RECORDS OF THE COURT OF ARCHES IN LAMBETH PALACE LIBRARY

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The Court of Arches is the Archbishop's court of appeal for the Province of Canterbury. It derives its name from the church of St. Mary-le-Bow or *St. Maria de Arcubus* in the city of London where the court was held from at least the primacy of Archbishop Pecham (1279-92) until the church was destroyed by the Great Fire of London in 1666. The church was one of thirteen in the City of London which, before the abolition of peculiars in the middle of the nineteenth century, came within the Archbishop's jurisdiction of the deanery of the Arches.[1] The judge or Official Principal who presided over the Court of Arches came to be known as the Dean of the Arches from his lesser office as judge of the court of the peculiar.

The Court of Arches was well established as the Archbishop of Canterbury's court of appeal by the late thirteenth century.[2] It heard appeals from the consistory and peculiar courts within the Province of Canterbury similar to those that came before the Chancery Court of the Archishop of York. It enjoyed a limited original jurisdiction over London citizens and heard suits for the recovery of legacies in wills proved in the Prerogative Court of Canterbury. Suits could be initiated in the Court of Arches by Letters of Request from the Ordinary in accordance with a provision of the Statute of Citations 1531.[3] By pleading the advantages to be gained from a hearing in the Archbishop's court of appeal, the plaintiff could by-pass the lower court and have the case brought directly to the Court of Arches. This procedure became increasingly popular in the nineteenth century when plaintiffs could more easily allege that there were no advocates sufficiently skilled locally to settle the dispute. Parties also viewed this as a way of avoiding the expenses of an appeal from the sentence of the local court. This did not however mean that defendants would not appeal to a higher court, since appeal from the Court of Arches lay with the Court of Delegates,[4] or after 1832 with the Judicial Committee of the Privy Council.[5]

The procedure of ecclesiastical courts was not based on common law and trial by jury, but on canon law. It was constructed around the production of written pleas and proof, drawn up according to strict rules. Parties to an appeal did not normally appear in the court, but employed proctors who drew up their pleas (known as libels, articles and allegations), which were submitted by advocates. The pleas were either proved from the answers of witnesses to the interrogatories taken down by examiners (depositions), or answered by the

1. The deanery of the Arches was incorporated into the diocese of London in 1845: Sir Robert J Phillimore, *The Ecclesiastical Law of the Church of England,* (2nd edn. 1895), vol 1, pp 214-215.
2. For the early history, see Irene J Churchill, *Canterbury Administration* (1933), vol 1, pp 430-434.
3. A specific reason had to be given to avoid contravening the Statute of Citations 1531 (23 Hen 8 c 19). See also canon 94 of the 1603 canons.
4. Appeals to Rome were abolished by the Act in Restraint of Appeals 1532 (the Ecclesiastical Appeals Act 1532) (24 Hen 8 c 12), and the Submission of the Clergy Act 1534 (25 Hen 8 c 19) provided for the exercise of the appellate jurisdiction of the King in chancery through the Court of Delegates.
5. Under the Privy Council Appeals Act 1832 (2 & 3 Will 4 c 92) and the Judicial Committee Act (3 & 4 Will 4 c 41), the appellate jurisdiction was transferred to the Judicial Committee of the Privy Council.

principal parties (personal answers). There were two main types of procedure, plenary and summary. The plenary procedure was followed in the majority of the appeals heard in the Court of Arches.[6] Since the court relied almost exclusively on the production of written, as distinct from oral evidence, it is not surprising that there is a vast collection of records of the court.

The archive of the Court of Arches fills over 600 linear feet of shelving. Despite the court's medieval origins, the records do not begin as continuous series until the Restoration. With the exception of a dozen volumes covering the second half of the sixteenth and the first half of the seventeenth century,[7] the earlier records were destroyed in the Great Fire of London. The loss of the pre-Restoration archive has left a gap in the court's history which it is difficult to fill, though a study of the chance survivals of appeals and sentences in the archives of other institutions (especially episcopal archives) would throw light on the court's development. Nevertheless, even where there is an embarrassment of riches, little detailed research has been done, with the exception of that of Professor Stone, who has trawled the matrimonial cases for his recent studies on marriage.[8] The reason for this lies perhaps in the very nature of the records themselves.

