

and education. Willis and Clark's monumental history of the buildings of the University and Colleges of Cambridge—a work the historical value of which, as Rashdall pointed out, 'is by no means limited to the architectural side'—was published in 1886. The destruction of archives which the University of Cambridge suffered during the riots of 1381 has left her irremediably poorer than Oxford in historical material for the years preceding that melancholy event. It is only in the following century that the balance is redressed. Since the first edition of this book, Grace Book A (1454–88) and Grace Book B (1488–1511) have been admirably edited by Sir Stanley Leathes and Miss Mary Bateson, respectively. Recent years have shown that in Cambridge, as in Oxford, there still lies in college muniment rooms important material for the medieval period that is worthy of publication. Mr. H. Rackham's edition of the early statutes of Christ's College and Mr. A. H. Lloyd's account of the early history of the same college are welcome evidence of this. It is to be hoped that the work on the early statutes of Pembroke College upon which Mr. A. Attwater was engaged before his untimely death was sufficiently advanced to make publication possible. In the writing of college histories, whether at Cambridge or at Oxford, a notable defect has lain in the little attention that has been given to the history of the management of college estates and to all that pertains to the economic and financial aspects of college history. In the case of St. John's College, Cambridge, which does not come within the purview of this book, as it was not founded until 1511, this defect has been made good in exemplary fashion by Sir Henry Fraser Howard in his recently published volume: *An Account of the Finances of the College of St. John the Evangelist in the University of Cambridge, 1511–1926*. A proper understanding of the milieu and working of the colleges of medieval foundation in both universities will only be possible when their full activities as land-owning corporations have been investigated. There are college muniment rooms that are wonderfully rich in the requisite documentary evidence.

A. B. E.

## CHAPTER XII

### THE ENGLISH UNIVERSITIES

#### § 1. THE ORIGIN OF THE SCHOOLS AND UNIVERSITY OF OXFORD

THE first investigations into the history of the university were prompted by the dispute for antiquity and precedence with Cambridge in the sixteenth century, beginning with the *Assertio Antiquitatis Oxoniensis Academiae* (by Thomas KAY or CAIUS), printed with Joh. Caius *De Antiq. Acad. Cantab.*, 1568 and 1574; also edited as *Vindiciae Antiquitatis Acad. Oxon.* by T. Hearne, 1730. But the first work that can be called a history is Bryan TWYNE, *Antiquitatis Academiae Oxoniensis Apologia*, 1608. Twyne's view of the antiquity of Oxford was as superstitious as that of Caius; but his Apology represents an immense amount of laborious research, while his twenty-four vols. of MS. collections formed the basis of all later work, a debt very inadequately acknowledged by his better-known successor, Wood. (G. LANGBAINE), *The Foundation of the Universitie of Oxford*, 1651, contains nothing but a short account of the colleges. The classical historian of Oxford is Anthony WOOD, whose immortal work appeared in a mutilated Latin translation as *Historia et Antiquitates Universitatis Oxoniensis*, 1674. *The History and Antiquities of the University of Oxford*, in its original dress of racy English (though not the actual work from which the Latin version was made), was only published by John GUTCH at Oxford in 1792–6. (References to Wood are always to this edition, where no work is specified.) Wood also wrote *The History and Antiquities of the Colleges and Halls in the University of Oxford*, ed. J. Gutch, 1786. His *Fasti Oxonienses* was published as an appendix to the last-mentioned work in 1790. (Another collection of *Fasti* is appended to the *Athenae*.) Wood's *Survey of the Antiquities of the City of Oxford* (written 1661–6) appeared in a much mutilated form as Sir John PESHALL's *Ancient and Present State of the City of Oxford*, 1773. The original manuscript has been edited in a most scholarly fashion by Andrew CLARK (Oxford Hist. Soc., 1889–99). The *Athenae Oxonienses*, consisting of biographies of Oxford 'Writers and Bishops' (ed. 1, 1691, and re-ed. P. Bliss, 1813–20), only begins with the year 1500. Wood's successor as chief antiquary of Oxford was Thomas HEARNE, whose rather trifling contributions to the medieval history of Oxford are scattered through his various works and editions, e.g. *Roberti de Avesbury Historia*, 1720, App. i (where the 'Bedel's Book' is printed); Leland's *Itinerary*, vol. ii (chiefly on the monasteries), 1710–12, &c. There is a complete list of Hearne's writings in *The Life of Mr. Thomas Hearne*, 1772. John AYLIFFE, *The Antient and Present State of the University of Oxford*, 1714, is a readable abridgement of Wood continued to the writer's own times, with some documents. [Mr. Strickland Gibson has drawn attention to this writer in an article entitled, 'A neglected Oxford historian', in *Oxford Essays in Medieval History, presented to H. E. Salter*, Oxford, 1934.] The only really valuable work done upon our history from the time of Wood down to the present decade was that of William SMITH, by far the acutest and most critical of our Oxford

CHAP. XII, § 1. antiquarians, who, in his *Annals of University College* (Newcastle-on-Tyne, 1728), was the first to dissect and expose the whole tissue of lies about Mempric, Alfred the Great, &c., which have, however, hardly yet disappeared from serious histories. Of Sir John PESHALL's (Anon.) *History of the University of Oxford to the death of William the Conqueror*, 1772, the title is a sufficient criticism; his *History of the University of Oxford from the death of William the Conqueror*, 1773, is a dry compilation from Wood, with a few documents *in extenso*. The *History of the University of Oxford* (printed for R. Ackermann, London, 1814), though in folio form, is little more than an illustrated guide-book. *Oxoniana* (printed for Richard Phillips, London: no date, but about 1810) is a collection of gossiping extracts relating to the university. Alex. CHALMERS, *History of the Colleges, Halls, and Public Buildings attached to the University of Oxford*, 1810, and J. K. INGRAM, *Memorials of Oxford*, 1837, deal almost entirely with the colleges and buildings. J. SKELTON's illustrated *Oxonia Antiqua Restaurata*, 1823; ed. 2, 1843, enables the reader to see what old Oxford was like. His *Pietas Oxoniensis or Records of Oxford Founders*, 1828, is of less value. V. A. HUBER, *Die Englischen Universitäten*, Cassel, 1839 (abridged Eng. trans. ed. Francis W. Newman, London, 1843), is one of the most worthless university histories which it has been my lot to peruse: it may be described as a history written without materials. The English translation contains, however, as an appendix, Thomas WRIGHT's valuable *Historical Doubts on the Biography of Alfred attributed to Bishop Asser*, &c. Cardinal NEWMAN contributed a popular sketch of 'Medieval Oxford' to the *British Critic* for 1838 (also in *Historical Sketches*, London, 1872). The same writer also deals with the history of Oxford in an article on 'The Rise and Progress of Universities', originally published in the *Catholic University Gazette*, 1854; but these charming bits of writing have no great value as history. J. C. JEAFFRESON, *Annals of Oxford*, 1871, is a lively *réchauffé* of the old materials, not without flashes of historical insight, but can hardly rank as serious history. James PARKER, in *The Early History of Oxford* (Oxford Hist. Soc., 1885), has dealt very thoroughly with the early history of the town and the growth of the Oxford myth. Sir H. C. MAXWELL-LYTE, *History of the University of Oxford*, 1886, is the first critical history of the university, and is generally accurate: I am especially indebted to Sir H. C. Maxwell-Lyte's references. G. C. BRODRICK, *History of the University of Oxford*, 1886, is a condensed sketch of Oxford history which becomes increasingly valuable after the mediæval period. S. F. HULTON, *Rixæ Oxonienses* (Oxford, 1892), is a lively popular sketch.

G. V. COX (formerly Esquire Bedel), *Recollections of Oxford* (ed. 2, 1870), is full of interesting notices of old customs. A. G. LITTLE, *The Grey Friars in Oxford* (O.H.S., 1892), is a most learned and painstaking piece of work. There is an earlier and very slight, but still useful, study on *The Blackfriars in Oxford*, by W. G. D. FLETCHER (Oxford, 1882). W. D. MACRAY's learned *Annals of the Bodleian* (1868; ed. 2, 1890) has only a few pages relating to our period. C. W. BOASE's delightful volume on Oxford in *Historic Towns* (London, 1887) must not be passed over, nor Andrew LANG's brilliant sketch entitled *Oxford: brief historical and descriptive notes*, 1890. *The Colleges of Oxford: their history and traditions, xxi chapters by members of the Colleges* (ed. A. CLARK, 1891), contains more original research on the history of Oxford than any book that has appeared in the nineteenth century. There are some fragments of univer-

CHAP. XII, § 1. sity history in *A History of the Church of S. Mary the Virgin, Oxford* (E. S. FFOULKES), 1892. The few pages devoted to a comparison between Oxford and Paris in Mr. GLADSTONE's eloquent and characteristic *Academic Sketch* (Romanes Lectures, Oxford, 1892) are full of interest.

Prof. T. E. HOLLAND has an article on 'The Origin of the University of Oxford' in the *Eng. Hist. Review* of 1891, which summarizes the ascertained facts, and there are some suggestive remarks in his article on 'The Ancient Organization of the University of Oxford' in *Macmillan's Magazine* for July, 1877. I have already explained my view of the origin of the university in the *Church Quarterly Review* for 1887 and in the *Academy*, No. 839, in a letter which was followed by a controversy between Prof. Holland and myself in Nos. 847, 848, 849, 850, 890.

A *Registrum Privilegiorum almae Universitatis Oxoniensis*, containing the Charters of Edward IV and Henry VIII, was printed at Oxford in 1770. But the early statutes remained unpublished till 1868, when they were edited (not well) by H. ANSTEY in *Munimenta Academica* (Rolls Series), with an interesting introduction. *The Register of the University of Oxford* (1449-63; 1505-1622) has been edited by C. W. BOASE (vol. i, 1885) and A. CLARK (vol. ii, 1887-9; O.H.S.), a most laborious and important piece of work. A few—too few—mediæval documents are printed in *Collectanea* (O.H.S., vol. i, ed. C. R. L. FLETCHER, 1885; vol. ii, ed. M. BURROWS, 1890). The *Laudian Code of Statutes* (first printed at Oxford in 1634 before its final revision), by which with little modification the university was governed down to 1851, has been re-edited by J. GRIFFITHS (with introduction by C. L. SHADWELL), Oxford, 1888. *The Statutes of the Colleges of Oxford* were printed 'by the desire of the Commissioners' of 1851 (London, 1853). J. GRIFFITHS, *Enactments in Parliament relating to the University of Oxford*, 1869, is very incomplete for the early period. Some documents relating to the university appear in J. E. THOROLD ROGERS, *Oxford City Documents* (O.H.S., 1891), and O. OGLE, *Royal Letters addressed to Oxford, and now existing in the City Archives*, 1892. There is a *Rough List of Manuscript Materials relating to the History of Oxford contained in the printed catalogues of the Bodleian and College Libraries*, 1887, by F. MADAN, who has also catalogued the *Oxford City Documents* (1887: not published). I may also refer to the very valuable Catalogue of MS. Authorities used by Wood, which Dr. Clark has added to the last vol. of his edition of *Wood's Life and Times*.

My greatest obligations are after all to the invaluable collections of Bryan TWYNE (cited as Twyne), with the two earlier MS. collections of Robert HARE, known as the *Privilegia* and the *Memorabilia*. Of the first there are two copies, one in the Bodleian (Bodley, No. 906), the other in the archives of the university. I have used the Bodleian copy. The *Memorabilia* is in the archives. I have also consulted the Smith MSS. in the Library of the Society of Antiquaries. All references to documents in Twyne and Hare have been verified and corrected by the originals (except where these are lost), but I have thought it convenient to add the references to their collections, except of course when the documents have been printed.

[Since the first publication of this work in 1895 much valuable material for the history of mediæval Oxford has been made available in print, chiefly through the laudable enterprise of the Oxford Historical Society and its successive editors. The earliest extant letter-book of the university has been edited in two volumes by the Rev. H. ANSTEY under the title

CHAP. XII, § 1. *Epistolae Academicæ* (O.H.S., 1898): the letters and documents contained in this collection range from 1421 to 1508. *The Mediaeval Archives of the University of Oxford* (O.H.S., 1917-19), carefully edited by Dr. H. E. SALTER, includes in vol. i privileges and similar deeds preserved in the university archives and in the Public Record Office, and the title-deeds of university property in the Middle Ages; and in vol. ii the Proctor's accounts ranging from 1464 to 1497, together with other documents relating to municipal rather than to academical history. In *Registrum Cancellarii Oxoniensis, 1439-69* (O.H.S., 2 vols., 1932), Dr. SALTER has made available for study the earliest surviving register of the acts of the chancellors of the university: this most valuable work is prefaced by an important introduction. A scholarly edition of the pre-Laudian statutes of the university, *Statuta Antiqua Universitatis Oxoniensis, 1931*, has been compiled by Mr. Strickland GIBSON, with a very useful introduction. In *Snappe's Formulary* (O.H.S., 1923), Dr. SALTER has brought together in one volume extracts from the Formulary of Dr. John Snappe, who was commissary at Oxford in 1399, significations of excommunication, confirmations of the chancellors of the university by the bishops of Lincoln, a collection of documents of particular interest for the history of the repression of Wyclifism in Oxford, and for Archbishop Arundel's visitation of the university, and some miscellaneous deeds about Oxford, some of which concern academical affairs.

The cartularies of the religious houses that existed in Oxford and its immediate neighbourhood during the Middle Ages contain much information of importance for the history, especially the topographical history, of the university and its constituent halls and colleges. *The Cartulary of the Monastery of St. Frideswide at Oxford* (O.H.S., 2 vols., 1895-6) has been edited by the Rev. S. R. WIGRAM. A third volume may be expected, edited by Dr. SALTER. *The Cartulary of the Abbey of Eynsham* (O.H.S., 2 vols., 1906-8); *A Cartulary of the Hospital of St. John the Baptist* (O.H.S., 2 vols., 1914-15); *The Oseney Cartulary* (O.H.S., 4 vols., 1928-34; vol. v has yet to be published) have all been admirably edited by Dr. SALTER. Some further documents relating to the property of the Priory of St. Frideswide in Oxford will be found calendared in the *Cartulary of the Mediaeval Archives of Christ Church*, edited by N. DENHOLM-YOUNG (O.H.S., 1931). To the sources of topographical information there should be added the 'Description of Oxford, from the Hundred Rolls of Oxfordshire, 1279', edited by Miss Rose GRAHAM, in *Collectanea*, vol. iv (O.H.S., 1905). Mr. H. HURST has attempted a survey of medieval Oxford in *Oxford Topography* (O.H.S., 1900), as a companion volume to *Old Plans of Oxford* (O.H.S., 1899). Dr. SALTER has composed a *Map of Medieval Oxford*, Oxford, 1934, which places at the disposal of students the fruits of all his investigations into the medieval topography of Oxford. 'An Inventory of the Muniments of the University', made in 1631 by Brian TWYNE, has been printed by Dr. R. L. POOLE as an appendix to his interesting *Lecture on the History of the University Archives*, Oxford, 1912.

In *A History of the University of Oxford*, 3 vols., London, 1924-7, Sir Charles MALLETT, with notable industry, has compiled a detailed and very readable history of the university, its colleges and halls. The first volume covers the medieval period. Dr. L. H. D. BUXTON and Mr. Strickland GIBSON, *Oxford University Ceremonies*, Oxford, 1935, although primarily concerned with modern practice, give valuable information for the medieval period. Mr. Aymer VALLANCE's handsome volume, *The Old*

*Colleges of Oxford*, London, 1912, contains an important architectural survey. The Rev. B. H. STREETER, *The Chained Library*, London, 1931, is valuable for the older library buildings and equipment.] CHAP. XII, § 1.

THE connexion of the University of Paris with the Palatine Schools of Charles the Great rests only upon a series of arbitrary assumptions. The theory which traces the origin of Oxford to Alfred the Great aspires to a foundation in contemporary evidence. The Oxford myth was long accepted on the authority of a passage in the *Annals of Asser*, Bishop of St. David's. This passage is found neither in any extant manuscript nor in the earliest printed editions, but made its first appearance in Camden's *Britannia* in 1600; whence, three years afterwards, it was transferred to his edition of Asser.<sup>1</sup> The spuriousness of the passage, which is, indeed, sufficiently betrayed by its affected classicality of style, was demonstrated as long ago as 1843 in a dissertation appended to the English translation of Huber's *English Universities*.<sup>2</sup> The myth received its *coup de grâce* at the hands of Mr. James Parker.<sup>3</sup> As the result of that writer's laborious investigation into the matter, Sir Henry Savile, of Bank,<sup>4</sup> is left under a grave suspicion of having perpetrated the patriotic fraud and the illustrious Camden of having not quite innocently inserted it in his edition. When the supposed authority of Asser is put out of court, the Alfredian legend, even in its simplest and least elaborate form, cannot be traced farther back than the *Polychronicon* of Ralph Higden, who died in 1364.<sup>5</sup> In fact, the whole story, with

<sup>1</sup> *Asser's Life of King Alfred*, ed. W. H. Stevenson, p. 70; W. Camden, *Britannia*, London, 1600, p. 331. In Savile's ed. of Ingulf (*Rerum Anglicarum Scriptores post Bedam*, London, 1596, fol. 513 b) there is a somewhat similar interpolation, making the writer study at Oxford in the twelfth century, as also at Westminster. Camden was Head Master of Westminster School.

<sup>2</sup> In the preceding year Mr. Thomas Wright (*Archæologia*, xxix. 192) had called attention to the legendary character of the whole life; but the first modern historian

who pointed out the probability of an insertion appears to have been Lappenberg in his *Gesch. von England*, Hamburg, 1834, i. 339 sq.

<sup>3</sup> *The Early History of Oxford* (O.H.S.), pp. 40 sqq. [See also *Asser's Life of King Alfred*, ed. W. H. Stevenson, pp. xxiii-xxviii.]

<sup>4</sup> To be distinguished from the better known Sir Henry Savile, Warden of Merton College, and Provost of Eton.

<sup>5</sup> Ed. C. Babington (R.S.), vi. 354. The *Historiola* incorporated in the Chancellor's and Proctors' books (Anstey, *Mun. Acad.* ii. 367) is probably of about the same

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the vast cycle of legend of which it is the nucleus—the foundation by King Mempric, a contemporary of David, the Greek professors who came over with Brute the Trojan after the fall of Troy, and were established at Greeklade, or Cricklade, in Wiltshire, and the subsequent removal of the university to Oxford—may now be abandoned to students of comparative mythology and of the pathology of the human mind.

Early his-  
tory of the  
city.

The pains which have been expended in tracking to its origin every single thread in the elaborate web of fiction which is solemnly presented in the guise of history by Bryan Twyne, and with more reserve by Anthony Wood, can hardly be regretted on account of the light which Mr. Parker's researches have thrown upon the early history of the town. It is practically certain that the growth of a town, or indeed of any considerable settlement, on the site of the existing city is certainly posterior, and in all probability much posterior, to the Roman period. The story of S. Frideswide supplies the earliest evidence which even can pretend to be called historical of the existence of Oxford. That story is subjected by Mr. Parker to a no less exhaustive examination than the Alfredian cycle. Its details—King Didanus and his consecrated daughter, her persecution by a wicked King of Leicester, the miraculous blinding of the King and his messengers, the spring that burst forth at Binsey in answer to her prayers—must of course be treated as legendary embellishments, but we may probably recognize in the legend a germ of historical fact, and accept it as pointing to the establishment of a community of nuns ascribing their origin to S. Frideswide, somewhere about the traditional date 721. The foundation of this house—whether or not on the exact site of the modern Christ Church—is the earliest presumptive evidence for the existence of even the later town.<sup>1</sup> The first actual notice of Oxeneford does not

date. [*Statuta Antiqua Universitatis Oxoniensis*, ed. S. Gibson, pp. 17-19, who dates it 'before 1350'.] The Mempric story appears for the first time in the *Historia Regum Angliæ* of John Rous or Rosse, the Chantry-priest of Warwick, whose history (if such it is to be called)

ends with 1486 (ed. T. Hearne, p. 20 sq.). [On the legendary history of the university see Dr. Hans Matter, *Englische Gründungssagen von Geoffrey of Monmouth bis zur Renaissance*, Heidelberg, 1922, pp. 394-402.]

<sup>1</sup> [No evidence for the existence

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occur till the year 912. In that year, according to the Anglo-Saxon Chronicle, Edward the Elder 'took possession of London and Oxford, and of all the lands which owed obedience thereto'.<sup>1</sup> Mr. Parker conjectures that it was on this occasion that the city was for the first time fortified, and finds in the Castle Hill the sole surviving relic of tenth-century Oxford, and a second centre round which houses must have congregated.<sup>2</sup>

Little more is heard of Oxford till the eleventh century, when it becomes a frequent place of meeting for the National Gemot as well as for ecclesiastical councils. We are not, however, writing the history of the town, but of its university. Yet the fact just mentioned may serve in some measure to answer what is in many respects a perplexing question. Why should Oxford of all places have become the earliest and greatest national university? Ecclesiastically it was a place of very minor importance, and no historical prestige. It was not the see of a bishopric. Its earliest ecclesiastical foundation—the house which, first as a nunnery, then as a college of secular canons, lastly as a priory of Augustinian Canons, occupied what is now known as Christ Church—was a poor and insignificant foundation, when compared with such abbeys as Abingdon or Glastonbury. The Collegiate Church of S. George-within-the-Castle, built by Robert d'Oilly, Constable of the Conqueror, and Roger d'Ivri in 1074,<sup>3</sup> was very small. Even the stately Oseney, also a house of Augustinian Canons, was a house of the second rank, and was not

Its advan-  
tages as a  
university  
town.

of this community of nuns has been found in any charter or other reliable record. The church of S. Frideswide first appears as a parish church: later it was served by secular canons. See *The Cartulary of the Monastery of S. Frideswide at Oxford*, ed. S. R. Wigram (O.H.S.), i. 2, and the article by Dr. H. E. Salter in *A History of Oxfordshire* (V.C.H.), ii. 97.]

<sup>1</sup> J. Parker, *The Early History of Oxford* (O.H.S.), pp. 116, 324.

<sup>2</sup> [More recent archaeological

opinion favours a Norman ascription. See R. H. Gretton, *The Ancient Remains of Oxford Castle*, Oxford, 1925, p. 5.]

<sup>3</sup> *Annales Monastici (Oseney)*, ed. H. R. Luard (R.S.), iv. 9; J. Parker, *The Early History of Oxford* (O.H.S.), p. 206 sq. [See also the article by Dr. H. E. Salter in *A History of Oxfordshire* (V.C.H.), ii. 160; *The Cartulary of Oseney Abbey*, ed. H. E. Salter (O.H.S.), iv. 1-9.]

CHAP. XII, § 1. founded till 1129, the Cistercian Abbey of Rewley not till after the rise of the university. The foundation-bulls for erecting new universities commonly recite in their preambles that the place in question is adapted, by reason of the amenity and salubrity of the air and the cheapness and abundance of victuals, for the use of students. Medieval writers exhaust the resources of their vocabulary in praise of the climate of Paris. Oxford, then almost as completely water-girt as Cambridge, could never have offered many attractions of that kind. The other recommendation, cheapness and abundance of victuals, it may have well possessed. Another essential qualification for a university town often insisted upon in foundation-bulls is facility of access. Oxford was marked out as a convenient meeting-place, alike for the magnates attending a council or parliament and for the assemblage of teachers and students from all parts of England, by its central position. It was situated on the border between Wessex and Mercia—the two great divisions of the southern and then most important and civilized half of the kingdom.<sup>1</sup> It was not inaccessible from London, not too distant from the Continent, and yet as conveniently situated as any southern town could be for students from the far north and the far west. Not least important, it was on the great water-way of the Thames. The strategic value which resulted from such a position led in the Conqueror's time to the building of the existing castle tower, which is still the first historic object that attracts the visitor's attention upon arriving at Oxford by the railway, and later to the construction of those venerable city-walls which still

<sup>1</sup> [The attachment of the prefixes 'north' and 'south' to Northampton and Southampton well exemplifies the central position which Oxford came to acquire. See J. E. D. Gover, A. Mawer, and F. M. Stenton, *The Place-names of Northamptonshire* (Engl. Place-name Soc., vol. x), Cambridge, 1933, p. xix: 'Southampton was already so distinguished by the year 980, while the full form *Northampton* first appears on the eve of

the Norman Conquest. These prefixes doubtless arose spontaneously in common speech. Northampton and Southampton were connected by one of the best-recorded lines of early medieval travel, the road through Brackley, Oxford, Abingdon, Newbury, Whitchurch, and Winchester. It is suggestive that the full form Southampton first appears in the Old English Chronicle in a version written at Abingdon.]

impart so unique a charm to the most delightful of college gardens. To its position, too, must be ascribed the rapid increase in the commercial importance of Oxford after the final cessation of Danish devastations and especially after the beginning of the twelfth century. Its early selection by Jews as a business centre marks this development.<sup>1</sup> In short, Oxford must be content to accept its academic position as an accident of its convenient situation.

