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An Edition with Introduction and Commentary of John Blount's English translation of Nicholas Upton's *De Studio Militari*

volume 1

Introduction & Commentary

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Small Abstract

This thesis presents an edition, with introduction and commentary, of John Blount's early sixteenth century English translation of Nicholas Upton's *De Studio Militari*, a highly influential chivalric text written in 1446. It was comprised of four books, the first two provide a legal justification and discussion of conflict, and the last two a discussion of the theory and practice of heraldry. The translation survives in one copy, which is held in the Bodleian Library (Bodl. MS Eng.misc.d.227). The thesis is presented in two volumes: the first is the introduction and commentary, the second the text itself. The introduction begins with a biography of Upton and Blount and places the production of both the original *De Studio Militari* and the translation in context. After the biographies, each of the four books is introduced each with a chapter to itself, with Book Four divided into two chapters; one examining Upton's discussion of beasts and the other examining Upton's discussion of inanimate charges. These chapters outline sources used by Upton for the information he presented and compare the discourse Upton made with contemporary literature and an evaluation of *De Studio Militari* in its historical context. This ends volume one of the thesis. The second volume opens with a discussion of the families of *De Studio Militari* manuscripts and the position of John Blount's translation in relation to these, and the individual characteristics of Blount's translation. After this I outline the editorial conventions that I have used in the presentation of the manuscript: this is followed by the description of the manuscript of the English translation of *De Studio Militari*. After this is a list of all identified surviving manuscripts of *De Studio Militari*. There follows the text of the translation itself, transcribed word for word from the manuscript. I have inserted illustrations and modern punctuation into the transcript, and have added references that were omitted from the translation, which appear in the Latin versions of the text. Upton's introduction to *De Studio Militari* which is not in the translation, a section missed by Blount from chapter eighteen of Book One, and a list of the authorities which Upton cited are included as appendices.

This thesis presents an edition, with introduction and commentary, of John Blount's early sixteenth century English translation of Nicholas Upton's *De Studio Militari* a highly influential chivalric text written in 1446. It was comprised of four books, the first two provide a legal justification and discussion of conflict, and the last two a discussion of the theory and practice of heraldry. The translation survives in one copy, which is held in the Bodleian Library (Bodl. MS Eng.misc.d.227). The thesis is presented in two volumes: the first is the introduction and commentary, the second the text itself. The introduction begins with a biography of Upton and Blount and places the production of both the original *De Studio Militari* and the translation in context. After the biographies, each of the four books is introduced each with a chapter to itself, with Book Four divided into two chapters; one examining Upton's discussion of beasts and the other examining Upton's discussion of inanimate charges. These chapters outline sources used by Upton for the information he presented and compare the discourse Upton made with contemporary literature and an evaluation of *De Studio Militari* in its historical context. This ends volume one of the thesis. The second volume opens with a discussion of the families of *De Studio Militari* manuscripts and the position of John Blount's translation in relation to these, and the individual characteristics of Blount's translation. After this I outline the editorial conventions that I have used in the presentation of the manuscript: this is followed by the description of the manuscript of the English translation of *De Studio Militari*. After this is a list of all identified surviving manuscripts of *De Studio Militari*. There follows the text of the translation itself, transcribed word for word from the manuscript. I have inserted illustrations and modern punctuation into the transcript, and have added references that were omitted from the translation, which appear in the Latin versions of the text.

The biography of Upton which opens volume one establishes what little is known of his life. The source material for the biography is sparse and his life story can only be traced through fragmentary references. Therefore the biography is not a strictly chronological survey, but rather an examination of the key aspects of his life. Upton was a highly educated lawyer who received three law degrees from Oxford University, including a doctorate. Upton had extensive experience of life on campaign in France in the 1420s when he worked as a senior bureaucrat in the retinue of Thomas Montagu, earl of Salisbury. After the untimely death of Salisbury Upton enjoyed the patronage of at least two other prominent figures in English politics: William de la Pole, Duke of Suffolk and Humphrey, Duke of Gloucester. He held numerous church posts, usually in plurality, the most senior of which was that of precentor in Salisbury cathedral. Evidence from his career as precentor indicates that

contemporaries regarded him as a great expert on heraldry and that he was called upon to organise heraldic display.

Upton drew a great deal of the information he presented in *De Studio Militari* from his education and his own life experiences. This meant that the subjects that he discussed in his book were long term interests of his and that he was very qualified to write on them. That is to say the first two books are largely legal discussions which owe a great deal to Upton's education and personal experience, and books three and four purport to be heraldic discussions which obviously owe a great deal to Upton's experience and erudition in that field. In the biographical sketch of Upton in this thesis I hope to provide a context for the book he produced and to establish what sort of a man wrote it.

Even less is known of the life of the translator, John Blount. The only substantial source for his life is the short dedication to his patron, William lord Mountjoy, which is at the beginning of the translation, and although a few other sources of information may be identified, Blount's own words remain the most important. For this reason the sketch of his life is brief. As with Upton only specific aspects of Blount's life for which evidence exists are examined. Blount studied at Oxford and I examine his career there. He was a churchman and I outline what little information remains on his career as a cleric. Much more is known about the life of his patron, Mountjoy, and I devote some attention to him to explain why he would have wanted to commission a translation of *De Studio Militari*. I close this chapter with an examination of the process of translation as described by Blount in his dedication.

The next chapter introduces and comments on Book One of *De Studio Militari*. Book One is the most difficult and complex of the four books which make up the text. The subject matter of the book can best be described as 'that noble soldier, the knight'. An examination of this subject has, by definition, many dimensions. Upton examined nobility because it was nobility that made knights different and superior to other soldiers. Knights were more than individual soldiers were, in that collectively knighthood was a social caste with its own myths and values, and Upton examined these in great detail. Knights' vocation was soldiering, and to this end Upton examined what qualities made good soldiers. War was knights' reason for being, and Upton argued that if war was waged in the proper fashion then it, and by association knights, had a justifiable social purpose. Heralds, although they were not conventionally knights, were important figures in knightly society, and therefore Upton examined them in this context. Upton discussed the feudal fee because possession of it was the public mark of nobility, and therefore this was an important issue in an examination of knights and their place in society.

Book One is of particular interest because of the way in which Upton combined his book learning with practical experience in his discussion. The book is full of legal citations and references to support arguments which Upton has made, motivated by what he saw when he was on campaign in France in the 1420s. In some passages in Book One the text has an almost proto-humanist quality, in consequence of Upton's extensive use of ancient Roman examples as a teaching tool for contemporary experience. As much of Book One is a pastiche of other books Upton often included information just because it was in the texts he was using, whether or not the information was pertinent. For this reason there is much in Book One, which is not worth commenting on, as it seems Upton was just showing off his education. However for the most part what he wrote is of great interest and therefore I discuss it in some detail. I have laid out the examination of Book One with reference to the themes I have outlined above; however I do not discuss heralds in this chapter. Instead I examine Book One's discourse on heralds in my introduction to Book Four (Inanimate Charges). This is because there is a further lengthy examination of heralds in Book Four, and it would seem sensible to discuss everything that Upton said about heralds in *De Studio Militari* in one place.

The third chapter of volume one is an introduction and commentary on Book Two of the text. The book is connected by subject matter to Book One; that is to say they both are concerned with war. However a comparison of the two shows they are markedly different. Book One is primarily interested in discussing the problems, status and privileges of the individual soldier. Book Two, as will be outlined in this chapter, is concerned specifically with 'warfare' itself. Furthermore the way in which information was laid out in the two books is very different. Book One is an excessively rambling affair which is extraordinarily difficult to follow and make sense of, as it flits from subject to subject without any warning, and often gets bogged down in legal *minutiae*. The discussion in Book Two, by comparison, is clearly laid out and deals with each of its topics in turn and then moves on in an organised fashion which is easy to follow and understand.

Book Two is particularly interesting because, of the four books of *De Studio Militari* it is most directly reliant on Upton's own experience. It is clear that Upton was balancing book learning with practical experience in this book, and when there were no written authorities for him to refer to he was not afraid to trust his own experience. He discussed four main topics: the just war; duels; safe-conducts; reprisals. He used the discussion of the just war as an introduction to the discussion on duels: he discussed different types of wars until he got to the duel ('*bellum particularum*'). After duels Upton turned to safe-conducts. This was linked to duels; Upton was aware that a foreign knight coming to England, or for that

matter an Englishman going abroad, to fight a duel would need a safe-conduct. This discussion was followed by a consideration of reprisals, which were in turn linked, because Upton opened his treatment by asking what would happen if a safe-conduct were broken? A letter of reprisal, to recover damages, would be the answer. This progression was not strictly logical, but the connections are apparent. The introduction to Book Two is laid out in the following way: I discuss first the sources Upton used and then I examine each of the four sections, concentrating throughout on how Upton linked his scholarship with practical experience.

The next chapter introduces Book Three. It is connected by subject matter to Book Four, as both are concerned with heraldry: Book Three contains a discussion of colours used in heraldry, and Book Four a discussion of living and inanimate charges borne in arms. However the two books are radically different. As far as I can tell Book Three is unique in heraldic writing, and its overall layout and content does not reflect that of any contemporary text. This contrasts with Book Four, which is similar to many contemporary works and, although idiosyncratic in some respects, is as a whole, reflective of accepted contemporary opinion. As I outline in the introduction to Book Three, although nearly all of the information that Upton relayed there was derivative, plagiarised from identifiable sources, the source material will not explain the idiosyncrasies of his conclusions. Exposing these matters is the main preoccupation of this chapter: in addition something will be said about Upton's discussion of the origins of heraldry, and about the specific examples of practical heraldry that he referred to in his book.

The next chapter introduces the discussion of birds, beasts and fishes borne in arms, which is the first section of Book Four. Book Four differs from Book Three in that it is extremely similar to many heraldic texts written in the fifteenth century. Although it is far from being a copy of any heraldic text or even exactly similar to any other text, it reflects contemporary experience and custom in its scope, length and discourse. The bestiary was divided into beasts, birds and fishes and these three divisions are apt for examining how and from where Upton drew his information on the animal properties he described. I discuss beasts by reviewing the layout of the section, the primary sources Upton used, the nature of the information he presented and how he presented it. The birds section is more complex than beasts. A review of the layout is necessary, as is an examination of the way Upton used the sources on birds and of the problems involved with these sources. The fishes section is very brief and therefore the discussion of it is short. Out with the natural properties of animals, Upton outlined the heraldic properties of animals where he deemed it relevant and an examination of these heraldic discussions also illustrates Upton's use of sources. Following

the discussion of sources I examine contemporary heraldic bestiaries, and try to place the bestiary in Book Four of *De Studio Militari* in context. In addition I examine the statutes of war of Henry V which Upton worked into the bestiary under the lion section, with reference to another copy of the statutes which survives. I finish this chapter with a review of the autobiographical asides with which Upton peppered this part of the work.

The next chapter introduces the remainder of Book Four, that is the discussion of inanimate charges. The description of inanimate charges was much shorter than the bestiary, but it compressed a great deal of information into a relatively brief space. The examination of inanimate charges is explicitly concerned with the rules of blazon at all times. Upton's discussion of inanimate charges was similar to the bestiary in that, although both were written independent of other fifteenth century heraldic texts, they both mirrored contemporary practice. I have been unable to identify any major source for Upton's discourse on inanimate charges, and I believe that he did not have one. Instead Upton relied on his personal experience as the primary source for the discussion. To establish this I compare the description of inanimate charges in *De Studio Militari* with John of Bado Aureo's *Tractatus de Armis*, which is traditionally regarded as the source for *De Studio Militari* and has a superficial resemblance to it. Although the information which Upton presented on inanimate charges mirrored contemporary practice, the scope and extent of his examination was greater than that in most contemporary texts on heraldry, as I show by comparing the layout and contents of *De Studio Militari*'s treatment of these charges with the descriptions in other texts. I also discuss briefly the coats of arms, which Upton named in his text, and the comments that he made concerning the expertise of heralds. In conjunction with this I also consider the discourse on heralds, which Upton made in Book One, as the discussion of this subject in Books One and Four are necessarily linked. The discussion of inanimate charges ended with Upton considering who had the power to grant arms and I discuss this in the context of whether or not heralds could grant arms.

Volume two of the thesis is concerned with the text itself and I open the volume with a discussion of the families of *De Studio Militari* manuscripts and where the English translation fits in. There are two families of *De Studio Militari* manuscripts, that is to say the *De Studio Militari* version and the *Baddesworth* version. This chapter examines these two families and shows how John Blount's English translation fits into the former branch. I begin the chapter by outlining the differences in the two families. I then discuss which of the two versions should be regarded as the original. I end with an examination of the idiosyncrasies of the Blount translation, which set it apart from other surviving manuscripts in the *De Studio Militari* family.

I then outline the editorial conventions, which I have followed in the presentation of the text of the thesis. The next chapter is a description of the manuscript of the translation, Bodl. MS Eng.misc.d.227. I then list all identified and surviving manuscripts of *De Studio Militari*.

I then present the text of John Blount's translation of *De Studio Militari* itself, with Book Four divided into two sections, first the bestiary and then the inanimate charges. I have inserted modern punctuation and paragraph structuring. I have corrected mistakes and omissions in the manuscript with appropriate footnotes. In addition I have inserted illustrations taken from Edward Bysshe's printed Latin edition of *De Studio Militari* at the appropriate places in the text. Volume two ends with three appendices, the first is the Latin introduction to *De Studio Militari*, which Blount did not translate, the second is a section on legal means by which one can establish nobility which Blount missed out from chapter eighteen in Book One and the third is a list of all authorities that Upton referred to in the text.

Volume 1

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Preface

I am grateful to have this opportunity to acknowledge the help I received during the writing of this thesis. My primary academic debt is to my supervisor, Dr Maurice Keen at whose suggestion this project was begun. I am particularly indebted to him for his tireless proof-reading and stylistic advice over the last two years, without which this thesis would be immeasurably poorer. I also must thank Professor Richard Sharpe and Dr Bruce Barker-Benfield for their help in the description of the manuscript. I also would like to take this opportunity to express my gratitude for past help given to me by Mr Robert Dalziel, principle teacher of history at Cumnock Academy and especially Professor John A. F. Thomson of the University of Glasgow who first encouraged me to begin research.

I must also express my gratitude to the Scottish Office for providing me with three years funding to pursue the research for this thesis, and the Snell Fund of the University of Glasgow and Balliol College for providing me with constant financial assistance during my time in Oxford, and especially for awarding me a bursary which allowed me one more year of research to complete the thesis.

Finally and most importantly I would like to thank my parents for their unstinting support of me during all of my studies. Without them this thesis would not have been written, and it is to them it is dedicated with much love.

I

Nicholas Upton and his translator

This thesis presents John Blount's English vernacular translation of *De Studio Militari*, an influential and widely read English chivalric text of the fifteenth century. Nicholas Upton originally composed it in Latin in 1446. *De Studio Militari* was made up of four books and the subjects covered in it reflected Upton's life and interests. That is to say books one and two were a legal justification and discussion of conflict, and books three and four were a discussion of the theory and practice of heraldry. *De Studio Militari* was primarily a pastiche of other sources which Upton plundered where he found information which interested him. In this way *De Studio Militari* greatly resembled Honoré Bonet's *L'Arbre des Batailles* which was written a little earlier and independently. Upton's borrowing of sources was often peculiar to himself and in some cases the provenance of the information he gave is far from clear. Upton also used his own experience to amplify and fortify his arguments whenever it was relevant. The popularity of the book to contemporaries is indicated not only by the substantial number of manuscripts which survive but also by the expensive nature of many of the manuscripts, some of which are lavishly decorated. *De Studio Militari* was regarded as a very important text in the development of the science of heraldry under the Tudors. This is indicated by the prominent place of the text not only in the libraries of fifteenth and sixteenth century gentlemen but also of kings of arms, and the explicit praise the text received from heralds from its completion in the mid-fifteenth century to its publication in 1654 under the editorship of Sir Edward Bysshe, and beyond. The book is a fascinating and vital text for the study of fifteenth century English chivalry and what was to follow; nevertheless it does present some major difficulties such as what sources were used in its composition and what the whole text meant. These difficulties perhaps explain the lack of a published, modern critical edition of the text despite the large number of surviving copies. Bysshe's edition is far from definitive, and lacks a critical apparatus and commentary[1].

That *De Studio Militari* was of great interest to late medieval gentlemen is supported by the commission of the translation of the text by John Blount at the start of the sixteenth century. As far as is known this is the only translation ever made of the text. Only one

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[1]Upton, Nicholas, *De Studio Militari*, ed. Edward Bysshe, London, 1654

manuscript of it survives, and this is in the Bodleian Library[2]. F. P. Barnard published parts of the translation in an extremely edited, and essentially useless, edition in 1931[3]. Blount's text is a pacy, literal translation and it is not clear why this never enjoyed the wide audience that its Latin progenitor received. However the text, in English or Latin, is of central interest to any scholar of late medieval heraldry or laws of war. Before discussing the contents of the text and the context of its execution it will be useful to consider what is known of the lives of the author and his translator.

Nicholas Upton was a man of many parts: he was a highly qualified lawyer, veteran of some of the most violent campaigns of the Hundred Years War, a noteworthy churchman and respected author and intellectual. However the source material for an examination of his life is sparse and his biography can only be seen in fragmentary references. Therefore this sketch will examine aspects of his life rather than attempt to present a strictly chronological survey. I will examine Upton's family background, his education, his experiences in war, his career in the church and his patrons. As Upton's fame was derived principally from his authorship of *De Studio Militari* (and its fame is derived from its heraldic sections), a brief examination of his opinions and thoughts on heraldry and of his ideas and general values, as expressed in that work, must be made.

Nothing is known of Upton's family background. Even the year of his birth is not established although, as will be discussed later, on the basis of Upton's academic career it is likely that he was born in the last decade of the fourteenth century. His home county in England is unidentified, and in the late seventeenth and early eighteenth centuries two theories were advanced[4]. The first theorist was Anthony Wood, author of *Athenae Oxonienses,* who suggested Somersetshire. He argued that the town called Upton in Somersetshire, the rumour that Nicholas Upton had attended Broadgates Hall, the Oxford college for Somersetshire men, and the fact that most of the church posts that Upton held were in Somersetshire meant that this was the county he came from. Wood however, showed no great faith in his own theory, observing "of these matters I will not be confident"[5].

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[2]Bodl. MS Eng.misc.d.227

[3]The Essential Portions of Nicholas Upton's 'De Studio Militari', ed. F. P. Barnard, Oxford, 1931

[4] There is another theory that Upton was from Wiltshire. This was proposed by A. R. Malden in The Canonisation of St Osmund, London, 1901, p. xx, where he wrote '[Upton] is said to have been a native of Downton, near Salisbury'. However Malden gives no further explanation as to where this theory came from and what evidence he had for it.

[5]Clark, A., Anthony Wood's Life and Times, volume 3, Oxford, 1894, p. 467

Interestingly Wood missed another point which points to Somersetshire as Upton's home county, in that he could have cited Upton's attending Winchester and New College (which I discuss below) as important; the colleges' foundations stipulated that priority in selection was to be given to candidates from selected counties, and this meant that the student body of New College in the fifteenth century came mostly from five counties: Hampshire, Wiltshire, Oxfordshire, Berkshire and Somersetshire[6]. Nonetheless this is hardly conclusive proof in favour of this county as the home of Upton.

The second theory was a reaction against Wood's proposition by one of his contemporaries, John Prince in his *The Worthies of Devon* which unsurprisingly identified Upton as a Devonshire man. Prince argued that place names such as Upton-Pine and Upton-Helion would support his theory, and by examining local records he identified two families of Uptons resident in Devonshire who could have been Nicholas Upton's family. He decided in favour of the Uptons of Portlinch in Newton Ferrers, near Plymouth and named Upton's parents as perhaps being John and Elizabeth Upton, who were local farmers. He elaborated on this, writing that Upton was their second son[7]. This argument was accepted by Wood and has been accepted by most twentieth century writers on Upton, for example Rodney Dennys and A. F. Pollard[8]. It seems plausible that Nicholas Upton was a second son considering his subsequent career in academia and the church. What is more, as I will discuss below he was almost certainly a close acquaintance of Richard Hankford, scion of a knightly Devonshire family and a contemporary of Upton's at both Winchester and New College, and later a colleague of his in the retinue of Thomas of Montagu, earl of Salisbury. Again this does not offer any direct evidence that Upton was from Devonshire, but it is a connection to that county which could explain why, if Upton was a Devonshire boy, he ended up at Winchester, when most of the students of the college were drawn from the five counties earlier mentioned. However his Devonshire ancestry is not proved and it must be borne in mind that Prince had an ulterior motive for identifying the famous academic and author Nicholas Upton as a Devonshire man, as this would reflect well on Devon. This is clear from the account of Upton he offered in his book, which was very complimentary ending with the words that Upton:

> "was a great Ornament to his County and Family and deserv'd well of all Lovers of Heraldry"[9].

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[6] Buxton, Jon & Williams, Penry, New College Oxford, 1379 - 1979, 1979, p. 31

[7] Prince, John The Worthies of Devon, Exeter, 1701, p. 572

[8] Dennys, Rodney, The Heraldic Imagination, London, 1975, p.77; DNB Volume XX, Oxford, 1922, p. 39

[9] Prince, John, The Worthies of Devon, Exeter, 1701, p. 572

Prince was possibly correct that Upton was all of those things but did not prove conclusively that Devonshire was his county. Although his theory is possible, like Anthony Wood, of these matters I am not confident.

Upton had an impressive academic career. This began with his enrolment as a scholar at Winchester College in 1409. As most Winchester scholars were enrolled at the age of around thirteen it seems plausible to date Upton's birth to around the year 1396[10]. He was enrolled as "Helyer, or Upton, Nicholas"[11], and this alias has not been explained. If Prince's theory on Upton's parents was correct then Helyer was not a reference to Upton's mother whose maiden name would be Burlegh, though it could be a reference to the place name, Upton-Helion[12].

Upton illustrated sufficient promise as a scholar to gain entry to New College in Oxford on 16th December 1413, where he enrolled to study law[13]. There was a requisite two years to serve in the college after admission before a student was elected to be a fellow, and Upton followed this time frame and was duly elected a fellow in 1415. The roll of the Steward of Hall of New College records that Upton was present at the college for some part of every year from 1415 to 1422 (although the roll is incomplete between 1418 to Michaelmas 1420)[14].

In 1421 Upton graduated as Bachelor of Civil Law[15] which was quicker than most New College fellows; the typical year of graduation for the BCL was the seventh year as a fellow[16]. He had graduated as Bachelor of Canon Law by 1427, as in that year he was made Rector of Chedezoy and the grant described him as "Master Nicholas Upton, bachelor of both laws"[17]. However it is likely that he had graduated BCnL before 1427, as BCL graduates who read for the canon law degree usually only took three or four years to complete[18] (although involvement in war in France might have slowed Upton's academic progress). Upton

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[10] New College Oxford, 1379 - 1979, 1979, p. 7
[11] Kirby, T. F., Winchester Scholars, London, 1888, p. 36
[12] Prince, 1701, p. 572
[13] R. L. Storey in his study of Medieval New College described how the Warden and Sub-wardens of New College would visit Winchester College each summer in order that they might identify the most promising students there to fill vacancies at New College, Winchester's sister foundation, when they became available. Upton must have sufficiently impressed them earlier that summer, New College Oxford, 1379 - 1979, 1979, p. 16
[14] St Osmund, 1901, p. xxi
[15] Dennys, Heraldic Imagination, 1975, p. 77
[16] New College Oxford, 1379 - 1979, 1979, p. 23
[17] Register of John Stafford volume 1, ed. T. S. Holmes, London, 1915, p. 55
[18] New College Oxford, 1379, 1979, p. 23

graduated as Doctor of Canon Law on 21 March 1439[19]. He must have worked towards his inception in the 1430s after he gave up life on campaign at the start of that decade, as I will discuss below, and it may be that what encouraged him to do so was the patronage of Humphrey of Gloucester, the subject of the dedication of *De Studio Militari* and an established promoter of academic endeavour at Oxford University.

The rumour that Upton attended Broadgates Hall, which Anthony Wood believed and was described in the history of the college, seems unlikely[20]. A. B. Emden in his study of Oxford graduates found no evidence of Upton's presence at Broadgates Hall[21]. It is dubious that he would have left New College where he was a fellow, and which was a centre for legal students in Oxford in the early fifteenth century[22]. New College students were striking in the loyalty that they showed to their college and the support they gave to their fellow alumni, and there is nothing in Upton's career to lead one to suppose that he did not share this affection for his college. Indeed A. R. Malden wrote that Upton stood for Warden of the college in 1429, to fill the vacancy left by John Bowke, and he received 23 votes out of 57, losing to William Estcourt[23], although he does not give any reference to the source he has used for this information. It seems nearly certain that New College was the only college that Upton attended.

Nicholas Upton's legal training directly influenced the contents of *De Studio Militari*. This may be seen most clearly in the first two books which were in large part discussions concerning laws of war wherein Upton drew heavily on the Italian jurists Bartolus of Sassoferrato and John of Legnano. What is more, as I will explain later, it can be established that Upton drew from these legal tracts first hand as opposed to using them through secondary works. Upton's learning affected the nature and tone of *De Studio Militari* in that he examined issues in a discursive style which was legal and systematic. Upton's legal training influenced his outlook in less obvious ways too. This can be illustrated from his bestiary in Book Four. For instance in the passage discussing the mole. He said that it opened its eyes only when it died, and this moved him to analogise and he observed that in this way moles resembled certain humans, that is:

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[19]Emden, A. B., A Biographical register of the University of Oxford to AD. 1500 volume 3, Oxford, 1959, p. 1933

[20]MacLeane, Douglas, A History of Pembroke College, Oxford, 1897, p. 66

[21]Emden, A Biographical register, 1959, p. 1933

[22]Clough, C. H., Profession, Vocation and Culture in Later Medieval England, Liverpool University Press, 1982, p. 170

[23] St Osmund, 1901, p. xx

> "a cordyng to the maner of certen persons whom the cyuyll lawe makyth mentyon of which were bonde all ther lyffe and Fre at ther deth. But such servytude & bondage ys nowe antiquate ande no more usyde"[24].

Nicholas Upton was a well-read medieval man. He is known to have owned the *Roman de la Rose*, Jerome's *Epistle*, Augustine's *Super Johannem* and Bartholomaeus Anglicus's *De Proprietatibus Rerum*. The commentaries on the four books of *De Studio Militari* which follow establish that Upton was familiar with many other authorities, such as great jurists like Hostiensis and Durandus, church writers such as St. Bernard, literary figures such as John of Salisbury, heraldic authorities such as John of Bado Aureo, and encyclopaedists such as Thomas of Cantimpré. The range of these texts indicates that Upton's erudition and interests were in many fields, not merely law and religion as his education might lead us to expect.

Sometime after graduating BCL in 1421 Upton took part in the war in France as he testified in *De Studio Militari*:

> "Incidently ys movyd a question, whyther hyt be synne to warre. To the whyche (savyng my presthode) I am a schamyd to make answerre, bycause I have toylyde and bysyd my selfe at dyuerse trobles, In warre, at meny seagys, fortalyssys, assawtes, and actes of batell."[25]

The actual date when he first went on campaign is unclear, but based on the evidence cited above concerning his residency as recorded in the roll of the Steward of Hall of New College, he probably went in 1421 or 1422. He quickly joined the retinue of Thomas of Montagu, earl of Salisbury. Upton was with Salisbury during most of his campaigns. In *De Studio Militari*, when discussing the castration symbolism of the ox head in heraldry, he implied that he was present with Salisbury at the battle of Verneuil, which was fought on 17 August 1424:

> "And yt was my chance on a tyme to geve to a certen gentilman and squyer of my lord and maysters howsehold iii black oxe heddes to bere in his armes in a feld of silver, because at the battle of Vernals he was stryken wth a spere throughe the privi partes so thereby made unable to generation."[26]

It can be assumed that he was probably present at Orléans in 1428 when Salisbury was killed. The central role of Upton in administering Salisbury's estate as one of the executors of the earl's will supports this.

The question as to why Salisbury became his patron is not clear, but Upton's connection to Richard Hankford may offer a clue. Hankford was the grandson of Sir William Hankford of Devonshire, chief justice of England. Richard went to Winchester in 1408 (one

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[24]Bodl. MS Eng.misc.d.227, fo 156
[25]Bodl. MS Eng.misc.d.227, fo 75
[26]Bodl. MS Eng.misc.d.227, fo 143

year before Upton did) where he was excused from having to pay because his grandfather had been a friend of the college's founder William of Wykeham, which explains why this Devonshire boy was admitted to the college. Hankford moved on to New College where he studied until 1415 when he became the heir of Sir William, and was withdrawn from studies, no doubt so that he could live a more knightly lifestyle more befitting his new status. To this end he entered the army of Henry V and fought in France for the rest of the decade. In the 1420s he joined the retinue of the Earl of Salisbury, and his close relationship with Montagu is borne out by his marrying the earl's daughter when his first wife died[27]. There is no direct evidence but it seems likely that it was Upton's acquaintance with Hankford from school and university that resulted in his entering the service of Montagu.

Upton's next move in the army following Salisbury's death is not clear and it has been suggested that he joined the retinues of William de la Pole, duke of Suffolk and Sir John Talbot[28]. Although there is no evidence for this it is plausible, especially with regard to Suffolk. The Duke had been Salisbury's second in command and on the earl's death had taken over the leadership of the army.

Upton's movements can be pinpointed accurately again in 1430. The French Calendar Rolls of Henry VI show that on 14th January 1430 he was granted protection to take part in Cardinal Beaufort's proposed crusade against the Hussites[29]. Before it began its crusade this army was diverted to support the royal army in France, and with it was Upton. The French Calendar Rolls show that on 16th April 1430 Upton was again granted protection, this time as part of Henry VI's retinue for war in France[30]. By May of that year he was again given a grant of protection; this time he was in the retinue of Sir John Tiptoft[31]. This implies that Upton was present during the momentous events of that campaign including Henry VI's triumphant re-entry to Paris. However this cannot be proved and he made no reference to this in *De Studio Militari*. It would seem Upton resigned campaigning in late 1430 or early 1431 as he was back in England by 6 April 1431 when he was made canon of Wells Cathedral and prebend of Dindar[32].

In the war it is doubtful that Upton actually fought. As he was a priest, he was unsuitable to be a soldier. Instead his extensive training in law would have made him a valuable staff officer for an army on campaign. Autobiographical references in *De Studio Militari* support this, indicating that Upton's position under Salisbury was that of a senior

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[27] New College Oxford, 1379 - 1979, p. 34
[28] Dennys, Heraldic Imagination, 1975, p. 78
[29] D.K.R. 48th Report, vol. XLIV, London, 1887, p. 227
[30] D.K.R., 1887, p. 272
[31] D.K.R., 1887, p. 275
[32] Dennys, Heraldic Imagination, 1975, p. 78

bureaucrat. This can be illustrated by examining his in depth discussion of the nature and varieties of safe-conducts used by a captain when on campaign. Upton included an example of a safe-conduct which had been issued by Salisbury which he had drawn up himself, as he said, "As I was wonte At the request off my speciall good lorde [Salisbury] to prouyde for other"[33]. What is evident from his discussion of the safe-conduct is not only Upton's skilful draughtsmanship but also his understanding of the difficulties of guaranteeing surety in fifteenth century Europe.

Spasmodic autobiographical references in *De Studio Militari* offer the reader vivid scenes of life in the camp as experienced by Upton. One such reference appeared in his discussion of the laws regarding duels where he wrote:

> "thys maner of Fyghtyng ys dayly exercyde In a maner in the Realme of Fraunce, and I meny tymes my selffe haue sene paretyse Fyghtyng after thys wyse where as they haue chosen for there Iugge to breke thys stryffe my specyall good Lorde and mayster the lorde Thomas, some tyme yerle of Salysbyry"[34].

Upton then went on at length describing some of the duels that he had seen and how they were resolved. The varied nature of these asides illustrates to the reader the effect of the war on the young Nicholas Upton, such that when writing *De Studio Militari* in 1447, 16 years after his retirement from campaigning, he was able to draw on these experiences with great discretion and detail to illustrate any theoretical point he was making with a practical example. This can be seen in the several occasions where he described the nationalities of knights that he had seen in order to explain some point he had made; for example in his bestiary when describing the spider he explained their inclusion as a heraldic beast with the comment:

> "I wryt thus moche of the Spyder by cause I sawe theym borne some tyme in Armes of A lombard."[35]

In addition Upton showed that he was not blind to uglier aspects of the war, for example when discussing the truce granted to men and women of the church he commented "thys was not obseruyed in my tyme In fraunce"[36]. It is clear that this formative period of Upton's life made a profound and lasting impression on him.

Upton had a considerable career in the church. In 1421, before going on campaign, he was ordained a subdeacon, deacon and, on 17 May, a priest. He went on to obtain many

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[33] Barnard, Essential Portions of De Studio Militari, 1931 p. 23
[34] Barnard, Essential Portions of De Studio Militari, 1931, p. 13
[35] Bodl. MS Eng.misc.d.227, fo 141
[36] Barnard, Essential Portions of De Studio Militari, 1931, p. 29

valuable church posts. These included, amongst others, the Rectory of Chedezoy in 1427 (which he swapped with John Bathe for the Rectory of Stapulford on 2 October 1434), canon of Wells Cathedral and prebend of Dindar in 1431, rector of Fawley in 1440, canon of Salisbury Cathedral in the same year, canon of St. Paul's in London and prebend of Wildland in 1443, and in 1446 archdeacon of Taunton, prebend of Milverton and precentor of Salisbury. He was an absentee from his posts until 1431 as he was on campaign in France. Afterwards he would necessarily be absent from most of his posts through their plurality. He took being a pluralist punctiliously as is indicated by two licences granted to him by the papacy. The first was in 1429 and concerned the rectory of Chedezoy[37], the second was in 1440 concerning the rectory of Fawley[38]. The grants allowed Upton to hold more than one benefice concurrently.

Upton's most important post was that of precentor of Salisbury, as is indicated by his resigning as canon of St. Paul's and prebend of Wildland on his appointment there[39]. He was reputed to have given erudite sermons in that office[40]. The cathedral chapter looked to him to co-ordinate any important ceremony involving them[41]. He was also charged with carrying out bureaucratic business of the chapter, for example in 1451 he carried out a survey of some of the Chapter Estates in conjunction with John Cranborne, a canon of the cathedral[42]. Accounts of chapter meetings indicate that he was a conspicuous figure in Salisbury, and it is clear he had an intimidating personality. This can be seen in the letters he sent to Salisbury from Rome while on a mission there (look below). An example of this is his letter to the Dean and Chapter from Rome on 6th of November 1452, which opened with Upton berating them for not writing to him and his partner often enough:

> "Right worshipfull Sirs, I recomende me to you, and will ye wite that sith the first tyme of oure coming heder we had neuer worde ne comfort fro you, notwithstondyng that we haue wryte to my lord and to you a dosyn lettres, bi such massengers as vs semed, that sholde hau deliuered hem to you in dewe tyme, and for tydyngs of thexpedicion of our erunde"[43].

