The Origins of the Chancellorship at Oxford

By C. H. Lawrence

It is well known that the earliest reference to the office of chancellor at Oxford is to be found in the ordinance of the papal legate, cardinal Nicholas of Tusculum, which was executed in 1214. This is the earliest document that contains information about the organization of the Oxford scholars. It was drawn up as a triangular treaty between town, gown, and the bishop of Lincoln, in order to end the dispersion that the masters had decreed in 1209, after two clerks had been hanged by the city authorities.[1] One of the penalties that the legate inflicted upon the town was an annual payment of fifty-two shillings for the use of poor scholars ; and the document provides that this fund shall be allocated with the advice of ' the venerable father Hugh, then bishop of Lincoln, and his successors, or of the archdeacon of the place or his Official, or of a chancellor whom the bishop of Lincoln will place over the scholars there—*cancellarii quem episcopus Lincolniensis ibidem scolaribus preficiet* '. Similarly, the ordinance lays down that if a clerk is arrested by the lay authorities, he must be promptly delivered up on request by ' the bishop, or the archdeacon of the place or his Official, or by the chancellor or him to whom the bishop deputes this task '. The document does not say that the bishop has appointed a chancellor ; it only envisages the possibility that he will do so.

Until a few years ago, the first known occupant of the office was the unnamed chancellor who appears in the records of some judge-delegate proceedings of 1221 concerning Oseney abbey. It was therefore concluded by H. E. Salter and others, not without strong reason, that an interval of some years elapsed between the legate's award and the first appointment of a chancellor by Hugh de Wells, the bishop of Lincoln. The bishop's hesitancy is understandable. He was concerned to safeguard the jurisdiction of his church : a chancellor of Lincoln already existed ; there was no precedent for the creation of a deutero-chancellor *in remotis* to preside over a distant corporation of scholars. The bishop's misgivings are reflected in the ambiguous phraseology of the legatine award, which was clearly designed to leave his options open. Moreover, we have it on the word of Grosseteste, as reported many years later by Oliver Sutton, that when he—Grosseteste—was head of the Oxford schools, the bishop, Hugh de Wells, would not allow him to be called ' chancellor ', but only ' magister scolarum '.[2] Thus we have it on unimpeachable

[1] The documents were printed by H. E. Salter, *Medieval Archives of the University of Oxford* (OHS) i, 2–10. See the discussion in Rashdall, *Universities of Europe in the Middle Ages* ed. F. M. Powicke and A. B. Emden (1936) iii, 34–5 ; and by D. A. Callus in *Oxoniensia*, x (1945), 48 ; and most recently by Graham Pollard, *Ibid.*, xxxix (1974), 62–72.

[2] *The Rolls and Register of Bishop Oliver Sutton* ed. Rosalind Hill (Lincoln Rec. Soc., 1965) v, 59–61 ; also printed from the bishop's register by H. E. Salter, *Snappe's Formulary* (OHS, 1924), 52. *Cf.* the discussion by Rosalind Hill, ' Oliver Sutton, bishop of Lincoln, and the university of Oxford ' in *TRHS* 4th Ser., xxxi (1949), 1–16.

authority that the scholars wanted their own chancellor and that the bishop dragged his feet over the matter. The question is, how long did he do so?

The discussion was put on a new footing in 1967 when Mrs. Cheney published three documents relating to a tithe action before judges-delegate, one of whom was a Master G. de Luci, *tunc cancellario Oxon.* The judges were acting under a commission of pope Innocent, which is alluded to but not cited. Mrs. Cheney identified the chancellor as Master Geoffrey de Lucy who became dean of St. Paul's and who died in 1241. The pope alluded to must therefore be Innocent III, and Geoffrey de Lucy must have been holding the office of chancellor at some date not later than August 1216, when news of Innocent's death would have reached England.[3] In a recent article Mr. Graham Pollard has examined the implications of this discovery for the early history of the chancellorship.[4] He concludes that Lucy must have been confirmed in office not later than the autumn of 1215, when Hugh de Wells departed to attend the Lateran Council ; and that Grosseteste's headship of the schools—the bishop would not allow him the title of chancellor—must be placed in the year commencing Michaelmas 1214. Thus an awkward gap in the history of the chancellorship has been closed, and some doubts about the chronology of Grosseteste's Oxford career have been happily resolved.

