"Serving the people and their parishes"

PARSON AND PARISH

is published by

THE ENGLISH CLERGY ASSOCIATION

PATRON: The Right Reverend & Right Honourable

The Lord Bishop of London

Founded by the Rev'd EDWARD G. COURTMAN in 1938,

the Association has the following aims:

The English Clergy Association, as the successor to the Parochial Clergy Association, exists to support in fellowship all Clerks in Holy Orders in their Vocation and Ministry within the Church of England as by law Established. The Association seeks to be a Church of England mutual resource for clergy, patrons and churchwardens requiring information or insight, to monitor ever-burgeoning bureaucracy and continued legislative and other processes of change; and to promote in every available way the good of English Parish and Cathedral Life and the welfare of the Clergy.

Membership is open to all who support the aims of the Association, including retired clergy, and clergy of the Church in Wales, the Episcopal Church in Scotland, and the Church of Ireland, and lay people. Each new application is considered by a Committee of the Council of the Association.

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THE ENGLISH CLERGY ASSOCIATION

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Subscription: £10 p.a., or £5 if retired (for 15 months, if joining October onwards). PCCs may become Corporate Members.

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PARSON & PARISH

the magazine of the
English Clergy Association
"serving the people and their parishes"

Issue Number 172 Summer 2012

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Front cover photograph
Our Chairman, the Reverend John Masding

Back cover photograph
The Christmastide crib in the Jesuitenkirche, Heidelberg, Germany

FROM THE EDITOR

One can always find anniversaries from history, but at present we certainly have a nice collection. The Diamond Jubilee of the Accession of Her Majesty Queen Elizabeth II has been widely and happily celebrated in both Church and Nation, with gratitude and affection.

Last year saw the quatercentenary of the King James Authorised Version of the Bible. This year also marks the 350th anniversary of the 1662 Book of Common Prayer which, drawing on its predecessors of 1549 and 1552, has been so significant as a standard within Anglicanism and as a source of public and private devotion. Nor should we forget the depth to which words and imagery from both the Authorised Version and the Book of Common Prayer have penetrated our literature and speech.

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More domestically, next year marks the 75th anniversary of the founding of the Association by the Reverend Edward Courtman in 1938. The purpose of the association is to create a fellowship of ordained and lay persons who are not stuck in the past but do want to conserve for the future what is valuable in the spirit of the Church of England in the service of the nation but which can so easily be stifled by bureaucracy and "initiatives". Paradoxically, perhaps, do we need more "still, small voice" and less "earthquake, wind and fire"?

Members who might be prompted by this anniversary to offer their thoughts on the Association and its past or future, or for that matter on other aspects of the Church, are welcome to submit items for publication.

Another domestic anniversary, occurring this year, is that our Chairman, the Reverend John W. Masding, has now held that post for 20 years. He has gently rebutted the Editor's use of the phrase "first twenty years"; but the President, Vice-Presidents and Council are well aware of, and thankful for, what he has done for the Association and the Benefit Fund. The Editor is obliged to the Association's President, Professor Sir Anthony Milnes Coates, and to a former Vice-Chairman, the Reverend Jonathan Redvers Harris, for the tributes which are printed elsewhere in this issue.

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The Editor acknowledges with thanks the receipt in the post from an anonymous correspondent of a tract Is the Ordinariate for you? (Anglican Association, March 2011, 28pp.). (In our last issue, there was an explanation of the Ordinariate from the Roman Catholic viewpoint.) The tract is subtitled Some Considerations for Thoughtful Anglicans about the Ordinariate Proposals contained in and offered by Anglicanorum Coetibus. It begins from a point often forgotten (!), that of the common ground of Christian belief among Anglicans, Roman Catholics, Orthodox and other Christians, and then considers also the nature of papal claims, Scripture and tradition, and the implications for a person joining the Ordinariate. There is also a list of suggestions for further reading.

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As Common Tenure evolves, it will be important to monitor the practical application of capability procedures, and particularly their distinction from disciplinary matters. In this new regime, will patronage be properly respected? Will the practice of *de facto* indefinite suspension of presentation become a thing of the past? The Association's purposes include supporting clergy who are under unreasonable pressure in ministry or in relation to their housing, and giving help where appropriate. *Parson & Parish* would welcome letters and articles relating to the development of Common Tenure.

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There is a prayer for the Diamond Jubilee on the Liturgical Commission's website which contains the words "O Lord and Heavenly Father, who exalts the humble and strengthens your people…. ." Would anyone ever say "you exalts the humble and strengthens your people"? Of course not. What a pity to ruin such a lovely prayer by such a grammatical muddle.

And how about an odd effect of political correctness in the Extended Preface in Common Worship for the period from Easter Day to Ascension Eve? This Preface says that "Jesus Christ, your risen Son, has conquered the powers of death and hell and restored in men and women the image of your glory." Given that the whole rationale for saying "men and women" is to be inclusive, on the ground that "men" is now assumed to be equivalent to "males", we have one "discrimination" removed, only to be replaced by another. Does not the phrase "men and women" exclude "boys and girls"? If so, does this Extended Preface imply that only adults are the object of salvation. If not, then is it assumed that "boys" and "girls" are not affronted by being implicitly included in their adult designation? Oh for "mankind" or "humanity"!

Peter Johnson

PARSON & PARISH

is produced by an Editorial Committee of the English Clergy Association

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The Rule of Law and the Role of the Attorney-General

Address to the English Clergy Association

Omnes legum servi sumus ut liberi esse possimus.
"We are the servants of the law in order that we might be free."

Thus Cicero explained the importance of the rule of law.

It is the cornerstone of democracy because good law protects the freedoms on which a democratic society depends.

And as we have seen in our own history, it has also been essential in developing the principles of freedom of religious conscience and worship that we today take for granted and which with Christian doctrine underpins the Church of England to which we belong. Indeed as I sought to set out in a talk which I gave at Marylebone Parish Church last autumn the development of "British Values", and in particular the tolerance of diverse philosophical and religious views within the framework of the Law and the right to freedom of expression is a process in which the Church of England has played and is still playing a key role in our national life.

Ensuring that the Government respects the Rule of Law, is at the heart of my job as Attorney General.

So it is a great pleasure for me to have been invited here today and to have been encouraged to take the rule of law as my topic.

I would like to briefly explore some of the issues I have to address as Attorney General and also to look at some challenging areas where there is argument as to what laws are required to maintain the principle of the rule of law in our country.

But perhaps first we need to look briefly at what the rule of law means, because it's my experience that this is a term which is often used by people to mean different things.

In his book *The Rule of Law* the late Lord Bingham identifies that this is a term of relatively recent invention. He attributes it to A.V. Dicey, the Vinerian Professor of English Law at Oxford in the late 19th century.

Dicey gave three meanings to the term.

Firstly, that no man is punishable or can suffer any detriment save for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.

Secondly, that no person was above the law, however powerful he might be.

Thirdly, that it was the predominance of the legal spirit in English institutions which meant that our unwritten constitution including in particular the right to personal liberty had developed out of judicial decisions on the rights of individuals rather than from general principles in a written constitution.

And it was also clear, even in Dicey's time that this spirit was reflected in a number of statutes: Magna Carta 1215, Habeas Corpus Act 1679, the abolition of torture along with the Court of Star Chamber in 1640, and the Bill of Rights of 1689 which are all part of this structure. But any of these could and have in some cases been overridden by Parliament—detention without trial in time of emergency is an obvious example.

