



<http://kentarchaeology.org.uk/research/archaeologia-cantiana/>

Kent Archaeological Society is a registered charity number 223382

© 2017 Kent Archaeological Society

## THE ECCLESIASTICAL COMMISSION AT CANTERBURY:

1572-1603

By PETER CLARK

It is now over sixty years since Dr. R. G. Usher published his magisterial account of *The Rise and Fall of High Commission*. In that time little new evidence has come to light to revise or amplify his picture of the principal commission, that for the Southern Province, at Lambeth.<sup>1</sup> By contrast, historians have discovered rather more data on those High Commissions outside London, which Usher had been able to survey only cursorily in his book—mainly using the records of the commission for Durham diocese. Thus F. D. Price has written lengthy accounts of the mid-Elizabethan commission for the dioceses of Bristol and Gloucester—in theory anyway dependent on the Lambeth court; while P. Tyler has examined the workings of the major commission for the Northern Province, which sat at York.<sup>2</sup>

The present paper is primarily concerned with the register or court book of the ecclesiastical commission for Canterbury diocese, which was found among the probate papers deposited at the Kent Archives Office, Maidstone. The volume is about two hundred pages long, lacks a cover and has a number of folios missing at the back. It was discovered in two sections with the acts of the Canterbury court in the first part (pp. 12-133), and the examinations of witnesses in the second (pp. 143-202). The overall period covered by the register is 1584-1603. Unfortunately, there is a long gap in the entries between December 1596 and October 1601, though it is almost certain that the court continued to function during that period. At the front of the register are copies of letters to the Canterbury court from the High

<sup>1</sup> *The Rise and Fall of High Commission* was first published in 1913 at Oxford. Usher's text was reprinted in 1968 with a new introduction by P. Tyler; this is the edition used here and cited as Usher-Tyler, *Commission*.

<sup>2</sup> The Durham records were published as early as 1858: W. H. D. Longstaffe, (ed.), *The Acts of the High Commission within the Diocese of Durham*, Surtees Soc., xxxiv (1858). F. D. Price: 'The Commission for Ecclesiastical Causes for the Dioceses of Bristol and Gloucester, 1574', *Trans. Bristol and Glouc. Arch. Soc.*, lix (1937), 61-184 (cited hereafter as Price, *Commission*); and *The Commission for Ecclesiastical Causes within the Dioceses of Bristol and Gloucester, 1574*, Bristol and Glouc. Arch. Soc., Record Section, x (1972); P. Tyler, 'The Significance of the Ecclesiastical Commission at York', *Northern History*, ii (1967), 27-44; see also Usher-Tyler, *Commission*, vi et seq. Dr. W. Sheils is at present editing the York act books.

Commission at Lambeth, among them orders to search out the authors of the scurrilous Marprelate tracts in 1589.<sup>3</sup>

As Tyler has shown, the Elizabethan government's use of joint commissions of laymen and clergy to investigate and try ecclesiastical offences had a long pedigree, which can be traced as far back as 1388 when Richard II appointed a commission to prosecute Lollard heretics. So far as Kent was concerned, however, the real forerunners of the Elizabethan commission at Canterbury were Mary's commissions to hunt out Protestant unorthodoxy in the 1550s. In April 1556, for instance, she appointed Henry, Lord Abergavenny, George, Lord Cobham, and Sir Thomas Cheyney, along with the Suffragan Bishop of Dover, the Archdeacon of Canterbury, the Commissary for Canterbury, two more clergy and ten more laity (almost all with known Catholic sympathies), to enquire into heresies, seditious books and the like in Canterbury diocese. The commissioners were empowered to imprison and fine, with the estreats being certified into Chancery. Our evidence would suggest that these commissioners were the principal Marian agents of the restored Catholic order in its struggle to eradicate that virulent Protestant infection which had gained such a grip on the county since the Reformation.<sup>4</sup>

During the early years of Elizabeth's reign we hear nothing of a new diocesan commission on the Marian model. The main engines of evangelical conversion after 1558 were the itinerant royal visitors, led in Kent by Thomas Becon, the canon of Christchurch, and the ordinary ecclesiastical courts—archdeaconry and consistory—which survived from the Medieval Church. It is possible that the Marian heresy commissions had left such an unpleasant imprint on Protestant minds that local opinion opposed the appointment of a further Canterbury commission. It is also possible that Elizabeth's first Archbishop of Canterbury, Mathew Parker (1559–1575), believed that the ordinary Church courts—now refurbished under Protestant officials—were strong and effective enough to cope with the general run of religious nonconformity, while Kent was near enough to the capital for serious offenders to be tried by the Lambeth High Commission. Whatever the reason for the absence of a diocesan commission in early Elizabethan Kent, there was growing pressure from the late 1560s for Canterbury to follow other dioceses and have its own set of commissioners. By 1570 the ordinary Church courts were undoubtedly making heavy weather of the restoration of Church order and discipline—so sorely tested by the religious turmoil of the late 1540s and 1550s. At the same

<sup>3</sup> Kent Archives Office (hereafter cited as KAO), PRO 44/3. The letters from Lambeth are on pp. 5–7.

