

**17th-Century English: Research**  
 Class 3: *Sin, Sex, and Probate: The Church Courts and their Records*  
 Else Churchill, Genealogist, Society of Genealogists, UK

THE BRUE FAMILY LEARNING CENTER

 American Ancestors.  
By NEW ENGLAND HISTORIC GENEALOGICAL SOCIETY

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Meet today's presenter



Else Churchill  
 Genealogist, Society of Genealogists, UK

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Church Courts  
 useful for genealogists  
 c 1350-1850

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Class 3: 17th-Century English Research

- Part 1
  - Introduction
  - Wills & Marriage Licences
- Part 2
  - Other Business

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### What to read?

- *The Rise and Fall of the English Ecclesiastical Courts 1500-1860* by R B Outhwaite
- *Sin, Sex and Probate. Ecclesiastical Courts, Officials & Records* by Collin Chapman
- *Records of the Established Church* by Dorothy M. Owen,
- *Church Court Records* by Ann Tarver,
- *Church Courts and the People in Interregnum Britain* – ed Fiona McCall
- *Sin and Society in 17<sup>th</sup> Century England* by John Addy
- *Domestic Dangers. Women, Words and Sex in Early Modern London* by Laura Gowing
- *Church Courts and the People in the 17<sup>th</sup> Century. Ecclesiastical justice at Peril in Winchester, Worcester and Wells* by Andrew Thomson
- *Strumpets and Ninnycocks. Name Calling in Devon 1540-1640* by Todd Gray
- *Of Church-Reves and of Testaments. The Church, Sex and Slander in Elizabethan North Devon* by Peter Christie
- *The Bowdy Courts of Banbury, The Act Book of the Peculiar Court of Banbury 1625-1638. Banbury HS vol26*
- [https://www.familysearch.org/wiki/en/Church\\_Courts\\_in\\_England\\_and\\_Wales](https://www.familysearch.org/wiki/en/Church_Courts_in_England_and_Wales)

**SIN, SEX AND PROBATE**  
ECCLESIASTICAL COURTS,  
OFFICIALS & RECORDS

Colin R Chapman

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### Church Courts Sin, Sex & Probate

- Probate/Marriage Licences
- Matrimonial Disputes
- Sexual Offences
  - Illegitimacy/Incest/Fornication/Adultery
- Defamation/Scolding/Unseemly Behaviour
- Clergy Discipline
- Religious Offences
- Licensed Midwives, Schoolmasters & Surgeons

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Hundreds of courts  
Each Diocese has several courts

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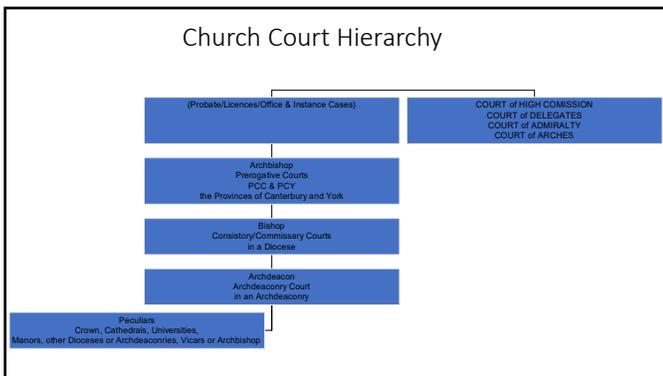
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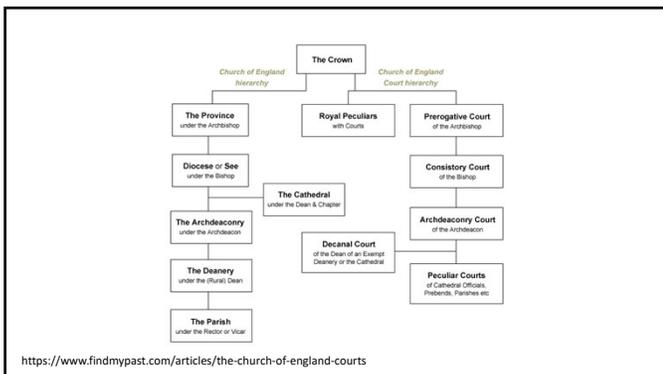
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Church Courts  
familiar to  
Family Historians



Probate pre 1858



Marriage Licences

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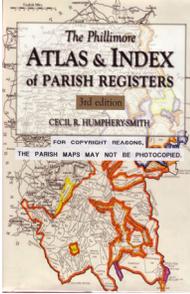
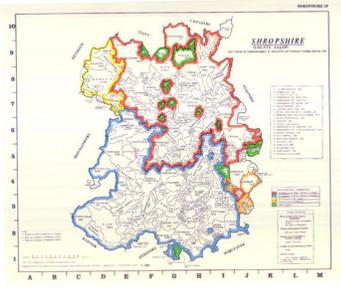
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The Phillimore Atlas & Index of Parish Registers

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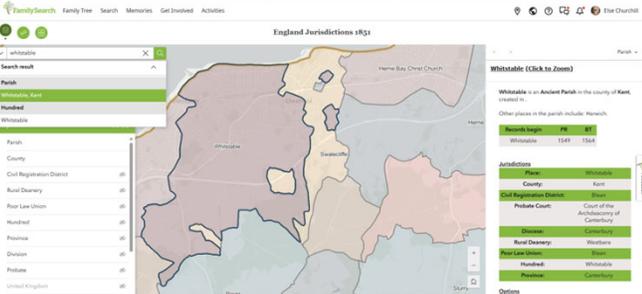
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1851 Jurisdictions  
<http://maps.familysearch.org/>




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Gibson & Brigham Young University Guides

The slide on the left is titled "PROBATE JURISDICTIONS: WHERE TO LOOK FOR WILLS" and is the Sixth Edition by Jeremy Gibson and Stuart Raymond. It features an image of a historical building and the text "The Family History Partnership". The screenshot on the right shows the "Gibsoner (GIS)" website interface, which includes a search bar, a list of jurisdictions, and a table of results.

