

The Due Tenth: Problems of the Leicestershire Tithing process 1560–1640

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This article explores the processes of the tithing system in early modern Leicestershire, considering both the rules of tithing and contemporary farming practices. Analysis of 480 tithe disputes shows their comparative rarity in the county, being used for arbitration rather than adversarial cases. Differences between disputes in the northern and southern provinces would appear to be considerable, with a high proportion of small tithes cases dominating the Leicester court compared with those for great tithes in the York courts. Even within the southern province local differences appear with a great number of cases passing through the sixteenth-century courts of Oxford, Worcester, and Gloucester. The Leicester cases appear to have been influenced by William Laud and John Lambe, Arminians, and show a predominance of small tithe cases brought by vicars.

The subject of local tithe collection and disputes in the early modern period has seldom been the subject of research and is imperfectly understood. Tithe disputes were heard in apparently great numbers in the ecclesiastical courts of bishops, archdeacons and peculiar jurisdictions in every diocese in England, from the medieval period down to the nineteenth century. The literature on tithes is concerned either with church court business or the politics of tithe. Eric Evans' book, *The Contentious Tithe* is one of the few published on the subject as a whole, but tends to focus on civil proceedings in the eighteenth century.¹ Tithes are also discussed at a national level in the *Economic Problems of the Church* by Christopher Hill and in Ralph Houlbrooke's seminal book on the church courts during the Reformation.^{2,3} At county level, Canon Purvis published his work on the court records of Yorkshire in 1949.⁴ The tithes of the same county in the early modern period were discussed by D.M. Gransby in his MA dissertation, and have provided some comparative material from the period, from the northern province.⁵ D.M. Barratt's study of the clergy in the early

¹ E.J. Evans, *The Contentious Tithe*, London, 1976.

² C Hill, *Economic problems of the Church from Archbishop Whitgift to the Long Parliament*, Oxford, 1956.

³ R Houlbrooke, *Church courts and the people during the English Reformation, 1520–1570*, Oxford, 1979.

⁴ J.S. Purvis, *Select XVI Century Causes in Tithe*, Yorkshire Archaeological Society, Record Series, Vol. CXIV (1949).

⁵ D.M. Gransby, 'Tithe Disputes in the Diocese of York, 1540–1639', M Phil York, 1966, hereafter Gransby.

modern period also considered tithe disputes in the dioceses of Oxford, Worcester and Gloucester.⁶ The most recent work is that by W.J. Sheils on tithe disputes from the York consistory court between 1540 and 1640.⁷ The fact that so little work has been done can be attributed to the lack of access to the records of the ecclesiastical courts, until the 1950s, and the difficulties of reading the documents.

In Leicestershire literature, Professor Hoskins' work on early modern agriculture was based on a study of probate inventories, and he proposed that the study of tithes was 'a somewhat arid field of enquiry'.⁸ From the point of view of the study of farm size, farming practices and livestock numbers, the study of tithes was indeed arid. However, the information that can be collected from tithe disputes provides another facet to Professor Hoskins' study. The records of the Leicester Archdeaconry courts are extensive and not easy to read, but perseverance brings rewards. The information from depositions made by contemporary witnesses, although anecdotal, is of immense use to the local historian studying early modern agriculture and rural life. This paper will examine the tithing process and how the system worked in practice in the Leicester Archdeaconry in the early modern period, and the light it can throw on this important process. The results of analysis of the relevant case papers will be used to consider the types and number of cases that passed through the court, and the changes that took place over time. These results will be compared with work carried out on the courts of the Oxford, Worcester, Gloucester and the York dioceses where possible.

The ecclesiastical courts were very different from modern jurisdictions, a difference summed up by a contemporary view of their function. 'Crimes or Offences punishable by Jurisdiction Ecclesiastical [are] reducible to three headings: Those contrary to piety unto God, Those contrary to Justice towards our Neighbour and Those contrary to Sobriety towards ourselves'.⁹ The form of law used was that of canon law and common law, applied by civil lawyers.¹⁰ These courts heard five categories of case, or cause as they were known. The first, causes brought by the Office of the Judge, heard in summary form, arising from churchwardens' presentments and other ecclesiastical business. The remainder of the work of the courts was instance business, party against party, in disputes over wills and testaments, defamation, marriage and tithe, heard in plenary form. Tithe disputes can be seen in terms of who was refusing to pay tithes and who was demanding them. After the Reformation, the king's ecclesiastical courts were to have sole jurisdiction over tithe disputes.

