Frank Cranmer, Mark Hill QC, Celia Kenny and Russell Sandberg (eds)


Rowan Williams, in a Foreword to this Festschrift of eighteen stimulating essays, notes that over the last quarter of a century questions of Law and Religion have been asked with increasing urgency and topicality. He affirms that many of the most serious and credible answers have come from Professor Norman Doe and his circle. The work of Norman Doe, essentially the founder of the Centre for Law and Religion in the University of Cardiff, is the theme of this significant book of ‘interdisciplinary reflections’. In addition to chapters from the industrious editors, there are other contributions that admirably reflect the work of the wider circle referred to by Rowan Williams. The key to understanding all these essays, inspired by the extensive research and writings of Norman Doe, is interdisciplinary dialogue and the comparative method. As with most Festscritfen, there are sometimes partial repetitions of themes and the occasional suspicion that a particular contribution might have been, in its original form, composed for another context. But neither of these criticisms substantially detract from the cumulative force of the volume which the opening and concluding chapters effectively focus.

Frank Cranmer provides a bibliography of Doe’s published works from 1987 to 2017. Doe’s range is wide, from the enforceability of non-legal rules and his doctoral thesis reconstructing an understanding of late English mediaeval canon law to, most recently, the legal status of English Cathedrals. In between came canonical studies of the Church in Wales, the Church of England, the Anglican Communion and ecumenism as well as significant studies of religion and civil law. Doe is currently working on comparative religious law and interfaith dialogue.

Mark Hill describes Doe’s activity under the heading ‘renaissance and re-engagement’. Hill also stresses the change in landscape since Doe’s pioneering work with the innovative Cardiff LLM, the first taught degree in Canon Law since the Reformation in England and Wales. Above all, there has been what Hill calls a ‘seismic shift’ – at least in the Anglican mind-set – from perceptions of ecclesiastical law as negative and restrictive, divorced from its historical and theological roots, to a creative understanding of law as expressing the identity of an ecclesial community. The latter approach is illustrated in Doe’s work on the principles of canon law common to the Anglican Communion (a modern ius commune) as constituting an ‘instrument of unity’ for a divided Anglican Communion. I entirely agree with Hill, Doe and other scholars of the same
mind, but I regret that the seismic change in Anglican attitude to ecclesiastical law has not as yet penetrated to all parts of the Church. Far too many Anglicans, especially ordinands and younger clergy, still simplistically regard canon law as entirely negative and somehow an antithesis to the Gospel of Jesus.

Mark Hill usefully summarizes the contribution of the other essayists. The four chapters of Part One assess the changing foundations of the discipline. Celia Kenny traces recent judicial definitions of religion, starting with the late Roger Toulson’s now famous ‘expanded’ definition in the United Kingdom Supreme Court. Richard Helmholz analyses five little known mediaeval cases in the Diocese of Hereford, and David Seipp redraws an understanding of ‘trust’ and ‘conscience’ in early canon law. Russell Sandberg draws on Niklaus Luhmann’s sociological theory of law to show that Doe takes a very similar approach. This has an important corollary: sociologists and lawyers ought to be in dialogue, but are often not. I would add: also ecclesiologists and lawyers. Sandberg notes that tensions between religion and law can be eased by such a social theory of law. He instances the debates about faith schools and the ‘establishment’ of the Church of England. Law and religion both need to be taken seriously as autonomous social systems. This framework is seen as a major achievement of Doe.

Part Two examines church government and ministry in canon law. Doe was the first to recognise the importance of ‘quasi-legislation’ or regulatory instruments as an important source of governance. Paul Colton explores this from within his own Church of Ireland, with very extensive notes to support his argument, showing the dramatic increase in the utilisation of quasi-legislation in the last half-century. Anthony Jeremy explores the growth of both canon law and regulation within the Anglican Communion. He laments the neglect of canonical studies as preparation for ordination. In theory the current Church of England syllabus now includes such study at differing stages of ministry. But Jeremy is surely right to complain: as yet the actual provision of such training is hit and miss. Again, the widespread denigration of ecclesiastical law is in part to blame. Jeremy also stresses Doe’s crucial part in the drafting of the proposed Anglican Covenant, which though not dead, seems now to be in a terminal state. He also offers an admirably abbreviated history of early canon law and its later Anglican development. Frank Cranmer tests Doe’s thesis that there is an underlying similarity between all systems of church regulation by looking at smaller church communities: in particular the Quakers, Unitarians, the non-Subscribing Presbyterians, Christian Scientists, Mormons and Jehovah’s Witnesses. He also looks at the Church of Scotland. All have canonical norms

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