

ST. RICHARD DE WYCH AND THE VICARAGE OF BRIGHTON.

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IN an article by the late Mr. F. E. Sawyer on the "Ecclesiastical History of Brighton" in *S.A.C.*, Vol. XIX. is printed at p. 185, what purports to be a copy of an *ordinatio* in the form of an award on a controversy which had arisen between the Prior of Lewes and the Bishop of Chichester in the year A.D. 1252.

It is obviously extremely inaccurate and in some places unintelligible; it claims the authority of one of the Burrell MSS. in the British Museum; a reference to this made it clear that, while the printed copy was not an accurate reproduction of the manuscript, the main defects and omissions are due to the latter. Recently with the help of a note in Dugdale's *Monasticon* (Vol. V., p. 10, *note*) a complete copy of the *ordinatio* has been traced to the episcopal library at Chichester. It is contained in a volume known as *Registrum C*, a register of the early sixteenth century, into which a collection of documents has been copied, the arrangement being based on subject without regard to date. The Burrell MS. was evidently an attempt to extract from the award just so much as was exclusively concerned with the Brightelmston church and vicarage, but the extract was clumsily made, and often gives no sense without the context which has been left out, and even the names of the arbitrators are omitted. The Rev. P. R. Barrington Brown, Priest-Vicar at Chichester, has been good enough to make a transcript of the *ordinatio* as it appears in the Bishop's register, and for the sake of accuracy and as it seems not to have been printed

previously though occasionally referred to¹ it may be worth while to give this in full.

Ordinatio Vicariarum de Pydingho et Brightelmeston una cum ordinationibus ecclesie de brightelmeston et ecclesie de Radmylde.

Universis Christi fidelibus ad quos praesens scriptum pervenerit Magister Robertus de Hastink officialis domini Ricardi secundi Dei gratia Cicestrensis Episcopi et magister Robertus de Ludislawe clericus ecclesie Christi Cantuarie Salutem in Domino sempiternam Cum inter virum religiosum dominum Willelmum de Rushlowe priorem sancti pancratii de Lewes ordinis cluniacensis ex una parte et dominum Ricardum secundum permissione divina episcopum Cicestrensem et ejusdem loci capitulum ex altera materia questionis exorta fuisset super de pydingho de brightemeston de Stocton de Radmyld ecclesiis Tandem post multas altercationes Idem prior Lewensis cum conventu suo et dominus Cicestrensis cum capitulo suo de Bryghelmeston et de Radmylde ecclesie et taxationem et presentationem vicarie ecclesie de pedingho et ordinationem scilicet in quibus dicta vicaria taxata debeat consistere rato et firmo manente quod de ecclesia de pedingho circa parsonatum et ecclesiam de Stocton dictus dominus episcopus ordinaverat dispositioni et ordinationi nostre commiserint et supposuerint prout in eorumdem litteris inde confectis plenius continetur Nos vero dispositionis et ordinationis hujus curam pro bono pacis suscipientes plenius consideratis circumstantiis per quas questionis materia posset dilatari et oriri scandalum inter eos ipsos ad statum pristinum dilectionis reducere et cujusdam questionis materiam amputare volentes In primis de vicaria de pydingho sic disponimus et ordinamus ut presentatio ad ipsam vicariam ad priorem et conventum de Lewes imperpetuum pertineat disponimus etiam et ordinamus quod ipsa vicaria sit estimationis quindecim marcarum pro quibus quindecim marcis vicarius qui pro tempore fuerit percipiet omnes obventiones altaris sicut pertinent ad alteragium Et minutas decimas scilicet negotiationum molendinorum piscationum marinarum legali, nisi aliquid fuerit specialiter relictum parsonatu, lane agnorum casei vaccarum vitulorum porcorum pullorum anatum gallinarum ovorum lini canabi ortorum et omnia que in ortis crescunt preter decimas frumenti et ordei Item percipiet vicarius quicumque fuerit tertiam partem decime feni per totam parochiam de pedingho Assignamus etiam dicte vicarie perpetuum mansum per certos terminos assignatum ex consensu prioris et monachorum cum terris omnibus ad dictam ecclesiam pertinentibus parsonatui reservatis Item disponimus et ordinamus quod prior et conventus lewensis habeant ad sustentationem elemosine et hospitalitatis pauperum

