

law from apostolic times to Nicholas de Tudeschis (Panormitanus), a slightly older contemporary of Cusanus. It positively leaves one breathless reading through this brief survey, which concludes with a consideration of Nicholas' time in Padua. While Nicholas is located within the school (quite literally – it indicates where he was a boarder and the locations of classes), there is unfortunately no description of what the distinctive characteristics were of the Paduan canon law faculty in this period, particularly when compared to its older rival, Bologna. Many of the other essays are likewise laden with specifics, but somewhat lacking in helping the reader to get the big picture.

This is certainly not a book that one can read through from start to finish, but even a selective reading of these articles provides a panoramic – kaleidoscopic, even – view of the conciliarist era, the personalities (both Cusanus' allies and opponents) that populated Europe and the geographical setting against which the drama played out. This work is an unparalleled reference and a valuable introduction. But it is only an introduction, and invites the reader to follow the bibliographies to a fuller understanding.

The volume is the work of Professor Morimichi Watanabe, a massive intellect and internationally recognised Cusanus scholar who taught political theory at the University of Long Island in New York for almost half a century until his retirement in 2009. Those articles in this collection without any name are his, and many are revised versions of his contributions to the American Cusanus Society Newsletter (the publication of the society of which Watanabe was president). The remainder of the book is the product of six additional contributors. Professor Watanabe died on 1 April 2012, less than six months after the publication of this work; the volume stands not only as a compendium of his life's study but also as a tribute to him by his colleagues and students.

W BECKET SOULE OP

Griffin Professor of Canon Law, Pontifical College Josephinum, Columbus, Ohio

doi:10.1017/S0956618X12000890

Three Civilian Notebooks, 1580–1640

Edited by RH HELMHOLZ

Selden Society, London, 2010, lix + 184 pp (hardback £65) ISBN: 978-0-85423-128-7

This book, the 127th of the Selden Society's annual edited volumes of the sources of English legal history, takes a form familiar to that society's readers. It consists

of a learned introduction to the primary sources, followed by edited transcripts of the sources in both the original language and modern translation.

As the editor himself notes, in sharp contrast to the developing scholarship on the early common law, that relating to ecclesiastical law has remained largely reliant upon the official records of the courts in which it was practised. Here, though, we find an effort to put into print form the manuscript professional notebooks of the civilians who were practising in the ecclesiastical courts in the century after the Elizabethan Settlement. The notebooks of three civilians are chosen. The first was compiled by Sir Julius Caesar, a lawyer who, though most famous for his combat with Coke over the supremacy of Chancery, had before he rose to dizzy legal heights acted as a Commissary and first achieved success in the Admiralty Courts. If Caesar represents the London advocates, then the author of the second notebook represents that branch of the profession which congregated in Cambridge. Dr Thomas Eden was a fellow of Trinity Hall, Cambridge, an active proctor in the courts that sat in Cambridge, and a judge in the Court of the Archdeacon of Sudbury. In this position he was linked to the compiler of the final notebook, William Colman, who was Registrar of that Court. In Colman we find the humblest of our authors, since he confined his practice to Bury St Edmunds, lacked a university degree, and learned his craft as a clerk articled to a London proctor.

While a brief look at the biographies of the notebooks' authors itself reveals something of the diversity within the civilian profession, a closer examination of their contents tells us more. All testify to a small profession, separate to that of the common law, and finding its intellectual home in the Oxbridge colleges rather than the Inns of Court. None of the authors were writing with the aim of telling us about their professional colleagues, but we come across a number of these in the accounts of the cases and decisions with which the notebooks deal. As such, we learn something of the men who were practising in the period and are provided with leads for future investigation. Moreover, while the notebooks of Caesar and Colman are, like many of the other sources we possess, silent on the role of proctors, that of Eden focuses on those very proctors upon whom contemporary records and histories so rarely dwell. Eden's notebook is also of particular interest insofar as it reveals that the proctors in Cambridge – who would by many accounts be written off as the workhorses who occupied the lower echelons of the profession – in fact both discussed the law and courts in which they worked and appear to have possessed a grasp of the *ius commune* that was not much less sophisticated than that of the advocates at the top of the civilian profession. Further interest is provoked by evidence in the same notebook both that the absolute division between the two branches of the civilian profession was perhaps less absolute than is generally assumed and that civilians in Cambridge had personal contact with common lawyers and not infrequently discussed points of law with them. In all, then, these notebooks, as the editor points

out, highlight the need for further research both into the careers of the ecclesiastical judges who sat in courts other than those in London and into the lives of the proctors who practised in those courts.

