

# DIOCESAN RECORDS

## COURT PAPERS

A description of the origins and some idea of the contents of the diocesan and archidiaconal court books and 'papers will be found in *Archivists' Report 1950-51* (No. 2) pp. 23-32. Little work has been done on the court papers since then and the class has remained virtually unknown to readers, which is unfortunate in view of the wealth of material which exists here for so many aspects of history. It was decided therefore to produce a calendar of, at least, a sample of the main types of record covered by this general heading.

The papers are contained in a number of outsize boxes dating back to the early days of the Diocesan Record Office. All these boxes have numbers and the court papers are in nos. 57-86. It should be noted that a number of similar papers are to be found elsewhere among the diocesan records, notably the bound volumes of "*Responsa Personalia*" which in spite of their title contain documents of a number of types. Of these latter, R.P. 1, 2, 9 and 12 have so far been calendared, together with a number of sample bundles from the following boxes:-

58. *Articles*. These are the recitals of complaints in cases where the court is proceeding "*ex officio*".

59-60. *Libels*. Similar in form to Articles but so-called in an "instance" case between litigants.

61. *Responsa Personalia*. The defendants' clause by clause replies to the matter contained in articles or libels.

62. *Allegations and interrogatories.* Interrogatories are the questions which one side puts to the other side's witnesses. Allegations could issue from either side, but most of these seem to be statements of the case for the defence.

68. *Certificates and Exhibits.* Most of these are pieces of evidence, such as certificates of marriage, copies of earlier court proceedings or proceedings in other courts. Some of them are letters or certificates of clergy, churchwardens and parishioners as to the behaviour of individuals, similar to many documents to be found among the earliest portfolios of Churchwardens' Presentments.

69-70. *Depositions of Witnesses.* These need no explanation, except perhaps to say that they follow clause by clause through the articles. allegations or interrogatories to which they refer.

80. *Miscellaneous cases.* Mainly groups of documents about particular cases which for unknown reasons have been kept, or later gathered, together. The two bundles which have been calendared relate one to proceedings against William Williams, rector of Asgarby for popish practices between 1598-1600, the other to various 18th century cases against parish clergy for neglect of duty and other delinquencies.

These then are the types which have been sampled. The period which they cover stretches from the late 16th to mid 19th century, with a few earlier items. Our sample calendar covers most of the 16th and early 17th century bundles together with selected later bundles.

The importance of the court papers for the study of many aspects of social and economic, as well as ecclesiastical history, becomes apparent when we realise how large a part church courts played in the life of the 16th and 17th and, to a lessening extent, the 18th and early 19th centuries, until the court lost most of its power in the mid century. Litigants in testamentary cases, defamation cases, cases of marriage or divorce and often tithes cases would go to those courts. *Ex officio* the court dealt with all matters relating to the morals and spiritual health of the diocese. Papists, nonconformists, adulterers, withholders of church rates, scolds, drunkards, persons working (or playing) in service time, brawlers in the church or churchyard, abusers of the clergy, unlicensed schoolteachers, surgeons and midwives, delinquent clergymen, all found themselves summoned before the court to answer for their crimes, though not all, of course, for the whole of the period covered by these documents; for instance proceedings against nonconformists *qua* nonconformists ended with the Toleration Act of 1689, though proceedings against them, particularly the Quakers, for refusal to pay church rates continued.

The following notes aim to give an idea of some of the subjects covered by these records.

The state of the parish clergy was of course, a prominent subject of concern to the Diocesan authorities. This is reflected in the court papers mainly in prosecutions for immorality and neglect of duty, but also in a number of cases, mostly late 16th century and early 17th century, in prosecution for nonconformity in 'doctrine, liturgy and ceremonial. Most of the prosecutions were of Puritan clergy though there were a few cases of clergy with Papist doctrines, notably William Williams, mentioned above. A number of laymen also were accused of Popery such as the man who said of two priests executed at Lincoln that they died "not for treason but for conscience" and wished that

he " might dye as they dyed " (58 /2/ 71); also Maurice Berkeley, esquire, who encouraged popery in Edmundthorpe and Wymondham, Leics., by suffering a " Christmas game " to be made in his house of surrounding ministers, the bishop and his officials, and was accustomed after evening prayer, to set the youth of the parish to dancing and other sports in the churchyard. (69/1/21).

