(2020) 22 Ecc LJ 49–66 © Ecclesiastical Law Society
doi:10.1017/S0956618X19001704

REDISCOVERING ANGLICAN PRIEST-JURISTS: II

Samuel Hallifax (1733–1790)

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Trinity Hall, Cambridge was founded in 1350 by William Bateman, Bishop of Norwich, for the study of canon law and civil law, as provided in its statutes. It later developed a direct connection with Doctors' Commons in London, the College of Advocates practising in the church and admiralty courts.[2] In the period 1512–1856, of the 462 admitted as advocates, 85 were from the Hall, including 15 masters and 45 fellows. From 1558 to 1857, the Hall had 9 out of about 25 Deans of Arches: two under Elizabeth, three at the end of the seventeenth century, three in the eighteenth century and one in the nineteenth. It has also provided more than 24 diocesan chancellors. As a result, within Cambridge University, Trinity Hall became the 'nursery for civilians', and the usual home for the Regius Professor of Civil Law. Among the first 12 of these (1540–1666), the Hall had 5.[3] From 1666 to 1873, all of the next 12 holders were Trinity Hall by origin or adoption. Uniquely, all four of those holding this chair from 1757 to 1847 were clergy. These included Samuel Hallifax, Regius Professor of Civil Law 1770–1782.[4] What follows deals with the life and career of Hallifax; his legal treatise *An Analysis of the Roman Civil Law Compared with the Laws of England* (with particular reference to its treatment of ecclesiastical law), its use and later editions; and the part played by it in a development which saw Trinity Hall become the centre for the new Civil Law classes (1816–1857), the forerunner of the modern Cambridge Law Tripos.

1 I thank the Master and Fellows of Trinity Hall, Cambridge, for visiting scholar rights for the Easter term 2019 to research for this study, and for invaluable assistance from Jenni Lecky-Thompson, Librarian, Sophie Pittock, Deputy Librarian, and Alexandra Browne, College Archivist and Records Manager.

2 Henry Harvey, Master of Trinity Hall (1557–1585) nurtured the link; it would include aid for building to accommodate the Court of Arches, Archbishop's Prerogative Court and London Consistory Court.

3 C Crawley, *Trinity Hall: the history of a Cambridge College*, second edition enlarged by G Storey (Cambridge, 1992), pp 70–89. The chair was founded in 1540.

4 The clerics were: William Ridlngton (1757–1770), Samuel Hallifax (1770–1782), Joseph Jowett (1782–1813) and James W Geldart (1814–1847). They were followed by Henry Maine (1847–1854), Master 1877.

THE LIFE AND CAREER OF SAMUEL HALLIFAX

Samuel Hallifax was born in Mansfield, Nottinghamshire, on 8 or 18 January 1733. He was the eldest son of Robert Hallifax, an apothecary, and Hannah, daughter of Samuel Jebb, a maltster.[5] Educated at Mansfield School, he entered Jesus College, Cambridge, as a sizar (receiving college aid in return for often menial services) in 1749, matriculated in 1750 and proceeded BA in 1754 and MA in 1757.[6] He was third wrangler in mathematics in the Tripos lists and Senior Chancellor's Medallist in 1754, and Members' Prizeman in 1756. Hallifax was a fellow of Jesus from 1756 to 1760, holding the offices of praelector, dean, tutor, steward and rental bursar. He was ordained deacon by Matthias Mawson, Bishop of Ely, in 1755, and priest in 1757.[7]

Hallifax resigned his fellowship at Jesus College to migrate to Trinity Hall, where he was admitted as fellow on 3 April 1760, serving as the college tutor, but vacated his fellowship in 1775 and continued at the college as a fellow commoner until 1781. He took the degree of LLD on 22 February 1764.[8] The following year he was presented to the rectory of Cheddington, Buckinghamshire, which he held till 1777, but continued to reside at Cambridge; in 1767 he applied without success to be chaplain to the Archbishop of Canterbury. While also serving as deputy to William Ridlington, Regius Professor of Civil Law, in 1768 he was appointed as Sir Thomas Adams' Professor of Arabic and Lord Almoner's Reader of Arabic – the two offices were sinecures. He then resigned both and served from 1770 to 1782 as the Regius Professor of Civil Law. Over that decade, he became, in turns Master of Faculties at Doctors' Commons (1770); royal chaplain (1774); DD by royal mandate (1775); married, to Catherine Cooke, daughter of the Dean of Ely and Provost of King's College, Cambridge (1775); and rector of Warsop, Nottinghamshire (1778), where he made the parish choir famous. But he failed in his bid for the mastership of St Catharine's College, Cambridge (1779).

His life at Trinity Hall was, in his own words, 'a very desirable one', though '[I] suffered greatly in my Health & Spirits on account of the variety of business I am burthened with at College'.[9] In 1771, he wanted to become Archdeacon of Lincoln, because

5 Samuel's younger brother was Robert, physician to George, Prince of Wales, later George IV.
6 R Hole, 'Hallifax, Samuel', *Oxford Dictionary of National Biography*, 23 September 2004, <https://doi.org/10.1093/ref:odnb/12016>, accessed 10 October 2019.
7 A Gray and F Brittain, *A History of Jesus College Cambridge* (revised edition, Cambridge, 1979), p 114; see also pp 119–137 for the Unitarians at Jesus and controversies associated with them.
8 Trinity Hall, Archives, Admissions Register, THAC/1/2/1: it seems that he vacated his fellowship on 14 October 1775 and was a Fellow Commoner from 28 October 1775 until 14 September 1781.
9 S Hallifax, letter to C Yorke, 1767, British Library (BL), Add MS 35638, fol 131v.

> I wish much to have an honourable dismission from the burden of taking Pupils, and to reside in the University, with full leisure to attend on the duties of my professorship, and to finish the plan of Lectures I have not yet been able to complete.[10]

These lectures, on the civil law, would become his *Analysis*. That same year, there was a petition that students of the universities not intending to take holy orders need not subscribe to the Thirty-Nine Articles of Religion. The proposal was well supported in Cambridge, but Hallifax was opposed and preached against it before the university.[11] Within college, in 1772 as tutor he disciplined a Unitarian undergraduate, Samuel Heywood (1753–1828), later a judge in Wales, who refused to attend college chapel.[12] The college records indicate that he was indeed fully engaged in his duties;[13] for instance, in 1766 he helped resolve a dispute between the college butler and the cook about providing coals for the kitchen fire: 'It appears that by the Ancient Table of Fees that the Butler in consideration of his allowance from detriments is to find the coal' – ten and a half bushels per week – and 'It is ordered by the Fellows that the Butler shall continue to provide the same in the manner directed by that Table.'[14]

