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## Rhetorical Self-Construction and its Political Context in Richard Fleming's Reform Sermon for Passion Sunday at the Council of Constance

CHRIS L. NIGHMAN / WATERLOO-ONTARIO

On 28 March 1417 a particularly harsh reform sermon with the scriptural pericope *Accipiant qui vocati sunt* (Heb. 9.15) as its theme was delivered at the Council of Constance. Until recently this sermon had been misascribed to Vitale Valentine, OFM, Bishop of Toulon, and the only edition of the text was an incomplete and generally unreliable version published by Hermann von der Hardt in 1717. In the introduction to a new critical edition of this sermon I presented the overwhelming evidence that Hardt incorrectly inferred the preacher's identity and that it was actually delivered by Richard Fleming, an Oxford theologian who preached at Constance on several other occasions in 1417, and who later became Bishop of Lincoln (1420-31) and founder of Lincoln College, Oxford (1427)<sup>1</sup>. The present article examines this sermon in terms of the rhetorical strategies employed by Fleming and discusses how this approach relates to the political context in which it was delivered. But before analyzing this text several relevant issues are considered, including an episode from Fleming's past and his Epiphany sermon for 1417, in order to better understand his polemical approach in his Passion Sunday sermon.

Perhaps the best example of Fleming's severe tone in *Accipiant* is seen in the following passage in which he condemns those in the papal curia who have abused their positions by committing simony<sup>2</sup>: "Such ones should not write in their titles 'by the grace of God and the Apostolic See,' but rather 'by the fury of God and the extremely malicious approbation of the Holy See' which, as the multitude of the faithful com-

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<sup>1</sup> C. L. NIGHMAN, *Accipiant qui vocati sunt*: Richard Fleming's Reform Sermon at the Council of Constance, in: JEH 51.1 (2000) 1-36, at 1-2. All citations of this sermon in the present article refer to this edition.

<sup>2</sup> In commenting on this passage Paul Arendt remarked that "Schärfer kann die Verurteilung und Ablehnung der kurialen Geldwirtschaft kaum geschehen": P. ARENDT, *Die Predigten des Konstanzer Konzils: ein Beitrag zur Predigt- und Kirchengeschichte des ausgehenden Mittelalters*, Freiburg im Breisgau 1933, 188.

plain, is the root and mistress of all evils of this kind. O most holy see! Why do you bring yourself into disgrace by this nefarious crime? I know that where you live is the seat of Satan. For regarding promotions the question that occurs to you is 'how many florins does he have in the bank?' rather than 'what kind of virtues does he have in his soul?' Indeed, to be promoted it would be more expedient to have learned the false cunning of simony through much experience in business, than to have absorbed the holy science of theology through study. And the glitter of thousands of ducats would have obtained a church for someone more quickly than the greatest zeal in all the sciences and a hundred or perhaps a thousand times the number of merits. This is your ruin, O Rome, mother of cities! You are in your holy seat, but the holy ambition of the worst ones sitting in you has extinguished your glory<sup>3</sup>. With your destroyed walls and buildings you exemplify how, through your rule, the entire world is now nearly destroyed in terms of virtues and graces. Therefore, farewell for now, O unwell city of Rome" (lines 343-59)<sup>4</sup>.

It is passages such as this which led Hermann von der Hardt to characterize *Accipiant* as "by far the most severe sermon" (*Sermo est longe gravissimus...*) and to speculate that the preacher's conciliar audience may have been impatient with his candor (...*ut mirum sit eum patienter audivisse concilium*)<sup>5</sup>. Paul Arendt, author of the only published survey of the Constance sermons, concurred with Hardt in noting that the preacher of *Accipiant* "spricht mit großer Schärfe und Freimütigkeit" in comparison to other reform preachers at Constance<sup>6</sup>. Unfortunately, there is no evidence from this council that reveals how the audience received it<sup>7</sup>; in fact, it is not even mentioned in any of the surviving eye-

<sup>3</sup> Fleming's ironic reference in this passage to *sancta ambicio* is paralleled by another sarcastic comment regarding the venality of curial simonists: "How can petitions be refused when they are recommended by such regal images on florins?" (lines 298-9).

<sup>4</sup> Similar language is employed throughout this long sermon, as seen in several additional excerpts provided below. See also Fleming's comment on dispensations for unqualified bishops in NIGHMAN, *Accipiant* (see note 1) 5.

<sup>5</sup> H. VON DER HARDT, *Historia litteraria reformationis*, Frankfurt 1717, III 17n.; see NIGHMAN, *Accipiant* (see note 1) I, n. 1.

<sup>6</sup> ARENDT (see note 2) 185, n. 90.

<sup>7</sup> In the published edition of Fleming's next sermon at Constance, for Trinity Sunday 1417, the *exordium* begins with a comment which suggests that Fleming had been accused of something, because he was now preaching *non obstante crimine meo*: J.-B. SCHNEYER, *Konstanzer Konzilspredigten: Texte*, in: ZGO 119 (1971) 222-231 at 222. However, this appears to be an incorrect transcription of the text; I have consulted both of the known manuscript copies of this sermon and the passage actually reads *non abs causa deterians me*. Schneyer also misdated this sermon; see

witness accounts of this council, namely the journals of Guillaume Filastre, Tomasso Cerretano and Ulrich Richenthal. But this is not surprising, considering that virtually all of the sermons that are recorded by these diarists were delivered by major figures at Constance – cardinals, bishops, leaders of the religious orders, or renowned theologians. When Fleming preached before the council on Passion Sunday in 1417 he was merely a canon of Lincoln Cathedral and a junior *sacrae paginae professor* at Oxford. He was also relatively young at about 31<sup>8</sup>, and had only recently arrived at Constance, probably in September or October 1416, nearly two years after the council had commenced<sup>9</sup>.

The question that arises, then, is how was Fleming, a youthful newcomer and a relatively minor figure at this council, able to sustain such a harsh tone, “either by exhorting or by threatening” (*vel exhortando vel comminando*, line 137) his exalted audience. The fact that he was permitted to preach on such important feast days as Epiphany and Passion Sunday no doubt indicates the support of key figures in the English delegation and their influence at this council. But his presence in the conciliar pulpit on those occasions would not have automatically authorized him to address his audience in such strong terms. As a figure of relatively low status, he would have had to earn their attention and respect if he was to be successful in delivering such a forceful message. In the following examination of this text I argue that in composing his Passion Sunday sermon Fleming attempted to bolster his own authority through a conscious process of rhetorical self-construction.

Rhetorical conventions for both classical orations and medieval sermons dictate that in the introductory *exordium* of orations or the *prothema* of sermons speakers should attempt to make their audience re-

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C. L. NIGHMAN, New Dating for *Ecce sedes posita in caelo*: a Sermon by Richard Fleming at the Council of Constance, in: NQRW NS 42 (1995) 433-4. Although there is apparently no indication of how *Accipiant* was received as an oral presentation at this council, there is remarkable evidence for its controversial reception as a written text in a manuscript at Krakow; see ID., Confronting Heinrich Finke's Stettin Mariengymnasium MS 33: a Contribution to Conciliar Sermon Studies, in: *Codices manuscripti. Zeitschrift für Handschriftenkunde* 36 (2001) 13-30 at 17-20.