<sup>4</sup> Usher-Tyler, *Commission*, xii et seq.; *Calendar of Patent Rolls*, 1555–57, 24–25; for the work of the Marian commission see British Museum (hereafter cited as BM), Harleian MS. 421, fol. 94 et seq.

time, the rump of committed Catholics in the county, particularly gentry, obstinately refused to exchange their old conservatism for the new apparel of Protestant orthodoxy. The latter was especially worrying both for the Crown and for the county's more radical gentry who were concerned by the Papal excommunication of the Queen (in 1570) and the danger of a Catholic coup aimed at putting Mary, Queen of Scots, on the throne instead. Kent's strategic position near London and its vulnerability to foreign invasion clearly put it in the Catholic firing-line, even without the complicity of its leading nobleman, William, Lord Cobham, in the Duke of Norfolk's abortive plot against the Queen in 1569-70.<sup>5</sup>

It was hardly surprising then that 1572 saw the creation of an ecclesiastical commission at Canterbury. The commission was authorized as part of a general commission for the southern dioceses enrolled on the patent rolls in June. According to this, Richard Rogers, the former Marian exile and Bishop of Dover, Thomas Wotton and Edward Isaac (two leading lay Protestants), the common lawyers Nicholas Barham, John Boys and Robert Alcock (another radical), and the Archbishop's Commissary, Thomas Lawse, were all empowered to hear cases in Canterbury diocese. However, as early as January 1572, there is evidence that the 'Queen's Majesty's Commissioners in Causes Ecclesiastical within the county of Kent' were already meeting at Canterbury and considering charges of sexual assault, adultery and absence from church.<sup>6</sup> During its first year or so of existence the commission appears to have worked on a rather *ad hoc* basis—thus the court 'acta' were mixed promiscuously with the proceedings of the ordinary Church courts. But it did not take long for it to establish its own formal organization. Within a few years we find it writing authoritatively to the town corporation at Fordwich ordering the abolition of the 'old custom or fond order continued or maintained under colour of boys' pastime termed by the names of hoodboys' pastime' (presumably a reference to the traditional hooden horse); by this custom boys and servants go into orchards and woods twice a year and 'beat the trees and sing vain songs or otherwise, believing thereby that those trees the year following will or shall yield the more plenty of fruit.' The commission directed that offenders should be punished with imprisonment or a fine. With its contingent of radical gentry and Puritan clergy the court was clearly taking a leading part in the propagation of that strict ethical

<sup>5</sup> For detailed evidence for my general comments on religious developments in Elizabethan Kent, see P. Clark, *The Rise of a Provincial Community: Religion, Politics and Society in Kent 1500-1640* (forthcoming); H. Gee, *The Elizabethan Clergy and the Settlement of Religion 1558-1564*, 1898, 100-1, 273; *Hist. Manuscripts Comm.*, Salisbury MSS., i, 542-3.

<sup>6</sup> *Calendar of Patent Rolls*, 1569-72, 440-42; Canterbury Cathedral Library (hereafter cited as COL), X.8.9, fol. 98 *et seq.*; for Rogers see *DNB*, Rogers, Richard.

discipline which was to become one of the pillars of moderate county Puritanism.<sup>7</sup>

In 1579, the Privy Council in London ordered the Canterbury commission to investigate allegations against William Darrell, one of the canons of Canterbury cathedral and an elderly conformist Catholic. The next year the government—ever more frightened at the Catholic threat—ordered the local court to take general action against the Kentish papists. One victim was Sir Alexander Culpeper, of Bedgebury, who recorded how he was summoned to Canterbury by the 'High Commissioners of Kent' and was forced to give surety of £1,000 for his future good behaviour. Subsequently, the commissioners committed Culpeper to prison at Canterbury from which he was only released on appeal to the Privy Council. A short time later the commission was again busy proceeding against two 'disordered persons' from Rye.<sup>8</sup>

By the early 1580s the commission was obviously hard at work, already operating on the procedural lines of the late Elizabethan court. Unfortunately, we know rather less about its active membership. Though it seems probable that a new, specifically diocesan patent was issued sometime in the late 1570s, we have relatively few references to the work of individual commissioners like Rogers or Nicholas St. Leger. The best evidence we have concerning the effective personnel of the Canterbury court, before the start of the court register in 1584, stems from a dispute within the commission itself in July 1583. Apparently, Dr. Stephen Lakes, the judge of the archdeaconry court, had been accused of malpractice by some villagers from the Puritan parish of Egerton, on the edge of the Weald. One group of commissioners—Bishop Rogers, Thomas Wotton and Nicholas St. Leger—decided to go to Egerton to hear evidence. But this provoked a sharp protest by a second set of members including Sir Roger Manwood, the Chief Baron of the Exchequer, Thomas Godwin, the Dean of Canterbury (since 1567), and John Boys. Manwood demanded that the proceedings should take place before them all at Canterbury and accused his fellow commissioners of bias against Lakes.<sup>9</sup>

