

PROBATE AND THE CHURCH COURTS IN BUCKINGHAMSHIRE IN THE CIVIL WAR ERA

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Probate traditionally came within the jurisdiction of the church courts. At the outset of the Civil War these courts lost their authority, yet in Buckinghamshire, as elsewhere, wills continued to be proved and administrations granted by their officials throughout the 1640s. This paper uses the surviving records to explore how, and by whom, the service continued to be provided.

At the outbreak of the Civil War in 1642 the church courts, long execrated by Puritans and religious nonconformists, were effectively deprived of the power to enforce their jurisdiction and the whole disciplinary system of churchwardens' presentations and archdeacons' and bishops' visitations ground to a halt. Yet in practice the break was not quite as complete as it seemed. For one of the main functions of the church courts was the probate of wills and, as Christopher Kitching points out in his article 'Probate during the Civil War and Interregnum',¹ there is ample evidence, from published indexes to wills alone, that in the absence of any alternative provision prior to 1653 probate registration facilities continued to be supplied in many areas by officials of the old church courts long after the supposed termination of their jurisdiction. Despite being located within one of the principal combat zones, Buckinghamshire was one of these areas.²

The church courts, as they existed on the eve of the conflict, were staffed by permanent judges, usually laymen, and officers trained in civil law, which was the law administered in these courts. By long custom the courts for the archdeaconry of Buckingham, which was virtually co-terminous with the county and was then in the diocese of Lincoln, were based at Aylesbury.

The judges at this time were Sir John Lambe (1566?–1647), LL.D., official principal to the archdeacon of Buckingham, and William Roane, LL.D., the bishop's commissary within the archdeaconry. Lambe³ was one of the most outstanding 'civilians' of his day and one of the most controversial. A fervent supporter of Archbishop Laud, he was a member of the court of High Commission from 1629 and dean of the court of Arches from 1633, posts that conferred great influence and prestige. Although a known personal enemy of Laud's opponent, John Williams, bishop of Lincoln, he had been appointed in 1634 as one of the archbishop's commissioners for his metropolitan visitation – the first in nearly a century – in Lincoln diocese.⁴ His appointment as official in February 1635 can be seen as part of the same strategy for circumventing the bishop's opposition in order to ensure the success of the Laudian reform programme in a corner of the diocese much suspected of Puritanism.⁵ The archdeacon of Buckingham, Robert Nowell, or Neile, in whose gift the appointment lay, was half-brother to Richard Neile, archbishop of York, a prominent Laudian.

Lambe had a house at Rothwell (presumably Rothwell in Northamptonshire), though he must have spent much of his time in London. Despite his many other commitments he seems to have

been personally active locally, at least in the two or three years following his appointment.⁶ He suspended Puritan clergymen for refusing to read the Book of Sports and appears to have met with considerable success in imposing a measure of outward conformity in liturgical observances.⁷

In comparison with Lambe William Roane, LL.D., of Weddington in Northamptonshire, is a shadowy figure.⁸ He is believed to have been born at Wellingborough in 1608 and was a fellow of Trinity College, Cambridge, from 1629 to 1643. He seems to have been appointed commissary – presumably by Williams – in 1636 in succession to Robert Barker, B.C.L., of Great Horwood, who died that year.⁹ Prior to February 1635 the posts of official and commissary had both been held by the same man, Oliver Cobb, M.A., whose lack of legal qualifications may have provided the opportunity to create a vacancy for Lambe.¹⁰

While Lambe and Roane both held some visitations in person, the surviving records show that in practice much of the judicial work, including the holding of visitations, was carried out by a small number of local clergy, most of whom were incumbents of larger benefices, acting as surrogates within their own localities; none of them was legally qualified. They were John Andrewes, rector of Beaconsfield; John Bartin, vicar of Aylesbury; Francis Clitherowe, vicar of Little Brickhill; William Sparke, rector of Bletchley; and John Vintner, rector of Weston Turville.¹¹ Their activities also extended to probate jurisdiction, a field in which Bartin and Vintner were particularly prominent. Spot checks of the registers suggest that a high proportion of probates of wills was granted by these surrogates acting in the joint names of Lambe and Roane.

