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Keith Jennings
Registrar and Deputy Principal

* 'Thesis' includes 'treatise', 'dissertation' and other similar productions.
Frontispiece note:
"Notarially certified copy made at the order of James Denton, official of the archdeacon of London, of a petition for a plenary and other indulgences, granted by Galiotus [de Franciottis] cardinal priest of St. Peter ad vincula in favour of John Mortymer, nuncius of the chamber of the King of England and of [handwritten name, too faded to decipher] amongst others chosen by the said John Mortymer and by him presented before the certifying notary public and witnesses hereto. London, Paternoster Row. 25 Jun., 1506."

PRO, Lists and Indexes XLIX. p.317
Courts of Conscience: English Archdeacons' Courts at the time of the Reformation, c.1515-1558.

by

David John Crawford

This thesis is submitted in fulfilment of the requirements for the degree of Doctor of Philosophy of the University of Sydney, 1987.
Unless otherwise acknowledged, this thesis represents the original research of the author.

David Crawford
26 January 1987
To my parents
## CONTENTS.

Frontispiece and note
Contents
List of Maps and Tables
Abbreviations
Preface
Maps

<table>
<thead>
<tr>
<th>Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>iii-iv</td>
<td></td>
</tr>
<tr>
<td>v-vii</td>
<td></td>
</tr>
<tr>
<td>viii-x</td>
<td></td>
</tr>
<tr>
<td>between x and 1</td>
<td></td>
</tr>
</tbody>
</table>

Introduction

<table>
<thead>
<tr>
<th>Chapter 1</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archdeacons and their Courts</td>
<td>24</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 2</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Legal Structure I: The Church Courts</td>
<td>52</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 3</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Legal Structure II: Competing Systems of Law</td>
<td>83</td>
</tr>
</tbody>
</table>

### Part A: The Context

<table>
<thead>
<tr>
<th>Chapter 4</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Personnel: function and status</td>
<td>122</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 5</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Contentious Business</td>
<td>188</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 6</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contentious Business: The Modus Operandi:</td>
<td>245</td>
</tr>
</tbody>
</table>

### Part B: The Courts in Action

<table>
<thead>
<tr>
<th>Chapter 7</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Nature of Judicial Activity</td>
<td>305</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 8</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reformation and Crisis</td>
<td>355</td>
</tr>
</tbody>
</table>

Conclusion

<table>
<thead>
<tr>
<th>Glossary</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendixes</td>
<td>397</td>
</tr>
<tr>
<td>Bibliography</td>
<td>400</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bibliography</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>433</td>
</tr>
</tbody>
</table>
### LIST OF MAPS AND TABLES.

**Maps**

1. England, showing archdeaconries which have left the greatest documentary legacy
2. Ecclesiastical map of Hertfordshire, showing the peculiar jurisdiction of the Archdeacon of St. Albans
3. Ecclesiastical map of Leicester archdeaconry, showing the rural deaneries
4. Ecclesiastical map of Kent, showing the archdeaconries of Canterbury and Rochester, and their rural deaneries
5. Map of Lincolnshire, showing the archdeaconries of Lincoln and Stow, and their rural deaneries
6. Circuit routes of archdeaconry courts of Canterbury and Rochester
7. Itinerary of the archidiaconal visitation of Lincoln in 1535
8. 1634 map of St. Albans

**Tables**

1. Educational qualifications of Officials and proctors p.126
2. Employment of proctors p.173
3. Maximum work available to proctors p.178
4. Time taken for probate of testaments p.226
5. Results of prosecutions p.270
7. Number of clergy as suitors p.331
<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Clerkal Offences</td>
<td>p.338</td>
</tr>
<tr>
<td>9</td>
<td>Relative proportions of actions.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Office and instance</td>
<td>pp.379-80</td>
</tr>
<tr>
<td>10</td>
<td>The number of sessions required to dispatch.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Office and instance</td>
<td>pp.381-2</td>
</tr>
<tr>
<td>11</td>
<td>Lincoln excommunications/</td>
<td></td>
</tr>
<tr>
<td></td>
<td>suspensions</td>
<td>p.383</td>
</tr>
</tbody>
</table>
ABBREVIATIONS.

AASRP  Associated Architectural Societies Reports and Papers.

AC  Archaeologia Cantiana.


ARO  Buckinghamshire Record Office (Aylesbury).

BL  British Library.


CCL  Canterbury Cathedral Archives and Library and City Record Office.


CS  Camden Society (later Camden series).


EETS  Early English Text Society.

EHR  English Historical Review.


Gibson, *Codex.* E. Gibson, Codex Juris Ecclesiastici Anglicani. (Oxford, 1761)

GL The Guildhall Library.


HRO Hertfordshire Record Office.


e.s. extra series.

*JEH* Journal of Ecclesiastical History.

KAO Kent Archives Office.

Leic.AO Leicestershire Archives Office.


Le Neve, Hardy. J. Le Neve, Fasti Ecclesiae Anglicanae. ed. W. Hardy (Oxford, 1854)

LPL Lambeth Palace Library.
LRO Lincolnshire Record Office.


n.d. no date

NRO Northamptonshire Record Office.

o.s. original series.

PRO Public Record Office, Chancery Lane, London.

Reg. Register.

RO Record Office.


TRHS *Transactions of the Royal Historical Society.*


VCH [County] *Victoria County History.* ed. W.Page et.al. (Westminster, 1900- )

Wilkins, *Concilia.* D.Wilkins, *Concilia Magnae Britanniæ et Hiberniæ.* (London, 1737)

PREFACE.

Upon completing this thesis I find that I owe debts of gratitude to many people. There are three people to whom I must pay special thanks. In an academic sense, I am deeply grateful to my supervisor, Associate Professor Sybil M. Jack. It has been my good fortune not only to have been her student, but to have worked with her, and to enjoy her friendship. What merit this thesis may have is largely the result of her kind, but diligent criticism of earlier drafts.

My parents have been constant supporters and will, no doubt, be more than pleased to see the end of this project. They have contributed to its existence in no small way and have been a source of strength for a very long time.

During my candidature there have been many people at Sydney University who have offered advice and encouragement, particularly Associate Professor Ros Pesman, Drs Iain Cameron, John O.Ward, Peter Cochrane, Robert Hinde, and Ms. Alison Wall, Hilary Weatherburn, the Rt.Rev.M.M.Thomas, and Dr M.A.R.Graves, who was a visiting scholar in 1981.

Grappling with a computer at the time of printing out this work was made much easier with the help of Christopher Kenna, who has been a good friend for such a long time. Gilbert Elliott was very brave and allowed me the use of his own computer, until I finally made the decision to purchase my own. He, along with Dr Stephen Hollings, deserves special commendation for reading large sections of the thesis in draft. Their valuable comments clarified a number of points for me.

The archivists of many record offices in England have at all times displayed kindness, especially in response to long distance requests. My special thanks go to Mr Nigel Yates, Kathleen Gooding of the Kent Archives Office, Ms Anne Oatley of the
Canterbury Cathedral Library, Mr Peter Waine and Susan Catchpole of the Hertfordshire Record Office.

Closer to home the staff of Fisher Library, University of Sydney have been friendly helpers who have borne my constant requests for inter-library loans with admirable tolerance. John Roberts, cartographer for the University of Sydney was responsible for drawing seven of the maps included in these pages. He also put up with my many requests for emendations without complaint.

Whilst in England I was helped in very many ways by a number of people. Professor Patrick Collinson, Dr Christopher Kitching and Mr Christopher Coleman all listened to me with remarkable patience. Mr Duncan Harrington cheerfully carried out a number of tasks for me after I had left Kent.

I acknowledge, with gratitude, the permission of authors of theses for permission to cite their works in this present study, except that of C.E.Welch, in which case permission was granted by the Librarian of the Sydney Jones Library, University of Liverpool. Also, my thanks go to the Director of Her Majesty's Stationery Office, for permission to use the photograph here included as the frontispiece.

At a more personal level during my time in England, I owe a great debt of thanks to the late Mrs Mary Johnson, Tony and Jill Baxter. The Rev. Mr Peter Coates and his wife Jean were kind enough to accept an antipodean into their home, and continued to show much kindness.

Finally, I wish to note the help of my wife Sandra, who was prepared to marry a man attempting to complete his thesis. I trust she will look back upon her first few months of married life and remember more than just this thesis.

In what value this thesis has, the author acknowledges the contribution of these many people who have contributed to its preparation. In all its shortcomings, the author alone can claim responsibility.
All dates given are in the New Style, and all quotations have been given in the original spelling, unless taken from printed works in which it has already been modernised.

D.C.

Map 2

ECCLESIASTICAL MAP of HERTFORDSHIRE
Showing the Rural Deaneries as existing at the time of the Valor Ecclesiasticus of 1535

The jurisdiction of St. Alban’s Abbey

CAMBRIDGESHIRE
BALDOCK
BRAUGHING
HERTFORD
MIDDLESEX
BUCKINGHAMSHIRE
BEDFORDSHIRE
BERKHAMSTEAD
HITCHIN
ST. ALBANS

0 10 miles
Map 4

ECCLESIASTICAL MAP of KENT
Showing the Archdeaconries and Rural Deaneries according to the Valor Ecclesiasticus of 1535

NORTH SEA

ESSEX

River Thames

DARTFORD

ROCHESTER

SITTINGBOURNE

SURREY

SHOREHAM

MALLING

SUTTON

CHARING

ELHAM

LYMPNE

OSFRINGE

BRIDGE

SANDWICH

WESTBERE

CANTERBURY

DOVER

SUSS

Line showing division between dioceses of Canterbury and Rochester

Showing exempt and extra parochial jurisdictions

Rural Deanery boundary

0 10 miles

ENGLISH CHANNEL
ECCLESIASTICAL MAP
of
LINCOLNSHIRE
Showing the Archdeaconries and
the Rural Deaneries of
Lincoln and Stow

MAP 5
CIRCUIT ROUTES OF THE ARCHDEACONRY COURTS OF ROCHESTER AND CANTERBURY
Most commonly used in the 1520's

NORTH SEA

DIocese of ROCHESTER

DIocese of CANTERBURY

Rochester

Sandwich

Sittingbourne

Faversham

Lenham

Ashford

Malling

Halling

River Thames

NORTH

0 10
miles

ENGLISH CHANNEL
ITINERARY OF THE
ARCHIDIACONAL VISITATION
OF LINCOLN, 1535

ARCHDEACONRY
of STOW

Grimsby

NORTH SEA

ANCSTER

SLEAFORD

GRANTHAM

LITTLE BYTHAM

SPALDING

MINSTER

BRAUNCESTON

MARKET RASEN

ALFORD

HORNCastle

Wragby

RIVER NUMBER

Lincoln

Stamford

Miles
INTRODUCTION.

On 30 May 1529, a trial began in the great hall of the Dominican monastery at Blackfriars. It was certainly no ordinary tribunal, and its participants the most unlikely subjects of a court case. The judges in the matter were Thomas Wolsey and Lorenzo Campeggio, two cardinals of the church. Henry VIII was present with two proctors, as was his queen, Catherine, who was attended by four bishops. It was a trial to decide upon the legitimacy of the marriage of the king and queen, and as such represented a novel and quite exceptional case. Here was the king of England being summoned to appear before two legates of the church. Nevertheless, the king was clearly the protagonist. Keen to sire an heir, a male heir, and more infatuated with another woman, he was manoeuvering to free himself from a marriage which had provided one daughter, and replace it with one which could offer the hope of a son.

In the court room Henry spoke personally. While acknowledging the many virtues of his queen, he stressed the impropriety of their union. Catherine however, was not prepared to accept this rhetoric, arguing not only that the marriage was valid, but also that this particular tribunal lacked the proper authority to act in this matter, alleging that the cause was to be judged by the pope himself, and that it was *et litis pendentiam coram eodem*. Thereafter she refused to attend in person which led to delays in the case. When members of the court re-assembled in the great hall on the 23 July, it was in full expectation that a decision would be handed down in the king's favour, that the marriage would be declared null and void *ab initio*, so freeing both parties to consider marriage to someone else. There was no warning of what was to follow. As it happened, Cardinal Campeggio rose and announced that there would be a three month
adjournment for the summer vacation. It was a delaying action which presaged most important consequences.

For both the king and Wolsey the adjournment was a bitter pill, all the more difficult to swallow because it was unexpected. The negotiations of two years had failed, and with them the strategies worked out by the English cardinal. Wolsey's position, already weak, was not helped by this set-back, nor indeed by the treaty of Cambrai. The king chose to move away from the his chancellor and his policies, and soon determined to order that writs be made out for a general election and the sitting of parliament. The Parliament which sat with breaks, until 1536, is universally seen as critical in the history of the country. This has commonly been taken as the period in English history which marked the beginning of a number of events collectively described as the Reformation.

An oft neglected aspect of the trial at Blackfriars was that it was held in a court spiritual, one ultimately responsible to the Holy Roman See. Yet Henry's change in policy brought with it an unprecedented attack upon the church and its privileges, many of which were embodied in the notorious Supplication Against the Ordinaries. The moving force behind the preparation of that particular document has been a topic which has attracted the attention of several historians. Whether or not it sprang from a spontaneous commons or government circles, it is clear that the king was not displeased with its appearance. It castigated the operations of the church courts of the

realm, both provincial and diocesan. There were allegations of corruption, inefficiency, ruthlessness, and above all, avarice.

In less than three years the law of the church was turned from being a weapon for the king to the alleged embodiment of an alien and corrupt system of law burdening the people of England. In the critical period extending from the case at Blackfriars to the Submission of the Clergy in 1534 (25 Henry VIII, c.19) the church courts were exposed to a seemingly unrelenting series of attacks.

Since the sixteenth century the study of the Reformation has prompted a very long series of historical debates, but relatively little attention has been paid to the challenge to the ecclesiastical courts which signalled the beginning of the religious upheavals. This is not to criticize the work that has been carried out. The history of this period continues to receive the attention of scholars. Amidst the great output of work, several distinct interpretations have been identified as schools of thought in conflict over both the speed with which the Reformation spread, and which sections of society were the first to give voice to the new creed.3 Most recently there is a challenge being extended to proponents of the thesis that the Reformation was warmly embraced by most sections of society soon after changes were introduced; the old "Whig-Protestant" approach is under attack.4

To some extent, new interpretations have been aided by the study of sources which have been largely neglected by historians of the Reformation era until quite recently. No longer are the letters and treatises of prominent theologians, or the directives of central government, considered the only basic sources. Amongst the corpus of material formerly neglected and now used within a group of broadly based studies, are the

4 e.g. C.Haigh review in the English Historical Review. 98, 1983. pp.370-3
Introduction

records of ecclesiastical courts - the courts of conscience. While a number of historians pointed to their importance in the overall landscape of sixteenth century life, any suggestions about their role was part of conventional wisdom, rarely based upon the study of court records.

To most modern observers these courts are indeed a curio from the past, an ecclesiastical structure quite foreign to the modern western mind. But the church of that time was as much a legal as a spiritual organization. The courts spiritual were part of a system which boasted in excess of 250 tribunals throughout the country. Bishops were responsible not only for overseeing the souls in the dioceses, via acts of consecration and confirmation, but also for administrative burdens mostly carried out in these very courts which, unfortunately, have left only a fraction of their records. The legacy left by the central or provincial courts in this system (of Canterbury and York) is very poor for this period. Not surprisingly therefore, the studies undertaken in this area concern the diocesan courts of rural England. This expansive system of law courts existed in all corners of the realm, and each court held as prominent a place in contemporary life as any other court of law.

7 Hill,op.cit.,p.289
Introduction

Investigations of these courts for this period have not, on the whole, received very much attention in general histories. For the most part the work has been carried out by antiquarians who have produced a number of edited collections of court records and related administrative matters.\(^9\) There can be little doubt that the work accomplished in this field has been a great aid to scholars and the court records have given the student a chance to understand their jurisdictional purview. The problem is, however, that there was no way of assessing how representative such compilations were of the records themselves. Not only that, but few of these compilations offer much help to the historian of the early sixteenth century.\(^{10}\) The first inroads into this complex area of study were made by A.Hamilton Thompson, I.J.Churchill and F.D.Price. Of these

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10 For these see Act Book of the Ecclesiastical Court of Whalley, 1510-38. ed. A.M.Cooke (Chetham Society,n.s.44,1901); The Archdeacon's Court: Liber Actorum, 1584. ed. E.R.C.Brinkworth (Oxfordshire Record Society, 23-4,1942-6); An Episcopal Court Book for the Diocese of Lincoln. ed. M.Bowker (Lincoln Record Society,61,1967); The Courts of the Archdeaconry of Buckingham, 1483-1523. ed. E.M.Elvey (Buckinghamshire Record Society,19,1975)
Introduction

scholars, only Price chose to look principally at the courts of Gloucester diocese during the reigns of Edward VI and Elizabeth I.\(^\text{11}\)

Churchill and Thompson were interested in the methods of church government and made use of the court material in an effort to offer a fuller picture of diocesan administration. Their seminal works make it possible for the modern scholar to appreciate the nature and structure of church government inherited at the beginning of the sixteenth century. The articles written by Price are ostensibly detailed studies relating specifically to aspects of episcopal control, and in the process he clearly displays the rewards available by demonstrating the role of the church courts in the actual lives of contemporaries. Later studies have looked specifically at the works of the courts, not only in the way they operated, but also in analyses of their place within the legal environment.\(^\text{12}\)

Even so, one historian could write in 1963 that there was still a need for there to be a closer study of ecclesiastical courts during the reign of Henry VIII, and the same could be said of the following two reigns.\(^\text{13}\) Since that time only a few studies have gone some way to filling the breach he identified. Work done for the late medieval period


Introduction

has been quite extensive. For the Elizabethan/Jacobean epoch too, an ever increasing amount of work has been completed. Despite this, studies from Henry VIII's accession to Mary Tudor's death are limited in number and scope. In that sense R.A. Houlbrooke's monograph is clearly the most detailed, and provides considerable insights, not only into the practice of church law at that time, but in a wider sense, to the changes evident in the period c.1520-1570.

Most of the studies which deal with this era focus upon the work of episcopal courts, usually based in cathedral towns. These were not however the only church courts operating, or necessarily the most important. There were inferior courts which played a large role in diocesan administration, those of the archdeacons. Writing over fifty years ago, Professor Claude Jenkins stated that "it is necessary to insist on the enormous


16 R.A. Houlbrooke, Church Courts and the People during the English Reformation. (Oxford, 1979)
value to the student of all records of Archdeacons' courts that are known to survive." 17

Some antiquarians agreed and some of these records were edited. For the years 1515-
1558 however, archdeacons' courts' records have not benefited from the labours of
editors. 18

It is true that some archdeaconry records have been studied, but interest has mainly
been shown in their work in the 1520s.19 M.Bowker, J.Sayers, M.Zell and P.Clark
have had cause to look at some of the later material which has been the basis of this
thesis. This indicates that material on archdeacons' courts has been used, but not
systematically studied. The work done on these records has been relatively minor and
peripheral to the major thrust of these historians' work. Bowker focusses upon the
Archdeacon of Lincoln's court for the few years at the end of the 1530s, into the
1540s. Realising the limited value of so narrow a scope, she tentatively interprets her
findings in the light of work done on episcopal courts. 20 Sayers uses several
references to the court of the Archdeacon of St.Albans, but only to establish the
jurisdictional status of this tribunal. 21 Zell has utilised material from Canterbury
archdeaconry in order to ascertain information about clerical employment and who
controlled advowsons. 22 He also used some of this material to assess aspects of

17 C.Jenkins, "The Church and Religion in the Age of Shakespeare." History.
n.s.15,1930. p.208 quoted in E.R.C.Brinkworth, "The Study and Use of
Archdeacons' Court Records: Illustrated from the Oxford Records (1566-1759)."
TRHS. fourth series,25,1943. p.93
18 see above note 9
19 Woodcock,Medieval Ecclesiastical Courts; M.Bowker, "Some Archdeacons' Court
Books and the Commons Supplication Against the Ordinaries." The Study of Medieval
Records,op.cit., which first appeared in a slightly different form as "The Commons
Supplication against the Ordinaries in the Light of Some Archidiaconal Acta." TRHS.
fifth series,21,1971; J.Sayers, "Monastic Archdeacons." Church and Government in
the Middle Ages: Essays Presented to C.R.Cheney on his seventieth birthday. ed.
C.N.L.Brooke, D.E.Luscombe, C.H.Martin and Dorothy Owen (Cambridge,1976);
A.P.More(ed.), "Proceedings of Ecclesiastical Courts in the Archdeaconry of Leicester,
1516-35." AASRP. 28,1905/6
20 Bowker, The Henrician Reformation,op.cit.;pp.86-7
21 Sayers, op.cit.pp.188,200
22 M.L.Zell, "The personnel of the clergy in Kent, in the Reformation Period." EHR.
89,1974
Introduction

religious change in the archdiocese, as has Clark, but in both cases, archidiaconal material was of limited value for their purposes. Consequently, the treatment of this material in this thesis is undertaken far more thoroughly, and most importantly, throughout the years stretching from c.1515-1558.

For the most part, ignorance has dominated discussions of these particular courts. Only a year before Jenkins made his plea for the study of their sources, another historian, no doubt influenced by the words of Chaucer and Langland, said that the records of such courts offered nothing of value except perhaps a few anecdotes detailing rustic amours. Even Thompson, while rejoicing that modern archdeacons had shed the odious reputation of their medieval forebears, hesitates at the prospect of explaining the actual role and impact of their courts within late medieval England, due in part to the paucity of evidence available to him.

These courts were clearly the most localised tribunal extant in Tudor England, which was one of their greatest assets, and this is reason enough for studying them as institutions distinct from their diocesan superiors. On the surface it would appear that they were in a position to offer a peculiarly close and informative insight into parochial relations, and at the same time provide information about their role within society at large. This is certainly the approach which has led J.A.Sharpe to look at such a court in seventeenth century Essex.

Introduction

This thesis therefore provides an analysis which firstly offers some understanding of the place of the archdeacons' courts as opposed to those of the bishops, but even more importantly, demonstrates aspects of the Reformation period not previously considered.

Clearly such a study has important points of contact with Houlbrooke's. As in his work, a certain degree of quantitative analysis has been used to try and illustrate features of court operations. Houlbrooke's focus though was tied very closely to what was happening in the bishops' courts under discussion. This thesis offers proposals which most adequately account for the place of archdeacons' courts within diocesan structures, and society in general. It does this not only with regard to the people appearing in court, but also in a broader sense in relation to other courts, ecclesiastical and secular. It considers the wider social context of archdeacons' courts, as well as the impact of the Reformation.

By the sixteenth century, the whole system of ecclesiastical administration had passed through a long period of jurisdictional evolution, and the structure in existence had attained a relatively high level of procedural and organizational sophistication. The first section of this thesis looks at the setting in which the archdeacons' courts operated. The first chapter sets out the relationship of the archdeacons with the courts run in their name, and demonstrates the vast changes that had occurred by the sixteenth century, which show that the courts were controlled not so much by the archdeacon as by the courts' place within a formidable web of legal relationships.

One of the more fundamental things to bear in mind about the Reformation was that it was in essence closely associated with a re-definition of certain legal relationships. Consequently, the second chapter is concerned with the structure of the ecclesiastical courts extant in England during this period, and how, in particular, the archdeacons' courts fit into the system. This is followed by a chapter which in turn faces the wider legal context. This concerns the relationship of canon law and church courts with
secular law and courts, with again particular attention being devoted to the place of archdeacons' courts.

In both of these chapters the well ordered system of the church courts and their place within the legal framework of the country is of primary concern. The impact of the Reformation, particularly in relation to changing notions of sovereignty is also central. In both chapters the implications and effect of the Royal Supremacy are discussed, along with secular attacks on the courts, which successfully undermined the position of ecclesiastical courts. Those least capable of challenging this were indeed the courts of the archdeacons.

Part A is therefore designed to introduce the reader to the general context of the courts before the Reformation, and then to note the challenge posed by the Reformation itself. The remaining two sections focus specifically upon the work and role of the archdeaconry courts with these two aspects in mind.

Archdeaconry courts were extremely important mechanisms in the administration of the church and, at a broader level, as a legal forum operating in society. They were in the front line of tribunals in rural England with more direct contact with people of their jurisdiction than any other court.

The second section focusses upon that work. It is essential for an understanding of the courts that their procedures and particular activities be discussed in order to understand what matters fell to these courts and the way in which they were handled. Such a discussion is important, not simply because archdeacons’ courts have not been greatly discussed. It can too easily be assumed that the lower courts were very much like episcopal courts. Despite the fact that Houlbrooke’s book is titled as a discussion of church courts, implying all church courts, his analysis almost ignores detailed discussion of archdeacons’ as opposed to episcopal courts. In fact the former were vital agents in the government of the state up to the Reformation, and their function was very often quite distinct from that of the bishops’ tribunals.
Introduction

Therefore, the chapters in part B detail exactly what the courts did from day-to-day. Chapter four looks at the personnel of these courts. So often portrayed as being second rate lawyers, with underlings whose probity was suspect, their number was, in reality, made up of well educated men, who were well placed to offer contemporary society the benefit of their expertise. Moreover, many of these men, including proctors,27 were in fact members of the local gentry, which in itself sheds some light upon the way these courts were perceived at the time.

Chapter five turns to non-contentious business, which is a much neglected field of study. There was a very wide range of responsibilities which fell to these lower courts, simply because of their access to the clergy of the archdeaconries. Not only acts of admission, such as inductions, or validation, such as checking priests’ ordination papers, but a multitude of errands fell to these courts. Very often, in non-contentious activities, the courts were not free agents but acted in accordance with episcopal mandates. Almost all of this work was conducted on behalf of the ecclesiastical hierarchy, and rarely for the people of the jurisdiction. Only in testamentary matters did the courts act more or less as free agents in this field of work. The very wide number of tasks allocated to them is indicative of their important, if subordinate, role.

Chapter six looks at contentious business, which was in itself, the most contentious area of work throughout the Reformation. A satisfactory understanding of the way that the courts operated in society can only be grasped if the procedural aspects of court work are understood. The tactical advantage of familiarity with these procedures was a vital tool in the decision to proceed to court. In fact, the church court procedures were not overly troubled by confusing or complex practices - something not true of secular courts. The second function of this chapter is to establish that the court sessions and visitations were two aspects of their work which set these courts apart from other courts because of their immediacy to the people of their jurisdiction.

27 see glossary
In each of these chapters the impact of the Reformation is discussed. Apart from certain procedural changes, chapter five notes that the Reformation had surprisingly little effect upon the non-contentious business, exactly because in this area of work the court fulfilled a useful role for the king or his bishops, and it normally lacked discretionary powers.

Contentious business is somewhat different. This was the field of work which attracted the most bitter attacks of Parliament, and the one challenged by secular courts. Part A sets out the general context within which archdeaconry courts existed, and in chapter six the aspects of the continuity and change evident in court procedures are outlined. It is Part C, however, which records the deleterious effects of the Reformation, and assesses the impact on the place of the court in society.

Chapter seven, therefore, explains why these courts were important in contemporary society. This is not simply because they were close to people, or were professionally competent (although both of these aspects are important), but because they enforced rules governing modes of behaviour in a way accepted and applauded by a large section of society. Non-contentious business was limited in value to local communities, but this was not the case with contentious business. The fractious neighbour, or reluctant tithe payer, may object to the courts, but on the whole, archdeaconry courts re-inforced notions of collective responsibility in parish life, and the procedures outlined in chapter six, were as much designed to meet the needs of local communities as those of the courts.

Chapter eight then notes how it was that the Reformation changed the role of the court outlined in chapter seven, and the inevitable loss to society that ensued. It will be argued most forcefully that the Reformation had a disastrous impact upon the courts' place in society at large. It was a disaster which encompassed the years between 1529 and 1558. Moreover, it is, on the whole, a pattern which is quite distinct from the experience of the bishops' courts.
Introduction

That there were changes evident in the sixteenth century was the result of a number of variable factors combining to alter a scene which was in any case far from being stable. B.L. Woodcock stated that his study was not able to provide excursions outside the rather limited concerns of court practices. While it is true that the present study is also a study of an institution, and therefore bound quite closely by specific activities, the setting will be broadened, the courts placed in their legal context, and their social function analysed during a critical period in English history.

The Sources.

In setting out the advances made in the study of the Reformation, C. Haigh has commended Professor A.G. Dickens for taking historians away from the works of Protestant polemicists, and parliamentarians' badgering, to the relatively neglected folios of diocesan archives and the insights that they offer the historian about the actual impact of the Reformation. He laments that Dickens did not follow through this approach with sufficient thoroughness, but the point is clear. From the other angle the danger for the student of the courts themselves is to see them solely as instruments of religious change, or bodies sufficient unto themselves. Clearly neither of these assumptions are correct. The jurisdiction of these courts encompassed matters way beyond the enforcement of religious norms, and also the operation of these courts must not be viewed solely with the Reformation in mind. Part of the purpose of this study is to question what ways, if any, the Reformation affected the courts.

Second, the courts worked in a relatively wide social context, not a jurisdictional...

28 Woodcock, Medieval Ecclesiastical Courts. p.4
29 C. Haigh, "Some Aspects of the Recent Historiography." op.cit. p.102
vacuum. In other words the historian of the courts must not devote all attention to the records of the courts themselves.

To some degree therefore attention has been given to sources which go some way to studying the organizations, literature and people who had some bearing on the activity of the courts. Broadly speaking it is possible to identify three classes of documents used in conjunction with the court material: bodies of official documents, correspondence, and treatises. Inevitably the largest body of evidence is the collections of official documents, which spring from many sources. The most obvious and accessible are the statutes of Parliament. Like episcopal tribunals, archdeacons' courts increasingly had to defer to the new source of authority. Furthermore, these courts were an inferior part of the diocesan administrative machinery, which meant that there were communiques passed between episcopal and archidiaconal authorities. Official correspondence of this sort was most commonly recorded in the folios of bishops' registers and shed some light on the practice of the bureaucracy. These dispatches might be in the form of commissions to court personnel, or mandates ordering the performance of a particular chore, such as an induction. In other words they are documents which directly affected the practice of the courts.

Within this broad base of evidence is included the records of the central secular courts, which had an ever increasing bearing on the courts later in the century. Survival rates from these tribunals are greater than many local courts, and they are able to give us some insights into how the practices of rival legal systems were in some ways interacting.

The second comprises the records of personal communications, mostly recorded in letters. These are, unfortunately, very few, and are mainly restricted to printed collections. At the level of courts under discussion, little communication of any kind has been kept unless either held in the folios of the act books themselves, or were
letters directed to or by persons of eminence, which have been gathered amongst published editions of letters.

Thirdly, there are the treatises which were written giving voice to particular ideas on the role of the courts, and those of archdeacons in particular. The volatile nature of legal and religious argument in this period manifested itself in essays which were humanist, legal and theological, and which posited questions for the courts which were at best uncomfortable, and given the reality of the royal Supremacy, of considerable concern. But there were legal treatises and formularies pertinent only to the lawyer of these courts which throws some light on the practice of the law.

This array of records, along with printed sources offer considerable insights to the researcher, but only of a particular kind. They are, very often, representative of the voice of authority. Much that they have to offer can clarify the attitudes and impositions of the statute makers, episcopal officials, and highly placed members of society, but they cannot be regarded as a window into the actual place of the courts themselves. In providing such information, and attempting to assess who it was that appeared in these courts, one must look at the records of the courts.

Ultimately therefore the act books of the archdeacons are themselves the backbone of this thesis. It is perfectly understandable to lament that few studies of church courts existed for so long, but this was due to the fact that sources have not always been readily accessible, and that when approached for the first time the student is more likely to be confounded by the difficulties inherent in trying to read them rather than warmed by the prospect of a major breakthrough.30

Despite the problems of reading the material, earlier historians this century would no doubt have been prepared to grapple with them but for the fact that until relatively

30 The formidable nature of these documents has been noted; D.M.Owen, The Records of the established Church in England, excluding parochial records. (British Records Association, Archives and the User 1;London,1971) p.7; Marchant,op.cit.,p.1; Bowker, "Some Archdeacons' Court Books" op.cit. p.283
Introduction

recently few court books were available having been effectively lost, or simply not classified amongst archival collections. At Lincoln classification did not begin until C.W. Foster began work on them at the beginning of the century. At Canterbury it was not until 1928 when this material was transferred from the chamber over Christchurch gate to the Dean and Chapter library, that cataloguing commenced. At Leicester it was not until 1941 that a large body of records (including acta of the archdeacon's court) was transferred to the Leicester City Museum for storage and cataloguing. This was a story common to many record offices.

Even so, we are fortunate in what is available. Court records were just as easily lost or stolen in the sixteenth century as our own, or any other period. In Elizabeth's reign the Archdeacon of Northampton had cause to sue the widow of his former registrar for retaining certain court papers. One court book of the early seventeenth century was apparently dismantled in order to provide paper for the fly leaves of a manuscript. The result is that only a fraction of sources survives today. Evidence has been gathered from as wide a field as possible, with much of it being supplied by the courts of five jurisdictions. It is the records of all of these courts which constitute the major primary material of this thesis. Given this it may be worthwhile pausing for a moment to discuss these sources.

31 M. Knappen, Tudor Puritanism: A chapter in the history of idealism. (Chicago, 1939) p. 517
34 A. M. Woodcock, Handlist of Records of Leicester Archdeaconry. (Leicester, 1954) p. 4
35 see chapter four
36 Puritans in the Diocese of Peterborough, 1558-1610. ed. W. J. Sheils (Northamptonshire Record Society, 30, 1979) p. 6
37 Catalogue of the Manuscripts of Balliol College Oxford. compiled by R. A. B. Mynors (Oxford, 1963) pp. 106, 119 These were sections of the notebook of the archdeacon of Oxford's court running from July 1622 to the following February
38 see bibliography and for those jurisdictions see map one
Introduction

Physically the act books were quite similar with one another, usually measuring from 12" X 8" to 18" X 10" [c.30 cm. X 20 cm. to 45 cm. X 25 cm.], and commonly covered in parchment with the leaves being very coarse papers. They range in size from around eighty folios, to close to three hundred, most being between 220 and 280. It seems that only towards the end of the sixteenth century were registers bound before use. Up until that time the scribe entered court with a quire of paper which was afterwards bound up. Occasionally the quire was kept in a parchment outer folio, which in turn protected the outer sections of the register from fading. This was not however, common, and consequently certain parts of the document are in various stages of disrepair. Fortunately most scribes used these outer sheets for notes, memoranda and "doodling" rather than formal acts of court.

Another, more troublesome problem for the researcher is the state and nature of the binding. If this was done without care, the quires were gathered in such a way as to defy chronological ordering. Sometimes the material was gathered into the records of rural deaneries, but because some sessions were joint, the thread is very difficult to follow. The Leicester records present difficulties for this reason, making the task of pursuing the course of particular cases or runs of cases very awkward to carry out.

Records of the Rochester archdeaconry are even more confusing. There are four act books extant, covering the years 1518-35. According to the Kent Archives Office, three of these are listed as being court books which record the regular sessions of the court, and the fourth is a volume recording the visitation material. In fact all four include excerpts from visitations *comperta et detecta*. All include details of instance and office cases, in other words, matters arising in the ordinary court sessions. Further, they all contain extraneous material, normally kept separate from the court

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39 KAO,DRa/Vb4 is the only one extending beyond this period
40 see glossary
41 see glossary
Introduction

business. In two of these volumes the binding is very unfortunate because it follows no obvious pattern, the records are simply lumped together. Consequently, both have three separate series of foliation numbering, as well as sections, between these series, where no numbering is evident. The fortunate aspect of this is that much of this material is uncommon and provides details about activities, such as diocesan synods, court expenditure, the court itinerary and the like, which are not always easy to find.

To explain matters more fully, it should be said that, for the most part, documents fall into two broad categories. First, there are the acts of ordinary sessions of the courts involving litigation, prosecutions, the probate of testaments and the administration of intestate estates. The probate material was also gathered into files of testaments, which have proved such a boon to all historians of the period.

The second body of documents was the result of the visitations. From these we receive material of two sorts. Most commonly there is a call book, or liber cleri, which lists the parishes the clergy and parochial representatives within the jurisdiction. The second, and more valuable source, the detecta resulting from the visitation, which lists the findings.

In some places depositions survive, but these are always incomplete. This is unfortunate given that most, if not all of the matters of fact pertinent to the case, are explained in these documents and include details which can only be guessed if working from the court acts alone.

The actual presentation of material differed from place to place, and over a period of time, even within the one court. As noted, problems with the binding of registers at Rochester, are compounded by the registrar's practice of recording the details of each part of a process of each case under the date of each session, so that it was a laborious chore to follow matters. This was also the case with instance material at Lincoln and Leicester, and sometimes at St.Albans. At Canterbury however, the details of each case, such as they were, were gathered in one spot, with a note of the date preceding
Introduction

each entry. This technique was also normal practice in office cases at Canterbury, St.Albans and Lincoln. The material at Canterbury in instance business was normally arranged by deanery. Consequently some of the act books are split into the deaneries, effectively meaning that there are several series of documents for any year. Towards the end of the 1520s records of several rural deaneries are missing. This is another matter which can present problems for the researcher. Woodcock estimated that there was a drop in court business at the time because he did not realise that the run of documents for this period was incomplete.42

These difficulties have affected the selection of particular years when quantitative analysis is offered for comparison and contrast between actions in the different jurisdictions. Ideally, examples of this sort should be direct comparisons between years, but this is not always possible. In some cases this is because series of documents are incomplete, and the number of sample years available is limited. The office actions from Lincoln, for example, survive for a very short period, and details from 1536, 1537 and 1538 are the only ones which appear to be complete. Consequently, for quantitative purposes, there is little choice available.

Just as importantly, the difficulties inherent in the organization of material made the selection more difficult, and in all cases, a particular year was chosen because the series of records available appeared to be the most reliable. For example, in chapter eight, comparisons are drawn between office actions in the archdeacons' courts of Canterbury, Leicester and St.Albans. The particular years for which figures have been collated are:

Canterbury, 1524, 1533, 1547, 1557
Leicester, 1522/3, 1538, 1547, 1557
St.Albans, 1524, 1537, 1544, 1556.

42 Woodcock, Medieval Ecclesiastical Courts. p.84; cf.CCL,Y/27 passim
Introduction

At both Canterbury and St. Albans 1524 is cited because at both places the records for this year are ordered in such a way as to make tabulation relatively easy. In almost all cases, figures have been organized from January to December each year. At Leicester, however, there are no office actions in the 1520s except for the time from September 1522 to August 1523.

For the 1530s there are even greater difficulties. The act books for Canterbury in the late 1530s may be incomplete. The figures are thus taken from 1533, because figures for this year seem to be the most trustworthy for the 1530s. At Leicester and St. Albans the later years were chosen because, in both cases, the dating of the courts was clearest from the years cited, and so determining a total year's business was more reliable in both cases.

In the 1540s, 1547 was selected in two cases. Before that time the numbers of cases at Canterbury are split between several registers, not in chronological order, and so the means of collating details posed considerable problems. Thus the Leicester figure was tabulated with this in mind. At St. Albans the register finishes in 1544.

Finally, 1557 is chosen for the years of comparison for two courts because it is when records re-commence at Leicester, and at both Leicester and Canterbury the registers are most satisfactorily organized for the years of the late 1550s. At St. Albans the material is poorly organized, and it is not entirely clear where the break occurs between 1557 and 1558 cases.

The necessity of making decisions of this sort clearly demonstrates that quantitative analysis is offered only as a guide and cannot be regarded as being beyond question. Nevertheless, every measure has been taken to ensure that those figures collated are, as much as possible, an accurate indication of the trends suggested.

Further to illustrate the problems posed by the source material, there was a change in scribal practice at a number of courts during the 1540s and 1550s. The binding is, on the whole, less satisfactory, and it became much more common for instance and office
Introduction

matters to be lumped together, at least this change is discernible at Leicester, St.Albans and Canterbury. In each case the whole manner of recording became more haphazard and difficult to follow. That it happened in more than one place suggests that it was associated with contemporary events, as activities became less regulated and sessions more intermittent.43

More unfortunate still, is that records of other court business, particularly chores related with non-contentious business, have not survived. At the time it was not considered important to keep records of many of these things, because such activities clearly had not been the subject of controversy, and legally significant records may in any case have been kept by diocesan administrators. Exactly what may be missing is, of course, open to speculation. In any event, the historian must beware to consider that the documents extant can offer only a partially complete picture of the business conducted by the archdeacons' courts.

From this discussion it may be apparent that the sources are not the easiest to penetrate, not only because of the difficulties sometimes involved in following the course of the document, but also the inherent and inevitable dangers facing the historian wishing to quantify aspects of their work. It is a task which can offer rewarding and important insights, but these must be tempered by wariness for what the document does not tell us, as well as what it does have to offer. Moreover, some familiarity with court procedures needs to be acquired in order to facilitate its proper handling. In that area at least it is now possible to consult enough work to make the researcher's lot somewhat easier.44 Even in this respect however, care has to be taken in order to try and discern irregularities or variations in practice. It is from the business detailed in these act books that assumptions can be drawn about archdeacons' courts, and propositions posited. It

43 see chapter eight
Introduction

was a critical period affecting the work and role of English archdeacons' courts in the life of rural communities.
PART A: THE CONTEXT.
CHAPTER ONE.
The Archdeacons and their Courts

At the beginning of the sixteenth century, the Church in England appeared a stable and powerful part of the political as well as the religious landscape. While the State was in some ways stronger than the Church, the latter was not noticeably weak, and in some ways was more august. External deference was offered to it, an acknowledgement in itself, of the enormous part it played in the life of all Englishmen. Prelates, both mitred abbots and secular bishops, sat in the House of Lords, as of right. When Convocation required the attendance of the chancellor and the bishops, the Lords suspended its sittings.1 The clergy enjoyed privileges at common law, and its leaders were numbered among the leaders of the nation. But the specific role of the Church was not to secure privilege, but to define doctrine, and cater to the spiritual needs of the populace. To that end the Church had long since spread its tentacles into all corners of the realm. As a result, a complex and formidable hierarchical structure had evolved. This was a common phenomenon throughout Christendom. In the formative years after the Norman Conquest, the results of the formalisation of structures became evident in the many facets of the Church's work. It not only provided spiritual comfort, but had to develop the administrative apparatus to meet that challenge. It extended its rights over spiritual matters, with William I's help, and supervised its land holdings and other economic interests.2

1 Cf. J. Gairdner, *The English Church in the sixteenth century from the accession of Henry VIII to the death of Mary.* (London, 1904) p. 41
1: Archdeacons

By 1500, many things had clearly changed, and aspects of the work of the administration altered to meet the challenges peculiar to any given period. But it was built on a structural edifice which had been erected in the century after William's arrival. The foundation of the see of Carlisle, in 1133, was the last major change to the diocesan structure before the reign of Henry VIII. In the interim the apparatus of diocesan administration was more clearly established.

The Archdeacon's Reputation.

The growth of the bureaucracy by 1500 was liable to criticism because it indicated a divergence, from pastoral care, towards a transitory and corruptible institution of this world rather than the next. This was an issue which was the butt of comments which enjoyed wide currency long before 1500. Indeed the Church within Tudor society, also had its critics. Simon Fish, in one of the most scathing attacks upon the Church, charged that it had become a kingdom within a kingdom milking society of all wealth, thereby undermining the health of the country. The clergy he characterised as a pack of ravenous wolves, specifying "the Bishoppes, Abbottes, Priours, Deacons, Archdeacona, Suffraganes, Prestes, Monks, Chanons, Freres, Pardoners and Somners."4

At the time, the most vehement remarks were often reserved for the archdeacons. These officials had been prominent members of church administration for several centuries and more than any other dignitaries, their reputation suffered and continued to suffer, from the criticisms of polemicists. There can be little doubt that many of their medieval forebears had encouraged censure.5 Just before he died in 1361, William

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3 A.H.Thompson, Diocesan Organization in the Middle Ages: Archdeacons and Rural Deans. (Proceedings of the British Academy,29,1943) pp.4-6
5 Thompson, Diocesan Organization in the Middle Ages.op.cit.,pp.3-4
1: Archdeacons

Doune, Archdeacon of Leicester, begged for God's forgiveness for his exactions and distortions, but added that he acted no worse than his brethren. It was an image which did not disappear.

There can be little doubt that archdeacons in the early sixteenth century provided critics with ample ammunition which could be used to confirm unfortunate prejudices. Criticisms of the Church and the clergy in particular were being voiced in the early years of the sixteenth century by Protestants and conservatives alike - only the tenor of the comments varied. Criticisms voiced by John Colet in Convocation in 1512 were targeted at the higher clergy. Few perhaps would have been surprised to have heard of the Archdeacon of Richmond's arrival at Bridlington Priory in the course of his annual visitation one year, in which he came with ninety seven horses, twenty one dogs and three hawks. In Colet's eyes this sort of opulence by men of the church could not be justified. But was it true that archdeacons were, in general, parasites riding on the back of an impoverished clergy and laity? Did they deserve the reputation so closely associated with the post?

In 1529 the Commons attacked pluralists who failed to spend money on their cures. Archdeacons were members of the clerical elite and here again were certainly not guiltless. In some cases archdeacons were indifferent to their cures, and even, blatantly negligent. This is a serious charge against men entrusted with the task of combatting pastoral negligence. Even the normally conscientious Henry Wilcockes, Archdeacon of Leicester, allowed the chancel and parsonage of Asfordby to deteriorate to a poor state, an oversight which led to a suit in Chancery. In one instance early in

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6 Thompson, The English Clergy.op.cit.,p.60
9 LP. iv(iii),no.6183
10 PRO,C1/558/27 (LP. iii,no.3681)
Elizabeth's reign one court recorded that its own archdeacon was in default because the chancel of one of his benefices was in a state of disrepair.\textsuperscript{11}

In some cases this may indeed have been prompted by greed. Archdeacon William Warham appears in a poor light as Vicar of Stone because in the visitation of Kent in 1511/12 by his uncle, the archbishop, it was found that the archdeacon claimed four marks as his pension leaving only three to the curate, and both the chancel and the windows were badly dilapidated.\textsuperscript{12} Bishop Longland also had cause to write to the prelate because "your kinsman Mr. Wareham parson of Tring" had failed to pay the curate of the parish his stipend.\textsuperscript{13} In a more tantalizing reference in Bishop Rugge's register for the diocese of Norwich, Nicholas Ridley was presented to the parish of Soham in May 1547 upon the deprivation of Archdeacon Miles Spenser. Why the latter was deprived is not stated; perhaps he was negligent or had a dispute with the diocesan. Either way it was an extraordinary measure to take.\textsuperscript{14}

Perhaps the most notorious case took place in Wales. In 1535, Visitors, including the troubleshooting Adam Beconsall, found both the Bishop and Archdeacon of Llandaff guilty of neglecting a large number of church buildings which were by then badly dilapidated. As a result the fruits of their dignities were sequestrated into the king's hands.\textsuperscript{15}

It could also be claimed that poor quality men were provided with archdeaconries. Nepotism continued in to the sixteenth century almost unchecked. In April 1497

\textsuperscript{11} A.J. Willis, \textit{Church Life in Kent}. (London and Chichester, 1975) p.16; the Archdeacon of Canterbury and the parish was Doddington, a parish appropriated to the archdeaconry
\textsuperscript{12} \textit{Kentish Visitations of Archbishop William Warham and his Deputies, 1511-12.} ed. K. Wood-Legh (Kent Records, 24, 1984) pp.227-8. See also p.239
\textsuperscript{13} LRO, Reg.26, fo.94-94v; the letter is quoted more fully in Bowker, \textit{Henrician Reformation}. p.46
\textsuperscript{14} Norwich and Norfolk RO, Reg. Rugge, fo.128v. My thanks go to Miss Jean Kennedy of the Norwich and Norfolk Record Office for sending me details of this matter
\textsuperscript{15} \textit{LP.} ix, no.806 (November 1535)
Bishop Richard Fox provided his nephew Thomas Colson with the archdeaconry of Durham. At times bishops felt no compunction about offering their relatives more than one archdeaconry. John Longland appointed one nephew, Richard Pate to Lincoln and John Longland, his namesake and another nephew to Buckingham. Bishop Blythe of Coventry and Lichfield appointed three of his kinsmen to archdeaconries as did Bishop William Smith.

The most notorious example of this centred on Thomas Wolsey's nephew (alleged son) Thomas Winter. Amongst the charges laid against Wolsey before his death was a reference to his nepotism, the crime being that Winter "converted them [his dignities] to his own use thereby..." It was a charge difficult to reject. Winter is only known to have been in England once prior to Wolsey's demise yet between 1522 and 1528 he received twenty livings, most of which he resigned upon the cardinal's fall. Amongst these were the archdeaconries of the West Riding, Norfolk, Richmond and Suffolk. Yet even as late as 1534 he had not been priested. His lack of pastoral care is perhaps best illustrated by an indenture made in 1537 whereby he farmed out the archdeaconry of Cornwall to William Body for an annual rental. By February 1540/1 Winter was cited before the bishop not only for this but also for immoral living. Eventually, due partly to Body's machinations, the matter went to the Star Chamber and King's Bench. This case also prompted animated discussion in Parliament.

16 Register of Richard Fox, bishop of Durham, 1494-1501. ed. M.P. Howden (Surtees Society, 147, 1932) p.50; Fasti Dunelmenses. A record of the beneficed clergy of the diocese of Durham down to the dissolution of the monastic and collegiate churches. [ed. D.S. Boutflower] (Surtees Society, 139, 1926) p.29
17 Emden, Supplement. pp.361-2
18 VCH, Staffordshire. iii, p.31; DNB. 54, p.141
19 LP. iv, no.2482, 4824, 5591, 6475
20 LP. iii, no.5749
21 LP. vii, no.280; until 1662 it was not technically illegal to hold an archdeaconry if not a clergyman. Cf. Correspondence of Matthew Parker, D.D., archbishop of Canterbury, comprising letters written by him and to him, from A.D.1535 to his death, A.D.1575. ed. J. Bruce and T.T. Perowne (Parker Society, 42, 1853) p.142 and note
22 F. Rose-Troup, The Western Rebellion of 1549. (London, 1913) chapter four
Why Bishop Veysey collated Winter in the first place is a mystery; perhaps it was an act of charity, or a favour for the king. In any case his moves against Winter suggest that the bishop was not prepared to tolerate the archdeacon's continued errancy, especially in the light of his own generosity.

Such evidence, however, is selective and a poor guide to the calibre of men appointed to archdeaconries. Most candidates were well educated and had University training. Of the 202 men appointed to archdeaconries identified for the years 1490-1541 almost 71% were graduates.23 Given the unreliable nature of University registers for this time, there were probably several more. Even so, this is a considerably higher proportion than those labouring in the parishes. In the early part of the century, graduates constituted 11.5% of the clergy in the diocese of Lincoln.24 In Norwich between 1503 and 1528 17.5% of presentations went to graduates, and this number ignores the high number of unbefitted clergy who did not have any formal education at all.25 In Lancashire in 1540 there was a peak of 12% graduates.26 It should be added that the poorer archdeaconries did not attract the most educated men. Clerks preferred collation to a prestigious archdeaconry like London, or Lincoln to collation to more remote archdeaconries. This was an abiding problem. Archdeacons in the Welsh dioceses and other archdeaconries which provided a relatively poor income, like Chester, St.Albans (after the dissolution) and Carlisle, did not attract very highly qualified men. Most in fact had no degree at all. It was quite exceptional that John Blaxton, B.Cn.L., a man with considerable experience in church administration, became Archdeacon of Brecon in 1554.27

23 These figures have been gleaned from Le Neve
24 Bowker, The Secular Clergy. p.45
26 Haigh, Reformation and Resistance. p.29
27 Le Neve, Hardy. i.p.311; Emden, Supplement. p.51
No degree, or lack of information about some men should not, however, be regarded as evidence of inadequacy. At Carlisle between 1500 and 1540 no archdeacon held a degree and not one is anything more than a name. Nevertheless, it is not satisfactory to ignore or denigrate the capacities of these men through lack of information, or on the basis of the weak jurisdictional basis of the archdeaconry. William Sherburne collated William Norbery to the archdeaconry of Chichester in 1512. Norbery was formerly his receiver general and was chosen because he was considered valuable in the re-organization (and re-invigoration) of the church courts at Chichester.28 Like the men at Carlisle Norbery held no degree, nor does he figure in the central records, but clearly he was a useful agent who may have had many counterparts throughout England, something concealed by the poor survival rate of pertinent documents.

Of those archdeacons with degrees appointed in the years 1490-1541, only 4.4% were B.A. or B.D. students and a further 36, or almost 18% held an M.A. or a D.D. Apart from four physicians (1.9%), the remainder (46.55%) were all lawyers, trained in Civil or Canon law or both. Over 30% of the appointments were awarded to men who held doctorates in either or both laws. This is perhaps not entirely surprising. The holder of a law degree was perhaps more confident of finding a career path than a graduate who held only a degree in Arts.29 For some of these graduates the path was

29 A large number of those with law degrees did already possess an Arts degree. For the role of education see the discussion in chapter four.
1: Archdeacons

certainly profitable. Some of them made their way through diocesan law courts, others in the service of a lord, and still more who worked for the king.30

Furthermore, educational qualifications only offer part of the story. The criteria determining a bishop's choice were more complex, just as canon lawyers were judged not so much on their education but on the way they coped with their work. Clearly it is difficult to nominate where, or even if, these men worked, simply because little or no details of their training and/or career survive. Nevertheless, there were 156 graduates who became archdeacons in the years 1490-1541. Of these, it is not possible to trace career patterns of 62, but 44 were clearly toiling away principally in administrative posts of the church while 50 were engaged in other, principally secular areas of employment.31 In many cases archdeacons worked for both the king and the church. Before becoming Bishop of Chichester in 1508, Robert Sherburne, an M.A., and M.B., worked in a number of prominent church courts, and held senior appointments in the church, including two archdeaconries. Moreover, he became one of the king's clerks, an ambassador to the Roman curia, and even supervised the construction of buildings at the king's behest.32 Consequently, labelling all archdeacons as parasites is fraught with danger.

30 The actual right of collation belonged to the bishop of the diocese unless it had been surrendered for a turn; CPR, Edward VI. iv, p.288; Matthew Carew was presented to the archdeaconry of Norwich by reason of the attainder of Thomas, Duke of Norfolk to whom the advowson had been granted in 1546 by William Rugge (Repps) CPR, Philip and Mary. i,p.224; Calendar of institutions by the chapter of Canterbury sede vacante. ed. C.E.Woodruff and I.J.Churchill (Kent Records,8,1923) pp.24,71; Nicholas Harpsfield and John Harrison (Stow) were presented by the Queen on account of the attainder of Thomas Cranmer and John Taylor. Cf.LPL,Reg.Parker,fo.151v; if the see was vacant the archbishop of the province had the right of collation, in this case John Bridgewater was appointed to the archdeaconry of Rochester in 1559 by the archbishop. On this see also T.Oughton, Ordo judiciorum. (London,1738) ii,p.145. For the surrender of the right of collation see KAO,DRc/R7 ,fo.184; in October 1535 the Bishop of Rochester surrendered his right of appointment to the archdeaconry in return for the advowson of Southfleet, for one turn in an arrangement with the prior.

31 This refers to principal areas of employment. Clearly many of them did work for both secular and ecclesiastical authorities during their careers.

1: Archdeacons

Not even alien archdeacons can be cited necessarily as being absentee sinecurists. In the thirteenth and fourteenth centuries a number of absentee aliens held not only bishoprics but also archdeaconries as a result of papal provisions. B.L. Woodcock suspects that this created problems for archidiaconal jurisdiction in particular. There were, in fact, fewer papal provisions by the sixteenth century. John de Giglis was one Archdeacon of Gloucester early in the century. Worcester archdeaconry was held, for a time, by Peter Vannes. Generalizations about these men are difficult to make. Peter Vannes, an Italian, arrived in England in 1513. Soon working for Wolsey, he went on to serve the king and act, at least for a while, as a papal collector.

Italians could indeed benefit from royal patronage. In July 1488 Henry VII wrote to Pope Innocent VIII touching on the ability of John de Giglis, who was at that time papal collector in England. He entreated the pope to invest de Giglis with the power of dispensation for the benefit of English subjects. In these circumstances preferment was almost inevitable. He held two archdeaconries before becoming Bishop of Worcester.

Another foreign archdeacon was Polydore Vergil (or Castellensis). He was Archdeacon of Wells from 1508 probably until its abolition in 1547; and he was as much a beneficiary of royal as papal patronage. Busy, not only as a papal collector,

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33 Foxe. ii, pp. 394-5
34 Woodcock, *Medieval Ecclesiastical Courts*. p. 20
36 Le Neve, *Monastic Cathedrals*. p. 58
37 *Calendar of State papers and manuscripts existing in the archives and collections of Venice and other libraries in northern Italy*. vol. i, 1202-1509. (London, 1864) no. 531; *Calendar of entries in the Papal Registers relating to Great Britain and Ireland: Papal Letters, 1484-1492*. vol. xiv. prepared by J. A. Twemlow (London, 1960) p. 34
1: Archdeacons

Vergil also regularly attended the royal court, and was responsible for penning his famous *Historia Anglicana.*

There were also other patrons who were able to advance their servants. William More worked in the secular world after his graduation despite being a priest. He was a master in Chancery and servant to Thomas Audeley, Chancellor of England. Through Audeley's efforts (including negotiations with Thomas Cromwell), More became the first suffragan Bishop of Colchester and held Waltham Abbey in commendam from 1536 until the dissolution of the monasteries. Audeley also offered Cromwell twenty pounds and Bishop Bonner eighty pounds in an effort to procure the archdeaconry of Leicester for More in 1536. He got it and kept it until his death four years later.

The reformist John Aylmer was initially sponsored by Henry Grey, the marquis of Dorset and later Duke of Suffolk, and was then employed as a private chaplain and tutor to his daughter Lady Jane Grey. Presumably upon Grey's recommendation he became known to Bishop John Taylor, another Protestant, who offered him the archdeaconry of Lincoln. Stephen Gardiner also benefited from aristocratic patronage. He worked as a tutor in the Duke of Norfolk's household and the Duke introduced him to Cardinal Wolsey, from there Gardiner embarked upon a remarkable career.

The most obvious example of influences on the choice of an archdeacon is provided by the royal family. At Wolsey's synod in 1517, John Fisher complained that "several times when I have settled to visit my diocese, and to answer the enemies of Christ, suddenly has come to me a message from the court that I must attend...."

It was not a request any bishop could ignore, indeed many of them owed their mitre to the king's

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38 *The registers of Oliver King, bishop of Bath and Wells, 1496-1503, and Hadrian de Castello, bishop of Bath and Wells, 1503-1518.* ed. Sir H.C.Maxwell Lyte. (Somerset Record Society,54,1939) p.127; *LP.* xxii(i),no.614; *Strype, Memorials.* ii,ii,pp.499-500; it was not until 1551 that he petitioned to leave England and it is here claimed that he was still able to keep the fruits of his archdeaconry and prebend during his lifetime.

39 *LP.* xi,nos.296,369,465; xiv(i),no.36; xv,no.344; *Faculty Office Registers. op.cit.,p.7*

40 *VCH,Kent.* ii,p.65
support. It was a privilege utilised by royalty at any level of the ecclesiastical hierarchy. In a rather imperious letter to the prior of Christ Church Canterbury in 1499, Queen Elizabeth asked for the patronage of a living, requiring that the presentation deed be sent with a space for the name, and so be able to appoint "thereunto such oon of our chaplayns.....as shuld best please us."

Some royal servants could also count an archdeaconry amongst their rewards. As well as being one of the king's chaplains, Richard Eden was a clerk of the Star Chamber and the King's Council. He received a number of benefices including the archdeaconry of Middlesex, which he held from 1516 until his death in 1551. By using ecclesiastical offices the crown rewarded servants at no cost to royal finances. But it is just as true to say that archdeaconries were a prize reserved for men of some ability.

There also seems to have been greater consideration of other attributes of the clergy. In his visitation of 1554, Bishop Bonner enquired as to the moral purity of his archdeacons. In Elizabeth's reign the abortive book of canons of 1571 expressly requires archdeacons to keep a fine selection of books. Evidently they were expected to be scholars as well as exemplary in behaviour. The unreliable nature of attacks upon archdeacons serves a warning to the historian, and it is salutary to bear this in mind whilst undertaking a study of their courts.

41 "A Supplication to our moste Soveraigne Lorde Kynde Henry the Eyght." Four Supplications op. cit. p.34; this treatise was written in 1544, and at this point specifically criticized the way that the king's influence was used to divert ecclesiastical posts to royal servants
42 Christ Church Letters. ed. J.B.Sheppard (Camden Society n.s.19,1877) p.64
43 LP. ii.no.1857,pp.874,1464; iv(i).no.1939,p.869; v.g.559(24). See also xi,no.389; He should not be confused with the Richard Eden (1521?-1576) who was the celebrated translator and writer on travels on the western seaboard, see DNB. 16,pp.359-60
45 J.Ayliffe, Parergon Juris Canonici Anglicani. A Commentary by Way of Supplement to the Canons and Constitutions of the Church of England. (London,1726) p.99; this second example is not out of character with the initiatives of Elizabeth's reign
The Archdeacon and his Court.

In 1500 there were seventeen dioceses, containing fifty one archdeaconries. The division of the country into well defined areas of jurisdiction afforded administrative convenience. The origins of many archdeaconries and rural deaneries were borrowed from the model of royal administration. Archdeacons were, at least in a technical sense, the most influential of a bishop's sub-ordinates within a diocese. Innocent III had established them as ordinaries in their own right, that is, they were recognised as holding jurisdictional authority in their own right rather than via delegation. This jurisdictional autonomy amounted to a judicial power more expansive than other ecclesiastics. This privilege had developed since the twelfth century at a time when archdeacons rose above their former position as important bureaucrats within the bishop's familia to functionaries working within the diocese, with delegated powers constrained only by the terms of their brief.

By the sixteenth century the workings of the church administration were more formalised and the existing structure continued to function after a long period of jurisdictional definition and re-definition. The archdeacon could rightfully consider himself as holding ancient rights established by law and custom. This is not to suggest that archidiaconal authority was a stable immutable fact, nor that archdeacons were no

48 Other church courts which existed on a similar scale included those of the chapter of cathedrals, both secular and monastic. For a recent discussion of one of these see Sandra Brown, The Medieval Courts of the York Minster Peculiar. (Borthwick Paper,no.66; York,1984), passim
longer acting in some capacity as the *oculus episcopi*; the contrary is the case. It is true, however, that conventions over time had established archdeacons as members of the clerical elite, and that their courts were an expression of their power rather than its source.

Having stated this, it is difficult to suggest what were, in any specific sense, an archdeacon's responsibilities. Cathedral statutes could claim, for instance, that they were pre-eminent in the care of parishes and the cure of souls, but what did this mean? As the bishop's aid, the archdeacon filled no specific duty as such, but was a bureaucrat in his lord's service. In other words there was no definitive role of his function, and this did not change, even by the sixteenth century.

Nevertheless an archdeaconry was an important post in the English church. The author of the *Destructiorum Viciorum* complained that priests of the Church toil for advancement "in the king's kitchen, another on the bishop's court and the third in the service of a temporal lord" and then strive to "be prebendaries, then archdeacons and then bishops," thus avoiding the *cura animarum* in favour of hierarchical prominence. Although the means of advancement were not always like this, the prizes were certainly sought in earnest.

Critics could point out that archdeacons received financial gain from their courts, revenue which was in no way related to the amount of work they did. Their income from the archdeaconry was divided between the "fixed" and "casual" revenues. The former consisted of such things as procurations (set amounts due at the visitation in lieu of hospitality), synodals, and income from appropriated benefices. The latter was made up of fees for the probate of testaments and administration of goods, inductions,

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50 Dean Cosyn and Wells cathedral miscellanea. ed. A. Watkin (Somerset Record Society, 56, 1941) p.2
52 Le Neve, *1541-1857 York*. p.16 note, Owen Oglethorpe refused the archdeaconry of the East Riding in 1550 at the request of the Fellows of Magdalen, Oxford. This is the only refusal found
pensions and the money due from vacant benefices. In other words the court collected fees for the ordinary at the visitation (if he was absent), at the time of inductions (if done via proxy) and when testaments were proved.\textsuperscript{53}

A study of archdeacons' courts in this period should include some discussion of archdeacons, in an effort to offer some insights into the operation of the court system. The question is, what role did archdeacons play in the activities of their own courts? In turn, what does the nature of this relationship suggest about the operation of archdeacons' courts by the sixteenth century.

It is certainly true that a great many archdeacons started their careers working in diocesan law courts. Archbishop William Warham sponsored Henry Wilcockes to Civil Law School at Oxford. He later became Official of the Archdeacon of Oxford, commissary and sequestrator-general at Lincoln, vicar-general and chancellor in the same diocese until he finally became the Archdeacon of Leicester in 1515.\textsuperscript{54} Edward Steward, Bachelor of Civil Law (B.C.L), moved from the position of Official of the Archdeacon of Sudbury to being the archdeacon of Suffolk in 1527.\textsuperscript{55} Richard Barber had a few years to wait for his rise. Admitted B.C.L. in 1540 he began work in the Archdeacon of Lincoln's court, later acting in the bishop's consistory until becoming Archdeacon of Bedford in 1559 which he surrendered for Leicester in 1560. But this work did not necessarily prepare these men for the archidiaconate itself.

Nevertheless, it is true that an archdeacon's relationship with the ordinary sessions of his court was tenuous. It was unusual for the archdeacon to sit as judge; this was normally left as a matter of course to his deputy, the Official.\textsuperscript{56} Only in exceptional circumstances did the archdeacon appear personally in his own court. For a brief

\textsuperscript{53} For a fuller discussion of each see appendix one  
\textsuperscript{54} Emden, \textit{Oxford to 1500}. iii, pp.2046-7; see also chapter two  
\textsuperscript{55} \textit{Registra Stephani Gardiner et Johannis Poynet, episcoporum Wintoniensium [1531-55]}. ed. H.Chitty and H.E.Malden (Canterbury and York Society, 37, 1930) p.xvii; Le Neve, \textit{Monastic Cathedrals}. p.34; there is some doubt about the exact year being 1527  
\textsuperscript{56} This functionary was normally referred to as the archdeacon's Official. For more on this see chapter four and the glossary
period in the early 1520s, Thomas Kingsbury, Archdeacon of St.Albans, sat as judge until the new Official arrived, and similarly the Archdeacon of Leicester had to sit as judge in October 1561 until his new deputy had arrived to assume the reins.

It seems more than likely that in some quarters archdeacons sat more often following the difficulties of the 1530s and beyond. After 1538 the Archdeacon of St.Albans had problems trying to get a deputy to sit in his court and so between 1539 and 1544 William East, archdeacon of the monastic peculiar of St. Albans sat alone. His successor, William Dugdale, sat on several occasions after 1556 (when the act books resume) until his deprivation in 1559. At times archdeacons only appeared for a very limited time. In the twelve months from February 1550/1, at a time when the increase in tithe litigation was causing widespread concern, Archdeacon Bullingham of Lincoln sat as judge in matters associated with the payment of tithe. All other matters he left his personnel to handle. In August 1557 Nicholas Harpsfield, Archdeacon of Canterbury, appeared in court at the time of his famous visitation of the jurisdiction. Even so, this is far from a great increase in archdeacons' overall level of participation. Clearly they were not expected to sit, and only did so in peculiar circumstances.

Attendance during the annual visitation, however, was obligatory. Prior to the Reformation, failure to visit in person required dispensation by papal indult. Such indults were granted in cases in which the archdeacons were in some way

57 HRO,ASA 7/1,fo.21,33; 7/2,fo.11-v,12,21v
58 Leic.AO,1D41/11/3,fo.92-93v
59 HRO,ASA 7/1,fo.21,80v,83,84v-97v
7/2,fo.7,10,11v,32,41,60v,65,87,90v,91v,116v,118v,121-79v; for the reasons behind this see chapter four
60 HRO,ASA 7/3,fo.2,3-v,4v,8,9v,11v-13,15,20v,22v,24v,25v,26v,27v
61 LRO,Cij/2,fo.92ff.
62 KAO,PRC 3/14,fo.94v; Z/3/32,passim for the visitation, printed in Archdeacon Harpsfield's Visitation, 1557. ed. L.E.Whatmore (Catholic Record Society,23-4,1950-1)
incapacitated. It was also inevitable that royal servants who were permanently non-resident be served by the personnel of their court. Lancelot Marcam was visiting for Archdeacon Metcalf in the archdeaconry of Rochester in 1528. At Lincoln between 1534 and 1539 court Officials John Pope, John Prynne, Thomas Bothe and George Sandeford, conducted all the visitations. These are not isolated examples. At times the religiously zealous Archdeacons of Canterbury Edmund Cranmer (1534-1554) and Nicholas Harpsfield (1554-1559) were also absent from visitations. The Faculty Office registers fail to indicate whether absenteeism was increasing or decreasing after the break with Rome. The only dispensation granted to an archdeacon in these years was to John Quarrt, Archdeacon of Llandaff. Christopher Nevinson was certainly acting for the Archdeacon of Canterbury in 1539 and in 1559 his nephew was acting in a similar capacity for the new archdeacon. It is also true to say that archdeacons rarely participated in other chores, such as the induction of newly instituted incumbents into their parishes.

Archdeacons and Diocesan Administration.

Although most men who became archdeacons were very capable, it is still problematic what could rightfully be expected of them, especially given their reluctance to become involved in the work of their courts. It is indeed possible to illustrate that an

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63 e.g. *Calendar of Papal Registers* vol. xiii. op. cit., p.111 and see also p.18. In 1482 Richard Langport, Archdeacon of Launceston, received a papal indult for life because he was a sexagenarian, and Henry Sharp, Archdeacon of Rochester received one for the same reason
64 KAO, DRa/Vb4, fo.29
65 LRO, Vij/1, passim
67 CCL, Z/3/5, fo.22v; though clearly not all. Edmund Cranmer was visiting in a number of other years, *ibid.*, fo.27, 37, 38v, 55v, 58v
68 *ibid.*, fo.124
69 see chapter five
Archdeacons

Archdeaconry was little more than a sinecure. A striking example of this comes from
the archdeaconry of Leicester between 1531 and 1541. In these years five men were
appointed to the archdeaconry, all of whom were skilled and capable bureaucrats. Of
these men only one died in office; three became bishops (Stephen Gardiner, Edward
Fox and Edmund Bonner) all of whom worked in the service of the state, and none
contributed to the activities of the court run in their name. Gardiner in fact held three
archdeaconries at one time until his appointment as Bishop of Winchester in 1531. Pluralism
of this sort, though not common, did make participation in the courts' business most
difficult, if not impossible.

Was it true that archdeacons were sinecurists benefiting from what was by now an
archaic and outmoded institution? A treatise written possibly in the decade 1540-50
deliberated on the office of archdeacon. It noted that he was the bishop's vicar, or
priest ("ipsius Episcopi vicarius") as well as the "oculus episcopi" in "loco episcopi."
While interesting, in some ways these comments illustrate that the role of the
archdeacon was marked more by flexibility than precision.

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70 Le Neve, Lincoln. p.13
71 Emden, Supplement. p.227
72 Others who held three archdeaconries at one time included Thomas Winter, Thomas
Fulford, William Webbe, William Knight and Hugh Asshton
73 BL, Cotton, Cleopatra F II.21, fo.128
Acting as a judge in his own court may in fact have been the least useful role an archdeacon could play as the *oculus episcopi*. There were many duties an archdeacon could more usefully perform. Christopher Massingberd is a good example of such a cleric who spent his life working for the church. Having been preferred first to the vicarage of Bicker in Lincolnshire in 1510, he became a canon of Lincoln Cathedral and prebendary in 1512. He finally became Archdeacon of Stow in 1543 after being Treasurer (1516-17), Precentor (1528-33) and Chancellor (1532-43) at Lincoln. Before his elevation to the archdeaconry he even appears as a temporary judge in the court of the Archdeacon of Lincoln. It is not possible to discern whether or not he involved himself in the workings of his own court after 1543, but it is clear that he was heavily involved in the workings of the cathedral of his diocese.

Furthermore, participation in church administration could be more than simply sitting in the archdeacon's court. Some were called upon to help in administrative matters, or in the higher courts belonging to the bishop. Henry Wilcockes acted as both chancellor and vicar-general of the diocese of Lincoln as well as being Archdeacon of Leicester in the second decade of the century. John Cottrell, Archdeacon of Dorset, was vicar-general to Gilbert Bourne, Bishop of Bath and Wells in Mary's reign. John Kennall, Archdeacon of Rochester in the same period also acted for a time as the chancellor of the diocese. Within Convocation archdeacons often acted as Prolocutor. Within the diocese archdeacons seem to have played some role in synods where they occurred.

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74 LRO,Cij/1,fo.248; Vij/1,fo.242v
75 Emden,Supplement. p.389; Chapter Acts. iii,pp.xv,54
76 Dean Cosyn and Wells cathedral miscellanea. op.cit.,p.19; here including paying certain priests on behalf of the bishop
77 Emden,Oxford to 1500. iii,pp.2046-7
78 Emden,Supplement. p.328
79 DNB. 23,p.395; BL,Lansdowne 982,fo.37
It also appears as though archdeacons were helping in the examination of candidates for ordination. This role was actually formalised by Edwardian regulations. Although there is evidence to suggest that such examinations were, if not infrequent, then inadequate before the Reformation, it is equally true that archdeacons are present and examining people by the 1520s. Piecemeal survivals from Coventry and Lichfield reveal that both the Archdeacons of Shropshire and York were examining candidates. So too were the Archdeacons of Lincoln. But it must be stressed that they were not doing so through their courts, but rather as agents of the bishops.

The job might be formal in nature such as a bishop's vicar-general, or simply less formal and so rarely documented. Archdeacon William Warham spent several years in the train of Cardinal Wolsey, presumably in the service of both his uncle as well as the papal legate. At the time of the cardinal's fall, Warham was certainly living in Canterbury. Warham's successor in the archdeaconry, Edmund Cranmer, was like his brother the archbishop, a religious reformist. He agitated for the reception of the Word with others of the archbishop's circle, and he appears to have helped the archbishop keep in touch with religious matters in his diocese. From an early stage in his archidiaconate he seems to have been residing within the jurisdiction. He

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82 Gibson, Codex. p.149
84 Bishop Geoffrey Blythe's Visitations, c.1515-1525. ed. P.Heath (Staffordshire Record Society, fourth series, 7, 1973) pp.104-6, 166
85 LRO, Reg. 26, fo.17-8, 32v-46v
86 Chapter Acts. iii, p.xxii
87 BL, Lansdowne, 979, fo.46, 97; LP. iv(ii), no. 3216; DNB. 59, pp. 378-83; the archdeacon was actually with his uncle at the time of the former's death
88 e.g. LP. xviii(ii), no. 300
89 LP. vii, no. 8; he took up residence within the college at Wingham
contributed to the prosecution of Dr Benger, and was also one of the prime movers behind changes to the articles of religion in 1536, and he is also known to have been active in the Convocation of 1547. These were functions of considerable help to each archdeacon's bishop, but clearly have little to do with formal functions within the diocesan judicial or administrative structure.

The monastic archdeaconry of St. Albans reveals a slightly different pattern of advancement. All of the archdeacons were monks and graduates in Divinity. Here, archdeacons were almost always administrators, even though they rarely appeared in court. Moreover, the position was not generally held for very long. Some, such as John Stonewell, were archdeacons of the peculiar (exempt) jurisdiction and later sent off as prior of one of the abbey's dependencies, in his case Tynemouth in Northumberland. Similarly John Albon, who was archdeacon around 1507 went as prior to the dependent house of Binham in Norfolk in 1512 and was still there in 1529. Thomas Marcyall alias Beche was archdeacon at the beginning of 1515 and later became Abbot of St. Werburgh's Chester then at Colchester. He was a member of the College of Advocates from 1524. John Maynard was a commissary of the abbot of St. Albans in the late fifteenth century in a number of the dependencies, he was also the prior of novices at Gloucester College in the early sixteenth century and returned to

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90 Miscellaneous writings and letters of Thomas Cranmer, archbishop of Canterbury, martyr, 1556. ed. J.E. Cox (Parker Society, 18, 1846) pp.300-1
91 BL, Lansdowne 980, fo.145
92 see glossary
93 Le Neve, Hardy. ii, p.345 note; Emden, Oxford to 1500. iii, p.1791
94 Le Neve, Hardy. ii, p.345 note; W. Dugdale, Monasticon Anglicanum. (London, 1846) iii, pp.343, 351
95 Squibb, op. cit., p.133 He was executed in 1539 probably because of statements about the royal supremacy rather than the dissolution, see D. Knowles, The Religious Orders in England III: The Tudor Age. (Cambridge, 1979 ed.) pp.483-7
the monastery and became archdeacon in 1508. In nearly all cases these men had experience visiting other houses as the abbot's deputy.

Frequently, however, archdeacons were servants of royalty or other provincial laymen and therefore could not hope to pay much attention to their own courts. Thomas Magnus had been on intimate terms with James V of Scotland and Queen Margaret, and was a member of the Privy Council and acted in several diplomatic missions as well as treasurer of the wars. He became the Archdeacon of the East Riding in 1504 and held it until his death in 1550, but he only spent the last few years in his jurisdiction, after leaving his other posts. The same is also true of John Hovingham, an Archdeacon of Durham and like Magnus a royal diplomat. A fifteenth century Archdeacon of Norfolk, Thomas Langley, was quite exceptional. Even while he was Chancellor of England he twice found time to make a personal visitation of his archdeaconry.

Nevertheless, there are examples over a lengthy period of time which indicate that archdeacons were often expected to fulfil at least some supervisory and judicial functions. In the mid fifteenth century, Bishop Lacy rebuked one of his archdeacons for failing to make sure that a parish was served during a vacancy. In 1508-10

96 Le Neve,Hardy. p.345 note; Emden, Oxford to 1500. ii, pp.1250-51; Documents illustrating the activities of the general and provincial chapters of the Black monks, 1215-1540. ed. W.A.Pantin (Camden Society,54,1937) iii,p.233; Alumni Oxonienses.1500-1714. ed. J.Foster (Oxford,1891-2) p.994; it should be pointed out that the status of archdeacons here was somewhat different, not only because they were Benedictine Monks, but also because they were removeable at the pleasure of the Abbot. This gave the Abbot far greater flexibility in the way he dispersed the administrative talent within the abbey

97 Cf.P.Newcome, The history of the ancient and royal foundation, called the Abbey of St.Alban, in the county of Hertford, from the founding thereof, in 793, to its dissolution, in 1539. (London,1795) p.395


100 ibid.,p.16

Bishop Fox of Winchester instructed both of his archdeacons to carry out their visitations in person and to see to it that certain measures were taken. Both failed to comply with his orders and were consequently called before their diocesan to answer for their disobedience. The Archdeacon of Winchester was subsequently brought to resign. Indeed Thomas Cranmer was concerned enough to ensure the presence of a senior official in his diocese in the space in time before the collation of his brother to the archdeaconry and so Richard Gwent was commissioned in 1533 to carry out a visitation as a locum tenens.\(^\text{102}\) It was a general sort of supervision certainly not the same as sitting in court as judge.

In this regard the Reformation seems to have made little impact. That is, archdeacons were still expected, where possible, to participate in the work of the church. In a case from 1573 the Bishop of Norwich bitterly lamented that his archdeacons had failed to do much in the running of the diocese.\(^\text{103}\) Expectations were not only voiced by diocesans. In 1574, Elizabeth I blamed the negligence of archdeacons and bishops for the continued celebration of Catholic masses.\(^\text{104}\) Writing to Bishop Parkhurst in the same year, John Becon expressed the hope that the archdeacon would keep watch over part of the diocese as the bishop's eye.\(^\text{105}\) It would be misleading however to argue that such an attitude was a post-Marian invention. It may be true that the efficient running of archdeacons' courts did not rely upon the presence of the archdeacon himself, but there was, it would seem, a clear preference by certain bishops, for the oculus episcopi, amidst other duties, to oversee the activities of the personnel.

A study of Archdeacon Nicholas Harpsfield will therefore prove illuminating in demonstrating the relationship of a conscientious archdeacon with his own court at the

\(^{102}\) BL, Stowe 124, fo. 30

\(^{103}\) Houlbrooke, Church Courts. pp. 31, 33

\(^{104}\) The Letter Book of John Parkhurst, Bishop of Norwich compiled during the years 1571-5. ed. R. A. Houlbrooke (Norfolk Record Society, 43, 1974-5) p. 238

\(^{105}\) ibid., p. 249
time of the Reformation. Harpsfield's contribution to the Marian Reaction was remarkable in quality but this cannot be said of his court. As an archdeacon he was a servant of his bishop, and was no more and no less at the bishop's direction than any other archdeacon. Circumstances put the spotlight on Harpsfield as archdeacon but the scope of his activities had little bearing upon his relationship with his own court.

Up until 1553 Harpsfield does not feature prominently in English history. An Oxford trained civil lawyer, he was conservative in religion. In 1550 he had left England on account of the religious changes under Edward VI and moved to Louvain, a refuge for a number of Catholic refugees. Harpsfield had commended himself to Cardinal Reginald Pole whilst on the continent. There can be little doubt that despite differences in temperament, both men were warmly attached to one another. Harpsfield returned to England as Pole's emissary at the end of 1553 at which time he resigned his fellowship in order to work in the court of Arches.106

In March 1554 he was presented to the archdeaconry of Canterbury by Mary pro hac vice. The office had been vacant since Edmund Cranmer had been deprived because he was married, and the presentation was in the hands of the monarch following the attainder of Archbishop Cranmer, which had taken place in November 1553.107

By the beginning of Mary Tudor's reign there was considerable confusion about the future of religion. From these early stages Harpsfield was seen as an important agent working for the forces of the Catholic restoration. Prior to the arrival of Reginald Pole in England Harpsfield was given power by the papal legate to absolve all under his jurisdiction who had erred from the unity of the Church.108 Other jurisdictional rights,
apart from his position as archdeacon, included the post of vicar-general of the diocese of London and sometime sequestrator in the same diocese. Later he also became one of the commissioners used to root out Protestant heresiarchs.

The combination of these tasks accounted for much of his time and Harpsfield's pace must have been frenetic. In the first months of the reign he spent most of his time in both his archdeaconry and in London, attending the sessions of Convocation from March onwards. In the archdeaconry he was no doubt familiarising himself with the personnel of his own court, notably Robert Colens, as well as assessing the general state of religion in the diocese. Foxe regarded this as the period in which the horrors of persecution were planned. In Convocation Harpsfield was one of two acting prolocutors during the first two sessions, because Hugh Weston, who held this position, was a disputant at Oxford. He also managed to appear at Oxford at the end of January 1554 during the course of the examinations of John Hooper and Rowland Taylor.

It was at this time that Harpsfield first appears as a judge, when John Bland, Vicar of Adisham, was tried before him at Canterbury on 18 May 1554, apparently via a commission issued by Mary as supreme head of the church. Sometime afterward he journeyed to London, to act as Bonner's vicar-general. In this role he dealt with delicts over failure to attend church and the destruction of rood lofts, as well as religious dissidence.

109 GL, Reg. Bonner, fo. 346v
110 Strype, Memorials. iii.i,p.476; iii.ii,p.120
111 For Colens, see chapter four
112 Foxe. viii,p.292
113 Wilkins, Concilia. iv,p.94
114 Strype, Memorials. iii.i,pp.288,290
115 ibid.,vii,pp.292-306; for the episode in full
In this capacity he sat as judge possibly as many as 27 times out of 32 sessions held up until May 1555. He was in London until June, but had returned to Canterbury to sit at further hearings of Bland's case on the 13th and 20th days of that month. He was the judge in a number of heresy cases which extended through August and September, and probably November. It is not clear by what authority he or indeed the other judges at Canterbury were trying heretics. Moreover, Mary was no longer supreme head following the repeal of the relevant statutes by Parliament. Presumably he was acting by the *sede vacante* authority of the Dean and Chapter at Canterbury, or by a legatine commission of Pole.

In the early part of September that same year Harpsfield was at Oxford during interrogations of Thomas Cranmer. There is no evidence to suggest that he played anything but a minor role in these proceedings, but it does indicate that he was considered important enough to be invited to attend such important investigations.

The bulk of his work, however, was in his own jurisdiction, although it was not until 25 April 1556 that Pole, as archbishop, was in a position to set up a general commission to investigate heresy in Kent, and then Harpsfield was included. It is reasonably clear that from this time on his judicial activities were mainly centred in the

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117 Greater London RO, DL/C/614, passim; he was certainly in London to see both Pole and king Philip during this time, see Epistolarum Collectio Reginaldi Poli. (J.-M. Rizzardi; Brixiae, 1744-57) v, pp. 293-9

118 Foxe. viii, pp. 122-3

119 *ibid.*, vii, pp. 296-306

120 *ibid.*, vii, pp. 339-41; viii, p. 300

121 Burnett, *op. cit.*, i, p. 519; the Privy Council also exerted considerable influence, for example, it authorised Bonner to act for Gardiner in Surrey


123 LPL, Reg. Pole, fo. 17-18; Strype. *Memorials*. iii, i, p. 476 Strype says that it was the 26th, but Pole's register states the 25th. Robert Colens had been confirmed as commissary in Canterbury on 27 March, 1556, cf. Reg. Pole, fo. 16-v. This commission was unusual because Colens was given the right to hear heresy matters ("*etiam heretice pravitatis*"), which was a class of cases normally not triable by the commissary
archdiocese. He was included in further commissions in June and July of that same year, and he was sitting as a commissioner in May, June, August, December and February 1557. He was still acting in the same role in the middle part of the same year.

Shortly after this he conducted his famous visitation of the archdeaconry, which lasted from 30 July until September, and required his personal appearance at each parish rather than the usual meeting at one or two churches within each deanery. This was the first time that Harpsfield acted as judge in the archdeacon's court. This visitation is the most obvious example from the period in which an archdeacon went to great and unusually energetic lengths to use his court as a tool for religious and moral reform.

His next appearance in a court was as a commissioner on 26 April and then 11 June 1558. With the approach of Mary's death Harpsfield's role as Catholic reformer was coming to an end. His final appearance as judge comes from the archidiaconal visitation of 1558, although on this occasion the process was more conventional, lasting less than a fortnight, from 15-26 September.

Clearly Harpsfield's role in imposing, or re-introducing conservative catholicism in Kent was most significant, and the role of the commissioners was markedly different from pre-Reformation heresy hunts. But did this of itself suggest a fundamentally new role for the archdeacon or his court? It is quite clear that neither the archbishop nor the queen, as his patrons, regarded his role as archdeacon as anything but conventional.

The only clear exception to this is when he sat as one of the judge's at the trial of Richard Woodman at St.Mary's Overy's, Southwark on 15 June and 16 July 1557, cf.Foxe. viii,pp.367,370
LPL,Reg.Pole,fo.19v-20 to visit the deaneries of Charing, Sutton and Lympne; ibid.,fo.,20v-21 for Pole's ordinary visitation
BL,Harley 421,fo.94,98-v,101-2,103; 590/9,fo.78v-80
Archdeacon Harpsfield's Visitation. op.cit.,passim
see chapter eight
BL,Harleian 421,fo.96
Archdeacon Harpsfield's Visitation. op.cit.,ii,pp.315-50
Archdeacons

More importantly, even though Harpsfield was working energetically, his own court was one judicial vehicle with specific functions determined by its own place within a larger legal structure. The nature of the ecclesiastical structure had developed to such an extent that archdeacons should not be mistaken with archdeacons' courts. The archdeacon might indeed work in church courts, or more informal ways for the bishop, but only occasionally did this include the former's own court.

Harpsfield is therefore a fine example of this. Towards the end of Mary's reign he was appointed Official of the court of Canterbury, Auditor of Causes, Dean of the Arches and of the Peculiars. He was also commissioned to visit All Souls College Oxford on 30 October.\(^{131}\) Indeed at the opening of the Convocation of January 1559, Harpsfield was chosen as the Prolocutor.\(^{132}\) Although many of these responsibilities left him less time to devote to his own court, he was still working for the church. Furthermore, he served in the proceedings at Oxford mentioned above. In these turbulent times Harpsfield even found time to write a biography of Sir Thomas More as well as a treatise condemning Henry VIII's divorce from Katherine.\(^{133}\) Foxe portrayed him as "the sorest and least compassionate" of the reactionaries, save for Dunning at Norwich\(^{134}\) and it is clear that he was asked to do more things than any of his counterparts around the country.\(^{135}\)

His career in these years however does not reflect a different relationship with his court nor with his patrons, the queen and Archbishop Pole. At certain points he devoted himself to the court which conducted business in his name and by his authority, but the better part of his time was used in other areas very often on behalf of

\(^{131}\) LPL, Reg. Pole, fo. 31-31v; BL, Lansdowne 982 fo. 37-8; Strype, Memorials. iii, ii, p. 121

\(^{132}\) BL, Lansdowne 982, fo. 37

\(^{133}\) The life and death of S' Thomas Moore. op. cit., p. xlv note, cciv-ccv; the book on the life of More was finished by April 1557

\(^{134}\) Foxe, viii, p. 253

\(^{135}\) BL, Lansdowne 982, fo. 38; Harpsfield was still apparently active in Canterbury in the early stages of Elizabeth's reign
his bishop. He was collated by Mary Tudor, and he remained her ally in the service of their Church.

Conclusion.

Archdeacons in the Reformation period do not seem to have shed the unfortunate reputation that they had inherited from their forebears. Even parodies could not settle on the definition of an archdeacon's function. Chaucer's officious administrator could be accepted as being in some way correct as easily as Trollope's indolent Dr Grantly.

Throughout the period, however, there was very often an expectation that archdeacons would participate in the work of the church. This included casting a paternal eye over the court of the archdeaconry. The archdeacons' courts may well have benefited from occasional visits by the archdeacon, and he may even have corresponded with his deputy and/or registrar. The nature of diocesan administration was such however that these courts were able to function by themselves - there was no alternative. But they were not isolated or beyond supervision altogether, because they were, for the most part, part of a complex system of church courts.

In this area at least, the Reformation had little impact. Archdeacons were not drawn to appear in their courts more than before. If the archdeacons, or their courts, were affected by the changes of this time, it was not in such a way as to alter the relationship of one with the other. Apart from anything else, this is indicative of the changes to the system of the courts as a whole since the thirteenth century, that is, that they were operating in accordance with well oiled procedural mechanisms, and through a professionalised personnel.
CHAPTER TWO.
A Legal Structure I: The Church Courts

The operation of archdeacons' courts took place within two broadly conceived legal contexts. The first of these was within the structure of church courts in general. The second was amongst a number of competing judicial systems. Each one of the complex set of relationships inherent in these two aspects were affected by the Reformation. The first of these is therefore the subject of this chapter.

When the Ordinaries replied to the compilation of accusations levelled against the church courts in 1532, the Archbishops of Canterbury and York rightfully claimed that their courts had possessed spiritual jurisdiction over the sum of the sovereign's subjects for over four hundred years, and that such rights had never been suspended. In the circumstances this statement may have been a politically provocative assertion, especially given Henry VIII's temper, but it was nonetheless a legitimate one. The courts spiritual could in truth claim a historical pedigree somewhat more impressive than many of the king's central courts.

The methods defining jurisdictional boundaries, however, had not been fully resolved by the Tudor period. Indeed the intervening centuries, since the twelfth century, witnessed continuous and sometimes protracted disputes over the rights and place of certain courts in relation to each other, including the place of archdeacons' courts. This is not entirely surprising. It is true that many courts sprang up more or less co-terminously, but it was a haphazard process and it was always likely that some contention should arise over the relative rights of respective judges.

1 Documents Illustrative of English Church History, op. cit., p. 167
Most legal relationships are not refined until they are scrutinised, and in any case such a process is tied to specific circumstances, so that similar structures in different dioceses were not bound by generalized formulae.\(^2\)

Though they were recognised by the constitutions of Clarendon (1164) as lowest on the rung of courts in matters of appeals,\(^3\) there was still considerable variation in the way that archdeacons' courts developed, and it was a process of evolution far from complete by 1500. Yet at that time, archdeacons' courts, and other ecclesiastical tribunals, were refining judicial relationships in such a way as to indicate that the system was vibrant but not disruptive.

The years 1500-1558, reveal that the court structures were still changing in certain areas, usually in accordance with perceived needs, and these changes were not noticeably affected with the advent of the Reformation. What did happen, however, was that the Reformation provided additional tension in the wake of some changes. This in turn created an air of uncertainty about the system as it existed. In some cases the very existence of certain archdeacons' courts was threatened.

**The Church Courts: A system outlined.**

The most senior ecclesiastical tribunals within England, were the provincial courts. In England there were two provinces, of Canterbury and York. It was not until 1072 that the division between the two was determined.\(^4\) They possessed legal systems which were almost identical, but before the break with Rome there was, technically, no link


\(^3\) *Select Charters op. cit.*, p.139; Churchill, *Canterbury Administration.* p.44; *Documents Illustrative of English Church History. op. cit.* pp.70-1

between the courts of either province, and this arrangement remained in force after the Reformation.

Before detailing aspects of the court structure it may be useful to set out in general terms, an outline of the system. Simply put, within each division, the most senior tribunals were the provincial courts run under the authority of the archbishops, as metropolitans. Below these were courts of the bishops. Some bishops also had commissaries (or judicial agents) working within archdeaconries. There were also the archdeacons' courts themselves.

There were some exceptions to this convenient, and highly simplified pattern. These peculiar, or exempt jurisdictions included the chapters of cathedrals and other extraordinary jurisdictions which co-existed within this complex structure but which cannot be categorised quite so easily.

The provincial business of the southern province was all conducted at London, in three provincial courts of Audience, Arches, and Prerogative. The court of Arches was the normal appellate court for the province. The court of Audience also fulfilled some of these functions, although this court was more commonly concerned with administrative tasks, such as institutions to benefices. The Prerogative court supervised the archbishop's rights in testamentary matters.

