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Margaret McGlynn  
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THE ROYAL PREROGATIVE AND THE LEARNING  
OF THE INNS OF COURT

Between the mid-fifteenth and mid-sixteenth century *Prerogativa Regis*, a central text of fiscal feudalism, was introduced into the curriculum of the Inns of Court, developed, and then abandoned. This book argues that while lawyers often turned their attention to the text when political and financial issues brought it to the fore, they sought to maintain an intellectual consistency and coherence in the law. Discussions of both substance and procedure demonstrate how readers reflected the concerns of their time in the topics they chose to consider and how they drew on the learning of both their predecessors and their peers at the Inns. The first study based primarily on readings, this book throws new light on legal education, early Tudor financial and administrative procedure, and the relationship between the ways that law was made, taught, and used.

MARGARET MCGLYNN is Assistant Professor of History at Wellesley College.

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## CONTENTS

|   |                 |
|---|-----------------|
| <i>Preface</i>  | <i>page</i> vii |
| <i>List of figures</i>  | ix              |
| <i>List of abbreviations</i>                                      | x               |
| Introduction  | 1               |
| 1 The early readings  | 27              |
| 2 Expansion and debate  | 73              |
| 3 Frowyk and Constable on primer seisin                           | 112             |
| 4 Spelman, Yorke, and the campaign against uses                   | 160             |
| 5 The Edwardian readers and beyond                                | 205             |
| Conclusion  | 246             |
| Notes on the appendixes   | 260             |
| Appendix 1 Thomas Frowyk's reading on<br><i>Prerogativa Regis</i> | 261             |
| Appendix 2 John Spelman's reading on<br><i>Prerogativa Regis</i>  | 295             |
| <i>Bibliography</i>   | 307             |
| <i>Index</i>  | 332             |

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Margaret McGlynn  
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[More information](#)

---

## PREFACE

Maitland's famous comment in his equally famous Rede lecture that "law schools make tough law" has been often quoted, but little has been done to prove or disprove it for the period he discussed. The history, structure, and culture of the Inns of Court have been well studied, but little work has been done on the content of their teaching. Admittedly, the materials are unprepossessing, but they are voluminous, and they exert their own odd fascination, for they offer us the opportunity to understand how common lawyers were trained to think. Given the numerous roles that men trained at the Inns of Court played in sixteenth-century England, any insight into their understanding of the law, their role, and their society would seem to be of value. At the conclusion of this project I am not sure how much insight I have achieved into the lawyers, but I have come to truly appreciate Maitland's comment, and the depth and breadth of knowledge of the men who taught at the Inns of Court.

This was in many ways an unexpected project for me, and many people made it possible. My deepest thanks go to Ken Bartlett, who was an unending source of intellectual, moral, and practical support, and who gave freely of that most precious of all commodities, his time. I am also deeply grateful to John Baker for giving me the benefit of his vast knowledge of the manuscript readings on which this study is based at an early stage, and for keeping any misgivings he may have felt to himself. His work on the readings and on the Tudor reports made this project possible, and his support, encouragement, and advice have been invaluable. Richard Schneider argued over virtually every page with me, and constantly pushed me to think more deeply about the sources. I am also grateful for the insights of William C. Jordan, Thomas Mayer, and John Guy, as well as the readers from the Press. Others gave me help, advice, and criticism along the way. Brian Merrilees helped me wrestle with

Cambridge University Press

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Margaret McGlynn

Frontmatter

[More information](#)

---

viii

*Preface*

Law French, Dr. Amanda Bevan of the Public Record Office very kindly provided me with a copy of sections of her unpublished PhD dissertation on the Tudor judiciary, and Dr. Lisa Ford both gave me a copy of her dissertation on Henry VII's Council Learned, and discussed Henry's aims with me at length. The members of the reading group at the Centre for Reformation and Renaissance Studies at the University of Toronto gave both support and stern criticism, both of which were greatly appreciated.

My research was supported by the University of Toronto, York University, and Wellesley College, and I am grateful for their help. I have also benefited greatly from the advice and support of my colleagues in the history departments of York University and Wellesley College. This work relies on manuscript materials held in the British Library, the Public Record Office, Cambridge University Library, the Harvard Law School library, and the library of Gray's Inn. I would like to thank the staff at those institutions for allowing me access to their collections and for their expertise and their helpfulness.

This book is dedicated to Richard, who has listened to me talk about the prerogative for many years, with every appearance of attention, and with real and constant encouragement. For this, and for everything else, thank you.

FIGURES

|          |                |
|----------|----------------|
| Figure 1 | <i>page</i> 91 |
| Figure 2 | 103            |



## ABBREVIATIONS

- Caryll's Reports* John Caryll. *Reports of Cases by John Caryll*. Edited by J. H. Baker. 2 vols. Selden Society vols. 115 and 116. London: Selden Society, 1998 and 1999
- Constable Robert Constable. *Prerogativa Regis: Tertia Lectura Roberti Constable de Lincolnis Inne Anno 11 H. 7*. Edited by S. E. Thorne. New Haven: Yale University Press, 1949
- CUL Cambridge University Library
- Frowyk CUL MS Hh.2.1, ff.1–26
- Hall Edward Hall. *Hall's Chronicle*. Edited by Henry Ellis. London, 1809
- HLS Harvard Law School
- Port BL MS Hargrave 87, ff.142–76
- Port's Notebook* Sir John Port, *The Notebook of Sir John Port*. Edited by J. H. Baker. Selden Society vol. 102. London: Selden Society, 1986
- Spelman Gray's Inn MS 25, ff.302–18v. (Chaloner MS)
- Spelman's Reports* Sir John Spelman, *The Reports of Sir John Spelman*. Edited by J. H. Baker. Selden Society vols. 93 and 94. London: Selden Society, 1976 and 1977
- Staunford Sir William Staunford. *An Exposition of the Kings Prerogatiue, collected out of the great Abridgement of Iustice Fitzherbert, and other olde Writers of the Lawes of Englande, by the right Worshipfull Sir William Staunford Knight, lately one of the Iustices of the Queenes Maiesties Court of Comon Pleas*. London, 1567

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---

*List of abbreviations*

xi

|                  |   |
|------------------|---|
| YB               | Year Books. <i>Les Reports des Cases en les Ans des Roys Edward V. Richard III. Henrie VII. &amp; Henrie VIII. Touts qui par cy devant ont este Publies.</i> London, 1679 |
| Yorke            | BL MS Hargrave 253, f.77v   |
| Yorke's Casebook | BL MS Hargrave 388, ff.211–72   |
| Willoughby       | BL MS Harley 1691, ff.197–201   |