Hallifax was not immune from criticism. Robert Hole describes him as 'an ambitious man, eager for preferment in university and church, with powerful friends and patrons'; and 'When in 1764 Ridlington sought the mastership of Trinity Hall and the high steward of the university, the duke of Newcastle, supported another candidate, Dr Wynne, Hallifax wrote a series of sycophantic letters trying to avoid upsetting either.'[15] In 1768, he alienated his cousin John Jebb, whom he beat to the chair in Arabic (which Hallifax had coveted for some years), and they clashed in 1772 over subscription to the Thirty-Nine Articles (Jebb was for abolition, and there followed angry correspondence in the press) and in 1774 over annual university examinations.[16] One student who attended his civil law lectures described Hallifax as 'a mild, courteous little man … not only of no force, but even languid', but another complained: 'He reads his lectures from manuscript, but with such rapidity that it is

10 S Hallifax, letter to 2nd Earl of Hardwicke, 1771, BL, Add MS 35610, fol 12v.
11 S Hallifax, *Three Sermons Preached before the University on the Attempt to Abolish Subscription to the Thirty-nine Articles of Religion* (1772, two editions).
12 H Malden, *Trinity Hall* (London, 1902), pp 199, 205, 206.
13 Trinity Hall, Archives, Administrative Records, Letters of Scrutinies, THAR/1/2/2: eg pp 54–58.
14 Trinity Hall, Archives, Governing Body Records, Book of Orders, THGB/1/5/1: p 89, 22 December 1766. See also p 88, 3 January 1766: he is party to an order that no member may use the college linen in his chamber; p 92, 2 January 1770: an order concerning the college seal. To confirm that he resigned his fellowship in 1775, see p 94, 6 January 1776: fellows' residence – Hallifax is not listed here or thereafter.
15 Hole, 'Hallifax, Samuel'.
16 Newspaper letters on the matter of subscription, signed 'Erasmus', were thought to be by Hallifax; Ann Jebb attacked him with letters in the *London Chronicle* (1772–1774), signed 'Priscilla', with such wit and sarcasm that he is said to have called on Wilkie, the publisher, not to print her again.

impossible to take down notes.'[17] In similar vein, while Hallifax adopted a preaching style with the 'tone and manner of delivery' of the popular preacher Samuel Ogden (1716–1778), he 'did not succeed in attracting so numerous a congregation' as Ogden.[18]

Hallifax was a high churchman who defended Anglican orthodoxy. In one sermon preached in 1769 before the House of Commons, he denounced those seventeenth-century English dissenters who 'rejected all rites and ceremonies' and sought 'the abolition of order and subscription in the church'.[19] His Lincoln's Inn lectures (1776) argued that 'the Apostasy of Papal Rome is … foretold in the sacred oracles', and that 'the Papal usurpations were carried to their utmost length, and true religion was obscured and well-nigh lost amidst the prevailing interests of vice and superstition'.[20] Such views were later to attract criticism of Hallifax by a Roman Catholic bishop.[21]

On 27 October 1781, Hallifax was consecrated Bishop of Gloucester. As bishop, he was involved in distributing sums left by George III for the relief of debtors and the poor following a royal visit to Gloucestershire in 1788, and he reported on the process to the king subsequently. On 15 March 1789, George III wrote to Pitt the Younger requesting that Hallifax be informed of his nomination to the see of St Asaph; the nomination was formally made on 20 March, and he was elected on 4 April 1789. It was during his episcopal ministry that he was able to spend some time on theology. Indeed, William Beloe (1756–1817) described him as 'an admirable scholar' and 'a very considerable man, of great abilities and profound learning'.[22] Hallifax much admired Joseph Butler (1692–1752): in 1786 he reprinted Butler's 1751 charge to the clergy of Durham and in the preface defended 'the Importance of External Religion', and he edited Butler's *Analogy of Religion* (1736), which he published in 1788. His other works include a study of St Paul on justification by faith (1760) and an edition of the sermons of Samuel Ogden (1780).[23] Many of his letters also survive.[24]

17 The first student was Egerton Brydges (who later became an MP): see E Brydges, *The Autobiography*, 2 vols (London, 1834), vol I, p 59; the other was Philip Yorke: see BL, Add MS 35377, fol 131r.

18 Henry Gunning, *Reminiscences*, 2 vols (London, 1854), vol I, p 240. Hallifax published the sermons of Ogden.

19 S Hallifax, *Sermon Preached before the Hon. House of Commons* (Cambridge, 1769), pp 11–12.

20 *Twelve Sermons on the Prophecies Concerning the Christian Church*, Warburtonian Lectures delivered at Lincoln's Inn, 1776, pp 334, 363–364.

21 John Milner, Bishop of Castabala, in *The End of Religious Controversy* (fifth edition, London, 1824), p 77. In turn, Samuel Parr, in *A Letter to Dr Milner* (London, 1825), defended Hallifax's protestant credentials.

22 W Beloe, *The Sexagenarian*, 2 vols (London, 1817), vol I, p 60.

23 S Hallifax, *Saint Paul's Doctrine of Justification by Faith Explained in Three Discourses before the University of Cambridge* (Cambridge, 1760; second edition 1762); S Hallifax, *Sermons in Two Volumes by Samuel Ogden. To Which is Prefixed an Account of the Author's Life* (London, 1780; reissued 1786, 1788 and 1805). Hallifax followed Ogden at the Round Church, Cambridge, and contributed to the university collections of poems printed in 1760 and 1763.

24 For his correspondence with the Duke of Newcastle, with Charles Yorke, and with the 2nd Earl of Hardwicke (held at the British Library), see Hole, 'Hallifax, Samuel'.

Hallifax died at his home at Dartmouth Street, Westminster, on 4 March 1790. He was survived by his widow, one son and six daughters. There were rumours that he died a Roman Catholic. He was buried alongside a son (who died in 1782 after a scalding accident in a brewery) in the chancel of Warsop church, five miles from Mansfield.[25] A portrait of him, robed and bewigged (1770–1780), hangs at Trinity Hall.