What has changed dramatically since Dicey taught is that, in the 60 years since the end of the Second World War, the United Kingdom has adhered to a number of international treaties placing obligations on it as to how it should behave, both to its own citizens and those resident here but also in its behaviour on the international stage.

Some of these obligations are directly enforceable through our courts and part of our law. Examples are the European Union Treaty and the Human Rights Act which largely incorporates the European Convention on Human Rights.

But others are not enforceable directly. The principles of the UN Charter and Security Council resolutions and decisions of the European Court of Human Rights all fall in this category. At the end of the day all could be ignored if the UK is ready to take the international policy consequences.

But the Ministerial Code reissued by each incoming Prime Minister states plainly that it is the duty of every UK minister and civil servant to observe these obligations, unless or until we resile from them formally. They are thus treated as part of the structure of legal principles governing how government behaves. They are intended to provide an assurance that our actions as a nation conform to internationally recognised standards of ethics and human rights.

Now the Office of Attorney General is an ancient one though much changed over the years.

Legal historians like to argue about who the first Attorney General was, with some suggesting the role may go back as far as the appointment of Lawrence del Brok in around 1247, whose function was to sue "the King's affairs of his pleas before him". The first person to be called "Attorney General" was John Herbert who was appointed as the King's principal law officer in 1461.

So it was with some trepidation and a sense of history that almost exactly year ago I went to the Royal Courts of Justice to swear my oath of office. It dates from the 16th century. I swore to

> "duly and truly minister The Queen's matters and sue The Queen's process after the course of the Law, and after my cunning … I will duly in convenient time speed such matters as any person shall have to do in the Law against The Queen as I may lawfully do, without long delay, tracting or tarrying the Party of his lawful process in that that to me belongeth. And I will be attendant to The Queen's matters when I shall be called thereto."

The language may be old but the principle of the oath, that people should have the prompt protection of the law is clear and remains true. It also requires me to get the Queen's permission to go on holiday abroad, so I should not leave this duty uncovered.

In undertaking to "truly counsel The Queen" and "duly and truly minister The Queen's matters … after the course of the Law", and to ensure that parties were not denied their "lawful process", I am without any doubt that I was swearing to act in

accordance with the law and to uphold the rule of law.

The role of the Attorney has changed substantially over time but what history has bequeathed us is an Attorney General who is a Minister of the Crown and Chief Legal Adviser to Her majesty's Government, who are her servants in carrying out the terms of her Coronation Oath administered by the Archbishop of Canterbury and which puts upholding the law and dispensing justice at its heart. And in carrying out those functions, my role is to support the rule of law.

First and foremost, I do this through being the Government's chief legal adviser.

The core function of the Attorney General is to make sure that Government Ministers act lawfully, in accordance with the rule of law. I am also a politician, a Minister of the Crown and a member of the Government.

Some people are concerned about whether a politician and member of the Government is best placed to ensure that the Government acts lawfully in every thing it does. It is said that the current Office involves too many conflicts of interest.

But I believe the current arrangement, as awkward as it may look on paper, like so many of the eccentricities in our constitution, works because it puts at the heart of Government an independent lawyer who is trusted by those he advises because he is one of them.

I think the role of the Attorney General as the Government's Chief Legal Adviser was neatly summed up by the former Attorney General, Lord Mayhew of Twysden, who said, "The Attorney General has a duty to ensure that the Queen's ministers who act in her name, or purport to act in her name, do act lawfully because it is his duty to help to secure the rule of law, the principal requirement of which is that the Government itself acts lawfully."

This is reinforced by the Ministerial Code, which requires that the Law Officers must be consulted in good time before the Government is committed to critical decisions involving legal considerations.

I also have a formal role in the legislative process. I am member of the Cabinet's Parliamentary Business and Legislation Committee – this Committee is not known much outside of Whitehall and undertakes an important function in authorising the introduction into Parliament of all Government Bills. In particular, the Committee's role is to consider the readiness for introduction of Bills. My role is to ensure that Bills that are introduced are legal and proper. Ultimately the Law Officers have the power to block a Bill if we have unresolved concerns about its legality or propriety.

So my main role is to advise on the legality of Government action while my fellow ministers have the responsibility of developing and presenting policy and supervising administration.

By longstanding convention, also recorded in the Ministerial Code, neither the fact that the Law Officers have advised or not, nor the advice that the Law Officers have given, may be disclosed.

However, recently an exception has been made to that rule.

The Prime Minister has confirmed that my advice was sought on the decision to deploy armed forces into armed conflict in Libya. He did so because of the exceptional nature of this decision which is the one of the most important decisions any Government can take. Any decision which risks the lives of our armed forces and will inevitably lead to casualties must be taken properly with the benefit of legal advice. I cannot disclose my confidential advice, but I can assure you that in front of my mind was the need to respect the rule of law and to ensure our actions were compatible with the United Nations Security Council resolutions that gave it a legal framework.

While I can't give you other examples, I can assure you that I have not been short of work. I, with the other UK Law Officers – the Solicitor General Edward Garnier and the Advocate General for Scotland Lord Wallace – provide advice on a wide range of areas particularly focusing on the compatibility of the Government's legislative programme with the European Convention on Human Rights and the law of the European Union.

Furthermore our work only gives a tiny picture of all the legal work that goes in to the development of Government policy and legislation. Many of the difficult legal issues that policy development gives rise to never come to the Law Officers. The day to day guardians of legality and propriety in all that the Government does are the lawyers of the Government Legal Service.

The Law Officers have a special relationship with the Legal Advisers to Government departments which entitles them to consult us on any matter. This ensures the professional independence and standards of the advice given by them and their staff. Government lawyers may consult the Law Officers if they have doubts about the propriety of any proposed course of conduct in a matter for which they have responsibility. This means that they can discharge a role in their respective departments that reflects ours at their head, not as politicians of course but as Civil Servants who are also independent professionals. And from this position of strength they advise Ministers on the legality of what they want to do, and they work up solutions when what is proposed collides with the constraints imposed by, say, the Human Rights Act, or by our obligations under EU law.

The Law Officers do not become directly involved in that process, unless invited to do so. But our presence and the support that we offer to all Government lawyers is designed to enable them to ensure that the need for legality and propriety is woven into the fabric of policy development and legislation right from the very start.

When a Bill is introduced in the House of Lords or the House of Commons the Minister in charge is required by section 19 of the Human Rights Act 1998 to make a statement that in his or her view the Bill's provisions are compatible with the Convention rights. Alternatively, if the Minister is not able to provide that personal assurance, then he or she must state that nevertheless the Government wishes the House to proceed with the Bill.

The Law Officers will consider the Human Rights memorandum that Departments are required to produce for the Parliamentary Business Committee. The memorandum sets out an analysis of the convention rights that are engaged by a Bill and an assessment of any interferences and justification for them in ECHR terms. The role of the Law Officers is to consider whether the department has adequately demonstrated the reasoning which underpins its conclusion that the Bill is compatible with the Convention rights.

In particular, the role of Parliamentary Counsel as the drafters of legislation is central to this process. They too are guardians of the rule of law and they often look to the Law Officers for support. Parliamentary Counsel advise departmental lawyers on matters of legal propriety as they draft a Bill, and refer matters of concern to the Law Officers if they cannot be resolved. This is a useful way of ensuring that the main legal actors in the Bill process co-operate, and provides confirmation from Parliamentary Counsel that in the process of drafting the Bill matters of interest to the Law Officers can be considered and satisfactorily resolved.

