



# Lambeth Palace Library Research Guide Legal Sources



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# Lambeth Palace Library Research Guide

## Legal Sources

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### 1 Introduction

Every Archbishop has been intimately involved with legal issues and administration, whether of the Church or of the State. This is true from the medieval period, when Archbishops frequently served also as Lord Chancellor, to modern times when they have often taken an active part in legislation in the House of Lords. Exercising the Church's law, the Archbishops of Canterbury have headed a network of church courts, such as the Consistory Court of Canterbury, the Court of the Archbishop's Peculiars, and the three courts having jurisdiction over the Province of Canterbury (covering the greater part of England and, prior to the disestablishment of the Church in Wales, all of Wales): the Prerogative Court of Canterbury, the Court of Audience and the Court of Arches.

At Archbishop Fisher's (1945-61) direction three series of provincial legal records came into the care of Lambeth Palace Library: those of the Vicar-General, the Court of Arches and the Convocation of Canterbury. At the same time the Library received the records of the Faculty Office, which has national rather than provincial jurisdiction.



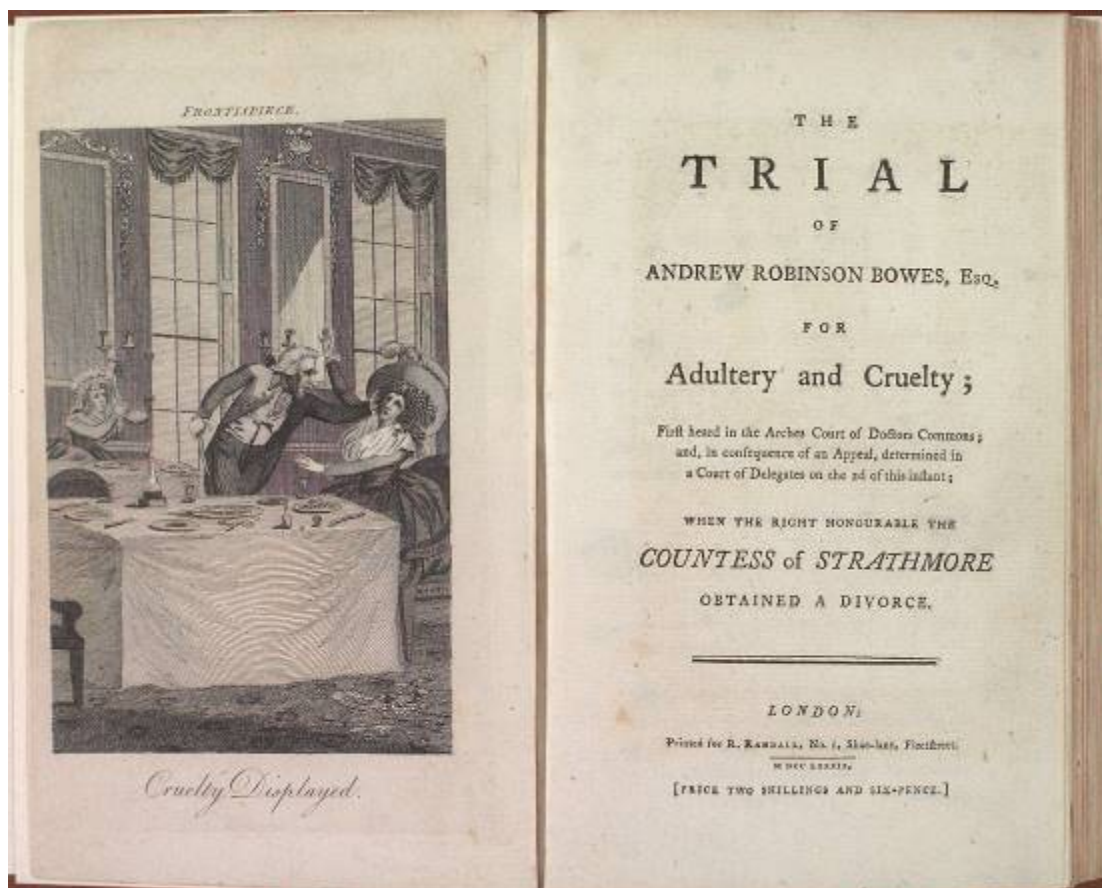


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### 2 Archbishops' jurisdiction

A useful reference source on the courts in the Archbishops' jurisdiction is Irene J. Churchill's *Canterbury Administration* (1933), vol.i, pp 380-499 (Lambeth Palace Library H5104.(C4)[R]).

