

VIII.—THE BISHOPRIC OF DURHAM UNDER  
ANTHONY BEK, 1283-1311.

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The bulk of the material for writing the history of bishop Bek's rule will probably long remain in manuscript. The more important parts of it are in the archives of the Dean and Chapter of Durham and in the Public Record Office. Considerable supplementary matter exists in the British Museum and in the Diocesan Registry at York.

The Treasury at Durham is particularly rich in documents bearing on the bishop's quarrels with the monks and with his and their relations to the pope. They consist of entries in the monastic registers and chartularies, in charters, notarially authenticated appeals and lengthy records of legal process. Material connected with the king is apt to exist in duplicate at the Record Office. The most important single document bearing on the narrative aspects of the study is Miscellaneous Charter, 7161. This is a roll of eleven membranes containing the fragment of an anonymous chronicle of local events during the greater part of 1300. The vividness of description and the author's attempt at fairness and truthfulness—as shown by his use of documents and his manner of alluding to bishop Bek, the foe of his own hero, prior Hoton—render him an important contemporary authority. It is hoped that this chronicle will soon be published under the modern title *Gesta Dunelmensia*, A.D. M<sup>o</sup>CCC<sup>o</sup>.

The Public Record Office furnishes the more important documents connected with the bishop's dealings with the king. Assize roll 227 carries to later stages of trial the pleas printed by Sir Thomas Duffus Hardy, from Assize roll 228 in the fourth

volume of the *Registrum Palatinum Dunelmense*. Assize roll 226 sets forth conditions in the bishopric before the uprising of 1300.

The material in the British Museum is of less importance. MS. Lansdowne 397 contains two transcripts of documents of bishop Bek as patriarch of Jerusalem. The Harleian charters corroborate the excellent article entitled 'Observations on the pedigree of the family of Beke of Eresby, in the county of Lincoln,' by Charles T. Beke, in the fourth volume of *Collectanea Topographica et Genealogica*. Probably the most important single piece in the Museum is MS. Cotton., Julius D. iv. A Durham chronicle, incorporated in this codex, seems to be the basis of Graystones's narrative up to and a little after the accession of bishop Bek. It contains a large number of transcripts of different kinds.

The archiepiscopal muniments at York concern not only the relations of suffragan and metropolitan, but, in a degree, the relations of both to the king. The register of archbishop Wickwane has recently been edited for the Surtees Society by Mr. William Brown. References are accordingly given to the original foliation of the manuscript and to the printed volume.

Three chronicles are important for the history of Durham during this period: the *Gesta* above mentioned, and the works of Graystones and of Hemingburgh. Graystones's chronicle can be tested by its own sources, MS. Cotton., Julius D. iv, and the Durham muniments. His rare mistakes are so trivial as to prove him worthy of his reputation (*cf. infra*, ch. ix, nn. 45, 57). Hemingburgh, on the other hand, answers poorly to the test. He is careless in his use of the sources whence he draws all the earlier part of his history, through Richard I. His account of John's reign is a mixture of sound history and the wildest popular vagaries. With respect to the topic in hand, his description of Wickwane's visitation assigns it the wrong date, discrediting the highly-coloured narrative which follows (*Chronicon*, II, 219 *et seq.*). His version of Luceby's election

finds no support elsewhere (*ibid.* II, 215). His story of the seizure of the franchise in 1305 is falsified by the public records (*ibid.* II, 244). Hemingburgh's value lies not in the knowledge of what was happening, but in his reflection of gossip (*Cf.* Sir James Ramsay's criticism of Hemingburgh's tale of earl Warenne and his rusty sword—*Dawn of the Constitution*, 328).

The debt of the writer to Dr. Lapsley's work, *The County Palatine of Durham*, must receive grateful acknowledgement. Despite an occasional deviation from his narrative and the addition of data more precisely illustrating palatine grievances, in whatever pertains to his chosen field Dr. Lapsley's views have been generally adopted.

Certain of the calendars in the Rolls series had not appeared when this study was originally made. The usual mode of reference in such cases is mention of the original enrolment followed by reference to the appropriate calendar—with or without mention of the specific volume. When, however, the reference is first to the calendar, then to the enrolment, it is generally safe to assume, especially after the first chapter, that the latter reference is simply to assist the reader in using the calendar, and to minimize the chance of error. Lack of opportunity for further consultation of archives has, in chapter I, necessitated considerable reliance on secondary sources of information. On the other hand the chapter is organically connected with what follows, and the references, partly to MSS., are such, it is hoped, as may smooth the paths of some more happily situated investigator.

The writer is greatly indebted to the authorities at York, in the Public Record Office and in the British Museum, not only for the use of their muniments, but, in the latter cases particularly, for more than one helpful courtesy with respect to their decipherment. The late Mr. Francis B. Bickley, of the manuscript room of the British Museum, was notably kind and generous in this particular. Especially is the author under obligations to the dean and chapter of Durham for the use allowed him of their

treasure-house of muniments. Save for the welcome first extended to him by the Reverend William Greenwell, this partial biography could scarcely have been started: the encouragement and interest of the present keeper, Kennett C. Bayley, have alone enabled it to reach this conclusion.

#### ABBREVIATIONS.

It is believed that abbreviations are such as will readily be understood by readers. The following are probably the least self-explanatory:

- Archiep. *Archiepiscopalia*: one of the classes into which the Durham manuscripts are divided.
- Bain. *Calendar of Documents relating to Scotland*; ed. Joseph Bain.
- Cal. pap. letters. *Calendar of the Papal Letters*, Rolls Series.
- Cal. pat. rolls. *Calendar of the Patent Rolls*, Rolls Series.
- Cart. I, etc. *Cartularium I, etc.*, at Durham.
- Cart. Harl. *Harleian Charters*, in the British Museum.
- Cole. *Documents illustrative of English History in the Thirteenth and Fourteenth Centuries*; ed. Henry Cole, Record Commission.
- Gesta Dun. *Gesta Dunelmensia*; a Durham manuscript.
- Hodgson. 'The Church of Auckland St. Andrew' (*Archaeologia Aeliana*, 2 ser. xx), by the Rev. J. F. Hodgson, D.C.L.
- K.R. *Memoranda Rolls of the Exchequer*; king's remembrancer.
- L.T.R. *Memoranda Rolls of the Exchequer*; lord treasurer's remembrancer.
- Lapsley. *The County Palatine of Durham*; by G. T. Lapsley.
- Loc. *Locelli*: one of the classes of Durham manuscripts.
- Papal. *Papalia*: one of the classes of Durham manuscripts.
- Pont. *Pontificalia*: one of the classes of Durham manuscripts.
- Prynne. *An Exact Chronological Vindication* . . . . . vol. III; by John Prynne.
- Prynne's Records. The same as the preceding.
- Reg. I, etc. *Registrum I, etc.*, at Durham.
- Reg. Boniface VIII, Corbridge, etc. The register of one or another pope, archbishop or bishop.
- Reg. pal. dun. *Registrum Palatinum Dunelmense*; ed. Sir T. D. Hardy.
- Rot. claus. *The Close Rolls*.
- Rot. misc. *Miscellaneous Rolls*, at Durham.
- Rot. parl. *Rotuli Parliamentorum*, I.
- Rot. pat. *Patent Rolls*.
- Rot. Scot. *Rotuli Scotiae*. . . . . I. Record Commission.
- Rymer. *Rymer's Foedera*.
- Surtees. *The History and Antiquities of the County Palatine of Durham* . . . . .; by Robert Surtees.

## CHAPTER I.

## THE ECCLESIASTICAL CAREER OF ANTHONY BEK TO 1283.

Anthony Bek, bishop of Durham and patriarch of Jerusalem, belonged to the great Lincolnshire family of the Beks of Eresby. In the fourteenth century the house of Bek claimed an origin in the baronage of the Conquest. Although the pretention cannot be substantiated, and as set forth in the registers of Alvingham and of Anthony Bek, bishop of Norwich, is positively erroneous; it is true that as early as the seventh decade of the next century an ancestor of the family, a certain Hugh, son of Pinceo, held seven knights' fees in Lincolnshire of the bishop of Durham. Hugh's daughter married Walter Bek, thereby becoming Anthony Bek's great-grandmother. His father was another Walter, who had, besides Anthony, four other children—the eldest, John Bek, last of the name to inherit the ancestral domains; Thomas, bishop of St. David's; and two daughters, the younger of whom is referred to in John's will as 'my sister of Alvingham.' John Bek survived two sons, and the holdings of the family, even during Anthony's lifetime, passed, through heiresses, to the houses of Willoughby and Harcourt.<sup>1</sup>

<sup>1</sup> *Collectanea Topographica et Genealogica*, iv, 331 *et seq.*, 'Observations on the pedigree of the family of Beke of Eresby, in the county of Lincoln,' by Ch. T. Beke—the only adequate account (London 1837). Dugdale, *Monasticon*, vi, pt. ii, 959; v, 420. *The Red Book of the Exchequer*, ed. Hubert Hall, Rolls Series, i, 416. *Placita de quo warranto*, 162 (4 Ed. III, Derby).

MSS.—Harl. 3720 (*Register of A. Bek, bishop of Norwich*). Harl. 245 f. 102 d. (Will of John Bek, Glover collections). *Cart. Harl.* 45 H. 6, 7, 8, 9, 10, 11, 12, 13, 14 (referred to in 'Observations on the pedigree, etc., *supra*, as *Cart. Antq. Coit.* 54 H. 15), 15, 15b, 17, 18, 19.

The 'Observations on the pedigree,' etc., basing on the Glover collections, find Anthony Bek's mother in a certain Eva, niece of archbishop Gray of York. The point appears dubious to the present writer, who, however, is not in a position to reach the documents necessary to arrive at a conclusion. Cf. *Collect. Top.* etc., iv. 343; Harl. 245 f. 104 d.; *The Register, or Rolls, of Walter Gray*, etc. (56 Surt. Soc. publ.) p. 227.

During the Barons' War, the Beks espoused the royalist side, and Anthony Bek's first steps to secular and ecclesiastical preferment were his services to Henry III and prince Edward at this time, especially in financial ways. He appears as royal messenger over a month before Lewes.<sup>2</sup> In the autumn of the succeeding year he was one of two knights entrusted with the confiscation of lands of rebels in Lincolnshire.<sup>3</sup> Both Anthony and John Bek profited directly or indirectly by royalist success. Letters patent of February, 1266, confirm a grant to Anthony Bek by Richard (or Robert) Daneblanes 'of all lands and tenements with appurtenances in Gosbertchurch in Lincolnshire, which belonged to John de Rye, our enemy, and which we recently gave to the said Robert,'<sup>4</sup> while similar letters of May 15, 1268, proclaim the granting to John Bek of 'all the lands and tenements of Robert de Handesacre in Rupindone, who rose against us at the time of the recent disturbance in our kingdom . . . . . to be held in the form of the Dictum of Kenilworth.'<sup>5</sup> That Bek's services as 'messenger' were largely of a financial type may be surmised, not only from his Lincolnshire commission, but from the fact that letters patent of 4 Edward I allude to his having negotiated a loan to the prince, during the period of disturbance, of sixty-nine marks, from a certain Adam of St. Albans.<sup>6</sup> Bek, like Wolsey, rose on the basis of executive service to the king in days of storm and stress—the former amid the rackings of civil war, the latter amid the duplicities of the Holy League.

<sup>2</sup> *Cal. pat. rolls, 1258-1266*, p. 310 (48 Hen. III, m. 16).

<sup>3</sup> *Ibid.* 490 (49 Hen. III, m. 8 d.); Cotton, 140; *Flores Hist.* III, 67; Rishanger, *Chronica*, 38 (ed. Riley, Rolls Series).

<sup>4</sup> *Rot. pat.* 50 Hen. III, m. 31 *cf. Cal. pat. rolls, ut sup.* 544; *cf.* also another grant of Feb. 16, 1266, to Anthony Bek, king's clerk, of rebel lands: *Cal. pat. rolls, ut sup.* 553, 50 Hen. III, m. 29.

<sup>5</sup> *Rot. pat.* 52 Hen. III, m. 14.

<sup>6</sup> *Cal. pat. rolls, 1272-1281*, p. 172 (4 Ed. I, m. 2).

The wars once finished, and not without peril,<sup>7</sup> both Anthony and his brother Thomas adopted the clerical career as best adapted to conserve and accelerate the advancement already begun. Early in 1267 both are living in houses in St. John's parish, Oxford, belonging to the 'scholars and brothers of the *Domus Scholarium de Merton*.' From this circumstance Gutch drew the interesting but anachronistic conclusion that the brothers were the first commoners of Merton.<sup>8</sup> In the middle of the year Anthony received from the king the prebend lately held in the church of Pontefract by the queen's physician: 'And it is commanded the archbishop of York to assign to the same the customary stall in the choir and place in the chapter.'<sup>9</sup>

The prince to whose fortunes Bek had attached himself was in heart a crusader to the end of his life,<sup>10</sup> being almost the last of the men of the middle ages to cherish sincerity of devotion to that 'great effort of mediaeval life to go beyond the pursuit of selfish and isolated ambitions.'<sup>11</sup> Edward was able to realize his ideal but once, and Bek was a member of the expedition of these early days. The prince left England in August of 1270, but whether Bek was in his immediate entourage, or had already crossed to Gascony with a previous detachment, is unknown. Nor, with one exception, have we even a glimpse of his life and exploits on the crusade—of his part in the trying days at Tunis, at the relief of Acre in the spring of 1271, in the hard but

<sup>7</sup> *Cal. pat. rolls*, 1258-1266, p. 649 (50 Hen. III, m. 1). Bek was for a time a captive in Kenilworth castle.

<sup>8</sup> Antony Wood, *The History and Antiquities of the Colleges and Halls in the University of Oxford*, ed. John Gutch, Oxford, 1786. p. 13, n. 40; Rashdall, *Universities of Europe in the Middle Ages*, II, pt. ii, 517-518. Merton subsequently became chancellor of England, and his friendship may have been a contributing element in Bek's advancement. Bek is remembered in his will Wood, 13, n 40.

<sup>9</sup> *Rot. pat.* 51 Hen. III, m. 13; Rymer, I, pt. ii, 519; *Liber A.* f. 49.

<sup>10</sup> Pauli, *Geschichte von England*, iv. 189.

<sup>11</sup> Stubbs, *Seventeen Lectures on Med. and Mod. History*. Lect. viii, 157.

unimportant campaigning of the following summer and fall, or in the tardy return to England.<sup>12</sup> We have but one fact concerning him at this time. In the will executed after the surgical operation necessitated by the attempted assassination of Edward, Anthony Bek is the last named executor. It is noteworthy, moreover, that these executors are no mere dispensers and trustees of an estate: in case of the prince's death, and provided Henry die during the minority of Edward's children, they, with other great men of the realm, are to act as guardians of the kingdom, and of the prince's children.<sup>13</sup> Bek alone of the executors survived his master, and even in their days of ultimate estrangement, the two seem never wholly to have shaken off these early bonds of common peril and adventure.<sup>14</sup>

Returning to England, Anthony rapidly developed into one of the conspicuous, though not one of the worst, pluralists of thirteenth century England—and thirteenth century England was shockingly pluralistic. In the province of Canterbury, but shortly after this time, Bogo de Clare possessed thirteen livings, Geoffrey Haspul fifteen, Ralph de Framingham nine, Henry Sampson, sen., five and a vicarage, the notorious Adam de Stratton twenty-three, William de Brinton nine and a half, and so on through an extended list. Some two hundred and thirty-six entire and seven partial livings, with occasional supplemental offices, were in the hands of fifty-eight incumbents, averaging a little more than four livings per person. Lincoln and Norwich

<sup>12</sup> Röhricht: 'La Croisade du Prince Édouard d'Angleterre,' in *Archives de l'Orient Latin*, I, 617 et seq.; *Archives de l'Orient Latin*, I, app. 630 et seq.; *ibid.*, II, 427, et seq.; *Rot. Pat.* 54 Hen. III, mm 11; 15 d; *Récueil des Historiens des Croisades*, publié par les soins de l'Académie des Inscriptions et Belles Lettres, II, 460, et seq. (Eracles); Marinus Sanutus, *Liber Secretorum Fidelium Crucis super Terrae Sanctae Recuperatione et Conservazione*, Hanov. 1611, II; et al.

<sup>13</sup> *Testamenta Vetusta*, ed. Nicolas, I, 7, et seq.; Rymer, I, pt. i, 495; Liber A. ff. 312-313. The error of regnal year appears a mere blunder.

<sup>14</sup> Ramsay: *Dawn of the Constitution* 540; *Gesta Dunelmensia*, cap. vii.



were the most afflicted dioceses, in Lincoln seventy-nine whole and three partial livings being stated to be in the hands of pluralists, and in Norwich forty-one whole and four partial livings.<sup>15</sup>

Bek's own preferments follow one another with rapidity. In July, 1274, the king grants him the prebend of Castleknock in the church of Dublin,<sup>16</sup> and about the same time he receives the archdeaconry of Durham.<sup>17</sup> Sometime before the early spring of 1276 he becomes precentor of York.<sup>18</sup> In May of 1277, the king presents him to the church of Llanbadarn-Fawr in Cardiganshire.<sup>19</sup> In January, 1278, he is about to secure the church of Brigham, in Cumberland:<sup>20</sup> In July, 1279, the see of York being vacant, he is given the cathedral prebend of Streneshal,<sup>21</sup> and during the first year of Wickwane's pontificate is collated by the archbishop, at royal request, to the prebend of Stanwick in the church of Ripon, worth one hundred marks a year, and carrying the precentorial dignity.<sup>22</sup> The archbishop showed some hesitation in the matter, and later evinced annoyance at Bek's non-residence, which he deemed contrary to the provisions of the foundation.<sup>23</sup> By June of 1278 he has become

<sup>15</sup> Lansdowne 1040, ff. 506 *et seq.* (Bishop Kennet's collection, with reference to Winchelsey's Register.) <sup>16</sup> *Rot. Pat.* 2 Ed. I, m. 12 (Cal. 54).

<sup>17</sup> Rymer, I, pt. ii, 625; *cf.* 525. <sup>18</sup> *Fine Roll*, 4 Ed. I, m. 27.

<sup>19</sup> *Cal. Pat. Rolls*, 1272-81, 321 (5 Ed. I, m. 14); *Liber A*, f. 201; *Cal. Pat. Rolls*, *ut cit.*, 209.

<sup>20</sup> *Cal. Pat. Rolls*, *ut cit.*, 254 (6 Ed. I, m. 24); *cf. Coram Rege Roll*, Hilary, 5 Ed. II (207), mm. 44, 44 d. Bek held this living when elevated to the episcopate, by grant of Isabella, countess of Albemarle. The proceedings involved litigation. <sup>21</sup> *Rot. Pat.* 7 Ed. I, m. 13; *Liber A*, f. 201.

<sup>22</sup> *Reg. Wickwane*, ff. 5 d., 45-45 d., 85 d. (114 Surt. Soc. publ., pp. 16-17, 255, 280-281); *Memorials of Ripon*, II (78 Surt. Soc. publ.), 2, 8-9.

<sup>23</sup> *Reg. Wickwane*, ff. 5 d., 85 d.-86 (as printed, pp. 254-255). *cf. Memorials of Ripon*, II, 10-11, 32; *Historical Letters and Papers from the Northern Registers*, Rolls Ser., pp. 58 *et seq.* (the date as here printed should be changed from Dec. 25 to Dec. 6). Canon Fowler does not consider Bek's tenure a lengthy one.

canon of St. Paul's,<sup>24</sup> in which he is said ultimately to have held the two stalls of Tottenhall<sup>25</sup> and St. Pancras.<sup>26</sup> By 1279 he is canon of Lichfield.<sup>27</sup> Before the middle of 1280 he appears to have secured and resigned the prebend of Bosham in the diocese of Exeter.<sup>28</sup> In September of the same year he is stated to have been collated to a prebend in the church of Southwell.<sup>29</sup> He was also, during this period, given the livings of Surflet,<sup>30</sup> Kirketon,<sup>31</sup> Waddington,<sup>32</sup> Holbeach,<sup>33</sup> in the diocese of Lincoln, the prebend of Kettesey in the church of Lincoln,<sup>34</sup> and the benefice of Ringwood in the diocese of Winchester.<sup>35</sup> So flagrant, indeed,

<sup>24</sup> *Liber A*, ff. 192-192 d.

<sup>25</sup> Harl. 6956 f. 91 (transcript from f. 106 of 'Libro MSS. 4<sup>o</sup> penes Decanum et Capitulum Sci. Pauli. Lond. notat B aliter F'), f. 115 d. *et seq.* (from 'Libro C' etc.); Newcourt, *Repertorium Ecclesiasticum Parochiale Londinense*, London, 1708, p. 194 n.g. (reference to *Liber A*, f. 107).

<sup>26</sup> Newcourt, *Repertorium*, etc., 194; *Memorials of Ripon*, II, (245-6 from Ward's 'Fasti'). The dates given are St. Pancras, 1278, Tottenhall, 1280.

<sup>27</sup> Lansdowne, 1040, f. 34 d. (Bishop Kennet's collections, from Reg. Peckham). Cf. *Registrum Epistolarum Fratris Johannis Peckham . . .*, ed. Martin, Rolls Ser., III, 1064.

<sup>28</sup> *The Register of Walter Bronescombe and Peter Quivil, Bishops of Exeter . . .*, ed. Hingeston-Randolph, London, 1889, p. 26; preface, xvii.

<sup>29</sup> *Memorials of Ripon*, II, 245, with ref. to Ward's 'Fasti'; *Reg. of Wm. Wickwane*, as printed, 10-11.

<sup>30</sup> Harl. 6951, f. 17, p. 29 (excerpts from Lincoln Registers); Additional MSS., 5844 (Cole's *Collection*, vol. 43; transcript from Register of Priory of Spaulding), 410-412. Not in Bek's hands on elevation to episcopate.

<sup>31</sup> Harl. 6951, f. 19, p. 33 (from Lincoln Registers); in Bek's hands at elevation to episcopate.

<sup>32</sup> *Ibid.*, f. 17 d., p. 30; in Bek's hands at elevation to episcopate.

<sup>33</sup> *Ibid.* f. 18, p. 31; Macdonald, *Historical Notices of the Parish of Holbeach in the County of Lincoln*, 153. As to Bek's final securing of advowson to this church, see *Cart. Harl.* 43 I, 49, and Macdonald, *ut sup.*, 155 *et seq.*, 61.

<sup>34</sup> Tanner, *Bibliotheca Britannico-Hibernica*, London, 1748, p. 83 (with reference to Reg. Dalderby). Tanner seems to confuse the two Anthony Beks, but, note, as to this case, the *congé d'élire* to Bek, William de la Ware, and William, archdeacon of Huntingdon, on death of Richard, bishop of Lincoln; *Rot. Pat.* 8 Ed. I, m. 27, dated 1 Jan., 1280 (Cal. 356).

<sup>35</sup> *Registrum Epistolarum Fratris Johannis Peckham, etc.*, I, 313, no. CCXLV.



was Bek's pluralism, as to be inimical to further ecclesiastical advancement, since it was precisely at this time that the puritan archbishop, John Peckham, was waging war upon this very evil.

One of Peckham's first acts had been to summon a council at Reading, with the express purpose of combatting pluralities. It was here decreed that rectors receiving a second benefice should forfeit their first, that those holding several should retain only the last, and that any attempt to keep all should be punished by the loss of all.<sup>36</sup> A second assembly at Lambeth, in October, 1281, reaffirmed the former decision in the strongest terms, and limited the time for voluntary relinquishment of illegally held benefices to six months. 'Verily,' declares the council, 'the Church of England has long sustained dire wounds from rotten members and false clerks who, heated by the lusts of pomp and avarice, and without apostolic sanction uncanonically accumulating benefices with cure, have not feared, even till now, to destroy souls bought with the Redeemer's blood.'<sup>37</sup> Nor did the archbishop mince words with Edward himself. 'Moreover, you remember,' he writes him, 'that we are mocked throughout the entire church, as it were, for our dissimulation with respect to your clerks and the damnable multitude of benefices which they obtain against God.'<sup>38</sup>

As a matter of fact, although Bek made a formal submission in August of 1280, Peckham never really pushed the matter against the 'royal clerk,' threw responsibility upon the pope, took care to disclaim any intention of arbitrarily curtailing Bek's advancement, and contented himself with suggesting to the ambitious cleric the impediment he was deliberately leaving in his own path. To Nicholas III he writes:—

<sup>36</sup> *Ibid.*, I, preface, LXV-LXVI; Wilkins, *Concilia* II, 34.

<sup>37</sup> Wilkins, *Concilia* II, 60.

<sup>38</sup> *Reg. Peckham*, I, no. CLXVI, p. 199 (27 May, 1281); cf. I, no. CXXI, p. 143, and II, no. CCCXXXIX, p. 567 (tr. 766).

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THE BISHOPRIC OF DURHAM

'The eye of your illustrious Consideration, most holy Father is not unaware, how, taught by your holy instruction, I would have proceeded to the extirpation of the unbridled audacity of certain, nay rather of many, who, neglecting apostolic dispensation, hold very many benefices with cure of souls . . . . Nor was it easy to reduce to modest poverty men of high birth, affluent, and accustomed to honours. While therefore with combined severity and mildness I was taking thought concerning the fulfillment of your—nay rather of the divine desire, I was very greatly comforted by sir Anthony, surnamed Bek, very trusty secretary of the king of England, who, on August third, by sufficient procuration, submitted to my will his status in the province of Canterbury as to benefices with cure of souls. Of which, when I inquired the number, I found that he held five only, with cure of souls, in the province of Canterbury. One, belonging to the patronage of a certain priory I adjudged should be conferred on the spot. Three of the remaining, in lay patronage, and the fourth, too, about which there is dispute between a clerical and lay patron, I have thus far left in his hands until I be instructed by your Wisdom what to do; because I am publicly assured that your Clemency is disposed to grant grace of dispensation as well to him as to certain other royal clerks. Wherefore I beseech your Piety . . . . that you will deign to relieve the suspense of my mind in this matter, resting assured that with a little help I shall attain your Clemency's desire in such concerns, God favoring, as I should never have attained it, or can attain it in future, by attempting any rigour. I do, none the less, solemnly assure your Dominance that I neither have received, nor in future will receive, to the grace of episcopal honour, save by apostolic dispensation, any one obtaining a plurality of benefices with cure of souls.'<sup>39</sup>

Not only does Peckham not proceed directly against Bek; he takes pains openly to denounce as slanderers those who are hawking it about that he has received papal letters, in Bek's particular case, preventing the grant of further ecclesiastical honours: 'Because we know that this is false and lying, we freely protest that we have never received anything against his person, by name or specially, by letter or by any indication through any man, whereby we may the less honour him by way

<sup>39</sup> *Ibid.*, I, no. cxvi, pp. 137-138. Surflet, the benefice referred to as being 'conferred on the spot,' was given to Adam de Rouceby, archiepiscopal chaplain: Addit. MSS. 5844, ff. 410-12 (Cole's *Collection*, from Register of Spaulding priory); MS. Harl., 6951, f. 17, p. 29 (excerpt from Lincoln Registers). For Ringwood, see *Reg. Peckham*, I, no. ccxlv, 313.

of multifold grant of graces, as justice or common law allow.' Such tales are the work of 'sons of perdition.'<sup>40</sup>

Peckham's hints with respect to the episcopal dignity may not have been altogether idle. Pluralities, at his hands, twice proved effective barriers to episcopal preferment: they kept Richard de la More from succeeding to the see of Winchester,<sup>41</sup> and, later, John de Kirkby from securing Rochester.<sup>42</sup> In November, 1281, the archbishop writes:—

'We heartily desire the lasting prosperity, in the Lord, of the honor and exaltation of your person, which is, we believe, imminent if you adhere to our advice, as in our recent conversation. Wherefore we beseech your Dilection, which we embrace in love, with the sweetness of wholesome exhortation, and earnestly solicit, that, with respect to the ecclesiastical benefices which you hold, you be mindful of your soul's safety and the founding of your status, with regard both to felling timber and to impetrating grace of dispensation from the Apostolic See in the matter of plurality, in such wise that should God deign of his grace to call you to the summit of a higher dignity, which we deeply desire, there may be found in you no stain to render you unworthy of such grace, nor in any way to keep you from it. . . . Consider, also, that it matters not whether you hold a plurality of benefices in one province or in different provinces, since a diversity of provinces does not excuse such an illegally retained plurality.'<sup>43</sup>

Another letter; of March 20, 1283, presents an entertaining jumble of pious and worldly inducements for the relinquishment of the accumulated benefices:—

'Moreover, take thought of the benefices which you are retaining without lawful title, by relinquishing which you will soothe your conscience, clear your reputation, habilitate your person, distinguished by sundry gifts of God, so that when the Lord shall say to you: "friend come up higher," the obstacle of lesser things ceasing, you may freely ascend to greater things, and silence the barkings of the jealous. May the Highest grant us to see that day, to the glory and honour of His name.'<sup>44</sup>

<sup>40</sup> *Reg. Peckham*, I, no. CXXII, 144.

<sup>41</sup> *Ann. Monastici* (Wykes), IV, 283; *Reg. Peckham*, I, pref. LXXI; III, app. II, 1004, 1065, 1066; I, no. CXLIV, 173; no. CXCI, 227; no. CXCLII, 228; no. CCXXXIV, 281.

<sup>42</sup> *Ibid.*, II, pref. ci, no. CCCXLVI, 575.

<sup>43</sup> *Ibid.*, I, no. cc, 244-5.

<sup>44</sup> *Ibid.*, II, no. CCCVII, 526.

But Bek, as always, extorted Fortune's utmost favours; his opportunism prospered; he clung to his benefices; played the part rather of an intermediary than a principal in the great quarrel between the king and the primate as to the visitation of the royal chapels;<sup>45</sup> and when his chance for preferment came, found it in the northern, not the southern, province.

Before passing from Bek's earlier ecclesiastical career, it may be just worth while to note the occurrence, even thus early, of two incidents foreshadowing his later egoism and arbitrariness. In the first place, the archbishop finds it necessary, as we have seen, to protest against Bek's extravagant 'wasting' of his benefices through deforestation,<sup>46</sup> and in the second, Peckham notes a widespread impression that canon Bek had been responsible for a violation of sanctuary, and an involved desecration of the cathedral, in the case of certain fugitives who had taken refuge in St. Paul's, and hints that he had been instrumental in shielding the constable and his accomplices by summoning them to the royal service in Wales.<sup>47</sup> Questions of fact aside, both matters indicate that Bek was impressing others as a man careless of legal and moral proprieties, and reckless and egotistical in his aims and behaviour. They are of a colour with the later violent treatment of Hoton and his monks, and with the charges preferred by the hostile faction with respect to the

<sup>45</sup> *Ibid.*, III, appendix II, 1064; I, no. xcv, 112; no. xciv, 111; no. cxlix, 178; no. ccxliii, 310; appendix I, no. v, 392 g. For further information, see *passim*. The general outcome of the contest was favourable to the king. *Ibid.*, I, nos. cliv, clxiv, clv; art. on Peckham by C. L. Kingsford, *Dict. of National Biography*, xlv, 191; Dugdale's *Monasticon*, vi, 1467; cf. however, Mr. Martin's *Preface to the Letters*, I, lxviii, *et seq.*

<sup>46</sup> *Ibid.*, I, no. cc, 244.

<sup>47</sup> *Ibid.*, II, no. ccccvii, 525. In no. cccclxvi, 595, the bishop of London is himself rebuked for remissness in the matter. See also II, pref. c, and *Ann. Monastici*, III, 289 (Dunstable). Was Bek still constable of the Tower at the time? It would seem likely.

extravagant and wasteful management Bek was alleged to be desirous of forcing upon the monastery.<sup>48</sup>

Up till 1283, however, and for some time after, the church and its affairs took second place in Bek's attention. Clerical preferment was but the king's way of paying for incessant and efficient government service—in the wardrobe, as constable of the Tower, as finance or diplomatic agent, in Gascony or in Wales, as member of the council. These matters, however, are outside the scope of this sketch.

## CHAPTER II.

ANTHONY BEK'S ACCESSION TO THE SEE OF DURHAM AND FIRST DISAGREEMENT WITH THE MONKS. BEK'S TERMINATION OF THE QUARREL BETWEEN THE PRIORY OF DURHAM AND THE ARCHBISHOP OF YORK.

Robert de Insula, bishop of Durham, died at Middleham on June 7, 1283.<sup>1</sup> The monastery was practically forced in its choice of Bek as his successor, for the king made John de Vescy his agent in an active campaign in the archdeacon's interest, and in addition the monks well realised that archbishop Wickwane was in a temper to accept no candidate not enjoying such favour.<sup>2</sup> Bek must have had considerable personal hold on the monks, moreover, since, as we shall see, he had been their active supporter in the existing dispute with York, and must have been

<sup>48</sup> *Infra*. The two Beks, Thomas and Anthony, were also, during this period, arbitrators in the long dispute between the chapter of Lichfield and the monastery of Lenton about the Peak tithes. J. C. Cox, *Catalogue of the Muniments, etc., pertaining to the Dean and Chapter of Litchfield* (William Salt Archaeological Society, vi, pt. ii); *Rot. Claus.* 8 Ed. 1, m. 11 d., and m. 11 d. Ced. (*Cal.* 42, 43); *Prynne, Records*, iii, 248.

<sup>1</sup> Robert de Graystones, *Historia de statu ecclesie Dunelmensis (Scriptores Tres)*, ch. xviii, 63; appendix, p. xci note; Julius D iv, f. 101. Bek's predecessor was of very humble parentage: Graystones, ch. xvi, 57.

<sup>2</sup> *Ibid.*, ch. xviii, 63 *et seq.*

intimately acquainted with its intricacies. Lastly, his previous career evinced a character likely eagerly and vigorously to maintain the two-fold dignity of a Durham prelate.

The royal *congé d'élire* issued on June 18.<sup>3</sup> The election took place July 9.<sup>4</sup> There were several candidates,<sup>5</sup> but the method of compromise<sup>6</sup> resulted in the choice of Bek. His later enemy, Richard de Hoton, both served on the electing committees and was employed to give notice of the election to the king, the archbishop and the pope.<sup>7</sup> When the archbishop's confirmation was sought on July 26, Wickwane demurred on the ground that the convent was excommunicate at the time of the election, and yielded only when Vescy, still acting in the king's behalf, threatened grievous penalties were the archbishop to impede the promotion of Edward's 'most special clerk.'<sup>8</sup> Bek took the oath of canonical obedience to his metropolitan, and received his spiritualities, at 'Wyrkeshop,' September 2.<sup>9</sup> The temporalities were restored two days later.<sup>10</sup>

The consecration at York, January 9, 1284, was so far an event of national importance that even the impending Welsh war failed to hinder the king and queen from gracing the solemnity with their presence. Eleven bishops and a host of

<sup>3</sup> *Ibid.*, appendix, no. LXX, p. xci; *Cal. Pat. Rolls*, 1281-92, p. 67 (11 Ed. I, m. 16).

<sup>4</sup> Graystones, ch. xviii, 63 *et seq.*; Julius D iv, f. 101 *et seq.*; *loc. vi*, 13.

<sup>5</sup> Julius D iv, f. 101, 'per diversos tractatus habitos et nominationes diversarum personarum.'

<sup>6</sup> *Loc. vi*, 13; Julius D iv, f. 101 *et seq.*; that is to say, the entire monastery accepted the formal choice of a committee of seven monks. Julius D iv gives the entire process.

<sup>7</sup> Julius D iv, ff. 101, 102 d.-103, 104-104 d., 105 d.; *loc. vi*, 13.

<sup>8</sup> Julius D iv, ff. 104-104 d.; Hemingburgh, *Chronicon*, II, 221, 'Timuitque sibi archiepiscopus et adquevit, magis timens hominem quam Deum, . . . . . postea tamen poenituit.' The formal royal assent was given August 28. *Cal. Pat. Rolls*, 1281-92, p. 73 (11 Ed. I, m. 13); Prynne, *Records*, III, 307.

<sup>9</sup> Lansdowne, 402, ff. 75-75 d.

