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RESEARCH ARTICLE

Fidei laesio and debt revisited: the Lichfield consistory court, 1464–1478

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Abstract

Although the contours of *fidei laesio* (pleas for debt in ecclesiastical courts) were established by Helmholz and suggestions about the wider impact on credit relationships were offered by Briggs, there still remains scope for a detailed examination of the causes in an ecclesiastical court to establish precisely the extent of the litigation in those fora, the composition of the litigants, the character of the debts, and the incentives and impediments to actions (although Helmholz broadly indicated these issues). Accordingly, an examination has been undertaken of two extant registers of the Lichfield consistory court (1464–1478) which survive for the period of maximum referral to these courts by lay (and clerical) creditors and debtors. The information allows a new perspective on the character of the credit relationships prosecuted in the consistory court.

1. Introduction

> In causa fidei lesionis et periurij mota inter Ricardum Derby de lich' partem actricem per Calton contra Johannem lee de hopwas parochie de Thomworth partem ream per Cowper…[1]
>
> [In a cause of *fidei laesio et perjurii* (breach of faith and perjury) brought between Richard Derby of Lichfield plaintiff through (court proctor) Calton against John Lee of Hopwas in Tamworth parish defendant through (court proctor) Cowper…]

When Richard Helmholz investigated the association between *fidei laesio* (loosely breach of faith/promise) and *assumpsit* (he has undertaken) he elucidated the development of the former cause in ecclesiastical courts and its apogee in the late fifteenth century from an examination of extensive records of diverse consistory courts, the legal fora of the bishops of English dioceses.[2] (*Assumpsit* brought breaches of oral obligations and promises to undertake an action into the jurisdiction of the common law with damages).[3] More recently, Chris Briggs has cautiously suggested that this increase in the use of the action might have resulted from some tenants diverting their debt litigation from manorial courts to ecclesiastical courts,

in this case the lower ecclesiastical court of the deanery of Wisbech.[4] The context for his question is the apparent decline of debt litigation recorded in manorial courts in the later Middle Ages. These previous considerations of *fidei laesio* elicit further questions: how did the hierarchy of courts function; what was the interest in litigants transferring to ecclesiastical courts; and combined, why did creditors pursue their debtors in the consistory courts when the lower ecclesiastical courts, of deaneries and archdeaconries, could entertain their cause?

Fundamentally, *fidei laesio* concerned a breach of faith or trust. Trust was and is a social and economic lubricant.[5] Does trust work without an institutional framework, however, which acts as a recourse for exigent cases?[6] The two scenarios are not independent but functionally interactive: trust works in the foreground (quotidian) and institutions in the background (exigency). Both trust and institutional frameworks are, nonetheless, difficult to define: both contain ambiguity and vagueness. The analysis by Briggs asks what happens when one of the institutions (the manorial court) functionally declines. Helmholz has outlined the basic operations of another forum referenced by Briggs. What is further necessary, however, is to explore the workings of the alternative institution (the ecclesiastical court) in more granular detail and especially to explore how it was used by litigants. That is the basic purpose of this contribution.

After an exposition of the language and procedures of the ecclesiastical forum, the discussion proceeds to examination of the earlier history of the ecclesiastical courts' entertainment of *fidei laesio*. Next, the instance business (that initiated by private parties in debt) is examined in the hierarchy of ecclesiastical courts; finally, a detailed investigation is made of a particular consistory court, that convened at Lichfield for the diocese of Coventry and Lichfield. Since the court was always convoked at the secular cathedral of Lichfield and not at the regular cathedral chapter at Coventry, the consistory court is henceforth simply designated Lichfield. This section on the Lichfield court addresses in particular the attraction of the court for creditors, the character of the parties in the suits, including female litigants, the distances of plaintiffs from the court at Lichfield, and geographical networks of relationships of debt. There follows some attempt (if truncated because of the sources) to estimate the impact of the lower ecclesiastical courts (archdeaconry and deanery) in the diocese for debt litigation. Some conclusions complete the discussion.

2. The background of *fidei laesio*

The contours of *fidei laesio* were outlined by Helmholz in the preamble to his comparison of *fidei laesio* and *assumpsit*. More recently, Ian Forrest has made the association between *fidei laesio* and trust.[7] For the sake of comprehension, it is necessary to review these elements again here. It is also necessary to explain some of the procedural aspects (adjectival law) of the higher level of ecclesiastical courts.[8] In these fora, the instance business (introduced by a private party rather than an official) concerned civil actions, between private parties.[9] Here, the 'plaintiff' was designated the *pars actrix* and the 'defendant' *pars rea*. Predominantly below, the courts' own nomenclature is retained. 'Lawsuits' were specifically causes (*causa* (singular); *cause* (plural)) and that definition is employed below. The plaints were prosecuted 'against' (*contra* not *versus*) the other party, which accounts for

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c. below. Increasingly towards the end of the fifteenth century, the statute of *praemunire* was invoked to truncate 'civil actions' in the ecclesiastical courts, resulting in the gradual decline in this litigation, including *fidei laesio*.[10] (*Praemunire* was intended to prevent interference by powers outside the realm, in particular the Papacy to which ecclesiastical courts were ultimately responsible).

The concern of the ecclesiastical courts in *fidei laesio* was not the existence of the debt or the amount, but the breach of promise, damaging trust and faith (the substantive law). 'The cause was brought for the breach of promise to pay, not for the debt.'[11] The promise involved was not a specialty (written obligation), but *parole*, word of mouth. The promise was thus inferred, although its adjudication depended on the attestation of witnesses: 'And in practice an oath to fulfil the promise was always alleged'.[12] The infraction of trust, the failure of faith, was a sin, placing the soul in jeopardy.[13] As such it was also an adverse example to others, thus a danger to their souls. The promise comprehended conscience (*in foro interno*) as well as satisfaction (*in foro externo*). The issue might also be construed as 'commutative justice' proposed by, *inter alia*, Aquinas: 'what dealings are proper between persons'.[14] This judicial doctrine of good faith invoked natural reasoning for the common good.[15]

The early development of *fidei laesio* may extend back to *c.* 1200 when the archbishop of Canterbury enjoined a commission to the abbot of Bordesley and the prior of Bruern to adjudicate an appeal from the dean of Quenington by Walter Waihoc, reeve, against Christina de Bradewei for breach of faith in an agreement between them.[16] The reference to a specific agreement might exclude the later comprehension of *fidei laesio* in debt. By the fourteenth century, however, the cause in debt becomes more visible. The first evidence in the York cause papers concerns *fidei laesio* prosecuted by a 'German' merchant against a clerk in 1326, although there is then a hiatus until the next cause in 1363.[17] These causes then proliferate from 1382 and persist until 1520. Three causes were entertained by the consistory court of Hamo de Hethe, bishop of Rochester, in the mid fourteenth century.[18] Between 1337 and 1345, twelve causes were considered by the peculiar court of the dean and chapter of Lincoln.[19]

3. The Lichfield sources

For Lichfield consistory court there are two extant registers for 1464–1478, followed by a considerable lacuna.[20] According to Helmholz, who has examined a wide range of consistory courts, these registers coincide with the time of maximum recourse to ecclesiastical courts for debt. He considered registers from the early sixteenth century and remarked on the relative decline of *fidei laesio*, including in the early sixteenth-century registers of Lichfield.[21] No contemporary cause papers survive; the registers by and large (but not exclusively) are concerned with recording the process and only occasionally divulge sentences (judgments) and costs. The act books thus contain the initial action (party against party), the constitution of proctors, exceptions (demurrers), and the production and admission of witnesses.[22] Cause papers, which survive in general very sporadically and not at all for Lichfield, record the details within the process, especially libels (the statement with details of the case) and interrogatories, that is, the examination of the parties

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and the witnesses as to the circumstances of the issue. Cause papers survive to a sizeable extent only for York and Canterbury.[23] On a wider scale, the survival of registers before the sixteenth century is patchy.[24]

Extending through the north-west Midlands, the diocese comprised the third largest in late-medieval England. It consisted of the archdeaconries of Stafford and Derby which were co-extensive with their counties, and those of Coventry (Arden Warwickshire), Shrewsbury (part of Shropshire), and Chester (Cheshire and Lancashire south of the Ribble).[25] In 1563, the diocese consisted of 526 parishes in Derbyshire, Shropshire, Staffordshire, and Warwickshire. The archdeaconry of Chester in 1563 comprised 207 parishes. In the fifteen years covered by the consistory court registers, litigants from Chester archdeaconry prosecuted 'civil' causes at the consistory court in Lichfield. These numbers are important in the context of the numbers of litigants at the court and the number of places from which they derived.[26] A possible demography of the archdeaconry of Stafford exists in a 'list of families' composed about 1532–1533, although the list's exact purpose is ambiguous. The compilation incidentally denotes the urban structure of Tamworth and Lichfield.[27] Equally, the pleas with few exceptions were confined to the diocese, a restriction later enjoined by the Ecclesiastical Jurisdiction Act of 1531 (23 Hen. 8, cap. ix).

