

## CONSISTORY COURTS AND CONSISTORY PLACES.

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### INTRODUCTION.

In the course of their annual wanderings up and down the members of the Royal Archæological Institute have occasionally come across in various churches, parochial as well as cathedral, places set apart for the sittings of Ecclesiastical Courts, more or less marked or fenced off, and more or less supplied with furniture suitable for such courts. But curiously enough, such places do not always occur in churches where one would expect to find them, or where they must once have existed, while on the other hand they occur in churches where only the initiated would look for them. Thus, as a Bishop has an undoubted right to hold his Consistory Court in his cathedral, one

would expect to find such a court in every cathedral. Such is not the case; in some cathedrals there are consistorial places, fenced off and handsomely furnished: in other cathedrals the consistorial places are neither fenced off nor furnished at all; in many cases only some old official can point them out; sometimes no one can be found who knows anything about them, while in other cathedrals the bewildered enquirer will hear of two or even three court places.<sup>1</sup> These courts, or rather the relics or wreckage of them, occasionally exist in parish churches; and in other churches, where they do not now exist, the aged inhabitant, particularly if a limb of the law, can tell of consistorial places that have totally disappeared.

For the understanding of these puzzles it will be necessary to go briefly into the jurisdiction of the various Ecclesiastical Courts, and first of all of that held by the Bishops. The best way will be to quote from Reeves' *History of the English Law*<sup>2</sup>:

"An English bishop, consistent with the scheme we have just given from the canon law, had spiritual jurisdiction through his whole diocese. The person who executed all of this charge, which did not belong to the bishop by reason of his order, was the Chancellor; though it is remarkable that he is not so named in any of the commissions that he holds, nor executes the proper duty of a Chancellor. In early times it is said bishops had such an officer, who kept their seals. The Chancellor of a bishop in this country usually holds two offices, that of *vicar-general* and that of *official principal*.<sup>3</sup> . . . Though these two have been usually granted together, yet there are instances of vicar-generals being appointed separately, upon occasional absence of the bishop; which, indeed, was the original design of such establishment. The authority of a Chancellor, like that of a bishop, is generally given so fully as to extend over the whole diocese to all matters and causes ecclesiastical. But a bishop might create some exceptions to this general jurisdiction by giving a limited one to a *Commissary*. A Commissary's authority was restricted to certain places and to certain causes. . . . Another

<sup>1</sup> At Lincoln the Registrar, Mr. A. N. Bowman, of the Consistory Court, of which I am Judge, could find no one who could tell where the Consistory Court of Lincoln was held, or point him out any court places, though there were once no less than three court places in Lincoln Cathedral. He found the same lack of information at Ely. In the case of Ely, however, the ignorance might be excusable, as will hereafter appear.

<sup>2</sup> Edited by W. F. Finlason, Vol. III, p. 106.

<sup>3</sup> While the Official Principal heard causes between party and party and dealt usually with matters of *temporal* interest, such as marriage, wills, and the like, the Vicar-General exercised a jurisdiction only in *spirituals*, such as the correction of morals, granting institutions, preserving discipline, and so forth. See Phillimore, *The Ecclesiastical Law of the Church of England*, 2nd edition, p. 928.

exception to the jurisdiction of the Chancellor was that of the archdeacon. In some archdeaconries, partly by grants from the bishop, and partly by custom, the archdeacon exercises both spiritual and judicial authority; and this, as to causes or things, is of more or less extent in different places; and in some is peculiar and exempt from the bishop, in others only concurrent. . . . Thus there was in every diocese a court held before the Official Principal of the bishop; and in some there was also one held by the bishop's commissary, and by the official of some archdeacon. Besides there were courts of the archbishops who had two jurisdictions: one diocesan, like the other bishops, the other was a superintendence over the bishops of their respective provinces."

This repeated overlapping of the Episcopal and Archidiaconal Courts was well calculated to produce confusion, but such confusion was still further confounded by the existence of numerous courts called "Peculiars." Of these courts there is a clear and interesting account by the late Mr. C. S. Perceval, LL.D., Dir.S.A., in the *Proceedings of the Society of Antiquaries*,<sup>1</sup> of which I propose to make much use. These Peculiars were places (franchises they would be called in the Common Law) in which a local jurisdiction was enjoyed by some person (as it were, *in peculio* or as private property) more or less independently of the ordinary or other person having judicial authority in the surrounding district. The following list is from Mr. Perceval's paper<sup>2</sup>:

"Jurisdictions peculiar and exempt from the Diocesan are:

1. Royal Peculiars. 'The King's Free Chapel is a royal peculiar exempted from all spiritual jurisdiction, and referred to the immediate government of the King: there are also some peculiar ecclesiastical jurisdictions belonging to the King, which formerly pertained to monasteries or religious houses.'<sup>3</sup>

2. Archbishop's Peculiars. 'Archbishops had their peculiars, which are not only in the neighbouring diocese, but dispersed up and down in remoter places; for it appears by Eadmerus that wherever the archbishop had an estate belonging to him he had sole jurisdiction as ordinary.'<sup>4</sup>

3. The peculiars of certain Deans and Chapters, as of St. Paul's, of the Dean and Chapter of Salisbury, of the Dean and Chapter of Lichfield, depending upon ancient compositions entered into between them and their respective bishops.

<sup>1</sup> *Proc. S.A.*, 2nd Series, Vol. V, pp. 238-250. A very clear account of the origin of the Archidiaconal Courts and of the Peculiar Jurisdictions by the Bishop of Oxford is in *Historical Appendix I to the Report of the Com-*

*mission on Ecclesiastical Courts*, Vol. I, pp. 21-26, 1883. <sup>2</sup> *Ut ante*, p. 239.

<sup>3</sup> Wood's Institute, 530, cited by Perceval *ut ante*.

<sup>4</sup> Ayliffe, Parerg, 418, cited by Perceval *ut ante*.

4. Certain peculiars belonging to certain monasteries.

There are also peculiar jurisdictions not exempt from, but subordinate to, the bishop of the diocese. Such are peculiars which belong to Deans and Chapters (other than the exempt jurisdictions just mentioned), or to a prebendary exempt from the archdeacon only. 'They are derived from the bishop of ancient composition, and may be visited by the bishop, in his primary and triennial visitations: in the meantime the official of the Dean and Chapter, or the prebendary, is the judge; and from hence the appeal lieth to the bishop of the diocese.'<sup>1</sup>

The rectors and vicars of several parishes, particularly in the diocese of Worcester, had also peculiar jurisdiction similar to that exercised by the prebendaries of whom mention has been made, and doubtless originating also from episcopal grants. So had some lords of manors, mostly in courts, belonging originally to dissolved monasteries, which had exempt jurisdiction. In all there were in 1832 in England no less than 285 Courts of Peculiars.<sup>2</sup> In addition to the confusion created by this large number of small local courts, further confusion was again created by the Bishops having power to inhibit or suspend the powers of the Archidiaconal Courts and the Courts of Peculiars during their primary and triennial visitations. During these inhibitions, which were of various length—two months, three months, six months or more, according to the custom—the business of the inhibited court was carried on in the name of the Chancellor of the diocese, who got the fees.<sup>3</sup> It would be an interesting, and far from impossible, task to trace most of the 285 peculiars and exempt jurisdictions to their origin, but it would be a prolonged task for any one man to undertake 285 such

<sup>1</sup> Wood's Institute, 530, cited by Perceval *ut ante*.

<sup>2</sup> Perceval *ut ante*, p. 241. They exist mainly in the rich dioceses of the south of England: there are none in the four dioceses of Wales, and only two very insignificant ones in the diocese of Carlisle.

<sup>3</sup> Some Courts of Peculiars were never inhibited. Where a Bishop had two courts, over one of which his Chancellor presided, and over the other his Commissary, it sometimes happened that one person held both offices; so that at one time he presided in the Commissorial Court as Commissary, but, when it was inhibited, he presided as Chancellor.

Accounts of these courts and their bewildering ramifications and inhibitions, of their registries, or places of deposit for their documents, of the fees they received, &c., are to be found in the following Blue Books: *The Returns; Probates of Wills*, ordered by the House of Commons to be printed 1829; *Returns respecting the Jurisdiction, Records, Emoluments, and Fees of Ecclesiastical Courts 1830; Reports Ecclesiastical Courts of England and Wales 1832; Report Ecclesiastical Courts Commission 1883*. They contain much *pabulum* for the ardent antiquary.

investigations: the origin of the prebendal peculiars of the diocese of Lincoln will be given presently as an illustration.

Mr. Perceval says:

“The main advantage accruing to the possessors of these peculiars were the exemption from the visitation, and consequent exactions by way of procurations and fees, of the Archdeacons and their officials; and the profits of testamentary and sometimes matrimonial jurisdiction. At Lincoln, for instance, the prebendaries possessed the right of proving wills and granting administrations of the goods of persons dying within the jurisdiction, concurrently with the consistory court of the bishop, but to the exclusion of the courts of the bishops' commissaries in the four archdeaconries and of the archdeacons themselves. Testamentary jurisdiction survived theoretically in all or nearly all of these courts up to the year 1857, when the Act of Parliament was passed which constituted Her Majesty's Court of Probate. The matrimonial jurisdiction, where it existed, had been seriously affected, and even abolished in some cases by the operation of statute law. Practically the proving of wills in the smaller courts had in a very large number of cases fallen into desuetude for a length of time before the passing of the Probate Act.”

Enough has now been said to explain the existence of court or consistorial places in cathedrals and churches: and of more than one in some cathedrals, for Deans, and Deans and Chapters, like Bishops, held their courts in their cathedrals, while Episcopal Commissaries and Archdeacons held theirs in convenient churches within their several jurisdictions, and so on in the cases of the lesser jurisdictions.

It now remains to explain why we do not find in existence the court or consistorial places for each jurisdiction that existed prior to 1857.