<sup>10</sup> *Cal. Pat. Rolls*, 1281-92 (11 Ed. I, m. 11).



magnates attended.<sup>11</sup> Not to be outdone by his brother, who on his consecration to St. David's had been at the expense of the translation of the body of St. Hugh of Lincoln,<sup>12</sup> Anthony added lustre to his own consecration by bearing the entire expense of the translation of St. William's body to a more honourable resting place in the choir of York minster.<sup>13</sup> The sarcophagus was opened during the dead of night, Friday-Saturday, January 7-8, by the archbishop, the bishop of St. David's, the dean and canons of York and by the elect of Durham. Then, and during the morrow, different dispositions were made of the ecclesiastical utensils and vestments found with the body, and of the remains themselves, which last were placed in a specially-prepared casket and left under guard. Sunday morning, January 9, the date of the ceremony proper, saw a miracle wrought by the saint's merits. The very stone which fell during matins from the base of the pulpit upon the head of a servant of the canons as he lay dozing underneath, demolishing his cap, but leaving his head none the worse, is still in existence, bearing the inscription: 'hic est lapis qui cecidit supra caput Rogeri de Ripon.' Later in the day, following the archbishop's sermon, Edward himself assisted the bishops present in bearing the relics

<sup>11</sup> *Ann. Monastici*, iii, 298, 305 (Dunstable); Graystones, ch. xviii, 63 *et seq.*; *Hist. Letters and Papers from the Northern Registers*, 80-81; *Historians of the Church of York*, ii, 408 (Th. Stubbs); *ibid.*, append. v, lect. ii (p. 544), appen. vi, lect. iv (p. 548); *ibid.*, *Metrical Chronicle of the Church of York*, 482; Hemingburgh, ii, 14 *et seq.*; Lanercost, 113 (pp. 120-121, wrong and confusing); Trevet (Eng. Hist. Soc.), 309 (Rishanger, 106); *Ann. Monastici*, iv, 295 (Osney, and Wykes); Eversden (Cont. of Florence of Worcester, Eng. Hist. Soc.), ii, 230; Lansdowne, 402, f. 75 d. The list of witnesses to the profession of obedience previous to the consecration contains six names of bishops: Oliver, bishop of Lincoln, Robert of Bath and Wells, John of Winchester, William of Norwich, Robert of Carlisle, Henry of Whitherne. *Lectio ix*, appendix v, 546, of the *Historians of the Church of York*, ii, says 11 bishops were present. *The Dunstable Annals*, 298, style Bek 'clericus domini regis tunc nominatissimus.'

<sup>12</sup> Th. Stubbs, *ut sup.*, 407.

<sup>13</sup> *Ibid.*, 407; Lanercost, 113.

around the choir, to the spot where the saint's body still reposes. Into the body of the church they could not descend, so numerous was the throng.<sup>14</sup>

The ceremony of consecration took place after the translation, Thomas Bek preferring the formal request in his brother's behalf. After examination of the candidate by the archbishop on the usual articles of faith, the former read aloud, and with his own hand subscribed, the profession of obedience, in these words: 'I, Anthony Bek, elect of Durham, who am to be consecrated bishop, promise that from this hour forth I will be faithful and obedient in canonical mandates to the most holy church of York, to lord William, its archbishop, primate of England, my metropolitan, and to his successors canonically inducted.' This document the candidate placed upon the high altar. Then, after prayer and the litany, was performed the actual consecration. The king, Oliver, bishop of Lincoln, Robert of Bath and Wells, John of Winchester, William of Norwich, Robert of Carlisle, Henry of Whithern, together with earls, barons and others in the usual *multitudine copiosa* are the witnesses named in the notarial document embodying the proceedings.<sup>15</sup> Each of the assisting bishops, moreover, granted forty days indulgence to such as were present, contrite and confessed.<sup>16</sup>

Almost two years passed before enthronement. It was on Monday, the day before Christmas, 1285, that bishop Bek first entered Durham cathedral. Suppliantly, and barefooted, he offered prayer at the altar, and at the feretory of St. Cuthbert;

<sup>14</sup> *Lectiones* in Appendices v, vi, and 545 n.l., of *Historians of the Church of York*, II. For the miracles of archbishop William of York, see *ibid.*, II, 531 *et seq.* For the wealth of his shrine, see *Fabric rolls of York Minster*, Surtees Soc. publ., pp. 212 *et seq.*; cf. J. F. Hodgson, *Archaeologia Aeliana*, 2 ser., xx (1898), 'The church of Auckland St. Andrew,' 115-116, and John Browne, *History of the Metropolitan Church of St. Peter, York*, London, 1847.

<sup>15</sup> Lansdowne, 402, f. 75 d., cf. *Historians of the Church of York*, II, appendices v, vi.

<sup>16</sup> *Ibid.*, app. iv, v, pp. 541, 546.

then retired to the vestry, to be bathed in warm water by the sacristans, to have his feet encased in slippers, and to be solemnly invested with alb, cope and mitre. When he had again entered the church, even as he stood before the bishop's throne, there suddenly arose a dispute between the prior of Durham and the official of York as to which had the right of installation, the former pleading the same privilege in the church of Durham as that possessed by the dean of York at York. Bek, however, refused either to have the function marred by dispute, or postponed by reason of threats, and on the plea of injuring neither party was installed by the bishop of St. David's. On Christmas he celebrated vespers, matins and high mass. The day following, a banquet was served in the castle to his brother, other bishops present, the prior, and all who had come to the festivities. The enthronement celebrations came to their close on December 27, when the bishop entered the church and offered two baldachins, appropriately adorned with scenes of the Nativity, and assigned for the decoration of the high altar at Christmas.<sup>17</sup>

Almost every step of Anthony Bek's ecclesiastical career is marked by discord. As has been seen, archbishop Peckham alludes to the jealousies attending his earlier advancement, and was himself mildly antagonistic toward Bek's behaviour. His election and confirmation had involved dispute and disagreement. The enthronement had witnessed stormy words between prior, bishop and archiepiscopal official. The gift of the baldachins was the immediate prelude to Bek's first quarrel with the monks. On this occasion the monks yielded, but only because of that concurrent conflict with the archbishop, to which allusion has been made, and in which they needed Bek's assistance.

<sup>17</sup> Julius D iv, ff. 106 *et seq.*; Graystones, ch. xx, 69-70. Cf. with account of an enthronement at Worcester, 1303: *Sede vacante* register, pt. I, 52 *et seq.* (ed. J. W. Willis-Bund, Worcestershire Hist. Soc., vol. III, 1897); cf. also for the archbishop's attitude, Mr. Brown's pref. to *Wickwane's register*, xi. As to gifts, see also *Wills and Inventories* (2 Surv. Soc. publ.), I, 12.

After the oblation of the baldachins, and until the mass of the day was over, the bishop and his brother, Hugh, an ex-prior, Henry de Horncastre, prior of Coldingham, and Roger, prior of Holy Island, conversed before St. Andrew's altar, the sub-prior and others standing near, but uninvited to share the conversation. The convent was soon after assembled in the chapter house, Thomas Bek occupying the bishop's seat and Anthony the prior's. The bishop of St. David's, speaking in his brother's name, then announced that prior Richard de Claxton had often sought to resign by reason of weakness and infirmity. This resignation, he said to the prior's amazement, was now accepted, and he thereupon conferred the care of the house upon Henry de Horncastre, both in temporalities and spiritualities. When Richard de Hoton, the sub-prior, immediately claimed the right to the spiritualities, Anthony, albeit with some heat, avowed his innocence of any desire to violate the customs of the house, and Thomas added: 'In so much as such is the custom of your house, and ancient usage, in the Lord's name, do you perform the duties in spiritualities which pertain to your title. And let the lord Henry attend to the temporalities,'—a concession confirmed by bishop Anthony. The bishop then retired to Middleham, and the next day granted *congé d'élire* for the choice of a new prior.<sup>18</sup>

In no long time, however, Bek summoned Horncastre to Auckland, and when the latter returned to Durham, it was to announce that, despite his personal unwillingness, the bishop had ordered him to reassume charge of the spiritualities, viz., of celebrating chapters and exercising discipline, and to exact obedience from all as the bishop's representative. The power of the bishop to exclude the sub-prior from supervision of spiritualities, during vacancy of the priorate, was thus the subject matter of Bek's first contention with his monks.

<sup>18</sup> Graystones, ch. xx; Julius D iv, ff. 106 d. *et seq.* The convent never questioned the validity of the old prior's resignation; see Julius D iv, ff. 111, 112, 113.

Struck dumb for the moment, the monks asked for Horncastre's written credentials. He replied that he had none, that the bishop had even excluded witnesses, and that he was the bearer of other orders as well, not to be disclosed till necessary.<sup>19</sup> Stout was the protest. Precedents were adduced from Stichil's and Kirkham's days.<sup>20</sup> The monks besought Horncastre as their brother and fellow-monk to respect the customs of the monastery.<sup>21</sup> For a moment he was moved,<sup>22</sup> but in the end declared he dared not disobey the bishop, now immediate head of the convent. They sought delay to confer with the cell brethren, and, though reminded that the bishop would not brook delay, secured a stay of three days, to get the advice of their old prior, Hugh of Darlington.<sup>23</sup>

At length it was decided to yield. The bishop was after all actuated chiefly by private grudge, however unjust, against a few of the chapter, especially the sub-prior, and for this, interests more general ought not to suffer.<sup>24</sup> A theoretical excuse might be found in the argument that since the sub-prior was removable at the will of the prior, when the prior's jurisdiction expired, the sub-prior's also lapsed, returning to his immediate superior, the bishop.<sup>25</sup> The impelling motive, however, was the struggle with York; were they to enter into a contest with their bishop, all the goods he was now protecting would be confiscate, and they would have embarked upon a sea of danger and expense.<sup>26</sup> Hoton yielded to the majority, being

<sup>19</sup> Graystones, ch. xx; Julius D iv, ff. 109 *et seq.* (fuller).

<sup>20</sup> Julius D iv, ff. 110 d.-111. <sup>21</sup> Graystones, ch. xx; Julius D iv, f. 110 d.

<sup>22</sup> Julius D iv, f. 111, 'aliquantis per motus.'

<sup>23</sup> Graystones, ch. xx; Julius D iv, ff. 111 d.-112.

<sup>24</sup> Julius D iv, f. 112 d.; Graystones, ch. xx. <sup>25</sup> Graystones, ch. xx.

<sup>26</sup> Julius D iv, ff. 112-112 d.: 'Preterea palam est quod dies mali sunt, et oportet nos isto tempore omnibus modis condescendere episcopo nostro, quia si vellemus super hiis contendere cum eo, non possumus resistere ei, nec erit nobis alicubi hiis diebus refugium, maxime cum modo habeat et nos et nostra omnia tanquam inclusos in manu sua. Ecclesie Eboracenses iam insurrexerunt

allowed to hear confessions, and to preside over the congregation in Horncastré's absence. The latter, moreover, conducted himself very well, 'a solace to the general household, and a loveable comrade of its individual members.'<sup>27</sup> But the bishop had had his way, and made good the claims of himself and his predecessors.<sup>28</sup>

The priory had yielded to bishop Bek because of its dispute with York. As this policy proved successful, since the bishop brought the quarrel to a happy conclusion some months later, it becomes necessary to describe its main features. It relates to the archbishop's visitatorial powers. On March 20, 1281, notice of a visitation on June 25 was served on the prior, only five days being allowed for an answer. Insula was on the Scottish border, the elders of the chapter were absent on various missions, and on these grounds the archbishop was asked to excuse an immediate response. In the meantime Insula was notified. He advised procrastinating tactics. The chapter should be careful how it committed itself to writing: let the response to the archbishop be by messenger rather than in writing, as anything written might be tortured by the archbishop into a claim to possession, or quasi-possession, of their subjection. Various excuses might be

*contra nos pro viribus, ut patet. Si igitur Curie appellamus, cum id innotesceret episcopo, statim fulminabit in nos, et omnia nostra, quae nunc sub potestacione sua sunt, confiscabit, et sic intraremus mare magnum et spatiosum, non sine fluctibus tempestacionum et profusione expensarum, comitantes vela ventis et nos et nostra periculis.'* Graystones, ch. xx.

<sup>27</sup> Graystones, ch. xx; Julius D iv, f. 112 d.; 'satis curialiter et bene in cunctis se habens, omnibus de domo erat solacio, universis se amabilem, tanquam socium in singulis, exhibendo.'

A new prior was soon elected and confirmed, Hugh of Darlington, this being his second term in the priorate: Graystones, ch. xxxi; Julius D iv, f. 113, 117 d.-118. At the request of the convent, the bishop forced Hugh to resign, on account of senility, in March, 1290, and soon after, Richard de Hoton became prior: Graystones, ch. xxxi, xxxii, 72-73; *Cart.* I, f. 83 d.; 1-6 *pont.* 11.

<sup>28</sup> *cf.* Lapsley, 50-51; also *vid. infra.* ch. xii, at n. 40.

alleged for not writing, such as the shortness of time allowed for an answer and their distance from their bishop. The chapter had taken no oath of obedience to the metropolitan, nor had the metropolitan power over the subjects of his suffragans except in certain cases—of which this was not one. He would be back in Durham at Easter.<sup>29</sup> At the Easter consultation it was unanimously decided to resist, and later, appeal was taken to Rome, based on the grounds that there were still outstanding appeals in other matters, that the archbishop was violating the mandate of the council of Lyons that a metropolitan visit his own church and chapter before visiting others, and that any visitation ought to begin not with the monks, but with the bishop, then absent. Notice was also taken of the fact that previous archbishops had refrained from visiting the church of Durham, *sede plena*.<sup>30</sup>

On June 25 the archbishop came. Repulsed from the north gate by the bishop's soldiers, he publicly excommunicated the bishop, prior and elders of the chapter, put the entire chapter under interdict, and announced a repetition of the visitation on September 17. From this appeal was made the 26th, on the ground that the archbishop himself was under excommunication—among other reasons for non-payment of the six years' tithe imposed by Gregory x at the council of Lyons. But disregarding all appeal, and even slighting a royal protest, the archbishop's commissioners appeared at the appointed time, only to be halted on the new bridge, and forced to turn aside to St. Nicholas's church without the walls. The affair had the usual termination of appeal, interdict and excommunication.<sup>31</sup>

<sup>29</sup> *Hist. Papers and Letters from the Northern Registers*, 65 *et seq.*, letter to a cardinal. Hemingburgh, II, 219, says Gifford had been repulsed in visitation. See also Julius D IV, ff. 126-126 d.; Graystones, ch. xvii, 58-59; *Reg. Wickwane*, as printed, 153 *et seq.*

<sup>30</sup> Graystones, ch. xvii, 59-60; *Reg. Wickwane*, as printed, 157-166.

<sup>31</sup> Graystones; 60-61; Hemingburgh, II, 7 *et seq.*, 219; *Reg. Wickwane*, printed, 166-173, *cf.* 173-178; Lanercost, 110.

The quarrel thus initiated was complex, long and tedious. A papal commission was secured by the monks to try the case so far as related to the articles respecting the archbishop's non-visitation of his own city and diocese. The commission consisted of the abbot of Waltham and the dean and chancellor of Lincoln. On February 25, 1282, the abbot and the procurators of the chancellor, on the archbishop's non-appearance, annulled the latter's sentences, absolved the prior and elders of the chapter *ad cautelam*, pronounced the metropolitan contumacious, condemned him in 300*l.* damages to the prior and chapter, and ordered his reappearance on June 3.

In the meantime, on the other hand, the dean of Lincoln, to whom exception had been taken, had appointed procurators, and the chancellor, having already given his procurations, had appointed other procurators. These decreed the appeals of the bishop, prior and chapter null *de jure*, and unfollowed, confirmed the archbishop's sentence, condemned the bishop, and the prior and chapter in 500*l.* damages each to the archbishop, excommunicated the other set of commissioners as usurpers of jurisdiction, and annulled their sentence.

On June 3, when the archbishop failed to appear before what we may style the original set of commissioners, they reaffirmed their previous sentence, condemned the archbishop in 200*l.*, less one penny, and in turn pronounced the doings of the second set of judges null and void. At the request of the prior and bishop this decision was reviewed by a fresh commission, and sustained.<sup>32</sup>

In the meantime, the king, as patron of both churches, had become interested, and, through the agency of archdeacon Bek, induced the parties to arbitrate. In an instrument of May 6, 1283, the archbishop appoints two arbitrators and the

<sup>32</sup> Graystones, ch. xvii, 61-63; cf. *Reg Peckham*, II, 645, with reference to part of Canterbury.



bishop and convent one apiece. Their decision is to be rendered before February 2, 1284.<sup>33</sup> It would be useless to go further into the details of the proposed arbitration, as the death of bishop Insula on June 7, 1283, brought the proceedings to naught and began another dreary period of suit and counter-suit.

In the vacancy of the see, the prior and chapter expelled the archiepiscopal officers seeking jurisdiction, and indeed refused to admit archbishop Wickwane himself when he came to visit on July 3. The prelate was so terrorized by the youth of the town when, after a sermon in St. Nicholas's church, he was about to excommunicate the prior and other chapter leaders, that he was glad to betake himself down the steps to the river, and along the bank to Kepier. It was even said that, but for the presence of Guiscard de Charron and Peter de Thoresby, his life would have been forfeit.<sup>34</sup> The excommunication of course issued, notwithstanding.

Even before Insula's death the archbishop had procured a papal mandate empowering commissioners to review the decision of the procurators of the dean and chancellor of Lincoln above mentioned, and, if just, to confirm it. Despite an appeal from this court of review (December 7, 1283), the old commissioners were sustained, the sentence of the abbot of Waltham was declared null and void, and the prior and chiefs of the chapter were suspended.<sup>35</sup>

<sup>33</sup> Instrument in full, Julius D iv, ff. 162-162 d., 177. Bek is styled the king's 'clerk and secretary.' Graystones, ch. xvii, 63, makes no mention of the king.

<sup>34</sup> Graystones, ch. xix, 65; Hemingburgh, ii, 8. Hemingburgh, ii, 219 *et seq.*, gives a vivid account of the archbishop's peril, but the date is wrong, and the whole is of uncertain credibility.

The monks took exception to the visitation; on the ground that the suit begun before the bishop's death was still unsettled; because it was contrary to the terms of the arbitration; because jurisdiction, *sede vacante*, devolved on the chapter; and because the archbishop had disregarded their appeals to Rome; *etc.* Graystones, ch. xix, 65-66.

<sup>35</sup> Graystones, ch. xix, 66.

From this decision a fresh appeal was taken on the ground, among others, that the principal judge, the prior of Coventry, had not been duly regarded in the case.<sup>36</sup> The result was still another reviewing board which rendered its decision early in 1285. The prior's appeals were decreed in order, both as to visitation, and the exercise of jurisdiction *sede vacante*—appeals which had taken just before the archbishop's excommunication on the occasion of the last unfortunate visitation. From this decree the archbishop in turn appealed to Rome; a date was given for a hearing in the curia the following summer; and it was while on the continent on this business that Wickwane met his end.<sup>37</sup>

In this quarrel the monks had found Bek their vigorous and probably constant friend. We have already observed Wickwane's aversion to confirming his election. Even on the morrow of the great consecration he had found Bek recusant. Summoned in virtue of his suffragan obedience to excommunicate the prior and leading members of the house, Bek had retorted: 'Yesterday I was consecrated their bishop; shall I excommunicate them to-day? To do this thing no obedience shall induce me!'<sup>38</sup> The yielding of the monks on the question of spiritualities at the time of the enthronement insured the continuation of this support. By Bek's mediation a final agreement was reached with Wickwane's successor, archbishop Romanus, in less than a year's time. The instrument is dated at York, November 2, 1286. The mediating party is stated to be the bishop of Durham. The archbishops are to have the same rights in Durham, *sede vacante*, as Wickwane's predecessors have enjoyed. All processes and sentences are declared void, and the instrument is in no way to be deemed prejudicial to the rights of the bishops of Durham, *sede*

<sup>36</sup> *Ibid.*, 66-67.    <sup>37</sup> *Ibid.*, 67-69.    <sup>38</sup> *Ibid.*, ch. xviii, 64; cf. *loc. cit.* xiv, 2e.

*plena*.<sup>39</sup> The renunciatory instruments of both parties are dated at Durham, Nov. 9, 1286.<sup>40</sup> The gist of the settlement seems to be a return to a vaguely stated *status quo ante bellum*. Even to-day, the writer was informed by Mr. Hudson, the registrar of York, the control of York over Durham, *sede vacante*, is purely nominal. Though the proper papers are regularly made out by the archiepiscopal authorities, they are as regularly disregarded by the Durham dean and chapter.

### CHAPTER III.

#### THE ROMANUS DISPUTE. THE QUO WARRANTO PROCEEDINGS.

Walter of Hemingburgh, referring to events of a later period, remarks that archbishop Corbridge avoided any visitation of Durham 'eo quod timuit regem et vexationem.'<sup>1</sup> That there may be at least a distorted truth in the remark is suggested by the infelicitous outcome of the next controversy between metropolitan and unruly suffragan. Both in this matter and in the subsequent Quo Warranto proceedings with respect to the palatinate franchises, the king sided with his secretary, and the double triumph of bishop Bek may be said to mark the high water mark both of his pontificate and of the palatinate. The immediate subject of dispute was the impediment put by Bek's officers upon appeals from the local to the archiepiscopal courts.

Some time between February, 1289, and February, 1290, the fourth year of Romanus's tenure of office, the archbishop and

<sup>39</sup> Graystones, appendix, no. LXXIII, pp. xciv-xcvi; *Historians of the Church of York*, III, 212; 4-2 archiep. 3 (original, with seals); *Cart.*, I, ff. 148-148 d.; *Reg. Romanus*, f. 69 d.; Lansdowne, 402, ff. 79 d.-80; Graystones, ch. XXI, 73 (makes cardinal Hugh of Evesham the prime mediator).

<sup>40</sup> *Cart.* I, f. 183; Lansdowne, 402, ff. 79-79 d.; *Reg. Romanus*, f. 69 d. For some unimportant disagreement at Bek's death, see *Reg. Greenfield*, ff. 198-199. Hemingburgh is severe in his strictures on the policies of successive archbishops toward Durham; Hemingburgh, II, 71, 221.

These renunciations must have made of no effect the bull of Honorius IV, dated 12 Dec., 1286: printed in appendix to Graystones (*Scriptores Tres*), p. xciii, no. LXXII.

<sup>1</sup> Hemingburgh, II, 221.

his chapter complained to bishop Bek that his official, Alan de Esingwald, was systematically hindering appeals from the court of Durham to that of York, and extorting fines from persistent appellants by threats of imprisonment.<sup>2</sup> In March, 1291, relying on the decree of a provincial synod at Beverley, the archbishop bade his suffragan excommunicate *in genere* all infringers of the liberties of the church of York.<sup>3</sup>

Under date of July 31, 1291, there occurs a letter in the archiepiscopal register relating to the appointment of arbitrators, the arbitration to be valid only if a decision be reached before August 15.<sup>4</sup>

Evidently no decision was reached. Before the end of the month Romanus was complaining to his commissary, William de Wrelton, that the bishop either contemptuously spurned the archbishop's letters relating to the execution of justice, or, when he did in rare cases accept them, failed to give them obedience or acknowledgment. Esingwald, though publicly excommunicated, was still the bishop's active abettor. It was in no wise, therefore, because the archbishop felt unjustified in harsher methods, but for reverence to the king in whose service Bek was then employed, that he commanded Wrelton to give the bishop eight days to make satisfaction, or else appear at York on October 5, to receive justice.<sup>5</sup>

<sup>2</sup> *Reg. Romanus*, f. 101 d. No date: in margin, 'de anno quarto.' Bek's opening relations with Romanus seem to have been friendly: cf. *Reg. Romanus*, f. 113 d., where the archbishop requests Bek's good offices with the king in securing leave of absence from the king's service for John de Lythegraines whom he desires to make his steward; and note the above described successful conclusion of the visitation dispute.

The evidence on which this chapter is based is, of course, one sided.

<sup>3</sup> *Ibid.*, f. 102 (March 21). The previous December, Bek and his clergy had failed to appear at the northern convocation, which granted a tenth to the king: *ibid.*, ff. 5 d., 102.

<sup>4</sup> *Ibid.*, ff. 102, 81 d.

<sup>5</sup> *Ibid.*, ff. 102-102 d. (August 28, 1291). A letter of like form and tenor had been sent directly to Bek on 24th August: *ibid.*, f. 103. Bek was also

Before this date Bek had taken the step which initiated the catastrophe. Its nature is indicated by a summons of September 23, 1291, immediately to release William de Wrelton and John de Amelia, bearers to Bek of Romanus's despatches, but still detained in prison by the bishop's constable, John de Maidenstaines [Maidstone].<sup>6</sup> A second summons of October 24 added the penalty, for disobedience, of suspension of the right to enter any church, and ordered amends to the victims and the excommunication of the captors.<sup>7</sup> On the day previous, the clergy of the diocese of York had been commanded to put under interdict during Bek's presence all places in the diocese through which he might pass.<sup>8</sup>

This latter action, however, offended the king, who bade Romanus rescind the order, at least until the approaching parliament at London. Romanus received the royal summons November 2, but begged to be excused from rendering obedience till he might personally explain matters to Edward, to whom he was even then on the way.<sup>9</sup> At the interview the king must have had his way, for a relaxation of the interdict was issued at Worcester, November 10.<sup>10</sup> A week later Bek was a third time summoned to release the prisoners, this time under threat of the greater excommunication.<sup>11</sup>

In the meantime Romanus had secured the royal permission ordered by Robert de Lacy, official of York, to excommunicate Esingwald throughout the diocese. The order is undated, but the previous entry bears date of 29 August: *ibid.*, ff. 102 d.-103.

The Durham monks were simultaneously in dispute with Romanus with respect to the churches of Alverton, Estrington, Hoveden, Welleton, Walkington, Brancingham, Hemingburgh, Skipwich, Holteby, Siggeston, and Rungeton: *ibid.*, f. 102 d.

<sup>6</sup> *Ibid.*, ff. 103-103 d. The suit in parliament shows that Wrelton and Amelia bore summons to Bek to appear and answer for his disobedience. 'Wrelton' and 'Pickering' are the same man.

<sup>8</sup> *Ibid.*, f. 103 d.

<sup>9</sup> *Ibid.*, f. 103 d.

<sup>10</sup> *Ibid.*, f. 103 d.

<sup>11</sup> *Ibid.*, f. 103 d.-104: twelve days' time were allowed (17 Nov.).

to go to the Curia,<sup>12</sup> and it was at Viterbo, April 2, 1292, that he took the fatal step of ordering Bek's excommunication. Ignorant, of course, at the precise moment whether the two clerks had been released, he addressed letters in two forms to fit either contingency, to his official at York and to Bogo de Clare, canon of York—the one for the diocese of York, the other for that of Durham. Some days later a similar mandate was sent to the prior of Bolton-in-Craven; and it was the prior's execution of the latter order which was made the basis of the great suit.<sup>13</sup>

At the Easter parliament of 1293 Romanus had to answer to the plea of having excommunicated the bishop of Durham, 'recently in the parts of the north, in the king's service, at the king's side, by the king's precept, and under his protection,' on the ground of the imprisonment by the bishop's bailiffs of the two messengers, although pleas of imprisonment and other violations of the king's peace pertained to the king.

The archbishop based his defence on his right, as canonical superior, to excommunicate his suffragan, not for temporal mis-doing, but for disobedience to canonical mandates. As to the bishop's having been in the royal service, he disclaimed blame on the ground that he was abroad at the time, and that the execution of the sentence having been entrusted to the prior, the latter must take the responsibility for its undue promulgation.

Less subtle than the archbishop with respect to the facts in

<sup>12</sup> *Cal. Pat. Rolls*, 1281-92, pp. 443, 450 : protections of 20 Sept. and 10 Nov., 1291 (19 Ed. I, mm. 6, 2).

<sup>13</sup> *Historical Letters and Papers from the Northern Registers*, 97 et seq.; *Reg. Rom.*, ff. 104-105. In case the clerks had been liberated, the position is taken that it had not been within the period fixed by the archbishop, nor because of ecclesiastical command. See also: Wilkins, *Concilia*, II, 184; *Rot. Claus.*, 20 Ed. I, m. 2 d. (*Cal.*, pp. 272-3); Prynne, III, 456; *Rot. Parl.*, I, 102; *Liber A*, ff. 176-176 d.

There was trouble at this time as to the treasureship of York, by which Bek and the monks would seem to have attempted to profit. *Reg. Romanus*, f. 105, ced. facing 5 d.

question, but more so with respect to the principles involved, Richard de Breteuill, the king's attorney, answered with the famous dictum: 'Episcopus Dunelmensis habet duos status, videlicet, statum episcopi quoad spiritualia et statum comitis palacii quoad tenementa sua temporalia.'

In the middle of April the court sustained Breteuill's argument, and 'it was held that, since the imprisonment was effected by the lay officers of the bishop during his absence, and since the castle in which the commissaries were confined was of the barony and not of the see (for the king held it *sede vacante*), the bishop was justified; and judgment was therefore given in his favour.' Romanus afterward made fine for four thousand marks,<sup>14</sup> which were still unpaid at his death, but were finally pardoned to his executors.<sup>15</sup>

The full meaning of the outcome of the suit is, however, apparent only when it is studied in connexion with the Quo Warranto proceedings of the ensuing year, and already pending.

The statute of Gloucester of 1278, a step in a policy initiated four years previously, aimed still further to extend the royal jurisdiction at the expense of local franchises. By its provisions the sheriffs were to summon all claimants of franchises within their respective bailiwicks to support their pretensions before the king's justices itinerant.<sup>16</sup> We accordingly find Cressingham and

<sup>14</sup> *Rot. Parl.*, I, 102-105; *Cal. Close Rolls*, 1288-1296, pp. 330-334 (21 Ed. I, mm. 3 d., 2 d.). *Ann. Monastici*, III, 376 (Dunstable). Eversden (*Cont. of Florence of Worcester*), II, 267 (makes visitation the cause of trouble, and calls the fine 3,000l.); Lapsley, 53. Dr. Lapsley's excellent summary of the decision is here quoted; the provoking cause of the contest did not, however, relate in any wise to visitation. cf. Hemingburgh, II, 221. See also article 'Romanus,' *Dictionary of National Biography*, XLIX, 182, by C. L. Kingsford. See also Pollock and Maitland, *History of English Law before the Time of Edward I*, 2nd ed., I, 523 et seq., and cf. Stubbs, *Constitutional History of England*, II (4th ed.), 107, on question of relation of this and similar instances to an afterward interrupted growth of a 'doctrine of public or official capacities.'

<sup>15</sup> *Rot. Claus.*, 24 Ed. I, m. 9 ced. 26 March, 1296 (*Cal.* 477).

<sup>16</sup> *Statutes of the Realm*, I, 45 et seq.; Stubbs, *Constitutional History*, II, 114.

his associates holding court for this purpose at Newcastle, at Hilary, 1293. The sheriff of Northumberland gave testimony as to unreported franchises, which were then made the subject of jury investigation. But although the sheriff reported that he had given due notice of this procedure throughout his entire bailiwick, the bishop did not come to plead his rights. Thereupon, in accordance with the statute, and resting on the jurors' verdict, supported by the records of the county, that the bishop's Liberty was 'within the bounds of the county,' the court decreed that the Liberty be taken into the king's hand. On May 25 the sheriff reported due execution of the sentence.

Already, on the twentieth, the bishop had procured a writ ordering the justices to inspect the rolls of the previous iters: should no precedent be found in these for the appearance of the bishop or his bailiffs, the judges are to excuse their appearance. Whatever the result of this, the sheriff was on June 5 ordered to restore the franchises, provisionally, till the quindene of Michaelmas.<sup>17</sup> Cressingham was simultaneously commanded to produce the record of the seizure at the same date.

When the record was produced in council the following October, the bishop pleaded a twofold demurrer. In the first place the statute of Gloucester, on which the proceedings were based, and the writs of summons of the iter, had provided that all claimants of franchises in the counties where the justices were itinerant should claim them on the first day of the iter. In the second place, the sheriff had been bidden to make proclamation throughout his bailiwick. But neither of these orders could be construed to affect the bishop. Durham was not a part of the county of Northumberland. The justices were itinerant in Northumberland, not in Durham, nor might they exceed the limits of the county in which they were itinerant. With respect

<sup>17</sup> *Rot. Claus.*, 21 Ed. 1, m. 7 (*Cal.* 286). The statute of Gloucester provided for such replevin.



to Durham the bishop, therefore, did not fall under the classification of the statute, nor did he come under the jurisdiction of the judges. On the other hand, the sheriff of Northumberland was not the sheriff of Durham. He neither had made, nor rightfully could make, proclamations or attachments in Durham; nor could the justices extend his office thither. The bishop, therefore, had never legally been summoned.

The plea proved successful, and, of course, obviated the need of any direct defence of the franchise, the bishop contenting himself with a summary statement of the usual prescriptive nature.<sup>18</sup>

Only a few months previously the king's attorney had recognised the outcome of a long internal development in his definition of the bishop's combined temporal and spiritual status. The Quo Warranto pleadings and decision define the exceptional position of the bishopric with respect to 'its lack of organic connexion with the central institutions of the kingdom.'<sup>19</sup> Palatine origins aside, this judgment marks the acknowledgment of the palatinate's essential autonomy by the kingdom. As against the crown, the bishop might rely on his liberties; as against the metropolitan, on his liberties and on the king.

Edward was unlikely always to view this condition of affairs with complaisance. In a few years Bek largely forfeited

<sup>18</sup> *Rot. Parl.*, i, 117 *et seq.*; *Placita de Quo Warranto*, 603 *et seq.*; MS. Stowe, 930 f. 513; loc. v, 34 (respecting liberties in Yorkshire); *Plac. de Quo Warranto*, 187 *et seq.* (on same). It will be noted that Bek has dropped 'the formal mark of dependence' of 'petitioning pleas of the crown': Lapsley, 172-173; *Plac. de Quo Warranto*, 603 *et seq.* (*qui in ultimo itinere hic ab hujusmodi petitione se subtrahit*). The decision saves the rights of the king and his heirs whenever they may choose to consider them. Both the *Rot. Par.* and the *Plac. de Quo Warranto* enumerate the regalities.

<sup>19</sup> Lapsley, 21; and *cf.* 28: 'the very use of the term "palatinus," first applied to the bishop in 1293, probably had its effect; for in the beginning of the next century, and often afterwards, it was contended in the royal courts that the bishop was as king in Durham.' *cf.* also ch. x, n. 39.

the royal affection, and the king regained a considerable hold within the franchise, never entirely lost to his successors. The confiscations of 1302 and 1305, however, will relate to royal check and control, merely, of the regalities substantially acknowledged in 1293.

## CHAPTER IV.

## DIOCESAN ACTIVITY.

Busy as was bishop Bek in the years between the Quo Warranto proceedings and his great fight with the king, the priory, and the tenantry of the bishopric, there was no sharp crisis in ecclesiastical or palatine spheres. This breathing spell, therefore, may properly be utilized for a consideration of his distinctly diocesan activity.

Anthony Bek was the founder or restorer of three of the six collegiate churches of the bishopric. Norton and Darlington were lesser foundations, long before established, and more than a century was to pass before the munificent endowment of the church of Staindrop by Ralph de Nevill.<sup>1</sup> Bek elevated the churches of Lanchester and Chester-le-Street into collegiate churches, and rehabilitated the already established collegiate church of Auckland.<sup>2</sup>

Chester was established November 9, 1286. Lanchester has claim to priority, although there may be question as to the exact date. The provisions of the foundations are similar. Each is to have a dean and seven prebendaries. The former is always to be in priest's orders and to live in residence. He must find two chaplains and other minor clerks to conduct the work of the church, and, though not compelled to make additions, must keep

<sup>1</sup> *Monasticon*, vi, 1452-3, 1401. Richard of Gloucester, later Richard III, intended to found such an establishment at Barnardcastle: *ibid.*, 1440. For Bamborough and Ponteland in Northumberland, see *ibid.*, 1461.

<sup>2</sup> In each case for the good of a large parish: *cf.* Acts of Estab. of Lanchester and Auckland, 'parochiam esse diffusam.'

the chancel in repair. The small tithes and some other special revenues are assigned him for support. Each of the prebendaries is to support a vicar, and is to find support in carefully designated predial tithes. One-tenth of the portion of each non-resident is assigned to residents, or, if there be none, to the use of the poor of the several prebends. A further premium is put upon residence by the equal division of certain residuary tithes among those in residence at least three months. The service follows the use of York or of Salisbury. There are to be daily matins for the benefit of parishioners.<sup>3</sup>

The statute initiating the reforms at St. Andrew's Auckland, is dated January 14, 1293. The preamble points out the decline of the resources of the church, and takes note that the canons neither keep residence nor maintain vicars. A new prebendary is therefore added, to be supported from the tithes of recently

<sup>3</sup> *Monasticon*, vi, 1333, 1338; Prynne, iii, 462, 460; *Rot. cart.*, 20 Ed. I, mm. 4, 3 (*Cal.* 422); *Cal. Papal Letters* (1198-1304), 570-571; *Les registres de Boniface VIII, recueil des bulles de ce pape, publiées ou analysées d'après les manuscrits originaux des archives du Vatican*, par Georges Digard, Maurice Faucon et Antoine Thomas, i, col. 719 (no. 1894, for Chester), col. 723 (no. 1895, for Lanchester); cf. Surtees, *History and Antiquities of the County Palatine of Durham*, ii, 309, 143. The instrument relating to Lanchester is also in *Reg.* ii, ff. 266-266 d.

The instrument establishing Lanchester is dated 12 kal. Oct., 1283, and the first year of Bek's consecration. This document in turn includes another of the same bishop of 8 kal. April, 1283. Aside from both dates being previous to the consecration, which occurred 9 Jan., 1284, it is noteworthy that the second date (8 kal. April, 1283) falls within the life of bishop Robert de Insula. Is Bek, like another Pharaoh, stealing a predecessor's monument?