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The image shows a handwritten document in a cursive script. The text begins with "In the name of God Amen" and mentions "John Kebby of St Benet Fink, London". The document is a probate for a relict, Joan Kebby, dated May 1641.

John Kebby of St Benet Fink, London (Brother Henry Kebby in New England) Probate to relict Joan Kebby (PCC May 1641)

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The screenshot shows a digital archive page for "Edmund Morecroft of Virginia 1639". It includes a digital image of a handwritten document. The caption below the image reads: "Morecroft, Edmund, of Virginia. Probate to the sister, Elizabeth Morecroft, with similar powers reserved to the sister, Mary Morecroft. (June 1639)." The document text is partially visible, starting with "In the name of God Amen".

Edmund Morecroft of Virginia 1639

Morecroft, Edmund, of Virginia. Probate to the sister, Elizabeth Morecroft, with similar powers reserved to the sister, Mary Morecroft. (June 1639).

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**BROADLY SPEAKING  
Pre-1858 PROBATE DOCUMENTS CAN BE FOUND IN**

- County/Diocesan Record Offices (Consistory & Archdeaconry )
- Borthwick Institute (Province & Diocese of York)
- National Archives (PCC)

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General Rules for Finding Wills before 1858

See *Probate Jurisdictions: Where to Look for Wills* 6<sup>th</sup> ed, Jeremy Gibson & Stuart Raymond

- Land/property all in one archdeaconry =ARCHDEACONRY COURT
- Land/Property in more than one archdeaconry but within one diocese =CONSISTORY/COMMISSARY
- Land/Property in more than one diocese but all in Province of York = PCY
- Land/Property in more than one diocese but all in Province of Canterbury = PCC
- Land/Property in both Provinces = PCC (senior)
- Outside archdeaconry but still in jurisdiction of Consistory or Province = PECULIAR

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**Prerogative Court of Canterbury  
1384-1859**  
PCC Will Indexes & Images\*

- TNA Wills 1884-1858 See Research Guide structured search (PROB 11)\*
- TNA Discovery (PROB 11 (Act Book Copies)\* (PROB 10 Original Wills)
- Ancestry - England & Wales, Prerogative Court of Canterbury Wills, 1384-1858 (PROB 11 indexed images )\*
- Findmypast - Prerogative Court Of Canterbury Wills Index 1750-1800 (PROB 12 calendars)
- SoG Prerogative Court of Canterbury Wills Index 1750-1800 (Prob 12 calendars)
- British Record Society: Index Library published index volumes
- PCC year Books of Probates 1620-1655 -J & GF Matthews

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## Class 3: 17th-Century English Research

The screenshot shows the National Archives website interface. At the top, there is a search bar and navigation links. Below, there are sections for 'Research guides' and 'Online collections'. A 'Refine results for' sidebar is visible on the left, listing various categories like 'Army and Air Force', 'Births, Marriages and Deaths', etc. The main content area displays '4 guides available' with titles such as 'Country Court Death Duty Registers 1796-1811', 'Famous Wills 1552-1854', 'Wills 1384-1858', and 'Wills of Royal Navy and Royal Marines Personnel 1796-1882'.

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Thomas Wheeler  
Citizen and Draper of London  
Will dated 8 May 1626

"to my son which I fullshillie begott not in wedlock but in recompense of my sins for the child is not at fault ...to him all my goods at 21...if he dies Richard Turner my kinsman to have them... Land I have in mortgage with my kinsman John Turner I give to him again... he is to take my child Thomas W who hath been brought up by John Lodwyn who had some time been my servant... Sd Thomas Turner to be exor. To his wife my diamond ring ... To servants of the house when I die 20/  
Written with my own hand – No witns  
Proved 19 Sep 1626 John Turner Exor

(PCC Prob11/150 image ref 9669)

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Sir Robert Bevil Kt d.1635

- "I give and bequeath to my son-in-law Sir John Hewell Bt, tenn shillings and noe more, in respect **he stroke and ceaselessly fought with mee**"
- "I give unto my wyfe ten shillings in respect **she took her sonnes part against me** and did and did anymate and comferte him afterwards. These will not be forgotten"
- "Inasmuch as she hath not only deserted mee, but hath taken into her possession all her own goods and hath disposed of them at her own pleasure .... to make **no ampler provision for her**"

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# Abolition of the Bishops 1640s Interregnum 1653-60

Church Courts in Abeyance  
Most probate usually in PCC

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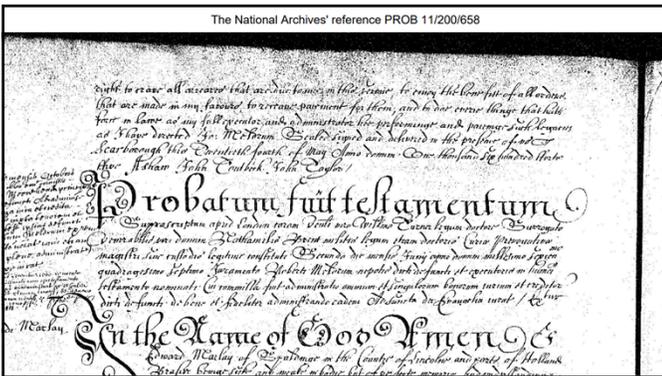
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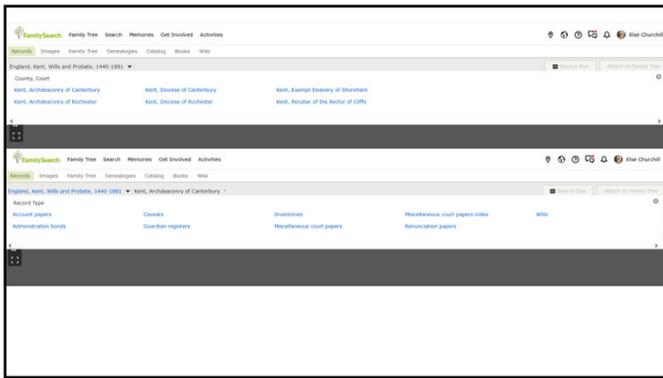
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### Bishops Court Diocese of Lichfield

