

## LETTERS TO THE EDITOR

*Ecclesiastical/Statute Law Revision*

Dear Sir,

Any scheme for the reunion of two or more Churches, including the Church of England, would involve the examination of that Church's Statutes and Measures.

These Statutes and Measures take up the whole of Halsbury's 'Statutes', volume 14, which extends, with Notes and Supplement, to more than 1,200 pages.

A Working Party of this Society, (of which Party I was Convenor), reduced volume 14 to about 100 typed pages. These pages were printed in full in the Journal, being spread over four issues (2 Ecc LJ 42–47, 172–5, 305–14 and 388–418).

Unfortunately the last General Synod and its officers were too busy to take up the matter.

Could not any of the readers of the Journal, who are also members of the General Synod, be persuaded to take up the matter in this Synod?

For instance a sub-committee could carry out a revision, aided I hope by this Society's printed version referred to above, and then produce their version for consideration by the Synod over a period. (The Canons were subjected to some such gradual revision.)

Yours sincerely,  
George Spafford  
Chancellor, Manchester Diocese, 1976–1996

*The Seal of the Confession*

Dear Sir,

Bishop Wantland concludes in issue No. 19 (4 Ecc. LJ 580) that 'it appears likely that the American [Episcopal] Church would follow the . . . opinion that the only exception to absolute secrecy is that of confessor and penitent discussing the matter of the confession privately between themselves, and then only with the consent of the penitent.' A harder matter is determining when a communication is a confession or merely a private communication. An instructive case is the California Court of Appeal's decision in *People v. Edwards*, 203 Cal. App.3d 1358, 248 Cal. Rptr. 53 (1988).

Ms Edwards told her Episcopal priest, Fr Rankin, in an office meeting that she had embezzled funds from a parish guild. Fr Rankin gave Ms Edwards the choice of his keeping her revelation in confidence, or of discussing the embezzlement with the church wardens on her behalf to help seek a resolution. She consented to the latter. When no resolution was forthcoming, the wardens reported the matter to the police, and Ms Edwards was convicted of theft. She appealed on the ground that her consent to disclosure was made under duress and so void. In affirming her conviction, the appeals court noted that at trial, the chancellor of a neighbouring diocese testified for the defence that 'an Episcopalian priest is under an absolute duty to maintain the secrecy of the confession . . . [and] the Episcopal Book of Common Prayer provides for this principle with the force of law.' For the prosecution, however, the Bishop of California testified:

'that the rules are not as clear or as rigid as suggested and that each incident must be viewed on a case-by-case basis. In his opinion . . . the communication between Father Rankin and the defendant was not an "[auricular] confession"

but rather a request for pastoral counselling. He believed that the question whether a religious confession or a secular confidence was involved must be decided by each priest individually; that an assurance of confidentiality in a pastoral setting would be binding upon the priest in the absence of the penitent's change of mind.'

The priest himself testified 'he did not believe that any church law governed his authority to determine whether the purpose of the conversation or communication was a request for religious or spiritual aid.' The court observed that while 'the Episcopal Church recognizes the inviolability of an act of confession by a penitent seeking God's forgiveness and absolution through a priest,' nevertheless 'no privilege attached preventing Father Rankin from otherwise consensually disclosing the content of the nonpenitential, though private, communication to the church officials and, ultimately, to the authorities.' 248 Cal. Rptr. at 57.

It would seem advisable, at least for California penitents, to ensure that communications to an Episcopal priest either are subject to an express undertaking of confidentiality, or clearly fall within the Prayer Book's rite of Reconciliation of a Penitent.

Yours faithfully,  
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## CARDIFF LAW SCHOOL, UNIVERSITY OF WALES

### LL.M. DEGREES IN CANON LAW AND GRADUATES' DISSERTATIONS 1996

- Behrens, J. N. E., 'The theology, practice and law of Confirmation'
- Boulton, P. H., 'Revision of the canon law of the Church of England'
- Culver, T. S., 'Canon B 16: excommunication in the Church of England'
- Davies, B., 'Religious charitable trusts: an international perspective'
- Harte, J. D. C., 'Private rights and obligations in respect of the property of the Church of England'
- Owen, J., 'Nullity of marriage in the Church of England and in the Roman Catholic Church'
- Pearce, C. C. A., 'National churches, legal forms and ecclesiastical identity'
- Phillips, G. J., 'Canon and ecclesiastical law in the Channel Islands'
- Smith, D., 'The office of archdeacon, visitations and consistory courts in the Diocese of Coventry, 1918–1995'
- Walker, A. R., '"Infidels": non-Christians in the canon law of the Roman Catholic Church'