

FRAGMENTS FROM A LOST
COURT OF ARCHES ACT BOOK,
1445–1446*

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THE vast majority of extant texts produced in England in the Middle Ages —“perhaps more than 90% of the surviving handwritten products of medieval England,” as Andrew Prescott has recently argued—are not literary manuscripts or Bibles or other books produced for the pleasure and edification of the reading public, but instead administrative documents and records, which were turned out in astonishing quantities by government offices, secular and ecclesiastical courts, and local or regional as well as national bureaucracies. To quote Prescott again, “If industrial England echoed to the sound of the steam hammer and the loom, medieval England resonated with the scratching of quill on parchment.”¹ Vast collections of such documents, as yet incompletely studied, exist in records offices and similar archives, and others are still coming to light, sometimes in unexpected contexts. This article reports the recovery of two fragments of a lost fifteenth-century Act Book of the

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The following abbreviations are used in this article:

BRUC = A. B. Emden, *A Biographical Register of the University of Cambridge to 1500* (Cambridge, 1963)

BRUO = idem, *A Biographical Register of the University of Oxford to A.D. 1500*, 3 vols. (Oxford, 1957–59)

Logan, *Arches* = F. Donald Logan, *The Medieval Court of Arches*, Canterbury and York Society 95 (Woodbridge, 2005)

ODNB = *Oxford Dictionary of National Biography*, 60 vols. (Oxford, 2004)

¹ Andrew Prescott, “Administrative Records and the Scribal Achievement of Medieval England,” in *English Manuscript Studies 1100–1700*, vol. 17, ed. A. S. G. Edwards and Orietta Da Rold (London, 2012), 180, 190.

Court of Arches, which was the principal ecclesiastical court in medieval England from the mid-thirteenth century onwards. The fragments, edited here on pp. 194–201, are the only known remnants of the medieval Act Books of that court.

The Court of Canterbury (*curia Cantuariensis*), popularly known as the Court of Arches (*curia de arcubus*) since it sat in Bow Church (*ecclesia de arcubus*) in the city of London,² held its position of prominence because it served as the appellate court of the ecclesiastical province of Canterbury, which included eighteen dioceses in England and Wales. This court heard all sorts of ecclesiastical appeals. Generally there were two kinds of appeals, those from the sentence of a lower court and those from an alleged harm (*a gravamine*). The latter could be either judicial (e.g., the judge rejected certain witnesses) or extrajudicial (e.g., a rector was deprived of his benefice). Extrajudicial appeals could also be from an anticipated or threatened *gravamen* (e.g., by a rector who suspected that he was about to be deprived), in which case the appeal was called a *provocacio*. In addition, however, there were tuitorial appeals, which were, in fact, a set of two appeals: one to the Apostolic See in Rome about the matter at issue and one to the archbishop's court for protection (*pro tuicione*) for one year in which to proceed with the appeal to the Apostolic See. Tuitorial appeals could be made by anyone at any time from any court and did not need to follow a route through the hierarchy of church courts, as did other appeals. The Court of Arches, with its manifold responsibilities, survived the changes of the Henrician reformation, though with the loss of tuitorial appeals since cases from England were no longer sent to Rome. After the Great London Fire (1666) the court held its sessions in various locations. It now normally sits again in Bow Church.³

The central records of the proceedings of the Court of Arches for the medieval period have been lost—though they were not, as once thought, victims of the Great London Fire, which largely destroyed Bow Church (it was subsequently rebuilt by Christopher Wren). A crucial witness in this regard is Sir Leoline Jenkins (1625–85), a prominent lawyer, diplomat, Privy Council member, and sometime principal of Jesus College, Oxford, who wrote, “All the Books of Acts, and all the Sentences, since the beginning of Edward 6ths time (for there were no Ancienter Extant),” were “Consum'd by the late

² The church was (and is) also known as St. Mary le Bow (*ecclesia beate Marie de arcubus*). For the history of the court and its procedure, see Logan, *Arches*, and also idem, “The Court of Arches in the Church of Arches, 1251–1666,” in *St Mary-le-Bow: A History*, ed. Michael Byrne and G. R. Bush (Barnsley, South Yorkshire, 2007), 153–68.

³ We thank Charles George, Q.C., Dean of the Arches, for this information.

Fire.”⁴ From this observation it would appear that at the time of the fire there were already no medieval records at the court. Jenkins would have been in a position to know, because he was an advocate of the court by November 1664 and is said to have served as assistant to the Dean (if not himself as Dean) of the Court of Arches within a few years of the fire.⁵ Records for the archbishop’s court during the period when this see was vacant in 1270–73 were preserved at Canterbury, where cases were heard during the vacancy; these records include some rolls of *acta*.⁶ Also, twelve volumes of the court’s sixteenth- and seventeenth-century documents prior to the Restoration are known, including an Act Book for 1635–36, as well as more recent materials.⁷ Given the voluminous extant archives from England’s common law courts beginning in the thirteenth century,⁸ however, the lack of surviving medieval

⁴ Oxford, Bodleian Library Add. C. 302, fol. 143, quoted in M. Doreen Slatter, “The Records of the Court of Arches,” *The Journal of Ecclesiastical History* 4 (1953): 140.

⁵ While accounts of the timing and of Jenkins’s role differ, the Subscription Book of Doctors’ Commons indicates that he was admitted as an advocate of the Court of Arches by 11 November 1664; G. D. Squibb, *Doctors’ Commons: A History of the College of Advocates and Doctors of Law* (Oxford, 1977), 180. William Wynne—explaining that he is using papers left to him by his father, Owen Wynne, who had served as Jenkins’s secretary—states that in 1663 [*sic*] Jenkins was admitted to Doctors’ Commons [the association of lawyers who practiced in the ecclesiastical courts], and was recommended to practice in the Court of Arches, and “Here he was immediately made a Deputy or Assistant to Dr. *Sweit*, Dean of the Court of Arches”; *The Life of Sir Leoline Jenkins*, 2 vols. (London, 1724), 1:xii. Roger North, who describes Jenkins as “the most faithful Drudge of a Secretary, that ever the [Royal] Court had,” lists Jenkins’s many offices, including “For he was Dean of the Arches...”; *The Life of the Right Honourable Francis North, Baron of Guilford ... wherein are inserted the characters of ... Sir Leoline Jenkins, Sidney Godolphin, and others, the most eminent lawyers and statesmen of that time* (London, 1742), 229. Alan Marshall, in *ODNB* (accessed 12 August 2014), indicates that “in 1668 he was admitted to Doctors’ Commons and was appointed assistant to the dean of the court of arches.” David J. Ll. Davies, in the *Dictionary of Welsh Biography* (accessed 12 August 2014), indicates that “in 1663 he was made deputy to the dean of the Court of Arches, and soon afterwards he succeeded to that office.”