<sup>8</sup> A. B. EMDEN, *A Biographical Register of the University of Oxford to 1500*, Oxford 1957-59, II 697-699. There is a long tradition that Fleming was born in c. 1378, as Emden reports on page 697, but this has been discounted by a papal letter which indicates that he was born in c. 1385; see *ibid.* II XVII (*Addenda et corrigenda*).

<sup>9</sup> Chr. L. NIGHMAN, Another Look at the English Staging of an Epiphany Play at the Council of Constance, in: *Records of Early English Drama* 22 (1997) 11-18 at 12.

ceptive to their message by employing a rhetorical device known in the medieval period as the *captatio benivolentiae*. According to Cicero, Quintilian and the author of the *Ad Herennium*, one method orators may employ to capture the good will of an audience is by discussing themselves. All of these classical rhetoricians advocated moderate self-praise in highlighting one's own moral and professional qualifications, but without appearing to be arrogant and thus alienating the auditors<sup>10</sup>. This approach would be modified during the medieval Christian era when the *captatio benivolentiae* became simply a profession of *humilitas*. This is illustrated in Arendt's description of how preachers at Constance depicted themselves in order to gain their audiences' goodwill: "...sie betonen ihre Befangenheit, Schwäche und Unfähigkeit, vor einer so illustren Zuhörerschaft aufzutreten, weisen hin auf die Schwierigkeit ihrer Aufgabe, unangenehme Wahrheiten aussprechen zu müssen, bitten um Nachsicht wegen ihrer Jugend, ihrer Unerfahrenheit, wegen der Kürze der Vorbereitungszeit, wenn sie die Predigt in letzter Stunde übernehmen mußten, und leiten dann, die Notwendigkeit der göttlichen Hilfe beim Predigen betonend, zu einer Bitte um den Beistand Gottes über, den sie durch die Fürsprache der Gottesmutter zu erlangen hoffen, weshalb sie nach damaliger, allgemeiner Gewohnheit [der Prothema] mit dem Ave Maria schließen"<sup>11</sup>.

This approach is typical not only of sermons on strictly theological and spiritual themes, but also highly politicized reform sermons in which preachers boldly denounced clerical abuses and called for their reform. For example, in the *prothema* of a reform sermon delivered at Constance by Stephan Palecz, a doctor of theology at the University of Prague and so a person of similar status to Fleming, the preacher explains that he is hindered in his task by his inadequacy and lack of eloquence (*Insufficiencia et ineloquentia mea me retraheret a labore*)<sup>12</sup>.

It may be argued that Palecz was treading carefully because of the association of his alma mater with heresy, but the same was true of Fleming who, as we shall see, took a very different approach in portraying himself in *Accipiant*. The association of Oxford with the Wyclifite heresy surely did not taint Oxonians at Constance; after all, almost the entire English delegation had been educated there. But Fleming was nevertheless a special case because in 1409 he had been accused of defending heretical

<sup>10</sup> CICERO, *Rhetorici libri duo de inventione* 1.16.22; QUINTILIAN, *Institutionis oratoria*, 4.1.6-10; PSEUDO-CICERO, *Ad C. Herennium de ratione dicendi*, 1.4.8.

<sup>11</sup> ARENDT (see note 2) 38.

<sup>12</sup> H. VON DER HARDT, *Magnum oecumenicum concilium Constanciense*, Frankfurt—Leipzig 1696-1700, I 823.

tenets associated with John Wyclif in a public disputation at Oxford. The most interesting fact about this episode is that Fleming was himself a member of the body that censured him, the committee of twelve censors commissioned earlier that year to determine the heretical ideas in Wyclif's writings. The surviving documents do not reveal the actual issue or the outcome of this case, but either Fleming must have been exonerated or he must have renounced his supposed "errors" because he was still a member of the committee in 1411 when it submitted its list of 267 heretical doctrines attributed to Wyclif<sup>13</sup>. H. E. Salter, who edited the surviving documents for this case and attempted to reconstruct events from that evidence, dismissed this episode as simply the result of Fleming's stubborn pride in refusing to admit defeat in a public disputation, speculating that the other censors "were probably not sorry to trip up one who annoyed them by his success and aggressiveness"<sup>14</sup>. However, Jeremy Catto has recently suggested on the basis of other evidence that Fleming probably was "sympathetic to some at least of [Wyclif's] opinions"<sup>15</sup>. Two of the documents edited by Salter contain passages which strongly support Catto's view. The first is a strongly-worded letter by Archbishop Arundel in which he attacked Fleming for his stubborn presumption and for being the leader of a group of young hotheads who "for some time" (*iampridem*) had been publicly defending certain doctrines previously condemned by the committee of censors, "or at least by a majority of them" (*seu saltem maiorem partem earundem*)<sup>16</sup>. Also of interest is a letter from Henry IV in response to an appeal by Fleming in which the king recounted two different versions of the events in question; significantly, Fleming reported his colleagues' judgment against him as being more forceful than the committee itself claimed to be the case; clearly, it was Fleming who was trying to force the issue, while his opponents wanted to downplay the dispute. Moreover, in both accounts the number of those who censured him was a bare majority of only six of his eleven colleagues<sup>17</sup>. This evidence suggests to me that Fleming probably engineered this entire incident in order to promote a more moderate approach towards Wyclif's ideas and to undermine the more conservative

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<sup>13</sup> H. E. SALTER, *Snappe's Formulary and Other Records*, POHS NS 80 (1924) 96-99, 121-130.

<sup>14</sup> *Ibid.* 98.

<sup>15</sup> J. CATTO, *Wyclif and Wycliffism at Oxford: 1356-1430*, in: J. CATTO - R. EVANS (eds.), *Late Medieval Oxford: The History of the University of Oxford*, vol. 2, Oxford 1992, 175-261 at 242-243.

<sup>16</sup> SALTER (see note 13) 121.

<sup>17</sup> *Ibid.* 96-97, 127.

members of the committee of censors<sup>18</sup>.