An instrument of bishop Kellawé, 17 Feb., 1313, grants Robert de Baldok the fruits and incomes assigned by the foundation statute to residents of the church of Chester, as having 'made personal residence in the said church, in which no other canon but you ever resided.' 'Vacat' is written in the margin, but this would only questionably affect the truth of the statement about residence: *Registrum Palatinum Dunelmense*, ii, 987, and 988 n. 1.

Thomas Bek was about the same time labouring to establish a prebendal church at Llangadoc Fawr, in Caermarthenshire: *Monasticon*, vi, 1332.

See also *Taxatio ecclesiastica papae Nicolai*, 315, and *Valor ecclesiasticus*, v, 314, 312.

converted waste land in the parish, amounting to 10*l*. The additional stall is annexed to the vicarate, which is in turn raised to decanal dignity in the person of the existing incumbent, Robert de Alberwyk. The dean must stay in residence and maintain a priest to say daily mass in the chapel of the bishop's manor. To deprive non-resident and non-represented canons of all excuse, a certain area is assigned on the south side of the church, upon which they are enjoined to erect proper buildings within two years. The prebendaries are distinctly chided for not having 'taken care to institute vicars or other clerks, although it would have increased the resources of their prebends not a little.' Non-residents must henceforth keep vicars: the vicars of the first five canons to receive five marks each per year; the vicar deacons of the next four canons only forty shillings. 'The rest' are to have subdeacons or other suitable clerks at thirty shillings per year.

These provisions remained in force for over a century and a quarter, when bishop Langley made certain alterations to meet changed economic conditions.<sup>4</sup>

<sup>4</sup> *Monasticon*, vi, 1335, and, from *Monasticon, Archaeologia Aeliana*, 2 ser., xx, 152; *Reg.* ii, ff. 343 d-344; *Reg.* iv, ff. 3 d., *et seq.*; *Cal. Pat. Rolls*, 1307-1317, p. 558 (10 Ed. ii, pt. i, m. 10).

Edward II claims to be using the precedent of Auckland when he requests of one of Bek's successors that Bernard de Kyrkeby, vicar of Norton, be made a dean, that his 'residence' might not hinder his attendance upon the king: MS. Lansdowne, 397 f. 271, printed in appendix to *Reg. Pal. Dun.*, iv, 505. As to residence of dean, however, see also *ibid.*, i, 619. 'The rest' are probably three remaining canons, making twelve in all, as such is the number in Pope Nicholas's *Taxation*, p. 315. *cf. Valor Eccles.*, v, 315.

Langley's statute, which recites Bek's statute, is interesting as containing a reference to Bek's lost register.

As to the older foundation, see Dr. Hodgson, *Arch. Ael.*, 2 ser., xx, 127. Already within the third year of his consecration Bek had granted Adam de Brampton, precentor of Lincoln, certain tithes, and other increase of his Auckland prebend: *Charters at Durham*, no. 5, dated Dover 4 ( ), 1286. *cf. Cal. Pap. Letters*, i, 614, for addition of church of Halveton to prebend of Stephen de Mauley (1304).

In less than five years, bishop Bek authorized the establishment of a chantry in the same church, at the altar of the Virgin Mary, by gift of William Faukys and Edith his wife, the incumbent to render five shillings annually at the bishop's exchequer.<sup>5</sup>

Bek's part in establishing a chantry at Norham was of the same character. A certain Richard of St. Oswald's, procurator of Norham, there held certain lands of the bishop, *in capite*. These he quitclaimed to the bishop, reserving certain incomes and lodging for life. The bishop then endowed a chantry with the land, 1288, 'saving to himself and his successors the services thence due and accustomed.' The first incumbent was to be Richard's ward, Robert of Norham.<sup>6</sup>

As regards appropriations, bishop Bek's were of the less harmful kind, *quoad temporalia*, and at least two of them were plainly in strictest accord with the legislation of Ottobone.<sup>7</sup>

In finally appropriating the church of Greatham to Greatham hospital, he was carrying out the intentions of bishop Stichil. Stichil had given the advowson to the hospital, and in 1303 Richard de Toppeclyve was rector by its presentation; but Stichil's further provision that on the death of the incumbent at the time of the gift of the advowson, preceding Toppeclyve, the church might be converted to the uses of the hospital, had never been given effect. Toppeclyve was now induced to resign

<sup>5</sup> *Reg.* II, ff. 298 d.-299, in a series of confirmations. The original endowment is dated Auckland, 17 June, 1298. The income of the chantry was augmented in 1300 (Nov. 30) by a gift of twenty acres of waste in the bishop's forest: *ibid.*

<sup>6</sup> *Reg.* I, pt. II, ff. 33 d.-34; *Durham Charters*, no. 5550 (at Durham, 24 Aug., 1288): confirmed at Durham, 3 July, 1289). *cf.* Statute of Mortmain, Stubb's S. Ch. (8th ed.), 458.

<sup>7</sup> Wilkin's *Concil.*, II, 10, ch. XXII (1268). For a treatment of the entire subject of appropriations, and particularly as to the three kinds, 'pleno jure,' 'quoad temporalia et spiritualia,' and 'quoad temporalia,' see Makower (tr.); *Constitutional History and Constitution of the Church of England*, 329 *et seq.*

his rights, and the appropriation took place as attested in a document of June 20, 1303. Appropriate provision is made for a vicar.<sup>8</sup>

Acts of devastation during the Scottish wars underlay the appropriation of the church of Stamfordham to the monastery of Hexham in the diocese of York, on the death of the then incumbent,<sup>9</sup> and to the monks of Carlisle, of the remainder of the church of Whickham, the moiety of which they already possessed.<sup>10</sup> In each case the usual provisions are made for vicars.

In 1288 bishop Bek licensed the prior and convent of Gisburn to appropriate the vicarage of Hart during the prior's life-time, the church to be duly served in the meantime by two of their canons. At the prior's death the house was to present like any 'patron.'<sup>11</sup> Early in 1309, an episcopal instrument states that the canons were then canonically holding the parish church of Hart and the chapel of Hartlepool, and gives special indulgence that henceforth, so often as need be, they shall present one of the chapter to the bishop, who shall institute him therein, to answer to the bishop for spiritualities and to the canons for temporalities; and to be supported from a share of the revenues of the church.<sup>12</sup>

To the chaplains of the newly constructed chapel at Auck-

<sup>8</sup> *Reg.* i, pt. ii, ff. 34 d.-35; *Monasticon*, vi, 690; Surtees, iii, 134 *et seq.*, appendix, 389 *et seq.* The manor of Greatham came to the bishops as forfeiture of war, from Peter de Montfort, after Evesham: Lapsley, 42.

<sup>9</sup> *Reg.* i, pt. ii, ff. 29 d.-30; dates Somerton, 2 Oct., 1307; *Priory of Hexham*, etc. (44 Surt. Soc. publ.), i, pref. pt. i, lxxxvii, note r.; *History of Northumberland*, issued by the Northumberland county history committee, iii, 136 *et seq.*

<sup>10</sup> *Reg.* i, pt. ii, ff. 32 d.-33: dated Carlyle, July 29, 1307. Hexham and Carlisle are the cases referred to as thoroughly in accordance with the constitution of Ottobone.

<sup>11</sup> *Reg.* i, pt. ii, ff. 27 d.-28; *Durham Charters*, 6193 (Durham, March 29, 1288); Surtees, iii, 95-96.

<sup>12</sup> *Reg.* i, pt. ii, f. 28; *Durham Charters*, 6194 (Durham, Feb. 16, 1309); Lansdowne, 902, f. 418 d.

land, Bek appropriated the church of Morpeth. At his death, however, its patronage was won in a law suit by the lord of Graystock, and the chapel remained unendowed.<sup>13</sup> The appropriation of the church of Simonburn is an example of appropriation *mensae episcopali*. This was allowed by licence of Boniface VIII, July 11, 1297, in perpetuity, on the death or resignation of the then incumbent.<sup>14</sup>

In the case of the church of Ponteland, in Northumberland, the bishop strove unsuccessfully, and it would seem illegally, to prevent the taking effect of an appropriation made by one of his predecessors. This church, to follow an unfriendly account, was claimed by the warden and scholars of Merton, by gift of its former patron, Peter de Montfort, and by appropriation of bishop Stichil, with the consent of his chapter, the appropriation to take effect on the death of the rector and two portionaries. One of the portionaries resigning and the other dying, the warden and brethren took the portions. But when the rector died, bishop Bek seized the collation, turned out the scholars by violence, and gave the rectory and the two portions to Adam de Driffeld, Charles de Beaumont and Philip de Wiloughby, respectively,

<sup>13</sup> Graystones, ch. xxxi, 90. cf. Hodgson, *Archaeologia Aeliana*, 2 ser., xx, 130. Dr. Hodgson styles this 'his unjust and illegal seizure of the church of Morpeth for the endowment of his domestic chaplains.'

<sup>14</sup> *Cal. Papal Letters*, I, 573; *Registres de Boniface VIII*, vol. I, 815, no. 2125; Lansdowne, 397 f. 240 d.; Graystones, ch. xxx, 88: the basis of the action is expense incurred by the bishop in the Scottish wars. Suitable provision is to be made for cure of souls.

In April, 1306, Clement v gave Bek licence to grant two of his clerks, if necessary, a plurality of benefices, to amount to two hundred marks per year: *Registrum Palatinum Dunelmense*, I, 526 et seq.; cf. *Cal. Papal Letters*, I, 613, and Lansdowne, 397, f. 200 (for this and other favours to Roger de Waltham, in whose interest the licence was used). Bek cared for his officials in the same way the king had cared for him.

On the other hand, Bek was constantly appointed with others, by Clement v, to care for the interests of Italians holding English benefices: *Cal. Papal Letters*, II, 12, 45, 59, 71; Lansdowne, 397, ff. 211 d.-212.

and, on Beaumont's death, his portion to another clerk. The pope, appealed to by Merton, ordered the chancellor of York, the archdeacon of Leicester and Gilbert de Segrave, to induct the warden and scholars, and to defend their possession. Again the *de facto* possessors appealed to violence, simultaneously questioning the patronage of Montfort, and the assent of Stichil's chapter to the appropriation. Notwithstanding these and other exceptions, pope Boniface VIII confirmed the possession of the scholars by a mandate of Jan. 11, 1302.<sup>15</sup> The bishop appears to have acquiesced without further dispute, for in August, 1303, he is assigning the vicar's portion, and acknowledging the college as rector by the pope's gift.<sup>16</sup>

Of Bek's indulgences, three at least are extant: one of forty days to those praying for the souls of Mathew Huse and his wife

<sup>15</sup> *Cal. Papal Letters*, I, 605-6. On 22 Sept., 1302, the pope gave dispensation to Driffeld to hold the rectories of Witeburn and Ponteland, and, on resigning either, to accept that of Stamfordham: *Cal. Papal Letters*, I, 605. But when in 1307 Bek appropriated the latter church to Hexham, the rector on whose death or resignation the appropriation was to take effect was Richard de Drokensford: *Reg.* I, pt. ii, ff. 29 d.-30. As a matter of fact, Driffeld had attempted to assert his right, for when the king had recovered the advowson of Stamfordham against bishop Bek himself, in the court of King's Bench, and had forthwith presented John de Drokensford, keeper of the wardrobe, Driffeld had asserted himself the parson, and appealed to Rome. For this injury to the king and his appointee, he was summoned to court, and on persistent non-appearance, was outlawed: *Coram Rege Rolls*, Easter 33 Ed. I (no. 180), m. 38 d., and Easter 34 Ed. I (no. 184), m. 57.

Thus are satisfactorily accounted for Driffeld's non-mention in the appropriation to Hexham, and also the clause in the appropriation wherein Hexham is styled the patron of Stamfordham 'prout apparet per cartam claræ memoriae Edwardi nuper regis Angliæ.' The difficulty involved by the 'Richard' and 'John' of the charter, and the *Coram Rege* rolls, is negligible in this connexion.

<sup>16</sup> *Additional MSS.*, 15664, f. 66, dated Barnard Castle, 21 August, 1303, consecrat. 20th. The writer has not met, or has overlooked, the ultimate original from which this translation was made. It appears entirely trustworthy. For the somewhat analogous case of the church of Sourby, see *Monasticon*, VI, 144, and *Hist. MSS. Com.*, 9th Report, pt. I, app. 183.



Agnes, and of Johanna and Margaret, formerly wives of Henry Huse<sup>17</sup>; one of twenty days to visitants at the newly constructed altar of the Holy Cross in Durham cathedral, and to those helping to maintain its lights<sup>18</sup>; and one of forty days in his patriarchal, plus forty days in his episcopal capacity, to those visiting the feretory of St. Cuthbert and other relics in the cathedral, or helping to support the church.<sup>19</sup>

The architectural work of bishop Bek is of uneven quality. None of it does him less credit than his treatment of Auckland church, described by Dr. Hodgson. 'Among the first results of the resettlement of the collegiate body, as it was certainly the most disastrous,' writes Dr. Hodgson, 'was the general recasting of the church. . . . Indeed it would be no easy task to name a case in which the subsequent alteration was so utterly destructive, or the original work so worthy of sympathetic and respectful treatment as it was here. But it found none. Rather it was treated as a mere *corpus vile* unworthy of any regard at all.'<sup>20</sup>

On the other hand the architectural character of the great hall of Durham castle is said to point to Bek as its indisputable builder,<sup>21</sup> and he would likewise seem to have to his credit the round tower of Barnard castle, its most striking feature, 'an

<sup>17</sup> *Add. Charters*, 18593, with remnant of seal: dated Hertelegh, 7 Aug., 1285.

<sup>18</sup> *Durham Charters*, 1509: Durham, 1 Dec., 1301.

<sup>19</sup> 2-13 *pont.*, 6. To this is attached the finely preserved and magnificent patriarchal seal, a duplicate of which in sulphur is possessed by the British Museum. Eltham, in diocese of Rochester, 5 June, 1310.

<sup>20</sup> Rev. J. F. Hodgson, *Archaeologia Aeliana*, 2 ser., xx, 129 *et seq.*; reviewed in *Athenaeum*, no. 3788, 2 June, 1900, p. 695. Dr. Hodgson brings this work into unhappy contrast with Bek's epithet, 'magnanimous.' Bek's taste in this matter compares sadly with the artistic insight of his royal master: cf. Ramsay, *Dawn of the Constitution*, 530.

<sup>21</sup> J. R. Boyle: *Comprehensive Guide to the County of Durham*, 173. 'One of the finest halls in England': Rev. Dr. Gee, *Day in Durham*, 12.

admirable piece of work, and,' adds Dr. Hodgson, 'of faultless construction.'<sup>22</sup>

Although Graystanes informs us that he 'most sumptuously built up the manor of Auckland with a chapel and chambers,' it is impossible definitely to determine what part of the present buildings are ascribable to Bek. It is possible that he rebuilt that part of the castle in which an old chapel had existed before his day, 'or added to it what is afterwards called the upper chapel'; and it is 'exceedingly probable' that he built 'the part of the castle now chiefly occupied by the drawing room.'<sup>23</sup> The favoured visitor may still examine the patriarchal cross carved in relief over one of the interior stairways of the palace.

#### CHAPTER V.

##### GROWTH OF DISCONTENT IN THE BISHOPRIC.

As has been already noted, no real crisis occurred in Durham affairs between the law suits of 1293 and the great convulsion of 1300. When the crisis came, it proved to be of twofold character: the bishop found himself estranged at once from his tenantry and from his chapter.

##### *Bek and his Chapter.*

Although the quarrel between Bek and his monks must have been germinating from the time of the former's interference with

<sup>22</sup> Rev. J. F. Hodgson, *Archaeologia Aeliana*, 2 ser., xx, 121, n. 46; Boyle, *ut sup.*, 686.

<sup>23</sup> *Boldon Buke*, ed. William Greenwell (25 Surt. Soc. publ.), appendix xxxiv; *Scriptores Tres* (Graystanes), appendix, no. lxxviii, p. xcix; Graystanes, ch. xxxi, 90; Boyle, *ut sup.*, 483 (here quoted). Cf. *Memoirs of the Life of Mr. Ambrose Barnes*, (50 Surt. Soc. publ.), appendix, 394, note.

For other work ascribed to Bek within or without the diocese, see: Graystanes, ch. xxxi, 91; 9 Surt. Soc. publ., I, xxxv; Godwin, *De Praeſulibus*, ed. 1615, p. 658; Tanner, *Bib. Britannico-Hibernica*, London, 1748, p. 83; *Rot. Pat.*, 9 Ed. I, m. 17 (Cal. 440), royal licence to crenellate Somerton manor; Leland, *Antiquarii de Rebus Britannicis Collectanea*, 2nd ed., I, pt. ii, 334.

the internal affairs of the monastery, in 1285-6, with the thereby involved slight to sub-prior Hoton,<sup>1</sup> the feud would seem to have been for some years thoroughly quiescent. The bishop's satisfactory termination of the chapter's dispute with York was in itself some offset to his previous conduct.<sup>2</sup> Toward the end of 1291, the year after Hoton became prior, bishop Bek licensed the monks to purchase, or receive as a gift, thirty or forty marcates of land or revenue anywhere within the bishopric,<sup>3</sup> and a little later granted them free chase, 'una cum ayris avium silvestrium,' but without deer-leaps, in their parks at Muggleswick.<sup>4</sup> It is not unlikely that to this period, also, should be assigned the bishop's restoration to the monastery of certain lands in West Durham, belonging to the convent from early times, but of late put to ferm by the bishop's bailiffs as if the bishop's own.<sup>5</sup> One is likewise inclined to attribute to the same epoch the 'draft of a charter which the prior of Durham' ventured to beseech 'bishop Anthony to concede, but which he did not obtain.' This charter would have given to the chapter the bishop's holdings in the South-bailey and in the North-bailey to King's gate, and, outside the walls, whatever is contained 'in land or water, in circuit to the north part of the Galilee'—all this to give more space for promenade, and to avoid danger from conflagration of the neighbouring houses and from the moral pollution of the thievery, and worse, of their tenants.<sup>6</sup> If the request exceeded

<sup>1</sup> Ch. II, *supra*.

<sup>2</sup> *Ibid*.

<sup>3</sup> *Scriptores Tres*, append., no. LXXV, xcvi (Alverton, 6 Nov., 1291); 3-9 *pont.*, 1.

<sup>4</sup> *Feodarium*, ed. William Greenwell (58 Surt. Soc. publ.), p. 182, n. (on p. 183); 3-2 *pont.*, 16; *loc.*, III, 3; *Charter Roll*, 28 Ed. I, mm. 11, 8 (*Cal.* 481, 482).

<sup>5</sup> *Reg.* I, pt. II, ff. 29-29 d.

<sup>6</sup> *Reg.* I, pt. II, f. 29: 'Forma carte quam petebat prior Dunelmensis sibi concedi ab Antonio episcopo, sed non obtinuit.'

'Universis (etc.), Antonius dei gratia Dunelmensis episcopus, salutem (etc.). Cum . . . karissimi in Christo filii nostri prior et conventus

Bek's 'magnanimity' to grant, it perhaps testifies to the existence of no great tension between prior and bishop at the time.

On the other hand the financial relations of the two constantly generated friction and may be called the tap root of the final conflict. In 1305, in the matter of the non-renewal of a sentence of Benedict XI, the party of Hoton assert that Bek's eagerness for his removal is due wholly to the rancour 'caused by the prior's not falling in with his rapacity as often as the bishop desired that the goods of the house be pledged in his behalf to the merchants for great sums of money, and wished to consume the goods and get them in his power for purposes of prodigality.'<sup>7</sup>

Dunelmensis . . . in tam angusto loco infra ballivum nostrum Dunelmense sint constituti et undique arcus obsessi . . . ; intuentes eciam ecclesiam nostram Dunelmensem et mansionem dictorum filiorum nostrorum non modicum discrimen et periculum imminere, tam per subitam et frequentem domorum combustionem, sicut sepius ob earundem contiguitatem et situm importuum ex insperato evenit, ac futuris temporibus posset evenire, tam propter, quod super omnia delendum est, quod ibi ad animarum dampnationem varia et innumera ac intolerabilia irreverenter frequenter facta sunt facinora per furium ac latronum ac malarum mulierum inhabitantium detestabilem conjunctionem, . . . concedimus, damus et pro nobis et successoribus nostris . . . presentis scripti tenore confirmamus supra nominatis filiis nostris . . . totam aream terre in Suthballio, et omne dominium quod habuimus, videlicet, a porta Australi usque ad ecclesiam beate Virginis in Northballio, et sic descendendo usque aliam portam que dicitur Kyngyhate, et ab illa porta quicquid extra murum continetur, tam in terra quam in aqua, in circuitu usque ad aquilonalem partem Galilee ecclesie nostre . . . Et quod licite possint dictas terras includere, evellere, plantare, et superedificare, et omnimodum suum commodum inde facere prout sibi et utilius viderint expedire, sine ullo impedimento . . . imperpetuum,—It is further indicated that the tenure is to be in free alms. The need of more room for exercise and retirement is likewise touched upon.

It is, of course, not impossible that this, and the above transactions, were isolated adjustments, or attempted adjustments, of the financial relations of chapter and bishop. Too much weight should not be attached to them.

<sup>7</sup> *Loc. vi, 16.* The document goes on to state that Bek has prodigally wasted the property held by himself as bishop. Other evidence tends to bear out the assertion, and it is plain that bishop Bek had little hesitation in pledging his own episcopal lands. In September, 1291, for himself and his

More specific in emphasis on the same point is, if not an actual appeal from Clement v's suspension of the prior, a memorandum for such an appeal. This maintains that the bishop is attacking the prior's reputation because the latter 'opposed the said lord patriarch-bishop, in order to conserve the rights, liberties and goods of the monastery, which the bishop wished to usurp and absorb, and because the said prior refused, as of right he ought, to burden his monastery with an unwonted weight of debt in the said patriarch-bishop's behalf, and to furnish him horses and armed men for his wars.' The bishop has, in addition, forced the prior and chapter, by threat and terror, to obligate themselves in 5,000*l.* and over to various merchants, for the pope's tenth, received by him in loan, from which obligation he has never freed them.<sup>8</sup>

This view of the cause of the quarrel is corroborated by complaints intended for the king. Such is the claim that the

successors, he pledges all his lands to the bishops of Bath and Ely, who have gone surety for a loan to him from Edmund, earl of Cornwall, of 6,000 marks, for the utility of his church: *Loc. vii*, 22 (second entry on a roll with other enrolments. Devizes, 19 Sept., 1291. Ratified by chapter, 25 Aug., 1292). In August, 1295, from non-payment of this, in whole or in part, or from contracting another loan, he owes the same nobleman 4,500 marks, for which he pledges his manors of Hoveden and North Allerton: *Reg. i*, pt. ii, ff. 28-28 d. Foleham, 27 Aug., 1295. Ratified by chapter, 16 Sept., 1295. *Cal. Pat. Rolls*, 1292-1301, p. 188 (24 Ed. i, m. 15) and p. 145 (23 Ed. i, m. 8). In June of 1294 he had given a general pledge of the goods of his church in return for a loan of 1,000*l.* from bishop Oliver of Lincoln: *Loc. vii*, 22 (first entry, London, 22 June, 1294. Ratified by chapter, no date). Cf. *Cart. Harl.*, 43 G. 50, a joint obligation entered into by Bek, Robert Burnel, bishop of Bath and Wells, Sir John de Bouhon and Mr. William de Luda, archdeacon of Durham, to guarantee quitclaiming to Robert de Tybetot or Pain, his son, of Langar and Berneston manors, in Nottinghamshire, by Gerard de Rhodes, or nearer heir of John de Rhodes: this hardly bears on palatinate history.

Bek and the king were in these regards not dissimilar. The latter 'was not afraid to face his liabilities. He was always ready to give security on anything that he had': Ramsay, *Dawn of the Constitution*, 539.

<sup>8</sup> *Rot. Misc. at Durham*, labelled 'Rescripta apostolica in re Ricardi Hoton, prioris,' d., ll. 24 *et seq.*, ll. 44 *et seq.*

prior is obligated to certain Florentines in 4,000*l.*, by the act of his predecessor in the priorate, whom, and whose successors, the bishop had promised to hold quit of all responsibility—a promise which has not been kept. Such a loan was actually contracted in the chapter house on March 27, 1288, and responsibility quitclaimed to the monastery the day following. Hoton's claim is that the bishop failed to make the quitclaim good when it came actually to satisfying the merchants.<sup>9</sup> Another charge, and this sustained by a jury, is that Bek borrowed two hundred marks in silver from this same predecessor, Hugh of Darlington, and never repaid them. The bishop claimed that Hugh later changed the loan into a gift, but the jury decided otherwise.<sup>10</sup>

The chapter holdings were also suffering during this period of two decades from the exactions of the bishop's officials, as also, indeed, were the bishop's secular tenants. The charges of both groups can to a degree be tested by jury verdicts after the actual breaking of the storm. Such was the prior's successful charge of continued disseisin by Bek of his tenements in Heworth, Munketon and elsewhere—an old matter of offence that had originated in Insula's day.<sup>11</sup> In the early summer of 1291, Roger de Esshe came to Jarrow and so thoroughly dismantled a wind-mill which Hoton had erected that not even the grinding-stones were left.<sup>12</sup> In 1299 the bishop's officers seized, and for six weeks detained, twenty-two sacks of wool, in transit to Boston, so that the prior lost the sale for a whole year, during

<sup>9</sup> *Loc.* II, 12; *Loc.* VII, 22. Cf. *Loc.* XIX, 44, 41, 87, 88\*.

<sup>10</sup> *Registrum Palatinum Dunelmense*, IV, 70 *et seq.*; *Assize Roll*, 227, m. 8 d.; *Loc.* VII, 38 d., ll. 100 *et seq.*; *Loc.* VII, 70 m. 3, ll. 60-69; *Reg.* I, pt. II, f. 77 d.

<sup>11</sup> *Registrum Palatinum Dunelmense*, IV, 9 *et seq.*; *Assize Roll*, 227, m. 6; *Loc.* VII, 70, m. 3, ll. 70-93; *Reg.* I, pt. II, ff. 81 d.-82.

<sup>12</sup> *Registrum Palatinum Dunelmense*, IV, 39 *et seq.*; *Assize Roll*, 227, m. 8 d.; *Loc.* VII, 70, m. 3, ll. 17-30; *Reg.* I, pt. II, f. 76. The prior claimed loss of 10 years' use; the jury held he had lost six.

which time the value fell from ten to four marks per sack. The jury in this case exonerated the bishop and other parties accused, but though amercing the prior for false claim, asserted the fact of the occurrence, ascribing the blame primarily to William of St. Botolph.<sup>13</sup> A charge preferred against the bishop for forced carriage in June of 1297, is of interest from its relation to the Scottish wars and for its similarity to the charge preferred by a secular tenant, dealt with elsewhere. It is set forth that whereas the prior holds all his lands and tenements in frankalmoigne, *absque servicio faciendo*, Roger de Esshe and Peter de Bolton, on June 19 of that year, took, *pro carriagio faciendo*, waggons, cattle, and horses, from all the prior's manors between Tyne and Tees, to the value of 20*l.*, and in addition took carriage of equal value from the prior's bondsmen in these same manors. Recompense has never been given. The defendants reply that they had been summoned by the bishop, then warring in Scotland, to fetch him supplies, procuring the carriage therefor in the bishopric, and that the prior's villis, among others, had assessed themselves, voluntarily and uncoerced, freemen and villeins, and had accompanied their own 'carriage' to Scotland. The prior maintaining that the carriage was taken by distress, without the owners' consent, the case goes to the jury. The jury find that carriage was taken by Roger at Wardeley and Beaurepaire, as alleged, and that thereafter Roger and Peter went to the villis of their respective wards of Essington and Darlington, and caused each of the prior's villis to be assessed by four sworn assessors as to the apportionment of the carriage and as to who should accompany it. The men chosen to go went, but returned with only the horses. Roger ought therefore to give damages of 10*l.* for his prises at Beaurepaire and Wardeley, of which nothing came back. As to the balance of the carriage, the jury find that

<sup>13</sup> *Registrum Palatinum Dunelmense*, iv, 50 et seq.; *Assize Roll*, 227, m. 5; *Loc.* vii, 70, m. 2, ll. 80-91; *Reg.* i, pt. ii, ff. 81-81 d.

Roger should give eight marks and Peter forty shillings. The sentence condemned Roger in the 10*l.*, the receipt of which the prior afterward acknowledged. As to the remainder of the verdict, judgment was suspended.<sup>14</sup>

It is needless to go into the particulars of further charges. Some were won,<sup>15</sup> some lost,<sup>16</sup> some attached blame to the wrong persons,<sup>17</sup> some were dropped.<sup>18</sup> Yet making all due allowance for charges preferred simply to add to the *corpus* of the case, each grievance unsupported by the jury adds credibility to each count supported, and, perhaps, *vice versâ*.

<sup>14</sup> *Registrum Palatinum Dunelmense*, iv, 67-69; *Assize Roll*, 227, m. 8; *Loc. vii*, 70, m. 3 d., ll. 1-58; *Reg. i*, pt. ii, ff. 78 d.-80. The prior's immunity is evidently held not to cover carriage.

<sup>15</sup> Failure of bishop to return borrowed books: *Registrum Palatinum Dunelmense*, iv, 43-45; *Assize Roll*, 227, m. 7 d.; *Loc. vii*, 38, ll. 88-103; *Reg. i*, pt. ii, f. 80; cf. *Catalogi Veteres Librorum Ecclesiae Dunelmensis*, (7 Surt. Soc. publ.), 1838, app. 12 et seq.

False imprisonment for a short time in 1294. The defence was that the prior was indicted for taking game in the bishop's forest. The jury finds otherwise. *Assize Roll*, 226, m. 2 d.

<sup>16</sup> *Registrum Palatinum Dunelmense*, iv, 51-53; *Assize Roll*, 227, m. 5; *Loc. vii*, 70, m. 2 d., ll. 1-14; *Reg. i*, pt. ii, ff. 78-78 d.: relative to Bek's non-return of borrowed plate.

<sup>17</sup> *Registrum Palatinum Dunelmense*, iv, 36-38; *Assize Roll*, 227, m. 7; *Loc. vii*, 38, ll. 19-41; *Reg. i*, pt. ii, ff. 76-76 d.: relative to ejection from a wardship.

<sup>18</sup> *Registrum Palatinum Dunelmense*, iv, 41-42; *Assize Roll*, 227, m. 4 d.; *Loc. vii*, 70, m. 2, ll. 49-56; *Reg. i*, pt. ii, ff. 76 d.-77: relative to hindrance of prior from erecting mill at Holy Island.

*Registrum Palatinum Dunelmense*, iv, 55; *Assize Roll*, 227, m. 4; *Loc. vii*, 70, m. 2, ll. 7-15; *Reg. i*, pt. ii, f. 83: relative to removal of corn and stock from certain of the prior's lands.

*Registrum Palatinum Dunelmense*, iv, 33 et seq., and 63 et seq.; *Assize Roll*, 227, m. 4 d.; *Loc. vii*, 70, m. 2, ll. 24-48; *Reg. i*, pt. ii, ff. 75 d.-76.

*Registrum Palatinum Dunelmense*, iv, 53-55: as to seizure of a porpoise at Holy Island. Termination in part uncertain.

*Registrum Palatinum Dunelmense*, iv, 71-72; *Assize Roll*, 227, mm. 3 d., 15 d., 10; *Loc. vii*, 14 d., ll. 66-80; *Reg. i*, pt. ii, ff. 77 d.-78: as to an undue exaction from priory before Hoton's priorate. Termination uncertain.



On March 21, 1300, Bek attested an *inspeximus* and confirmation by Edward I of a charter to the priory from Henry I, granting the prior full power in the administration of his house, and constituting the king and his successors its protectors. 'Moreover,' adds Edward, 'desiring to do the prior and monks richer grace in this matter, we have conceded to them for ourselves and our heirs, that albeit they have not hitherto used to the full the liberties contained and expressed in the said charter, nevertheless the said prior and monks and their successors shall henceforth enjoy and use the said liberties fully and peaceably.'<sup>19</sup> It was an occurrence full of omen, since conditions in the monastery were rapidly bringing about that *dénouement* in which the king was to be so large a figure. The immediate and ostensible cause of conflict was simple. The prior and some of his leading monks quarrelled. Whatever the occasion of the breach—and most likely it had to do with Hoton's nepotism<sup>20</sup>—the hostile faction went to Bek with charges of dilapidation,<sup>21</sup> and Bek came on visitation. To the manner of this the prior took exception. Reciprocal excommunications, suspensions and deprivations followed, the king took a hand, and, despite Hoton's death early in 1308, formal peace between the bishop and the opposition leaders was established only a little before Bek's own death in 1311.<sup>22</sup>

<sup>19</sup> *Charter Roll*, 28 Ed. I, m. 5: Westminster, 20 March, 1300 (*Cal.* 483-4).

<sup>20</sup> Graystones, ch. xxiii, 75. There may have been sufficient favour shown the prior's relatives and friends to provoke ill-feeling, but certainly not enough to suffice for a serious charge. It is not mentioned in the severe list of accusations of 1306, where dilapidation, perjury, conspiracy, even divination, are charged against Hoton: 1-9 *pont.*, 10.

<sup>21</sup> Jury finding, assigning dismissal of certain officers as source of rancour: *Assize Roll*, 227, m. 1 d.; *Loc.* vii, 70, m. 3 d.; *Loc.* vii, 44. See also *Loc.* vi, 16, defence of Hoton against charge of dilapidation (after death of Benedict xi).

<sup>22</sup> *Loc.* vii, 34 (28 Sept., 1310); notarial account of a meeting at Durham castle between Bek and a large number of his old combatants, at which he

*Bek and his Tenantry.*

The decades 1283-1300 witnessed the rise of disaffection among the tenantry of the bishop as well as in the monastic chapter, and largely for the same reasons. The subject falls naturally under two heads: (1) the military question, and (2) the extortions of the bishop's steward and bailiffs.

1. The Military Question.—In describing the various factors working for or against the priory in its great contest with the bishop, Robert de Graystones dwells longest on the help given to the monks' cause by the simultaneous dissension that arose between the bishop and his men, and finds the chiefest cause of this dissension, in turn, in Bek's military extortions.

'Also of aid,' he writes, 'to the prior's party was the quarrel that arose between the bishop and his men of the bishopric. For the bishop had now forced the men of the bishopric to go with him to the Scottish war two times; and when, the second time, they returned home without his leave, he had them imprisoned at Durham. Taking this ill, they made themselves a party against the bishop, saying they were Haliwerfolk, and held their lands by defence of St. Cuthbert's body, and ought not to go out of the borders of the bishopric (viz., beyond Tyne and Tees) for king or for bishop. And of this dissension the leaders were Ralph de Nevill and John Marmeduk. Yet there adhered to these almost all the knights and free-tenants of the bishopric, and at their common expense they laboured for their cause in parliament and *curia regis*. By reason of hatred toward the bishop, therefore, these all had the greater zeal in the prior's behalf.'<sup>23</sup>

Graystones's account is in great measure corroborated by other accounts, or by the state records. On November 16, 1299, Edward had requested Bek to have five or six thousand of the best infantry of the bishopric at Berwick within a month at least, and at the same time sent his clerk, John de Seleby, to superin-

release them from all sentences. *Loc. xvii*, 1 (Kepier, 23 Feb., 1311); instrument of release from all sentences, by Bek's official. Bishop Bek himself passed away the following 10th March.

<sup>23</sup> Graystones, ch. xxiii, 76. The first time must have been in 1296: *Assize Roll*, 226, m. 5 d., cf. *infra.*, at n. 48.

tend the levy and pay the men their wages till they should reach the rendezvous.<sup>24</sup> On January 17, however, the king had notified the bishop of the desertion of a portion of the troops so raised, of their return home, and of their fraudulent retention of the wages received while *en route* to Berwick, both from Seleby and from certain of the bishop's vills, and had bidden him imprison such as Seleby should designate as offenders, 'in our prison.' When they should have repaid the king and the vills twofold, they might be mainperned, to receive justice in the king's court.<sup>24a</sup> Bek's obvious obedience to this command explains Graystanes's words. There is ample evidence, also, of a fairly general confederation of the tenants,<sup>25</sup> and of a persistent pursuit of their rights in the king's courts.<sup>26</sup> There is even less certain evidence of active alliance and common counsel with the prior.<sup>27</sup>

On the other hand the chronicler seems to have laid over much emphasis on the military service, and correlate matters, as sources of grievance. Although the subject was brought up in the previous negotiations, there is in the charter finally secured from bishop Bek but one article in any wise relating to the war—and this relates to carriage.<sup>28</sup> On the assize roll that contains

<sup>24</sup> *Rot. Claus.*, 27 Ed. I, m. 6 d. (*Cal.* 323).

<sup>24a</sup> *Rot. Claus.*, 28 Ed. I, m. 14 d. (*Cal.* 332).

