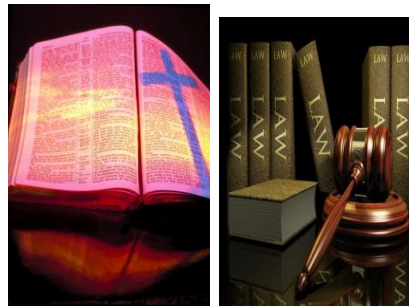


Gospel and Law

Lent Edition

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Editorial: Many thanks to everyone who responded to the survey circulated with the last edition of Gospel and Law. It was encouraging to have such positive responses and a sense that we are hitting the right notes in the current format, frequency and so on. Thank you too for the suggestions for future developments eg recommended reading and wider range of events publicised. We will try to act on these. Some of the suggestions eg an increase in members' comments, depend on the readership; so I want to make clear that members' comments and contributions are welcome and to that end I'll include a few of the comments made in the survey:

'Keep up the good work'

'I think the newsletter works really well, with a good balance between information, comment and points of interest. It is easy to read quickly.'

'so much better than anything that has happened before'

'Just a huge thanks for all the effort put in to produce it!'

'If they are willing it would be useful to have e-mail addresses given of commentators so as to encourage response and further discussion.'

So to this edition, which features a brief outline of key issues at the February 2015 General Synod, some more grave cases and an extensive section of dates and events. All designed to enhance what a former training Incumbent used to call 'a miserable Lent'!

Reform, renewal and General Synod:

In a widely publicised move the Church has published papers for the 'Reform and Renewal' programme in relation to the following issues:

Developing discipleship

Simplifying Measures

Resourcing Ministerial education

Resourcing the Future

Church Commissioners Funds and inter-generational equity

Debate at the February 2015 General Synod has been accompanied by vigorous online debate via the Church of England website. For those who are interested the following links should take you to the papers, the discussions and the decisions:

<https://www.churchofengland.org/media-centre/news/2015/02/general-synod>

<https://www.churchofengland.org/media/2175009/business%20done%20feb%202015.pdf>)

Synod was assured that the proposals are there for discussion rather than being set in stone and are a means to an end of renewing the Church, which given some of the figures around attendance and finances can be no bad thing.

In other Synod News there were discussions of the new baptismal liturgy, allegedly removing the devil from the process and consideration of Bishops' discretion when dealing with the discipline of lay as opposed to ordained ministers. In addition a motion calling for an amendment to Canon B38 sought to bring those who have committed suicide within the scope of the funeral service; there are further details in a paper under the name of the Secretary General at:

<https://www.churchofengland.org/media/2141164/gs%201972b%20-%20pmm%20on%20canon%20b%2038.pdf>

A new development – Inter Inn Mooting Competition:

The Societies' offer to sponsor the Inter Inn Student Mooting Competition for 2014 – 2015 with a prize of £500 has been welcomed. If this is a success it is hoped that the sponsorship may become established as a regular link for the Society with the Inns of Court and a valuable means of introducing future members of the Bar to the relevance and interest of Ecclesiastical Law. The Inner Temple, which was the winner last year, will be organising this year's competition and the three moots will take place in that Inn.

The semi finals will both take place on Tuesday 23 June, using one problem, and the Final on Monday 13 July with another problem. The aim is that, as well as providing moot problems on topics concerned with Law and Religion, the Society will nominate judges. Other members will be welcome to attend.

Further information may be obtained from David Harte at <harte.david@gmail.com>

Laws around Burials and some Consistory court updates:

Burials and Churchyards.

Unlike the **Church of Scotland**, which has handed over the maintenance of Churchyards to local authorities, Churchyards around Church of England churches are subject to the jurisdiction of the Church and its Consistory Courts. In addition, ground in a local authority cemetery that is consecrated is also under the jurisdiction of the Consistory Court. So long as a Churchyard still has space anyone who lives in a parish or is on its electoral roll has the right to be buried there. These days relatively few churchyards have space for full burials, save in existing family graves; in more cases there is space for the burial of ashes in a memorial garden following cremation. The same principles apply to both. Burial in a churchyard is supposed to be permanent, whether it is the burial of whole bodies or ashes. Occasionally however, exceptional circumstances arise that call for exhumation. Such circumstances have generally been found in cases of administrative error eg burial in the wrong place, to unite bodies in a family grave, to reinter where buried in too shallow a grave. One of the key cases which sets out the principles of burial in consecrated ground is *Re Blagdon Cemetery 2002* which can be found at:

<http://www.ecclesiasticallawassociation.org.uk/judgments/exhumations/blagdoncemetery2002>

Generally speaking the Incumbent of a parish has the authority to permit burials in the churchyard for which they have responsibility and can authorise the erection of memorial stones within guidelines set by the Chancellor of the Diocese. However, memorials that do not conform to those guidelines, any application to reserve a grave space and applications for exhumation must all be

referred to the Chancellor through the Faculty Process. Chancellors' guidelines also set out other principles for the management of churchyards, in particular the prohibition of scattered ashes on the basis that scattering is inconsistent with permanent burial and is unseemly. The fact that some of these principles go against some modern trends, particularly scattering, makes it crucial to know the law and theology around burials as accurate information about burials makes the pastoral task a lot easier than having to correct things if you get it wrong!