Among the clergy Puritanism was a far greater cause for concern than papacy. Notes on nonconformist ministers in 1604 quoting both from the court books and papers, will be found in Canon C. W. Foster's *State of the Church* (L.R.S. 23, pp. cii-cxxxii). Another example is William Hieron, rector of Hemingby, who speedily earned the odium of his parishioners by likening them in his sermons to thieves in gaol, " saying that divers of them sit before him with worse countinances than such as are going to hanging this assize ". He also divided his auditory in his discourse : pointing to the few who " affect his novelties " he would say " I speak to you Regenerat," then, turning to the rest, " I speak to you also ". He seems also to have advocated natural child-birth in his sermons scorning midwives as good for nothing but gossips' tales and saying " that the woman in travill might do well without such a dooe, for Mogge my sowe, lett her bringe eight or nyne pigges, hath noe helpe and doth well " (58/1/5).

But worldliness, laxity and the sins of the flesh were far more common causes of concern among the clergy than doctrinal nonconformity. John Hoskins, rector of Folkingham came to church in 1591 with a sword at his side and a dagger at his back. (58/1/1). Ten years earlier John More of Bradley, near Grimsby, kept open house for " shipmen and rovers with other lewde persons :... to the great disquietinge of the whole towne." (69/1/8). John Robotham of Manton was playing bowls at Kirton from 9 till 2 on Easter Day 1577, so that few of his parishioners received communion (69/1/7). He also used the church porch for greasing his sheep, while John Thompson, rector of Riseley, Beds., missed many services by his trips to fairs and markets to deal in horses. The unfortunate parish had not had services regularly performed for 28 years (58/2/66). More exotic aberrations were laid to Thomas Johnson, curate of Cranwell in 1603, who: " didest take uppon thee to be a wise man to 'tell women whether they shoulde have a male childe or female childe. Likewise you do use exercise and practise Invocans or calleinge of spirits and by your Inchantments & witchcrafts in telleinge what is become of stolne goods you are thought to have a familiar " (58/2/70). Several incumbents were openly contemptuous of authority ecclesiastical and civil. Richard Carrington, vicar of Swayton, said he valued the bishop's excommunication " not a strawe or a chipp . . . . and strick his finger and his thumbe together as it were in vile disgrace of your Lordship's authoritie " (69/1/22). Some clergy augmented their income by the performance of clandestine marriages; there are several cases in 1603 alone: James Morton of Surfleet had solemnised various irregular marriages in Surfleet and other churches as well as private houses (58/2/61), while the curate of Risby was hauled before the court for a particular marriage and said to have married a hundred more in like manner. (58/2/3).

These are all 16th or early 17th century-examples, but the later period also produced its black sheep. In 1763 John Stirling, Curate of Bovingdon and Flandan, Herts., had demanded tithes of a dying man :—" You told him you kept the Keys of Heaven and when he

died he must not expect to go there because he had robbed God, which was robbing you " (58 /6/2). The schoolmaster at Friskney in 1729 had gone to live 20 miles away, leaving his servant to take the lessons; on his rare returns to the parish he used the school house for brewing, stabling horses and threshing corn. (58/5/28). Peter Sers, vicar of Hogsthorpe, was accused in 1750 of infrequent services, refusals to christen and bury and taking excessive fees for marriages, (80/3/5).