<sup>25</sup> *Gesta Dunelmensia*, m. 3, ll. 22 *et seq.* (ch. v), 39 *et seq.* (ch. vi); *Assize Roll*, 226, m. 8: 'et iidem magister Willielmus et Petrus calumpniant omnes iuratores, etc., et penitus dicunt quod in nullo tocius comitatus ponere se volunt, nec debent, quia dicunt quod tota communitas eiusdem comitatus est per sacramentum adinvicem confederata, et contributionem faciunt secundum quantitatem terrarum suarum ad querelas erga predictum episcopum et eius ministros prosequendas,' etc.

In another case William admits there were many free tenants *not* in the confederation: *ibid.*

<sup>26</sup> *e.g.*, Ancient Petitions, E 770, file 326.

<sup>27</sup> 1-9 *pont.*, 10: accusation *v.* Hoton; 'item, conspiravit cum baronibus et militibus ac aliis tenentibus et vassalis dicti episcopi . . . quod assistentes sibi contra dictum episcopum, visitationem suam predictam impedirent.'

<sup>28</sup> *Registrum Palatinum Dunelmense*, III, 61-67, *cf.* ch. x, pt. i, *infra*.

so many other gravamina, there is but one plea relating to the wars, and this also relates to carriage, and is decided against the plaintiff.<sup>29</sup> Both before this time, and after, the feudal<sup>30</sup> right of the tenant not to be called out of the bishopric, and of the bishop not to be forced to summon out the tenant—that is to say, the tenant's right toward the bishop,<sup>31</sup> and the bishop's toward the king<sup>32</sup>—had received royal recognition; but without result on actual conditions.<sup>33</sup> The bishop, on his side, had never made the concession.<sup>34</sup> The outcry of 1300 was but the temporary ebullition in Durham of an irritation rife throughout the whole north country.<sup>35</sup> Both the geographical situation of the palatinate and the resultant doctrine, just now growing up, of its *raison d'être* in the defence of the border,<sup>36</sup> were against success.

<sup>29</sup> *Assize Roll*, 226, m. 5 d., see *infra*. at n. 48.

<sup>30</sup> Lapsley, 22, n. 6, especially toward close of note, p. 24.

<sup>31</sup> 1297: *Documents Illustrative of the History of Scotland*, ed. Rev. Joseph Stevenson, II, no. cccxxxix, 181-2.

1303: Surtees's *Durham*, I, appen. to general history, no. 15, p. cxxix; *Cal. Pat. Rolls*, 31 Ed. I (1301-7), 112 (m. 37); *Cart.* I, ff. 59 d.-60. The bishopric then in the king's hands.

1311: *Registrum Palatinum Dunelmense*, I, 16-17.

1333: Surtees's *Durham*, I, appen. to general history, p. cxxix.

<sup>32</sup> 1299: *Rot. Claus.*, 27 Ed. I, m. 6 d. (*Cal.* 323), 'paternitatem vestram attente requirimus et rogamus.'

1303: Lapsley, 303 and 303 n. 7 (from Rymer): 'affectuose rogamus.'

1309: Rymer, II, 84: 'requirimus et rogamus.'

1311, 1333: *ut supra*, n. 30.

1315: *Registrum Palatinum Dunelmense*, II, 1100-1101.

1322: Rymer, II, 491.

1341: *Registrum Palatinum Dunelmense*, IV, 247.

<sup>33</sup> *Registrum Palatinum Dunelmense*, IV, 194, 198, 243, 250, 262, 269 (years 1336-1344) and *cf. supra*.

<sup>34</sup> *Supra*, notes 30, 31, 32: also failure to appear in charter, or on plea roll.

<sup>35</sup> *Rot. Claus.*, 28 Ed. I, m. 13 (*Cal.* 333): commission for the amercement, punishment and distraint of all those in Cumberland, Westmorland, and Lancashire unwilling to go to the defence of the border. The wording of the document implies general unwillingness throughout these counties.

<sup>36</sup> For this, and the service question generally, see Lapsley, 301 et seq., whence a number of the above examples were taken. *Cf.* Sir Th. D. Hardy, pref. *Registrum Palatinum Dunelmense*, III, p. IV, et seq.

Yet the heat and anger engendered by the temporary emergence of the service question to the front did suffice to nerve men to attack grievances quite as bitter and, in addition, practicably redressible.<sup>37</sup>

2. The Extortions of the Bishop's Steward and Bailiffs.— One of bishop Bek's greatest dangers lay in the arbitrary actions of his highly unpopular steward, archdeacon William of St. Botulph. Holding by far the most important administrative office, economically and politically, in the palatinate,<sup>38</sup> this man's opportunities for mischief were unbounded; and as long as the bishop gave his backing to one, who, after all, may have been merely more or less a scapegoat, remedy was virtually unobtainable. 'Because of the bishop's familiarity with the steward,' says an unknown chronicler of the time, 'few there were who dared lay complaint of him before the bishop, because, in case any did do so, they invariably brought back one answer from the bishop, to wit: "Go to master William of St. Botulph, since he will do you nothing save what is just"; and thus he who was the principal author of the injuries, was always made their judge.'<sup>39</sup>

The steward, moreover, had long been at loggerheads with Ralph Nevill and John fitz Marmaduk, the ringleaders of 1300. From the manors of the former at Raby and Winston he had caused the sheriff, Ralph de Warsop, to take large amounts of grain and stock in the autumn of 1294, under pretence of distraining for debts owing to bishop de Insula;<sup>40</sup> and somewhat later

<sup>37</sup> Cf. Lapsley, 129: 'The question of military service alone would probably have been insufficient to raise such a tempest.'

<sup>38</sup> *Ibid.*, 77-80.

<sup>39</sup> *Gesta Dunelmensia*, m. 3, ll. 8-10 (ch. v).

<sup>40</sup> *Assize Roll*, 226, m. 8. The entry illustrates the supreme position of the steward: Nevill says that all the coroners and bailiffs 'sub predicto episcopo existentes omnibus preceptis ipsius magistri Willielmi fuerunt intendentes.'

in the same year had for a number of weeks deprived the latter of a large number of cattle on a like pretence of debt.<sup>41</sup>

Under archdeacon William were the sheriff, the coroners and a host of bailiffs, against whom the pleas of 1302, before the king's judges at Durham, witness to a vast deal of injustice in the way of trespass, false imprisonment and abuse of the forest.

Thus Thomas de Wessington is awarded damages of 10*l.* against William of St. Botulph and Robert de Haukehirst for taking from him at Hoveden sixteen steers and eight cows, in the fall of 1294, and keeping them till Thomas paid twenty-six marks. The defendants are ordered to gaol.<sup>42</sup> Like sentence is given against Walter de Bermeton for taking thirty-two head of cattle from Almaric de Kellawe, in the spring of 1293, and driving them to Auckland, in such wise that Almaric lost four head, and the rest were injured.<sup>43</sup>

Most numerous are the pleas of false imprisonment. Ralph de Appelby is awarded 19*l.* damages against the bishop's bailiff of Darlington, William le Rue, for imprisonment for five and a half days in 1295, Ralph making fine for 14*l.* and two pieces of silver-ware valued at twenty-six pence. William is ordered to gaol.<sup>44</sup> A curious case is one of 1288, in which Bernard of Thurstaneston brings suit against Walter de Bermeton for violent imprisonment in a certain room at Wotton from matins to prime. The jury find that Walter imprisoned Bernard, as charged, till he had compelled him to marry Agnes de Merley, Walter's sister-in-law; and that subsequently Agnes, at Walter's instigation, drew the unhappy Bernard into court christian, to

<sup>41</sup> *Ibid.*, mm. 8-8 d. For a claim of false imprisonment by Marmaduk v. William de St. Botulph, see *ibid.*, m. 4 d.

<sup>42</sup> *Ibid.*, m. 5—but 40*s.* go to the clerk, and 1 mark to the marshal. In one case Hoton is awarded 30*s.* damages, of which 20 to the clerks, 5 to the marshal, and 5 to the sheriff's clerk: *ibid.*, m. 2 d.

<sup>43</sup> *Ibid.*, m. 6.

<sup>44</sup> *Ibid.*, m. 6.

the expense and consumption of his goods. Bernard is awarded 20*l.*, and Walter is ordered to gaol.<sup>45</sup>

Two cases relating to false imprisonment by forest officers are of some interest. One is the case of Adam de Beaurepaire, imprisoned by Walter de Bermeton, the bishop's forester, in 1297. The latter made the defence that Adam had previously been duly indicted for game taking, according to the custom of the bishop's forest. When, however, brought into court, those whom Walter indicated as the indicters denied knowledge of the affair, and the jury gave a verdict of malicious imprisonment.<sup>46</sup> More glaring, if the court proceedings may be trusted, was an offence by the same officer in 1294. Robert de Byncester complains that Walter de Bermeton, William de Greenwell and others, had taken him at Byncester and imprisoned him in Durham castle for twenty-eight weeks, when he made fine for thirty shillings. The jury find that Robert had borrowed from Greenwell certain arrows. Without the former's knowledge, one of these arrows was taken by a certain Geoffrey de Byncester, and used to slay an animal in the park. Greenwell, chancing that way, found the blood-stained arrow, and recognising it, concluded that the borrower was the guilty party, and, by Bermeton's orders, took Robert to Durham castle. Later it was clearly shown by Bermeton's inquest that Geoffrey was really the guilty party. Notwithstanding, Bermeton kept Robert imprisoned till he paid the thirty shillings fine, and that, too, although numerous requisitions were made for his delivery.<sup>47</sup>

<sup>45</sup> *Ibid.*, m. 6. Doubtless there was more or less reason on the defendant's side in more than one of these pleas.

<sup>46</sup> *Ibid.*, m. 2 d.

<sup>47</sup> *Ibid.*, m. 4. Cf. m. 5 d. (unfollowed claim for extortion at forest court in 1294 *v.* Walter de Bermeton), and m. 3 d. (Geoffrey de Hertepol for the king *v.* Walter de Bermeton, for imprisoning men by the law of the forest, as if it had been the king's forest, whereas the bishop has no forest, but rather free chase. Direct issue was taken by the defendant, but the case is not settled on this roll). Cf. Lapsley, 59-61.

The only suit relating to the Scottish wars is that of Thomas de Auford against the coroner, Peter de Boulton, and two others, wherein they are charged with having taken from the plaintiff at Wevelington, in 1296, under colour of their office, a cart worth eighteen shillings. The defendants admit taking the cart, at the bishop's requisition, for purveyance in the Scottish war. 'By assent of the community of the whole bishopric' they were ordered 'to find carriage for him according to the quantity of the yills of the bishopric.' The vill of Wevelington being assessed at one cart, the villagers took Thomas's cart as the best there was, and paid him seven shillings. Thomas maintains, on the other hand, that the freemen of the bishopric were then all in the war at their own expense, that there was never any assessment made for the carriage, and that in taking his particular cart, the officers were maliciously sparing the bishop's villeins.<sup>48</sup> The jury, none the less, support the defendant, and Thomas is amerced for false claim.<sup>49</sup>

The verdict in the case fails to state whether the defendant's statement as to the grant of carriage by the community of the bishopric is true or false. It will be remembered that in the prior's complaint on the same subject, the defence also alleged universal local consent, and that the jury awarded damages more for lack of compensation than for forcible seizure. It is something that the bishop's officers allege the consent. Whichever side, therefore, was telling the truth in these carriage cases, the article of Bek's charter of 1303, which, allowing the necessity of grant in times of peace, disallows it in time of war,<sup>50</sup> marks, on this question, a distinct retrogression on the part of the

<sup>48</sup> With respect to the attitude here manifested by the freeholder toward the villein, cf. McKechnie, *Magna Carta*, etc., 141-142.

<sup>49</sup> *Assize Roll*, 226, m. 5 d. The jury make no explicit statement as to the assent of the *communitas*.

<sup>50</sup> *Registrum Palatinum Dunelmense*, III, 64. Cf. Lapsley, 118.



*communitas*. How far bishop Bek may have been personally responsible for all of this, it is difficult to say. The general impression left upon us by his actions and reputation before he became bishop are against him, as is also his persistent loyalty to his officials,<sup>51</sup> to say nothing of his well-known love of ostentation and war. On the other hand his bitterest foes more than once professed to find him misguided in his actions by the advice of evil counsellors, and more than once the extortion laid at his door was subsequently ascribed to the servant acting without his master's knowledge or orders.<sup>52</sup> The increased legal element in his council doubtless had a baneful influence.<sup>53</sup> Probably the truth of the matter is that the bishop picked for officers men of his own type, forceful and relatively unsympathetic, and then left matters largely in their hands—himself, like certain *magnates* of to-day, remaining in convenient ignorance of their specific doings.

<sup>51</sup> *Registrum Palatinum Dunelmense*, iv, 99-101, royal confirmations of grants to Roger de Esshe, 8th and 18th years of consecration; *Reg.* i, pt. ii, f. 32d., grant of 60 acres of waste in West Auckland to Peter de Bolton, 13 April, 1301. Cf. ch. iv, *supra*.

<sup>52</sup> *Registrum Palatinum Dunelmense*, 36-38; *Loc.* vii, 38, ll. 19-41; *Assize Roll*, 227, m. 7; *Registrum Palatinum Dunelmense*, iv, 50-51; *Loc.* vii, 70, m. 2, ll. 80-91; *Assize Roll*, 227, m. 5; *Registrum Palatinum Dunelmense*, iv, 23 *et seq.*; *Loc.* vii, 14, ll. 1-33; *Coram Rege Roll*, 182, mm. 101 d.-102.

<sup>53</sup> *Gesta Dunelmensia*, m. 3, ll. 32-35 (ch. vi): 'Habito igitur tractatu diligenti cum consilio suo super contentis in cedula memorata, mox, ut in curiis magnatum et prelatorum fieri iam solebat, quidam adulatores oleum vendentes, patri suo placentia predicabant (*etc.*) . . . . . et isti erant ex phariseis. Sed dictus pater tanquam virtuti perfectus et in veritate fundatus, eorum adulationibus non consensit' (*etc.*). *Ibid.*, m. 9, ll. 13-19 (cap. xv): 'Secundum quod vulgariter dicitur, iuriste et advocati non mediocriter lites et contenciones affectant, quoniam per lites et discensiones inter divites et magnates lucrum temporale et comodum consequuntur potius quam per pacem. Advocati igitur et clerici venerabilis patris predicti eundem patrem contra priorem et coventum in hunc modum suis suggestionibus venenosis acriter stimulabant . . . . . Placuit dicto patri predictum consilium . . . . .' Cf. Lapsley, 140.

It now becomes possible to trace the conflict between bishop and monastery and between bishop and tenants—quarrels in which will soon be entangled pope, king and archbishop.

## CHAPTER VI.

THE VISITATION AND SIEGE OF 1300. BEK AND  
ARCHBISHOP CORBRIDGE.

On April 14, 1300, bishop Bek initiated the long pending conflict with his chapter by causing to be ceremoniously excommunicated, with bell and candle, in the cathedral and throughout the diocese, all disturbers of the laws, liberties and possessions of himself or his church.<sup>1</sup> In a trifle less than a fortnight the prior and monks were officially informed of a visitation appointed for May 20.<sup>2</sup> It soon became an understood thing in the monastery, moreover, that Bek was not intending to visit unattended. The question of privilege thus raised was hotly debated, and served to crystallize the hostile factions.<sup>3</sup> Interviews with Bek at Darlington, Barnardcastle, and even in Durham, just previous to the visitation, were unsuccessful in securing satisfactory guarantees that the bishop's and the chapter's versions of the customs of the house would coincide. And thus, even before the date of visitation had arrived, the monks had accepted combat by lodging an appeal to Rome against all prejudicial innovation.<sup>4</sup>

<sup>1</sup> Bishop's process: *Reg.* III, ff. 81-81 d. (14 April, 1300). *Gesta Dun.*, m. 3, ll. 10-12 (ch. v).

<sup>2</sup> Notice of visitation issued April 22: bishop's process, *Reg.* III, f. 81 d.; 2-7 *pone.*, 14. Served on the prior at Beaurepaire, and on the sub-prior and monks at Durham, 27 April: bishop's process, *Reg.* III, f. 81 d. *Cf. Gesta Dun.*, m. 1, ll. 13-18 (ch. 1), where date of notice is given as 26 April. The monks acknowledged receipt of letters on 4 May: bishop's process, *Reg.* III, ff. 81 d.-82.

<sup>3</sup> *Gesta Dun.*, m. 1, ll. 19-36 (ch. 1).

<sup>4</sup> *Ibid.*, m. 1, ll. 36-41 (ch. 1), 18 May, 1300, by the procurator of the chapter, Robert de Routhbery. On 19 May, Hoton met Bek at the castle, alleged the custom of the church, and besought the bishop to come unattended.

Exactly what happened when the bishop finally attempted his visitation it is impossible to state, so general, or so conflicting, is the evidence. The notarial summaries of the prior<sup>5</sup> and bishop<sup>6</sup> can neither be accurately synchronised nor even satisfactorily harmonized, for the latter allege the prior's perjury, and the former, naturally, leave no *prima facie* justification for such a charge. Graystones<sup>7</sup> merely sketches the affair: Hemingburgh<sup>8</sup> is dangerous: and the *Gesta Dunelmensia*,<sup>9</sup> the manuscript of which is more or less illegible at this point, is written by an avowed partisan of the prior.

The following facts stand out clearly, however. The bishop entered the chapter with a numerous train, among them William of St. Botolph, the masters of Kepyer and Sherburn hospitals, the lawyer, Reginald de Brandon, and Hugh, the Franciscan bishop of Biblis.<sup>10</sup> The *Gesta*, if our reading of the manuscript be correct—and much of the writing is here easily legible—say that 'as many came in as so desired, viz., the bishop of Biblis, besides monks of other houses, Dominicans and Franciscans, a serried array of knights (*militibus conjugatis*) and clergy and laity in copious multitude.'<sup>11</sup> The monks took particular umbrage at the presence of the seculars and the friars.<sup>12</sup> In the

Bek pleaded need for further counsel in the matter, but promised to do nothing unlawful: *ibid.*, m. 1, ll. 41-44 (ch. 1). The prior's process states that at a meeting with Bek at the castle, preceding the visitation, and on the same day, the bishop promised an opportunity for the taking of exceptions, between the sermon and the beginning of the visitation proper: *loc.* xxvii, 27; *Reg.* III, f. 87.

<sup>5</sup> *Reg.* III, ff. 87 *et seq.*; *loc.* xxvii, 27.

<sup>6</sup> *Reg.* III, ff. 81 *et seq.*

<sup>7</sup> Graystones, ch. xxiii, 75.

<sup>8</sup> Hemingburgh, II, 213-215.

<sup>9</sup> Miscellaneous Charters, 7161 (at Durham).

<sup>10</sup> *Reg.* III, f. 83 d., among other names, in bishop's process.

<sup>11</sup> *Gesta Dun.*, m. 1, ll. 44-46 (ch. II).

<sup>12</sup> With respect to friars, *cf.* Lapsley, 50. During part of the year all monastic preaching throughout the diocese was limited to the Benedictines of Durham: *Scrip. Tres.*, appen. no. cxv, p. cxxxiv. The prior's process takes

second place Bek refused to acknowledge that the customs of the house required him to visit absolutely unattended, and to employ only the monks themselves as secretaries. He felt that he was doing quite enough in removing from the chapter 'all his clerks, and the rest, save three or four, and a notary.'<sup>13</sup> Thirdly, the monks so managed their case as to afford the bishop, rightly or wrongly, an opportunity of charging Hoton with perjury.<sup>14</sup> And, lastly, the long series of attacks on the monks in the previous years had made them utterly distrustful of all that Bek might propose to do. The case throughout, now and later, is managed on purely ecclesiastical lines, so far as it relates to the ecclesiastical forum, but it is obvious that the animus is largely secular.<sup>15</sup> The scene ended by the monks withdrawing, leaving Bek and his suite alone in the chapter house.<sup>16</sup>

exception to the seculars, some of whom the bishop intended to keep by him. The whole well illustrates the well-known antipathies of different ecclesiastical orders. *Cf. loc. vii, 79.*

For Hugh of Biblis, see Lanercost, 130 *et seq.* His stories manifest a truly minorite simplicity.

<sup>13</sup> *Reg. III, ff. 82 d.-83.* On other side, *Reg. III, f. 87 d.; loc. vii, 42; xxvii, 27.* *Cf. Graystones, ch. xxiii, 75, and Hemingburgh, II, 214.* Hemingburgh is forceful and interesting, but the documents do not bear out his vigorous expressions.

<sup>14</sup> *Reg. III, f. 82 d.; 1-9 pont., 10, ll. 17-21.*

<sup>15</sup> *Reg. III, f. 87 d.; loc. vii, 42; loc. xxvii, 27:* 'ex quorum tenore litterarum (viz., notice of visitation), evidens elici poterit coniectura quod causa pocius eosdem religiosos molestandi quam aliud quicquam in caritate corrigendi procedere intenditis in hac parte, et ex eo maxime, quod temporibus proximo retroactis, per vos, pater antedictæ, et vestros, quorum excessus sollicitudinem vestram corrigere convenit, et curare, varia gravamina molestacionis et iniurie prefaticæ religiosi tam in pesronis quam in rebus multipliciter sunt illata, que quidem gravamina, molestaciones et iniurias, cum debita reverencia quam pluries requisiti emendare, hactenus recusastis et adhuc recusatis in presenti; que quidem molestaciones et iniurie in diocesa Dunelmensi adeo sunt manifeste et notorie, quod eas non est necesse serie presencium specialius explicare.' (*Loc. vii, 42 is the original.*)

<sup>16</sup> *Reg. III, ff. 83, 89.*

The bishop delayed his return to the castle long enough to proclaim prior, sub-prior, third prior, sacristan, precentor, cellarer, land-steward (*terrarius*), hostillar, chamberlain, bursar, keeper of the granary, and caterer, John de Barnard Castle, Geoffrey de Borden and Robert de Routhbery, all fallen into the pre-announced excommunication; and the priors, masters, and officers of the cells of Holy Island, Finchale, Stamford, Lythum, Jarrow and Wearmouth, together with the lesser brethren of the monastery, contumacious.<sup>17</sup> Later in the day the monks were summoned to receive sentence in the cathedral on the morrow, the chapter taking the usual appeal.<sup>18</sup>

The next day witnessed the definitive deprivation, by Bek's officials, John de Lasci and Robert de Alberwick, of the prior, sub-prior, third prior, sacristan, chamberlain, hostillar, cellarer, caterer, keeper of the granary, precentor and the keeper of the seal, Robert de Routhbery, the prior being charged with perjury and breach of obedience. Richard de Routhbery, John de Barnard Castle, Geoffrey de Chester, John de Appelby, and certain others, already pronounced contumacious, were now excommunicated for their obduracy. The chronicler notes that Gilbert de Schirburn, the feretrar, and Henry de Staunford, the almoner, were left in their offices. Sentence on the convent in general, and on the administrative officers of the cells, was reserved.<sup>19</sup>

<sup>17</sup> *Ibid.*, ff. 83-83 d.; *Gesta Dun.*, m. 1, ll. 57-59 (ch. II).

<sup>18</sup> *Reg.* III, ff. 83 d.-84, 89-90; *loc.* VII, 52, 73.

<sup>19</sup> Sentence reserved to Monday, 23 May. See *Reg.* III, ff. 84-85; *Gesta Dun.*, m. 1, l. 63-m. 2, l. 4 (ch. III). The monks take appeal at all appropriate times: *Reg.* III, ff. 90-90 d.; *loc.* VI, 32 *et passim*. Staunford's title is obliterated, but that he was almoner is plain from *loc.* VII, 81, m. 1, ll. 48-72, where Lascy and Alberwyk are said to have removed all officials except the almoner and feretrar.

On Monday the monks renewed their appeal, before Robert de Alberwyk, in the church at Durham. The other happenings of that Monday are not indicated: *loc.* VII, 32. Bek's agent, John de Lascy, is styled 'iuris civilis professor.'

On Sunday, May 22, the second day after the visitation, Alberwyk made proclamation from the bishop's throne that none should henceforth call Hoton prior, nor render him obedience, under pain of the greater excommunication: a proceeding followed the same day by the entrance into the monastery of commissioners who took oaths of fidelity from the priory servants, and, through the agency of Bek's coroners, commanded a cessation of obedience or respect to the monks on the part of any of the tenants or agents of the chapter. All the spiritualities and temporalities of the house were forthwith sequestered, and a guard placed 'at all the gates of the city, lest the monks or those of their household (*familiares*) should in any wise pass in or out.' So strict, indeed, was the watch, that when the prior's party—for some sixty-nine monks had promised to stand by him to the death—at last decided to dispatch Robert de Routhbery to the curia, he had 'like another Paul' to be let down over the wall by a cord. The following night Alexander de Puncunby and John de Appelby made good a narrow escape, to take in hand the prior's interests at York.<sup>20</sup>

There Hoton's affairs prospered: the official of York acted promptly, Bek's commissioners were bidden to cease obstructing appeals, and both bishop and agents were summoned to present themselves at York on July 8.<sup>21</sup> At home, however, the monastic schism was becoming more apparent. The dissatisfaction of certain of the monks had invited the visitation; in the days

<sup>20</sup> *Gesta Dun.*, m. 2, ll. 4-22 (ch. iv): dates not given. Routhbery was still in Durham on May 29: *loc. vii*, 69. See also *Reg. pal. dun.*, iv, 17; *Reg.* i, pt. ii, f. 70 d.; *Assize roll*, 227, m. 1; *Coram rege roll*, 182, m. 101. A special grievance was Bek's closing, 23 May, of the North Gate, one of the chief approaches to the monastery for pilgrims and provisions. Although available in August to friends of the intruded prior, it was fully opened to the general public only in February, 1301: *Reg. pal. dun.*, iv, 31-33; *loc. vii*, 70, m. 3, ll. 31-59; *Assize roll*, 227, m. 8 d.; *Gesta Dun.*, m. 6, ll. 20-21 (ch. xi).

<sup>21</sup> *Loc. vii*, 81, m. 1, l. 46-m. 2, l. 25; *loc. vii*, 82, m. 1, ll. 59-84; *Gesta Dun.*, m. 2, ll. 22-25 (ch. iv).

preceding the visitation there had never been a thorough unanimity of spirit, the prior's friends, on one occasion at least, roundly asserting the existence of conspiracy;<sup>22</sup> and now that lack of perfect ingenuousness, which more than once crops out in Hoton's history, had given opportunity for open secession. 'At this time,' writes the prior's apologist, 'came messengers of the lord bishop, accredited to the chapter, to wit, Brian fitz Alan and others, requesting permission that certain of the brethren might go to the lord bishop, to treat, as they deceitfully said, of the reformation of the monastery. Which hearing, the lord prior, realizing that poison lurked beneath their honeyed talk, very humanly (*tanquam vir*) got out of his difficulty by dissimulation (*sub dissimulacione transivit*), neither expressly denying nor granting the desired permission, but leaving them to their own will; whereupon about ten of the brethren left, who, from that day on, were opposed to their prior and spiritual father in body and heart.' These seceders ultimately settled at Finchale, which, careless of curse of God or prior, they made a centre of disaffection and false report.<sup>23</sup> In the meantime events were transpiring which were finally to bring about the interference of the king, and, later, the confiscation of the temporalities of the see.

Immediately after the visitation bishop Bek had hastened to anticipate the prior's probable action, by sending two Dominicans to the king, to impress him with the episcopal version of the affair, and to beg him not to interfere with the punishment justly due the chapter. Hardly had these messengers left the presence when there arrived emissaries from Hoton and the monks, setting forth the intended damage to their liberties, and begging

<sup>22</sup> *Supra*, ch. v. *Gesta Dun.*, m. 1, ll. 20-37 (ch. 1).

<sup>23</sup> *Ibid.*, m. 2, l. 25-m. 3, l. 3 (ch. 1v): 'ad domum de Finchal, cum Dei maledictione simul venientes, quoniam patris sui verenda non choaperuerunt, sed turpiter nudaverunt,' referring, of course, to the curse of Ham.

Edward, pending their appeals to Rome, to extend his protecting hand over a house cherished and founded by himself and his fathers.

Still under the spell of ancient friendship with the bishop on the one hand, but on the other full of zeal for St. Cuthbert, the king determined on personal mediation. Pending his arrival, he sent forward John de Craucumbe, archdeacon of the East Riding, Walter de Wynterbury, the royal confessor, and Otto de Grandison, to investigate the true state of affairs and locate the fault. These listened to a long dispute between the factions, in the Galilee, with the result that they could at length report that the prior and his party were willing to abide by the royal ordinance. And it was in this frame of mind that the monks met the king in solemn procession at the church door on his arrival, June 18.

Having offered his gifts and prayers at the saint's shrine, and conferred a little with his council, he addressed the prior substantially, we may believe, as follows:—

'We have no small desire to restore good peace between you; but you must know of a certainty that we are not forgetful of the pleasing services your bishop has done us and ours, in our various necessities, and how, in all our undertakings, in the Holy Land, and in our sundry wars, he has exposed himself and all his possessions to dangers manifold, in our behalf. We can therefore in no wise desert him without cause. On the other hand we have frequently, through your prayers, experienced St. Cuthbert's aid and patronage in our various difficulties and perils. We therefore, as is just, propose to protect and defend you, likewise. And so we have now formulated what seems to us an entirely fair and honorable peace between the parties: if you are willing to concur, well; but if not, let each side go its own way.'

The prior responded that they were prepared to accept the king's ordinance in all things, and the delighted monarch forthwith personally dictated the form to a notary. Further proceedings were postponed to the morrow, to give opportunity to learn the bishop's mind.<sup>24</sup>

<sup>24</sup> *Ibid.*, m. 4, ll. 5-37 (ch. vii). *Loc. vii*, 16, adds John de Cadomo to the list of commissioners. The monks took preliminary care, as this same document shows, not to allow any peace proposals to invalidate their appeals to York and Rome.



It was, however, not till Monday, the twentieth, that all the parties to the quarrel met at Evenwood, the king, the bishop, followed by clerks and conspiring monks, and the prior, attended by the leaders of his faction. Bek immediately gave an exhibition of that tough and compelling will which had lent such momentum to the upward turn of his fortune's wheel, and which, too persistently applied, seemed about to turn the wheel too far, and send him toppling to the earth.

'For the lord king, when he had heard mass and taken food, began in friendly wise to ordain concord between the parties and to set forth to the lord bishop and his followers the form ordained at Durham by the said lord king. Which heard, the lord bishop showed himself stubborn beyond reason (*difficilem . . . . ultra modum*), affirming that he would sooner die than permit the lord king, or anyone else, to intermeddle with his liberty in any wise whatever. To whom the lord king made answer in very moderate vein (*satis moderate*): "Exactly as you are zealous for your liberty, so are we zealous for the just defence of the monks instituted by our and our father's alms; nor will we suffer that they be further unjustly vexed from any lack of royal protection and defence." Finally, after a long space of time, the lord king besought the lord bishop for peace on bended knee, which at length, with no small difficulty, his petition succeeded in obtaining.'

Both parties then met in the king's presence to hear the arrangement thus adopted. This sets forth that all malevolence and rancour are to be mutually remitted. Bek's decrees of excommunication and removal are to be annulled. Appeals by either side are to be renounced, and the renunciations are to include a special saving clause, involving the expression *semper*, for the status of the prior and his adherents. The monks who have attached themselves to the bishop are to be reconciled to the prior and convent, and to be given adequate security for their non-molestation in their former status. Finally, the bishop may visit when he deem fit, with three or four clerks, for that time (*ista vice*). The king, the prior and the bishop are each to retain a copy of the agreement.

Following this formality, Bek, at the king's instance, admitted Hoton to the kiss of peace, and Hoton, in turn, the

recalcitrant monks; while the king, pleased with his work, gave drink to the prior and monks with his own hands, 'in all alacrity of mind.' Finally, the king enjoined that the clerks of either party should meet on the morrow to draw up and seal the chirographs, that all might stand inviolate for the future. Yet when the prior withdrew to his manor of Heltun he was followed by but a single one of the so lately conciliated faction. He was plainly discouraged, and to a table companion who rejoiced that a permanent arrangement had been secured, rejoined: 'You will see all this brought to nought with your own eyes, and quickly too; and you may rest assured that I shall die in the cause, and for the cause.'

Hoton's misgivings were only too justified. When on the morrow the prior's representatives met the bishop at Barnard-castle, they were courteously referred to his clerks at Auckland. At Auckland, the clerks were pressed for time, but promised to transact the business at Durham the following Saturday (June 25). On Saturday no clerks appeared, and messengers dispatched to the clerks at Houghton could secure no definite response. The rebellious monks continued to hold out refractorily at Finchale. Watch was renewed over the monastery and the city gates, and the bishop renewed his sequestrations of the prior's manors. There had probably never been official sanction for their relaxation.

At length Bek's clerks vouchsafed an explanation: the bishop could accede to the prior's request to remove his guards and observe the compact, only when the latter should have been confirmed. This could never be done in the form recited before king Edward. The fault lay in the word *semper*, inserted in the saving clause, *statu prefati prioris . . . . semper salvo*, which would render the bishop powerless to remove the prior for just cause on his visitation. Bek subsequently asserted that the *semper* was a scribe's mistake for the *integre* of the original

document, and that Hoton refused to have the error amended; whereas the prior's apologist maintains that Hoton persuaded the king to make the alteration while the latter was at La Rose by Carlisle.<sup>25</sup>

The real trouble, however, was that at no stage in the negotiations had there been any real and genuine 'meeting of minds.' Edward himself must have felt this when he contented himself with something less than a definitive settlement, for despite all its specious claims to stability and permanence, the mere words *ista vice* show the compact of Evenwood to have been only an opportunistic makeshift. The difficulty about the word *semper* would have been a trifle for parties with any mutual sympathy. The real difficulty is that state of mind of both parties well illustrated by a notarial document of June 27. This sets forth that Bek's clerks had exhibited a certain 'nota' on Edward's ordinance, 'protesting that that *nota* should be validated when it should so please the bishop of Durham'; whereupon the procurator of the monks had retorted that the *nota* should 'never be validated unless it were plainly pleasing to the prior and convent,' and protested that the prior and chapter would never withdraw their appeals to York and Rome until after the bishop had withdrawn all his sentences of excommunication and deprivation, and stopped his injuries, agreeably to the compact.<sup>26</sup> With both sides thus minded, it was hopeless to expect peace.

<sup>25</sup> *Gesta Dun.*, m. 4, l. 37-m. 5, l. 29 (ch. vii); 1-9 *pont.*, 2, *Coram rege roll, Mich.*, 28-29 Ed. 1, m. 63 (in French), *Cart. I*, ff. 122 *et seq.*, the concord; Graystones, ch. xxiii, 75-76. Graystones is unsupported in his statement that Hoton was assured a life tenure. The *Gesta* find the basis of Bek's subsequent policy in the instigations of the Finchale faction. See also *Reg. Pal. Dun.*, iv, 17-19, *Coram Rege Roll*, 182, m. 101, *Assize Roll*, 227, m. 1, loc. vii, 70, m. 1, *Reg. 1*, pt. ii, f. 70 d., with respect to the renewal of the guard, and the 'semper' and 'integre' (as to which last point there is no verdict).

<sup>26</sup> *Loc. vii*, 12; cf. *Reg. Pal. Dun.*, iv, 17.

The final failure of the Evenwood negotiations was a prelude to weeks of disgraceful violence, for Bek made no scruple of using his political power in his ecclesiastical quarrel. On July 26 the prior and his party utilized the regular visitation of agents of the general chapter of the Benedictine order in England—in this case the priors of York and Whitby—to prefer charges of one or another kind against all the opposing faction. The bishop's bailiffs thereupon seized and brought to the castle the horses and servants which the visitors had left in Elvet across the river; and the two priors themselves were quite willing, two or three days later, to revoke whatever they had done to the prejudice of the bishop and his adherents, to swear never to do the like again, and on these terms, by Bek's personal licence, depart as they had come.<sup>27</sup>

The strangers' anxiety to leave may have been heightened by a scene most probably witnessed by them on the day following their arrival. Late in the afternoon of the 27th, ten loads of firewood pulled up the hill to the monastery from the prior's manor of Beaurepaire, only to be seized, wood, teams and drivers, and hurried to the castle gate by one of the bishop's men, William le Usser—always styled by our chronicler 'the ribald.' Informed of the occurrence, the prior hastened to the rescue, leaving the monks chanting their vespers in the church. But when Hotón bade the drivers turn their teams once more toward the priory, Usser intervened, and would have dragged the prior to prison, had not the monks heard the uproar, left their chanting, rushed to their chief's rescue, and given his captor a sound thrashing with their fists. A free fight followed with the bishop's stable-men who came running up with clubs and swords. In the end the prior was gotten safely back into his church, but the incident was to prove less important in itself than in its consequences. Usser straightway posted off to the

<sup>27</sup> *Gesta Dun.*, m. 5, l. 53-m. 6, l. 12 (ch. x).

bishop at Stockton with a tale of how the prior and monks, coming with force and arms, had tried to enter and seize the castle. The bishop, bitterly incensed, soon dismissed his former guards as incompetent and too favourable to the monks and appointed others, among them the burly Philip Darcy.<sup>28</sup> On August 16, after negotiations at North Allerton with the Finchale faction, he definitely translated Henry de Luceby from the priorate of Holy Island to the priorate of Durham.<sup>29</sup> With this appointment, involving as it did the problem of actual installation, what had already become a siege progressed from the harassing stage to the physical occupation of the priory.

