

# Canon Law: The Discipline of Teaching and the Teaching of the Discipline

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Professor Richard Helmholz is unrivaled both for his teaching of legal history and for his systematic research into the manner in which canon law was taught in the past. As my modest contribution to this timely *Festschrift* to mark Dick's work and achievement, I should like to touch on each of these aspects and venture some observations concerning the teaching of canon law, refracted through the prism of the history. In doing so I am pleased that I can draw upon the work of the Colloquium of Anglican and Roman Catholic Canon Lawyers who for more than a decade have engaged in systematic comparative analysis of the legal systems of their two traditions and, particularly the largely unpublished work in this area by the Reverend Robert Ombres OP of Blackfriars, Oxford and Professor Norman Doe, Director of Cardiff University's Centre for Law and Religion. Both have been fellow members of the Colloquium since its inception and, with Dick Helmholz, sit on the Editorial Board of the *Ecclesiastical Law Journal* which for upwards of a quarter of century have been key players in the renaissance in the study and teaching of canon law in the United Kingdom.

Let us start this exploration with a journey into history.<sup>1</sup> By the 1190s a law school had been established at Oxford, probably connected with the

1. For authoritative coverage, see J. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians and Courts* (Chicago, 2008).

ecclesiastical courts there and, whether or not Vacarius ever taught in Oxford, his *Liber pauperum* or digest of classical Roman law composed by the 1180s at the latest had become the staple of canon law students at Oxford.<sup>2</sup> The first known doctor of canon law there, in c. 1235, was St. Richard of Chichester, while William of Drogheda is the first known doctor of civil law in the same decade.<sup>3</sup> At that time the Cambridge canon law faculty was also established. Universities became very influential institutional concentrations of academic achievement, but canon law was studied, and had to be studied, elsewhere.<sup>4</sup>

Each law faculty in principle set its own curriculum, but the basic features were common. Lectures in Latin were the primary mode of instruction, and they were text-centered. Candidates for degrees had to hear a minimum number of lectures on each book in the civil or canon law corpus. Lectures followed in sequence the order of the texts. Later it was obligatory to comment on the ordinary gloss as well as the text. The core of the curriculum was Gratian's *Decretum* joined from 1234 onwards by the *Liber Extra* and, in time and with more papal legislation, Gratian's text became less central. Lectures sometimes included additional material from private decretal collections in circulation. England had been prominent in collecting and ordering decretals from the twelfth century. The academic year went from October to July, with lectures on week days. Hostiensis (d. 1271) described in his *Summa* the practice current at Bologna: a teacher ought to begin by explaining the *casus*, that is, the factual situation that gave rise to a particular law or canon. He should then read out the text, explaining its meaning as he went along, then point out analogous cases where the same rules might apply and contrary cases where they would not. He should then address particular questions that a particular passage might raise and how to solve them. Finally he should summarize the major themes (*notabilia*) of the text he was discussing and their application in

2. Vacarius (c. 1120–1198) was an Italian who came from Bologna in the 1140s to assist the Archbishop of Canterbury with administration and remained in England till his death. He practiced and wrote on law, and was a papal judge delegate.

3. For a perceptive portrait and appreciation see R. Helmholz, "Notable Ecclesiastical Lawyers: IV, William of Drogheda (c. 1200–1245)," *Ecclesiastical Law Journal* 16 (2014), 66–71.

4. J. Brundage, *Medieval Canon Law*, 54.

practice.<sup>5</sup> What Hostiensis described came to be known as the *mos Italicus*, the Italian method. The Paris faculty even prescribed the speed at which lecturers should speak.

In addition to formal lectures, law faculties also expected students to attend review sessions called *repetitiones*. These generally took place in the late afternoon or evening. The *repetitor* in charge of these sessions was often a senior student who went through the material covered in the morning ordinary lectures, commented on the main points, and tried to explain the more intricate technical issues. The students started to learn how to memorize large chunks of material required for both teaching and practice. There survives a fine set of *reportata* from Oxford which includes not only very complete *repetitiones*, but also some of the ordinary lectures of nineteen doctors.

