

BOOK REVIEWS

Halsbury's Laws of England, 5th edition, vol 34: *Ecclesiastical Law*

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Butterworths Lexis, London, 2011, 1103 pp (hardback £469) ISBN: 978-1-4057-3814-9

For those who have worked since 1975 with volume 14 of Halsbury's Laws, and its many supplements, this new volume on ecclesiastical law has been long awaited. Volume 34 is distinctive because, unlike its fourth edition predecessor, it does not share space with any other subject. This is doubtless because of the increase in the amount of material that had to be accommodated, but it can rightly be said that the law relating to the Church of England, as the established Church, justifies what is, in essence, an encyclopaedia dedicated to it. Improvements in printing techniques since 1975 mean that this significant resource for lawyers and other researchers is attractively presented, and the style of index makes for easy reading.

Outsiders may regard the Church of England as stuck in the past, but even a cursory comparison of the fourth and fifth editions indicates what major changes have taken place in the structures and ministry of the Church between 1975 and 2011. The Table of Statutes reveals that the General Synod produced over 30 Measures in this period. Each of them is referred to in varying degrees of detail in a relevant section of the volume. For example, Measures introducing significant changes such as the founding of an additional diocese within the Province of Canterbury (Diocese in Europe Measure 1980) and the formation of the Archbishops' Council with its various powers and functions (National Institutions Measure 1998) appear as new paragraphs within sections 1 and 2 respectively. Changes in the law to enable women to be ordained as deacons and priests (Deacons (Ordination of Women) Measure 1986 and Priests (Ordination of Women) Measure 1993) have resulted in additional new paragraphs in section 4.

The new system of registration of rights of patronage (Patronage (Benefices) Measure 1986) has necessitated the introduction in section 5 of a series of new paragraphs clearly explaining the system and its procedure. On the other hand, in section 2(10) the terms of the Churchwardens Measure 2001 have been carefully worked into the existing paragraphs dealing with churchwardens, with appropriate annotation. The Pastoral Measure 1968, which featured largely in the fourth edition, was repealed by the Pastoral Measure 1983, and this in turn is repealed as from a day to be appointed by the Mission & Pastoral Measure 2011. So new paragraphs have been inserted and extensive updating has been carried out to bring section 5(5) up to date.

For the clergy, a major change has been the introduction of common tenure (Ecclesiastical Offices (Terms of Service) Measure 2009). A full explanation of its nature, Codes of Practice, regulations, capability procedures, references to employment tribunals and other related matters have been inserted into section 4 on Ministry.

The Church's buildings have not escaped the attention of the General Synod in the last 36 years. Section 3 on Cathedrals has had to undergo major rewriting as the result of the changes in the pattern of governance of all cathedrals, introduced by the Cathedrals Measure 1999, and the system for approving works to cathedrals, now contained in the consolidating Care of Cathedrals Measure 2011. Changes in the ecclesiastical jurisdiction over parish churches include the power given in 1991 to the consistory courts to grant injunctions and make restoration orders. The Care of Churches and Ecclesiastical Jurisdiction Measure 1991 also introduced the requirement that power to grant faculties in certain cases be granted to archdeacons. The practical workings of these and other changes, together with the current rules governing faculties, are fully explained and annotated in section 8.

Perhaps one of the most significant recent Measures, described in the final part of section 8, is the Clergy Discipline Measure 2003, which finally replaced the disciplinary system in the Ecclesiastical Jurisdiction Measure 1963 – one which proved to be extremely difficult to operate and hence became very unpopular.

Although many Measures are explained in depth, and the principles of interpretation are dealt with in paragraph 113, the provision in section 6 of the Interpretation Act 1978 that words importing the masculine gender 'should be construed to incorporate the feminine and vice versa' is not specifically mentioned. In the Church of England that is not the sole guidance on gender. On 10 February 2004 the General Synod initiated a change of approach to drafting by passing a resolution requesting 'that all future legislation of the Synod referring to offices be drafted (where legal and other considerations permit) so that gender neutral language is employed'. With an increasing number of women holding office in the Church, including churchwardens, ministers, registrars and ecclesiastical judges, the opportunity could have been taken to explain the Synod's approach towards the drafting of legislation, which has been observed in Measures and Rules enacted since 2004.

Meticulous work has gone into the updating of the eight distinct sections, with case law as well as Measures. The Human Rights Act 1998 is noted frequently, an appropriate reminder of the relevance and wide application of this important piece of legislation. Any volume of Halsbury's Laws is always a sound starting point but not necessarily the sole source of information on a particular aspect of law. Thus cross references to various books produced since 1975 (such as Norman Doe's *The Legal Framework of the Church of England*, Richard Helmholz's volume of the *Oxford History of the Laws of England* and Mark Hill's *Ecclesiastical Law*) are useful in this context.

The contributing editors, Chancellors Bursell and Kaye, were faced with a substantial task of recording all the new material within the standard Halsbury format: statements of principles supported by explanatory notes. There are times when the notes cover several pages, trebling or quadrupling the paragraph they support, raising the question whether more could have been included in the substantive paragraphs. In certain instances it would have made for easier reading, but no doubt there were commercial considerations affecting greater use of the larger font with a consequential increase in the length of the book. It is already noticeably thicker than its predecessor.

Overall volume 34 provides the answers to a wide range of questions on current ecclesiastical law. It is costly, but a good investment for those seeking to be well informed and recognising the advantage of having a composite reference volume of quality to hand.

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Nicholas of Cusa: A Companion to His Life and Times

MORIMICHI WATANABE, Edited by GERALD CHRISTIANSON AND THOMAS M IZBICKI
Ashgate, Farnham, 2011, xlv + 381 pp (hardback £75) ISBN: 978-1-4094-2039-2

This book is a thorough and comprehensive study of the life and times of Nicholas Cusanus (1401–1464), one of the shining lights of the fifteenth century. Nicholas was a Cardinal of the Holy Roman Church, jurist (both canon and civil law), philosopher, theologian, mystic and conciliarist reformer at the time of the Great Schism and after. There is certainly no excuse needed for publishing a book about him; even 550 years after his death, the last word has not been written on his career, accomplishments or thought.

Yet this book is not really about Nicholas of Cusa: it is an encyclopaedic collection of fairly brief essays about his context. After 12 essays on 'Ideas and events', there are 26 articles on individuals closely associated with Nicholas. The volume is completed by 32 papers on places that were significant in Nicholas' career. These essays range from 4 to 15 pages (with the average being 6 or 7 pages); there is a select bibliography at the end of almost every paper.

The very first of these essays, in the section on 'Ideas and events', is on canon law. Nicholas was a student in the Canon Law Faculty of the University of Padua from 1417 to 1423. The essay summarises the origins and development of canon