Between 30 April 1464 and 16 June 1478, the Lichfield consistory court heard 1,261 instance causes (few office causes, initiated by and on behalf of the officials of the court, as infractions of ecclesiastical law) which are included in the two court books, including 321 of *fidei laesio et perjurium* and another 66 of simple *perjuria*, but the latter might also have related to debt and mostly occur in the later years of record. In the Wisbech deanery court, Robert Wever was found guilty of *perjurium* as he had not remitted 3s. 4d. as he had promised (1466).[28] The affixation of *et perjurii* indicates the fundamental nature of the Church's interest: the sin of breaking one's word, faith, trust or promise. Debt causes thus accounted for at least 26 per cent of the instance business and possibly (including simple *perjurium*) as much as 31 per cent. On average, then, 21 to 26 matters of debt were initiated before the court *per annum*. (Additionally, 24 usury causes in total were initiated).[29]

4. Use of the Lichfield court

One incentive which attracted creditors to the ecclesiastical courts was the potential excommunication of the other party. Nor was the prospective threat an idle one. In the protracted cause of Cholmley c. Prestland (further below) the costs were established at £4 which had to be acquitted before the next sitting of the court after Easter under pain of excommunication (*sub pena excommunicacionis*) (13 January 1466/7) (1466 Old Style; 1467 New Style).[30] Similarly, in Wyttyngton c. Underwod, when the *pars rea* (defendant) admitted the debt of 16s., he was ordered to remit it before the next consistory court on pain of excommunication (20 January 1467/8).[31] So also the debt confessed in *fidei laesio* brought by Redehyll c. Wenneshurst and Coke was to be delivered before Easter on pain of excommunication (9 February 1467/8).[32] In Glover c. Glover in *fidei laesio et perjurii* the *pars rea* had been excommunicated and begged humbly for absolution (23

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February 1467/8).[33] When Dye and Clerke failed to appear as *pars rea* in a cause of *fidei laesio* commenced by Dodde, they were excommunicated (3 March 1466/7).[34] The sanction presented the real prospect of suspension and exclusion from the mass with the anxious prospect of dying without recent sight of the host.[35]

Apart from the sanction of excommunication and an expectation of expeditious conclusion (but see below), litigants might have been concerned to circumvent the 40s. limit to debt cases in manorial courts.[36] The evidence, however, does not support this prospect, unsatisfactory as it is since court registers only infrequently refer to the amount at issue. In 19 causes in the court of the archdeaconry of Buckingham in which the sum is cited, the debt extended from 10d. to 17s. with an outlier at 32s.[37] In the Lichfield consistory court, several amounts of debt exceeded 40s., including, but exceptionally, £11 at issue in Redehyll c. Wenneshurst and Coke in 1467/8.[38] In Palmer of Lichfield c. Fyson of Newport, *pars rea* admitted to owing 42s. 8d.[39] The abbot and convent of Combermere recovered £3 18s. 8d. from Swetnam of Nantwich in 1478, but their prosecution of *fidei laesio* was aberrant.[40] Most debts, however, belonged to a much more modest level, ranging from 2s. to 39s. In both Tussyngham c. Boton and Morley c. Russell merely 2s. 8d. and 2s. were demanded.[41] In such cases, the amount of debt was probably exceeded by the expenses (costs) imposed and fees of the proctors. At the time, serjeants at law and attorneys at common law anticipated a fee of 3s. 4d. or 1s. 8d. respectively, which is perhaps indicative of the minimum costs of assistance in the ecclesiastical courts.[42] In the consistory court, proctors were additionally responsible for drafting libels and interrogatories. Since at least two of the regular proctors (Croftes and Hudson, for whom, see below) resided in Coventry, they also incurred travelling expenses.

The court, of course, preferred to resolve disputes as amicably as possible and attempted to persuade parties to reach agreement. This approach was, however, condoned by the *pars actrix* (plaintiff) only occasionally, and even more infrequently in causes of *fidei laesio*. Beresford in Clampard c. Beresford in *fidei laesio* admitted that he had made a promise to pay and placed himself on the deliberation of John Delves, esquire, on the cause and the costs.[43] This decision was attained fairly swiftly on 29 July 1466, the cause initiated only in the previous sitting of 9 July. In *fidei laesio et perjurii* in Herowod c. Rowland, both of Kinver, the parties consented to arbitration by two men, Boland and Byngham (20 January 1477/8).[44]

Distance was an issue because of the expanse of the diocese. Pursuing a debt in the consistory court had the prospect for the defendant of appointing a proctor, but also the possibility of personal citation to appear. Certainly, if the cause went further, the witnesses were expected to attend to be examined. The distances involved in prosecuting causes at Lichfield is represented in Table 1. Lichfield itself is omitted since no travel was necessary. About 18 per cent of the *partes actrices*, the initiators of instance causes for *fidei laesio,* inhabited Lichfield. The complication remains that in a significant number of causes the consistory court did not specify the habitation of the *pars actrix*.

Many of the long-distance litigants inhabited the archdeaconry of Chester, which in many respects otherwise operated as a distinct and independent administration.[45] Over 60 per cent of all the *partes actrices* belonged to places where markets were still active in the sixteenth century (Figure 1).[46]

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Table 1. Distances from Lichfield of *partes actrices* (excluding Lichfield *partes actrices* 18%), 1464–1478 (N = 958)

Five miles and fewer	2%
Six to ten miles	11%
Eleven to twenty miles	9%
Twenty-one to thirty miles	22%
Thirty-one to forty miles	10%
Forty-one to 50 miles	9%
More than 51 miles	19%
Total	82%

Source: Staffordshire Record Office Lichfield Diocesan Records B/C/1/1-2.

5. The litigants at the court

The character of the litigants is difficult to elicit from the concise recording in the registers. The problem is exacerbated by the notary not recording the place of residence of forty-nine *partes actrices* and nine *partes rea*. In 78 (29 per cent) of the 272 causes for which we have the residence of both parties, both parties inhabited the same place. Normally, such pleas should have been prosecuted in the manorial or borough court. Thirty-six locations were involved in these same-place causes, including multiples at Tamworth (four), Sutton Coldfield (three), Shrewsbury (three) and Wigan (three). The remaining 71 per cent thus related to parties from different places. In these causes, the plaintiff would have had to implead a foreigner in a manorial or borough court. Of these different-place causes, however, almost half (47 per cent) pertained to litigation involving parties of different cities, boroughs or significant places: Ashbourne, Birmingham, Burton on Trent, Cheadle, Congleton, Coventry, Derby, Leek, Lichfield, Nantwich (Wich Malbank), Newcastle under Lyme, Shrewsbury, Stoke on Trent, Sutton Coldfield, Tamworth, Tutbury, Uttoxeter, and Wigan. Nine of the causes were litigated between denizens of the city of Lichfield and the proximate borough of Tamworth. Although actions between rural parties were introduced into the consistory court, a high proportion of litigation involved parties within the same city or borough or between different cities and boroughs. Networks of debt composed an urban nexus (Figure 2). Although just under 100 different places of residence of parties were involved, the urban element is conspicuous. Not unexpectedly, citizens of Lichfield were highly engaged in litigation in the consistory court on their doorstep, comprehending 44 plaintiffs alleging debts. This complement no doubt contrasted with the lower ecclesiastical courts of deaneries and archdeaconries in which most litigants derived from rural parishes. In 14 causes of *fidei laesio* in the archdeaconry court of Buckingham, where the habitation of the plaintiff is specified, these are mostly rural parishes.[47]

Two networks of debts require some comment. The first is through Lichfield. In these causes, the parties from Lichfield were predominantly seeking remuneration of debts from parties in other localities, with only a few defendants from Lichfield. The debtors are diffused extensively through the diocese which suggests that the debtors had encountered the creditors through actual visits to the seat of the see.