I also seek to uphold the rule of law in exercising a number of public interest functions conferred on my office. This includes the power to refer certain sentences which are considered to be too lenient to the Court of Appeal for reconsideration, the power to appoint special advocates to help the court in the public interest if an issue of difficulty arises in a case, usually concerning problems over evidence which cannot be disclosed to all parties because of its implications for national security and the power to go to the High Court to seek an inquest or a fresh inquest, if the interests of justice require it.

I am also the protector of charities, that remarkable vehicle, the creation of our Elizabethan religious settlement by which good works may be channelled and developed for the public benefit. I have the power to intervene to protect a charity and the ability to refer issues of legal interpretation to the Upper Tier Tribunal to resolve issues of legal principle. I have currently done this in respect of the public benefit test for fee paying schools and also for the public benefit test for the relief of poverty where the scope of the charity is restricted to a small class of person, arising out of the new Charities Act.

Finally I have a central part in the contempt of court jurisdiction ensuring that trials are not undermined by any media reporting.

I must begin this topic by acknowledging the importance of the press in reporting what takes place in our criminal justice system.

It is clear to me that the operation of our Criminal Justice System, just as our political system, is underpinned by the existence of an active, enquiring and above all free press which is able to report and comment upon proceedings.

The right to free speech and open justice is of fundamental importance but at times can clash with another fundamental right – that to a fair trial.

The contempt of court jurisdiction exists to protect the right of open justice and

above all that of a fair trial. The two are inextricably linked and essential parts of the administration of justice.

There are however some occasions when these two rights cannot just run side by side and one must take priority over the other.

The starting point is, as I believe it should be, in favour of open justice protecting fair and accurate contemporaneous, written in good faith, legal reporting. However the publication of material which creates a substantial risk that the course of justice will be seriously impeded or prejudiced will fall foul of the legislation. Without fair justice there cannot be any justice and no rule of law upon which our society must be based.

In that situation it is for me to decide whether to instigate proceedings against the publisher. And I have already done so in a small number of cases.

For example, during a murder trial in 2009 the day after the prosecution had opened their case two newspapers (*The Daily Mail* and *The Sun*) published online a picture of the defendant holding a handgun. I brought proceedings against both newspapers under the Contempt of Court Act 1981 and both were found guilty of contempt early this year. The interesting part of this case is that the photograph was only in the online edition and was only available for a number of hours. Nevertheless the Court agreed with my assessment that the publication could have seriously impeded or prejudiced the defendant's trial. This case demonstrates the difficulty of trying to keep up with the ever changing media landscape.

You will also be aware that I commenced proceedings against two newspapers last week in relation to the coverage surrounding Mr Chris Jefferies' arrest and detention in relation to the murder of Joanna Yates. As these proceedings are ongoing I can't comment further until the proceedings are concluded.

Now as I mentioned at the start of this talk the rule of law, or perhaps I might change that to "how the law should rule", is not without controversy. There would be few people, I think, who would challenge the first two meanings of Dicey's definition, but you can hardly open your newspaper without noticing that the modern development of rule of law principles is not without controversy.

Thus there are a number of issues where it is argued that the need to be compatible with the European Convention on Human Rights is creating confusion and undermining the decisions of a democratically elected legislature—the rule of law turning into the rule of judges national and international.

There is the current controversy over super injunctions and the issue of privacy versus freedom of speech. It derives from the search by our national judges to reconcile the right to freedom of expression in Article 10 of the ECHR with the right to a private and family life in Article 8. Parliament expressly provided in the Human Rights Act that special emphasis should be given to the right to freedom of expression in any conflict of rights but the judges have still sought to protect privacy in a number of cases where previously there would have been no protection.

Another is the confrontation between the House of Commons and the European

Court of Human Rights over prisoner voting rights, with calls on the government to ignore the court's decision and implement no change, notwithstanding it being an international treaty obligation on the government to do so, unless of course we can get the court to change its mind on the point.

And as a Christian, Church of England audience, some of you may share the disquiet expressed by Lord Carey that the current Equality Act and its predecessor legislation has failed to strike the right balance between the right to freedom of thought, conscience and religion in Article 9 of the ECHR and the right to equality of treatment in access to services for all irrespective of sexual orientation based on the principles of freedom from discrimination enshrined in Article 14, with the consequence of B and B owners being unable to refuse gay couples a room.

You may not be surprised that I don't intend to get drawn into the merits of these issues today or this talk is going to go on far into the afternoon! But they do raise some important general issues.

The first is to highlight what should be obvious but is often ignored in these debates. Laws are man made and reasonable people may disagree on their merit and effect. Perfect laws will always elude us and the scope for change is something to which we should always be open minded.

Secondly, none of the above legal interpretations removes Parliament's right to have the last word in the matter if it wishes. It is always open to us to change the law by means for example of a Privacy Act if we want to legislate in that area, or to remove ourselves from the jurisdiction of the European Court of Human Rights if we are prepared to accept the consequences of doing so for our international standing and the loss of the benefits membership of the Council of Europe has conferred. The rule of law has not substituted abstract principles or judicial discretion for Parliamentary accountability. The courts have made these decisions because Parliament has given them the power to do it.

Finally we should be wary of suggestions that the solution lies in the short cut of ignoring the rules with which government or public disagree, even if those rules can be ignored with impunity as they are international obligations unenforceable through the courts. Such a step makes it much harder to instil respect for the law, be it to a Twitterer who is considering breaching a privacy injunction or a young demonstrator over tuition fees who decides to defy the police. The standing of a democratic Government is raised by its self restraint and its adherence to its own self imposed rules. It may at times be inconvenient, messy and unsatisfactory for government to observe the rule of law to the letter, but it marks it as being in a quite different category from those which don't. We can read about them every day of the week and what it is like to live under them. We can also see from the example of rule of law states that have tried short cuts, like the USA over Guantanamo, what a tangled mess they then get themselves into.

At the start of this talk I pointed out that the Church and every religious group has

benefitted from the principles of the rule of law despite the challenges which religious pluralism and secularism may bring. Indeed it can be said that in the development of the office I occupy and in the defence of the rule of law my role in government is yet another facet of the influence of Christian principles of justice and tolerance in our constitution, even if today those principles enjoy a much wider acceptance. Other countries enjoying freedom and democracy may subscribe to the principle today, but they have developed quite differently unless coming from our own Common Law source. As is so often the case with our governance we have acquired a tool to control the power of the state pragmatically and without abstract philosophical principles. It works as it improves our collective wellbeing. We should not put it on a pedestal. It is there to be argued over and debated and it will change over time in its details but above all it is there to be put to good use.

The above Address was given at the Annual General Meeting of the English Clergy Association on Monday, 16 May 2011, by the Attorney General, the Right Honourable Dominic Grieve QC MP.

Our Chairman: 20 years in office

A tribute from the ECA President

Professor Sir Anthony Milnes Coates, President of the English Clergy Association, writes

It gives me great pleasure to celebrate John Masding's 20th year as Chairman. He is the most incredible man. He has led the English Clergy Association through the most turbulent times. So able, yet so kind. He has a special eye for the legal details and this has been invaluable whilst dealing with the numerous changes which have been proposed over the years.

