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# THE HEREFORD DOMINICANS: AN UNKNOWN DOCUMENT

Introduction, Text and Notes by

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## INTRODUCTION

The history of the Dominican priory at Hereford, and the difficulties surrounding its establishment, are already well known<sup>1</sup>. Recently the cataloguing of the Hereford Cathedral Archives has opened up new sources of information and the early history of the priory has required a second look<sup>2</sup>. In particular these archives contain one document of great interest — DCA no. 1357 — the complete text of which forms the bulk of this article. The document was discussed briefly in an appendix to the earlier article, but a full transcript has made many points a good deal clearer, and some points brought forward previously have been either expanded or corrected in the present work<sup>3</sup>.

### *(a) Historical*

For the benefit of those who may not have immediate access to Fr. Hinnebusch's work or my earlier article, I will give a summary of the latter here, expanding some points in the notes appended to the text. The Dominican priory at Hereford was one of the larger houses of the

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<sup>1</sup> W. A. Hinnebusch, *The Early English Friars Preachers*, Rome 1951, pp. 109-113.

<sup>2</sup> W. N. Yates, 'The Attempts to Establish a Dominican Priory at Hereford, 1246-1342', *Downside Review*, lxxxvii (1969), pp. 254-267.

<sup>3</sup> I am most grateful to Professor Frank Barlow at Exeter University, who originally suggested that I should prepare an edition of this document, and to Professor Colin Morris at Southampton University, who has read and commented upon a draft of this article; the remaining errors are entirely my own.

order in medieval England, having sometimes as many as thirty friars. The remains, which include an impressive preaching cross, are quite extensive, and now stand in an attractive public garden.

The priory was founded either in or shortly before 1246 on a site given by Agnes Byssett, with the active encouragement of King Henry III. The first century of its existence was, however, one of constant trouble, as the foundation of the new house was vigorously opposed by the other clergy of the city, led by the cathedral chapter and supported by the local bishop. These opponents saw the Dominican foundation as a threat to their incomes from voluntary offerings and burial dues, and were determined to make the friars settle elsewhere. They began by excommunicating the local workmen employed by the friars and by 1250 they had set fire to the uncompleted buildings, thereby making them unfit for habitation. During the next thirty years there was a continuous suit at various levels between the friars and the Hereford chapter, the former trying to obtain permission to settle in the city and the latter trying to give its obstruction of their efforts the force of law. Various and contradictory legal decisions were given, and each time the unsuccessful party appealed against the judgement.

By 1280 little had been achieved. The chapter had, on at least one further occasion, taken the law into its own hands with a show of physical violence, and a new bishop, Thomas Cantilupe, had, despite his strong connections with the Dominicans<sup>4</sup>, forbidden the friars to settle at Hereford. That was the stage the dispute had reached when DCA no. 1357 was compiled, and the document provides indirectly a good summary of the main points at issue at that time.

Nothing more is heard of the suit until 1317, when Pope John XXII ordered the archbishop of Canterbury to bring it to an end. In 1319 King Edward II granted a new site to the friars in return for a chantry, and in 1322 an agreement was drawn up between the chapter and the friars, whereby the former agreed to accept the latter as tenants for a nominal rent of three shillings and sixpence *per annum*; the friars also agreed not to infringe upon the burial rights of the chapter within its own peculiar, administered by the dean and his assistants and consisting of eighteen parishes in or near the city of Hereford, but it was a promise they did not bother to keep for long. During the fourteenth century

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<sup>4</sup> Cantilupe took his doctorate at the Dominicans' Oxford house and was a friend of their provincial, Robert Kilwardby, later archbishop of Canterbury. Kilwardby was made a cardinal in 1278 and died shortly afterwards.

the friars managed, despite the private grumblings of the chapter, to enlarge their property and to become an influential force in the life of the city. The long suit had been ended to the friars' advantage because the chapter had given up the struggle in 1322; why it did so is never made clear, but I suspect that, considering the extreme financial difficulties of the chapter at this time, known to us from other sources, it was simply a case of the chapter being no longer able to bear the enormous expense that the suit must have involved.

(b) *Textual*

DCA no. 1357 is a list of twenty-six charges with accompanying interrogatories which the Hereford chapter had made against the Dominican friars, presumably in one of its appeals to Rome which we know were in process during the 1270's and 1280's. The document would have been compiled by the examiners of the court according to the instructions given by the proctors of both parties; the interrogatories would then have provided the same examiners with a series of questions which could have been put to the witnesses when they appeared before the court. Their evidence would also have been recorded by the scribe, though here no record survives in this particular suit. Copies of charges, interrogatories and depositions were commonly made available upon the request of either party<sup>5</sup>. Thus after its compilation copies of this document would have been sent to the Hereford chapter, and presumably to the Dominican friars as well, for close scrutiny by their respective scribes; this explains the presence of DCA no. 1357 in the cathedral archives.

The document is undated. The first part of it, which would probably have given the date in a general introduction to the contents, has been entirely worn away so that it is now illegible. However, there are certain clues in the contents which point to a date somewhere between 1280 and 1290, but certainly after the former. Articles XI and XIII refer to there being a new bishop of Hereford, article XX refers to the bishop being in remote parts and article XXI refers to the deanery being vacant. It seems reasonable to suppose that all these events were closely linked in time and we must therefore seek a date when all did occur. There were new bishops of Hereford in 1269, 1275, 1283 and

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<sup>5</sup> See B. L. Woodcock, *Medieval Ecclesiastical Courts in the Diocese of Canterbury*, Oxford 1952, pp. 55-58.