The Archbishop of York's provincial and diocesan courts co-existed in York itself. The provincial courts included Chancery (or Audience), the Exchequer, and the Prerogative. Chancery performed administrative tasks and heard contentious cases, both at first instance and on appeal. Exchequer dealt with some contentious matters,

5 see glossary
6 Conset, op.cit., pp.4-8; Marchant, The Church under the Law, pp.12-3; Churchill, Canterbury Administration, i, pp.594ff.; see below for a fuller discussion of the place of the Prerogative court, and chapter five for discussion of its specific relations with archdeaconry courts
and testamentary cases only after 1572. The Prerogative court, involved with similar matters, did not begin work until Elizabeth's reign.\textsuperscript{7}

The actual contact of provincial with archdeaconry courts was restricted in nature. Either a matter went on appeal, or it was transmitted to the senior tribunal via an inhibition. There was more regular contact between archdeaconry courts and the provincial courts run in the name of the archbishop. Without the records of the courts of Audience and Arches however, it is impossible to tell how many actions in the southern province went on appeal to London. This might include appeals, or inhibitions or even appeals heard \textit{sede vacante} by the archbishop during the vacancy of the see.\textsuperscript{8} There is little evidence that many went from the Archdeacon of Canterbury's court, despite the fact that appeals from that court could only be heard in London. In one case from Canterbury in July 1539, a disenchanted defendant decided against his initial impulse to appeal, and suffered the loss of a prosecution.\textsuperscript{9} In the thirty years preceding 1558, only two appeals could be discovered from this court's records. One was in July 1522, and the second in May 1537.\textsuperscript{10}

The court at Lincoln displays a different pattern. Despite Houlbrooke's belief that the local bishop's court was considered the most appropriate avenue for appeal, this was not always the case.\textsuperscript{11} Certainly, at Oxford around 1540 for example, an appeal went to the Bishop of Lincoln.\textsuperscript{12} But at Lincoln most appeals were directed to the court of Arches in London. The year 1538 was unusual because there were only two appeals, and both of them went to the bishop's consistory.\textsuperscript{13} For example, in 1544 there were 34 suits in this court, two of which went on appeal to the court of Arches.

\textsuperscript{7} Marchant, \textit{The Church under the Law}. pp.66,103-4
\textsuperscript{8} For the last example see LRO,Cij/2,fo.139 Steven c. Smyth (1552)
\textsuperscript{9} KAO,PRC 3/8,fo.107v
\textsuperscript{10} CCL,Y/2/7,fo.70; KAO,PRC 3/10,fo.12
\textsuperscript{11} Houlbrooke, \textit{Church Courts}. p.23
\textsuperscript{12} LRO,Cij/6,fo.26
\textsuperscript{13} LRO,Cij/1,fo.31v-59; there was a total of 41 suits
and another to the archbishop's court of Audience. The pattern is difficult to explain. In some ways these examples display the difference between archdeacons' courts located near the diocesan seat. At Lincoln an appeal to the bishop's court meant going to a court staffed by men in close contact with the lower tribunal. Moreover, the appellant was able to impose travelling costs by going to London, a tactic used to discourage opponents. At Oxford on the other hand the first of these factors is not present, and the second can be met in any case by going to Lincoln, which charged more modest fees than the provincial courts. While some of this speculation may be prejudiced by the sort of documents extant, it also brings into focus the type of people who used these different courts.

Inhibitions performed a similar function, except that they were granted by the higher tribunal, and interrupted hearings in the lower courts. Appeals could only be granted after a case had been finished. Most of the archdeacons' courts studied received no inhibitions in the period under review. At Rochester there was one, in 1523, and at Leicester, one, which was in 1563. At Lincoln though they were used more regularly, at least after 1540. There was one case in 1540, another in 1544, and then between 1550 and 1553 (when records cease) there was at least one each year. This increase was associated with the increasing difficulties facing the collection of tithe, at the time.

Just as the lacunae in evidence hamper comparisons between archdeacons' courts, so too for their provincial counterparts, as they also have left very little record of their

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14 LRO,Cij/1,fo.214v-251v
15 This matter will be pursued in chapter seven
16 Cf.chapter six for fuller details of the procedures involved
17 KAO,DRb/Pa7,fo.261 Farr c. Johnson; Leic.AO,1D41/13/3,fo.114v Harrynpton c. Ravens
18 LRO,Cij/1,fo.106 Draper c. Harrison,219 Holden c. Gleyn; Cij/2,fo.63v Sharpe c. Cragge et Cragge, 95v Bradshaw c. Broke, 140v Dixon c. Wright, 149 Paycock c. Wymbyshe(?), 199 Marshall c. Kyrton; the implications of this change will be taken up in chapter eight
activities. Whether many people were more or less prepared to traverse the Pennines in a journey from Chester to York than southern counterparts going to London is impossible to tell.\textsuperscript{19} Nevertheless it does appear that as with all actions, the number of cases diminished during the 1530s as a result of governmental attacks on ecclesiastical jurisdiction.\textsuperscript{20}

It was also the right of each archbishop to undertake metropolitan visitations, which could visit almost all quarters of each province, but these were very rare. There had only been one in the fifteenth century in the province of Canterbury, and they were just as infrequent in the northern province.\textsuperscript{21}

For most archdeacons' courts however, the most critical relationship was the one it shared with the bishop and his officials. In each diocese bishops had a consistory court which heard matters of first instance as well as appeals from junior tribunals within the diocese. In some instances there was also a court of Audience, which was mainly concerned with appeals, though these courts also heard cases at first instance.\textsuperscript{22} These courts had originally been held \textit{coram episcopo}, but the hearings were probably infrequent, and the records are correspondingly fragmentary.\textsuperscript{23}

Originally archdeacons and their courts worked as representatives of the bishop alone. Despite the fact that archdeacons' were ordinaries in their own right, even by the early sixteenth century this did not guarantee a stable and total independence. It was with the bishops' officials that those of the archdeacon's court had to consult on a

\textsuperscript{19} Ecclesiastical Cause Papers at York: Files Transmitted on Appeal 1500-1883, ed. W.J. Sheils (Borthwick Texts and Calendars:Records of the Northern Province, 9) pp.1-2
\textsuperscript{20} \textit{ibid.}, p.4
\textsuperscript{21} The Kentish Visitations of Archbishop William Warham. op.cit., pp.x-xii; Marchant, \textit{The Church Under the Law}, p.119
\textsuperscript{22} e.g. An Episcopal Court Book for the Diocese of Lincoln. ed. M. Bowker (Lincoln Record Society, 61, 1967); this is a record of the Bishop of Lincoln's court of Audience, 1514-20
\textsuperscript{23} D.M. Owen, \textit{The Records of the Established Church in England}. (British Records Association; Archives and the User, 1, 1970) p.36
wide range of matters, from inductions, to discussion of ordination candidates, and correspondence over particular problem cases, including requests for the grant of a writ of *significavit* against an excommunicate.24

In most places the division of responsibilities had never been systematically spelt out. There was a long process of legal definition and re-definition before the nature of the relationship became more comprehensible. Some matters were normally reserved to the bishop. Few archdeacons, for example, were allowed to prosecute clergy for simony, and none could prosecute heretics.25 In the commissions of the Archdeacon of St.Albans special mention is made of the court's authority to hear all manner of matrimonial cases.26 A number of other courts did not share this privilege. During the vacancy of the diocese of Coventry and Lichfield 1532-34, the Archdeacon of Chester was inhibited from hearing matrimonial disputes because it was necessary to have a body of jurisperiti present.27 The Archdeacon of Canterbury's court is one of the many courts which could not try these matters. In 1543 however it heard two such cases, but these were isolated instances which may have been sanctioned by special licence.28

Similarly, few archdeaconry courts could deprive a priest of his benefice.29 The York, Leicester and Lincoln archdeacons do not seem to have the power to sequestrate the fruits of a parish unless the incumbent was dead, whereas at St.Albans, Rochester and Canterbury sequestration could be used against recalcitrant priests. If something definitely fell outside the purview of an archdeacon's court then a separate commission

24 e.g., LRO,Cij/2,fo.2v; the request is from Archdeacon Bullingham and addressed to the bishop; for an indication of the sort of correspondence common see R.Peters, "The Administration of the Archdeaconry of St.Albans, 1580-1625." JEH. 13,1962. pp.61-75, esp.63-9
25 see appendix three
26 HRO,ASA 7/1,fo.66; O. c. Woodward; see appendix three
27 VCH,Stafford. iii,p.37
28 CCL,Y/4/8,fo.35,36
29 The Archdeacon of Canterbury was one who did have the right to deprive incumbents, e.g.CCL,PRC 3/6,fo.55 O. c. Danyell
had to be drawn up in order to provide sufficient authority in a matter. This was far from common.

In the diocese of York there were restrictions on archdeacons issuing marriage licences. This was also the case in the diocese of London. After the archdeaconry of St. Albans was joined to that diocese in 1550, there were attempts by successive diocesans to suspend the archdeacon's right in this matter, but here at least, the bishop failed.

Bishops also had the right to inhibit archdeacons' jurisdictions during their own visitations. Theoretically, most bishops' visitations were triennial, unless the bishop had just become the diocesan, in which case he could hold it immediately after his consecration, irrespective of when his predecessor had last visited. In fact, there was far less likelihood of excessive episcopal intervention than neglect. Archbishop Warham was only able to visit Canterbury, as diocesan (not metropolitan) in 1511, and even then in response to the perceived threat of Lollardy. At Exeter there was one episcopal visitation in 1523, and another in 1526, but there had been none before this for well over a decade, and there were no more until 1538, and only then pursuant to Henry VIII's new directives. After this, the next one was not until 1546. Infrequency of this sort was the norm.

Moreover, jurisdictional restrictions on archdeacons' authority were sometimes limited in scope owing to particular circumstances. The enormous and often inaccessible archdeaconry of Richmond led to the virtual autonomy of the jurisdiction.

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30 e.g. LRO, For. I, fo. 6
31 Marchant, The Church Under the Law. p.173
32 R. Peters, Oculus Episcopi. Administration in the Archdeaconry of St Albans, 1580-1625. (Manchester, 1963) pp.30-1
33 Houlbrooke, Church Courts. pp.6,21,27,29; at Norwich they were sextennial before the Reformation, and later septennial
34 E. Peacock, "On the Churchwardens' Accounts of the Parish of Stratton, in the county of Cornwall." Archaeologia. 46. pp.207,209,214,219
via a composition of 1331.\textsuperscript{35} The nature of the relationship in many cases depended upon the distancing of the archdeaconry from the cathedral or its bishop. This had afforded Richmond its enviable status. Those close to their see such as the courts at Lincoln, Rochester, York, Carlisle, Winchester were unlikely to be free agents. In other archdeaconries, such as Canterbury, Chester (until 1541), and Barnstaple, the degree of independence was a function of geographical distancing. This was certainly one reason why bishop Lee of Coventry and Lichfield, could complain that he had no authority in the archdeaconry of Chester.\textsuperscript{36} Similarly, in a letter to Thomas Wolsey, bishop Fox of Winchester spoke of his degree of control "except it be in Southwarcke, which is under the jurisdiction of tharchdecon..." because it was out of his reach.\textsuperscript{37} At other places there were bitter exchanges which took place in the Middle Ages which had other results.\textsuperscript{38} Consequently, in many dioceses, the episcopacy set up commissary courts to rival the archdeacons, or at least, to keep them in check.\textsuperscript{39}

There were other good reasons for setting up locally based courts, besides the alleged threat of archdeacons. Commissaries, unlike archdeacons' courts, were not necessarily bound to a particular archdeaconry, and their number and commissions could vary to meet perceived problems. The bishop of Lincoln normally had six commissaries in his diocese, even though there were eight archdeaconries. But he was


\textsuperscript{36}LP. ix,no.712

\textsuperscript{37}Letters of Richard Fox.op.cit.,p.151; LP. iv,no.3815; The register of Richard Fox.op.cit., pp.xlix-1

\textsuperscript{38}It would be hazardous and most probably incorrect to see these disputes as being as fierce as they seem to have been on the continent, cf.Thompson, The English Clergy.op.cit.,p.60; Morris, "The Court of the Commissary of the Bishop of Lincoln." op.cit., p.52

\textsuperscript{39}ibid.,p.10; here he refers to the different rights of the commissaries of Bedford and London
free to change this arrangement as he saw fit. Archdeacons' courts did not have this flexibility.

The boundary of the archdeaconry might therefore pose problems. In 1522, a cleric named Winston was cited to appear before the Official of the Archdeacon of Hereford for fathering a child, but the case failed because the offence was committed on the other side of the Severn and so outside the jurisdiction of the archdeacon.40 In a case in 1537 there was some uncertainty about who had jurisdiction over a case. Margaret Wyllyngton was summoned before the Official of the Archdeacon of Leicester and claimed that she had already been cited to appear before the commissary of Northampton, and she produced letters testimonial as evidence.41

Nevertheless, the archdeacon was also an ordinary, and as such his jurisdiction was beyond the interference of the bishop unless inhibited during a visitation or the lower court had acted in derogation of episcopal authority. While commissaries could be granted jurisdiction over matters not triable by archdeacons, say over some matrimonial disputes, there were rights of parochial supervision which were the sole preserve of the archdeacon's court.

At times the divisions between episcopal commissaries and their archdiocesan counterparts were strictly observed. In London in 1497, Thomas Williams, Rector of St.Andrew's, "Baynardes Castell", was cited for taking diverse causes from the commissary court to that of the archdeacon "in prejudicium sui diocesani." In the following year Maurice Johnson, a curate, was prosecuted for the same offence.42 For the most part however, this arrangement was outmoded. Several moves were made against the overlapping of jurisdictions, which, by 1500, was increasingly being

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40 G.Baskerville, "Elections to Convocation in the Diocese of Gloucester under Bishop Hooper." *EHR.* 44,1929. p.6
41 Leic.AO,1D41/13/2,fo.19v
replaced either by the amalgamation of the courts under the archdeacon's Official, or the division of responsibilities between the two courts. Amalgamation had clearly taken place at Buckingham, Norwich, Leicester, Chichester, and Surrey by the early part of the sixteenth century.\textsuperscript{43} It may also have occurred at Sudbury and in at least some of the archdeaconries in the diocese of Exeter.\textsuperscript{44} No doubt there were other arrangements of this sort, about which we know nothing. In effect though amalgamation did not enhance the archdeacons' courts jurisdiction greatly because rarely were commissaries granted powers much more extensive than archdeacons' Officials.

One of the greatest features of amalgamation, however, was that it allowed continuity when senior officials died. If the bishop died the commissary's commission ceased, but court sessions could continue under the archdeacon's commission, and vice versa. By January 1521 John Haget was commissary and Official in the archdeaconry of Buckingham. He was acting in these roles from 9 January until 5 February. The news of the death of bishop Atwater must have reached him by 7 February, because on that day he dropped the title of commissary and acted as the Official of the archdeacon only.\textsuperscript{45}

Some of these arrangements in particular jurisdictions were distinctive and idiosyncratic. In the diocese of Canterbury the archbishop's consistory court, which in reality was far closer in nature to being a commissary court, co-existed with the archdeacon's court. The consistory had jurisdiction over twenty eight parishes exempt


\textsuperscript{45} The Courts of the Archdeaconry of Buckingham.op.cit.,pp.322,326,333-6,338-43,344
from the jurisdiction of the archdeacon, and there was no appeal from the archdeacon's
court to the consistory.46 The archdeacon's tribunal heard matters from the rest of the
diocese except for certain peculiar jurisdictions. It is true that in 1538 archdeacon
Cranmer visited the parish of St. Alphege, one of the exempt parishes, but at the time
there was no commissary, and this may have been done at the behest of the prelate
through a special licence.47 The archdeacon's court also needed help at times. In both
1524 and 1529 the commissary appears as a temporary judge for the absent Official.48
The rigid delineation of jurisdictional boundaries between the two courts was
maintained even when they had the same judge in Robert Colens (1524-39,1554-57)
and Christopher Nevinson (1539-51). A stranger example of compromise survives
from Essex in Elizabeth's reign, where the archdeacon dealt with prosecutions and the
commissary with most of the instance business.49 The maintenance of divisions of this
sort, however, was, in the sixteenth century, the exception rather than the rule.

Finally within the court system there were the peculiar jurisdictions. Roughly
speaking, there were three varieties of peculiars. There were those exempt from
archidiaconal jurisdiction alone, those subject to the archbishop of the province alone,
and those free from all interference within England, and subject to the Pope only.50 In
each case a deputy exercised the right of jurisdiction of the court in question.

46 Churchill, Canterbury Administration. i,pp.39; in the Middle Ages the number of
parishes in this category fluctuated, see Archdeacon Harpsfield's
Visitation.op.cit.,p.261 note, and CCL,Z/3/8, passim for commissary court visitations
1560-65
47 CCL,Z/3/5,fo.4; Cf.A.Hussey, "Visitations of the archdeaconry of Canterbury
[c.1560-1712]". AC. 25,1901 p.42; a similar case survives from 1562 when the
archdeacon visited Reculver
48 KAO,PRC3/5,fo.100; PRC3/6,fo.118v; on occasions the Chancellors at Lincoln
also sat as judges in the archdeacon's court, apparently filling the breach while the
Official was away
49 J.P. Anglin, The Court of the Archdeacon of Essex, 1571-1609: An Institutional and
Social Study. (California Univ.,Ph.D.,1965) p.115
50 C.E. Welch, The Administration of Ecclesiastical Courts in the Province of
Canterbury During the Later Middle Ages. (Liverpool Univ.,M.A.,1953) p.214; there
was at least one peculiar subject to an archdeacon but not the diocesan, but this was
most unusual
Nomenclature varied, but these men were often referred to as deans. Where however a jurisdiction was large enough, it might be referred to as an archdeaconry, the court's principal being the archdeacon. This was the case with the monastic peculiars of Glastonbury, St. Albans, Westminster and Bury St. Edmunds. This did not necessarily guarantee exemption from the episcopacy. The abbot of Glastonbury was in some ways still subject to his diocesan.

The most junior peculiars, those exempt from archidiaconal jurisdiction but subject to their bishop's control, appeared during the latter stages of the middle ages. In most cases they were grants made by bishops to particular incumbents for some sort of service, or to collegiate churches erected by bishops to augment their level of patronage. The colleges of Wingham in Kent, and Newark in Leicestershire fall into this category.

In some cases bishops could only intervene and override these jurisdictions at the time of the episcopal visitation. This was most commonly the case with the jurisdiction of cathedral chapters. The rather extraordinary and complicated nature of many of these jurisdictions is exemplified by that of the Dean and Chapter of York. Its parishes were scattered throughout the diocese. In thirty five parishes, the dean and chapter had full peculiar rights, and were only answerable to the archbishop, during visitations, and the pope. In sixty five parishes and chapelleries, two archdeacons, the precentor, the chancellor, the sub-dean, the succentor, and the canons, had their respective prebendal rights of summary correction of ecclesiastical offenders, and the probate jurisdiction over uncontested wills and administration. All litigation was conducted in the Dean and

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53 Lander, "Church Courts and the Reformation: Chichester." op.cit., p.217
Chapter's court. The courts were therefore of two sorts, which were the centralized *curia audiencie* of the Dean and Chapter, and the *capitulum*, which was held by the other dignitaries.

There were then those courts subject to the archbishop alone, known as the immediate jurisdictions. In the southern province these were concentrated in the southwest, in Sussex, Surrey, and Kent. This included the deanery of Shoreham, which took up sixteen parishes within the boundaries of the small diocese of Rochester. Here again, little is known about the early history of many of these jurisdictions. In all cases, however, it seems that claims of exemption from the jurisdiction of the bishop, within whose diocese these jurisdictions lay, was based on the fact that the lands had been in the possession of the Church of Canterbury. Thus, because they were the archbishop's lands, they possessed metropolitan status ergo exemption. The grouping of these jurisdictions into the deaneries of immediate jurisdiction was complete by the end of the thirteenth century.

Finally, there were the jurisdictions exempt from all interference. An example of these is the court of the Archdeacon of St. Albans. This particular court had a long record of defences against the attempted encroachments of other courts. The abbey's position as an extra-diocesan archdeaconry, by the sixteenth century, was secure enough for bishops to make special efforts to avoid upsetting the abbey. It had successfully
2: A Legal Structure

divorced itself from the diocese of Lincoln in the twelfth century. Through a series of appeals to Rome in the fifteenth century it ably defended its autonomy. Even the Archbishop of Canterbury and the court of Arches suffered losses at Rome at the hands of the Benedictine House. It was only under cover of two papal bulls relating to exempt houses that Archbishop Morton was able to issue a monition to the abbot to reform matters within the monastery within a month. Failure to do so was on pain of visitation. Ironically the peculiar may not have had objections to some cases going to London on appeal if the matter did not concern the rights of the House. In January 1530 a defamation action between Edmund Barton and John Roose was taken to the court of Arches.

Internal Pressures and Change.

This changing status of the commissary courts, and their amalgamation with archdeacons' courts indicates that the church courts were still capable of adapting and streamlining their activities where there was no clear threat to vested interests. The early phases of the sixteenth century were in fact years which witnessed a series of changes which affected the working of the ecclesiastical courts, and in some cases this created some tension. Even bishops' rights were not immune from challenges. There were several confrontations between the Archbishops of Canterbury and their bishops.

One of the causes of such confrontations lay in a desire by archbishops, and/or their officials, to establish a pre-eminent judicial role in almost all areas of jurisdiction. The

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60 BL, Harley, 43 A26; H. Chauncy, The Historical Antiquities of Hertfordshire. (London, 1700) pp. 434-8
61 C. E. Hodge, "Cases from a Fifteenth Century Archdeacon's Court." Law Quarterly Review. 49, 1933, pp. 268, 273-74; Chauncey, op. cit., p. 449
63 HRO, ASA 7/2, fo. 58v
Archbishops of Canterbury's claim that the Prerogative Court of Canterbury could exercise testamentary jurisdiction over estates of value from any diocese in the province was a major bone of contention. This was a recent innovation in favour of the archbishop dating from the late fifteenth century. This and other disputes were concluded by parties resorting to Rome. A similar, though somewhat later dispute took place in Elizabeth's reign in York. Due to the increasing pressures of business, Richard Percy, Chancellor of the diocese, attempted to revive and even augment the authority of the Exchequer court in the face of rival courts' claims. In fact, Percy was successful, ultimately because he could claim precedent for this court acting in certain matters. The altercation was not quite so bitter, as the one described above. It does illustrate however, that even the courts of archbishops were attempting to clarify their place in the web of legal relationships.

In the short term, a more acute problem was caused by Wolsey's legatine court at Westminster and his probate court at York Place. The cardinal's activities successfully disturbed the murky waters of jurisdictional boundaries and proved to be yet another problem for Archbishop Warham, as Wolsey's legatine court drew matters to itself which belonged to the archbishop and bishops. It was not so much that Wolsey's court was illegal; it was effectively a papal court sitting away from Rome. The problem was that it upset the way all other courts interrelated by raising doubts about what might be considered the appropriate forum to hear certain types of cases.

64 see above and chapter five
66 Marchant, The Church Under the Law. pp.96-100
67 Strype, Memorials. i.i.p.109
Bishop Fox had a dispute with Bishop Sherburne around 1524. They had gone to Warham, but the matter was not resolved, and so they went to Wolsey. Of course the Archbishop of York was also a cardinal and legate *a latere*, but this would have been cold comfort for Warham. Wolsey himself threatened the Metropolitan with a writ of *praemunire* for having summoned the Convocation of the province. Apparently the threat was made on the grounds that Warham had denied that the royal consent was necessary before Convocation could be called.

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69 *Letters of Richard Fox*, op. cit., pp. 139-42

70 Pollard, *op. cit.*, p. 172; Wilkins, *Concilia*, iii, p. 660; see also H. Ellis, *Original Letters illustrative of English History*. (London, 1824-46) ii, ii, pp. 41-42; and see chapter five for Wolsey and testamentary matters
Too little evidence remains to indicate what effect Wolsey's court had on lower courts, but there was certainly one appeal to it from a case which originated in the court of the archdeacon of Leicester. A marginal note in the same court records that a clerk presented for immorality was cited before the cardinal's commissary. In a case in the court of the Archdeacon of Rochester, John Arnold of Gravesend protested against being tried in two church courts, claiming that he should be freed "from my Lorde cardynall corte and from my Lorde of Rochester corte." Another case at Rochester was called to the cardinal's court in 1523, without any explanation recorded in the court book. Clearly archdeacons' courts were not exempt from intervention by Wolsey's court. It is true that in many dioceses reforms were undertaken, but it would be wrong to associate Wolsey with this phenomenon. Just what impact his activities had is a moot point, but although he may not have had much direct impact upon the running of diocesan courts, he did create uncertainty about the ultimate source of authority, within England.

Suggestions about jurisdictional re-organization were not isolated but should be placed in a wider context. Mention has been made of diocesan reforms. From the early decades of the century efforts were being made to bring most forms of ecclesiastical jurisdiction within the orbit of ordinary diocesan administration. The most successful example in which the anomalies of a complex judicial system was re-structured comes from Chichester. Under Bishop Sherburne, the entanglement of various church courts was unravelled in order to facilitate a more efficient organization. By a process of intelligent selection of diocesan officials, re-organization of staffing, delicate negotiating, and some good luck, Sherburne was able to simplify the structure of church administration in his diocese. This included the amalgamation of his two diocesan courts.

71 Leic.AO,1D41/11/2,fo.21v-22v Conke c. Hurd; a defamation suit, August 1527
73 KAO,DRb/Pa7,fo.240v
74 KAO,DRb/Pa7,fo.243v
75 Houlbrooke, Church Courts. pp.10-1
commissary courts with those of the archdeacons.\textsuperscript{76}

The amalgamation of courts, as noted, was a technique widely applied. At points throughout the century, however, it may have given rise to bad feeling. In both 1514 and 1533, the Archbishop of York attempted to challenge sections of the composition made with the Archdeacon of Richmond, on each occasion without success.\textsuperscript{77} There are two examples of bishops interfering in the exercise of archidiaconal jurisdiction. In April 1564 the Archdeacon of Norwich’s jurisdiction over testamentary matters was inhibited by his bishop.\textsuperscript{78} On the whole however, the streamlining of arrangements was accepted without turmoil, and with an air of co-operation. At Rochester the bishop’s control was increased during the Reformation period. Like Carlisle, Rochester was very small; it only contained ninety one parishes, not including the deanery of Shoreham, which was an archiepiscopal peculiar. In that diocese the archdeacon’s authority was exercised co-terminously with the bishop.\textsuperscript{79} There are four surviving act books covering the years 1518 to 1535. The first of these, for 1518-1523, is specifically and solely referred to as belonging to the court of archdeacon. The visitation book, such as it is, also claims the right of jurisdiction of the archdeacon. The remaining two books for 1524-35 however, usually refer to the court as that of the consistory and the judge is most commonly, although not always, styled as the Official of the bishop, rather than of the archdeacon. No composition survives, and certainly no traces of a dispute, but the return of the bishop in 1563, to an inquiry into the state of the diocese is informative. It recorded that ”The regyment of the diocese of Rochester belongeth to the bishop only, and the archdeacon hath no jurisdiction, but

\textsuperscript{76} Lander, "Church Courts and Reformation." \textit{op.cit.}, pp.219-21  
\textsuperscript{77} \textit{LP.} vi, no.1440,1441,1451; Haigh, \textit{Reformation and Resistance}. p.5  
\textsuperscript{78} Strype, \textit{Memorials}. iii,i,p.439  
\textsuperscript{79} \textit{Registrum Roffense}. ed. J.Thorpe (London,1769) pp.39-40,58,130-31; this arrangement followed considerable turmoil in the Middle Ages. At one point the archdeacon was even challenging for the \textit{sede vacante} jurisdiction of Canterbury, see \textit{ibid.},p.60.
only when he visiteth.\textsuperscript{80} There was a clear shift in favour of the bishop between 1520 and 1563. The process may have commenced in the 1520s. The nomenclature changed, but not the court personnel; nor is there a break in the records, or in the types of cases heard. It was simply a question of the source of authority.

Another feature of attempts to streamline ecclesiastical administration centred on the status of peculiar or exempt jurisdictions.\textsuperscript{81} It seems that the number of peculiar jurisdictions began to decline well before the sixteenth century and that only the hardiest had survived.\textsuperscript{82} Attempts to reduce their number were therefore far from new, but efforts may have become more concerted. Wolsey's intentions here, at least, were similar to those of the bishops, and he set about removing the jurisdictional privileges enjoyed by many of these monasteries. One of his first actions was to reduce the extensive liberties of Westminster Abbey as a sanctuary for criminals.\textsuperscript{83} It took the dissolution however to bring about widespread changes in this area.

There were other peculiars whose autonomy other judges set out to remove, throughout the period of the Reformation. Wingham College in Kent was under siege by the archdeacons of Canterbury from at least 1509\textsuperscript{84} and the position of the Provost of the collegiate church remained in the hands of the archdeacon from 1520 until its dissolution in 1547.\textsuperscript{85} It seems that, despite resistance, South Elham deanery in Suffolk was being visited by the archdeacon by 1540.\textsuperscript{86} In Shropshire too these

\textsuperscript{80} VCH,Kent. ii.p.84 By that time the Official of the archdeacon was also the vicar-general of the diocese, see KAO,DRa/Vb4,3rd series,fo.12-3ff.; it was not unusual for archdeacons to be vicar-generals, but it was for their Officials.\textsuperscript{81} see glossary\textsuperscript{82} Woodcock, \textit{Medieval Ecclesiastical Courts}. pp.23-5\textsuperscript{83} Pollard, \textit{op.cit.}.p.172\textsuperscript{84} Woodcock, \textit{Medieval Ecclesiastical Courts}. p.25\textsuperscript{85} KAO,PRC 33/1,\textit{passim}\textsuperscript{86} V.B.Redstone,"South Elham Deanery." \textit{Proceedings of the Suffolk Institute of Archaeology}.14,1910-12.p.326
jurisdictions were declining in power throughout the sixteenth century and so allowing the archdeacons' courts to intervene.87

These changes were not solely due to the reforming initiatives of bishops. No doubt archdeacons were keen to extend their authority, or at least, the authority of their courts. There had been a dispute between the Archdeacons of Gloucester and Hereford, each claiming jurisdiction in the deanery of Forest. The matter was only resolved when an order of the Council stipulated that the jurisdiction be effectively split between the bishops (not the archdeacons) of the two dioceses who should each exercise jurisdiction for six months of every year. This arrangement lasted until 1836.88

Nevertheless, for most people who did live in peculiar jurisdictions the archdeacons' courts' officials may have been in a position to provide greater expertise and a more satisfactory way of meting out justice than was available in the local court.89 In fact where the privileges of peculiars lost ground it may have been due more to the indifference of local folk to privilege than to the attacks of outside jurisdictions.90 During the course of the royal visitation of York diocese in 1547, the visitors severely criticised the peculiar tribunals, particularly in the way they handled testamentary matters, claiming that many of them were inefficient. They were ordered to comply with certain regulations before being allowed to continue working.91

Finally, the status of archdeaconry courts was presumably enhanced if amalgamation had occurred, and the line of authority may have been enough to discourage the peculiars from resisting challenges. The visitations of the Archdeacon of Lincoln in the

87 VCH Shropshire. ii, pp. 6-8
88 Le Neve, Hardy. i, p. 436 and note
89 e.g. CCL, Y/4/4, fo. 14; Y/4/6, fo. 75; in which people from exempt jurisdictions were pursuing matters in court which could have been taken to the local peculiar
90 Thompson, The English Clergy. op. cit., pp. 56-7
1530s, when records survive, used Sleaford, in the rural deanery of Lafford, and Caistor in the rural deanery of Yarborough, as bases during the annual journey. Each was conveniently located within its respective deanery. They were also peculiar jurisdictions. For these incursions to be allowed the practice would need the consent of both the bishop and the chapter of the cathedral. In this case there was no problem, perhaps because of the personnel's close ties with both.92

At points this co-operation manifests itself in other ways. The bishop of Lincoln for instance sometimes referred detections found in visitations back to the lower courts.93 In one case several men had already appeared before the Chancellor at Lincoln before being sent back to Leicester to appear before the archdeacon's Official.94

Nevertheless, archdeacons' courts were hamstrung by the limits of their own power. Their claims to usurp the rights of a peculiar would have to receive the support, tacit or explicit, of the diocesan. Even then success was not inevitable; bishops were not all powerful. When the bishop of Lincoln challenged the abbots of Ramsey and Peterborough over jurisdictional rights in 1501, the latter made it clear that they acceded to the diocesan as a favour, in no way admitting any error on their part.95

Where archdeacons' courts attempted to extend their authority in the face of episcopal policy, there was little chance of success. The pattern though is not consistent and far from one way. In Leicestershire there was a curious development. By Elizabeth's reign, it appears that the archdeacon's court was in a position to hold courts within the peculiars of St.Margaret's Leicester, Newtown Linfold, and Evington. It also prosecuted individuals of other jurisdictions, giving the impression that the archdeacon's authority was increasing.96 More probably it was growing in some ways

92 see maps 5 and 7, and on the personnel, chapter four and appendix two
93 e.g. Leic.AO,1D41/13/2,fo.63 O. c. Brown (1540)
94 Leic.AO,1D41/11/3,fo.56v
95 LRO,Reg.24,fo.179v; Bowker,Secular Clergy. p.7; the Abbot of Peterborough even sought legal costs from the bishop
and losing in others. In 1518 the Grey family claimed that it held a peculiar because it had a compact set of manors. Despite the apparent weakness of this argument, the claim was respected by the bishop.97 The archdeacon's court was again admonished in 1522, because it had attempted to hear a testamentary matter belonging to the Prior of Launde's jurisdiction.98 At Buckingham in the same year an attempt was made to hear a cause pertaining to the prebendal peculiar of Aylesbury. It was not successful.99 In these cases the peculiar's claim took precedence over the ambitions or objections of the archdeacon.

The only major jurisdictional dispute which tested the relations of an archdeacon with his diocesan in the sixteenth century, through the former's ambitions, was in the diocese of York in Elizabeth's reign. There had been strife between Bishop Longland of Lincoln and Richard Layton, Archdeacon of Buckingham in 1537, and Bishop Ponet and Archdeacon Philpot at Winchester in Edward's reign, but these centred on payments due to the diocesan and were in no way related to ecclesiastical jurisdiction.100 There was a disturbance between John Lowth, archdeacon of Nottingham, and Archbishop Edmund Grindal, which was different in character from these cases because jurisdictional rights were involved. No doubt the bitterness of the encounter was fuelled by Lowth's headstrong and provocative behaviour. There were a number of issues pertinent to the conflict, but it included the question of the archdeacon's right to issue orders for sequestrations and marriage licences.101 Upon

97 Welch, op.cit., p.214; Visitations in the Diocese of Lincoln, 1517-31, vol.i. ed. A.H. Thompson (Lincoln Record Society, 33, 1940) p.xlii,19; in the deanery of Guthlaxton. This manorial peculiar existed into the nineteenth century
98 Leic.AO,1D41/12/1,fo.80v
100 LP. xii(ii),no.780; Strype, Memorials. i,i,pp.444-45; i,ii,pp.275-78; Bowker, Henrician Reformation. pp.80-81; Houlbrooke, Church Courts. p.31
101 Marchant, The Church Under the Law. pp.150-56
Grindal's translation to Canterbury a compromise was reached, and the archdeacon's encroachments were sanctioned by the new diocesan chancellor.

On balance though, the ecclesiastical court system was marked by sensible reforms, and diocesan structures were thus being simplified. Certainly archdeacons' courts were not, on the whole, handicapped by such changes. Thus the archdeacons' courts did not act in such a way as to ignore or disregard the episcopal courts. On the contrary, there was an air of co-operation rather than rivalry. It did not pay lower courts to be recalcitrant or aggressive. They knew that if he so desired, the bishop, or his officials could stifle archidiaconal ambitions, and at the same time use his commissaries quite independently of archdeacons' courts, even granting special rights of visitation. The impression left from the first half of the sixteenth century was that judicial relationships were still fluid, although archdeacons' tribunals were, generally, very much under the control of episcopal officials.

External Pressures: The Reformation.

Like the Church in general, archidiaconal authority in this period was most clearly threatened by the Royal Supremacy. The unveiled threats of the Reformation Parliament, had profound effects. It brought with it, not simply a new titular head in the king, but material expression of his power. For the internal system of the church, the most obvious change was the creation of the court of Delegates (which was set up by the "Act in Restraint of Appeals," so that the final court of appeal was now to the king in Chancery and Cromwell's vice-gerent's court.

The contact between the former and archdeaconry courts appears to have been limited, and the records reveal little contact at this level. The other formalised structure

103 25 Henry VIII, c. 10
was Cromwell's vice-gerent's court, which existed from 1536 until the time of his
death in 1540. It was responsible for granting probate, and may well have touched
upon the Archbishop of Canterbury's Prerogative. At the time that jurisdiction was
returned to archdeacons following the royal inhibition, the latter were limited to proving
estates of less than one hundred pounds sterling. In a case at Chester in the late 1530s,
an estate was valued at over two hundred and forty pounds, and it was necessary to
have a "juresperiti concilium."

During the course of these years, this court, or at
least its commissaries, granted probate in parts of rural England, including Lincoln and
Bristol. Sir William Petre appeared at Canterbury to prove a testament, and this
sort of intervention in archidiaconal activity probably occurred at other places.

Other indications of change which directly affected the operation of the church
courts, including those of the archdeacons, were the Metropolitan Visitation (1534) and
Royal Inhibitions to ecclesiastical authority which were probably not expected.
Although complete details about them are unavailable, these visitations were clearly
intended to intimidate prelates.

The Archbishop of Canterbury's visitation was not without precedent. Nevertheless,
it may have been something of a surprise when, early in 1535, the court of the
Archdeacon of Lincoln noted the correction of William Randall and Elizabeth Jackson.
They had apparently been brought before Richard Gwent, who was the archbishop's
visitor several months before this, and so letters of correction were dispatched by
Gwent on the archbishop's behalf. This was perhaps regarded as a sign of
increased control from the centre.

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104 BL, Harley 2179, unfo. section
105 Kitching, op. cit., p. 105
106 KAO, PRC 17/21, fo. 161
107 1536-7, 1547, 1559. See for an inhibition KAO, DRa/Vb4, 2nd series, fo. 131-2;
    DRC/R7, fo. 183-84
108 LRO, Vij/1, fo. 37; Bowker, The Henrician Reformation, pp. 74-5; refers to Gwent's
    visitation of the cathedral and illustrates Bishop Longland's discomfort
More important in this respect, however, were the royal visitations. Royal visitors in 1536 effectively exhibited the power of the king by directly intervening in the workings of some courts, including those of the archdeacons. Dr John London at least was prepared to do so. While travelling on his northward route from London in 1537 he appeared as judge during the visitation of the Archdeacon of Lincoln at the end of February.\footnote{LAO,Vij/1,fo.43} Shortly afterwards, in March, he appeared as Cromwell's deputy in the courts of the Archdeacons of Leicester then Northampton.\footnote{NRO,Arch.l,fo.15; Leic.AO,1D41/13/2,fo.2} He then sat as judge at least twice in the court of the Archdeacon of St.Albans on 28 and 31 July 1537.\footnote{HRO,ASA7/1,fo.80v,81;7/2,fo.118v} Although evidence is piecemeal, royal visitors in 1547 were prepared to prosecute an individual in the Northampton archdeaconry, and the intervention of royal visitors in other places was just as likely.\footnote{NRO,Arch.III,fo.57v O. c. Wyche; the offence is not recorded}

By intervening in these ways the commissioners were capable of demonstrating the potential threat to the system posed by the changes of the day. Even the episcopal bench had to succumb to the king's authority. Bearing this in mind, Bishop Longland wrote to Henry VIII in 1535, at the time of the royal inhibition of ecclesiastical authority, pleading that it be lifted, not only for his own authority, but also for Richard Pate, archdeacon of Lincoln. He continued by saying that Pate was one of the king's diplomats, working overseas, and so asked that they "Lycence his [Pate's] offycers to visyte his archdeaconry Els shall he lacke money to serve the kynge where he is."\footnote{Bowker, The Henrician Reformation. p.77} In a similar letter to Paget in 1547, Bishop Gardiner argued that the royal inhibition on archdeacons at that time should be lifted so that they could pay the crown their tenths.\footnote{The Letters of Stephen Gardiner.op.cit.,p.269} In both letters the bishops were careful to point out that it was for the king's benefit that archdeacons' jurisdictional powers be returned.
The intention of King Henry VIII was to invest authority in himself via proclamations, to replace the Pope, as the final court of appeal, with the king in Chancery, and control the future of the Church via statute law. Nevertheless, the king's actions were not designed to overthrow the system, rather, to bring it under the aegis of his authority. That the 1530s was an uncertain period is reflected not only in apparently short term goals of the government, and the king's failure to change the law, but also in the catastrophic decline in business within all diocesan tribunals, episcopal and archidiaconal. It was an unparalleled time of trouble which dramatically affected archdeacons' courts for decades.\(^{115}\) Half hearted attempts were made by Henry VIII, Edward VI and Elizabeth to re-codify the canon law in terms more acceptable to the royal prerogative by constituting bodies responsible for redrafting the law. None of these efforts however, were finally realised and sanctioned by law.\(^ {116}\)

It could be argued that the dissolution at least, cleared away some of the more awkward peculiars. In some cases this was not the reality. Often it was in the interests of new owners to maintain the judicial rights of dissolved monasteries. The new lay owners of Selby abbey keenly maintained the peculiar's rights although they were now divided into two parts of Selby and Snaith. The lay owner of the Treasurship of York Minster also maintained the peculiar rights after the dissolution.\(^ {117}\)

In other places there was confusion about what was to be done with jurisdictions. The abbey of St.Albans is an outstanding example of this. At the dissolution the court of the archdeacon remained intact and was allowed to continue to function, but it was not until 1544 that William East, the archdeacon, was officially recognised as holding the position, despite the fact that in an act book in 1537 his predecessor was said to be acting via the king's authority.\(^ {118}\) There was talk of using the abbey to found a new

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115 see chapter eight
116 see chapter three
118 LP. xix(i),no.1036 (p.643); HRO,ASA7/2,fo.116,116v
diocese but this was not done and the jurisdiction remained in a jurisdictional vacuum. As late as 1548 members of the Privy Council were still unsure what to do, despite the fact that officials had already been appointed "for the Jurisdiction of Saint Albones and Burie." The peculiar of St. Albans was finally made the fifth archdeaconry of London in 1550. Strangely, it is still referred to as a liberty in the 1550s and neither Bishop Bonner's nor Bishop Ridley's registers provide any clue to its new status. The archdeacons were not called upon to do anything in the diocese, and were not even summoned to attend Convocation. This meant that the archdeacons were possibly not members of that body during this time. Apart from this, in the years 1539-50, this court acted as a jurisdictional anachronism without any ecclesiastical links whatsoever, papal or diocesan. Rather than simplifying matters, the dissolution made some jurisdictional points more obscure - a result caused by insufficient forethought.

The other structural change of considerable moment was the re-organization of dioceses, which included the creation of six new sees between 1540 and 1542. In most cases the endowments of cathedrals were sufficient for the new bishops to set up normal diocesan administration, and most were able to operate as they had done before 1540. In other cases, such as Oxford, the compact size of the diocese and the

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119 LP. xiv(ii), no.429-30; Burnett, op.cit., i, pp.192-3
120 PRO, SP10/4/57 My thanks go to Sybil Jack for this reference
121 Foedera. vi, iii, pp.186-88; CPR, Edward VI. iii, p.171; this latter document stated that exempt monasteries were now to accede to the bishop in whose diocese they stood. St. Albans had always been regarded as being within the diocese of Lincoln, so that matters were not always clear cut
123 Peterborough, Oxford, Chester, Gloucester, Bristol and Westminster, which was abolished in 1550
124 Peterborough Local Administration. The foundation of Peterborough cathedral, A.D. 1541. ed. W. T. Mellows (Northamptonshire Record Society, 13, 1941) pp.33, 38; NRO, Arch. II, passim. It is interesting to note that in the early years of the diocese of Peterborough, the court of the Archdeacon of Northampton changed its name and referred to itself as the court of the Archdeacon of Peterborough. For changes to the monastic chapters in some cathedrals after the dissolution see The Statutes of the Cathedral Church of Durham. ed. J. M. Falkner (Surtees Society, 143, 1929) pp. xxxi-xxxvi, xxxix; for new statutes under Elizabeth see ibid., p. liff.
proximity of the diocesan made closer administrative organization more sensible. Thus, like the Archdeacons of Lincoln's and Rochester's courts, the relationship of archidiaconal and episcopal personnel was now much closer.\(^{125}\) In some quarters, however, the changes created some uncertainty about the future of certain archdeacons' courts.

An important exception to this was the new diocese of Chester. It contained the two archdeaconries of Richmond and Chester. Both of these powerful archdeaconries were surrendered to the king in August 1541. They were then united as part of the new diocese by royal letters patent.\(^{126}\) At the foundation of the see the authority of the two archdeacons was lost and vested in the bishop who could then nominate them and determine the extent of their authority. He was only obliged to pay them a salary of fifty pounds \textit{per annum}.\(^{127}\) It is unlikely that Bird wished to see them possess the same authority as hitherto. In any case, the endowment of the new diocese was very poor. The archdeacons' stipends would themselves have accounted for almost a quarter of the episcopal income. Bird therefore decided not to appoint archdeacons and he conferred on rural deans the right to hear cases of first instance.\(^{128}\) It was well over a decade before archdeacons re-appeared in these jurisdictions, and even then with greatly reduced authority.

Where the Chester case is extreme, it nevertheless points to a real extension of episcopal powers which could be seen as impinging on archidiaconal autonomy. The diocesan re-organization of 1541 co-existed with some reforms in the ordinary business of diocesan administration. It foreshadowed the initiatives in church government which followed in the years after Elizabeth's accession.

\(^{126}\) \textit{Foedera. xiv, pp. 717-24}
\(^{127}\) \textit{ibid., xiv, p. 720}
\(^{128}\) W. Dansey, \textit{Horae Decanicae Rurales.} (London, 1835) ii, pp. 369-71 for a copy of the commission for one of the rural deans in 1551
A strange example of this was the temporary abolition of the archdeaconry of Wells which had been held by Polydore Vergil since the beginning of the century. It seems that Vergil resigned the office to the king on 26 December 1546. The king then granted the "late" archdeaconry of Wells to Somerset on 9 July 1547. In that same year the archdeaconry was abolished by statute, but despite this Vergil is still styled archdeacon of Wells. The archdeaconry was refounded under Mary via a licence from the king and queen to bishop Bourne on 10 May 1556. There is some uncertainty about what ecclesiastical jurisdiction was exercised during this break, but clearly archidiaconal authority had disappeared.

Conclusion.

Though the most junior form of ecclesiastical tribunal, archdeacons' courts were not so inferior as to remain isolated from the provincial courts, nor identifiable only within a larger context of diocesan administration. They exhibited, it is true, different characteristics, one from the other, and in this is evidence of their own peculiar nature.

R.A. Marchant claims that although court structures still possessed a capacity to develop, by the time of the Reformation ecclesiastical jurisdictions had evolved and the scene was no longer under internal pressures. True though it is in some senses, this contention is fundamentally wrong. The system had not completed a form of legal evolution or become petrified. There were disputes, which were frequently instigated by the ambitions of ecclesiastics, but this shows as much as anything that court structures had not yet fossilised in the face of perceived needs. Clearly, Warham's
claims for Prerogative jurisdiction, and Wolsey's legatine court, each had an enormous impact upon the structure of courts. Wolsey's intrusions were perhaps more disruptive, and later attacks upon the Church may have been modelled on his court.

But there is nothing to suggest that church courts, specifically those of archdeacons, were greatly troubled by these disputes. Instead, the years before and after 1529 reveal that within dioceses the structure of the courts was being simplified. The Reformation certainly increased the pressures brought to bear on the church in general, and the imposition of the Supremacy drastically affected the interaction of tribunals, as well as the source of authority. The impact of the Reformation, however, was to undermine this in several ways, because royal intervention was new and according to statute law, technically not limited. The Supremacy created a general and quite deliberate degree of uncertainty among court officials. In other cases, as with the dissolution, and the creation of new dioceses, there were particular, and no doubt unforeseen, difficulties. In this way, the structure of the church courts was apparently at risk. The second consequence was that the church courts and ecclesiastical law were placed in an awkward position in their relations with competing systems of law.
CHAPTER THREE.
A Legal Structure II: Competing Systems of Law

While an overview of church courts is most important, so too is the place of the church courts as one of a number of legal systems in operation in sixteenth century England. The law by which the church courts operated made a difference to the archdeacons’ courts and it was this as much as anything which was under fire in the Reformation.

The challenges to canon law were forcefully put by the king and common lawyers, and the law of the church attracted considerable attention in this period. Scholars of our own day have failed to realize the significance of this, and the topic has received little original attention. It has been argued that the law of the church changed very little in the period extending from the time of Popes Boniface VIII and Clement V, until the sixteenth century,1 while R.A.Marchant has claimed that there was no alteration to the canon law itself until 1603, except in a few alterations wrought by statute.2

This omission is unwarranted, for the ecclesiastical law and its relations with other systems of law is central to the Reformation. The alterations, and attempted alterations to the law of the church, affected all courts including and perhaps especially those of the archdeacons, which in turn had a large, and until now, largely ignored, impact on social and legal practices. Mindful of the importance of such issues, R.J.Schoeck has stated that any study of Tudor history or political thought which fails to consider the theories and discussions of the canonists is not only incomplete, but fruitless.3

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2 Marchant, The Church Under the Law. pp.128-9,129 note
canon law was an important aspect of the English legal scene and by the sixteenth century it had clearly affected other systems of law operating concurrently.4

Competing Systems: Before the Reformation.

By the sixteenth century, England had a multiplicity of legal systems in the form of local courts, liberties, central secular courts, as well as the courts of the church. Given the haphazard nature in which these jurisdictions had developed, the relationship they shared was never really defined, and consequently there was some overlapping of jurisdiction.

Consequently, church courts were not the only courts that could be used in a number of cases. Wunderli has pointed out that in London before the Reformation, a prostitute could be charged in a church court for moral offences, and also in the city courts for the same offence.5 This did not change during the period of flux. In 1551 Richard Huise, a tailor living in Fleet Street, was presented to the court of aldermen for committing fornication with his own sister. They were found guilty and returned to the ward for public penance, which included being publicly displayed in a cart on three market days, with heads shone, and the crime proclaimed.6

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5 Wunderli,op.cit.,p.31
6 A Chronicle of England during the reigns of the Tudors from A.D.1485 to 1559 by Charles Wriothesley.ii ed. W.D.Hamilton (Camden Society,n.s.20,1877) pp.50-1
There are examples of cases being passed on to other courts. A suit at Leicester in the 1520s was remitted to a temporal judge.7 There was a case of defamation at St. Albans in the 1540s between Joan Bastwell and Joan Parkinson. The contest first took place in the mayoral court before it was transferred to the court of the archdeacon.8 But these were clearly the exceptions, and certainly not the rule. Where there were a number of courts interested in a matter, irrespective of the vocabulary used to describe it, there was a chance of a case being heard in a variety of tribunals at once - whether for litigation or prosecution.

If church courts, including those of archdeacons, were suffering at the hands of the other courts, it was not solely related to the Reformation crisis. The exact nature of interaction between archdeacons' courts, and local jurisdictions is, unfortunately, very difficult to assess, because there are insufficient documents which provide full information about a number of these courts working in the same jurisdictions at the same time. This is not quite the same with regard to the central secular courts. Here, there were already changes in the relations between jurisdictions, which took place irrespective of the Supremacy. Conventional wisdom would have it that by the beginning of the sixteenth century there were changes afoot, and that more matters were being decided in the central courts that would formerly have been resolved in inferior courts, including those of the church.9 This was particularly the case in King's Bench, which was enjoying something of a renaissance in the first decades of the century.10 Indeed St. German was drafting his *Doctor and Student* well over a decade before the Reformation Parliament sat.

The notion of ecclesiastical independence was being challenged by reminders that the church needed secular sanctions to be able to function properly. The outpouring of

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7 "Proceedings of an Ecclesiastical Court." *op.cit.*, p. 119
8 HRO, ASA 8/2, fo. 131-131v Bastwell c. Parkinson
10 *Reports of Sir John Spelman*, *op.cit.*, pp. 55-62
treatises pointed to the king's power in judicial terms and pointed to the courts' discretionary rights as well as to their central role within the polity. Some of these even set out to explore the clash of canon law, with common and statute law. It would be wrong however to view any clashes between the canon and common law as a "Reformation" phenomenon tied to the circumstances of the break with Rome, because their relationship was just as liable to re-definition, as relationships between various church courts. Further, it suited the interests of the central courts to exert greater authority over all local tribunals, not just those of the church. Thomas Starkey could point to the practice "commonly used" whereby the writs issued from London withdrew cases out of the shires, from the local secular tribunals. He noted that truth and justice suffered "at the hands of a procedural trick." Meanwhile St.German could argue that all things temporal belonged to the common law, and that this was capable of handling all matters of contention.

Even so, direct interruption of church court cases was uncommon. Churchmen of this period were well aware that the common lawyers of the realm possessed the capacity to challenge the courts spiritual via writs of prohibition. These writs had changed in form from the middle ages, from a method used to punish contempts of royal authority to a device used for determining questions of jurisdiction. The prohibition used in the sixteenth century could be in the form of a general or specific writ, tailored to meet the circumstances at hand. The writ was only issued by a secular court judge only after a libel of the case had been read by that judge. If granted, it was forwarded to the ecclesiastical judge who might halt the case, or continue mindful of serious reprimand. A separate hearing in a secular court then decided if the matter did or did not belong in the church court.

11 see notes 50-3
12 England in the time of Henry VIII. op.cit.,p.117
Alternatively, there could be a series of counter measures if the plaintiff in the church court resented the prohibition. He could challenge it by seeking a "consultation" from the chancellor or the chief justice. If this was successful it came in the form of a formal writ stating that the court spiritual was the appropriate tribunal for the matter to be heard. If a consultation was granted the defendant in the church court sought an "attachment", so that the plaintiff or judge could be investigated as to the actions which allegedly constituted activities which impinged upon the king's laws.

The problems posed by prohibitions dogged the church courts towards the end of the 1500s into the reign of James to an unprecedented level in which the spirituality and the commons fought a bitter battle of words and court actions. Yet at the archidiaconal and episcopal level in the earlier period c.1520-1558, there were few problems of this sort. Only five prohibitions brought into archdeacons' courts have been found. The first was issued at Oxford in May 1541 over the excommunication of Barker alias Taylor, in a testamentary cause. The second was introduced at Canterbury on 12 December in the course of a tithe action. The third appeared in a dispute at St.Albans in 1552/3 over an indenture drawn up at Maidstone in Kent in 1537. The court was displeased by the prohibition and sued a writ of attachment which was dispatched to the sheriff of Kent. The final sentence was recorded so it seems that the court won on this occasion. Finally there was one at Lincoln in 1544.

15 LRO,Cj/6,fo.110v
16 CCL,Y/4/5,fo.9v Howe c. Lyford
17 HRO,ASA 8/2,fo.192; the defendant was ordered to pay the plaintiff an annuity of four marks. A copy of the indenture was recorded in the act book. The scribe who drew up the original indenture was Thomas Percy, registrar in the Archdeacon of Canterbury's court
18 LRO,Cij/1,fo.220v Robynson c. Croke
The general contention is that prohibitions were few in number before Elizabeth's accession - indeed there may even have been reluctance on the part of justices to issue the writ.\textsuperscript{19} It was more likely to be granted in cases in which the church court had been overly provocative.\textsuperscript{20} Added to this, prohibitions were difficult to obtain for procedural reasons which effectively acted as a deterrent.\textsuperscript{21}

The decision to seek a prohibition is associated with the decision of the parties to utilise the courts while it suited their purposes. As noted, contemporaries were perfectly prepared to challenge a court's jurisdiction if this was worthwhile. Challenges of this sort certainly happened in archdeaconry courts.\textsuperscript{22} In a more serious matter from Mary's reign, Lawrence Saunders, Rector of Bread Street, was questioned by examiners of the Dean and Chapter of Canterbury, about his marital status. He was in the Marshalsea prison and replied that "I will not answer except [i.e.unless] I see you have a better commission and I think the lawe will not bynd me to answer [being held in this prison] to any such matters."\textsuperscript{23} What happened then is not stated, but he was deprived of his benefice at a later date. The legal point he made however was clear to contemporaries; that he had the right to challenge the jurisdictional competence of a court if he believed it was unsound, and the court's decision was likely to be unfavourable.

There were a number of ways, therefore, in which many courts might share an interest in a variety of suits and prosecutions. Clearly lawyers of many courts continued to cast a covetous eye over the work of other courts. This is just as true of church court as common lawyers. In the years before the Reformation it was the ecclesiastical courts, particularly archdeacons' courts, which heard a number of actions

\textsuperscript{19} Cf.Houlbrooke, \textit{Church Courts}. p.142
\textsuperscript{20} Inner Temple, Petyt 511/16,p.24
\textsuperscript{22} HRO,ASA 8/2,fo.27,32v,35v
\textsuperscript{23} W.H.Frere,\textit{op.cit.},p.66
which properly belonged in secular tribunals. Such rivalry was the norm in England. So far as the archdeacons' courts were concerned there is no sign that the secular law, of any kind, was making inroads into that jurisdiction before 1529. Certainly after that time, reductions in business were not in consequence of common law challenges via writs of prohibition.

**Competing Systems: Before the Reformation II.**

At the core of many arguments directed at the church courts during the Reformation was the argument that they represented a foreign and alien legal system. In essence then, what was the place of the church courts in England and how did they figure in the legal and political world of sixteenth century England? This is a matter which directly relates to the church courts, as opposed to other courts extant in England in this period. To a very large extent contemporary views on this have been confused by the legacy of historical debate. This debate was seen very much as a discussion of canon law and its place in the England.

As J.W.Gray has recently shown, this matter was a topic explored by Bishop Stubbs and F.W.Maitland. It was a contest which was due largely to the contemporary issues of the place of the church within the state in nineteenth century Britain. This is of central importance. The debate about alterations to the law of the realm of England in the sixteenth and seventeenth century is a nineteenth century legacy. It has been seen as common versus canon law, in a battle to secure national identity of a sort probably not envisaged in 1500. Nineteenth century assumptions were fostered by the religious upheavals following 1832. In its earliest and most virulent phases it was a struggle in popular religion between the Catholics and the Protestants of England. The roots of

24 see chapter seven for the full discussion
25 see chapter eight for details of falls in business
Victorian opposition to Catholicism lay in the revival of evangelicalism in the eighteenth century, at a time when the Catholics were gradually being freed from the constraints of prohibitive legislation. Clearly the pattern of confrontation varied and later in the century it was as much a conflict between Anglican attempts to preserve a certain identity, and secularist independence. High Churchmen were at pains to show that the English church had always been autonomous, even before the Reformation Parliament sat. The Stubbs/Maitland debate was symptomatic of this phenomenon. The discussion of canon law was used as a platform for ideological conflict. This in itself may not be new, but the topic's central contention has remained so well in place as to obscure the status of church courts and their law in England before the Reformation Parliament sat.

Of the time when Sir Thomas More practised in the courts of law it is simply not adequate to speak in terms of competing systems of law as though they were well integrated tribunals offering a well defined appellate system. Conflict between lawyers of the church should not always be portrayed, as Pollock and Maitland did, as a continuing form of warfare. R.Rodes has labelled it a tension between what he refers to as High Churchmanship versus Erastianism.

S.M.Jack has recently shown that the conflict of jurisdictions evident at the time was as much between different parts of secular courts as between the secular and ecclesiastical tribunals. This is not to say that the arguments adduced by common lawyers in the early sixteenth century were not important. These arguments did bring

27 Rodes,op.cit.,p.240
into focus the question of the canon law as it related to other legal norms. In that sense the debate is still quite instructive.

After becoming associated with Sir Robert Phillimore, Dean of the court of Arches, Stubbs no longer claimed that canon law had a binding force, arguing instead that the adoption of aspects of the canon law was a discretionary matter for the local church, used for its own good ordering and only as a matter of convenience. Maitland on the other hand came to the conclusion that the ecclesia Anglicana was fully integrated into the international and centralized system of canon law. It was a line of argument which ultimately drew concessions from Stubbs, and a proposition which has been dominant ever since.

Gray concentrates on the arguments of the thirteenth century over dispensations for plurality and clerical ordination. On some points it is quite evident that "formal adoption" of papal edicts did not amount to "actual reception." Though Maitland dismissed this as irrelevant to his main argument about papal sovereignty, it does sit rather uncomfortably with his picture of an effectively centralized canonical system. Maitland also failed to point out that the authority of papal judges delegate was useless where the consensus utentium was opposed to the enforcement of papal statutes, and actual reception depended largely upon the readiness of diocesan bishops to adopt new formulations.

Partly because papal influence in England was limited, Pope Nicholas appointed Pecham to Canterbury, thus placing the onus of reception on a provincial authority. This in itself was a political action which in some respects qualifies Maitland's thesis. The change in approach is spelt out by the changing view given to rights of

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29 Most of the following discussion on the debate is taken from J.W.Gray, "Canon Law in England: Some Reflections on the Stubbs-Maitland Controversy." Studies in Church History. 3 ed. G.J.Cuming (Leiden,1966) pp.48-68
dispensation. If there were "English" canonists, they were being displaced by the fourteenth century. The mid-thirteenth century decretalists held that bishops might override the explicit ruling of the Lateran decree, and John of Ayton, writing early in the next century, recorded that this doctrine was now obsolete. Still, it should also be granted that Pecham and his successors modified papal pronouncement and even the Vatican had to re-adjust its thinking on certain issues. The overall conclusion from this is that a more satisfactory understanding of the relationship lies somewhere between the Phillimore/Stubbs and Maitland views.

Above all, it is critical to remember that the church depended upon the state as the means of final sanction against the contumacious, which was a discretionary power of the crown and a fact which implicitly questioned the ultimate authority of the *ius commune*. It was the crown which was the most critical element affording the Church its ultimate power, as opposed to its independence. This applied equally with other courts. Appeals did not follow as of course from one court to another, but writs were always available to withdraw a case to a more appropriate tribunal - a right shared by all courts, suitors, and defendants. As in any thing the major barrier was funding.

To a limited extent modification of Maitland's thesis can be illustrated by some matters of local custom which differed from the law operating on the continent. One lawyer in the 1530s for example, noted that certain money matters heard in church courts were temporal matters according to Roman Law. It was certainly a peculiarity

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32 This was something not lost upon common lawyers later in the sixteenth century who brought this matter up in treatises, e.g.Inner Temple, Petyt 511/16,pp.18-9; Helmholz, *Canon Law*,op.cit.,pp.6-8 demonstrates that this was a complex matter which, in fact, did not always favour the crown

33 PRO,SP 1/99,fo.231 (LP. ix,no.1071); Elton, *Reform and Renewal* pp.134-5; in which the author nominates Sir William Petre as the likely speaker. He includes tithe matters in this field but there is more doubt about this. It had been, and again soon became, a major area of dispute with the common lawyers
of the English courts to have jurisdiction over testamentary matters, a privilege noted by Lyndwood himself.34 Other idiosyncracies are apparent in the custom that the Sarum usage rather than the Metropolitan usage was the normal order of service, and that the responsibilities for the reparation of church buildings was divided between the parishioners and the clergy.35 Moreover, some of these areas of customary jurisdiction were the subjects of prolonged and acrimonious debate which were re-vitalised in the sixteenth century.36 Thus the church law constituted a system with local variations, rather than being a centralized structure.

This argument does not question the centralized flavour of the canon law, but simply points to the variations permissible within the system. These peculiarities are not challenges to the idea of canon law, but rather, extensions of its application. Although not sanctioned necessarily by all sectors of the legal world, they were practices which received some legitimacy from customary use.37 Furthermore, there are very real reasons for concluding that there was sufficient interaction between the systems of canon and common law for both to benefit.38 In these terms it is then far more understandable to accept that papal and royal arms should appear together on documents, even those drawn up by archdeacons' registrars.39 Or indeed that king Henry was prepared to appear as a defendant before two cardinals of the church in answer to charges that his marriage to the queen was unlawful.

34 Lyndwood's Provinciale. p.165; Inner Temple, Petyt 511/16, p.6
35 Lyndwood's Provinciale. pp.105-6,165
36 e.g.Norma Adams, "The Judicial Conflict over Tithes." EHR. 52, 1937, pp.1-22; see below for the later debates; see also A treatise concernynge generall counciles, the byshoppes of Rome, and the clergy. (STC 24237; T.Berthelet,1538)
37 A treatise concernynge generall counciles,op.cit.,sig.B3v-4 argues rather strangely that the rights of canon law are "untrewe" and that therefore customary use is irrelevant. As it claims that this is the law of the church, the author argues that upholders of canon law are heretics
38 see esp.Helmholz, Canon Law,op.cit.,pp.16-8
39 e.g.PRO,SC 7/64/6, see frontispiece
The Reformation I: Proposed Changes.

It is certainly true that secular lawyers in the sixteenth century were seeking to reassess the position of canon law,\(^{40}\) which often meant subordinating it to the common law. In the *Supplication Against the Ordinaries*, the Commons alleged that the clergy in Convocation made laws inconsistent with those of the realm.\(^ {41}\) Expanding this line of argument, Christopher St.German portrayed the differences between ecclesiastical and secular law as causing division amongst the sum of English people; that popes, legates

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\(^{41}\) *English Historical Documents*, v, 1485-1558. ed. C.H.Williams (London, 1967) p.733; *LP*. v, no.1016
and metropolitans each exceeded their due authority. The lawyer also made the timely claim that Parliament should rightly control the government of the Church.

Within Parliament there were efforts to curb ecclesiastical authority. In the *Supplication* the Commons argued in favour of the king being lord of an "empire", and that the foreign jurisdiction implicitly challenged this. This form of argument was not, as it was expressed, merely a conflict between common and canon law of the church, but evidence of a sort of nationalism. Whether this can rightfully be considered the view of an entire nation is another matter. Clearly, as Hall notes, the Commons were quick to take up the cudgel against the courts. Indeed Norfolk commented that this level of attack was unprecedented. G.R. Elton has shown the sort of plans afoot which threatened seriously to damage the law practiced by the church courts - some of the more radical suggestions included a call for the abolition of the courts spiritual.

At the time that these plans were being mooted the jurisdictional debate was further explored in a series of treatises which started to appear about 1530 and went on into the

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42 *A Treatise concernynge the diuision betwene the spiritualtie and temporaltie.* in *The Apology of Syr Thomas More, Knyght.* (Early English Text Society, o.s., 180; Oxford, 1930) pp. 232-40
43 St. German's "Doctor and Student." *op. cit.*, pp. 69-70
46 E. Hall, *Hall's Chronicle.* (London, 1809) p. 784
47 PRO, SP 1/69, fo. 137-8 (*LP.* v., no. 831)
1540s. The theme was much the same as those set out in proposals for legislation: that the king alone was second to Christ as head of the church in England, so that the foreign law existed in derogation of the king's authority. In the words of one of them, the spirituality acted "without thassent of the Kynges highnes, the nobilitie and comons of this realm", and that members of the clergy, lacked "any iuste and lawfull power to make any Constitutions or Iawes ouer any of our said souerayne lord the kynges subiectes." William Turner was the first to suggest, in 1543, that in expelling the Pope's authority, little had been achieved in real terms. Although Turner's primary concern in this treatise was doctrinal, his was also directed at the courts spiritual.

The canonists were not provoking trouble; there were certainly no moves by churchmen to make canons in a deliberate attack upon either the common law or the king. The bulk of the canon law enactments in England were passed in the thirteenth century within the provincial synods of archbishops Langton, Boniface of Savoy, and Pecham, and at the councils of Otto and Ottobono (1237 and 1268). Along with the Decretals these pronouncements formed the basis of the law. Even pronouncements of church law in the fifteenth century, or of Convocation in 1531, were only attempts to re-vitalise statutes already extant. The canons of the thirteenth century were responses to current events at Rome, and, as C.R.Cheney has said, form the

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49 A Treatise concernynge the division betwene the spiritualtie and temporalitie. (STC 24237; Berthelet; London,1530?); A treatise concernynge the power of the clergye and the lawes of the Realme. (STC 24237; Godfray;London,?1530); A treatise concernynge divers of the constitucyons provinciall and legatines. (STC 24236; Godfray;London,?1535); A treatise prouinge the kinges Iawes. (STC 24248; Berthelet;London,1538)

50 e.g.J.Beckinsau, De supremo et absoluto regis imperio. (STC 1801; T.Berthelet,1547) sig.A5

51 A treatise coernyng divers of the constitucyons. op.cit., fo.1v-2

52 The huntyng and fyndyng out of the Romishe fox. (STC 24353; W.Wraghtson pseud.; Basyi,1543) sig.A 5

53 PRO,SP 1/57,fo.112ff.; R.J.Schoeck, "Canon Law in England."op.cit.,p.130; states that "Lyndwood without the Decretals is meaningless"
background of administration in the English Church for the rest of the Middle Ages and beyond.54

Nevertheless, the arguments articulated in the 1530s found favour with the king. They were formalised in statute law and evidenced by the injunctions to the Universities forbidding the study of canon law.55 Furthermore a council of thirty two was established to re-codify the canon law in more acceptable terms. The clergy were not averse from this project. Indeed it was the clergy two years before the Act of Submission who had recommended that a commission of this number be set up comprising 16 men from parliament, and 16 clerics.56 The Act of Submission then was passed in accordance with the clergy's wishes.57 It suited the clergy to remove the uncertainty as soon as possible.

The statute stated that existing canons not included in the new formulation would no longer have force of law. Despite these moves, nothing apparently was achieved. Parliament returned to the matter in 1536 and set up the commission again, this time stipulating that it had a life of two years.58 Even at this stage there was clerical support for the project.

In 1543, Richard Gwent, Archdeacon of London, and Prolocutor in Convocation, presented a petition seeking the re-formulation of ecclesiastical laws, especially with reference to the payment of tithes.59 In January 1544 there was a secret meeting of Convocation which determined to ask the king to establish the new laws.60 In that year the whole process was again commenced, except that the statute authorised the king to

54 C.R.Cheney, "Legislation of the Medieval English Church." EHR. 50,1935 p.399
56 Wilkins,Concilia. iii,pp.754-5; LP. v,no.1023
57 25 Henry VIII,c.19
58 27 Henry VIII,c.15
59 LP. xviii(i),no.167
60 ibid.,no.365
act anytime in his life time. It seems clear however, that the new laws were not compatible with the old ones. The new collection was to take effect upon royal approval.

The churchmen clearly had an interest in resolving matters rather than remaining in doubt about the future of church law, and therefore the courts. The uncertainty of that time may have played a very large hand in the acute decline in business suffered by church courts from the 1530s. It was a decline which affected the archdeacons' courts far more severely than bishops' courts, so that there had only been a marginal increase in the business of the courts by the 1550s. Moreover, such uncertainty might also have been responsible for a very radical trimming of the sorts of cases that the courts were prepared to hear.

New commissions were issued under Edward VI under the terms of 3 & 4 Edward VI, c.11, which authorised a revision of the code of law. This was brought to the point where nothing was required to give it binding force but the king's ratification. This was not given - perhaps because under the terms of the 1549 statute it required Parliament's consent. A final draft was prepared, under the editorship of John Foxe, in Elizabeth's reign, but once again the opportunity for change was ignored. Writing towards the end of Edward's reign, Richard Cox informed Bullinger that so far, they [the reformers] had been successful in the revision of the liturgy, but that they had so far failed in their endeavours to establish a new system of Christian discipline.

61 35 Henry VIII, c.16
63 ibid., pp.101-3; from a letter written by Cranmer in 1546, it is clear that the compilation existed. Father Logan has concluded that it may have been produced anytime between 1535 and 1546
64 see chapter eight and appendix four
66 ibid., pp.iii-iv
67 Original Letters Relative to the English Reformation. ed. H.Robinson (Parker Society; Cambridge, 1846-47) i,p.123
Other than the system envisaged in the *Reformatio*, there had been few signs that the church was going to get a new *codex*. It remains difficult to specify what was really expected of a new code. No satisfactory guidelines have survived, except the negative assertion that the law should not conflict with the law of the realm. Foxe laments the fact that changes proposed in 1544 came to nothing but he fails to say what they were supposed to achieve.\(^{68}\) Cranmer's canon law writings, designed to support the king's claims, are not so much an attack upon the law as such as upon the pope. Certainly there is no indication of reformist doctrine.\(^{69}\) The intention of the *codex* discovered by Logan was simply to "de-papalize" the canon law.\(^{70}\)

It therefore seems that the *Reformatio* was the only re-codification which intended to break new ground. It certainly proposed that the church retain control over marriage, tithes, testamentary, defamation matters and the like so that the law looked substantially the same. Alterations however were also envisaged with regard to appeals, diocesan synods, matrimonial laws, ordination, and procedures affecting citations. In the case of ordination it was simply a question of imposing and regularising the means and methods of teaching and examination - a proposal taken up by cardinal Pole in 1555.\(^{71}\) Synods would be held annually, members of the laity would attend along with the clergy. The intention apparently was to improve relations between the two estates as well as increase lay participation in church life.

It may be true that this measure would have reduced internal diocesan strife in the years that followed, but it should also be remembered that in many dioceses it would have been impractical. How much could be achieved in such a forum in a large diocese

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\(^{68}\) Foxe. v.p.528


\(^{70}\) Logan,op.cit.,p.102-3

\(^{71}\) *Documentary Annals of the Reformed Church of England being a collection of Injunctions, Declarations, Orders, Articles of Inquiry, &c. from the year 1546 to the year 1716*. ed. E.Cardwell (London,1839-45) i,pp.186-7
such as Lincoln or Exeter without delegating deputies is doubtful. In turn if it had become a representative body it would probably have filled a different role than the one envisaged by the authors of the *Reformatio*. While the diocesan synods had long been held in Ely, the potential for similar gatherings of clergy and laity in synods in large dioceses seems overly optimistic.

The proposed divorce law, however, was far more liberal than the old law. Where there was proof of adultery, desertion or ill-treatment, there was sufficient reason for divorce - a right shared by both parties. This reflected continental changes to a more liberal approach. In England, this was illustrated when, by Act of Parliament, the marquis of Northampton was allowed to remarry after he had divorced his first wife for adultery.72

The new law also proposed that each court maintain a book of citations, which could thus be investigated in case there was some doubt about the legality of the court’s actions.73 In fact there were even guidelines for downplaying the involvement of the church courts in local life by providing suggestions for resolving problems within each parish by resorting to local “elders”. Here at least we have some indication of changes inspired by Calvinist, or at least reformist thinking. In some measure the proposals reveal a concern for people appearing in court, so that they need not be greatly disadvantaged by the constraints of the law or the inadequacies of procedure. Such ideas, apart from anything else, constituted a theological breakthrough. They promoted a congregational, or presbyterian base, designed to increase lay participation in church life, and where considered possible, to break down the power of the clergy and their courts.

72 Houlbrooke, *Church Courts*. p.71
73 23 Henry VIII, c.9; had in part dealt with grievances associated with citations, particularly where parties were called to leave their locality to appear in court. This proposal dealt with another problem area.
However, this should not be over stressed, because these suggestions were still firmly based on a need for order, a view most clearly demonstrated by the provisions in the *Reformatio* governing appeals. This section held that from henceforth, appeals were to be more stringently ordered, proceeding from archdeacons and deans (and other courts below those of the bishop) to the courts of the bishops, then to those of the archbishop and from them to the king. This could restrict wealthy litigants from going straight to the central courts, and so using court costs to defeat opponents.

Once before the king, the appeal could be directed to one of two tribunals. If it was a weighty matter it would go to a provincial council. If it was not so important then it was heard before three or four bishops. Further appeals were forbidden. Although still a new tribunal, this would have seriously affected the court of Delegates. First the highest appellate tribunal would have none but ecclesiastical judges, which was not envisaged by the statute which set it up. 74 Second, only ecclesiastical causes would have been heard, thus closing an avenue of appeal for civilian courts like Admiralty. Third, by regularising appeals to strict ordering in this way, the new law would have prevented parties from appealing direct to the provincial courts from the archdeaconry, a tactic which was being utilised. Finally, the impact of this same regulation would have been further to influence the status of peculiar jurisdictions. 75

One treatise written at the beginning of the next century claimed that the *Reformatio* was "defective, inconsistent and uselesse in many respects, [so that] it was never confirmed by authority." No reasons are given for this remark, but a little later the author makes the point that the law of the church was so well entrenched and intertwined with the common law, that "it cannot be changed, but only corrected." These conclusions, he added, were principally in the abolition of the Pope's

74 25 Henry VIII,c.19
Supremacy, improved rites and religion of the church, and the restriction of court fees.\textsuperscript{76}

The Reformation II: Changes in Fact.

Changes were indeed made which affected the relationship of rival legal systems, not by changes to the canon law as such - but through the law of the state. The winds of change had been presaged initially by the three Acts of 1529 touching probate, mortuaries and the residence of beneficed priests.\textsuperscript{77} The upshot of events after the turmoil before the Act of Submission was twofold. Convocation lost all discretion in making laws "contravergent or repugnant to the Kynges prerogative," and those in existence were deemed rescinded. Second, the highest court of appeal became Delegates, as a commission set up within Chancery - the highest court of conscience. This meant, in the long run, that if interpretation of statute was broad, moves against the autonomy of the church were not out of the question. Furthermore, any new

\textsuperscript{76} Bodleian,Tanner 280,fo.39-39v
\textsuperscript{77} 21 Henry VIII,c.5,6,13
statutes could *de facto* gnaw at the law of the church, without the latter having the slightest means of redress.

For the most part the ordinary law of the church was changed in very few ways. The major changes related to matrimonial issues, testaments, tithe payments, and some behavioural offences, and accounted for just over a dozen Acts before Mary Tudor's death. As it was the number of repeals indicates the doubts expressed, and the frequent changes of heart of the statute makers. In some areas the alterations did not constitute a direct challenge to secular law. The alteration to matrimonial law concerned itself with two things close to Henry's interests. First, 32 Henry VIII,c.38 stipulated that a solemnized, consumated marriage superseded an unsolemnized and unconsummated pre-contract. This was repealed in 1549 by 2 & 3 Edward VI, c.23. Second, priests were allowed to marry according to 2 & 3 Edward VI, c.21, which in turn was repealed under 1 Mary c.2. The only other change affecting matrimonial issues arises with the statutes affecting prohibitions, that is, laws regulating who could and could not marry as prescribed under the terms of Leviticus 18. This was the most complex series of legislation, first being set out in 1533, then in 1536, and 1540. These were then repealed during Mary's reign, but revived in 1558 as part of Elizabeth's first Act of Parliament.

In other ways there was not so much change to the law of the church, as to its exact place and role. In 1542 witchcraft first became a felony, although this too had a somewhat patchy history, being repealed in 1547, revived in 1563 (repealed 1604), and

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78 For the most detailed and satisfactory discussion of all of these statutes, see Houlbrooke, *Church Courts. passim*; on a number of these points see Holdsworth, *op.cit.*, iv, pp.488ff.

79 It was not revived until 1 James I,c.25, which in turn left the place of married clerks in Elizabeth's reign in an awkward legal position.

80 25 Henry VIII,c.22; 28 Henry VIII,c.7; 32 Henry VIII,c.38.

81 1 Mary,c.1; 1 & 2 Philip & Mary,c.8; 1 Elizabeth,c.1
again in 1604 (repealed in 1736). The first of these stated that it was illegal to practice witchcraft or use sorcery in order to cause damage to other people's bodies, animals or souls. Unlike the church law it did not allow for the prosecution of people who had intended to use their "powers" for benevolent purposes. In other words it was an early recognition on the part of legislators that witchcraft could be considered a temporal offence of moment rather than a spiritual offence only. It was not until 1563 however that statute law became the backbone of actions against witches.

Elizabeth's reign witnessed a considerable extension of the jurisdiction of secular officials like JPs. One historian has pointed out that by 1563 the situation had changed dramatically. At a popular level there may have been greater exploitation of people's credulity at a time of doctrinal upheavals. Further, the preparedness of the state to intrude into these matters occurred at a time when at least Protestant theology was casting doubts upon any other law besides that represented by the civil magistrate.

In the case of the witchcraft legislation, the new law did not replace the church's but allowed concurrent jurisdiction. The same can be said for matters of usury, and misbehaviour within church and churchyards. In the former, the first statute relating to ecclesiastical law had been enacted in 1494. It conferred jurisdiction upon secular judges without reference to the church courts. Two further Acts of 1545 and 1552 only specified that an interest rate of 10% was the maximum permissible, again without reference to the church's jurisdiction. As to the second matter, drawing and/or using a weapon on church land became a felony. Two years later, in Mary's reign, it was ordered that anybody disrupting divine service was also liable to secular prosecution. Here again the jurisdiction of the church was not discussed.

82 33 Henry VIII, c.8; 1 Edward VI, c.12; 5 Elizabeth, c.16; 1 James I, c.12; 9 George II, c.5
84 11 Henry VII, c.8; 37 Henry VIII, c.9; 5 & 6 Edward VI, c.20
85 5 & 6 Edward VI, c.4; 1 Mary I, c.3
The most controversial, in the short and long term, were the changes relating to tithe matters, in which the jurisdiction of the church became bound up with the functionaries of the state. The first change, brought about in 1536, empowered church courts to seek the aid of JPs in cases of contempt. 86 Four years later another Act allowed lay owners or lessees to sue for the payment of tithes in church courts, and further empowered two justices of the quorum to imprison any defendant who still refused to pay tithes after a condemnatory sentence. 87 In 1549 2 & 3 Edward VI, c. 13 set out that prescriptive right was to be understood to equal forty years possession, that day labourers be exempt from paying tithes, and that crops on formerly barren lands newly brought into cultivation were exempted from tithe for the first seven years. It also prohibited tithe owners from suing for tithes of land exempted by privilege, prescription or composition real. Fines for non-payment were also increased, so too those for carrying away predial tithe.

Other Bills made limited changes and/or simply reinforced normal practices. This included the statute of wills, which precluded the courts from dealing with the disposal of real property, 88 and the second Edwardian Act of Uniformity which set out, for the first time, that church courts should enforce attendance at divine service. 89

On the basis of this evidence the actual change to the substantive law was relatively minor and certainly in the form of emendation rather than re-codification. The statute law was fraught with uncertainty and lacked a coherent policy. Thus, when Lyndwood's *Provinciale* was first published in English in 1534, there was still a long time to run before it was no longer relevant. 90

86 27 Henry VIII, c. 20
87 32 Henry VIII, c. 7
88 32 Henry VIII, c. 1
89 5 & 6 Edward VI, c. 1
90 *The Reports of Sir John Spelman*, op. cit., p. 70
The close relationship between the crown and the courts of the church had a very long history. Even Maitland recognised that the crown had often supported the church law with its own weapons. Henry VII, for example, had used statute law to help episcopal control over incontinent clergy.\textsuperscript{91} The scale of things however changed in this period. From the beginning of Henry III's reign until 1509 one can count 115 statutes that related, in some way, to the English church and/or its law. From 1509 until 1530 there were only three Acts of this sort, but in the remaining years of Henry's reign there were a further sixty-four. From 1547 to 1558 there were another thirty, and in Elizabeth's reign another 45. Proposed but unsuccessful Bills are of course not included in this tally. In the years 1509-58, or indeed up to 1603, it is only possible to speak of the law of the church being amended rather than changed \textit{in toto}.\textsuperscript{92}

There is no doubt that the source of authority had changed. The means of discovering and prosecuting the heterodox certainly changed techniques. The nature of things to come was indicated by the three Acts of 1529. In law however their impact may appear quite limited. The Act dealing with mortuaries specified who was and was not eligible to pay. The act dealing with probate made changes to the fees which could be charged, and the Act dealing with plurality restricted some practices but allowed loopholes in other areas.\textsuperscript{93} Convocation argued against the third statute in 1554 because it believed that it allowed "a larger liberty or licence" than the old law.\textsuperscript{94}

On the other hand these Bills provided that offenders relating to non-residence and pluralities could be brought before the Exchequer and that the informant should receive a moiety of the fine.\textsuperscript{95} Not only did this re-direct actions away from the jurisdictional

\textsuperscript{91} 1 Henry VII,c.2
\textsuperscript{92} Cf. Marchant, \textit{The Church Under the Law}. pp.128-9
\textsuperscript{93} 21 Henry VIII,c.5; 21 Henry VIII,c.6; 21 Henry VIII,c.13; none of these Acts was repealed under Mary.
\textsuperscript{94} Synodalia. A collection of articles of religion, canons and proceedings of convocation in the province of Canterbury from the year 1547 to the year 1717. ed. E. Cardwell. (Oxford, 1842) ii,p.435
\textsuperscript{95} J.J. Scarisbrick, \textit{Henry VIII}. (Methuen ed.; London, 1976) p.331
areas conventionally reserved to the courts of the church, it encouraged lay folk to act as informers against the church courts' interests. The immediate result was that a number of priests were being pursued over misdemeanours enforceable under the terms of the statutes.96 This was clearly an inroad into the autonomy of the church, and one sanctioned by Henry VIII. Moreover, the Act dealing with pluralities forbade the introduction of papal dispensations as an excuse for the offence under pain of a twenty pound fine. A royal proclamation of the following year threatened imprisonment for anyone who introduced papal pronouncements contrary to this or any other act.97 These were indeed early warnings of what could face the law of the church both in certain established practices, and its relationship with the papacy.

The break with Rome had other effects upon the status of the church courts. The control and suppression of heretics and heretical beliefs was of course one of the most pressing matters facing governments' at this time.98 Up until Henry VIII's reign the hierarchy of the church received substantial help in the battle against the religiously suspect. It was in the reign of Henry IV that De Haeretico Comburendo had been enacted, by which bishops were given free rein to arrest those reputed to be suspect, the state offered aid in the execution of those who remained contumacious, and provided support in the investigations through the services of local officials such as sheriffs.99 Henry V further supported the work of investigating heretics in 2 Henry V,c.7. In a series of statutes, Henry VIII reversed this policy and re-vested authority over this matter almost entirely in the hands of secular judges. Ironically, one of the more radical suggestions about the reform of the church courts voiced during the life of the Reformation Parliament had recommended that this be one of the few areas of

96 Haigh, "Anticlericalism and the English Reformation."op.cit.,p.396; there were 210 prosecutions over the next six years in Exchequer for such breaches, which Haigh sees as being brought "only by informers and troublemakers"
98 for this section see Houlbrooke, Church Courts. pp.216-9
99 2 Henry IV,c.15
jurisdictional purview that remain intact. As it was De Haretico Comburendo was repealed, and no longer could bishops act against people without the evidence of two witnesses; or refuse to allow suspects to appear in open court. In other words it was the king who was driving a wedge between himself and the courts spiritual.

By the late 1530s Justices of the Peace were now charged with seeking out and prosecuting heretics, and even with checking on the diligence of bishops and other ordinaries. These were powers never before provided as of right. Although archdeacons' courts could not try heretics, these new powers afforded secular authorities could lead to intervention. The famous act of six articles extended the enforcement of regulations of church life, formerly in the hands of church courts, into the hands of commissions appointed in each county. Those found guilty were proceeded against and faced a common law trial as felons. The actual role of the ecclesiastical tribunals was to act as investigators reporting to the secular judges. In some cases the Privy Council itself was prepared to initiate proceedings. In 1539/40 it sent a special commission to investigate Randell Bell of Rye who had profaned the sacrament, and said other heretical things. A series of statutes further struck out at the Church's jurisdiction in this field to the point that ordinaries could not act independently in the prosecution of heretics.

The first Act of Edward's reign gave the power of prosecution of those who spoke contemptuously of the sacrament of the altar to Justices of the Peace. For over a year

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100 LP. ix, no. 1065
101 Sir Anthony Fitzherbert, The New Book of Justices of the peas. (STC 10969; R. Redman, 1538) esp. fo. 18-18v, 76v-8
102 Cf. Anon., The boke of Justices of the peas, the charge with all processe of the cessions. (STC 14862; R. Pynson, 1506?)
103 25 Henry VIII, c. 14; 31 Henry VIII, c. 14; see chapter eight
104 East Sussex RO, Rye 12/1-3; G. Mayhew, "Religion, Faction and Politics in Reformation Rye, 1530-59." Sussex Archaeological Collections. 120, 1982. pp. 139-60; I owe this reference to Sybil Jack
105 Houlbrooke, Church Courts. p. 230; even the consistory court at Norwich took a secondary role in these matters to the mayoral court in the cathedral town in the years 1534-47
this was the only law about heresy as all previous Acts had been swept aside. The Edwardian Acts of Uniformity did allow ordinaries to prosecute those who refused to use the new prayer books, but little else. Indeed all other prosecutions in these matters were reserved to lay justices.\textsuperscript{106}

In Mary's reign this pattern was not broken immediately. Those who interrupted the celebration of the mass, or were irreverent towards the sacrament of the altar, were to be prosecuted by the JPs.\textsuperscript{107} In her third Parliament, however, the old heresy laws were re-introduced. While it would be quite right to say that this legislation pre-empted the persecutions that followed in fact its form did not, in reality, differ greatly from commissions in the reigns of her father or brother. Some were authorised by Mary herself,\textsuperscript{108} and others by the cardinal, but the presence of secular officials was just as marked.

At the time that lay agents were increasingly employed to hunt out heretics, the actual laws defining heresy became blurred in the wholesale change in the forms of religious practice. Many of these changes were to be enforced by the ordinaries, except where otherwise stated. These matters constituted a re-definition in doctrine and rites, rather than in the canon law. Nevertheless the impact of the changes was sufficiently broad to indicate a very real change in the direction of the law.

The very radical nature of the changes wrought in the 1530s naturally raised questions about what might be possible for the courts to do. For churchmen, the nature of the Supremacy caused considerable uncertainty. Not surprisingly the episcopal bench was reluctant to exercise ecclesiastical jurisdiction because it was this very thing which had led to the charge of Praemunire.\textsuperscript{109} Henry's arrogant attitude to the law is amply illustrated by the methods he used to arrange and re-arrange matters concerning

\textsuperscript{106} 2 & 3 Edward VI,c.1; 5 & 6 Edward VI,c.1
\textsuperscript{107} 1 Mary 1,c.3
\textsuperscript{108} 1 Mary 1, st.2,c.3; 1 & 2 Philip & Mary,c.6
\textsuperscript{109} Bowker, "The Supremacy and the Episcopate." \textit{op. cit.}, p.233
his succession, by establishing the changes in the law via Acts of Parliament. What may now be constitutional practice was at that time a novel expression of royal authority.

The Supremacy had little direct impact on the exercise of church law after the 1530s except through the very occasional royal visitations. Still, these visitations, as noted, were a constant reminder and warning of temporal power. In essence it was this restrained intervention which clearly spelt out the effective and real change in the line of authority. It is indicative of this that in 1559, John Lax, a Leicestershire parson, was cited to appear before the archdeacon's court for failing to appear at the Queen's visitation. When he did appear he brought with him letters of indulgence provided by the Queen, and he was dismissed.

111 Leic. AO, 1D41/11/3, fo. 84v-85v
The second influence upon the law were the statutes themselves. They clearly affected the practice of law after the 1530s. At certain points archidiaconal *acta* make oblique references to the changes. In 1552 at Lincoln, a tithes case was being conducted which finally received an inhibition from the court of Arches. It refers to the statutes of Henry's and Edward's reigns.\(^{112}\) In the same year, a matrimonial case being heard at Lincoln, referred to the 1549 statute on pre-contracts being void if a solemnized and consumated marriage existed, presumably in the light of the repeal. It seems that one party was arguing that a pre-contract was still binding because of the latter.\(^{113}\) Ignorance of the law was not an excuse, even in archdeacons' courts. At Canterbury in 1555 there was a tithe dispute in which the defendant claimed that he owed no more to the vicar. He had changed land from pastoral to arable and claimed that 12d. was sufficient payment and added that "he had herd not nor had knowledge of the statute."\(^{114}\) The judgment went against him.

At St. Albans the dissolution of the monastery caused some confusion because there were doubts about which areas had been the property of the monastery, and so exempt from payment of tithes. Some were apparently unsure "whether thabbotts priours and convent of the said monastery......hath had or [the farmers] ought to have hay coming and growing within the feldes medowes or pastures sett lieing and being within the precincte boundes or cyrcuyte of St.Albans."\(^{115}\) Others might claim it did not "perteyene unto the monastery of Saint Albans", and others that it did.\(^{116}\)

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\(^{112}\) LRO,Cij/2,fo.149 *Paycock c. Wymlaysh*

\(^{113}\) LRO,Cij/2,fo.139 *Steven c. Smyth*

\(^{114}\) CCL,PRC 39/1,fo.13-13v *vic. de ... c. Philpot*

\(^{115}\) HRO,ASA 8/2,fo.27; such cases were more commonly taken to the court of Augmentations

\(^{116}\) HRO,ASA 8/2,fo.29; this may have been a problem elsewhere but too few depositions survive to be sure. In a slightly later manual for a church court lawyer in Gonville and Calus, 389/609,p.225, this is pointed to as being a difficult problem that did exist
Piecemeal references however are not of great use in determining the overall impact of the statutes. In some ways the pattern of cases in court can offer some clues. The new laws on affinity for example, may have suited Henry VIII, but not, it seems, many of his subjects. The only case of this sort arising in the archdeaconry courts studied surfaced in 1560 at Leicester, and only in a prosecution when William Her had still managed to marry a woman within the prohibited degrees. Patterns in other courts are not quite as obvious because of the overall reduction in the numbers and range of cases heard. In the case of matrimonial suits, the new laws may have aided in the decline between 1540 and 1549. At Lincoln there were usually 15 to 20 cases over matrimonial contracts between 1538-1542, thereafter the numbers fell to five or less until 1550, a year after the repeal, when the number jumped to ten.

Tithe matters were also affected. The number of farmers suing after the 1540 statute, substantially changed the makeup of suitors. At Lincoln, for instance, there was an immediate increase in litigation, from two cases in 1540, ten in 1541, 13 in the next two years, and so on. Without depositions it is not possible to offer a full explanation for this. The permission granted to lay farmers to sue clearly had a large impact. It may indeed be true that there was additional opposition to lay farmers because there was a widely felt belief that tithes should be used for spiritual purposes. There is, unfortunately, no way of assessing if this was the case. Houlbrooke argues that other problems centred around the land usage, and compositions for payment. Where however the law had spoken about customary payments, and therefore re-affirmed current practice, there were few difficulties.