SAMUEL HALLIFAX AND HIS *ANALYSIS OF THE ROMAN CIVIL LAW*

The first edition of the Hallifax *Analysis* appeared in 1774, the second in 1775 and the third in 1779; after his death, there were two further editions: the fourth in 1795 and a 'new edition' in 1836. A key difference between the first, second and third editions lies in the sources cited: the first does not list his sources, the second lists some and the third has a much-revised list prefixed to each chapter.[26] This section focuses on the third edition, the last he produced and the most polished of the three.[27] The work provides the 'heads' for Hallifax's lectures, in the form of succinct, digestible and substantiated propositions of law. Its title, in full, is *An Analysis of the Roman Civil Law; in which a comparison is, occasionally, made between the Roman Laws and those of England: being the heads of a Course of Lectures publickly read in the University of Cambridge*.[28] It is dedicated to Augustus Fitzroy, Duke of Grafton, Chancellor of Cambridge University, and it states: 'my lectures have been honoured by persons of the highest rank and fortunes in the University', whom he also thanks.[29]

Hallifax opens confidently by stating how the civil law is worthy of study: 'It is no small recommendation of the Roman Civil Law, as it was reformed in the sixth century after Christ by the Eastern Emperor Justinian, that the general principles of it are delivered systematically.' While in the Digest, Code and

25 Hole, 'Hallifax, Samuel'. Milner (see n. 21): he 'probably' died a Catholic; cf. *British Critic*, April 1825, 365.

26 I used the first edition at Queens' College, Cambridge, Old Library, classmark P.283. *Analysis* (1779), Preface, p xxiii: 'In the second Edition . . . I prefixed to each Chapter a list of the Books, by consulting which the several propositions may be explained. In this third Edition many corrections with some additions are interspersed [to] contribute to the greater perfection of the whole' (19 January 1779).

27 The copy consulted is at Trinity Hall Library, classmark D*IV.42, a gift that Charles Avery Moore made to the library in February 1840. Of two other works bound in the volume, one is A Schomberg, *An Historical and Chronological View of Roman Law, with Notes and Illustrations* (Oxford, 1785).

28 There follows: 'The Third Edition, Cambridge, Printed by J. Archdeacon Printer to the University; and sold by T. & J. Merrill, in Cambridge; B. White, T. Cadell, and J. Wilkie, in London', 1779. The 1774 edition used 'compared' rather than 'a comparison . . . occasionally, made' with English law.

29 He offers the duke's 'candid but judging eye these proofs of my diligence . . . in the discharge of an office, which I am proud to owe to Your Grace's goodness' (1 November 1774; and *Analysis*, Preface, p xxiii).

Novels a 'methodical distribution is not always strictly regarded', with the Institutes, designed 'to teach the rudiments of law', the

> elements of Jurisprudence are disposed in a didactic form, its chief and leading objects are explained in a regular series, and the whole arranged in such a way as neither to oppress the student with a multitude and variety of matter, nor yet to leave him destitute of any necessary helps to facilitate his progress in legal knowledge.

The *Institutes* 'were divided so as to contain the elements of all legal science' and so they are 'the business of [this] Analysis to unfold', its 'main design'.[30]

A 'subsidiary' aim, 'perhaps … the most useful [and] interesting', is 'the Comparison' of Roman and English law: 'Something of this sort was undertaken' by Dr Cowell, Cambridge Professor of Civil Law, in *Institutiones Juris Anglicani* (1605), 'expressly composed and digested after the method' of the *Institutes*. In comparing them, Hallifax seeks to do three things: 'to point out any remarkable agreement or disagreement between the two'; 'to shew in how many instances the English law is plainly built on and borrowed from the Roman'; and, evaluatively, 'to teach the younger part of my hearers how much that limited authority, delegated by our laws to the first magistrate of a free people, is to be preferred to the uncontrollable power, usurped and exercised by a lawless despot' – in order for them to have a 'just idea' of the 'superiority of our constitution to that of Imperial Rome'.[31] Moreover, as to church law, he writes: 'In a few cases I have remarked what seemed worthy of notice in the Roman Canon Law: some parts of which are very necessary to be adverted to by an English lawyer'; also:

> it may be observed with truth of that whole system [of Roman canon law], that however censurable it may be, when considered as calculated to support an unbounded supremacy in the Pope and Clergy, yet in another view, as a collection of rules and principles respecting the administration of justice, and the rights and properties of individuals, it merits no small share of praise; and … certainly contributed to introduce more just and liberal ideas than had yet obtained of the nature of government, and the peace and order of society.[32]

30 *Analysis* (1779), Preface, pp i–ii; the *Institutes* are 'confirmed by the authority of an Imperial Sanction', but Blackstone's *Commentaries*, 'excellent though they are, are still but the work of a private man, and without the stamp of public authority'. This preface (i–xxiii) largely mirrors that in the first edition.

31 Ibid, pp iv–vi. Hallifax acknowledges Blackstone for the comparison and 'some help' from Notes of 'Dr. [George] Harris' (1722–1796) in his edition and English translation of the *Institutes* (1756).

32 *Analysis* (1779), Preface, p vii, citing 'History of Charles VI. by Dr. Robertson, Vol I, sect. I, art. vi'.

Hallifax then commends study of the civil law to five constituencies. For the scholar, as 'a science', it sets out the 'principles of justice and equity', the 'boundaries of right and wrong' and 'the rules by which our own conduct must be regulated'; the civil law 'is founded on human nature and applies to all the affairs of human life'. For the academic, its study will 'furnish the minds of youth with universal … notions' as 'to Natural and Positive, to Written and Unwritten Law' and form 'a bridge between' classical education at school and 'the laws of [the] country'.[33] For divines, its study is valuable because of allusions to it in the New Testament, particularly the Epistles of St Paul, 'which are full of quotations from the Civil Law', and it qualifies a divine 'to understand with accuracy the original records of his faith, to support the dignity of his character as a Spiritual Judge, and to defend and secure the possession of his legal dues'. For statesmen, it is important because international relations and disputes are governed by 'common standards', which 'by the consent of all' civil law provides, such as in the matter of 'the rights and privileges of Ambassadors, the interpretation of Leagues and Treaties, [and] the incidents of War and Peace'.[34]

Last come the lawyers: 'our *Lawyers* should not scruple to adopt the rules and reasonings of it, not only occasionally in the course of their pleadings, but more deliberately in their gravest and most serious compositions'.[35] This is so because the civil law, 'to this day, obtains, under different restrictions, in the Courts of Bishops' and in the military, Admiralty, and university courts, 'in all which it has been received either by the consent of Parliament, and so is become a part of the Statute or Written law; or by immemorial usage and custom, and thus constitutes an inferior branch of the Common or Unwritten law'. Indeed:

> Every one therefore, who would excel in his profession … as a Civilian or a Common Lawyer, ought to acquaint himself with … these courts; in order to know exactly when they confine themselves within their proper limit; and when in case of encroachment, they are liable to be restrained by Prohibition.[36]

In his systematisation of the *Analysis*, Hallifax follows the pattern of Roman civil law in terms of his treatment of subject matter, with three books: persons, things and actions. This did not change across the three editions. Book 1, 'of the rights

33 'It was probably for such reasons as these, that the Civil Law was made one of the three professions we are supposed to follow, in both our English Universities.'

34 *Analysis* (1779), Preface, pp viii–xxi.

35 Ibid, p xviii. Hallifax cites Richard Hurd (1720–1808, Bishop of Worcester from 1781), *On the Constitution of the English Government* (*c* 1759): in it 'the fate and fortunes of the Civil Law in England are delineated at large, with the usual elegance of this most learned Author' (p xix). For their use of Roman law, he also cites Glanvil, Bracton, Fleta, Britton and Wood (for the last of whom, see below).

