

*the Church*). While Hooker was defending the Elizabethan settlement against the Puritans, Field was defending it against Rome—probably this is why the Anglo-Catholic Keble preferred to republish Hooker rather than Field and why Anglican Evangelicals today would find Field more congenial. Also some distinctions among the Disciplinarians (or Puritans) would have been helpful. They tend to come across as the bad, if not the mad, boys. But Puritans like Richard Baxter and John Owen were in the same league as Hooker and Field—spiritual and intellectual giants. And even those who demanded too much from scripture, undoubtedly were correct in criticising what they found on the ground. The tragedy of the late sixteenth and early seventeenth century was that both sides were right. The magisterial Anglican Reformers were often theologically more precise. But pastorally the Puritans often had the edge. But these are minor quibbles. Here is a book well worth reading.

The Revd David Holloway, Vicar of Jesmond, Newcastle upon Tyne

*FAMILY, LAW AND RELIGION* by CAROLYN HAMILTON, Sweet and Maxwell, Modern Legal Studies, 1995, xxix + 366 pp (paperback £ 9.95) ISBN 0-421-45860-7.

There are a number of surprising, yet welcome, aspects that may strike a reader of *Family, Law and Religion*. Firstly, it is surprising that there does not seem to have been any other modern work of this depth dealing with the crossover between the family, the law and religion. This is particularly surprising given that much of modern family law in England and Wales was born out of the jurisdiction of the ecclesiastical courts. In addition, as the wealth of detailed material admirably marshalled by Carolyn Hamilton demonstrates, it is surprising that no other modern author has sought to draw together the law on this important area of family life.

Further expressions of surprise may arise from a realisation that the author has produced this substantial work, whilst at the same time holding the posts of senior lecturer in law at the University of Essex and Director of the Children's Legal Centre, whilst also running her part-time practice at the bar and being a mother to her three daughters.

The final, and perhaps most relevant cause for surprise for the purposes of this review, is that, despite the density of material covered, this book is a jolly good read.

The principal aim of *Family, Law and Religion* is to discover how attempts to provide for religious freedom at both national and international level affect the family (in particular families from minority religious groups who seek to live according to their religious values and beliefs). Throughout the book a detailed comparison is made between the approach of the common and statute law in England when compared to the position in the United States. In the one jurisdiction there is an established Church but no written constitution, in the other there is a written constitutional guarantee of free exercise of religion with no established Church.

The preface stresses that, as a lawyer primarily interested in child law, the author was particularly concerned to see whether a written constitution places too great an emphasis on parental rights and too little on the need for flexibility in dealing with the changing needs of children.

Chapters relate to the development of religious freedom, marriage, divorce, the upbringing of children, custody and contact with children, adoption, and education. In short, the impact of religious issues upon the full spectrum of family law is considered in detail. Extensive reference is made to case law on both sides of the Atlantic. As might be expected from an author who is well known as a leading children's rights lawyer, the operation of the domestic law in each jurisdiction is measured against international instruments, in particular the UN Convention on the Rights of the Child and the European Convention on Human Rights.

Space does not permit more than one example of the approach adopted to each area covered. When considering the upbringing of children, the central question considered is how the right of a parent to determine a child's upbringing according to his religious beliefs is balanced against the right and duty of the state to protect children from harm and to act in their best interests. Both jurisdictions have well established systems of child protection legislation, in which pursuance of a chosen religious belief is subordinated to the overriding need to protect a child from harm. The author is particularly interested to detect whether the approach in England, with its established church, differs from that in the United States.

Examples of statute law proscribing certain religious practices are to be found in both jurisdictions: in the United States, snake handling (a central tenet of the 'Holiness' Church) is outlawed; in the United Kingdom, female circumcision is unlawful following the Prohibition of Female Circumcision Act 1985. But it is to the case law, which in turn provides the detailed examples of how courts have sought to strike the balance, that the interest of the reader is drawn.

Case law in England and Wales, for example, within the wardship jurisdiction, and latterly under the Children Act 1989, concerning the dilemma arising from cases where Jehovah's Witness parents refuse permission for their child to receive blood transfusions, is covered in full. The commentary is informed, and enhanced, by regular reference to articles in legal journals and texts.

The ground on this subject, as on every other covered within the work, is thoroughly tilled, with the result that the reader is given a comprehensive and digestible account of the law.

In addition to providing a guide through the maze of case law on each of the subjects covered, *Family, Law and Religion* moves to the higher ground for an overview of the subject. The conclusion is drawn that the lack of a written constitution in England, combined with a well developed *parens patriae* jurisdiction, appears to result in a more child-focused approach in England than in the United States. The absence of a written constitution is seen as liberating the English judges to provide more protection for the child on those occasions when the rights of parents to bring up children according to their religious beliefs, conflict with what is seen to be in the best interests of the child.

This reviewer has no hesitation in recommending this work both to the general reader and to the practitioner who may need a comprehensive analysis of the many areas in which the interests of the law, the family and religion coincide.

Andrew McFarlane QC

*CHRISTIAN PERSPECTIVES ON LAW REFORM* edited by PAUL R. BEAUMONT, Paternoster Press, 1998, xiv + 154 pp (£14.99) ISBN 0-85364-852-2.

This book has emerged from the Lawyers' Christian Fellowship, having originally been conference lectures. As an amateur in matters legal, I found it well worth reading, both for the information which it contains and for the stimulus it provides to engage Christians with the actual manufacturing of law. It is all very well praying for justice-and-peace, but how do you enshrine the prayer in law? Many will be fairly familiar with the attempts to express Christian social responsibility in areas such as divorce and 'age of consent', but here are less well-trodden and more collective paths such as the environment and company law.

Quite why the particular subjects were chosen is a bit obscure but I guess they show the interests of the participants at the time. For that reason I would have liked a final chapter which drew the others together and reflected on theoretical lessons learned. Neither the foreword by Lord Mackay nor the short introduction by the