



Ecclesiastical  
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Society

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

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**ADVENT EDITION**

**EDITORIAL**

Buried deep in – of all unlikely places – the Budget *Red Book* was an announcement that the Government had asked the Law Commission to review what it described as the ‘outdated laws about how and where couples can marry’ in England and Wales and ‘to propose options for a simpler and fairer system to give modern couples meaningful choice’, including ‘reducing unnecessary red tape and lowering the cost of wedding venues for couples’.

The Law Commission had previously done some preliminary research and published *Getting Married: A Scoping Paper* in December 2015 – only to have its proposal for a thoroughgoing review rejected by the Ministry of Justice. But, like life, Secretaries of State move on; and the issue is now firmly back on the agenda. The Terms of Reference for the study have yet to be agreed; but Stephen Borton is poised to convene a working party to draft an ELS response to the Law Commission consultation as and when they appear – and would welcome volunteers from within the Society to assist him. [FC]

## DATES FOR THE DIARY

**Wednesday 6 February 2019: Northern Province lecture** – Bishop Colin Buchanan on *The transferable vote: a hundred years of Anglican experience*. Book [here](#).

**Wednesday 20 & Thursday 21 February 2019: Robin Sharwood Lecture in Church Law** – Mark Hill on *Anglican Canon Law: identity, ecclesiology and ecumenism*: **Melbourne**: Wednesday 7.30pm, Craig Auditorium, Gateway Building, Trinity College (book [here](#)): **Sydney**: Thursday 6.00pm, St James' Church, King Street (book [here](#)).

**Thursday 14 March 2019: study day** – to be held at **Manchester Diocesan Office, 90 Deansgate, Manchester M3 2GH**: 'Foremost in Representing the Laity: Training of churchwardens in today's Church' – on churchwardens and the law, with Simon Baker, Stuart Beake, Norman Boakes, Stephen Borton, Mark Hill QC and Andrea Russell. 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 QC, The Revd Canon Malcolm Brown, Prof Grace Davie, 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](#).

**Thursday 16 May 2019: Northern Province lecture** – Caroline Mockford, Registrar of the Diocese and of the Province of York, on *Closed Churchyards*. Book [here](#).

**Tuesday 16 July 2019: Northern Province lecture** – Bishop Nick Baines on *The Function of Ecclesiastical Law in Effective Parochial Ministry*. Book [here](#).

**Wednesday 6 November 2019: Northern Province lecture** – Rt Worshipful Charles George QC, Auditor of the Chancery Court of York, on *Do we still need the Faculty System?* Book [here](#).

*Northern Province Lectures are held at the offices of the Diocese of Leeds, 17-19 York Place, Leeds, LS1 2EX*

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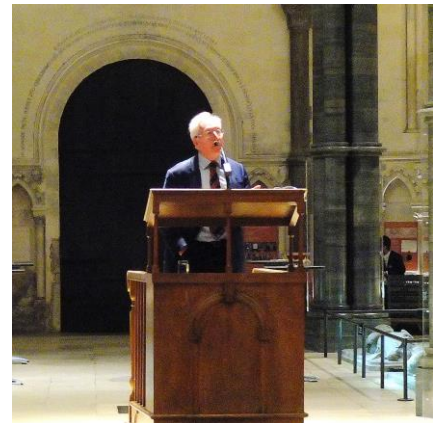
## LYNDWOOD LECTURE 2018

A large and appreciative audience was present at the Temple Church on 7 November for the 2018 Lyndwood Lecture, it being the Society's turn to host the event. Professor Diarmaid MacCulloch Kt DD FBA, Professor of the History of the Church, University of Oxford, spoke on *Richard Hooker (1554-1600): Invention and Reinvention*, tracing the way in which *Of the*



*Lawes of Ecclesiasticall Politie* had been employed by various parties in the Church of England over the years since its publication to support their own particular ecclesiologies – from both Laudian High-Churchmen *and* their Evangelical and Latitudinarian opponents to later controversialists. Tories, for example, stressed the ‘high’ features of Hooker’s ecclesiology (even though they found his justification of political consent and contract embarrassing) while their Whig opponents remembered that John Locke in his *Treatise of Civil Government* had famously justified rational government and natural rights with quotations from ‘the judicious Hooker’.