The Great Fire consumed the pre-Restoration archive, but the ravages of dirt, damp, disease and degeneration have taken their toll on the remainder. During the early nineteenth century, the records were stored in Knightrider Street, close to Doctors' Commons where the court sat from 1672 until the dissolution of that college of advocates under the Court of Probate Act 1857.[9] The records were moved to St. Paul's and left for rubbish in a well. In 1865 the papers, by then rotting and reeking with damp, were transferred to Morton's Tower, Lambeth Palace, where the Dean of the Arches had his registry. Here they were left, undisturbed (except by mice), to dry out. But for the initiative of the distinguished ecclesiastical lawyer, Sir Lewis Dibdin, they would have continued to moulder away. On his appointment as Dean of the Arches in 1903, he set to work to impose some order on the filthy and chaotic collection, now 'embedded in a deep stratum of London soot and dust'. In a graphic account he described how: 'You almost needed a spade to dig the papers out of the dirt in which they were buried'.[10] From 1913 Sir Lewis was assisted in his heroic work of sorting the two thousand process books into alphabetical order by Dr. Claude Jenkins, the Lambeth Librarian. But although he was appreciative of Dr. Jenkins' assistance, Dibdin firmly viewed the collection as his responsibility and the Arches registry as 'a sort of workshop'.[11] The records may have been in Lambeth Palace, but they did not come into the custody of the Library until 1954.

In 1941 the Dean of the Arches, Sir Philip Wilbraham Baker Wilbraham, arranged for the archive to be moved to the Bodleian Library for temporary safe keeping. This brief sojourn provided a much needed opportunity

6. Phillimore, *The Ecclesiastical Law of the Church of England*, vol 2, chap. 6.
7. Act book, 1635-6 (A 1); three sentence books including libels, 1560-1, 1622-3, 1639-40 (B 1-3); eight muniment books, 1554-1642 (F 1-8); divorce proceedings *Darcy v Eure*, 1566 (D 553); Black Book of the Arches (N 1). For a description of the latter, see Churchill, *Canterbury Administration*, vol 2, pp 206-210.
8. Lawrence Stone, *Road to Divorce*, England, 1530-1987 (1990); and *Uncertain Unions: Marriage in England, 1660-1753* (1992).
9. G D Squibb, *Doctors' Commons: a History of the College of Advocates and Doctors of Law* (1977), chap. 8.
10. Sir Lewis Dibdin, 'Romances of Real Life from the Court of Arches', in *The Guardian*, 16 Jan 1914, pp 83-84.
11. Evidence of Dibdin, December 1912: *Minutes of evidence . . . to the Second Report of the Royal Commission on Public Records*, vol 2, part 3 (1914), p 29.

for the collection to be further sorted and arranged by an archivist, Miss Doreen Slatter. In December 1951, she circulated record offices with a succinct account of the collection.[12] For the first time the wealth of the archive was revealed in its entirety. Building on the work of Sir Lewis Dibdin and Miss Slatter, Mrs Jane Houston took on the daunting task of publishing an index to the cases. The *Index of cases in the records of the Court of Arches at Lambeth Palace Library, 1660-1913,* is the essential starting point for any work on the post-Restoration court.[13] The volume lists 10,412 cases and includes useful supplementary indexes of testators, places, courts of first instance, and classes of cases.

Quite apart from the difficulties of indexing and cataloguing the collection, there remained the greater problems of the conservation and availability of the records. The sheer bulk of the archive rendered the task of repairing every damaged volume by conventional methods impracticable. A scheme was devised to concentrate initially on repairing the principal chronological series of appeals, act books, depositions, personal answers, muniment books and sentences, and to film the process books, over 2400 volumes each relating to a single case. With the generous financial assistance of various trusts and charities, nearly 200 volumes were fully repaired, and numerous process books were deacidified or strengthened preparatory to filming. The cost of making the microfiche of the process books was borne by an international consortium headed by the Center for Research Libraries in Chicago, and was completed between 1974 and 1980. In view of the interest shown in the records, the Center also financed the filming of the main chronologicial series. To date almost two-thirds of the entire archive of the Court of Arches is now available on film.[14] Most of these records could not otherwise be consulted by scholars on account of their excessively fragile and degraded condition. Much remains to do: the exhibits, commissions *in partibus,* and the pleas await attention, but there is more than sufficient material available for most scholars wishing to study the Court of Arches cases.

