

Famous English Canon Lawyers I

WILLIAM BATEMAN LL.D (†1355)

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Given the prominence accorded to doctrinal authority in the earlier canon law, it is natural that most famous canonists achieved their fame through their writings. Although the leading writers were often also judges and men of affairs, it was possible to lead an active life in the practice of the canon law without leaving any identifiable mark on history. To this general principle Bishop Bateman constitutes a remarkable exception: distinguished judge, leading figure in the Curia at Avignon, and patron of legal studies in Cambridge, he left several marks on history which entitle him, though not known as a writer, to be classed with the greatest English canon lawyers.

William Bateman was usually known to contemporaries as William of Norwich. He was the son of a leading citizen of that city, and must have been born a few years before 1300. He read law at Cambridge, becoming a Doctor of Law by 1328, the year in which he was appointed archdeacon of Norwich. In 1340 he became dean of Lincoln, but four years later returned to Norwich as bishop. He occupied the see until his death on 6 January 1355.¹ The list of his English preferences is less indicative of his actual career than the fact that they were obtained by papal provision: they were, in other words, rewards for services elsewhere. In 1329 he was appointed an 'auditor of the sacred apostolic palace' at Avignon. This meant that he was one of the judges of the Rota, the highest ecclesiastical court in Western Christendom.² He is said to have achieved a position of high favour in the papal palace, both for his unblemished conduct and for his excellent learning, and to have been regarded by Pope John XXII and the whole Curia as the principal ornament of the legal profession (**utriusque iuris peritorum flos praecipuus**): no mean praise in those times for an English lawyer, if indeed it was the opinion prevalent in Avignon.³ It is tempting to guess that he played a prominent part in the reorganisation of the Rota, which was given a settled constitution by the bull **Ratio iuris** of 1331, and thereafter entered upon a new phase of activity. The significance of this development was considerable. It put the decisions of learned judges on a parallel footing with papal decretals and doctrinal writings as sources of canon law.⁴

1 The biographical details are conveniently summarised in A. B. Emden, **Biographical Register of the University of Cambridge to 1500** (1963), p. 44. A more minute account may be found in A. Hamilton Thompson, 'William Bateman, Bishop of Norwich 1344-1355' (1935), 25 **Norfolk Archaeology** 102-137.

2 For the Rota, see J. H. Baker, 'Dr Thomas Fastoff and the History of Law Reporting' (1986), 45 **Cambridge Law Jo.** 84-96, at pp. 84-85.

3 The phrase is used in the contemporary **Vita Gulielmi Bateman** by Prior Laurence of Norwich, which admittedly savours more of eulogy than biography: printed in F. Peck, **Desiderata Curiosa** (1779), II, p. 240.

4 See W. Ullmann, 'A Decision of the Rota Romana on the Benefit of Clergy in England' (1967) 13 **Studia Gratiana** 457-489.

Bateman's episcopal promotion put an end to his judicial activities, but not to his international career. He was employed by King Edward III on Anglo-French diplomatic missions throughout the 1340s and early 1350s, was also engaged in the central affairs of the Church, and cannot have spent more than half his time in his diocese. Indeed he died in Avignon, and was buried there before the high altar in the cathedral, at a service conducted by the Patriarch of Jerusalem in the presence of all the resident cardinals.⁵

One consequence of his eminent status in the Curia was that he surrounded himself in the palace with an entourage of English lawyers, mostly from East Anglia and probably from Cambridge.⁶ His influence is most apparent in the membership of the supreme ecclesiastical judiciary. After Bateman's appointment to the Rota, all the English auditors for a generation or two (1340-80) were East Anglians, protégés of Bateman or Cambridge graduates associated with Bateman's foundations there: Thomas Fastolf of Yarmouth (later bishop of St. David's), Simon Theobald of Sudbury (later archbishop of Canterbury), William of Lynn (later bishop of Chichester), Thomas of Paxton, Robert of Stratton (the first master of Trinity Hall), Roger of Fritton, Richard Scrope (later archbishop of York), Nicholas of Bottisham, and Thomas Theobald of Sudbury (Simon's brother).

