

*Famous English Canon Lawyers: IV*  
WILLIAM LYNDWOOD, LL.D. († 1446)

Bishop of St. David's

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The best known of all medieval English canonists is William Lyndwood, compiler of the *Provinciale*.<sup>1</sup> His name derives from what is now Linwood, in Lincolnshire, where his father John (d. 1419) was a woolman, and where (according to his will) he was born. William was sent to Cambridge, where he studied at Gonville Hall and is said to have become a fellow of Pembroke Hall. In the old library of Gonville and Caius College there was an inscription in the window requesting prayers for Lyndwood as 'hujus collegii quondam commensalis'. His lectures have not survived,<sup>2</sup> and the exact dates of his university residence are not known,<sup>3</sup> but he was certainly a doctor of both laws by 1407, when he was ordained priest. By that time he already held a number of benefices – the earliest we know of was the wardenship of a hospital in 1396 – and he was to collect many more in the course of his career. These were not actual occupations, but sources of income intended to maintain a lawyer destined for high office.

In 1414 Lyndwood became Chancellor of the Archbishop of Canterbury and auditor of causes, and three years later official principal of the Court of Arches. In the 1420s he served as prolocutor of the clergy in five convocations,<sup>4</sup> and was heavily involved in the proceedings against the Lollards; even a man of fine learning could not shrink from frying his fellow men.<sup>5</sup> In the following decade he became more frequently employed in the royal service. Prominent civilians were regularly commissioned to undertake diplomatic service overseas, and Lyndwood proved an invaluable envoy, representing the king in France, Holland, Flanders, Prussia and Portugal; he was king's proctor at the council of Basel in 1433. Like other civilians, he also acted from time to time as a commissioner to hear admiralty causes.<sup>6</sup> During the same period he became active in the central bureaucracy as keeper of the privy seal (1432–43), and was involved in the founding of Eton and King's Colleges. His ultimate reward, which he enjoyed for only four years, was the bishopric of St. David's, obtained in 1442. He died on 21 October 1446 and was buried in the chantry of Our Lady of Pew in St Stephen's Chapel, Westminster. A body with a crozier, thought to be his, was discovered in the crypt in 1852 and reinterred in Westminster Abbey. The only portrait of Dr Lyndwood is the worn figure on his father's brass at Linwood, where the fourth son is shown in the academical habit of a doctor of law.<sup>7</sup>

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1. Biographical details from J. M. Rigg, 'William Lyndwood' in *Dictionary of National Biography*, vol. XXXIV (1893), pp. 340–342; A. B. Emden, *Biographical Register of the University of Cambridge to 1500* (1962), pp. 379–381; A. Compton Reeves, 'The Careers of William Lyndwood' in J. S. Hamilton and P. J. Bradley (ed.), *Documenting the Past* (1989), pp. 197–216.
  2. They are cited in Lyndw. Prov. 299, gl. *Fore praestanda* ('Hanc materiam tetigi in Lectura Decretorum 22, q. 1 in prin.').
  3. Some writers say that his doctorate was from Oxford, though there is no direct evidence of this. He did leave a law book to Oxford, but also two to Cambridge.
  4. He mentions one such occasion in Lyndw. Prov. 192, gl. *Provinciam*, when the word 'archbishopric' in a canon was replaced by 'province'.
  5. Lyndwood mentions Lollardy in Prov. 284 and 300, and the penalty for heresy at p. 293.
  6. Reeves, 'The Careers of William Lyndwood', pp. 206, 207, 213.
  7. Reproduced in *Monumental Brass Society Portfolio*, series I, part 8, plate 3; J. Page-Phillips, *Children on Brasses* (1970), fig. 7. He is wearing the LL.D. congregation habit with two arm-slits, hood, and round cap; the upper third of the figure is worn almost flat.

THE *PROVINCIALE*

Lyndwood was clearly a figure of importance in the first half of King Henry VI's reign, but even such an impressive *curriculum vitae* would not have ensured his fame with posterity. His claim to recognition as a pre-eminent Canonist rests on the *Provinciale*, his glossed edition of the conciliar and synodal legislation of the province of Canterbury from 1222 down to his own time.<sup>8</sup> Lyndwood completed his editorial work on the legislative texts by 1422, and occupied his spare time in the later 1420s preparing the gloss. The work was completed on 25 Jan. 1434, the date of the index, where Lyndwood's name is curiously Latinised as 'Gulielmus de Tylia Nemore' (= linden wood, or lime grove). Like many successful law books (Littleton and Blackstone among them), it purported to have been written for inexpert readers as well as lawyers. It was, wrote Lyndwood, for those more concerned with the provincial legislation than with the *ius commune*;<sup>9</sup> perhaps he had particularly in mind the lesser clergy, such as rural deans ('who are commonly unlearned and ignorant of law'<sup>10</sup>) and archdeacons. Nevertheless, it abounds in citations and was hardly a nutshell guide for the beginner. In fact, it continued a learned tradition: the idea of collecting canons and adding a commentary was nothing new in the Christian legal world, and there was an English model in Ayton's book on the legatine canons of Otto and Ottobuono.<sup>11</sup> In its own field, however, Lyndwood's work had no competitor, and it circulated very widely in manuscript.<sup>12</sup>

