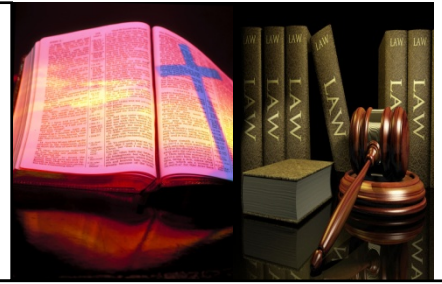


Gospel & Law

Easter Edition

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Welcome to the Easter edition of the ELS newsletter, the highlight and focus of which is the extraordinary overviews of Law and Religion in the US, Europe and UK given at the Cambridge Day Conference. No summary could capture the full impact of the talks but the newsletter aims to whet your appetite for their full publication in due course in the Journal. Having written an article for the May edition of the Journal encouraging consideration of theology and mission in Faculty applications I have just been sent a judgement citing the 39 Articles in an application to relocate an Oxford Movement chancel screen; not quite what I had in mind when writing my article! Synodical Matters includes an update on progress of the Anglican Covenant and Women in the Episcopacy.

With all blessings for a happy and holy Easter.

Catherine

Silver Jubilee AGM and Conference: A Report from 3rd March, to whet your appetite...

Following an impressively efficient 15 minute AGM the Conference was treated to a feast of scholarship inappropriate to Lenten denial but entirely fitting for the Society's Jubilee celebration.

Professor David McLean chaired the morning, with Professor John Witte, (Emory University, Atlanta) providing a North American perspective on Church and State and Professor Silvio Ferrari (Milan University) a European overview. **Professor Witte** grasped our attention from the opening quotation of Oliver Wendell Holmes Jr that "the better the society, the less law there will be" concluding that "in hell there will be nothing but law and due process will be meticulously observed". Professor Witte's review of law in the academy, from positivist theory through the development of interdisciplinary legal study (including law and religion) to challenges facing Christian believers embraced many thought-provoking ideas. These included the impact of Nazism and Stalinism in raising doubts about law without reference to moral, ethical or religious authority, rediscovering the historical work of jurists who never agreed with excluding God from law in the first place, constructive and informed engagement in the Culture Wars and a new ecumenical vision that also learns from the Orthodox tradition.

Professor Ferrari's European perspective began by explaining the need to keep religion out of the public sphere, which he argued must be secular and grounded on natural principles that can be shared by all. This was tempered by an understanding of the significant part played by Christianity in the Western history of which secularism has been the outcome. Considering the secularisation thesis Professor Ferrari reviewed Habermas' willingness to include religion in the public sphere on condition that it was 'reasonable' assessed by modern, secular standards. A review of European cases supported this analysis; States most often found in breach of rights to religious freedom were Orthodox, where practice, identity and belonging prevailed over private belief or conscience.

Before lunch we met in a sun-drenched chapel for an uplifting Choral Eucharist with Bishop Christopher as president and preacher. Emmanuel College Choir's sublime rendition of Haydn's Little Organ Mass, Mozart's Ave Verum Corpus and the College Grace enhanced devotions, which concluded with spontaneous applause for the recessional organ voluntary, Lefébure-Wely's Sortie in E flat.

In the afternoon, chaired by Mark Hill QC, **Professor Julian Rivers** (Bristol University) gave the UK perspective. He argued that religious liberty and equality require the separation of church and state, recognising the view that the secularisation of society means that faith, even for the staunchest believer, is only one human possibility among others. He spoke persuasively of the futility of the Human Rights Act and introduced the phenomenon of illegality by surprise, giving examples of acts which had become unlawful without any change in the law.

Synodical Matters:

Women Bishops – the Manchester Motion for co-ordinate jurisdiction was defeated but so too was the

Book Advertisement: Mark Hill QC (ed.), Religion and Discrimination Law in the European Union: Proceedings of the Conference, Oxford, 29.09-

London Lectures 2012 - 5.30pm at Serle Court

6th June: Revd Dr Catherine Shelley

Beating children is wrong? A biblical approach

17th October: Peter Foskett: Chancel Repair

Liability: A voyage of discovery

STOP PRESS: As I write it has just been announced on Radio 4's World at One that Dr Rowan Williams is to stand down as Archbishop of Canterbury. Gospel and Law wishes him all the best for the last months of his office and for his return to academia.

Civil Partnerships & Gay Marriage: I don't know about you but I am getting a lot of questions about this at the moment and the press seem to be delighting in trying to put Bishops on the spot. This is not the place to discuss the merits or otherwise of and of the proposals but the strict legal position is as follows:

Civil Partnership Registration in Church – the law now allows religious organisations to host the registration of a Civil Partnership provided that the organisation in question consents. At present the Church of England does not consent to this process and the matter will have to be decided in General Synod.

'Gay' Marriage – The government's White Paper proposes that civil marriage will be open to same as well as opposite sex couples. This will not affect religious definitions of marriage and will not be possible on religious premises. The Government Consultation can be found at: www.home.office.gov.uk/equal-civil-marriage

Case Law: *Re Duffield; St Alkmund* In the Derby Consistory Court 20th July 2011 Bullimore Ch

The petitioners sought the removal and relocation of a 19th Century Chancel screen within a Grade 1 listed Church. The screen was initially installed in the spirit of the Oxford Movement and was described in the petition as 'intrusive'. By the time of the petition the ecclesiology of the parish had changed from Oxford Movement to evangelical and the PCC and Incumbent unanimously supported the application. However, objections were raised by the Victorian Society, English Heritage and the Churches Building Council. Various reasons were given for the re-ordering but the principal practical ground was to create more space and a more prominent and visible place for the worship band who played each Sunday. Theological grounds were also advanced on the basis that the screen contravened provisions 7, 11, 15 and 28 of the 39 Articles, arguing that the screen reflected Old Testament rites in which the chancel is more 'holy', containing an 'altar' on which Christ's sacrifice is re-enacted by the priest. This contravenes Anglican understandings of justification by faith and Christ's sacrifice being '*once made*'. 'Transubstantiation' was also criticised as '*repugnant to the plain words of Scripture*'.

It was found, applying the Bishopsgate tests, that relocation of the chancel screen would adversely affect the architecture of the church and re-siting the worship band fell short of being a necessity or if it was a necessity it was outweighed the adverse impact of moving the screen. The theological arguments were dismissed as being arcane debates, raising objections by imputing a theology that was not necessarily intended by either those who installed the screen or generations of Incumbents since. It was accepted that the court was obliged to consider theological arguments but that cases like *Re St Stephen's Wallbrook*, concerning the Henry Moore altar or Holy Table, where such arguments were advanced were rare. The 39 Articles were found to be part of the heritage of the Anglican tradition but within the context of Canon, the BCP and the Ordinal, in which the Articles are simply a 'historic formulary' reflecting the Holy Scripture and catholic creeds in which the Church is grounded. Whilst theological grounds could have a place in faculty applications they should be properly grounded rather than being based on a selective and overly narrow understanding of the Anglican tradition.

Catherine Shelley

Apologies to those who struggled with the web-links in the last edition of the newsletter; work is ongoing to correct technical hitches for the future.