Nothing seems to be known as to the places of holding these courts in the middle ages. Mr. Micklethwaite, V.P.S.A., tells me he does not remember to have found a place fitted up for such use earlier than the seventeenth century. But my learned predecessor in the Consistory Court of Carlisle, Dr. Burn, in his well-known treatise on *The Ecclesiastical Law* (*sub voce* Consistory) says:

“Consistory is the court Christian or spiritual court, held formerly in the nave of the cathedral church, or in some chapel, aisle or portico belonging to it.”

He quotes also *verbatim* from Spelman's *Villare Anglicum* the charter by which William the Conqueror

effected the separation of the Ecclesiastical from the Temporal Courts. The concluding words of the latter part, dealing with offenders against the ecclesiastical laws, are :

“Hoc enim defendo, et mea auctoritate interdicto, ne ullus vicecomes aut præpositus, seu minister regis, nec aliquis laicus homo, de legibus quæ ad episcopum pertinent, se intromittat, nec aliquis laicus alium hominem sine justitia episcopi ad judicium adducat: *Judicium vero in nullo loco portetur, nisi in episcopali sede, aut in illo loco, quem episcopus ad hoc constituerit.*”<sup>1</sup>

The “episcopal seat” was of course the cathedral. Thus the will of Robert de Tibbay de Karliolo was proved in 1373 *in ecclesia Cathedrali Karl.*<sup>2</sup> But nearly all the fourteenth century Carlisle wills are proved at Rose,<sup>3</sup> the episcopal residence, seven miles out of Carlisle, a convenient arrangement for the Bishop and his officers, who would mostly be of his household. The will of Nicholas Hall of Crossby was proved in the Chapter House, Carlisle, 1362,<sup>4</sup> and the will of the rector of Burgh was proved at Penrith before the Bishop in 1382.<sup>5</sup>

No special court furniture was permanently placed in the cathedrals prior to the Reformation; at least, no traces of such remain: the existing furniture of some chapel or portico or aisle would suffice. At the Reformation these places would be swept and garnished, *i.e.* ruthlessly gutted of their fittings. The courts, too, were deprived of much of their importance; and their officers were probably content to carry in and out of some empty chapel in the cathedral such moveable furniture as might be necessary for the transaction of business, and thus they established consistorial places. With the revival of the Ecclesiastical Courts in the seventeenth century came in a wish for permanent furniture, and many, but not all, courts were handsomely fitted up with furniture of that period,

<sup>1</sup> “This also I forbid and by my authority interdict, that no sheriff or reeve or officer of the King nor any layman, do intermeddle with the laws which belong to the bishop, nor any layman to draw another man to judgment, except by the jurisdiction of the bishop; and let judgment be given in no place but in the episcopal seat, or

in that place which the bishop for this shall have appointed.”

<sup>2</sup> *Testamenta Karleolensia* (1353-1386), published by the Cumberland and Westmorland Antiquarian and Archæological Society, p. 104.

<sup>3</sup> *Ibid.*, *passim*.

<sup>4</sup> *Ibid.*, p. 49.

<sup>5</sup> *Ibid.*, p. 149.



as shown in the illustrations given with this paper of the Consistory Courts of Lichfield and Norwich. Both are fitted up with considerable stateliness, and the Chancellor sits in a seat with arms, and canopy over his head. The seal of my predecessor, Chancellor Lowther of Carlisle, appointed in 1661, shows him as seated in a large chair, with huge round knobs on the corners of the back and on the ends of the elbows. The chair is within a round arched canopy, supported by fluted pillars with Corinthian capitals. I think this seal represents what Chancellor



Lowther thought he was entitled to have in Carlisle Cathedral: not what he got. Browne-Willis, in his *Survey* of the Cathedrals of York, Durham, Carlisle, &c., &c., 1727-30, shows the consistorial place at Carlisle where it is now, and apparently furnished as at present.<sup>1</sup> I have no canopy to supply me with dignity: a simple raised seat with elbows and a long book board in front suffices: I have to rely for dignity on such as I can evolve out of myself.

Chancellor Lowther's seal was exhibited in the tem-

<sup>1</sup> The shabby railing, whose position is shown in Browne-Willis's plan, was, by my consent, removed in 1898.

porary museum formed at Carlisle on the occasion of the visit of the Royal Archæological Institute, and is thus described in the catalogue :

Brass matrix of pointed oval form, a seal of a Chancellor of Carlisle. A figure in a flowing dress and flat cap, appears seated under a round arched canopy ; beneath it is an escutcheon charged with this bearing : six annulets, 3, 2, 1, (Lowther). Legend

✠ REVEREND. EPISC. CARLIOL. CANCELL.

In 1857 the more remunerative cases that used to come before these courts—those relating to marriage and to wills—were removed elsewhere.<sup>1</sup> And in 1868 church rates were abolished,<sup>2</sup> and with them went the cases of the compulsory providing for the repair, or for the goods, of the church. The result has been the gradual, but practical, extinction of the general Archidiaconal Court, though it still legally exists, and the reduction of the jurisdiction of the Chancellor to little more than the granting of faculties.<sup>3</sup> Owing to the vanishing of most of the business, the courts became more or less waste places—those in parish churches almost absolutely so : the restoring parson and his architect soon cleared out the Jacobean furniture because it was not correct, because room was wanted for an organ, for an organ chamber, or for a monument to a local worthy. The courts in cathedrals have not fared much better : the Chancellors in the south of England have too frequently contented themselves with holding their sittings in their chambers in the Temple, and not in their consistorial places, while Deans and Chapters have not been slow to find the almost abandoned courts useful as receptacles for choristers' robes, or for coals and ladders and brooms. The band of the garrison at Carlisle stack their instruments in my court when they attend service on Sunday. I do not object to that, but I did on one occasion object to it being filled with jam pots intended to hold the floral decorations for some festivity.

I now propose to give an account of the court or consistorial places in each of the English and Welsh

<sup>1</sup> 20 & 21 Vict., c. 85, 20 & 21 Vict., c. 77.

<sup>2</sup> 31 & 32 Vict., c. 77.

<sup>3</sup> See Archdeacon Prescott in *Visita-*

*tions in the Ancient Diocese of Carlisle.* Carlisle : Chas. Thurnam & Sons, Cambridge ; Deighton, Bell & Co., 1888.



cathedrals. To compile these accounts has involved an immense research into old plans and guide books, into county histories, and into such books as Browne-Willis's works, Winkle's *Cathedrals*, and more modern works of that character. I have been in correspondence with ecclesiastical officials at every cathedral, English and Welsh; and since I have been Chancellor I have visited every English Cathedral: the Welsh remain over at present unvisited by me. I have endeavoured to get photographs, but have failed; they do not exist—the courts being frequently in dark or otherwise (photographically) impossible places. I cannot attempt to give any accounts of the Archidiaconal Court places, or of the court places of the numerous peculiars that once existed: the task would be too tremendous; but under the head of each diocese I propose to record the Archidiaconal Courts and the Courts of Peculiars, so that a local or a wandering antiquary may be able to identify court or consistorial places when he falls in with relics of them, and may also know where to expect to find them.

## PART I.—PROVINCE OF CANTERBURY.

### CANTERBURY.

#### The Archbishop of Canterbury

“had five courts: (1) the court of arches; (2) and (3) two courts of peculiars; (4) the court of audience; and (5) the prerogative court. The former was usually held in Bow Church, called *ecclesia Sanctæ Mariæ de arcubus*: and so from the church this court was called *curia de arcubus*; and it was held by the *official principal* of the Archbishop, called *officialis de arcubus*. One court of peculiars was held by the *dean of the peculiars*, having jurisdiction over the thirteen parishes called the peculiars of the Archbishop in Loudon: the dean used also to hold his court in Bow Church. The other court of peculiars was held by the same person by the title of *Judge of the Peculiars* and he had jurisdiction over fifty-seven parishes lying in different dioceses and not subject to the local bishop or archdeacon, but to the archbishop. The *court of audience* used to be held in the Archbishop's palace before auditors, who heard such matters, whether of contentious or voluntary jurisdiction, as the Archbishop thought fit to reserve for his own determination: they prepared evidence and other materials to lay before the Archbishop for his decision. This was afterwards removed from the Archbishop's palace, and the jurisdiction of it exercised by the *Master, or Official of the Audience*,

who held his court in the consistory place at St. Paul's. The three great offices of the *Official Principal of the Archbishop*,<sup>1</sup> *Dean or Judge of the Peculiars*,<sup>2</sup> and *Official of the Audience*<sup>3</sup> have since been united in one person, under the general name of the Dean of the Arches, who is also Vicar-General of the Archbishop. These courts are at present (1869) all held in Doctors' Commons, as is also the Prerogative Court by the Judge of the Prerogative Court. This court was for the cognizance of all wills, where the testators having *bona notabilia*, the proof and administration, according to Lyndwood, belonged to the Archbishop by a special prerogative.<sup>4</sup>

These offices have, however, been separated by the Public Worship Regulation Act, 1874, under which provision is made for the appointment of a Judge of the Provincial Court of Canterbury and York, who thereby becomes *ex officio* Official Principal of the Arches Court of Canterbury, Master of the Faculties to the Archbishop of Canterbury, and Official Principal or Auditor of the Chancery Court of York. Lord Penzance is now under this Act Official Principal, or Dean of the Court of Arches and Master of the Faculties to the Archbishop of Canterbury<sup>5</sup>: Sir James Parker Dean is the Vicar-General, and Dean or Judge of Peculiars: as Vicar-General he holds court in Bow Church for the confirmation of Bishops of the province.

The Archbishop of Canterbury in 1829 had also a Consistory Court for the diocese of Canterbury with powers over fifty-two parishes in Kent, in which his Commissary presided. The Archdeacon of Canterbury had a similar court over two hundred and sixteen parishes in Kent, over which his Official presided.

Neither Sir John Hassard, K.C.B., the Principal Registrar of the province and diocese of Canterbury, nor Mr. H. Fielding, the Deputy Registrar of the diocese, can tell me of any Consistory Place or Court in the Cathedral of Canterbury. This is not to be wondered at, London being so much more convenient a centre at which to get legal assistance, while Bow Church, the Archbishop's Palace at Lambeth, the Consistory Place at St. Paul's,

<sup>1</sup> The Judge of the Court of Arches.