Of course, it would be absurd to attempt a demonstration *a priori* that the first and most important English university could have arisen nowhere but at Oxford. But when it is remembered that a central position was a great *desideratum*, that only one of the largest towns in the kingdom would be equal to the housing and feeding of many hundreds or thousands of strangers, and that a royal vill would be preferred for security and protection alike against hostile townsfolk and oppressive ecclesiastical authorities, it will be evident that hardly one other town could be named which satisfied in equal perfection the requirements of the case.

There was something like a consensus among English writers before Sir H. Maxwell-Lyte<sup>2</sup> in connecting the origin of the Oxford schools with some one or other of the conventual churches of Oxford—with the Priory of S. Frideswide's, with Oseney Abbey, or with the Church of the canons secular of S. George-in-the-Castle.<sup>3</sup> But, amid all the obscurity

<sup>1</sup> As to the whole history of the Jews in Oxford, see Dr. Neubauer's essay in *Collectanea* (O.H.S.), ii. 277 sq.

<sup>2</sup> J. B. Mullinger, *Cambridge*, i. 80; *Mun. Acad.*, ed. H. Anstey (R.S.), i. xxxv; G. C. Brodrick, *Hist. of Oxford*, p. 3; S. S. Laurie, *Rise and early Constitution of Universities*, p. 236. Sir H. Maxwell-Lyte (*History of the University of Oxford*, p. 12) sees that the nature of the chancellorship is fatal to a direct continuity between any monastic school and the university, but (p. 9) still seems to attach too much importance to these earlier

and purely hypothetical monastic schools. Prof. Laurie positively tells us that 'before the time of Alfred there were Schools in connexion with the Priory of S. Frideswide's'. If S. Frideswide's existed before Alfred, it was a nunnery. It is contrary to all analogy to suppose that a university grew out of a monastery of monks, to say nothing of a nunnery.

<sup>3</sup> [Dr. H. E. Salter has pointed out (see his article on 'The Medieval University of Oxford' in *History* (1929), xiv. 57-8) that S. George's-in-the-Castle cannot be treated as of no account in this

CHAP. XII, § 1. which hangs over the origin of the university, one thing may be taken as absolutely certain—that the schools in connexion with which the university grew up were never at any time dependent upon any capitular or monastic body in Oxford. Had they been so, the masters and scholars would have been under the jurisdiction of some officer of that body, as the masters of Paris were under the authority of the Chancellor of Notre Dame. The situation of the schools sufficiently testifies to the improbability of the hypothesis. The schools are first found established in the neighbourhood of S. Mary's—a parish church which came to be used by the University for its assemblies—and not in the neighbourhood of S. Frideswide's. As soon as the constitution of the university becomes known to us, the masters and scholars are under the authority of the Chancellor of Oxford, an official elected by the masters, but deriving his authority from the Bishop of Lincoln, and in no way connected with any monastic or collegiate church in Oxford. Had the schools at one time been connected with S. Frideswide's or Oseney, they could only have emancipated themselves from the jurisdiction of the prior or abbot by a tremendous struggle, which could not have passed into utter oblivion without leaving a trace or a vestige of itself behind.<sup>1</sup>

connexion. Walter, Archdeacon of Oxford (c. 1112–c. 1151), a learned man of considerable repute, was Provost of S. George's, and a patron of Geoffrey of Monmouth, who was himself resident in Oxford between 1129 and 1150. See also the articles by Dr. Salter in *A History of Oxfordshire* (V.C.H.), ii. 5–6, and *Engl. Hist. Rev.* (1919), xxxiv. 383, and the references to Walter, the archdeacon, in *Facsimiles of Early Charters in Oxford Muniment Rooms*, ed. H. E. Salter, pp. 60, 80, 81, 96, 101; and also the article on Walter Calenius by H. Bradley in *Dict. Nat. Biog.* Robert de Chesney, Bishop of Lincoln, 1148–66, had previously been a Canon of S. George's; see *The*

*Cartulary of the Abbey of Eynsham*, ed. H. E. Salter (O.H.S.), i. 418. But any encouragement to establish schools in Oxford that may have been given from this quarter must have been terminated by the transference of the short-lived foundation of S. George's to Oseney Abbey, or Priory as it was then, in 1149. See *The Cartulary of Oseney Abbey*, ed. H. E. Salter, (O.H.S.), iv. 37–8.]

<sup>1</sup> The sole connexion between the university and S. Frideswide's lay in the fact that the University chest was lodged for safe custody at S. Frideswide's. Had the masters recently emancipated themselves from the jurisdiction of the priory, this is the last place where they

CHAP. XII, § 1. Its origin must be sought *ab extra*. These considerations are amply sufficient to establish a probability, which in the minds of those who have followed the preceding account of the origin of other universities will perhaps amount to a kind of intuitive certainty, that the origin of the Oxford school must be sought *ab extra*. In northern Europe the universities which originated by spontaneous development are always found in connexion with a cathedral or great collegiate church, never in connexion with a monastery; and Oxford possessed neither cathedral nor collegiate church to account for the growth of its schools. In northern Europe the schools are invariably found to be under the immediate supervision of some local ecclesiastical authority; while at Oxford the masters seem at first to have enjoyed practical independence; and when at length their schools were subjected to ecclesiastical regulation, they were allowed

would have put it. The authority quoted for the statement that S. Frideswide's was at one time, before the Conquest, in the hands of the monks of Abingdon is Capgrave (*Nova Legenda Anglie*, ed. C. Horstman, i. 460), who says 'Abendoniensi abbati ecclesia sancte Frideswide cum possessionibus suis a rege quodam donata fuit' (based on MS. Cartulary of S. Frid., Ch. Ch. Library, No. 340, p. 8 [*The Cartulary of the Monastery of S. Frideswide at Oxford*, ed. S. R. Wigram (O.H.S.), i. 9]). But this state of things did not continue 'for two generations after the Norman Conquest' (G. C. Brodrick, *Hist. of Oxford*, p. 48). On the contrary, Capgrave says that Abingdon was in possession 'per annos aliquot'. It is certain that the church was in the hands of secular canons at the date of Domesday and up to the time of the intrusion of the regular canons. Bryan Twyne (ap. Dugdale, vi. 1622) speaks of a 'Monastery of S. Aldate's' as founded in 1122. The 'Monastery' of S. Aldate is mentioned in the *Chron. Mon. de Abendon*, ed. J. Stevenson

(R.S.), ii. 174, 213, on which his statement is based; [but here, as often in the first half of the twelfth century, *monasterium* is merely used to designate a church]. There is indeed no good evidence that there was any Benedictine house in Oxford till the foundation of the Benedictine halls or colleges, still less for connecting the origin of the university with any Benedictine schools, a theory which Mr. Mullinger (*Cambridge*, i. 80, 83) seems inclined to accept—in spite of his previous ascription to Oxford of an 'origin similar to that assigned to the university of Paris'. [Mr. A. F. Leach (*National Review*, Sept. 1896, pp. 99–102), in an article vigorously criticizing Rashdall's theory of the origin of the University of Oxford, contends that 'Oxford is as much, there is every reason to believe, a natural growth from the schools and schoolmaster of S. Frideswide's as Paris from those of Notre Dame'. Evidence of the activities of the schools and schoolmaster of S. Frideswide's has yet to be discovered.]

CHAP. XII, § 1. to elect their own superior, who was dependent only on the distant Bishop of Lincoln. The natural inference from these facts is that the school must have originated—probably at the time of some ecclesiastical confusion—in a migration from one of the great archetypal universities. No doubt a reader unacquainted with the history of other universities will be disposed to ascribe an *a priori* improbability to a theory which places the origin of a great university in some sudden and catastrophic movement of this kind. There will, however, be no such prejudice in the mind of the student familiar with the migratory habits of the medieval scholar and acquainted with the early history of academic constitutions. In ascribing the origin of Oxford to an academic migration I am at least ascribing it to a *vera causa*, which is known to have produced the universities of Reggio, Vicenza, Vercelli, Padua, Leipzig, and other permanent universities, to say nothing of the enormous number of merely temporary migrations.

Presumably in a migration from Paris. If Oxford originated in an academic migration, it will hardly be disputed that its original masters and scholars must have come from Paris, then the ordinary place of higher education for English ecclesiastics. Is there any trace of such a movement in actual history? Previous inquirers seem to have entirely overlooked the allusions to this movement, probably because they are of a kind which could not be discovered by turning out the word Oxford in the indexes of the various contemporary chroniclers.

Exodus of English scholars from Paris in 1167. These allusions are sufficient to establish a high probability that the University of Oxford owes its origin to the quarrel of Becket with Henry II.<sup>1</sup> In 1167 the exiled John of Salisbury, in a letter to one Peter the Writer, speaks of certain ominous events which had gone far to fulfil an astrological prediction about the issues of the current year. This prophecy contained the enigmatic statement that the votaries of Mercury (*Mercuriales*) should be depressed; and in that year, the writer continues, 'the *Mercuriales* were so depressed that France, the mildest and most civil of nations, has expelled her alien

<sup>1</sup> [See below, p. 29, n. 2.]

scholars'.<sup>1</sup> Is it not more than probable, having regard to the state of relations between England and France, that the alien scholars were, or at least included, the subjects of the English king, especially since the English then formed by far the largest body of foreign students at Paris? The event thus obscurely alluded to may have been a measure of hostility aimed by the French King against the oppressor of Holy Church and the English ecclesiastics, who as a body sided with their king against their not yet canonized primate; or this expulsion may be only rhetorically attributed to France, and the incident may really have been a voluntary exodus such as we have independent reasons for believing to have taken place at about this time. In any case, the movement must have been one of considerable magnitude, since it struck the imagination of contemporaries as worthy of being associated with the disastrous retreat of Frederick I from Rome and other events of European importance.<sup>2</sup>

Among a series of ordinances directed against the partisans of Becket by Henry II occurs a provision that henceforth no clerk shall cross from the Continent to England or from England to the Continent without leave of the King or his Justiciar in England. Moreover, at the same time all clerks who possessed 'revenues' in England were to be summoned by the Sheriffs to return within three months 'as they loved their revenues'.<sup>3</sup> There can be no doubt that in the middle of

Recall of English scholars by Henry II.

<sup>1</sup> 'Bella et seditiones ubique fervent; Mercuriales adeo depressi sunt ut Francia, omnium mitissima et civilissima nationum, alienigenas scholares abegerit'. *Materials for the History of Thomas Becket*, ed. J. C. Robertson (R.S.), vi. 235, 236. Cf. Denifle, *Chartul. Univ. Paris*, Introd., No. 20, where 'Mercuriales' is explained by 'professores bonarum litterarum'.

<sup>2</sup> See the context of the passage cited above. [Rashdall's interpretation of this allusion to the expulsion of foreign scholars from France is open to the criticism that John of Salisbury is here not so

much concerned to record recent events of 'considerable magnitude' as to note those which seem to bear out an astrological forecast for the year 1167. All the other events alluded to by John of Salisbury are selected for their significance in this latter connexion rather than for their fitness to rank with so important an event as the retreat of the Emperor.]

<sup>3</sup> 'Nullus clericus vel monachus vel conversus vel alicuius conversationis permittatur transfretare vel redire in Angliam, nisi de transitu suo habeat litteras justitiae et de reditu suo litteras domini regis. Siquis aliter inventus fuerit agens,

the twelfth century scores, in fact hundreds, of masters and scholars benefited in England must have been studying in the schools of Paris.<sup>1</sup> Equally little doubt can there be that a large proportion of them 'loved' their benefices. Hence we are absolutely bound to infer the return to England in obedience to the royal command of a large body of Parisian masters and scholars. At all events, all communication with the Continent would have been cut off for the Parisian students passing a vacation in England, and for the intending freshmen of the year, at a time when probably some hundreds of young Englishmen annually left the shores of England for the schools of Paris. What became of this repulsed scholastic host? Nobody who knows anything at all of the habits of the medieval scholar will doubt that somewhere or other—in one town or in several—at least a portion of these scholars would be sure to congregate under their old masters, and to transfer to English soil their old studies, their old discipline, and—so far as altered circumstances permitted—their old organization. As a matter of fact, we hear of no such congregation of scholars except at Oxford. If the recalled scholars did not go to Oxford, where did they go?

capiatur et incarceretur. . . . Ut omnes clerici qui reditus habent in Angliā sint submoniti per omnes comitatus ut infra tres menses veniant in Angliam ad reditus suos, sicut diligunt reditus suos, et si non venerint ad terminum statutum, reditus in manu regis capiantur.' *Vita S. Thomae, auctore Willelmo Cantuariensi*, printed in *Materials for the History of Thomas Becket* (R.S.), i. 53, 54. Here the constitutions appear under 1165; in Hoveden's *Chronica*, ed. W. Stubbs (R.S.), i. 231-2, under 1164; in the *Chronica* of Gervase of Canterbury, ed. W. Stubbs (R.S.), i. 215, and in *Materials*, vii. 148, 149, under 1169. See the notes of Bishop Stubbs on Hoveden, *loc. cit.*, and of Robertson in *Materials*. I may add that the two provisions do not seem quite consistent with each

other, and that they are not placed consecutively in spite of their relation to the same subject-matter which seems to suggest that they may have been issued at different times. [Bishop Stubbs in the note here referred to expresses the opinion that 'these instructions were not issued in 1165, nor probably before 1169'.]

<sup>1</sup> [Dr. H. E. Salter considers that 'this greatly exaggerates the number. When Oxford and Cambridge were in full swing there were not more than a hundred incumbents residing in the two universities, and it would be strange if more than fifty were affected by the command of Henry II.' See *History*, 1929, xiv. 57. There is no means of estimating the number of unbeneficed English clerks studying in Paris at this period.]

The date of these ordinances is not quite certain. By some of the chroniclers they are given under the year 1165, by others (with some variations) under 1169. The best authorities agree in referring them to 1169, and there is no doubt that, if the whole collection is to be referred to the same year, they cannot be placed earlier. In that case the 'expulsion' alluded to by John of Salisbury cannot be connected with the action of Henry II. But it seems quite probable that the ordinances collected together by the chroniclers may really have been issued at different dates; and that this particular edict may have been issued towards the close of 1167, when John of Salisbury's letter must have been written.<sup>1</sup> That hypothesis will account for the discrepancy between the various chroniclers. In that case we may definitely assign the birth of Oxford as a *studium generale* to 1167 or the beginning of 1168. If any doubt be entertained as to whether an edict against the 'transfretation' of 'clerks' would really have affected the scholars of Paris, we may appeal to a passage in a letter of one of Becket's supporters, in which he complains that the King 'wants (or wills) all scholars to return to their country or be deprived of their benefices',<sup>2</sup> while other correspondence of

<sup>1</sup> [This hypothesis would have gained in cogency if Rashdall had been able to point to any turn in the course of the quarrel between Henry II and Becket that would explain why this particular edict should have been issued towards the close of 1167.]

<sup>2</sup> 'Vult etiam ut omnes scholares repatriare cogantur aut beneficiis suis priventur.' *Materials* (R.S.), vii. 146. This letter is referred by Robertson to 1169, but apparently only in consequence of his view as to the date of the Edict. [In referring this letter to 1169 the editors of volume vii of the *Materials for the History of Thomas Becket* may well have been guided by the reference which it contains to the precautions being taken by Henry against the delivery of papal letters of interdict in England: such pre-

cautions would have been premature if they had been taken before the year 1169.]

The following passage from the letters of John of Salisbury, though it does not mention Oxford, seems to point to the existence of a university town somewhere in England: 'Unde et studiis tuis congratulor, quem agnosco ex signis perspicuis in urbe garrula et ventosa (ut pace scholarium dictum sit) non tam inutilium argumentorum locos inquirere, quam virtutum.' *Materials* (R.S.), vi. 6. The letter is dated 1166 by Canon Robertson, and it must have been written after Whitsunday in that year when the Archdeacon of Poitou was excommunicated, but it may well have been written a year later. That his correspondent Black was in England cannot be proved: I can only appeal



CHAP. XII, § 1. the Becket circle is full of allusions to the strictness with which the ports were watched in execution of the royal orders.

Schools of Oxford before 1167. In connecting the sudden rise of Oxford into a *studium generale* with the recall of the English scholars from Paris by Henry II in or about the year 1167, I am far from denying that there were already, or had been at an earlier date, schools of considerable importance at Oxford. A certain scholastic reputation may well have been one of the causes which attracted the recalled Parisians to Oxford rather than to any other of the few English towns whose size and situation fitted them equally well for the sudden reception of a large body of scholars.

Theobaldus Stampensis. There are two indisputable pieces of evidence, and one very questionable piece of evidence, which tend to prove the existence of not unimportant schools at Oxford before the year 1167. The first, and by far the most conclusive, of these has been overlooked by all the more recent historians of Oxford. Two letters are preserved from a certain Theobaldus Stampensis (Thibaut d'Estampes), one of them addressed to Faritius, Abbot of Abingdon from 1100 to 1117; the other to the illustrious Roscellinus after he had been compelled to flee (possibly to England) from the violence of his theological opponents. The writer is described as 'Master at Oxford'. In other and earlier letters he appears as 'Doctor at Caen'.<sup>1</sup> A comparison of dates then makes it clear that at

to the general tone of this and the preceding letter. He appears to have kept John of Salisbury informed as to the doings of the English bishops. [As Ralph Niger (or Black, as Rashdall calls him), to whom John of Salisbury wrote the letter here referred to and that which precedes it in *Materials* (R.S.), vi. 1-5, is known to have studied at Paris under Gerard Pucelle, subsequently Bishop of Coventry, who was lecturing there about this time, it seems more probable that Paris and not Oxford is the *urbs garrula et ventosa* to which allusion is made. See the article on Ralph Niger by Dr. C. L. Kingsford in *D.N.B.* Moreover, it may be remarked as

regards the date of this letter that the Archdeacon of Poitou, Richard of Ilchester, was released, by order of the Pope, before the end of 1166 from the sentence of excommunication under which Becket had placed him. See *Materials* (R.S.), vi. 1-5, 84-6; the article on Richard of Ilchester by Miss Kate Norgate in *D.N.B.*; and F. M. Powicke, *Stephen Langton*, pp. 33, 56.]

<sup>1</sup> Theobaldus Stampensis is mentioned by Wood (*Annals*, i. 140) as an Oxford doctor *sub anno* 1129; but later writers have probably been misled by the authority of Bale and Fabricius, who place him in the thirteenth century. Five letters of Theobald are printed in

some time before the year 1117 this French or Norman ecclesiastic, who had hitherto taught at Caen, transferred his school to Oxford. A little tractate of his against the monks, preserved in a Bodleian MS., proves that he was not a monk, though he may very well have been teaching under the authority of the canons of S. Frideswide's.<sup>1</sup> An anonymous reply to this very violent onslaught contains the interesting statement that he had under him at Oxford 'sixty or a hundred clerks, more or less'.<sup>2</sup> The subject-matter of these literary

D'Achery's *Spicilegium* (1723), iii. 445, and *Patrologia Latina*, clxiii. 759-70. They are as follows:

(1) 'Adepiscopum Lincolnensem — De quibusdam in divina pagina titubantibus.' D'Achery gives the date 1108. The Bishop of Lincoln at this time (1093-1123) was Robert Bloet. The mistake as to the author's date seems to have arisen from confusion with the better-known Robert Grosseteste, Bishop of Lincoln 1235-53. The object of the letter is to uphold the efficacy of *poenitentia* in all cases, even without *confessio oris*, where that is impossible.

(2) *Inc.* 'Pharitio venerando Habendonensis Ecclesiae praelato, domino suo et indubitanter amico Theobaldus magister Oxenefordiae.' On the certain damnation of unbaptized infants, &c.

(3) *Inc.* 'Margaritae praecellenti reginae, praecellentis regis filiae, Theobaldus Stampensis, doctor Cadumensis.' This Margaret must be Queen Margaret of Scotland, who died in 1093.

(4) *Inc.* 'Theobaldus magister Cadumensis Philippo amico suo desiderabili.' A violent attack on monasticism; in fact, an apology for clerical marriage or concubinage.

(5) *Inc.* 'Roscelino Compendioso magistro Theobaldus Stampensis magister Oxenefordiae.' A violent reply to Roscellinus's attack on the preferment of priests' sons.

There is, of course, no authority

for the statement of the authors of the *Histoire littéraire de la France* (xi. 91) that Roscellinus 'excita de nouveaux troubles en Angleterre, dans l'académie d'Oxford, en soutenant que les enfans des prêtres ne pouvoient pas être élevés aux ordres sacrés'. These letters, unknown to any historian of Oxford, are mentioned by Cousin, *Ouvrages inédits d'Abélard*, p. xcvi.

<sup>1</sup> The MS. (Bodley 561), written in the first half of the twelfth century, is an 'Improperium cuiusdam in Monachos' which begins—'Turstano dei gratia laudabili eboracensium archiepiscopo T. stampensis, magister Oxinefordie' (f. 61), and is directed chiefly against the practice of appropriating parish churches and serving them by monastic priests. The tone of the document may be inferred from one of the opening sentences: 'Aliud est ecclesia, aliud est monasterium. Ecclesia namque est conuocatio fidelium, monasterium uero locus et carcer damnatorum, i.e. monachorum qui se ipsos damnauerunt ut damnationem euitarent perpetuam.' Since Thurstan was Archbishop of York from 1119 to 1139, we get a *terminus a quo*. This treatise cannot have been written before 1119.

<sup>2</sup> The passage is worth quoting in full:

'Et si uagorum noveras uicia clericorum (f. 68 b), debueras tamen honorem deferre timori magistrorum et religioni clericorum. O

CHAP. XII, § 1. remains makes it plain that he was a theologian, while he appears to be also included by his opponent among the category of 'liberal masters'. Another theologian is mentioned as teaching in Oxford in the year 1133. This was Robert Pullen or Pullen,<sup>1</sup> the author of one of the most important

Robert Pullen.

*Coridon, Coridon, que te dementia cepit! Nunquid non sunt ubique terrarum liberales magistri qui dicuntur et clerici? Tu quoque nescio quis nonne magistri uice sexagenos aut centenos plusue minusue clericos regere diceris quibus uenditor uerborum cupidus efficeris, forsitan ut eos incautos nequissime fallas, sic ut et ipse falleris? Unde ergo ista tua clericorum penuria? Wood had apparently only seen the extracts from this manuscript in James's MS. *Ecloga* (in the Bodleian), but Twyne (*Antiq. Acad. Oxon. Apol.*, p. 224) had read the original manuscript. This extract appeared in *The Academy*, no. 890: Prof. Holland has published further extracts in *Collectanea* (O.H.S.), ii. 156.*

It is observable that the monastic *Apologia* throughout opposes canons to monks. The controversy forms part of the great struggle of the time between the monks and the secular (and usually *married*) canons. At the same time it should be observed that even regular canons seem to be included with the 'clerici' and grouped against the 'monachi'. The tractate is largely occupied with proving the necessity of celibacy for canons (whether regular or secular) as well as for monks. The following extract will illustrate these remarks:

'Veruntamen cum ait quia monasterium est locus et carcer damnatorum, i.e. monachorum, cur oblitus est, ut quidem uulgo loquar, et regularium canonicorum? An ignorat quod sanctus Augustinus ypponium ueniens concedente Ualerio tunc episcopo monasterium

fundauerit, in quo se et fratres quos ad seruitium Christi de mundana conuersione predicando subtraxerat aggregauit? Sic enim de illo scriptum legitimus. . . . Constat itaque monasterium esse tam canonicorum quam et monachorum. Quare ergo oblitus est et canonicorum? Forsitan ne damnarentur canonici sicut et monachi' (f. 63 a).