¹ I recently supplied a translation for a paper which Mr. Clarkson Wallis was contributing to the *Brighton and Hove Archaeologist* on St. Bartholomew's Priory, to which, however, the ordination has no direct reference.

scilicet et peregrinorum ecclesiam de Brightelmeston in proprios usus quam cito eam vacare contigerit cedente vel decedente rectore qui nunc eam possidet cum presentatione ad vicariam quam vicariam taxamus estimationis decem marcarum quas assignamus in omnibus obventionibus altaris et minutis decimis piscationibus et omnibus aliis sicut specificatum est in vicarie taxatione de pedingho cum manso convenienti eidem vicarie assignato Et ex predictis contenti tam ipse vicarius de Brightelmeston quam vicarius de pedingho qui pro tempore fuerit Episcopalia Archidiaconalia Sinodalia et omnia alia onera debita et consueta dictam ecclesiam tangentia sustinebunt Item disponimus et ordinamus quod ecclesia de Radmelde domino Episcopo cicestrensi remaneat imperpetuum et suis successoribus et de ea ordinet secundum quod sibi videat expedire Hanc autem ordinationem nostram super premissis dictus dominus Cicestrensis et Capitulum Cicestrense et Willelmus prior Lewensis et ejusdem loci conventus approbantes ratam et firmam habentes pariter et confirmantes ut ipsa perpetue firmitatis robur obtineat sigilla sua una cum sigillis nostris huic scripto apposuerunt in testimonium Actum anno domini millensimo ducesimo quinquagesimo secundo sexto Kalendis Aprilis.

It will be noted that the arbitrator acting for the Bishop is his "official," the representative of the Bishop exercising jurisdiction in the diocesan courts: "dicitur enim eandem esse dignitatem et idem auditorium officialis et episcopi."² The office of diocesan official has been later absorbed into that of chancellor, who, however, is generally described in the commission as "official."

The arbitrator nominated on behalf of the Prior, Magister Robertus de Ludislaw, is simply styled "clerk of the Church of Christ" at Canterbury. I have not come across other evidence of his activities.

Robertus de Hastink may or may not have been a member of a family of some interest said to be descended from Robertus de Hastings mentioned in Domesday, whose commonest family name was Robert.³ He was, however, certainly the "magister Robertus, officialis," who was witness to an order of the Bishop made two years before, and to the ordination of the vicarage of Sele in 1261; St. Richard bequeathed to him his book of "Decretals."⁴

² I. Oughton, *Proleg.*, Cap. II., p. 11.

S.A.C., XXX., 140.

⁴ *S.A.C.*, XL., 183, 186.

The document supplies yet another variation in the name of the Prior of Lewes here described as "Sir William de Rushlowe," but whose name appears elsewhere as William Russinoll or Russelun or Rushelin or Ruisselun,⁵ all native attempts, apparently to catch the sound of the name of the French monk who was appointed Prior in 1248 but did not reach Lewes until the following year. After one or two visits to the continent, he left England finally in 1255; it is stated that he probably obtained an abbacy abroad.

The award would not seem open to much criticism in substance, though the drafting scarcely reflects credit on the arbitrators. It is involved and in some places obscure; in the list of tithes, Mr. Barrington Brown conjectures that "legali" may be put for "legali moneta Anglie," and imply that the tithes previously mentioned were taken in money, while those detailed later were paid in kind. It is of course possible that there has been an omission of the "moneta Anglie" by the copyist, and in fact, tithes on "negotia" mills and sea-fisheries were personal tithes payable in money, but in view of the following words it seems more probable that "legali" is a mistake for "legati," or "legatorum," so that the ordination would afford an example of the tithe on legacies, of which Mr. G. G. Coulton speaks—see his *Priests and People before the Reformation*—as constituting one of the grievances entertained by the people against the medieval clergy. Mr. Barrington Brown assures me that the word is clearly "legali" in the copy.

