

For Roman Catholics, canon law has come to have codification as its main but not exclusive juridical expression. Despite some reservations expressed above about the introductions to the seven Books, this latest commentary in English on the 1983 Code is of a high, even demanding, intellectual standard. It is generally well-informed, aware of the main points of debate, and provides good references to official documents outside the Code as well as a carefully selected bibliography of material in different languages. In fact, the commentary is not so much valuable as indispensable.

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*THE GOVERNANCE OF THE CHURCH IN WALES* by PHILIP JONES, Greenfach, 2000, xxx + 441 pp (paperback £20) ISBN 0-9539020-0-5, obtainable from Greenfach, P.O. Box 5052, Cardiff CF5 2WW or SPCK, Windsor Place, Cardiff CF10 3BZ

This book examines the law regulating the Church in Wales from three angles: what the Church is, what it does and what it owns. The book was written after the author, who is a solicitor, completed a degree course at Cardiff University. The last full work on the law of the Church in Wales was published in 1937 and the year 2000 (when this book was published) was the eightieth anniversary of the separation of the Welsh church from the English church. So it is a timely production.

The book is both scholarly and readable. The law of the Church in Wales is placed in the context of both its history and its belief. As far as the history is concerned this inevitably relates to the Church of England, both that before and that after the Reformation. Most of the historical material will therefore be of interest to members of the Church of England who have an interest in the development of church law. Indeed the book is written in such a way as to make the material accessible also to non-lawyers. It provides informative and interesting reading for all persons who seek a better understanding of the law affecting all the provinces of the Anglican Church in the United Kingdom. Examples of the topics dealt with in their historical context are the church's law relating to marriage (and divorce) and the church's law relating to parson's freehold, benefices and patronage.

The Church in Wales came into existence in 1920 under the provisions of the Welsh Church Act 1914. The book starts with a discussion of the social and political forces which brought about the 1914 Act. It is of particular interest to learn that there was no strong impetus for change within the Welsh church itself but that the pressure for change came from outside the church. In the next section of the book the author shows the close relationship between the belief of the church and the law of the church. Its belief is based on the three historic formularies of the English church (the Thirty-nine Articles of Religion, the 1662 Book of Common Prayer and the Ordinal) together with the Canons of 1604, the resolutions of Lambeth Conferences and the reports of certain commissions and committees. The law has to correspond with the faith and doctrine of the church as expressed in these foundation documents.

This book is of interest at various levels. The first level is as a text book setting out the law of the Church in Wales, and (for historical reasons) the law of the Church of England up to 1914. The material about the formation and structure of the Governing Body (which makes legislation for the Welsh church) and its Regulatory Body (which owns its property) will naturally be of particular interest to members of the

Welsh church, but the discussion of the development of church law in the Church of England up to 1914 (and to some extent 1920) will be of general interest.

The second level at which this book can be read is as a source for consideration of issues which would (or which might) arise if the Church of England were to move towards disestablishment. At this level the book has additional topicality and importance. The author does not directly discuss disestablishment of the Church of England. That is not his topic. Nor does he set out to 'attach footnotes' to the text in order to bring in issues about the English church. To have done so would have been to deviate from his task of setting out and discussing only the law of the Church in Wales. But inevitably a reader who has any interest in the topic of possible disestablishment in England (and the issues which might be raised) will find himself considering that topic.

Of course it is impossible to make direct comparisons between what happened for the (then) four dioceses in Wales in 1920 and what might happen to the forty-four dioceses of the Church of England. This is not just a matter of a difference of scale. A major difference would lie in the motivations towards change. The fundamental objective of the change in Wales was the separation of the Welsh dioceses from the English ones. Disestablishment was not the primary aim. It was a consequence of the separation. The pressure for separation was an expression of emerging nationalism, and was of social and political origin rather than theological and spiritual origin or for the better management of the church. The majority of the leaders of the Welsh church were opposed to the change, but had it thrust upon them.

But in terms of the effects of disestablishment, and the structural alterations which took place in the Welsh church to accommodate it, there may be much to learn. The Church in Wales had to bring into existence a written constitution to deal with all aspects of its structure and life. In 1914 it did not have an archbishop and it did not have any provincial structures to enable it to function as a separate church. Those particular problems would not arise for the Church of England, but there would be other problems. Disestablishment would involve altering the existing legal arrangements relating to overall authority, under which the sovereign is the Supreme Governor. Loss of that feature would presumably call for a redefining of the position of the two archbishops. The special relationship of diocesan bishops to the sovereign (signified by their homage prior to confirmation of election) would presumably be affected. General issues of authority in the Church of England might be raised. These would presumably have to be dealt with in a written constitution. That might provide an opportunity (which some might welcome and others not) for reconsideration of other relationships and structures within the Church of England.

In the Welsh church the matter of authority was dealt with by the (then) four diocesan bishops agreeing to elect one of their number to be their archbishop (they chose the bishop of St Asaph). But under the Constitution many of the functions normally associated with an archbishop are not exercised by him alone but are exercised by the (now) six diocesan bishops acting jointly. This collegial approach would probably be unworkable where there are two provinces and a total of forty-four diocesan bishops. So a constitution for the English church would presumably have to make a different provision about overall authority in the church and about other relationships involving authority at lower levels.

Some other effects of disestablishment are discussed in the book. The status of clergy as office holders having authority in their parishes would alter. The existing balance in matters of legislation between Parliament and the General Synod of the Church of England would come under scrutiny. As the writer points out, the ultimate *magis-*

*terium* (government) of the Church of England is vested in the sovereign in Parliament, despite the ceding by the Church of England Assembly (Powers) Act 1919 of certain legislative powers to Church Assembly (now General Synod).

