Although most of the religious orders founded in the later Middle Ages secured exemption from episcopal jurisdiction, comparatively few of the older Benedictine and Augustinian houses were exempt. In England, among the Benedictine houses, exemption was a highly prized privilege enjoyed by the abbeys of Bury St. Edmunds, St. Albans, Evesham, Malmesbury, Westminster, and St. Augustine's Canterbury. And it was even rarer among the Augustinian canons. As J. C. Dickinson has pointed out the canons were considered "part of the ordo canonicus which for centuries tradition had regarded as essentially the charge of the local bishop". Concerning exempt Augustinian houses, Dickinson concluded that "the first house to enjoy this right was St. Botolph's, Colchester, to which it was granted by Paschal II by a bull known only in an inflated version. The only other exempt house at this time was the abbey of Waltham, which inherited this right from the secular foundation which preceded it, and which ranked as a royal free chapel."

More than this can now be said about exemption and the Augustinian order, though nothing can change the view that it was a rare privilege. At least three Augustinian houses in England enjoyed exemption. The abbey of Waltham achieved it when its status as a royal free chapel was ratified by a papal bull in 1182. Like the abbey of Waltham, the priory of St. Oswald, Gloucester, the patron and prelate of which was the archbishop of York, also gained acceptance for its exempt status as a royal

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3 See Ch. Dereine in *Dictionnaire d'Histoire et de Géographie Ecclésiastique*, xii (1951), c. 400.

free chapel, but without papal confirmation of its rights. As with other royal free chapels the position of St. Oswald's was from the point of view of the Church anomalous; its exemption from the jurisdiction of any ordinary was not canonical exemption. Apparently only one Augustinian house which was not a royal free chapel achieved exemption. This was the small priory of Tonbridge, exempt by a bull of 1192. That the priory of Tonbridge claimed immediate subjectio to Rome on the basis of this bull is made amply clear by the documents relating to a dispute in 1291 concerning the appropriated church of Stradishall and church or chapel of Denston in the diocese of Norwich. The suggestion that, in addition, St. Botolph's, Colchester was exempt by a bull of Paschal II is the concern of this paper. To assess the bull of Paschal II we must first review the early history of St. Botolph's.

Interest has centred upon the priory of St. Botolph's, Colchester because of its claim to be the first priory of Augustinian canons in England. The story of the adoption c. 1100 of the Augustinian rule by St. Botolph's, at the instigation of Norman, a member of the community there, has been told by A. Hamilton Thompson and extended by J. C. Dickinson. The details are supplied by the Historia Fundationis of the priory of Holy Trinity London, which was founded in 1107-8 as a daughter-house of Colchester priory, with Norman as its first prior. The Historia Fundationis survives in an early fifteenth-century cartulary of Holy Trinity priory. It passes from praise of

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1 See esp. Select Cases of King's Bench, ed. G. O. Sayles, iii (Selden Soc., vol. 58, 1939), 138-44; and see Denton, op. cit. pp. 51-57.
3 See P.R.O. E135/15/17 (cited Cheney, p. 194) : "religiosi sacrosancte sedis apostolice immediate subjecti."
5 Dickinson, p. 109, n. 3.
6 The Historia along with a list of priors is found on fols. 1r-7r of Glasgow Univ. Library, Hunter U.2.6., and this whole section is printed in T. Hearne, Guillemi Neubrigensis Historia (Oxford, 1719), iii. 688-702 (and is translated in J. Stevens, The History of the Antient Abbeys ... being two additional volumes to
Queen Matilda, the founder of this priory, to praise of Norman, for he was not only the first prior of the house but also, so it is claimed, the first Augustinian canon in England. The early history of St. Botolph's is included in the story by way of praise for Norman. When he returned to England after studying in France he joined a community of priests ("sacerdotes") at the church of St. Botolph, Colchester with Ainulf ("presbyter") at their head. Subsequently the community decided to follow a religious rule, and Norman recommended to Ainulf the Augustinian rule, which was completely unknown in those parts. Norman and his brother Bernard, later prior of Dunstable, were sent out to learn about the rule, and secured for the purpose a commendatory letter from Archbishop Anselm to the abbot of Mont St. Eloi. Having studied at Chartres and Beauvais they returned to instruct the community at Colchester in the ways of the order, which it then adopted.

Thus, the chronicle of Holy Trinity priory informs us of the part which the priests at Colchester played in the introduction of the Augustinian rule into England. But the interests of the chronicler are narrow; he has a story to tell. While he is not alone in his belief that the first English Augustinian canons were established at Colchester,¹ the claim cannot be convincingly substantiated.² Regular canons were certainly established earlier at St. Mary's, Huntingdon and St. Giles', Cambridge. Whether these "regular canons" were at this early stage following the Augustinian rule is not clear. At Colchester the decision to

² Dickinson, pp. 103-6.
follow the rule of St. Augustine is firmly stated in the Holy Trinity chronicle. But the question is in any case of small importance, for no special rights were offered to the first-comers. Sources other than the account of the Holy Trinity chronicle add little to our knowledge of the early history of St. Botolph's. The secular priests or canons may have formed a community there in 1095 and William Rufus conceded that they should hold all their lands and possessions "bene et honorifice" and without interference from anyone.¹ Further royal grants of this kind followed in the twelfth century. It is not clear who first gave the canons their lands and possessions. Perhaps these were initially in the hands of the priest Ainulf who chose to convert his church into a community. During the early years of his reign Henry I gave to the canons his manor of Hatfield Broad Oak and all the tithes of his demesne there,² and before 1106 Eustace, count of Boulogne had become one of the benefactors of the church.³ Canons from St. Botolph's colonized perhaps the priory of Dunmow ⁴ and certainly the priory of Holy Trinity, London. What is especially striking is that the priory of Holy Trinity quickly overshadowed its parent house.