The statutes of 2 & 3 Edward VI, dated 1548 and 1549, were of great importance in relation to the Leicestershire disputes. They contained several clauses which formed the backdrop to some of these disputes. For Leicestershire, the most important were

⁶ D.M. Barratt, 'The condition of the parish clergy from the Reformation to 1660, with special reference to the Dioceses of Oxford, Worcester and Gloucester', Oxford, D Phil, 1949, hereafter Barratt.

⁷ W.J. Sheils, 'The right of the church: the clergy, tithe, and the courts at York, 1540-1640', *Studies in Church History: Vol. 24 The church and wealth*, 1987 pp.231-255. Papers read at the 1986 and 1987 Meetings of the Ecclesiastical History Society, edited by W.J. Sheils and Diana Wood.

⁸ W Hoskins, *The Midland Peasant*, 1957 (Reprint 1965), p.134.

⁹ Worcester RO, 777.795 BA2486. Anonymous late sixteenth-century notebook from the Worcester courts.

¹⁰ The teaching of canon law had been abandoned at Oxford and Cambridge during the Reformation and replaced with the teaching of civil law.

those that related to enclosure. This process had a long history in the county: around 25% of land was enclosed by 1607 and a further 40% of the county manors was enclosed by 1650.^{11,12} This enabled land to be utilised more intensively, by ‘convertible husbandry’ whereby the old three-year rotation and use of fallow was abandoned in favour of keeping enclosed areas of land under grass for longer periods. This enabled a higher livestock density to be maintained, with a consequent improvement in fertility when the land was ploughed for grain crops. This newly enclosed land was protected from tithe payments for seven years after the event, but only where the land enclosed had not previously been subject to the payment of tithe – that is to say, had been barren heath or waste. In areas where tithe had been paid prior to the enclosure, tithe was to continue to be paid on crops and stock in the new fields. The same principle applied when land was enclosed from open fields. In terms of tithe collection this lowered the income of the incumbent entitled for the same period of time, after which it would rise again. It also had a hidden impact in that the stock kept on this enclosed land comprised animals ‘of no profit to the church,’ that is to say the animals were being fattened and moved on. This negated the old methods of tithing whereby sheep in the parish on New Year’s Day were tithed for fleeces when the animals were shorn. Lambs would also have been brought in for fattening rather than being born and tithed in many parishes where this process was used. The mobility of sheep led to a number of legal debates in the Leicester court, when sheep grazed in one parish during the day and were kept in another at night.

The statutes reiterated the statement that tithes had to be paid in ‘such manner and form as they have been rightly paid within forty years before the making of this Act’. This retained the custom that tithe was not to be removed by the producer until the tenth had been set forth, or an agreement to do so made with the owner of the tithe or his lessee. If this was not done the producer of the crop had to forfeit treble the value of the tithe so taken or carried away. If any producer carried away their crops before the tithe was set forth, or prevented the tithe owner or his lessee from viewing, taking or carrying away their tithe, so that the tithe was lost, the offender had to pay double value of the tenth, as well as the costs or expenses of the suit. This had to be recovered before the ecclesiastical judge, and according to ecclesiastical law.

Not only were farming practices changing, but the balance between laity and clergy entitled to collect tithes also altered. Around 48,000 acres of land from the fourteen monastic houses in the county had been sold to the laity during the Dissolution between 1536 and 1540, along with rights to collect the tithes.¹³ A further 40 houses from outside the county held land in Leicestershire, with 91 tithe grants. This introduced many more lay proprietors into the system who would have collected the most valuable tithes.

