



Ecclesiastical
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NEWSLETTER
of
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FEBRUARY EDITION

DATES FOR THE DIARY

Wednesday 20 & Thursday 21 February: 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 21 February: *The Judaeo-Christian Heritage of Western Law* – symposium at the **Woolf Institute, Cambridge**, 2.30-5.30 pm. To book, contact **Dr Patrick Nash** at the Institute.

Monday 4 March: London Lecture – Canon John Rees and Professor Norman Doe, on *An introduction to the 'Principles of Canon Law Common to the Churches of the Anglican Communion'*. Book [here](#). Refreshments at 5 pm, lecture at 5.30.

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Thursday 14 March: 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](#).

Saturday 23 March: Half-day consultation on the 'Principles', for those whose interest is sparked by the London Lecture on 4 March.

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: Northern Province lecture – Caroline Mockford, Registrar of the Diocese and of the Province of York, on *Closed Churchyards*. Book [here](#). **Drinks at 5 pm, lecture at 5.30.**

Tuesday 21 May: London Lecture – Dr Sarah Horsman, Warden of Sheldon (Mary and Martha), on *The CDM – a Sideways Look*. Book [here](#). **Refreshments at 5 pm, lecture at 5.30.**

Wednesday 3 July: London Lecture – Norman Doe on *The unifying effect of Christian Law for Ecumenism*. Book [here](#). **Refreshments at 5 pm, lecture at 5.30.**

Tuesday 16 July: Northern Province lecture – Bishop Nick Baines on *The Function of Ecclesiastical Law in Effective Parochial Ministry*. Book [here](#). **Drinks at 5 pm, lecture at 5.30.**

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](#). **Drinks at 5 pm, lecture at 5.30.**

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

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

THE JOURNAL: AN APOLOGY

We are sorry that the January 2019 issue of the *Ecclesiastical Law Journal* has not yet been sent to you. There were some delays in the production process this time which have led to a delay in the printing of the *Journal*. Cambridge University Press has indicated that it will be published online in the coming days and that printed copies will follow shortly.

NORTHERN PROVINCE LECTURE

On 6 February, some 40 people gathered at the Leeds Diocesan Offices to hear Bishop Colin Buchanan give a lecture on *The Transferable Vote: a Hundred Years of Anglican Experience*. He started by stating that in a four-member constituency, if each voter has 4 votes, 30 per cent of voters may elect all the candidates, leaving 70 per cent frustrated. If the single transferable vote is used, 80 per cent see their votes land on someone elected and 20 per cent on the runner-up.

He then traced the history of the Representative Church Council, the Church Assembly and the General Synod and explained how STV became the norm in all elections for national Church bodies right up to the Crown Appointments Commission in 1993. He has been much involved in both the General Synod and the Electoral Reform Society and argued that the Church must preach what it practises so that STV is introduced in local government and parliamentary elections. [Paul Benfield]



CONSULTATION ON CHARITY LAW IN SCOTLAND

The Scottish Government has launched a **consultation** on Scots charity law. The consultation document notes that it has been more than thirteen years since the passage of the Charities and Trustee Investment (Scotland) Act 2005 and the Government feels that it is appropriate to revisit the current arrangements. The consultation seeks views on potential amendments to the statutory charity regulation framework in Scotland, in light of proposals put forward by OSCR. The proposals broadly focus on changes which, it is hoped, will increase transparency and accountability in order to maintain public trust and confidence in charities and OSCR – principally by broadening OSCR’s powers and extending the disqualification criteria for charity trustees by bringing them into line with the criteria in England and Wales. The consultation closes on **1 April**. [FC]

ECCLESIASTICAL EXEMPTION IN WALES

The [Ecclesiastical Exemption \(Listed Buildings and Conservation Areas\) \(Wales\) Order 2018](#) came into force on 1 January. Under the terms of the Order, conservation area consent will no longer be subject to ecclesiastical exemption and listed and unlisted buildings and structures within the curtilage of a listed ecclesiastical building will now be included under the ecclesiastical exemption. Planning and listed building consent being devolved matters, the Order applies to Wales only. [FC]

GDPR AND ANNUAL PAROCHIAL CHURCH MEETINGS

After concerns expressed by Church of England parishes about data protection issues and the renewal of Electoral Rolls, *Parish Resources* has published a [note](#) in clarification (together with a reminder on the disqualification rules for charity trustees), as follows:

‘APCM – GDPR

Many PCCs have raised concerns about the legal bases under GDPR for the processing of personal data required by the church electoral roll in accordance with the requirements set out in the Church Representation Rules (the ‘CRR’).

In response, the Church of England’s GDPR Team have produced guidance to clarify these issues. They have also produced an [Electoral Roll Privacy Notice](#) which explains the GDPR issues for those individuals applying to the electoral roll. You should publish this on your website and/or give it to people who request an application form.

You can view the APCM GDPR Guidance and Electoral Roll Privacy Notice [on our website.](#)’

See also the report, [GS 2046ZZ/2047ZZ](#), of the Steering Committee on the Draft Church Representation and Ministers Measure and Draft Amending Canon No 39. [FC]

MUNICIPAL CEMETERY REGULATIONS AND THE HIGH COURT: *UL HAQ*

Some readers may be interested in the High Court ruling in *R (Ul Haq) v Walsall MBC* [2019] [EWHC 70 \(Admin\)](#). The case involved a municipal cemetery and the claimant, a Muslim, challenged the lawfulness of Walsall MBC’s ‘Rules and Regulations in respect of Cemeteries and Crematoria’: specifically, the provision forbidding raised edgings around graves. The claimant was concerned that, if there was no edging, people might walk over his father’s grave, contrary to his and his family’s religious belief that the grave was sacrosanct and that stepping on it would be an offensive, religiously-proscribed act that had to be prevented. In response, the Council explained that it had opted to manage the cemetery in accordance with

the Commonwealth War Graves Commission’s ‘lawn principle’ of graves of a uniform appearance without fences, barriers or other obstructions between them.

It was common ground that the principal issue arose under Article 9 ECHR; however, the Court held that the Council’s policy had the legitimate aims of protecting the rights of others – including the families of those buried in the Muslim section of the cemetery on the understanding that it would conform to the ‘lawn principle’ – and ensuring the health and safety of visitors and staff, for example when carrying or using machinery for grass-cutting and general maintenance. Moreover, the Council had consulted widely on the revision of its policy in 2016 – and the policy had been in place for many years beforehand.

The claim was dismissed; however, Mr Ul Haq’s solicitor, Natalia Garcia, subsequently told *The Times* that he would be seeking permission to appeal. [FC]

CONSISTORY COURT JUDGMENTS

An unusually large number of consistory court judgments were made available in January. David Pocklington has produced a summary in two parts:

- **Part 1** covers reordering, extensions & other building works:
- **Part 2** covers exhumation, churchyards & burials, and also includes links to recent Cathedrals Fabric Commission determinations.