- Consistory Court of Lichfield covers counties of Staffordshire, Derbyshire parts of Warwickshire and Shropshire
- Records from 1516 now at Staffordshire Record Office (moved from Lichfield Diocesan Archives last year)
- Online indexes and finding aids on FMP
- Calendars at RO and FamilySearch Catalogue

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### Diocese of Lichfield Wills and Inventories images on FamilySearch via SoG, NEHGS etc

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Search by place or name

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Sentence and Decree

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Search results for "Paul Abney"

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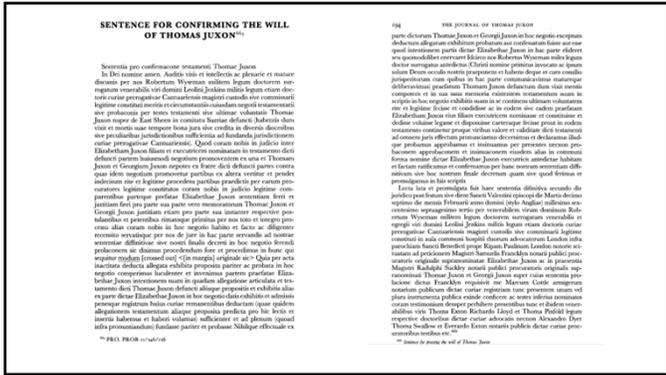
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## Court of Delegates (probate disputes)

### TNA

This was the COURT OF APPEAL FROM PCC & PCY, COURT OF CHIVALRY, HIGH COURT OF ADMIRALTY & COURTS OF CHANCELLORS OF OXFORD & CAMBRIDGE until succeeded in 1834 by Judicial Committee of the Privy Council.

The High Court of Delegates was established after the Reformation to replace appeal to Rome from local diocesan court on matters of marriage, legitimacy, disputes on tithes and offences against morality. The Registrar of the High Court of Admiralty acted as Registrar for the High Court of Delegates. Its Registry was in St Paul's Bake House.

Records include Acts, Assignment Books; Case Books; Cause Papers; Examinations; Depositions; Processes; Sentences; Wills; Affidavits; Miscellaneous accounts; Interlocutories all in DEL class at TNA.

FINDING AIDS

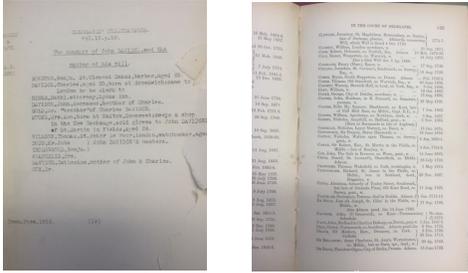
- Catalogue of Processes in the Registry of the High Court of Delegates, 1823* (rare at TNA, Society of Antiquaries, Library of the Admiralty Registry We think this is in the Bernau Index the SoG.
- Index to Wills & administrations in the High Court of Delegates IN the Genealogists New Series vol 11 pp 165-224 & vol 12 pp97*
- Dramatis Personae [Sherwood's abstracts of Testametary and other cases in the Delegates Examination Papers and Other Courts 1539-1941]* Shelve'd at the Society of Genealogists [SP/DEL]
- Lists of Deeds and other Documents in the Court of Delegates IN the Genealogists New series vol 17 pp 215*

• TNA Discovery Catalogue

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Evidence of disputed will of John Davidge 1680



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Evidence of disputed will of John Davidge 1680 in TNA Discovery PROB & DEL

<p><b>DAVIDGE, John</b></p> <p>Prerogative Court of Canterbury and Other Prerogative Jurisdictions: Miscellaneous Inventories, Accounts, and Associated Documents. <b>DAVIDGE, John</b></p> <p><b>Hold by:</b> The National Archives - Prerogative Court of Canterbury</p> <p><b>Date:</b> 1680</p> <p><b>Reference:</b> PROB 54/23</p> <p><b>Subjects:</b> Wills and probate</p>	<p><b>Probate lawsuit Thoroughgood and Dod v Davidge, Thoroughgood v Davidge, concerning the deceased John Davidge ...</b></p> <p>Prerogative Court of Canterbury Allegations, described at item level. Probate lawsuit Thoroughgood and Dod v Davidge, Thoroughgood v Davidge, concerning the deceased John Davidge of St Peter Cornhill, London. Two allegations and an interplevy.</p> <p><b>Hold by:</b> The National Archives - Prerogative Court of Canterbury</p> <p><b>Date:</b> 1680</p> <p><b>Reference:</b> PROB 54/23</p> <p><b>Subjects:</b> Wills and probate</p>
<p><b>Probate lawsuit Thoroughgood v Davidge, concerning the deceased John Davidge of St Peter Cornhill, London ...</b></p> <p>Prerogative Court of Canterbury Allegations, described at item level. Probate lawsuit Thoroughgood v Davidge, concerning the deceased John Davidge of St Peter Cornhill, London. Allegation and interplevy.</p> <p><b>Hold by:</b> The National Archives - Prerogative Court of Canterbury</p> <p><b>Date:</b> 1680</p> <p><b>Reference:</b> PROB 54/23</p> <p><b>Subjects:</b> Wills and probate</p>	<p><b>Interplevy for will of John Davidge (close Introduced 2nd St Valentine 1679/80, Decree 13 Feb ...</b></p> <p>Register of the High Court of Delegates, and Register of Ecclesiastical and Admiralty Causes of the Judicial Committee of the Privy Council: Testamentary Probate, Interplevy for will of John Davidge (close Introduced 2nd St Valentine 1679/80, Decree 13 Feb 1679/80).</p> <p><b>Hold by:</b> The National Archives - High Court of Delegates</p> <p><b>Date:</b> 1679-1680</p> <p><b>Reference:</b> DEL 1043</p> <p><b>Subjects:</b> Interplevy   Wills and probate   Armed Forces (General Administration)   Navy</p>