⁶ Among the Ecclesiastical Suit Rolls for this vacancy there are some continuous *acta* (i.e., rolls with more than one case). For these records, see Norma Adams and Charles Donahue, Jr., eds., *Select Cases from the Ecclesiastical Courts of the Province of Canterbury, c. 1200–1301*, Selden Society 95 (London, 1981), intro., 17; and Charles Donahue, Jr., ed., *The Records of the Medieval Courts, Part II: England* (Berlin, 1994), 45–46. A few stray original out letters from the Court of Arches are bound in a manuscript at the Inner Temple (London, Inner Temple Library, Petyt MS 5/3).

⁷ See Slatter, “Records of the Court of Arches,” 140–41.

⁸ In addition to the Court of Common Pleas and the King’s Bench, for example, in London there were also the Court of Husting, the Mayor’s Court, and the Sheriff’s Court, on which see Penny Tucker, *Law Courts and Lawyers in the City of London, 1300–1550* (Cambridge, 2007). A sense of the magnitude of extant documents may be suggested by an online archive that summarizes records of “approximately 6,300 pleaded cases, involving over 30,000 individuals

records for the Court of Arches is a cause of regret—relieved now in part by the fortuitous recovery of fragments of an Act Book of the Arches dating from the mid-fifteenth century, the only known such fragments.

The recovery of these fragments, published here, has been fortuitous because they appear not in a law collection of any sort but as two flyleaves added at the end of a fifteenth-century manuscript of an English verse chronicle, now in a German university library.⁹ The chronicle with which they are bound, written in a northern English dialect that would be consistent with a Yorkshire origin, is by convention called *Castleford's Chronicle*, since the name “Thomas Castleford” appears on the first folio; however, there is no firm evidence that someone bearing that name was its author.¹⁰ Some loss of text at the edges of the two final folios of the manuscript with the Court of Arches material (fols. 222–23) indicates that these folios were added at the time of rebinding and were trimmed in order to make them match the dimensions of the main part of the manuscript containing the chronicle. An annotation on the verso of the previous folio (fol. 221), which is mostly blank and was the final folio before the rebinding, shows that in the third quarter of the sixteenth century the manuscript was in the possession of Matthew Wentworth (ca. 1500–1572) of West Bretton in West Yorkshire.¹¹

The manuscript was subsequently owned by Nathaniel Johnston (ca. 1629–1705), a Yorkshire physician, book collector, royalist, and antiquarian who

and 8,000 events” that involved “London litigants or disputed events supposed to have taken place at London, heard before the Court of Common Pleas in the years 1399–1409, 1420–1429, 1445–1450, 1460–1468, 1480 and 1500”; Jonathan Mackman and Matthew Stevens, “Introduction to the edition, Court of Common Pleas: the National Archives, Cp40 1399–1500,” *British History Online*, London, Centre for Metropolitan History, 2010, Web, 17 December 2014, <http://www.british-history.ac.uk/no-series/common-pleas/1399-1500/introduction>.

⁹ The Court of Arches fragments are in Göttingen, Niedersächsische Staats- und Universitätsbibliothek 2^o Cod. Hist. 740 Cim., fols. 222r–223v. An early study of the manuscript is M. I. Perrin, *Ueber Thomas Castleford's Chronicle* (Boston, 1890), which was the basis for the library's catalogue entry (Wilhelm Meyer, ed., *Die Handschriften in Göttingen*, 3 vols. [Berlin, 1893; rpt. Hildesheim and New York, 1980], 2:253–4). The *acta* folios are briefly noted in these descriptions. On the history of the manuscript, see Caroline D. Eckhardt, “The Manuscript of *Castleford's Chronicle*: Its History and Its Scribes,” in *The Prose Brut and Other Late Medieval Chronicles: Books Have Their Histories*, ed. Jaclyn Rajsic, Erik Kooper, and Dominique Hoche, *Manuscript Culture in the British Isles* (York, 2016), 199–217.

¹⁰ The chronicle, tentatively dated to 1327, has been edited in full by Caroline D. Eckhardt: *Castleford's Chronicle, or, the Boke of Brut*, 2 vols., Early English Text Society, o.s. 305–6 (Oxford, 1996). A partial edition appeared in 1940 (Frank Behre, ed., *Thomas Castleford's Chronicle*, 2 vols. [Göteborg, 1940]).

¹¹ For details on the identification of Wentworth by F. Donald Logan, see Eckhardt, “Manuscript of *Castleford's Chronicle*,” 207–8.

spent part of his time in Westminster; he added copious marginalia to several folios in the early parts of the chronicle. Given the fact that two Westminster annotations also appear on fol. 221v, it seems likely that Johnston brought this manuscript with him from Yorkshire to his household in Westminster, and that it was rebound and the *acta* folios added during his years there or shortly after his death.¹² It had certainly been rebound and included these folios by June 1786, when it was sold at auction in Hanover and purchased by the university library in Göttingen, as part of a collection of books that had belonged to Christian John Sullow († January 1786). An Englishman who enrolled as a university student at Göttingen in 1756, Sullow stayed on in Germany after his studies, serving as a minor British official in the town of Hameln.¹³

How these two Act Book folios came into the hands of Nathaniel Johnston, his heirs, Christian John Sullow, or, as is much more likely, a London or Westminster bookbinder one can only speculate. According to Sir Leoline Jenkins, as we have seen, at the time of the fire of 1666 there were at Bow Church no records of the court prior to the beginning of the reign of King Edward VI (1547). What happened to the earlier records may never be known, but these two folios, containing *acta* from 1445 and 1446, at some point became detached from the court's central archive, as no doubt did others, and thus in the late seventeenth or eighteenth century they provided material for the rebinding of a fifteenth-century copy of a fourteenth-century vernacular chronicle.