But another source has been used to elucidate the early history of St. Botolph's. A bull of Paschal II ⁵ surviving in a letter copied into the register of Cuthbert Tunstall, bishop of London 1522-30, and printed by Dugdale from a Cottonian roll which is not extant,⁶ tells us much more about the status and rights of St. Botolph's. The bull is dated in the month of August 1116 and states that the canons of the church were the first Augustinian canons in England. It purports to be the second privilege issued for the canons and it concedes unusual rights to the priory. In the first place, it grants to St. Botolph's

¹ Ibid. pp. 100-1.
³ Ibid. no. 775, and Regesta, iii, ed. H. A. Cronne and R. H. C. Davis (Oxford, 1968), no. 208. For its possessions towards the end of the century see the charter of Richard I in W. Dugdale, Monasticon (6 vols. in 8, 1817-30), vi. 106.
⁴ Dickinson, p. 109.
⁵ See Appendix I.
⁶ It may have been destroyed in the fire of 1731; but there is no mention of it in the Report from the Committee Appointed to View the Cottonian Library (London, 1732).
superior authority not only over Holy Trinity priory and some other churches but also over all Augustinian canons in England. The prior and canons should exercise authority over erring Augustinian canons throughout the country; all other Augustinian priories should be organized according to the pattern of St. Botolph’s; and wise members of the community should be elected and sent out to supervise the progress of the order. Secondly, the bull declares the priory to be exempt from the interference of all men including any archbishop or bishop, and subject to the Pope alone. The bishop of London is not to make any exactions in the priory; yet, as long as the bishop is co-operative each prior-elect should be presented to him for consecration and the canons should obtain from him “crisma et oleum sanctum, consecrationes altarium sive basilicarum, ordinationes canoniconorum”.

This bull was regarded as spurious in Migne and in Jaffe-Loewenfeld. Yet Dickinson suggested that the “only glaringly suspicious feature is the clause giving to St. Botolph’s primacy over other English houses of the order.” A whole section of the bull is in fact concerned with this primacy. And the bull has many suspicious features. The dating clause is unacceptable on a number of counts. It purports to have been written by the hand of John of Gaeta, who was papal chancellor from 1089 until he became Pope as Gelasius II in 1118: “per manus Gaitani cancellarii et bibliothecarii sancte sedis apostolice.” But John of Gaeta never used this formula in the 186 bulls of Paschal II printed by Migne which he dated by his own hand: the phrase is “per manum Johannis sancte Romane ecclesie diaconi cardinalis” or “per manum Johannis sancte Romane ecclesie diaconi cardinalis ac bibliothecarii”. It is, of course, normal for the actual day to be included in the dating clause; but here we have simply “mense Augusti”. Paschal was elected Pope on 13 August 1099 and consecrated on the following day; to comply

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2 Dickinson, p. 101, n. 2.
3 Yet, for “mense Novemb.” and “ii mens. Martii” see Migne, op. cit. nos. 83, 389.
with 1116 the bull should, therefore, be dated either in the 17th or in the 18th pontifical year. Instead it is dated in the 20th pontifical year. And Paschal died in the January of his 19th pontifical year. The final clause “regnante domino nostro Jesu Christo, cui laus et imperium permanet in secula seculorum” is unusual, and the final “Amen” should appear before the scriptum clause. Such an accumulation of errors and abnormalities could hardly have been caused by the mistakes of successive copyists. There is also the final sentence preceding the scriptum clause. It is incongruous as the concluding sentence of a papal privilege. Taken with the other indications of forgery it is too unusual to be acceptable. This sentence may have been thought to give weight to the bull by referring to the member of the community of St. Botolph’s, a certain Zeno, who was entrusted with the bearing of an altar with relics of saints to Colchester. The previous sentence, the benedictio, would have formed an acceptable conclusion.¹ Even so, the usual benedictio clause in bulls of Paschal II follows a pattern different from the one given here.

The “bull” of Paschal II has appeared respectable because there is one short passage in the Historia Fundationis of the priory of Holy Trinity which agrees with some of the details included in the “bull”:

Igitur Aynulfus et Normannus, videntes opus dei per manus illorum prosperari, miserunt quemdam canonicum ordinis predicti Senonem nomine ad Pascalem papem rogantes ut ordinem privilegiis insigniret, qui papa ipsum paterne suscipient bullas valde speciales concedens cum reliquis diversorum sanctorum illum remisit. Set Parisius obiit redeundo, reliquis ibidem retentis, et perdita prima bulla, secunda Colecestriam delata est, cuius copia intitulatur in Quanta [sic] cum litera A fo. xviii° kalend’ secundi.²

The general reliability of the Historia Fundationis has suggested that we must take seriously this passage, even though the Historia, like the spurious bull, survives only in a late copy. Certainly the Holy Trinity chronicle is detailed and convincing. Seven charters are cited in full: two of these have probably not survived in other copies, one from the dean and chapter of the

