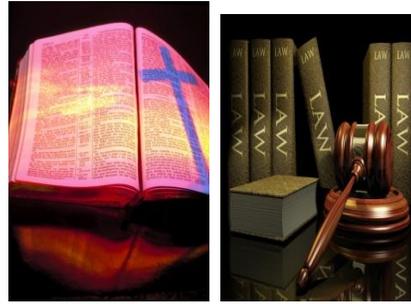


Gospel & Law

Michaelmas - September 2015

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Editorial – Welcome back from any summer holidays you may have taken and in the hope that you are feeling suitably refreshed, welcome to some slightly more meaty content than usual. We start with press reception of the ELS contribution to the Reform and Renewal process, with a request to bear in mind the focus of what the society’s argument. There are also the first reports from the Independent Reviewer, neatly in time for the last London lecture of this year in October. On a lighter or possibly higher note there is coverage, thanks to Law and Religion UK, of potential legislative challenges to the use of incense. The edition ends as usual with notices and dates for your diaries.

And in other news: Some readers may have noticed in the Church Times that ‘Yours truly’ is resigning from the Chaplaincy at Birmingham University. You would be right in thinking that I am not yet ready for retirement but am moving to devote more time to Ecclesiastical Law as a Solicitor with Lee Bolton Monier Williams and the Archbishop’s Faculty Office. I will continue to serve on the ELS committee, produce the newsletter and so on – and am also looking for some Self Supporting Ministry in either London or Southwark Dioceses. I suspect it may mean that I see a bit more of some of you in due course at professional gatherings amongst other things.

Ecclesiastical Law Society Working Group paper on Reform and Renewal...

It appears that the ELS contribution to the consultation by the Archbishop’s Council on a possible ‘Enabling Measure’ (which would allow the General Synod to repeal or amend primary legislation by means of secondary legislation) has attracted some attention in a number of places, including:

Ruth Gledhill on 20th August in *Christian Today*,
<http://www.christiantoday.com/article/senior.lawyers.launch.devastating.critique.on.church.law.reform.plans/62507.htm>

Thinking Anglicans at <http://www.thinkinganglicans.org.uk/archives/007054.html>, which has attracted much further comment

Law and Religion UK, Henry VIII Powers for the Bishops?
<http://www.lawandreligionuk.com/2015/08/25/henry-viii-powers-for-the-bishops/>

and on 28th August, in the Church Times
<http://www.churchtimes.co.uk/articles/2015/28-august/news/uk/piecemeal-revision-of-c-of-e-law-wont-help-say-canon-lawyers>, along with a response from the Bishop of Willesden, Chair of the Archbishops’ Council’s Simplification Group.

They make an interesting variety of reading but it is worth emphasising that the argument of the ELS paper is that not only is there a need for repeal of redundant legislation but also a need to simplify the legalities of change. The ELS concern is that the proposed Enabling Measure would add further complexity, bureaucracy and scope for legal and constitutional wrangling rather than simplification.

Reports of the Independent Reviewer, Sir Philip Mawer.

July and August saw the first reports by the Independent Reviewer or Ombudsman in response to concerns raised under the House of Bishops' Declaration on the Ministry of Bishops and Priests. The first, on 31st July 2015 responded to a concern raised by Hilary Cotton of WATCH, the second addressing a concern raised by Colin Podmore of Forward in Faith was issued on 10th August.

The Regulations for the appointment of the Independent Reviewer¹ allow those with concerns about the operation of the House of Bishops Declaration on the Ministry of Bishops and Priests to raise them with the Independent Reviewer who then has a discretion to conduct an inquiry into the matter of concern (r.27-28). This aspect of the regulations is independent of the process for raising a grievance in relation to the House of Bishops' Declaration (regs 8-26).

WATCH raised a concern about 16 Chrism Masses, organized by the Society of St Wilfred and St Hilda for the renewal of priestly vows, arguing that such vows should be renewed in a Diocesan service because to do otherwise offended against the principles of mutuality and reciprocity by emphasizing division. Given the opportunity to reply the Society stated that the Masses were necessitated by rather than a cause of the underlying divisions over women's ordination. The presence of representatives from the wider Church, including the Archbishops and female clergy, meant that they were within the spirit of the guiding principles. The Reviewer held that the Masses were not in breach of the guiding principles finding that Diocesan Chrism Masses are not compulsory, the alternative Masses were held under the authority of the relevant Diocesan Bishops and they reflected rather than were a cause of the underlying divisions of the Church over women's ordination.