#### 2.1 Court of Arches



**Figure 1 - The trial of Andrew Robinson Bowes, Esq. for adultery and cruelty, 1789 (Lambeth Palace Library MQ808.G7S8)**

The Court of Arches is the court of appeal of the Archbishop of Canterbury. Until 1857 the court exercised a wide-ranging jurisdiction over marriage, probate and testamentary disputes, defamation, church property, and morals of the clergy and laity, throughout the Province of Canterbury. In 1857 its jurisdiction in probate and matrimonial cases was removed. During the second half of the 19th century the court was the venue for disputes over ritualist practices. It continues to hear appeals in cases concerning church property and ecclesiastical discipline.

Although medieval in origin, the archive of the Court of Arches largely dates from after the Restoration in 1660 (most of the court's earlier records were destroyed in the Great Fire of London in 1666). The [archive](#) includes over 2250 process books (transcripts of proceedings in the lower court sent up to the Court of Arches on



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appeal), over 150 volumes of act books, depositions, personal answers, sentences, muniment books, and over a thousand 19th-century files. Also included are a variety of exhibits, including court books, probate accounts, churchwardens' accounts, rate books, letters, plans, and medieval title deeds.

In the registry of the Court documents were filed chronologically in separate series representing different types of document. Documents relating to any particular case are therefore usually found distributed through the various series which comprise the archive of the Court:

Act books, 1635-1773 (A 1-41)  
Acts of Court, 1670-1818 (Aa 1-99)  
Assignment Books, 1663-1875 (Aaa 1-51)  
Sentences, 1560-1797 (B 1-19)  
Decrees, 1634-1799 (Bb 1-106)  
Commissions in partibus, 1662-1805 (Bbb 1-1605)  
Appeals, 1661-1803 (C 1-6)  
Process Books, 1660-1893 (D 1-2369)  
Pleas: libels, articles, allegations and interrogatories, 1660-1799 (E 0-48)  
Personal Answers, 1661-1798 (Ee 1-11)  
Depositions (of witnesses), 1664-1855 (Eee 1-82)  
Muniment Books, 1554-1815 (F 1-12)  
Exhibits, 1310-1915 (Ff 1-299)  
Small exhibits, 1660-1799 (G 1-179)  
Case Papers, 1800-1913 (H 1-998; Hh 1-51)  
Administrative papers, 1800-1960 (Hhh 1-14)  
Financial records (J, Jj, Jjj)  
Records of proctors and advocates, 18th-19th century (K, Kk, Kkk)  
Case Papers, 1914- (M)  
Precedents and legal treatises, including Black Book of the Arches (N 1-7)

After 1800, the papers relating to each case were mainly filed together in bundles of Case Papers (series H, Hh, M). The series of depositions and process books nevertheless continued separately. Descriptions of each of the various series may be found at the series level description of the online catalogue.

### Further Reading

D.M. Slatter, "The Records of the Court of Arches", *Journal of Ecclesiastical History*, vol. iv no. 2 (Oct 1953), pp.139-153.

Melanie Barber, "Records of the Court of Arches in Lambeth Palace Library", *Ecclesiastical Law Journal* (Jan 1993), pp.10-19.

F. Donald Logan, *The Medieval Court of Arches* (Canterbury and York Society, vol. 95, 2005).

## **2.2 Court of Audience**

Little is known of the workings of the Court of Audience; by the early 17th century however the court seems to have exercised a parallel jurisdiction to that of the Court of Arches. It seems to have acted as a court of first instance as well as hearing appeals from lower courts and extends over the whole range of ecclesiastical cases.



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Its jurisdiction over testamentary cases included disputes over legacies left to minors in PCC wills: the act book records the appointments of guardians ad litem in these cases. A closer examination is needed to discern fully its relationship to the Court of Arches. At the Restoration the Court of Audience was subsumed in the Court of Arches. Only fragmentary references survive:

Arches L 1 - Process book for the case of Chauncey v Hubbocke in the Archbishop of Canterbury's Court of Audience

Arches N 4 - Treatise on the rules and procedure

CM I/20 - Grant by Archbishop Abbot to Edmund Peirce notary public, proctor in Arches, of office of scribe and registry of the Court of Audience.