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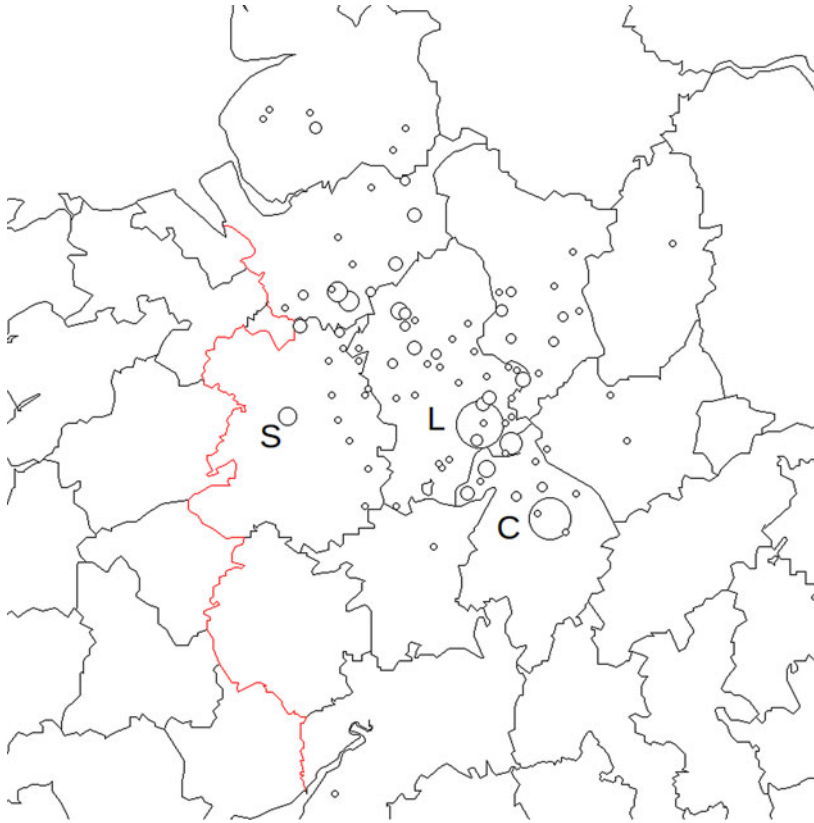

Figure 1. Places of residence of *partes actrices* in the Lichfield consistory court debt causes, 1464–1478 (C, Coventry; L, Lichfield; S, Shrewsbury).

Thus, religious association informed credit relationships. Figure 2 represents the 'connections' between Lichfield and other places (Figure 3).

Tamworth townspeople featured strongly in this litigation in Lichfield, partly because of the town's proximity to the episcopal seat. Twenty-one residents of Tamworth appeared in debt causes in the consistory court. None of them seems to have held office in the borough apart from William Grene who advanced from ale taster in 1461 to one of the keepers of St Mary's bridge in 1470 and churchwarden (there is a hiatus in the extant rolls from 1471–1488).[48] John Flecher who prosecuted three causes at Lichfield might be same person as the churchwarden in 1454.[49] Not only did Tamworth administer its own borough court (*parva curia*), the authorities occasionally convened a pie powder court.[50] Like the borough court, however, this impromptu court adjudicated few actions of debt, a single plea in 1455, for example. Like manorial courts and much the same as the consistory court, the borough court was convened (on Mondays) every three weeks, although some seigniorial courts met less frequently in the late Middle Ages.[51] Essoins (excuses for non-appearance) were allowed and often

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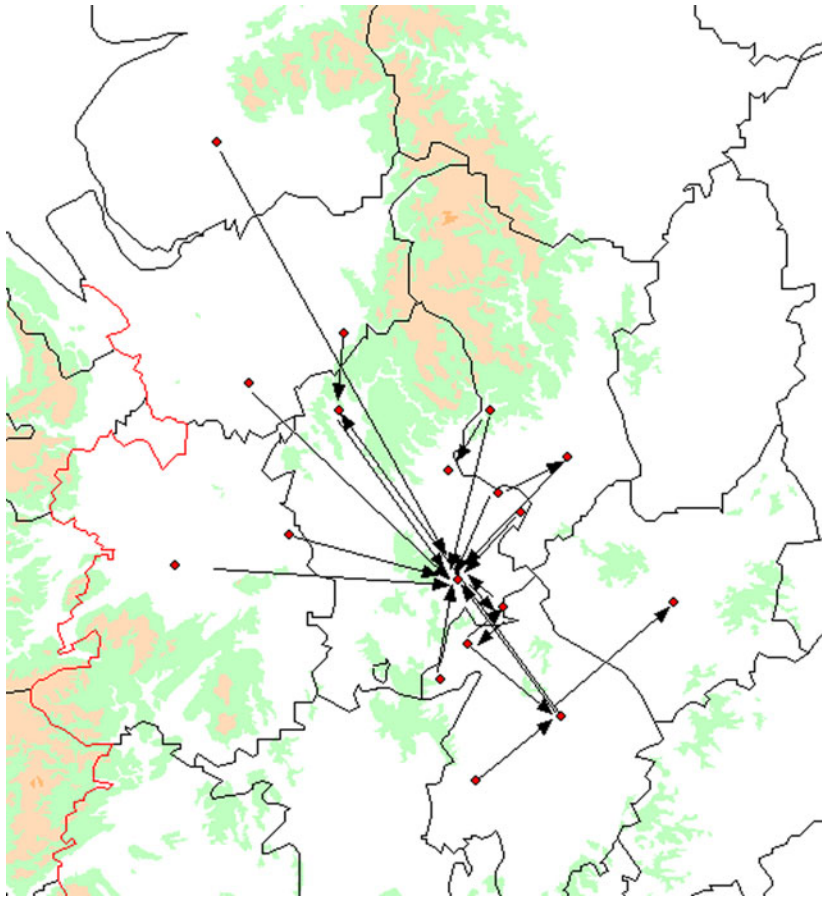

Figure 2. Debt relationships in urban networks in Lichfield consistory court debt causes, 1464–1478.

were perhaps prolific.[52] From the four court rolls extant between 1461 and 1471, it appears that the business of the borough court was minimal, although the view of frankpledge was assiduous in the licensing of the provisioning trades.[53] The chief pledges presented 4 bakers, 11 brewers, 4 tranters, 3 butchers, 5 fishmongers and 24 market stallholders in 1460.[54] The Saturday market by prescription was evidently buoyant. The leakage from the borough court to the consistory court seems somewhat significant in the context of the fairly moribund portmoot (borough court). The problem of Lichfield is more intractable. No extant records survive of the civic courts before the late seventeenth century.[55]

The second nexus concerns Cheshire, logically surrounding Nantwich, including the proximate parish of Wybunbury. Parties from this locality, as either plaintiffs or defendants in debt, included 20 from Nantwich and 10 from Wybunbury. Eleven others inhabited Prestbury in Cheshire. From south Lancashire, six parties derived from Wigan and, indeed, two of the causes for debt were between parties who both resided there. Why did Sir Ralph Holte of Middleton (near Rochdale) pursue his