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Wills enrolled in courts & deeds etc. as evidence

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The image shows a search results page for 'Naldrett' on a genealogy website. The search results are filtered to show records from 1600 to 1699. A snippet of a Chancery case document is visible, mentioning 'The National Archives' and 'Chancery, the Writable Regis'. The document text includes names like 'John Naldrett' and 'Elizabeth Naldrett'.

Chancery cases used to compile genealogy information

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The image is a collage of book covers related to genealogy and probate records. The books shown include 'The Wills of Our Ancestors', 'Ancestral Trails', 'The Atlas & Index of Parish Registers', 'Probate Jurisdictions: Where to Look for Wills', 'When Death Do Us Part', and 'Wills and Other Probate Records'. A list of titles is provided to the right of the collage.

- *Wills of Our Ancestors A Guide for Family & Local Historians* by Stuart A Raymond
- *Ancestral Trails* – Mark Herber
- *Wills and Probate Records A Guide for Family Historians* by Karen Grannum and Nigel Taylor
- *When Death Do Us Part. Understanding and Interpreting the Probate Records of Modern England* ed by Tom Arkell, Nesta Evans, and Nigel Goose
- *Words from Wills and Other Probate Records* by Stuart Raymond
- *English Wills and Their Historical Context 1383-1800* by Motoyasu Takahashi
- *Probate Records and the Local Community* ed Philip Riden
- *Genealogical Research in England and Wales vol 2* by David E Gardner and Frank Smith online at [Genealogical Research in England and Wales - David E. Gardner and Frank Smith - Free Download, Borrow, and Streaming | Internet Archive](http://Genealogical Research in England and Wales - David E. Gardner and Frank Smith - Free Download, Borrow, and Streaming | Internet Archive)
- *Death Religion and the Family in England 1490-1750* by Ralph Houlbrooke
- *The Law of Executors and Administrators* by Sir Samuel Toller, 7<sup>th</sup> ed corrected by Francis Whitmarsh, 1838
- *Burn, R., Ecclesiastical Law (London, 1763-5)* [Available online at NEI] <https://familyrecords.ahw.durham.ac.uk/nei/coote.htm>
- *Coote, H. C., The Practice of the Ecclesiastical Courts, with Forms and Tables of Costs (Butterworth, 1847).* [Available online at NEI] <https://familyrecords.ahw.durham.ac.uk/nei/coote.htm>
- *Probate Jurisdictions: Where to Look for Wills* by Jeremy Gibson & Stuart Raymond
- *Will Indexes and Other Probate Material in the Library of the SoG* by N Newington-Irving
- *Phillimore Atlas & Index of Parish Registers*

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The infographic is titled 'Marriage Licences' and contains four key points:

- Issued by the Church of England for priest to perform marriage without banns
- Valid for 3 months
- Date from at least earliest period of parish registers
- Pre Hardwick Marriage Act of 1753 a marriage was valid without banns or licence

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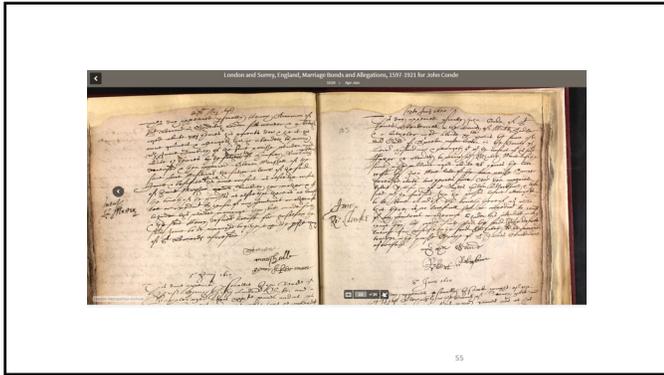
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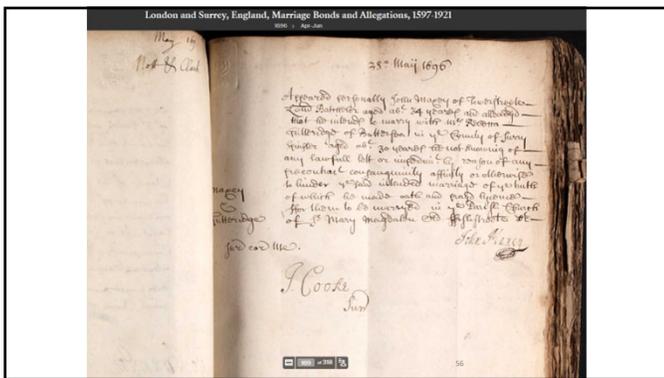
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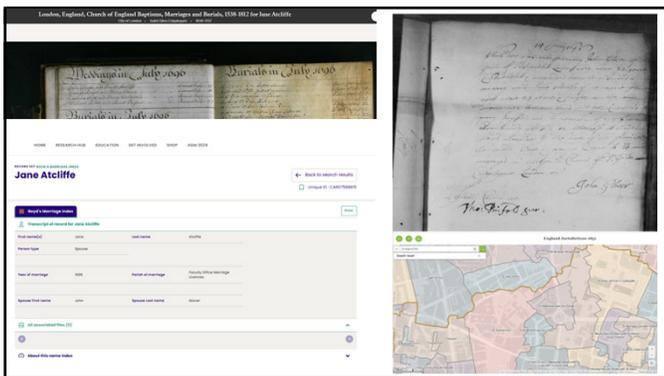
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Class 3: 17th-Century English Research

The image shows a digital archive interface. On the left is a scan of a handwritten document with dense cursive text. On the right is a search results page titled "MARRIAGE ALLEGATIONS FOR THE PROVINCE OF CANTERBURY, 1660-1851". The page lists search results with fields for Title, Location, Date, and Description. Below the search results is a "FIND TO SEARCH RESULTS" section with a "PRINT" button and a "Loading More" link.

