



Ecclesiastical
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NEWSLETTER
of
THE ECCLESIASTICAL LAW SOCIETY

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ST LUKE'S DAY EDITION: EDITORIAL

After six years' hard labour, Catherine Shelley has given up the editorship of the Newsletter on her appointment as Vicar of St Edward the Confessor, Motingham, in the Diocese of Southwark. The newsletter has flourished under during her tenure and she relinquishes the editorial chair with our warmest thanks and our best wishes for her new incumbency.

Catherine will be a very hard act to follow – but I do hope, at the very least, to keep the show on the road [FC].

SOPHIE LAWS RIP

Those who knew her will be sad to learn of the death of Sophie Laws, beloved wife of Sir John and a good friend to many members of this Society. Her Memorial Service will be held at the Temple Church, London EC4, on **Wednesday 22 November 2017 at 5.30 pm** and will be followed by a reception at the Inner Temple.

DATES FOR THE DIARY

Training day: *Church Law: Carrot or stick?* – Monday 30 October, 10.30 – 15.30 at Leeds Diocesan Offices, 17-19 York Place, Leeds LS1 2EX: there are still a few places left, so if you are interested, book [here](#).

Reminder: The Charity Commission's [consultation on the content of the Annual Return for 2018](#) closes at 5 pm on 24 November.

ELS Day Conference and AGM: *Gospel and Law in Theological Education* – Saturday 17 March 2018 – at St Bride's Institute, Bride Lane (off Fleet Street) London EC4: further details below. Book [here](#).

London Lectures 2018 – at Winckworth Sherwood, Minerva House, 5 Montague Close, London SE1 9BB.

- **Wednesday 10 January** – Philip Petchey, Chancellor of the Diocese of Southwark, on *Faculty Cases from City Churches*. Book [here](#).
- **Wednesday 7 March** – David Frei, External and Legal Services Director of the United Synagogue and Registrar to the London Beth Din, on *The Role of a Beth Din in Jewish Law*. Book [here](#).

Lyndwood Lecture 2018 – Professor Diarmaid MacCulloch Kt DD FBA on *Richard Hooker (1554-1600): Invention and Reinvention* – **Wednesday 7 November 2018**.

ELS Residential Conference 2019 – to be held at **Cumberland Lodge, Windsor from 5 to 7 April 2019** – *Church and State in the Twenty-first Century: re-imagining Establishment for the post-Elizabethan age*.

WEBSITE AND TWITTER

As all members should by now be aware, the rebuilt website is up and running, at www.ecclawsoc.org.uk. The Society also has a Twitter account at <https://twitter.com/ecclawsoc>.

DAY CONFERENCE & AGM: *Gospel and Law in Theological Education*

The Society's Day Conference and AGM will be at the St Bride Foundation, Bride Lane, Fleet Street, London, EC4Y 8EQ on **Saturday 17 March 2018** from 10.30 to 16.00. Registration and refreshments will be from 9.45.

The Conference will focus on the core function of the Society, namely promoting education in ecclesiastical law. In particular, it will address the training of clergy and others in ecclesiastical law, and showcase best practice in selected topics. Speakers will include:

- The Revd Dr Andrea Russell, Queen’s Foundation Birmingham, who practised as a solicitor before ordination and has recently published her PhD on Richard Hooker. Andrea will outline the context for church law education in the wider setting of ordination training, and the need for clergy to be aware of the legal framework of their ministry.
- Stephen Borton, Ecclesiastical Manager, Lee Bolton Monier-Williams.
- The Ven Simon Baker, Chair of the Ecclesiastical Law Society’s Education Sub-committee.
- Sue de Candole, Registrar of the Dioceses of Winchester and Salisbury.

Book [here](#).

LONDON LECTURE

On 11 October, Sir Mark Hedley DL, Deputy Chair of the Clergy Discipline Commission and Deputy President of Tribunals, Chancellor of the Diocese of Liverpool and until 2013 a judge of the High Court sitting in the Court of Protection, delivered the October London Lecture on the Clergy Discipline Measure 2003.