36 *Analysis* (1779), Preface, pp xx–xxi.

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of persons', has 10 chapters: the 'Roman Civil and Canon Laws, and their Authority in England'; law in general and the divisions of civil law and English law; persons in general; citizens and strangers; fathers; marriage; legitimation; adoption; guardianship; and corporations. Book 2, on 'the rights of things', has 26 chapters, including: property in general; modes of acquisition; incorporeal things; capacity to acquire property; the modes of succession (for example by testament); trusts; obligations (contracts and their various forms); and obligation *ex delicto*, arising from offences (such as theft). Book 3, on 'actions', has 13 chapters, covering: actions in general; contract actions; persons who may be sued; methods to restrain the temerity of litigants; the office of judge; private judgments in civil suits; English courts in which the civil law may be used; ecclesiastical court processes; and public judgments in criminal cases.[37]

Hallifax uses a range of sources.[38] As well as his frequent references to the *Institutes*, *Digest*, *Code* and *Novels* themselves, and other primary sources of Roman law, for the civil law he relies on the work of Johann Gottlieb Heineccius (1681–1741), a German jurist and from 1718 professor of jurisprudence at Halle, and Samuel Joachim Hoppe (a Pole, Hoppius, 1684–1754); he also sometimes cites Grotius. For English authorities on civil law, he turns to *De Usu et Autoritate Juris Civilis Romanorum* (1653) of Arthur Duck (1580–1648), diocesan chancellor of Bath and Wells;[39] *A New Institute of the Imperial or Civil Law* (1704) by Thomas Wood (1661–1722); the *Elements of the Civil Law* (1755) of John Taylor (1704–1766), a cleric who was admitted to Doctors' Commons in 1742, tutored at St John's College, Cambridge (his *alma mater*), in the 1750s, and later became diocesan chancellor at Lincoln;[40] and *Institutes of Natural Law* (1754–1756) by Thomas Rutherforth (1712–1771), who from 1745 was the Regius Professor of Divinity at Cambridge. For English law in general, Hallifax relies primarily on the *Commentaries* of William Blackstone, and occasionally on the *Lectures on the Laws of England* (published posthumously 1772) of the Irish lawyer Francis Stoughton Sullivan (1715–1766), and, for criminal law, on *Principles of Penal Law* (1771) by William Eden (1744–1814). Alongside his use of English statutes and case law, a use which tells us much about his juridical method, for English church law, as well as Cowell (see above) he makes use of *A System of English Ecclesiastical Law* (1730) by Richard Grey (1696–1771), the *Ordo Judiciorum* (1728, reprinted 1738) of Thomas Oughton (b 1660) and, above all and most often, *Ecclesiastical Law* (1763) by Richard

37 Ibid, pp 1–3. The same contents are found in the first and second editions. There is also an appendix, with extracts from the statutes of the University of Cambridge, and an index.

38 See above (n 26) for how these developed across the three editions.

39 See R Helmholz, *The Profession of the Ecclesiastical Lawyers: an historical introduction* (Cambridge, 2019), 'Arthur Duck', pp 145–150.

40 *Elements of the Civil Law* (1755) was reprinted in 1756, 1769 and 1772 and reached a fourth edition in 1828. The abridged version, *Summary of the Roman Law*, was published in 1773.

Burn (1709–1785). It is to his treatment of canon law and ecclesiastical law that we now turn.

ECCLESIASTICAL AND CANON LAW

Hallifax's list of the historic sources of 'Ecclesiastical or Canon Law' comprises: the *Decretum* of Gratian, Decretals, and Extravagants of John XXII and later popes – and he has an elaborate footnote on the 'method of quoting the Roman Canon Law'.[41] In turn:

> The Canon Law of England comprehends, besides the collections of the Roman Pontiffs, Legatine and Provincial Constitutions and, so far as it was received here before the statute of 25 Henry VIII. c. 19 [Submission of the Clergy Act 1533] and is not repugnant to the Common Law, the Statute Law, and the Law concerning the King's Prerogative is acknowledged to be in force by the authority of Parliament.

Also: 'The Canons made in England in 1603, and never confirmed in Parliament, so far as they are agreeable to the ancient Canon Law, bind the Laity; so far as they contain new regulations, are binding on the Clergy only.'[42] Thus, 'The Ecclesiastical Law of England is composed of the Civil, Canon, Common and Statute Law.'[43] He uses these sources to state succinctly a wide range of areas of ecclesiastical law.[44]

Hallifax's treatment of the 'Courts Christian, or Ecclesiastical Courts' is very detailed. These comprise 'courts of voluntary' and 'courts of contentious jurisdiction'. Of the former, 'the chief is the Faculty Court, belonging to the Archbishop of Canterbury'; its judge is the Master or Commissary of Faculties. Those of contentious jurisdiction are the Court of the Archdeacon, whose judge (if the archdeacon does not sit) is the Official; the Consistory Court of the diocesan bishop, whose judge is the bishop's chancellor or commissary; the Court of Arches, 'belonging to the Archbishop' and presided over by the Dean of Arches; the Court of Peculiars, with jurisdiction over all parishes in

41 *Analysis* (1779), pp 2–3: 'The Decree has three parts; namely (1) Distinctions. (2) Causes. (3) a Treatise concerning consecration'. The Decretals are 'Gregory's Decretals in Five Books. (2) the sixth Decretal. (3) the Clementine Constitutions. The Extravagants … were added as Novel Constitutions to the rest.'

42 Ibid, pp 3–4.

43 Ibid, p 5: 'The Laws of England' consist of 'The Written or Statute Law' and 'The Unwritten or Common Law'; and 'Equity is the correction of the Written Law, when, on account of its generality, it is too rigid or defective'. See also p 4: 'Justice is a disposition of mind to render to everyone his Right'; 'Law is a rule of action, prescribed by authority'; and 'All law is Natural or Instituted'.

