

to be ideally modelling a cohesive political society. Here one ought to distinguish between cohesion and consensus. Academic communal life should allow for interactive debates and robust arguments to challenge one another without degenerating into verbal violence. To be in an academic position where no-one is allowed to challenge us is a sad academic reality. This footnote should not have appeared in its current form.

While there are important and valuable contributions here, the volume is hampered by a naïve understanding of modern methodology. The editors and some contributors use the words ‘modern’, ‘colonial’ and ‘orientalist’ without asking how such adjectives arose. The categories of ‘colonial’ and ‘orientalist’ are not as clear-cut as their use here implies and, therefore, they do not do justice to certain scholarship on Islamic law or indeed to a global political environment today.

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The Profession of Ecclesiastical Lawyers: An Historical Introduction

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It has to be admitted that, for most lawyers, even those with a historical bent or training, a certain aridity is perceived as attaching to legal history, and the more so to the burgeoning study of the history of the legal profession. This is similarly true for the history of ecclesiastical law and its lawyers, in which the distinguished author of this book has played so prominent a part over so long a period of time. Is yet more of this micro-history to be welcomed, even from an author whose research into, and intimate knowledge of, the sources (in particular the surviving records of the civilian courts) is unrivalled?

The structure of this relatively brief ‘historical introduction’ is unusual. Part I, ‘The profession described’, comprises four chapters describing the law that regulated the professional conduct of ecclesiastical lawyers, the nature of their education in becoming lawyers, their reaction to the English Reformation and the changes and developments during the years that led up to the English Civil War. Part II, ‘The profession illustrated’, consists of what the author describes as ‘eighteen descriptive portraits of noteworthy ecclesiastical lawyers’ (p 3).

Readers of this *Journal* will be familiar with 15 of these, which appeared in continuous issues between 2013 and 2017, and which are here reproduced with only the most minimal alterations to the text and footnotes. To the 15 have been now added 3 more, in the same format: Gilbert Foliot, bishop successively of Hereford and London and principal episcopal opponent of Becket, but here celebrated as a frequent papal judge delegate and tentative exponent of Gratian's *Decretum*; Francis Dickins, Regius Professor of Civil Law at Cambridge (1714–1755), commemorated principally for the survival of his progressive lecture notes; and Arthur Browne KC, American by birth, who went on to be a distinguished practitioner in the Irish civilian and common law courts and MP at Westminster for 17 years up to the Act of Union, but here celebrated for his two published works based on his lectures as Regius Professor of Civil Law at Trinity College, Dublin, with the forbidding titles, *A Compendious View of the Civil Law and of the Law of the Admiralty* (1797) and *A Compendious View of the Ecclesiastical Law of Ireland* (1799).

The 18 portraits are arranged (slightly strangely) by order of death and, in a regrettable departure from the format of the original publication, the dates of birth are no longer given in the titles. Together they bring together a mass of information, much of it not otherwise readily accessible, about a motley band of ecclesiastical lawyers over eight centuries. One is left with some surprise that that their compilation was for the author not only 'a source of learning [but] even enjoyment' (p ix).

The principal value of this book, however, lies in the four substantive chapters in Part I. Here, it is Chapters 3 and 4 which stand out, each a masterly survey of its topic with every assertion backed up by a wealth of detailed explanation and proof, elegantly and concisely expressed. Both chapters attest to continuity of professional practice, as ecclesiastical lawyers remained largely immune from the fundamental changes brought by the Protestant Reformation in its several forms, and the political and ecclesiastical turmoil in the years before the outbreak of the Civil War. The meatiest and most rewarding chapter is Chapter 4, 'English ecclesiastical lawyers before the Civil War', describing the level of activity in the ecclesiastical courts, which was on the increase and not, as sometimes supposed, a system in decline. Professor Helmholz demonstrates that 'Here there was not simply retention of most aspects of ecclesiastical jurisdiction. There was actually expansion in the scope of actions cognizable in the ecclesiastical forum' (p 77).

Convincing sketches follow of alimony awards; augmentation of tithes owed to vicars; jactitation (claiming a legal right that one did not have, particularly in relation to marriage); faculty jurisdiction and pews, where 'the practical beginnings of the exercise of faculty jurisdiction' stemmed from the introduction and extent of pews into churches, 'starting slowly in the fifteenth century and becoming more common in the sixteenth', sometimes authorized by permission

of diocesan tribunals and sometimes ‘the product of what might be called private initiative’ (p 83); and the Duplex Querela, a new remedy available to those presented to benefices, at a time when most jurisdiction over advowsons belonged to the common law courts. When the parliamentary authors of the 1641 Grand Remonstrance complained of dangerous ‘vexations’ resulting from the practices of the ecclesiastical courts, they ‘had legitimate reasons for describing the activities of the courts as dangerous inventions’ (p 90).

In short, this book’s reach is unexpected, moving from the minutiae to the mainstream of macro-history, and for your reviewer more than justifying this new publication.

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Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties

JOHN WITTE JR

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Endings, or at least deliberate finales, are rare in academic writing. There always seems to be something more to say and you never know when a tangent will take you in a whole new direction (which may unwittingly close a volume) and so invariably you seldom have the chance to make your definitive and final statement on a topic. Yet, in this book, John Witte Jr is doing just that: he provides a thrilling finale to an area of his work. In the introduction he writes: ‘After thirty-plus years, I have written what I can on the history, law, and theology of the marital family. I offer this volume as my final word on these themes before moving onto other scholarly fields’ (p xxi).

Witte’s finale is suitably epic. The first six chapters provide a rollercoaster ride through history, visiting the teachings on sex, marriage and family life by those who have shaped the family teachings of the Western legal tradition, including Church fathers, medieval scholastics, early modern Protestants, Enlightenment philosophers and jurists. Witte time-travels from Augustine to Aquinas to Luther to Calvin to Weber to Grotius to Selden to Locke to Wollstonecraft to Hume to Smith to Paley to Bentham. If this was the total of the book then that would be more than enough to mandate its inclusion on reading lists and bookshelves. Yet, for Witte in his finale, this is simply the prologue.