

Register Brevium [Register of Original Writs]
In Latin, Anglo-Norman and Middle English, on parchment
England (likely London), c. 1460 and later additions in the 16th c.

XXIV + 410 ff. (less 32 ff. due to erratic foliation), preceded and followed by a single paper flyleaf, foliated erratically by a contemporary hand from f. 36 onwards (missing out ff. 141, 288 and 360-399), nonetheless apparently complete (collation i-xlvi8, xlvii6, xlviii8, xlix6, l8, li4), text copied in a single column, 38 lines in black ink copied by a number of skilled English legal hands, parchment ruled in red (justification 162 x 103 mm), quire signatures, simple line-fillers of red penstrokes, paragraph marks in red and blue, some capitals touched in red and opening words underlined in red, simple 2- to 3-line initials in blue, those on f. 41 with ornate red penwork, spaces left for other initials, repeated stamp of the "Incorporated Law Society" on a number of leaves. Contemporary binding of tooled brown leather over wooden boards (with Oldham's stamp 234 as a border and 243 and 999 within chevrons on boards; the first two of these used in the Caxton bindery: see J.B. Oldham, *English Blind-Stamped Bindings*, 1952, p. 27 and pl. xxi), small scuffs and losses in places, cracked along spine but thongs intact, sixteenth-century inscriptions on back cover (one an ownership inscription, see below; another a 3-line exhortation in English opening "O glorious lady..."), two clasps (modern replacements), fitted red morocco-covered card slipcase (Some stains to edges of a few leaves, see especially ff. 214v-215, 331v-332 and 344v-345, else excellent condition). Dimensions 268 x 180 mm.

This manuscript contains a collection of writs copied towards the last quarter of the fifteenth century, with additions in the sixteenth-century (especially the elaborate alphabetical index). It boasts an illustrious early provenance, having belonged to Richard Nykke, last Catholic bishop of Norwich and an important pro-Catholic voice in Reformation England. The volume might have served Nykke during his defense when imprisoned by Henry VIII. The present example, including blank folios for the insertion of later writs, is a fine example of this category of legal manuscripts.

PROVENANCE

1. Manuscript copied in England based on content, script, and general layout. The earliest writ found here was issued in the fifth year of the reign of Henry IV (circa 1405) and the last writ apparently was issued in the thirty-eighth year of the reign of Henri VI, hence circa 1460. The manuscript might thus date circa 1460 with later additions in the last quarter of the fifteenth century.
2. Perhaps not the earliest owner, the manuscript was owned by Richard Nykke (or Nix, c.1447-1535), last Catholic bishop of Norwich before the religious reforms of King Henry VIII, and a conservative and independent pro-Catholic voice in Reformation England: contemporary inscriptions on last vellum endleaf ("Liber Ricardi Nykke episcopi Norwicensis" [This book belongs to Richard Nykke, Bishop of Norwich]) and along vertical edge between clasps on backboard ("Lib[er] Nyke Norwych").

Nykke publically criticized the Lollards, expressed great anxiety about Tyndale's translation of the New Testament and was among those ecclesiastics who defied Archbishop Thomas Cranmer in 1533 and had to be 'brought to heel'. Before taking up ecclesiastical office, he studied Law at Bologna, and continued to practice it throughout

his life, usually in the Catholic cause against Henry VIII. A learned bibliophile, Richard Nykke boasted a substantial library, and also owned manuscripts with interests in Humanism (Durham Cathedral MS.C.iv.3: a fifteenth-century Piero Candido's Latin translation of Plato's *Republic*; and Cambridge, St. John's College MS.205: a fifteenth-century Virgil, *Opera*) and medicine (Glasgow University Library, Hunterian MS.T.5.19: fourteenth-century Middle English medical recipes; and U.5.9: a fourteenth-century *Speculum fleobothomie*), as well as theological volumes (London, Lambeth Palace, formerly Sion College MS.L40.2/L.5: a thirteenth-century English Bible; Colchester Museum MS 213.32: a fifteenth-century Sarum Breviary; and Lincoln Cathedral MS.B.6.10: a fifteenth-century Peter de Alliaco, *Tractates*) and legal reference works (the present manuscript and British Library, Sloane MS.990: a fourteenth-century *Statuta Angliae antiqua*). These last two must have been used by him in King's Bench cases under Henry VII and perhaps also in his own defense in 1534 when he is reported to have been incarcerated in Marshalsea prison by Henry VIII.

