

THE WELLS CONSISTORY COURT IN THE FIFTEENTH CENTURY¹

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The materials available for a study of the administration of Canon Law in the later Middle Ages are by no means comprehensive; they are fortunate survivals, giving but fragmentary glimpses into the rather complex field of ecclesiastical law and procedure. Over the last century some of these have been made available in print, though not always in a form very helpful to the student. Indeed, it is often very difficult to see their place in the hierarchy of courts which existed in each diocese. A fragment of the record of the bishop's 'court of audience' in the diocese of Lincoln has been fully studied by Hamilton Thompson.² Records from the courts under officials principal have survived from the dioceses of Durham, Norwich, London and St. David's. The first two³ are depositions of witnesses, which give a fair insight into the business dealt with, but no indication of court procedure and personnel. For London, extracts have been printed as a precedent book,⁴ which is useful, again, only as a summary of the types of cases heard. There remains the Welsh fragment, found fairly recently, and too small to be of any great significance.⁵ Two valuable studies have been made of the courts at Canterbury and Hereford. The vast collection of records at the former allowed a full study to be made of the archidiaconal, as well as of the consistory court.⁶

- ¹ My thanks are due to the Diocesan Registrar, Mr. C. W. Harris, for permission to publish material from the Court Book; to Mr. I. P. Collis and Miss E. Ralph, for affording facilities for study; and to Dr. C. D. Ross for reading this paper.
- ² *The English Clergy*, A. H. Thompson (Oxford 1947), 55-6, 206-46; this covers the period 1446-52.
- ³ *Depositions and other Ecclesiastical Proceedings from the Courts of Durham*, (Surtees Society, XXI, 1845), covering the period 1311-1591; *Norwich Consistory Court Depositions, 1499-1530*, ed. E. D. Stone (Norfolk Record Soc., X, 1938).
- ⁴ *A Series of Precedents and Proceedings in Criminal Causes . . . 1475-1640*, ed. W. H. Hale (London 1847).
- ⁵ *National Library of Wales Journal*, VIII (1953-4), 261-3; for the period 1348-9.
- ⁶ *The Ecclesiastical Courts of the Diocese of Canterbury*, B. L. Woodcock (Oxford 1952).

For Hereford, a preliminary study has revealed the machinery and procedure of two courts, those of the official principal and of the commissary-general.⁷ Scattered references to courts can be found in the bishops' registers of these and other dioceses, but they usually give little or no indication of procedure and practice. The fortunate survival of a court book for Wells, therefore, is important not only because it gives concrete evidence of a court in yet another diocese, but also because of the character of the book itself. Short extracts have been printed which gave incentive for the detailed study which has now been made.⁸

The book covers the period 1458-98; the term 'court book' has been used advisedly because, unlike any of the materials already printed, it contains both *acta* and a register of causes, both formal proceedings before the judge *ex officio*, in cases instituted by him, and a record of pleadings in *instance* business, in cases brought by outside parties. Unfortunately the record is by no means complete. Fewer than 300 cases were noted for the whole period: in 1458, between September and December, 27 cases were introduced, but the figures for any complete year thereafter are much smaller. No cases appear under the years 1472-4, 1487, 1489 and 1492-6. Again, the precise matters in dispute were rarely indicated, beyond a summary description of the general category of the case; a suit labelled *matrimonii* might cover a wide variety of particular grievances. The registrar was concerned merely to note the parties in the case and their proctors, and to make a formal record of each step in procedure. This is a day-to-day diary of business, which in the absence of deposition books giving the evidence of witnesses cannot be further supplemented.⁹ Yet the court book is a valuable document; the *acta* are fairly full and almost complete for the whole period, and include much important material concerning rural deans as well as much biographical information. The record of *instance* business must in general be regarded as unsatisfactory, but the formal entries reveal court procedure in some detail, and give an indication of the type of

⁷ *The Episcopal Administration of the Diocese of Hereford*, E. L. Lonsdale (Liverpool M.A. thesis, 1957); my thanks are due to Miss Lonsdale for permission to use her work.

⁸ *A Wells Cathedral Miscellany*, ed. Rev. A. Watkin (S.R.S. LVI, 1941), 155-6.