1317. The deanery was vacant between 1272 and 1282 during the dispute between Giles Avenbury and John Aquablanca, and also between 1320 and 1324 after the death of the latter. The document is unlikely to date from the period between 1317 and 1324 because by then both pope and king had intervened in the dispute and a solution was near. It is much more likely to date from the period between 1275 and 1282, and probably after 1280 when Giles Avenbury died two years before John Aquablanca was declared to be the rightful dean of Hereford. The new bishop would therefore have been Thomas Cantilupe, whom we know to have been in remote parts, in fact abroad, on two separate occasions between 1280 and 1282 during his quarrel with Archbishop Pecham. If the narrative of events described in this document took place between 1275 and 1282, can any accurate date be assigned to its compilation? The document may have taken some time to complete as the handwriting of at least three, and possibly more, scribes can be positively identified; there is no break in handwriting between charge and interrogatory in the same clause, only between different clauses; this indicates that both were drawn up together with presumably both sets of proctors present, or at least available for consultation. The whole document is in the form of a long roll, the different pieces of which have been sewn together. The events described in articles XI to XXVI appear to have taken place recently and to form the substance of the chapter's case. It would therefore seem reasonable to suggest that DCA no. 1357 was composed at some date between 1280 and 1290; but it could be later.

From the linguistic viewpoint the document is of great interest. As a legal instrument it is not surprisingly full of repetition, not merely in that charges and interrogatories are frequently repeated almost word for word, but also in individual phrases where words of almost identical meaning are used together to produce an added effect: *consuatores seu executores* in article II, *nomina et cognomina* in articles IX and XIII, *construere et habere* in articles IX and XXVI, *nituntur et contendunt* in articles IX, XV and XXIV, *palam et publice* in article XIII, *vitarent et cessarent* in article XIV, *vicarii seu procuratoris* in article XX and *intraverunt seu occuperunt* in articles XX and XXI. This feature, not unfamiliar in other types of medieval literary composition, was known as *synonymia* to the sixteenth-century rhetoricians. Another feature of the document is the use of a good many lesser-known variants for well-known words, such as *clericus* for *clerus* in articles I, X, XXIV and XXVI, *consuatores* for *conservatores* in articles II and XIV, *repre-*

*seno* for *presento* in article III, *denuntio* for *nuntio* in articles XI and XIII, and *horatorium* for *oratorium* in article XII. The most interesting variant, however, is *tenso* for *censo* in article XVII; *tenso* can have a good many meanings in medieval Latin; it usually means *to enclose*, but can also mean *to protect*, *to tallage* or *to exact* 'tenserie' that is *payment for protection*. As a variant for *censo* it here means *to pay rent*; the use of this variant is generally thought to have been confined to Gascony during the late thirteenth century, so this may tell us more than we would otherwise know about the nationality of at least one of the scribes employed<sup>6</sup>. One final point of grammatical interest occurs in article XVIII with the use of the phrase *quam habet ecclesie Herefordensi*. This may be a scribal error, but not necessarily so; the scribe may be trying to render a vernacular dative construction, in this case normally *longeth to* in Middle English, into respectable Latin, though in so doing he obtains a rather curious result.

### (c) Conclusion

Apart from these, partly linguistic, comments the document can be allowed to speak for itself and requires only the brief notes which have been supplied in order to elucidate various points of, mainly historical, interest. But of what significance is this document apart from its local importance as an illustration of the issues between the Dominican friars and the Hereford chapter? Primarily it is an extremely useful illustration of procedure in the ecclesiastical courts at this time. Relatively few documents of this type survive in quite such detail and very few have been published *in extenso*. As far as I am aware this document is unique in that nothing similar for such an early date as the late thirteenth century has yet been discovered in England<sup>7</sup>. It is extremely interesting from the legal viewpoint to be able to look at the charges

<sup>6</sup> For *censo* and *tenso* see R. E. Latham, Revised Medieval Latin Word-List, London 1965, pp. 79, 480.

In my article in the Downside Review, before full transcription of DCA no. 1357, I had assumed that *tenso* meant *to enclose*, with the result that a misleading summary of article XVII is given there; a revised summary is therefore given in the notes appended to the text in this article.

<sup>7</sup> By a strange coincidence the Hereford cathedral archives also contains a document of 1324 giving the full depositions of ten witnesses, though in a different suit. This type of document is, however, more common than that giving charges and interrogatories, the type to which DCA no. 1357 belongs.

and then to look at the interrogatories, the questions that are based on the charges made. The examiners, prompted by the friars, were certainly demanding that the Hereford chapter and its supporters should be very clear about all the details of their case, though at times they do appear to be clutching at straws, from what we know of the dispute; on the other hand, some of the questions are extremely pertinent and would require a carefully prepared answer if the chapter was to remain consistent in its arguments throughout. Thus the document can be appreciated on two levels; firstly as an unusual and interesting example of medieval legal procedure and secondly as a valuable addition to a difficult dispute which is not always as well documented as one would like.