Given that the *acta* recorded in these folios have no apparent relevance to the content of the chronicle, their presence in the manuscript, as with many other examples of textual material being used as physical supports in the form of endpapers, binding strips, pastedowns, etc., may reflect simply the binder's opportunistic choice among available pieces of parchment.¹⁴ The two folios,

¹² He died in Westminster in 1705. For Johnston and his books, see the article by Mark Goldie in *ODNB* and the references in Eckhardt, "Manuscript of *Castleford's Chronicle*," 208–13.

¹³ One of these Westminster annotations on fol. 221v refers explicitly to Westminster Abbey. The other cites an inscription (no longer visible now) that was then located near a tomb in the abbey's south ambulatory; the inscription, also cited by Camden and others, relates to the legend that the first Christian church on that site had been founded by the East Anglian king Sebert († ca. 616). For details on these annotations, on Sullow, and other aspects of the history of the manuscript, see Eckhardt, "Manuscript of *Castleford's Chronicle*," 210–16.

¹⁴ Indeed, if it were possible to ascertain who the binder was, and to locate other surviving books that the same binder bound, they might be examined to see whether they too perhaps include remnants of the lost Court of Arches records. Attempts to identify likely binders in London and Westminster have not so far been successful. The current binding of the manuscript is

now separate, could possibly have formed a single sheet of the same quire, although not the topmost bifolium because of the substantial gap in the dates of the court sessions that each folio records. As a sample, fol. 222r is reproduced below.

What were these appeals to the archbishop's court about? Often, as with Act Book entries of other ecclesiastical courts, the record is so brief that it is difficult or impossible to tell, but sometimes a glimpse of the preoccupations underlying litigation is apparent. What we will call Fragment A (fol. 222r–v) contains the acts of the court for Thursday, 21 October, and for Saturday, 23 October 1445, with the latter record incomplete and ending in mid-session. The court did not sit on the intervening Friday. On the first of these days, six cases were heard, with the Official of the Court of Arches presiding.¹⁵ The first case—Cuseux c. Spyce, with no details given about their dispute—was summarily continued to the following Saturday, 23 October.¹⁶ In the second case, Eton c. Wylmyn,¹⁷ the proctors for each of the parties rehearsed orally what had already happened,¹⁸ and, at the request of Eton's proctor, the court assigned Friday, 5 November, for a third production (presentation) of proofs, although his adversary dissented, protesting the delay, possibly referring to a delay from a second production of proofs. In the third case, Waltham c. Spaldyng, with the consent of both parties the Official assigned each of them to appear on Friday, 29 October, for their opportunity to speak against the proceedings of the lower court, which had been transmitted to the Court of Arches.¹⁹ Master William Spaldyng is identified here as the Official of the Ely consistory court.²⁰ This case may well have concerned the vicarage of Babraham, Cambs., since (the report continues) the letters of proxy exhibited

modern; we thank Helmut Rohlfing for examining the Library's records in Göttingen and indicating that the binding probably dates from after World War II.

¹⁵ The "Official" (*officialis*) was the principal officer of the court and its presiding judge, though the archbishop might also assign him other duties; Master William Byconyll was the Official 1444–48 (see Logan *Arches*, xvi, 200).

¹⁶ In the portion of the *acta* for that day which we have, this case does not appear. The parties have not been identified.

¹⁷ The parties to this case have not been identified.

¹⁸ The proctors were officers of the court and authorized to practice exclusively there; from 1295 onwards, their number was to be restricted to ten. See Logan, *Arches*, 218–23. In this case the proctors were Master Robert Kent for Eton and Master John Lord for Wylmyn. For Kent, see *BRUO* 2:1037.

¹⁹ Waltham is otherwise unidentified but may have been Thomas Waltham, a doctor of theology (*BRUO* 3:1975). He was represented by Master Robert Kent and Spaldyng by Master John Lord.

²⁰ Spaldyng later became Examiner General of the Court of Arches and later still Dean of the Arches (see *BRUC*, 543–44; and Logan, *Arches*, 203, 206).

by Spaldyng's proctor, John Lord, indicated that he was also representing Richard Luk, vicar of that church.²¹ That Lord was representing both Luk and Spaldyng, who is named as the appellee, suggests that this may have originally been an *ex officio* case in the Ely court brought against Waltham with Luk as its promotor.²²

Three further cases were heard on 21 October. In the first of these, the fourth for the day, which is marked in the margin as "contempt of Glaston," Master William Dorant, proctor of Walter Paderun, claimed that Paderun was owed costs in the amount of 26s. 8d. by a certain John Glaston.²³ The Official gave Glaston eight days in which to pay; otherwise, he was to appear in the Arches to show cause why he should not be excommunicated. Given the marginal annotation of contempt, the amount claimed may have been related to Glaston's possibly non-appearing in a previous case brought against him by Paderun, for which the latter's proctor is now demanding costs.

The fifth appeal treated on 21 October concerned the removal of William Russell, vicar of East Pennard, Somerset, from his benefice. Russell had lodged an appeal against Robert Stillington, chancellor of Thomas Becketon, the bishop of Bath and Wells.²⁴ Although two proctors, whose names we have seen before, represented the parties—Lord for the appellant and Kent for the appellee—a third proctor of the Arches, Master John Deye, presented letters of proxy from the bishop of Bath and Wells and asked the court's permission to admit an article, which is quoted in full, asserting the bishop's interest in the case. This article protested that the court was not competent to hear the case and should cease to do so. Further, the bishop claimed, if the court failed to desist, that would constitute a grievance (*grauamen*), against which he would appeal. The Official assigned discussion of the matter for Saturday, 23 October, and, at the appellant's request, agreed to give a definitive sentence on Friday, 29 October, to which his adversary's proctor objected, asserting that the appeal brought by Russell should instead be dismissed.²⁵

This jurisdictional quarrel did not end there, as we know from other sources: an appeal was made to the Apostolic See by another party, the abbot of Glastonbury, who claimed that his rights in this matter had been violated by the bishop of Bath and Wells, on the grounds that presentation to the bene-

²¹ For more on this appeal, see p. 191 below.

²² We are grateful to Professor Donahue for this suggestion.