117 Leic.AO,1D41/11/4,fo.32v
118 see chapter eight
119 on latter see a bitter battle HRO,ASA 8/1,fo.102-34v Grubbe c. Clerke
120 Houlbrooke, Church Courts. pp.147-50
Prosecutions may have been similarly affected. The act of six articles made clerical incontinence a felony, and the same is true of witchcraft between 1542 and 1547, and usury from the 1540s. There are no prosecutions for these offences in the courts studied after this period. In part this is not unusual. Witchcraft and usury were not common offences in church courts, and with the reduced number of office actions (prosecutions), conclusions might appear to be speculative. This is not true of clerical offences of immorality.\textsuperscript{121} The same cannot be said of the incidence of clerical incontinence. Like other cases cited, there was a large fall in the number of the cases. The reason for this, in almost all matters was, in fact, due to the uncertainty about jurisdictional boundaries. The possibility of exercising concurrent jurisdiction was no longer an automatic assumption. This is where the threats made by Henry VIII had their greatest impact. It is surely this which in large part explains not only the reduction of offences and disputes in areas which were affected by legislation, but also those in areas of activity which were indeed \textit{ultra vires}. The changes made to the laws were more than capable of affecting the nature and pattern of litigation and prosecutions, at the archidiaconal level. As evidenced by the previous chapter, this played an integral part in their changing fortunes.\textsuperscript{122}

\textsuperscript{121} see chapter seven

\textsuperscript{122} \textit{Lyndwood's Provinciale}. pp.xliii-xliv; in which the editors argue that it might have been possible to challenge the statute law on constitutional grounds if it had not ratified by Convocation. This possibility seems most unlikely
Given this, it is appropriate to consider the final area in which a threat to the operation of the law was posed by the secular or common lawyers, and the degree to which the overlapping of jurisdictions could initiate difficulties. In its most obvious forms this is where statute law utilised the services of secular officials. Elizabethan statutes increased the role of the JPs to the extent that J.P. Anglin has stated that most ecclesiastical office actions were also subject to the Quarter Sessions, and Assizes. He specifically points to jurisdiction over incontinence, the maintenance of bawdy houses, disturbing the peace and violation of the sabbath as principal areas of common concern. The intervention of secular authorities in matters concerning religious orthodoxy could be seen as an earlier indication of this. In fact the threat had far deeper roots.

123 Anglin, *op.cit.*, pp.120,121,123
Nevertheless the central courts were not performing essentially new services. Chancery, for example, had acted for clerics in their legal causes for over 150 years before the passing of the Act of Submission. In the years 1515-18 there were almost 4,000 cases in Chancery, of which 28 (0.7%) touched directly on matters related to ecclesiastical jurisdiction. In 1538-44 there were 5,863 cases in Chancery and 138 (2.35%) dealing with matters normally handled in church courts. In the three years 1553-55, there were 2,503 cases in the same court and 118 (4.7%) of these were spiritual matters. On the face of it, this became a more popular option. Clearly there are points of law which might affect some of the figures, but W.J. Jones has contended that this pattern continued into Elizabeth's reign, arguing that there was, in effect, jurisdictional poaching. R.A. Houlbrooke disputes this and argues that Chancery can rarely be seen to encroach upon the jurisdiction of the church, and that the most strenuous objections voiced in 1605 were against the courts of record and not of equity, that is, against King's Bench, Common Pleas and Exchequer. The second point is quite valid, but the former is not. I.J. Churchill has commented that it is remarkable how easily an issue can appear in a different tribunal under a different guise. One case appearing in Chancery was an appeal from Arches and centred on the tenements disposed of by an allegedly false will. There was therefore a jurisdictional objection to the church courts hearing it in the first place, but this was not taken up. It thus proceeded only as an appeal. It was a question of how to frame the matter at hand. This is true for other courts besides Chancery. A case appeared in Star Chamber in which it was alleged that Richard Renshaw, a JP at St. Albans, was disputing with Richard Renshaw, a JP at St. Albans, was disputing with

124 R.L. Storey, "Ecclesiastical Causes in Chancery." The Study of Medieval Records, op. cit., passim, esp. pp. 239, 258; see also Inner Temple, Petyt 518, fo. 45v-46; in which there is a reference to a suit in Common Pleas between the Abbot of St. Albans against another abbot over tithes due, conducted in the mid-fifteenth century. In other words by a House normally assumed to exist in derogation of the king's authority


126 Houlbrooke, "The Decline of Ecclesiastical Jurisdiction." op. cit., p. 256; ibid., Church Courts. p. 114

127 Churchill, Canterbury Administration. i.p. 534

128 PRO, C1/1094/129-30 Elanor c. Elizabeth Payn
other people over a pew. He seems to have taken this as a major problem, and stopped people going into church using "many obroppious words and chekke and wold have slayne and murdered theym in the churche upon Easter Day."\(^{129}\) This is a typical entry in this court, in which violence is an important ingredient. Put in other words the case might well have been heard by the local archdeacon's Official. It was indeed quite valid to state that people could appear "for one thynge in several courtes" and so "a ryght troublous thyng to the people."\(^{130}\) Starkey's Pole pointed to this confusion in the law, arguing that people "stope to the best lawe that ys before tyme deuysed." In this environment, he continues, old law determined by wise men was easily overturned by contemporaries serving their own ends.\(^{131}\)

It is certainly true that an increasing number of cases were going to Chancery as an appellate jurisdiction. In the early 1540s John Atkynson appealed to Chancery after losing a tithes dispute in the archdeacon of Oxford's court.\(^{132}\) The use of secular courts in this way was prompted by a desire to win the suit. That the church courts may have lost business as a result may be seen, from their point of view, as unfortunate.

\(^{129}\) PRO,STAC 2/17/208,fo.2

\(^{130}\) see The Reports of Sir John Spelman,ii.op.cit., p.65 note; it would nevertheless be wrong to paint this matter simply in terms of church versus state, see Jack,op.cit.,p.136

\(^{132}\) England in the time of Henry VIII..op.cit.,p.192

\(^{132}\) PRO,Cl/941/46
Even churchmen used secular courts rather than their own during the period of upheavals of the 1530s and 1540s. In this same period John Styrman, Archdeacon of Hereford, resorted to Chancery in order to obtain procurations owing from Thomas Fawknor, a local parson.133 The parishioners of Aston, in the archdeaconry of St.Albans, took their vicar to this same court for usury.134 In the early 1530s the parishioners of Havenhill in Suffolk, sued their vicar for pastoral neglect.135 The vicar of Chellington (Bedford) was taken to Star Chamber for similar reasons.136

Of course there may have been little effective alternative. In cases where a local church court was not having much success in a matter, or failed to act with enough energy, it would be feasible to go to London, if the attendant costs could be borne. John Grey, parson of Stoke Prior, sued some parishioners in Chancery for keeping "unreformed mass books" objected to by the ordinary.137 Given current events and the timing of the dissolution, it is interesting to note a case from the abbot of St.Albans in Star Chamber over tithes owing.138

133 PRO,C1/1070/52-54
134 PRO,C1/943/30
135 PRO,STAC 2/31/61
136 PRO,STAC 2/26/15,fo.1
137 PRO,C1/990/49
138 PRO,STAC 2/40/1,fo.40
For the courts of the church the threat of the Reformation period was indeed real. It may be that in its early phases, and to a limited extent, it was caused by the central courts' capacities to offer a valuable service which may have drawn cases away from the localities. The correlation though is far from complete. Only the most serious/financially significant cases appear at London, not the petty squabbles normally found in local life. In 1951 B.L. Woodcock suggested that the greater efficiency of the secular courts, particularly the urban courts, and the development of new "courts of conscience", may have been the principal reason for the desertion of church courts. If this was the case, it was a change which co-existed, and in some part may have benefited from the Reformation. In the long term it was of central significance in understanding changes in the church law. There is no doubt however, that the central courts benefited, not so much from the changes in the church law, but the uncertainties felt by the church court lawyers.

Conclusion.

Just as the church court structure was changing in ways not related to the Reformation, so the relationship between the church courts and other systems of law was just as fluid. Nevertheless, the secular law courts were able to make the most of the events of the 1530s to challenge the church courts. This was due to the alliance of the king and secular lawyers. Effectively the spirituality were, in fact, courts of the king. But canonists, wary of the threats posed in the 1530s, continued to write warnings about the dangers of Praemunire. The author of one treatise of the 1570s claimed that "manie causes be not praemunire before a prohibition be served, and yet afterward they be. This matter ys infinite, and therefore gotte by use and experience." True

139 Woodcock, Medieval Ecclesiastical Courts. p.110
140 e.g. Gonville and Caius, 389/609, pp.219,221,227
141 ibid., p.224
enough, but it was not until later in the century that common lawyers had developed their techniques of employing prohibitions to a record level.

Before 1558 the threat to the church courts did not come from the direct intervention of secular lawyers, but the actions of two kings, and the associated uncertainty. Not even Protestant theologians criticised ecclesiastical jurisdiction as yet. Ridley, in his *Pituous Lamentation*, cited Latimer, Lever, Bradford and Knox, who, because their "tongues were so sharp" and also for failure to fulfil their responsibilities,
that is, their "ungodly loathsomeness to hear poor men's causes." 142

In other words he defended the role played by the spiritual tribunals.

There can be few doubts that the law of the church changed, but in the form of adjustments, rather than re-casting. There were clearly noticeable results.

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142 N. Ridley, *A Pituous Lamentation of the miserable estate of the Church of Christ in England in the time of the late revolt from the gospel.* (STC 21052; W. Powell, London, 1566) sig. B 5v
By 1558 the changes likely to undermine the spiritual jurisdiction were not evident, only the means. These avenues of assault were later to be supplemented by a mercantile ethos more favourably served by the common law.\textsuperscript{143} In the long run it is quite irrelevant that the church courts could claim to be royal courts after the 1530s. R.J. Schoeck has argued that general dissatisfaction with the church courts, apparent during Hunne's case, and later in 1529, were clear indications that the Reformation in England was almost inevitable; "that the Reformation...began in 1515 but was interrupted." This check was, he argues, in large part due to the power kept in the hands of Thomas Wolsey.\textsuperscript{144} This sort of suggestion misses the point. Under discussion is a jurisdictional conflict which is, one would think, quite distinct from a revolution in religious doctrine and practice. To say otherwise is to credit Henry VIII with more foresight and constraint than is plausible. On the contrary, it was only the eruption of the 1530s that led to unrivalled changes in both law and religion. The damage done to church courts however was a conflation of problems associated with the Supremacy, statute law, and the confidence of the common lawyers.

In an edition of the provincial constitutions published in 1534, the translator took note of the recent statute law. He added however that ordinaries, "specyally archedeacons, deacons, or theyr offycyalles" should continue to conduct cases of all manner "concernynge the spirytuall" jurisdiction.\textsuperscript{145} Yet the treatise starts out with a reminder to the reader that the church's capacity to make and administer laws was non-existent without the assent of the king in parliament.\textsuperscript{146} In the short term this led to the impositions of royal inhibitions and visitations. It also appeared to ally the king with the central courts against the courts spiritual, and also to cast doubt upon the future

\textsuperscript{143} Hill, \textit{op.cit.}, pp.301-5, 309

\textsuperscript{144} Schoeck "Common Law and Canon Law." \textit{op.cit.}, p.253, see also p.251

\textsuperscript{145} \textit{Constitutiones Provincialles} \textit{op.cit.}, fo.4v, 116v

\textsuperscript{146} \textit{ibid.}, fo.1-1v
status of the ecclesiastical law. It was archdeacons' courts which suffered most from these events.\textsuperscript{147}

\textsuperscript{147} see chapter eight
PART B: THE COURTS IN ACTION.
CHAPTER FOUR
Court Personnel: function and status

Between the formalism of the law, and the difficulties intrinsic to human relationships were the intermediaries who worked in these courts. It is these people who determined curial activities, who were affected by, and in turn affected people and other institutions. In a very real sense it was these men who gave voice to the law.

Before detailed discussion of the courts is undertaken some attention to these men is given. While the workings of the church courts have received greater attention over the last thirty years than hitherto, the men who staffed them have remained shadowy figures. Apart from the work of C.I.A. Ritchie, who concerns himself with procedural matters in York's courts, and occasional oblique references to court personnel,¹ little work exists which sets out to assess the place of these people, not only within the court but within society at large. The object of this chapter is to provide insights into these two apparently divergent themes. It is contended that the second question can help to shed light on the nature of the work performed, at least as it was perceived by certain sections of Tudor society.

The opprobrium levelled against archdeaconry courts has generally been manifest in the criticism directed at their personnel. On the whole these agents were regarded as poor cousins to their counterparts in episcopal courts.² Even Lyndwood suggests that judges in the courts of archdeacons were professionally and ethically inferior.³ Writing at the end of the century Sir Thomas Wilson remarked that the state of the civil lawyers

³ Lyndwood's *Provinciale.* p. 93
was the weakest. Apart from some opportunities in the provincial and episcopal courts, little work was available to them. The remainder he adds "are fayne to become poor commysaryes and officialls of deans and archdeacons, which ride up and downe the contry to keepe courts for correcting bawdy matters", and he finishes by saying that they "take great pains for small gains."

Wilson may have been biased, and his analysis faulty. Moreover, he is writing at a date well after the period under discussion. Nevertheless, could these claims have been applied with some degree of accuracy in the first half of the sixteenth century?

The four categories of court employees gathered under this head are the judges, or Officials of the archdeacon, who were the courts' presidents. Second there were the court scribes, the most senior being the registrar. Third there were the proctors, who were legal representatives, and finally the court apparitors (or summoners or mandatories), who were responsible for a miscellany of jobs but can be termed, in a wide sense, court messengers. In its broader context this is an analysis of the place of the court beyond its individual members, which will be further pursued in following chapters.

**Gaining Employment.**

The first question relating to determining the capacities of these men, involves an assessment of their qualifications. By implication, the remarks noted above suggest that men in these courts lacked much training, but such an approach is questionable.

It is true that there were some rules governing the admission of people into posts within the courts, but not many. Procedures allowing admission were usually customary rather than formalised by provincial constitution. In all cases however

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5 Known at the time as the register
candidates for positions were expected to lead Christian lives following the dictates of Christ's teaching by the grace of God, not under a Judaic concept of law. But it was the law of the church with which they dealt, and a system requiring expertise.

The criteria for admitting personnel to the ecclesiastical courts were relatively few. The only men required to undergo specific training for their job were the advocates. They were analogous to barristers in common law and such men only worked in that capacity in the central courts at London and York. It was necessary for them to have heard canon and civil law for at least three years "with good diligence."  

The statutes of the court of Arches set out that proctors were expected to serve a form of apprenticeship before being admitted to practice in their own right. This was not the case in lower courts, not even for the judges. The appointment of judges was in the hands of the archdeacon although if the judge was also the commissary of the bishop there could be some form of composition. In the Tudor period the selection of judges lay with the archdeacon but by the eighteenth century a formula for Lincoln diocese reveals that the bishops wanted a greater say, and by it the diocesan and the archdeacon took turns in choosing the new man. It is true for our period that the men chosen could generally claim practical experience in court. Many, such as Henry Laurence, began work in the chancellor's court at University before moving to diocesan administration. Even so, judges could be appointed for a probationary period; a contingency made possible by the terms of their commissions which were at the pleasure of the archdeacon.

It was not until 37 Henry VIII that legal training was mooted as a pre-requisite for judges in ecclesiastical courts. This proposal was formalised by statute law which enacted that irrespective of marital status, laymen were allowed to exercise "all manner

6 Lyndwood's Provinciale. p.29
7 Gibson, Codex. ii,pp.1548-50
8 Cambridge University Grace Book B, parts I and II. ed. M.Bateson (Cambridge,1903-5) ii,pp.77,88,91
9 LRO,Cj/l,fo.10
of ecclesiastical jurisdiction", as long as they were Doctors of Civil Law. This clearly contradicted Chichele's constitution of 1415. Indeed the latter was no longer being observed by the 1540s. Christopher Nevinson was a D.C.L. from Cambridge and became the Official of the Archdeacon of Canterbury. He was however, married and was appointed to the position in 1539, eight years before the Henrician statute. Perhaps more importantly, this statute was later ruled as being affirmative, and therefore did not prohibit non-doctors from such positions.\(^\text{10}\)

What proportion of court personnel attempted to develop their legal knowledge is difficult to answer. We know of some, such as Robert Hunte, a proctor at Rochester, who kept legal books. In his testament he referred to the "hole corse of cyville" as well as the decretalls upon canon and old portuases."\(^\text{11}\) Not all owners however read their books. Nevertheless it is clear that despite the limited number of pre-requisistes, many men practicing and working in these courts were well educated, and capable of dealing with the practice of canon law. A survey of lawyers, Officials and proctors, working in six archdeacons' courts has been compiled.\(^\text{12}\)

\(^{10}\) CCL,Y/4/5,fo.36; Ritchie, op.cit.,p.64
\(^{11}\) Emden, Supplement. p.305
\(^{12}\) Canterbury, St.Albans, Leicester, Lincoln, Northampton and Oxford. See appendix two for fuller details on the individuals cited
4: Court Personnel

Table 1: Officials.

<table>
<thead>
<tr>
<th>Academic Training</th>
<th>Numbers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law(^{13})</td>
<td>31</td>
<td>77.5</td>
</tr>
<tr>
<td>Arts(^{14})</td>
<td>2</td>
<td>5.0</td>
</tr>
<tr>
<td>Theology(^{15})</td>
<td>2</td>
<td>5.0</td>
</tr>
<tr>
<td>Music(^{16})</td>
<td>-</td>
<td>0</td>
</tr>
<tr>
<td>Medicine</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>No Degree(^{17})</td>
<td>4</td>
<td>10.0</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Proctors.

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<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Law</td>
<td>29</td>
<td>58</td>
</tr>
<tr>
<td>Arts</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Theology</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Medicine</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>No degree</td>
<td>16</td>
<td>32</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

In short, a higher proportion of these men held degrees. It is not co-incidental that the majority of these people chose to study law. Moreover, Officials were, as a group,

\(^{13}\) Bachelors and Doctors of Civil, Canon and both laws

\(^{14}\) This was if they held an Arts degree only. Men with other degrees often possessed one in Arts as well. This table refers to men who were both Bachelors and Masters

\(^{15}\) Bachelors and Doctors

\(^{16}\) Bachelor

\(^{17}\) This includes some men who may have held a degree. In appendix two there are suggestions that some men did hold degrees, but unless evidence is very persuasive it is assumed that no degree is held
better qualified than the proctors. In fact twelve of the judges held a doctorate in canon or civil law.

There were of course particular circumstances which account for different patterns in the various courts. The court of the Archdeacon of Oxford was especially fortunate, for obvious reasons. At Oxford in 1540-41, there were seven lawyers; one judge and six proctors. Of these, five, including the judge, were Doctors of Civil Law, one man held degrees in both laws, and the other was a mere Bachelor of Civil Law. For reasons soon to be outlined, the small and relatively poor archdeaconry of St. Albans was able to attract high calibre judges, but because there was so little work, the proctors were generally inferior to their counterparts elsewhere.

Nevertheless, the tables imply that appropriate qualifications were important, and academic training desirable. Given this state of affairs, it is perhaps worthwhile pausing to consider the important, but extremely time consuming process of obtaining formal qualifications. In most cases graduates in the courts held degrees in canon or civil law. The degrees of Bachelor or Master of Arts were not common as a qualification. This is perhaps a reflection on avenues of employment open to the new graduate. In some cases those already possessing a B.A. or M.A., or a place as a regent master (an M.A. who gave "ordinary" lectures in the Arts school for at least a year) may have been accepted into a law faculty before people without any University training. In practice however, many escaped this by producing evidence of legal studies, or in the case of non-regent masters, by taking ten years to complete the course instead of eight. Before determining for his degree as Bachelor of Canon Law, a

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18 LRO, Cj/6, passim; see appendix two
19 Statuta Antiqua Universitatis Oxoniensis. ed. S. Gibson (Oxford, 1931) pp.lxxxviiiff.; J.B. Mullinger, The University of Cambridge from the earliest times to the royal injunctions of 1535. (Cambridge, 1873) pp.349-62 for details of these courses
20 Mullinger, op.cit.,p.358; regent masters were responsible for the examination of candidates
candidate was required to hear the decreals twice and also the decrees cursorily for two years.\textsuperscript{22} The civil law degree was four years for M.A.s and six for those without. Their curriculum seems not to have included study of the canon law. They were simply required to possess \textit{libri apparitati} on the civil law, and to lecture.\textsuperscript{23}

 Probably less than a third of graduates proceeded to the doctorate for which canonists had to hear lectures in the civil law for three years and dispute with all the doctors in addition to hearing the decrees and decreals. The bachelor of law was "licenced" after which he was at liberty to apply for inception as a doctor. Once licenced to proceed the candidate was known as a licentiate in laws, a title which occasionally appears, as with Nicholas Harpsfield before his elevation to the doctorate in 1554.\textsuperscript{24} The elevation to the doctorate in canon law was certainly demanding. We know that in an earlier period, candidates had to hear "ordinary" and "extraordinary" lectures after which they might qualify for "quasi-ordinary" teaching. The most important element in the candidature was to spend time lecturing cursorily, and performing some 'ordinary' teaching. Only then was the candidate able to receive a licence to incept. After this he could become a regent and teach for two years and then, finally, the degree might be conferred.\textsuperscript{25} Indeed requirements for the Doctorate in either law must have been exacting. In the civil law, the candidate had to hear the \textit{Digestum Vetus} twice, the \textit{Digestum Novum} and the \textit{Inforiatum} once. He had to lecture on texts, including the Institutes, as well show proof that he had access to

\textsuperscript{22} \textit{ibid.},p.364; H.Rashdall, \textit{The Universities of Europe in the Middle Ages}. ed. F.M.Powicke and A.B.Emden (Oxford,1936) iii,p.157; \textit{Statuta Antiqua}..\textit{op.cit.},p.cvii-cix
\textsuperscript{23} Rashdall,\textit{op.cit.},iii,p.156
\textsuperscript{24} \textit{Statuta Antiqua}..\textit{op.cit.},p.cvii; Le Neve, \textit{Canterbury,Rochester and Winchester, 1541-1857}. p.15; L.Boyle, "The Curriculum of the Faculty of Canon Law at Oxford in the first half of the fourteenth Century." \textit{Oxford Historical Society}. n.s.16,1964, pp.135-64; the licentiate was conferred before the baccalaureate. How long one had to wait for the latter depended upon the school. This article is also in \textit{The History of the University of Oxford, volume I}. ed. J.I.Catto (Oxford,1984) pp.531-563
\textsuperscript{25} \textit{ibid.},pp.135-62
reading material. This degree took ten years to complete, unless a regent master, in which case it was eight.

The arduous courses laid down in the statutes could be mitigated by the use of graces. Graces were voted by the senate in large numbers and were generally obtained through influential persons in Church or State as an early function of patronage. The number of graces bestowed suggests that it was the minority who had to complete courses in toto. Graces might shorten an undergraduate's period of residence at University and for doctors residency was often a mere formality. In 1502 the energetic William Mason, who later became commissary and official of the Archdeacon of Leicester, received his grace because he held a judicial office of the bishop of Lincoln at Stamford. Nor was he the only man to study after gaining employment. Many of these men seem to have spent little time at University. Ralph Mallener was the official of the Archdeacon of Rochester. In July 1519 a letter missive was forwarded to the diocesan registrar from the chancellor of the University of Cambridge creating him a B.C.L. In 1532 William Walkar was awarded a grace both because he had completed four years study, and he had been in practice for a considerable period in church courts. Similarly, John Aras, a proctor at Northampton, was awarded a B.C.L. after four years study and practice. In other words working experience counted towards fulfilling degree requirements. Even archdeacons could return to University for further study. In 1449 John Waynflete, Archdeacon of Surrey, supplicated the congregation of regents stating that he had spent four years in practice and two studying canon law, in the hope that this would be sufficient to allow him to

26 Mullinger, op. cit., p.364
27 ibid., p.364
28 Cambridge University Grace Book B., op. cit., p.16
29 KAO, DRc/R7, fo.79; Cambridge University Grace Book B., op. cit., i, pp.25-6 In 1496 there was a Malineere at Cambridge. This may have been the same man
31 ibid., p.64
complete the form required for his admission to the extraordinary reading of some book of the decretals. The grace was granted.32

There are many examples in which doctorates were granted to men who had only recently become bachelors. Stephen Gardiner was a B.C.L. in 1518, and a D.C.L. by 1521, and a Doctor of Canon Law by 1522.33 David Pole was a B.C.L. by January 1526, a B.Can.L. in the same year, and a D.Can.L within two years.34 Hugh Price was a B.Can.L. in 1524, he supplicated for the D.Can.L in February 1525 and was admitted in July 1526.35 Such a speedy passage from Bachelor to Doctor was generally reserved for more prominent lawyers. For the local officials who did become doctors there was usually a wait after the first degree. It took John Prynne twelve years before he became a Doctor of Canon Law in 1522.36

The exact nature and function of the graces remains difficult to assess. They were offered for a variety of reasons, from the fulfilment of a condition demonstrating proficiency in some aspect of academic work, to a contribution imposed for the benefit of the regents.37 Given this, it is difficult to discern any policy on the part of the regents who granted them, except perhaps in the case of those men in practice who, it seems, were expected to complete four years study before the grace was conceded.

Graces were not free and some money was always due for the pleasure. John Longland, nephew of the bishop, received a grace upon paying three shillings "in usum Academiae."38 This rather small amount was quite common. On the other hand Robert Pachet, Official of the Archdeacon of Leicester, had to pay twenty shillings for

32 Register of the University of Oxford, vol.i, op.cit., p.2
33 ibid., ii, p.268; Cambridge University Grace Book I. ed. W.G.Searle (Cambridge, 1908) i, p.397
34 Emden, Supplement. p.452
35 ibid., p.462
36 Register of the University of Oxford, vol.i, op.cit., p.49
37 Rashdall, op.cit., iii, pp.148-9
38 Register of the University of Oxford, Vo.i, 1571-1622. part i. ed. A.Clark (Oxford Historical Society, 10, 1887) p.161
his grace in 1535. Was this a registration fee, or bribery? Without more information about the use of these payments, it would be precipitous to posit suggestions of corruption.

Overall the number of graduands each year was not large. At Cambridge from the late fifteenth century until the Reformation, there were around 10 to 12 degrees granted per annum in canon law (although there were 22 in 1489), and around five in civil law. There were no more than one or two doctors finishing their degrees from either faculty each year. The impression is that most of these men were destined to work in the courts of the church, at least for some portion of their professional life. Even allowing for graces the candidature was rigorous and exacting. It has been said that the curriculum of the Faculty of Canon Law at Oxford in the fourteenth century provided a firm grounding for candidates in their professional lives, and this can still be seen to be true, not only for the canon law, but also the civil, two centuries later.

The way to a position as a court scribe was somewhat different. A degree was far less common. Of the fifteen scribes appearing in the courts under study, twelve had no degree, and there was one M.A. and two Bachelor of Civil Law. Those who entertained hopes of becoming a registrar had first to become a notary public. In theory they were appointed either by the pope or the emperor, although one scribe in the service of Bishop Stillington was styled "notary apostolic and imperial."

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39 Cambridge University Grace Book B.op.cit.,ii,p.189
40 Mullinger, op.cit.,pp.319-20n; Cambridge University Grace Book B...op.cit.; provides lists in the introduction to both parts one and two. For a statistical breakdown of University students by faculties in the fifteenth century see J.A.Brundage, "English trained canonists in the Middle Ages: a statistical analysis of a social group." Law-Making and Law-Makers in British History. (London,1980) p.73
41 L.Boyle,op.cit.,p.162; There were changes to teaching, and regulations governing degrees following the Henrician injunctions, cf.C.E.Mallet, A History of the University of Oxford,Volume II. (London,1924) pp.62ff.
42 see appendix two
43 The Registers of Robert Stillington, bishop of Bath and Wells, 1466-1491, and Richard Fox, bishop of Bath and Wells, 1492-1494. ed. Sir H.C.Maxwell Lyte (Somerset Record Society,52,1937) p.96
imperial system was not well established in England, and it was far more common for the pope to delegate powers to a bishop. It was the responsibility of the bishop to write to the pope asking for a grant of powers.44

The Archbishop of Canterbury may have been acting on behalf of the pope at times. A fifteenth century letter reveals that the Bishop of Winchester wanted three notaries public and he wrote to the metropolitan for permission to appoint them.45 The number of licences granted may possibly have depended upon the needs of the jurisdiction46 but in many cases an extra number may have been sought in order to cope with any emergency.47 In the commissions of registrars provision is made for deputies to act, if legally eligible. In the sixteenth century there were curious interpretations of this and at Worcester in 1535 Thomas Wemms and Thomas Yardeley wrote the acts in the Official Principal's court in the absence of the registrar.48 This turned the canon law principle on its head. Where a notary public (and therefore a registrar) had been taken to equal two witnesses to acts, two men were now called upon to fill the shoes of one man.

Many proctors were notaries. At Canterbury over half of the them in the first decades of the century, and almost all who acted in the court of the Archdeacon of Lincoln, were duly authorised. It was not customary however for proctors to step in as deputies for the registrar, partly at least because there was normally one or more deputies waiting in the wings. John Colman, a proctor in the archdeaconry court of Canterbury became registrar in the commissary court but did not perform both duties

46 Churchill, Canterbury Administration. i.p.508
47 Literae Cantuarienses.op.cit.,pp.80-81; this helps to explain why so many court officials were notaries, but never act as a scribe
48 Welch,op.cit.p.78; Burnett,op.cit.,ii,p.88
co-terminously. What he did was not uncommon. Marmaduke Claver spent some
time as proctor in the court of the Archdeacon of Northampton, and later moved to
become registrar in the equivalent court at Bedford in 1553 and then later to
Buckingham. William Snowdon worked as a proctor in the court of the Archdeacon
of Lincoln through the 1540s into the 1550s and became chapter clerk in the cathedral
during Mary’s reign.

Following 25 Henry VIII, c. 21 applications to become a notary public sent to Rome
were halted, and were instead handled by the archbishop’s Master of Faculties. The
applicant was required to take oaths of allegiance to the responsibilities of his office and
the Supremacy. He was also expected to maintain an honest life and be trained in the
law. There is little doubt that medieval candidates had to provide a similar certificate or
evidence of suitability. William Elliott, a clerk, was created a notary public in
pursuance of apostolic letters “after due examination.”

The only evidence of easing requirements for admission as a notary was that by the
sixteenth century many of these men were married. As late as 1415 Archbishop
Chichele had promulgated a constitution which denied married or bigamist clerks, or
laymen, the right to act as either judge, registrar or scribe. We know that John Bere,
a layman and a registrar at Rochester, left money and goods to his wife and two
children and Edward Watson, sometime diocesan registrar at Lincoln, did the same

49 Woodcock, Medieval Ecclesiastical Courts. pp. 120-1
50 NRO, Arch. III, fo. 109, 140; Chapter Acts. iii, pp. 101, 167-68
51 ibid., iii, p. xxii; appendix two
52 Gibson, Codex. ii, p. 1563
53 The Registers of Robert Stillington... op. cit., p. 108
54 Gibson, Codex. ii, p. 1013
55 KAO, DRb/PW2/201; see DRb/RWr 10/25; for his wife’s testament.
thing. It seems that dispensation from this edict was common by the sixteenth century, at least for the registrars and scribes. The only explanation for this is that it was a necessary concession in order to attract the most competent men, who might otherwise work in secular courts and not have to remain chaste.

After swearing to serve his office faithfully the candidate was admitted as a notary by the bishop or a surrogate. A mark or marks had to be chosen and recorded. One of Otto's constitutions permitted the use of seals because of the dearth of notaries in his own time.

It seems, therefore, that by this period the men employed as judges, proctors and scribes, were well qualified men. In this respect the Reformation did not greatly change expectations about the calibre of court personnel's qualifications, except at very small jurisdictions such as St. Albans, where the attraction of work diminished dramatically due to changes in jurisdictional competence.

56 Bowker, The Secular Clergy, p.37; see The Register of Henry Chichele, archbishop of Canterbury, 1414-1443. vol.iv ed. E.F.Jacob (Canterbury and York Society, 48, 1948) pp.183, 215; the archbishop did have the power to dispense from this requirement but it was so common by the sixteenth century that the constitution must have slid into abeyance

57 Chapter Acts, iii, p.xxii

58 Gibson, Codex, ii, pp.1013-14; by the period under discussion, seals were most commonly used. The mark seems to have been drawn only for the more important dispatches, such as letters to the bishop. In either case it was proof of authenticity, and therefore proof of a properly constituted legal instrument.
The Terms of Appointment.

Associated with consideration over the value of a position, are the terms under which people are employed, which can have considerable bearing upon the perceived value of the job, and on current issues affecting methods of employment.

The most senior position in court was the judge. He was responsible for the running of the court and for its performance. Each deputy acting as judge, be he Official and/or commissary, could only assume his duties after he had obtained his commission and installed in his place in court. It was much the same as a priest requiring letters of institution as evidence that he was indeed the incumbent of a parish. Officials and commissaries received their commissions from different sources and so in 1525 Robert Pachet, the new Official at Leicester, had to travel to receive one commission from the bishop at his manor at Goodnestone, and the other, as Official, from the archdeacon in his rooms at Oxford.59

Unfortunately the survival rate of commissions for personnel working in archdeaconry courts is disappointingly small. The commissions issued to the Officials amounted to the actual conferral of powers. The function of the commission was to establish the broadly conceived bounds of the functions and rights of each new judge.

The rights actually conferred are often lacking in the commissions. Anything specific could be seen to hinder the flexibility of the judge, and so normally there were only general references to deal with litigation and prosecute "excesses and criminal behaviour." It was therefore common to a covering clause conferring all rights over ".....all things belonging to the said office."60

Even so, commissions were far from complete. For example, omissions from commissions should not be taken to mean that authority in a particular matter had been

59 Leic.AO,1D41/11/2,fo.21
60 e.g.VCH,Stafford. iii,p.33
withheld. A Berkshire commission, of 1502, mentions the power canonically to correct, punish and reform, but does not mention excommunication which was surely implied in the conferral of powers. Similarly the commission of the Official of the Archdeacon of St. Albans fails to mention his right over heresy cases, despite the fact that the court did try them in the 1520s. This was presumably covered by a general charge of the new judge to guard the privileges of the exempt jurisdiction. In fact commissions themselves could contain errors. A Berkshire commission from 1502 even specified that the Official check these matters in the annual visitation, which was technically a breach of law unless the archdeacon had already received a papal indult relieving him from visiting in person.

Still, a commission could not afford to be too open, lest the deputy be in a position to exercise what might have been considered too much power. In a rather liberal approach to the terms of the commissions James Dugdale, the Archdeacon of St. Albans, wrote to John East his registrar in the late 1550s, and asked him to appoint a deputy. He was to be "an honest man dwelling about St. Albans" and given the right to exercise his office during Dugdale's absence. The latter promised to "Ratifie it as myne owne acte" without any specification detailing rights or limitations. The archdeacon was prepared to be almost careless in the way that he set out to find a deputy, but at the same time this must also be regarded as testimony to his trust in his registrar. Not surprisingly this sort of latitude could lead to problems.

Enough evidence remains, however, to establish the nature of appointment enjoyed by these men. The judges of these courts, the Officials of the archdeacons (and often

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61 All Souls College, Trice Martin, p.282
62 HRO ASA 7/1, fo.66; cf. J.A.F. Thomson, The Later Lollards. (London, 1965) pp.13,17,55-56; HRO, ASA 7/1, fo.44v,46v; ibid., fo.46v; Wolsey chose to re-confer this authority on the court after he became abbot, but not until 1528; Newcome, op.cit., p.406 suggests that Wolsey became abbot in 1522/23, and in fact he was appointing Officials by January 1522, see HRO, ASA 7/2, fo.22v
63 All Souls College, Trice Martin, p.282
64 HRO, ASA 7/3, fo.14v
episcopal commissaries), were appointed at the pleasure of their superior. At the beginning of each archdeacon's tenure of office separate commissions were issued re-investing the judge with due authority.65

If the Official was also commissary then that authority ceased at the time the bishop moved from that see. In 1535 Robert Johnson resigned as judge at Rochester upon Bishop Fisher's attainder, and the registrar notes his resignation.66 If the vacancy of the jurisdiction was likely to be sufficiently long the bishop issued a commission appointing a judge "durante vacacione eiusdem", which was couched in the same terms as ordinary commissions.67 The reason for this apparently tenuous mode of employment was quite straightforward. The judge was no more than a locum tenens exercising the jurisdiction on behalf of, and in the name of the archdeacon. The right to dispose of a judge offered a safeguard against improper or poor exercise of that authority. It could also suit the needs of the archdeacon or bishop who might call on people to perform different functions within his administration. Richard Braudribb was noted as being the Archdeacon of Rochester's Official in 1530, but the following year John Williams is styled by the same title, but in the same year Braudribb again appears as the Official.68 Such terms of employment go some way to illustrating that there were a number of men competing for such positions early in the sixteenth century.

The lessons of the Reformation years meant that it was not for some time that Officials received letters patent upon appointment.69 This was a grant of property, which had to be registered with the Dean and Chapter of the cathedral. Such an offer in the sixteenth century would have been injudicious. It was no doubt presumed that the

65 LRO, Reg. 26, fo. 68v-69
66 KAO, DRA/Vb 4, unfol. section
67 Gibson, Codex. ii, p. 1547; Oughton, op. cit., p. 141
68 KAO, DRA/Vb 4, fo. 39r, 39v, 109
69 see PRO, Req 2/36/13; for a claim that letters patent had been granted for the Officialship of the archdeaconry of Wiltshire in 1590; see also Oughton, op. cit., pp. 151-53
opportunity of becoming a judge was enough to mollify those men cautious about such terms of employment.

In the normal course of events there would be an investiture of the new judge designating him as the properly authorised president of the court. The new judge would sit in court, probably surrounded by the courts' proctors, and the apparitor general, if there was one, or an ordinary apparitor. Before whoever was present the registrar read the commission. It not only stated the extent and source of his authority, but might also specifically renounce the jurisdictional rights of his predecessor and re-invest them in the new judge. After the reading, time may have been kept for any objections after which the judge solemnly accepted office and might then hear his first case. The nature of the ceremony established the seniority of the judge over other personnel by establishing the link of legitimacy extending from the archdeacon and/or bishop.

Nevertheless the terms of his appointment were less attractive than those enjoyed by his subordinates. Letters patent ensuring the life grant of an office was common form for the registrars and probably apparitors by 1500. This in turn indicates that career expectations were associated with holding such a position, at least for registrars. Unlike lawyers there was not a surfeit of notaries, and it was important to make the position as attractive as possible. In 1504 the position at Rochester was granted to Bere and his son John. The father died within three years, but his son remained in the post for at least thirty five years. This is certainly true when Edward Standishe was made registrar to the court at Buckingham in 1516, and when Thomas Webster went to the court at Leicester in 1539. Two men were appointed to Canterbury in 1536

70 All Souls College, Trice Martin, p. 282
71 NRO, Arch.II, fo. 33; CCL, Y/4/5, fo. 104; Registra Stephani Gardiner... op.cit., p. 15; Churchill, Canterbury Administration. ii, p. 226
72 KAO, DRC/R7, fo. 40
73 LRO, Reg. 25, fo. 8v
74 LRO, Reg. 26, fo. 287
4: Court Personnel

and Oxford in 1540 which meant that allowance had to be made for each man's rights.\(^{75}\) How this was done is problematical. No information survives but in each case only one of the new officers remained in the position. Whether or not there was a sale of office is not known in these cases, but it is clear that because the position was like any other piece of property, it could be sold, despite canon law.\(^{76}\) This practice was certainly rife by the end of the century.\(^{77}\)

This is not to say that letters patent were offered as a matter of form. The registrar who went to the court of Arches in 1520 was appointed at the pleasure of the archbishop.\(^{78}\) But this was exceptional and in around 1531 Adam Wilcocks thought it worthwhile going to the Star Chamber in an effort to be reinstated as registrar of the Archdeacon of Barnstaple, claiming that such a position was by right, one for life.\(^{79}\) A similar case to this went to the court of Requests, around this time, from the archdeaconry of Northampton, over whether the position of registrar was for one or more lives. In other words, whether the terms of employment allowed the incumbent to pass the position on to whom ever he might choose.\(^{80}\) Not surprisingly therefore registrars were more likely to remain in their position for longer periods than judges. Thomas Laurence remained at Canterbury from 1494 until 1536 and Thomas Percy his successor lasted into Elizabeth's reign. Robert Garrett stayed at St. Albans from 1537-

\(^{75}\) CCL,Reg.T2,fo.75; LRO,Reg.26,fo.294v; this may not be different from a situation in which registrars are appointed by the bishop for his commissaries "in partibus"; that is, where each one fulfils his functions in certain areas of the jurisdiction. e.g. Gibson, Codex ii,pp.1564-65 in which two are appointed to parts of Colchester and Essex by the Bishop of London in 1544

\(^{76}\) Lyndwood's Provinciale. p.121

\(^{77}\) The Registrum Vagum of Anthony Harison. transcribed by T.F.Barton (Norfolk Record Society,32-3,1963-4) i,pp.88-90; Houlbrooke, Church Courts. p.26

\(^{78}\) LPL,Reg.Warham,fo.370v

\(^{79}\) PRO,STAC 2/27/176; the result is not known

\(^{80}\) PRO,Req 2/11/89; in a similar case in Elizabeth's reign it was argued whether three lives could be considered the normal meaning of the grant, Req.2/80/2, see also Req 2/33/65 and Req 2/77/30
4: Court Personnel

56.\textsuperscript{81} and William Biller who first worked as a registrar at Buckingham\textsuperscript{82} (1509-c.1516) went to Leicester where he stayed from 1516 until 1546.\textsuperscript{83} The choice of the registrar remained with the archdeacon, despite the fact that he was authorised to act as a notary at the bishop's behest, and that his position was registered by the chapter of the cathedral.

This was not always technically the case with the apparitor. Very often the selection had to be approved by the diocesan. At places in the fourteenth and fifteenth century this had given rise to altercations between bishops and their archdeacons.\textsuperscript{84} By the sixteenth century however the matter no longer stirred passions and it remained in essence a choice exercised by the Official.

Like registrars, apparitors may also have benefited from life grants, but this is far less certain, after all, it was relatively easy to replace apparitors, given that they did not necessarily possess any qualifications. Some, at least, were placed in office \textit{viva voce}. A note from the Archdeacon of Essex's court in 1545 records the swearing in of Rowland Addyson, which included the oath \textit{de suprema regia auctoritate}.\textsuperscript{85} But they were also, very clearly, the agents of the judge. At his swearing in at Canterbury in 1521, William Bull promised allegiance to the archdeacon, the Official, and all ministers of the court.\textsuperscript{86} Where there was no document, letters patent were not possible. Even where it was, a life grant was not always guaranteed. The written commission of an apparitor working in the London consistory court from 1540 reveals that he was certainly doing so at the pleasure of the judge.\textsuperscript{87} Where however the position was conferred with letters patent an apparitor could only be removed for

\textsuperscript{81} HRO, ASA 7/2,fo.118v; ASA 7/3,fo.4; Woodcock, \textit{Medieval Ecclesiastical Courts}. p.121; KAO,PRC 3/8,fo.82v
\textsuperscript{82} Bodleian,Willis 14,fo.11
\textsuperscript{83} Leic.AO,1D41/11/2,fo.73; 1D41/13/2,fo.176v; see appendix two
\textsuperscript{84} Churchill, \textit{Canterbury Administration}. i,p.457
\textsuperscript{86} CCL, Z/3/4,fo.10
\textsuperscript{87} Gibson, \textit{Codex}. ii,pp.1565-66
misbehaviour, but then this was likely in any circumstance.\textsuperscript{88} Richard Betyn, an apparitor at Rochester escaped with only a warning after defaming a local priest, Leonard Walkar, saying, "Sir Leonard thou art the naughtiest preste of thy levying as is in Kente."\textsuperscript{89} Grygson was not quite so fortunate. He lost his job at Canterbury in 1525 for indulging in illicit sexual relations.\textsuperscript{90}

Canon law allowed each jurisdiction to have one main apparitor, or apparitor-general, but only Canterbury employed one in this period. He was John Some, Vicar of Harbledown, notary public and practicing proctor. His commission has not survived, but it is clear that he was responsible for more important matters, and that the ordinary apparitors dealt with the day-to-day chores pertinent to their office.

Following a constitution of Archbishop Stratford, each archdeacon was only allowed one walking apparitor for each deanery. In fact because different jurisdictions had different needs this was not strictly observed. The accounts for the Rochester archdeaconry reveal that there were five apparitors. One man was allocated to each deanery (Dartford, Rochester and Malling) and also one each for Hoo and Higham, which were relatively remote areas not within easy reach of the other areas of the diocese.\textsuperscript{91} The canons of 1604 recognised that Stratford's rule had not been kept and ordered that the courts should only maintain the number of apparitors which had been kept for at least thirty years.\textsuperscript{92}

Finally, there were the proctors, who entered into court in an entirely different manner from the other personnel. They were officers of the court rather than of the archdeacon, because they were employed by clients. At the archidiaconal level they

\textsuperscript{88} R. Phillimore, \textit{Ecclesiastical Law of the Church of England.} (London, 1873) ii, p. 1246
\textsuperscript{89} KAO, DRb/Pa9, fo. 16v
\textsuperscript{90} KAO, PRC 3/7, fo. 5
\textsuperscript{91} KAO, DRa/Vb, 4, fo. 21v, 31
\textsuperscript{92} Gibson, \textit{Codex.} ii, p. 998
were not necessarily notaries public, and probably did not have to serve a clerkship. Some form of "nomination", or recommendation may have been necessary, although there is no evidence to suggest that this was a widespread practice. Anybody could act as a proctor in court, save only excommunicate individuals, soldiers, women or otherwise suspect persons. In some ways the provisions governing these matters were still in their formative stage. Such limitations were not always adhered to. In 1521 the wife of James Rotsby of Gravesend appeared as her husband's proctor in a suit at Rochester.

Their entry was by formal appointment either *viva voce* or by messenger, or by executing a *procuratorium* which was either sealed with the notary's mark, or his own seal, applied in the presence of the registrar and/or judge. His admission to court was "simple", that is, once accepted as a proctor of the court he was free to act in any action within that court so long as the court was informed of his participation. By *Exhorrenda et infra* the judge was not allowed to put his seal to any proxy without being openly asked in court and the client who "constituted" or employed him had to be present. This was undertaken in order to avoid any form of deceit. If, however, the proctor had succeeded in any way deceiving the court, he was liable to suspension for three years, and if a priest, he was not allowed into a benefice. In these circumstances it was ordered that all of his actions in court were deemed of no value.

The constitution of the proctor was in common form and after stating the date it noted that A.B. appeared in court in the presence of the judge and constituted D.C. his/her true and legitimate proctor in all causes. It was also noted that X. and Y. were present as witnesses, or alternatively the registrar acted in this capacity.

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93 Cf.Ritchie, *op.cit.*, p.53
94 e.g.Gibson, *Codex*. ii,1563-64
95 KAO,DRb/Pa 7,fo.139v
96 Leic.AO,1 D41/12/1,fo.12
97 Lyndwood's *Provinciale*. pp.29-30
Having been accepted into court it was the proctor's responsibility to get his own work. The amount of representative work available depended not only upon the industry of the court itself, but local attitudes to the proctors, costs, and perhaps the quality of the service offered. It was therefore, the proctor's own problem. It does seem, however, as though the courts may have recommended the most senior men to act as counsel. In all courts there are the proctors who received the most work, and invariably they were the most experienced and well qualified. After all, it was out of these ranks that judges were often chosen.

The Functions of the Personnel.

The operation of a developed legal system is conducted through the activities of the personnel, with each member acting in the capacities allowed and dictated by the law-enforcers. A further implication of criticisms voiced about archdeacons' courts' personnel, was that they handled relatively minor, even trivial, cases. This is also a suggestion which can be called into question.

The Officials:

Within each of the jurisdictions the judge was the pre-eminent legal figure whose authority was extended by the legitimate conferral of rights. It was this final aspect which established his primacy also, although in the fourteenth century there were cases in which archdeacons employed both officials and a commissary-general. One commission of 1393 from Chester actually appoints the "Official and commissary-general."98 As late as 1552 John Prynne and John Pope were both sitting as judges in the court of the Archdeacon of Lincoln and both were titled his Official, as well as the

98 BL,Harl.2179,fo.17
bishop's commissary. Where bishops' commissaries and archdeacons' Officials existed separately after the Reformation, as in Essex, there was some chance of misunderstanding and later compositions set out to eradicate this overlap of jurisdiction.

Although set out in canon law, the actual jurisdiction of the courts was determined by local custom. Where there were variations between courts it was customarily observed, and the responsibility of the judge to acquaint himself with the status quo. This was itself a complex issue.

Nevertheless, an Official's duties can be split into two broadly conceived areas. There were judicial responsibilities performed as of right as the deputy to an ordinary. These duties were carried out as a matter of course. Secondly there were administrative tasks performed sometimes on behalf of the bishop. The former position was the one of greater flexibility, and afforded far more discretionary powers.

Officials were, of course, responsible for the handling of contentious cases in court, and given the wide degree of discretion which church law afforded the judge, his decisions were of the utmost significance. Problems could also be complicated for the necessity of becoming familiar with local customary law, such as disputes over tithe collection. If there were errors then his decisions might be questioned by an inhibition or even a prohibition.

It should also be remembered, in an assessment of a judge's role, that "judicial functions" included discretion and so facilitate an informal method of approach, possibly handled outside the court. In that way an ugly court scene was avoided. Sometimes it could be an issue troubling all the members of a parish. In 1522 the Official at Canterbury met the parishioners of Newington-next-Sittingbourne in order to

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99 LRO,Cij/2,fo.180
100 e.g.Gibson, Codex. ii,pp.1548-50
101 Cf.Lyndwood's Provinciale. pp.109-11; chapter two
try and resolve a problem about parish funds. In 1524 Robert Johnson at Rochester attempted to settle a problem between some parishioners and their erstwhile vicar before the matter finally had to be brought to court. In a more isolated dispute in 1527, the Official at St. Albans, at the petition of the vicar of St. Peter's, warned the *capellanus* to show the incumbent the amount of tithes and oblations he had received.

The second area of responsibility was to do those things which were prescribed by superiors. In the normal course of events these were duties delegated by the bishop but from the early 1530s the influence of the crown was more marked. In October 1533 Robert Colens, Official at Canterbury, was sent to conduct investigations relating to the maid of Kent.

There were other duties performed as a matter of course. The probate of testaments and administration of intestate estates are generally always mentioned in the commissions. Induction of clergy into parishes is amongst these. There are some commissions however which explicitly empower archdeacons' Officials to induct abbots of non-exempt houses. The clearest indication of the judge's responsibilities will be explained more fully in the following three chapters.

In the final analysis, it was the judge's responsibility to see to it that he did not exceed his authority, and took responsibility for the running of the court. In Chester diocese in mid-century, the corrupt George Wilmesley neglected his judicial

102 KAO,PRC 3/5,fo.114
103 KAO,DRb/Vb4,unfo.section
104 HRO,ASA 7/1,fo.44
105 LP. vi,no.1336
106 Inductions were almost always performed for the archdeacon, usually his Official, see chapter five. The Archdeacon of Canterbury always enjoyed the right to enthrone bishops of the southern province, but it is doubtful whether he could delegate this responsibility
107 Liverpool Univ.,Sydney Jones Library,MS. 8/23; BL,Harl.3378,fo.73; See Valor. iv,p.28; *Registra Stephani Gardiner...op.cit.*,pp.99,171; *Descriptive catalogue of the charters and muniments belonging to the Marquis of Anglesey.* (Staffordshire Record Society,61,1937) pp.179-80; *VCH,Stafford. iii*,p.32; for examples of archdeacons inducting religious to these positions
4: Court Personnel

capacities. In Chichester diocese during Mary's reign, the inefficient Chancellor and commissary, Richard Brisley was negligent as a judge, and may also have been receiving bribes. There is little evidence to suggest, however, that archdeacons' Officials acted improperly. The only example of this sort is of Thomas Capp, Official for the Archdeacon of Norwich in the 1520s, who was reprimanded by the archdeacon and bishop for carrying out the visitation of deaneries prematurely, and also for failing to accept the purgation of defendants on two separate occasions. In one case in 1525, Capp refused to acknowledge William Franklin's purgation. He then sent him to the commissary who promptly returned the defendant to Capp. He again purged himself but was still required to perform public penance. What happened to Capp is nowhere stated. It is clear, however, that there were a variety of areas over which the Official had continuously to cast an eye. The specific duties of judges will be more fully outlined in the following chapters.

The Registrar and the Scribes:

The statutes of most courts, where they exist, required that the judge could only exercise authority in court if there was present a properly authorised scribe, who was responsible for recording the acts of the court. Some commissions even remind them of this stipulation. No doubt a newly commissioned judge at Ripon was surprised to read in his commission in 1467 that he was also required to record the acts of the


110 Norwich Consistory Court Depositions, 1499-1512 and 1518-1530. ed. E.D.Stone and B.Cozens-Hardy (Norfolk Record Society,10,1938) nos.13,84,339

111 LRO, Reg.26,fo.294v
court as well as govern them. Most commissions also charge the registrar with keeping the acts and muniments of the court. Perhaps it was common practice, but scribes were reluctant to record, in the commissions that exist, many details about the nature of their appointment, and rarely say in effect more than the fact that they should be present in court. Consequently, the role and importance of the registrar is something too easily underestimated.

Clearly they had to perform a number of jobs that were tedious, and almost menial. It was important, for example, that the registrar alone guard the registers. In 1556 Robert Johnson, by then at London, had to report to the bishop that one of his registers had in fact been stolen. The actual responsibility to record and keep the acts of the court served two purposes. It legitimated the business of the court, and therefore the authority of the judge. Conversely it was a guard against the activities of a corrupt judge, so "that in case dispute or difficulty should afterwards arise" he would have the acts of the court. The record of court acts also formed the basis of formularies drawn up for use by practicing lawyers.

This aspect of the registrar's job was tedious. He drew up the mandates and certificates of the courts, was responsible for all correspondence, for copying testaments into the probate registers, as well as recording judicial business and things associated with it.

This should not, however, be taken to mean that the registrar's job was altogether unpleasant, or unimportant. It was a normal procedure for complaints sent to the Official at Rochester, in this case, by the parishioners of Ryarsh about their vicar, to be received by the registrar, who in turn recorded it and advised the judge on what to

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112 Acts of the Chapter of the Collegiate Church of SS. Peter and Wilfrid, Ripon. [ed. J.T.Fowler] (Surtees Society,64,1874) pp.215-16
113 Welch,op.cit.,p.122
114 Anglin,op.cit.,p.42; Ayliffe,op.cit.,p.383
115 Cf.BL,Harl.2179; LRO,For.1
do. A letter in 1515 was addressed to the Official or the registrar of the archdeacon of Canterbury's court asking for help in allowing a promoted prosecution. In another case from Rochester, a letter was sent to John Bere the registrar. It was about a recent suit conducted in court and the author sought advice on what to do next.

Officials also had to rely upon registrars to draw up correspondence sent to other courts, particularly the bishop's. Mandates for induction were sent to archdeacons' courts by the registrar of the bishop and it was his counterpart at the archidiaconal level who sent certification of this back. This was very important. One presentation deed at Lincoln bears the endorsement *non expeditur ad hoc* because the nominee, James Rowley, was dead after being admitted to the benefice in October 1517. He was probably dead before being inducted into the living by the archdeacon. As a result there was no certification from the archdeacon which meant that there was no risk of a dispute over fees accruing during the vacancy.

The registrar also had a guiding hand in determining what the court was doing at each particular session. He was responsible for dispatching letters to each parish stating when and where the upcoming visitation was going to be held, charging the incumbent, or his curate or both to attend, along with the churchwardens and certain other parishioners. It was also his duty to list the questions to be asked at the time of the visitation. There was probably one missive drawn up for each apparitor to bear to the relevant deanery, although special warnings were sometimes sent to specific parishes suspected of concealing offenders. Prior to the commencement of the visitation he recorded, possibly for the archdeacon's benefit, a schedule detailing the itinerary of the visitation.

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116 KAO, DRA/Vb4, unfo. section.
117 CCL, Y/2/4, fo. 66
118 KAO, DRA/Vb4, fo. 75
119 Bowker, *The Secular Clergy*, pp. 65-66; LRO, Reg. 25, fo. 17; Lyndwood's *Provinciale*, pp. 55-6
120 e.g., HRO, ASA 7/1, fo. 35; 7/3, fo. 7v, 21
Furthermore, in the course of ordinary court sessions, he was required to display some knowledge of legal practice. At the early stages he often had to screen matters before they appeared in court. Consequently, the incidence of vexatious suits was very small. If the case was allowed to proceed the registrar determined the order in which cases were heard in each session. During the process of a suit the registrar was entitled to ask questions of the party or parties involved, but court records fail to indicate to what extent they participated in the handling of any given case.

One of the more important functions associated with the job was his position as the court's treasurer. Not surprisingly any registers recording financial details were his responsibility. He may also have had the chore of collecting money. The "Compotus Johannis Bere" was drawn up each year and it listed monies received and spent in the different areas at Rochester. Thomas Laurence had much the same job at Canterbury. He kept most of these records in a separate register. It should not be assumed however that this job was automatically the registrar's responsibility. At Oxford an indenture was drawn up between the archdeacon and his registrar for the collection of fees, allowing a pension to the bishop of twenty pounds. As well as being the registrar for the Archdeacon of Lincoln, Henry Sapcote received eight pounds, thirteen shillings and four pence as his receiver. In other words while the positions were held by the same man, they still remained separate.

In the early part of the century, John Colman acted as the receiver for the Archdeacon of Canterbury, despite the fact that the registrar kept the register detailing financial

121 CCL,Y/2/4,fo.66,April 1515 e.g. appeal to Lawrence to admit a case ex officio promo
122 CCL,Y/2/7,fo.95,113; The Courts of the Archdeaconry of Buckingham,op.cit.,pp.136,166,175
123 For one example KAO,DRa/Vb4,fo.122v. All through the register and some are also in DRb/Pa8-9, passim
124 CCL,Z/3/22; this is referred to by Woodcock,Medieval Ecclesiastical Courts. pp.75-8
125 Welch,op.cit.,p.85
126 Maddison, "Lincolnshire Gentry." op.cit.,p.208
matters. It may also have been customary for the registrar for Cambridge University peculiar to act as the receiver-general for the bishop and archdeacon of Ely.

A party to a case received an itemised list of costs which recorded not only how much each particular functionary should receive, but also the various actions which comprised the totals shown. It is not clear for whom the registrar (or receiver) collected the money. The records at Maidstone and Canterbury indicate that the registrar at Canterbury only handled money owing to the registrar and judge. One defendant at Rochester was cited for failing to pay the apparitor's fee. In other words payment was made directly to the apparitor. On the other hand the amount payable to these men was entered in the registrar's account, suggesting that apparitors received a retainer, as well as money for each citation delivered. Proctors on the other hand made separate arrangements with their clients and were paid directly. Now and then they cite former clients to court who failed to meet their financial commitment.

Recent suggestions about the authority of the registrar have alerted us to the fact that they were more than mere scribes or money collectors. They were in a position of considerable power and potentially able to exert enormous influence over the judge of any court. During the course of an examination of a blind boy named Tome by Dr Williams, the judge and chancellor in the bishop's court at Winchester, the registrar stood up and shamed Williams, claiming that the boy had outwitted him. It was at the request of the registrar of the Official of the Archdeacon of Canterbury, Thomas Laurence, that the judge decided to sequestrate and impound the goods of the late Thomas Goldsmith despite the fact that there was no apparent reason why his debtors

127 Kentish Visitations of Archbishop Warham. op.cit., pp.238,239,243
128 Welch, op.cit., p.84
129 KAO, DRb/Pa7, fo.251
130 e.g. CCL, Y/2/4, fo.141v,142,171
131 Narratives of the days of the Reformation, chiefly from the manuscripts of John Foxe, martyrologist; with two contemporary biographies of Archbishop Cranmer. ed. J.Gough Nichols (Camden Society, o.s.77,1859) p.20
or beneficiaries should not be paid. This happened because Goldsmith had had a
dispute with the court officials during his life.\textsuperscript{132} It was an embarrassing moment for
the Official to try and explain this to the archbishop. The same registrar was also
responsible for the denunciation of Walter Gold, a leading priest in the diocese, over an
undisclosed matter. The judge dismissed the case at once.\textsuperscript{133}

As noted earlier, conservative registrars provided problems for a number of judges at
this time. In the archdeaconry of Lincoln in 1537, it was claimed that chalices were
taken away and some churches stripped of some valuables following rumours being
spread by Peter Effard, the registrar of the Archdeacon of Lincoln. This was revealed
in a court session at Louth. Effard may have been forced to resign over this because
his successor appears around this time.\textsuperscript{134}

Given the importance of the registrar, it was difficult to restrict his power. At times
it was quite convenient to allow the registrar some power and autonomy. A later
registrar at St. Albans, Thomas Rokett, was powerful enough to summon before him
the clergy of the archdeaconry who had failed to contribute to a levy for the defence of
their country. It was also at his directions that investigations were undertaken
concerning prayer books and Bibles.\textsuperscript{135} Frequently the court books for Canterbury
note that X. appeared "in domo registri" in order to have a matter settled, and it is not
always clear whether the judge was present. Later complaints focussed upon the
overpowerful and irregular functions performed by such officers, but to some extent
the degree of latitude he enjoyed largely depended upon his relationship with the judge.
This may partly be explained by status. Rokett for example was the mayor of St.
Albans, and others we have noted were themselves influential men. Moreover the

\textsuperscript{132} Kentish Visitations of Archbishop Warham.op.cit.,pp.66-67
\textsuperscript{133} KAO,PRC 3/6,fo.118v (December 1529)
\textsuperscript{134} LP. xii(i),no.380; LRO,Cij/1; in which Effard's name is not recorded. Despite this
Effard continued working as the chapter clerk at Lincoln until his death in 1541; see
Chapter Acts. i,p.xiii
\textsuperscript{135} Peters,op.cit.,p.18
knowledge of registrars may in practice have been greater than the judge. When Robert Colens became Official at Canterbury in 1524 Thomas Laurence had already been sitting as the registrar for more than thirty years. Consequently Rosemary O'Day's suggestions about registrars being underrated bureaucrats should be heeded as a warning. These men were allowed to wear special robes which denoted their rank. 136 It is clear that these were not men who contented themselves with menial tasks, void of some authority. 137

The Proctors.

The legal status of proctors working in courts spiritual was technically different to other personnel. They were officers of the court rather than the archdeacon, and were only employed when a party to a cause, or a person seeking the administration of a testament wanted someone to act as a proxy. In the provincial courts it was necessary for advocates to be employed. Although the function of advocates is unclear 138 they were allowed to be present during contested causes. For the most part however they were senior legal advisors who assisted in drafting legal documents, who could help proctors on points of law, or in summing up. 139 In the lower courts the proctor was the only legal advisor available. Ayliffe spoke of the office of advocate as being difficult and honourable, but the role of the proctor he said was "easy and dishonourable." 140

Once in court the proctor was in sole charge of his case. Like apparitors the proctors incurred some ill-feeling through their capacity to begin proceedings using a caveat and

136 e.g.Gibson, Codex. ii.p.1505
138 Cf.Kitching, "The Prerogative Court of Canterbury from Warham to Whitgift." ibid..p.201
139 ibid.,p.201
140 Quoted in Ritchie,op.cit.,p.53
petitioning the judge on behalf of his client(s), to cite an opposing party to appear before the court. Starkey alleged that they would rather "trowbul mennys causys then fynysh them justely.." Technically however they were liable to the judge's censure if they acted in some way deceitfully.

Nevertheless the procedures available within the law provided room for as much tactical manoeuvering as a competent proctor would require. If he was competent, a proctor could play a very important part in the conduct of a case. This is most clearly the case in plenary proceedings of instance cases, that is, litigation. Initially he could protest against the competence of the court before issue was joined, though it was necessary for him to do so under protest that it was not intended as a submission to the court. Most acts of the courts were open to protest and the petitioning proctor could do so against any apparent mistakes and his opposite number, if there was one, claiming that he did not admit the truth of anything produced. Similarly when either party petitioned for the cause to remain in statu quo until the next court day the other proctor would only consent to the adjournment under protest. Not surprisingly this initial skirmishing might add considerable time to the length of the suit.

Proctors were important not only because of this, but also as they drew up interrogatories which were submitted to the judge. For the plaintiff they were generally based on the libel and each clause turned into one or two questions. There were also questions which were interrogatories for the opposite party's witnesses which were intended to extrapolate obscure and perhaps important points. Prior to this the proctor generally questioned the relevant person as any admissions could circumvent later efforts in drawing up interrogatories. It was a brave party who attempted effectively to match a proctor in court, and it is difficult to believe that cases were not prejudiced

141 Kitching, op. cit., p.203
142 England in the reign of Henry VIII. op. cit., p.83
143 Leic.AO,1 D41/11/2,fo.13v
by a proctor's expertise, particularly in the light of legal qualifications that many of them possessed.

Apparitors.

The apparitor was in many ways the general factotum who was charged with doing any number of chores. The office was probably not formalised until the fifteenth century as it is not until then that registrars began to enter their names amongst other details of suits, although even by our period this was not common practice at either Rochester or Leicester. The time taken up by this office varied from jurisdiction to jurisdiction and depended upon the number of matters at hand. Attendance at court was compulsory, at least for those sessions held in the relevant deanery, so that the apparitor could receive instructions, as well as return certification or other details relating to cases.  

The Commons alleged in 1532 that apparitors were responsible for many prosecutions, being "very light and indiscreet persons." Until recently this has been taken to be the case. There was clearly some foundation for this. There are examples of apparitors vexaciously citing people to coun. Nevertheless, it was still probably considered desirable to afford the apparitor some freedom. A commission of 1540 specifically charges the appointee to check on excesses "quorum cognitio" and bring the offenders to punishment, correction and reformation "ad forum ecclesiasticarum." A legal notebook probably used by a proctor later in the century

145 Documents illustrative of English Church History. op.cit.,p.147; The Tudor Constitution. op.cit.,p.325
146 Woodcock, Medieval Ecclesiastical Courts. pp.45,49
147 Lincoln Diocese Documents. ed. A.Clark (EETS,o.s.149,1914) p.125; Phillimore,op.cit.,ii,p.1247
148 Gibson, Codex. ii,pp.1565-6
4: Court Personnel

maintains that it was quite lawful to prosecute individuals on the recommendation of an apparitor.\textsuperscript{149}

Given this, apparitors may well have acquired unjustified unpopularity in some quarters. There were at least a couple of cases in London, in the 1520s, in which apparitors had been threatened. In one of these Thomas Banester was alleged to have threatened to slay the poor man.\textsuperscript{150} But in rural England in this period such incidents are very rare, and hardly suggest widespread brutality. In 1523 Thomas Hewett was charged with perturbing the archdeacon's authority, but he is only said to have impeded the apparitor, not violently bashed him.\textsuperscript{151}

That assaults of this kind were rare is important. In fact court books reveal that the clergy and parishioners were just as likely, indeed more likely, to present names to court.\textsuperscript{152} A far greater amount of the apparitor's time was spent citing people to court at the order of the judge. One apparitor, named Carr, was sent to cite Henry Burton, curate at Chilham, regarding the administration of the sacrament.\textsuperscript{153} It was the task of the registrar or his scribe to draw up a list of people for citation and present it to the apparitor. The Commons complained that too often apparitors were going into the archdeaconries without citations and bringing people to court. At Rochester, at least, apparitors were required to carry them, and had to appear in court and have the document verified. Two centuries later John Ayliffe stated that if they did not carry proper documentation they could lawfully be opposed by force.\textsuperscript{154}

Each archdeaconry could, theoretically have an apparitor-general, and ordinary apparitors. Canterbury alone had an apparitor-general at this time. He does not appear

\textsuperscript{149} Gonville and Caius, Cambridge, 389/609, p. 231
\textsuperscript{150} A Series of Precedents...op.cit., pp. 97-8
\textsuperscript{151} KAO, PRC 3/5, fo. 124v
\textsuperscript{152} see chapter seven; R. Wunderli, London Church Courts and Society. (Cambridge, Mass., 1981) pp. 32-40
\textsuperscript{153} KAO, PRC 3/6, fo. 4v
\textsuperscript{154} Ayliffe, op. cit., p. 67
as regularly in the records as many of his subordinates, but does feature when there is a matter of some importance to be handled. He was responsible for the sequestration of the fruits of a benefice if the priest was contumacious or dead. Elsewhere this was done by the ordinary deanery apparitors. A commission of 1500 from Canterbury states that he was also required to supervise the summoning of executors for the administration of estates, which is the only real indication that he had authority over the other apparitors. If this was the case then he no doubt eased the burden of personnel management which was probably amongst the registrar's lot in most places.

At a more general level apparitors were sent to ensure that clergy and church officers were informed of the date and venue of the visitation. To the ordinary apparitor fell a miscellany of jobs. He was present at the visitation of his deanery and very often he could be called upon, when in court, to witness certain documents, most often at the constitution of proctors. In 1522 one of the apparitors for the archdeaconry of Essex was sent to Heybridge in order to collect arrears of Peter's Pence, the incumbent "beynge behynde unpaide." Another apparitor in the jurisdiction was told to take the goods of an intestate into custody. This was quite common. At Lincoln in 1553 William Stevenson, the apparitor for the deanery of Yarborough, was told to do the same thing, as well as leave a list of creditors and debtors of the deceased. In a different instance at Rochester the judge decided that in order to avoid unnecessary travel, the parties to a case could certify peace to the apparitor who would then report it to the judge. Apparitors were indeed busy men, and their portrayal as prurient investigators deserves some modification. In a very real sense, archdeacons' courts could not operate without them.

155 CCL,Reg.R.,fo.41  
156 e.g.KAO,PRC 37,fo.116v  
157 Pressy,op.cit.,p.21  
158 ibid.,p.24  
159 LRO,Cij/3,fo.1  
160 KAO,DRb/Pa7,fo.267
Career Patterns.

Advancement:

There are clearly discernible patterns of advancement, and clearly some men sought to rise, in employment, above archdeacons' courts. In this sense, there is indeed some truth in what Wilson says. No doubt many of the judges in the lower courts entertained hopes of climbing the tree of preferment and working in one of the provincial courts. There is no better example of this than to detail the pattern of employment evident from the court of the Archdeacon of St. Albans. Prior to the dissolution it boasted a galaxy of upwardly mobile public servants as Officials of the archdeacon. John Incent began his career in the Chancellor's court at Oxford and it seems his next judicial post was as judge at St. Albans, which he undertook from around 1515.\(^{161}\) By the late 1520s he had left the monastic archdeaconry, working for a while as Wolsey's vicar-general in the diocese of Winchester. By 1533 he was one of the king's chaplains and by 1540 Dean of St. Paul's Cathedral, London.

Thomas Bagard also worked at St. Albans after gaining experience in the chancellor's court at Oxford. A member of the college of Advocates by 1528, he became chancellor at Worcester by 1532 and Official Principal of the consistory and vicar-general in the same year.\(^{162}\) Another churchman was Griffin Leyson who took his D.C.L. in January 1533 and became the Official at St. Albans in the following year. He went on to become judge in the Admiralty court, on the commission of peace in several

\(^{161}\) HRO, ASA 7/2, fo.1v
\(^{162}\) HRO, ASA 7/2, fo.57v; LP. v, no.354, 656, 687; \textit{ibid.} vi, no.7, 14, 186; \textit{ibid.} viii, no.149(61); Emden, \textit{Supplement}. pp.19-20
Court Personnel

counties, Archdeacon of Carmarthen, was licenced to practice in Chancery, and became Dean of the Arches.163

Not all of these judges remained as servants of the church. William Bennett and Edward Carne also spent an early part of their careers developing their legal expertise as judges at St.Albans. Bennett later worked in Wolsey's legatine court and as an ambassador both for Wolsey and the king.164 Carne also worked as a diplomat on the continent, indeed he was knighted by Charles V, and later returned to enter Parliament as the member for Glamorganshire.165

The court of the Archdeacon of St.Albans however was far from ordinary. These men were the recipients of generous patronage, and it appears that the archdeacon was quite prepared to allow his court to be used as a training ground for promising legists. For the archdeacon it was an opportunity to acquire men with considerable talent, if not experience, for work in his relatively small jurisdiction, for which the judge was probably poorly paid. This pattern cannot be explained by arguing that Wolsey developed this system, because it pre-dates his incumbency as abbot. Consequently, as a result of this practice, in the years 1515 to 1538, the average tenure of office as Official of the archdeacon was only thirty months. Before the dissolution it provided an opportunity for judges to gain experience over a wide range of matters in a relatively small jurisdiction which in effect did not have to suffer appeals. After that time the archdeacon's jurisdictional wings were clipped and by Elizabeth's reign the

163 HRO,ASA 7/2,fo.87; LP. xx,ii,no.1043; CPR,Edward VI. i,pp.90,95; ibid.,iv,pp.184,355; ibid.,v,pp.209,358; CPR,Philip and Mary. i,pp.19,23; DNB. 33,p.217; Emden, Supplement. p.356
164 HRO,ASA 7/2,fo.74v; LP. iii(i)no.2625,3510; ibid.,iv(i)no.2073; ibid.,vi,no.596,305, ibid.,vii,no.86,306; DNB. 4,pp.218-9; Emden, Oxford to 1500. i,p.167
165 HRO,ASA 7/2,fo.54v; LP. iii,no.5866-7,5928,6605; ibid.,v,no.68,1594; ibid.,ix,no.548; ibid.,xii,no.1151(2); ibid.,xvi,no.427,962,1064,1111,1137,1235; DNB. 9,pp.134-5; The House of Commons, 1509-58. i,pp.585-6
archdeacon's Official complained that his court was losing too much business to the London consistory court.166

For brief periods in the years before the dissolution there were gaps between the arrival of judges with exceptional talent. As a result men of humbler status had to fill the breach; men such as Thomas King, a local priest and proctor in the court, who sat as judge for a short time after Carne left the post in April 1531.167 An otherwise unknown John Basse was judge in 1519 following Incent's departure,168 and an almost equally obscure figure, Richard Hutton, stepped in to replace William Bennett.169 In 1531 Loys Ferrers, Prior of the House sat as judge.170 As it happened, he was a man of considerable learning. The nature of judge's employment made this practice possible because appointment was at the archdeacon's pleasure, which meant that commissions could be revoked at will, which virtually made some of these men no more than a locum tenens.

After 1538 this court was no longer used in this way. Not only was it jurisdictionally no more powerful after the dissolution than other archdeaconry courts, but because it was so small the annual income was far less than elsewhere so that there was no financial attraction. It is primarily this change which explains why the archdeacons sat in person so often through the 1540s and 1550s, and also why the Officials were poorly qualified men. Neither Nicholas Savage (? - 1559) or David Kempe (1560- ?) held degrees, and Savage at least was only a local priest who had been in the archdeaconry for at least twenty years.

Clearly the pattern of employment of the Officials at St. Albans before 1538 was extraordinary. The diocese of Lincoln had a far more ordered means of offering

166 Peters, op.cit.,p.80
167 HRO,ASA 7/2,fo.66
168 ibid.,fo.14
169 ibid.,fo.69v,86
170 HRO,ASA 7/2,fo.64-5
advancement to its functionaries. John Pope, like Leyson, became an archdeacon, but his career was spent entirely within the one diocese. A bachelor of both laws, he became the commissary and Official at Lincoln in 1536.171 He later became chancellor of the diocese (1543-54), Master of St. Leonard's Hospital, Newark, a prebendary, and finally Archdeacon of Bedford. One of his successors there was Richard Barber with whom he had worked in the Archdeacon of Lincoln's court. Of course not all men who worked in archdeacons' courts became archdeacons, prebendaries or canons. Thomas Hedde was a prominent churchman. He was advocate of the court of Canterbury, Master of the Hospital of St. Mary Melton near Gravesend, vicar-general sede vacante of Winchester diocese, commissary of the jurisdictions of St. John and St. Catherine's near London, Official of the Bishop of Rochester (also acting as a proctor of the clergy of that diocese in Convocation), and of the Archdeacon of Middlesex and sometime judge in the bishop of London's consistory. Despite this experience he did not receive high preferment.172

There is no reason to doubt that acting as a lawyer in a church court was a perfectly respectable career to pursue. Another lawyer was William Mason who first received a parish in 1488. He became a licentiate in both laws, and began his legal career, so far as we know, as a judicial officer of the Bishop of Lincoln at Stamford. He was promoted, becoming in turn the Official of the Archdeacon of Leicester and president of the bishop's consistory court.173 Similarly, Richard Parker was commissary and Official at Leicester by 1521,174 afterwards becoming treasurer of the diocese of Lincoln (1525-32) as well as holding a number of preferments. John Prynne, Official and commissary at Lincoln by 1536,175 was his successor as Treasurer (1532-5) and

171 LRO,Cij/1,fo.61v
172 LP. i (i),no.438,3 m.20,pp.247-48; KAO,DRc/R7,fo.53; PRO,E135/7/24
173 Cambridge University Grace Book B..op.cit.,p.16; Bowker,The Secular Clergy. pp.22,32,186
174 Leic.AO,1 D41/12/2,fo.73
175 LRO,Cij/1,fo.2
sub-dean of the cathedral until his death in 1558. William Bynsley, was a B.C.L. by 1540 and received a number of preferments within the diocese of Lincoln. He then remained in the new see of Peterborough. Accordingly his legal career changed its direction. He was initially a proctor in the court of the Archdeacon of Oxford, and later he became chancellor at Peterborough. Walter Wryght was Vice-Chancellor of Oxford University at the time he was judge in the archdeacon's court. He subsequently was appointed archdeacon where he also worked as the vicar-general.

Not being as large as Lincoln, other dioceses could not offer similar opportunities, not only because there were fewer diocesan courts, but also because some cathedrals, such as Rochester and Canterbury were monastic, and patronage could not be used to keep promising men within the diocese quite as readily, at least before the dissolution. Nevertheless there were chances open to ambitious individuals. For some it meant travelling. William Piers was Official of the Archdeacon of Cornwall in the early part of the century, but he moved to become surrogate to the commissary at Winchester in 1521, and commissary general by February 1522.

Others remained within the one place and made the most of their opportunities. Finding a job in Cornwall may have been tantamount to exile. Edward Broughton rose from being a proctor in the archdeaconry court at Canterbury to become the Official, but he could not have risen higher within the archdiocese unless he succeeded like his successors Colens and Nevinson, and sat concurrently as judge in the consistory court as well as that of the archdeacon. He may have done so but for his untimely death.

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176 Le Neve, Lincoln. p.6; Chapter Acts. iii, pp.xii, xvi
177 LRO,Cj/6,fo.86v; Emden, Supplement. p.93
178 Emden, Supplement. p.641; it seems that he was not priested until one year after he became the archdeacon
179 Heath, The English Parish Clergy. p.43; Hampshire RO,Court Book 2,fo.35v,39v
180 CCL,Y/2/7,fo.117; KAO,PRC 3/6,fo.14
This is just as true for Rochester. Robert Johnson was the Official there from January 1523.\textsuperscript{181} Being ambitious he also worked as a proctor in the court of Arches, and later as registrar for the Bishop of London.\textsuperscript{182} He was of sufficient standing that he acted as the Official of the archbishop in Cranmer’s Metropolitan Visitation of the diocese of Rochester.\textsuperscript{183}

Those who became judges had practiced as proctors, either at University and/or in diocesan courts. Clearly some of these men were noted as being the heir apparent to the judge of the time. Shortly before becoming judge at Rochester, Robert Johnson acted as surrogate in that position for Ralph Mallener when the latter was ill.\textsuperscript{184} In 1553 Robert Colens deputised for Thomas Smyth, also because of illness.\textsuperscript{185} Colens was a former Official who got the job back a year later. In this case however it may have been simply that there was no one else available because his religious affiliations were not considered sufficiently reformist.

Many more men however continued to toil away in these courts without promotions to higher courts or positions, despite experience as a surrogate. In 1537 John Collyngrydge sat for John Pope, and the year before George Sandeford sat for John Prynne.\textsuperscript{186} At Canterbury in 1551 John Cockes presided over the court in the place of Thomas Smyth. Cockes was a proctor at Canterbury with over thirty years experience.\textsuperscript{187}

The terms of registrars’ commissions clearly meant that they were not likely to move frequently. If commissions had been granted at pleasure an aspiring judge may have taken his registrar with him to his new position(s). Bishop Fox was prepared to take

\textsuperscript{181} KAO,DRb/Pa 7,fo.203
\textsuperscript{182} J. and J.A.Venn, \textit{Alumni Cantabrigiensis}. (Cambridge,1922-7) i,ii,p.480
\textsuperscript{183} KAO,DRa/Vb4,2nd series,fo.107
\textsuperscript{184} KAO,DRb/Pa 7,fo.198,199v
\textsuperscript{185} KAO,PRC 3/14,fo.47v
\textsuperscript{186} LRO,Cij/1,fo.11,2
\textsuperscript{187} CCL,Y/4/9,fo.82
his registrar with him to Durham at the beginning of the century, but for the most part this was no longer possible. For most it was an adequate reward to have security of office. Opportunities of becoming a registrar in a church court could not have been great. It was no doubt one of the major attractions of this vocation that at least it would be possible to seek employment in local borough, or common law courts.

In archdeacons' courts at least, some time was spent training, by acting as one of the registrar's scribes, probably writing up probate registers, drawing up mandates and other certificates of the court. Most act books reveal that there were at least two hands evident in court books at some time in any given year. Some registrars were indeed well qualified men. Marmaduke Claver (Bedford and Buckingham) was a Bachelor of Civil Law, as was William Biller (Leicester). There were also the registrars' deputies, but is only occasionally that we get a glimpse of the men in this position, such as Chamberleyn at St. Albans in 1522 and Thomas Ablett at the same place at the beginning of the 1540s. Evidence is scarce. Only rarely is it stated that a scribe is sitting in court in the place of the registrar. The registrar at Northampton at the same time was John Mountsteving (Mountsteven), who was principal registrar of the diocese of Peterborough. He may have been a relation of Bishop Chambers. In any case he collected a number of offices in the diocese, and indeed sat as the member for Peterborough in 1555. He was, it would seem, so occupied with his other interests and duties, that he rarely sat in the archdeacon's court, and left the work to Nicholas Williamson, his deputy.

That most registrars were happy enough to remain in one working environment for so many years is surely an indication that they found their working conditions tolerable. This is equally true for other people. Some proctors spent the bulk of their working life

188 Welch, op.cit., pp.83-84; The register of Richard Fox, op.cit., p.xxix
189 Emden, Supplement, pp.120; Emden, Cambridge to 1500, p.61
190 HRO, ASA 7/2, fo.22v, 129
191 House of Commons, 1509-58, op.cit., p.642
4: Court Personnel

devoting at least part of the time to representing people in court. William Wigmore acted at Canterbury from 1517 until his death in 1552. Thomas Cockes, his long time colleague, worked there from 1527 until at least the end of Mary's reign. John Sapcote worked at Lincoln for at least fifteen years. Richard Brokesby was at Leicester for at least a dozen years. Apparitors too could work in a court for a considerable period of time. More than most, they were bound to a particular area, and some of them also continued to work for long periods. One apparitor in Canterbury archdeaconry, named Bryan, remained on duty in the deanery of Sandwich for at least fourteen years, and Henry Sorsby worked in the diocese of Rochester from before 1517 to some time after 1535. Robert Tyndale was still working at St. Albans in 1560 after twenty years service.

These were men who should be distinguished from others who appear only for a short period. An apparitor might be a bishop's servant or a burgess each only seeking extra money. Others were local priests. Richard Wulf and a man named Man, spent only a few years as apparitors at Canterbury. Edrege was one who hardly lasted a couple of years at Rochester, and these examples could be repeated. Similarly, James Wylie and William Wayne were Leicestershire clergy who acted as proctors only for a very short period. Thomas King was one of the more prominent and successful proctors at St. Albans, but he gave up this position after only five years' work. As it happened he returned to work in court nearly ten years later. Perhaps he needed the extra money.

Proctors and apparitors usually did not remain in a post for as long as registrar's because they did not possess letters patent, and the work was more infrequent. For instance, the type of case undertaken greatly influenced the decision to a proctor's help.

192 CCL,Y/4/4, passim.
193 HRO,ASA 7/3,fo.32
194 Welch,op.cit.,p.111
195 see appendix two
Defendants in office cases did not, on the whole, seek a proctor’s help. The hearing was summary and the elements of the suit very straightforward. It was only later in the century that they were called in to action more frequently and even then primarily in recusancy cases. Disputes over tithes, defamation and matrimonial contracts could often be bitter, and last for a considerable amount of time. They could therefore be quite expensive. In a testamentary suit at Sandwich in 1521, the case lasted in excess of ten sessions. The actor used a proctor all through, but the defendant waited until the fourth court day before he employed one, realising that the dispute was likely to be protracted.

Personnel and Status:

The question then remains about the status of the men who did work in the provinces; those who were identified as being staff members of archdeaconry courts. If Wilson is correct then the positions these men held were not greatly rewarding in any sense, and their place within the local community was of relatively minor significance. There is considerable evidence however to suggest that members of the gentry and yeomanry involved themselves in the activities of these courts. One family at Lincoln which involved itself in the workings of the church was the Sapcotes. William was a proctor in the cathedral, John a proctor in the court of the archdeacon, and Henry registrar in that court as well as the archdeacon of Stow’s, as well as being chapter clerk and episcopal scribe. Indeed Henry spent two terms as mayor of Lincoln in 1535 and 1544. The family had branches in Leicestershire, Hertfordshire and Rutland and the Lincolnshire branch seems to have been moderately wealthy. Their family had links

196 Peters, op. cit., p.62
197 CCL,Y/4/4, fo.5
with John Harrington, a county magnate, and Sir John Russell. It had been represented in the House of Commons, first by Sir John Sapcote (1472-5) and later Thomas (?1484-95). Edward sat for Rutland in 1539.199

The Sapcotes were also related by marriage to Richard Brokesby, Dean of Hastings and proctor at Leicester. Brokesby's family also had considerable property. It is believed that their rise to gentry status however had been relatively recent, due to the industry of Robert Brokesby, who was shrewd enough to marry the co-heir of Thomas Moigne.200 The family also supported the Hastings faction, hence Richard's deanery. Most of their real estate was concentrated in the Shoby area where they had been established since Edward III's time.201 The Brokesby's held property elsewhere202 and in 1550 their family relations suffered a blow because there was a dispute between co-heirs claiming rights over certain Sapcote and Brokesby money.203 This family also involved itself in the service of the state. Brokesby's brother Thomas represented Leicester in Parliament in 1529, and was there, possibly for the same constituency, in 1542.204 Yet another Brokesby, Robert, became the member at the House of Commons for Leicestershire in 1563.205

Robert Pachet was Official at Leicester from 1525 and he seems to have sprung from a substantial yeoman family based in the Rothley district of Leicestershire which could trace its roots in the area back to the fourteenth century. His father, Willam, a free tenant and substantial yeoman of the area, had built up considerable holdings, not only at Rothley, but also in lands held in

199 The House of Commons, 1509-58. op.cit., ii, pp.269-70
200 A.R. Maddison, "Lincolnshire's gentry during the sixteenth century." AASRP. 22, 1893-4. p.204
201 The visitation of the county of Leicester in the year 1619, taken by William Camden, Clarenceux king of arms. ed. J. Fetherston (Harleian Society, Publications, 2, 1870) p.49
202 e.g. CPR, Edward VI. iii, pp.58-59; ii, p.170, 229
203 CPR, Edward VI. iii, p.169
204 House of Commons, 1509-58. i, pp.507-8
205 House of Commons, 1559-1603. ed. P.W. Hasler (London, 1981) i, p.488; he was suspected of being a papist in Elizabeth's reign. He also inherited lands from his uncle, Edward Sapcote
Rutland. By the time Robert died, in 1544, his brothers Thomas and Henry had further established themselves within the district.\textsuperscript{206}

These are not isolated examples. William Broke spent some time as a proctor at Canterbury before his death in 1525. His father was a prominent individual in the eastern part of Kent. He held land in Dover, was a feoffee in Elham and bailiff of Dover. He was possibly mayor of Sandwich in 1499-1500 and certainly represented Dover in Parliament in 1485-6 and 1495.\textsuperscript{207} William Webbe, son of Bennett Webbe, practiced as a proctor at Canterbury also. His father was the MP for Sandwich in 1495 having been mayor of Sandwich in 1488-89. He had also represented the Cinque Ports at court in 1493.\textsuperscript{208} George Grantham was a proctor at Lincoln. His father Edward was mayor of Lincoln in 1492 and 1505 as well as being an alderman in 1511. Vincent Grantham, possibly George's brother, was made free of the city in 1526 and mayor in 1527.\textsuperscript{210} Robert Hunte spent some time as a proctor at Rochester. His grandfather represented Rochester in Parliament in 1450-1, and also owned considerable property in the Rochester district.\textsuperscript{211} The family of Thomas Percy, registrar at Canterbury, was not highly placed, but he managed to become mayor of Canterbury in 1563.\textsuperscript{212} Like him, Peter Effard, sometime registrar at Lincoln, was involved in local politics and served three terms as mayor of Lincoln.\textsuperscript{213}

\textsuperscript{206} W.G. Hoskins, "Leicestershire Yeoman families and their pedigrees." \textit{Transactions of the Leicestershire Archaeological Society.} xxiii,1946-7 pp.55-6
\textsuperscript{208} ibid., pp.925-26
\textsuperscript{210} \textit{Lincolnshire Pedigrees.} op. cit., ii, p.421
\textsuperscript{211} \textit{History of Parliament. Biographies of the members of the House of Commons, 1439-1509.} op. cit., p.487
\textsuperscript{212} \textit{City of Canterbury. The Chief citizens of Canterbury. A List of Portreeves (Prefects, Prepositi) from A.D.780 until c.1100; of Propositi (bailiffs) from the 12th century until 1448 and of mayors from 1448 until 1979.} compiled by W. Urry and C.R. Bunce (Canterbury, n.d.) p.54
\textsuperscript{213} \textit{Chapter Acts.} i, p.xiii 1520, 1531, 1540
Inevitably, details about these families are sketchy, but it is evident that most of them chose to remain in the areas of familial concern. Second, they chose to work in archdeacons' courts. Clearly it was these considerations which influenced or even determined their attitude and relationship with these tribunals. For some of these men it was an avenue utilised to confirm or even augment the place of the family within the community. While it may well be that this was not the case for all personnel at least it can be said that the work in these courts was not considered unfortunate or self-demeaning. William Broke resigned his position as Official of the Archdeacon of Berkshire and returned to the diocese of Canterbury to act as a proctor.214

Third, it was a kind of employment which could engender some esprit de corps. Many members of the court, it seems, were quite close friends. In his testament, John Prynne, sometime Official in the Archdeacon of Lincoln's court, left money and goods to fellow members of the chapter at Lincoln, including John Pope, Christopher Massingberd and Richard Barber, with whom he had worked in court. One of the overseers indeed was William Snowdon, the court registrar.215 John Pope did much the same thing, referring explicitly to his friend Edward Sapcote.216 How widespread friendships were of course is another moot point, personnel probably did not all congregate in the one residential area like the members of Doctors' Commons in Paternoster Row. Nor should friendship be assumed. It was William Leverett who submitted articles against one of his colleagues, Henry Litherland, then vicar of Newark upon Trent, to the central government. Litherland had been speaking seditiously at the time of the Lincolnshire rising, and later lost his head for it.217 Still, friendship may well have been a factor contributing to a decision to work in these courts; one which can too easily be ignored.

214 Emden, *Oxford to 1500*. i,p.273; All Souls College, Trice Martin p.282; CCL,Y/2/4,passim
215 PRO,PROB 11/40,fo.204v-5 (1558)
216 PRO 11/42A,fo.138v-9 (1558)
217 Chapter Acts. i,p.xii; ii,p.xi and note
In view of these comments there are many aspects of the courts' work which tend to suggest that archdeacons' courts were respectable institutions within contemporary society. Richard Brokesby's brothers were often called in to assist the court and act as arbitrators in disputes to be settled outside the court. Thomas Pachet, brother to the Official at Leicester, was quite prepared to act as the receiver for the archdeacon of Lincoln, despite the fact that it is generally regarded as a lowly form of employment. As we noted, the position of registrar was sufficiently prestigious for qualified canonists and civilians to compete for the position.

The group most frequently portrayed in unfortunate terms has been the humble apparitor, who has never really recovered from Chaucer's condemnation. There are certainly examples of apparitors abusing their position, and the people within a jurisdiction. The number of these cases however is poor fare to constitute an overall condemnation. John Vyncent, an apparitor in the Leicester archdeaconry was in fact a graduate of Cambridge. An M.A., and B.D., he was rector of a local parish and sprang from a country family in the Shepey area, which also benefited from the dissolution in the county. Like the Brokesbys, his family had connections with the Hastings faction. It is difficult to imagine such a man accepting such a duty if it was considered so menial. Indeed a number of priests undertook this role, not on an ad hoc, but a semi-permanent basis. The only limitation placed upon them in these circumstances was that they could not, if incumbents, present primary citations to members of their own parish. Christopher Plough worked as an apparitor at St. Albans and his brother, who was legally trained, later appeared as a proctor in the same

218 Leic.AO,l D41/12/2,fo.63v; Venn,op.cit.,i,iv,p.303; Visitation of the county of Leicester,op.cit.,p.79; House of Commons,1509-58. iii,pp.528-29; S.M.Thorpe (Jack), The Monastic Lands in Leicestershire on and after the Dissolution. (Oxford B.Litt.,1961) p.141; The Itinerary of John Leland in or about the years 1535-1543. ed. L.Toumin Smith (London,1964 ed.) i,p.21
219 e.g.CCL,Y/4/8,fo.48
220 Gibson, Codex. ii,p.1004
court. John Some, Vicar of Harbledown and proctor in the Archdeacon of Canterbury's court, was also the apparitor-general. It is difficult to imagine that the job of apparitor automatically generated the odium so often suggested while such as these should be prepared to undertake such a position.