Probate was in a sense in a separate category from other church court business in being largely non-contentious and its records were kept in distinct series of registers and files. But the separation was not absolute. Enquiries into allegations of neglecting to prove wills and similar misdemeanours connected with probate bulked large among the disciplinary matters,

mostly arising out of visitations, dealt with by the archdeaconry court; a total of 414 was dealt with in the three years 1633–35 alone. In many of these cases there are references to the issue of commissions to local incumbents, probably for the administration of the required oaths out of court in accordance with standard practice.¹² Such zeal was not entirely disinterested, for testamentary business was an important source of income in the form of fees.

An essential element of the court's administration was provided by the registrar ('register') or scribe of the acts whose functions were to examine witnesses in formal proceedings, authenticate the acts of the court and keep the archives. This meant that his attendance was required as much as that of the individual judges, but it appears that a public notary could deputise for him in court proceedings. Prior to 1625 the office was being performed by Arthur Claver, in tandem with the registrarship of the archdeaconry of Bedford, and in 1632–33 Arthur Claver, junior, presumably his son of that name, was registrar.¹³ From December 1633 the role was being performed by Matthew Leake, but it is not clear that the latter actually held the office, as he consistently styles himself merely as 'notary public'.¹⁴ He is presumably the 'Mr Matthew Leek' of Aylesbury who contributed 10s. (a relatively large amount) for the relief of the distressed Irish Protestants in 1642.¹⁵

When the Long Parliament met in late 1640 Lambe was one of the first to feel its wrath. In February 1641 he was summoned before a committee of the House to answer a petition from the parishioners of Waddesdon which accused him of having compelled them to maintain a pair of organs and an organist at great expense. He made formal submission in March but other, more serious, accusations followed, involving him in fines totalling £1350. He was even threatened with impeachment along with Laud.¹⁶ After all this it is perhaps surprising to find him, in October 1641, angling for a transfer from Arches to the vacant post of master of the Prerogative Court of Canterbury, the principal court for the probate of wills of testators holding property in more than one diocese within the

southern province.¹⁷ As late as January 1642, too, it is clear from an extant letter that he was preparing to hold a visitation at Beaconsfield which was only 'diswarned' at short notice.¹⁸

The Civil War broke out later the same year and Buckinghamshire was soon embroiled. On 29 November the king retreated to Oxford where he set up his headquarters. By March 1643 Aylesbury was being fortified as a regular parliamentary garrison; the walls would remain in place until mid-1646.

Meanwhile, apparently unaffected by Parliament's acceptance of a bill abolishing episcopacy in January 1643,¹⁹ wills continued to be proved and administrations granted and there is no break in the series of will registers and filed original wills, so that the modern-day user could be forgiven for forgetting that a war was in progress. The most obvious clue is the decline in the relative bulk of the records, for as can be seen from the table, the annual totals of wills proved declined sharply during the war years, though they remained far from negligible. Quite apart from the disruption caused by warfare some decline was only to be expected with the removal of the disciplinary machinery mentioned above, enabling some executors to ignore their responsibilities. What is clear is that there was still a significant demand for the service.

Another, much less obvious, feature of the records at this time relates to the bundles of filed original wills, many of which now have ancillary documentation folded in. Usually this comprises executors' bonds to the judges for due performance of their office and/or commissions in the judges' names for the administration of relevant oaths, the latter normally directed to two local incumbents or other clergy in each case, but other documents, including court acts are also occasionally found. The act of a hearing held at Aylesbury on 26 May 1643 before John Bartin 'surrogate', for example, records formal evidence that Thomas Rolls of Ashendon, having duly made his will, had given it to his daughter Agnes for safe-keeping; and that Agnes's husband, 'fearing that his house might be plundered by the soldiers billeted

thereabouts', buried it, with other writings of his own, in the ground, where it remained for six months before being retrieved, which is why it was so 'rotted torne and defaced' as it now was.²⁰ The will of Samuel Wilkinson was a more direct casualty of war on the seventh of March 1644, when, as a witness alleged, 'the Kings soldiers came into Amersham in an hostile (*sic*) manner and plundered divers houses in the said town', for it was carried off among the £300 worth of booty taken from his house.²¹ Natural hazards, unrelated to the war, also figured in such investigations. The will of Henry Buckley of Chesham Bois, who died in 1646, remained unsigned and unsealed because, it was said, he was thought to be sick of the plague and so the neighbours would not come in to him.²² Bonds and commissions are also found in the 1630s but few seem to have been preserved for other periods; their presence is testimony that the organisational machinery was still able to function, however imperfectly, and that a great many local clergy were involved with it.