It will be seen that the award after referring to differences which had arisen between the Prior and Bishop, with their chapter and convent respectively, about the churches of "pydingho", "brightemeston," "Stocton" and "Radmylde,"⁶ and stating that the parties had agreed to accept the decision of the arbitrators on these differences, proceeds to dispose

⁵ S.A.C., II., 25, 27; III., 196.

⁶ See these differences referred to in the "Annals of Lewes Priory" under the year 1251, where the Brighthelmston Church is mentioned as the cause of the controversy. S.A.C., II., 25, 27.

of them. The orders already made by the Bishop with regard to the Church at Piddinghoe, and the parsonage and church at Stocton (Stoughton) are confirmed, and the church at Radmylde (Rodmell) is to be at his disposal. The presentation to the vicarage of Piddinghoe goes to the Priory; it does not appear who had been disputing their right. The value of this vicarage is assessed at 15 marks; the vicar is to get the small tithes specified, and one-third of the tithe of hay, and he is to have a permanent residence assigned to him. At Brighton there was then a rector,—the document gives no clue to his identity—but on his death or resignation, the priory was to have the church “in proprios usus”; there would be no more rectors, but vicars, the appointment of whom of course rested with the priory. The priory would take the great tithes, but they are expressly reminded that they received these for alms, and the entertainment of the poor and travellers. The Brighton vicar was to have the same offerings and tithes and the same assignment of a residence as the vicar of Piddinghoe. The Brighton vicarage was assessed at ten marks as against the fifteen marks of the other, which provokes some thought as to the change that time has wrought in the importance of the two places.

The ordination presents several points of interest, but I only desire now to comment on its relation to the early history of the church at Brighton. The document does not state the nature of the controversy as to this; if it were as to the ownership of the Church it would seem surprising—one might almost say amusing—that there could be any controversy at this date as to the title to the advowson, or right of presentation. There had been a solemn gift to the priory, when the latter was founded, by the Domesday tenant, Ralph de Cheney, which was confirmed by his feudal lord, Earl de Warenne, the tenant in chief, and his son, the second earl.⁷ This is followed by a

⁷ S.A.C., XXXV., 111.

grant from King Henry I., "for the souls of his father and mother, of himself, his wife and his son,"⁸ and by King Stephen in another charter.⁹ In 1121 the gift is confirmed by Ralph Luffa, Bishop of Chichester,¹⁰ and in the same year by Ralph of Escures, Archbishop of Canterbury, and in 1185 there is a further confirmation by another Bishop of Chichester, Seffrid 11.¹¹ The modern lawyer, certainly the ordinary layman, would have supposed that by this time the church at Brighton had been pretty effectually made over to the Lewes priory without the need for any arbitration about it, and that at any rate it was not for a Bishop of Chichester to put forward any claim. But these frequent confirmations afford in fact evidence of the anxiety felt by religious houses as to the title under which they held; grants made by feudal barons for the good of their souls, possibly on their deathbeds, were only too likely to be disputed by their successors, who might not feel the immediate need of making provision for their post-mortem future, or even by the grantor if he recovered. And the attack on the grant would find support from the law, as then understood. It was not until a considerable time after the establishment of the feudal system at the conquest that the feudal tenant acquired the unquestioned right to dispose of his land, the right to sell being only formally recognised by statute forty years after the date of this award.¹² As to gifts to religious houses, which stand on a special footing, Glanvill indeed, says¹³ that as early as the reign of Henry II. any freeholder might give away part of his land at will "to a religious place in alms," and his heirs were bound to warrant

⁸ There is a photograph of this charter in Clayton Church.