After lectures, the most important learning exercise were disputations. They provided degree candidates in both laws experience in framing oral arguments on legal issues and responding to the arguments of others. One of the masters chaired disputations, and they were obligatory for both teachers and students in varying numbers. The presiding master determined the outcome with a reasoned solution supported by ample citations of legal texts. The masters also provided the official booksellers with a written record of their disputation for the archives and for sale.<sup>6</sup>

Rivers reflects that even though medieval universities also engaged in practices which might bring the student closer to real-life problems (*disputationes* and *quaestiones*), what was inculcated was more a mass of concepts and a mode of thought and argument. Education was through immersion in the authoritative texts as well as their subsequent glosses and comments.<sup>7</sup>

Bologna furnished the model for the Curriculum, which was replicated elsewhere. Oxford and Cambridge (unlike Bologna or Paris) demanded two years of attendance at lectures on the Bible for the J.C.B. The earliest

5. Odofredus, a thirteenth-century teacher of civil law, describes a similar teaching method: J. Brundage, *Medieval Canon Law* (London, 1995), 52.

6. See for example, the transcript of a Cambridge disputation about rights of presentation, identified in D. Owen, *The Medieval Canon Law: Teaching, Literature and Transmission* (Cambridge, 1990), 4.

7. J. Rivers, "Theology and Legal Education," in O. D. Crisp, G. D'Costa, M. Davies and P. Hampson, eds., *Christianity and the Disciplines: The Transformation of the University* (London 2012), 150–1.

Bologna statutes contain detailed directions for the schedule of lectures in civil and canon law and the time allotted for individual sections of each text. In the canon law curriculum, lectures on the *Decretum* and the *Liber Extra* were scheduled in two cycles, so that the students could hear two ordinary lectures each morning. In the afternoon the students also heard extraordinary lectures and attended review sessions. The statutes laid down provisions for the various books of Justinian's Code and Digest. On the days no ordinary lectures were scheduled, students could hear extraordinary lectures. By the fourteenth century, especially in England, universities were even pressing students with just a J.C.B. into service to give ordinary lectures.<sup>8</sup>

Helmholz, in his 2010 Lyndwood Lecture,<sup>9</sup> looked at lecture notes from the English universities; the records of disputations in the law faculties; notebooks compiled by students in the course of their studies; and commentaries on practice in the ecclesiastical courts which show something of the result of university legal education. From the evidence adduced, Helmholz concludes that the needs of medieval legal practice were not those of today and were met by university education, and that legal change did occur precisely through the "backward-looking" syllabus and how it was taught. The authoritative text was central. Canon law studies were related to those of (Roman-)civil law, and indeed the two laws in some ways amalgamated to form a *ius commune*.<sup>10</sup> The basic civilian texts, e.g. of Justinian, were retained in university studies even though much in them lost its direct relevance and application. It is less strange then, that after the Reformation although the English canon law faculties were suppressed, the teaching of canon law continued to some extent in the civil law faculty.

On this, Leonard Boyle was emphatic; competence in canon law was the goal, expertise in civil law the means. At Oxford, although there were distinct faculties of canon law and civil law, all were in fact ecclesiastical

8. L. Boyle, "The Curriculum of the Faculty of Canon Law," in *Oxford Studies Presented to Daniel Callus* (Oxford, 1962), 135–162.

9. R. Helmholz, "University Education and English Ecclesiastical Lawyers 1400–1650," *Ecclesiastical Law Journal* 13 (2011), 132–145.

10. Before admission to the status of lecturer in the canon law faculty at Oxford a candidate was to have heard lectures in civil law for at least 3 years. In order to become a bachelor in canon law at Cambridge it was the same: R. Helmholz, *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), 188–9.

lawyers. Irrespective of their affiliation, what they were about was canon law. It mattered little in the long run which of the two faculties one entered. The student of law at Oxford and Cambridge was a student of canon law.

There were provisions for different kinds of examinations and the awarding of different qualifications. The emergence of canonists as a profession is in part signaled by the formalizing of studies and the granting of distinct degrees in contrast to a much more fluid earlier situation. This professionalization also established an identity for canon law differentiated from theology and civil law.

