# BOOK REVIEWS

*A PERNICIOUS SORT OF WOMAN: QUASI-RELIGIOUS WOMEN AND CANON LAWYERS IN THE LATER MIDDLE AGES* by ELIZABETH MAKOWSKI, Studies in Medieval and Early Modern Canon Law, Vol 6, Catholic University of America Press, 170 pp, (Hardback £36.50) ISBN 0-8132-13924

This book is a worthy follow-up to the author's excellent monograph *Canon Law and Cloistered Women: Periculoso and its Commentators, 1298-1545* (1997) which focused on the decretal of Pope Boniface VIII (1295-1303) that first required the strict enclosure of nuns. Elizabeth Makowski's sequel deals with religious women left out from this legislation: specifically secular canonesses, beguines, and tertiaries who did not quite fit into the canonical category of 'religious'. The category itself was not always so clear-cut. It is certainly true, as Makowski states, that all the legal requirements (permanent vows of poverty, chastity, and obedience as well as the profession of a papally-approved rule) for the designation of 'religious' were in place by the end of the thirteenth century, but the precise piece of canon law that brings these elements together in a definition is elusive. *Quod votum,* a bull of Boniface VIII which immediately precedes *Periculoso* in the Liber Sextus (VI. 3. 15. 1), is twice cited by Makowski as definitive, removing 'any ambiguity' (p xxviii) about what it meant to be a religious by 'setting down the guidelines for full religious profession with solemn vows' (p 95 n 17). But all this bull really did was to establish that the solemn vow of continence involved both in the taking up of a holy order and in religious profession was a diriment impediment to marriage. The fact that there seems to have been no canonical text offering a positive, explicit definition of a 'religious' could actually be grist for Makowski's mill: for her book shows that the hostility and distrust of medieval canon lawyers toward uncloistered, 'quasi-religious' women is something that goes well beyond the letter of the law promulgated by the popes.

Each of the study's first three chapters focuses on a specific legal text contained in the last great collection of medieval canon law, the *Clementines*. Promulgated by Pope John XXII (1316-1334) in 1317, this collection was largely the legislation of his predecessor Clement V (1305-1314) and of the General Council of Vienne (1311-1312). The first chapter concerns a decree known as *Attendentes* and secular canonesses, a form of life which had existed in Germany, France, and the Low Countries since at least the eighth century. Canonesses were governed by an abbess, just like nuns, but they were not bound by either enclosure or permanent vows – thus they could retain private property while in community and could leave to marry. *Attendentes* laid down that communities of female religious must be monitored through the regular visitation of relevant authorities. The decree's last sentence stipulated that canonesses were not excluded from this requirement, even as it attached the disclaimer that such a mention of canonesses in an official document did not constitute approbation of

their rule of life. Makowski then turns to the interpretation of *Attendentes* by academics, starting with Johannes Andreae the author of the standard (or 'ordinary') gloss on the *Clementines*. Johannes, who was so brilliant a canon lawyer that his status as a married layman did not preclude a successful career, thought the last sentence of *Attendentes* revealing: the papal withholding of approval seemed to him tantamount to a disapproval of the 'irregular' way of life of canonesses. Why should canonesses be condemned? Because they appeared to be nuns, though *de iure* they were not nuns. Subsequent medieval commentators all echoed Johannes' imputation of deception and regarded canonesses with suspicion.

Beguines, the subject of the book's second chapter, were similar to canonesses in their lack of a rule, permanent vows, and enclosure but were of recent origin and therefore considered even more suspect. Indeed, the provocative title of the book ('a pernicious sort of woman') applies to them. The tag can be found in the commentary on the Clementine decree *Cum de quibusdam* by Johannes Andreae who found this quotable throw-away line in Hostiensis's discussion of the dangers facing alms-collectors (X. 5. 38. 14). *Cum de quibusdam* attempted to discipline specific groups of unorthodox Beguines but Johannes Andreae read it as a blanket condemnation. A pernicious sort of woman was one of easy virtue – and nothing more could be expected of Beguines as they did not have the dead-bolted doors of post-*Periculoso* cloistered nuns. It seems that Johannes Andreae merely echoed a common prejudice held by churchmen at the time because *Cum de quibusdam* was greeted by many bishops as a green light to harass perfectly orthodox Beguines and the decree was used to justify local persecution throughout the fourteenth century.

