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What made 'criminous clerks' such a divisive issue between Henry and Thomas?

The Council of Westminster, October 1163, was the event at which the issue of criminous clerks was propelled onto the political front line. This was a general assembly of the Church, which probably begun with the translation of Edward the Confessor to his new shrine at Westminster. As the business of the council began, Henry raised the issue of criminous clerks, proposing that clerks should be tried in ecclesiastical courts and if convicted should be degraded and handed over to the royal courts for sentence and punishment. Thomas and the bishops presented a united front in rejecting Henry's proposals. Their argument was that to subject the clerk to lay punishment would be to punish him twice for the same offence. Rather, the convicted clerk should be degraded and punished solely by the Church, leaving him entirely subject to lay courts should he commit further offences in future.

Outraged by their opposition, Henry asked the bishops if they would agree to observe the ancient customs. Their reply was that they would do so 'saving our order', only Hilary of Chichester substituting the words 'in good faith'. Next morning Henry announced that he required Thomas to give up the castles and estates he had retained after his chancellorship, removed his son from the archbishop's household and left Westminster without speaking further to the bishops.¹ Tensions between Thomas and Henry were nothing new, but at Westminster a sharper downward trajectory was established.

To understand the significance of 'criminous clerks' in the dispute between Henry and Thomas it is necessary to examine two areas. The first is the political, legal and ecclesiastical background to the dispute, explaining why the issue became a point of conflict in 1163. The second is to explore the various factors which, once the issue had been raised, led to such a rapid escalation in tensions between the Council of Westminster and the Council of Clarendon.

In demanding that the bishops observe the 'ancient customs', Henry was hoping to repair the damage done to royal government during Stephen's reign and return to the conditions which prevailed under the reign of his grandfather, Henry I, whose reign he saw as a model of cohesion and effective administration.² His view may have been tinged with nostalgia however, as there is no doubt that tensions between secular and ecclesiastical authorities were already well established under Henry I. As early as 1106 Henry I renounced the rights to lay investiture in exchange for a guarantee of an oath of allegiance before consecration. When the long running 'Investiture Controversy' concluded at the Council of Worms in 1122, divisions in the

¹ David Knowles, *Thomas Becket* (London: Adam & Charles Black, 1970) p.86

² Charles Duggan, *The Becket Dispute and the Criminous Clerks*, *Bulletin of the Institute of Historical Research*, Vol. XXXV, no.91 (1962) p.1; Frank Barlow, *The English Church 1066 – 1154: a History of the Anglo-Norman Church* (London: New York, Longman, 1979) p.9

authority of Church and state became formalised in ways they had never been formerly.³

During the reign of Stephen the Church continued to consolidate its gains as constitutional changes brought about far more effective centralised government. Simultaneously the Church also became generally wealthier.⁴ It had become increasingly common for the laity to gift land to the Church, providing vast resources for the expansion of monasteries and greater involvement in lay affairs. Through the growth of monastic houses particularly, the Church increasingly fulfilled social functions, providing alms for the poor and medical treatment for the sick. Through tithes, mortuaries and other dues, it effectively taxed the people, and one of the results of its increased revenues was an increase in the number of clergy.⁵ This combination of wealth, land ownership and effective administration brought about increased ecclesiastical authority which reached further into the secular world than had been the case under Henry I. One only has to look at the vast Romanesque churches being built during this period to see the wealth and confidence of the Church. It could be argued that whilst Henry II harked back to the 'ancient customs', the Church had changed and was forging an optimistic path forwards.

The same period prior to Henry II's reign also saw an intellectual revival brought about by the Church at centres such as Paris, Bologna and Oxford. Influential teachers, including Peter Abelard, Anselm and Lanfranc led advances not only in the study of theology but also in the study of Roman law and application of logic, producing a class of educated men who showed themselves less afraid to reason with authority and to question royal judgement, of which Thomas's advisers John of Salisbury and Herbert of Bosham, were typical.⁶ As early as 1159, whilst Thomas was still Chancellor, John had dedicated his work *Policraticus* to him, in which he argued that clerics should be immune from secular punishment 'unless he again raised a bloody hand.'⁷ Influenced by John and Herbert, Thomas's stance on criminous clerks may have been fully formed well before October 1163.