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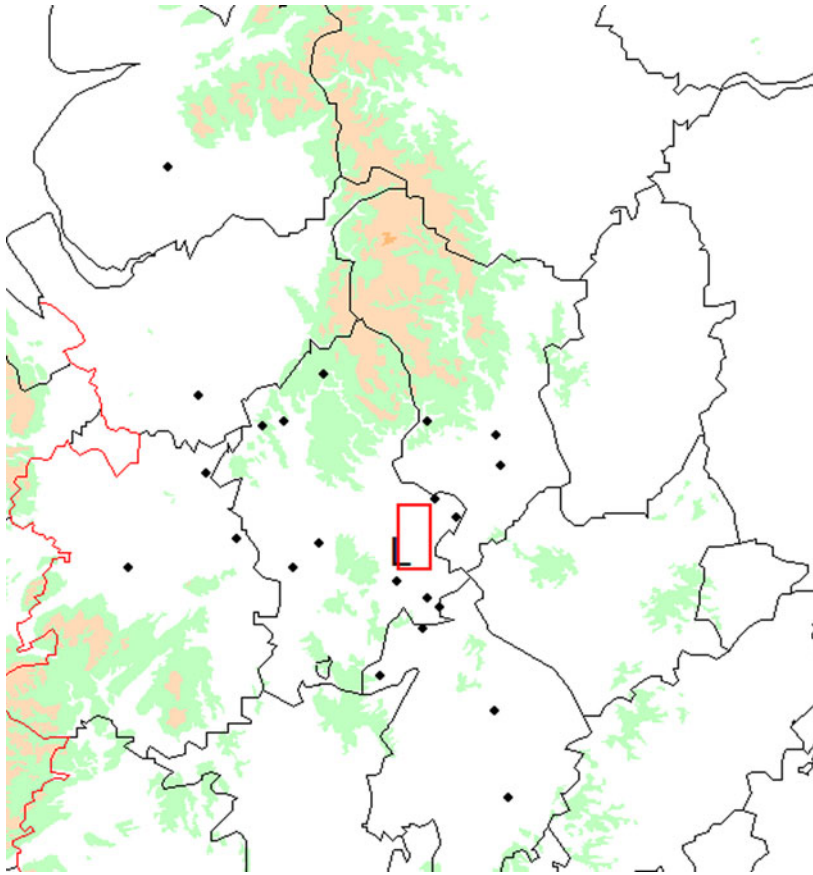

Figure 3. Places of residence of debtors to Lichfield plaintiffs in the Lichfield consistory court debt causes, 1464–1478.

cause of debt against Roger Holt of Rochdale (Lancashire, now Greater Manchester) in the consistory court of Lichfield?[56]

Apparently, no pleas for debt were withdrawn from the Chester civic courts. Perhaps the officials of those courts were assiduous in protecting their jurisdiction. Certainly, the volume of debt pleas adjudicated by the pentice court (the borough court) in Chester remained high. In 1435, 208 debt cases were adjudicated and in 1490 the higher number of 268.[57]

Significantly, 30 of the 35 causes prosecuted in the Lichfield consistory court by citizens of Coventry were against other citizens of their own city. Thus on 18 November in 1466, Richard Turner and John Smyth, bakers of Coventry, proceeded against a number of other city bakers, John Ynglond, Margaret Oldebury, John Aldurwas, John Smyth, Edward Camvile, and Laurence Beke.[58] About a year later, on 10 November 1467, John Bordall and John Wattes *magistri artis fabrorum* (masters of the smiths' craft) of the city proceeded against Robert Hosford a furber of the city for debt.[59] As another example, Peter Clerkeson of the city impleaded

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Walter Man braiderer, Walter Scherman and John Okeley of the city in *fidei laesio* on 17 December 1471.[60]

The second cause above reflects the small number of pleas which were prosecuted by one or two *partes actrices* against a number of alleged debtors in the consistory court. In this vein, Sir Richard Cholmeley of Cholmondeley brought an action against Richard Willibor, Robert Wetehale, William Drake, Nicholas Roger, James Dod, Ralph Horsfeld and John Harison all of Nantwich.[61] He also proceeded against William Keresley, John Ourleton, John Webster and John Kebull, all of Malpas, for debt.[62] Similarly, Robert Kemeston, an esquire of Ashbourne, made demands in the court on Michael Wolshaw of Bradley, Thomas Taples of Ashbourne, Joan Taples, John Dawkyn, and Richard Blunt of Bradbourne, and Michael Eyton of Bonsall.[63] Bellet c. Tumlynson, Gulde, Milynton, Flecher and Wolwyn follows this pattern.[64] Wythe c. Chapleyn, Strange, Parker and Mabeley constitutes another cause with multiple defendants.[65]

About 24 per cent of debt causes involved several litigants as either *pars actrix* or *pars rea*. In the case of rural litigants, it is probable that pledges were being drawn into the cause. In a high proportion of these causes, however, it seems likely that retail and commercial partnerships existed. Among these participants, citizens of Coventry once again predominated, attested by the cause of the bakers above. In similar manner, John Haddeley and Roger Radeclyff of Coventry, deysters (dyers), impleaded William Harme, Matthew Johnson, William Haplys, Richard Benyngton and Thomas Pulter, all of Coventry.[66] Also from Coventry, Robert Jakes and William Cardyff acted against their fellow citizens Thomas Chevebur' and Richard Robynson, walker (fuller).[67] Similar actions were undertaken by denizens of other urban places. Thus, Richard Heuster of Tamworth demanded restitution from Thomas Warde alias Mylner, John Garner, and Thomas Symon alias Penter, of the same town.[68] Thomas Philips and John Chesshir of Sutton Coldfield commenced an action against their compatriots John Day and Richard Ley.[69] In these instances, it seems reasonable to assume joint debts of partners in urban retail and commerce.

Sir Richard Cholmeley initiated three causes of *fidei laesio* between 1467 and 1469 (amongst other litigation in which he was involved). Ninety per cent of the *partes actrices*, however, prosecuted only one cause for debt in the consistory court. Twenty-one of the creditors pursued two actions and seven pursued three. One each introduced four, five and six pleas into the court. Among the most frequent of these repeat litigants were three Lichfield creditors. Richard Derby alias Derbe prosecuted six alleged debtors between 1467–1472; his status or occupation are not divulged. A mercer of Lichfield, John Palmer, attempted to recover four debts between 1468 and 1474. Also of the city, John Attekyns, a walker sought restitution of debt in three causes in 1466–1467. The dean and chapter of Lichfield as a corporation and the dean, Thomas Heywood on behalf of the secular college, together accounted for seven of the *partes actrices*.[70]

In fact, 23 of the purported creditors were secular clergy, while two monks independently from their convents sought redress for debt in the consistory court. The heads of eight religious houses also demanded the pursuance of alleged debtors. The status or occupation of both parties is infrequently recorded, but obviously consistently recognised in the case of the religious. So also, the rank of gentry

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required comment, denoting three knights and four esquires: Sir William Beynyngton kt, Cholmley, John Dedde esq., Sir William Harcowrt kt of Shenston and Maxstoke, Robert Kemeston, Thomas Stevendon and Humphrey Tyttley all esquires.

Otherwise, lay litigants were rarely described by their occupation or status. The Statute of Additions (Original Writs and Indictments) (1 Henry V, c. v) did not obtain in the ecclesiastical courts.[71] The occupation of just 22 plaintiffs and 18 defendants were recorded. Nineteen of the 22 *partes actrices* with stated occupations inhabited Coventry (12) and Lichfield (7). Of the 18 respondents, a dozen belonged to Coventry and four to Tamworth. Since a butcher of Bromsgrove (*actrix*), a fishmonger of Derby and a 'Grene corver' of Shrewsbury added to the complement, those accorded occupations were conspicuously urban inhabitants, although one rural tailor initiated a plaint. Allusion has been made above to some of the litigants from Coventry who represented the bakery trade. From whom came the initiative or incentive to record urban occupations is uncertain, whether from the litigants themselves as status consciousness or from the notary. Nineteen different trades were mentioned. Seven walkers (fullers and dyers) were engaged in cloth manufacture in Lichfield and Coventry. The action by two Coventry bakers against six other baker citizens is rehearsed above.

