



Ecclesiastical  
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Society

**NEWSLETTER**  
**of**  
**THE ECCLESIASTICAL LAW SOCIETY**

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**EASTER EDITION**

**EDITORIAL**

On 17 March, the Society held a very successful Day Conference on *Gospel and Law in Theological Education*, on which Russell Dewhurst reports below, together with the AGM. Otherwise, the major ecclesiastical law news was the outcome of *Pemberton v Inwood* in the Court of Appeal – also noted below. Otherwise: a very happy Easter to you all!

**DATES FOR THE DIARY**

**Tuesday 24 April: Northern Province lecture** – Sir Mark Hedley, Deputy President of the Clergy Discipline Tribunal and Chancellor of the Diocese of Liverpool, on *Practical Aspects of the Clergy Discipline Measure*. This event will be hosted by Wrigleys Solicitors LLP and held at the Radisson Blu Hotel, The Headrow, Leeds LS1 8TL. Book [here](#).

**Tuesday 3 July: London lecture** – 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](#).

**Thursday 12 July: Northern Province lecture** – the Chairman (and Chancellor of the Diocese of Leeds), on *The Ecclesiastical Jurisdiction and Care of Churches Measure 2018*. Book [here](#).

**Wednesday 10 October: London lecture** – Dr Peter Smith, barrister of Lincoln’s Inn and formerly Dean of Law at Exeter University, on *Visitations*. Book [here](#).

**Thursday 11 October: Northern Province lecture** – Sir Philip Mawer (lately the Independent Reviewer under the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014) on his work as Independent Reviewer. Book [here](#).

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

**5 to 7 April 2019: ELS Residential Conference** – to be held at **Cumberland Lodge, Windsor: Church and State in the Twenty-first Century: Re-imagining Establishment for the post-Elizabethan age**. Speakers will include Prof Robert Blackburn, Canon Malcolm Brown, Prof Norman Doe, Sir William Fittall, The Revd Paul Goodliff, The Rt Revd Graham James, Dr Colin Podmore and Lord Singh of Wimbledon. Book [here](#).

*London Lectures are held at Winckworth Sherwood, Minerva House, 5 Montague Close, London SE1 9BB.*

*The July and October Northern Province Lectures will be held at the offices of the Anglican Diocese of Leeds, 17-19 York Place, Leeds, LS1 2EX*

### **31st ANNUAL CONFERENCE**

The Society’s 31st annual conference was held at St Bride’s Foundation, Fleet Street, London, on the topic of Gospel and Law in Theological Education.

The first business was a magnificent keynote address delivered by Dr Andrea Russell, Tutor for Anglican Admissions and Director of Studies at the Queen’s Foundation, Birmingham, on the topic of *Church Law and Ministerial Education*. Dr Russell talked about the



challenges of teaching canon law to ordinands drawn from across the range of church

traditions and cultures. She drew extensively on Richard Hooker's teaching about order, suggesting that the legal order is one of the ways in which God is revealed to us and is part of our mutual accountability. Of particular interest were the examples by which Dr Russell demonstrated how she encouraged those ordinands who may be suspicious of the concept of canon law to engage with the material theologically and pastorally.



The Ven Simon Baker, Archdeacon of Lichfield, and the Revd Canon Norman Boakes, Archdeacons' National Executive Officer, then gave a paper on *Good Practice in the Conduct of Ordained Ministry*. The session began with a close reading of the Rule of St Benedict, on order as the framework for flourishing. The speakers then reflected on the many way in which the role of a Christian minister is unique, including the work situation and the relationships and roles which ministry involves. At the Annual General Meeting, the main business was the proposal to convert

the Society from an unincorporated association to a CIO. The relevant motions were passed unanimously.

After lunch, Stephen Borton, Ecclesiastical Manager at Lee Bolton Monier-Williams, demonstrated some of the training provided (in some dioceses) to curates at IME 5/6 in the forms of *Training Materials on Marriage Law*. Stephen also shared insights on recent developments in marriage law.