CM I/24 - Appointment by Archbishop Whitgift of Thomas Byng as auditor of causes in Canterbury Court of Audience.

CM II/80 - Copies of Archbishop's commissions for chancellor and auditor of causes. Endorsed: division of the chancellor's office and the audience.

CM VI/66 - Recital by Walter Reynolds, Archbishop of Canterbury, of a judgment of his auditors of causes, John of Bruytone and Robert of Nortone.

CM XII/52 - Patent of appointment during pleasure of William Drewry and Laurence Huse, LL.D., as officials of the Court of Audience of Canterbury. Signature of Archbishop Edmund Grindal.

MS 2085, ff.31-51 - 2. A precedent book for ecclesiastical courts, compiled principally from cases heard in the Court of Arches, the Court of Audience, the Archdeacons Courts of Berkshire and Bath and Wells.

MS 244 - Register of Archbishop Winchelsey's Court of Audience

MS 2451 - Francis Clerke's 'Praxis' ('Praxis in curiis ecclesiasticis' and 'Praxis curiae admiralitatis Angliae')

MS 3711 - Court of Audience of the Archbishop of Canterbury

MS 3996 - Autograph Letters

MS 4255 - Lists of officials in the archiepiscopal administration

MS 4731 - Praxis in curiis ecclesiasticis

MS 691 - Precedent Book, Archbishopric of Canterbury

MS 712 - Precedent Book, Archbishopric of Canterbury

TB 1 - Lease Book

VX IA - General Administration

Of particular importance is MS 3711, an isolated example of a court book for an archiepiscopal court for which little has survived. The court book records the appointments of guardians ad litem in cases of disputes over legacies left to minors in Prerogative Court of Canterbury wills.

### 2.3 Archbishops' Peculiar Jurisdiction

The court of the Dean of the Peculiars of the Arches, Croydon and Shoreham exercised a jurisdiction similar to that of an archidiaconal court. The Peculiars court should not be confused with the Court of Arches which is the court of appeal for the province of Canterbury.

The records of the court comprise act books and assignation books, which give a brief chronological record of business transacted by the court, and the loose case papers. These are bundles of papers relating to individual cases and are arranged



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chronologically within the following groups: cases relating to clergy, parish officials; cases for defamation of character; applications for faculties; matrimonial cases; proceedings against parishioners; testamentary cases; cases concerning church rates, tithes and fees; and a few miscellaneous unclassified cases.

Court records of the peculiar jurisdiction form part of the Vicar General archive under reference VH 75-101; more information is available on the [online archives catalogue](#).

### **2.4 Archbishops' Register – Heresy Trials**

Information regarding a number of heresy trials can be found in the Archbishops' Registers, including:

[Register of Thomas Arundel, Vol.II, ff.142v-145v](#)

[Register of William Courtenay, ff.25-34v](#)

[Register of Thomas Cramner, ff.71v-79](#)

[Register of Reginald Pole, ff.19v-31v](#)

[Register of William Warham, vol.I, ff.159-167v](#)



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### 2.5 Trial of Edward King, Bishop of Lincoln



**Figure 2 - Watercolour of the trial scene from the Lincoln Trial, signed 'C. and E. Floris, 1889' (Lambeth Palace Library MS 4825/1)**

In 1889 Archbishop Benson revived his own archiepiscopal court, inactive since 1699, in order to try Edward King, Bishop of Lincoln, accused of tolerating six ritualistic practices, thus avoiding King's prosecution in a lay court under the Public Worship Regulation Act 1874. In his "Lincoln Judgment", Benson found against King on two counts.

Details of records related to King's trial can be found on the [online archives catalogue](#).

There is some information on trials of 17<sup>th</sup> century Bishops:

[Edward Jones \(1641-1703\), Bishop of St Asaph](#)

[Thomas Watson \(1637-1717\), Bishop of St David's](#)

On the trial of Thomas Watson, see also: Ruth Paley, "A Matter of Judgment: Politics, Law and the Trial of Bishop Thomas Watson", in *Parliamentary History*, volume 34, issue 2 (2015), pp. 181-200; [available online](#).





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### 2.6 Faculty Office

The 1533 Peter's Pence Act set up the Faculty Office to issue dispensations, licences and faculties previously granted by papal authority. Its legal functions included regulation of public notaries. The duties of the public notary are ecclesiastical in origin. Public notaries are the successors to medieval scribes, who give authenticity to the acts they draw up and the statements they witness, subscribe and are recorded in Chancery, where they draw their annual certificates to practise both in England and abroad. Prior to the Reformation notaries public were appointed by the papal curia or by an English bishop acting by virtue of a papal commission.