These coveted tithes were known as the great tithes, that is, those taken from crops growing directly from the soil, comprising cereals and pulses. Those grown in Leicestershire included wheat, oats, barley, mixed crops of maslin and blendcorn, rye, peas, beans, mixed crops of peas and beans, and hay. The tithe of these items had to be paid in kind as they were harvested, a process which could lead to potential logistical

¹¹ J. Thirsk, in *V.C.H. Leicestershire*, Vol. 2, 1954 p.204.

¹² K. Wrightson, *Earthly Necessities*, Yale University Press 2002, p.160.

¹³ S. Jack, ‘Monastic lands in Leicestershire and their administration on the eve of the Dissolution’, *L.A.H.S.*, Vol. XLI, 1965–66, p.10–12. The total area of the county was in the region of 500,000 acres.

problems for the tithegatherer, if a number of farmers harvested on the same day. Orchard fruit was also tithed in kind, by the 'strike' measure when they too were harvested. In Leicestershire, these included apples, pears, wardenes, plums and cherries. Small tithe payments were made either in kind or in cash, according to the parish custom of forty years' standing. These included tithe of wool and lamb, calves, milk, foals, and bees. The most complete list of tithing customs found in the county comes from Fleckney.¹⁴ This document lists two main 'reckoning days' for making cash payments for tithes.

The Lammas reckoning day, 1 August, was the time when payments for wool and lambs were settled. Lammas payments included tithe wool in kind of those sheep that went on the parish Sheep Commons on New Year's Day. The method of tithing was described as: 'we first taking two fleeces and then the tytheman take other two out of which they choose one' out of every seven fleeces. As tithe fleeces were paid at seven rather than ten, the titheman allowed a halfpenny to the producer for every one short of ten, known as 'odds'.¹⁵ Tithe lambs were also paid in kind, but at the seventh animal rather than the tenth. Again, for every lamb 'wanting of ten' the titheman gave a halfpenny to the producer. Odds and ends were dealt with: 'if we have four odd fleeces and three odd lambs or if we can make seven of both the tythe men are to take either a lamb or a fleece he allowing us a penny for every one wanting of ten'. This custom was also described in the parishes of the Worcester and Oxford dioceses.¹⁶ If any sheep that were in the fields or on the sheep commons of the parish on New Year's Day were sold and others purchased before 'shear time', they would be titheable in kind if they were shorn in the parish. If no more were bought, a halfpenny was due to the titheman for every ewe or lamb sold, and a halfpenny for every animal that died before Martinmas. Lambs and wool were not to be joined together for tithing if there were over ten of either category.

Martinmas or Martlemas, 11 November, was the day of reckoning for tithes of hay, milk, 'rate' tithes for sheep, calves, foals, bees, wood and garden produce. Hay was tithed as a customary modus, a small payment for a single item over the whole parish. In Fleckney this amounted to four pence or 'according to the proportion of a yard land either half yard land or quarter'. Milk was tithed from old milk cows, known in Barrow upon Soar as strappers, which had at least one calf but none since the previous Martinmas, at the rate of one penny each. Every cow and calf sold since the previous Martinmas attracted a tithe of two pence. Calves were paid in kind and one in seven, as they were in the Oxford diocese, but some Worcester parishes paid a small sum in lieu of tithe on calves.¹⁷ The titheman again allowed a penny for every animal 'that wanted of ten'. For every one that 'wanted of seven', if the parishioners had weaned or killed them they had to pay a halfpenny to the titheman. If the animals had been sold, they had to pay the tenth penny as tithe. Every tithe calf had to remain with its mother for a month, presumably to increase its chance of survival. For every foal the parishioners produced, they had to pay a penny, whether they weaned it or sold it. A rate tithe applied to sheep at this time, at the rate of four pence for every month for every hundred sheep that came in the field of Fleckney after New Year's Day. This was

¹⁴ Leicester, Leicestershire and Rutland Record Office, hereafter LLRRO, 1D 41/4/XX, 31-40, Thomas Hunt and Edward Smart, proprietors c[ontra] William Dorman of Fleckney.

¹⁵ These halfpennies were recorded in the Barrow Easter Books, LLRRO, DE 108

¹⁶ Barratt, p.224.

