

THE ECCLESIASTICAL LAW CENTRE AT MIDDLE TEMPLE LIBRARY

JANET EDGELL

Lately Librarian and Keeper of the Records

'The Ecclesiastical Courts date from 1076, but it is certain that at no time in their long history have they been as busy as they are today. Most of their work arises out of applications for faculties to make alterations in churches, their contents or churchyards. The majority of cases are dealt with without a hearing and in Chambers, but an increasing number have to be decided after a full hearing in Open Court. Most Ecclesiastical Court Judgments are not reported; yet many of them are of considerable interest and together they create a body of Ecclesiastical Law.

To meet an undoubted need, the Honourable Society of the Middle Temple has been glad to receive from the Ecclesiastical Judges' Association transcripts of Judgments, to copy, bind and index them and to make them available for reading and, if desired, copying within the Inn's Library. If provided with copies of future Judgments, the Library will treat them in the same way.'

This preface by His Honour Judge John Newey QC, Chairman of the Middle Temple Library Committee and Commissary General* of the City and Diocese of Canterbury, to Volume 1 of the Consistory and Commissary Law Reports put succinctly the aims of the Ecclesiastical Law Centre at its inception in late 1991. With his usual good humour and enthusiastic support for Middle Temple Library, he put his heart and soul into promoting this new project which, he foresaw, would be of the greatest benefit to everybody concerned with the ecclesiastical courts. In his mind's eye he saw the Ecclesiastical Law Centre as being as important, in its way, as the American and European specialist collections for which the Library is noted. The Centre was to be primarily Anglican, but he hoped it would eventually extend to cover other creeds. Although the late Master Newey's vision remains as yet unfulfilled, work on the judgments, mostly unreported, is continuing along the lines he laid down.

Over many years successive Secretaries of the Ecclesiastical Judges Association had built up a diverse collection of transcripts of ecclesiastical judgments, although they were never made generally available. From about 1981 diocesan registrars were encouraged to send copies of all interesting judgments to the Secretary of the Association, and in 1991 they were all lodged with the Librarian of the Middle Temple. These and later judgments form the basis of the Inn's ecclesiastical collection. To these can be added the Library's practitioners' books, legal pamphlets, law reports, nominate law reports, Church Assembly and General Synod Measures, Crockford's *Clerical Directory*, Public General Acts, Hansard Debates, Parliamentary Papers and, of course, the Ecclesiastical Law Journal.

Most of these sources are scattered throughout the Library, but the designated area for the Ecclesiastical Law Centre is Bay 141 on the Gallery, or second floor reading room. It is here that the Consistory Court judgments and those of the Court of Arches and the Chancery Court of York and of the Court of Ecclesiastical Causes Reserved, the heart of the Centre, splendidly bound in purple, can be found.

Although far from all judgments have found their way here, the collection includes many of the seminal decisions to which Chancellors still refer today. *St Gregory's, Tredington, St Mary's, Banbury, All Saints, Melbourn, St Helen's, Brant Broughton*, for instance, are all cited time and again in recent judgments.

*In the Diocese of Canterbury the Chancellor is styled Commissary General.

These cases document the changing interests of the courts. The earliest, concerning the removal of human remains, was heard by Dr Tristram at St Botolph without Aldgate in 1891. Other cases relating to cemeteries and interment followed, but by 1957 the emphasis had changed and decisions on the sale of church possessions predominated: sales of land, of paintings and of plate. Two of the most famous decisions laying down the principles to be followed before granting faculties for such sales, at St Mary's, Gilston, and St Gregory's, Tredington, are to be found in Volume 1, which finishes with Chancellor Buckle's 1970 case at Etchingham Church. Later, along with changes in liturgical practice, requests for alterations to change the layout of the church and the position of the altar became more common. *St Mary's, Banbury*, in which the factors to be considered in re-ordering cases first laid down by Lord Penzance in *Peek v Trower* (1881) (unfortunately not in our collection) were expanded by Chancellor Boydell, can be found in Volume 6, and the appeal, where the judgment was upheld by the Court of Arches, in Volume 7. The transcript of Chancellor Boydell's judgment held at Middle Temple Library is complete, unlike some of his and other judgments as reported in the standard series of law reports, a good reason in itself for Chancellors to continue to take part in this venture.

Churchyard maintenance, the construction of church halls, the use of church property, the position of fonts, disciplinary cases, the display of banners, memorials, stained glass window design, candles, incense and stone altars—these and so many other different aspects of the work of the consistory courts are gathered into this collection.

