Article Reviews

Legal Flexibility and the Church's Mission

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On my shelves, bought second-hand many years ago, sit two similarly titled older works on what Will Adam calls legal flexibility: Sparrow Simpson's *Dispensations*¹ and the Report of a Commission appointed by the Archbishop of Canterbury in 1935, *Dispensation*.² The former is in large part an Anglo-Catholic critique of legal flexibility in relation to the proposed ecumenical relaxation of the rule of episcopal ordination in the South Indian Re-union Scheme. The second opens up the possibility of legal flexibility in precisely this area, though with dissentient reports from the Bishop of Oxford, Kenneth Kirk and, consistently, from Sparrow Simpson himself.

Nothing serious has been written by Anglican scholars about such legal flexibility until the arrival of Adam's welcome study, which is much wider than simply the ecumenical implications of flexibility, but nevertheless takes account of the Ecumenical Movement and in particular recent Anglican agreements with other churches as a major part of its logic. Adam's study is itself done on a comparative method with significant examination of the Roman Catholic provision for dispensation from

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particular canons and the comparable but far from identical Orthodox concept – or concepts – of economy. This work therefore spans not only ecclesiastical and general law, but also ecclesiology and ecumenism, and is most welcome for that. It is to be hoped that it will spark discussion and debate between lawyers, ecclesiologists and ecumenists.

Adam opens his study with an examination of terms and concepts. By way of almost a preliminary apology he notes that dispensation from law, apart from dispensations built into particular canons or legislation is said to be foreign to English Ecclesiastical Law, at least today; in particular, a claim often made until relatively recently that Church of England bishops could exercise an inherent jus liturgicum. He notes that the concept of economy is Eastern rather than Western and so is largely unknown to the Anglican tradition other than in relation to the pre-Second World War discussions already referred to, where the Orthodox understanding of economy became for a while the subject of some Anglican attention. Dispensation is explained as a legal process in which an individual is relieved from the duty of complying with a particular law, exercised usually but not exclusively by a bishop. Economy is the action of a bishop or a synod of bishops in a wider and less precise relaxation of law. Dispensation and economy are exercised for an individual’s good but also for the good reputation of the Church, where rigorous compliance would itself lead either to injustice or to other serious damage to the Church and its mission in society. Both concepts are distinct from desuetude, where a law becomes obsolete and can no longer be applied.

Adam looks naturally at such flexibility in the Early Church. Dispensation is the normal though not universal Latin translation of the Greek New Testament’s oikonomia. The Church is the steward of the household of God, so dispensation and ‘economy’ are part of the good management of the Church. Marriage discipline (the Matthean exception to divorce and Paul’s allowance of the re-marriage of new Christians) and dietary regulations (Paul on meat sacrificed to idols) are already seen to be examples of flexibility in the New Testament. One might add to Adam’s list that the variant (the so-called Western Text) reading of Acts 15 may indicate in its omission of the requirement of kosher food that the redactor(s) of this manuscript tradition of Acts reflected a greater pastoral exercise of flexibility than those responsible for the (probably more original) Eastern transmission of the text (arguably in Alexandria). In addition to marriage and dietary law, the Early Church also exercised flexibility in relation to the reconciliation of heretical and particularly schismatic groups. In the fourth and fifth