



Ecclesiastical
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In his [New Year Message](#) (everyone seems to have one nowadays except me), the Chairman noted that 2017 had been a year of considerable activity and achievement for the Society: notably the revamped [website](#), the governance review and the sterling work of the Education Sub-Committee on training in ecclesiastical law. To which he might have added that – at the urging of the Society, among others – the Law Commission has decided to look at the law in England and Wales on burial and cremation, much of which is still founded on legislation from the nineteenth century.

Mark also emphasised that the enhanced activities of the Society come at a cost. That much is self-evident and, because of that, it is absolutely essential that we recruit new members. The message should be that *the Society is for anyone and everyone interested in law and religion*. Inevitably, given its history, it has something of an Anglican emphasis – but it's certainly not just for faculty jurisdiction geeks. [FC]

DATES FOR THE DIARY

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: Book [here](#).

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

- **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](#).
- **Tuesday 3 July** – Baroness (Elizabeth) Berridge, co-chair of the All Party Parliamentary Group on International Freedom of Religion or Belief on *Freedom of Religion or Belief*. Book [here](#).
- **Wednesday 10 October** – Dr Peter Smith, barrister of Lincoln’s Inn and formerly Dean of Law at Exeter University, on *Visitations*. Book [here](#).

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

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

LAW COMMISSION 13TH WORK PROGRAMME

The Law Commission announced the contents of its [Thirteenth Programme of Law Reform](#) on 14 December. Of particular interest to members of the Society will be the project on disposal of the dead. As well as an examination of the current law, it will include consideration of two processes that are currently unregulated: resomation (which uses alkaline hydrolysis to reduce the body to ash) and promession/cryomation (which uses liquid nitrogen to crystallise the body and vibration to disintegrate it into particles). This is particularly welcome because a working party of the Society had previously made a [submission](#) asking the Commission to include burial and cremation law in the programme.

As long ago as 2007, the Labour Government concluded in [Burial Law and Policy in the 21st Century: The Way Forward](#) that ‘A free-standing burial Bill could provide a comprehensive legislative framework to regulate burials, exhumations and cemeteries. However, this would entail further detailed work which would take some time yet to complete’. Almost nothing

has been done since then: perhaps the Law Commission will provide the necessary stimulus for reform.

The Commission also announced that it will look at chancel repair liability. It notes that the intention of the Land Registration Act 2002 was that chancel repair liability should not bind purchasers of land after 2013 unless protected on the register; however, questions remain about the legal status of the liability and whether homeowners are nevertheless bound despite the 2002 Act:

‘2.31 This small project would aim to close the loophole and so achieve with certainty what was intended to be achieved by the Land Registration Act 2002. Doing so would eliminate the current standard practice of purchasers searching and/or insuring against the risk of liability, which costs an estimated £20 million each year. The work will take the form of either an advice to Government, or recommendations with a short draft Bill.’ [FC]

TAYLOR REVIEW

The Taylor Review, [*Sustainability of English Churches and Cathedrals*](#), was published on 20 December. The report makes the following ten recommendations:

1. *Community Support Advisers*: “A national network of Community Support Advisers (CSAs) should be put in place to build cross-community relationships, and promote wider and more mixed use of church buildings”.
2. *Process Simplification*: “The Church of England should continue its work to simplify church buildings’ management through the Faculty System. This work should prioritise elements relating to adaptations to allow the building to remain in use both as a place of worship and a community resource, and seek to harmonise the process across all dioceses”.
3. *Legal Clarification*: “The law should be clarified, whether through legislative change or the issue of guidance, to establish that local authorities are not prohibited from awarding funding to churches”.
4. *Fabric Support Officers*: “A network of Fabric Support Officers (FSOs) should be implemented. This network will provide churches with access to skills and resources including maintenance assessment, building management and maintenance, and the ability to guide PCCs as to how to prioritise and fund works”.
5. *Minor Repairs Funding*: “Repairs should be funded as much as possible locally, with the aim of this proportion increasing as, through the work of the CSAs, communities become more engaged. Any balance (to ensure timely execution of works) should come from a Minor Repairs Fund, to be administered on the advice of FSOs”.

