

THE ORIGIN AND FOUNDING OF THE ECCLESIASTICAL LAW SOCIETY

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There was an ecclesiastical law shaped hole in the Church of England from the dissolution of Doctors' Commons in 1857 until 1987 when it was filled by the formation of the Ecclesiastical Law Society. In 1947, forty years earlier, the Archbishops' Canon Law Commission had suggested how the hole might be filled. The Commission was appointed in 1939 and published its report under the title *The Canon Law of the Church of England* (SPCK, 1947). The Report consisted of a learned and authoritative review of the sources of English canon law and made recommendations for its reform, in particular by appending to the Report a body of suggested revised canons. Included in the Report was the following paragraph expressing the hope that a society might be formed for the study of canon law:

'The success of a new code of canons will to a great extent depend on a wider knowledge than at present exists among the clergy of the law of the Church of England, its nature, history, development, and particular characteristics; and it is hoped that the previous chapters of this Report will provide an elementary introduction to the subject. We recommend therefore that those who are responsible for the training of ordination candidates and for the post-ordination training of the clergy should be asked to consider what steps can be taken to give both ordinands and clergy a more professional knowledge of the Church's law and constitution. In giving evidence before the Ecclesiastical Courts Commission in 1883 the late Sir Lewis Dibdin pointed out that since the disappearance of Doctors' Commons in 1857 there had really been no method of teaching or preserving a knowledge of the Ecclesiastical Law.¹ It is impossible at this stage to revive anything like Doctors' Commons, but we would suggest that a society, consisting of clergy, professional historians, and lawyers, be formed for the purpose of studying the Ecclesiastical Law and of suggesting ways in which that law either needs alteration or can be developed to meet new needs. As a rule there is far too little contact and interchange of ideas and points of view between the clergy and ecclesiastical lawyers, and such a society would give opportunities for this. Such a society would train up a number of people competent to advise and help the clergy in the particular problems of Ecclesiastical Law with which from time to time they are confronted.'

Nobody took up the Commission's call—perhaps because the regeneration of professional life and practice after the war left little time or opportunity for such action.

As the Convocations of Canterbury and York began the major task of debating the reform of the Canons, so also was begun the publication of a post-war—the third—edition of *Halsbury's Laws of England*. Butterworths, in 1950, invited Evelyn Garth Moore, then a Fellow of Corpus Christi College, Cambridge, and Kenneth Macmorran QC, to edit the title 'Ecclesiastical Law'. Each asked a newly called barrister to assist him. Kenneth Macmorran asked Brian Buckle and Garth Moore asked me, perhaps because I had been his pupil in his chambers at 1 Paper Buildings in the Temple.

It seems likely that this invitation prompted Garth Moore to suggest to Eric Kemp, then the chaplain and a Fellow of Exeter College, Oxford, that they might

¹ Report of the Ecclesiastical Courts Commission, 1883. Minutes No 7460.

together arrange informal meetings of lawyers and clergymen interested in canon law. The first of these was in Easter week of 1951 in Corpus Christi College, Cambridge. Those attending included Garth Moore, Eric Kemp, Walter Wigglesworth, Vicar-General of the Province of York and Chancellor of the Dioceses of York, Bath and Wells, Derby, Exeter and Portsmouth, Brian Buckle and myself. Walter Wigglesworth had been a member of the Archbishops' Commission and is understood to have written much of the Report.

The first meeting was followed by others at Exeter College in 1952, Corpus Christi College in 1953 and Exeter College in 1954.

Papers were read on various topics. One, by Walter Wigglesworth, was on custom. Another was on the Colenso controversy. Those who attended some, though not all the meetings, were Canon George Addleshaw, a canon residentiary of York, Christopher Cheney, Professor of Medieval History at Cambridge, Dr Kathleen Major, Principal of St Hilda's College, Oxford, Robert Mortimer, Bishop of Exeter and Sir Henry Willink, Dean of the Arches and Master of Magdalene College, Cambridge.

