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THE CHURCH AND THE LAW

Edited by ROSAMOND McKITTEKICK  
CHARLOTTE METHUEN and  
ANDREW SPICER

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THE CHURCH AND THE LAW

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EDITED BY

ROSAMOND McKITTERICK

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## Preface

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The theme of *Studies in Church History* 56 is 'The Church and the Law'. The volume comprises a selection of peer reviewed articles drawn from the range of communications presented at the Ecclesiastical History Society's Summer Conference at Sidney Sussex College, Cambridge in July 2018 and its Winter Meeting at the Institute for Historical Research, London in January 2019. The theme was proposed by Professor Rosamond McKitterick, who served as president of the society for 2018–19.

Professor McKitterick's theme has resulted in a rich and wide-ranging collection of papers which offer insights into the complex interactions between churches and secular law and intertwining of their interests. We should like to thank Professor McKitterick for proposing this theme and for her able presidency. Thanks are due also to all those who offered contributions and submitted their papers for consideration for the volume. We are grateful to those who reviewed the contributions, thereby helping the society to ensure that the volume is of the highest quality. A particular contribution has been made, also to this volume, by Dr Tim Grass; we thank him for the engagement he brings to his editorial work and to his involvement in the society more widely. We are grateful to the Ecclesiastical History Society for the funding which supports this post.

We are very grateful also to the society's conference secretary, Dr David Hart, whose work, planning and engagement ensured that the Summer Conference and Winter Meeting went without a hitch. He was assisted by the conference teams at Sidney Sussex College, by staff at the Institute for Historical Research, and by the society's secretary and treasurer, Dr Gareth Atkins and Simon Jenkins.

The Ecclesiastical History Society offers two annual prizes for articles accepted for publication in *Studies in Church History*. This year, the Kennedy Prize, for the best contribution by a postgraduate student, was awarded to Dan D. Cruickshank for his article 'Debating the Legal Status of the Ornaments Rubric: Ritualism and Royal Commissions in Late Nineteenth- and Early Twentieth-Century



## Preface

England'. The President's Prize, for the best contribution by an early career scholar, goes to Dr Robert A. H. Evans for his article 'God's Judgement in Carolingian Law and History Writing'. These articles demonstrate excellent scholarship: we extend our congratulations to both authors.

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## Abbreviations

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|              |  |
|--------------|--|
| <i>AJLH</i>  | <i>American Journal of Legal History</i> (1957–)   |
| <i>ARG</i>   | <i>Archiv für Reformationsgeschichte</i> (1903–)   |
| BIA          | Borthwick Institute for Archives   |
| <i>BJES</i>  | <i>British Journal of Educational Studies</i> (1952–)  |
| BL           | British Library  |
| BN           | Bibliothèque nationale de France   |
| Bodl.        | Bodleian Library   |
| CChr         | Corpus Christianorum (Turnhout, 1953–)   |
| CChr.SL      | Corpus Christianorum, series Latina (1953–)  |
| <i>CCR</i>   | <i>Calendar of the Close Rolls Preserved in the Public Record Office, 1227–1550</i> , 62 vols (London, 1902–55)  |
| CCT          | Corpus Christianorum in Translation (Turnhout, 2010–)  |
| CERC         | Church of England Record Centre  |
| CERS         | Church of England Record Society   |
| <i>ChH</i>   | <i>Church History</i> (1932–)  |
| <i>CICan</i> | E. Richter and E. Friedberg, eds, <i>Corpus iuris canonici</i> , 2 vols (Leipzig, 1879–81)                       |
| <i>CPReg</i> | <i>Calendar of Entries in the Papal Registers relating to Great Britain and Ireland</i> (London / Dublin, 1893–) |
| CRL          | Cadbury Research Library, University of Birmingham   |
| CRS          | Catholic Record Society  |
| CSCO         | Corpus Scriptorum Christianorum Orientalium (Paris, 1903–)   |
| CSPD         | Calendar of State Papers, Domestic   |
| CYS          | Canterbury and York Society  |
| <i>EHR</i>   | <i>English Historical Review</i> (1886–)   |
| <i>EME</i>   | <i>Early Medieval Europe</i> (1992–)   |
| ET           | English translation  |
| HL           | Huntington Library   |
| HMC          | Historical Manuscripts Commission  |
| <i>HistJ</i> | <i>Historical Journal</i> (1958–)  |
| <i>HR</i>    | <i>Historical Research</i> (1986–)   |
| <i>HThR</i>  | <i>Harvard Theological Review</i> (1908–)  |
| <i>JBS</i>   | <i>Journal of British Studies</i> (1961–)  |

