

BOOK REVIEW

'ECCLESIASTICAL CONVEYANCING : THE PRINCIPLES AND PROCEDURES'

by David Rees

(Fourmat Publishing, London 1989 : paperback)

A review by Augur Pearce and Peter Beesley

It is long since people were in the habit of writing books on church law for the general practitioner. A transaction involving ecclesiastical property is one of the few remaining ways in which the church's rules still impinge on lawyers outside the chosen few; and Mr Rees has set out to guide the outsider through the maze. There may be mixed feelings among some ecclesiastical practitioners at this unveiling of their arcane mysteries; but their artedled clerks at least should be grateful.

In five substantive chapters the author deals with glebe, parsonage land, diocesan authority property, redundant land under the Pastoral Measure and churches and churchyards. (The diligent seeker will find cathedral property under this last head.) Sales and purchases, leases and easements are considered under each category, making for a thoroughly comprehensive survey, complemented by an equally comprehensive range of precedents.

The only real omission is advowsons; if they can't find a place in a book like this, they're unlikely to find it anywhere else. But in Mr Rees's defence it may be said that he is writing for the conveyancer; these days advowsons are more likely to be the concern of the probate lawyer.

A general introduction, introductions to each category of land, a concluding summary and an appendix on the Church's structure all help to put particular transactions in context, and are difficult to fault. However some of the transactions are described in quite laborious detail, occasionally belying the foreword that 'standard conveyancing procedures are not examined'. Caution is all very well, but it honestly is possible to make title to glebe by statutory declaration without going back twenty years and exhibiting an extract from the terrier.

Economic disparity between dioceses may make for some 'regional specialities'. Agricultural sales of glebe may make sense where there is no future for development, but the South-East is more likely to see the sale (and indeed purchase) of commercial property for the benefit of the stipends fund or the pastoral account. This may make the book more useful in some areas than others.

While the author is normally good at drawing distinctions, there is perhaps an element of confusion creeping in when he deals with property vested in the diocesan authority. Although called a 'custodian trustee' in the Incumbents & Churchwardens (Trusts) Measure 1964, a diocesan board of finance would be very surprised to learn that it *had to* consent under the Measure to *any* transaction by managing trustees not in breach of trust; yet on the other hand the book overlooks the possibility of the board being appointed a custodian trustee by Charity Commission Scheme, in which case the Measures and the diocesan consent provisions do not apply and the board must give effect to managing trustees' decisions under the Public Trustee Act 1906.

The chapter on churches and churchyards alternates between consecrated and unconsecrated property, but ends up covering the majority of situations. Little space is given, though, to licences to occupy part of a church not required for worship; the procedure outlined in *Re St Mary Aldermary* is not mentioned, although this is quite a common situation in which a secular solicitor has to cope with ecclesiastical procedures foreign to him.

One could continue to quibble over trifles. The letting of a parsonage by sequestrators is becoming more common as suspension periods get longer, so we could usefully be told what sequestrators are. The Lichfield Diocesan Registry must have been singularly quiet for the author to get the impression that a patron's right of presentation 'is seldom exercised in practice'! A trust 'for the benefit of members of the Church of England in the parish' would not be charitable. And the Faculty Jurisdiction (Amendment) Rules 1988 have changed the time limits for pleadings in faculty cases. Yet provided there is a solicitor with ecclesiastical experience on one side of a transaction (and dioceses *don't* always use the same solicitor for everything), the general practitioner is not going to come to grief over any of these points, and will still find Mr Rees's book both enlightening and practical.