

Ecclesiastical Collection

INTRODUCTION

The Ecclesiastical Collection at Middle Temple Library began in 1991 when the Ecclesiastical Judges' Association donated a set of Consistory Court Reports to the Library. The transcripts of these court judgments form the nucleus of the Inn's Ecclesiastical Collection. Every year more cases are added, and the Library cooperates with the Ecclesiastical Law Society to have these judgements indexed and bound annually. While some cases are reported, many are not, and the collection is an important archive. The collection has since grown from focusing solely on Church of England materials to include textbooks and journals on other religious law.

LOCATION

The main collection is located on the 1st floor of the Library in Bays 72 and 73. However, some older materials may be in the gallery in the main collection and some materials are also available online.

The Honourable Society of the Middle Temple
The Library, Ashley Building
Middle Temple Lane
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CONTACT

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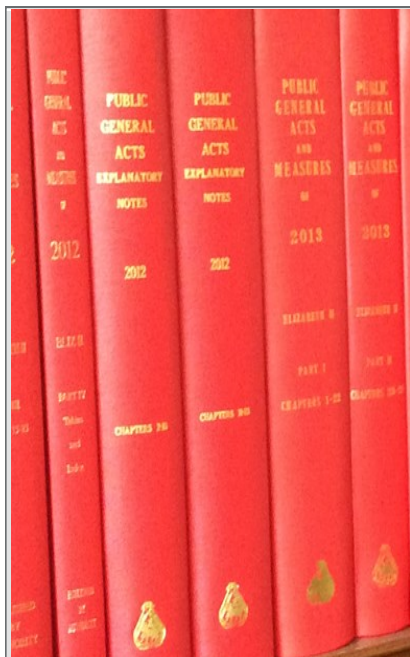
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LEGISLATION

There are multiple sources of Church of England law. Some of these are passed by the General Synod which is the decision making and legislative body of the church, whilst others are passed by Parliament which has unique powers over the Church of England as it is the established church. Guidelines on local matters may also be made at the Diocesan level.

PUBLIC GENERAL ACTS

As the Church of England is established by law, parliament can legislate for the church and its religious affairs through Public General Acts.

The library holds copies of Public General Acts from 1235 onward, and also has access to these online through JustisOne.

Selected Acts are available on Lawtel, Lexis Library, Westlaw and www.legislation.gov.uk/

STATUTORY INSTRUMENTS

Statutory Instruments made pursuant to Acts of Parliament can also regulate the Church of England. Examples include: the Clergy Discipline Rules 2005 and the Faculty Jurisdiction Rules 2015.

The library holds Statutory Instruments from 1890-2009, and has online access to all Statutory Instruments from 1797 onwards through JustisOne.

Selected Statutory Instruments are available on Lawtel, Lexis Library, Westlaw and www.legislation.gov.uk/



MEASURES

The General Synod has the power to legislate by Measure which has the full force of an Act of Parliament but is only binding on the Church of England. The power to grant measures was devolved to the Church of England Assembly in 1919, prior to this all legislation affecting the church had been passed by parliament. In 1970 the General Synod was instituted which took over these legislative powers. Once they have gone through the Synod's legislative process proposed Measures are submitted to the parliamentary legislative process, being reviewed by the Ecclesiastical Committee of Parliament.

All Church Measures are available on the on the 1st floor at Bays 72 and 73 and in Bays 165 -166, and online through JustisOne.

All Church Measures from 1988 onwards, and selected coverage from 1920-1987 are available on <http://www.legislation.gov.uk/ukcm>

Selected Measures are available on Westlaw, Lexis and Lawtel.

Selected publications of the Ecclesiastical Committee of Parliament are available through the parliament website:

<https://www.parliament.uk/business/committees/committees-a-z/other-committees/ecclesiastical-committee/publications/>

Reports of the General Synod meetings are available in the *Ecclesiastical Law Journal* which is available on the 1st floor at Bays 72 and 73 and online through Westlaw.

CANONS

The General Synod can also legislate by Canon. These are equivalent to Statutory Instruments but are solely applicable to the Church of England. They do not go through the parliamentary process but are still sent for royal assent.

The 7th edition of the Church of England's Canons is available online, along with amendments and supporting materials:

<https://www.churchofengland.org/more/policy-and-thinking/canons-church-england>

There is a list of Canons promulgated since 1969 on the Church of England website:

<https://www.churchofengland.org/more/policy-and-thinking/canons-church-england/table-of-promulgation-of-canons>

HOUSES OF THE GENERAL SYNOD

The General Synod is tricameral with 483 members split into the House of Bishops, House of Clergy and House of Laity.

House of Bishops:

40 members made up of a mix of Diocesan and suffragan Bishops.