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Marriage Licences online

**Findmypast**

Marriage allegations from the Archbishop of Canterbury Faculty Office for Great Britain, 1622, 1852, and a calendar of marriage licenses for the allegations, 1622-1729.

Archbishop of Canterbury Faculty and Vice General, Yorkshire, Cheshire, Lincolnshire, Salisbury (Sarum)

**Ancestry**

London, Surrey and many published printed indexes

**FamilySearch**

Cheshire, Durham\*, Norfolk\*, Yorkshire\* Images of original records from local archives via catalogue

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# QUESTIONS?

**Schedule a consultation**

[consultations@americanancestors.org](mailto:consultations@americanancestors.org)

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Part 2

Other business

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Church Courts business

Probate	Marriage Licences & Clandestine Marriage	Matrimonial Disputes	Refusal to pay church rates or tithes	Unseemly behaviour in church
Working or rowdy behaviour on a Sunday	Adultery & fornication	Incest	Scolding	Heresy
Usury	Simony	Church discipline	Licences of midwives, schoolmasters, surgeons	The church fabric

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**CHURCH COURT BUSINESS**

Not all courts were empowered to act in all the types of action available.

Matrimonial cases, legal separation, breach of promise etc had to go to the bishops' courts or higher.

Some courts had no probate jurisdiction and some had only that

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- At different times the courts focused on different types of offence, sometimes following a national lead. William Laud (1573-1645), Archbishop of Canterbury, tried to enforce uniformity in church furnishing, especially with regard to altars and communion rails. Puritan opposition to their introduction in the late 1630s brought many individuals before the court.
- **Most common offences presented to the Nottingham Archdeaconry court:**  
 1587-1599 Not repairing the church building  
 1600-1609 Not receiving holy communion  
 1610-1619 Not receiving holy communion  
 1620-1629 Sexual relationships before marriage  
 1630-1639 Sexual relationships before marriage
- As more people turned from the Anglican church to dissenting communities, opposition to the church courts increased. For example in 1643 the Nottingham Archdeaconry court ceased to sit, and it was abolished altogether during the Commonwealth period but was reinstated after the Restoration of King Charles II

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Not popular with Puritans

- John Field and Thomas Wilcox's Admonition to the Parliament of 1572 denounced the courts of the archbishop of Canterbury as 'the filthy quagmire, and poisoned plash of all the abominations that do infect the whole realm', and hence attacked the lower jurisdiction of the 'commissary's court' as
- "but a petty little stinking ditch, that floweth out of that former great puddle ... In this court, for non payment of two pence, a man shall be excommunicated if he appear not when he is sent for. ... And, as it is lightly granted and given forth, so if the money be paid, and the court discharged, it is as quickly called in again. This court... punisheth whoredoms and adulteries with toyish censures, remitteth without satisfying the congregation, ... giveth out dispensations for unlawful marriages, and committeth a thousand such like abominations. God deliver all Christians out of this anti-christian tyranny, where the judges, advocates and proctors for the most part are papists, and as for the scribes and notaries as greedy as cormorants ..."

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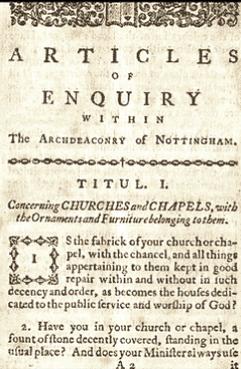
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- By the 1700s the Nottinghamshire church courts began reporting a much smaller range of offences. They focused on obvious moral lapses such as the birth of illegitimate children. In Easter 1751, nine out of ten reports were 'omnia bene', or 'nothing to present'. However, Articles of Enquiry concerning all possible ecclesiastical offences were issued up to the end of the 18th century. The last surviving Excommunication notice dates from 1768, the last Penance was issued in 1794, and presentments ceased to be recorded in the Act Books from February 1796.
- **Most common offences presented to the Nottingham Archdeaconry court:**  
 Easter 1668 Not attending church  
 Easter 1688 Not paying church duties  
 Easter 1708 Not paying church duties  
 Easter 1728 Having illegitimate children  
 Easter 1751 Having illegitimate children



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Two types of church court business

OFFICE/OFFICIAL

- Disciplinary matters
- Moral crimes
- Brought by court officers such as church wardens' presentments

INSTANCE

- Two parties on dispute
- e.g. defamation, tithes, matrimonial disputes, probate disputes

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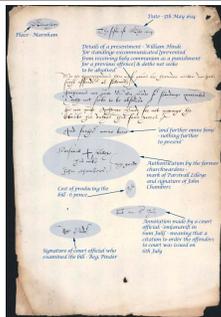
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“Ex Officio”  
Office/Official Cases

- Summary pleadings
- Few documents
- Short procedure noted in a court act book
- excommunication



Presentment Bill from Marnham parish Notts, ANPB 295/342

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Office Cases in the  
Commissary Court of London

- *“In December 1634 the Commissary Court sat to look to the affairs of the Diocese. Whole days were allowed to rough spots like the parishes of St Clements Danes and St Martins in the Fields. Two weeks before Christmas a contingent of about 200 came from Stepney to be castigated and another 100 were summoned. They were weavers, sailors women, bricklayers, barmaids etc. The overwhelming majority were there because they had born, sired or delivered bastards”*

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Class 3: 17th-Century English Research

Office Cases  
in the  
Archdeaconry  
of London

- 1<sup>st</sup> June 1636 saw 158 office suits in the archdeaconry between the hours of 9-11am
- Parishioners refusing to pay the poor rates in Stepney
- 21 Puritans refusing Easter Communion in St Andrew by the Wardrobe
- Thomas Key indicted for putting his hands under Joane Field's coat in the vestry at St Andrews Undershaft
- Richard Wetnoll kept his hat on during divine service
- Sarah Jones disliked the new pew the wardens had moved her to and kept going back to her old one

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Herefordshire Diocese  
Churchwarden Presentments

Churchwardens and 'sidemen' were required (Canons 26 and 109-119) to present offenders against ecclesiastical law at least once a year (usually twice, at Easter and Michaelmas) and at visitations but they could also make 'voluntary presentments' at any time.

