to change by the fourth and fifth centuries. At that time, matrimonial documents, which once had served only to record financial transactions, with increased Christian influence became an indicator of morality, proof of the man's intention to treat a woman as his wife with legal rights and legitimate offspring. This treatment of marriage tables or charters as moral as well as legal documents also appears in Roman North Africa, as presented by David Hunter, and the Renaissance Florence of Thomas Kuehn. In all three cases, contractual documentation distinguished an honourable marriage from a clandestine union or concubinage.

Faced with the wealth of information made available by this publication, the reader might only wish for more, for contributions covering other parts of the medieval west, such as Spain, Germany or Central Europe. Perhaps a second volume is in order? To make one small quibble, while Reynold's treatment of marriage law, liturgy and particularly dotation is excellent, the description of sources for ecclesiastical courts (p 40) denigrates the survival of records in northern France, Belgium and Germany. Most recently, scholars have also tapped into Italian ecclesiastical court records, with very promising results.

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The Rise and Fall of the English Ecclesiastical Courts, 1500–1860

RB Outhwaite
Cambridge University Press, Cambridge, 2006, xv + 195 pp (hardback £55.00)
ISBN 978-0-521-86938-6

Until as late as 1860, the ecclesiastical courts exercised jurisdiction over many of the activities and disputes that arose in the course of ordinary life. Many people, then, whether members of the Church of England or not, were obliged to have recourse to them, or to appear before them, at some point in their lives. It is thus incredible that no book has previously been written that sets out and explains the ecclesiastical court system, its areas of jurisdiction, procedure and how these things changed over time. Yet in doing precisely this, Outhwaite's book breaks new ground.

The first two chapters sketch the general structure of the ecclesiastical court system and the parameters of its business. Chapter one introduces the court system as it stood in the sixteenth century. It explains the hierarchy of the courts and personnel, and how they linked into the organisational structures of the Church. It highlights the almost inescapable reach of a jurisdiction that

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intersected with the lives of individuals across a broad range of activities, from administering oaths to midwives, proving wills and issuing marriage licences to sanctioning individuals for moral or doctrinal laxity.

Chapter two traces the fluctuation of ecclesiastical court business between the Reformation and the 1640s, introducing several key themes. These include the idea that the events of the English Reformation led only to a temporary decline in the number of suits being brought to ecclesiastical courts; and that the years between the 1540s and 1640s witnessed both a rapid growth in the levels of business within the ecclesiastical jurisdiction and its sudden death. While setting out the general trends in relation to ecclesiastical court business, Outhwaite warns his reader that these mask huge variations between dioceses, different courts and different suits.

The following five chapters examine the roots of the increase in ecclesiastical court business between the Reformation and the Interregnum. Having noted that different types of suit were brought into the courts in varying numbers, Outhwaite deals with each class of suits separately. He identifies tithe, testamentary and defamation suits as being the main sources of the courts' business and growth. To these were added the business and income generated by the courts' role in proving wills and granting marriage licences. Though Outhwaite notes that office suits, in which the courts enforced moral and doctrinal standards, came before the courts in increasing numbers in the years after 1540, he argues that this element of ecclesiastical jurisdiction has been overemphasised or overrepresented in existing academic studies, since office suits were almost entirely confined to the lower courts.

In exploring the levels of business found in the various courts over time, Outhwaite identifies social, economic and legal factors contributing to the rise in each type of suit. After the Reformation, for example, lay tithe owners, who had paid near market value for the land to which tithes were attached, were probably more litigious than their clerical predecessors. Similarly, testamentary litigation increased in part due to a rise in the number of people making wills, and also because of the decline of local customs governing inheritance. Meanwhile, the increasing number of defamation suits heard in the ecclesiastical courts probably in part reflected the decline of the manorial courts. Beyond these specific reasons, a common theme in these chapters is the impact upon the ecclesiastical courts of population increase, inflation and rising levels of litigiousness.

