

«CONSUETUDINES ECCLESIE ANGLICANE».  
ARXIU CAPITULAR DE LA SEU D'URGELL MS. 2874:  
A NOTE

In 1978 students of medieval canon law were apprised of the interest and importance of Urgell MS. 2874 and nothing remains to be added to the exhaustive account which Dr Benigno Marquès provided on that occasion of Jaume Sitjó, the author of the *Lectura super IV Libro Decretalium*, the text which occupies 198 of the Urgell codex's 206 folios<sup>1</sup>. In connexion with the catalogue of the archive's notable collection of legal manuscripts, however, which Professor Antonio García y García and his colleagues have in preparation, the question has now been raised of the identity of one of the three diverse pieces found at the end of MS. 2874, the tract there entitled «Consuetudines ecclesie Anglicane». The present note is offered as a modest contribution to that noble enterprise.

Occupying fos. 198vb-201rb, commencing on the folio on which the *Lectura* ends, and written in what appears to be the same fourteenth-century hand<sup>2</sup>, the said *Consuetudines* comprise a formulary for the conduct of episcopal elections, beginning with a model letter addressed to the king of England in which the dean and chapter of a cathedral church seek leave to proceed to an election.

Corpore autem defuncti sepulture tradito de consuetudine ecclesie Anglicane [whence presumably the title supplied by the scribe] actenus est optentum scilicet quod sollempnes nuncii aliqui scilicet de canonicis ad dominum regem [add. eant] petitori ab eo licentiam eligendi<sup>3</sup>.

1 B. Marquès, 'El Ms. 2874 de l'Arxiu Capitular de la Seu d'Urgell i el seu autor Jaume Sitjó', *Urgellia* 1 (1978) 367-400. Sitjó was bishop of Lérida 1341-1348 and of Tortosa 1348-1351.

2 As is the tract that follows (*Compendium disponentium hominem in uita spirituali*). The final item, however — Petrus de Vineis, *Rithmi contra predicatores et minores* (ed. A. Huillard-Bréholles, *Vie et correspondance de Pierre de la Vigne, ministre d'empereur Frédéric II*, Paris 1865, 402-17) — is in a fifteenth-century hand. Marquès, 368; information supplied by Antonio García.

3 Fo. 198vb.

The writers of the letter which follows are described as «G. decanus et capitulum Sist.» There is no English cathedral church corresponding to the abbreviation «Sist.», however. What evidently the scribe has done is to miscopy the word «Cicestria», the Latin form of Chichester.

The identity of the so-called «Consuetudines ecclesie Anglicane» is now revealed. They are none other than as the «Tractatus (sive summa) de formis electionum episcoporum faciendarum» of Laurence of Somercote, canon of Chichester and *officialis* of its bishop, St. Richard de Wych (d. 1253)<sup>4</sup>.

Laurence's treatise, which was composed in the year 1254 in the context of the election of John of Climping as Richard's successor, is very much a work of its time and place. The world in which it is set is a closed world, a world in which the election of a bishop remained almost exclusively the business of chapter and monarch and into which the pope intruded hardly at all. Thus the «Tractatus» mentions the pontiff just once, in connexion with the confirmation to be sought of the election which the chapter and king between them have previously determined to their own satisfaction<sup>5</sup>.

In fact, as Laurence was writing that world had not long to run. Already by 1254 the increasing referral of disputed elections to Rome, a tendency hastened and regularised by the general councils of 1245 and 1274 and Nicholas III's decretal «Cupientes» of 1279, was altering the relationship between centre and periphery and engendering within electoral bodies that sense of unease and anxiety which is so clearly reflected in (for example) the *Apparatus* of Garsias Hispanus on «Cupientes» itself, with its systematic question-and-answer review of the practical implications of the papal measure<sup>6</sup>.