As for degrees, in this too, Bologna was the basic model.<sup>11</sup> Students received the bachelor's degree without examination. Instead, advanced students upon nomination were appointed to incept, that is to start teaching. Inception automatically carried with it the style and title of bachelor. After teaching for a year or two, bachelors were eligible to proceed to the first of the examinations leading to a license, and then continue to the doctorate. The custom of using post-nominal initials started after the Reformation.

Honorius complained in *Super specula* (1219) that while trained theologians were in short supply, students were flocking to the schools of law in the hope that legal qualifications would make them wealthy. For all but twenty years of the long period 1333–1454, the See of Canterbury was occupied by a glittering succession of lawyers. The medieval popes included many lawyers. The clerical students at the Roman curia's own university, founded by Innocent IV in 1245, routinely studied civil law as well as canon law and theology, provided they had not yet been ordained priests. In time, monks could study civil law in their monasteries.

Despite significant contributions concerning the making, collection and ordering of decretals before 1234,<sup>12</sup> taken by some to be the time of the most original and distinctive contributions by English canonists to the history of canon law, medieval English canonists of note were few, and attracted little attention elsewhere.<sup>13</sup> An academic tradition of canon law never

11. J.C.B.: *iuris canonici baccalaureus*; J.C.L.: *iuri canonici licentiatius*; J.C.D.: *iuris canonici doctor*; J.U.D.: *iuris utriusque doctor*.

12. R. Helmholz, "Roger, Bishop of Worcester (c. 1134–1179)," *Ecclesiastical Law Journal* 15 (2013), 75–80.

13. J. H. Baker, *Monuments of Endlesse Labours: English Canonists and Their Work 1300–1900* (London, 1998) tells the story, beginning with the initial twelfth-century flow-

took hold in Oxford or Cambridge. William Paull, John Ayton and William Lyndwood were the most distinguished English canonists.<sup>14</sup> Helmholz has speculated as to the relative unimportance of English canonists: the dominance of common law; the geographical distance from Bologna, the absence of secular tribunals where Roman law was used, a distinctively Anglo-Saxon approach, coupled with the brevity of academic careers in underfunded faculties.<sup>15</sup>

The medieval universities of Oxford and Cambridge were essentially religious foundations, each with its own faculty of theology. Following the Reformation in the sixteenth century (and after it as a result of the Act of Uniformity of 1662) until the nineteenth century, in England there were religious tests for admission to Oxford and Cambridge universities which meant that only members of the Church of England were eligible to study in them. Oxford maintained this religious test until the University Reform Act of 1854. Those who did not belong or conform to the Church of England either studied in Scotland, or abroad (such as Protestant students at Utrecht or Catholic seminarians at the English College in Rome, founded 1579), or they attended the so-called "Dissenting Academies" run by Non-Conformists. For instance, from 1690 the "Presbyterian Fund Board" provided scholarships for ministry training at these, and from 1743 the Coward Trust funded the Daventry Academy within the Congregational tradition. The Schism Act (1714 to 1718) resulted in closure of several.<sup>16</sup>

However, the nineteenth century witnessed the establishment of secular higher education institutions, such as University College, London—its foundation in 1826 was opposed by the Church of England and it was not until 1836 that it acquired the right to award degrees. Today it has an Institute of Jewish Studies (established in 1959). In response, King's College, London was set up as a Church of England establishment, and the

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ering especially in cathedral towns. He has separate chapters on Paull, Ayton and Lyndwood, and also considers William Bareman and Thomas Fastolf. R. Helmholz, *Canon Law, 186–206* is an excellent survey of medieval English canonical scholarship.

14. Boyle, "Canon Law Before 1380," 556–7. The men that the Oxford faculty produced were able administrators, officials and practical legists and often possessed personal libraries rich in legal texts.

15. R. Helmholz, *The Canon Law*, 194–5.

16. See e.g. J. W. Ashley Smith, *The Birth of Modern Education: The Contribution of the Dissenting Academies 1660–1800* (London, 1954).

University of Durham was founded in 1832 under the control of the Dean and Chapter of Durham Cathedral. Religious tests were removed with the enactment of the Universities Tests Act 1871.

