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THE WAGES OF SIN: The Financial Operations of a Medieval Church Court

by

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The medieval Church employed law courts to administer the Roman-based canon law. Indeed, in many areas of late medieval Christendom there existed highly developed systems of canon law courts based on the diocese and its divisions. England was no exception. Within the diocese of Canterbury, for example, there were two courts, the Consistory Court, headed by the Commissary-General who exercised diocesan jurisdiction on behalf of the archbishop; and the Court of the Archdeacon, who represented the administrative subdivision below that of the diocese.¹

This study focuses on the Canterbury Consistory and the financial aspects of its operations, particularly as they relate to *ex officio* cases. Normally, two broad categories of business occupied the Consistory Court: instance causes, which were litigated by private plaintiffs, and *ex officio* prosecutions brought at the instigation of the Court itself, a division roughly corresponding to the civil and criminal proceedings of our present day judicial system. These records or *acta* of instance litigation reveal a wide range of interesting cases: ecclesiastical suits were brought to restore damaged reputations, to enforce contracts of marriage, testamentary obligations, payments of debts and other agreements. It is the *ex officio* or criminal cases, however, that most concern us here.

An overwhelming number of the criminal charges made in the Consistory from the second half of the fourteenth century until the last quarter of the fifteenth, the period for which records are most complete, were sexual in nature. Of these charges, fornication and adultery appear with the greatest frequency, followed by prostitution, pandering, matrimonial offenses and incest. Certain kinds of nonsexual offenses, particularly the laity's

failure to observe Sundays and feasts, were also prosecuted but with considerably less regularity.

Although the financial aspects of the Court's operations are the chief concern here, it is necessary at this point to explain briefly the normal course of legal proceedings in order to set the subsequent discussion in proper context. The Consistory Court of the diocese of Canterbury employed an abbreviated form of the process of inquisition as its principal means of prosecution. Essentially, the process of inquisition or correction *ex officio mero* was developed to apprehend those individuals to whom public hearsay or *fama* imputed the commission of justiciable sins. The Commissary alone, by virtue of his office, prosecuted such cases which he instituted on the basis of rumor reported to him by a court official called an apparitor or summoner, the local clergy, or an unrelated third party. On appearance in court, the defendant would be read the charges against him which he either denied or confessed. If he confessed, the crime was taken as notorious or certain, and the court would proceed to a sentence of penance which took the form of a whipping around the church or other public humiliation. In the event of a denial, the judge usually ordered compurgation, which required the accused to bring with him to court a specified number of conjurators or oathhelpers who would reinforce the accused's denial by swearing to their belief in his oath of innocence. The defendant who successfully compurgated was customarily acquitted, but if he refused to undertake the procedure or failed it, he was considered guilty. Because of the spiritual danger to which the accused was supposedly exposed, criminal procedure was designed to avoid the delays and complexities of civil litigation and to determine guilt or innocence as quickly as possible.

A summons to and appearance before the Consistory and the penance that might result, all exposed the accused to public humiliation, but the burdens imposed on those unlucky or indiscrete enough to be caught in the ecclesiastical dragnet did not end there: court costs and other fees attached to virtually every aspect of legal proceedings.

Commutation fees constituted one of the chief sources of revenue the diocese derived from the Consistory. Although decried by various Church councils and in ecclesiastical legislation, it was common in the Consistory and in other Church courts of the time to allow defendants to redeem or commute their penances for a money payment rather than undergo them. It is impossible to estimate the proportion of offenders who chose to redeem their penances rather than undergo them, because the scribes who kept the records of the court do not always indicate which of the various court fees their notations concern. Nevertheless, it is known precisely how much at the end of the fourteenth century it cost to redeem a penance: 3s. 4 d. Almost a century later, in 1470, the price was unchanged.²

Besides the cost of commutation, defendants paid other fees as well, but whereas commutation was voluntary, the payment of other costs was not; failure to meet them resulted in suspension from church services or even excommunication.³ First, defendants were responsible for the fee of the apparitor, the official whose duty it was to serve citations or subpoenas ordering defendants to appear in court. In the court minutes the amount varies from 1 to 6 d., which suggests that it was based on the distance the apparitor had to travel. Postponement of a case to another court day cost probably 4 d. if the defendant himself had requested it, and the same amount was exacted for the formal act required to dismiss a case.⁴ There is no evidence that the Canterbury Consistory charged for absolving an offender of his sin once he had performed his penance, but it was a common practice in other church courts and could cost as much as 11 d.⁵ The Consistory, however, did exact a monetary penalty of about that amount for failure to respond to a citizen.⁶ Legal fees affected not only the guilty; even the innocent man or

woman, mistakenly accused but obedient to the summons of the Court, had to bear the expense of apparitor and dismissal; moreover, a fee of at least 12 d. attached to compurgation. The Court also expected payment for any documents its clerks might duplicate at the request of the defendant. For example, a letter of compurgation, which provided documentary evidence of an acquittal, seems to have cost 8 d.⁷

In theory the forfeiture of the sum pledged in support of an abjuration constituted the most onerous of the expenses of correction. Procedure required offenders to abjure their sins under pain of some penalty, in the Consistory usually a sum of money to be contributed to charities favored by the archbishop. These fines were normally quite stiff, ranging from 6s. 8d. to as much as £20. There remains little overt evidence, however, that any were actually collected, which suggests that the Court had difficulty in keeping accurate records of previous abjurations.

