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Sandra Raban

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MORTMAIN LEGISLATION AND THE  
ENGLISH CHURCH

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For my parents

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## PREFACE

This book has been gestated for nearly a decade. Its origins lie in a study of the estates of the fenland abbeys of Thorney and Crowland. The effect of mortmain legislation on their endowments at a controversial period in the medieval economy proved more compelling than any other aspect of their chequered history of acquisition. Surprisingly, despite some invaluable pioneering works, it appeared that no one had written exhaustively upon the social significance of mortmain controls, although their operation had often been observed *en passant*. My first step towards a remedy for this omission was published in *Past and Present* in 1974. This preliminary article, 'Mortmain in Medieval England', served to show that the workings of mortmain law over a long period of time were both more complex and less predictable than had hitherto been assumed and that a full assessment would be of value to both political and economic historians.

The first chapter of the book deals with the enactment of the 1279 legislation and the circumstances which brought it into being. Such a survey must preface any investigation of the law in action, but since it is the aspect of mortmain legislation which has already received more attention than most, some of it very recent, my prime purpose here has been to coordinate the fruits of these researches and restrict my own contributions to the few remaining gaps. Succeeding chapters trace the evolution of practice with regard to licensing requirements and the way in which church and crown reacted to each other's activities, the one attempting to minimise the effects of the legislation and the other to ensure an acceptable standard of observance. Some of this territory has been charted before, but it has never been examined comprehensively enabling one to see the processes at work over a long time span and fully to appreciate the extent of change



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lying behind laws and methods of enforcement which apparently altered little over the centuries. In many ways, the heart of the book lies, in its later chapters, where mortmain legislation is evaluated in the context of ecclesiastical endowment as a whole. Apart from the fact that this is the most neglected aspect of the subject, there are broader reasons for the prominence I have accorded it. It is increasingly recognised that evidence from the governed should rank as highly in the eyes of historians as that from the governors; to look at one without the other is to see one half of the picture only. It is therefore the special task of this study to present mortmain legislation from the point of view of the church. The moment is also ripe for combining the insights of economic, religious and administrative history and it is in this spirit that the volume as a whole is conceived.

Working for such a long time, I have accumulated many debts of friendship and help. First and foremost, I must thank Dr Marjorie Chibnall for her example of immaculate scholarship and for her unfailing advice and support from the time I set foot in Cambridge as an undergraduate. As my interests came to focus on mortmain tenure, I also gained immeasurably from the wisdom and guidance of fellow devotees. It gives me special pleasure to have done much of the research for this book while a Research Fellow at Lucy Cavendish College, Cambridge, where Dr K. L. Wood-Legh is Pro-President. It will be evident from both text and footnotes how much I owe to her. I deeply appreciated the generosity of Dr Tony Standen in offering me free use of his Ph.D. thesis on 'The Administration of the Statute of Mortmain'. Even though he is no longer engaged in academic work, I have felt reluctant to impose upon his kindness in undue measure. Consequently, I have included his findings where they have proved too important to omit, as was the case with his evidence for the introduction of new licensing procedures in 1299, but where we have covered much the same ground or have worked along similar lines but with different source material, I have been content to rely on my own researches. Dr Paul Brand is also due a large measure of thanks for succouring me in early years at the Public Record Office and for reading the first three chapters of the book with an Oxonian eye. He has done his best to invest a social and

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economic historian with instincts proper to the constitutionalist. The faults that remain are mine. Among the many others whom I would like to thank, I would single out Mrs Dorothy Owen for long years of encouragement and help. Dr Edmund King, Miss Barbara Harvey, Mrs Una Rees and Dr Mark Buck have all contributed ideas and references to material that I would not otherwise have discovered. Most of this book was written while I was lecturing at Homerton College, Cambridge, and a Fellow and Director of Studies in History at Trinity Hall. The stimulus and goodwill of colleagues and students alike have played their part in its final appearance. Financial support from the Calouste Gulbenkian Foundation at a critical early stage is also acknowledged with thanks. Like all historians, I would have found my task impossible but for the assistance of librarians and archivists. The staff of the Cambridge University Library have borne the heaviest burden with unfailing cooperativeness and good humour. I also recall with gratitude the services of the staff of the Students' Room at the British Library and at the Lincolnshire Archives Office and the Northamptonshire Record Office. Mrs Elaine Butt and Mrs Anne Ford have contributed at various stages to the emergent typescript and graphs with an enviable expertise. Most prefaces end with thanks to a long-suffering spouse, and this is no exception. Without the intrepid criticism of my husband, the following pages would be harder to read and without his support they might never have been finished.

SANDRA RABAN

*Trinity Hall, 14 November 1980*

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## ABBREVIATIONS

<i>Am.H.R.</i>	<i>American Historical Review</i>
Beds. Historical Rec. Soc.	Bedfordshire Historical Record Society
B.L.	British Library
<i>Cal. Close</i>	<i>Calendar of Close Rolls</i>
<i>Cal. Fine</i>	<i>Calendar of Fine Rolls</i>
<i>Cal. Inq. Misc.</i>	<i>Calendar of Inquisitions Miscellaneous</i>
<i>Cal. Inq. Post Mortem</i>	<i>Calendar of Inquisitions Post Mortem</i>
<i>Cal. Pat.</i>	<i>Calendar of Patent Rolls</i>
Camden Soc.	Camden Society
Cott.	Cotton Collection, British Library
C.U.L.	University Library, Cambridge
<i>D.N.B.</i>	<i>Dictionary of National Biography</i>
<i>Ec.H.R.</i>	<i>Economic History Review</i>
E.D.C.	Ely, dean and chapter
<i>E.H.R.</i>	<i>English Historical Review</i>
<i>Jour. of Brit. Studies</i>	<i>Journal of British Studies</i>
Lincoln Rec. Soc.	Lincoln Record Society
Lincs. Archives Off.	Lincolnshire Archives Office
<i>L.Q.R.</i>	<i>Law Quarterly Review</i>
Northants. Rec. Off.	Northamptonshire Record Office
Northants. Rec. Soc.	Northamptonshire Record Society
Oxf., Bodl.	Bodleian Library, Oxford
P.R.O.	Public Record Office
<i>Proc. Brit. Acad.</i>	<i>Proceedings of the British Academy</i>
Rec. Comm.	Record Commission
<i>Rot. Hund.</i>	<i>Rotuli Hundredorum</i>

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### *Abbreviations*

*Rot. Parl.*

Selden Soc.

*T.R.H.S.*

*V.C.H.*

W.P.C.

*Rotuli Parliamentorum*

Selden Society

*Transactions of the Royal Historical Society*

*Victoria County History*

Wrest Park Cartulary, Gentlemen's Society,  
Spalding