He is a graduate of the LLM in Canon Law at Magdalen College, Oxford. He was a graduate of the first intake for the LLM in Canon Law in 1991, and a demy at Magdalen as an undergraduate. The LLM in Canon law was the first degree of its type in England and Wales since the Reformation of the sixteenth century. This background enables John to dissect, with meticulous precision, new Church Measures which are presented to Parliament.

He has expressed many wise views on proposed Measures over the years, some of which have had a successful outcome and some of which have not.

Once, he noticed these words engraved upon a stone fireplace of a vicarage "Vox clamantis in deserto – is there anyone out there in the wilderness?" I wish more people had listened to John. If they had, the Church of England would be a better institution than it is now.

He is a fine preacher, an excellent leader and a good friend. The Association is privileged to have had him as its Chairman for the past 20 years.

We are also glad to have the following tribute from Fr Jonathan Redvers Harris, now a Catholic priest in the Ordinariate and studying for a Licentiate in canon law, who was for many years, until 2010, Vice-Chairman of the English Clergy Association, and from 1999 to 2008 Editor of *Parson & Parish*.

A brief appreciation of John Masding in the ECA

Over decades when clerics of the Church of England seemed to be either leaning towards monochrome grey-suited bureaucracy or excessive informality in woolly pullies, John has consistently struck a distinctive and individual note. On the one hand a vintage-car driving, cigar-smoking, waistcoat-sporting conservative, yet on the other a man with a huge capacity for helping the downtrodden and, like Lord Denning, standing up for the "little man" against the system. His involvement in the English Clergy Association ever since the early 1990s has

been just one expression of this: robustly supporting the parson's independence – as a trustee and guarantor of the rights of the parishioners – while, through the Benefit Fund, finding ways to help out the needy.

John's accessible and kindly nature, coupled with his thorough knowledge of the workings of the Church of England, matched by a long-standing interest in ecclesiastical and canon law, have made him an invaluable source of help to many an accused cleric or to churchwardens being pressurised by the diocesan machine. A good number of these requests for assistance and advice come through the English Clergy Association. And I, in particular, am grateful for the inspiration and help he has extended to me over many years, in the Association and as a fellow student of canon law.

Looking back over his 20 years in office, the Reverend John Masding recalls that

The [current] ECA Constitution was approved on 9th September 1992, at the end of my first year as Chairman before re-election. John Wearing has served as Council Hon. Secretary, and as Clerk to the Trustees, for the same period, I believe. But I've not checked the exact date.

The old, original Constitution provided that the Chairman was elected by the Committee, and that the Chairman appointed the Committee and had power to dismiss members. The Vice-Chairman I inherited told me he had been dismissed on three occasions! The only relic of the old power is that if the Council (successor to the Committee) is not full, and has not co-opted to the maximum, I can fill the vacancies by nomination alone.

John's activities and interest in Church affairs extend of course widely beyond the ECA. He is among other things a Trustee, and Patronage Secretary, of the Prayer Book Society, and a Trustee of Christ Church Lands, Bristol City, and he has been a Deanery Synod Secretary for over 30 years.

Synodical Opportunities for Clergy with Permission to Officiate

John Masding

(1) **Parish:**
(a) If to serve on P.C.C. cannot be elected by A.P.C.M. but can be co-opted by Council; and would serve *ex officio* on P.C.C. if appointed Chairman of the P.C.C..[1]
(b) Annual Meeting of Parishioners: may attend, speak and vote - if a Parishioner. May be chosen Churchwarden now only with the prior agreement of the Bishop.
(c) Annual Parochial Church Meeting: may attend, speak, and vote (except in elections of representatives of the laity) if declared to be an habitual worshipper in the Parish.

(2) **Deanery:**
(a) May attend Synod as may any other Member of the Public unless the Public are excluded;
(b) Are/is *ex officio* on Deanery if already Member(s) of General or Diocesan Synod;
(c) May be elected to represent other Deanery Clergy with Permission to Officiate, with one Clerk chosen to represent every ten such clerks with Permission to Officiate, or part of ten[2];
(d) May be co-opted by the Deanery House of Clergy;
(e) Chapter attendance is by invitation, and not of right.

(3) **Diocese:**
(a) May attend Synod without voice or vote, as may any other Member of the Public, unless the Public are excluded;
(b) Will be a Member *ex officio* of Diocesan Synod if a Member of General Synod;
(c) May be elected to Diocesan Synod by the Members of Deanery Synod, the co-opted Members having no vote; but *all* Deanery Synod Clergy are eligible to stand.
(d) May be co-opted to Diocesan Synod by its House of Clergy (five maximum);
(e) May be Nominated a Member of Diocesan Synod by the Bishop (ten maximum including any lay Nominees).
(d) Limited opportunities to serve on diocesan groupings, councils and committees since some have rules specifying that clerical members must be beneficed or licensed.

(4) **General Synod:**
Any clergy eligible to be elected to Diocesan Synod are also eligible to be elected as proctors of the diocese, and thereby become Members of the General Synod.

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[1] **Synodical Government (Amendment) Measure 2003**
In rule 14(1) after sub-paragraph (a) there shall be inserted the following sub-paragraph—"(aa) any clerk in Holy Orders who is duly authorised to act as chairman of meetings of the council by the bishop in accordance with paragraph 5(b) of Appendix II to these rules; ……..
(a) for sub-paragraphs (a) to (d) there shall be substituted the following sub-paragraphs (which are about who is entitled to take the Chair) —"(a) by the chairman of the council if he is present;

(b) if the chairman is not present, by the clerk in Holy Orders, licensed to or *with permission to officiate* in the parish duly authorised by the bishop with the clerk's agreement, following a joint application by the minister of the parish and the council or, if the benefice is vacant, by the council for the purposes of this sub-paragraph;
(c) if neither the chairman of the council nor the clerk mentioned in sub-paragraph (b) above is present, by the vice-chairman of the council:";

[2] **Church Representation Rules (2011 edition latest)**
Rule 24 (2) (e) "one or more clerks in Holy Orders holding permission to officiate in the diocese who are resident in the deanery or who have habitually attended public worship in a parish in the deanery during the preceding six months. One clerk may be elcted or chosen for every ten such clerks or part thereof, elected or chosen in such manner as may be approved by the bishop by and from such clerks."

Perilous Pensions … or "to S2P or not to S2P, that is the question"

Derek Earis

What makes thousands of off duty policemen demonstrate in Central London? With many other public sector colleagues they are worried about their pensions. "Work longer, pay more, receive less" they claim. Pensions are, of course, a disaster area. With all the economic turmoil and past unhelpful legislation (Gordon Brown's tax on pension funds for example) many pension funds struggle to cope. Yet pensions are of great importance to workers who all move towards the retirement milepost. Indeed there are fewer areas that so exercise the unions. Whatever the proposed deterioration in pension provision, at least there has been a general understanding in the public sector not to alter the situation of those who are likely to retire in a few years' time, since they do not have sufficient time to re-plan or take out extra policies.

Not so the Church of England Pensions Board, who have embraced fully the "work longer, pay more, receive less" mantra for all, even including those whose retirement is getting very close. Arguably showing less pastoral care than the secular authorities, they have proposed and had accepted measures that both reduce the annual pension received compared to the old scheme, lessen the potential yearly increase and reduce the monthly stipend by converting to the State Second Pension which has a higher National Insurance component (the Pensions Board estimate around £250 per annum extra).