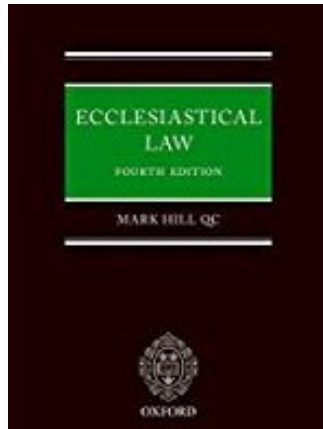
The Ven Peter Rouch, Archdeacon of Bournemouth, then led our group work session, in which



we discussed case studies that might arise in the Church of England. The case studies, all drawn from real-life examples, ranged from the uncertain status of land used for a Garden of Remembrance and fees retained by a member of the clergy officiating at funerals in an allegedly private capacity to the constitution of a PCC. The lively discussion demonstrated the importance of education in ecclesiastical law in the life of ministers and parishes.

The last presentation of the day saw Simon Baker and Stephen Borton return to the lectern to explain some of the work of the Society's Education sub-committee. Delegates' attention was drawn in particular to the growing range of material on the ELS [website](#), including training presentations and links to legal resources. Everyone present was encouraged to evangelise about the work of the Society to the church at large, to ensure that the availability of these resources should become better known.

The conference also saw the launch of the fourth edition of our Chairman's *Ecclesiastical Law*, fully revised and updated. [Russell Dewhurst]



## COMMITTEE CHANGES

At the Society's AGM, Stephen Borton and Neil Turpin – to whom our grateful thanks – stepped down as Secretary and Deputy Secretary. They are succeeded by Lizzie Wilson, a partner at Wrigleys Solicitors LLP who has been a very active member of the Communications Subcommittee, and Ben Harrison, a barrister who recently carried out a successful recruitment blitz enlisting some thirty new members. The three vacancies on the committee were filled by Archdeacon Simon Baker, who leads the education sub-committee, Judge Mark Emerton, responsible for the London Lecture programme, and – a newcomer – the Worshipful Ruth Arlow, Chancellor of the Dioceses of Norwich and Salisbury and editor of the Case Notes section of the *Ecclesiastical Law Journal*. [FC]

## JEREMY PEMBERTON LOSES HIS APPEAL

As all readers of the *Newsletter* will know, Canon Jeremy Pemberton married his partner Laurence Cunnington, lost his licence, was therefore unable to take up a chaplaincy post with the Sherwood Hospitals NHS Trust and subsequently claimed wrongful dismissal and harassment.

In *Pemberton v Inwood* [2018] EWCA Civ 564 he lost again. The Court of Appeal held that both lower Tribunals had been entitled to find that 'the doctrines, as in teachings and beliefs of the Church of England, were as stated in Canon B30 with specific regard in relation to same sex marriages to the statement of Pastoral Guidance from the House of Bishops...' [62] and that it had not been necessary that 'there should be an express provision prohibiting a priest from entering into a same-sex marriage and spelling out the consequences if he did' [63]. Further, HHJ Eady QC had not erred in law in holding that 'the ET had been entitled to find that the requirement had been applied so as to comply with the doctrines as found' [66].

Underhill LJ, concurring with Asplin LJ's principal judgment, observed rather briskly on the harassment point that 'If you belong to an institution with known, and lawful, rules, it implies no violation of dignity, and is not cause for reasonable offence, that those rules should be applied to you, however wrong you may believe them to be. Not all opposition of interests is hostile or offensive' [89]. [FC]

## **WEBSITE NEWS**

Members can now access the full online archive of the *Ecc LJ*, right back to 1987, from the ELS website: to do so, log in to the site, click on 'Journal Archive' on the 'Members' menu at the top right of any page of the website and follow the link from there.

We have also added a [legal resources page](#) and a [directory](#): both take the form of a library of web links. The legal resources include hard and soft law, while the directory includes blogs, organisations and books which relate to ecclesiastical law. Both are at an early stage of development, and *ELS members interested in helping us to add links in the various categories are invited to contact the Society's Administrator*. [RD]