He took his position in Salisbury seriously as is indicated by his strong defence of the cathedral's interests whenever he felt they were being challenged. This can be seen in 1449 when he sued Thomas Swift, the sequestrator general of the Archbishop of Canterbury, after

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[37] Calendar of Entries in the Papal Registers Relating to Great Britain & Ireland, ed. J. A. Tremlow, vol. 8, London, 1909, p. 167
[38] Calendar of Entries in the Papal Registers Relating to Great Britain & Ireland, ed. J. A. Tremlow, vol. 9, London, 1909, p. 113
[39] Hennessy, George, Novum Repertorium, London, 1898 p. 55
[40] Emden, A Biographical Register, 1959, p. 1934
[41] St Osmund, 1901, p. xxii
[42] St Osmund, 1901, p. xxii
[43] St Osmund, ed. A. R. Malden, London, 1901, p. 122

the latter had seized the goods of the newly deceased Dean of the Cathedral. Upton took it upon himself as president of the chapter to challenge this as an invasion of their rights and prerogatives, and pursued the case through chapter hearings and in the civil courts[44]. While he was precentor he lived in the North West corner of the Close, in house number 56, now known as 'Hemingsby'[45]. This was a large medieval house with a well equipped kitchen and pantry[46].

Upton's prominence in Salisbury was such that when the cathedral attempted to have its founder, Osmund, canonised in 1452 they chose Upton along with Simon Houchins, a canon of the cathedral, to go to Rome to plead their case. The decision to send Upton was no doubt taken because of the seniority of his position within the chapter, combined with his extensive legal training and diplomatic experience.

They arrived in Rome on 27th of June and they immediately rented the largest house in the English hospital of St Edmund's[47]. At that time the hospital was headed by William Grey, a 'brother' of the cathedral and a favourite of Pope Nicholas V. No doubt they hoped to exploit his fraternal relationship with the chapter and his popularity in the Curia to further their cause. The other ally they expected to find was Marinus de Ursinis, Archbishop of Tarentum, whose council they immediately sought upon arriving in Rome[48].

But their mission quickly ran into difficulties: though Osmund was ultimately canonised, on New Years Day 1457, Upton had been back in England for more than three years. Money seems to have been a principle problem during the period of his involvement. "If mony fayle ye most holde vs for excusyd" Upton wrote on 6th February 1452[49]; and again on 28th February, "By God, I trow and mony had be in the bank oure mater had be sped"[50]. Another reason was that there was a great number of would be saints whose cases were at that time being promoted in Rome, who had more powerful supporters than Upton and Houchins had for Osmund[51]. In addition the men they thought would give them aid were not as supportive as they had hoped. The Archbishop of Tarentum proved such an uncertain adviser[52] that Houchins came to suspect that his real support was not for Osmund but for the

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[44] St Osmund, 1901, p. 124
[45] Salisbury: the Houses of the Close, HMSO, London, 1993, p. 170b
[46] Salisbury: the Houses of the Close, HMSO, London, 1993, p. 16b
[47] St Osmund, 1901, p. 94
[48] St Osmund, 1901, p. 94
[49] St Osmund, 1901, p. 123
[50] St Osmund, 1901, p. 130
[51] cf St Osmund, 1901, p. 123 (letter of 6th February) "Here ys grete sewte for Canonizacion of seynts by diuerse kyngs princes and other folks. And trewly the pope is nothyng hastyous"
[52] The Archbishop is said to have advised them to delay until certain unsympathetic cardinals had left Rome, then to have told them that too few cardinals were left (letter from Upton and Houchins, 6th August 1452, St Osmund, 1901, p. 106

other English saint being promoted simultaneously, Anselm of Canterbury[53]. Grey proved to be of little help, as Upton wrote: "M. Gray wil not do nothing for vs for envie that ye have your trust on Tarentyn"[54]. Finally early in 1453 and clearly to his considerable chagrin, the Dean and Chapter revoked Upton's commission, leaving Houchins to carry on alone[55]. They pleaded financial pressures and the need to cut expenditure as their excuse, and there was probably something in it[56]. Certainly Upton failed to pay his accommodation bill at St Edmund's: "he withdrew secretly" the record says, "and did not pay his rent"[57].

Upton returned to Salisbury and little is known of the rest of his career there, but he certainly retained his prominent position as can be seen in how central he was in the letters sent to and from Houchins for the remainder of the mission in Rome[58]. Upton remained precentor of Salisbury Cathedral until his death early in 1457 as an entry concerned with his death in the Register of Archbishop Thomas Bourgchier for 15 February 1457 showed:

> "Commission to William Berewick, succentor of Salisbury, and William Lighfote, citizen of Salisbury, to collect the goods and debts of master Nicholas Upton, late precentor of Salisbury"[59].

He was probably buried in Salisbury Cathedral, but there is no record of his grave.

Of central importance to understanding Upton's career in education, war and the church is an examination of his relationship with his patrons. Traditionally Upton is held to have been the client of four great men: Thomas of Montagu, earl of Salisbury; Humphrey, Duke of Gloucester; William de la Pole, duke of Suffolk, and Sir John Talbot. As yet no evidence for Talbot's patronage has been identified, and therefore this survey will only examine the first three.

Salisbury was Upton's first important patron. Upton joined his retinue in France early in the 1420s and stayed with him until his death in 1428. The exact nature of their

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[53] St Osmund, 1901, p. 106
[54] St Osmund, 1901, p. 131
[55] St Osmund, 1901, p. 114, 127. Houchins made it clear that he believed Upton was much upset in a letter of 28th May 1453 (ibid. p. 140)
[56] It also seems that Upton's presence in Italy while still claiming his benefits in Salisbury caused some bad feeling amongst the bretheren as a letter from the Dean and Chapter to him on 6th February 1453 implied, "we haue reuoked youre power of procuracy . . . eschewyng of sclawnderys noyse of the pepel, seying that, for the grete avayle that we haue by youre absence, departyd amonge vs of that ye shulde have yf ye where present, we had leuer that ye where absent and receyvyng the profytes of youre residence, whiche noyse causith mony of oure bretheren non-residencers to delay there payment after the taxe of ther prebends at termys assyned", St Osmund, 1901, p. 127

[57] Harvey, Margaret, England, Rome and the Papacy, Manchester, 1993, p. 66
[58] St Osmund, 1901, ps 140 - end
[59] Registrum Thome Bourgchier, ed. F. R. H. DuBoulay, Oxford, 1953, p. 170

relationship is unclear. A. B. Emden suggested that, as Upton was a priest, this indicated that he was Salisbury's chaplain. This seems unlikely; as Rodney Dennys observed Upton was too young and inexperienced as a priest, and too qualified as a lawyer to be used in this fashion[60]. Many extracts from *De Studio Militari*, including those previously discussed regarding the making of safe-conducts, support the contention that Upton was a senior bureaucrat in Salisbury's camp. It is noteworthy that the specimen safe-conducts Upton offered in *De Studio Militari* were ones issued by Salisbury[61]. In addition *De Studio Militari* shows that Salisbury exploited Upton's learning for secular purposes. An example of this was when Salisbury used Upton's Latin erudition to translate Henry V's statutes of war. Upton included these statutes in *De Studio Militari* with the comment:

> "I lett passe to speke off the most Ryghtyowse and Juste statutes that the moste excellent and victoriowse kyng henry the vth made in hys warres, whyche at the requeste of my good lord the yerle of Salysbery I translatyd off laten in to englysche"[62].

However Dennys was wrong to deny Upton any sacral duties in Salisbury's entourage. In *De Studio Militari* Upton implied he had performed priestly functions on campaign when he justified the inclusion of priests in armies by describing how priests should stand before armies on the eve of battle and urge them to fight in the proper fashion, and in particular urge the soldiers to show clemency to innocents and mercy to those who deserved it[63]. What is clear from *De Studio Militari* is that the two men were in close contact and it is evident that they developed an intimate relationship as is shown by Upton's fond references to his former master such as "my speciall good lorde". That Salisbury reciprocated this was evident in his will where he named Upton as the first of eight executors[64]. What is more Salisbury's patronage of Upton went beyond the camp and he was responsible for securing lucrative church postings for him. This may be seen when Upton was made Rector of Chedezoy in 1427: the register recorded that the appointment was "at the presentation of Thomas de Monte Acute, earl of Salisbury, count of Perche, and lord of Monthermer"[65].

After Salisbury's death in 1428 it can be established that Humphrey, Duke of Gloucester became a principle patron. *De Studio Militari* was dedicated to Gloucester who was referred to by Upton as "*domino meo singulari.*"[66]. The precise nature of their

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[60] Dennys, Heraldic Imagination, 1975, p. 77
[61] Bodl. MS Eng.misc.d.227, fo 75r
[62] Bodl. MS Eng.misc.d.227, fo 31v
[63] Bodl. MS Eng.misc.d.227, fos 23v - 24r
[64] Register of Henry Chichele, Oxford, 1947, p. 394 - 400
[65] Register of John Stafford volume 1, 1915, p. 55
[66] Dennys, Heraldic Imagination, 1975p. 78

relationship is more difficult to discern than Upton's relationship with Salisbury. The best theory seems to be that of John Prince who wrote:

> "Humphrey the good Duke of Gloucester, patron of learning and learned men in those times observing the partes and vertewes of Mr. Upton, who at that time was not meanly skilled in both laws, perswaded him to lay aside the sword and to take up his books again and follow his studies."[67]

This is plausible bearing in mind Gloucester's predilection for patronising academics. Furthermore this theory is corroborated (in a manner of speaking) by Upton returning to University and to receive his doctorate in canon law in 1439, and also in embarking on the writing of *De Studio Militari*, which he dedicated to Gloucester. Furthermore the success of Upton in receiving church posts in the 1430s and 1440s suggest a powerful patron, who could have been Gloucester.

The third patron was William de la Pole, duke of Suffolk. There is no explicit link between Upton and Suffolk, but the weight of circumstantial evidence is such that Suffolk's patronage can be accepted. It can be established that the two men knew one another. In the 1420s Suffolk served as Salisbury's second in command and Constable. In these positions he would have regularly come into contact with the senior administrators in Salisbury's camp including Nicholas Upton. When Salisbury died Suffolk took command of his army which meant Upton served under him at this time. Later Suffolk married Salisbury's widow, which may be another connection between the two men, considering Upton's role as Salisbury's executor. Upton's good fortune in finding valuable church posts indicates another link to Suffolk. It was recognised by contemporaries that Suffolk regularly helped his supporters toward church posts; for example he was accused of this in "Poem on the Death of the Duke of Suffolk"[68]. Some of Upton's church postings indicate his explicit intervention, for example in 1434 Upton swapped the Rectory of Chedezoy with that of Stapulford. The entry for this in the Episcopal register recorded that it was "at the presentation of William de la Pole, earl of Suffolk"[69]. This was similar to Salisbury's role in the grant of Chedezoy. Upton's appointment as precentor of Salisbury may indicate a link to Suffolk. The bishop of Salisbury was William Aiscough who was popularly regarded as Suffolk's greatest ally[70], and as Andrew Brown has illustrated the Cathedral chapter at Salisbury contained many members of Suffolk's party, for example Canon Walter Bayly[71]. The subsequent behaviour of Upton as precentor further supports the hypothesis that he was part of Suffolk's affinity. In

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[67] Prince, Worthies of Devon, 1701, p. 572
[68] Wright, T., Political Poems and Songs 2, London, 1861, p. 232
[69] Register of John Stafford volume 2, 1916, p. 167
[70] Harvey, I. M. W., Jack Cade's Rebellion of 1450, Oxford, 1991, p. 31
[71] Brown, Andrew, Popular Piety in Late Medieval England, Oxford, 1995, p. 65

Salisbury on 3rd June 1449 there was an attempt by the locals to lynch Robert, lord Moleyns, a prominent political ally of Suffolk, in the George Inn. He was saved only through the brave intercession of Nicholas Upton (now over fifty years old) and Walter Bayly, who rushed to the inn with a piece of the Host with which they held back the lynch mob and were able to escort Moleyns to the safety of the Cathedral[72]. Later in 1449 Nicholas Upton was responsible for organising the heraldic aspects of the very conspicuous funeral of Walter Hungerford who was another great ally of Suffolk. It is clear that contemporaries in Salisbury regarded Upton as a supporter of Suffolk as their actions during Jack Cade's Rising in 1450 showed. In Salisbury the rising was coloured by a local animus towards Suffolk's regional allies, and during the insurrection Upton and John Passelowe, a canon of the Cathedral, were assaulted by the rebels on 28th June. Incidentally the next day Bishop Aiscough was murdered by the rebels at Edington, in Wiltshire, as he tried to flee from the rebels in London[73]. Three days later their houses (along with that of Richard Treve) were sacked[74]. It seems therefore highly plausible to argue on the weight of this evidence that Suffolk was indeed a patron of Nicholas Upton.

Upton's fame rests on his authorship of *De Studio Militari* and its fame derived from its heraldic sections. In a section of chapter one, Book Four, not translated by Blount, Upton discussed previous works which he had written in his youth:

> "Formerly in my youth I wrote on this matter in too dreamy a manner, and in my writing I must confess to have made many errors, as in condemning the colour green, and I have stated many other matters contrary to the truth"[75].

Upton's interest was perhaps stimulated by the interest in heraldry among lawyers at Oxford. Another factor could have been the importance of civil lawyers in the Court of Chivalry, whose principle function was to resolve heraldic disputes. This interest would have been further indulged by his time in France. Heralds acted as staff officers on a par with knights which means there is no doubt that Upton came into regular contact with them. Upton's knowledge of, and interest in, their activities was illustrated in *De Studio Militari* in his thorough discussion of the experience required of a candidate seeking to become a herald, the ceremonies which made heralds, and heraldic duties while on campaign[76]. Furthermore in *De Studio Militari* Upton showed he acted as a heraldic advisor to the earl of Salisbury at least

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[72] Brown, Popular Piety, 1995, p. 63
[73] Harvey, England, Rome and the Papacy, 1993, p. 84
[74] Brown, Popular Piety, 1995, p. 65
[75] Book Four (Bestiary), footnote 1
[76] Bodl. MS Eng.misc.d.227, fo 6v passim

twice. As was previously mentioned he advised on the award of arms to a retainer of Salisbury who was wounded in the genitals. Later in *De Studio Militari* he described his second experience of granting arms, when he discussed the sodomite references of the partridge in heraldry:

> "to bere therfore partryches in armes hytt betokenyth the fyrst berar to be a gret lyar or a sodomyte. Ther was a certain gentylman, whose name I woll not shew, which by the reason of his manhode was made a noble man by my lorde and master, and he gave iii partryches in hys armes in a redde fylde"[77].

Upton did not name the victim of this prank, as doubtless the victim did not know the meaning of his coat of arms. Rodney Dennys argued that such 'donnish in-jokes' played by heralds at the expense of the holders of arms, which were only understood by heralds, were common[78]. Upton's participation in such badinage indicates his erudition in heraldry, as does the fact that Salisbury turned to him for advice when granting arms to his followers. Upton continued to be regarded as an expert on heraldry by those who knew him after he left the war. This was illustrated by the fact that he was charged with orchestrating Walter Hungerford's funeral along strictly heraldic lines[79].

An examination of Upton's heraldic exegesis in *De Studio Militari* shows that he was very well read in heraldic theory. He clearly had access to John of Bado Aureo's *Tractatus de Armis*, the most influential heraldic handbook in England, which he used as a source. However his knowledge and confidence was such that he did not slavishly copy from it. He ignored what Bado Aureo had written on some topics, for example as regards the heraldic properties of the horse. Furthermore on occasion he directly contradicted Bado Aureo, for example the critical opinion of the colour green which Upton discounted belonged to Bado Aureo. That Upton was a first class heraldic writer and thinker was illustrated in the immense popularity of *De Studio Militari*. Almost as soon as it was finished many copies were sought after and made, and many subsequent works plagiarised it, for example the *Boke of St. Albans* completely lifted its treatment of inanimate charges from Book Four of *De Studio Militari*, even giving the same illustrations[80].

Through occasional comments by Upton in *De Studio Militari* it is possible for the historian to discern some of his opinions. These comments take the form of *cris-de-coeur* which emerge from discussions by Upton relating to the ostensible subject at hand. An

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[77] Dennys, Heraldic Imagination, 1975, p. 50
[78] Dennys, Heraldic Imagination, 1975, p. 50
[79] Brown, Popular Piety, 1995, p. 65
[80] Boke of St Albans, facsimile edition, 1969, fos ci - fi

excellent example of this may be found in the bestiary in Book Four where Upton discussed how the cat toyed with its prey. He observed:

> "I dare not nowe A dayes declare the condicions of the catte: howe meny there be nowe A dayes regardyng in England, wiche playe fyrste wth poore men And then Afterward devoure theym. Surely A man maye se dayly howe the Riche men, As thoughe he were Abowte to please the poore man, woll playe wth hym in A manner And shewe hym A faire And A holy face, but At the end of his playe, by the iugement of xii false, pariured men, woll devoure And utterly destroye the innocent poore man, for no cause ells but that the simple poor man haithe some small platt of ground yoyned or Anexyd unto the Rich mennes possessions And landes"[81].

This passage indicates the awareness Upton had of contemporary confusion concerning land tenure in mid-fifteenth century England and the injustices that this created. Not all of Upton's concerns are as admirable or profound as this one. Many are typical comments made in chivalric texts, for example in Book Two Upton bemoaned the corruption of contemporary chivalry compared with a golden age he believed had once existed:

> "but bycause meny men of warre now a dayse geve them selfe to wanton plesures, to hawkyng, huntynge, and moche ease, They be effeminate, and in experte in chyualry"[82].

In addition Upton was guilty of misogynist prejudices common to the clergy which were at variance with mainstream chivalric experience in England[83]. This may be seen in his bestiary where he commented that mating ruined the nightingales' beauty and voice and then interjected:

> "Wherfor as tochyng thys mater how meny & how goodly younge men, as well nobles as other, have I sene in my dayis wth ther freche and plesant songes to reioyse to passe ther tyme in Feetes and poyntes of warres ther in settyng all ther dalyance, which after thei have bene ones maryed and copeles wth beautefull & noble ladyis, than ther voyce begynneth to waxe horse, there bolde corage to flake & decay. But as

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[81] Bodl. MS Eng.misc.d.227, fo 154

[82] Bodl. MS Eng.misc.d.227, fo 34

[83] It is my contention that chivalric thinking in Upton's time regarded women as the source of virtue and courage. A. B. Ferguson's argument that chivalric veneration of women was in decline as was shown by Thomas Malory stating that the company of women destroyed the strength of knights (A. B. Ferguson, The Indian Summer of English Chivalry, Durham NC, 1960, p. 49) can be effectively challenged. The primary expression of chivalry was the tournament and in the fifteenth century women were at its centre. Tournaments were held for the enjoyment of women, women were championed by the knights in the lists, they watched the contests, they were nominally the judges of prowess (although in practice heralds judged) and women awarded the prizes to the victors. After the tournament feasting and dancing with the ladies of the court was the common experience. Contrary to the opinion given by Professor Ferguson the veneration of women remained central to chivalry. In practice their role may have been static and idealised but their effect on knights' prowess was held to be beneficial. The role of women in the tournament may be seen in the heralds' accounts of the Smithfield tourney of 1467 (S. Bentley, Excerpta Historica, London, 1831) and the Westminster tourney in 1494 (J. Gairdner, Letters and Papers Illustrative of the Reigns of Richard III and Henry VII, London, 1861)

> tochyng thes maters I schall speke no mor for I fynde not sooche maner of byrdes bornes in armes"[84].

The last comment indicated that Upton had included the nightingale in *De Studio Militari* so that he could express his thoughts on the pernicious effects of women with no care as to its relevance to heraldry. This suggests that Upton regarded the *De Studio Militari* not just as an academic treatment of martial and heraldic topics, but also as the medium by which he could communicate his important insights to society. It is wrong to describe *De Studio Militari* as merely a tract on heraldry and the art of war, as it has been since its composition - its author was more ambitious than that.

The only known translation of *De Studio Militari* into English was made by John Blount in the early years of the sixteenth century. The principle source for the life of John Blount is the two page dedication of his translation to William Blount, fourth Lord Mountjoy, which is at the start of the translation. This is a very meagre source from which to draw a picture of a man's life, and although a few other sources of information may be identified, Blount's own words remain the most important. For this reason this review of his life must be brief. As with Upton, only specific aspects of Blount's life for which evidence exists will be examined. To begin with a survey of Blount's education will be made, followed by an examination of Blount's career in the church. Something must also be said of William Blount, fourth lord Mountjoy, who was the subject of the dedication. Finally I will examine the background of the translation.

In the dedication Blount stated he was a student at Oxford:

> "At your lordeschyppes commawndement, Always preste to be obedient for hys pour John Blount now beynge student In the vniuersite of oxforthe"[85].

University archives indicate that Blount studied law at All Souls' College, where he became a fellow in 1511[86]. He graduated Bachelor of Civil Law on 5th February 1511 and Bachelor of Canon Law on 15th October 1515[87]. In this he is similar to Upton who studied for both degrees at Oxford just under a century earlier. If the similarity with Upton were carried on this would place Blount's date of birth in the last decade of the fifteenth century.

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[84] Bodl. MS Eng.misc.d.227, fo 177v.
[85] Bodl. MS Eng.misc.d.227, fo 1r
[86] Boase, C. W., Register of the University of Oxford, Volume 1, Oxford, 1885, p. 71
[87] Foster, Joseph, Alumni Oxonienses early series Volume 1, Oxford, 1891, p. 141

After studying at Oxford, it seems Blount studied at the University of Louvain, as is indicated by an epigram of John Constable. The epigram was addressed to "Ioannem Blontum", student at "Louania"[88]. Constable had been a student at Byham Hall at the same time Blount was at All Souls', and had graduated MA in 1515[89]. Thus it is possible that Constable and Blount were friends at Oxford. This is supported by the nature of Constable's epigrams, that is they were either addressed to famous figures such as Henry VIII, or to acquaintances of Constable such as his old schoolmaster Lilly[90]. As Blount was hardly famous, this would explain why he was honoured by Constable.

In Louvain there were four colleges Blount could have attended: College of the Holy Ghost (for theology); College of St. Ivo (for law); College of Malines (for the arts); and *Collegium Trilingue* founded in 1517 by Jerome Busleiden for the study of Latin, Greek and Hebrew[91]. A comment by Blount suggests *Collegium Trilingue* may have been his destination: in the dedication Blount bemoaned his poor Latin and said that he hoped the translation would satisfy Mountjoy "on tyll god endewe me wythe larger connynge whereby than I trust better too satisfy your desyre"[92]. This was doubtless false modesty; Blount had two law degrees, and as law was examined in Latin he must have had an excellent command of the language. This is supported by his translation of *De Studio Militari* which showed a sound knowledge of Latin. However for want of a better lead this comment might have indicated that Blount had an interest in humanism, which would place him in the mainstream of contemporary intellectual fashion. As Hastings Rashdall wrote, Louvain was "by far the most famous home of the new learning in Europe"[93], which would confirm it as a suitable destination for a man with such an interest. Therefore it may be that Blount went to Louvain after 1517 to study Latin, and perhaps Greek and Hebrew. What can be asserted with greater authority is that he was in attendance there before 1520, as in that year the epigram to him, along with other epigrams by Constable was published by Richard Pynson[94].

The similarities between Blount and Upton continued in Blount's holding church office. However Blount's career was far less conspicuous than Upton's, and little is known of his posts. Blount was ordained a deacon and then subdeacon in the second half of 1514, and

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[88] Barnard, Essential Portions of De Studio Militari, 1931, p. xi
[89] DNB IV, Oxford, 1922, p. 961
[90] DNB IV, 1922, p. 961
[91] Rashdall, Hastings, The Universities of Europe in the Middle Ages, Oxford, 1936, p. 266
[92] Bodl. MS Eng.misc.d.227, fo 1r
[93] Rashdall, Universities of Europe, 1936, p. 266
[94] DNB IV, 1922, p. 961

was ordained a priest on the 3rd of April 1515[95]. He later became vicar of Great Sampford in Essex, taking up the post on 22nd March 1524, and he had vacated it by May 1529. He was also rector of Chickerell in Dorset, taking up the post on 31st July 1533, vacating it by November 1538[96]. The trail then goes cold, and there is no more information to be had on Blount's career after Chickerell.

John Blount's translation was dedicated to a particular patron:

> "At the commaundement of my syngular goode lorde Ande master my lorde Mountjoy I haue translatyde your booke off Armes"[97].

It is certain this was William Blount, fourth lord Mountjoy. Mountjoy was an intellectual of some repute: in 1496 he had gone to Paris to study under Erasmus and remained a close friend of his until he died (incidentally Erasmus also studied at Louvain at the same time that John Blount was there)[98]. F. M. Nichols argued that Mountjoy also attended Cambridge University and he later became High Steward there[99]. Mountjoy's correspondence shows he had excellent Latin[100]. The testimony of those who knew him indicates that he was an avid reader, for example Erasmus wrote that Mountjoy "is want day after day to pore over books from dinner to midnight"[101]. Many of Mountjoy's friends were notable intellectuals such as Erasmus, Thomas More and Richard Wingford[102]. What is more Mountjoy patronised writing and study. Many of the works of Erasmus were dedicated to him, for example the *Adages*[103], and other writers such as the Italian poet Ammonius also dedicated books to Mountjoy as their patron[104]. Furthermore Mountjoy often suggested works to be done, for example Erasmus's *de conscribendis epistolis*[105]. Therefore his commissioning Blount to translate *De Studio Militari* was not unheralded.

Mountjoy did not share Erasmus's scorn for chivalry. In his career he was called on to fulfil chivalric duties: he fought for his king, the first time in 1497[106], he acted as a diplomat, for example in 1500 he was part of Henry VII's diplomatic team that entertained

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[95] Emden, A. B., *A Biographical Register of the University of Oxford, 1501 - 1540*, Oxford, 1974, p. 52
[96] Emden, A Biographical register, 1974, p. 53
[97] Bodl. MS Eng.misc.d.227, fo VIIv
[98] Nichols, F. M., The Hall of Lawford Hall, London, 1891, p. 197
[99] Nichols, 1891, p. 199
[100] Nichols, 1891, p. 199
[101] Nichols, 1891, p. 320
[102] DNB II, 1922, p. 722
[103] Nichols, 1891, p. 217
[104] Nichols, 1891, p. 245
[105] Nichols, 1891, p. 201
[106] Nichols, 1891, p. 208

Philip of Austria in Calais[107], and he was made governor of Tournai in 1515[108]. *De Studio Militari* may have had a practical purpose for Mountjoy, especially Upton's first two books, as they would offer advice to a man who commanded a garrison in an enemy country. However Mountjoy was interested in chivalry for itself. He was an intimate courtier of Henry VIII and it is plausible to argue that he shared that King's passion for the more decorative aspects of chivalry. In addition he was later to become a Garter Knight, with all the chivalric aspects of that honour. In his correspondence Mountjoy expressed genuine delight in chivalry, for example in a letter to Henry VIII in 1516 he boasted that he had been made "king of the popinjay" during the annual Garter celebrations in Tournai[109]. In addition heraldry had never been more popularly followed and examined in England than it was under Henry VIII and it would be expected of a leading intellectual at court to be familiar with heraldic theory and practice; and the principle authority on English heraldry was *De Studio Militari*. All of this may help to explain why Mountjoy, a follower of Erasmus, would commission the translation of an old book concerned with chivalry.

As Mountjoy's surname was Blount this implies a family link to John Blount. However there is no information on John Blount's ancestry, and it is merely speculation to repeat F. P. Barnard's observation "that he was probably a cadet of the Mountjoy Blounts, possibly illegitimate"[110].

The key question concerning the translation of *De Studio Militari* is when was it written? F. P. Barnard argued that it was executed around 1500: "The handwriting, spelling and vocabulary show its date to be about the year 1500"[111]. However an examination of the evidence suggests 1500 is too early. Firstly Mountjoy would be too young to have commissioned a work completed in 1500. He was only recognised as an adult on 31 January in that year by a letter patent of Henry VII, and that was needed because he was not old enough to enter seniority through his age alone[112]. It is dubious that a man so young would be commissioning a major translation, notwithstanding Mountjoy's obvious intellectual precociousness. What is more in the dedication Blount stated he was a student at Oxford. As he graduated BCL in 1511 and BCnL in 1515, it is unlikely that he was a student in 1500. What can be said with greater authority is that the work was completed before 1515. This is

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[107] Nichols, 1891, p. 214
[108] Nichols, 1891, p. 257
[109] Nichols, 1891, p. 270
[110] Barnard, Essential Portions of De Studio Militari, 1931, p. xiii
[111] Barnard, Essential Portions of De Studio Militari, 1931, p. x
[112] Calendar of Patent Rolls, Henry VII, vol. 2, London, 1916, p. 192

indicated by Blount apparently leaving Oxford after graduating in that year. It is further supported by Mountjoy's appointment as Governor of Tournai on 20 January 1515, where he arrived by 5th February[113]. That the translation was written while Mountjoy was still in England is supported by a reference in the dedication to Mountjoy giving Blount an audience while he was writing the translation[114]. Therefore a more likely date for the translation would be between 1507-1514 inclusive.

This leads on to where the translation was written. In the dedication Blount explicitly said it was not written in Oxford:

> "All the tyme of the translatynge I was in the rude country, far froym goode cytyes and townes wher recourse might be hade to copye of boykes And counsell of lerenyde men, which might haue bene greyt helpe and socour for myne insufficience"[115].

This "rude country" is not specified, but Blount indicated a place where at least part of the work was executed:

> "A nother [source of encouragement] was the greyt payn and laboures which you toyke too geue Audience too me so longe a season in redynge of A pore interlude of myn in north hampton schyre at my lorde my masters playce: wherein I parceuyde well you boyr gret mynde and fauour to goode lernynge: seynge that too A symple Ande Rude mater Contenynge but lityll ther of you war soo dylygently Attentyffe"[116].

The place in Northamptonshire was almost certainly Fotheringhay. F. M. Nichols showed by examining the accounts of Queen Anne Boleyn that Mountjoy held the office of keeper of Fotheringhay Park and "he occasionally resided at Fotheringhay in Northamptonshire"[117].

As yet there is no knowledge of whose copy of *De Studio Militari* Blount translated as his version does not resemble any extant Latin copy[118]. However as Blount was forced to translate it in the "rude country" it seems that whoever owned the exemplar would not trust it to him and insisted that he come to the exemplar to translate it.

The biographies of Nicholas Upton and John Blount help us to contextualise the composition and reception of *De Studio Militari*. The author was well qualified to write a

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[113] Nichols, 1891, p. 256-7
[114] Bodl. MS Eng.misc.d.227, fo 1r
[115] Bodl. MS Eng.misc.d.227, fo VIIv
[116] Bodl. MS Eng.misc.d.227, fo 1r
[117] Nichols, 1891, p. 336
[118] Barnard, Essential Portions of De Studio Militari, 1931, p. xi; The Blount translation belongs to the main *De Studio Militari* family, which was the basis of Sir Edward Bysshe's Latin edition of 1654. This is the most popular format of the surviving manuscripts, which include Bodleian Library MS Holkham 433. There is a second family of manuscripts commonly referred to as the *Baddesworth De Studio Militari* which have a vastly different layout and less material than the main *De Studio Militari* family. There is no connection between that family and Blount's translation.

book such as *De Studio Militari*. The book is in large part a legal discussion and Upton, with three law degrees, had sufficient training to discuss the subject with an impressive understanding of the legal niceties at question, erudition and discernment. The subject of the legal discussion in *De Studio Militari* was laws relating to soldiers and war and Upton had first hand experience of life on campaign, and this enabled him to draw on his own experiences to illuminate the topics he examined. The other subject discussed in *De Studio Militari* was heraldry and here as before Upton had practical experience of armory both while he was in the army and afterwards while he was precentor of Salisbury Cathedral. In addition he was familiar with important trends in the science of armory, and leading texts in the field, and he was even seen by his contemporaries as an expert in the field. Thus the immediate conclusion one can draw is that Upton was a singularly qualified man to write this book, and for this reason what he wrote is in the main reliable and well thought out. The contents indicate that the book was aimed at an educated gentle audience. Upton was highly educated and was interested in heraldry, a popular pursuit of the gentleman, and the man who commissioned the translation, Mountjoy, was similarly educated, with military experience and an interest in chivalric culture. Without too much conjecture, it can be argued that *De Studio Militari* was a text meant for the martial gentleman, written by someone with a great affinity for chivalric culture; and that the aim of translating was to make the valuable information that it conveyed more widely accessible.

II

Introduction and Commentary to Book One of *De Studio Militari*

Book One of *De Studio Militari* is the most difficult and complex of the four books which make up the text. It is the second longest: in word count it is a quarter of the whole. In Blount's translation Book One is made up of nineteen chapters. It is connected by subject matter to Book Two, in that both discuss war. Book Two is a discussion of warfare itself and is laid out coherently and is easy to follow. The subject of Book One is hard to pin down; it can best be described as being that noble soldier, the knight. An examination of this subject has, by definition, many dimensions. Upton examined nobility because it was nobility that made knights different and superior to other soldiers. Knights were more than individual soldiers, in that collectively knighthood was a social caste with its own myths and values, and Upton examined these in great detail. Knights' vocation was soldiering, and to this end Upton examined what qualities made good soldiers. War was knights' reason for being, and Upton argued that if war was waged in the proper fashion then it, and by association knights, were justifiable. Heralds, although they were not conventionally knights, were important figures in knightly society, and therefore Upton examined them in this context. Upton discussed the fee because possession of a fee was the public mark of nobility, and therefore this was an important issue in an examination of knights and their place in society.

Book One is of particular interest because of the way in which, in his discussions, Upton combined his book learning with practical experience. This is particularly striking because Upton's erudition in this book is more noticeable than in any of the others. In addition Book One is interesting because in some passages it has an almost proto-humanist quality, in consequence of Upton's use of ancient Roman examples as a teaching tool for contemporary experience. As much of Book One is a pastiche Upton often included information just because it was in the texts he was using, whether or not the information was pertinent. For this reason there is much in Book One which is not worth commenting on, as it seems Upton is just showing off his education. However for the most part what he wrote is of great interest and so deserves discussion in some detail. The way in which I will do this is to begin by describing the principle sources which I have identified as being used by Upton for the information in this book. After this I will examine the contents of the book with regards to the themes which I outlined above. However I will not discuss heralds in this chapter.

Instead I will examine Book One's discourse on heralds in my introduction to Upton's discussion of inanimate charges borne in coats of arms[1]. This is because the description of inanimate charges includes a lengthy examination of heralds, and it would be valuable to examine all of the discussions of heralds together.

The sources which Upton used in Book One can be divided into two categories: legal and Latin literary. The borrowing from legal sources is much the greater. This is not surprising in that much of Book One is a legal discourse and Upton was a highly qualified lawyer. The principle legal authorities which he consulted were Bartolus of Sassoferrato, John of Legnano, Accursius, Durandus, Dynus, and Hostiensis. The principle literary sources he used were John of Salisbury's *Policraticus* and Bernard of Clairvaux's *De Laude Novæ Militæ*. Most of his references to classical texts derive from these sources. There is another source whose name, Bertrand Caprioli, is given in the text but whose identity is unknown; I will outline where it was used in due course. In the course of examining Upton's debt to these various authorities, I will endeavour to indicate, at the relevant points, how and where he sought to relate them to his own experience.