House of Clergy:

198 members including practicing clergy elected from the Provinces of York and Canterbury, Cathedral deans, armed services Chaplains and clergy teaching at theological colleges.

House of Laity:

245 members, including some elected by the laity in the Provinces of York and Canterbury, as well as others including the Dean of Arches and members of the Archbishops' Council.

CITING CONSISTORY COURT CASES

In 2016 a neutral citation was introduced for Consistory Court judgments. These are comprised of:

1. [YEAR]

2. Ecclesiastical court i.e. ECC – Consistory Court

ECCY – Chancery Court of York

Arches – Court of Arches.

3. Diocese abbreviation e.g. CHI.

4. Judgement number relative to the court and year.

For example:

[2016] ECC Chi 5

Therefore, this citation refers to the 5th case heard in the Chichester Consistory Court in 2016.

Prior to 2016, cases are cited through case name (usually the name of the church the judgment relates to), date and diocese details.

CONSISTORY COURT

The Consistory Court has jurisdiction over doctrinal issues and matters relating to church buildings, especially in relation to the faculty system. A faculty is a permissive right granted by the Consistory Court to change a church building, its contents or its surroundings and it is unlawful for works to be undertaken to a church without one. The faculty jurisdiction extends to all consecrated land including all buildings licensed for public worship and burial grounds. The faculty system works in addition to the secular planning system meaning that in some cases both a faculty and planning permission will need to be obtained.

Prior to 2006, the Consistory Court also heard cases of clerical misconduct, but following the enactment of the 2003 Clergy Discipline Measure these tribunals are now heard by the Diocesan Bishop or Archdeacon.

ECCLESIASTICAL COURT STRUCTURE

Each diocese has a Consistory Court which is presided over by a Chancellor appointed by the Diocesan bishop through consultation with the Lord Chancellor, Dean of Arches and Auditor. The preliminary stages of faculty cases may also involve other bodies such as The Diocesan Advisory Committee and amenity societies, e.g. The Victorian Society, who will provide specialist advice on the suitability of proposed changes to church buildings and land.

Faculty cases from the Consistory Court are appealed in either the Court of Arches (Canterbury) or the Chancery Court of York. After this, decisions of the Arches or Chancery Court can only be appealed through presenting an appeal to the Judicial Committee of the Privy Council.

If the matter relates to religious doctrine then the case can be appealed in the Court of Ecclesiastical Causes Reserved, for which leave to appeal is not necessary. After this, decisions can only be appealed through a petition to the Clerk of the Crown in Chancery that Her Majesty appoint a Commission of Review.

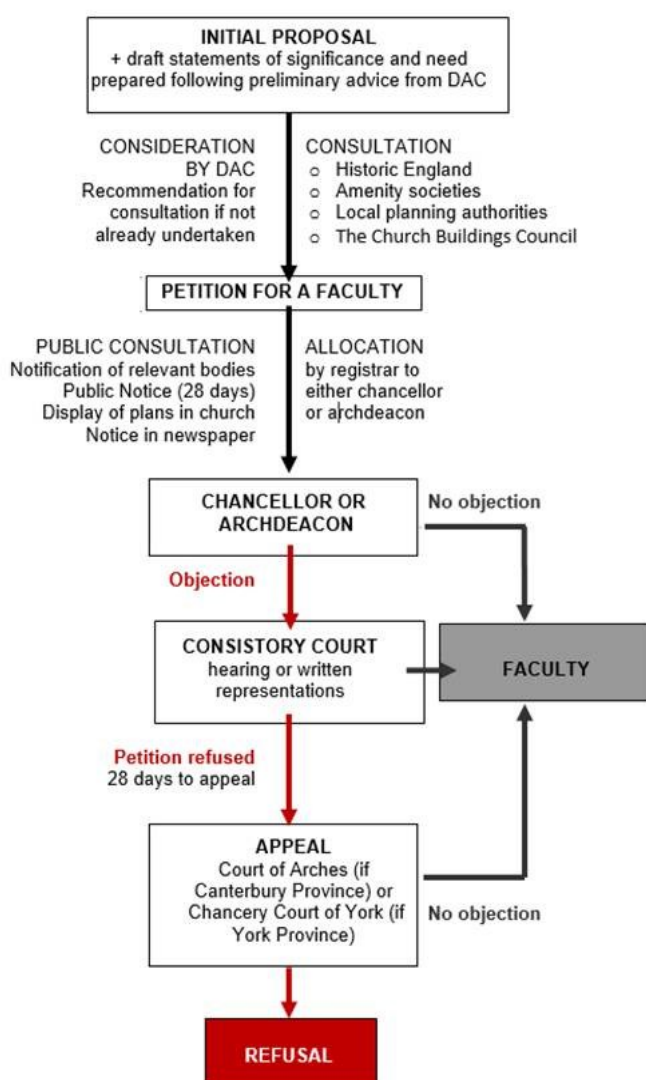
FINDING CONSISTORY COURT JUDGEMENTS

Bound and indexed transcripts of the Consistory Court judgements from 1891 onwards on the 1st floor at Bays 72 and 73. There is also a consolidated index for all cases from 1861-2008.