When we are offered the name of Oxford's first chancellor, it seems ungrateful to look such a gift-horse in the mouth. Nevertheless, there are difficulties in this scheme which have either not been noticed or have not been fully met. My object here is to examine these difficulties and see whether they can be satisfactorily resolved. It seems that the chancellor was no sooner appointed than he became a judge much sought after by litigants in papal courts ; thus all our early references to chancellors in office come from the records of judge-delegate proceedings. Before we consider the relevant documents, we must spotlight some aspects of judge-delegate procedure that have a special bearing on our case. The procedure threw up a variety of records and it is important to distinguish between them. To start with, we have the papal commission appointing the judges. This was a rescript issued in response to the petition of the plaintiff, who normally signified the judges he wanted.[5] It was the common practice of the papal chancery to address the rescript to the judges using their title of office, and leaving the names blank. This practice, which is so frustrating for the historian, had important advantages for the litigants : if the incumbent of the office had resigned or died by the time the rescript arrived, provided that his name had not been inserted in the mandate, the commission passed to his successor in office.[6] The petitioner was thus saved the nuisance of having to go back to Rome for a fresh mandate. Even the death of the pope who had issued the mandate did not invalidate the proceedings once the judges had acted under it

[3] 'Master Geoffrey de Lucy, an early chancellor of the University of Oxford', *EHR*, LXXII (1967), 750–63. One of the documents was seen by Thomas Hearne : *Collections* (OHS, xlviii, 1906), 29 ; and on the strength of this Salter listed G. de Luci as chancellor in c. 1250.

[4] 'The legatine award to Oxford in 1214 and Robert Grosseteste', *Oxoniensia*, XXXIX (1974), 62–72.

[5] The procedure at the curia is admirably described by Jane Sayers, *Papal Judges-Delegate in the Province of Canterbury* (1967).

[6] *c. 14, X, i, 29.* We find such a case in 1244 when an Oxford chancellor, Master John of Taunton, acting under a commission of Innocent IV, observed that the case had already been litigated before a sub-delegate of his predecessor, who had been acting under the same mandate : A. Saltman (ed.), *The Cartulary of Tutbury Priory* (H.M.C. 1962), 22.

and issued citations.[7] Then, after the commission, we have the letters issued by the judges citing the parties and witnesses to appear on a given day ; these are often undated. At the end, we have the sentence given by the judges, which is sometimes dated and sometimes not. Alternatively, the judges record a settlement reached by the parties ; and we have the recognizances recorded by the parties themselves.

Mrs. Cheney's conclusion that chancellor G. de Luci was acting under a commission of Innocent III, and that he must therefore have been in office by 1216, rests upon two lines of argument. The first is the identification of her chancellor with Master Geoffrey de Lucy who became archdeacon of London and dean of St. Paul's and who, as we know, was dead by 1241. The second argument is based upon the diplomatic form of the documents which, it is suggested, is rather antiquated and which seems to reflect an early stage in the development of judge-delegate procedure. Thus the judges fail to date their judgement ; they do not recite, but simply allude to, the papal mandate under which they are acting ; and two of the documents contain a collective attestation—*teste tota universitate*—which seems reminiscent of the practice of an earlier age. All this reinforces a surmise that we are dealing with a commission issued by Innocent III rather than one issued by Innocent IV thirty years later.

The argument from diplomatic is not, however, conclusive. It should be observed that two of the documents were originated not by the judges, but by one of the parties in the case, the vicar of Taynton. They are recognizances in which he renounces his claim against Jocelin, the sacrist of St. Peter's abbey Gloucester. And it is the vicar of Taynton, not the judges, who uses the striking attestation ' witness the whole university '. Such general attestations are commoner in the twelfth century, but they are not unknown in the thirteenth. What is more remarkable here is the use of the expression *universitas*, without any qualification, to designate the academic corporation. If in fact the documents are to be dated in 1216, this is the earliest reference to it that we have. The legatine award of 1214 studiously avoids any reference to the existence of a scholastic corporation. Here, as elsewhere in Europe, the language with which public authorities referred to the syndicates of scholars remained for some time fraught with ambiguity. To be sure, Innocent III addressed letters to the *universitas scolarium Parisius*, but he was using the word ' universitas ' in its generic rather than in its corporate sense.[8] Some decades later, we find benefactors using the expression *universitas scolastica*, in which the function of the qualifying adjective is to exclude the ambiguities still inherent in the term *universitas* when used on its own.[9] But in the deeds of the vicar of Taynton the word is used without any such qualification, and it is only meaningful if it is understood in its specific and corporative sense as designating the academic association. So far from seeming old fashioned, his usage strikes us as precocious in 1216, even suspiciously so.