It should be added, that very often there were other men who fulfilled some of the apparitor's duties on behalf of the court. In large deaneries the apparitor may have been busy elsewhere and it was quite common for local clergy to deliver citations on behalf of the court, or even perform some other functions. Even proctors could help out in this way. Formerly rural deans had done many of these things, but this arrangement disappeared towards the end of the fourteenth century. When Chaucer wrote of the apparitor in that century, he was certainly the butt of many insults, and his role did involve some risk to health. As we noted however, by the sixteenth century the apparitor's reputation and right to longevity were both respected.

It is quite another matter however to come to terms with the way the local gentry and yeomanry may have used these attachments with the courts to augment their local authority. As we shall see in the final section of this chapter, the financial rewards derived from working in these courts were not great. It is not contended here that all court officials worked in these courts because it helped their place within the local community, but some clearly did so. Moreover there were those who rose higher, and indeed some became archdeacons. Sir Thomas Wilson may have been partly right when he suggested that there was little to be gained by working in these courts, but his view was linear and presumed a focus of attention at the centre of ecclesiastical

221 HRO, ASA 7/2, fo. 171v: he first appears in April 1544, at the time the act book breaks off. The Protestant leader of the same name became Vicar of Sarratt in 1550. It is improbable that this is the same man, especially as before 1550 the reformist appears to have been in his parish in Nottingham, see Dickens, Lollards and Protestants, p. 194
222 CCL, Z/3/4; Woodcock, Medieval Ecclesiastical Courts, p. 122
223 CCL, Y/2/7, fo. 5, 27, 84
224 CCL, Y/4/8, fo. 66; Y/4/9, fo. 133
administration. To some degree men may have found that work in these courts was a form of service to the church. Furthermore, at the archidiaconal or peripheral level, employment clearly meant involvement with the locality, and the sort of men who worked in these courts enjoyed a place in society not necessarily as unpleasant as polemicists would have us believe.

The Reformation:

The nature of employment within archdeacons' courts was inevitably disturbed by the Reformation. In some cases the religious outlook of court personnel was itself a matter of concern. This was particularly the case in the diocese of Canterbury, but only for a short time. In 1539 Christopher Nevinson replaced Robert Colens as the Official of the Archdeacon of Canterbury. Nevinson was a reformist active not only in this court but in various royal commissions during Edward's reign. In 1554 however Colens was reinstated as judge and he in turn acted energetically for the cause of the Marian Reaction. Perhaps due to age Colens was replaced by Nicholas Morton in 1558. Morton later found notoriety of sorts, as an ex-patriate, following his support for the revolt of the northern earls in 1569. It was his doctrinal conservatism which made him so suitable.

Similarly, at St. Albans, the conservative Nicholas Savage was replaced as judge in 1559/60 by David Kempe. Much the same appears to have happened at Leicester in 1559. John Lounde had been a proctor in the Archdeacon of Lincoln's court until

225 Colens replaced Thomas Smyth as Nevinson had died in 1551. Smyth had been one of Thomas Cranmer's chaplains
226 J.Strype, Annals of the reformation and the establishment of religion, and other various occurrences in the church of England (during Queen Elizabeth's happy reign), together with an appendix of original papers of state, records and letters. (Oxford,1820-40) ii,i,p.577
1553, when he is deprived of a living, and disappears from the court records. With Elizabeth's accession he re-surfaces as the new Official at Leicester.²²⁷

During the Reformation the security registrars enjoyed by the terms of their patents made it difficult to ensure whether they supported the current orthodoxy. William Cooke, the diocesan registrar at Winchester, was responsible for causing some friction between the two reformers Philpot and Ponet. Thomas Laurence was no doubt under a cloud after he became involved with Elizabeth Barton, the Holy Maid of Kent, in the early 1530s. He supported her but was spared any punishment. Fortunately for both Edmund Cranmer, and Laurence, the latter retired from office in 1536.²²⁸

The religious outlook of proctors and apparitors was clearly less critical than for that of the judge or registrar. Of those courts which have records extant throughout this period, only Canterbury acta reveal changes associated with religion, amongst the ranks of the personnel. Edmund Farley, ____ Shadwell and John Stace were certainly additions in Edward's reign. Nothing is known of Shadwell other than he had disappeared by Mary's accession (as they all seem to have done), but Farley was clearly a reformist who had known the Cranmers at Cambridge. Farley had also been one of the Royal Visitors of the North in 1547, after which he went to the diocese of Canterbury. He moved straight in as the Rector of Mongeham, and as a member of the court's staff.²²⁹ Stace's background is more obscure. He was a notary public who acted as an apparitor, but after Elizabeth's accession he re-surfaces in 1559 as one of the Royal Visitors, this time as the deputy registrar.²³⁰

The impact of the Reformation on the employment is a different question about religious preferences, and the impact in this area can most clearly be illustrated in the

²²⁷ see appendix two
²²⁸ LP. vi, no.1460; KAO, PRC 3/8, fo.82v; Laurence died in this year. It is possible that he did not retire but simply died in office
²²⁹ The royal visitation of 1559: act book for the northern province. ed. C.J.Kitching (Surtees Society, 187, 1975) p.xv; Dickens, Lollards and Protestants. op.cit, pp.178-9; CCL, Y/4/5, fo.11
²³⁰ The royal visitation of 1559. op.cit., p.xviii
case of the proctors. Over the period of the Reformation the lot of the proctor underwent some changes. The following table sets out some guides to these changes as well as illustrating some of the differences between courts.

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<tr>
<td>Canterbury</td>
<td>1521</td>
<td>1541</td>
<td>1556</td>
</tr>
<tr>
<td>Total Cases</td>
<td>376</td>
<td>82</td>
<td>82</td>
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<tr>
<td>Total Court Appearances</td>
<td>997</td>
<td>141</td>
<td>175</td>
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<tr>
<td>Proctors in sessions</td>
<td>670(67.2%)</td>
<td>74(52.4%)</td>
<td>173(98.8%)</td>
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<tr>
<td>No. of active proctors</td>
<td>8</td>
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<tr>
<td>Leicester</td>
<td>1528</td>
<td>1541</td>
<td>1556</td>
</tr>
<tr>
<td>Total Cases</td>
<td>115</td>
<td>44</td>
<td>57</td>
</tr>
<tr>
<td>Total Court Appearances</td>
<td>160</td>
<td>96</td>
<td>131</td>
</tr>
<tr>
<td>Proctors in sessions</td>
<td>38(23.75%)</td>
<td>11(11.45%)</td>
<td>10(7.65%)</td>
</tr>
<tr>
<td>No. of active proctors</td>
<td>4</td>
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<tr>
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<tr>
<td>Lincoln</td>
<td>1538</td>
<td>1544</td>
<td>1552</td>
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<tr>
<td>Total cases</td>
<td>41</td>
<td>34</td>
<td>48</td>
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<tr>
<td>Total sessions</td>
<td>195</td>
<td>242</td>
<td>426</td>
</tr>
<tr>
<td>Proctors in sessions</td>
<td>154(80%)</td>
<td>182(75%)</td>
<td>37(87.7%)</td>
</tr>
<tr>
<td>No. of active proctors</td>
<td>7</td>
<td>3</td>
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<tbody>
<tr>
<td>Northampton</td>
<td>1541</td>
<td>1550</td>
</tr>
<tr>
<td>Total cases</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>Total sessions</td>
<td>38</td>
<td>66</td>
</tr>
<tr>
<td>Proctors in sessions</td>
<td>17(44.7%)</td>
<td>55(83.3%)</td>
</tr>
<tr>
<td>No. of active proctors</td>
<td>2</td>
<td>3</td>
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<th></th>
<th>Year</th>
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<tr>
<td>St.Albans</td>
<td>1521</td>
<td>1533</td>
<td>1542</td>
</tr>
<tr>
<td>Total cases</td>
<td>8</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>Total sessions</td>
<td>20</td>
<td>94</td>
<td>34</td>
</tr>
<tr>
<td>Proctors in sessions</td>
<td>5(25%)</td>
<td>70(74.4%)</td>
<td>18(53%)</td>
</tr>
<tr>
<td>No. of active proctors</td>
<td>5</td>
<td>2</td>
<td>3</td>
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Clearly these figures are important in a number of ways. It is apparent that each court had different patterns of employment throughout the period. The only court where the total amount of business did not decline was in that of the Archdeacon of Lincoln. The particular status of that court will be discussed more fully in chapter seven, but it is

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231 These are instance cases (litigation) alone. Proctors were very rarely used to appear in prosecutions
232 That is the total number of times each suit was brought before the court
233 The number of occasions that proctors appear in these sessions
234 The total number of proctors regularly employed by clients in this court
4: Court Personnel

clear that it was not suffering from the ill effects of the Supremacy. With the exception of Leicester, where proctorial representation had never been great, and St.Albans, where the number of suits is very small, there is a clear increase in the percentage of litigants seeking professional help. Nevertheless, the income one could earn in these courts, apart from Lincoln, was falling. At Canterbury the number of proctors had slipped from eight in 1524 to two in 1556. Even so they could not earn a fraction of the money possible thirty years earlier. It is certainly the case that the situation was better at Lincoln, but it stands in stark contrast to the other courts.

If the level of business was falling in all of these courts before 1500, as it was at Canterbury, it is certainly true that the Reformation upheavals had an even greater impact. One of two things was happening. Either it was only the wealthier souls who went to court, and so increasing the proportion of cases with legal representation, or there was simply a smaller number of litigants, from all sections of society, each with an increased awareness of the advantages of help. This will also be discussed later, but in any case it is clear that by the 1550s the attraction of being employed as a proctor in an archdeacon's court had lost something of its gloss.

Given the widespread nature of this work the Reformation had little effect upon the way the apparitor's job worked. It did illustrate however that there had been a very real shift in the concentration and administration of ecclesiastical policy and power into the hands of the monarch.

At Canterbury apparitors helped check to see if parishes purchased the new prayer books in 1549. In 1537 Bishop Longland wrote to the archdeacons of his diocese touching the King's orders about sermons and bidding prayers. He told them to "Send ye forthe your apparytours that they may call every deanery by ther selves." Within

236 CCL,Y/4/9,fo.1-5,20-22
237 *Lincoln Diocese Documents*.op.cit.,p.195
the first decade of Elizabeth's reign they were also ordered to help the poor. They were called upon, both in Edward's and Elizabeth's reigns, to ensure that rood lofts had been pulled down. So it was that the Supremacy even affected the lowly apparitor. In 1553, John Bardaull, apparitor of the Archdeacon of Chichester, appeared before Bishop Scory and reported that he had warned the clergy to appear at the visitation "in accordance with royal letters &c." 

More important, from the apparitor's point of view, was the reduction in the amount of court business, as well as the abiding uncertainty about the courts' future, which in turn made employment in these tribunals a less attractive proposition. Woodcock shows that before the Reformation, apparitors at Canterbury worked in one court alone, whether it was the archdeacon's or commissary's court. This was no longer true after the 1530s and by 1548 eight men were working in both courts. The number of active apparitors fell to four by 1554, all of them working in both courts. Nor was an apparitor-general appointed to replace Some after his death in 1555. Although it was no doubt a part-time position, it was becoming more and more demanding. By the middle of the century the apparitor may have asked of himself, whether there was enough income to justify the effort.

The impact of the Reformation upon the employment of registrars and Officials is less clear. Due to the reduction of work there would have been an inevitable fall in the incomes of each. In the case of judges the employment opportunities may have increased somewhat. The reduction in the numbers of proctors working meant that there were fewer lawyers available to fill judicial posts, as they became available.

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238 LRO,Cij/3,fo.7; how this was done is not stated
239 Pressy, op.cit.,p.23
241 CCL,Y/2/16,passim.
242 CCL,Y/2/17,passim; yet there were eleven deaneries in the diocese. In other words the court could not keep enough men employed, and this in turn increased the areas covered by those who were left to do the work.
Notaries public may also have turned to other courts more confident in the hope of seeking out an income. For those left in archdeacons' courts, times may have become somewhat harder. At St. Albans in the early 1540s, where there was too little work to warrant one man full time, Thomas Ablett sat just as many times as Robert Garrett the registrar. This situation remained much the same into Elizabeth's reign.

**Income.**

As in all professional relationships money was a matter of great concern, both to the lawyers and the people who paid for their services. A treatise dating from 1586 asked whether the court personnel sought to remedy ills or whether they seeke the richeinge of themselves, and be burdensom to all her Males good subjects [and so lead to] thencouragment of malefactors.

Despite this, very little evidence survives which adequately depicts the size of income of the personnel of these courts. The scribes, proctors and apparitors benefited greatly from the amount of business they handled. The greater the volume the higher their income. Judges however were not as well served by a high number of disputes.

It is clear that some could also claim expenses for equipment and travel. In 1506-7 at Canterbury the Official of the archdeacon claimed seven pounds and three shillings and just over ten pounds ten years later.245 There were clearly variations from year to year. In 1535 the Official at Rochester only claimed thirty seven shillings and eleven pence,246 whereas in 1520 the expenses of visitation amounted to forty seven

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243 Peters, *op. cit.*, p.17
244 *Second Part of a Register.* ed. A. Peel (Cambridge, 1915) ii, p.195
245 Woodcock, *Medieval Ecclesiastical Courts.* p.76
246 KAO, DRa/Vb4, fo.122v
These expenses included meals, care for the horses and some accommodation.\textsuperscript{248}

After the Reformation it was more common for judges to farm the profits of his court from the bishop or archdeacon and to obtain their income from the excess of receipts over the annual rent.\textsuperscript{249} The farming system was most likely introduced in an effort to combat the deleterious effects of inflation and the general reduction in some sources of income.

Practically all court business contributed to the wealth of the registrar. His role was to record everything. No act was legal without his authorisation, and so not done unless he was paid. Each licence, induction and testament had to be noted down, each act of court, and each appointment. A bill of costs from 1498 amounted to twenty two shillings and five pence, from which the registrar received 4d. for the citation, 8d. for its certification, 2s.1d. for the libel and the certification of the party's decree amounted to 6d. On top of this, copies were made of the examination (12d.), a letter of execution (8d.) and its certification (8d.). Finally the schedule of expenses itself cost 3d.\textsuperscript{250} The amount all told adds up to six shillings and twopence. In a case in London in 1510/11 for the recovery of church dues, the defendant had to pay a total of 12s.6d. of which the registrar received 7s.4d. - a considerable proportion indeed.\textsuperscript{251} Any money owing to an assistant scribe would be paid for by the registrar out of his receipts, the rates probably being decided by agreement between the two men.

The number of processes or court days a matter was heard increased the amount of work done and the amount of money earnt. Woodcock has suggested that the registrar at Canterbury, Thomas Laurence, received ten pounds in 1497. He estimates that

\textsuperscript{247}ibid.,fo.122v; see also ibid.,fo.31; when it was 32s.2d. in 1528
\textsuperscript{248}ibid.,fo.31
\textsuperscript{249}e.g.PRO,Req 2/36/13; archdeaconry of Wiltshire (1590)
\textsuperscript{250}Woodcock,\textit{Medieval Ecclesiastical Courts.} p.126
\textsuperscript{251}The Medieval Records of a London City Church, A.D. 1420-1559. ed. H.Littlehales (EETS,o.s.128,1905) p.278
4: Court Personnel

Laurence received on average six pence from each case, and there were 409 in that year.\textsuperscript{252} In fact this figure may still be too low, because it ignores other administrative tasks, such as probate business, and arranging for the induction of clergy into parishes. No doubt the income from court business fell during the sixteenth century. In Henry VIII's reign it was stated in a suit in the court of requests, that the registrar of Northampton could expect twenty and a half marks per annum, or around six pounds, sixteen shillings and eight pence.\textsuperscript{253} By Elizabeth's reign the same position was estimated to be worth only five pounds a year.\textsuperscript{254} Registrars were in a sense however the more fortunate, especially if they were paid a retainer. Proctors and apparitors fared worse than other officers during the years of the mid-Tudor crisis.

Table 3: \textbf{Maximum Number of Sessions for the busiest Proctor.}

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Year</th>
<th>Year</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canterbury</td>
<td>1524=442</td>
<td>1541=42</td>
<td>1556=102</td>
</tr>
<tr>
<td>Leicester</td>
<td>1528=16</td>
<td>1535=8</td>
<td>1557=5</td>
</tr>
<tr>
<td>Lincoln</td>
<td>1538=145</td>
<td>1544=119</td>
<td>1552=232</td>
</tr>
<tr>
<td>Northampton</td>
<td>1541=13</td>
<td>1550=28</td>
<td></td>
</tr>
<tr>
<td>St.Albans</td>
<td>1521=3</td>
<td>1533=66\textsuperscript{255}</td>
<td>1542=9</td>
</tr>
</tbody>
</table>

Perhaps in response to the fall in business in 1516, the proctors at Canterbury got together and insisted that in the future, clients should pay one court day's fee in advance. The court granted this request.\textsuperscript{256} Estimates about the yearly income of an

\textsuperscript{252} Woodcock, \textit{Medieval Ecclesiastical Courts}. p.77
\textsuperscript{253} PRO,Req 2/11/89
\textsuperscript{254} PRO,Req 2/80/2
\textsuperscript{255} This was an exceptionally good year for the proctors at St.Albans and should not be regarded as being typical
\textsuperscript{256} CCL,Y/2/4,fo.86; referred to in Woodcock, \textit{Medieval Ecclesiastical Courts}. p.111
Court Personnel

Apparitors are even more difficult. The Commons complained that they received 2d. a mile instead of the 1d. stipulated by church law. It is not possible to discredit or substantiate this allegation. Not all of these men's income came from treading the pathways of the jurisdiction. Some courts appear to have offered a retainer to these men. At Rochester it was ten shillings, possibly offered in order to defray expenses. On top of this, other, non-judicial functions are generally not recorded. We know that one London apparitor received 12d. for delivering a crismatory at Easter in 1557, but it is a chance survival. Nevertheless the amount that could be earned, not only in this, but other fields of work associated with these courts, was never likely to be a princely sum.

Fees in court however ignore other opportunities for the personnel of these courts. Local patronage was very often the only means available both to bishops and archdeacons as a reward to the personnel of their courts. Indeed it was expected that this would be the case. As we have noted the officials in the archdeaconry of Lincoln were, if priests, well catered for by the bishop. John Prynne, John Pope and Christopher Massingberd each held positions within the cathedral. If parishes were within the gift of the bishop he could also use them as a form of reward for faithful service. Bishop Longland presented Prynne to the parish of Egdon, and Pope to Epworth. Henry Sapcote, and after him William Snowdon were not only the registrars of the courts of the Archdeacons of Lincoln and Stow, but clerk of the Dean and Chapter of the cathedral.

Lincoln was not alone in offering support to its court personnel. Edward Broughton, the Official at Canterbury was presented to St.George's Canterbury by the archbishop. Bishops chose to keep certain benefices available for special men.

257 KAO, DRa/Vb4, fo.12v,31; The Medieval Records of a London City Church. op. cit., p.406
258 LRO, Reg.27, fo.112v, 97v
259 Lincoln Chapter Acts. iii, p.xxii
260 LPL, Reg. Warham, fo.382
Asfordby in Leicestershire was offered to Henry Wilcockes in 1510,261 to John Palsgrave262 and then to Richard Brokesby in 1525.263 The problem for archdeacons was that they personally controlled a very small amount of the patronage within their jurisdictions, indeed even bishops had a relatively small portion given their position.264 In 1522, the Archdeacon of Canterbury was patron of only four parishes within his archdeaconry; Stone, Doddington, Linsted and Teynham, which were all within the deanery of Ospringe.265 Often archdeacons had to gain the support of the bishop before one of their functionaries could be advanced. Partly for that reason many bishops had established collegiate churches in the thirteenth and fourteenth centuries in areas where they had a minimal amount of advowsons at their disposal. This was especially useful if the cathedral was not secular. Wingham college had been established in Kent for that reason, and Robert Colens was one of the canons appointed there during Warham's archiepiscopate.266 At Lincoln it was true in areas away from the cathedral. Newark College at Leicester was used in this way. It was such a tradition for his commissaries to be canons there that Richard Sylvester, the only commissary who was not made a canon of the college, rented rooms there for his use.267

It was quite common for religious houses to offer places to the court personnel. Ralph Mallener, Official of the Archdeacon of Rochester, was presented to the parish of Stockbury jointly by the prior and convent at Leeds as well as the archdeacon.268

261 LRO,Reg.23,fo.266  
262 LRO,Reg.25,fo.39; Reg.27,fo.148  
263 LRO,Reg.27,fo.148  
265 CCL,Z/3/4,fo.89-92v  
266 LPL,Reg.Warham,fo.397  
267 A.H.Thompson, The History of the Hospital and the New College of the Annunciation of St.Mary in the Newark, Leicester. (Leicester,1937) p.155  
268 LPL,Reg.Warham,fo.371v
4: Court Personnel

Hews, a proctor at Canterbury, was presented to benefices, once by the house at Leeds and once by the one at Combwell. Thomas Cockes, one of his colleagues, received two parishes from St. Augustine's Canterbury. Similarly, William Dukket, a proctor at Leicester, received Rothley from the house of St. John of Jerusalem, and George Sandeforde, a proctor at Lincoln, was presented to Boston by the same house.

Of course there were other reasons for their presentation to parishes. Some even benefited from the largesse of the crown. John Pope received two benefices from the king. In a number of cases members of the local gentry and higher clergy supported these men. George Hastings provided Richard Brokesby with the sixth prebend at Leicester. The Brokesbys were clients of the Hastings faction. Edward Broughton was presented to Wormshill in Kent by a local armiger. John Lounde, a member of an ancient Leicestershire family, and future Official at Leicester, was presented to St. Margaret's by Sir Thomas Nevell. Sometimes families provided for their own. Robert Pachet, Official at Leicester, was presented to Rothley (the family seat), by John Pachet.

It is also true that court members were able to help their colleagues. This is most obviously the case at Lincoln. William Sapcote went to St. Peter's Lincoln upon presentation by his brother Henry. John Pope presented Richard Barber to Burton-next-Lincoln, in 1557. John Gote, at this time a proctor at Northampton, presented

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269 ibid., fo.363,374
270 ibid., fo.357,397
271 LRO, Reg.27, fo.160
272 LRO, Reg.27., fo.62v
273 LRO, Reg.27., fo.76v,97
274 LRO, Reg.25, fo.29
275 LPL, Reg.Warham, fo.381v
276 LRO, Reg.28, fo.53v
277 LRO, Reg.27, fo.156v
278 ibid., fo.74
279 LRO, Reg.28, fo.134v
William Sapcote to Beliford Church. Gote was later registrar at Leicester, and Sapcote's brother Edward was his deputy. The way patronage was dispensed is perhaps an indication of the bishop's capacity to distribute advowsons more readily than the Archbishop of Canterbury.

Patronage was indeed manifest in a variety of ways. Court officials could also receive manna of a different, secular kind. Participation in the working of the Canterbury diocesan courts clearly benefited Christopher Nevinson. By his death in 1551, he was the lessee of no less than three archepiscopal manors in Kent, as well as the Wingham bailiwick from 1547. It could quite plausibly be argued that this was augmented by his relationship with the archbishop, who also made him commissary (1547), registrar of the court of Arches and a member of a number of commissions. Nevertheless he was not alone in receiving such bounty. His successor, Thomas Smyth, did rather well, becoming the lessee of certain land at Great Mongeham, and lessee of Lambeth Rectory. Some even extended their assets beyond diocesan boundaries. William Broke held lands in Lewisham, Kent, Warwickshire and Gloucestershire. Richard Hutton, who was Official at St. Albans in 1533-34, obtained the tenure of lands in Hertfordshire and Bedfordshire, and later in Essex. John Webbe had land tenures in Wingham, Newington, Leeds, Warwickshire, Hampshire, Essex and other places. Thomas Percy held lands in

280 NRO, Arch.II, fo.34; LRO, Reg 27, fo.87v
281 Leic. AO, 1D41/11/3, fo.21 (January 1557); Chapter Acts. iii, pp.126-7 Edward Sapcote ended his career as the Bishop of Lincoln's principal registrar
282 CCL, Reg. U, fo.13, 171, 204, 171
283 ibid., fo.189
284 ibid., fo.76
285 CPR, Edward VI. ii, pp.135, 251; ibid., iii, p.347; DNB. 40, p.308
286 CCL, Reg. U, fo.113, 191
287 ibid., ii, pp.429, 433; CPR, Philip & Mary. ii, p.150
288 HRO, ASA7/2, fo.6v, 76v
289 CPR, Edward VI, i. p.315; ibid., ii, p.234
Westminster, Berkshire as well as in Kent,\textsuperscript{290} and was granted an annuity on Ickham manor.\textsuperscript{291} It is not always possible to assess who was responsible for these grants, and so their association with the ecclesiastical system is circumstantial. Clearly there were men whose breadth of interests paid dividends. John Webbe, and members of his family already held land in certain parts of Kent. He also acted for the crown and in local government, starting with his position as steward, jurat, and then auditor at Faversham. Afterwards he became a Justice of the Peace, and in Mary's reign one of the commissioners working under the seal of the Exchequer over the division of manors and rectories of the crown in Kent.\textsuperscript{292} John Colman, another proctor at Canterbury, was also a Justice of the Peace as well as one of the king's commissioners of musters and he fulfilled similar roles into the 1530s. At some time he acquired land tenures in Yorkshire and parts of Kent.\textsuperscript{293} One of his colleagues, Thomas Cockes, was much the same.\textsuperscript{294} The number of men who worked in this way were most obvious from the Canterbury courts. As suggested, the personnel in the diocese of Lincoln were catered for by other positions at the disposal of the bishop.

In all cases however, there were those amongst the court officials who were able to seize opportunities provided by the Suppression. John Bere, registrar at Rochester, and John Pope, Official at Lincoln, both bought crown lands following the Suppression in 1544.\textsuperscript{295} Thomas King, a proctor at St.Albans acquired lands belonging to religious houses in Lincolnshire and Buckinghamshire.\textsuperscript{296} The

\textsuperscript{290} ibid.,iv,p.167; CPR,Edward VI. i,p.214; Reg.T2,fo.142
\textsuperscript{291} CCL,Reg.T2,fo.142
\textsuperscript{292} House of Commons,1509-58. iii,pp.564-65; CPR,Philip & Mary. iv,p.398
\textsuperscript{293} LP. xx(ii),no.496(12); CPR, Philip & Mary. ii,p.170; LP. ii(i),no.417,2223;
ii(ii),no.3748; iv(i),p.83,nos.464(2),235,1533(1);
ibid.,v,no.1694(2),119(13),278(31)
\textsuperscript{294} LP. xiv(i),no.645; xx(i),no.622;(p.315); CPR, Edward VI. ii,p.210;
ibid.,iii,p.225; CPR,Philip & Mary. iv,p.235
\textsuperscript{295} LP. xix(ii),no.586
\textsuperscript{296} CPR,Edward VI. ii,p.120; iv,p.57, see also ibid.,pp.24,207
conservative Robert Colens indulged in similar activities in land tenures in Wiltshire, Warwickshire and Dorset.297 Thomas Percy gained from the dissolution, as did the conservative Nicholas Morton.298 To what extent the functionaries of the church were given a chance to take advantage of these opportunities before others is a moot point. It seems more than co-incidental however, that in St.Albans, Christopher Plough the apparitor, got former abbey lands adjoining similar claims by John Giles and Richard Johnson, both of whom also had some contact with the court.299

It would be wrong to be dogmatic on this point and it is worth stressing that some members of court personnel, especially proctors and apparitors, were not always concerned with church matters. Indeed not all of them were even priests. Consequently, these men could not expect to receive benefices to support them, so it was often necessary to muster income from another source. For instance, William Leverett served in the archdeacon of Lincoln's court for a time before concentrating on his medical career.300 The activities of John Broxholme too are instructive.301 Born of a Lincoln merchant family, he was active as a land speculator in the years after the dissolution. In fact he was a man who possessed many talents. He was an Inner Temple lawyer, who evidently had ties with the administration, as he was a signatory to the joint Convocations' endorsement of the king's divorce from Anne of Cleves.302 Moreover he appears as a commissioner "in partibus" proving testaments in Lincolnshire in 1536 on behalf of Thomas Cromwell, the vice-gerent.303

297 CPR, Edward VI. ii, p.44,85,342; ibid., iv, p.40
298 LP. xxviii(i), no.436; CPR, Philip & Mary. iv, p.176
299 LP. xix(ii), no.800(11) (December 1544)
300 Emden, Supplement. p.353
301 For much of this information see S.M. Thorpe (Jack), The Monastic Lands in Leicestershire. op.cit., pp.153-4,216,258
302 LP. xx(ii), no.861
303 C.J. Kitching, "The Probate Jurisdiction of Thomas Cromwell as Vicegerent." op.cit., p.105
4: Court Personnel

As a speculator he was initially partnered by John Beller, sometime mayor of Grimsby, and MP, and later, by Thomas Burton, esquire.304 He invested in properties in Lincoln which had formerly belonged to both the Black monks and White friars and rented many of them and re-alienated others.305 He also held messuages and cottage property in Leicestershire, and at one time was a joint owner of North Markfield.306 Not surprisingly he also invested in properties within his home county.307 In one transaction he bought land from Henry Sapcote, another proctor in the archdeacon's court.308 His business went beyond his own land deals, and at one time he acted as agent for the Lincoln council in certain land transactions.309

Clearly Broxholme had a high profile as an investor, but he was also a proctor in the church courts, working in the Archdeacon of Lincoln's court for about a dozen years. Broxholme however had developed links way beyond the church courts at Lincoln, and it would clearly be mistaken to assume that his investments all resulted from his employment in his work there. There can be no doubt that he benefited from his position as a proctor, but how much is more problematic.

Conclusion.

This evidence does not mean that all officials could look to the courts as a great financial boon. At the same time, a simple analysis of court incomes is a narrow approach which deprives the historian of the social milieu in which most of these people worked. The running of a court was perceived to be sufficiently important for

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304 Historical Manuscripts Commission. XIV Report, Appendix VIII. (London,1895) p.16
305 ibid.,p.16; J.W.F.Hill, Tudor and Stuart Lincoln. (Cambridge,1956) p.63
306 Thorpe,op.cit.,pp.216,258
307 Cf.LP. xix(ii),no.586; ibid.,xxi(ii),g.771(37); CPR,Edward VI. iv,p.445; ibid.,iv,p.355
308 Thorpe,op.cit.,p.63
309 ibid.,p.64
many of these men to establish significant socio-economic, and sometimes political interests within the locality of the court in which they worked. While promotion to the central courts of a province no doubt had its attractions, it is not the only measure of success, any more than payment in court is a guide to the rewards for court personnel.

On almost every count, the criticisms voiced about the personnel in archdeacons' courts is misleading, as it relates to this period. The qualifications of court personnel, and the complexity of their work, was far in advance of the criticisms of modern historians, and contemporaries alike. Just as importantly, many of the people who worked in these tribunals were prominent individuals in county society. This is surely an indication that the courts themselves were of some significance in Tudor society.

Clearly there were people who would have preferred employment in more senior tribunals, but in some respects, the competitive nature of candidates for employment is instructive about the calibre of men under discussion.

The impact of the Reformation is difficult to assess and depended upon variable, and quite localised conditions. At Canterbury, Thomas Cranmer's preference for reformists is clearly illustrated by changes to the court personnel during Edward's reign. This is not paralleled elsewhere. At Lincoln there is markedly little change in the pattern of employment. In most courts, however, including the Archdeacon of Canterbury's court, the fall in business dearly affected the lot of both proctors and apparitors. Inevitably, this also affected the incomes of Officials and registrars, although to what extent it is difficult to say.

For most of these courts, reduced business meant not only less income, and indeed, a less prominent place in local society. It also meant that at least some of the gentry working in the courts were no longer present. At the same time there seems to have been a very large reduction of well qualified men turning to these courts for work. If Wilson's remarks were correct, then perhaps it was as a result of the crisis which
persisted for at least thirty years after 1529. For most archdeacons' courts this was not a good time.
Although archdeacons' courts were legally constituted tribunals they, or at least their officers, had to perform a wide range of non-judicial tasks. In some ways these functions exemplify the ancient role of the archdeacon as the bishop's agent, performing tasks on the latter's behalf. As late as the fourteenth century, what has been referred to as the *ius archidiaconale*, was concerned as much with non-contentious matters as with problems requiring adjudication, or prosecution.\(^1\) This area of work therefore deserves some attention. It should be remembered though that non-contentious business took many forms, and not all of these were systematically entered into the registers of the courts. There was a vast difference between a chore being performed at the behest of the diocesan and the administration of testaments and intestate estates. The latter accounted for much of the space in court books, and continued to do so. In the years when the amount of contentious business had slumped to a trickle, this non-contentious business continued virtually unaffected.

Modern scholars seem to be agreed that non-contentious business was of paramount importance, but discussion has been limited to testamentary matters, and some references to the supervision of the clergy.\(^2\) Houlbrooke has suggested that this was an area of considerable importance, but he chooses not to pursue the court's involvement in these matters, instead arguing that at times it is almost impossible to differentiate

\(^1\) Haines, *op.cit.*, p.47

\(^2\) Thompson, *The English Clergy*, *op.cit.*, chapters II and III; look at some of this, but only for the period leading up to the sixteenth century. The same applies to Churchill, *Canterbury Administration*, i,pp95-128; for a discussion of some aspects of clerical training and the provision of priests to parishes see Bowker, *The Secular Clergy*.; ibid., *The Henrician Reformation*. 
between administrative and contentious matters.\textsuperscript{3} No doubt there were points of contact, but there would appear to be a qualitative and quite distinct difference between an errand, act of authorisation and/or sanction, as opposed to a dispute or prosecution.

In fact, there was a broad area of non-contentious business which was performed mainly by the archdeacons' courts, even after 1559. Apart from testamentary matters, however, little of this work had anything to do with the laity, but was more an avenue for carrying out church business. In this capacity the court was acting as a dependent rather than independent agent, with few or no discretionary powers. It was for that reason that this aspect of archdeacons' courts' work was by far the least affected during the Reformation. Like all areas of work, it was a role which had been in existence for a very long time. Despite this, there was some doubt about the source of authority in the performance of these various duties. Nevertheless, it was a very important aspect of archdeaconry work.

\textbf{The Courts as Agents: The Clergy. I.}

There were some non-contentious tasks which the archdeacons' courts carried out, which, although relatively few in number, were nonetheless common, and so practices were regularized by weight of demand. This is most clearly the case with the provision of clergy into parishes. The courts completed chores initiated in the episcopal chanceries.

The chain of events leading to the occupation of a benefice usually involved archdeaconry courts and began through either the death or resignation of an incumbent. This applied equally with parish or collegiate churches as well as perpetual chantries.

\textsuperscript{3} \textit{The Letter Book of John Parkhurst}. op.cit., p.31
As archdeacons courts were at hand, inquiries about the vacancy might also be required by them in order to investigate the financial status of the living. This normally meant sequestrating the fruits and tithes of the parish until the new incumbent was inducted. The financial benefits were usually diverted to the bishop and archdeacon for the duration of the vacancy. Inquiries about the right of patronage could also be initiated at the order of the bishop, or by the archdeacons in peculiars. Similarly, where doubts of this were substantial, archdeacons were sometimes called upon to gather a jury of twelve men, including clergy and laity, in order to investigate the circumstances of the presentation. In 1554 the intended induction of a priest to Swalecliffe was announced by the archdeacon's Official, who then asked if there any objections. There were none and the induction was performed.

The procedures associated with inductions were well worked out by the sixteenth century. Before it reached the stage mentioned above, the presentation deed had to be forwarded from the patron to the bishop, who then instituted the priest to the parish. Presentation had to follow within six months of the vacancy, otherwise the right to choose the man reverted to the bishop, or in especial circumstances, the archdeacon. In 1468 the monastery of St. Mary, York failed to present any one within the prescribed time to the parish of Kirkby Lonsdale. In this case the right reverted to the powerful Archdeacon of Richmond.
At his institution, the new incumbent was given his letters of institution and also a mandate of induction.\textsuperscript{11} It was the new incumbent's responsibility to ensure that he arranged the date of induction with the Official or registrar of the archdeacon. The court could only act after it had cited the mandate, otherwise it was liable to face unenviable consequences if it had made an error.\textsuperscript{12} Soon after Mary's accession, John Fitzjames, the Archdeacon of Taunton, appeared in Chancery suing Baldwin Hall who had entered a parsonage without being inducted.\textsuperscript{13}

In the normal course of events the mandate for induction was addressed to the archdeacon or his Official after which a date for the induction was arranged. Those instituted into a parish could only be stopped from entering it if there was some form of canonical impediment. Consequently a further examination could be ordered by the bishop if the latter had some doubts about the appointee. This was probably not regularised because these examinations seem to have been arranged on an \textit{ad hoc} basis. Some mandates surviving from Rochester in the 1550s record examinations. They do not state who conducted them but it seems likely that it was the archdeacon's Official.\textsuperscript{14} This may not have been the case always. At the diocesan synod for Ely in 1528, it was decided that these examinations should be conducted by the bishop or one of his officers.\textsuperscript{15} In York there were moves in Elizabeth's reign to improve this procedure, and archbishop Grindal set out to examine all clergy presented for institution, an initiative taken up by Sandys.\textsuperscript{16}

Conditional agreements were also the prerogative of the bishop. Robert Draycote was admitted to the vicarage of Waterperry in November 1526 on the understanding

\textsuperscript{11} Gibson, \textit{Codex}. p.811-12
\textsuperscript{12} Gonville and Caius,389/609,p.220
\textsuperscript{13} PRO,CI/1351/43
\textsuperscript{14} KAO,DRa/A1 11/1,18/1,36/1,39/1,46/1,67/1,78/1,83/1
\textsuperscript{15} Wilkins, \textit{Concilia}. iii,p.712
\textsuperscript{16} Marchant, \textit{The Church Under the Law}. p.153
that he study and later appear before the bishop. It seems that he failed to impress the
diocesan of his learning because he failed the test and was deprived of his benefice.\textsuperscript{17}

In a physical sense, the mandates for induction were standardized by constant use. They were all framed in much the same way; recording the reason for the vacancy and who was \textit{in dubita} the patron. Then it ordered X, or his legitimate proxy, to be inducted into the real and corporeal possession of the benefice, often adding "\textit{sic inductum per censuras ecclesiasticas legitime defenden.}" and ordering the certification of this to be forwarded to the bishop or his vicar-general. The Official undertook this job after he had been issued with a precept by the archdeacon. The mandate highlights the formal role of the court in this procedure as well as the court's practical lack of power. Although this was a responsibility which was most important, and the archdeacons' courts were integral features of the whole process, they exercised little or no discretion in the conduct of matters.

At the ceremony, conducted at the relevant church, the Official (or a suitably authorised person),\textsuperscript{18} took the clerk (or his proxy) by the hand and laid it upon the key to the church door, or the ring on the door itself, and stated his right of induction in accordance with the mandate and the conferral of corporeal possession of the church. After this the doors of the church were opened and the new incumbent rang the church bell. After this the Official then had the registrar draw up \textit{literae certificatoria}, or noted the same on the back of the mandate, which was then returned to the diocesan registrar.

Letters of institutions were, in themselves, very important documents. It was quite normal for the letters of institution to be presented for inspection at the time of visitation, both archidiaconal and episcopal.\textsuperscript{19} The administrative value of this was well appreciated, and may have facilitated greater control in the Reformation years. In

\textsuperscript{17} LRO,Reg.27,fo.181v
\textsuperscript{18} CCL,Z/3/4,fo.57-58v; shows that it might be the apparitor-general of the diocese, the rural dean or even an ordinary local priest
\textsuperscript{19} Peckham,\textit{op.cit.},p.93 (episcopal; Chichester 1553); Leic.AO,11D41/12/5,\textit{passim} (archidiaconal; Leicester 1552)
1553 the Archdeacon of Chester was instructed to return a list of the names of the clergy in the deanery of Blackburn (and possibly elsewhere). In 1554 Edmund Bonner ordered that the Archdeacon of London submit a list of names of the clergy he had inducted. In this way it would be easier to keep track of men with doubtful allegiance.

A special privilege was enjoyed by the Archdeacon of Canterbury who enthroned bishops of the southern province. Edmund Cranmer received a special commission from his brother, the archbishop, which acknowledged this function existing as a customary right, although the tenor of the document seems to preclude the use of a proxy, which therefore made it irrelevant to his court.

For normal inductions, the period of time elapsing between the time of the dispatch of the mandate and its performance was generally brief, and was not to take longer than two months, although in 1554 John Swene had to wait over three months to be inducted as the Rector of Bettishanger and William Dannell had to wait almost as long for his induction to Tenterden in 1555. This may have been the case because the Officials, Robert Colens, and the registrar, Thomas Percy, were engaged in ecclesiastical commissions. It was a question of priorities.

This is quite different from a refusal to induct. In 1591 the Bishop of London forwarded a mandate to the Dean and Chapter of St. Paul's Cathedral, providing for the installation of Theophilus Aylmer to the archdeaconry of London. The dean refused and certain prebendaries performed the ceremony instead.

Such a refusal was potentially a common law problem as well as spiritual. Censures lay against the induction from his bishop for disciplinary reasons, but at common law it

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20 R.F.Raine(ed.), "Reports of the Royal Commission of Henry VIII, Edward VI and Queen Mary." Chetham Society. 60, 1862, ii, p. 241 note
21 GL, Reg. Bonner, fo. 66
22 LPL, Reg. Cranmer, fo. 329-329v
23 CCL, Z/3/6, fo. 111, 157v
24 Gibson, Codex. ii, p. 1456
involved the rights over the corporeal possessions of the temporalities of an office which could be pursued by an action on the case.

Archdeacons' courts normally only performed inductions within their own jurisdiction. In the exempt area of South Malling it was the dean's job to induct new incumbents, and this responsibility fell to the Dean and Chapter of the cathedral church. In 1586 a mandate for the induction to the parish of Hainton was wrongly addressed to the Archdeacon of Lincoln rather than the Dean and Chapter of the cathedral, within whose jurisdiction it fell. The registrar for the archdeaconry amended the mandate and requested that the original entry in the episcopal register be altered. On the other hand, convenience or necessity could lead to this function being conducted by another court. On four separate occasions in the 1520s the Archdeacon of Winchester (or his Official) inducted men into parishes within the archdeaconry of Surrey. Similarly, in 1534, the Archbishop of Canterbury licenced the archdeacon, and therefore his court, to induct incumbents into the House of the Blessed Virgin and St. Serburgh on the isle of Sheppey.

Before the creation of the diocese of Chester the archdeacon directed various people in the jurisdiction to perform this duty on his behalf, not only his vicar-general, but also rural deans and even parish priests. Ironically the new see did not signify the end of this, because Bishop Bird also chose to use rural deans to carry out these chores. In fact the commissary-general in the archdeaconry of Richmond in the 1540s, had in any case been the vicar-general to the archdeacon before the change.

26 LRO, COR/R/1, fo. 6
27 Registra.. Gardiner et Poynet. op. cit., p. 193
28 LPL, Reg. Cranmer, fo. 352v
In the monastic archdeaconries there was some variation. At Glastonbury the institution of a priest within the peculiar still fell to the bishop of Bath and Wells, although the right of induction fell to the abbot and monastery, and therefore the archdeacon. At St. Albans, on the other hand, the abbot collated men to the parishes within his jurisdiction.

In a material sense, the induction into a parish was an important archidiaconal function. The fees for this had been a point of grievance advanced in 1414, and in 1421 Convocation decided that no more than twelve shillings should be charged for institutions and inductions, respectively. Stratford bound the archdeacon to receive forty pence, and his deputy two shillings a day, or the same in kind. By 1532 however, the Commons were complaining of the extortion of bonds to pay for first-fruits and tenths, as well as the inflated fees for inductions. In response, the Ordinaries claimed that if abuses were occurring it was wrong, but that customary fees were perfectly legitimate. Heath has revealed that this was indeed happening in the latter part of the sixteenth century. But this related more to the bonds (payable to the bishop) rather than induction fees. Even so, an account of the Archdeacon of Wiltshire in 1501/02 indicates that for two deaneries, on average around four shillings and five pence was being charged, and in another it was as much as six shillings and seven pence. Allowing for higher fees in the latter where the archdeacon may have appeared personally, this was a considerable amount. At Rochester the normal amount payable was six shillings and eight pence.

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30 Sayers, op. cit., p. 191
31 Newcome, op. cit., p. 387; in 1470, George Nevill sent a letter to the abbot urging him to provide his chaplain with a parish currently vacant
32 Register of Henry Chichele, op. cit., i, p. cl
33 Lyndwood's Provinciale, p. 57
34 Documents Illustrative of English Church History, op. cit., pp. 149-50
35 ibid., p. 170
36 PRO, E135/8/31
37 e.g., KAO, DRb/Pa8, fo. 108
proxies is not recorded, but this was clearly expensive. The only instance where more was permissible was when the Archdeacon of Canterbury installed a new bishop. A schedule of fees in Cranmer's register lists it as being worth six pounds, thirteen shillings and four pence to the archdeacon.\textsuperscript{38}

The only function in this respect which archdeacons continued to perform throughout the century, relatively free from episcopal direction, was extended over the assistant priests/ non beneficed clergy of their jurisdiction. It was the responsibility of archdeacons' courts to monitor the activities and employment of the lower clergy within their jurisdiction. Amongst these clerical ranks were the parish priests and assistant chaplains, whose income was paid by the incumbent, the parishioners, or the incumbent's farmer. In a case from Leicester in 1516, the archdeacon instructed the inhabitants of the chapelry of Wibtoft to pay for the services of a priest, but forty years later problems re-surfaced in a dispute between the vicar of the mother church at Claybrook and the inhabitants of the hamlet, and on this occasion the priest at Claybrook was ordered to provide the priest.\textsuperscript{39}

Where a new priest is reported to the court, he is cited to appear, bearing letters of ordination. Clearly there was no need to enquire of each man more than once as some clergy remained within a jurisdiction for much of their working lives. At Lincoln John Graunt and Alan Smyth were curates at Grantham in 1500, and had only achieved a different curacy by 1526.\textsuperscript{40} In 1517 forty two men were recorded as being curates in the archdeaconry of Leicester, and only three of them were incumbents ten years later.\textsuperscript{41} John Thirlond, was the curate at Watford from some time before 1540 up until his death in 1554.\textsuperscript{42} Even Nicholas Savage, later to become the Official of the

\textsuperscript{38} LPL,Reg.Cranmer,fo.80
\textsuperscript{39} Leic.AO,1D41/12/1,fo.7; 1D41/11/3,fo.41; More(ed.),"Proceedings of the Ecclesiastical Courts."\textit{op.cit.},p.123,131
\textsuperscript{40} Bowker,\textit{ The Secular Clergy}. p.72
\textsuperscript{41} \textit{ibid.},p.72
\textsuperscript{42} HRO,ASA/AR2,fo.17; ASA/AR3,fo.162
archdeacon in the small jurisdiction of St. Albans, was a curate for well over a
decade.43

Many of these men were called to appear before the ordinary because they
came from another diocese, and so lacked permission to serve in the parishes of the
new diocese. At Rochester in 1520, Robert Billingham exhibited his letters of
ordination after travelling from the archdiocese of York in search of employment.44 In
1525 Dominus Robert Galter had travelled from Durham seeking employment in Kent
and he was ordered not to celebrate until he had presented himself.45 One clerk from
the diocese of York and one from Coventry and Lichfield also appear at Rochester in
1531.46 At St. Albans in 1521 Robert Clyston of Norton was given several weeks
before he had to appear.47 In some cases men from beyond the sea. In May 1520
Dominus Flowelier, a French priest, was called before the archdeaconry court at
Canterbury.48 This was not halted with the Reformation. Two of Flowelier's
countrymen appeared in Kent in the 1550s.49 Provincial constitutions placed
restrictions on the entry of foreign clergy, and none of these men appear in the call
book for the following years. They may have been ordered to leave the diocese either
by virtue of these constitutions and/or because they lacked proper evidence of their
ordination.

43 HRO, ASA/AR2, fo.214v; ASA/AR3, fo.10v
44 KAO, DRb/Pa7, fo.88
45 KAO, DRb/Pa7, fo.158v
46 KAO, DRa/Vb4, 2nd series, fo.39v, 40
47 HRO, ASA 7/1, fo.28v
48 KAO, PRC 3/6, fo.146
49 CCL, Z/3/8, fo.150v, 156
The Courts as Agents: The Clergy II.

The most important thing to remember in the discussion of administration of each diocese, is that archdeacons' tribunals were not, in many cases, acting as independent agents, but as episcopal and even royal functionaries. They were fulfilling tasks at the behest of superiors. This was a matter of convenience, since too many responsibilities were beyond the powers of the bishop's officials to handle. The very close proximity of the archdeacons' courts to incumbents and parishioners was one of their most important characteristics. Locals were used to this court traipsing through the countryside. This was the court that visited the archdeaconry at least once a year, and conducted circuits. It was also responsible for delivering the oil and chrism to the parishes either at the visitations or through their apparitors. This can be seen in such functions as inductions, but at least in such matters the courts acted in accordance with old guidelines. In other areas this was not the case.

The upshot was that many thankless tasks fell to the archdeacon's functionaries. It was to the archdeacon or his Official that the mandate went, ordering him to notify the people of the jurisdiction of an episcopal visitation or procession. Likewise, they handled the mandate which was sent for the election of proctors to go to Convocation. It was then the archdeacon's responsibility to carry out the task, and

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50 see chapter four
51 KAO,P46/5/1,p.25 (accounts for the parish of Brenzett in Kent); Medieval Clerical Accounts. ed. P.Heath (St.Anthony's Hall Publication no.26; York,1964) pp.27,35,39; Lincoln Diocese Documents.op.cit.,p.24
52 KAO,DRc/R7,fo.87-87v
53 e.g. The Register of Richard Fox.op.cit pp.155-56; GL,Reg.Bonner,fo.342-343; Bishop Bonner asked in this particular one that the archdeacon also collect the synodals due to the bishop. See also The state of the church in the reigns of Elizabeth and James I as illustrated by documents relating to the diocese of Lincoln.Vol.i. ed. C.W.Foster (Lincoln Record Society,23,1926) pp.171,184
he did so through his court.\textsuperscript{54} The number of proctors representing the clergy varied from place to place, but it was generally the archdeacon who had to organize the election, or the means of selection.\textsuperscript{55} Similarly, it was sometimes up to the lower courts to collect monies. Most commonly this was the collection of the bishop's synodals, but it could also included various subsidies.\textsuperscript{56} But the nature of jurisdiction exercised by the courts was never fully defined, even though some things went to these courts as a matter of course.

\textbf{Elections:}

Practice was most commonly dependent upon what duties bishops chose to confer on the local courts. An example of this is illustrated in the election of penitentiaries and rural deans, both of whom were, technically, the bishop's officers.\textsuperscript{57} At Buckingham and Leicester for example, the bishop was prepared to delegate the control of the election of penitentiaries to archdeacons, and this was done, at least at Buckingham, in the chapter meetings.\textsuperscript{58} This was a responsibility probably not handed on to these courts until late in the fifteenth century.\textsuperscript{59} At Coventry and Lichfield the vicar-general

\begin{itemize}
\item \textsuperscript{54} e.g. CCL, Z/3/6, fo.202v; (1555) there is a note which says "to be at Canterbury thursday aft myculmas day to electe the proctore of the convocation."; KAO, DRc/R7, fo.152; at Rochester the bishop's officials did this.
\item \textsuperscript{55} Thomas Lathbury, \textit{A History of the Convocation of the Church of England.} (London, 1853) p.115
\item \textsuperscript{56} e.g. Register of Henry Chichele, archbishop of Canterbury, 1414-43. ed. E.F. Jacob (Canterbury and York Society, 45, 1937-47) iii, pp.217-18; for Canterbury in 1430. See also \textit{ibid.}, iii,p.182
\item \textsuperscript{57} Lyndwood's \textit{Provinciale.} pp.136,146,150
\item \textsuperscript{58} \textit{The Courts of the archdeaconry of Buckingham.} op.cit., pp.50,54,194
\item \textsuperscript{59} The register of Bishop Philip Repingdon, 1405-19. ed. M. Archer (Lincoln Record Society, 57-8, 1963) ii,p.55
\end{itemize}
was making the appointment, and the Archdeacon of Richmond also kept this right to himself, issuing commissions in the form of a licence.

It is even more difficult to assess the role of the courts in the election of rural deans. In the first place, it is impossible to tell from surviving evidence where and when the election was conducted. Secondly, the notion of election is itself somewhat misleading. At Wells in the fifteenth century elections were really on a rota system, each incumbent taking his turn.

In many places the election was noted amongst the visitation material, and it may indeed have occurred at that time. This may be a distortion determined by extant manuscripts. More critical, for current purposes, is to consider the way these men were chosen. C.E. Welch has shown that at Rochester in the sixteenth century, a compromise was employed. A note from 1523 indicates that there were three names presented to the clergy of Malling deanery indicating a popular election. Only an earlier reference suggests that a limited number of candidates would be eligible to stand for the office. This suggests, if it does not prove, that a rota system could have been at work here also, thereby effectively limiting the number of eligible candidates for the position.

Elsewhere bishops played a more dominant role. At Ely the archdeacon simply presented two men to the bishop, who then chose the successful candidate. At Norwich, one of the rural deaneries was a freehold benefice with a small annual income, to which the bishop instituted the incumbent by collation. Most of the rural deans in the diocese of Coventry and Lichfield in fact were appointed at the pleasure of

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60 VCH, Stafford. iii, p.39
61 "Registers of the archdeacons of Richmond." op. cit., i, p.89
63 Welch, op. cit., p.99; see also KAO, DRb/Pa7, fo.146v; DRb/Pa8, fo.105
64 Dunning, op. cit., p.209
65 Thompson, The English Clergy. op. cit., p.67
the bishop, the exception being in the archdeaconry of Chester, where the sole right of appointment lay with the archdeacon, at least until 1541.66

The method used to select rural deans sometimes defies detection. There is a rather curious note from the diocese of Exeter in the fifteenth century stating that it was possible to become one of the rural deans after an election, or conferral by the bishop.67 Perhaps this denotes a combination of the rota system and elections. Evidence from Canterbury is almost as variable. The elections there were recorded at the time of the visitation/General Chapters. In 1501 William Hickson exhibited "his commission" to the archdeacon's Official, and was then recorded as being elected.68 A note from 1552 refers to the appointment of a rural dean by the judge.69 The status of the position had declined by the sixteenth century to such an extent that in some places it was all but discarded. Such was the attitude in the diocese of Canterbury that in 1552 four men elected rural deans were in fact non-resident priests.70 By 1555, however, the court may have been attempting to return to a more properly constituted election, and improve the status of the position, possibly with a view to making some use of rural deans. The clergy of that year were ordered "that ye choose a dean", and a marginal note scrawled on directions sent to the clergy in 1561 repeats verbatim, this instruction.71 In each case only resident priests were elected. This is far from conclusive evidence of a freely held ballot, especially as in Elizabeth's reign, Archdeacon Redman claimed to have the right to "create" the rural deans.72 In reality it

66 VCH,Stafford. iii,p.39; VCH,Chester. iii,p.10; Valor. v,p.231
67 The register of Edmund Lacy..op.cit.,ii,pp.303,307
68 CCL,Z/3/4,fo.106v
69 CCL,Z/3/6,fo.39
70 ibid.,fo.19v,22,66,63v; Sittingbourne, Bridge, Elham and Lympne rural deaneries
71 CCL,Z/3/7,fo.41v
72 J.Strype, The Life and Acts of Matthew Parker. (Oxford,1821) ii,pp.456-7; some control over the election had been granted by Archbishop Langton but the exact details were not specified, cf.Woodcock,Medieval Ecclesiastical Courts. p.20
seems more probable that the whole procedure was determined on an ad hoc basis, at least for many of the rural deaneries for which there is evidence.

Examinations:

Among other tasks undertaken by the court personnel in some places was the admission of criminous clerks to purgation. The archdeacon's officials at Canterbury had acted in this capacity in the fifteenth century. At Lincoln and Norwich the bishop was in a position to conduct the examinations through his own courts. The Archdeacon of Leicester at least was frequently called upon by his bishop to do so during the course of the sixteenth century.

The material surviving at Leicester starts in 1552, after the abolition of minor orders, and at a time when the statutes of 1512, 1532 and 1540 finally succeeded inasmuch as minor orders could no longer be claimed as a defence to a secular offence. The test of clerical status remained literacy, and despite the Act of 1562, requiring those admitted to purgation to be members of the major orders, Heath's observations of pre-Reformation practices are still appropriate; that is, that the majority of offenders were not clergy at all.

Many of the men claiming benefit were armigers and husbandmen who seemed to have coped with the legal principles at issue. At what point the ecclesiastical judge questioned the party is unclear. In April 1563 Richard Smyth, labourer, and his compurgators, were being held in the bishop's prison for an unspecified time, before being taken to the church of St.Nicholas, Leicester, for the oath taking.

The number of witnesses accepted was generally in excess of ten. In 1557 the archdeacon was ordered to inquire about John Haywood who had allegedly killed eight...
sheep belonging to a local woman. In May that year Haywood appeared before the commissary and nineteen people were called as witnesses. Five of these names were crossed out without any explanation. Of the remaining fourteen, seven were noted as being "literatos." Perhaps this proportion was in lieu of clerical attendance in accordance with the canon law requirement of clerical participation in compurgation, in cases concerning clergymen. It would seem then that even in fulfilling this stipulation the court distinguished between "literati" as being clerks, as opposed to ordained priests.

In another case, a note records a mixture of laicos and clericos. Yet again however the nature of the judicial relationship is fluid and exercised at the discretion of the bishop. On one occasion the purgation took place before the bishop's chancellor as well as the commissary.

Another area in which archdeacons' courts had some involvement was in the provision of men to the priesthood. This was, however, a somewhat cloudier area of jurisdiction.

The archdeacons had responsibilities in this most important part of the church's work. As we noted in the first chapter however, in the examination or candidates for ordination, archidiaconal involvement was kept quite distinct from their courts. Archidiaconal officials in Lincoln diocese were cited as examiners, notably John Pryn and John Aras, but presumably as agents of the bishop. There is all too little evidence to indicate who, if anyone, performed certain duties. In the early stages of a candidate's application for admission to holy orders the archdeacons' officials may only have been called upon to establish whether or not candidates for the priesthood had a means of livelihood, either in the title to a benefice, or other revenue which amounted to

75 Leic.AO,1D41/33/2; the registrar's use of the accusative case
76 Leic.AO,1D41/33/22
77 Cf.NRO,Arch.II,fo.96; Dr John London was also one of the examiners at this time. London was Longland's commissary in searching out heretics at Oxford at this time. Unfortunately we do not know if he was also working in the archdeacon's court.
5: Non-Contentious Business

at least five marks per annum. This was a pre-requisite designed to assure the bishop of the individual's economic independence.78

The role of the courts in other places was notably different. Until 1541, the examination of clerks was certainly the right of the Archdeacon of Richmond and monastic archdeacons were also authorised to examine men seeking ordination.79 Court officials were probably utilised in these places. If the archdeacon approved the candidates they were presented to the bishop. It seems that bishops ordained these men without any further examination.80

In the southern Convocation, in 1531, regulations were issued about ordination and each candidate was told to present a certificate of his good character from the priest of his own parish, and this was to be countersigned by the archdeacon.81 If such a regulation had been implemented then the courts would have been needed. In fact in Lincoln archdeaconry in 1536, it was stated that "lewd Priests" were responsible for spreading rumours leading to the rising in the county, because they had been told by the archdeacon's Official that examinations would be carried out on incumbents, and they feared for the security of their tenure.82 From the response it provoked, the suggestion seems to have been novel. The limited amount of evidence in the years before and after 1529 certainly do not establish that archdeacons' courts were greatly involved in this area of work.

78 Bennett, op.cit., p.27
79 "Registers of the archdeacons of Richmond." op.cit., p.136
80 Sayers, op.cit., p.190
81 Hughes, The English Reformation op.cit., i, pp.84-85
82 LP. xii(i), no.481
Consultation:

A more regular, though poorly documented area of work, relates to the local chapter meetings. The structure of the church might be cumbersome, but it had its own dynamic, and archdeaconry officials played their part in the dynamics of corporate life. One of the the most important, though poorly documented aspects, was the rural decanal chapters (sometimes referred to as General Chapters or local synods) which existed in most dioceses from the eleventh century, and spread rapidly after 1108.83 The function of the General or local chapters was to afford informal consultation of the clergy and by a provincial constitution, lay folk were forbidden to attend on pain of excommunication.84

Despite the fact that these were local deanery meetings, this does not mean that they were presided over by a rural dean.85 A canon promulgated by Otto, effectively established the archdeacon as president of these meetings, and by Pecham's time, presiding was considered a regular feature of his work.86 Sometime later, however, it was probably delegated to the Official.87 But there is no indication that this was a right which the Official enjoyed as free from interruption as his control over contentious matters.

84 Churchill, *Canterbury Administration.* i,pp.51-52
85 Dansey, *op.cit.*, i,p.209; Owen, *Church and Society in Medieval Lincolnshire*.*op.cit.*,p.36; states that in the early stages, rural deans may have acted for the archdeacon. This is not the case after the thirteenth century
86 Scammell,*op.cit.*,p.11; the functions of the meetings changed during the course of time. They were used as the forum for prosecutions over a long period, before these matters were heard in ordinary sessions with instance cases. At some places the old terminology is still apparent; at the abbey court at Whalley court sessions were still styled the capitulum; cf.*The Court Book of the Abbot of Whalley*.*op.cit.*,passim; Scammell,*op.cit.*,pp.14-15
87 Cf.Hasted,*op.cit.*,i,pp.804-5
5: Non-Contentious Business

The number of meetings varied from place to place. In the later fifteenth century at York there was normally only one each year, but, as in 1483, there could be a second. At Buckingham on the other hand they were held several times throughout the year.

At Canterbury they seem to have been held twice a year, after each visitation. Special sessions were sometimes held in order to handle a particular problem to discuss "greater and more weighty affairs." Even prelates themselves might take advantage of them at such times. In 1519 for example, Bishop Atwater called these meetings and presided over them himself because he wanted to consult the clergy about Wolsey's legatine constitutions. In 1528 Archbishop Warham called his peculiars, and some deaneries together over the grant. This was certainly a chance for the clergy to express their views because he "found small towardness thentent that they shuld not example to other to refuse and denye the graunte required...".

The business of these sessions was generally not recorded, possibly because they were only a device to hand on information and discuss matters of general interest. The Reformation devised new uses for these meetings, but they always provided a useful forum for discussion and communication. Information was passed on about the impending union of benefices, the publication of injunctions, or elections, problems with non-residency or even the discussion of a local troublemaker. In a chapter held at Buckingham in October 1485 the clergy present spoke of Michael Barton, a local incumbent, who was rumoured to be practicing "majick" and committing adultery. In 1545 the Official at one chapter took the apparently unusual step of proving a testament...".

88 Medieval Clerical Accounts. op.cit.,p.42; Bowker, The Secular Clergy. p.36; Welch,op.cit.,p.105
89 Burn, Ecclesiastical Law. ii,p.121
90 Visitations in the Diocese of Lincoln, 1517-1531. ed. A.H.Thompson (Lincoln Record Society,33,35,37,1940-47) i,pp.148-49; Some of the deaneries were called together in order to save time. see CCL,Z/3/4,fo.45-46 for deaneries being combined in the diocese of Canterbury.
91 "Archbishop Warham's Letters."Archaeologia Cantiana. i,1858. p.22
92 CCL,Z/3/5,fo.22v; KAO,PRC3/6,fo.43;3/7,fo.22; Newcome,op.cit.,p.326
93 Bodleian,Willis 14,fo.7
(presumably before the registrar), and it was entered into the court book at a later date.94

Apart from anything else it was an opportunity for the Official to gauge the opinion of the local clerks before deciding upon what course of action to follow. Constitutions for the diocese of York from 1518, stipulated that these meetings be used to investigate the numbers and learning of stipendiary priests within the deanery.95 It is not possible to be formulaic about this as customs varied from one jurisdiction to the next, but in any case it was clearly capable of meeting a wide range of functions.

This of course meant that they were a valuable forum after 1529. In 1531 at least some, if not all of the clergy of the diocese of Canterbury, were cited to a General Chapter to discuss certain (undisclosed) articles, possibly relating to the difficulties facing the Church in the light of Henry's praemunire proceedings.96 Chapters of this sort could meet to discuss any issues of general concern and it was this flexibility that ensured that they did not disappear during or indeed before the Reformation. These meetings may have also been used to re-inforce the arguments of the religious status quo. In Gloucester diocese in 1551, Bishop Hooper ordered the clergy to attend these meetings regularly, one reason being that they should undertake scriptural study together.97 In a letter to Bishop Longland in 1535, the king ordered that the prelate instruct his archdeacons to acquaint the local clergy with the new orders relating to bidding prayers and preachers.98 Perhaps the local chapters were used for that purpose. In 1554 Edmund Bonner made a point of enquiring whether "assembles or Chapiters [are] observed and kepte in severall and partyculler Deanerys rurall,"99 so as

94 KAO,PRC 3/6,fo.68
95 Wilkins, Concilia. iii,p.664
96 KAO,PRC 3/7,fo.116v
98 Lincoln Diocese Documents.op.cit.,p.195
99 GL,Reg.Bonner,fo.367
to advance certain regulations, as well as to warn the clergy of the change in religious direction.

These chapters were significant enough for absenteeism to be punishable, and in 1505 the Vicars of Eddesburgh and Mossworth were each fined 20d. for failing to attend without a satisfactory excuse. In 1560, David Kempe, the judge at St. Albans, threatened suspensions for those who failed to attend what he referred to as a synod.

It is not known how widespread the local chapter meetings were in England by the sixteenth century. In some places diocesan synods performed many of these functions, and the archdeacons' courts would only have to cite the clergy to attend. It is somewhat ironic that after the constitution of the diocese of Chester in 1541, Bishop Bird called a synod which was cited by the Archdeacon of Chester's apparitors - one of the last functions this court performed. At Ely, D.M.Owen has shown that mandates, injunctions, the appointment of rural deans and penitentiaries were all discussed and handled in the diocesan synod, and that the archdeacon, save in the "election" of rural deans, played no significant part in these proceedings, unless he acted for the bishop in the collection of synodals.

Synods at Ely certainly handled all of these matters, but this was because of its size. Synods at Rochester performed a similar role, and so were regularly held. Where

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100 The Courts of the archdeaconry of Buckingham, op. cit., p. 194
101 HRO, ASA 7/3, fo. 34v; Peters, op. cit., p. 46; in 1604 nomenclature changed and these "synods", which always sat in the autumn, were now called visitations, although they differed in function from the formal visitation held earlier in the year
102 BL, Harl. 2179, unfo. section; after the formulary in this register, the Chester records are listed but do not have foliation numbers
104 KAO, DRc/R7, passim; DRb/Pa8-9, passim; in a synod meeting in October 1524, Robert Johnson, Official of the archdeacon and bishop, appealed to the clergy to maintain an honest life. The scribe then goes on to note that things were discussed as "antiquo fieri constituerunt." cf. KAO, DRb/Pa8, 2nd series, fo. 47v
bishops had large dioceses this was impossible, not only because of distances, but also because the volume of business would drastically increase the time taken. Meetings of this sort were not intended to last for anything more than one day. They might commence with a mass of the holy spirit, the litany sung and a sermon preached. The gospel would be read, a hymn sung, and those present would present their letters of orders. The synodal constitutions would be read, which in turn each member had to accept. The business of the meeting would be discussed, with only a break for lunch. At the end of the day a service would be read. Given the constraints on time it would have been too difficult to arrange very large meetings of clergy from far and wide. Given these factors, the local chapters would have been more useful in larger dioceses which would not easily have coped with synods. Given that small dioceses such as Ely, Rochester and Carlisle were a good deal more compact than most dioceses, local chapter meetings may have been quite common.

It should be stressed though that the functions outlined above were probably only a proportion of the non-contentious business handled. Moreover, there were times when the courts were not only episcopal agents. The Archdeacons of Lincoln and Stow aided in the collection of money for work to be done to re-open the Fossdyke in 1518. Later in the century archdeaconry courts in Durham diocese raised money to help the erection of a church building in Bath, and the court at St.Albans helped raise funds for the cathedral of St.Paul's. That same court helped to collect money for the relief of English captives overseas.

In reality, of course, the courts were as much royal as episcopal agents. Perhaps the courts acted on the orders of the archdeacon for the diocesan, but it was often royal business. There were times when the role of the archdeacon himself is quite evident.

105 Sayers,op.cit.,p.190; Wilkins,Concilia. iii,pp.681-82
106 Hill,Tudor and Stuart Lincoln.op.cit.,p.24
In his 1527 visitation, the Archdeacon of Leicester was responsible for the collection, at his bishop's request, of subsidies due to the king from the religious houses. After completing this, the archdeacon submitted the money to the bishop with some form of certificate. In 1541 Archdeacon Griffith of Rochester was ordered to follow up money due from clergy for the king's subsidy. These were functions carried out as a matter of course. In the years after the break with Rome there were errands allotted to archdeacons to perform on behalf of the crown which followed from contemporary changes. It was pointed out earlier that they were used to enforce allegiance to the Royal Supremacy. In 1535 a letter was sent to Thomas Cromwell, stating that Thomas Kingsbury, Archdeacon of St. Albans, was actively in support of the Supremacy. Two years later, David Pole, Archdeacon of Shropshire, sent a letter to Bishop Lee, assuring the latter that no priest within his archdeaconry supported papal claims, or the Pilgrimage of Grace. Clearly the archdeacons used their courts to do most of these things.

In some cases particular officials of the courts were singled out to perform specific jobs. In 1534 Robert Colens, judge of the archdeacon's court, was ordered to obtain the signatures of provincial ecclesiastics denouncing Papal Supremacy. The archdeacon's registrar at Canterbury was empowered by Thomas Cromwell to act in the latter's behalf, in order to collect debts by "statutes, bills and obligations." Colens was also ordered by Cromwell to interview an anchoress. The changes in reality were, in a legal sense, quite minor, because such commissions were directed to

108 Leic.AO,1D41/12/3,fo.52v
109 KAO,DRc/R7,fo.201
110 LP. viii,no.406
111 LP. xx(i),no.767
112 LP. vii,no.1025(2)
113 LP. iv(iii),no.5330
114 LP. vi,no.1336,1468(2)
individuals, not the courts. But in any case other avenues of administrative control available after that date made the use of such personnel less attractive.

The performance of these sort of duties persisted during the Reformation. In the diocese of Lincoln in 1552, archdeacons were required to investigate the welfare of the pensioned ex-religious. In 1554 Bishop Bonner ordered that similar investigations be undertaken by archdeacons' courts in the London diocese. Work of this sort may even have become more common place in Elizabeth's reign. Increasingly it would seem these tribunals were asked to furnish details about clerks in their jurisdiction, such as preachers, and unbefited clergy, or the general state of church buildings, whether used or not. Even simpler tasks still had their place. In 1560 the Bishop of Lincoln wrote to the Official of the Archdeacon of Leicester asking him to try and persuade the farmer of the parish of Belgrave to pay overdue subsidies and tenths in the coming term.

It must be stressed however that control over religious change remained firmly in the hands of the bishops. When, in 1553/4, the Archdeacon of Colchester sequestrated the fruits of benefices held by married clergy it was at the order of the Bishop of London. Even Henry VIII might overlook this jurisdictional point. In a letter to Bishop Longland in 1535, the king stated that no cleric was allowed to preach unless he possessed a licence from either his bishop or his archdeacon. This was never likely. Since 1408 the licencing of preachers had been the preserve of the members of the bishops alone. This was a right strengthened by the first Edwardian, and later
Elizabethan proclamations. The fact that Henry considered archdeacons, or at least their courts, as being useful agents is the key point.

For the most part, archdeacons' courts performed tasks which, although important, were routine. While the amount of evidence available severely impedes a general appraisal of this area of work, and therefore comparisons before, during and after the Reformation, there can be little doubt that it was an area of employment too easily underrated and even ignored. These were matters of routine which considerably aided the work and policies of the king and his bishops.

The bulk of administrative business involving the clergy remained in the control of the bishops except for the few privileged jurisdictions. archdeaconry officials participated in the changes of the Reformation, but as functionaries with few discretionary powers. They were an important instrument of government, but only at an executive level. If anything, the concentration of authority in the hands of the episcopacy was re-inforced during the Reformation.

The Courts as Agents: The Laity:

There is little evidence of archdeacons, or their courts, performing tasks of a non-contentious nature with regard to the laity, other than in testamentary matters, in the years before Elizabeth's accession. Certainly an indenture was drawn up by the registrar of the Official of the Archdeacon of Buckingham in 1534. It related to the lease of priory land of the House of St.Leonard's, for sixty years. This was clearly in breach of current practices. Just as importantly it was done, not as a matter of

121 "Registers of the archdeacon of Richmond."op.cit.,i,p.4; even in many of these matters the Archdeacon of Richmond had limitations in the excercise of concurrent jurisdiction with the archbishop
122 Bodleian,Willis 14,fo.3v
course, but apparently as a service. In a real sense this is typical of the courts' approach to these matters.

By the seventeenth century the issue of licences had become a major source of revenue, whether for permission to marry without the reading of the banns, to act as a surgeon, schoolmaster or midwife.\textsuperscript{123} With the exception of the administration of deceased estates, which will be discussed shortly, there is little indication that licences, or other non-contentious acts, were issued in any systematic fashion before Elizabeth's reign.

To give an example of this one can study marriage licences. Such licences were required in order to avoid the reading of banns. The reasons why people preferred to use such licences varied - from the gentry's reluctance to have personal activities publicised, to the couple wishing to speed up the process. It could also allay fears that the party in question was not committing adultery. Convocation argued in 1597 that it allowed people of different station to marry as well as those seeking to avoid parental opposition. Failure to obtain one might well lead to trouble, especially for the priest. In 1462 Thomas Hampton was placed in the Fleet for marrying a couple without a licence. The punishment was so harsh because the woman, Elizabeth Winmarel, belonged to the king. Apart from this sort of infringement, however, a marriage was still valid even without banns being read, or a licence granted, at least until Lord Hardwicke's momentous decision in 1753.

In December 1587, John Dighton wrote to the registrar of the Archdeacon of Lincoln, stating that his sister had eloped with a barber, but he was resigned to the fact that nothing could be done about it.\textsuperscript{124}

\textsuperscript{123} e.g.\textit{Marchant, The Church Under the Law}, p.15
\textsuperscript{124} LAO,COR/R/1,fo.35v
Consequently, evidence of marriage licences being issued by archdeacons' courts in the period 1515-1558 is scarce. A register from the archdeaconry of Sudbury does survive which contains some licences granted from 1554 onwards, but even so, there are very few. Moreover, it is clear that the judge was able to use his discretion in these matters. Where, for instance the couple resided in separate parishes, they were allowed to marry in either one, even though this would in all probability have increased the paper work for the court scribe. On other occasions judges may have been restrained by certain regulations, especially where there was concern about the rules of affinity being contravened. At Sudbury, at least, licences were sometimes sought if one of the parties to the marriage came from outside the diocese. More often an investigation may have been conducted in order to establish that there was no canonical impediment, and in May 1533 a licence was granted by the Archdeacon of Coventry after no difficulties had been discovered. In another case the licence was granted but rather curiously it included a warning to the priest to beware of opposition. The virtually autonomous Archdeacon of St. Albans was certainly able to dispense with the reading of the banns within his jurisdiction. Even so, for the period studied, there is nothing to suggest that licences were frequently granted. It is only in Elizabeth's reign that licences were granted more often, so that by 1603 some puritans submitted a petition to the new king requesting, among other things, that the number of marriage licences be restricted.

For the impact of the Faculty office see Faculty Office Registers, op. cit., pp.xxxii-xxxvii

Suffolk RO, IC/500/5/1, fo. 87ff.

ibid., fo. 96; for Elizabeth Barnardeston of Barnardiston and John Everarde of Keddington

ibid., fo. 98, 99, 100

BL, Harl. 2179, fo. 166v

ibid., fo. 31

Newcome, op. cit., p. 396

The state of the church, op. cit., pp. 1-1
Apart from the fact that archdeacons' officials performed such services for the laity only infrequently, most matters of this sort belonged to the bishops. They alone had the right to dispense letters testimonial permitting a clandestine marriage, and of allowing a marriage (as one of the occasional services) to be performed within a chapel or a private oratory. Certainly dispensation from the prohibited degrees could only be provided by bishops, before the Court of Faculties appeared, after which archdeacon's Officials only participated if they were episcopal commissaries, and only then as functionaries of the Faculty Office and the bishop. In any case some archdeacons did not even have a limited right to issue licences. Since Stephen Langton's archiepiscopate, the Archdeacon of Canterbury was not allowed to meddle in matrimonial matters, and the Archdeacons of London were similarly restrained. The Bishops of London attempted to wrest this right away from the Archdeacon of St.Albans after the dissolution, but the privilege was desperately protected on the basis of prescriptive right.

Licences in general then were not, it seems, issued frequently before Elizabeth's reign, and here again, little authority was delegated to the archdeacons. The licencing of surgeons seems to have been regularized, at least in London, by 3 Henry VIII,c.11, which divided authority between bishops and city authorities. The rights of the bishops could only be deputed to his vicar-general. The existence of a schoolmaster or midwife was perhaps noted in a visitation, but no licences were spoken about.

The right to exercise a particular office only appears to come into question if there was suspicion of malpractice or incompetence. In 1515 Tatersale of St.Albans,
was deprived of the office of schoolteacher because he was taking money from his pupils. The act book does not say whether it was stolen or extorted, but the court clearly felt concerned because Tatersale was excommunicated for continued contumacy.\footnote{HRO,ASA 7/1,fo.2,8v-10} In 1523 a midwife was interrogated at Rochester because she had been present at the birth of a child which had died soon after. In this case it was the local priest who was under a cloud because he had been asked to come and baptize the baby.\footnote{KAO,DRb/Pa7,fo.252v-253v} No reference was made to her right to act as a midwife. In a similar case dating from 1563/4, Agnes Conny was prosecuted as a midwife acting without authority.\footnote{CCL,X/1/5,fo.90v-91}

Indeed it was not until Mary and Elizabeth's reign that changes were apparent. By then even the humble schoolteacher was under suspicion. Mary's injunctions in 1554 pay particular attention to the licencing of schoolteachers, with special consideration being given to their religion.\footnote{Tudor Royal Proclamations. op.cit.,ii,p.38} Consequently, it was only at this stage that interest was being taken by ordinaries in the licencing of schoolteachers. Apart from Universities and some abbeys (including St.Albans), the right to licence teachers had been an episcopal function which had not been exercised very much from the late fifteenth century.\footnote{Joan Simon, Education and Society in Tudor England. (Cambridge,1966) pp.20-21} It was not until 1563/4 that the vicar-general and suffragan of York, was commissioned to examine schoolmasters applying for licences.\footnote{Marchant, The Church Under the Law. p.66} In 1560 a Kentish schoolmaster was suspected of not abiding by the Queen's injunctions (no.39).\footnote{CCL,X/1/2,fo.35v} This was the first time that prosecutions of this sort were undertaken at Canterbury, or any of the archdeaconry courts studied.
In 1554, Bishop Bonner sent a circular to his archdeacons telling them to inquire about schoolmasters and midwives. They were required to ask about their character, as well as whether they had been examined by the bishop, ordinary or the chancellor of the diocese.\footnote{GL,Reg.Bonner,fo.370-370v} By this stage archdeacons were not presumed able to licence such folk.

Religious changes and fears may have made these licences more sensitive political issues, and so made control of these matters more critical. Formerly it was less ideologically significant,\footnote{e.g.,The Letter Book of John Parkhurst,op.cit.,pp.100,116} and episcopal injunctions from Bonner on to the Elizabethan bishops pay far more attention to these matters than ever before.\footnote{For a guide to the increased use of licences see A.Gibbons, \textit{Ely Episcopal Records. A Calendar and Concise View of the Episcopal Records preserved in the Muniment Room of the palace at Ely.} (Lincoln,1891) pp.154ff.}

Up until then the nature of licences was less formalised, and in this archdeacons were probably afforded some autonomy. At St.Albans in 1522 it was decided that Margaret Dyar, a seven year old orphan who lived in St.Stephen's parish, be "assigned" to Thomas Barnford, who would thereafter care for her.\footnote{HRO,ASA 7/2,fo.29} In 1526 the Archdeacon of Canterbury issued a licence allowing some butchers to trade on Sundays, as long as they were discreet.\footnote{KAO,PRC 3/6,fo.51} The function of the licence in this sense was extemporaneous. Midwives, schoolmasters and the like did not pose a problem and may not have required a formal licence, just supervision.

Religious crisis changed the focus of attention, and here again archdeaconry courts only participated in a very marginal way. In small dioceses it seems that bishops were content to leave these matters to their own functionaries, whereas in larger sees, authority may have been delegated more readily. At Ely for example the bishop's court licenced schoolteachers, surgeons and midwives.\footnote{Gibbons,\textit{op.cit.},pp.175-76; the first schoolteacher was not licenced until 1579; Only marriage licences were evident early in Elizabeth's reign, but this is hardly surprising see \textit{ibid.},pp.155ff.} In the remote archdeaconry of...
Nottingham in the York diocese, the local officials were allowed, by the end of Elizabeth's reign, to licence teachers at least.\textsuperscript{153} It must be stressed that the Reformation changes brought these matters into sharp relief, and because they were perceived to be critical issues control remained, in the first instance, vested in the episcopacy.

What else may have changed in this area is a moot point. Like the granting of licences, the court enjoyed a freedom of action which disappeared in the wake of the Reformation, but the period to 1558 was one which only presaged changes in this area. In this area of work, it is also evident that archdeacons' courts had a supervisory function, with limited authority. It was these courts which daily came into contact with the people of a jurisdiction, but their freedom of action was quite restricted.

**Testamentary Business.**

Dispensing with one's earthly possessions was, and is, a process in which society at large plays a significant part, governing the ways and procedures that it can be done, free from the prospect of challenge in a court of law. The lawyers of medieval and Early Modern England, both ecclesiastical and common, distinguished between the way real property, as opposed to goods and chattels could be bequeathed. Real property was devised (depending on the nature of the land tenure) in wills. Moveable goods, including goods, chattels and money were all part of the testament. It was only in England the church obtained exclusive authority over testamentary matters, irrespective

of the fact, that it was not part of the accepted church law, nor touched upon by papal pronouncement.

This authority stemmed from the first decade after the Conquest, at the time that William's writ reserving every plea quae ad regimen animarum pertinet to the courts of the church, at a time when both areas of jurisdiction between church and state were first being defined, and the death-bed gift was looked upon as one of the final religious acts.¹⁵⁴ Even the 1529 statute regulating fees defends the rights of the Church in this field, and refers to the religious significance of the final bequest. The church only had jurisdiction over goods, chattels and leases, and that real property, held in tenure or freehold, was not to be demised under the aegis of the Church. 21 Henry VIII,c.5, specifically prohibits money derived from the sale of property being included in this category.¹⁵⁵

Stages of Probate:

Like all matters which constantly came before the archdeaconry courts, the handling of testamentary matters was regularised by much practice. Procedures were, for the most part, as well respected in archdeacons' courts as those of their superiors. Given that this was a major point of contact between the laity and the courts, it is important to understand the way such matters were handled by archdeacons' courts.

Upon the death of an individual it was the responsibility of the executors to notify the court. People failing to present testaments or notify the court of the death of an intestate, posed a major problem for the courts. The period of grace allowed between

¹⁵⁵ Even landed property not always devisable by will as it was subject to rules of feudal tenure and of inheritance - the devise of Uses allowed testators to evade the prohibition of wills of land
death and notification was generally around a fortnight,\textsuperscript{156} but this probably varied according to the weather, and the movements of the court.\textsuperscript{157} Not all those who were "reluctant" were prosecuted, as it was often enough simply to warn those who were tardy.

The time between the death of a person and the granting of probate was not always in the hands of the court. It was relatively common for relations to be dilatory and slow to get the document to court, for whatever reason. In one case at Canterbury, twelve years passed before a testament was finally proved in 1528.\textsuperscript{158}

Once in court, procedures were fairly straightforward. The first thing to establish was whether a written testament existed. A document setting out the testator's wishes was clearly the most convenient and desirable means of dispersing the goods, and so easier for the judge. Edwardian injunctions and the 1549 Prayer Book required the clergy to exhort the sick to settle their worldly concerns.\textsuperscript{159} It was hoped that more people would draw up their testaments while still in good health, but Swinburne believed that the poor suspected that once a testament was written there was no longer much time to live.\textsuperscript{160} Greater efforts were being made to overcome the reluctance to record wishes, and Bishop Hooper's injunctions for Gloucester and Worcester in 1551/2 asked if the clergy were fulfilling their duty in accordance with the Prayer Book.\textsuperscript{161} The role of the archdeacons' courts in this was clearly important. In 1554 Bishop Bonner checked on his archdeacons in order to ensure that their courts were diligent in this matter.\textsuperscript{162} Not surprisingly those who were found impeding the making

\textsuperscript{156} Cf. Marchant, \textit{The Church Under the Law.} p.25 note
\textsuperscript{157} see chapter six; for an example of such a case see LRO,Cij/1,fo.43v O. c. Woodrof
\textsuperscript{158} KAO,PRC37,fo.72v
\textsuperscript{159} \textit{The First and Second Prayer Books of Edward VI.} (Dent ed.;London,1938) p.419; Gibson, \textit{Codex.} pp.448-49
\textsuperscript{160} H. Swinburne, \textit{A Brief Treatise of Testaments and Last Wills.} (London,1590-1) fo.24v
\textsuperscript{161} \textit{Visitation Articles and Injunctions of the Period of the Reformation.} ed. W.H.Frere and W.P.M.Kennedy (Alcuin Club Publications,14-16,1910) ii,p.288
\textsuperscript{162} \textit{ibid.},ii,pp.341-42
5: Non-Contentious Business

of a will were cited to appear *ex officio mero*.\textsuperscript{163} To a small degree this proportion was distorted by some individuals who forged wills after death, both to provide for themselves and also to circumvent the hold-ups sometimes associated with an administration.\textsuperscript{164}

In some interrogatories, deponents are called upon to verify if the handwriting of the will matched that of the testator, in cases in which it was claimed that the testator had written the document. This was also necessary when a will was found (forgery or not), and there had been no witnesses to its creation. Such efforts were important, because they established whether the document could be used as a guide for the disbursement of goods, or whether the deceased was nominated intestate, in which case the rules governing such estates determined the process of disbursement. Despite these efforts, the proportion of intestates did not vary greatly over the central period of this study. Often as many as thirty to forty percent of cases involved intestates.

The circumstances surrounding the making of the testament were therefore most important. In 1455 Thomas Bourchier warned testators to draw up their wills in the presence of at least two or three witnesses.\textsuperscript{165} Very often clergy were the best placed to write the testament, especially as they were often present by the death bed. It is far from uncommon for them to be noted amongst the list of witnesses. At St. Albans in the years between 1515 and 1558 priests are cited as witnesses in 40-50% of all testaments proved in the archdeacon's court.\textsuperscript{166} The Reformation had some impact in this regard. Partly because of religious changes, visitations of Worcester in 1537, and Gloucester in 1551/2, were used to urge clergy to record faithfully the final will for those people whom they were called upon to help.\textsuperscript{167}

\textsuperscript{163} e.g. KAO, PRC 3/4, fo. 174v
\textsuperscript{164} e.g. KAO, PRC 3/5, fo. 78v, 29v, 144
\textsuperscript{165} Wilkins, *Concilia*. iii, pp. 574-75
\textsuperscript{166} HRO, ASA/AR 2-6, passim
\textsuperscript{167} *Visitation Articles and Injunctions*. op. cit., ii, pp. 16, 306
encouraged parsons and curates to resort to the local registrar in order to learn the proper form of a testament. Nevertheless circumstances dictated that even strangers could be called upon to witness the recording of the bequests. Where possible, testators called priests to their houses in time for some "counsell" and to write their last will.

It was the archdeacons' Official who determined who was likely to benefit from the estate of the deceased if no testament was written. This was not largesse, but the right of certain people related to the person in question. In the same way, certain rules might also be applied, even in cases where a testament did exist. In the Northern province, and "in manie other places besides, within this realme of England," there was a well defined custom which remained in force until the end of the seventeenth century. It stipulated that a testator leaving a widow and children could not deprive his wife of one third part of the estate and his children of another third, which were termed their "reasonable parts." He could only dispose of the remaining third, which was generally referred to in his will as "my part" and sometimes as the "death's part." If there were no children, the widow was entitled to one moiety, and he might bequeath the other half. The same was true if he had children but no wife. If however, he died without issue or spouse, it was all at his own disposal. In the case of intestates, one third went to the children, the wife, and the administrator. If there was only a spouse

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168 ibid., iii, p. 112
169 HRO, ASA 8/2, fo. 128v (1556)
170 e.g. ibid.
171 Swinburne, op. cit., fo. 104v-105v; unfortunately he is not specific
172 Cf. West Yorkshire RO, RD/RP 1-5, passim
or children, then it was divided between the administrator and the other party. If there was none of these then the administrator got everything.173

This was clearly an effort to discourage the perverse testator from depriving his heirs of their rights, and means of living. Swinburne reminds the reader however that it thereby prevented the honest testator from punishing wayward kin. On the face of it southern courts were free from such constraints, and in May 1538 at Lincoln the Official awarded all to the daughter of the deceased "in order to avoid argument."174

But too little is known about local customs which may have influenced the way wills were drawn up, and the way executors carried out their duties. It may be that wills were influenced by local regulations which were never considered important matters within the church courts, but which operated nonetheless.175 In reality, however, many southern wills resembled northern wills in the provision for the widow and children, so that customary law was certainly widespread.

It is wrong however to assume that either one had left a document (and was a testator) or one had not, and was therefore intestate, because in a few cases nuncapative wills are noted. All archdeacons' courts reveal a desire to find some evidence of a will, even a nuncapative will, rather than rely upon rules governing intestacy. These were verbal bequests which were counted as the testament of the deceased where no document existed. The statements may or may not have been intended as the final form of bequests but it was an indication of the deceased's wishes, which was the major responsibility of the court to meet.176 Anthony Biere of Milton was quite explicit and


174 LRO, Vij/1, fo. 31

175 Cf. East Sussex RO, Rye 35/16; which refers to a breach of the customs in the arrangements between executor and testator. I owe this reference to Sybil Jack

176 Swinburne, op. cit., fo. 3v-10v
declared that "If I lyve untill tomorrow mornyng I will declar my will in wrytyng but if I doo dye bifoire than I doo give my wif all my goodes and I pray you witnes the same." He died that night. The particular advantage of this form was that close relations, who would normally benefit as of right from the estate of an intestate, could be excluded from any of the goods. In about 1549 Alice Dodworth, of the archdeaconry of St.Albans, testified that before she died, Mrs.Swift said to one of those present in the bedroom, that "you shall have all that I have and no body but you", adding that her son "shall not have one penny worthe of myne for if he had byn a goode chillde to me I had not needyd to come to servys." The courts, however, may well have distinguished between the rights of men and women, regarding the latter as requiring some sort of support.

In other cases the deceased was deemed intestate and his goods sequestrated until it was time for their administration. An exception to this lay when an executor to a will decided to renounce the position. This occurred even in archdeacons' courts. The royal injunctions of 1547 specify that no letters of administration could be issued unless there was no document, or the executor(s) had renounced the task at hand. The only exception to this was, as with a case from Chester in the 1530s, where the will could not be found. Even so a search by a court appointed official preceded a pronouncement of intestacy. If executors were undecided, the decision could be deferred until after an inventory had been drawn up, but prior to the administration. This was very rare and only likely where debts and bequests exceeded money and possessions. At Rochester, if the executor had accepted the job, then he was

177 KAO,PRC3/4,fo.105v
178 HRO,ASA 8/2,fo.80
179 e.g.HRO,ASA 7/1,fo.31
180 Visitation Articles and Injunctions..op.cit.,iii,p.138
181 BL,Harl.2179,unfo. section
182 Swinburne,op.cit.,fo.209v-16v; and also see below
handed a list setting out in common form the responsibilities of the office.\textsuperscript{183} The choice of the administrator was normally the closest relative to the dear departed. If one had been chosen and a relative with a closer blood link appeared, then the responsibility was handed on to that person.\textsuperscript{184} The sequestration of an intestate's goods was carried out by the administrator, a priest or another court official, such as the apparitor. This was probably a matter of convenience, and in one case in Star Chamber in this period, an apparitor was charged with detaining goods.\textsuperscript{185}

The court order allowing the dispersal of the goods of the deceased followed three different forms. Two of these related to the probate of testaments. The most common of these was the ordinary process whereby the executors appeared before the court with the testament and reliable witnesses. If this was concluded satisfactorily, one of the administrators was ordered to return to the court with an inventory of the goods and chattels of the estate. If there were no challenges, administration was granted.\textsuperscript{186} A deponent may however cast doubt upon the validity of the document,\textsuperscript{187} at which time further witnesses were called in order either to verify or reject his case.\textsuperscript{188} Usually this was concluded in favour of the executors.

The second procedure was in solemn form of law. In this case the procedure was much the same except that the major beneficiaries were also required to appear and it was only at that time that objections could be voiced. If this was done then, unlike the ordinary procedure, the testament and the probate could not be challenged in court at a

\textsuperscript{183} KAO,DRa/Vb4,unfoliated, lying between the 2nd and 3rd series of foliation; there are a number of these lists which were clearly drawn up in large numbers and handed to each executor. In this way the executor could not claim ignorance of the law if there was some irregularity. This was probably common practice in other courts also

\textsuperscript{184} Gonville and Caius,389/609,p.223

\textsuperscript{185} PRO,STAC 2/30/158

\textsuperscript{186} Leic.AO,1D41/12/3,fo.52v; this is an example of such a list. No doubt common at the time they were discarded after they had served their purpose

\textsuperscript{187} e.g.HRO,ASA 8/1,fo.92v

\textsuperscript{188} see above
later date. It should be stressed that this form was far more troublesome to arrange.\(^{189}\)

As Houlbrooke has indicated, the danger of the former procedure was that witnesses at the original hearing may have died since the time of the challenge, and this therefore created difficulties for the court.