Unfortunately, we do not know the outcome of this wrangle. But the dispute does shed considerable light on the workings of the Canterbury court at this time. Not only was there a sizeable attendance of lay members, but there was clearly a serious religious split within the commission between conservatives and radicals. Looking at the radicals first we need only note that, like Rogers, both Wotton and St. Leger were committed Puritans: Wotton was a friend of Cartwright, while

<sup>7</sup> CCL, Fordwich Corporation, U4/20, fol. 158.

<sup>8</sup> *Acts of the Privy Council*: 1578–80, 315; 1580–81, 59; Bodleian Library, Tanner MS. 118, fol. 128v–129; *Hist. Manuscripts Comm.*, 13th Report App. IV, 82.

<sup>9</sup> G. Eland, (ed.), *Thomas Wotton's Letter Book*, 1960, 51–52.

St. Leger had attacked Mary Stuart in Parliament in 1572 and was the patron of that leading radical preacher Josias Nicholls of Eastwell.<sup>10</sup> On the other side, Dean Godwin had been a supporter of Archbishop Parker's views on Church government and was to prove a fairly right-wing Bishop of Bath and Wells after his appointment there in 1584; Manwood, though once known for his Puritan sympathies, was from the 1580s increasingly hostile to the godly cause (subsequently one irate Puritan declared that 'Christ had but six enemies' of which Manwood was the first); and Boys was to serve as Archbishop Whitgift's right-hand man in the defence of Church property in the 1590s. To a considerable extent, the split within the Canterbury commission exemplified the growing division in the general ranks of the old Protestant movement.<sup>11</sup>

1583 was, in fact, a major turning point for the Canterbury commission. The same month that saw the clash between its radical and conservative members also witnessed the death of Archbishop Grindal and the end of that extended period of religious *laissez-faire* in the Kentish Church which had followed Grindal's suspension in 1577. His successor, John Whitgift, at once set out to halt the tide of Puritan progress. In January 1584, the Archbishop called on the Kentish ministers (like those in other counties) to subscribe to a new series of conservative articles of religion. When a sizeable group of Kentish ministers were suspended for refusing to obey, a posse of county landowners rode up to Lambeth to confront the Archbishop: among their leaders were the Canterbury commissioners Thomas Wotton and Nicholas St. Leger. The meeting ended with Whitgift accusing some of his critics of anabaptism and Wotton denouncing the Archbishop as an enemy of Kent.<sup>12</sup>

By the time our register for the Canterbury commission begins in the autumn of 1584 radical gentry like Wotton and St. Leger had disappeared from its meetings for good. Whether they withdrew in chagrin after the Lambeth confrontation or were driven off by Whitgift is unclear, though the latter seems more likely. It is possible there was a new commission for Canterbury diocese reducing the lay membership as well as consolidating the court organization (hence perhaps the extant register). Such developments (if they did occur) must have appeared extremely ominous to the county's many moderate Puritans. Given the generally conservative accent of Whitgift's policies, the changing format

<sup>10</sup> *Ibid.*, 46; J. E. Neale, *Elizabeth I and Her Parliaments 1559-1581*, 1953, 277; BM, Addit. MS. 6090, fol. 156.

<sup>11</sup> DNB, Godwin, Thomas; KAO, PRC 39/16, fol. 3-v; J. E. Neale, *Elizabeth I and Her Parliaments 1584-1601*, 1957, 416; BM, Addit. MS. 19, 398, fol. 94-95.

<sup>12</sup> P. Collinson, *The Elizabethan Puritan Movement*, 1967, 252 *et seq.*; Dr. Williams' Library, London, Morrice MS. L(v), 8-11.

of the Canterbury commission clearly suggested that it was being transformed into an instrument of orthodox reaction. How far, in fact, were these fears justified? The remainder of this paper will be concerned with trying to answer this question, using the court register 1584-1603 examine both the organization and operation of the late Elizabethan commission.<sup>13</sup>

Looking at attendance figures first, these certainly confirm that the late Elizabethan court was dominated by ecclesiastical personnel. Only two lay members were active in this period—the common lawyers Roger Manwood and John Boys—and they attended no more than twelve of the sixty recorded sessions between 1584 and 1603. By comparison the most active clerical member, Bishop Rogers (after 1584 also Dean of Canterbury), appeared on forty-seven occasions and was probably the usual chairman. Rogers was followed by William Redman, the Archdeacon of Canterbury and a former client of Archbishop Grindal, and Dr. Thomas Lawse, the long-service Commissary for Canterbury diocese; both men attended forty-four sessions. In fact, for most of the period from 1584 to the mid-1590s attendance was limited to these three men (apparently the quorum for ordinary business was three). During this time at least, while the clerical voice was clearly dominant, the court retained a significant Puritan bias through Rogers and Redman.<sup>14</sup>