Whether the regular or Augustinian canons turned out the seculars at S. Frideswide's in 1111 or in 1122 appears to be doubtful (see Dugdale, *Monasticon Anglicanum*, ed. Caley, ii. 134; Matt. Paris, *Chron. Mai.*, ed. H. R. Luard (R.S.), ii. 139; William of Malmesbury, *Gesta Pontificum*, ed. N. E. S. A. Hamilton (C.R.S.), p. 316; Wood, *Annals* (O.H.S.), i. 138, 139). According to the S. Frideswide's Cartulary [*Cartul. Mon. St. Frideswide*, ed. S. R. Wigram (O.H.S.), i. 9], the transference took place c. 1122, and this is probably the true date. If so, Theobald must have taught before the expulsion of the seculars; in any case, he was no doubt a secular himself, teaching probably more or less under the authority of the canons. [But a more likely patron is Walter, Archdeacon of Oxford (c. 1112-c. 1151), and Provost of S. George's-in-the-Castle, who is known to have been a secular canon and married, two points for which Theobald offered support. See above, p. 9, n. 3.]

<sup>1</sup> The passage in the Oseney Chronicle runs: 'MCXXXIII. Magister Rob' pulein scripturas diuinas que in Anglia obsoluerant, apud Oxon. legere cepit. Qui postea cum ex

collections of 'Sentences' eventually superseded by the more famous work of Peter the Lombard, which is, however, largely based upon the work of his English predecessor. He was afterwards a cardinal and chancellor of the Holy Roman Church.<sup>1</sup>

Far more doubtful is the received opinion that the eminent Lombard jurist Vacarius taught at Oxford in the year 1149. It is certain that some years before this date he was brought to England by Theobald, Archbishop of Canterbury, to assist in the settlement of that prelate's dispute with Henry of Blois,

Case of Vacarius doubtful.

doctrina eius ecclesia tam Anglicana quam Gallicana plurimum profecisset a papa Lucio secundo uocatus et in cancellarium Sancte Romane ecclesie promotus est' (ed. H. R. Luard (R.S.), *Annal. Monast.*, iv. 19, 20). The *Continuatio Bedae* (Bodl. MS. 712, f. 275) says: 'Eodem anno (1133) venit magister Robertus cognomento pullus de ciuitate Exonia Oxenfordiam ibique scripturas diuinas, que per idem tempus in Angliam (*sic*) absolute erant, et scolasticis quippe neglecte fuerant, per quinquennium legit, omnique die dominico uerbum dei populo predicauit, ex cuius doctrina plurimi profecerunt. [Qui postea ob eximiam doctrinam et religiosam famam a papa Lucio uocatus et in cancellarium sancte romane ecclesie promotus est.]' The manuscript was written for Robert Wyvill, Bishop of Salisbury, 1330-75. The statements in the last two clauses are no doubt a rhetorical flourish and have a suspicious resemblance to the passage about Cambridge in the Ingulfine forgery (see below, p. 276). The passage is probably a rhetorical amplification of the Oseney Chronicler's statement. [Dr. R. L. Poole (see 'The Early Lives of Robert Pullen and Nicholas Breakspear' in *Essays in Mediaeval History presented to T. F. Tout*, pp. 61-4) considers it more likely that Robert Pullen

taught at Exeter than at Oxford, and in support of this view suggests that the fourteenth-century copyist of the Oseney Annals mistook *Exonia* for *Oxoniam* in the original version, which is Cotton MS. Vitell. E. xv. This manuscript was among those that suffered in the fire at Ashburnham House in 1731, and all but the first two letters of the word in question have been burnt away. But Dr. H. E. Salter (see *History*, 1929, xiv. 57) has pointed out that the writer of this manuscript 'did not use *Oxoniam*, a word which had not been invented at that time, but *Oxeneford*', and further that 'Brian Twyne, who saw the manuscript before it was burnt, gives the word in full'. It is evident, therefore, that when the fourteenth-century copyist wrote 'Oxoniam' he had *Oxenefordiam* and not *Exoniam* before him in the original edition.]

<sup>1</sup> Some doubt has been expressed about the identity, but see John of Hexham in *Symeonis Monachi Opera*, ed. T. Arnold (R.S.), ii. 319. His *Sententiae* are published in Migne, tom. 186: for an account of the book see J. E. Erdmann, *Hist. of Phil.*, pp. 337-40. [See also the article on Robert Pullen by Dr. Rashdall in *D.N.B.*; and A. Landgraf, 'Some Unknown Writings of the Early Scholastic Period', in *New Scholasticism* (1930), iv. 11-14.]

CHAP. XII, § 1.

Bishop of Winchester.<sup>1</sup> Several historians mention the fact that he was the first teacher of the civil law in England.<sup>2</sup> But only one of them, Gervase of Canterbury, mentions that this teaching was at Oxford.<sup>3</sup> From the way in which John of Salisbury speaks of these civil law lectures, it is more than probable that he means them to have taken place in the 'household' of Archbishop Theobald, in which it is independently certain that lectures and disputations were held on a scale which leads Bishop Stubbs to speak of this Palatine School as a kind of 'University'.<sup>4</sup> John of Salisbury was a

<sup>1</sup> [For a discussion of the reasons for Vacarius coming to England see F. Liebermann, *E.H.R.* (1896), xi. 305-14.]

<sup>2</sup> [See *Iohannis Saresberiensis Policraticus*, ed. C. C. J. Webb, ii. 399; Robert of Torigny, *Chronica*, in the *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. R. Howlett (R.S.), iv. 158-9; and Gervase of Canterbury, *Actus Pontificum Cantuar*, ed. W. Stubbs (R.S.), p. 384. The relevant passages in these writers have been conveniently collected by Prof. Holland in *Collectanea* (O.H.S.), ii. 165.]

<sup>3</sup> It is observable that Gervase evidently knew very little about the history of legal study, since he makes Gratian teach at Rome. The *Actus Pontificum* was written at the earliest in 1199 (i. xxviii-xxix); the manuscript is after the second half of the thirteenth century.

Cf. also Bacon, *Opera Inedita*, ed. J. S. Brewer (R.S.), p. 420. Of modern writers who have dealt with Vacarius, the most important is Wenck, *Magister Vacarius*, Leipzig, 1820; *Leipziger Literatur-Zeitung*, 1821, nos. 273, 274. [See also the article on 'Vacarius' by Prof. T. E. Holland in *D.N.B.* and the authorities there cited; Pollock and Maitland, *History of English Law*, ed. 2, i. 118-19; Dr. F. Liebermann, *E.H.R.*, 1896, ii. 305-14, 514-15; Vacarius, *Liber Pauper-*

*um*, ed. Prof. F. de Zulueta, Selden Society, 1927; and the note on 'The All Souls Fragments of Vacarius', by the same in the *Bodleian Quarterly Record*, iii. 164-5.]

<sup>4</sup> On these archiepiscopal schools see Bishop Stubbs's delightful *Lectures on Med. and Mod. Hist.*, pp. 130-1, 142 sq. By a singular coincidence Peter of Blois (Ep. vi, *Patrol. Lat.* ccvii, c. 17) actually speaks of the clerks in the archbishop's household as a 'Universitas': 'quod si Deus minori quae potiora sunt revelaverit, eius sententiae sine omni invidia et depravatione universitas acquiescit'. Of course, the word is used non-technically. The study of the Roman law in England during the second half of the twelfth century was much more vigorous than is commonly supposed. It was not till the following century that it was finally decided that the old common law of England was not to be superseded or modified by the civil law of Rome (as was the case in so large a part of Europe), and that the common-law bar was not to be supplied by university-bred ecclesiastics and civilians. For the number of books on civil or canon law composed in England about 1180-1200 see Caillemer, 'Le Droit civil dans les provinces Anglo-normandes au xii siècle' in *Mém. de l'Ac. des Sciences etc. de Caen*, 1883, p. 156 sq.

member of the archbishop's household at the time and cannot have been mistaken. If therefore his statement is inconsistent with that of Gervase, there can be no doubt which of them is to be accepted, since Gervase wrote at the beginning of the following century. But it should be observed that Gervase does not explicitly put the Oxford teaching in 1149. His language is consistent with the supposition that this teaching took place at some later date, and it is certain that Vacarius was living in England as late as 1198. It is likely enough that Gervase made a mistake about the date, if not about the place, of Vacarius's law teaching.<sup>1</sup> The fact that Vacarius's *Liber Pauperum*, a compendium of the civil law, occupied a prominent place in the studies of Oxford towards the end of the century confirms Gervase's statement that he did teach at Oxford, but it is quite as likely that the teaching was after 1167 as before it.<sup>2</sup>

<sup>1</sup> My doubts on the subject of Vacarius were suggested by Schaa-schmidt (*Johannes Saresberiensis*, Leipzig, 1862). At the same time I must point out that he unjustifiably passes over in silence the testimony of the Oseney Chronicler and makes the statement as to Pullus rest on that of the anonymous continuator of Bede only. His view that the *studium* had no existence (in post-Saxon times) till 1229 (p. 19) is simply absurd, and could hardly have been made even by Schaa-schmidt since publication of the *Munimenta Academica*. This excessive scepticism is the more remarkable in a writer who appears inclined to swallow the Alfredian story. [Dr. F. Liebermann in his excellent note on the career of Vacarius (*E.H.R.*, 1896, ii. 305-14, 514-15) is inclined to accept Gervase's testimony. He remarks that 'a Canterbury monk would be the last man intentionally to diminish the literary glory of his church by transferring the father of civil jurisprudence from his city to Oxford', and concludes that the known use

of the *Liber Pauperum* as the textbook of the Oxford civilians at the close of the twelfth century 'weighs so strongly in favour of Oxford's claim that Gervase's statement seems right after all'. Dr. R. L. Poole, in a footnote to 'the Early Lives of Robert Pullen and Nicholas Breakspear' in *Essays in Mediaeval History presented to T. F. Tout*, p. 62, summarily disposes of Gervase's statement as a mistake; but Prof. F. de Zulueta, in his judicious recapitulation of the evidence in the introduction to his edition of Vacarius's *Liber Pauperum* (Selden Society, 1927), pp. xiii-xix, endorses Liebermann's conclusions, and gives substantial grounds for the opinion that 'to doubt whether Vacarius ever taught at Oxford is to doubt against the evidence'. As regards the date when Vacarius taught in Oxford, Prof. de Zulueta (*op. cit.*, p. xvii) sees little to object to in Rashdall's supposition that the date should be reckoned to have been some twenty or more years after 1149.]

<sup>2</sup> See the account of Daniel of

CHAP. XII, § 1. Position as *studium generale* due to Parisian migration.

But whatever may be thought as to the place or date of Vacarius's teaching, the question has little bearing upon the problem with which we are now concerned. The question is not how there came to be schools in Oxford, but how these schools grew into a *studium generale*. Up to 1167 we have no evidence of the existence in Oxford of more than one master at a time: a single master does not make a university.<sup>1</sup> There were other schools in England quite as important as we have any reason for believing Oxford to have been in the time of Theobald or Pullen or Vacarius, if the last really taught here before 1167. The question is 'Why did Oxford alone of all these Schools grow into a *studium generale*?' It is, of course, in itself conceivable that such a *studium* may have grown up by purely spontaneous evolution. I have already given reasons for believing that Oxford did not develop in this way. Unless we are to reject all the evidence that we

Merlac or Morley, who, arriving from Toledo some time between 1175 and 1200, describes England as wholly given up to the study of law ('Pro Titio et Seio penitus Aristoteles et Plato oblivioni darentur'), and continues 'Turn ne ego solus inter Romanos Graecus remanerem, ubi huiusmodi studium florere didiceram, iter arripui'. (There can be little doubt that the place was Oxford; observe that the *studium* seems to have sprung up since the writer left England.) The passage is printed by Holland, *Collectanea* (O.H.S.), ii. 171-2 (cf. below, p. 31, n. 2). In 1187-1200 Giraldus Cambrensis tells a story 'de clerico Oxoniensi, nomine Martino', from which it appears that the Oxford law-students were styled 'Pauperistae'. But see below, Appendix II. In 1195 Giraldus Cambrensis, *Opera*, ed. J. S. Brewer (R.S.), ii. 345, makes the archbishop hold a Court at Oxford 'praesentibus scholaribus multis et iurisperitis'.

<sup>1</sup> Prof. [later Sir T. E.] Holland (*Collectanea* (O.H.S.), ii. 151-92)

has made a very useful collection of the twelfth-century allusions to Oxford hitherto pointed out, but he adds nothing to the above notices for this period except a passage about Robert of Cricklade, afterwards Prior of S. Frideswide, of whom he says: 'There is no reason to suppose that the schools in question' (in which he was 'Magister Scholarum' when young) 'were situated elsewhere than at Oxford, in which city and its neighbourhood this great scholar seems to have passed his life' (p. 142). Of the gratuitousness of this last assumption readers may judge from the fact that Robert became a canon regular at Cirencester (see below, p. 28). Prof. Holland is evidently influenced by the tacit assumption that there were schools nowhere else but at Oxford. Theobaldus Stampensis tells us that there were schools at this time in every town and village: 'non solum in urbibus et castellis, uerum etiam in uillulis, peritissimi scholarum magistri quot fiscorum regalium exactores et ministri' (Bodley MS. 561, f. 68 b).

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possess as to the schools of the twelfth century in France and England, we must suppose that Theobald and Pullen taught in connexion with one of the great churches, probably S. Frideswide's. Or if a great master of established repute from Caen or Paris or Bologna may conceivably have been allowed to lecture in defiance of the usual rule without any special authorization, this supposition cannot be allowed in the case of the humbler masters of arts who formed at Oxford and Paris the true nucleus of the university. The hypothesis of a migration is the only one which will account for the independence of the Oxford masters and the absence of any organic connexion with an Oxford church. Evidence has been given to show that such a migration from Paris to England did take place about the year 1167. No doubt we cannot prove that the masters and scholars expelled or recalled from Paris in or about 1167 came to Oxford. All we can show is that the prohibition to study at Paris would naturally tend, sooner or later, to the formation of a *studium generale* in England; that we hear nothing of a *studium generale* half a century after 1167 except at Oxford; that at Oxford there is no evidence of a *studium generale* before 1167, while there is such evidence within a very few years after 1167. The method of exclusions is accounted a good one even in physical science. A hypothesis which alone explains all the facts, and which is alone in accordance with all known analogies, is entitled to at least a provisional acceptance.<sup>1</sup>

The last link in this chain of circumstantial evidence

<sup>1</sup> I do not assert that the connexion of the migration with Oxford is direct and immediate. For (1) the expelled scholars may have halted at and temporarily studied in some other town or towns. (2) Or several *studia* may have been set up while only one prospered: as happened with the migration from Oxford in 1209 (see below, p. 33). (3) Less probably, the *studium* may have been originally formed by students prevented from going to Paris. In this case most of the masters must have been Paris

Allusions after 1167 testify to generality of *studium*.  
masters, since most highly educated Englishmen (except lawyers) had studied at Paris; and these would naturally have been joined by new arrivals from the Continent. The first suppositions are in accordance with numerous analogies; at the same time there is no evidence for them. What we can be morally certain of is some causal connexion between the proved interruption of intercourse with Paris, c. 1167, and the proved emergence of Oxford into a *studium generale* soon afterwards.

CHAP. XII, § 1. remains to be set up.<sup>1</sup> It is not merely in their number but in their character that the allusions to Oxford schools after 1167 differ from the earlier notices. One master, even if he enjoys a following of 'sixty or a hundred scholars, more or less', does not make a *studium generale*. After 1167 the notices are precisely of a kind which do point to the existence of a *studium generale* in the looser and earlier sense of the word, i.e. to the existence of schools in more than one faculty, taught by many masters, attended by a numerous body of scholars, and by scholars from different regions. Some of them likewise show slight traces of a germinal organization similar to that which had just begun to ripen in the schools of Paris.

<sup>1</sup> We should indeed have to add a most important piece of evidence to those already adduced if there were any ground for the theory that John of Salisbury studied and taught at Oxford in the middle of the twelfth century, and that his description of the scholastic logomachies of his day refers to the schools not of Chartres and Paris but of Oxford. It is sufficient here to say that the theory is devoid of all direct evidence, is very difficult to accommodate to what we know of the facts of John of Salisbury's life, and has arisen merely from an uncritical acceptance of Wood's conjecture (i. 143) that because John of Salisbury mentions Robert Pullus as one of his masters, and Pullus is recorded to have at one time taught at Oxford, it was at Oxford that John of Salisbury heard him. The theory, accepted by Huber, was elaborately defended by Christian Petersen in his edition of John of Salisbury's *Entheticus de Dogmate Philosophorum* (Hamburg, 1843, pp. 68-81), where the above-mentioned description occurs. Moreover, in the celebrated piece of autobiography in *Metalogicon*, ii, c. 10 [ed. C. C. J. Webb, p. 82, ll. 3-8] we read 'Extraxerunt me hinc (i.e. from Paris) rei familiaris

angustia, sociorum petitio, et consilium amicorum, ut officium docentis aggrededer. Parui. Reuersus itaque in fine triennii repperi magistrum Gillebertum, ipsumque audiui. . . . Successit Rodbertus Pullus.' The 'return' was probably to Paris, though it may conceivably have been to Chartres. Petersen assumes that the return was from England. [Dr. C. C. J. Webb says that the return was to Paris, *op. cit.*, p. 82, note to l. 6.] Schaarschmidt (pp. 13-21) successfully shows the baselessness and extreme improbability of this view, though some of his reasoning is not conclusive. The 'officium docentis' was more probably exercised somewhere in the country (not necessarily at one place) than (as Schaarschmidt supposes) at Ste Geneviève. Mr. Mullinger tells us that 'John of Salisbury, writing about the year 1152, relates how, when he returned to Oxford after his residence at Paris, whither he had gone to study the canon law, he found the wordy warfare raging with undiminished vigour' (*The Univ. of Cambridge*, i. 56), thus bringing John to Oxford not once but twice; while an Oxford historian says 'We have the positive testimony of John of Salisbury', &c.

The earliest allusion to the schools of Oxford after 1167 which previous historians have had before them is contained in the amusing account given by the Welsh traveller and historian, Giraldus Cambrensis, of his visit to Oxford about the year 1184 or 1185 when, as he recounts in the most flattering of all autobiographies, he read his recently composed book, the *Topographia Hibernica*, before the assembled masters and scholars. But the story shall be given in his own words. He is modest enough to put his self-panegyric into the third person:

'In course of time, when the work was completed and corrected, desiring not to hide his candle under a bushel, but to place it on a candlestick so that it might give light, he resolved to read his work at Oxford, where the clergy in England flourished and excelled in clerkship, before that great audience. And as there were three divisions in his work, and each division occupied a day, the reading lasted three successive days. And on the first day he received at his lodgings all the poor scholars of the whole town; on the second all the Doctors of different Faculties, and such of their pupils as were of greater fame and note; on the third the rest of the scholars with many knights, townfolk, and burghers. It was a costly and noble act, for the authentic and ancient times of the poets were thus renewed, nor does the present or any past age recall anything like it in England.'<sup>1</sup>

Here then we have suddenly revealed to us the existence of a *studium* on a very much larger scale than ordinary cathedral or monastic school. One at least of the characteristics which differentiate the *studium generale* from such schools is presented to us in the number of masters, and of masters in several faculties, who attended these readings of Giraldus.

<sup>1</sup> Giraldus Cambrensis, *Opera*, ed. J. S. Brewer (R.S.), i. 72, 73. For other allusions to the same event, *loc. cit.* i. 221, 409; iii. 92. In the last passage the versifier and satirist Walter Mapes or Map, Archdeacon of Oxford, is spoken of as 'Magister Oxoniensis'. [See *Collectanea* (O.H.S.), ii. 173-5. About 1253 Michael of Cornwall, a wandering poet, recited a poem

in praise of Cornwall and England before the Chancellor of Cambridge together with 'the university of masters'. See J. C. Russell, 'Master Henry of Avranches', in *Speculum*, iii (1928), 42. See also L. Thorndike, 'Public Readings of New Works in Mediaeval Universities', in *Speculum* (1926), i. 101-3.]

CHAP. XII,  
§ 1.  
Visit of  
Giraldus  
Cambrensis,  
c. 1185.

A large  
body of  
masters.

CHAP. XII, § 1. This is the first piece of evidence which supplies the smallest reason for attributing to Oxford any scholastic reputation beyond what was possessed by Lincoln or Hereford or St. Albans; and now, we are told, the reputation of the Oxford 'clergy' exceeded that of any other city in England. The suddenness of this rise of the Oxford school is a phenomenon which can hardly be accounted for by any other hypothesis than the one here propounded. But the evidence relates to the year 1184 or 1185. Is it probable, it may be asked, that so large a body of scholars as the migration theory postulates should have congregated in Oxford even for a period of some eighteen years without any other evidence of their existence? I believe it is possible to push back the direct evidence for the existence of a *studium generale* to within a few years of the date at which we have circumstantial evidence of migration of Parisian scholars into England.

A north-country scholar here, c. 1180. There is contained among the *Acta Sanctorum* a very curious account, written by the then prior of the monastery, of the 'translation' of the body of S. Frideswide to the new shrine erected for its reception in 1180. Among the miracles which Prior Philip records as having taken place before and after the translation, we read of the cure of a scholar. The mere fact that there was one scholar in Oxford will not prove much for the importance of its *studium* any more than the existence of a single master in 1110 or 1133. But the significant fact is that the scholar was a native of Yorkshire and had come all the way to Oxford 'for the sake of his studies'.<sup>1</sup> The schools were already *de facto* what would afterwards have been called a *studium generale*.

Extensive book trade, 1170-80. The second evidence of a university prior to 1185 is an undated conveyance. Bryan Twyne relies much, in proof of his preposterous theories as to the antiquity of the university, upon the bonds and similar documents in relation to property which are preserved amongst the archives of the university.

<sup>1</sup> 'Morabatur eo tempore apud Oxenefordiam studiorum causa clericus quidam Stephanus nomine, de Eboracensi regione oriundus', &c. *Acta Sanctorum*, October 19, viii. 579. I owe this reference to the kindness of the Rev. W. D. Macray of the Bodleian; but it had not escaped Twyne (MS. xxi, f. 13).

CHAP. XII, § 1. An examination of these documents, however, discloses only one which proves the existence of a *studium* at an earlier date than 1200.<sup>1</sup> This document is a transfer of 'property in 'Cattestreet',<sup>2</sup> close to S. Mary's Church. Among the parties or witnesses appear the names of one bookbinder, three illuminators, one writer, and two parchmenters—all evidently residing in the immediate neighbourhood of S. Mary's, close to the School Street of later times. However they got there, it is evident that by this time that Oxford is a city of schools. On palaeographical grounds it is certain that the document cannot be much later than 1180,<sup>3</sup> if it is not a little earlier, while an examination of the names and subsequent appearances of the witnesses makes it clear that the date cannot be pushed back much before that year.

Another fresh piece of evidence brings us still closer to 1167. Among the persons cured at the tomb of S. Thomas

University sermons soon after 1170.

<sup>1</sup> It is true that Wood (*Annals*, i. 136) declares that 'in the ancientest evidences' which he had seen concerning tenements in Oxford, there occur allusions to the 'Viculus Scholarum' and 'Viculus Schediasticorum', but on such a matter none of the older university antiquaries can be trusted where they do not produce their evidence. And it is to be noted that Wood does not explicitly state, though he insinuates, that these 'ancientest evidences' belong to the reign of Stephen. Such inquiries and investigations as I have been able to make as to the College Muniments lead me to believe that no such documents of King Stephen's reign exist in Oxford. There are certainly none in the University Archives.