Professor MacCulloch reminded us that the English Reformation had never been monolithic: quite apart from the initial tensions between Puritans and Moderates, both ‘Old Dissent’ and Roman Catholicism had continued to command the allegiance of a significant element of the population. The Toleration Act 1689 had marked the Church’s acceptance of the fact that, from then on, it was to be the ‘established’ Church rather than the ‘national’ Church. He also reminded us that underlying many of the issues that currently divide Anglicans is a much more basic issue of the authority of Scripture that had greatly concerned Hooker: is the Bible a set of prescriptive rules or may the Church interpret it by the exercise of reason?



We should like to thank the Master of the Temple, the Revd Robin Griffith-Jones, for his hospitality. Bishop Christopher Hill summarises the lecture [here](#). [FC]

## TABLE OF PAROCHIAL FEES 2019

The Church of England has published the [Table of Parochial Fees](#) applicable from 1 January 2019. The full table, including notes, guidance and FAQs, is available from links on the Fees page of the Church of England website, [here](#). [FC]

## NON-THEOLOGICAL TRAINING FOR ‘FAITH LEADERS’

The Ministry of Housing, Communities & Local Government is [inviting bids](#) from prospective training providers interested in delivering non-theological, **voluntary** training for ‘faith leaders’ – a proposal floated in the [Integrated Communities Strategy green paper](#) published in March 2018.

At a minimum, MHCLG expects that, on successful completion, trainees will be able to teach their congregations about their rights and responsibilities and to identify issues and give support in the areas of domestic abuse, forced marriage, female genital mutilation, child sexual abuse and exploitation and mental health. Training should also cover marriage legislation, equalities legislation, hate crime legislation and ‘shared values’.

MHCLG also expects the training ‘to be accessible for all faith leaders, regardless of faith or belief, and for all the minimum content to be delivered to all groups, but we do not expect the content to be delivered to all participants in the same way’. Reading between the lines, the proposal looks as if it is aimed primarily at religious minorities rather than at clergy in mainstream Christian Churches. [FC]

## CONSULTATION ON PARISH VACANCIES

On 1 November 2018, the Church of England **announced** that the Archbishops’ Council is considering making some changes to the **Patronage (Benefices) Measure 1986**, intended to reduce the burden on parishes. Full details of the plans and how to respond can be found in the **consultation document**. Under the provisions of with s.4(4) of the Legislative Reform Measure 2018, the consultation document has also been laid before Parliament.

There are no proposals to change the substantive rights of patrons, parochial church councils or bishops. Broadly speaking, the proposed changes fall under five heads:

- undue delay in commencing the process for filling a vacancy, *proposal 1*, [16] to [27]
- PCC duties in relation to filling a vacancy, *proposal 2*, [28] to [43];
- The effect on lapse of the right of presentation, *proposal 3*, [44] to [48];
- patronage exercised jointly, *proposal 4*, [49] to [54], and *proposal 5* [55, 56]; and
- use of electronic communication, *proposal 6*, [57] to [59].

Responses should be submitted by **24 January 2019**:

- by post to Jenny Jacobs, Central Secretariat, Church House, Great Smith Street, London SW1P 4JZ or
- by e-mail to [jenny.jacobs@churchofengland.org](mailto:jenny.jacobs@churchofengland.org). [David Pocklington]

## EU LAW AFTER BREXIT?

Article 4(5) of the **Draft Agreement** on the UK’s withdrawal from the EU and Euratom declares that, after the end of the transition period, ‘In the interpretation and application of this Agreement, the United Kingdom’s judicial and administrative authorities shall have due regard to relevant case law of the Court of Justice of the European Union *handed down after the end of the transition period.*’ [emphasis added] Which suggests that, assuming that the

Draft Agreement is ratified by all parties, once the transition period is passed the case law of Luxembourg will have the same status in the UK courts as the case law of Strasbourg. [FC]

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