Until 1801 any man with some experience of notarial business might apply and be accepted. After this date successive statutes regulated more minutely the qualifications for appointment. The [records](#) illustrate all aspects of the subject: the period of articulated clerkship, the application, the readmission.

#### Further Reading

C.W. Brooks, R.H. Hemholz [i.e. Helmholz] & P.G. Stein, *Notaries public in England since the Reformation* (Erskine Press for the Society of Public Notaries, 1991).

C.R. Cheney, *Notaries public in England in the thirteenth and fourteenth centuries* (Clarendon Press, 1972).

The Faculty Office also exercised other legal functions relating to marriage licences granted under the Archbishop's jurisdiction; Lambeth degrees; and medical licensing. For more information see:

[Lambeth Palace Library Research Guide: Marriage Records](#)

[Lambeth Palace Library Research Guide: List of Lambeth degrees \(by type\)](#)

[Lambeth Palace Library Research Guide: List of Lambeth degrees \(by name\)](#)

[Lambeth Palace Library Research Guide: List of Lambeth degrees \(chronological\)](#)

[Lambeth Palace Library Research Guide: Medical Licences Issued by the Archbishop of Canterbury 1535-1775](#)

The Library also holds the archive of the Archbishop's Vicar General whose remit covered certain legal functions such as appointments and resignations of Bishops, but the archive is not fully catalogued.





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### 3 Doctors' Commons



**Figure 3 - Interior view of the Doctors' Commons, on Knightrider Street, London, 1808 (Lambeth Palace Library Prints 027/020)**

Doctors' Commons was an association or college of ecclesiastical lawyers founded in 1511 and situated in Knightrider Street, London. It was dissolved following the Court of Probate Act 1857 and its records were dispersed, but most of those that survive are held in the Library. The [papers](#) relate to the affairs of the association.

It should be noted that the term "Doctors' Commons" is sometimes loosely used to refer to the various courts (including ecclesiastical courts such as the Court of Arches and the Prerogative Court of Canterbury) in which members of the Society practised, or the geographical area around Great Knightrider Street in which the officers of the courts had their offices. Records of the cases heard in those courts will be found in the archives of those courts, not in the records of 'Doctors' Commons' held in the Library.

Some records of proctors and advocates working in the courts are found in the Library's records, e.g. Arches K, Kk, Kkk contain records relating to the appointment and work of proctors, advocates, and articulated clerks practising in the Court of Arches. Refer to the online catalogue for further details:



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[Arches K](#)

[Arches Kk](#)

[Arches Kkk](#)

### Further Reading

G.D. Squibb, *Doctors' Commons. A history of the College of advocates and doctors of law* (1977) (Lambeth Palace Library ref: OC341.S7[R]).

*Old and New London: Volume 1*, originally published by Cassell, Petter & Galpin, London (1878), pp.281-293 (available [online](#)).

## 4 Manuscript sources

Medieval manuscripts relating to the law were published on microfilm by World Microfilms Publications as "Lambeth Palace Library: The Mediaeval Manuscripts" Section II. Law Manuscripts.:

MS 13 - Sext Etc.  
MS 14 - Digestum Vetus  
MS 16 - Azo  
MS 21 - Innocentius  
MS 26 - Decretales Novae Cum Apparatu  
MS 27 - Codex Etc.  
MS 30 - Decretales Novae  
MS 31 - Decretales Novae  
MS 37 - Digestum Vetus I-Xiv  
MS 39 - Leges Longobardorum Etc.  
MS 46 - Clementinae  
MS 47 - Decretales Novae  
MS 49 - Durandus Etc.  
MS 60 - Sextus  
MS 87 - Pupilla Oculi. J. Waldeby  
MS 92 - Bracton  
MS 93 - Bracton  
MS 103 - Decretales Etc  
MS 128 - Johannes Super Sextum  
MS 139 - Ius Canonicum  
MS 157 - Registrum Brevium  
MS 166 - Statuta. Registrum Brevium.  
MS 171 - Constitutiones Provinciales Etc.  
MS 205 - Bartholomaeus De Casibus Etc.  
MS 216 - Pars Oculi Etc.  
MS 270 - Year Books, Statutes And Miscellaneous Texts  
MS 350 - Statuta Angliae. Registrum Brevium  
MS 351 - Excerpta Canonum Etc. Interpretationes Nominum Hebr.  
MS 399 - Summa Raymundi. Liber Iv Decretalium.  
MS 403 - Breton  
MS 404 - Decretales Abbreviatae Etc.