Law reporting

The first of these papal judges, Dr Fastolf, enjoys the credit of being the first identifiable reporter of cases in the Rota.⁷ Although English common lawyers had begun reporting cases in the 1260s, the practice was not coeval in the Roman law tradition because of the different role which it attributed to the judge. It was not until the renaissance period, with the creation of learned judicial tribunals, that a wave of law reports began to flood the continent. The principal model for those continental royal courts was the papal court, with its professional judges, all doctors of law; and the principal model for the reporters in such courts was the series of **decisiones rotae** begun in the fourteenth century at Avignon. Of these, the first series in print is that compiled by Fastolf between December 1336 and February 1337: it was printed at Rome in 1475 and frequently reprinted. Fastolf is also the first writer known to have used the expression 'Rota' (in reporting a case of 1336): a colloquial name alluding to the wheel-shaped arrangement of the benches in the great hall ('La Grande Audience') of the palace.⁸ Fastolf gives the names of the auditors who argued, and in several places he attributes views to one 'Dominus Willelmus': almost certainly our William of Norwich.

Whether Fastolf was actually the first reporter is less than clear: but, so far as present knowledge indicates, the development of reporting was associated with Bateman's circle of lawyers. There were evidently other English reporters at

5 There is no trace of any memorial.

6 For details see Baker, 'Dr Fastolf', pp. 88-89, 95-96; Ullman, 'A Decision of the Rota Romana', at pp. 466 et seq.

7 For what follows, see Baker, 'Dr Fastolf'.

8 The impressive hall which still stands was rebuilt under Pope Clement VI (1342-52), and the court moved there in 1352: Baker, 'Dr Fastolf', p. 85. Fastolf's reference shows that the same arrangement obtained in the earlier hall, the foundations of which have been revealed by excavation. In neither hall is there any remaining trace of the circular seating.

Avignon in the same period. A manuscript in Hereford Cathedral, almost certainly written by Simon of Sudbury, refers to opinions delivered by 'my lord of Norwich' (**dominus meus Norwycensis**)⁹; while a manuscript in New College, Oxford, contains notes of judgements by 'Dominus Willelmus de Norwyco' written by Richard Vaughan as king's proctor at Avignon in 1339.¹⁰

Sudbury's reports are interesting for another reason. They contain cases, still unpublished, from the 1350s, several of which are of English provenance. One of the cases concerned the vicarage of Mildenhall, which was one of the subjects of a five-year feud between Bateman as bishop of Norwich and the abbot of Bury St Edmunds.¹¹ But some at least of the material dates from before 1335, and is therefore older than Fastolf's printed reports. Since Sudbury refers in one place to 'repertorium domini', and since his 'lord' was avowedly Bateman (**dominus meus Norwycensis**) it is permissible to conjecture that this material came from Bateman himself. This possibility is strengthened by the knowledge that Bateman bequeathed to Trinity Hall a book containing 'many allegations and decisions of the doubts of the Roman Curia'.¹² Unfortunately, the manuscript has not survived, and so we cannot tell whether these were Bateman's own reports. But whatever part Bateman personally played in the beginning of law reporting in the Rota, the achievement of these Englishmen deserves to be remembered, especially in an age when English seek once more a place in Europe. The reporters who followed their example, both in the Rota and in its secular counterparts, laid the foundations of a **jus commune** which was current throughout continental Europe before the Napoleonic period of codification. The case-law tradition which is so often supposed to isolate English law from the mainland was once seen as a means of unification; had it prevailed in its older form, the foundation of a reporting tradition by the forgotten East Anglian jurists of the fourteenth century would by now be hailed as a contribution of the first importance to European jurisprudence.

Bateman and legal studies in Cambridge

Bateman's second claim to fame is much better known, at any rate in Cambridge.¹³ In 1350 he founded Trinity Hall, which he called 'The College of Scholars of the Holy Trinity of Norwich', and which he intended (in his own words) as a perpetual college of scholars of canon and civil law in the University of Cambridge, for the benefit and guidance of the commonwealth and especially of the diocese of Norwich. The founder's statutes were sealed in 1352.¹⁴ There was to be a warden and up to twenty fellows – a long-term ambition not covered by the original endowment – including seven to ten canonists and ten to thirteen civilians. New fellows were to take an oath to promote the interests of the church of Norwich, and not to act professionally against the bishop or the chapter. Fellows were to converse in Latin, and to hold disputations upon a **quaestio** of canon

9 MS. O. IV. 15; see G. Dolezalek, 'Quaestiones motae in Rota' in *Proceeding of the 5th International Congress of Medieval Canon Law* (Vatican City, 1980), 99., at pp. 104-105; Baker, 'Dr Fastolf', p. 93.

10 New College MS. 207 (a copy of the Sext); see L.E. Boyle, 'The "Summa Summarum" and some other English works of Canon law' in *Proceeding of the 2nd International Congress of Medieval Canon Law* (Vatican City, 1965), 415, at p. 416.

11 For details, see Thompson, 'William Bateman', at pp. 118-121. The abbey won.

12 *Cambridge Antiq. Soc. Communications*, II (see note 15, below), at p. 76.

