

Gospel & Law: The Newsletter of the Ecclesiastical Law Society



Seasons Greetings



Welcome to the Christmas Edition of Gospel and Law and to the Ecclesiastical Law Society's 25th Anniversary year which is almost upon us. This edition contains a compilation of dates – by way of reminders and clarifications - for the Anniversary year, seasonal thoughts from the Courts and requests for follow up about the Anglican Covenant.

Christmas: a religious or secular event? I don't know about you but my experience of five Nativity Plays and nine Carol Services so far this Christmas, with Christingle and the main Christmas Services still to come, suggests that predictions of the loss of Christmas from our society are a little pessimistic. However, a level of confusion over Christmas was revealed by a 9 year old Muslim asylum seeker who asked why God gave Christians Father Christmas. The alleged banning of Christmas by some secular local authorities suggests a general perception that Christmas is a religious festival in the UK, despite the range of secular trappings. Yet the US separation of state and religion has led to over a dozen considerations of the question by the courts since 1945. Some of these are as follows:

Lynch v Donnelly (1984) held that Santa, the reindeer, a Christmas tree, carol singers and circus animals were secular features and therefore constitutional. The crèche (aka nativity scene) which was contested as religious was accepted by the court as constitutional because it was 'merely the symbol of a traditional holiday.' Two years later in *ACLU v City of Birmingham* it was held that a crèche scene was secular because it was owned by the city authorities rather than a religious group. Yet in *Court of Allegheny v ACLU* (1989) a crèche scene 'undiluted by secular symbols' (the 'plastic reindeer' rule) and adorned with a banner proclaiming '*gloria in excelsis Deo*' was found to be religious and unconstitutional. By contrast an 18 foot menorah and 45 foot Christmas tree were constitutional. *Kaplan v City of Burlington* (1990) found a simple menorah religious and unconstitutional, yet in *Chabad of Southern Ohio v Cincinnati* (2002) a single menorah in a public square was acceptable. However, in *ACLU v Schundler* (1997) attempts to make a crèche and menorah constitutional failed, despite the addition of sled, Santa and Frosty the Snowman. *Ganulin v US* (2001) went still further seeking to ban Christmas as a holiday on the basis that it provided a financial and ideological subsidy to celebration of Christ's birth. The attempt failed. (From Stephen Young *The establishment 'Claus': A selective guide to the Supreme Court's Christmas cases* www.Llr.com Published 02.01.2003)

Start the New Year as you mean to go on.... with a London Lecture...

Revd Dr Will Adam, Vicar of St Paul, Winchmore Hill on Legal Flexibility: The Forgotten Art of Dispensation
Wednesday 18 January 2012, 5.30p.m at WINCKWORTH SHERWOOD, Minerva House, 5 Montague Place, Southwark

And then to follow...

David Richbell and Dr Zaza El Sheikh on Belief in Mediation and Arbitration
Wednesday 14 March 2012, 5.30 at WINCKWORTH SHERWOOD, Minerva House, Southwark as above

Revd Dr Catherine Shelley, Assistant Curate of Kersal Moor; Beating Children Is Wrong? A Biblical Approach
Wednesday 6 June 2012, 5.30 at SERLE COURT, 6 New Square, Lincoln's Inn (Subject to confirmation)
NB It is 6th NOT 8th June contrary to earlier email and misprint in January's ELJ

Peter Foskett, Registrar of Bradford Diocese discussing Chancel Repair Liability: A Voyage of Discovery
Wednesday 17 October 2012, 5.30 at SERLE COURT, Lincoln's Inn – as above

The lectures are free of charge but prior booking is essential as spaces are limited. The lectures are open to members and non-members. Refreshments are served from 5.00. Contact Kathryn Barry, Serle Court, 6 New Square, Lincoln's Inn WC2A 3QS. Tel: 020 7242 6105 Fax: 020 7405 4004 Email: kbarry@serlecourt.co.uk

Reminders:

Silver Jubilee Day Conference on Saturday 3rd March 2012 at Emmanuel College, Cambridge

Dr Julian Rivers (Bristol *The law of organised religion*), Professor John Witte Jr (Emory University, Centre for the Study of Law & Religion) and Professor Silvio Ferrari (Professor of Law & Religion, Milan) on **'Church and State: International and Comparative Perspectives.'** with Choral Eucharist and a buffet lunch. Cost: £45 (£60 for non-members). To book and for further details contact: male.andrew@sky.com

Silver Jubilee Celebration at Lambeth Palace on 29th May 2012 from 7-9.30pm

With an address by the Archbishop of Canterbury, library tour and finger buffet. Tickets are limited to 150. For further details about the ballot, guest tickets or anything else contact: male.andrew@sky.com

Advanced warning - a date for your diaries – **Residential Conference:** Shaping the Future of the Parochial Ministry Friday 19th to Sunday 21st April 2013 – The Burlington Hotel, Birmingham

Christmas and the Law: Some health and safety tips for office and Church...

80% of bosses will not organise a staff Christmas party this year owing to concerns about legal responsibilities. For those who do, Pinsent Masons offer advice, some of which may assist with Church-related Christmas activities.

Staff parties – are not compulsory as Christmas is a religious festival that some may not wish to celebrate; the same applies to Christmas services apart from the clergy who are expected to lead them under Canons C24(2) & C26. The position concerning attendance at Christmas Fairs may be more of a gray area.

Secret Santa – ensure that gifts are inoffensive; some gifts, notably sex toys and underwear have led to complaints!

Decorations – should also be inoffensive, particularly around the altar. Step ladders rather than swivel chairs should be used to put them up and lights tested carefully or prayer may be your only insurance. Beware of unexpected hazards, over 1,000 people were injured by falling Christmas trees in 2002 and party balloons can prove fatal for those with latex allergies of whom there are some 3.6 million in the UK.

Alcohol – Employers are their employees' keepers as one found when 3 employees, sacked for fighting after a behaviour management course, were reinstated; employers condone bad conduct if they supply too much alcohol! So watch the amount of sherry served at Christmas socials...

Property – Dancing on tables or other furniture risks damaging property and people and is misuse of company – or church – property, as is the use of photocopiers to reproduce pictures of inappropriate bits of anatomy.

Use or misuse of mistletoe – can lead to complaints of bullying, harassment or worse... although 80% might ignore offensive behaviour under the mistletoe 13% would lodge a complaint! Be very careful...

Managing expectations – 'Alcohol makes people say silly things so avoid staff performance reviews during the Christmas party'!! Ditto for completion of Common Tenure role descriptions, despite the December deadline. (With thanks to *Out-law: Legal guides and tips from Pinsent Masons* www.out-law.com)

The Anglican Covenant: Progress around the country...

We have been advised that the Diocese of St Eds and Ipswich has voted as follows: House of Bishops, 2 in favour, 0 against; House of Clergy 9 for, 29 against and 4 abstentions; House of Laity 8 for, 33 against and 9 abstentions.

Could you keep us posted about the results of your Diocesan debates on this important issue for the Constitution of the Anglican Communion...

**A Happy Christmas and all best wishes for 2012 to all our readers...
And look forward to receiving further news and copy in the New Year.**

