

presenting full details in statistical tables in the appendices), the report relates them to the academic writings of social scientists and cultural historians, a guide to which is provided in a short but discriminating bibliography. The report ends with an account of the reuse of graves in one of the most traditional Christian churches, the Greek Orthodox, and an examination of the place of the body in contemporary sensibility. At its price I cannot say 'buy it and read it'. But I do say 'get a library to buy it so that you can read it'.

*CANON LAW IN LATE MEDIEVAL ENGLAND: A Study of William Lyndwood's Provinciale with particular reference to Testamentary Law*, BRIAN EDWIN FERME. *Studia et Textus Historiae Iuris Canonici* 8, LAS Rome (1996) x+164 pp. ISBN 88-213-0329-2.

A review by Robert Ombres OP (Blackfriars, Oxford)

Maitland estimated that Lyndwood's *Provinciale* had often been cited, often lauded, sometimes read. He also believed it capable of yielding more if it fell into the hands of one deeply read in foreign law-books.

Almost a century after Maitland wrote this, Mgr Brian Ferme has used the canonical expertise he has acquired in England and continental Europe, currently as professor of canon law and its history in Rome, to write a scholarly yet readable study of Lyndwood. The bibliography shows the depth and range of the research embodied in Ferme's volume, which has a similar title but surpasses by far Arthur Ogle's *The Canon Law in Mediaeval England* (London 1912), the nearest there was to a book on Lyndwood.

The initial three chapters situate Lyndwood (c.1375–1446) in his world, by sketching the state of canon law in medieval England and then outlining Lyndwood's life and his canonical masterpiece.

It was a life full of different responsibilities and varied achievements at home and abroad, almost a microcosm of an entire legal and administrative world as experienced by a learned man close to its centre. It requires a whole appendix just to list the benefices and offices held by Lyndwood. Let us simply note that he was appointed Official of the Court of Canterbury in 1417, became Keeper of the Privy Seal in 1432, and from 1442 was the bishop of St David's (Wales).

Lyndwood's wide experience as judge, administrator and diplomat must have been a preparation and an incentive to compile the *Provinciale*, at the urging of Archbishop Chichele. The outcome was an outstanding canonical work, combining a collection of the constitutions of the province of Canterbury from 1222 to his day with an elaborate Latin commentary. The texts of the chosen constitutions were arranged along the lines of the five books of Gregory IX's *Decretals*.

It was by means of this gloss, completed in 1430, that Lyndwood attempted to explain provincial law and its relationship to the *ius commune* of the Church and its chief European commentators. His references to decisions of the Roman Rota placed him in an already established tradition of involvement by English canonists with this papal court. Later lawyers and scholars, even after the Reformation, have had frequent recourse to Lyndwood's collection and to his gloss. The *Provinciale* was reprinted as recently as 1968.

At this point, Ferme turns from the general to the particular. The remaining four chapters are devoted to the English testamentary law of the period, concentrating on Lyndwood's approach to it. Close study is given to the restrictions placed on testamentary freedom (*'legitim'*) and to the testamentary rights of married women. As regards the latter, whatever the position according to Common Law, Ferme defends Lyndwood's favourable treatment of married women as

being a plausible and detailed attempt to justify his position so as to influence the behaviour of husbands.

Testamentary law was a good focus to have chosen because it reveals how local law and practice might stand in relation to the universal law of the Church on several matters of great importance to the individual and to society. In a detailed presentation that shows the complexity of Lyndwood's treatment, Ferme is also able to bring out his fascinating and extensive use of Roman law. Following an account of the executor's position, Ferme concludes that to a striking extent Lyndwood tried to reconcile the provincial constitutions and English practice with Roman law, especially where the Church's *ius commune* contained little if anything of relevance to the question.

Ferme's scattered observations on Lyndwood's method as a canonist would have been rounded off most suitably had he evaluated the *Provinciale* as a whole and at some length. This involves relating the kind of gloss written by Lyndwood to that of John Acton, his English predecessor who commented on the legatine constitutions, and to the writings of foreign canonists. Was Maitland right in supposing that Acton was very much Lyndwood's inferior in all those qualities and acquirements that make a great lawyer? It is also important to assess the use made in the *Provinciale* of theology, named theologians and countless Scriptural passages.

The assertion is repeated by Ferme that Lyndwood contributed to introducing continental humanistic standards into the language of official correspondence. If substantiated, this claim could shed light on the linguistic and juridical techniques adopted in his commentary. In any case, the undoubted fact that in the England of the time Lyndwood was writing a work of canon law which quoted the classical authors Cicero, Horace, Ovid, Quintilian and Aristotle is significant. In glossing the words '*Articulum mortis*' he remarks '*Item est quidam color Rhetoricus*' (1679 edition, p. 40). However, any attempt at classifying Lyndwood's method is complicated by the isolated nature of his task and his achievement.

In the 15th Century the *Provinciale* was already described as the 'golden and famous glose', but even the law graduate who said this found it to be 'diffuse, intricate with lawe and hard of intellecte' (Oxford, Bodleian MS Eng.th.c.57 f.3r). The passage of time has not simplified matters, and indeed we still lack a critical edition of the *Provinciale*. Mgr Ferme has now written a reliable guide to Lyndwood's diffuse and intricate commentary, in which Europe's medieval canonical learning found a late and unexpected flowering in England.

*CONFIRMATION, SACRAMENT OF GRACE: The theology, practice and law of the Roman Catholic Church and the Church of England*, JAMES BEHRENS. Gracewing, 1995, xvii+115 pp. (£7.99) ISBN 085244 3439.

A review by Alec Graham, Bishop of Newcastle

The author of this attractively produced work is a practising barrister who has a special interest in canon law and is churchwarden of a London parish. The title of the work accurately reflects its contents, and given the background and professional competence of the author, it is not surprising that its strengths lie in the material on the practice of confirmation and on legal matters connected with it. Fortunately, the sections on practice and law form by far the greater part of the book. Though there is some treatment of the practice and understanding of confirmation in other Churches, the author for the most part concentrates on practical matters and legal considerations in connection with confirmation in the Roman Catholic Church and the Church of England.