During the reign of Henry I the boundaries between the authority of secular and ecclesiastical courts appear to have been less well defined than they were to be under Henry II, and there is little evidence for conflict between the two.⁸ The 'ancient customs' governed the relationship between the ecclesiastical and royal courts effectively.⁹ In general, cases were divided between the lay and Church courts according to the nature of the crime rather than the status of the accused, so cases concerning land were usually dealt with in the secular courts, whilst spiritual matters were sent to ecclesiastical courts. Litigants would take their cases to the court which promised the best outcome. Henry II certainly believed that criminous clerks in his

³ Barlow, *The English Church 1066 – 1154*, p.273

⁴ Barlow, *The English Church 1066 – 1154*, p.2

⁵ Ibid p.24

⁶ Ibid p.4

⁷ Anne Duggan, *Reputations: Thomas Becket* (London: Arnold, 2004) p.49

⁸ Barlow, *The English Church 1066 – 1154*, p.171

⁹ Barlow, *Thomas Becket* (London: George Weidenfeld and Nicolson Ltd, 1986) p.94

grandfather's reign were degraded by the Church courts and handed over to secular judiciars, and Barlow believes there is no evidence to contradict this.¹⁰ However, under Stephen's reign ineffective royal government allowed the increasingly well organised judicial system of the church to assert its rights, particularly claiming clerical immunity or *privilegium fori* for its clergy. Added to this was a huge increase in papal appeals being made, particularly to Alexander III from 1159, and the free passage of papal legates and bishops between the Continent and England, all of which, Henry believed, undermined royal prerogative.¹¹ Through this re-defining of judicial boundaries the Church achieved a shift in the balance of power which certainly made conflict with Henry more likely.

Strengthening of ecclesiastical justice during the twelfth century was facilitated to a large extent by developments in canon law. Prior to 1140, canon law had comprised a multitude of disparate and sometimes contradictory rules and regulations, the plethora of forged decretals in the ninth century adding to the confusion.¹² From 1125 - 1135 there is evidence that copies of Ivo of Chartres's *Tripartitum*, *Decretum* and *Panormia* were being consulted in England, but by 1150 the library of Christ Church Canterbury possessed at least six different compilations of canon law.¹³ Many contained rulings which were antiquated and irrelevant to current situations and problems, whilst their disorganised layout made consulting them for specific cases very difficult.¹⁴ However, around 1140 the monk Gratian compiled the *Concordia Discordantium Canonum* or *Decretum*, which brought together apparently discordant legal rulings of canon law, followed by a resolution of the case. This brought organisation to canon law, but simultaneously the large number of new papal decretals being issued under Alexander III meant that new case law was continually being made. As a result, although Gratian's *Decretum* in many cases gave the application of canon law a more confident, firmer basis on which to operate, there were still many ambiguities and loopholes which could be exploited by litigants. One of these ambiguities was the judicial treatment of criminous clerks, which was to lead to differing interpretations of law by Henry and Thomas.

All the above advancements in ecclesiastical wealth, government, education, judicial systems and canon law made it inevitable that when Henry attempted to reconstruct English law as he believed it had been under his grandfather, he would meet resistance from the Church. The balance of power between Church and royal government in the West had changed; criminous clerks stood at the point of intersection of the two rival prerogatives and were therefore likely to provide a flashpoint for conflict. Following the disruption of Stephen's reign it was inevitable that Henry would one day pursue judicial reform, and that at that point a clash of interests between Church and state would ensue.