¹⁷ Barratt, p.225

applied proportionately to the sheep that went upon the Common and nowhere else, and no tithe in kind was paid ‘though they be shorn there’. For every hive of bees that was sold, the tenth penny was due to the titheman. For all the wood and fuel used since the previous Martinmas, every dwelling house had to pay a hearth penny and for every garden, a penny for the produce. These last two pennies were very common payments and often quoted in the listings of Easter Offerings, although they were paid in November in Fleckney.

The statement was signed by 23 elders of the village, of whom 11 had been born in the parish and whose ages ranged from 53 to 87. Their knowledge formed the basis of the parish customs of tithing, and similar listings must have existed for every parish in the county. Nichols lists some of these, but his lists only refer to partial listings of Easter Offerings. Easter Books where such items are recorded in detail are scarce in the county, but there is one excellent series from Barrow upon Soar.¹⁸ Here all payments due at Easter are listed by named household. A number of households list ‘strappers’ and another group lists ‘hands’, but no household lists both. This would suggest that there were three groups of individuals in the village: those listing strappers probably represented the farming community, another group listing hands consisted of labourers and craftsmen. Finally there were those whose only payments were for their offerings. These probably included boarders and lodgers and cottagers who had houses of little or no value. Obviously the farming group who owned houses liable for 2½d would pay tithes on their produce, 14–32% of households, and the 50–60% whose houses were liable for 1½d would pay for their ‘hands’ as labourers and craftsmen, and the remaining 4–14% probably paid their offerings and nothing for tithes.¹⁹

Not only were the rules of tithing complex, but the farming practices were too. Esai, or Esay, Marshall, a parishioner of Sharnford, described his buying and selling of stock in 1626 and 1627.²⁰ Alan Washington, rector of neighbouring Claybrooke, had sued him for tithe, claiming that some yardlands in Sharnford belonged to Claybrooke. Esai reported that in 1626 from July to October he had kept 80 sheep ‘feeding and couching in the said parish [of Sharnford]’ and in November and the beginning of December he had only 70 sheep.²¹ From December 1626 until the following April 25 1627, his sheep were depastured and fed in the parish of Claybrooke but couched sometimes in Sharnford and sometimes in Claybrooke. In May he bought and kept 44 sheep, and bought and kept in June until the end of July 67 sheep and no more, who ‘fed and couched’ in Sharnford. He clipped these 67 sheep in Sharnford and had 67 fleeces of wool and weaned three lambs in the same parish within that time. He converted the wool and lambs to his own use, having agreed with Mr. Aldred for tithe of some yardlands. Each of the lambs was worth 12d and the fleeces were worth 8d each. At the end of July he bought 43 sheep more which he kept feeding and couching in Sharnford for four or five days and no longer. The problem of keeping track of tithe due from these farming practices is self-evident.

¹⁸ LLRRO DE 108/1–10 Barrow upon Soar Easter Books. Payments were made for houses – 21/2d, 11/4d or nothing in Barrow upon Soar; offerings (from communicants) – 1d. each; hands (personal tithes of craftsmen) – 1d; for foals, cattle, strappers, bees, a smoke or hearth penny; a garden penny; and honey.

¹⁹ A. Tarver, ‘Barrow upon Soar: some aspects of the social and economic structure of a late sixteenth century village’, *East Midland Historian*, Vol. 4, 1994, pp.20–27.

²⁰ LLRRO 1D 41/4/IV/93–98, Alan Washington clerk rector c Esai Marshall of Sharnford, 1627.

²¹ Couching – probably taken to another place to sleep at night.

A lengthy dispute resulted from the depasturing of 167 sheep, brought up from Stow on the Wold to Rothley Plain in the late 1620s. The incumbent of Newtown Linford was offered a ‘quart of wine’ if the owner of the sheep could clip them on Rothley Plain to avoid paying tithes on the wool to the plaintiff.²² There was an increase in demand for tithes on herbage from the last decade of the sixteenth century and by the 1630s it was the third most-sought-after small tithe. This was the tithe on the grass consumed by grazing sheep, particularly those in enclosed fields and those sold on before clipping or lambing.