Cases from 2006 onwards, with selected judgements prior to this, are freely available on the Ecclesiastical Law Association website: <https://www.ecclesiasticallawassociation.org.uk/>

Summaries of selected cases are published in the *Ecclesiastical Law Journal*. Available on the 1st floor at Bays 72 and 73 or online through Westlaw.

Case reports may also be found in *The law reports: Family Division: and on appeal therefrom in the Court of Appeal: and decisions in the Ecclesiastical Courts*. Incorporated Council of Law Reporting for England and Wales. Available in Bay 21 and online through Westlaw and Lexis Library.



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19th Century engravings of the interior of St. Paul's Cathedral, published in 'Old England' by Charles Knight (1860). Images taken from Middle Temple Library's collection of rare books.





Artwork of Adam and Eve from a 1790 paper by British antiquarian Richard Gough. Image taken from Middle Temple's collection of rare books.

TEXTBOOKS & JOURNALS

The Ecclesiastical law textbook collection is situated on the 1st floor at Bays 72 and 73. The textbook collection aims to provide essential reference materials on Ecclesiastical law and has grown to also include materials on other religions. Key titles include: *Ecclesiastical law* by Mark Hill, *Moore's Introduction to English Canon Law* by Timothy Briden and the *Ecclesiastical Law Handbook* by Lynne Leeder. In addition, textbooks on other religious legal systems can also be found at class mark KD in the main textbook collection on the 1st floor.

Ecclesiastical Law Journal, the journal of the Ecclesiastical Law Society, is a key title in discussing contemporary issues in Ecclesiastical law. The journal includes articles, book reviews, case notes and reports on Parliamentary decisions and the meetings of the General Synod.

Ecclesiastical Law Journal is available Vol. 1, 1987 onwards on the 1st floor at Bays 72 and 73 or online through Westlaw.

ONLINE RESOURCES

Access to Law— This webpage by Inner Temple compiles a list of free online resources on ecclesiastical law.

<https://www.accesstolaw.com/legal-subject-areas/ecclesiastical-law/>

Building Conservation—An overview of Church of England ecclesiastical law relating to planning control, covering ecclesiastical exemption, *de minimis* works and applying for a faculty.

<http://www.buildingconservation.com/articles/ecclesiasticallaw/ecclesiasticallaw.htm>

Bodleian Law Library—This website provides a Canon Law research guide.

<https://libguides.bodleian.ox.ac.uk/c.php?g=422806&p=2887015>

Church Care— Resource by the church of England for those involved in care of churches and cathedrals, including information from the Church Building Council.

<https://www.churchofengland.org/more/church-resources/churchcare>

Church of England—The official website of the Church of England provides various resources on the church and ecclesiastical law including the complete text of the 7th edition of the Canons of the Church of England, containing all the latest amendments and supporting material.

<https://www.churchofengland.org/more/policy-and-thinking/canons-church-england>

Code of Canon Law—Intratext copy of the *Code of Canon Law* (Roman Catholic Church) full text, concordances and frequency lists.
www.intratext.com/x/eng0017.htm

Crockford's Clerical Dictionary—This provides a glossary of key terms.
<https://www.crockford.org.uk/faq/glossary-of-key-terms>

Historic England—This website provides advice on making changes to historic buildings, including churches.
<https://historicengland.org.uk/advice/hpg/consent/ecclesiasticalexemptions/>

Ecclesiastical Law Association—This website provides access to Consistory Court judgements from 2006 onwards, as well as Diocesan Registry details and links to key legislation.
<https://www.ecclesiasticallawassociation.org.uk/>

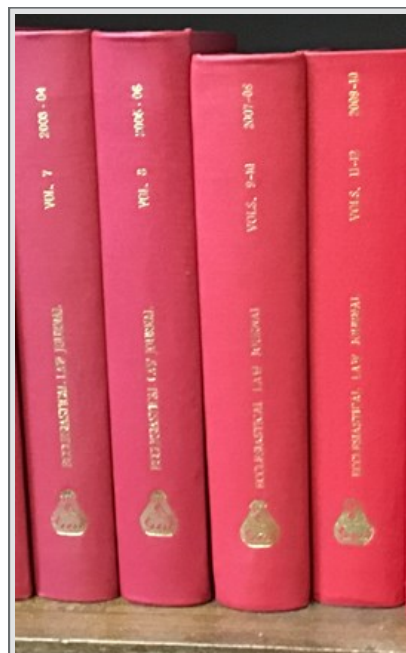
Ecclesiastical Law Society— This society promotes the study of ecclesiastical law, organises lectures and produces the *Ecclesiastical Law Journal*. The Members section of the website includes Middle Temple's indexes of recent Consistory Court cases.
<http://www.ecclawsoc.org.uk/>

