerit in Alanum, dicit se non vidisse ipsum R. posuisse manum in Alanum.

Nicholaus, iuratus, dicit quod vidit A. personam iacentem in terra. Set nescit quomodo cecidit nec vidit predictum W. vel Robertum manum imponere in ipsum Alanum, set audivit ab aliis quod predictus W. percussit Alanum.

Willelmus, iuratus, dicit quod audivit ab aliis quod W. proiecit Alanum in terram et quod percussit eum. Sed de Roberto nichil audivit.

Ricardus blundus, iuratus, dicit idem quod Willelmus per omnia.

Radulfus, iuratus, dicit idem quod Robertus capellanus per omnia.

Johannes, iuratus, dicit idem quod Nicholaus per omnia.

Robertus filius Hugonis, iuratus, dicit quod vidit W. trahere Alanum per pallium, set non vidit eum percutere ipsum A. Set ab aliis audivit.

Hosbertus, iuratus, dicit idem quod Nicholaus per omnia.

Hugo faber, iuratus, dicit idem quod Robertus capellanus per omnia.

<sup>a</sup> Ricardus deleted

Godfrey, sworn, said the same thing in every respect as Oviet, adding that he, a minor, was there with his father who was called to the same business.

Thomas, son of Godfrey, sworn, said the same thing in every respect as Oviet.

Osbert, a chaplain, sworn, said that Fulk Suel espoused the mother of Richard, accused, at his advice in the aforesaid church, and concerning the other circumstances he says the same as the others.

Third and last production.

Adam Tugge, sworn, said that he heard from E. his neighbour, that Fulk espoused Edith. Asked how he knows this, he says that he saw the wife of his neighbour preparing a gift to bring to the wedding. Concerning the time he says on a Saturday between the feast of All Saints and Christmas,<sup>1</sup> and he says that afterwards he saw her recover her dower by writ of the lord king when her husband was dead.

<sup>1</sup> 1 November-25 December.

#### A.10. ALAN DE CARLETON c. W. WIDER

##### Introduction (*cont'd*)

Grenoble died on 16 November, 1200, leaving the see of Lincoln vacant, may explain why the depositions printed below are among the documents in Canterbury.

<sup>2</sup> In 1201 a W. Wider served as champion in Leicestershire. *CRR*, ii, p. 6. The name Walter Wider also appears on the Pipe Roll for 1200 when he owed a mark for false appeal in Hunts. *Pipe Roll 2 John, 1200*, ed. D. M. Stenton, Pipe Roll Society, n.s. 12, (London, 1934), p. 167.

##### *Depositions on behalf of Alan de Carleton*

[Endorsed] Attestations of Alan, the deacon, against W. Wider.

These are the witnesses for Alan de Carlton:<sup>1</sup> Robert, a chaplain; Nicholas; William; Richard Blundus;<sup>2</sup> Ralph; John; Richard; Robert, son of Hugh; Osbert Brunus; Hugh Faber.

Robert, a chaplain, sworn, said that he saw W. Wider throw Alan, the parson, to the ground in the cemetery on Monday after Pentecost after the celebration of mass, and he heard from many that the same W. struck Alan with his fist. Asked whether Robert, son of W., put his hand on Alan, he says that he did not see R. put his hand on Alan.

Nicholas, sworn, says that he saw A., the parson, lying on the ground but he does not know how he fell, nor did he see the aforesaid W. or Robert lay hand on the said Alan, but he heard from many that the aforesaid W. struck Alan.

William, sworn, says that he has heard from many that W. threw Alan to the ground and that he struck him. But he had heard nothing of Robert.

Richard Blund, sworn, says the same as William in every respect.

Ralph, sworn, says the same as Robert, the chaplain, in every respect.

John, sworn, says the same as Nicholas in every respect.

Robert, son of Hugh, sworn, says that he saw W. pull Alan by the cloak, but he did not see him strike the same A., but he heard it from others.

Osbert, sworn, says the same as Nicholas in every respect.

Hugh Faber, sworn, says the same as Robert the chaplain, in every respect.

<sup>1</sup> Carlton, co. Lincs. or Leics.

<sup>2</sup> A Richard Blund appears on the plea rolls as an attorney in Lincs. and as a party in Leics. Stenton, *Pleas*, iii, no. 1474, p. 220; no. 1516, p. 224 (both 1205); *CRR*, vii, p. 20 (1213).