

This is not, however, a discussion of the law of blasphemy as such. The book clearly states that it is not intended as an academic study of the history or substantive law of blasphemy, and this is reflected in the fact that there are no footnotes to support the text, and the bibliography is somewhat limited.

The argument of the book is conducted from a standpoint with which many readers of the Journal may not be wholly sympathetic. Nevertheless, the conclusions which Nicolas Walter draws do cogently reflect the view of a very significant body of public opinion that the law of blasphemy is wholly inappropriate today. The monograph may therefore be seen as a legitimate, though one sided, contribution to the debate as to the future of the law of blasphemy.

(Note by Editor. Blasphemy is certainly 'in the news' again. See Professor Elliott's article on page 70).

BEEKEEPING AND THE LAW – SWARMS AND NEIGHBOURS

By DAVID FRIMSTON AND DAVID SMITH

Obtainable from Judge David Smith, Bristol Crown Court, Guildhall, Broad Street, Bristol, BS1. Cheques for £12.50 (to include postage and packing) payable to International Bee Research Association.

A review by Chancellor Michael Goodman

What, it may be asked, has the law relating to beekeeping to do with ecclesiastical law? The clue lies in the charming woodcut on the front cover of this interesting and valuable little book which shows some hives nestling under an apple tree in the shadow of the tower of the parish church. This is not surprising as beekeeping is often associated with the clergy with whom it has long been a popular hobby.

As long ago as 1744 the Revd. John Thorley wrote a treatise entitled (in Greek) *Melisselogia* or *The Female Monarchy*, 'an enquiry into the nature, order and government of bees, those admirable, instructive and useful insects'. One of the illustrations in the book shows the author sitting in his study with a swarm of bees sleeping on his table while he is searching for the Queen. It is recorded that he had stupefied these bees with the smoke from a dried fungus. In 1776 the Rector of Holton, Suffolk, the Revd. Stephen White, wrote *Collateral Bee-Boxes*, 'a new, easy, and advantageous method of managing bees'. In the nineteenth century there were a number of useful guides by members of the clergy on the practical management of bees. Parson Woodforde kept bees or at least his niece Nancy did, as he recorded in his famous Diary. One entry refers to a swarm that settled which one of the maids was able to hive. 'I think Nancy very lucky with her Bees. Dinner today of Peas and Bacon, etc.'

It may not be generally known today that from early times the clergy were maintained by the payment from their parishioners of a tenth part of all produce of their lands. Part of these tithes consisted of minor live produce. Edmund Southerne, who wrote the first original book in English about beekeeping in 1593, related the story of a parson who demanded of a beekeeper his tenth swarm as a tithe. The beekeeper complied, but delivered the swarm by knocking it out upon the ground so that the parson and his family were stung. However, in Burn's

Ecclesiastical Law (2nd ed.) Vol. III c.XV it is stated that 'Bees are amongst the things that are *ferae naturae*, and by consequence tithe free; and it hath been adjudged, that they shall not be paid in kind by tenth swarm. (Cribs. 677)'. However, the learned author goes on to note that 'Of the wax and honey of bees tithes should be paid in kind *de jure* (1 Roll's Abr. 635). And that is by the tenth measure of honey and the tenth weight of wax (God. 389; Deg. p2. c7)'. In time the most frequent method of payment of tithes came to be by composition or a fixed annual money payment in lieu of tithe. It is not clear whether this was applied to honey and wax but, if not, it would have been a messy and sometimes painful process!

But to return to the subject matter of this review. Few solicitors or barristers have practices which frequently include claims for damages for bee stings or disputes concerning the ownership of a swarm. But many have the occasional such claims and this book contains a useful collection of the principal cases decided in the Court of Appeal, High Court and County Courts over the past 100 years. There are also reports of some cases in USA, Canada and New Zealand. The case reports are accompanied by helpful commentaries by Judge Smith.

In their Introduction the authors point out that it is now recognised that 'a suit brought against a beekeeper by a neighbour who wishes to complain about bees must be founded in negligence or nuisance.' However they go on to make the wry comment that 'Lawyers have a tendency to make a claim in as many ways as possible in the hope that if one point fails another may succeed. The cases therefore include two other attempted causes of action which always failed but we mention them by way of explanation'. These were claims based on 'scienter' and *Rylands v Fletcher*.

As regards swarming, the authors deal with the vexed question as to who owns a swarm of bees in the air or on the branch in a neighbour's garden. 'There is little doubt that the old practice of 'tanging' a swarm by beating various metal objects together had a dual purpose. First it was thought that the vibrations would cause the bees to settle. Secondly the beekeeper was proclaiming to the world at large that these swarming bees were his bees. In various cases it has been argued that in accordance with principles of Roman law the beekeeper is entitled to follow his bees wherever they go . . . but it is clear from the case of *Kearry v Pattinson* that there is no right to go onto another's land and that the landowner can, if he chooses, take the swarm and keep the bees'.

I hope that these glimpses into the fascinating world of beekeeping and the legal problems it can create will have rightly whetted the appetites of those who read this to learn more. I should make it clear that Judge Smith will be receiving no royalties if you order your copy from him but that copies purchased through him will benefit the International Bee Research Association which is itself a charity.