

(such as the law of elections and welfare law). Influence worked the other way too: the canonists' use of Roman law institutions is instructive in this regard (such as the canonisation of *restitutio in integrum*).

Richard Helmholz indicates (Ch. 14) three common themes which characterise canon law and its implementation and development in the classical period: its close connection with the goals and ideals of the Gregorian reform movement, which include the independence of the clergy from secular control; a concern for the spiritual well-being of all the faithful; and an interest in securing justice and protection for the unfortunate (the protection of *miserabiles personae* and jurisdiction *ex defecta justitiae*). At the same time, however, the author is not uncritical, describing the darker side of canon law—its acceptance of slavery (there is a chapter on the rule against the ordination of unfree persons), its restrictions on religious freedom, and its use as an instrument to advance the clerical agenda.

Whilst it is difficult to see how this book could be improved upon, some may be critical that it neglects treatment of canon law in its many modern forms. But this the author has not tried to do—and, in any search for the underlying principles of a legal system, the proper starting point may indeed be the neutral or purist one of the original, classical form. The notes, whilst a little inconveniently placed at the end of all the chapters rather than at the feet of pages, are painstakingly detailed and helpful, carrying a wealth of references to literature in English, French, German, Italian and Spanish. The theme of continuity is even carried into the bibliography, where ancient and modern titles intermingle happily. As well as an extensive General Index, there are indices of biblical and legal citations, from both Roman law and canon law.

The breadth and complexity of the study and of its subject will prove an indispensable resource for historians of law, society, theology and political thought as well as for practitioners when called on to elucidate the historical antecedents of modern church law. Explaining in the Preface how his previous work has 'concentrated on one or other discrete area of the [canon] law', Richard Helmholz writes of the dread 'to generalise about a large subject like the canon law or even to write meaningfully about it as a whole'. He has, however, accomplished the task superbly. Whereas the focus to date of so much writing on medieval canon law has been that of its systematisation, this study shifts that focus fairly and squarely to the substantive law, and in so doing sets agenda for future work in this field. The book is beautifully produced.

*ECCLESIASTICAL LAW HANDBOOK* by LYNNE LEEDER. Sweet & Maxwell, 1997, lxii + 475 pp (hardback, £55) ISBN 0-421-57720-7

A review by Chancellor Rupert Bursell, QC

When I was asked to review this book I agreed on the condition that I had enough time not only to read the book properly but also to use it over a period of time. It is for that reason that this review appears so late after its publication. However, the book has passed with flying colours.

It is not so long ago that the only relatively up-to-date book in ecclesiastical law was that written by Chancellor Garth Moore. Now ecclesiastical lawyers are in the enviable position of being able to pick and choose, though any serious lawyer will seek to own all, or most, of the recent publications. Comparisons, however, are bound to arise especially between this book and Hill, *Ecclesiastical Law* (review by Chancellor McLean in 3 Ecc LJ 438). Precisely to whom any book is aimed by its author and publishers perhaps only they can say, although the fact that these two books are published by rival English publishers might suggest that they are aimed at the same sort of customer. Nevertheless, the content of these publications gives the

lie to such a conclusion. Much of Mark Hill is given over to texts of legislation, rules and judgments, whereas Lynne Leeder assumes the reader will have access to such sources. The benefit of these conflicting approaches depends, of course, upon the individual reader but I myself have reservations about source books, even when accompanied by as lucid commentary as that of Mark Hill. Not only do such sources require constant updating but their provision necessarily restricts the amount of legal commentary. In the result Lynne Leeder's commentary on the law is far more detailed than that of Mark Hill. On the other hand, the use of the word 'Handbook' in the title of the book under review reflects what is intended: as the author says, 'this is a work which seeks to take the reader step by step through the complex maze of ecclesiastical law'. It is thus for use in the hurly-burly of parish and diocesan life. In this it succeeds admirably as well as being far more detailed than Dale, *The Law of the Parish Church*.

*The Ecclesiastical Law Handbook* ranges from the origins and sources of ecclesiastical law to the Anglican Communion and ecumenical relations. In between it covers the constitution of the Church of England, the diocese, the parish, the benefice, non-parochial units and ecclesiastical persons, together with the property and finance of the Church of England, doctrine and worship, sacraments and offices and ecclesiastical jurisdiction. Its treatment is comprehensive and accurate, although there are inevitable small errors. For example, it is surely wrong to say (para. 2.34) that *Re St James, Shirley* [1994] Fam 134 'gave effect to [a Statement of the House of Bishops] notwithstanding that it was inconsistent with the terms of a Canon'. Presumably the Canon referred to is Canon F 1, which lays down that 'the font shall stand as near to the principal entrance as may conveniently may be' and the baptistry was created under the chancel arch; however, as the Canon continues 'except there be a custom to the contrary or the Ordinary otherwise directs' and as the chancellor acts in the ecclesiastical court as the Ordinary (see para. 11.11), the Bishops' Statement is not legally inconsistent with the Canon. Unfortunately, too, the index is not as accurate as the Preface (at p x) would suggest: for example, the moral force of Acts of Synod is dealt with at paras 2.33 and 2.41 as well as para 1.12.

In fact, my main criticism is one of style. I appreciate that not many persons will read the book from beginning to end but there is one stylistic matter that is extremely irritating. The author states: 'At the risk of incurring the wrath of strict grammarians I have used the third person plural throughout when referring to actions which may be carried out by a person of either sex, reserving the use of the singular *he* or *she* for those occasions when I am referring only to a person of that sex. I hope I will be forgiven this solecism, committed in the interests of clarity.' Yet is the following sentence (see para. 5.5) really so expressed in the interests of clarity or is it for reasons of political correctness: 'It should be noted that these duties apply equally to priest-in-charge during a vacancy in the benefice although they [*sic*] are not the incumbent?' (Perhaps the priest-in-charge is pregnant?!) Another example is at para 5.19: '... the patron must (unless they [*sic*] are a bishop) ...' Surely clarity is obfuscated, especially as there can only be a male bishop at present? Nonetheless, such irritations should not detract from the very real worth of the whole.

Having said that, I cannot refrain from drawing attention to three amusing pieces of hurried proof-reading: '... the doctrine of necessity would not enable a lay person to attempt to concentrate the elements in order to administer Holy Communion ...' (see para 9.12) and '... the courts have held that all manual acts, including the traction or breaking of the bread, should be visible to all communicants ...' (see para 10.12). However, my favourite is: '... it would seem probable that the use of incense is now legal in all services at the discretion of the minister, extending to censoring of both the clergy and the congregation' (see para 9.35).