Younger clergy have the unappetising prospect of working until they are 68 at the very least. To clergy, many of whom have had a lifetime of willingly sacrificing pay for vocation, it seems curious that the Bishop of Ripon and others, who back in January of this year accused the government of unfairly treating the poor on benefits by putting a cap of £26,000 on benefits received, have been the strongest apologists of the need to diminish clergy pension. "People in glass houses" come to mind.

Now of course clergy are not like public sector workers. They have no powerful unions, nor are they inclined to make a fuss over money, especially when it is in their own self interest. Vocation rightly triumphs over the desire for worldly wealth. The pensions package passed through the public consultation and the General Synod hurdles with some ease. Perhaps a little too much ease, for some of the thinking behind it appears distinctly short term.

All of this happened at the start of 2011. Is it not all of this history? Why highlight the matter now? Simply because the latest 2012 budget of George Osborne has made clear its intention to alter one of the planks on which the new pension scheme was erected, namely abandoning the opt-out and embracing the State Second Pension (S2P). Here is a way, the Pensions Board believed back in 2010, of making the pensions bill affordable—of transferring some of their responsibility to the state in return for greater

NI contributions especially from the clergy. Effectively the clergy are now directly and compulsorily paying for some of their pension through increased National Insurance contributions when the whole state system itself is in the melting pot.

The initial explanation of the change commented that pensioners would merely receive from two sources rather than one (i.e. extra from the state as well as from the church). Yet even back in 2010/2011 the S2P was increasingly being called into question. Successive governments have long trumpeted S2P as reaching the end of its usefulness and being an unnecessary complication to an already almost inexplicable pensions system.

When the Pensions Board opted to change to S2P there were many clear indications that the days of S2P were numbered. On being challenged they replied that its demise was mere speculation. Of course it was not, and the last budget made it quite clear that S2P is to go. This does not mean government will not honour contributions made but that these will be part of a new basic state pension which, as I understand it, will be received if the person has contributed to S2P or not. Why embrace a system nearing its end, especially when it is so costly to its pensioners and uncertain in its long term viability? Were there no other alternatives? Would it not have been more prudent to have waited a little longer?

Whereas in the public sector such measures would have outraged unions, clergy have, perhaps to their credit, have been more than understanding. The pension is still greatly appreciated and clergy are known for living long into retirement. Yet are clergy pensions still in peril, and might they shortly take a further hit because of lack of affordability—especially if S2P benefits prove a short term disappointment?

The Pensions Board needs to come clean on the effect of moving to S2P, which itself must have come with an administrative cost. The Board needs to be transparent about how the present system is working and what the implications are of the proposed budget changes. The specific reliance on a contributory S2P which justified reducing the non-contributory pension from two-thirds stipend to half stipend makes somewhat disingenuous the statement in the latest booklet *Your Stipend 2012* that "your service is pensionable under the Church Funded Pensions Scheme. The scheme is non-contributory for members and is funded from contributions paid on your behalf."

I make no claims to be a pension expert. I find the whole area as baffling and complex as anyone else. But here are experts whom we pay handsomely (they certainly are not on clergy stipends!) and whose whole purpose is to be experts in this area. This is one issue where I would be delighted as a non-expert in such matters to be proved wrong.

So, members of the Pensions Board, come and convince me and the readers of *Parson and Parish* that your actions are both wise and fair and far-sighted. Please do not just plead lack of affordability for, as the ECA has always held, if more resources are necessary then there is great scope for reducing the apparently remorseless growth of church bureaucracy and that includes the Board itself. We would, I am sure, both

collectively and individually be more than happy to make some practical proposals in this area rather than see pensions diminish further.

Canon Derek Earis is Vicar of St Nicholas North Walsham & All Saints Edingthorpe, and Honorary Canon of Norwich Cathedral. He is also a member of the Council of the English Clergy Association.

It's Your Funeral!

Alec Brown

Or is it? Concerns about a decline in the number of Church funerals and a rise in the number of funerals in the local crematorium conducted by secular or humanist officiants have led clergy in the North West of England to seek the help of their local University to conduct research into these issues.

Students from the Padgate Campus, Warrington, of the University of Chester have been conducting surveys of the general public, interviewing clergy, secular and humanist officiants and talking with Funeral Directors in the Deaneries of Warrington (Liverpool Diocese) and Great Budworth (Chester Diocese) and will be reporting on their findings in the summer.

It is hoped that this local initiative will complement work to be undertaken on funerals by the Archbishops' Council later this year. It comes at a time when the Church of England nationally is conducting fewer funerals now than it did 20 years ago. The new Parochial Fees Order, which comes into effect in January 2013, is also part of this story, and in Chester Diocese discussions are taking place about this and also about ways of improving the situation in terms of the Church's involvement with funerals, both in Churches and Crematoria.

"Watch this space" for further information and details, and do please send any comments/thoughts concerning this subject to alec-brown@tiscali.co.uk.

The Revd Alec Brown is Rural Dean of Great Budworth, in the Diocese of Chester, and a member of the Council of the ECA

A Glimpse of Patronage in Germany

On a recent train journey in Germany, I happened to pick up a newspaper left by a departing passenger. You may imagine my surprise at finding in it an article entitled *Where the pastor must submit his application to the Prince*.

With acknowledgment to the *Südwestecho* of 7 February 2012 and its correspondent Martin Rothe, I reproduce for interest the substance of the newspaper article. As readers may be aware, the Lutheran Church in Germany (EKD) is an association of *Landeskirchen*, whose territory corresponds to historical regions of Germany, rather than the *Länder* which make up the Federal Republic of Germany. Each *Landeskirche* has a *Landesbischof*, so there is an equivalence with an Anglican diocese and bishop.

In some parts of Germany there are still today *Patronatspfarrereien*, that is ecclesiastical parishes which are under the "protective supervision" of aristocrats. What "verges on a relic of feudalism" is in rural south west Germany no rarity. In the Lutheran church of Baden there are in all 65 church patronages, most of which are in in the Neckar-Odenwald district around the town of Mosbach. In the Odenwald village of Strümpfelbrunn a Baden cousin of Prince Charles carries out the duties of the patron: he is Prince Ludwig of Baden, 74 year old scion of the grand ducal family.

A typical reason for the visit of the patron: the prince has come across from his nearby castle at Zwingenberg am Neckar and together with the Lutheran pastor is testing the new wooden staircase to the bell frame, the wood having been donated by the prince from his private forest nearby. The pastor also shows him the new bells, the cost of which was partly defrayed by the patron. The prince himself is not actually the patron of the Lutheran parish of Strümpfelbrunn; rather it is his elder brother, His Royal Highness Maximilian, Margrave of Baden, who lives some distance away, in Salem on Lake Constance. Consequently, it is Prince Ludwig who takes care of matters in Strümpfelbrunn.

Both brothers are first cousins of Prince Charles[1] and grandsons of the last Grand Duke of Baden who was patron a hundred years ago when the protestants in Strümpfelbrunn were building a new church. The then Grand Duke financed the first bells as well as glass windows and a valuable Communion set. His descendant in Schloss Salem today is also responsible for ten other patronage churches besides the Lutheran Strümpfelbrunn. These are all Catholic, though the Margrave himself is Protestant. How has this come about? "The patronage of a parish of another confession is not a problem: the Patron abides by the applicable church law," says Prince Ludwig over a cup of coffee in the pastor's office.

For his family the patronage of Strümpfelbrunn has become a customary right. "One tries to be here twice a year. That is always a nice occasion." With his wife, an Austrian princess, he attends a service, followed by a meal, on the fourth Sunday in Advent. The annual autumn festival in the parish offers opportunities for conversation with Strümpfelbrunners. The prince routinely enriches the festival buffet with wild boar from his forest, hunted by himself.

