

There is an analysis of the courts and their officers, patterns of litigation, evidence, costs and penance. The remarks on penance touch on the persistence of 'the penance of public exposure in a white dress', a practice of the early Church (for the serious sins of adultery, murder, apostasy), which had gone out of use from Carolingian times and was not a mediaeval practice at all. To find it revived after the Reformation in England, albeit only in some dioceses, with private penance the more usual requirement, is striking; further study of the records might yield valuable results here.

The final section of the book covers the parties, the injury, motives and consequences, with tables summarising the distribution of cases and a set of illustrative case papers.

This is a pioneering, solid and impressive book about larger matters than its ostensible subject and it will be the starting-point, one hopes, for further researches tracing the survival of mediæval ecclesiastical court usages and assumptions in a changed world.

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*LAW AND RELIGION*, edited by REX J. AHDAR, Aldershot: Ashgate, 2000, xiii + 221 + bibliography and index. ISBN 1-84014-745-8 (paperback £19.50) 1-84014-757-1 (hardback £55)

This is a collection of nine essays and an introduction by the editor, who has brought together a stimulating mix of disciplines and approaches, including traditional legal analysis, criminal justice, human rights reasoning, ethics and international policy. The blend is generally harmonious, although Calum Carmichael's analysis of the Ten Commandments seems slightly out of place, being located more specifically within a subset of religious traditions than the other contributions. Papers come from leading scholars from Australia, England, the United States, The Netherlands, and New Zealand, and in some cases represent a continuation of a well-established specialism, such as the essay by James Richardson on controversial religious groups and satanic ritual abuse allegations. The essay by Davina Cooper on the *Barnet eruv* is a slightly revised version of her well-known 1996 paper in the *Journal of Law and Society*.

Rex Ahdar's introduction to the collection brings the papers together well. He sees an increased collision between the worlds of religion and law, which can be explained by two interdependent and conflicting phenomena: the pervasiveness of the modern state (and thus the reach of the law), and the resurgence of religion. This can certainly be defended in relation to the particular jurisdictions discussed (the United Kingdom, Australia, New Zealand, and the United States), and to a large extent in the transnational bodies discussed (the European Union, Council of Europe and Organisation for Security and Co-operation in Europe; and the Human Rights Committee).

Carmichael's concerns are with the interdependency of law and religion, principally in the context of the Ten Commandments, although he draws parallels with teaching in contemporary US law schools and with Greek mythology. He argues that every system of law needs an augmentation of its rules to give it authority, and that in the Decalogue this is achieved partly through the supernatural aura surrounding its reception. If one of his concerns is the extent to which law draws upon the power of religion for its own authority, Malcolm Evans's discussion of the work of the Human Rights Committee shows the extent to which this power can be seen as a threat to state authority. In a fine discussion of Article 18 of the International Covenant on

Civil and Political Rights, he demonstrates that the principal hurdles to successfully showing a violation—the definition of religion or belief, the definition of manifestation, and the grounds upon which manifestation may be restricted—are used to limit the scope of a freedom of religion viewed more as a problem than an ambition.

Michael McConnell and Julian Rivers are both, in their separate jurisdictions, concerned with fundamental issues of power between religious organisations and the state. McConnell's brief, but lucid, discussion of the US First Amendment posits a tension between the right to free exercise under the Amendment, and the prohibition upon the establishment of religion in the same provision. Although fearing that current trends are towards a shrinking of both provisions, effectively extending the scope for legislative discretion, he makes a strong argument for an adherence to accommodation of the free exercise of religion, coupled with a reduction in the scope of the establishment prohibition from separationism to neutrality. Rivers focuses on the impact of the Human Rights Act 1998 on a range of particular issues, including the position of the state churches of the United Kingdom, the contractual basis of many religious organisations, the appointment of bishops of the Church of England, the staffing of schools of a religious character, marriage, and blasphemy. The discussion of his chosen issues is of a high standard.

The US guarantees are also the subject of discussion by Marie Failinger, whose paper goes far towards explaining the chaos of the US jurisprudence to a foreign audience. She sees the dynamism of the jurisprudence in terms of the playing out of three central concerns: first, the ideological disputes between traditionalism, liberalism and postmodernism; secondly, the shift in the construction of freedom of conscience from the right to follow a divine calling without coercion to an exercise of autonomy in making a free choice; thirdly, the deconcentration of power between state organs, between different religious communities, between the state and the individual, and between legal and political resolution mechanisms.

