

## Research Notes & Queries

### Cologne Merchants Complain about some Crimes of Richard, Earl of Warwick, and George, Duke of Clarence, in 1470 and 1471

Livia Visser-Fuchs writes:-

In May 1491 Hanse merchants from Cologne and other towns came to Antwerp for a meeting which they considered very important. They were expecting delegates from England and had to wait for several weeks for them to turn up. Apart from other business there were the numerous complaints by the Cologners about damage done to their compatriots by the English on sea and land before and after the Peace of Utrecht (between England and the Hanse) in 1474. It was lengthy and difficult process and in their attempt to delay matters the English went so far as to doubt Cologne's status as a member of the German Hanse. Most details of the meeting do not concern us here, but there are three cases of some interest to Ricardians and to anyone studying the period of the readeption of Henry VI in 1471-72.

The least spectacular complaint is that of Henry Ratteko, servant of a Cologne merchant, who was sailing towards Gravesend (*Gravensenda*) to hand over one fardel of cloth to an English captain who would take it to Zeeland; he was attacked by four Englishmen near *Gruyenhende prope Gravensenda* (Greenhithe? near Gravesend), and though he had paid all the custom dues and could show the sealed document to prove that, they robbed him and beat and wounded him severely. Henry went to great expense to get his case heard both by the king and by 'His Grace's mother, the lady of York, who was at that time the lady of the said place', but he never succeeded. The damage and his expenses together amounted to £52.

The second case is an instance of high-handed interference in the course of justice by George of Clarence in February 1471. On a Wednesday in Lent, probably 27 February, John Frick, a Cologne merchant, was visited in his room in the Steelyard by two Englishmen, Elias 'a Tryce' and Robert 'Hegge'. They pretended they wanted to do business with him, but instead they murdered him and stole the goods and valuable jewels that he kept in his room. The next day Frick was found dead and it was understood that the culprits were Elias and Robert, who had fled to sanctuary at Westminster. The Hanse community did their utmost to have them punished by due process of law. A little later Elias left sanctuary and was arrested and handed over to the judges,

but at the urgent request of George, Duke of Clarence, who claimed that this robber Elias was his servant, he was released without punishment or payment, and was allowed to 'go about and walk and live' in London, to the contempt, shame and injury of the merchants of the Hanse. Later this Elias even approached the merchants and with an angry face threatened to revenge himself on them. The damage done by the murder and the expenses of prosecuting the culprits amounted to £200.

The most curious case concerns one of the many acts of piracy committed by the earl of Warwick on his way to France in 1470. A number of Cologne merchants claimed that at the time Warwick and Clarence left England they (the Cologners) had thirteen fardels of English cloth in a ship from Dover. The cloth was on its way to Calais, but Clarence and Warwick took it from the ship and carried it off to Normandy. The victims even knew what happened to their property: Clarence and Warwick used the woollen cloth to clothe their household (*vestiverunt . . . suam familiam*) and that of Prince Edward and Queen Margaret when they returned to England in September. The total damage ran into hundreds of pounds—the exact sum is illegible. (See *Hanserecesse*, 3d series, 1477–1530, vol. 2, ed. D. Schäfer, Leipzig 1883, pp. 438–39, 519–21, no. 507, paras 20–22.)

### Secret Marriage: A Dramatic Representation

John Ashdown-Hill writes:-

Recently, watching for the first time for many years, a production of Webster's *The Duchess of Malfi*, I was fascinated to be reminded of the marriage scene between the young, widowed duchess, and her servant, Antonio. Webster's play, published in 1623, had perhaps been first produced about ten years earlier, in 1613 or 1614. It thus dates from well over a century after the Yorkist period. Nevertheless, and even at such a late date, it gives a graphic representation of marriage as a self-conferring sacrament, performed in private (as the Duchess herself says, 'in a chamber') before a witness who, in this case, is not a priest, but a woman. A witness was not essential, but was a security measure. So long as both parties admitted the marriage, there was no problem, but 'if one party denied [the marriage] . . . the other party would have to prove it'. (N. Adams and C. Donahue, eds., *Select Cases from the Ecclesiastical Courts of the Province of Canterbury*, c. 1200–1301, London 1981, p. 82).

Secret marriage is a theme which recurs in the royal history of the fifteenth century. We have, for example, the alleged secret marriage of Henry V's widow, Katherine of France, to Owen Tudor, in about 1428, the secret

marriage of Katherine's sister-in-law, Jacquette de St Pol, Duchess of Bedford, to her second husband, Sir Richard Woodville, in about 1436, and later, of course, the secret contracts of Edward IV with Eleanor Talbot and Elizabeth Woodville. The marriage of Edward IV and Elizabeth Woodville, though secret, was celebrated by a priest and before four witnesses including the bride's mother, the duchess of Bedford. Secret marriages were sometimes celebrated thus, formally, in church, another documented case in point being the marriage of Sir William Plumptre to Joan Wintringham in about 1451, a marriage which was kept secret by the contracting parties until 1472, despite the birth of a least one child to the couple in the meanwhile. (A.R. Myers, ed., *English Historical Documents 1327-1485*, London 1969, p. 1200).

