

## FOREWORD

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# An Appreciation of the Ecclesiastical Law Society on the Twenty-fifth Anniversary of its Foundation

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It is a very great pleasure to congratulate the Society on its anniversary, and to do so here in the library of Lambeth Palace. In doing so, I would want also to express my congratulations to all those involved in the *Ecclesiastical Law Journal*, which is one of the lasting contributions that the Society has made, is making and (please God) will make, to the life of the Church of England and much more widely. Its professional standards, its variety and depth of analysis and, of course, the extraordinary generosity of the number of people who help to produce it without remuneration is deeply impressive and I am sure that the Society would like to hear just how much it is appreciated across the Church.

I once described the work of the ecclesiastical lawyer as analogous to plumbing: no house can really survive without it, but it is not always a particularly romantic or dramatic or rewarding or salubrious job. It just has to be done. But I do think, on reflection, that there is rather more to it than that. I like ecclesiastical lawyers. We are an ordered Church, and an ordered Church means a Church in which the fancies, preferences and egos of those in authority are controlled. A disorderly Church is one in which lots of people's personalities thrash around, fascinatingly, excitingly and very damagingly. An ordered Church is one in which you have some reasonable expectation of what's expected of you. During the Second World War, Raymond Raynes of the Community of the Resurrection at Mirfield (a very great and terrible man) wrote to a diocesan bishop who was refusing to release a cleric to join CR because he thought that monastic life was not a priority in wartime. He explained to the bishop that 'canonical obedience' meant obedience to the canons, not doing what bishops fancied. And I think that's a very sound, lasting principle. It is the

<sup>1</sup> This is the edited text of a speech given at the Society's Silver Jubilee Reception, held at Lambeth Palace, 29 May 2012.

way in which the law – quite properly in the Church, as elsewhere – guarantees liberty.

Some of you may have read the recent biography of Thomas Becket, my distinguished predecessor, by John Guy.<sup>2</sup> Some of us who were brought up on a version of the story of King Henry and Archbishop Becket which emphasised Henry's stand for the timeless verities of English law and Becket's obscurantist ecclesiasticism will be surprised to read this biography, which somewhat redresses the balance. The argument is really that Henry II, so far from being the champion of English legal principle and universal principles of legality, was in fact (like most of his contemporary European monarchs) very much inclined to identify the law of the land with what he'd just thought of. And while Becket's opposition may not always have been to 'die in quite the right ditch', nonetheless what Becket stood for, and I daresay still stands for, was the principle that the law is about more than the will of the sovereign. And in whatever system we are working or thinking, that is a valuable principle for sovereignty within the state or indeed within the Church. The law is more than the will of the sovereign. Henry of course wanted Becket to sign up to the ancestral customs of the realm; famously, at Northampton, when Becket asked Henry, 'What are those ancestral customs?', Henry answered, 'They are what I say they are.'

So, although Becket is a rather unlikely hero for legality as a principle of a healthy society, and although the exemptions and protections enjoyed by the mediaeval Church are perhaps not quite where we'd want to start these days, nonetheless there is a real issue there. It's an issue that is not just academic and not just historical. As our national society evolves, it seems to me more and more important that we have, in addition to whatever we say about the sovereignty of our society, a thoroughly robust doctrine of what the *law* is in our society: as the protection of liberties; as that which guarantees access for all to justice and redress; as that which is beyond any particular settlement of power, influence or privilege in any social setting. In that sense, the law is not at all inimical to the Gospel. Quite the contrary. If the Gospel is about the freedoms that belong to human beings by virtue simply of their humanity before God, the law is one of the most effective ways in which we witness to that and work with the grain of it.

That does also mean that in the context of some of the rather complicated debates we're now enmeshed in – about law, ethics and society – the Church needs to do some hard thinking and some quarrying of its own traditions. The current, neuralgic issues around the laws of marriage, for instance, do at the very least raise the question of what relation the law has to custom and society, and what relation the state's power has to the law if the state seeks to

2 J Guy, *Thomas Becket: warrior, rebel, victim: a 900-year-old story retold* (London, 2012).

change social custom by legal enactment. There are tangled questions here that I think we need time to reflect on – and skill, the kind of skill represented in this room. And although I occasionally despair of having anything remotely resembling a sensible conversation about the government’s consultation on gender-neutral marriage, if anybody can do it, you can. So let’s hope that we see and hear something of that conversation in the time ahead.

But that is just one example of the ways in which the business of this Society is profoundly relevant to where we are as a society as a whole. And I hope that the principle that Richard Hooker worked from – that law as the basis of Church and society is, at its fullest and richest, a reflection of the lawfulness, the harmonic regularity of the whole universe under God – is something that remains not only in our thinking and our action as people involved with the law, but in our prayer and our contemplation as well. What is wonderful about Hooker (and I won’t repeat the lecture I gave on Hooker some years ago)<sup>3</sup> is of course his ability to link the practise of the law in all its pragmatic complexity with the vision of God. And although it may seem a long way from the Uxbridge Magistrates Court to the courts of heaven, nonetheless the sense that we do live in a universe where we can trust the environment we inhabit is part of what the law seeks to secure in pragmatic terms, both in society and in the Church.

Woe betide us then, if as a Church we play down what the law can and should mean. Woe betide us, if we forget that order is the servant of freedom, not its enemy. I’m delighted to be able to celebrate with you this historic occasion. I’m delighted at the work, the skill and the imagination that is offered by the Society to the Church and to society. I am delighted to invite you all to drink to the Ecclesiastical Law Society and its long flourishing.

3 R Williams, ‘Richard Hooker: *The Laws of Ecclesiastical Polity* revisited’, (2006) 8 Ecc LJ 382–391.