Bartolus of Sassoferrato was the legist from whom Upton lifted most information in Book One. He referred to Bartolus in chapters one, three, seven, fourteen, eighteen and nineteen. In chapter one all of the information which Upton presented was taken from Bartolus's *C. de dignitatibus*[2]. This information was the definition of nobility as a quality separate from the body which could come and go and have no effect on the physical state of the person in question. Upton referred to Bartolus as his source and also copied Bartolus's layout of information and the references made by Bartolus to other sources, for example to Thomas Aquinas[3]. The only addition Upton made to his source here was where he copied Bartolus saying that prisoners who were noble when free were bondmen when captured. Bartolus gave no specific nationalities to these nobles; Upton related this book learning to practice by adding information from his own life:

> "As it apperythe by the nobles of ynglonde taken prysoners In the realme of fraunce for as longe As they wer In the hondes off the Enmyse they war ther boundemen And prysoners And yet In ynglonde they remayn fre And noble"[4].

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[1] Look Introduction to Book Four of *De Studio Militari* (Inanimate Charges)
[2]Bartolus, Bart. de Saxoferrato in tres Codici libros commentaria, Lyons, 1538, fo 75 column 3 - fo 76 column 2.
[3]Bodl. MS Eng.misc.d.227, fos 1v - 2r
[4]Bodl. MS Eng.misc.d.227, fos 1v - 2r

Upton consulted Bartolus twice in chapter three. Firstly he referred to *Comment. in Cod., Lit XII, Tit XV, C. de proffessoribus qui in urbe Constantinopolitana l. 1* for information on how doctors of law in Constantinople who had studied for ten years became knights[5]. He returned to Bartolus's *C. de dignitatibus* at the end of chapter three for references to certain knights called "gesters & scoffers"[6].

In chapter seven Upton plagiarised Bartolus's *Comment. in Dig., Lit XXIX, de test: militari* for the information on the nine privileges given to men of war by the civil law, and the six factors which could affect them[7]. This is a very good example of Upton including detailed information which was not important to the points he was discussing (in this case the qualities which made good soldiers), but which did illustrate his erudition. In chapter fourteen Upton referred to Bartolus, *De anegatione milites annone* as the source for the information on soldiers' privileges. Bartolus was cited and his layout and citations were followed[8].

In chapter eighteen Upton continued to copy from *C. de dignitatibus* where he wrote that nobles who break the law ought to be severely punished in order to safeguard the commonwealth[9]. Upton did not cite Bartolus, but the information was presented in the same layout with the same references to the same sources, for example to Aristotle[10]. Upton continued to use Bartolus (but did not cite him in the text) on the subject of a man needing to be publicly accepted as noble for him to be noble. Again *C. de dignitatibus* was the source and the information Upton presented was taken word for word with the same source references given, for example they both refer to the book of *Hester* in the bible[11]. Upton closed chapter eighteen by discussing what makes a man noble, with particular emphasis on offices granting nobility. This was taken word for word from *C. de dignitatibus* and again Upton cited Bartolus's sources[12]. Also in chapter eighteen Upton took the information on whether or not a man could give up his fee from *C. de dignitatibus*[13].

In chapter nineteen Upton continued to borrow from *C. de dignitatibus* for information on how a man could lose his nobility through a crime, and how only legitimate sons of noble men inherited their nobility. The layout and citations were taken word for word

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[5]Bartolus of Sassoferrato, Comment. in cod., Basle, 1562, volume 4, p. 949
[6]Bartolus, in tres Codici libros commentaria, fo 74
[7]Bartolus of Sassoferrato, Comment. in cod., Basle, 1562, volume 2, ps 399 - 400 columns 1 - 2
[8]Bartolus, in tres Codici libros commentaria, fo 75 column 3
[9]Bartolus, in tres Codici libros commentaria, fo 76 column 3 - 4
[10]Bodl. MS Eng.misc.d.227, fo 47r
[11]Bartolus, in tres Codici libros commentaria, fo 76, column 4 , Bodl. MS Eng.misc.d.227, fo 48v
[12]Bartolus, in tres Codici libros commentaria, fo 77 columns 1-3
[13]Bartolus of Sassoferrato, Comment. in cod., Basle, 1562, volume 1, p. 584 column 2

from Bartolus[14]. After a brief gap Upton returned to *C. de dignitatibus* to discuss Dante's *Convivio*. This was an exact copy of Bartolus's critique on Dante[15]. What is more it is almost certain that neither Upton nor his translator had ever read Dante themselves, but knew it only through Bartolus[16]. After this Upton finished Book One with a discussion of three kinds of nobility (theological, natural, civil). Most of this was taken from *C. de dignitatibus* in the same way as before: a word for word lift with Upton giving the same references that Bartolus did[17]. In addition Upton added references to ancient sources like Ovid and Seneca in this discussion. In addition in chapter nineteen Upton borrowed from Bartolus's *De Insignis et armis* when discussing how arms given by a lord were of greater value than those taken by a man of his own authority. Upton cited the text and gave the information as Bartolus presented it[18].

A second important authority used by Upton in Book One was John of Legnano's *Tractatus de Bello*. There were significant borrowings in chapters thirteen, fourteen, fifteen and sixteen. In chapter thirteen Upton's bizarre division of war into spiritual, virtual, votal and human seems to be a variation of chapter 2 of *Tractatus de Bello*[19] (he used this same chapter of *Tractatus de Bello* in Book Two of *De Studio Militari*, where it was a more important source[20]). In chapter fourteen of Book One Upton took the information on whether or not it was a sin to war from chapter 63 of *Tractatus de Bello*. He followed the same layout as John and used the same references and arguments, for example the argument that if Jesus healed the sick on a holy day then the commonwealth should be defended on that day[21]. Upton followed on from this with information taken from chapter 62 of *Tractatus de Bello* on the subject of using trickery in war, again lifting the arguments and citations word for word[22]. Then after a brief gap he discussed what a knight should do if his lord warred with the Pope from chapter 15 of *Tractatus de Bello*[23].

In chapter fifteen of Book One of *De Studio Militari* Upton took the information on punishments for soldiers and how soldiers should have no interests apart from war from John

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[14]Bartolus, in tres Codici libros commentaria, fo 74 columns 3 - 4
[15]Bartolus, in tres Codici libros commentaria, fo 74 column 2
[16] Huizinga, J., 'An Early Reference to Dante's Canzone: "Le Dolci Rime D'Amor"', ModernLanguage Review, vol. XVII, 1922
[17]Bartolus, in tres Codici libros commentaria, fo 75 columns 2 - 3
[18]Bartolus, *De Insignis et armis*, edited in Cavallar, Osvaldo, A Grammar of Signs, University of California, 1994, p. 147
[19]Giovanni da Legnano, Tractatus de Bello, de Represaliis et De Duello, ed. T. E. Holland, Oxford, 1917, p. 217
[20]Look Introduction to Book Two of De Studio Militari
[21]Giovanni da Legnano, Tractatus de Bello, ps 271 - 272
[22]Giovanni da Legnano, Tractatus de Bello, p. 271
[23]Giovanni da Legnano, Tractatus de Bello, p. 234

of Legnano's chapter 18[24]. He followed this with information on how soldiers should be punished differently depending on their offences, taken from John of Legnano's chapter 20[25]. He followed that with information on whether or not a man should be executed if he advanced without his lord's permission, and this came from *Tractatus de Bello* chapter 29[26]. Upton took almost all of chapter sixteen of Book One, "Off the offyce of a captayne of warre", from John of Legnano's chapter 19 'What belongs to the office of a general in war'[27]. All of Upton's borrowing from John was word for word lifts.

Accursius, unsurprisingly, was another source of information for Upton in chapters three and eighteen. In chapter three he consulted Accursius's *Gloss in Dig. Lit 4, Tit. 6* to provide information on the six qualities which were required for a man to be a perfect knight[28]. He added to this lift from his own experience when discussing the fifth quality: that a knight should be given some badge or sign on his creation, expanding on the point with a reference to the English ceremony of the Bath:

> "The vth ys that he shalle haue geuen hym A bage or token, as soche whyche be made knyghtt<u>es</u> off the bathe were, by custome, Apon there lefte scholders: hyt of whyte colowre & soche A note or bage, thys yonge knyght scholde were ontyll he had done some noble acte, but yff some lady take hyt away, as the custome of Inglonde techythe"[29].

In chapter eighteen Upton got the information that a fee could be given up if there was no previously agreed service owed to it from Accursius's *Gloss*[30].

Upton borrowed from many legists in his discussion of the fee in chapters eighteen and nineteen. The discussion was a very long juristic debate which is very difficult to follow and seems to have had no purpose except to illustrate Upton's education. For these two chapters of *De Studio Militari* I have identified lifts from Durandus, Dynus, and Hostiensis, as well as the previously discussed borrowings from Bartolus and Accursius. However these sources are only a few of those he consulted for the section as a whole. Upton used Durandus's *De Feudis* for the two types of homage, namely liege and non-liege. In addition he took from him the argument that it was wrong to believe that the vassal's hands were clasped in the hands of the lord during the ceremony of homage[31]. Later he drew the information on what happened to a vassal's goods if he committed a crime from the same

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[24]Giovanni da Legnano, <u>Tractatus de Bello</u>, ps 235 - 6
[25]Giovanni da Legnano, <u>Tractatus de Bello</u>, ps 237 - 8
[26]Giovanni da Legnano, <u>Tractatus de Bello</u>, p. 253
[27] Bodl. MS Eng.misc.d.227, fo 30r; Giovanni da Legnano, <u>Tractatus de Bello</u>, ps 236 - 7
[28] Accursius, <u>Gloss in Digest</u>, Lit IV, Tit VI, Paris, 1576, p. 615
[29] Bodl. MS Eng.misc.d.227, fo 7v
[30] Accursius, <u>Gloss on the Digest</u>, Tit LI, Liber Feudorum, Paris, 1576,
[31] Durandus, <u>Speculum Ivris</u>, Frankfurt, 1592, p. 302 column 2

source. This provided Upton with a reference to Azo in the context of transferring fees[32]. Upton referred to Dynus's *Regulum Beneficium* to answer the question by which title was a man allowed to hold a fee[33]. He used Hostiensis's *De feudis* to describe what a fee was[34], and later he used the same source for the six things implied by homage[35].

The most important source which Upton consulted in the category I have labelled Latin literary was John of Salisbury's *Policraticus*. He used this source in chapters four, five, six, thirteen and fourteen. John was his principle source for references to classical texts. Upton used the information he gleaned from *Policraticus* in a humanistic manner, holding up ancient examples as an ideal for his contemporaries to emulate. I will expand on this later in my examination of Upton's discourse on the qualities which made good soldiers.

The way in which Upton lifted information from *Policraticus* was different from the way he lifted from the legal sources, in that he did not borrow information word for word, but rather took information and citations when they suited his purpose and phrased them himself to suit the didactic message he was presenting. What is more he often cited the wrong book and chapter. In *De Studio Militari* Upton only ever took material from book six of *Policraticus* though he appears to cite from other sections of the work. The differences in citation and detail might be explained by the possibility that Upton's unidentified copy of *Policraticus* was an adulterated edition, different in layout from the collated modern edition.

In chapter four Upton took Vegetius's description of the qualities soldiers should have from *Policraticus* book six, chapter five[36]. However he referred to *Policraticus* book five, chapter seven[37]. In chapter five he took the reference to Sallust praising Pompey's prowess from *Policraticus* book six, chapter four[38]. After this he consulted St. Bernard (look below) before taking the remainder of the information for his chapter five from *Policraticus*: on why rustics made the best soldiers, and the Gideon story from book six, chapter two; on why opulent armour was bad from book six, chapter nineteen; the story of Scipio Affricanus and the opulent shield from book six, chapter four[39]. In chapter six Upton took the story of

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[32] Durandus, Speculum Ivris, Frankfurt, 1592, p. 314 column 1
[33] Dynus, Comment. in Regulus Iuris, 1594, ps 19 - 20
[34] Hostienis: Bartholomaeis, Henricus de, card., Summa domini Henrici cardinalis Hostiensis acurata diligentia emendata cum additionibus N. superantij nuper additis, ed. Nicolaus Superantius, Lyons, 1517, fo 248, column 3
[35] Hostiensis, Summa, Lyons, 1517, fo 270, column 4 - 271, column 1
[36]John of Salisbury, Ioannis Saresberiensis Episcopi Canotensis Policratici, ed. C. C. I. Webb, Oxford, 1909, volume 2, p. 16
[37]Bodl. MS Eng.misc.d.227, fo 8r
[38]John of Salisbury, Policraticus, p. 14
[39]John of Salisbury, Policraticus, ps 9 - 10 (chapter two), 54 -5 (chapter nineteen), 14 (chapter four)

Metellus making his men carry their own baggage and how Romans made their soldiers build navies when they were not fighting from *Policraticus* book six, chapter eleven[40]. Then he took the story of Manlius Torquatus killing his son for advancing without permission from book six, chapter two. Upton added that Valerius Maximus was the source for this, though there is no such citation in the modern edition of Policraticus[41]. Then after a gap Upton took the information on the Roman senators refusing to ransom men captured in full armour from book six, chapter four[42]. Then Upton took the point that Alexander the Great took a small company from his father and won great renown through his prowess from book six, chapter fourteen. Here Upton cited Trogus Pompeius as his source but there was no such reference in *Policraticus*[43]. In chapter thirteen of *De Studio Militari*, Book One Upton took the notion of selecting the elite of the community to be soldiers from *Policraticus* book six, chapter five[44]. He took the idea that *miles* was originally a term of labour and the soldier's oath from book six, chapter seven[45]. At the start of chapter fourteen Upton took the information on the privileges given to men of war from *Policraticus* book six, chapter ten[46].

Upton referred to St. Bernard's *De Laude Novæ Militæ* in chapters five and thirteen. In both references he named Bernard as his source and took the same information, namely that soldiers must be hardy[47].

In addition to the legal and literary sources which I have identified there is another source which was used in Book One which I have 'half identified'. In the discussion of heralds Upton referred to an authority called Bertrand Caprioli[48]. He is referred to as the source of the idea that the office of herald began from highly respected veterans being retained by their princes, and being given duties as messengers. I have been unable to trace Bertrand Caprioli but it seems plausible that such a source existed and this was what gave Upton his obscure theory of the origins of heralds[49].

Upton constantly drew on his own experience in his discussion of the varied topics covered in Book One. This is particularly prominent in his detailed descriptions of knightings and heralds, where he used no other sources. In his discussion of dubbing he focused on

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[40] John of Salisbury, Policraticus, p. 27
[41] John of Salisbury, Policraticus, p. 33
[42] John of Salisbury, Policraticus, p. 14
[43] John of Salisbury, Policraticus, p. 37
[44] John of Salisbury, Policraticus, p. 23
[45] John of Salisbury, Policraticus, ps 20 -21
[46] John of Salisbury, Policraticus, p. 24
[47] Bernard of Clairvaux, 'De Laude Novæ Militæ' in Patrologia Latinæ, CLXXXII, ed. J. P. Migne, 1859, p. 921
[48] Upton, Nicholas, De Studio Militari, ed. Edward Bysshe, London, 1654, p. 17. In Blount's translation he is referred to as 'Dr. Bertrandus', fo 15r
[49] Look Introduction to Book Four of *De Studio Militari* (Inanimate Charges)

knightings which took place before battle, and by his own admission he had a lot of experience of battles when he was an aide-de-camp of Thomas of Montagu, earl of Salisbury[50]. Upton's description was elaborate, noting the protocol of the ceremonies, and it indicates Upton had a keen memory and an eye for details. Similarly his description of heralds was dominated by eyewitness testimony. I will examine both of these topics in greater detail below in the relevant places. More autobiographical information was scattered throughout the book, as can be seen, for example, in his admission that he had been involved in many battles and sieges while was in the retinue of Salisbury[51].

Upton began and ended Book One with a discussion of nobility. It is clear that he regarded this as central to an examination of knights, as is indicated by the title to chapter one of Book One: "Of the offyce of A man of war And firste generally of nobilite"[52]. Nobility was a subject of great interest to many other fifteenth century writers who examined knights as is indicated by the large number of tracts on the subject from all over Europe which survive[53]. The principle primary source for most of these texts was Bartolus and *De Studio Militari* is no exception, so it is no surprise that Upton presented the same conclusions as many of his peers. The attraction of Bartolus to these writers was the way in which he solved practical, legal problems with nobility in a way that reflected the practice they saw around them. Upton's concern with nobility was its relationship to knighthood: knights were noble, by definition, and the aspects of nobility which Upton examined had relevance to this point. Among other points of particular interest to him were how office holding could make a man noble, the relationship of arms to nobility, and the necessity for noblemen not to break the law. After first discussing these I shall go on to consider why nobility was such an important issue to knights at this time, referring to Book One as a source for this discussion.

In chapter eighteen Upton argued that if a man held noble office he could be ennobled through his tenure. This came in the midst of his discussion of how a man's nobility relied on the social acceptance of his position. Upton wrote that individual virtue and the favour of the prince were not enough to make a man noble; he must also be visibly shown to be above people of inferior status. Upton outlined two ways by which this could be done, firstly by the prince publicly acclaiming a man as noble, and secondly by his appointing a man to noble office. He spent very little time on the first point, but expanded on the second.

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[50] Bodl. MS Eng.misc.d.227, fo 23v
[51]Bodl. MS Eng.misc.d.227, fo 23v
[52]Bodl. MS Eng.misc.d.227, fo 1v
[53]Keen, Maurice, Some Late Medieval Views on Nobility, London, 1985

The example he gave (from Bartolus) of a man ennobled by holding office was a biblical one: Pharaoh ennobled Joseph by appointing him to high office in his household. Later he expanded on how holding office ennobled a man, writing:

> "That offyce or act, what so euer hyt be, hathe a nobilite annexid wyth hyt, whyche A monge the comenalte (wher As hyt ys executyd) ys soo taken & reputyd. Wherfore yff they whyche haue had soche offyce a fore hathe bene taken throwghe there rome in gret honowre Among the people, Sooche offyce Alway ys cownetyd to haue nobilite annexid to hyt & they that have hyt to be made noble thereby"[54].

This raises the question of what Bartolus and Upton understood by the term 'noble office'. The obvious answer to this is that a noble office was a titled position or status like that of a Duke or Count. However it seems 'noble office' had a broader definition. This is indicated by the example of Pharaoh ennobling Joseph by appointing him to a household position. A similar point is made by a jurist successor of Bartolus, Angelo degli Ubaldi. In his commentary on the Codex he wrote that Bartolus was ennobled by Emperor Charles IV when he was made an Imperial *consiliarius* because to be *consiliarius* was to be, by definition, noble[55]. However this particular point was not universally accepted; another jurist, Giasone del Maino, denied that being made *consiliarius* would grant a man nobility[56].

This broader definition reflects fifteenth century practice in England where household service was considered to give noble or gentle status. In his article 'Gentlemen Bureaucrats', R. L. Storey described a virtual revolution in the make up of the bureaucracies of the fifteenth century; showing how in this period the household offices of great men and the King ceased to be held almost exclusively by churchmen, and were held increasingly by laymen. As Storey illustrated, this produced an entirely new group in society who claimed to be 'gentlemen' on account of the offices they held[57]. Storey also illustrated some further ramifications of these developments beyond the strict terms of office holding, with merchants who supplied aristocrats, or soldiers who fought under them claiming increased social status from their relationship to great men[58]. Often, as he showed, the reason that they could claim gentle status was because they could show they were above inferior men by the visual possession of the livery of the lord they served. This mirrors Upton's concern that 'nobles' must be shown to be different to everyone else. It is clear that Upton's contemporaries accepted this method of attaining higher social status; for example John Paston advised his

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[54]Bodl. MS Eng.misc.d.227, fo 50r
[55]Cavallar, Osvaldo, A Grammar of Signs, University of California, 1994, p. 9
[56]Cavallar, Osvaldo, A Grammar of Signs, University of California, 1994, p. 12
[57]Storey, R. L., 'Gentlemen Bureaucrats' in Profession, Vocation and Culture in Later Medieval England, ed. Cecil Clough, Liverpool, 1982, ps 90 - 129
[58]Storey, R. L., 'Gentlemen Bureaucrats' in Profession, Vocation and Culture in Later Medieval England, ed. Cecil Clough, Liverpool, 1982, p. 95

brother Edmund that a good way to live as a gentleman would be to serve in the household of a nobleman, which he eventually did, working as a receiver for the Earl of Oxford[59].

In the middle of the discussion of how office may confer nobility Upton discussed the relation of arms to nobility, following Bartolus. He noted that when a prince ennobled a man and granted him arms that he and his heirs could bear, this raised a question: could a man adopt arms of his own volition? Upton concluded that he could because arms were like names, just a way to differentiate men from one another, and "as the lawe permittythe A person to geve A name vnto hymselfe At hys plesure So hyt scholde seame A noble man may take aremes unto hym". The only opposition to this he presented was if someone already held those arms, in which case the first had superiority[60].

That this lift from Bartolus reflected contemporary practice is confirmed by an autobiographical aside Upton made in Book Four:

> "Meny tymmys and specially haythe bene sene at the battell off egencorte in fraunce how Meny pour men when they cam thyder war Mayde Nobyll Some by ther wysdom Some by ther hardnes and some by other vertewes what tyme meny of theyme by ther owne auctorite toke armys apone theme too theme and to ther heyers whoysse Namys hyt ys not expedient too expresse here"[61].

George Sitwell found evidence that the free assumption of arms was normal not only in England but also in Europe as a whole[62]. Sitwell also noted that heraldic writers such as Sicily Herald agreed with this, as they only complained of freely adopted arms if the arms broke the rules of blazon[63].

However it must be noted that this was a contentious topic. Anthony Wagner, when writing about the section of Bartolus which Upton had copied from, wrote, "it is clear from the way in which the matter is argued that these questions were debatable"[64]. Furthermore it is clear that in England in Upton's day the government was asserting itself in the sphere of holding arms. This is apparent from a writ issued by Henry V prior to his 1417 campaign in France. Henry stipulated that in four counties (Dorset, Hampshire, Sussex and Wiltshire) wrongful use of arms would be punished except for those who had adopted them after Agincourt[65]. This is almost certainly a reference to the men Upton mentioned above, and it is likely Upton was aware of the changing attitude of the English government to arms. Wagner

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[59]Morgan, D. A. L., 'The Individual Style of the English Gentleman' in Gentry and Lesser Nobility in Late Medieval Europe, ed. M. Jones, Stroud, 1986, p. 26
[60]Bodl. MS Eng.misc.d.227, fo 49v (This point is taken from Bartolus)
[61]Bodl. MS Eng.misc.d.227, fo 217r
[62]Sitwell, George, 'The English Gentleman' in The Ancestor volume 1, 1902, p. 83
[63]Sitwell, George, 'The English Gentleman' in The Ancestor, volume 1, p. 87
[64]Wagner, Anthony, Heralds & Heraldry in the Middle Ages, Oxford, 1956, p. 69
[65]George Sitwell, 'The English Gentleman' in The Ancestor volume 1, 1902

argued that this writ marked an increasing desire on the part of the English government to regulate and control the bearing of arms. There are no serious visitation records that survive from the fifteenth century, but as he has shown there are clear indications that heraldic visitations in the fifteenth century were far more common than the fragmentary evidence suggests[66]. In following Bartolus on the freedom to adopt arms of one's own volition, Upton, it would seem, was taking a rather conservative view in terms of contemporary practice.

Upton was very concerned with the problem of criminous nobles. He argued that it was vital for the welfare of the state that nobles who broke the law be severely punished. He warned that if they were not "than hyt myght be occasyon for soche often tymes to oppresse wrongfully the poore people. And so the comenwelthe scholde soone perysche & decay"[67]. Therefore Upton advised that a prince should always exile a criminal noble. Furthermore he argued that any noble who outgrew all others in friends and influence should be exiled: "That other Afterwarde may be ware how they excede ther company so far in powre & goodes"[68].

It is obvious that this would have had a clear contemporary significance to Upton: England was in the midst of political turmoil with a weak king being controlled by a series of over-powerful nobles, leading the country into defeat in the war with France and disorder at home. In addition the example of France's recent difficulties with too powerful nobles and no strong central authority would have been in the forefront of the mind of any late medieval Englishman who thought about the dangers of criminal aristocracy. The didactic message of *De Studio Militari* was mirrored by Burgundian texts which although written independent of Upton also used Bartolus as a source. One such text was written approximately at the same time, a French translation of Diego de Valera's *Espejo de verdadera Nobleza*. This stressed the need for the nobles of Burgundy to behave virtuously and was almost an appeal to the Burgundian nobility to behave[69].

It is clear that nobility was a subject of great interest to late medieval men and women. Popular medieval authors such as Christine de Pisan, Alain Chartier, Philippe de Mézières, and Diego de Valera wrote important texts on the subject at this time. Furthermore nobility was a central discussion in popular recreational works such as *Roman de la Rose* and popular commonplace books like *Boke of St. Albans*, which took its discussion of the different ways to be made noble from Book Four of *De Studio Militari*, as well as having a separate discussion of the subject which was independent of Upton[70]. A way to explain why

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[66]Wagner, Anthony, Heralds & Heraldry in the Middle Ages, Oxford, 1956, p. 59; Squibb, G. D., The High Court of Chivalry, Oxford, 1959, passim

[67]Bodl. MS Eng.misc.d.227, fo 47r

[68]Bodl. MS Eng.misc.d.227, fos 47r - 47v

[69] quoted in Keen, Maurice, Some Late Medieval Views on Nobility, London, 1985, p. 5

[70] Boke of St Albans, facsimile edition, Amsterdam, 1969, fos a - c

nobility was so important was indicated by an editorial inclusion by John Blount in chapter eighteen. When Blount reached the section where Upton discussed legal means by which a man could be proved to be noble, he wrote:

> "There ys A certen maner & foreme In the lawe whych techyth proctors & aduocates in what wyse they schall make ther Articles to prove men noble & howe to reprove them as not noble. But I thynk hyt not expediente for owre purpose to speke off hyt here: hyt ys more mete for men off law to vse hyt in ther lybels"[71].

This implies a great deal of sensitivity on the subject of who was noble and gentle. This is supported by studies made by R. L. Storey and D. A. L. Morgan[72]. The sensitivity of late medieval men concerning the recognition of their social status is vividly indicated by a case Morgan cited from 1433 when William Packington, the controller of the English garrison at Bayeux killed another man for saying he was not a gentleman but rather he was a haberdasher[73].

There are several reasons which may be given to account for the seriousness of this issue. One of the most important was that with the economic difficulties of the aristocracy in the late middle ages, and the increased ceremonial costs of dubbing, the number of noblemen being dubbed into knighthood was decreasing (I will discuss this in greater detail in the next section). This meant that eligibility for knighthood became a more important social distinction in the fifteenth century. Another reason, put forward by Storey, was that the 1413 Statute of Additions made nobility and gentility a more important issue because it ordered that a man's estate or degree be made clear on all official documentation concerning him[74]. Furthermore Morgan has illustrated how the government in the fifteenth century were at pains to identify men of sufficient social status to carry out their business as Justices of the Peace, which manifested itself in lists of gentlemen being drawn up in various shires. It should be borne in mind that this was a period of considerable social mobility. Upton commented in chapter nineteen, "we se dayly how housebonde men of the cowntrey, throwghe there diligence ryse dayly hyer in state of ciuilite, So that there yssewe Atteyne to nobilite"[75]. This must have sharpened interest in what made a man noble. In the context of Europe the devastation wrought on the number of nobles in countries like Burgundy and France by wars meant that the nobility had to be refreshed with new members fostering a

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[71]Bodl. MS Eng.misc.d.227, fo 50v
[72]look footnotes 52 and 54
[73]Morgan, 'The Individual Style of the English Gentleman', 1986, p. 23
[74]Storey, 'Gentlemen Bureaucrats', 1982, p. 90
Sitwell, George, 'The English Gentleman' in The Ancestor volume 1, 1902
[75]Bodl. MS Eng.misc.d.227, fo 52v

fascination with the subject of nobility which Englishmen (much under Franco-Burgundian influences in this period) came readily to share.

Knighthood had a culture of its own, and Upton's examination of it was one of the most interesting parts of Book One. Some of his discussion is in step with the practice of his time, whereas other parts of his discourse are wildly at odds with the opinions of his contemporaries. Upton's description of how knights were made, for instance, agreed well with fifteenth century practice. On other subjects however Upton's discourse stood apart from the opinions of his contemporaries, for instance what he wrote about the origins of knighthood, and his theory that knighthood was not an order, but instead was an office. I will examine these matters in turn.

Upton discussed the creation of knights in chapters two and three. He briefly described peacetime knightings and discussed wartime knightings in greater detail and I will follow his division. He outlined two ways to be knighted in peace: the knighthood of the Bath and taking knighthood at the Holy Sepulchre. He passed over the knighthood of the Bath with little comment, but expanded on the Holy Sepulchre. The reason he described this method of knighting in detail was because he wanted a good and colourful example of knights made by non-knights. He described how the men who went to Jerusalem to be knighted were created by "the porter or the kepar off the dore wheire the holye sepulchre ys" and that usually this porter was a squire. Upton added that if there was no squire present then a priest could make the applicant a knight. Upton was so interested in this form of knighting that he returned to it three times in the course of his discussion of knighting[76].

Something like this form of knighting was mentioned in early romances, the best example being in the *Chanson d'Antioche*[77]. Despite the religious connotations of being knighted at the tomb of Christ the ceremony in the late middle ages was usually conducted by a layman, which set this form of creation apart from other creations which had elaborate liturgical ceremony associated with them, such as Ramon Lull's discussion on the order of knighthood of the bath[78]. This form of taking knighthood at the Holy Sepulchre was in use in the late middle ages, in particular amongst certain German knights, who indicated this was how they became knights with badges on their tombs. Maurice Keen has speculated that the reason why Germans were particularly attracted to this method of knighting was that if a man

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[76]Bodl. MS Eng.misc.d.227, fos 4v - 6r
[77] La Chanson d'Antioche, ed. P. Paris, Paris, 1848, vol. 1, p. 225
[78] Lull, Ramon, The Book of the Ordre of Chyualry, ed. A. T. P. Byles, London, 1926, ps 66 - 76

was knighted by a squire in Jerusalem he would not owe any German potentate any service or thanks for his position[79].

After the description of peacetime knighting in chapter three Upton turned to creating knights in time of war. Upton was far more loquacious on this subject, which reflects the great deal of personal experience he had of war. He described three occasions when knights would be created in wars: at a siege; before a battle; before a perilous crossing into enemy territory. On each occasion the ceremony was essentially the same. A herald would gather the applicants together before the head captain and the captain would strike them with a sword thereby making them knights[80]. In addition Upton recommended that:

> "the same captayne owght to assygne [the new knight] A nother Auncyent knyght, whyche schalle prepare gylden spoorys for hym & schall go wythe hym to make the sawte . . . the auncyent knyght to whome thys man of aremes ys commyttyd, shall watche All the nyght folowyng wythe hym in ye sayde place"[81].

Upton would have had eye witness experience of this when he served in the retinue of the earl of Salisbury, during which time, by his own account, he was present at many battles and sieges[82].

By stressing the importance of knighting in wartime Upton closely mirrored contemporary practice. In the fourteenth and fifteenth centuries making knights before conflicts became a regular feature of battle. This is clear in accounts of battles; for example Jean Froissart's *Chroniques* abound with examples of such creations, such as in 1335, when Edward III knighted many men before invading Scotland prior to the battle of Annandale[83], or in 1338 before the confrontation at Vironfosse fourteen men were knighted[84]. There were many reasons for this increase in the popularity of knighting in the field. One was the prohibitive cost of dubbing ceremonies in peacetime. It was much less expensive for a knight to be dubbed before a battle, as the expensive gifts and celebrations which accompanied peacetime creations would be avoided[85]. In addition there were other gains for a squire who was knighted before the fighting began: he would be paid more, he would be better able to lead men, and if he was captured he would be less likely to be killed out of hand[86]. Furthermore knighting men before battle was a way in which captains could increase the morale of the soldiers. Froissart refers to this when discussing the attack on Ardres in 1380

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[79] Keen, Maurice, Chivalry, Yale, 1984, p. 79
[80]Bodl. MS Eng.misc.d.227, fos 6r - 7r
[81]Bodl. MS Eng.misc.d.227, fo 6r
[82]Bodl. MS Eng.misc.d.227, fo 23v
[83] Froissart, Jean, Ouvres de Froissart, ed. Kervyn de Lettenhove, vol. 2, Brussels, 1867, p. 162
[84]Froissart, Oeuvres de Froissart, Brussels, vol. 3, 1867, p. 56
[85]Barber, The Knight & Chivalry, ps 28 - 29
[86]Barber, The Knight & Chivalry, p 28 - 29

where ten men, who had been knighted before the fighting began, "eager to do honour to their new knighthood, surrounded the tower of Frolant, and began the attack"[87]. Before another battle, that of Aljubarotta between Portugal and Castile in 1385, when two hundred new knights were created, Froissart presented the speech of King Joao of Portugal to the new knights, which made explicit the reason why he had promoted the men:

> "my fair sirs, the order of chivalry is more exalted and noble than imagination can suppose; and no knight ought to suffer himself to be debased by cowardice, or any villainous or dirty action; but when his helmet is on his head he should be bold and fierce as a lion when he sees his prey; and because I wish you to shew your courage on this day, where it will be needful, I order you to the front of the battalion, where you must exert yourselves, that we may both obtain honour, otherwise your spurs will not become you"[88].

Upton's own experience of knighting during conflict and the emphasis he gave to this accurately reflected contemporary practice.

After describing these forms of knighting Upton added "yff yowe knowe eny other [methods of creating knights] yow may kepe them boldly"[89]. This indicates that Upton was aware that there were many other ways to be knighted in the late middle ages. One such example that Upton must have known about was how the Emperor knighted men when he went through Italy to Rome, since Bartolus detailed in *De Insignis et armis* how Charles IV knighted him in this way[90]. What is more there were other occasions in which men were made knights which Upton did not allude to, for example the Grand Master of the Teutonic Order often knighted pilgrims to Prussia[91].

So far what we have examined in Upton's discourse on knighthood tallies with contemporary practice and the views of other contemporary commentators. When we come to what he has to say of the origin of knights, however, we find it is different from other accounts in a small but important way. He described their origins in chapter four of Book One, where he wrote:

> "Hyt ys sayde in the begynnyng off the story of the Romans, after Romulus had bylte the cyte whyche he namyde Rome, Agreing to hys owne name, he chose a m^{e} fyghtyng men Amonge All hys company whome, A cordyng to the nomeber of the name In laten whyche ys

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[87]Froissart, Oeuvres de Froissart, vol. IX, Brussels, 1867, p. 245
[88] Froissart, Jean, Sir John Froissart's Chronicles of England, France, Spain and the Adjoining Countries, translated Thomas Johnes, vol. 1, London, 1808, ps 270 - 271; Froissart, Oeuvres de Froissart, vol. XI, Brussels, 1867, p. 166
[89] Bodl. MS Eng.misc.d.227, fos 6v - 7r
[90] Cavallar, Osvaldo, A Grammar of Signs, University of California, 1994, p. 145 point 3
[91] Barber, The Knight & Chivalry p. 29

> callyde *mille*, a m^{e} he namyd then *milites*. For thys worde *miles* in laten betokenethe As moche as one of A m^{e} chosen owte"[92].