Until the early nineteenth century, the records were arranged chronologically according to specific types of documents, some left loose in bundles, and others numbered and bound into volumes. They comprise appeals, act books, acts of court, assignation books, process books, libels, interrogatories, depositions, personal answers, commissions *in partibus,* muniment books, exhibits, decrees, sentences, and bills of costs. The act books and the assignation books record the stages in the proceedings whether they came on appeal or originated in the Court of Arches. The acts of court, from which the entries in the seventeenth and eighteenth century act books were fair-copied, sometimes provide additional details of proceedings conducted semi-privately in chambers. Until 1733 the formal records were written in Latin, invariably in highly abbreviated legal formulae which on first acquaintance seem to obfuscate the meaning of the entry. The bald stages of the proceedings can frequently be supplemented by the evidence in the depositions, personal answers, and in the process books, most of which is in English.

12. M D Slatter, *Lists of the Records of the Court of Arches deposited for temporary safe keeping in the Bodleian Library in 1941* (duplicated) (1951). See also Slatter, 'The Records of the Court of Arches' (1953) 4 *The Journal of Ecclesiastical History,* pp 139-153; and 'The Study of the Records of the Court of Arches' (1955) 1 *Journal of the Society of Archivists* pp 29-31.
13. *Index of Cases in the Records of the Court of Arches at Lambeth Palace Library 1660-1913* (Index Library 85, 1972).
14. The micropublication is held by the Center for Research Libraries, Chicago, and is available commercially from Chadwyck-Healey Ltd, Cambridge. A loan copy of the microfiche of the process books is held by the British Library Document Supply Centre, Boston Spa.

Where a case came on appeal, the appellant was required to submit a certified copy of the proceedings in the lower court. The resulting process books, some 2400, survive for almost a quarter of the cases heard in the Court of Arches and account for well over half of the entire archive. Sir Lewis Dibdin recognised their value, and viewed them as providing 'a set of precedents' which was otherwise lacking in ecclesiastical law.[15] Each volume relates to a separate appeal, and collects together all the records of the proceedings in the lower court otherwise scattered through a number of series. In addition many of the original court records have not survived, and the process books are therefore the only source for the proceedings in the court of first instance. The availability of examples of proceedings in such a wide cross-section of local and peculiar courts offers scholars an unrivalled opportunity to study differing local practices and applications of the ecclesiastical law.

The exhibits and the records copied into the muniment books are immensely varied. Apart from the expected classes of documents, such as wills, inventories, marriage licences, churchwardens' accounts, letters of orders, and institutions, rate books, and faculties, there are some rare finds. The foundation charters of the college of regular priests in the chapel of St. Peter, Ruthin, 1310, are the earliest.[16] But of even more significance is the fourteenth century Fineshade cartulary exhibited to substantiate a claim for exemption from the payment of rates to Blatherwick church, Northamptonshire.[17] Cases of disputed jurisdiction ensured that important administrative and judicial records came before the court, but some of these were never returned to the litigants. These include *libri cleri* for the archdeaconry of Cornwall, 1713-49,[18] and an assignation book for the archdeaconry of Suffolk, 1711-19[19] More personal exhibits include the passionate love letters between Philip Da Costa and his first cousin, Catherine, a wealthy young Jewish widow in 1731.[20] With all its riches, there nevertheless remains one serious omission in the archive of the Court of Arches: there are few judgments of the Dean of the Arches. The sentences are purely formal records following a set formula, invariably including a statement that one of the parties has proved his case, and sometimes awarding costs; they do not record the Dean's judgments or any discussion of the legal issues raised by the suit. Unlike the common law courts, the ecclesiastical courts cannot boast a continuous series of law reports.[21] This is perhaps less surprising than might otherwise appear, since the ecclesiastical courts were not governed by precedent in the same way as the common law courts were.[22]

Until the curtailment of the jurisdiction of ecclesiastical courts in the nineteenth century, the Court of Arches exercised an extensive jurisdiction over most aspects of society, both clerical and lay, many of which no longer fall within the province of the law. However during the period covered by the records, the types and numbers of cases coming before the court altered, and in some spheres decreased drastically. Sometimes the changes stemmed from legislation. Suits for jactitation of marriage were rare after Lord Hardwicke's Marriage Act (the Clandestine Marriages Act 1753), and the court's matrimonial and testamentary