² Hunter U.2.6., fol. 3r (Hearne, op. cit. p. 698, and Hodgett, p. 228).
secular college of Waltham and the other from Prior Ainulf and the convent of Colchester; five are to be found elsewhere. But the detail is not all incontrovertible. The inclusion of Merton as a daughter-house of Holy Trinity is in direct conflict with other more compelling evidence. And it is not clear when the chronicle was written. It was not undertaken until after the death of Queen Matilda on 1 May 1118, for on the first folio the author states that his intention is to reveal what the Queen during her life wished to be kept secret. When the narrative actually reaches the Queen's death we are told immediately that her body was laid to rest in the cemetery ("sacrarium") at Westminster where it remained for several years, but that on the advice of Henry II, Archbishop Thomas and several nobles it was transferred to the eastern side of the high altar to the right of Queen Edith "virgin and consort of the most holy King Edward the confessor". On the next folio the narrative reaches the death of Norman on 12 January 1148 and here it is noted that in 1176 his body in Holy Trinity priory was moved from in front of the high altar to the northern side of the altar. At this point on fol. 5r there is possibly a break in authorship marked by the beginning of the history of the priors. This section repeats the dates for Prior Norman but states that he became prior on 5 April 1107, not, as earlier, 5 April 1108. After 1221 this history of the priors is reduced to the dates of the inception and death of each prior. If the whole narrative preceding this history of the priors is of a piece, it must have been composed after 1176. Although circumstantial, the history of the foundation of Holy Trinity probably was not a contemporary account.

Quite apart from these initial doubts about the Historia, there is evidence that some additions had been made to it in the fifteenth century. Taking the history of the foundation and the history of the priors together, there are three passages which stand out from the rest of the narrative. There is the passage in question concerning the bull of Paschal II with its reference to "Quanta cum litera A fo. xviii kalend' secundi". Secondly, on fol. 4r, concerning the precious relics bequeathed to the priory

by Queen Matilda, we are referred to a list "in Quanta Petri folio xvii° kalendario secundo". ¹ And on fol. ⁵v, concerning a vacancy in the priory apparently between October 1167 and May 1170, we are referred to a letter of Bishop Gilbert of London "in Quanta cum litera B fo. xc°". ² The term "Quanta" is apparently used here to refer to the registers of the priory of Holy Trinity. On this evidence there were at least three of them. None has survived. Further references to "Quanta cum litera A" and references to a whole series of rentals are to be found elsewhere in the cartulary.³ And in a section of the Letter-Book C of the city of London there are references to the registers with the letters A and B belonging to the priory.⁴ The compiler of the cartulary and the compiler of this letter-book had apparently been using common sources. The important fact is that, as with other similar passages in the cartulary, two of these three passages in the Historia which refer to registers belonging to the priory have been included as an afterthought in a contemporary hand. This is certainly true of the passage concerning the letter of Gilbert Foliot. And, more relevant to our purposes, the whole passage concerning the Paschal II bull has been added, in a compressed script, to the bottom of fol. ³r. This is not noted in either Hearne's or Hodgett's printed editions. Here is evidence that the passage had not formed part of any earlier version of the Historia.

The passage, probably added to the chronicle a little after 1420,⁵ claims that in one of the registers of Holy Trinity there was a copy of a bull of Paschal II which granted privileges to the

¹ Hearne, p. 702, and Hodgett, p. 230.
³ See references to Quanta A fol. lxxii° (Hunter U.2.6., fol. 11v). Quanta A fol. xxix° "kalendarii primi" (fol. 54v), Quanta A fol. xxv° "kalendarii secundi" (fol. 88r), Quanta A fol. xxvi "kalendarii secundi" (fol. 132v), Quanta A fol. xlvi "primi kalendarii" (fol. 144v), Quanta A fol. xxix° "secundi kalendarii" (fol. 146r), and Rentals A (fols. 44v, 150v), B (fols. 88r, 115v, 136v), E (fol. 115v), F (fols. 40v, 150v), G (fols. 39v, 62v, 89v, 134r, 150v, 163r), and H (fols. 31r, 124r, 159v).
⁵ See above, p. 325, n. 6.
Augustinian order in England. We are told no more than this about the content of the bull. But we are given details of the circumstances surrounding its arrival in England. In some respects these coincide with details in the spurious bull, as in the elaboration on the theme that this was the second bull and in the references to Seno—the Zeno of the "bull"—and to the relics of the saints. But we are asked to believe a more elaborate story than the one which emerges from the "bull" itself. We are informed that Seno left Rome with two bulls, and having died at Paris on the return journey, the relics were kept there and the first bull was lost. The second bull was taken on to Colchester. There is no means of knowing where these details had been obtained from for inclusion in the chronicle. It might at first seem likely that the bull to which the passage refers is itself the spurious bull that has survived, and that the passage is based upon the "bull". But this can hardly be so. There have been some elaborations upon and additions to the information supplied by the "bull". And contrary to the implications of the passage in the chronicle the "bull" both raised Colchester on a pedestal and made Holy Trinity a subject house. In the absence of a copy of the bull to which the passage added to the chronicle refers all that can be said is that the passage and the spurious bull reflect a similar, but not an identical, tradition.