²³ Walter Paderun was possibly the same person as the Cambridge Master of Arts of that name (*BRUC*, 439).

²⁴ For Stillington, see *BRUO* 3:1777–78.

²⁵ The *acta* that we have for the court's session of 23 October are not complete and make no mention of this case.

vice at East Pennard belonged to the abbot. On 27 September 1446, nearly a year after these proceedings in the Court of Arches, the pope wrote to the archbishop of Canterbury, directing him to summon both parties and decide the matter once and for all, with no possibility of further appeal. The court may have found in favor of the bishop, since Russell does not seem to have been restored; his successor, Master Thomas Fairman, continued as vicar of East Pennard until he retired in 1461.²⁶

The day's session at the Court of Arches on 21 October ended with a sixth case, a brief appearance of the longstanding controversy between John Macworth, dean of Lincoln cathedral, and his chapter. Dean Macworth had been in frequent conflict with his fellow canons since his appointment some thirty years earlier, in 1412.²⁷ Although in 1443 he had appealed to the Arches in a dispute with William Alnwick, bishop of Lincoln, over new statutes for the cathedral, alleging grievances (*grauamina*) by the bishop's commissary,²⁸ this present entry appears to concern a later appeal, since the appealed party was now Peter Partrich, chancellor of Lincoln cathedral and an old adversary of Macworth, with whom he had physically come to blows.²⁹ In the appeal recorded here, a proctor of the court, Master John Wybbury, presented letters sealed by the Official of the archdeacon of London to the effect that Macworth had failed to obey warnings and had been cited to appear. The judge in the Arches, at proctor Wybbury's request, continued the matter as it stood to Saturday, 23 October.

The record of the court's session for Saturday, 23 October, to which several items had been continued, is incomplete. In the only case that Fragment A preserves for this session, concerning Wretham c. Skernyng, with the Official of the court presiding, the basic matter at issue is not made clear. It is said that Wretham, although he had been frequently cited and awaited for a long time, had failed to appear. The Official declared Wretham contumacious and imposed on him the penalty for contumacy, which could have been suspension or excommunication, but the record does not specify. Skernyng's proctor,

²⁶ *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland* (London and Dublin, 1893–), 9:571; *The Register of Thomas Bekynton, Bishop of Bath and Wells, 1443–1465*, ed. H. C. Maxwell-Lyte and M. C. B. Dawes, 2 vols., Somerset Record Society 49–50 (1934–35), 1:xxxii and no. 1399.

²⁷ For a description of this controversy, see A. Hamilton Thompson, *The English Clergy and Their Organization in the Later Middle Ages* (Oxford, 1947), 90–97. For Macworth, see also *BRUO* 3:2193–94 and Margaret Bowker's article in *ODNB*.

²⁸ *Statutes of Lincoln Cathedral*, ed. Henry Bradshaw and Christopher Wordsworth, 2 vols. (Cambridge 1892–97), 2:460–2.

²⁹ On 28 June 1435 Dean Macworth and a band of armed men physically attacked Partrich during Vespers in a crowded cathedral (*ibid.*, 280–81).

Master John Wybbury, requested payment of costs, and, at his request, the Official continued the case to the following Monday, 25 October. The letter certifying Wretham's citation bore the seal of the deanery of Blofield in Norfolk, which suggests that Wretham lived in that county and in Norwich diocese.³⁰

Fragment B (fol. 223r–v) contains the full record of the court for Wednesday, 15 December, and for Friday, 17 December; one item for an extraordinary session held on Wednesday, 22 December 1445; and the heading only for the session on Friday, 14 January 1446. On the first of these days the court met only briefly, revoking the grievances (*grauamina*) alleged and proven in the case of Waltham c. Spaldyng, and declaring its jurisdiction in the principal matter that was in dispute. This appeal had appeared in the *acta* for 21 October, as we have seen, when it was continued to 29 October. What happened between then and 15 December can only be surmised, but it is clear that at some point one of the proctors had brought forward grievances. The Official, at the request of Waltham's proctor, also condemned Master William Spaldyng to pay the legitimate expenses of the appellant, the amount to be determined by the Official or another judge presiding in the court; his adversary's proctor dissented.³¹

Two days later—the court not sitting on the intervening Thursday, 16 December—two matters were considered. In Wythwell c. Yonge, the presiding judge, John Stevenes, Examiner General of the court, with the consent of the opposing proctor, admitted a *factum contrarium* that had been presented by the proctor for John Yonge and also assigned a day (17 January 1446) for the first production of evidence.

In the second case we meet again two adversaries from October: the abbot of Glastonbury, Nicholas Frome, appealing against the bishop of Bath and Wells, Thomas Beckington, now engaged in a new dispute.³² The matter at issue this time, on 17 December, was the bishop's visitation of the monastery about half a year earlier. From other sources we know that on 10 June 1445 the bishop had inhibited the abbot from acting (forbidden him to continue

³⁰ The last line of this side has been trimmed but seems to introduce a new case with Master Robert Kent as one of the proctors. The Norfolk context for Wretham and Skernyng is confirmed by a Chancery document of 1443, which may or may not concern some aspect of the same dispute between them: "Copy of writ of prohibition to official of bishop of Norwich for plea of covenant on lay contract between John Wretham of Langley, alderman of guild of St. Michael, Langley, and Thomas Skernyng, parson of Wickhampton, and John's libel" (National Archives, <http://discovery.nationalarchives.gov.uk/details/r/C6718312>, document ref. C 270/27/19). We thank Danielle Netzer for locating this document.

³¹ The proctor for Waltham was Master Robert Kent with Master John Lord representing Spaldyng.

³² Kent represented the abbot and John Deye the bishop.

acting) as he was alleged to have done during the bishop's visitation. Bishop Beckington had begun his visitation, allegedly discovered abuses that needed correction, and then left, claiming the pressure of other business. In the bishop's absence Abbot Frome took action, which led to the bishop's letter of inhibition.³³ At some point, either after the inhibitory letter of 10 June or, less likely, after the visitation was resumed on 14 September (by the vicar general in spirituals), Abbot Frome appealed by way of *querela* to the Court of Arches, claiming a grievance (*grauamen*) against Bishop Beckington, no doubt for infringing the abbot's authority in his own monastery. In the Arches, Abbot Frome's proctor now sought to proceed to a concluding session followed by a judgment; this the judge granted. His adversary's proctor sought instead that the inhibitory letter mentioned in the *querela*—as well as the testimony of witnesses also mentioned in the *querela*—be exhibited and copies provided. He also sought a session in which to reply to them. The judge revoked his earlier decision and assigned Bishop Beckington's proctor a day (14 January 1446) to speak against the testimony of the witnesses. Abbot Frome's proctor then asked the judge to proceed no further in the matter of the *querela* (i.e., he ought to recuse himself), because the abbot suspected the judge of being biased.