The *Provinciale* was one of the first law books printed in England, appearing around 1483 (two years after Littleton) under the imprint of Thomas Rood of Oxford. This first edition has no title-page or date, but ends *Explicit opus . . . super constitutiones provinciales*. It was next reprinted in Paris in 1501 and 1505 and at Antwerp in 1525, these editions (intended mainly for England) having Ayton's work appended.<sup>13</sup> The Parisian editions have a fine woodcut with the arms of Lyndwood, *Argent a fess crenelly between three fleurs de lys sable*, quartering, *Crusilly a unicorn rampant*,<sup>14</sup> and supported by unicorns. The version of the *Provinciale* most commonly used today was printed in Oxford by the university printer in 1679.<sup>15</sup>

There were also several printed editions of the constitutions alone, without the gloss. The first of these was printed at Caxton's shop by Wynkyn de Worde in 1496, with the title, *Constitutiones provinciales ecclesie anglicane per d. Wilhelmum Lyndewode utriusque juris doctorem edite. Incipiunt feliciter [woodcut of a bishop] Opus Presens Fabricatum est Et diligenter correctum per Wynandum de Worde. Apud Westmonasterium. In domo Caxton. Anno Incarnacionis Millesimo quadragentesimo nonagesimo sexto. Ultima die May acabatumque Gloria deo*. It was reprinted in 1499 (by de Worde, and separately by Pynson), c. 1505

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8. The principal studies are F. W. Maitland, *Roman Canon Law in the Church of England* (1898), ch. 1 (pp. 1-50); C. R. Cheney, 'William Lyndwood's *Provinciale*' (1961) 21 *The Jurist* 405-434, reprinted in *Medieval Texts and Studies* (1973), pp. 158-184.
9. Lyndw. Prov. 95, gl. *Commenta* ('praesens opus non praecipue nec principaliter viris scribo scientia literarum praeditis, sed potius simpliciter literatis et pauca intelligentibus, quorum labor, ut plurimum, magis assuescit in inspiciendis constitutionibus provincialibus quam aliis ecclesiae constitutionibus generalibus'.)
10. Lyndw. Prov. 79, gl. *Audire praesumant* ('ratio hujus constitutionis potuit esse, quia, ut communiter, tales decani rurales sunt imperiti, et juris ignari').
11. See (1991) 2 *Ecc. L.J.* 159.
12. Cheney, 'Lyndwood's *Provinciale*', lists 57 MSS. in an appendix.
13. See (1991) 2 *Ecc. L.J.* at 160-161.
14. See the block on p. 272. Cf. the shield on Lyndwood's father's brass at Linwood.
15. The date on the title-page. The explicit (p. 356) is dated 5 id. Jul. 1678, and identifies the publisher as Richard Davis. Ayton's book was included in the same volume. Citations here are to this edition.

(by Pynson), 1508, 1517, 1526 and 1529 (by de Worde), and 1557 (by Marshe). In 1534 Redman published an English translation of this edition, without the gloss. Clearly the compilation remained in steady demand, at least until the Reformation. The next edition was produced as late as 1664, in duodecimo, by Dr Robert Sharrock (d. 1684) of New College, Oxford, a Civil lawyer and divine who was also (according to Anthony à Wood) 'very knowing in vegetables'.

Professor Cheney has shown that Lyndwood's text of the constitutions was, by modern standards of editing, and for modern historical purposes, quite inadequate. Nothing earlier than 1222 is included; there are false attributions, apocrypha, errors of transcription, and even some apparently deliberate changes of wording.<sup>16</sup> The historical conclusion, however, should not be that Lyndwood was sloppy, but that editions of our kind were simply not called for in his time. The quality of Lyndwood's collection indeed closely resembles that of the contemporary manuals of parliamentary statutes, which exclude pre-1225 legislation from the canon, incorporate apocrypha, and abound with textual variations. What was needed was a working reference manual of current law, and no one worried too closely about chapter and verse. The material was not even reproduced in historical sequence, but rearranged according to the topics in the Gregorian decretals. An edition of the modern kind was not available to scholars until 1717, when David Wilkins produced his *Concilia Magnae Britanniae*.