The process of tithing itself was not simple. The separation of the due tenth had to be witnessed – that of the corn and grain of all sorts and for apples, plums and pears, and calves. After this had been done, the owner of the crop could carry his goods away and the tenth then became, in law, a lay chattel to be disposed of at the tithe-owner’s wish.²³ Tithing in kind was an almost continuous process, and not without its problems. The clergy were bound by their calling to remain in charity with their parishioners, and were on occasion reluctant to engage with their more irascible parishioners. In 1636 the rector of Belton, Daniel King, attempted to inspect the tithe fruit due from one John Errington, which he had rented out to John Moore.²⁴ A few days later King and Moore were threatened with a suit for trespass. Two or three weeks later King requested Moore and two other witnesses to accompany him to Errington’s house to offer him 6d. for the wrong done. The group suffered verbal abuse, including the statement that King was a ‘twatling fool’. The ensuing defamation cause at Leicester revealed that King was ‘disturbed in his memory by age and a cold palsy’ and had been unable to preach for several years.²⁵ During that period there had been no known tithe disputes within the community, the parishioners appearing to support their priest in spite of his deficiencies. Not only were the relationships between clergy and parishioners important but also the intimate knowledge of everyone’s crops, which required inspection during the summer.

Other problems arose when the boundaries of an area to be tithed were unclear, as we have seen with the yardlands in Sharnford that belonged to Claybrooke.²⁶ Complications had developed in some parishes where property had been given to monastic houses to whom the tithes were due. Diseworth, in the north of the county, was tithed in three portions, known as frithings.²⁷ and in Seale the tithes of four houses were due to another owner, rather than to the local parson.²⁸ In 1629, the parson of Appleby who had previously farmed the tithes from the parson of Seale for these four

²² LLRRO 1D 41/4/IV/54–75, Mr Dr Elie Travers clerk, rector c John Thomas of Thurcaston, 1627–1630.

²³ The requirement for the tithe owner or his agents to be present allowed for the resolution of disputes on the spot.

²⁴ LLRRO 1D 41/4/XX/53–55, Mr Daniel King, clerk rector c John Errington of Belton, 1636. This was not a tithes cause but an Office Promoted cause of Scandal to the Ministry, a serious affair.

²⁵ Shortly afterwards the witnesses were subpoenaed to appear in the Court of Star Chamber at the ‘suit of the Minister’.

²⁶ LLRRO 1D41/4/IV/93–98, Alan Washington, clerk, rector c Esai Marshall of Sharnford, parish of Claybrooke, 1627, p.10.

²⁷ LLRRO 1D 41/4/631, Thomas Graye armiger of Langley, farmer of the rectory c John Wrighte of Diseworth, 1595.

²⁸ LLRRO 1D41/4/VII, 107, Zacharia Johnson, rector of Seale c Thomas Mould, rector of Appleby, 1628–1629.

houses in the village thought that he had a hard bargain and sublet the tithes to Mr Ralph Woolley who then collected the tithes in kind, paid his rent of forty shillings to the parson and ‘gained well thereby’. Needless to say, the following year the parson of Appleby reverted to collecting the tithes in kind himself. In the deanery of Christianity in Leicester, apples, pears and parsnips growing within the boundaries of the old parish of St. Peter’s were the subject of a dispute in 1598 when William Rudyard, vicar of St. Margaret’s sued William Viccars.²⁹ Rudyard was suing for double and triple value of these items, as they had not been set out correctly and he had been obstructed in trying to collect them. It was eventually shown that the boundary of St. Peter’s parish ran through that part of Viccars’ garden that backed onto Dead Lane, the boundary being marked by a wall. Witnesses gave accounts of tithe payments of 8d made for over fifty years previously.³⁰