These two appeals having been treated, the commissary general then declared the court adjourned to 14 January for its Christmas vacation, all matters undecided being carried over.

Despite the adjournment on 17 December, the court met again a few days later, on 22 December, in what can be called an extraordinary session.³⁴ At about nine o'clock in the morning a certain John West appeared before John Stevenes, the Examiner General who was presiding over the court. West had brought a *querela* to the court concerning his alleged defamation by Maud Burley, wife of John Burley of the city of London. West presented a certificatory letter sealed by the commissary general of the dean and chapter of St. Paul's Cathedral, London, to the effect that, although Maud Burley had been peremptorily cited and waited for, she had failed to appear. The judge in the Arches, at West's instance, pronounced her contumacious and excommunicate, and a document to this effect was produced.

Fragment B ends with the heading for the session of the court for 14 January 1446, with the Official of the court, Master William Byconyll, presiding.

³³ *Official Correspondence of Thomas Bekynton*, ed. George Williams, 2 vols., Rolls Series 56 (London, 1872), 2:338–9; *Register of Thomas Bekynton*, 1, no. 120.

³⁴ According to the calendar the last day of the term was 17 December (Logan, *Arches*, 228).

It then includes one line of the first case to be heard, a case of contempt brought by a certain Loughton against a certain Emersham, and there our text breaks off.

It would clearly be inappropriate to make generalizations about the Court of Arches on the basis of the actions recorded in these two stray fragments, but some observations can be offered. First, in terms of its procedures, the court did not necessarily sit on every *dies sessionis*. From what we have seen, the court did not meet on Friday, 22 October, or on Thursday, 16 December 1445, neither of which days appear as *dies non sessionis* in the calendar.³⁵ Whether this was because its administrators did not determine that there was enough important business to require sessions on these days, or because other contingencies, such as the absence of essential participants, may have intervened, we cannot now know. The extraordinary session held to hear the appeal against Maud Burley, who had failed to appear to answer a charge of defamation, is also somewhat surprising, since it is not clear why that matter was more urgent than many of the other cases that awaited more regular scheduling.

Second, these folios provide a useful glance at some of the court's personnel. In these records, the presiding judge on four of the six days for which we have evidence was the Official of the Court of Arches; on the other two days the presiding judge was the Examiner General of the court, implying that on those days both the Official and the Dean were absent.³⁶ It is of course not possible to know whether that frequency of absence was typical or not. Also, five proctors, or half the court's personnel in this category (if it indeed had the statutory ten), took part in the proceedings on these days: John Lord, Robert Kent, William Dorant, John Deye, and John Wybbury, with Kent and Lord appearing most often; all were Masters of Arts.³⁷

Substantively, although sometimes the underlying matter at issue in these cases is stated, in other instances it is left unclear or not deemed worthy of recording. There was the deprivation of a benefice in the Russell case and possibly in another case (Waltham c. Spaldyng), and a question of episcopal jurisdiction in the case involving the abbot of Glastonbury and the bishop of Bath and Wells. Defamation was claimed in the West appeal, and violation of authority in another (Glastonbury). Mostly the *acta* deal with procedural

³⁵ Ibid.

³⁶ In the absence of the Official and the Dean of the Arches, one of the two Examiners General could act as commissary (Irene Josephine Churchill, *Canterbury Administration: The Administrative Machinery of the Archbishopric of Canterbury Illustrated from Original Records*, 2 vols. (London, 1933), 1:447, 2:189.

³⁷ All except Wybbury should be added to the list of proctors in Logan, *Arches*, 222.

matters such as failure to appear and, on two occasions, with payment of legal fees. None of these cases seems to have been based on a matter of personal religious practice or belief or on the legalities of personal relations such as marriage, over which church courts had jurisdiction. Those who brought cases to the court or were named in them represent a considerable social range, including great and small, from holders of positions of authority—a bishop and an abbot—to ordinary people (among them one woman), whom it may now not be possible to identify.

It should be noted that except for John West's case against Maud Burley, in which she was pronounced contumacious and excommunicate, no definitive sentences were given on any of these days, although a day was set for a definitive sentence in Russell c. Styllington. From these records one gets the impression of a slow, lengthy process normally at work in the Court of Arches in the mid-fifteenth century.

TEXT

(Göttingen, Niedersächsische Staats- und Universitätsbibliothek 2° Cod. Hist. 740 Cim., fols. 222r–223v)

[Fragment A]

xii kalendas Nouembris uidelicet die iouis xxi mensis Octobris³⁸

222r

Cuseux In Cuseux contra Spyce dominus officialis³⁹ in presencia magistrorum Iohannis Lord ex una et Roberti Kent⁴⁰ procuratorum predictorum partibus ex altera dictam causam in statu quo tunc erat usque diem sabbati xxiii mensis Octobris tunc proxime sequentem ad idem continuauit de consensu dictorum procuratorum.

Eton In Eton contra Wylmyn coram domino officiali in presencia magistri Roberti Kent procuratoris memorati magister Iohannes Lord procurator ex aduerso antedictus uerbo exhibuit omnia acta, actitata, producta et exhibita in dicta causa si et quatenus faciant pro parte sua et non aliter nec alio modo. Et consequenter magister Robertus Kent simili modo exhibuit uerbo omnia acta,

³⁸ Thursday, 21 October 1445.

³⁹ Master William Byconyll; see n. 15 above.

