

## Letter in Criminal Law and Justice Weekly

### Faith in Democracy

To the Editor of *Criminal Law and Justice Weekly*

Dear Sir,

In his editorial headed 'Faith in Democracy' on 8 May 2010 the Consultant Editor slightly misquotes what Laws LJ said in *McFarlane v Relate Avon Ltd* [2010] EWCA Civ B1 at paras. 23, 24, which was in part:

'. . . the conferment of any legal protection or preference upon a particular substantive moral position on the ground only that it is espoused by the adherents of a particular faith, however long its tradition, however rich its culture, is deeply unprincipled . . . The precepts of any one religion – any belief system – cannot, by force of their religious origins, sound any louder in the general law [of England] than the precepts of any other.'

Although the Consultant Editor did not say so, Laws LJ was inaccurate here because he overlooked the effect of the establishment of the Church of England, which still carries the full force of law. This effect was spelt out in the oath taken by the present Queen at her coronation. She promised to do everything indicated in the following questions put to her by the Archbishop:

'Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges, as by law do or shall appertain to them or any of them?'

The Consultant Editor said that there has not been a theocracy in the modern western world. This overlooks a number of countries, including Ireland. The first Duke of Wellington, born and initially reared in Ireland, said: 'The Roman Catholic clergy, nobility, lawyers, and gentlemen having property, form a sort of theocracy in Ireland, which in all essential points governs the populace.' Only very recently has that ceased to be true.

Yours faithfully

Francis Bennion