<sup>2</sup> By a blunder of the now extinct Local Board this ancient thoroughfare (leading from Broad Street to the High Street along the front of Hertford College) is now officially designed Catherine's Street, as though the ancient 'Cat-street' was an abbreviation of Catherine Street,

an assumption for which there is no evidence. [This misnomer has since been rectified. This street is once more officially designated 'Catte Street'.]

<sup>3</sup> Such is the opinion of Mr. Macray; and he inclines to place it rather earlier. On the other hand, the use of the form 'Oxonia', which elsewhere, I think, does not occur before 1190, is an argument against pushing it back many years before 1180. With reference to the form 'Oxonia', it is remarkable that it first occurs in notices of the schools: it is somewhat rare before 1200. Was it a piece of classical affectation on the part of the scholarly immigrants disgusted with the cumbrous 'Oxenfordia'? [Dr. H. E. Salter has pointed out that this deed cannot be dated before 1200 and probably not before 1205; see *The Medieval Archives of the University of Oxford* (O.H.S.), i. 291-2. Rashdall had a collotype illustration of this deed inserted in the original edition of this work as a frontispiece to vol. ii, part ii.]

CHAP. XII, § 1. was Robert, Prior of S. Frideswide's at Oxford. In giving an account of his previous sufferings, the prior reminds his hearers how he used to ask to be allowed a chair when preaching in the presence of 'clerks from various parts of England'.<sup>1</sup> The Icelandic Saga on the death of Thomas shows that the cure cannot have occurred later than 1172.<sup>2</sup> At this date, then, we have established the existence at Oxford of precisely what constituted a *studium generale* in the earliest sense of the word—i.e. of a body of scholars, large enough to demand university sermons, and coming from distant regions. Sermons would hardly have been provided for less than a few hundred scholars. Such are the numbers of the Oxford *studium* within a few years after 1167.<sup>3</sup> At about the same time, Oxford is mentioned in a contemporary letter, in significant juxtaposition to Bologna and Paris.<sup>4</sup> Alexander Neckam, who wrote before 1200, associates Oxford with Salerno, Montpellier, Paris, and Bologna, and remarks that thereby a prophecy of Merlin was fulfilled which declared that 'wisdom flourished at Oxford'.<sup>5</sup>

<sup>1</sup> 'Testis est mihi populus civitatis nostrae, quem cum in festis diebus, quando loquebar ad eos . . . cum interessent etiam clerici diversorum locorum Angliae, praetendebam excusationem standi', &c. *Materials for the History of Thomas Becket*, ed. J. C. Robertson (R.S.), ii. 99.

<sup>2</sup> See *Thómas Saga Erkebyskups*, ed. E. Magnússon (R.S.), ii. lxxiv sq., 92 sq. From frequent allusions in the Saga it is clear that Robert was one of the biographers of S. Thomas.

<sup>3</sup> [In the account that he gives of his own sufferings Robert of Cricklade states that it was in Sicily that he contracted the malady of which he was cured by the water of S. Thomas. He is known to have been in Italy and Sicily in 1158. It is quite likely, therefore, that it was before 1167 that he first had to use a chair when he preached; and, as he had been Prior of S. Frideswide's since 1141, his sermons may

have been popular among clerks in Oxford for several years before he visited Sicily. See *The Cartulary of S. Frideswide*, ed. S. R. Wigram (O.H.S.), i. 20, 27, 33; the article on Robert of Cricklade by Dr. Hutton in *D.N.B.*; the note on his career in *Collectanea* (O.H.S.), ii. 161-5; and C. H. Haskins, *Studies in the History of Mediaeval Science*, pp. 168-71.]

<sup>4</sup> 'Verumtamen indomita cervice ferox post vocationis meae litteras nunc agere causas Parisiis, nunc reverti Bononiam, nunc Lincolniam proficisci, nunc morari Oxenfordiae ordinas et disponis' (*Patrol. Lat.* ccvii, c. 185). This passage occurs in a letter from Geoffrey (Plantagenet), Bishop-elect of Lincoln to a Magister Robertus Blondus, and must belong to the period between 1173 and 1182.

<sup>5</sup> 'Iuxta vaticinium etiam Merlini, viguit ad Vada Boum sapientia', Alex. Neckam, *De Naturis Rerum*, ed. T. Wright (R.S.), p.

CHAP. XII, § 1. After such evidence it may seem scarcely worth to mention an allusion to a certain 'Chaplain and scholar of honest conversation' in a fragment of the Llanthony Chronicle preserved by Twyne, but it is significant that the incident relates to the time 'when the blessed Thomas, Archbishop of Canterbury, was in exile';<sup>1</sup> and also that the chaplain is described both as a master and a scholar, i.e. a master of arts and a scholar in a superior faculty. Here then we have evidence of more than one faculty within some two years after our presumed migration.

The conclusion to which all this evidence points is that the real beginning of the *studium generale* at Oxford is due to the settlement therein of a body of masters and scholars in or about 1167, in consequence of an exodus from Paris caused by the royal edict, and the cutting off of free access to the great centre of European education. The case is not proved, but the evidence for it is as strong as circumstantial evidence can well be.<sup>2</sup> It must be added that the evidence is of a kind

311. Mr. T. A. Archer was good enough to point out to me that this prophecy does not occur among the earlier editions of Merlin's predictions. Would not a sudden immigration be more likely to give rise to new prophecies or interpretations of prophecy than a slowly evolved university? [On Neckam see the article by J. C. Russell on 'Alexander Neckam in England' in *E.H.R.* xlvii (1932), 260-8. Mr. Russell draws attention to a passage in Neckam's 'Commentary on the Song of Songs', in which Neckam states that he had been a lecturer in theology at Oxford.]

<sup>1</sup> 'Ex relatu Magistri Ricardi de Buleia, quidam capellanus erat Oxoniae pauper et scholaris honestae conversationis tempore scilicet quo beatus Thomas Archiepiscopus Cantuariensis futurus Martyr exulabat in partibus transmarinis', Twyne MS. xxii, f. 162. [Rashdall has misunderstood this passage. Mag. Richard de Buleia is not the

chaplain to whom reference is made. The chaplain is nowhere described as master in Twyne's excerpt; and it may well be doubted whether *scholaris* is used in this passage in the special sense claimed by Rashdall. Twyne's authority is *Corpus Christi Coll.: Oxon., MS. xxxiii, f. 93 sq.*]

<sup>2</sup> [Rashdall's arguments in support of his theory of the migration from Paris to Oxford have not satisfied all students of the subject. The fullest criticism of Rashdall's theory has come from Mr. A. F. Leach, who stated his reasons for rejecting Rashdall's contentions in an article on 'The Origin of Oxford' in the *National Review*, Sept. 1896, and reaffirmed his dissent in the course of his introduction to *Educational Charters and Documents: 598 to 1909* (p. xxiv). Rashdall took exception to this criticism in his review of Mr. Leach's book in *The Oxford Magazine* (1911-12), xxx. 278-9. This drew a long and

CHAP. XII, § 1. which at every point appeals to the reader's familiarity with the state of education in the Middle Ages; everything turns upon a due appreciation of two facts, first, the close dependence of the schools in northern Europe upon cathedral or other important churches, and secondly, the habit of gregarious migration characteristic of medieval scholars. Even the evidence produced in this book gives but a faint idea on the one hand of the universality of this dependence upon the cathedral chancellor or master of the schools, on the other hand of the frequency with which wholesale migrations appear from university records to be threatened or contemplated even when they are not actually carried out. The reader may be reminded of a single illustration: a century later Walter de Merton was afraid to localize his college in Oxford lest perchance the *studium* should be transferred elsewhere.<sup>1</sup>

Possible fluctuation of numbers. We need not suppose, indeed, that the academic population of Oxford continued to be as large as it probably was during the continuance of the edict against clerical 'transfretation'. We have seen what rapid vicissitudes of fortune attended the infancy even of later and more formally instituted universities. The numbers attending the Oxford schools would naturally fluctuate with every change in the political relations between France and England; and in the years 1175-85 there was a succession of ruptures between the two countries, each

interesting, though somewhat unduly combative, rejoinder from Mr. Leach, in explanation of his rejection of Rashdall's theory. Rashdall defended his position in a subsequent letter. As this controversy gave Rashdall an opportunity of reviewing his theory of a migration from Paris in the light of Mr. Leach's criticism, his letter to *The Oxford Magazine* (1911-12), xxx. 384-5, and Mr. Leach's (*ibid.* xxx. 331-3) which evoked it, have been reprinted as an appendix. With the exception of a few passages that do not warrant inclusion the letters are given in full. See Appendix I. Sir Charles Mallet (*A History of the Univ. of Oxford*, i. 22-4) is

disposed to accept Rashdall's argument for the derivation of the University of Oxford from a migration from Paris; but Dr. H. E. Salter (*History* (1929), xiv. 57) rejects it. In criticism of Rashdall's view Dr. Salter writes: 'The late Dr. Rashdall started the theory that Oxford as a University sprang into being by a migration from Paris in 1167, but we must return to the old theory that Oxford, throughout the twelfth century, was a place of study which gradually developed into a university, no one can say when. For the theory of a migration there is really no evidence.'

<sup>1</sup> See below, p. 194.

of which might divert a fresh party of intending students from their projected journey to the French capital, while each short-lived peace would lead to a depletion of the Oxford *studium* in favour of its more famous prototype.<sup>1</sup> But, though there must no doubt have been fluctuations, there is every reason to believe that on the whole the numbers of the university must have rapidly increased, especially during the last decade of the twelfth and the first decade of the thirteenth century.

The difficulty of supposing that the schools of Oxford can have, gradually and unaided by any sudden accession from without, grown to the size and importance which they have attained by about 1170 without further evidence of their existence than is supplied by the mention of two or three solitary masters is enhanced by the frequency with which, when once this date is passed, the allusions pour in upon us. I have already spoken of the notices belonging to the years before Giraldus's visit in 1184 or 1185. Later on, about the year 1190 we read of a student from the low countries crossing the seas to go to 'the common *Studium* of letters which was at Oxford'.<sup>2</sup> 'Common' is, of course, a synonym of 'General', and this is perhaps the first instance of the occurrence of this technical expression in any of its forms. In 1192 Richard of Devizes speaks of the clerks of Oxford as so numerous that the city could hardly feed them.<sup>3</sup>

<sup>1</sup> The effect of an outbreak of hostilities between England and the French king is well illustrated by an incident in the life of Giraldus Cambrensis, who was thus prevented from going to study theology at Paris in 1192 and went to Lincoln instead. *Opera*, ed. J. S. Brewer (R.S.), i. 93.

<sup>2</sup> 'Qui cum mare versus Angliam anno etatis sue quasi 20, transisset communis causa studii litterarum quod fuit Oxonie, estuabat uberius liberalibus artibus se implicare.' *Emonis Chronicon*, ap. Pertz, *Mon. Germ. Hist. SS.* xxiii. 467. The *Chron. Menkonis* (*ibid.*, p. 524, cf. p. 531) makes him study the 'Decreta,

Decretales, Librum Pauperum' (&c. of Vacarius) at 'Paris, Orleans, and Oxford'. It is natural to conjecture that he studied arts and Vacarius at Oxford, and pursued the higher legal studies at Orleans or Paris. I am indebted for this reference to Dr. Poole.

<sup>3</sup> 'Oxonia vix suos clericos, non dico satiat, sed sustentat.' Richard of Devizes, 'De Rebus Gestis Ricardi Primi' in the *Chronicles of Stephen, Henry II, and Richard I*, ed. R. Howlett (R.S.), iii. 437. One manuscript, however, reads 'homines', which from the context can hardly be the true reading.



CHAP. XII, § 1. In the seventh and eighth years of Richard I there occur entries in the Pipe Rolls of payments to scholars maintained in the schools of Oxford by the royal bounty.<sup>1</sup> In 1197 an abbot of St. Edmund's Bury—the Abbot Samson immortalized by Thomas Carlyle—entertained a numerous party of Oxford masters on a visit to the town.<sup>2</sup> At about the same date Thomas de Marleberge, afterwards Abbot of Evesham, taught canon and civil law at Oxford;<sup>3</sup> while a correspondent of the

Richard I's scholars.  
The Abbot Samson.

<sup>1</sup> 'Nicholao clerico de Hungria viiii<sup>a</sup> et xv<sup>a</sup> et viii<sup>a</sup> ad sustentandum se in scolis a festo sancti Michaelis anni preteriti usque ad pascha. per breue R.' Rot. Pip., 7 Ric. I (ap. Maxwell-Lyte, *Hist. Univ. of Oxford*, p. 14). [*Pipe Roll, 1 Richard I* (1195), Pipe Roll Society, N.S. vi. 142.] In this and a similar entry in the following year Oxford is not mentioned, but as they occur under the County of Oxford there can of course be no doubt as to the place meant. [Payment from the Oxford account for the maintenance of this clerk seems first to have been sanctioned in 1193; see *Pipe Roll, 5 Richard I* (1193), Pipe Roll Society, N.S., iii. 122, and *Pipe Roll, 6 Richard I* (1194), Pipe Roll Society, N.S. iv. 88. In her introduction to the Roll of 1193 (p. xxiii) Mrs. Stenton suggests that Nicholas of Hungary was a poor scholar who came to England in the train of German agents engaged in the business of the King's ransom.]

<sup>2</sup> 'Quatuordecim monachos de Conventria, qui ibi [Oxneford] conuenerant, recepit in hospitio suo, et sedentibus monachis ad mensam ex una parte domus, et ex alia parte magistris scholarum, qui summoniti fuerant, laudabatur abbas magnanimitas et magnificus in expensis.' *Jocelini de Brakelonda Chronica*, ed. T. Arnold, *Memorials of S. Edmund's Abbey* (R.S.), i. 295. Carlyle talks about 'the veritable Oxford Caput' (whatever that may mean)

'sitting there at dinner', without a shadow of justification from the Chronicle. (*Past and Present*, Bk. ii, ch. 16.) [The editor of the chronicle in a footnote to this passage suggests that they were schoolmasters from the neighbourhood of Oxford.]

<sup>3</sup> 'In ingressu suo attulit secum libros utriusque iuris, canonici scilicet et civilis, per quos rexit scholas ante monachatum (c. 1200) apud Oxoniam et Exoniam.' A number of other works are mentioned, books of Cicero, Isidore, Lucan, and Juvenal. *Chron. de Evesham*, ed. W. D. Macray (R.S.), p. 267. It is remarkable that among the books of 'Physics' which follow is a 'liber Democriti'. [See the article on Thomas de Marleberge by Miss Mary Bateson in *D.N.B.*] I may add that Denifle (i. 250) is disposed to underrate the importance of the Oxford School of Civil Law. The complaints of Roger Bacon (*Op. Maius* (R.S.), 446) against the civilians cannot refer exclusively to those who studied abroad. So in 1244 Henry III obtained the opinion of the 'Magistros Oxonie in iure legentes' in favour of his appeal against William de Raleigh, Bishop of Norwich, elected to the see of Winchester. (Rot. Pat. 28 Henry III, m. 10 verso [*Cal. Pat. Rolls, Henry III, 1232-47*, p. 413]; Twyne MS. ii, f. 38 a; cf. too *Mon. Francisc.* (R.S.), i. 113, where is also an allusion to an Oxford 'Medicus'.) William of Drogheda, who taught

Prior of Oseney alludes in the inflated style of the period to the neighbouring city 'in which abound men skilled in mystic eloquence, weighing the words of the law, bringing forth from their treasures things new and old'.<sup>1</sup> Finally, the year 1209 introduces us to an academic population of no less (according to a contemporary estimate) than 3,000 souls. It was in this year that the event occurred which ushers in the documentary period of Oxford history.

There is a remarkable parallelism between the events of the year 1209 at Oxford, and the events which in 1200 led to the grant of the charter of Philip Augustus at Paris. The killing—quite accidental as we are assured by our clerical historian—of a woman by a scholar provoked a raid by the mayor and burgesses upon the offender's hostel. Several clerks were apprehended. All England was now distracted by the great quarrel between Innocent III and John. The country at large lay under interdict: the property of the bishops was under sequestration: the King himself was excommunicated or threatened with excommunication. Under such circumstances it is not surprising to hear that John eagerly gave his con-

CHAP. XII, § 1. Testimony of Senatus.

*Suspensium clericorum* of 1209.

at Oxford in the thirteenth century, was a civilian of considerable importance, quoted even by the Bologna doctors. See M. A. von Bethmann-Hollweg, *Der Civilprozess des gemeinen Rechts*, vi. 123, 124; Albericus Gentilis, *Laudes Academiae Perusinae et Oxoniensis*, Hanover, 1605, p. 38. He wrote his *Summa Aurea* at Oxford. [See also F. W. Maitland, *Canon Law in the Church of England*, pp. 100-31, and F. de Zulueta's important article on William of Drogheda in *Mélanges de Droit Romain dédiés à Georges Cornil*, 1926, pp. 641-57]. It is true of course that in England civil law was studied chiefly for use in the Ecclesiastical Courts (and the Admiralty Court), but Bacon complains that the ecclesiastical lawyers cared more for the civil law than for the canon.

<sup>1</sup> Senatus, Prior of Worcester

(1189 to 1196). He expresses surprise that he should be consulted on a point of canon law by one living near Oxford: 'Quod et uobis propono propter adiacentem urbem in qua abundant prudentes eloquii mistici, ponderantes uerba legis, proferentes omni poscenti de thesauro suo noua et uetera.' The first of the questions propounded was, 'utrum sacerdotes omnes sicut ordine ita indifferenter uti queant clauium potestate ligare sese et soluere, transeuntes quoque et scolares maxime, qui egressi proprium ouile, in pascuis alienis commorantur' (Bodley MS. 633, f. 209). The question forcibly illustrates the ecclesiastical anomalousness of the Oxford scholastic community and is corroborative evidence for the non-existence of a chancellor at this time.

CHAP. XII, § 1. sent to the execution of two or—as some accounts say—three of the imprisoned scholars.<sup>1</sup> The clerks pitched upon by the townsmen were, as we are again assured, other than the actual offenders, who had sought safety in flight. The masters and scholars, after the manner of their class throughout Europe, hastily dispersed. Some went to Reading, the nearest town of importance; others to the great mother-university of Paris; others to Cambridge. What attracted them to that distant marsh town we know not. Schools of some kind there may conceivably have been there already, but we hear nothing of them before this. In any case, the *studium generale* of Cambridge owes its existence to the Oxford 'suspendium clericorum' of 1209. Altogether, according to Matthew Paris, 3,000 scholars left Oxford; and there is no reason to suspect that estimate of more than the usual medieval exaggeration. Though we hear afterwards of some 'profane masters' who persisted in lecturing in defiance of ecclesiastical or academical authority, the majority of the schools must have been closed, and the existence of the university practically suspended, till the reconciliation of the King of England with the Pope compelled the citizens of Oxford to humble themselves before his legate. A legatine ordinance of 1214—the year of John's grovelling submission—addressed to the burgesses, is

<sup>1</sup> The story is told in *Chron. de Lanercost*, ed. J. Stevenson, p. 4; *Chron. Petroburg.*, ed. T. Stapleton (Camden Society), p. 6; Matt. Paris, *Chron. Mai.*, ed. H. R. Luard (R.S.), ii. 525-6, 569, and *Hist. Anglorum*, ed. F. Madden (R.S.), ii. 120; Roger de Wendover, ed. H. G. Hewlett (R.S.), ii. 51, 94; *Chron. de Mailros*, ed. J. Stevenson (Bannatyne Club), p. 107; Walter of Coventry, ed. W. Stubbs (R.S.), ii. 201. Wood (*Annals*, i. 183) says that 'intelligence was immediately sent to the Diocesan (the Bishop of Lincoln) and at length to the Pope, who . . . did forthwith interdict the Town'. And Sir H. C. Maxwell-Lyte, *Hist. Univ. of Oxford*, p. 18, speaks of 'an interdict, more

stringent apparently than that which Innocent III had laid on England in general'. The fact is that none of the authorities speak of any interdict other than the one laid on the country generally, and the 'interdict' of the scholars themselves. Moreover, Hugh de Wells was consecrated Bishop of Lincoln on 20 Dec. 1209, and was consecrated abroad. Hence Wood's 'intelligence to the Diocesan' is the creature of his own imagination. The Chronicle of Mailros represents the place as already deserted in 1208, on account of the King's tyranny: 'pauci autem remanentes non multi post propter divinorum suspendium ex toto villam interdicendo recesserunt'.

the first document in the nature of a charter of privilege which the University of Oxford can boast.<sup>1</sup> It possesses for Oxford constitutional history something more than the importance which the charter of Philip Augustus possesses for that of Paris. It enjoined that those who had confessed to or had been convicted of the hanging of the clerks were, as soon as the interdict was relaxed, to do penance by marching in procession, barefoot and without coats or cloaks, to their victims' graves, followed by the whole commonalty of the town, whence they were to escort the bodies to the cemetery for burial. For ten years one half the rent of existing *hospicia* occupied by the clerks was to be altogether remitted; and for ten years more rents were to remain as already taxed before the secession by the joint authority of the town and the masters.<sup>2</sup> Further, the town was for ever to pay an annual sum of fifty-two shillings to be distributed among poor scholars twice yearly, and to feed on the festival of S. Nicholas, the patron of scholars, a hundred poor scholars on bread and beer, pottage, and flesh or fish. Victuals were to be sold at a reasonable rate, and an oath to the observance of these provisions was to be taken by fifty of the chief burgesses and to be annually renewed by as many of them (not exceeding fifty) as the Bishop should require. The masters and scholars were to be free to return and resume their lectures except those who had irreverently persisted in lecturing after the dispersion: these latter were to be suspended from lecturing for three years.

The payment of the annual fine was forthwith transferred, by an agreement with the town, to the Abbot and Convent of Eynsham.<sup>3</sup> By an ordinance of Bishop Grosseteste in 1240

<sup>1</sup> See the document in *Mun. Acad.*, ed. H. Anstey (R.S.), i. 1 sq. [This document and others connected with this incident are given in full by Dr. H. E. Salter, *The Mediaeval Archives of the Univ. of Oxford* (O.H.S.), i. 2-4.] Matthew Paris, *Chron. Mai.*, ed. H. R. Luard (R.S.), ii. 569.

<sup>2</sup> [See Sir C. E. Mallet, *A History*

*of the Univ. of Oxford*, i. 32 n.; and A. B. Emrden, *An Oxford Hall in Medieval Times*, pp. 11, 12.]

<sup>3</sup> *Mun. Acad.* i. 4 sq. Since the Dissolution, £3 1s. 6d. has been paid by the Crown, and goes to the Vice-Chancellor for a poor scholar. [*The Cartulary of Eynsham Abbey*, ed. H. E. Salter (O.H.S.), i. xx-xxi, ii. 163; *The*

CHAP. XII, § 1. this money was applied to the foundation of an institution which is peculiarly characteristic of the English universities, if not absolutely confined to them.<sup>1</sup> Endowments (such as we find elsewhere) left to be expended in loans without interest to the poor were no doubt a wise and useful form of charity at a time when the Jews were the only money-lenders, and when it was necessary to prevent the Jews of Oxford from charging over forty-three per cent. as annual interest on loans to scholars.<sup>2</sup> This institution was now introduced at Oxford for the especial benefit of scholars. The money accruing to the university was placed in a chest at S. Frideswide's in which the borrower was required to deposit some pledge—a book or a cup, or a piece of clothing—exceeding the value of the loan. Pledges not redeemed within a year were sold by public auction. In time private bequests were added to the Frideswide chest, and the foundation of similar chests became a favourite form of benefaction, the recipients being required to make some recompense for the founder's liberality by saying a stipulated number of prayers for the repose of his soul. Some twenty of these chests were established at Oxford in the course of the Middle Ages.<sup>3</sup>

*Mediaeval Archives of the Univ. of Oxford*, ed. H. E. Salter (O.H.S.), i. 6, 7; and *Registrum Antiquissimum of Cathedral Church of Lincoln*, ed. C. W. Foster, ii. 63-4.]