The tithing system was further aggravated by the fact that both clergy and laity farmed out their rights to collect tithe to individuals or groups of people known as lessees or farmers of tithes, who were both clergy and laymen. This farming out was done to avoid the problems of gathering crops over long distances, and to sidestep the potential for disputes arising during local face-to-face collection. Many of these farmers or lessees were non-resident in the parish and had little or no knowledge of the members of the community and their crops, and little need to remain in charity with them. Most of these leases were of the rectorial tithes from those who had purchased the right to them following the Dissolution of the monasteries. Only two examples of farming a vicarage have been found, and only one example of the farming of Easter Offerings by the farmer of the rectory.³¹ The most interesting point in the Fleckney list is the actual method of tithing of wool in kind, whereby the titheman would take out two fleeces and the farmer would do likewise, thus reducing the available choice. The farmer would obviously take out his best fleeces and the titheman would remove those of poorer quality, thus ensuring that the tithe taken would be to the satisfaction of both parties. It is highly likely that lambs were tithed in the same manner: there are references to the penning of stock prior to tithing. Separation of the great tithes was to some extent random in that the tenth sheaf or cock was taken, and it was customary in Yorkshire to mark the tenth part to ensure that it was easily visible.³² There is only one reference in Leicester to the use of a dock plant to mark the tithe element of the crop.³³

A total of 480 tithe disputes containing sufficient information for analysis have been located in the Leicester archdeaconry court records. These disputes were recorded from 139 parishes, 68% of the total number in the Archdeaconry. Overall, 62% of these causes were brought by clerical plaintiffs and 38% by the laity, a reversal of the situation in the York courts where the laity brought an average of 64% and the clergy 35% of causes. The number of suits per parish varied from one to nineteen. The most contentious parishes were Ibstock 19, Claybrooke 18, Breedon 15, Glenfield and Packington 13 each, Medbourne 12, Loseby and Thurnby 11 each and Carlton

²⁹ LLRRO 1D41/4/778, William Rudyard, vicar of St. Margaret’s c William Viccars, St. Peter’s and All Saints parish, 1598.

³⁰ Deposition of Richard Archer, *ibid.* 778d.

³¹ Barrow upon Soar, where Robert Braham, a lawyer, produced the Easter Books recording his receipts for the late sixteenth and early seventeenth centuries.

³² J.S. Purvis, *Select XVI Century Causes in Tithe*, *Yorkshire Archaeological Society*, Record Series (1949) Vol. CXIV, p.19.

³³ LLRRO 1D41/4/742 (g), John Bale, farmer of the rectory c Richard Guest of Illston, 1598.

Curliu 10. The disputes in Carlton Curliu and Glenfield were almost continuous, the former involving three different rectors, and the latter involving four. The Packington causes, with one exception, were the work of one rector, Thomas Pestell MA, who also held the living of the adjacent parish of Ashby de la Zouch. The great proportion of parishes only saw one or two disputes. The final outcome of many of these causes will have been negotiated between the parties. Only 61 *sententia* or final judgements made by the court have been located – representing only 13.5% of causes, involving 23 farmers of the rectory, 18 rectors, 15 vicars and 5 proprietors. These probably represent the most intractable causes, where the parties simply could not reach an agreement.

Hill's work suggested that the poverty of a benefice due to inflation may have driven the incumbent to court, and this would certainly appear to be the case in the Leicester archdeaconry. Sheils reports that 'most usually it was the better-off parish clergy who were involved in litigation' in the York courts.³⁴ When the proportion of causes submitted by those with less than the average income in Leicester are examined, the results are striking. In each deanery the percentage of causes brought by clergy with less than average income was above 50%, rising to 88% of causes brought from parishes in the Sparkenhoe deanery (shown in Fig. 2). It has not been possible to attempt this analysis within the deanery of Christianity, due to the merging of St. Peter's and All Saints parishes, the peculiar jurisdiction of St. Margaret's, and the comparatively small number of causes.³⁵ A.P. Moore's work on the Subsidy of the Clergy in 1614 and 1615 looking for clerical poverty has shown that not all those in dire straits instigated suits. On the other hand, Ezekial Couchman of Ibstock pleaded poverty and yet had sufficient money to take out eleven tithe suits, seven of which were instigated within a year of the subsidy demand.³⁶

Deanery	% clerical plaintiffs with < average income	No of causes
Akeley	50.6	40
Framland	50.0	18
Gartree	62.3	43
Goscote	67.6	48
Guthlaxton	65.2	60
Sparkenhoe	87.7	72

Table 2: Tithe suits brought by clergy with less than average incomes.