Catherine Shelley reports:



‘Enjoyable’ might not be the appropriate word for a lecture about clergy discipline but those attending [the final ELS London Lecture of 2017](#) were treated to a stimulating overview of the Clergy Discipline Measure and some thoughts on its more challenging features.

Recognising the diversity of experience in the packed room, from students and clergy to Chancellors and Registrars, Sir Mark began with an overview of the Measure including both its purpose and practical operation. He then addressed the challenges involved in the Measure which include the lack of definition to some of its

terminology and the difficulties in establishing the threshold for when something is a disciplinary matter rather than incompetence or a pastoral concern. It was acknowledged that by its nature defining ‘conduct unbecoming’ and other terms is inevitably an imprecise science. It was important however to recognise when dealing with complaints involving abuse of power that clerical power is viewed very



differently from the perspective of clergy and laity. Tensions were highlighted between dealing with complaints expeditiously and doing justice by enabling respondents sufficient time to present their defence. Concerns about the timescales to deal with complaints are an aspect of the jurisdiction that Sir Mark has been asked by the Archbishops to review.

The final issue considered, in response to questions from the audience, was that of risk-assessment, particularly in cases where the criminal justice system is not proceeding because the evidence falls below the criminal standard of proof but concerns remain. The lack of clarity as to how to assess a risk without making findings of fact was considered and it was acknowledged that this is an area in which more work is needed.

INTER-INN MOOTING COMPETITION



For the third successive year, the Society sponsored the Inter-Inn Mooting competition. This year's final, hosted by Inner Temple who won the competition last year, took place on 6 July. The finalists were Gray's Inn (Ben Norton and Kyra Nezami) for the Appellants and Lincoln's Inn (Calypso Blaj and Veena Srirangam) for the Respondents. David Harte set the problem: an appeal from the Administrative Court in a claim for judicial review of a school's refusal to allow a Christian pupil to wear a headscarf in solidarity with Muslim students. The judges who generously volunteered to hear the Moot were Mr Justice Goss, HHJ Pelling QC, Upper Tribunal Vice-President Mark Ockleton and Ian Croxford QC.

Giving the judgment of the court, Goss J dismissed the appeal. He commended the quality of all four of the mooters but, by a narrow margin, declared Lincoln's Inn the winners. They were presented with the Inter-Inn Mooting Shield together with an individual glass trophy. Mark Hill QC, chairman of the Society, then gave a cheque to the winners.



Next year's moot will be hosted by Lincoln's Inn, under the direction of Judge Ockleton, a Bencher of Lincoln's Inn and Chancellor of the Diocese of Southwell and Nottingham. [Chairman]

ECCLESIASTICAL OFFICES (TERMS OF SERVICE) REGULATIONS 2009

The Church of England Document Library has published a [composite text](#) of the Ecclesiastical Offices (Terms of Service) Regulations 2009, as amended by the various Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2010 to 2017. Deleted text is in ~~strikeout~~ and additional text is underlined. The composite text is for reference purposes only: it shows the amended text of the Regulations as they have had effect from **1 July 2017**. The effect of the 2017 Regulations has been to change certain aspects of the provisions governing how clergy over 70 hold office. Patrick Shorrocks, HR Adviser at the Archbishops' Council, summarised the changes in *Archdeacons' News, Bulletin no. 26 July 2017*: with his permission, the *Law & Religion UK* blog has posted his [revised version](#) of that summary.

On 3 October, the Archbishops' Council published its [Age Limit Guidance](#), pursuant to the provisions of the Ecclesiastical Offices (Terms of Service) Regulations 2009. [FC]

ECCLESIASTICAL JUDGES, LEGAL OFFICERS AND OTHERS (FEES) ORDER 2017

The [Ecclesiastical Judges, Legal Officers and Others \(Fees\) Order 2017](#), made on 3 May, comes into effect on **1 January 2018**. [FC]

BEKYNTON LECTURE 2017

The inaugural Bekynton Lecture was delivered by Professor Norman Doe, Director of the Centre for Law and Religion, Cardiff Law School, on 1 October 2017 in Wells Cathedral's magnificent Education Room, off the Cloisters, built through funds raised by the Friends of the Cathedral. Over 80 people attended, including cathedral dignitaries and community members, Mark Hill QC, Chairman of the Ecclesiastical Law Society, Stephen Slack, Chief Legal Adviser to the Archbishops' Council and General Synod of the Church of England, and Christopher Jones, Partner at Harris and Harris.