<sup>1</sup> *Mun. Acad.* i. 8 sq. [*Statuta Antiqua Universitatis Oxoniensis*, ed. S. Gibson, pp. 74, 75.]

<sup>2</sup> *Mun. Acad.* ii. 778. [*Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 18, 19.]

<sup>3</sup> *Mun. Acad.* i. 10, 62 sq., 95 sq., 102 sq., ii. 745 sq. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 71-8, 101-6, 113-16, 118-21, and index under 'Chests'. See also Sir C. E. Mallet, *Hist. Univ. of Oxford*, i. 322-4.] Some of the ordinances allow the university or a college to borrow. [The administration of these chests was generally governed by conditions laid down in their deeds of foundation. A sum of

money having been given for the formation of a chest, the university appointed keepers to be responsible for its administration. The keepers of a chest usually held office for a year and a month. A fixed scale of loans was laid down, varying in amount according to the academic standing of the borrower, and it was the duty of the keepers to accept adequate pledges (*cauciones*) as security for the money lent. Books were a very usual form of *caucio*. Before a book was accepted by the keepers of a chest, it was required that it should be valued by one of the stationers of the university, so as to ensure as far as possible that the loan was sufficiently covered by the *caucio* that was to be deposited in the chest in consideration of the loan.]

But by far the most important provision in its bearing upon the development of the university constitution is the clause which requires that a clerk arrested by the townsmen shall be at once surrendered on the demand of 'the Bishop of Lincoln, or the Archdeacon of the place or his Official, or the Chancellor, or whomsoever the Bishop of Lincoln shall depute to this office'.<sup>1</sup> Another clause provides that the poor scholars to be feasted on S. Nicholas's Day shall be selected by the Abbot of Oseney and the Prior of S. Frideswide's by the advice of the Bishop, the Archdeacon of the place or his Official, or 'the Chancellor whom the Bishop of Lincoln shall set over the scholars therein'.<sup>2</sup> These are the first allusions in any authentic document to the existence of the chancellorship, and the words just quoted seem distinctly to imply that at present no chancellor of Oxford existed. The alternative allowing the archdeacon to act in matters purely affecting the scholars is hardly explicable except upon the supposition that the arrangements for the appointment of a chancellor had still to be made, and that some delay might take place in carrying them out. The words 'whom the Bishop of Lincoln shall appoint' seem added, not merely because no chancellor was actually in office, but because the office itself was not yet in existence, and its nature consequently required explanation. The only document bearing an earlier date which mentions a chancellor of Oxford is stamped alike by the character of its contents and by palaeographical evidence as the most transparent of forgeries.<sup>3</sup>

<sup>1</sup> 'Si uero contingat aliquem clericum a laicis capi, statim cum fuerint super eo requisiti ab episcopo Lincolnensi uel archidiacono loci seu eius officiali uel cancellario seu ab eo quem episcopus Lincolnensis huic officio deputauerit, captum ei reddent.' Archives (W. P.-P. xii. 1). [*Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 3.]

<sup>2</sup> 'De consilio uenerabilis fratris Hugonis tunc Lincolnensis episcopi et successorum suorum uel archidiaconi loci seu eius officialis

aut cancellarii quem episcopus Lincolnensis ibidem scolaribus preficiet.' *Ibid.* [In the draft charter of the mayor and burgesses (c. Aug. 1214) the chancellor is called 'Cancellarius scolarum Oxon.', not 'scolarium'. See *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 8-9. See also Sir C. E. Mallet, *Hist. Univ. Oxford*, i. 27, n. 3.]

<sup>3</sup> The document purports to bind the university never to cite into its courts any one residing within the precincts of S. Frideswide's; and was obviously forged

CHAP. XII, § 1. Govern-ment of scholars before 1214. If the *studium* was in full working order by 1184 or earlier, while no chancellor was appointed till 1214, the question may be raised, 'How were the masters and scholars governed during the former period?' To this question our data do not admit of our giving a complete answer. The ordinary jurisdiction over masters and scholars would of course fall to the ecclesiastical authorities. It is possible that even the licence was granted by the archdeacon;<sup>1</sup> or we may suppose either that the masters of Oxford, like the Parisian masters who seceded to Angers and other places in 1219, conducted the inception<sup>s</sup> of new masters on their own responsibility,<sup>2</sup> or that they ventured (like the masters of Paris

to aid the convent in a suit against the university. I was convinced of the spuriousness or later date of the document, from which the above words are cited by Wood (*Appendix to Hist. and Antiq.*, &c., p. 7), (1) by the improbability that the University of Oxford should have attained a so much higher degree of corporate development than the Mother University of Paris as would be implied by its possession of a common seal, common funds, and special university courts with considerable jurisdiction; (2) by the use of the expression 'domus congregationis' which implies a building more or less appropriated to university purposes. I afterwards saw the document (*Archives*, W. E. P.-Y. 1) and found affixed to it a note by Mr. Macray of the Bodleian Library assigning the manuscript (which has the seal complete) to c. 1380. William Smith, the acute and learned historian of University College, notes it as a forgery (*Annals of University College*, p. 202), and its genuineness was questioned by the older scholars such as Sir Robert Cotton, and Spelman (see Twyne MS. iii, f. 140, where Twyne and Wood are clearly arguing against their convictions). Sir H. Maxwell-Lyte has the merit

of being the first of the professed historians of the university who has escaped the pitfall into which even Denifle has slipped (i. 244) [This document is printed in *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 1, 2, with a note by Dr. H. E. Salter on its forgery.] Another document of the same kind, forged by the same versatile canons, occurs in a manuscript in Bodley (*Cat. of Oxford Charters*, ch. 127).

<sup>1</sup> The archdeacon is mentioned rather prominently in connexion with the schools by the ordinance of 1214, and it is possible that he had some control over them. He may even have conferred the licence; it is certain that he had some jurisdiction over the grammar schools (*Mun. Acad.* i. 85, [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 22], and below, p. 346). It may be worth noticing that the Chancellor of Lincoln's jurisdiction was confined to the archdeaconry of Lincoln. *Linc. Reg. Dalderby*, f. 214 b. [On the university and archidiaconal jurisdiction, see the important introduction to *Registrum Cancellarii Oxon. 1434-1469*, ed. H. E. Salter (O.H.S.), i. xv-xvii.]

<sup>2</sup> Notice an expression in the university's letter asking for the

on another occasion<sup>1</sup>) to elect an official of their own to give the licence. CHAP. XII, § 1. The master of the schools.

At all events it seems pretty clear that some kind of official head of the schools must have been in existence (whatever the mode of appointment and whatever his exact functions) before the secession; for in 1210 a Papal Bull (if we may trust Twyne's report as to the contents of a lost Abingdon cartulary) is addressed to the Prior of Osenev, the Dean of Oxford, and 'Magister Alardus, Rector of the Schools'.<sup>2</sup> It is probable that this rector of the schools must by this time have received some kind of episcopal recognition and authority; and quite possible that he may have been in popular parlance styled chancellor in imitation of the cathedral chancellor of Notre Dame and other famous schools connected with cathedral bodies. But nothing further can be stated as to the character of this mysterious office until it received a definite canonical status and the higher style of chancellorship from the legatine ordinance of 1214.

Not unimportant in accounting for the spontaneous evolu-

tionization of S. Edmund (*Collectanea* (O.H.S.), ii. 188): 'Ad studium theologie se transtulit, in quo tam mirabiliter in brevi profecit, quod cito post paucos annos, suadentibus multis, *cathedram magistralem ascendit*.' It is likely enough that he was the first D.D. who incepted at Oxford. [For the full text of the university's letter see A. B. Emden, *An Oxford Hall in Medieval Times*, p. 268.]

<sup>1</sup> See above, i. 337, 399.

<sup>2</sup> It is a natural inference that this official stood in something like the position of the chancellor (like the 'Master of the Schools' mentioned below, p. 41), but (i) 'Rector Scholarum' may mean simply a regent master though it is not often so used as an official designation after a name; (ii) if it were an official dignity, we should expect the addition of 'Oxonienis' or the like. The question must,

therefore, be left doubtful. Another document is cited by Wood (*Fasti*, p. 5) to show that a chancellor existed in c. 1150, but (i) the date depends upon an uncertain identification, (ii) the document relates to one of the tithe-cases precisely similar to the one referred to the Chancellor of Oxford and others, c. 1221: we may therefore, with tolerable confidence, ignore this piece of evidence. The document is, so far as I can ascertain, lost. Cf. below, p. 41. [On the identity of Magister Alardus see *Snappe's Formulary*, ed. H. E. Salter (O.H.S.), pp. 318-19. Dr. Salter (*ibid.*, p. 318) draws attention to an earlier example of a precursor of the later chancellors in a deed of 1201 in which Mag. J. Grim is described as *magister scolorum Oxonie*. See also *The Cartulary of the Abbey of Eynsham*, ed. H. E. Salter (O.H.S.), ii. 45-6.]

CHAP. XII, § 1. Oxford chancellorship—its almost unique combination of the functions of a continental chancellor with those of a continental rector. On the one hand we find the Chancellor of Oxford entrusted with all the functions exercised by the Parisian chancellor at the same period, before his rights had begun to be curtailed by the usurpations of the magisterial university and the papal bulls by which those usurpations were supported. Scholars were in England, as in France, treated as clerks and therefore entitled to trial in the ecclesiastical courts. This jurisdiction was in ordinary cases exercised by the chancellor, though at first his jurisdiction did not exclude the occasional interference of the bishop or even of the archdeacon. The analogy between the Oxford and the Paris chancellorships at the beginning of the thirteenth century—though not after that—is complete in everything but the connexion of the former with the cathedral.<sup>1</sup> As an ecclesiastical judge, the Chancellor of Oxford enforces his process by excommunication or deprivation of the magisterial licence, suspension or deprivation of the scholastic privileges.<sup>2</sup> Entrusted with a general supervision of the schools, he issues proclamations against bearing arms, against disturbance of the peace, against the formation of conspiracies, against going out after curfew without grave necessity, against playing at noxious or other games, from which dissensions may arise, in the meadows or elsewhere, against keeping 'mulierculae' or 'concubines' in scholars' houses; and the privilege of the university is denied to all whose

confirmation of the chancellor by the Bishop of Lincoln, see the introductory note by Dr. H. E. Salter to the processes of nomination, 1290-1369, extracted from the registers of the Bishops of Lincoln and printed in *Snappe's Formulary* (O.H.S.), pp. 40-89.]

<sup>1</sup> Almost the only clear parallel is the chancellorship of the Medical University at Montpellier, which originated at almost the same period. See above, ii, p. 123 sq.

<sup>2</sup> [On the subject of excom-

munication and the jurisdiction of the Chancellor's Court at Oxford, see Dr. H. E. Salter's introductory note to 'Significations of Excommunication by Chancellors of the University' in *Snappe's Formulary* (O.H.S.), pp. 23-39; *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. lxxviii-lxxx; *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 35, 36, 138, 147, 192, 205, 224; *Registrum Cancellarii Oxon.*, 1434-1469, ed. H. E. Salter (O.H.S.), i. xi.]

names are not borne upon the register of a master from whom they hear at least one 'ordinary' lecture every day. The chancellor enforces his injunctions both by excommunication and (in cases of offences against the peace) by imprisonment or banishment from Oxford, as well as by forfeiture of the privileges of the university.<sup>1</sup> In one point only does the parallel with the situation at Paris fail, and that is only one result of the fundamental difference in the conditions—the absence of a capitular body. At Oxford there was no episcopal prison; Lincoln was a long way off; nor was there any great church like Notre Dame at Paris in whose cloister or precinct a convenient chancellor's prison could be found. Consequently the chancellor had to send his prisoners either to the King's prison in the Castle or to the town-prison over the Bocardo gate.<sup>2</sup> This necessity was calculated to prepare the way for that confusion between ecclesiastical and secular jurisdiction which was such a remarkable feature of the Oxford chancellor's position.

Originally then, it should be clearly understood, the chancellor's authority was derived from the bishop and from the bishop only. Primarily the chancellor was an officer not of the university but of the bishop.<sup>3</sup> The jurisdiction given him over scholars by the bishop was derived from the fact of their clerical status, not from the fact that they were members of a university: his jurisdiction extended to laymen only so far as

<sup>1</sup> 'Auctoritate domini Cancellarii excommunicati sunt omnes illi solemniter qui pacem Universitatis Oxoniae perturbaverint, *Item*, omnes qui ad hoc foedus inierint vel societatem. . . . *Item*, prohibet Cancellarius, sub poena excommunicationis, ne aliquis ferat arma', &c., *Mun. Acad.* i. 16; [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 78-82.] They are clearly made by the chancellor on his own authority, not by that of the masters. It was just this kind of proclamation which provoked the hostility of the masters of Paris against the chancellor. See above,

i. 309 sq.

<sup>2</sup> See below, pp. 83, 84.

<sup>3</sup> [See Dr. H. E. Salter's important introductory note to the confirmations of chancellors by the Bishops of Lincoln printed in *Snappe's Formulary* (O.H.S.), pp. 40-8. When in 1302 the Bishop of Lincoln objected that Walter de Wetheringsete had exercised the office of chancellor before he had been confirmed by him, it was answered that the chancellor had not exercised any spiritual jurisdiction, but only 'de hiis que contingunt regiam potestatem'. See *op. cit.*, p. 61.]

CHAP. XII, § 1. Oxford chancellorship—its almost unique combination of the functions of a continental chancellor with those of a continental rector. On the one hand we find the Chancellor of Oxford entrusted with all the functions exercised by the Parisian chancellor at the same period, before his rights had begun to be curtailed by the usurpations of the magisterial university and the papal bulls by which those usurpations were supported. Scholars were in England, as in France, treated as clerks and therefore entitled to trial in the ecclesiastical courts. This jurisdiction was in ordinary cases exercised by the chancellor, though at first his jurisdiction did not exclude the occasional interference of the bishop or even of the archdeacon. The analogy between the Oxford and the Paris chancellorships at the beginning of the thirteenth century—though not after that—is complete in everything but the connexion of the former with the cathedral.<sup>1</sup> As an ecclesiastical judge, the Chancellor of Oxford enforces his process by excommunication or deprivation of the magisterial licence, suspension or deprivation of the scholastic privileges.<sup>2</sup> Entrusted with a general supervision of the schools, he issues proclamations against bearing arms, against disturbance of the peace, against the formation of conspiracies, against going out after curfew without grave necessity, against playing at noxious or other games, from which dissensions may arise, in the meadows or elsewhere, against keeping 'mulierculae' or 'concupines' in scholars' houses; and the privilege of the university is denied to all whose

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<sup>1</sup> Almost the only clear parallel is the chancellorship of the Medical University at Montpellier, which originated at almost the same period. See above, ii, p. 123 sq.

<sup>2</sup> [On the subject of excom-

munication and the jurisdiction of the Chancellor's Court at Oxford, see Dr. H. E. Salter's introductory note to 'Significations of Excommunication by Chancellors of the University' in *Snappe's Formulary* (O.H.S.), pp. 23-39; *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. lxxviii-lxxx; *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 35, 36, 138, 147, 192, 205, 224; *Registrum Cancellarii Oxon.*, 1434-1469, ed. H. E. Salter (O.H.S.), i. xi.]

names are not borne upon the register of a master from whom they hear at least one 'ordinary' lecture every day. The chancellor enforces his injunctions both by excommunication and (in cases of offences against the peace) by imprisonment or banishment from Oxford; as well as by forfeiture of the privileges of the university.<sup>1</sup> In one point only does the parallel with the situation at Paris fail, and that is only one result of the fundamental difference in the conditions—the absence of a capitular body. At Oxford there was no episcopal prison; Lincoln was a long way off; nor was there any great church like Notre Dame at Paris in whose cloister or precinct a convenient chancellor's prison could be found. Consequently the chancellor had to send his prisoners either to the King's prison in the Castle or to the town prison over the Bocardo gate.<sup>2</sup> This necessity was calculated to prepare the way for that confusion between ecclesiastical and secular jurisdiction which was such a remarkable feature of the Oxford chancellor's position.

Originally then, it should be clearly understood, the chancellor's authority was derived from the bishop and from the bishop only. Primarily the chancellor was an officer not of the university but of the bishop.<sup>3</sup> The jurisdiction given him over scholars by the bishop was derived from the fact of their clerical status, not from the fact that they were members of a university: his jurisdiction extended to laymen only so far as

<sup>1</sup> 'Auctoritate domini Cancellarii excommunicati sunt omnes illi solemniter qui pacem Universitatis Oxoniae perturbaverint, Item, omnes qui ad hoc foedus inierint vel societatem. . . . Item, prohibet Cancellarius, sub poena excommunicationis, ne aliquis ferat arma', &c., *Mun. Acad.* i. 16; [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 78-82.] They are clearly made by the chancellor on his own authority, not by that of the masters. It was just this kind of proclamation which provoked the hostility of the masters of Paris against the chancellor. See above,

i. 309 sq.

<sup>2</sup> See below, pp. 83, 84.

<sup>3</sup> [See Dr. H. E. Salter's important introductory note to the confirmations of chancellors by the Bishops of Lincoln printed in *Snappe's Formulary* (O.H.S.), pp. 40-8. When in 1302 the Bishop of Lincoln objected that Walter de Wetheringsete had exercised the office of chancellor before he had been confirmed by him, it was answered that the chancellor had not exercised any spiritual jurisdiction, but only 'de hiis que contingunt regiam potestatem'. See *op. cit.*, p. 61.]

CHAP. XII, § 1. the chancellor exercised as the representative of the bishop and the jurisdiction which he wielded as head of the master's guild was rapidly lost sight of. The chancellor, by becoming dependent on the university, made himself practically more and more independent of the bishop from whom he derived his authority.<sup>1</sup> Hence the enormous superiority of Oxford to Paris in point of privilege and independence. To the masters and scholars of Paris privileges were, indeed, dealt out by pope and king with no niggard hand. But, though exempted from the jurisdiction of the ordinary tribunals, they were not placed under that of their own officers. Everything was done for the university, very little by it. When these privileges were first conferred, the university itself possessed no recognized head, and it would hardly have occurred to any one to confer a very extensive legal jurisdiction upon the ever-changing rector of the artists. At Oxford the original jurisdiction which the chancellor possessed as the bishop's representative served as a basis for further extensions by king or pope, and the power of the chancellor meant in the long run the power of the university. In process of time the amalgamation of authority, academic and ecclesiastical, civil and criminal, in the hands of the Chancellor of Oxford was such as has scarcely been wielded by the head of any other university except Cambridge. All the functions which at Paris were divided between the Apostolic Conservator, the Provost of Paris, the Chancellor, the Bishop's Court, and the Rector, were united in the hands of the Oxford Chancellor, as well as a share in the government of the town for which at Paris there is no parallel at all. And here we may take occasion to observe the importance to Oxford of its position as a city which was neither a capital nor a see-town. It would have been impossible for a university which had grown up beneath the shadow of an episcopal palace to have completely shaken off the authority of the bishop: it would have been impossible for the most clerically minded monarch to have placed a great

<sup>1</sup> [As Professor L. Halphen has pointed out, there was not in Oxford the same necessity as in Paris to seek papal support in order to secure freedom from diocesan authority; see his article, 'Les Universités au XIII<sup>e</sup> siècle', in *Revue historique*, clxvi (1931), 235-6.]

capital in subjection to even the most dignified of academical dignitaries. CHAP. XII, 1.

In dealing with the early history of the schools of Paris, I insisted strongly on the necessity of distinguishing between the growth of the schools and the growth of the university. We have seen reason for presuming that at Oxford the first rudiments of university organization were introduced by the immigrants of 1167-8. It remains for us to call attention to two slight positive traces which are found—in addition to what is implied by the custom of inception—of the existence of some such organization. Both of them occur in the already mentioned legatine ordinance of 1214. Among the legate's injunctions there is the proviso that masters who 'irreverently lectured after the recession of the scholars' shall be suspended from the office of lecturing for three years.<sup>1</sup> It is therefore probable that some kind of formal cessation or dispersion had been decreed by the masters immediately after the outrage: and the issue of such a decree implies a certain amount of organization or at least a habit of combination and co-operation. Moreover, half the rent of existing *hospicia* 'as taxed by the common consent of the clerks and the burghers' was to be remitted for ten years: while in future *hospicia* were to be taxed by a joint board of four burghers and four clerks.<sup>2</sup> Whether or not there had been regular taxors before 1209 (which is the most natural inference), the masters must at least have possessed some organization which admitted of their negotiating with the burghers in a corporate capacity. In either case it is worthy of notice that the office of taxor apparently was the earliest university office at Oxford, as presumably it must have been in the Mother University of Paris. But how low a degree of organization is implied by these indications is illustrated by the fact that while copies of the legatine ordinance are addressed to the burghers, to the bishop, and to 'all the faithful of Christ', none was apparently sent to the masters themselves, who were not looked upon as a corporation sufficiently definite to be capable even

<sup>1</sup> See *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 4. <sup>2</sup> *Ibid.* i. 2-3, 8.

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CHAP. XII, § 1. of receiving a letter. The process by which the university emerged out of this rudimentary condition will be considered in the next section.<sup>1</sup>

<sup>1</sup> I am glad to be able to claim the adherence of Bishop Creighton to my hypothesis of a Parisian mi-

gration. *Archaeol. Journal*, 1892. xlix. 272 [reprinted in *Historical Essays and Reviews*, 1902, p. 279].

## § 2. THE CONSTITUTIONAL DEVELOPMENT

THE University of Oxford, in its primitive form, may be looked upon as an imitation, perhaps we ought rather to say an unconscious reproduction, of the Parisian society of masters. It will be remembered that, up to the date at which the existence of a *studium generale* at Oxford is first revealed to us, the University of Paris was what has been called a merely customary society without officers, written statutes or any other attributes of a recognized legal corporation. At Oxford as at Paris the bare existence of such a guild is all that we can trace till after the close of the twelfth century. The university is as yet an idea rather than an institution.

During the thirteenth century the intercourse between Paris and Oxford was so close that every fresh development of corporate activity on the part of the masters of Paris was more or less faithfully imitated or reproduced at Oxford, though the process of development was modified at every step by the different position of the Oxford chancellorship. Written statutes, a common seal, elected officers were pretty sure sooner or later to make their appearance. But an attentive examination of the earliest documents connected with the Oxford schools shows that for the first half-century of their existence the university retained to a large extent its primitive character of a customary rather than a legal corporation. The right of the university to a common seal was disputed as late as the episcopate of Grosseteste.<sup>1</sup> Even after the date of the earliest written statutes we hear more of the 'customs' of the university than of its statutes; and we do not hear anything at all of statutes—at least of statutes avowedly owing their authority to the university and not to the chancellor—till 1253.<sup>2</sup> In that year (March, 1253) we find the

<sup>1</sup> Adam de Marisco thus writes to the bishop to apologize for the chancellor: 'Signo illo quod dicitur universitatis Oxoniae, quo in simplicitate sua sicut et plures antecessorum suorum usus est, de caetero si iusseritis nequaquam usurus, et ad

nutum beneplaciti vestri suo cedet officio.' *Mon. Francisc.*, ed. J. S. Brewer (R.S.), pp. 100-1.

<sup>2</sup> [On the subject of the earliest statutes of the university see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xlii-xlv.]

CHAP. XII, § 2. university enacting, or reducing to a written form,<sup>1</sup> what has ever since remained a characteristic feature of the Oxford constitution—the requirement that no one should be admitted to the licence in theology who had not previously been a regent in arts.

Irish riot:  
oath to the  
peace. To the preceding year belongs the settlement of a dispute between the Northern and the Irish scholars;<sup>2</sup> for there was

<sup>1</sup> *Mun. Acad.* i. 25 [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 49]; *Mon. Francis.* (R.S.), pp. 346–8. Notice the expression 'Statuit . . . et si statutum fuerit, iterato consensu corroborat' (*loc. cit.*), as showing the uncertainty and informality of any earlier resolutions of the university. [See also *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xlii, xliii.]