Other secret marriages, however, were celebrated 'in a chamber', and for me, watching the play, it was impossible not to imagine, in place of the Duchess, Antonio and the maid servant, the figures of the young Edward IV, Eleanor Talbot, and Canon (later Bishop) Stillington, produced, like Cariola, at the vital moment from behind the arras! By a curious coincidence it was to Lord Berkeley, a relative of Lady Eleanor Talbot on her mother's side, that Webster elected to dedicate his play.

Webster's scene runs as follows:

Duchess: Kneel.

[Cariola comes from behind the arras.]

Antonio: Ha!

Duchess: Be not amaz'd, this woman's of my counsel:  
I have heard lawyers say, a contract in a chamber  
*Per verba de presenti* is absolute marriage.  
Bless, heaven, this sacred Gordian, which let violence  
Never untwine!

Antonio: And may our sweet affections, like the spheres,  
Be still in motion!

Duchess: Quickening, and make  
The life soft music!

Antonio: That we may imitate the loving palms,  
Blest emblem of a peaceful marriage,  
That never bore fruit, divided! .

Duchess: What can the church force more?

Antonio: That fortune may not know an accident,  
Either of joy or sorrow, to divide  
Our fixed wishes!

Duchess: How can the church build faster?  
We now are man and wife, and 'tis the church

That must but echo this.—Maid, stand apart  
I now am blind.

Antonio:                      What's your conceit in this?

Duchess: I would have you lead your fortune by the hand  
Unto your marriage bed:

(A.K. McIlwraith, ed., *Five Stuart Tragedies*, London 1953, pp. 224–25).

In this case the duchess defines her marriage as being *per verba de presenti*. The couple say that they are married then and there, and that alone fixes the contract. It has been alleged that the marriage between Edward IV and Eleanor, on the other hand, took place *per verba de futura*, in the form of a promise that the couple would marry. In itself, such a future promise was not totally binding, but it became so if the union was then consummated, as in Edward and Eleanor's case, we are told that it was. Pope Innocent III had spoken, in this context, of *matrimonium presumptum*. 'The presumption was that the parties by having sexual intercourse changed the future consent into present, and the presumption was *de jure*; contrary evidence was not admissible'. (Adams and Donahue, p. 81). Such contracts, as the duchess firmly says, were 'absolute marriage'. The duchess insists on the point, remarking scornfully 'what could the church force more?' The duchess was correct. In fact no solemnity or ceremony of any kind was necessary. (Adams and Donahue, p. 82). Antonio seems not to be wholly convinced, for he suggests that a church wedding might provide a firmer guarantee against 'accidents'. A point which Eleanor Talbot, may, to her cost, have eventually come to appreciate. But the duchess will have none of this, repeating that the church could not make the marriage more binding. Her words 'We now are man and wife, and 'tis the church that must but echo this' insist (rather curiously given the post-reformation context, in which marriage was no longer held to be a sacrament) on the traditional and ancient teaching of the church itself, that marriage was a self-conferring sacrament, the only *sine qua non* of which was the willing commitment to each other of two free parties. The duchess' use of the word 'echo' reflects the common usage that 'ordinarily it was expected that the church ceremony should follow such a marriage'. (C.R. Baskervill, V.B. Heltzel and A.H. Nethercot, eds., *Elizabethan and Stuart Plays*, New York 1934, p. 782, n. 2). In fact, however, for the duchess and Antonio, as for Edward and Eleanor, no church ceremony did follow, but that fact in no way undermined the legitimacy of the marriage.

Webster's story of the Duchess of Malfi was based upon fact. The play is 'concerned with actual events that occurred in Italy' (*Ibid.* p. 771) a century before Webster wrote his play, and at a time not too far removed from the reign of Edward IV. 'The historical story of Giovanna, Duchess of Amalfi,

covering the years from about 1504 till 1513 is told by Bandello (*Novelle* I. 26) who seems himself to have been an eyewitness of Antonio's assassination (October 6th 1513)' (C.F. Tucker and N. Burton Paradise, eds., *English Drama 1580-1642*, Boston 1933, p. 646).

### Errata

J.B. Weller, 'The wives of Sir James Hobart', *The Ricardian*, volume 12, number 152, March 2001, in the family tree on page 227, the birth date of Thomas Howard, second duke of Norfolk should read as 1443. It should also be pointed out that, although there are no lines of descent shown from Thomas's first marriage to Elizabeth Tilney, the subsequent dukes of Norfolk descended from this marriage. The *Complete Peerage* gives Sir Frederick of Ashwell Thorpe as the father of Elizabeth Tilney, not Philip as stated in the same pedigree. In note 78 on page 246, Edmund (first duke of York and fifth son of Edward III) is described as the uncle of Richard, the third duke of York (died 1460) and as buried at Fotheringhay—these points actually relate to Edward the second duke of York who died 1415.