Upton mirrored most writers on knighthood in attributing the derivation of the term *miles* to the Latin word for a thousand, for example this was the explanation given by the most influential writer on knighthood in Europe, Ramon Lull in chapter two of *Le Libre del Orde de Cauayleria*. However Upton was unusual in ascribing the foundation of knighthood to Rome. Most other writers dated the origin of knights much earlier, for example Lull argued that knighthood was founded in ancient Mesopotamia in scriptural times[93]. This is an example of the humanist attitudes in Book One. That is to say, Upton preferred to argue that Rome founded knighthood because he belonged with those of his generation who were beginning to think that it was Rome rather than any other pre-classical civilisation that was the wellspring of most secular good things.

The most striking difference between Upton and his contemporaries appears in his contention that knighthood was not an order, but rather an office. He made this argument in chapter two, where he described how non-knights could make knights, with reference to knighting at the Holy Sepulchre, and this was no doubt the reason why he was so interested in that manner of taking knighthood. He argued that knighthood was an office because in an order, such as priesthood, when a man was initiated, "A certane caract or sygne" was put into his soul. This sign or character could not be given if the grantor himself was not a fully initiated member of the order, therefore Upton concluded "Wheirefoir I call [knighthood] properly An offyce And noo order"[94].

This definition is strikingly at odds with most thinking on knighthood. The idea that knighthood was an order was repeatedly expounded by writers of the middle ages, from Geoffrey de Charny, who compared knighthood and priesthood as two great orders, to William Caxton's translation of Lull, "The Book of the Ordre of Chyualry"[95]. The reason why Upton denied that knighthood was an order is not absolutely explicit, but a clue is given in his manner of referring to knighthood. In Book One he stressed that the principle duty of knighthood should be the defence of the commonwealth. For example in chapter two he wrote:

> "A knyghtes offyce was firste mayde for An offyce of payne or labore ande not of honowr. For a knyght ys as A Seruant of the comone welthe, ande hys offyce verey troubleouse"[96].

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[92] Bodl. MS Eng.misc.d.227, fo 7v - 8r
[93] Lull, Ramon, The Book of the Ordre of Chyualry, ed. A. T. P. Byles, London, 1926, ps 14 - 15
[94] Bodl. MS Eng.misc.d.227, fos 4v - 5v
[95] Barber, Richard, The Knight & Chivalry, London, 1970, p. 27. Charny was by no means the first to use the phrase 'order of chivalry'
[96] Bodl. MS Eng.misc.d.227, fo 5r

This sentiment was repeated in chapter four when he wrote "For the offyce of A knyght ys soche that to hym ys commyttyde the defension of Cowntreyse"[97]. This implies that Upton had little appreciation of the idea of knighthood as an international order, and preferred to see knights as soldiers, as servants of the nascent nation state with a duty to uphold in arms the common interest of their 'country'. Neither his reading nor his personal experience of war seems to have infected him with the traditional romantic view of knighthood to which so many of his contemporaries still subscribed.

Knights were soldiers, and Upton paid due attention to the qualities that would make them good soldiers. He had a great deal of experience of soldiers from his time in France in the 1420s and no doubt this gave a practical edge to his thinking. In the main part Upton's recommendations as regards characteristics of good soldiers were those put forward by almost every writer on this subject. This can be seen if one compares *De Studio Militari* with say Christine de Pisan's *The Book of Fayttes of Armes and of Chyualrye*[98]. Both derived their opinions, ultimately, from the same ancient Roman sources, principally Vegetius. For this reason it is not valuable to discuss these opinions at length. Rather I will focus on how Upton's book learning connected with the practice of his time. Here he was writing in a humanistic spirit, in that he was trying to repair the vices of his own day by referring to the virtues of ancient Rome. In the discussion of knights as soldiers this is most evident in Upton's stress on the need for discipline in armies and his discussion of punishments for soldiers.

Throughout his discussion of soldiers Upton stressed the need for loyalty and discipline in armies. Soldiers should be loyal to one another and their leaders, and they must always obey their leaders. To illustrate this he offered many examples from ancient Rome which taught this lesson, for example Manlius Torquatus who executed his son for advancing in battle without his father's permission, even though he triumphed in the skirmish, because Torquatus thought it "moche better for the father to lese hys sonne (ware he never so bolde A man) than the cowntrey to lak there order & dissciplyne in warre or batell"[99]. Upton presented all of these examples in an explicitly didactic fashion, for example after praising the Roman's extreme discipline he wrote:

> "thys correccyon kept so straytely Amonge men of warre subdewde vnto the Iurisdiction of the Romannes the grete kyngdome of Italy browght

[97] Bodl. MS Eng.misc.d.227, fo 8r
[98] Christine de Pisan, The Book of Fayttes of Armes and of Chyualrye, ed. A. T. P. Byles, London, 1932
[99] Bodl. MS Eng.misc.d.227, fo 11r

> onder there subiection meny innumerable cytees & grete Realmes & dominions of moste valiant kynges & gentyles"[100].

If examined as a whole the lessons Upton offered for soldiers which he took from antiquity were corrections of the abuses by soldiers which were most commonly condemned, as is evident if one compares *De Studio Militari* with contemporary critiques. An example of one such text was *Complainte sue la bataille de Poitiers* written in 1357 which complained that soldiers lacked the courage to fight and fled, and that many arrived for battle dressed in clothes of vanity, rather than clothes of battle[101]. Upton discussed soldiers fleeing battle in chapter six, again contrasting the practice of his day with the more admirable ancient Roman senators' strict penalties for this crime[102]. He lamented the vanity of soldiers in chapter five:

> "Meny men of warre now A dayse geve them selfe to wanton plesures to hawkyng huntyng & moche ease, They be effeminate & in experte in chyualry. Meny now A dayse care more for gorgiowse Apparell & goodely armowre, than for exercyse & practyse in poyntes of warre And takyng paynes & labores therein"[103].

Archival evidence, such as French *Parlement* records, amply confirm how great a social and political problem soldiers were perceived to be. An example of this was in 1361 when *Parlement* issued an ordinance which decried soldiers who were disobeying their captains, thereby threatening peace made between the kings of France and England[104]. The same theme is taken up in the ordinances of Charles V and Charles VII. The emphasis on discipline in the ordinances of war of the English Kings Richard II and Henry V reflects parallel concerns. This gives context to Upton's didactic message, for example continually stressing the need for soldiers to obey their captains and threatening execution for those who disobeyed[105].

Upton had a great deal to say on the subject of the punishments of soldiers, describing crimes and penalties with a good deal of book learning. For example in chapter fifteen he said that if soldiers committed a crime which would have them sentenced to work in a mine if they were civilians then "They schall lease ther heddys: For A man of warre doyng soche offence ys not reputyd for a Sowdiar, but an enmy herein", a point clearly

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[100]Bodl. MS Eng.misc.d.227, fo 11v

[101] Allmand, Christopher, 'Changing Views of the Soldier in late Medieval France', in Guerre et Société en Angleterre et en Bourgogne XIVe - XVe Siècle, eds Philippe Contamine, Charles Giry-Deloison, Maurice Keen, Lille, 1984, p. 172

[102]Bodl. MS Eng.misc.d.227, fo 11v

[103]Bodl. MS Eng.misc.d.227, fo 10r

[104] Allmand, Christopher, 'Changing Views of the Soldier in late Medieval France', in Guerre et Société en Angleterre et en Bourgogne XIVe - XVe Siècle, eds Philippe Contamine, Charles Giry-Deloison, Maurice Keen, Lille, 1984, passim

[105]Bodl. MS Eng.misc.d.227, fo 28v

derived from reading, since it has no contemporary practical warrant[106]. Nevertheless the crimes and punishments Upton outlined were very similar to those in Henry V's *Mantes Orders* which we know that Upton was familiar with because he copied them into Book Four of *De Studio Militari*[107]. A comparison of a few of the examples Upton quoted from ancient Rome with the *Mantes Orders* indicates how closely Upton's book learning matched contemporary practice. In chapter sixteen Upton described how Cornelius Scipio was said to have driven two thousand prostitutes out of his army. Upton explained this thus:

> "For thys sage & prudent captayne know well ynowghe y^{t} Fullffyllyng of carnall lustes dyd feble & weken mens corage & strengthe".

Upton expanded on this with an example of how sexual continence won Alexander the Great success[108]. The *Mantes Orders* reference to prostitutes in the train of the army read:

> "More ouer we comaunde that these open And comon strompettes be suffred in no maner wyse to Abyde w^{t}in oure hooste And specially At the siege of townes, castelles And fortresses, but then they be Remoued to gyther A leegghe At the leeste frome the hooste"[109].

Another crime outlined in Book One was fleeing the army. Upton wrote that the Romans ordered that soldiers who fled were "to be beton nakyde wythe roddes, or to be reputyde as gret enmyse & so to be slayne, or els to be denyde of there fees & wayges"[110]. The *Mantes Orders* decreed the offender be arrested and depending on the King's will be executed or denied his wages and spoils[111]. A comparison of all of the examples from ancient Rome which touched on subjects which were in the *Mantes Orders* indicates that they consistently presented the same message. This confirms the impression that Upton was consciously combining his book learning with practice when he discussed soldiers, and that, equally consciously, he was holding up ancient Rome as an exemplar for his own times.

Knights' *raison d'être* was war. In Book One of *De Studio Militari* Upton examined war in order to justify it, thereby validating the existence of knights. This discussion was a theoretical examination of war in two parts. These were the divisions of war and the relationship of war to sin. Both deserve discussion, though for different reasons. The discussion of the divisions of war was very idiosyncratic and therefore it warrants examination. The discussion of war and sin is interesting because although Upton's views on the matter were unoriginal and largely derivative, it shows him once again reflecting on the

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[106]Bodl. MS Eng.misc.d.227, fo 28r
[107]Bodl. MS Eng.misc.d.227, fos 125v - 135v
[108]Bodl. MS Eng.misc.d.227, fo 31r
[109]Bodl. MS Eng.misc.d.227, fo 135v
[110]Bodl. MS Eng.misc.d.227, fo 11v
[111] Black Book of the Admiralty, ed. T. T. Twiss, volume 1, R. S., 1871, p. 466

relation between what he read in his authorities and contemporary usage, and indeed his own personal experience.

In chapter thirteen Upton divided war into four parts. The first part was 'virtual' war which was the war which St. Paul exhorted all prelates to fight against the enemies of the church. The second was 'spiritual' war, "whyche ys ageynste the carnall lustes & plesures of the body of the whyche the Apostell Spekyth Also"[112]. The third division was 'votal' war, which Upton ascribed to St. Bernard who wrote that it was a war fought against the infidel by Christians of their own volition. He compared those who fought such a war with the Hospitallers and the Templars. He added that those who died in such a battle were martyrs[113]. The fourth was 'human' war, ordinarily wars between princes or kingdoms, which Upton discussed in his examination of the qualities which a soldier should have.

The definition of votal war that Upton presented was a very unusual one. Bernard is in the background all right, but he did not use the term, and as I wrote above, it seems this four-part division was derived from John of Legnano. However the specific definition of votal war as being a crusade all Christians could and should make against the enemies of the church was not advanced by John and I have been unable to find such a definition proffered anywhere else. What is more it should be noted that the term 'votal war' meant completely different things to other writers. This was true of Hostiensis who divided war into seven parts, and named votal war as one of the three types of war he outlawed. This was because he argued that it was a war started without any princely authority. Votal war to him was clearly something quite different to crusade[114]. Upton's classification here seems to be entirely individual but justified, since crusades did fulfil vows.

Upton is much easier to follow when he discusses war and sin in chapter thirteen. He explicitly argued that war was not inherently sinful. He particularly considered the question whether a priest could take part in warlike acts, and in this part of the discussion he made one of the most revealing autobiographical comments in the whole of *De Studio Militari*:

> "Here Incidently ys movyd A question: whyther hyt be synne to warre? To the whyche (savyng my prestehode) I am A schamyd to make Answerre, bycause I haue toylyde & bysyd my selfe at dyuerse trobles In warre, At meny seagys, fortalyssys, Assawtes & actes of batell. Howbeyt I say wythe dauid, blyssyd be they whyche All tymes doo trewe Iugement & Iustyce"[115].

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[112]Bodl. MS Eng.misc.d.227, fo 19v
[113]Bodl. MS Eng.misc.d.227, fo 20r
[114] Ballis, William, The Legal Position of War, the Hague, 1937, p. 50
[115]Bodl. MS Eng.misc.d.227, fo 23v

He expanded on this (using John of Legnano as his source) with reference to how the bible portrayed priests preaching to the army before a battle, urging them to spare the innocents. This mirrored contemporary custom. Accounts of battles show that priests had a clear pre-battle role, for example Froissart described how Philippe d'Artevelle provided his Ghent soldiers with seven masses celebrated simultaneously, each accompanied by a sermon lasting an hour and a half preached by a Dominican friar before the battle of Beverhoutsfeld in 1382. What is more three out of every four soldiers took communion[116]. The priestly author of the *Gesta Henrici Quinti* described how during the battle of Agincourt the priests were praying at the rear of the battle:

> "at that time the Church was reciting aloud, said in our hearts: 'Remember us, O Lord, our enemies are gathered together and boast themselves in their excellence. Destroy their strength and scatter them, that they may understand, because there is none other that fighteth for us but only Thou our God'. And also, in fear and trembling, with our eyes raised to heaven we cried out that God would have compassion upon us and upon the crown of England"[117].

Upton was a veteran of several battles, including Verneuil, and it is very likely he had seen such prayers made in the midst of battle, indeed he may have been praying himself; but he was clearly less sure whether he had been entitled to take part in the fighting.

While discussing war and sin Upton also discussed issues such as whether or not war was inherently sinful, whether wars could be fought on Sundays and whether or not trickery could be used in war. Upton used John of Legnano as his source when he denied that war was a sin, writing that only its mis-use was sinful. This mis-use came under three heads, all of which echo the criticisms of soldiers, which I alluded to in the previous section. For example war was sinful when soldiers extorted "lareger waygys & stypende than they deserue, For there being In warre". Similarly abuses such as hurting innocents and fighting because of avarice were named, all abuses commonplace in late medieval war[118]. On the subject of war on Sundays and using trickery Upton continued to present a didactic discussion which was applicable to contemporary circumstances. He wrote that war could be fought on a Sunday if the commonwealth needed to be defended, but if it was not necessary it was a sin. This is similar to his stress on the importance of the commonwealth in his treatment of knighthood as an office and not an order. Similarly he argued that it was permissible to use tricks in war, so long as they were not as serious as poisoning enemies, giving as an example the punishment which the Roman Senate gave to Timochares when he tried to poison King

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[116] Froissart, Jean, Oeuvres de Froissart, ed. Kervyn de Lettenhove, Brussels, 1867, vol. 12, p. 26
[117] Gesta Henrici Quinti, eds Frank Taylor and John S. Roskell, 1975, ps 85 - 87
[118] Bodl. MS Eng.misc.d.227, fos 24v - 25v

Pyrrhus[119]. This was similar to his didactic use of the ancients in discussing the abuses of soldiers.

The last theme which Upton examined in Book One was the fee. He gave a reason for examining this subject at the end of chapter sixteen, writing that nobility relied on the acceptance of a man's nobility by the prince. The prince assigning the noble with a fee marked this acceptance[120]. This section is the most perplexing in Book One because for most of it Upton seems to have been illustrating his erudition for no other purpose except that he wanted to show the reader how well read he was. The section is a staggering collection of legal citations which often contradict themselves and do not follow any logical structure. This rendered much of his discussion irrelevant and obsolete, but there are nevertheless points at which it becomes interesting and revealing, especially where Upton tried to make a connection between what he found in the erudite authorities and the experiences of his own day. In particular I will discuss in this context what Upton wrote about the problem of a vassal who had two (or more) lords, and what he wrote about the distribution of badges to retainers.

Upton discussed the problem of allegiance for vassals holding fees from more than one lord in chapters seventeen and eighteen. He argued that this was permissible, and only so, so long as the additional fees were acquired through inheritance. Bearing in mind how busily many of Upton's gentleman contemporaries were acquiring estates by purchase more or less regardless of whom, as fees, they were held, he must have known, it may be argued, that this view of things was thoroughly out of touch with contemporary practice. The real trouble, it may however be suggested, was that he lacked the language (or rather perhaps that his sources lacked the language) to discuss that contemporary practice. This can be illustrated if one examines the section where Upton discussed the situation of a vassal who held fees of two lords who were in conflict with one another. He concluded that the vassal should support the senior lord, whose liegeman he was, and he supported his argument with an invented case study. The details of this were thoroughly feudal: he imagines a man who holds a castle as fee from each lord. Yet the kind of tension that he was discussing was a contemporary one. Christine Carpenter has effectively illustrated, in her study of the Beauchamp affinity, how bastard feudal retainers, who were often feed by more than one lord, retained a loyalty to their senior lord when their patrons were at odds with one another[121]. It was the details and

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[119]Bodl. MS Eng.misc.d.227, fos 25r - 25v
[120]Bodl. MS Eng.misc.d.227, fo 32r
[121]Carpenter, Christine, 'The Beauchamp Affinity', English Historical Review, 95, 1980, p. 518

language of Upton's treatment which did not comfortably fit contemporary conditions, not the problem of multiple allegiance or the verdict that he gave on it.

What Upton had to say about badges and livery colours illustrates ever more vividly how he could, without any sense of incongruity, employ and apply the terms used by learned feudal lawyers of an earlier generation when discussing relations which a modern historian would be inclined to describe as 'bastard feudal' rather than 'feudal'. It occurs in chapter seventeen, at the point when Upton is describing what happened when a man was ennobled. He wrote that "The maner of ynglonde was whan the kyng Nobilitatyd eny personne To geve hym a certen baage or lyuery wyth hys Fee"[122]. Upton gave examples of such badges; the English King gave a collar of 'SS', the French King gave golden broom, the Scottish King a golden bridle. He then explained the meaning and nature of these badges:

> "Howbeyt hyt ys to be notyd, these bages or conisantes that kynges geue ther Feed men, be not ther owne bages or aremes, but onely as certen markes & sygnes wherby there feedmen & vassalls may be knowne frome other"[123].

It is clear that what Upton was describing were badges of the kind lords gave to their 'bastard feudal' retainers in the late middle ages, not the livery of a fee to a vassal, but he significantly makes no sharp distinction, incorporating the badges into his discussion of the latter. To him, it seems clear, the difference between the ties that bound a 'bastard feudal' retainer to his lord and those that bound a vassal to his overlord was not a very significant one. This chimes well with Christine Carpenter's description of the bastard feudal relation as the 'logical successor' to the older feudal one. To put it another way, Upton, given that he had no chance of hearing about 'bastard feudalism' could see no other way of explaining such contemporary practice as the distinction of badges and livery collars but to fit it with what the jurists had written about feudal relations. Historiographically, it seems rather significant that this was his natural reaction.

At no point in his discussion did Upton mention issues which were of most interest to fifteenth century men, such as 'good lordship'. However Upton's discourse did partly reflect society. He stressed what a serious matter it was to accept a lord's fee, and how binding this was. Carpenter has illustrated that in the fifteenth century men did not enter into bastard feudal arrangements lightly. Furthermore she has illustrated that these bonds were not lightly cast aside. Therefore it may be argued that although the discussion of the fee was obsolete, the themes in it which Upton discussed did reflect the importance of links that bound

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[122] Bodl. MS Eng.misc.d.227, fo 32r
[123] Bodl. MS Eng.misc.d.227, fo 33v

feedmen to their lords in fifteenth century England; what Upton lacked was a source using contemporary phraseology and examples.

Book One of *De Studio Militari* is a very difficult book to make sense of. Its tortuous layout and difficult and obscure sources, not to mention its complicated subject matter make it a complex book. Nonetheless a close examination of the text indicates the subject Upton is discussing: the knight. He examined the knight by skilfully relating contemporary experience to his adroit plagiarism of sources. In all of the five aspects of the knight which I have discussed in this chapter, nobility, knighthood, soldiering, war and the fee, he was presenting a discourse relevant to fifteenth century England. What is more, the subjects which Upton discussed in this book were subjects given prominence in texts respected as authoritative in the late middle ages. Upton by discussing them in the light of these authorities, was performing a task that would seem valuable to his (less erudite) patrons and peers. In addition he was idiosyncratic enough that his *De Studio Militari* was a text on its own, so that it had a value over and above its sources and its similarities with other texts. This made Book One, despite its very derivative nature, a singular source. Similarly Upton's wealth of personal experience on subjects such as soldiers and heralds makes him a valuable eyewitness to much of what he described. For this reason Book One is in many ways the most important of the four books of *De Studio Militari* and this is what makes the struggle with it worthwhile.

III

Introduction and Commentary to Book Two of *De Studio Militari*

Book Two is the shortest of the four books of *De Studio Militari*. In Blount's translation, measured by word count, it is less than half the length of Book One, which, in word count, is essentially a quarter of the text. In Blount's translation Book Two is made up of thirteen chapters (in most Latin versions, including Bysshe's edition there are fourteen chapters)[1]. The book is connected by subject matter to Book One; that is to say they both are concerned with war. However a comparison of the two shows they are markedly different. Book One is primarily interested in discussing the problems, status and privileges of the individual soldier or knight. Book Two, as will be outlined in this chapter, is concerned specifically with 'warfare' itself. Furthermore the way in which information is laid out in the two books is very different. Book One is an excessively rambling affair which is extraordinarily difficult to follow and make sense of, as it flits from subject to subject without any warning, and often gets bogged down in legal *minutiae*[2]. The discussion in Book Two, by comparison, is clearly laid out and deals with each of its topics in turn and then moves on in an organised fashion which is easy to follow and understand.

Book Two is particularly interesting because, of the four books of *De Studio Militari*, it is most directly reliant on Upton's own experience. It is clear that Upton was balancing book learning with practical experience in this book, and when there were no written authorities for him to refer to he was not afraid to trust his own experience. He discussed four main topics: the just war; duels; safe-conducts; reprisals. He used the discussion of the just war as an introduction to the discussion on duels: he discussed different types of wars until he got to the duel ('*bellum particulare*'), where he wrote that he would like to focus on that subject, and did so for the next seven chapters. After duels Upton turned to safe-conducts, which occupied the next five chapters. The consideration that a foreign knight coming to England to fight a duel would need a safe conduct provided a connecting link at the transition from subject to subject. The section on safe conducts was followed by a discussion of reprisals, the transition smoothed similarly via the question of whether the breach of a safe conduct would justify the issue of letters of marque to recover damages. This progression was not strictly logical, but the connections are apparent. I intend to discuss the sources

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[1] Look 'The Families of *De Studio Militari* manuscripts and Blount's translation'
[2] Look 'Introduction and Commentary to Book One of *De Studio Militari*'

Upton used for Book Two, and then I will examine each of the four sections, concentrating on how Upton sought to link his scholarship with practical experience.

Upton referred to several authorities for the information in Book Two. As a highly qualified lawyer, it is unsurprising that Upton used mainly legal texts. These were Raymond of Pênafort's discussion of the just war, Gratian's *Decretum*, John of Legnano's *Tractatus de Bello*, the Lombard Law and Bartolus of Sassoferrato's *De Repræsaliis*, and his commentary on the Digest. At one point, as we shall see, he made rather interesting use of passages from Geoffrey of Monmouth's *Historia Regum Britannie*. Throughout the book he combined and added to these written sources with his own experience.

The opening discussion of the just war in chapter one of Book Two was taken from Raymond of Pênafort, although it is not clear whether or not Upton took the information directly from Raymond. The discussion was very condensed, but the criteria for a just war that Upton discussed were the five criteria Raymond outlined, namely *persona*, *res*, *causa*, *animus*, *auctoritas*[3]. Upton did not name any source for this information, although he was familiar with Raymond as can be seen when he later referred to "doctor raymunds" in chapter thirteen[4]. Nonetheless there is a problem concerning where exactly Upton found the information that he presented in chapter one because Raymond was widely quoted and one of his followers was Hostiensis, whom Upton also referred to at the end of chapter seven[5]. As Upton condensed the discussion so much it is impossible to identify clearly which of these two sources are more likely to have been used, but it can be argued with some confidence that Upton did consult a source which contained Raymond's criteria.

As a doctor of canon law Upton was familiar with Gratian's *Decretum*. He used this source to provide the information for his discourse on priestly intervention in war in chapter one of Book Two, citing Gratian's example of Pope Adrain I urging Charlemagne to fight and defeat the Lombards[6].

After these authorities Upton turned to John of Legnano, who was used for the rest of chapter one through to the end of chapter three. In chapter one Upton named John as his source: "There ys a certen doctor namyd Ioannes de liniano, whych dyffynythe batell"[7]. From this sentence on, the rest of the chapter was a verbatim copy of chapter one of John's

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[3] Sancti Raymundi de Pennafort, Summa, Lib II, Tit V, Verona, 1744, p. 172 - 173
[4] Bodl. MS Eng.misc.d.227, fo 77v
[5] Bodl. MS Eng.misc.d.227, fo 70r
[6] Bodl. MS Eng.misc.d.227, fo 57v; C. 23 q. 8 c. 10
[7] Bodl. MS Eng.misc.d.227, fo 57v

Tractatus de Bello and Upton ended his chapter at the same point as John ended his[8]. The information which Upton plagiarised was John's definition of battle as a form of strife (*conflictus*). The second chapter of Book Two picked up where the last chapter had ended, copying word for word from John's second chapter[9]. This discussed the primary division of battle, namely between spiritual and physical strife and the further divisions that could be made between these categories. This continued until Upton had laid out what type of war a duel was. After this Upton spent the rest of chapter two discussing duels, naming John as his source[10]. All of this information was taken from chapter 168 of *Tractatus de Bello*[11]. Upton's procedure here was different from before, in that he did not copy word for word but instead condensed the information into an outline of seven questions which should be asked about the duel[12]. Chapter three of Book Two copied word for word from chapter 169 of *Tractatus de Bello*[13]. This described how a duel was a pre-arranged combat between two men for glory, hate or grudge.

For chapters six and seven Upton referred to the Lombard law but his use of this authority is problematic. He used it to discuss reasons why duels should be fought[14]. However the law, as presented by Upton, does not resemble the version of the law printed in *Monumenta Germaniæ Historia.* A good example of this can be seen when comparing chapter seven in Book Two with the text of the Lombard law: for example Upton named twenty reasons why a duel should be fought, but the Lombard law named twenty three, and for the most part they were different reasons[15]. The problematic nature of the Lombard law can be seen in a European context when one examines its use by John of Legnano and Honoré Bonet: who both referred to the law as an authority on why duels ought to be allowed. However neither of those authors agreed with the Lombard law, each other or Upton! The conclusion to be drawn from this must be that there was some confusion over what the Lombard law actually said, and that there were conflicting copies or interpolations

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[8] Giovanni da Legnano, Tractatus de Bello, de Represaliis et de Duello, edited by T. E. Holland, Oxford University Press, 1917, p. 216

[9] Giovanni da Legnano, Tractatus de Bello, 1917, p. 217

[10] Bodl. MS Eng.misc.d.227, fo 59r

[11] Giovanni da Legnano, Tractatus de Bello, 1917, p. 331

[12] The first is what is battle between two men? The second is how many types of this battle are there? Thirdly what law permits it? Fourthly what law makes it illegal? Fifthly for what cause is a duel legal? Sixthly between which persons is it legal? Finally in what way should it be fought?

[13] Giovanni da Legnano, Tractatus de Bello, 1917, p. 332

[14] For chapter six look Bodl. MS Eng.misc.d.227, fo 63v; for chapter seven see Bodl. MS Eng.misc.d.227, fo 65v

[15] Bodl. MS Eng.misc.d.227, fos 65v - 70v; Monumenta Germaniæ Historia, Folio series, Leges, volume 4, 1864, p 590 - 591

throughout Europe. It seems clear enough that Upton had access to a text which, though derived from that law, was individual in its content.

Upton used two texts by Bartolus of Sassoferrato in Book Two. In chapter eleven he used Bartolus's commentary on the Digest (*de erogatione militaris annone l. cum sepe*); however he did not acknowledge Bartolus here. The information he used concerned how to guarantee the safety of the inhabitants of a besieged castle after it surrendered[16]. In addition Upton borrowed from Bartolus's *De Repræsaliis*. In chapter thirteen Upton copied the theory of reprisals, which Bartolus laid out, as well as the proper protocol before the granting of letters of marque, and cited Bartolus as his source[17].

Upton took all of the information in chapter five of Book Two from books four and nine of Geoffrey of Monmouth's *Historia Regum Britannie*. His object was to offer an example of a duel "that bredyth fyrst off olde Grutche"[18]. He opened chapter five with a genealogy of the British Kings, which was a summary of Book Four of *History of the Kings of Britain*[19]. After this Upton presented a mainly word for word copy of the account of King Arthur's duel with Follo outside Paris which was in Geoffrey's book nine, chapter eleven[20]. Upton cited his source at the end of this, writing, "these be the very wordes of the cronicle"[21].

The imprint of Upton's experiences while in Salisbury's retinue in France in the 1420s can be seen throughout the whole of *De Studio Militari*, but it is most prominent in Book Two. The application of his experience is apparent in two ways. Firstly the book is littered with brief autobiographical asides, such as in chapter thirteen when in the midst of discussing the canonical truce Upton wrote, "thys was not obseruyd in my tyme In fraunce"[22]. Secondly and more importantly he used his experience as a main source in what he had to say about duels and safe-conducts. Thus his discussion of duels drew on eyewitness accounts of some he had seen; as he wrote, "I haue sene meny tymes my selffe lyke batell in fraunce bytwene ij noble men, As I schewde afore"[23]. His discussion of safe-conducts was essentially built around his experience as one of Salisbury's senior clerks, as can be seen by

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[16] Bartolus of Sassoferrato, Bartoli. . . in ius uniuersum ciuile, commentaria, studio et opera, Basle, volume one, 1562, p. 921: Bodl. MS Eng.misc.d.227, fo 74r
[17] Bartolus Opera, Basle, 1562, Volume 5, p. 593
[18] Bodl. MS Eng.misc.d.227, fo 60r
[19] Bodl. MS Eng.misc.d.227, 60r - 63v; Geoffrey of Monmouth, History of the Kings of Britain, London, 1963, book four
[20] Geoffrey of Monmouth, History of the Kings of Britain, London, 1963, p. 196 - 197
[21] Bodl. MS Eng.misc.d.227, fo 63r
[22] Bodl. MS Eng.misc.d.227, fo 77r
[23] Bodl. MS Eng.misc.d.227, fo 70r

the way in which he used safe-conducts which he had drawn up in the 1420s at Salisbury's request as examples to illustrate his discussion[24].

Having outlined the sources Upton used it now remains to comment on the four sections of Book Two. To begin I will very briefly comment on the opening discussion of the just war to familiarise the reader with the text. The subjects which call for comment principally are Upton's definition of the just war, the question of who can authorise war, and why Upton discussed battle.

Upton described the criteria for a lawful battle (which he took from Raymond of Pênafort) twice in chapter one, and both times he said essentially the same thing:

> "A Iust batell ys that whych ys done by proclamation for to recouer thynges wrongfully taken away, or els bycause we may defende us from inuasion or owre enmyse, & yet soche batells be taken as quiet & peaceable wyth the trewe seruantes of god whych be made not of couetowse or a cruell mynde but for desyre of peace"[25].

These criteria were not controversial or original. The notion that war in self-defence was just was argued by most writers, from Isidore of Seville to Innocent IV. Furthermore all writers stressed the need for a 'valid authority' (proclamation) to call a war before it could be just. In addition it was accepted that war should only be for good motivations and its final object should be peace, a point which was stressed from Augustine onwards[26].

The only striking thing about Upton's discussion of the just war was its brevity. He could easily have spent the whole of Book Two discussing the subject, as many legal writers wrote volumes on the subject. As he did not, it is unsurprising that he missed out many aspects of the just war. However this is not important because, as becomes evident, the discourse on the just war was merely the introduction to the duel, which was Upton's real concern.

Upton stated his interest in the duel at the beginning of his discussion of it, and he also set out his willingness to use his own knowledge as a supplement to the authorities he would refer to, a willingness which lasted the whole book:

> "And thowghe [John of Legnano on types of war] treatyth sufficiently thereapon, yet as concernyng the vj particle of hys diuision (whyche ys off batell had bytwene ij men for purgation) I schall not be abaschyd yff I may doo eny goode herein to the reders

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[24] Bodl. MS Eng.misc.d.227, fo 71v
[25] Bodl. MS Eng.misc.d.227, fo 57r
[26] Keen, Maurice, The Laws of War in the Late Middle Ages, London, 1965, ps 66 - 69

> sumwhat more To adde & put to whyche I haue gatherd as I haue bene here & there in warres"[27].

It is helpful to divide Upton's discussion of the duel into three sections: reasons for fighting a duel; protocol and accounts of duels; weapons used in fighting duels.

At the beginning of chapter three Upton described three reasons for fighting:

> "hyt ys a bodly warre off ij persons deuysyd afore bytwene bothe paretyys, other for grete renowne & worscyp, or for purgation to be made for some cryme obiectyd, or by the reason off some rotyd hatered or olde grugeg afore"[28].

This was an accurate description of contemporary practice as can be seen in other late medieval commentaries on the duel. Upton expanded on each of the three categories and gave examples of duels fought for honour and for old grudge, although he did not go into any detail in analysing the motivations at work[29]. To discuss duels fought 'for purgation to be made for some cryme obiectyd' he referred to the Lombard law, listing the kinds of cases that on its authority could be resolved by combat. In using the Lombard law in this way Upton was following a broad juristic tradition. As I explained earlier both John of Legnano and Bonet used the Lombard law in the same way and to the same ends[30]. However these references to the Lombard law are misleading, as it had no real contemporary significance. The Lombard law had no practical currency in late medieval Europe: it was very old, written between 713 and 735. The jurists did not fully appreciate its purport, as it had very little application outside of eighth century Lombardy[31]. What is more manuals for the regulation of actual duels written in the later middle ages, such as Thomas of Woodstocks's ordinances, contained no reference to the Lombard law[32]. The incongruity of Upton's use of the Lombard law highlights Upton's motivation in including it, that is it seems that he wanted to justify with reference to written authorities the legality of contemporary practices which in fact, as Upton himself put it "be done more of custome, than by eny lawe wryten"[33].