In addition to shedding light upon the men who sat and practised in the ecclesiastical courts, the notebooks also tell us much about the ways in which these men approached their work and the questions and issues that they deemed important. Each notebook differs in its content and approach. That of Caesar focuses on the arguments advanced by advocates in cases and is largely concerned with the technical parts of the civil law and forensic technique. We cannot be sure why Caesar compiled his notes or whether he was involved in the cases that he commented upon. By contrast, Eden's notebook is clearly that of a man who was writing as he strove to learn the law. He was most concerned with procedure and proof, which, though they were the key concerns of the practising proctor, have been relatively neglected by historians of ecclesiastical litigation. Colman's notebook, perhaps the least interesting of the three except insofar as it reveals the life and world of the registrar, largely devotes itself to the opinions of advocates.

While diverse in their content and varying in their intellectual ambition, all three notebooks serve to highlight the extent to which, even after the Reformation, English civilians saw themselves as forming part of the wider *ius commune* tradition. Their contents show that English civilians continued to commence their quest for authority with the traditional Roman and canon law sources of the *ius commune*. They almost always coupled such texts with mediaeval commentaries. Yet the notebooks also show the extent to which English civilians were prepared to seek authority and illumination in more recent and diverse sources. All of the authors make reference to the works of English civilians. Similarly, all make frequent reference to local sources such as diocesan statutes, and all reveal an acceptance of statute as a valid source of ecclesiastical law.

Finally, and by no means least importantly, the notebooks give us a sense of the warp and weft of life in the period, and of the business of the ecclesiastical courts. They bear out, for example, both the importance of testamentary business and the declining number of matrimonial suits. All are also occupied with the efforts of common lawyers to impinge upon the traditional jurisdiction of the ecclesiastical courts, most obviously through use of prohibitions but also by their attempt to arrogate to themselves alone the right to interpret parliamentary statutes.

In conclusion, this volume makes a valuable and interesting contribution to the literature in this area. It does so first by making accessible a range of sources to which many scholars would not otherwise have ready access, and second by highlighting the significance of those sources and the contribution that they can make to future scholarship. Above all, the editor's introduction

provides an expert and learned guide to these sources and the possibilities that they offer.

CHARLOTTE SMITH

Senior Lecturer in Law, University of Reading

doi:10.1017/S0956618X12000907

Church and State in Western Society: Established Church, Cooperation and Separation

EDWARD J EBERLE

Ashgate, Farnham, 2011, xix + 197 pp (hardback £65) ISBN: 978-1-4094-0792-8

Religion–State Relations in the United States and Germany: The Quest for Neutrality

CLAUDIA E HAUPT

Cambridge University Press, Cambridge and New York, 2012, x + 210 pp (hardback £60) ISBN: 978-1-107-01582-1

As the titles suggest, these are comparative works. For his comparison, Edward Eberle, Professor at the Roger Williams University School of Law, chooses the UK, Germany and the US to represent the established Church, the co-operative and the separationist models of his title respectively. The two areas of exploration are personal religious freedoms and Church–state relations in each of the countries. Claudia Haupt, a Professorial Lecturer in Law at the George Washington University Law School, explores how the US Supreme Court and the German Constitutional Court have deployed the notoriously polyvalent concept of neutrality in their constitutional law. Haupt traces the concept of neutrality through cases on religion in the classroom and religion in the public square.

Eberle chooses to begin his exposition by exploring the history of each country, thus providing necessary context for the subsequent chapters. This historical beginning neatly condenses the relevant history of each country into short form, including everything from the establishment of the Church of England by Henry VIII through to the recent repeal of blasphemy laws and new anti-discrimination legislation in the UK. It covers Luther's posting of his 95 theses in Germany in 1517, through to the post-Second World War framing of the new constitutional order. And it outlines the American founding through to modern Supreme Court jurisprudence.

Throughout the book Eberle homes in on those things unique to each of the comparator countries and those things that they share. Though each chapter