## TEXT

Super primo articulo, si testes dixerint quod dominus papa per suas litteras mandavit prioribus et fratribus ordinis predicatorum, ut domum vel ecclesiam in civitate Herefordie vel eis surburbiis vel *circa nulla terra*<sup>1</sup> construi facerent, nec reciperent a quoque constructam contra decani, capituli et clerici tranquillam et liberam voluntatem.

Queratur ab eis quomodo sciunt et si ipsi testes viderunt ipsas litteras papales bullatas, et si dicant se vidisse. Queratur de tenore et data ipsorum, quis ostendit eis, et quo loco, et quibus presentibus, et si ipsi legerunt eas, et dicant totum tenorem ipsarum. Et queratur de anno, mense, die et hora qua viderunt ipsas litteras, et quo tempore anni sit quod viderunt eas. Et queratur de omnibus aliis circumstanciis diligenter. Et queratur super singulis dictis et responsis testium diligenter de causa scient, et utrum visu aut auditu testamentum sciant ea que dicunt.

Super ij articulo, si testes dixerint quod dominus papa dedit eisdem decano et capitulo conseruatores seu executores super litteris ipsis. Queratur ab eis quomodo sciunt et si ipsi testes viderunt ipsas litteras executorias bullatas, et quis ostendit eis, et quo loco, et quibus presentibus, et quo anno, quo mense, quo die et qua hora, et quot anni sunt. Et queratur si legerunt eas, et dicant totum tenorem et datam ipsarum litterarum. De omnibus aliis circumstanciis queratur diligenter, et queratur tenor *ipsorum consuatorum*<sup>2</sup>.

Super iij articulo, si testes dixerint quod littere ipse fuerunt priori provincialati in Anglia presentate.

Queratur ab eis quomodo sciunt et quis presentavit eas ipsi priori, et quid erat nomen ipsius prioris, et quo loco, et quibus presentibus fuerunt ei presentate, et quomodo sciunt quod ille cui representabantur ipse littere ecclesie *Herefordensis erat*<sup>3</sup> prior provincialatus predicatorum in Anglia. Et queratur ab eis quomodo sciunt quod ille littere quas videbant presentate essent ille que primo viderantur bullate. Et queratur diligenter de tenore et data ipsarum litterarum que videbantur presentate. Et queratur de anno, mense, die et hora qua viderunt ipsas litteras presentate, et quibus verbis usus fuit ille qui representavit ipsas litteras, et quibus usus fuit prior provincialatus. Et queratur si ille littere ecclesie bullate bulla domini pape<sup>4</sup>.

<sup>1</sup> 'Waste land'? But this reading is doubtful, possibly *nulla tenus*.

<sup>2</sup> Meaning not clear, perhaps a mistake for *ipsarum litterarum*.

<sup>3</sup> Addition to the Ms text.

<sup>4</sup> Verb missing, *erant* understood.

Et queratur de forma bulle et de sculptura et circumscriptione ipsius bulle, et si erant cum sirico vel cum filo. De omnibus aliis circumstanciis queratur diligenter, et queratur quot anni domini currebat tunc temporis quando ipse littere fuerunt ipsi priori presentate.

Super iv articulo, si testes dixerint quod pluribus fratribus ipsius ordinis in Anglia innotuit de litteris ipsis.

Queratur ab eis quomodo sciunt et qualiter innotuit eis, et quis eis innotuit, et quo loco et quibus presentibus innotuit eis, et quot fuerunt illi priores et illi fratres quibus innotuit, et dicant nomina ipsorum fratrum et priorum quibus de ipsis litteris innotuit, et quo anno, quo mense, quo die et qua hora innotuit eis, et cui primo innotuit, et cui secundo, et cui tertio, et sic de singulis. Et queratur quot anni sunt quod innotuit eis, et quot anni domini currebat tunc. Et diligenter queratur de omnibus aliis circumstanciis. Et queratur si tunc vertebatur causa inter ipsos fratres et decanum et capitulum, et si fratres inceperant edificare in loco de quo agitur tunc tempore quando ipse *littere*<sup>5</sup> fuerunt presentate ipsis fratribus.

Super v articulo, si testes dixerint quod nuntiatum fuit ex parte capituli Herefordensis fratribus predicatoribus apud Herefordiam tunc existentibus, qui intendebant et volebant ibi domum et ecclesiam edificare, de ipsis litteris.

Queratur ab eis quomodo sciunt et quis nuntiavit ipsis fratribus, et quibus verbis usus fuit ille qui nuntiavit eis, et quid responderunt ipsi fratres. Et queratur de nominibus ipsorum fratrum, et quomodo sciunt quod illi fratres, quibus nuntiabatur de ipsis litteris, intenderent et vellent edificare domum et ecclesiam apud Herefordiam, et quomodo sciunt quod ille qui nuntiabat nuntiaret hoc ex parte capituli Herefordensis. Et queratur quo loco et quibus presentibus fuit eis nuntiatum, et quot anni sunt, et quot anni domini tunc currebat. Et queratur super singulis dictis et responsis testium diligenter de causa scient, et utrum visu aut solo auditu sciant ea que dicunt.

Super vi articulo, si testes dixerint quod oblata fuit eisdem copia ipsarum litterarum.

