

The advantages of legal history being written by lawyers are evident from these chapters, as is the necessity of a good grounding in the universal canon law and English secular law if the canon law operative in England is to be accurately assessed. Only a few scattered indications can be given here of these accomplished pages. By the thirteenth century the ecclesiastical procedural system was quite distinct from that of the royal courts, noteworthy being ecclesiastical reliance on judicial evaluation of evidence produced by the parties rather than on the verdict of juries. Whatever the common law rule, in reality the English ecclesiastical courts came to exercise a very considerable jurisdiction over promises coupled with an oath; whilst, however puzzling, the church's jurisdiction over succession was real and extensive. As we would expect, canon law was much concerned with the clergy and churches, but the laity too were within its scope, and if tithes (close to an 'income tax') were the greatest financial burden on the laity there were also other spiritual dues. In the area of marriage and divorce, study of actual legal practice has altered the received picture in important ways, and of course it is in precisely this area that Helmholz made his first major contribution with the publication of his revised doctoral thesis in 1974 (*Marriage Litigation in Medieval England*). The chapter on defamation begins with the intriguing observation that spoken words gave rise to the great majority of causes heard by the late medieval English ecclesiastical courts, and it expresses puzzlement over the regular presence of defamation litigation in England. As for crimes, it was all but inevitable that the church should take a hand in their public repression.

Helmholz offers no general conclusions on the thousand-year history he has recounted. My conclusion is that the one person best qualified to write this history has done so—it is a lasting achievement.

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THE 1917 PIO-BENEDICTINE CODE OF CANON LAW: IN ENGLISH TRANSLATION WITH EXTENSIVE SCHOLARLY APPARATUS translated and edited by EDWARD PETERS, Ignatius Press, San Francisco, 2001, xlvii + 777pp (hardback, £38.95) ISBN 0-89870-831-1; and *TABULÆ CONGRUENTIÆ INTER CODICEM JURIS CANONICI ET VERSIONES ANTERIORES CANONUM: WITH A MULTILINGUAL INTRODUCTION* compiled by EDWARD PETERS, Gratianus Series, Wilson & Lafleur, Montreal, 2000, lix + 198pp (paperback, ring-bound Can. \$34.95) ISBN 2-89127-500-4

The 1917 Pio-Benedictine Code of Canon Law is the first ever English translation of the *Codex Juris Canonici* of Pope Benedict XV to be published despite its having been abrogated as law since 1983. So has this book missed its mark by 18 years or is it aimed purely at the legal historian? I suggest that the answer to both these questions is no.

Certainly legal historians *will* be interested in this book. In 1904, Pope Pius X commissioned the eminent canonist Pietro Cardinal Gasparri (1852-1934) to produce a distillation of what, over fifteen hundred years, had become a vast and confusing collection of canonical materials into a single and authoritative reference known as the Code of Canon Law. Its promulgation in 1917 by his successor Benedict XV was therefore a momentous event in the history of canon law, and this volume earns its place in any canon law library on the strength of that alone. More importantly, however, canonists will know that canons cannot be fully understood without a study of their sources, and that an important source of many current canons are those of the 1917 Code. Indeed, the 1983 Code itself points this out in Canon 21, containing a rule of law which can be traced back to the *Liber Sextus* of Boniface VIII and the Digest: ‘... *later laws are to be related to earlier ones and, as far as possible, harmonised with them*’, whilst Canon 6 re-states the importance of assessing canons in accord with canonical tradition. For this reason this book performs a major service for all English speaking canonists.

The book contains a translation of the Code, together with its Preface, the Apostolic Constitution promulgating it, and those of its original appendices that have not been completely superseded. In addition, the ‘extensive scholarly apparatus’ described in the book’s subtitle consists of four extremely useful features. Above each canon a reference is given to the equivalent canon in the 1983 Code, where one exists, as well as any relevant cross-reference within the 1917 Code. Below each canon is set out references to the volume and page number of each and every relevant reference to be found in the first ten volumes of the Canon Law Digest (covering 1917-1983). Finally, a footnote refers to every English language doctoral dissertation discovered by Dr Peters which has been written on the subject matter of that particular canon. Nearly one thousand such dissertations are referred to, about half of which are from the published ‘Canon Law Studies’ series of the Catholic University of America.