Upton combined his use of the Lombard law with his own experience when discussing the protocol of duels. He had considerable practical knowledge of duels, which he obtained in the service of Salisbury as he wrote,

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[27] Bodl. MS Eng.misc.d.227, fos 58v - 59r
[28] Bodl. MS Eng.misc.d.227, fo 58v - 59v
[29] Look below at discussion of protocol (duel for honour) and discussion of Arthur and Follo (duel for old grudge)
[30] Early modern authors on the duel, such as John Selden, who copied from Upton, Bonet and John wrote that the Lombard law was vitally important in the jurisprudence of the duel, look at Selden, John, The Duello, London, 1711, p. 37
[31] Bury, J. B., The Invasion of Europe by the Barbarians, London, 1928, ps 284 - 288
[32] Black Book of the Admiralty, ed. T. T. Twiss, volume 1, RS, 1871, p 305
[33] Bodl. MS Eng.misc.d.227, fo 64v

> "I meny tymes my selffe haue sene paretyse Fyghtyng after thys wyse: where as they haue chosen for there Iugge to breke thys stryffe my specyall goode lorde & mayster the lorde Thomas, some tyme yerle off Salysbyry"[34].

He noted that Salisbury would often try to bring the duellists to a peaceful conclusion before the duel happened by advising them against conflict and rewarding them generously with gifts. As Maurice Keen and Mark Warner have shown Salisbury was not unusual in this as many judges sought to avoid the combat ever taking place[35]. These duels presumably arose mostly out of 'old grudge' or accusations injurious to the honour of one party by the other. It is clear that 'old grudge' sometimes was the underlying reason for duels that at first sight could appear to fall into the category of 'purgation of crime': Keen and Warner cite a good example from 1384, when a knight called Mattigo de Vilenos accused an English knight called John Walsh of treason, and thereby was granted a judicial duel, but he later admitted that the accusation was false and he had lied to get revenge for something Walsh had said to his wife[36]. Upton showed that he was aware of this phenomenon when, in chapter six he called upon the judges of duels to make sure that the duellists did not seek to kill one another, and were dishonestly using the duel as a cover for this, stating that he personally could not sanction such a duel as it ran contrary to the teaching of the bible[37].

A great many of the duels that Upton knew of would probably have been for honour. The duel that Gyles de Vitry, in chapter six, was seeking a safe-conduct to pursue was presumably in that category; and we know of many combats *a outrance* that were arranged between individual knights of opposing parties that were fought in the Calais march or on the Scottish border, as described by amongst others Jean Froissart[38]. Such duels were seldom fought to the death.

Upton described one duel fought to the death - Geoffrey of Monmouth's description of the duel between King Arthur and Follo. Upton's reason for choosing this duel indicates his desire to link his erudition with contemporary circumstances. The story was unhistorical, but it had a contemporary significance in the fifteenth century. The duel between Arthur and Follo was fought over who had rightful possession of France: Arthur claiming it from his ancestor Beluyn, and Follo as the lieutenant of the Roman Emperor Leo. Similarly, during the Hundred Years War there had been repeated challenges by the English kings to their

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[34] Bodl. MS Eng.misc.d.227, fo 63r

[35] Keen, Maurice, & Warner, Mark, 'Morley vs Montagu', Camden Miscellany, XXXIV, 5th Series, vol. X, 1998, p. 15

[36] Keen & Warner, 'Morley vs Montagu', 1998, p. 4

[37] Bodl. MS Eng.misc.d.227, fo 64Bv

[38] For example Froissart, Jean, Chronicles, Penguin, 1978, p. 373

French adversaries to settle their disputes over their claim to the French crown by single combat, the latest from Henry V to the Dauphin Louis in 1415. However none had actually taken place. To Upton, Geoffrey's description offered a fine example of how a duel, coming out of rooted hatred and conflicting claims to land, could actually take place, and have very significant consequences.

In the fifteenth century there was considerable literature on the duel produced. Such texts as Thomas of Woodstock's ordinances[39], the *De Materia Duelli*[40] and *The Order of Combat for Lyfe in Scotland*[41] all endeavoured to define and describe customary practice. However it seems Upton was unaware of these works. Therefore, without any written authority Upton bridged the gap with his own experience. Significantly a comparison of his account with the ordinances mentioned above shows agreement on almost all salient points. An example of this was the description of setting out a field for a duel. Upton wrote:

> "when the day apoynetyd to fyght ys come A great wyde & playne place schall be provydyd for them other wythyn the cyte or w^{t}owte whyche schal be closyd abowte wythe ropes & cordes or els strongly raylyd"[42].

Thomas of Woodstock wrote:

> "the erth be ferme and stabill, and harde and evyn made, withoute grete stoones, and that the erth be platt [sic], and that the listes be strongly barred rounde aboute, and a gate in the Est, and an oothir in the West, with gode and stronge barris of seven fete of heith or more"[43].

Woodstock gives more detail than Upton, but the two descriptions are essentially similar; and both authors are in agreement on a number of points, for example the right of the judge to decide when the duel should end, and the binding nature of his authority on this point[44].

The last aspect of Upton's discussion of duels I want to comment on in this chapter is that of the weapons given to the duellists. Upton described weapons he had seen in duels in chapter eight:

> "by custome the Iuge owght to prouyde them for hornyd battes targettes & scheldes whyche schall be equall length & byggnes. . . But whyther they schall haue helmettes or salettes Apon ther heddes we can not fynde nother by lawe nor custome"[45].

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[39] Woodstock's ordinances: Black Book of the Admiralty, vol. 1, 1871, ps 301 - 329
[40] De Materia Duelli: Black Book of the Admiralty, vol. 1, 1871, ps 330 - 344
[41] The Order of Combat for Lyfe in Scotland: Spalding Club Miscellany, Aberdeen, volume II, 1842, ps 383 - 390
[42] Bodl. MS Eng.misc.d.227, fo 64r
[43] Black Book of the Admiralty, vol. 1, 1871, p 307
[44] Bodl. MS Eng.misc.d.227, fo 64Br; Black Book of the Admiralty, vol. 1, p. 323
[45] Bodl. MS Eng.misc.d.227, fo 70v

What Upton meant by 'hornyd battes' may be explained with reference to the description of weapons used in a duel in *Gregory's Chronicle*:

> "ij stavys of grene hasche, the barke beynge a-pon, of iij fote in lengthe, and at the ende a bat of the same govyn owte as longe as the more gevythe any gretenys. And in that othyr ende a horne of yryn, i-made lyke unto a rammys horne, as scharpe at the smalle ende as hit myght be made"[46].

However it would be wrong to argue that the agreement of Upton and Gregory represented general contemporary practice. Woodstock's ordinances described other weapons: "[the constable] shall awarde [the duellists] poyntis of armys, otherwise callid wepens; aither of them shall have a long swerde, a short swerde, a dagger"[47]. This disagreement indicates a lack of consensus on what weapons should be given to duellists and the vagaries of custom.

Upton also discussed what should happen if a duellist lost his weapon during the struggle, again with reference to duels he had seen:

> "And yff so be the forsayde battes or scheldes be broken by noo meenys they schall have eny other geven them agayne. And yff ther battes Fall From ther hondes, but yff they can cathch them therselffe Ageyne, they schall gett none newe, but he schall stonde to hys haremes that was so ouer sene to lett hys wepon fall & cowlde no surelyer holde hyt"[48].

This was not true of all duels, as reference to the duel discussed in *Gregory's Chronicle* shows. In Gregory's account he described how one of the combatants lost his weapon and then the officers of the judge took away the weapon of the other combatant, leaving them to fight hand to hand[49]. This suggests that there was no universally held ruling on weapons and what should happen if they were lost in a duel. Upton confirmed this, writing after his discussion of weapons that it was observed not by law but by "vse & custome"[50].

The third section in Book Two of *De Studio Militari* concerned safe-conducts. This discussion occupied chapters nine to thirteen, inclusive. I want to comment on Upton's discourse under four heads: the context of Upton's safe-conduct; the characteristics of safe-conducts; other types of safe-conducts described by Upton; truces.

In the discussion of safe-conducts Upton used his background as one of Salisbury's clerks and his experience in drafting safe-conducts. He began with reference to his own

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[46] The Historical Collections of A Citizen of London in the Fifteenth Century, ed. J. Gairdner, Camden Society, 1876, p. 200
[47] Black Book of the Admiralty, vol. 1, 1871, p. 305
[48] Bodl. MS Eng.misc.d.227, fo 70v
[49] The Historical Collections of A Citizen of London in the Fifteenth Century, 1876, p. 202
[50] Bodl. MS Eng.misc.d.227, fo 70v

experience, writing that if a foreign knight came to England to fight a duel "I wolde cowncell them, yff they desyre to come surely that they presume not to come Wythowte A save condute"[51]. He then gave a sample safe-conduct, which he said he drafted at his master's behest for a knight called 'Gyles de Vitry'[52]. A comparison of this safe-conduct with contemporary sureties such as that given to the French legate in 1433 indicates that Upton's example was typical[53]. It was a patent letter granted by someone other than the king, such as a captain, of the type known as the *saufconduit de guerre*[54]. Its authority depended on the authority of the man who granted it, as Upton discussed in chapter nine: the grantor of a safe-conduct ought, he says, to find surety for his promise if he could not ensure the holder of his surety would be re-imbursed if he was robbed[55]. As safe-conducts were granted by captains whose seniority varied from the King to routier leaders this was a pertinent issue[56]. The point is confirmed by Bonet who wrote "a wise man knows that a captain has power to ensure him safe-conduct only in regard to the men of the captain's own country who are under him"[57]. The best safe-conduct a man could obtain was from the King or from the King's Lieutenant, which was Salisbury's position. Therefore one assumes Gyles de Vitry had no problem moving around English held territories with Salisbury's surety.

A comparison of Upton's safe-conduct with others indicates that safe-conducts usually had detailed conditions of tenure which would include the name of bearer, size of his retinue, arms and goods he could carry, the route he could take and places he could not enter. Upton detailed all of these, for example Gyles was allowed ten horses, four gentlemen, a chaplain and five other servants in his retinue[58]. The need for such stringent conditions can be explained by the desire on the part of other soldiers and captains to rob travellers in any way they could. Bonet described this thus: "(soldiers) are much more pleased to find flaws in one or many safe-conducts than to find full guarantee in them"[59]. This is supported by stories in Froissart such as that of the Navarrese in the 1350s who would not put "hats of beaver, ostrich feathers, and spearheads" in sureties they granted so that they could seize them[60]. Furthermore it is clear that medieval men were aware of the dangers of infringing the conditions set out. To illustrate this Keen cited the example of John le Scrope and John

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[51] Bodl. MS Eng.misc.d.227, fos 71r - 71v
[52] Bodl. MS Eng.misc.d.227, fos 71r - 78r
[53] Fœdera, ed. T. Rymer, vol. 4, pt 4, London, 1740, p. 199
[54] Keen, The Laws of War in the Late Middle Ages, 1965, p. 199
[55] Bodl. MS Eng.misc.d.227, fo 73v
[56] Keen, The Laws of War in the Late Middle Ages, 1965, p. 198 note 3
[57] Bonet, Honoré, The Tree of Battles, ed. G. W. Coopland, Liverpool, 1949, pt 4, chapter 5, p. 162
[58] Bodl. MS Eng.misc.d.227, fo s 71v - 73r
[59] Bonet, The Tree of Battles, Liverpool, 1949, pt 4, chapter 58, p. 162
[60] Keen, The Laws of War in the Late Middle Ages, 1965, p. 200

Melton refusing to leave England for Flanders even though they had a safe-conduct from John the Fearless, because they were unsure as to the meaning of a clause, and they only left when they received clarification of that clause from John[61]. This supports Keen's observation that, "the protection given by safe-conducts was not very effective"[62].

Upton described three safe-conducts used in his experiences as an administrator under Salisbury. In chapter ten he discussed safe-conducts granted by 'promise', giving as an example the safe-conduct given to Gyles de Vitry. In chapter eleven he discussed what he called safe-conduct "grawnetyd by a publyque personne". This was a safe-conduct granted by a lord to the inhabitants of a besieged town that had surrendered which allowed them to go to safety. In this Upton described how the lord's herald was appointed "gardiator" and he guaranteed the holders' safety. This implies that the safe-conduct was the lord's arms, which the herald wore on his clothes. Upton added that only those could appoint gardiators "whych hath Authorite & powre to wayge Iust batell or warre"[63]. This would have come from Upton's experience of serving Salisbury during several successful sieges in France in the 1420s. Chapter twelve described what he called safe-conduct granted by a sign or title, and provided another sample safe-conduct. It concerned surety given to the town of St. Lupe, near Orléans to harvest their crops. As with Gyles de Vitry's safe-conduct, it contained stringent conditions concerning the liberty of the residents of St. Lupe while harvesting. In addition it indicated that one reason they received the safe-conduct was to feed the English army: the safe-conduct read that the guard who read it had to "soffer them In lyke maner to come to owre hoostes wth vytells & to retorne from thense or to abyde & tary there"[64]. This is valuable because it is an example of what must have been a common document in frontier life, but of a kind that has not survived in great numbers. As a member of Salisbury's administration, Upton had clearly taken part in drafting such documents, and therefore he is a very reliable witness.

In chapter thirteen Upton defined a truce in order to differentiate it from a safe-conduct:

> "a trewce ys properly A surete or saluegarde graunetyd to men & ther goodes for a season: when the stryffe or dyscorde ys not yet Fully & hole enedyd: Also off trewcys some be conuentionall Some canonic "[65].

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[61] Keen, The Laws of War in the Late Middle Ages, 1965, p. 200
[62] Keen, The Laws of War in the Late Middle Ages, 1965, p. 204
[63] Bodl. MS Eng.misc.d.227, fo 74v
[64] Bodl. MS Eng.misc.d.227, fo 75v. The sign of title was probably given in the form of a 'billet' or ensign given to the inhabitants (as in Henry V's *Mantes Orders*, protecting those in land 'billeted').
[65] Bodl. MS Eng.misc.d.227, fo 76v

This definition of a conventional truce echoes Martin of Lodi's comment: "when a truce comes to an end we do not say that there is a new war, but that the old one continues"[66]. Illustrating his familiarity with Gratian's *Decretum* Upton added that although it was a bargain struck between enemies it could be trusted because "a man must kepe his promys also w^{t} hys enmy: but that ys to be vnderstonde when hys enmy dothe lykewyse"[67].

Upton was more interested in canonical truce, and the definition he gave he drew ultimately from Gratian's *Decretum*[68]:

> "ther be certen p<u>er</u>sonnes whych owght allway to kepe trewce; as prestes, monkes, conuerses, religiowse people, marchau<u>n</u>tes, howsebond men co<u>m</u>myng to & froo exercyde in howsebondry. And also the beestes that tyll & plowghe & cary corne to the felde. Also Rome goars & vysyters off holy places"[69].

Upton added that the truce was valid only when the holder was engaged in the action which gave him the truce, for example "thys pryuilege by the canon lawe scholde housebonde men haue As longe As the be laboryng". Upton's list of holders agrees with that of Bonet, who expanded a little more fully, explaining, for example that peasants should be spared because, "those who cultivate the soil plough and work for all and everybody, and all manner of folk live of their labour"[70].

Upton expanded the discussion of the canonical truce with his own experiences while on campaign writing, "thys was not obs<u>er</u>uyd in my tyme In fraunce"[71]. Similarly Bonet wrote, "in these days all wars are directed against poor labouring people. The man who does not know how to set places on fire, to rob churches. . . and imprison priests, is not fit to carry on war"[72].

Some commanders tried to ensure their armies did not break the rules of the canonical truce. An example of this was Henry V whose *Mantes Orders* were concerned in no small part with ensuring his army did not attack the innocent. Upton was familiar with this legislation as he included all of the statutes in Book Four of *De Studio Militari*, commenting they were "good And Rightuous"[73]. The titles of the statutes indicate their contents, for example "Of churches And sacramentes of the Aulter to be kepte in dewe estate", "Of

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[66] Keen, <u>The Laws of War in the Late Middle Ages</u>, 1965, p. 207
[67] Bodl. MS Eng.misc.d.227, fo 77r; C. 23 q. 1 c. 3
[68] C. 24 q. 3 cc 22 - 25; C. 17 q. 4 c. 29
[69] Bodl. MS Eng.misc.d.227, fo 77r
[70] Bonet, <u>The Tree of Battles</u>, 1949, pt 4, chapter 100, p. 188
[71] Bodl. MS Eng.misc.d.227, fo 77r
[72] Bonet, <u>The Tree of Battles</u>, 1949, pt 4, chapter 102, p. 189
[73] Bodl. MS Eng.misc.d.227, fo 125v

spirituall men And women not to be Rauysshed", and "Of spoylinges And Robbinges not to be done"[74].

Upton's discussion of reprisals occupied chapter thirteen. I will examine three aspects of the discourse: punishment for breaking safe-conducts; protocol of reprisals; letters of marque.

Upton opened chapter thirteen discussing what punishment should be inflicted on those who break safe-conducts. His discussion drew on his education and personal experience of broken safe-conducts. He wrote that there was disagreement over the punishment that should be given, and gave three theories. The first was that "accordyng to the grevosnes of the offence the payne schalbe sett". The second theory was that the breaker "schall be ponysschyd After as the offence war treason For in the brekyng of the kynges salueconḍute he ys thowght to trespace ayenst the kynges owne personne". Of this he observed "whych opinion I held sometyme myselffe". The third theory is the one he held when he wrote *De Studio Militari*, and that was that the man who granted the safe-conduct could choose how to punish the man who broke it[75]. He supported this as the contemporary practice with respect to breaking safe-conducts, later writing that if Salisbury's surety was broken the malefactor would "be ponyschyd at the Arbytrament off the cheffe lorde"[76]. Upton combined this point with an erudite reference, saying that the safe-conduct even to Saracens or Jews was inviolate, unless the malefactor was a churchman, quoting Raymond of Pênafort who said that churchmen were ordained "specially . . . For the destruction off Iewes & saracens"[77].

The usual response when a safe-conduct was broken and there was no immediate reparation was a reprisal granted to the injured party. Upton was very sure of the correct protocol and laid it out twice: once in his description of a case study, and then in abstract:

> "And so hereby hyt apperyth that afore a man sew to hys lorde that graunetyd hym the salueconḍute for a recompence of hym, yff hyt be afterwarde broken he must fyrst sew to the lorde of that londe where his salveconḍute was broken. And yff he be necligent & woll see hym haue no Iustyce, Than he schall haue no recowrse to the lorde that grawnetyd the saluconḍute whych schall prouyde hym these represalyyse afore namyd"[78].

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[74] Bodl. MS Eng.misc.d.227, fos 126v, 127r, 134v
[75] Bodl. MS Eng.misc.d.227, fo 76r
[76] Bodl. MS Eng.misc.d.227, fo 77v
[77] Bodl. MS Eng.misc.d.227, fo 77v
[78] Bodl. MS Eng.misc.d.227, fos 78r - 78v

This process was how Bartolus argued reprisals ought to happen, and Upton cited him as his source[79]. This procedure was observed elsewhere in late medieval Europe, as a case cited by Keen from 1446 shows. It involved Erard de Capdorat, the Dauphin's *Maître D'Hotel*, who was robbed by the Duke of Burgundy's men. Erard sought justice in Burgundy and when he received no justice there the Dauphin granted him a letter of marque[80].

However there were other alternative procedural protocols. The most notable was that in Henry V's legislation. This ruled that the injured party should take his claim to the King's court and if the case was thought deserving then privy seal letters were issued to the offending lord requesting justice. If this was ignored then a letter of marque would be issued under the Great Seal[81]. In addition Keen identified cases which followed a different protocol, for example the grantor and the victim suing together, also the victim suing his grantor[82]. The conclusion that can be drawn from this was that there were various customs which could be followed in taking reprisals, and Upton recommended one of the procedures best authenticated in the law books, that was espoused by Bartolus, and that he had experience of this protocol being followed.

When the reprisal was granted the lord would issue a letter of marque. Upton defined this letter thus: "These represalyys be no more but a certen authorite geven in wryteng whereby he may lawfully make schyft the beste wayyse he can to recouer hys goodys loste"[83]. This definition was accepted by the jurists, for example by Baldus[84].

Upton expanded his treatment of reprisals with a sample letter of marque that he copied, given to one 'thomas wylfforde marchant & cytesyn off london" who had been robbed by Breton pirates[85]. It exemplified how the protocol detailed above was followed in detail; stating how Wylfford had loaded £200's worth of goods on a ship, how these had been taken by Bretons off St Machut; that application to the Duke of Brittany for redress had had no effect; and empowering Wylfford therefore to make recovery by force, on land or sea, from the subjects of the Duke of Brittany. Comparison with surviving letters of marque shows that this represents normal and traditional procedure. Thus, for example, Edward II in 1315 granted to Alice Countess Marshal, who had loaded on a ship goods to the value of £2000 that were taken by Flemings between Boulogne and Whitsand and had obtained no redress from the Count of Flanders, letters empowering her to recover her loss by the arrest

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[79] Bodl. MS Eng.misc.d.227, fo 81v
[80] Keen, The Laws of War in the Late Middle Ages, 1965, p. 222
[81] Keen, The Laws of War in the Late Middle Ages, 1965, p. 221
[82] Keen, The Laws of War in the Late Middle Ages, 1965, ps 204 - 205
[83] Bodl. MS Eng.misc.d.227, fo 78v
[84] Baldus, In Decretalium Volumen Commentaria, Venice, Comment. in Decretal. , Lib II, Tit. 28, 55
[85] Blount gives the name Wylfford: Upton simply says 'Ticius, mercator et civis Londiniarum'

of the goods of Flemish merchants in a series of ports and at St Ives' Fair[86]. A notable similarity between the two examples is the concern shown that proper accounts be kept of the goods seized in reparation. Thus Edward II's mandate to the St Ives' Fair authorities commands them to:

> "make known to us distinctly and openly under your seals what goods you have caused to be arrested for this reason and to whom they belong and the value thereof"[87].

Upton explained why this needed to be done,

> "thys latter clawse off the comyssion (where as he saythe moreouer certeffyyng vs &c) ys addyd vnto, les ther may be commyttyd some onlawfull exactions, And occasyon off moche Iniury Ryse thereapon"[88].

However it would be wrong to assume this meant Upton told the whole story. Keen has described how reprisals were much messier than Upton's description would imply: "reprisals could indeed provide a useful remedy . . .but much more usually they simply gave legal cover to an endless series of raids and counter-raids in quest of loot"[89].

An important topic, which Upton did not discuss, was the moral problem of reprisals. The church frowned on them and Bartolus, Upton's favourite jurist, was aware reprisals were of dubious moral authority because the innocent would pay for someone else's crime[90]. This was why Bonet also objected to them[91]. However their legitimacy was generally recognised: indeed a statute of Henry V gave assurance that king would grant a letter of marque against those who robbed his subjects[92].

Book Two is the most approachable book in *De Studio Militari*. Its main concerns were subjects of great interest in the later middle ages. There was widespread interest in the just war, as the lengthy legal texts on the subject that survive testify. Likewise the lengthy legal writings on the duel indicate its interest to contemporaries. Similarly chronicle accounts of duels and the composition of manuals describing the duel illustrate the general fascination with that subject in the later middle ages. Safe-conducts and reprisals were obviously

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[86] Select Cases Concerning the Law Merchant, ed. H. Hall, Selden Society, volume 1, 1908, p. 93
[87] Select Cases Concerning the Law Merchant, volume 1, 1908, p. 95
[88] Bodl. MS Eng.misc.d.227, fo 81r
[89] Keen, The Laws of War in the Late Middle Ages, 1965, p. 222
[90] Keen, The Laws of War in the Late Middle Ages, 1965, p. 224
[91] Bonet, The Tree of Battles, 1949, pt 4, chapter 79, p. 173
[92] 4 Henry V, Stat. 2, c. 7, 'the King . . . hath declared in this present Parliament, that of all attempts made by his enemies upon any of his faithful people against the tenor of the truces, . . . the same our Souverign King will grant marque in due form' quoted in Keen, The Laws of War in the Late Middle Ages, 1965, p. 224

practical and important in hostilities. Upton was a qualified lawyer and *De Studio Militari* shows he was deeply familiar with legal texts. Upton was in step with contemporary thought on these topics, as I showed by describing the sources he used, and comparing him with his contemporaries. Furthermore he could expand and illustrate his discussions of these subjects by drawing on his own substantial education and experience. As a high profile servant of a great Hundred Years War captain Upton had a wealth of campaign experiences, including drawing up safe-conducts, being involved in reprisals, and witnessing life on campaign, from duels to the treatment of non-combatants in France. This makes Book Two the most enjoyable and engaging in *De Studio Militari*.

IV

Introduction and Commentary to Book Three of *De Studio Militari*

Book Three is the most unusual and obscure book in *De Studio Militari*. It is the third longest took of the text; if measured by word count it is slightly longer than Book Two, which is the shortest. In Blount's translation Book Three has sixteen chapters (in most Latin versions, including Bysshe's edition there are seventeen chapters)[1]. It is connected by subject matter to Book Four, as both are concerned with heraldry. Book Three contains a discussion of colours used in heraldry and Book Four a discussion of living and inanimate charges borne in arms. However the two books are radically different. As far as I can tell Book Three is unique in heraldic writing, and its overall layout and content does not reflect any contemporary texts. This contrasts with Book Four which is similar to many contemporary works and, which, although idiosyncratic in some respects is, as a whole, reflective of accepted contemporary opinion.

As will be shown in detail in what follows, though nearly all of the information that Upton relays in Book Three was derivative, plagiarised from identifiable sources, the source material will not explain the idiosyncrasies of his conclusions. Exposing these matters will be the main preoccupation of this chapter: in addition something will have to be said about Upton's discussion of the origins of heraldry, and about the specific examples of practical heraldry that he referred to in his book.

It is possible to divide the contents of Book Three into four parts. The first is a description of the background, nature and generation of colours. This is discussed in chapters one, two, three, four and the beginning of chapter five. In addition there is a brief discussion of the origins of heraldry in chapter one. After this Upton discussed twelve colours in particular, and each was given its own chapter (except white, which in Blount's translation is part of chapter three). In order, the colours Upton described were white, yellow, blue, red, purple, green, black, grey, lead, ashen, earthy, and tawny. Upton divided these colours into two groups. For him the two primary colours were white and black, and from white descended five colours towards black, with each one less and less white and blacker in its make up. Similarly from black ascended five colours towards white in the same fashion. The

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[1] Look 'The Families of *De Studio Militari* manuscripts and Blount's translation'

treatment of the first six colours, and then of the second six can be taken as the second and third sections of the book. The fourth division was precious stones. In his discussion of each colour Upton attributed a precious stone to that colour. In order these were beryl, topaz, sapphire, ruby, amethyst, emerald, diamond, onyx, crapaude, achates, chalcedony, and allectory. These discussions were additions by Upton to the discourse on the colours, and each discussion has more in common with other examinations of precious stones than with the description of its colour.

The information in the chapters that discussed the background, nature and generation of colours was not set out in a systematic way, but instead its layout was different in each of the five chapters. The chapters on individual colours had similar layouts, but the structure was loose enough to allow digressions. Generally the chapters begin with Upton explaining the position of the colour in the overall hierarchy of colours, the natural properties of the colour, with anecdotes to illustrate this, followed by a discussion of the precious stone which was attributed to that colour. This layout can be seen in the case of the colour green: Upton described it as the last colour descending from white towards black, then he discussed how leaves changed from green to yellow at harvest time, and how green comforted the sight, with two anecdotes to illustrate this. Then there was a digression on why flowers were not green, and the chapter ended with a discussion of emeralds.

I have identified four sources used for Book Three. These are Bartholomaeus Anglicus's *De Proprietatibus Rerum*, John of Bado Aureo's *Tractatus de Armis*, Marbode's *De Lapidibus*, and Bartolus of Sassoferrato's *De Insigniis et armis*. Bartholomaeus Anglicus was the principle source for information in Book Three and Book Four. Upton owned a copy and it is a great shame that it does not survive as it would have been very valuable to compare it with *De Studio Militari*[2]. In Book Three *De Proprietatibus Rerum* was used as a source for the majority of the discussion of the background, nature and generation of colour, and for the majority of particular colours and precious stones. Upton took information on colours from Book Nineteen of *De Proprietatibus Rerum* (*Liber undevicesimus de accidentibus scilicet de coloribus et saporibus siue liquoribus et odoribus*), and information on precious stones was taken from Book Sixteen (*Liber sextusdecimus de lapidibus et metallis*).

In chapter one of Book Three Upton copied Isidore's contention that the word 'colour' was derived from the Latin term for heat from chapter 1 of Bartholomaeus's Book

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[2] Look 'Nicholas Upton and his translator'

Nineteen[3]. Upton continued to use chapter 1 in the second chapter of Book Three for the information that colour was the outermost part of anything; that colour altered visual perception, that colour needed light, but light did not need colour, and that colour remained even in darkness[4]. In this lift it seems that Upton's copy of *De Proprietatibus Rerum* was fuller than the printed edition; even though the information he presented in chapter two is the same as that in chapter 1, Upton's version had additional details not found in *De Proprietatibus Rerum*[5]. An example of this occurs during the explanation that colour needed light if it was to be seen; this came from *De Proprietatibus Rerum*, but there was added an explanation of why light enabled men to see[6].

At the start of chapter three Upton took the information that heat and dryness having dominion in matter created the colour white, that cold and dryness created black, and that heat and moisture also created black, from chapter 3, Book Nineteen[7]. He continued in chapter three with the information that cold and wet having dominion in matter created white, cold moisture in air made white, and how flames could look white. He took this information from chapter 4, Book Nineteen[8]. Upton followed this by describing how little light in an impure substance created black and a discussion of the power and greatness of light, which he took from chapter 8, Book Nineteen[9].

At this point in chapter three Upton outlined his unusual description of two primary colours, and ten mediate colours. This almost corresponds with the section of chapter 8 that he had reached, which described two primary colours (white and black, no mediate colours are named in this chapter), with seven mediate colours each[10]. The layout of Upton's description follows that of Bartholomaeus's; the difference is the number of colours. After describing his outline of colours Upton continued chapter three by examining how other mixtures of the elements could create white and black, which he took from chapter 11, Book Nineteen[11]. After this Upton ended the chapter with a discourse on the colour white, which will be discussed below. In chapter four of Book Three Upton described how mean colours were made through variations in the purity and heat of the matter in question. He took his

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[3] On the Properties of Things: John Trevisa's translation of Bartholomaeus Anglicus De Proprietatibus Rerum, ed. M. C. Seymour, Oxford, 1975, volume 2, p. 1268 _

[4] Bartholomaeus Anglicus, 1975, ps 1268 - 69

[5] Bartholomaeus Anglicus, De Proprietatibus Rerum, ed. Johan Koelhoff, Cologne, 1481, book nineteen

[6] Bodl. MS Eng.misc.d.227, fo 84v

[7] Bartholomaeus Anglicus, 1975, ps 1270 - 71

[8] Bartholomaeus Anglicus, 1975, ps 1271 - 72

[9] Bartholomaeus Anglicus, 1975, ps 1276 - 77

[10] Bartholomaeus Anglicus, 1975, p. 1277

[11] Bartholomaeus Anglicus, 1975, ps 1284 - 85

information from chapter 5, Book Nineteen[12]. The start of chapter five of Book Three was a description of how and why white's five mediate colours were arranged and this was taken from chapter 6, Book Nineteen[13].

Upton took the information for the colours white, purple, green, black and tawny from Book Nineteen of *De Proprietatibus Rerum*. All of the information on white was a boiled down version of information in chapter 4, Book Nineteen[14]. Upton's discussion of the colour purple took the information that purple was the colour derived from a certain shellfish from chapter 18, Book Nineteen, but he seems to have added the rest of the information on the laws on catching the fish, and the occasions when purple was in a man's body from another unidentified source or sources[15]. The description of green was taken completely from chapter 19, Book Nineteen, with all the details copied faithfully, for example how heat and moisture levels determined this colour[16]. The description of black was taken word for word from chapter 23[17]. The description of tawny was taken from Bartholomaeus's chapters on that colour, chapters 20 and 21[18].

Upton's use of Bartholomaeus for the colours yellow, blue and red is different to the other colours in Book Three in that it seems he was combining Bartholomaeus with John of Bado Aureo's *Tractatus de Armis*. This can be shown with reference to Upton's description of the colour yellow. The description Upton presented in Book Three can be found in essentially the same form, except for some additions, in Bartholomaeus's chapter 12, Book Nineteen[19]. However this information was also in Bado Aureo, in the same format with an account of the Emperor's arms, which Upton included, and which was not in *De Proprietatibus Rerum*. This applies also to blue, the information for which was in chapter 13, Book Nineteen[20]. The information for this colour was also presented in the relevant chapter on blue in Bado Aureo, with added heraldic information, as I will discuss below. The same applies to the information on red, which is in chapter 14, Book Nineteen[21]. A comparison of Bado Aureo and Bartholomaeus shows that *De Proprietatibus Rerum* was the source for much of the information that was in *Tractatus de Armis* and therefore it is impossible know

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[12] Bartholomaeus Anglicus, 1975, ps 1272 - 73
[13] Bartholomaeus Anglicus, 1975, ps 1273 - 75
[14] Bartholomaeus Anglicus, 1975, ps 1271 - 72
[15] Bodl. MS Eng.misc.d.227, fos 107r - 108r
[16] Bartholomaeus Anglicus, 1975, ps 1289 - 91
[17] Bartholomaeus Anglicus, 1975, ps 1292 - 93
[18] Bartholomaeus Anglicus, 1975, ps 1291 - 92
[19] Bartholomaeus Anglicus, 1975, ps 1285 - 86
[20] Bartholomaeus Anglicus, 1975, p. 1286
[21] Bartholomaeus Anglicus, 1975, ps 1286 - 87

for sure whether or not Upton used Bartholomaeus directly in this context, or simply followed Bado Aureo.

Upton used *De Proprietatibus Rerum*, Book Sixteen for the information on ten of the twelve stones that he discussed. Those stones were beryl, topaz, sapphire, ruby, amethyst, emerald, diamond, onyx, chalcedony and allectory[22]. Bartholomaeus provided most of the information for each of these stones, but for a few of them there were additional properties added. An example of this was amethyst, where Upton took the information that the stone gave a man understanding and protection against drunkenness from Bartholomaeus, chapter 9, Book Sixteen, and added:

> "Hyt ys a comen sayynge moreouer y^{t} thys stone helpythe hunters gretely & causyth them to have goode fortune In ther game"[23].

Though it is not possible to be certain, it seems Upton added this little detail himself, from popular lore.

As has been mentioned Upton used John of Bado Aureo's *Tractatus de Armis* as a source for his chapters on the colours yellow, blue and red, and it is striking how the descriptions of these colours in *De Studio Militari* mirror the discussions in Bado Aureo in both layout and content. This is most true for yellow, wherein Upton lifted the information from Bado Aureo almost word for word, leaving nothing out, including Bado Aureo's critique of Bartolus's argument that gold was the best colour and copying the extensive legal citations in Bado Aureo's text exactly. Upton added nothing to the chapter except the unrelated discussion of mean colours which opened the chapter in *De Studio Militari*, and the discussion of topaz[24]. For red and blue Upton was not so slavish but still drew almost all of the information he gave from Bado Aureo exactly as it was laid out in *Tractatus de Armis*, for example on blue he copied out the stories about God giving Charlemagne a blue shield adorned with golden fleurs de lys, and about St. Mercurius being raised from the dead to kill Julian the Apostate, citing the *Speculum Historiale*, exactly as Bado Aureo had done[25]. Similarly when discussing red Upton explained that this was the colour of the field of the king of England's arms, repeating this heraldic point in *Tractatus de Armis*[26].