Let us turn to the other diplomatic considerations. Although the rules that governed the diplomatic forms were clearly formulated by the time William of Drogheda wrote his *Summa*, in practice judges were often lax in observing them.

[7] Thus a decretal of Lucius III : *c. 20, X, i, 29.*

[8] See the discussion of the terminology by Gaines Post, ' Parisian masters as a corporation ', *Speculum*, IX (1934), 421–45.

[9] For example the expression *studium scolastice universitatis* in John of Lexington's deed of 1249 in favour of the Cistercian college at Paris : *BIHR*, XXXVI (1963), 186.

They did not always trouble to name witnesses. In 1241, for instance, Master Ralph of Sempringham, acting as sub-delegate of the then chancellor, recorded and sealed a sentence without any attestation clause.[10] Even as late as 1262, the prior of Holy Trinity Ipswich pronounced a sentence in which he alluded to, but did not recite, the commission of Urban IV under which he acted.[11] In the case of the vicar of Taynton the omissions committed by the judges, who were the chancellor and dean of Oxford, were more venial, for the document to which they set their seals was not strictly speaking a sentence at all. It was simply a confirmation of a settlement that had been reached by the parties to the case. The failure of the judges to date their deed need excite no comment. Later parallels can be readily adduced.[12] In short, the diplomatic evidence does not positively point to Innocent III as the pope alluded to in the commission of chancellor Lucy ; and it is arguable that some of it points the other way. The case apparently stands or falls with the identification of the chancellor as the future dean of St. Paul's. We shall return to this later. Let us now consider a difficulty in the way of making him chancellor of Oxford in, or before, 1216.

The most serious problem is posed by statements made by judges in two documents of 1221 to the effect that no chancellor existed at that date. It was these seemingly categorical statements that led H. E. Salter and Father Callus to conclude that the bishop made no appointment to the office until nearly seven years after the legatine ordinance of 1214. The documents relate to a series of tithe actions which Oseney abbey undertook in 1221. For this purpose the abbey obtained commissions from pope Honorius III addressed to the chancellor and dean of Oxford and the archdeacon of Worcester. Some of the documents originated by the judges in pursuance of these commissions have been preserved, and three of them in particular concern our case. It will be simplest to consider the latest of the three first. This is a notification by the chancellor and archdeacon that they had acted under a papal mandate of 30 March 1221 and that on 7 July of the same year they had received depositions of witnesses in St. Mary's church at Oxford. Both judges attached their seals to this record.[13] Thus we have an undoubted chancellor acting *eo nomine* on 7 July 1221. Unfortunately he does not name himself, and the papal mandate, following standard practice, leaves out the names of the office holders.

The earliest of the Oseney documents records a judgement by the archdeacon of Worcester and the dean of Oxford. This is undated, but the judges recite a papal mandate of 23 March 1221 addressed to the chancellor and dean of Oxford and the archdeacon of Worcester. Allowing the minimum period needed to deliver the mandate and cite the witnesses, we must place the judgement of these two men some time after the 15 May. The mandate contained the usual clause *Si non omnes* empowering any two of the judges to act in the absence of the third ; and the archdeacon and dean explain that they have done so, owing to the fact that the

[10] BM. Cotton MS. Nero C, iii, fo. 199 ; listed in Sayers, *op. cit.* note 5, 293.

[11] BM. Harley MS. 3697 (Walden cartulary), fo. 49^{v}.

[12] For instance a judgement by the prior of St. Frideswide and the archdeacon and chancellor of Oxford, acting under a commission of 1237 issued by Gregory IX, is undated : BM. Add. Charter 21888.