However, by the late 1590s both Rogers and Lawse were dead, while Redman had left Canterbury for the see of Norwich. Their places on the commission were taken by Thomas Neville, the new Dean and one of Whitgift's Cambridge protégés; Charles Fotherby, a blatant anti-Puritan whose conservatism had won him the vacant archdeaconry; and George Newman, the replacement Commissary and a comparative moderate. As we shall see, this change of personnel had a considerable impact on the working of the commission.<sup>15</sup>

As far as the organization of the court was concerned, general sessions were held, in theory anyway, once a month during term. In the 1580s, the usual sessions day was the first Thursday in the month. Often, however, there were long adjournments between general sessions. To complicate matters there were also numerous, irregular special

<sup>13</sup> For a parallel disappearance of lay commissioners at York see Tyler, *op. cit.*, 42. Apparently none of the specifically Kent commissions survive, either on the patent rolls or elsewhere; for the general failure to enroll the ecclesiastical commissions on the patent rolls see Usher-Tyler, *Commission*, 362n.

<sup>14</sup> For Redman: *DNB*, Redman, William; B.M., Lansdowne MS. 23, fol. 2-v; for Lawse, see J. and J. A. Venn, *Alumni Cantabrigienses: to 1731*, 1922-27, iii, 52; J. I. Daeley, 'The Episcopal Administration of Mathew Parker, Archbishop of Canterbury 1559-1575', unpublished Ph.D. thesis, London University (1967), 368-69.

<sup>15</sup> *DNB*, Neville, Thomas; Venn and Venn, *op. cit.*, ii, 165; B. P. Levack, *The Civil Lawyers in England 1603-1641*, 1973, 258.

sessions, when two or three commissioners took subsidiary action in cases needing prompt attention. Most of the general sessions were held in Canterbury cathedral itself, probably at the west end where the consistory court usually sat, while the deanery (in the precincts) served as an alternative venue, particularly for special sessions. From the register, it would seem that 1591 had the highest number of court days in this period with eleven sessions during the year.<sup>16</sup>

As in other dioceses, the procedure of the commission at Canterbury was a hotchpotch of ancient and modern. Following the practice of the ordinary diocesan courts, the Courts Christian, cases before the commission were said to be brought by the 'office' of the judges—that is either by their 'mere office' in cases instituted on their own initiative, or by their office 'promoted' in actions sponsored by a third party. The main difference here was that the commission limited itself to criminal business and did not try 'instance' cases, that is civil suits often involving tithe disputes; these were the staple of diocesan court business. Another difference from diocesan court practice was that the commission did not go on visitation and receive presentments from churchwardens; most cases came to it via the diocesan courts.<sup>17</sup>

In its actual trial procedure the Canterbury commission generally followed diocesan court routine. Thus articles or charges were ministered to the defendants on which they were examined, usually after they had taken the *ex officio* oath. In a similar fashion, when defendants denied their guilt they were often allowed recourse to the ancient system of compurgation, by which honest neighbours had to swear that the defendants' oaths were true. For instance, in a promiscuity case in 1585 the two defendants, Richard Goddard and Mary Silkworth, were directed to find six compurgators each from the Bishopsbourne area to appear for them. Finally, the penalties inflicted by the court likewise had a strong traditional flavour. Public penance, involving a public confession and the wearing of penitents' clothes in church, was frequently imposed by the Canterbury court, particularly on sexual miscreants. This in fact was the penalty inflicted on the Bishopsbourne couple mentioned above when they failed to produce sufficient compurgators.<sup>18</sup>

Truth to say, the Canterbury commission's procedural debt to the traditional Church courts was hardly surprising. For many of the commission's personnel also served in the Courts Christian. Not only was one of the regular members of the commission at the end of the

<sup>16</sup> KAO, PRC 44/3, p. 15 *et passim*.

<sup>17</sup> For similar procedure of the Gloucester commission: Price, *Commission*, 103 *et passim*; the ordinary Canterbury courts are discussed in J. M. Potter, 'The Ecclesiastical Courts in the Diocese of Canterbury 1603-1665', unpublished M.A. thesis, London University (1972), 19 *et passim*.