It is unknown whether Fleming's auditors for his Passion Sunday sermon were aware of his previous flirtation with heresy at Oxford, but most of them would have attended his sermon for the previous Epiphany, *Surge illuminare Iherusalem*, in which he had treated the council's three stated goals: the resolution of the papal schism, the extirpation of heresy, and the reform of the church "in head and in members". While *Surge* is not as forceful as *Accipiant* in condemning clerical abuses, it nevertheless does deal with these problems in quite strong terms, especially in arguing that simony and nepotism have caused and perpetuated the schism. But in treating the problem of heresy Fleming's Epiphany sermon is relatively mild. This is first seen in the sermon's lengthy *exordium* where he argues that the papal schism has been caused by wickedness (*nequicia*) and error, specifically by nepotism and simony, but that heresy has been caused by sloth (*accidia*) and torpor, by intellectual laziness and forgetfulness. In treating the problem of clerical abuses he claims that they have disgraced and polluted the church, which has thus been spurned by those who once glorified it, presumably referring to heretics. What Fleming seems to be saying in this, his maiden sermon at Constance, is that heresy is the least of the church's three problems; indeed, it is simply symptomatic of the failure of pastoral care, and the heretical challenge can best be addressed by the resolution of the schism and especially the reform of ecclesiastical abuses<sup>19</sup>. This relatively mild attitude towards heresy is further developed in the body of Fleming's Epiphany sermon where it is clearly subordinated to the schism in his characterization of figures associated with the Nativity. In the sermon's first *membrum*, the three schismatic popes are characterized as being similar to Herod, who falsely inquired as to the whereabouts of the Holy Family, claiming a desire to adore the child, when in reality he intended to kill him; the three papal claimants also lied when they promised to abdicate

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<sup>18</sup> Chr. L. NIGHMAN, *Reform and Humanism in the Sermons of Richard Fleming at the Council of Constance (1417)*, (Diss.) Toronto 1996, 22-35. One of Fleming's associates on the committee of censors who probably supported him in this case was John Luke. In a letter immediately following the one against Fleming in the archbishop's register, Arundel cited Luke as one of four "masters of arts, or rather disciples of errors" (*magistri arcium quin potius errorum discipuli*) who had spoken out against Arundel's provincial constitutions; see SALTER (see note 13) 123. Luke was a protégé of Bishop Robert Hallum of Salisbury, whom he accompanied to the Council of Pisa (1409) and the Council of Constance. Luke preached at both of these councils; see below, n. 49, and M. HARVEY, *A Sermon by John Luke on the Ending of the Great Schism, 1409*, in: SCH 9 (1970) 159-169.

<sup>19</sup> NIGHMAN, *Reform* (see note 18) 53-57.

for the good of Christendom since they never really intended to do so. Moreover, Herod's Massacre of the Innocents is compared to the spiritual deaths of innumerable Christians whose souls may have been damned because of the continuing papal schism<sup>20</sup>. A marked contrast is seen in the sermon's second *membrum*, which is devoted to the issue of heresy; here Fleming likens heretics to the Magi who temporarily disregarded the guiding star (faith) when they entered Jerusalem seeking the newborn king of the Jews, relying instead on flawed human reason; only after departing the city did the star reappear to guide them to Bethlehem. Nevertheless, he does condemn heresy per se as being like an earthquake or a violent storm which threatens to destroy the church. Yet, while Fleming does condone the execution of Jan Hus and Jerome of Prague, "those bold adversaries of the faith", he notes that their destruction "has perhaps disturbed the minds of many"<sup>21</sup>. For this reason he argues that the council's actions are justified because "if the church gathers together so many others by the loss of a few, it applies balm and heals the sadness of the maternal heart with the liberation of such people"<sup>22</sup>. In other words, the burning of heresiarchs is lamentable, but that sadness is outweighed by the joy of bringing their followers back into the orthodox fold<sup>23</sup>. It seems likely that Fleming's relatively mild attitude towards heresy in this sermon would have raised some eyebrows among certain members of his audience, especially those who had been actively involved in condemning Hus and Jerome of Prague to the stake for their "errors". Indeed, it is plausible that after delivering his Epiphany sermon Fleming may have drawn criticism for his characterization of heresy and heretics<sup>24</sup>.

<sup>20</sup> *Ibid.* 61-62; NIGHMAN, Another Look (see note 9) 14.

<sup>21</sup> *Sed quia forsans movit multorum animos quod audaces illi adversarii fidei, Huss et Ieronimus, per edacis ignis supplicia vanuere et sic pax ecclesie procurata erat*: NIGHMAN, Reform (see note 18) 303 (lines 469-472). All translated passages from *Surge* in the present article are from my unpublished critical edition, rather than the semi-diplomatic edition published by T. MORRISSEY, *Surge, illuminare: a Lost Address by Richard Fleming at the Council of Constance [CIm 28433]*, in: AHC 22 (1990) 98-130. The reasons for preferring the unpublished edition are explained in NIGHMAN, *Accipiant* (see note 1) 6, n. 21. As in that article, I also cite the page in Morrissey's edition; for this passage, see MORRISSEY 121-122.

<sup>22</sup> *Sic catholica mater ecclesia, si aliquorum perditione tam multos ceteros colligit, dolorem materni cordis linit et sanat tantorum liberatione populorum*: NIGHMAN, Reform (see note 18) 304 (lines 478-481); see MORRISSEY (see note 21) 122.

<sup>23</sup> NIGHMAN, Reform (see note 18) 69-76.

<sup>24</sup> Fleming's attitude towards heresy in this sermon, and his previous controversy at Oxford, are especially noteworthy considering that later, as Bishop of Lincoln, he would found Lincoln College with the express purpose of countering the

Fleming therefore had every reason to conform to the conventional means of winning his audience's goodwill through self-deprecation when he ascended the conciliar pulpit on Passion Sunday, yet *Accipiant* contains no statement of humility in the *prothema* (lines 1-93)<sup>25</sup>, or in the *exordium* (lines 94-138), or anywhere else in the sermon for that matter. Arendt claimed that the preacher's statement "everywhere there are difficulties for me" (*angustie...sunt michi undique*, lines 142-3) constitutes a *captatio benivolentiae* in the form of an apology (*Entschuldigung*)<sup>26</sup>, but he was surely mistaken. A consideration of the source and the context of this comment reveals that it hardly constitutes a statement of unworthiness or humility; on the contrary, it introduces the preacher's portrayal of himself as a person of considerable moral authority. The line is an uncited scriptural passage (Dan. 14.22) in which the falsely accused Susanna laments her situation. It is immediately followed by another uncited line from the Bible (Phil. 1.22) in which Fleming exclaims, "and I do not know what I should choose [to do]" (*et quid eligam, ignoro*, line 143). These statements are followed by his recollection of the promise he had issued in his Epiphany sermon to preach a sermon devoted to the problem of simony before Easter<sup>27</sup>. He then describes, in what is surely a

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spread of Lollardy. It was also Bishop Fleming who would carry out the council's mandate by exhuming and burning Wyclif's remains. Both of these actions have contributed to Fleming's historical reputation as a reactionary, but I believe that the foundation of Lincoln College was really an attempt to improve orthodox pastoral care to meet the challenge of heresy, and his destruction of Wyclif's corpse is notable for the fact that it was only carried out in 1428, after much delay and after a papal mandate was issued. Indeed, his rule as bishop of Lincoln reveals significant evidence of continuity with the pastoral concerns of his predecessor, Philip Repingdon; see *ibid.* 240-244. The nature of Fleming's episcopate is the subject of a doctoral thesis currently being prepared by Mr. John Whitehead of Oriel College, Oxford, whose provisional title describes Fleming's tenure as "an episcopal ministry".