Even so, Laurence retained his audience well into the later Middle Ages. Because the procedures which he described were of such capital importance to cathedral churches (as they remain to the colleges of Oxford and Cambridge to this day), even after the coverage it provided of its subject had been superseded by events and in 1285 a competitor appeared on the scene in the shape of Guillaume de Mandagout's *Libellus super electio-*

<sup>4</sup> *Statutes and Constitutions of the Cathedral Church of Chichester*, ed. F. G. Bennett, R. H. Codrington, and C. Deedes, Chichester 1904, 8.

<sup>5</sup> A. von Wretschko, *Der Traktat des Laurentius de Somercote Kanonikus von Chichester über die Vornahme non Bischofswahlen entstanden im Jahre 1254*, Weimar 1907, 47-8.

<sup>6</sup> VI 1.6.1-16. For Garsias, see A. García y García, 'Canonistas gallegos medievales', *Compostellanum* 16 (1971) 119-20. His *Apparatus* (inedited; I have consulted MS. Escorial c. I.10 fos. 1r-6v) is datable to 1279 x 1288 in which latter year Nicholas IV year provided its author to the see of Sigüenza.

nibus<sup>7</sup>, Laurence's «Tractatus» continued to enjoy wide currency. Thus in the preparation of his edition of the work, von Wretschko had access to manuscripts from Chartres, Graz, Vienna and Munich as well as others of English provenance<sup>8</sup>—though of course not to the Urgell codex. It is not to be wondered at therefore that its text should have been available at Lérida in the middle years of the fourteenth century— not least because Walter of «Wrobruge», who was in the company of Bishop Jaume Sitjó in the year 1344, would not have been the only English scholar present at the university there<sup>9</sup>.

Apart from lacking the beginning and the end of the «Tractatus» where Laurence had stated and reaffirmed his authorship<sup>10</sup>, the text in MS. 2874 in general conforms closely to that of the Chartres manuscript which von Wretschko regarded as constituting the earliest version of the work and used as his main text. In detail, however, the scribe has taken many liberties with Laurence's text, not infrequently to the detriment of its sense. Where the edition reads:

Bonae memoriae R, quondam episcopo nostro viam universe carnis ingresso ac ipsius corpore tradito sepulturae, prout decet, diem prefiximus, quo ad electionem futuri pontificis in capitulo nostro domino annuente procedatur, ad quem vos citamus... (p. 29),

for example, MS. 2874 has the following:

Cum bone memorie Ricardo condam episcopo nostro viam uniuerse carnis ingresso ac ipsius corpore prout decet tradito sepulture talem diem prefiximus quo ad electionem futuri pontificis in capitulo nostro annuente domino procedatur. Vos citamus... (fo. 198vb):

7 For which see J. F. von Schulte, *Geschichte der Quellen und Litteratur des canonischen Rechts*, II, Stuttgart 1877, 185. Cf. G. Barraclough, 'The Making of a bishop in the Middle Ages. The part of the pope in law and fact', *Catholic Historical Review* 19 (1933) 275-319.

8 Cit., 1-8 (MSS.), 27-50 (edn).

9 Marqués, 377. 'Wrobruge' is possibly Roborough (Devon) or Rowberrow (Somerset), though a search for a graduate of that name in the works of A. B. Emden (*A Biographical Register of the University of Oxford to A.D. 1500*, III, Oxford 1959; *A Biographical Register of the University of Cambridge to 1500*, Cambridge 1963) has proved fruitless. Cf. H. Rashdall, *The Universities of Europe in the Middle Ages*, ed. F. M. Powicke and A. B. Emden, II, Oxford 1936 [repr. 1987], 91-6. The University's earliest statutes (of 1300) had provided for the election of a rector 'de nacionibus Anglorum vel Scotorum seu aliarum gentium insularum Oceani': J. de Villanueva, *Viaje literario a las iglesias de España*, XVI, Madrid 1851, 213.

10 Von Wretschko, 27-8, 50.

a sentence without a main verb and devoid of meaning.

