

for a comprehensive approach that promotes an understanding of the individuality of the child. Certainly, her assessment of the some of the decisions of the various commissions determining the scope of the right of a child to religious freedom is unflinching in its criticism.

The author cannot be faulted for the breadth of the subject matter. Indeed, part of her rationale for producing this work is because there is no other similar work in existence. However, at times the attention to detail means that sight is lost of the main premise. Whilst the author undoubtedly felt she had no option but to consider and assess the various international case law and conventions, it results in an overload of detail and creates a stilted feel. In addition, the conclusions of each chapter in which the various conventions are assessed have a similar negative and somewhat repetitive feel. The book is, as a result, harder to follow and thus the author's argument is weakened.

This work aims to stimulate debate about the right of a child to religious freedom. There is no doubt that it will add to the conversation, but perhaps in a less effective way than it might have done, because of the struggle the reader has to maintain a focus throughout on the ambitious underlying premise.

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Church and State in the Post-Colonial Era: The Anglican Church and the Constitution in New Zealand

NOEL COX

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Recent years have witnessed a dramatic growth of literature in the field of law and religion. The study of religion law, State law applicable to religion, has burgeoned domestically and internationally, not least with the emergence of the Law and Religion Scholars Network in the United Kingdom, and the International Consortium for Law and Religion Studies. The focus of the literature in this area is principally on religious freedom, not only on national systems of religion law (and increasingly comparisons of these) but also in international law and religion. The study of religious law, the rules of religious groups, has also developed across the faiths domestically (such as with the establishment of the Interfaith Legal Advisers Network in the UK in 2007), and internationally (with an important consultation on Jewish Law and (Roman) Canon Law in

Rome in 2006). Within the context of Christianity, whilst comparative church law (as between churches of different traditions) is rare, studies on the regulatory systems of individual churches are increasingly common, with books having been published recently on the laws of the Orthodox, Presbyterian, and Baptist churches. However, there have been few books on the laws of the individual churches of the Anglican Communion; books on the law of the Church of England, Church in Wales, and Episcopal Church in the USA (eg) are the exception.

Noel Cox's *Church and State in the Post-Colonial Era: The Anglican Church and the Constitution in New Zealand* falls broadly into this latter category. In this respect, its publication is timely. It marks the two hundred and fiftieth anniversary of the foundation of the Anglican Church there (in 1857). Importantly, the book also straddles the study of religion law and religious law. It is 'an exploration of some aspects of the legal authority of the Church, as a tool in exploring the relationship of church and State in a post-colonial world. It takes as its particular example the Anglican Church in Aotearoa, New Zealand and Polynesia, but examines issues and concepts which have a much broader, indeed, universal relevance' (p xii). The study proposes that New Zealand has been 'influenced by an English legal heritage and by inherited, yet indigenised, concepts and practices of constitutional law'. Moreover, the evolution of the British Empire into the modern Commonwealth 'can be seen as mirrored in the evolution of the Anglican Communion' (p xiii). Within these contexts, a key thesis is that the constitutional evolution of the Anglican church in Aotearoa, New Zealand and Polynesia has mirrored the constitutional development of New Zealand as a country to such a degree that the church may be classified as 'quasi-established'. Whilst the category is reasonably well-known, its application to this church is new, and counters the popular claim of the separation of church and state in New Zealand.

The book consists of six chapters. Chapter 1 explores sources of authority from an ecclesiastical perspective. There are sections on the sources of authority within the church; divine law as a superior source; and the history and origins of canon law. Chapter 2 deals with sources of authority from a secular perspective: the relationship between law and government; the legal position of the church; disestablished and non-established churches and the doctrine of consensual compact; the applicability of pre-existing canonical systems; the quasi-establishment of the church; and the treatment of the church in statute. Chapter 3 addresses the nature of legislative power in the church: its distribution and control; the General Synod and its composition; and legislative power and synodical acts. The chapter also discusses the effect of the Treaty of Waitangi 1840, the agreement between the British colonial authorities and the chiefs of the indigenous Maori people. The discussion explores incorporation of the Treaty principles into church law so that the church is run on a multi-cultural

model with authority distributed between the non-Maori and Maori sections of the church. Next comes Chapter 4 on the nature of judicial power. There are sections on dispute settlement; the jealousy of the common law; the ignorance of the nature of ecclesiastical jurisprudence; the courts in New Zealand; mediation proceedings; determination proceedings; outcomes; grounds of appeal; faculty cases; and the supervision by the secular courts and the interpretation of ecclesiastical legislation. Chapter 5 examines the nature of ministerial authority: episcopal ministry; and the ordained ministry of priests and deacons. The book ends with a general conclusion.

Two small comparative criticisms may be made of the book. First, in terms of religion law, the study focuses perhaps a little too much on the separation of church and state as the dominant model in contemporary understandings of church-state relations. Much is made in the study of the common (but for Cox, flawed) understanding of church-state relations in New Zealand as separationist. A brief excursus to the models of church-state relations law in Europe, for example, with its state-church, separationist, and cooperationist systems, might have provided a useful resource to counter these understandings. Secondly, as to religious law, it would have been good to see a little more on the position of the laws of the church in New Zealand in the context of the laws of other churches in the worldwide Anglican Communion (to which occasional reference is made). This might have added greater weight to the idea that the legal culture of the church has been greatly influenced by that of the Church of England. It would also have allowed a judgment to be made about the degree to which the laws of the church in New Zealand are consistent (or not) with the *Principles of Canon Law Common to the Churches of the Anglican Communion*. This articulates the similarities between the legal systems of the churches of the Communion. Whilst the document was launched at the Lambeth Conference in August 2008 (two months before publication of Cox) earlier drafts might have been employed to contextualise many of the themes explored by Cox (including the role of divine law in Anglican polity). Mention might also have been made of the many (often critical) responses coming from the Anglican Church in Aotearoa, New Zealand and Polynesia to the Anglican Communion Covenant project; there were several drafts of this available prior to publication of the book. Also, whilst there is much on governmental, ministerial and ritual aspects of church life, the book is not a general commentary on the law of the church: this still needs to be written.

All in all, Cox has done an excellent piece of work. The objectives of the book are rigorously fulfilled in sustained deployment of the legal materials. The book goes beyond positivism in its search for how the divine will is manifested through the institutions of the church and through the laws applicable to it, both secular and ecclesiastical. The book more than encourages us to take seriously the category 'biblical law' and how it relates to civil law, and to

grapple with the meaning of establishment, particularly its elasticity. From the discussion about the Treaty of Waitangi there is much to be learned by Anglicans worldwide about the juridical accommodation of unity in diversity. The volume is meticulously researched and the footnotes are a goldmine. It has an extensive and very helpful bibliography, which lists some important unpublished sources. Dr Noel Cox, a Professor of Constitutional Law at the Auckland University of Technology and a Barrister who also holds degrees in Theology, is to be congratulated on this original and hugely stimulating study, an invaluable lesson in how to blend the two fields of religion law and religious law.

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