44 Eg marriage: see ibid, pp 12–13: 'Rules' on consanguinity are in 'Civil and Canon and English Law'; and impediments to marriage are under English law 'canonical and civil': the former make 'a Marriage voidable, by Sentence of Separation … the latter make a marriage *ab initio* void'.

https://doi.org/10.1017/S0956618X19001704 Published online by Cambridge University Press

Canterbury Province subject to the Metropolitan only; the Prerogative Court, to try testamentary causes, where the deceased has left *bona notabilia* in two different dioceses (under the Judge of the Prerogative); and the Court of Delegates – the sentence of this 'great Court of Appeal in all Ecclesiastical Causes' is definitive, but it may be revised, with the leave of the Crown, by a Commission of Review.[45]

Next Hallifax sets out their jurisdiction and causes cognisable in them: (1) 'beneficial causes' relating to benefices (patronage, institution, spoliation, dilapidations, non-payment of ecclesiastical dues, and tithes); (2) matrimonial (jactitation of marriage, contract of marriage, and espousals (removed by 26 Geo II), restitution of conjugal rights, and divorces); (3) testamentary (probate of wills, granting of administrations, and subtraction of legacies); and (4) criminal causes,[46] in which proceedings are *pro salute animae et reformatione morum* ('for the salvation of the soul and reformation of morals'). He notes that 'punishment of crimes of ecclesiastical cognizance belongs, of common right, to the bishops, and their vicars general in spirituals; and, by Concessions or Prescription, to archdeacons … to both whom is committed for this … the power of visitation', and he sets out 'ecclesiastical punishments, common to clergy and laity',[47] and the arrangements among the courts for appeals.[48]

Hallifax then deals with 'the course of proceeding in the ecclesiastical courts' and the 'causes of office', which run in the name of the judge, and 'causes of instance', which are brought 'at the solicitation of some party'. He describes each stage in the process, namely citation (summoning the defendant to appear); libel (or charge) in instance causes (and 'articles' in office causes); contestation of suit (the general answer of the defendant to the libel); personal answer of the defendant (by way of either denial or extenuation of the charge before the plaintiff makes proof of the libel by witnesses);[49] assignment of a

45 Ibid, pp 115–118 (III.X): these 'Courts of Ecclesiastical Jurisdiction are, none of them, courts of record'. Moreover, 'The separation of the ecclesiastical from the temporal courts was nowhere known, till after the Emperors became Christian; nor in England, till after the Norman Conquest' (p 116).

46 He lists, among others, heresy (subject to 'Ecclesiastical Correction only'), adultery and incest (ibid, pp 130–134).

47 Namely monition, penance and excommunication (greater and less). Those for clergy are sequestration of the profits of a church, suspension, deprivation and degradation (ibid, p 119): University Courts may 'inflict Ecclesiastical Censures, or such as are appointed by the Statutes, for Offences … merely Temporal'.

48 Ibid, p 118: 'Appeals in causes ecclesiastical, which formerly, from the reign of Stephen to that of Henry VIII, lay to the Pope or See of Rome, are now (by 24 and 25 Hen. VIII) directed to be in this form, and not otherwise: From the Archdeacon or his Official, to the Bishop or Diocesan: from the Bishop, his Chancellor or Commissary, to the Archbishop of the Province: from the Court of Arches, Court of Peculiars, and the Prerogative Court, to the King in Chancery, or the Court of Delegates.'

49 Formerly, the judge could compel parties to answer on oath *ex officio* to any matter objected against them. As this was abolished by 13 Car II c 12, no-one is now obliged to purge himself or herself on oath of any crime.

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term probatory (a time appointed by the judge in which the plaintiff must prove so much of the libel as the defendant has not confessed in his personal answers); proofs (from witnesses or instruments);[50] defensive allegation (what is opposed by the defendant in writing to the charge followed by the personal answer of the plaintiff, a term probatory and publication of witnesses); term to propound all things (the time appointed for both parties to exhibit all the acts and instruments which make for their respective causes); term to conclude (the time at which both parties are understood to renounce all further exhibits and allegations);[51] informations (arguments of the advocates on both sides after pleadings and proofs are concluded); the sentence (either interlocutory or definitive); execution; and, if appropriate, appeal.[52]

Hallifax uses various juristic techniques in his exposition of church law. Five may be presented here, themselves often the stock in trade of eighteenth-century ecclesiastical lawyers. First, 'where our own laws are silent, or not sufficiently express, the Courts in England', in such matters as intestacy, 'are chiefly guided' by civil law doctrine.[53] Second, as well as statutes (see above for examples), he cites judicial precedents. For example, devises of real estate in England must be in writing, signed, and witnessed by three persons; a legacy to any of the witnesses is void but the will itself in other respects is good. However, creditors are credible witnesses, though the real estate be charged with payment of debts; he cites the judgment of the Court of King's Bench in *Windham v Chetwynd* (1757), 'delivered by Lord Mansfield, where the regulations of the English and Roman laws concerning testaments in general, and the credibility of witnesses in particular, are explained at large, with an erudition and accuracy, peculiar to that Great Lawyer'.[54] Third, he uses various juridical formulae. For example, there is the 'maxim of the common law of England' that time never runs against the Crown or Church;[55] and the 'General Rule' that 'All such as are Real Parents and Children to each other, or in the place of Parents and Children, are forbidden to marry together'.[56] He also invokes moral ideas such as conscience, equity and natural law. For instance, he examines 'whether, in the case of a will

50 Witnesses are examined in private to the libel of the plaintiff and to interrogatories proposed by the defendant. Unwilling witnesses may be brought in by a citation – a 'compulsory' – but those who live at a distance may be examined where they live by a commission. Instruments can be public or private.

51 The term to propound all things and the term to conclude are peculiar to plenary causes; in summary causes, instead of them the term required is called the 'term to hear sentence of the first assignation'.

52 *Analysis* (1779), pp 121ff (III.XI and XII). Sometimes a cause is removed from an inferior to a superior court and proceedings in the lower court are suspended till 'the reasons of such removal are heard'. There are various forms of removal: by provocation, *post litis ingressum*, recusation or appeal.

53 Ibid, , Preface, pp xx–xxi: that is, 'the doctrine of one of Justinian's Novels'.

54 Ibid, p 32; Burrow's Reports, vol I, p 414.

55 *Analysis* (1779), p 30: '*Nullum Tempus occurrit Regi vel Ecclesiae*; and the Statute of Limitations (21 James I and 9 George III) by which that Maxim has been abolished, in the case of the Crown, explained'.

56 Ibid, p 12.

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defective in form, the heir at law would be bound in conscience to restore the inheritance to the testamentary heir'; whether 'Equity and Good Faith were more considered than the bare words' of a contract; and whether, in 'infringement of a man's rights, the Law of Nature and of each particular Society entitles the injured man to Redress' by means of 'actions, in a Court of Justice', being 'the legal demand of a man's right, or the means, which the law puts into the hands of [a man] pursuing and recovering those rights . . . of which he is unjustly deprived'.[57]

Around the comparative element of his *Analysis*, Hallifax finds many similarities and differences between Roman and English law. A typical example is his discussion of corporations. In both laws corporations may 'make laws for their own government . . . provided they were not contrary to the law of the land', but in Rome such laws are called 'Statutes' and in England 'By-laws'. In both traditions 'the act of the major part [of the corporation] was esteemed the act of all'; in Roman law this consists of two-thirds of the whole, but in England, 'the act of any Majority is esteemed the act of the whole body, notwithstanding the Private Statutes of any Corporation to the contrary'.[58] And sometimes Hallifax finds that English law 'partakes of the nature' of Roman law: either, as with Roman interdicts and English injunctions,[59] they 'resemble' each other;[60] or they have different names for the same juridical reality.[61] But sometimes they cannot be reconciled.[62] He only occasionally uses rules beyond the Roman or English law.[63] Finally, many of his discussions are historical, in which he explains changes both to Roman and to English ecclesiastical law, such as with regard to testamentary law.[64]