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MS 411 - Comm. In Decretum.  
MS 422 - Registrum Brevium  
MS 428 - Summa Raymundi [Annotation: Raymundus Peñafort]  
MS 429 - Statuta Angliae. R. De Glanville. Registrum Brevium.  
MS 430 - Gregorii Ix Decretales  
MS 433 - Constitutiones Provinciales  
MS 439 - Goffredus De Trano, Summa. Fees In The Roman Curia  
MS 449 - Decretum Gratiani Etc.  
MS 460 - Comm. In Constitt. Joh. Peckham Etc.  
MS 479 - Constitutiones Provinciales Cant. Etc.  
MS 538 - Provincial Constitutions  
MS 543 - Digest Of Statutes  
MS 556 - Statuta  
MS 564 - Registrum Brevium  
MS 567 - Registrum Brevium  
MS 778 - Constitutiones Provinciales Cantuar.  
MS 788 - Statuta Angliae  
MS 1042 - Summa Raymundi

There are several other relevant sources within the Library's manuscript collections, for example:

MS 130 - Statutes of the Archiepiscopal courts, 1587 and 1590.  
MS 691 and 712 - Precedent books relating to the Court of Arches and other courts of the Archbishop of Canterbury, c.1616-c.1628.  
MS 1586-1589 - Papers of Sir Lewis Dibdin, Dean of the Arches.  
MS 1748 - Statutes of the Court of Arches 13-16th century, compiled in 1590.  
MS 2085 - A precedent book for the ecclesiastical courts, primarily based on Arches cases 1597-99.  
MS 2451 – Francis Clerke's 'Praxis'.  
MS 2667-2668 - Digests and reports of cases in the Court of Arches and other ecclesiastical courts 1709-19, 1726-42.  
MS 2873-2880 - Papers of Sir George Lee, Dean of the Arches, including cause papers 1732-50 while a proctor in the Court of Arches.  
MS 3404 - Digest of ecclesiastical law and precedents, early 18th century.  
MS 3416 - Precedents and legal opinions in ecclesiastical law 1749-1809.  
MS 4731 - Praxis in curiis ecclesiasticis.

Individuals with particular significance related to legal matters include:

[Edmund Gibson](#), who served as Bishop of Lincoln and Bishop of London, was a prominent jurist. His papers, mainly relating to the Convocation of Canterbury, Parliamentary Acts and Bills concerning the Church, and historical information and precedents on Church affairs, are catalogued as [MS 4400-4433](#).

[John Selden](#) was a jurist, a scholar of England's ancient laws and constitution, and of Jewish law.



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[Sir Matthew Hale](#) was an influential English barrister, judge and jurist most noted for his treatise *Historia Placitorum Coronæ*.

### 5 Legislative bodies within the Church of England

A number of representative bodies responsible for canon law have operated within the Church. For an example of these processes at work, see the Library's voluminous records on the controversy to revise the Prayer book in 1927-1928 involving the Church Assembly, Parliament and Convocation: for background, see John Maiden, *National religion and the Prayer Book controversy, 1927-1928* (2009).

Further holdings on 20<sup>th</sup>-century canon law include papers of Archbishop Fisher (particularly [volumes 195-198](#) and others) and the papers of George Goyder, a member of the Church Assembly 1948-1970, General Synod 1970-1975, and a leading layman in the Church of England in the post-war period with regard to the establishment of synodical government ([MS 4955-4971](#)).

#### 5.1 Convocation of Canterbury

Convocation is the ancient legislative assembly for the province of Canterbury, which since the 15th century met as two houses, the upper house of bishops, presided over by the archbishop of Canterbury, and the lower house (of clergy) who elect their own chairman. The functions of convocation are the interpretation of the canon of the Scripture, decisions in matters of doctrinal belief, the condemnation of heretical tenets, the enactment of canons, and the authorisation of liturgical formularies. Details of the Library's holdings are available on the [online archives catalogue](#).

For more information see Gerald Bray's *Records of Convocation* (Boydell and Brewer, 2005-), and *The Chronicle of the Convocation of Canterbury* (published from 1858).