⁹ Deposition Books have survived from 1530.

business undertaken. Further, the names of six or seven hundred people, both suitors and witnesses, are recorded, usually with their places of residence, which may be of use to the local historian and genealogist. At a time when the episcopal records become increasingly formalised and scanty the survival of this court book is most fortunate, providing as it does some indication of the state of the diocese at the close of the Middle Ages.

The administration of Canon Law in the diocese of Bath and Wells, as elsewhere, had become stabilised by the fifteenth century. The jurisdictions of the bishop's officers and of the archdeacons were fairly well defined; there were still occasional disputes over particular points, but business in general flowed smoothly. Apart from the courts of the archdeacons and of the peculiar jurisdictions, there were four which initially drew their authority from the bishop himself. First there was the bishop's own court, the *audience*, an informal one where the bishop himself or his spiritual chancellor could hear any case as and when it arose. The bishops generally discouraged *instance* suits, concerning themselves with such important routine matters as appointments to benefices and more serious trouble such as heresy. In the bishop's absence, his vicar-general set up a formal court to take the place of the *audience*; he used existing officers to bring offenders before him, and often had large numbers of witnesses present to emphasise the legality of his judgments. More formal than the *audience*, more permanent than the vicar-general's court was the court of the commissary-general. It probably went on circuit, as its counterpart did at Hereford, and was concerned with two important aspects of administration. The wills of people whose moveable goods lay beyond the bounds of a single archdeaconry within the diocese were proved in the court. The commissary-general was also responsible for searching out and punishing *crimina et excessus* among clergy and laity alike throughout the diocese. This involved cases of clergy failing in their pastoral duty and anyone suspected of sexual or other moral crimes. The consistory court, the last of the four important courts of the diocese, met in a fixed place, Wells, and provided a battleground for litigants in matters where the church had little interest.¹⁰ In volume of

¹⁰ One man was cited "to Wells or Glastonbury" in March 1498 (Court Book (C.B.) fo. 103v). This is the only example to suggest that the court met elsewhere.

business, the court was probably second to the commissary-general's court, but the powers it possessed in the appointment of rural deans and the wide range of cases heard, give it a particular importance. It was perhaps more powerful in the period covered by the court book because it was the scene of many of the activities of Hugh Sugar, who was both official principal and vicar-general from 1466-89.

During the fifteenth century, the court met in the Lady Chapel by the east cloister.¹¹ For a period of eleven years from 1477 until 1488 while this chapel was being demolished and a new one built under the auspices of Bishop Stillington, it met in the Chapel of the Holy Cross under the north-west tower, where the judge's seat and clerks' table can still be seen.¹² Sessions of the court were held roughly once every month, but regularity depended on the amount of business in hand. In 1459 there were twelve sessions, but in 1482 only seven, one of which was cancelled. There was never any pleading in August, following the practice of the secular courts, and while the average period between sessions in 1459 was about four weeks, in 1487 it was more than six. This may be compared with the proceedings at Canterbury, where business slackened towards the end of the century.¹³

The court sat on the first three days of the week unless one of them was a feast day, in which case business would be postponed until the morrow. Cases from each archdeaconry were heard separately, from Bath on Mondays, Taunton on Tuesdays and Wells on Wednesdays. Proceedings probably began in the morning: the registrar knew the time so well that he never bothered to record the fact.¹⁴ There was often too much business to be dealt with in only an afternoon; on Wednesday, September 20, 1458, seven *instance* cases were heard besides business *ex officio*, much more than an afternoon's work, particularly in winter. Occasionally individuals were cited to appear at stated times, presumably because they were not normal; on a few occasions sessions were noted as starting at

¹¹ *Proc. Somerset Arch. Soc.*, XL (1894) 32-63.

¹² The court was last held there some thirty years ago. I am indebted to Mr. C. Linham for this information.

¹³ Woodcock, *op. cit.*, 125.

¹⁴ Watkin, *op. cit.*, says that the court met at 2 o'clock in the afternoon, xxxi.

2 o'clock in the afternoon, but at least twice this was clearly after an adjournment from the morning.