<sup>25</sup> The new edition of *Accipiant* makes available for the first time in print the section of this sermon that would normally contain a *captatio benivolentiae*. This is because Hermann von der Hardt's edition, which Arendt relied upon, was derived from one of the four manuscript copies which lack the sermon's *prothema*; see NIGHMAN, *Accipiant* (see note 1) 3. The only statement of humility found here is in Fleming's invocation of the Virgin Mary, whose assistance "we implore with humble prayers" (lines 87-8), but this passage is clearly *pro forma*, and the use of the first person plural removes any doubt that Fleming may have intended this as a statement of personal inadequacy.

<sup>26</sup> ARENDT (see note 2) 185, n. 90.

<sup>27</sup> NIGHMAN, *Accipiant* (see note 1) 6-7. Arendt's misinterpretation of this passage was partially due to a deficiency in Hardt's edition and its manuscript source, in which *epiphanie* was rendered as *episcopis*. This erroneous variant also led Arendt to comment that this sermon had been delivered at the request "von

calculated rhetorical fiction, how he has struggled with a dilemma over whether he should deliver the present sermon. Fleming explains that, after he had issued that promise, "I considered the circumstances of the times more carefully and realized that Jerome, in his *Commentary on the Twelve Prophets*, counsels me to be silent": "'When', he says, 'a devout and prudent and also intelligent man has perceived that there are many impieties in that which is called the house of God'...(and not only are these impieties numerous, but also powerful, which can oppress justice), 'and when he has seen that the madness of learned men has progressed so far that they accept gifts in judging cases, and they do anything for money, and they shun the poor at their doors, and they refuse to listen' (to the truth, that is), 'let that prudent man', he says, 'be silent at that time, and let him not give holy things to dogs and cast pearls before swine which turn around and trample them. And let him imitate Jeremiah, saying: "I sat alone because I was full of bitterness"' (lines 145-56).

Having thus portrayed himself as a *vir ecclesiasticus et prudens atque intelligens* and alluded to some members of his audience as dogs and swine, Fleming then goes on to relate what he claims his audience "knows very well": "Although sermons against this crime [of simony] have been most fruitfully delivered at the time of this council, yet the tongues of the hearers, and especially those of the great, have turned all of this, by a kind of derisive mockery, into frolics, foolish proverbs and parables. Why must I speak further?" (lines 157-61)<sup>28</sup>.

Clearly, these are the "difficulties" that have caused Fleming's supposed uncertainty as expressed in lines 142-3, not his own inadequacy or unworthiness for the task at hand. But although Arendt was surely incorrect in seeing that statement as an apology constituting a typical *captatio benivolentiae*, Fleming's complaint about these "difficulties" should indeed be seen as an attempt to win his audience's sympathy by pointing out, as Arendt puts it, "die Schwierigkeit ihrer Aufgabe, unangenehme Wahrheiten aussprechen". However, the fact that it appears at the be-

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hochgestellten Personen": ARENDT (see note 2) 26, n. 60.

<sup>28</sup> Compare Fleming's statement in *Surge* in which he reproaches the council for failing to enact the reforms that are the primary reason for its convocation: "...we, who have been gathered in Constance for the reformation of the church, which we pretend to be the principal reason for our coming together, have for so many days deluded the whole world with hypocritical deception..." (...*per tot dies pro reformatione ecclesie quam congregacionis nostre causam principalem pretendimus in Constanciense congregati ypocritica simulacione totum orbem delusimus...*): NIGHMAN, Reform (see note 18) 308 (lines 532-535); see MORRISSEY (see note 21) 126.

gining of the first division of the theme, rather than in the introductory *prothema* of the sermon where the *captatio benivolentiae* is normally presented, confirms that this elaborate digression was not intended as a formal usage of that rhetorical device. In fact, his failure to make such a statement of humility in the *prothema* would have no doubt been noticed by his audience, especially since he had also refrained from doing so in his Epiphany sermon<sup>29</sup>. Thus, by waiting until the beginning of the body of the sermon to refer to himself Fleming was underscoring the fact that his self-depiction in this sermon would be very different from the norm.

Having thus complained that his task is futile, Fleming then explains that, despite Jerome's advice, he finally decided to deliver this sermon because of his previous promise to do so: "Although I would prefer to refrain from speaking, I cannot remain silent because I have heard this in Deuteronomy 23: 'You shall do what you promised,' and this from Numbers 30: 'A man may not make his word worthless; rather he shall fulfill everything that he promises'" (lines 162-5).

Fleming's appropriation of the moral high ground here constitutes what is surely a conscious exercise in self-construction by which he justified his own authority in delivering this severe sermon. In the previous passage in which he had cited Jerome, Fleming had claimed his moral authority; here he demonstrated it. It is worth noting that in his Epiphany sermon Fleming had stated that good pastors "are able to threaten their subjects with the sufficiently bitter myrhh of severe correction because...they themselves live correctly"<sup>30</sup>. By fulfilling his earlier promise in keeping with these biblical injunctions, despite the supposed futility of doing so, Fleming portrays himself as someone who is morally qualified to deliver his sharp tirade against those church officials in his audience who have committed simony and other abuses and blocked attempts at

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<sup>29</sup> Fleming would, however, employ the *captatio benivolentiae* device in at least two of his subsequent sermons at Constance. In his eulogy for William Corff, Fleming notes that Corff had been his mentor in the theology faculty at Oxford, where "my unworthy and unmerited apprenticeship reached the apex of the doctorate" (*culmine mea cepit filiatio, indigna et inmerita, apicem doctoratus*); see NIGHMAN, Reform (see note 18) 386 (lines 104-105). In the *prothema* of his eulogy for Robert Hallum, Fleming refers to himself as *ego suorum minimus* in describing the mourners; see Klosterneuberg, Stiftsbibliothek CCl. 82, fol. 81ra. There is also a similar comment in *Absorpta est mors in victoria*, a eulogy for Francesco Zabarella which has been ascribed, perhaps incorrectly, to Fleming; see *ibid.* 200-201, 218, 422 (lines 228-229).

<sup>30</sup> ...*impendere subditis valent amaram satis mirram correpcionis severe quia dum in seipsis recte vivunt*; *ibid.* 313 (lines 599-601); see MORRISSEY (see note 21) 129.

reform.

Following this digression, Fleming's self-construction seems to develop even further. As the sermon unfolds, he repeatedly cites passages from Ezechiel, Zachariah, Isaiah, Jeremiah and other Old Testament prophets in which they lament and criticize the impiety and moral degeneration of the ancient Israelites. While such citations are certainly commonplace in reform sermons, Fleming skillfully appropriates their rhetorical techniques into his own statements, combining lamentation and acrimony into a potent polemical style in criticizing current abuses in the church and predicting its destruction unless reforms are enacted. Indeed, it appears that he intentionally assumed the persona of a latter-day prophet, fulminating in righteous indignation against the corruption he sees around him<sup>31</sup>. This, it seems, is the way that he chose to imitate Jeremiah – not by “sitting alone full of bitterness,” but by speaking out against clerical sin.