There is an equivalent body for the province of York: the Library holds copies of its published *Journal* from 1859.

#### 5.2 Church Assembly

The Church Assembly (Powers) Act in December 1919 created the Church's own legislative body, the National Church Assembly. Prior to this, Church business had to be passed through Parliament, however by the late nineteenth century, Parliament was no longer exclusively comprised of Anglican MPs: Catholics, Quakers and atheists could be elected and take their seats. The new body would bring Church governance back within the Church of England, and help to alleviate the strain on a very full parliamentary timetable.

The Assembly's three houses – of bishops, clergy and laity – sat for the first time in June 1920, thereafter supported by a number of boards, councils and working groups set up to advise on specific issues. Some subjects, however, remained the preserve of Convocation, which limited the involvement of the laity in these areas.

Published proceedings and papers of the Church Assembly are listed on the Lambeth Palace Library [printed books catalogue](#).

#### 5.3 General Synod





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By the Synodical Government Measure 1969, the Church Assembly was reconstituted as the General Synod in 1969 taking on most of the responsibilities of Convocations of Canterbury and York. The synod is tricameral, consisting of the House of Bishops, the House of Clergy and the House of Laity.

The legislative functions of the General Synod cover measures dealing with the government of the church and its institutions, passing canons, determining doctrine and the form of worship. Measures or canons must be passed by a majority of the members of each house of the synod, while changes to church doctrine, rites and ceremonies, or the administration of the sacraments, can only be made in the form agreed by the House of Bishops.

Published proceedings and papers of the General Synod are listed on the Lambeth Palace Library [printed books catalogue](#). An index of modern General Synod Agendas and Papers is available on the [Church of England website](#).

### 6 Church Assembly Legal Board

The Legal Board was reconstituted in 1924 and served as the central Legal Adviser to parishes and dioceses, as well as other Church of England bodies. Its records comprise large quantities of single-instance cases showing the effects of Church of England legislation and Measures in the parishes and dioceses; for example, disputes over property and land; Churchyards and their maintenance; fabric of parish churches; Parochial Church Councils and election and membership of same. At diocesan level, the Legal Board was involved in cases of Diocesan Conference membership or Revision of Standing Orders. It would also advise on the formation of parishes and districts; stipends, fees and other financial matters. For an idea of the scope of the work of the Legal Board at this time, examine the Church of England Year Book for the period, which printed an exhaustive 'Alphabetical Summary of Legal Information' after the Legal Board's entry.

The Legal Board was replaced by the Legal Advisory Commission c.1973, which existed to give advice on any legal matter to the General Synod.

For further information on the Legal Board records please contact the archives via [archives@churchofengland.org](mailto:archives@churchofengland.org).

### 7 Other sources

The Court of Arches forms part of a hierarchy of ecclesiastical courts, with other records held elsewhere; sometimes Arches cases were appealed from lower courts (e.g. diocesan) or appealed to a higher court (records at the National Archives).

#### 7.1 Borthwick Institute

The parallel court for the province of York is the Court of Chancery. Some of the York records are available [online](#).

#### 7.2 The National Archives

The National Archives at Kew holds the records of the Prerogative Court of Canterbury. Information on these records can be found on their [Discovery catalogue](#).



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Other related courts are the [High Court of Delegates and its successor, the Judicial Committee of the Privy Council](#).

The National Archives also provide [guidance on researching wills and probate prior to 1858](#), and [general information on their legal holdings](#).

### 7.3 Kent Archives and Local History

Records relating to the Archdeaconry Court and Consistory Courts of the Diocese of Canterbury can be found at [Kent Archives and Local History](#).

### 7.4 Wider Church Records

A useful secondary source providing guidance on wider church records is Anne Tarver's *Church Court records : an introduction for family and local historians* (Lambeth Palace Library JD1063.T2 [R]).

### 7.5 Middle Temple Library

The Middle Temple Library holds collections relating to ecclesiastical law, including reports of cases in ecclesiastical courts. [Ecclesiastical guide - 2019.pdf](#) ([middletemple.org.uk](http://middletemple.org.uk))

## 8 Further reading

There are numerous works on ecclesiastical law within the Library's printed books collection and searchable via the [printed books catalogue](#).

A useful source for background information is Sir Robert Joseph Phillimore's *The ecclesiastical law of the Church of England* (Lambeth Palace Library H5151.(P4)[R])

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