<sup>2</sup> The Judge of the Court of Peculiars, thirteen parishes in the diocese of London and fifty-seven parishes in various places.

<sup>3</sup> The Judge of the Court of Audience.

<sup>4</sup> Reeves' *History of the English Law*, edited by Finlason, 1869, Vol. III, pp. 107-8.

<sup>5</sup> This paper was written prior to the recent resignation of Lord Penzance.

and Doctors' Commons were available as courts: the Commissary of the Archbishop, or Judge of the Archbishop's Consistory, seems to sit generally in the library at Lambeth.

# LONDON.

At the time of the Returns of 1829 and 1830<sup>1</sup> the Consistorial Episcopal Court of the Bishop of London had jurisdiction to grant probate of wills and letters of administration throughout the diocese of London, with the exception of the Peculiars, hereafter mentioned. The Court of the Commissary of London, of the Commissary of Essex and Herts, and five Archidiaconal Courts, viz., London, Middlesex, Essex, St. Albans, and Colchester, had each within its boundaries concurrent testamentary jurisdiction with the Consistorial Episcopal Court, but were inhibited by the Bishop once in four years for three months. The Archbishop of Canterbury had three Peculiars in the diocese—the Deanery of Bocking, the Deanery of Croydon, and the Deanery of the Arches. The Peculiars of the Dean and Chapter of St. Paul's included twenty-two parishes, and the Royal Peculiars of the Dean and Chapter of Westminster included the parishes of St. Margaret and St. John, Westminster: the precinct and exempt jurisdiction of St. Martin-le-Grand, London, and of St. Mary Maldon, Essex. The county of Essex also contained the Peculiars of Hornchurch and Havering-atte-Bower, of Writtle with Roxwell, of Good Easter, and the Sokens. There had been a Royal Peculiar in the diocese (that of St. Catherine), its jurisdiction extending over the precincts of St. Catherine, near the Tower, but the whole area had been converted into wet docks and the hospital removed in 1825. Thus the entire jurisdiction was completely annihilated.

The Consistory Place or Court in Old St. Paul's was a building in the angle between the north transept and the

<sup>1</sup> Throughout this paper I deal with the various dioceses as they stood at the time of the Returns of 1829 and 1830. To do otherwise would involve an enormous amount of profitless labour, as those Returns have no index of places: hence the hunting of a peculiar jurisdiction from one bishopric

to another is very troublesome. Of course, dioceses created since those Returns must be dealt with as they now stand, it being kept in mind that the peculiar jurisdictions do not now exist, though some of the districts once under them are now included in the new bishoprics.

choir, over the "Shrowds," and next to "The King's Closet at attending the preaching at Paul's Cross." It is shown in a view given in the *Builder* newspaper in January, 1892.

Let Dr. Tristram, the Chancellor of London, describe the present court :

*The Wellington Monument in St. Paul's.*

To the Editor of *The Times*.

Sir,

It appears not to be generally known that the chapel<sup>1</sup> in St. Paul's in which the Wellington Monument now stands, from the date of its completion by Sir Christopher Wren to the time of its diversion for the location of the monument, was appropriated and used solely as the Bishop of London's Court in substitution for the Court in old St. Paul's. My recollection of it is that of a most convenient and ornate court with internal fittings of extremely handsome carved oak of the period of its creation. Upon its being selected as the site for the monument, without any previous intimation given (so I have always been assured) either to the Bishop of London, who there held his Church Wardens' Visitations, or to Dr. Lushington, who there held the Consistory Court, when the Court in Doctors' Commons was required by the Arches or Prerogative Courts, it was wholly dismantled of its internal fittings.

So long as the Court in Doctors' Commons existed only occasional inconvenience was felt by this action of the Dean and Chapter. But on my being appointed Chancellor of London in 1872 I found myself without a Court.

I thereupon wrote to Dean Church and claimed, as of right, that I should be provided with a Court in St. Paul's on the ground that every Bishop is entitled by law to have his Consistory in the Cathedral Church of his diocese.

The Dean answered that the Chapter were prepared to accede to my request, and proposed that on the monument being completed the Court should be held in its former place of sitting, and that with this view the Chapter would order proper moveable Court fittings to be constructed. The Dean added that up to the receipt of my application he had seen no prospect of the completion of the erection of the monument, and expressed a wish that I would communicate direct with the Committee with a view to the attainment of that object. I did so, and since its completion the sittings of the Court have been held there.

I beg to remain, Sir,

Your obedient Servant,

T. H. TRISTRAM.

12, King's Bench Walk, Temple.

April 14, 1892.<sup>2</sup>

<sup>1</sup> In the south-west corner of the nave.

<sup>2</sup> From *The Times* of April 18, 1892.

Three of the Archidiaconal Courts, viz., those of Middlesex (part only), Essex, and Colchester, and the Court of the Commissary of Essex and Herts, kept their records in an office over the south porch of the church of Chelmsford, and so probably had a court in that church. The Archidiaconal Court of St. Albans was probably held in the abbey of that name, and the wills were certainly kept in a wooden cupboard in the presbytery of the abbey.

The Dean and Chapter of Westminster have a very small Consistory Court in the Abbey in the south-west tower or baptistery. It has some rather pretty wood fittings, which were threatened under a recent *régime* with restoration, but were spared: the Judge's seat still remains on the south side in the wood panelling at the back.

#### WINCHESTER.

The jurisdiction of this See extends over Hampshire, West Surrey, and the Channel Islands: at the time of the reports of 1829<sup>1</sup> and 1830<sup>2</sup> it included the whole of Surrey. There were then (and are now) two principal Ecclesiastical Courts in the diocese, namely, the "Consistory Court of the Lord Bishop of Winchester" and the "Consistory Court of the Commissary of the Bishop for that part of the Diocese comprising the County of Surrey." The courts of the Archdeacon of Winchester and Surrey had jurisdiction in some parishes to grant probate of wills only, but not letters of administration, as also had the rectors and vicars of certain parishes. The Archbishop of Canterbury had a peculiar jurisdiction in the Deanery of Croydon to grant probate of wills and letters of administration; so had the incumbent of the Donative of North Baddesley in Hants in that parish. The Chancellor of Winchester now presides over the two courts first mentioned: in the "Consistory Court of the Bishop" he presides as Chancellor, but in the "Consistory Court of the Commissary" he presides as the Bishop's Commissary.

The Consistory Court of the Bishop of Winchester is in

<sup>1</sup> *Returns: Probates of Wills*, ordered by the House of Commons to be printed 16 April, 1829.

<sup>2</sup> *Returns: Ecclesiastical Courts*, ordered to be printed 26 March, 1830.

his cathedral. It is small (about 18 feet square), and is fitted with a Judge's seat and enclosed table below. It occupies what was formerly used as a minstrels' gallery, and is over the western bay of the north aisle of the nave. One passes under it in entering the cathedral by the north-west door of the nave. The floor rests on stone arches about 20 feet above the floor of the nave. This is described in Savage's *Guide to Winchester* as

"the tribune above the door at the western extremity. This is the same workmanship as the adjacent parts, and, of course, formed a portion of the Wykeham original plan. It is at present made use of as an Ecclesiastical Court, but seems to have been erected to contain the minstrels who performed on all grand occasions."

The Registrar of the diocese of Winchester holds the key of this court, as well as keys enabling him to unlock the iron outer gate of the cathedral and the door at the foot of the turret stairs leading to the court; but he cannot get into the building at night, when the great wooden doors are locked. The court is used constantly for granting faculties; but when there is a contest, an adjournment takes place to a larger room in Wolvesey Palace (the ancient palace in Winchester of the Bishops of Winchester, now used as a Church House) or to the Grand Jury Chambers.

I am indebted for the above information to Charles Wooldridge, Esq., Registrar of the diocese of Winchester, for that part of the diocese forming the county of Hampshire.

The "Consistory Court of the Commissary" used to be in the church of St. Saviour, Southwark, but that church is now in the diocese of Rochester, and the Commissary is left without any fixed court in which to hear cases: he holds his visitations in the vestry of Holy Trinity, Guildford, and in the church room at Dorking.

I am indebted to W. P. Moore, Esq., the Registrar for Surrey, for the above information.

#### BANGOR.

The Consistory Court for this diocese is now held in the diocesan registry at Bangor, but it was formerly held



in the north-west corner of the nave of Bangor Cathedral. Of it Browne-Willis gives the following account :

"On the north side of the steeple is the Consistory Court, which has a handsome seat for the Judge, wainscoted behind, and canopied overhead, with a form before him, which is always covered with a decent cushion, when he sits there. It is ascended by three steps on both sides, and hath proper seats for the Register (*sic*), Proctors, etc., as is usual in other places of the like nature."

I am indebted for information to R. H. Pritchard, Esq., the Registrar of the diocese. The Consistory Court of Bangor had, and has, the entire jurisdiction over the whole diocese of Bangor, without interference by any Peculiar Jurisdictions. Happy Bangor! It was never the practice of the Consistory Court of Bangor to have wills "proved or administrations granted in open court (unless in cases where the grant is opposed and a suit established)." <sup>1</sup> This, perhaps, is the reason why the court in the cathedral has been abandoned.

#### BATH AND WELLS.

The Consistorial Episcopal Court of the diocese of Wells is in the base of the north-west or Bubwith's tower of Wells Cathedral, being the Chapel of the Holy Cross. This has been the Consistory Court from time immemorial, and has jurisdiction over the diocese of Bath and Wells. It is always used by the Chancellor on the somewhat seldom occasions when he holds a court. His right to the sole use of it has never been questioned, but a late Dean took upon himself to use it as a robing room for the choristers, and they have so continued to use it until the present time. Whenever a court is to be held, the sacrist takes care to remove the boys' cassocks and other things. It is a square room, wood-panelled around. There does not appear to have ever been any Consistory Court at Bath.