13 What follows is largely based on C. Crawley, *Trinity Hall. The History of a Cambridge College 1350-1975* (Cambridge, 1976) pp. 1-16.

14 Printed in *Documents relating to the University and Colleges of Cambridge* (1852), II, pp. 414-436.

or civil law three times a week, at which attendance was compulsory. They were to proceed to the doctorate within three years, receiving a present of £5 on so doing. Civilians were to proceed to the study of canon law; and canonists were to proceed to ordination, but could remain fellows until they obtained benefices. There was to be a law library, to which Bateman himself contributed an impressive bequest of law books.¹⁵ The first master Robert of Stratton, we have already noticed as an auditor. His distinction was recognised by French and German reporters, who preserved some of his opinions in the Rota.¹⁶ Not only Stratton but three of the first fellows were on Bateman's staff in Avignon at the time of his death. Cambridge law teachers were not meant to be cloistered monks.

The principal purpose of Bateman's first foundation seems to have been to supply the Church with trained administrators and lawyers, with preference being given to the needs of his own diocese, but with an eye on the wider world of legal affairs and diplomacy. The exclusive emphasis on legal studies was unique in Cambridge.

Bateman's contribution to the establishment of a thriving law faculty in Cambridge did not end with Trinity Hall. He was also the second founder of Annunciation Hall, or Gonville Hall (now Gonville and Caius College).¹⁷ Edmund Gonville († 1351), a Norfolk parson who had apparently made some money out of property management, began to make plans for a Cambridge college in the late 1340s. He obtained a charter licensing its foundation in 1348, but died before the plans were brought to fruition. Gonville's draft statutes envisaged a body of students of philosophy and theology, with law apparently added as an afterthought – and as a seemingly grudging exception. Bateman took over the project, saw the college founded, and in 1353 arranged an exchange of land which settled Gonville Hall on its present site next to Trinity Hall.¹⁸ Bateman also issued his own statutes. The fellows were to be arts men, but were now enjoined to proceed to civil or canon law, theology or medicine. The fellows were expected to come from the diocese of Norwich, and no doubt many were expected to return to its service. The parallels with Trinity Hall are obvious, and Bateman arranged a 'treaty of amity' between the two societies.¹⁹ The first master, John Colton († 1404, later archbishop of Armagh and chancellor of Ireland) was – like Stratton of Trinity Hall – a canonist with service at Avignon. Doubtless Bateman would have liked his second college also to be well stocked with useful lawyers. The flimsy evidence suggests that theology in fact predominated in the middle ages, as Gonville would have wished. But Gonville Hall more than earned its place in legal history by attracting William Lyndwood around the turn of the century.

Canon Law and the common law

It is an interesting speculation whether Bateman was influenced by his general knowledge of the common-law system in the various achievements mentioned above. The growing importance of judicial decisions, and the practice of

15 G. E. Corrie, 'A Catalogue of the Books given to Trinity Hall, Cambridge, by the Founder (1864)', *Cambridge Antiq. Soc. Communications*, II, 73-78. The books may not have arrived; none are there now.

16 They appear in the printed *decisiones rotae*: Baker, 'Dr Fastolf', p. 89. He is not to be confused with Robert of Stretton († 1385), the illiterate bishop of Lichfield.

17 What follows draws heavily on C. Brooke, *A History of Gonville and Caius College* (Woodbridge, 1985), pp. 1-19.

18 This released land near St Benet's Church for the newly founded Corpus Christi College.

19 Bateman regarded Trinity Hall as the elder sister; but the University, following the date of the charter, now regards Gonville and Caius College as the senior.

reporting the discussions which led to those decisions, suggest obvious affinities with the system found in Westminster Hall. The common lawyer of today can perhaps identify more readily with the working system of canon law as glimpsed through Fastolf's reports than with the more abstract learning found in the traditional canonical texts. There is a less obvious, but perhaps more instructive, parallel in the context of legal education. The decade of Bateman's educational foundations, with their emphasis on legal study, was the very decade in which, according to recent investigations, the Inns of Court were becoming settled residential law schools with elaborate lectures and disputations.²⁰ The teachers in the Inns of Court, as in Trinity Hall, were typically active and practical men, men destined for the bench and public service.

Are these mere coincidences? It would be more pleasant to think that, to men of Bateman's stature, the boundaries between English and foreign, between academic and practical, were at the deepest level insignificant.

²⁰ The evidence will be discussed in *Reading and Moots in the Inns of Court*, vol. II (Moots), soon to be published by the Selden Society.

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