

THE LAW

Many Canadian legal customs have been handed down to us from the Middle Ages. We might not feel completely at home in a medieval courtroom, but we would certainly have a good idea of what was going on. As in our own courts, someone would be prosecuted or sued, witnesses would swear to tell the truth, a jury would hear the case, and a sentence would be passed by a judge.

Some things, however, would definitely surprise modern people. For example, we would not think of putting rats on trial because they ate the village grain supplies. Medieval people did try rats, toads, and even,

on occasion, insects. Anything that brought evil into a person's life could be brought to justice. "Evil" could include the death of a cow, an accident, or having your food stolen by rats.

TRIAL BY ORDEAL AND TRIAL BY BATTLE

Trial by ordeal and trial by battle were common ways of deciding if a person was innocent or guilty in the Middle Ages. People reasoned that God would certainly help an innocent person. So,

to prosecute: to present evidence to prove a person's guilt

to sue: to seek compensation for a personal wrong

judge: one who hears and decides cases in court

to try: to determine guilt or innocence

ordeal: dreadful experience

to test a person's innocence, why not expose a person to danger to see if God would protect him or her from harm?

Trial by ordeal came in several varieties. A person might have to swallow poison, pull an object from boiling oil, walk over nine red-hot ploughs, or carry a red-hot piece of iron a certain distance. If the burn from the ordeal became infected, the judges would rule the person guilty. Trial by ordeal was outlawed later in the Middle Ages.

In trial by battle, two nobles would fight, often until one of them died. The winner was assumed to be innocent, because God protected innocent people. Only noblemen had the right to trial by battle. A noblewoman had the right to select a champion to fight on her behalf.

MANOR COURTS

Various courts—manor courts, royal courts, and Church courts—looked after different legal matters. A person accused of any major crime would be sent to the royal court. Church people (the clergy) were tried by Church courts. The most common kind of court was the manor court, which settled minor disputes and punished petty criminals.)

Many of the disputes settled in the manor court had to do with farming and property. Villagers might be in trouble for using too much manure, for not "bringing their oxen to the plough," for ploughing another person's strip of land, or for other civil matters. Even serfs could sue. This court also dealt with charges of **assault**, public drunkenness, petty theft, and other small crimes.

The manor court was like a village meeting, and most of the villagers would attend. Witnesses were very important, and there were heavy fines for lying to the court. The



Figure 2-7 In this trial by ordeal, a person's innocence is tested by his ability to withstand poison. Does this form of trial endure in Canadian law? Why or why not?

villagers decided who won the case, and a representative of the lord, called the steward, acted as judge, deciding the sentence of the court, which was usually a fine.

ROYAL COURTS

The royal courts dealt with serious crimes such as murder, **treason**, rape, and burglary. Poaching game from the royal forests, cutting trees there, or even taking deadwood to use as fuel were also considered serious crimes. Wardens of the royal forest treated these crimes with as much earnestness as they would a murder.

Royal courts used the common law; this law was called "common" because it was the same for the whole kingdom. Only this court could order the execution of murderers and thieves. In 1300, the theft of anything worth more than a shilling (about a week's wages) was considered a

assault: an attempt to physically harm another person

treason: betraying one's country or ruler

DID YOU KNOW?

Unlike today, very few people were put in prison in the Middle Ages. Instead, the royal court punished serious crimes with death, mutilation (a thumb or an ear might be cut off), banishment from the country, or a hefty fine.

capital crime punishable by death. After executing a criminal, the court would take away all of his or her property.

CHURCH COURTS

God's direct representative on earth was the pope, who had absolute authority over people who held office in the Church or belonged to recognized religious orders. Therefore, only Church courts could judge bishops, deacons, priests, clerks, monks, and nuns. Church courts usually gave out lighter sentences than the royal courts, and they could not sentence a person to death. Because all members of the clergy could read and write, a literacy test was sometimes used to prove that a person worked for the Church, and therefore should be tried in the more

lenient: mild, merciful
meddlesome: interfering
canonize: to declare that a person is a saint
shrine: a place of worship

Figure 2-8
Thomas Becket about to be killed in Canterbury Cathedral. Why do you think so many people were outraged at this murder?



lenient Church court. For this reason, some criminals tried to educate themselves.

Henry II and the Murder of Thomas Becket

The pope had authority over kings and queens in all religious matters. Nonetheless, disputes arose in the Middle Ages whenever the powers of the monarch and the Church seemed to overlap or conflict.

In 1164, King Henry II of England wanted all members of the clergy who were convicted of criminal offenses to be handed over to the royal courts for sentencing. He felt the sentences they received in Church courts were too light. Thomas Becket, the archbishop of Canterbury, refused to obey the king's command even though he had been appointed by Henry and had been his good friend. To punish Thomas, Henry took away all his property and forced the archbishop to flee to France.

Six years later, Henry agreed to let Thomas return to England as head of the English Church. Not long after his return, Thomas angered the king once again. Henry is supposed to have said, "Will no one rid me of this meddlesome priest?" Four knights who heard the remark took Henry at his word. They rode to Canterbury and on December 29, 1170, they killed Thomas Becket at the foot of the altar in Canterbury Cathedral.

All of Europe was outraged at this murder. Even though King Henry denied that he had meant for Thomas to be killed, Pope Alexander III forced the king to submit to a public flogging at Thomas's shrine and to stop interfering with the Church courts. Two years after his death, Thomas was canonized and quickly became the most popular saint in England. Canterbury Cathedral became the country's greatest religious shrine.