At this point the question of authority naturally arises. The evidence of the records themselves demonstrates that throughout the war probates were granted, nominally at least, on the authority of Lambe and Roane. This is despite Lambe's having joined the king at Oxford by December 1643, an action which incurred sequestration of his goods as a royalist delinquent.²³ As late as January 1643 Lambe and Roane had granted at least a few probates in their own joint names.²⁴ More surprisingly, they also granted some in 1644, which makes it likely that there was degree of communication, and even of collusion, across the battle lines.²⁵ But the great bulk of the work during these years was performed by surrogates on their behalf.

Much the most active surrogate during the whole of the war period was John Bartin at Aylesbury but John Armitage was surrogate on many occasions from August 1643 onwards and the names of John Vintner, Francis Clitherowe and Gerrard Dobson (1644-45 only) are also occasionally found.²⁶ Bartin had been summoned before Parliament and briefly imprisoned in July 1642 for reading a royal

declaration with 'opprobrious words' about Parliament.²⁷ Armitage, a known Royalist, had been vicar of Wendover since 1615, but was ejected from his living by the parliamentary authorities around October 1643, one of a total of some fifty Buckinghamshire incumbents to be dealt with in this way.²⁸ Dobson was the Puritan vicar of Wycombe whose sermons against official church policy had been reported to Laud in 1636 and there is thus a certain irony in his acting as surrogate for Lambe, but his willingness to act is significant.²⁹ Clitherowe and Vintner, like Bartin, had both, as we have seen, been associated with the court for many years.

A surviving act book of administrations of estates of intestates for the years 1633-1645 shows that the numbers granted were comparatively small.³⁰ The entries for the years 1642-45 are arranged by deaneries and this facilitates comparison of their incidence in different areas of the county. In Buckingham deanery, one of the areas where royalist control was maintained for longest, there is a blank between May 1642 and May 1645. In Newport deanery there are fewer than 16 entries; in Waddesdon 9; in Wendover 21; and in the combined Chiltern deaneries of Burnham and Wycombe over 50. A similar geographical analysis of wills proved would probably provide more precise patterns of distribution. In the case of administrations as of probates, John Bartin was responsible for the great majority of the entries. Usually he is described simply as 'surrogate', but occasionally, as in May 1643, this is extended (in Latin) to:

surrogate of Sir John Lambe, knight and doctor, and William Roane, clerk, commissary, in and for the whole archdeaconry of Buckingham lawfully appointed in the presence of Henry Stratfold, notary public.

This side-steps the question of ultimate authority, but much the same abbreviated formula can be found in the early 1630s.

Because the process of probate itself did not normally require the presence of the registrar our information about the office in this period is sketchy. Matthew Leake's name (see above) recurs on occasional enclosures among the filed wills between 1642 and September 1646, some-

times as a witness to a bond and at least once as being present at a formal court hearing. Henry Stratfold (see above) is found attesting documents from before 1640, describing himself,³¹ like Leake, simply as notary public, and was still acting in November 1649.³² He is possibly the Henry Stratfould of Aylesbury who contributed 1s. 6d. for the Irish Protestants in 1642 or, alternatively, the Henry Stratfold of Bierton who contributed 8s. on the same occasion.³³ Which, if either, of these, Leake or Stratfold, was responsible for the actual custody of the records does not appear. Finally, by May 1644 another notary, Arthur Claver, makes an appearance, with the title of deputy registrar.³⁴

In April 1645 John Bartin was sequestered from his benefice by the parliamentary regime, together with John Vintner. His ejection had no immediate effect on his probate activities, but two covering notes forwarding wills from him dated 6 and 24 August 1645, the second at Wendover, suggest that he may have moved away from Aylesbury.³⁵ Both are addressed to Stratfold and are routine in nature. The first note gives a flavour of the relationship between the two men and shows that Bartin, despite his long experience, relied to some extent on Stratfold for guidance in matters of procedure. It reads:

Good mr stratfold I have Administered an Oath to this bearer William Rutt, concerning the truthe of the last will of John Bates deceased. I would intreate you to advise him what he must doe for he hath no Inventorye, the young man having no goods, but moneys dew to him for his portion wch is in other mens hands. So not douting of your good helpe to him heerin, I com[m]end you to God, and Rest

your Loving Friend

Jo: Bartin

But with the coming of peace the situation was about to alter and after December 1645 both Bartin and Armitage ceased to act as surrogates for probate. That they and the other surrogates had managed as well as they did for so long in troubled times in the absence of their legally qualified principals is evidence of the flexibility of the system and of continued public demand.

