

Sir James Munby and Legal Policy

by Francis Bennion

Sir James Munby is mistaken in saying ‘Happily for us the days are past when the business of judges was the enforcement of morals . . . we sit as secular judges’ He contradicts himself when he goes on to say that all tenets are entitled to respect provided they are . . . ‘not immoral’.

At her coronation the Queen swore an oath that she would to the utmost of her power maintain in the United Kingdom ‘the Protestant Reformed Religion established by law . . . the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England’.

In the 2011 census 59% gave the Christian religion as their affiliation. Parliament has not seen fit to disestablish the Church of England. It is for the legislature not the judicature to make fundamental changes in our country’s legal policy if it thinks it right to do so.¹

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Note by FB

The remarks I criticised in my Times letter yesterday were made in LAW, MORALITY AND RELIGION IN THE FAMILY COURTS, Keynote address given by Sir James Munby, President of the Family Division at the Law Society’s Family Law Annual Conference ‘The sacred and the secular: religion, culture and the family courts’ London 29 October 2013. These remarks were reported on the front page of *The Times* of 30 October 2013 under the scare headline Our courts are no longer Christian says top judge. I was relying on the Times somewhat misleading report, which suggested that Munby’s views applied to British courts generally.

A reading of the full content of Sir James’s remarks gives a somewhat different impression. I have been asked by the editor of *The Commonwealth Lawyer* to write an article on the subject. This article, provisionally titled ‘Is the Common Law now Secular?’ will give a more considered view.

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The Times, Letters 31 October 2013

Any footnotes are shown at the bottom of each page
For full version of abbreviations click ‘Abbreviations’ on FB’s website

References:

None

¹ *The Times*, Letters 31 October 2013.