15. Dibdin, 'Romances of Real Life from the Court of Arches', p 84.
16. Ff 146, 147 (Case no 8308: *Simon etc. v Roberts and Jones,* (1718)).
17. Ff 291 (Case no 5395: *Kirkham v Lovell and Sydes* 1666)).
18. Arches Ff 34 (18 vols)
19. Ff 17 (Case no 1527: *Burward v Lark* (1719)). There are also court books for the archdeaconry of Middlesex, 1667-1742 (Ff 5-11, 30), but these have not yet been identified with any appeal.
20. G 102/68 (Case no 2519: *Da Costa v Da Costa Villa Real* (1731)).
21. From the middle of the eighteenth century, information on judgments in the Court of Arches is given in Law Reports: 161 *English Reports* (1917), pp 440-453.
22. *The Ecclesiastical Courts: Principles of Reconstruction, being the Report of the Commission on Ecclesiastical Courts set up by the Archbishops of Canterbury and York in 1951* (1954), p 13.

jurisdiction were swept away by the Matrimonial Causes Act and the Court of Probate Act of 1857. Other changes reflected significant political, social or ecclesiastical developments. Many of the cases brought immediately after the Restoration were prompted by the need to clarify jurisdictional irregularities dating to the Commonwealth. The decrease in the numbers of the defamation suits in the eighteenth century may have reflected a greater tolerance in society, but their abolition was brought about by the Ecclesiastical Courts Act 1855. In the nineteenth century, legislation was introduced to regulate the criminal jurisdiction over the clergy; this included the Church Discipline Act 1840, the Public Worship Regulation Act 1874, and the Clergy Discipline Act 1892.[23] Another major change of some significance was the replacement of the Court of Delegates by the Judicial Committee of the Privy Council as the court of appeal in 1832.[24]

In its post-Restoration heyday, the Court of Arches heard an extensive range of cases. For convenience sake they may be roughly divided into four main categories: matrimonial; testamentary; manners and morals of the clergy and laity (including defamation), and parochial disputes over church fabric and endowments. The first two categories account for well over half of the suits between 1660 and 1857, the date after which matrimonial and testamentary matters were transferred to the secular courts.

Marriage has always provided ample scope for the litigious. The matrimonial disputes included clandestine marriages, proceedings for jactitation or falsely boasting of marriage, suits for the restitution of conjugal rights, and nullity suits on grounds of lunacy, impotence or frigidity, and divorce proceedings on account of adultery or cruelty. The divorce granted was the equivalent of a separation *(a mensa et thoro);* it was not a modern divorce *a vinculo matrimonii,* and did not allow the parties to marry in their partner's lifetime. The sentence pronounced such couples 'to be divorced and separated from bed, board and mutual cohabitation . . . until they shall be reconciled to each other'. Litigants had to enter a bond not to marry again in their former partner's lifetime. If the innocent party to a divorce for adultery wished to remarry, he had to resort to that 'rude and most inconvenient expedient' of a private Act of Parliament for a divorce *ab initio.*[25]

In matrimonial disputes, much circumstantial and background information is given. In the suit of Elizabeth and Daniel Paul of St. James', Westminster, in 1721, the allegations reveal how she met her future husband, a native of Switzerland. They became acquainted while learning to dance together at the age of twelve. On reaching their majority, they decided to marry secretly. They took a coach to the King's Arms, a tavern on Ludgate Hill, and were married there by a minister according to the form prescribed in the Book of Common Prayer. Daniel Paul insisted that the marriage be kept a secret from both parents since he was 'at the time about advancing himself in the Regiment by the assistance of his Mother on whom was his chief dependance'.[26]

23. *Ibid,* pp 23-35.
24. See note 5 above.
25. Following the precedent set for Lord Roos in 1670, there were 317 private Acts of divorce *(a vinculo)* granted by Parliament before 1858: A R Winnett, *Divorce and Remarriage in Anglicanism* (1958), p 129. By the Matrimonial Causes Act 1857 (20 & 21 Vict c85) a court of justice had the power to grant divorces a *vinculo matrimonii.*
26. D 1566, ff 151v-2, 156v-8 (Case no 6988: *Paul v Paul* (1721)).