Fleming's appropriation of the prophetic voice draws especially upon the complaints in Proverbs<sup>32</sup>, Jeremiah<sup>33</sup>, and Isaiah that God has repeatedly called his people to righteousness, but they have not listened: “The Lord says, ‘behold I shall put away your mother for your crimes because I called and there was no one who heard me’ (Isa. 50). ‘I spoke to you and you did not obey me; I sent my servants and prophets’ (that is, the preachers of my Word, according to Bede) ‘to you and you did not incline your ear nor did you hear me. Therefore, I shall visit a universal affliction’ of the church ‘upon all the inhabitants of Jerusalem, which I have called for because I spoke to them and they did not hear; I called them and they did not respond to me’” (Jer. 35) (lines 510-17).

By interpolating Bede's comment into this passage from Jeremiah, Fleming clearly places himself, and other reform preachers who have preceded him in the conciliar pulpit, squarely in the prophetic tradition as messengers of God who are ignored by a stubborn, sinful people<sup>34</sup>. Their role in this passage is also intimately connected with the gift of

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<sup>31</sup> Arendt was surely thinking of *Accipiant* when he remarked that the reform preachers at Constance were reminiscent of “die Propheten des Alten Bundes”: ARENDT (see note 2) 170.

<sup>32</sup> NIGHMAN, *Accipiant* (see note 1) 23 (lines 565-6).

<sup>33</sup> *Ibid.* 9 (lines 46-51, 58-9).

<sup>34</sup> See also Fleming's previous comment where he paraphrases a passage from Augustine's commentary on Psalm 102: “The Lord...calls for the reformation of morals both in many places and in many ways.... He calls us through preachers; through such ones He has incessantly called us inexcusable ones at the time of this synod” (lines 183-7).

prophecy. Most interesting in this regard are Fleming's statements of utter despair which reinforce his earlier claim that his sermon is futile because of the attitude of his audience. For example, in lamenting the prevalence of nepotism and simony in the church Fleming makes a pessimistic prediction: "He who is called through the carnal revelation of bloodlines, clan or country is called not by God, but by the flesh; he who is unjustly enthroned and given titles of honour through the most falsely specious intervention of deceptions and the exchange of money is called not by God, but by Simon. My lords, what, I ask, has been the origin of the schism, if not the first? What has been the confusion of the churches throughout the entire world, if not the second? Any one of you, if you listen to your conscience, must answer that there is no other cause. And though the entire church has now been congregated for the remedy of this type of deformity, I most truly believe that the awaited correction of such a despicable crime will not<sup>35</sup> be seen in our days, since that prophetic text can be justly applied to us: Alas, alas, 'we have concluded an alliance with death and made a pact with hell!'" (lines 253-63)<sup>36</sup>.

Another example of Fleming's appropriation of the prophetic voice is seen in yet another pessimistic prediction, in this case regarding the response of the Christian people, as represented by the citizens of Constance, to the corruption of the higher clergy. Interestingly, he also seems to attribute the gift of prophecy, or rather potential agency, to them as well: "Whether on this day a calamity descends upon great priests by reason of abominable scandal, because of their shameless and most filthy wantonness, ask the common people in this city, if you like. Indeed, without being asked they speak and openly proclaim things that are too horrible, much too horrible, for the pious ears of a devout ecclesiast to hear<sup>37</sup>. It is for this reason, I suspect, that the grace of our Jesus

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<sup>35</sup> There is an error in my edition in that the word *non* was omitted from line 260, which should read: "...*certissime credo quod in diebus nostris non videbitur...*" I have checked all five manuscript copies and they all agree on the present reading, as do both of Hardt's previous editions: the excerpt in *Concilium V*, prolegomena 26; and the full edition in *Historia III* 19.

<sup>36</sup> It is probably this pessimistic prediction that inspired Hermann von der Hardt to include his edition of "Accipiant" in *Historia litteraria reformationis*, his collection of fifteenth- and sixteenth-century texts published at Frankfurt in 1717 to mark the bicentennial of the Lutheran Reformation. This passage is one of two excerpts he had published previously in his large collection of materials from the Council of Constance; see above, n. 35; and below n. 48.

<sup>37</sup> This reference to what "the pious ears of a devout ecclesiast" has heard from the common people of Constance recalls Fleming's earlier depiction of himself as "a devout and prudent and intelligent man." His comment that their words are "too

has hidden itself from us, and is forced to leave the temple of our synod. 'Therefore, be gone, you who are polluted! Depart, go away, do not touch' the partnership of this holy gathering (Lam. 4)! O my lords! I assert these things tearfully: that the whole world of Christians, virtually existing here, has now learned by experience and has seen the most slimy and stinking lives of persons of great status. They shall cease to separate it from the status of offices and (alas!) how very small in reputation will then be the status of the great because of their great misdeeds (alas!) in the eyes of the whole world!" (lines 423-35).

This statement, in which Fleming rails against the unchaste behaviour of certain prelates at Constance, recalls his suggestion in *Surge* that associates heresy with the failure of pastoral care due to clerical abuses and the schism. For if the Christian laity "cease to separate" the scandalous lives of high clergy "from the status of offices," then the authority of the church will collapse. The heresy that is implicit in such an attitude is Donatism, the belief that a priest or prelate in mortal sin loses his sacerdotal authority and his power to administer the sacraments efficaciously. This idea, denounced by Augustine at the end of the fourth century, is among the doctrines attributed to Wyclif and Hus that were condemned at Constance. Although heresy is not explicitly discussed in this sermon, Fleming's association of this particular heresy with clerical corruption and the failure of pastoral care echoes his argument in *Surge*.

The effectiveness of Fleming's rhetorical strategy in *Accipiant* may be gauged by comparing it to another reformist *sermo ad clericos* by a preacher who also appropriated the prophetic voice. Julie A. Smith has studied an early printed sermon, originally delivered by Bishop John Alcock of Ely at a diocesan synod in 1498, in which the preacher seems to depict himself as "the preacher-prophet Ezekiel". Interestingly, Alcock begins with a statement of humility: "I am abashed as a bishop to say such things: I am ashamed to recount such things. But if I am silent, death is mine, and if I preach this, I will not escape your tongues. And so I will preach boldly"<sup>38</sup>. Clearly, Alcock's self-deprecation, which constitutes a typical *captatio benivolentiae*, is informed by his position of authority over the clergy to whom he was preaching; as their bishop, Alcock was ultimately responsible for the pastoral failings of his subordinates, hence his profession of shame and his comment that, if he failed to perform his duty in chastising them, "death" would be his (that is, the death of his

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horrible, much too horrible" clearly resounds as a personal account.