This is a point distinguishing archdeaconry from bishops' courts. Nevertheless, there is no indication of a widespread change, as there was at Norwich during Bishop Parkhurst's episcopate. Certainly it is true to say that as elsewhere the courts were, despite the allegations of the Commons in 1529, not tardy in granting administration. Bowker has demonstrated that the allegations of the Commons were rooted more in an ancient complaint with emotional overtones rather than in fact. She concludes that the 1529 Act made little or no difference to the efficiency of these courts.\(^{190}\)

Using records from Canterbury and St.Albans, we can see the following pattern of in the years before Mary Tudor's death.

<table>
<thead>
<tr>
<th>Table 4: The Probate of Testaments.(^{191})</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canterbury</td>
</tr>
<tr>
<td>1529</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>Probate in under 1 month</td>
</tr>
<tr>
<td>Probate from 1-2</td>
</tr>
<tr>
<td>Probate 2-3</td>
</tr>
<tr>
<td>Probate 3-4</td>
</tr>
<tr>
<td>Probate 4-5</td>
</tr>
<tr>
<td>Probate over 5 months</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

<p>|                St.Albans                  |
|-----------------|-----------------|-----------------|-----------------|-----------------|</p>
<table>
<thead>
<tr>
<th>1521</th>
<th>1533</th>
<th>1547</th>
<th>1552</th>
<th>1557</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probate in under 1 month</td>
<td>14</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Probate 1-2</td>
<td>2</td>
<td>7</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Probate 2-3</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Probate 3-4</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

\(^{189}\) e.g. for John Colman, CCL, Y/4/8, fo. 76 (1548)


\(^{191}\) KAO/PRC 17/18, passim; KAO, PRC 17/21-22, passim; KAO, PRC 17/25-26, passim; KAO, PRC 17/28, passim; KAO, PRC 17/30, passim; HRO, ASA/AR2, passim. This volume covers the first four years of this survey. The variations in the totals are due to the small number of people living (and therefore dying) in the archdeaconry; HRO, ASA/AR5, passim
The basis of this survey is to note the date at which the testament was written and then the date it was proved. It is more than likely that in a number of cases they were written months, or even years before death. It should also be remembered that this is a sample which is intended only to give a rough guide. Still, it is clear from this table that the number of testaments proved within one month after the 1520s was substantially lower than it had been. Indeed in 1529 sixty per cent of testaments at Canterbury had been proved within two months. At St.Albans in 1521 it was eighty per cent. Before pointing to the apparent falling off in efficiency, it must be stated that the decline was not absolute. A far higher proportion was being settled within two to three months, at St.Albans from 1 in 1521 to 5 in 1557, and at Canterbury from 6 (1529) to 10 (1557). The were only marginal increases in the number proved in excess of five months, and the largest increase was at Canterbury, the year after the inhibition. Nevertheless, it is true that probate was taking longer over this period. The major reason for this was that there were far fewer sessions of the courts. Sittings per annum fell dramatically in this period, and so the opportunities to notify the court of death, for the court to approve of executors/administrators, and the final probate to be granted lagged further behind.\footnote{For a fuller discussion of this see chapter eight} It seems that this particular occurrence was not something done freely by the courts, but that they were acting under instruction.\footnote{see chapter eight}

This is not to say that problems did not exist. Houlbrooke points to an occasion in which the registrar of the Official of the Archdeacon of Winchester proved a testament in the absence of a properly constituted judge.\footnote{Houlbrooke, \textit{Church Courts}. p.92} Although true that this is a

\begin{tabular}{|c|c|c|c|c|c|}
\hline
Probate 4-5 & - & 3 & 2 & 2 & 2 \\
Probate over 5 months & 2 & 1 & 7 & 2 & 3 \\
Total & 20 & 20 & 19 & 20 & 33 \\
\hline
\end{tabular}
contravention of canon law procedure, and cause for concern later in the century, it was relatively common well before then. It is recorded as having taken place at Canterbury and St. Albans (apparently without any embarrassment on the registrar's part), and probably took place elsewhere. A more likely scenario than Houlbrooke's criticism is that it was the reduced standing of the courts by Elizabeth's reign which led to greater contention, and problems of this sort were a symptom of reduced respect rather being caused by what is admittedly a measure of procedural laxity.

This is not to say that laxity of any sort is salutary or even excusable. At Leicester it seems that it was common for only one witness to be present before probate was offered, and this is surely more likely to lead to strife, although the number of testamentary suits does not support this contention. Houlbrooke has also noticed that inventories were not always required in the bishops' courts, and this is even truer in the archdeaconries. This applies equally to intestates. At Sudbury in the 1550s it was certainly most uncommon for inventories to be produced in the case of intestate estates. Though true that the paltry amount in many of these cases indicates just how unlikely suits would have been incited by this process, it was nevertheless one of the more undisciplined aspects of archidiaconal administration.

The court might be deceived at any stage, and it was important for the testator to be careful in selecting an executor. In this respect the canon law was helpful, because it gave one the option to choose someone from any status, including bondmen, villeins, women and infants (so long as they were at the age of discretion), in other words, anyone the testator might feel could be trusted. One executrix at Leicester was only twelve years of age, and the court decided to appoint a "gubernator." The number

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195 e.g. CCL, Z/3/4, fo. 11v; HRO, ASA 7/3, fo. 121
196 Leic. AO, 1D41/12/1, fo. 80-5
197 Suffolk RO, IC/500/5/1, fo. 87ff.
198 Swinburne, op. cit., fo. 196-96v
199 Leic. AO, 1D41/11/3, fo. 24v
of executors varied from one to no less than four people "and other executors" who were recorded in the testament of Robert Tomson, in the archdeaconry of Chester in 1530. One executor acting alone could administratively be more convenient, but also he was well placed to misappropriate possessions. In one case at Norwich, the executor was distributing goods in accordance with the instructions of the testament - but before the testator had died. Overseers could also be appointed. Their apparent function to be aware of the executors' activities. They were most commonly found nominated in the testaments of wealthier folk. Executors were also allowed to be legatees. Often the executor was the testator's spouse or child. At Canterbury in 1525 a son was cited to court because he had demanded the role despite somebody else being named in the testament. Testators usually allowed money for their executors for their trouble, and at times failure to do so prompted the executor to subtract a sum from the estate. Prosecutions designed to discourage this were originally set out by Stratford, but the courts were sympathetic to claims for necessary expenses, especially those associated with the burial of the testator.

The goods of intestates were entrusted to an administrator appointed by the court, and he was answerable to the ordinary acting as the proxy of the court. In one instance at Northampton in 1545 both William and John Bate were appointed administrators, but it was noted that John should bear final responsibility for the indemnity of the archdeacon. Like the executor, he had to draw up an inventory which was then ratified before the letters of administration were granted. The court

200 Lancashire RO, ARR 13/8/180
201 Norwich and Norfolk RO, A/N/W/l, unfo.
202 KAO, PRC 3/6, fo. 22v
203 KAO, PRC 3/7, fo. 2v
204 Gibson, Codex. pp. 465-66
205 1 Edward I, c.19; 31 Edward III, c.11; Gibson, Codex. p. 478
206 NRO, Arch. III, fo. 56v
207 e.g. Leic. AO, 1D41/12/3, fo. 81-81v
however, determined who were the beneficiaries. In some cases the administrator did not draw up the inventory; this chore could be delegated to an apparitor or even some other court official. In the 1530s the goods of Margery Taylor were collected and their value tabulated by the court after which the administrator acted in distributing the bequests.

For either probates or administrations, the inventory was therefore another critical element, if the value of the estate was sizeable. By 21 Henry VIII, c.5, two witnesses were required to be present at its drafting in order to avoid dissension. This was setting out what had long been required in practice. The executors of the testament of Richard Leyn of Stony Stratford hedged this in November 1520 by employing a notary public to draw up the list. Goods were also required to be valued by "some honest and skilful persons", who were presumably acceptable to the court. Objections to an inventory might lead to another hearing at which the list of the administrator or executor was studied, and he was culpable if there was an error because, unlike inventories drawn up in the normal course of events, this could not then be altered.

Unlike the bishops' courts at Norwich and Winchester, many archdeaconry courts were able to seek the recovery of debts due to the testators until the mid 1530s at least, and they handled them in much the same way as other cases of debt. In a case at Buckingham, the Rector of Addington died in March 1491/2 after a long illness. Debts accruing from unpaid tithes and offerings were entered under the court heading, but it was claimed that the expenses of the church during his illness should be set against his

208 see above
209 e.g.KAO,PRC3/7,fo.128
210 BL,Harl.2179,unfo. section
211 The Courts of the archdeaconry of Buckingham,op.cit.,pp.365-66
212 Swinburne,op.cit.,fo.220
213 LAO,Cij/l,fo.101v; Houlbrooke, Church Courts. pp.103-04
214 ibid.,p.102; see chapter seven
personal debt. At times, especially for clerics, retrospective payments were sought, and one executor of the Vicar of Redbourne claimed payment from the vicar's successor an amount the testator had paid towards the repair of the manse immediately prior to his death. Conset also claims that failure to pay mortuaries were grounds to sue from an estate. But this sort of suit was open to all people. The only area of contention was if the core of the suit was debt, and so a common law matter. Though such suits are still evident in the archdeaconry courts in the early part of the century, R.H.Helmholz has shown that these actions were in fact less frequent than they had been in the previous century.

On the other hand, the payment of debts of the deceased, including funeral expenses, were vital for one's soul and therefore the principal consideration before allotting the residue for distribution. One court formulary even stated that the debts of the testator should be paid before mortuaries due to priests. In a court order from Chester in 1533, the executors of the estate of James Smyth, capellanus of Chester, were told to pay all money owed to debtors within thirty days of the court order. It should be added that the courts were also keen to ensure that their fees were paid before the distribution of bequests.

Not all problems involving insufficiency of goods could be overcome by regaining monies owing - sometimes there were none. In such cases the legatees received less, how much less depending upon the discrepancy between the inventory and the testament. On executor lamented that there was insufficient money to meet bequests "by xl markes and above by meanes of great sutes and troble...." The estate itself

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215 The Courts of the archdeaconry of Buckingham. op.cit., pp.150-51
216 HRO, ASA 7/2, fo.79v
217 Conset, op.cit., p.19
219 Gonville and Caius, 389/609, p.225
220 BL, Harl. 2179, unfo. section
221 HRO, ASA 8/2, fo.63v-64
could be whittled away by creditors wishing to be remunerated. At Canterbury at least, the series of three proclamations was still being used whereby legitimate creditors were asked to appear in court and press their claims. Amongst their number at one stage was William Wigmore the proctor, who was seeking three pounds, and on another occasion, Christopher Nevinson who was after six pounds. The inventory was also supposed to include all debts. In 1533 the court at Chester ordered that the debts of James Smyth be paid within thirty days. Failure to include this information would therefore leave the executor and administrator liable to trouble. In a note addressed to the Official at Canterbury, was a petition from a debtor against the executors of "Dalokkes widowe", seeking the payment due from the deceased. In another case at Lincoln in 1540, a new inventory was drawn up noting what money was owed, and to whom.

Legatees may also have been required to fulfil a pre-condition before the payment of a legacy, such as marriage. Minors might also have to wait before receiving their legacy. In the Northern province it was customary for the testator rather than the court to select a tutor until the age of discretion, which was 14 for boys and 12 for girls. After that time children were able to select their own curator.

When they were able to receive things in their own right may not always have depended upon them reaching twenty one years of age. The daughter and son of Thomas Bawdwyn of Wendover only had to wait until they were sixteen before they received their bequest. The son of Thomas Lytyplage of Cheping Wyombe had to

222 KAO, PRC 3/6, fo.112v (1529); CCL, Y/4/8, fo.44 (1543)
223 Swinburne, op.cit., fo.218v
224 CCL, Y/2/4, loose sheet
225 LAO, CiJ/1, fo.101v
226 Houlbrooke, Church Courts. p.104
227 Swinburne, op.cit., fo.97v-98; in the province of Canterbury only men could be tutors, but in the province of York women were eligible "albeit they bee married, and vnder the gouernment of their husbands"
228 e.g. The Courts of the archdeaconry of Buckingham. op.cit., p.384
229 ibid., p.396
wait until he was twenty four before receiving four horses.\textsuperscript{230} In ordinary circumstances, as with a case from Richmond in 1542, reference to the legacy being awarded in general terms about the appropriate time which meant twenty one.\textsuperscript{231} So it was that in 1526 when John Pawlyn's father died when the boy was only 11, it was presumed that the twenty pounds held for him by Nicholas Hilles could only be claimed in 1536.\textsuperscript{232} Where however, the testator or an intestate failed to make provision for a minor, the decision as to the child's future was in the hands of the judge. In November 1555, Margaret Dyar, who was seven years old and an orphan of William Dyar, was "assignavit Thomam Barnford parochia St. Andrei in auctorem."\textsuperscript{233}

The sort of discretionary power exercised by the judge at this point is typical of this area of jurisdiction, and is in marked contrast to the other administrative tasks he had to face. It should be remembered however, that this was an area of activity free from any other authority.

Jurisdictional Boundaries:

Given the large numbers of cases proved at all levels in the system of church courts, and the degree of procedural formality adhered to by the archdeaconry courts, the major, and most obvious, differences between the various tribunals related to jurisdictional competence. As with every other area of ecclesiastical administration, the jurisdictional boundaries existing between the various courts varied from one diocese to another, and from archdeaconry to archdeaconry. Furthermore, in the southern province the Prerogative Court of Canterbury claimed the probate of testaments of those who died leaving goods "in divers dioceses." This court was still establishing itself in

\textsuperscript{230} \textit{ibid.}, p.401
\textsuperscript{231} West Yorkshire RO, RD/RP 1-5, fo.203v
\textsuperscript{232} KAO, PRC 3/6, fo.42v
\textsuperscript{233} HRO, ASA 7/3, fo.29
the late fifteenth century, and even then, claims involving the exercise of the archiepiscopal prerogative, were severely resented, first in opposition to Cardinal Morton and then in 1512, when several bishops took Archbishop Warham to task. In that case the archbishop resorted to Rome, where the matter was shelved, rather than resolved.

Warham had claimed that proof at London was more convenient for executors than wandering from court to court in an effort to allow administration. He also claimed, in the best tradition of desperate legal argument, that it was a "laudable custom." The matter was finally concluded by 23 Henry VIII, c.9 (1531) which confirmed the right of the Prerogative Court to cite people out of their own diocese. Despite this, the response of the Ordinaries in 1532 to the Supplication, argued that executors were not, as a rule, required to travel unreasonable distances.

Five pounds has been regarded as the amount determining whether someone had bona notabilia but this figure is more a hindrance than an aid. At times requirements for "notable" goods may have become a fictitious qualification. The testament of Peter Barton of Chestleton in 1505 refers to goods and money all within one archdeaconry, and even then barely equalling five pounds. Richard Glascon's testament three years later was also heard in the P.C.C. and it was worth even less. If this is so, it is not because the court was infringing upon other courts, but simply that people were choosing to go to it. The administration of testaments belonging to prominent men was commonly granted in the local courts and not the P.C.C. and there were still, as yet, no hard and fast rules governing which courts were used.

234 Cf. Churchill, Canterbury Administration, i, pp.380-412 and chapter two
235 This contention was mentioned in outline in chapter two
236 There was no equivalent at York until the Prerogative Court was established in 1577
237 Documents Illustrative of English Church History, op.cit., p.168
238 Some Oxfordshire Wills Proved in the P.C.C., 1393-1510. ed. J.R.H. Weaver and A. Beardwood (Oxfordshire Record Society, 39,1958) pp.86,98
239 Lincoln Diocese Documents, op.cit., p.86; note of an agreement
The number of cases involving notable goods in archdeacons' courts, however, was minimal. No more than a few cases were re-directed to London and there is precious little evidence about the size of estates in question.\(^{240}\) There may have been reluctance on the part of local courts to do this. In one case at Canterbury in 1556, jurisdictional rights were being discussed and Thomas Percy, the registrar, appeared as a witness and argued that the matter should be heard in that court. The judge apparently agreed and decided that probate was not to be offered in London.\(^{241}\) The evidence may have been contentious, but it is also clear that the local courts could have some influence upon the course of events; that they were not bound by rigid rules or guidelines. It was simply a matter of "getting it done." In 1537 a suit for dilapidations was brought at Lincoln against the estate of the late priest of Halton. As it happened it was proved by the vicar-general of York who had apparently outmanoeuvred the archdeacon's officials.\(^{242}\) It could be argued that the York court acted improperly by poaching business, but in the circumstances there was little to be gained by complaining.

This period also witnessed other changes, the most enduring being in 1534 when appeals were re-directed to the court of Delegates. More transitory structural alterations occurred with the appearance of Wolsey's legatine court between 1522 and 1529, and Cromwell's vice-gerent's court from 1536 to 1540.

The former constituted another headache for Archbishop Warham\(^{243}\) and through it Wolsey affected archidiaconal jurisdiction. To what extent is unclear, but it seems that he undertook not to interfere once the archdeacon of each jurisdiction paid him money.\(^{244}\) It is clear that one of his commissaries was operating in the archdeaconry

\(^{240}\) KAO,DRb/Pa7,fo.120v; is the only case in which details are noted; in this case that 13 pounds lie outside the diocese

\(^{241}\) KAO,PRC 3/14,fo.59; it should be remembered though that in the diocese of Canterbury the commissary could handle "notable" estates, cf.Woodcock, *Medieval Ecclesiastical Courts*. pp.72-4

\(^{242}\) LRO,Cij/1,fo.2v

\(^{243}\) Pollard,*op.cit.* pp.194-98; Ellis,*op.cit.*,ii,ii,p.45

\(^{244}\) *ibid.*,iii,ii,pp.39-40
of Norfolk, even though payment had been made and in a letter to Wolsey, Bishop Nix made no secret of his anger, claiming that the money claimed by Wolsey, was by right due to himself as the diocesan. Dr John Dowman, one of Wolsey's commissaries, was himself Archdeacon of Suffolk - effectively reducing his own problems at least.

What criteria these commissaries applied to withdrawing cases from archdeaconries is not known, but it must have had something to do with wealth or status. In 1524 Thomas Austen, an M.A. from Oxford, and Vicar of Milton, appeared in the archdeaconry court at Canterbury, directing the judge to forward the matter at hand to the court at Westminster.

Cromwell's court may have cut a similar figure - although perhaps not quite so avaricious. Here again though there is evidence of business being conducted in the localities, with probate being granted in Lincolnshire, Bristol and probably elsewhere. Sir William Petre certainly appeared at Canterbury and heard matters belonging to the archdeacon, but there is not much evidence to suggest whether or not this was typical. As noted in chapter two, when jurisdiction was returned to the archdeacons following the inhibition of 1535, they were limited to proving estates of less than one hundred pounds sterling. In most dioceses larger estates were already taken before the consistory court, and often by this stage estates encroached over diocesan boundaries anyway. There may not have been rapid changes to the guidelines Cromwell set up because early in Elizabeth's reign a manual for lawyers re-affirmed

245 *LP.* iv(iii), no. 5589; the archdeacon's registrar, John Curatte, was collecting the money for Wolsey, and this was also annoying Nix. The amount collected that he was claiming, was fifty seven pounds, thirteen shillings and four pence

246 Pollard, *op.cit.*, p. 199

247 KAO, PRC 3/5, fo. 128v

248 Kitching, "Probate Jurisdiction," *op.cit.*, p. 105

249 KAO, PRC 17/21, fo. 161 August/September 1538

250 Marchant, *The Church Under the Law.* p. 23
that only if the goods were not "notable", or the estate worth more than one hundred pounds was it permissible to proceed.  

Within dioceses practices varied from one place to the next. In Norwich the chancellor granted probate for prominent individuals as well as those who held estate in more than one archdeaconry. At York archidiaconal jurisdiction was, before Elizabeth's reign, minimal, and this business remained in the hands of the archbishop's officials, who at times used rural deans to prove testaments in the common form.

At Oxford in 1541 however, the new bishop in his new see, realised that the archdeacon's rights preceded, or at least pre-dated his own. In order to overcome any potential problems, the archdeacon, from 1543 until 1632, was also always the vicar-general of the diocese. If there was a clash of some sort, however, the bishop still dictated terms. This is evident elsewhere. In 1564 Bishop Horne's Chancellor inhibited Archdeacon Cheston from granting administration of intestates' estates or approving clerics' testaments. Furthermore, some matters may still have had to be passed on to episcopal functionaries, if for no other reason, than as a form of surveillance. In October 1515 the commissary for parts of Essex granted probate to the executor of the late Vicar of Westfield, but it still had to be taken to consistory. In October 1518 the Archdeacon of Colchester proved the testament of Agnes Reede of that town, but it was still exhibited in consistory.

Not surprisingly, archdeacons could not intrude into other jurisdictions, particularly for the many peculiars surviving until 1647. Even as Provost of Wingham College, the Archdeacon of Canterbury (or his Official) had to wear his second hat, and a separate
probate register survives for the college, which contains 350 testaments proved between 1521 and 1547.\textsuperscript{256} The right to prove testaments was clearly a matter of importance. In August 1522 the Prior of Launde appealed to the Bishop of Lincoln against the Official and commissary of Leicester. The latter had proved the testament of the Vicar of Titton, thereby infringing on the rights of the House.\textsuperscript{257} 

Where separate archdeacons' courts operated concurrently with commissaries, there was a danger of the next of kin or executors being asked to appear in both courts. In one instance at Norwich, Simon Thornplye appeared exhibiting his authority to administer the goods, which was enough to satisfy the Official.\textsuperscript{258} In 1497 at London, there had been some conflict over the intervention of the archdeacon in a matter already decided by the commissary, but this was no more than an isolated disturbance in an otherwise cohesive relationship.\textsuperscript{259} In that same year, and in 1513, the probate of two testaments was discharged by the commissary because it had already been decided in the archdeacon's court.\textsuperscript{260} The advantage of this was that when either court could not function, for whatever reason, the other court was able to continue working. In 1550, after Bonner's fall, and therefore at the lapse of the commissary's commission, the archdeacon proved all testaments \textit{sede vacante} until the commissary court was again functioning.\textsuperscript{261} This should not be stressed however, because where there was only one court, administrators were generally speedy in providing a replacement (be he bishop or archdeacon) and so lead to a resumption of court activity. Failing this a special commission was issued until such time as the position was filled and normal staffing procedures employed.

\begin{itemize}
\item \textsuperscript{256} KAO,PRC 33/1
\item \textsuperscript{257} Leic.AO,1D41/12/1,fo.80v
\item \textsuperscript{258} Norwich and Norfolk RO,ANW/1/1,fo.15
\item \textsuperscript{259} \textit{Index to testamentary records in the commissary court of London (London division) now preserved in Guildhall Library, London.} ed. M.Fitch (Index Library,82,86,1969-74) ii,p.30
\item \textsuperscript{260} \textit{ibid.},pp.24,141
\item \textsuperscript{261} \textit{ibid.},pp.16,67,83,142,226,235
\end{itemize}
Costs:

Unfortunately the records detailing costs involved in probate compare unfavourably with other probate material. Rarely was it recorded in the Act book with an evaluation of their goods. At the time of the Reformation Parliament this was a matter which attracted particular attention. Allegations were merciless, and it may have been that many members left the House wondering if Sir William Compton's testament was really proved at a cost of one thousand marks? At Canterbury there is every indication that before 1529 Stratford's schedule of fees was being followed. One testament valued at ten pounds, two shillings and ten pence, had probate levied at three shillings, which was still six pence below the rate set by 21 Henry VIII, c.5. Similarly, an estate valued at twelve pounds three shillings and ten pence, still paid only three shillings. Where "paupers" were referred to, they seem to have paid no fee, save for the six pence due to the scribe. On the basis that the courts did retain the Stratford scale these are interesting results. Moreover a note made in a practitioner's manual early in Elizabeth's reign designates that if the custom of the court was to levy fees which were less than the amount stipulated in the Henrician Act, then the lower level of fees were to remain in force, and this was noted after a period of considerable inflation.

Information about the amounts charged at Leicester and Wiltshire survive from the early part of the century. At Winchester there were 287 testaments proved, and at

262 Pollard, _op. cit._, p.194
263 KAO, PRC 3/5, fo.5
264 KAO, PRC 3/5, fo.49, 57v; in which the value of two estates of paupers was mentioned, one being 22s.6d. and the other 13s.4d.
265 Cf. Lyndwood's _Provinciale_. pp.68-9
266 Gonville and Caius, 389/609, p.225
267 Leic.AO, 1D41/12/2, fo.62-70v, 74-80; PRO, E135/8/31
Leicester we have the record of 135. Total receipts at Leicester were twenty one pounds, five shillings and ten pence. At Wiltshire total receipts amounted to thirty two pounds, twenty one shillings and two pence. This means that at the former the average charge was just over three shillings per testament, and at the latter, just over two shillings and three pence. Comparisons are difficult to make because the Leicester figures include thirteen paupers who were charged nothing. What this does reveal however, is that the vast bulk of those whose testaments were proved had estates worth between five and twenty pounds, which is a sizeable amount. The question arises as to how many people did not have their testaments proved in court?

In 1538 the inhibition stopped the exercise of jurisdiction for a while. It does not appear that many wills were proved by the vice-gerent or his deputy, yet there were only around fifty testaments proved that year, which is at least twenty thirty fewer than in most years. What happened to them? There was not a great influx from the previous year. As we saw earlier the number of testaments proved in excess of five months after its writing rose by less than six from the "good" years before the 1530s. It may be that the court was simply not used. There is some reason for believing that members of the "poorer sort" were far less likely to concern themselves with probate than those with some wealth. One commentator has concluded that the high proportion of affluent people who had testaments proved in a Suffolk village reflect the strength of the regional economy in that district. But should this be considered as being universally true or indeed true at all? In a study of the parish of Staplehurst in the late sixteenth century, Zell has shown that poor men do not appear in the testamentary records in proportion to their place in the population at large, even those people going before archdeacons' courts. Moreover, the poorer people amongst the testators may include

268 Valor. iv,p.28; only 30 shillings was listed as being paid to the archdeacon from probate, which seems far too low to be probable
5: Non-Contentious Business

the householders who passed on things to their relatives before death. He identifies around thirty five percent of males noted in the probate registers as having goods valued at more than sixty pounds. Zell also believes that a calculus of wealth and status determined whether a man would or would not be noticed by the probate courts. He finishes by saying that most women did not attract the attention of the court at all.270

On this basis it would be hazardous to assume, as many have done, that all people had at least one brush with the church courts because of the probate of testaments. It is clear that the courts did not ignore paupers, but it is surely evident that they were inclined to take far more interest in those people with more valuable estates. Of course this does not necessarily mean that they were avaricious, nor that this discrimination was motivated by greed. It could quite rightly be claimed that probate reduced the chances of contention arising, and this was all the more likely when the estate was of no mean value. In the final analysis, the members of the court were no doubt concerned with their own welfare, but they were, in many respects, very capable and conscientious.

Conclusion.

The right of archdeacons to decide testamentary matters had been established by custom over a very long period of time. In the case of the Archdeacon of Canterbury this was one of the rights granted in the thirteenth century, except in areas of exempt jurisdiction. This was done here, as elsewhere, because the volume of business was so great that it was necessary for archdeacons to keep separate records of probates and administrations; to act as free agents. Partly for that reason the rules and guidelines

5: Non-Contentious Business

governing this field of work, with all its intricacies, were well worked out by the sixteenth century.

Details of other matters have been left in far more modest amounts. In the case of business conducted at the court's discretion, such as local chapters, there may well have been a series of well known conventions, but too little business is recorded to allow elaboration. Not only does this mean that the written legacy is minimal, it also means that such activities were more subject to change over a period of time without the precedent of formalised rules, and so more liable to alter in function and status. Or, in the case of licences, there was a deliberate change in episcopal policy, following religious change, which in turn altered the whole significance, in religious terms, of such authority. In all cases, however, archdeacons' courts were important simply because they were the courts closest to the people of their jurisdiction, and often in a very much better position to carry out certain tasks than any other tribunals, whether jobs were performed on behalf of the king or the bishop.

It is unfortunate that the non-contentious business conducted at the behest of the king or diocesan was rarely recorded, partly at least, because such information could have shed some light on the question of authority. During his period as Archbishop of Canterbury, Matthew Parker made marginal notes in the Black Book of the Archdeacon of Canterbury, in which he rather provocatively claimed that archdeacons' duties were concessions. After Parker's death Archdeacon Redman discovered the notes and responded by asserting that archdeacons performed a number of functions as of right - including the induction of clerks and, as noted, the creation of rural deans.\(^{271}\) This was written despite the fact that the archdeacon acted only upon instruction. These matters were normally recorded by the diocesan, not by the archidiaconal registrar. To Redman though, the practice was equivalent to prescriptive right.

\(^{271}\) Strype, \textit{The Life and Acts of Matthew Parker}.op.cit.,ii,pp.456-7
Although the archdeacon's remarks are not easily defensible, they do illustrate that there was some uncertainty over this area of work, because it had never required a clear demarcation of rights necessary at an earlier time in connection with contentious, and even testamentary matters. In some matters, notably the granting of certain licences and the examination of men claiming benefit of the clergy, the question of jurisdiction was more clearly articulated in the course of the sixteenth century; something connected with the nature of contemporary changes.

This rather large area of responsibility was in some ways given fresh consideration in the period of the Reformation. Inductions and testamentary matters were brought up by the Commons during the Reformation Parliament, but people still died and probate was still necessary. Clergy were still needed and had to be inducted into benefices. In the meantime, rural decanal chapters may have become useful vehicles for relating new regulations to the local clergy.

For all this though the winds of change blew relatively slowly, and up to 1558, policy changes in many of these matters were not forthcoming. This is not to imply that before 1558 that this area of business was a minor diversion. Too often the contentious business has been regarded as being a more topical and critical field of study. Clearly it is central but so too is this other field of work. By complaining about two aspects of non-contentious business in the Supplication the Commons made plain its feeling upon the importance of this work. That the archdeaconry courts lacked much freedom of action in the way these matters were dealt with, and were thus, little more than useful agents, bears close resemblance to their ancient role. It also means that this area of business was less likely to suffer during the years of the Reformation, because the courts could not act contrary to specific instructions, which is not the same with contentious business. Houlbrooke states that scribes of the courts probably spent as much of their time on non-contentious matters as on disputes and prosecutions.272

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272 Houlbrooke, Church Courts. p.8
This may not be quite the case in archdeacons' courts, after all, episcopal administration took in far more than an archdeaconry court. Nevertheless the topic warrants consideration in its own terms.
CHAPTER SIX

Contentious Business: The Modus Operandi

Little has been done previously to indicate how archdeacons' courts conducted contentious business in this period - to what extent they conformed to the dictates of provincial constitutions, and acted in accordance with the forms and principles of canon law. Some of these matters are addressed in works discussing consistory courts, but little of this material has dealt with the lower courts. Even where this is the case, usually in introductions to a selected series of documents, the studies have been isolated and non-comparative. Partly for that reason, there have been assumptions that what is true for episcopal courts also applies to the lower tribunals. This is not always the case. Wunderli in fact believes that the commissary courts in London before the Reformation were not constrained by legal procedures as rigidly as the consistory court. Was this the case throughout England or were there enormous variations between courts? If there were, would this support the contention that it is not only the jurisdictional purview of the court, but other, extraneous and often localised factors, which influence the manner and form of proceedings within a broadly conceived outline? This chapter will delineate the points of similarity as well as the differences which were current in the practices of those courts studied, and so analyse the level of


2 Wunderli, op. cit., p. 41
legal formality displayed and assess the importance of this in terms of the courts' capacity to administer justice. As much as possible, attention will be drawn to areas of court procedures as they may, or may not, have changed during the period under review.

In fact throughout the Reformation years the courts displayed a high level of competence. Similar demands were made on the courts with contentious business, as with testamentary matters. That is, there was concurrent jurisdiction with the episcopal courts. But the archdeacons' courts acted with almost complete autonomy, and did so in a way which was far more immediate to members of the archdeaconry. In order to meet the challenge presented by this very large area of work most court practices were well set out by the sixteenth century.

It is also vitally important, therefore, that the reader have some understanding of what the courts did, and the practices of the institution before whom many people went. Although there were many rules governing procedures, it should be understood that, on the whole, they were not as confusing as those of secular courts. This was an important element influencing contemporary attitudes to the courts. The principles guiding activities in court were straightforward, and this made the courts far less formidable than might otherwise have been the case if procedures and practices had been very complicated.

Sessions of the Courts.

One of the most neglected aspects of the courts was their physical appearance. Before discussing the way matters were handled in court it is worth asking what the courts looked like, and how they went about presenting themselves to the populace at large. Few details remain about each session. Registrars chose at most to record the date (most commonly with a reference to the nearest saint's day), the day of the week,
where the session was held, who presided as judge, and sometimes, who was the
scribe. All of this information is useful, and all of it provides insights into aspects of
the court’s work. Still, it does not tell us much about the physical shape of the court.
At Chester there is still the furniture of the consistory court within the cathedral, in the
western tower. Although these furnishings only date from the seventeenth century in
some ways it is quite typical of what was the norm up to and beyond the Reformation
turmoils. Most cathedrals had a separate room used by the court, in the west tower, or
along one of the side aisles of the Church. Consistory courts were certainly held in the
western tower at Rochester, Salisbury and Exeter, and even just off the chancel, as at
Norwich.4

For the most part, however, archdeaconry courts sat only in small local churches
which lacked such facilities. When Margery Kempe was brought to trial in All
Hallows, Leicester, the Abbot of Leicester, as judge, sat before the high altar, surrounded by some officials, and many witnesses to the event were “stodyn up-on
stolys for to beheldyn him...” so that she was situated in or before the chancel, facing
the sanctuary. The archdeaconry court of Leicester sat in the church of St.Martin,
which at that time was about the same size as All Hallows, and the abbot may well have
been emulating the practice of his secular brethren. The advantage of remaining at the
east end of the church in such places was that it accommodated a large number of
people. This is borne out by a case in Star Chamber over the letting of the
archdeaconry of Cornwall by Thomas Winter. Star Chamber was informed that the
occasion of the dispute took place at the visitation at Launceston. At that time, and
before business was transacted, the venerable John Harrys entered the church of
St.Stephen with a crowd of people and surged his way through the assembled crowd

3 R.V.H.Burne, Chester Cathedral. (London,1958) diagram in the front cover
4 R.Garland, Winkle’s Architectural and Picturesque Illustrations of the Cathedral
Churches. (London,1938) i,pp.4,106; ii,pp.113,94
5 The Book of Margery Kempe. ed. S.B.Meech (Early English Text Society,
o.s.212,1940) p.114
towards the east end, where Body, the judge, sat. 6 Those sessions not conducted in churches were necessarily held in a similarly large structure. At Canterbury, the archdeaconry court often heard cases in the Poor Priests' Hospital, which still stands today. At Northampton, after the foundation of the see of Peterborough, the archdeacon hired out the guildhall for this purpose. 7 Despite this the court officials apparently decided to use their customary venues, and the guildhall lease lapsed after a couple of years. 8

Without much information on the physical appearance of the court, it is equally difficult to assess where people sat. Apart from the Launceston visitation, one remaining clue is in Cavendish's Life of Wolsey, in which he includes a description of the divorce proceedings at Black Friars'. Although this was an extraordinary court, the author does say that it was organized "lyke a consistory."  9 There were "tabylles, benches, and barres" where the judges sat, and at the judges feet sat the officers of the court, namely the scribe and the apparitor. On each side sat counsel by their clients, and it seems that they stood at appropriate moments in order to address the court. 10 It was then a little further to the assembled throng, who also attended these proceedings (which were open), including participants in other actions waiting for their matter to be heard.

Sessions commenced at eight o'clock in the morning and continued until eleven. Then came lunch, and the court re-assembled at one o'clock post-meridiem. Evidently this custom was of some importance, as the court officials rigorously observed their lunch break. Often parties were told to re-appear in the middle of a hearing because of

6 Rose-Troup, op.cit., pp.64-65
7 Peterborough Local Administration. Parochial Government before the Reformation. ed. W.T.Mellows (Northamptonshire Record Society, 9,1939) pp.146-47
8 NRO,Arch.II and Arch.III,passim
9 The Life and Death of Cardinal Wolsey by George Cavendish. ed. R.S.Sylvester (EETS,o.s.243,1959) p.79
10 ibid.,pp.79-80
luncheon. If it was a particularly troublesome suit, the day could be a very long one indeed. A case before the monastic court at Whalley was said to have come back after lunch, and then lingered "on in to the afternoon."\(^{11}\)

Provincial constitutions set out that sessions were to be held in various parts of each jurisdiction, that is, in deaneries "where provisions are scarce", but still at places containing sufficient population, so that a convenient venue could be established for all people.\(^{12}\) In order to accommodate as many people as possible, courts still had to travel. Their movements, and the number of sessions held each year, differed from one place to the next. The larger the jurisdiction, the greater the need to travel.

Bearing this in mind, it may be instructive to pause and consider some of the differences between the various archdeaconries. For example, the amount of travel undertaken often depended upon the size and terrain of the jurisdiction. Due to the haphazard formation of dioceses, archdeaconries varied greatly in size. The vast archdeaconry of Richmond stretched from the Ribble in the west to the border of county Durham in the north-east; an area which included some of the "wildest country in England."\(^{13}\) The archdeaconry of Lincoln was also relatively large, being around sixty miles from north to south, and almost forty miles across. The archdeaconry of Leicester on the other hand, with 192 parishes, ran 33 miles north to south at its most distant points, and was barely 27 miles in breadth. As stated, the archdeaconry of St.Albans was even smaller, and apart from the parishes in Buckinghamshire, all of its parishes were within a ten mile radius of the House.

These characteristics inevitably meant that there were considerable differences in the number of people living within these jurisdictions and consequently, the magnitude of the pastoral role of these courts varied. Estimates about population levels in sixteenth

\(^{11}\) *Act Book of the Ecclesiastical Court Whalley.*, op.cit., p.103

\(^{12}\) Gibson, *Codex.* p.1000; no such constraints were placed on higher tribunals, see Bowker, *The Henrician Reformation.* p.57

\(^{13}\) *ibid.*, p.4
century England are notoriously hazardous. Nevertheless, some attempt should be made.

Visiting England in around 1500, an Italian wrote that the "population of the island does not appear to me to bear any proportion to her fertility and riches," his general conclusion for all parts of the realm being that it was "thinly inhabited." By modern standards this was certainly the case. It is believed that by 1600, after a century of rapidly increasing population, Kent had around 150,000 souls. Bearing in mind the increase, we might assume that in the beginning of the century the figure was closer to 120,000. Dividing up the population according to parishes, it can be posited that within the archdeaconries of Canterbury and Rochester there were 64,000 and 40,000 respectively. The parishes from the Shoreham deanery have been deducted from the original figure because it was an archiepiscopal peculiar. At Leicester we know that the archdeaconry (excluding peculiar jurisdictions) contained 8,448 families in 1563, and Lincolnshire (excluding the archdeaconry of Stow) contained 21,985 families. Working on the basis that each household contained four to 4.5 persons, the population for Lincoln would have been circa 87,000 to 100,000. At Leicester, on the same basis, the figure is roughly 34,000 to 38,000. Finally, and by way of comparison, is St. Albans archdeaconry. A document in the Hertfordshire Record Office lists the parishioner numbers in the archdeaconry for 1763. It appears to

14 A relation, or rather a true account, of the island of England; with sundry particulars of the customs of these people, and of the royal revenues under King Henry the seventh, about the year 1500. trans. and ed. C.A. Sneyd (Camden Society, o.s.37, 1847) p.31
16 J. Nichols, History and antiquities of the county of Leicester. (1795-1815) i, pp. lxxxv-lxxxviii
17 G.A.J. Hodgett, Tudor Lancashire. (Lincoln, 1975) appendix
19 HRO, Guildhall manuscript by William Dicke
indicate a total population for that time of around 5,500. On the basis of growth figures for the county over the period from 1500-1750, it would appear that the population there in the mid-sixteenth century would not have numbered more than about 2,500 people. Such obvious and important contrasts should therefore be borne in mind.

Within each community, the number of sessions each court held was of great significance. The not only relates to being able to handle the business already before the court, but if frequent enough, the sessions increased the public profile of the courts. One of the most energetic of the courts studied was undoubtedly that of the Archdeacon of Canterbury. In the years leading up to 1529, this court sat upwards of one hundred times each year. In 1524 for instance, there were 102 separate court days. At Rochester on the other hand, there were usually 45-50. At St.Albans, there were around 35. At Leicester the figure is more difficult to determine because acta from ex officio (prosecutions) and instance (litigation) actions, which were kept separately, do not survive together for any year before the 1550s. In the period November 1522 until the following August, delicts were handled on thirty four court days. In the period January to December 1525 the number was thirty seven. Assuming that most, if not all sessions were comprised of both office and instance actions,20 it is likely that the court averaged between thirty five and forty sittings each year. On the other hand, the large archdeaconry of Lincoln, with around 440 parishes, and as noted, was twice the size of the archdeaconry of Canterbury, held just over forty sessions in the late 1530s. This relatively low figure was due partly to the debilitating effects of the early years of the Reformation, but also to its co-existence with an active consistory court, which probably meant a division of available business.

In the court books for Lincoln and Rochester, the day set for the next session was recorded underneath the title for the current day. In all cases, parties to the actions were

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20 It was customary at this time to record details in separate books, even though sessions included both sorts of action. There were of course exceptions to this; at Rochester all matters are bundled together into the same manuscript.
informed when the court was sitting next and the venue. A citation demanding the presence of a person at the session was often used, and on it were recorded the details so that the person in question was left in no doubt what was expected.²¹

As indicated, the courts were supposed to be peripatetic. Journeying throughout the archdeaconry, holding ordinary sessions, was called a circuit. Despite canon law requirements, most courts were disinclined to travel extensively.²² The archdeaconry of St. Albans was only small, containing twenty-six parishes. Apart from Little Horwood, Winslow, Grandborough and Aston Abbots in Buckinghamshire, all parishes were within Hertfordshire, and so within easy reach of the monastic house. Consequently all ordinary sessions were held in one of the churches within the town itself. Rochester, Leicester and Lincoln archdeaconries were all larger, but travel within them was still limited.²³ At Leicester, where the court books provide details, the sessions were held almost entirely in St. Martin's Church in Leicester itself, the only exceptions being a few held in the church at Belgrave, a parish adjoining Leicester. At Lincoln, the bulk of sessions were held in Lincoln, mostly in the cathedral, but also at St. Peter's Eastgate by the 1550s. Around September/October each year however, in order to follow up detections arising at the visitation,²⁴ excursions were made in to each deanery. At Rochester the court was rather more peripatetic, but the amount of travelling was in effect not great. The court moved constantly between Rochester, where sessions were held in either the cathedral or the bishop's palace, and the parish churches of Halling and Malling.²⁵ This was a round trip of around 20 miles

²¹ Gibson, Codex. p.1003
²² Youings, op. cit., p.94; Professor Youings is incorrect in suggesting that "archdeacons or their deputies must have been almost continually on the road"
²³ NRO, Arch, I, cover; this suggests that travel was also very limited for the court of the Archdeacon of Northampton, at least in the 1530s, most sessions at this time being held either in St. John's Hospital, Northampton or All Saint's, Peterborough. It is conjecture whether this was normal in less difficult times
²⁴ see below
²⁵ KAO, DRb/Pa8, fo.43v,53v; in 1524 one session was held at Offham, and another at Lamberhurst. This was most unusual. See map 6
(30 kilometres), and therefore completely avoiding the south-western, and western parishes of the archdeaconry, such as Cudham, Westerham and Edenbridge.

Of the courts studied, only the one at Canterbury was not reluctant to make tracks in all deaneries, and in the face of unpleasant conditions. It trod a well worn path which moved in a roughly anti clockwise progression through the deaneries of Lympne and Charing, Sutton, Sittingbourne and Ospringe in the west, and Sandwich in the east. It then ended at Canterbury where the court catered to the needs of the deaneries of Canterbury, Bridge, Elham and Westbere, which were all huddled around the cathedral town.

Woodcock is perhaps a little too generous in suggesting that there were fourteen circuits each year, and as map 6 indicates, it did not move far away from Canterbury. Still, its efforts displayed considerable discipline. In 1524, most deaneries received ten visits, with Canterbury, Lympne and Charing being the exceptions. The business in the last was conducted jointly, and there were sixteen days’ hearings, while at Canterbury, there were 24 separate court days.

Given the poor quality roads in many of these areas, and the vagaries of the English weather, the demands this imposed upon the itinerant court officials was no doubt uncomfortable at times. Before 1555, legislation had failed to improve road conditions, so that whenever possible, the visitation procession stayed on main thoroughfares. In fact there is good reason to believe that the roads in the mid-sixteenth century were poorer than they had been in the middle ages.26 The difficulties of travel also included not only the cold and rain, but sometimes even snow and flood. At the beginning of the seventeenth century, Adam Martindale had to give evidence in a secular court case. He could either travel in the rain before the Mersey flooded, or risk death by drowning. He chose the former and rode no more than twelve miles per day. He made

it, but was seriously ill on arrival. A further idea of this discomfort is provided in a letter from Richard Montagu to the Bishop of Durham around 1625. Of winter he said that "this time is so unfitt to travel in......I would not willingly travel to a good preferment...." People prone to poor health were especially vulnerable, and Montagu adds that "These last five winters by such journeys, I gott those coulds that hung by me, some of them for months." 

The importance of the courts travelling is amply illustrated from a case at Chester. In order to reduce the inconvenience facing litigants, and the demands made on his court, the Official of the Archdeacon of Chester began holding sessions in three different centres in south Lancashire as well as at Chester. Moreover, in 1523 or the year after, he went so far as to establish a second court at Bury under a commissary, to deal with cases from the northern part of the jurisdiction. For various reasons this experiment failed, but it does go to show the difficulties facing both the court and the populace in such circumstances, and the particular problems facing courts in large jurisdictions.

Apart from these ordinary sessions there were also special or extraordinary ones. These were called at the discretion of the judge. They were used to appoint or constitute proctors and to hear deponents prior to the publication of their testimony in open court. They could also be used by the judge discreetly to hear a case in camera. They were therefore not recorded under a separate heading by the registrar in the court book but only appear during the action as details of the process of a suit unfold. A defamation case at St.Albans in 1521 had recorded the details and dates of the action,

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28 *The Correspondence of John Cosin, D.D., lord bishop of Durham, together with other papers illustrative of his life and times.* i. [ed. G.Omsby] (Surtees Society, 52,1869) p.84 (1625)

29 Haigh, *Reformation and Resistance.* op.cit., p.3

30 e.g.CCL,Y/4/5,fo.93 Dale c. ___
and abbreviated references of the actual process. Three of these dates are 19 July, 1 August and 28 September. The first and last of these dates correspond to formal, ordinary sessions, but the scribe does not record a separate court day on 1 August. The court book has no break in the records, nor is there a hint of a quire missing from the manuscript, as matters follow on quite clearly from folio to folio. It seems therefore, that the parties appeared at an undisclosed place, before someone, but certainly not in open court.31 This was one of the bulk of procedural practices which remained intact during the Reformation. A case from Lincoln in 1542-43 indicates that the second session of an office case for a clandestine marriage was heard by Christopher Massingberd in his own home.32 At Canterbury it is impossible to determine how many of these irregular sessions were held, but this is clearly testimony to the discretionary powers of the judges, as well as to their own industry.

Unlike the courts at London, these tribunals were not bound by legal terms. Law terms did not exist as such, but court days were nevertheless regulated by certain feast days. For the southern province these were set out in a constitution of Archbishop Islip in 1362. No sessions were allowed to be held on Sundays or on a range of holy days throughout the year, stretching from the circumcision of Christ (1 January), to the feast of St. Thomas the martyr (Becket; 29 December).33 Only by the Elizabethan period was this schedule being disregarded.34 At Lincoln, particular trouble was taken not to sit on days set aside for some English saints, most notably Hugh, sometime Bishop of Lincoln (17 November). Apart from these restrictions, the courts suited themselves.

The dates set aside for sessions was partly affected by the time of the year in which the archdeacon decided to conduct the annual visitation. Before the 1530s, there were only a couple of periods in which the court did not work. Aided by seven major feast

31 HRO, ASA 7/2, fo. 22 Everingham c. Corysh
32 LRO, CJ/l, fo. 171, 180 Alcock c. Litillbery
34 Peters, op. cit., p. 52
days from 25 December until 7 January, officials could look forward to at least a
fortnight away from work after Christmas day. Secondly, August/September usually
offered an opportunity for a vacation.

How busy each court was for the remainder of the year was of course determined by
the number of sessions it conducted. The court at Canterbury was very energetic, and
sat on most week days. In the course of one of its circuits it would generally sit at
Ashford on Monday, proceed to Lenham on Tuesday, Sittingbourne on Wednesday,
Faversharn on Thursday and Canterbury on Saturday, and sometimes Friday as well.
Practices elsewhere varied. At Leicester sessions were mainly held on Tuesdays and
Saturdays; Lincoln on Fridays and Saturdays, whilst at Rochester it was always on
three consecutive days - no particular pattern of days being noticeable. Needless to say
there were exceptions to this, not only because of saints days, but also because
business may not have necessitated the usual number of sittings, and in some weeks,
there was only one session. As much as possible, however, the courts worked in
accordance with a routine, thereby making it easier for people within the jurisdiction to
present themselves in order to approach the court about any matter.

Commencing an Action.

Broadly speaking, there were two sorts of contentious cases handled in these and other
ecclesiastical courts. They were generally known as instance and office cases. The
former were analogous to common law civil actions. The other were prosecutions.
These prosecutions were of two sorts. Cases brought ex officio promoto were
prosecutions started at the behest of a party. If the case was unsuccessful then the
promoter was liable for the costs incurred. This last procedure was relatively
uncommon before the 1540s. As it was brought on behalf of a party it is more

35 see chapter eight
properly bracketed with instance cases, as a form of bringing a suit. In April 1515, a letter was sent to "the right worshipfull master Official" in which a creditor sought redress from the executors of "Dalokkes widow", and asked him to "call the same before you geving therein inventor to pay me or to delyver unto yf handes so much goodes and this doon I shall continually pray for you." Whether the judge was prepared to undertake a promoted action was left to his own discretion, and may have been influenced by the promoter's financial situation. It may have been a way for the poor to undertake a case free from the limitations of an instance action. It is more likely, however, that the promoter had financial resources to cover expenses. William Burton was certainly keen to promote an action in 1553 against his rector, Dominus Giles Cockes. He wrote to the judge at Northampton and said "...that I will prove wherefore I requyre a citation in yf behalfe, promysinge to promote and prosecute the ____ matter accordingly." Promoted actions most commonly appear in relation to testamentary matters, but might just as easily concern matrimonial (contractual), tithes and parish dues claims. At York, some time later, the judge sometimes used proctors to promote a case. In this way the court could pursue an issue in the form of a prosecution which would normally only have been a suit. The advantage was that the judge had more discretion in the punishment he could impose on the defendant if found guilty. It was not a technique utilised by archdeacons' courts in our period.

Ordinary prosecutions, that is, those brought ex officio mero, were markedly different. There were three ways these could be undertaken according to canon lawyers; by inquisition, accusation and denunciation. Inquisition referred to those occasions when offences came to the attention of the court (by searching or otherwise), and it had been found that people of credit believed that an offence had been committed

36 CCL,Y/2/4,fo.66; this procedure is similar to that found in the court of Admiralty and shows the close relationship between the civil and canon law
37 NRO,Arch.III,fo.132
38 Ritchie,op.cit.,p.73; LRO,For.I,fo.1v-2
and by whom. Denunciation was the procedure used against persons presented by the churchwardens. Finally, accusation was, in effect, just another name for a promoted action. As significant as the distinction may have been in church law, or even in senior courts, there is in practice no distinction made between inquisition and denunciation in these courts. 39

Most court books are silent on the procedure most commonly used, we only know that miscreants were found, not how this was done. The most obvious way, alluded to before, was at visitations by denunciation, by the churchwardens. At Lincoln this was virtually the only way office actions were commenced, at least in the late 1530s, and much the same was true at Rochester. At the former, directions are listed at each visitation, and the full process kept within these quires. Unless a further correction book exists elsewhere, which is improbable, prosecutions were first noted as detecta. At Rochester they are first recorded and then transcribed into the ordinary court book, further clouding the distinction between episcopal and archidiaconal jurisdiction in that diocese. 40 At other places prosecutions are started independently of the visitation, nonetheless a note often reveals that many did spring from the visitation. This is certainly true at St. Albans, Canterbury, Norwich and Leicester. At times the judge had to remind the officials within the parishes of their responsibilities, and warnings were dispatched. 41

Still, other methods were employed. A loose note in the visitation of Lincoln diocese contains an allegation that William Blomfield, a monk of Bury St. Edmunds, was partaking in illicit sexual relations and that Robert Bottern kept bawdry in the market place, using his maid, "who is now pregnant." 42 A similar note, also anonymous, states that the churchwardens of Kirkby la Thorp had not presented an account of

39 see Ritchie, _op. cit._, pp. 159-62
40 see chapter two
41 see chapter seven
42 LRO, Vij/1, fo. 215
parish finances for some time.43 Churchwardens and parishioners were sometimes prepared to submit complaints about their clergy in cases where they had failed to fulfil their priestly functions, or committed some sort of moral lapse. In turn priests sometimes complained about their parishioners. At Canterbury one incumbent forwarded a note to the court requesting the judge to send his apparitor to cite certain generosi, in order to reply to certain articles.44 From the evidence available, a large percentage of prosecutions were initiated only after the court had been notified of an offence by people living within the jurisdiction, rather than by the courts.

The first thing to do before initiating proceedings in an instance action was to make sure that the defendant was taken to the correct court. In most instances this meant pursuing the action in the jurisdiction in which the defendant lived. In the archdeaconry of Canterbury, within Sandwich deanery, there were a number of exempt jurisdictions, and the registrar was careful to note down whether litigants were from an exempt parish, even if they were plaintiffs.45 The Leicester court heard cases from plaintiffs of a number of neighbouring counties, including Northamptonshire, Warwickshire, Lincolnshire and Nottinghamshire. At times they came from even further afield, such as Essex and London.46 At Canterbury one man travelled from Suffolk to begin a suit in the archdeacon's court.47 The only exceptions to this rule of thumb were in matrimonial and testamentary matters. Technically, in these cases the litigants had to appear before the court in which either the testator had lived, or in which the contract of marriage had allegedly been made. This meant, for instance, that if an executor lived in Leicester he might be sued by someone from Oxford at Lincoln, if the testator had lived in the cathedral city. This may not have been strictly adhered to as a principle. In one

43 LRO,ibid.; the note is at the same place in the register
44 Woodcock,op.cit.,p.69 note
45 CCL,Y/4/4,fo.14 Duncalf c. Browne, 14 Birche c. Bowden
46 Leic.AO,1D41/11/1,fo.18v Cowper c. Offerton; 1D41/11/2,fo.77 Luther c. fflower,90 Howett c. Webster, 93 Ellard c. Sarfles
47 CCL,Y/27,fo.1 Sayre c. John _____
case at Leicester there was a dispute about the testament of a William Millar of Hickling in Northamptonshire, but the litigants were both from Leicestershire.48

The boundary between jurisdictions could itself become an issue throughout the period. In a tithes action in 1549, the vicar of Shepall was disputing the boundary of a parish with his counterpart from Stevenage, which lay within the archdeaconry of Huntingdon. As the latter was the plaintiff he had to appeal for help to the court at St. Albans.49 On the face of it, office actions would not be faced with this sort of problem. Despite this there is an interesting example of an office case from Leicester, in which a defendant appeared before the court exhibiting a citation to the court at Northampton and was only then spared the risk of a double prosecution.50 In a similar case from St. Albans in 1515, William Cressy appeared before the court and gave evidence that he had already been punished for an offence by the Archdeacon of London.51 At Rochester in 1530 a man from the exempt deanery of Shoreham was cited for adultery, but the scribe made the point of noting that the offence had been committed within the archdeaconry of Rochester.52

Excommunicates were barred from acting as plaintiffs. Such people were still allowed to defend themselves but in most senses they had lost their legal status.53 Special provision had to be made for minors and paupers. Minors required a tutor or curator, who was admitted as such after the judge had been satisfied as to his suitability. Women on the other hand were able to act on their own behalf, but it was relatively common for husbands to represent them, or to appear, like Robert Whilefall did at Lincoln in 1551, and constitute (employ) a proctor for his wife.54

48 Leic.AO,1D41/11/2,fo.17  
49 HRO,ASA 8/2,fo.97-100 Alen c. Cowper  
50 Leic.AO,1D41/13/2,fo.19v O. c. Smyth et Wyllington  
51 HRO,ASA 7/1,fo.3  
52 KAO,DRa/Vb4,2nd series, fo.29v O. c. Barnes  
53 Ritchie,op.cit.,p.74-76  
54 LRO,Cij/2,fo.38
The unfortunate pauper had first to establish before the court his degree of penury in order to proceed "in pauperis." At the same time a proctor could be appointed by the judge to act on his behalf, at no cost. Archbishop Warham looked at this issue as one of the areas needing to be reformed in diocesan administration, because it was not a right generally respected and in 1507 he repeated this rule in directives to the courts.55 There is little to suggest that general practice changed, in this regard, at any time in the century. Unfortunately for historians, Warham did not specify the nature of the means test employed. The forty shilling rule may have been adopted; that is, those that did not possess above two pounds of money should be accepted into this category. Conset sets it at "not worth 40s. debtless goods."56 The only case which explicitly states that this as the test comes from Oxford in 1540, in which the judge admitted John Yong as a pauper because his goods did not value 40s.57

After these matters had been settled, the defendant had to be warned of the proceedings; it was no good if there was no one to challenge. This could be done verbally by the plaintiff, but in the majority of cases a citation was sought from the judge. In one case at Canterbury the plaintiff himself failed to appear - the case was abandoned, and the actor had to bear the court's costs for his oversight.58

Citations were regularly used although few have survived. They were rectangular pieces of paper which noted the name of the presiding judge, the names of the parties, the question at issue, as well as the details of the venue. It was then given to the apparitor, or perhaps a local priest, to deliver on a Sunday or feast day, and this was clearly, as we noted earlier, the most perilous part of his work. Periodically, court books note down the names of people to receive citations so that several would be dispatched in one trip, thus saving leg work. Once this was done, the citation was then

55 Wilkins, Concilia. iii, p.650
56 Conset, op. cit., p.57
57 LRO, Cj/6, fo.16v
58 CCL, Y/2/7, fo.125; see also Y/2/7, fo.48v; in 1524 another actor failed to appear and the defendant sought his suspension, which the judge granted
returned to the court with the certification recorded on the dorse.59 These were peremptory or general citations, and assumed, indeed demanded attendance at all sessions, and they should be distinguished from special citations which were used to call a party to a particular session in order to offer testimony, or some other service.60

If the defendant could not be found, the apparitor returned to court and so informed the judge. The actor, or his proctor, could then apply for a citation viis et modis. This did not have to be presented in person, but simply read out in church, a copy attached to the church door, and another to the door of the defendant's residence. If considered appropriate this could be publicized in other local churches.61 The procedure implies that anybody who could not be found had chosen to evade the court because after sufficient warning, the plaintiff could then apply for the other party's excommunication. There were sometimes mitigating circumstances which the court might choose to take into account. At Lincoln in 1547 one defendant appeared and explained that he had been on the king's business.62 John Wollett of Elham also used this as a defence in 1556.63

In what appears to be an unusually effective demonstration of the value of this device from the monastic court at Whalley, a party to a divorce suit fled the jurisdiction to go to York. There was a request to the York authorities to deliver the woman back to Whalley, which they did.64

Early in the century the decision to proceed via office or instance action had not been completely standardized. It would be quite wrong to presume that there was considerable variation from place to place, but some variation certainly did exist. In 1515/16, there were two cases at Canterbury dealing with sexual incontinence which

59 e.g.LRO,Cij/1,fo.89 Gybson c. Lightfoote (1540)
60 Ritchie,op.cit.,pp.86-87; LRO,For.1,fo.2v
61 LRO,For.1,fo.6
62 LRO,Cij/2,fo.8 Maby c. Adyson
63 CCL,Y/4/10,fo.13
64 Act Book of the Ecclesiastical Court at Whalley,op.cit.,p.29 (1514)
were heard as instance actions. Maltreating a spouse or a child were generally the subject of prosecutions, but at Canterbury in 1517 and Leicester in 1526, they were called *ad instantium partium*. Tithe actions, mostly being litigation, were sometimes called as office actions at Canterbury, Leicester and Northampton. Perjury suits were nearly always instance, but in 1522 one was brought as a prosecution at Canterbury.

At times there are no apparent reasons for variations in procedural practice. In 1519/20, a priest at Rochester had to appeal for a promoted action in a case of assault. Normally such cases were called *ex officio mero*. In the same diocese in March 1522, the vicar of asked for help against Thomas Kempson for impeding the church procession. As late as 1557 Richard Beche had to promote a case for adultery against Joanna Pume als. Richards of St. Albans.

More than anything else, variation in practice like this, reflects the judges' wide discretionary powers. After the 1530s it is impossible to discern the same pattern. Apart from Richard Beche at St. Albans, only testamentary cases continued to be heard as instance, promoted and merited office actions. The overall proportion of the different customs had vastly decreased. There is no real indication to explain this change in procedural practice. The *Supplication*, while it touched on many aspects of the courts' work, did not refer to this matter. There may nevertheless have been increased sensitivity to its allegations which led to stricter guidelines being imposed. In the case of tithe matters guidelines were more or less spelt out by legislation which

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65 CCL,Y/2/4,fo.75,81
66 Leic.AO,1D41/11/1,fo.30 Russer c. Russer; CCL,Y/2/4,fo.130v c. _____; Leic.AO,1D41/13/1,fo.4v; NRO,Arch.III,fo.66 O c. Smyth
67 KAO,PRC 3/5,fo.84 O. c. Harrys,92v O. c. Holdyngs(?); Houlbrooke, Church Courts. pp.137-38; this is also true at Winchester until after the 1530s
68 KAO,PRC 3/5,fo.28 O. c. Norman
69 KAO,DRb/Pa7,fo.54v O. Prom. c. Lewes
70 KAO,DRb/Pa7,fo.167 O. Prom. c. Kempson
71 HRO,ASA 7/3,fo.12
6: Contentious Business

specifically referred to litigation rather than prosecution in ecclesiastical courts as the means of redress. 72

To some degree, moves to standardize in this way may well have suited the court officials themselves. A move to extend the number of cases which should be heard by the more lucrative litigation suit potentially offered more income to them at a time when court business was dwindling.

This may not be the only explanation available to us. As a rule, the court seemed increasingly to draw a distinction between the individuals as opposed to the corporate body of the parish as a guideline to which procedure to follow. Although there were exceptions, this helps to clarify the difference, and helps to explain why, for instance, defamation actions remained the responsibility of the individual if his/her honour alone had been challenged, but the general defamer was prosecuted for more general abuses. This aspect of court work will be more fully discussed in the next chapter.

Nonetheless it should be remembered that a keynote in the method of the operation of these courts rested in their procedural flexibility. In a case at Leicester, Elizabeth Deyne of Howley sued Richard Leys for defamation, lost the suit, and in mid-stream the case changed to a prosecution because of her alleged sexual misconduct. 73 This was not uncommon. In a defamation suit at Northampton in 1534 it was alleged that Mabel Charleton of St. Giles parish had called her rector an adulterer. The suit suddenly ceased and the prosecution of the unfortunate cleric began. 74 In these circumstances the courts were able to proceed with some sense of equity without the constraints that might have bound common lawyers in similar situations.

72 32 Henry VIII, c.7
73 Leic. AO, 1D41/11/1, fo. 10v
74 NRO, Arch. I, fo. 1
The Matter in Court.

Prosecutions.

One of the major attractions of the archdeaconry courts to the local populace was that its procedures were not very complicated. This even extended to prosecutions *ex officio mero*. They were always summary and passed through several straightforward stages. As with instance cases, proceedings commenced with a citation to the defendant. This usually included several allegations, although all centred upon a single offence, or type of offence, such as adultery. For example, the Vicar of Folkestone was presented to the court of the Archdeacon of Canterbury in the late 1520s for moral laxity. A loose sheet of the original allegation survives. It is a libel, and so sets out the charges. It is syllogistic in character, stating that the vicar, Richard Sherman, is often seen with the wife of a parishioner in his house in the evenings, that he only has one bed, and that they are suspected of committing adultery.\footnote{KAO, PRC 3/6, loose sheet}

It was only with the judge's assent that the citation could be issued. In one adultery case at Lincoln, he decided to cause further investigation within the deanery before the matter could proceed.\footnote{LRO, Vij/1, fo. 115 *O. c. Grantham et Hall*} The period of time which elapsed between the culpable act, and the issue of the citation, also depended upon when and where the courts sat. At Lincoln, where delicts were recorded at the time of the visitation, the defendant had time to wait around for six months before the court recalled him. As a result, this court had by far the highest incidence of unmarried mothers as opposed to pregnant women appearing in prosecutions.

The time between the discovery of an offence and prosecution varied for a number of reasons. The practice of waiting to prosecute meant that there was a far greater delay in
the archdeaconry of Lincoln. Despite breaks, other courts were generally quicker in this regard. At Rochester in January 1522, John Bocher of Strode reported on two characters able to cope with cold weather, when he indicated that he saw "Agnes Charles and yonge felow lying to gudre in a bushe a monyth before Cristemas uppon a Thursdaye night." Thus six weeks passed between the alleged offence and the first report of it in court. On 10 August 1535 Richard Prat appeared before the court and informed them that only a few days before, on the Monday, he had found his wife, in media nocte, with another man. The court moved quickly to prosecute her. It was far easier to do this in office actions because the initiative lay with the court itself. The longer the delay, the greater the chance that offences could continue to be committed. Not all matters could be discovered early enough perhaps for the courts' liking, but that was not in effect their fault. At Canterbury in 1529 a couple were discovered to have been living together "sub colorii matrimonii" for eight years. This should be distinguished from instance cases in which the matter would be resolved in some way after it went to court, and rarely did plaintiffs suggest that there was a need for urgency. Moreover some time was generally appreciated in the preparation of one's case.

The articles detailed in the citation were set out in court, and the party in question then replied. If guilt was admitted then penance was awarded, or an admonition announced and recorded. In 1542 Margaret Pye of Paston (?) had the good sense to confess to the judge that she was indeed pregnant. More often, there was a denial of guilt which had to be sworn on pain of excommunication. In each case the defendant had to answer the articles in the allegation, and it may be possible to obtain reports of one's general fame in offering defence.

77 KAO,DRb/Pa7,fo.156v
78 NRO,Arch.I,fo.5v
79 KAO,PRC 3/7,fo.184v O. c. John et Elizabeth Robartes
80 NRO,Arch.II,fo.3; there is a Paston in Norwich diocese but this appears to be a reference to a parish in Northamptonshire
Witnesses could in turn be produced by the court in order to elucidate matters pertinent to the case. The witnesses were then required to respond to interrogatories drawn up by the registrar in consultation with the judge. If the judge was still unsure whether the defendant was guilty, or simply wanted to provide an opportunity for defence, compurgation could be allowed. This meant returning to court with compurgators, or oath helpers, who testified to the character of the person in question.

The number of compurgators called was not much governed by provincial constitutions (although they offered guidelines), as by the needs of each particular case. The decision itself was left in the hands of the judge and in most cases between three and six were required, although in January 1524 John Harryson was told to appear at St. Albans with nine. He had been charged with having sex with Elisabeth Johnson, and the judge’s suspicion was clearly aroused, partly perhaps because she was pregnant. Compurgators had to be the same gender as the defendant, and priests had to have priests, although if there were few available half lay and half clerical compurgation was satisfactory. The courts remained diligent in policing these requirements during the Reformation. In July 1553 the Vicar of Swineshead appeared with compurgators in response to a charge of sexual misconduct. It appears that none of his compurgators were priests and so the judge rejected them. The priest stated that he would appeal to the bishop over this, but there is no indication of what happened.

It was also normal for all compurgators to come from the one parish. Where appropriate, however, they could be called from different parishes. In June 1544 Alice Gillet of Cheaton was ordered to gather three compurgators from her own parish and two from Folkestone, where her alleged lover lived. In customary style for the canon law, the compurgators themselves had to be of good character and if the judge doubted

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81 HRO, ASA 7/1, fo. 33v
82 LRO, Cij/2, fo. 236v
83 CCL, Y/4/8, fo. 49
their suitability he could refuse to admit them. Even the lowly church courts were strict enough to respect church law rules. This is evidence in itself of the diligence of the judges.

Written evidence was considered extremely valuable and so might be sought from outside the jurisdiction, even outside the diocese. In 1538 John Byrfleet was accused of bigamy. He replied that his first two wives had died before the third marriage; presumably meaning that the first wife had pre-deceased the second marriage. The judge at Lincoln wrote to the Bishop of Ely seeking letters testimonial verifying this story. Unfortunately for Byrfleet only the first wife's death was confirmed. Even when one had to rely upon compurgation however, judges in these courts could still challenge the value of their comments. Compurgators were asked to testify about the character of the defendant(s) rather than on the particular offence committed. If the judge was not impressed by their testimony then it effectively worked against the defendant.

The compurgators could not always swear to the particular oath imposed by the judge, which is itself an indication that this was a successful and useful device. In fact the judge was not even bound to call compurgators. Evidence may have been too overwhelming, despite a plea of innocence. In response to the interrogatories in around 1525, one man laconically stated that "I saw William Riche lying on the bely of Pecocke wif but what he did I cannot telle....I suppose he did a mysse." The Vicar of Kelvedon in Essex had little chance of escaping scot free from a charge of sexual incontinence in the early 1540s because the Official of the Archdeacon of Essex was

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84 e.g. KAO,DRb/Pa8,fo.42; A Series of Precedents and Proceedings, op.cit., p.1060. c. Thurston (1528); the judge refused to admit the compurgators because they refused to swear the oath "de credulitate"
85 LRO,Vij/l,fo.129
86 The nature of this procedure will be taken up in the next chapter
87 KAO,DRb/Pa8,fo.89; see also a case at Northampton, NRO,Arch.I,fo.5v O. c. Prat et Pikard
told how he had been found with a woman in his chamber at 2 a.m., by "the watchman, constable, and other honest men."\textsuperscript{88} It was up to the judge alone to determine whether or not this rendered the use of compurgators necessary or not.

At Lincoln the pattern was somewhat different from other places. The \textit{acta} of this court reveal that very few people were offered the chance to clear themselves by compurgation. Those that did were normally faced with the added difficulty of travelling to Lincoln, and even though the compurgators could be compelled to attend, the option was not without drawbacks. The underlying reason for this exists in the method of presentation. Greater use of visitation presentments may have given rise to greater confidence in the veracity of the allegation. Moreover the court seemed most reluctant to allow office actions to linger. It was much simpler to resolve a case in the visitations through the year, which allowed the sessions at Lincoln to be used predominantly for litigation.\textsuperscript{89}

This in turn raises questions about the motives of the personnel of this court, who clearly regarded instance matters as being of primary importance. Ironically their practice of keeping prosecutions to visitations was implicitly supported by Puritan attacks later in the century, when the \textit{ex officio} oath was again being criticised. Certainly at Canterbury, where visitations were not used nearly as much for this purpose in the years 1500-57, most defendants were allowed to attempt compurgation.

Recently some ink has been spent questioning the value of certain methods of discovering alleged offenders. Bowker has accused apparitors of over zealouslyness for dragging to court too many innocent people before judges. She alleges that because one third of defendants appear to clear themselves at compurgation, "the

\textsuperscript{88} Oxley, \textit{op.cit.}, p.146

\textsuperscript{89} Bowker, \textit{Henrician Reformation}, p.87; Mrs Bowker makes an uncharacteristic oversight when she claims, after looking at the instance act books, that there were no office actions, and that such actions appear in the archdeacon's court book by accident. In fact she would have noted the practice of the court if she had looked at the visitation material
6: Contentious Business

archdeaconry courts were being too active."\textsuperscript{90} Yet even at the vastly re-organized and reforming consistory court of Bishop Sherburne of Chichester, this same percentage is said to represent a clear improvement, and it was a rate of successful prosecution not attained by the bishop's commissary at Norwich.\textsuperscript{91}

Bowker's assertion depends upon the assumption that it was apparitors who were responsible for initiating the vast majority of prosecutions, and with too much zeal. But this is clearly questionable. Far more often it was members of the laity who urged the court to act.\textsuperscript{92} On that basis Lander's suggestion seems the more adequate.

No doubt, some of the people who purged themselves may have been guilty, but it was the process of compurgation which came to their aid rather than notions of guilt and innocence. On that basis, comparisons with the Bishop of Lincoln's court of Audience may be misleading.\textsuperscript{93} The archdeaconry courts in fact show that there was indeed considerable success rate in prosecutions:

Table 5: Results of Prosecutions:

<table>
<thead>
<tr>
<th>Result</th>
<th>Leicester(1522/23)</th>
<th>St.Albans(1524)</th>
<th>Lincoln(1538)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public penance</td>
<td>30</td>
<td>14</td>
<td>90</td>
</tr>
<tr>
<td>Admonition</td>
<td>5</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>Excommunication</td>
<td>-</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Suspension</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Fine/commutation</td>
<td>-</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Citation viis et modis</td>
<td>-</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Dismissed</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Successful purgation</td>
<td>18</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>Unknown</td>
<td>59</td>
<td>28</td>
<td>124</td>
</tr>
<tr>
<td>Totals</td>
<td>112</td>
<td>66</td>
<td>251</td>
</tr>
</tbody>
</table>

It is clearly true that in most of these examples only a proportion of the results are known, but there is enough evidence to suggest that a high percentage of defendants

\textsuperscript{90} Bowker, The Secular Clergy. p.33
\textsuperscript{91} Lander, \textit{op.cit},p.226; Houlbrooke, \textit{Church Courts}. pp.278-81
\textsuperscript{92} see above and chapters four, seven and above
\textsuperscript{93} Bowker,\textit{The Secular Clergy}. p.33
were being found guilty. Whether this is a reflection of the validity of court charges, or simply suggests that procedural techniques disadvantaged the defendants is a moot point. As we noted however the courts were, with the possible exception of Lincoln, quite prepared to allow defendants to purge themselves. No doubt contemporaries were fully aware that compurgation was their opportunity to escape censure.

Those who were able to purge themselves returned home free, one presumes from any stigma. At Leicester the scribe always noted in such cases that the defendant had been restored to good name and fame before departing the court.

Instance.

In instance cases the first thing to ensure, was that both parties appeared. This was a problem after the 1530s, but not so before then. Apart from this factor, the actual conduct of cases remained virtually unchanged throughout the Reformation. Just as it was lawful to have a proctor in court, it was also common for a proxy to represent the interests of one of the plaintiffs, and such a person could in tum employ the services of counsel. This was mostly done by plaintiffs. John Frywell appeared in the same capacity for John Sharwood at Canterbury in 1524. John Lancroft appeared as proxy for the churchman George Henneage as plaintiff in a tithes case in 1526. Before the case proper began, time might be spent constituting a proctor, and a decision had to be made whether to proceed via summary or following full plenary procedure. Absence from the first session was only excusable in case of illness or death.

In either case the plaintiff was expected to produce a libel, setting out the grounds of complaint. It included the names of both parties, recorded what was sought, on what

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94 see chapter eight
95 CCL,Y/2/7,fo.50; Leic.AO,1D41/11/1,fo.30v
96 e.g. LRO,Cij/1,fo.58v Tyndall c. Sprott
97 CCL,Y/2/7,fo.113 In a suit at Canterbury in 1517 no libel was produced and the judge dismissed the case
grounds, and urged that this grievance be met immediately. Irrespective of procedure, the *pars rea*, or defendant, then had three options; he could accept part of the libel as a truthful representation of the facts, or all of it (in which case the plaintiff's case went uncontested), or he could reject all of it, as happened in a tithes suit at Canterbury in 1555, in which the defendant denied being "in possession of the landes called Boxley landes mentyoned in the libell." 98 It was at that point that the lines of argument, both in law and fact, were crystallized, and when the contestation of the suit commenced.

Plaintiffs could proceed in court either by summary of full plenary session. The plenary hearing was the more complicated process available, although in all courts studied, almost all stages of such hearings strictly followed the dictates of church law. But it was not so much a complicated process as one which was more thorough than summary hearing. In plenary cases, the copies of the libel were given to both parties and it was not until the next session that the defendant or his proctor had to respond to the allegations. It was at this stage that the oath of calumny was administered. It was simply an oath given by each party stating that the stance being held was just. This was rarely mentioned in records of the archdeaconry courts, but it may only have been regarded as a matter of form, and not considered worthwhile noting. 99

It was a part of proctorial practice to protest against any point at which the lawyer's client felt aggrieved, and it was an effective delaying action which was often used to extend the length of the case - as well as ensuring that the client felt satisfied with its presentation. There were in all, three terms probatory allotted to each party. A term probatory was no more than an opportunity or delay in which the party could attempt to establish his/her case.

98 CCL,PRC 39/1,fo.20 Sentleger c. ____
99 Conset,op.cit.,p.91; there were oaths of two sorts, the general and the oath of malice, which was a means to ensure that one or both parties were not prompted by personal enmity
After the oath of calumny had been administered it was time to call witnesses. Evidence of this kind was critical in a great many suits, given that it was one of the few ways that issues of fact (and sometimes customary practice) could be established by the court. The examination of witnesses usually took place in private, in a special session. The judge and the registrar conducted the examination but the proctors may have been allowed to attend. This discouraged intimidation. Each witness was examined separately in order to minimise collusion. Their testimony was read back to them and if there were no objections to the written record, their deposition was entered. Every care seems to have been taken on these occasions to ensure accuracy. Witnesses were warned of the dangers of perjury, and registrars were charged with explaining each question so that there was no confusion.

Even archdeacons' courts were intent upon trying to assess accurately the veracity of claims made in court, and witnesses were an important part of the procedure. Travelling to court of course cost money, which some people resented spending. In a defamation suit at Lincoln in 1536, the court sent letters compulsory to enforce the attendance of John Sawer, John Cadby and Helen Axe. In the 1540s George Buck refused to return to the archdeaconry of Sudbury in a case so the local court in London prosecuted him for his contumacy. If witnesses refused to appear it was more common for them to be suspended and then excommunicated - the normal punishments for continued contumacy. Witnesses could not include heretics, pagans, infamous or servile persons (i.e. villeins). At Buckingham, early in the century, the

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100 CCL,Y/4/5,fo.93 c. Dale which specifically states that this happened "in domo registri." This was very common
101 Ritchie,op.cit.,p.138
102 Conset,op.cit.,p.113; the judge decided if part or all of those expenses should be met by the party on whose behalf the witness was appearing
103 LRO,Cij/1,fo.7v Lettyn c. Yorke
104 Suffolk RO,JC/500/5/1,fo.4v O. c. Buck
105 e.g.CCL,Y/4/8,fo.63 Browne c. Francis (1545); two witnesses refused to appear in this case and both of them were suspended
court also took the trouble to note down whether or not witnesses were related to the plaintiff in order to assess the value of their testimony.106

The approach of the courts to this seems to have remained quite diligent even after the attacks of the 1530s, and is illustrated by what must have been a financially as well as an organizationally difficult suit at Lincoln in 1543. Three witnesses in a defamation action lived within the diocese of Norwich, two in the cathedral city itself, and one at Great Yarmouth. Letters requisitorial and commissional were sent to the Bishop of Norwich who took it upon himself to ensure that they were executed. The people cited appeared before Miles Spenser, the vicar-general and archdeacon, who examined them on behalf of the Archdeacon of Lincoln, and George Sandeford, the plaintiff's proctor, was there to observe.107

Interrogatories were drawn up by the defendant's proctor. This had to be done before the day set for the examination of the witnesses. Interrogatories were questions designed to trap the witness and so discredit, or at least cast doubts upon the value of his/her testimony. As they were not recorded amongst the acts of the court, far less of this material has survived. Even where depositions do exist they are often fragmentary.

Enough remains to show, however, that they could be framed in broad or specific terms, about the nature of the issue itself, the relationship the witness had to the opponent, details about the opponent's activities in the parish, and so on. Contemporaries could not, however, be expected to answer when the questions went beyond matters relevant to the case - and they knew it. In the late 1540s Richard Langton told the judge at St.Albans that although he was of the jurisdiction, and "obediente unto thordynary of the same", he was not prepared to provide evidence "ootherwise than the law byndeth him."108 Reginald Carte agreed with Langton and

106 The Courts of the archdeaconry of Buckingham.op.cit.,p.105 Couley c. Barton; this was usually asked by the opponent's proctor in the interrogatories
107 LRO,CIj/1,fo.211v,215v Spinkle c. ffelde
108 HRO,ASA 8/2,fo.32v
said that he "is artyculate and that he refused as is also artyculate but not unlawfully as he believeth it."\textsuperscript{109}

After this, complaints or exceptions about some aspect of the case could be made both before and after the publication of the witnesses' depositions. Exceptions could be general or particular, the former being attacks on the general lines or argument, its inconsistencies, ineptitude and the like. Particular exceptions were arguments based on the contention that statements contained errors in fact. There is no indication that the latter took place in these courts at this time, general exceptions however were evident in just about all cases involving proctors. It was perhaps standard for this to be done, and a proctor may have been quite ineffective if he could find nothing to object to in the witnesses' statements.

The depositions themselves were handed to the judge. Each party could claim a copy, although this naturally cost money. Only at Canterbury and Lincoln was this practice noted in the court books.\textsuperscript{110} If indeed few were ordered, the cost no doubt was the reason. Often depositions take up to three pages of writing because as many as a dozen or more questions were asked. Despite some who were prolix, most deponents, or at least their answers, were kept short. After the number indicating which answer was being made (presumably in accordance with the original list or interrogatories), the answer was often paraphrased, or only short questions included, unless the answer was particularly important and so recorded in full.

Once objections to these answers were dealt with, usually by the elucidation of some point, at the request of the plaintiff, the judge then assigned a time to propound all acts, unless the defendant chose to dissent in order to make an exception. If there was no dissent then the proctors, if used, prepared their final delivery in court arguing the

\textsuperscript{109} HRO,ASA 8/2,fo.35v
\textsuperscript{110} Very occasionally elsewhere e.g.Leic.AO,1D41/11/2,fo.13v Bray c. Colles (1527); the fact that this is so rare tends to suggest that the practice itself was unusual, but this is surmise
positive elements of their clients' case, and attacking the flaws apparent in their opponent's presentation. We do not know the manner in which proctors presented cases, nor indeed whether it resembled the way in which proceedings are conducted in our own courts, but due to the legal procedures necessary, it would have been marked by a similar degree of formalism.

At this stage of proceedings the case was still far from over if both parties wished to pursue matters to a conclusion imposed by the court. If the case was progressing to an end decreed by the judge, then separate sessions were needed for the delivery of the definitive sentence and finally, for the taxation of expenses. This was, however, a point rarely reached. More often than not an informal decision was rendered, and proved enough to satisfy the parties, even when disputes had been in process for some time. An example from the the Archdeacon of London's court, from around 1500, shows that when a definitive sentence was sought, it included full details of the process of the suit, although not a summing up of points of fact which would have been thrashed out in court. One final session was held for the apportionment of expenses.

The summary procedure, as its name suggests, was the more straightforward. Canonists and bishops' courts seemed to regard plenary procedure as the norm, but this was not the case in archdeacons' courts. After the parties appeared in court, the plaintiff or his proctor submitted the libel and asked that the procedure be summary (de plano). It was a procedure which was very straightforward. At this point the defendant replied to the libel in the same way as described above. The defendants were then examined on the articles contained in the libels. Then witnesses could be cited, produced, sworn and examined, their depositions published and then excepted against. The defendant could then protest against this testimony and petition that they be

111 LRO, For.1, fo.7; see also a definitive sentence from the consistory court of London which is much the same, PRO,E135/7/24
112 Ritchie, op. cit., p.155
examined on interrogatories, and a time admitted for the administration of those questions. The copies of the depositions could then be published and the copies made. The plaintiff's proctor could then ask for an assignation to hear sentence, corresponding to a term to propound all acts in a plenary cause. The defendant could dissent, in which case another day for assignation was called, otherwise the execution of sentence could be demanded. A day was then set aside for the judge's decision.

The decision to use one method of hearing, that is summary or full plenary hearing, usually lay with the plaintiff. It may be somewhat artificial however to draw too clear a line between the two. In either case a matter could drag on in court and the practice of a court using one procedure in preference to another may have been customary. Certainly at Lincoln,\textsuperscript{113} as in bishops' courts, plenary hearings were the rule, but elsewhere there seems to have been a preference to proceed \textit{de plano}, throughout the period. This was simply because it was a procedure which lacked complications and many technical hitches.

If both parties were financially secure it made more sense to go to a higher court and avoid the opportunities for appeals. There were of course divisions in jurisdictional competence. Exactly what constituted the difference in most matters is not recorded. Certain rights were reserved to the bishops in all dioceses,\textsuperscript{114} but at other points the archdeaconry courts surrendered cases without any apparent reason. Without full details of the cases it is difficult to estimate why this was done. Nevertheless this was invariably done at the instance of the Official who may have been in a position to foresee problems which could be related to jurisdiction. Such a move was intended to circumvent potential problems.

\textsuperscript{113} LRO,Cij/1,fo.71v \textit{Beck c. Westmylles}; there is a reference in this case to the plaintiff's proctor appealing for the matter to be summarily heard. This information is usually not recorded. More importantly the proctor here has to apply for a summary hearing which appears not to have been necessary in other archdeaconry courts

\textsuperscript{114} see chapter one
The practice of referring cases to higher courts applies equally with office and instance actions, and was not something noticeably affected by the Reformation. In a case at Sandwich in 1524, the archdeacon's court heard a few sessions in a dispute between the churchwardens of St. Clement's, and John Johnson, of a nearby parish, over dues, and decided to send it to be heard by the archbishop's courts. In 1538 in Lincoln diocese, a case of adultery was passed on to the bishop without a second hearing, as if the matter belonged as of right to the diocesan. At Northampton in 1542 it was noted that the Vicar of Elmley was disputing with Weymor, one of his parishioners, about the payment of tithes. The defendant argued that he would not pay his dues until the vicar was prepared to repair the dilapidations to the chancel and the manse. Here again the matter was passed on to the vicar-general to hear in consistory. This practice however was principally in the hands of the judge.

One option available to participants in an action with a view to withdrawing a case out of a lower court, particularly if things were not going well, was to obtain an inhibition to appear in a higher court. This was different in kind from appeals, because appeals could not proceed until and unless a final sentence had been decreed. The candidate seeking an inhibition had to approach the court in question, say the court of Arches, and at first seek an inhibition and then get a citation which would be sent to the opposing party. It was up to the party seeking the inhibition to persuade the provincial court that the case was important enough to warrant an inhibition. Due to the loss of the provincial records, there is no way of telling what arguments influenced the

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115 CCL,Y/4/4,fo.17
116 LRO,Vij/1,fo.175 O. c. Bocher and Brown; see also ibid.,fo.103; The Courts of the archdeaconry of Buckingham,op.cit.,pp.76,84 O. c. Bishop et Marchall, O c. Rector (Milton Keynes).
117 NRO,Arch.II,fo.24
118 Gibson, Codex. p.1034; Gonville and Caius,389/609,p.226; the formal application for appeal was made in a separate session after the definitive sentence, see chapter two
119 LRO,Inhibitions; for examples of inhibitions sent, primarily by the court of Arches
120 LRO,For.I,fo.3; for an example of such a citation
decision makers. The party approaching the higher court however had to be capable of paying far higher fees than those levied in diocesan courts, so that people going to the provincial courts clearly controlled far greater financial resources than most others.\textsuperscript{121}

Appeals of course followed a different procedure. It was normal for the losing party in a suit to state something like "I appele to my Lorde of Lincoln."\textsuperscript{122} Theoretically the decision lay with the defendant in the cause at first instance, although there could be some negotiation between the parties.\textsuperscript{123} In a defamation suit at Lincoln in 1536 there was an appeal to go to the consistory court, and the scribe noted that this was allowed, after the judge had deliberated.\textsuperscript{124} In one testamentary suit at Canterbury in 1539 the two opposing proctors in a testamentary suit argued the point, William Wigmore requesting that the matter be deferred ("esse deferta"). The judge agreed and the testament was put under seal.\textsuperscript{125} The only possible reason for this deviation from normal procedure is that they were concerned about the nature of their relationship with the vice-gerent's jurisdiction, and some sort of jurisdictional conflict.

It is not possible to speak of a thoroughly worked out appellate system. Conset simply states that appeals lie from one who is delegated to one who delegates, and this somewhat vague offering is indicative of the situation.\textsuperscript{126} In the second chapter, note was made that the pattern of appeals differed between the courts, and that the people before the Archdeacon of Lincoln's court were more wont to appeal to provincial courts than their counterparts elsewhere.\textsuperscript{127}

\textsuperscript{121} see below
\textsuperscript{122} LRO,Cij/1,fo.22v Walker c. Brasse
\textsuperscript{123} LRO,Cij/1,fo.8 Cram c. Bradley; Cij/2,fo.111 Wiseman c. Bell et Spark
\textsuperscript{124} LRO,Cij/1,fo.8 Crake c. Bradley
\textsuperscript{125} KAO,PRC 3/8,fo.107v
\textsuperscript{126} Conset,\textit{op.cit.},p.187
\textsuperscript{127} It is interesting to note that at Lincoln, where there by far the greater number of appeals of any court studied, all except two, between 1536 and 1543, and 1547 and 1553, followed from a full plenary proceeding
Yet it could be argued that the Bishop of Lincoln's own court of Audience heard cases pertaining to important personages and would have been adequate in that sense.\textsuperscript{128} Perhaps in this case some people may have been discouraged from appealing to any court at Lincoln because a number of the officials staffed more than the one court. We noted in chapter four that many of the men who sat as judges did so in archidiaconal as well as episcopal courts. But there is one other reason for this pattern at Lincoln. Going to London was expensive. In 1532 the cost an inhibition alone was 6s.8d., each citation 2s.6d., and every answer to any libel 3s.4d.\textsuperscript{129} In August 1500, an appeal to the Bishop of Norwich's consistory court centred on a breach of promise of a matrimonial contract. There was, it seems, no communication between the archdeacon's and the bishop's court. All witnesses again had to be produced and they even had to furnish details about the course of the action in the lower court.\textsuperscript{130} This was therefore not only an expensive step but another tactic which could be used to overwhelm an opponent. It pre-supposes more disposable cash than the other party could muster and the very high number of inhibitions heard at Lincoln tends to support the argument that litigants there were, on the whole, wealthier than their counterparts appearing in most other archdeaconry courts. If so, it also accounts for the greater number of plenary suits in that court, and the higher ratio of proctors to plaintiffs than other courts.\textsuperscript{131}

Those with adequate funds were afforded a considerable tactical advantage. If a defendant was poor, the prospect of a plenary hearing was daunting, because they took longer and cost more money. In these circumstances plaintiffs often employed proctors, capable of utilising the devices offered by this procedure, which in turn weakened the position of the pars rea if that party did not have counsel. The wealth

\textsuperscript{128} Cf.\textit{An Episcopal Court Book}, op.cit., p.xii
\textsuperscript{129} R.M. Wunderli, \textit{Ecclesiastical Courts in pre-Reformation London}. (Univ. of California Ph.D., 1975) p.90
\textsuperscript{130} \textit{Norwich Consistory Court Depositions}, op.cit., no. 13 Wood c. Leasingham
\textsuperscript{131} see chapter four
and status of parties to suits will be discussed in the next chapter, but it is interesting to note that between only one quarter to a third of cases at Rochester, Canterbury and Leicester were plenary in the years leading up to 1540, and even less at St.Albans, and this was further reduced at Canterbury and St.Albans at least, by the 1550s. At Lincoln however, between 70-80% of suits between 1537 and 1553 were conducted in this way, helping to explain the relatively large colony of proctors, and why instance actions took pride of place in its records.

While it is contended that judges exerted a large influence over the course of cases, there were other factors, some of which were in the hands of the parties themselves. The factors influencing the length of actions were complex and in many cases depended upon the course of action selected by the parties to a case rather than the court.

In instance cases, it was noted that the time taken to settle the dispute partly depended upon the particular procedure adopted, as well as the attitude of the parties. In the following table there is evidence of this.

Table 6: Length of Cases:

<table>
<thead>
<tr>
<th>Cases</th>
<th>Canterbury</th>
<th>Leicester</th>
<th>Lincoln</th>
<th>St.Albans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defamation</td>
<td>2.9(67)</td>
<td>1.5(40)</td>
<td>4.65(20)</td>
<td>3.2(10)</td>
</tr>
<tr>
<td>Matrimonial</td>
<td>-</td>
<td>2.1(16)</td>
<td>5.4(8)</td>
<td>-</td>
</tr>
<tr>
<td>Tithes</td>
<td>2.0(17)</td>
<td>1.7(10)</td>
<td>7.0(5)</td>
<td>-</td>
</tr>
<tr>
<td>Perjury</td>
<td>2.6(75)</td>
<td>1.5(16)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Church dues</td>
<td>2.9(15)</td>
<td>1.6(11)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Testamentary</td>
<td>2.2(45)</td>
<td>1.4(26)</td>
<td>3.8(4)</td>
<td>3.0(1)</td>
</tr>
<tr>
<td>Mortuaries</td>
<td>1.3(3)</td>
<td>4.0(1)</td>
<td>-</td>
<td>2.0(2)</td>
</tr>
<tr>
<td>Subtraction of salary</td>
<td>2.3(6)</td>
<td>1.3(3)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Others</td>
<td>1.3(3)</td>
<td>1.3(10)</td>
<td>-</td>
<td>2.0(1)</td>
</tr>
<tr>
<td>Totals</td>
<td>2.5(232)</td>
<td>1.5(155)</td>
<td>5.0(37)</td>
<td>2.8(19)</td>
</tr>
</tbody>
</table>

Average number of sessions taken to settle Office actions.