However, a recent edition of Law and Religion illustrates some of the mistakes that can happen with burials, even where the Ecclesiastical Courts are not involved. On 4 February, the *Daily Telegraph* reported a postponed interment at Nottingham Road Cemetery, Chaddesden, near Derby, as the space prepared was too small for a coffin of normal dimensions. The widow and around 300 mourners had to return to their cars wait until the space was enlarged, although the priest had to leave in order to conduct another funeral.

In Oxfordshire there was a recent unreported instance of a funeral, also attended by a significant number of mourners, where the priest and family had to return the following day for the interment; instead of preparing a grave so that the deceased could be buried with his wife, the adjacent plot containing deceased's son was prepared.

Re St. Nicholas Codrall [2015] Lichfield Const Ct, Stephen Eyre Ch. *Judgement of the consistory court* - The interment of two family members had taken place in the same grave in 2012 and 2013; the first coffin containing the remains of Brenda Owen was not buried at a depth sufficient to allow a double burial, and as a consequence, when the remains of Angela Owen, the second family member, were interred the coffin was covered by only about 12" of soil. The natural settlement of the soil following the burial meant that the top of Angela Owen's coffin had become exposed. In view of the sandy nature of the soil in the churchyard, it was considered impractical to remove both coffins in order to deepen the grave, as in ***Re St John Washingborough [2014] Lincoln Cons Ct, Mark Bishop Ch.*** reviewed in December: a case in which the undertakers had "failed to ensure that the grave digger had dug the grave sufficiently deep." Paragraph 35 of ***Re Blagdon Cemetery [2002] Fam 299*** states: "faculties can in these circumstances readily be granted because they amount to the correction of an error in administration rather than being an exception to the presumption of permanence which is predicated upon disposal of the remains in the intended not an unintended plot or grave". However, this refers to instances where an interment has taken place in the wrong grave. In this case the interment was not in the wrong grave. However, it was decided that it was an in appropriate one for the more recent burial because of it being too shallow. Accordingly exhumation and re-interment was allowed in such a way as to enable both women to be buried together in a reconstituted family grave. The Chancellor noted that he did not have power to prevent subsequent use of the original burial plot but suggested that in view of the pastoral issues involved a two year moratorium on use of the plot would be appropriate. The fear is that encouragement for "family graves" and increasing pressures on burial space (on which governments have failed to act since 2001) are likely to increase the occurrence of such issues.

FOR more on funerals, burials and churchyards there are places still available for the Conference in Bristol this April – 17-19th April – see below for more details.

Dates and events:

Magna Carta events at the Temple Church – more information can be found at:

<http://www.templechurch.com/magna-carta-1215-2015-londons-temple-and-the-road-to-the-rule-of-law/>

The ELS Event for Magna Carta will be on Monday 23rd November 2015. It will begin at 6pm with Choral Evensong, include an address by the Master on Temple Church and Magna Carta and conclude with drinks and canapés. Tickets are £50 (£90 non-members) and bookings are now open.

London Lectures 2015 at Winckworth Sherwood, Montague Close, London SE1 9BB

11th March – Archbishop Kallistos Ware on Canon Law from an Orthodox perspective

17th June - Aiden Hargreaves-Smith on the Diocese in Europe

14th October – *Women Bishops and the Bishops' Declaration - the legal implications*. The panel will include Rt Rev Christopher Lowson, Bishop of Lincoln, Rev Paul Benfield and Rev Dr Catherine Shelley

Charles Mynors on the faculty jurisdiction in the light of the new Care of Churches (Amendment) Measure will be deferred to 2016

The Biennial Residential Conference will be held from 17th to 19th April 2015, on “Funerals, Burial and Churchyards,” in Bristol, next to the Cathedral, where most of our worship sessions will take place. Early arrivals will be able to join in Evening Prayer at the outstanding city church of St Mary Redcliffe. The conference will include ‘Setting the Scene’ by Professor Douglas Davies and Rev Sandra Miller of the Funerals Project, perspectives on Funerals from Dr Frank Cranmer, Churches Group on Funerals; Burial and Exhumation by HH Rupert Bursell, QC, Chancellor of Durham; keynote addresses by Bishops Geoffrey Rowell and Bishop Christopher Hill; Churchyards by a team from Lee Bolton Monier-Williams, Heritage by Dr Joseph Elders, Church Building Council and Providing for the future by Dr Julie Rugg.

This will be the final conference presided over by Bishop Christopher as our Chairman. As noted above there are still places available so bookings are welcome.

Re the AGM - As usual we will be electing the officers of the society at this year’s AGM. However, this year Bishop Christopher (Chair), Claire Faulds (Vice Chair) and John Rees (Treasurer) will not be offering themselves for re-election to their current posts. This is therefore the time to think about nominations for new candidates for these posts. There are also three committee places open for election.

The Law and Religion Scholars Network Conference this year will be on Monday 11th May. There will also be an informal workshop held the day before on Sunday 10th May, in the afternoon at 2.30pm. The focus of the workshop will be your own current research in the field of law and religion. The workshop will take place at St Michael’s College Cardiff and will be a separate event from LARSN. Whilst we hope that many people will opt to join us for both occasions, there will be no problem about choosing to attend one day or the other. More details will appear on the website (<http://www.law.cf.ac.uk/clr/networks/lrsn.html>) in due course. The call for LARSN papers will be opened in March as usual, but if you have any queries in the meantime please do get in touch (h.m.t.d.tennapel@law.leidenuniv.nl).