Presentments to the church courts were written out by the church-wardens or were in the form of answers to a set of articles of visitation and enquiry sent in advance

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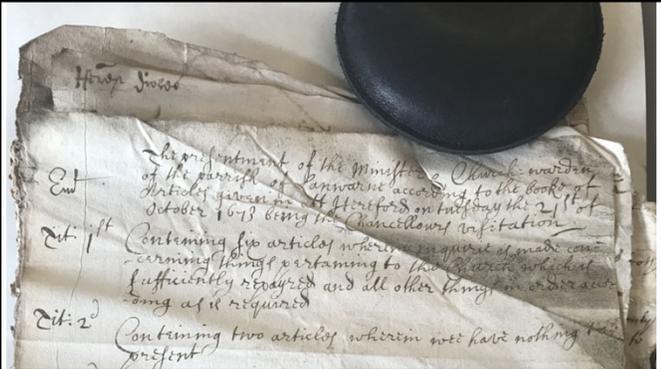
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Henry Jones

The presentment of the ministers & Churchwardens of the parish of Panwaryne according to the books of Articles presented at Hereford on Wednesday the 2<sup>nd</sup> of October 1649 being the Councils visitation

Containing two articles wherein enquiry is made concerning things pertaining to the duties which are sufficiently required and all other things in order thereunto as is required

Containing two articles wherein we have nothing to present

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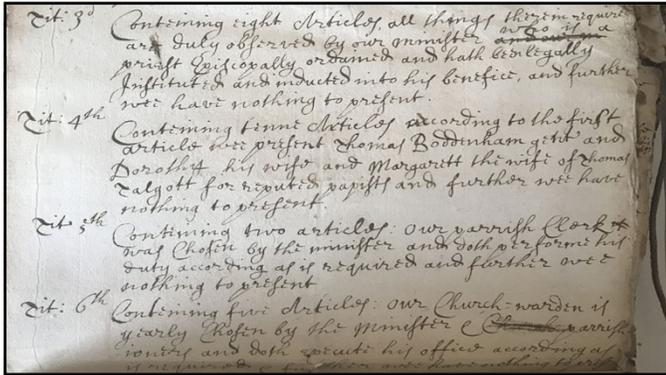
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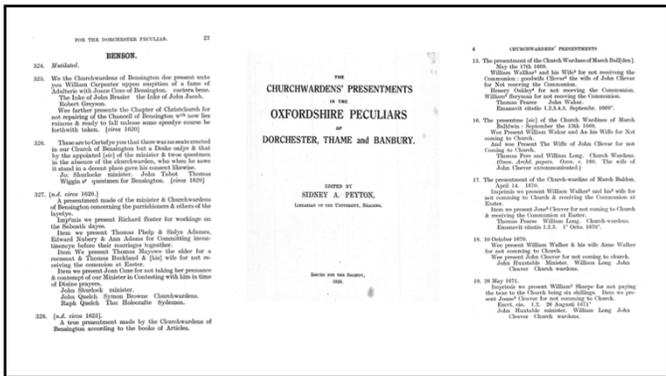
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Class 3: 17th-Century English Research



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Act Book of the Peculiar Court of Banbury 1625-1638

- 1627-1631 Margaret Bull of Grimsbury - Various citations of incontinence with one unknown, excommunicated "she hath since been in the house if correction" for the same"
- 1633 John Pedley for laying violent hands upon Susan French, widow, making her bleed at the moth in an arrest made by him upon her in Banbury Churchyard
- 1634 Mary wife of Thomas Hackell often absent from Church, excommunicated, absolved, dismissed with a monition
- 1635 James Pettifer for incontinence with the wife of ... Pratchet

75

### Peculiar of Banbury 1630

- Alice Rowsham of Kings Sutton appeared .. “being unlawfully begotten with child” .. By Thomas Charles of Neithrop in the parish of Banbury who had carnal knowledge of her for the first time on Shrove Tuesday at widow Long’s house they both being there for servants together .. and divers times since
- Thomas Charles of Neithrop – denieth he ever had carnal knowledge of the said Alice and offered to “Purge” with four others
- Mathew (s/o widow) Long of Neithrop “same cause” denieth he has committed the act of incontinence with her but confesseth that he did kiss and handle her by her secret parts
- John Fracknell of Neithrop – cited for the same charge.

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### Sabbath Breaking and misbehaving in church

the records of the Nottingham Archdeaconry court show people fighting for seats, turning up drunk, allowing children to run around and cry, arguing with the minister or churchwardens, and larking around on consecrated ground.

Parishioners reported to the church court for 'Sabbath-breaking' were shown to be enjoying a variety of community entertainments, ranging from simple gatherings in the alehouse, games of 'nine holes', quoits and bowling, to music, dancing and theatricals. In 1637 John Sprigg of Tuxford, for example, hired a musician, Thomas Hags, to play in his house, and was presented for allowing young people to dance there while a church service was going on (AN/PB 341/4/45).