132 Figures in parentheses are the total number of cases. Years are Canterbury, 1524; Leicester, 1529; Lincoln, 1537; St.Albans, 1524
133 These cases were not heard at Canterbury.
6: Contentious Business

<table>
<thead>
<tr>
<th>Cases</th>
<th>Canterbury</th>
<th>Leicester</th>
<th>Lincoln</th>
<th>St. Albans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual</td>
<td>2.3(72)</td>
<td>1.9(109)</td>
<td>2.0(188)</td>
<td>2.6(35)</td>
</tr>
<tr>
<td>Public defamer</td>
<td>1.0(5)</td>
<td>1.3(3)</td>
<td>1.5(7)</td>
<td>3.6(3)</td>
</tr>
<tr>
<td>Dilapidation_ch.yard</td>
<td>1.0(2)</td>
<td>1.5(2)</td>
<td>1.2(25)</td>
<td>2.0(4)</td>
</tr>
<tr>
<td>Non observ. sabbath</td>
<td>2.5(2)</td>
<td>1.0(2)</td>
<td>1.0(4)</td>
<td>2.5(4)</td>
</tr>
<tr>
<td>distur div.service</td>
<td>1.0(2)</td>
<td>2.0(7)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>not receiving comm.</td>
<td>2.0(1)</td>
<td>2.0(1)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Non attend. church</td>
<td>1.0(1)</td>
<td>-</td>
<td>-</td>
<td>1.0(5)</td>
</tr>
<tr>
<td>not serving church</td>
<td>1.0(1)</td>
<td>-</td>
<td>-</td>
<td>3.0(1)</td>
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<tr>
<td>sorcery</td>
<td>-</td>
<td>1.0(1)</td>
<td>-</td>
<td>2.0(1)</td>
</tr>
<tr>
<td>gambling/blaspemey</td>
<td>2.0(2)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>dilap.chancel</td>
<td>-</td>
<td>-</td>
<td>1.0(23)</td>
<td>-</td>
</tr>
<tr>
<td>bigamy</td>
<td>-</td>
<td>-</td>
<td>2.5(4)</td>
<td>-</td>
</tr>
<tr>
<td>matrimonial</td>
<td>-</td>
<td>1.0(1)</td>
<td>-</td>
<td>6.0(2)</td>
</tr>
<tr>
<td>Testimentary</td>
<td>1.3(15)</td>
<td>2.0(2)</td>
<td>-</td>
<td>1.3(3)</td>
</tr>
<tr>
<td>Church goods</td>
<td>2.0(1)</td>
<td>3.0(2)</td>
<td>-</td>
<td>3.0(1)</td>
</tr>
<tr>
<td>Debt to church</td>
<td>2.8(4)</td>
<td>-</td>
<td>-</td>
<td>2.0(1)</td>
</tr>
<tr>
<td>Disobeying priest</td>
<td>1.0(2)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Procurations due</td>
<td>1.0(1)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>contempt</td>
<td>2.0(3)</td>
<td>1.3(3)</td>
<td>-</td>
<td>1.0(1)</td>
</tr>
<tr>
<td>infanticide</td>
<td>4.0(1)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Perjury</td>
<td>-</td>
<td>1.5(2)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Hit priest</td>
<td>-</td>
<td>1.5(2)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Bad reputation</td>
<td>-</td>
<td>4.0(1)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Unspecified</td>
<td>-</td>
<td>1.1(7)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Totals</td>
<td>1.89(124)</td>
<td>1.84(145)</td>
<td>1.5(251)</td>
<td>2.28(66)</td>
</tr>
</tbody>
</table>

Both tables indicate that there was a tendency for some cases to last well beyond the time taken for the majority of cases. To some degree each case had its own procedural peculiarities. For instance, dilapidations of a building is not something which could easily be denied. In 1537 the church of Hatcliff in Lincolnshire had a dilapidated baptistry and font. The windows of the church, books, vessels and doorways also needed repair, and it was beyond doubt that the churchwardens were culpable.\textsuperscript{134} It can be noticed from the Lincoln figures that prosecutions dealing with dilapidations were dealt with very quickly. It should be pointed out that other courts did not include this information amongst the ordinary prosecution business because it was something

\textsuperscript{134} LRO,Vij/1,fo.140
which was only addressed at the time of the visitation, but the nature of the Lincoln records meant that it was included with all other cases of this sort.\textsuperscript{136}

There were other matters in which the amount of time taken to settle an issue might depend upon the nature of that particular issue. It took almost a year, and several sessions, before the alleged bigamy of Henry Legon could be determined, partly because it was necessary for evidence to be obtained from Northumberland and Durham, as well as the home jurisdiction of Lincoln.\textsuperscript{137} The same can be said for a number of suits, particularly those in which the court depended upon the evidence of the witnesses. This is most obviously the case with defamation and matrimonial cases which consistently took longer to settle than other suits, and had a lower incidence of settlement out of court. In matrimonial cases it was also necessary to determine if, say, a promise of marriage had been made, and if so whether it was \textit{de praesenti} or \textit{de futuro}. That is, whether such a contract was immediately binding or contingent upon the fulfilment of certain pre-conditions being met. In a case at St.Albans in 1519, Margaret Mody, the defendant, stated that when:

\begin{quote}
William Bothe kepe all his promesses and uppon that I will promesse faith and trouth but I will not take him by the hand till I com at the church dore and see all promyses fulfilled.\textsuperscript{138}
\end{quote}

If there were competing claims then the court had to determine which had precedence in law, especially after the statutes relating to matrimony had been passed.\textsuperscript{139} Thomas Taylor of Redbourne went to court because ______ Martyn had made "a promesse to me to be my wyffe" and it appears that she had also "made a promesse to John Gaskyn..."\textsuperscript{140} In these circumstances the only means to establish the story

\begin{footnotesize}
\begin{enumerate}
\item see above for a discussion of the Lincoln act book.
\item LRO,Vij/I,fo.64; he was found guilty despite all of this
\item HRO,ASA 8/1,fo.15v
\item 32 Henry VIII,c.38, repealed by 2 & 3 Edward VI,c.23
\item HRO,ASA 8/1,fo.6 (1516)
\end{enumerate}
\end{footnotesize}
satisfactorily was by calling witnesses. This, as we noted, could protract proceedings as well as increase the costs facing the parties to the case.

For the most part, the greater the dependence on witnesses, the greater the likelihood of extending the number of sessions required in court. Further, this gives the impression of the courts abiding by legal formality rather less than informal arbitration. Wunderli found that in the lower London courts in the later part of the fifteenth century, into the sixteenth, the degree of legal formalism displayed was secondary to the discretion of the judge. He suggests that the complexities of the law were not always uppermost in the way that the particular matter was being handled.141 This may or may not be the case in the archdeacons' courts of rural England; the court books are here again not enormously helpful in this respect. Nevertheless where, in particular, depositions survive, there is enough evidence to show that in very many cases the level of legal formality exhibited, and the complexity of legal issues discussed, rivalled what was happening in the consistory courts of the bishops.142

It seems that in such matters as perjury (claims over petty debts), tithes and testamentary causes, there were relatively few difficulties in establishing matters of fact, or at least they were not normally challenged as rigorously as they were in the matters mentioned above.

In litigation, while it has been necessary to draw attention to the various stages a suit could follow, it was not of interest in the majority of cases. In fact only a very small number of suits were resolved by the definitive sentence.

141 Wunderli, London Church Courts .op.cit.,p.41
142 For a discussion of the sort of legal points discussed see Houlbrooke, Church Courts. passim
One reason was the cost of so doing. Going to court however could be a way of intimidating a recalcitrant debtor, or a devious executor. Bowker has accused clergymen of this period of citing people to court for the payment of tithes which could just as well have been resolved by some negotiation.\textsuperscript{143} While it is true that this happened, it was equally prevalent in other types of suit. In any court, with the exception of Lincoln, a sizeable number of cases did not go beyond the first or second session. Some, it would seem, were resolved by the first one. It was therefore used to cajole many parties into submission. At the same time the way lay open during the course of each wrangle for the matter to be settled out of court. This was one of canon law's most memorable achievements. Lyndwood reminded judges to seek a resolution, preferably amicable, whenever possible. A 1534 edition of the Provincial constitutions charged the judges that they should\textsuperscript{144}

\begin{quote}
in no wyse presume to stoppe or let but that peace or concord may be made between the partyes upon theyr variaunces dyscordes and complayntes and that when so ever the partyes wyll they may departe by composition from judgement.
\end{quote}

\textsuperscript{143} Bowker, "Some Archdeacons' Court Books."\textit{op.cit.}, p.305
\textsuperscript{144}\textit{Constitutiones Pronvincialles and of Otho and Ochthobone.} (STC 10083; R.Redman,1534) fo.116v
This could be done in several ways. Clearly the parties themselves could attempt to compromise, but often this step was taken late in the course of the action. Moreover, this was not always the best way to ensure enduring peace, and despite a case at Leicester being noted as existing "sub spe concord-" three extra sessions were required before the case finished. To save further expense, and if a result seemed likely, the judge was free to recommend that formal proceedings cease and the matter be concluded informally, out of court. On three occasions in 1519/20, the Official at Buckingham in litigation over matrimonial contracts, left the matter to the consciences of the parties.

If the parties did choose to settle out of court without registering their agreement, then it could not be regarded as being legally binding. In many cases however more precautions were taken. Acting under commission, in 1520 the Rector of Halstow promoted concord between two parties. In another case at Rochester in 1523, a matter was dismissed and the local priest told to keep the peace.

This procedure did not mean that such cases were then entirely out of court control, because often parties were ordered to return to court with the details of the agreement, which could then be registered. There exists the final concord reached by John Bodyll, Rector of Cuxton, and Thomas Snydall, Vicar of Halling over the tithes due from a certain area which Bodyll undertook to pay Snydall 16d. in a composition for the northern section of the disputed area. This was not always necessary, and it was common practice at Rochester for certification of peace to be relayed to the apparitor,

145 Leic.AO,1D41/11/3,fo.99 Pauley c. Pyke
146 The Courts of the archdeaconry of Buckingham. op.cit.,pp.261 Blakhed c. Jakeman,272-73 Verdour c. Collys,313 Stonell c. Holt; see also LRO,Cij/1,fo.5 Sherman c. Herber
147 e.g.LRO,Cij/1,fo.105v Ex O. promoto c. Wyndall (1540)
148 KAO,DRb/Pa7,fo.90v Matthews c. Kelsam
149 KAO,DRb/Pa7,fo.256v Gardianos of Lewisham c. Roger
150 KAO,DRb/Pa9,2nd series,fo.1; cf.LRO,Cij/2,fo.235-235v c. Puttniall, Clarke c. Johnson
who then confirmed this with the court - apparently without any need for a record of the terms of agreement. This process was the most common method of resolving a dispute in this jurisdiction. In 1521 for example, 23 out of 112 cases were recorded with an informal agreement, which is over twice the number which were finished by definitive sentence. At Lincoln too this was popular. In 1538, 7 conclusions of this nature were recorded amongst the 41 actions. In this case, the same number as those concluded in court.

The other method was by formal arbitration. A typical example comes from St.Albans in December 1557, when Hugh Harding, a local vicar, and Sir Thomas Wilson, were "indifferently chosen" to arbitrate "on all manner of accouns." The litigants then took an oath to abide by their decision. Failure to do so rendered the guilty party contumacious. This procedure was most suitable when the compromise was not within easy reach, but when both parties were keen to avoid the costs of continuing in court. By agreeing to this they forfeited the right of appeal, and the winner was therefore in a more secure position than was otherwise possible. There were normally two arbitrators and their selection lay with the court, and more often than not one of the two was a local priest. It seems that the court was open to suggestions on this matter. In the previous case recommendations were made by representatives of the two parties. The judge at Leicester decided in a case in 1526 that the arbitration of a defamation suit should be held within the parish, effectively allowing the whole parish to decide the matter. In some cases gentlemen and members of the lesser gentry accepted this role. In a case at Lincoln in July 1551 the archdeacon himself was approached, apparently at the instance of the parties involved, to decide the matter. It is not recorded whether he accepted the invitation, but he certainly did in another suit.

151 HRO,ASA 7/3,fo.17v
152 Leic.AO,1D41/11/1,fo.26 Als c. Connysthorp
153 LRO,Cij/2,fo.116
6: Contentious Business

shortly afterwards with John Pope (the chancellor) and two other men, including Robert Brokesby.\(^{154}\)

There was a far higher proportion of arbitrators at Leicester than at any other court. In 1529 there were 12 arbitrations, and 14 out of court agreements. While there were clearly differences between arbitration and less informal agreements, the reasons for regional variation to some extent reflects the differences between the practices of some courts, and possibly the preferences of the judge.

The reward for winning a suit at canon law was usually performance rather than the common law doctrine of compensation. In some cases the distinction is artificial, at least when non-payment was the crux of the issue. This applies in contests over tithe payment, bequests from estates, church dues, and the like. The measure of success in a suit over matrimonial contract or a divorce case however was either the enforcement or rejection of the plaintiff's claim for performance of a duty.

Defamation suits were more problematic. If the actor was successful then his/her name was restored to good fame, and the offender warned not to repeat the offence. At Lincoln the court was more severe from the start, and normally expected the *pars rea* to perform public penance, a punishment usually reserved only for offenders in a prosecution.\(^{155}\) Similarly, successful prosecutions were not always concluded in the same fashion. Where the court took issue with a parishioner reluctant to pay tithes, or a wife who refused to submit the goods of her dead husband for probate or administration, then performance was the most obvious means of redress. As a result of *a peculiar relationship to the local incumbents, a court also had the right, if considered necessary, to sequestrate the fruits of a parish, and if it had to the power, to deprive him.*\(^{156}\) Those who were not incumbents could only be threatened with the

\(^{154}\) LRO,Cij/2,fo.194v

\(^{155}\) ARO,D/A/C/1,fo.62 *Rewall c. Whitt* (1553); this may have been common at Buckingham but too few records survive to tell us whether this example is typical or not

\(^{156}\) see chapter two
punishments used for the laity except in serious matters, in which case the matter went to the diocesan.

Visitations.

One of the most important functions of archdeaconry courts was that they conduct a visitation of the jurisdiction each year. The visitation should not be confused with the ordinary sessions of the courts. They were designed to inspect the state of the archdeaconry, to enquire into the behaviour of its inhabitants, and to see to it that any information pertaining to the parishes was conveyed to their representatives. Unlike many other areas of jurisdiction in which jurisdictional rights were shared with the bishop, this was a responsibility which belonged to the archdeacon and his court alone. It was an area of jurisdictional right which characterised the unique relationship which existed between archdeacons' courts, and the community in which they existed.

The archdeacon in theory, was supposed to visit each church in turn throughout his jurisdiction, but this had long since lapsed in reality. This is not to say that archdeacons did not visit, but simply that the law was not as binding as the theory which supported it. One reason for this was probably that the visitation itself was time consuming. In any case the customary payment of money due in lieu of hospitality was always levied and did not require the archdeacon's presence. It was still necessary however, for some parishes to continue to provide comfort to the itinerant officials.

Church law stipulated that visitations were to be conducted annually by archdeacons. This was only affected if an episcopal visitation became due, in which case an inhibition was forwarded to the archdeacon or his official suspending jurisdiction until his own visitation had been completed.\textsuperscript{157} Even though the bishop had visited, archdeacons invariably held their visitations afterwards, in the same year. This ensured

\textsuperscript{157} see chapter two
that the archdeacon's income did not suffer. For the parishioners of the jurisdiction, this meant that they were faced with paying for each visitation. In 1523, the parishioners of Stratton, in Cornwall had to pay 2s.4d. at the bishop's visitation, and 12d. at the archdeacon's.158

Before the visitation commenced, an itinerary was drawn up and incumbents were informed, presumably by the deanery's apparitor, of the venue and date. A number of these lists survive for Rochester indicating the details. In 1527 the journey started at Malling on 23 September then the court moved to Tonbridge the following day. The 25th was apparently spent travelling and settling at Greenwich, where the night was spent, and the visitation was held in the parish church there the following day. The next two days were spent in the north western areas of the diocese (neither venue is stated), and the court then returned to Rochester for the 30th.159 This schedule indicates that during the course of a visitation, the court travelled to each deanery and sat in one church in order to deal with the business pertaining to that area. This is true for all jurisdictions. The town giving its name to the archdeaconry, and as such the court's base, was generally the last place to be visited. Given that the train of the judge would have included the registrar, apparitors, scribes, and perhaps proctors and servants, this was a progression which would have been a familiar sight to most people in Tudor England.

Lincoln's procedure was slightly different inasmuch as it did not conduct the visitation at one time. The archdeaconry was too large, and too much time would have been spent away from ordinary business. The pattern here was that the visitation began at Grantham in late January or early February, and then moved to Stamford and Nesse in the one period. Then in April/May/June, it continuously visited the remaining deaneries of Louth, Ludborough, then Spalding, in a clockwise circuit.160 On odd
occasions this pattern varied in the years 1534-38, both the time travelled within each month, and the order in which deaneries were visited, but in most respects it remained the same. There is certainly no indication from the records that either the dissolution or the Lincolnshire rising of October 1536 had any effect upon the court's activities.161

Parishioners were not always ignored if there was a change of plan. In 1546 an agreement was made by all the clergy and laity of the deanery of Higham Ferrers in Northampton archdeaconry, effectively consenting to the archdeacon postponing his visitation until a later date, at which time they would meet in the parish church at Willingborough.162

These sessions were not the same as ordinary sessions of the court; their function was more supervisory. The clergy, churchwardens and sidesmen of each parish within the deanery were obliged to appear at the church selected for the visitation, in order to answer certain questions,163 and hear any orders to be set out, or conveyed by the visitor.

The questions were based on what were known as the visitation articles, which normally were issued by the bishops. Many of these are still extant.164 The visitation was also the opportunity for the court to enforce any new injunctions, before, during, and after the Reformation. In 1526, Philip Taylor, Rector of Blessed Mary in Canterbury, was prosecuted for contravening the archbishop's injunctions which had been read at the last visitation.165 Archdeacon Nicholas Harpsfield seems to have used Reginald Pole's articles when he visited the archdeaconry of Canterbury in 1557. Separate archdeacons' articles may have existed and could therefore have been

162 NRO, Arch.III,fo.11v
163 ARO,D/A/C/1,fo.27v; William Pitby, churchwarden of North Merston, refused to answer the questions in 1553 and was prosecuted in the court of the Archdeacon of Buckingham
164 e.g. *Visitation Articles and Injunctions.op. cit.*
165 KAO,PRC 3/6,fo.43
produced. Harpsfield's successor certainly produced some in 1561 but none survive for this or any other archdeaconry before then.\textsuperscript{166} Not surprisingly, this is the period in which the king's injunctions are periodically referred to in the visitation books.\textsuperscript{167}

These articles would presumably have been delivered, verbally or in written form, to the church officers by the apparitor at the time the latter notified them of the upcoming visitation. An account book emanating from the parish of Askham in the diocese of Carlisle states that churchwardens were responsible for answering the visitor in response to the articles which had been read to them, as well as "present all and everye such person or persons as have committed any offence."\textsuperscript{168} It implies that this took place before the visitation itself. By warning the churchwardens of what was going to be asked, the court ensured that there was every chance that questions could be answered accurately, and at the same time there was no excuse for error. By doing so \textit{viva voce} the cost of written notification was avoided.

Those who failed to attend visitations were prosecuted, with varying severity, but at all times the signal importance of the visitation was stressed. This was an attitude which persisted into the reigns of Elizabeth and James.\textsuperscript{169}

Although it was obligatory to hold a visitation annually, at Canterbury, Lincoln and St.Albans it was held at least twice each year. At first glance, it appears that the visitations were probably run in much the same way, and at least in some places, procurations due to the archdeacon, were payable in instalments on each occasion.\textsuperscript{170} The first visitation was conducted for several reasons. It appears that the second

\textsuperscript{166} CCL, Z/3/7, fo.41v  
\textsuperscript{167} e.g. CCL, Z/3/5, fo.21  
\textsuperscript{168} C.M.L. Bough, G.P. Jones and R.W. Brunskill, \textit{A Short Economic and Social History of the Lake Counties.} (Manchester, 1961) p.148  
\textsuperscript{169} R.E. Rodes, \textit{Lay Authority and Reformation in the English Church: Edward I to the Civil War.} (Notre Dame and London, 1982) p.172  
\textsuperscript{170} HRO, ASA 7/3, fo.32,22
visitation was a time when some matters were simply followed up. It was not used to
discuss new business, and so appears to have served a different function from its
predecessor. At Canterbury, the court used it to pass on any information of particular
concern to the laity, such as the content of archiepiscopal or royal injunctions.171 At
Lincoln, all office actions commenced in the visitation, and were heard on the second
trip, so in function it rather resembled the ordinary sessions of other courts. Only if the
matter took more than the two sessions was it necessary for the defendant to travel to
Lincoln to face more sessions.

It is difficult for us to come to terms with the nature of the visitation. Over seventy
years ago Rose-Troup pictured it as a bustling, crowded scene possessing a carnival-
type atmosphere. In a deanery of upwards of twenty parishes there must have been in
excess of one hundred people gathered together, and perhaps craftsmen and hawkers
milled around the visiting dignitaries of other parishes trying to sell their wares.172
Moreover it was one of the rare moments in the church's year that parishioners from
different regions gathered together. As noted, it was an opportunity for the courts to
obtain information from all parish representatives of the difficulties within their
parishes. This could be anything from the poor state of church buildings, to the
immoral activities of local inhabitants. More importantly, it was a moment of direct
contact between the laity, clergy, and the courts. The actual nature of judicial activity
will be pursued more fully in the next chapter, but it is important to bear in mind that
during the visitation, the courts stayed in the localities dining with the local clergy and
laity. It was a point of contact of extraordinary intimacy, and one which was usually
reserved to archdeacons' courts.

171 e.g. CCL,Y/4/9,fo.163,165 O. c. Icon.Hawking; the churchwardens of the parish
of Hawking had been informed of archiepiscopal injunctions at the visitation but had ignored them
172 see diagram of St.Albans
6: Contentious Business

That actual business of the court during the primary visitation was very repetitive. Each collection of representatives were required to submit a bill of complaints and defects (if one was necessary), and answer questions asked by the visitor. If the court officials were well organized it was possible to complete business for that deanery in one morning. In 1535 the archdeacon's Official was able to complete the visitation of the deanery of Stamford and Nesse on 27 January, and this included the presentment of several delicts. 173

An experienced judge and scribe clearly contributed to the efficiency of proceedings, especially when one recalls not only the administrative tasks facing the court, but also the preparation required, particularly the recording and noting of all details by the registrar and his scribes. In this sense the organization of archdeaconry courts was, indeed needed to be, efficient. In this sense the courts studied displayed, on the whole, a high level of professionalism.

Punishment.

This brings us to the way a judge dealt with miscreants. This was an important aspect of each judge's discretionary powers. The most common, and disliked measure was public penance, which exposed the person in question to a humiliating ordeal. In February 1519/20 Thomas Pigot of Dinton was ordered to perform public penance. He felt so badly about the prospect of doing it that he threatened to commit suicide. 174 The procedure has been described elsewhere, but essentially it meant appearing on a feast or market day, dressed in a robe bearing some distinguishing and demeaning objects, such as a white pole, or a faggot, and at some point, either during divine service, or before

173 LRO,Vij/1,fo.13-13v,19
174 The Courts of the archdeaconry of Buckingham.op.cit.,p.252; Bowker, "Some Archdeacons' Court Books." op.cit.,p.308
everybody in the marketplace, confessing the sin before all those present.175 If done on a holy day he also had to walk in the procession and sit in a prominent place within the church. This was often required on two or three occasions so that as many people as possible could witness the event. The court at St. Albans reserved imposing penance on one man until he had paid back his debt to the parish church, determining that if he was tardy then he would be dealt with more severely.176 In London, Henry Machyn reveals that a cart was used to exhibit these people, so publicizing their offence and punishment as widely as possible.177 It was regarded as the priest's responsibility to ensure that penance had been performed, after all it was in some part a religious event in which the soul was purged. The churchwardens of Castle Ashby wrote to the Official of Northampton informing him that they had no priest and they implored that because of this Elizabeth Blysse, mother of a bastard child, had not perform her public penance.178

The Reformation years did little to change this practice, but in Edward's reign some people were expected to read the homilies as part of their punishment. At Canterbury Alexander Bullocke was ordered to don "his wearing rayment same [as] his shert and shall rede the Letany with his face towards the people &c. and shall rede the homely of obedience."179 In 1544 the Archdeacon of St. Albans ordered that three priests be punished and that:

Sir David Morles doo reade five chapitres of the new testament from the begynnynge unto thende every daie in the presence and unto the heering of Sir Christopher Spencer and Sir William Phillippes monished by the Archdeacon to be put to hearing

175 e.g. NRO, Arch.III,fo.96-96v; in 1550 Richard Sandes had to perform public penance in Northampton on three occasions, announcing his adultery aloud
176 HRO, ASA 7/1, fo.28v
178 NRO, Arch.II,fo.101v
179 CCL,Y/4/5,fo.137 (1548); see also NRO, Arch.III,fo.96-96v (1550)
All three men were culpable, but there is no way of telling whether Morles or his listeners suffered or benefited from the punishment. The judge may alternatively have preferred simply to warn the defendant not to repeat the mistake. Margaret Gibson was dismissed from the court at Rochester in 1530 after she had promised to reform. Leniency was not likely to be offered to second offenders. At Lincoln and Buckingham some corporal punishment was ordered, usually in the form of a public whipping, in which the offender was beaten around the four corners of the churchyard. Nowhere are we told who wielded the whip, let alone whether the punishment was rigorously enforced.

Other punishments could be used. The order to perform a pilgrimage was now virtually gone. One party at Rochester was ordered to purchase a Missal for his parish church, the cathedral and not to approach his illegitimate daughter at any time in the future. Mary Lynacre of Sutton was ordered in March 1524 to consume only bread and water until Trinity.

In most cases however, the only real way to avoid public penance was to seek commutation. The articuli cleri of 1315 condemned monetary payment in lieu of punishment. Edmund Gibson also condemned it, claiming that it was an

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180 HRO,ASA 7/2,fo.168v; all three men were local priests
181 KAO,DRa/Vb4,2nd series,fo.13
182 LRO,Vij/1,fo.72; Henry Anderson, Vicar of Morton, was warned against having illicit sex. He was discovered doing it again and was immediately excommunicated for being contumacious (1538)
184 e.g.The Courts of the archdeaconry of Buckingham.op.cit.,pp.257-8 O. c. Lillyngstone
185 KAO,DRb/Pa8,fo.40v O. c. Martin the armourer
186 KAO,DRb/Pa8,fo.40
187 Rodes,op.cit.,p.21; Documents Illustrative of English Church History.op.cit.,p.97
inducement to sin, but it was a discretionary power in the hands of the judge, and the Ordinaries argued, in their reply to the Commons in 1532, that it was a measure which could work for good if appropriate.

This is not to say that it was only available for the wealthy. Paupers could apply for commutation. Nevertheless in most cases a rather large amount of money was charged for this exemption, the result being that the reputation of a poor man was more difficult to protect. Normally the charge was in excess of ten shillings, and the court, mindful of the size of the imposition, sometimes allowed payment to be made in instalments.

This practice is evident throughout the Reformation, despite the attack by the Commons. So far as we can tell, this money was diverted to the poor and the upkeep of the parish, and in one case at Canterbury in 1548, the miscreant had to pay fifteen shillings to the poor as well as perform public penance on three occasions. In a case in 1556, twenty shillings was awarded to the churchwardens, ten to the ornaments of the church, and a further ten to the poor.

There were those people of course who in some way managed to antagonize the courts. The most obvious were those charged with contempt. A separate prosecution was undertaken against the wife of John Rotesby at Rochester in 1520 for telling the judge that "ye occupie a false lawe and is courte is false." In a slightly different case Robert Stafford of ____ was successfully prosecuted after it was discovered that he had committed perjury in court in the course of defeating the suit brought by his rector for monies owed.
Normally, however, it was the continued failure to participate, or even renounce the activities of the court that led to charges of contumacy which in turn led to suspension \textit{ab ingressu ecclesiae}, and excommunication. The former prohibited individuals from attending divine service whereas the latter prohibited the disobedient from mixing in Christian company, receiving any of the Christian rites and the loss of standing before the law of the Church. Ministration to these men by members of the clergy was itself a punishable offence.\textsuperscript{195} Before either of these were decreed, a warning was necessary, and this rule, it appears, was not contravened.\textsuperscript{196}

In most cases suspension was the first measure. Serious acts, including violence against clergy, perjury, and the impediment of the execution of a will, brought with it an automatic canonical penalty of excommunication.\textsuperscript{197} This was not a practice common to the lower courts, and in the more serious matters such as simony and heresy recourse was in the first instance to the episcopal court anyway.\textsuperscript{198} If anything, these courts erred on the side of charity, sometimes offering the party in question several opportunities to appear. In one suit at Canterbury in 1519, there were eight separate sessions. The \textit{pars rea} did not appear on four of those occasions. Even so in the last session it was only announced that excommunication would be reserved until the next session, if he did not appear.\textsuperscript{199}

After a warning, suspension or excommunication was pronounced and entered \textit{in scriptis} and the local priest was then required to read out the decree in the pulpit and certify to the court that this had been done.\textsuperscript{200} If the party who had already been

\textsuperscript{195} HRO, ASA 7/1, fo. 61v \textit{O. c. Valyant}; ASA 7/2, fo. 27 \textit{O. c. Edwards}; KAO, PRC 3/7, fo. 111 \textit{O. c. Lyndon}
\textsuperscript{196} Gibson, \textit{Codex}. p.1048
\textsuperscript{197} Cf. Houlbrooke, \textit{Church Courts}. p.48
\textsuperscript{198} e.g. LRO, For.I, fo. 5
\textsuperscript{199} CCL,Y/2/7, fo. 204v \textit{Edwards c. Wormald} ; this was a suit and so the initiative for punishment lay with the plaintiff, but the responsibility of carrying it through was the court's, and in this it was particularly reluctant to rush
\textsuperscript{200} e.g. HRO, ASA 7/2, fo. 143v \textit{O. c. Pie et Phonyng(?)}; LRO, CP Box 64/1/1.
excommunicated refused to appear then the secular arm could be invoked and the expenses imposed upon the excommunicate. This particular weapon required the help of the secular arm. The *significavit* could be sought if the party in question remained contumacious for more than forty days. A bishop possessed the right to forward a signification, in the form of a latter patent, under his seal and addressed to the king (in Chancery). It stipulated the details of the case and requested that the writ *de excommunicando capiendo* be invoked, and so enjoin the secular authorities to aid in the arrest of the obdurate individual. In the case of archdeacons and abbots, that is prelates who did not have the power to signify, it was necessary for them to petition their bishop to do this on their behalf. Thus in 1480 Thomas Milling, Bishop of Hereford, received a request from the Archdeacon of Salop to seek the help of the secular power in the apprehension of John Spencer. Similarly, an application was made to the Bishop of London against ___ Townsley, but the defendant submitted before anything happened.

The Archdeacon of St.Albans enjoyed this power which was last exercised in 1516. As with other things, this right of the Archdeacon of St.Albans lapsed at the dissolution. Other ordinaries below the rank of bishop had also been granted this power by royal provision, including the Archdeacons of Richmond, Lincoln, Norfolk and Ely, although in the last three cases it had been extended by Richard II as a form of gift to clerks in his service who happened to be archdeacons. Complaints from the episcopal bench led to the revocation of these rights for those three jurisdictions in

201 LRO,For.I,fo.4
202 More particularly this was directed to the Cursitors in Chancery who were responsible for dispatching the writ
204 *A Series of Precedents and Proceedings.* op.cit.,p.145
205 PRO,C85/212
Outside St. Albans the only other archdeacon to use this procedure in the sixteenth century was Richmond. Despite the growing problems with contumacy in the latter part of the century this procedure was not used extensively, and certainly was only the final, and very desperate measure to be taken by an archdeacon. Moreover it could very well fail if the individual had travelled far enough.

The courts seemed happiest by persisting with less drastic measures. At Chester in 1530, the archdeacon's Official sent a letter to the priest at Wigan asking him if he had seen certain people, and if so whether they were aware of their contumacy. He stated that he was prepared to offer them thirty days to appear before the court. What he proposed to do if they did not appear we do not know. At Hougham in 1538 the scribe notes that Henry Foster, who had been accused of impregnating Margaret Bedell, "est inventus," suggesting that he had been sought for some time.

In order to avoid this or a signification, one had to return to the court and seek absolution. This was very common. Most often however people returned to court before the sentence was entered "in scriptis", partly perhaps because of the consequences this had within their social world, but also because the contumacy fees, the cost of absolution, were higher. This usually had to be done before the court, but in one case at Lincoln the court was even prepared to allow one man's suspension to be absolved by his rector.

As indicated in Table 5, the number of these penalties left outstanding, that is, where the recalcitrant individual did not make their peace with the courts, was quite small before the Reformation. At times the records do not indicate what happened to some

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207 PRO, C85/215/1-2 (1511 and 1531); other abbots and their archdeacons may have had this right but simply did not use it
208 BL, Harl. 2179, unfo. section
209 LRO, Vij/1, fo. 174v
210 LRO, Cij/1, fo. 6v O. c. Barkenworth; absolution was either ad cautelam, that is provisional, or absolute. Only the latter seem to have been used in these courts.
who were contumacious, but enough information survives to suggest that there was a high degree of compliance with court orders.

The imposition of these penalties in instance actions was only issued at the behest of the opposing party, and the figures referred to earlier also intimate that a reasonably high compliance with court edicts was the rule. A major deterrent was that in all cases absolution cost money. The amount varied, depending upon the distance travelled by the apparitor, the costs of the plaintiff in the suit, and those of the registrar. It usually ran to over two shillings and sixpence, but in one case at Rochester it was twenty five shillings. 211

Information about the costs of bringing a suit, as with all monetary matters in these courts, is patchy. Rarely do the court book provide glimpses of the costs involved, and so it is not even possible to assess if court costs rose during the Reformation period. In a case at Lincoln in June 1545, charges added up to forty shillings. 212 This action had gone for several sessions and it is therefore difficult to compare with one suit from 1495, lasting two sessions which cost 12d. 213 This is partly because we do not know if fees for certain jobs had increased in the wake of inflation, or whether the amount of work involved in each was vastly different. 214

It was noted in chapter four that it is difficult to find cases of corrupt court officials. At the same time, Edward III, c.9, protected ordinaries from impeachment by justices unless full details of the extortion were forthcoming. Nevertheless Church councils had for a long time attempted to regulate fees, and more specifically eradicate extortions. 215 But legislation can differ from practice. Whether it did and to what extent remains a mystery. Still, the Commons continued the assault, which Bowker

211 KAO,DRb/Pa7,fo.155
212 LRO,Cij/1,fo.266v Burdon c. Seward
213 Courts of the archdeaconry of Buckingham.op.cit.,p.166 Gilam c. Gore
214 Coleman,op.cit.,p.21; it is highly unlikely that court fees could have kept pace with inflation
215 Lyndwood's Provinciale. pp.89-93
has shown was not entirely without foundation, and certainly costs could weigh heavily upon the wealth of a labourer or craftsman.\textsuperscript{216} We can note for example that a testamentary case at Leicester around 1559 cost 3s.4d.. Yet a similar case in the same court cost 7s. In a defamation suit at the same time 10d. was charged for one session's work, and in another, unspecified case, a payment of 18d. was levied for one appearance.\textsuperscript{217} How these figures were arrived at is a mystery. There were clearly many ways in which amounts added up. At Northampton around 1540 it was 4d. to constitute a proctor, and 14d. to substitute him. It was 12d. to obtain the court order for the summary petition of witnesses and the citation, and its delivery cost a further 4d.\textsuperscript{218} At the end of a matter the judge seems to have charged 16d. for dismissing the case.\textsuperscript{219} This was a substantial proportion of an average worker's income.

There is a further difficulty about specifying costs of suits. There were variable amounts charged even when, on the surface the suit was similar to another one. This occurred not only because some suits lasted longer than others. Apparitors were paid by the mile. The delivery of a citation might be 6d., 16d., 2s.7d. or more.\textsuperscript{220} In a bill of expenses from the consistory court at Norwich, a citation and certification of the same cost 14d.\textsuperscript{221} Yet a citation at Canterbury in 1556 cost only 7d., while another at Lincoln in 1543 was 15d.\textsuperscript{222} Only the Canterbury citation was less than that specified by the Stratford scale, or even Whitgift's of 1597.\textsuperscript{223} In the Norwich example the libel itself cost 3s.4d., and the whole suit 39s.2d.\textsuperscript{224} Absolution offered to the

\textsuperscript{216} Bowker, "Some Archdeacons' Court Books."\textit{op.cit.},p.303
\textsuperscript{217} Leic.AO,1D41/11/4,fo.7,7v,8v
\textsuperscript{218} NRO,Arch.II,fo.75v,76,76v-77
\textsuperscript{219} NRO,Arch.II,fo.77v
\textsuperscript{220} E.Peacock, "Extracts from the Churchwardens' Accounts of the Parish of Leverton, in the County of Lincoln." \textit{Archaeologia}. 41. p.353; W.J.Lightfoot, "Notes from the Records of Hawkhurst Church." \textit{AC}. 5. p.70
\textsuperscript{221} Norwich and Norfolk RO,DEP 3,Book 4A
\textsuperscript{222} Lightfoot,\textit{op.cit.},p.70; Peacock, "Extracts..Leverton."\textit{op.cit.},p.356
\textsuperscript{223} For a convenient record of Whitgift's schedule see Peters, \textit{op.cit.},p.78
\textsuperscript{224} Norwich and Norfolk RO,DEP 3,Book 4A
6: Contentious Business

Contumacious was normally around 2s.6d., although at Leicester it seems to have been 2s. Nevertheless, it is clear from this that going to court was an expensive business, not just because of the costs in court, but also for the loss of work time, travel, and where necessary, accommodation and food. Of course beyond the court of the archdeacon there was the bishop’s tribunal, to which the enthusiastic and/or wealthy could resort.

Conclusion.

The methods of archdeacons’ courts operation, were therefore, it would seem, well suited to the needs of the local population of the archdeaconry. They were close to the people, their procedure was not overly confusing, they diligently sought to establish the truth in matters of fact, and they had judges who, by and large, were prepared to use their discretion in a responsible fashion, in the way that cases were resolved. The most obvious and distinctive aspect about archdeaconry courts was their proximity to the people within their archdeaconry, and it is this which had always made them peculiarly valuable administrative functionaries, at least before the Reformation crisis.225 This can be noted especially with the visitations, and the regular contact these courts had with local people, in their own local setting and environment. But the actual procedures of court business are significant in themselves, as a guide to understanding how the courts were perceived. In reality their procedures were relatively straightforward, and this is most clearly of benefit to prospective plaintiffs.

There were certain procedural techniques which changed during the Reformation, but some changes took place as part of the courts’ own evolution. For instance, the standardization of the way certain matters should be handled was refined well before 1530. Similarly, punishments such as whippings, were rarely used after then.

225 See chapter eight
although the decision to require the contumacious to read the homilies is more directly associated with contemporary changes. On the whole, however, the actual method of conducting cases varied little in form, despite the challenges extended by other courts, and the threats of the secular lawyers. There is little to indicate that the Commons had anything to complain of on that score, and this is one feature of court business which did not suffer during the Reformation crisis.226

The nature of the differences between particular courts resulted more from the needs, demands and problems associated with a particular area than their status as inferior tribunals. In some ways, of course, as lower courts, they did not have cognisance over certain matters, but they reveal considerable respect for the rules of legal formality. They also seem to have been efficient and useful for those able to afford the luxury of litigation. This aspect of their work is closely associated with their role in the general social context in which they worked, and it is the practical results of this which were clearly critical and which should now be discussed.

226 see chapter eight
PART C: THE COURTS AND SOCIETY.
CHAPTER SEVEN.
The Nature of Judicial Activity

There are pertinent questions relating to the manner in which the law of the church was enforced, and the relationship of the courts with the society in which it operated. Proximity to people was no guarantee of success, nor indeed was a useful procedural method. Special consideration should therefore be given to the nature and the relationship of archdeaconry courts with the people of their jurisdiction.

In the early stages of the sixteenth century the operation of contentious business in the archdeacons' courts was well regulated. The courts themselves were confident in their understanding of their role in society, and in contentious business had a vital role. This area of work was not a means of authorisation, or an errand, but a vehicle designed to help regulate social relations. Provincial constitutions recognised that the particular contribution of archdeaconry courts to promote the maintenance of spiritual duties. They were specifically charged with ensuring that the sacraments of the church be duly ministered, and that the articles of the church, especially those relating to moral precepts and teaching, be duly publicized in each church. ¹ Though important in itself, the study of the means and methods of the courts in society are limited. The final measure of the quality and importance of the courts' operation is not necessarily bound to the way in which they conducted business, although this may be of considerable importance.

Nevertheless, in the years before the Reformation Parliament sat, it is possible to show that this was a society which utilised the archdeaconry courts. Social organization was localised, and normally determined by parochial obligations. Within

¹ Lyndwood's Provinciale. pp.17-20
the parish, people were identified and identifiable, not only through their role in the local economy, but also through their reputation, their general fame.

A distinction should, of course be made between the laity and the parish clergy, because the latter were answerable to the courts in a particular way. But in any event, the value of archdeaconry courts, was that they were in a position to re-inforce social obligations, obligations which were understood by members of the community. The courts' role, in this sense, was to enforce notions of moral value which were articulated in terms expected and applauded by society at large.

Social Organization.

The localised nature of these courts and the parish unit were central features of the way that the law was applied. Although at first the *parochia* was simply a unit of Christians living together in one place, it later acquired a territorial connotation, but this feature was secondary in importance to the cure of souls. Later, however, church administration more and more depended upon this territorial aspect, and with it, notions of an identifiable body of people whose lives were centred in one area.

Clearly there were different patterns of parish growth, and throughout England there were the enormous differences which were referred to in chapter six, but even in the north-west, where parishes were often large and contained several townships, the
parish church did in fact represent the material expression of a common identity for its inhabitants.2

The area of the parish was a focus of socio-religious life of enormous significance. Up until the nineteenth century, the rogation procession, or "beating the bounds," was a major event in communal life. It was an occasion for supplicating the Divine - seeking His blessing for the crop of the arriving harvest. Although this practice undoubtedly lost something of its spiritual significance after the Reformation, it continued as a quasi secular ritual as evidence that parochial boundaries, and identity, were intact. Indeed it was one of the few medieval church practices not prohibited by the 1549 Prayer Book.3 It was a custom which re-inforced, and perhaps re-vitalised, a notion of identity - that each parishioner was a participant in the life of an ecclesiastical organization, with allegiance to that organization. It was therefore in the interests of both the parish and the courts to promote the participation of individuals in communal religion.

In its most obvious sense such an approach is reflected in cases before the courts in which folk were prosecuted for failing to attend divine services, or defiling the sabbath, or those who did not pay the churchwardens their dues. In 1527 Thomas Ponett of Smarden was called before the court at Canterbury for failing to attend his own parish church.4 Two years later Richard Goodwyn was discovered to be impeding his

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2 Cf.D.Sylvester, "Parish and Township in Cheshire and North Wales." Cheshire Archaeological Society Journal. 54,1967. pp.24-35; Michael J.Bennett, Community, Class and Careerism: Cheshire and Lancashire Society in the Age of Sir Gawain and the Green Knight. (Cambridge, 1983) p.47. See also C.J.Kitching, "Church and Chapelry in sixteenth-century England." The Church in Town and Countryside: Studies in Church History,16. ed. D.Baker (Oxford,1979) pp.281-82; in which the author makes the point that, in difficult circumstances, chapelries could be cut off. That there were disputes about the status of parishioners in outlying areas however is testimony to an ethos of parochial identity. This point will be taken up more fully later in this chapter.

3 W.J.Pressy, "Beating the Bounds in Essex." Essex Review. 48,1939. pp.84-90; by the end of the century, particularly in overtly Protestant parishes, it became necessary for some archdeacons' courts to enforce this practice.

4 KAO,PRC 3/5,fo.37v
children from attending services, just as William Schalon was impeding his servants. The obligation to one's own parish was necessary in all manner of ways. In June 1520 the Official at St. Albans cited Robert Saybroke to appear in court because he gave an altar cloth to a parish other than his own. The attitude is articulated in a case from Northampton of the 1540s in which it was alleged that Martin Barnes "obstinently do resorte to other parishe church in contempt of his own parishe churche." Further, the role of the courts went well beyond these strictly religious matters. The church courts were primarily concerned to maintain as well as promote harmonious relations between the members of each parish. Juliana Basse of Middleton Molesworth not only disturbed divine service, but she was also a common slanderer "And a sower of debate betwyxt man and wife and a evill tongede woman." This therefore involved estimations about the quality of a person's parochial membership, and this is of central importance. Ralph Smyth of Kingsbury in the same archdeaconry, was cited because he was "a slanderer chider skolder and sower of discorde." Where appropriate, the archdeacon's court could prosecute individuals for contravening church law. In short, the courts were used to regulate parish life. The courts' success, however, depended upon the participation of the parish in the administration of the law. Non co-operation at the parish level would render the archdeacon's court largely ineffective. What in essence made these courts so powerful, was not their own authority, but rather, their capacity to re-inforce cognitive values which were important in parish life. In this sense the courts provided a service, and before Parliament sat in 1529, it was a service well utilised and greatly appreciated by a wide section of Tudor society. After that time, the relationship existing between the courts and society was undermined, and it is

5 KAO, PRC 3/7, fo.201; DRb/Pa7, fo.34v
6 HRO, ASA 7/1, fo.24
7 NRO, Arch.III, fo.66v
8 NRO, Arch.III, fo.32v
9 NRO, Arch.III, fo.67
10 see below
important to acknowledge the techniques of archdeacons’ courts before 1529, and less frequently after that time.

The Laity.

According to Simon Fish, one of the great threats posed by the church courts, was that they acted for the benefit of the clergy, very often at the expense of the laity.\textsuperscript{11} Despite this, the ecclesiastical courts dealt with lay people in every session, and they were courts which were operating in a reasonably wide social context.\textsuperscript{12} Moreover, church courts, specifically those of archdeacons, continued to hear a great many matters in prosecutions and litigation.

The court had initially been responsible for exercising jurisdiction over those things which, it could be claimed, pertained to the souls of people in each jurisdiction. It was a brief with enormous implications, and one which bore considerable responsibility.

Without ever being fully articulated, the role of the church courts, including those of the archdeacons, was therefore to encourage and promote, using appropriate measures, cohesive relations between members of society and at the same time enforce modes of living in accordance with current notions of Christian behaviour.

In endeavouring to explain what advantages could be said to accrue to the laity for co-operating with archdeacons' courts, it will be necessary to point to the way in which contentious business was handled in order to explain its role in ordering social relations using techniques which were integrated within the current social matrix.

\textsuperscript{11} A Supplicayon for the Beggars.\textit{op.cit.},p.8
\textsuperscript{12} For figures on clerical, as opposed to lay actions see below
Most importantly, it is critical to establish, in terms understood by both the courts, and society at large, in what ways rules governing social relations could be assessed. In its broadest sense, the courts, and indeed society, understood human relations as a series of contractual relations. It could be said that human interaction was underpinned by a sense of mutual obligation. It can reasonably be asked how, for example, can one argue this when matters of dispute involved people from not only different parishes, but indeed different jurisdictions, or when there was no contract on paper?

There were in truth two sorts of contract; those which were formal, and those which were "informal", in which duties were not confined to particular circumstances or between particular people. The first of these is the formal contract. The concept of such a contract was often verbal and formalistic in which the parties were bound by a bond, the structure of which was appreciated in accordance with a legally determined formula and concluded by the performance of the duty. This is most obvious in matrimonial, testamentary and church dues cases, in which there was an undertaking by parties to fulfill duties ascribed by legal doctrine. Here the details of the contract had to be most explicit.

In these circumstances any grievance borne by a party was the direct result of a condition or conditions of that specific agreement being dishonoured. In these circumstances, a broken contract was probably distressing to a party because of the perceived loss, material or otherwise. One woman at St.Albans had waited five years to marry her betrothed, but he fled and married someone else in Lincolnshire. For this woman the problems may not only have been emotional. More than that, the marriage may have presented some form of financial security, and as Peter Laslett has

13 HRO,ASA 7/1,fo.13v O. c. Osmond
7: The Nature of Judicial Activity

noted, marriage also "gave [one]..........full membership of the community."14

Similarly, the maladministration of a testament may have deprived others of badly
needed comforts; the withholding of money from parish funds may have placed a
burden on the collective budget. Worse still, such actions were a betrayal of faith, to
the testator, the fiance, or the parish in general, and this was a breach of the rules
governing communal living.

Not all difficulties giving rise to litigation or prosecution however, were the result of
breach of the terms of a formal contract. The law imposed (as it still does), forms of
"consensual contracts" in which formalities were irrelevant and the proof of the
agreement was dependent only upon evidence of implied consensus. In this case being
participation in the life of a community and notions of collective responsibilities were
enough to fulfil such conditions. The payment of tithes or contributions towards a
parish levy are examples of this, as indeed is defamation.

The implications of such a doctrine are enormous. For a church court some attention
was therefore paid to religious issues. Reference was made to people failing to attend
church, and others who made disturbances during divine service. Likewise particular
care was taken by the courts to stop the defilement of the church yard because it was
consecrated, as opposed to profane, ground. Its status was therefore fundamentally
different. Returns from visitations show that archdeacons and their deputies diligently
continued to express concern for the state of the church yard and the state of its fence.15

But the consensual contract existed in many other forms. Occasionally usurers are
brought to court,16 parents for maltreating their children, and even children maltreating
their parents, through violence. At Oxford in 1540 it was deposed that one man

14 P. Laslett, The World We Have Lost. (London, 1979) p. 94
15 Cf. LRO, Vij/1, passim; CCL, Z/3/5, passim; More (ed.) "Proceedings of the
Ecclesiastical Courts." op. cit. passim; Bowker, Secular Clergy. p. 130-1; for a
discussion of the problems facing both parishioners and the courts
16 e.g. KAO, DRb/Pa7, fo. 177v O. c. Ryme
repeatedly bashed his wife. In a case at St. Albans, it was reported that another husband "sundry times insensed her with such cruelties and dreadful beting and threatenyng." Drunken behaviour was also, of course, culpable and Alice Martin of Thanington was cited to court in January 1525 for being a public defamer, molesting people, and swearing. Robert Nettylsworth of Elveden was cited "because he haunteth Margaret Smyth" and a woman of St. Albans was told to answer the charge that she was "a tale bearer from neybor to neybor."

Clearly the courts entertained a broad field of vision in parish life, but sexual immorality has long been recognised as being a matter in which the courts took a very close interest. This is especially interesting, the more so if it is true that levels of illicit sexual relations were not high in this society. In some cases fornication and prosecution led to the court seeking the marriage of the two parties if the judge considered it advisable. In one case at Lincoln it was specified that they were excused from not marrying only if either party died. There are even more stark intrusions into life. Marital relations were open to scrutiny, especially if sexual comforts had been withdrawn. In one case at Canterbury the husband and wife refused to have sex with each other, but both of them had another partner. The sanctity of marriage was considered important; it was certainly intolerable in the court's

17 LRO,Cj/6,fo.70v-71 O. c. Croke
18 HRO,ASA 7/1,fo.89 O. c. _____
19 KAO,PRC 3/5,fo.22
20 Suffolk RO,IC/500/5/1,fo.5
21 HRO,ASA 7/1,fo.79
23 e.g.HRO,ASA 8/1,fo.4
24 LRO,Vij/1,fo.20 Stamford(1538); O. c. Butcher et Radley
25 e.g.HRO,ASA 7/1,fo.38 O. c. Sydney; KAO,PRC 3/5,fo. 97v O. c. Lynell;
Suffolk RO,IC/500/5/1,fo.1v O. c. Himble; The Courts of the archdeaconry of Buckingham. op.cit.,pp.133 O. c. Vyncent, 250 O. c. Cutte et Cutte; cf.Lyndwood's Provinciale. p.153; states that it was one of the stipulations of canon law that sexual intercourse was only "excusable" if the participants were married to each other
26 KAO,PRC 3/7,fo.223 O. c. Wade et Wade (1529)
eyes that in September 1519 John Hewys of St. Albans appeared and admitted throwing his wife out of their house, and he even went on to say that he refused to have her back. Indeed there seems to have been few things the court was not prepared to determine, including allegations against William Wood that he had been masturbating.

This sort of interest in sexual matters was but one aspect of a very wide judicial field of coverage. A measure of the flexibility of these courts is revealed in the actual habit of hearing many suits which were, strictly speaking, ultra vires. Just as importantly, the capacity of the courts to act in such matters, demonstrates their ability to compete against the secular courts with the implicit approval of the populace.

In many courts, including those at Canterbury, Leicester and Rochester, a very large number of cases were "causa fidei laesionis sive periuiri." Although this was sometimes an expression used to describe a breach in a matrimonial contract, or an executor’s duty, it most commonly referred to suits over petty debts. It technically presumed that an oath had been sworn and afterwards, either explicitly or implicitly renounced. The offence lay in the violation of the promise. Although a sin, it was for the most part an instance action. Yet the constitutions of Clarendon (1164) forbade the church to hear causes in which the underlying transaction was debt. The legal principle was established by the thirteenth century. But church courts continued, through the fifteenth and into the sixteenth century, to act with impunity in these matters.

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27 HRO, ASA 7/1, fo. 22 O. c. Hewys (1519); few archdeaconry courts could grant divorce "from bed and board." The St. Albans court was one that could, cf. ASA 7/1, fo. 52v divorce of Robert and Agnes Brupster (1528)
28 KAO, DRb/Pa7, fo. 211v
29 In other words these are the only court records extant and studied with the exception of St. Albans where the low number of cases is not a reliable guide to these matters
30 Leic. AO, 1D41/11/1, fo. 9v Willye c. Jonson
31 Leic. AO, 1D41/11/2, fo. 37 Bondale c. Tyll
seems clear is that small debts, usually less than 40s., were the gist of the action. The contract itself was verbal and probably formalistic. This, and the small amounts at stake, no doubt explains why prohibitions were not used. It seems however that other actions, such as agreements over conveyancing or the delivery of goods and construction work, were just as free from interference.34

The courts continued to hear without interruption, various suits which were technically ultra vires. At Rochester in January 1520 a case of theft was heard in which a prioress believed that Agnes Swayn of Higham had stolen certain money.35 Defamation suits involving an imputation of a secular offence were technically within the purview of the secular courts. But while the London church courts had lost these matters by the beginning of the century,36 their country counterparts had not, certainly not at the archidiaconal level. In 1522 Hugo Halman was accused of robbing himself (and presumably had concealed it).37 At Canterbury in 1521 Agnes Andrews took Thomas Grey to the archdeaconry court because he alleged that she was a thief.38 At Rochester and Buckingham men were also accused of raping women.39 An assistant priest at Rochester was cited for attempting to rape a woman there, and here again there was no prohibition.40 These were clearly matters which belonged, prima facie, in secular courts, where moral lapse was secondary to other considerations.

Furthermore, the records may well conceal further examples of this kind. In 1529 a curate was tried at Canterbury for incontinence with the wife of William Scott.41 The chance survival of a deposition held but not bound in the act book reveals that the priest

34 ibid., pp.410-11
35 KAO,DRb/Pa7,fo.52
36 Wunderli, London Church Courts op.cit., pp.72-73
37 KAO,DRb/Pa7,fo.183v
38 CCL,Y/2/7,fo.214v
39 KAO,DRa/Pa7,fo.229v Polyntong c. Fetnall; The Courts of the archdeaconry of Buckingham op.cit., p.161 O. c. Lome
40 KAO,DRb/Pa8,2nd series,fo.98 O. c. Pontes
41 KAO,PRC 3/6,fo.91,137 O. c. Johnson
had visited the woman at a time it was believed that she was on her death bed. He requested that those present "void the room." Rather than offering her divine unction, he displayed his "private members" and raped the woman who was too weak to resist. Unfortunately for the cleric, she survived and told her husband, who in turn brought it to the attention of the court. In both of these cases a priest was involved and so they could each have claimed benefit at common law. But it seems that the archdeacon's court was turned to as the appropriate forum for the matter, not only because the defendants were priests, but as a matter of course. Perhaps their clerical garb is significant, but the failure of the common law courts to object is equally important.

Infanticide cases were also being heard as prosecutions. While the common law courts were taking over these cases after tussles in the fifteenth century, some continued to be heard in both episcopal and archdeaconry courts. They derived authority from a canon of Edmund, warning mothers not to sleep too close to their children less they "oppress" them. The cause of death is sometimes given, and includes not only suffocation but strangling. What is clear is that intention to commit an offence is not at issue, only negligence. In a case at Northampton against John Jenkyn and his wife, evidence (such as there is), suggests that the death of their child was a deliberate homicide, but the court is not so much concerned about this as about the child not being baptised at the time of death and so "lost for Christendome", and it sadly lamented that it died "w’t oute the sacramentes of the holy churche." The case, of course, might have been taken up by the secular authorities in which case intention

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42 Lyndwood's Provinciale, p.133; Instructions for Parish Priests by John Myrc. ed. E.Peacock (EETS,o.s.31,1902) p.5
43 CCL,Y/4/4,fo.76v O. c. Turnay
44 NRO,Arch.III,fo.31; for further discussion of motive as it relates to infanticide; cf. R.H.Helmholz, "Infanticide in the Province of Canterbury During the fifteenth century." History of Childhood Quarterly. II,3,1975. pp.38-39; intention might have bearing upon the punishment, but it was not in itself an important ingredient within the prosecution
would have been a critical aspect of the case; but either way this would have had little bearing upon the case in the archdeacon's court.

The judicial outlook of the church courts is perhaps best illustrated by the case of Margaret Bradfield of Milton. She took in a man who was ill, but the court book entry states that after languishing for two or three days he died. Bradfield was cited to court, apparently for failing adequately to discharge her responsibilities to the man.\(^45\) In social terms this too can be seen as a part of a doctrine of social consensus.

The first point to notice is that in both instance and office actions curial intervention largely depended upon at least some members of the parish seeking institutional help in order to overcome a contentious issue. Clearly going to court was an extreme device. At times problems were resolved before this stage was reached. In 1538 Richard Hoppe was called before the Lincoln archdeaconry court because he had persisted in acting suspiciously with Catherine Robynson, despite being warned to desist.\(^46\)

While examples of court leniency are not as easy to find, partly at least because of the nature of the documents, court decisions were not the only avenues leading to some sort of concord or reformation of behaviour. There is an element not only of coercion and reprimand, but of the positive quality reformation of the soul/behavioural patterns. Anne Durmeryght of Chevening, within the diocese of Rochester, wrote to the Archbishop of Canterbury in 1534 complaining about the treatment she had received at the hands of her husband. Cranmer in turn wrote to her parson requesting him to "see that there be a reformation......between them." Only if there was a breach of his advice was the matter to be taken further.\(^47\) In the same year the inhabitants of Hadleigh also felt sufficiently moved to write to the archbishop complaining about their curate. His response was an exhortation, requesting them to arrive at some sort of agreement.\(^48\)

\(^{45}\) KAO,PRC 3/5,fo.121 (1523)
\(^{46}\) LRO,Vij/1,fo.116
\(^{47}\) Miscellaneous writings and letters of Thomas Cranmer, op.cit.,pp.278-79
\(^{48}\) ibid.,p.280
The Function of Court Activity.

It should be remembered that to go to court, an individual determined to place matters into the hands of a third party or, in the case of prosecutions, a court demanded and assumed a peculiarly important role in society. Intra-parish mechanisms for resolving such problems were often considered, if not the first step, then at least the more appropriate. Even lower courts themselves asked the clergy to step in, sometimes providing them with a special commission to settle the matter more informally, as in July 1523 when the archdeaconry court of Rochester requested the vicar of Lewisham to restore peace between the churchwardens and Ralph Pope.49

Instigating litigation itself was often no more than a device for extracting an agreement over a problem, and indeed the decision to proceed in court may have been the last resort for many people. At Lincoln in 1552, an inhibition was introduced from the court of Arches by the plaintiff's proctor. After reconvening the court, the judge specifically commented, for the benefit of the defendant, that he had the choice either to pay the money claimed, or travel to London and face the new hearing.50 That was, in general, the dilemma that faced most defendants.

Often, however, people did attempt to resolve a problem before going to court. In 1526 the churchwardens of Burton Overy(?) in Leicestershire took William Russell to court because he owed money to the parish. The churchwardens had been trying to extract the money from Russell for over two years.51 Such patience is evident throughout the period. One plaintiff at St.Albans had been seeking the payment of tithes for over six years before turning to the formality of judicial process in 1544.52

49 KAO, DRb/Pa7, fo.256v
50 LRO, Cij/2, fo.197,200 Syer c. Hasilwood
51 Leic.AO, 1D41/11/1, fo.24
52 HRO, ASA 7/2, fo.145 Grubbe c. Clerke
Even when suits had commenced, it was very common for them to stop shortly afterwards. Defendants often capitulated once the suit was started, and between 15-30% of all archdeaconry courts studied in this period record only the first session. Lincoln is the only exception. Even where there was no capitulation, or a quick resolution of differences, a compromise was often likely. As well as saving money, compromises with an opponent were tactically sound. Grievances fundamental to the cause of the dispute were aired but much was left to the discretion of the arbitrator who was not as rigidly bound by curial procedures as the formal process. Even the Abbot of St. Albans could boast in 1431 that he had saved a thousand marks in his suit against William Fleet of Rickmansworth by submitting to arbitration. 53

That the parties concerned could have some say in the choice of arbitrators may have made the process an attractive option. 54 Court personnel participated in this process. In July 1551 Archdeacon Bullingham arbitrated a suit which had been taken from his own court, as did the Official himself. 55 This method of procedure was more likely to be rejected when any sort of compromise was unacceptable. In any event the higher proportion of cases settled out of court, albeit not with official help, tends to lend support to this contention. 56

Moreover, contentious business was public fare, and this is critical in an understanding of the process in courts, and its impact within the local community. Suits were handled in open court and the process was therefore open to public scrutiny. There were therefore considerable problems associated with losing a suit. Failure did not only mean the inability to enforce a promise to marry. It not only meant payment of money to the church, a priest or an executor. It meant public vindication of an

53 E. Powell, "Arbitration and the Law in England in the later Middle Ages." TRHS. fifth series, 33, 1983. p. 56, passim; this was a procedure which was increasingly being used by the common lawyers of late medieval England, who also became aware of its great value
54 see above
55 LRO, Cij/2, fo. 116 Taylor c. Plaby, 194v Grimes c. Orbye
56 see chapter six
opponent's claims. How significant this element was remains impossible to tell, but some insights are provided by prosecutions.

The damage done to personal esteem could be considerable if a defendant was successfully prosecuted. Such a loss could lead to public penance, and continued contumacy led to excommunication. Punishments were often set against the offence to emphasise to the defendant the evil of the offence. This is especially true in cases in which the dignity of another (as with defamation), or the health of one's own soul or self-gratification (as with scolding or sexual misconduct) was the principle guiding the punishment. The intention was to humble such pride and self-indulgence by exposing the individual to public ridicule and censure.

Inevitably this method of dealing with offenders depended upon this sort of punishment providing a "legitimate" and suitable method of declaring misconduct so that it was both the court and the parish which acted to counter misbehaviour. This is because it implied a notion of free will - that there was a choice of actions and that the act of behaving "improperly" was governed by a conscious decision to contravene social mores. The success of excommunication indicates the importance of the relationship existing between the parish and the court.

Moral sanctions were in this sense only formalised by the court. In an undated letter at Lincoln, John Harrington and eight others signed a petition seeking clemency for the excommunicate Agnes Lee who was ill and very poor. In the petitioners' view she was incapable of performing public penance.57

In cases in which a guilty party was admonished before being sent away, it is conjecture to suggest that the response of each parish, or at least the moral community, would have been to form an attitude about the offender which had wide social ramifications. No doubt reactions varied from parish to parish and would depend to some extent on the nature of the offence committed. Censure amongst members of the

57 LRO, CP Box 64/1/1
parish may have been a very real prospect. From the courts' point of view clemency was a powerful device which encouraged respect for court rulings because in so doing it demonstrated a capacity to be sympathetic in the application of the laws.

In many villages where economic stratification was not as greatly pronounced amongst members of the parish, this appears to have acted as a form of "moral stratification." It is after all a moral community with which we are dealing. This concept is important. It denotes a collective of morally bound individuals. We noted certain public and private offences which were dealt with in much the same way. The annoyance at a public nuisance, or a witch is, to our eyes, different in kind from the activities of two lovers. Such a distinction in the sixteenth century would have been artificial. In village communities, and even in the market towns and London, one very often lived and worked in the same social milieu; associates, as opposed to friends, were not as readily divided between work and leisure as they are today. Life was lived in a suspicious, often unfriendly atmosphere. Robert Copland wrote in 1535 of the great "strife, mistrust and great disease." Gerson attacked the back-biting of small villages, and George Rainsford, writing in the 1550s, displayed an open antipathy towards the English, more particularly their stubbornness and impatience, which he portrayed as being fractious and vengeful.

Current scholarship endorses the portrait of village life in which gossip was so profound. Even an influential theologian such as Henry Bullinger took the trouble to warn the godly to avoid not only papists, but fornicators also. During the years of the Marian persecution, Rose Hickman, a Protestant, fled to Antwerp for refuge but not

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59 The Elizabethan Underworld. ed. A.V.Judges (London,1930) p.21
60 Coulton, The Medieval Village. (Cambridge,1925) pp.253-54
61 P.S.Donaldson(ed.), George Rainsford's 'Ritratto d'Ingliterra'(1556)." Camden Miscellany. Vol.xxvii. (Camden fourth series,22,1979) pp.73,75,92
62 [H.Bullinger], A treatise of the cohabitacyon of the faithful with the unfaithfull whereunto is added a sermon. (STC 24246; C.Froschauer,Zurich,1555) fo.2v
because it was "reformed," indeed the contrary was the case, it was still Catholic. Hickman chose this city because the population was large and it had only one cathedral church, which meant that it was easier to maintain anonymity.63

Personal fame therefore was a crucial element in one's day to day dealings. Reputation and honour were not just vague notions but key components of status which was not only the prerogative of the gentry and the higher orders. It was clearly important to Richard Wyghtman, a Leicestershire generos, that Valentine Bryscoo declare in court that "I have slandered you wrongfully wherefore I praye yow forguye me & be in charitie w1 me."64 Scandal was indeed public fare. At Lincoln in 1537 William Ely and Agnes Pulver discovered that their "conversation" was such that they were suspected of "bad living."65 It was reported to the court of the Archdeacon of Northampton in the 1540s that Alice Rosse of Weedon Bec was pregnant by Henry Wright and spoken of "in medow...[and] in meny and syndry tavernes."66 For them this meant an inevitable blackening of their reputation.

J.A.Sharpe charges us to "accept that it was (his italics) felt necessary to respond to insults" but he does not explain why.67 People responded to insults because they were concerned about their own reputation. To ignore defamatory remarks could itself be interpreted as tacit acknowledgement that they were made with some basis in fact. One's behaviour, private or public, was a reflection of personal moral/spiritual quality, hence the importance of personal fame. In June 1547 a deponent, in the court of the Archdeacon of St.Albans, stated that Joan Parrat did lie with Harry Grubbe in the hay all night and he said "that he thought no hurte by the said Johan in so sayeing for he

64 Leic.AO,1D41/11/3,fo.26v (1556)
65 LRO,Vij/1,fo.244v
66 NRO,Arch.III,fo.28
knoweth her to be of good name and fame."⁶⁸ In the same court in May 1548 or 1549, John Lampson confessed that "he did lye with the said Margaret [Baker] all the same night" and indeed that he "had hi[s] carnall pleasure," adding that he was "not entending to hurte her good name or fame."⁶⁹ An understanding of the importance of "fame" helps to explain why so many prosecutions were undertaken simply for suspicion of illicit sexual relations. Indeed it also helps to explain why sexual misconduct was considered so important.

Despite Sharpe's scepticism, defamation also appears to have been a mechanism designed, by the plaintiff, to circumvent prosecution as well as a device to protect one's reputation. Sometimes it could backfire. In 1524 Alice Bratt brought a case of defamation, however the judge was sufficiently impressed with the evidence against her that he prosecuted her for sexual incontinence.⁷⁰

Plaintiffs were sometimes prepared to go to desperate and quite expensive lengths to protect their name, this was an important role for the courts in the eyes of litigants because a favourable verdict in court could, it seems, be enough to clear their names. Elizabeth Hubbard took three people to court in 1522 to combat allegations of conducting illicit relations.⁷¹ Thirty years later the same tactic can be seen when John Alcocke of Willesborough undertook three separate defamation actions because the defendants had all stated that he had fathered an illegitimate child.⁷²

No obvious bias in the provincial constitutions explains such a pattern. The church legislators themselves do not seem to have shared the predilections of the courts and/or populace to concentrate on sex. Sex was in fact the benchmark helping to delineate between mortal and carnal man on the one part, and spiritual purity on the other. In this

⁶⁸ HRO,ASA 8/2,fo.7v
⁶⁹ HRO,ASA 8/2,fo.53v
⁷⁰ Leic.AO,1D41/11/1,fo.4; also see chapter seven
⁷¹ CCL,Y/4/4,fo.8
⁷² CCL,Y/4/9,fo.97
context, preoccupation with sex, or at least other people's sexual activity, was a function of moral stratification and in social terms this was therefore potentially critical. As Rainsford rather incredulously points out, adultery was punished with great severity, and brought with it shame to members of the sinner's family.\footnote{Donaldson(ed.), "George Rainsford's 'Ritratto.'" op.cit., pp.77-78, 96}

Not surprisingly, therefore, compurgation was a critical element in the whole process of an office action, not simply a procedural device that was convenient. As this was a judgement effectively determined by one's public fame, the way a particular individual was perceived in his/her social setting was of paramount importance. John quickly acquired a dubious reputation after arriving in the parish of Horton in Kent. Soon afterwards he was suspected of conducting illicit sexual relations and was cited to court. Once there the judge allowed purgation and members of the parish appeared and testified to his character. Their testimony was not favourable and the defendant was found guilty.\footnote{KAO, DRb/Pa7, fo.15v (1519)} Perhaps he was not guilty, but in any case he had failed to impress others in the moral community that he was in fact beyond moral reproach.

On those occasions when compurgation was successful, the defendants were "restored to good name and fame." At Lincoln defaming an individual was generally serious enough to warrant public penance. In a case from June 1540 the defendant agreed to apologise publicly in the parish church in order to earn the plaintiff's forgiveness.\footnote{LRO, Cij/1, fo.98 Broxholme c. Wellys} In an earlier action from 1535, Thomas Cryer, contrary to church law, was automatically excommunicated for calling his own mother a whore.\footnote{LRO, Cij/1, fo.38 Prima facie this appears to be illegal, because it was not preceded by a warning} Compurgation itself was in fact nothing more than an attempt to establish the general fame of a party, as effective a process as any that could be devised.\footnote{Cf. Heath, The Parish Clergy. p.116} It is a further
measure in which the courts relied upon the participation of local communities in enforcing regulations.

The Genders.

Actions in the courts therefore, reflect the way in which the two genders were perceived in society. This was a patriarchal society in which sex roles were well defined. Both in litigation and prosecutions men figure far more prominently in the court records than women, both as defendants and as plaintiffs. Most obviously, in this society, legal relations dictated that men very often handled financial matters - whether it was the payment of the family's dues in tithe payment, or the administration of an intestate estate. This is most obvious in tithe cases - one could hardly expect women to be actores in these circumstances, unless perhaps they were widows who controlled enough financial resources to afford the costs. 78 In his book, Wunderli states that he has found that in London, by the beginning of the sixteenth century, the commissary court was the meeting place for discontented females prone to defame their neighbours, to the extent that their numbers dominated court sessions. 79 This clearly differs from the courts in rural England. At Leicester in 1529 there were four times as many men appearing in suits than women - 245 to 58.

On the other hand the figures are far closer in matrimonial and defamation matters than in any others, that is, in those cases in which there was a greater chance of some sort of equality. In the former, 18 males acted as opposed to 14 females, and in the latter, 55 men as opposed to 21 women. In the same court in 1536 there were equal numbers of men and women in both matrimonial and defamation suits. At Lincoln in 1538 there were eight suits over matrimonial matters, and twenty over allegations of

78 There could be exceptions, see LRO, Cij/2, fo. 170v Alice Irby appears in 1552 as farmer of Burgh le Marsh? (____ barleigh) c. Thomas Adams seeking payment of tithes
79 Wunderli, London Church Courts, op. cit., p. 76
7: The Nature of Judicial Activity
defamation. In the former, 7 of the suitors were men, and three defendants were men.
Of the latter, 13 of the actores were men, and 15 of the twenty partes reae were also
men.80

In other words women make some impact only as the defendants in the matrimonial
suits. While there is perhaps a greater willingness by men to approach the courts,
figures relating to defamation challenge the general notion that women, unlike men,
were vessels of social disorder.

The supposition that women were more likely to be cited for illicit sexual offences is
also open to question. For the most part the comparative figures for men and women
reveal the same sort of pattern found in litigation. At Leicester in 1560 there were nine
cases relating to impregnation. Male defendants appeared alone on four occasions
without the woman being cited for the offence.81 At Lincoln in 1538, there were 199
prosecutions involving illicit sexual relations, and women appear as the defendant,
either alone or with an accomplice on only 81 occasions.82 Once again this raises the
question of the moral community's make-up. C.Z.Wiener claims that in secular
felonies women were sometimes given preferential treatment and spared prosecution.83
Given the evidence at hand there is some reason for suggesting that this was also the
case in archdeaconry courts at this time.

There were, nevertheless, some cases which involved mainly women.84 The most
obvious example of this are in prosecutions for witchcraft. This particular
phenomenon helps to highlight certain aspects of parish relations as well as demonstrate
how women could be seen. The pattern of prosecutions certainly challenges the idea
that women escaped all attention from the courts.

80 Leic.AO,1D41/11/2,fo.63-94v;192v-198; LRO,Cij/1,fo.31v-59
81 Leic.AO,1D41/11/4,passim
82 LRO,Vij/1,passim
83 Carol Z.Wiener, "Sex Roles and crime in late Elizabethan Hertfordshire." Journal of
Social History. 8,1975. p.39
84 For the secular courts cf.ibid.,p.39
In one sense witchcraft cases tied the religious functioning of the parish very closely to the lives of the moral community. It is true that men could be charged with being sorcerers, or making incantations; George Davyson for instance, could allegedly heal horses by using incantations. For the most part however, women alone were charged with this sort of offence. At Canterbury between 1520 and 1530 there were only six cases of sortilegio. None of the accused were men. At St.Albans between 1515 and 1530 there were thirteen people cited on the same charge, and only two were male. In 1555, Katherine Fysher of Bethersden was accused of witchcraft; the depositions that survived alleged that she could kill animals and devastate harvests.

That there was belief in magic is not surprising. The sacraments of the church were themselves evidence of supernatural forces at work. The canon on the mass for example had a profound effect; that the bread and wine had indeed become the body and blood of Christ. Despite reformers discouraging belief in this aspect of the sacraments, belief in witchcraft remained undiminished in the years into and beyond Elizabeth's reign. Witchcraft however, was not sanctioned in a sacramental fashion. The perpetrator performed those rites independently of the church and priest, thus assuming that other forces were at work.

The intention of the defendant was irrelevant, at least in church courts. Whitforde warns that even well intentioned witchcraft "is neyther good ne charytable to heele them by vnlawful meane. And surely that meene is vnlawful." George Davyson was only attempting to heal lame animals. The paradox went beyond the Durkheimian sacred/profane, to a more evil connotation, pertinent to a cosmological battle of

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85 HRO,ASA 7/1,fo.33v
86 Cf.A.Pollock,"Social and Economic Characteristics of Witchcraft Accusations in Sixteenth and Seventeenth Century Kent." AC. 95,1980. p.39; Pollock here shows how this proportion remains the same in the presentments before the Assizes in the 140 years after Mary Tudor's death. For further discussion of this offence and the secular authorities see chapter three
87 e.g.Haigh, Reformation and Resistance. pp.63-4
88 R.Whitforde, A Werke for Householders, newly corrected. (STC 25422; W.de Worde,1530) sig.C 2
supernatural forces. It was very often the case that the defendant was often the scapegoat punished by local jealousies and dislikes, but this co-existed with a belief in the existence and nature of witchcraft.

Several deponents appeared before the courts testifying against Katherine Pysher. It was alleged that she had caused a horse to die, people to fall ill, and Jasper Loader's wife to die.89 The reason why women should be regarded as repositories of supernatural (and demonic) skills falls within the bounds of gender type-casting. Just as eminent people characterised good women as models of virtue, the remainder were just the opposite; there was little middle ground. Bishop Aylmer rather incautiously delivered a sermon before Queen Elizabeth in which he stated that some women were learned, discreet and constant, but the rest displayed and personified the vices.90

It should be pointed out that the church courts' punishments were never harsher than open penance and the worst treatment a witch might receive would be an admonition, unless hauled before a secular court as well. Within the local community the "witch" served to re-vitalise faith in the magic powers at work, and so identify the forces of good and evil, in so doing encouraging dependence upon the sacraments of the Church. At the same time this formalised the relationship between the moral community and the church, and members of that community, one with another. This is clearly not a conscious ideology expressed verbally or in writing but simply the nature of the relationship. That the devil usually worked through the weaker vessel was an indication of his tactical genius, and a clear statement that not all were equal even before the church courts. The way in which women were perceived by the courts should therefore be seen in terms of the way in which women fitted into the broader social matrix.

89 CCL,PRC 39/1,fo.28v-35 O. c. Fysher
Clergy.

As a class or group the clergy were distinct from the laity. Benefit of clergy (open as it was to abuse), formalised such differences at common law, and their religious functions and status within the parish set them apart in the eyes of the courts spiritual. It was the task of the church courts to pay particular attention to their pastoral life, and at St. Albans until 1539, the life of the monks also.91 Criticism of the courts in the 1530s centred on many things, not the least being a charge, which gained wide circulation in London, that priests were judges in their own causes so that their activities were always biased in favour of the clergy.92

The clergy did indeed benefit from special attention. It is true to say that members of the clergy were recognised by church courts as being a distinct group, although the point should be made that they too were expected to participate in the life of that particular parish, and that they could not administer the sacraments in a parish other than their own without impunity, unless they had permission or a good excuse.93 It is also true that members of the moral community expected the clergy to be distinguished from the laity. Towards the end of the reign of Henry VIII the parishioners of Selgrave in Northamptonshire presented that their curate went to market at Banbury in layman's apparel "to the evill exemple of many and to the slaunder of all honest prestes."94

There are signs that the courts were jealous to guard the priest from local problems. At times members of the laity were cited to appear for failing to obey a directive of their priest. Indeed hitting a priest was considered worthy of attention and Mirk classified

91 e.g. HRO, ASA 7/1, fo. 56; January 1529 Loys Ferrers, the prior, is warned in what appears to be an internal note, to keep the brothers in line
92 PRO, SP1/105, fo. 73 (LP. xi, no. 106)
93 Lyndwood's Provinciae. p. 71; e.g. NRO, Arch. III, fo. 51v O c. vic. de Sudborough
94 NRO, Arch. III, fo. 30; Heath, The Parish Clergy, pp. 108-9; the author notes that despite numerous enactments touching standards of clerical dress, it was a matter which rarely surfaces in court books
this as one of the offences which should be related to the ordinary without exception or delay. Ideally the priest was of but not part of a parish and its strife, although this aspiration was frequently not attained - Rose Cudge of Waltham was prosecuted for defaming her vicar as was Elizabeth Stephen of Smarden in 1524.

Logically, if the criticisms of the courts treating the clergy more leniently are in general true, this should be manifest first in the lenient treatment of members of the clergy who were prosecuted (or were liable for prosecution), and second, in an advantage in disputes as a matter of course, especially where the opposition were lay folk. There is no clear cut answer to this, but there are clearly two quite distinct lines of inquiry to pursue. In support of this general thesis as it relates to litigation, and more particularly tithe actions, it was alleged that the courts displayed quite clear favouritism to clerics in tithes cases, never really considering lay non-payment as defensible. Clearly clerical actions for tithes were considered important. In the sessions of January 1553 at Lincoln the archdeacon personally appeared at several sessions staying only to hear the tithe cases. Haigh's suggestion that the low incidence of tithe actions discounts allegations that this matter drove a wedge between clergy and laity is not in itself convincing. Going to court was expensive and the likely outcome in favour of the plaintiff may have been more than enough to discourage reluctant parishioners from withholding dues. The only possible exception to this was in London, where circumstances were quite peculiar. Here the clergy were not affected by local shifts in the health of the local economy, so that they were not in that sense part of the community. In a wider view, the pattern of social organization of London was markedly different from the rest of an essentially rural England. Moreover, the

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95 Instructions for Parish Priests by John Myrc. op. cit., p. 51
96 CCL, Y/4/9, fo. 158; KAO, PRC 3/5, fo. 66v
98 LRO, Cij/2, fo. 210-12
99 Haigh, "Anti-clericalism and the English Reformation." op. cit., p. 402
crystallization of arguments against contemporary failures in the church in the wake of humanist and protestant attacks were most clearly articulated in the metropolis. The escalation of clerical/lay hostilities in fact became a contest involving the clergy, the city authorities and wider sections of the laity. So untypical was this situation that London was specifically exempted from an act concerning tithe in 1536.\textsuperscript{100}

Perhaps at first glance contemporary critics may appear quite correct. Clergy sometimes took a number of parishioners to court in one suit. In 1523 the Vicar of Lenham in Kent sought payment of tithes from a number of his parishioners and pressed his claims in the archdeacon's court at Canterbury.\textsuperscript{101} In 1527 the Rector of Asfordby took six men to court for the same reason.\textsuperscript{102} The practice is evident throughout the period. At the beginning of the 1540s Richard Cole, Vicar of Hexton, took seven men to court at St.Albans for the same reason.\textsuperscript{103} George Maby, an incumbent at Lincoln, sued several people in 1549 for non-payment of tithes, and in April 1553 Ralph Clifford sued six people for tithes at Buckingham.\textsuperscript{104} A wealthy cleric such as George Henneage, Archdeacon and Dean of Lincoln, utilised proxies to recoup lost tithes due to him, albeit as a non-resident rector.\textsuperscript{105} But is this enough to suggest that such actions severely retarded clerical/lay relations in rural England, or indeed that the courts went to great lengths to favour priest against layman?

Certainly members of the clergy nearly always won their suits. But this is slightly misleading because for those occasions when a final sentence is recorded it is clear that plaintiffs generally won, whether lay or clerical. For example at Lincoln in 1538 there were in all, 41 disputes. Final sentences can only be found for seven, and all of them

\textsuperscript{100} Brigden, op.cit.,pp.285-301; 27 Henry VIII,c.20
\textsuperscript{101} CCL,Y/2/7,fo.167; this practice was not restricted to archdeacons' courts, cf.S.Brigden, "Tithe Controversy in Reformation London." JEH. 32,1981. p.289
\textsuperscript{102} Leic.AO,1D41/11/2,fo.33v
\textsuperscript{103} HRO,ASA 7/2,fo.159
\textsuperscript{104} LRO,Cij/2,fo.8v; ARO,D/A/C/1,fo.23v
\textsuperscript{105} e.g.Leic.AO,1D41/11/1,fo.30v
were in favour of the suitor. Out of 34 suits in 1544, four were won by plaintiffs and only one by the defendant. Moreover, tithe cases should not always be seen as an example of lay/clerical conflict. In one case at Northampton in 1535 the lay defendant lost the suit after lay deponents asserted that "the comon sayinge in the parishe is that the vicar ought to have the tithe of these ____."  

This returns us to the earlier suggestion that people only resorted to court if the problems warranted such a drastic action, and if the plaintiff had enough available cash. While there is an element of truth in the argument claiming clerical favouritism, it is not clear cut.

The question may also be asked as to whether these courts acted predominantly for the benefit of members of the clergy. This is clearly not the case. The following table sets out to place this in some proportion.

<table>
<thead>
<tr>
<th>Suit type</th>
<th>Canterbury (1521)</th>
<th>Leicester (1526)</th>
</tr>
</thead>
<tbody>
<tr>
<td>perjury(petty debts)</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>tithes</td>
<td>48</td>
<td>6</td>
</tr>
<tr>
<td>other dues</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>testamentary</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>defamation</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>total of clerical suits</td>
<td>73</td>
<td>13</td>
</tr>
<tr>
<td>total cases</td>
<td>375</td>
<td>81</td>
</tr>
</tbody>
</table>

The figures from Canterbury reveal that only around 19.5% of cases were brought by priests, and at Leicester the figure is just over 16%. Proportionally it may be true that many more clerks appear than lay people. Zell has shown that in 1521 there were

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106 LRO,Cij/l,fo.31v-59,214v-251v
107 NRO,Arch.I,fo.6v c. c.
108 It was not possible to find a year in the 1520s when records from both courts are sufficiently full to allow a more direct comparison. CCL,Y/2/4,fo.182v-203; Y/2/7, passim; Y/4/4,fo.2-5v
109 Leic.AO,1D41/11/1,26v-44
around 380 priests in Canterbury diocese, of whom about 200 were incumbents. The very rough estimation of population in the diocese of Canterbury discussed in chapter six was 64,000. At most, a further 8,000 souls can be deducted from this figure for the archdeaconry after withdrawing the exempt parishes, leaving about 56,000. It is therefore possible to estimate that there were around 140 parishioners for every priest. Therefore it can be presumed that only about 0.539% of the total lay population brought suits as opposed to 19.5% of the clergy. The former figure of course includes children and other people ineligible to act. Even so there is some difference.

As one would expect, various financial matters feature prominently in these lists. These were, after all, the only tribunals which could hear most of the claims relating to the collection and payment of the clerical income, and in the circumstances this was of particular interest to the clergy. By deducting suits over clerical income, such as tithes and oblations, and so offering a more valid comparison with the lay actions, the numbers are somewhat smaller - 25 clerical suits at Canterbury and 3 at Leicester. At Canterbury the number of actions therefore brought by priests then falls to 6.5% of the clerical population. It does not need to be pointed out that these estimations are extremely vague, and prone to vary, between jurisdictions, and over time. Nevertheless, although it is true that a higher proportion of priests went to court, clerical actions do not dominate actions to such an extent as to warrant allegations that these were effectively court run for clerics.

It should also be noted that the number of priests taken to court in litigation was also only a fraction of the total. In 1526, two members of the clergy were defendants in

110 Zell, "The Personnel of the Clergy in Kent." pp. 513-33; the non-resident pluralists have not been deducted from this figure because they were still capable of initiating suits
111 At 64,000 there were therefore roughly 250 people per parish, and there were c.28 peculiars
112 see chapter seven
suits at Leicester out of 87 cases (2.3%), and at Canterbury in 1521 there were only 9 out of 375 cases (2.4%). Using the figures cited above, this means that around 2.4% of priests were defendants, and 0.65% of the laity. In one case from each jurisdiction the suit was over tithes in which a vicar was seeking fuller compensation from the rector of the parish. In other words it is very difficult from this evidence to substantiate claims of widespread anti-clericalism. If it did exist, the laity chose to express its grievances in other ways, or to avoid taking priests to court. It may well be that parishioners were reluctant, on the whole, to sue priests, but this is a more difficult matter to determine.

Priests could also of course be prosecuted. One of the most pressing problems facing parishes was the upkeep of the church building. In England, unlike continental Europe, the incumbent was responsible for the chancel and the manse, and so for ensuring the continuation of divine service and priestly residence. This placed enormous strains on the purse strings of the penurious parson, no doubt made worse in some cases by the Henrician injunctions of 1536 ordering that a fifth of the incumbent's (or proprietor's) income should be reserved for the maintenance of the buildings. In such circumstances there were good reasons for the parish priest to be parsimonious.

An abiding problem for the clergy and the courts in general was the need to ensure that church and manse was kept intact. Structural problems over a period of time were inevitable and failure to repair could mean trouble, most often the threat or actual sequestration of the goods of the church. In 1538 the Rector of Segbrooke was warned to repair his manse. He fell ill and the court again warned him to pay, this time under threat of punishment. Fortunately for the beleaguered priest the parishioners stepped in and came to his rescue. Here at least there is an example of a priest who seems to

113 Leic.AO,1D41/11/l,fo.26v-44; CCL,Y/4/4,fo.5v, Y/2/4,fo.193v-203; Y/2/7 passim
114 Visitation Articles and Injunctions op.cit.,ii,p.11; Houlbrooke, Church Courts. p.157
115 LRO,Vij/1,fo.42v
have been popular with his parishioners, rather than the enemy so often portrayed. In another case in December 1526, Henry Danyell, Rector of Kingsdown, was ordered to reside under pain of deprivation.\textsuperscript{116} For the most part though the courts were not so rigorous, indeed the court had issued warnings to Danyell for five years before threatening this most serious censure.\textsuperscript{117}

As for dilapidations, there is considerable evidence to suggest that problems persisted over a long period of time; that the courts were not ruthlessly demanding that repairs be carried out or replacements purchased. In fact a treatise dating from this time argued that dilapidations should only be fixed on those churches worth it.\textsuperscript{118} Perhaps court officials agreed. Of sixty-seven faults reported to the Archdeacon of Leicester in 1509, 27 were reported again about ten years later.\textsuperscript{119} Of 172 churches visited by the bishop at that time, at least 23 reported the same defects when the archdeacon visited in 1526.\textsuperscript{120} Clearly the court was being lenient. The procedure adopted aided this inasmuch as the "offence" was not recorded as a prosecution but noted in the call book. The matter only made it into a regular session if the court considered that it was about time something was done. The only exception to this practice was at Lincoln where the nature of the visitation included this material, but there is no evidence to suggest that this court did not display the same sort of attitude.

The courts were, nonetheless, prepared to act at some stage and they handled such cases as ordinary prosecutions. What the rationale giving rise to a prosecution was is difficult to tell, and more than likely depended upon the judge's assessment of each case on its merits. In the first half of the nineteenth century Archdeacon W.H. Hale advocated to the visitor that he bear in mind the condition of the incumbent and consider

\textsuperscript{116} KAO, PRC 3/6, fo. 55
\textsuperscript{117} CCL, Z/3/4, fo. 29v; this records the first warning issued by the court, in 1521
\textsuperscript{118} BL, Cotton, Cleopatra FII/21, fo. 49-50
\textsuperscript{119} Bowker, Secular Clergy. p. 132
\textsuperscript{120} ibid., p. 132
his capacity to meet the problems at hand. Archdeacons, or their Officials, may well have applied the same criteria in the sixteenth century.

Here again, however, it should not be assumed that court officials were sympathetic only to the clergy. The courts could also be lenient to the laity. In 1548 the registrar at Northampton noted that the churchwardens of Cold Higham had been warned to carry out reparations, buy a register, set up a poor box and more. They were warned again, and now, two years later, they were brought to court because nothing at all had been bought. It was only the notes of the registrar which tell this story. This sort of patience may have been commonplace.

Another matter facing the courts in their relationship with the clergy was to ensure that each parish was adequately served. Non-residence was of course an on-going problem for the church. One of the major functions of archdeacons' courts was to ensure that the services of the church were available to all parishes, where possible. Archdeaconry courts were indeed prepared to act if there were problems. In 1523 both Lympsted and St.Mary's Bridge had their fruits sequestrated because the proprietors had left them vacant. In July 1525 a chaplain was ordered to sequestrate the fruits of the parish of River where the vicar had failed to appear at any stage.

The 1529 Act regulating non-residence and plurality provided certain conditions making it possible for some people to remain non-resident pluralists. If the incumbent was exempted by the Act, due to university studies or service of the king, then the archdeacon's court was powerless to interfere. In fact the statute seems to have had little practical effect in reducing non-residence, and in 1544 the lower house

121 W.H.Hale, The Duty of the Archdeacons As Respects the Visitation of Parishes in Order to the Repair of Chancels and Glebe Houses considered in An Address to the Clergy of the Archdeaconry of London. (London,1863) pp.8,11-12
122 NRO,Arch.III,fo.71v
123 KAO,PRC 3/5,fo.156v
124 KAO,PRC 3/6,fo.30v
125 21 Henry VIII,c.13
of Convocation actually moved to have it repealed because, it argued, it was counter productive.\textsuperscript{126} In any case how easily an archdeaconry court could presume to challenge the likes of Thomas Starkey who was the Rector of Mongeham, even if he was not eligible to claim exemption, is another matter.\textsuperscript{127} These were junior tribunals not in a position to enforce the law upon senior officers of church and state. Other men, such as Lewis Ap Rice and Nicholas Wooton were also long-term non-residents in the diocese of Canterbury who were beyond the reach of the archdeacon's tribunal.\textsuperscript{128} In 1520 when the archdeacon's court challenged Magister John Aluph, asking why he was not resident, it was told that he was working on behalf of the archbishop.\textsuperscript{129} In 1546 Gerard Crofte was able to excuse himself from the visitation because he was absent "on the king's business."\textsuperscript{130} In such circumstances, and they were common, the archdeacons' courts were powerless to act.

It should be added however that non-residence did not mean that the parish was without a priest, indeed this seems not to have happened before the 1530s. Second, pluralists should not necessarily be blamed for the dilapidation of parishes. At Leicester in 1526 there were five parishes held by pluralists in which they actually lived, which were in a poor state. Another twenty three, held by non-resident pluralists, were in fact in good order.\textsuperscript{131} In Norwich in 1499 there were 48 parishes with absentee incumbents but of these only two were dilapidated.\textsuperscript{132} In other words, the state of the parish churches bore no relationship to the question of residence.

\textsuperscript{126} Houlbrooke, \textit{Church Courts}. p.186; Synodlia.op.cit.,ii,p.435
\textsuperscript{127} CCL,Z/3/5,fo.6
\textsuperscript{128} CCL,Z/3/5,fo.9,12; care should be taken not to conclude that all pluralists/non-residents were the higher clergy, or culpable. Where parishes had to be joined it is possible to speak of an incumbent being both, although he may, in such circumstances, be quite poor
\textsuperscript{129} CCL,Z/3/4,fo.70v
\textsuperscript{130} NRO,Arch.III,fo.6
\textsuperscript{132} Heath, \textit{The Parish Clergy}. p.67
In short, the courts were hampered in the extent of their jurisdiction in real terms, and were mindful of the difficulties facing the men in the parishes. The parishioners of Cosgrove notified the court at Northampton that they had not received a sermon for over six months "because the parson is in danger," presumably physical danger threatened by an irate local. Clearly there was strife which the court had to take into account. That archdeacons' courts were prepared to be tolerant to clergy no doubt worked in some men's favour. In 1546 Thomas Fawke was brought before the archdeaconry court at Northampton because he had not been with his parishioners for twenty years. How he was able to avoid the court, or why it failed to act sooner is significant. The loopholes still allowed by the 1529 statute may well have provided an excuse for people even when legal entitlement to the exemption was no longer evident.