Ecclesiastical Law— The website of Mark Hill, the author of *Ecclesiastical Law*, (4th edition, OUP, 2018). This website is intended to complement his book, it includes commentary and a selection of tribunal transcripts.
<http://www.ecclaw.co.uk/>

Globalex Canon Law Guide— Research guide to Canon Law created by New York University Law School.
https://www.nyulawglobal.org/globalex/Canon_Law1.html

Iowa University Library—This website provides a research guide to Canon Law.
<https://libguides.law.uiowa.edu/c.php?g=103191&p=668194>

Lambeth Palace Library— This library holds the Church of England Record Centre, which contains the archives of the Church of England: the Church Commissioners, Archbishops' Council, National Society and Church of England Pensions Board, as well as the records of their predecessor bodies.
www.lambethpalacelibrary.org



Law and Religion UK— This is an academic blog and current awareness service exploring contemporary interactions between law and religion.

<http://www.lawandreligionuk.com/>

Law and Religion Scholars Network—This website includes a list of significant judgments delivered by UK courts, the European Court of Justice and the European Court of Human Rights concerning law and religion.

<http://www.law.cf.ac.uk/clr/networks/lrsncd.html>

Legislation.gov.uk—This website has selected copies of UK legislation including recent church measures.

<http://www.legislation.gov.uk/ukcm>

Manx Church Law—This website has information on the ways that Ecclesiastical law is applied on the Isle of Man with links to relevant legislation.

<http://www.gumbley.net/mclintro.htm>

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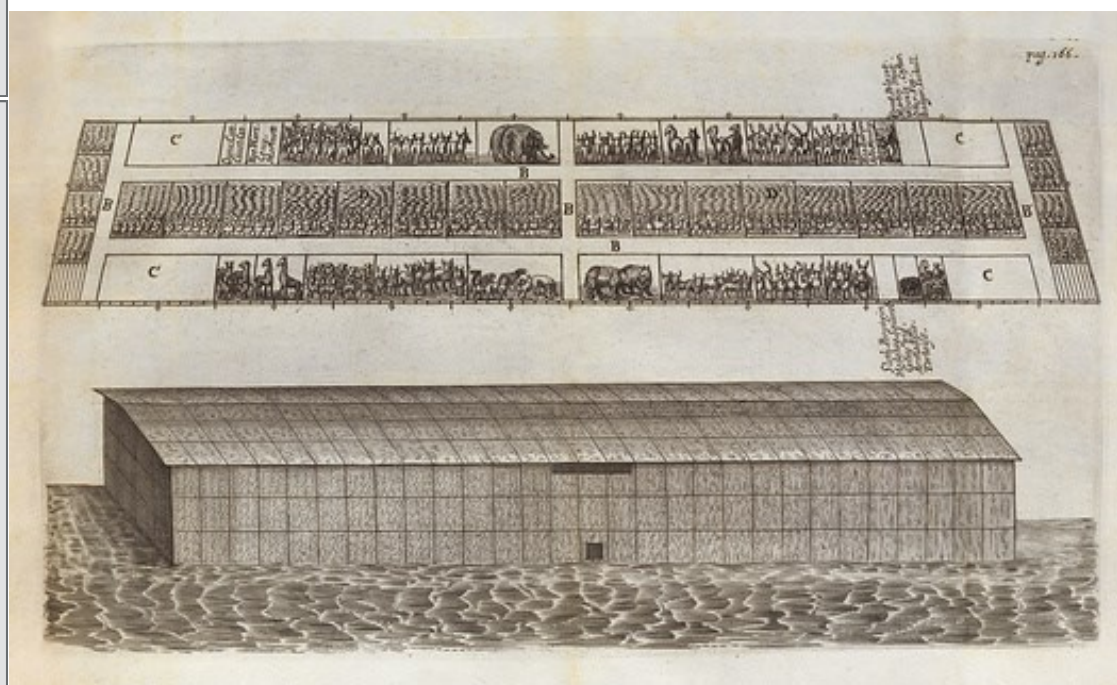
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Artwork of Noah's Ark from 'An Essay towards a Real Character and a Philosophical Language' (1668) by English clergyman and natural philosopher John Wilkins. Image taken from Middle Temple's collection of rare books.