The impetus for change was provided by the reappearance on the local scene of Sir John Lambe, then aged around eighty, who is found granting probates in October and November 1645, well before the surrender of Oxford on 24 June 1646 brought the war in the area to a formal close. From January to December 1646, with few exceptions (Clitherowe, Vintner) all probates were granted by Lambe in his own name as official with no further reference to Roane or to any successor as commissary.

Lambe's reappearance seems to have coincided broadly with the emergence of another civil lawyer, Richard Claver. Born around 1612, he was a younger son of Arthur Claver (d. 1646), the former registrar of the archdeaconry court, who had purchased the manor of Oving, some five or six miles to the north-west of Aylesbury, in 1594.³⁶ Richard had graduated B.C.L. from Lincoln College, Oxford, in 1634.³⁷ His name first appears in the records as early as January 1645, when he granted probate of a will as official of the peculiar jurisdiction of Buckingham, a town with which his family had close associations, and it recurs in August of the same year in the same capacity.³⁸ From December 1645 onwards he occasionally granted probates as 'special commissioner' for Lambe, sometimes jointly with Stephen Allanson, vicar of Oving.³⁹

Sir John Lambe's death, which is thought to have occurred early in 1647,⁴⁰ raised the question of legitimacy and continuity in an acute form. The unexplained absence from the registers of any wills proved between November 1646 and June 1647 (there is no physical gap) may indicate a crisis. Then in June 1647 probates start to be granted by, or in the name of, Richard Claver, 'official in and for the whole archdeaconry of Buckingham rightly and legally (*rite et legitime*) appointed', the first two by Stephen Allanson as special commissioner for Claver.

How had this come about at the very time (March 1647) that Parliament had approved the introduction of a Presbyterian form of church government? The most likely answer would seem to be that Claver had secured the appoint-

ment from the then archdeacon of Buckingham, Giles Thorne, who had been appointed to the office on Robert Newell's death in 1643, though he was not admitted until after the Restoration.⁴¹

Legal or not, Richard Claver must have felt that his appointment was a reversion to the natural order of things. For the Clavers and their relations, the Smiths of Akeley and Buckingham and the Barkers of Great Horwood, had been associated with the courts of the archdeaconry of Buckingham since the 1550s, if not earlier.⁴² The list includes Richard's paternal grandfather Marmaduke Claver, registrar; his maternal grandfather William Smith, commissary⁴³ and official; and his uncle Robert Barker (d.1636), commissary. In this context is not surprising to find that the deputy registrar of 1644 was either his brother Arthur, junior, or Arthur's son of the same name who had matriculated at Exeter College, Oxford, in June 1641, being then aged fifteen.⁴⁴ By February 1648 Arthur Claver was using the title 'Publique Notary and Register'.

On the face of it, family feeling on the part of Richard Claver seems to explain an enclosure found within the filed will of his father, Arthur Claver 'the eldest', late of Buckingham, gentleman, the former registrar, which was probated by Lambe in January 1646. It is a copy of a letter addressed to the then bishop of Lincoln, John Williams, in 1626.⁴⁵ The letter is headed 'The Cobby of my Fathers letter to the lo[r]d B: of Lincoln'; a copy has also been inserted in the wills register, where it is entered after the probate and has a more formal heading, but no other explanation. In the course of the letter Arthur Claver vindicates himself *inter alia* of the charge that he is withholding 'moneys supposed to be in my hands due to your Lo[r]dship] for Fynes of Testaments and Administrations by me received...' He argues that by statute no fines or fees were in fact due to the bishop but only to the officers authorised to grant probate, pointing out that the statutory fees are 'a very meane recompense of their paynes and charge of attendance in these small jurisdictions.'⁴⁶

Perhaps the most remarkable feature of the archdeaconry court records in this period is the evidence of testamentary litigation between

parties, as distinct from mere registration. Paradoxically, this kind of record very rarely survives for any other period in the archdeaconry archives. The total number of lawsuits is not large, but in any period most probates would have been non-contentious.⁴⁷ The evidence of litigation coincides fairly closely with the return of Lambe in October 1646 and continues into 1649; as indicated above, a few 'acts' recording court proceedings are indeed found even during the preceding war years but they all appear to relate to the formal validation of physically damaged wills or wills not made in due form. For some of the cases heard the documentation – again filed with the relevant wills – is quite extensive and includes citations, interrogatories, depositions of witnesses and, sometimes, sentences.