Sometimes the evidence is decidedly sordid. In adultery suits, the failings and foibles of both parties were listed with considerable abandon. Lady Stamford, the beautiful but wayward wife of Thomas Grey, 2nd Earl, was variously accused of having liaisons with members of his lordship's household, of being addicted to excessive drink and cursing, and swearing that she would cut his throat. During the Earl's imprisonment for complicity in the Duke of Monmouth's Rebellion in 1685-6, her dubious paramours were alleged to have wished 'his lordship's head off'. Lord Stamford claimed that his wife's extravagances had landed him in debt to the tune of £30,000; the Countess retorted that the debts were the result of his maintaining 'lewd women' and keeping racehorses.[27] Henry Young of St. Mary Abchurch, London, was another frequenter of 'Bawdy houses and Lewd womens Company'. At Christmas 1672, he did 'thereby catch the fowle disease comonly called the French Pox' and infected his wife. He also 'did Cruelly and Barbarously beate and abuse' her and 'did very inhumanely turne her out of his house'.[28]

To establish the truth of the accusations, many witnesses, neighbours and servants, were interrogated. Some were encouraged to divulge with all the relish of moral superiority the unsavoury details they might just have glimpsed when 'they happened to peep or spy through the said kitchen door whose boards were not well joyned'.[29] What the butler saw, or in some cases failed to see, was often incriminating. In the divorce proceedings of Edmund Roberts, vicar of St. Paul's Cray, Kent, in 1852, it was alleged that the butler had discovered his master's wife together with the tutor, half her age, in the Library – the doors were locked, and the key holes had been blocked up.[30] In 1857, Emily Holmes, the head chambermaid at the Great Western Royal Hotel, Paddington, who showed a Mr and Mrs Gordon (Emily Baring and her lover, Captain Gordon) to a bedroom on the second floor, where there was only one bed, replied somewhat ingenuously to a leading question: 'Nor can I say from any appearances of the room next day whether they slept together therein, but they had no where else to sleep'.[31]

Since wives could claim alimony during and after divorce proceedings, details are given about the financial circumstances of the couple. Some wives were reduced to poverty and had to petition for leave to sue for alimony *in forma pauperis,* as did Mary the deserted wife of Robert Plummer, a coachman of St. Giles-in-the-Fields, Middlesex, in January 1671. She claimed she had been imprisoned by her husband and 'inforced to prove her marriage to the great travell and charge of her friends. And now after such proofe, he still lives and cohabits with Isabell his later wife, refusing to allow your petitioner any maintenance, vowing to spend £500 at law ere he will allow her a penny'.[32]

Matrimonial disputes were brought by persons of many walks of life: from peers and baronets such as Lord Roos, later 1st Duke of Rutland,[33] and Sir George Hilaro Barlow, a governor of Madras,[34] to those of humbler status like

27. Ee 6, ff 90-2, 98v; E 8/34 (Case no 8646: *Stamford v Stamford*(1686)).
28. Libel of Sarah Young (uncatalogued papers): Case no 10399: *Young v Young*(1677).
29. D 2289, p 166 (Case no 10058: *Williams v Williams* (1707)): not a matrimonial dispute, but a correction case involving adultery: see note 46 below.
30. H 821/2, f 5v (Case no 7745: *Roberts v Roberts* (1852)).
31. H 858/5, p 10 (Case no 476: *Baring v Baring* (1857)).
32. Petition *in forma pauperis* 1661 (uncatalogued papers). Case no 7267: *Plummer v Plummer* (1671).
33. Case no 7825: *Roos v Roos* (1661).
34. Case no 498: *Barlow v Barlow* (1814).

Elizabeth Gardiner, of St. Giles-in-the-Fields, 'a very good huswife and a very carefull labourious woman' who was 'so thrifty & desirous to live in the world that shee would rise to spin at three of the clock in winter mornings'.[35] Both clergy and laity were represented, although the spiritual peers, unlike their secular counterparts, did not expose their matrimonial infelicities in this court. Most of the litigants lived in England, south of the Humber, or in Wales, but a few lived abroad. Alexander Coachman resided in Barbados in 1669,[36] and George William Powles was a former resident of Bogota, South America.[37]