Opposite him at table sits Pastor Andreas Reibold who thinks back to 1997, when he applied for the post in Strümpfelbrunn. In compliance with the requirement of the Baden Landeskirche, he submitted his application to the Patron of the parish, with a copy to the Lutheran supreme Council in Karlsruhe. "Some time after that the Margrave invited me to an interview at Schloss Zwingenberg," recalled the pastor. At his inaugural service his Royal Highness was present in person.

In prayer the Pastor is not obliged to mention the Patron. Also, there is no seat of honour for the Baden Family in this church. Prince Ludwig in no way regrets this, for "otherwise people at the service would be watching how one behaves". The Baden Landeskirche pays the salary of a patronage pastor. However the parishes expect of their patrons that they should share in the financing of the church buildings and their furnishing, make regular appearances, and have an open ear for requests and complaints.

Once a year the Landesbischof holds a consultation of the with the Patrons of his diocese. Not a few of them are engaged with the church, as senior advisers or in the Synod. Prince Ludwig was active for a long time in the Mosbach Deanery Church Council, the Margrave in the Baden diocesan Synod. Now his daughter sits in Synod. "All democratically elected," stresses Prince Ludwig.

There was a time when the Baden patronage model stood on the brink—in the wake of the secularisation at the time of Napoleon. "When the spiritual lordships fell in 1803 people suggested the abolition of Patronage," reports the Director of the Church archive, Udo Wennemuth. "But then the Church would have had to undertake the financial burdens of the Patrons and possibly pay compensation for the investments. So it decided to leave the system alone, if it was running well."

Ludwig Prince of Baden and pastor Andreas Reibold in Strümpfelbrunn can recall no conflict in their patronage church. "It is an advantage for us as a parish, if besides the Landeskirche we have another person we can talk to, whom we can ask for support," says the pastor.

Peter Johnson

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[1] Their mother was Theodora of Greece and Denmark, sister of the Duke of Edinburgh.

BOOK REVIEWS

Ecclesiastical Patronage in England, 1770-1801

Reider Payne,

The Edwin Mellen Press, Lampeter (2010, case-bound, 358pp.) £24.95

This very detailed study of four family and political networks illustrates beautifully how life's levers operated in England at a time when across the Channel all was turmoil, confiscation and death. Dr. Reider Payne enables us to see at work the very hands that held the strings. When a history of this aspect of the life of the Church of England today comes to be written, perhaps many years hence, the hands may be opaque: e-mail, the telephone, and other transient means of communication potentially deprive the future historian of much that he'd like to know, unless an autobiography reveals a secret, like Peter Hain revealing Blair's willingness to give Gibraltar to Spain in return for a political *quid pro quo* in Europe – never mind what Gibraltarians thought.

Ecclesiastical Patronage remains, of course — if eviscerated to an extent, not least by the 1986 Measure but also by the burgeoning Episcopanity in the Church. Its transparent virtue was, and is, its honesty. In the past, but not today, never mind what parishioners thought, the Patron was giving openly what was his uniquely to give. Today, who knows? Behind the curtain may be many deals, even if they are less than Simony, as they must be. Bishops will naturally and properly say that they do their best with the hand that they are dealt, at the Table where they may then have to sit. It is no easy matter any more.

The Earl of Hardwicke in 1781 remarked to the Bishop of London that "the simple circumstance of a good character sometimes helped a clergyman to a living, and now and then advanced him farther, but by no means insured him anything of the sort… ……a man who aimed at the higher and more lucrative objects in our profession should engage only in the service of some great family which had influence enough to procure them for him". Surely what John Sturges then called the "joint effect of interest and merit" is still pretty dominant today?

12% of Livings were in the direct patronage of a diocesan. The more excellent gifts tended to be in Crown hands, that is to say, often the hands of ever-changing Ministers, or even other sources of advice. The predominance of the Duke of Grafton had led to latitudinarian appointments (cf. today's crop of liberals), but after Grafton's resignation his 1769 appointees to Peterborough and Carlisle received a stop on their advancement. The tradition was that Ely went to the senior Cambridge-educated bishop who had nothing better; but Hardwicke was determined it should pass by Grafton's men,[1] to go to his brother, James, who in 1774 had been appointed to St. David's, translated to Gloucester in 1779, and as early as 1781 was now looking for a premature move.

That was an inevitable weakness of the old system, so marked in this period. There could be no continuity, because there was no mind to plan for the future betterment, let alone careful continuance, of the Church. The Prize concept tended to overbear

the pastoral exigencies we should (one supposes) be considering today. Often we know too little—today's communications deficit, or yesterday's *lacunae* in Lord North's or Archbishop Cornwallis' files. The merely verbal played its part: George III could promise the Deanery of Bristol and forget that he had done so. Today too: "He promised me an archdeaconry". We don't know. What has been said?

A simplistic view would regard the old system as corrupt and, often enough, by modern standards it was. But they knew it was. We do not. Can we therefore be sure that it is not? And what is merit? Political correctness has something to say; and if there is little private patronage in a diocese it can become monochrome. There's a great test of contemporary Episcopal insight and wisdom, and, sometimes, of generosity.

In 1684, upon the occurrence of the vacancy-in-see at Bath and Wells, it is said that the King, Charles II, mindful of the bravely defiant spirit Thomas Ken had shown at Winchester, exclaimed, "Where is the good little man that refused his lodging to poor Nell?" and determined that no other should be bishop.

This nicely produced volume has plentiful footnotes on almost every page, and is a happy hunting ground for any reader in pursuit of the curious detail of our Church's story.

John Masding

[1] John Hinchcliffe, Bishop of Peterborough from 1769, and Master of Trinity College, Cambridge, resigned the Mastership in 1788 to receive alongside Peterborough the great prize of the Deanery of Durham. *Abusus non tollit usum*.

The Order for Morning Prayer

Annotated by the Rev'd Dr. Peter Toon, with revisions and additions by Peter Bolton
PBS Trading (paper covers, 35pp) £3.95

Morning Prayer, often called Mattins, whether with one "t" or two, is not often experienced as a main Sunday morning service these days, and the Prayer Book Society has helpfully brought out a new version of this useful, if rather expensive, booklet. Still, the print is large and clear—an immaculate production.

Oddly, the list (p.6) of the ornaments of the Church, which may not be intended to be exhaustive, includes a chair for the bishop (ruled to be extra-legal, inappropriate and unnecessary by at least one Diocesan Chancellor) and omits important things such as Lectern and Pulpit Bibles, the Banns Book and Registers, and, bizarrely, the Reading Desk's Book of Common Prayer. Many are the Churches to which the reviewer has been to preach, only to find neither Bible nor Prayer Book – anywhere in the building!

The authors say "it is generally agreed that the Service may be shortened"—("O Lord, open thou our lips" to the end of the Third Collect), but lawful authority for this statement can only be perhaps Canon B5 or historically the Act of Uniformity Amendment Act 1872 (repealed, but effective it seems now under Canon B1[1]). Custom has some force in ecclesiastical law, but real clarity is usually lacking.[2]

Some excellent, informative work, however, has clearly gone on: who knows (p.32) that the Prayer for the Royal Family was added in 1604, and added just because James I was the first Sovereign since the Reformation to have any children? The Prayer of St. Chrysostom is highlighted as one of a very few that prays to Jesus as "Almighty God". Who has noticed that?