⁴⁰ See *BRUO* 2:1037, brother of Dr Thomas Kent, canonist and diplomat (*ibid.*).

actitata, producta et exhibita in causa predicta si et⁴¹ quatenus faciant pro parte sua et non aliter nec alio modo. Et tunc prelibatus dominus officialis assignavit magistro Roberto Kent procuratori antedicto ad tercio producendum ad diem ueneris quintum mensis Nouembris tunc proxime futurum ad petitionem eiusdem, dicto magistro Iohanne Lord procuratore antedicto dissenciente ac dissenciit huiusmodi assignacioni, et protestatus est de lapsu terminorum.

Waltham In Waltham contra Spaldyng dominus officialis in presencia magistrorum Roberti Kent ex una et Iohannis Lord procuratorum predictorum partibus ex altera assignavit eisdem procuratoribus ad dicendum hincinde contra dictum processum ad diem ueneris xxix mensis Octobris tunc proxime sequentem de consensu dictorum procuratorum. Deinde uero magister Iohannes Lord procurator dictorum magistri Willelmi Spaldyng,⁴² officialis consistorii episcopalis Eliensis, et domini Ricardi Luk, uicarii perpetui ecclesie parochialis de Baburham,⁴³ Eliensis diocesis, procuratoria sua sigillo officii officialitatis Eliensis, ut apparuit, sigillata realiter producens et exhibens.

Con- temptus Glastom In negotio contemptus contra Glastom per Paderun⁴⁴ promoti dominus officialis in presencia dictorum domini Iohannis Glastom et magistri Willelmi Dorant procuratoris antedicti dictas expensas ad xxui s. uiii d. per prefatum magistrum Willelmum Dorant ad dandum summam iuratas taxauit ad petitionem eiusdem magistri Willelmi Dorant. Et tunc idem dominus officialis monuit dictum dominum Iohannem Glastom quod satisfaciat parti dicti magistri Walteri Paderun de dictis xxui s. uiii d. infra octo dies immediate sequentes. Alioquin assignavit sibi ad comparandum in die ueneris xxix mensis Octobris tunc proxime futuro in dicta curia coram presidente eiusdem causam rationabilem, si quam pro se habeat, quare excommunicari non debeat in forma iuris dicturo et allegaturo ad petitionem magistri Willelmi Dorant procuratoris memorati.

Russell In Russell contra Styllington⁴⁵ coram domino officiali in presencia magistrorum Iohannis Lord ex una et Roberti Kent procuratorum predictorum partibus ex altera comparuit in iudicio magister Iohannes Deye, procurator re-

⁴¹ MS: “et et.”

⁴² William Spaldyng later became Examiner General in the Court of Arches and later still Dean of the Arches. See *BRUC*, 543–44, and Logan, *Arches*, 203, 206.

⁴³ Babraham, Cambs.

⁴⁴ For Walter Paderun, see n. 23 above and *BRUC*, 439.

⁴⁵ Robert Stillington was at this time chancellor of Bishop Beckington, bishop of Bath and Wells; he himself was later bishop of Bath and Wells, 1466–91 (*BRUO* 3:1777–79).

uerendi in Christo patris et domini⁴⁶ Thome⁴⁷ dei gracia Bathoniensis et Wellensis episcopi, procuratorium suum in registro existens uerbo producens et exhibens, et protestatus est de non offendendo dictum dominum officialem neque statuta dicte curie et, salua sibi protestacione huiusmodi, quemdam articulum pro interesse dicti reuerendi patris in scriptis proposuit quem peciit admitti et obtulit se ad probandum eundem pro loco et tempore oportunis. Et tunc prelibatus dominus officialis assignauit eisdem procuratoribus ad faciendum super dicta materia quod iuris fuerit in hac parte ad diem sabbati xxiii mensis Octobris tunc proxime sequentem. Et tunc idem dominus officialis assignauit prefatis Iohanni Lord et Roberto Kent procuratoribus antedictis ad audiendum sentenciam hincinde in dicta causa ferendam diffinitiuam ad diem ueneris xxix mensis Octobris tunc proxime sequentem ad petitionem magistri Iohannis Lord procuratoris antedicti, dicto magistro Roberto Kent dissenciente et dissenciit huiusmodi assignacioni et peciit appellacionem predictam pronuciari desertam. Et tunc magister Iohannes Lord protestatus est de diligencia partis sue ab impedimento iudicis et partis aduerse. Tenor dicti articuli sequitur, et est talis:

tenor
articuli
interesse

In dei nomine. Amen. In quadam causa⁴⁸ appellacionis seu negocii principalis pretensa que in curia Cantuariensi inter dominum Willelmum Russell, uicarium ecclesie parochialis de Estpennard⁴⁹ Bathoniensis et Wellensis diocesis se nuper pretendentem, partem appellansem seu actricem ex una parte et magistrum Robertum Styllington, reuerendi in Christo patris et domini Thome permissione diuina Bathoniensis et Wellensis episcopi cancellarium et commissarium, partem, ut asseritur, appellatam seu ream ex altera parte clericos dicto reuerendo patri et domino Thome atque sue iurisdictioni episcopali innodatos subditos et subiectos occasione priuacionis et ammocionis predicti Willelmi (...)⁵⁰

legitime deuoluta dicteque curie presidens quicumque sit in ea parte iudex 222v
incompetens atque appellacio illa quecumque per partem dicti domini Willelmi, ut pretenditur, interposita sit nulla et inualida seu saltem renunciata et penitus deserta. Fuerintque et sint per partem predicti magistri Roberti Styllington premissa iudicialiter coram uobis domino officiali predicto debite et legitime proposita necnon per partem eiusdem Roberti sufficienter in ea parte

⁴⁶ MS: "domini domini."

⁴⁷ Thomas Beckington, bishop of Bath and Wells, 1443–65.

⁴⁸ Written above the line.

⁴⁹ East Pennard, Somerset.