Two further features of this passage in MS. 2874 deserve mention. One is the relationship that it exemplifies with the later version of the work identified by von Wretschko in his «A-group» of manuscripts<sup>11</sup>. The other —the citation of the bishop by name (*Ricardus*) rather than by the initial *R.*— suggests that its scribe also had access to the primitive pre-Chartres version found in manuscripts at Lincoln, London and Lambeth<sup>12</sup>: a hypothesis for which other passages provide ample support<sup>13</sup>. In short, either he availed himself of a text of the «Tractatus» which does not correspond to any of those represented in von Wretschko's edition, or he was engaged in conflating one or more of those which are recorded there. What is certain is that a number of his readings are unparalleled in the established manuscript tradition —«*Ne amplius ecclesia nostra diucius remaneat pastoris solacio destituta*» in the passage just cited, for example<sup>14</sup>.

Although doubtless the collation of them might provide useful exercise for a sharp-eyed graduate student, these variants do not merit further detailed consideration however, most of them being of no substantial significance. Most, but not all. For some of them reveal the scribe of MS. 2874 pursuing an agenda of his own, that of wrenching Laurence's treatise out of its English context altogether in order to relocate it nearer home.

His blissful ignorance of the whereabouts of «Sist.» notwithstanding, at the outset the scribe is content to follow his source faithfully in transcribing the text of the letter addressed to the king of England, Henry III<sup>15</sup>. For England he had heard of. Canterbury, however, is another matter, and when he arrives at Laurence's text of the «littera procuratoria» to be sent to its archbishop he feels the need to transfer the whole scene to a Catalan context. Thus:

11 «Cum»; «talem diem»; «ad quem» *om.*; ed. 29<sup>12</sup>, 14, 15. Likewise, «per tempora longiora» (fo. 198vb; cf. ed. 28<sup>28</sup>, «per longa tempora»); «Si aliquis canonicorum» (fo. 198vb; cf. ed. 30<sup>8</sup>, «Si quis autem canonicorum»), *et passim*.

12 MSS. L<sup>1</sup>, L<sup>2</sup>: von Wretschko, 8. *Ricardus*/: fos. 198vb, 199vb, 201ra (cf. ed. 28<sup>25</sup>, 39<sup>9</sup>, 47<sup>26</sup>). Similarly *Johannes* (for *J.*): fo. 199rb (ed. 34<sup>2</sup>).

13 «... quod sollempnes nuncii aliqui scilicet de canonicis ad dominum regem petituri ab eo licentiam eligendi [...] Ne amplius ecclesia nostra diucius remaneat pastoris solacio destituta... (fo. 198vb; above, n. 3). Cf. ed. 28<sup>16</sup> («regem eant petituri»), 28<sup>28</sup> («diutius maneat»).

14 Where all other MSS. read «Ne autem ecclesia nostra...» (ed. 28). Likewise, «C. diuina miserationes» (fo. 198vb; cf. «G. permissione divina», ed. 29<sup>6-7</sup>); «Ideo autem dicendum est proprie de ista quoniam ipsa in electionibus sibi uendicat primum locum» (fo. 199ra; cf. «Ideo autem primo dicemus de ista, quoniam ipsa in electionibus vindicat sibi primum locum habere», ed. 31<sup>10-12</sup>).

15 «Excellentissimo domino suo domino H. dei gratia illustri Regi Anglie» (fo. 198vb); thus ed. 28.

Littera procuratoria domino archiepiscopo mittenda potest concipi sub hac forma. Reverendo in Christo patri ac domino ... [*aliter* domino R.] Dei gratia Cantuariensi archiepiscopo, totius Angliae primati devoti sui G. decanus et capitulum Cicestrense salutem et omnem reverentiam tam debitam quam devotam (ed. 34),

Littera procuratoria domino archiepiscopo potest concipi sub hac forma. Reuerendo patri in Christo domino F. Dei gratia Illerdensi Archiepiscopo totius Cathalonie primati devoti sui G. decanus et capitulum Illerdense salutem et omnem reuerentiam tam debitam quam devotam (fo. 199rb).

As will have been observed, in the process the scribe has promoted his fictional bishop F. of Lérida to metropolitan status and has created nonsense. This confusion of his own making he then proceeds to compound by neglecting to adjust the reference in the dean and chapter's letter to the election «de viro provido et discreto magistro L. cancellario in episcopum Cicestrensem» (ed. 34), with the result that the church of Lérida is credited with a chancellor —an ecclesiastical office unknown in those parts, as a Lérida scribe ought surely to have been aware<sup>16</sup>.