Queratur ab eis quomodo sciunt et quis obtulit eis ipsam copiam, et quibus verbis usus fuit ille qui obtulit eis, et quibus fratres. Et queratur de nominibus ipsorum fratrum. Et queratur fuerunt ipsi fratres, et quomodo sciunt quod illi quibus oblata fuit copia eidem fratres predicatoribus<sup>6</sup>, et quo loco, et quibus presentibus, et quo anno, quo mense, quo die et qua hora, et quot anni sunt, et quot anni domini tunc currebat. Et queratur si fratres predicatoribus tunc tempore inceperant edificare in loco de quo agitur, et si pendebat causa inter ipsos fratres et capitulum Herefordensem. Et super singulis dictis et responsis testium queratur diligenter <quid> de causa scient, et utrum visu aut solo auditu sciant ea que dicunt.

<sup>5</sup> Addition to the Ms text.

<sup>6</sup> Again *erant* understood.

Super vii articulo, si testes dixerint quod constabit eisdem fratribus de litteris ipsis.

Queratur ab eis quomodo sciunt quod constaret eis et qualiter constitit eis, et quo loco, et quibus presentibus constitit eis, et quibus fratribus constitit, et expriment nomina ipsorum fratrum. Et queratur de quibus litteris constitit eis, et dicant tenorem et datam ipsarum litterarum. Et queratur diligenter super singulis dictis et responsis testium, utrum visu aut solo auditu aliorum sciant ea que dicunt. Et queratur de tempore, mense, die et hora qua constitit eis, et si fratres inceperant tunc edificare in loco de quo agitur, et si erat inde quo inter ipsos fratres et decanum et capitulum.

Super viii articulo, si testes dixerint quod viderunt eas et legerunt. Queratur ab eis quomodo sciunt et quis ostendit eis, et quo loco viderunt et legerunt eas, et quibus presentibus, et qui fuerunt illi fratres qui legerunt eas, et quot fuerunt. Et queratur de tenore ipsarum litterarum et si erant bullate bulla domini pape. Et queratur de forma bulle et si erant cum sirico aut filo. Et queratur de tempore, mense, die et hora, et quot anni sunt, et quot anni domini tunc currebat, et si vertebatur tunc causa inter ipsos fratres et decanum et capitulum super loco, de loco de quo agitur, et si ipsi fratres inceperant tunc edificare in dicto loco.

Super ix articulo, si testes dixerint quod non observando mandato apostolico in ipsis litteris contento, fratres predicatorum nituntur et contendunt domum et ecclesiam apud Herefordiam vel circa construere et habere.

Queratur ab eis quomodo sciunt et qui sunt illi fratres, et expriment nomina et cognomina ipsorum. Et queratur cuimodo mandatum contendunt, et dicant formam ipsius mandati, et in quibus litteris continebatur ipsum mandatum. Et queratur qualiter nituntur et contendunt dicti fratres domum et ecclesiam apud Herefordiam vel circa construere et habere, et quo loco, et quibus presentibus contendunt hoc facere. Et super singulis dictis et responsis testium queratur diligenter de causa scient, et utrum visu aut solo auditu aliorum sciant ea que dicunt.

Super x articulo, si testes dixerint quod hoc est contra tranquillam et liberam voluntatem episcopi, decani et capituli, ac clerici Herefordensis. Queratur ab eis quomodo sciunt et quod est illud quod est contra tranquillam et liberam voluntatem episcopi, decani et capituli, ac clerici. Et queratur quare est contra voluntatem eorum, et in quibus offenditur episcopus, et in quibus decanus et capitulum, et in quibus clericus. Et queratur si episcopus consensit quod fratres edificarent in loco predicto, et si est contra voluntatem episcopi, et totius capituli et totius clerici, et quomodo possunt scire ipsi testes quod contra voluntatem ipsorum omnium hoc fiat.

Super xj articulo, si testes dixerint quod nuntiatum fuit vocarente per canonicos Herefordenses et alios, ex parte capituli Herefordensis, novum episcopum fratribus predicatoribus tunc existentibus ibi et volentibus edificare in loco de quo agitur.

Queratur ab eis quomodo sciunt et queratur de nominibus canonicorum

qui denuntiaverunt novum episcopum, et quibus fratribus denuntiaverunt, et expriment nomina ipsorum fratrum, et quomodo sciunt quod illi fratres quibus denuntiebatur novum episcopum vellent ibi edificare, et si inceperant tunc edificare. Et queratur quibus verbis usi fuerunt illi qui denuntiaverunt episcopum novum, et quid responderunt fratres, et quo loco, et quibus presentibus denuntiaverunt novum episcopum, et quomodo sciunt quod illi qui denuntiabant essent canonici Herefordenses, et quomodo sciunt quod denuntiarent ex parte capituli, et si ipsi testes fuerunt presentes quando...<sup>7</sup> ipsis canonicis qui nuntiarent ipsis fratribus novum episcopum. Et queratur quo loco, et quibus presentibus denuntiatum fuit novum episcopum. Et queratur de anno, mense, die et hora qua nuntiatum fuit ipsis fratribus novum episcopum, et quot anni sunt, et quot anni domini currebat tunc, et si fratres inceperant tunc edificare in loco de quo agitur. Et queratur edificaverant circa. Et queratur diligenter super singulis dictis et responsis testium de causa scient, et utrum visu aut solo auditu aliorum sciant ea que dicunt.