The second report concerned the appointment in Gloucester Diocese of two female clergy as associate priests within a team ministry in which one church (All Saints) had previously passed Resolutions A&B under the Priests (Ordination of Women) Measure 1993. The report clarified the fact that Resolutions A&B no longer have legal effect, though under paragraph 43 of the House of Bishops Declaration such resolutions will be treated for two years from the date of the promulgation of the Amending Canon No.33 as if they were resolutions passed under the Declaration. The report also made the recommendation that where it is intended that a woman be appointed to minister otherwise than as a member of a team, in a multi-parish benefice in which one or more PCCs have passed a resolution under the Declaration, that the PCCs of the parish(es) concerned should be consulted before any licence is issued and the licence should make clear the scope of the ministry the female priest is to have in the parish(es) in question.

¹ The Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014, made by the House of Bishops under Canon 29

The hope of the Bishop not to highlight the exclusion of female clergy from one parish in the Benefice was acknowledged. However where resolutions had been passed licences should be drafted in such a way that the situation was clear.

The Letter from Watch also requested further opportunities for interested parties to discuss the implementation of the Bishops' Declaration. There will be one such opportunity provided by the Ecclesiastical Law Society on Wednesday 14th October as the next London Lecture. For further details see Events below.

From Law and Religion UK: Incense as a suspected 'legal high.'

Last week, a report on the House of Lords debate on the report stage of the Psychoactive Substances Bill in the *Church Times* carried the headline "**Incense could be a legal high, peers are warned,**" indicating the possibility that "priests using incense could be criminalized under a new law being introduced by the Government to crack down on so-called "legal highs". Lord Howarth of Newport [Labour] said "The expert committee also warned that closer thought needed to be given to possible unintended consequences of the loose and generalized term "psychoactive substances" used in the Bill. We do not want to criminalize priests. The more vigorously the priest swings the censer, the more incense is let loose into the body of the church ... we have to be very careful that we do not unintentionally criminalize either priests or florists because flowers have psychoactive effects". **HL Hansard 14 July 2015 Vol 764(31) Col 469**

Written submissions to the consultation process were received from the Churches Legal Advisory Service and the Association of English Cathedrals. The deadline was 2nd September and evidence has been taken during September from various professionals with an interest in the policing and treatment of drug use. The Bill will continue its progress in the House of Commons during the course of the Autumn. <http://www.lawandreligionuk.com/2015/09/18/incense-and-the-psychoactive-substances-bill-update/>

Not going to the Privy Council after all... Earlier in the year it was reported that, for the first time in decades, an Ecclesiastical Law Case might be heard by the Privy Council. The case concerns a stand-off between church and the amenity societies. However, it has been decided that it would not be appropriate to grant leave for the appeal, so the case won't in fact go to the Privy Council.

Still Looking for a Good Home.... Back editions of the Ecclesiastical Law Journal are available to members for a nominal sum plus the costs of transport/postage. Anyone who is interested in the offer should contact the Treasurer, Darren Oliver, at Winckworth Sherwood - info@wslaw.co.uk

Subs became due on the 1st July.... at £40 or £25 concessions (for those who are not in receipt of salary, wage or stipend eg full-time students, the retired, members of religious orders).

Dates and events:

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

14th October 2015 – Consideration of the House of Bishops’ Declaration on the Ministry of Bishops and Priests covering Episcopal Provision for all Integrities; the panel will include Rt Rev Christopher Lowson (Bishop of Lincoln), Rev Paul Benfield and Rev Dr Catherine Shelley.

27th January 2016 – Dr Charles Mynors on the new Faculty Jurisdiction Rules, which come into force on 1st January 2016. Charles is author of *Changing Churches: A Practical Guide to the Faculty System*, to be published by Bloomsbury early in 2016.

March 2016 – Winding up and leaving religious communities – detail and date to be confirmed

22nd June 2016 – Andreas Hendriksen Arflot, the Church in Norway, on Church and State in the process of dis-establishing the Norwegian Church

October 2016 – Confirmation of Episcopal elections – detail and date to be confirmed

The Annual Conference for 2016 will be held on **Saturday 12th March 2016** at the Bridewell Institute, Bride Lane, London, with worship at St Bride’s Church, Fleet Street. **Freedom from and of Religion - Keynote speaker will be Baroness Hale of Richmond, Deputy President of the Supreme Court**, with David Burrowes MP and Mark Hill QC. More details in due course.

STOP PRESS – Cancelled - It would appear that the ELS November event for Magna Carta is one Magna Carta event too many. It has therefore been necessary to cancel it. Anyone who has booked and paid will have their payment returned.