EUROPEAN-AMERICAN LAW AND RELIGION CONSORTIUM

BUDAPEST, 4-8 DECEMBER 2003

MARK HILL

Honorary Fellow of the Centre for Law and Religion, Cardiff University, and Chancellor of the Diocese of Chichester

The work of this Consortium has its origins in a conference at Columbus Law School in Washington in June 1998 when academics and practitioners from Europe and America came together at the invitation of Professor Robert Destro.[1] Since then the Consortium has expanded its *ad hoc* membership and undertaken two substantive projects. The first was a critical comparative analysis of the autonomy of churches in the nation states of Europe and in the USA, the proceedings of which have now been published under the deft editorship of Professor Gerhard Robbers of the University of Trier, which institution hosted the Consortium in May 1999.[2]

The second project has been The Permissible Scope of Legal Limitations on Freedom of Religion and Belief. With generous support from the Alexander von Humboldt Foundation, the Law and Religion Program at Emory University and Brigham Young University in Utah, participants met in Atlanta in September 2002 and more recently in Budapest in December 2003. The aim was to consider in a comparative and critical context the extent and legitimacy of the constraints placed upon freedom of religion by state governments. It was an ambitious project, not least the broadening of the geographical analysis to encompass Israel, South Africa and Canada, as well as the former communist states of eastern Europe. The deepening friendship which emerges from intense collaboration over time made our discussions animated and enjoyable but did nothing to detract from the robust and confrontational nature of the working sessions.

Participants had produced national reports in a prescribed format describing how the law operates to define the scope of religious freedom and where the limitations are drawn as a matter of constitutional law, statutory provision, or judicial determination. No single model emerged. Additionally, thematic papers were submitted taking particular areas and considering the points of similarity and difference in the approach adopted in each state. For signatory states of the European Convention on Human Rights, the touchstone remained Article 9 of the Convention giving freedom of thought, conscience and religion, but qualifying the absolutism of the right by legitimising 'such limitations as are prescribed by law and are necessary in a democratic society in the interests of public

1 Note the report at (2003) 7 Ecc LJ 75.
2 G Robbers (ed) *Church Autonomy: A Comparative Study* (Peter Lang, Frankfurt am Main, 2001).

safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others'.

The question of 'public health', for example, was the subject of a provocative and illuminating paper co-authored by Professor Norman Doe and Dr Heather Payne in a rare husband and wife collaboration. Of topicality and controversy was the proposed banning of Muslim head scarves in French schools, and a draft federal law in Germany to like effect. Subsequent events in England suggest that the problem is of universal application. In essence, the debate is on the form that neutrality towards religion takes. Is it to be even-handedness, ie treating all religions the same and allowing each to manifest their beliefs? Or is it detachment (*laicité*) in which the state, as in France, actively promotes its secularity by refusing to allow any manifestation of religious practice within its system of public education? Here, as in so many of our conversations, the issues are as much sociological questions which touch on a country's self-understanding as they are matters of law, whether domestic or international.

The work of the Colloquium continues in the virtual world of electronic mail but it is hoped that the substantial corpus of work produced in this unique international and inter-disciplinary project will be published during the course of the year to promote further discussion. An informed understanding of the principles which affect this dynamism and find their articulation in primary legislation and court rulings, is less a drive towards homogeneity and more a stimulus in divining where policy and pragmatism collide in ostensibly liberal, but unashamedly different, cultures.

THE ECCLESIASTICAL LAW SOCIETY CONFERENCE

ST WILLIAM'S COLLEGE, YORK, 27 MARCH 2004

WILL ADAM

Priest-in-Charge of Girton, Ely Diocesan Ecumenical Officer

The Society pitched its tent in the historic city of York and in the shadow of the Minster for its 2004 Day Conference. Under the title 'Doctrine and Discipline' and the chairmanship of the Bishop of Stafford, speakers and discussion focussed on the forthcoming reforms of the manner in which doctrinal and liturgical discipline is administered in the Church of England.

The first paper was given by Dr David Hope, Archbishop of York, and co-patron of the Society. Building on his experience of having to give judgment in a number of cases he commented on four specific areas: censures of deprivation and deposition under section 55 of the Ecclesiastical Jurisdiction Measure 1963; appeals against deposition; the