[13] *Mediaeval Archives*, i, no. 7 & n. The document originally bore two seals, one of which—the chancellor's —was seen by Brian Twyne.

third judge who had been named—the chancellor—did not exist—*cancellario non existente.*[14] However we explain the non-existence of the chancellor, he had materialised by 7 July when, as we have seen, he put his seal to a document in St. Mary's church. But evidently for some period preceding this—for how long we cannot say—there was no chancellor. This fact is further attested by our second document, which is known only from a transcript by Brian Twyne. Here too we have a papal commission similar to the one above and dated 30 March 1221, instructing the archdeacon of Worcester, the chancellor of Oxford, and William rector of Churchill, to examine witnesses and hear and determine cases relating to tithe claims of Oseney. In pursuance of this, the archdeacon and the rector of Churchill issue a citation under their seals, explaining that they have done this ' because the third person, namely the chancellor, of whom mention is made in the apostolic letters, in the nature of things at that time did not exist—*quoniam tertius, scilicet cancellarius, de quo in literis apostolicis facta est mentio, tunc temporis in rerum natura non fuit.*[15] The citation is undated, but here again, when allowance has been made for the time taken to deliver the papal mandate, and also for the notice due to the persons summoned, the document falls into the period 22 May to 20 June. The question is in what sense we are to understand these statements that no chancellor existed at this time, and in particular, what meaning we should attach to the striking expression *in rerum natura.* The open-ended wording of the legatine ordinance and the later statement made by Grosseteste about the attitude of Hugh de Wells both testify that the bishop was at first reluctant to appoint a chancellor. When the archdeacon and the rector stated in 1221 that in the nature of things at that time no chancellor existed, did they mean that there was no chancellor because the bishop had not yet instituted the office? If this is not what they meant to say, how should we understand their cryptic phraseology?

Medieval lawyers never resorted to informal language if they could avoid it. And so in this case, if we consult our law books we find that the archdeacon and the rector were using a standard legal expression to describe a well recognized predicament. William of Drogheda, who was teaching at Oxford a few years after this time, deals with a series of questions affecting the validity of papal rescripts. In his sixteenth question he considers the situation that arises if a judge designated in a rescript *does not exist in the nature of things at the time the rescript was granted.*[17] In these circumstances the rescript would be invalidated ; and here William refers us to a judgement of Celsus in the Digest, which is the ultimate source of the expression. The text is concerned with the law of succession. If there are two contestants to an inheritance, and one of them dies, it goes to the survivor and not to the heir of the deceased claimant, for ' it cannot be understood to have been given to him who, at the time of the gift, in the nature of things did not exist. '[18] William then is telling

[14] *The Cartulary of Oseney Abbey* ed. H. E. Salter (OHS) v, 374–5. I have corrected the date of the papal mandate.

[15] Bodl. Twyne MS. xxiii, fo. 67 ; printed in Rashdall iii, 477.

[17] ' Posset quaeri, si iudex datus in rescripto non sit in rerum natura tempore dati rescripti, an valeat ', *Die Summa Aurea des Wilhelmus de Drokeda,* ed. L. Wahrmund in *Quellen zur Geschichte des römischkanonischen Processes im Mittelalter,* ii, pt. 2, 348.

[18] *Digest xxviii, 5, 60* : ' nec potest intellegi datus ei qui tempore dandi in rerum natura non fuit ', *Corpus Iuris Civilis* (Berlin, 1954), I, p. 424.

us that if a judge named in a commission dies, the commission ceases to have effect and the jurisdiction conferred by it is revoked. Hostiensis confirms this and adds that the death of any one of a group of commissaries renders the commission void.[19]