During 1646, while Lambe was still alive, the hearings were all held before commissioners acting on his behalf, chiefly Richard Claver, Stephen Allanson and Francis Clitherowe.⁴⁸ In this period, too, Richard Claver sometimes appeared in the capacity of notary and once or twice as proctor, or legal representative, for one of the parties to a dispute. After he succeeded Lambe as official Claver almost invariably presided as judge himself. Courts were held in a variety of venues. In 1646 there were sittings at least four times in Oving parish church and twice in other local churches⁴⁹ (Wendover, Little Brickhill), once in 'the public office of the registrar in Aylesbury', once in the house of Marmaduke Claver (Richard's eldest brother) in Oving and once by adjournment in the house of Thomas Page there.⁵⁰ In the following three years several sittings took place in public houses⁵¹ (the Cock in Stony Stratford, the Red Lion in Great Brickhill and the Catherine Wheel in High Wycombe) and the rest mostly in the 'public registry', now situated in Oving and in one instance stated to be in the house of Arthur Claver⁵² there; perhaps significantly, only one meeting was held in a church (Oving) in these years.

Attendance at court was secured by Latin citations, some of which retain evidence of having once borne an applied official seal. One such citation in 1648 is directed to Christopher

Rutter 'my apparitor' (i.e. summoner).⁵³ Others are addressed more generally to 'all clergy and literate persons' (*universis et singulis clericis et literatis*) within the archdeaconry requiring them to cite and warn, either personally or by other ways and means, the person(s) named and all others claiming an interest in the matter in question. In one case, at least, provision was also made for giving publicity to the outcome, for a note on the sentence states that it was read in the church of Little Brickhill.⁵⁴

As far as individual lawsuits are concerned, the dispute over the will of Robert Felpe, or Phelps, of Linslade, husbandman, in 1646 has wider implications than most.⁵⁵ Enclosed with the papers is a parchment pro-forma Latin 'letters of administration' in the king's name issued by the Prerogative Court of Canterbury. It recites that Felpe had died intestate having goods and credits in several dioceses, which were thus within that court's jurisdiction, and it grants the administration of his property to his sister and one of his creditors. The document, dated 3 April 1646, is witnessed by Sir Nathaniel Brent,⁵⁶ knight, D.C.L., master, and countersigned by John Abbott, registrar.

Based in London, the archbishop of Canterbury's Prerogative Court had for centuries been the senior central court of probate, having concurrent jurisdiction with local courts throughout the southern province. But early in 1643 its business had been interrupted by the defection to the king of the then master, William Meyrick, taking with him to Oxford the court seal and some of the records, so that the court thereafter functioned under royalist control. After an interval of eighteen months Parliament had found it necessary, by an ordinance of November 1644, to set up a rival body, also called the Prerogative Court and following the same procedures as formerly, but shorn of any reference to the archbishop.⁵⁷

It was this new, secularised, Prerogative Court which had issued the letters of administration in the Felpe case. As at other periods, there appears to have been an element of customer choice (i.e. for those willing to incur the extra expense entailed), since in practice the

rules limiting Prerogative Court's jurisdiction could often be safely ignored by the client, as seems to have happened in this instance. For it transpired that the deceased had in fact made a will and an action was brought in the archdeaconry court by Felpe's deceased wife's second husband claiming the executorship. The case was heard on 8 April 1646 before Allanson and Claver as commissioners for Lambe and the upshot was that the opposing party agreed to renounce the letters of administration they had taken out from the Prerogative Court and the will was duly proved in the archdeaconry court. Whether actual fraud had been intended by the defendants is left unclear.

Two other examples will perhaps suffice. The case of *Coleman v. Coleman* refers to a will proved in the archdeaconry court in 1644.⁵⁸ A second will had since been produced and the court had to decide which of the two was valid. Witnesses were summoned to give evidence before Richard Claver at the Red Lion in Great Brickhill, the parish in which the deceased had resided. One of the hearings was held in Oving parish church. The case started in the early months of 1648 and was still pending in June. The documentation includes what appears to be an outside legal opinion by one William Clerk.⁵⁹

The case of *Widmer v. Lane* and others in November 1649 concerns the competence of the deceased, John Widmer, gentleman, whose personal estate was valued at £603 9s. 10d. in an accompanying inventory, to make a valid will (the second of two).⁶⁰ A set of 23 carefully drafted interrogatories was prepared. Medical evidence was given and a total of ten witnesses (Gerrard Dobson, the erstwhile surrogate, among them) testified to the circumstances in which the will was made and to the physical and mental state of the testator at the relevant time. John Vintner of Weston Turville, the former surrogate, acted as proctor for the widow, Lucy Widmer, stated to be his cousin. An endorsement on the citation certifies that process was executed on the door of Hughenden church.