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[22] Bartholomaeus Anglicus, 1975, chapter 20, p. 837 (beryl); chapter 95, p. 877 (topaz); chapter 86, ps 869 - 71 (sapphire); chapter 25, p. 839 (ruby); chapter 9, p. 834 (amethyst); chapter 87, ps 871 - 72 (emerald); chapter 48, ps 851 - 52 (diamond); chapter 70, p. 861 (onyx); chapter 27, p. 840 (chalcedony); chapter 16, p. 836 (allectory)

[23] Bodl. MS Eng.misc.d.227, fo 108r

[24] Bodl. MS Eng.misc.d.227, fos 101r-104r; Jones, Evan J., Medieval Heraldry, Cardiff, 1943, p. 104-107

[25] Bodl. MS Eng.misc.d.227, fos 104r-106r

[26] Evan J. Jones, Medieval Heraldry, Cardiff, 1943, p. 19

This raises the long-standing question of how much Upton owed to Bado Aureo. It has long been held that Upton was reliant on *Tractatus de Armis* for the heraldic sections of *De Studio Militari*, including the colour section. As Rodney Dennys has written:

> "following John de Bado Aureo, Upton places the colours in the following sequence: white, black, gold, blue, red, purple, and green; plus 'graye or russett coloure', leden or browne', asshen or cr[e]ame', 'eerthy or sandy', and 'fawny[27] or salowe coloure'."[28]

But as I have explained this was not the order of *De Studio Militari's* colours. Bado Aureo had only six colours and their sequence (white, black, blue, gold, red, green) was not the same as Upton's. What is more Upton only took information on blue, yellow and red from Bado Aureo; what he says of black, white and especially green is not copied from the *Tractatus*. In addition the background to heraldic art and the discussion of mediate colours as given in *Tractatus de Armis* was completely different to that given by Upton, and Bado Aureo did not, as Upton did, include a discussion of precious stones with each colour. Upton's debt to Bado Aureo looks greater than it is for a simple reason, that Bado Aureo and Upton both used Bartholomaeus Anglicus as a key source. However an in-depth examination shows that Upton was more deeply indebted to Bartholomaeus than to Bado Aureo.

The third source which Upton used extensively in Book Three was Marbode's *De Lapidibus*. Upton gave Marbode as his source when discussing beryl, topaz, emerald, onyx, achates, chalcedony and allectory[29], and the Latin *De Studio Militari* had extensive quotations from Marbode for topaz, emerald, achates and allectory[30]. These quotations are not exactly the same as the relevant sections of the printed edition of Marbode's *De Lapidibus* but there is no doubt that they are derived from a text of Marbode. It is striking that a comparison of the *De Lapidibus* with the relevant sections of Bartholomaeus indicates that usually it does not give any information that Upton did not already have from the latter source, except on achates, where Marbode seems to have been the source for at least some of the information Upton presented[31]. It is most likely that Upton's real source for precious stones was Bartholomaeus, but he also had access to a copy of Marbode's *De Lapidibus* and felt that referring to it would make his discussion more impressive.

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[27] Dennys made an error in transcription. The colour was "tawny"
[28] Dennys, Rodney, The Heraldic Imagination, London, 1975, p. 81
[29] Bodl. MS Eng.misc.d.227, fo 100v (beryl); fo 104r (topaz); fo 109v (emerald); fo 112v (onyx); fo 115r (achates); fo 115v (chalcedony); fo 116r (allectory); Marbode, 'De Lapidibus', Bibliotheca Patrum Latina, ed. J. P. Migne, Paris, vol. 171, 1854, p. 1747 (beryl); p. 1748 (topaz); p. 1744 (emerald); p. 1746 (onyx); p. 1741 (achates); p. 1743 (chalcedony); p. 1742 (allectory)
[30] Upton, Nicholas, *De Studio Militari*, ed. Edward Bysshe, London, 1654, p. 107 (Topaz); p. 114 (emerald); p. 119 (achates); p. 121 (allectory)
[31] Marbode, 'De Lapidibus', Bibliotheca Patrum Latina, vol. 171, ed. J. P. Migne, 1854, p. 1741

Upton was familiar with Bartolus of Sassoferrato's *De Insigniis et armis*; as we have seen it was an important source for Book One. In Book Three there were two references to this text. The first reference was in chapter three when Upton wrote:

> "Forthermore [white] ys ye noblerer colowre for apon hyt all other mene colowres be growndedyd moste surely & strongly, And thys ys schewde as well by ye phylosopher As by master bartholl in hys treatyse of blasyng off aremes"[32].

This seems to be a reference to chapter twenty-seven of *De Insigniis et armis* which asked "in what way are colours said to be nobler with respect to their inherent qualities?" Bartolus answered this question by describing how white was the noblest colour as it was the nearest to pure light, and mean colours' nobility is determined by their closeness to white[33]. Although this is not exactly what Upton wrote, it seems it to be derived from Bartolus. The second reference to Bartolus was in chapter five, on the colour yellow. Upton argued that Bartolus was wrong when he said that yellow was the most noble colour because it was like gold, the most precious metal. Bartolus made this point in chapter twenty-three of *De Insigniis et armis*[34]. Upton's principle source for the colour yellow was however Bado Aureo, as has been explained. Upton's debt to Bartolus in his treatment of colours was not, it would therefore seem, very significant.

I have been unable to identify any sources for Upton's discussion of the colours grey, lead, ash, earth and the precious stone crapaude. It seems possible that some of the information for these colours was taken from a medical text. This is because medical texts often discussed how colours could indicate illness and some of the descriptions of these colours which Upton presented allude to illness, for example on the colour grey he wrote:

> "Also yf the Ayre be colde And worcke in Any subiect or mater the gretter that the colde ys And his operacion in the mater, the soner shall yt mortefye And kill the strengthe of yt, so that not onely the fyry And Aeryall partes shall be made grosse, lyke the partes of the erthe but the waterysshe partes Also"[35].

This may tie in with a source Upton named which I have not been able to identify. Upton referred to Bartholomew of Platea as a source for grey, lead, and an overall source for colours in the summary at the end of the book. The nearest I have been able to find such an author is Iohannes Platearius, who was a medical writer, but an examination of his book gives no indication that Upton used him as a source[36]. There is an unsolved problem here.

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[32] Bodl. MS Eng.misc.d.227, fo 100r

[33] Bartolus, 'De Insignis et armis' in Cavallar, Osvaldo, A Grammar of Signs, University of California, 1994, p. 153

[34] Cavallar, A Grammar of Signs, 1994, p. 153

[35] Bodl. MS Eng.misc.d.227, fo 112v

[36] Platearius, Iohannes, Le Livre des Simples Medecines, ed. Paul Dorveaux, Paris, 1913

Upton's discourse on heraldic colours has no similarities to contemporary heraldic texts. At a basic level Book Three's layout was similar to that of some contemporary authors, in that his book started with a history of heraldry, followed by general comments on the properties of colours, followed by a discourse on individual colours. Examples of this layout can be seen in, amongst others, the discussions of colours in *Deidis of Armorie* and *John's Treatise* (and the many texts which were derived from the same source that it was)[37]. However in specifics Upton's discourse was unique. I have been unable to find any heraldic writer who presented as involved a description of the background of colours as Upton did. In addition I have not found any reference in heraldic literature to the scheme of twelve heraldic colours that Upton presented. What makes Upton even more unusual is that a review of the literature indicates that by the fifteenth century there was a broad consensus on what the heraldic colours were. This consensus spread from France, and is best expressed by Sicily Herald who divided colours into two metals (gold and silver) and five colours (blue, red, black, purple and green). Texts which mirrored this scheme include *Mowbray's French Treatise*, *Banyster's French Treatise*, and *Prinsault's Treatise*[38]. Disagreements with Sicily are minor, for example *Loutfut's Book* (which was a translation of a French source) presented all the colours Sicily described, but omitted purple which Loutfut argued was not a real heraldic colour[39]. *Deidis of Armorie* (another translation of a French source) agreed with *Loutfut's Book* on purple and also described the two heraldic furs, vair and ermine, which could be borne in arms, extending Sicily's treatment[40].

Upton's discourse of the particular colours which all these texts discussed was different in many details. Other texts do not include Upton's additional colours of ashen and lead in their discussions of heraldic colours. Sicily mentioned tawny and grey but his descriptions did not include them as basic colours, or resemble what Upton said about them[41]. Similarly though the *Ashmolean Tract*, *Sloane Tract* and *Loutfut's Book* (all of these texts are variations of the same original French treatise) all referred to tawny, their descriptions differ from Upton's. For example the *Ashmolean Tract* reads:

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[37] The Deidis of Armorie, ed. L. A. J. R. Houwen, Edinburgh, 1994, ps 9 - 12; 'John's Treatise' in Jones, Evan J. ed., Medieval Heraldry, Cardiff, 1943, ps 213 - 217

[38] Dennys, The Heraldic Imagination, 1975, ps 72 - 76

[39] 'Loutfut's Book' in Queene Elizabethes Achademy, ed. F. J. Furnivall, Early English Text Society, 1869, p. 96

[40] The Deidis of Armorie, 1994, p. xiv

[41] Sicily Herald, Le Blason des Couleurs, ed. Hippolyte Cocheris, Paris, 1860, p. 79 (tawny); p. 92 (grey)

> "Nought w[t]stondyng In the Empere and in Fraunce ther be oo Colour more thanne a nodyr londe doith and that ys a coloure that ys callyde tawney and hyt ys J lykened unto the calsadan and theys benne all the colowres"[42].

This was quite different from Upton who even named a different precious stone for this colour (he named allectory). It cannot be established that Upton had any contact with any of the treatises above, but it is clear that he was familiar with Bado Aureo and Bartolus: nevertheless, his description was unlike both of these in overall layout, and in the majority of details, including the discussions of the generation of colours and the history of heraldry.

It is difficult to explain why Upton was so different. He was regarded as an authority on heraldry yet his discourse on heraldic colours is wilfully obscure and essentially unheraldic. Two theories may be advanced as to why this may have been so. Firstly, as I indicated in my discussion of Book One, Upton liked to display his erudition, and his idiosyncratic colour scheme may have been an attempt to impress the reader with his intelligence. A second possibility is that Upton was reacting against a perceived French domination of heraldic thought. That is, he was a veteran of a bitter war against the French, and as I will illustrate below, Upton was very proud of being English, and was always mindful of England's supremacy over the French. This may have made him oppose the prevailing fashion in heraldry to imitate French heraldic writing, that is seen in texts like *Banyster's French Treatise*.

I have not identified a source for Upton's account of the origins of heraldry. It is as idiosyncratic as everything else in the book. He began his account by describing the origins of painting:

> "The egiptions war the fyrst that fownde the crafftt of payntyng by drawyng the ymage off man by certen lynes and then puttyng to some one colowre playne & symple, As they had at honde, Then after dyuerse colowres as they cowlde gett & so at last by labowre & diligence browght hyt to good facion & forme".

He followed on from this by describing how in drawing, first the subject was drawn with lines, and then colours were added. This brought Upton onto the beginnings of heraldry. He wrote that in battle knights were "kouerd in ther harnes" and therefore they could not be seen. This meant that though noble acts were being performed, they could not be attributed to the virtuous men who had performed them. Upton explained that this caused the invention of coats of arms:

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[42] 'Ashmolean Tract' in Humphrey-Smith, C. R., 'Heraldry in School Manuals of the Middle Ages' in The Coat of Arms, VI, 1960, p. 165

> "Therefore these men of arems, by the crafft off payneters, made certen dyfference off ymages to be sett apon ther vtter garmenttes to be knowne by: Some off beestes, Some byrdes, some herbes & flowres, And some other sygnes & tokens off the whych I schall speke more largely in my process folowyng"[43].

This concluded Upton's account of the origins of heraldry.

Most heraldic treatises opened with an account of origins of the use of coats of arms, but their accounts are very different from that given by Upton. Most texts placed the origins of the use of heraldic symbols in a clear, ancient (and unhistorical) context. *John's Treatise* for instance, argued that coats of arms were first used during the siege of Troy, and shares with Upton the view that arms came into use because during the fighting there were so many brave deeds done and so many men fighting that it was hard to distinguish who was doing what. This led John to write:

> "the kynges withinne the towne and withoute to assemble togedir, and by their discrete aduyse conentid togedir and acordid, that euery man that shuld do a poynt of worshippe shuld have to hymself a marke of worshippe in tokyn of his dughtynes, that the poeple myght haue knowelage of hym"[44].

Other texts argued that coats of arms originated with certain individuals, for example *Prinsault's Treatise* argued that the use of heraldic symbols was begun by Hector of Troy, Alexander the Great and Julius Caesar and other noble princes so that their men could be known and the true merits of chivalric behaviour be appreciated[45]. *Deidis of Armorie* again described how arms were created so that virtuous acts could be ascribed to the man who performed them, and he added the first man to have these arms was Joshua, "quhilk wes the first Worthy that tuk armes" and that he was soon followed by David, Judas Maccabeus and Alexander amongst others[46]. Thus though Upton was similar to his contemporaries in that he believed the overall rationale for arms was that virtuous acts could be properly ascribed, he seems quite unique in associating their origin with the origin of painting and the country of Egypt.

In Book Three Upton made four digressions concerned with actual coats of arms belonging to identified individuals - in each case, appropriately raising an issue related to colour. There is no need to discuss two of them at length. In the discussion of yellow Upton touched on the arms of the Emperor (with their gold field): his passage on this is lifted word

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[43] Bodl. MS Eng.misc.d.227, fos 82v - 83r
[44] Jones, Evan J., Medieval Heraldry, Cardiff, 1943, p. 213
[45] Revue Archéologique, Series One, Volume 15, 1858, p. 322.
[46] Deidis of Armorie, p. 19, it is worth noting that Joshua, David, Judas Maccabeus and Alexander were in the Nine Worthies of Chivalry, as were Julius Caesar and Hector of Troy.

for word from Bado Aureo. So was the description of the arms of Charlemagne and St. Mercurius, which appears in the chapter on the colour blue. The third instance is more interesting and occurs in the discussion of the colour red. Here Upton followed Bado Aureo in pointing out that the King of England bore red (gules) as the field in his coat of arms, and that since the reign of Edward III his arms were borne quarterly with the arms of France. Upton then added to Bado Aureo's discussion, by explaining Edward's title to the French crown:

> "sens ye dethe of ysabell, ye qwene of ynglonde whyche was ye frenche kynge hys dowghter & heyre & mother to Edwarde ye thryd, Than thys Edwarde as very trew enheritor of ye realme of Fraunce bore ye sayde aremes wth ye aremes of fraunce quarterde"[47].

Upton expanded on this, writing that this was not the only reason why the English King bore the French Royal arms. The other reason he gave was that the Black Prince had captured the French King at the battle of Poitiers. Upton embellished this, writing that the Black Prince,

> "Afterwarde browght hym As prysoner to ynglonde w^{t} grete triumphe & honowre the xixth day of september ye yere off owre lorde god a m ccc & xlvij. Wherefore hyt was lawfull for ye sayde Edwarde & All hys heyres folowyng to bere the same aremes"[48].

Here Upton's English pride and conviction of the justice of the English cause comes across vividly. So does his perception of the relevance in practical heraldry not only of martial achievement but also of the legal rights of a captor. England's reverses in his lifetime had clearly not shaken his convictions on these sorts of points, any more than it did that of his contemporary William of Worcester, another literary man who had had experience of the war[49].

The fourth heraldic digression in Book Three comes in the chapter on black, where Upton discussed the Duke of Brittany's arms. It looks clearly to be a personal addition to the discussion (he had been following Bado Aureo) and arises in the course of his attempt to evaluate the implications of black from the point of view of the bearer of a sable shield:

> "thoughe this blacke colore be the seconde principall coloure in Armes, yet the felde of this coloure ys not very laudable, but contrary wyse the felde whyte ys very noble, As Apperith in the Armes of the duke of brytan wiche be very notable"[50].

Upton argued that these arms were praiseworthy for three reasons. Firstly they could be identified from a greater distance than any other arms. Secondly they could be repaired the soonest. Thirdly they could be named the soonest. Upton blazoned them as "*le duke de*

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[47] Bodl. MS Eng.misc.d.227, fos 106v - 107r
[48] Bodl. MS Eng.misc.d.227, fo 107r
[49] The Boke of Noblesse, ed. J. G. Nichols, Roxburghe Club, 1860
[50] Bodl. MS Eng.misc.d.227, fo 111v

bretaigne porte ermines". He argued that some misunderstood what these arms were, believing that arms ermines could mean a black field spotted with white. He did not like this idea, writing:

> "I care not gretely for these personnes but yet I haue harde certen men In blasyng of the same Armes sayeng thus, *Il porte ermines*. Neuertheles I haue sene often tymes A blacke catte spekeld w^{t} whyte"[51].

Upton thus maintained that if a shield was blazoned with a black field, spotted white, then this was not ermine. He added that in Burgundy there were "certen mervellous beestes" which had a white body with black tails, whose fur was used to make ermine. These were mere details, however; what attracted Upton to the ducal coat, it seems clear, was the utility of the arms and the economy of the style of its blazon, *Il port ermines*.

The remarks of other heraldic writers make it clear that this ducal coat caught a good deal of heraldic interest. They did not make the same points as Upton did, but they were clearly, like him, impressed by a plain coat of the fur ermine. The *Ashmolean Tract* which described the arms as "the Rychest thyng in armes" adding that the arms, by charging sable upon silver, broke the laws of heraldry (the point is technically incorrect by modern doctrine), "Wherfore herawdys sey that the Dukes Banner of Bretayne ys the ryellyst arms of the world"[52]. Loutfut repeats the same point in similar words. In these texts, as in Upton's admiration for the laconic and emphatic *Il port ermines* the genuine voice of the contemporary herald rings out from the learned page[53].

It is in a way strange that these 'digressions' on practical heraldry slip their way into a book such as Upton's Book Three; so erudite but so regularly side tracked from the problems of real heraldry, winding up with colours such as ashen and the qualities of topaz valued by hunters; so idiosyncratic, and so often at odds in its arrangement and analysis with heraldic orthodoxy - and yet these asides (for in the text there are no more) pull us back into the real world to which heraldry related, the world of dynamic clans, martial confrontation and ducal dignity. Perhaps the right way to conclude here is that, after Bartolus and perhaps Bonet, Upton was unusual in bringing to heraldry all the learning of a university scholar. Loutfut, Prinsault and the author of the *Ashmolean Tract* were full of learning which they sought to bring to bear on their heraldic subject; but their learning, like that of Sicily Herald, was literary and vernacular, looking not to the academic world but outside of it, whereas Bartolus and Upton were in it and of it. They spoke differently, and more obscurely because

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[51] Bodl. MS Eng.misc.d.227, fo 111v - 112r

[52] 'Ashmolean Tract' in Humphrey- Smith, C. R., 'Heraldry in School Manuals of the Middle Ages' in The Coat of Arms, VI, 1960, p. 166

[53] 'Loutfut's Book' in Queene Elizabethes Achademy, ed. F. J. Furnivall, Early English Text Society, 1869, p. 96

though they both were deeply interested by heraldry, they both wanted to relate it to other topics in which as learned men of the professional learned class, they were not less interested.

Book Three is a very unsatisfying book for the scholar of heraldry. It is extremely idiosyncratic in its outline of colours and its content. Its sources are obscure and difficult to identify. In addition Book Three, outside obvious passages discussed above, has very little relation to contemporary practice. In that respect it was inherently dishonest in its agenda, as Upton maintained he was describing practice, and how heraldic colours ought to be discussed. I cannot explain why it is like this. Upton may have had an unidentified source which presented the ideas that he relates, or he may have thought them up because he believed they reflected ideal practice, or he was trying to impress the reader with his knowledge and erudition. The lack of evidence means there can be no conclusions made in this regard about Book Three and this makes it very frustrating.

V

Introduction and Commentary to Book Four (Bestiary) of *De Studio Militari*

Book Four is an examination of charges borne in arms. It is the longest book in *De Studio Militari*. Measured by word length it is over half of the whole text. It can be divided into two parts: the bestiary and inanimate charges. Book Four is connected by subject matter to Book Three of *De Studio Militari* in that both are discussions of heraldry. However, as I showed in the previous chapter, Book Three was extremely unlike contemporary literature. Book Four on the other hand is similar to many heraldic texts written in the fifteenth century. Although Book Four is far from being a copy of any heraldic text or even exactly similar to any other text, it reflects contemporary practice in its scope, length and discourse.

This chapter is concerned with the bestiary. The bestiary was divided into beasts, birds and fishes and these three divisions are apt for examining how and from where Upton took the information for the animal properties that he described. I will discuss beasts by reviewing the layout of the section, the primary sources Upton used, the nature of the information he presented and how he presented it. The birds' section is more complex than beasts. A review of the layout is necessary, as is an examination of the way Upton used the sources on birds and of the problems involved with these sources. The fish section is very brief and therefore the discussion of it will be short. Out with the natural properties of animals, Upton outlined the heraldic properties of animals where he deemed it relevant and an examination of these heraldic discussions also illustrates Upton's use of sources. Following the discussion of sources I will examine some contemporary texts, and try to place Book Four of *De Studio Militari* in context. In addition the statutes of Henry V, which Upton included in the bestiary, need to be considered, and can be compared to another copy of the statutes which survives. I will finish this chapter with a review of the autobiographical asides with which Upton peppered the bestiary.

Book Four's section on beasts involved thirty-two animals. The order in which they were given was lion, leopard, ram, lamb, bore, ass, spider, bee, ox, toad, camel, goat, dog, beaver, stag, horse, elephant, ant, griffin, hedgehog, lynx, wolf, mouse, weasel, cat, panther, squirrel, mole, tiger, bear, fox, and unicorn. In Latin these animals are in alphabetical order,

except for lion and leopard which Upton placed first. He explained why this was in the first chapter of Book Four:

> "I shall begyn At [beasts] And furst At the leon by cause of All onreasonable beestes he ys As king and principall"[1].

The reason that Upton gave for following lion with leopard was that the lion chapter was concerned, at length, with whether or not the English king had lions or leopards in his coat of arms.

The most important source that Upton used for the animal properties of beasts was, once again, Bartholomaeus Anglicus's *De Proprietatibus Rerum*. This time he used *Liber Octauus Decimus tractat de animalibus et eorum differenciis in generali*. Upton, as has previously been stated, owned a copy of this text but it no longer survives. Upton admitted that he used Bartholomaeus as a source and made several references to him in the bestiary, for example in "Of the Asse"[2]. All of the beasts Upton described were in Bartholomaeus, except the squirrel, and all the properties ascribed to them were found in Bartholomaeus, save a very small number of points. The alphabetical layout of beasts in Upton mirrored that of Bartholomaeus, with only the unicorn out of place. The explanation for this was that Upton took all the properties for the unicorn from Bartholomaeus's "*De rinocerone*"[3]. This chapter in *De Proprietatibus Rerum* dealt with more than one horn headed beast, and as Upton was concerned only with the unicorn he probably reasoned that it belonged in a chapter of its own called "*De Unicorno*"[4]. The order of the information as laid out by Upton corresponded with its order in Bartholomaeus, and the references to ancient sources in Bartholomaeus match those found in the Latin text of *De Studio Militari*, for example Bartholomaeus's "*De equo*" cited Isidore book 12 (*Ethimologiarum*), Pliny book 7, chapter 43 (*Naturalis Historia*) and Aristotle book 8 (*De animalibus*) as sources[5]. This was mirrored in Upton's "*De Equo, sivi Caballo*" which cited these exact references[6]. It is interesting that Upton described the griffin as a beast, with all of the properties that he ascribed to it taken from its description as a beast by Bartholomaeus. A great many contemporary texts described the griffin as a bird, for example John of Bado Aureo's *Tractatus de Armis*[7]. The few references to properties not found in Bartholomaeus are difficult to pinpoint. I have only

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[1] Bodl. MS Eng.misc.d.227, fo 117;
[2] Bodl. MS Eng.misc.d.227, fo 140r; Upton, Nicholas, De Studio Militari, ed. Edward Bysshe, London, 1654, p. 151
[3] On the Properties of Things: John Trevisa's translation of Bartholomaeus Anglicus De Proprietatibus Rerum, ed. M. C. Seymour, Oxford, 1975, p. 1240
[4] Upton, De Studio Militari, 1654, p. 171
[5] Bartholomaeus Anglicus, 1975, p. 1189
[6] Upton, De Studio Militari, 1654, p. 160
[7] Jones, Evan J., Medieval Heraldry, Cardiff, 1943, p. 45

identified one, that is the reference in Upton's "Of A beeste callyd linx" to the fantastic eyesight of the lynx, which can be found in Alexander Neckam's *De Naturis Rerum*[8]. However as I will explain below Upton's use of Neckam as a source is problematical, so it may be that these variations were present in Upton's copy of *De Proprietatibus Rerum*.

The only chapter in the discussion of beasts in Book Four in *De Studio Militari* not covered by Bartholomaeus was "The Sqwyrell". This animal was not mentioned at all in *De Proprietatibus Rerum*. Upton lifted all of the information for this animal that he presented in *De Studio Militari*, word for word, from Thomas of Cantimpré's *De Natura Rerum, Liber IIII, De Animalibus Quadrupedibus*[9]. As I will show below Upton was very familiar with this source and used it for most of the birds in his bestiary.

The nature of the information Upton took from Bartholomaeus had certain recurring features. Although not exclusively so Upton was concerned in his description of beasts to describe their distinctive quality, for example the lion's dignity[10]. Furthermore the principle virtues and uses of beasts were a concern for Upton, for example he stressed the industriousness of the bee[11]. Upton also included stories which were interesting in their own right, for example how strings made of wolf gut rot strings made of sheep gut if put beside them in a musical instrument[12]. Similarly Upton followed a pattern in the information he chose to ignore. He lacked interest in topics such as the Greek derivation of beasts' names, illnesses of beasts, their mating habits, their parenting, their medicinal properties, and chose to disregard these aspects when he found them in Bartholomaeus. A good example of this was his "Of the Elephant"[13] which omitted Bartholomaeus's references to the Greek derivation of the name elephant[14], details on breeding[15], on how elephants raised their young, and elephant's illnesses[16]. When he did include any of these aspects it was never gratuitous but always relevant to another point; for example his description of the medicinal properties of lamb horns was part of a discussion of how "what so euer ys in hym or Abowt hym hyt ys profitable for some what"[17].

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[8] Neckam, Alexander, De Naturis Rerum libri duo with the poem of the same author, De laudibus divinae sapientiae, ed. T. Wright, RS 38, London, 1863, p. 219

[9] Bodl. MS Eng.misc.d.227, fo 155v; Thomas Cantimpratensis, Liber De Natura Rerum, Berlin, 1973, p. 161

[10] Bodl. MS Eng.misc.d.227, fo 117v

[11] Bodl. MS Eng.misc.d.227, fo 141

[12] Bodl. MS Eng.misc.d.227, fo 151v

[13] Bodl. MS Eng.misc.d.227, fo 148

[14] Bartholomaeus Anglicus, 1975, p. 1191

[15] Bartholomaeus Anglicus, 1975, p. 1193

[16] Bartholomaeus Anglicus, 1975, p. 1195

[17] Bodl. MS Eng.misc.d.227, fo 139r

Upton was concerned to present each beast in a distinct chapter. To achieve this he manipulated his source. This was most clear when he drew on more than one chapter in Bartholomaeus for one of his beasts. This applied to four chapters: lion, dog, elephant and hedgehog[18]. Upton did not indicate that he had used more than one chapter for these beasts. The order in which Upton laid out the properties of these beasts followed the pattern previously discussed, that is information Upton took from secondary chapters in Bartholomaeus appeared after information he took from primary chapters. Upton's "Of the dogge" is a good example of this[19]. The principle source was Bartholomaeus "*De cane*" which was his source until the discussion of rabies, which closed Upton's chapter. The rabies section came from Bartholomaeus's "*De canicula*"[20].

Upton's presentation of the properties of beasts illustrated his dexterity in compiling disparate information to present a logical whole. This was clearly illustrated in the "Of the lambe" chapter:

> "Also some saye that this beeste ys callyd *Agnus* in Laten, of this verbe *Agnoscoe*, wyche ys As moche to saye As to knowe, bycause this beeste knowyth his dame more than All other beestes, in so moche As Auicen saithe: yf Among A gret flock he haithe lost his damme Anon by her voyce he knoythe her. The lambe Reioysses moche in the company of the flocke. And when he ys Alone he monyth And sorowyth gretely And ys very ferefull he kepyth Affore The flock And playeth in his leping"[21].

This is presented as a logical progression from the meaning of the lamb's name and all that implied about the lamb's gregariousness, to a discussion of the lamb's fear of loneliness. However Bartholomaeus's "*De agno*" was differently laid out. After discussing the Latin derivation of lamb, in sections which Upton ignored, Bartholomaeus discussed when lambs were born and when was best for strong lambs, how the place where lambs were conceived determined their strength, how the colour of the veins of the lamb's parents' tongues determined the lamb's colour, how the rain and cold worried the lamb, before he discussed their fear of being alone[22]. This dexterity in abbreviating his sources is displayed through most of the bestiary.

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[18] For 'lion' Upton used "De leone" and "De leena", Bartholomaeus Anglicus, 1975, p. 1214-1219; for 'dog' Upton used "De cane" and "De canicula", Bartholomaeus Anglicus, 1975, p. 1164-1168; for 'elephant' Upton used "De elephante", "De elephante secundum Aristotilem et Avicennam", "De elephante secundum Solinam" and "De eodem secundum Phisiologum", Bartholomaeus Anglicus, 1975, p. 1191-1197; for 'hedgehog' Upton used "De hirenacio" and "De herinacio", Bartholomaeus Anglicus, 1975, p. 1211-1213

[19] Bodl. MS Eng.misc.d.227, fo 144

[20] Bartholomaeus Anglicus, De Proprietatibus Rerum, 1975, p. 1147- 49. In Blount's translation the description of mad dogs was given its own mini-chapter.

[21] Bodl. MS Eng.misc.d.227 fo 139r - 139v

[22] Bartholomaeus Anglicus, De Proprietatibus Rerum, 1975, p. 1115

This ability to contract and conflate is linked to Upton occasionally over-compressing Bartholomaeus's words, so that the original meaning was lost. An example of this was his "Of the bere". The Trevisa English translation of Bartholomaeus on the bear's violence read:

> "[bears] fighteth with hertes and with wilde swynne and with houndes and with boles and throweth hem doune to the grounde. And goth vpright ageins the bole and ofte holdeth the hornes in his hondes and ouercometh him"[23].

Upton took that and compressed it thus:

> "[a bear] wull fyght wth a hart goyng Upright a yenste hym holdyn hys hornys wth hys pawes & so often tymes overcomyth hym"[24].

That Bartholomaeus was the source is clear, nonetheless Upton's compression changed the sense of his source.

In the English translation Upton discussed forty-one birds in his bestiary. The order in which they were given was eagle, sparrowhawk, ahet, heron, harpy, bird of paradise, lark, bittern, dove, quail, swan, stork, crow, owl, calader, calender, goldfinch, raven, diomedites, gerfalcon, falcon, crane, cock, jay, chough, swallow, kingfisher, martlet, osell, nuthatch, pelican, partridge, peacock, magpie, vine, nightingale, parrot, turtledove, bat, lapwing, and dragon. The layout was roughly alphabetical in Latin, but there are problems. The primacy of eagle (*aquila*) over sparrowhawk (*accipitre*) and ahet (*alieto*) was understandable for the same reason that lion was first among the beasts, as Upton wrote:

> "[after discussing beasts] we in tende to diuert & torne owre style to byrdes; wherfore Fyrst, as most pryncypall whe schalbe gynne at the egle"[25].

Less understandable was placing owl (*bubo*) between crow (*cornix*) and calader (*caladrius*)[26]. The other principle difficulty in the layout was Upton placing the dragon as the last bird as it was out of alphabetical order and, as will be examined later, its source was a book on beasts.

I have identified Thomas of Cantimpré's *De Natura Rerum* and Bartholomaeus Anglicus's *De Proprietatibus Rerum* as the sources used by Upton for birds. The layout of the section was not drawn from either source. Furthermore the information which Upton

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[23] Bartholomaeus Anglicus, De Proprietatibus Rerum, 1975, p. 1261 - 1262
[24] Bodl. MS Eng.misc.d.227, fo 156v
[25] Bodl. MS Eng.misc.d.227, fo 157v
[26] In the Latin *De Studio Militari* it was bittern (*butario*) between crow (*cornice*) and (*caladrio*).

presented did not conform to any particular pattern. I will outline which birds Upton took from either source.

Upton used Thomas of Cantimpré's *De Natura Rerum, Liber Quintus De Natura Avium* as his source for twenty-four birds. These were harpia, lark, bird of paradise, bittern, calader, calender, goldfinch, diomedites, gerfalcon, falcon, crane, cock, jay, martlets, osell, nuthatch, partridge, peacock, pye, nightingale, popinjay, turtledove, vine, and lapwing. The order in which they appear in Book Four corresponded with the order in which Thomas laid them out. Upton took all of the information that he presented for the natural properties of these birds from Thomas. This discourse slavishly copied the same phrasing and anecdotes as presented by Thomas. An example of this may be seen with regards to the description of the jay. Upton described how the bird would sometimes commit suicide:

> "They sey also thys byrde wolbe made dyuers tymes & so in her madnes hang her selfe a pon a tre by twene the Forkyd bowes"[27].

This was lifted word for word from Thomas's chapter, "*De garrulo*"[28].

It is worth stressing at this point that Upton's extremely long discussion of falcons and their illnesses was taken, word for word, from Thomas's chapter "*De diversis generibus falconum sive accippitrium et de infirmitatibus et medicinis eorum*"[29]. Upton explained his inclusion of this material thus:

> "And in the same pystell they wryt of meny deceasys that the seyd haukes fall in meny tymes & of medycynes for the same, which thynges thoughe they be not for my purpose to speke of here, yet be cause hit longyth for noble men to occupy and vse soche byrdes meny tymes for ther recreacyon me thynkyth hit shall not be inconuenient for me to toche somet of them in this my poore & rude treatyse"[30].

This inclusion was relatively important as it reflected a substantial contemporary interest in hunting and hawking, and it was almost certainly an influence on the matter included in later texts, such as *The Boke of St. Albans*, which used *De Studio Militari* as a substantial source, and also included the popular treatise on hunting attributed to 'Dame Juliana Berners'[31].