In the end the group which had been formed by this series of meetings 'talked itself out', in the words of George Addleshaw, and made no plans to form a continuing society.

Nevertheless both Garth Moore and Eric Kemp kept the hope of education and interest in canon law alive in their thoughts and writings. Garth Moore as Director of Studies in Law at Corpus Christi ran, from the late '60s until 1981, as part of the Law Tripos, a half paper on the subject of canon law, involving seminars and a dissertation. Two of the undergraduates attending that course were Timothy Briden, now Chancellor of the Dioceses of Bath and Wells and Truro, and Charles Mynors, now Chancellor of the Diocese of Worcester.

In 1967 Garth Moore completed a seminal work, his *Introduction to English Canon Law*, published by the Clarendon Press, which has since gone into three editions.² Garth Moore was succeeded as director of legal studies in Corpus Christi by Graham Routledge, and the two must have talked about the possibility and practicability of such a society as had been suggested by the Archbishops' Commission.

Eric Kemp was invited to give the Lichfield Cathedral Divinity Lectures in 1956, which have been published under the title *An Introduction to the Canon Law of the Church of England* (Hodder & Stoughton, 1957). In his third lecture he quoted part of the paragraph quoted above from the Report of the Canon Law Commission. He argued for much more than a mere voluntary society and presented the need for institutional training and qualification of ecclesiastical lawyers. He concluded (p. 79) that there was

'One thing of particular value, however, such a society could do. It could bring lawyers and clergymen together and help each group to a greater understanding of the other's point of view. It could also encourage the study of the law of the church among the clergy.'

The report of the Faculty Jurisdiction Commission, of which Eric Kemp, as Bishop of Chichester, was chairman, published under the title *The Continuing Care of Churches* (CIO Publishing, 1984) touches briefly on this question in paras 223 and 224. The possible renaissance of Doctors' Commons is discussed and the report goes on:

'But although the revival of Doctors' Commons seems neither practical nor even desirable it did foster an *esprit de corps*, an exchange of information and a ready means of training prospective ecclesiastical lawyers, all of which must now be supplied by other means [...].'

² The manuscript of the first edition is now in the Library of the Cardiff Law School.

It was not within the Commission's remit to suggest or even recommend the means. What, as the years went by, the Church and those concerned with English canon law needed was someone, lawyer, priest or academic, to take the initiative. In the end it proved to be Graham Routledge, who was all three; a barrister of the Middle Temple who, after practising on the Northern circuit, was ordained priest in 1967, later became a Fellow of Corpus Christi, was Chancellor of the Dioceses of Ely (1973), Peterborough (1976) and Lichfield (1977) and finally Canon and Treasurer of St Paul's Cathedral.

In December 1985 he summoned a group of friends to a meeting at his house at 3 Amen Court at which he proposed the formation of a society to promote and foster the study of ecclesiastical law. A series of meetings in 1986 and the spring of 1987 followed, and the cheerful hospitality of Graham and his wife Muriel made them all most convivial and enjoyable. Those attending all or some of the meetings were Peter Beesley, Registrar of the Office of the Master of Faculties and of the Diocese of Guildford, David Cheetham, Registrar of the Diocese of St Albans, David Faull, Registrar of the Dioceses of London and Southwark, William Gage, Chancellor of the Diocese of Coventry, Michael Goodman, Chancellor of the Dioceses of Guildford, Rochester and Lincoln, Brian Hanson, Legal Adviser of the General Synod, Frank Harvey, Archdeacon of London, Raymond Hemingway, Registrar of the Diocese of Peterborough, John Owen, Dean of the Arches, Kenneth Woollcombe, some time Bishop of Oxford, then a canon residentiary of St Paul's and a judge of the Court of Ecclesiastical Causes Reserved, and myself, then Chancellor of the Dioceses of Blackburn and Chichester.