Darcy had arrived with a large force of archers from North Tynedale by July 31.<sup>30</sup> By August 7, three hundred additional infantry had come up from the villis of the bishopric.<sup>31</sup> Forces of this kind, under leaders like Usser and Darcy, were unlikely

<sup>28</sup> *Ibid.*, m. 5, l. 60-m. 6, l. 16 (ch. x, xi).

<sup>29</sup> The bishop had translated Luceby from Holy Island to Durham on 10 August: *Reg. III*, pt. i, ff. 85-85 d. He however postponed final appointment till the Finchale faction had been given opportunity to present a candidate. These proved unable to agree, whereupon Bek appointed, as indicated, at a conference with the leaders of the anti-Hoton faction. *Gesta Dun.*, m. 6, ll. 44-59 (ch. XII), (only account to give date); Graystones, ch. XXIII, 76, XXVI, 81; *loc. VII*, 4, 4\*; *Assize Roll*, 227, m. 1 d.; *Coram Rege Roll*, Mich. 33-34 Ed. I (182), m. 101 d.; *loc. VII*, 70 m. 3 d.; *loc. VII*, 44; Hemingburgh, II, 215 (without insight).

Hoton was informed of Luceby's appointment on 17 August: *Gesta Dun.*, m. 6, ll. 59-62 (ch. XII).

<sup>30</sup> *Gesta Dun.*, m. 6, ll. 15-18 (ch. XI): 'vallatus multitudine latronum ac virorum male fame, cum ccc sagittariis de Northtindal.' The charge of the prior in *Reg. pal. dun.*, IV, 20, mentions 280 bowmen from North Tyndale, but in *loc. VII*, 4\* only 140. The jury verdict is 'very many': *Assize Roll*, 227, m. 1 d.; *Coram Rege Roll* (182), m. 101 d.; *loc. VII*, 70, m. 3 d., ll. 59-94. Graystones, ch. XXVI, 81, speaks of 140 men from North Tynedale, and 300 from the bishopric.

<sup>31</sup> *Reg. pal. dun.*, IV, 20; *loc. VII*, 4\* (prior's charges). This force probably included a body of foresters from Weardale: Graystones, ch. XXIII, 76; *Assize Roll*, 227, m. 1 d.; *Coram Rege Roll*, 182, m. 101 d.; *loc. VII*, 70, m. 3 d.; ll. 59-94.

to desist from outrage, so that even this earlier stage of the siege witnessed the breaking of the priory conduit, the theft of machinery from the monks' mill and the breaking of the mill wheels.<sup>32</sup> The servants and other laymen in the monastery were forced to leave by threats to life and limb.<sup>33</sup> Yet, on the evening of August 18, Hoton and his adherents still held the entire series of monastic buildings, the cathedral, the cloister and the outer court. The besiegers gained the outer court on Friday, August 19, by rushing the gateway when it was opened to admit Philip Darcy to a pretended parley with the prior. Hoton was indeed saved from capture, but the monks had to retreat behind the locked gates of the cloister, while Darcy forwarded the good tidings to Luceby.

As the monks were celebrating high mass on the Sunday following, the gates of the cloister itself were beaten in. This evidently cleared the way into the church, for Luceby immediately entered to make a new prior's customary offerings at St. Cuthbert's shrine, the ministrant abruptly terminating the service. Hoton, however, clung to his stall, and the bishop's commissioner, Richard de Morpeth, contented himself with the mere assignment of the stall to Luceby. On the other hand no hesitation was shown about ejecting the prior's deputy from Hoton's seat in the chapter house, and at once installing Luceby therein. Thus the night of the 21st saw the soldiery holding the cloister, while the prior and his monks retained their places in the choir—not uncomfortably, for when they had refused to eat in the refectory unless the soldiers left the cloister, Luceby had given them release from a diet of musty bread by serving

<sup>32</sup> *Reg. Pal. Dun.*, iv, 22, 59; *Assize Roll*, 227, m. 2; *Coram Rege Roll*, 182, m. 101 d.; *loc. vii*, 70, m. 3, 11, 1-16. Bishop personally exonerated.

<sup>33</sup> *Reg. Pal. Dun.*, iv, 23 *et seq.*; *loc. vii*, 4, 4\*; *loc. vii*, 14, ll. 1-33; *Coram Rege Roll*, 182, mm. 101 d.-102. *Gesta Dun.*, m. 6, ll. 35-43 (ch. xi). There is a slight discrepancy with respect to this incident between the *Gesta* and the official pleadings.

refreshments in the church itself. Beside which they had the truly monastic satisfaction of self-imposed martyrdom.

Their real hardships began on the 22nd after a night spent in prayer and vigil. The monks were shut off by their fears from the conveniences of the dormitory, and when the dinner hour approached there was little or nothing to be eaten. A report spread that the bishop, newly arrived at the castle, had vowed life imprisonment for the disobedient and rebellious. Many, therefore, seeing the straits to which they were reduced, and fearing Bek's power and wrath, left Hoton, and offered manual obedience to Luceby, in some cases by Hoton's own will and licence.

Tuesday, August 23, found the persistent prior, surrounded by a few faithful followers, still occupying his stall, and the events of the morning proved that his defiant will was still unbroken. About six o'clock came master Philip Martel, with a following of knights, clerks and others, to state that a solution of the situation had been found, honourable to both parties. Bek was first to revoke his sentences and whatever else he had attempted prejudicial to the prior. The prior should thereupon ask pardon, and yield wholly to the bishop's grace. Hoton mistrusting the nature of this grace, Martel explained that the prior was to retain office for two or three months for appearance's sake, was then to be removed at his own request, and be accorded a competent pension. The monks might thereupon hold a free election, and their nominee be confirmed with no difficulty whatever. The knights present, moreover, gave the prior their oath that should he consent to go to the castle for a personal interview with the bishop, and the negotiations fail, he should have safe access to his stall once more. Hoton and his monks accordingly went to the castle. Instead, however, of falling upon his knees and begging pardon when introduced to the bishop in the great hall, he broke into bold complaint of his

mistreatment. 'My lord, what has been my failing, or of what crime do I stand convicted, that I must endure so many acts of baseless opprobrium? Such treatment is not my desert. I have, in my time, and by my industrious care, increased the possessions and tenements of the church of Durham above all the number of my predecessors, even beyond forty carucates of land and more . . . . I do not deserve to be imprisoned thus, like a robber, in the church.' No entreaty altered the prior's resolve. Bek in high dudgeon, left the hall with the words: 'No doubt trouble will give him sense.' Hoton was reconducted to the church, where he and his followers were to pass the remainder of the day and yet another night with neither food nor drink.

Early the following morning, Wednesday, August 24, Luceby and his followers, together with the monks now giving him forced obedience, convened in the chapter house to consider the situation. By Brandon's advice, in the view that Hoton was now merely Luceby's monk, it was decided to order the former, on the basis of a monk's obedience, to leave his stall and obey Luceby as prior, under penalty of the greater excommunication: did he still persist, force should be employed. Yet when Hoton was visited by a deputation of clerks and monks, he persisted in his appeals, and in turn threatened counter-excommunication of any who should dare lay hands upon him. The messengers immediately introduced soldiery to separate Hoton from his followers, and returned to relate their failure.

Should monks or laymen be used to drag the prior from his stall? It was finally decided to employ both. Yet when the boasters of North Tynedale faced the desperate prior in the choir, they fell back and dared not touch him, nor did the monks prove braver. At length two of the latter, together with Philip Darcy and Hugh of Wales, entered the church, and careless of Hoton's reiterated anathemas, drew the prior from his stall, and led him away to prison in the priory. Four days and three



nights of hardly imaginable discomfort had failed to induce a real surrender.<sup>34</sup>

Luceby was thenceforth undisputed *de facto* prior, and at once celebrated his installation with unwonted splendour.<sup>35</sup> Hoton was terrorized into resigning the great seal, and it was at once used to revoke all the late prior's procurations in favour of new ones, and to annul the loan of 1000*l.*, contracted for carrying on his cause. The prior's companions, likewise, had to resign all their appeals, with a saving, however, of their status.<sup>36</sup>

The imprisonment of the hostile prior, the demoralization of his partizans, and the *de facto* supremacy of Luceby, tempted Bek to renew his visitation early in September, in the hope of ever after establishing the right of visitation with clerks. He soon found that resistance was not dead. Hoton's adherents plucked up courage to protest the illegality of the presence of soldiery in the cloister and to renew their appeals. Richard de Kellawe was their spokesman, and his public exception to the bishop's proceedings provoked the latter to an ejaculation interesting as addressed to his own successor in the see: 'We have often heard, and now we surely know, that you draw the whole convent whithersoever you please, as if by one string.' At a conversation later in the day, Bek defied Kellawe and his friends in words which remind us of the scene at Evenwood: 'Fools you are, and like fools you act. You put great trust in the king. You'll see how much he'll do for you, for until we have our way, we shall stop neither for king, nor archbishop, nor pope'<sup>37</sup>—nor did he.

<sup>34</sup> *Gesta Dun.*, m. 6, l. 63-m. 8, l. 56 (ch. XII-XIV); Graystones, ch. XXIII, 76; *Reg. Pal. Dun.*, IV, 25-28; *Assize Roll*, 227, m. 2.d.; *Coram Rege Roll*, 182, m. 102; *loc. cit.* VII, 14, ll. 34-88. <sup>35</sup> *Gesta Dun.*, m. 8, ll. 56-60 (ch. XIV):

<sup>36</sup> *Ibid.*, m. 8, ll. 67-m. 9, l. 4 (ch. XIV).

<sup>37</sup> *Ibid.*, m. 9, ll. 12-65 (ch. XV). The second visitation occurred 2-4 Sept. Luceby could have had none too strong a hold on the monastery, for many of his faction seem involved in these appeals: *cf. Gesta Dun.*, m. 9, ll. 40-41,

This success of Hoton's cause reacted unfavourably on his personal treatment. While the monks were eating their mid-day meal on the Tuesday after the visitation (September 6), the former prior was privately abducted from his quarters in the common house, and conducted through the court-yard, the great gate, and the city market, to the castle. Even in this decline of his fortunes he had such influence in the convent that Darcy and Luceby thought best to close the cloister gates lest the monks attempted a rescue. John de Barnard Castle, one of Hoton's chief supporters, was at the same time torn from a sick bed and dragged through the town to share his master's fate. After some days both were brought back to the monastery, John to be confined in a vile place underground, and Richard in a small room belonging to the steward, in solitude and darkness, for his windows they blocked with stones; and here, deprived of sacraments, even when believing himself at death's door, and tortured by dread of life captivity in the bishop's Isle of Man, he remained incarcerated until Michaelmas.<sup>38</sup>

Ere that time, both king and archbishop had become active in Hoton's behalf, and bishop Bek must have felt the advantage of an accommodation with his foe before rather than after the latter should know of these friendly endeavours. Various hopes of an adjustment were extended to him, and at length, ignorant

'convocati sunt omnes fratres in domo infirmorum, paucis de conspiratoribus exceptis,' whereupon John de Barnardcastle began an attack on the second visitation.

<sup>38</sup> *Ibid.*, m. 10, l. 20-m. 11, l. 4 (ch. xvi); *Reg. Pal. Dun.*, iv, 29; *Assize Roll*, 227, m. 2 d.; *Coram Rege Roll*, 182, mm. 102-102 d.; *loc.* vii, 14, ll. 89-107; *loc.* vii, 4, 4\*; *Graystones*, ch. xxiii, 77; *Hemingburgh*, 215. Hoton's gaolers added to his discomfort by forcibly shaving off a beard grown long and tough, about midnight, using cold water, and permanently scarring his neck by the hot drippings from their wax lights. The jury absolve Bek from complicity in the worst of the treatment.

The court proceedings date the taking of Hoton to the castle, 30 Aug., but the *Gesta* agree with the prior's charge in *loc.* vii, 4, 4\*.

of happenings without, weakened by deprivations, and calming his conscience by the consideration that promises made under duress would be void, the prisoner fell back on dissimulation. He promised to resign his office. Overjoyed, Bek summoned the two priors to Auckland, and there, at Michaelmas, professing that he was led neither by hope nor fear, but by his own free will, Richard de Hoton renounced absolutely all claim to the priorate, and revoked all his appeals and procurations.<sup>39</sup>

The immediate result was a lightening of his imprisonment. He again found himself in the common house, and was allowed conversation with such persons as the *walde be priur* chose to admit. But now for the first time getting into communication with the king, realizing how he had been duped, and chafing under even this moderate restraint, he revoked his revocations, secretly instructed his procurators at York and Rome to resume their labours, and bethought himself how he might escape. He secured from Luceby a wider range of exercise.\* His friends arranged a pseudo-capture, and his guards fled in fright when, on arriving at Shincliffe bridge, eight horsemen appeared, forced their prisoner to mount an extra palfrey, and rode away, December 16. Hoton remained at Clifland until Christmas, and appeared at the parliament of Lincoln in the latter part of January, 1301.<sup>40</sup>

<sup>39</sup> *Gesta Dun.*, m. 11, ll. 4-28 (ch. xvii); *Reg.* III, ff. 86-86 d. Hoton's seal is described as bearing the head of a priest or monk, the head shaved, the beard full and curled.

Hoton's apologist says that Hoton signed on condition that his act should not prejudice the church in the future, and that his and his adherents' status with respect to accusations arising from the quarrel, should remain intact. The instrument of resignation says nothing about this. The chronicler sees in all this the hand of Providence, and compares his hero's actions with the lapses of David, Peter and Thomas of Canterbury. See also Hemingburgh, II, 215-216.

<sup>40</sup> *Gesta Dun.*, m. 11, ll. 28-35, 41-49 (ch. xvii, xviii, the end); *loc.* VII, 82, m. 2, ll. 16 *et seq.*; *loc.* VII, 53, 89, 107, 27 (appearance at Lincoln, 22 Jan., 1301); Graystones, ch. xxiv, xxv (pp. 77-78); Hemingburgh, II, 216.

While these events were transpiring at Durham, both sides had been hotly engaged in the archbishop's court at York. Two actions are to be distinguished: one concerning Bek's commissioners, Lascy and Alberwyk, the other affecting the bishop personally. The former need not greatly concern us. The arguments were highly technical: there was error in the form of appeal, the plaintiff's procurator was inadequately empowered, the commissioners were only the deputies of the bishop. The bishop's lawyers, if we may trust the chronicler of the year, had the procurator of the prosecution gaoled on a false charge of robbing Durham castle, vainly hoping thereby definitely to end the case. 'Very beautiful was the disputation, therefore, between the parties, and it lasted steadily for three days,' writes the delighted annalist. The upshot of it all was that on July 30, protection was extended by York to Hoton and his monks, who were to be restored to their status at the time of the original appeals. In the meantime, of course, the real trial would be held in the papal courts.<sup>41</sup>

The much more important action against bishop Bek began simultaneously with the one against his officials. It was, however, allowed to drag,<sup>42</sup> and may be said to have been settled extra-judicially by private arrangement between archbishop Corbridge and his suffragan. The metropolitan early recognized the delicacy of the situation, and on August 9 sent a considerate

<sup>41</sup> *Loc. vii*, 81, *passim*; *Gesta Dun.*, m. 5, 11, 29-52 (ch. ix), does not distinguish between two actions; 3-2 *papal.*, 4, *Cart. iii*, f. 185, Jan., 1302, 8 Boniface VIII, bull *v. prisoners of Geoffrey de Burdon*. The monks of the bishop's party were represented at the hearings, but no mention is made of their actual interference.

<sup>42</sup> *Loc. vii*, 82, m. 1, ll. 86-87; m. 1, l. 105-m. 2, l. 3. For Corbridge's aversion to altercation, see tone of a letter directed to Bek, 30 July, relative to the latter's refusal to admit a canonically presented candidate to a church in the diocese: *Reg. Corbridge*, f. 106. The court of York issued orders for the excommunication of all impeters of its tuitionary jurisdiction on 5 Aug.: *loc. vii*, 11.

Both suits began 8 July: *loc. vii*, 81, 82.

letter to Bek, mentioning the siege of the monastery and the pending appeals, begging the bishop to stop the outrages, and requesting the sending of envoys that there might be a clear mutual understanding.<sup>43</sup> This letter had very probably not reached Bek before his tentative appointment of Luceby to the priorate the following day.

The archbishop's next attempt was by personal mediation to secure from each party an acceptance of reasonable terms suggested by himself and his chapter—a move agreed upon between the two prelates in a conference at Thorp. On August 18 he writes to Hoton that he and his chapter have decided that the best solution of the problem lies in a conference of Bek and the more conservative of his councillors, the prior and his lawyers, and the archbishop himself, at York, on some day about the end of August, to be fixed by bishop Bek, and announced to the prior by the bearer of the letter. The bishop is to accord the prior safe conduct, abate his siege operations, and allow the monastery to be provisioned. Luceby is to take no further steps.<sup>44</sup>

The letter to bishop Bek is dated the following day, and is couched in substantially the same language. At the foot of the slip whereon it is inserted in the archbishop's register are the words *anima in littera scribitur in dorso*, and *in dorso* it is made plain how Corbridge would have managed matters: let Bek visit with three or four clerks; let the prior and other excommunicates humble themselves before him, and, if need be, receive absolution; and as to whatever else has been done, as the creation of a new prior and the rest, 'because they are not yet divulged to many ears, let them be totally buried.' Possibly Bek may have other plans to suggest.<sup>45</sup>

<sup>43</sup> Raine, *Hist. Letters and Papers from the Northern Registers*, 144, from *Reg. Corbridge*, f. 106.

<sup>44</sup> *Reg. Corbridge*, slip between ff. 106 d. and 107, f. 106 d.

<sup>45</sup> *Ibid.*, slip between ff. 106 d. and 107. Corbridge wants Bek's help *v.* Canterbury, if need be, in the archiepiscopal-cross controversy.

The archbishop was thus reverting to Bek's original programme, but affairs had now gone too far to begin *de novo*, and, as we know, nothing came of Corbridge's well-meant proposals. On August 30, accordingly, sentence of excommunication was confirmed against Luceby, William of St. Botulph, Darcy, Ussher and numerous others,<sup>46</sup> while in a letter of the thirty-first the metropolitan's anger blazed hot against bishop Bek himself. 'We remember it is written,' he wrote, 'that where truth and friends coexist, it is better to honour truth, and as is said in the sacred writings, no one can be another's true friend unless he shall have been first a friend of truth.' Then follow his complaints: Bek has illegally appealed to Rome from the decree of the York official; he has forbidden his subjects to receive any letters from the court of York or to heed the archbishop or his official; he even doubts whether the strictness of the prohibition has not kept himself ignorant of the actions of his metropolitan; he has failed to acknowledge a message sent him by means of one of his own Durham clerks; regardless of appeals he has created and *de facto* installed another prior; and he has inflicted notorious grievances on Hoton and his followers to the manifest contempt of the metropolitan jurisdiction. The archbishop accordingly allows him six days from the receipt of the message to end his grievances, and give the prior freedom to pursue his appeals, under penalty of exclusion from all churches and chapels. Within the same time he must publicly revoke his orders as to the non-admission and disregard of the archbishop's decrees, and must never do the like again under penalty of the greater excommunication.<sup>47</sup> The two seemed drifting into a renewal of the Romanus dispute.

Yet this marked the limit of Corbridge's effort. Perhaps

<sup>46</sup> *Loc. vii*, 11.

<sup>47</sup> *Reg. Corbridge*, ff. 106 d.-107.

the forced resignation of Hoton at Michaelmas had eased the situation. Conferences were renewed—one between representatives of the two dignitaries at Thorp early in October;<sup>48</sup> one on November 6-7, between the two prelates themselves at Styvelyngflet,<sup>49</sup> where definite progress was made toward an agreement; and one at Seleby, where the document embodying the final settlement is dated November 29. This rehearses the conference at Styvelyngflet where both parties, with wholesome abhorrence of the quarrels of Wickwane's and Romanus's times, had agreed upon a restoration of the felicitous conditions before those stressful days. Bishop Bek annuls all appeals from York to Rome, and all other processes. Henceforth disputes between bishops and metropolitans, whatever the remoteness of their origin, are, if possible, to be adjusted by the two prelates and their councils. If this is impossible, the decision of the pope is quietly to be awaited, neither party making aggressive moves in the meantime. If Bek cannot induce his chapter to make the arrangement binding, by their ratification, on his successors, he, at least, will observe it during his own life. The ancient status of both churches is, however, to remain unaffected.<sup>50</sup> Thus ended Bek's difficulties with York. Some little friction two or three years later proved of no great moment,<sup>51</sup> and archbishop Greenfield confirmed the arrangement in 1311.<sup>52</sup> Hoton's lawyers, perhaps with justice, felt that undue partiality was shown the bishop at York, and, on December 18, removed the case wholly to Rome.<sup>53</sup>

<sup>48</sup> *Ibid.*, f. 107. The bishop of Coventry and Lichfield is one of Bek's representatives. Letter referring to conference dated 12 October.

<sup>49</sup> *Ibid.*, f. 107. Referred to in a letter of 18 Nov.; also see n. 50 *infra*.

<sup>50</sup> *Ibid.*, ff. 107 d.-108; Lansdowne, 402, ff. 107 d.-108 d.; mentioned (?) in *Repertorium magnum* as 4-13 pont., 2 (*de-est*).

<sup>51</sup> *Reg. Corbridge*, slips between ff. 108 d. and 109.

<sup>52</sup> *Reg. Greenfield*, ff. 196-196 d. : 3 non. Feb., 1310.

<sup>53</sup> *Loc. VII*, 53, 82.

## CHAPTER VII.

## BISHOP AND TENANTRY DURING 1300.

The testimony of Graystanes makes it clear as was seen in a previous chapter, that the monks felt greatly aided in their fight with the bishop by the simultaneous quarrel between Bek and his tenants. Yet of much real interplay of the two movements there is slight evidence.<sup>1</sup> Ralph de Nevill, one of the chief leaders of the tenantry, had his own reasons for coldness toward the monks,<sup>2</sup> and it is also plain that the chapter received no help from the *communitas* during the days of the siege and of Hoton's imprisonment.<sup>3</sup> The truth would appear to be that the tenants utilized the bishop's preoccupation with the convent to combine independently for their own ends, and that the monks and tenants, while manifesting mutual sympathy, and perhaps profiting by the double burden thrown upon the bishop, were not bound by any tie much stronger than hatred of a common foe.

Bishop Bek had, as we know, in the middle of April, 1300, paved the way for his visitation, by an excommunication of any who might disturb the liberties of his church. It is seemingly not long after that there was an assembly in the church of the knights and tenants in which the general discontent found secret, but emphatic, expression.<sup>4</sup> As in the earlier part of the century, king John's disgruntled baronage had turned against him the papal excommunication issued in his behalf,<sup>5</sup>

<sup>1</sup> Cf. *charg. v. Hoton* in 1-9 *pont.*, 10: 'Item conspiravit cum baronibus et militibus ac aliis tenentibus et vasallis dicti episcopi Dunelmensis, quod assistentes sibi contra dictum episcopum, visitacionem suam predictam impedirent, prestitis eciam super hoc super corpus sancti Cuthberti corporaliter sacramentis, inter quos idem Ricardus primo juravit.'

Note, however, union of their names in later court procedure: *Coram Rege Roll, Mich.*, 32-33 Ed. 1 (178), m. 71 d., and cf. ch. xi, at nn. 29 and 30, *infra*.

<sup>2</sup> Graystanes, ch. xxii, 74.

<sup>3</sup> Silence of *Gesta Dun.* Note, too, that the monks subsequently disclaimed any part in the charter of 1303: *infra*. ch. x, n. 21.

<sup>4</sup> *Gesta Dun.*, m. 3, ll. 10 *et seq.* (ch. v). <sup>5</sup> Walter of Coventry, II, 224.



so now it was maintained that the recent episcopal excommunication warranted a firm confederation for the maintenance of the liberties of the church, and therein, as the tenants understood it, their own.<sup>6</sup> Such a confederation was therefore then and there formed, and cemented by oath upon St. Cuthbert's feretry. Some of the bishop's own officers, it is said, took oath with the rest, though not long after they thought better of it. This vow bound the tenants to press the bishop, or, if need be, the king, with all their might, for remedy for the misdeeds of the bishop's bailiffs and ministers, saving always the homage due king and bishop.

Soon after, the complainants met Bek at Barnardcastle. At this meeting Ralph de Nevill was their spokesman, and in their name presented a written list of gravamina. This the bishop politely accepted, promising, after some consultation with his council, that on his return from London he would do that justice for which leisure was at the moment lacking. Somewhat more than three months later, accordingly, when he was in the midst of the convent trouble, Bek found himself again approached by his knights. This time Marmaduk was orator, and that 'most strenuous knight,' with barely concealed threat, faced his master much as Bek was later to face the king at Lincoln. 'My lord,' said he, 'if it please you, the petition of the knights is just, and will you benignly hearken to them in this matter, you will find them ready and willing in all your undertakings.'

The bishop courteously answered that it was his intention to assign suitable justices to hear the complaints, and appointed Marmaduk to be the tenants' agent in the proceedings. But although the justices at once appointed, Ralph de Hegham, John de Lithegraines and Guichard de Charroun, fixed a day for a general hearing in Sedgefield church, when the time came,

<sup>6</sup> *Gesta Dun.*, m. 3, ll. 15-18 (ch. v).

they 'did little or nothing, but sent away the suitors baffled and empty handed.' Nor did William de Brumpton, Hugh de Louther and John de Creppings in subsequent sessions at Durham and Darlington, give greater satisfaction: to every complaint 'they had but one answer, that the matter concerned chiefly the bishop and his steward, and to such correction their commission did not extend.'<sup>7</sup>

Wearied by this treatment, the *communitas*, in September, laid its complaints before the king and council at the parliament of La Rose, and secured a writ bidding the bishop redress the grievances. As the only result appeared an increase of burdens, the tenants again besought the king to redress their wrongs 'by the ordinance of himself and his council.' This time they were answered that if they would emend their complaint by making it more specific, the king would do justice,<sup>8</sup> and it is not improbably the petition thus emended which was offered at the parliament of Lincoln in February, 1301, at the time when Hoton was likewise making his complaints.<sup>9</sup>

#### CHAPTER VIII.

##### BISHOP AND KING DURING 1300.

Before the parliament of Lincoln can be made a fresh starting point in tracing the tangled development of the latter years of Bek's rule, it remains to note the beginning of his contest with the king. Edward's active interference began even before Hoton's actual expulsion, for on August 4, the treasurer and chancellor were ordered to assemble such justices and others of the council as might be at hand, and to summon before them the prior and bishop. Enclosed under the king's seal were letters from the prior, and a list of injuries done the

<sup>7</sup> *Ibid.*, m. 3, l. 17-m. 4, l. 5 (ch. v, vi).

<sup>8</sup> *Ancient Petitions*, E 770, file 326, seems to refer to this period. Cf. *Cal. Pat. Rolls*, 1292-1301, pp. 532 *et seq.*

<sup>9</sup> Graystones, ch. xxv, 78.

convent since the compact of Evenwood. Bek was accordingly summoned to appear at York on the twentieth.

About to inflict the *coup de grâce* on the prior, and almost at the maximum of tension with archbishop Corbridge, Bek neither appeared nor acknowledged receipt of the *mandamus*. The sheriff of Northumberland was therefore charged to distrain Bek to appear *coram rege* at the Michaelmas and Hilary terms, successively. On his second non-appearance, the sheriff reported that the bishop could not be found in the bailiwick; because of which return, and of his failure to attach such property as the court well knew the bishop of Durham did possess in the bailiwick, the sheriff was himself amerced, and ordered to attach the bishop to appear after Easter.<sup>1</sup> Before this date, however, about the beginning of February, was held the parliament of Lincoln.

#### CHAPTER IX.

##### ECCLESIASTICAL TROUBLES TO THE DEATH OF HOTON, 1300-1308.

###### THE PATRIARCHATE.

In its relation to Durham history, the parliament of Lincoln is less significant for any ultimate decision in palatinate affairs than for its utility as a starting point in tracing further developments. One incident in particular helps to explain the antagonism which thenceforth animated the king against his favourite. During the stormy portion of the session, preceding the common action taken against the papal pretensions with respect to Scotland, Edward asked bishop Bek whether he were to be regarded as siding with himself against Hereford and the baronial opposition. Bek boldly replied 'that these were all working for the

<sup>1</sup> *Coram Rege Roll, Mich.*, 28-29 Ed. 1 (162), m. 63. Bek was ordered to give the prior safe conduct to the Hilary session. See also: *Coram Rege Roll, Hilary*, 29 Ed. 1 (163), m. 7 d. For physical resistance to the sheriff's bailiffs, see *Coram Rege Rolls, Mich.*, 31-32 Ed. 1 (174), m. 103 d.; *Hilary*, 32 Ed. 1 (175), m. 56; *Mich.*, 32-33, Ed. 1 (178), m. 102.

advantage and honour of the kingdom, and therefore he was siding with them, and not with the king against them.' Edward 'simulated peace with the earls, but Anthony he thenceforth always hated.'<sup>1</sup>

No definite action, however, was taken at this parliament with respect to complaints of the Durham *communitas*, nor was the prior extended help beyond the usual processes of the courts. Hoton petitioned for such summary redress on the ground that his suit was helpless without such help, so delinquent was the sheriff in distraining and in returning writs; but of such interference there is no record, nor is there endorsement upon the petition.<sup>2</sup> Hoton did, however, receive recommendatory letters from the king to pope Boniface VIII<sup>3</sup> and to the *curia*, after some delay, he set forth.<sup>4</sup>

Hoton's case presents two aspects: the question of deposition and the question of manner of visitation. With respect to the first, he was at once successful. His culture, eloquence, and, no doubt, money, won a ready hearing. His personal defence was such, says Graystones, 'that he excited all to compassion upon him.' And when Bek's lawyers adduced the resignation, Boniface retorted that no one would wittingly renounce a priorate *gratis*.<sup>5</sup> The bull of restitution was issued November 29, 1301: Luceby had been appointed before the lapse of the canonical six months; Hoton regains the status held at the time of deprivation; but after he shall once have been replaced in corporeal possession, the bishop may litigate for deprivation if he choose. The pur-

<sup>1</sup> Graystones, ch. xxv, 78: Graystones notes that Bek had 140 knights in his train. Cf. also: Rishanger, 186; Trevet, 371-2; Bridlington chronicle (*Chronicles of Ed. I and II*, vol. II), 38-39; Langtoft, II, 290-292. Cf. Ramsay, *op. cit.*, 476 *et seq.*

<sup>2</sup> *Ancient Petitions*, 8950, file 179. The petition is dated on internal evidence.

<sup>3</sup> Graystones, ch. xxv, 78.

<sup>4</sup> *Scriptores Tres*, appendix, no. LXXVII, p. xcvi; *Cal. pat. rolls*, 1292-1301, p. 578 (29 Ed. I, m. 24), and p. 582 (29 Ed. I, m. 21).

<sup>5</sup> Graystones, ch. xxv, 79.

suant executory order is dated at Rome, February 12, 1302, and was formally proclaimed at Durham, where the news seemed too good to be true, on April 21.<sup>6</sup> Two days previously Kellawe had been welcomed back as sub-prior by the larger part of the convent.<sup>7</sup> The episcopal authorities made no opposition, and on May 1, 1302, Richard de Morpeth annulled all sentences against Hoton and his adherents arising from their contest with Luceby.<sup>8</sup> Hoton himself reached Durham only on August 1, 1303,<sup>9</sup> his immediate purpose in coming probably being to meet a threatened visitation,<sup>10</sup> or to collect fresh funds.

But long before this the activity of prior Hoton had driven bishop Bek to similar activity. Hoton's appeals during the siege and imprisonment resulted in a papal mandate of December 3, 1300, to the archbishop of Canterbury and the bishop of Lincoln to restore the prior to liberty, and to cite Bek and Luceby

<sup>6</sup> *Ibid.*, ch. xxv, 79; *Cal. pat. letters*, I, 597; *Registres de Boniface VIII*, vol. III, 243-6 (no. 4296); 2-8 *pont.*, 1; *loc. vii*, 84, 77, 80.

On 26 Jan., 1302, bulls issued for the excommunication of the imprisoners of Geoffrey de Burdon (3-2 *papal.*, 4, *Cart.* III, f. 185), and of Philip Darcy, if he be found to have imprisoned John of Barnard Castle (3-2 *papal.*, 5, *Cart.* III, ff. 185-185 d.). For further excommunications for Hoton's imprisonment, under date of 12 March, 1302, see *Scrip. Tres*, appen. no. LXXIX, p. xcix.

A procuration of Hoton, dated Rome, 24 Feb., 1302: *loc. vii*, 60.

The acquiescence of the diocesan authorities by no means meant a return of perfect peace. See: *loc. vii*, 9, 33, 84, with respect to Fenham manor and general bad faith of Bek's officials; *loc. vii*, 1, 2, with respect to exactions of tithes; *Charters* 5697, 5700, *loc. xiv*, 5, 6, 2-8 *pont.*, 1, as to presentation of William de Burdon to vicarage of Heighington church; *Scrip. Tres*, appendix, no. LXXXI, p. c., 3-2 *papal.*, 9, *Cart.* III, f. 187, as to seizure of a horse from the sub-prior; *Cart.* III, f. 184 d., papal bull directing prior to use ecclesiastical censure in forcing to return to the convent Adam de Bovyle, Henry de Staunford and Henry de Luceby, monks who have gone away in 'lightness of mind.'

<sup>7</sup> Graystones, ch. xxv, 79. Cf. *loc. vii*, 67 (to illustrate cautious way in which news of the restoration was received). <sup>8</sup> *Loc. vii*, 84, 10.

<sup>9</sup> Graystones, ch. xxvi, 81; *Cal. pat. rolls*, 1301-7, p. 151 (31 Ed. I, m. 17).

<sup>10</sup> *Loc. vii*, 66; 2-8 *pont.*, 1; appeals of 31 and 27 July, against threatened visitation.

to appear at Rome within three months. Robert de Lacy, official of Lincoln, notified Bek of this action, in Winchelsey's behalf, on May 12.<sup>11</sup> Although the letters of protection on the patent rolls, the latter part of July and early in August,<sup>12</sup> show that Bek originally intended compliance, he at length sent clerks to excuse himself. Boniface cut their excuses short,<sup>13</sup> and on February 14, 1302, pronounced his excuses frivolous and himself contumacious, suspended him from episcopal functions, and cited him to appear at the curia within six months under penalty of degradation from the episcopate. His procurators were given only two days to get started back to England, and the six months were to date from the issue of the summons instead of from the date of receipt of the citation, as had been the case previously.<sup>14</sup> Hoton, it will be remembered, had procured his restitution the preceding November, and the executory order only two days previous. Such summons could not be evaded, and Bek left England in May, 1302.<sup>15</sup>

In connexion with this journey we chance to get a little information about Bek's private life. Thus Winchelsey, in a letter written to the pope in February, when Bek may have felt the liability of a resummons, states that he had seen the bishop at his manor of Eltham, the eighth of the previous October, so thin, so weak, so worn by some strange kidney complaint, that

<sup>11</sup> *Cal. pap. letters*, I, 589-590; *Reg. de Bon.* VIII, vol. II, 807-811 (no. 3741): the bull declares that Bek was excommunicated by the archbishop of York. Wilkin's *Concilia*, II, 267 *et seq.*; *loc. cit.* VII, 20, 43, 85.

<sup>12</sup> *Cal. pat. rolls*, 1292-1301, p. 603 (29 Ed. I, m. 9), dated 24 July and 2 Aug., 1301.

<sup>13</sup> Graystones, ch. xxv, 78-79, with anecdote. Bek also desired, no doubt, to give attention to the proceedings that in July, 1302, cost him his franchises.

<sup>14</sup> Graystones, ch. xxv, 79-80; *Cal. pap. letters*, I, 599; 2-8 *pont.*, 1; *Reg. de Bon.* VIII, vol. III, 361-5 (no. 4458).