⁹ *S.A.C.*, XXXV., 111. ¹⁰ *S.A.C.*, XXXV., 193.

¹¹ *S.A.C.*, XXIX., 155.

¹² *Quia Emptores*, 18 Edwd. I., C. 1. The tenant no doubt had found means to dispose of his land by subinfeudation, but this appears to have required confirmation both by heir and lord. Pollock and Maitland, however, are inclined to treat the confirmation of the Great Charter in 1217, which forbids alienation of an undue portion of a fief, as implying a previous right of sale. See *op. cit. infr.* p. 327.

¹³ *Lib. VII.*, C. 1.

gifts so reasonably made. But though this might be the theoretical view of the lawyer, it did not invariably commend itself to those suffering loss by the disposition. Various reasons were found for disputing these gifts in frankalmoign,—most of the confirmatory charters are found to relate to them—and in the next reign began the long series of Mortmain acts, especially designed to make these gifts difficult.¹⁴

From the paper by Mr. Sawyer, to which I have previously referred it appeared that there had been a particularly daring disregard of the gift to the priory, and that the arbitration might well be as to the title to the advowson. The writer states (XXIX. *S.A.C.*, 184) that “by a charter about this date,” i.e., 1091–1097, “Ralph de Cheney described as ‘persona ecclesie de Brightelmeston’ grants ‘Johanni de Brightelmeston in vicariam perpetuam’ half of all his corn and altar offerings for ten marks a year. From this it may be inferred that Ralph was not only the owner of the church, but parson and the actual occupant of the benefice, and that John was his successor.” It would have appeared from this that Ralph de Cheney, presumably the second Ralph of whom Mr. Salzman tells us that little is known,¹⁵ had, notwithstanding the gift to the priory by his father, appointed himself rector of the church of this small fishing village; and the question arose whether this member of a great feudal family, a married man with children, had taken some kind of religious orders or whether he had presented himself to the living and been instituted as a layman. Neither alternative would have been without precedent; Anselm’s crusade against a married clergy had been a practical failure in England, and Mr. Coulton assures us that there would have been

¹⁴ See Pollock and Maitland, *History of English Law*, Vol. I., passim. According to one view originally no gift by a feudal tenant was safe from attack unless confirmed by the superior lord, and by the king as lord paramount, and then only as a gift for the life of the donor until confirmed by the heir. The absence of livery of seisin might be a further danger. See the whole subject, with the authorities, considered in Williams’ *Real Property*, Cap. II.

¹⁵ *S.A.C.*, LXV.

little difficulty at this time for the owner of a living who had presented himself, in obtaining episcopal institution if possessed of any minor orders, or indeed, without orders at all. But having obtained a copy of the document from the British Museum—there were several features in the reference to it in the article cited which excited suspicion—I found that the dilemma in that acute form did not in fact arise. Some false history has been founded on the statement—the tablet for instance, in St. Nicholas Church, Brighton giving a list of all the vicars of the church is based upon it, describing John de Brightelmeston as the first vicar, and of the date, 1091; Mr. Sawyer, too, it will be seen, infers that “Ralph was not only owner of the church, but parson, and the actual occupant of the benefice, and that John was his successor”; I do not know whether this is intended to imply that John was John de Cheney, the eldest son of Ralph, but Mr. Clarkson Wallis, misled by these statements, is inclined to accept this view.¹⁶ For the sake, therefore, of accuracy, and as the document itself is not without interest, I give it below.

Carta qualiter magister R. de Kant persona ecclesie de Brightelmeston dedit Johanni de Brightelmeston in vicariam perpetuam medietatem omnium frugum et oblacionis altaris pro decem marcis argenti per annum.