⁵⁰ The bottom of the fragment is trimmed with the loss of perhaps several lines.

fuerit et sit exceptum atque petatum prout in quadam excepcione seu defencione nuper parte⁵¹ eiusdem magistri Roberti occasione premissorum coram uobis iudicialiter proposita (ad quam ego procurator predictus nomine quo supra me refero et hic pro inserto habere uolo) plenius continetur et uobis liquere potest et poterit manifeste. Fueritque et sit dictus reuerendus pater partibus predictis in omnibus causis, litibus seu querelis dictas partes et earum utramque qualitercumque contingentibus ministrare iusticiam et reddere iusticie complementum omnino paratus nullo modo negligens seu remissus. Vos tamen premissis non obstantibus sed post et contra ea pretextu et uigore consensus seu cuiusdam prorogacionis parcium predictarum que omnino fuit et est nulla et inualida ulterius in dicta causa pretense, ut asseritur, procedere et cognoscere atque inter partes predictas ius dicere sepius comminati estis et indies comminamini. Vosque ad id disposuistis et disponitis in presenti ad instanciam et procuracionem prefati domini Willelmi Russell subdolas et iniustas in dicti reuerendi patris iurisque sui et iurisdiccione episcopalis graue preiudicium dampnumque non modicum et grauamen. Quare facta fide que requiritur in hac parte ad quam faciendum offero me nomine, quo supra, iuxta iuris exigenciam citra superfluum probacionem in hac parte omnino paratum. Peto ego procuracione et procuratorio nomine dicti reuerendi patris me ad assistendum dicto magistro Roberto pro modo et interesse eiusdem reuerendi patris iuxta iuris exigenciam admitti et me sic admissio ac facta fide que requiritur in hac parte et probatis de iure probandis quod uos domine officialis predictae et quicumque dicte curie presidens cessetis, desistatis et supersedeatis, cesset, desistat et supersedeat ab omni ulteriori processu et cognicione ulteriori in causa predicta. Alioquin protestor nomine quo supra, de grauamine et appellando. Premissa propono et fieri peto nomine quo supra, coniunctim et diuisim iuris beneficio in omnibus semper saluo.

In Macworth contra Partrych coram domino officiali comparuit in iudicio magister Iohannes Wybbury⁵² procurator predictus et literam certificatorii Willelmi Stanley et Roberti Nasshe mandatariorum⁵³ in hac parte sigillo officialis domini archidiaconi Londonie, ut apparuit, sigillatam inter cetera continentem tenorem literarum monitoriarum et citatoriarum dicti domini officialis super decreto suo concesso realiter exhibuit. Per quod apparuit prefatum magistrum Iohannem Macworth decanum predictum iuxta effectum dictarum literarum monitoriarum primo monitum fuisse et esse et postea eo quod non

⁵¹ MS: “partem.”

⁵² Logan, *Arches*, 222.

⁵³ Probably the process servers.

paruit huiusmodi monicionibus fuisse et esse citatum. Et tunc prelibatus dominus officialis dictam causam in statu quo tunc erat usque diem sabbati xxiii mensis Octobris tunc proxime futurum ad idem continuauit ad petitionem magistri Iohannis Wybbury procuratoris antedicti.

x kalendas Nouembris uidelicet die sabbati xxiii mensis Octobris⁵⁴

In Wretham contra Skernyng coram domino officiali comparuit in iudicio magister Iohannes Wybbury⁵⁵ procurator predictus et literam certificatorii Willelmi Lesebury literati in hac parte mandatarii⁵⁶ sigillo decanatus de Blofeld,⁵⁷ ut apparuit, sigillatam inter cetera continentem tenorem quarumdam literarum citatoriarum realiter exhibuit. Per quod apparuit prefatum Iohannem Wretham iuxta effectum dictarum literarum citatoriarum peremptorie fuisse et esse citatum. Quem sic citatum sepius publice preconisatum diuciusque expectatum et nullo modo comparentem prelibatus dominus officialis pronunciauit contumacem et in penam contumacie sue huiusmodi. Magister Iohannes Wybbury procurator predictus quandam descripcionis expensarum cedulam proposuit quas peciit taxari. Et subsequenter dictus officialis prefatam causam in statu quo tunc erat usque diem lune xxu mensis Octobris tunc proxime sequentem ad idem continuauit ad petitionem magistri Iohannis Wybbury procuratoris predicti.

In Gla<...>⁵⁸ contra Fulford et alios coram domino officiali in presencia magistri Roberti Kent procuratoris antedicti magister Iohannes <...>⁵⁹

[Fragment B]

xiii kalendas Ianuarii uidelicet die mercurii xu mensis Decembris⁶⁰

Waltham In Waltham contra Spaldyng et alios dominus officialis in presencia magistrorum Roberti Kent ex una et Iohannis Lord procuratorum predictorum partibus ex altera omnia et singula grauamina in hac parte suggesta et probata reuocauit et pronunciauit pro iurisdiccione dicte curie causamque in hac principalem cum omnibus suis incidentibus, dependentibus, emergentibus et con-

⁵⁴ Saturday, 23 October 1445.

⁵⁵ See Logan, *Arches*, 222.

⁵⁶ Probably the process server.

⁵⁷ Rural deanery of Blofield (Norfolk), Norwich diocese.

⁵⁸ Part of the line has been trimmed.

⁵⁹ A line or perhaps several are missing at the bottom of the fragment because of trimming.

⁶⁰ Wednesday, 15 December 1445.

nexis quibuscumque in dicta curia fore tractandis decreuit. Ac partem dicti magistri Willelmi Spaldyng in expensis legitimis per partem aduersam in hac parte factis condempnauit reseruata sibi aut alteri dicte curie presidenti cui-cumque taxatione earundem ad petitionem magistri Roberti Kent procuratoris memorati, dicto magistro Iohanne Lord procuratore ex aduerso antedicto dissenciente et dissenciit huiusmodi reuocacioni, pronunciacioni, decreto et condempnacioni predictis, ac protestatus est de utendo beneficio iuris.

xvi kalendas Ianuarii uidelicet die ueneris xuii mensis Decembris⁶¹

Wythyell In Wythyell contra Yonge coram magistro Iohanne Steuenes examinatore et commissario etc. comparuit in iudicio magister Iohannes Deye, procurator substitutus magistri Willelmi Dorant procuratoris dicti Iohannis Yonge, procuratorium suum originale una cum substitucione eiusdem in registro existencia uerbo producens et exhibens et in presencia magistri Roberti Kent procuratoris ex aduerso memorati peciit dictum factum contrarium admitti, quod prelibatus dominus commissarius admisit de consensu dicti magistri Roberti Kent procuratoris predicti, et assignauit dictis procuratoribus ad primo producendum et produci uidentum hincinde ad diem lune xuii mensis Ianuarii tunc proxime futurum de consensu eorumden procuratorum.