¹⁰ Barlow, *The English Church 1066 – 1154*, p.166

¹¹ Barlow, *Thomas Becket*, p.90; Charles Duggan, *The Becket Dispute*, p.2

¹² Knowles, *Thomas Becket*, p.80

¹³ Anne Duggan, *Roman, Canon and Common Law in Twelfth-century England*, *Historical Research*, vol.83, no.221 (August 2010) p.389

¹⁴ Barlow, *The English Church 1066 – 1154*, p.146

The case of Osbert, Archdeacon of York, accused of murdering the newly consecrated Archbishop of York, highlighted the conflicting principles in the legal system inherited by Henry II. The case opened close to the end of Stephen's reign but upon acceding Henry disputed the Church's jurisdiction, later changing his decision and admitting that canon law took precedence. Theobald wrote that this result was achieved '*with much difficulty and with strong pressure, to the indignation of the King and all his nobles.*'¹⁵ However, more than a year later the accusation had not been proved or disproved, an appeal had been made to the pope, and twenty years later Osbert was still claiming injustice, demonstrating to Henry the inability of ecclesiastical courts to reach a decisive conclusion.

William FitzStephen claims that the timing of Henry's raising of the issue was unexpected, '*When, lo and behold, to everyone's surprise the King of England began to propose certain rather harsh measures.*'¹⁶ In reality there were several circumstances which had brought the issue to the fore at that particular time. Henry's absence from England between August 1158 and January 1163 was the probable reason why the issue of criminous clerks had not become more prominent earlier, under Theobald's archiepiscopacy. On Henry's return he was informed that vast numbers of serious crimes had been committed by clerks during his absence, making the need for a solution to this particular problem a matter of urgency. Although the issue of criminous clerks was only a subsidiary part of the wholesale reform of the judicial system he envisaged, it was however, important; the Church claimed clerical privilege even for those in minor orders, therefore a large subsection of the population was included, weakening royal authority substantially.¹⁷

Three well-documented cases, occurring between Thomas's consecration and the Council of Westminster, created particular tension between the King and primate and highlighted, in Henry's eyes, the over-reaching of Church authority. When a cleric in Warwickshire was charged with seducing a girl and murdering her father, Henry demanded that the case be heard in the lay courts. Thomas refused, insisting on canon law administered in the Church courts. A cleric accused of stealing a chalice from the church of St. Mary-le-Bow in London was tried in the ecclesiastical courts but, to appease Henry, Thomas had him branded as a thief. In a third case a canon from Bedford, Phil of Broi, was acquitted by Church courts of killing a knight, but subsequently prosecuted again for the same crime by a royal justice. Philip of Broi refused to undergo a second trial, and despite Henry's insistence on a secular trial Thomas retained the clerk within ecclesiastical courts. When a new charge of insulting a royal officer was made, the bishops judged that he should be banished for two years and present himself 'naked' before the royal officer he had insulted.¹⁸

The leniency of these and other cases was found unsatisfactory by Henry, who believed that sentences imposed by the Church, which never included capital

¹⁵ Anne Duggan, *Reputations: Thomas Becket*, p.39

¹⁶ Michael Staunton, *The Lives of Thomas Becket* (Manchester and New York: Manchester University Press, 2001) p.79

¹⁷ W.L.Warren, *Henry II* (London: Eyre Methuen, 1973) p.465

¹⁸ Anne Duggan, *Reputations: Thomas Becket*, p.38

punishment or mutilation, were an inadequate deterrent to felonous clerks. Within the ecclesiastical courts it was even possible for the accused to escape from justice completely if he had enough 'oath-helpers' to vouch for him.¹⁹ Thomas's own decisions had been fairly arbitrary and, in branding the thief and banishing Philip de Broi, he had actually assumed authority normally vested only in royal courts.²⁰ It could be argued that the ecclesiastical courts were claiming jurisdiction which as yet they were not equipped to discharge competently.²¹ These were all factors which highlighted to Henry the need to impose standardised procedures.

