

# Consolidated List of Contents for Volume 24

## EDITORIAL

*Benjamin Harrison*

1

## ARTICLES

The First Readers of Lyndwood's *Provinciale*

*Paul Cavill*

2

'Seven whole days': The Obligation of the Clergy of the Church of England to 'say daily the Morning and Evening Prayer'

*Russell Dewhurst*

14

The Legal Treatment of Religious Dissent in Western Europe: A Comparative View

*Rossella Bottoni and Cristiana Cianitto*

25

Could the State Do Without Marriage Law?

*Daniel J Hill*

123

50 Years of Safeguarding – 950 Years of Clergy Discipline: Where Do We Go from Here?

*Peter Collier*

148

Faith, Freedom and Family: An Introduction to the Work of John Witte Jr

*Norman Doe*

175

Law at the Backbone: The Christian Legal Ecumenism of Norman Doe

*John Witte Jr*

192

Pre-Reformation Roman Canon Law in Post-Reformation English Ecclesiastical Law

*Norman Doe*

273

Shared Burial Grounds

*David McClean and Penny McClean*

295

Pious Causes: The Boundaries between Charity Law and Ecclesiastical Law

*Ian Blaney*

309

## COMMENT

Intra-Church Property Disputes and the Failure of Neutral Principles: A Call for a Return to the Deference Standard

*Trevor Fortenberry*

38

'And Who Is My Parishioner?' Residency, Human Rights and the Right to Burial in the Parish Churchyard

*Andrew Burrell*

58

The Constitutionality of Diocesan Legislation Relating to Same-Sex Blessings and Marriage in the Anglican Church of Australia: A Case Note

*Garth Blake*

209

Persecution: Ancient Scourge, Modern Crisis

*Philip Mounstephen*

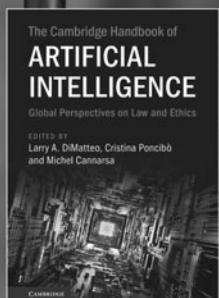
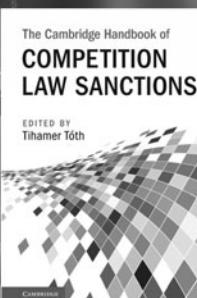
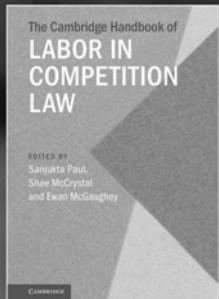
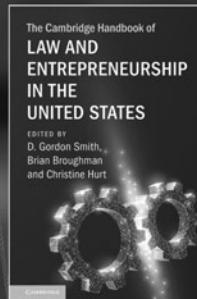
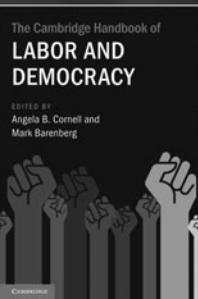
233

The Practice and Politics of Establishment <i>Sir William Fittall</i>	332
The Peculiar Case of a Royal Peculiar: A Problem of Faculty at the Tower of London <i>Alfred R J Hawkins</i>	346
Bishop Roger Herft: The Determination of the Episcopal Standards Board of the Anglican Church of Australia <i>Garth Blake</i>	363
REDISCOVERING ANGLICAN PRIEST-JURISTS	
Robert Sanderson (1587–1663) <i>Norman Doe</i>	68
SYNOD REPORTS	
General Synod of the Church of England <i>Edward Dobson</i>	87
General Assembly of the Church of Scotland <i>Jason Lingiah</i>	88
General Synod of the Scottish Episcopal Church <i>John F Stuart</i>	92
Governing Body of the Church in Wales <i>Matthew Chinery</i>	244
General Synod of the Church of Ireland <i>Cate Turner</i>	246
PARLIAMENTARY REPORT	
<i>Frank Cranmer</i>	96, 239, 378
CONFERENCE REPORTS	
Colloquium of Anglican and Roman Catholic Canon Lawyers <i>Stephen Coleman</i>	248
Church Law History Consortium <i>Stephen Coleman</i>	383
Ecclesiastical Law Society Conference: ‘Accidents of Ecclesiastical Governance: Past, Present and Future?’ <i>Samuel Maginnis</i>	384
BOOK REVIEWS	
Christianity and Criminal Law, edited by Mark Hill QC, Norman Doe, R H Helmholz and John Witte Jr <i>Review by Russell Sandberg</i>	101

Priest of the Church or Priest of a Church? The Ecclesiology of Ordained Local Ministry, by Noel Cox Lexington	
<i>Review by Russell Dewhurst</i>	103
Religion and Marriage Law: The Need for Reform, by Russell Sandberg	
<i>Review by Charlotte Smith</i>	105
COVID-19 y libertad religiosa, edited by Javier Martínez Torrón and Belén Rodrigo Lara Iustel	
<i>Review by Javier García Oliva</i>	109
Law and Religion in Ireland, 1700–1970, edited by Kevin Costello and Niamh Howlin	
<i>Review by Charlotte Smith</i>	249
A Still More Excellent Way: Authority and Polity in the Anglican Communion, by Alexander Ross	
<i>Review by Russell Dewhurst</i>	252
National Prayers: Special Worship since the Reformation, Volume 3: Worship for National and Royal Occasions in the United Kingdom, 1871–2016, edited by Philip Williamson, Stephen Taylor, Alasdair Raffe and Natalie Mears	
<i>Review by Charlotte Smith</i>	254
The Blessings of Liberty: Human Rights and Religious Freedom in the Western Legal Tradition, by John Witte Jr	
<i>Review by R D Turnbull</i>	258
Church, State, and Family: Reconciling Traditional Teachings and Modern Liberties, by John Witte Jr	
<i>Review by R D Turnbull</i>	386
Ecclesiastical Law, Clergy and Laity: A History of Legal Discipline and the Anglican Church	
<i>Review by Peter Collier QC</i>	389
Tying the Knot: The Formation of Marriage 1836–2020, by Rebecca Probert	
<i>Review by Teresa Sutton</i>	392
Religious Confession and Evidential Privilege in the 21st Century, edited by Mark Hill QC and Keith Thompson	
<i>Review by Helen Hall</i>	395
To Proclaim Afresh: Declaration and Oaths for Church of England Ministers, by the Faith and Order Commission of the Church of England	
<i>Review by Stephen Coleman</i>	397
The Development of the Canons: A Historical Study and Summary of the Church of England's Canons 1969 to 2020, edited by Gerald Bray	
<i>Review by Russell Dewhurst</i>	398
CASE NOTES	
<i>Edited by David Willink</i>	112, 261, 400