Thomas was a source for some information for a further three birds. These were chough, swallow, and bat. The nature of the information whose source I have been unable to identify for these birds implies that either Upton's copy of *De Natura Rerum* was adulterated, or he used another source, or he was drawing on his own knowledge. An example of this problem can be seen with the bat, where Thomas provided the information on the bat being

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[27] Bodl. MS Eng.misc.d.227, fos 172v - 173r
[28] Thomas Cantimpratensis, Liber De Natura Rerum, Berlin, 1973, p. 209
[29] Bodl. MS Eng.misc.d.227, fos 168r - 171v; Thomas Cantimpratensis, 1973, ps 198 - 201
[30] Bodl. MS Eng.misc.d.227, fo 168v
[31] Boke of Saint Albans, Amsterdam, 1969, fos a, ii r - e, i r

so called because, in Latin its name reflected that it flew at night[32]. However Upton followed this with an anthropomorphic explanation of why the bat could avoid paying homage to the lion and the eagle, and this was not taken from Thomas:

> "When the leon cytyth hym to appere a fore hym as other bestes doo than he shewyth the mesyngers hys wynges allegynge for hym he ys a byrde and whan the Egle kynge of byrdes sendyth for hym to appere a fore hym, than he Shewyth forth hys brode eerys, hys iiij fete, hys meruelouse tethe in hys hede layinge for hym that he is no byrde"[33].

This information set up the heraldic point that this meant that the bat would be an appropriate charge for inconstant people. This does not help to explain whether Upton had a source for this information, or if he made up the story to enliven the description of the bat.

Bearing in mind the importance of *De Natura Rerum* to the bestiary of Book Four and Upton's care to refer to his other major source, Bartholomaeus, it is strange that there is no reference to Thomas at any point in the whole of the bestiary. This may be because Upton thought that the source that he used, which was Thomas of Cantimpré's *De Natura Rerum*, was Alexander Neckam's *De Naturis Rerum*. In Book Four Upton referred to Neckam as his source for fourteen of the birds. However the information for all of these birds was copied word for word from Thomas. These birds were lark, bittern, stork, calader, calender, goldfinch, raven, falcon, martlet, partridge, peacock, pye, popinjay, and turtledove. Furthermore in the section on beasts, when discussing the squirrel, the only beast taken from Thomas, Upton cited 'Alexander'. An examination of Neckam for the animals referred to by Upton indicates that his book did not contain any of the information that Upton presented[34]. Thus it must be concluded that Upton believed that the author of the text that he used so freely in Book Four was Alexander Neckam, though it was definitely Thomas of Cantimpré. This mistake may be explained by a similarity in titles of the two books, Thomas's being called *De Natura Rerum* and Alexander Neckam's being *De Naturis Rerum* and may suggest that he got his information not from a complete text, but from extracts in someone else's commonplace book.

Upton used Bartholomaeus's *De Proprietatibus Rerum, Liber Duodecimus De Auibus Qui Sunt Ornatus Aieris* as the principle source for all the animal properties of eight birds; these were eagle, sparrowhawk, ahet, heron, owl, dove, crow, and pelican. The nature of the copying of the properties of these birds was similar to the way in which Upton used Bartholomaeus for beasts: Upton presented the birds in the same order as they appeared in Bartholomaeus, the information that he presented followed the same layout as in

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[32] Thomas Cantimpratensis, 1973, p. 228
[33] Bodl. MS Eng.misc.d.227, fos 179r - 179v
[34] Neckam, De Naturis Rerum, London, 1863

Bartholomaeus, and his references to authorities corresponded with Bartholomaeus. For example in Bartholomaeus "*De auibus in speciale et primo de aquila*" a reference was made to eagles' talons and the source cited was Aristotle book 14 (*De Amimalibus*)[35] which was likewise cited in Latin versions of *De Studio Militari*[36].

Upton also used Bartholomaeus as the principle source for a further four birds: quail, swan, stork, and dragon. In these cases the majority of animal properties were derived from Bartholomaeus, but a substantial minority were not and I could not find them in any of the other sources that I examined. An example of this was Upton's "Off Quayles": Bartholomaeus supplied the Greek derivation of the word quail, the antipathy of quails to goshawks and the quail's love of company[37]. However Bartholomaeus did not supply Upton's comment that the name of quails also derived from the "comen spech of Romans curteros [? couriers] by the reason of ther runyng for they wull runne marvelouse quickly & swyftly a pon the erth", or that fowlers exploited quails' gregariousness with pipes which imitated their cries to capture them[38]. The dragon is an exception to the other three in this category as the properties Upton took from Bartholomaeus did not come from his book on birds, but from his book on beasts; why Upton classified the dragon as a bird is not clear. It is also hard to tell whether or not there is a source for stories such as these about the quail or whether Upton was drawing randomly from his own erudition and experience. This is possible because the structure of these chapters seems drawn from Bartholomaeus with the extra information inserted where Upton saw it as pertinent.

The kingfisher did not appear in any of the sources, which I examined for Book Four. It is almost certain that Upton had a source for this bird, but I have been unable to identify it.

The fish section ended the bestiary in *De Studio Militari* and consisted of only two chapters, "Off The Dolphyn" and "Of the Pyke". The layout of this section does not resemble either Bartholomaeus or Thomas. It is clear nonetheless that Upton took the information for both chapters from Thomas. For the dolphin Upton used *De Natura Rerum, Liber VI. De Monstris Marinis*. He consulted chapter 16, "*De delphinis*" and chapter 17, "*De delphinis alterius generis*" to provide all of the information for his discussion of dolphins[39]. Upton took the information for the pike from *De Natura Rerum, Liber VII. De Piscibus Marinis sive*

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[35] Bartholomaeus Anglicus, De Proprietatibus Rerum, 1975, p. 603
[36] Upton, De Studio Militari, 1654, p. 173
[37] Bartholomaeus Anglicus, 1975, p. 618
[38] Bodl. MS Eng.misc.d.227, fo 163v
[39] Thomas Cantimpratensis, 1973, ps 238 - 239

fluvialibus. He used chapter 48, "*De lucio*" which provided all the information on the natural properties of the pike[40].

Upton included a bestiary in *De Studio Militari* with the specific purpose of explaining the heraldic properties of animals, as he outlined in the first chapter of Book Four, "The furst chapiter of diverse signes peneytid in Armes"[41]. It is therefore somewhat surprising to find that the majority of the animals discussed by Upton were given no heraldic comments at all: of the seventy-five animals he described, only thirty-four had heraldic comments and forty one had none. The thirty-four with comments were lion, leopard, ram, lamb, boar, ass, spider, ox, toad, camel, goat, dog, stag, ant, lynx, wolf, weasel, eagle, sparrowhawk, owl, dove, raven, swan, crane, partridge, turtledove, bat, calendar, chough, martlet, osell, magpies, dolphin and pike. The animals with no heraldic discussion were bee, beaver, horse, elephant, griffin, hedgehog, mouse, cat, panther, squirrel, mole, tiger, bear, fox, unicorn, ahet, heron, harpy, lark, bird of paradise, bittern, quail, stork, crow, calader, goldfinch, diomedites, gerfalcon, falcon, cock, jay, swallow, kingfisher, nuthatch, pelican, peacock, pie, vine, parrot, nightingale, lapwing.

The heraldic discussion that Upton offered can be divided into two types. The first were comments to the effect that the bearer of such charges ought to resemble the properties which had been outlined or share the name of the charge. These animals were ram, ass, spider, goat, camel, dog, ant, lynx, crane, martlet, turtledove, bat, calendar, and pike. A good example of such a comment was in "Of A beeste callyd linx": after Upton outlined the fantastic vision of the lynx, he said that this charge suited those who are "perfytt and bryght of syghte".[42] "Of the Pyke" illustrates the concept of charges corresponding with the bearer's name.[43]

The second type of comment Upton included was a more extensive exegesis of heraldic properties or heraldic information which was drawn from a source other than those for the previously described animal properties. These animals were lion, leopard, lamb, boar, ox, toad, stag, wolf, weasel, eagle, sparrowhawk, dove, swan, owl, raven, chough, ossel, partridge, dragon, and dolphin. The sources for this that I have identified are John of Bado Aureo's *Tractatus de Armis* and Upton's own experience. However it is likely there were more sources which as yet are unidentified.

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[40] Thomas Cantimpratensis, 1973, ps 264 - 265
[41] Bodl. MS Eng.misc.d.227, fo 116v
[42] Bodl. MS Eng.misc.d.227, fo 151
[43] Bodl. MS Eng.misc.d.227, fo 181

Bado Aureo's *Tractatus* was the principle source for heraldic comments on lion, leopard, boar, stag, eagle, owl, dove, swan. However there are substantial problems in examining its specific role in Upton's composition. Upton's exemplar of the *Tractatus* has not been identified. The popularity of the *Tractatus* ensured it was widely copied, and Bado Aureo seems to have corrected it and copyists added material themselves and therefore the copies in circulation differed in content to a significant degree. Nonetheless it is possible to identify the information which would have been in copies of *Tractatus de Armis* in circulation at the time when Upton was writing *De Studio Militari*.

Upton's use of Bado Aureo was slavish at times. This can be seen particularly clearly in the heraldic digression in "The second chapitre of the leon". In this Upton was at pains to explain why Honoré Bonet was wrong to argue that the English king bore leopards rather than lions in his arms. To prove this Upton described how long standing the use of the lion as a charge was to the English kings, and this involved him presenting a list, in quite specific detail, of English kings from Brutus to Edward III. This was taken word for word from *Tractatus de Armis* (although in Bado Aureo this section was an appendix and not in the lion chapter). The information laid out by Upton followed Bado Aureo in exactly the same order, for example he followed him in citing Bonet as in error, he named exactly the same kings such as Brutus, Belinus and Hartacnute and he copied specific details such as dates and incidents described by Bado Aureo; for example when he wrote that Stephen arrived in England on 20 November in the zodiacal sign of Sagittarius[44]. In addition some copies of Bado Aureo contained twenty-seven lines of a poem on Henry II, which Upton copied word for word (however this is not in Blount's translation)[45]. It is clear that Upton had access to a copy of *Tractatus de Armis,* which included this poem.

The second source, which Upton used for heraldry, was his own experience. This can be seen in at least six chapters with substantial heraldic exegesis, namely lion, leopard, boar, ox, eagle, partridge. A good example of this occurs, for instance, in the chapter on the boar where Upton described how the boar would rather die than flee a fight, and this meant that it should be borne by very fierce men. He then added that "yrysshe men bere the boore And boores in their Armes"[46]. In addition Upton used texts that had come to his notice in the course of his professional career. This can be seen in his chapter on the lion where he included a copy of the statutes of war of Henry V that he said he had translated into English

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[44] Bodl. MS Eng.misc.d.227, fo 119-125v; Jones, Medieval Heraldry, 1943, p. 206-212
[45] Jones, Medieval Heraldry, 1943, p. 211
[46] Upton, De Studio Militari, 1654, fo 140v

from Latin at the behest of Thomas of Montagu[47]. Their inclusion was he said, intended to prove that the English King could bear the fleurs-de-lis because of the capture of John the Good at Poitiers[48]. Bado Aureo made this same point in this discussion, but just why Upton thought that his inclusion of Henry's statutes would strengthen the argument is not clear[49].

Traditionally John of Bado Aureo's *Tractatus de Armis* has been regarded as the principle source for all of Upton's bestiary but this appears to be an exaggeration. Upton's bestiary was much bigger than Bado Aureo's. Upton had thirty-two beasts, Bado Aureo had only eight: lion, leopard, pard, stag, boar, horse, bear, dog. Upton did not include the pard in his bestiary. The information Bado Aureo offered only matched Upton in the cases of lion, leopard and bear, and in each of these cases Upton had appreciably more on each. What is more Upton disagreed with Bado Aureo's description of the animal properties of boars, dogs, stags and horses. In his birds' section Upton had forty-one (in the Latin versions he had forty-three[50]), Bado Aureo had ten: dragon, eagle, hawk, owl, dove, jackdaw, swan, cock, griffin, and martlet. Upton named the griffin as a beast. Only the eagle, owl and dove had information also found in Upton and in all these cases Bartholomaeus was a shared source[51]. Bado Aureo's other seven chapters on birds were at variance with Upton and for fishes he described crab as well as pike: moreover Upton's pike was independent of Bado Aureo. Furthermore the order of Upton's chapters did not resemble Bado Aureo.

The previous discussion of heraldry has highlighted Upton's debt to Bado Aureo on that subject, but that is not by any means the whole story. He ignored the information Bado Aureo provided on horse, hawk, jackdaw, cock, griffin, and presented heraldic evidence at variance with Bado Aureo on dog, dragon, and martlet. It seems clear that comments such as A. R. Wagner's that "the heraldic part of Upton's work is an amplified version of the *Tractatus*"[52] are an exaggeration which cannot be accepted.

Upton was not alone in writing a heraldic treatise with an extensive bestiary. As I indicated above, John of Bado Aureo is an example of a somewhat earlier text with a sizeable bestiary. However there were many other texts which had more substantial bestiaries than his and which resembled *De Studio Militari* more closely. Rodney Dennys, in *The Heraldic*

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[47] 'The Essential Portions of Nicholas Upton's 'De Studio Militari', ed. F. P. Barnard, Oxford, 1931, p. 8

[48] Bodl. MS Eng.misc.d.227, fo 135

[49] Jones, Medieval Heraldry, 1943, p. 212

[50] Look at 'The Families of *De Studio Militari* manuscripts and Blount's translation'

[51] However Upton took a section from Bado Aureo on the eagle in the Emperor's arms not found in Bartholomaeus and put it in his chapter "Off the golden or yelow colowre"

[52] Jones, Medieval Heraldry, 1943, p. xi

Imagination, outlined the contents of several heraldic texts of the fifteenth century, which resembled *De Studio Militari* in size and scope, but differed in specifics. *Mowbray's French Treatise* for instance contained eighteen beasts, six serpents, and twenty three birds, not to mention a description of trees which were borne in arms[53]. Similarly *Banyster's French Treatise* contained twenty-seven beasts, twenty-six birds, five reptiles and eighteen fishes[54]. The general layouts of these texts were similar to that of *De Studio Militari*. Both *Mowbray's French Treatise* and *Banyster's French Treatise* resembled *De Studio Militari* in that they discussed the lion and leopard first in the beasts section and the eagle first in the birds section. However an examination of the contents of these texts indicates that although they were similar to Upton's in the number of animals which they examined, they were different in specifics. Upton had no discussion of serpents or reptiles, which were substantial parts of both treatises. Furthermore, as regards beasts, birds and fishes there were substantial differences as well: *De Studio Militari*'s paltry two fishes pales when compared with *Banyster's* eighteen. Besides, the actual beasts, birds and fishes which were discussed, were many of them different. In *Mowbray's French Treatise* there were imaginary animals such as the leucrota, and *Banyster's French Treatise* discussed birds such as the flying-stag and the ostrich.

What is more the way in which the animals were discussed could differ from text to text. This can be illustrated by a comparison of *De Studio Militari* with The *Deidis of Armorie*, which is a Scottish translation of a fifteenth century French heraldic tract. The bestiary in The *Deidis of Armorie* was of similar size to Upton's with seventy-seven animals in all; twenty-six beasts, twenty-seven birds and twenty-four fish. As with the treatises above The *Deidis of Armorie* was different in basic specifics, for example the number of fishes, or the discussion of animals not included in *De Studio Militari* such as rabbits and otters[55]. However the differences went further than this; Upton and The *Deidis of Armorie* did not contain the same information on most of the animals they shared, for example both discussed the mole, crane, and pike but in all three cases the discourse was completely different. With other animals where they presented similar information, such as boar, falcon and dolphin, the discussions were not exactly the same; they merely shared some details. The reason for this was that most of the bestiaries were unconnected in that they used different sources, for example the main source for The *Deidis of Armorie* was Brunetto Latini's *Li livres dou trésor*[56], whereas Upton's principle sources, as we have seen were Bartholomaeus and

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[53] Dennys, Rodney, The Heraldic Imagination, London, 1975, p. 72
[54] Dennys, The Heraldic Imagination, 1975, ps 73 - 74
[55] The Deidis of Armorie, ed. L. A. J. R. Houwen, Edinburgh, 1994, p. 23
[56] The Deidis of Armorie, 1994, p. xx

Thomas. In addition the approach to the animals could differ from text to text. In The *Deidis of Armorie* all of the animals discussed had some sort of heraldic comment added to them, irrespective of their obscurity. But when we come to compare animals which both *De Studio Militari* and The *Deidis of Armorie* discussed we find that the heraldic descriptions they offered were sometimes very different. This can be seen with the camel. Upton described the first bearers of arms which had a camel as the charge thus:

> "To soche persones therfore that beere suche bounches or knobbys in theyr backes war wont camells or theyr heedes to be Assigned to be borne in theyr Armes"[57].

The *Deidis of Armorie* described the first bearer of such arms as having once been a great lord who was brave in battle and patient in his actions[58]. There was no end to the variation in heraldic thought on the symbolism of animals borne in arms.

As has been earlier explained, in his chapter on the lion Upton included a copy of the statutes of Henry V. The context for this inclusion was Upton explaining why the English king bore the French arms, quarterly with the English. This was because of the inheritance of Edward III and because the Black Prince captured John the Good at Poitiers. Upton argued that this was legally proper:

> "The old statutes made vpon prisoners Accorde here w^{t} in the chapter, *Item precipimus &c*, wiche was made furste As men thinke by Arthur And his successors, bothe kinges of fraunce And of Englonde. And specially by the fore saide Edwarde And Also by the moste victorious And cristen prince herry the vth king of Englande, gouernyng than the Realme of fraunce, And proclamed in euery place heyre Apparent. Of the same wiche statutes, bycause they be good And Rightuous, I Ame not Abasshed to bringe theym forthe"[59].

A preamble describing the need for laws in war was followed by fourteen chapters. In order these chapters dealt with the protection of churches; the protection of men and women of the church; who soldiers had to obey; keeping watch while on campaign; musters; unlawful clamour in the camp; general outridings; lodgings; prisoners; the payment of thirds; the avoidance of pillage; assaults; safe-conducts; the avoidance of prostitutes. These chapters were all written in a clear, legal style and regulate on each point in some detail.

There is a puzzle as to why the statutes of Henry V were included in Book Four. Upton's explanation of their inclusion was that they would support his contention that arms could be acquired by capture in the field. However these statutes did not say this: none of the

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[57] Bodl. MS Eng.misc.d.227, fo 143v
[58] The Deidis of Armorie, 1994, p. 25
[59] Bodl. MS Eng.misc.d.227, fo 125v

clauses of the statutes in *De Studio Militari* made this point. What is more no other copy of the statutes did; for example the *Mantes Orders* in the *Black Book of the Admiralty*, which are an enlarged version of the same statutes, made no reference to capturing arms in battle[60]. Upton was aware of this as, after he copied out the statutes, he added his own gloss on their contents. He wrote that, according to the statute concerning the capture of prisoners, if John II was Edward III's captive then everything that he owned was then in Edward's possession, "And so consequently king Edwarde myght lawfully geue his Aremes"[61]. Nonetheless this was not a direct reading of the statutes and does not explain why he included all of the statutes, and not just the one germane to his discussion. Furthermore the inclusion of all of the statutes in Book Four of *De Studio Militari* is a substantial digression from the subject which Upton was discussing, that is the heraldic properties of lions.

We must clearly look for some other reason as to why Upton included the statutes. The most likely reason is that he had a copy of the statutes and he thought they were too valuable to leave out of his book. In Book One of *De Studio Militari*, he told the reader that he had translated them out of Latin into English for Thomas Montagu, earl of Salisbury[62]. The statutes were regarded as very important, as is indicated by the large number of manuscript copies which survive. Therefore it is not surprising that Upton would think they were a useful inclusion in his book.

However this does not explain why he included them in Book Four, in a discussion of the lion. Upton made a detailed examination of the laws of war in Book One of *De Studio Militari*, and in this discussion he referred to the statutes. Therefore it would seem much more sensible if he had included them in his discussion there, rather than forcing them into a discourse on heraldry. It may be that Upton did not think the statutes would sit comfortably with the extensive lifts he made from legists in Book One, and therefore preferred to put them somewhere else. He perhaps considered that as the statute on prisoners had a provision for the ownership of prisoners' goods then this was a link to the discussion of the King of England's arms which he included in his discussion of the lion and this would allow him to include the whole statutes in his book. The statutes were explicitly concerned with controlling the English army in a war of conquest in France, therefore even though they did not obviously fulfil the role Upton said they did, they would have had a connection in Upton's mind to the claims of the English to France.

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[60] The Black Book of the Admiralty, ed. T. T. Twiss, volume 1, RS, 1871, ps 459 - 472
[61] Bodl. MS Eng.misc.d.227, fo 136r
[62] Bodl. MS Eng.misc.d.227, fo 31v

Throughout the bestiary of Book Four of *De Studio Militari* Upton chose to interject his own thoughts and experiences whenever he felt the situation was right, and these comments were many and varied, some serious and some trivial. A wellspring for Upton in this were his exciting experiences in France in the 1420s. In the chapter on the lion while discussing the arms borne by the king of England Upton added a fascinating insight into sedition and discontent in the camp when on campaign in France:

> "I herde meny tymes At our seyges by yond the see, when yt was far in the nyght, meny opprobrious And spytefull woordes spoken Ayenst the moste noble prynce henry the vth And my singuler good lorde, Thomas montagu, eerle then of salsbery; And moste As touching these leopardes & my good lady mary, wiche was wyffe to herry the iiijth And mother to henry the vth. What tyme I tryde owte then the truthe of this mater, you maye therefore surely And strongly holde that our souerayne lorde the kinge beryth for the Armes of the Realme of Englond iij golden leons in A Red felde, As here Apperith"[63].

It would be interesting indeed to know a little more precisely what lay behind these 'spytefull woordes' but Upton does not expand on the slander. Upton also included more trivial, but nonetheless fascinating, autobiographical points. For example in the chapter on the eagle he wrote:

> "my good lorde also the Erle of Salesbury was want to take of a good luck & fortune to come at the beseedgyng off of townes he sawe any Egles fle over hys hooste for many tymes after they made a goode ende"[64].

During his time in France Upton had a chance to see a great many knights, and a great many coats of arms. The many and varied charges borne in these arms were of great interest to him, as is evident in his discussions of some of the animals of the bestiary, for example on the spider he wrote:

> "I wryte thus moche of the Spyder bycause I sawe theym borne sometyme in Armes of A lombard"[65].

Upton was also able to interject his own national and racial biases in these digressions, as can be seen in his anti-Welsh comments when discussing the stupidity of the goat. He wrote:

> "I have knowe some of Wales to beere the gootes of diuerse colores in Armes wiche be not farr different frome the saide condicions"[66].

Upton also added extremely trivial, but nonetheless colourful points. An example of this was in his discussion of the cock where he wrote that cocks were often represented on top of church steeples and castle turrets "w^{t} hys hede a yenst the wynde"[67]. Similarly his comment

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[63] Bodl. MS Eng.misc.d.227, fo 123v
[64] Bodl. MS Eng.misc.d.227, fo 157v
[65] Bodl. MS Eng.misc.d.227, fo 141r
[66] Bodl. MS Eng.misc.d.227, fo 144r
[67] Bodl. MS Eng.misc.d.227, fo 173r

that osells were often seen in cages in prince's private chambers was a colourful but trivial point[68].

The analogous aspects of animal properties and human characteristics suited Upton when he had something to say on any subject close to his heart and this is so noticeable that, at times, it seems as though Upton's description of the properties of the animal was only to set up his ideas. Thus in "Of the Nyghttyngale" he discussed how mating ruined the bird's voice and beauty, and then interjected:

> "Wherfor as tochynge thys mater how meny & how goodly yonge men, as well nobles as other, haue I sene in my dayis wth ther freche and plesant songes reioyse to passe ther tyme in Feetes and poyntes off warre therin settynge all ther dalyance, which after thei haue bene ones maryed and copeld wth beautefull & noble ladyis, than ther voyce begynneth to waxe horse ther swete brest to fayle them, ther fayre coloure to fade & ther bolde corage to slake & decay. But as tochynge thes maters I schall speke no more, for I fynde not sooche maner of byrdes borne in Aremes"[69].

Upton's use of his own life in this manner indicates a way in which the bestiary of *De Studio Militari* like the earlier books of *De Studio Militari* was not merely a pastiche of other sources, but also a reflection of fifteenth century experience seen through the eyes of Nicholas Upton.

The bestiary of Book Four of *De Studio Militari* was a very long and in depth discussion of animals borne in arms and of animals that were not as well. Like the rest of *De Studio Militari* it was primarily lifted from other texts. In this case there were three texts which Upton used to obtain most of his information. Bartholomaeus Anglicus's *De Proprietatibus Rerum*, Thomas of Cantimpré's *De Natura Rerum* and John of Bado Aureo's *Tractatus de Armis*. Although these sources did not provide all of the information for the bestiary they provided the vast majority. The discussion which Upton made was very much in step with contemporary practice in heraldic writing, and in the size and scope of the bestiary. However in specifics his bestiary was different from others. Upton included the statutes of Henry V in the bestiary and this is interesting because they contain clauses, which have not survived in other extant copies of the statutes, and they indicate that there was some variations in the statutes in circulation. The most interesting part of the bestiary is the opportunity which it gave to Upton to discuss topics which were close to his heart in the form of asides inspired by the animals which he was discussing. Therefore it is fair to say that the bestiary of Book Four is more than a heraldic discussion, and is no less interesting for that.

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[68] Bodl. MS Eng.misc.d.227, fo 175r
[69] Bodl. MS Eng.misc.d.227, fo 177v

VI

Introduction and Commentary to Book Four (Inanimate Charges) of *De Studio Militari*

Book Four of *De Studio Militari* was a consideration of charges borne in coats of arms. As I described in the previous chapter, the first part of the book was an extensive bestiary. This was followed by a discussion of the inanimate charges borne in arms. This was much shorter than the bestiary, but it compressed a great deal of information into a relatively brief space. In the Blount translation it was made up of sixty-two chapters. The vast majority of these chapters were illustrated with an escutcheon which explained by example the charge which was being discussed, and several of them had more than one illustration. The tone of the examination of inanimate charges was different to the bestiary, as it was far more concerned with the rules of blazon than the discussion of animals was. As I outlined in the previous chapter, the bestiary did not always explicitly address the heraldic purpose of the animals which were discussed; the treatment of the inanimate charges was different in that the practical application of the charges was always discussed. However Upton's discussion of inanimate charges was similar to the bestiary in that, although both were written independent of other fifteenth century heraldic texts, they both mirrored contemporary practice.

I have been unable to identify any major source for Upton's discourse on inanimate charges, and I believe that he did not have one. Instead Upton relied on his personal experience as the primary source for the discourse. To establish this it is necessary to compare the discussion of inanimate charges in *De Studio Militari* with John of Bado Aureo's *Tractatus de Armis*, which is traditionally regarded as the source for *De Studio Militari* and has a superficial resemblance to it. Although the information which Upton presented about inanimate charges mirrored contemporary practice, the scope and extent of his examination was greater than that in most contemporary texts on heraldry, as I will hope to show by comparing the layout and contents of *De Studio Militari*'s treatment of these charges with the descriptions in other texts. It is also worth pausing for a moment to discuss the coats of arms which Upton named in his text, and the comments that he made in it about the expertise of heralds. I will examine these, and along with them, I will also consider the discourse on heralds that Upton presented in Book One, as the discussions that he made on this subject in Books One and Four are necessarily linked. The discussion of inanimate charges ended with Upton considering who had the power to grant arms and I will discuss this in the context of whether or not heralds could grant arms.

Most writers on *De Studio Militari* have assumed that Upton's source for the heraldic sections of the text was John of Bado Aureo's *Tractatus de Armis*; for example Maurice Keen wrote:

> "Upton's long section on heraldry, which fills most of Books III and IV of his work, was largely borrowed from the treatise of an earlier English writer, whom he calls Johannes de Bado Aureo"[1].

This is the obvious conclusion to draw from a cursory examination of the discussion of inanimate charges in *De Studio Militari*. To my knowledge Bado Aureo is the only author who predates Upton who examined inanimate charges in the same way that Upton did, that is to say they presented their inanimate charges with sample blazons and simple escutcheons. However a thorough comparison of the discussions of inanimate charges in both books indicates that the first impression of dependence of the one upon the other is greatly misleading, and John of Bado Aureo was not the main source Upton used for his discussion.

On an elementary level it must be noted that Upton's discourse on inanimate charges was much larger than that of Bado Aureo. To illustrate this it is worthwhile examining Upton's discussion of crosses and comparing it with the discussion presented by Bado Aureo. Upton described twenty-eight crosses, whereas Bado Aureo only discussed twelve[2]. Upton discussed only eleven of the crosses which Bado Aureo included[3]. Furthermore, of those eleven crosses, Upton and Bado Aureo presented the same information on only one cross, the plain cross; and even there Upton added further information not found in Bado Aureo. In all of the other crosses the descriptions were different and the example escutcheons and blazon which they both presented differed. What is more the length of the individual descriptions which Upton and Bado Aureo presented was different. Even the most cursory of Upton's chapters contained a few sentences giving a physical description of the background and appearance of the charge under discussion. Although Bado Aureo had some lengthy discussions, his typical treatments were much shorter. This can be illustrated by comparing *De Studio Militari*'s "Off the crosse croycee" with (the English translation of) *Tractatus de Armis*'s "a crosse crossed". These are the same cross, as is made clear by examining the illustrations of the charge in both texts. The complete text of Upton's entry reads:

> "A nother crosse ys Founde callyde a crosse crose And hit is namyd soo by cause att euery ende hitt hathe a crosse here. But thes crosse is not borne so ofte by hym selfe a lone in aremes, as other crosses be, but iff

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[1] Keen, Maurice, 'The Debate over Nobility: Dante, Nicholas Upton and Bartolus', in Keen, Maurice, Nobles, Knights and Men-at-Arms in the Middle Ages, London, 1996

[2] Bodl. MS Laud 733, fos 10v - 12r

[3] Bodl. MS Laud 733, fo 11r

> they be very smale crosses, And than the Aremes be poderd whith them. But he that beryth this crosse a fore berythe a crosse croyse of golde in a Felde off azoure. And in french *Ill port dazor vnge crois croysee dor.* But when the smale crosses be putt & wth owte certen nomeber then ye most call them croslettes"[4].

The corresponding description in English translation of *Tractatus de Armis* reads:

> "The vj difference is a crosse crossed. For he hath in euery ende a crosse as in the margyn. And so oweth to be blased he bereth a crosse crossed of red in a felde of golde In frenssh *Il porte dore une croys crosset et de gewles*"[5].

This difference in extent of discussion is true for the majority of descriptions of charges in the two books.

Outside the description of the plain cross which was the same in both *De Studio Militari* and *Tractatus de Armis*, there were only three other matches between Upton and Bado Aureo. These were Upton's "Off aremes barryd playne" and Bado Aureo's "armys barred"[6], Upton's "Off Fissewes" and Bado Aureo's "Spyndels"[7], and Upton's "Off Fretes in aremes" and Bado Aureo's "frette"[8]. In all of these instances Upton added information which was not given by Bado Aureo, for example when discussing fusils (fissures), Upton mirrored Bado Aureo in describing how they resembled tools used in weaving, but added an example escutcheon, which he wrote had been borne by Thomas of Montagu, earl of Salisbury[9].

A further four inanimate charges described by Upton and Bado Aureo had the same illustrated escutcheons. These were Upton's "Off aremes quarterd playne" and Bado Aureo's "armes quartered playne"[10], Upton's "Off Bordure made of coloures in vectyd other cally verree" and Bado Aureo's "armys vyrred"[11], Upton's "Off Bordure talentyd" and Bado Aureo's chapter on powdered bordures[12]. However in each case the context in which they were discussed, and the blazon given were different. This can be seen in the descriptions of talented bordures. Bado Aureo's description of the charge was shorter and different in detail to that of Upton, and he blazed the arms "*Il porte dargente vn lyon rampand de gowlys & vne bordure de sabyl pouderie besauntz*"[13]. Upton blazed the same illustration, "*Ill port vng leon rampant de gewles en argent bordure de sable talentee*"[14]. In addition to not discussing the

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[4] Bodl. MS Eng.misc.d.227, fos 185r - 185v
[5] Bodl. MS Laud misc.733, fo 11v
[6] Bodl. MS Eng.misc.d.227, fo 202r - 202v; Bodl. MS Laud 733, fo 12v
[7] Bodl. MS Eng.misc.d.227, fo 211v; Bodl. MS Laud 733, fo 14v
[8] Bodl. MS Eng.misc.d.227, fo 215r; Bodl. MS Laud 733, fo 16r
[9] Bodl. MS Eng.misc.d.227, fo 211v
[10] Bodl. MS Eng.misc.d.227, fo 188v; Bodl. MS Laud 733, fo 12r
[11] Bodl. MS Eng.misc.d.227, fo 206r - 206v; Bodl. MS Laud 733, fo 15r
[12] Bodl. MS Eng.misc.d.227, fo 205r; Bodl. MS Laud 733, fo 15v
[13] Bodl. MS Laud 733, fo 15v
[14] Bodl. MS Eng.misc.d.227, fo 205r

plain fitchy cross Upton did not examine a further nine charges presented in *Tractatus de Armis*. These were "armys imbatelled"[15], cherries[16], stars[17], flowers[18], and five types of unnatural representations of animals[19].

It must therefore be concluded that *Tractatus de Armis* was not the primary source for the discussion of inanimate charges in *De Studio Militari*. It may be that Bado Aureo's style of discourse was the inspiration for Upton; it may also be that there was another source, perhaps even common to both which does not come down to us. One such source could be Bado Aureo's master, Francis de Feovis, whose lost work, *De Picturis Armorum*, may well have had a wider circulation than has previously been argued. However as no identified version of this text survives this is only speculation.

Upton's discussion of inanimate charges was atypical amongst contemporary works on heraldry in its degree of thoroughness and the scope of its discourse. To illustrate this I will briefly outline Upton's treatment and then compare it with contemporary discussions of inanimate charges borne in arms. In the discourse in *De Studio Militari* the charges were divided into several groups. The first was crosses which were discussed in twenty chapters. The discussion of crosses was exhaustive and included not only common crosses, such as the plain cross, but also more obscure ones, such as the ermine cross. Upton followed this group by discussing quartered arms in seven chapters. As before Upton went into great detail in his discussion, examining many variants of quartered arms, from the common kinds such as quartered arms plain, to the more unusual, such as quartered arms invected. Upton followed this group with pales, bends and bars which were discussed over five chapters each of which dealt with many different variations of these charges. Again this discussion went into great detail covering many variants such as chained bends. After this Upton discussed bordures. This took up the next seven chapters, and again the study was exhaustive, including the basic bordures and also rarer ones, such as chequered bordures. This was followed by an examination of a succession of charges which were not united by any single characteristic. These included gyrons, pellets, torteaux, fountains, annulets, traces, fissures, headed arms, chequered arms, chevrons, double arms, fusils, saltires, frets, animals, and labels. Again Upton sought to discuss most versions of each charge which could be borne in arms. In all of the chapters in the discourse on inanimate charges the discussions were accompanied by an

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[15] Bodl. MS Laud 733, fo 12v
[16] Bodl. MS Laud 733, fo 13v
[17] Bodl. MS Laud 733, fo 14r
[18] Bodl. MS Laud 733, fo 14v
[19] Bodl. MS Laud 733, fos 16r - 16v

illustrated escutcheon, with its blazon given in English and French in the translation and Latin and French in the original.