Of course the clergy, were very liable to malicious prosecutions if they fell out with their parishioners. Peter Sers said that that was his case and that in the matter of christenings he was trying to break an " immemorial practise that prevailed amongst the meaner sort of People, of Postponing the Christning of their children publicly till the annual Feasts or Dancings." John Robotham (see above) claimed that he was the victim of a quarrel between neighbouring gentry; Mr. Southill was trying to wreak his enmity on Mr. Marmaduke Tyrwhitt by false accusations against the latter's friend, Robotham. Some neighbours had said: " Take heed, Mr. Parson, that 'your medleyng with gentlemen of worshipec bryng you not into suche trouble as you will hardly wynde out of. And I sayd, the lord's will be fulfilled with mercy ". (69/1/6).

Apart from malicious prosecution the clergy were liable to both verbal and physical assault. The vicar of Bardney was assaulted at a vestry meeting in 1831 (58 /6/53). William Cottam of Irby, meeting Thomas Kent of Donington on Bain in the Bail of Lincoln in 1607, cursed him for a swearer, a robber, a puller down of closes and a sur-charger of 'commons. (58 /2/77). Somewhat earlier, Ruth Goodhand and her husband, after defaming the rector of Wold Newton in the church, attacked him in the churchyard. (69/1/40). Other clerics were accused of drunkenness, adultery, ignorance (one was said to understand Greek and Latin " noe more than my curr dogg "—RP9/104), litigiousness and every other possible sin. The mayor of Bedford in 1582, when Ralph Jones the vicar of St Pauls remonstrated with him for his " frequent immoderate " ringing of the bells, said he would have the bells rung when he liked adding " that the Dyvell was in mee the saide Ralff Jones and that none, except the dyvell were in him, wolde preache as I did ". (69 /1/ 17).

Church rates and tithes were probably, more than anything else, responsible for ill feeling between clergy and people which gave rise to occurrences such as these; especially tithes, for the churchwardens, who collected the rates, underwent a fair amount of the odium for them. It was above all the terrible complexity of tithes that caused such a mass of litigation. One stook of wheat in ten was easy to calculate; every tenth fleece and lamb were not too difficult; but how to work out the tithes on sheep pasturing on Skellingthorpe High Moore but lambing, dipped and shorn at Boultham. (R.P.8/313). Apart from the more important crops there are cases relating to tithes of turkeys, flowers, vegetables (including " hartychokes ") herbs, loads of brushwood, reeds, furze, butter, eggs, poultry, the 'profits of windmills, coneys in warrens and doves in dove-cots. In 1607 the vicar of Fenny Stanton, Hunts., claimed tithes on the profits of herbage in a close where Thomas Arnold pastured the horses of travellers for 3d. a night and 6d. a day and night. (59/1/44). Each parish would have its own peculiar customs as to the time and method of paying the various tithes, whether in kind or as a money rent. At Beckingham in 1560 it is claimed that a small close is set aside in lieu of all tithes hay in the field called Calcraft. (R.P.2 / 17).

At South Ormsby in 1639 the farmers of the manorial demesne claim to pay a flat sum of 30/- a year in lieu of all tithes. (R.P.8/204). Next year at Sutterton there is a claim that rod. an acre is paid in lieu of all tithe of hay, edish, lambs, wool and milk. Sometimes these- money commutations proved very unfair to the clergy in an age when the value of money was falling, but it was a long and costly business to go to law to overthrow such customs. At Boothby Pagnell in 1609 it was "famouslie knowne" that the late incumbent had died practically penniless with his parsonage in ruins soon after he successfully concluded a long suit against Mr Pannel, the lord of the town, in which he recovered the tithes in kind on the demesne lands. (68/2/14).

The innumerable tithe cases among the court papers provide a wealth of material for the detailed study of agricultural history. The conflicting statements of the litigants, however, are more valuable in the light they throw on unchanging human nature than as guides to the size and value of crops. It is an education in itself to see how Bow a milk yield a husbandman can ascribe to his cattle when he knows tithe will be calculated on it.