Super xij articulo, si testes dixerint quod inhibitum fuit eisdem fratribus ne ibidem edificarent, cum esset in prejudicium capituli et ecclesie Herefordensis.

Queratur ab eis quomodo sciunt et queratur quis inhibuit eis, et quibus fratribus fuit inhibitum, et quo loco, et quibus presentibus, et quibus verbis usus fuit ille qui inhibuit, et quid responderunt ipsi fratres, et qualiter fuit eis inhibitum. Et queratur de tempore, mense, die et hora qua fuit eis inhibitum, et quot anni sunt. Et queratur quomodo sciunt quod esset in prejudicium capituli et ecclesie Herefordensis, et in quibus prejudicabat eis, et si fratres inceperant tunc edificare. Et queratur predicatorum habuerunt in loco de quo agitur domos et horatorium, et celebraverunt ibi divina, et per quanta tempora, et si habuerunt ibi campanam, et si pulsabant ad horas. Et de omnibus aliis circumstanciis queratur diligenter.

Super xiiij articulo, si testes dixerint quod palam et publice denuntiatum fuit eis novum episcopum ex parte dictorum decani et capituli, et inhibitum ne edificarent ibidem, cum esset in prejudicium eorum et ecclesie Herefordensis.

Queratur ab eis quomodo sciunt quod palam et publice fuit eis nuntiatum novum episcopum, et qui nuntiarunt eis, et quibus fratribus fuit nuntiatum, et expriment nomina et cognomina ipsorum fratrum, et quo loco, et quibus presentibus, et quomodo sciunt quod ex parte decani et capituli nuntiaret ille qui nuntiavit, et qualiter nuntiavit, et per quem actum, et quibus verbis usus fuit ille qui nuntiavit, et quis fuit qui inhibuit eis ne edificarent ibidem, et quibus fuit inhibitum, et quibus verbis usus fuit ille qui inhibuit, et quid responderunt fratres, et quomodo sciunt quod hoc fieret ex parte decani et capituli, et quomodo sciunt quod esset in prejudicium eorundem decani

<sup>7</sup> Two words illegible.

et capituli, et in quibus prejudicabat eisdem decano et capitulo, et in quibus ecclesie Herefordensi. Et queratur de tempore, mense, die et hora qua nuntiatum fuit eis et inhibitum ne edificarent, et quot anni sunt.

Super xiv articulo, si testes dixerint quod fratres predicatorum, volentes in predicto loco edificare, fuerunt moniti per executores seu consuatores supradictos et ex parte ipsorum, ut vitarent et cessarent a molestare capitulum, et ne edificarent in dicto loco, cum esset in prejudicium capituli et ecclesie Herefordensis.

Queratur ab eis quomodo sciunt et quis monuit ipsos fratres, et qualiter fuerunt moniti, et quibus verbis usus fuit ille qui monuit eos. Et queratur de nominibus fratrum qui fuerunt moniti, et quomodo sciunt quod illi fratres, qui fuerunt moniti, vellent edificare in loco de quo agitur, et quomodo sciunt quod ille qui monuit ipsos moneret eos ex parte dictorum executorum. Et queratur de nominibus ipsorum executorum. Et queratur quo loco, et quibus presentibus fuerunt moniti. Et queratur si tunc quando monebantur inceperant edificare in loco de quo agitur, et si habebant ibi domos et oratorium cum campana, et si tunc ipsis utebantur; ea causa inter ipsos fratres et decanum et capitulum Herefordensem super loco predicto. Et queratur de tempore, mense, die et hora qua moniti fuerunt ipsi fratres, et quot anni sunt. Et queratur quot anni sunt quod fratres predicatorum intraverunt locum de quo agitur, et quis dedit eis ipsum locum. Et super singulis dictis et responsis testium queratur diligenter de causa scient, et utrum visu aut solo auditu sciant ea que dicunt. Et queratur quomodo sciunt quod esset in prejudicium capituli et ecclesie Herefordensis, et in quibus prejudicabat eis.

Super xv articulo, si testes dixerint quod fratres predicatorum, non observantes mandatum apostolicum in hac parte, nituntur et contendunt domum et ecclesiam edificare in loco de quo agitur, qui est de jurisdictione ecclesie Herefordensis, in prejudicium capituli et ecclesie Herefordensis. — Queratur ab eis quomodo sciunt quod fratres non observant mandatum apostolicum, et cuimodo mandatum non observerit, et qualiter non observerit, et qualiter non observant illud, et in quo non observant illud, et quomodo sciunt quod contra illud mandatum fratres nitantur et contendunt domum et ecclesiam edificare in loco de quo agitur, et qui sunt illi fratres qui hoc faciunt, et expriment nominibus ipsorum. Et queratur de confinibus loci de quo agitur, et si ipsi testes intraverunt umquam locum de quo agitur, et quomodo sciunt quod locus ille sit de jurisdictione ecclesie Herefordensis, et quomodo sciunt quod fratres edificarent in prejudicium capituli et ecclesie Herefordensis, et in quo prejudicat eis. Et queratur qualiter nituntur et contendunt domum et ecclesiam edificare in loco predicto. Et queratur de tenore illius mandati apostolici contra quod fratres contendunt edificare in loco predicto, et quo loco, et quibus presentibus, contendunt ipsi fratres domum et ecclesiam edificare. Et queratur si ipsi testes viderunt eos contendere et niti edificare domum et ecclesiam. Et queratur de nominibus ipsorum fratrum. Et queratur

de super singulis dictis et responsis testium diligenter de causa scient, et utrum visu aut solo auditu sciant ea que dicunt.