The bishop appointed the judge of the consistory court, and he held the title of 'official principal'. The terms of his commission gave him power to hear and determine cases brought to him by outside parties as well as those he summoned to the court. *Ex officio* cases were few in number at Wells, though rural deans received their formal appointment to office in the court; most of the business was brought by individuals. The official principal was an important minister in the bishop's administration. Hugh Sugar was perhaps the most powerful holder of the office during the fifteenth century; he presided over the consistory court from 1458 until his death in 1489, from 1460 he was treasurer of the cathedral and from 1466 vicar-general for the absent Bishop Stillington, giving him enormous powers within the city and diocese which he seems to have abused towards the end of his life.¹⁵ Before he was appointed to office in September 1458 he had become a doctor of laws, and from 1454 worked as Bekynton's spiritual chancellor. In 1450 he had practised in the provincial court, and thus brought a wealth of experience to his office. After his death the *acta* in the court book, where the judge's name appears, become scanty. In September 1490 Thomas Overay, canon and precentor of Wells, presided on the authority of the vicar-general, Thomas Harrys.¹⁶ At the next consistory, Harrys himself acted as the judge.¹⁷ There is then a gap until October 1497, when John Lugwardine and Thomas Gilbert, canons of Wells, sat as *officialis consistorii*, commissioned by Bishop King.¹⁸ Fifteen months later, Lugwardine as president of the consistory was acting as judge.¹⁹ Harrys perhaps combined the offices of vicar-general and official as Sugar had done; he held the former office by 1490 and had already succeeded Sugar in the treasurership. Gilbert was vicar-general from 1495-1502, having come from Exeter with Bishop King. Lugwardine was appointed commissary-general by King in August

¹⁵ *MSS of the Dean and Chapter of Wells* (Historical MSS Commission) II, 102-3, 105, 108-9.

¹⁶ C.B. fo. 82v.

¹⁷ *Ibid.*, fo. 62v.

¹⁸ *Ibid.*, fo. 100.

¹⁹ *Ibid.*, fo. 102.

1497 with extraordinary powers covering at least some of the duties exercised earlier by both vicars-general and officials.²⁰ The duties of the official may have been shared between these two ministers at this time.

Occasionally a second judge was appointed, either by the bishop or by the vicar-general, who was called the 'president of the consistory'. John Stokes, commissary-general 1445-62, became president in 1457, and remained in office under Sugar. He often acted on the same day as the official, and thus seems to have been appointed to share the burden of consistory business, rather than to act as a deputy in the official's absence. The terms of his commission were identical with those of Sugar, but in practice he seems to have exercised less power, since only the official pronounced sentence even in cases heard by the president. Robert Hurst, commissary-general 1462-4, succeeded Stokes, and remained in office until his death in 1464. Thereafter, until 1498-9, there seems to have been no president. Individuals might be commissioned, however, to hear specific cases, which had proved troublesome and could more easily be heard elsewhere. Thus master David Coclond and John Glyn of Bristol were empowered in 1463 to hear and determine the matrimonial dispute between Henry Nycoll and Joan Skarlett of the parish of St. Thomas, Bristol.²¹

After the judge, the most important officer was the registrar, who was also examiner-general. The smooth running of business depended largely on his ability and efficiency. Though he would have been helped by a staff of clerks, his work was by no means light. He was responsible for compiling and keeping the records of all court business, which would entail being present at every session. Further, he supervised the depositions of witnesses, taken down outside the court as answers to questions drawn up by proctors. These witnesses might in practice appear before a specially appointed commissary in particular cases, but the depositions were usually written by subordinate clerks. He was also responsible, through the *filacer* or filing clerk, for the archives containing not only depositions, but also other documents produced as evidence in court.

²⁰ *Registers of Bishops King and Hadrian*, ed. H. C. Maxwell-Lyte (S.R.S. LIV, 1939), 50.

²¹ C.B. fo. 117.