The first ten volumes cover the period from 1891 to 1991 as follows:

Vol 1: 1891–1970	Vol 6: 1985
Vol 2: 1971–1975	Vol 7: 1986–1987
Vol 3: 1976–1980	Vol 8: 1988–1989
Vol 4: 1981–1982	Vol 9: 1990
Vol 5: 1983–1984	Vol 10: 1991

Thereafter there will be annual dated volumes. The volume for 1992 is bound and is on the shelf alongside its fellows, and the volumes for 1993 and 1994 are in the last stages of preparation. With the valuable assistance of Chancellor Goodman, the remaining years up to 1999 have been roughly indexed.

Each volume follows the same pattern. There is a contents page on which the cases are numbered, listed in date order, and further indexed by diocese and judge, followed by the cases themselves with their own title pages, and then various indexes, citations and a list of abbreviations.

On the contents page, as full dates are not always given, the cases are arranged by year, month and day, for example:

1	1985	St Wilfrid's, Wilford, Nottingham (Southwell)—J. A. Shand
2	1985, January 15	St James's and Emmanuel, Didsbury (Manchester)— G. C. H. Spafford
8	1985, March	St Michael and All Angels, Horsted Parva (Chichester)— Q. Edwards
9	1985, March 29	St Mary Magdalene's, Taunton (Bath and Wells)— G. H. Newsom
10	1985, March 29	St Peter and St Paul, North Curry (Bath and Wells)— G. H. Newsom
11	1985, April	St Michael the Archangel, South Malling, and St John the Divine, Southboume (Chichester)—Q. Edwards
12	1985, April 11	All Saints, Newmarket (St Edmundsbury and Ipswich)— J. Blofeld

Three indexes come next: churches indexed by diocese, churches indexed by name, parish or locality, and then a subject index. An example of the index of churches by diocese is:

DIOCESE	CASE
BATH AND WELLS	
St Andrew's, Congresbury	16
St Mary's, Berrow	13
BIRMINGHAM	
St Laurence's, Northfield	21

An example of the index of churches by name, parish or locality is:

CHURCH OR PARISH	CASE
Emmanuel Church, Loughborough	9
Construction of an extension	
St Andrew's, Cheadle Hulme	18
Reordering and the symbolism of the font	
St Andrew's, Congresbury	16
Masonic symbols on a memorial	

Many may find the indexing of church names confusing, as they are not always listed in the conventional way. For the sake of consistency, churches are referred to by the name, then parish, as in St Ann's, Kew, even when they may be familiarly known as Kew St Ann's. Usually, the saints have an apostrophe, unless it is plainly ridiculous to include one. Also, in the pursuit of consistency, the numerous 'Marys' (and of course other saints) are always shown in the following order based on the librarians' indexing principle of 'nothing before something':

- St Mary's, Westwell
- St Mary Abbots, Kensington
- St Mary-at-Hill
- St Mary Magdalene, Paddington
- St Mary of Charity, Faversham
- St Mary the Virgin, Woodkirk.

Case names follow the titles of the transcripts. This means that occasionally these will be different from published reports. So Chancellor Newsom's 1990 judgment 'Consecrated land in Camomile Street' is also known as 'St Botolph's, Bishopsgate', and both are indexed with cross-references. Similarly 'Atkins, 1987' is cross-referenced to 'Church Norton Churchyard'.

Again, the subject index may seem strange to members of the Society, who are familiar with the way concepts are dealt with in published reports. The subject indexes in these volumes were originally created the librarian's way, using individual words in alphabetical order to convey information and indicate how to find it in a number of different places. Inevitably there were occasions where phrases were necessary, and in the end the indexes have become rather a mixture, but one which I hope is useful. For instance, in the 1992 volume there is the following:

Necessity and duty of the Chancellor	11
Necessity for change	2
Obiter dicta	2
Ownership of gravestone	13
Parish opinion	11
Planning consent/permission	9, 12
Plaque/s	8, 17
Porcelain portrait on headstone	8

Porch	18
Position of font	18
Prejudicial effect of construction	11
Preservation of church records and documents	10

In this example, 'Plaque/s' are an important subject in cases 8 and 17, whilst planning permission or consent is discussed in cases 9 and 12. The term 'Church records and documents' is also indexed. The idea is to give the users of the index as many 'entry points' as possible.

Citations cover references to cases where they have been reported. For example:

Emmanuel Church, Loughborough	9
<i>Cons. Ct:</i> (1993–5) 3 Ecc LJ 117	
St Andrew's, Cheadle Hulme	18
<i>Cons. Ct:</i> (1993–5) 3 Ecc LJ 255; Times 4.2.1994; [1994] 1 WLR 88.	

