

# Gospel & Law

Lent Edition

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**Editorial:** Another packed edition of Gospel and Law, which strangely seems to focus on the occasional offices. News of the Society's new dissertation prize is unveiled; do promote it. There is also lots of conference news this month, some repeated from previous editions and some new.... Hope you're enjoying Lent.

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In the wake of the Supreme Court decision in *R (Hodkin & Anor) v Registrar General of Births, Deaths and Marriages* [2013] UKSC 77 that the Church of Scientology could register its central London chapel as a place of meeting for worship, eligible for registration for weddings, Simon Hughes mused on the possibility of making all weddings civic, with scope for a religious ceremony afterwards for those who want one. Frank Cranmer's response in Law and Religion UK is as follows:

'...if marriage law in England and Wales is a "terrible muddle" that is because *it is a terrible muddle*, not especially because of the ruling in *Hodkin*. A very cursory search of the statute law database reveals no fewer than thirty pieces of primary legislation (both Acts and Measures) relating to marriage and matrimonial causes since the passing of the Marriage Act 1949, starting with the Marriage Act 1949 (Amendment) Act 1954 and ending with the Marriage (Same Sex Couples) Act 2013. The law has not been consolidated since 1949 and the result is a maze of amendments superimposed on the 1949 Act.'

'In my view the law could do with a proper consolidation at the very least and, for preference, it could do with systematic reform as well. At its most basic, the 1949 Act is predicated on the assumption that there are four kinds of religious marriage in England and Wales: Anglican marriages, Quaker marriages, Jewish marriages – and "everyone else" marriages, from Ahmadi Muslims to Zoroastrians. And society is no longer like that – if indeed it was like that in 1949, which I very much doubt.'

He also cites the case of *MA v JA and the Attorney General* [2012] EWHC 2219 (Fam) in which the couple thought that they had contracted a valid marriage at their mosque in Middlesbrough, which was registered for the solemnisation of marriages following s 41 of the [Marriage Act 1949](#). Unfortunately, the imam who married them was not certified as an "authorised person" under s 43! The couple had to seek a declaration (s.55(a) [Family Law Act 1986](#)) "that the marriage was at its inception a valid marriage". This was granted as the marriage was concluded according to *sharia* law, the couple genuinely believed that they were properly married in English law and had accordingly lived together as husband and wife. Therefore the ceremony had been within the scope of the 1949 Act, created a potentially valid marriage; and the parties had not "knowingly and wilfully" married in breach of the requirements of s 49 of the Act.

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### **More on baptism, by way of a letter to the Editor...**

I'm surprised that Bishop Pete has taken the stance he has on the idea of "more accessible" baptism services. The request for this came from Liverpool diocese with wholehearted backing of the diocesan synod. (Personally, as a member of the Alternative Service Book Preservation Society, I just use the permitted ASB words for all the occasional offices.)

I'm sure the new questions and answers about evil can be improved on (what exactly are the "empty promises" of evil?) but so can Common Worship – what exactly is "rebellion against God", and if I "repent of the sins that separate us from God and neighbour" does that imply I'm OK with the sins that don't?

I despair of those who want to restore references to rejecting the devil for people for whom the doctrine of the Trinity may be a stranger concept – and, as I point out to parents, it took the church 300 years to know what we meant by that. Preferring "renounce" to "reject" is mere semantics and as for "baptism-lite", anything other than "repent and be baptised in the name of Jesus Christ for the forgiveness of your sins" might well seem "baptism-heavy".

Rev Steve Parish, Chair of Liverpool DAC

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**Funerals at [www.Gov.uk](http://www.Gov.uk)** – A recent glimpse at the Direct Gov website entry on funerals reveals the interesting promotion of local authorities and the British Humanist Association as being able to assist with funerals but no mention of any religious organization. Members may wish to provide some feedback to the government about the partiality of its website and potential discrimination against those who might wish to manifest their religious faith particularly around the time of a death.

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### **Conference Report: COMMUNITY OF THE DEAD CONFERENCE; 30 JANUARY 2014**

The conference was sponsored by Anglia Law School at Anglia Ruskin University, Cambridge and demonstrates the academic interest in the subject chosen for the ELS conference at Bristol next year. The legal content was rather limited but a number of interesting legal issues were raised, as follows:

A major perspective was **archaeological** and there were interesting papers by **Dr Joost Fontein and Dr John Harries of the Edinburgh University Bones Collective** on human remains of the extinct Beothic tribe in Newfoundland illustrating the ambivalent feelings people have to buried human remains and the importance of churchyards to local communities.

A paper on the construction of Liverpool Street Station by Cross Rail included the problem of encountering extensive remains which had to be moved from the old Bedlam cemetery. Legal considerations were picked up by an archaeologist, **Dr Duncan Sayer from Lancaster University**, who discussed **Home Office** regulation through **exhumation licences**.

A second area of legal relevance was **the need for burial space** and **who should**

**provide and control it.** **Dr Julie Rugg, of the Cemetery Group at York University** discussed the reuse of burial spaces, particularly in the light of public attitudes to human remains. **Dr Nicola Rees, of Kingston University** presented a paper on the origins of the local authority duty to take over the maintenance of closed churchyards. Her paper argued that today this is an unwarranted 'privilege' of the Church of England. The paper seemed to demonstrate a lack of sympathy for the role of the Church in society and did not engage with its modern importance for public open space or its relationship to the public right to burial in open churchyards. Chancellor Rupert Bursell noted a number of points which demonstrated the importance of better education in Ecclesiastical Law for academic commentators and practitioners: There seemed to be confusion over 1) the nature of ecclesiastical law and particularly the respective status of measures and canons; 2) The nature and extent of the powers of chancellors and PCCs in respect of churchyard memorials.