The two judges in the Oseney case were thus using a stereotyped formula to indicate that the third of their number, the chancellor, was no longer living. Nevertheless, they proceeded to summon witnesses on the assumption that their commission was still valid. And they were perfectly right to do so. For in a decretal letter to the abbot and convent of Leicester, Alexander III had laid down that where a commission was addressed to an office-holder, provided that his name had not been inserted, the commission passed in the event of death to his successor in office.[20] In glossing this decretal, Bernard of Parma poses a case which precisely fits the predicament of the two Oseney judges. Supposing, he says, a commission had been addressed to two abbots, one of whom had died ; his colleague nevertheless proceeded with the case on his own, acting under the clause *Quod si ambo*, and issued letters citing the parties and witnesses ; he was then joined by a substitute judge—the successor of the deceased abbot—and with him pronounced sentence. Would he have acted correctly in this case? Bernard concludes that he would : the commission was not invalidated by the death of the previous judge, the reason being that the papal mandate was addressed to a dignitary or office-holder, who was not named, and a dignity is deathless—*dignitas non moritur*.[21] As Hostiensis observed, ' a dignity to whom a rescript is written does not die, any more than a church does '.[22] So too, in the Oseney case the archdeacon and the rector proceeded to cite the parties despite the demise of their colleague, the chancellor, and in due course they were joined by his successor, with whom they pronounced sentence. Chancellors died, but the dignity of the chancellorship was deathless. It is obvious, however, that legal immortality could not be conferred upon an office which had not yet been created. The judges could not have proceeded to act if the office of chancellor did not exist ; for then the commission would indeed have been addressed to a non-existent judge.

Thus if their language is properly understood, the Oseney documents, so far from casting doubt on the existence of the chancellorship before July 1221, actually presuppose its existence. Moreover, if no chancellor had been appointed before that date, we should have to face another serious problem. It is conceivable that the papal chancery could have erred in appointing a non-existent judge ; as William of Drogheda observed, ' nowadays unknown judges (*i.e.* judges unknown to the delegating authority) are granted at the instance of the petitioner. '[23] But it is hardly conceivable that some months earlier the canons of Oseney instructed their proctor at the Curia to get letters addressed to the chancellor of Oxford if such an officer did not yet exist. Clearly a chancellor was in office before March 1221. Who he was we cannot say, but he had apparently died by the early summer of that year. His successor, who was installed in office by 7 July, was evidently the Master G. who

[19] *Hostiensis Summa Aurea* (Lyons, 1548), fo. 48v.

[20] *c. 14 X. i, 29* ; *Cf.* above n. 6.

[21] *Corpus Iuris Canonici cum glossis* (Paris, 1612), 316–17. Bernard adds that if the proper name of the office-holder is given in the rescript, his successor cannot act.

[22] *Op. cit.*, fo. 50 : ' dignitas enim cui scribitur non moritur sicut nec ecclesia.

[23] *Op. cit.*, p. 376.

appears some time after 15 April 1222, acting as a judge in a case concerning St. James's abbey Northampton.[24]

There is good reason then to believe that the chancellorship was established before 1221 ; and there is no obstacle to placing Master Geoffrey de Lucy in that office in, or possibly before, the summer of 1216. Mrs. Cheney's identification of him with the man who subsequently became archdeacon of London and dean of St. Paul's is convincing.[25] We know of no other master of that name in the next generation ; and both his antecedents and his later career make him a highly suitable candidate. It is probable that the practice of electing a theologian or canonist to be chancellor was followed from the first, for an important aspect of his role was to exercise jurisdiction over the clerks of the university on behalf of the bishop. The names of thirty-five chancellors who held office before 1300 have been traced.[26] Although seven of these are otherwise obscure, the career pattern of the remaining twenty-eight is remarkably consistent : twenty-five of them subsequently held a cathedral prebend, seven became deans, twelve became archdeacons, and nine became bishops. Only three cannot be subsequently traced among the higher clergy, but this is probably because the records fail us. The office of chancellor was clearly an important draw in the career stakes.

We do not know the date of the document that Master Geoffrey de Lucy originated when he was acting as a papal judge. Although he was acting under a commission of Innocent III, he may have been hearing the case some time after the pope's death : once the parties had been cited by a judge, the commission under which he had acted continued in force, even if the pope who issued it died.[27] In this case, the vicar of Taynton observed that the litigation had been protracted—*diu ageretur*. Nevertheless, the rescript appointing the Oxford chancellor as judge was procured before Innocent's death on 16 July 1216, and the representative of Gloucester abbey who obtained it cannot have left England later than the beginning of June. By the beginning of June, therefore, chancellor Geoffrey de Lucy was installed in office. Whether he had been newly installed that summer or whether he had been in office since the autumn of 1215 it is hardly possible to say. Mr. Pollard has made a strong case for the earlier date on the grounds that bishop Hugh de Wells must have confirmed his appointment before he left England in November 1215 to attend the Lateran Council. In either event, Grosseteste's headship of the schools, which was before the bishop had agreed to the title and office of chancellor, must evidently be placed between the resumption of the schools in the Michaelmas of 1214 and the inauguration of Geoffrey's chancellorship in 1215 or 1216.