Were the courts dilatory in such circumstances as Fawke's case, or too lenient, or bound by regulations of canon or statute law? No doubt there are elements of all of these evident in the way that the courts dealt with the clergy. There can be no absolute answer, but it should be stressed that because matters were not heard in court, there is no reason for believing that they were ignored. It is certainly true that the courts did not prosecute many men for failing to provide adequate hospitality, or set aside money for the purchase of the Bible and other accoutrements. It may have been that incumbents were approached on a more informal basis by the court officials and admonished to perform the duties outlined.

Dilapidations and matters relating to pastoral service were first noted, if at all, in visitations without the offender being called to an ordinary session. Only the more troublesome individuals appear as defendants in formal sessions. In other words the prosecutions of priests should not be regarded as evidence of the primary concerns of

133 NRO, Arch.III, fo.30v
134 NRO, Arch.III, fo.103
135 NRO, Arch.III, fo.93,102v; there are three cases cited here in which there was a failure to provide hospitality and they are the only examples of this particular offence out of three different courts' records that survive from this time
the judges, but there is no escaping the conclusion that the clergy seem to have benefited from lenient courts.

Table 8: Clerical Offences.136

<table>
<thead>
<tr>
<th>Offence</th>
<th>Canterbury(1521)</th>
<th>Leicester(1522/23)</th>
<th>St.Albans(1524)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-vicar</td>
<td>1</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>-unbeneficed</td>
<td>7</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Pastoral problem</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-vicar</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>-unbeneficed</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Contempt of court</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-vicar</td>
<td>-</td>
<td>1</td>
<td>-</td>
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<tr>
<td>-unbeneficed</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Unknown</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-rector</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-vicar</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Total of priests</td>
<td>9</td>
<td>13</td>
<td>1</td>
</tr>
<tr>
<td>Total Prosecutions</td>
<td>119</td>
<td>145</td>
<td>66</td>
</tr>
</tbody>
</table>

By utilising the procedures outlined above the courts were able to protect the members of the clergy from undue exposure to lay criticism. The proportion of suits was, in these sample years, 7.5% at Canterbury, 8.9% at Leicester, and 1.5% at St.Albans. The Leicester material is especially interesting because vicars are cited to appear more often than the unbenefficed clergy who generally had a worse reputation for moral failings.

This table does go to show that in the ordinary course of events the archdeaconry courts were more likely to prosecute priests for moral failings than for pastoral matters. Whether the courts were not diligent enough in promoting the pastoral efficiency of the clergy, or whether this reflects the true balance of pastoral as opposed to personal failings remains dubious. The table points to procedural techniques as much as anything else, as the courts seem to have adopted an entirely different approach to the

136 Leic.AO,1D41/13/1,passim; CCL,Y/4/4,fo.58v-62v; KAO,PRC3/5,fo.4v-19v; HRO,ASA,7/1,fo.34; unbenefficed clergy are taken to be the capellani and stipendarii
problems of different kinds. Similarly, it does not necessarily indicate what was of greater concern to the parishioners themselves.

So it was that members of the clergy could ill afford to act contrary to the law of the church in other respects because it was more likely to lead to presentment before the Official. In 1530 John Valyant was cited to St. Albans for ministering the sacrament to two suspended persons, and at Sittingbourne in 1531 Thomas Lynden did the same thing. Beyond these matters the clergy were, like members of the laity, subject to scrutiny in the conduct of their lives.

Since the Gregorian reforms removed marriage and marital comfort from priestly lives, sexual incontinence became a major disciplinary concern. The frustration no doubt faced by many men is adequately highlighted by the rape case mentioned earlier. One cannot know whether the prayerful and diligent members of the clergy were torn between their vocational responsibilities and their sexual drives. Some were certainly overt sinners. John Bourinan of Minster in Thanet, was discovered to have three different lovers at one time. John Dove, vicar of West Hythe, was different inasmuch as he had apparently developed a close, albeit incontinent, relationship with Agnes Porter which he found difficult to finish.

Sexual lapses have been an abiding problem and the focus of considerable attention. Church law warned clergy not to keep "inappropriate" women as housekeepers lest they should be suspected of being concubines, and it may be true that hearthmates were often the butt of local gossip. In some cases the domestic help of a woman was enough to kindle suspicion.

Sex, however, is only one of many pathways to sin. In a rage of temper, we are told that George Dann, a priest, hit another priest and was later suspended after refusing to

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137 HRO, ASA 7/1, fo. 61v; KAO, PRC 3/7, fo. 111
138 KAO, PRC 3/6, fo. 15v, 16
139 KAO, PRC 3/5, fo. 44v
140 KAO, PRC 3/6, fo. 28v O. c. curate of River et Ricard; HRO, ASA 7/1, fo. 18v O. c. vic. de Langley et Wynch
appear in court. At Lincoln, the Rector of St. George, Stamford who was suspected of embezzling church funds and then concealing the church accounts, also refused to appear in court. Robert Colyn, the Rector of Belchford, compounded his offence of impregnating a woman in 1538 by abducting the child which could no longer be found. This may well have been another case of infanticide, but the court had to drop the matter at the order of the chancellor of the diocese; in itself a most unusual measure. William Garad, the curate of Bonnington, was cited for hurling indecent words at some of his parishioners. Much of a priest's success depended upon his ability to live with his parishioners, but Richard Colyer, curate of Ridge, persistently upset his cure of souls because "he is an unruly person and will be dronke and also is a quarreler with men."

For the courts the dilemma was how to punish the priest if he was found culpable. A severe punishment might undermine his authority within the parish, but leniency could be construed as a licence to continue to behave improperly. At Lincoln it was common practice for the court to commute sentences of public penance for ten shillings. In a letter to Thomas Cromwell in June 1537, Thomas Tyrrell complained that his local priest had brought his own woman and children into the vicarage, and that the ordinary had so far failed to act.

At times the parishioners could make their feelings well known and so harden the courts' resolve. The churchwardens wrote to the Official of the Archdeacon of Lincoln asking him to order their priest to carry "a leght be for the cresifyx," that is, perform

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141 KAO,PRC 3/5,fo.108v  
142 LRO,Vij/1,fo.14v; see also HRO,ASA 7/1,fo.44  
143 LRO,Vij/1,fo.103  
144 KAO,PRC 3/7,fo.37  
145 HRO,ASA 7/3,fo.20v  
146 e.g.LRO,Vij/1,fo.103,104; second offenders could not look forward to the same sort of compassion, ibid.,fo.72 O. c. Anderson  
147 Three chapters of letters relating to the suppression of monasteries. ed. T.Wright (Camden Society,o.s.26,1843) p.160
public penance. When the parishioners of Ryarsh wrote to the court at Rochester, they not only indicated their grievances against the priest but also threatened to take the matter further if enough was not done to curb his dubious habits.

The courts' policy in these matters was to distinguish between the different offences. Where the offence related to the cure of souls then sequestration, suspension from office or deprivation would be considered. Often, where there was a moral lapse then the offender might have to perform public penance. In all cases of course the courts reserved the right to administer a warning only. It would seem that most courts were prepared to be lenient in dealing with the clergy over these matters, but this perhaps reflects concern for parochial harmony rather than a policy decision to shield clerics from effective prosecution.

It is impossible to estimate the effects such incidents had upon parish life from the archdeacons' records alone but the furore over broken celibacy vows centred not only upon the personal failing of the priest, and therefore the danger to his own spiritual welfare, but also the danger to his parishioners. Priests were not insensitive to their position within the moral community, many sought to protect their own standing by suing for defamation.

John Mirk warned the clergy not to lead Christians into blindness, and bishop Gardiner also argued that the people "for the more number of them, such as be most rude" were such that "they be after led to good lyfe by imitation rather than by hearing."

The most bitter denunciations against priests were over their failure to fulfil priestly functions. In articles presented to the Official at Lincoln in 1538, it was alleged that the

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148 LRO, Vij/1, fo.94
149 KAO, DRa/Vb4, before foliation commences
150 e.g. Houlbrooke, *Church Courts.* p.175
151 e.g. *ibid.* p.179
152 CCL, Y/2/4, fo.129
153 *The Letters of Stephen Gardiner.* op. cit., p.311
Vicar of Sedgebrook would not allow some people to be confessed, that he celebrated holy days on the wrong days, that he let consecrated bread fall to the ground on Easter day, and that he incorrectly hung the sacrament in the pix.\textsuperscript{154} In another case articles against the Vicar of Pepinbury accused him of attacking parishioners (by"stikke[ing] them with his dagger"), of not visiting the sick, of letting a woman die without administering the last rites and then allowing her to lie unburied for some days, of not celebrating the mass and finally, of being suspected of having sex with a local woman.\textsuperscript{155} Other presentments forcefully argued by the parishioners also included the charge against the Vicar of Redbourne of refusing to allow a man to worship in the parish church.\textsuperscript{156} At Lincoln in 1538 it was reported that Thomas Carryll refused to read the scriptures to a man lying on his death bed until he had been paid some money.\textsuperscript{157} No doubt sexual prowess was not likely to benefit a priest's reputation as a religious pastor. Curates and stipendiaries in fact sometimes lost their livelihood through this sort of lapse.\textsuperscript{158} Nevertheless, where informative documents such as depositions survive in court books, they show that the most bitter attacks upon members of the clergy rarely feature moral failings as the major problem. More often than not the major point at issue was pastoral neglect. The Rector of Chelisfield was clearly in trouble in 1524 for allegedly committing adultery with two women. It was made worse however because he had also allowed the chancel and the manse to decay into a shocking state. He had also managed to fight with a number of his parishioners, at one time referring to them as "hores and witches."\textsuperscript{159}

\textsuperscript{154} LRO,Vij/1,fo.81  
\textsuperscript{155} KAO,DRb/Pa7,fo.5v  
\textsuperscript{156} HRO,ASA 8/1,fo.62v  
\textsuperscript{157} LRO,Vij/1,fo.213v  
\textsuperscript{159} KAO,DRb/Pa8,fo.68
The survival of some of these documents which give us more information than can be gleaned from normal court entries may bias the evidence, but it does bring into focus the realisation that the rites of the church were central pillars for many people, and in the sacrificial and sacramental life of the parish the priest or priests were the spiritual intermediaries who possessed the means of transcending the profanity of this world to the sacerdotal and mystical sphere of godliness. But if this (Durkheimian) notion appears to neglect the importance of the priest's moral calibre it is not intentional. Nor do figures of moral as opposed to pastoral failings provide us with any greater insights into local attitudes to one weakness over the other, but it may be that like the 26th (of the 39) article, more significance was placed on the priest as pastor than as man, even if no articles of faith said so.

Problems facing the Courts.

As courts fit into a structure, or at least as their methods do, so it is inevitable that chinks appear in the armour and that problems with the system manifest themselves. In short, there were some occasions in which the courts had a limited impact, and/or were not regarded with much respect.

This is not simply that some offences went unnoticed by the parishes and the courts. There must have been those cases in which the parish chose not to resort to the courts, and others, easier to illustrate, in which the parish opposed curial participation in communal life. The failure of churchwardens to inform the courts of difficulties, problems or offences is an obvious example. At Buckingham in 1553, the churchwardens of Latembris were absent from the visitation. The court investigated
and found that the chancel was "ruinosa" and it appears that the parishioners were reluctant to inform on their priest.\textsuperscript{160}

At times the court allowed a period of grace, as in December 1557, when Edward Phippe, churchwarden of Norton, was warned to prepare a list of presentments before the feast of the Annunciation, but under pain of paying forty shillings.\textsuperscript{161} In the previous year the churchwardens of Sandridge had to appear in court in order to explain their failure to present names.\textsuperscript{162} In May 1524 John Sape, of Watford stepped forward and reported that the officials in his own village had failed to present suspects to the judge at the recent visitation.\textsuperscript{163} This was not a problem faced by churchwardens alone. In 1511, during Archbishop Warham's visitation of his own diocese, it was reported that Richard Dryland of Faversham encouraged his neighbours to refuse to pay tithes, claiming that the lord of the town would help them in this matter.\textsuperscript{164} The matter was clearly complicated because Faversham was a member of the Cinque Ports. From the visitor's point of view there were too many miscreants for the court to handle this conventionally, irrespective of jurisdictional complications. Churchwardens or ringleaders like Dryland were useful as scapegoats, held up as examples for ridicule and censure. In other words Dryland was punished as an example to those who supported him. This sort of selective punishment replaced normal doctrines of law where there were too many miscreants to handle, and also when inaction could be interpreted as failure. In this sense the parish acted, using the words of one historian, "against the law" but such a stance is nevertheless "legitimate when placed in the context of a set of values different from those of the lawmakers."\textsuperscript{165}

\textsuperscript{160} ARO,D/A/C/1,fo.20
\textsuperscript{161} HRO,ASA 7/3,fo.21
\textsuperscript{162} HRO,ASA 7/3,fo.7v
\textsuperscript{163} HRO,ASA 7/1,fo.35
\textsuperscript{164} The Kentish Visitations of Archbishop William Warham,op.cit.,p.176
While the functioning of archdeaconry courts depended upon the participation of parishioners, there were those who did not form part of the "moral community" which gave effect to perceived obligations. Court records however can only tell us about those who did. Certainly it is true that the members of the higher orders escaped censures at this level as did the higher clergy. The cost to their own prestige would have been intolerable, while suits would more adequately be settled by a higher authority, away from the prying eyes of local folk, with the advantage of capable legal minds at their disposal. Appearance before an archdeacon's court could undermine the authority of the gentry and challenge the social place of the higher orders. It was not the place of the gentry and its superiors to be subject to local courts but influence them, and not always to the courts' liking. Many members of the gentry for example, effectively governed the local clergy. This was not something which changed noticeably during the Reformation. In 1548 the curate of Sandhurst stated that he ministered the sacrament only in one kind because the local lord would not allow it in both, and in the same year the curate of Waldershare explained deviations in church services because he had been requested to do so by Edward Monias, the owner of the manor of Waldershare. In a later example from Sandwich, the jurats were admonished for failing to stand up to the town oligarchy.

The most common points of contact between gentry members and local church courts was as proctors or arbitrators. If anything this was a vehicle for advancing local influence. We noted this in chapter four, as with Richard Brokesby at Leicester, whose relations were frequently called upon to act as arbitrators. Court officials like Edward Broughton, John Prynne and John Pope participated in court in this way along with the

166 C.E.Woodruff, "Extracts from Original Documents Illustrating the Progress of the Reformation in Kent." AC. 31,1915. pp.96,101
likes of Sir William Crowan, Richard Neville, George Vyncent, and the lord of the manor of Eastwell.

Such privilege led the parishioners of Footscray to complain to the Bishop of Rochester about a local gentleman who had been presented repeatedly but against whom no action had been taken. Exceptions to this rule are rare. One example is provided by Henry Lewkenor, a member of a prominent Sussex family. He was cited to appear for committing adultery in February 1521 and then again, in a quite different case, in March 1524. Whether or not he had in some way divorced himself from his family and therefore its local standing is a moot point, but the court records still title him "gent." In another case from Lincoln in 1537 Sir William Skipwith was prosecuted over dilapidations to a parish he had appropriated.

More commonly however, such men were beyond the reproach of the courts. In June 1537 Dr Lee wrote to Thomas Cromwell lamenting that in the archdeaconries of Coventry, Stafford, Derby and Cheshire, the knights and gentlemen "lyvythe so incontinently, havyng ther concubynes openly in ther howses, with v or vj of ther chyldren, pulling from their wyfes."

Counterbalanced against this section of society were those not included within the moral community for different reasons. How appropriate it is to support the idea of "a seam of irreligious people lying below the greater mass of nominal Christians" has

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168 CCL,Y/2/7,fo.140
169 Leic.AO,1D41/11/2,fo.39
170 Leic.AO,1D41/11/2,fo.63
171 Leic.AO,1D41/11/2,fo.83
172 KAO,DRb/Pa9,fo.47; the gentleman's name has been ripped from the manuscript
173 The Commons, 1509-1558.op.cit.,ii,pp.528-30
174 KAO,DRb/Pa7,fo.101v; DRb/Pa8,fo.39
175 LRO,Vij/1,fo.156
176 Three chapters of letters.op.cit.,p.243; although it should also be remembered that at least part of this area was comprised of a complex set of jurisdictional arrangements and it is not clear who could have dealt with this matter.
177 Marchant, The Church under the Law. p.227
recently been queried by Collinson. One of the measures of this group extraneous to the moral community was the high level of excommunicates in existence. But this high level of excommunication dates from a later period when levels of contumacy were higher compared to the levels in the pre-Reformation years. Not surprisingly, the poor have been labelled as the back bone of such a group. Hostiensis believed that the poor man's word counted for nothing in court because he "hath nothing to offer; and therefore he hath no hearing." On the other hand the Commons of 1532 alleged that church courts only prosecuted people of the poorest sort. Evidence on this is at times inconsistent. On more than one occasion prosecutions of paupers, throughout the Reformation period, were dropped almost immediately, creating the impression that because they could not pay fees then the exercise was useless. But this may be an unfair observation. Certainly there were exceptions. At Buckingham in 1551 the pauper Henry Blackwell of Castelthorpe was prepared to pay money instalments as a commutation, rather than suffer the shame of open penance.

There were also those who were not of the poorer sort who were given no concessions by the courts. At St. Albans in the 1530s and 1540s, Harry Grubbe is apparently the epitome of a moral bankrupt. On several occasions he was charged with sexual incontinence and in one case, information about him spending the night with a woman was enough to cause her to lose a defamation action, and lead to considerable embarrassment. Grubbe however was not a poor man, and was in a position to benefit from the scramble for monastic land after the dissolution, and even before then he was a local appropriator. Similarly, James Myrial was bailiff in Northamptonshire in the 1550s and was reported to have impregnated a woman who once lived in his house and

179 Coulton, The Medieval Village, op. cit., p. 73
180 ARO, D/A/C/1, fo. 64v
181 HRO, ASA 8/1, fo. 102 Grubbe c. Clerke
was now married to another man. What damage, if any, this did to his local standing and credibility is open to speculation.\textsuperscript{182}

Another difficulty is posed by the vagabonds of Tudor England who constituted an increasingly large portion of the population in the 1500s. One such woman, Elizabeth Willos, was convicted of committing adultery, after being presented at Rochester. No compurgators were called, and she was ordered to perform public penance and then to leave the diocese.\textsuperscript{183} Not only is she notable as the only vagrant presented, it must also be remembered that she did not fit anywhere, and this was true for many people.\textsuperscript{184} This is true also of some soldiers who entered the cathedral at Canterbury in 1543 and desecrated part of it before moving on.\textsuperscript{185} This may also be the case with the backwoodsmen and cottagers who lived beyond the scope of the parish structure.

Contemporaries could also point to evil livers such as innholders "that lodge whores and thieves seldom their getting anyway proves" (i.e. are not stopped).\textsuperscript{186} They might point to Southwark with its brothels, which were not even bothered by the Archdeacon of Surrey, but only the bishop's court leet, and sometimes the mayor and sheriffs of London.\textsuperscript{187} There is perhaps a danger of confusing those who were and those who were not part of the parish system.

Furthermore, while surveillance of parishioners was evident, it did not guarantee good behaviour from all parishioners. Recidivism was certainly evident. James May at

\textsuperscript{182} NRO,Arch.III,fo.139
\textsuperscript{183} KAO,DRb/Pa7,fo.121 (June 1521)
\textsuperscript{184} J.A.Sharpe, "Crime and Delinquency in an Essex Parish, 1600-1640." \textit{Crime in England, 1550-1800.} ed. J.S.Cockburn (London,1977) p.100; A.L.Beier, "Vagrants and the Social Order in Elizabethan England." \textit{Past and Present.} 64,1974. p.138; it is clear that a large many of these people were looking for the means of earning a living. That they did not belong to a parish structure was a major reason for the prejudice levelled against them. The only other vagrant cited in the records was in a prosecution at Canterbury in 1521,KAO,PRC 3/4,fo.168v \textit{O. c. Elizabeth Moll} who had allegedly had sex with a vagabond
\textsuperscript{185} The Letters of Stephen Gardiner.\textit{op.cit.},pp.148,151-5
\textsuperscript{186} The Elizabethan Underworld.\textit{op.cit.},p.15
Rochester was clearly a troublesome character. He frequently returned to the court at Rochester on charges relating to his moral character, and yet he did not demur from going to court if his own rights had been violated, indeed he sued another person for defaming his name and fame.188 Alice Trittel of Kennington made repeated visits to the archdeacon's court of Canterbury for prostitution before she disappeared from the records.189 This seems to have been the pattern in a number of cases.

Still, some questions go unanswered. Why was it that although four men were cited in 1526 for having sex with Margaret Hayman of Kingston, Margaret herself was not charged?190 There is no indication that she was dead; perhaps she moved locality. There is other circumstantial evidence suggesting that there were a number of people who did not comply with church strictures. In all courts victuallers were prosecuted for selling food to people during divine service. But what about the people who were their patrons? Sometimes shadowy figures linger in the background. At Canterbury in 1531 Philip Sayer was charged with visiting prostitutes, but there was no action against the women.191 In 1540 an Oxford resident was cited to court because he threatened scholars who were wont to seek the company of naughty women, and he may well felt aggrieved that the court did not choose to cite the women instead, or even the scholars themselves.192 In 1522 Margaret Harrison was cited for consorting with "suspect persons."193 No where are these people cited. While it is accepted that there were "drives" against particular offences, and that visitors set out to combat particular activities, what other offenders escaped prosecution during periods of non-repression?

Such apparently unassailable people are not easily classified within a structure and machinery which depended upon the parish. While Collinson is right in suggesting that

188 KAO,DRb/Pa7,fo.180v May c. Albertson et ux.
189 KAO,PRC 3/5,fo.42,45v
190 KAO,PRC 3/6,fo.48v,50
191 KAO,PRC 3/7,fo.115v
192 LRO,Cj/6,fo.70v
193 KAO,DRb/Pa7,fo.150v
churchwardens may have discriminated against the poor in their returns to the archdeacons, and that the notion of a non-respectable society is an intellectual anachronism, the importance of belonging to a parish was critical. The flexible nature of the system meant that priorities varied enormously from one parish to the next, reflecting anything from a cohesive collective antipathy to court intervention, to parishes in which neighbours "fall at anger and debate"\(^{194}\) and which used the courts to help regulate social relations.

One feature of the courts' activities which partly determined the capacity of the court to participate in parish life was the amount of travelling it undertook throughout the jurisdiction. We noted the variations in practice between the courts in the respect in the last chapter. It is true that in some cases plaintiffs were prepared to travel some distances to pursue a matter in court, indeed it may have been necessary in cases in which the parties did not belong to the same parish, or area and thus little chance to employ more informal methods of resolving a dispute. William Luthand of Shelford in Nottinghamshire had to travel thirty miles or more one way to attend each session of a suit in 1529 which he was suing at Leicester\(^{195}\).

The burdens imposed by travel to court were considerable, especially if the litigant did not possess a horse, which was more than likely the case. As noted in the last chapter, there could also be problems in getting witnesses to court; witnesses could ill afford to lose a work day. Almost inevitably the accessibility of the courts was a major factor in determining whether people were going to resort to court. In the cases arising in the archdeaconry of Leicester in 1525, in which the parish of the plaintiff is mentioned and legible, less than a quarter came from the outskirts of the jurisdiction, even though the jurisdiction extends, at most, fifteen miles from Leicester and Belgrave, where all the court sessions were held. At Rochester this feature was just as

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\(^{194}\) *The Elizabethan Underworld*, op.cit., p. 2

\(^{195}\) Leic.AO, 1D41/11/2, fo. 77 *Luthand c.fflower*
7: The Nature of Judicial Activity

pronounced. As noted the court only sat at Rochester, Malling and Halling. In 1521, 48 of the 78 disputes came from within a ten mile radius of these towns, and only 20 came from further than 20 miles away, despite the fact that some of the parishes in the north-eastern quarter of the diocese were quite highly populated. Some parishes, especially those on the western fringe of the jurisdiction, such as Westerham, Cudham or Edenbridge, do not feature at all. Nor is it co-incidental that they were in heavily wooded areas where the roads were very poor. Even in small jurisdictions such as St. Albans, and at Canterbury, where the court was peripatetic, certain areas away from the court centres go unmentioned.

The courts themselves prosecuted fewer people from outlying areas - presumably because there was less chance of interaction between the court personnel and the locals. At Rochester in 1521, only 25 out of 84 defendants came from parishes more than fifteen miles away from court venues. Here again, the western part of the jurisdiction is not represented in court at all. The importance of travel should not be underestimated. It is clear from this that even archdeacons' courts could not be all embracing. In these circumstances we cannot be sure how disputes were resolved. Some claims for petty debts could be brought in hundred courts, but as for other matters it is impossible to say.

As for miscreants, it should be remembered that local "shame" punishments could be utilised. A "skimmington" might be used, or "rough music" played, or the sinner might have been tied to a "cucking stool" for public exhibition. In some places a


197 There were only 26 parishes in the archdeaconry of St. Albans. Four of them were separate from the bulk of the jurisdiction and lay in Buckinghamshire; almost nothing of these places is mentioned in the court books.

These were devices open to all communities of course. It appears likely that they enjoyed wide currency, but it is not possible to say how wide. Nor can it be estimated when these techniques would have been used in place of a formal court proceeding. It would appear however that they may well have been used more often in communities which had some difficulty in gaining access to a court which was prepared to hear the matter at hand. In other words one of the major attractions and qualities of the archdeaconry courts was not simply the nature of the law they enforced, but the fact that they were closer to wide sections of the community than other tribunals.\footnote{199 Cf.J.A.Sharpe, "Crime and Delinquency in an Essex Parish, 1600-1640." in \textit{Crime in England, 1550-1800.} ed. J.S.Cockburn (London,1977) pp.91-2} The strength of a legal system is not only that it should find expression in the attitudes and lives of the people who are supposed to subscribe to its tenets, but also that it is enforceable, so that the structure of the court is used and provides a service; to support the ethos of the law within the community and thus vindicate its own existence.

\textbf{Conclusion.}

In conclusion, what we possess in courts books is no more than a registration of the sorts of problems confronting people in the pre-Reformation period, and some indication of the rules applied and the rationale behind that application. That the courts
The Nature of Judicial Activity

Depended upon popular support is an indication of their significance, but that the courts did not possess "catholic" sovereignty or even attempt to attain it is equally clear.

What is actually meant by "popular" attitudes also becomes confused with applying generalities when there was some scope for a plurality of thinking, particularly in the way that the courts participated in communal life. It should be remembered that in the 1520s, even before the difficulties posed by the later changes, the courts did not possess a universal hold over all parishes, let alone all individuals. In a county such as Kent, containing in excess of 80,000 people, the total number of prosecutions stood somewhere between 200-300 people. At best this represents 0.375% of the population. Is this to be read as problem or as a measure of success?

To this question there can be no answer. The social impact of a legal system, and the courts which give voice to that system, is not to be found only among records of the courts. The existence of the courts may in itself have influenced patterns of behaviour, whether through fear of prosecution, or simply via the recognition of modes of behaviour which were respected.

The most significant feature of the way archdeaconry courts operated in society, despite modern doubts, and contemporary polemicists, was that they worked in accordance with the needs of society. They did so in a way which received the implicit consent and support of society and the courts firmly depended upon the co-operation of that society.

The administrative advantages of the parish unit are obvious, but the social relations intrinsic to such social organizations was a critical element in the way the court and society met each other's needs. It was a demand, by "moral communities" as well as

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200 This is a broad estimation based upon the figures cited in the introduction. Prosecutions refer only to those by the archdeaconry courts of the two dioceses.
their proximity to parishes, which enabled the courts to enjoy enormous judicial flexibility.

There were exceptions to this generalization. The clergy did receive somewhat different attention, which resulted from their extraordinary place within the moral community, as pastor. It is noticeable, however, that the courts were prepared to act against priests on those occasions when parishioners complained of their pastoral inadequacies. Certain other unavoidable constraints also combined to undermine the courts' capacity to maintain a comprehensive eye over the archdeaconry. In many ways, however, the courts regulated society for society, rather than the church. But the courts were caught between the needs of society and the orders of their superiors, and the Reformation seriously disturbed the pattern of relationships.
CHAPTER EIGHT.

Reformation and Crisis

While it seems clear that archdeaconry courts were eager to reinforce the obligations inherent in social relations, as far as they were able, the thirty years after 1529 witnessed a considerable change in their capacity to do so. After 1532 there were a number of criticisms of the courts, along with more general attacks on the church.\footnote{Cf. S. E. Lehmberg, *The Reformation Parliament, 1529-36.* (Cambridge, 1970) pp. 82ff.}

The diverse interests of the church courts were no doubt a major cause of disaffection and one lawyer suggested that the whole concept of ecclesiastical authority should be reviewed.\footnote{LP. ix, no. 1065} Elsewhere it was mooted that courts spiritual should no longer conduct prosecutions except in heresy proceedings.\footnote{LP. Appendix. no. 28} Following the argument that canon law was a foreign law detrimental to the king's authority, the study of it was forbidden in the universities and there were attempts to re-codify church law in such a way as to appear least offensive to the king's laws.\footnote{see chapter three}

Legislation clearly touched upon the work of the courts, and threatened to do more, but it could also be argued that contemporary legislation contained no overt threat to archdeaconry courts. The act of six articles called for all judges, including archdeacons and judges in exempts, to have full power and authority "by virtue of this Act."\footnote{Documents Illustrative of English Church History. op. cit., pp. 312-13} The first Edwardian Act of Uniformity, despite being in the hands of the justices of oyer and terminer including the same judges mentioned above to take cognisance of and punish offenders under the Act.\footnote{ibid., p. 366} The second Act of Uniformity of that reign charged
the bishops and other ordinaries with its execution\textsuperscript{7} while the injunctions of Mary in 1554 stated that all who had ecclesiastical jurisdiction were to enforce the canon, as they had done at the time of Henry VIII.\textsuperscript{8} Thus, it could be claimed, the courts did not suffer directly from these pronouncements.

Furthermore, we noted that much of the courts' non-contentious business continued without notable changes, and even court procedures were not greatly affected by the contemporary upheavals. Moreover, it was at this time that the most fundamental changes were being made in the religious structures and practices of the country, and legal institutions had to carry out this work. Structurally this included the dissolution of the lesser and greater monasteries, incidentally altering the constitution of many cathedrals, and the creation of six new dioceses. The chantries were dissolved along with collegiate churches, and the source of power was more firmly vested in the king in Parliament. New religious practices were allowed, while others were discouraged or forbidden. The apparatus of worship was also changed to suit the dictates of the regime. Houlbrooke, speaking for all courts, states that with the Reformation, normal tasks became more formidable, and a number of new ones added to the courts' workload. He continues by saying that the end of auricular confession removed an important device for the resolution of parochial grievances, and the courts had to step in more than ever. The problem of maintaining church buildings became more onerous, and further, the purchase of a whole new range of items, including the parish poor box, parish registers, the Great Bible, pulpits, homilies, prayer books, the \textit{Paraphrases} and chalices had to be enforced. On top of this, although he does not mention it, was the

\textsuperscript{7} \textit{ibid.}, p.370
\textsuperscript{8} \textit{ibid.}, p.380
need to be on the lookout for heresy - the most pernicious form of social anarchism known to that society.\(^9\)

To what extent can these remarks be said to apply to the archdeaconry courts? By and large, archdeacons' courts' conduct of contentious business was central to their role in society, and it was this area of business which was catastrophically affected during the thirty years after 1529.

There are several, quite distinct issues at stake, in the light of Houlbrooke's comments which will be discussed. The first is the impact of the Reformation on the parish life of the country and the response adopted by the courts in the face of these changes. The second centres on the implementation of central orders regarding the elements of change, and finally, the doctrinal threat to the religious make-up of the English people.

Religious Non-Conformists and Heresy.

Perhaps the easiest of these questions to resolve is over heretics and non-conformists who occupy the central stage of many accounts of the years 1529-1558. Archidiaconal participation in this area of jurisdiction had always been minor, the only exceptions being places like the monastic peculiar of St. Albans abbey. In order to confront the canker of Babel in the early fifteenth century, a constitution of July 1416 provided that all archdeacons and suffragans should in person, or via officials and commissaries, make enquiries at least twice a year, for heretics, and then submit their names to the diocesan.\(^{10}\) This was further augmented by a statute of Henry VIII which stipulated

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9 R.A. Houlbrooke, "The Decline of Ecclesiastical Jurisdiction Under the Tudors." *Continuity and Change: Personnel and Administration of the Church in England, 1500-1642.* ed. R. O'Day and F. Heal (Leicester, 1976) p.247; Dr Houlbrooke is more circumspect in his book *Church Courts*, p.216 when he notes that the courts were "placed under important limitations"

10 Thomson, *op.cit.*, p.223
that if needed, archdeacons' courts could be used to investigate heresy. From this one might ask what was heresy. The boundary between it and a failure to perform religious observances because of laziness is hazy. At Sudbury 1544-46, there were examples of people failing to observe holy days, and even of some who failed to provide candles for the crucifix, but one suspects that J.F. Davis is exaggerating a little in suggesting that these are examples of "a few extremists" when in fact there may have been no extremists at all. Exactly what documents reveal in this respect can be ambiguous, something not lost on contemporaries. In 1551 the Privy Council was informed that Thomas Sharpe of Pluckley and Nicholas Yong of Lenham, both in Kent, had failed to receive the sacrament for two years. Not believing that this was evidence of heresy, the Council recommended that their ordinary, the archdeacon's Official at Canterbury, be informed of the matter.

There are only occasional references showing archdeacons' courts prosecuting religiously suspect people. It is exceptional to find the prosecution of Richard Gilman in 1538, a curate at Boughton, for solemnizing matrimony "in Inglishe." At Canterbury the archdeacon's court was hardly concerned with imposing new ideas of orthodoxy before Edward's reign.

Even so, presentments at Canterbury remained relatively few in number. In 1548 two men were cited for failing to destroy idols. Not long after, the Rector of All Saints', Canterbury, was excommunicated for refusing to destroy the altar. In July of the following year, the churchwardens of Ospringe were cited over certain,

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11 Gibson, Codex. p.344
13 APC. ii,p.207
14 LRO,Vij/l,fo.54v
15 LP. xviii(i),no.538
16 KAO,PRC 3/11,fo.106v,135
17 KAO,PRC 3/12,fo.20v
8: Reformation and Crisis

undisclosed articles. In 1550/1 some parishioners were presented for not receiving the sacrament, two priests for failing to deliver sermons and another for erecting an altar contrary to injunctions. One priest was presented for celebrating the now abrogated feast of Edward the Confessor.

In Mary's reign there was also some, though not much surveillance, of this sort. John Crotat of Ashford was found to refuse to go in procession in March 1555. In November the same year Thomas Cooper of Brenzett appeared because he had failed to receive the sacrament. In January 1559 Dr John Harris, Vicar of Borden, fell foul of Nicholas Morton, the conservative Official of the Marian archdeacon. Believing that changes were imminent after Elizabeth's accession, Harris reverted to taking services in English, refusing to wear vestments or a cope, and not allowing the altar, rood or images within the church. Morton's determination to prosecute Harris may have been the last gasp of the conservatives in power.

Elsewhere more attention was paid to the teaching ministry. In a letter to his archdeacons by 1536, bishop Longland requested them to be on the lookout for unlicenced preachers. According to the letter, it was up to the archdeacons to ensure that each parish priest keep a "preachers Book", and that the archdeacons send in a quarterly report on this matter. Even so, the court books fail to show if archdeacons' courts followed this directive through. In other matters information concerning

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18 CCL,Y/4/5,fo.30; these were probably part of the visitation articles, whether of royal commissioners, or of church authorities. Some parishes actually purchased copies of such articles, presumably in the hope that it would help them avoid trouble. Cf. J.Nichols, *Illustration of the Manners and Expenses of Ancient Times in the fifteenth, sixteenth and seventeenth centuries*. (London,1797) pp.13,144
St.Margaret's, Westminster (1551), St.Helen's, Abingdon (1556)

19 CCL,Z/3/6,fo.166-183

20 CCL,Y/4/8,fo.20v; for the days in question see *Documents Illustrative of English Church History*. op.cit.,p.269; Wilkins, *Concilia*. iii,pp.823-24

21 CCL,Y/4/6,fo.11v

22 KAO,PRC 3/14,fo.27v

23 CCL,Y/4/10,fo.105

24 LRO,Reg.26,fo.266v; Bowker, *The Henrician Reformation*. p.144
8: Reformation and Crisis

prosecutions related to religious uniformity is just as scarce. In the mid-1540s, the court of the Archdeacon of Sudbury went to some pains to ensure that the clergy preached sermons. At Buckingham in 1551, the curate of Ashingham was presented by the parishioners for not teaching the catechism. Occasionally, as at Norwich, a priest could be prosecuted for refusing to celebrate the mass. The evidence on the whole is piecemeal, and indicates not only that few issues were confronted at any place, but that the laity were relatively unmolested by the archdeaconry courts.

A.G.Dickens has recently referred to an act book of the Archdeacon of Northampton covering the years 1546-48. There are certainly references in it in which religious opinion is scrutinized. Richard Grace, Vicar of St.Sepulchre's, Northampton, was presented because he "commanded not Corpus Christi to be feastyng but of devotion; so he ete flesshe himselfe." Thomas Dale, a layman of Oundle, attacked the veneration of the rood, and Antony Wood, of the same parish, was heard reasserting certain attacks on transubstantiation which he had heard in London. Despite this evidence, Dickens' contention that these were signs of cleavages in English society are not convincing.

Much of the material presented in the act book Dickens cites can be seen in another light. Around 1540 the churchwardens of a Northamptonshire parish presented that "Of Rode Marye and John and the patron of our church is not set up." In 1546 and 1547 objections were voiced as to the existence of Ember days, refusals to fast, for not being reverent enough within the church, and for reading the Bible. In almost all cases evidence establishes that these cases were brought at the instigation of the

25 Suffolk RO,IC/500/5/1,fo.15,30,51
26 ARO,D/A/C/1,fo.30v
27 Norwich and Norfolk RO,ANW/l/2,unfo.
28 NRO,Arch.III,fo.32
30 NRO,Arch.II,fo.101
31 NRO,Arch.III,fo.45,35v,37,38,27v; O c. Glayser; O c. Barnard; O. c. Cockes
8: Reformation and Crisis

parishioners themselves. In one case the churchwardens of Oakham referred to the "readers and medlers wt the bible" and specifically asked the court to decide who, within the parish, may and may not read it.32

There is a grave danger of confusing uncertainty, troublemaking or even disaffection with a certain practice, with some sort of heretical opinion. One of the more valuable aspects of this evidence is that it can show us that it was the parishioners themselves who believed that these matters should be taken to court - not the court prowling for a hint of heretical opinions.

The only evidence indicating that archdeaconry courts were following instructions in the pursuit of certain individuals who lived in breach of the current orthodoxy comes from the beginning of Mary's reign. In 1554-55, notes within a call book for the archdeaconry of Canterbury reveal that the court was charged with finding out which members of the clergy were married - surely the result of specific instruction. The investigation also identified some of the ex-religious living within the diocese.33

This is not the same as a search for the religiously heterodox, not, at least, in a theological sense. Ironically, earlier the archdeacons might have pursued this as an offence of incontinence had not the prosecution of incontinent clerks ceased by the 1540s, possibly because the Act of six articles made the sexual incontinence of clerks a statutory offence.34 Further, the Marian injunctions did not confer the right of investigation into married priests on archdeacons, so that archdeacons acting in this way had to do so only if provided with a commission.35 In this sense the participation of archdeacons in at least a few dioceses in this work was through necessity, not as of right.

32 NRO, Arch.III, fo.27v
33 CCL, Z/3/5, fo.105v-106; Z/3/6, fo.74ff, fo.152; as one would expect, this reports not only the benefited, but also the unbenefted clergy who were married. W.H. Frere, The Marian Reaction in its Relation to the English Clergy. (London, 1896) p.47; the Dean and Chapter of Canterbury Cathedral had sede vacante jurisdiction over the diocese
34 Houlbrooke, Church Courts. p.179 notices the same thing
35 Frere, op. cit., pp.69-70, 166-69
As Dickens himself notes, there is in fact little evidence to satisfy the historian looking for heretics, and like others of its sort and as far it was able, the Northampton archdeaconry court remained essentially interested in those matters which pertained to the normal administration of the archdeaconry.

This is perfectly understandable. Most church courts were not conducting a tireless campaign in search of heretics. There were parts of the country in which heresy hunting was intense, notably in the dioceses of London and Canterbury. No doubt the government was keen to eradicate heretics from the Home counties, and therefore political seat of the country. But in any case, there were clearly many more Protestants in these areas, (which took in Essex, London and eastern Kent) than in any other parts of the realm. In other parts of the country there was simply no need for such drives. Pole's visitation of Leicester archdeaconry in 1556 uncovered one heretic. In Lancashire Protestantism was strictly an imported faith, which received little support in the conservative north. Of all heretics executed in England in Mary's reign only 21 people out of almost 300 executed, came from outside the Home Counties and Sussex.

By far the most informative archidiaconal court book on matters of this sort comes from Canterbury, in the well known visitation conducted by Archdeacon Harpsfield in 1557. As a visitation it was exemplary not only because of its magnificent presentation, but also because it was so comprehensive. It was novel also because it heard such a number of matters once left almost exclusively to ordinary sessions of the court. The visitation lasted between 30 July and 30 September, and 243 churches and chapels were visited. Clearly there was interest in those who failed to fulfil their religious commitment, especially in worship. In ten parishes people were charged with failing to receive the sacrament; in another thirteen others were accused of failing to

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36 VCH, Leicester. i,p.371
37 Haigh, Reformation and Resistance. pp.160-72
38 For a breakdown see Hughes, The Reformation in England. op.cit., ii, pp.260-1
attend church at all, and in two parishes there were allegations on both counts. Special mention was even made of the heretic (and former Official and commissary) Christopher Nevinson who was now buried underneath the high altar at Adisham. The more important feature is that serious offences and offenders, including Henry Harte, the freewiller of Pluckley, were remanded for dispatch to appear shortly afterwards before the commissioners. There were twenty four of these people from eleven parishes. Clearly archdeaconry courts were not considered the appropriate forum for trying the dangerously heterodox.

This of course did not prevent these courts from doing other things. In fact over 92% of the problems noticed by the Archdeacon of Canterbury’s visitation of 1557 had to do with the state of church buildings and ornaments rather than devotional or religious matters. In these things however the court books again fail to provide much information. We know of some orders like those forwarded by Bishop Longland. In September 1538 Thomas Cromwell wrote to the archbishop requesting that the injunctions be adhered to in his own diocese, and indeed the Official had already done this. In a circular sent to bishops in the same year, Cromwell demanded not only that opponents of change be punished, but also that the Bible be "laid forth openly" and that

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40 ibid., i, p.81
41 ibid., i, pp.53, 78, 120, 123, 127; ii, pp.186, 189, 191-92, 208, 249-50
archdeacons, presumably via their courts, aid the bishops in this enterprise.\footnote{LP. xiii(i),no.40} It was noted in chapter five that a number of these chores were given to archdeacons.

Despite such directives, the role played by archdeaconry courts in the enforcement of the new demands placed upon parish budgets, as opposed to notification of them, was limited in the years preceding 1559. Breaks in the run of documents hinder conclusions, but evidence suggesting that the courts played a major part in these changes does not exist.

Only occasionally are there references to articles which had to be purchased in the wake of contemporary changes. In 1538 the Bethersden parish register notes the purchase of a register "as we where commandyd in the [archidiaconal] visitation," but no prosecutions relating to non-compliance appear.\footnote{Mercer(ed.), "Churchwardens Accounts at Betrysden." op.cit., p.38} The first order for the installation of the Bible in churches was in 1539\footnote{Wilkins, Concilia. iii,p.856} but it took until a proclamation in 1541 before the Archdeacons of Lincoln diocese were told to ensure that it was installed within their jurisdiction.\footnote{LRO,Reg.26,fo.291v} Even so, inventories of church goods in Edward's reign do not indicate that many parishes possessed Bibles; so that the archdeacon's court was not diligent, or parishes were reluctant to spend the money, or both.\footnote{C.W.Foster, "Inventories of Church Goods,1548." AASRP. 34. pp.27-46} At Canterbury there were no cases relating to the purchase of Bibles during Edward's reign. This was a not a matter under investigation at Leicester, nor indeed was the purchase of the Paraphrases or a parish register. In fact, it was not until the early stages of Elizabeth's reign that this court pursued these matters.\footnote{Leic.AO,1D41/13/3,fo.29,47,56} There are a few cases from Northampton 1548-50, one
8: Reformation and Crisis

relating to the purchase of the Bible, two over the purchase of the *Paraphrases* and two over the writing/purchase of the parish register.\(^49\)

The initiative to act may not even have been the courts' in some cases. There are cases in which it was the parishioners who brought the matter to the attention of the courts, in one case in 1549 the presentment from folk of Culworth reading that "we have a unquyet vicar and that he will not folowe the kinges injunctions by the wrytynge of the boke of Regester."\(^50\) The register was important to these people, thus their interest to prompt action.

The Norwich archdeaconry court made a few presentments for non removal of altars in 1550-51.\(^51\) There were some prosecutions for failure to purchase Erasmus' *Paraphrases*. These are very few in number and they scarcely amount to a campaign.

A major exception to this pattern of inactivity was the archdeacon's court at Canterbury, due at least in part because Nevinson was the Official\(^52\). In the middle phase of Edward's reign it was called upon to oversee some changes. By 1549 the first Edwardian prayer book was published and in 1550 a statute ordered the delivery of old service books to civil authorities and then to bishops for destruction. In June 1550 a number of churchwardens, clergy and sworn men appeared before the court in order to check that the old service books had been replaced by the new ones. At Norwich on the other hand it was up to the chancellor to see that the books had been destroyed, and in Essex it was left to Sir John Gates.\(^53\) It is interesting to note that on Christmas Day 1549 the bishops agreed that it would be best if the old books be delivered to men appointed by the king.\(^54\) Although this probably happened in most cases,\(^55\) the

\(^{49}\) NRO, Arch.III,fo.34,71v,91,101,103
\(^{50}\) NRO, Arch.III,fo.91
\(^{51}\) Norwich and Norfolk RO, ANW/1/3, unfo.
\(^{52}\) see chapter four and appendix 2
\(^{53}\) Houlbrooke, *Church Courts*. p.166
\(^{54}\) Burnett, *op.cit.*, ii,p.ccxxxiv-ccxxxv
\(^{55}\) e.g.Lightfoot, "Notes from the Records of Hawkhurst Church." *op.cit.*, pp.64-5
8: Reformation and Crisis

parishioners of Pluckley and Egerton sold them to undisclosed persons. The Official, Christopher Nevinson, was aware of this, and presumably sanctioned the sale.56

The following November and December members of the clergy had to appear before the same court and certify that the altars in their churches had been destroyed. William Blossom, rector of All Saints', was excommunicated for failing to comply.57 On the other hand some concern also had to be shown for over zealous reformers. In July of the same year John Brokehole was cited for taking away "the table that the vicar of Bradgar had ordeyned for the mynistration of the communon."58

Of the courts studied, only Harpsfield's visitation of 1557 paid particular attention to the restoration of Catholic ornaments in churches. Of the places visited, 20-30% still had to provide a water stoup, the rood and lights before it, altar crosses, candlesticks, service books, high or second altars, and other vessels for the ministration of the communion.

The high level of missing ornaments had been caused by a combination of events, including the Edwardian spoliation of the churches, doubts about the future of the church, unhealthy finances and some Protestant sympathy, but in what proportion these matters interacted no doubt varied from parish to parish. Clearly the task of restoration was Herculean, but the most significant element of Harpsfield's visitation was that it was the exception rather than the rule. No other archdeaconry court in this period could match its energy or its field of vision.

The limited activity of archdeaconry courts was not co-incidental. In Edward's reign the bishops complained how their authority had been undermined by proclamations.59 But it was the lower House of Convocation in 1554, which argued against the continued legitimacy of praemunire, and opposed the statutes of Edward's reign which

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56 CCL,Y/4/9,fo.22-22v
57 KAO,PRC 3/12,fo.20v
58 CCL,Y/4/9,fo.27v
59 Cobbett, op.cit., p.591
stood "in derogation of the liberties and jurisdiction of the church." A petition of the lower House was forwarded to the bishops and asked for the same rights, titles and privileges which had been attacked in the recent past. This last action suggests that the members of the lower House in some way blamed the bishops, at least in part, for some of their problems.

All churchmen could also ponder the increased impact of secular authorities. From the king down there was more extensive intervention. Increasingly, heresy was construed as being tantamount to treasonous activity because of the political cleavages inevitably flowing from religious heterodoxy. Even the Privy Council regularly concerned itself with religious matters. In 1546 the council was able to imprison a priest at Tenterden for making a lewd sermon. In 1555 the Archdeacon of St. Albans was told to stay proceedings in a tithes case because the council believed that further evidence was forthcoming. In 1558/59 the council conducted an investigation of the curate of St. George's, Canterbury, by using the mayor and local JPs as its agents. Chapters one and two give fuller meaning to the nature of the challenge confronting the ecclesiastical courts. The structure of the courts was threatened from within, and the law of the church from without.

One should be careful, however, of interpreting all action as part of a well orchestrated policy aimed against church autonomy. It is certainly true that from 1530 royal proclamations often touched on religious matters. In one, Mary complained of the harms committed during Edward's reign, and another of 1555 was critical that

60 Cardwell, *Synodalia*. ii, pp.436,431
62 *ibid.*, i, p.419
63 *APC*. v, p.147
investigations for heretics were not being conducted with enough vigour.\textsuperscript{65} This does not necessarily mean that secular involvement with hunting out heretics was without precedent. It was not unusual that during bishop Longland's campaign against the spread of heresy in his diocese in 1521, two royal proclamations were used to support the bishop's efforts by charging mayors, sheriffs and bailiffs to aid him.\textsuperscript{66} Quarter sessions in Kent was hearing heresy cases by the late 1530s and this was not without precedent.\textsuperscript{67} It should also be remembered that the heresy laws of Henry IV's reign, revived by Mary, specifically utilised the mayor and sheriff against heretics after pronouncement by the bishop. It was indicative of the nature of relations enjoyed by various bodies rather than a massive conspiracy which led the Archdeacon of Canterbury to enlist the aid of mayors, bosholders and bailiffs in the 1557 visitation.\textsuperscript{68}

On the other hand, although Houlbrooke's claim that all church courts bore the brunt of maintaining religious uniformity is suspect, he is correct in suggesting that the scope of their jurisdiction had been reduced. Bishops' courts in particular found that their relations with secular bodies were now far more complex.\textsuperscript{69}

Archdeacons and officials as individuals in their own right, participated in the work of commissions throughout the period from the mid 1530s. But this was quite distinct from the work of the archdeacons' courts. In 1535 Richard Layton, Archdeacon of Buckingham, worked on a commission investigating religious houses in Northamptonshire.\textsuperscript{70} Christopher Nevinson, Official at Canterbury, was a commissioner in districts covering the dioceses of London, Ely, Westminster as well as

\textsuperscript{65} Houlbrooke, \textit{Church Courts}. p.220; \textit{Tudor Royal Proclamations}. op. cit., i, pp.181-86; ii, pp.35-38,57-58
\textsuperscript{66} ibid., i, p.133
\textsuperscript{67} M.L.Zell, \textit{Church and Gentry in Reformation Kent, 1533-53}. (University of California, Ph.D., 1974) p.176
\textsuperscript{68} Archdeacons Harpsfield's Visitation. op. cit., i, pp.120,127; ii, pp.177,183,189,191,193,194,200,206,249
\textsuperscript{69} Houlbrooke, \textit{Church Courts}. p.221; see chapter three
\textsuperscript{70} VCH, \textit{Northampton}. ii, p.33
During Mary's reign Archdeacon Nicholas Harpsfield seems to have received a royal commission in 1554, and he is certainly appointed an archiepiscopal commissioner in 1556 and in the following two years, as was Robert Colens, the Official, commissary and canon of Canterbury, and Richard Thornden, suffragan Bishop of Dover.

These commissions, of whichever sort, were important not so much because they impinged on jurisdictional aspects of archidiaconal authority (many of the things they were concerned with went beyond the bounds of the archdeacon's authority anyway), but because the major impact of the commissions was on parish life, and the relationship of the local archdeaconry court with these newer creations.

While some of these commissions performed one duty which concluded their mandate, there were some which overtook the ordinary running of dioceses. In London in 1556 and 1557, one commissioner undertook presentments for ordinary as well as doctrinal offences, and one of bishop Bonner's own officials regarded his authority under the commission as replacing the diocesan's.

A book of acts of a commission operating in Canterbury diocese during Mary's reign reveals that commissioners here were also quite prepared to hear cases not strictly related to heresy. Much of the book deals with people who had made statements about the sacrament and about behaviour during the Mass - especially at the time of the elevation, and yet others for other "religious articles." But activities took on a more administrative tone also. Perhaps not surprisingly, parishioners, especially churchwardens, who had failed to return plate, or had sold it, were called to answer

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71 Strype, Memorials of the most reverend father in God, Thomas Cranmer. op. cit., i, p.209
73 Alexander, op. cit., pp.378-89
questions. Churchwardens who had concealed parish accounts were also cited. People were also prosecuted for sexual incontinence, gambling, selling food on Sundays, and deserting their spouses. There were also a large number of citations for people who refused to pay debts owing to the parish church and even priests who had failed to provide hospitality.

Only one martyr was cited before this tribunal, Katherine Knight, who was burned at Canterbury with four others on 10 November 1558. The remainder of those who were presented may have denied any heretical beliefs or sworn orthodox answers to some theological/doctrinal questions.

It is noticeable that in these circumstances the court was eager to try anybody who was remotely suspicious. Moreover, its brief allowed it to hear cases normally belonging to the domain of the archdeacon's tribunal. Alexander has shown that commissioners in London diocese at this time took ordinary diocesan matters into their own hands. While it meant that some offenders were thereby prosecuted it was not an adequate replacement for the systematic functioning of an archdeaconry court, because it only undertook prosecutions, its sessions were far more irregular, and its main focus of interest was on purely religious matters and not with the welfare of communities. It seems then that not only were archdeaconry courts not enforcing many of the changes, they were being affected by them.

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75 CCL,X/8/4,fo.39 O. c. Whyte
77 CCL,X/8/4.,fo.66 O. c. Ellyng, O. c. Bridgeman
78 CCL,X/8/4.,fo.67 O. c. Chambres
81 Foxe.viii,p.504
82 Alexander,op.cit.,
There seems to have been a fundamental assumption that the archdeaconry courts were simply not the appropriate forum for the investigation and prosecution of heretics, or the imposition of the apparatus of worship. Asked about providing the communion in both kinds in Edward's reign, the vicar of Newington-next-Hythe stated that "the commissary had not to do for the reformation of things doubtful for the service of the church, but only the bishop of the diocese...." 83

Participation in change usually required a mandate from the bishop. Before the archdeacon's court of Canterbury supervised the destruction of altars, the judge had "my Lordes commission openly rede." 84 This was clearly understood to be proper form. Under Mary the Dean and Chapter of Canterbury, exercising sede vacante jurisdiction issued commissions to clergy in vacant dioceses. The first of these was directed to Archdeacon Cotterell empowering him to summon, judge, and deprive married clergy. When Bourne became bishop he allowed the former to keep these powers under a different form, making him vicar-general.

At Lichfield the bishop used commissions in each archdeaconry in order to deprive married priests, and one commission of this sort survives from London in which Bishop Bonner conferred this right of jurisdiction on the Archdeacon of Colchester. 85 Similar commissions could be issued authorising the prosecution of heretics by junior officials. Despite using his commissary at Oxford, the infamous Dr John London, to investigate the dissemination of heretical works, the bishop kept the proceedings firmly within his own control. 86 Dr John Dakyn, Archdeacon of the East Riding, acted as

83 Woodruff, op. cit., p. 98
84 CCL, Y/4/9, fo. 162v
Judge in the trial of the heretic brothers Richard and John Snell. He tried them only after reading out a special commission under the seal of the Bishop of Chester.87

During the course of one of John Bland's early trials, in May 1554, Nicholas Harpsfield, who was presiding, stated that he had been given this duty by the Queen in order to "reform those that have fallen into great and heinous errors."88 Foxe also relates a tale in which this matter is used in an example to illustrate a good Protestant confounding an evil Papist. In his own trial before Richard Thornden at Ashford in Kent, William Stere brought up the question of jurisdictional competence. He asked by what authority the former acted as judge. The latter stated that it was by authority of the Pope, which was rejected by Stere. The flustered Thornden then said that it was by virtue of the Queen's authority, which by this stage was in fact incorrect. Stere finally contended that the archbishop was the legitimate authority. Not surprisingly Thornden was not prepared to admit this as Thomas Cranmer was still the archbishop.89 In the sixteenth century the question of jurisdictional competence was of great importance. As in the case of an archdeaconry court, the most effective challenge to an opponent's case was to challenge the competence of the court to hear the matter.

It seems then that episcopal control and consultation with secular authorities largely determined how changes were implemented. At Canterbury the archidiaconal courts supervised the purchase of prayer books in 1549/50, at Norwich it was lay justices.90 At Norwich the purchase of new material for the churches was mostly done by the consistory court, with some things done by the archdeaconry court, whereas the court of Audience was responsible for much of this in the diocese of Lincoln after 1543.91 While Houlbrooke indicates that the Norwich consistory court in Mary's reign battled

87 Dickens, Lollards and Protestants in the Diocese of York, op. cit., p.222
88 Foxe, vii, p.293; it is interesting to note that this must have been a commission issued by Mary as Supreme Head of the Anglican church
89 ibid., vii, p.341
90 Houlbrooke, Church Courts, p.164
91 Bowker, The Henrician Reformation, p.167
with the consciences of those in the diocese, he assumes that the archdeaconry courts imposed the means of reaction in the churches. This is a guess which may well be incorrect. 92

Perhaps the increased activity at Canterbury in Edward's reign can be explained by the involvement of many reformers who worked in the court but it should also be remembered that the diocese of Canterbury was rather a strange case as its structure varied from the norm of church courts, and the archdeaconry court was the one with the greater authority in the diocese. 93 In the final analysis however the policies of this period were ultimately the responsibility of the central government.

It is true that in the diocese of Canterbury some free rein was allowed to Christopher Nevinson: the 1542 visitation for example included mandates relating to parishioners familiarising themselves with the Our Father and creed in English, the use of candles, holy water and the function of processions. He also participated with John Bland in a series of local "reforms." 94 Despite this, or indeed because of it, Nevinson was under a grave cloud following the government sponsored investigation of heresy in that diocese in 1543. Despite this example, court actions do not reflect any autonomous behaviour by archdeacons' courts as a group. In fact it is highly likely that officials in these courts were reluctant to act forcefully in the current political climate. It is therefore an overstatement to argue that these, or any other courts, were clearly imposing some sort of Reformation in the parishes. If anything their impact in the localities was being eroded by vastly reduced activity. 95

92 Houlbrooke, Church Courts. p.231
93 see chapters two and four
94 LP. xviii(ii),p.313; Clark,op.cit.,pp.60,74; Nevinson was close friends with the radical reformist. In his testament the former left Bland his black satin jacket and doublet, see KAQ,PRC 32/24,fo.63v (1551)
95 see below; Zell,op.cit.,p.168; overstates his case in claiming that archdeaconry officials were very busy at this time
8: Reformation and Crisis

Behind all of this were the changes of the 1530s. The vice-gerency was a real threat to all courts spiritual\(^{96}\) and the ramifications of this were enormous. In a letter to archbishop Cranmer in 1539 Thomas Cromwell spelt out that "I have taken upon me your office of punishing such transgressors as break the King's Injunctions."\(^7\) This was indicative of the shift in control of the church.

Normal Business: Evidence of Change.

The enforcement of religious uniformity was clearly important to the future of religion in England but it has tended to obscure the other matters pertinent to the exercise of ecclesiastical jurisdiction. The hearing of ordinary business suffered even more catastrophically in archdeaconry courts than similar work in episcopal courts. Studies of the bishops' courts at Chichester, Chester, Norwich and Winchester have led us to believe that after the initial crisis faced by the church courts, there was a gradual climb back to the level of business handled, until by the 1550s pre-1530 levels of activity were commonplace.\(^8\) This is not what happened in archdeaconry courts. Where there is a climb that can be gauged, it did not take place until after Elizabeth's accession.\(^9\)

While there was clearly a slump in the amount of business handled, there was also a very substantial pruning of the range of issues heard by the courts, in both office and instance proceedings. The most obvious losses were cases of infanticide, of perjury or

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\(^7\) Merriman,*op.cit.*,ii,p.387; *LP.* xiv(i),no.47


8: Reformation and Crisis

petty debt, defamation with reference to secular offences, and other cases pertaining to the secular law. In this sense, what the 1530s achieved was to complete a pattern begun far earlier, in ensuring that the church courts did not act *ultra vires*. While bishops' courts suffered as well as those of archdeacons, the loss was greater for the lower courts. At Canterbury in 1521, there had been 105 perjury disputes out of 375 cases (which was 28% of the total), yet between 1540 and 1550 there were only four of these cases, and then no more before Mary's death. In other words, a major source of business just disappeared.

Many other sorts of cases, once so common, were now hardly evident. At Lincoln in 1544 there were three cases over church dues, and yet no more, unless there were cases in the years 1545-47, when the records are missing, until 1552. In 1547 a spouse at Canterbury sued in court for maltreatment, but there were no more cases of this type until 1552. The small number of cases meant that increases in any given sort of suit was very rare.

At Lincoln, Canterbury and St. Albans from the mid 1540s on, almost all litigation centred on tithe, defamation and testamentary matters. As a result, the range of cases now resembled what was normal range in consistory courts. Even so, on the whole there were even less of these matters, except at Lincoln. Here the court continued after the 1530s without any apparent disruption to its activities. It continued to sit as frequently as before, and the number of instance cases heard increased in roughly the same way that they were in episcopal courts. This court, however, was the only one, of those studied, which was based in a cathedral town, with the bishop's courts, with Officials who were as much episcopal as archidiaconal agents.

The difference between the Lincoln court and others situated away from the diocesan centre, or at least, episcopal control and influence, is substantial. At Leicester, there were eleven testamentary suits in 1525, and twelve in 1526. Yet in 1557, at the

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100 Cf. Houlbrooke, *Church Courts*. pp.273-74; see below for table
beginning of the epidemic there were eight, and in 1558 only two. At St. Albans in 1529 there had been only six defamation actions, which was down on the average for the 1520s, but in the late 1550s the highest number was 5, which was in 1556.

The only exception to the slump was in tithe actions. At Canterbury in 1551, there were 51 tithe actions, and 46 in the following year. The figures for these two years constitute a sharp increase which, to some degree persisted, and consistently matched the 1520s figures of 48 in 1521, 19 in 1523 and 21 in 1525. Similarly at Leicester, there were 17 tithe actions in 1557, and there had only been 6 in 1525.

Why should tithe cases be the exception? There is no obvious answer. Houlbrooke argues that religious and social unrest of the time, sharp increases in agricultural prices, and certain provisions of the tithe statute of 1549, increased the difficulties facing tithe collectors, thereby giving rise to disputes. He also points out that farmers of benefices might adopt a more businesslike approach in seeking the restitution of funds owing, than a man with pastoral responsibilities within the parish.102

This is a persuasive argument. The Lincoln archdeaconry court heard eighteen tithe suits in 1552; two plaintiffs were rectors of parishes, three were vicars, and the remainder were farmers.103 At Canterbury there were 45 tithe actions in 1556. Of these 17 were conducted by 7 different incumbents who seem to have been resident; four by the non-resident Lewis Ap Rice; 5 by the sequestrators of the fruits of vacant parishes and 19 suits by 9 lay farmers, now allowed by statute to sue for tithes in church courts.104 At Leicester in 1557 there were 17 tithe cases in 1557. Five farmers undertook 7 cases, and there were ten suits from 8 incumbents.105

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101 Leic.AO,1D41/11/1; 1D41/1/3
102 Houlbrooke, Church Courts. p.145
103 LRO,Cij/2,fo.137v-209v
104 CCL,Y/4/6,fo.51-82; Y/4/10,fo.1-16
105 Leic.AO,1D41/11/3,passim
Another factor may have been the money at the disposal of plaintiffs which allowed them to go to court. It is very difficult to speak with certainty about the income of the farmers, but is highly likely that they were relatively wealthy. Of the farmers suing at Canterbury in 1556, the smallest income of those parishes farmed, according to incomes listed in the Valor, was eleven pounds, and at the upper reaches, one being fifty pounds and another seventy. These were substantial incomes indeed. Even though his finances may not have been very healthy at the time, it was still perfectly feasible for Sir Antony Sentleger, who was in possession of the rectory of Bilsington, to sue for tithes on five separate occasions in 1555. It is certainly true to say that the members of the clergy, as opposed to farmers, who undertook suits did enjoy substantial income, none of them being incumbents in poorer parishes.

But how were men of lesser substance placed? Poorer priests had other financial commitments which ate away at their salaries. At Canterbury difficulties were such that in one year forty six incumbents owed the archdeacon procurations, and some of them had been owing for more than two years. How could such people be expected to spend money financing court suits? Even though they were the lowest ecclesiastical courts, archdeacons' tribunals still charged enough to discourage poor people from suing. There was therefore a widening gulf between those who could, and those who could not seek the courts' help. The greater participation of farmers in suits also represented a substantial change in the pattern of tithe litigation.

In all other areas of dispute however, current uncertainties were enough to discourage readiness to appear in the lower church courts. In the case of ultra vires jurisdiction, court officials were probably as wary as the laity. This sort of pressure had greatly diminished the amount of work even in bishops' courts in the 1530s and 1540s. A major reason for continuing low numbers in archdeaconry courts was that

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106 Valor. i, pp.43,50,90,96,97
107 CCL, Y/4/6, fo.11v,12,12v,13,15v
108 CCL, Z/3/5, fo.120; it is not possible to be precise as to the year
the courts themselves were no longer as readily accessible. The courts reduced the number of sessions held, and the amount of travelling undertaken.

By the 1540s and 1550s the number of sessions in the courts for which there are records, had slumped to about half what there had been before 1529. In 1548 there were only seventeen sessions held by the court at Leicester. At St.Albans in 1556 there were only 14 and at Canterbury in 1555 only 25 - less than quarter of the number held thirty years earlier. This meant that there were months with no, or very few sittings, and this in itself may have accelerated the increasing reluctance to use these courts. In 1548 at Leicester there were no sessions in April or August, and only one in four other months of that year. At Canterbury in 1555 there were none in January and only one in three other months. Even the regular pattern of travelling which characterised the court at Canterbury had disappeared by Mary's reign. There were certainly forays into the rural deaneries, but they were occasional and seem to lack the same pattern of regularity which had been evident earlier.109

The broader implications of this will be taken up in a moment, but it should also be pointed out that the number of prosecutions suffered similar set backs. Here again the number of prosecutions undertaken had dropped sharply in the 1530s, as it had in bishops' courts. But there was a marked reluctance to undertake prosecutions in the years afterwards. Further, the reduced travelling mentioned also affected the courts' capacity to begin office actions. As noted in the fourth chapter, there were fewer apparitors to do the courts' work. Moreover, parishioners were less likely to seek a court's help if it rarely sat, and did so some distance away from the parish.

The very few religiously associated offences tried lends weight to the arguments posited earlier about the Reformation changes. At Canterbury in 1524 there had been 14 of these out of 124 cases, or 11% of all actions. In 1547 and 1557 there were none.

similar to the figures for both St. Albans and Leicester. More significantly in terms of the functioning of the courts, socially related matters had also slumped. This category also comprises such things as dilapidations, public defamers, witchcraft and prostitution. Not even offences related to the pastoral duties of the clergy were kept up. For example:

Table 9: Proportions of Office Cases.

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<th>Other</th>
<th>Total</th>
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<td>14</td>
<td>6</td>
</tr>
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<td></td>
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<td>6</td>
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<td>1557</td>
<td>7</td>
<td>3</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
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<td>17</td>
<td>11</td>
<td>8</td>
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<td>4</td>
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<td>14</td>
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Proportions of Instance Cases.

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<th>Testam.</th>
<th>Tithe</th>
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<td>45</td>
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<td>9</td>
<td>-</td>
<td>5</td>
</tr>
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<td>35</td>
<td>35</td>
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<td>-</td>
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<tr>
<td>Lincoln</td>
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<td>-</td>
<td>5</td>
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</tbody>
</table>

110 KAO, PRC 3/5-15, passim
111 Leic. AO, 1D41/11/1-3, passim
112 HRO, ASA 7/1,3, passim
113 Defamation suits; perjury suits, mainly relating to petty debt; testamentary suits; matrimonial disputes which related to contracts, divorce and jactitation of matrimony. It should be borne in mind that the archdeacon of Canterbury's court did not exercise jurisdiction over these matters
114 CCL, Y/2/4,7; Y/4/4,6,8,10, passim
115 Leic. AO, 1D41/11/1-4, passim
116 LRO, Cij/1-2, passim
The change these figures portray is most significant. Not only the numbers of cases have fallen, in most cases, but also the whole range of conflicts evident earlier has disappeared. It is difficult to imagine that problems within parishes had vanished; not even the Reformation could claim the responsibility for such a wholesale clean up of social relations in the parishes.

Difficulties touched other aspects of parish life, notably the state of the churches, and the provision of clergy during this period of falling clerical recruitment. In the special commissions' investigations in Kent, reference was made to the chancel and parsonage of Waltham, which had decayed over many years, and was "Appropriat to Tharchbishoprik and hath been presented many tymes and no redresse." Robert Pele, sometime vicar of Chilham, had donated two hundred pounds to the fellowship of the clothworkers in London for them to pay for a priest who could also play the organ and serve God - but this money had been withheld for ten years, and the parish had existed without a vicar for five years.

There was not only a dearth of clergy following the deprivations, but the state of churches was also very poor, as was noted during Harpsfield's visitation. In some cases the problems were almost insurmountable. The Brookland parish suffered from many long-standing debts, which amounted to twenty pounds, seventeen shillings and four pence. This begs the question - what had the archdeacon's court been doing?

117 HRO,ASA 7/2,3,pas sim
118 CCL,X/8/4,fo.52
119 CCL,X/8/4,fo.52
120 CCL,X/8/4,fo.28
It may have been similar non-feasance which prompted Stephen Gardiner to complain in 1547, that people once attended divine service "more diligently then some doo nowe."\textsuperscript{121} It is quite clear that these courts were not profitting from contemporary pressures and changes.

**Normal Business: Results of Change.**

A technique used by historians to estimate the efficiency of church courts has been to note how many appearances a party or parties had to make in court before a matter was resolved. Mindful of this, figures for a selection of archdeaconry courts over this period have been collated.\textsuperscript{122}

**Table 10: Sessions required to dispatch cases.**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Year</th>
<th>Cases</th>
<th>Sessions Required</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canterbury</td>
<td>1521</td>
<td>375</td>
<td>997</td>
<td>2.65</td>
</tr>
<tr>
<td></td>
<td>1541</td>
<td>84</td>
<td>145</td>
<td>1.72</td>
</tr>
<tr>
<td></td>
<td>1546</td>
<td>66</td>
<td>140</td>
<td>2.12</td>
</tr>
<tr>
<td></td>
<td>1556</td>
<td>85</td>
<td>175</td>
<td>2.05</td>
</tr>
<tr>
<td></td>
<td>1556</td>
<td>85</td>
<td>175</td>
<td>2.05</td>
</tr>
<tr>
<td>Leicester</td>
<td>1527</td>
<td>90</td>
<td>182</td>
<td>2.02</td>
</tr>
<tr>
<td></td>
<td>1536</td>
<td>13</td>
<td>34</td>
<td>2.6</td>
</tr>
<tr>
<td></td>
<td>1557</td>
<td>56</td>
<td>132</td>
<td>2.35</td>
</tr>
<tr>
<td></td>
<td>1561</td>
<td>51</td>
<td>162</td>
<td>3.17</td>
</tr>
<tr>
<td>Lincoln</td>
<td>1538</td>
<td>41</td>
<td>195</td>
<td>4.75</td>
</tr>
<tr>
<td></td>
<td>1544</td>
<td>34</td>
<td>242</td>
<td>7.1176</td>
</tr>
<tr>
<td></td>
<td>1552</td>
<td>48</td>
<td>426</td>
<td>8.875</td>
</tr>
<tr>
<td>Rochester</td>
<td>1521</td>
<td>98</td>
<td>250</td>
<td>2.55</td>
</tr>
<tr>
<td></td>
<td>1530</td>
<td>33</td>
<td>101</td>
<td>3.06</td>
</tr>
</tbody>
</table>

\textsuperscript{121} *The Letters of Stephen Gardiner*, op.cit., p.355

\textsuperscript{122} Full figures for all courts throughout the period would not have been feasible because of the large body of records involved. These tables are therefore offered as a guide only to variations over time
Apart from figures in instance business at Lincoln, which will be discussed shortly, the averages noted, generally hovered around the same sort of mark. There are one or two exceptions, most notably at St. Albans where office actions for 1540 took, on average, six sessions each to resolve. Clearly there was a problem for the courts in this year, but the figure also goes to highlight how a few cases can influence the ultimate finding. This is not to say that there were not changes in the courts' capacity to settle matters. Unfortunately it is not possible to be precise, but clearly fewer disputes were decided in court.

Added to this, there was an increase in the numbers of contumacious individuals in litigation. At Lincoln in 1544 twelve people were suspended, one excommunicated, and there were two citations *viis et modis*. This was out of a total of 34 suits. In 1552, twenty four people were suspended, seven excommunicated, and there were twelve citations *viis et modis*. This was out of a total of 48 cases.123 At Canterbury, as at other places it is very difficult to arrive at the numbers of people suspended or

123 LRO Cij/1, fo. 214v-251v; Cij/2, fo. 137v-209v; those cited *viis et modis* were amongst those suspended/excommunicated on a couple of occasions in 1552
excommunicated, but it is clear that more people disregarded the authority of the courts. In 1556 there were six citations "by ways and means" and ten in 1557 which is five times the number from the 1520s. At Leicester in 1560 there were six of these citations dispatched which also marks a clear increase over the figures from the 1520s.\(^{124}\)

That the number of sessions required to settle cases rose so greatly at Lincoln may be explicable in that some of the defendants (and suitors) were more prepared than their counterparts elsewhere to fight the issue out in plenary hearings, but this had a limited impact. There was also an increase in the level of contumacy.

### Table 11: Lincoln Suspensions/Excommunications (In Suits)

<table>
<thead>
<tr>
<th>Year</th>
<th>Suspensions</th>
<th>Excommunications</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1538</td>
<td>9</td>
<td>1</td>
<td>41</td>
</tr>
<tr>
<td>1544</td>
<td>12</td>
<td>1</td>
<td>34</td>
</tr>
<tr>
<td>1552</td>
<td>24</td>
<td>7</td>
<td>48</td>
</tr>
</tbody>
</table>

What distinguished the Lincoln cases was, first, that they were almost always heard in plenary session, and thus took longer than those heard *de plano*. Second, the effect of greater contumacy was that cases required more sessions before the matter could be resolved. This court had always had a relatively high incidence of contumacy, but at the same time, a greater proportion of the contumacious people had returned to court seeking absolution than at other courts. Although difficult to quantify, it seems that this was still the case. This differs from the other courts studied, which had greater difficulty in getting people to submit. Why people should be more prepared to return to court is problematic, but it may be closely associated with the archdeacon's court's proximity to diocesan administration - it was easier for this court to obtain a *significavit*.

\(^{124}\) see chapter seven
A feature of the changing pattern of litigation in all archdeaconry courts, including Lincoln, was that the number of promoted office actions increased. As we noted in chapter six, this was a means of proceeding which was not used very often in the 1520s. At Canterbury in the earlier period there were rarely more than one or perhaps two cases of promoted actions a year. At Leicester there were none in the 1520s, and at Lincoln in 1538 there was only one. At Canterbury in 1550 there were nine, at Leicester in 1560 there were seven, and at Lincoln in 1552 there thirteen promoted office actions. This can hardly be dismissed as simply a procedural change. For the courts it was a realisation that they lacked the influence that their presence formerly warranted.

Again the nature of the records makes it difficult to quantify the amount of contumacy arising in prosecutions, except at Rochester where the number of excommunicate individuals outstanding in 1565 was sixteen, whereas there had been only one in 1522.125 The apparent reduction of authority in this area which faced the episcopal courts was as likely to be evident in the office actions of the archdeaconry courts. F.D.Price has tended to lay the blame for this in Gloucester diocese in Elizabeth's reign, at the door of officials who were not diligent or efficient; a weakness in the administration made possible by the weak and indecisive bishop Cheyney (1562-79).126

The 1571 Convocation's canons of discipline recognised the problems facing all church courts by reserving the power of excommunication to bishops alone, presumably in an attempt to re-establish its status as the ultimate form of ecclesiastical censure.127 A problem of this magnitude and breadth surely should be seen as a problem extending beyond the calibre of officials running a court in one diocese. Here again however, the sessions per case figures fail to illustrate this factor.

125 see above and KAO,Dra/Vb4,3rd series,fo.21v
127 Wilkins, Concilia. iv,p.263
What sort of parochial difficulties were arising therefore is difficult to gauge. The courts no longer provide us with the sort of information they did in earlier years. If anything, there may have been more strife at this time. Religious tensions were clearly evident in this period. William Maldon later described the problems affecting his family life as a result of his radical beliefs and disdain for traditional catholic practices. At one time he was assaulted by his father but did not go to court. In 1538 we know of a brawl in an Essex victualling house in which the dispute over the authority of the bishop of Rome almost led to fisti-cuffs. In an unidentified parish in 1537, there was a division between parishioners who supported a conservative curate and some reformists. After the latter reported the former to the archbishop, threats were made against them. Difficulties in social relations of the parishes of rural England must have existed, strife which had little or nothing to do with topical religious debates. Few of these disagreements, however, find their way into the courts of the archdeacons.

Conclusion.

The thirty years following the first session of the Reformation Parliament were vital in the history of the church, and indeed of religion in England. For the archdeaconry courts of the time it was indeed a period of unparalleled turmoil which permanently changed the capacities of those courts. This was indeed a period of crisis: the total numbers and range of cases slumped dramatically, personnel lost a valuable source of income, the courts' social profile and significance dropped sharply, and many aspects of jurisdiction were re-directed to other tribunals. This was unfortunate, because the
archdeaconry courts were a useful forum for airing grievances and resolving local problems.

In her incisive essay on the functioning of some archdeaconry courts in the 1520s, Bowker demonstrated that these tribunals were well run, and not motivated by the promise of lucre despite the allegations made by the Commons. She argues that the Parliament attacked the courts because the members were in fact concerned about the efficiency of church courts. They feared, Bowker believes, that the courts were capable of prosecuting anybody for heresy with ruthless efficiency, and that even Members of Parliament were not exempt from the courts' long arm. It was this fear, she contends, which motivated the attack launched by the Commons and supported by Henry VIII.130

If Bowker is correct then the archdeaconry courts could feel especially displeased, given that the they did not have the right to undertake prosecutions for heresy. That the courts were attacked for inefficiency and corruption against all the evidence is, from the courts' view, even more reprehensible. Even in Mary's reign the archdeaconry courts may have suffered for unfortunate reasons. In a diocese like Canterbury, court personnel were diverted away from the running of the archdeaconry court to participate in commissions for rooting out heretics, at the cost of providing for the more commonplace judicial needs of the populace.

Canterbury diocese however may not be the best example in this period for suggesting the norm. It was a diocese with a greater proportion of Protestants than most other places, and likely to be somewhat different. Nevertheless, despite the fact that the evidence is far from complete (let alone conclusive), what is available tends to suggest that almost all archdeacons' courts lost business, prestige, and social relevance, far more than bishops' courts.

130 Bowker, "Some Archdeacons' Court Books.." *op. cit.*, pp.282-316
The question then arises why this should be the case. It is clear that at every step the central government in this period was attempting to introduce changes, and for the most part archdeacons' courts were only used when there was little alternative. In the midst of these changes the very existence of the church courts and their law was under considerable threat following the upheavals of the 1530s. In this sense the archdeaconry courts were faced with problems common to all ecclesiastical tribunals.131

Moreover, the church policies in this period necessarily changed the priorities facing church leaders, clerical or lay. In 1553/4 the accounts for the parish of Betthersden reveal that the churchwardens had to appear before the archbishop at Charing and before the archdeacon at Headcorn for the annual visitation. They also had to deliver church goods to the royal commissioners at Ashford, and later they had to present themselves to the Queen's commissioners.132 This was indeed an extraordinary year, but illustrative of the way ecclesiastical administration was affected by contemporary changes. The first thing to suffer was the day to day administration within the archdeaconries. This was critical. Certainly the archdeacons' courts were lowly placed in the hierarchy of church courts, but their vital role became expendable because of policy decisions outside the control of their personnel, or of the population at large.

It is certainly true that despite the problems facing the courts in the 1530s-1550s, some cases were still heard, and administrative tasks, notably the probate of testaments, still took place. Nevertheless, this was a most critical period. It was a challenge to the courts from above which was unmatched in ferocity and consequences. A vast range of cases vanish from the court books in a very short period of time. It was also a prolonged crisis. Thirty years, or thereabouts, witnessed a remarkable change in the activity of the archdeaconry courts. By 1558, these courts existed in a world which

131 see chapters two and three
132 Mercer(ed.), "Churchwardens Accounts at Betrysden." op.cit., p.100
barely remembered what was commonplace in the 1520s. Only old people might remember taking debt suits to an archdeacon's Official.

The archdeacons' courts had developed since the twelfth century, and were still establishing their exact position within the system of church courts in England. In the period of thirty years after 1529, however, that development was so seriously undermined, that the courts by Elizabeth's reign had changed in the most profound ways. It is true that these courts continued to exist, and also that many aspects of their work, and their jurisdictional rights, remained intact. But their breadth of activity, and the courts' role in society, were irrevocably changed.
CONCLUSION.

In the Reformation Parliament, the Commons attacked the church courts at a time when the Church in general was confronted by a number of ominous threats. These attacks were embodied in the Supplication Against the Ordinaries, which established an unsavoury reputation for the courts which has seldom been challenged. But the veracity of the allegations it contained have never been satisfactorily supported. As Bowker demonstrated, the study of archdeacons' courts, as they existed before 1529, certainly casts doubts upon the Commons' allegations.

This is not, in itself, of major importance if in fact the courts, and particularly those of archdeacons, were relatively unimportant. At first sight, archdeacons' courts might appear to be minor players in the performance of ecclesiastical administration in Tudor England. They were the most junior courts, and responsible to the bishop for the conduct of their business. But such a view of these courts is overly simplistic. It was these courts which were spread over the most remote sections of rural England, localised in a way that could not be matched by other courts, and they had few competitors for ecclesiastical business in rural England. There were indeed a multiplicity of peculiar jurisdictions, but few of these drastically affected archdeacons' jurisdictions, and in many cases the structure of diocesan administration was being simplified in a way which benefited archdeacons' courts.

Furthermore, as a part of configuration of law courts extant within the country, these courts were not, in fact, manifestations of an alien or corrupt legal system, but were part of a legal structure, which claimed as important a part of the political landscape as any other. They successfully competed with other jurisdictions in Tudor England, to

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1 Bowker, "Some Archdeacons' Court Books." op.cit.; this is a major exception
the extent that they were often prepared to hear cases which were, strictly speaking, *ultra vires*, and which could have justified a spate of prohibitions.

With both church court structure, and the way that structure co-existed with other legal systems, the Reformation presented problems which were not isolated to the senior courts alone, but indeed were shared by all tribunals, especially those of archdeacons. The various traumas of this period were initiated by royal ambitions and later exacerbated by the powers and pretensions of the lay courts. The king, welcoming an opportunity to apply pressure to the spirituality, had a vested interest in supporting the attacks upon the church in general, and its courts in particular.

There is no doubt that before the Reformation commenced the church court structure was shaken by Wolsey's legatine court, because it confused the hierarchy of the courts, and increased tension between churchmen. There is some doubt about the actual impact of this innovation, although it is clear that it even touched upon the working of archdeacons' courts.

Whether or not it could have continued sometime after 1530, if things had been different, is problematic. Certainly it was a difficulty which paled in importance compared to the Reformation, and the arrival of the Supremacy. This marked the beginning of changes which were far more threatening for the church courts in general. The creation of the court of Delegates, and the expression of the Supremacy in visitations cast a threatening shadow over a system which had developed over four centuries. As with many other aspects of the Reformation in its early phases, there is evidence of manipulation and bullying, which was inspired "from above."²

The law of the church was similarly subjected to challenges, and some change, with fundamental re-codification seemingly imminent. All of this took place while secular courts remained capable of finding solutions to difficulties. The position of secular

authority substantially altered the ways competing jurisdictions viewed one another. The loss of the church courts was great, and it promised to be far worse.

Having noted the legal context in which archdeacons' courts existed, and the general pressures posed by the Reformation, there is then the more immediate question of the role and value of archidiaconal jurisdiction.

G.R. Elton has stated that these courts were notoriously corrupt, dilatory and incomprehensible. As a result of this he concludes that they displayed a level of interference in private lives that could not be paralleled in other courts of law. Although indicative of conventional wisdom, these remarks are highly questionable.

The implications of Elton's remarks are twofold. The first is that the conduct of business in all areas was uniformly unimpressive, both with respect to expertise and diligence. But this is certainly not the case. This is in some ways was not surprising given the calibre of officials who worked in these courts.

Clearly there were local peculiarities which contributed to the sort of men who worked in these tribunals. Oxford had a very highly trained selection of men, whereas the small and relatively poor jurisdiction of St. Albans attracted men of humbler talent. But in almost all cases, the quality of the men under discussion was remarkably high, and the buoyant system of the courts was well placed to offer a viable living, at least for the Officials and registrars. The presence of members of the gentry as personnel in these lowly courts also raises the question about the sort of profile projected by these courts in contemporary society.

Certainly the demands made upon officials were many and varied. In non-contentious business there was a wide range of things which could be asked by episcopal and royal agents. This area of business reveals that archdeacons' courts were called upon to perform many tasks, such as the induction of clerks into benefices, the

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examination of criminous clerks, the notification of episcopal or royal injunctions, or even the collection of money, for the king, or some other special project. The archdeacons' courts thus maintained a high social profile, and one which was not overbearing or aggressive. This was an area of work which lacked discretionary power, and archdeaconry courts continued to fulfil this role as agent into and well beyond the Reformation years, and at all times it was an administrative mechanism which operated effectively, which was in large measure due to the proximity of these courts to the parishioners of rural England.

In testamentary and contentious matters the courts acted as freer agents because the volume of business had long since necessitated freedom of action. Despite suggestions questioning the capacity of these courts to adhere to the formal guidelines of legal practice, there is notably little procedural laxity. This is one area in which these courts closely resemble episcopal tribunals. The actual law itself was not, as Elton would suggest, even very complex by the standards of other courts.

An important aspect of their activity, however, was again in their proximity to most people within each jurisdiction. This did vary most obviously between larger and smaller dioceses, possessing different terrains, with varying population sizes. In some jurisdictions, the circuits made them accessible to a large section of the population, and they were the most visible legal forum to many English folk.

This unique place in Tudor society is further demonstrated by the annual visitation(s). Each year church officers prepared reports for the visitations, detailing the health of the parish and its members. The visitation itself was an enterprise requiring considerable organization which involved all of the parishes of a jurisdiction. It was another example of the immediacy of the court personnel to the people in the archdeaconry.

4 Collinson, *The Religion of Protestants*. op.cit.,p.65
Furthermore, there is little to suggest that the quality of the service provided by the courts, in testamentary matters, or in the conduct of contentious business, declined during the years of the Reformation. The archdeaconry courts remained as fastidious as ever about assessing the merits of each matter.

The value of the preceding material establishes the technical diligence of archdeacons' courts, and their wide and peculiarly important role, but it gives limited understanding of their utility. The second aspect of Elton's criticism is to regard these courts as regulators, who enforced an unwanted code of behaviour onto an unfortunate and resentful laity.

As an institution, the specific role ascribed to, or assumed by these courts, was not so much as regulators enforcing rules, but social functionaries re-inforcing "respectable" obligations. To take the statements of disgruntled parties at face value would to be a grave error. Archdeacons' courts only received "power" by the implicit acceptance of the laws such bodies claim as their own. In so doing, laws only have relevance so long as they constitute guidelines contributing to forms of social organization. In this sense they acted on behalf of rural communities extant in Tudor England. This was the central importance of these courts for contemporary society, because it was in this way, far more than in non-contentious business, that archdeacons' courts worked for the benefit of the community at large.

There were, of course, limitations to the courts' jurisdictional competence. Several factors contributed to this. Not the least of these was the nature of the communities existing within each parish, and the means available to resolve contentious matters, whether these means were developed and used within the parish alone, or in alternative legal systems which could also offer some externally induced solution.

In both senses, the attitudes of parishioners were clearly influenced by how accessible courts were. Due to the variations in populations and areas of coverage, not
all places could be served equally well. In a pre-industrial society in which roads were
poor and travelling difficult, this is most important.

Similarly, the brief of archdeacons' courts was effectively restricted to the moral
community, which therefore exempted people outside parochial structure, or at least
with looser links of involvement in parish involvement. This took different forms.
The members were no more ordinary parishioners than vagabonds, because neither
were involved in aspects of communal life. The moral community depended, as it still
does, on some sort of "moral stratification" which in some ways defines what are and
are not "respectable" and "proper" modes of conduct. Even people who lived within
the parish might be reluctant to abide by such rules, but how this might manifest itself
in an archdeacons' court is more problematic.

The wealth of parties may have been an important factor affecting who came to court.
Certainly litigation was not inexpensive for labourers. The vast majority of cases won
by plaintiffs, and the fact that many cases cease after only one or two sessions,
supports the thesis that going to court was simply a way of enforcing an obligation,
rather than assessing if such an obligation existed at all. There is even some suggestion
that the courts were a little reluctant to pursue the prosecution of paupers, perhaps
because they lacked the wherewithal to pay courts costs. But this is a far more doubtful
question.

Some distinction may be drawn between the way clergy and laity were treated. The
role of the courts to oversee the clergy is evident in the act books. It is
true that on a proportional basis, the clergy appear more regularly as suitors than the
laity. But there is not enough evidence to substantiate claims that the courts existed for
the benefit of the clergy. Almost all cases involving clerical income could only be
resolved in a church court, so that there was little alternative for aggrieved clergy in
such matters. There is certainly little evidence to indicate widespread ant clericalism. It
is true that the courts appear to be lenient in the way they handle the clergy, but this is
most clearly the case, such as in dilapidations, when the priest's position is difficult. In any case it would appear that the courts were just as prepared to show the laity leniency.

The overall conclusion, is that the archdeacons' courts were, in the years before 1529, diligent and very useful social functionaries, who were perceived by local communities as being important contributors to the flow of local life. It was to an archdeacon's court that many people could gain access. Once there a wide range of problems could be resolved, including problems associated to petty debts, defamation involving a secular offence, and manslaughter, that is, cases which technically belonged to secular courts. The courts were generally speedy in the conduct of business, and they were in a position to offer legal counsel if it was sought. Their decisions were generally accepted, if not with grace, then at least with resignation. Wherever possible, they encouraged the settlement of matters out of court, thus saving litigants money.

Prosecutions were pursued with equal diligence. It was the people of the archdeaconries who generally appealed to the courts that people be prosecuted, and it was from the people of each parish that the courts required help to come to a decision, parishioners being called as witnesses and compurgators. If people were to be punished, then it was with the participation of the community. In both office and instance actions there was a mutual dependence between the courts and parishioners, which resulted in a fruitful relationship.

The Reformation, however, marked a critical and permanent change in the courts' fortunes and so their relationship with local communities. Throughout the thirty years following 1529, the amount of business diminished dramatically. In part, this was due to the impact of statute law, and also to threats of the secular lawyers. Both were important in de-stabilising the confidence of the lawyers. It is not possible to gauge if

5 see chapter three
bishops had some say in the reduction of business of the archdeacons' courts, although it is possible. If so, it is a legacy of the jurisdictional inferiority which the courts accepted as being normal.6

Despite the fact that the archdeacons' courts were the more localised tribunals, their role in the religious changes was strictly limited and often the child of necessity. In some ways this is not surprising. There might be doubts about the sympathies of court officials, and there were few precedents for these courts performing such tasks. Only at Lincoln, under the eye of bishops' officials, did a court continue to function, and indeed build up business. It is a unfortunate that none of the extant records of this court pre-date the 1530s.

The massive decline in business in all other courts was matched by vastly reduced travelling, and sittings. It meant that the courts' social profile almost disappeared, a decline in the number of personnel employed, and a much less significant role in the life of local communities. The crisis for the courts covered three decades. In that time the development of three centuries was permanently undermined, and the role of the courts irrevocably altered. Elton's comment suggests that the courts suffered for their sins. There is nothing, in reality, which supports such a thesis.

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6 see chapter two
GLOSSARY.

Note: This glossary is only designed to offer a guide to terms which are used in this thesis, and in most cases relate primarily to archdeacons' courts. For a more expansive introduction to many of the administrative details of the church in general in the Reformation period, see D.M. Owen, The Records of the Established Church in England, excluding parochial records. (British Records Association; Archives and the User, 1, 1970).

actor (actrix) The plaintiff in a suit.

apparitor The apparitor (or summoner, or mandatory) performed errands at the order of the court.

archdeaconry The area in which the archdeacon's court exercised jurisdiction.

call book (libri cleri) Lists compiled at the time of visitations which contained the names of clergy in the archdeaconry, their parish, and sometimes the lay representatives and water clerk of the parish.

chapter A word with several ecclesiastical meanings, but here taken to refer to a collection of clergy, e.g. the clergy of cathedral chapter, or those within a rural deanery.

circuit The route taken by a court whilst travelling within the jurisdiction when holding sessions of the court in different centres.

commissary Episcopal functionaries working within the archdeaconries as judges. For convenience sake they usually were also the archdeacon's Official.

compera An inquiry as to certain facts which was made at the time of the visitation.

detecia Detections of improper behaviour uncovered during the visitation.

dispensation (indult) Permission to be exempted, temporarily or indefinitely, from an ecclesiastical regulation.
Glossary

excommunication  Ecclesiastical order prohibiting an individual from contact with other people in society. The excommunicate was in turn, not to be approached.

inhibition  Order to a church court ordering the cessation of business until such time as the inhibition had been lifted.

instance action  Litigation. i.e. X called to court at the instance of Y.

office action  This was a prosecution. They were of two sorts, either *ex officio mero*, which was a case undertaken by the court because it was merited, or *ex officio promotio*. These were actions promoted by an individual. If the prosecution failed the "promoter" paid court costs.