The different sums of money pledged by defendants in support of their abjurations show that the Court employed some kind of sliding scale, perhaps based on income or social status, in determining the amount appropriate to each case. Except for the apparitor's fees, which also varied according to certain criteria, the other procedural expenses of correction seem to be standard fees although in at least a few cases they appear to have undergone appreciable inflation. For example, in October 1398 a Lynsted man paid the goodly sum of 20 s. to quit himself and a woman of his parish of a charge of fornication whereas later in the same year a similar case resulted in a bill for 1 noble (6s. 8d.).⁸ Although the high cost of the Lynsted case may reflect special circumstances of the proceedings that the clerks failed to record, we cannot dismiss the possibility that in the diocesan court relatively well-to-do defendants were made to pay steeper fees.

It is quite plain that the wages of sin amounted to more than just a penance and that even the mere suspicion of ecclesiastical authorities could reduce one's goods. Fees attached to every stage of court proceedings.

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The performance of certain penances involved still more expense. Those defendants assigned pilgrimages, for example, were often required to make a money offering at the tombs they visited. Alms and outright fines were also sometimes used as penances. Without precise information on personal income it is difficult to know how heavy a load court fees and the other expenses of correction constituted, but if the average earnings of Consistory defendants were of the same order as the wage rates of building craftsmen and laborers, the financial burden must have been enormous. Phelps-Brown and Hopkins have estimated that from the second half of the fourteenth century until the third decade of the sixteenth the money wages of building craftsmen in southern England were 5 or 6 d. per day and those of building laborers 3 or 4 d.⁹ Defendants with comparable incomes then might expect to lose at least a few days of earnings to the mandatory fees even if their case was relatively straightforward, but commutation or repeated failures to appear when cited could drive the cost considerably higher. Of course, the financial burden of correction fell most heavily on the recidivist, who shouldered the full weight of court costs each time he faced prosecution as indeed did all defendants, whether guilty or innocent, who passed through the courts more than once.

To accommodate defendants who were unable to meet court expenses at the conclusion of their cases, the Consistory offered a variety of credit plans. It was possible to pay only a portion of the costs and delay payment of the balance until the next meeting of the court, or delay payment of the entire sum. The defendant also had the choice of convenient installments. In March 1470, for example, a Canterbury man arranged to pay both his fees and commutation in three parts.¹⁰ There is some evidence that defendants sought to reduce their bills by immediately offering a lump sum, 'pro omnibus'; the Court appears to have welcomed this arrangement, which spared it the trouble of a precise accounting and more importantly, the uncertainty of collecting the full amount afterwards. The use

of sureties was also permitted. Although some, perhaps many, offenders must have fled rather than face the financial exactions of the Court, a few escaped them legitimately: paupers were exempt from legal fees.¹¹

The clerks of the Consistory recorded the details of court proceedings and the attendant costs and fines in large books of rough paper bound in leather, labelled *libri correctionum* or books of correction. It is likely that the clerks sat in court recording the proceedings at the same time as they occurred in a manner similar to modern court reporters. No account books survive for the diocese of Canterbury to suggest that financial records were kept separately from those recording court proceedings; rather clerks noted the imposition of costs and fines and their amounts within the body of court minutes as part of their running report of court proceedings. Another scheme was to insert a fine or court cost interlinearly above the acts to which they applied. These often tiny interlineations were sometimes crossed out and others for lesser amounts inserted above or below the original, indicating either correction of an error or more likely, a partial payment.

Levies were denominated in pounds (£), shillings (s.) and pence (d.), the currency of the time; and written in Roman numerals. For example, a fine totalling 10 pence for failure to obey a summons appears in the records as 'x d.' while the fee of 3s. 4d. customarily charged for compurgation is written 'iiij s. iiij d.'. Given the rudimentary nature of the bookkeeping, it is difficult to know to what purposes subsequent to the actual court session these records could have been put; it may be that defendants were made to pay before leaving court, and a tally made from a physical count of the coinage without reference to the record. To accommodate defendants who made payments subsequent to their original appearance, the clerks may simply have leafed through their big books until they came upon the defendant's case and then adjusted the amounts appearing there as the interlineations suggest. In any case, this method of bookkeeping appears to have been adequate to the Court's needs: throughout the late medieval period the form of the records remains virtually unchanged.

FOOTNOTES

¹See Brian L. Woodcock, *Medieval Ecclesiastical Courts in the Diocese of Canterbury* (Oxford, 1952), for further background material.

²Dean and Chapter Library, Canterbury (hereafter referred to as DC Lib., Cant), manuscript X.8.1., ff. 41r, 42v; manuscript Y.1.11., ff. 106r, 109r.

³DC Lib., Cant., Y.1.11., ff. 109r, 111v, 123v, 136r.

⁴DC Lib., Cant., X.8.1., ff. 6r, 7v, 10r, 11r, 18v, 24v, 28r, 30r, 42r, 56v, 57r, 58r-v.

⁵A.H. Thompson, *Visitations in the Diocese of Lincoln, 1514-21*, Publications of the Lincoln Record Society, 33 (1940), p. 20.

⁶DC Lib., Cant., X.1.1., ff. 46v, 100r.

⁷DC Lib., Cant., X.8.1., ff. 41r, 55r.

⁸DC Lib., Cant., X.8.1., ff. 24v, 52r.

⁹E.H. Phelps-Brown and Sheila V. Hopkins, 'Seven Centuries of Building Wages,' *Essays in Economic History*, II, ed. by E.M. Carus-Wilson (London, 1962), pp. 168-78.

¹⁰DC Lib., Cant., Y.1.11., ff. 111v, 128r, 135r, 159v.

¹¹DC Lib., Cant., X.8.1., ff. 20v, 36v, 40v, 47v, 58r, 62r, 67r.



THE HARDSHIP OF ACCOUNTING

The average person's perplexity with accounting at the turn of the century might best be represented by this poem:

Never ask of money spent
 Where the spender thinks it went
 Nobody was ever meant
 To remember or invent
 What he did with every cent.

Robert Frost

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