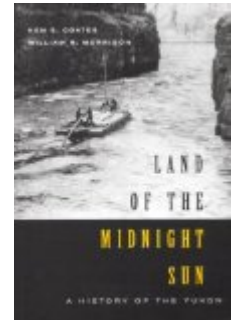


Michael M. Sheehan. *Marriage, Family, and Law in Medieval Europe: Collected Studies*. Toronto: University of Toronto Press, 1997. xxx + 330 pp. \$48.00, cloth, ISBN 978-0-8020-0709-4.



Reviewed by J. P. Bischoff

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Father Michael M. Sheehan, CSB of the University of Toronto Pontifical Institute of Medieval Studies, died unexpectedly in 1992. The current volume brings together over three decades of his previously published work, beginning with the synopsis of Father Sheehan's dissertation published in 1961. The sixteen articles are presented here in the order in which they initially appeared. Five of the articles are primarily concerned with wills and testamentary law, including its impact on property rights of married women in medieval England. Father Sheehan's influential book, *The Will in Medieval England: From the Conversion of the Anglo-Saxons to the End of the Thirteenth Century*, appeared in 1963, and the articles on wills selected for this volume continue to develop his scholarship in this area. The remainder of the sixteen deal with canon law, marriage, and household formation primarily in medieval England.

One of the critical questions involving the evolution of the concept of family and household is the perceived shift from a unit dominated by lordship, community, and kin outside the nuclear core to one in which the nuclear family was typi-

fied by individualization, self-determination, and privacy. For medievalists, the issue has been whether the process began in the Middle Ages and, if it did, to what extent the individualized nuclear family could be observed in England prior to 1500. The issue has been debated for nearly thirty years. The question has many ramifications, not the least of which are related to the status of women in the Middle Ages and how the process of household formation and marriage was related both to their empowerment and oppression.

Father Sheehan's approach to the emergence of the household is rooted in his understanding of canon law. References to the canons, both Roman and English episcopal, are frequent. But beyond the consideration of legal development, Father Sheehan sought to examine the intricacies of actual cases in episcopal courts to explore how the law was applied and how the interaction of legal theory with the social reality of marriage and household formation in medieval England occurred. Four articles in the collection express his conclusions in this area: "The Formation and Stability of Marriage in Fourteenth-Century England:

Evidence of an Ely Register," "Marriage and Family in English Conciliar and Synodal Legislation," "Choice of Marriage Partners in the Middle Ages: Development and Mode of Application of a Theory of Marriage," and "Marriage Theory and Practice in the Conciliar Legislation and Diocesan Statutes of Medieval England." In these works, Father Sheehan established that the theory of marriage law and the diocesan treatment of marriage became standardized in the period between 1150, when canons on marriage first appeared, and 1300, when ecclesiastical court treatment of marital issues became relatively systematic and coherent. The evolving legal principles that Father Sheehan found most apparent throughout the period were the Church's insistence on the validity of personal choice with respect to marriage partners and household formation. Seigneurial, community, and family control over marriage found little or no place in the church courts. Beyond personal choice, the Church sought to make marriages public through the institution of banns, as a means to preventing improper unions of those barred from a sanctified wedding—those related within forbidden degrees, those in holy orders, and those who were already betrothed or married. Cases that appeared in the church courts demonstrated the more frequent use of the courts as a means of proving the validity of marriage rather than as a route to annulment. Father Sheehan thus concluded that the Church was a critical factor in the formation of households based on the personal choice of the marriage partners. His works were among the earliest to demonstrate the agency of the Church in the establishment of independent nuclear households.

Subsequent scholarship has placed limits on the Church's unfettering of household formation. Father Sheehan recognized certain limitations to the influence of canon law, although he did not draw out these boundaries in his articles on marriage. English common law courts tended to retain jurisdiction over matters involving the transfer of land, a fact Father Sheehan did discuss in

his articles on inheritance. As marriage and household formation could also impact possession of land and tenancy, the continued ability of lords to exact fees (merchet) did impact marriage patterns and granted a continuing role to seigneurial lordship in the process of household formation.[1] Neither are some scholars ready to dispose of the influence exerted by kin and community. Judith Bennett, utilizing manorial court rolls, has suggested that the Church's control of the processes of marriage was more theoretical than real and that families and communities handled actual negotiation of marital arrangements.[2]

Despite the inevitable reinterpretation of evidence that has taken place in the last three decades, the importance of Father Sheehan's work can be demonstrated easily. Almost without exception every subsequent scholar, regardless of interpretive framework (demographic, legal, social and anthropological, feminist), has made reference to the articles listed above. They remain part of the fundamental reading for scholars interested in the history of marriage and household formation in medieval England. As such, the editors of this volume have done a service in bringing together these articles to be considered as part of a broader synthesis of the history of marriage. In a larger sense, Father Sheehan's work also testifies to the enormous contribution of the University of Toronto to this area of medieval studies. For those more familiar with the body of work attributed to Professor J. Ambrose Raftis and his students, Father Sheehan's contributions will offer another means of approaching the history of marriage and household formation in the Middle Ages.

Notes

[1]. For opinions on the origin and impact of merchet, see Jean Scammel, "Wife-Rents and Merchet," *Economic History Review*, 2nd series, 29 (1976): 487-490; Eleanor Searle, "Seigneurial Control of Women's Marriage: The Antecedents and Function of Merchet in England," *Past and*

Present 82 (1979): 3-43; and Paul A. Brand, Paul R. Hyams, Rosamund Faith, and Eleanor Searle, "Debate: Seigneurial Control of Women's Marriage," *Past and Present* 99 (1983): 123-160.

[2]. Judith M. Bennett, *Women in the Medieval English Countryside, Gender and Household in Bridgstock Before the Plague* (Oxford: Oxford University Press, 1987), 93-99.

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