The testamentary disputes covered an even wider cross-section of society, and were more numerous.[38] By far the largest number comprise suits for legacies in wills proved in the Prerogative Court of Canterbury. Litigation occurred even where testators had taken immense pains to draw up their wills.[39] Suits involved the grant of administration and probate, debts to creditors, as well as controversial bequests. The information exhibited in court often throws light on the testator's trade, his income, debts and funeral expenses. In the suit over the legacy of Henry Grube, a brasier of Milton-next-Sittingbourne, Kent, in 1702, attempts were made to assess his debts: had he paid the two guinea fee for the doctor's visit ('a usual fee for any visit to any such person in Milton'); had his servant been paid his wages of £8 per annum? The allegations disclose that Grube was 'a high Dutchman or German by nation', and that despite having lived in Kent for many years, he was 'not well stilled in the English tongue'.[40] In an earlier testamentary case in 1661, the defendant exhibited depositions from a chancery suit involving the estate of Captain John Ellison, part owner of the ill-fated ship *the Susan and Ann,* which on her homeward journey from Virginia 'was taken by the Ostenders & carryed into Ostend and there ceased and made a prize'. The captain had left detailed provisions for his funeral: four coaches were hired to bring his friends down from London to Hornchurch; six sea captains were enlisted to carry his body to the church, and the minister was requested to preach a sermon. Everything was 'performed in a decent careing way without any manner of profusenes or vaine Expence' according to the testator's own wishes.[41]

Clergy were as litigious as their lay neighbours where matters of finance were involved. On the death (or resignation) of a bishop, rector or vicar, his successor in the office could claim dilapidations against his predecessor's estate. As in disputes over repairs to churches, the witnesses questioned in these suits were often local craftsmen. In 1737, Archbishop Potter sued his predecessor's executors over dilapidations to the archiepiscopal palaces at Croydon and Lambeth. Masons, carpenters, tilers, and glaziers were required to assess the necessity of the repairs submitted by the plaintiff, and to consider the least expensive way of completing the essential repairs. Was it necessary to erect scaffolding around Lollards' Tower to repair the brick and windows, or to replace

35. Eee 1, f 460 (Case no 3584: *Gardiner v Gardiner* (1663)).
36. Case no 2031: *Coachman v Coachman* (1669).
37. Case no 7379: *Powles v Powles* (1845).
38. The list of testators in Houston's *Index* (pp 543-569) does not include testators named in numerous records of appointments of guardians *ad litem* for minors left legacies in wills proved in the Prerogative Court of Canterbury. These records were omitted unless litigation followed.
39. Eg Robert Lee of Spitalfields, Middlesex., who hoped his dying wishes would be carried our 'according to the plain acceptation and honest meaning of my Will which I think cannot be Misunderstood by any Man of common Sense or common Honesty therefore I hope no Lawyer will ever be suffered to see it'. G 134/17 (Case no 2349: *Cowper and Cox v Littler and Ouvry* (1765)).
40. Bbb 863/5, ff 14, 16 (Case no 3325: *Finch v Murford* (1701)).
41. Depositions of witnesses 1661 (uncatalogued papers). Case no 9880: *White v Ellison* (1661).

the entire stone pavement in the Great Hall?[42] Where these disputes proceeded to the final judgment and were not settled out of court, the judge included a financial award in his sentence. Thus in 1639 Thomas Fowler, rector of Whitchurch, Shropshire, was awarded £50 for dilapidations to be paid by the widow of the previous incumbent, Dr. John Rawlinson, principal of St. Edmund Hall, Oxford.[43]

The correction of morals and manners involved both clergy and laity. Before the Toleration Act 1688, parishioners, mainly nonconformists, were prosecuted for non-attendance at church. But even after that date a few wayward parishioners were brought before the court for failing to observe the Sabbath with due decorum. John Philpott of Peterstow, Herefordshire, was accused of netting partridges like 'a common Poacher upon the Lord's Day and a profaner therof' in September 1699.[44] In 1726, the rector of Llanvapley, Monmouthshire, prosecuted John Lewis for playing 'tennisball and fivesball' in the churchyard on the Sabbath, though in his defence he pleaded that 'Tennis-playing is an Innocent and Inoffensive Diversion and recreation'.[45]