## LYNDWOOD'S CONTRIBUTION TO CANON LAW

The edition of the provincial constitutions was of contemporary value as providing a corpus of English canons, though for the reasons given it is no longer of much use. The gloss, on the other hand, was and is far more valuable, as a contribution to universal jurisprudence from an English point of view. It was not intended as a complete textbook on English Canon law, because the provincial legislation was not comprehensive. The English Church was part of the universal Church and governed by its common law (*ius commune*).<sup>17</sup> The main body of Canon law, for England as for everywhere else, was the *Corpus Juris Canonici*: what Lyndwood himself termed the *Corpus Decretorum et Decretalium*. As Maitland pointed out, there was (for instance) no English law of marriage; for that subject, Lyndwood refers the reader to Innocent III and Johannes Andreae.<sup>18</sup> But the general law of the Church allowed for regional legislation, and local custom, so that the Church in England could lawfully adopt rules and practices supplementing or (occasionally) diverging from the general law, provided that they were not repugnant to it and could be justified by reasonableness and – in the case of custom – by long usage.<sup>19</sup> Lyndwood's was the principal guide to these English peculiarities, and was accepted as an authority throughout Christendom on the learning which accommodated them to the *ius commune*. Among these peculiarities were: (i) the treatment of defamation as a punishable offence,

16. Cheney, 'Lyndwood's *Provinciale*', p. 176, instances an amendment to Winchelsey's decree concerning chancel repairs. The text stated simply that the responsibility rested on the rector, but Lyndwood interpolated the words *seu ad quos pertinent* so as to accommodate local customs (such as that of London) where the chancel belonged to the parishioners and was their responsibility.

17. This Canonical *ius commune*, unlike English common law, was largely written (i.e. of legislative origin).

18. Lyndw. Prov. 271, gl. *Matrimonium*; Maitland, op. cit., p. 39.

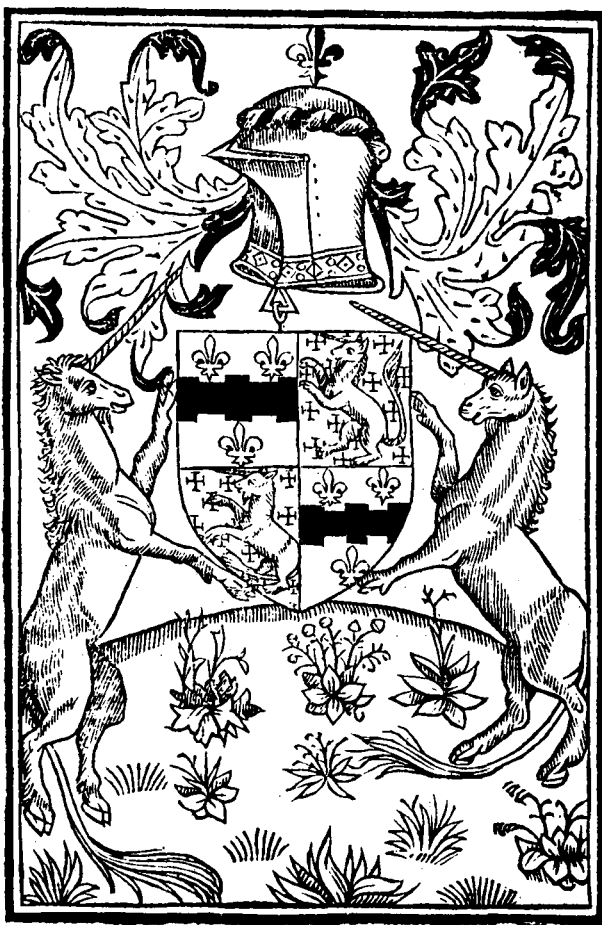
19. See Maitland, *Canon Law in the Church of England*, pp. 19 et seq., 41-42.