<sup>18</sup> KAO, PRC 44/3, pp. 20, 22.



period the principal judge of the consistory court, but the commission's registrar, proctors and messengers all spent the rest of their time as officials of the diocesan courts: Alexander Norwood, for instance, the commission registrar about 1600, was a leading proctor in the arch-deaconry court.<sup>19</sup>

Nonetheless, the Canterbury commission was by no means just a poor relation of the traditional tribunals. In addition to the powers already described, it also wielded a greater, more flexible civil authority. The commissioners had power to 'attach' (arrest) a suspected person, to take bonds to ensure his appearance before them and, if he refused, to send him to gaol—usually the city gaol in Canterbury. During the subsequent hearing the commission had broad powers of summary action and could appoint a sub-commission to act in cases where further flexibility was required. Once the case was concluded, they were able to punish the offender with a wide range of penalties including imprisonment, carting, the pillory, the stocks and fines. These extra powers with their obvious civil overtones clearly made the commission a much more powerful force in the local community than the traditional courts. Cases before the Canterbury commission rarely lasted more than two or three sessions and appeals by offending parties were probably difficult and expensive to obtain.<sup>20</sup>

What about the commission's jurisdiction? Unfortunately, the absence of an extant patent for the late-Elizabethan period prevents us giving a complete answer here. But it seems likely that while the commissioners frequently styled themselves 'High Commissioners resident within the county of Kent' their authority was in reality confined to Canterbury diocese alone. West Kent was presumably left to the control of the Lambeth High Commission; certainly there is no evidence of a separate body operating from Rochester. Like the Gloucester court the Canterbury commission was probably entrusted with wide-ranging powers over most offences dealt with by the normal diocesan administration (with the exception of the power to excommunicate). On the other hand, the Canterbury body almost certainly lacked those additional responsibilities of repressing civil disorder granted to the Gloucester commission because of the strife-torn condition of the Marches.<sup>21</sup>

This brings us to the question of the Canterbury court's relations with other governmental agencies. What, for instance, was its relation-

<sup>19</sup> Potter, *op. cit.*, 151 *et seq.*; for other commission officials in their diocesan hats see Daeley, *op. cit.*, 65, 69.

<sup>20</sup> E.g., for imprisonment: KAO, PRC 44/3, p. 18; carting: p. 92; fines: p. 80.

<sup>21</sup> The only defendant not an inhabitant of Canterbury diocese was the recusant Joan Knight, of London, but she was staying at Faversham at the time (*ibid.*, 31, 35).

ship with the Lambeth commission? In Usher's view the diocesan commissions were primarily local branches of the Lambeth court with only limited initiative or independence of their own. And certainly there was some overlap of personnel between the Canterbury and London courts—indeed, as we have seen, the 1572 Canterbury commission was originally issued as part of a general commission for the Southern Province.<sup>22</sup> However, both Price and Tyler have suggested that the local commissions generally enjoyed considerable freedom from Lambeth supervision and, up to a point, the register of the Canterbury court tends to corroborate their view. Having said this, it also seems clear that the proximity of Canterbury diocese to London and the fact that its diocesan was also head of the Lambeth court promoted rather closer ties with the central commission than we find elsewhere. One of the major investigations recorded in the Canterbury register, involving a group of city sectaries in 1603, took place on the specific orders of the London commission and the latter also appointed the sentence to be imposed on the offenders. In addition, there were quite a few instances where the Canterbury court transferred defendants to London for further action—presumably on the initiative of the Lambeth commission. Nor did the central court confine its activities in Kent to this indirect interference. From other sources, it is evident that the Lambeth body was active throughout the 1580s and 1590s intervening directly in the diocese, apparently without reference to the Canterbury commission. One Kentish figure hauled summarily before the Lambeth court was William Claybrooke, of Nash Court, in Thanet, a friend of the Presbyterian leader, Thomas Cartwright, and a vehement critic of the episcopal bench (on one occasion he had called Whitgift the 'Pope of Lambeth' and a tyrant 'in persecuting the children of God').<sup>23</sup>

As we know, relations with the diocesan Church courts were close. Not only were most of the cases handled by the Canterbury commissioners referred to them by the ordinary courts, but offenders were often returned to the diocesan authorities for final action after the commission had brought them to see (official) reason. In general, the liaison worked well, though on one occasion the commission peremptorily ordered the Archdeacon's Official (or judge) to suspend hearings in his court and leave a case to them. On the other hand, there is no evidence, such as we find in Gloucestershire, that the Canterbury commission actually took over the general functions of the diocesan courts. By contrast with Gloucester diocese where the ordinary courts had almost totally collapsed by the 1570s due to official incompetence and concerted local opposition, the Canterbury diocesan courts