Leaving unresolved the question whether such solecisms are to be attributed to ignorance or to inadvertence, we may conclude by noting further symptoms of textual «Leridanización». The date set by Laurence for the election, «in crastino sancti Dunstani» —a very English saint, Dunstan of Canterbury (ed. 39<sup>12</sup>, 42<sup>19</sup>, 48<sup>27</sup>)— is emended to «in crastino sancti Anastasii» (fos. 200ra, 200rb, 201ra): a choice of alternative perhaps capable of providing a clue to the scribe's own affiliations. In the text of the declaration to be made by the *scrutatores* (ed. 42<sup>8, 13</sup>), «Illerdensem» is substituted for «Cicestrensem» (fo. 200rb). On reaching the text of another letter to be sent to the king, this time Henry of England is suppressed altogether in favour of «A.» of Aragón:

Littera autem mittenda domino regi pro assensu regio requirendo potest concipi sub hac forma. Excellentissimo domino H. Dei gratia regi Angliae. Sublimitati

Littera autem mittenda Regi pro assensu ipsius requirendo potest mitti sub hac forma. Excellentissimo domino suo A. dei gratia Regi<sup>17</sup> Aragonie etc. Sublimitati

16 «... de viro prouido et discreto Magistro Johanne cancellario nostro in episcopum Illerdensem» (fo. 199rb). For the office of chancellor in English cathedrals see Kathleen Edwards, *The English Secular Cathedrals in the Middle Ages*, Manchester 1967, 176-84. Cf. the record of the election of Pedro de Albalat as bishop of Lérida in 1236: Villanueva, 296. (Needless to say, Bishop *Jobannes* was no less of a fiction than the chancellor of Lérida or Archbishop «F. Lérida had no bishop of that name until 1403.)

17 Since the date of composition of Sitjó's *Lectura* (prior to his translation to Tortosa, i.e. pre-1348; Marquès, 375) provides a *terminus post quem* for the copying of the «Tractatus», the scribe's choice of «Allfonso» at this point (rather than «Pietro») may indicate that the exemplar of Laurence's work from which he derived his text was itself written during the reign of Alfonso IV (1327-1336). It is to be noted that between the words «Regi» and «Aragonie» there appears a single vertical line: ꝑsilicet.

vestrae presentibus litteris intimamaus, quod felicitis recordationis R. quondam episcopo nostro viam universae carnis ingresso... magistrum N. de tali loco nondum in sacris ordinibus constitutum providerunt a summo pontifice postulandum in episcopum Cicestrensem (ed. 47),

vestrae presentibus litteris intimamaus quod felicitis recordationis R. condam episcopo nostro viam universae carnis ingresso... magistrum N. de tali loco nondum in sacris ordinibus constitutum prouiderunt prouiderunt [sic] a summo pontifice postulandum in episcopum Illerdensem (fo. 200vb-201ra).

And finally, in the middle of the text of Laurence's «decretum postulationis», there is a truly remarkable effect to be observed:

... Praedicti vero compromissarii... magistrum N. de tali loco concanonicum nostrum [...] providerunt postulandum a summo pontifice in episcopum Cicestrensem [...]. Cum nos N. et N. canonici Cicestrenses speciale mandatum habeamus a decano et capitulo per electionem... (ed. 49).

... Praedicti uero compromissarii... magistrum N. canonicum nostrum de tali loco [...] provideret [sic] postulandum a summo pontifice in episcopum Sist. [...]. Cum nos R. de tali loco et S. et V. de tali canonici Illerdenses habeamus speciale mandatum a decano et capitulo Illerdense per electionem... (fo. 201rb).

The canons of Chichester have been physically transported south of the Pyrenees, no less. Though not without its complications, the transition from Sussex to Catalonia was evidently not devoid of moments of high adventure too. *Caelum non animum mutant qui trans mare currunt.*

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