I am indebted for the above information to R. Harris, Esq., the Registrar of the diocese.

In 1829 and 1830 this diocese was blessed, in addition to the Consistorial Episcopal Court, with the Consistorial Archidiaconal Court of Wells, the Consistorial Archidia-

<sup>1</sup> Return, 1830, p. 11, *ut ante*.

conal Court of Taunton, the Consistorial Decanal Court of Wells, and the Consistory Court of the Dean and Chapter of Wells. The Precentor, the Chancellor, and the Sub-Dean of the Cathedral Church of Wells each had his Peculiar, with jurisdiction in certain parishes; so had each Prebend to the number of sixteen, and, in addition, there were four other Peculiars.<sup>1</sup>

The severity of these arrangements was somewhat mitigated by the numerous registrarships and deputy-registrarships being nearly all held by the same person.

### BRISTOL.<sup>2</sup>

This diocese was first founded in 1542 by taking portions from the three dioceses of Worcester, Bath and Wells, and Salisbury. The Consistory Court of the Bishop at Bristol had at the date of the Returns of 1829 and 1830 jurisdiction over the portions taken from the dioceses of Worcester and Bath and Wells, namely, the city of Bristol, sixteen parishes in the county of Gloucester,<sup>3</sup> and one in the county of Somerset. Within this area there are no peculiar or exempt jurisdictions. The Consistorial Episcopal Court at Blandford had jurisdiction over the rest of the diocese, namely, the county of Dorset, which, with its 400 churches and chapels, or thereabouts, had been taken from the diocese of Salisbury; but on this transference the peculiar jurisdictions of the Dean of Salisbury, of the Dean and Chapter of Salisbury, and of the Canons of Salisbury, whose "prebends" lay in the county of Dorset, were preserved: the Archdeacon of Dorset had testamentary jurisdiction, while there was a Peculiar Court of Milton Abbas, and four peculiars belonging to Wimborne Minster: there was a royal and exempt jurisdiction at Gillingham.

At Bristol the Consistory Court is in the cathedral. Browne-Willis says:

"Access to the Consistory and Registrar Office is by a staircase at south end of the great cross aisle."

<sup>1</sup> Returns of 1829 and 1830 *ut ante*.

<sup>2</sup> Bristol was a separate diocese at the time of the Returns of 1829 and 1830, and now is one again, but with very different boundaries to what it had at the date of the Returns of 1829 and

1830; from 1836 to 1897 it was united to Gloucester.

<sup>3</sup> Some of these parishes and part of the city of Bristol were in the archdeaconry of Gloucester in the diocese of Worcester.

The Consistory Court in the cathedral is fitted up with a chair and desk for the Chancellor, and also for the Registrar, and benches for the practitioners. There is very little litigious business in the court. The Chancellor occasionally sits there. In important cases the Dean has sometimes allowed him the use of the Chapter House.

The court of the Salisbury jurisdictions in Dorset appears to have been the Dean's Court over the north porch of Salisbury Cathedral.<sup>1</sup>

At Wimborne Minster

"the part of the north aisle westward of the north door was formerly appropriated to the Consistory Court at which the official of the Peculiar presided. Its jurisdiction having been abolished by a recent Act of Parliament, all traces of the court have been removed."<sup>2</sup>

I am indebted for information to W. H. Clarke, Esq., the Registrar of Bristol; to the Rev. F. J. Huyshe, Vicar of Wimborne Minster, and to the Rev. Sir Talbot Baker Bart.

#### CHICHESTER.

The Bishop of this diocese, according to the Return of 1829, has two courts—the "Consistorial Episcopal Court at Chichester" and the "Consistorial Episcopal Court at Lewes." The first had jurisdiction over the archdeaconry of Chichester or western part of the county of Sussex; the second over the archdeaconry of Lewes or eastern part of the same county. This division of the courts still continues, and the court at Lewes is presided over by a Commissary, who is the same person who presides at Chichester as Chancellor. The Dean of Chichester had a peculiar jurisdiction over nine parishes adjacent to the city of Chichester, while the Archbishop of Canterbury had peculiar jurisdiction over eight parishes in the deaneries of Pagham and Tarring, and in the city of Chichester, and thirteen in the deanery of South Malling. The Peculiar of Battel was also an exempt jurisdiction.

The ancient Consistory Court of Chichester is a spacious room over the sacristy, which is on the west side of

<sup>1</sup> See Returns 1829, *sub voce* Salisbury.

<sup>2</sup> *History and Antiquities of Dorset*, by Hutchins, p. 201; published 1869.

the south transept of Chichester Cathedral, between that transept and the south porch. Access is by a spiral staircase in the nave just without the transept. The original Chancellor's chair and some wainscotting are still in existence. The last conceals a secret room, to which access is had by a sliding panel in the wainscotting. This is called the "Lollards Prison," but in reality it was a treasure chamber. The present Consistory Court at Chichester is in the south transept of the cathedral, a portion being railed off for the purpose.

There is no recognised court or seat of judicature at Lewes; but when a court is necessary, the Commissary sits in the church of the parish to which the enquiry relates. Dr. Tristram, Chancellor of Chichester and Commissary of Lewes, recently held a court in the church of St. Mary-in-the-Castle, Hastings, in the matter of a faculty for the removal of remains from the closed churchyard there.

I am indebted for information to Sir R. G. Raper, the Registrar for the archdeaconry of Chichester; and to E. C. Currey, Esq., the Registrar for the archdeaconry of Lewes.

#### ELY.

The "Consistory Court of the Lord Bishop of Ely" had jurisdiction for proving wills and granting letters of administration over the whole of the diocese of Ely except fifty-two parishes, which lie in the jurisdiction of the Archdeacon of Ely, who was inhibited by the Bishop for fourteen weeks previous to, during, and after his Episcopal Visitation. The peculiar jurisdiction of Thorney belonged to the Duke of Bedford. The peculiar jurisdiction of King's College in the University of Cambridge belonged to the Provost and Scholars. This extended over the precincts of the college, which is in the diocese of Lincoln, and included several tenements adjoining the college. The court of the Chancellor of the University of Cambridge had jurisdiction over the wills of matriculated persons, but the jurisdiction was discontinued in 1765. The Bishop of Rochester had also a peculiar jurisdiction in the peculiar of Isleham.

The Consistory Court of the Lord Bishop of Ely is not held in his cathedral, but in Great St. Mary's Church, Cambridge, at the western end of the north aisle. The tower at the west end of the church originally projected beyond the west front; but about 1514 the nave aisles were lengthened so as to include the tower on both of its sides, thus forming two chapels, which were partitioned off from the church. The Consistory Court is in the north-west one, and is provided with a high chair or throne, in front of which is a large square pew containing an oblong table with benches round it. The woodwork suits the date of 1735, when the galleries were erected in the church. The place is kept locked, and the key is held by the vergers on behalf of the Chancellor, who usually uses this court; but in cases of contested faculties, or when a prolonged sitting is expected, a room is usually hired in the town, or leave is obtained to use the Guildhall.

Convenience of access, and facility for consulting men of the law, are probably the reasons why this court is at Cambridge and not at Ely.

I have to thank W. J. Evans, Esq., the Registrar of Ely, and Professor Clark, LL.D., F.S.A., for information.

#### EXETER.

At the date of the Returns of 1829 and 1830 the diocese of Exeter included the whole of the counties of Devonshire and Cornwall, in which were the four archdeaconries of Exeter, Barnstaple, Totnes, and Cornwall, each of which had a Consistorial Archidiaconal Court with power to grant probate of wills and letters of administration, each within its archdeaconry.

The courts of the Bishop were two—the “Episcopal Principal Registry of Exeter” and the “Consistorial Court of the Bishop of Exeter.” The first dealt with probates of wills and letters of administration (1) of persons dying in the diocese of Exeter, possessed of personalty in more than one jurisdiction within the diocese; (2) of all beneficed clergy dying within the diocese, not having *bona notabilia*; (3) of all persons within the archdeaconries during their periodical inhibition by the Bishop. The second court had the juris-

diction over probates of wills and letters of administration of all persons dying in thirty-seven parishes in the counties of Devon and Cornwall known as the Peculiars of the Bishop, and the Consistory Court of the Dean and Chapter had similar powers over some thirty other parishes. The Peculiar Court of the Custos and College of the Vicars Choral of the choir of the cathedral had the jurisdiction over the parish of Woodbury in Devonshire; the Dean over the parish of Braunton in that county, and over the Cathedral Close, while the Dean and Chapter of Salisbury intruded into the diocese of Exeter with jurisdiction over the parish of Uffculm in Devonshire. The deanery of St. Buryan in Cornwall was a Royal Peculiar.

The ancient Consistory Court at Exeter is in the Chapel of St. Edmund, which is built out at the west end of the north aisle, close to the north-west entrance into the cathedral. The fittings have been removed, and it has not been used for some years, though the Chancellor has the right to use it, if he so please. Meanwhile it is used by the Dean and Chapter for the storage of various articles. The Chancellor now holds his court either in the Chapter House or in the chapel situated between the Chapter House and the south tower of the cathedral called the Chapel of the Holy Ghost.

I am indebted to Arthur Burch, Esq., the Registrar of the diocese, for information.

#### GLOUCESTER.

At the date of the Returns of 1829 and 1830 there were only two Peculiars in the Diocese of Gloucester, viz., the Peculiar of the rectory of Bishop's Cleeve and the Peculiar of the vicarage of Bibury: with these exceptions the Consistorial Episcopal Court of Gloucester covered the diocese.

According to the plan given by Browne-Willis in his *Survey of Gloucester Cathedral*, the Consistory Court was in the west end of the south aisle of the nave, and is shown to be railed off. The present Registrar writes that—

“The Consistory Court (of Gloucester) formerly sat in the south-east (*sic*) corner of the cathedral here, and the space was railed off,



but the Dean and Chapter have allowed a large font to be placed in the centre of the said Court, and the later Courts have been held in the old Chapter House here by permission of the Dean and Chapter. There is some furniture there, but I cannot say to whom it belongs."