Discussion of the relationship between the "bull" and the passage in the chronicle leads us to inquire when the "bull" was fabricated. There are two clues arising from the content of the "bull" itself. It conceded that the churches of Holy Trinity and St. Leonard were to be subject to St. Botolph's and it granted that the priory was an exempt house subject to papal jurisdiction alone. Both of these concessions require further examination. The two subject churches are referred to in this way: "Ecclesiam sancte Trinitatis London' quam vobis Matilda regina commendavit cum ecclesia sancti Leonardi et ceteris quas habetis obedientiis." The two churches can be identified as the priory of Holy Trinity, London and almost certainly the priory of St. Leonard, Great Bricett.\(^1\) Two compositions

\(^1\) For Great Bricett see Dickinson, p. 121, n. 4. It is not likely that the "bull" is referring to the church of St. Leonard, Colchester, which belonged to the
following disputes about the rights of St. Botolph's in each of these priories have survived. In 1180 Gilbert Foliot, as papal judge delegate, ratified and confirmed an agreement between the prior and canons of St. Botolph's and the prior and canons of St. Léonard-le-Noblat concerning their respective rights in the priory of St. Leonard, Great Bricett. While St. Leonard's seems to have been regarded as a dependent priory by both parties, it is not in fact clear what kind of subjection was being claimed by either side. In the event, the prior and canons of St. Botolph's resigned all their rights or claims to rights over St. Leonard's. The charters which the prior and canons of St. Léonard-le-Noblat produced to support their case appear to have been incontrovertible.

The question of the relationship of Holy Trinity to St. Botolph's was in dispute during the early years of the thirteenth century. From the outset it is important to note that two of the royal charters granted to Holy Trinity at about the time of its foundation stated specifically that the priory was subject only to the church of St. Paul's and the bishop of London. But in the thirteenth century St. Botolph's impleaded Holy Trinity and judges delegate of Honorius III (the abbot of Langley, the prior of Norwich and the dean of Norwich) were charged to inquire about the position of Holy Trinity: "super subiectione obedientiæ professione visitatione procuratione et rerum eiusdem ecclesie dispositione". After much discussion the problem was submitted to the decision of Eustace of Fauconberg, bishop of London, and his ordinatio of 26 January 1224 survives among the muniments of St. Paul's. Eustace declared that from its first foundation the priory of Holy Trinity had been free from subjection to any church except the church of St. Paul's, and he

abbey of St. John, Colchester. For a dispute between the prior and convent of St. Botolph's, Colchester and the vicar of St. Leonard's concerning the tithes of the church of St. Leonard's, which was resolved in 1227, see Chartularium Monasterii S. Johannis Baptiste de Colecestria, ed. S. A. Moore (The Roxburghe Club, 1897), ii. 545-6.

1 The Letters and Charters of Gilbert Foliot, pp. 419-20.
2 Regesta Regum Anglo-Normannorum, ii. 906, 915.
ordained that it should remain free. The parties in 1224 agreed to observe the bishop's judgement, and his ordinatio was drawn up in a tripartite chirograph attested by the seals of the bishop, the dean and chapter of St. Paul's, the prior and convent of Colchester and the prior and convent of Holy Trinity.

Rose Graham thought that the "bull" may have been fabricated at the time of the dispute concerning Holy Trinity priory. From one point of view it seems sensible to conclude that a document concerned with the subjection of the priories of Holy Trinity and St. Leonard must have been forged broadly speaking at the time of the disputes concerning subjection. There are no indications that the disputes were ever re-opened. On the other hand, there is certainly nothing to indicate that any bull, forged or genuine, was brought forward in either dispute to support St. Botolph's case.

The claim of exemption from episcopal jurisdiction is a different question. There is no evidence that St. Botolph's made the claim of exemption until 1391. A bull of Urban VI of 1380 confirms all the liberties and immunities granted by the papacy and the secular liberties and exemptions granted by kings and princes, but it makes no mention of canonical exemption. Also, we learn that St. Botolph's possessed in 1509 bulls of Popes Paschal, Alexander, Innocent, Honorius, Urban and Boniface. But beyond the possibility that we can identify here the spurious bull of Paschal II and the known bull of Urban VI, nothing can be deduced from this shred of evidence. The subjection to the Pope alone is stated unambiguously in the "bull". Yet, on matters which touched the episcopal order—provision of chrism, consecration and ordination—the exercise of the bishop's jurisdiction was accepted by the "bull" as a normal state of affairs, as long as these services were performed without any payment ("omni exactione seposita"). If the prior and convent encountered opposition from the diocesan they could turn to a prelate of their own choosing. At the outset it must be

2 Appendix II.
3 Below, p. 339.
said that it was a strange kind of exemption which specified that
the diocesan bishop should under normal circumstances exercise
effective jurisdiction.

The evidence from the unprinted bishops' registers that
canos of the priory were regularly ordained by the bishop of
London\(^1\) tells us little, for the right to the ordination of canons
was recognized by the terms of the "bull" as belonging to the
bishop. But a confirmation by Bishop Richard Gravesend in
1281 of an agreement concerning the establishment of a per­
petual chantry in the priory\(^2\) suggests that the priory was not
claiming exemption at this date. In the agreement between the
prior and convent and Simon of Nayland, the founder of the
chantry and a member of the chapter, the right to nominate a
chantry of the Augustinian order to the chantry was given to
Simon and his assigns. If the chantry was vacant for more than
two months the prior and convent were to nominate and admit a
suitable canon with the assent of the archdeacon of Colchester
before whom the canon must first swear an oath to execute his
duties to the full. If a further month passed without action,
then the right to nominate a canon passed to the bishop of
London and the prior and convent undertook to submit com­
pletely and spontaneously to whatever means of coercion the
bishop may find necessary to ensure that the terms of the found­
ation of the chantry were maintained. This hardly reads like the
action of an exempt priory. The prior and convent were openly
admitting, without any safeguarding clauses, the superior
authority of the archdeacon of Colchester and the bishop of
London in a matter which concerned the internal organization
of the church.