The following two chapters introduce the reasons for the sudden decline of ecclesiastical jurisdiction after 1640. These include statutory intervention; the inability of the ecclesiastical courts to enforce their sentences effectively; rising costs and disadvantageous written procedures; and the events of the Commonwealth period. The corrective powers of the ecclesiastical courts were suspended from 1641 until the Restoration, forcing individuals to find alternative

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means of settling their disputes and transacting their business. By the time ecclesiastical jurisdiction was restored, many litigants had developed habits that diverted them from the ecclesiastical courts. Further, the office side of the courts' business also declined as the Toleration Act led to the virtual abandonment, in many areas, of prosecutions to uphold moral and doctrinal standards.

The final chapters trace the commissions, committees, legislation and events that contributed to the dismantlement of ecclesiastical jurisdiction. They contrast the specificity of the earlier reforms with the more general reforms of the nineteenth century. Once again, common themes are identified. Reform, for example, often resulted from the involvement of prominent individuals and from scandalous abuses coming to parliament's attention. Delays were often caused to reform in the nineteenth century by the inherent difficulty of steering wide-ranging reforms through the parliamentary process.

The book as published is undoubtedly not the book that Outhwaite would have liked us to see. He died before the manuscript could be finished and, as Professor Helmholz's foreword makes clear, he had much more that he wanted to say, and further conclusions to which he wished to draw his readers' attention. It is, however, a masterly account of a complex jurisdiction over a relatively broad period.

Outhwaite locates the ecclesiastical court system firmly within its context. In doing so, he reminds us that it had much in common with the common law and prerogative courts alongside which it existed. Themes such as the impact of population increase, inflation, rising levels of litigation, the influence of procedure and costs, and the decline of the manorial courts, form a common thread within the history of each of these jurisdictions. By drawing his readers' attention to this, Outhwaite warns us of the shortcomings of any account of ecclesiastical courts that does not pay heed to their wider social and legal setting.

In setting out the reform initiatives which led to the modification (and eventual abolition) of most ecclesiastical jurisdiction, the book identifies themes and trends that played out in later attempts to reform ecclesiastical court jurisdiction with respect to clergy discipline. Again, in doing so it highlights links with generalised trends within legal reform at that time, and the danger of looking at any particular instance of reform in isolation.

Finally, in his analysis of existing studies of ecclesiastical jurisdiction, Outhwaite illustrates the perils of drawing wide conclusions from scholarship that is essentially focused upon particular species of business, courts or geographical areas. A constant theme running throughout his book is that of variation and complexity. He shows us just how much work remains to be done on the ecclesiastical courts if we wish to have a true and complete picture of their history.

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If this book has a weakness it is, as Helmholz notes, that it does not address the impact of common-law mechanisms for curbing the activities of ecclesiastical courts. This hardly matters. It provides the most complete account we have of the ecclesiastical courts after the Reformation, and draws together almost for the first time the fragmentary scholarship that exists on the various courts, suits and dioceses. It illustrates where the gaps lie; where these cause an imperfect appreciation of the fortunes and business of the courts; and charts for the reader the slow process of their decline and dismantlement. In so doing it provides both an illuminating read in its own right and a magnificent basis for further research.

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Law and Religion

EDITED BY GAD BARZILAI
Ashgate, Aldershot, 2007, 528 pp (hardback £140.00) ISBN 978-0-7546-2494-3

The study of law and religion in the United Kingdom has now moved beyond the embryonic stage. The government's placing of religion high on the political agenda has been underlined by a plethora of legislative changes and an abundance of case law, the analysis of which has engaged, and led to the development of, a distinct academic community. However, and no doubt because of the great ongoing changes in the legal framework, precious little attention has been paid to the question of the ambit and scope of law and religion as an academic discipline. If the study of law and religion is to blossom further in UK Law Schools, questioning what precisely law and religion is and what it is not should be imperative. One means of doing that may be to examine how the discipline is understood in leading anthologies. With this in mind, Gad Barzilai's edited work, simply titled *Law and Religion*, may prove to be useful not only in terms of its substantive insights but also in terms of developing law and religion as an intellectual discipline in the United Kingdom.

Barzilai's *Law and Religion* is part of the *International Library of Essays in Law and Society* series, which is designed to provide a broad overview of important fields of interdisciplinary inquiry by providing access to the best existing scholarship. Although some of the works in the series are edited by British academics (*Law in Social Theory*, for instance, is edited by Roger Cotterrell), the choice of an American editor has obviously flavoured the content of this anthology. Although the lack of material by British writers should be a matter of regret

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