The ambiguities still inherent in canon law have been mentioned above, and it was because of them that Henry and Thomas were both able to claim that their case at Westminster was supported by canon law. It is impossible to know how closely guided Henry and Thomas were by Gratian's *Decretum*, but contemporary authors recording the dispute were clearly familiar with Gratian's work.²² The ambiguity lay in the interpretation of '*Traditio curiae*'- 'Let him be handed over to the court'. This concerned the point at which the felonous clerk would be handed over from the ecclesiastical courts to the secular courts. Henry of Bosham reported that Henry 'was supported by the advice of some who claimed to have knowledge of both laws', meaning common and canon law, but his argument was most in line with the law of the Christian Roman Empire, the *Corpus Juris Civilis*. This stated that a clerk should be examined before a secular magistrate who, if he judged there was a case to answer, would pass the clerk over to the local bishop, to be tried in the presence of a royal justiciar. If the bishop found the clerk guilty, he would degrade him and pass him back to the secular court for sentence and punishment.²³ Henry of Bosham claimed that Henry's reason for this was that felonous clerks 'would be more prone to do evil unless after incurring a spiritual penalty they were subjected to physical punishment', since ecclesiastical punishments were confined to degradation, pilgrimage and suspension from office.²⁴

Thomas's counterargument was that in the canonical texts '*traditio curiae*' referred only to trial for crimes subsequently committed by the criminous clerk after degradation. If a secular punishment were to be imposed immediately after degradation, the felon would be punished twice for the same offence. Thomas quoted from St. Jerome's commentary on Nahum when he said, 'God does not judge twice in the same case.' For clerics, Thomas argued, mutilation was to spoil one made in the image of God; degradation was, for most, punishment enough.²⁵ Thomas's arguments may have been more in line with canon law than Henry's, but they were far from waterproof; Thomas's confidence in his interpretation of canon law was not fully justified by the texts themselves, even Gratian's, which remained ambiguous and unclear. Charles Duggan points out that canon lawyers at the time were in disagreement over which judgement was canonically correct, some claiming

¹⁹ Knowles, *Thomas Becket*, p.83

²⁰ Warren, *Henry II*, p.465

²¹ Ibid p.464

²² Charles Duggan, *The Becket Dispute and the Criminous Clerks*, p.6

²³ Warren, *Henry II*, p.469

²⁴ Ibid p.466-467

²⁵ Ibid p.467

that Alexander III had overturned the doctrine found in Gratian which was cited by Thomas, though historians generally agree that Thomas's arguments were a truer reflection of the spirit of canon law and the direction of canonical tradition.²⁶ In this chaotic situation, where colliding vested interests had free reign to reinterpret ambiguous legal texts, it is not surprising that Henry felt he would be on safer ground resorting to the 'ancient customs'.

If Henry of Bosham is to be believed, Thomas went way beyond the principles of canon law in his defence of clerical immunity at The Council of Westminster. 'The clergy, by reason of their orders and distinctive office, have Christ alone as king.... And since they are not under secular kings, but under their own king, under the King of Heaven, they should be ruled by their own law, and if they are transgressors, they should be punished by their own law, which has its own means of coercion.'²⁷ If Thomas did make this speech, his assertion of the superiority of sacred powers over secular and the privilege of clergy resulting from it could only have enraged Henry further, leaving him feeling impotent to affect the legal reforms he desired. It escalated a moderately important argument about criminous clerks into a conflict which questioned the whole issue of where ultimate authority in England really lay. The original issue had become totemic rather than merely practical.

It was Thomas's dogmatic stand and the unanimous refusal of the bishops at Westminster to accept his ruling on criminous clerks that prompted Henry to require from them an assurance that they would recognise the ancient, or royal, customs. A refusal to recognise the customs would lay the bishops open to an accusation of treason; to accept them in full left the Church subject to an ambiguous legal framework, and one which was more likely to be weighted in the interests of the king than of the Church. It is likely that Thomas believed that full submission to the royal customs would seriously undermine ecclesiastical authority, and only by adding the waver 'saving our order' (*salvo ordine suo*) could he prevent this. The bishops, apart from Hilary of Chichester, clearly agreed, but by backing the bishops into a corner the king had escalated tension once again. Both Henry and Thomas had, in the past, allowed judgements which contradicted their present stance, but now the lines had been drawn and their positions made clear, and for either of them to fully concede would be humiliating.