I am indebted to B. Bonnor, Esq., the Registrar for the diocese of Gloucester.

#### HEREFORD.

The Consistorial Episcopal Court of Hereford had jurisdiction over the whole of the diocese, with the exception of thirty-five parishes. Thirty-one of these were subject to the Consistorial Court of the Dean of Hereford; the two parishes of Little Hereford and Ashford Carbonell formed a peculiar appendant to the Chancellorship of the choir of the Cathedral of Hereford, while each of the Peculiars of Moreton Magna and of Upper Bullinghope were annexed to Prebends of the same name.

I am indebted to the Deputy Registrar of the diocese, H. C. Beddoe, Esq., for the following :

"The Consistory Court of Hereford is now held in the south transept of the Cathedral. This portion of the transept was formerly fitted up as a Court, but on the restoration of the Cathedral by Dean Mereweather, some fifty-five years ago, the fittings of the Court were removed, and up to a recent period the Consistory has been held in the Common Room belonging to the College of Vicars. Some two years ago the College of Vicars declined to allow the use of their Common Room any longer for holding the Court, and our Chancellor (Dr. Tristram) then directed the Courts to be held in the Consistory Place in the Cathedral, which was in the south transept."

In Price's *Guide to Hereford*, published in 1796, the south transept is marked as "The Spiritual Court."

#### LICHFIELD.

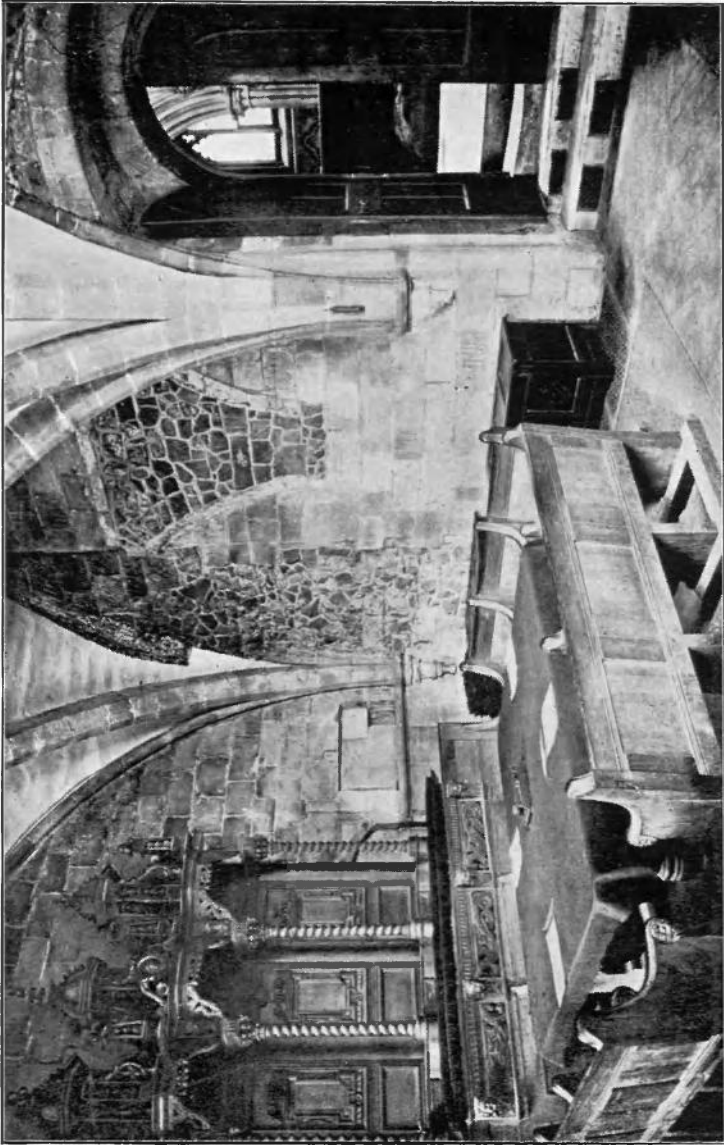
This diocese at the time of the Returns of 1829 and 1830 was known as the diocese of Lichfield and Coventry, and was occupied by a distracting number of courts. The Bishop's Consistory Court had jurisdiction over the whole diocese except in the numerous exempt jurisdictions, which were exempt even from periodical inhibition by the Bishop. The Dean and Chapter's Court had jurisdiction over twenty-five parishes at all times, and also over all the Prebendal Courts for six months in every third year : of these Prebendal Courts there were twelve. The Dean had

a court which had jurisdiction over nine parishes, and he also had a court for the manor of Hartington ; and there were fourteen other Manorial Courts with ecclesiastical jurisdiction, and five Royal Peculiars. There was also a court for Peak Forest, another for the town and liberties of Ellesmere, another for the manor and peculiar of Dale Abbey ; and, finally, there was the Peculiar jurisdiction of Buildwas Abbey in the county of Shropshire. It had jurisdiction over the parish of Buildwas, which had less than 300 inhabitants, and yet marriages to the number of over a hundred a year were there celebrated, for it had, in addition to testamentary jurisdiction, the power of granting marriage licenses, and served as a Gretna Green for the country far and wide ; it is characterised in the Returns as a "lawless place" by its own official, the then Vicar, who appears to have refused to exercise jurisdiction except in special cases.

Browne-Willis shows that both the Bishop and the Dean had courts in the cathedral. He shows the Bishop's Court in the east aisle of the north transept, and marks it in his explanation of his plan as "E. The Bishop's Consistory and St. Stephen's Chapells." He also indicates on his plan the fittings of the court. He also gives, in a precisely similar position in the south transept, the "Dean's Consistory Court," but does not indicate that it had any fittings. The present Dean of Lichfield tells me that twenty years ago the Dean's Consistory retained some semblance of its former use, viz., a chair of state, and a table, but these were removed to make room for a monument to Admiral Parker. At the restoration of the cathedral the Bishop's Court was given up to make room for the organ, and a new one was fitted up in the south transept in what was formerly the Prebendaries' Vestry. It is properly fitted up as a court with carved oak canopied seat for the Judge, and enclosed seats below for the Registrar, Counsel, and Proctors ; it is used for Consistory Court business.

I am indebted to the Registrar, Hubert C. Hodson, Esq., for a photograph of it, and much information.

There is now no Dean's Court, and the Dean and Chapter do not now appoint a Commissary or Judge.



CONSISTORY COURT. LICHFIELD CATHEDRAL.

## LINCOLN.

At the date of the Returns of 1829 and 1830 the diocese of Lincoln included six archdeaconries, namely, Lincoln, Stow, Bedford, Buckingham, Huntingdon, and Leicester. Of these Bedford and Huntingdon are now in the diocese of Ely, Buckingham in that of Oxford, and Leicester in that of Peterborough.

The Consistory Court of the Lord Bishop of Lincoln had power to prove wills and grant administrations throughout the diocese of persons possessed of *bona notabilia* in divers archdeaconries, or in an archdeaconry and a peculiar. Each of the six archdeaconries had two courts, the court of the Commissary of the Lord Bishop of Lincoln in the archdeaconry and the court of the Archdeacon. These courts had concurrent jurisdiction in the archdeaconry, *i.e.* a will might be proved in either court. Sometimes the Bishop's Commissary and the Archdeacon's Official were one and the same person; sometimes two distinct persons. In the case of their being the same, the probates were granted in the name of both of his offices; in the event of two separate Judges probate was granted in the name of both and the fees divided: this does not apply to all the archdeaconries; in some of them a person applying for probate had an option as to which court he would go to. The appeal from a Court of the Commissary of the Bishop was to the Arches Court of Canterbury; from an Archdeacon's Court to the Consistory Court of the diocese.

The Dean and Chapter of Lincoln had a court with jurisdiction over twenty-four parishes and one hamlet in the close, city and county of Lincoln: they had also courts for two peculiars in Oxfordshire and three in Buckinghamshire, and the Sub-Dean had a peculiar jurisdiction at Kirton-in-Lindsay. The diocese also enjoyed the administrations of twenty Prebendal Courts,<sup>1</sup> four

<sup>1</sup> "Robert, Bishop of Lincoln, about the year 1160, by an instrument under his seal, released perpetually all the prebends in the church from episcopal rights and exactions, willing that the canons of Lincoln should have perpetual liberty in their prebends and

all possessions thereto belonging. So that thenceforth it should be unlawful for any archdeacon, or officials of an archdeacon, to exact anythings—procurations, visitations, fees, etc.—from the prebends or churches appertaining to the Church of Lincoln, or to implead

Manorial Courts, and one royal and exempt jurisdiction. There was also in 1829 the court of Old Dalby in the county of Leicester, which had neither officers nor registry: it was supposed to be commensurate with the manor of Old Dalby, once the property of the Knights Hospitallers.

The cathedral of Lincoln contains, or did contain, according to Browne-Willis, no less than three consistory or court places, viz., "*Consistorium Episcopi*," "*Consistorium Decani et Capitulae*," and "*Curia Galileae*."