But the situation was again about to change. The numbers of registered and filed wills

TABLE
Annual totals of wills proved in the archdeaconry court, 1639-1652

Year	Registered	Filed	Year	Registered	Filed
1639	244	246	1648	150	144
1640	186	182	1649	148	140
1641	103	73	1650	106	89
1642	166	64	1651	13	19
1643	50	53	1652	5	11
1644	55	53			
1645	62	61			
1646	74	66			
1647	150	152			

Notes. Years are Old Style (i.e. begin on 25 March). A large number of wills exist in both registered and filed form and so appear under both headings. From Nov. 1644 totals include some copies of wills proved in the Prerogative Court. (Source: will registers and filed wills [BRO D/A/Wc/33-38; D/A/Wf/33-39]).

proved in 1647, 1648 and 1649 show increases of more than 100% over the previous three years, though still well down on 1639 (see table), but after this there is a sharp decline. In 1650 the figures are still around 50% up on 1646 but they dwindle to almost nothing in 1651 and 1652.⁶¹ In the course of 1651 the language of the probates changes from Latin to English. The last probate to be granted locally is dated December 1652.

Why did business drop off so sharply after 1649, just when the court seemed to be getting into its stride again? True, the execution of the king in January 1649 had ruled out any further hope of compromise on church government and had given greater urgency to the review of legal arrangements generally which had long been in progress, but the new, centralised Court for Probate having responsibility for all probate business throughout the country did not come into being until April 1653.⁶² A partial answer to the question is supplied by three letters from Joseph Reding enclosed with the filed will of Christopher Reding of Chalfont St Giles, yeoman, proved in 1649, which also incidentally throw some light on Arthur Claver's business arrangements.⁶³ The first letter is dated 5 December 1651 and is addressed to Mr Henry Rie at the Black Swan in Aylesbury:

Mr Ric

Mr Dawson (I suppose the undersheriffe named so) pleades against me ignorance whether I am my fathers executor or no: I have proved the will in Mr Clavers court according to my sum[m]ons; and it no way belongs to the prerogative Court of it selfe but by the newe will of our age. I therefore intreat you to post this inclosed to Mr Claver if he be not at yo[u]r towne this day, who I doubt not will not fayle of sending the originall will to me by you for I must goe to London to prove it anewe. I praye send it to me to John Dayes at the George at Amersham. And what chardge may fall upon you in this employment by way of friendship shalbe double requited by the Coachman so in hast

I am ever yo[u]rs

Jos. Reding

A second letter, which, as a postscript makes clear, is the enclosure referred to, is addressed to 'Mr Claver register at the office at Oving or elsewhere these in hast', reads:

S[i]r

upon occasion of coming to a triall in lawe I finde by the judge that the probat' of my fathers will is invalid in yo[u]r Court, and so have all these 5 or 6 yeares; wherfor I desire you send me the originall will by this bearer; for I must to London for the probat of it there. I am sorry that yo[u]r Court is subject to these injuries of yo[u]r friendes wherof the one of them is

Yo[u]rs really Jos: Reding

The third letter, also undated, is addressed 'To my worthy friend Mr Claver register of ye office in Civill Lawe matters'

S[i]r

I was summoned in summer nowe two yeares since to prove my fathers will at wickham, to which I was obedient; and nowe upon comeing to a triall in lawe, I am informed by the judge that the proofes of all wills these 5 or 6 yeares are of no force except they have their probat from above whereupon I must be enforc't to recall the will out of yo[u]r office to gaine a newe probat or else I shall be cast (?) in my suite, as a friend of mine was this last

tearme just in my case. Wherefore I pray fayle not of sending it unto me with the inventory by this bearer. ... I sent to you the last Saturday but doubt of the delivery of my leter wherefore I am enforc't to send this messenger on purpose, so in hast. In expectation of your present answer to the necessary request of

yo[u]r friend Jos; Reding

I shall stand to yo[u]r
curtesie in repairing
my damage, knowing
yo[u]r discretion & integrity
of old

It would seem from these letters that at least one of the secular judges was refusing to accept the validity of probates granted in the local church courts since 1645 or 1646, i.e. about the time when the first Civil War came to an end. This policy was manifestly unjust, given that the statutory Prerogative Court set up in November 1644 (and still being run by civilians) did not, as we have seen, assert any claim to jurisdiction over local wills relating to property in one diocese only, at any rate in April 1646.