At the start of the nineteenth century, one ambition of the bishops of the established Church of England was that all clergy should be university graduates. The ambition did not come to fruition. Instead it was proposed that any non-graduates prior to ordination should have sufficient education for effective ministry in new theological colleges to be sponsored by the Church of England. Theological colleges were set up, for example, at Lampeter in Wales, to obviate the need for travel to Oxford and Cambridge. A centralized system of church examinations was introduced in the 1870s but the institutions were very much free in terms of their internal governance.<sup>17</sup>

Thus we move rapidly to the present day, where the teaching of theology in universities is academic rather than confessional. A small number of professorial chairs, somewhat anachronistically, are annexed to cathedral canonries and thus open technically only to members of the Church of England. Universities are public institutions usually set up by royal charter and funded by various public higher education funding bodies and councils.

### CLERICAL FORMATION

The training of ministers of religion is regulated primarily by the norms of religious organizations and those created by their own educational institutions. These address the establishment of such institutions, their governance, discipline within them (including academic discipline on the admission of students, the course of study, and exclusion of students), and their dissolution.<sup>18</sup> Institutions to train ministers of religion are also subject to civil law applicable to them directly or indirectly: for example, the law of trusts (applicable to their trust property); employment law (applicable to

17. D. A. Dowland, *Nineteenth-Century Anglican Theological Training: The Redbrick Challenge* (Oxford, 1997).

18. For Christian theological colleges and seminaries, see e.g. N. Doe, *Christian Law: Contemporary Principles* (Cambridge, 2013), 203–209.

staff who function under contracts of employment); and immigration law (applicable to students and ministers of religion from overseas).<sup>19</sup>

Denominational institutions—theological colleges and seminaries—provide in-house training, enable ministry students to attend courses on the basis of agreements with local or other public universities in their departments of theology and/or religious studies. These prepare students for qualifications either awarded or validated by a university. Whilst public universities subscribe to the Quality Assurance Agency, theological colleges of the Church of England, Methodist Church, Baptist Union of Great Britain, and United Reformed Church have all subscribed to a separate regime of quality assurance (which includes inspection, curriculum approval, and moderation).<sup>20</sup>

*Church of England:* According to the canon law of the established Church of England, candidates must be “called, tried, [and] examined” prior to ordination, and the Ministry Division of the Archbishops’ Council, and its Vocation, Recruitment and Selection Committee advises the Council and House of Bishops on ministry strategy.<sup>21</sup> The candidate must: have been involved with the Anglican Church for some time; consult his incumbent priest; contact his Diocesan Director of Ordinands, and obtain approval; attend the Bishops’ Advisory Panel and once approved may commence training. Provision is made for Initial Ministerial Education, Continuing Ministerial Education, funding for ministerial training, the validation of courses at Church of England theological colleges, their enjoyment of higher education funding, and the evaluation of new training proposals.<sup>22</sup>

19. For ministers of religion under UK immigration law, see D. McClean, “Immigration and religion in the United Kingdom,” in A. Motilla, ed., *Immigration, National and Regional Laws and Freedom of Religion* (Leuven, 2012), 247 at 251.

20. Quality Assurance and Enhancement in Ministerial Education: Inspection, Curriculum Approval, and Moderation—Handbook 2010 (e.g. in the Church of England the House of Bishop oversees inspection).

21. Canon C1; see M. Hill, *Ecclesiastical Law*, 3rd ed. (Oxford, 2007), par. 4.04.

22. House of Bishops’ Regulations for Training; Higher Education Funding (GS Misc. 990 (2011)); Funding Ministerial Training (GS Misc. 990A); Principles for the evaluation of new training proposals agreed by the House of Bishops in May 2010; Formation and Assessment in Curacy (approved by the House of Bishops in May 2010); The Learning Outcomes for IME (as approved by the House of Bishops in May 2005); see also The Hind Report: Formation for Ministry within a Learning Church, 2003.