Lack of due observance of the Sabbath and its services was not the preserve of the laity. Numerous cases involving clerical misdemeanours were dealt with by the court. In 1705 David Williams, vicar of Llanfihangel Cwmdû, Breconshire, was presented for 'Suffering a cheese to be put in the font within the church which is putrified and a nuisance to the parishioners that come to church to hear divine service and a hinderance to baptise the children'. He also failed to observe the local custom of holding two morning communion services on Easter Day, one in Welsh at 6 a.m., followed by a second in English. He omitted the English service much to the discomfort and discouragement of his English parishioners 'who cannot be so much edified by participateing of the Sacrament whilst the Service and Administration thereof is performed in an unknown tongue'.[46] Another late seventeenth century incumbent, Samuel Knott, of Combe Raleigh, Devon, caused much unseemly merriment among his parishioners in time of service by wearing 'an old torne furrd capp, which hath rendered him very ugly and ridiculous to the congregation'. He was doubly suspect because 'he hath taken upon him to practise Phisicke for Lucas sake', and dispensed his medicines in an unlicensed alehouse on Sundays.[47]

Accusations brought against the clergy sometimes reveal prejudice and spite, but they invariably provide a glimpse into local habits and past-times. Thomas Turner, a Kent cleric, was allegedly 'a common gamester, given to playing at cards and dice and other unlawfull games for great summes of money'.[48] Nathaniel Swan, vicar of Alderminster, Worcestershire, dishonoured his calling by going to alehouses and 'other places of profane meetings, at Wakes, footeball, playings, Bearebaytings'. He also misappropriated the church's books and communion vessels to his own domestic use, and was alleged to have 'most profanely, wickedly and debauchedly quaffed and drunke healthes' in the chalice. Worst of all, he boasted that he had been in 'high favour with the Lord Protector'.[49]

42. Case no 1628: *Canterbury v Folkes etc* (1737), especially E 34/11; Eee 14/340-61. See also interrogatories and depositions in LPL Ms 1154.
43. B 3/108 (*Fowler v Rawlinson* (1639)).
44. D 1631, f 28v (Case no 7184: *Philpott v Ganderton* (1700)).
45. D 952, ff 50, 62v (Case nos 4242, 5653: *Lewis v Harris* (1727)).
46. D 2289, pp 15, 65 (Case no 10058: *Williams v Williams* (1707)).
47. Bbb 66a/3, ff 6, 9 (Case no 1820: *Cheeke v Knott* (1666)).
48. D 2121 , f 56 (Case no 9338: *Turner v Sloman* (1679)).
49. D 1413, ff 50-2 *passim* (Case no 6299: *Milward v Swan* (1666)).

By the nineteenth century, there was a noticeable change in the church discipline cases coming before the court. The Oxford Movement did much to enhance the dignity of church services, but some of its followers adopted ritualist practices which were passionately denounced by their critics as papist and illegal. By the second half of the century, the Court of Arches may have been shorn of much of its original jurisdiction, but it became a forum for ritualist controversies. The Public Worship Regulation Act 1874 aimed to provide a summary procedure for settling disputes over ritual, and for securing the enforcement of the court's decisions. Unfortunately, there were unforeseen developments which resulted in the imprisonment of clergy for contempt of court.[50] The court also witnessed some undignified spectacles abhorrent to both high and low church parties alike. During the proceedings in 1879 brought against Richard William Enraght, vicar of Holy Trinity, Bordesley, Warwickshire, for among other things, using wafers, it was revealed that the actual wafer exhibited in court had been consecrated before being pocketed by the complainant.[51] This occasioned a vociferous outcry which only subsided after Archbishop Tait had retrieved the offending wafer from the proctors, and held a service in his chapel at Addington Park during which the wafer was reverently consumed. In an unusually frank outburst, his registrar, John Hassard, complained to Randall Davidson, the Archbishop's chaplain 'I am *a Protestant* and rejoice in being *one;* – & don't believe in Transubstantiation or in Wafers'. 'What Doctors', he asked, 'can preserve the primate's health, if he can be occasionally *forced* to eat wretched Wafer bread, kept in a Pill box for *five months or more!!!* Poor Man! I hope and trust he acted on the sacred Principle *of Delegation* & made *you* eat the whole.'[52]