In the middle and late fifteenth century, the proportion of female plaintiffs in debt suits in borough courts extended from a low of 4 per cent to a high of 12 per cent.[72] Women prosecuted debt causes in the consistory court less frequently than men. Ostensibly single women comprised 3.4 per cent of *partes actrices* and 4.4 per cent of *partes rea*. As joint litigants, female plaintiffs numbered 3 but defendants 11 (3.4 per cent). The status of women is sometimes only discovered as the plea progressed as the notary recorded the details inconsistently. In 1471–1472, Isabel Palmer of Lichfield, saddler, brought a testamentary action against Thomas Allryche of Paley. In the next court, however, she appeared as Isabel Palmer, widow of William Palmer of Lichfield, now pursuing Allryche in *fidei laesio*. In another testamentary cause, against Thomas Trafford of Birmingham, she was simply denominated Isabel Palmer of Lichfield.[73] The geographical distribution of women's residence was as extensive as male litigants, dispersed across the whole diocese, from 16 different locations, including parishes in Chester archdeaconry. The consistory court was not, however, a forum which was attractive to female litigants, the numbers lower than in borough courts, probably because of the distances involved for participation and the costs.

6. 'Costs' of using the court: process and procedure

Another impediment to litigating in the consistory court was the matter of process. It is possible that proceedings in the lower ecclesiastical courts had a more informal procedure. The consistory courts were entirely different, with a formal process. It has been suggested that lay litigants were not able to initiate a cause in the ecclesiastical courts without a qualified proctor.[74] While that was certainly a norm in the Lichfield consistory court, some litigants, admittedly a minority, appeared in their initial stage *personaliter*. It was obvious that canon lawyers who served as proctors in the court would prosecute their own pleas as did Mag. William Hudson in *fidei*

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laesio against John Bentley, a charman of Coventry, on 22 October 1465.[75] So also Mag. John Croftes of Coventry, one of the regular court proctors, presented his cause of debt *personaliter* against John Huett of St Michael's, Coventry, in 1467.[76] Less judiciously perhaps, Roger Penulaton of Newcastle under Lyme prosecuted his own cause as creditor *personaliter* against Henry Busthall of Middlewich and perhaps even more seriously defended himself against a claim of debt by Thomas Stalker of Lichfield, both in 1467.[77] At the same time, Thomas Hunsterton of Whitchurch acted *personaliter* in demanding a debt from Thomas Hynkes of Myddle.[78] Almost exclusively lay litigants in the consistory court employed proctors to negotiate the procedures, the diplomatics of every first appearance of a cause in the court assumed the form:

> In causa fidei lesionis et periurij mota inter Ricardum Tettelowe de Manchestur partem actricem per Croftes contra Galfridum Ascheton' et Thomam Ascheton' filium dicti Galfridi de parochia de Ascheton' partem ream per Hudson…[79]
>
> [In a cause of *fidei laesio et perjurii* brought between Richard Tettelowe of Manchester plaintiff by (court proctor) Croftes against Geoffrey Ascheton' and Geoffrey's son Thomas Ascheton' of Ashton parish defendant by (court proctor) Hudson…]

Those of gentry status were especially likely to commission proctors to pursue their interest:

> In causa fidei lesionis et periurij mota inter venerabilem virum Dominum Willelmum Harcourte (M – cancelled) de Maxtoke Militem partem actricem per Croftes contra Willelmum Joleff de Wyshaw partem ream per Hudson…[80]
>
> [In a cause of *fidei laesio et perjurii* brought between the honourable Sir William Harcourte of Maxstoke knight plaintiff by Croftes against William Joleff of Wyshaw defendant by Hudson…]

Proctors were regularly employed in the Lichfield consistory court to adhere to the demands of the formal procedure.[81] Proctors represented the litigants, both *pars actrix* and *pars rea*, in the development of the cause. The whole procedure involved written documentation, commencing with the libel (written plaint). Witnesses were presented by both parties and accepted by the judge. The proctors then composed interrogatories to examine the witnesses and to make any exceptions.[82] The selection of proctors to negotiate the process thus increased the costs of litigation in the consistory court (for actual costs, see below).[83] Proctors were thus officially acknowledged as the *dominus litis* (master of the suit). After serving a year in residence in the consistory (the year of silence), proctors remained at the same court for their career.[84]

The proctors available to litigants in the consistory court were all designated *magister,* which suggests that they had all attended a university, although only one can be potentially identified as such, unless it was a courtesy title. John Couper alias Cowper studied canon law at Oxford and may be the Mag. John Cowper who was vicar of Brewod in Staffordshire from 1479.[85] From his own

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litigation (including in *fidei laesio*), it is apparent that Mag. John Croftes, frequently employed as a proctor, resided in Coventry.[86] Apparently Mag. William Hudson inhabited Coventry too, as he commenced an action of debt in the consistory court against William Bentley, a shearman of the same city, under the designation of Mag. William Hudson of Coventry.[87] Other proctors retained in the court comprised Mag. William Colton alias Calton and Mag. William Paynell, among the five who regularly attracted clients. Both Calton and Paynell had earlier (1448) attested instruments as notaries public.[88] Predominantly, litigants appointed a single proctor, but occasionally some litigants employed more than one, no doubt as a precaution against non-availability of one.

In some respects, manorial courts were dilatory, but causes in ecclesiastical courts could also be protracted. Like manorial courts, consistory courts were generally convened every three weeks, and that was indeed the case at Lichfield (although in the later Middle Ages some manorial courts were convened less frequently).[89] Unlike the manorial court, however, the Lichfield consistory court did not sit during August, except only once (on 6 August 1465).[90] Otherwise there was a hiatus in late summer as, for example, in 1470 when the court was not convoked between 31 July and 25 September.[91] By contrast, ecclesiastical courts would not regard lightly contumacy (the equivalent of essoins) or loose excuses for non-appearance.[92]

Assessing the length of procedures in *fidei laesio* is difficult because of the succinctness of the records. In most causes, it is necessary to track the initial and final appearances to estimate the duration of the pleadings. By this method, 132 causes are known to have been initiated but did not reappear. It is possible that that was the purpose of the *pars actrix*: to 'register' a debt. Perhaps the *pars rea* admitted the debt, but there is no record of such a confession. By contrast, the record of the court of the archdeaconry of Buckingham by the early sixteenth century consistently noted that the issue was resolved and the party dismissed.[93] Disappearing within a month were another 60 causes, with a further 41 within two months. Almost three quarters of the litigation in *fidei laesio* thus appears to have been resolved within two months. The remainder endured between four and twelve months, but two extended beyond a year. It is worth noting that 48 persisted for six months to a year.

A few intractable causes could endure for a considerable time. One of the most prolonged in *fidei laesio* was Cholmley c. Prestland. The cause was initiated by (Sir) Richard Cholmley (of Cholmondeley) against Alice Prestland, widow, of Mobberley (both places in Chester archdeaconry) on 28 May 1465 and was not concluded until 13 January 1466/7.[94] During this process, the expenses amounted in full to £4, an enormous sum when compared to the normal level of fine (*misericordia*) extracted by lords in manorial courts.[95]

7. Availability of other courts

Manorial courts attempted to restrict leakage to the ecclesiastical forum through fines.[96] The customary tenants of Merton College's manor in Barkby (Leicestershire) were warned about choosing where to prosecute their suits. In 1448, the College issued an ordinance that its tenants should only plead in the manorial court:

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> 'Item Ordinatum est in plena Curia per Avisamentum Senescalli quod si Aliquis Tenens infra dominium predictum prosecutus fuerit Aliquem visinorum suorum nisi in ista predicta Curia quod soluet seu supportabit dominis istius dominii tociens quociens si prosecutus fuerit .vj.s. viij.d.'
>
> [Ordained by the steward's counsel that if any tenant from within this lordship will have sued any of his neighbours except in this court, that he will pay the lords of this manor 6s. 8d.][97]