<sup>15</sup> *Cal. pat. rolls*, 1301-1307, p. 34 (30 Ed. I, m. 23). Bek was at Devizes on 24 and 30 April, 1302 (*Charter roll*, 30 Ed. I, m. 5). He probably sailed from Southampton.

he had not mounted his horse for a month; nor could without great danger. The archbishop hopes the pope will take this into account in Bek's business, and says he feels forced to intervene in his behalf, because, above all other English prelates, Bek has been his consoler and assistant in all the straits and troubles that he has sustained in behalf of his church and its status.<sup>16</sup>

It was the bishop's manner of travel on this occasion, also, which led Graystones to give us the classic and standard account of his magnificence. 'Summoned, therefore, a second time, the bishop came to the curia, but such were his appointments and demeanour that all were amazed, alike at his retinue and at his lavish liberality. Riding on one occasion through a Roman town, toward the curia, a count of those parts, hindered in his own progress by Bek's train of followers, for some time wondered at the numerous retinue, and at length asked a citizen: "Who is this passer-by?" "A foe to money," came the latter's answer.' On the same journey, one of Bek's followers asked the price of some very precious cloth. When the tradesman replied that he thought the fabric beyond even the bishop's purse, Bek, learning the incident, bought the goods and had them cut into saddle-cloths before the merchant's very eyes.<sup>17</sup>

One of the brawls apt to attend the progress of such a cavalcade gave the bishop an opportunity to impress the men of his time by his combined pride, will, and self-possession. So violent was the attack in this instance, headed by the municipal officers, as to overcome all opposition. His enemies broke their way into the bishop's very chamber, crying 'Yield thee, yield!' Bek contemptuously kept his seat: 'So may God save me, you have failed to tell me to whom I am to yield; to none of you!' For all his coolness, he might have been slain but for opportune assistance.<sup>18</sup>

<sup>16</sup> *Reg. Winchelsey*, f. 330, dated Otteford, 20 Feb. (1302).

<sup>17</sup> *Graystones*, ch. xxv, 80: cf. ch. xviii, 64.      <sup>18</sup> *Ibid.*, ch. xxv, 80.

His reckless lavishness at Rome must quite have eclipsed all Hoton's efforts. Bishop Bek kept fine horses, two of which he sent on one occasion to a cardinal, that the latter might make choice of one and return the other. Over-tempted by the beauty of the animals, the cardinal kept both. Bek turned the matter off with the dry comment: 'May God help me, he has not failed to take the better.'<sup>19</sup>

It is in connexion with this trip that Graystones unwittingly informs us what we are to understand by Bek's famed 'magnanimity.' 'Of such magnanimity (*tantae magnanimitatis*) was he that it seemed to him that, without blame, he might do whatever he would, not scrupling to pronounce the benediction because cardinals might be present, nor to dally with his birds because of the presence of the pope.'<sup>20</sup> Anthony Bek's magnanimity, then, means a combination of high spirit and a conviction, so rooted as to be unconscious, that no one could take offence at whatever so privileged a being might choose to do; or, in short, personal courage, hauteur and egoism.

It was above remarked that these ecclesiastical suits presented two aspects: the question of Hoton's deposition, and the manner of visitation. So vigorously did Bek push his case that not only did he suffer nothing for his methods in 1300, but won a signal victory in the matter of the visitation. At one time there may even have been a likelihood of the monastery coming to an end as a Benedictine institution. A letter from Hoton to the superior and convent, written some months after the decision (*vid. infra*) sets forth the situation both at home and at Rome. 'Know, moreover,' he writes, 'that rumour has reached us that the advocates have too splendidly fallen into the habit of keeping burdensome retinues, more preciously clothed than the retinues of kings or princes. They are infrequently and rarely in the

<sup>19</sup> *Ibid.*, ch. xxv, 80.

<sup>20</sup> *Ibid.*, ch. xxv, 80.



cloister, and are prodigal in gifts and expenses. Such is the report at the curia of many coming from England, and that you are living as though you preferred not to be under discipline. Hence have a care lest we be accused touching this matter, or at least be denounced, for because of this you might suffer worse things than before, and that shortly.' 'And if what you have sent, viz., 2253 florins, seems a great deal, . . . consider, on the other hand, the power of the bishop, and the expense he is incurring, and promises to incur, to your destruction and expulsion, imputing to you, not to us, in presence of pope and cardinals, that you have been frequenters of taverns, ribalds, rogues and vagabonds, and other enormities; wherefore it would be a pious thing to remove you from that noble church, and replace you by honest seculars—a thing we feared would be done had we not put ourself in the way. Considering which, it is no wonder the pope conceded him that visitation, . . . saving our and your status by our restitution henceforth.'<sup>21</sup>

Before this letter was written, Bek had won his case, and returned to England.<sup>22</sup> Boniface rejected Hoton's demand for solitary visitation. The bull 'Debent' of July 23, 1302, declares the claim unreasonable, and provides that henceforth the bishop may visit with two or three honest persons of good clerical character, one at least to be a Benedictine, and that he may have a single clerk for notary.<sup>23</sup> The bull, 'Debent,' subsequently incorporated in the Extravagants,<sup>24</sup> remained the rule for visita-

<sup>21</sup> *Loc. vii*, 79: dated at Rome, 23 Dec. (no year). It mentions the bull 'Debent,' after which Hoton was but once in Rome at that time of year, viz., 1302. When Hoton next returned to the curia, it had removed from Rome under Clement v. 'Obedientiarum' is the word here translated 'advocates.'

<sup>22</sup> Bek is at Westminster, 20 Oct., 1302: *Charter roll*, 30 Ed. I, m. 3.

<sup>23</sup> Graystones, ch. xxv, 80; *Cal. pap. letters*, I, 603; *Registres de Boniface VIII*, vol. III, 514-515 (no. 4730); *Cart. I*, ff. 17 d.-18 d.; *Cart. III*, ff. 186-187. *Vid.*, n. 24 *infra*.

<sup>24</sup> Extrav. comm. i. de officio iudicis ordinarii, I, 7 (*Corpus iuris canonici*, ed. Friedberg, II, col. 1243).

tions at Durham at least to Langley's time, although Langley's predecessor, bishop Skirlawe, made an unsuccessful attempt to broaden its interpretation.<sup>25</sup> When Bek returned, it was to find his Liberty seized into the king's hand; instead, however, of plunging into that complicated side of palatinate history, it seems best to follow the doings *in foro ecclesiastico* till Hoton's death in 1308.

For the present it was settled that the bishop might visit as he claimed the right to do, and also that Hoton was prior *de jure* and *de facto* until the bishop should prove otherwise by successful litigation. Reinstated in his franchise in July, 1303, and almost through with the negotiations that preceded the charter of that year, Bek once more took up the fight against the prior, and passed over to the Continent in the autumn of that year.<sup>26</sup>

Boniface VIII died that October, and his successor, Benedict XI, proved well disposed. In April, 1304, he endeavoured to confer the priorate of Coldingham, an appurtenance of the Durham Benedictines, on Bek's friend, the bishop of Biblis,<sup>27</sup> and the

<sup>25</sup> *Reg.* III, f. 342; *Cart.* I, ff. 105-105 d.; *Cart.* I, ff. 21-22. Skirlawe held that the monk need not be a Durham benedictine.

Bek did not return without a dispensation or two for a friend or kinsman: *Cal. pap. letters*, I, 603; *Reg. de Bon.* VIII, vol. III, 526 (nos. 4753, 4754).

<sup>26</sup> *Cal. pat. rolls*, 1301-7, pp. 154, 156, 163 (31 Ed. I, mm. 14, 13, 9). Bek was at Somerton, 29 Aug., 1303: *Reg.* I, pt. II, f. 36 d.

<sup>27</sup> *Cal. pap. letters*, I, 613 (dated 3 April, 1304); *Reg. de Benoit* XI, ed. Grandjean, col. 404 (no. 634); *Charters*, 1014; Prynne, III, 1059-1061; *Rot. parl.*, I, 178-179. The monks at once appealed, the chief objection, perhaps, being that Bek had failed to inform the pope that from of old, in time of peace, 30 monks, and since the Scottish wars, 7 monks, had their residence there; that these had always been self-supporting; and in time of peace were accustomed to pay, over and above expenses, 69*l.* to the priory of Durham; and that if the bishop of Biblis were given the house, the monks would have to return to Durham, to the prejudice of the monastery and the scandal of the order: *Charters*, 1014. The petition of the bishop of Biblis for possession at the parliament of 1305 was not granted, as prejudicial to the king and his crown: *vid.* references, *supra*.

Even this did not end Bek's persecution of the priory in the matter, for

following June took steps looking toward the deposition of Hoton. A papal mandate was issued on June 4, 1304, to the archbishop of Canterbury and the bishops of Worcester and Lincoln, commanding them to go to Durham, and there take steps for the restoration of the priory. Powers were conferred upon them to remove the prior, accused of ill-management, perjury, simony and other excesses.<sup>28</sup> However, Benedict died before anything was accomplished, 'and thus the bishop lost whatever he had expended in the matter.'<sup>29</sup>

Bek returned to England for a time before the end of April, 1304,<sup>30</sup> but before the end of July, 1305, was preparing to cross the channel once more.<sup>31</sup> Not unlikely he was among the many prominent Englishmen at Clement v's ill-starred coronation at Lyons in November.<sup>32</sup> There is nothing to show that he returned to England till the 13th of May, 1306, on which date the London annals mention his crossing the sea from the curia, reaching London four days later, 'with his cross doubled,' and in great éclat, for a multitude of horsemen went out to meet him.<sup>33</sup>

later he induced Clement v to try to secure the royal assent to a collation of the same priory to the pope's nephew, Raymond de la Goth, on whom Clement had already bestowed a cardinal's hat, deaneries in Lincoln and London, and other fat English benefices. For the whole interesting story, see Graystones, ch. xxvii, 83-84.

<sup>28</sup> *Cal. pap. letters*, I, 615; Graystones, ch. xxvii, 82; *Reg. de Benoit* XI, col. 519 (no. 853).

<sup>29</sup> Graystones, ch. xxvii, 82. *Loc. vi*, 16 is a transcript of protests made, or prepared for contingencies, against the reissue of the letters. One of them alleges that the bishop is trying to involve the prior in various processes, because he fears the prior's suit against him, on 80 charges, in the king's court.

<sup>30</sup> *Cal. Irish Documents*, 1302-7, p. 105, no. 304.

<sup>31</sup> *Cal. pat. rolls*, 1301-7, p. 374 (33 Ed. I, pt. ii, m. 16). On 8 July, he was at Canterbury: *Ch. rolls*, 33 Ed. I, m. 4.

<sup>32</sup> Rishanger, 228; *Cal. pat. rolls*, 1307-7, p. 387 (33 Ed. I, pt. ii, m. 8). Cf. *Reg. pal. dun.* I, pref. xlix.

<sup>33</sup> *Annales Londonienses* (Ch's of Ed. I and Ed. II, vol. I), 145 *et seq.* Cf. Hemingburgh, II, 243, *Reg. pal. dun.*, IV, 374 *et seq.*; not unlikely he desired to be present at the approaching knighting of the prince of Wales.

In the meantime he had attained his usual success. His temporalities had by this time been seized once more, but he had secured another triumph over Hoton and had in addition secured for himself a unique position among English churchmen. Both gains had very likely been secured largely by a new development in Bek's policy—his taking of the crusader's cross.

Hemingburgh, who is by no means always to be implicitly believed, declares that even in Boniface's day, bishop Bek, the sooner to get a licence to leave the curia, had offered to take three hundred knights to Palestine, to serve three years at his own expense—a proposal accepted by the pope, who gave him a year to sell his lands and get started.<sup>34</sup> By the time of Benedict xi he certainly had taken the cross, for on June 5, 1304, Benedict granted a dispensation to eight of Bek's clerks, who with himself had taken the cross, to enjoy the incomes of their benefices while absent.<sup>35</sup> Under Clement v the matter takes more of the attention of the papal chancery. On January 26, 1306, as one going to the help of the Holy Land with his servants and goods, he is taken under the protection of St. Peter.<sup>36</sup> On the same grounds he is two months later (March 26) freed from his offer of a tenth,<sup>37</sup> and is exempted from the jurisdiction of York.<sup>38</sup> The following day both privileges are entrusted to the bishops of Lincoln and Amiens and the abbot of Lesate in the diocese of Pamiers,<sup>39</sup> and to them likewise is entrusted the protection of his property while he is in Palestine.<sup>40</sup>

How much of all this is genuine, it is hard to say. Crusade talk of more or less sincerity had not wholly passed away.<sup>41</sup> Bek had tasted actual crusading. His life had been chaste, full of wholesome exercise, and temperate.<sup>42</sup> Yet he belonged to an

<sup>34</sup> Hemingburgh, II, 217.    <sup>35</sup> *Cal. pap. letters*, I, 616.    <sup>36</sup> *Ibid.*, II, 10.

<sup>37</sup> *Ibid.*, II, 12.    <sup>38</sup> *Ibid.*, II, 12.    <sup>39</sup> *Ibid.*, II, 13.    <sup>40</sup> *Ibid.*, II, 13.

<sup>41</sup> Cf. Pierre Dubois, *De Recuperatione Terre Sancte*,

<sup>42</sup> Graystones, ch. xviii, 64.

aging generation. One of his proposed comrades was in 1311 to be excused by reason of advanced years.<sup>43</sup> He had himself recently been sick unto death.<sup>44</sup> And the court of Clement v is not noted for sincerity. After all, it is not improbable that this crusade fiasco really furnished a substantial pretext for the granting of advancement and favours which had as their real basis the papal lust for lucre.

Hemingburgh, who seems to retail the floating talk of the time, views in this light one of the two triumphs gained by bishop Bek at this epoch, the securing of the patriarchate of Jerusalem. 'This new pope made many innovations, among them creating Anthony, bishop of Durham, patriarch of Jerusalem, and this because the bishop was rich and the pope poor': whereupon Hemingburgh goes on to dilate on his five thousand marks a year, over and above the income from his bishopric.<sup>45</sup>

If the new dignity was intended to replenish a lean exchequer,<sup>45a</sup> it certainly could have entailed no corresponding care: the notices in the chronicles clearly testify to Bek's vastly increased prestige. The *Annales Londonienses*,<sup>46</sup> Hemingburgh,<sup>47</sup> Rishanger,<sup>48</sup> all relate it among the noteworthy events of the

<sup>43</sup> *Cal. pap. letters*, II, 84.

<sup>44</sup> *Vid. supra*, at n. 16.

<sup>45</sup> Hemingburgh, II, 242-243; *Reg. pal. dun.*, I, 599-601; *Cal. pap. letters*, II, 5, 13; Graystones, ch. xxvii, 82-83 (mistakes the date). Cf. *Cal. pap. letters*, II, 7; licence to license six clerks, Bek's relatives, to hold benefices to the value of 300*l.*

<sup>45a</sup> See article in *Revue de l'Orient Latin*, I (Paris, 1893), by L. de Mas Latrie, entitled: 'Les Patriarches Latins de Jerusalem.' It is here pointed out that the title carried with it the use of some church in the papal city, Rome or Avignon, together with 'les hospices ou l'hôtels en dépendants,' also, all that remained of the patriarchal lands in the countries that remained 'Latin,' e.g., in Cyprus, Crete, and some of the islands of the Archipelago, such as Lesbos, Naxos and Chios.

Bek's predecessor in the patriarchate was a Dominican, a certain Ralph de Granville, *ob.* 1304. His successor was a Franciscan, Peter de Pleine-Chassagne, named patriarch in 1314.

<sup>46</sup> *Annales Londonienses*, *ut cit.*, 145-146.

<sup>47</sup> Hemingburgh, II, 242-243.

<sup>48</sup> Rishanger, 228.

year. Nor was Bek a man to hide his honours. The patriarchal cross is borne before him on his return to London,<sup>49</sup> it is sculptured upon the wall of the episcopal palace at Bishop Auckland, it is the glory of an exquisite great seal,<sup>50</sup> and the patriarchal title is, of course, the customary adjunct of his name.<sup>51</sup>

The triumph which in all probability Bek most enjoyed followed some days after his appointment to the patriarchate. On March 5, 1306, Clement suspended Hoton, on grounds of dilapidation, from the administration of spiritualities and temporalities, giving both to the care of bishop Bek, personally or vicariously.<sup>52</sup> On the following day the abbot of Lesate, the bishop of London, and the archdeacon of Cleveland were entrusted with the execution of the mandate, and, as if to find material for dilapidation proceedings, were charged to obtain information from the bishop, his vicar, and the convent, as to the fruits, rents and profits of the priory.<sup>53</sup>

Hoton had already started for the curia, but he was still wintering where the suspension had found him, near Canterbury,

<sup>49</sup> *Vid. n. 46, supra.*

<sup>50</sup> *British Museum Seals*, LIV, 69 (sulphur cast): original attached to 2-13 pont., 6, at Durham.

<sup>51</sup> *Charter Rolls*, first years of Edward II. The author knows of but two instruments relating primarily to Bek's patriarchal business, and these are in transcript. One is the appointment of Bernard Morro, prior of the church of the Holy Sepulchre, to be his vicar with respect to the spiritualities of the order of the Holy Sepulchre. Collations to benefices, if there be such, are reserved to the patriarch (Lansdowne, 397, ff. 206-206 d.). The other is the appointment, at the instance of the bishop of Ostia and Verceil, of Hugh Burgetti, to the bishopric of Samaria (*ibid.*, ff. 205 d.-206).

<sup>52</sup> *Cal. pap. letters*, II, 6; Graystones, ch. xxvii, 83; Hemingburgh, II, 243; bull in full in *Rotuli Miscel.*, at Durham, in a document marked 'Rescripta apostolica in re Ricardi Hoton, prioris.' Cf. *Cal. pap. letters*, II, 187.

<sup>53</sup> 'Rescripta apostolica in re Ricardi Hoton, prioris' (*vid. n. 52 sup.*); Graystones, ch. xxvii, 83; *Cal. pap. letters*, II, 6.

when on March 31, 1306, Bek's commissioners, Stephen de Morley and Richard de Morpeth, came to the cathedral to induct into the care of the monastery none other than the ex-pseudoprior Henry de Luceby. The monks, however, trusted to the king, and appealed to the pope, so that Henry and the commissioners had to content themselves with launching an excommunication.<sup>54</sup> Hoton issued his own personal appeal at Hogeston near London, on April 9, basing his demurrer on the vagueness of the grounds for the dilapidation charges preferred.<sup>55</sup>

It is worth while to follow the immediate consequence of this excommunication, so well do these illustrate one of the coignes of the jagged boundary of civil and ecclesiastical jurisdiction in medieval England. 'But in all these things,' writes Graystones, 'was the hand of the king with the prior.'<sup>56</sup> On April 29, 1306, writs were issued summoning Stephen de Mauley, Thomas de Goldesburgh, Richard de Morpeth and Robert de Baldok, to appear before the king and council on the quindene of Trinity, to answer for their treatment of the priory of Durham, of royal foundation. They are to desist from further proceedings, and whatever may have been done meantime is reversed. Robert de Clifford, the king's keeper of the confiscated Liberty, was at the same time ordered to prevent their further procedure; and when it was discovered that, notwithstanding the royal prohibition, the parties had attempted to act through substitutes, a second command went out to Clifford, June 16.

The defendants appeared at the term appointed, acknowledged that they had not asked the royal consent for what they had done, and confessed that they had not revoked their excommuni-

<sup>54</sup> Graystones, ch. xxvii, 83; Hemingburgh, II, 243-4 (thinks Bek had already returned to England); 'Rescripta in re Ricardi Hoton, prioris' (*vid. n. 52 sup.*).

<sup>55</sup> *Loc. vii, 76.*

<sup>56</sup> Graystones, ch. xxvii, 83. Hemingburgh, II, 243-4, transcends the truth.'

cations as commanded. It was therefore decreed that their disobedience to the royal orders, and their unlicensed meddling with the temporalities of the priory were 'expressly against the crown and dignity royal,' and to the king's manifest exheredation. The defendants were then mainperned to the quindene of Michaelmas. Again they confessed to not revoking their decree, and added that they could not. Again mainperned, they finally on November 23, 1306, before the entire council, fully revoked their sentence in writing, but for their disobedience and contempt were committed to gaol at the king's pleasure. Finally, at the parliament of Carlisle, January 20, 1307, having previously been again mainperned, Stephen de Mauley made fine at eighty marks, Goldesburgh at 100*l.*, and Baldok at twenty marks. Morpeth's fine was remitted by the king's special grace.<sup>57</sup>

Hoton had been postponing his trip to the curia, to what disadvantage we have seen, ever since the spring of 1304.<sup>58</sup> He came north once more, and celebrated mass for Edward at Durham on August 5, 1306. Six days later Hoton left the place for ever,<sup>59</sup> again to seek his fortunes at the papal court. He was presumably followed by bishop Bek, for whom we have a protection dated August 11, 1306, and who was absent at the

<sup>57</sup> Pryne, III, 1127 *et seq.*; *Coram rege roll*, Trinity, 34 Ed. I (185), mm. 35, 38; *Rot. claus.*, 34 Ed. I, mm. 13 d., 10 d. (cal. 444, 452, numbered mm. 12 d., 9 d.). Pryne prints everything except the orders to Clifford of 29 April, 1306. Graystones, ch. xxvii, 83 is mistaken as to the fines.

For annoyance to priory by refusal of ordination of young men presented by the prior, by which Graystones appears to have been a sufferer, when taking sub-deacon's orders, see Graystones, ch. xxvii, 84; *Greenfield's Register*, ff. 192, 194 d.

<sup>58</sup> *Cal. pat. rolls*, 1301-7, p. 217 (32 Ed. I, m. 22), protection dated 9 April, 1304; *ibid.*, p. 390 (33 Ed. I, pt. ii, m. 7), letters nominating attorneys, Nov. 7, 1305; Graystones, ch. xxvii, 83.

<sup>59</sup> Graystones, ch. xxvii, 83; *Scrip. tres*, appendix, no. LXXXIV, p. cii; *Cal. pat. rolls*, 1301-7, pp. 458-9 (34 Ed. I, mm. 12, 11); *loc. vii*, 65 (for date of leaving Durham).



court proceedings against him relative to Wark, Penreth and Soureby in the following autumn and winter.<sup>60</sup>

Subordinate phases had been exhausted; the question of deprivation was now definitively to be settled. The articles of accusation are formidable. Hoton has for six years disregarded the excommunication of 1300; he conspired with his fellow monks to conceal the true state of affairs at the visitation of that year; he conspired with the bishop's tenants and vassals, and first of them all took the oath of conspiracy; he committed perjury at the visitation by having an appeal read instead of a mere procuration as he had promised; 'religion' has collapsed under his rule; he has favoured monks delinquent in respect to garb and life; order has not been kept in the dormitory; he has misappropriated the alms money of the monastery; he has criminally prosecuted in secular courts monks favouring the bishop and procured their long imprisonment; he has similarly treated the archdeacon of Durham; he has caused the bishop himself to pay damages of 400*l.* in the secular court, and this with respect to matters already in the church courts; others he has prosecuted in the secular courts even to outlawry, which in itself involves penalty of blood; he has given rich presents to the archbishop of York and to others to gain favour against his bishop; he has celebrated mass in contempt of papal prohibition; he has impoverished a church which he found flourishing; as a matter of fact, he resigned all his rights to the bishop; he has resorted to sorcery and divination.<sup>61</sup>

Despite the seriousness of the indictment and the strenuous efforts of bishop Bek, the king's influence, Hoton's own charm and eloquence, and the wise expenditure of a thousand marks,

<sup>60</sup> *Cal. pat. rolls*, 1301-7, p. 461 (34 Ed. I, m. 9); *Reg. pal. dun.*, iv, 266, and III, 23-25. Bek was at Northallerton on 14 Aug., 1306: *Charters at Durham*, 367; *Reg. I*, pt. ii, f. 31. See also *infra*, ch. x, at n. 60.

<sup>61</sup> 1-9 *pont.*, 10: relative date fixed by internal evidence.

gained the decision for the prior, and, if we may believe Robert de Graystones, wrung from the pope the confession that he had erred in his suspension, not *pessime*, but *pessissime*. The bull *Olim ex certis causis*, of October 25, 1306, completely restored Hoton's status, both in spiritualities and temporalities.<sup>62</sup> It was, however, slightly over a year later before the executory mandates were issued to the archbishop of York and the precentor of Perigueux, December 1, 1307. The latter's order, promulgated December 30, was published in the priory February 7, 1308,<sup>63</sup>—but Hoton had already passed away at Poitiers, January 9, 1308.<sup>64</sup>

Even while the prior was *in extremis*, his associates had sent a messenger to the convent, who had announced the restitution on February 1. But Bek had had earlier news of the prior's decease, and on the second of the month sent his coroner and others to take over the custody of the house. All was uncertainty, and for a time the monks talked of a forcible expulsion. Things were finally left *in statu quo*. The ténson was ended on March 12, when definite news arrived of the appointment of William de Tanfeld to the priorate. The appointment had been made by the pope, February 25, at the instance of bishop Bek and the new king Edward II. The choice was immediately accepted, and Tanfeld was installed on September 4, 1308.<sup>65</sup>

<sup>62</sup> Graystones, ch. xxvii, 84; *Scrip. Tres*, append. no. lxxxiii, p. ci; Hemingburgh, II, 244; 1-2 *papal.*, 24\*; *Cart.* I, ff. 35 d.-36; *loc.* VII, 78.

For Goldesburgh's excommunication, see *Scrip. Tres*, appendix, no. lxxxv, p. ciii, from *Cart.* III, f. 177. A revocation of the bishop of Carlisle's proxy in the matter exists in *Rot. miscel.* at Durham.

<sup>63</sup> *Cal. pap. letters*, II, 32; *loc.* VII, 78, 78.\*

<sup>64</sup> Graystones, ch. xxvii, 84; Julius D. IV, f. 121 (for place of death).

<sup>65</sup> Graystones, ch. xxviii, 85; ch. xxix, 86-87. The circumstances of Hoton's death are not clear, but it was sufficiently sudden to endanger talk of poison.

## CHAPTER X.

## SECULAR AFFAIRS, 1300-1307.

## PART I: Seizure of 1302-1303.—The Charter.

During the years that bishop Bek was pushing prior Hoton in the ecclesiastical courts, he was himself the defendant in the secular courts of suits pressed equally vigorously by the prior, the palatinate tenantry, or the king. The prior's case was left at Lincoln, it will be remembered, to the ordinary court routine; but long before this suit came to completion,<sup>1</sup> it had, for the time being, lost its interest in Bek's vaster difficulties with the king. The same Trinity roll which records the non-appearance of the bishop at York, in the prior's suit, sets forth his contemporaneous presence at Tynemouth at the beginning of the process that was to end in the confiscation of the palatinate the following year.<sup>2</sup>

On June 22, 1301, bishop Bek was arraigned in the chapter house at Tynemouth, before the king, the chancellor, and judges Brabançon, Bereford and Howard, for this:

'That when the said lord king, by his letters patent, had taken into his protections and defence Richard, prior of Durham, his men, lands, . . . . . and all his possessions, forbidding all and singular to injure, harm, damage or grieve the said prior, his men or affairs, the said bishop and Philip Darcy, keeper of the castle of the said bishop of Durham, took and imprisoned, on the Wednesday following the feast of St. Cuthbert in March, a certain William de Brometoft, a man of the said prior, who on that day brought into Durham castle, and exhibited to William de Brumpton, Guichard de Charon and Peter de Thoresby, the said bishop's justices, and to the said keeper, Philip, that protection, for his own defence and preservation, and [the defence and preservation] of the other men of the said prior; and this they did because he brought and exhibited the said lord king's aforesaid protection, and immediately after he had shown it; and they kept him in prison from

<sup>1</sup> *Coram rege roll*, Easter, 29 Ed. 1 (164), m. 35 d.; *ibid.*, Trinity, 29 Ed. 1 (165), m. 48 d.

<sup>2</sup> *Coram rege roll*, Trinity, 29 Ed. 1 (165), m. 57 d.

the aforesaid Wednesday until Thursday next preceding the feast of St. John . . . . . through thirteen weeks, and still detain him, against the lord king's protection and prohibition aforesaid, and against the king's peace, etc., to the contempt and manifest hurt of his royal dignity and crown, etc.'

Darcy had been originally at fault, but Bek acknowledged that even after his attention was brought to the matter, Brometoft had been detained a month, and in this put himself on the king's mercy. The next day the justices went to Durham, found that Brometoft had been released, and adjourned proceedings to the next parliament.

When this met, July 1, 1302, Bek had been forced to obey Boniface VIII's summons to Rome. Judgment accordingly went against him by default. It was held that the bishop, like other magnates, was the king's minister with respect to his regalities, which had emerged from the crown; that the crown's jurisdiction is indivisible (*corona integra est*), and the crown's orders must be obeyed; and that Brometoft had, with Bek's connivance, really been imprisoned 'for the sake of the Liberty of the bishopric,' although the king's 'power extends throughout the entire realm of England, as well within the Liberty as without.' On the principle, therefore, that 'in what he presumed to be delinquent, in that he ought to be punished,' the Liberty was ordered to be taken into the king's hand, July 7, 1302.<sup>3</sup> Ten days later Robert de Clifford was appointed keeper, and William de Ormesby, justice of common pleas.<sup>4</sup> The franchise was restored one year later, July 8, 1303.<sup>5</sup>

During this period of a year, the tenantry used the bishop's

<sup>3</sup> *Ibid.*, m. 57 d.; *Assize roll*, 226, m. 1. Cf. *Cal. pat. rolls*, 1301-7, p. 149 (31 Ed. I, m. 18); *Red Book of the Exchequer*, III, 1027 et seq.

<sup>4</sup> *Cal. pat. rolls*, ut cit., 43-4 (30 Ed. I, m. 19), 49 (30 Ed. I, m. 16); *Rot. claus.*, 30 Ed. I, m. 2 (*Cal.* 567); *Red Book of the Exchequer*, III, 1026; *Assize roll*, 226; K.R., 33 Ed. I (79), m. 7 d., 34 Ed. I (80), m. 11; *Rot. claus.*, 32 Ed. I, m. 8, ced. (*Cal.* 153 et seq.); K.R., 34 Ed. I (80), m. 78.

<sup>5</sup> *Cal. pat. rolls*, ut cit., 149 (31 Ed. I, m. 18), 8 July, 1303.

entanglement to the utmost. Ormesby's plea roll<sup>6</sup> is full of charges relative to the extortions of the bishop's agents before 1300, the character of which has already been described (ch. v). It is not surprising, therefore, that, on his return in the autumn of 1302,<sup>7</sup> Bek should have given his first attention to these matters, in such wise that on November 12, Edward could announce to Neville, Marmaduk, and 'the rest of the *communitas*, that the bishop was understood to be 'inclined to a good accord.' The royal notice to Neville, Marmaduk, Thomas de Whitworth, Alan de Teesdale, and John de Haveryngton, one or all, with any others of the *communitas*, to appear before the king, January 2, 1303, empowered to come to an adjustment,<sup>8</sup> proved too short, and the meeting was adjourned to February 24, 1303.<sup>9</sup> Care was also taken to conciliate the commonalty of the bishopric by assurance that the extra service granted by them for the Scottish war should not be drawn into precedent.<sup>10</sup>

What was done at the adjourned meeting we do not know. Many of the complaints, by general consent, were amicably settled by the king and council, at Durham, toward the end of April; and somewhat later, on assurance by the king's judges that further correction of abuses had been made, the franchise,

<sup>6</sup> *Assize roll*, 226. Cf. *Cal. pat. rolls, ut cit.*, 127 (31 Ed. I, m. 29); *Rot. claus.*, 31 Ed. I, m. 13 d. (*Cal.* 83). The bishop's judges and sheriff were tardy in surrendering their authority, and the first of the roll is devoted to prosecutions on this score. See also *Reg. pal. dun.*, III, 34-39, for rectification of encroachments during confiscation.

<sup>7</sup> *Charter roll*, 30 Ed. I, m. 3 (Westminster, 20, 24, Oct.), m. 1 (Westminster, 22 Oct., 5, 7 Nov.), m. 4 (Odyham, 8, 10, 13 Jan., 1303).

<sup>8</sup> *Cart.* I, f. 61 d., printed by Surtees, I, appendix to general history, cxxviii; *Cal. pat. rolls, ut cit.*, 71 (30 Ed. I, m. 4).

<sup>9</sup> *Cal. pat. rolls, ut cit.*, 106-107 (31 Ed. I, m. 40), Odyham, 8 Jan., 1303; *Parl. Writs.*, I, 405-6.

<sup>10</sup> *Cart.* I, ff. 59 d.-60, printed by Surtees, I, appendix to general history, cxxix; *Cal. pat. rolls, ut cit.*, 112 (31 Ed. I, m. 37), 132, 133 (31 Ed. I, m. 27), 134 (31 Ed. I, m. 26); *Rot. claus.*, 30 Ed. I, m. 2 d. (*Cal.* 611); Frynne, III, 1000-1001.

as above stated, was returned, saving the royal rights, and the continued correction of abuses.<sup>11</sup>

The charter marking the definite conciliation of Bek with his tenants is dated at York, July 19, 1303.<sup>12</sup> It opens with an acknowledgment of Edward's part in the negotiations and closes with a remission on the bishop's part of all rancour against members of the *communitas* by reason of the subject matter of the 'treaty.' Setting aside these two clauses, and a third relating to the coroners' under-bailiffs not riding on horseback, an analysis discloses four main topics, divisible, following Dr. Lapsley, into twenty sections.<sup>13</sup>

Under the first head fall the articles looking to the better administration of justice:—

§ 1. The abuse of false imprisonment, so often mentioned in Ormesby's roll, is remedied; no free man is to be imprisoned before the coroner has held an inquest, save thieves taken *flagrante delicto*. §§ 15, 16 are of similar import for forest cases.<sup>14</sup>

§ 6. No freeman is to be forced to plead before a villein

<sup>11</sup> *Red Book of the Exchequer*, III, 1027 *et seq.*; *Reg. pal. dun.*, IV, 498 *et seq.* (Lansdowne, 397, ff. 269 d.-270), note date; *Cal. pat. rolls, ut cit.*, 149 (31 Ed. I, m. 18). See also *Scriptores tres*, appendix, no. LXXX, p. c; *Cal. pat. rolls, ut cit.*, 135 (31 Ed. I, m. 26); Prynne, III, 994 *et seq.*

<sup>12</sup> *Reg. pal. dun.*, III, 61-67. Another form, undated, is printed in *Reg. pal. dun.*, III, 41-46. It seems to be the fruit of an earlier stage of the negotiations. The king is much more conspicuous. Taking either document as a basis, the alterations are about equally in favour of each party. The dated document lacks an article in the undated one relative to unlawfully required service in Scotland at the server's expense. On the other hand the dated instrument contains an article relating to the exaction of corn-sheaves by forest-officers lacking in the undated document.

The charter is also found in Prynne, III, 989 *et seq.*, from *Rot. claus.*, 31 Ed. I, m. 6 d. (*Cal. 100 et seq.*), and in MS. Stowe 930 ff. 149 *et seq.* from an exemplification of Ed. III. Cf. *Reg. pal. dun.*, III, 41, n. 1.

<sup>13</sup> Lapsley, 131. For comparison with the articles in *Reg. pal. dun.*, III, 41 *et seq.*, nos. 3 and 4, 15 and 16, of Mr. Lapsley's articles are best conjoined.

<sup>14</sup> Cf. *Assize roll*, 226, mm. 2 d., 3 d., 4, 5 d.

court, and, even if he be wronged by a villein, he may sue out his writ in a free court.<sup>15</sup>

§9. The bishop is to seize no lands or chattels without writ, save in case of decease of a tenant-in-capite.<sup>16</sup>

§10. The bishop's ministers are not to levy debts from freemen without due process of law, unless the debt be uncontested, or be the bishop's certain debt.<sup>17</sup>

The second set of articles relate to unauthorised exactions:—

§8. The freemen of the bishopric are to be quit of toll on all purchases outside the merchant villis.

§11. Except in war time, carriage is not to be imposed on freemen, except such as hold their land by that tenure. As has been observed, this clause marks a retrogression on the part of the *communitas*.<sup>18</sup> Articles 18 and 20, not found in a previous protocol,<sup>19</sup> prohibit the exaction of corn-sheaves from freemen by forest officers, and the levying of dues from the delinquent's neighbours when a farmer of the bishop's waste has had to abandon his farm by reason of poverty. The bishop may, however, appoint as many foresters as he choose, to be at the cost of himself and his villeins.<sup>20</sup>

The third group of articles relates to abuse of the bishop's feudal rights:—

§3. The bishop is to have the wardship only of such tenements in drengage as are held of himself and the prior.

§4. The king, as mediator, decides that the bishop, like himself, shall have the wardship of all tenements of tenants-in-

<sup>15</sup> Cf. *ibid.*, m. 11 d., false charge of malicious subjection to an inquest of four villeins.

<sup>16</sup> Cf. trespass charges, *ibid.*, mm. 5, 6, 9 d.

<sup>17</sup> The three remaining articles, 2, 7, 21, relate to the non-impleading of freemen in court-christian, save in testamentary and matrimonial cases; the existence of Sadberge as a separate venue, save in cases of trespass; and the non-levying of issues of freemen till they shall have come into court, save for distress. Cf. Lapsley, 192.

<sup>18</sup> *Supra*. ch. v, at n. 50.

<sup>19</sup> *Vid. supra*, n. 12.

<sup>20</sup> Cf. Lapsley, 60.

chief, whether such tenements are held directly of the bishop or of a mesne lord.<sup>21</sup>

<sup>21</sup> Bek's charter is here touching upon one of the most disputed matters between bishop and tenantry, as is shown by subsequent happenings in Skirlawe's time. The prior and chapter withheld the concession at least for upwards of a century, as not bound by the charter. In what appears to have been evidence before bishop Skirlawe's court, it is stated that *before* Bek's time, knights and other free tenants of the bishopric had the wardship of all tenants by military service, even when such sub-tenants held other holdings of the bishop by the same service, provided these sub-tenants had held of themselves by military service before they so held of the bishop.