as a result of the constitution *Auctoritate Dei patris* of 1222;<sup>20</sup> (ii) the recognition of temporal jurisdiction over patronage, although the universal Canon law regarded this as spiritual;<sup>21</sup> (iii) the jurisdiction of the church courts over probate,<sup>22</sup> and the recognition of local customs of succession;<sup>23</sup> (iv) the liability of parishioners rather than rectors for nave repairs;<sup>24</sup> (v) the recognition of the Salisbury use as the liturgical norm in England, contrary to the rule of the *ius commune* that the use of the metropolitical church should be observed;<sup>25</sup> and (vi) the possibility of changing Christian names on confirmation.<sup>26</sup> For the most part, however, the emphasis is not on local divergence. These English peculiarities occupy but a small place in the commentary. Lyndwood is generally at pains to show, by full citation of universally accepted legal authorities, how every word in the provincial legislation reinforces or supplements the catholic *ius commune*. Sometimes local legislation is dismissed as *ultra vires*, and even long usage is from time to time rejected. Usage cannot justify an improper divergence from explicit legislation, such as the lax English practice of permitting nuns to leave their cloisters for recreation, or to beg alms,<sup>27</sup> or a composition for tithes which might represent less than one tenth of income.<sup>28</sup> On the other hand, non-user of a particular constitution, if not scandalous or subversive of morals, might be sufficient to render it ineffective. Thus, although the Council of Oxford 1222 required rural deans and priests to wear the *cappa clausa*, this rule had fallen into disuse and was no longer binding.<sup>29</sup>

That Lyndwood's *Provinciale* became a standard work in his own lifetime is evident from his will, in which he directs that the exemplar be kept chained in St Stephen's Chapel, Westminster, so that copyists might have recourse to it to correct their copies.<sup>30</sup> For the century following his death its popularity is attested by the number of manuscript copies and printed editions. Its authority was hardly diminished by the Reformation, because Parliament preserved the old law (expressly mentioning the provincial canons) so far as it was 'not contrariant or repugnant to the laws, statutes and customs of this realm, nor to the damage or hurt of the king's prerogative royal'.<sup>31</sup> It was therefore

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20. Lyndw. Prov. 346-347; R. H. Helmholz, *Select Cases on Defamation to 1600* (1985) Selden Soc. vol. 101, pp. xiv-xli.
21. Lyndw. Prov. 217, gl. *Foro Regio* ('In quo tractatur causa juris patronatus de consuetudine regni Angliae, licet pertineat ad forum ecclesiasticum secundum canones'), 316, gl. *Jure Patronatus* ('licet causa juris patronatus sit annexa spiritalibus, et sic pertineat ad forum ecclesiasticum . . . consuetudo dat cognitionem foro temporalibus').
22. Lyndw. Prov. 170, gl. *Insinuationem* ('Haec autem publicatio de consuetudine Angliae pertinet ad iudices ecclesiasticos . . . Secus tamen est de jure communi'). He cites authorities to the effect that jurisdiction may be enlarged by custom.
23. Lyndw. Prov. 172, gl. *Consuetudinem Patriae, Defunctos contingit*, and p. 178, gl. *Defunctum*.
24. Lyndw. Prov. 53, gl. *Reparatione*, and p. 250, gl. *Defectus Ecclesiae*; J. H. Baker, 'Lay Rectors and Chancel Repairs' (1984) 100 L.Q.R. 181.
25. Lyndw. Prov. 104, gl. *Usum Sarum Ecclesiae*. This is 'ex longa consuetudine'.
26. Lyndw. Prov. 246, gl. *Corrigatur*. Cf. Co. Litt. 3a (citing year books).
27. Lyndw. Prov. 212, gl. *Cum socia*; Maitland, *Canon Law in the Church of England*, pp. 27-31.
28. Lyndw. Prov. 201, gl. *Negotiationum* (questioning a custom of London). Cf. *ibid.* 25, gl. *De consuetudine* (custom of England, laboriously defended).
29. Lyndw. Prov. 118, gl. *Cappis Clausis*. The *cappa clausa* was kept up only in the ancient universities, and a vestige may still be seen in Cambridge at congregations of the Regent House.
30. Cheney, 'Lyndwood's *Provinciale*', p. 177. It is not certain whether this direction was ever carried out. The autograph was last heard of in Oxford, in the possession of an executor, in 1448.
31. Submission of the Clergy Act 1533 (25 Hen. 8, c. 19), s. 7.

constantly cited after the Reformation, both in the printed literature and in court, by common lawyers as well as Civilians.<sup>32</sup> Many passages were incorporated into Gibson's *Codex*, and (perhaps chiefly through that medium) continued to influence ecclesiastical law down to the present: there are frequent citations in the nineteenth-century case law, and as late as 1947 the draft revision of Canon law produced by the Vaisey Commission contains numerous marginal references to Lyndwood. The decline of Latin teaching has rendered the work largely inaccessible today, and it will be increasingly inaccessible to future generations. But Thomas Fuller was surely right that it 'will be valued by the judicious whilst learning and civility have a being'.<sup>33</sup>



Lyndwood's arms, from the Paris edition of the *Provinciale*.

32. See, e.g., R. H. Helmholz, *Roman Canon Law in Reformation England* (1990), pp. 68, 143, 145.

33. *The Church-History of Britain* (1655), vol. II, p. 176.