

Gospel & Law

Michaelmas Edition

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Michaelmas greetings to all readers... News has been gathering and plans being made over the summer. One pleasing piece of news is the announcement that the Archbishop of Canterbury has agreed to accept the position of Patron of the Society, continuing the tradition of joint patronage of the society alongside the Archbishop of York. Other items include a call to writers for the Journal, consideration of church records and some case-law. There are also details of the last of this year's London lectures and outline plans for next year, along with details of next year's Day Conference and AGM and in the even longer-term some thoughts about the 2015 Residential Conference.

A Message from Will Adam, the editor of the Ecclesiastical Law Journal: You really don't need to be a professor of law and/or religion to submit an article to the Journal. New writing is welcome. Information about the length of articles, house style guide and submission guidelines can be found on the website for the Journal itself, which is hosted by Cambridge University Press at www.journals.cambridge.org/action/displayJournal?jid=ELJ

Certificates, records and pastoral care – A recent dispute in Hampshire (also in the Church Times p.6 of 06.09.13) has focused the minds of www.LawandReligionUK on the completion of baptismal certificates. The dispute concerned the baptismal records for a child brought to baptism by a female same-sex couple. The couple wanted to record both parents as 'mother' but this proved problematic as the baptismal register only has space for 'Father' and 'Mother'. To be fair, secular law relating to registration of the birth also only recognizes one 'mother' for any child but does allow the recording of a second parent, without specifying that it must be a father. In his Law and Religion article David Pocklington calls for the Church to develop a consistent and updated approach to the registration of baptism where the parents are a same-sex couple. However, this situation is only the tip of an iceberg in relation to Church records that do not really fit with contemporary society. The following are a few instances of pastoral problems that can arise in completing church records:

Banns Certificates – the insistence on recording details of the bride and groom's fathers and their occupations can raise deeply painful issues for those whose father has not been a part of their life. It also perpetuates the concerns of brides about fathers giving them away, even though that is no longer a standard part of the marriage service.

Baptismal Records – As well as the challenges of how to record same-sex parentage on baptismal records there are issues for single parents who do not want to disclose the father's identity and can interpret that section of the form as a judgement on their single parenting. There can also be circumstances in which whilst both parents are raising their child together and may even be married, one does not wish their name to be recorded on the baptismal certificate. A recent example was that of a mixed faith marriage in which the father was a Muslim. Whilst he was happy to support his wife's wish for their baby to be baptized and be brought to Church, with the maternal side of the family who were Indian Christians, he did not want his name publicly associated with the baptism. Whilst it is possible to accommodate these wishes and respect the integrity of the parents concerned there are pastoral sensitivities to be negotiated.

More difficult are those situations in which people are refused sacraments or services of the Church eg baptism where parents are unmarried or a same-sex couple or re-marriage of those who are divorced. Whilst the Church rightly respects the conscientious objections of those clergy who choose not to officiate in such situations, the position of the Church generally is to be accommodating. As much as consistency in policy over record-keeping there also needs to be consistency, through referrals to neighbors if necessary, in enabling people to seek the sacraments and a welcoming ministry in a local church.

Some Case Law and Legislation:

Canon Law and schools admissions – A complaint against the London Oratory School by the British Humanist Association, under s.88 of the School Standards and Framework Act 1988 has in part been upheld by the Adjudicator. Whilst the governing body of the school had defined 'service' to the Catholic Church as attendance at Mass, in accordance with the obligations of Canon Law, the Diocese was prepared to countenance wider 'service' in the Church in support of admissions to a Catholic school. The Adjudicator held that the relevant authority for deciding what constituted 'service' was the Diocesan Bishop not the school's governing body. There was also a rap over the knuckles for failing to make sufficiently clear that non-Catholics could also be admitted to the school if there were places spare. For further information and references see a post of 04.09.13 in Law and Religion UK.