Super xvj articulo, si testes dixerint quod locus de quo agitur est decimalis ecclesie Herefordensi in toto seu in parte.

Queratur ab eis quomodo sciunt quod sit decimalis ipsi ecclesie, et in qua parte est decimalis ipsi ecclesie, et si ipsi testes viderunt quod ecclesia Herefordensis reciperet in loco predicto decimas, et quis recipiebat ipsas decimas, et in qua parte dicti loci recipiebat eas, et a quibus hominibus recipiebat eas, et quomodo sciunt quod ille qui recipiebat reciperet eas nomine ecclesie Herefordensis, et quod viderunt ipsas decimas reciperi, et quid viderunt reciperi, et quantum, et si viderunt portari ipsas decimas ad ecclesiam Herefordensem, et quis habebat ipsas decimas. Et queratur de tempore, mense, die et hora qua viderunt predictam ecclesiam recipere decimam in loco predicto.

Super xvij articulo, si testes dixerint quod locus de quo agitur est tensualis ecclesie Herefordensi in toto seu in parte.

Queratur ab eis quomodo sciunt quod ille locus sit tensualis ecclesie Herefordensi in toto vel in parte. Si dicant quod est in parte, queratur in qua parte, et in quota, et in quanto tenso, et si ipsi viderunt umquam quod ille qui possidebat ipsum solvet aliquem tensem ecclesie Herefordensi et a quo vel a quibus viderunt solvi, et cui viderunt solvi, et quo loco, et quibus presentibus, et quid et quantum viderunt solvi, et quomodo sciunt quod ille qui solvebat solvet ratione dicti loci, et quomodo sciunt quod ille qui recipiebat reciperet in nomine dicte ecclesie. Et queratur de tempore, mense, die et hora qua viderunt solvi predictum tensem, et quot anni sunt, et quotiens viderunt solvi, et quibus solvebatur, et quomodo sciunt quod illi qui recipiebant reciperent nomine dicte ecclesie.

Super xviii articulo, si testes dixerint quod locus de quo agitur est infra fines parochie quam habet ecclesie Herefordensi.

Queratur ab eis quomodo sciunt quod ille locus sit infra fines parochie ecclesie Herefordensis. Et queratur si ipsi testes sciunt locum de quo agitur. Et queratur de finibus ipsis. Et postmodum queratur de terminis parochie ecclesie Herefordensis, et quis posuit ipsos terminos, et cui auctoritate positi fuerunt ipsi termini ipsius parochie, et si ipsi testes fuerunt presentes et viderunt poni terminos ipsius parochie, et quibus presentibus fuerunt positi, et quot anni sunt quod fuerunt positi, et quo anno, quo mense, quo die et qua hora fuerunt positi, et cum quibus parochiis finit parochia ecclesie Herefordensis, et quomodo sciunt quod ille locus sit infra ipsos terminos. Et queratur quis regit ipsam parochiam, et quis instituit in eam rectorem, et quis gerit curam animarum ipsius parochie, et quis conferit curam ipsius parochie. Et queratur si ille locus est in parochia omnium sanctorum.

Super xix articulo, si testes dixerint quod domini illius loci, qui primo tempore fuerunt, sepeliebantur et sepeliri consueverunt in cimiterio majoris ecclesie Herefordensis tamquam in cimiterio ecclesie matricis eorum.

Queratur ab eis quomodo sciunt et queratur de nominibus illorum dominorum qui sepeliebantur in cimiterio dicte ecclesie, et expriment nomina ipsorum qui sepeliebantur, et si ipsi testes viderunt eos sepeliri in dicto cimiterio, et quomodo sciunt quod illi quos videbant sepeliri in dicto cimiterio essent domini predicti loci. Et queratur quomodo sciunt quod sepelirentur ibi tamquam in cimiterio ecclesie matricis eorum. Et queratur si illi domini eligebant sepulturam in dicta ecclesia, aut quare sepeliebantur ibi. Et queratur si ipsi testes viderunt sepeliri aliquem de dictis dominis in cimiterio omnium sanctorum. Et queratur quot de ipsis dominis viderunt sepeliri in cimiterio ecclesie Herefordensis et quot in cimiterio ecclesie omnium sanctorum. Et queratur de tempore, mense, die et hora qua viderunt sepeliri dominos dicti loci in cimiterio ecclesie Herefordensis. Et queratur super singulis dictis et responsis testium diligenter de causa scient et utrum visu aut solo auditu sciant ea que dicunt.

