The author's grounding in the Continental legal tradition is evident on each page; his grasp of English law is likewise thorough, and while many of the historical areas are still the subjects of much research and require much more elucidation, the book does present, dispassionately and broadly, the state of the question.

These broad strokes, however, are also something of a weakness. The reference to the Becket dispute, surely one of the first places one would look for the contact between common and canon law, cites only one secondary source from 1929, despite the torrent of secondary literature that has been poured out on clerical immunity in particular, and the canonical and legal issues of the Becket dispute in general, since the 1950s (a flood that still continues). There are astonishingly few references to primary sources anywhere in the entire book, and they seem to be primarily confined to the several references to the famous 1236 Statute of Merton. While a heavy reliance upon secondary literature is common in European scholarship, and the use of such magisterial works as those of Helmholz, Baker and others is unexceptionable, it would have been particularly welcome to see more use made of the sources themselves, so that the reader who wishes to evaluate the author's claims, or further investigate his trail, does not need to go to another secondary reference to link up with the texts themselves. This might also have saved the author from occasional misstatements (such as his suggestion that the decree *Tametsi* was 'no longer in force' in England by the time of the Council of Trent, when in fact the decree was never promulgated in England because it was the November 1563 product of the twenty-fourth session of the Council of Trent).

But the thrust of the monograph is well taken. The flow of legal institutions and concepts which entered England is wide and varied, and the issues raised in this work repay further study. It is also important to note that the door swings both ways: while there was a long and venerable influence of canon law on English law, there was also a discernible influence of the emerging common law tradition on canon law. Most visible in the works of the Anglo-Norman school of canonists, particularly in their treatises on the *Decretum* of Gratian (such as the anonymous *Summa de multiplici iuris divisione*, c 1167, or the fascinating common law glosses on the *Decretum* found in a manuscript at Gonville and Caius College, Cambridge), there is a less well-known, but nonetheless visible, series of common law footprints across the pages of the canonical teachers. This field of comparative law, for the most part, is still awaiting harvest.

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ARCHAEOLOGICAL HERITAGE LAW by NEIL COOKSON, Barry Rose, Law Publishers Ltd, 2000, lx + 905 pp (£42.00) ISBN 1-872328-94-6.

This is an extremely useful book, written by an archaeologist who is a lecturer at the College of Law in York. So comprehensive is its coverage, indeed, that it may well inhibit any church archaeologist from ever again daring to unsheathe a trowel within range of any ecclesiastical structure. Thirty years ago the areas of overlap between archaeology and the law seemed few, and the parameters of ecclesiastical exemption seemed clear. Today the situation is infinitely more complex. Archaeology is no longer solely viewed as a 'below-ground' activity; numerous public bodies are now (rightly) engaged in the planning process and the whole issue of ecclesiastical exemption has not only spawned numerous clarifying orders but even brought cathedrals into more overt jurisdiction.

It is this complexity through which Dr Cookson guides us in his well-indexed book. Tables of cases and statutes are followed by a list of statutory instruments; the main body of the volume then clearly sets out the practical impact of this legislation and the functions of the various heritage bodies which operate within it. Nearly 350 pages of appendices follow in which the full text of relevant Acts is usefully assembled. Like all archaeologists involved with churches I have frequently exchanged puzzled correspondence with archdeacons, diocesan registrars and DACs; Dr Cookson's book now gives us exactly the guidance we all needed.

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FOREORDAINED FAILURE: The Quest for a Constitutional Principle of Religious Freedom, by STEVEN D. SMITH, Oxford University Press, 1995, paperback reissue 1999, xii + 167 pp (£12.99) ISBN 0 19 513248 3.

RELIGION IN POLITICS: Constitutional and Moral Perspectives, by MICHAEL J. PERRY, Oxford University Press 1997, paperback reissue 1999, vii + 157 pp (£14.99) ISBN 0 19 513095 2.

Americans have problems with the First Amendment (1791) to their Constitution. Since 1947, the Supreme Court and mainstream constitutional jurisprudence have read it to mean that the relationship between law and religion in the United States is governed by two basic principles: the non-establishment of religion and religious liberty. The Fourteenth Amendment (1868) is taken to apply these principles to state governments as well as to federal government. The problem is that the textual basis for the outworking of these principles is non-existent, the historical understanding of either the First or Fourteenth Amendment elusive, and theoretical constructs of the proper relationship between law and religion controversial.

In a refreshingly clear and vigorous account of the constitutional conundrum, Steven Smith confronts the problem head-on. He argues that the best possible explanation for what the drafters of the First Amendment thought it meant is the literal one: 'Congress shall make no law [...]'. Its purpose was simply to prevent federal government from meddling in matters of religious establishment and religious liberty, leaving state governments to resolve such matters of high political controversy for themselves. This in turn means that there is no substantive principle to be extended to state governments by the Fourteenth Amendment. As regards theoretical constructions of the proper relationship between church and state, and hence the proper meaning of the religion clauses of the constitution, his thesis is again engagingly honest: there is no religiously-neutral conception of religious non-establishment or religious liberty, and hence there is no generally acceptable conception of religious liberty that can qualify for the status of constitutional principle. Although generally loath to draw conclusions from his (for most Americans, unsettling) thesis, he suggests that disputes about the role of religion in public life must be subject to political resolution and incremental development, and any solutions agreed must be immune from judicial review.

I found the argument persuasive, although it moved a little too quickly in places. For example, Smith assumes that religious neutrality requires that any law must have an equal impact on all religious positions. A less ambitious requirement would be—as Perry assumes in the other book reviewed here—that neutrality requires simply the adoption of non-religious, or secular, reasons or motives for laws. Smith needs to show that no plausible conception, rather than his very strict conception, of religious