It is obvious that such a policy could not fail to discourage executors from proving wills in the local courts, even though they were able to provide an acceptable service and one which was almost certainly more efficient than the Prerogative Court could give. The new central Court for Probate, when it came into operation in 1653, was also unpopular in the provinces because of the inconvenience entailed in having to go to London.⁶⁴

The archdeaconry court's probate jurisdiction was now almost at an end (until its revival at the Restoration),⁶⁵ but Joseph Reding's reference to his having received a summons to prove his father's will at Wycombe is evidence that not only was it providing a full professional service as late as 1649 but that there was also a system in place for monitoring and following up deaths of persons owning sufficient personal property for their estates to be liable to probate.

REFERENCES

- 1 *Journal of the Society of Archivists*, vol. 5, nos. 5-6 (April, Oct. 1976), pp. 283-293, 346-356. My debt to this study will be obvious.
- 2 An index to the probate records of the archdeaconry of Buckingham and peculiars (and including those parishes formerly in the archdeaconry of St Albans) to 1660 is to be published by the Buckinghamshire Record Society (jointly with the British Record Society) in 2000.
- 3 *Dictionary of National Biography* (DNB).
- 4 Clive Holmes, *Seventeenth-Century Lincolnshire* (1980), p. 117.
- 5 E. C. R. Brinkworth, 'The Laudian Church in Buckinghamshire', *University of Birmingham Historical Journal*, vol. v, no. 1 (1955), p. 50 (n. 124). This paper analyses the contents of three surviving archdeaconry visitation books for the years 1633-1637, now classified as Buckinghamshire Record Office (BRO) D/A/V/2-4.
- 6 *Ibid.*, pp. 32, 57 (n. 165).
- 7 W. H. Summers, 'Some Documents in the State Papers Relating to Beaconsfield, Etc.', *Records of Buckinghamshire*, vol. vii (1891-1896), pp. 108, 111; Brinkworth, 'The Laudian Church'; Julian Davies, *The Caroline Captivity of the Church. Charles I and the Remoulding of Anglicanism 1625-41* (1992), p. 238.
- 8 J. and J. A. Venn, *Alumni Cantabrigienses*, part 1.
- 9 Brinkworth, p. 32; J. Foster, *Alumni Oxonienses, 1540-1714*; *Victoria County History of Buckinghamshire* (VCH), vol. iii (1924), p. 375.
- 10 Venn. The combination of the offices of commissary and official seems to have been the norm since the early sixteenth century; see E. M. Elvey (ed.), *The Courts of the Archdeaconry of Buckingham, 1483-1523* (Buckinghamshire Record Society, 1975), p. xvi.
- 11 Brinkworth, p. 32 (n. 13).
- 12 *Ibid.* p. 55.
- 13 BRO D/A/Wf/36/11 (copy letter, 1626); BRO D/A/V/2, f. 91; D/A/C/8, ff. 82v, 118. See also Claver pedigree in Lipscomb, *History of Buckinghamshire* (1847), vol. 1, p. 376.
- 14 See Brinkworth, p. 32 (for Martin read Matthew); Laurine Purola, 'Bishop John Williams and the Diocese of Lincoln, 1621-1641' (Ph. D. thesis, University of New Jersey, 1981), p. 77. I have also looked at the headings to acts recorded in BRO D/A/V/2-4 and in D/A/C/10-12 (proceedings in instance cases, etc., 1637-1640).
- 15 John Wilson (ed.), *Buckinghamshire Contributions for Ireland 1642* (Buckinghamshire Record Society, 1983), pp. 82-83.
- 16 DNB.
- 17 Kitching, p. 285.
- 18 Summers, p. 113.
- 19 Claire Cross, *Church and People 1450-1660* (1976), p. 201. The office of bishop was not officially abolished until October 1646.
- 20 BRO D/A/Wf/35/39. For many people the presence of 'friendly' soldiers was a greater threat than enemy action.