Super xx articulo, si testes dixerint quod episcopus Herefordensis tunc in remotis agente, fratres predicatorum locum ipsum intraverunt seu occupaverunt, sine licentia et auctoritate sui vicarii seu procuratoris. Queratur ab eis quomodo hec sciunt et queratur ubi erat tunc episcopus quando fratres intraverunt dictum locum. Et queratur quot anni sunt quod fratres intraverunt dictum locum, et quo mense, et quo die, intraverunt ipsum locum. Et queratur quomodo sciunt quod sine licentia et auctoritate vicarii episcopi intrarent, et si potuerunt habere licentiam ipsius vicarii quod ipsi testes ignorent. Item queratur ab eis si ipsi fratres intraverunt predictum locum *de* <sup>8</sup> licentia episcopi Herefordensis. Et de omnibus aliis circumstantiis queratur diligenter.

Super xxj articulo, si testes dixerint quod, vacante decanatu Herefordense infra cujus limites locus ipse consistit, fratres predicatorum locum ipsum intraverunt seu occupaverunt sine licentia et voluntate capituli Herefordensis.

Queratur ab eis quomodo sciunt quod decanatus tunc vacaret quando fratres intraverunt dictum locum. Et queratur qualiter vacabat ipse decanatus, utrum per mortem decani, aut per resignatorem, vel per promotionem ipsius. Et queratur quomodo sciunt quod locus ipse sit infra limites ipsius decanatus. Et queratur de limitibus ipsius decanatus. Et queratur quis posuit ipsos limites, et si ipsi testes viderunt poni, et quot anni sunt quod fuerunt positi. Et queratur de tempore, mense et die quo positi fuerunt. Et queratur de tempore, mense et die quo fratres intraverunt predictum locum. Et queratur de nominibus dictorum fratrum qui intraverunt dictum locum, et quot anni sunt quod ipsi fratres intraverunt ipsum locum, et quomodo sciunt quod intrassent sine licentia capituli. Et queratur super singulis dictis et responsis testium diligenter de causa scient, et utrum visu aut auditu aliorum sciant ea que dicunt.

<sup>8</sup> *Rectius sine?*

Super xxij articulo, si testes dixerint quod fratres predicatorum inceperunt edificare ibidem sine licentia et auctoritate decani et capituli Herefordensium, contra eorum tranquillam et liberam voluntatem. Queratur ab eis quomodo sciunt quod sine licentia et auctoritate decani et capituli inceperunt edificare, et si potuerunt habere licentiam et auctoritatem quod ipsi testes ignorarent. Et queratur de nominibus fratrum qui inceperunt edificare, et quomodo sciunt quod contra eorum tranquillam et liberam voluntatem edificarent. Et queratur si edificaverunt contra voluntatem omnium. De capitulo negotium est non probatum, probari per testes.

Super xxij articulo, si testes dixerint quod sine licentia et auctoritate diocesani loci hec fecerunt.

Queratur ab eis quomodo sciunt quod sine licentia et auctoritate diocesani hec fecerunt. Et queratur si potuerunt habere licentiam diocesani quod ipsi testes ignorarent. Et queratur si ipsi testes sciunt vel audiverunt dici quod diocesanus consensus quod fratres edificarent ibi. Et queratur quot anni sunt quod fratres inceperunt edificare ibi. Negotium est non probatum, probari per testes.

Super xxiv articulo, si testes dixerint quod adhuc nituntur et contendunt, contra voluntatem episcopi, decani et capituli, ac clerici Herefordensis, ibidem domum et ecclesiam edificare. Queratur ab eis quomodo sciunt et qualiter nituntur et contendunt edificare dicti fratres, et quo loco, et quibus presentibus contendunt et nituntur edificare. Et queratur de nominibus fratrum qui contendunt et nituntur domum et ecclesiam edificare, et quomodo sciunt quod edificent contra voluntatem episcopi, et contra voluntatem clerici, et contra voluntatem communem de capitulo.

Super xxv articulo, si testes dixerint quod de hoc est scandalum magnum in partibus illis.

Queratur ab eis quomodo sciunt quod de hoc sit scandalum magnum in partibus illis, et in quibus partibus est ipsum scandalum, et de quo est ipsum scandalum, et qualiter est de hoc scandalum. Et queratur quod est scandalum.

Super xxvj articulo, si testes dixerint quod sine scandalo episcopi, decani et capituli, et clerici Herefordensis non possint fratres predicatorum apud Herefordiam commanere seu in dicto loco domum vel ecclesiam construere et habere.

Queratur ab eis quomodo sciunt quod sine scandalo predictorum non possint fieri, et qualiter esset inde scandalum, et qualiter non possint fratres commanere in loco predicto, seu domum vel ecclesiam construere, et qualiter scandalizeretur de hoc episcopus, et qualiter decanus et capitulum, et qualiter clericus, et si totus clericus scandalizeretur. Et queratur de nominibus illorum qui de hoc scandalizerentur. Et queratur a testibus quomodo possunt scire futura. Negotium est non probatum, probari per testes. Et queratur a quibus teste<sup>9</sup> si parte partis odio vel amore venerint ad prohibendum testimonium.

Cetera suppleant examinantis discretione.

<sup>9</sup> Scribal error for *testibus*?



## NOTES

## ARTICLE I

The Dominican friars had been given papal permission to establish a priory at Hereford unless this was found to be against the wishes of the Hereford chapter and clergy. The first attempt at a foundation was made in about 1246, with the full support of King Henry III<sup>10</sup>.