57 Ibid, pp 17 (conscience), 61 (equity) and 85 (natural law, for which see also pp 4–5).
58 Ibid, p 19–20.
59 Ibid, p 101.
60 Ibid, p 42: 'No such action as the *Querela* subsists in England; what most resembled it, was the writ called *breve de rationabili parte bonum*, which the wife or children of a . . . testator had against executors', to recover goods; 'But the custom of reserving a reasonable part for widows and children, though still in force in the city of London, has, in other places, been abolished by Act of Parliament'.
61 Ibid, p 32: 'A testament, in the Roman law, is the legal declaration of a man's intentions, which he wills to be performed upon the event of his death, with the direct appointment of an heir. In England, the disposal of real property by a last will is called a devise; and the word testament, strictly speaking, is limited to the disposal of chattels or personal property, with the appointment of an executor.'
62 Ibid, p 14: 'Bastards, by the laws of England, are such children, as are born out of lawful wedlock: Nor will the Subsequent Marriage of the parents Legitimate such Children, as it would by the Civil and Canon Laws.'
63 Ibid, p 15: 'In Germany there is a sort of adoption, called *Unio seu Parificatio prolium*; by which children by former marriages of Husband and Wife are made equal to one another [as] to Succession.'
64 Ibid, p 33:'The power of devising lands subsisted in England before the Conquest, and till about the reign of Henry II when it, generally, ceased, in consequence of the feudal tenures: the doctrine of uses revived this power; and the Statute of Uses (27 Henry VIII) again, accidentally, checked it: this occasioned the Statute of Wills (32 & 34 Hen. VIII) which expressly conferred the right of devising, but with some restrictions with regard to lands held by knight's service; the alterations of tenures in the reign of Charles II abolished these restrictions; and the power of devising was then made to extend to the whole of a man's landed property . . . By the common law of England, a man could only bequeath one third of his personal estate by testament; the other two thirds being

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At the close of the preface in all three editions produced in his lifetime, Hallifax offers the reader a most enigmatic perspective on his time working on his *Analysis*:

> I have no intentions, at present, to obtrude myself on the public by any further attempts to illustrate the Civil law: The plan which I had formed on my first entrance on this subject, is at length completed: it now remains, that I return to those more serious and important studies, to which I had originally devoted myself and ministry, and from which (for I know not what should hinder me from confessing it) I should never have diverted, but from *profession* rather than *inclination*.[65]

He could not have anticipated this, but others took a rather different view of its worth.

THE USE MADE OF THE HALLIFAX *ANALYSIS*

While Hallifax's lectures, the *Analysis*, his own three editions of it and, later, the end of his tenure of the Regius Chair of Civil Law completed his work in academic law, these endeavours did not exhaust his contribution to law at Cambridge. Two further editions of his *Analysis* appeared. What follows briefly traces their story.

Hallifax was succeeded by Joseph Jowett (1751–1813) as Professor of Civil Law (1782–1813), a cleric and a fellow and tutor at Trinity Hall – where he planted a garden, and in 1783 composed the chimes for the university church of Great St Mary, Cambridge (adapted as the 'Westminster Chimes' for Big Ben in 1859); Jowett was also rector of Wethersfield, Essex (1795–1813).[66] It might be that the *Analysis* was used by Jowett for his own lectures and/or students. It was certainly during his tenure that, in 1795, a fourth edition was issued. Jowett was not the editor, but he did help: the editor, whose name does not appear in the volume, refers to him at the end of the preface:

> The Editor of this fourth Edition acknowledges his obligations to the Professor of Civil Law for some additional references prefixed to several

reserved for his wife and children; whose shares were called their reasonable part; but by modern statutes, a man may now bequeath the whole of his chattels, as freely as he can devise the whole of his landed property.'

65 Ibid, Preface, p xxiii, emphasis in original.

66 Malden, *Trinity Hall*, pp 60, 207, 228. When Jowett planted the garden outside the south-east corner of front court, the following lines circulated college: 'Little Dr. Jowett a little garden made . . . If you would know the little mind of Jowett, This little garden doth a little show it'. Jowett had the shrubs removed and the corner gravelled, stimulating this verse: 'But when this little garden had made a little talk, Little Dr. Jowett made a little gravel walk' (p 210). A garden still exists there.

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> of the Chapters, for some corrections of the text, and for a few notes which are distinguished from the notes of the Author by . . . the Italic character.[67]

The additions include *History of the Legal Polity of the Roman State and of the Rise, Progress and Extent of the Roman Laws* (1766) by Thomas Bever (1725–1791), and Francis Hargrave's *An Argument in the Case of James Sommersett, a Negro* (1772), a landmark decision of Lord Mansfield on the lengthy road to the abolition of slavery.[68]

The copy consulted for this article is at Trinity Hall.[69] The copy itself was printed with blank pages between each printed leaf, a common practice to enable a reader to write notes on the blanks.[70] What is remarkable about this copy is that the blanks carry more than 90,000 words of handwritten notes (perhaps preparation for a new edition). The notes seem to be by the same hand, but a specialist study could establish this. Their author and date are not given.[71] A comparison was therefore made of the handwriting of three possible candidates with that in the notes: Joseph Jowett; John Haggard (1794–1856), fellow at Trinity Hall 1815–1820, advocate, ecclesiastical law reporter and diocesan chancellor of Lincoln from 1836;[72] and James William Geldart, also a fellow at the Hall, the successor to Jowett as civil law professor and (see below) the 1836 editor of *Analysis*. While the handwriting samples for comparison are limited, and the notes were not obviously incorporated by Geldart in his own edition, the 'most likely' of the three is Haggard.[73] The notes themselves refer to a statute of 1813 (thereby discounting Jowett) and a passage in 'aust', probably John Austin, whose work on positive law is dated 1832.[74] Intriguingly, the notes also state 'See note Geld. Anal', which could refer to the later edition by Geldart, which would date them after 1836.[75]

67 *Analysis* (1795), p xxiv; 'AN' appears at the end of the preface in all four editions. Jowett is again expressly named at p xxviii of the preface to the 1836 edition.

68 Ibid, pp 1 and 7. See Helmholz, *Profession of the Ecclesiastical Lawyers*, p 181, 'Thomas Bever'.

69 Trinity Hall Library, classmark P.*4.44. The title page styles Hallifax as 'Late Lord Bishop of St. Asaph and Formerly the King's Professor of Civil Law'.