An episcopal act of Stephen Gravesend in 1319\(^3\) concerned
the appropriation to the priory of the church of St. Peter,

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\(^1\) For example, John Deping, canon of St. Botolph's (later prior: see *Victoria County Hist. Essex*, ii. 160), was ordained subdeacon 6 June 1411, deacon 19 September 1411 and priest 24 September 1412 (London Guildhall Library, MS. 9531, vol. 4 (Reg. of Richard Clifford), fols. 54r, 55r, 61r). And for an ordination of a canon by the archbishop of Canterbury when the see of London was vacant see *The Reg. of Henry Chichele*, ed. E. F. Jacob (Cant. & York Soc., 1937-47), iv. 348.

\(^2\) *Chartularium S. Johannis de Colecestria*, ii. 572-4.

Colchester. Here the bishop was acting as ordinary and reserving to himself the right to ordain a perpetual vicarage in the church. Exempt religious houses could not as a rule undermine a diocesan's jurisdiction over appropriated churches. An altogether similar situation arose in the fifteenth century concerning the appropriation to the priory of the church of Chigwell confirmed by an episcopal act of 1441. While the episcopal act of appropriation is legally compatible with canonical exemption, it is noteworthy that this letter of Stephen Gravesend, as also a letter of his predecessor dated 1318, makes no mention of exemption. If the priory had been claiming sole dependence on the jurisdiction of the pope it is hard to believe that it would have submitted to the ordinary jurisdiction of the diocesan bishop without any reference to its exempt status. Unfortunately, the registers of the bishops of London contain no visitation documents by which to examine further the rights of the priory.

There are no signs that the priory claimed to be exempt until the records concerning the election of a prior in 1391. On 3 July 1391 John Neylond resigned as prior and on 19 July the bishop of London received and accepted the resignation. The election of the new prior, John Okham, was announced in a letter addressed to the bishop dated 31 July from the subprior, William Westbrom, who refers to himself as "supprior monasterii sive prioratus ecclesie conventualis Christi et sancti Botulphi Colecestri' ordinis sancti Augustini Londoniensis diocesis . . . sedi apostolice immediate subditi et subiecti". True canonical exemption could have been obtained, of course, only by a papal grant. And the subprior claimed that St. Botolph's possessed such a grant: "Cum a sede apostolica nobis indultum existat quod obeunte . . . " He clarified the nature of the relationship between the prior and the diocesan by stating

1 See, for example, the distinction made by W. Lyndwood, *Provinciale* (Oxford, 1679), p. 158: "Quia licet ecclesia sit exempta, tamen populus non est exemptus."
2 London Guildhall Library, MS. 9531, vol. 6 (Reg. of Robert Gilbert), fols. 207v-208v.
4 London Guildhall Library, MS. 9531, vol. 3 (Reg. of Robert Braybrooke), fols. 352v-353r.
5 Ibid. and see Appendix I.
precisely the terms which are found in the "bull". What is especially interesting to note is that this passage cited in 1391, running from "obeunte" to "percipere", is precisely the section of the "bull" which bears the closest resemblance to the terms of genuine bulls of the early twelfth century. It, in fact, omits any reference to the sole dependence of the priory upon the jurisdiction of the Pope as found elsewhere in the "bull". The passage cited in 1391 does not in itself refer to the exemption of the priory.

The bishop's power to act in 1391 was specified for him by the canons. When he confirmed the appointment of John Okham as prior, the bishop was apparently accepting the terms of a claim which placed limitations upon his authority. Having rehearsed the whole of William Westbrom's letter he proceeded to recognize the desire of the canons for a short vacancy: "quarum quidem literarum auctoritate et vigore indempnitatem ipsius prioratus quam solet celeris procurare provisio prospicere cupientes fratem Johannem Okham...preficimus...". How far the bishop's actions should be regarded as recognition of the exemption of St. Botolph's is open to debate. The bishop's legal advisers may well have known that the canons would be unable at all events to support their claim in a court of law, just as they had been unable to support their claim to superior rights over Holy Trinity and St. Leonard, Great Bricett. It must not be assumed that in claiming exemption in 1391 the subprior was using the "bull" as his authority. The passage cited by the subprior to clarify the role of the bishop of London could have been taken from a genuine papal grant which the forged bull later superseded. And the actual claim of exemption may well have preceded the forgery of the "bull" which incorporated that claim. With the statement of 1391 we are perhaps approaching the date when the "bull" as we know it was fabricated. As was often the case, the production of an "official" document could have followed the making of a claim which the document was intended to substantiate.

Almost fifty years after the first mention of exemption we

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1 See below, p. 340.
learn more about the claim. Two papal letters of 1438 indicate that some confusion had recently arisen out of the resignation of the prior, John Deping, and his appointment as abbot of St. Osyth's. The bishop of London had admitted, apparently by an exercise of ordinary authority, the resignation of John Deping and had also confirmed the election of his successor at St. Botolph's, John North. The Pope's confirmation had been sought for neither the resignation nor the election, and the Pope complained that this contravened papal rights at St. Botolph's which was immediately subject to the apostolic see. The papal letters in no way imply that the claim of exemption had been examined at the papal curia. But we do learn something from the letters about the attitude of the canons of St. Botolph's: it hardly looks as though they thought of themselves as owing a special kind of allegiance to the Pope. Eugenius IV ruled that John Deping should continue to administer the abbey of St. Osyth's as if by the authority of the Pope, but it is not known what happened to John North whose election the Pope considered irregular.