3. A note on the verso of the last flyleaf reads: "M[emorandu]m that the C[harter] of the confirmacion of the Colledge of Leycester is .xii. die marcii anno primo henrici octavi." (in 1509). This is apparently the College of the Annunciation of St-Mary in the Newarke, Leicester.
4. Henry Thomas Barratt: his inscription dated 1826 upper paste-down, recording the gift of the book from his father. Henry Thomas Barratt was most probably the attorney and solicitor active in Huntingdon in the 1820s and 1830s. Given by him to the Law Society.
5. London, The Law Society, their stamp repeated numerous times and book plate pasted on the front flyleaf. Historically an association of solicitors (effectively the trade organization for solicitors) which represented solicitors in England and Wales, the Law Society was governed by a regulatory role that included the right to supervise the training, qualifications and conduct of solicitors in England and Wales. The Society was formed in 1825. Still active today, the Hall of the Law Society is located at 113 Chancery Lane, London (as confirmed by the label pasted on the first flyleaf).

TEXT

ff. I-II, Table of contents, heading, *Kalendare*,

ff. II-IIv, Oath of the Master in Chancery, in Anglo-Norman, "Sacramento unius magistrorum de cancellarie domini regis";

The Court of Chancery was a court of equity in England and Wales that followed a set of loose rules to avoid the slow pace of change and possible harshness (or "inequity") of the common law. Academics estimate that the Court of Chancery formally split from and became independent of the curia regis in the mid-fourteenth century, at which time it consisted of the Lord Chancellor and his personal staff, the Chancery. Offices of the Chancery were sold by the Lord Chancellor for much of its history, raising large amounts of money. From an early period, the Lord Chancellor was assisted by twelve Clerks in Chancery, known as the Masters in Chancery. The twelve Masters in Chancery were led by one of their number, known as the Master of the Rolls.

ff. III-XXXIIv, Alphabetical Index,

ff. XXXIII-XXXIIIv, blank;

ff. 1- 410v, Royal writs of the reign of Henry IV to the reign of Henry VI, first writ, *Breve de recto*, incipit, "[H]enricus dei gratia Rex Anglie et Francie et Domnus Hibernie..."; last writ, "Rex omnibus ad quos etc. salute. Sciatis quod de gracia speciali et ex certa scientia nostro dedimus er concessimus dilectis nobis Ricardo Andreae clerico...et Henrico Holthrop armigo...expedire in cuius etc. anno .xxxviii. henrici vi.ti [sexti]"; last entry relative to the dates and renewals of a number of key statutes: "Magna carta concessa fuit et confirmata XI die ffebrarii apud Westminsterensis anno secundo..." (f. 409v), followed by oaths to the king ("Fforma iuramenti regalis").

This manuscript contains a collection of Original Writs, likely written and illuminated in London from the fifth year of the reign of Henry IV (1399-1413) to the thirty-eighth year of Henry VI (1422-1461 and 1470-1471), providing a *terminus post quem* for this codex of circa 1460. The subjects of the writs include lands and manors held by various men from the King; instructions to the King's bailiffs; tenancies and inheritances; and ecclesiastical holdings and prebendaries. The register is preceded by an alphabetical index covering over thirty leaves, added in a more recent hand (by Bishop Richard Nykke?). This particular Register of Writs is important because it belonged to the later fifteenth and first quarter of the sixteenth century to Richard Nykke (or Nix, c. 1447-1535), a noted bibliophile and trained lawyer, the last Catholic bishop of Norwich before the religious reforms of King Henry VIII, and a conservative pro-Catholic voice in Reformation England. It is tempting to think that Nykke would have used the present codex in King's Bench cases under Henry VII and perhaps also in his own defense in 1534 when he was incarcerated in Marshalsea prison by Henry VIII.

