

0956-618X | VOL 12 NO 2 | MAY 2010

Ecclesiastical Law Journal

PUBLISHED BY CAMBRIDGE UNIVERSITY PRESS
ON BEHALF OF THE ECCLESIASTICAL LAW SOCIETY

Ecclesiastical Law Journal

Editor	Mark Hill QC
Assistant Editor	Will Adam
Book Review Editor	David Harte
Case Notes Editor	Ruth Arlow
Parliament & Synod Editor	Frank Cranmer
Editorial Assistant	Peter Moore

EDITORIAL BOARD

Professor Sir John Baker QC University of Cambridge

Garth Blake SC Professional Standards Commission, Anglican Church of Australia

Professor Ana María Celis Brunet Catholic University of Chile, Santiago

Professor Norman Doe Centre for Law and Religion, Cardiff University

Right Worshipful Charles George QC Dean of Arches, London

Professor Richard Helmholz University of Chicago

Sir John Laws Lord Justice of Appeal, London

Professor Douglas Laycock University of Michigan Law School

Professor Ian Leigh Department of Law, Durham University

Professor David McClean QC Chancellor of Sheffield and Newcastle

Professor Javier Martínez-Torrón Complutense University, Madrid

Dr Robert Ombres OP Dominican Procurator General, Rome

Professor Julian Rivers School of Law, University of Bristol

Professor Dr Gerhard Robbers University of Trier

Mr Stephen Slack Registrar and Chief Legal Adviser to the General Synod

Professor Marco Ventura University of Siena

Professor John Witte Jr Center for the Study of Law and Religion, Emory University, Atlanta

Subscriptions

The *Ecclesiastical Law Journal* (ISSN 0956-618X) provides authoritative coverage and incisive commentary upon the laws applicable to Anglican churches and other religions and faith communities from ecumenical, international, social, historical, theological and comparative perspectives. It is published three times a year in January, May and September. Three parts form a volume. The subscription price which includes delivery by air where appropriate (but excluding VAT) of volume 12, 2010, which includes print and online access, is £106.00 (US \$198.00 in USA, Canada and Mexico) for institutions and individual subscribers. Single parts are £40.00 (US \$70.00 in USA, Canada and Mexico) plus postage. EU subscribers (outside the UK) who are not registered for VAT should add VAT at their country's rate. VAT registered members should provide their VAT registration number. Japanese prices for institutions (including ASP delivery) are available from Kinokuniya Company Ltd, P.O. Box 55, Chitose, Tokyo 156, Japan.

Orders, which must be accompanied by payment, may be sent to a bookseller, subscription agent or direct to the publisher: Cambridge University Press,

The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU; or in the USA, Canada and Mexico: Cambridge University Press, 32 Avenue of the Americas, New York, NY 10013-2473. Periodicals postage paid at New York, NY and at additional mailing offices.

Copying

This journal is registered with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923, USA. Organizations in the USA who are also registered with the CCC may therefore copy material (beyond the limits permitted by sections 107 and 108 of US Copyright law) subject to payment to the CCC of the per copy fee of \$15.00. This consent does not extend to multiple copying for promotional or commercial purposes. Code 0956-618X/10. ISI Tear Sheet Service, 3501 Market Street, Philadelphia, PA 19104, USA, is authorized to supply single copies of separate articles for private use only. Organizations authorized by the Copyright Licensing Agency may also copy material subject to the usual conditions. For all other use, permission should be sought from Cambridge or from the American Branch of Cambridge University Press.

Contents

EDITORIAL

- 129 *Mark Hill*

ARTICLES

- 131 Last Rites and Human Rights: Funeral Pyres and Religious Freedom in the United Kingdom
Peter Cumper and Tom Lewis
- 152 Immigration and Asylum in the United Kingdom
David McClean
- 162 Asylum Justice Matters
Nicholas Coulton
- 180 Article 9 of the European Convention on Human Rights and Protected Goods
Gideon Cohen

COMMENT

- 202 What is the Personal Ordinariate? Canonical and Liturgical Observations
Christopher Hill
- 208 The Failure of Proportionality Tests to Protect Christian Minorities in Western Democracies: *Alberta v Hutterian Brethren of Wilson Colony*
Margaret H Ogilvie
- 214 The Future of Church Establishment
Bob Morris
- 219 Individual Cups? Law, Ecclesiology and Eucharist
Colin Buchanan
- 224 State Schools and Religious Authority: Where to Draw the Line?
Paul Barber

PARLIAMENTARY REPORT

- 229 *Frank Cranmer*

CONFERENCE REPORT

- 237 Religion and Immigration
Michał Rynkowski

BOOK REVIEWS

- 240 Legal Systems of Scottish Churches, edited by Marjory A MacLean
Review by Frank Cranmer
- 242 Marriage Advice for a Pope: John XXII and the Power to Dissolve, by Patrick Nold
Review by Robert Ombres OP

- 243 Nonsense on Stilts? A Quaker View of Human Rights, edited by Nigel Dower, Philip Hills and Michael Bartlet
Review by Nicholas Coulton
- 245 Bishops, Texts and the Use of Canon Law Around 1100: Essays in Honour of Martin Brett, edited by Bruce C Brasington and Kathleen G Cushing
Review by Alice Chapman
- 248 Law and Faith in a Secular Age, by Anthony Bradney
Review by Scot Peterson
- 250 The Right of the Child to Religious Freedom in International Law: International Studies in Human Rights 93, by Sylvie Langlaude
Review by Lee Coley
- 251 Church and State in the Post-Colonial Era: The Anglican Church and the Constitution in New Zealand, by Noel Cox
Review by Norman Doe

CASE NOTES

- 255 *Edited by Ruth Arlow and Will Adam*