The importance of extra-legal mechanisms are central to the papers by Sophie van Bijsterveld and Reid Mortensen. Van Bijsterveld notes the dangers of overemphasising caselaw in the pan-European treatment of religious difference, and her discussion ranges over broader themes of law and policy regarding religion. Her discussion of the work of the OSCE is particularly interesting. Mortensen, in one of the more narrowly focused essays in the collection, considers recent developments in the law of blasphemy in Australia and New Zealand. He argues against a law limiting blasphemy, but for a public ethic that takes account of the interests of people of different religions and cultures, particularly where those communities support the contentious activity through public funding. His discussion of Christianity in this context is particularly interesting, suggesting that a public ethic taking account of Christian sensibilities may be less well developed than one, for instance, dealing with the religions of the indigenous peoples of Australia and New Zealand.

In contrast, Richardson's paper stresses the importance of legal guarantees to the fair treatment of some groups. His concern is not with overt, conscious bias against such groups but rather dangers posed by the playing out of the court process. He argues that problems of the quality of evidence arise in cases involving controversial groups or practices because courts may allow questionable evidence in such cases. Decisions are sometimes made to admit evidence that would not be admitted under other, more normal, circumstances. In addition juries and other finders of fact may be prone to accept questionable evidence when it supports their beliefs and assumptions about minority religious groups and alleged practices.

This collection will be of considerable interest to those concerned with the interaction of law and religion in the United Kingdom jurisdictions, and is highly recommended.

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*NEW COMMENTARY ON THE CODE OF CANON LAW*, edited by JOHN P. BEAL, JAMES A. CORIDEN and THOMAS J. GREEN, Paulist Press, New York, 2000, pp xxxii + 1952 (hardback £61.00) ISBN 0-8091-0502-0

The English-speaking world is fortunate in the number and quality of its full-scale commentaries on the 1983 *Code of Canon Law*. The availability of reliable and updated canon-by-canon commentaries is of vital importance to the study and practice of Roman Catholic canon law because this type of legal literature has become standard among canonists and is much consulted by non-specialists. In 1985 the commentary commissioned by the Canon Law Society of America was published, followed in 1993 by a commentary in English published in Canada, and in 1995 the Canon Law Society of Great Britain and Ireland published a commentary. All three commentaries cover the same Code but in sufficiently different ways to justify the continuing consultation of all of them. A fourth commentary is now added to the list.

Like the other commentaries, this latest and vast publication (almost two thousand pages in length) is the work of a number of canonists. In one sense it is a second edition of the 1985 commentary but it is substantially different in being written by a different group of authors (with some continuity) and having a different purpose. While the earlier edition concentrated on the differences between the 1917 and 1983 Codes, this commentary focuses on the lived experience of the canons in use since 1983. Apart from turning to this commentary for particular canonical issues, it is worthwhile reading the opening general essays in their own right. They are informative, thought-provoking and invite discussion. Örsy outlines the main features in the relationship of theology and canon law, McManus provides an overview for the years 1983 to 1999, and Faris presents the 1990 *Code of Canons of the Eastern Catholic Churches*.

The volume has thirty-six contributors, trained in a variety of countries and with different types of expertise, and this rules out any attempt to identify a single perspective or characteristic style of analysis. The main and somewhat surprising omissions from the volume are proper expositions of the canon law on military ordinariates and causes of canonisation. Related to this second omission, the account of the Congregation for the Causes of Saints under canons 360–361 needed total rewriting, not just a repetition of the 1985 comment.

Each of the seven Books of the 1983 Code is provided with an introduction, but these introductions are uneven in quality and some are simply missed opportunities. Wrenn's introduction to Book VII (processes) is the only one with some biblical and historical depth. It is largely unchanged from the first edition, and retains the arresting opening lines that the Church may be said to be one, holy, catholic, apostolic and adjudicative. Liturgical law is a somewhat neglected topic among canonists and not rarely the occasion of disputes in the Church. Since the close of the Second Vatican Council in 1965, the Holy See alone has issued some four hundred documents involving liturgy, and there is even talk of a *Corpus Iuris Liturgici*. For all these reasons, the lengthy introduction by McManus to Book IV of the 1983 Code (the Church's sanctifying function) is a welcome retention, with some updating from the first edition.