But the evidence presented to support the claim shows that so far from being a settled principle, its application, at least, was largely a matter of violence.

*Pro materia de custodiis et maritagiis tenencium per servicium militare est notandum quod ante tempus domini Antonii episcopi Dunelmensis, domini milites et alii liberi tenentes episcopatus Dunelmensis habuerunt custodias etc. omnium tenencium de ipsis per servicium militare, licet tenerent aliquas parcelas de episcopo per servicium militare, dummodo prius et antiquius tenerent per servicium militare de ipsis quam de episcopo, ut paret per infrascripta.*

Quando decessit dominus Iohannes de Coyners, senior, misit dominus Robertus, filius Meldredi, homines suos in saysinam de Auclent Sancte Helene, quam tenuit de eodem; postea supervenerunt homines episcopi et ipsos eiecerunt. Iterum vero venerunt supradicti homines domini Roberti et eiecerunt homines episcopi, et optinuerunt, et tamen idem dominus Iohannes tenuit alias terras de episcopo.

Quando Philippus de Chyldeforth, senior, decessit, venit dominus Nigellus de Rungeton, tunc ballivus episcopi, et misit se in saysinam terre de Coton' prope Elleton', quam idem Philippus tenuit de domino Radulpho de Coton', patre Radulphi de Coton', iunioris; quod audiens idem dominus Radulphus, senior, congregatis amicis suis et consanguineis, violentissime eiecit dominum Nigellum cum suis. Hoc videns dominus Nigellus congregavit omnes quos potuit de potestate episcopi, eiam euntes ad aratrum, ut ipsum eieceret; sed dictus Radulphus cum suis defendit domum, et eam tenuit contra potestatem episcopi et optinuit custodiam terre et heredis, qui pene erat quatuor annorum, usque ad legitimam etatem; et tamen tenuit de episcopo alias terras per servitium militare, etc.

Quando Rogerus, filius Mirabell' de Parva Staynton, decessit, dominus Walterus Egg' de quo idem Rogerus tenuit, terram suam de predicta Staynton bina racione optinuit contra homines episcopi, super hoc contententes



§ 5. The palatinate freemen may build mills if their lands do not owe suit to the bishop's mill, or have no other redress; and they may mine coal and iron on their own land.

The articles of the fourth class relate to the confirmation of certain popular liberties:—

§ 13. Provides for free access to St. Cuthbert's shrine by the Bailey gate, save in war or other emergency.

§ 14. Relates to the removal of game restrictions, with certain provisoes, and in districts not specially privileged.

custodiam dicte terre et heredis usque ad legitimam etatem; et tamen dictus Rogerus tenuit terram suam de Frosterl' de domino episcopo.

Item tempore domini Antonii Iohannes de Balliol habuit custodiam terre Willielmi super Teysam in Dytensale, et tamen idem Willielmus tenuit terram de Morton de episcopo, et episcopus habuit custodiam tamen illius terre de Morton.

Sed propter predicta et alias multas controversias que occasione premisorum fiebant, mediante domino Edwardo Rege Anglie primo post conquestum, convenerunt predicti dominus episcopus et alii domini et milites episcopatus Dunelmensis in hunc modum, scilicet, quod episcopus et successores sui haberent custodiam et maritagium omnium tenencium de ipsis per servicium militare, licet per prius et antiquius tenerent aliquas terras de aliis per servicium militare; cujus convenciones prior Dunelmensis non fuit pars, unde ipsum predicta convencio racionabiliter non artabit, quin stabit eodem jure quo ipse et alii ante confectionem predictae convencionis gaudebat, etc.

Et si visum fuerit iusticiariis vel aliis legis peritis quod episcopus habebit custodiam et maritagium omnium tenencium de ipso per servicium militare, eciam si teneat de priore per servicium militare, videtur tunc quod prior habebit custodiam et integrum proficuam omnium terrarum que de ipso tenentur, et sic habuit tempore Antonii de Iohanne Fery, ut paret in quodam processu subsequenter, qui processus continetur in placito apud Dunelmum coram W. de Bereford et R. de Heigham, iusticiariis domini regis ad veteres querelas et assizas hominum episcopatus Dunelmensis prius domino regi porrectas et non determinatas audiendas et terminandas, assignatis, die Lune in crastino clausi Pasche, anno regni Regis Edwardi filii Regis Henrici tricesimo tercio. (*Vid. Reg. pal. dun.*, iv, 36-38; *Assize roll*, 227, m. 7: adjudged to be false claim, but not on grounds affecting principle). The bishop's judges supported the prior's claim (*Cart. i*, ff. 186-186 d.), and bishop Skirlawe likewise, in a charter of 1 April, 1403 (*Cart. i*, f. 186). Cf. Lapsley, 55-56.

§ 17. Inhabitants of the free chase are to enjoy the privileges of their tenure with respect to timber and mast.

§ 19. All enclosures instituted by the bishop and injury to rights of common are to be removed. The king allows rather less than a year for so doing.<sup>21a</sup>

Finally, the *communitas* itself quitclaims the bishop of responsibility for all damages hitherto sustained by reason of the grievances redressed.

The *communitas* seemed to have secured possession of the actual document, from archbishop Greenfield, chancellor of England, in 1305. In 1353 they procured an *inspeximus* from Edward III.<sup>22</sup>

Such was the enduring compromise forced upon the bishop by the alliance of a discontented baronage and an angry king at a time of ecclesiastical entanglement. The tenants had gained much, but by no means all they had asked.<sup>23</sup>

## PART II. Seizure of 1305-1307. Secular Aspects of Contest with Priory. Bruce and Balliol Forfeitures.

The restoration of the Liberty and the granting of the charter by no means ended bishop Bek's troubles. The suit begun by Hoton with respect to the violation of the compact of Evenwood was still pending,<sup>24</sup> and, in the second place, the restoration of the

<sup>21a</sup> Cf. *Reg. pal. dun.*, III, 33-34.

<sup>22</sup> Lapsley, 134; *Rot. parl.*, I, 167; *Ancient Petitions*, 13752, file 276; Stowe, 930, ff. 149-151 d.

<sup>23</sup> Dr. Lapsley remarks the non-representation of the burghal element (133-134). Bek's charter presents yet another resemblance to the Great Charter in respect to its disregard of the villein.

The bishop was, of course, held responsible for levying and delivering to the king the fines imposed by the king's judges: *K.R.*, 78 (32 Ed. I), note heavy amerements imposed upon Bermeton and St. Botulph; *Assize roll*, 227, mm. 5 d., 9 d.; *Red Book of the Exchequer*, III, 1026-1027; *Fine roll*, 32 Ed. I, m. 3 (*Cal.* 497); *L.T.R.*, 32-33 Ed. I (69 h.), mm. 75 d., 80 d., showing Bek's dilatoriness; *Rot. claus.*, 32 Ed. I, m. 8 ced. (*Cal.* 153 et seq.).

<sup>24</sup> *Rot. parl.*, I, 169.

franchise had been accompanied by an injunction to satisfy the complaints brought to the king's attention by Hoton and the men of the bishopric before the confiscation, as well as such as had been brought to the judges' attention during the seizure and were still unsettled.<sup>25</sup> Unfortunately Bek did nothing to fulfill the injunction. Ormesby's Assize and the Charter, had settled the bulk of the difficulties with the *communitas*. Yet a few cases relating to individuals of the latter class were still unsettled,<sup>26</sup> and the great mass of injuries to the priory,<sup>27</sup> and these the bishop took small pains to alleviate.

The complainants laid their grievances before the king on his return from the north, in the early autumn of 1304.<sup>28</sup> All parties were enjoined to be at York three weeks from Michaelmas to hear the decision of the king and council.<sup>29</sup> At this meeting, both prior and bishop appear to have been brought face to face; but what must have been a dramatic and 'long continued altercation' proved conducive to no compromise.<sup>30</sup> It was finally decreed that Bereford and Hingham should be at Durham on February 16, 1305, to decide all complaints to the time of the restoration of the franchise, since the bishop had failed to show that he had given any justice in those points. Since the prior and others had failed to show clearly defect of justice for injuries done since the restitution, such cases were left to the bishop as holding jurisdiction in first instance.<sup>31</sup>

<sup>25</sup> *Reg. pal. dun.*, iv, 1; *Cal. pat. rolls*, 1301-7, p. 323 (33 Ed. I, m. 11); *Coram rege roll*, Michaelmas, 32-33 Ed. I (178), m. 71 d.; Lansdowne, 397, f. 11, professing to give the king's exact words to Bek, at feretry of St. Cuthbert.

<sup>26</sup> *Reg. pal. dun.*, iv, 5-9.

<sup>27</sup> *Ibid.*, iv, 3-5, 9-74.

<sup>28</sup> *Cal. pat. rolls, ut cit.*, 259, 260, 286 (32 Ed. I, mm. 5, 4, 4 d.); *Coram rege roll*, Michaelmas, 32-33 Ed. I (178), m. 71 d.

<sup>29</sup> *Coram rege roll, Mich.*, 32-33 Ed. I (178), m. 71 d.

<sup>30</sup> *Ibid.*, m. 71 d.

<sup>31</sup> *Ibid.*, m. 71 d. See also sundry writs: *Reg. pal. dun.*, iv, 1, from *Rot. pat.*, 33 Ed. I, pt. i, m. 11, calendared in *Cal. pat. rolls, ut cit.*, 323; *Reg. pal. dun.*, iv, 2-3, *Cal. pat. rolls, ut cit.*, 323-4; *Rot. claus.*, 33 Ed. I, m. 17 (*Cal.* 249). Graystones, ch. xxvi, 81, does not distinguish between the two seizures of the palatinate.

Hegham and Bereförd opened court two months after the time set, April 26, 1305.<sup>32</sup> Hoton appeared personally at the first sessions to protect himself against possible charges in the ecclesiastical courts of seeking judgment of blood, or attempting redress in the secular forum for matters pending in the ecclesiastical forum.<sup>33</sup> In three out of five cases relating to the period 1300-1302 the prior is amerced for non-prosecution.<sup>34</sup> The general character of the grievances has been already treated.<sup>35</sup> The final decision<sup>36</sup> was reached October 13, 1305. Neither Bek, then on the continent, nor his attorneys, were present at this final session. The sitting was participated in by the council. The bishop was sentenced to pay heavy damages, 400*l.* for leading Hoton through the market-place alone, but the worst penalty was a second forfeiture.

In 1302 the forfeiture had been based on contempt shown the king's protection; the court now decreed a second confiscation for contempt shown in the imprisonment of royal messengers. The two most notorious cases were those of Robert le Messager and Nicholas de Applegarth. The jury had, in the case of Applegarth, given a verdict to the effect that he had come to Durham during the siege, with the king's letters bidding the bishop remove his guards. Learning of his presence, Peter de Bolton and John de Edmanesly seized him in his bed, still possessed of his letters, and kept him in Durham castle for forty days. The bishop, though not privy to the arrest, consented to the detention, despite protest from Hoton's

<sup>32</sup> *Coram rege roll*, Mich., 33-34 Ed. I (182), mm. 101 *et seq.*; *Assize roll*, 227. The pleas in *Reg. pal. dun.*, IV, are printed from *Assize roll*, 228, which usually fails to carry the cases through the verdict stage.

<sup>33</sup> *Loc. VII*, 6, 7.

<sup>34</sup> *Reg. pal. dun.*, IV, 45, 73-74, 65, 48-49; *Assize roll*, 227, mm. 4, 9, 5; *loc. VII*, 70, m. 2, ll. 3-6, 16-23, 70-79.

<sup>35</sup> *Cf.* also Graystones, ch. XXVI, 81 *et seq.*; *loc. VII*, 4, 4\*; *loc. II*, 12.

<sup>36</sup> *Coram rege roll*, Mich., 33-34 Ed. I (182), mm. 103-103 d.

messengers.<sup>37</sup> Robert le Messenger's imprisonment must have occurred at the same epoch.<sup>37a</sup> Robert was a messenger sent from the priory to the king. On his return to Durham he was seized in bed, in the town, by Peter de Bolton and Walter de Brafferton, and, without Bek's knowledge, imprisoned in the castle. When his wife, however, petitioned for his release, the bishop refused, intending him to be a warning to such as might thereafter bring royal letters to the prejudice of the bishopric. The bishop also retained the king's missives to the prior, though with the contents the jury had been unacquainted.<sup>38</sup>

The judgment based on these verdicts bore a striking resemblance to the decision of 1302.

'And because the bishop, since he holds the aforesaid Liberty from, and dependent on, the crown, by the king's act, is in this the king's minister for duly conserving and prosecuting, in the king's stead, those things which pertain *ad regale* within the said Liberty, so that he ought to exhibit justice to all and singular therein, and to obey the said king as his lord, and the king's commands, as he is bound to do—although he may receive to his own use by the act aforesaid the profits and perquisites therefrom; and since, also, the king's power extends throughout the entire realm, as well within as without the Liberty: it seems to the court and to the whole council of the lord king that such imprisonments inflicted upon those who were seized because they bore the king's writs within the aforesaid Liberty, together with the avowing and acceptance of the act, and the words which the said bishop said as to the castigation of such as should henceforth bear the king's writs into his

<sup>37</sup> *Reg. pal. dun.*, iv, 20; *Assize roll*, 227, m. 1 d.; *loc. vii*, 70, m. 3 d., ll. 95-107. The bishop allowed him to do eight days after the protest.

<sup>37a</sup> *Reg. pal. dun.*, iv, 42: the charge ascribes the imprisonment to a period before the visitation, although it is at the same time stated that he was a messenger sent by the king to procure relief from the siege, a manifest inconsistency.

<sup>38</sup> *Reg. pal. dun.*, iv, 42-43; *Assize roll*, 227, mm. 3, 7; *Coram rege roll*, Mich., 33-34 Ed. 1 (182), m. 102 d.; *loc. vii*, 38, ll. 42-68. In their review of the verdict the judges say of the bishop: 'et quando de deliberatione predicti Roberti fuit requisitus, oretenus respondit quod nullam deliberationem ab eodem faceret, sed dixit quod ceteros per ipsum castigaret, ne de cetero litteras domini regis infra episcopatum suum portarent in lesionem libertatis episcopatus eiusdem.' (*Coram rege roll*, Mich., 33-34 Ed. 1 [182], m. 103 d.)

Liberty, were manifestly perpetrated and done in disobedience to, and exheredation of, the crown, and to the diminution of the royal lordship and power. It is decreed that the said bishop shall, for his whole life, lose the aforesaid Liberty, by occasion of which he has audaciously presumed to perpetrate and speak the aforesaid grievances, injuries and excesses, since in what one is delinquent, in that he ought rightfully to be punished: and let the said Liberty be seized into the lord king's hands, yet none the less, let the body of the aforesaid bishop be taken.<sup>39</sup>

A writ *de intendendo* was directed to the tenants for Robert de Clifford, the new guardian, on December 6, 1305.<sup>40</sup> The writ of seizure, to the sheriff of Northumberland, passed the chancery December 8.<sup>41</sup> 'Bek's rule had been too brilliant.'<sup>42</sup>

The condition of the Liberty under the king was not in all respects more satisfactory than under the bishop. 'The king put there his justices and his chancellor to be answerable to himself, and in the following year exacted a thirtieth from the inhabitants of the bishopric, and they were vexed in divers carriages.' is Hemingburgh's plaint.<sup>43</sup> 'Many things were pried into,' says Graystones, 'and the Liberty was injured in

<sup>39</sup> *Coram rege roll, ut cit.*, m. 103 d.; *loc. vii*, 46, ll. 65-73. Cf. Hemingburgh, II, 244: Hemingburgh gives an utterly wrong account of the seizure.

It may be worth noting that in 1302 Bek's steward was charged with having asserted 'duos in Anglia esse reges, videlicet, dominum regem Anglie, gerentem coronam in signum regalitatis, et dominum episcopum Dunelmensem, gerentem mitram in loco corone in signum sue regalitatis in diocese Dunelmensi': *Assize roll*, 226, m. 1 d. Botulph denied. Cf. *ch. iii*, n. 19.

<sup>40</sup> *Cal. pat. rolls, ut cit.*, 409 (34 Ed. I, m. 40. Cf. *ibid.*, 423 (m. 31), and *Rot. claus.*, 34 Ed. I, m. 14 (*Cal.* 378).

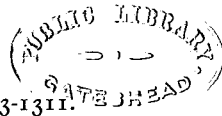
<sup>41</sup> *Loc. vii*, 46, 47, 48 (duplicates). These and *Reg. I*, pt. ii, ff. 85-d-87, are exemplars of the entire final decision. *Loc. vii*, 13: exemplar of memorandum of seizure, *temp. Ed. III*, giving judges' decision and writ to sheriff.

The seizure does not include lands held by Bek in barony, apart from his regality, though for a time the royal officers drew no fine distinctions: *Rot. parl. I*, 205, *Rot. claus.*, 35 Ed. I, m. 8 (*Cal.* 500), *Coram rege roll*, Trinity, 35 Ed. II (189), m. 55 d., *Coram rege roll*, Easter, 35 Ed. I (188), m. 54, *Reg. pal. dun.*, III, preface, x, xviii-xix.

The suit relating to the non-observance of the Evenwood compact was merged with the other cases: *Rot. parl. I*, 169.

<sup>42</sup> Lapsley, 210.

<sup>43</sup> Hemingburgh, II, 244.



many, for the higher always elbow the lower, and disregard their predecessors' last wishes. For the predecessors wished the church to be adequately free, but knew not how so clearly to express themselves, but that their successors might adduce sophistries; nor do superiors these days admit custom or prescription, unless it be set forth in their muniments (*monumentis*).<sup>44</sup>

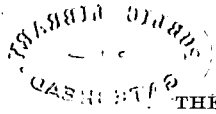
Bek's debts, also, fell heavily upon the bishopric, involving as they did not only damages assessed in the recent suit, but private debts owed the king for years.<sup>45</sup> A petition presented at the parliament of Carlisle shortly before king Edward's death, charges Bek, not only with wasting the forests belonging to the see, through gifts, sales, neglect, and the use of the wood for iron-forges, lead-smelting and charcoal manufacture, but also with burdening the church villeins with divers missives and tallages wherewith to pay the various damages awarded by the king's judges, and for other purposes, to the great impoverishment of the church and the prejudice of the king.<sup>46</sup>

Heaviest of all blows to the Liberty were the losses of the Bruce and Balliol forfeitures, and of the otherwise acquired lands of Wark in Tyndale, Penreth and Soureby. The Bruce and Balliol lands were seized as rightfully forfeit to the crown in the first instance; Wark and the advowson of the church of

<sup>44</sup> Graystones, ch. xxx, 88-89. See also: *Rot. claus.*, 34 Ed. I, m. 18 (carriage; *Cal.* 371, m. 17); *Cal. pat. rolls, ut cit.*, 490 (35 Ed. I, m. 39), as to purveyance; *ibid.*, 426 (34 Ed. I, m. 28), as to wars.

<sup>45</sup> As late as the winter of 1304-5 Bek owed the king over 1,300l.: *vid.* K.R., 33 Ed. I (79), m. 28; K.R., 35 Ed. I (81), m. 82 d., and *cf.* *Cal. pat. rolls, ut cit.*, 334 (33 Ed. I, pt. i, m. 6). Such general debts would fall also on his non-palatinate lands.

<sup>46</sup> *Rot. parl.* I, 198; *cf.* also *Coram rege rolls*, Trinity, 35 Ed. I (189), m. 37, and Hilary, 34 Ed. I (183), m. 43. A writ for taking the bishop's body was still out at Edward I's death: *Coram rege roll*, Trinity, 35 Ed. I (189), m. 67.



Simonburn as having been in the king's hand since Balliol's forfeiture; and Penreth and Soureby in Cumberland as having been inalienably attached to the Scottish crown from the beginning.

I.—*Wark, Penrith, Soureby and the church of Simonburn.*—It is to be presumed that bishop Bek came into possession of Wark, Penreth, Soureby, and the advowson of Simonburn, more or less directly through the opportunities presented by his diplomatic rôle in the settlement of the Scottish succession. In February, 1290, he had been appointed guardian of the lands belonging to the late Alexander III in Penreth and Tyndale.<sup>47</sup> He subsequently acquired titles to the various properties by successive arrangements with John Balliol. On November 16, 1290—that is, between the death of the Maid of Norway and his own accession—Balliol, 'heir of the realm of Scotland,' gave a charter to Bek, promising that if the former's 'recent' transfer to the bishop of the manor of Wark in Tyndale, in Northumberland, and the manor of Penreth and all other manors, with appurtenances, belonging to Alexander III in Cumberland, should prove unacceptable to king Edward, he would reimburse Anthony and his heirs in five hundred marks.<sup>48</sup> The transfer alluded to must have remained null, for on June 20, 1294, Balliol, now king of Scotland, granted to God, St. Cuthbert, and bishop Anthony, fifty librates within his liberty of Wark in Tyndale, wherever the bishop or his accredited bailiffs might elect, barring the vill of Wark and the capital messuage. By the same frankalmoigne tenure he conferred the advowson of Simonburn

<sup>47</sup> *Cal. pat. rolls, 1281-1292*, p. 346 (18 Ed. I, m. 35); *Bain, Cal. of Documents relating to Scotland*, II, 98, no. 404; *Rot. parl.* I, 193, 194; *Cal. pat. rolls, 1307-1313*, p. 338 (4 Ed. II, pt. II, m. 16); *New County History of Northumberland*, IV, 258.

<sup>48</sup> *L. F. Campbell charters*, Br. Museum, xxx, 9, a chirograph, dated Gateshead, 16 kal. December, 1290. *Cf. Stevenson*, I, 203, no. cxxv, with date 17 kal. December. See also *Bain*, II, 159, no. 679.



on the bishop and his successors. These grants were confirmed by Edward five days later.<sup>49</sup> On the same day, June 20, Balliol conferred upon Bek a life interest in the Cumberland manors of Penreth, Scotteby, Karlaton; Languathby, Salkilde and Soureby—grants likewise confirmed by the king on June 25.<sup>50</sup> The final and absolute grant to Bek and his successors of the entire manor of Wark was made July 3, 1295, and confirmed by Edward I, February 8, 1297.<sup>51</sup>

The machinery of confiscation was set in motion on October 18, 1306, by a writ informing the council that the king on his recent trip toward Scotland had from many sources learned of encroachments on his crown. In the first place, after Edward had seized Tyndale as a forfeiture, upon Balliol's rebellion, and had subsequently granted it to the bishop of Durham to hold at the royal pleasure, the bishop had covertly utilized Balliol's surrender at Melrose to obtain from the fallen king grants of Tyndale and the advowson of Simonburn, somewhat later, by false suggestion, obtaining Edward's own confirmation to the grants. Bek thus holds Tyndale and the Simonburn advowson to the king's disherison and prejudice. In the second place, whereas Henry III had granted the manors of Penreth, Soureby and other lands in Cumberland and Westmorland, to Alexander III's father and his heirs, kings of Scotland, Bek was still holding these lands by Balliol's enfeoffment, contrary to the form of the original grant. In the third place, the bishop is holding Gainford barony and Barnard castle, rightly forfeited to the king. And lastly, the bishop has been taking the new custom on wool at Hartlepool.

<sup>49</sup> *Charter roll*, 22 Ed. I, m. 1 (*Cal.* 456, m. 2); *Cal. pat. rolls*, 1327-1330, p. 427 (3 Ed. III, pt. i, m. 24 d.); *Bain*, II, 161, no. 691.

<sup>50</sup> *Cal. pat. rolls*, 1292-1301, p. 102 (22 Ed. I, m. 3); *Bain*, II, 162, no. 692.

<sup>51</sup> *Cal. pat. rolls*, 1292-1301, pp. 223-4 (25 Ed. I, m. 16); *Bain*, II, 229, no. 872; *Cal. pat. rolls*, 1327-1330, p. 427 (3 Ed. III, pt. i, m. 24 d.). See also C. J. Bates, *History of Northumberland*, 147.

These charges the council are diligently to investigate, 'having special regard to the fact that the bishop has been sworn of our council throughout the time that the above misprisions have been wrongfully committed.' Geoffrey de Hartlepool is joined to the other judges.<sup>52</sup>

The investigations began at Westminster, toward the end of October.<sup>53</sup> With respect to Tyndale the judges unearthed from the exchequer accounts of John de Kyrkeby, sheriff of Northumberland in 1296, two writs. One, dated Berwick, April 1, 1296, expressed the king's surprise at the non-seizure of the Balliol lands in Tyndale, and ordered immediate seizure of these or other lands held by the king of Scotland in his bailiwick.<sup>54</sup> The other writ, dated the following May 10, bade the sheriff sequester the lands of all Scotch rebels throughout the bailiwick.<sup>55</sup> By reason of these writs, the sheriff accounted at the exchequer for the lands in question, including Wark, from May 10 to September 20, 1296.<sup>56</sup> Nothing is said of underhanded dealing on the bishop's part.

The parliament rolls were utilized relatively to Penreth

<sup>52</sup> *Reg. pal. dun.*, III, 9-12 (Oct. 13); Cole, *Documents Illustrative of English History in the Thirteenth and Fourteenth Centuries*, Rec. Com., 1844, 129-130. With respect to the fourth head, a commission of judges was appointed 6 March, 1307 (*Cal. pat. rolls*, 1301-7, p. 543 (35 Ed. I, m. 30 d.); see also Cole, 134-5, 137-8. Another commission was appointed 28 March, 1307, relative to the bishop's taking half the profit of the passage over the Tweed, since the falling of the king's bridge between Berwick and Tweedmouth: *ibid.*, 546 (35 Ed. I, m. 22 d.). A subsequent petition of bishop Bury states that according to an agreement between Ed. I, and the king of Scotland, the Tweed profits had been divided between king and bishop, to 6 Ed. III, when the country was ravaged by David Bruce. Since bishop Beaumont's death, and the then taking of the temporalities into the king's hands, the king had taken the entire profits. An inquisition was therefore ordered: *Ancient Petitions*, 13028, file 261 (from memorandum attached to membrane, now covered by oiled paper, and almost undecipherable).

Geoffrey de Hartlepool was a judge of questionable impartiality: *Reg. pal. dun.*, IV, 509; Lapsley, 211, *et seq.* <sup>53</sup> *Reg. pal. dun.*, III, 9, 12.

<sup>54</sup> *Ibid.*, III, 12-13.

<sup>55</sup> *Ibid.*, III, 13.

<sup>56</sup> *Ibid.*, III, 13.

and Soureby. It was found that Balliol had, in the king's courts, based his claim to these lands solely upon a treaty between Alexander II and Henry III, whereby the latter, in return for remission of claims on the part of the king of Scotland to all Northumberland, Cumberland, Westmorland, and of other claims, had given to the Scottish monarch 'two hundred librates of land in the aforesaid counties of Northumberland and Cumberland . . . . to have and to hold . . . . to the said Alexander, king of the Scots, and his heirs, kings of the Scots . . . . , by certain service. It had been on these grounds alone that the properties had been returned to Balliol on his accession to the Scottish throne.<sup>57</sup>

These findings were used against the bishop at the parliament of Carlisle, the octaves of Hilary, the following year. Formal summons had been served on Bek at the manors in question;<sup>58</sup> but although he had attended the knighting of his friend, the young Edward, the previous Pentecost,<sup>59</sup> and been in the palatinate the previous August, he had now followed Hoton for another winter abroad,<sup>60</sup> and was therefore absent when judgment was entered against him.

The manor of Wark and the advowson of Simonburn were taken from him on the ground of the sheriff's computation at the exchequer, because Balliol had forfeited his possessions to the king, and because the bishop had not appeared to defend his occupation. Nothing is said of surreptitious charters nor of

<sup>57</sup> *Ibid.*, III, 13-33 (especially 17); Cole, 131-4 (especially 132).

<sup>58</sup> *Reg. pal. dun.*, III, 24, 25; Cole, 135, 137; *Proceedings in Parl., Chancery*, temporary number, 19.

<sup>59</sup> *Annales Londonienses, ut cit.*, I, 146. He had also been among those to grant a thirtieth the morrow of the following Trinity: K.R., 34 Ed. I (80), m. 40.

<sup>60</sup> *Vid. supra*, ch. IX, at note 60; also *Reg. pal. dun.*, IV, 266, 267 (from documents now catalogued, p. 266, as *Ancient Petitions*, 2167, file 44, and p. 267, as *Ancient Petitions*, 105, file 3); *Ancient Petitions*, 12949, file 259.

confirmations under false pretences.<sup>61</sup> Similar judgment was rendered with respect to Penreth and Soureby, on the basis of the wording of the original charter and the bishop's non-appearance. With respect to both pleas the bishop remains at the king's mercy.<sup>62</sup> The loss of Penreth and Soureby were small matters, for Bek held them only by life tenure at best. Nor is it easy not to see justice in Edward's plea that the bishop's tenure had terminated with the extinction of the old Scottish line. The loss of Wark, being a palatinate matter, was much more serious, and Edward's pretensions to justice are less convincing. In any case the chronology is certainly against any belief in the charge as to Bek's securing his charter surreptitiously.<sup>63</sup>

II.—*Barnard Castle*.—The investigations of the council and judges at Westminster in October, 1306, also mark the beginning

<sup>61</sup> *Reg. pal. dun.*, III, 23-25; *Proceedings in parl., chancery*, temporary number, 19.

*Ancient Correspondence*, vol. XII, no. 49, without date, but subsequent to Balliol's rebellion, shows that Bek deemed himself to be direct overlord, in Tyndale, of John Comyn of Badenoch, Richard Siward, and 'other' rebels. The king complains that he had entered their lands without due inquisition.

<sup>62</sup> *Reg. pal. dun.*, III, 25-26; *Proceedings in Parl., Chancery*, temporary number, 19.

After Edward I's death, Edward II granted Wark to Bek (*Cal. pat. rolls*, 1307-13, p. 75, 1 Ed. II, pt. ii, m. 8. Cf. Hartshorne, *Feudal and Military Antiquities of Northumberland*, 257 and notes), and on Bek's own death, to Edmund de Mauley, for life (*Cal. pat. rolls*, 1307-13, p. 465, 5 Ed. II, pt. ii, m. 3. See also *ibid.*, p. 338, 4 Ed. II, pt. ii, m. 16). Bishop Beaumont in Ed. III's time again alleged the charters of 1294 and 1295, as well as actual seisin. Bishop Bury recovered the advowson of Simonburn in 1338 (*Cal. pat. rolls*, 1327-1330, p. 427, 3 Ed. III, pt. i, m. 24 d.; *Reg. pal. dun.*, IV, 266, 267; *ibid.*, III, 210-213).

<sup>63</sup> The shortness of the sheriff of Northumberland's hold on Wark is as much for Bek, as his having had possession at all is against him. Cf. also Hartshorne, *Feudal and Military Antiquities of Northumberland*, 257, referring to *Pipe roll*, 34 Ed. I, where the *de facto* possession of Anthony in 1306 is stated, with a 'nescitur tamen quo modo.' He is paying to the king the 10l. before paid to Balliol, for Tyndale. Note, however, antedating of Balliol's treason to Christmas, 1293: *infra*, at n. 67. Cf. Bates, *History of Northumberland*, 147.

of the proceedings terminating in the king's seizure of Barnard castle.<sup>64</sup> This, like the seizure of the Bruce lands, is important for its bearing on the bishop's right to forfeiture of war, already acknowledged in Henry III's well-known restitution of Greatham manor,<sup>65</sup> and as having permanently<sup>66</sup> separated from the palatinate lands to which the medieval bishops never relinquished claim.

On November 4, 1306, following the Westminster sessions, the king ordered Clifford to determine by inquest, and in the presence of Geoffrey of Hartlepool, whether John Balliol had held the barony of Gainford and Barnard Castle, or other lands in the palatinate, at the time of his treason at Christmas, 1293, and as to the present holders. If the inquest shall show that John held the castle and barony, or other lands, at that date, such are to be seized without delay into the king's hands, and the revenues accounted for at the exchequer. The results of the inquest are to be reported at the parliament at Carlisle, after Hilary, January, 1307.<sup>67</sup>

An inquisition was accordingly taken at Barnardcastle on December 11, by which it appeared that John Balliol held Barnard castle and Gainford barony at Christmas, 1293, and afterward, certain lands and tenements of the said barony to the feast of the nativity of St. John the Baptist (June 24) 1295, and others to St. Martin's day (November 11) 1295: at which last date the bishop seized the barony and Barnard castle . . . . on occasion of the forfeiture of the aforesaid John; by reason of the Liberty of the bishopric of Durham, as the lord king else-

<sup>64</sup> *Reg. pal. dun.*, III, 9 *et seq.*

<sup>65</sup> Lapsley, 42; *Reg. pal. dun.*, III, 7-9; *Rot. parl.* I, 363.

<sup>66</sup> Surtees, I, gen. hist., xl-xli. Even before Evesham, when Barnard Castle had been placed in the hands of Hugh le Despenser as security for the good behaviour of its Balliol occupant, the king and barons had agreed that such guardianship should not work prejudice to the bishop: *Rot. pat.*, 49 Hen. III, m. 20 (*Cal.* 414); *cf. Rot. parl.* I, 363-4.

<sup>67</sup> *Reg. pal. dun.*, II, 795-797; III, 26-28.

where seized the other lands and tenements of the said John.<sup>68</sup> On this mere finding of fact, therefore, the king's keeper, as ordered, seized castle and barony and took the fealty of the tenantry.<sup>69</sup>

The king immediately granted all these lands, either directly, or in reversion on the extinction of certain life tenures, to Guy de Beauchamp, earl of Warwick, at Lanercost, February 2, 1307. 'Know,' the charter reads, 'that for the good and laudable service hitherto done us by our beloved and faithful Guy de Beauchamp, earl of Warwick, we have given, conceded, and by this our charter confirmed, to the said Guy, the castle and vill of Barnardcastle and the manor of Middleton, with chases and other their appurtenances in the bishopric of Durham, which belonged to John de Balliol, our enemy and rebel, and which, by his forfeiture, came as our escheats into our hands . . . . to have and to hold to the said Guy and his heirs . . . . as fully and wholly as the aforesaid John held them before they came into our hands as aforesaid, forever.' Yet the clause is added: 'saving to the church of St. Cuthbert of Durham and to the bishop of that place, and to his successors their right, if any be to them competent in this matter.'<sup>70</sup>

Edward showed no generosity in the matter of Barnardcastle, but he can hardly be charged with dishonesty. The title had long been in dispute, and Edward, leaving the question still open technically, was simply using his ordinary shrewdness and legal honesty in utilizing his temporary possession of the

<sup>68</sup> *Ibid.*, II, 797-798; III, 28-29. *Cf. ibid.*, II, 798-801; III, 29-32: two villis had been entered by the bishop without livery of seisin, 24 June, 1295. 'Ratione cujusdam conventionis per duos annos ante dictum festum Natalis inter eos factae, pro auxilio dicti episcopi habendo ad recuperandam terram Scotiae.'

<sup>69</sup> *Ibid.*, II, 801-2; III, 32-33.

<sup>70</sup> *Charter roll*, 35 Ed. I, m. 19; *Reg. pal. dun.*, III, 55-58. The earl was given seisin five days later; *ibid.*, II, 802; III, 33. The grant involved reversion of Gainford.

temporalities of the see to give the affair a definite turn in his own interest.<sup>71</sup>

III.—*Hartlepool*.—The next Scottish king to forfeit his English estates was, of course, Robert Bruce, holder, under the bishop, of Hart and Hartnesse, including the important port of Hartlepool.<sup>72</sup> This forfeiture occurred while the see was in the king's hands, and Edward, without more ado, granted Clifford the manor of Hart in fee simple in May, 1306;<sup>73</sup> a grant followed on October 15 of the same year, by the further concession of the borough of Hartlepool, and all other appurtenances of the manor of Hart. In both grants, as in the somewhat later one to Warwick, the rights of the bishop, if any, are conserved.<sup>74</sup> The Cliffords retained permanent possession of the holdings thus acquired, after the time of bishop Beaumont, however, holding of the bishops and not of the king.<sup>75</sup> For Edward's seizure in this case it is difficult to find any warrant whatever.

Some days previously Geoffrey of Hartlepool was rewarded for his services by the grant of the reversion of Kevreston manor, then held in widow's dower by the mother of Christopher de Seton, a recently executed rebel. In this deed, also, the rights of the church received a saving clause.<sup>76</sup> All these grants, says Graystones, were confirmed by the chapter.<sup>77</sup>

The bishops never succeeded in really upsetting the Edwardian settlement. Although, as we shall see, bishop Bek after Edward I's death, made Warwick's tenancy of Barnardcastle as uncomfortable as possible, he seems never directly to

<sup>71</sup> Cf. Bain, II, 50, no. 166; Surtees, IV, 50 and notes, 94, 8; *ibid.*, III, 267, note y; *supra*, n. 66.