In January 1164 Henry presented the Constitutions of Clarendon, the ancient customs in written form, to Thomas and the bishops. The sixteen articles of the Constitution laid out the rights of Church and royal government in various areas, demonstrating that criminous clerks were not Henry's sole grievance. Article III repeated Henry's demand for the treatment of these clerks.

III. 'Clerks charged and accused of any matter, summoned by the king's justice, shall come into his court to answer there to whatever it shall seem to the king's court should be answered there; and in the church court to what it seems should be answered there; however the king's justice shall send into the court of holy Church

²⁶ Charles Duggan, *The Becket Dispute and the Criminous Clerks*, p.27

²⁷ Warren, *Henry II*, p.467

for the purpose of seeing how the matter shall be treated there. And if the clerk be convicted or confess, the church ought not to protect him further.'²⁸

Anne Duggan argues that this clause was skilfully composed in that it used Roman law, upon which the evolving canon law was founded, and in doing so Thomas's own legal arguments were being turned against him.²⁹ Accepting the Constitutions would have given Henry control over both the beginning and end of every trial of a criminous clerk, and would have made mutilation or execution the inevitable outcome in every case concerning homicide without exception.³⁰

Henry's demands regarding criminous clerks had not changed significantly since Westminster. What made the situation more volatile at Clarendon was not Article 3 itself, but the fact that a wide range of clauses limiting ecclesiastical power had been written down and presented as 'ancient custom' after Thomas and the bishops had promised obedience. Thomas complained that he was too young to remember what the customs actually were. Under Article III, what may have been a sporadic custom under Henry I was by Henry II turned into a general rule.

Warren argues that a diplomatic way out of conflict would have been possible, even at Clarendon, if Henry had been willing to build reference to the developing canon law into the Constitutions.³¹ Additionally, most criminous clerks were men in minor orders who were indistinguishable from laymen, not consecrated clergymen; a solution involving discrimination between orders of clerics could have been advanced. However, the intransigence of Thomas and the imperiousness of Henry prevented this.³²

Between the Councils of Westminster and Clarendon the individual characters, circumstances and agendas of each of the protagonists made conflict more likely. Henry's reaction to Thomas may well have been fuelled by a sense of betrayal – he had raised Thomas from relatively humble origins to the status of archbishop with the expectation that Thomas would support his programme of reform, perhaps through a sense of indebtedness and personal friendship. From Westminster onwards Henry regularly reproached Thomas for ingratitude. Roger of Pontigny reports that soon after Westminster Henry asked Thomas 'How is it then that so many favours, and such signs of my love for you, well known to all, could so suddenly be banished from your mind, so that not only do you turn out to be ungrateful, but even hostile to me in every way?'³³ If Roger's report is accurate, how far Henry's words were merely a manipulative device cannot be known, but the vast size of Henry's empire required fast, decisive government, and for Thomas, of all people, to forestall his plans must

²⁸ *The Constitutions of Clarendon*, translated in Albert Beebe White and Wallace Notestein, eds, *Source Problems in English History* (New York: Harper and Brothers, 1915) in <
<https://sourcebooks.fordham.edu/source/cclarendon.asp>> [accessed 9 January 2022]

²⁹ Anne Duggan, *Roman, Canon and Common Law in Twelfth-century England*, p.386

³⁰ John Guy, *Thomas Becket*, (London, Penguin Books, 2012) p.190

³¹ Warren, *Henry II*, p.479

³² Barlow, *Thomas Becket*, p.104-105

³³ Staunton, *The Lives of Thomas Becket*, p.83

have caused immense frustration to Henry. Henry's rages were infamous. His temperament, combined with his relative inexperience as a ruler and the sense of betrayal and frustration, may explain why he was so quick to 'punish' Thomas and escalate tensions by invoking the customs, rather than pursuing a more measured diplomatic policy.

