

The same subjects are dealt with in the three chapters on classical and contemporary Islamic law.

Though expensive, the two books are attractively produced, very readable, and contain extensive bibliographies and indices and an abundance of illuminating verbatim materials from formal legal and religious documents. Whilst they will be of great value to anyone interested in law and religion, the *Legal Perspectives* volume is of particular relevance to those concerned with secular law on religion, and the *Religious Perspectives* counterpart for comparative Christian, Jewish and Islamic law. More significantly, perhaps, the pair of books will prove of considerable importance for the purposes of the inevitable jurisprudence on religious rights law which will grow as a result of the proposed Human Rights Bill.

*THE SPIRIT OF CLASSICAL CANON LAW* by R. H. HELMHOLZ. 1996. Athens and London: The University of Georgia Press, xiv + 514 pp (£47.95) ISBN 0-8203-1821-3.

A review by Dr Norman Doe

The focus of *The Spirit of the Laws* series is the nature of legal systems throughout the world, particularly their relationship with religion and morality. Titles cover studies in Roman, Talmudic and Hindu law, among others, and it is fitting that the series includes a volume devoted to a legal system so fundamental, in its classical form between the twelfth and fourteen centuries, to the growth of the Western legal tradition. This book, written by one of the world's leading and most prodigious scholars of the history of canon law—the Ruth Wyatt Rosenson Professor of Law at the University of Chicago—elucidates the nature of canon law, exploring the moral, social, political and religious values underlying it through to the seventeenth century. Not only is the subject engaged at the level of abstraction—the substantive canon law is treated practically and vividly: throughout the study, Richard Helmholz brings to life the attitudes and techniques of its commentators and practitioners, the lawyerly skills of those whose careers were devoted to it and its objectives.

There are fifteen chapters. Following the first, in which the origins of canon law, the collections of texts, their sources (including scripture, juristic commentary, and, incidentally, Roman law), are discussed, the author considers in turn fourteen general areas of the substantive law. Within each area a particular topic is chosen and examined. These include, for example: for ecclesiastical government, the law of episcopal elections (Ch. 2); for church property and economics, the law of prescription (Ch. 7); for the sacraments, baptism (Ch. 8)); for religious principles and practical problems, the law of oaths (Ch. 6); for the papacy, the law of privileges (Ch. 12); and for sanctions, excommunication (Ch. 14). With each subject the author traces, to the seventeenth century, both change and continuity. Indeed, as to the latter, whilst the studies afford a lively, but meticulous, reconstruction of the medieval canon law, there is much in the material which rings familiar to the modern church lawyer: impediments to ordination (Ch. 3); the problem of divorce and subsequent marriage (Ch. 9); the scope of the offence of blasphemy (Ch. 10); the law of double jeopardy (Ch. 11); co-operation and coercion in the courts of the church and state, and the invocation of the secular arm (Ch. 13); and the challenges posed in the application of a pan-European legal system. The modern lawyer's experience of discomfort with theological questions, arising from the theological setting of canon law, finds a direct parallel in the discussions on the medieval law of baptism. The book is also important in those discussions where the author suggests the wider influence of canonical ideas and institutions on the secular law—in so many instances, the church had developed on subjects a law the equivalent of which was not to be found in civil law

(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