Re St Peter Dunchurch [2013] Coventry Consistory Court – Eyre Ch – concerns the exhumation of a body following a burial in the wrong grave, sadly not as unusual a phenomenon as you might have hoped. What is different in this case is that instead of exhuming the 'wrongly buried body' they exhumed a Mr PW whose body was originally buried correctly in the neighbouring grave. Following Mr PW's burial the family had sought and obtained, with the backing of a Faculty, the right to reserve the plot next to Mr PW so that Mrs PW could be laid to rest there in due course, when her time came. Somehow records were not consulted and another, unrelated person got buried in the reserved plot. The PW family complained. The Chancellor found that this was an exceptional case in which the factors of mistake and the family's original intention of creating a family grave provided grounds for exhumation. However, instead of disturbing the 'wrongly buried body', the Chancellor's solution was to set aside the original faculty reserving Mrs PW's grave, grant a faculty for Mr PW's exhumation and grant a further faculty to reserve a fresh plot for Mrs PW next to Mr PW's new grave. Whilst this seems to have neatly resolved the longer-term issues of reuniting the family and respecting the permanence of burial for the 'wrongly buried body', the frequency of burial mistakes does raise all sorts of consequential questions. In what other sphere would liability for this sort of negligence be so lightly side-stepped? What about the potential of a CDM for any vicar responsible both for negligent exercise of their grave, grave-yard responsibilities as well as breach of the faculty jurisdiction and potential breach of contract in respect of the payment for the grave space.

Safeguarding:

By now all members should have received a booking form for the ELS Day Conference on safeguarding next April (full details in *Events*). In the light of reports into safeguarding concerns in both Chichester and Winchester Dioceses and ongoing enquiries in the Northern Province following concerns raised about the former Dean of Manchester Cathedral, the theme of the conference is to be Safeguarding. For those who might want to read up on the issues the following are some useful sources of information, with copies of the relevant reports and consultations:

www.safeguarding.chichester.anglican.org

www.cofewinchester.org.uk/assets/downloads/Independent_Review_of_a_Safeguarding_Complaint_for_the_Diocese_of_Winchester

Inquiry into the late Dean of Manchester, Robert Waddington - The Inquiry is Chaired by HHJ Sally Cahill QC. Robert Waddington was ordained Deacon in 1953 and began his career as curate at St John's, Bethnal Green 1953-56. Afterwards he was Chaplain at Slade School in Warwick, Queensland, 1956-59. After 18 months as curate of St Luke's Chesterton, in the Ely Diocese, he returned to Australia to become Headmaster of St. Barnabas School, Ravenshoe, where he remained until 1971. Returning to England he became a Canon Residentiary at Carlisle Cathedral and Bishop's Adviser for Education 1972-77, then General Secretary of the Church of England's General Synod Board of Education and General Secretary of the National Society from 1977-84 until becoming Dean of Manchester Cathedral in 1984. He retired to York in 1993 and died in 2007. The Chair to the Inquiry asks that anyone who may have relevant information should contact the Clerk to The Inquiry Mrs Nicola Harding at Cathedral Chambers, 4 Kirkgate, Ripon, North Yorkshire, HG4 1PA. njh@tunnardsolicitors.com

News of future events:

The last **London Lecture** will be by the Reverend Canon John Rees on Wednesday 16th October 2013 at 5.30pm in the offices of Winkworth Sherwood, Montague Close, London SE1 9BB. The topic is '**Anglican Covenant or what?**'

Next year's lectures are still in the process of being finalized but will include:

The Dean of the Arches, Charles George, on the Revisions to the Clergy Discipline Measure and

Mark Hill QC on employee v office holder in *The Methodist Conference v Preston* and *Sharpe v Worcester DBF*

Day Conference & AGM 2014 – Safeguarding – 5th April 2014 at the Cardinal Vaughan Centre, Westminster – cost £35 members & £70 non-members. Speakers include Bill Jacob Archdeacon of Charing Cross, Elizabeth Hall Safeguarding Adviser to the Archbishop's Council, Nicola Harding Joint Registrar Ripon and Leeds (with Christopher Tunnard) and Adrian Iles, Clergy Discipline Office of the Archbishop's Council.

And in the light of both the Funeral Project and a spate of exhumations and other grave cases the focus of the 2015 residential conference will be on funerals and burial law. More news to follow....