- 21 BRO D/A/Wf/36/126 (probate of the reconstructed will was granted in 1646). According to I. G. Philip (ed.), *The Journal of Sir Samuel Luke* (Oxfordshire Record Soc., 1947-53), p. 262, a party of 600 horse from Reading under the command of Sir Jacob Ashley and Sir Charles Blunt plundered Amersham on 7 March 1644 and returned to Reading the same day.
- 22 D/A/Wf/36/67.
- 23 DNB.
- 24 E. g. BRO D/A/Wf/35/117 (Chessall).
- 25 E. g. BRO D/A/Wf/35/87 (Matts); 35/79 (Hillesden); for an example of collusion by staff of the former Prerogative Court of Canterbury, see Kitching, p. 290.
- 26 Only the will registers have been systematically checked.
- 27 A. G. Matthews, *Walker Revised* (1948). References are to typed extracts by R. A. Kidd in BRO.
- 28 *Ibid.*
- 29 Summers, p. 111; L. J. Ashford, *The History of the Borough of High Wycombe* (1960), p. 121.
- 30 BRO D/A/We/149.
- 31 BRO D/A/Wf/35/87; 35/79; 36/53.
- 32 BRO D/A/Wf/33/154; 38/136.
- 33 Wilson, pp. 82-83.
- 34 BRO D/A/Wf/35/87.
- 35 BRO D/A/Wf/36/3; 36/44.
- 36 VCH, Bucks, vol. iv, p. 87.
- 37 Foster.
- 38 BRO D/A/We/36/52; 36/151.
- 39 BRO D/A/We/36/150; 36/230.
- 40 DNB.
- 41 J. G. Jenkins, typed list of archdeacons of Buckingham in BRO.
- 42 The Smiths were strong royalists. Richard Claver's uncle, Robert Smith, is said to have been killed in 1645 fighting for the king and his son William (later Sir William, baronet and M. P.) was governor of Hillesden House during the epic siege of 1644, which was conducted by Oliver Cromwell in person.
- 43 See Foster, Venn; pedigrees in W. H. Rylands, *The Visitation of the County of Buckingham in 1634* (Harleian Society, 1909) and in Lipscomb, vol. 1, p. 376. I hope to explore the relationships further in a separate study.
- 44 Foster. He graduated B. A. in 1648 and B. C. L. in 1652. His father was alive in 1640 (typed transcript of Oving bishop's transcripts of parish register in Buckinghamshire Local Studies library) but his date of death is unknown; BRO D/A/Wf/35/12.
- 45 BRO D/A/Wf/36/11.
- 46 It is clear from the letter that the dispute had caused Arthur Claver to be suspended from his offices.
- 47 Some 16-17 cases containing depositions or other evidential material have been noted, but not all are genuine lawsuits. Court papers are listed in an appendix to the forthcoming published index to wills (see n. 2).
- 48 In one non-contentious case (BRO D/A/Wf/36/126) Elkanah Gladman, the puritan rector of Chesham Woburn, was named as joint commissioner, though he does not seem to have attended.
- 49 BRO D/A/Wf/36/53; 36/75; 36/96; 36/103; 36/123.
- 50 BRO D/A/Wf/36/67; 36/75; 36/92.
- 51 BRO D/A/Wf/35/12; 37/175; 38/136.
- 52 BRO D/A/Wf/37/281; 37/284; 38/6; 38/40.
- 53 BRO D/A/Wf/35/12.
- 54 BRO D/A/Wf/36/123.

- 55 BRO D/A/Wf/36/75; an inventory with the papers values the testator's goods at £194.
- 56 *DNB*.
- 57 See Kitching, pp. 285–293. According to Kitching the official title of the new court, as shown on its seal, was simply The Prerogative Court, but the Felpe administration document adds the words 'of Canterbury'.
- 58 BRO D/A/Wf/35/12.
- 59 Possibly William Clerk, LL. D., who became judge of the Admiralty Court (another civil law court) in 1648 and died in 1655 (Venn).
- 60 BRO D/A/Wf/38/136.
- 61 The will register for 1650, which is the last in the series until 1686, also includes some wills for 1651 and 1652.
- 62 See Kitching, pp. 346–356.
- 63 BRO D/A/Wf/38/97. The filed will is a certified copy with a note endorsed that the original had been returned to the executor, signed by Arthur Claver, 'register to the Official'.
- 64 Kitching, p. 353.
- 65 By 1661 court records show Richard Claver presiding as official and Matthew Leake acting as notary (BRO D/A/C/13, f.2).