At Boothby the succeeding incumbent would at least have the newly recovered tithes to offset the dilapidation of the parsonage, but in many cases there was no such 'offset, and a suit against the previous incumbent or his heirs would be commenced. Cases of neglect, if not actual spoliation of the chancel by the rector or of the body of the church by the churchwardens are also not infrequent. The rector of Belchford sold lead from the chancel roof in 1603 (58/2/8). At the same time the churchwardens of Bramston, Leics., were stuffing their broken windows with pease straw (58/2/82) and Wold Newton church was in great decay after Thomas Goodhand had sold two great bells, lead, wood and iron (69/1/33); the vicar of Quadring was annoying his parishioners' nostrils by spreading hemp in the churchyard (58/2/10) and the hogs were rooting up the churchyard at Donington on Bain because the churchwardens had allowed the walls to decay (58/2/16). Two hundred years later the churchwardens of St. Mary le Wigford, Lincoln carried out unlicensed alterations to the church, including the removal of the Corporation seats and the frame where the City Regalia was placed, also the Aldresses seat and the red scarlet and blue cloth with which the seats were covered. (58/6/44).

These interior and exterior ruins and decays seem to have been all too prevalent in the churches of the period. Extraordinary behaviour on the part of the congregation also appears to have been a not infrequent occurrence. Fisticuffs over the ownership of a pew were common occurrences. In 1633 Thomas Cooke tried to push himself into a place among the women in Grantham church rather than stand among the servants in the aisle as he should have done (R.P.9/45). In the same year Dorothy Eglitt of Rowston beguiled the tedium of the sermon by "excessive laughing and lascivious and unseemly talking", and further disturbed the minister by throwing a stone at the young men (R.P.9/74). At Kirmington in 1727 the churchwarden mounted the reading-desk and announced a psalm to the tune of "'Cuddle me Cuddy' being a tune to an old lewd bawdy Ballade or Song" (58/5/21), while at Leire, Leics., in 1605 it was the curate who struck up the Lord's Prayer "in a tune that is not accustomed in churches, but in prophane songs" whereupon none of the parishioners would join in with him to his great annoyance. (R.P.61/1/70). Those of us convinced of the

virtues of our ancestors in the matter of early rising will be surprised that in 1766 the parishioners of Thornton le Moor complained that services were held at 9 a.m. when it was "inconvenient and almost impossible for the masters of Families with their wives, children and servants to be prepared to attend ... at that early time of the day". (58/6/9).

There remains but to say something about two groups of cases which crop up frequently: testamentary and matrimonial cases. The latter are more often than not breaches of promise, though occasionally wives sue for divorce on the grounds of their husbands' cruelty. To us it seems strange that in the larger number of breach of promise cases the plaintiffs were the men. It is interesting to follow the course of 16th and 17th century courtships through the libels and depositions in these cases: the approach to the maid's parents and relations, the permission to pay court, the visits to her house, the presents of gloves, rings or gold pieces and finally the solemn exchange of vows before witnesses. Any girl who changed her mind after this was liable to be sued.

Testamentary cases relate sometimes to tampering with the will, sometimes to claims of undue pressure on the testator, or that he was not in his right mind; or they can relate to the retention of goods by an unauthorised person or the failure of an executor to pay over a legacy. The interrogatories to witnesses are usually a searching series of questions designed not only to find out when, where and in, what circumstances the will was made, but also to test the credibility, literacy, eyesight and reliable memory of the witnesses. In these as in all cases the litigants and their lawyers were quick to seize on anything likely to cast aspersions on the probity of an opposition witness. Relationship, friendship or financial dependence might tie him too closely to one party, while any trouble with the law was taken as a proof that his word was suspect, as when other witnesses were asked if they remembered that one of their number had been whipped for stealing corn from Asgarby parsonage "at a certaine whippinge post called the Redd Robin" in Sleaford market (R.P.9/39).

It is hoped that it 'will be possible to include a summary list of the Court Papers in the next *Archivists' Report*.