## Abbreviations

|                |   |
|----------------|---|
| <i>JECS</i>    | <i>Journal of Early Christian Studies</i> (1993–)   |
| <i>JEH</i>     | <i>Journal of Ecclesiastical History</i> (1950–)  |
| <i>JLH</i>     | <i>Journal of Legal History</i> (1980–)   |
| <i>JMedH</i>   | <i>Journal of Medieval History</i> (1975–)  |
| <i>JRS</i>     | <i>Journal of Roman Studies</i> (1911–)   |
| <i>JThS</i>    | <i>Journal of Theological Studies</i> (1899–)   |
| <i>L&amp;P</i> | J. S. Brewer, James Gairdner and R. H. Brodie, eds, <i>Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII</i> , 21 vols in 35 pts (London, 1862–1932) |
| <i>LHR</i>     | <i>Law and History Review</i> (1983–)   |
| LMA            | London Metropolitan Archive   |
| LPL            | Lambeth Palace Library  |
| <i>LW</i>      | <i>Luther's Works</i> , ed. J. Pelikan and H. Lehmann, 56 vols (St Louis, MO, 1955–86)  |
| MGH            | Monumenta Germaniae Historica inde ab a. c. 500 usque ad a. 1500, ed. G. H. Pertz et al. (Hanover, Berlin, etc., 1826–)   |
| MGH Capit.     | Monumenta Germaniae Historica, Capitula regum Francorum, 2 vols (1883–97)   |
| MGH Conc.      | Monumenta Germaniae Historica, Concilia (1893–)   |
| MGH Epp.       | Monumenta Germaniae Historica, Epistolae (1887–)  |
| MGH H          | Monumenta Germaniae Historica, Hilfsmittel (1975–)  |
| MGH Poetae     | Monumenta Germaniae Historica, Poetae Latinae Medii Aevi (1881–)  |
| MGH SRG i.u.s. | Monumenta Germaniae Historica, Scriptorum rerum Germanicarum in usum scholarum seperatum editi (1871–)  |
| MGH SRM        | Monumenta Germaniae Historica, Scriptorum rerum Merovingicarum (1884–1951)  |
| MGH ST         | Monumenta Germaniae Historica, Studien und Texte  |
| <i>MidH</i>    | <i>Midland History</i> (1971–)  |
| n.d.           | no date   |
| NF             | Neue Folge ('new series')   |
| <i>NH</i>      | <i>Northern History</i> (1966–)   |
| n.pl.          | no place  |

## Abbreviations

|                 |   |
|-----------------|---|
| NRS             | National Records of Scotland (formerly National Archives of Scotland)                                   |
| n.s.            | new series  |
| ODNB            | H. C. G. Matthew and Brian Harrison, eds, <i>Oxford Dictionary of National Biography</i> (Oxford, 2004) |
| OHA             | Rowan Strong, gen. ed., <i>Oxford History of Anglicanism</i> , 5 vols (Oxford, 2017–18)                 |
| OHCC            | Oxford History of the Christian Church  |
| OHLE            | <i>Oxford History of the Laws of England</i> (Oxford, 2004–)  |
| OMT             | Oxford Medieval Texts   |
| <i>P&amp;P</i>  | <i>Past and Present</i> (1952–)   |
| <i>PH</i>       | <i>Parliamentary History</i> (1982–)  |
| PL              | Patrologia Latina, ed. J.-P. Migne, 217 vols + 4 index vols (Paris, 1844–65)                            |
| <i>RH</i>       | <i>Recusant History</i> (1951–)   |
| RSEH            | Records of Social and Economic History  |
| RO              | Record Office   |
| RS              | Rerum Britannicarum medii aevi scriptores, 99 vols (London, 1858–1911) = Rolls Series                   |
| <i>s.a.</i>     | <i>sub anno</i> ('under the year')  |
| SC              | Sources Chrétiennes (Paris, 1941–)  |
| SCH             | Studies in Church History   |
| <i>SCJ</i>      | <i>Sixteenth Century Journal</i> (1970–)  |
| SelS            | Selden Society  |
| SHCM            | Studies in the History of Christian Missions  |
| <i>SHR</i>      | <i>Scottish Historical Review</i> (1903–)   |
| <i>s.n.</i>     | <i>sub nomine</i> ('under the name')  |
| <i>Speculum</i> | <i>Speculum: A Journal of Medieval Studies</i> (1925–)  |
| <i>s.v.</i>     | <i>sub verbo</i> ('under the word')   |
| <i>THSLC</i>    | <i>Transactions of the Historic Society of Lancashire &amp; Cheshire</i> (1849–)                        |
| TNA             | The National Archives   |
| <i>TRHS</i>     | <i>Transactions of the Royal Historical Society</i> (1871–)   |
| UL              | University Library  |
| TTH             | Translated Texts for Historians   |
| VCH             | Victoria History of the Counties of England (London, 1900–)   |

## Abbreviations

|       |  |
|-------|--|
| VS    | <i>Victorian Studies</i> (1956–)   |
| WA    | <i>D. Martin Luthers Werke: Kritische Gesamtausgabe</i> , ed. J. K. F. Knaake et al. (Weimar, 1883–) |
| WA.Br | <i>D. Martin Luthers Werke: Kritische Gesamtausgabe. Briefwechsel</i> , 18 vols (1930–85)            |



## Illustrations

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Catherine Sumnall, 'The Social and Legal Reception of Illegitimate Births in the Gurk Valley, Austria, 1868–1945'

Fig. 1. Map of Illegitimate Births in Austria in 1937. Source: Österreich Statistisches Amt für die Alpen- und Donau-Reichsgaue, *Der Umbruch in der Bevölkerungsentwicklung im Gebiete der Ostmark* (Vienna, 1941), 25. 378

Fig. 2. Radar Graph of Austrian Illegitimacy and its Seasonality in 1937. Source: Österreich Statistisches Amt, *Der Umbruch*, 28. 379

Fig. 3. Marriages in 1937/8 compared with 1938/9. Source: Österreich Statistisches Amt, *Der Umbruch*, 17. 380