R. F. B. Hodgkinson, Extracts from the Act Books of the Archdeacons of Nottingham, *Transactions of the Thoroton Society*, 29 (1925)

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Morals

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Class 3: 17th-Century English Research

Incest and adultery on the Isle of Man  
"with his wife's sister's daughter"

"To be committed a month in St Germans Prison and before his release to give bonds to ... make one Sunday's penance at the church door of every parish and at the market cross of every town within this isle... bare legged and bare headed covered over with a white linen sheet" *Consistory*

*Court of Sodor & Man*



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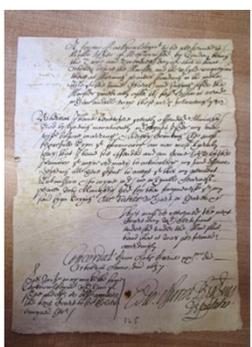
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Church Penance of William Usher 1637 for adultery

- A form of acknowledgment to be performed by William Usher of West Grinstead on Sunday being the Twove and Twentieth day of this instant October before the Minister and the whole congregation there at Morning praiers standing in the middle Isle of the same Church and saying after the Minister vmedially after the first lesson is read with an audible voyce these words following, viz:
  - Whereas I have heretofore greatly offended Almighty God by lyeing incontinently with Agnes Usher my now wil before marriage & thereby Committing the most fearful Synn of Fornication, am now most hartly sorry that I have soe offended, and am Come hither by the Iniunction of myne ordinary) to acknowledge my said offence desiring all here present to accept of this my present Submission & to loyne with me in humble hearneest praiser unto Almighty God for the forgiouesness of my said synn saying Our Father which art in heaven etc
  - This must be returned the next Court day with Certificali endorsed under the Ministers hand that it was performed accordingly.
  - Concordat Cum Actis Carne 20th die Octobris AD 1637.
  - His wife may make the same acknowledgement)
  - with him if she please, or else appeare the next) Edw Osborne, Regius Th - tatus
  - Court to see the like enioyned hers



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Instance Cases (disputes) can lead to reams of documents

Plenary or formal written pleadings	More documents and court procedures	Depositions (witness statements)	Interrogatories (lists of questions)
Sentences and decrees (court decisions)	Citations	Libels	Allegations
Compulsories (summoning of witnesses)	Excommunications	Absolutions	Prohibitions (court prevented from taking further actions and case transferred to civil court)

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Class 3: 17th-Century English Research

Leicestershire Archdeaconry church court instance cases examples index 1679-1820 at Record Office

- 1682 box xl doc 031 – Fornication
  - Buckminster: Samuel Dixon, Vicar v Henry Thorpe, George and Mary Potter
- 1681 box xl, doc 060-062 - Defamation
  - Huglgestone Anne Wife of Daniel Wood of Ashby de la Zouch v John Weston
- 1713 box lix doc 050 – Fornication
  - Office v Sarah Hewitt

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### Personal relationships in Nottinghamshire

Extramarital sexual relationships often came before the court, which was concerned both about Christian morality and the social problems of illegitimacy. Salacious details abound: Elizabeth Smyth of Lound, an alehouse-keeper, was commonly known as 'Few Clothes' and was reported in 1610 to have committed adultery with two men - one a wife beater and wizard - and to have had an illegitimate child by a third (AN/PB 236/1/3).

Meanwhile, in Normanton-on-Trent in 1626, a Walter Garlick, who was separated from his wife in Wiltshire, was living 'lasciviously'. He boasted that he could have fourteen women at his pleasure! (AN/PB 326/10/17)

Domestic violence and the arguments of neighbours could come before the church courts. Thus, in 1634 Robert Haslape of Kelham came home drunk and beat his wife in time of divine service (AN/PB 328/7/20), while Agnes Ridge of Winthorpe, rebuked by her mother-in-law in 1624 for receiving disorderly persons into her house, called her 'old rade' and threw stones at her (AN/PB 326/6/42).

Clergymen were not always the best examples to their parishioners. In 1634, Mr Thomas Holden, the curate of Lambley, was accused of striking one parishioner, brawling with another in the church, quarrelling with others, haunting alehouses and living in adultery (AN/PB 303/309).

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### Sussex Church Court Deponents 1556-1694

706. On behalf of William STURT, [1618] (ref Ep/1/11/13, f.20-21)	711. Jane wife of John WORSFOLDE of Horsham v Edward STURT of Horsham, [1618]
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- Parish not named [Petworth], testamentary, will of Elizabeth HAWKINS of Petworth.
- Deponents: Robert HILL, gent of Petworth where lived 30 years, before Broadclyst, Devon where born, aged 60, sign.
- John NALDRETT of Tillington where lived 2 years, before Kirdford where born, aged 23, sign.
- [ref Ep/1/11/13, f.36-37, 41] [Horsham], defamation. Deponents: Matthew WHITE, yeoman of Horsham, where born and lived, aged 35, sign.
- Richard WHITE, blacksmith of Horsham where born and lived, aged 37, sign.
- On 28 November 1618, John WRIGHT, carpenter of Horsham where born, aged 50, sign.
- On 16 January 1619, Richard CONSTABLE, yeoman of Horsham where Lived 12 years, before Capel, Surrey where born, aged 40, sign.

ed. Michael Burchall Published on CD by Parish Register Transcription Society

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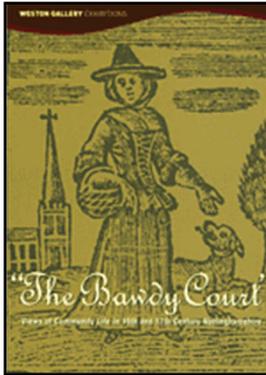
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Defamation Cases  
The Court of Scolds  
or  
Bawdy Courts