This is a substantial legal collection written for practical use by a medieval lawyer. In the early years of the sixteenth century the contents list, alphabetical index at the front, and 8 new sections were added (ff.33-40, 65-88, 315-44, 358, 359, 400-09), evidently for Bishop Nykke, containing copies of further legal extracts and related material, including a writ addressed to Roger Lupton, clerk of the Hanaper (1509-1517) in favor of St. Stephen's, Westminster (f. 87). Further additions to space at the ends of the book include the oath of the master of chancery, in French (f. II), a list of charges payable by Genoese and other foreign merchants for safe-conduct in England (ff. 404v-405), the oath sworn by Richard II at his coronation (f. 410), a short Middle English tract opening, "All writtez of Couenaunt..." (f. IIv), and perhaps most interestingly in a book used by a defender of English Catholicism during the Reformation, two copies of English formulas in the name of "the Bysshopyrk of C" (either Canterbury, Chester, Chichester or Coventry) renouncing "all the wordys comprised in the Popes Bull made vnto me" and instead promising loyalty to "the kyng our sovrein lord" (f. 404).

In common law, a "writ" is a formal written order issued by a body with administrative or judicial jurisdiction. In England, a writ became necessary to have a case heard in one of the Royal Courts, such as the King's Bench or Common Pleas. A manual of procedure law central to common law, the *Register brevium* contains a selection of writs: it was a formulary book, a compilation and selection of real and fictitious examples of documents issued by the Royal Chancery. Registers of Writs were produced as formulary books. They provided a range of writs previously issued in chancery--the first step in the judicial process and the only means of implementing the law enacted in the Statutes--and served as exemplars in the pursuit of any action in the protection of rights or liberties. They were the "basis of the medieval common law, a guide to its leading principles, and a commentary upon their application" (Plunkett, p. 111).

According to Sir Edward Coke, the Register of Writs is "the name of a most ancient Book and of great Authority in Law." It consists of an enumeration of original writs current in the English Chancery, that is, writs originating actions (the English jurist Henry de Bracton observed that "there may be as many kinds of writs as there are kinds of actions"). From these royal writs the common law descends (see De Haas and Hall, 1970, p. xi). Registers of Writs can be traced back to the twelfth century and were used by lawyers and religious houses as well as by members of the Chancery. Such books were continually modified and updated and the many blank spaces in the manuscript are in anticipation of constant additions. It was printed four times, 1531-1687 (with the first edition published by William Rastell in 1531).

The number of writs increased from about thirty-nine in the time of Glanvill (ca. 1189) to more than four hundred in the reign of Edward I (1272-1307). The present *Register* is a later example, which accounts for its bulky nature, as the number of writs increased and some are included with their variants. During the twelfth and thirteenth centuries, the tendency was in England to create an appropriate writ for the protection of every private right or interest. The formulae employed by the Chancery were collected and arranged to suit the convenience of the clerks or attorneys using them. These form-books, or catalogs of writs, were known as Registers and the twelfth-century collection called Glanvill may well be the earliest collection (see Van Caenegem, 1959, p. 11). Registers of Writs were books of practice and one of the most valuable sources a lawyer could consult to determine legal remedies available at common law, for the early writs of course embodied the law of England as much as the later statutes of Parliament. Surprisingly, official texts of the Register did not exist, and copies of the Register were not uniform in arrangement: each practitioner had a Register compiled for his own use so that he might find the proper model of a writ when he needed it.

LITERATURE

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ONLINE RESOURCES

English Legal History Materials

<http://vi.uh.edu/pages/bob/elhone/elhmat.html><http://vi.uh.edu/pages/bob/elhone/elhmat.html>

Sixteenth-century Lawyer's Library

<http://www.law.harvard.edu/library/collections/special/>

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