<sup>38</sup> J. A. SMITH, An Image of a Preaching Bishop in Late Medieval England: the 1498 Woodcut Portrait of Bishop John Alcock, in: *Viator* 21 (1990) 301-322, at 305.

soul by damnation). Fleming, on the other hand, lacked both the authority and the responsibility of prelacy which undermined Alcock's rhetorical strategy, for the bishop's self-construction on the model of Ezechiel was weakened by the inescapable fact of the authority he held over his audience, despite his claims of humility. In contrast, Fleming, by appropriating the prophetic persona, was able to convert his relatively humble status at this council from a liability into a rhetorical advantage.

Moreover, Fleming's strategy also carried with it a risk which Alcock did not share. The "difficulties" of which Fleming complained in his conciliar sermon, namely "the tongues of the hearers, especially those of certain great men", clearly parallels Alcock's expectation that he will not escape the tongues of his auditors. As Smith points out, "in this way Alcock locates himself in the tradition of preacher-prophets, like Ezechiel, who expose themselves to ridicule and danger in order to call sinners to repentance"<sup>39</sup>. This comment recalls Hardt's suggestion that the conciliar audience may have been impatient with the severe tone of *Accipiant*. But while Alcock's audience of diocesan clergy posed no actual threat to their bishop, many members of Fleming's audience had very real power over him. Once again, Fleming's exercise in self-construction is rhetorically more effective than Alcock's in assuming the prophetic persona because his relatively humble status at Constance made him vulnerable not only to ridicule, as in Alcock's case, but also to possible reprisals.

Fleming's polemical tone up to this point in the sermon was certainly bold, and perhaps dangerously so. If not his life, then surely his career might have been jeopardized as a result of his severe attack on abuses committed by certain powerful members of his audience. But near the end of this long sermon Fleming cleverly diffuses any potential backlash that otherwise might have resulted from his polemical style. At a point about two-thirds through his sermon Fleming sheds the prophetic persona which has informed his rhetorical approach to this point and reconstructs himself on the basis of another model in a shift that parallels the historical transition from the Old to the New Testament: "Most loving fathers, I am neither of the evil of the left side in that I would desire to destroy persons or offices, nor of that flattering right side in which I would not wish abuses to be weakened in such ones. Rather 'my soul has chosen to be suspended' (Job 7) between these thieves, namely those who flatter

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<sup>39</sup> SMITH (see note 38) 305. This point is illustrated by the woodcut which accompanied the publication of his 1498 synodal sermon. The priests in Alcock's audience are depicted as ignoring his words and chattering among themselves.

and those who hate....For I hope that either vice may be extirpated and removed from the person, or the person from his office; but I would not desire that the honour of the office be diminished or that true title of high rank be despised because of evils committed under it.... Therefore, in carrying out the most sacred reformation against those sins which lamentably reign over all ranks, let it be done with love of persons and positions, but with disdain and hatred of their vices" (lines 624-27, 633-36, 663-65). It is surely significant that Fleming metaphorically inserts himself into this allusion to the Crucifixion in a sermon for Passion Sunday. By identifying his own soul with Christ on the Cross he has again assumed a persona that informs his rhetorical voice, this time one characterized by charity, but still motivated by a righteous desire for justice; and, in accordance with the new dispensation resulting from Christ's sacrifice, he is also much less pessimistic than before, though he stops short of enthusiastic optimism<sup>40</sup>. The most interesting aspect of this new exercise in self-construction is how Fleming redefines himself in terms of moderation, disavowing the extremes of hatred and flattery, and especially distancing himself from the former, namely from radical attacks against the hierarchical structure of the church that his audience would have regarded as heretical. This recalls Fleming's earlier prediction that if clerical reforms are not enacted and enforced, then the common people "shall cease to separate" the scandalous lives of clergy "from the status

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<sup>40</sup> That Fleming relinquishes the prophetic voice in the process of redefining himself is shown not only by his less pessimistic and more moderate tone, but also by the fact that, with one notable exception, he discontinues his citation of stern passages from the Old Testament prophets for the remainder of the sermon. Only in its conclusion does he once again quote such a passage. Significantly, he reiterates the key point that God has called but sinners have not listened: "Therefore, O most merciful Jesus, allow us to obey your calling in this life willingly so that we may not be included in that most unhappy throng,...to whom on that day of fearful judgment you shall utter that prophetic text from Isaiah 65: 'I shall put you to the sword and you shall all be laid low in slaughter because I called and you did not respond, I spoke and you did not listen. Therefore, behold my servants shall eat and you shall be hungry; behold my servants shall drink and you shall be thirsty; behold my servants shall rejoice and you shall be confounded; behold my servants shall give praise for the gladness of their hearts and you shall complain for the sadness and for the contrition of your mournful spirit'" (lines 837-9, 841-7). In this concluding passage Fleming clearly disengages from his second mode of self-construction on the model of Christ, but in doing so he does not revert to the prophetic persona which informs his earlier voice. Not only are Isaiah's prophetic words put into Jesus' mouth, but they are also integrated into an eschatological doxology of damnation and salvation in which Fleming joins himself to the righteous members of his audience as a supplicant before God.

of offices". Here he is assuring his audience that, despite the severity of his reformist message, he has not fallen into that error himself. Nevertheless, he stands firm on his call for reform while avoiding the more severe tone of prophetic polemics: "Therefore, with charity observed towards persons...and with reverence towards dignities and ranks,...let those culpable crimes which have lamentably deformed the church to excess be eradicated,...and against ancient abominations in every rank and office let there be proclaimed the most holy statutes, which can neither be simply weakened nor detestably dispensed with in that destructive way by any pope, so that both pope and cardinals, all prelates and regulars and anyone of rank may be restrained" (lines 686-93). What Fleming seems to have accomplished in this sermon by this two-fold process of self-construction is a delicate rhetorical balancing act which allowed him in the first instance to launch into a severe castigation of corrupt clerics, and then to maintain his call for reform while protecting himself from accusations that he has crossed the line into a position that might ruin his chances for preferment or possibly even lead him to the stake. But self-protection is not the only, or perhaps even the most important consideration here. If Fleming had not adopted this more moderate tone towards the end of his sermon, he would have been inviting criticism for his prideful presumption, in which case his reformist message would have been discredited along with him.

