

BOOK REVIEW

*THE THEOLOGY OF CANON LAW:
A METHODOLOGICAL QUESTION*
By E. CORECCO

Translated by F. Turvasi, Duquesne University Press, Pittsburgh,
1992. ix + 161 pp. (\$21.50).

A review by Fr Robert Ombres OP
Lecturer in Canon Law at Blackfriars, Oxford

At long last, the English-speaking world has easy access to the penetrating and cultured theories of Eugenio Corecco, one of the foremost living theologians of canon law. Corecco, now Roman Catholic Bishop of Lugano (Switzerland), was associated with the 'Munich school' of canon law under the late Klaus Mörsdorf, taught at the university of Fribourg, was involved in the drafting of the 1983 Code of Canon Law, and is well-known internationally. In 1990 his former Swiss university published *Théologie et Droit Canon*, a selection of his writings.

The book under review is a translation from the French. A brief opening chapter outlines the paradoxical standing of canon law, as of law in general, in the eyes of many. The next chapter sets out to trace the unity of law in Christian philosophical thought, not neglecting its premises in Greco-Roman philosophy. Aquinas is given a relatively sustained treatment, but the historical survey is very succinct. The third chapter is in three parts, examining in turn the approach to the unity of law to be found in Orthodox, Protestant and Catholic theologies. Corecco's work demonstrates how today the fundamental theology of canon law needs to be approached comparatively, that is, in constant ecumenical dialogue.

Orthodox theology is presented in terms of its contemplation of transcendence, its approach to the universal and local Church, its principle of 'economy', and finally its view of dogma and law. For various reasons, Orthodox theology is found to be inadequate for the task of providing a theology of canon law. In debate with the Orthodox, Corecco maintains that canon law understood as a reality conferring institutional dimension to the experience and tradition of the Church, absolutely irreducible to a purely doctrinal experience, bears in itself at least some elements of revealed truth, which it captures in an autonomous way through its proper means and logic. Canon law is an essential element through which the Church manifests itself in the binding force of its total reality. (The translator, not always to be relied on, gives an incorrect version of this last sentence at pp. 72-73). The differing understanding of the indissolubility of marriage is an example of differing evaluations of the relationship of dogma and law.

As for Protestant theology, this too is found to be inadequate to the task, as it still perceives canon law as a wordly and positivist phenomenon. Corecco arrives at this summary by considering the themes of law and gospel, the doctrine of the two kingdoms, the invisible and the visible Church, gospel and law, Christology and Trinitarian doctrine and, finally, by asking if there are new *loci theologici* for canon law. Still, modern Protestantism and Catholic theology do seem to converge in affirming that canon law belongs to a dimension of the Church which is absolutely bound to dogma.

Corecco is now in a position to consider Catholic theology, and he begins with an account of the ideas of A. M. Rouco Varela, a long-standing friend and collaborator, now Archbishop of Santiago de Compostela. Corecco's own ideas are rich and rewarding, if somewhat compressed. Consideration of some remarks on p. 147 and p. 138 will perhaps take us to the heart of his vision. Canon law, he states, must be defined as *ordinatio fidei* (rather than the Thomist *ordinatio rationis*) because it is not produced by any one human legislator but by the Church, whose decisive epistemological criterion is faith and not reason. The Church's human rationality remains intrinsically informed by faith, because the Church's function is not merely to produce a juridical order that is compatible with the philosophical concept of justice, but to produce an order derived from the theological notion of *communio*. Grace inserts the person in a new relationship with God and with other people. There comes about a new and specifically ecclesial modality of the *ius divinum*, the root of a visible sociality different from all forms of merely human sociality.

It should have emerged by now, just how challenging and exalted are Corecco's theories on canon law. Over the years his ideas have been discussed and debated, ranging from the jottings of L. Martini and A. Ippoliti, to be found in *Legge e Vangelo* (1972), to the book *Theology and Canon Law: The Theories of Klaus Mörsdorf and Eugenio Corecco* (1992) by M. Wijlens. The English edition under review misses the opportunity to bring the work fully up to date; even in terms of Corecco's own thinking. A presentation of this kind should have given more indications of what is the irreducible content of canon law, and discussed in some detail the kind of authority appropriately to be claimed by canon law. After all, Corecco maintains that law has always been considered an indispensable condition for salvation.

FACULTY JURISDICTION OF THE CHURCH OF ENGLAND

By G. H. NEWSOM and G. L. NEWSOM
Sweet & Maxwell, London, 1993, 2nd edition, xxxiv + 334 pp.
(Hardback £50)

A review by The Reverend R. D. H. Bursell, Q.C.
Chancellor of the Dioceses of Durham and St Albans

Neither author requires an introduction to members of this society and the late G. H. Newsom was, of course, the doyen of the faculty jurisdiction. It is therefore no surprise that this book is already a classic. Indeed it is indispensable for anyone with any interest in, or connection with, the faculty jurisdiction (including chancellors, although they are modestly omitted from the list of those for whom the Preface suggests it to be 'normal equipment': see p.x). In his forward the Archbishop of Canterbury rightly commends this book 'to all concerned, church wardens, diocesan officers, chancellors, bishops and national amenity societies alike'. Nevertheless it may be doubted whether the hope expressed in the Preface will be fulfilled, namely, that 'a copy of this edition will be seen by each and every parochial church council in England, and that it may