Glaston In querela Glaston contra Bathoniensem et Wellensem episcopum coram magistro Iohanne Steuenes⁶² examinatore et commissario etc. magister Robertus Kent procurator predictus in presencia magistri Iohannis Deye procuratoris ex aduerso sepedicti peciit terminum competentem eisdem procuratoribus assignari ad proponendum hincinde omnia in facto consistencia. Et tunc magister Iohannes Deye procurator memoratus peciit dictam partem aduersam compelli quasdam literas inhibitorias de quibus in dicta querela et attestacionibus testium in huiusmodi querele negocio productorum fit mencio ante omnia exhibere et copiis huiusmodi literarum et attestacionum habitis peciit terminum competentem sibi assignari ad dicendum contra easdem. Et tunc prelibatus dominus commissarius assignauit dictis procuratoribus ad proponendum omnia in facto consistencia ad diem ueneris xiiii mensis Ianuarii proxima die <post festum sancti>⁶³ Hillarii tunc proxime sequentem, dicto magistro Iohanne Deye dissenciente ac dissenciit hincinde assignacioni, et protestatus est de grauamine. Deindeque idem dominus commissarius reuocauit huiusmodi predictum decretum suum et assignauit magistro Iohanni

⁶¹ Friday, 17 December 1445.

⁶² Logan, *Arches*, 206.

⁶³ The fragment is trimmed here at the side margin.

Deye procuratori sepedicto ad dicendum contra testes et eorum dicta in huiusmodi querele negocio productos ad diem ueneris xiiii mensis Ianuarii tunc proxime futurum ad petitionem magistri Iohannis Deye⁶⁴ procuratoris ex aduerso predicti. Et consequenter magister Robertus Kent⁶⁵ procurator memoratus requisiiuit⁶⁶ predictum dominum commissarium quod ulterius in dicto querele negocio minime procederet⁶⁷ quia dominus suus, ut asseruit, habet ipsum dominum commissarium sibi suspectum.

Continu-
acio ge-
neralis

In dei nomine. Amen. Nos Iohannes Steuenes in legibus licenciatus curie examinador generalis ac uenerabilis uiri domini officialis curie Cantuariensis in ipsius ausencia commissarius generalis. In omnibus causis et negociis coram nobis pendentibus indecisis ex officio siue ad cuiuscumque partis instantiam secundum cursum curie memorate non (...)ditis⁶⁸ partibus coram nobis constitutis prefigimus et assignamus proxime diem iuridicum post festum sancti Hillarii episcopi proximum futurum ad faciendum et expediendum tunc id quod esset fiendum coram dicto domino officiali, nobis aut alio dicte curie presidenti in curia Cantuariensi (...).⁶⁹

xi⁷⁰ kalendas Ianuarii uidelicet die mercurii xxii mensis Decembris⁷¹

223v

In dei nomine. Amen. Anno domini, indiccione, pontificatu, mense, die et loco predictis coram magistro Iohanne Steuenes examinatore et commissario etc. Circiter horam nouenam ante meridiem eiusdem diei tribunali sedente comparuit in iudicio quidam Iohannes West. Et literam certicatorii Simonis Colylour literati in hac parte mandatarii⁷² sigillo decani et capituli ecclesie cathedralis sancti Pauli Londonie commissarii generalis, ut apparuit, sigillatam inter cetera continentem tenorem cuiusdam querele ex parte dicti Iohannis West in quadam causa diffamacionis quam contra Matildem Burley, uxorem Iohannis Burley ciuitatis Londonie, mouet et⁷³ qui intendebat et intendit ad

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⁶⁴ MS: "Roberti Kent." The text has confused the two proctors; here the reference must be to John Deye.

⁶⁵ MS: "Iohannes Deye." It is clear that the text should read "Robertus Kent."

⁶⁶ MS: "req'."

⁶⁷ MS: "proced'."

⁶⁸ The fragment is trimmed here at the side margin.

⁶⁹ The fragment is trimmed at the bottom with the loss of one or several lines.

⁷⁰ This was the final side of the rebound manuscript (i.e., the back cover) and is difficult to read in places.

⁷¹ Wednesday, 22 December 1445.

⁷² Probably the process server.

⁷³ Reading unclear.

dictam curiam facte, ab eadem curia Cantuariensi, <contra>⁷⁴ prefatam Matildem Burley, ut dicitur, impetrare realiter exhibuit. Per quod apparuit quandam Matildem iuxta effectum dicte querele peremptorie fuisse et esse citatam quam sicut citatam sepius publice preconisatam diuciusque et sufficienter expectatam et nullo modo comparentem prelibatus dominus commissarius pronunciauit contumacem et in pena contumacie sue huiusmodi dictam Matildem Burley excommunicauit in scriptis ad petitionem prefati Iohannis West sub tenore que sequitur uerbo:

In dei nomine. Amen. Nos Iohannes Steuenes in legibus licentiatus, curie Cantuariensis examinador generalis, uenerabilis uiri domini officialis eiusdem curie in ipsius absentia commissarius generalis, Matildem Burley, uxorem Iohannis Burley ciuitatis Londonie, ad hos diem et locum cuidam Iohanni West dicti ciuitatis in quadam causa diffamacionis responsuram legitime et peremptorie citatam sepius publice preconisatam diuciusque et sufficienter expectatam et nullo modo comparentem pronunciamus contumacem et in pena contumacie sue huiusmodi ipsam Matildem ad instanciam dicti Iohannis excommunicamus in hiis scriptis.

Sessio proxima post festum sancti Hillarii episcopi uidelicet die ueneris quartodecimo mensis Ianuarii anno ab incarnatione domini secundum cursum et computacionem ecclesie anglicane millesimo quadringentesimo quadragesimo quinto,⁷⁵ indiccione nona, pontificatus sanctissimi in Christo patris et domini nostri domini Eugenii diuina prouidencia pape quarti anno quintodecimo, domino officiali B.⁷⁶ existente in ecclesia beate Marie de arcubus Londonie.

In negotio contemptus contra Emersham per Loughton promotus dominus officialis <...>

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⁷⁴ Supplied by editors.

⁷⁵ Friday, 14 January 1446.

⁷⁶ Master William Byconnyll; see n. 15 above.