Another major area for scrutiny would be whether historic churches and cathedrals should remain the property of the church or should pass into the ownership of the state. That was a question which arose in the 1914 legislation for the Welsh church. It was resolved by a compromise under which the churches themselves remained the property of the Welsh church and became vested in the Regulatory Body, but churchyards were treated as state property and became vested in the local authorities in whose area they were situated. Some church possessions became the property of the University of Wales (as a body representing the state). Later the transfer of churchyards did not prove successful and they were returned to church ownership by the Welsh Church (Burial Grounds) Act 1945. In England, where about three-quarters of all churches are listed under the Planning (Listed Buildings and Conservation Areas) Act 1990, it is possible that in the event of disestablishment the state would lay claim to many churches as part of the nation's heritage. Even if ownership itself did not pass, the state might seek to withdraw the church's exemption from listed building control. If that were to occur the Church of England would be left with a duality of control, and those wishing to alter listed churches would have to apply to a state authority as well as to an ecclesiastical one.

In the process leading to the 1914 Act there were also questions over who should own the other historic assets of the church (derived for example from endowments and glebe). The matter was settled by the state taking all assets acquired by the churches prior to the Reformation and leaving the remainder in the hands of the church. That was done on the basis that prior to the Reformation church and state were one for this purpose, whereas after that time any donations to the church or acquisitions by it were intended to be for the church as a separate body.

The book also contains much of interest in relation to the history of church courts and the law applied in them. There is discussion about whether judges who are not clerically ordained should ever make judgments in cases involving matters of doctrine, as they did in the Court of Arches and in the Privy Council until relatively recent years. To some extent this is still a topical subject as both the Welsh and English churches continue to modify their disciplinary procedures. By the 1914 Act the then existing jurisdiction of the Welsh ecclesiastical courts was abolished, but the Church in Wales was given permission to establish new courts under its Constitution. Three higher courts have been established, the Provincial Court, the Special Provincial Court and the Supreme Court. There are also archdeacons' courts and bishops' courts. The diocesan bishops appoint all the judges of the various courts. A bishop also appoints the chancellor of his own diocesan court. The jurisdiction of the various courts extends to the laity since they, as voluntary members of the Church in Wales, are bound by the laws of the church equally with the clergy under section 3(2) of the 1914 Act. By contrast, in the Church of England the laity are not under the jurisdiction of church courts. This is because historically the laity never consented to be so bound and because the courts were established in pre-Reformation times when all parishioners were required to attend church and did not become members of the church by their own voluntary acts. In practice the only lay people who are likely to come before the church courts in Wales are members of the Governing Body or Representative Body, parochial church councillors, church wardens and persons holding other offices. Nevertheless the issue in principle of whether voluntary lay members of a disestablished church are bound by its laws and subject to its courts is one which might arise in discussions about disestablishment,

and the Welsh experience would be studied to see what lessons could be learned from it.

Other topics in this book which may be of considerable interest to both Welsh and English church lawyers are the following: what exactly is a church; to what extent is a church (as a body) subject to the jurisdiction of the temporal courts (including judicial review); canonical obedience; the teaching authority; the *ius liturgicum*; what makes a person a member of a church; does membership carry with it any obligation to believe (and if so what); the law about the ordination of women as priests; the law relating to the Provincial Assistant Bishop (equivalent to Provincial Episcopal Visitor); the disciplining of clergy; whether clergy have an obligation to solemnise the marriage of non-believers; the effect of clergy being members of the PCC (an essentially lay body); pastoral reorganisation; exclusion from Holy Communion; protection from loss of office for clergy and lay workers; the bishop and the chancellor in the faculty jurisdiction; the law of the churchyard; the law of the parsonage house; the legal status of diocesan quotas; cathedrals and their chapters.

Reading this book will provoke much useful thought on topical issues in both churches. It provides a solid base of legal information. Some will wish to have it on their bookshelves as a handy and readable textbook of church law. Others will use it to assist their thinking on unresolved legal and structural issues in the two churches. Still others will use it as an index of issues which might arise in a forthcoming debate about disestablishment of the Church of England. The book is confidently recommended for all or any of these purposes.

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*CREATIVE RE-USE OF BUILDINGS* by DAVID LATHAM, Donhead Publishing Ltd, Lower Coombe, Donhead St Mary, Shaftesbury, Dorset SP7 9LY, 2000, xx + 232 & vi + 206 pp (two volumes) (hardback £80) (ISBN 1 873394 33 0)

I have long thought that the almost knee-jerk reaction against any form of modern architecture is both ill-informed and unfair. These two volumes confirm me in that belief. The author (whose head appears as a cast top to a drain pipe in the new Jewellery Business Centre in Birmingham) sets out his stall as follows:

“Creative Re-use” is more than just the conversion or rehabilitation of a property for a new, or continued use. It is a process that harnesses the energy and quality of the original building, whether of special architectural interest or simply a work-a-day redundant building, and combines this with the new energy and activity that the new use brings. The balance between the existing building and the new use is variable dependent upon character, condition and the needs of the user. The aim is to achieve a harmonious balance celebrating both.’

He then goes on to demonstrate how that has been achieved in buildings as diverse in their origins as warehouses, railway cottages, a farm, water tower and prison—as well as a theological college, an abbey and, of course, churches. He writes with lucidity but his brief is delivered less in lengthy prose than in case studies backed up with numerous illustrations (sixteen colour plates and 400 black and white illustrations). The result is very approachable and a first rate example of book design and publishing. Every time I open these books I find my heart lifted.