<sup>2</sup> *Mun. Acad.* i. 20 sq. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 84–7.] A similar agreement was made in 1267 by twenty-four of each side after exchanging the kiss of peace. For the settlement of future disputes five persons were to be elected from each of the northern counties: these in turn were to elect 'tres capitaneos', each Irish province likewise to elect eight persons to name one captain: all disputes were to be settled by the four captains; if they could not agree they were to appeal to arbitrators, and only in the last resort to the chancellor or the *Hebdomadarii* (see below, p. 137). Most of the 24 seals remain; it is noticeable that several of them are impressed from ancient gems; another copy of this agreement (*ibid.* i. 136; *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 28) is also preserved bearing only the chancellor's seal, which consists of a man holding, not (as Wood says) either a crucifix or a rosary, but a chained book. For the text of this document see *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 26–8. Another agreement of the

same kind was made in Lent 1274, 'inter Australes, Marchiones, Hybernenses et Walenses ex una parte et Boriales et Scotos ex altera'. For the text of this agreement see *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 30–3. 'Omnes et singuli de Uniuersitate tam maiores quam minores' swore to observe it, and agreed that 'ad mandatum Cancellarii insurgent' against perturbors of the peace. Persons suspected of violence were to be required to give security 'per pignora aut per clericos beneficiatos', or be expelled, and all swore to assist the chancellor in forcibly carrying out this sentence. The agreement was made 'de pleno consensu omnium magistrorum regencium et non regencium, dominorum et bachelariorum, maiorum et minorum Uniuersitatis'. One of the masters mentioned in this agreement was John of London. Was this the mathematician praised by Roger Bacon (below, p. 249)? [See L. J. Paetow, 'Morale Scolarium' of John of Garland, Berkeley, California, 1927, p. 84, n. 17 and n. 20. Professor Paetow in referring to this footnote stated in error that the name of Master John of London is given by Rashdall as appearing in a document of the year 1252. Professor Paetow's suggestions as to dates for the career of Master John of London, the mathematician, will need to be reconsidered if he is to be identified with Master John of London who is mentioned in the agreement made in 1274. Professor Paetow was also unfortu-

an Irish question even then. The document reads like a CHAP. XII, § 2. treaty of peace between hostile nations rather than an act of university legislation. Twelve arbitrators were chosen on each side, and thirty or forty 'rich men whether Regents or otherwise' were sworn to observe the conditions of peace and to denounce any violation of them to the chancellor. At the same time it was provided that a similar oath should in future be taken by 'inceptors in whatsoever Faculty together with the accustomed oath', as well as by nobles. The punishment denounced in the event of refusal is 'withdrawal of the fellowship of the masters'. It is noteworthy that in these early enactments no special appeal is made to the authority of the chancellor so long as the penalty is one which the university itself had the power to inflict.<sup>1</sup> Even formal statutes run in the name of the university only, nor are they even entrusted to the chancellor for execution. Whether the chancellor was or was not actually present, whether or not he in any sense 'presided' at the earliest Congregations, it is impossible to pronounce with certainty. Moreover, the above-mentioned agreements or treaties of peace appear to be made at general meetings of the whole university, including students (or at least bachelors) as well as masters.<sup>2</sup> Indeed, for a time we almost seem to trace a democratic organization of masters and scholars (after the fashion of Orleans or Angers) existing side by side with the strictly magisterial university—a

nate in his suggestion that the time when John of London lectured in Oxford may be taken 'to have been about 1210–1213', as these years coincide with the *Suspendium clericorum* which lasted from 1209 to 1214. See *op. cit.*, p. 84.]

<sup>1</sup> 'Alioquin Magistrorum et Scholarium eis societas subtrahatur', *Mun. Acad.* i. 22 [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 86]. So in the statute about theological degrees: 'Ipso facto a societate Magistrorum et privilegiis Uniuersitatis privatus existat' (above, p. 50). We learn from Adam de Marisco (*Mon. Francis.*, ed. J. S. Brewer (R.S.), i. 346) that the

chancellor assented to this last statute, but the statute is actually enacted by the university 'Statuit: Universitas Oxoniensis', *Mun. Acad.* i. 25; *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 49. [Rashdall has misconstrued what Adam Marsh has written. It appears from the letter in question that 'the chancellor and masters and certain bachelors' approved this statute in the form in which it had been drafted by a committee of seven.]

<sup>2</sup> [For two instances of the association of bachelors with masters in legislation see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. xxii.]

CHAP. XII, § 2. organization which in 1267 (and possibly in 1252) even elected four captains for the preservation of the peace.<sup>1</sup> However, this democratic university (if such it can be called) may have been little more than a temporary expedient: in any case it never seems to have taken upon itself any functions except the preservation of the peace and the support, by armed force if necessary, of the chancellor's authority, and was gradually superseded by the more regular guild of masters.

Position of the chancellor. A strictly magisterial statute of about the same period against dancing or other riotous celebrations in churches upon the festivals of the patron saint of a 'nation' or diocese, shows with great clearness the purpose for which the co-operation of the chancellor was originally sought, and indeed the origin of his position as president of the university as well as the bishop's representative in the *studium*. The 'Decree and Statute' is issued 'by the authority of the Chancellor and Masters Regent with the unanimous consent of the Non-Regents'.<sup>2</sup> The masters conclude by enjoining its observance 'by the authority of the Chancellor' under pain of imprisonment and the greater excommunication. If the chancellor did not from the first preside in the university Congregations, the convenience of obtaining the sanctions of excommunication and imprisonment for the decrees of the university proper made it expedient to obtain his approval for its acts. It soon became usual (if it was not from the first) for the chancellor to be present whenever a Congregation of all faculties was to be celebrated.<sup>3</sup> Indeed, since he was himself a doctor of theology, or of canon law, as well as chancellor, he would necessarily attend all such meetings; and, at a time when the university itself had no permanent officers of its own (unless

<sup>1</sup> See above, p. 50, n. 2. These were, however, apparently taken exclusively from the Northerners and Irish.

<sup>2</sup> 'Auctoritate domini Cancellarii et magistrorum regencium, cum unanimi consensu non-regencium, decretum est et statutum', &c. (*Mun. Acad.* i. 18). [In his reference to this statute Rashdall relied

on the date 'A.D. 1250?' which is assigned to it in *Mun. Acad.* i. 18. The Rev. H. Anstey gives no authority for this date. Mr. Strickland Gibson (*Stat. Antiq. Univ. Oxon.*, pp. 82-3) gives this statute no more precise date than 'before 1350'.]

<sup>3</sup> [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 187-8.]

the taxors are regarded in that light), it was natural that he should more or less occupy the position of president at any assembly in which he appeared.<sup>1</sup>

And yet there remained, and remain to this day, in our academical constitution clear indications of the fact that the chancellor was originally an extra-university official, and was not the proper executive of the masters' guild. It was the proctors, not the chancellor, who in 1252 were empowered to demand the oath for the conservation of the peace. It is to the proctors a few years later that the execution of the sentence of suspension denounced for violation of the statutes is entrusted.<sup>2</sup> In certain cases at all events it is the proctors who summon Congregation. To this day it is the proctors who administer all oaths and declarations, who in the regent congregation submit graces to the house and in all Congregations count the votes and announce the decision. In these and in other ways we from the first find the proctors jointly performing many of the functions naturally incident to the presidency of an assembly or the executive of a society and as such discharged at Paris by the rector. The fact is the more remarkable since the Oxford proctors, like the Parisian rector

<sup>1</sup> *Mun. Acad.* i. 22, 30: 'Faciant Procuratores congregationem fieri.' [On the position and functions of the chancellor see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. lxxi-lxxiv, and *Reg. Cancell. Oxon.*, 1434-1469, ed. H. E. Salter (O.H.S.), i. xliii-xlvi.]

<sup>2</sup> Note that in the early statutes the chancellor's presence is not expressly mentioned except where non-regents were summoned as well as regents. [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 86, 108. For an ordinance of 1312, made 'per Cancellarium et universitatem regencium', see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 109, and for subsequent examples see *ibid.*, pp. 24, 35, 202.] It is not impossible that at first the proctors presided over Congregations of regents in all faculties as they un-

doubtedly did over Congregations of regents in arts. Even in the fifteenth century Register (Archives, Aa) we find that in a regent Congregation the graces are 'pronounced' (i.e. declared carried) by a proctor, while in the Great Congregation (i.e. of regents and non-regents) the chancellor performs that function. [For an example of pronouncement by the chancellor in a Congregation of Regents and Non-regents see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 157.] In our modern 'Convocation' and 'Congregation of the University of Oxford' the question is put by the vice-chancellor, but the decision is announced by the senior proctor; but in the 'Ancient House of Congregation' the graces are still put to the house, as well as 'pronounced', by the senior proctor.

CHAP. XII, § 2. of the thirteenth century, always remained primarily the officers of the regents in arts, not of the whole university. At Paris the university was obliged to employ the rector as its executive because it had no proper executive of its own. At Oxford, though the chancellor early became, if he was not from the first, the acknowledged head of the university, he is still so far felt to be above and outside the teaching corporation that many of the functions which would naturally attach to such a position, devolve upon the more democratic proctors. In the documents which mention the consent of the chancellor, he appears rather as an external authority whose approval might in certain cases be necessary to give effect to the decisions of the university than as an essential element in the university itself. The masters are bound by oath or solemn promise to obey both chancellor and university; each authority is supreme in its own sphere. The statutes assume at times the form of treaties between two independent contracting parties.<sup>2</sup> This state of things could not or at all events did not last long: the two authorities were fused into one, and the developed Oxford constitution is the result of the fusion. The chancellor loses his independent position and becomes the presiding head of the university.<sup>3</sup> The university submits to the presidency of the bishop's officer, but at the same time, by as it were absorbing the chancellorship into itself, is able to arrogate to itself all the powers of that

The chan-  
cellor  
absorbed  
into the  
university.

<sup>1</sup> 'In fide qua teneris Domino et Universitati' (*Mun. Acad.* i. 30). 'Dominus' might conceivably mean the bishop. [Rashdall has been misled here. The reference is to 'God and the University'. In Register D this passage reads, 'Deo et uniuersitati'; in Register C, 'Domino et uniuersitati', see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 108.]

<sup>2</sup> So in 1257 (the statute prescribing the form for denouncing a master suspended), 'In hanc formam consentiunt Cancellarius et Universitas Magistrorum regentium Oxoniae' (*Mun. Acad.* i. 30),

[*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 107-8]. His consent is here necessary, since a suspension of a regent from lecturing involved a temporary withdrawal of the chancellor's licence. Notice that in this statute the usual purpose of Congregations is to celebrate (1) inceptions, (2) funerals. It was the same at Paris, above, vol. i.

<sup>3</sup> [For the succession of chancellors see the lists compiled by Dr. H. E. Salter, *Snappe's Formulary* (O.H.S.), pp. 318-35; *Reg. Cancell. Oxon.*, 1434-1469 (O.H.S.), i. xxxv-xxxix.]

[ii. 366] THE CONSTITUTIONAL DEVELOPMENT 55  
office. Some of the anomalies which resulted from such a fusion will be traced hereafter.<sup>1</sup> CHAP. XII, § 2.

A year after the date of the earliest extant statute, the University of Oxford, at about the same time as the Mother University of Paris, received the confirmation of all its 'immunities, liberties, and laudable, ancient and rational customs, and approved and honest constitutions' from Innocent IV. It is worthy of notice, as showing that the chancellor is still hardly regarded as an integral part of the university, that the Bull is addressed not to the chancellor and university but (after the manner of Bulls addressed to the masters of Paris) simply to the 'masters and scholars sojourning at Oxford in the diocese of Lincoln'.<sup>2</sup> At the same time the university obtained for its members a privilege against being summoned by papal delegates to answer outside Oxford in respect of contracts made within it.<sup>3</sup> Papal confirmation of statutes, 1254.

Though by placing itself virtually under the presidency of the chancellor, the University of Oxford as a whole acquired a head earlier than Paris, separate meetings of the faculty of arts were essential, if it was only for the celebration of The nations.

<sup>1</sup> It is impossible to say to what extent in the early days of the university the chancellor would have claimed the right of vetoing a statute in the name of the bishop, who certainly asserted a very paternal control over the university (see below, p. 115). In the later constitution of the university there is no trace of such a veto, which, however, the chancellor or vice-chancellor obtained by the Laudian statutes and still possesses.

<sup>2</sup> *Mun. Acad.* i. 26-30. The reader of Wood should be warned that the Bull of Alexander IV, maintaining the jurisdiction of the bishop over the 'universitas clericorum castri Oxon.' referred to by Wood, *Annals*, i. 250, has nothing to do with the University, but refers to the clergy of the churches within the Castle precinct. It is given *in extenso* in Twyne MS. ii, f. 19, and again in vii, f. 345, where

it is mistakenly referred to the year 1209. [This document is printed in *Snappe's Formulary*, ed. H. E. Salter (O.H.S.), p. 300. Twyne transcribed it from a Lincoln register which has since disappeared. Rashdall's warning does not hold good, as he was mistaken in supposing that *castrum* refers to the castle and not to the town of Oxford. Dr. H. E. Salter points out in a footnote that *castrum Oxon.* cannot refer to the Castle of Oxford as there was no body of clerks in the castle at this time, and he has elsewhere noted the use of *castrum* as meaning 'town' in papal documents: see *Cartulary of Osney Abbey* (O.H.S.), iii. 346, n. 2.]

<sup>3</sup> *Calendar of Papal Letters relating to Great Britain and Ireland*, i. 306. The grant was for five years only—a fact which no doubt accounts for its disappearance from our muniments and statute-books.

CHAP. XII, § 2. the all-important inceptions. The example of the Parisian masters of arts in dividing themselves into nations and placing elective officers at their head was early imitated at Oxford. It is somewhat tempting, indeed, to conjecture that at one time the mystic number four, which had spread from Bologna to Paris in the first or second decade of the century, was reproduced at Oxford also. At all events in 1228 (a few years after the first appearance of proctors at Paris) we read that a dissension broke out between the scholars and the town-folk, and that an agreement was made that in future all such disputes should be composed by 'arbitration of the four masters who should then be the chief'.<sup>1</sup> This seems to point to four nations, even if the four masters were rather 'captains' or 'arbitrators' of the type appointed to preserve the peace in 1267 than a reproduction of the Parisian proctorate. For four nations, however, the composition of the magisterial body at Oxford hardly supplied the materials. If a few French masters came over from Paris in consequence of some faction-fight or 'cessation' at Paris, the great majority were

<sup>1</sup> 'Arbitrio quatuor magistrorum qui tunc essent precipui', *Ann. de Dunstaplia* (ed. H. R. Luard), in *Ann. Monast.* (R.S.), iii. 110. So too four taxors are appointed in 1214 (*Mun. Acad.* i. 2; *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 3); and it is significant that when there were undoubtedly only two nations, the taxors were also two only. It is conceivable that these four masters may have been the taxors themselves; but whether called proctors, or taxors, or captains, there would probably be little difference between these officers and the primitive proctors appointed 'ad iniurias ulciscendas' at Paris (see above, i. 311), except that, if we suppose the captains to be meant, the students joined in their election. But cf. above, p. 30. [On the reduction of the number of university taxors from four to two, see A. B. Emden, *An Oxford Hall in Medieval Times*,

pp. 13, 14. In 1231 the king directed that a board should be set up consisting of two masters and two responsible townsmen. When it is stated in the collection of statutes and customs of the university which Mr. Strickland Gibson dates 'before 1350' that four taxors were customarily elected by the proctors in the first Congregation after Michaelmas (*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 71), the four may be taken to include the two laymen representing the town whose names, it may be supposed, were announced in Congregation together with those of the two masters of arts who were to represent the university. In an Oseney rental for 1324-5 in which the 'taxation' of a house is noted, the names of the four taxors are given, two masters of arts, and two laymen, see *Cartulary of Oseney Abbey*, ed. H. E. Salter (O.H.S.), iii. 183.]

no doubt of British or even English birth.<sup>1</sup> Though Irish scholars were numerous and troublesome, Irish masters were few, and the same was probably the case with the Welsh.<sup>2</sup> Among Englishmen there was only one marked racial or geographical distinction—the distinction between the English north of the Trent and the English south of the Trent. Hence, instead of the four nations of Paris, we find at Oxford only two—the *Boreales* and the *Australes*. Scotchmen—probably at this time only Lowlanders would be likely to find their way to Oxford—were included among the Northerners, Welshmen and Irishmen among the Southerners. The Northern and Southern masters of arts were presided over by their respective proctors.<sup>3</sup> The two proctors are first heard of in 1248, when they appeared before Henry III at Woodstock to prefer the complaints of the university against the misdoings of the Jews and the burghers. In the charter which they succeeded in obtaining for the university they are granted, in conjunction with the chancellor, the right of being present at the assize of bread and beer.<sup>4</sup>

CHAP. XII, § 2.

Two proctors first mentioned in 1248.

Whether the nations at Oxford were originally four or two, it is pretty certain that they were originally more distinct than they afterwards became, and it is probable that in the earliest congregations the votes were taken by nations. For in 1274 the articles of peace drawn up after one of the great faction-fights between north and south<sup>5</sup> solemnly provide

Abolition of nations.

<sup>1</sup> Many foreign friars were sent to study in Oxford (A. G. Little, *Grey Friars in Oxford* (O.H.S.), p. 66, *et passim*). In 1369, however, Edward III ordered the expulsion of all French scholars [*Munim. Civ. Oxonie*, ed. H. E. Salter (O.H.S.), p. 144].

<sup>2</sup> *Mun. Acad.* i. 23, [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 87].

<sup>3</sup> Chosen by a process of indirect election, like the rectors of Bologna and Paris. *Mun. Acad.* i. 81. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. lxxiv, 64-6, 133-4, 143. No evidence has been found to support Rashdall's suggestion that the Northern proctor presided over the

Northern masters of arts, and the Southern proctor over the Southern. So far as is known the authority of both proctors extended over the whole body of masters.]

<sup>4</sup> 'Presentibus apud Woodstocke tam procuratoribus scolarium universitatis quam burgensibus Oxon.' Rot. Claus. 33 Hen. III, m. 15 dorso. [*Close Rolls, Henry III, 1247-51*, pp. 114, 216-17], *Med. Arch. Univ. Oxford* (O.H.S.), i. 18, 19. [It is not stated in this grant of privileges that the number of the proctors of the university was two.]

<sup>5</sup> See the 'Solennis Concordia inter Australes, Marchiones, Hybernenses et Walenses ex una parte

CHAP. XII, § 2. that in future the two bodies of Northerners and Southerners should be amalgamated into a single nation; and from this time, though one proctor was always an *Australis* and one a *Borealis*, the term 'nation' ceases to be used, and the faculty of arts votes as a single body.<sup>1</sup> The early extinction of nations in the English universities is a symbol of that complete national unity which England was the first of European kingdoms to attain.

Rectors or proctors.

It will be remembered that in the chapter on Paris the origin of the nations and their proctors was traced back to the four universities of Bologna and their rectors. It is interesting to observe that, though at Paris the four rectors (if indeed that title was ever applied to the four heads of nations) rapidly disappeared and were superseded by one rector and four proctors, at Oxford the proctors on one of their earliest appearances in history are styled 'Rectors' instead of proctors.<sup>2</sup> At Oxford the title rector is rarely used afterwards. At Cam-

et Boreales et Scotos ex altera' (quoted above, pp. 50-1). *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 30-3, 332.

<sup>1</sup> 'Prouiso insuper quod de cetero partes non fiant seu nominentur in universitate, set unum sit collegium et unum corpus; aliis nichilominus obligationibus penalibus per universitatem prius ordinatis in suo robore duraturis.' The last clause seems to imply that the previous statutes had been carried by the consent of distinct nations. [It may be doubted whether a reference to voting by nations, as Rashdall suggests, is implied in this clause. It would seem more in keeping with the sense and context of the clause if it were taken as referring to provisions made in the articles of peace between North and South of 1267, whereby the two bodies of Northerners and Southerners obliged themselves 'ad penam triginta librarum' to keep the peace. See *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 27-8.] Cf. *Mun. Acad.* i. 92 (Statute of

1313) [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 110]: 'Cum separatio nationum Australium et Borealium, cum nationes diversae non sint, tam clericis quam laicis sit summo opere detestanda', &c. An earlier statute [dated by Mr. Strickland Gibson 'before 1275'] has a clause about perturbations of the peace: 'nationes tanquam diuersas, que non diuerse sunt, defendendo, seu fatue impugnando'. [See *Stat. Antiq. Univ. Oxon.*, p. 108, ll. 14, 15, App. B, ll. 2-4.]

<sup>2</sup> Adam de Marisco says that the statute requiring theologians to be M.A. (see above, p. 50, and below, p. 68) was subscribed by the regents of the superior faculties (note how the practice of the superior doctors subscribing individually is copied from Paris, see above, i. 328) and by 'duo rectores pro artistis'. *Mon. Francisc.* (R.S.), i. 347. There is a reference to 'procuratores, sive rectores' as late as 1377 in the contemporary *Chronicon Angliae*, ed. E. Maunde Thompson (R.S.), p. 173.

bridge both titles continued in use throughout the medieval period. This alternative use of titles which at Paris denoted separate offices may be accounted for in one of two ways. It is certain that the heads of the nations appeared at Paris earlier than the common rector of the artists; it is possible that they were once called indifferently rectors or proctors, and there are slight independent reasons for believing that such was the case.<sup>1</sup> In that case the national rectorships or proctorships may have been reproduced at Oxford before the institution of the single rectorship at Paris.<sup>2</sup> On the other hand it is a significant fact that these Oxford rectors or proctors are first heard of at a time when we know that there was a schism in the faculty of arts at Paris, three of the nations having elected one rector in opposition to the rector of the French nation alone. It is quite conceivable that our Oxford proctorships may represent the perpetuation of this anomalous, but then by no means unusual state of schism in the Mother University.<sup>3</sup>

The constitution of Oxford may be said to represent an arrested development of the Parisian constitution modified by the totally different relation of the chancellor to the masters. It is the Parisian constitution transplanted to Oxford after the establishment of the nations and national officers, but before the final establishment of the single common rectorship and before the organization of the superior faculties into distinct colleges or corporations with officers, statutes, and seals of their own. At Oxford the need of a distinct head of the university was never felt, because the chancellor, here on friendly terms with the university, served the turn. The need of a common head of the faculty of arts was unfelt, because there were only two nations, and those less sharply divided either by nationality or organization<sup>4</sup> than the nations of Paris.

<sup>1</sup> See above, i. 312.

<sup>2</sup> i.e. before 1237 or 1244.

<sup>3</sup> See Bulaeus, iii. 222; *Chartul. Univ. Paris.* i, No. 187. As late as 1266, certain arbitrators appointed to adjust a schism of this character at Paris provide that one or more nations shall be authorized for just cause to separate from the rest and

elect a separate rector. *Chartul. Univ. Paris.* i, No. 409.

<sup>4</sup> The reader will remember that it was the necessity of joint resistance to the chancellor that led to the formation of the four national seals which necessitated the separate congregations. See above, i. 304 sq.

CHAP. XII, § 2. There were (at least after the peace of 1274) no separate meetings of the *Australes* and *Boreales*: in the separate congregations of the artists the senior proctor presided.<sup>1</sup>

Prerogative of faculty of arts.