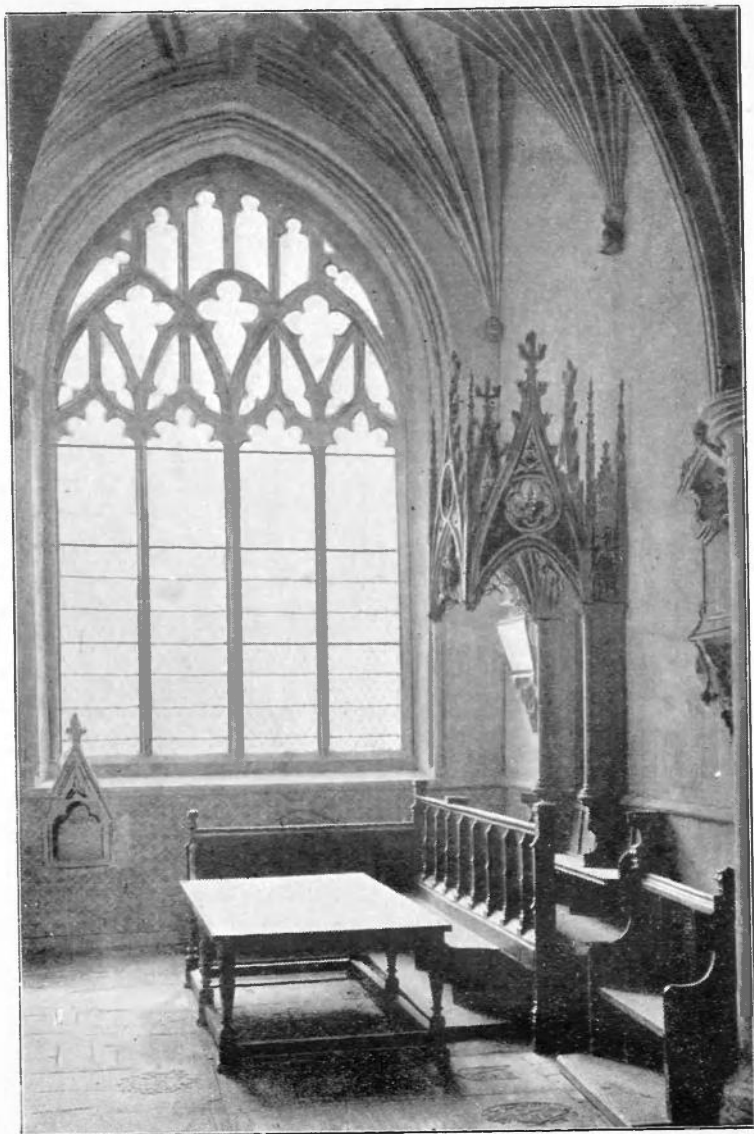
The "*Consistorium Episcopi*," or Bishop's Consistory Court, is in the Chapel of the Holy Trinity, an annex on the south side of the nave, immediately to the east of the Ringers' Chapel, or Chapel of St. Hugo, under the south-west tower of the cathedral. This chapel has been used from time immemorial as the Consistory Court of the diocese. It used to be fitted up as a court, and prior to the passing of the "Probate Act, 1857" courts were held in it once a fortnight. After the passing of that Act it was dismantled, and is now provided with a table and moveable seats for visitations, &c.

The "*Consistorium Decani et Capitulae*" is in the Chapel of St. John the Evangelist, the central chapel of the three in the eastern aisle of the great south transept. It is not now furnished as a court, and the Dean and Chapter have exercised no legal jurisdiction for many years. The "*Curia Galileae*" was in a chamber over the Galilee Porch, at the south-west corner of the great south transept; here the Dean and Chapter formerly held a court known as "The Galilee Court." The Chapter muniments are now preserved in it.

I am indebted for information to John Swan, Esq., the Registrar of the diocese.

any of their tenants: but that they (*i.e.* the canons) should have in all respects the same liberty as the canons of Salisbury had in their own churches. And at the same time this bishop addressed a mandate to each of his archdeacons, informing them that he had absolved all the canons of Lincoln from the subjection which the archdeacons theretofore had used to require from the prebends of

the canons, as well in respect of the prebends themselves (*i.e.* the manors and churches) as the inhabitants thereof." *Proc. S. A.*, 2nd series, Vol. V, pp. 239, 240, from a paper by the late C. S. Perceval, LL.D., Dir.S.A. The above is a very clear account of the origin and establishment of the peculiar jurisdiction of the prebendaries in the Church of Lincoln.



CONSISTORY COURT. NORWICH CATHEDRAL.



# LLANDAFF.

There has never been any other ecclesiastical court within the diocese of Llandaff but the Consistorial Court of the Lord Bishop of Llandaff.

The Consistorial Court of Llandaff is in the east end of the south choir aisle, next the Lady Chapel, as shown in a plan in the *Builder* of May 7th, 1892. The same plan shows as "Site of Consistory Court burnt down in the 16th century," a building projecting southwards from the south aisle of the nave. This building is shown in Browne-Willis' plan; it apparently has a table in the centre, and seats all round it. Browne-Willis says:

"The Consistory Court and the Chapter House join to the South Ile. The Consistory Court is near the old Western Tower: It is a tolerable room, fifteen feet square in the clear, with one window six foot broad and four foot high and two other lesser ones over that, one foot three inches broad, and three foot high apiece. The door that goes into it out of the South Ile is of Free stone arch'd."

I am indebted to Arthur G. P. Lewis, Esq., the Registrar of the diocese, for information.

# NORWICH.

The ecclesiastical courts in the diocese at the date of the Returns for 1829 and 1830 were somewhat similar to those in the diocese of Lincoln; that is to say, in addition to the Consistory Court of the Bishop, there were in each of the four archdeaconries (Norwich, Norfolk, Suffolk, and Sudbury) the Court of the Commissary of the Bishop in the archdeaconry and the Court of the Official of the Archdeacon of the said archdeaconry. The Chancellor, as Judge of the Consistory Court, has a general testamentary jurisdiction over the whole diocese (except in the peculiars), concurrently with the officials in their respective archdeaconries: the Bishop's Commissaries have the same powers, except that they are restricted from proving the wills of noblemen, esquires, clerks, and beneficed persons. The Dean and Chapter of Norwich had a peculiar will jurisdiction over fifteen parishes in the city of Norwich and in the county of Norfolk; and the Archbishop of Canterbury, the Bishop of Norwich,

the Bishop of Rochester, and the Rectors of Great Cressingham and Castle Rising, each had a peculiar jurisdiction.

The Consistory Court of the Bishop of Norwich is held in the Bauchun Chapel of Norwich Cathedral, and is properly fitted up as a court. At the suggestion of Dr. Bensly, F.S.A., who unites the offices of Registrar of the diocese and Chapter Clerk, the canopy of the eighteenth century episcopal throne was removed from the choir to the Consistory Court, when the new Pelham Throne was erected a few years ago. On a panel at the back of it is a crimson plush dossal (the gift of Mrs. Bensly) embroidered with a mitre, the arms of the first and last Bishops who used the throne, and the arms of the present Chancellor. In Blomefield's *Norfolk*, Vol. IV, p. 9, it is stated that the Consistory Court has been held in the Bauchun Chapel since the time of its foundation. Harrod (*Castles and Convents of Norfolk*, p. 303) is content with stating that the chapel has for many years been the Consistory Court.

I am indebted to Dr. Bensly for information and for a photograph of the court, taken, however, when the bench that should be on the right hand side of the table was temporarily removed.

#### OXFORD.

At the time of the Returns of 1829 and 1830 the diocese of Oxford was co-extensive with the county of that name. The Consistory Court of the Bishop had testamentary jurisdiction to grant probate of wills and letters of administration over the diocese of Oxford, except the Peculiars "at all times on a vacancy" (see the Return of 1829)—an expression which I do not quite understand. The court of the Archdeacon of Oxford had the same jurisdiction and limits "at all times when not inhibited"; which it was for nine months during the Bishop's triennial visitation.

The court of the Chancellor, Masters, and Scholars of the University of Oxford had the same jurisdiction of all members of the University (either governors of colleges, members of colleges, professors, &c., and all other matri-

culated persons, among whom were always many tradesmen) dying possessed of property within the University alone. The Dean and Chapter of Lincoln had two peculiars in the diocese of Oxford, viz. Banbury and Thame, and the prebendal jurisdiction of Langford Ecclesia in the cathedral of Lincoln partly extended into the diocese of Oxford.

There was also a peculiar exemption of Dorchester, and the Archbishop of Canterbury had a peculiar—the deanery in Monk's Risborough, co. Berks—part of which extended into Oxfordshire. The Manorial Court of Sibford had testamentary jurisdiction. Little business was done in any of these courts except those of the Bishop and Archdeacon.

The Consistory Court of the Bishop of Oxford is in a chapel of the University Church, St. Mary Magdalen. This chapel is not fitted up as a court, but is stated by the Registrar, T. M. Davenport, Esq., to whom I am indebted for the information, to be

“fairly adapted for the purpose. It is only used on rare occasions of contested faculties.”

It is curious that both at Oxford and at Cambridge the Consistory Court of the diocese is held in the University Church.

#### PETERBOROUGH.

In this diocese, at the date of the Returns of 1829 and 1830, there was a curious division of the jurisdiction—the Consistorial Episcopal Court had jurisdiction over the whole diocese (except the peculiars) to grant letters of administration: the Consistorial Archidiaconal Court had jurisdiction over the same area to grant probate of wills, except when it was inhibited for six months in the year of the Bishop's triennial visitation: the jurisdiction over the probate of wills then passed to the Bishop's Court. There were two Prebendal Courts in the diocese—the Prebendal Court of the peculiar of Nassington and the Prebendal Court of the peculiar of Gretton—both in the diocese of Lincoln, out of which the diocese of Peterborough was taken in 1541. Browne-Willis, in the plan he gives in his *Survey of Peterborough Cathedral*, gives

“D. The grand entrance at the front under the Consistory Court,” thus showing that in 1729 the Consistory Court was held in the parvise, or upper chamber of the porch in the west front. At present (1897) the Consistory Court is held in the chapel or chapels of St. James and St. John; that is, the eastern aisle of the north transept, called by Browne-Willis “L. The North Cross Isle and St. James and St. John’s Chappells.” This aisle is fitted up as a court, and is used as such. Bishop Creighton sat in it with his Chancellor at his last visitation of the diocese.

I am indebted for information to H. W. Yates, Esq., the Deputy Registrar of Peterborough.

#### ROCHESTER.

Both the Consistorial Episcopal Court of Rochester and the Archidiaconal Court of Rochester had jurisdiction over the whole diocese (except the two peculiars of Shoreham and Cliffe) to prove wills and to grant letters of probate, but the Bishop inhibited the Archdeacon for six months in the year of his triennial visitation.