John Touker was appointed registrar by Bishop Bekynton on the same day that Sugar received his commission, 17 September, 1458. Some difficulty has arisen over his identification. It has been stated that he was the same man as the John Touker who was registrar of the bishop's chancery from 1454.²² But the man appointed to the consistory in 1458 was a clerk, while the other was a married layman whose wife was still alive in 1460.²³ Unfortunately the difficulty does not end there: between 1465 and 1477 three different men with the same name, one from Frome and a master of arts, one from Glastonbury and one a vicar choral, were ordained priests in the diocese.²⁴ The first can be discounted since on no occasion was the registrar noted as holding a degree; the second may have been a brother of Richard Touker of Glastonbury who practised in the consistory court as a proctor-general 1458-1470+, but there is no other reason to identify him as the registrar. The third, however, may be the correct one. He had been a vicar choral since 1457; in 1466 he was collated by Sugar to a chamber in the close "for his merits and services".²⁵ In 1467 "Master John Touker, Registrar of the Causes of the bishop of Bath and Wells and clerk of the (cathedral) church of Wells" was admitted a freeman of the city of Wells by pledges.²⁶ Sugar appointed him his executor, leaving him five pounds and a cup, perhaps witness of a friendship developed through years of business association. Touker later became sub-treasurer of the cathedral, *communar*, and principal of the college of vicars choral.

He was succeeded, by 1471, by master William Henton, alias Lomys, of Martock, a bachelor of laws, who had served in Bekynton's household at the beginning of his career. He was followed by Thomas Goldwege of Glastonbury, who was acting as registrar by September 1478. Earlier he had been appointed registrar of the bishop's chancery, and the two offices in effect made him general scribe for Hugh Sugar as vicar-general and official. He later became a vicar

²² *Register of Bishop Bekynton*, ed. H. C. Maxwell-Lyte (S.R.S. XLIX & L, 1934-5), xix.

²³ *Ibid.*, 1158, 1295.

²⁴ *Register of Bishop Stillington* (MS), ordination lists, *passim*.

²⁵ *Act Book of the Vicars Choral* (Wells Museum), p. 13; *Register of Bishops Stillington and Fox*, ed. H. C. Maxwell-Lyte (S.R.S. XLI, 1937), 39.

²⁶ *Wells City Charters*, ed. D. O. Shilton and R. Holworthy (S.R.S. XLVI, 1931), 151.

choral, and held benefices at Chewton Mendip, Ubley, Cheddar and Shipham. He became a canon of Wells in 1503. Robert Williamson, his successor, acting in 1497, was also registrar of the bishop's chancery, which office he held from 1493.

The third court officer was the apparitor, the court messenger responsible for delivering citations and reporting irregularities. The office was open to abuse, and Chaucer in the 'Canterbury Tales' was not the only contemporary writer to voice bitter criticism against the office in general. There seems to have been one apparitor attached to each deanery, and one for the city of Wells, perhaps under the supervision of the bishop's apparitor-general. Apparitors were usually laymen, and their income derived from fees for citations.

A hierarchy of lawyers provided the necessary legal knowledge for parties bringing or answering cases before the official. There were three grades at Wells, advocates, proctors-general and proctors. The advocates, Nicholas Fysh, Robert Hurst and John Lydford, were experienced lawyers. Hurst and Lydford were local men, the former from Bristol, the latter from Wincanton; Fysh, a native of the diocese of Norwich, had been ordained by Bekynton. They do not seem to have taken part in actual pleading, but probably acted as advisers to the proctors-general, who, with the proctors, seem to have been solely responsible for the conduct of cases. Eleven men acted as proctor-general during the period; admitted to office after taking an oath, and on payment of fourpence, they were available to undertake any business brought to the court. As far as they can be identified they were local men, or held benefices in the diocese; eight were public notaries, four held degrees in law, seven were clerks and three, including one of the clerks, John Standerwick, were married. Several of them held local benefices to supplement their earnings in the court, though the busier proctors, Richard Touker, John Atwater and William Vowell, do not seem to have done so. The identification of Atwater and Vowell has caused some trouble. Men with the same names were mayors of Wells; both were married, and Atwater was described as "burgess and merchant" in 1479 when he and his wife Emma were mentioned in a bond.²⁷ A master John Atwater, notary public, and his wife Emmota, were allowed to have masses celebrated in their oratory a year earlier.²⁸

²⁷ *MSS of the Dean and Chapter of Wells*, II, 691.