We have seen how at Paris the university proper was for a time almost supplanted by the nations. The faculty of arts habitually took the initiative in university business, the doctors of the superior faculties being merely called in to confirm the resolutions already arrived at by the great national assemblies. At Oxford the predominance of the faculty of arts was still more conspicuous than at Paris.<sup>2</sup> At Paris the general predominance of that faculty and in particular its exclusive initiative in university business was, as we have seen, eventually broken down by the growth of the faculties into organized bodies governed by officials, statutes, and congregations of their own. At Oxford the superior faculties never acquired a separate existence of this kind; no deans of faculties appear upon the scene. The initiative of the faculty of arts remained a permanent principle of the university constitution, and even passed into a claim to an actual veto upon the proceedings of the university.<sup>3</sup> Every statute had to be promulgated in the

<sup>1</sup> *Mun. Acad.* ii. 481. [The date of the 'Forma Congregationis magne' to which reference is here made is about 1480-8; see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 291-2. According to this 'forma' the senior proctor may convene all the regents to a 'Black Congregation' to discuss the agenda to be laid before the Great Congregation of regents and non-regents. For earlier references to the relations of the senior and of the junior proctor to the Congregations of the university, see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 128 (1325), 144-7 (1344), 156-7 (1357).]

<sup>2</sup> Father Denifle (i. 78) remarks that the assertion 'universitatem (i.e. Parisiensem) fundatum esse in artibus' was never made in the medieval period. But see a document of 1387 in *Chartul. Univ. Paris.* iii, No. 1537: while at Oxford we find the faculty of arts in 1339

boasting that it is 'fons et origo ceteris' (*Mun. Acad.* i. 142). [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxiii, 142.] It is quite possible that this statement is historically true, i.e. that the migration of 1167-8 consisted entirely of masters of arts. At the end of the twelfth century there was, indeed, clearly a great deal of law-teaching at Oxford (for the evidence see above, p. 21, n. 2, and below, p. 65, n. 2). But, as has been suggested (above, p. 39, n. 1), S. Edmund may probably have been the first theologian to incept at Oxford.

<sup>3</sup> [In this connexion Prof. L. Halphen remarks: 'Cette particularité même a plutôt pour effet de renforcer la cohésion du corps universitaire en empêchant les Facultés de s'isoler et de vivre chacune de sa vie propre'; see his article, 'Les Universités au XIII<sup>e</sup> siècle' in *Revue historique*, clxvi (1931), pp. 236-7.]

Congregations of regent masters of arts summoned and presided over by the proctors at S. Mildred's<sup>1</sup> before it could be submitted to the whole university at S. Mary's. The claim of the faculty—at least when unanimous<sup>2</sup>—to prevent the further progress of a statute negatived in this 'Previous Congregation' is frequently asserted in the proctors' books, but never in the register kept by the chancellor.<sup>3</sup> The superior faculties admitted the right of the faculty of arts to a separate and previous deliberation, but not the right to bar the further progress of a statute.<sup>4</sup> An attempt, however, to give the force of statute to the contrary opinion in 1357 failed,<sup>5</sup> and this important question of constitutional principle remained undecided till the fifteenth century, when the faculty of arts seems to have claimed an absolute negative only in the granting of graces,<sup>6</sup> i.e. dispensations from some of the conditions necessary for taking a degree.

<sup>1</sup> A church which formerly stood to the north of the site of Lincoln College (Wood, *City* (O.H.S.), ed. A. Clark, ii. 94). It was also used for the vespers of artists. *Mun. Acad.* ii. 408. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 177, 197. On the subject of the Congregation of Artists see below, pp. 63-4.]

<sup>2</sup> 'Nihil expeditum penitus habeatur facultate artium integre reclamante.' *Mun. Acad.* ii. 429 (where Registers B and C read 'penitus'). [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 179, l. 29]. Cf. the 'penitus non reclamante' of p. 483. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 293, l. 20.]

<sup>3</sup> *Mun. Acad.* i. 117, 331, ii. 429, 481-3. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 127-8, 179, 264-5, 291-3.] Of this last statute there is a late copy in the chancellor's book. [Rashdall's statement that there is no record in the Chancellor's Book (*Registrum A*) of the claim of the faculty of arts to exercise control over the course of university legislation is not correct. See *Mun. Acad.* ii. 429, 484; *Stat.*

*Antiq. Univ. Oxon.*, ed. S. Gibson, p. 179, ll. 24-9. See also *ibid.*, p. 124, ll. 28-33.]

<sup>4</sup> [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxiii-xxiv. Mr. Strickland Gibson points to an ordinance of 1325 as furnishing 'the earliest dated reference to this right of previous deliberation', but see *ibid.*, p. 124, for a reference to it in a statute of 1322.]

<sup>5</sup> *Mun. Acad.* i. 188-9. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxvi-xxvii, 156-7.] This declaration was passed by a majority consisting of the non-regents and two faculties, the theologians and the civilians; but as the faculty of arts opposed, they would of course not recognize the authority of the statute, though the chancellor pronounced it carried. See below, p. 65.

<sup>6</sup> In 1441, *Mun. Acad.* i. 331. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 264-5.] This purports to be a statute of the regents and non-regents, but is found only in the proctors' books.

CHAP. XII, § 2. It may be added that the mere necessity of a promulgation in the 'Previous Congregation' of artists gave a practical veto to the proctors (by whom alone that faculty could be summoned), at least when agreed. In 1344 a statute was passed enabling one proctor, with the consent of the chancellor, to promulgate a statute;<sup>1</sup> but the two proctors united could still oppose a barrier to any proposed legislation. The proctorial veto, which was embodied in the Laudian Statutes and still survives, may no doubt be traced back to this ancient supremacy of the faculty of arts.<sup>2</sup>

The proctors are the executive of the whole university. A further consequence of this predominance was that the proctors, being only the representative officers of the magisterial body, acted as the executive of the whole university, just as it was left to the Parisian rector, originally the head of the artists only, to execute the decrees of the whole university at a time before his actual 'Headship' was admitted by the superior faculties. At Oxford the rise of the proctors to the headship of the university was barred by the established position of the chancellor; but from the first the proctors are officers of the university as well as of the faculty of arts.<sup>3</sup> To this day the proctors are the assessors of the vice-chancellor in most of his public acts. Down to 1868 they kept the university accounts and administered its whole finance subject to audit by a Committee of Auditors or 'Judices'.<sup>4</sup>

<sup>1</sup> *Mun. Acad.* i. 146. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 146.]

<sup>2</sup> The only other trace of a direct proctorial veto which I have come across in the Middle Ages is in 1461, when a great disturbance took place because the commissary adjourned a Congregation of Regents 'utroque procuratore reclamante' (Aa, f. 121 a). It thus appears that the consent at least of one proctor was necessary to the adjournment of a Lesser Congregation. [See L. H. D. Buxton and S. Gibson, *Oxford University Ceremonies*, p. 54.]

<sup>3</sup> [On the functions of the proctors see *Stat. Antiq. Univ.*

*Oxon.*, ed. S. Gibson, pp. lxxiv-lxxvii. On the succession of proctors see the lists compiled by Dr. H. E. Salter, *Snappe's Formulary* (O.H.S.), pp. 318-25; *Reg. Cancell. Oxon.*, 1434-1469 (O.H.S.), i. xlv-xlv.]

<sup>4</sup> [Fifteen proctors' accounts, ranging from 1464 to 1496, are extant and are printed in *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), ii. 272 sq. Dr. H. E. Salter notes that the average income of the university at this time was about £58 and the average expenditure less than £45, the balance being probably devoted to buildings under construction.]

A peculiarity of the Oxford constitution was the important position occupied by the non-regents. At a very early date we find the presence of the non-regents essential to all permanent statutes and other important acts of the university. When they attended, they gave a collective vote like a distinct faculty. Elections and all merely administrative business remained, as at Paris, in the hands of the regents.

There were thus at Oxford three distinct congregations:<sup>1</sup> (1) The Congregation of the regents in arts commonly called the 'Black Congregation'. Besides the celebration of inceptions in arts and the election of proctors, this Congregation met at S. Mildred's Church for the preliminary

<sup>1</sup> [Dr. H. E. Salter (*Bodl. Quarterly Record*, 1926, v. 19-22) suggests that there were only two Congregations before 1500, and 'that the phrase *congregatio artistarum* is a loose way of speaking of the Congregation of Regents, in which the artists always had a large majority'. Mr. Strickland Gibson (*Stat. Antiq. Univ. Oxon.*, pp. xxiii-xxxii: it was this section of his introduction as it previously appeared in *Bodl. Quarterly Record*, 1925, iv. 296-307, that evoked Dr. Salter's statement of the case for two instead of three Congregations) corroborates Rashdall's account. Sir Charles Mallet, who gives a careful summary of both these views (*Hist. Univ. Oxford*, iii, App. B, and see also *ibid.* i. 176-7), is disposed to favour that held by Rashdall and Mr. Gibson, but indicates a possible line of compromise. He notes that 'Mr. Gibson, dwelling on the early statutes, is impressed with the passages in which the separate activities of the Artists are referred to again and again', and that the points which Dr. Salter makes are 'mostly founded on passages dating from the middle or end of the fifteenth century, a time when the Congregation of Artists had probably sunk into decay, when

its meeting-place had vanished, and when the activities of the Congregation of Regents were beginning almost to efface the recollection of the other' (*loc. cit.*, p. 508). See also L. H. D. Buxton and S. Gibson, *Oxford University Ceremonies*, p. 51, n. 5. If the Congregation of Regents in arts had a separate existence, it is evident from the passages in which this designation is found that it was essentially a deliberative body whose main function was to discuss beforehand the agenda of the next Congregation of Regents and Non-regents. The celebration of inception in arts and the election of proctors are not, as Rashdall states, found included among its functions. See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xcvi-xcvi for inception in arts. The election of proctors took place in the Congregation of Regents, see *ibid.*, pp. xxiii, lxxvi. While there is reference to be found to 'Congregacio arcistarum preuia ad congregacionem regencium et non regencium apud sanctam Mildredam facienda' (*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 146, 156), no example appears to be known of the abbreviated form 'Previous Congregation', as given by Rashdall.]



CHAP. XII, § 2. discussion of proposed statutes. When assembled for this purpose, it was often called the 'Previous Congregation'.<sup>1</sup>

(2) Lesser or regent. (2) The Congregation of Regents (of all faculties) or 'Lesser Congregation' (*Congregatio minor*) met at S. Mary's. To this Congregation belonged, in all ordinary cases, the grant of leases, the ordinary finance of the university, and the control of all matters relating to lectures, studies, and degrees, especially the grant of dispensatory graces where not specially reserved by statute to the 'Great Congregation'.<sup>2</sup> This power grew in course of time (as we shall see) into the power of conferring the degree itself. From the completion of the Congregation-house in about 1327, the regent Congregation met in that building. It is a detached building standing on the north side of the choir of S. Mary's Church.<sup>3</sup>

<sup>1</sup> At the Previous Congregation non-regents in arts at times appear (*Mun. Acad.* i. 188), but not always (*ibid.*, p. 481). It was probably at the discretion of the proctors to summon them or not. [In stating that non-regents in arts sometimes appeared at this Congregation, Rashdall was misled by the erroneous inclusion of 'et Non-Regentibus' in *Mun. Acad.* i. 188; see *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 156; Mallet, *Hist. Univ. Oxford*, i. 177, n. 4.]

<sup>2</sup> [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxii-xxiii, xxv-xxvi; Mallet, *Hist. Univ. Oxford*, i. 178, 200-1. There may be added to the functions of the Congregation of regents enumerated here the election of the chancellor, proctors, and bedels. The title *congregatio minor* does not appear to have been commonly used. Dr. H. E. Salter has noted two even less common forms: *congregacio prima* and *congregacio basteres*; see *Bodl. Quarterly Record*, 1926, v. 21, 22; *Reg. Cancell. Oxon.*, 1434-1469, ed. H. E. Salter (O.H.S.), i. 73, 88, 89.]

<sup>3</sup> This building was begun in 1320 by Adam de Brome, Rector of S. Mary's and Founder of Oriel

College, at the expense of Thomas de Cobham, Bishop of Worcester, a room above it being appropriated to the library left to the university by that prelate. It was left not quite completed on the death of the bishop in 1327. See the document in *Collectanea* (O.H.S.), ii. 62 sq., which recounts the violent dispute between Oriel College (as Rectors of the Church) and the university for the possession of the library, which lasted till 1410, when the Oriel Archbishop Arundel compensated the college for its claim. (*Rot. Pat.* 11 Hen. IV, p. 2, m. 22.); [*Cal. Pat. Rolls, Henry IV, 1408-13*, p. 190. See also E. H. Pearce, *Thomas de Cobham, Bishop of Worcester*, pp. 244-8; *Oriel College Records*, ed. C. L. Shadwell and H. E. Salter (O.H.S.), pp. 24-7; and Mr. F. Madan's note on 'Bishop Cobham's Library' in *Bodl. Quarterly Record*, vi. 50-1.] The chaplain of the university served as librarian (*Mun. Acad.* i. 227. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 166.] It may be noted that this Congregation-house is the only part of S. Mary's Church (it is really, however, a separate building) over which the

(3) The Congregation of Regents and Non-regents, commonly called the 'Full' or 'Great Congregation' (*Congregatio plena* or *magna*), was the supreme governing body of the university and was alone competent to make a permanent statute.<sup>1</sup> It met at S. Mary's. In the 'Great Congregation' the voting was by faculties; and there is no reason to doubt that here as at Paris the principle which obtained throughout the thirteenth century was that a statute required the consent of all four faculties<sup>2</sup> with the addition, in the case of Oxford, of the non-regents.<sup>3</sup>

university has the smallest right of property or control. The church is merely *lent* for university sermons. [In 1899 the university took over from Oriel College responsibility for the repair and maintenance of Adam de Brome's Chapel, see *Stat. Univ. Oxon.*, 1934, p. 663. See also L. H. D. Buxton and S. Gibson, *Oxford University Ceremonies*, p. 111.]

<sup>1</sup> The term 'Convocatio' is rarely used in the Middle Ages: where it occurs, it is a synonym of 'Congregatio'. In the sixteenth century 'Convocatio' was gradually appropriated to the Great Congregation, 'Congregatio' to the Lesser Congregation. The Black Congregation was by this time practically obsolete. [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxi-xxii, xxv-xxvi, xxix-xxxii; Mallet, *Hist. Univ. Oxford*, i. 178-9, 200-1.] The Congregation of Regents and Non-regents both 'statuerunt' and 'ordinauerunt'; the 'Acta' of the Congregation of Regents took the form of ordinances only. The enactments of the regents only are never called *Statuta*, but *Ordinationes*. In a form of statute imposed upon the university by a Royal Commission in 1376, we find 'quibuscunqve ordinationibus magistrorum regencium, vel statutis magistrorum regencium et non-regencium'. *Rot. Pat.* 50 Ed. III, pt. i, m. 10 (Hare,

*Mem.*, f. 72. [*Cal. Pat. Rolls, Edward III, 1374-7*, pp. 290-3.] The regents must not be confounded (as is done by a learned writer) with 'the Masters of less than two years' standing', who are the 'necessario regentes'. Though a new M.A. was obliged to lecture for one year (the period of necessary regency has since been extended to two years), he could continue to teach, and therefore to enjoy the rights of regency as long as he pleased. It is only since the regents ceased to lecture that M.A.s of two years' standing (with the deans of colleges, the doctors, and a few officials) became the only regents. [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. xxii.]

<sup>2</sup> Civil and canon law are sometimes spoken of as two faculties, and generally appoint two representatives upon university delegacies (divinity and medicine appointing one each and arts four), but on a division they appear at times to vote as one (see below, p. 72, but cf. p. 77). [See also *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxxvi-xxxvii, 254-5, 292.]

<sup>3</sup> Their position seems established by 1280: 'Magistri non-regentes in partem se trahentes per se' (*Mun. Acad.* i. 41; cf. p. 43). [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 96-7; see also *ibid.*, pp. cii, 118, 146-7, 292-3.]

Voting by faculties.

CHAP. XII, § 2. Constitutional changes in fourteenth century. The beginning of the fourteenth century introduces us to a great constitutional crisis in the history of the university. Here as at Paris the constitutional development of the university is intimately bound up with a struggle against the intrusion of the Mendicant Friars. About the year 1303 a statute was passed which distinctly affirmed the principle that a majority of the faculties (the non-regents being reckoned as one) could bind the whole university. To understand the circumstances which provoked this constitutional revolution, a glance at the history of the Oxford Mendicants is indispensable.

Establishment of the Mendicant Orders in Oxford. Impelled by a vague desire to establish a hold upon the thought of the age as well as by the more definite purpose of gaining converts for their Orders,<sup>1</sup> the friars everywhere seized upon the university towns as the basis of their operations. We have seen the storm which followed upon their advent at Paris. At Oxford the Dominicans made their appearance in 1221, soon after their first landing in England.<sup>2</sup> They established themselves in the heart of Oxford on the east side of the street called the Jewry.<sup>3</sup> Though the conversion of the Jews was a prominent part of their work,<sup>4</sup> they early connected themselves with the university by opening a school in which theology was taught by a 'converted' doctor of divinity, Robert Bacon. The Franciscans followed in

<sup>1</sup> Jordan of Saxony, the third Dominican General, as he wanders from one university to another, recounts the number of his 'captures'. Thus at Oxford in 1229 he writes, 'Apud studium Oxoniense, ubi ad praesens eram, spem bonae capturae Dominus nobis dedit'. *Lettres*, ed. P. C. Bayonne, p. 126; [*B. Jordanis de Saxonia Opera*, ed. J.-J. Berthier, Fribourg, 1891, p. 72.]

<sup>2</sup> Trivet, *Annales*, ed. T. Hog, p. 209. For details as to the establishment of this and other Orders in Oxford see Wood, *City* (O.H.S.), ii. 312 sq., and A. G. Little, *Grey Friars in Oxford* (O.H.S.). [See also Dr. A. G. Little's articles on the Oxford Friaries in *Victoria County History of Oxford*, ii. 107-

52; the same author's *Studies in English Franciscan History*, pp. 192-221; and his article 'The Franciscan School at Oxford in the 13th Century', in *Archivum Franciscanum Historicum* (1926), xix. 803-74. Unfortunately no adequate history has yet been written of the Dominican school in Oxford. Reference may be made to Bede Jarrett, O.P., *The English Dominicans*, London, 1921; *The English Dominican Province*, London, 1921, containing articles by various authors.]

<sup>3</sup> [Now the north-west corner of the site of Christ Church.]

<sup>4</sup> [See L. M. Friedman, *Robert Grosseteste and the Jews*, Cambridge, U.S.A., 1934.]

1224,<sup>1</sup> and were given a site on the west side of S. Ebbe's Church, where the Order was joined by many students of noble birth; before long they expanded and included the land outside the town wall as far as the Trillmill stream on the south.<sup>2</sup> In 1245 the Dominicans moved to a suburb, and established themselves on a spot still known as Black Friars Road, upon what was then an island formed by the Trillmill stream and the Thames, between Folly Bridge and Osenev.<sup>3</sup> In 1256 the Carmelites acquired a house on the west of Stockwell (now Worcester) Street in the northern suburb, where they remained till 1318, when Edward II, in fulfilment of a vow made at Bannockburn, granted them his Palace in Beaumont Fields, the site of which is still commemorated by the name of the neighbouring 'Friar's Entry'.<sup>4</sup> In 1268 the fourth great Mendicant Order, the Augustinians, are found obtaining from the King a piece of ground for a convent in Holywell—on the site now occupied by Wadham.<sup>5</sup> The Friars of the Sack established themselves near the Castle about the year 1262;<sup>6</sup> the Trinitarians obtained a house outside the East Gate in 1293;<sup>7</sup> and the Crutched Friars are heard of in the following century.<sup>8</sup> But the houses of these last Orders played no considerable part in the history of the university.

Both at Paris and at Oxford, in the first flush of their reputation for sanctity and asceticism, the friars were well received by the university, though often annoyed by the opposition of the higher ecclesiastics. At Paris the new-comers very quickly outlived their welcome. At Oxford the harmony between

Harmony between friars and university.

<sup>1</sup> *Mon. Francisc.* (R.S.), i. 9. Cf. *ibid.*, p. 633.

<sup>2</sup> *Ibid.* (R.S.), i. 15; Little, *Grey Friars* (O.H.S.), pp. 1 sq., 295 sq.

<sup>3</sup> *Ann. Monast.* (Osenev) (R.S.), iv. 94-8.

<sup>4</sup> Dugdale, *Monasticon*, vi. 1575; documents in Wood, *City* (O.H.S.), ii. 415 sq.; Linc. Reg., Dalderby, f. 388 (Twyne MS. i, f. 4 b); *Chronicles of Edward I and II*, ed. W. Stubbs, ii. 300; cf. Ogle, Nos. xiv, xv, xxi.

<sup>5</sup> Documents in Dugdale, vi.

1596, and Wood, *City* (O.H.S.), ii. 447 sq. [See *Cartulary of the Hospital of St. John the Baptist*, ed. H. E. Salter (O.H.S.), i. 25-9, for their first site.]

<sup>6</sup> Dugdale, vi. 1608; Wood, *City* (O.H.S.), ii. 473. The Order was suppressed in England in 1307.

<sup>7</sup> Wood, *City* (O.H.S.), ii. 478. In the Lincoln Register, Dalderby, f. 308 (Twyne MS. ii, f. 30), is the approval of a chantry for them in 1315, with the royal licence of 1304.

<sup>8</sup> Dugdale, vi. 1586; Wood, *City* (O.H.S.), ii. 478.

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CHAP. XII, regular and secular was of much longer duration. Even the § 2. Dominicans forgot to quarrel: while the more humble-minded Franciscans employed secular doctors of divinity to lecture for them in their conventual school.<sup>1</sup> The illustrious Grosseteste was the first of the Franciscan lecturers and showed himself throughout his life a warm friend and patron of the Order. Oxford was indeed just touched by the storm which rent the University of Paris in sunder for so many years. In 125½, a few weeks after the passing of the first statute against the friars at Paris,<sup>2</sup> we find a statute passed at Oxford<sup>3</sup> with the same general intention of setting a limit to the multiplication of friar doctors and of securing the control of the university over regular graduates. Like the Parisian statute it requires an inceptor in theology to have previously ruled in arts. The further objects of the Parisian statute are secured in another way. Instead of setting a fixed limit to the number of friar doctors, it merely forbids the graduation in theology of men who have not previously been masters of arts.<sup>4</sup> This would at the same time secure that the candidates should already have taken the promise or oath of obedience to the

Statute of 125½ requiring graduation in arts.

<sup>1</sup> *Mon. Francisc.*, ed. J. S. Brewer (R.S.), i. 37-9, 550.

<sup>2</sup> Bulaeus, iii. 245; *Chartul. Univ. Paris.* i, pt. i, No. 200. See above, i. 376. The Paris statute was passed in Feb. 125½, the Oxford statute was carried on the 9th of the following March (*Mon. Francisc.* (R.S.), i. 346), and was probably suggested by the news from Paris. [The correct date of the passing of the Oxford statute is 9 Mar. 125½. Rashdall was misled by Wood into giving 125½ as the year. This Oxford statute was unconnected with affairs in Paris. The dispute in Oxford arose over a petition from the friars that Friar Thomas of York should be allowed to proceed to the degree of D.D., although he had not incepted in arts. This was the first occasion so far as is known that this question had been raised in Oxford. Cer-

tainly, as regards the Franciscans, the first four *lectores* were seculars, and the next three had incepted as M.A. before joining the Order. See A. G. Little, *The Grey Friars in Oxford* (O.H.S.), pp. 37-9, 134-40; and his article, 'The Franciscan School at Oxford in the 13th century', in *Archivum Franciscanum Historicum* (1926), xix. 823-31.]

<sup>3</sup> *Mun. Acad.* i. 25. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. cxliii, 49.]