There are also references to cases mentioned in the transcripts, singling out the citations mentioned by chancellors:

Nickalls and Others v Briscoe and Others, 1892	3, 11
<i>Arches Ct:</i> [1892] P 269; (1892–3) 41 WRD 74; 19(2) Digest 1885	
O'Reilly, 1967	1
<i>C.A. (Cr Div):</i> 51 Cr App R 345	
Peek v Trower, 1881	2, 12
<i>Arches Ct:</i> (1881) 45 JP 797; [1862–82] JPDC 57; (1881) 7 PD 21; 19(2) Digest 1875.	

Similarly there are references to statutes and measures that have been cited. Every reference has been checked, and again Chancellor Goodman has to be congratulated on his dogged pursuit of every arcane source in order to reach the exacting standards that have been set for this exercise. Middle Temple Library staff have also helped in this respect, most especially Ruth Jones.

This format has developed over the years. In the early volumes there is less detail. The citations for published reports of cases mentioned in the judgments, for instance, came only in Volume 4.

The process of indexing requires reading through the transcripts, noting all references to cases or legislation. Some chancellors underline the cases or give full details and citations in footnotes. Both practices are extremely helpful. The index of cases referred to in judgments gives an alphabetical list together with case numbers and as many citations to the published reports of each case as could be found. These citations are listed in alphabetical order, librarian fashion, instead of the more familiar way with the most authoritative first. This will change with the hoped-for publication of an index covering the first ten volumes, which eventually will be available in both paper format and on the Inn's website (www.middletemple.org.uk). Further cumulative indexes will follow.

The indexing is helped immeasurably by the availability of word processing. Modern technology brings its benefits to another stage of this work—photocopying. The early judgments were presented to us on many different sizes of paper (sometimes in the same case!), which was often aging and speckled, typed using ribbons of varying states of decay, with sentences often dribbling off the edge of the paper, and margins that were impossibly narrow for binding purposes. Occasionally they were annotated with faded or illegible handwriting, or had dirty marks on them. Worst of all, they were often typed or photocopied on a slant. Nevertheless, they were accepted with appreciation for the valuable records they are, and photocopied to the best of our ability.

The photocopier used in those early days was fairly modern, but still could not cope with all the difficulties. It has to be said that some of the cases in Volume 1 are hard to read. The latest photocopier, however, is a boon. It can reduce the size of pages which are overfilled to give decent margins, and can be lightened or darkened to give clearer images. It cannot, however, rectify sloping text. The most efficient way I have found to do this is to copy the original, then cut round the copied text block, glue it onto the centre of a clean sheet of paper and photocopy the whole. Time consuming, but it works, and saves paper in the end.

In more recent years judgments are mostly produced on word processors, and these problems do not arise so much. Poor reproduction of the originals seems to be always with us, however, and even now margins are sometimes too narrow. It would be of the greatest help if margins could be set at least an inch, if not an inch and a half, all round, including the page number. The binding process requires that a fraction is trimmed off each side, but a good margin is especially necessary at the binding edge on the left.

When the indexing, photocopying and collating of each new volume is complete, the next stage is checking to make sure that everything is there and in the right place. The indexes are checked, and then the whole goes to Stuart Adams, the Readers' Services Librarian. After correction, he parcels it up and sends it to Riley, Dunn and Wilson, the Library's main bindery, whence it returns a few weeks later in its familiar purple binding.

The original transcripts are held at the moment in the office of the Librarian and Keeper of the Records, together with a fair copy of each which should be useful if further copies are to be made. Bay 141 of the Library is open on request to chancellors, registrars, archdeacons, barristers, solicitors and members of the Ecclesiastical Law Society wishing to inspect the Ecclesiastical Law Centre.

The Library staff are happy to help with any inquiries, whether received by telephone, letter, fax, e-mail, or in person. If visiting the Library, photocopies can be made on any of the Library's four photocopiers. There is a document delivery service for those who do not work in London and who need photocopies faxed or posted to them. The Library's telephone number is 020 7427 4830.

It is a pleasure to be associated with the Ecclesiastical Law Centre. If it has not yet become the splendid monument to Master Newey that he deserved, and which I hope it eventually will be, it is still a valuable and unique collection. It is here to be used, and all concerned with its development hope that it will be.

Since the completion of this article, many will have heard of the sad and unexpected death of Janet Edgell on 28th March 2000, only a few months before she was due to retire. All those who knew her will greatly miss the warm personality and conscientiousness of this outstanding Librarian—M.B.G.