6. *Inspection and Strategic Planning*: “FSOs should visit each listed church building within their area of responsibility regularly (expected to be annually), and develop a Minor Repairs Plan, to be updated regularly, together with a rolling ten-year Major Repairs Plan. A review of these plans by church architects or surveyors every five years should be carried out as part of a Quinquennial Inspection”.
7. *Responsibility*: “The PCC of each church, as the body corporate with responsibility for the building fabric, should nominate a named individual to act on its behalf in taking forward routine maintenance and repairs, and to be the key point of contact for the Fabric Support Officer”.
8. *Major Repairs Funding*: “Planned major repairs (long term maintenance) should be financed principally by local fundraising, and topped up where proven necessary from a Major Repairs Fund”.
9. *Cathedrals*: “The Panel considers that a nationally administered fund for works to keep cathedrals safe and open, similar to the First World War Centenary Cathedral Repairs Fund, should be considered as a separate exercise”.
10. *Pilot schemes*: “At least two pilot studies, covering both urban and rural contexts, should be conducted to test and develop the recommendations of this report” [FC].

MORE ON CATHEDRALS

At the end of December, DCLG published [*Cathedrals and their Communities: A report on the diverse roles of cathedrals in modern England*](#), summarising the findings from the tour of all 42 Church of England cathedrals undertaken by Lord Bourne of Aberystwyth as Minister for Faith at DCLG. Unsurprisingly, given that the Taylor Review has examined the technical challenges in detail, it makes no formal recommendations. But it does conclude with three ‘suggestions’: on charging policy, on using spare space and on sharing best practice. [FC]

BISHOP GEORGE BELL

The [*Report of the Independent Review*](#) by Lord Carlile of Berriew QC into the Church of England’s handling of the accusations against Bishop George Bell was published on 15 December. Lord Carlile concluded that, though the Church ‘acted throughout in good faith’ and ‘was motivated by a desire to do what it perceived to be the right thing by the complainant’ [11], ‘the process followed by the Church in this case was deficient in a number of respects’ [13]. In short:

‘the Church of England failed to institute or follow a procedure which respected the rights of both sides. The Church, understandably concerned not to repeat the mistakes of the past when it had been too slow to recognise that abuse had been perpetrated by clergy and to recognise the pain and damage caused to victims, has in effect oversteered in this case. In other words, there was a rush to judgement: the Church, feeling it should be both

supportive of the complainant and transparent in its dealings, failed to engage in a process which would also give proper consideration to the rights of the Bishop. Such rights should not be treated as having been extinguished on death' [18]. [FC]

PLANNING LAW IN WALES

In November, the Law Commission issued a consultation on [*Planning Law in Wales*](#) which I have only recently got round to reading. The consultation document devotes a chapter to *Works affecting listed buildings and conservation areas* but makes no mention whatever of the ecclesiastical exemption from listed building consent.

Whether the omission was intentional or merely an oversight one can only guess: but if any member might be interested in responding, the consultation closes on **1 March**. [FC]

PETER FARRANT RIP

Peter Farrant, a long-standing member of the Society and Vicar General and Chancellor of the Diocese of Sodor & Man from 1974 to 1995, died at the end of December in his nineties.

The Chairman recalls Peter Farrant as a long-serving and enthusiastic member of the Society regularly travelling to events on the mainland, and as a student on the LLM course in Canon Law at Cardiff University. Peter was particularly delighted when one of his last decisions as Vicar General and Chancellor was noted in the pages of the *Ecclesiastical Law Journal: Re Edward Charles Lee, deceased* (1995) 4 Ecc LJ 763, in which he approved the erection of a headstone which contained an image of a motor cycle and used the terms, 'Dad, Grandad and Ted' – which the churchwardens (acting in a vacancy) had refused to allow. He commented that nothing could be more unfortunate than wrangling over matters of taste at the very graveside when the purpose of the enterprise is consolation. Peter will be fondly remembered and, no doubt, appropriately memorialised.

Clare Faulds writes: As far as I know, Peter was the only diocesan chancellor and vicar general who was also diocesan registrar. He retired from both offices in 1995 but continued his interest in ecclesiastical law, particularly focusing on the history of the Manx church and spending hours in the Manx Museum library and archives doing his research. He was also one of the early batches of students for the LLM in Canon Law and always talked with warmth and enthusiasm of his involvement with the ELS and the EJA. I greatly valued his encouragement and kindness and his gift of back numbers of ELJ and other ecclesiastical law books.

AND A VERY HAPPY NEW YEAR TO ALL OUR READERS

Frank Cranmer