

The commentary contains a few, but very few, statements which I would query. The Enabling Act did not mark, “the *removal* from temporal government of legislative powers concerning the Church of England” [p. 19; my emphasis], and recent days have seen suggestions that Parliament should reassert the powers it undoubtedly retains. A P.C.C. may pass both Resolutions A and B on women priests; the text at p. 91 is misleading when it says that the Council may pass “one of two resolutions”. Ecclesiologists will dispute whether the parish, rather than the diocese, is “the basic building block of the Church”. Lawyers may be surprised, but not too offended, that the author does not always observe the convention that the “shall” of the legislature becomes the “must” of the commentator. The index has some eccentricities. Resolutions A and B are indexed under “Absolution”, but there is no corresponding entry under “Holy Communion”; and the index entries sometimes lead to the commentary and sometimes to the materials, but not always to both.

A few weeks’ experience has convinced me that this is an immensely useful book. I find myself thinking “It’s probably in *Hill*”, and it almost always is. An excellent addition to the tools of the ecclesiastical lawyer’s trade.

Canon Law in Protestant Lands

(*Comparative Studies in Continental and Anglo-American Legal History, Volume II*, edited by Richard H. Helmholz)

Duncker & Humblot, Berlin, 1992; 272 pp, paperback, DM 128.

A review by C. C. Augur Pearce, Solicitor, Humboldt-Universität zu Berlin

Professor Helmholz’s *Roman Canon Law in Reformation England* is well-known to many members of the Society. Perhaps less well-known is the fact that England was by no means alone among countries of the Reformation in its continued recourse to the *jus commune*, and that scholars have been engaged for some time in comparing the approaches of the different strands of Protestantism to this question.

Five years’ research by an international working group of legal historians led in 1992 to the publication of this revealing collection of essays in English and German. Lutheran Germany, Calvinist Switzerland, France and Holland, Anglican England, Ireland and the American Colonies are covered by different specialists, and Richard Helmholz himself draws the strings together in a lucid introduction.

The researchers’ conclusion seems clear: at least on this side of the Atlantic, the canon law, shorn of the papal claims, retained its usefulness to the churches of the Reformation and was used – albeit selectively – by each of the three main traditions, Calvinism tended to formulate its own principles, but under the *jus commune*’s influence and using its procedures; while Lutheranism and Anglicanism applied the canon law as such, subjecting it to tests of scriptural acceptability or of consistency with common law and the royal prerogative.

Bringing together such a wide variety of scholars, all holders of professorial chairs, was bound to lead to the pursuit of particular interests which do not necessarily lend themselves to easy comparison. There are contributions, for example, on Swiss marriage law and Dutch legal education. The periods treated vary likewise: the German articles begin with Luther’s bonfire, while the

Swiss looks back to developments in the matrimonial courts of four cantons well before Zwingli to show that the isolation of both jurisdiction and practice from the adjoining but non-Swiss episcopal jurisdictions was by no means a Reformation novelty.

Professor Helmholtz suggests three conclusions to be drawn from his group's findings: that the Protestant tradition, as much as the Roman, saw a need for law in the life of the Church; that the sophistication of the *jus commune* and the considerable learning in this field across many national borders made it the obvious system for adoption; and that the law's intrinsic merits were sufficient to justify its use, even when divorced from its association with a theologically suspect legislator. Perhaps some in the Society who are concerned with the law of the Church of England might reflect whether that will ever be said of the system that we administer.