²⁸ *Register of Bishops Stillington and Fox*, 667.

Vowell had an apprentice who was admitted a freeman of the city of Wells in 1476.²⁹ It seems unlikely at first sight that these men could also be ecclesiastical lawyers, but the coincidence of names needs some explanation; further evidence may yet come to light, perhaps in the unstudied accounts of the vicars choral.

With two exceptions, the thirty men who practised as proctors in the consistory did so only occasionally. The reasons why members of the higher clergy, such as William Fulford or Thomas Mersh, should appear as proctors is not clear; the normal proctors may have been too busy, or the parties they represented may have been personal friends. Two other proctors were probably apprentices, or at least wished to gain experience at the start of their careers: John Bartholomew appeared in 1480 with Atwater and William Yolton just before his admission to Winchester College. Similarly, William Vowell junior appeared occasionally after ending a rather stormy career at Oxford.³⁰ The only two men with long service as proctors, John Carter and John Walter, were established before 1458 and appeared until 1485 and 1466 respectively. Most of these were local men, or beneficed locally, though few can be identified confidently. The most noteworthy outsiders were doctor William Wilton, canon and vicar-general at Salisbury, and Peter Motyng, provided by the Pope to the deanery of Ossory in 1466.

Procedure in the consistory court in *instance* business was rather complicated and tended to be prolonged. A suitor rarely acted for himself, but was represented by a proctor. These were appointed either in court before the official, *apud acta*, or elsewhere in the presence of a notary, in which case the notarial instrument would be presented to the official. It was usual for a suitor to appoint more than one proctor, to ensure that, if one was absent, another could legally take up the case. Assuming that the other party was also represented, pleading could begin at the next session on the order of the judge. The plaintiff, through his proctor, produced his case in a series of articles known as a *libel*, which the defendant was required to answer at the next session. If the case was simple, the judge might be able to give sentence after the first answers, so that

²⁹ *Wells City Charters*, 156.

³⁰ *Biographical Register of the University of Oxford*, ed. A. B. Emden (Oxford 1957-9), *sub nomine*. Much of the biographical information in this paper is taken from this work.

the suit could be over in about three months. In practice this was rarely so, though failure by either party to appear to plead could end a case at any time. There was, however, no limit in theory to the number of *libels* which either side could produce in the form of supplementary articles, and the production of witnesses further complicated procedure and lengthened pleading. John Feganys, Thomas Crych and William Stoky, churchwardens of South Pether-ton, brought a case against William Ball, executor of the late vicar, master John Pederton, who died in 1460. The suit began on 14 June, 1468, and involved several witnesses, including the new vicar, master John Fitzjames. At one point one of the proctors was unable to proceed, and another took his place. At another, the apparitor-general, Thomas Smyth, was cited to give evidence but failed to appear. Thus pleading had not finished by 4 February, 1472, the last dated entry.³¹ This was by no means typical; the average duration of a case was about six months, which amounted to fairly speedy justice.

Nearly three hundred suits were recorded in the court book, but sentence was only pronounced in thirty-two. The terms of these were not normally entered under the record of the cases themselves, but were presumably kept in a book or file elsewhere. Among the scribbled memoranda at the end of the court book, the registrar noted the terms decided against Juliana Clerk in January 1469-70. She had been the defendant in a case brought by her vicar, who claimed mortuary fees for her late husband. The official ordered the widow to pay a cow worth eight shillings.³² Another sentence was entered *apud acta*, because the suit, originally an *instance* one, had been suspended, both parties being willing to accept the arbitration of the official. Roger Elmeley, rector of Kingston Seymour, claimed tithes from Nigel Levenyth, one of his parishioners, in 1460. The agreement was in two parts; in June, Levenyth was condemned to pay a total of thirty-two shillings for the grazing of twenty-four animals, and twenty-four shillings in tithes. This presumably covered old claims. At the next consistory, Levenyth agreed to pay to the rector and his successors five shillings per annum, to be handed over to the churchwardens for necessary works.³³

³¹ C.B. fos. 119v-120v.