An examination of contemporary texts indicates that they were less thorough than Upton was. *De Studio Militari*'s treatment of inanimate charges was markedly longer than those in contemporary treatises. The nearest in length to *De Studio Militari* was John of Bado Aureo's *Tractatus de Armis* which as I showed above was a good deal shorter than the discourse in Book Four. The general layout of the discourse in Book Four broadly resembles *Tractatus de Armis* as both began with crosses and advanced in the same way. However this layout was by no means conventional. An examination of other texts indicates that many were less rigid in their discourse. An example of this was *Prinsault's Treatise* which contained a discussion of nine ordinaries: chief, pale, bend, fess, chevron, gyron, orle, cross, saltire. Along with this it contained a description of subordinaries, along with advice on how to blazon difficult arms[20]. *Prinsault's Treatise* is similar in layout and style to a great many other heraldic texts, for example *Banyster's French Treatise* and *Mowbray's French Treatise* were similarly cursory in their examinations of inanimate charges[21]. In texts such as these there were no example escutcheons or blazons, but rather they presented, as illustrative material, rolls of arms. For example *Prinsault's Treatise* included a substantial list of "*Les Armes des Seigneurs de France*". Similar lists of arms were common in other texts; for example *Banyster's French Treatise* included a general roll of arms starting with the Pope, Prester John, and the emperor of Constantinople and going on to include the peers of France and the arms of Christian Kings and French families[22]. These rolls appear to have fulfilled a similar purpose to the sample escutcheons and blazons of *De Studio Militari*, that is they gave practical examples arms to compliment the discussions of the charges. Nonetheless it is clear that *De Studio Militari* is substantially different in scope, method and range to most of its contemporaries.

The only subject of the discussion of inanimate charges was heraldry. Every chapter named at least one sample escutcheon, and every escutcheon discussed was blazoned by Upton in English (Latin in the original) and French. However this section was more than merely a list of arms, as Upton regularly gave his readers rules by which they would be able to blazon arms correctly. The advice was often basic, as in the discussion of the plain cross,

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[20] Douet-D'Arque, L. ed., 'Un Traité du Blason du Xe[e] Siècle', Revue Archéologique, volume 15, Series One, 1858, ps 325 - 333

[21] Dennys, Rodney, The Heraldic Imagination, London, 1975, ps 73 - 75

[22] Dennys, The Heraldic Imagination, 1975, p. 74

where Upton explained that when blazoning, one should begin with the field, which was the most important colour in an escutcheon provided it was "next the fote of the scochyn"[23]. The advice could be more complicated, as in the chapter on fissures where Upton described how one could signify that the bearer of the arms was a bastard: a bastard bore his father's arms with a bend descending from the left side of the escutcheon, thus dividing the arms as the bastard was divided from his father. In addition the bend would distinguish the bastard from the rightful heir who bore the whole arms of his father without the bend[24]. In addition Upton, on occasion, described how certain arms were symbolically suited to certain men. The best example of this was in "Off crosse moleyne". In this chapter Upton wrote that because the cross was made up of figures which resembled the iron instrument which was used in mills to keep millstones straight; this made the charge suitable for judges[25].

Upton was eager to guide his readers through controversial heraldic debates. The best example of this occurs in his discussion "Off bordure made of coloures in vectyd otherwyse cally verree"; this matter here led him on to consider charges which were shields within shields, and this brought up the heraldic controversy concerning the arms of Roger Mortimer, earl of March. Upton said that many who thought they knew about heraldry maintained Mortimer bore a bordure of azure and gold, whereas others said his arms were per pale barry and girony azure and gold with one silver shield. Upton disagreed with both theories and destroyed the argument that they were girony by showing that the colours did not come together in a sharp point. He argued it would be correct to say of Mortimer that he wore arms barry and the head of the escutcheon per pale cornered azure and gold, with a single silver shield[26]. This discussion was far longer than the description of the ostensible subject of the chapter, namely bordures whose colours were verre.

An examination of other sources indicates that the subjects which Upton advised on were controversial in the fifteenth century, and his opinions were worth attention. The best example of this was in "Off Aremes quarterd playne" where he gave the arms of the English king as "*Ill port lez Aremez de frauncee & dengleterre quarterlez*". He followed this by excusing himself from those who would be angry at France's supremacy in this blazon:

> "Here ye schall take no displeasure that I put fraunche A fore ynglond for I do hit for thys cause, by cause the Aremes off Fraunce be fyrst sett, whereof I haue a generall rewle: For when so euer I haue ij coloures or more in the felde, Than I may not be gyne to blase ther, but att the ryght syde is not the Fylde of the Aremes, For perauenture hit is nott the most

[23] Bodl. MS Eng.misc.d.227, fo 182v
[24] Bodl. MS Eng.misc.d.227, fo 208r
[25] Bodl. MS Eng.misc.d.227, fo A186r
[26] Bodl. MS Eng.misc.d.227, fo 206r

> abundant coloure in the seyde Aremes, but lesse or els equall w^the^ other,
> And then yow must begynne at the ryght syde to blase"[27].

This point is interesting in that it shows that in the intense times in which Upton wrote the order in which the arms of England and France were blazed was regarded by some as a matter of national pride. This is all the more interesting when one examines John of Bado Aureo who discussed quartered arms and gave the same ruling that Upton did concerning where to begin the blazon, but did not cite the same example escutcheon[28]. However when he later came to the King of England's arms, despite his earlier ruling he gave the arms as"*Il porte quarterly Anglie & France*"[29]. Thus it would seem that the patriotic Bado Aureo felt that rules of blazon came second to England's supremacy over France. The seriousness with which Upton regarded the rules of blazon is indicated by the sublimation of his patriotic nature in order to blazon the English King's arms properly, even when this placed France first. It also indicates very clearly how high feeling was running at the time between England and France that a man could be regarded as suspicious, even treacherous, for placing the French arms before the English[30].

Upton was confident that all of this advice was of practical use in helping the reader blazon arms, as he wrote at the end of his discourse, "so that yff yow take good hede [of the contents of Book Four] and be not to hasty ther in ye schall nede no nother helppe"[31]. This was no idle boast. His description of heraldic practice would have been sufficient to satisfy the heraldic problems of most educated medieval readers. There was a market for such education as the composition of *De Studio Militari* testifies. The composition of so many heraldic handbooks for a lay readership supports this, for example *Tractatus de Armis*, Bishop Siôn Trevor's *Llyfr Arfu* and the *Boke of St. Albans* (all of which are related) confirms the popularity of the subject of heraldry.

Upton's description of arms led him to refer to the arms of some of his contemporaries and recent historical figures. Examples of those named are the Duke of Cornwall[32], the Duke of Bavaria[33] and Lord Audeley[34]. In addition Upton described the arms

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[27] Bodl. MS Eng.misc.d.227, fos 188v - 189r
[28] Bodl. MS Laud 733, fo 12r
[29] Bodl. MS Laud 733, fo 15r
[30] Bodl. MS Eng.misc.d.227, fos 188v - 189r
[31] Bodl. MS Eng.misc.d.227, fo 216r
[32] Bodl. MS Eng.misc.d.227, fo 205v. These arms were quoted as "Ill port vng leon Rampant de gewles en argent bordure de sable talentee"
[33] Bodl. MS Eng.misc.d.227, fo 214v. The arms were quoted as "Ill port dazoure poudre dez crois crocelez fichez & deux barbeulx ders on dors dor"
[34] Bodl. MS Eng.misc.d.227, fo 215r. The arms were quoted as "Ill port de gewles vunge fret dor"

of his two famous patrons. In "Off Fissewes" he described part of the arms of his beloved former master, Thomas of Montagu, earl of Salisbury. He wrote that many noble men bore fusils:

> "In the nomber of whome was my specyall goode lorde of Salesbery, wych bore iii fyssews gewles in a syluer Felde, and thes aremes he bore by the reason of certen landes longyng to the lordeschyp of monteagew And in Frenche they say *Ill port dargent treis fusulez de gewles*"[35].

In "Off bordures gobonate" Upton gave the arms of Humphrey of Gloucester, his other known patron, and the subject of his dedication for *De Studio Militari* ("*Ill port lez aremes de fraunce & dangleterre quarterlez mesque vng bordure gobone dargent et dazore*"[36]). However most of the arms he described were not ascribed to an individual. In his Latin *Notæ* Edward Bysshe attempted to find the owners of some of the arms which Upton had not attributed. However his attempts were not very successful, principally because instead of placing them in their context he tried (and usually failed) to find seventeenth century owners of the arms Upton described for the fifteenth century. I too have been unable to identify the arms which Upton used as nameless examples, and it seems possible that they had no owner and were instead arms which Upton thought were attractive examples of the charges in question.

As with the rest of *De Studio Militari* the discourse on inanimate charges contained several autobiographical passages by Upton. These sections were shorter than the usually irrelevant digressions that were scattered through the bestiary. Most of the autobiographical passages were references to men he had seen bearing the arms that he was discussing and show that Upton was a man who had an avid interest in the arms of those he came into contact with and how they came to bear them. An example of such a passage was in "Off a playne crosse cordee", when Upton said that this cross was so named because it looked as if cord was tied around it:

> "the whych cross I sawe late in the aremes of a certen noble man, which in dede hade a grauntefather that was a cordmaker, as the seyde noble man schewyd me by mouthe And he bore for his aremes a schelde sable wth playne crosse corede of syluer as here [in the illustration in the margin] that is to say in French *Ill port de sable vng crois playn cordes dargent*"[37].

The main impression which can be drawn from this is that Upton was extremely interested in the practical use of heraldry that he saw around him, and Book Four was not merely a textbook, but rather an exposition of a subject very dear to him. This is of course supported by

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[35] Bodl. MS Eng.misc.d.227, fo 211v
[36] Bodl. MS Eng.misc.d.227, fo 205v
[37] Bodl. MS Eng.misc.d.227, fo 184r

the reference he made to earlier treatises that he had written in the opening chapter of Book Four[38].

Upton discussed heralds in Books One and Four. As these treatments are connected I will discuss them together, beginning with the discourse in Book One. This can be divided into five parts: the origin of heralds; heralds' primary function as messengers; the armorial function of heralds; the creation of heralds; the oaths of heralds. Upton can be regarded as an authoritative source because he must have had a great deal of personal experience of heralds, not only during his time in France, but also afterwards. In addition Upton's discourse is valuable because most texts written on heraldry were written by heralds, whereas he was not a herald, but instead an enthusiastic 'lay' eyewitness. Although Upton's discourse on heralds has many idiosyncratic aspects to it, on the whole it is reflective of contemporary practice. I will expand on this by examining the five sections of his discussion in Book One.

The most unusual aspect of Upton's discussion of heralds was his account of their origins. In chapter eight Upton argued that heralds fulfilled the same function in contemporary armies that he believed veterans fulfilled in ancient armies. He described how in antiquity when a soldier had injured his body so badly that he was an invalid his captain might yet retain him because of his previous good service and as a good example for the other soldiers. With time these veterans showed they were skilled in warcraft and they became increasingly esteemed and trusted with diplomatic missions by their captains. Furthermore the esteem in which veterans were held was so widespread that they were held to be immune from attack, even when on missions in enemy territory. Upton finished this description with these words, "And In ther placys be vsyde nowe heraldes off Aremes"[39].

There was a family of texts in the fifteenth century which presented a similar view of heralds' origins and primary functions, but they differ in the details. One such text was the *Deidis of Armorie*, a fifteenth century French heraldic handbook translated into English by Adam Loutfut. This text, referring to Jean Hérard as its source, gave the story that in the time of Alexander "noble madenys" were used as messengers. The *Deidis* wrote that this was successful until these noble women were raped by soldiers whom they met in the process of fulfilling their duties. This destroyed their office as messengers, and it was concluded that in their place knights who were unable to bear arms should be made messengers[40]. This story

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[38] Look 'Nicholas Upton and his translator' and 'Introduction and Commentary to Book Four (Bestiary) of De Studio Militari', chapter one
[39] Bodl. MS Eng.misc.d.227, fos 15r - 15v
[40] Deidis of Armorie, ed. L. A. J. R. Houwen, Edinburgh, 1994, p. 5

was echoed in the *Sloane Tract* in a more salacious and cogent way: in Alexander's time "comely girls" were used as messengers at first but they constantly became pregnant through their contact with soldiers. In consequence older soldiers were used in their place. These veterans however, could not maintain the pace required to fulfil their function. Therefore young, noble men were used, and these men were called heralds[41]. It is clear therefore that the theory that the primary (and original) duty of heralds was to be messengers had wide circulation when Upton wrote *De Studio Militari*.

Upton seems to have shared this opinion as he concentrated most of his discussion of heralds on their role as messengers, barely touching on their other duties. This approach fairly accurately reflects what was clearly a major part of a fifteenth century herald's duties. The earliest reference to a herald *eo nomine* is in Wace's *Le Roman de Rou*, and this describes the herald acting as a messenger in war[42]. However, as Maurice Keen observed, this is an isolated reference in this period[43]. But from the reign of Edward III heralds began to be used more regularly as messengers, and they were entrusted with more and more serious missions, often "*in secretis negotiis regis*". This pattern continued throughout the fifteenth century. For example royal sources from 1449 described sending John Smert, Guienne Herald "in oure Ambassiate into divers Countries out of this Our Reaume"[44] and the testimony of individual heralds confirms how central this sort of duty was to their office. Thus Chester Herald described how in 1468 he was sent by his master, Anthony Woodville, to Burgundy several times to conduct negotiations for a tournament to be held between Woodville and the Grand Bastard of Burgundy, and under cover of this Chester described how he carried on secret political negotiations between Edward IV and Duke Charles[45]. Incidental comments in contemporary texts support how important heralds' duties as messengers were; for example Anjou King of Arms bemoaned that pursuivants were prone to steal information when they were on ambassadorial visits, and noted that heralds in England were very esteemed because of the large number of embassies they were sent on[46]. Wagner argued that this role for heralds grew out of their task in publicising tournaments, and this sits well with Chester Herald's evidence above. Furthermore heralds' immunity from hostile action made them the obvious choice as ambassadors, at any rate in the opening stages of diplomatic negotiations.

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[41] Humphrey-Smith, C. R., 'Heraldry in School Manuals of the Middle Ages' in The Coat of Arms, VI, 1960, p. 118

[42] Bullock-Davies, Constance, Menestrellorum Multitudo, Cardiff, 1978, p. 42, quoting *Le Roman de Rou*, lines 11949 - 11950

[43] Keen, maurice, Chivalry, New Haven, 1984, p. 135

[44] Wagner, Heralds & Heraldry, 1956, p. 37

[45] Bentley, Samuel ed., Excerpta Historica, London, 1861, p. 171 passim

[46] Wagner, Heralds & Heraldry, 1956, ps 42 - 43

Upton's account of the process through which aspirants to the herald's office would have to pass in order to become such confirms that he viewed their essential role as one of carrying messages. He opened the discussion here with the point, "Emperowres, kynges & other gret pryncys must nedes have certen messengers to spede there bysynes"[47]. He then described the lowest level of his hierarchy as "currers or fotemen" whom he described as the main messengers in a lord's service[48]. The next stage above them were "horse men" who were chosen out of the ranks of these footmen. The next stage were "prosecutors other wyse callyd pursiuantes" who were chosen out of the ranks of the horsemen. Upton wrote of the pursuivants that although they could be seen as knights, "Soche persons be callyd knyghtes of the tonge: For ther chefe honowre restyth in kepynge ther tonge well"[49]. The next stage up from them were heralds whom Upton described as "gretter messangers", whose purpose was to create "Inferior messangers"[50]. Of the duties Upton listed for them the most important were to open exchanges preparatory to treaties of marriage for their lord, to conduct peace negotiations between lords, to visit diverse countries and to show faith as messengers[51].

In the context of this discussion of the hierarchy of the offices through which men rose to the rank of herald, Upton also discussed the creation of heralds and their oaths. He apparently did not have a written source for the examination and it seems as if his description was eyewitness testimony. He described how the office of footmen was identifiable because they had their lord's arms painted on a box which hung at their girdles, above the 'reins' at the back. When they were promoted to horsemen this box was taken away and their lord's badge was put on their shoulder. In addition they were obliged to swear an oath[52]. Pursuivants were chosen out of horsemen who had served well for three years. Upton described the ceremony by which they were created. They were led by the hand by a herald who was carrying a silver cup of water and wine into the presence of the lord who was promoting them. The herald wore the coat of arms of the lord who was creating the pursuivant. The herald asked the lord what name he wanted to call the pursuivant. After he heard it he called the pursuivant by that name and poured some water on his head, and then took the coat of arms and put it on him, ensuring that it was properly fitted because that was how the arms had to be

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[47] Bodl. MS Eng.misc.d.227, fos 15v - 16r
[48] Bodl. MS Eng.misc.d.227, fo 15v - 16r
[49] Bodl. MS Eng.misc.d.227, fo 17v
[50] Bodl. MS Eng.misc.d.227, fo 17v
[51] Bodl. MS Eng.misc.d.227, fo 19r. Upton also made a reference to the heralds' function as messengers in Book Four (Bestiary) when describing the Dove; he wrote that in Syria, Egypt and Alexandria doves were trained to carry messages, and because of this heralds sometimes bore the dove in their coats of arms, "by cause that dooves be as messangers berynge newes fro one contrey to a nother & so retorne home a geyne lykewyse, as heraldes offices be to doo" Bodl. MS Eng.misc.d.227, fo 162v
[52] Bodl. MS Eng.misc.d.227, fo 16r

worn ever after by the pursuivant[53]. Upton described how heralds were created out of the ranks of pursuivants who had served at least seven years. Their creation was so important that it happened before battles or at coronations or holy days. The pursuivant who was to be promoted was called before his fellows by the lord who commended his industry, fidelity, diligence, honesty and discretion and so ennobled him and granted him certain lands and sufficient fee[54].

An examination of other creations indicates that although Upton broadly reflected contemporary practice in this description there was a great deal of variation. This can be seen by examining the text which survives giving the answers of Anjou King of Arms to various questions related to the office of the herald. Anjou said that pursuivants were always on probation and they were given a shield on their chests. He wrote that he was familiar with the practice of pouring water on pursuivants at their creation but was not in favour of it. Anjou's description of the ceremony which created a herald described how wine should be poured over the herald's head by the lord[55]. It is striking how prominent the baptismal symbolism was in these ceremonies: renaming the pursuivant or herald and marking this by baptism by pouring wine. Furthermore Upton's discussion of the creation of heralds confirms how important appearances and visual stimuli were in the middle ages. This is clear by the way Upton stressed that each officer in his hierarchy could bear their lord's arms in only one place, so that both office and rank would have been immediately accessible to the onlooker.

Upton also outlined the oaths that pursuivants and heralds were to make at their creation. The pursuivant had to swear to be always faithful to the lord that created him, the King and all noblemen even if they were enemies. He had to execute the business of all noblemen whoever they were. Furthermore he had to remain honest until he died and obey all heralds[56]. The herald's oath was to repeat the pursuivant oath and to add that he would not exercise his duties with any guile, and never would hinder his lord or steal anything that his lord had entrusted to him[57].

There were many other oaths copied down which survive which can be compared with Upton's. Although all oaths stressed the need for loyalty to the lord and all noblemen there were substantial differences in other details. This can be seen by examining the oaths in the *Black Book of the Admiralty*. The pursuivants' oath in the *Black Book* was much shorter than Upton's and the *Black Book* text placed great stress on the pursuivant accurately

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[53] Bodl. MS Eng.misc.d.227, fos 16v - 17v
[54] Bodl. MS Eng.misc.d.227, fo 18v
[55] Wagner, Heralds & Heraldry, 1956, ps 43 - 44
[56] Bodl. MS Eng.misc.d.227, fo 17r
[57] Bodl. MS Eng.misc.d.227, fo 19r

recording prowess, which Upton did not mention[58]. The heralds' oath was much longer than Upton's, and although it also stressed the messenger function of heralds, the *Black Book* rehearsed many other matters that Upton did not, such as heralds defending widows and maidens, avoiding taverns, and not keeping company of loose women[59]. Other oaths had additional clauses, for example Anjou specified that heralds should carry messages between lovers[60]. Another example is William Ballard's oath from 1480, which specified that heralds should know all armigerous men, and that Kings of Arms should conduct visitations[61].

This reference to visitations brings us on to the question, what other duties, besides that of carrying messages, did Upton ascribe to heralds? In Book One he concentrated on that aspect because in that book he was primarily interested in war, and that was their main wartime function, but in chapter twelve he did discuss some of their other functions. Among these were to be present at tournaments and battles (presumably as recorders of prowess). The presence of heralds at tournaments was mentioned in the discussion of the duel in Book Two. In this case Upton was not discussing heralds as recorders of prowess but rather as participators in the events. He vividly described, presumably with reference to a tournament he had seen, the lead up to the duel:

> "[the duellists will arm themselves] w^{t}ther trompetors & other mynstrells playyng, heraldes off aremes also & there prosecutors, wyth other mynysters schowtyng & cryyng to the greate honowre off the Eyghters wythe lowde voycys praysyng the stoke, the bloode & the noble actes off the paretyys. And the heraldes schall were A pon them the cote Aremowres of these ij men off aremes"[62].

Later in his description of the duel Upton portrayed the herald acting as master of ceremonies at the duel; describing how "the cause [of the duel] schall be openly proclamyd by some heralde in the presence of the sayde Iugge"[63]. However in *De Studio Militari* these references to heralds were made in passing and were not presented as part of Upton's discourse on the office of the herald.

Other writers stressed heralds' responsibilities at tournaments and discussed other duties they performed as well. Sicily Herald, who had an extremely tournament-centred view of heralds, described their most important tasks to be recording prowess and judging arms and gentility. In this it was clear that Sicily, like many others, believed heralds' main task was to be masters of ceremonies at tournaments[64]. Keen cited the *Débat des hérauts de France et*

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[58] Black Book of the Admiralty, ed. T. T. Twiss, vol. 1, RS, London, 1871, p. 299
[59] Black Book of the Admiralty, 1871, ps 297 - 298
[60] Keen, Maurice, Chivalry, New Haven, 1984, p. 137
[61] Wagner, Heralds & Heraldry, 1956, p. 42
[62] Bodl. MS Eng.misc.d.227, fo 64v
[63] Bodl. MS Eng.misc.d.227, fos 64v - 64Br
[64] Keen, Maurice, Chivalry, New Haven, 1984, p. 137

d'Angleterre written around 1430, where Dame Prudence said to the heralds: "yours is a fair office, for by your report men judge of worldly honour. . . [as in deeds done] in arms, in assaults, battles, sieges and elsewhere, and in jousts and tournaments"[65]. The same role is stressed in non-heraldic texts, such as Froissart's *Chroniques*[66]. Thomas of Lancaster's Ordinances for Heralds of 1417 specified that heralds should study good manners and eloquence, and chronicles of good deeds done so that they could fulfil their duties properly[67].

The duty of heralds that traditionally is held to be the most important was, of course, their armorial function. In Book One Upton made only one reference to this, and that a rather oblique one, in chapter twelve:

> "Neuerthelas some tyme a mark or sygne ys put apon certen persones to ther great schame & rebuke for some grete offence they haue doone, but off thys mater I entende not to treate, nor off All chrysten pryncys aremes bycause they be knowen sufficiently ynowghe. These maters I schall leue to heraldes off aremes, For whome hyt ys Necessary to know soche thynges"[68].

Contemporary writers on the subject were in agreement that heralds should have a knowledge of armory, for example Thomas of Lancaster's ordinances specified that heralds should study the properties of colours, herbs and stones so that they could give a man the sign that he deserved[69]. Contemporary writers seem generally to have assumed heralds to be great authorities on coats of arms; for example Froissart described how, after he was impressed by the gallantry of Henry Crystede, he sought out March Herald for his arms, and how March was able to furnish him with the information[70]. The best evidence for the interest of the heralds in armory and of their armorial skill are the collections of arms that they grouped together into rolls and armorials, and their recognised importance in marshalling arms at tournaments.

This begs the question, why Upton had so little to say about heralds' armorial functions? This may have been because it was not in the forefront of contemporary minds when they thought of heralds to the degree that we would expect. This is supported by the Answers of Anjou King of Arms who discussed in great detail many heraldic functions but did not mention 'heraldry' (that is armorial duties) once[71]. Furthermore to medieval men heralds were not the only authorities on heraldry. Upton regarded himself as an authority on heraldry, and in Book Four when he described inanimate charges he was frequently critical of

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[65] Keen, Chivalry, 1984, p. 138
[66] Keen, Chivalry, 1984, p. 138
[67] Wagner, Heralds & Heraldry, 1956, p. 61
[68] Bodl. MS Eng.misc.d.227, fos 33r - 33v
[69] Wagner, Heralds & Heraldry, 1956, p. 61
[70] Froissart, Jean, Chronicles, translated by Geoffrey Brereton, Penguin, 1978, ps 417 - 418
[71] Wagner, Heralds & Heraldry, 1956, p. 43

herald's shortcomings as authorities on the science of armory[72]. This is supported by many references in the late middle ages about non-heralds with a knowledge of heraldry. An example of this can be found in the prologue of the *Tale of Beryn*, a pseudo-Chaucer tale from the second half of the fifteenth century, which recounts the adventures of Chaucer's pilgrims when they reached Canterbury. In it the Pardoner and the Miller were in the cathedral church examining the stained the glass. The poet wrote that they:

> "Pyrid fast, & pourid, highe oppon the glase
> Countirfeting gentilmen, the armys for to blase"[73]

In the poem they incorrectly blazon the arms, but the point is clear: by 'reading' the arms depicted in the glass, the Pardoner and the Miller were imitating gentlemen, who were the people, according to the poet, who had this heraldic knowledge. In this context, it is perhaps relevant to note that in the great armorial disputes of the late fourteenth century tried in the Constable's Court (for example Scrope vs Grosvenor), there is no instance of heralds being called to witness as experts in armory: reliance was consistently placed on the evidence of old knights and squires.

In Book Four Upton made several comments concerning the supposed authoritative position of heralds as experts on armory, and how they compared with him. These comments are at variance with most accepted fifteenth century opinion, and this makes them valuable. Upton seemed to delight in detailing personal examples where he witnessed heralds making mistakes in blazon. An example of this was in "Off Cheuerons" where he wrote that many heralds did not know how to blazon the charge properly:

> "Ther rysyth also a nother dowte in berynge of [chevrons], and I haue knowne certen heraldes, pretendynge them selfe wyse herin, to dreme in thys mater"[74].

Another comment, in "Off Crosse Eremyne", indicates that Upton had no compunction in drawing up heralds when he thought they had got something wrong:

> "Ther is yet a nother meruolouse crosse callyd crosse eremyne, Wherin I was opposyd in london som tyme by a heralde of les brytayne, which Aremes can neuer vary in colours by no meanys and therfor thys crosse is callyd crosse eremyne"[75].

One imagines that Upton must have been very popular in the community of heralds! As I described in the biography, Nicholas Upton came to be regarded as an authority on heraldry, and clearly he had a high regard for his own knowledge. This was made explicit in the

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[72] Look 'Nicholas Upton and his translator'
[73] Pseudo-Chaucer, 'The Tale of Beryn', lines 149 and 150, quoted in Coss, Peter, The Knight in Medieval England, 1000 - 1400, Stroud, 1993, p. 94
[74] Bodl. MS Eng.misc.d.227, fo 210r
[75] Bodl. MS Eng.misc.d.227, fo 188r

description of inanimate charges, for example in "Off crosse Doble paretyd" where Upton wrote:

> "I haue knowen meny noble men which haue put more dowtes in thys crosse than in all the other a fore and yet after longe resenynge therof haue byde by the forseyd opinion [that is, Upton's opinion]"[76].

It must be stressed that it was not unusual that a non-herald such as Upton should have thought of himself as an adequate authority on heraldry. Many writers on heraldry in the late middle ages were non-heralds who regarded heraldry as an important subject for every noble man. An example of this was Bishop Siôn Trevor who made this point explicitly in the prologue to his *Llyfr Arfu*[77]. Furthermore there is a great deal of evidence that the extent of knowledge of heraldry amongst non-heralds was significant, for example the testimony of Sir Robert Laton in the Scrope vs Grosvenor case showed that Laton had been collecting details of coats of arms of as many noble men as he could from an early age.

However this does not mean that heralds were incompetent, or that historians have got it wrong as to who were the wellsprings of armorial knowledge in the fifteenth century. Instead I believe that Upton's gloating about heraldic mistakes indicates that he was a keen amateur who was eager to impress the reader that he was in fact smarter than the 'so called' experts. As my commentary has found cause to remark in other contexts, Upton was not an author inclined to hide the light of his specialist knowledge under a bushel - whatever the subject.

After the discussion of inanimate charges Upton closed Book Four with a revision of an argument that he had made in Book One concerning whether or not arms granted by a prince were of greater value than those taken by a man of his own accord. In Book Four he quickly summarised the conclusions he had reached in Book One. These were that a man could bear arms for four reasons. Firstly because of his ancestry[78]. Secondly because he had done something to deserve these arms (as illustration of this Upton referred back to his discussion of the colour red in Book Three of *De Studio Militari* where he said that Edward III was allowed to bear the French King's arms because the Black Prince captured John II at the battle of Poitiers[79]). Thirdly because a prince or lord gave him them. In this context Upton stressed that arms granted by a king were not to be doubted, and added the comment that kings should not grant arms already borne by someone to another as this would break the

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[76] Bodl. MS Eng.misc.d.227, fo B186v
[77] Jones, Evan J., Medieval Heraldry, Cardiff, 1943, p. 1
[78] Bodl. MS Eng.misc.d.227, fo 216 v
[79] Bodl. MS Eng.misc.d.227, fo 216 v

rules of heraldry, which a king should obey[80]. Fourthly a man might take arms by his own accord, as Upton said happened at the battle of Agincourt[81]. After outlining these ways to bear arms Upton explained that although it was lawful to take arms by one's own power, such arms were not as valuable as those given by prince. This discussion added nothing to the discussion of arms in Book One, and I will not dwell further on it here, as I have commented on this debate in my introduction to Book One[82].

After this passage came a summary of material already covered in Book One. Upton then added a comment on a matter not touched on in that book, concerning heralds granting coats of arms. Upton was not in favour of this practice:

> "Ande where as some holde opinion that haraldes may gewe oon armys of there owne auctorite, I dar nott be so bolde as too approwe and alowe the sayme; but thys I say, yf eny mane bere suche armes as heraldes haythe gewyne theme, They be of no gretter auctorite thane thos whyche a mane takythe a pone hyme of hys owne powre"[83].

In making this comment Upton was seeking, it seems, to delineate the extent of authority heralds had in the fifteenth century. It was widely held that heralds were arbiters of virtue and prowess, and so of nobility, and as arms were the badge of nobility, by necessity heralds had an armorial function. Sicily Herald outlined this when he charged heralds to ensure that all competitors in tourneys were noblemen to four degrees on both sides[84]. This policing role was becoming legally explicit in the fifteenth century as is indicated by Henry V's 1417 writ prohibiting unlawful adoption of arms. The early visitations gave this task to the heralds no doubt because they were popularly seen as possessing a special knowledge of heraldry, and this meant that the newly armigerous would understandably turn to them for advice in the adoption of their arms to ensure they were suitable and unique. John of Bado Aureo alludes to this when he discussed crosses:

> "Note well here that these crosses are not properly signes or tokyns, but differences and diuersitiees of tokenes wherfore my maister saith that whan the king of herowdes seeth a man that cometh and desireth armys and knoweth not his condicions nother good nor badde nor no maner proprete in hym: he oweth to assigne hym some of the forsaid crosses"[85].

There are many historical examples of this practice, for example Anthony Wagner described how William Bruges, Garter King of Arms gave the Draper's Guild a coat of arms in 1439.

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[80] Bodl. MS Eng.misc.d.227, fo 216v - 217r
[81] Bodl. MS Eng.misc.d.227, fo 217 r
[82] For more on nobility look Squibb, G. D., The High Court of Chivalry, London, 1959
[83] Bodl. MS Eng.misc.d.227, fo 217v
[84] Wagner, Heralds & Heraldry, 1956, p. 71
[85] Bodl. MS Laud 733, fo 12r

The grant made no reference to his authority granting them, but rather focused on his special knowledge of heraldry allowing him to confirm that the arms were unique[86].

The practice of heralds granting coats of arms to individuals can be identified in the mid-fifteenth century. Anthony Wagner identified the earliest surviving grant; it was from 1450 when John Smert, Garter King of Arms, granted Edward Mylle a coat of arms[87]. After this grant there were a series of grants of arms from heralds. During the conflict in 1530 between Garter and Clarenceaux Kings of Arms over who had supremacy, Garter produced a roll of arms made by his predecessor. This roll of over four hundred shields indicated the year in which every shield was granted and there were several dated from Henry VI's reign[88].

This indicates that Upton was not representing all contemporary thought concerning heralds granting arms. Nonetheless it is worth noting that he, a well read and avid enthusiast of armory, was opposed to the idea that heralds should grant arms. His opinion may have been in a minority, and it certainly ceased to have any widespread application a generation after he wrote, but it came from erudition and experience. Upton's scepticism as regards heralds' authority over heraldry is an important part of *De Studio Militari* and not one to be ignored.

The discussion of inanimate charges in Book Four is an interesting end to *De Studio Militari*. It would seem that it was constructed without the benefit of a guiding source, and illustrates Upton's substantial knowledge of heraldry. Furthermore the text is so involved that it is distinguishable from texts written at the same time, and it offers more concentrated information than most of its peers. The discussion of inanimate charges contains many actual coats of arms and these are valuable examples of the spread of heraldic information in the fifteenth century, and indicate how interested Upton was in all aspects of heraldry, theory and practice. In his discussion Upton made interesting asides which illustrate his uncomplimentary opinions of heralds and these asides are very valuable as they refer to attitudes which may have had a more substantial sympathy in his day than is apparent from the surviving sources. On all of these topics his voice was an educated and lucid one.

Upton ended his book in a very modest and becoming fashion, and for that reason alone it is worth drawing attention to it at the end of this introduction and commentary on his work:

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[86] Wagner, Heralds & Heraldry, 1956, p. 75
[87] Wagner, Heralds & Heraldry, 1956, ps 77 - 78
[88] Wagner, Heralds & Heraldry, 1956, p. 91

"Heyr now I purposse to ende thys Rude warke and tretesse whiche I haue deuydyde in too iiij bokes, desyrynge all suche whiche haythe rede the sayme, yf they sawe eny thynge worthy correccion, after charytable ande freyndfulle wysse, to amende the same; ande to consyder howe no thynge cane be mayde wythe soo exacte counsell ande dyligens by mannys wytte but that, by sotell capacite of man agayne, yt may be Impugenyde, contraryde, ande fownde fawtysse in oon partye or a nother. Agayne yf yt chaunce eny to Rede but heyr ande ther Some partycle ther of, as hys pleasure or lesure lythe ther too, I schalle desyre all sooche, yf they fynde eny thynge whyche offendythe theme, to Interprete yt rather too the better parte, By causse they haue not sene fully the hole processe ther of; howe oon matter dependythe a pone a nother. But brewly too conclude, I sum tyme too all whiche schall fynde erroure or faute heyrein too correct ande mende at ther pleasoure, Soo that, wytht owt malyce or enuy, they doo yt of a goode wyll ande mynde ande of benygne affection"[89].

[89] Bodl. MS Eng.misc.d.227, fos 217v - 218r