It is possible that exemption was also being reasserted by St. Botolph's soon after 1438. In the episcopal records of admissions to churches belonging to St. Botolph's there is usually no mention that the priory was exempt. But the first three admissions after 1438 (to the church of Frating on 3 July 1441 and 30 April 1442 and to the church of Chigwell on 16 June 1442) refer to St. Botolph's as an exempt priory: "... ad quam per religiosos viros priorem et conventus exempti prioratus sancti Botolphi ... extitit presentatus ...".2

As we have seen, in addition to exemption the "bull" also gave the canons of Colchester superior rights over the whole Augustinian order in England. But it is very difficult to believe that this claim to primacy achieved anything at all. In 1509 the prior of St. Botolph's was required to submit to all the statutes, decrees and ordinances of the Augustinian order in England and freely to renounce all the bulls, and their substance, obtained by

2 London Guildhall Library, MS. 9531, vol. 6 (Reg. of Robert Gilbert), fols. 58e, 65v, 66e.
his predecessors: "... quarum prima sic incipit: 'Pascalis
episcopus servus servorum dei dilecto in Cris
to filio Eynulpho
preposito ceterisque dilectis filii & fratri
tis ecclesie Colcestrie',
alia 'Alexander episcopus servus servorum
dei dilectis Iohanni
priori &c.', altera 'Innocentius episcopus servus
ervorum &c.'
'Honorius episcopus servus &c.' 'Urbanus episcopus
servus &c.' 'Bonifatius episcopus &c.'"1 We cannot be completely
certain that the Paschal bull referred to is the same as the
"bull". The revocation of bulls seems to have amounted only
to a revocation of the claim to primacy. The claim of exemption
had not lapsed, for a letter of the subprior in 1527 2 requesting
the bishop's confirmation of the election of a new prior, Thomas
Turnor, not only asserts that the priory was immediately subject
to the jurisdiction of the Pope but also contains a full transcript
of the "bull" and of a confirmation by Urban VI of the papal
privileges and indulgences granted to the priory.3 Thus 1527
is the terminus ad quem for the forgery of the "bull". The
Urban bull contains only common form; it does not confirm any
specific privileges or indulgences. The canons were holding
on to their claim of exemption and cited the "bull" as evidence,
even though other concessions in the "bull" were no more than
patter. Their position was anomalous, for they continued, at the
same time as claiming exemption, to seek the bishop's rather than
the Pope's confirmation of a new election.

To judge from the evidence concerning exemption it looks
as though the "bull" was put together after 1391 and before
1527. If the priory had possessed a genuine papal grant of
exemption, it is very hard to believe that they would have used a
"bull" which was so obviously a concoction. Yet, it is true
that in some respects the "bull" looks like an early forgery. It
refers specifically to the papal chancellor John of Gaeta, whereas
a genuine bull used as a model would have supplied only the
Christian name; and it is difficult to imagine what benefit there
can have been in claiming the subjection of Holy Trinity and St.

1 Chapters of the Augustinian Canons, ed. H. E. Salter (Cant. & York Soc.,
1922), p. 128.
2 London Guildhall Library, MS. 9531, vol. 10 (Reg. of Cuthbert Tunstall),
fols. 110r-112r.
3 Appendices I and II.
Leonard, Great Bricett after the early years of the thirteenth century. The false claim to superiority over Holy Trinity and St. Leonard, Great Bricett, and also the claim to primacy over the Augustinian houses of England, may well have come from the earlier age. Perhaps we must imagine that the forger, who may have been concerned especially with the claim of exemption, had an early spurious bull at hand to adapt to his purposes. The "bull" is so tortuous a fabrication that it is not difficult to believe that it was itself based upon a spurious bull.

Yet, two possibilities remain. In the first place, it cannot be denied that the whole "bull" may have been fabricated not later than the dispute with Holy Trinity priory in 1224. If this were the case, we must assume that the "bull" remained in the background of Colchester muniments, not much regarded, but with occasional glances by the canons in its direction over the next centuries. It should be stressed that there is nothing in the evidence concerning exemption that puts this out of the question. And, in the second place, although the "bull" has so many suspicious features, we cannot rule out the possibility, even perhaps the likelihood, that a genuine privilege of Paschal II lies behind the forgery. The "bull" bears a few resemblances to genuine bulls of Paschal II, for example in the inclusion of a scriptum clause which passed out of usage during the pontificate of Calixtus II (1119-24). And there is nothing irregular about the "bull's" scriptum clause. Some parts of the "bull" are very similar to, though not identical with, passages in authentic papal privileges. This is especially true of the section beginning "Obeunte autem te Eynulpho" and ending "sacramenta percipere".