<sup>72</sup> Graystones, ch. xxx, 88; Hemingburgh, II, 251; Lapsley, 42.

<sup>73</sup> *Cal. pat. rolls*, 1301-7, p. 436 (34 Ed. I, m. 22).

<sup>74</sup> *Charter roll*, 34 Ed. I, m. 4; *Reg. pal. dun.*, III, 53-60.

<sup>75</sup> Surtees, III, 95.

<sup>76</sup> *Cal. pat. rolls*, 1301-7, p. 465 (34 Ed. I, m. 5); Graystones, ch. xxx, 88.

<sup>77</sup> Graystones, ch. xxx, 88.

have undertaken the recovery of the lost forfeitures.<sup>78</sup> Bishop Kellawe, under the pressure of the Scottish wars, was conciliatory toward the earl.<sup>79</sup> After Beauchamp's and Clifford's deaths, however, he took a firmer attitude, and, but for his premature death, would probably have regained actual seisin as well as favourable judgments.<sup>80</sup> Other bishops from time to time gained theoretical acknowledgments of their regalian right of forfeiture, and bishop Booth, in particular, in 1470, gained a decisive judgment on this point, and on the occupation of Barnard-castle.<sup>81</sup> Even Edward III's statute of treasons, which seemed to deprive the bishops of forfeitures, was so interpreted in the courts, in Elizabeth's time, as not to injure the bishops' rights:<sup>82</sup> and in general throughout the middle ages 'the question of theoretical right was never tested, for in every case the king or parliament made special provision for the bishop of Durham.'<sup>83</sup>

The whole episode testifies to the legal and practical shrewdness of Edward I, who, seizing a time when his writs could run unobstructedly in the bishopric, weakened the prestige of a great immunity and inflicted upon it serious material loss. The method used savours rather of Philip the Fair than of Edward I, as he is ordinarily remembered, but the incident, viewed in the large, is of a piece with the absorption of jurisdiction by Henry II and the earlier limitation of feudal power by Edward himself, through the Quo Warranto proceedings and the Edwardian land legislation. Indeed it may be said to be the last conspicuously great move against the decentralising magnates till after the Wars of the Roses.<sup>84</sup>

<sup>78</sup> Cf. Lapsley, 44; *Cal. pat. rolls*, 1307-13, p. 17 (1 Ed. II, pt. i, m. 11; *ibid.*, 50 (1 Ed. II, pt. ii, m. 24).

<sup>79</sup> *Reg. pal. dum.*, I, 191.

<sup>80</sup> *Reg. pal. dum.*, III, 1-9; *Rot. parl.*, I, 362 *et seq.*; Graystones, ch. xxxv, 95; Lapsley, 44.

<sup>81</sup> Lapsley, 44 *et seq.*, especially 46, n. 3.

<sup>82</sup> Lapsley, 44-45, 48.

<sup>83</sup> Lapsley, 47-48. Adherents of Balliol and Bruce forfeited lands in the palatinate, which passed to the bishop without question: *ibid.*, 43, nn. 2, 3, 4.

<sup>84</sup> Edward's last attack on the bishop was the issuing on 28 June, 1307, of



## CHAPTER XI.

## THE LAST FOUR YEARS.

## PART I: The Temporalities.

At the darkest hour Bek's dawn was about to break. The great Edward passed away at Burgh-on-Sands, near Carlisle, on July 7, 1307, and before the month had closed the new king had received the bishop's homage and fealty.<sup>1</sup> Bishop Bek accompanied the body of the late king for some part of its southward journey, and later was the prelate chosen to celebrate the last mass and perform the offices of burial.<sup>2</sup> This same autumn his name reappears for the first time since July, 1305, among the witnesses on the charter rolls, although infrequently thenceforward.<sup>3</sup> A prime favourite with Edward II—'his dearest friend,' the latter styles him in a letter to the pope<sup>4</sup>—he once more reassumes the diplomatic rôle, and, with others, arranges the conclusion of the ill-starred marriage with Isabella of France.<sup>5</sup>

a writ of *scire facias* to the sheriff of Northumberland to secure the presence of Bek after Michaelmas, to account for his tenure of the Isle of Man, which the king is informed was in the seisin of his predecessors till he himself gave it to John Balliol, saving always the royal rights. Edward's death seems to have definitely ended the prosecution: *Rot. claus.*, 35 Ed. I, m. 4 d. (*Cal.* 540). Bek's interest in the island can be traced back to 1298 at least: *Cal. pat. rolls*, 1292-1301, pp. 340, 366 (26 Ed. I, m. 21, m. 5). *Vid. Reg. pal. dun.*, I, pref. xlix-l.

<sup>1</sup> *Fine roll*, 35 Ed. I, m. 1 (*Cal.* 558-9).

<sup>2</sup> *Lanercost*, 209; *Hemingburgh*, II, 266-268.

<sup>3</sup> *Charter rolls*, 33 Ed. I, m. 4 (July 8, 1305); 1 Ed. II, m. 10 (18, 21, 25 Sept., 1307); 1 Ed. II, m. 7 (20, 22 March, 1308); 2 Ed. II, m. 9 (4 March, 1309); 4 Ed. II, m. 22 (12 July, 1310). *Cf. Cal. close rolls*, 1307-13, pp. 225-226 (3 Ed. II, m. 24 d. sch.), 5 Aug., 1309.

<sup>4</sup> *Reg. pal. dun.*, I, pref. li; *Rymer*, II, pt. i, 14.

<sup>5</sup> *Rymer*, II, pt. i, 11-12, 25. In April of 1305, Bek had made over the manor of Eltham to the then prince of Wales, to receive it back for life: *Ch. Harl.*, 43 D. 12; *et infra*. He had originally received it in September, 1295, from William de Vesey: *Cart. Harl.*, 57 C. 36; 37; 35, this last estab-

As was to be expected, therefore, the new king promptly restored the Liberty, the letters patent being dated at Carlisle, September 4, 1307. 'Although we might retain that Liberty in our hand for the entire lifetime of the venerable father Anthony, patriarch of Jerusalem and bishop of the aforesaid place, by reason of the aforesaid decision, we have returned the aforesaid Liberty to the said bishop, of our special grace, to the honour of God and the glorious confessor, St. Cuthbert, as well as on account of the special affection which we have had now a long time, and have, toward the aforesaid bishop; to hold to him and his successors, bishops of Durham, and to his church of Durham, for ever, as entirely as the said bishop had the said Liberty before the aforesaid seizure; saving to us and our heirs our royal dignity and power, and saving in all things the right of our crown.' Appropriate orders in pursuance were simultaneously addressed to Clifford, the keeper, and Guildeford, the chancellor, of the confiscated franchise.<sup>6</sup>

The bishop, however, did not fully recover his former status, although he made advances in that direction during the few remaining years of his episcopate. In the Easter *coram rege* roll of 1308 it is stated that all pleas pending in the palatinate courts at the time of the death of Edward I, have been reserved to the crown.<sup>7</sup> A trifle later the king announced to all the sheriffs that, wishing to show the bishop a richer grace, he had

lishing the date. Bek then granted it for life to Isabella, wife of John Vescy, sen., but later received it again to be held of the capital lord of the fief, in exchange for a life-grant to Isabella of Scorby manor: *Cart. Harl.*, 43, 1, 48, no date. The *inquisitio post mortem*, taken at Eltham, 22 May, 1311, states that Bek holds the manor of the earl of Gloucester: *Inquisitio post mortem*, old no. 4 Ed. II, no. 45, f. 6 (*Cal.* 150). On Bek's death, it was given by Edward to his queen: *Cal. pat. rolls*, 1307-13, p. 398 (5 Ed. II, pt. i, m. 11); *ibid.*, 1313-17, pp. 490-491 (9 Ed. II, pt. ii, m. 2). Cf. Graystones, ch. xxxi, 91.

<sup>6</sup> *Reg. pal. dun.*, I, pref. li; *Cal. pat. rolls*, 1307-1313, p. 2 (1 Ed. II, pt. i, m. 21); Rymer, II, pt. i, 5.

<sup>7</sup> *Coram rege roll*, Easter, 1 Ed. II (192), m. 8.

conceded to him all these pleas, barring one relative to Geoffrey of Hartlepool, and 'saving similarly to us those things which concern, or can concern, us.'<sup>8</sup> Less than two months before his death the bishop procured yet another writ to Brabanzon and his associate justices to permit him to use his Liberty as fully as he was wont to use it before the seizure.<sup>9</sup>

This epoch of the pontificate is interesting as furnishing a good example of that closer relation of the royal justice to the subjects of the palatinate, so lacking before bishop Bek's time, and so normal afterward.<sup>10</sup> John, son of John of Durham, complained to the king that Richard de Stanlawe, sheriff of Durham, and other palatinate officers, had seized into the bishop's hands certain lands in Durham and elsewhere, to the value of 200*l.*, on January 8, 1308, and that he was refused amends. Two writs in September bade the bishop do justice, and a third, on December 14th, commanded him to give amends, or appear *coram rege*, on the octaves of Hilary, 1309. The bishop then returned that he had not disregarded the king's mandate, but that John was his debtor in over 300*l.*, from the time he was bailiff and held the ferm of the vill of Durham: hence the distress. He is ready to do John all due justice in his own courts, whither John has not heretofore resorted. The case was ultimately adjourned to Trinity, 1310, when, on the plaintiff's non-appearance, the bishop won by default.<sup>11</sup>

The proud bishop took occasion to vex the royal appointee to the church of Simonburn,<sup>12</sup> but he was particularly nettled at the Beauchamp occupancy of Barnardcastle, and seized the

<sup>8</sup> *Coram rege roll*, Trinity, 3 Ed. II (201), m. 73 (27 May, 1308); Rymer, II, pt. i, 47; *Cal. pat. rolls*, 1307-13, p. 75 (1 Ed. II, pt. ii, m. 8).

<sup>9</sup> *Coram rege roll*, Trinity, 3 Ed. II (201), mm. 73-73 d. (28 Jan., 1311).

<sup>10</sup> Lapsley, 210 *et seq.*

<sup>11</sup> *Coram rege rolls*, Hilary, 2 Ed. II (195), m. 11 d.; Easter, 2 Ed. II (196), m. 9 d.; Trinity, 2 Ed. II (197), m. 34 d.; and covering whole course of the suit.

<sup>12</sup> *Cal. close rolls*, 1307-13, p. 254 (3 Ed. II, m. 7 d.).

first opportunity to render the earl's tenancy uncomfortable. The king's judges received a commission of oyer and terminer with respect to the matter, in January, 1309,<sup>13</sup> but the circumstances are recounted at greatest length in the King's Bench records for the Trinity term of 1310.<sup>14</sup> The earl complains in his own and the king's behalf, that only ten days after the death of Edward I, the bishop, with a large number of others, among whom we recognise some of the leaders at the siege in 1300, entered his lands at Middleton, carried off live stock worth 1000*l.*, and in various ways so consumed what was left of the stock that the people of the neighbourhood 'despaired of the king's peace entirely,' in contempt of the king 10,000*l.*, and damage to the earl of 10,000*l.*

Bek answered that the liberty of his bishopric protected him from answering in the king's court. When the earl appealed to the writ of restitution as especially reserving his plea to the king, the bishop fell back upon the writ of May 27, 1308, with its more restricted saving clause, and antedating the writ which had taken the case into the king's court. Even after the bishop's death, the case lingered on through successive terms as regarded Bek's agents. These undoubtedly shielded themselves behind the liberty of the bishopric, and were never actually produced in court, the case vanishing away after the Trinity term of 1315.<sup>15</sup>

Had Edward I still lived when Bek so openly violated the king's peace—for the temporalities were still in the king's hand

<sup>13</sup> *Cal. pat. rolls*, 1307-13, pp. 169-170 (2 Ed. II, pt. ii, mm. 15 d., 13 d.).

<sup>14</sup> *Coram rege roll*, Trinity, 3 Ed. II (201), mm. 73-73 d.

<sup>15</sup> *Coram rege rolls* of successive terms, Trinity, 2 Ed. II, to Trinity, 8 Ed. II (nos. 197-221), as follows: (197) m. 89, (198) m. 55 d., (199) m. 52 d., (200) mm. 87 d., 74 d., (201) mm. 28 d., 73-73 d., (202) m. 82 d., (203) m. 58, (204) m. 71, (206) m. 96, (207) m. 47 d., (208) m. 69 d., (209) m. 51, (210) m. 69, (211) m. 39 d., (212) m. 86 d., (213) m. 64 d., (214) m. 70 d., (215) m. 73 d., (216) m. 96, (217) m. 81, (218) m. 93 d., (219) m. 82, (220) m. 72 d., (221) m. 39.

—the bishop would have suffered. The impunity which he enjoyed, to say nothing of the collusion suggested by the opportuneness of the successive writs protecting the franchise, are symptomatic of that inefficiency of Edward II which was to meet its punishment in 1311; and it is worth noticing that the victim of his partiality for the bishop was the same grim Warwick who later refused burial to the headless corpse of the murdered Gaveston 'because it was not found on his fee.'<sup>16</sup> Far from taking umbrage at Bek's conduct, the king was on the friendliest terms with him for the remainder of the bishop's life.

In August, 1309, Bek made a grant to Edward as king, of Somerton castle, similar to that which he had made to him, as prince, of Eltham manor.<sup>17</sup> This the king subsequently transferred to Henry Beaumont.<sup>18</sup> The bishop was liberal in the matter of loans, and complaisant in the use of palatinate patronage.<sup>19</sup> Edward, on his side, dropped proceedings against his friend, with respect to the lordship of Man, and recognised Gilbert Makasky as 'steward in the island aforesaid of the venerable father Anthony, patriarch of Jerusalem and bishop of Durham:'<sup>20</sup> and thus the London annalist could shortly after chronicle the death of 'Anthony de Bek, bishop of Durham, and patriarch of Jerusalem, and king of the Manx.'<sup>21</sup> Even the

<sup>16</sup> T. F. Tout, *History of England from the Accession of Henry III to the Death of Edward III*, 251.

<sup>17</sup> *Cal. close rolls*, 1307-13, p. 226 (3. Ed. II, m. 23 d.).

<sup>18</sup> *Ibid.*, 401 (5 Ed. II, m. 14); Graystones, xxxi, 91.

<sup>19</sup> *Reg. pal. dun.*, I, pref. li, n. 5; IV, 504-505.

<sup>20</sup> *Rot. Scot.* I, 92 (4 Ed. II, m. 12), 96, (mm. 8-9); Rymer, II, pt. i, 122.

<sup>21</sup> *Annales Londonienses*, *ut cit.*, 176. After Bek's death the island went to Henry Beaumont: *Cal. pat. rolls*, 1307-13, p. 300 (4 Ed. II, pt. i, m. 6, sch.). Cf. also for Bek's and Beaumont's tenures: Graystones, ch. xxxi, 91; *Cal. close rolls*, 1318-23, pp. 63-64 (12 Ed. II, m. 11); *Fine roll*, 5 Ed. II (110), mm. 17, 19; *Coram rege roll*, Easter, 33 Ed. I (130), last m., d.; Hodgson, in *Archaeologia Aeliana*, 2 ser., xx, 121, n. 46.

Bishop Bek also had his quarrel with the earl of Gloucester: *Cal. pat. rolls*, 1307-13, pp. 256-7 (3 Ed. II, m. 16 d.).

bishop's death gave the king opportunity to show favour to his friend's memory. He pardoned Bek's executors all debts due the crown from the estate, and when the Lords Ordainers compelled him to rescind the pardon, directed that all goods and chattels so taken into the royal hand should be applied to pious uses for the bishop's soul.<sup>22</sup>

## PART II: The End of the Priory Controversy.

### The Templars. Bishop Bek's Death.

When on March 12, 1308, definite news reached the priory of Tanfeld's election, the chapter sent propitiatory letters to the bishop, 'excusing themselves on the ground that they had been bound to obey their prior so long as he held office.' Bek sent the reassuring response that the least member of the priory had he felt aggrieved, would have treated them with more vindictiveness than would he himself.

It was, however, no long time before the bishop's vicar-general removed from office, as being under the bishop's excommunication and therefore incapable of holding their charges, the sub-prior, the cell-priors (except the prior of Coldingham), and the conventual advocates. The church and higher officers simultaneously found themselves under interdict and excommunication, for debts due sundry merchants (bankers), a state of things which Bek's new officers, ill disposed to the old *régime*, were in small haste to remedy.<sup>23</sup>

<sup>22</sup> *Cal. pat. rolls*, 1313-17, pp. 290-291 (8 Ed. II, pt. ii, m. 10).

<sup>23</sup> *Graystones*, ch. xxix, 87-88. Interdict and excommunication for non-payment of 450 marks, 13s. 4d., due certain Florentines: *loc. iii*, 13 (17 July, 1308). Interdict raised, 21 March, 1310: *loc. iii*, 15. On 10 June, 1310, the official of York announces absolution of prior and others of Durham, throughout the diocese of York, on notification of payment of 700 marks to Florentines: *loc. vii*, 63. For an obligatorial letter for 345 florins, expended for drugs, funeral expenses, *etc.*, at Hoton's last illness and death, see *loc. i*, 59 (Poitiers, 23 Feb., 1308). Certain members of the monastery were excommunicated for this debt, but on 18 August, 1310 (Avignon), the abbot of

The new prior, whatever his personal graces of person and disposition, was little fitted for the economy of administration so sorely needed. 'He delighted in a great following, in the number and frequency of his table-hospitalities, but was not sufficiently provident in reckoning how he was to pay for it all.'<sup>24</sup>

Such were conditions, when, toward the close of 1308, the bishop announced a visitation on February 3, 1309.<sup>25</sup> In this visitation he showed little of the promised clemency. 'In which visitation,' says Graystones, 'not because they had broken the rule, but because they had firmly held by their prior against the bishop, there were suspended from any administration for ten years following, Richard de Aslakeby, Geoffrey de Burdun and Nicholas de Routhbery, of whom the first had been sub-prior of Durham during prior Richard's time, the second, prior of Finchale, and the third, almoner of Durham.'<sup>26</sup> The completion of what the bishop had begun was left to the vicar-general, Stephen de Mauley, and archdeacon William of St. Botolph.<sup>27</sup> Monks, who, like Henry de Staunford, had belonged to the anti-Hoton faction, might well find grace from such judges for delinquency toward the late prior,<sup>28</sup> but no such favour was extended to those who had helped to thwart the bishop. The process relating to Geoffrey de Burdun is extant.<sup>29</sup> He was convicted of disregarding the bishop's excommunication; of

St. Mary's, York, was directed to lift the excommunication, if agreeable to the merchant in question, 'in Romana Curia speciarjo,' as the money is paid: *loc. vii*, 36. For Bek's vexatious treatment of the monastery, with respect to presentations to certain churches, see Graystones, ch. xxix, 88.

<sup>24</sup> Graystones, ch. xxviii, 85.

<sup>25</sup> 3-6 *pont.*, 1, dated Eltham, 12 Dec., 1308; *Cart. i*, ff. 95-95 d.

<sup>26</sup> Graystones, ch. xxx, 90. The vanquished faction evidently viewed the visitation with misgiving: see previous appeal to York of John de Haxby, monk of Durham: *loc. viii*, 40 (16 Jan., 1309).

<sup>27</sup> *Loc. viii*, 39, commission dated Auckland, 10 Feb., 1309; *loc. vii*, 40, m. 1.

<sup>28</sup> *Loc. viii*, 39.

<sup>29</sup> *Loc. vii*, 40.

taking Hoton's part after the latter's expulsion by the bishop; of passing from county to county to do the bishop harm, although those at the head of the monastery desired his return; of so conspiring that the Liberty of the bishop was twice taken into the king's hand; of owning property contrary to his prior's knowledge and will; and of many other misdemeanors. On May 27, 1310, he was sentenced, by other judges, after he had humbly sought absolution, to ten years suspension from all office or dignity within the monastery, and to exclusion from the meetings of the chapter; he is to take the last place in the upper ranks on the south side of the choir, and to keep the corresponding place in processions and in refectory; he is not to leave the precincts of the monastery, or branch cell allotted him for residence, without the consent of the prior or sub-prior of Durham, and then must return; he is to speak to no one except the prior or sub-prior of the place where he resides, and that but little; he shall neither send nor receive letters or messengers; Each week he shall say two psalters for bishop Anthony, for his safety while he lives, and for his soul after death. Every Wednesday he must be content with one kind of fish; and every Friday with bread and water, save when ill, or otherwise excusable in the eyes of the prior or sub-prior. On the days that he has bread, beer, and soup, and all Saturdays, he shall say sixty aves; 'and in each of his prayers and devotions he shall have in his special memory the said lord bishop, as well in life as in death'—and doubtless he did. He is also to swear to do nothing in word or deed against the adherents of the bishop in the recent quarrel.

In a later order, dated London, December 13, 1310, bishop Bek found fault with the way in which the balance of the penance of certain monks, who had received episcopal mitigation, had been carried out, and ordered Burdun's transference to Coldingham within eight days of the receipt of the letter.



It is pleasing to observe that the same roll which records all this spite and injustice toward Burdun closes with a document relating to Burdun's own election as prior in 1313.<sup>30</sup>

The policy of the monastery took a complete volte-face at Tanfeld's accession. Not long after the visitation, the new prior, with the unanimous consent of the chapter, quitclaimed the bishop for all actions done to the prior and monks by the bishop and his ministers to date, 'together with all sorts of damages howsoever adjudicated to us in the court of lord Edward of good memory, late king of England, and elsewhere-soever before any judges of the said lord king, and not paid at the date of the making of these presents, or by occasion of the aforesaid yet to be paid us in anyway.'<sup>31</sup> On the other hand, toward the end of the following November, Clement v relaxed the excommunications, suspensions and interdicts issued more than three and a half years previously, the papal orders being carried out in June, 1310.<sup>32</sup>

<sup>30</sup> Cf. Graystones, ch. xxxvi, 95 *et seq.* In what appears to have been an appeal of this time, John of Barnard Castle took a bolder stand than Burdun, appealing to Rome for himself, and the monks in his own situation, on the basis that the visitation was malicious, that Bek had not lost his liberty through conspiracy, but by his own negligence in not amending his ministers' wrongs, though specially requested to do so by the king, and by his contempt of the king in the matter of Bruntoft's imprisonment, 'because it is certainly of the right and custom of the realm of England that all causes and suits, between whatsoever persons carried on, belong to the king's court, certain testamentary and matrimonial cases alone excepted,' and because the prior was justified in his course, since otherwise the bishop would have been his own judge: *Reg.* III, ff. 92-92 d.; also, in a damaged state, in a roll among the uncatalogued miscellanea. Neither transcript has date or notarial certification. Is this the great advocate? Cf. *loc.* VII, 72, procuration by John de Stanhope, executor of testament of master John of Barnard Castle, Feb. 24, 1306.

<sup>31</sup> *Cart. Harl.*, 44 D, 19, dated in the chapter at Durham, 9 March, 1309.

<sup>32</sup> *Cal. pap. letters*, II, 65, Avignon, 12 kal. Dec., 1309; *loc.* VII, 18. Cf. ch. IX, *supra*, at n. 53.

The great final reconciliation took place in Durham castle on September 28, 1310. On that date the prior, sub-prior, Nicholas de Routhbery, Geoffrey de Burdun, John of Barnard Castle, Richard de Aslakeby, and others, thirty-two in all, came into the bishop's chamber, and falling upon their knees, humbly besought 'that the offence, if any such the father had conceived against them, or any, or one of them, for whatever cause, might be graciously remitted them, and, because it is a mark of good minds to fear blame where there is none' (the phrase points to pre-arrangement) 'humbly requested that all and each of them be absolved' from all sentences of excommunication or suspension. They came reinforced by a letter from the papal penitenciar. Thereupon the patriarch-bishop remitted all such offence, took oath of obedience from all, and remitted all such sentences *totaliter et simpliciter*.<sup>33</sup> The following February 23, only a few days before the bishop's death, the official of Durham pronounced another relaxation, from all sentences decreed by himself.<sup>34</sup> Thus was finally unwound the tangled skein of excommunication and counter-excommunication, suspension and counter-suspension, that had been so long winding and unwinding. The penances, of course, still held.<sup>35</sup>

Bishop Bek probably felt at his death that on the whole he had emerged triumphant from his quarrel with the priory, but the cost had been tremendous during his life, and his gains were largely cancelled after his death.

The cost to the bishop through the loss of his temporalities we have already seen.<sup>36</sup> The expenses of the long papal and secular suits had been enormous for both parties. The bishop's payments to Italian bankers, during little more than a year,

<sup>33</sup> *Loc.* VII, 34.

<sup>34</sup> *Loc.* XVII, 1, Kepyer, 23 Feb., 1311.

<sup>35</sup> *Cf. supra*, at n. 29.

<sup>36</sup> *Cf.* Graystones, ch. xxx, 88-89.

alone amount to over 3400*l.*<sup>37</sup> The cost to the defeated party was proportionately great. In one year, says Graystones, five

<sup>37</sup> Bek's account roll, printed by the Rev. W. Greenwell in appendix to *Boldon Buke*, xxxiv (end of 1307 to beginning of 1309).

On the dorso of one of a number of membranes stitched together, and relating to Bek's monastic disputes, are the words: 'Compotus domini R. episcopi de expensis in lite.' Bishop Bek's name does not occur, and the nature of the document is otherwise not wholly clear. It would appear to be a memorandum of the financial relations of bishop and chapter, following Bek's decease. The memorandum is as follows:

Expense facte in curia Romana per episcopum d*eli*.

Item: post adventum domini episcopi in Anglia ccciiii*li*. vs. iiiid.

Item: xiiii*li*. xxd.

Item: ante adventum episcopi in Anglia ccliiii*li*. iiis. xd.

Item: cc marcarum secundum magistrum R. Avenell'.

Item: secundum eundem magistrum R. vii*xxli*.

Summa total. mcccexliiii*li*. xviii. vid., sed demptis inde tres centum librarum de litteris obligatoriis remanentibus penes magistrum A. de Eyluby, remanent mcliiii*li*. xviii. vi.d. De quibus dominus prior tenetur pro tercia parte in ccciiii*xxli*. vs. xd.

Memorandum. Expense ( p ) rioris cclv*li*. vs. vd. ob.

De quibus ( duabus par ) tibus in clxiiii*li*. xs. ivd.

Memorandum. In quibus ( ) episcopus tenetur domino priori.

In primis per unam litteram obligatoriam, in ccl mar.

Item: eidem per aliam litteram c mar.

Item: eidem per terciam litteram obligatoriam, in ccli

Summa, ccccxxxiiii*li*. vis. viiid.

Preterea episcopus tenetur dicto priori pro expensis factis in lite pro duabus partibus in clxiiii*li*. xs. iiiid.

Summa total. expensarum in quibus episcopus tenetur priori diiii*xxvli*. xviii.

De quibus dictus prior tenetur respondere episcopo pro tercia parte facta in lite, in ccciiii*xxli*. vs. xd., et sic debet episcopus dicto priori clare cexv*li*. xis. iid.

Accomadatio xxv*li*. xiiis. iiiid.

Item: accomodatio per litteram c*li*.

Item: petimus medietatem de xxv marcarum traditis domino episcopo per manum fratris H. de Thesdal.

Item: de expensis circa electionem factis cccxxv*li*. xis.

Emptiones.

Pro uno palefrido emp. x*li*.

Item: pro quinque carectariis et uno runcino xx*li*.

thousand marks went to the curia: one thousand for the restoration of prior Richard, to the curia; three thousand to the pope, and one thousand to the cardinals for the collation of the priory to Tanfeld. 'Those five thousand marks, forsooth, were paid in one year, for which the poverty of the house did not suffice, save by the help of the usury of merchants: for the loan of three hundred marks through the year, the house sometimes paid eight hundred marks.'<sup>38</sup>

Item : pro una carecta cum attilio xls.

Item : in xxviii iuvenis emptis, xxxiili. xs.

Item : pro vii<sup>xxii</sup> stircis duorum annorum xxivli. xviii. (precium stirci, iiis. vid.).

Item : pro ix<sup>xxii</sup> stircis unius anni xxiiiili. xiiis. vid. (precium stirci iis. vid.).

[should be 24l. 7s. 6d.].

Item : pro lii vaccis et uno tauro xxvi mar. Petit duodecim discos argenteos et tot salsaria et duo paria pelvium, accommodata eidem.

Item : petit decimam duorum molendinorum in parochia sancti Oswaldi.

Petit eciam decimam omnium molendinorum episcopi in Norhamshire, Bedelingtonschire et aliby.

Memorandum, quod executores episcopi debent domino priori Dunelmensi ccxvli. xis. iid. De quibus idem prior recepit in denariis xlli. Item pro xxviii iuvenis, ix<sup>xxvi</sup> boviculis duorum annorum, vii<sup>xx</sup> stircis anualibus, li vaccis et uno tauro cum feno, emptis, ciili. xiiid.

Item : pro sex equis, uno palefrido et una carecta cum attilio, xxxiili.

Item : in xxvi scutellis et xxvi salsariis argenteis, lviili. xiiis. iiiid.

Item : in duobus paribus pelvium de argento, xiiili. vis. viiid.

Summa, ccxlviii. xiiid.

Et sic debet dominus prior executoribus xxxili. ix. xd.

<sup>38</sup> Graystanes, ch. xxx, 89. Various items connected with the suit occur in the bursar's accounts from 1300-1303, e.g. :

Diversis personis curie regis, per dominum H., 110s.

Expensis versus curiam et circa lites : In missione facte curie Romane per dominum G. de Burdon, 333li. 6s. 8d.

In expensis trium garcionum et unius equi v. London. et ibidem per xv dies, per dominum G. de Burdon, 22s. 3d.

In expensis duorum garcionum de London. v curiam Romanum, 43s., etc., etc. The above items occur at different points in the accounts.

Cf. extracts from the *Account Rolls of the Abbey of Durham*, II, 502, and *Scrip. Tres*, appendix, civ, no. LXXXVI.

The quarrel was, moreover, morally demoralising. 'For the breach once opened, the superiors concerned themselves far more with their law suits than with the care of the cloister; irregular talk, irregular journeys and looseness, ran riot; and sin was the freer because there was none to denounce the sinner, or because the superiors, concerned with other matters, either did not know who were delinquent, or, if they did know, dissimulated, lest the offender be angered and turn against them.'<sup>39</sup>

Bishop Bek's death, moreover, largely undid his work. His successor, bishop Kellawe, had belonged to the Hoton faction. In the latter's decree, dated Auckland, November 12, 1311, bishop Bek's interference in the affairs of the house during the vacancy following Hoton's death, his banishings, his taking oaths of fealty from the monks, and his 'other innumerable harsh, unaccustomed and unheard of' methods, were all condemned and annulled. The results of his very first conflict with the monastery were made void: henceforth, in times of vacancy of the priorate, the sub-prior, with the advice of the monks, is entirely to control both temporalities and spiritualities, the bishop being represented merely by one clerk with three attendants. This clerk cannot meddle in any wise with the internal affairs of the house, but must confine his functions purely to protecting the monks from outside interference.<sup>40</sup> How permanent and highly prized was this arrangement is shown by the registration of confirmations, during the following century, by bishops Bury, Hatfield and Fordun. At a still later date, bishop Langley withdrew a presentation to a benefice, meeting the chapter's opposition on these very grounds.<sup>41</sup> The archbishop of York aided the work of overthrow by promptly

<sup>39</sup> Graystones, ch. xxx, 90.

<sup>40</sup> *Ibid.*, ch. xxxv, 95; *Reg. pal. dun.*, II, 1125-1127; *Cart.* I, ff. 83 d.-84.

<sup>41</sup> *Cart.* I, ff. 84 d.-88; 54 d.-55 d. (a royal confirmation).

quashing, at his visitation, *sede vacante*, the penances which had been imposed by the late bishop.<sup>42</sup> The bull 'Debent,' of course, stood.

The last public honour conferred upon the patriarch-bishop was his appointment, by Clement v, to preside with others at the inquisitorial proceedings as to the Knights Templars, in England Scotland, Wales and Ireland.<sup>43</sup> He seized the property of the Templars within the palatinate in virtue of his Liberty.<sup>44</sup> His functions under the papal commission seem to have been performed, for the most part, at least, by deputy. He is excused from attending a council summoned by the archbishop of York, in May, 1310; 'in behalf of his patriarchal dignity and on account of notorious bodily failing.'<sup>45</sup>

The illness thus referred to, not unlikely a recurrence of the malady of previous years, seems to have been the immediate cause of bishop Bek's death, which occurred at Eltham manor, March 3, 1311.<sup>46</sup> His funeral was celebrated with the pomp he so much loved. The archbishop of York presided at the burial, at the north end of the Nine Altars, on the morrow of St. James's day following his death. The wealth coming to the church in rich service cloths, utensils of gold and silver, and the horses that brought the coffin from Eltham, had never been rivalled since Pudsey's death over two centuries before, nor were again to be until Hatfield's death, seventy years later.

<sup>42</sup> Graystones, ch. xxx, 90; ch. xxxiii, 93.

<sup>43</sup> Wilkins, *Concilia*, II, 311, 329 *et seq.*; Lascelles, *Liber Munerum Publicorum Hiberniae, ab anno 1152 usque ad 1827*, pt. iv, 64; *Cal. pat. rolls*, 1307-13, p. 192 (3 Ed. II, m. 33); *ibid.*, p. 267 (4 Ed. II, pt. i, m. 24); *Cal. close rolls*, 1307-13, p. 230 (3 Ed. II, m. 22 d.); *ibid.*, p. 179 (3 Ed. II, m. 20); Rymer, II, pt. i, 55, 93, 94; Lansdowne, 397, ff. 197 d., *et seq.*, 200 *et seq.*

<sup>44</sup> *Reg. pal. dun.*, II, 857-8. Cf. Rymer, II, pt. i, 18.

<sup>45</sup> Wilkins, *Concilia*, II, 393 *et seq.*

<sup>46</sup> Hemingburgh, II, 285; Graystones, ch. xxxi, 91; ch. xxxii, 92; *Annales Paulini*, 269; *Bridlington chronicle*, 38 (wrong date); *Annales London*, 176; *Reg. pal. dun.*, I, 1 (wrong date); *Fine roll*, 4 Ed. II, m. 11; *Ministers' Accounts*, 1144 (old bishops' temporalities roll, 604); *Reg. pal. dun.*, IV, 89.

After ages told about "the wall beinge broken at the end of the allee for bringing him in with his coffin," but the latest archaeological criticism questions the story. Yet enough had been done to sate even Bek's dying 'magnanimity,' since 'before him, for reverence of St. Cuthbert's body, no corpse was permitted to enter the church of Durham.'<sup>47</sup>

As a man, Bek's most notable characteristics are cleanliness of mind and body,<sup>48</sup> worldly shrewdness, daring,<sup>49</sup> ambition, and ostentation, though he was not without the affability and poise often united with these qualities, and which were indispensable to his political career. As lord palatine his great legacies were the definition and permanence given the franchise by the Quo Warranto and Romanus proceedings; the charter of 1303; and, viewed from the side of his failures, the closer bond between the palatinate and the rest of the nation, whether with respect to judicial process or the check put upon feudal aloofness by Edward's triumphant assertion of the rights of the crown, even within the Liberty. As bishop he is conspicuous for his collegiate foundations, for some very good and some very poor architectural work, for his procuring of the bull 'Debent,' and, perhaps, for the accommodations with York. Besides being all this, he is a national figure in politics and war, who, could we know more of him, might be ranked with Dunstan and Wolsey, but these matters are beyond the scope of this monograph.

Yet, when all is said, the historian of bishop Bek feels that his heroes have lacked a certain value, have been at least as

<sup>47</sup> Graystones, ch. xxxi, 91; Hemingburgh, II, 285; *Annales Paulini*, 269; Lanercost, 215; Bridlington, 38; *A description or briefe declaration of all the ancient monuments, rites, and customes belonginge or beinge within the monastical church of Durham before the suppression*, ed. James Raine, Surt. Soc. publ., 1842, pp. 1 *et seq.*; Dr. Hodgson, in *Archaeologia Aeliana*, 2 ser., xx, 125, n. 49; *Wills and Inventories* . . . , 2 Surt. Soc. publ., 1835, I, 12 *et seq.*

<sup>48</sup> Graystones, ch. xviii, 64.

<sup>49</sup> *Cf.* legend, described in Surtees, I, xxxiv, n. x.

typical of what evil lurked in the society of their day as of what good was conspicuous, perhaps more so. Pope, bishop, prior, monks, all are over-loyal to the bare mechanism of life, its advowsons, its revenues, its silver plate, its cattle. Bankers advise remittances of excommunication.<sup>50</sup> Temporalities are in the foreground of the thought of prior and bishop.<sup>51</sup> The language of piety is the stock in trade of the notary. England is sharing the fortunes of western Europe, and is settling into the sham, the selfishness—the ‘magnanimities’—that are to terminate in the Wars of the Roses, the rise of the Tudors, and the final schism of the ancient church.

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<sup>50</sup> Cf. n. 23 *supra*.

<sup>51</sup> *Vid. supra*, ch. VI, at n. 34 (scene in the castle).



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