Professor Doe's subject was the legal architecture of English cathedrals. The lecture was introduced by the Dean, the Very Revd John Davies, who spoke about the timeliness of the topic in light of the Archbishops' working group on cathedral governance due to report to the Archbishops' Council in December 2017. A deeply knowledgeable audience engaged in

lively comments and questions, including input from the Very Revd Richard Lewis, former Dean of Wells, who had been a member of the Archbishops' Commission on Cathedrals whose report *Heritage and Renewal* (1994) led to the enactment of the Cathedrals Measure 1999.

The lecture, followed by the book launch of N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, 2017) and N. Doe, ed., *Christianity and Natural Law* (Cambridge University Press, 2017), is a collaboration between Wells Cathedral, Harris and Harris Solicitors, who sponsored the refreshments, and the Centre for Law and Religion at Cardiff University. Thomas Bekynton (1390-1465) worked in the fields of law and religion: he was a notable canon lawyer, Dean of the Court of Arches (1423), and Bishop of Bath and Wells (1443). [Chairman]



L-R: Norman Doe, Revd Canon Andrew Featherstone (Chancellor of Wells Cathedral), Very Revd John Davies (Dean of Wells), and Christopher Jones (Partner, Harris and Harris).

INDEPENDENT REVIEWER'S REPORT ON THE SEE OF SHEFFIELD

Sir Philip Mawer, the Independent Reviewer appointed under the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014, published his review of nomination to the See of Sheffield on 15 September.

The [report](#) and [appendices](#) set out the findings of the review requested by the Archbishops of Canterbury and York in March this year following the announcement that the Bishop of Burnley, Philip North, was to withdraw from nomination to the Diocese of Sheffield. Sir Philip makes four recommendations, principally to the House of Bishops, designed to enable the whole Church to address the issues raised in his report:

1. That the House of Bishops commissions a group with balanced membership to review what has been done to inform and educate clergy and laity about the

Settlement agreed in 2014; distil examples of good practice within dioceses; and provide resources to help dioceses, deaneries and parishes, and theological training institutions to engage in further consideration of the issues.

2. That questions raised in the Review over whether the current procedures relating to a Vacancy in See committee and to the Crown Nominations Commission are capable of improvement be considered alongside the outcome of a separate review of the Crown Nominations Commission led by Professor Oliver O'Donovan. These should include the issue of the extent to which the cloak of confidentiality currently surrounding the work of the Commission can be relaxed in order to ensure the degree of preparation for the announcement of a nomination commensurate with the controversy it is likely to arouse.
3. That the House of Bishops invites the Faith and Order Commission to examine the theological challenge which has been posed to the 2014 Settlement and that the results of this work – together with the House's response to the pastoral challenge as to what the nomination of a non-ordaining bishop as a diocesan implies for the ministry of women clergy and lay ministers – inform the ongoing process of discussion and education about the Settlement. In addressing this challenge, it will also be appropriate to address the implications of appointing a woman bishop for her pastoral relationship with those male clergy in her diocese who are unable on theological grounds to accept the sacramental validity of her orders.
4. That, together with his colleagues in the National Church Institutions, and those involved in the dioceses of Sheffield and Blackburn, the Secretary General reviews the lessons to be learned from what happened in order to plan better for handling any such events in future. [FC]

QUINQUENNIAL INSPECTIONS

The Church Buildings Council is inviting comments on new draft guidance on quinquennial inspections, covering:

- the [commissioning](#) of quinquennial inspection reports;
- a [model scheme](#) for dioceses; and
- a new [online template](#) to be hosted on the Church Heritage Record.

Responses should be sent in writing or by e-mail, to [Dr Joseph Elders](#), Cathedral and Church Buildings Division, Church House, Great Smith Street, London SW1P 3AZ. The consultation closes on **31 December**. [FC]

Frank Cranmer