1 R. L. Poole, Lectures on the History of the Papal Chancery, p. 74.
2 For Grisogonus see H. Bresslau, Handbuch der Urkundenlehre, i (Leipzig, 1912), 243.
The situation is further complicated by references to another supposed bull of Paschal II. It is in the fourteenth century that we learn of this bull. This must be a different bull, for its concern was other than primacy or exemption. The perpetual vicar of Barking complained to the Pope that the canons of St. Botolph’s were using a pretended privilege which they claimed they had obtained from Pope Paschal and which granted remission of penances to those who helped with the completion of their house. Declaring that this was a forged bull and that in any case all such grants had been revoked by the council of Vienne, the vicar petitioned the Pope “to commission the archbishop of Canterbury to declare the said privilege to be null in his province”. In February 1364 Pope Urban V responded to the petition by ordering the archbishop to obtain the bull and have it sent to the Pope.\(^1\) It was this “bull” that was given a mention in the fourteenth-century pseudo-continuation by Peter of Blois of the pseudo-chronicle of Ingulf: (s.a. 1112) “Iste Paschalis Papa concessit abbathiae Sancti Botulphi Colcestriae magnam absolutionem in festo sancti Dionysii et octabis sequentibus, omnibus peregrinis de commissis vere confessis et contritis, perpetuis indultam temporibus duraturam”.\(^2\) It was from this source no doubt that a chronicle compiled at Peterborough derived its information: “Iste (Paschalis) concessit magnam indulgentiam sancti Bartholomaei [sic] Colcestriae”.\(^3\) The fame of this bull had spread. If it were quashed, as seems likely, nonetheless the tradition which surrounded it did not die altogether. In 1421 the Pope granted to the priory (referred to here as the priory of St. Denis Colchester) a relaxation of penance to “penitents who on the feast of St. Denis visit and give alms for the conservation and repair of the Augustinian priory”\(^4\).

Although there are references to other "bulls" of Paschal II, only the one under review has survived. It is clear that this "bull" secured neither the subjection of the priories of Holy Trinity and St. Leonard, Great Bricett, nor the ascendancy of Colchester within the Augustinian order. And it does not appear to have secured a meaningful exemption from the diocesan bishop. As we have seen, the priory claimed on a few occasions during and after 1391 to be subject solely to the jurisdiction of the Pope. Just what practical effects this claim had it is difficult to ascertain. If, on the one hand, we never see the priory actually enjoying exemption, on the other hand, we never see the bishop of London making any exactions in the priory or exercising over it anything but the most benign jurisdiction. There are no signs that the priory regarded itself as dependent in any practical sense upon the control of the Pope. We know of no payments to the Pope and of no requests to the Pope for the confirmation of a prior-elect. Indeed, what evidence there is suggests that subjection to papal jurisdiction was as illusory as primacy over all other English Augustinian houses. The "bull" of Paschal II is a crude forgery. A section of it might nonetheless survive from a genuine privilege of Paschal II. This is notably true of the passage which defined the role of the diocesan bishop. But, this section apart, the burden of proof lies with those who would accept as genuine any of the concessions embodied in the "bull".

APPENDICES

I

The Forged Bull of Paschal II

Printed from London Guildhall Library, MS. 9531, vol. 10 (Register of Bishop Cuthbert Tunstall), fol. 110r-v (= A), and Dugdale, Monasticon, vi. 106-7 (= B). The section from "Obeunte" to "percipere" is given, with slight variations, as noted below, in a letter concerning the election of John Okham as prior in London Guildhall Library, MS. 9531, vol. 3 (Register of Robert Braybrooke), fols. 352v-353r (= C). Some minor differences in spelling and errors of grammar have not been noted.

1 I have profited from the criticisms of Professor C. R. Cheney, Rev. J. C. Dickinson and Dr. I. Kershaw, who all kindly read drafts of this paper.
Paschalis episcopus servus servorum dei dilecto in Christo filio Eynulpho preposito ceterisque dilectis filiis et fratribus ecclesie Christi Colcestrie salutem et apostolicam benedictionem. Singulare semper sedis apostolice privilegium clarius ut per nos licet indignos subiectarum nobis per orbem ecclesiarum status dirigatur et augeatur. Ceterum cum universis sancte ecclesie filiis id apostolice sedis auctoritate ac benevolentia debeamus, illis tamen locis atque personis quae ampliori religionis gratia eminent propensioni nos studio convenit minimere, ut quibus universalis conditior deus pleniorem misericordie die consutil largitatem nos quoque ipsius exemplo excellentiorem conferamus dignitatem. Unde non immerito estimamus locum sive canonicanam vestram amplioribus nostre benignitatis munere honorandum quam omnipotens deus ad formam ecclesie primitive primitivam in loco humili humilimam quadam eximia prerogativa plantavit ostendens quid possit figulus in luto plastes in plasmate deus in homine. Primi enim omnium ut a religiosis personis acceperimus canonice religionis professores in patria vestra floruitis. Primitias corporum et animarum vestrarum conditori deo spontanei obtulitis. Et ideo huius secundi auctoritate decernimus ut sicut in hoc ordine primi in Anglia militastis ita quoque dignitatem ipsius primi semper habeamini, ut ubicumque per canonicas in Anglia fratrum negligentium sentitur imbecillitas vestra per nos potens succurrat auctoritas. Et si forte instinctu diaboli quilibet fratrum causa seculi vel ordinis mutandi ab hoc ordine lapsus fuerit, Colcestrensis prelati auctoritate revocetur ubicumque reperiatur et apostate ac desertoris militie prioris pena plectatur. Ad formam itaque vite vel institutionis canonice vestre etere omnes regantur. Hinc persone sapientes eligantur, electe per canonicas distribuantur, distributate si opus est locis singulis preferantur, ut in omnibus locis in quibus canonicakes religionis viget integritas superemineat vestra per nos regularis auctoritas. Ecclesiam sancte Trinitatis London quam vobis Matilda regina commendavit cum ecclesia sancti Leonardi et ceteris quas habetis obedientiis vestri iuris esse precipimus et ad huius precepti tenorem presentis decreti paginam promulgamus. Quas si quis ibidem manentium fratrum per superbia vel per subreptionem vel latenter vel palam quasi secularis potestatis auctoritatem inducens de manu vestra subtrahere voluerit, illius spirituali gladio perdat animam cuius corporali Malchus amisit auriculam. De ceteris etiam vobis concessis sive decimis sive possessionibus aliis, quecumque miseratione regum liberalitate principum iuste adquisitis vel adquirere poteritis, idem iudicium spiritus sancti iudicio fiat. Ut autem in omnibus paci vestre consulamus, ab omni vos tam secularis quam ecclesiastic personae iugo liberos esse volumus interdicens in nomine domini et apostolica censura statuentes ex auctoritate sancti Petri ut nullus archiepiscopus aut episcopus nullus regum aut principum aut quelibet omnino magna vel parva persona Colcestrensi cenobio in universis ad ipsum pertinentibus quocumque modo seu qualibet occasione aliquid auferre minuere vel violentiam inferre fatigare aut dei servos inquietare punienda temeritate