Since many of the bishops and the monks of Christ Church Canterbury had expressed reservations as to Thomas's fitness to become archbishop, Thomas was undoubtedly under pressure to prove his commitment to the Church. At Westminster his zeal to preserve the liberties of the Church far outstripped that of the bishops who, if FitzStephen is to be believed, were initially inclined to submit to the king's demands.³⁴ How much this need to prove his worth contributed to his radical and dogmatic stance on the issue of criminous clerks we cannot know. There is evidence, though, that he was afraid that allowing any concessions to Henry would open the gates to a systematic destruction of Church liberties. He knew Henry well, and in a letter to Alexander III in 1168 he was to express the rather apocalyptic view that 'If the customs which he demands were to prevail, it is clear that the authority of the Apostolic See would either disappear from England or be reduced to a minimum.'³⁵

Thomas's actions between the Councils of Westminster and Clarendon were undoubtedly inflammatory. Secret negotiations begun almost immediately. Both Thomas and Henry appealed to the papal curia, whilst Thomas also corresponded with Louis of France, the princes of the Netherlands and the German emperor. Thomas had already begun to make arrangements to go into exile, involving the archbishop of Rheims, Louis VII's brother. When he conducted secret negotiations with the pope, Thomas flagrantly disregarded the ancient customs. For him to make an appeal to Henry's rival, the king of France, could have been considered treasonable.³⁶

Henry's rivalry with Louis VII of France was well established. Henry's marriage to Louis' former wife, Eleanor, had not only provoked personal bitterness but had brought to Henry the vast lands of Aquitaine. Although Louis was the feudal superior of Henry, Henry's vast empire on the Continent far outstripped Louis' lands. Conflicts in the Vexin and Touraine and controversy over the betrothal of Henry's son to Louis' daughter all contributed to a precarious relationship. Therefore, when Thomas drew Louis into the dispute between himself and Henry soon after Westminster, he threatened a very precarious balance of power.

After consulting together at Westminster, Thomas and the bishops were able to present a united front to Henry. However, this loyalty to Thomas was skin deep and an undercurrent of resentment and suspicion amongst the bishops towards him made sustained cooperation almost impossible. The dispute for primacy between the

³⁴ Staunton, *The Lives of Thomas Becket*, p.80

³⁵ Guy, *Thomas Becket*, p.255

³⁶ Barlow, *Thomas Becket*, p.96

sees of Canterbury and York was reinvigorated by Archbishop Roger of Pont l'Évêque, resentful of Thomas's accession to Canterbury. As Bishop of London, Gilbert Foliot's suspicion and dislike of Thomas had been expressed in his refusal to profess obedience to Canterbury and in his claims to have his own see raised to an archbishopric. After the Council of Westminster, Henry showed himself eager to exploit these weaknesses when he approached each of the bishops individually to canvas support.³⁷

When, soon after Westminster, Thomas reversed his decision to accept the customs, and again at Clarendon when he took the chirograph of the Constitutions without appending his seal, Thomas acted without first consulting the bishops. This was a pattern of behaviour with which he continued at times throughout the dispute.³⁸ It is not surprising that this mismanagement of such fragile trust should further weaken support from some of the bishops and make Henry's attempts to divide them so much easier. In his letter, '*Multiplicem*,' Gilbert Foliot firmly blamed Thomas for inflaming the situation, complaining that 'A man of your prudence should have ensured that the disagreements gradually arising between the kingdom and you did not grow too serious, that the tiny spark did not flare up into so great a fire, to the ruin of many.'³⁹ This lack of diplomatic and political judgement was at the root of many so-called 'grand gestures', of which it could be argued Thomas's stand on criminous clerks in 1163 was the first.

