THE LAW OF HUMAN RIGHTS by RICHARD CLAYTON and HUGH TOMLINSON, Oxford University Press, 2000, vol 1, ccxxiii + 1670pp, vol 2 xxxiv + 285pp (Hardbound £145.00) ISBN 0-19-826223-X and Supplement (2001).

THE EU AND HUMAN RIGHTS edited by PHILIP ALSTON, Oxford University Press, 1999, xxiii + 946pp (hardback £60.00, paperback £29.99) ISBN 0-19-829809-9.

In common with much of the rhetoric of New Labour, the Human Rights Act 1998 —heralded in *Bringing Rights Home: Labour's Plans to Incorporate the European Convention on Human Rights into United Kingdom Law* (1996)—seems to have promised more than it has delivered. Where we have not been disappointed, however, is in the proliferation of books from all the mainstream legal publishers together with those on the fringes. These two publications, both from the redoubtable Oxford University Press, are of particular relevance to readers of this Journal.

Lord Bingham of Cornhill, now senior Law Lord although modestly styling himself Tom, contributes a Foreword to *The Law of Human Rights*. In it he recalls how the implementation of the Human Rights Act 1998 has assumed something of the character of a religious event: an event eagerly-sought and long-awaited but arousing feelings of apprehension as well as expectation. He recalls the advice of St Luke, 'Let your loins be girded about and your lights burning'. No reader of the work, which is of truly biblical proportions, can possibly be left with an ungirded loin or a dimmed light.

The relatively lengthy lead time between Royal Assent to the 1998 Act and its coming into force on 2 October 2000 provided much scope for commentators. Clayton and Tomlinson took an original and formulaic approach. After an expansive introductory section, the substantive chapters deal with each of the rights protected under the Act. There then follows a threefold discussion: first, of the right in English law before the Human Rights Act; then the law under the European Convention; and finally the impact of the Human Rights Act on English law. This leads to a very thorough and informed treatment of each of the subjects which is of value to academic and practitioner in equal measure. The volume is supplemented by an *apocrypha* containing materials as diverse as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women 1979 and the New Zealand Bill of Rights 1990.

In common with other books on the subject, the authors have engaged in a good degree of crystal ball gazing. Their commentary is robust, provocative and pragmatic. The volume was published barely a week before the Human Rights Act came into force. Of greatest value , however, is the Supplement which was produced in November of last year. It provides a masterly overview and detailed appraisal of the first year of the Act. It explores where the Act has been inventively used and, more interestingly, where it has proved to be of limited effect. It covers the rare occasions where declarations of incompatibility have been made (*R v Mental Health Review Tribunal, ex parte H* [2001] 3 WLR 512, and *Wilson v First County Trust (No 2)* [2001] 3 WLR 42) but suggests with some force that neither of these judgments is likely to stand in the light of the decisions of the House of Lords in *R v A (No 2)* [2001] 2 WLR 1546 and *R v Lambert* [2001] 3 WLR 206. The thrust of the speeches in the Judicial Committee are to the effect that the courts should strain (even to the inventive use of language) to find a compatible legislative meaning in preference to making a declaration of incompatibility. Continuing the extended metaphor of religion, Lord Slynn in *Lambert* spoke of the need to cull sacred juris-

prudential cows. Only time will tell how Church of England Measures will fall to be interpreted in the secular courts.

Whilst Clayton and Tomlinson's *The Law of Human Rights* is destined to become the standard work of reference for lawyer and commentator alike, *The EU and Human Rights*, deftly edited by Philip Alston, provides (so the Preface tells us) a wide-ranging survey of the European Union in relation to human rights, analysing the legal, policy, institutional and philosophical aspects of both the internal and external dimensions of EU activities. It is an ambitious project, nicely executed by specialist contributors who have been imaginatively chosen and whose writing is of uniformly high standard. The papers were designed to inform the deliberations of a *Comité des Sages* which duly produced in October 1998 the document *Leading by Example: A Human Rights Agenda for the European Union in the Year 2000*. This concluded that 'the fragmented and hesitant nature of many of its initiatives has left the Union with a vast number of individual policies and programmes but without a real human rights policy as such'. Ironically, the collective effect of the papers is substantially to address this lacuna.

Those with an interest in law and religion should turn to chapter 10, written by Professor Conor Gearty of King's College, London, and bearing the enticing title 'The Internal and External "Other" in the Union Legal Order: Racism, Religious Intolerance and Xenophobia in Europe'. Gearty identifies 'a hard seed of hate' which he fears may germinate into a thriving movement of racism and religious intolerance. He deals with problems of definition by reference, for example, to the UN General Assembly's Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (25 November 1981). He engages in a thorough historical, theoretical and practical discussion and calls for a re-vamped European Centre for Ethnic and Religious Equality, having an enforcement rôle in partnership with the Commission. This paper, in common with all the others, lifts our sight beyond the minutiae of the 1998 Act and into the wider social and cultural dynamic by which the structure and functioning of the EU will be affected in ways far more subtle that the single currency.

The curious will note that neither book was able to predict or even hint at the decision of the Court of Appeal in *Wallbank v PCC of Aston Cantlow and Wilmcote* [2001] 3 All ER 393, 6 Ecc LJ 172. Clayton and Tomlinson provide a useful critique in their Supplement but singularly fail to explain why they failed to see it coming. In the field of human rights, I cannot help thinking, the best is yet to be.

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THE MAKING OF GRATIAN'S DECRETUM by *ANDERS WINROTH*, Cambridge University Press, 2000, xvi + 248pp, incl.index (Hardback. £40.00/$64.95) ISBN 0-521-63264-1.

Few would dispute that Gratian's *Decretum* or, more properly, his *Concordantia discordantium canonum* (Concordance of discordant canons) is the seminal legal text in the development of canon law as an intellectual discipline in the western Catholic Church. Traditionally, it has been ascribed to the twelfth century, being produced early in the 1140s in the nascent university law school at the Italian city of Bologna, its production being a key event in the renaissance of legal learning which took place there during the two centuries bounding either side of Gratian's work. The central