The Archbishop of Canterbury had a peculiar jurisdiction in the deanery of Shoreham, which covered thirty-one parishes and four chapelries; and the Rector of Cliffe had a peculiar in his parish.

The Consistory Court for the diocese of Rochester is held in the Lady Chapel of Rochester Cathedral, where there formerly were proper court fittings. These were removed some years ago, when the chapel was restored, and have never been replaced; but arrangements are made for tables and chairs, whenever the Chancellor sits there.

“A Court is held in the Consistory Court, Rochester Cathedral, every Tuesday at 11 a.m. when the Registrar and (if necessary) the Chancellor attend. By special appointment the Court may be held at the Lady Chapel, St. Saviour, Southwark, the Vestry of St. Alphege Church, Greenwich, or elsewhere within the diocese.”

(From the rules of the Rochester Consistory Court.)

When St. Saviour’s, Southwark, was in the diocese of Winchester, the court of the Commissary of the Bishop

of Winchester for the county of Surrey was held in the Lady Chapel or Retro-Choir of that church, which was furnished as a court. The Lady Chapel is now used occasionally by the Chancellor of Rochester for holding courts, but the furniture disappeared long ago.

I am indebted for information to G. H. Knight, Esq., Registrar of the diocese of Rochester, and to the Rev. W. Thompson, Rector of St. Saviour, Southwark.

#### ST. ALBANS.

This being a new See, created in 1877, the Chancellor has no regularly - appointed court in the cathedral. Courts are held, when necessary, in the cathedral vestry. On one occasion Chancellor Jeune held a court for this diocese in the Royal Courts of Justice, and Chancellor Kemp has held one in St. Andrew's Church, Romford.

I am indebted to G. H. Knight, Esq., the Registrar of the diocese, for information.

#### ST. ASAPH.

The Consistory Court of the Bishop of St. Asaph is the only court that exercised ecclesiastical jurisdiction within this diocese, and had full testamentary jurisdiction. Browne-Willis writes of the Consistory Court of St. Asaph—

"The *Consistory Court* which stands at the upper end of the great South Cross Ile is not a distinct room by itself, but only a wainscot enclosure with a bench and seats within it. It is in length north and south, 13 foot and a half, and in breadth only 7 foot. However it is designed to be made larger, and remov'd to the upper end of the opposite North Ile, and placed under the great Window, and this South Ile to be enclosed and converted into a Library and Vestry, the materials lying all ready for this purpose."

(Edition of 1720.)

In the edition of 1801 the same account is given as far as the words "seven foot and a-half," and then goes on to say "it is made use of as a Library and Vestry." By Vestry, Chapter House is meant. The Registrar of the diocese, H. A. Cleaver, Esq., writes as follows :

"The Chancellor's Court for this diocese is at present in a state of transition. In the Chapter room of our Cathedral is a Chancellor's Court fitted up with an elevated seat for the Chancellor; beneath in

what may appear to be an old-fashioned pew, are seats for the Registrar and Counsel. At the time of the appointment of our present Dean he raised an objection to secular work being carried on in the Cathedral and virtually prohibited the Chancellor from holding his Court there any longer. The Dean has provided what is called a Chapter Library, a building altogether apart from the Cathedral and in this building he proposes that the Chancellor shall sit in future. The Chancellor lodged his objection, but to no purpose.

"Some hundred years ago there was an old Chapter House attached to the Cathedral, but not communicating, and in this the Chancellor used to hold his Court. On its being taken down the Court was removed to the present Chapter House."

#### ST. DAVID'S.

In 1829 and 1830 there were three Consistorial Episcopal Courts in this diocese, viz., those of Carmarthen, St. David's, and Brecon; a multiplicity which probably arose from the inaccessibility of the cathedral, situate in the most remote part of the diocese. Browne-Willis shews a Consistory Court in the north-west corner of the nave of the Cathedral of St. David, an enclosure without fittings. He says in 1715:

"As you enter the Nave there was formerly a Consistorial Court at the North West corner finely enclosed with a screen of wood. It was taken down of late years."

A Consistory Court is provided in St. Peter's Church, Carmarthen, for the whole diocese, and properly fitted up. It is in the south-east corner of the church at the eastern end of the southern aisle.

I am indebted to J. H. Barker, Esq., the Registrar, for information.

#### SALISBURY.

The diocese of Salisbury, or Sarum, at the time of the Returns of 1829 and 1830, was possessed of a great variety of courts. The Consistorial Episcopal Court of Sarum had jurisdiction to prove wills and grant letters of administration of all persons dying possessed of goods in ten parishes in Wiltshire, being the Peculiar jurisdiction of the Bishop of Sarum; and also of all Rectors dying within the diocese, according to an ancient composition between the Bishop and the Archdeacons. There were four Archidiaconal Courts, those of the Archdeacons of



Berks, Sarum, and Wilts, and of the Sub-Dean of Sarum, who appears to have been a sort of Archdeacon over five parishes in and near to Salisbury. These four courts were inhibited by the Bishop for six months in the year of his triennial visitation, during which time his court exercised the jurisdiction. The Dean of Sarum had a Peculiar Court with jurisdiction over the Close of Sarum, eight parishes in Wilts, seven in Berks, and twenty-six in Dorset. He was in fact a little Bishop, and held triennial visitations, during which he inhibited for six months the seventeen Prebendal Courts in the diocese of Sarum, and also the Peculiar Court of the Dean and Canons of Windsor in the diocese of Sarum.

The Dean and Chapter of Sarum, the Sub-Dean of Sarum, and the Treasurer of Sarum, had Peculiar Courts, which neither Bishop nor Dean inhibited. The Lord Warden of Savernake Forest had a Peculiar jurisdiction, in part of which he was inhibited by the Bishop, in other part by the Dean. There was a Royal and Exempt jurisdiction at Gillingham, and the Vicar of Corsham had a Peculiar Court in which the Bishop of Sarum and the Archdeacon of Wilts had concurrent jurisdiction.

The Consistory Court of the diocese of Salisbury was formerly held in a room at the south-west corner of the nave, between the nave and the cloisters, shown in a plan given in various guide books to the cathedral. But upwards of thirty years ago Sir R. J. Phillimore, the then Chancellor of the diocese, consented to the permanent substitution of the use of the Chapter House for the Consistory Court: the Chapter House is fitted up for the purpose when required. I have not been able to ascertain where the Dean and the Dean and Chapter held their courts, probably in the Chapter House. I am indebted to Messrs. Macdonald and Malden, the Deputy Registrars of Salisbury, and to C. W. Holgate, Esq., the Bishop's secretary, for information.

#### SOUTHWELL.

This diocese only came into existence in 1884. I am indebted to the Registrar, John Borough, Esq., for the following information:

“The Chancellor of Southwell holds a Consistory Court as and

when required. There is no fixed place. The Chapter House in Southwell Minster is well adapted for the purpose, but the few Courts that have been held hitherto have been in All Saints Church, Derby, and St. Mary's, Nottingham, as more convenient to the parties. If a case came from the neighbourhood of Southwell, the Chancellor would sit there—or even at Chesterfield or Glossop if desired."

There is a Chancellor's chair in the north aisle of All Saints' Church, Derby.

#### TRURO.

This diocese was restored in 1877. The Registrar, Arthur Burch, Esq., writes as follows :

"On the only occasion of a sitting of the Consistory Court of Truro, it took place in the Town Hall, which was lent for the purpose. There has never been a sitting in the Crypt of the Cathedral. I daresay the Crypt of Truro might be used on a future occasion."

#### WORCESTER.

At the time of the Returns of 1829 and 1830 the Consistorial Episcopal Court of Worcester had jurisdiction to grant probates of wills and letters of administration of all persons dying within the diocese of Worcester possessed of personal property within the said diocese. The Rectors of nine parishes in the counties of Worcester and Warwick had also the same jurisdiction, each within his respective parish, and the Dean and Chapter had the same jurisdiction within five parishes in the county of Worcester. But these ten Peculiar Courts were inhibited by the Bishop for one year of his triennial visitation.

According to Browne-Willis, the Consistory Court at Worcester is the south-west end or bay of the nave, and his plan would seem to indicate that it was enclosed, but that it had no furniture. At present, by an agreement between the late Bishop, Dr. Philpott, and the Dean and Chapter of Worcester, the court is held in the Chapter House. At one time it appears to have been in the Lady Chapel, but neither there nor in the nave was there any permanent furniture.

I am indebted for information to John H. Hooper, Esq., the Registrar.

## PART II.—PROVINCE OF YORK.

## YORK.

In the Return of 1829 the Courts of the Archbishop of York having testamentary jurisdiction are stated as the Prerogative Court, the Exchequer Court of York, and the Chancery Court of York. The Return of 1830 specifies "The Exchequer and Prerogative Court" and "The Consistory and Chancery Court," while Phillimore in his great work, edition of 1895, p. 922, says the Archbishop of York's courts are "the Supreme Court, called the Chancery Court, the Consistory Court, and the Court of Audience."<sup>1</sup> To-day, under the Act of 1874, Lord Penzance is Official Principal or Auditor of the Chancery Court of York. Lord Grimthorpe is Vicar-General of the province and Chancellor of the diocese of York. The court in which he sits is described as "The Consistory place within the Cathedral and Metropolitan Church of Saint Peter in York."<sup>2</sup> The Archbishop had also in 1829 two Peculiars, that of Ripon and that of Hexhamshire; the Dean and Chapter of York and the Dean of York had also courts, the first with jurisdiction over thirty-five parishes in the counties of York, Nottingham, and Leicester, and the second, over nineteen parishes in the county of York. The Archdeacon of York, the Archdeacon of the East Riding, the Precentor, the Chancellor, the Sub-Dean, and the Succentor of York, all had peculiars, and so had eighteen Prebendaries. Thirteen other Peculiar Courts also contributed to the confusion of 1829 and 1830. The peculiar and exempt jurisdiction of the Provost of the Collegiate Church of Beverley terminated at the dissolution of the monasteries.