In conclusion we return to the remarkable phrase of attestation used by the vicar of Taynton in the case over which chancellor Geoffrey presided—*teste tota universitate*. This must evidently be regarded as the earliest specific reference to the

[24] Cotton MS. Tiberius E. V. (cart. of St. James), fo. 109 ; the placename is missing owing to damage of the manuscript, but the defect is made good by a 16th-century transcript in B.M. Add. MS. 32,100 fo. 210. *Cf.* Cheney, *op. cit.* note 3.

[25] He first appears as dean in 1228–9 : C. N. L. Brooke, ' The deans of St. Paul's, c. 1090–1499 ', *B.I.H.R.*, XXIX (1956), 233–4.

[26] The list compiled by H. E. Salter in *Snappe's Formulary* (OHS, 1924), 318–35, with some additions. For their careers see Emden, *BRUO*.

[27] *C. 20, X, i, 29*, and Bernard of Parma's gloss in *C.I.C.* (1612), 317.

academic corporation. It presumably alludes to a meeting of congregation ; it suggests a parallel to the numerous episcopal *acta* that were recorded as being executed *tempore synodi*. The use of the word *universitas*, on its own and without qualification, to designate the scholastic body, next appears in a judge-delegate case of 1226 ; here the parties state they have reached a settlement *coram cancellario universitatis Oxonie et de Oxonia et de Hesel decanis*.[28] These two early references to the scholastic body are all the more remarkable because recognition of its corporate identity was only grudgingly conceded by public authority. The legatine ordinance of 1214 studiously avoided any reference to it ; and a letter of cardinal Guala issued in 1217 or 1218, in which he exempted houses owned by religious bodies from the requirement to remit the rents of student hospices, is addressed simply to ' all the masters and scholars dwelling at Oxford. '[29] As late as 1251 Grosseteste, Oxford's most illustrious alumnus, but now in his role as bishop of Lincoln a poacher who had turned gamekeeper, objected to the fact that the scholastic body had expressed its corporate identity by means of a common seal.[30] It was only in 1254, after the death of the formidable old man, that the university secured formal papal approval of its association—*universitatis vestre communionem*—from Innocent IV.[31] Of course, the masters had been acting as a corporation long before this. They must have had at least an embryonic organization before the dispersal of 1209. Nevertheless, the earliest explicit references to the scholastic corporation are precious. It is appropriate that they appear in documents of 1216 and 1226 in relation to the chancellorship. For although the bishop of Lincoln regarded the chancellor as an officer whom he appointed to rule the scholars on his behalf, in reality the chancellor was from the first the agent and symbol of the university's corporate autonomy.

[28] *Reg. Antiquissimum Lincoln.*, iii, nos. 1019–20. The documents are undated, but the judges were acting under a commission of Honorius III dated 27 October 1225.

[29] *Mediaeval Archives* i, 16–17, dated 11 March. His known itinerary makes 1217 the more probable year for his visit to Oxford, see Helene Tillmann, *Die päpstlichen Legaten in England bis zur Beendigung der Legation Gualas* (Bonn, 1926), 118–20.

[30] *Adae de Marisco Epistolae* in *Monumenta Franciscana* ed. J. S. Brewer, i (RS. 1858), 99–102. The university of Paris had a similar conflict with the cathedral chapter over the use of a common seal, but they were authorized to use one by Innocent IV in 1246 : *Chartularium Universitatis Parisiensis*, ed. Denifle and Chatelain, I, pp. 194–5.

[31] The privilege *Querentes in agro* dated 6 October 1254 : *Cal. Papal Letters*, i, 306 ; text in *Munimenta Academica*, ed. H. Anstey (RS. 1868), i, 26.