Official  The archdeacon's deputy who was the judge of the court in the absence of the archdeacon. Capitalised throughout the thesis in order to differentiate him from other personnel.

ordinary  One who possesses ecclesiastical jurisdiction as of right, not via delegation.

*pars rea* (or *reus*)  The defendant in either office or instance actions.

peculiar jurisdiction  A peculiar (or exempt) jurisdiction did not fit into the normal hierarchy of church courts. They varied in the degree of independence. There were those which were exempt from the interference of courts below episcopal rank, those below archiepiscopal (or provincial) rank, and some were subject to the pope alone.

presentment  Most commonly understood to refer to a report by churchwardens submitted to the archdeacon at the visitation identifying problems within the parish.

proctor  A legal representative employed at the discretion of parties to a case.

procurations  Money due to the archdeacon each year payable by parishes at the time of the visitation(s).
prohibition
A writ forwarded to a church court from a secular court, ordering that a given hearing be suspended until it can be assessed whether or not the matter properly belongs in the church, or some other court.

registrar
The chief scribe within the court who was responsible for the recording of all acts of the court, as well as handling administrative matters. No act of court was valid unless the registrar, or a suitable deputy, was present. All scribes were notaries public.

sequestration
The taking over of goods and money of a certain property. Normally referred to when the fruits of a parish, or the estate of a deceased person were taken over by an agent of the court.

suspension
An order forbidding an individual from entering a church (ab ingressu ecclesie).

synod
The meeting of clerks within a diocese. By Elizabeth’s reign the term was sometimes used for visitations.

viis et modis
An order ("by ways and means") that an individual appear before the court on pain of contumacy, and therefore liable to suspension and excommunication.

visitation
The annual journey made by the archdeacon’s court throughout the jurisdiction undertaken once, and very often twice, each year. Normally the court stopped in one parish in each deanery, make inquiries of the representatives of each parish concerning both the state of the church and the behaviour of the parish’s inhabitants. It was then that presentments were made. Procurations were payable at this time. Visitations should not be mistaken with circuits.
APPENDIX 1.

ARCHDEACONS' INCOMES AND THE VALOR ECCLESIASTICUS.

Part of the first chapter of this thesis concerned itself with the unfavourable reputation of archdeacons. They were, as a group, reputed to be avaricious as well as self-seeking. Accordingly, some discussion of the elements comprising archidiaconal incomes would seem apropos; that is, income derived directly from holding an archdeaconry. As in the discussion of archdeacons' courts, there was in fact considerable variation, and the costs incumbent upon the archdeacon were sometimes quite extensive. Regardless of this, of course, an archdeaconry was an office which promised the position and wealth way beyond the aspirations of most priests.

Given this, there was generally very little time between the collation and the institution of the new man, because it was not until then that he was eligible to receive the fruits of his office, similar to a bishop receiving the spiritualities of his see. The installation of each archdeacon usually took place within a few days of collation and reflects the early stages of the office in which the appointee entertained a close relationship with the cathedral. In most cases the new archdeacon exhibited the letters mandatory to the bishop (or a suitable deputy)\(^1\) and also to the dean and sub-dean, or in their absence the president of the chapter house.\(^2\) He then applied for admission into the chapter which was followed by the investiture in which the bishop conferred the archdeaconry "with all its rights and appurtenances."\(^3\) At Canterbury the archdeacon

\(^1\) Gibson, *Codex*. ii, pp.1456-7; the deputy could be the dean. In 1597 Theophilus Aylmer was refused institution to the archdeaconry of London by the Dean of St. Paul's Cathedral so the bishop ordered the canon and prebends to do it in his stead.

\(^2\) Oughton, *op.cit.* ii, p.147; a separate election had to take place for the new archdeacon's admission into the chapter.

\(^3\) e.g. LAO, For. II, unfo.
did not automatically become a member of the chapter until after the dissolution.\textsuperscript{4}\n
Edmund Cranmer had to wait until 1547 to obtain his seat in the quire.\textsuperscript{5} Up until that stage the induction of the archdeacon took place within one of the churches within the archdeaconry. It should be remembered that this was customary for archdeacons where the chapter was monastic, because the office of archdeacon was secular and could not be held by a religious.\textsuperscript{6}

On most occasions the induction ceremony was conducted through a proxy. At the institution of William Boleyn to the archdeaconry of Winchester in 1530, William Legh stood in for the new archdeacon and just as typically Richard Pate's resignation from the same dignity was transmitted through Nicholas Small.\textsuperscript{7} Proxies were sometimes quite prominent men. The noted canon lawyer Thomas Gotson acted as proxy for John Young at the installation of the latter into the archdeaconry of London in 1514.\textsuperscript{8}

This indicates that the origins of the office were rooted within the cathedral, but just as forcefully demonstrates that by using proxies there was no guarantee that they would always be resident.

There were, in broad terms, two facets of an archdeacon's income. There were those sources of revenue which, in theory were static, and did not change, and there were fees which could vary in amount from year to year. Amongst the former were

\textsuperscript{4} E.Hasted, \textit{The History and Topographical Survey of the County of Kent.} (Canterbury, 1797-1801) ii,p.774  
\textsuperscript{5} CCL,Reg.U,fo.213; not 1550 as Hasted suggests see Hasted,op.cit.,p774  
\textsuperscript{6} \textit{The Statutes of the Cathedral Church of Durham.op.cit.},p.xxxviii; the only exception to this was the Archdeacon of Gloucester who was placed in isolation in a stall between the bishop and the dean and prebendaries with the honorary title of \textit{secunda dignitas}. Archdeacons were not admitted to the chapter in the monastic cathedrals after the Reformation, except at Canterbury.  
\textsuperscript{7} \textit{Registrum Thome Wolsey, cardinalis ecclesie Wintoniensis administratoris [1529-30].} ed. F.T.Madge and H.Chitty (Canterbury and York Society,32,1926) pp.61-3; It was around this time that Gotson was registrar in the bishop of London's consistory court, cf.PRO,E135/7/24; see also G.D.Squibb, \textit{Doctors' Commons: A History of the College of Advocates and Doctors of Law.} (Oxford,1977) p.125  
\textsuperscript{8} GL, Reg Fitzjames,fo.50v
procurations, synodals, pensions, which could be altered with a new composition.9 These amounts, both customary dues and casual fees, were not related to court costs borne by people appearing before the Official, save for fees received for the probate of testaments.

While the amount of litigation or the number of prosecutions were irrelevant to his income, it was the court which collected the procurations and synodals due to him at the time of the annual visitation(s). The former were customary amounts paid in lieu of hospitality and all parishes were liable to pay it. Synodals were also customary payments which were made before synods and were payments made to the bishop. Despite this it is incorrect to assume that synodals were all handed over to the bishop.10 Compositions could be drawn up so that the archdeacon was offered some consideration for collecting the bishops' money.11 Just how the share was apportioned is difficult to determine. We know that archdeacons in Lincoln diocese received a quarter of the bishop's synodals during a vacancy, but not otherwise.12 For instance, the Archdeacon of Oxford received fifteen pounds per year from the collection of synodals, which were paid at Easter.13 It is also a problem attempting to estimate how long this practice had been extant. The composition at Ely went back into the fourteenth century at least.14 This must have been a useful arrangement because the Bishop of London made a composition with the Archdeacon of St. Albans after the monastic jurisdiction became part of the diocese of London.15

Synodals though were small pickings compared with procurations. Even so, the amount of money collected from the latter varied considerably from place to place. The

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9 Medieval Clerical Accounts op.cit., pp.56-7; some archdeacons may also have received a payment at local, or deanery chapter meetings
10 Heath, The English Parish Clergy., op.cit., p.143
11 Gibson, Codex. ii, p.976
12 Bowker, Secular Clergy. p.9
13 Valor. ii, p.173
14 Churchill, Canterbury Administration. ii, p.145 and note
15 HRO, ASA/AR6, fo.2
greater the number of parishes in a jurisdiction, the greater the receipts. The Archdeacon of Lincoln received one hundred and seventy one pounds, seventeen shillings and ten pence in these, according to the _Valor_. The Archdeacon of Norwich got less than half of that, being seventy two pounds and thirteen pence, and the Archdeacon of Canterbury got fifty seven pounds, twelve shillings and seven pence.\(^{16}\) The Archdeacon of Rochester, who had only a small jurisdiction received little more than twenty five pounds.\(^{17}\) Some years later the archdeacon of St.Albans was even worse off, getting only seven pounds and eight shillings.\(^{18}\) This was indeed a meagre prize for an archdeaconry.

According to canon law the amount paid was reduced if the archdeacon did not visit in person.\(^{19}\) This may have prompted a letter from Bishop Longland to Thomas Cromwell in 1535. In it the prelate asked that Archdeacon Pate’s officers be allowed to visit in his stead because of the great charges he faced as a diplomat.\(^{20}\) It could be construed not only that a dispensation was sought, but also that full fees could be collected. This, however, is unlikely because at Chichester in 1535, full procurations were paid despite the fact that the archdeacons did not visit in person.\(^{21}\) The _Valor_ itself does not record two separate figures, something which would have been resisted if relevant because tenths were calculated and thus charged on the one, presumably higher amount.

There were other sources of income which could help the archdeacon’s lot. The Archdeacon of Surrey for instance received forty nine pounds, ten shillings and two

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16 _Valor_. iv,p.27; iii,p.283; i,p.33
17 _Valor_.
18 HRO,ASA/AR 6,fo.2; clearly not all figures are to be trusted, but this is not necessarily that there undervaluation. Archdeacon’s procurations and synodals at St.Albans in the 1560s was thirteen shillings and four pence from both the parishes of Winslow and Aston Abbots, whereas the valuation of 1535 recorded them as being one shilling greater
19 _Lyndwood’s Provinciale_. p.92
20 _DNB_. 44,p.11
21 _Valor_. i,p.300
pence from procurations, synodals and probate fees combined, a further three pounds from inductions, and over sixty from farming out property which belonged to his position.22 The Archdeacon of Canterbury received over 120 pounds above income from procurations, due mainly to revenue from benefices. This was because parishes were presented to certain archdeacons as a reward or via custom, and in some places positions pertained to the current archdeacon. The Archdeacons of Coventry, Lichfield and Chester, each held a prebend and choir stall allotted to their archdeaconry.23 In some cases appropriated parishes were not very valuable. The church of Minty, annexed to the archdeaconry of Wiltshire was worth only six pounds a year, but a prebend belonging to the same office provided over 120 pounds of income.24

The "casual fees" an archdeacon could expect varied, and included probate fees, Peter's pence, pensions, induction fees, money from vacant benefices, and sometimes even funds following on from commutation of penance. This varied from year to year, and of course from place to place. The Archdeacon of Canterbury, for example, enjoyed the right to confirm each bishop of the southern province, and the fee for each as installation set out in Cranmer's archiepiscopate was six pounds 13 shillings and six pence.25 Similarly, the amount accruing from inductions in Lincoln archdeaconry would always be greater than those in Rochester or Carlisle. The variations from year to year would in any case have made estimates about incomes from these sources difficult to calculate.

Even so, this part of the Valor is least satisfactory not only for this reason, but also because it does not mention all sources of revenue, and when it does so there are good reasons to doubt the figures. It records that the Archdeacon of Wells received only three pounds one shilling from probate whereas it seems to have been a major source of

22 Valor. ii, p.32
23 Stebbing Shaw, The History and Antiquities of Staffordshire. (London, 1799-1801) i, p.290
24 Valor. ii, p.74
25 LPL, Reg. Cranmer, fo.80
The archdeacon of Leicester, we are told, got only thirty shillings for probate per annum.26 We noted parts of the income of the Archdeacon of Canterbury, but this did not include the money received for the probate of testaments,28 which sometimes approached thirty pounds per annum.29 Inductions and fees from probate for the Archdeacon of Wiltshire are not even recorded amongst his income of one hundred and ninety pounds, but we know that in 1502 this area of his (or his court's) work netted him almost seventeen pounds.30 Other amounts which may have been collected from commutations of penance cannot be estimated. There is no evidence to hand to show that this was a widespread action, or indeed that it occurred at all. Peter's pence on the other hand was collected, although there are few cases for non-payment,31 yet here again the Valor is silent. If archdeacons wished to give a lower figure of their income than was strictly the case, then this was the area it could be done with the greatest ease.

At Certain places arrangements between bishop and archdeacon also affected the final totals. Prelates normally had a financial interest in the profits of vacant benefices, and in Lincoln, commissaries were ordered to account for the profits of all benefices.32 In that diocese the bishop received two thirds of the amount whereas at Worcester it was half.33 In the diocese of Lincoln the archdeacons got a third of the bishop's part of the sequestrations of parishes during a vacancy, but it is difficult to determine what proportion it was in ordinary times.34 In Lincoln archdeaconry money went to the

27 Valor. iv,p.28
28 Valor. i,p.33
29 Cf.Woodcock,Medieval Ecclesiastical Courts. p.75
30 Valor. ii,p.74; PRO,E135/8/81
31 e.g. HRO,ASA 7/1,fo.37A O. c. Bowden
32 LRO,Reg.24,fo.213
33 Welch..op.cit..pp.30-1
34 Bowker, Secular Clergy. p.9
bishop in an arrangement relating to probate fees. In 1537 there a controversy in that diocese. In that year Bishop Longland drew Thomas Cromwell's attention to a dispute between himself and Richard Langton, Archdeacon of Buckingham. While conceding the bishop's right to half of the fines of testaments the archdeacon refused money for other spiritualities, including synodals. Apprehensive about the effect of Langton's stance, the matter was dropped and the debt remained unsettled. One of these men may have been acting against a custom with which he was familiar, but the ground was sufficiently confusing to allow settled conclusions.

Like most other clerks the archdeacon could arrange to receive a pension upon retiring. One example related to the archdeaconry of Canterbury. We noted in the first chapter that upon becoming Archbishop of Canterbury, Thomas Cranmer quickly set about acquiring the archdeaconry for his brother. As noted, efforts were being made to ensure that the archdeacon was also Provost of Wingham College, although not yet formalised. So it was that there were two pensions payable to William Warham, the outgoing archdeacon; forty pounds a year for the archdeaconry and twenty for the provostship. It is somewhat ironic that although the pension was to remain in perpetuity until Warham's death, it was Nicholas Harpsfield, the conservative, who refused to pay it to him in 1554.

Listed amongst the Valor were the payments made in the course of holding this office. The pope received the first year's income of the benefice (first fruits), and tenths were paid annually. The amount charged was however based upon the valuation of ecclesiastical benefices in the Taxatio of 1291-2. By statute under Henry VIII, these

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35 LRO, REV L/1/1, fo.21-23v
36 LP. xii(ii), no.780; Strype, Memorials. i, ii, pp.275-8; Bowker, The Henrician Reformation, pp.80-1; this included dues called prestations, which were clearly another payment. What its origins were is obscure
37 e.g. BL, Stow, Ch.590, fo.21; William Warham required a separate dispensation for non-residence
38 LPL, Reg. Cranmer, fo.344,349-50; BL, Lansdowne, 979, fo.97; 980, fo.145
39 Sede Vacante Institutions op. cit., p.24
Appendix 1

payments were re-directed to the king's coffers, and 26 Henry VIII,c.3 instituting a new valuation, thus bringing the assessment up to date. By way of concession, 27 Henry VIII,c.8 stipulated that first fruits be reduced to nine-tenths of the total, and the remaining amount accounted for tenths payable for the first year of incumbency. These payments were halted under Mary but quickly restored under her successor.40

It was necessary to pay curates in livings held by the Archdeacon. Edmund Cranmer had to pay fourteen pounds eight shillings and three pence in addition to the money due to Warham. Pensions were also paid to some of the bishops. The Archdeacon of Chester enjoyed first instance prerogative even in reserved cases by paying a twenty or forty pound pension to his diocesan.41 Possibly as a result of earlier conflicts archdeacons in Lincoln diocese paid the bishop a pension. The Archdeacon of Oxford paid twenty pounds, his counterpart at Lincoln forty four, at Leicester twenty nine, and Northampton, fifty four.42

In many of the submissions in the Valor, the figure of debits was increased by payment to receivers (often court registrars) who collected the money on behalf of the archdeacon. At Oxford William Walker received three pounds six shillings and eight pence.43 At Lincoln Henry Sapcote received eight pounds thirteen and four pence.44 At both Oxford and Leicester the salary paid to the archdeacon's Official was included in the Valor.45 This payment was kept to a minimum on the basis that the Official could earn his salary from court business. In the 1530s Edward Finch was Archdeacon of Wiltshire. His income from the position was around sixty four pounds, and he only paid his deputy five pounds six shillings and eight pence.46 At Oxford the cost

40 2 & 3 Philip and Mary,c.4; 1 Elizabeth,c.4
41 VCH,Stafford. iii,p.32
42 Valor. ii,p.173; iv,p.231; iv,p.28
43 Valor. ii,p.173
44 Valor. iv,p.27; A.R.Maddison, "Lincolnshire Gentry during the sixteenth century." AASRP. 22,1893-4. p.208
45 Valor. ii,p.173 3/6/8; iv,p.27; it was six pounds
46 VCH,Wiltshire. iii,p.12
incurred by the archdeacon's officials during the course of the visitation was listed amongst debits to the gross income. These debits were listed with the intention of constituting what we might call tax deductions.

It was the first fruits and tenths however which constituted the most severe blow, but there were other expenses, although not always recorded. At Richard Nix's death, Stephen Gardiner, Archdeacon of Norwich, owed the bishop money, probably incurred for initial payments due to the king and the pope on his promotion. Furthermore, as members of English society archdeacons could be expected to contribute to national (royal) appeals for money. In 1542 Kentish contributions to a 'loan' to the king included twenty pound from Archdeacon Edmund Cranmer. Archdeacons however, did not command the vast resources enjoyed by bishops, and were therefore not overtly affected by the royal plundering of episcopal wealth which was such a feature of the century. The only example was more in the form of a gesture, when Edmund Cranmer presented the "archdeacons place at Hackington" to Thomas Cromwell and others, perhaps as an act of amelioration.

For the most part therefore archdeacons were men who did receive a substantial income, but it should be remembered that the smaller archdeaconries, such as St.Albans and Carlisle were not great financial prizes.

47 Valor. iv,p.28; four pounds ten shillings
48 F.Heal, Of Prelates and Princes. A Study in the economic and social position of the Tudor episcopate. (Cambridge,1980) p.70
49 J.Greenstreet, "Kent contributions to a loan to the King in A.D.1542." AC. 11,1877. p.403
50 Reg.T2,fo.64
APPENDIX 2.

PERSONNEL FROM SIX COURTS.

Note: The following list is to offer a guide to the ecclesiastical appointments held by men who worked within the church courts. It will be noted that the edited works by Dr A.B. Emden have been relied upon to a large degree. The intention is simply to offer some guide as to the status of the personnel of these courts. Where known, details are provided of degrees held, whether the man is priest or layman, and/or notary public. If priests, the benefices held are recorded. In some cases there are doubts about the qualifications of the men cited, in which case their name has an asterix appended. These asterixes indicate that the qualifications have not been cited in the table in chapter four. This list includes details of Officials, registrars, proctors and others who acted temporarily in those positions. As a list of apparitors would have been incomplete, and therefore unrepresentative, it has been decided that this group should not be included.¹

Canterbury.

Officials.


Robert Colens, B.C.L. clerk. V. of Lympne, Kent 1524-35; canon and preb. Wingham, Kent 1528-47; R. of Pluckley, Kent 1534-9; canon and sixth preb. Canterbury 1554-60.⁴ R. of Luddenham, Kent oc.1552⁵; R. of Midley, Kent by 1550-oc.1555⁶; Acts in the consistory court as a proctor in 1524.⁷ Commissary in that court from before 1539 until 1548. Resumes the post in 1553.⁸ Appears in the archdeacon's

¹ Abbreviations are: R.(rector); V.(vicar); preb.(prebend); D.(dead by); oc.(occurs in) and all county and town names are shortened where it is considered appropriate.
² Emden, Supplement. p.75; CCL,Z/3/4,fo.25
³ Woodcock, Medieval Ecclesiastical Courts., p.119; KAO,PRC 3/5,fo.1; PRC 3/6,fo.14
⁴ Emden, Supplement. pp.132-3; LPL,Reg.Warham,fo.383v
⁵ CCL,Z/3/6,fo.45
⁶ CCL,Z/3/6,fo.11,157
⁷ Woodcock, Medieval Ecclesiastical Courts., p.122
⁸ CCL,Y/2/16,fo.78; Y/2/17,fo.33; which specifically states that he is appointed to the position of commissary general at the time of the vacation of the metropolitan seat, meaning Cranmer's attainder
Appendix 2

...court as a proctor 1524\(^9\); acting as deputy for Official in 1552\(^10\); Official 1524-39\(^11\) and 1554-8.\(^12\)

**Christopher Nevinson, B.C.L., D.C.L.\(^{13}\)** layman. Commissary in the consistory court from 1548-1551.\(^{14}\) Official of the archdeacon 1539-1551. D. 1551.\(^{15}\)

**Thomas Smyth, B.A., M.A., B.C.L., B.Cn.L.** clerk. R. of St.Peter le Bailey, Oxf. 1522-3; V. of Newchurch, Kent 1533-oc.39; R. of St.Mary Magd., Kent 1535-oc.1552, vac. by 1554; canon and preb. Exeter 1543; chaplain to Archbishop Cranmer 1543.\(^{16}\) Commissary in the Canterbury consistory court 1552-3.\(^{17}\) Official of the Archdeacon of Canterbury 1551-4.\(^{18}\)

**Nicholas Morton, M.A., B.D.** clerk. sixth preacher at Canterbury c.1557-8.\(^{19}\) Appears as Official April 1558.\(^{20}\)

**Proctors.**

**William Knight, B.C.L.** clerk.\(^{21}\) R. of Brook, Kent 1485-7; V. of Bamford, Suff. 1487-1504; R. of Stowting, Kent 1502. Acting before 1515 and still in 1521.\(^{22}\)

**John Webbe, M.A.** clerk. V. of Elham, Kent 1503-oc.1540,1555; V. of Alkham, Kent 1518-32.\(^{23}\) Acting as a proctor by 1515 until 1525.\(^{24}\)

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9 CCL,Y/2/4,fo.234
10 CCL,Y/4/9,fo.89
11 CCL,Y/2/7,fo.52,170; Y/4/5,fo.36; KAO,PRC 3/6,fo.13v
12 KAO,PRC 3/13,fo.102; PRC 3/15,fo.29
13 Venn, *Alumni*. i,iii,p.244
14 CCL,Y/2/16,fo.98
15 CCL,Y/4/5,fo.36; Y/4/9,fo.64v; KAO,PRC 32/24,fo.62v-66v
16 Emden, *Supplement*. p.526; CCL,Z/3/5,fo.11; Z/3/5,fo.3,52v; Z/3/6,fo.30v,46,102v
17 CCL,Y/2/17,fo.1-32
18 CCL,Y/4/9,fo.78; KAO,PRC 3/13,fo.101v
19 DNB. 39,pp.156-7; Venn, *Alumni*. i,iii,p.218
20 KAO,PRC 3/15,fo.26v
21 Emden, *Oxford to 1500*. ii,p.1063
22 CCL,Y/2/4,fo.187
23 Emden, *Oxford to 1500*. iii,p.2004; CCL,Z/3/5,fo.20v; Z/3/6,fo.37,65,153
24 CCL,Y/2/4,fo.68; Y/2/7,passim; Woodcock,*Medieval Ecclesiastical Courts*.p.122; believes it was 1514
Appendix 2


Richard Hews, B.Cn.L. clerk. V. of Thornham, Kent 1517-31; V. of Stockbury, Kent oc.1522. Acting as a proctor by 1517 into the 1530s.

John Some, B.Cn.L. clerk. V. of Harbledown, Kent oc.1520; R. of Little Mongeham, Kent oc.1536. Acting as a proctor by 1517.


Henry Lawrence. layman. Proctor in the consistory court before 1539. Acting as a proctor in the archdeacon’s court by 1521 until 1540.

Ralph White, B.C.L. Acting in 1520 and 1521.

_____ Stone. Proctor, acting from 1524 until 1529.

25 Foster, *Alumni*. i.iv,p.1629
26 CCL,Y/2/4,fo.231
27 CCL,Y/2/16,passim
28 CCL,Y/2/7,fo.113; Y/4/5,fo.3v
29 CCL,Y/4/5,fo.23v
31 CCL,Y/2/7,fo.119; Y/4/4,passim; Woodcock, *Medieval Ecclesiastical Courts*, p.123; believes he began in 1515
32 Emden, *Supplement*. p.527; *Register of the University of Oxford*.vol.1.op.cit. p.89
33 CCL,Y/2/4,fo.118
34 Emden, *Oxford to 1500*. i.p.273; CCL,Z/3/4,fo.24
35 CCL,Z/3/5,fo.11v
36 All Souls College,Trice Martin,p.282
37 CCL,Y/2/4,fo.184v; Emden, *Oxford to 1500*. i.p.273
38 CCL,Y/2/16,passim
39 CCL,Y/2/4,fo.191v; Y/4/5,fo.58; Woodcock, *Medieval Ecclesiastical Courts*, p.122; here he is referred to as Thomas
40 *Register of the University of Oxford*.vol.1.op.cit.,p.125
41 Woodcock, *Medieval Ecclesiastical Court.s*.p.122; Y/2/4,passim
42 Woodcock, *Medieval Ecclesiastical Court.s* p.123; CCL,Y/2/7,fo.53,95
Appendix 2

Thomas Cockes, B.Cn.L. clerk. R. of Little Mongeham, Kent 1528–30; cantarist Brenchley chantry, Canterbury cathedral vac. by 1535; V. of Sturry, Kent 1535.43 Proctor in consistory before 1539 until 1550.44 Acting for the Official of the archdeacon in 1551.45 Acting as proctor in the archdeacon's court by 1527, until 1557.46

John Aras. Proctor in the consistory court 1550-53.47 Appears as proctor in the archdeacon's court in 1545 until 1557.48

Shadwell. Notary public. Possibly a notary public who practiced at Rochester in the later 1530s.49 Proctor at Canterbury from 1548 until December 1552.50


John Fisher, B.C.L., B.Cn.L.54 clerk. R. of Buckland, Kent 1554; R. of St.Mary Magd., Canterbury by 1554-oc.1555; V. of Patrixbourne oc.1552.55 First appearance as a proctor in the consistory court in 1553.56 Working in the archdeacon's court 1550 until 1552.57

43 Emden, Supplement. p.125
44 Y/2/17,passim
45 CCL,Y/4/9,fo.82v
46 CCL,Y/4/5,fo.40; Y/4/10,fo.37
47 CCL,Y/2/16; Y/2/17, passim
48 CCL, Y/4/8,fo.66v; Y/4/9,fo.73v; Y/4/10,fo.49v
49 KAO,DRc/R7,fo.166v; if so then his first name was Thomas. If this was the man he would probably have been there after 1535, when the court records cease
50 CCL,Y/4/5,fo.145; Y/4/9,fo.101
51 CCL, Z/3/6,fo.19,40v,165v; Emden, Supplement. p.143; Register of the University of Oxford.op.cit.,vol.i. p.139
52 CCL,Y/2/16; Y/2/17,passim
53 CCL,Y/4/9,fo.65
54 Foster, Alumni. i,ii,p.500; Register of the University of Oxford.vol.i.op.cit. p.150
55 CCL,Z/3/6,fo.138v
56 CCL,Y/2/17,passim
57 CCL,Y/4/9,fo.29,167v
Appendix 2

John Baker, B.Cn.L.58 clerk. notary public.59 Working in the consistory court by 1558.60 Acting as a proctor in the archdeacon’s court from 1557.61

Registrars.
Thomas Lawrence. layman. notary public. Acting from 1494-1536.62 D. 1536.

Thomas Percy layman. notary public. Appointed registrar 1536.63 Still working into Elizabeth’s reign.64

Others.
Edmund Farley, B.C.L.65 clerk. V. of Mongeham by 1548, oc.1553, vac.by 1554.66 Deputy to the Official from 1547.67 One of the royal visitors of the north in 1547.68

Robert Charles. clerk. Carmelite friar, Oxford convent in 1532 and at dissolution. Dispensed to hold a benefice and change habit in 1538.69 Deputy Official.70 R. of St. Peter’s, Canterbury oc.1556.71

John Stace. notary public. layman. Possibly the incumbent at Denton 1536 and chaplain at Dartford, Kent 1537-48;72 Deputy registrar.73 An assistant registrar on the Northern royal visitation in 1559.74

58 Foster, Alumni. i,i,p.57; Emden, Supplement. p.20
59 KAO, PRC 3/14, fo.107
60 CCL, Y/2/19, passim
61 CCL, Y/4/10, fo.42
62 Woodcock, Medieval Ecclesiastical Court.s, p.121; KAO, PRC 3/8, fo.82v
63 CCL, Reg.T2, fo.75
64 see KAO, PRC 3/15; CCL, Y/4/10, passim
65 Venn, Alumni. i,ii,p.121
66 CCL, Y/4/5, fo.11v; Z/3/6, fo.67v
67 CCL, Y/4/5, fo.104v
69 Emden, Supplement. p.111
70 KAO, PRC 3/14, fo.47v
71 CCL, Z/3/5, fo.106v
72 Records of Rochester. ed. Fielding (Dartford, 1910) p.536
73 KAO, PRC 3/14, fo.121
74 The royal visitation of 1559. op.cit., p.xviii
Leicester.

Officials.
William Mason, B.C.L., Lic.C. & Cn.L. clerk, canon and preb. Welton Paynshall 1492-oc.1508; R. of Tinwell, Rutland; West Deeping, Linc.; canon Newark College, Leic. and sixth preb. there, 1506-15; R. of Pitsford, Northants. 1508-15.75 Acting as Official and commissary from 1509, probably until 1515.76 D. 1515

John Silvester, B.C.L. clerk. V. of Swineshead, Linc. 1509-19; R. of North Witham, Linc. 1507; R. of Saddlington, Leic. 1518-oc.1526; R. of Mediety of Welton, Northants. 1520-42; R. of Blaston St.Giles chapel, Leic. in 1526.77 Acting as judge by 1518, probably until 1521,78 although he does sit as judge in a session in 1522. Acting as Official and commissary at Northampton by 1535 until 1541.79 D. by 1542.

Richard Parker, B.Cn.L., B.C.L. clerk. R. of St.Swithun’s, London 1518-34; V. of Horley and Hornton, Oxf. 1521; V. of Bullington, Warw. vac by 1525; treasurer of Linc. 1525-vac. by 1532; R. of Waltham, Leic. 1525-34; canon of Linc. and preb. Stow St.Mary 1526-34; R. of Copmanford, Hunts. 1526. D. by 1534.80 Acting as Official from 1521/2 until 1525.81

Robert Pachet, B.C.L., B.Cn.L.82 V. of Theddington,Leic.;83 Deputy to Parker in the early 1520s,84 before becoming Official in 1525.85

Thomas Mountford (Mountforth), B.Cn.L.86 Official at Leicester sometime before 1557 to 1559.87 Formerly proctor at Northampton oc.1540.88 Official and commissary of Northampton 1541 until after 1544.89

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75 Emden, Cambridge to 1500. p.395; Thompson, History of the College...Newark,op.cit.,p.241
76 Bowker, The Secular Clergy. p.186
77 Emden, Cambridge to 1500. p.573
78 Bowker, The Secular Clergy. p.186
79 NRO,Arch.I,fo.15,32; Arch.II,fo.18
80 Emden, Supplement. p.432; More, op.cit.,p.170
81 Leic.AO,1D41/12/2,fo.73; 1D41/11/1,fo.21
82 Venn, Alumni. i,iii,p.296
83 Bowker, Henrician Reformation. p.42
84 Leic.AO,1D41/12/2,fo.73
85 Leic.AO,1D41/11/1,fo.21
86 Venn, Alumni. i,iii,p.224
87 Leic.AO,1D41/11/3,fo.21,74
88 NRO,Arch.II,fo.16
89 NRO,Arch.II,fo.16,69
John Lounde. B.C.L.\textsuperscript{90} clerk. Master of St.John Baptist Hospital, Mere Lincs.;\textsuperscript{91} Auditor of causes for the dean and chapter and Keeper of the altar of St.Peter, Linc. deprived in 1553;\textsuperscript{92} Acting as Official at Leicester from 1559;\textsuperscript{93} Formerly a proctor in the Archdeacon of Lincoln's court, 1545-oc.1553.\textsuperscript{94}

\textbf{Proctors.}

\textbf{Richard Brokesby}, B.Cn.L. clerk. V. of St.Martin's, Leic. 1516-18; canon of Newark college and sixth preb. 1519.\textsuperscript{95} dean of Hastings, Leic.; R. of Asfordby by 1526;\textsuperscript{96} Acting by May 1525 until after 1535.\textsuperscript{97}

\textbf{William Dukkett}, B.C.L., B.Cn.L. clerk. V. of Rothley, Leic. 1532; canon of Lichfield and preb. Bishopshull 1538-40; canon and seventh preb. Newark; chaplain to Bishop Lee 1539.\textsuperscript{98} Acting from 1528 to 1535 or beyond.\textsuperscript{99} D.1540.

\textbf{James Faryngton}. noted as being Magister. Acting by 1528 until 1558.\textsuperscript{100}

\textbf{George Stonyng}, B.C.L. notary public.\textsuperscript{101} Acting from 1528 until 1535.\textsuperscript{102}

\textbf{William Wayne}, B.Cn.L.\textsuperscript{103} possibly a clerk and the R. of Hadley Camps, Essex 1535-46. Appears as proctor from 1530 and still evident when records cease in 1536.\textsuperscript{104}

\textbf{James Wylie,* B.Cn.L.}\textsuperscript{105} Acting from 1532 and still in 1536.\textsuperscript{106}

\textsuperscript{90} Chapter Acts. iii,p.180
\textsuperscript{91} Emden, Supplement. p.364
\textsuperscript{92} Chapter Acts. iii,p.180
\textsuperscript{93} Leic.AO,1D41/11/3,fo.74
\textsuperscript{94} LRO,Cij/1,fo.188v; Cij/2,fo.283
\textsuperscript{95} Emden Cambridge to 1500. p.95; Thompson, History of the College...Newark op.cit.,p.241
\textsuperscript{96} More,op.cit.,p.186
\textsuperscript{97} Leic.AO,1D41/11/1,fo.6v; 1D41/11/2,fo.182v
\textsuperscript{98} Emden, Supplement. p.178; Thompson, History of the College...Newark op.cit.,
\textsuperscript{99} p.243
\textsuperscript{100} Leic.AO,1D41/11/2,fo.51v; 1D41/11/3,fo.60
\textsuperscript{101} Emden, Supplement. p.543
\textsuperscript{102} Leic.AO,1D41/11/2,fo.49
\textsuperscript{103} Venn, Alumni. i,iii,p.310
\textsuperscript{104} Leic.AO,1D41/11/2,fo.108v
\textsuperscript{105} Venn, Alumni. i,iii,p.414; this is a _____ Willey, who received the qualification in 1529-30. The court records do note however that he does possess a degree
\textsuperscript{106} Leic.AO,1D41/11/2,fo.155v; 1D41/11/2,fo.192
Nicholas Williamson, B.C.L.\textsuperscript{107} notary public. Acting as registrar at Northampton by 1546 and is still there in 1550.\textsuperscript{108} Acting as proctor at Leicester from 1557.\textsuperscript{109}

\textbf{Registrars.}
William Biller, B.C.L.\textsuperscript{110} Acting from around 1516 as a scribe,\textsuperscript{111} and is certainly registrar by 1521 until 1546.\textsuperscript{112} Came from the Archdeacon of Buckingham's court where he had been registrar from 1509 or earlier.\textsuperscript{113}

\textbf{John Gote.} notary public.\textsuperscript{114} Appears as proctor at Northampton in 1542-4.\textsuperscript{115} By 1557 he is at Leicester as registrar.\textsuperscript{116}

\textbf{Lincoln}

\textbf{Officials.}
John Prynne (Pryn), B.C.L., B.Cn.L., D.Cn.L. clerk. R. of North Meols, Lanc. 1519-24; V. of Powick Wore, vac. by 1521; V. of Master Butlers, Warw. 1521; R. of Clopton, Suff. 1523-36; canon of Hereford and preb Hampton 1523-51; R. of Eydon, Northants.1525-42; canon Linc. and preb. St.Martin's Deunestall 1526-7; preb Kettin, Linc.1528-58; R. of Bourton on Water, Glouc. by 1532-53; treasurer Linc. 1532-5; sub-dean Linc.1535-58; R. of Bassingham. Linc. 1539-oc.47.\textsuperscript{117} Acting in court from 1533 or earlier.\textsuperscript{118} D. 1558.

John Pope, B.C.L., B.Cn.L. clerk. Warden of St.Peter's altar, Linc. 1538-43; R. of Belton, Linc. 1538; R. of Epworth, Linc. 1536; canon of Linc. and preb Welton Paynshall 1540-43; V. of Sutterton, Linc.1541; chancellor Linc. 1543-54; Warden Mere Hospital,Lincs. 1551; R. of Dunsby St.Andrew with Brauncwell, Lincs. 1552; Master of St.Leonard's Hospital, Newark, Notts.; preb Leighton Buzzard Linc. 1554-8; Archdeacon of Bedford 1554-58.\textsuperscript{119} Acting in court from 1536,\textsuperscript{120} D. 1558.

\textsuperscript{107} Venn, \textit{Alumni.} i,iv,p.420; registrar notes that he has a law degree, Leic.AO,1D41/11/3,fo.26v
\textsuperscript{108} NRO,Arch.III,fo.2,100
\textsuperscript{109} \textit{ibid.}
\textsuperscript{110} Emden, \textit{Cambridge to 1500.} p.61; Acting from 1521; \textit{Cambridge University Grace Book I.}\textit{op.cit.},p.15
\textsuperscript{111} More(ed.),"Proceedings of Ecclesiastical Courts."\textit{op.cit.},p.129
\textsuperscript{112} Leic.AO,1D41/11/2,fo.73
\textsuperscript{113} Bodleian,Willis 14,fo.11
\textsuperscript{114} LRO,Reg.27,fo.87v
\textsuperscript{115} NRO,Arch.II,fo.34,55,72
\textsuperscript{116} Leic.AO,1D41/11/3,fo.21
\textsuperscript{117} Emden, \textit{Supplement.} pp.465-6
\textsuperscript{118} LRO,Vij/1,fo.17-18v,22-25v,32
\textsuperscript{119} Emden, \textit{Supplement.} p.457
\textsuperscript{120} LRO,Cij/1,fo.1v

Proctors.
John Broxholme, B.C.L. layman. Acting in court by 1536 until 1542.


George Grantham, B.A. clerk. R. of Widford, Herts. 1536-56. Acting from 1536 or earlier until 1539.

John Colyngryge,* noted as being LL.B. by court registrar, at a time when he acts as deputy for the Official. Acting by 1536 until 1537.

George Sandeford, B.Cn.L. Acting as deputy to Official in March 1537, during the visitation. Acting as a proctor from before 1536 until 1545.


121 Emden, Supplement. p.24; Longden,op.cit.,i,p.177; Chapter Acts. iii,pp.151-2,165-6
122 LRO,Cij/2,fo.9
123 LRO,Cij/1,fo.210
124 Venn, Alumni. i,i,p.241
125 LRO,Cij/1,fo.3,151
126 LRO,Cij/1,fo.3; Cij/2,fo.105
127 Emden, Supplement. p.243
128 LRO,Cij/1,fo.3,74
129 LRO,Cij/1,fo.11
130 LRO,Cij/1,fo.3
131 Venn, Alumni. i,iv,p.11
132 LRO,Vij/1,fo.41-42v
133 LRO,Cij/1,fo.2,280
134 LRO,Cij/1,fo.4
135 Chapter Acts. iii,p.xxii
Henry Litherland (Lederland), B.Cn.L., D.C.L.\textsuperscript{136} clerk, treasurer of Linc. 1535-38;\textsuperscript{137} Acting in 1536.\textsuperscript{138} D. 1542.

Thomas Hewetson, B.A., B.C.L., B.Cn.L.\textsuperscript{139} Acting as proctor from 1538 until 1541.\textsuperscript{140}

William Leveret, B.M. physician.\textsuperscript{141} Acting in court in 1539.\textsuperscript{142}

John Lounde, see Leicester.

William Hill (Hyll), B.C.L., B.Cn.L.\textsuperscript{143} clerk. Auditor of causes for the dean and chapter and keeper of St. Peter's altar, Linc. 1554-56.\textsuperscript{144} Acting in the archdeacon's court from 1551 and oc. 1553.\textsuperscript{145} D. 1556.

Registrar.

Peter Effard, notary public. Resigned by 1536. Still chapter clerk in the cathedral until 1541.\textsuperscript{146} D. 1541.

Henry Sapcote, notary public. Acting from 1536 until 1553.\textsuperscript{147} D. 1553.

Others.

Thomas Bothe, B.C.L. possibly curate of Deene, Northants. 1526. D. 1538.\textsuperscript{148} Deputy to the Official in sections of the visitation in 1537.\textsuperscript{149}


\textsuperscript{136} Foster, \textit{Alumni.} i,ii,p.918; \textit{Register of the University of Oxford.} vol.i.op.cit.,p.100; see also \textit{Chapter Acts.} i,p.201
\textsuperscript{137} \textit{ibid.}
\textsuperscript{138} LRO,Cij/1,fo.20v
\textsuperscript{139} \textit{ibid.}
\textsuperscript{139} \textit{Register of the University of Oxford.} vol.i.op.cit.,p.120
\textsuperscript{140} LRO,Cij/1,fo.51v,134v
\textsuperscript{141} Emden, \textit{Supplement.} p.353
\textsuperscript{142} LRO,Cij/1,fo.78v-83
\textsuperscript{143} Emden, \textit{Supplement.} pp.309-10
\textsuperscript{144} \textit{Chapter Acts.} iii,pp.108,151-2; these positions were normally held concurrently
\textsuperscript{145} LRO,Cij/2,fo.124v
\textsuperscript{146} \textit{Chapter Acts.} i,p.xiii
\textsuperscript{147} LRO,Cij/1,fo.3; \textit{Chapter Acts.} iii,p.xxii
\textsuperscript{148} Emden, \textit{Cambridge to 1500.} p.80
\textsuperscript{149} LRO,Vij/1,fo.14-14v,28
Appendix 2


Edward Sapcote. notary public. layman. Acting as scribe in court in 1552.

Northampton.

Officials.
John Silvester, see Leicester.

Thomas Mountford, see Leicester.

Ralph Cockes, B.C.L. Official acting from 1547, probably until Bynsley took over.


Proctors.

John Gote, see Leicester.


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150 Emden, Supplement. p.389
151 LRO,Cij/1,fo.214v-251v
152 LRO,Cij/2,fo.154v
153 Register of the University of Oxford vol. i. op. cit., p. 217; this degree was not granted until 1552
154 NRO, Arch.III,fo.54v,84v
156 NRO, Arch.III,fo.100
157 Emden, Supplement. p.93; Northamptonshire and Rutland Clergy. op. cit., ii, p. 171
158 NRO,Arch.II,fo.69,93v; Arch.III,fo.64v
159 NRO,Arch.II,fo.11v; Arch.III,fo.140
160 Northamptonshire and Rutland Clergy. op. cit., iv, p. 69
161 NRO,Arch.II,fo.34
Marmaduke Claver, B.C.L. notary public.\textsuperscript{162} Acting as a proctor by 1550.\textsuperscript{163} Registrar to the Archdeacon of Bedford from 1553 and of Buckingham from 1559.\textsuperscript{164}

John Williams. clerk. R. of Collyweston, Northants. 1543-60.\textsuperscript{165} Acting as proctor by 1550.\textsuperscript{166}

Registrars.

John Mountsteving (Mountstein). notary public. layman. Principal registrar to the Bishop of Peterborough from 1544, and by 1547 a freeholder of the bishop's court. Held a miscellany of posts of the bishop and dean and chapter of the cathedral. D. 1584.\textsuperscript{167} Registrar of the archdeaconry vac. by 1546.

Nicholas Williamson, see Leicester.

Other.


William Turnbull, B.C.L., D.C.L. clerk. notary public. canon and sixth preb. Worcester 1558. R. of Fladbury, Worc., 1558-73; tenth preb. Worcester 1558-73.\textsuperscript{170} Acts as deputy to the Official of Northampton in 1540, and temporarily the Official and commissary at the time Mountford was taking over from Silvester.\textsuperscript{171} Vicar-general of Worcester and president of Worcester consistory from 1558.\textsuperscript{172}

Richard Byrdwell (Birdsall) clerk. R. of Stoke Goldington, Bucks. 1518-33; V. of Preston Deanery 1520-30; Master St. John's Hospital Northants. 1544; R. of St. Peter's, Northants. 1563-76.\textsuperscript{173} Deputy to the Official and commissary in 1542-3.\textsuperscript{174}

\textsuperscript{162} Emden, \textit{Supplement}. p.120
\textsuperscript{163} NRO, Arch.III, fo.109
\textsuperscript{164} \textit{Chapter Acts}. iii, pp. 101-167-8
\textsuperscript{165} \textit{Northamptonshire and Rutland Clergy}, op. cit., xv, p.99
\textsuperscript{166} NRO, Arch.III, fo.113v
\textsuperscript{167} \textit{The House of Common}, 1509-58. ii, p.642
\textsuperscript{168} Emden, \textit{Supplement}. p.11; \textit{Register of the University}, vol. i, op. cit., p.64; \textit{Northamptonshire and Rutland Clergy}, op. cit., i, p.75
\textsuperscript{169} NRO, Arch.I, fo.1; this is not the same man who appears as a proctor at Canterbury in the late 1540s into the 1550s
\textsuperscript{170} Emden, \textit{Supplement}. p.580; B.C.L. by 1530 and doctorate by 1546
\textsuperscript{171} NRO, Arch.II, fo.1,16v
\textsuperscript{172} Emden, \textit{Supplement}. p.580
\textsuperscript{173} \textit{Northamptonshire and Rutland Clergy}, op. cit., ii, p.107
\textsuperscript{174} NRO, Arch.II, fo.29,46v
John ap Harry, M.A., D.C.L. clerk. Master of St. Nicholas chapel in Stafford castle in 1535; R. of Church Eaton, Staffs. 1537-49; canon and preb. St. David's 1539-oc. 1541; V. of St. Mary's, Lichf. 1543-7; R. of Blymhill, Staffs. 1544-9; preb. Denston in St. Mary's, Staffs. 1544-8; preb. in Cotton, Staffs. 1544-oc. 48; canon of Lichf. and preb. Pipa Parva 1547-9; R. of Castor, Northants. 1547-9; **Archdeacon** of Northampton 1548-9.\(^{175}\) Acting as deputy for Official in 1548.\(^{176}\)


**Oxford.**

**Officials.**

Walter Wright, B.C.L., D.C.L. clerk. vice-chancellor of Oxford University 1547-50; **Archdeacon** of Oxford 1543-61; R. of Ducklington & Cokethorpe, Oxf. 1550-3; R. of Silverton, Devon 1552-61; R. of South Breocke, Cornwall 1553-57; canon and preb. Exeter 1554; canon Salisbury and preb. Grantham Borealis 1559-61; canon and preb. Winchester 1560-1; V. of Bampton, Oxf. 1561.\(^{178}\) Official at Oxford by 1539.\(^{179}\)

**Proctors.**

**John Ashwel**, B.C.L., B.Cn.L.\(^{180}\) Acting by 1540.\(^{181}\)

**Richard Rede**, B.C.L., D.C.L.\(^{182}\) Acting by 1540.\(^{183}\)

**John Fuller**, B.C.L., D.C.L. clerk. notary public. R. of Hanwell Brentford, Middx. 1547-51; R. of Roydon, Suff. 1550-9; R. of North Creake 1550-8; V. of Swaffham, Suff. 1551-4; canon and fifth preb. of Ely 1554-8; R. of Little Wilbraham, Camb. 1555; R. of East Dereham, Norf. 1558; canon of St. Paul's London preb. Chamberlainwood 1558.\(^{184}\) Acting by 1540.\(^{185}\)


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\(^{175}\) Emden, *Supplement*. p. 319

\(^{176}\) NRO, Arch. III, fo. 63-64v

\(^{177}\) NRO, Arch. III, fo. 50v

\(^{178}\) Emden, *Supplement*. p. 641

\(^{179}\) LRO, Cj/6, fo. 2; there is no point guessing the length of time these men held these positions given that the records barely cover twelve months' business

\(^{180}\) Emden, *Supplement*. p. 16

\(^{181}\) LRO, Cj/6, fo. 6

\(^{182}\) Emden, *Supplement*. p. 481

\(^{183}\) LRO, Cj/6, fo. 6v

\(^{184}\) Emden, *Supplement*. pp. 221-2

\(^{185}\) LRO, Cj/6, fo. 6
Archdeacon of Dorset 1551-72; canon of Wells and preb. Timbersombe 1554-6; Archdeacon of Wells 1554-72; canon of Linc. and preb. Centum Solidorum 1555-72; R. of Chedzoy, Somerset 1558; portioner Tidcombe & Tiverton 1562-72. Acting by 1540/1.


William Bynsley, see Northampton.

Registrar.

Other.

St.Albans.

Officials.
John Incent, B.C.L., D.C.L. clerk. notary public. R. of Compton, Hants. 1512; R. of Chinnor, Oxf. 1520-45; R. of St.Maurice's Winchester vac. by 1511; V. of Chieveley, Berks. 1520; R. of Lockinge, Berks. 1521; Master of Godhouse, Portsmouth 1522-40; R. of All Saints, Southampton vac. by 1522; Master of St.Cross, Winchester 1524-45; R. of Kimpton, Hants. 1524-45; preb. in Urchfont in St.Mary's, Southampton 1526; R. of Sutton, Surrey 1533; canon of Gnossall, Staffs. and preb of Pendford 1535; R. of Tadmarton, Oxf. 1535-45; master of the free chapel of St.Laurence, Norwich 1535; dean of St.Paul's, London 1540-45. Acting as judge from 1515 to 1520, then 1520-2.

186 Emden, Supplement. p.141
187 LRO,Cj/6,fo.86v
188 Emden, Supplement. p.151
189 LRO,Cj/6,fo.86v
190 Emden, Supplement. p.602; Register of the University of Oxford. vol.1. op.cit. p.166; More(ed.), "Proceedings of Ecclesiastical Courts." op.cit., p.130
191 Emden, Supplement. p.50
192 LRO,Cj/6,fo.156v
193 Emden, Oxford to 1500. ii,p.999
194 HRO,ASA 7/2,fo.1v-15,17-23
Appendix 2

John Basse, B.C.L.\textsuperscript{195} clerk. chaplain dispenseed in 1517.\textsuperscript{196} First appears as a proctor in 1516.\textsuperscript{197} Effectively locum tenens for John Incent, but called the Official. He acts in this capacity in 1519 and into 1520.\textsuperscript{198} Acts as an proctor 1522-23.\textsuperscript{199}

William Middleton, B.C.L., D.C.L. clerk. R. of St.George’s, Southwark 1527-56.\textsuperscript{200} Acting as judge 1522 until 1524.\textsuperscript{201}

John Eggerton, B.Cn.L. clerk. R. of Gt.Billing, Northants. 1512-32; R. of farthingston 1519; R. of Weston favell vac. by 1532.\textsuperscript{202} Official from 1524 until 1527.\textsuperscript{203}

Thomas Burley, B.D.\textsuperscript{204} First appears as judge at St.Albans in 1528 until 1530.\textsuperscript{205}

Edward Carne, B.C.L., D.C.L. clerk. R. of ‘Meither’, Llandaff 1517; chancellor Salisbury 1531-7; R. of Swinbrook, Oxf. 1532-7; R. of Marnhall, Dorset 1533-7; V. of Milksnham, Wilts. 1535-7; R. of Snailwell, Cambs. 1537.\textsuperscript{206} He first appears as judge at St.Albans in 1530 until 1531.\textsuperscript{207}

Thomas Bagard, B.C.L., D.C.L. clerk. B.C.L., D.C.L. R. of free chapel Parke, Hereford 1529-38; V. of Pembryn, Cardig. oc.1535; R. of Duntisborne Abbots, Glouc. 1536; R. of Alvechurch, Worc. 1541; R. of Ripple, Worc. 1542; canon and first preb. Worc. 1542-44; R. of Bredon, Worc. 1542-4.\textsuperscript{208} Began acting as judge at St.Albans in 1531.\textsuperscript{209}

\textsuperscript{195}Emden, \textit{Cambridge to 1500. p.42}
\textsuperscript{196}Register of the University of Oxford. vol.i.op.cit.,p.103
\textsuperscript{197}HRO,ASA 7/2,fo.6
\textsuperscript{198}HRO,ASA 7/2,fo.14,15v
\textsuperscript{199}HRO,ASA 7/2,fo.17-30
\textsuperscript{200}Emden, \textit{Oxford to 1500. ii,p.1279}
\textsuperscript{201}HRO,ASA 7/2,fo.22,31
\textsuperscript{202}Venn, \textit{Alumni. i,ii,p.91}
\textsuperscript{203}HRO,ASA 7/2,fo.31v-45
\textsuperscript{204}HRO,ASA 7/2,fo.45v; although there is no record of it being earnt at an English University. A B.Cn.L. was awarded to a T.B. in 1507, and a B.A. to another in 1510, both from Oxford, but there is no way of telling if this is the same man, cf.Foster, \textit{Alumni. i,i,p.214}; Emden, \textit{Supplement. p.86}; Register of the University of Oxford. vol.i.op.cit.,p.48. For the purpose of the table in chapter two it has been assumed it was a B.A. It was not uncommon for scribes to note down the wrong degree. Despite this there can be little doubt that he did have a degree
\textsuperscript{205}HRO,ASA 7/2,fo.57
\textsuperscript{206}Emden, \textit{Supplement. p.103}
\textsuperscript{207}HRO,ASA 7/2,fo.54v
\textsuperscript{208}Emden, \textit{Supplement. pp.19-20}
\textsuperscript{209}HRO,ASA 7/2,fo.57v

Richard Hutton, B.C.L. layman. Acting at times from 1531 until 1534.


Nicholas Savage clerk. Acting as judge oc.1557. Incumbent at St.Peter's, St.Albans oc.1530 and still in 1560.


Proctors.

Richard Tatersale. Acting as a proctor by 1515 to 1525.

Percival Morgan. Acting as proctor by 1515 until 1524.
Appendix 2


John Giles. Probably the local tailor. Acting from 1521 until 1528.

John Ashley, B.C.L. notary public. Practicing from 1521 until 1537.

Thomas King, B.A. clerk. notary public. Incumbent at St. Andrew’s, St. Albans from 1535. Deputy to the Official in 1531. Acting as proctor from 1527 until 1532. Returns to practice in 1542.

John Bowsfield. notary public. Acting from 1542.

John Goodman. notary public. Acting from 1542.

Registrars.

Robert Garret, M.A. notary public. Appears in the records as registrar from 1537.

John East Appears as registrar in 1560.

224 Emden, Oxford to 1500. ii,p.925
225 HRO,ASA 7/2,fo.15v
226 HRO,ASA 7/2,fo.34
227 HRO,6AR,fo.143v
228 HRO,ASA 7/2,fo.20v,61
229 Emden, Oxford to 1500. i,p.56
230 HRO,ASA 7/2,fo.120
231 HRO,ASA 7/2,fo.21,124
232 Venn, Alumni. i,iii,p.21
233 HRO,ASA 7/2,fo.161; ASA/AR/3,fo.1
234 LP. viii,no.406
235 HRO,ASA 7/2,fo.66-68v
236 HRO,ASA 7/2,fo.52-79
237 HRO,ASA 7/2,fo.142v
238 HRO,ASA 7/2,fo.161
239 HRO,ASA 7/2,fo.142v
240 HRO,ASA 7/2,fo.148v
241 Emden, Cambridge to 1500. p.252
242 HRO,ASA 7/2,fo.118v
243 HRO,ASA 7/4,fo.2v
Appendix 2

Other.
  — Chamberleyne. scribe. notary public. Appears in 1522.244

Thomas Ablett. scribe. notary public. First appears in 1541.245 D.1579.246

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244 HRO,ASA 7/2,fo.22v
245 HRO,ASA 7/2,fo.129
246 HRO,A25/885
APPENDIX 3.

THE ABJURATION OF JOHN WODWARD OF WATFORD
IN THE COURT OF THE ARCHDEACON OF ST. ALBANS, 1528.1

Abiuracio Johannis Wodwarde de Watford.

In the name of God almyghty I John Wodward of the parysh of Watford wîn thexempt Iurisdiccion of Saint Albans confesse and / knowlage before you maisters/ Thomas Burley Bachelor of Law Thomas Kyngesbury Archdeacon/ Ley Ferrers supporiof Bachelor of Divinite commissaryes to the most Reverend Fader in god/ Thomas Cardinall Archbisson of York p'matt and Chanceler of/ England legatt and Commendatarys pepetual of this monastery/ of Saint Albon here sittyng Judicially and all other beyng present/ That I have belevid and openly affermyd these articles/ errors and heresies folowyng contrary to the faith of Crist and determynacon of holy church. First I belevid and affermyd/ that the very body of our saviof Crist was not present in the/ sacrament of the awter or eucharist but that it was oonly/ the figur of it in the memory and honof of hym/ Also I doubtyd whether our saviof Crist was born of a virgyn or nott and said I was not bounde to beleve it.

Note: Penance was enjoined on 1 May 1528.2

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1 HRO, ASA 7/1, fo. 47
2 HRO, ASA 7/1, fo. 49-49v
The following graphs provide a full picture of the amount of business being conducted in a number of archdeacons' courts during the period under review. In order to understand the graphs, "Instance" refers to litigation, and "Office" refers to prosecutions.

The reader will also note that there are a number of gaps in the figures presented. In most cases, this is due simply to the fact that the source material no longer exists. This explains the break in figures for St. Albans, Lincoln, and Leicester cases. There is a break in the figures for the Canterbury instance business because the figures are unreliable and almost certainly incomplete.
Appendix 4

Canterbury Instance

Number of Cases

St. Albans Instance

Number of Cases
Appendix 4

Rochester Instance

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Lincoln Instance

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</table>

Years, 1519-1535

Years, 1536-1553
St. Albans Office

Number of Cases

Years, 1515-1558
1. Manuscript Sources. ¹

All Souls' College, Oxford.  
Trice Martin, p. 282  
Commission of William Broke, as Official of the Archdeacon of Berkshire, 1502

Aylesbury Record Office, Buckinghamshire.  
D/A/C/1  
Act book of the commissary and Official of Buckingham, 1551-53

Bodleian Library, Department of Western Manuscripts, Oxford.  
Tanner 280  
Treatises on ecclesiastical jurisdiction  
Willis 14  
Extracts from the act book of the Archdeacon of Buckingham

O.A.P.C.171  
Extracts from the act books of the Archdeacons of Oxford and Berkshire

British Library, London.  
Additional Manuscripts  
Cotton Manuscripts  
Harleian Manuscripts  
Lansdowne Manuscripts

Canterbury, Cathedral Library.  
Reg.T,T₂₂,Ú  
Registers of the Canterbury Dean and Chapter, 1514-50  
Y/2/4  
Act book (instance), 1511-24  
Y/2/7  
Act book (instance), 1520-25  
Y/2/16,17,19  
Act books of the consistory court, 1538-59  
Y/4/4  
Act book (instance and office at Sandwich), 1521-36  
Y/4/5  
Act book (instance and office), 1539-49  
Y/4/6  
Act book (instance), 1554-56  
Y/4/8  
Act book (instance and office), 1540-42  
Y/4/9  
Act book (instance and office), 1550-52  
Y/4/10  
Act book (instance and office), 1556-57  
X/8/4  
Marian visitation of commissioners  
Z/3/4  
Archdeacon's visitations, 1520-25  
Z/3/5  
Archdeacon's visitations, 1538-41,1555, 1556, 1558, 1560  
Z/3/6  
Archdeacon's visitations, 1550-5  
Z/3/8  
Visitations of the exempt parishes, 1560-5  
Z/3/32  
Archdeacon's visitation, 1557  
Z/3/33  
Call book, 1558

¹ Unless indicated otherwise, act books will refer to those of archdeacons' courts, including cases where the judge is a commissary of the bishop as well as Official of the archdeacon. Although not stated, in many of these books testaments are proved concurrent with contentious material.
Bibliography

PRC 39/1-2  Depositions, 1555-60

_East Sussex Record Office, Lewes._
Rye 12/1-3  Rye corporation cases

_Gonville and Caius College, Cambridge._
389/609, pp. 219-32  Handbook for use in an ecclesiastical court, c. 1570
170/91  Call book of the Archdeacon of Ely, 1530s

_Greater London Record Office._

_Guildhall London, Muniment Room._
9531/9-12  Registers of the Bishops of London, 1504-59

_Hampshire Record Office._
First Court Book  Commissary court 1520/21

_Hertfordshire Record Office._
ASA 7/1  Act book (office), 1515-41
ASA 7/2  Act book (instance), 1515-1544
ASA 7/3  Act book (office and instance), 1556-60
ASA 7/4  Act book (office and instance), 1560-61
ASA 8/1-2  Depositions (incomplete), 1515-c. 1550
ASA 9/4  Miscellaneous papers
ASA/AR  Registered testaments
ASA/AW  Filed Testaments

_Inner Temple Library, London._
Petyt 511/16  Treatises on ecclesiastical law, temp. Elizabeth and James
Petyt 518  Notes on the disputes of the ecclesiastical and temporal jurisdictions

_Kent Archives Office, Maidstone._
Dra/A1  Induction mandates (Rochester)
DRA/Vb4  Archdeacon's visitations (Rochester), 1504-35, 60-65
DRb/Pa7-9  Act books (instance and office, Rochester), 1518-35
DRb/PW  Rochester testaments
DRC/R7-8  Registers of the Bishops of Rochester, 1493-1558
PRC 3/5-15  Act books (office, Canterbury), 1520-60
PRC 17/18-35  Registers of testaments (Canterbury), 1529-1557
PRC 22/1-2  Visitations of the consistory court, 1542-57
PRC 32/24  Consistory court register of wills 1551
PRC 33/1  Register of wills from the peculiar of Wingham, 1522-1547
P46/5/1  Parish accounts of Brenzett

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² Towards the end of this series there are virtually no prosecutions, only the probate of testaments.
Bibliography

Lambeth Palace Library, London.
Reg.Warham
Reg.Cranmer
Reg.Pole
Carte Miscellenae

Lancashire Record Office.
ARR 13

Leeds Archives Department, West Yorkshire.
Presentation Deeds
RD/RP 2-5

Leicester Museums and Art Gallery, Leicestershire.
1041/28/2-213
1041/40/1
1041/11/1-4
1041/33/1-28
1041/13/1-3
1041/12/1-5

Lincoln Record Office, Lincolnshire.
Cij/1-3
Vij/1
Cij/6
Add.Reg.7
COR/R/1
CP Box 64/1/1
FAC 1
FOR 1
FOR 11
Inhibitions
LT
Registers 23-28A
RES
REV/L/1/1-3

Northampton Record Office, Northamptonshire.
Arch.I-III

Archbishop of Canterbury's Register, 1502-32
Archbishop of Canterbury's Register, 1533-53
Archbishop of Canterbury's Register, 1556-58
Miscellaneous papers

Testamentary Records

Richmond Will Registers, 1503-64

Induction mandates from the Bishop of Lincoln, 1556-83
Receiver's account for procurations and arrears, 1575-6
Act books (instance), 1524-26, 1526-36, 1559-1563, 1560-61
Papers dealing with benefit of clergy
Act Books (office), 1522-23, 1537-51 (with gaps), 1561-62
Visitation material (mainly libri cleri), incomplete series, 1517-1553

Court books (Instance) of the court of the Archdeacon of Lincoln, 1536-45, 1549-78
Visitations of the Lincoln archdeacon's court, 1534-38
Court book of the Official and commissary of Oxford, 1540
Additional Papers: Bishop Fuller's transcripts
Correspondence of registrar Francis Bullingham, 1585-7
Miscellaneous papers
Faculties
Formulary book: diocese of London post-1489
Forms of installation of archdeacons
Inhibitions directed to Lincoln diocesan courts
Letters Testimonial of candidates for orders, midwife, schoolmasters, parish clerk
Bishop of Lincolns' Registers, 1495-1559
Resignations
Revenues of the archdeaconry of Lincoln, early sixteenth century

Bibliography

Norfolk and Norwich Record Office.
ANW/1/1-3 Comperta et detecta of the Official of the
Archdeacon of Norwich, 1533,1548,1551
Reg.Rugge Register of Bishop Rugge

Public Record Office, London.
C 1 Early Chancery Proceedings
E Exchequer cases
PROB Prerogative Court of Canterbury, Wills
REQ Court of requests
SC Special Collections
STAC 2 Proceedings in the Court of Star Chamber
SP 1 State Papers, Henry VIII
SP 10 State Papers, Edward VI
SP 11 State Papers, Mary

Suffolk Record Office, Ipswich Branch.
IC/500/5/1 Court Book of the Archdeacon of Sudbury,
contentious business 1544-6; administrative papers
from 1554

Sydney Jones Library, Liverpool University.
8/23 Commission of the Official of Chester, 1529

2. Printed Sources.

Primary.

Act Book of the Ecclesiastical Court of Whalley, 1510-1538. ed. A.M.Cooke
(Chetham Society,n.s.44,1901)

Acts of the Chapter of the Collegiate Church of SS. Peter and Wilfrid, Ripon,
A.D.1452 to A.D.1506. [ed. J.T.Fowler] (Surtees Society,64,1875)

Acts of the Dean and Chapter of the Cathedral Church of Chichester, 1472-1544 (The
White Book). ed. W.D.Peckham (Sussex Record Society,52,1951/2)


Alumni Oxonienses,1500-1714 ed. J.Foster (Oxford,1891-2)

The Anglia Historia of Polydore Vergil, A.D. 1485-1537. ed. D.Hay (Camden third
series,74,1950)

The Apologye of Syr Thomas More, Knycht. ed. I.A.Taft (Early English Text
Society,o.s.180,1930)

"Archbishop Warham's Letters." Archaeologia Cantiana. 1,1858
Bibliography

The Archdeacon's Court: Liber Actorum, 1584. ed. E.R. Brinkworth (Oxfordshire Record Society, 23-24, 1942-46)

Archdeacon Harpsfield's Visitation, 1557. ed. L.E. Whatmore (Catholic Record Society, 45-46, 1950-1)


Beckinsau, J., De supremo et absoluto regis imperio. (STC 1801; T. Berthelet, 1547)

Biographical Register of the University of Cambridge to A.D. 1500. ed. A.B. Emden (Cambridge, 1963)

Biographical Register of the University of Oxford to A.D. 1500. ed. A.B. Emden (Oxford, 1957-9)


Bishop Geoffrey Blythe's Visitations, c.1515-1525. ed. P. Heath (Staffordshire Record Society, fourth series 7, 1973)

The boke of the Justices of the peas, the charge with all processe of the cessions. (STC 14862; R. Pynson, 1506?)

The Book of Margery Kempe. ed. S.B. Meech (Early English Text Society, o.s. 212, 1940)

Bullinger, H., A Treatise of the co-habitacyon of the faithfull with the unfaithfull, whereunto is added a sermon. (Zurich, 1555) STC 24246

Burn, R., Ecclesiastical Law. (London, 1842)

Calendar of Institutions by the Chapter of Canterbury Sede Vacante. ed. C.E. Woodruff and I.J. Churchill (Kent Archaeological Society, Kent Records, 8, 1924)


Calendar of State Papers and manuscripts existing in the archives and collections of Venice and other libraries of Northern Italy. Vol.I. 1202-1509. (London, 1864)

Cambridge Grace Book A, 1454-88. ed. S.M. Leathes (Cambridge, 1897)

Cambridge University Grace Book B, parts I and II. ed. M. Bateson (Cambridge, 1903-5)

Cambridge Grace Book Γ. ed. W.G. Searle (Cambridge, 1908)

Christ Church Letters. ed. J. B. Sheppard (Camden Society, n.s. 19, 1877)

A Chronicle of England during the reigns of the Tudors from A.D. 1485 to 1559 by Charles Wriothesley, ed. W. D. Hamilton (Camden Society, n.s. 20, 1877)

City of Canterbury. The Chief citizens of Canterbury. A List of Portreeves (Prefects, Prepositi) from A.D. 780 until c. 1100; of Propositi (bailiffs) from the 12th century until 1448 and mayors from 1448 until 1979. compiled by W. Urry and C. R. Bunce (Canterbury, n.d.)


Concilia Magnae Britanniae et Hiberniae. ed. D. Wilkins (London, 1733, 1739)

Conset, H., The Practice of the Spiritual or Ecclesiastical Courts. (London, 1685)

Constitutiones Provincialles and of Otho and Octhobone. (STC 10083; R. Redman, 1534)

The Correspondence of John Cosin, D.D., Lord Bishop of Durham, Together with other Papers Illustrative of his life and times. [ed. G. Ornsby] (Surtees Society, 52, 1868)

Correspondence of Matthew Parker, D.D., archbishop of Canterbury, comprising letters written by him and to him, from A.D. 1535 to his death, A.D. 1575. ed. J. Bruce and T. T. Perowne (Parker Society; Cambridge, 1853)


The Courts of the Archdeaconry of Buckingham, 1483-1523. ed. E. M. Elvey (Buckinghamshire Record Society, 19, 1975)

Dean Cosyn and Wells Cathedral Miscellanea. ed. A. Watkin (Somerset Record Society, 56, 1941)

Degge, S., The Parson's Counsellor, with the Laws of Tithes or Tithing. (London, 1676)

The Diary of Henry Machyn, citizen and merchant-taylor of London from A.D. 1550 to A.D. 1563. ed. J. G. Nichols (Camden Society, o.s. 42, 1848)


Documentary Annals of the Reformed Church of England being a collection of Injunctions, Declarations, Orders, Articles of Inquiry, &c. from the year 1546 to the year 1716. ed. E. Cardwell (Oxford, 1839-45)

Documents illustrating the activities of the general and provincial chapters of the Black monks, 1215-1540. ed. W. A. Pantin (Camden Society, 54, 1937)
Documents Illustrative of English Church History. ed. H.Gee and W.J.Hardy (London,1910)


The Elizabethan Underworld. ed. A.V.Judges (London,1930)


An Episcopal Court Book for the Diocese of Lincoln. ed. M.Bowker (Lincoln Record Society,61,1967)

Epistolarum Collectio Reginaldi Poli. (J.-M.Rizzardi; Brixiae,1744-57)


Festi Dunelmenses. A record of the beneficed clergy of the diocese of Durham down to the dissolution of the monastic and collegiate churches . [ed. D.S.Boutflower] (Surtees Society,139,1926)

The First and Second Prayer Books of Edward VI. (Dent ed.;London,1938)


Fitzherbert, Sir Anthony, The New Book of Justices of the peas. (STC 10969; R.Redman,1538)


Four Supplications. ed. J.Meadows Cowper (Early English Text Society,extra series 13,1871)

Foxe,J., Actes and Monumentes. ed. G.Townsend (London,1846)

Gibson, Edmund, Codex Juris Ecclesiastici Anglicani. (Oxford,1761)

A History of the chantries within the county palatine of Lancaster,being the reports of the Royal Commissioners of Henry VIII, Edward VI and Queen Mary. ed. F.R.Raines (Chetham Society,o.s.60,1862)


Hodgkinson, R.F.B., "Extracts from the Act Books of the Archdeacon of Nottingham." Thoresby Society, Transaction. 29, 1925

The huntyng and fyndyng out of the Romishe fox. (STC 24353; W.Wraghtson pseud; Basy/1543)

The Injunctions and other Ecclesiastical Proceedings of Robert Barnes, Bishop of Durham. [ed. J.Raine] (Surtees Society, 22, 1850)

Instructions for Parish Priests by John Myrc. ed. E.Peacock (Early English Text Society, 31, 1868; revised 1902)

Illustrations of the Manners and Expenses of Ancient Times in the fifteenth, sixteenth and seventeenth centuries. ed. J.Nichols (London, 1797)


Le Neve, J., Fasti Ecclesiae Anglicanae. ed. W.Hardy (Oxford, 1854)


The Letter Book of John Parkhurst, Bishop of Norwich. ed. R.A.Houlbrooke (Norfolk Record Society, 43, 1974-5)


The Letters of Stephen Gardiner. ed. J.A.Muller (Cambridge, 1933)

Letters Relating to the Suppression of the Monasteries. ed. T.Wright (Camden Society, o.s. 26, 1842)

The Life and Death of Cardinal Wolsey by George Cavendish. ed. R.S.Sylvester (Early English Text Society, o.s. 243, 1959)

The Life and death of St Thomas Moore, knight, sometymes lord high chancellor of England, wrytten in the tyme of Queen Marie by Nicholas Harpsfield. ed. E.V.Hitchcock and R.W.Chambers (Early English Text Society, o.s. 186, 1932)


Lincoln Diocese Documents, 1450-1544. ed. A.Clark (Early English Text Society, o.s. 149, 1914)
Lincoln Episcopal Records in the time of Thomas Cooper, S.T.P., Bishop of Lincoln, A.D. 1571 to A.D. 1584. ed. C.W. Foster (Lincoln Record Society, 2, 1912)

Lincolnshire Pedigrees. ed. A.R. Maddison (Harleian Society, Publications, 50-2, 55, 1902-6)

Literae Cantuarienses. The Letter books of the monastery of Christ Church, Canterbury. ed. J.B. Sheppard (Rolls Series, 85, 1887-9)

London Consistory Court Wills, 1492-1547. ed. I. Darlington (London Record Society, 12, 1967)


Medieval Clerical Accounts. ed. P. Heath (St. Anthony's Hall Publication, no. 26, 1964)

Medieval Records of a London City Church, A.D. 1420-1559. ed. H. Littlehailes (Early English Text Society, o.s. 128, 1905)

Melton, William de, Sermo exhortator cancellarii Ebor. (STC 17806; W. de Worde, 1510?)


Narratives of the Days of the Reformation, chiefly from the manuscripts of John Foxe, martyrologist; with two contemporary biographies of Archbishop Cranmer. ed. J.G. Nichols (Camden Society, o.s. 77, 1859)

Northamptonshire and Rutland Clergy. ed. H.I. Longden (Northampton, 1938-52)

Norwich Consistory Court Depositions, 1499-1512 and 1518-1530. ed. E.D. Stone and B. Cozens-Hardy (Norfolk Record Society, 10, 1938)


Original Letters Relative to the English Reformation. ed. H. Robinson (Parker Society; Cambridge, 1846-7)

Oughton, T., Ordo ludiciarum. (London, 1738)

Peterborough Local Administration. The foundation of Peterborough cathedral, A.D. 1541. ed. W. T. Mellows (Northamptonshire Record Society, 13, 1941)

Peterborough Local Administration. Parochial Government before the Reformation. ed. W. T. Mellows (Northamptonshire record Society, 9, 1939)


Raine, R. F. (ed.), "Reports of the Royal Commissioner of Henry VIII, Edward VI and Queen Mary." Chetham Society. 60, 1862

Records of Rochester. ed. C. H. Fielding (Dartford, 1910)

The Reformation of the Ecclesiastical Laws as attempted in the reigns of Henry VIII, King Edward VI and Queen Elizabeth. ed. E. Cardwell. (Oxford, 1850)

The register of Bishop Philip Repingdon, 1405-19. ed. M. Archer (Lincoln Record Society, 57-8, 1963)

The Register of the Diocese of Worcester during the vacancy of the see, usually called registrum sede vacante, 1301-1435. ed. J. W. W. Bund (Worcestershire Historical Society, 8, 1897)


The Register of Ralph of Shrewsbury, bishop of Bath and Wells, 1329-1363. ed. T. S. Holmes (Somerset Record Society, 9-10, 1896)

Register of Richard Fox, bishop of Durham, 1494-1501. ed. M. P. Howden (Surtees Society, 147, 1932)

The Register of Thomas de Cobham, bishop of Worcester, 1317-1327. ed. E. H. Pearce (Worcestershire Historical Society, 40, 1930)

Register of the University of Oxford, i, 1449-63; ii, 1505-71; iii, 1571-1622. ed. C. W. Boase and A. Clark (Oxford Historical Society, 1, 10-12, 1885-8)


The registers of Oliver King, bishop of Bath and Wells, 1496-1503, and Hadrian de Castello, bishop Bath and Wells, 1503-1518. ed. Sir H. C. Maxwell-Lyte (Somerset Record Society, 54, 1939)

The Registers of Robert Stillington, bishop of Bath and Wells, 1466-91, and Richard Fox, bishop of Bath and Wells, 1492-1494. ed. Sir H. C. Maxwell-Lyte (Somerset Record Society, 52, 1937)
The Registers of Thomas Wolsey, bishop of Bath and Wells, 1518-1523, John Clerke, bishop of Bath and Wells, 1523-1541, William Knyght, bishop of Bath and Wells, 1541-1547, and Gilbert Bourne, bishop of Bath and Wells, 1554-1559. ed. Sir H.C.Maxwell-Lyte (Somerset Record Society,55,1940)


Registra Stephani Gardiner et Johannis Poynet, episcoporum Wintoniensium. ed.H.Chitty and H.E.Malden (Canterbury and York Society,37,1930)

Registrum Hamonis Hethe, diocesis Roffensis, A.D. 1319-1352. ed. C.Johnson (Canterbury and York Society,48-9,1948)


Registrum Johannis Whyte, Episcopi Wintoniensis. ed. W.H.Frere (Canterbury and York Society,16,1914)

Registrum Ricardi de Swinfield, episcopi Herefordensis, A.D. MCCLXXXIII-MCCCCXVII. ed. W.W.Capes (Canterbury and York Society,6,1909)

Registrum Roffense. ed. J.Thorpe (London,1769)

Registrum Thome Myllyng, episcopi Herefordensis, A.D. MCCCCLXXIV-MCCCLXXXIII. ed. A.T.Bannister (Canterbury and York Society,26,1920)

Registrum Thome Wolsey. ed. H.Chitty and F.T.Madge (Canterbury and York Society,32,1926)

The Registrum Vagum of Antony Harison. ed. T.F.Barton (Norfolk Record Society,32-3,1963-4)

A relation, or rather a true account, of the island of England; with sundry particulars of the customs of these people, and of the royal revenues under King Henry the seventh, about the year 1500. trans. and ed. C.A.Sneyd (Camden Society,o.s.37,1847)


Ridley,N., A Pitious Lamentation of the miserable estate of the Church of Christ in England in the time of the late revolt from the gospel. (STC 21052;W.Powell,London,1566)

Ridley,T., A View of the Civile and Ecclesiastical Law: And Wherein the practice of them is frenten, and may be releevd within this land. (Oxford,1675) STC 21055

The Royal Visitation of 1559: Act Book for the Northern Province. ed. C.J.Kitching (Surtees Society,187,1975)

St.German's "Doctor and Student." ed. T.F.T.Plucknett and J.L.Barton (Selden Society,91,1974)
Second Part of a Register. ed. A. Peel (Cambridge, 1915)

Select Charters and other illustrations of English constitutional history from the earliest times to the reign of Edward the First. ed. W. Stubbs (Oxford, 1895, 8th ed.)


Somner, W., The Antiquities of Canterbury. (London, 1640)

The state of the church in the reigns of Elizabeth and James I as illustrated by the documents relating to the diocese of Lincoln. Vol. I. ed. C. W. Foster (Lincoln Record Society, 23, 1926)


State Papers published under the authority of His Majesty's Commission, King Henry VIII. (London, 1830-52)

Statuta Antiqua Universitatis Oxoniensis. ed. S. Gibson (Oxford, 1931)

The Statutes of the Cathedral Church of Durham. ed. J. M. Falkner (Surtees Society, 143, 1929)


Supplementary Stonor Letters and Papers, 1314-1482. [ed.] C. L. Kingsford (Camden Miscellany, 13, Camden Society, third series, 34, 1924)

Swinburne, H., A Brief Treatise of Testaments and Last Wills. (J. Windet; London, 1590)

Synodalia: A collection of articles of religion, canons and proceedings of convocation in the province of Canterbury from the year 1547 to the year 1717. ed. E. Cardwell (Oxford, 1842)


Three Chapters of Letters Relating to the Suppression of the Monasteries. ed. T. Wright (Camden Society, o.s. 26, 1843)

A treatise concernynge divers of the constitucyons prouinciall and legatines. (STC 24236; T. Godfray, 1535?)

A Treatise concernynge the diuision betwene the spiritualtie and the temporaltie. in The Apology of Syr Thomas More, Knyght. q.v.

A treatise concernynge generall counciles, the byshoppes of Rome, and the clergy. (STC 24237; T. Berthelet, 1538)
Bibliography

A treatise concernyng the power of the clergye and the lawes of the Realme. (STC 24237; T. Godfray, 1530?)

A treatise prouinge the kinges lawes. (STC 24248; T. Berthelet, 1538)

Tudor Documents II; Peterborough Local Administration, The Foundation of Peterborough Cathedral. ed. W. T. Mellows (Northamptonshire Record Society, 13, 1941)


Visitation Articles and Injunctions of the Period of the Reformation. ed. W. H. Frere and W. P. M. Kennedy (Alcuin Club Publications, 14-6, 1910)

The Visitation of the county of Leicester in the year 1619, taken by William Camden, Calrenceux king of arms. ed. J. Fetherston (Harleian Society, Publications, 2, 1870)

Visitation in the Diocese of Lincoln, 1517-31. ed. A. H. Thompson (Lincoln Record Society, 33, 35, 37, 1940-7)


The Visitations of Kent. ed. W. B. Bannerman (Harleian Society, Publications, 74-5, 1923-4)

Whitforde, R., A Werke for Householders, newly corrected. (STC 25422; W. de Worde, 1530)

Wilkins, D., Concilia Magnae Britanniae et Hiberniae. (London, 1737)


The Works of Thomas Cranmer. ed. J. E. Cole (Parker Society; Cambridge, 1846)

Secondary Works and Guides.

Adams, N. "The Judicial Conflict over Tithes." English Historical Review. 52, 1937


Baskerville, G., "Elections to Convocation in the diocese of Gloucester under Bishop Hooper." *English Historical Review.* 44, 1929.

_____ , "Married Clergy and the Pensioned Ex-Religious in Norwich Diocese, 1555." *English Historical Review.* 48, 1933

Beier, A.L., "Vagrants and the Social Order in Elizabethan England." *Past and Present.* 64, 1974


*Bibliography of British History: Tudor Period, 1485-1603.* ed. C. Read (Second edition; Hassocks, 1978)

Bough, C.M.L., Jones, G.P., and Brunskill, R.W., *A Short Economic and Social History of the Lake Counties.* (Manchester, 1961)


_____ , "Some Archdeacons' Court Books and the Commons Supplication Against the Ordinaries." *The Study of Medieval Records.* q.v.


Bibliography


Brooke, Z.N., *The English Church and the Papacy from the Conquest to the reign of John.* (Cambridge, 1931)


Chauncey, H., *The Historical Antiquities of Hertfordshire.* (London, 1700)


---, *Notaries Public in England in the thirteenth and fourteenth centuries.* (Oxford, 1972)


Cooper, J.P., "A revolution in Tudor history?" *Past and Present.* 26, 1963


Coulton, G.G., *The Medieval Village.* (Cambridge, 1925)

Crawford, D.J., "The rule of law? The laity, English archdeacons' courts and the Reformation to 1558." *Parergon.* n.s. 4, 1986


Dansey, W., *Horae Decanicae Rurales.* (London, 1835)


Dickens, A.G., "Early Protestantism and the Church in Northamptonshire." *Northamptonshire Past and Present.* 8, 1983-4


Dugdale, W., *Monasticon Anglicanum.* (London, 1846)
Bibliography


Duncan, G. I. O., The High Court of Delegates. (Cambridge, 1971)


Elton, G. R., Policy and Police. (Cambridge, 1972)


———, Reform and renewal: Thomas Cromwell and the Common Weal. (Cambridge, 1973)

———, "A revolution in Tudor history?" Past and Present. 32, 1965

———, "The Tudor revolution: a reply." Past and Present. 29, 1964

Emmison, F. G., Elizabethan Life: Morals and the Church Courts. (Chelmsford, 1973)


Fincham, F. W. X., "Notes from the Ecclesiastical Court Records at Somerset House." Transactions of the Royal Historical Society. fourth series, 4, 1921


Foster, C. W., "The Chantry Certificates for Lincoln and Lincolnshire Returned in 1548 under the Act of Parliament of I Edward VI." Associated Architectural Societies' Reports and Papers. 35-6

———, "Inventories of Church Goods, 1548." Associated Architectural Reports and Papers. 34


Gairdner, J., "Bishop Hooper's Visitation of Gloucester." English Historical Review. 19, 1904.


Hale, W.H., *The Duty of the Archdeacon as Respects the Visitation of Parishes, In Order to the Repair of Chancels and Glebe Houses considered, in an address to the Clergy of the Archdeaconry of London.* (London, 1863)

*Handbook of Dates for Students of English History.* ed. C.R. Cheney (Royal Historical Society; London, 1945)


Hasted, E., *The History and Topographical Survey of the County of Kent.* (London, 1786-99)


"Canon Law and English Common Law." (Selden Society Lecture; London, 1983)


"Infanticide in the Province of Canterbury During the Fifteenth Century." *History of Childhood Quarterly.* 11, 3, 1975

Marriage Litigation in Medieval England." (Cambridge, 1974)


*Historical Manuscripts Commission. XIV Report, Appendix VIII.* (London, 1895)


Hooper, W., "The Court of Faculties." *English Historical Review.* 25, 1910

Bibliography

---


Hull, F., *Guide to the Kent County Archives Office.* (Maidstone, 1958)


Hussey, A., "Visitations of the Archdeaconry of Canterbury [c.1560-1712]." *Archaeologia Cantiana.* 25, 1901

*Index of Wills Proved in the Prerogative Court of Canterbury, 1383-1558.* ed. J.C.C. Smith (British Records Society, Index Library, 10, 1893)


Johnson, D.J., *Southwark and the City.* (London, 1969)


____, "The Prerogative Court of Canterbury from Warham to Whitgift." *Continuity and Change.* q.v.

____, "The Probate Jurisdiction of Thomas Cromwell as Vice-gerent." *Bulletin of the Institute of Historical Research.* 46, 1973


____, *The Diocese of Chichester, 1508-1558.: Episcopal Reform Under Robert Sherbourne and its Aftermath.* (Cambridge, Ph.D., 1977)

Laslett, P., *The World We Have Lost.* (Second edition; London, 1979)


____, "Supremacy and Vicegerency: A Re-examination." *English Historical Review.* 81, 1966


Lightfoot, W.J., "Notes from the Records of Hawkhurst Church." *Archaeologia Cantiana.* 5

Little, A.G., "Personal Tithes." *English Historical Review.* 60, 1945


Bibliography

London Consistory Wills, 1492-1547. ed. I.Darlington (London Record Society, 3, 1967)

Longley, K.M., Ecclesiastical Cause Papers at York: Dean and Chapter's Court, 1350-1843. (Borthwick Texts and Calendars; Records of the Northern Province, 6; York, 1980)


Maddison, A.R., "Lincolnshire gentry During the Sixteenth Century." Associated Architectural Societies' Reports and Papers. 22, 1893-4

Maitland, F.W., Roman Canon Law in the Church of England. (London, 1898)


______, "A Consistory Court in the Middle Ages." Journal of Ecclesiastical History. 14, 1963

______, "William I and the Church Courts." English Historical Review. 82, 1967

Muller, J.A., Stephen Gardiner and the Tudor Reaction. (London, 1926)

Mullinger, J.B., The University of Cambridge from the earliest times to the royal injunctions of 1535. (Cambridge, 1873)


Newcome, P., *The history of the ancient and royal foundation called the Abbey of St. Alban, in the county of Hertford, from the founding thereof, in 793, to its dissolution in 1539.* (London, 1795)

Nichols, J., *History and the antiquities of the county of Leicester.* (London, 1795-1815)


_____, "The Role of the Registrar in Diocesan Administration." *Continuity and Change.* q.v.


_____, *Church and Society in Medieval Lincolnshire.* (Lincoln, 1971)


_____, *The Records of the Established Church in England.* (British Records Association: Archives and the User, i, 1970)


Oxley, J. E., *The Reformation in Essex to the Death of Mary.* (Manchester, 1965)


*Parliamentary Papers 1831-2* (199), 24. The Special and general Reports of the Commissioners appointed to inquire into the Practice and Jurisdiction of the Ecclesiastical Courts.

*Parliamentary Papers 1883* (c. 3760), 24. Report of the Commissioners appointed to inquire into the Constitution and working of the Ecclesiastical Courts.


Peacock, E., "Extracts from the Churchwardens' Accounts of the Parish of Leverton, in the County of Lincoln." *Archaeologia.* 41
Bibliography

On the Churchwardens' Accounts of the Parish of Stratton, in the county of Cornwall. "Archaeologia. 46"

Peckham, W.D., "A Diocesan Visitation of 1553." Sussex Archaeological Collections. 77, 1936


____, Oculus Episcopi: Administration in the Archdeaconry of St. Albans, 1580-1625. (Manchester, 1963)


Postles, D., "Record Keeping in a Medieval Borough: Proof of Wills." Archives. 16, 1983

Powell, C., English Domestic Relations, 1487-1653. (New York, 1917)


Pressy, W.J., "The Apparitor in Essex." Essex Review. 46, 1937

_____., "Beating the Bounds in Essex, as seen in the Archdeaconry Records." Essex Review. 48, 1939

Price, F.D., "The Abuses of Excommunication and the Decline of Ecclesiastical Discipline under Queen Elizabeth." English Historical Review. 57, 1942

_____., "Bishop Bullingham and Chancellor Blackleech: A Diocese Divided." Transactions of the Bristol and Gloucestershire Archaeological Society. 91, 1972

_____., "Elizabethan Apparitors in the Diocese of Gloucester." Church Quarterly Review. 134, 1942

_____., "An Elizabethan Church Official - Thomas Powell, Chancellor of Gloucester Diocese." Church Quarterly Review. 128, 1939

_____., "Gloucester Diocese under Bishop Hooper." Transactions of the Bristol and Gloucestershire Archaeological Society. 60, 1939

Bibliography


Redstone,V.B., "South Elham Deanery." *Proceedings of the Suffolk Institute of Archaeology.* 14,1912

*Record Repositories in Great Britain.* (Sixth edition;London,1979)


Rodes,R.E., *Lay Authority and Reformation in the English Church, Edward I to the Civil War.* (Notre Dame and London,1982)


Scammell,J., "The rural chapter in England from the eleventh to the fourteenth century." *English Historical Review.* 86,1971


*Select Essays in Anglo-American Legal History.* (Boston,1909)


_____ , *Defamation and Sexual Slander in Early Modern England: The Church Courts at York.* (Borthwick Paper,no.58;York,n.d.)


Shaw,S., *The History and Antiquities of Staffordshire.* (London,1799-1801)

Sheils, W.J., *Ecclesiastical Cause Papers at York: Files Transmitted on Appeal, 1500-1883.* (Borthwick Texts and Calendars: Records of the Northern Province 9; York, 1983)


Some Oxfordshire Wills proved in the P.C.C., 1393-1510. ed. J.R.H. Weaver and A. Beardwood (Oxfordshire Record Society. 39, 1958.)


Storey, R.L., *Diocesan Administration in the Fifteenth Century.* (St. Anthony's Hall Publication, 16, 1959)


Strype, J., *Annals of the reformation and the establishment of religion, and other various occurrences in the church of England (during Queen Elizabeth's happy reign), together with an appendix of original papers of state, records and letters.* (Oxford, 1820-40)

____, *Ecclesiastical Memorials relating chiefly to Religion and the Reformation of it under King Henry VIII, Edward VI and Queen Mary.* (Oxford, 1822)

____, *The Life and Acts of Edmund Grindal.* (Oxford, 1821)


____, *The Life and Acts of Matthew Parker.* (Oxford, 1821)

____, *Memorials of the Most Reverend Father in God Thomas Cranmer.* (Oxford, 1840)


Thompson,A.H., Diocesan Organization in the Middle Ages: Archdeacons and Rural Deans. (Proceedings of the British Academy,29,1943)

______, The English Clergy and their Organization in the Later Middle Ages. (Oxford,1947)

______, The History of the Hospital and the New College of the Annunciation of St.Mary in the Newarke, Leicester. (Leicester,1937)

Thompson,E.P., "'Rough Music': le Charivari anglais." Annales E.S.C. 27,1972


______, "Tithes Disputes in later Medieval London." English Historical Review. 78,1963


Troup, F.,Rose-, The Western Rebellion of 1549. (London,1913)

Ullmann,W., "The realm of England is an empire." Journal of Ecclesiastical History. 30,1979


Vage,J.A., "Ecclesiastical Discipline in the early seventeenth century: some findings and some problems from the archdeaconry of Cornwall." Journal of the Society of Archivists. 7,1982

Welch,C.E., The Administration of Ecclesiastical Courts in the Province of Canterbury During the Later Middle Ages. (Liverpool Univ.,M.A.,1953)

Wiener,C.Z., "Sex Roles and crime in Late Elizabethan Hertfordshire." Journal of Social History. 8,1975

Williams,P. and Harriss,G., "A revolution in Tudor history?" Past and Present. 31,1965

Willis,A.J., Church Life in Kent. (London and Chichester,1975)


Zell, M. L., *Church and Gentry in Reformation Kent, 1533-1553*. (University of California Ph.D., 1974)