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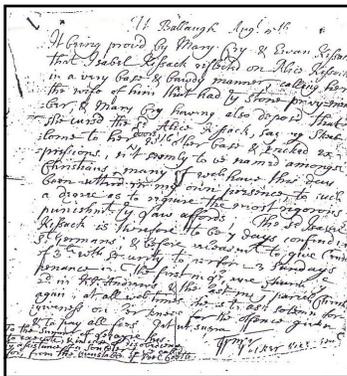
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In a very base and  
bawdy manner

"It being proved by Mary Fry and Ewen Kissack that Isabel Kissack reflected on Alice Kissack in a very base and bawdy manner calling her the wife of him that had the stone privy member"

Consistory Court of Sodor & Man

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17<sup>th</sup>-century insults

'I pray to god thou mayest lye above ground as blacke as a toade'  
 '[he] lied in his throat'  
 'a very bould impudent and a clamourous woman'  
 'Thou art a naughtie fellow, thou diddest never anye good in this town'  
 'you are a swaggerer'  
 'dunce asse calfe blockhead and foole'  
 'villaine and Rascaldy knave'  
 'scurvie pawtrie knave'  
 'base rascally preist lowsye slave'  
 'filthy and scurvy Cockes combe'

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## Breaking a Marriage

- Invalid marriages
- Annulments
- Breaches of Contract
- Marital Disputes
- Separation of Bed and Board

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## Church Courts Matrimonial Test

**41 Matrimonial:** 28 June 1611 (ff. 105v,106).  
*Parties:* Nicholas Elliot v Elizabeth Haywood.  
*Witnesses:* George Webb of St Aldate, resident 12 years, previously of Stanton Harcourt where born, aged 48, servant, worth 40 marks of his own proper goods; Thomas Wood of St Thomas, resident two weeks, previously of St Aldate for a year, of St Peter le Bailey for seven years and of Milton since birth, carpenter, worth £10 of his own goods.  
*Others:* Thomas Flexney; Oliver Smith.  
*Substance:* Last August about seven or eight o'clock in the evening George Webb and Thomas Wood had gone to Elizabeth Haywood's house in St Aldate to witness a contract of marriage between her and Nicholas Elliot. George Webb was working at his trade of carpenter when Wood came to ask him to go. Elizabeth and Nicholas were sitting at the board's end and Nicholas, taking Elizabeth by the hand, said he took her as his wedded wife to continue in the way of matrimony until death parted them. He then kissed her. Elizabeth pledged her troth similarly to Nicholas. By reason of these promises they were taken to be man and wife in St Aldate.

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## Matrimonial (separation from bed and board: adultery)

Sarah Eves committed adultery with John Southam, an iron monger, who was also found guilty of adultery at Warwick assizes prior to their appearance in the church courts. Witnesses noted Sarah's tendency to leave the shutters open at night *Consistory Court of Lichfield*.

- Henry Henry **Clayton** [Claiton; Clayton] the plaintiff of Halifax (Yorkshire, West Riding) and Heptonstall brought a matrimonial cause against his wife, Anne **Cayton** [alias Anne **Bain** [Baynes]
- Claiming that she had committed adultery. According to Henry, 'Anne had w[ith]out anie just cause lefte the companie and fellowship of her said husbände she wente into Lancashire and there did give forth in speeches, that she was a single woman and unmarried, and did behave herself verie lowly and scandalously and under that pretence procured herself to be intertaind as a servant in the howse of one Jeffrey Byrde of Heslingden in Lancashire'. Responding, Anne replied that she simply lived as a 'servant to mayntayne hir self'. The court found for Henry.

**Court:** Consistory of York, 1617

- **Details:** 4 Pieces; Has deposition; Has libel; Has sentence
- **Date:** 6/2/1617 — 12/7/161

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•Discipline of the clergy and church officers

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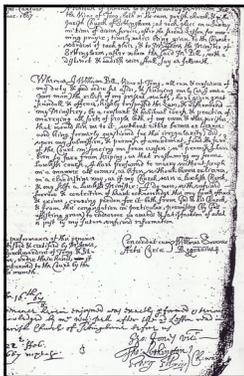
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Vicar of Tong's penance for clandestine marriage

• "Dishonoured my ministry by a constant & habitual course & practice of marrying all sorts of people both of my own and other parishes ... Without bans or licence" Consistory Court of Canterbury

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Negligent clergy in Sawley

• hath now absented himself from amongst us this two years and dwelleth some foure myles distant and out of the parish whereby wee are very neglected"  
• before Archbishop of York Exchequer court

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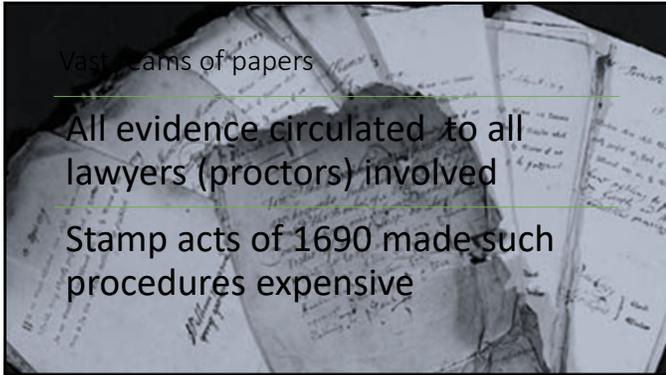
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Vast amounts of papers

All evidence circulated to all lawyers (proctors) involved

Stamp acts of 1690 made such procedures expensive

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**Problems**

- Locating documents
- Records not easy to use
- Poorly kept
- Inconsistencies diocese to diocese
- Canon Law difficult to interpret
- Pre 1733 often in Latin
- Few powers of punishment
- Lesser courts declined as London grew important
- Rarely indexed for names apart from wills and marriage licences but worth look on TNA discovery and local archives catalogues and increasingly paper lists at the archives

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## QUESTIONS?

**Schedule a consultation**  
[consultations@americanancestors.org](mailto:consultations@americanancestors.org)

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Class 3: 17th-Century English Research



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