70 See S Berger, *The Dictionary of the Book: a glossary for book collectors, booksellers, librarians and others* (London, 2016), p 30, 'Blank(s)'.

71 The handwritten names 'Harris', 'Prendergast', 'J.P. Whalley 1831' and 'Reginald Brown 1867' appear inside the cover. Work is needed to identify these and on whether they are possible candidates.

72 Crawley, *Trinity Hall*, p 82; and J Baker, *Monuments of Endlesse Labours: English canonists and their work, 1300–1900* (London, 1998), p 123 n 18 and p 127.

73 Alexandra Browne, College Archivist at Trinity Hall, and I concentrated on the capitals 'J', 'H', 'G' and 'W' in the 1795 edition notes and the signatures of Jowett, Haggard and Geldart in the college's Book of Orders. In an email of 4 July 2019, she states: 'I think it's too hard to make a firm guess based on how little sample writing we have . . . If you had to guess . . . I'd say Haggard is the most likely of the three.'

74 Notes on *Analysis* (1795), III.X–XI, refer to 53 Geo 3 c 127 (1813); notes on I.II read: 'Laws properly so called, then are commands. Laws which are not commands, are improperly so called the first by: 1. the divine laws i.e. those set by God . . . 2. by positive laws which form the true matter of jurisprudence (aust. vii)', taken from John Austin, *Province of Jurisprudence Determined* (London, 1832), p vii.

75 Notes on *Analysis* (1795), III.X.12.

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The handwritten notes are worthy of a study in themselves, especially in the treatment of ecclesiastical law. Short of this, five points may be made. First, there are copious references to statutes[76] and some to judicial decisions, including the celebrated case of *Middleton v Croft* (1736) on the binding effect of the Canons Ecclesiastical 1603.[77] Second, developing the theme that 'Eccl[esiastical] or Canon Law is almost coeval with Christianity', there are notes on the history of papal canon law from the apostles through Gratian to the later mediaeval popes.[78] Third, the notes contain much material on the history of English ecclesiastical law at and beyond the Reformation, including the *Reformatio legum ecclesiasticarum*, [79] and a long discussion of the history of the law related to benefit of clergy.[80] Fourth, as well as some praise for the *regulae iuris* of the classical canon law,[81] there are substantial notes on 'whether the moral law (or the law of conscience) or statute should take precedence' in relation to inheritance under a defective will; they also address how far 'a man's manifested intentions are to be viewed as actions', on which 'much may be said, but little decided: for so few cases occur, which resemble each other that no rule can be drawn from the precedents which would meet the particular circumstances of all'.[82] Lastly, there are lengthy notes on such matters as ecclesiastical corporations, the historical separation of spiritual from temporal courts, ecclesiastical jurisdiction, church fees and religious offences.[83]

The fifth edition of the *Analysis* of 1836 was 'A New Edition with Alterations and Additions being the Heads of a Course of Lectures publicly read at the University of Cambridge by James William Geldart, LLD. The King's Professor of the Civil Law'.[84] It was published 'for the use of candidates in his Civil Law Classes'.[85] The copy used for this study is that at Trinity Hall, given by Geldart,[86] who writes:

76 These include: 4 Hen VII c 13; 3 & 4 Ed 6 c 11; 1 & 2 Phil & Mary c 8; 18 Eliz c 7; 4 Geo I c 11 and c 23; 53 Geo 3 c 127.

77 Note on *Analysis* (1795), I.I.5: the Canons Ecclesiastical 1603 bind the laity, as 'Decided by Lord Hardwick in the case of Middleton & Croft – but not "proprio vigore" because not confirmed by parliament: but merely as declaratory or explanatory of the old law'; note on II.VI.32: *Hide v Hide* (*Hyde v Hyde*) and *Sharpe v Sharpe* (marriage); note on II.VI.71*: Christopher v Christopher* (revoking wills) – no citations are given.

78 Notes on *Analysis* (1795), I.I.1.

79 Notes on *Analysis* (1795), I.I.4: 'the whole of the canon law' (papal and native) was to be revised.

80 Notes on *Analysis* (1795), III.XIII.34.

81 Notes on *Analysis* (1795), I.II.13: 'Responsa . . . amount to what we call Precedents. To them we owe probably the splendid title "regulis iuris"'.

82 Notes on *Analysis* (1795), II.VI. 17.

83 Notes on *Analysis* (1795), I.X (corporations) and III.X–XI (separation of courts, church courts, fees, offences).

84 Cambridge: Printed at the Pitt Press, by John Smith, Printer to the University, for Thomas Stevenson, Cambridge and John William Parker, London, 1836.

85 Crawley, *Trinity Hall*, pp 85–86.

86 Trinity Hall, classmark P*IV.44; inside the cover we read: 'the Hall Library from the Editor'.

> In publishing a new edition of the Analysis of the Civil Law, I deem it right to declare that I have accustomed myself much to admire the arrangement and execution of Dr Hallifax's work. The reader is therefore requested to observe that the alterations and additions which have now been introduced are chiefly such as circumstances seemed to require. My design has not been so much to enlarge the text as to present it in such a form as would render my Lectures more useful and instructive, rather than more elaborate.[87]

The systematisation remains the same but, unlike the 1795 edition, the new one has numbered footnotes. Geldart added more sources to the lists prefixed to each chapter. They include: *History of Roman Law in the Middle Ages* (1815–1831) by the German jurist Friedrich Karl von Savigny (1779–1861); *A Compendious View of the Civil Law and of the Law of the Admiralty* (1797) by the Irish jurist Arthur Browne (d. 1805);[88] *The Law of Executors and Administrators* (1800) by Sir Samuel Toller (d. 1821), a barrister of Lincoln's Inn; *An Essay on the Law of Bailments* (1781) by the Anglo-Welsh philologist and judge Sir William Jones (1746–1794); an edition (probably that of 1820) of Henry Ballow's *Treatise on Equity* (1793) by John Fonblanque (1759–1837), a barrister of Middle Temple and an MP; and *Forms of Ecclesiastical Law* (1831) by James Thomas Law (1790–1876), the diocesan chancellor of Lichfield and Coventry from 1821.[89] The number of references to statutes has also increased,[90] including on ecclesiastical law;[91] there is a footnote to John Haggard's ecclesiastical reports;[92] and there are, needless to say, changes by way of revisions, additions and subtractions.[93]

87 *Analysis* (1836), 'Advertisement to the Present Edition … J.W.G. 17 May 1836': 'adding … various authors for … reference, I have made a selection of those only which are required to put the student in full possession of the subjects of the Lectures. Many others I might have added, but I am unwilling to discourage the student by an array of books which he may not have time and opportunity to peruse. It has ever been my object to support the honour and dignity of my Faculty, and in promoting the study of the Civil Law, I trust that I am contributing to the interest and reputation of the University.'