Sciant presentes et futuri quod ego magister R. de Kant persona ecclesie de Brightelmeston dedi et concessi et hac presenti carta mea confirmavi Johanni de Brithelmeston in vicariam perpetuam medietatem omnium frugum et leguminum proveniencium de predicta ecclesia et omnes oblaciones et obvenciones altaris Habendas et tenendas tota vita sua Reddendo mihi annuatim X marcas argenti tanquam persone nomine pensionis ad tres terminos scilicet ad Purificacionem quadriginta solidos ad Pentecostam quadraginta solidos et ad festum Sancti Bartholomei quatuor marcas et duo millia alleciorum pacabilia ad Purificacionem beate Marie Johannes vero omnia onera episcopalia sustinebit preter dedicacionem et in decimis colligendis totum custum apponet et si dominus episcopus aliqua necessitate clericis aliquod auxilium imposuerit Ego medietatem acquietabo et me (*sic*) medietatem Et ut hoc concessio rata sit et firma eam sigilli mei munimine roboravi Hiis testibus domino

¹⁶ *Brighton and Hove Archæologist*, III., 104.

Edwardo capellano Johelino de Plumtune (?) Jocelino decano de Iford Willelmo clerico Viviano capellano Simone Waren' Jacobo mercatore Radulfo de Smythewyk Roberto clerico et multis aliis.

It will be noted that the parson of the church is not Ralph de Cheney at all, but "Magister R. de Kant." There is no indication of the date, but the similarity of this name to that of one of the arbitrators in the *ordinatio*—Magister Robertus . . . clericus ecclesie Christi Cantuarie—is noticeable, though it is more than unlikely that the man who held the living at the time would be appointed arbitrator in the dispute, and that the reference in the award to the "rector" should be silent as to this identity. John de Brithelmeston is appointed vicar for his life, and is to have one half the "fruges et legumina" arising from the church. I suppose this refers to the tithe, not the ordinary small vicarial tithe, it may be noted, but half the great tithe of corn, etc., though it is just possible that the proceeds of the glebe and garden might be meant, he is also to have the altar offerings. For this he is to pay the parson by way of "pension"—the technical term for a legal charge on a benefice for the benefit of a person claiming an interest in it¹⁷—ten marks a year at three periods: three marks at the Purification, three at Pentecost and four at the Feast of St. Bartholomew, and 2000 herrings at the Purification. Other interesting questions are raised by the attestation.¹⁸

If the rector mentioned in this document and anonymously in the *ordinatio*, whether they are the same person or not, had been appointed by anyone but the priory it would, no doubt, be an illustration of what has been said about the weakness of the title of religious houses under grants from feudal tenants, but it is much more probable that the priory had in fact been in possession of the church, but had never

¹⁷ See Coke, 2 Inst. 491. The term did not necessarily imply that the recipient was a previous holder of the office, who had retired, as is now suggested by the word "pension."

¹⁸ As to the meaning (e.g.) of the term "decanus" as used in connection with some isolated church see *Phil. Ecc. Law*, 2nd edit., Vol. I., p. 126.

“appropriated” it, simply appointing a rector like a lay owner, and that the dispute which had arisen with the Bishop was whether appropriation should now be allowed, for which the Bishop’s consent was required. It will be seen that the Lewes institution attains its object; it is to have the church “in proprios usus”; it becomes the rector with the right to the great tithe, but only on condition of appointing a vicar with a proper allowance.

The arrangements of the ordination appear to have been duly carried out. Though not much seems to be known of the history of the Brighton vicarage prior to the year 1402, when the episcopal list of vicars begins with the name of John Dent,¹⁹ it is expressly stated that he was appointed on the presentation of Lewes priory. And there is evidence of at least one earlier appointment in the shape of a note in the archives of Magdalen College, Oxon, recording the appointment of a vicar of Brighthelmston in 1397.²⁰ But there is no reason to doubt that the Lewes House had appointed a vicar as soon after 1252 as they became entitled to do so. Similarly a permanent manse was duly provided, apparently either the lodge of the small priory of St. Bartholomews, at Brighton, which belonged to the Lewes confraternity, being assigned for that purpose, or a new residence erected on that site;²¹ and the vicarial tithes or their equivalent have been received by the vicars of Brighton to the present day.²² The advowson and the rectorate were separated at the Reformation, the former going to the Bishops of Chichester, and the latter to a lay holder; they had both been included in the surrender deed to the Crown by the last Prior of Lewes in 1537.²³

It seems, therefore, reasonably clear that this ordinatio first effectively established a vicarage at Brighton. Prior to this date in the only glimpse we

¹⁹ S.A.C., XXIX., 202.