1 omit servus B. 2 omit dei A. 3 omit filio A. 4 Ernulpho B. 5 omit ampliori A. 6 universitatis A. 7 huiusmodi replaces humili humilimam B. 8 irreligiosis replaces a religiosis A. 9 omit in patria vestra A. 10 omit spontanei A. 11 ideo secundi nostri privilegii A. 12 prefati B. 13 deget A.
presumat, quatinus solius sancte Romane ecclesie protectione defensi perpetuiter sint securi. Obeunte autem te Eynulpho nunc eius loci preposito vel tuorum quolibet successorum, nullus ibi quilibet subreptionis astutia preponatur nisi quem frates communi consensu vel fratrum pars consili sanioris elegerit. Electus London' pontifici consecrandus representetur a quo etiam crisma et oleum sanctum consecrationes altiarum sive basilicarum ordinationes canonici accipiant, si gratiam et communionem apostolice sedis habuerit, et si omnia gratis et sine molestia fratrum exhibere voluerit omni exactione seposita. Si quid autem horum obstiterit, liceat prelato vel fratribus quicumque voluerint antistitem adire et ab eo prefata sacramenta percipere, quatinus Romane soli ecclesie eadem canonica subdita preter hanc nulli videatur esse subiecta. Cum autem huic ordinii a patribus nostris dispensatio verbi dei predicationis officium baptismus reconciliatio penitentium semper credita fuerit, sicut est videre in tractatibus sancti Augustini ad Aurelium papam, nos eorum exempla securi et ordinis celsitudinem subtilius intuentes patrum sancta confirmamus confirmata sanctificamus presentis pagine auctoritate, quam si quis temerario ausu in aliquo transgredi presupserit sancti spiritus iudicio ac beati Petri apostolorum principis anathematis vinculo religetur et cum transgressoribus angelis et Juda traditore eternis recompensationis inventi. Nostis frateres quod ad cumulum nostre dilectionis altare cum sanctorum reliquis impositis per manus fill nostri fratri vestri Zenonis transmisimus obsecrantes ut digne ambuletis vocatione qua vocati estis. Scriptum per manum Grisogoni scriniarii et notarii sacri palatii. Datum Laterani per manus Gaitani cancellarii et bibliothecarii sancte sedis apostolice mense Augusti anno incarnationis dominice millesimo centesimo xvi indictione nona pontificatus autem domini Paschalis pape secundi anno vicesimo regnante domino nostro Jesu Christo cui laus et imperium permanet in secula seculorum. Amen.

II

CONFIRMATION OF POPE URBAN VI, 1 DECEMBER 1380

Printed from London Guildhall Library, MS. 9531, vol. 10 (Reg. of Cuthbert Tunstall), fols. 110v-111r.

Urbanus episcopus servus servorum dei dilectis filii priori et conventui prioratus sancti Botolphi Colcestrie ordinis sancti Augustini Londoniensis diocesis salutem et apostolicam benedictionem. Solet annuere sedes apostolica piis votis et honestis supplicationibus favorem benivolum impertiri. Ea propter dilecti in domino filii vestris iustis supplicationibus grato concurrente.
assensu omnes libertates et immunitates a predecessoribus nostris Romanis pontificibus sive per privilegia vel alias indulgentias vobis et prioratui vestro concessas necnon libertates et exemptiones secularium exactionum¹ a regibus principibus vel aliiis Christi fidelibus rationabiliter vobis et prioratui predicto indultas sicut eas iuste et pacifice obtinetis vobis et per vos eidem prioratui auctoritate apostolica confirmamus et presentis scripti patrocinio communimus. Nulli ergo omnino hominum liceat hanc paginam nostre confirmationis infringere vel ei ausu temerario contraire. Si quis autem hoc attemptare presumpserit indignationem omnipotentis dei et beatorum Petri et Pauli apostolorum eius se noverit incursurum. Dat' Rome aput sanctum Petrum kal' Decembris pontificatus nostri anno tertio.

¹ MS. exemptionum.