The training delivered at Ridley Hall, Cambridge (founded 1881) is typical; the college is not part of the University of Cambridge but students there training for ministry may be awarded degrees of (and designed by) Cambridge University as well as qualifications validated by other public universities (such as Anglia Ruskin University).<sup>23</sup> Students under 32 who do not already have a theology degree must complete one of the following three year courses offered by the University of Cambridge: Bachelor of Arts (B.A.) in Christian Theology, “a full vocational degree in Christian Theology which leads to ordination”; Bachelor of Theology, “a vocational degree for Christian ministry leading to ordination” combining “theological and practical study”; and Bachelor of Arts in Theological and Religious Studies combined with a Certificate in Theology for Ministry: this two-year B.A. is “appropriate for [those] who want a more academic focus” and the one-year course “covers the ordination requirements for a theology graduate.” Those aged over 32, or those with a significant amount of theological study already, must complete one of the following two year courses (unless permission is granted for them to train for an alternative amount of time): Foundation Degree Award, “a vocational degree for Christian ministry leading to ordination” (made up of the first two years of the B.A. course); Bachelor of Arts in Christian Theology; the two year Bachelor of Theology; and the Certificate in Theology for Ministry. The three-year B.A. covers Biblical Hebrew; New Testament Greek; Psychology and Religion; Christian Culture in the Western World; Christian Ethics; Church History; Judaism, Christianity and Islam in Encounter; and Feminist Theology. There is also provision for optional modules in Judaism, Islam, Hinduism and Buddhism.<sup>24</sup>

*Church in Wales (Anglican)*: The training of those preparing for ordination in the Church in Wales is regulated by the norms of the church and the Bench of Bishops plays a key role in its oversight and the church administers a fund (derived primarily from the donations of the faithful) to train

23. <http://www.ridley.cam.ac.uk>; most residential students are training to be ordained ministers in the Church of England, but some are training for Ordained Pioneer Ministry (to work in “fresh expressions” churches).

24. [www.theofed.cam.ac.uk](http://www.theofed.cam.ac.uk); <http://www.ridley.cam.ac.uk/images/documents/courses/ba-tripos.pdf>.

candidates.<sup>25</sup> The church has one institution to train its candidates for ordination: St. Michael's Theological College in Cardiff. This is also recognized as a training college for lay, reader and ordained ministry by the Church of England and the Methodist Church and it works closely with the South Wales Baptist College.<sup>26</sup> Initial ministerial training can be either residential (the norm) or non-residential. For those who undertake residential training, the course taken depends on the individual's previous education, for example: a Diploma in Higher Education, a Bachelor of Theology degree, a Bachelor of Arts degree in Theological Studies or a Graduate Diploma in Theology. Non-residential students normally take a Diploma in Practical Theology.

*Catholic:* Clerical formation in the Roman Catholic Church is governed *inter alia* by the Code of Canon Law 1983 and particular norms (including those issued by national episcopal conferences, such as those published by the Bishops' Conference of Scotland in 2005).<sup>27</sup> Under the auspices of the Bishops' Conference of England and Wales, the National Office for Vocation exists to build a culture of vocation and to promote the calls to specific vocations, including the priesthood and the diaconate.<sup>28</sup> Clerical formation is delivered at several seminaries, such as Allen Hall in London.

*Methodist:* In the Methodist Church of Great Britain, training is compulsory prior to ordination.<sup>29</sup> Wesley House, Methodist Theological College, Cambridge, works in partnership with Cambridge University, Anglia Ruskin University, and Cambridge Theological Federation "to train presbyters, deacons and lay people for ministry in the British Methodist

25. N. Doe, *The Law of the Church in Wales* (Cardiff, 2002), 147 (the bishops) and 343 (the fund).

26. <http://www.stmichaels.ac.uk/index.php>. Ordination candidates often train outside Wales (at e.g. English theological colleges of which Wycliffe Hall and St Stephen's House in Oxford are popular).

27. See J. Conn, S.J., "Norms for Priestly Formation in the Latin Church: Universal and Particular," in N. Doe, ed., *The Formation and Ordination of Clergy in Anglican and Roman Catholic Canon Law* (Cardiff, 2009).

28. The inspiration for its creation is *New Vocations for a New Europe* 1997 (*In Verbo Tuo*).

29. See Doe, *Christian Law*, 82.

Church.” It is prescribed that “benchmarks are set by the Methodist Conference and the progress of each student is monitored by the local Oversight Committee of the Methodist Church.”<sup>30</sup>

As to curriculum, the Foundation Degree in Mission and Ministry comprises both content-based and practice-based modules. Optional modules include: Foundations in Christian Worship; Black and Asian Christian Theology; Pastoral Theology; and Introduction to Christian Mission.