³² *Ibid.*, fo. 162v.

³³ *Ibid.*, fos. 9v-10.

While only a few cases ended with sentence, most others were settled in various ways. An inhibition from the Crown or from the provincial court meant instant transfer of the suit to another court, unless, as in one surviving example, the judge continued to hear the case as commissary of the Auditor of Causes of the Court of Canterbury.³⁴ In a few others, the official acted as arbitrator, usually in cases of simple debt. Most cases, however, were settled by compromise, forced upon parties as a result of mounting costs; but the only indications of settlement are the words *stet*, *pax* or *finis est*, which frequently appear at the end of entries in the register of causes. A settlement might thus come at any stage during the proceedings; in fact, the first stage of procedure, the presentation of the *libel*, was reached in less than half of the cases begun in the court.

An appeal lay from the court either to the provincial court in London, or to the Pope. After sentence, a proctor would give notice of appeal, and would be required to put his objections in writing and present them to the official on the following day. John Stocton appealed from a sentence in January 1458-9, and his proctor, John Atwater, was ordered to produce his written objections at seven o'clock on the following morning in the cathedral. There follows at the end of the case a long protestation, entered on the order of the official himself: he had waited for an hour in what must have been a cold building, in company with Robert Hurst, William Champ', a vicar choral, and the registrar, John Touker, in order to receive the proctor formally with all due legality, but the proctor had failed to appear, perhaps because his client had had second thoughts. Nothing further was heard of the case. Three months later, Atwater kept the official waiting in similar fashion in the bishop's chapel at the manor of Wookey.³⁵

Ex officio procedure was simple in comparison; cases of irregularity, brought to the court by apparitors, local clergy or special inquisitors, were usually dealt with summarily, the defendant sometimes being required to answer a series of articles. Most *ex officio* business was not concerned with crimes, but with appointments to office in the court and the diocese.

³⁴ *Ibid.*, fo. 110.

³⁵ *Ibid.*, fos. 147 and 147v.

What may be termed the 'weapons' of the court were varied. Sentences were backed by threats of excommunication, and summary judgments by penances, suspension, excommunication or even interdict. Direct fines were levied on rural deans who failed to take office, and contempt of court could also be cancelled by a monetary payment.

The court could also enforce payment of proctors' fees, which were often heavy. Nicholas Janyyn, chaplain, lost a case which William Gardiner, vicar of Compton Dando, brought against him in 1458 for violence, and was required to pay nine shillings costs for the plaintiff on pain of excommunication. These costs had been incurred in eight court sessions. Expenses of twenty pence were payable by John Forster of Badgworth in a testamentary case he brought against Juliana Lovebound, which lasted only two sessions.³⁶ These expenses covered fees of proctors and apparitors and also of the clerks who drew up *libels* and depositions, as well as the usual *douceurs*. The churchwardens of Yatton paid fourpence for a citation in 1470; some years earlier they accounted for eighteen pence "yn costage to Well' for sowte of the churche gods yn two tymes" and threepence "yn costs for laboryng at Wells . . ." ³⁷ Heavy costs would have prevented many people from taking their grievances to the consistory; though in theory the court could allow a suitor to plead *in forma pauperis* and waive all fees, no example has survived. Many of the cases which ended quickly in compromise must have been cut short because a party could not afford to plead. The very threat of action there must have forced settlements on financial grounds even in the most bitter disputes. Even so a wide variety of people brought their grievances to the court for settlement.

The most important business transacted in the court *ex officio* was the formal appointment of rural deans. These were elected in rotation at the local assemblies, in respect of the churches they held, and were presented to the official by the officials of the archdeacons at the October consistory each year. Failure to appear to take the oath of office and pay a fee of half a mark meant payment of a fine. Certain excuses were accepted, particularly if the incumbent was also

³⁶ *Ibid.*, fo. 109v.

