
THE CHARITY LAW & PRACTICE REVIEW

C L & P R

Volume 5, 1997/98, Issue 1

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The Charity Law & Practice Review
is published by
Key Haven Publications PLC
7 Crescent Stables
139 Upper Richmond Road
London SW15 2TN
Telephone (0181) 780 2522, Facsimile (0181) 780 1693

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Printed in England by The Book Factory, London.

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From the Managing Editor

EDITORIAL

The first of the contributions to the present issue of the *Review*, by Judith Hill of Farrer & Co, is a contemporary study of a longstanding type of religious charity, namely the Roman Catholic Religious Order. Such bodies continue to give rise to intriguing problems within the law of charities, the most recently litigated of which was the attack on the procedures adopted by the trustees prior to the closure of the preparatory school at Buckfast Abbey: see *Gunning v Buckfast Abbey Trustees Registered* (1994) *The Times*, 6th July. Judith Hill's article 'Roman Catholic Religious Orders as Charities' considers the registrability of such orders, their constitutional idiosyncrasies, and the questions of who are their trustees, what are their duties and where those duties lie. In particular, she looks at the role of school governors in schools run by Roman Catholic religious orders.

With the Charity Commissioners' Review of the Register now underway there is considerable topicality in 'Removal From the Register' by John Claricoat and Hilary Phillips of Claricoat Phillips Associates, Solicitors. In considering the grounds for removal the writers, who were both formerly lawyers working within the Commission, have some interesting and critical things to say about the decision of the Commissioners in the rifle club cases (see 'Decisions' Volume 1, August 1993) and on the question of what is meant by saying of a charity that it "does not operate".

The third offering in this issue is a very substantial and lucidly written piece by Professor James Fishman of Pace University in the State of New York. It was originally delivered as a paper at a Seminar organised at the Institute for Advanced Legal Studies and coincidentally attended by me. Its subject 'From Charity to Commerce: Nonprofit Healthcare Conversions' is a growing phenomenon in the United States: the conversion of non-profit healthcare institutions into commercial enterprises. Such conversions raise fundamental questions for charity lawyers. Not least of these is the ability of the authorities to control and intervene in cases where the conversion does not conform to traditional fiduciary legal doctrines. There are also some interesting valuation and Cy-près issues. Professor Fishman illustrates his themes with a wealth of examples and concludes with a panoply of recommendations, in part derived from the work of others, for protecting the public in respect of these conversions.

Robert Venables QC, Chairman of our Advisory Editorial Board, proffers two articles on tax planning and charities. 'Gifts in Kind to Charity: Some Tax Tips' considers what opportunities exist within the present law for tax planning in relation to gifts in kind intended to rank for Gift Aid relief together with some of the VAT traps. Secondly he addresses 'The Corporation Tax Loan Relationship Provisions', with special emphasis on how they affect charities.

Lastly, there is a Book Review of two books by Elizabeth Cairns, one of our Advisory Editorial Board, *Charities: Law and Practice* and *Fundraising for Charity*.

New Legal Charity Commissioner

We must congratulate Michael Carpenter of Withers on his appointment with effect from 1st January 1998 as Legal Charity Commissioner in succession to Robert Venables. It is satisfying that someone from the private sector with a distinguished career both in Slaughter & May and in Withers should be recruited to this important post which requires not only legal expertise but also practical experience in the field. Michael has been on the Advisory Editorial Board of this *Review* since its inception and has kindly intimated that he will be happy to remain a member despite his new role. We wish him well in his new post. And our thanks and good wishes also go to his predecessor Robert Venables, who has likewise been a member of the Advisory Editorial Board since its inception.

Finally, I should repeat that articles, long or short, on charity law or practice are most welcome for consideration, as are suggestions for areas of charity law or practice to be covered.

November 1997

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