*Baptist:* In the Baptist Union of Great Britain, candidates to train for ministry must satisfy various religious tests.<sup>31</sup> Bristol Baptist College offers a wide range of courses to prepare people for ordained ministry, youth or children’s ministry, ministry as a lay pastor, or those seeking to study theology their own development and growth.<sup>32</sup> There are three possible routes to ministry: a college-based course, congregation-based learning, and mission-context based training. Each of these routes “can be accompanied by different degree or diploma courses up to Ph.D. level.”

*Presbyterian:* Presbyterian churches have complex norms on the process leading to ordination, a process which is characterized typically by the participation of the local (Kirk) Session, the regional Presbytery, and the national General Assembly.<sup>33</sup> The normal route for initial ministerial training is the Bachelor of Arts in Theological Studies. In the Church of Scotland, potential Ministers of Word and Sacrament and potential candidates for Ordained Local Ministry go through the following process: the call to ministry (run by the Ministries Council); Vocations Conference (which involves Enquiry and Assessment); Extended Enquiry (which usually involves a placement); Local Review followed by a national Assessment Conference (including interviews by Church Assessors and a Psychologist Assessor).

*Islamic:* In the Islamic College, London, although there is no specific Imamship Program, the Hawaza Program “provides students with an excellent

30. <http://www.theofed.cam.ac.uk>.

31. See, by way of example, the information contained in “Called to be a Nationally Recognised Pastor” (Baptists Together, September 2013), available at [http://www.baptist.org.uk/Articles/368853/Called\\_to\\_be.aspx](http://www.baptist.org.uk/Articles/368853/Called_to_be.aspx).

32. <http://www.bristol-baptist.ac.uk>.

33. Doe, *Christian Law*, 83.

platform for a career as an Islamic lecturer and researcher or as a minister of religion.<sup>34</sup> The Hawaza Program consists of a Bachelor of Arts in Hawaza Studies plus Complementary Hawaza Studies. The Muslim College, London, is “a post-graduate Islamic seminary based in West London that is geared towards engagement with wider society by providing comprehensive studies of Islam to its students and visitors.”

*Jewish:* The Leo Baeck College, London, for example, offers rabbinical training for “Progressive Judaism.”<sup>35</sup> The normal route is the five-year Rabbinic Program consisting of academic studies, placements and apprenticeships, and vocational modules. For the Rabbinic Program, the “General Criteria for Admissions” include: appropriate motivation; academic ability to complete the program; willingness and potential to grow and develop through the program; religious commitment and personal integrity; dedication to “the Principles of Progressive Judaism;” and intellectual maturity. All rabbinic candidates are interviewed over a period of three days and this includes an academic interview, and structured and unstructured group interviews. Psychological assessment of the candidate is also required.

### TRAINING IN CANON LAW

The theological colleges and seminaries of the Christian denominations studied here usually provide that students training for ministry are required to be introduced to at least elements of their own systems of church law and church polity. Since its establishment in 1987, the Ecclesiastical Law Society has undertaken several initiatives to encourage the study of ecclesiastical law as part of initial and continuing ministerial education in the Church of England,<sup>36</sup> including a guide and teaching aid on canon law for the newly ordained—to meet the expectation of the Ministry Division of the Church of England that, at the point of ordination, candidates

34. <http://www.islamic-college.ac.uk>. Also, the Hijaz College Islamic University (Nuneaton near Birmingham) offers a Diploma in Islamic Law and the London University external LL.B.: <http://www.hijazcollege.com/>.

35. <http://www.lbc.ac.uk>.