³⁷ *Pre-Reformation Churchwardens' Accounts*, ed. E. Hobhouse (S.R.S. IV, 1890), 106, 94.

a bishop. Thus Richard Viel, bishop of Killala, rector of Woolavington, elected rural dean of Pawlett in 1465 and 1479, failed to appear each time and was cited again.³⁸ John Balle, rector of Pendomer, should have appeared in 1461 as dean of Ilchester; he was cited again for February, and threatened with sequestration in March. He does not seem to have appeared even then. In 1465 he was again elected; he did not attend, and was at once suspended, and had his goods sequestrated.³⁹ This is not the place to make a detailed examination of the office of rural dean, but it is clear that many found it a burden, and were reluctant to undertake the duties involved.

Because the office was based on churches held, appropriators were occasionally elected, and from this a system of substitutes naturally arose, which by the fifteenth century had come to be used by individual clergy as well as corporations. The substitute took the whole responsibility of the office and was paid for his services. The use of a substitute as well as the reluctance to hold office is well illustrated in the case of John Benet, rector of Sock, who in 1464 refused to accept office as rural dean of Ilchester because it was not his turn. He appeared before the official, and declared that he had been elected fifteen years before; since there were more than fifteen rectories in the deanery his submission was accepted, but not before Thomas Denys of Martock, who had been his substitute, corroborated the statement, saying that he had been paid two marks for his duties.⁴⁰

Annual appointments of rural deans dwarfed any other *ex officio* business, which consisted mainly in appointments within the court and a variety of minor activities covering moral questions and the behaviour of clergy. At the beginning of the period, the official appears to have made an inquisition through the archdeacons' officials, concerning the state of ecclesiastical buildings and absenteeism amongst the clergy. As a result, the rector of Bawdrip was required to repair the buildings of his rectory.⁴¹ In June 1498, the inhabitants of Burrington were ordered to rebuild their chapel, including the chancel *in toto*, by Michaelmas, on pain of interdict.⁴²

³⁸ C.B. fos. 27, 28, 46v.

³⁹ *Ibid.*, fos. 13v, 14v, 27, 28.

⁴⁰ *Ibid.*, fo. 25.

⁴¹ *Ibid.*, fo. 5v.

⁴² *Ibid.*, fo. 105.

Here the official's jurisdiction probably overlapped that of the commissary-general, though most of this type of business was concentrated in the first few years of Sugar's term of office, and rarely occurs later.

Instance business covered a wide range of disputes, most of which cannot be defined very clearly because of the summary nature of the records. More than a quarter of the cases can be described broadly as matrimonial; though ten were more specifically labelled *divorcii*, two *precontracti matrimonii* (clandestine marriage) and *restitutionis obsequium conjugalium* (restoration of conjugal rights), the rest were merely called *matrimonii*. The point at issue between Thomas Style the younger, of Frome, and Agnes Cras, was that Agnes claimed to be married to Thomas, which he denied. He lost the case, the official giving sentence *pro matrimonio*.⁴³ Thomas's matrimonial activities must have been quite notorious, since a month before this case started he was involved in another matrimonial dispute, this time brought by Joan Cappel, also of Frome. Joan lost the case and appealed to the provincial court, but the details are not recorded.⁴⁴ The court was particularly concerned with these disputes, since marriage was a sacrament of the church; thus commissaries were sometimes appointed to deal with single cases in order to speed up a decision.

Perjury cases, described as *fidei lesionis sive perjurii*, represented over one fifth of the total. Many of these involved some kind of breach of contract, and twenty-one were specifically for debt. As soon as a defendant acknowledged his obligation, the judge as arbitrator gave sentence, which amounted to a demand that payment be made in given instalments by stated dates on pain of excommunication. There were eighteen such cases between 1458 and 1466, suggesting that here too the lay courts had some grounds for their complaint that the church courts were encroaching on their business.⁴⁵

Defamation suits amounted also to about a fifth of the total, though the offending words have survived in only one case. Robert Vold of North Petherton was accused of telling Alice Burode "that sche schold leve in advowtremet [adultery] hyr first sonne callyd

⁴³ *Ibid.*, fo. 151v.

⁴⁴ *Ibid.*, fo. 150v.

⁴⁵ *A History of English Law*, W. Holdsworth (3rd ed., London 1923), II, 305.