The commodities demanded in these suits fall into three major categories – those for great tithes, those for great and small tithes (brought by clerical and lay rectors) and those for small tithes (brought by vicars). As can be seen from Fig. 3, the commodity most sought after in great tithe causes was hay, involved in 183 causes. Barley was

³⁴ W.J. Sheils, 'The right of the church: the clergy, tithe, and the courts at York, 1540–1640', *Studies in Church History: Vol. 24 The church and wealth*, 1987 pp.251. Papers read at the 1986 and 1987 Meetings of the Ecclesiastical History Society, edited by W.J. Sheils and Diana Wood.

³⁵ One cause was heard in the Archdeaconry court from St. Margaret's parish.

³⁶ A.P. Moore, 'Subsidies of the Clergy in the Archdeaconry of Leicester in the Seventeenth Century', *Associated Architectural Societies Reports and Papers*, Vol. XXVII, 1904, pp. 445–495.

GREAT TITHES											
	Hay	Barley	Corn	Wheat	Oats	Peas	Rye	Maslin/ Blend corn	Peas	Beans	TOTAL
1560–1569	5	3	2	1	4	2	2	0	1	0	20
1570–1579	23	11	5	7	2	6	5	3	3	1	66
1580–1589	5	4	3	1	1	2	1	1	0	0	18
1590–1599	21	9	4	3	1	2	2	1	0	0	43
1600–1609	9	0	1	2	1	0	1	1	0	0	15
1610–1619	17	4	5	3	1	3	0	1	1	3	38
1620–1629	28	4	2	1	2	3	0	0	0	2	42
1630–1639	75	22	23	9	12	6	4	7	5	3	166
TOTAL	183	57	45	27	24	24	15	14	10	9	408

Table 3: Crops included in disputes over great tithes.

Deanery	Great	Small	Mixed
Akeley	23.7	42.5	33.0
Framland	25.0	52.0	13.9
Gartree	19.5	48.9	31.5
Goscote	16.0	53.3	30.6
Guthlaxton	26.0	47.0	27.0
Sparkenhoe	34.0	61.5	42.3
Christianity	21.0	71.4	7.1

Table 4: Types of tithe suit by deanery.

involved in 57 grain causes and wheat in 27, oats and peas in 24 causes each. Rye figured alone in 15 causes, with mixed grain crops in 26 causes, including maslin or blendcorn (rye and wheat grown together). Peas and beans were grown separately and also as a mixed crop.

There do not appear to have been any suits for personal tithes – these seem to have been relegated to the Easter Book by this period. Great tithe cases brought by rectors, lay or ecclesiastical or their farmers/lessees, accounted for 22% of the total. The bulk of the cases, 48%, were brought by vicars concerned with small tithes, and mixed tithes accounted for 30%. The distribution of these by deanery is shown in Fig. 4. It is the high proportion of small tithe causes, brought by both rectors and vicars, that is of considerable interest in relation to the growth in the influence of William Laud. In all deaneries these form twice the number of great tithe cases, particularly in Christianity Deanery where collection of tithes was always difficult. Most causes simply involved a few items, which would suggest that there was not a complete refusal to pay, but simply parishioners paying their dues and no more. Some individuals were taken to court for all their tithes as in the case of John Staton of Kirby Bellars in 1630, who was sued for a wide range of produce, including walnuts and crabs [apples], and gorse and furze, suggestive of religious differences or other matters in the background.³⁷

Economic conditions could obviously increase any tendency to disputes, particularly in times of agricultural stress when those entitled to tithes would encounter difficulty

³⁷ LLRRO, 1D 41/4/X/20, Erasmus de la Fontaine, armiger and proprietor c John Staton of Kirby Bellars, 1630–31.