36. *An Ordered Church: A Syllabus Introducing the Canon and Ecclesiastical Law of the Church of England*, Ecclesiastical Law Society in Conjunction with the Ministry Division of the Archbishops' Council (1999).

should “demonstrate familiarity with the legal, canonical and administrative responsibilities appropriate to the newly ordained and those working under supervision.”<sup>37</sup>

The guide asserts: “All clergy are, to a certain extent, practitioners of ecclesiastical law and should be aware of their legal responsibilities” on the basis that: “The general public are entitled to expect the same level of service and expertise from the clergy as they would expect from any professional person.”<sup>38</sup> Nevertheless, there is still no national formal freestanding provision in the Church of England itself, or its theological colleges, to train its clergy (as part of initial or continuing ministerial education) or its legal officers in the canon and ecclesiastical law they administer;<sup>39</sup> rather, the teaching is on an *ad hoc* basis. There are in UK law schools courses in canon law,<sup>40</sup> or aspects of it are treated in courses on law and religion.<sup>41</sup>

In the Catholic Church, the study of canon law as part of priestly formation is designed to enable seminary students to understand how canon law applies to every-day ministry as parish priests, for them to know, explain and apply the law with confidence in the decisions they make which affect people; teaching is also provided at a more advanced level in the faculties of canon law at pontifical universities to prepare those to be engaged in the exercise of administrative and judicial offices, and the licentiate (J.C.L.) takes three years.<sup>42</sup> The Sacred Congregation for Catholic Education provides that teaching should cover: the theological foundations of canon law;

37. The Ecclesiastical Law Society, in association with the Ministry Division of the Church of England, *Canon Law for the Newly Ordained: A Brief Guide and Teaching Aid*, L. Yates and W. Adam, 3rd ed. (2011).

38. *Ibid.*, 9, 18.

39. Canons of the Church of England, Canon G4: to qualify for appointment as provincial and diocesan registrars, candidates must be “learned in the ecclesiastical laws,” but no formal training is provided by the church; no such requirement attaches to candidates for the office of diocesan chancellor: Canon G2.

40. The Cardiff LL.M. in Canon Law deals critically with the laws of the Church of England and other churches in the global Anglican Communion, as well as comparative church law.

41. Ecclesiastical law appears in LL.B. law and religion modules at Bangor, Cardiff and Oxford Brookes.

42. J. Conn, S.J., “The teaching of Canon law in the Roman Catholic Church,” unpublished paper delivered at the 14th Colloquium of Anglican and Roman Catholic Canon Lawyers, Rome, 26–27 April 2013.

the application of canon law to concrete circumstances of pastoral life; administrative and judicial practice; and ecumenical aspects of canon law; also, canon law should be treated in the continuing education of clergy.<sup>43</sup> In terms of the purpose of training: “Competent canonists are needed in teaching theology, in the structures of diocesan curial offices, in regional Church tribunals, [and] in the governmental structure of Religious Families”; moreover: “even a priest who is directly occupied with the care of souls needs an adequate training in law to carry out suitably his pastoral ministry in the way a shepherd should.”<sup>44</sup> As to the methods of study: “Canon law should be taught in relation to the mystery of the Church as more profoundly understood by the Second Vatican Council. While explaining principles and laws, the point should be made plain, apart from anything else, how the whole system of ecclesiastical government and discipline is in accord with the salvific will of God, and, in all things, has as its scope the salvation of souls.”<sup>45</sup>

The Queen’s Foundation, Birmingham, teaches “Methodist law and polity” as a compulsory subject for all Methodist pre-ordination students as part of their leadership work; it is designed to introduce students to the concept of living within authority.<sup>46</sup> Teaching begins with the foundational documents, the Deed of Union (1932) and the Constitutional Practice and Discipline of the Methodist Church.

In the Church of Scotland, students in their years of ministerial training attend conferences at which “the Church’s practice on matters such as Baptism, Communion, Ordination etc. are taught” and in their fi-

43. Ibid; Conn cites the Circular Letter 2 April 1975, On the Teaching of Canon Law to those Preparing to be Priests, and other key instruments on the teaching of canon law such as *Sapientia Christiana* 29 April 1979, Art. 75 of which states: “A Faculty of Canon Law, whether Latin or oriental, has the aim of cultivating and promoting the juridical disciplines in the light of the law of the Gospel and of deeply instructing the students in these, so as to form researchers, teachers, and others who will be trained to hold special ecclesiastical posts.”

44. Circular Letter 2 April 1975 (supra).

45. *Ratio fundamentalis institutionis sacerdotalis* (Congregation for Catholic Education, 1970) 174; see Conn.