As one has come to expect from the Ignatius Press, this volume is handsomely presented, well typeset and solidly bound. A particularly nice touch is the collection of photographs at the front of the book, giving a human face not only to Popes Pius and Benedict and to Cardinal Gasparri, but also to the Code’s principal commentators: Dom Augustine, Bouscaren and Ellis, Woywod and Smith, Jerome Hannon and James O’Connor.

The translation itself is a very literal one, and this, indeed, is a conscious and stated choice made by the editor. As this is a book whose principal purpose is to give English speaking lawyers easier access to the authentic Latin text, this should not be a criticism, but it does mean that sometimes the English comes across somewhat clumsily. Dr Peters also claims that he has ‘not permitted any so-called “untranslatable” Latin words or expressions to appear’. I am not altogether convinced that this laudable aim to communicate to the ‘masses not privileged to know Latin’ always produces more clarity, nor does Dr Peters in fact achieve his stated aim.

Quite apart from his self-description on the title page as ‘Curator’, the work contains numerous examples of Latin words, even where perfectly good equivalents exist in the English canonical tradition. So, for example, we still have ‘*Officialis*’ for ‘Official’, ‘*libellus*’ for ‘libel’ and ‘*ponens*’ (not to my knowledge an English word) is apparently untranslatable. On the other hand, rendering ‘*ex officio*’ as ‘by office’, ‘*septimæ manus*’ as ‘seven-hand’ and ‘*nullius*’ as ‘of no-one’ in their respective contexts would appear to me to introduce more confusion than clarity for the uninitiated reader.

These, however, are minor irritations. More disappointing (although there may be good reasons for it) is the omission of the additional ‘scholarly apparatus’ which would have rendered this work complete in itself, namely the Latin text itself, and references to the ‘*fontes*’ of each of the 1917 canons. Since the serious scholar must have recourse to these when studying the 1917 Code, it necessitates obtaining a long out-of-print Vatican text which must then be kept open simultaneously with Dr Peters’ book.

The *Tabule Congruentiæ*, also compiled by Peters, is published in the ‘Research Tools’ section of the *Gratianus* Series, and is a table listing every part of every canon in the 1983 Code and giving its complete legislative history. Thus the table gives the equivalent canon in the 1982 *Schema*, a reference to any discussion at the 1981 plenary meeting of the Code Commission, the canon in the 1980 *Schema*, references to the *cætus* discussions reported in *Communicationes* and, finally, the first version of the canon in one of the original ten individual *schemata* for the Code issued between 1972 and 1977. The book has an informative introduction in five languages (including English). This work has a much more limited appeal than the translation of the 1917 Code—it is not much use unless you actually have access to the various draft versions of the 1983 Code. However, it is likely to prove invaluable for the canon lawyer who wants to interpret the laws of the current Code in accordance with the ‘mind of the legislator’ (Canon 17). It is bound with a black plastic ring binder which, although it does not look particularly attractive on the shelf, is highly practical, as the tables are in landscape format.

I recently heard it suggested that Edward Peters was ‘the Roman Catholic Gerald Bray’. In many ways this is true. Both have undertaken a momentous task which most of us would never wish to undertake ourselves, but are continuously grateful that someone else has already done it for us. Just as Professor Bray’s collections allow us to trace the development of Anglican canons from their earliest sources, through their attempted codification in the *Reformatio Legum Ecclesiasticarum* to the present day, Doctor Peters’ two works allow us to do the same for the Latin Catholic Church from the law’s first codification to the enactment of the current Code. These are important works which deserve a place in every canon lawyers’ library.

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