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Book Review (reviewing C. R. Cheney, *The Papacy and England 1th-14th Centuries* (1982) and *The English Church and Its Laws, 12th-14th Centuries* (1982), and Charles Duggan, *Canon Law in Medieval England* (1982))

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- C. R. Cheney, *The Papacy and England 12th-14th Centuries*. London: Variorum Reprints, 1982. 346 pp. £24. *Idem*, *The English Church and its Laws 12th-14th Centuries*. London: Variorum Reprints, 1982. 348 pp. £26. Charles Duggan, *Canon Law in Medieval England*. London: Variorum Reprints, 1982. 340 pp. £24.

Collected in the two volumes by C. R. Cheney are thirty-one essays written over a period of fifty years. One measure of his erudition, his unflinching good judgment and his continuing attention to detail is the difficulty of guessing the date of any of them without looking at the index. They have held up extraordinarily well.

Although they treat disparate subjects, most essays in the first volume are devoted to the era of King John and Innocent III, with particular attention to the papal interdict of 1208-14 and to the Church's role in the history of Magna Carta. Cheney's work on the interdict in England remains the best treatment there is of the subject. He shows that the canon law of interdicts did not envision a total cessation either of pious practices or of ecclesiastical jurisdiction, and he shows also (*pace* Richardson and Sayles) that it did largely succeed in producing the results called for by the canon law. The interdict was not progressively ignored. He does raise the larger question of the discrepancy between its spiritual aims and its mundane consequences to men of good will, but his mastery of the sources and his judicious impartiality require the judgment that the religious sanctions wielded by the medieval papacy played a central role in English history during the years of John's reign.

The second of the Cheney's volumes is devoted, on the other hand, to the English Church's own laws. Studies of diocesan and provincial legislation, the articles range from detailed work on the manuscripts, the establishment of accurate texts and the history of their transmission, to an overview of their place in English history and in Western canon law. The medieval Church left room for local custom. Whatever the hierocratic pronouncements found in texts emanating from the papal chancery, the canon law permitted and recognized considerable variations in legal rules enforced in practice. That local legislation should have played a vital role in England's ecclesiastical courts followed therefore from the nature of the medieval canon law. It is a subject of importance, and no one has done more to open it up than the author of these two volumes.

Charles Duggan's essays in the third of these volumes center on two subjects: the collection of papal decretals in England during the late twelfth century and the canon law justification for Archbishop Becket's position (against King Henry II) that clerics accused of felonies should enjoy immunity from secular punishment. Duggan argued, in 1962, that it was an error by Maitland (and others) to say that Henry II was correct in reading the canonical phrase *tradere curiae* to require the Church to hand over "criminal clerks" to the royal courts after degradation from orders by the Church. Duggan concluded that Becket had the stronger case under the canon law as it stood at the time. His conclusion has since been challenged in an excellent article by Richard Fraher¹ and the rejoinder offered by Duggan here in his postscript to the original article seemed a little lame to this reviewer.

1. *Journal of Medieval History* 4 (1978), pp. 347-68.

The crucial point of the essays on the place of papal decretals in English history has stood up better. Duggan showed that, contrary to what was once thought, the predominance in later collections of decretals addressed to English recipients reflected nothing about shifting political relations between the papacy and the English kings. Rather it resulted from the precocious development of interest in canon law in England. That interest naturally caused English canonists to want to collect the best evidence of the law, papal decretals, and it was this which led to the large share English decretals had in later canon law compilations. The enforceability of papal legislation in England was not at issue.

Duggan is, in contrast with Cheney, more a "professional canonist". His study is of glosses and decretals. His interests are only incidentally English. If his work occasionally lacks the mature and balanced judgment invariably found in Cheney's, it is nonetheless valuable. It shows, as in fact does Cheney's as well, the important results which concentration on the canon law and the jurisdiction of the Church have both for legal and for English history generally.

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