Only two tenants seem to have been placed in mercy for pleading in other courts: Robert Heryng in the court of the Earldom of Winchester (probably at Leicester) in 1372 and John Hichebon in London in 1445.[98] Several tenants of Werrington (Devon) were fined in the manorial court for pursuing claims in other courts, such as the portmoot at Launceston and Courts Christian.[99] Borough ordinances were promulgated to forestall the same recourse. The ordinances in Leicester in 1467 ('For sewyng out of Port Cort') prohibited any inhabitant of the borough from pursuing another 'be spirituall ne temporall lawe' for debt, but only before the mayor's court on pain of 40 days of imprisonment and defraying the defendant's costs.[100]

Reference has been made above to litigation for debt in lower ecclesiastical courts such as the deanery of Wisbech. Those local courts were certainly more accessible to creditors than the consistory court. Their proximity allowed easier access and shorter journeys. The court of the archdeacon of Buckingham accepted 63 causes of *fidei laesio* between 1489 and 1497 and (after a hiatus in the records) three in 1505.[101] The consistory court of Lichfield (as indeed of Lincoln, the diocese for Buckingham archdeaconry) covered an expansive area and the court was thus less accessible to litigants unless special motivation was at issue.[102]

Accounting for the volume of debt business in the lower jurisdictions in the diocese can only be speculative.[103] There are no extant records for these fora. Comparators exist in the archdeaconry of Buckingham and the deanery of Wisbech. At the level of the archdeaconry, each of the five jurisdictions within Lichfield diocese contained at their centre a large urban community: Chester, Coventry, Derby, Shrewsbury, and Stafford. Buckingham was comparatively smaller. Initially, the court of the archdeacon of Buckingham referred to the causes simply as a debt, but from July 1489 the terminology of *fidei laesio* was introduced. In the three court sessions before this change six pleas were received in one session, but just two and one in the others. From July 1489 to 1505, causes of *fidei laesio* were prosecuted in 39 court meetings. Just a single plea was received in 26 of those sessions, two in six others, and three in five.[104] Here is encountered another unknown quantity, since it is evident that the extant entries do not represent meetings of the archdeaconry court on a regular basis. Similarly, it cannot be assumed that every session of archdeaconry courts in the diocese of Lichfield entertained a cause of *fidei laesio*. All that can be deduced is that the archdeaconry court of Buckingham recorded 66 actions of *fidei laesio* in these 16 years. The period covered by the Lichfield consistory court records is similar. On this tenuous basis, given the differences in the localities, a minimum of 330 additional pleas of debt might have been prosecuted in the five archdeaconry courts in the diocese of Lichfield. That minimum is coincidental with the figure for the consistory court.

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A more effective methodology might consider debt pleas per thousand adults, but the data are not available.

It might be assumed that deanery courts were the most accessible to litigants. Indeed, L. R. Poos has concluded that for local creditors 'the deanery court [of Wisbech] had become the usual venue by the later 1400s', initially in the formula *violat fidem* (broke a promise), but later as *fidei laesio*.[105] It is difficult to extrapolate the number of different causes initiated in the deanery court. There is obviously some repetition of causes at different stages. A reasonable estimate might be about 300 causes of *fidei laesio* over the eight years 1462 to 1469 inclusive.[106] How representative that court was is a conundrum, since extant records of these lowest-level ecclesiastical courts are rare. The deanery court thus handled as much debt business in eight years as the Nottingham borough court in a single year.

8. Conclusions

Evidently, however, although consistory courts became temporarily an outlet for leakage of debt litigation from manorial and borough courts, the overall quantity was probably low. In aggregate, the pleadings on *fidei laesio et perjurii* in the higher level of ecclesiastical courts could have accounted only for a minimal amount of the credit and debt relationships in the later Middle Ages and so of debt litigation which should have been prosecuted in local secular courts. By comparison, debt cases introduced into three borough and city courts in the late fifteenth century in a single year far exceeded the causes of *fidei laesio* in the Lichfield consistory court. Most apposite is Chester, where in 1490 268 debt pleas were instigated. The following year in Nottingham borough court debt pleas amounted to 314. In the city court of Winchester in 1494–1495, 105 debt pleas were initiated.[107]

Effectively, the adoption of *fidei laesio* by lay (and clerical) litigants for recovering debt in ecclesiastical courts of all levels conformed to the notion of 'institutional conversion', the subversion of rules designed for a specific purpose to another end.[108] In a similar manner, lay creditors adapted the 'cession [ceding] of actions' in the court of the Chancellor of the University of Oxford for the recovery of debts by employing clerks to pursue their claims in a forum restricted to clerical litigants. The difference here was that the Chancellor's court convened daily and so litigation was expedited.[109] The consistory courts were less frequent. Otherwise, the adoption might be addressed as an unintended consequence of legal norms.[110]

As is well understood, '[c]ourts are used by litigants in a range of ways that go beyond the simple request for delivery of judgment'.[111] Actions in the consistory court of Lichfield exhibited all of the registration of debt, vexatious litigation, and the exaction of punitive costs: vexatious by impleading alleged debtors in a distant court with complicated protocol and written procedure; punitive by adducing expenses of employing proctors and court costs. Excommunication was adopted as a tactic for compulsion. The invocation of *praemunire* against the ecclesiastical courts in the late fifteenth century emphasised that the laity had taken advantage of the ecclesiastical courts for their own purposes but was prepared to relinquish that tactic once any other recourse became available.

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When the registers recommence in the early sixteenth century, *fidei laesio* was already declining in ecclesiastical courts.[112] By 1531, only eight of the 68 causes in the Lichfield consistory court concerned *fidei laesio*.[113] The last causes in the archdeaconry of Buckingham were pursued in 1505 and no further actions were prosecuted although there are records of the courts to 1521.[114] Only two causes of *fidei laesio* occur in the act book of the ecclesiastical court of Whalley between 1510 and 1538.[115] The question which is raised by this decline in the activity in the ecclesiastical courts is to where were they then directed? Indeed, how active were these other fora in the late Middle Ages in accepting pleas previously invoked in seigniorial courts?[116]

Briggs raised the question of what happens when an institution declines which previously had jurisdiction for resolving local credit disputes. Helmholz outlined the operation of an alternative forum: the ecclesiastical court. Through examining in fine detail the operations of one alternative court, the consistory court of Lichfield diocese, it can be demonstrated that courts at this level could not viably compensate for the deficit of the manorial court. That forum can be ruled out.

Notes

1 Staffordshire Record Office [SRO] Lichfield Diocesan Records [LDR] B/C/1/1, fo. 133v (1466). A short version of this paper was presented at the conference on 'Trust in the Pre-Modern World' at Oxford in January 2023. I owe a significant debt to the organisers, Ian Forrest, Annabel Hancock and Siyao Jiang. The staff of the SRO were unfailingly helpful during the office's long closure in preparation for a new history centre. This revised version has benefited from the suggestions of three anonymous referees. Richard Helmholz kindly responded to a query about the education of proctors. Dr Katie Phillips helpfully read through the paper to eliminate some infelicities; any that remain are my fault.

2 R. H. Helmholz, '*Assumpsit* and *fidei laesio*', *Law Quarterly Review* **91** (1975), 406–32; also B. Woodcock, *Medieval ecclesiastical courts in the diocese of Canterbury* (Oxford, 1952), 84, 89–92.

3 A. W. B. Simpson, *A history of the common law of contract: the rise of the action of assumpsit*, Revised edn (Oxford, 1987), 199–280.

4 C. Briggs, 'Seigniorial control of villagers' litigation beyond the manor in late medieval England', *Historical Research* **81** (2008), 399–422; C. Briggs, 'The availability of credit in the English countryside', *Agricultural History Review* **56** (2008), 1–24.

5 B. A. Misztal, *Trust in modern societies: the search for the bases of social order* (Cambridge, 1996); E. A. Thompson, *Trust is the coin of the realm: lessons from the money men in Afghanistan* (Oxford, 2011), 128–35.