Decade	Clerical causes	Lay causes
1560–1569	7	8
1570–1579	38	35
1580–1589	15	10
1590–1599	39	39
1600–1609	20	10
1610–1619	29	15
1620–1629	29	22
1630–1639	120	43

Table 5: Tithe Causes in Leicestershire by decade.

gathering their dues. In Fig. 5, the causes are grouped by decade and it is possible to see three distinct periods of increased disputes, the last of which in the 1630s showed a sudden and considerable increase in the number of causes. These were brought particularly by the clergy and would suggest that there was an additional factor at work. One possible explanation could be related to the increased following of Archbishop Laud in the county at this time. He held the living of Ibstock in 1617–1618 and his half-brother William Robinson, a prebendary of Westminster, held the living of Long Whatton from 1605.^{38,39} Laud respected the doctrine of James Arminius who felt that there was a need for greater reverence in church and respect for the clergy. Failure to pay tithes were a sign of disrespect and therefore not to be encouraged. Laud's greatest ally in the Archdeaconry was his old friend, Sir John Lambe, who presided over the Archdeaconry Courts in his role as Bishop's Commissary and was eminently positioned to offer moral support to the clergy.

The first two of these peaks, in 1670–1679, and certainly the second in 1590–1599, can be correlated with the agricultural problems of the last decades of the sixteenth century. The number of clerical causes began to increase between 1610 and 1619 and became overwhelming between 1530 and 1539. In the Oxford, Worcester and Gloucester dioceses the picture was very different, showing a greater number of causes in the sixteenth rather than the seventeenth century passing through the church courts, although no specific numbers have been quoted.⁴⁰ In the York diocese, there were 110 causes in the 1550s, 152 in the 1660s, 122 in the 1570s, 129 in the 1580s and 152 in the 1590s.⁴¹ The number of causes was so large in the seventeenth-century York diocese that only two periods were surveyed, locating 374 causes between 1610 and 1619, 54% of which were brought by lay farmers of tithe; and 166 causes between 1630 and 1639, of which 66.6% were also brought by the laity.⁴² All these courts show different patterns of business that may well reflect local conditions. The York diocese covered a very large, sparsely populated area occupied by large monastic establishments, whose new owners encountered problems with collecting their newly acquired dues. This is suggestive of old loyalties being maintained. In Leicester, the influence of William Laud and John Lambe and their respect for the Arminian doctrine could well account for the number of causes in the 1620s and 1630s.

³⁸ LLRRO DE 464/2.

³⁹ Nichols Vol III pt 2, p.1106.

⁴⁰ Barratt, p.214. Her thesis was concerned with the condition of the parish clergy, rather than the number of tithe disputes during this period.

⁴¹ Gransby, p.186.

⁴² Gransby, p.214.

During the medieval period, when the open-field system was in operation, the tithing system probably worked well, but with changing farming methods, the spread of enclosure, and the return of titheable monastic land to the system, the old methods of tithing were beginning to become difficult to operate, and potentially open to dispute. However, it must be remembered that there were two disputes or less in the Leicester archdeaconry in 33 years of the 80-year period studied and that in 32% of parishes there were no disputes at all. The most important facts to emerge have been the differences in plaintiffs between the dioceses examined. The Fleckney document is very important to the understanding of this process, with similarities in process noted in Oxford, Worcester and Gloucester; and the Barrow Easter Books have provided a rare insight into the number of people who had to pay tithe. The laity dominated causes in York and the clergy in Leicester, reflecting the political and economic conditions prevailing in each area, and the changes over time. Unfortunately no figures were available for the dioceses of Oxford, Worcester and Gloucester, although there seems to have been a greater number of causes in the sixteenth century than in the seventeenth. This would suggest that were regional differences in these disputes, and that more detailed analysis of the Oxford, Worcester and Gloucester material would enable the situation in Leicester to be placed in a wider context.

Personal details

Anne Tarver has been working on the records of the church courts since 1988, beginning with tithe disputes in the Archdeaconry Courts of Leicester. This was followed by work on a Leverhulme-funded project researching the consistory court of Lichfield and Coventry. She was awarded her PhD from Warwick University for work on these courts and continues to index the court papers. She teaches for the WEA and lectures to local and family history groups.