John Webbe".⁴⁶ Another case, which illustrates the type of matter in dispute, was the accusation made against Margaret Hancock, wife of one of the proctors, that she had committed adultery. Rather than bring an action against her accuser, she purged herself before the official.⁴⁷

Payments of various ecclesiastical dues were frequently the cause of trouble. Twenty-five cases were brought by rectors against their parishioners for tithes, and several for mortuary fees. Walter Coore, alias Dyer, and John Peper, churchwardens of Nettlecombe, sued John Hayward the elder for *subtraccionis bonorum ecclesiasticorum* (withdrawal of church goods) in 1480.⁴⁸

Four interesting suits were brought by vicars against their rectors for augmentation of their livings, a subject which had been the concern of the bishop earlier in the century. Two cases also appeared suggesting that the commissary-general's court had failed in its duty. The inhabitants of Bickenhall demanded of their rector (of Staple Fitzpaine) that he should provide a celebrating chaplain for them; and the churchwardens and parishioners of Brewham accused their vicar, John Pedewel, of non-residence.⁴⁹ One case of sacrilege and six of violence to priests were recorded.

Though the archdeacons and the commissary-general had power to prove wills and grant administration, any disputes arising from this business were heard in the consistory. Twelve cases described as *testamentaria*, and six as *impedimenti testamentaria* were heard during the period. The latter suggest that the administration of wills was being disrupted in some way, while others might be the result of challenges from aggrieved relatives.

Should a party fail to prosecute a suit started by him, a case of vexatious litigation could be heard against him. John Baker, alias Janyn, of Parson Street, Bedminster, was cited at the instance of Edith Bayly; she failed to appear, and the official ordered her to be cited *pro temeraria vexacione*.⁵⁰

The records are by no means complete, and these are but isolated examples to illustrate as far as possible the types of cases heard in

⁴⁶ C.B. fo. 71v.

⁴⁷ *Ibid.*, fo. 24.

⁴⁸ *Ibid.*, fo. 78v.

⁴⁹ *Ibid.*, fos. 132v, 149.

⁵⁰ *Ibid.*, fo. 22.

the consistory court; the variety of business was wide, and the court must have been kept fairly busy. The amount of money involved as fees must have been considerable.

The position of the court in the diocese is difficult to determine. It is clear from the writings of Chaucer and Langland that church courts were unpopular. Yet, judging by the number of people who still came to the consistory for justice, they continued to serve a useful purpose. The church courts made no claims to settle outsiders' disputes, but by the fifteenth century their usefulness had increased, so that, at Wells at least, *instance* business took precedence of all other. The amount of *ex officio* business would necessarily depend on the energy of the official and the efficiency of the commissary-general's court. Popular as the court at Wells may have been for many, at least one voice was raised in criticism. Someone, perhaps a citizen of Bath, severely criticised Richard Bruton, official 1408-c.1418, the commissary and an apparitor, for extortionate charges in probate business, and seems to have contemplated an appeal to the Crown.⁵¹ Some years earlier, before he came to office, Bruton had been accused of maintaining men in the consistory, to obtain a favourable judgment.⁵² No later accusations have come to light, and Sugar was anxious to keep standards high. One proctor was suspended for negligent business, and a case was dismissed, because the judge declared that he had been insufficiently informed of the circumstances of the case by the advocates.

It is a cliché to say that the fifteenth century was a litigious age, and it is clear that an aggrieved party would take his case where he could best vex his opponent. The limits set on the type of business heard by the Wells consistory may, or may not, have affected the volume of business; it is impossible to say whether the number of cases was rising or falling, because the records are incomplete. As far as can be seen, the court was kept busy, and provided a battleground for a large number of people from the diocese, and a comfortable income for those who specialised in Canon Law. It does not seem to have harmed the general standing of the church in the diocese, but in its increasing emphasis on secular business, it is, perhaps a microcosm of the church as a whole in the later Middle Ages.

⁵¹ *Red Book of Bath* (Longleat MSS.), printed in *A History of Bath*, R. Warner (Bath 1801), appendix 44.

⁵² *Public Record Office, Early Chancery Proceedings*, 68/105.