Such insights into the personal prejudices of ecclesiastical lawyers are rare. Occasionally proctors were the subject of litigation, but more often than not, they remain faceless officials. During the seventeenth and eighteenth centuries, the proctors[53] and advocates who administered the ecclesiastical law belonged to a thriving profession, with son following father into the law. The Society of Doctors' Commons was a bastion of the most successful advocates in their field.[54] Many who held the position of Dean of the Arches were distinguished and influential figures.[55] But even before the voluntary dissolution of Doctors' Commons and the destruction of the building under the provisions of the Court of Probate Act 1857, this institution was viewed, by some, as archaic. Readers of David Copperfield will recall its description variously 'as a lazy old nook near St. Paul's churchyard' or as 'a little out-of-the-way place, where they administer what is called ecclesiastical law, and play all kinds of tricks with obsolete old monsters of Acts of Parliament'.[56] The transfer of matrimonial and testamentary jurisdiction to the secular courts in 1858 left ecclesiastical lawyers with insufficient cases to justify a separate profession.[57] By the Solicitors Act 1877, solicitors were authorised to practise in all ecclesiastical courts, and as Sir Robert Phillimore, Dean of the Arches, wistfully observed in *The Ecclesiastical Law of the Church of*

50. Five clergymen were imprisoned for contempt of court between 1877 and 1887: Owen Chadwick, *The Victorian Church*, vol 2, p 348, note 1.
51. Case no: 7093: *Perkins v Enraght* (1879).
52. LPL Tait Papers 245, ff 398-9.
53. For the number of proctors in 1832, see *The Special and General Report made to His Majesty by the Commissioners appointed to enquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales* (1831-2, reprinted 1856), App, p 262. LPL has a card index of over 360 proctors admitted, 1700-1859.
54. Squibb, *Doctors' Commons*. For membership of Doctors' Commons, see App 3.
55. Eg Sir George Hay (1715-1778). The Official Principal/Dean of the Arches was president of Doctors' Commons: *Ibid*, pp 46, 116, 117.
56. Charles Dickens *David Copperfield* (1850), p 242.
57. Over two-thirds of the Arches cases between 1800 and 1857 concerned matrimonial or testamentary matters.

England, barristers were also admitted to practise there *'ex necessitate rei'*.[58] In 1875, Lord Penzance, a barrister, and former judge of the Court of Probate and Divorce, 1863-1872, was appointed judge of the two provincial courts of Canterbury and York under the Public Worship Regulation Act 1874.

The Court of Arches has been shorn of much of its original jurisdiction, but it remains the principal court of appeal for the Province of Canterbury.[59] Its archive is however one of its more significant legacies. The records are a vibrant and vital source for an impressive range of studies covering over two centuries: social, economic, topographical, legal, administrative and genealogical. The wealth and variety of the material is perhaps unsurpassed by any other single ecclesiastical archive.

CLASS LIST OF RECORDS OF THE COURT OF ARCHES

Act Books, 1635-1773 (A 1-41).*
Act of Court, 1670-1818 (Aa 1-99).*
Assignation Books, 1663-1875 (Aaa 1-50).*
Sentences, 1560-1797 (B 1-19)*
Decrees, 1634-1799 (Bb 1-106).
Commissions *in partibus,* 1662-1805 (Bbb 1-1598).
Appeals, 1661-1803 (C 1-6).*
Process Books, 1660-1893 (D 1-2369).*
Libels, Articles, Allegations, and Interrogatories, 1660-1799 (E 1-48).
Personal Answers (Ee 1-11).*
Depositions, 1664-1855 (Eee 1-81).*
Muniment Books, 1554-1815 (F 1-12).*
Original Exhibits, 1310-1915 (Ff 1-299).
Papers exhibited, 1660-1799 (G 1-179).
Case Papers, 1800-1913 (H 1-998; Hh 1-51).
Administrative Papers, 1800-1960 (Hhh 1-14).
Financial records: bills of costs, bonds etc. (J; Jj; Jjj).
Records of proctors and advocates, 18th-19th century (K, Kk, Kkk).
Cases Papers, 1914- (M).
Precedents and legal treatises (N 1-7).

Additional Arches records were discovered during the removal of the Prerogative Court of Canterbury wills from Somerset House to the Public Record Office, and were transferred to Lambeth Palace Library. These case papers are currently being repaired and catalogued.

* Indicates that the series has been filmed. The acts of court and assignation books have been filmed only if there are no corresponding act books.

58. Phillimore *Ecclesiastical Law* p 936. The comment dates from the first edition in 1873.
59. The court is regulated by the Ecclesiastical Jurisdiction Measure 1963.