<sup>22</sup> Usher-Tyler, *Commission*, 284 *et seq.*

<sup>23</sup> *Ibid.*, viii *et seq.*; Price, *Commission*, 143; KAO, PRC 44/3, pp. 7, 126 *et seq.*; pp. 89, 96; CCL, Z.3.15, fol. 304 *et seq.*

were both active and generally efficient for much of the late sixteenth century, coping more or less well with a vast influx of new business, particularly probate. It was only in the 1590s that there was any significant decline in court standards with charges of corruption and other abuse. The major problem then was the courts' inability to handle a fairly small number of difficult cases involving religious non-conformity, sexual misconduct and the like. Here offenders might exploit the slow, customary process of the courts and the inadequacy of their penal sanctions to postpone effective judgement almost indefinitely. Some of the most serious cases were called before the Lambeth court, but the remainder formed the staple business of the Canterbury commission.<sup>24</sup>

The evidence for the Canterbury court's relations with the secular authorities is less complete. Earlier we saw the Privy Council directing the local commission to act in 1579 and 1580, but there is only one further case of conciliar interference recorded in the period covered by the court register. In 1588 and 1593, we find instances where both the commission and groups of local JPs were dealing with the same case, but there are no signs of friction.<sup>25</sup> A more important source of potential conflict between the commission and the lay authorities stemmed from the implementation of commission orders. The commissioners were empowered to call on the aid of local lay officials for this purpose and when (as frequently happened) the latter were negligent the commissioners summoned them into court. In 1586, the court reprimanded two parish officials from the Ickham area for failing to serve a mandate on an offender, while six years later the Mayor of Dover was summoned to Canterbury for a similar offence (in this case the town clerk appeared on his behalf). A rather more serious case occurred in the mid-1580s when the commissioners called before them John Goldwell, a JP from the vicinity of Ashford, to answer the charge that he had failed to implement a court order; Goldwell apparently ignored the summons.<sup>26</sup>

So much then for the membership and organization of the Canterbury commission. What about the business coming before the court? As we know, the number of cases handled was fairly small. By comparison with a hundred or more actions being dealt with by the ordinary diocesan courts at any one time, those cases pending before the

<sup>24</sup> KAO, PRC 44/3, pp. 17, 70, 115; p. 66; Price, *Commission*, 91 *et seq.*; the diocesan situation at Exeter was also evidently desperate—hence Bishop Cotton's plea in 1600: 'many abuses cannot be redressed by due course of law and therefore I crave the help of an ecclesiastical commission' (*Hist. Manuscripts Comm.*, Salisbury MSS., x, 451; also 378); for the state of the Canterbury diocesan courts at the turn of the century see Potter, *op. cit.*, 20 *et passim*, and Public Record Office, St Ch 8/252/26.

<sup>25</sup> KAO, PRC 44/3, p. 12; pp. 120, 121, 162.

<sup>26</sup> *Ibid.*, 27; 112, 116; 28.

Canterbury commission rarely numbered more than seven or eight.<sup>27</sup> In all, the register records only about eighty-one separate cases between 1584 and 1603 (albeit there is an extended gap in the register for the late 1590s). As we have said, the majority of the actions appear to have involved offences which were too serious for the Courts Christian to handle and yet not serious enough to warrant reference to the Lambeth High Commission.

Only three cases before the Canterbury commission 1584-1603 involved clerical defendants. One case concerned Nicholas Pettifer, the vicar of St. Peter's, Canterbury; though the details of the charges are not given, it seems likely that Pettifer's main offence was his lax, unenthusiastic ministry in a parish dominated by an increasingly vociferous Puritan congregation. Another case had as its defendant Robert Graves, an itinerant preacher, who confessed to having forged his licence to preach (for which he was degraded and disqualified by the court). The third clergyman to appear, Robert Jenkinson, of St. John's, Thanet, was promptly summoned to Lambeth before we can discover his offence.<sup>28</sup> Needless to say, the paucity of clerical offenders is particularly striking given both the large numbers of Puritan ministers in the county in the 1580s and the refusal of many of them to bow down to the new Whitgiftian régime. The explanation seems to be that the Church authorities preferred to take action against the Puritan activists through the Courts Christian rather than the local commission. One factor was that Whitgift's bark was worse than his bite. Once he had isolated and suppressed the hard core of extremist clergy in the immediate period following 1584, the Archbishop's main aim was to press the remaining Puritan clergy into occasional, quasi-conformity. The best weapon here was the ordinary diocesan court whose procedure permitted a long drawn-out campaign of judicial harassment without the risk of another Puritan *cause célèbre*. Thus, two of the county's leading Puritan ministers, Josias Nicholls, of Eastwell, and John Elvin, of Westwell, were summoned constantly before the diocesan courts during the late 1580s in cases lasting several years; as a result both men withdrew into exhausted semi-retirement during the 1590s.<sup>29</sup> A second factor behind the apparent absence of cases against Puritan divines before the Canterbury commission may have stemmed from the fact that while 1584 saw the end of radical lay membership, the commission continued to be dominated into the mid-1590s by those two leading

<sup>27</sup> Potter, *op. cit.*, 20, *et passim*.