## ARTICLES II-X

It would have made the flow of the capitular argument a good deal clearer if the contents of article X had been allowed to precede the rest of this section, for it is here made clear that a Dominican foundation was against the wishes of all the other clergy at Hereford. According to article II the chapter was claiming that the pope had given it a copy of his letters to the Dominicans, of which it now had the custody and thus knew the contents, especially in relation to the conditions which the pope had laid down prior to a foundation in the area. These letters had been shown both to the friars at Hereford and to their prior provincial (articles III and IV). According to article VIII it was claimed that the friars had both seen and read these letters, but that they then continued (article IX), despite everything, to proceed with their plans for a foundation at Hereford. There is no mention of the fact that on more than one occasion the chapter and its supporters entered the property of the friars and destroyed what they could. The friars seemed to be pinning their defence at this stage on a possible case of forgery. In the interrogatories appended to article III, for instance, the exact form of the papal letters is closely queried, and there are similar questions attached to the charge in article VIII. Elsewhere the questions arise quite naturally out of the charge made and follow a fairly standard, often repetitive, pattern. Some degree of carelessness in the framing of questions is also quite frequent, as for instance in article VII, where the customary conclusion is followed by no fewer than three additional questions.

## ARTICLES XI-XIV

Article XI is of particular importance for the purpose of dating this document, together with the references to the bishop being absent in article [XX] and the deanery vacant in article XXI. It is here suggested that there was a

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<sup>10</sup> *Close Rolls*, 1242-1247, p. 440.

new bishop at Hereford and that this was announced to the friars who wished to build there. The new bishop was almost certainly Thomas Cantilupe, elected in 1275, who was a staunch supporter of the chapter in this dispute<sup>11</sup>. In the subsequent articles it was claimed that the friars were forbidden to proceed with their building plans by the chapter, reference again being made to the new bishop in article XIII. Once again some of the interrogatories, particularly those attached to articles XII and XIV, are of interest; the witnesses were to be asked whether the friars had fully established a priory at Hereford by this time (c. 1275-80), whether they had celebrated divine service there and rung the bells to announce the fact, and also who it was that had given them a site for this purpose.

#### ARTICLES XV-XIX

These are the articles of most importance, for they give a clear picture of the chapter's real objections to a Dominican establishment on its doorstep. Thus according to article XV the chapter was claiming that the site was within the jurisdiction of the cathedral church, that is within the decanal peculiar which included eighteen parishes in and around the city of Hereford. According to articles XVI and XVII the chapter was claiming that the site should pay both tithes and rent to the cathedral church, as it had always done, but that a Dominican foundation there would be able to claim exemption from these duties. According to article XVIII the chapter was claiming that the site, which appears from the interrogatories as well as from other sources to have been within the parish of All Saints<sup>12</sup>, was within the boundaries of the decanal peculiar; this is more or less the same claim as that implied in article XV. Again the line of defence taken by the friars is of some interest; by querying matters of institution and presentation in the parish concerned, in neither of which the chapter had any part to play, the friars seem to be allying themselves very closely with a good many others who at the same time were trying to restrict the privileges of capitular and collegiate bodies within their respective peculiars. This frequently revolved around the exclusive burial rights claimed by such bodies, and in this particular dispute burial rights was indeed the central issue, as is made clear in article XIX and the attached interrogatories; the Hereford chapter was having similar difficulties with the rector of Hampton Bishop, another parish within the decanal peculiar, at about the same time. The problem was mainly a financial one for burials were a welcome source of income to the chapter; it could of course be extended to cover almsgiving in general, for any new religious foundation was a potential threat to those already existing partly or wholly on the offerings of the faithful.

<sup>11</sup> Cantilupe died in 1282 and was canonised in 1320.

<sup>12</sup> A chapelry of St Martin, Hereford, a parish within the decanal peculiar though not appropriated to the chapter.

When the dispute between the Dominicans and the Hereford chapter was finally solved in 1322, the agreement was specifically designed to meet the arguments in articles XVII and XIX; the friars agreed both to pay a nominal rent of 3s 6d *per annum* to the chapter and also to refuse to bury any parishioner who bequeathed his body to them.

ARTICLES XX-XXI

Both articles are most helpful for dating purposes; in article XX it is claimed that the bishop was absent from the diocese, and in article XXI that the deanery was vacant, and in both that the friars took advantage of the event to proceed with their occupation of the site they had been given. Bishop Cantilupe was abroad on two separate occasions between 1280 and 1282 during his quarrel with Archbishop Pecham, and the deanery was technically vacant between the same dates, after the death of Giles Avenbury in 1280 but before the confirmation of John Aquablanca as the rightful dean in 1282. In fact the deanery had been in dispute and the office non-functioning since at least 1272, so the second question about the nature of the vacancy in article XXI is hardly appropriate.

ARTICLES XXII-XXVI

Not one of these articles adds anything to our knowledge of this particular dispute, the first three merely establishing the claim of the chapter's witnesses made elsewhere that at no time did the friars obtain the sort of permission that could have sanctioned their building programme in the face of the specific conditions laid down in the original papal mandate first produced by the witnesses in article I; the friars disputed both arguments in the interrogatories throughout. The claim of the witnesses that the friars had caused a great scandal by their repeated attempts to build at Hereford, as voiced in articles XXV and XXVI, is quite typical as is the friars' reaction to it.