By concluding his sermon with an appeal to moderation and charity Fleming was also able to exhort his audience to restore concordance and peace among themselves. Only by reconciling their differences, after all, would they be able to proceed with the council's great work of reforming the church: "The enemy, Satan, is striving with his accomplices against this purpose [reform] in two different ways: the one, by the rupture of the council which is now called an assembly; the other, by schisms, dissensions and disturbances by which he now wishes not to gather the people, but to scatter, divide and dissipate them. These are his stratagems, most famous fathers, because he spreads carnal hatred among nations with the intention that it will prevent the church from being reformed. When, I ask, has the good of the church prevailed except when the most glorious realms of France and England, and those two luminaries of the world, Paris and Oxford, have come together in love and a covenant of peace? In consideration of Him whose passion we observe today and who wished His body to be crucified for us, I ask that we all crucify whatever carnal hatred there is within us and strive together for the good of the church for which we have been called. And thus, through our peaceful deeds, peace among kingdoms can be more easily procured, and let this be

conceded by the highest King of all kings, the Author and Lover of peace and Creator of kings" (lines 780-94). This passage is illuminated by considering the political context of the moment; but in speaking of the "carnal hatred among nations" Fleming was not simply alluding to the ongoing war between Henry V and the king of France, but more immediately to the political situation at Constance in early 1417. On 31 March, just three days after *Accipiant* was preached, Thomas Polton, the English protonotary, stood before the council and announced from the pulpit that he was presenting a sealed letter to the council on behalf of the English delegation. This document was in response to the French protest of 3 March against the right of the English delegation to sit at the council as an independent *natio*, a complaint originally issued by Cardinal d'Ailly the previous October<sup>41</sup>.

In addition to this dispute, and no doubt related to it, is the wider controversy known as the "second priority conflict"<sup>42</sup>. During the summer of 1417 the council would become bitterly divided over the issues of reform and unity. In this dispute the German and English delegations, and the emperor-elect Sigismund, would call for the enactment of sweeping reforms under the council's own authority, while the French, Italian and Spanish nations, and most of the cardinals, would insist on a papal election that would finally heal the schism, leaving the enactment of reforms to the restored papacy. But the open break over this issue in July of 1417 was clearly anticipated by the parties involved. An Anglo-Imperial military alliance had been formed the previous summer when Sigismund had visited England following his successful embassy to Spain where he had secured the defection of Benedict's supporters. When he returned to Constance at the end of January Sigismund publicly displayed his favouritism towards the leaders of the English *natio*. In a letter to Henry V dated 2 February 1417, John Forester reported that "the king of the Romans" had assured the English bishops at Constance that he would join them in supporting the reform of the church "in head and in members";

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<sup>41</sup> See L. LOOMIS, Nationality at the Council of Constance, in: AHR 44 (1939) 508-527; C. M. D. CROWDER, Unity, Heresy and Reform (1378-1460): the Conciliar Response to the Great Schism, New York 1977, 110-126; and J.-P. GENET, English Nationalism: Thomas Polton at the Council of Constance, in: NMS 28 (1984) 60-78.

<sup>42</sup> W. BRANDMÜLLER, Das Konzil von Konstanz, 1414-1418: Band II, Bis zum Konzilsende, Paderborn 1997 (= KonGe.D), 276-321; for a revisionist interpretation of the priority conflicts see P. H. STUMP, The Reforms of the Council of Constance (1414-1418), Leiden 1994 (= SHCT 53), 31-44.

no mention is made in this letter of healing the schism<sup>43</sup>. It is therefore of great significance that Fleming's Epiphany sermon, *Surge illuminare Iherusalem*, constitutes a commentary on the council's three goals. Although the third issue, reform, is treated only briefly in the short third *membrum* of this sermon, in it he declares that the reform of the church in head and in members is the principal reason that this council has been called. He then notes that the restraints of time have prevented him from treating this critical issue adequately, and so he promises to discuss this matter alone in another sermon before Easter<sup>44</sup>.

While the English position in the coming priority conflict was only implied in *Surge*<sup>45</sup>, in its sequel for Passion Sunday Fleming would make an unequivocal announcement of the English policy regarding the primacy of reform before union: "The Lord surely called us for the sanctification and reformation of the church at the Council of Pisa. But we adopted the voice of the raven [*cras, cras*] saying and promising: 'tomorrow, tomorrow we shall reform.' Therefore, the flood of the stormy schism has continued until now and (alas!) things have gone from bad to worse. And if in the same way, pretending that we wish to secure this union, we foolishly defer the reform of the church by saying 'we shall reform tomorrow' (which single tomorrow I believe will become a thousand), then undoubtedly the worse things will be superseded by the worst because, through this raven's voice by which we hinder reform with frivolous procrastination, the serene and gentle breeze of desired peace shall never be proclaimed. For without the reformation of the church in its members and especially in its head it is quite impossible that union will persevere or flourish..." (lines 499-510).

This passage, which was twice printed by Hermann von der Hardt<sup>46</sup>, has not been previously recognized for what it clearly is: the opening

<sup>43</sup> CROWDER (see note 41) 107.

<sup>44</sup> NIGHMAN, *Another Look* (see note 9) 12-14. The intentional linkage between these sermons also seems to be emphasized by their liturgical contexts. Fleming's Epiphany sermon deals with the three issues which were the council's stated *raison d'être*; his Passion Sunday sermon deals with what he argues is the council's ultimate purpose: reform. Hence, just as Christ's death fulfilled the promise of his birth, so too does *Accipiant* fulfill *Surge*. Although Fleming does not overtly draw attention to this symbolism when he refers to his Epiphany sermon in *Accipiant*, the more astute members of his audience no doubt would have observed that relationship.

<sup>45</sup> *Ibid.* 13.

<sup>46</sup> NIGHMAN, *Accipiant* (see note 1) 1 n. 2. This passage is part of the other excerpt previously published by Hardt in *Concilium IV 1390-1392* (incorrectly printed as 1360-1362).

salvo in the second priority conflict. Arendt translated and commented on only the first three lines of this passage; he then went on to discuss the priority conflict without making reference to this sermon<sup>47</sup>. The explanation for this oversight is probably two-fold. First of all, this conflict did not formally begin until three months later, shortly before Benedict XIII's deposition, when Sigismund publicly announced his position that the enactment of reforms should precede a papal election. Secondly, because Hardt misascribed the authorship of this sermon to the Bishop of Toulon, who presumably took the opposite position in the dispute over reform and union, Arendt simply did not see what he did not expect to find<sup>48</sup>.

Clearly, this sermon is not only notable for its rhetorical interest. The extraordinary skill that Fleming employed in composing it, especially in bolstering his own authority through a conscious strategy of dual self-construction, supported a very specific political agenda that suggests why he was brought to Constance in the Fall of 1416. The fact that Fleming delivered these two powerful reform sermons early in 1417, when Benedict's deposition was imminent and the opportunity for reform legislation during a papal *sede vacante* was looming, suggests that he served as the official spokesman of the English delegation during that year. Although he was not the only English preacher at Constance in 1417, his delivery of at least five sermons between January and October of that year easily outstrips his three countrymen, who delivered only one known sermon each during that entire year<sup>49</sup>. It is probably no coinci-

<sup>47</sup> ARENDT (see note 2) 246-249.

<sup>48</sup> Although Hardt's edition of this sermon is generally unreliable, due partly to errors in his manuscript source and partly to his own editorial practices, the variants in this passage are minimal and do not significantly alter the meaning; see HARDT, *Historia* (see note 5) III 25; and NIGHMAN, *Accipiant* (see note 1) 30.