# Explore the latest Cambridge Law Handbooks

Cambridge Law Handbooks are major reference works that offer a complete state-of-the-field overview of major sub-disciplines within the legal field. From labor law to the copyright of street art, Cambridge Law Handbooks are an integral part of any library.



Visit [cambridge.org/LawHandbooks](https://cambridge.org/LawHandbooks)  
for more details



CAMBRIDGE  
UNIVERSITY PRESS

# Ecclesiastical Law Journal

The *Ecclesiastical Law Journal* is published by Cambridge University Press on behalf of the Ecclesiastical Law Society. The views expressed in any article, comment, review or other publications in this *Journal* do not necessarily accord with those of the Editor, the Editorial Board, or the Society as a whole.

## Submission of Articles and Comment

The *Ecclesiastical Law Journal* covers all aspects of ecclesiastical law, with a particular emphasis on the legal regulation of the Church of England and the worldwide Anglican Communion. Its range of coverage also includes comparative studies of the laws of other faiths and of the interface between law and religion in United Kingdom jurisprudence and worldwide. General policy is developed by the Editor in collaboration with the Editorial Board.

The *Ecclesiastical Law Journal* is peer reviewed and operates (for submissions which have not been formally commissioned) an anonymous double blind refereeing process using members of the Editorial Board together with others expert in the particular field concerned. Authors should therefore take care not to identify themselves within the text of the manuscript which they submit. Articles should generally be between 7,000 and 10,000 words and Comment pieces should not usually exceed 6,000 words. All submissions of articles, comment pieces, and general inquiries, should be addressed to the Editor: Benjamin Harrison, Ecclesiastical Law Journal, Serjeants' Inn Chambers, 85 Fleet Street, London EC4Y 1AE; E-mail: editor@ecclawsoc.org.uk.

Authors are reminded that they must follow the format set out in 'House Style', copies of which may be downloaded from <http://journals.cambridge.org/elj>.

## Book Reviews

Proposals for book reviews should be sent to the Reverend Russell Dewhurst; E-mail: bookreviews@ecclawsoc.org.uk.

## Case Notes

Matters relating to case notes should be addressed to: David Willink, Ecclesiastical Law Journal, Lamb Chambers, Lamb Building, Temple, London EC4Y 7AS; Tel 020 7797 8300; E-mail: casenotes@ecclawsoc.org.uk.

## Parliamentary Report and Synod Reports

Matters relating to synod reports and parliamentary activities should be addressed to: Frank Crammer, 34 Marsham Court, Marsham Street, London SW1P 4JY; Tel 07774 981988; E-mail: parliamentaryandsynod@ecclawsoc.org.uk.

## Ecclesiastical Law Society

Inquiries with regard to all matters relating to the Ecclesiastical Law Society, including membership and matters relating to the educational function of the Society, should be addressed to: The Rt Rev'd John Ford, Executive Secretary, Ecclesiastical Law Society, Flat 4, 33 Rushams Road, Horsham RH12 2NU; E-mail: execsec@ecclawsoc.org.uk.

## Cambridge Core

For further information about this journal please go to the journal's web site at: [cambridge.org/elj](http://cambridge.org/elj)

ISSN 0956-618X

## Ecclesiastical Law Society

The Ecclesiastical Law Society puts on a number of lectures and conferences in support of its educational priorities.

Details of conferences, lectures and other events may be found at  
[www.ecclawsoc.org.uk](http://www.ecclawsoc.org.uk)

# Contents

## ARTICLES

- 273 Pre-Reformation Roman Canon Law in Post-Reformation English Ecclesiastical Law  
*Norman Doe*
- 295 Shared Burial Grounds  
*David McClean and Penny McClean*
- 309 Pious Causes: The Boundaries between Charity Law and Ecclesiastical Law  
*Ian Blaney*

## COMMENT

- 332 The Practice and Politics of Establishment  
*Sir William Fittall*
- 345 The Peculiar Case of a Royal Peculiar: A Problem of Faculty at the Tower of London  
*Alfred R J Hawkins*
- 363 Bishop Roger Herft: The Determination of the Episcopal Standards Board of the Anglican Church of Australia  
*Garth Blake*

378 PARLIAMENTARY REPORT

383 CONFERENCE REPORTS

386 BOOK REVIEWS

400 CASE NOTES



Ecclesiastical  
Law  
Society



MIX  
Paper from  
responsible sources  
FSC® C007785



CAMBRIDGE  
UNIVERSITY PRESS