

JUSTICE AND CONCILIATION IN A TUDOR CHURCH COURT: THE CONSISTORY COURT OF CHESTER, SEPTEMBER 1558–MARCH 1559 by *E. Kate Jarman* (Record Society of Lancashire and Cheshire 2012 for 2009 vol.146 xlii+102pp ISBN 978 0 902593 81 7) £25+p&p from Dr Fiona Pogson, Department of Politics & History, Liverpool Hope University, Hope Park, Liverpool L16 9JD

Perhaps surprisingly, the range of matters dealt with by church courts was very wide. Consistory (bishops') courts not only heard disciplinary causes [cases] brought by church officers concerning morality and religious observance—known as 'office causes', being brought *ex officio*—but also litigation suits brought by one lay party against another—known as 'instance causes', in which the role of the court was to settle disputes '*ad instantium partium*' and to act as mediator and facilitate an out-of-court settlement. Instance causes were, in effect, the equivalent of civil suits but were heard in church courts because parties considered the dispute to have a moral aspect. The records transcribed here are depositions [statements] made by witnesses in instance causes. Admittedly less 'juicy' than depositions for regulative suits, they nevertheless reveal much about everyday life in the diocese in the mid-sixteenth century. The documents cover a short period of time (just six months)—the reason for this particular date selection is not explicitly stated—and although dating from a momentous period in the church's history, covering the end of Mary's reign and the beginning of Elizabeth's, they reveal nothing of the turmoil of the time as they are unrelated to religious observance.

The first chapter of the introduction outlines the nature of these particular records and how earlier historians had used them. The second discusses the diocese of Chester in the reign of Mary. Established by Henry VIII in 1541 from the two archdeaconries of Richmond and Chester, this new diocese was the third largest in England and also covered parts of Wales. Chapter 3 describes not only the administration of church courts in general, but also of those in the Chester diocese in particular because, as a new creation, the Chester diocesan courts had a different structure from those elsewhere. Because the relative cost of bringing a lawsuit fell, there was a huge increase in litigation during the sixteenth century, and it is noteworthy that this increase occurred in church as well as civil courts. Historians have suggested that this had much to do with the general speed and flexibility of the church court system. Although these courts had limited powers of punishment—mainly public humiliation [penance] or spiritual censure—this did not discourage the bringing of suits, suggesting that it was their mediation and resolution that were prized. That the business of the Chester church courts doubled between 1544 and 1594 certainly suggests that litigants valued the services of those courts. The fourth chapter considers the Chester consistory court and its records, explaining the way in which depositions were taken: not in open court but individually and in confidence by the judge or a court-appointed examiner. Witnesses were questioned on articles submitted by the plaintiff and thus depositions by different people often followed a similar pattern. The fact that parts of the record are written in Latin illustrates very clearly that depositions were taken down in rough and then written up subsequently, with administrative details noted in Latin, including the questions posed by the examiner (these have been translated in the transcript). The nature of the record-keeping was such that the outcomes of suits were recorded in act books, which have not necessarily survived, so it is not easy to trace a suit to its end—indeed, the editor argues that it is likely that many instance causes were settled out of court after the various depositions had been heard. Chapter 5 discusses the different types of cause encountered: matrimonial suits, for example relating to degrees of consanguinity or the validity of 'marriages' of minors; testamentary suits, for example concerning the non-payment of legacies or the validity of a will; tithe causes, for example relating to the allocation of crops to the incumbent, or whether a particular crop was titheable; and defamation and slander, relating to the reinstatements of someone's reputation.

Depositions form only a small part of the church court records but they are of great interest to local historians for they are recollections by friends or acquaintances concerning the matter at issue, whether the mental competence of a testator, the consanguinity or otherwise of a husband and wife, or the liability for tithes of a particular piece of land. As deponents came from a broad social spectrum, such records give 'voice' to people who might not be mentioned in any other documents from their locality. The editor notes that church court records survive (to a greater or lesser extent) for most of the English and Welsh dioceses, but that they are an under-used resource for at least three very practical reasons: many of them are in very poor state having been stored for centuries in unsuitable conditions; the record-keeping practice which created them was highly complex; and the documents are written partly, or even entirely, in Latin. Nevertheless, the intrepid local historian who ventures into such archives can be richly rewarded with insights into parish and community life rarely available in other sources. For this reason alone, the publication is to be welcomed. Furthermore, the introduction outlines, among other things, the workings of church courts and thus is an invaluable guide to such records.

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