Many questions had to be decided. Who was to be eligible to join? Was it to be a society of enthusiasts or should some professional qualification or ecclesiastical dignity be required for membership? It was decided that if the society to be formed might in the future assist the General Synod with its advice it was desirable that the Society should be known to be composed of those with appropriate qualifications.

What was the society to be called? It was reluctantly agreed that the words 'Canon Law' could not figure in the title because of the existence of the well-established and well-known Roman Catholic Canon Law Society of Great Britain and Ireland. The 'Stowell Society' and 'Phillimore Society' were canvassed, but in the end we settled on the prosaic 'Ecclesiastical Law Society'.

As the discussions proceeded we were able to express our hope that the society would become 'a spring of learning and a forum for discussion on legal subjects of interest and concern to the Church'. As such we thought it would, or should, be a charity, as legally defined, and that the constitution should be framed accordingly.

William Gage, Brian Hanson and I were charged with drafting the constitution, which was undertaken with the help of the Athenaeum's wine cellar. With the assistance of Peter Beesley and Mrs Fiona Middleton of the Charity Commission it was finally settled, by the end of 1986, in a form which made it possible to register the new society as a charity. The charitable object of the Society is stated, in the constitution, to be:

'the promotion of the study of ecclesiastical law for the benefit of the public, in particular through:

- (i) the education in ecclesiastical law of those who hold authority or judicial office in or practise in the ecclesiastical courts of the Church of England;
- (ii) the enlargement of knowledge of, and learning in, ecclesiastical law among the clergy and laity of the Church of England and of Churches in communion with the Church of England;
- (iii) the provision of assistance in matters of ecclesiastical law to the General Synod of the Church of England, the Convocations of Canterbury and York and the Bishops and dignitaries of the Church of England.'

That elusive phrase 'ecclesiastical law' is defined in the constitution as 'the general canon law of the Holy Catholic and Apostolic Church and also the ecclesiastical law of the Church of England and of the Churches in communion with the Church of England'.

The troublesome problem of finding the capital for the promotion of the proposed society was solved by Derek Hayward. He secured a most generous donation of £1,000 from the St Edmund King and Martyr Trust in the name of piety and sound learning.

What remained was the launch of the society and that was to be at a conference from 26 to 28 March 1987, under the chairmanship of Sir John Owen, Dean of the Arches. Through the good offices of Graham Routledge and Garth Moore the conference was to be held at Corpus Christi College, Cambridge.

Then there was the question: who was to be invited to attend? All bishops, chancellors, registrars and archdeacons were candidates. Peter Beesley undertook the administration of this task and sent out invitations to all these and to any others the Steering Group could think of.

The response was most encouraging. Altogether 119 people, potential members, speakers and guests, came to Corpus. They included four bishops, sixteen chancellors and thirty-two registrars from England and Wales, one chancellor from Canada and one registrar from South Africa, thirty-four Archdeacons, eleven barristers and six solicitors. Among the bishops was Peter Mumford, Bishop of Truro, who gave the Society, in its formation and early years, great support. Not included in their number was, unhappily, Kenneth Woolcombe who, although an enthusiastic member of Graham Routledge's band, was, as canon in residence of St Paul's Cathedral, constrained to decline.

It was fitting that the opening address should have been by Eric Kemp, Bishop of Chichester. He and Garth Moore, who sat in the front row of his audience, must have remembered the meetings in Oxford and Cambridge in the early 1950s when the seed of the Society was sown.

The conference was, by common consent, a great success. Its proceedings are recorded in the first issue of this Journal. So was founded our Society which has grown from the 119 members who enrolled in Cambridge in March 1987 to a membership, in the autumn of 1999, of 521 and has, in the main, fulfilled the hopes that we, Graham's supporters and friends, expressed at those meetings in Amen Court. Although it is sad to report that Graham Routledge, who was, in truth, the founder of the Society, died on 19th May 1988, just over a year after its formation, he lived long enough to see the Society established and flourishing.