It is good to see "curates" correctly explained as referring to clergy with the Cure of Souls. Prayer Book users may reflect that the B.C.P. could better have provided prayer for bishops, priests and deacons who lack any Cure – e.g., most Archdeacons, who must surely merit our prayers!

Dr. Peter Toon, who in his lifetime served in the U.S.A. as well as England, and Peter Bolton, of the Coventry Branch, and to whom Prayer Book Society conferences owe much, are to be warmly thanked for so timely and useful a work.

John Masding

[1] Halsbury, *Laws of England*, Vol. 34 (2011), para. 736 n.3

[2] *Liturgy, Order and the Law* (Rupert D. H. Bursell, QC, 1996) is as good a place to start as any.

There is More

Poems by Frances Blodwell

The Brynmill Press (2009, 46pp, paper covers, £4.80) ISBN 978 0 9559996 9 7

We spend a lifetime searching for meaning as our experience breaks and shapes and re-shape us. Part of the task of the Priest is to listen to human experience in all its rich complexity and interpret it in the light of the Christian faith. This 'pastoral heart' is part of what attracts many into Anglicanism and forms our missional commitment to all those living within the parish.

If our hearts are to be kept in good shape we need to keep feeding both our imaginations and nurturing knowledge and wisdom. This is especially the case when we come to journey alongside people who are facing the vulnerabilities of illness and death. We might even ask ourselves how we might face up to our mortality.

Frances Blodwell was diagnosed with primary progressive multiple sclerosis in her early fifties. She was aware that this prognosis would bring certain death after the gradual decay of her faculties. After the initial shock Frances turned to the medium of poetry to express something of what it was like to live with such an unremitting illness.

In these poems there is simplicity, honesty, courage and struggle. There is deep dependence on the love of God and a desire to give shape to that faith in fragments of spiritual adventure. This book reminds us of how much we simply do not see in living as we rush about content with existing on the surface of life.

There is pain here and some despair but an openness and receptiveness to love and Ultimate Love that offers some natural authenticity to this work. What mystery there is in our living and learning!

The reviewer, the Revd Dr James Woodward, is a Canon of St George's Windsor. In previous ministry, he has been Senior Chaplain of Queen Elizabeth Hospital, Birmingham and the Bishop of Birmingham's Adviser on Health and Social Care. Dr Woodward has published widely in the area of Pastoral and Practical Theology, including Valuing Age: Pastoral Ministry with Older People *(SPCK). He was a member of the Falconer Commission on assisted dying, although he was unable to support its main conclusions.*

The Bible Student

Fifty Key Themes Explored Through the Holy Bible

Peter Sammons (ed.) 218pp £7.99 ISBN 978-0-9567831-6-5

Also available as an Amazon Kindle e-book (ASIN B007P46314) £3.86 inc. VAT

Clergy on the lookout for accessible written (and online) materials to help individual parishioners and small groups study key topics may find this useful. The Editor has employed a structure which stems from that of *Every Man a Bible Student*, originally published by the old Ruanda Mission (finally incorporated into the CMS in 2002).

The brevity, simplicity and biblical focus of the earlier volume remains the core strength of this new resource. Contributors are drawn from Anglican and other Reformed churches. This is a completely revised and re-ordered volume with the addition of new topics. The intention is to enable the reader to get a sense of the majesty of the Bible and its internal consistency across many difficult and sometimes perplexing issues. God works out his purposes through time and in different contexts but his message is timeless. Topics are grouped under eight headings: *Rebellion and Redemption*, *Eternal Life*, *Life's Journey*, *The Nature of God*, *The Living Body–the Church*, *Living in a Foreign Land (Struggles)*, *The Future*, *The Living God (the Resurrection of Christ)*. A number of topics are offered within sections. For example, *The Nature of God* includes: God, Christ, The Holy Spirit, Law, Love, the last of which helpfully explains the different meanings of the various Greek words translated 'love'. A brief introduction to each topic is followed by suggested Old Testament references, then New Testament passages, and finally a summary of the significance of the biblical teaching as a whole. The background and summary sections provide many ideas for discussion. The material is pitched at a level appropriate for a 'general' readership. No prior knowledge of Theology is assumed. It would be as suitable for a teenager, perhaps doing a GCSE in Religious Knowledge, as for a thoughtful adult doing an Alpha Course, or a clergyman wanting to structure a series of sermons around a series of crucial themes.

Reviewed by a member of the ECA. Available from all Christian bookshops which purchase books from CLC. Also available for group study/church use in sets of 10 at £29.99. Enquiries about the introductory launch offer of 10 copies for £29.99 should be addressed by email to: books@terranovapress.com.

CHAIRPIECE

"The Hopes and Fears of all the years are met in Thee tonight", says the Christmas Carol.

Fear can predominate too easily in our looking at Common Tenure, the monster of Synodical creating, deep in the fires of Middle Earth, which will eventually engulf us all. However, the Dioceses were not able to seize the Benefice properties as was originally planned, frustrated partly by fears of what would happen when a diocese went bankrupt! At least the Parish Churches and Parsonages remain safe in the Rector's or Vicar's benefice and ownership. Common Tenure applies to all new appointments, and is much to the benefit of clergy who are not beneficed but merely licensed – many fixed-term residentiary canons, team vicars and curates. They now have some protection in their Office, some security until retirement – although, of course, the draconian provisions of Capability Proceedings can still be employed to dismiss them, should there be such a mind. That is the Fear.

A Question was asked at General Synod which bears upon this Fear, about how many *voluntary* transferences had taken place by existing Freeholders to Common Tenure. The Archbishops were transferred automatically by the Measure. All other existing Office Holders with Freehold have a choice.

The answers were:-

(a) 34 **bishops** have voluntarily transferred to common tenure, representing 34% of bishops in post. This does not include the two archbishops who were automatically transferred under the Terms of Service Measure.

(b) 21 **archdeacons** (nearly 21%) have transferred voluntarily.

(c) Figures are not currently available for all cathedral clergy. However, 2 **deans** (5% of those in office) have transferred voluntarily. Many other cathedral clergy have transferred automatically, as they were previously on a fixed term.

(d) 290 **freehold incumbents** have transferred, representing 7% of those in post.

The majority, then, of existing Freeholders, hierarchy and lowerarchy, have not transferred – cautious, or even afraid.

Loss of Office is not the only threat under Common Tenure. It is only going to affect in actuality a minority – some of whom ought to go, sometimes for their own sakes as well as others'.

There is also daily interference from on high (potential, if not yet realised and actuated): regulation of time off, of work patterns, Ministerial Review, compulsory Continued Ministerial Education (of the Bishop's choosing) and so on.

The regimen under which some Dioceses have sought to dismantle the parochial system, establishing mission units of one kind or another, and appointing no incumbents but only priests-in-charge, is discouraging to Patrons, and not likely to stimulate new money. A Patron is still often in a financial position whereby he could assist a Parish or his Incumbent, and some Dioceses, cash-strapped, even for Stipend, are showing signs, small as a man's hand, of welcoming the nurturing rain in a barren and dry land.