6 A. Ebner and N. Beck eds, *The institutions of the market: organizations, social systems, and governance* (Oxford, 2008), esp. J. Harriss, 'Explaining economic change: the relations of institutions, politics, and culture' (at 309–27); D. C. North, *Institutions, institutional change and economic performance* (Cambridge, 1990), 35–53.

7 I. Forrest, *Trustworthy men: how inequality and faith made the medieval church* (Princeton, NJ, 2018), 36–45.

8 For substantive and adjectival law, Briden, *Moore's introduction to English canon law*, 4th edn (London, 2013), 11, n. 3.

9 Fully explained by R. H. Helmholz, *Roman canon law in reformation England* (Cambridge, 1990), 1–3.

10 Helmholz, '*Assumpsit* and *fidei laesio*'; Helmholz, *Roman canon law in reformation England*, 26.

11 Helmholz, '*Assumpsit* and *fidei laesio*', 419.

12 Helmholz, '*Assumpsit* and *fidei laesio*', 468–9.

13 Helmholz, '*Assumpsit* and *fidei laesio*', 423–4.

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15 Finnis, *Natural law*, 304, 307.

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16 C. R. Cheney and E. John eds, *English episcopal acta III Canterbury 1193–1205* (Oxford, 1986), 282–4 (637–8).
17 University of York Archives CP.E.17, CP.E.241.
18 C. Johnson ed., *Registrum Hamonis Hethe Diocesis Roffensis AD 1319–1352* (Canterbury and York Society, 2 vols, xlviii–xlix, 1948), I, 459; II, 1019–24, 1028.
19 L. R. Poos ed., *Lower ecclesiastical jurisdiction in late medieval England: the courts of the dean and chapter of Lincoln, 1336–1349, and the Deanery of Wisbech, 1458–1484* (British Academy Records of Social and Economic History new series I, 2002), 17, 47, 69, 71, 102, 111, 124, 146, 154, 157, 188.
20 SRO LDR B/C/1/1 and B/C/1/2.
21 Helmholz, '*Assumpsit* and *fidei laesio*'.
22 R. H. Helmholz, *Marriage litigation in medieval England* (Cambridge, 1974), 7–8.
23 Helmholz, *Marriage litigation*, 12.
24 C. Donahue, ed., *The records of medieval ecclesiastical courts: report of the working group on church court records, II: England* (Berlin, 1994).
25 T. Cooper, *The last generation of English Catholic clergy* (Woodbridge, 1999), 4.
26 A. Dyer and D. M. Palliser eds, *The diocesan population returns for 1563 and 1603* (Oxford: The British Academy Records of Social and Economic History new series 31, 2005), 76–7, 102–3.
27 A. Kettle ed., *A list of families in the archdeaconry of Stafford 1532–3* (Staffordshire Record Society 4th series, 8, 1976), 18–25, 177–87 (Tamworth and Lichfield).
28 Poos, *Lower ecclesiastical jurisdiction,* 575.
29 R. H. Helmholz, 'Usury and the medieval English church courts', *Speculum* **61** (1986), 364–80.
30 SRO LDR B/C/1/1, fo. 136v.
31 SRO LDR B/C/1/1, fo. 190r.
32 SRO LDR B/C/1/1/, fo. 195r.
33 SRO LDR B/C/1/1, fo. 198r: excommunicatus Quo die adueniente dicta pars rea comparuit et humiliter petiit beneficia absolucionis et absolutus est (excommunicated on which day the said party appeared and humbly begged the benefit of absolution and (he is) absolved).
34 SRO LDR B/C/1/1, fo. 144r: Quo die adueniente Dicte partes non comparuerunt ideo excommunicate sunt (On which day the said parties did not appear and therefore they are excommunicated).
35 J. Bosssy, 'The mass as a social institution, 1200–1700', *Past & Present* **100** (1983), 29–61; F. Hill, *Excommunication in thirteenth-century England* (Oxford, 2022), 60–8, 114–15.
36 J. S. Beckerman, 'The forty shillings jurisdictional limit in medieval personal actions', in D. Jenkins ed., *Legal history studies* (Cardiff, 1975), 110–17.
37 E. M. Elvey ed., *The courts of the archdeaconry of Buckingham 1483–1523* (Buckinghamshire Record Society 19, 1975), 203 (286), 72–203.
38 SRO LDR B/C/1/1, fo. 195r.
39 SRO LDR B/C/1/1, fo. 56r: Quo die adueniente dictus J (cancelled) Robertus comparuit et confessus est se Debere Dicto Johanni Palmer xlij s viijd (On which day the said Robert appeared and admitted to being 42s. 8d. in debt to the said John Palmer). Also B/C/1/2, fos 27v and 364r.
40 SRO LDR B/C/12, fo. 334v.
41 SRO B/C/1/2, fos 85v and 121v.
42 J. Rose, 'Law, lawyers and legal records: litigating and practising law in late medieval England', in D. Ibbetson, N. Jones and N. Ramsay, eds., *English legal history and its sources* (Cambridge, 2019), 121–38, at 138.
43 SRO LDR B/C/1/1, fo. 118v: Quo die adueniente dicta pars rea confessus (sic) est se fidem fecisse Dicto Johanni Clampard et iurauit per sancta Dei euangelia et per ipsum tactum et stando laudo abitrio iudicio et ordinacioni in alto et basso Johannis Delves armigeri de et super Dicta causa una cum expensis factis in Consistorio Episcopali lich' (On which day the said defendant admitted that he had made a promise to the said John Clampard and swore on the holy gospels and by his oath to stand to the arbitration, judgment and award of John Delves esquire in all manner and for the costs of the cause in the bishop of Lichfield's consistory court).
44 SRO LDR B/C/1/2, fo. 316r: et statim compromiserunt in duos veros (sic – recte viros) videlicet Hugonem Boland et (Hu – cancelled) Rogerum Byngham arbitratores inter ipsos electos et dicti Johannes et Elena iurauerunt et eorum uterque iurauit de stando laudum vel arbitrium dictorum arbitrorum sub pena x li. prouiso tamen (sic) (and immediately they agreed on two men, that is Hugh Boland and Roger Byngham, arbitrators selected by them and the said John and Helen swore and each

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swore to abide by the judgment or award of the said arbitrators under pain of £10 provided however …). Transcriptions by this author of the courts' recourse to arbitration can be found at: http://davelinux.info/wordpress/?p=138.

45 C. Haigh, *Reformation and resistance in Tudor Lancashire* (Cambridge, 1975), 1–6.

46 A. Everitt, 'The marketing of agricultural produce', in J. Thirsk ed., *The agrarian history of England and Wales Volume IV 1500–1640* (Cambridge, 1967), 468–75.

47 *Courts of the Archdeaconry of Buckingham*, 72–204.

48 Keele University Special Collections and Archives, M. K. Dale translation of Tamworth Borough court rolls, 170, 172.

49 Dale, Tamworth Borough Court, 164.

50 Dale, Tamworth Borough Court, 162, 165.

51 H. Wood, *Medieval Tamworth* (Tamworth, 1972), 21.

52 Wood, *Medieval Tamworth,* 30.

53 H. Wood, *Tamworth Borough Records Handlist* (Tamworth, 1952).

54 Dale, Tamworth Borough Court, 168.

55 *Guide to the contents of Lichfield record office* (Stafford, 1999), 67.

56 SRO LDR B/C/1/1, fo. 170v.

57 T. Phipps, *Medieval urban women and urban justice: commerce, crime and community in England, 1300–1500* (Manchester, 2020), 48 (Table 2.1).