<sup>4</sup> 'Nisi prius rexerit in artibus in aliqua Universitate.' The statute is similarly quoted in the friars' pleadings in 1313 (*Collectanea* (O.H.S.), ii. 225), but in their Act of Appeal it runs 'nisi prius in arte dialectica gradum seu statum Magistri uel saltem bacullarii habuisset'. *Ibid.*, p. 239.

statutes,<sup>1</sup> which, it will be remembered, was the great bone of contention at Paris. In one respect, indeed, the objects of the two statutes were different. The Paris statute was enacted by the theological faculty and was designed to protect the secular theologians from the competition of their Mendicant rivals. At Oxford there is less trace of dislike for the Mendicants as such.<sup>2</sup> The Oxford statute was passed by the university itself, and was inspired by the jealousy of the faculty of arts for its own authority and for the studies of which it was the guardian. The statute would not touch men who had entered a religious order after completing their regency in arts. But the friars, though they professed to give their novices a philosophical training in their own schools,<sup>3</sup> considered it inconsistent with their principles to allow graduation in secular branches of learning. To the mind of the secular academic the study of philosophy was an essential preliminary to that of theology: even when he applied himself to the study of theology, he was disposed to attach more importance to the Sentences than to the Bible, and to apply to the doctrine of the Holy Trinity or to the psychology of angelical beings the philosophical distinctions in which he had revelled as an artist.<sup>4</sup> The secular masters of arts were not disposed either to allow theology to be approached without adequate instruction in philosophy or to permit that instruction to be given by any but authorized masters of their own faculty. At the same

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<sup>1</sup> Even if the oath was not yet required upon inceptation in theology, as it undoubtedly was later, *Mun. Acad.* ii. 374 [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 19], we have no doubt a relic of this conflict with the friars in the provision that an inceptor in any other faculty is merely required *dare fidem*, while a master of theology is required *iurare* 'ponendo manum ad pectus' (*loc. cit.*, cf. ii. 421). [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 57.]

<sup>2</sup> But see *Mon. Francisc.* (R.S.), i. 338, 346 sq., and cf. *Collectanea* (O.H.S.), ii. 200, 245.

<sup>3</sup> See *Collectanea* (O.H.S.), ii.

217. At an earlier date secular education had been forbidden altogether. Cf. *Chartul. Univ. Paris.* i, Nos. 57, 335, 342.

<sup>4</sup> Even among the Mendicants, Roger Bacon complains that the biblical lecturer 'mendicat horam legendi secundum quod placet lectori Sententiarum'. *Opp. Inedita*, ed. J. S. Brewer (R.S.), p. 329. [Denifle urged that it has been too readily assumed that more attention was paid to the study of the Sentences than to that of the Bible. See his article, 'Quel livre servait de base à l'enseignement des Maîtres à l'Université', in *Revue Thomiste*, 1894, i. 149-61.]

time a dispensing power was reserved to the chancellor and regents. According to the admissions of the friars themselves, such dispensations were at first liberally granted;<sup>1</sup> and the friendly relations between the university and the Orders seem to have been little disturbed by the new statute.<sup>2</sup>

The inevitable conflict broke out at the beginning of the following century. About the year 1303 begins a series of statutes obviously directed against the obnoxious Mendicants, especially the ever-combatant Order of S. Dominic. In that year the university transferred the 'Examinatory Sermons' required of bachelors of theology as a condition of inception from the Dominican and Minorite convents down by the quiet river-side, where they had commonly been preached, to the more central but (as the friars contended) more noisy and incommodious S. Mary's. In 1310 the theological vespers—the disputation on the eve of inception—which had hitherto been given in any master's school, were likewise required to be held in the University Church. The measure was really aimed at the friars, since the usual practice had been to borrow or hire one of the large and well-built schools of the Friars Minor or Friars Preachers. A little later (1310 or 1311) friars were required to take the degree of bachelor of theology in the university, and not merely (as heretofore) to obtain the authorization of their own superiors, before they could lecture upon the Bible. As the degree of bachelor of theology was taken by lecturing on the Sentences,<sup>3</sup> which required a

<sup>1</sup> *Collectanea* (O.H.S.), ii. 256.

<sup>2</sup> For the whole of this conflict the chief and almost only authority is a Roll containing a record of the proceedings in the Roman Court upon the appeal of the friars, which I have edited in *Collectanea* (O.H.S.), ii. 195 sq. For further details I may refer to the Introduction prefixed thereto. Rot. Claus. 6 Ed. II, m. 8 dorso may be added to the documents there published: in it the King intervenes on the side of the friars. [See *Cal. Close Rolls, Edward II, 1307-13*, pp. 445, 456, 567-8; *1313-18*, p. 535; *1318-23*,

pp. 31, 32. See also *Hist. MSS. Comm. 4th Report*, App., p. 379 sq.]

<sup>3</sup> Usually, but in *Collectanea* (O.H.S.), ii. 233, the university contradicts the friars' statement that the B.D. could only be taken in this way. Perhaps the allusion is to the old and obsolete permission to read the *Magister Historiarum*. See *Mun. Acad.* i. 25. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. cxiii-cxiv, 49. See A. G. Little, 'The Franciscan School at Oxford in the 13th Century', in *Archivum Franciscanum Historicum* (1926), xix. 826-7.]

philosophical education, this pressed heavily on the friars, then the only students of theology who cared much about the exegetical study<sup>1</sup> of the Bible as a practical preparation for the duties of the preacher and the pastor. The university statute, as they not unreasonably contended, was 'irrational' and changed the proper 'order of doctrine', since there were many simple friars quite fitted for lecturing on the Bible who were not equal to grappling with the intricacies of scholastic theology: though to the university it appeared that such teaching only led to the diffusion of 'errors'. Besides these formal, corporate attacks upon the position which the friars had hitherto occupied in the university, they now began to be annoyed by the stricter enforcement or abuse of their prerogative on the part of individual masters. Graces dispensing from the obligation to graduate in arts, which had hitherto been granted almost as a matter of course, began to be refused; and a single master of arts, according to the interpretation which the university put upon the statute, could obstruct the grace. Again, the statutes required that candidates for theological degrees should have disputed in the school of every master of the faculty; and now secular masters began to refuse admission to the friar candidates. Finally, not only did the university decline to admit friars to its degrees without an oath to obey the statutes of the university<sup>2</sup> (here the old Parisian grievance comes to the front), but existing masters were required to swear obedience to the new statutes; and upon his refusal the Dominican doctor, Hugh of Sutton, was expelled from the university.<sup>3</sup> To complete their list of grievances, the university got the contumacious friars excommunicated by the Archbishop of Canterbury, which exposed them to a host of petty vexations. They were preached against in the pulpits of the seculars: their own sermons, their schools, and their confessionals began to be avoided by scholars

<sup>1</sup> 'Legere Bibliam biblice', sometimes explained as 'sive textualiter', as opposed to the scholastic discussion of 'questiones' arising out of the text.

<sup>2</sup> *Collectanea* (O.H.S.), ii. 218; *Mun. Acad.* ii. 374. [*Stat. Antiq.*

*Univ. Oxon.*, ed. S. Gibson, p. 19.]

<sup>3</sup> [Hugh of Sutton (de Suctona) is also known as Hugh of Dutton or Dytton (de Ductona). See H. Rashdall, *Collectanea* (O.H.S.), ii. 219.]

Graces refused by the university.

Expulsion of a Dominican friar.

Movement against friars, 1303.

Vespers and sermons transferred to S. Mary's.

The Sentences before the Bible.

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CHAP. XII, § 2. and townfolk alike. People were afraid to speak to them or give them money or food, lawyers to act as their counsel: even their own students (as the friars alleged) had been driven by this storm of obloquy and persecution to run away from their convents: those who remained had their 'necessary living, good fame, and affection of their friends' taken away from them.<sup>1</sup>

Majority of faculties defined by statute, 1302-3. It was to carry through this programme of anti-mendicant legislation—these 'exquisite and secret machinations', as the friars pathetically phrased it—that an innovation was attempted in the university constitution exactly parallel to that which we have traced at Paris. At Paris, however, we were unable to fix the exact period at which the principle of statute-making by a mere majority of faculties was introduced, if indeed the revolution was not too silent and gradual to be assigned to any precise moment. At Oxford we are able to give a definite date. About the year 1302 or 1303 the university enacted that the regents in two faculties with a majority of the non-regents should have the power to make a permanent statute binding on the whole university; and the statutes about the place of vespers and the priority of the Sentences to the Bible were in fact carried only by the required majority, the two faculties being the faculty of arts and the always closely allied faculty of medicine, which was for the nonce embodied in the person of a single doctor.<sup>2</sup>

Appeal to Roman Court. The result of the embroglio with the Mendicants was an appeal to the Roman Court,<sup>3</sup> and in this appeal the constitu-

<sup>1</sup> *Collectanea* (O.H.S.), ii. 217-37, 256-61.

<sup>2</sup> *Ibid.* ii. 218, 226. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 109.] The faculty of theology would of course include many regulars; still the two dissentient faculties do not appear to have opposed the constitutional innovation or sided with the Mendicants in the ensuing struggle. The secular theologians as individuals certainly joined in the campaign against the friars.

<sup>3</sup> In Feb. 1312 (*Collectanea* (O.H.S.), ii. 237 sq.), the pleadings

of the friars give an amusing account of their proctor's efforts to serve the notice of appeal upon the chancellor and proctors. The chancellor's servant prevented Brother Lawrence of Warwick from entering his master's school. He then repaired to S. Mary's, where a Congregation was being held, but was forcibly ejected ('exiit conturbatus protestans se dictas prouocationes et appellationem velle proseguere cum effectu et earum copiam offerens postquam hostium Ecclesie recluserunt'). Thereupon the un-

CHAP. XII, § 2. tional statute, upon the validity of which the legality of the whole proceedings turned, formed one of the subjects of complaint. The case was partly heard by a cardinal at Rome in 1313,<sup>1</sup> but only with the result that, upon the petition of the university, the case was referred to arbitrators—two seculars and two friars—in England.<sup>2</sup> Their award in the main decided the case for the university. As a slight concession to the friars on the merits of the question, it was provided, however, that every bachelor of divinity, after completing his course upon the Sentences, should preach one sermon in the Dominican Church before proceeding to the degree of doctor. On the more important constitutional questions at issue it was ordered:

(1) That when a grace was asked for a friar, every master should be required to swear that he would not refuse the grace 'out of malice or hatred or rancour', but only 'for the common utility and honour of the university'. If after this precaution a regent should refuse the grace, he was to be required forthwith to state his reasons to the chancellor, proctors, and regent masters of theology, by whom an investigation was to be held into their sufficiency. If in the opinion of a majority of the theological regents the objection was not sustained, the grace was to be deemed *ipso facto* granted.

(2) The principle of majority-voting was upheld; but it was ordered that the majority should consist of three faculties instead of two, of which the faculty of arts must be one, besides the non-regents. Moreover, the friars had complained that statutes were passed without sufficient notice to the superior faculties. It was therefore enjoined that no statute should be passed without previous promulgation in a

daunted friar mounted a tombstone on the south side of the chancel and shouted through an open window that he would leave a copy of the appeal on the church-door; after which he retired amid the maledictions of the scholars' servants, who shouted 'peccatum esset uobis fratribus subuenire et pium hostia uestra obstruere et uos tamquam superbissimos ibi comburere qui

cum sitis miseri et mendici audetis contra tantam congregationem tam reuerendarum et excellentium personarum appellationem aliquam commouere' (*ibid.*, p. 245).

<sup>1</sup> *Collectanea* (O.H.S.), ii. 224. [*Cal. Papal Registers (Letters)*, i. 111-12.]

<sup>2</sup> *Regesta Clem. V* (Rome, 1888), No. 9253; *Collectanea* (O.H.S.), ii. 263.

Award of arbitrators, 1313.

CHAP. XII, § 2. General Congregation of regents,<sup>1</sup> at which copies should be handed to a master of each faculty fifteen days before the time of voting.

The award was confirmed by royal letters patent on 7 April 1314.<sup>2</sup> But the litigious preachers found means of prolonging the suit for six years longer and getting a succession of Bulls in their favour from John XXII.<sup>3</sup> At last in 1320, however, they were compelled to renounce these papal favours, and to make an unconditional submission to the university.<sup>4</sup> The royal writ of 1314 must henceforth be considered as settling the general principles of the university constitution. In the fifteenth-century registers there is, indeed, no trace of the observance of the provisions about the sermon in the Dominican Church, or of the provisions about friars' graces, but there is abundant evidence of the practice of 'voting by faculties' throughout the period with which we are concerned.

Later conflicts. The controversy between the university and the Mendicants continued to smoulder until it was lost, so to speak, in the wider issues raised by the outbreak of the Wyclifite heresy.<sup>5</sup> The quarrel in Oxford was in truth but a symptom of the great feud between the friars and the seculars which divided the whole Church of England—indeed the whole Church of Europe—throughout the fourteenth century. In England as in France the universities were but the organs of the secular clergy at large. The expenses of the university litigation

<sup>1</sup> Such are the words of the royal brief (*Collectanea* (O.H.S.), ii. 271), but in that case the non-regents would get no notice. A certificate of the publication of a citation in connexion with this suit is preserved among the manuscript of the Dean and Chapter of Lincoln.

<sup>2</sup> *Collectanea* (O.H.S.), ii. 264-72. [*Cal. Pat. Rolls, Edward II, 1313-17*, p. 115; *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 116-18.]

<sup>3</sup> Mr. Bliss has kindly communicated to me transcripts of these Bulls, which are now in the Public

Record Office. (Cf. A. G. Little, *Grey Friars* (O.H.S.), p. 40.) [See also *Cal. Papal Registers (Letters)*, i. 167, 199.] On some points the friar-ridden Edward II was induced to write in their favour to the Pope, in the teeth of his own injunctions. Rymer's *Foedera* (1706), ii. 588.

<sup>4</sup> *Collectanea* (O.H.S.), ii. 272; cf. *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 99-100.

<sup>5</sup> It is interesting to see that William of Saint-Amour was still read at Oxford. This appears from a manuscript poem in the Bodleian (James MS. vii, f. 86). He is often referred to by Wyclif.

against the friars were defrayed by a tax upon the ecclesiastical property of the realm imposed by the two convocations.<sup>1</sup> After the settlement of the academic questions just noticed, the controversy turned chiefly upon the question of the age at which the friars might admit novices. In 1357 Richard Fitz-Ralph, Archbishop of Armagh—the great champion of the seculars at Oxford, commonly known to the Middle Age as Armachanus—proceeded to the court of Avignon to expose the system of kidnapping or inveigling young scholars, for which the popularity of the friars as confessors afforded great facilities. The allurements held out by the friars to boys so young as not to be uninfluenced by a present of apples<sup>2</sup> had inspired the parental mind with such alarm that the numbers of the universities were, it was alleged, falling off with astounding rapidity.<sup>3</sup> Fitz-Ralph died at Avignon and the university did not send another legation. They, however, took the matter into their own hands by passing statutes against the admission into the Mendicant colleges of boys under eighteen years of age.<sup>4</sup> On this point, however, the friars triumphed over the university at the Parliament of 1366;

<sup>1</sup> Wilkins, *Concilia*, ii. 551; 8th Report of Hist. MSS. Commission, p. 354; Linc. Reg., Burghersh, f. 351 (Twyne MS. ii, f. 5 b); *Letters from Northern Registers*, ed. J. Raine (R.S.), pp. 346-9.

<sup>2</sup> 'Uncinis pomorum, ut populus fabulatur, puerulos ad religionem attrahitis, quos professo doctrinis non instruitis vi et metu, sicut exigit aetas illa, sed mendicativis discursibus sustinetis intendere atque tempus quo possent addiscere, in captandis favoribus amicorum consumere sinitis, in offensam parentum, puerorum periculum et ordinis detrimentum': Richard de Bury, *Philobiblon* (ed. E. C. Thomas), p. 51. So *Mun. Acad.* i. 207: 'Pomis et potu, ut populus fabulatur, puerulos ad religionem attrahunt.' [See also G. R. Owst, 'Some Franciscan Memorials at Gray's Inn', in *Dublin Review* (1925), clxxvi. 282-4.]

<sup>3</sup> The discourse which he then delivered, *Defensorium Curatorum*, is printed in E. Brown's *Appendix ad Fasciculum rerum expetendarum*, pp. 466-86. Wyclif declares that Armachanus was assisted by the English bishops. *Fasciculi Zizaniorum* (R.S.), ed. W. W. Shirley, p. 284. Cf. R. L. Poole in *Dict. Nat. Biog.*, and below, p. 326. [By a statute of 1402 the reception of children under 14 years of age into any one of the four Mendicant Orders, without the consent of their parents, was forbidden. See 4 Hen. IV, c. 17; *Rot. Parl.* iii. 502; *Johannis de Trokelowe Annales* (R.S.), p. 349.]

<sup>4</sup> In 1358, *Mun. Acad.* i. 204-5. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 164-5. Mr. Strickland Gibson dates this entry in Register C (the junior proctor's book) '? 1365'.]

CHAP. XII, § 2. though they were forbidden to use any papal bulls which they might have obtained to the prejudice of the universities.<sup>1</sup>

A friar's apology. Occasional bickerings between the secular masters and the friars continued, however, to be among the normal incidents of university life.<sup>2</sup> An amusing illustration of the sort of feud that was ever going on in Oxford occurs in 1358 (just after the mission of Armachanus), when a friar preacher, having in a sermon attacked the 'Sophists' as persons who want to seem wise but who never attain to true wisdom, was supposed to be aiming at the faculty of arts (whose students were technically known by that designation), and was compelled to make a public retraction and apology.<sup>3</sup>

Constitution fixed, c. 1314. It is, however, no part of my plan to enter into a detailed history of the later relations between the university and the friars.<sup>4</sup> The university constitution as it emerges from the great dispute of 1312-20 continued in its main lines unaltered. We have no evidence to show how far the amendment imposed by the royal letter of 1314 was observed. But, whether the majority had to be composed of three faculties or two (in addition to the non-regents), there is no doubt that a statute could be carried by a majority of faculties.<sup>5</sup> It should be added that, as at Paris, only one Mendicant doctor of each Order might sit in Convocation at the same time.<sup>6</sup>

<sup>1</sup> *Rot. Parl.* ii. 290. [*Cal. Papal Registers (Letters)*, iv. 52-3.]

<sup>2</sup> [See *Cal. Close Rolls, Richard II*, 1385-9, pp. 378-9, 511, dated 17 Mar. and 1 Aug. 1388, respectively.]

<sup>3</sup> *Mun. Acad.* i. 211-12. A dispute between the Austin friars and the university terminated in the submission of the former in Jan. 1358. *Med. Arch. Univ. Oxford*, ed. H. E. Salter (O.H.S.), i. 171-5. An original document relating to this affair is pasted into the Twyne MS. ii, f. 380. (Cf. *Mun. Acad.* i. 208.) In the fifteenth century we often find a regular who had graduated elsewhere admitted to the privileges of regency 'excepto quod non intret domum Congregationis'.

<sup>4</sup> [For the later history of the relations between the university and the religious orders in Oxford, see *Stat. Antiq. Univ. Oxon.*, pp. cxiv-cxviii.]

<sup>5</sup> There were other constitutional disturbances at about this time. In 1327 a 'pugna' took place which led to the deposition of the chancellor and proctors of the university. See *Chronicles of Edw. II and III*, ed. W. Stubbs, i. 332. [See also Wood, *Annals*, i. 409-19.] Cf. *Mun. Acad.* i. 119 sq. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 128-31.]

<sup>6</sup> *Mun. Acad.* i. 353, [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 290]: the Dominicans appear to have here enjoyed no special privilege.

CHAP. XII, § 2. Procedure at Great Congregation. In a document belonging to the latter half of the fourteenth century or later we find the whole process of voting on a statute described in elaborate detail.<sup>1</sup> The proceedings are to be spread over five days. On the first day the proposal is to be promulgated by the proctors in the Black Congregation.<sup>2</sup> On the second day it is to be discussed. On the third day the chancellor summons a Great Congregation, when the non-regents elect their 'scrutators' and through them receive a copy of the proposed statute.<sup>3</sup> At another Congregation the statute is discussed and voted on by the separate sections of the university, who retire for the purpose to different parts of S. Mary's Church. The non-regents presided over by the scrutators 'are to remain in the choir; the Theologians in the Congregation House; the Decretists in the Chapel of S. Ann; the Physicians in the Chapel of S. Thomas; the Proctors with their Regents in the Chapel of the Glorious Virgin'. After a second discussion on the next day the votes of each of the six bodies concerned are handed in.<sup>4</sup> This elaborate

<sup>1</sup> *Mun. Acad.* ii. 481-3. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. 291-3.] The document is apparently not a statute but merely a memorandum for the use of the proctors. Since in the chancellor's book it is inserted only in a later hand, the earlier part of the book being written c. 1350, it is probable that it belongs to the second half of the century. S. Mildred's is not mentioned as the place of session for the Black Congregation, which might suggest a still later date. [Rashdall gives this document too early a date. Mr. Strickland Gibson (*Stat. Antiq. Univ. Oxon.*, p. xxx) dates it about 1480-8.]

<sup>2</sup> [Mr. Gibson's account of the successive meetings specified in this 'Forma Congregationis Magne' accords more closely with the text than that given by Rashdall; see *Stat. Antiq. Univ. Oxon.*, pp. xxix-xxxi, 291-3. According to the Forma, the second day is occupied by the summoning of the

Great Congregation and the election of 'scrutators', and not as Rashdall states by another session of the Black Congregation. The business, therefore, which Rashdall assigns to the third and fourth days should be assigned to the second and third, and the second discussion and the voting which Rashdall assigns to the fifth day should be assigned to the fourth and fifth days respectively.]

<sup>3</sup> In the sixteenth-century registers we find that statutes were usually drawn up by eight delegates appointed for the purpose—precisely the number which we have seen to be usual from an earlier period at Bologna and Paris.

<sup>4</sup> The last relic of the system of voting by faculties is the formula still in use, 'Placetne vobis, Domini Doctores? Placetne vobis, Magistri?' though, upon a scrutiny, no notice is taken of the division into faculties.

CHAP. XII, § 2. procedure, extending over five days, was of course only observed when a statute in the proper sense of the word, as opposed to temporary decrees or dispensatory graces of the university, had to be passed.

Statutes of separate faculties rare. It should be added that we do very rarely find occasional instances of the separate faculties, as at Paris, making statutes for the regulation of their own internal discipline,<sup>1</sup> but as a general rule statutes relating to all faculties—even those dealing with educational details or with internal discipline—were enacted<sup>2</sup> by the Congregation of the whole university. The want of independent corporate life on the part of the superior faculties and their complete subordination to the inferior faculty of arts, is one of the most remarkable peculiarities of the Oxford University constitution. The University of Paris was distinctly a federal constitution consisting of four distinct corporations, one of which was itself a federation. The Oxford Congregation was rather a parliament of several estates and one in which the predominance of the most democratic element—the regents in arts—was as marked as that of the House of Commons in the modern English Parliament.<sup>2</sup>

<sup>1</sup> In *Mun. Acad.* ii. 402 there is a list of regulations 'expedita Facultate Decretorum'. [This example will not serve. The rubric 'expedita Facultate Decretorum' which only occurs in Registrum C (see *Stat. Antiq. Univ. Oxon.*, p. 43) is simply a heading marking the end of the canon law section and the beginning of the civil law section.] See too *Mun. Acad.* ii. 411. [*Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, p. 24.] 'Auctoritate domini Cancellarii et Procuratorum Universitatis, necnon et omnium Magistrorum in facultate artium regentium, ordinatum est et provisum.' In 1385 the faculty of law obtained a royal letter allowing them to hold meetings 'pro omnibus negotiis vos ac gradus et facultates vestras concernentibus', but this was only to enable them to

carry on a pending suit against the university, notwithstanding the king's prohibition against unlawful assemblies. Rot. Pat. 8 Ric. II, pt. 2, m. 35; Ayliffe, ii, App., p. xxxv. [*Cal. Pat. Rolls, Richard II, 1381-5*, p. 526.]

<sup>2</sup> It is doubtful, however, how long the Black Congregations continued to be held. In 1570, when a movement took place for the reform of the university's utterly uncodified and mostly obsolete statutes, it was summoned by the proctors at the command of the vice-chancellor; but we are expressly told that it had become obsolete, and that doubts were entertained as to whether it had not been repealed by statute. (Register KK 9, f. 94 b.) [See *Stat. Antiq. Univ. Oxon.*, ed. S. Gibson, pp. xxxi-xxxv.] The church in