²⁰ S.A.C., XXXIII., 265.

²¹ S.A.C., XXIX., 187. *Brighton and Hove Archæologist*, III., 105.

²² The Vicar of Brighton now receives certain great tithes. See below.

²³ Horsf., *Hist. and Antiq. Lewes*, app.

get of the church there it is found under a rector though it is true that he had appointed a vicar to assist him. Whether this "parson" was himself a priest in orders who was content to take the rectorial tithe, and to get the work done as cheaply as he could by another,²⁴ or whether this is an example of the appointment of one in minor orders or a layman to which I have referred is not clear, though the title "magister" may have some bearing on this point; but in any event he was not a vicar holding office in pursuance of a vicariate duly established, but under an isolated and possibly irregular appointment; he probably had no predecessor or successor. *Ordinatio* seems indeed to be the technical term for the establishment of a vicarage, and the credit for that at Brighton is obviously due to Bishop Richard. The formal order was not made by him, though he was a party to the instrument, and there can be no question that his nominee and "official" was simply carrying out his directions. The scheme sanctioned was in line with the whole of his policy, which had been the policy of the enlightened members of the English Bench of Bishops for some time—to guard against the danger of the spiritual starvation of parishes, where churches had come into the hands of ecclesiastical corporations. See for instance, the "provincial constitutions" of Archbishop Langton of the date of 1222, which expressly provide that the ordination of a vicarage shall settle what proportion of the burdens upon it shall be borne by the vicar and the religious body respectively. The award here is careful to conform to this direction.

It seems scarcely proper to conclude this paper without some reference to modern changes. The parish church of Brighton, is, of course, no longer the old church on the hill, St. Nicholas. By Order in Council

²⁴ These appointments by a person with cure of souls of a vicar to officiate under him were the origin of sinecure rectories, the source of some scandal to the Church until their abolition in 1840. See the matter discussed in *Phil. Ecc. Law*, 2nd edit., p. 227 *et seq.* And see *Victoria County History of Sussex*, II., 7.

the modern Church of St. Peter has been made the parish church, and its vicar is Vicar of Brighton with the rights and emoluments annexed to that office. St. Nicholas is now the church of a sub-parish or district.

As previously mentioned the Rectorate of Brighton after the dissolution of Lewes Priory passed into lay hands, and in Mr. Sawyer's paper written in 1879 it is stated that it then belonged to Mr. C. S. Dickins. This was certainly a mistake; prior to 1852 it was in the hands of the well-known Kemp family. In that year it was acquired by Mr. Thomas Attree, and in 1872 the trustees of his will sold by public auction "the lay or inappropriate rectory of the parish of Brighton including a commuted tithe rent charge of £29 6s. 1d. per annum" to Mr. Somers Clarke, the architect. On the 19th May, 1893, he conveyed it to the Ecclesiastical Commissioners in augmentation of the Vicarage, a transaction valid without a license in mortmain under the Ecclesiastical Commissioners Act of 1866. It has been suggested that by this uniting of the rectorial and vicarial tithe in the same holder, the vicarage of Brighton has become a rectory, but it is clear that a grant in augmentation of this kind has not that effect.²⁵ The Ecclesiastical Commissioners appear to be the lay rectors of Brighton, and the vicarage continues to subsist as established by the *ordinatio* made under the auspices of St. Richard de Wych in 1252.

²⁵ For the special procedure necessary to effect this object, see the Church Building Act of 1822, sect. 13.