58 SRO LDR B/C/1/1, fo. 131v.

59 SRO LDR B/C/1/1, fo. 157r.

60 SRO LDR B/C/1/2, fo. 26v.

61 SRO LDR B/C/1/1, fo. 180v (1 December 1467).

62 SRO LDR B/C/1/1, fo. 211r.

63 SRO LDR B/C/1/1, fo. 296r.

64 SRO LDR B/C/1/2, fo. 27r (17 December 1471).

65 SRO LDR B/C/1/1, fo. 321r.

66 SRO LDR B/C/1/1, fo. 76v.

67 SRO LDR B/C/1/1, fo. 243v.

68 SRO LDR B/C/1/2, fo. 332r.

69 SRO LDR B/C/1/1, fo. 29v.

70 Thomas was elected dean in 1457 and died in 1492: A. J. Kettle and D. A. Johnson, *A history of Lichfield cathedral* (reprinted Stafford, 2001), 197.

71 For its context, C. Carpenter, *Locality and polity: A study of Warwickshire landed society, 1401–1499* (Cambridge, 1992), 51.

72 Phipps, *Medieval urban women and urban justice,* 53 (Table 2.2), 55 (Table 2.3), 59 (Tables 2.4 and 2.5) and 62 (Table 2.6).

73 SRO LDR B/C/1/2, fos 13r, 16v, and 31r.

74 D. M. Owen, *The Medieval canon law: teaching, literature and transmission* (Cambridge, 1990), 2.

75 SRO LDR B/C/1/1, fo. 76v.

76 SRO LDR B/C/1/1/, fo. 146r.

77 SRO LDR B/C/1/1, fo. 164v.

78 SRO LDR B/C/1/1, fo. 171r.

79 SRO LDR B/C/1/1, fo. 113r.

80 SRO LDR B/C/1/1, fo. 110v.

81 Helmholz, *The Oxford history of the laws of England. Volume I. The canon law and ecclesiastical jurisdiction from 597 to the 1640s* (Oxford, 2003), 339–44. There is one cause of *fidei laesio* in the archdeaconry of Buckingham in which the assistance of a proctor was invoked: *Courts of the Archdeaconry of Buckingham*, 49 (60), which seems exceptional.

82 See the eight and five articles for the interrogatories in *fidei laesio* in the University of York Archives York cause papers CP.E.176 (1390) and CP.E.156 (1393).

83 Helmholz, *Oxford history*, 225 has examples of proctors' expenses. The poor were exempt (226).

84 Helmholz, *Oxford history*, 191, 223.

85 A. B. Emden, *The biographical register of the university of Oxford to A. D. 1500. Volume I. A-E,* 3 volumes (Oxford, 1957–9), 498.

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86 For example, SRO LDR B/C/1/1/, fos 26v (Croftes c. Woodhouse: *fidei laesio*), 71r (Croftes c. Pencriche et al.: defamation), 81v (Croftes c. Burdens and four others: *fidei laesio*).
87 SRO LDR B/C/1/2, fo. 120r.
88 J. C. Bates ed., *The register of William Bothe, bishop of Coventry and Lichfield, 1447–1452* (Canterbury and York Society xcviii, 2008), 8 (18), 80 (281). For the position of notaries in the Middle Ages, P. Zutshi, 'Notaries public in England in the fourteenth and fifteenth centuries', *Historia. Institutiocones. Documentos* **23** (1996), 421–33.
89 Helmholz, *Oxford history*, 215.
90 SRO LDR B/C/1/1, fos 68v–71v (6 August 1465).
91 SRO LDR B/C/1/1, fos 300v–303r.
92 H. E. Salter ed., *Munimenta Civitatis Oxonie* (Oxford Historical Society 71, 1920), xxiv.
93 *Pax et dimissus est*: *Courts of the archdeaconry of Buckingham*, 203 (286).
94 SRO LDR B/C/1/1/, fos. 62v, 136v.
95 SRO LDR B/C/1/1, fo. 136v: Quo die adueniente iudex taxauit expensas ad iiij or libras & iudex assignauit terminum ad soluendum citra proximam curam (sic) post pascha sub pena excommunicacionis (On which day the judge assessed the costs at £4 and he appointed a time for the payment before the next sitting after Easter under pain of excommunication).
96 See, however, Briggs, 'Seigniorial control'.
97 Merton College, Oxford, Muniments (MM) 6605, 6611.
98 MM 6579, 6607.
99 Devon Record Office Bedford MSS Werrington Court Rolls.
100 M. Bateson ed., *Records of theborough of Leicester volume II 1327–1509* (Leicester, 1901), 291.
101 *Courts of the archdeaconry of Buckingham*, 72–204.
102 F. Pedersen, 'Demography in the archives: social and geographical factors in fourteenth-century York cause paper litigation', *Continuity and Change* **10** (1995), 405–36.
103 This approach was suggested by one of the referees. It needs to be followed cautiously and can only be indicative.
104 *Courts of the archdeaconry of Buckingham*, 72–204.
105 *Lower ecclesiastical jurisdiction*, lvi, 451.
106 Poos, *Lower ecclesiastical jurisdiction*, 270–592.
107 Phipps, *Medieval urban women*, 48; also, R. H. Britnell, *Growth and decline in Colchester 1300–1525* (Cambridge, 1986), 207 (Table 14.1); J. Davis, *Medieval market morality: life, law and ethics in the English marketplace 1200–1500* (Cambridge, 2011).
108 J. Conran and K. Thelen, 'Institutional change', in O. Fioretes, T. Fallett and A. Sheingate eds., *The Oxford handbook of historical institutionalism* (Oxford, 2016), 51–70.
109 Salter, *Munimenta Civitatis Oxonie*, xxiv–xxvi.
110 S. F. C. Milson, *The legal framework of English feudalism* (Cambridge, 1976), 186; Forrest, *Trustworthy men, 4–7*.
111 S. Roberts and M. Palmer, *Dispute processes* (Cambridge, 2005), 237.
112 Helmholz, '*Assumpsit* and *fidei laesio*'.
113 Helmholz, '*Assumpsit* and *fidei laesio*', 427.
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French Abstract

Alors que les cadres du *fidei laesio* (procès pour dettes devant les tribunaux ecclésiastiques) ont été dressés par Richard Helmholz et bien que Chris Briggs ait suggéré une portée plus large de ces procédures sur les relations de crédit, nous considérons cependant qu'il est pertinent d'examiner de façon détaillée une série d'affaires de ce genre, traitées par un tribunal ecclésiastique, pour établir précisément leur importance au sein de ces Cours, la typologie des justiciables, la nature des dettes concernées, identifiant ainsi incitations et obstacles à ces actions en justice (questions déjà passablement évoquées par Helmholz). En conséquence, nous avons entrepris d'étudier deux registres bien conservés du tribunal Consistoire de Lichfield (1464–1478). Survivantes, ces archives témoignent de la période où un maximum de ces affaires, concernant créanciers et débiteurs aussi bien laïcs que religieux, furent renvoyées à ces tribunaux ecclésiastiques. L'information fournie par cette source historique permet d'ouvrir une perspective nouvelle sur le caractère des relations de crédit ayant fait l'objet, à l'époque, de poursuites judiciaires en Consistoire.

German Abstract

Die Grundzüge des *fidei laesio* (Schuldklagen vor kirchlichen Gerichten) wurden von Helmholz klargestellt und weiterführende Überlegungen zu deren Auswirkungen auf Kreditbeziehungen von Briggs vorgetragen. Gleichwohl besteht weiterhin Anlass für eine genauere Untersuchung der Grundsätze, nach denen in einem kirchlichen Gericht in solchen Fällen der Umfang der Rechtsstreitigkeiten, die Zusammensetzung der Prozessparteien, die Art der Schulden sowie die Anreize und Hinderungsgründe für eine Klage bestimmt wurden (obwohl diese Fragen von Helmholz bereits grob angerissen wurden). Zu diesem Zweck wurden zwei Register des bischöflichen Gerichts in Lichfield (1464–1478) untersucht, die für die gesamte Übergabefrist solcher Fälle durch weltliche (oder geistliche) Gläubiger oder Schuldner an das Gericht erhalten geblieben sind. Die daraus gewonnenen Informationen eröffnen eine neue Perspektive auf die Eigenart der Kreditbeziehungen, die vor dem bischöflichen Gericht verhandelt wurden.

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