That is interesting, because half-promises were extended by McClean Mk. II, when the Terms of Service legislation was still in the melting pot. Consider this, from GS1564 in 2008:-

> Interim posts under common tenure
> 104. A feature of the common tenure system is that it would be possible, in a limited number of cases identified in the Terms of Service Regulations, to include in the instrument of appointment some special conditions. One such condition could register the fact that pastoral reorganisation affecting the relevant benefice was under consideration. If, as we have recommended, incumbents are appointed on a common tenure basis, a priest could be appointed as incumbent with this condition in place. This would *greatly* reduce the use of the title 'priest-in-charge' and the discomfiture that is often felt where it is used, both in parishes and by patrons. The effect of including the condition would be that subsequent displacement from office as a result of the expected pastoral reorganisation would be 'fair' in employment law terms and would withstand any challenge on unfair dismissal grounds; and that, were the issue of compensation to arise, it would be on the terms we have suggested above for priests-in-charge.
> **(xiv) We recommend that *those appointed to interim posts pending pastoral reorganization should be appointed as rector or vicar on the common tenure basis*, with the prospect of reorganisation mentioned in the instrument of appointment, and that, if displaced, such priests should be entitled to the provision outlined above for priests in charge.**
>
> *The rights of patrons*
> 201. As indicated above, legislative changes to appointment procedures would be beyond our brief, and it will be for the bishop to ensure that the appointments process is followed. Moreover, our recommendations leave the rights of patrons unchanged. One effect of common tenure will be a reduction in suspensions, with the result that patrons would have more involvement in appointments procedures than they do at present. Patrons will necessarily be affected by the enhanced H(uman) R(esources) function and it will be necessary to consult them more fully about how good practice can be encouraged, in particular over such issues as discrimination and inappropriate questions at interviews, and how to encourage greater clarity over job specifications.[1]

But I venture to take encouragement from Professor McClean's prognostications. As we all know, money speaks. The ascendancy of the House of Commons over the Lords was achieved largely because of the "Power of the Purse". He who pays the piper calls the tune.

As Diocesan resources diminish, Boards of Finance will surely look around for new

sources of money – some of which may turn out to be the old sources, born again. I have said before in these pages that new Sponsor may be old Patron writ large. If so, as envisaged in the Dioceses, Pastoral and Mission Measure 2007 (see Appendix), the Patron/Sponsor, whether an individual or a society, perhaps a charity, may gain a far larger role, and greater scope for carrying forward the work of our faltering Church, under-resourced and under-manned.

There's Hope for you.

John Masding

Appendix

Edited text of s. 47 of the 2007 Measure

Mission initiatives

(1) Where a person or group of persons is carrying out or is proposing or wishes to carry out an initiative in any diocese or any part thereof (in this section and sections 48, 49 and 50 below referred to as a "mission initiative") and—(a) that person or group or any other person or body exercising ecclesiastical functions in the diocese requests the bishop of the diocese to make an order under this section, or (b) the bishop, without any such request being made, considers that it would be appropriate to make an order under this section,then, if the bishop is satisfied that the initiative would be likely, through fostering or developing a form of Christian community, to promote or further the mission of the Church or any aspect of it, he may make such an order.

(2) An order under this section shall endorse the initiative and make provision for it in accordance with this section and sections 48 to 50 below and shall be known as a bishop's mission order…….

(4) Any bishop's mission order shall specify the objectives of the mission initiative and the areas in which it is being or is to be carried out and specify *a person or persons or a group of persons* who or which is to lead the mission initiative and be responsible to the bishop or bishops, as the case may be, for the conduct of it (in this section and sections 48 to 51 below referred to as the "leader" or "leaders") and the role of the leader or leaders and the bishop or bishops shall make such provision in the order as he thinks fit or they think fit for the administration of the Sacraments in accordance with the enactments and other laws relating thereto.

(5) Any bishop's mission order may include provision—(a) for participation in a local ecumenical project (commonly known as a "local ecumenical partnership"),(b)for other ecumenical co-operation with other Churches, and (c) for *collaboration with any religious organisations,and in this section and sections 48 to 50 below any provision mentioned in this subsection is referred to as a "co-operation provision".*

(6) Before making any bishop's mission order the bishop or bishops, as the case

may be, shall— (a) consult…….
(7) For the purposes of subsection (6) (b) above, the following shall be deemed to have an interest in the order—(a) any person having or sharing in the cure of souls in the area of any benefice affected by the order, and (b) any other person or body, including a parochial church council or registered patron, who may have an interest in the cure of souls in any such area,and in considering whether a person or body has a significant interest in or would be likely to be significantly affected by the order, the bishop or bishops shall have regard to the objectives of the initiative endorsed by the order and any other circumstances which he or they think relevant.
(8) Without prejudice to subsection (6) above, where it is proposed to include a *co-operation provision* in a bishop's mission order, the bishop or bishops, as the case may be, shall, as well as carrying out such consultation as is referred to in that subsection, consult the appropriate authority of each Church or religious organisation which is to participate in the local ecumenical project, or which is otherwise concerned…….
(10) No person may officiate in any place in accordance with a bishop's mission order unless— (a) if that person is ordained as a priest or deacon, he or she has received authority from the bishop by virtue of being instituted to a benefice or licensed by the bishop to serve or having written permission to officiate in any diocese affected by the order or may, otherwise, under any Canon of the Church of England, officiate in that place without the authority of the bishop, or (b) if that person is a deaconess, reader or lay worker, he or she is authorised, under any Canon, to do so.
(11) Subject to subsection (10) above, any bishop's mission order may include provision authorising a minister to exercise his or her ministry in any place for the purposes of or in connection with the mission initiative in any manner specified in the order and, *where he or she is not the minister who has the cure of souls in that place, without obtaining the permission of the minister who has that cure but, before including any such provision, the bishop or bishops shall consult*—(a) if the order affects one parish only, the incumbent or priest in charge of that parish, (b) subject to paragraphs (c) to (e) below, if the order affects more than one parish in a diocese, either the incumbents or priests in charge of those parishes or the House of Clergy of the Deanery Synod of the deanery in which the parishes are situated, as the bishop or bishops thinks or think fit, (c) if the order affects all the parishes situated in a deanery, the House of Clergy of the Deanery Synod of that deanery, (d) if the order affects parishes situated in more than one deanery, the House of Clergy of the Deanery Synod of each deanery affected or the House of Clergy of the Diocesan Synod of the diocese in which the parishes are situated, as the bishop or bishops thinks fit or think fit, and (e) if the order affects parishes situated in more than one diocese,

the House of Clergy of the Deanery Synod of each deanery affected or the House of Clergy of the Diocesan Synod of each diocese affected, as the bishop or bishops thinks fit or think fit.

(12) Any alms collected in the course of or in connection with an office or service performed in accordance with the order shall be disposed of in such manner as the minister performing the office or service may, subject to the direction of the bishop or bishops of the diocese or dioceses affected, determine.

(13) Subject to subsection (10) above, any bishop's mission order may include provision authorising the performance of divine service, including Holy Communion, if so specified, in any building other than a parish church, parish centre of worship or place licensed for public worship in accordance with section 29 (1) of the 1983 Measure or a guild church, with the consent of the person who has the general management and control of the building.

(14) Subject to subsection (10) above, any bishop's mission order may include provision authorising the performance of any divine service, including Holy Communion, in any parish church or place excluded from subsection (13) above with the consent of any minister having the cure of souls in that place.

(15) Nothing in this section shall authorise any act done in contravention of a resolution passed under section 3 (1) or 4 (1) of the Priests (Ordination of Women) Measure 1993 (1993 No. 2).

[1] All italics and underlinings above are mine.

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