The third chapter deals with a Clementine text known as *Cum ex eo* and with female tertiaries who resembled Beguines in their lack of permanent vows or claustration. This decree attempted to discipline the numerous members of the third order of St Francis implicated in heretical activity – just as *Cum de quibusdam* had dealt with certain unorthodox Beguines. However, this decree was not interpreted as a general censure of Franciscan tertiaries because they possessed one crucial thing that the Beguines lacked: explicit papal approval in the form of an actual rule (found in the Franciscan Pope Nicholas IV's bull *Supra Montem* of 1289). This made all the difference in the world to commentators on *Cum ex eo* who generally held the female members of the third order of St Francis above reproach.

In the last three chapters of the book, Makowski puts aside academic commentary and takes up legal *consilia* and Rota decisions to investigate the actual practice of the law concerning quasi-religious women. She shows how this evidence tells a different story. Numerous *consilia*, or legal briefs drafted by professional canonists for cases being litigated, justified and defended the position of certain female quasi-religious. Sometimes this involved ingenuity, other times a simple re-reading of *Attendentes*, *Cum de quibusdam* and *Cum ex eo* according to their original intent was sufficient to prove the point. The second half of the book is presented as an

antidote to the first: it reveals there was nothing necessary in the negative opinion that academic canonists came to regarding quasi-religious women. Perhaps not everyone will agree with Makowski that it does the medieval legal profession credit, that some canon lawyers were prepared to ignore this tradition of negative commentary on quasi-religious women - when paid to do so.

There is no doubt that *A Pernicious Sort of Woman* is a first-rate book. Makowski's story of the formulation, reception, and use of the *Clementine* decrees on quasi-religious women is a model of how the neglected, 'elephantine literature' of Fourteenth- and Fifteenth-century canon law can be tamed and put to good use. Makowski aimed at a wide scholarly audience and her book hits the mark: a reader ignorant of canon law may take for granted the lucid summaries of texts that can be rather intractable. Those expert in ecclesiastical law will appreciate this achievement all the more, but should also be grateful for the way Makowski has smoothly integrated such technical material with one of the hot topics of medieval historiography today: late medieval women's religiosity.

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*CHANCEL REPAIR LIABILITY: HOW TO RESEARCH IT* by JAMES DERRIMAN, Barry Rose, Chichester, 109 pp (£12) ISBN 1-902681-51-7

As James Derriman explains, in pre-Reformation days, at common law, the rector of a church would ordinarily be (personally) responsible for repair of the chancel, the most sacred part of the church, and the parishioners would be responsible for the repair of the remainder. The rector would be the beneficiary of land and tithes, together known as 'the rectory', to assist him in discharging his liabilities. Over time monasteries acquired many rectories, supplying a suitable priest as 'vicar'. Post-Reformation, the monasteries were dissolved and their assets, including the land, dispersed. For their part, the original recipients of such land would be aware of their concomitant personal liability, as rectors (albeit lay) to repair the chancel. Over time and with sub-division, the origin of the title, with its personal liability, may have been lost. Yet the liability, even if forgotten, continues and hence the potential liability is ignored very much at one's peril.

Until 2013 this liability may exist as an overriding interest: thereafter it will have to be noted on Land Registry titles, at which point purchasers of land will be able to breathe a deep sigh of relief. Until then however two groups will be especially interested in whether landowners have any, and if so what, chancel liability: church authorities who will wish to know who to sue, and actual or potential purchasers of land who will wish to know how to avoid being sued (at least unexpectedly). To each group and other interested persons, James Derriman's book will be of absolutely inestimable value. His approach is to identify the questions and issues which persons with a practical interest, be they intending purchaser, church officials or others,