46. Rev. Helen Cameron, Oversight Tutor, Co-Director of the Centre for Ministerial Formation, The Queen’s Foundation, Birmingham (UK) (email 15 April 2013).

nal year all probationers are taught the “Church of Scotland Law.”<sup>47</sup> This study is “compulsory for all new entrants and for ministers coming from other churches and from other Presbyterian churches overseas” and is taught over four years.

In the Baptist colleges, the study of Baptist “polity,” “principles,” or “ecclesiology” is often a compulsory part of the course for ministerial students. One purpose of the course at the Bristol Baptist College, on Baptist History and Principles, is to ensure that “a genuinely Baptist Christian culture is ingrained into the way we do things and relate to one another.”<sup>48</sup>

### SUMMARY

There is no distinct body of State law in the United Kingdom which explicitly addresses the training of ministers of religion. This is in marked contradistinction to the position in continental Europe.<sup>49</sup> Historically, in the medieval period clergy obtained their theological education at the ancient universities in England and Scotland. Today most universities have faculties or departments of theology and/or religious studies. These are funded wholly or partly from public funds. However, following the Reformation in the sixteenth century, in England the bar to admission to the ancient universities meant that religious groups other than the Church of England set up their own “dissenting academies” or else their members trained for ministry abroad. The nineteenth century witnessed the rise of Church of England, Roman Catholic, and other theological colleges to train candidates for ordained ministry.

The twentieth century, and the religious pluralism which has emerged during it, has seen the rise of Islamic and Jewish colleges for the training of imams and rabbis. Broadly, these religious colleges offer courses for ministry candidates which are either validated by or delivered at the theology and/or religious studies departments of public universities (themselves subject to State higher education law and independent quality assur-

47. The Acts of General Assembly: [http://www.churchofscotland.org.uk/about\\_us/church\\_law/acts](http://www.churchofscotland.org.uk/about_us/church_law/acts)

48. Stephen Finamore (email 16 April 2013).

49. See F. Mesner, ed., *Public Authorities and the Training of Religious Personnel in Europe* (2014).

ance standards). Some religious colleges provide training in other faiths, civil culture and civil law. The colleges are subject to the general law (such as employment and charity) but may enjoy exemptions from equality law (to restrict admission to students within the faith in question). There are also specific rules in immigration law about ministers of religion and those training for this. The colleges may be regulated by means of trust deeds and other associated instruments which provide for their governance, inspection, admission, staff, property and academic discipline.

What is regrettably clear, however, is that education in canon law has become marginalized. The shift from the medieval position to the present day could not be more marked. Then canon law was a component part of the general law which was to be studied by all those wishing to practice law, as well as those called for ordained ministry. Today, in the Church of England in particular, clergy are routinely ordained as deacon and priest and then inducted into a cure of souls with only the most cursory knowledge of canon law. A few straws in the wind might tend to suggest that change is afoot. The achievement of the Ecclesiastical Law Society has been to rekindle an understanding of the importance of canon law to the mission of the church, and a form of “applied ecclesiology.”<sup>50</sup> The work of the Centre for Law and Religion at Cardiff University has revived canon law as an academic discipline. The unfortunate, but all too predictable, failure of the draft measure for the consecration of women bishops to achieve the necessary majorities,<sup>51</sup> demonstrated how the Westminster parliamentary model of synodical government had failed the church. There is hope for the future in the structured dialogue facilitated by trained mediators and the recovery of institutional consensus as a means of decision making, rather than adversarial engagement on “party” lines.

But this is not the only beacon of hope. The work of Richard Helmholz and others in tracing the historical basis by which the church legislated for itself and operated that law in practice shows that in terms of its sources and purpose, little is changed. As the current renaissance in the study of canon law takes hold, the recovery of a fuller understanding of the historic position of the law of the church in facilitating its mission

50. A term first coined by R. Ombres in, “Why then the Law?,” *New Blackfriars* 55 296–304.

51. M. Hill, “A Measure of Credibility,” *Ecclesiastical Law Journal* 15 (2013), 1.

and as a dynamic force in the ecumenical movement can be discerned. The contribution of Professor Richard Helmholz to this is significant, and I am pleased and proud to be able to record it within this volume.