88 See Helmholz, *Profession of the Ecclesiastical Lawyers*, p 194, 'Arthur Browne'.

89 *Analysis* (1836), I.I (Savigny); III.X (Browne); II.VI (Toller); II.XIV (Jones and Fonblanque); III.XI (Law, a translation of Oughton et al).

90 Eg ibid, II.XXIII.7: 7 and 8 Geo IV c 27 and c 29 (robbery); III.II.13: 5 and 6 Will IV c 59 (damage); III.XII.25: 30 Geo III c 48; and 54 Geo III c 146 (treason); III.XII: 2 and 3 Will IV cc 75, 81 and 123; 9 Geo IV c 31 (homicide, forgery, etc); III.IX.51: 'Writs of attaint are abolished by 6 George IV. c. 50'; III.XII.15: 56 Geo III c 138 (pillory and perjury).

91 Eg ibid, I.VI: 5 and 6 Will IV c 54 (marriage); II.IX: 3 and 4 Will IV c 106 (inheritance); II.X.22: 24 Hen VIII c 12, 25 Hen VIII c 19, and 2 and 3 Will IV c 92 (appeals).

92 Ibid, III.X.17: note to '3 Haggard's Eccl. Rep. p. 161' (on causes before the church courts).

93 Compare eg *Analysis* (1795), III.XI.5: 'Every citation is returnable at a certain place and day. Such return may be made 1. personally, by oath of the party, who has executed the same. 2 by certificate' with the 1836 edition: 'Every citation or decree is returnable at a certain place and day. Such return is made, by certificate of the apparitor or other party serving the citation, verified by his affidavit. A decree is a citation, but more formal in its character. A decree with intimation instructs the

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As seen above, Geldart does not seem to have been the author of the notes in the copy of the 1795 edition at Trinity Hall, on the basis of a non-specialist study of the handwriting, perhaps too because of the reference in the notes to 'Geld. Anal', and because there is no obvious or extensive incorporation of those notes in his 1836 edition. However, some material in the notes does appear in the 1836 edition. This may not suggest that Geldart used the notes; he might simply have obtained the material elsewhere – or else it could be that the author of the notes used the Geldart 1836 edition without consistent attribution.[94]

Hallifax's *Analysis* was to play a role in the reform of legal education at Cambridge under Geldart. Born in 1785 at Wetherby, Yorkshire, the son of a cleric, Geldart entered Trinity Hall in 1800 (migrating from Trinity College), took the LLB in 1806 and became a fellow of St Catharine's College. He was ordained priest in 1809, when he returned to the Hall as fellow and tutor, taking the LLD in 1813 and serving as Regius Professor of Civil Law (1814–1847). During his tenure, he sought to reform the degree of LLB at Cambridge, which had become 'the refuge of the lazy and the dullard',[95] until modest reforms in 1768.[96] Further reform, to introduce written examinations, failed in the university Senate in 1811, but from 1815 Geldart required on his own authority that LLB candidates pass written examinations (which, crucially, were based on his own lectures – themselves based on the Hallifax *Analysis*, which he was to revise), before performing a statutory viva. His successors continued these written examinations and the results, which were known as the Civil Law Classes, were published annually until replaced in 1858 by the new 'Law Tripos' under regulations of the university.[97]

party cited with the course to be adopted in default of appearance'; and II.X.22: the 1795 order of appeals reference to the Court of Delegates is replaced in the 1836 edition with the King in Council.

94 See eg *Analysis*, II.VI.77: the 1795 copy notes on succession refer to customs 'of the Province of York' as does the 1836 edition; III.VI.6: the 1795 copy notes on devising copyhold cite 55 Geo III c 192, while the 1836 edition states that the 'disposition of copyhold estates is regulated by 55 Geo. III. c. 192'.

95 Crawley, *Trinity Hall*, pp 70–89.

96 Malden, *Trinity Hall*, ch 12, 'The last days of the old Civil Law Faculty', pp 228ff: in 1768, two years before Hallifax assumed the civil law chair, the Senate decided that no-one was to be admitted LLB without a certificate of attendance at the professor's lectures in three terms. There was a five-guinea fee for the first course, which lasted a year. Subsequent attendance was free and optional. The professor published the results after nine terms and successful candidates could call themselves SCL or students of civil law; bishops accepted this as an equivalent to a degree before ordination. After five years, an SCL who resided was made an 'LLB of the College' but those who proceeded to LLB had to complete an Act (like an old disputation), at which their thesis was examined.

97 N Jones, 'Geldart, James William', *Oxford Dictionary of National Biography*, 23 September 2004, <https://doi.org/10.1093/ref:odnb/10506>, accessed 11 October 2019. Geldart married Mary Rachel Desborough 1836 and was buried in Kirk Deighton churchyard on 19 February 1876.

CONCLUSION

Hallifax is unusual in that he was one of only four clerics who were Regius Professors of Civil Law at Cambridge – and the only one who became a bishop. All found a home at the nursery of the civilians, Trinity Hall. His *Analysis* provides the heads of a course of his own lectures. It is presented in the form of succinct propositions. The work gives a summary of ecclesiastical law, places the study of canon law firmly within the civilian tradition and recognises the value of the inherited papal canon law. It is, however, predominantly descriptive – it offers no critical evaluation of church law. Its comparison of the civil law and the laws of England is not novel, but it is more accessible than that of Cowell in the seventeenth century – and Hallifax makes every effort not to place the civil law in opposition to the common law, seeing them as reconcilable. The three editions which he produced in his lifetime changed little except for the lists of his sources prefixed to each chapter. The fourth edition of 1795 was produced after his death by an anonymous editor and the copy consulted at Trinity Hall has extensive handwritten notes which clearly indicate how the work was valued; further study is needed to explore their authorship and date.

The value of the *Analysis* continued into the next century and was recognised by Geldart, the last clerical holder of the Regius Professorship of Civil Law at Cambridge. Geldart used it as the basis for his own lectures, which, along with his 1836 edition, were an integral part of the legal reforms he introduced to the Cambridge LLB, leading to the introduction of the Law Tripos, which survives today. However, Hallifax's *Analysis* was considerably less of a specialist work on church law than that of others of his generation, notably Richard Burn, whom he cites; as such it was neglected by later ecclesiastical lawyers.[98] Hallifax himself admits that his work on law was not as important as his ordained ministry: he studied law, taught it and wrote about it as a matter of 'profession', not 'inclination'. This dynamic still challenges the Church today in its image of and approach to church law.

98 For example, Hallifax was not cited in the 'List of authorities' in R Phillimore, *Ecclesiastical Law* (second edition, London, 1895), vol I, pp xxiii–xxiv.

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