<sup>49</sup> For Geoffrey Schall's sermon for 10 Jan. 1417, see the edition by A. ZUMKELLER, *Unbekannte Konstanzer Konzilspredigten der Augustiner-Theologen Gottfried Shale und Dietrich Vrie*, in: *AAug* 33 (1970) 5-74 at 6-12. For John Wells' unedited sermon for 1 Aug. 1417, see H. FINKE, *Acta concilii Constanciensis*, Münster I-IV, 1896-1928, II 505. The other known English preacher in 1417 is John Luke, whose sermon was delivered on 2 May 1417; this sermon was partially edited by FINKE (*Acta* II 442-444), but he stated that it is anonymous and dated it to 1416. However, his manuscript source, which contains the only known copy of this sermon, provides a rubric – somehow overlooked by Finke – that ascribes it to John Luke and dates it to 1417; see Koblenz, *Landeshauptarchiv Abt. 701, Nr. 192*, fol. 111r. FINKE (*Acta* II 486) also dated a sermon by “Gylbertus doctor Anglicus” to 21 Apr. 1417, but his manuscript source does not provide a date and therefore Finke must have inferred the date from internal evidence; another copy which identifies the preacher as Robert Gilbert and dates the sermon to 1415 has since been

dence that Robert Hallum, Bishop of Salisbury and the dominant figure among the English at Constance, apparently ceased to preach after Fleming's Epiphany sermon, though he did deliver an oration welcoming Sigismund in February; up to that point Hallum had been the most prolific English preacher at the council. It is tempting to think that Fleming was chosen to replace him in that capacity at least partly because Hallum, like the Bishop of Ely, would have been unable to speak so severely because of his exalted office; ironically, it may have been Fleming's relatively low status, as well as his learnedness and preaching skills, that made him an ideal candidate to succeed Hallum as the primary spokesman for the English delegation. The fact that Fleming announced in *Accipiant* the English delegation's position in the second priority conflict should remove all doubt that he was indeed speaking in an official capacity, especially considering that it was also Fleming who in September would announce an end to that policy in his eulogy for Robert Hallum, in which he proposed the compromise which would lead to the enactment of limited reforms followed by a papal election<sup>50</sup>.

H. E. Salter claimed that Richard Fleming was no less than "the most brilliant scholar of his time." He based this assessment primarily on a eulogistic poem, a *metrificacio* written around 1435 by an otherwise unknown Carthusian named Stoon who had known Fleming at Oxford. Stoon praised Fleming for being, among other things, "a skillful rhetorician, both in writing and in speaking," who as a student of theology at Oxford was unsurpassed in preaching, teaching and learning<sup>51</sup>. Stoon goes on to note that Fleming also distinguished himself at Constance, both in writing and in speaking<sup>52</sup>. Although there are other extant works by

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found; see J. B. SCHNEYER, *Konstanzer Konzilspredigten: Eine Ergänzung zu H. Finke's Sermones- und Handschriftenlisten*, in: ZGO 113 (1965) 361-388 at 387. I am currently editing Wells' and Luke's sermons, and an anonymous eulogy for Richard Dereham which was probably delivered by Fleming during the summer of 1417.

<sup>50</sup> See BRANDMÜLLER (see note 42) 314, 316; and STUMP (see note 42) 39. Only a few passages from Fleming's eulogy for Hallum have been edited; see J. -M. VIDAL, *Un recueil manuscrit de sermons prononcés aux Conciles de Constance et de Bâle*, in: RHE 10 (1909) 493-520 at 499, 510-511. I am currently preparing a critical edition of this funeral sermon; see above, n. 29.

<sup>51</sup> *...fulgens rhetoricus, scribendo loquendo paratus.... Quomodo se gessit sermonizando, legendo. / Rarus successit similis vel nemo studendo*: SALTER (see note 13) 95, 139.

<sup>52</sup> *In sacra sinodo, quam tunc Constancia pavit, / Se meliore modo penna sed et ore probavit*: SALTER (see note 13) 140. Stoon's comment that Fleming "proved himself in a better way with [his] pen but also with [his] mouth" is interesting since there are no known tracts or letters composed by Fleming at Constance. But he may

Fleming<sup>53</sup>, his sermons from Constance, and especially his Passion Sunday sermon, are probably the most eloquent surviving witnesses in support of Stoon's tribute<sup>54</sup>.

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have been the author of any of a number of anonymous texts printed in the collections edited by H. VON DER HARDT and by H. FINKE. It is also possible that Stoon was referring to Fleming's lost work on English etymology; see below, n. 54.

<sup>53</sup> Fleming's earliest surviving work is his dedication to the Junior Proctor's Book, which he commissioned in 1407; see Oxford University Archives, NEP/supra/register C, fol. 1. There is also a letter sent by Fleming and another English emissary in 1422 to Heinrich, Duke of Bavaria, which is preserved in Vienna, O.N.B. MS lat. 4710, fol. 337r-v. In 1426, during his embassy to Sigismund, Fleming wrote a brief legal opinion on a dispute in Germany which has been edited; see A. SCHMIDT - H. HEIMPEL, *Winand von Steeg (1371-1453), ein mittelrheinischer Gelehrter und Künstler*, München 1977, 94. Fleming's preface to the statutes of Lincoln College, which he founded in 1427, has been printed in E. A. BOND (ed.), *Statutes of the Colleges of Oxford*, Oxford 1853, 18. His episcopal register no doubt contains numerous letters and mandates that he dictated or wrote himself, but only excerpts have been edited to date; see A. H. THOMPSON, *Visitations of Religious Houses in the Diocese of Lincoln*, in: *CYS 7 (1915) passim*. The *sede vacante* records between Fleming's episcopate and that of his predecessor at Lincoln, Philip Repingdon, are all that are contained in the first volume of N. BENNET (ed.), *The Register of Richard Fleming, Bishop of Lincoln (1420-31)*, in: *CYS 73 (1984)*; promised additional volumes have not yet appeared. Finally, Fleming's epitaph, which he presumably composed himself, survives only in Stoon's eulogy; the original memorial brass on his tomb in Lincoln Cathedral was apparently destroyed during the Civil War. I have extracted this text from SALTER's edition of Stoon's poem and translated it; see NIGHMAN, *Reform* (see note 18) 231.

<sup>54</sup> Fleming also preached at the Council of Pavia-Siena (1423-4), but the only known manuscript containing copies of those sermons apparently does not survive. It was seen at Oxford in the sixteenth century by John Bale, who also reported that this volume contained a work by Fleming entitled *Etymologia Angliae*; see R. L. POOLE - M. BATESON (eds.), *Index Britanniae scriptorum: John Bale's Index of British and Other Writers*, Oxford 1902; reprinted with an introduction by C. BRETT - J. CARLEY, *Woodbridge*, Suffolk 1990, 346.