"The Consistory place within the Cathedral and Metropolitan Church of St. Peter's in York" is in the Old Ecclesiastical Court, situate at the south side of the minster, having the vestry on its east side, which again has Archbishop Zouche's chapel on its east side. In this room all the courts connected with the province and

<sup>1</sup> As this court had no testamentary jurisdiction it would not be mentioned in the Returns of 1829 and 1830.

<sup>2</sup> Phillimore's *The Ecclesiastical Law of the Church of England*, 2nd edition, p. 926.

diocese are held. In Browne-Willis's plan this room is called "The Treasury," and the "Archbishop's Consistory Court" is shown on the plan in the north end of the west aisle of the north transept, but the present officials have no recollection of this court having ever been used, or even existing. Nor is it known where the courts of the Dean and Chapter and of the Dean were held.

I am indebted for much trouble to H. A. Hudson, Esq., the Registrar of York.

#### DURHAM.

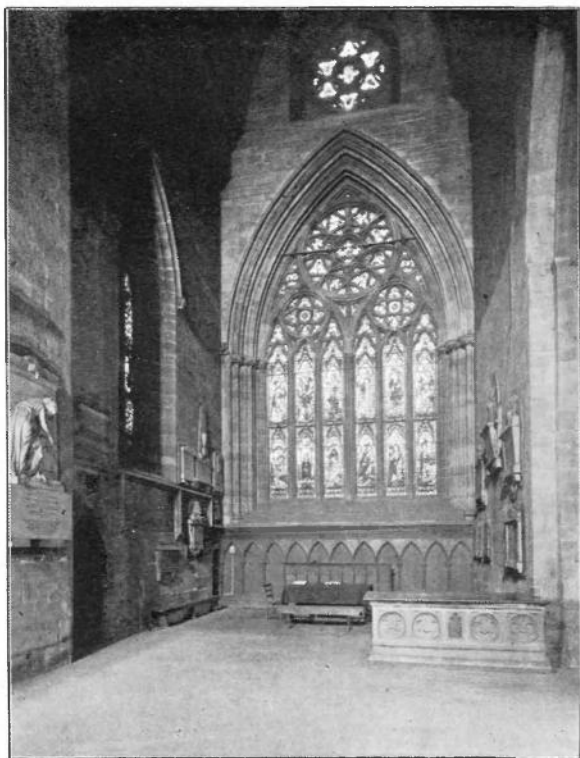
At the time of the Returns of 1829 and 1830 the diocese of Durham had but one court with testamentary jurisdiction, namely "The Consistory Court of Durham." This court had jurisdiction over the diocese of Durham, which comprised the county of Durham, the county of Northumberland (except Hexhamshire, which is a Peculiar of the Archbishop of York), the Borough of Berwick-upon-Tweed, and the parish of Alston in Cumberland.

The Galilee Chapel of Durham Cathedral is the place where the court is usually held; but on the occasion of a trial under the Clergy Discipline Act, 1892, as the Galilee Chapel proved too small for the necessities of the court, the proceedings were opened there, and then adjourned to the Chapter House.

I am indebted for information to T. B. Lazenby, Esq., one of the Registrars of Durham.

#### CARLISLE.

Only two insignificant Peculiars interfered with the jurisdiction of the Consistory Court of the Lord Bishop of Carlisle, namely the Manorial Court of Ravenstonedale, a manor which formerly belonged to the priory of Watton of the order of Sempringham in Yorkshire; and the Manorial Court of Temple Sowerby: this last was practically obsolete in 1829 and 1830, as persons resorted to the Bishop's Consistory, which had a concurrent jurisdiction. Temple Sowerby was formerly a manor belonging to the Knights Templars. Bishop



CONSISTORY COURT. CARLISLE CATHEDRAL.

Nicolson, in his "Miscellany Accounts of the Diocese of Carlisle," published by the Cumberland and Westmorland Antiquarian and Archæological Society, p. 42, says of Ravenstonedale Church—

"The Altar has no rails and stands at a distance from ye East-window; having two rows of seats or benches betwixt it and that for the Scholars. They have a tradition that ye Steward and Jury of ye Mannour sate formerly on these benches in judgement (of life and death) upon such malefactors as were arraigned for any capital crime."

This was clearly the court of the Manor and Peculiar for all purposes, and shows how the seigniorial jurisdiction and the ecclesiastical jurisdiction had gone together in the creation of Peculiars. See Stubbs' *Historical Appendix I. Report of Commissioners on Ecclesiastical Courts*, Vol. I, pp. 21, 26.

The Consistory Court of Carlisle is in the north transept of the cathedral, and is shown in Browne-Willis's plan of the cathedral, which also shows a seat for the Chancellor opposite the Bishop's Throne, and near to the easternmost (or Mayor's) stall on the north side. This disappeared long ago, as the Chancellors, being generally Canons or Archdeacons, had their own stalls in the cathedral and preferred to use them. My predecessor, Chancellor Burton, having been enthroned and installed as deputy for more than one Bishop, claimed to sit, and always sat, in the Bishop's stall on the right hand side of the entrance to the choir.<sup>1</sup> The Consistory Court of Carlisle is shown in a coloured plate of the transept of Carlisle Cathedral drawn and lithographed by E. H. Buckler, and published by Charles Thurnam and Sons of Carlisle.

I am indebted to my friend Warwick Hele, Esq., for his pains in taking the photograph here reproduced.

#### CHESTER.

The courts in this diocese at the date of the Returns of 1829 and 1830 were the Consistorial Court of the Vicar-General or Chancellor of the Diocese, with testamentary jurisdiction over the whole diocese, which consisted then

<sup>1</sup> The Bishop of Carlisle has both a throne and a stall in his cathedral, and on his appointment is both enthroned and installed.



of the whole counties of Chester and Lancaster and part of York, Westmorland, Cumberland, and Flint; the court of the Rural Dean of the twelve deaneries of the archdeaconry of Chester, with jurisdiction over all decedants within the archdeaconry the value of whose effects is below £40, clergymen and esquires being wholly excepted; and the Consistorial Court of the Commissary of the archdeaconry of Richmond.

There were eight Peculiars in the diocese, viz., the Royal Peculiar of Middleham, the Peculiar Court of Hawarden in Flintshire, the Peculiar Court of the united parishes of Masham and Kirby Malzeard<sup>1</sup> in Yorkshire, and the Manorial Courts of Arkingarthdale, Hunsingore, and Knaresborough; and two other Peculiars, one under the Dean and Chapter of York, the other under the Precentor of that cathedral.

The Consistory Court at Chester is under the southwest tower of the cathedral, and is permanently fitted up as a court.

I am indebted for information to Messrs. Gamon, Farmer, and Gamon, of Chester.

#### LIVERPOOL.

The Consistory Court for Liverpool is held in the Vestry of St. Nicholas Church, Liverpool, the pro-cathedral. The See was founded in 1880. I am indebted for information to Messrs. Gamon, Farmer, and Gamon.

#### MANCHESTER.

The See of Manchester was founded in 1848. Mr. Chancellor Christie in 1887 informed me that his predecessors never held any courts at all; and when he was appointed, he found no court: for many years he sat in a small room in the registry: in contentious cases he obtained the loan, somewhere, of a proper court. Several successive Deans of Manchester were anxious that Chancellor Christie should hold his court in a chapel in the cathedral, but the arrangements, for various reasons, fell

<sup>1</sup> For some information as to these Peculiars see *Proc. S.A.*, 2nd Series, Vol. IV, pp. 270-1. Since 1829 these

parishes have been transferred to the new diocese of Ripon.

through. Chancellor Vernon Smith now holds his courts, by permission of the Dean of Manchester and other officials concerned, in the Derby or St. John's Chapel in the cathedral, which is in the second aisle on the north side of the choir.

I am indebted for information to E. P. Charlewood, Esq., the Registrar of Manchester.

#### NEWCASTLE.

This is a new See, founded in 1882. The Chancellor has not as yet acquired any fixed court.

I am indebted for information to T. B. Lazenby, Esq., one of the Registrars of the diocese, and to R. Blair, Esq., F.S.A.

#### RIPON

The Consistory Court for this diocese is in the nave of the cathedral, at the west end of the north aisle of the nave. There is a wall between it and the space under the west tower, and there is also a wall on the south side of the court, between it and the nave; it is separated from the north aisle by an iron railing, shown in a view of the interior of the nave of Ripon Cathedral, given in Murray's *Handbook to the Northern Cathedrals*, Pt. I, opp. p. 154. The court contains an official chair and table, but is only used in contentious cases, and once when the Bishop had to pronounce sentence of deprivation. As the See was only revived in 1836, this court must be of modern origin, unless it was, as is probable, the court for the official of the Archbishop of York for his Peculiar of Ripon.

I am indebted for information to F. D. Wise, Esq., the Registrar of the diocese of Ripon.

#### SODOR AND MAN.

The Chancellor and Vicar-General holds his courts, when necessary, in the Court Houses of the different towns in the Island.

I am indebted for information to Frank J. Johnson, Esq., of the Diocesan Registry.

## WAKEFIELD.

This See was only founded in 1888, and no place has yet been fixed for the Consistory Court of the diocese. In a recent case<sup>1</sup> the Chancellor of the diocese delivered judgment in the cathedral, though the case itself was heard in the Church Institution at Wakefield. The eastern part of the chapel north of the chancel of Wakefield Church, near the cathedral, used to be fitted up court fashion. My informant, Mr. J. T. Micklethwaite, V.P.S.A., tells me that

“the walls were panelled round and a bench fixed against them with an elbowed seat in the middle of the east side. The work seemed to be of the eighteenth century, but there were also some very massive desks, not fixed, but placed in front of the benches. They were *tempore* James I, as I think.”

These were, however, destroyed, and the place is now occupied by a vestry and an organ.

I am indebted for information to W. F. L. Horne, Esq., the Registrar.

<sup>1</sup> On the 17th of March, 1897.