<sup>28</sup> For the different situation at Gloucester: Price, *Commission*, 160; KAO, PRC 44/3, pp. 19, 24; for more on Pettifer see BM, Addit. MS. 6090, fol. 165v; CCL, X.2.8, fol. 127, 152v; PRC 44/3, pp. 19, 21, 25; pp. 95, 96.

<sup>29</sup> CCL: X.2.4, part ii, fol. 152; X.3.8, fol. 43v; Lambeth Palace Library, MS. 2014, fol. 81-82.

Puritan clerics, Rogers and Redman. Both were probably reluctant to prosecute radical ministers.

The Puritan bias of Redman and Rogers may also explain the apparent scarcity of cases involving lay Puritans in the Canterbury court 1584-1603. In fact, almost all the prosecutions of radicals recorded in the court register occurred after these two men had disappeared from the commission in 1594-95. In 1596, for example, Paul Eaton, of Kennington, was charged with 'divers vile speeches against my Lord of Canterbury his grace and against the present state and government of the Church of England.' A committed radical, Eaton, probably a kinsman of the Antinomian prophet John Eaton, had already come before the commission for absence from church in 1572. Now, twenty-four years later, he used his appearance in court to shout that Charles Fotherby, the Archdeacon, was 'a thief, a traitor, an Anti-Christ, and worse than the devil and an ass, and that the commissioners were Anti-Christian magistrates . . .' Eaton was subsequently despatched to Whitgift for further examination.<sup>30</sup> The only other major anti-radical case recorded in the register concerned a group of Canterbury apprentices who had stuck separatist libels on church doors in autumn 1603. The chief offender was Robert Cushman, a grocer's boy, who later joined the separatist community at Leyden and organized the settlement of the 'Pilgrim Fathers' in New England (1620). Most of the offenders were sentenced to perform canonical penance at Canterbury, though Cushman was sent to gaol.<sup>31</sup>

If the Canterbury commission appears to have played a negligible rôle in the late-Elizabethan campaign against the godly cause, it was much more active in the persecution of Kentish Catholics. By the 1580s, the Papist party in the county had dwindled to no more than a dozen pockets of stubborn recusancy. However, the growing threat of foreign invasion gave them an importance out of all proportion to their numbers. Though the Crown appointed special commissions to deal with the Catholic problem in the county, the ecclesiastical commission at Canterbury continued (as in the 1570s) to be at the forefront of the anti-Catholic campaign. In all, there were twenty-two cases involving prominent Romanists before the court, mainly in the late 1580s and early 1590s. To take a few examples: Margery Pettit, of Chilham, was charged with concealing superstitious objects, copes and beads; Piers Thomas and his wife, of Tunstall, were accused of recusancy and abusing their parish minister; and George Cundall, also of Chilham, answered charges that he had provided medical treatment for a number of Catholic gentry (though unlicensed) and that he was a recusant himself.

<sup>30</sup> KAO, PRC 44/3, p. 123; D. Neal, *History of the Puritans*, 1732-38, i, 735.

<sup>31</sup> KAO, PRC 44/3, pp. 125 *et seq.*, 202 *et seq.*; E. Arber, *The Story of the Pilgrim Fathers*, 1897, 165 *et passim*.

Recusancy, in fact, was the most frequent type of offence entered in the court register 1584-1603.<sup>32</sup>

The second largest group of cases before the Canterbury commission in this period concerned what we might loosely call sexual offences. Most were basically matrimonial in character, involving sexual intercourse after betrothal, clandestine marriage, desertion, separation, bigamy and common law marriage. In one case, Thomas Hunte, of Canterbury, was alleged to have carried Jane Jetter, aged 15, 'about the country' and gone through a marriage ceremony with her at 2 a.m. at Boughton-under-Blean, having duped the vicar with a forged licence; subsequently, they had lived together as man and wife. Another case involved one John Jordan who had become betrothed to two separate women and in both cases had used the betrothal to get them to go to bed with him.<sup>33</sup> That the commission was extremely concerned with these marital cases can be judged from the fact that its sentences on the offenders were particularly harsh, far exceeding the usual penalties imposed by the Church courts. For example, Thomas Fansome, who was arrested in 1590 for tramping the county selling charms and confessed to having lived for many years with one Alice Smith pretending to be married, was ordered to be put in the pillory at Canterbury, Faversham and Milton and then imprisoned at length in the Canterbury House of Correction. This determination to inflict exemplary punishment clearly reflected the acute concern not merely of the commissioners but of many respectable folk in late-Elizabethan Kent with the growing tide of lower-class vagrancy, immorality and irreligion, which seemed by the 1580s and 1590s to threaten many of the conventions of established society, above all the custom of marriage.<sup>34</sup>

The remaining cases heard by the Canterbury commissioners 1584-1603 were rather more miscellaneous, though almost all were of a serious nature. There were five actions involving violent attacks on clergy; two slander cases; and one concerning a land-owner's refusal to pay a church sess. In addition, there was a clutch of charges arising from the court's own proceedings: in five or so instances defendants were said to have committed contempt of court.