Thomas's behaviour was inexorably bound up with the fortunes of Pope Alexander III, whose circumstances in 1163 were highly precarious. As a result of schism in 1159, the papacy was divided between Victor IV and Alexander III, the former with the support of Frederick I, and the latter with the recognition of the kings of France and England. Following Frederick's invasion of Italy in 1162 Alexander III was forced into refuge in France, and Henry's support, as ruler over the vast lands of England, Anjou, Normandy and Aquitaine, was absolutely essential to Alexander's position both politically and financially.⁴⁰ Whilst eager to preserve the liberties of the Church, Alexander III could therefore not afford to risk losing Henry's goodwill. Although superficially the pope expressed approval that Thomas was defending the Church, he nevertheless wrote to Thomas advising him to lie low. 'We direct and order your fraternity to return to the church of Canterbury and travel as little as possible about the country, and keep with you only the smallest number of attendants which you absolutely need'.⁴¹ It was Alexander who sent Philip, abbot of L'Aumône, together with the bishop elect of Hereford Robert of Melun, and a military captain John Count of Vendôme, to attempt to persuade Thomas to submit to the customs.⁴² If Alexander's position was insecure so was Thomas's, and it was this vulnerability that

³⁷ Barlow, *Thomas Becket*, p.96

³⁸ When excommunications were announced at Vézelay in 1166, Herbert of Bosham claims 'we were immediately astonished that he had acted in this way without consulting us'. Benedict of Peterborough reports that on the day of Becket's death John of Salisbury complained 'Lord, it is a matter of great wonder that you accept no advice'. Staunton, *The Lives of Thomas Becket*, p.145 and 198

³⁹ Anne Duggan, *Reputations: Thomas Becket*, p.32

⁴⁰ Ibid p.40-41

⁴¹ Guy, *Thomas Becket*, p.182

⁴² Barlow, *Thomas Becket*, p.97-98

led Henry to believe this was a propitious time to attack clerical immunity and impose the ancient customs on the Church.

Taking a broad view of the long-running dispute between Henry and Thomas, the central issue at stake between them was authority, who had the final say in how England was governed. Henry, in his attempts to recreate the conditions under his grandfather's reign, failed to acknowledge or make concessions to the major advances of the Church in the intervening years, making conflict at some point inevitable. The issue of criminous clerks became the flashpoint in this conflict because it laid down a challenge to Henry's authority at a very fundamental level - it raised the question of who had ultimate authority over law and order in England. It was not inevitable, however, that the issue would escalate so rapidly; the legal ambiguities heatedly discussed at Westminster were almost an irrelevance in the argument. It was the radical and intransigent natures of Henry and Thomas, their personal relationship and the effect of fragile power bases on the stances taken by all the main protagonists which ensured this was to become, ultimately, an irreconcilable conflict.

Bibliography

Primary Sources

Staunton Michael, *Thomas Becket and his Biographers* (London: Boydell Press, 2006)

The Constitutions of Clarendon, translated in Albert Beebe White and Wallace Notestein, eds, *Source Problems in English History* (New York: Harper and Brothers, 1915) in <
<https://sourcebooks.fordham.edu/source/cclarendon.asp>>

Secondary Sources

Barlow Frank, *The English Church 1066 – 1154: a History of the Anglo-Norman Church*, (London: New York, Longman, 1979)

Barlow Frank, *Thomas Becket*, (London: George Weidenfeld and Nicolson Ltd, 1986)

Duggan Anne, *Reputations: Thomas Becket*, (London: Arnold, 2004)

Duggan Anne, *Roman, Canon and Common Law in Twelfth-century England*, *Historical Research*, vol.83, no.221 (August 2010)

Duggan Charles, *The Becket Dispute and the Criminous Clerks*, *Bulletin of the Institute of Historical Research*, Vol. XXXV, no.91 (1962)

Guy John, *Thomas Becket*, (London, Penguin Books, 2012)

Knowles David, *Thomas Becket* (London: Adam & Charles Black, 1970)

Warren W.L. *Henry II*, (London: Eyre Methuen, 1973)