The controversial issues raised by the Richard III case were touched on by **Dr Hilary Soderland, of the University of Washington** in a paper mainly discussing the Native American Graves Protection and Patriation Act 1990. This illustrated the very different approach to ancient human remains in the US. No proceedings had actually been brought under the Act but it appeared to have encouraged the settlement of disputes by mediation, a useful demonstration of the use of mediation in resolving sensitive disputes over human remains generally.

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## THE SOCIETY'S NEW NATIONAL DISSERTATION PRIZE

For some years the Society has awarded prizes, known since 2010 as 'The Eric Kemp Prizes', at those law schools offering courses which include a significant element relating to Ecclesiastical Law. In practice, the prize is awarded for options on Law and Religion. Law Schools where these prizes are currently offered are Bangor, Cardiff, Durham and Oxford Brookes.

From before the beginning of the new century there has been an increased academic interest in the place of religion in contemporary society, reflected in the rapidly growing scholarly literature on its legal implications. To encourage awareness of Ecclesiastical Law in this climate the Society is offering a new national prize for undergraduate dissertations on relevant topics. Dissertations are written as part of the degree assessment in most law schools, typically as an option contributing ¼ to 1/3 of a student's final year assessment. They are intended to develop individual research skills and topics are usually chosen by students themselves, with guidance from their academic supervisors.

Details of the new prize are being sent to law schools to advertise it to students who are working on dissertations for the present academic year who could be eligible. The intention also is to encourage those choosing topics for next year to consider one that would be eligible. Although only a small number of law schools teach courses specifically on Law and Religion, there are scholars interested in the subject in many others and there are likely to be students across the country who would welcome the opportunity of exploring a topic with a religious theme.

"The dissertation must be relevant to the study of Ecclesiastical Law but may be on any subject concerned with the interrelation of Law, State and Church, in England or in relation to the Anglican Communion. Comparative studies considering the law relevant to other faiths will be eligible, provided substantial treatment is given to Christianity".

Applicable topics could be found, for example, in: Constitutional Law, Employment Law, Human Rights, Family Law or Charity Law. In fact most subjects taught in an LLB course include a relevant aspect or link. The competition will be open to relevant dissertations from any first degree course and could appeal to those studying a range of subjects from history or sociology to theology and religious studies.

A prize of £500 is being awarded for those graduating this academic year, 2013 – 2014, and another for graduates in 2014 - 2015. Full details are on the Society web site and queries may be addressed to Andrew Male, the Society Administrator.

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#### **Conferences.... Over the next year or so:**

**Friday 4<sup>th</sup> April – 8-9.30am Breakfast Briefing – Strasbourg’s Approach to Religion** - by Mark Hill QC at Francis Taylor Building, Inner Temple EC4Y 7BY – in the wake of judgements in *Church of Jesus Christ of Latter-day Saints v United Kingdom*. (App No 7522/09) and *Eweida and others v United Kingdom* (App No 48420/10).

**Ecclesiastical Law Society Day Conference & AGM 2014 – Safeguarding** – 5<sup>th</sup> April 2014 at Vaughan House, 46 Francis Street SW1P 1QN. Cost £35 members or £70 for non-members.

#### **Speakers include:**

Bill Jacob, Archdeacon of Charing Cross,  
Elizabeth Hall, National Safeguarding Adviser to the Archbishop’s Council,  
Nicola Harding Joint Registrar Ripon and Leeds and  
Adrian Iles, Designated Officer under the Clergy Discipline Measure.

*The Conference will include updates on good practice as well as proposed developments in Church law on the matter in the light of the Chichester visitation.*

*NB Item 6 of the AGM will be the election of officers to the Committee. Nominations for those elections are welcome. Nominations can be made on the day but those nominated on or before 27<sup>th</sup> March will have their names on the ballot paper. Candidates are invited to provide an election address of no more than 300 words.*

**Annual Conference of the Law and Religion Scholars Network - Monday 12th May**, followed by the **Law and Religion Teaching and Research Conference on Tuesday 13<sup>th</sup> May 2014**. The two events are separate, but people attending the first may wish to stay on for the second, as they cover a common area of research interest.

There is still time to propose a paper (a title and 300 word abstract) on any topic of Law and Religion; the deadline is **Monday 31<sup>st</sup> March** and they should be sent to [helenita862@gmail.com](mailto:helenita862@gmail.com). Those whose papers are accepted will be notified by Friday 4<sup>th</sup> April the conference programme will be circulated and bookings opened.

The charge to attend the LARSN conference is £20 and the LRTR conference is £15. Further information about both conferences is available at:

<http://www.law.cf.ac.uk/newsandevents/events2.php?id=760>

**Future London Lectures – also at Winckworth Sherwood, nr Southwark Cathedral**

Tuesday 17<sup>th</sup> June 2014 – 5-7pm – Rt Revd John Pritchard, Bishop of Oxford  
*Church Schools: a new landscape*

Wednesday 29 October 2014 – Professor Mark Hill QC  
*Judicial Deference and the Non-Justiciability of Religious Disputes*

The lectures are free of charge but spaces are limited. Please contact Andrew Male at [admin@ecclawsoc.org.uk](mailto:admin@ecclawsoc.org.uk) if you wish to attend.

**The Biennial Residential Conference** will be held from 17<sup>th</sup> to 19<sup>th</sup> April 2015 in Bristol. Its focus on the Funeral Project, exhumations, memorials and other grave cases will make it dead exciting.... And it is anticipated that committee meetings between now and then will be dominated by appalling puns around death... The conference will also be the final conference presided over by Bishop Christopher as our Chairman...