This finally raises the question of opposition to the Canterbury commission. We know from Usher that the Lambeth court suffered increasing criticism during and after the 1590s from committed Puritans and common lawyers, both groups attacking the arbitrary process and uncertain authority of the High Commission. As far as the Canterbury court was concerned the contours of opposition were rather

<sup>32</sup> For the proceedings of the recusancy commissions see Stafford Record Office, D.593/S/4/6/18; KAO, PRO 44/3, 150, 185-6, 184-5.

<sup>33</sup> *Ibid.*, 59-60; 88-89, 169.

<sup>34</sup> *Ibid.*, 85-86, 166-69; see Clark, *op. cit.*, ch. v.

different. Most of the resistance to the court's procedure came from Catholic recusants, several of whom vehemently refused to take the *ex officio* oath. By comparison, left-wing attacks were only sporadic. We have already cited Paul Eaton's eloquent abuse of the commissioners in 1596, while in 1589 Henry Hall, of Wye (later of Maidstone), declared on the arrest of one of his servants that 'he doubted whether the commissioners for causes ecclesiastical had any authority to call any layman or temporal man before them, for he did know the statutes . . . as well as they'. Hall was both a rabid Puritan and a rising county lawyer who subsequently became a Bencher and Treasurer of the Middle Temple. Indeed, in many ways, he personified that powerful coalition of Puritan and legal interests which, as we have said, helped to sweep the Lambeth High Commission from the national stage. However, in Kent at least his denunciation of the Canterbury court seems to have evoked little general support.<sup>35</sup>

This lack of a concerted county opposition to the Canterbury commission—except from the discredited Romanist minority—would seem to confirm what has already become fairly evident from our analysis of the court's organization and functioning. That despite its domination by clerical members after 1584 the court's subsequent activities never justified earlier fears that it might become the principal instrument of the Whitgiftian reaction in Kent. In fact, the court's determined pursuit of Papist recusants and sexual miscreants may on occasion have won it the grudging support of some of the county's moderate Puritans. Yet, this is not to say the court had no deleterious impact on the Kentish religious scene. Though the Canterbury commission after 1584 never turned into the *bête noire* of the Kentish radicals, there can be little doubt that it exacerbated that general deterioration of relations between the Church and the Kentish laity which was increasingly evident by 1600. The explanation for this is fairly complex. One reason relates to the fact that while the early commission symbolized the joint commitment of both lay and clerical Protestants to the progress of the godly cause—the defeat of the Papists, the destruction of the World of Magic, and the reform of the Church—the later commission, with its virtual monopoly of clerical personnel and with its increasing contingent (after 1596) of conservative members, symbolized something rather different: Whitgift's belief that Protestant reformation could only take place through a resurgent, reorganized Church Militant. Even the relatively non-controversial activity of the Canterbury commission took on a sinister overtone seen in the context of Whitgift's

<sup>35</sup> Usher-Tyler, *Commission*, 135 *et passim*; see also M. H. Maguire, 'Attack of the Common Lawyers on the oath *Ex Officio*', in *Essays in History and Political Theory in Honor of C. H. McIlwain*, 1936, 220 *et seq.*; KAO, PRC 44/3, p. 136; A. R. Ingpen, *The Middle Temple Bench Book*, 1912, 166.

determined efforts to resurrect the old authority of the Church—recovering and consolidating Church estates and re-asserting Church privileges and liberties which had long lapsed. Lay concern was also heightened by the growing aggressiveness of the upper clergy in city and county politics. Such clerical posturing, combined with the considerable potential power of the Canterbury commission, seemed to pose a direct threat to the new political and administrative hegemony which, from the 1590s, was controlled by the increasingly self-confident county gentry through quarter sessions.

Despite lay discontent, the Canterbury commission continued to function after Elizabeth's death in the spring of 1603: thus, in December 1603, we find it investigating the case of the Canterbury sectaries. But with Whitgift's death in 1604 the court appears to have been wound up. It seems likely that the final decision on its suppression was taken by Whitgift's successor, Richard Bancroft, whose earlier authoritarianism has tended to overshadow his later penchant for moderation. Bancroft doubtless saw that the harm the court inflicted on relations between the Church and the Kentish laity far outweighed its limited value as an auxiliary weapon of diocesan administration. Happily, the court's disappearance in 1604 paved the way for a prolonged period of religious harmony in Jacobean Kent.

#### ACKNOWLEDGEMENTS

I should like to thank Dr. C. Cross and Dr. W. Shiels, for their advice and comments on an earlier draft of this paper.

The Kent County Council contributed to the cost of publication of this paper.