# Ecclesiastical Law Journal

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

# **Ecclesiastical Law Journal**

Editor Will Adam
Consultant Editor Mark Hill QC
Book Review Editor David Harte
Case Notes Editor Ruth Arlow
Parliament & Synod Editor Frank Cranmer

### EDITORIAL BOARD

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

Professor Silvio Ferrari University of Milan

The Right Worshipful Charles George QC Dean of the Arches, London

Professor Richard Helmholz University of Chicago

Sir John Laws Sometime Lord Justice of Appeal, London

Professor Douglas Laycock University of Virginia School of Law

Professor Ian Leigh Department of Law, Durham University

Professor David McClean QC Sometime Chancellor of the Diocese of Sheffield

Professor Javier Martínez-Torrón Complutense University, Madrid

Dr Robert Ombres OP Blackfriars Hall, University of Oxford

Professor Julian Rivers School of Law, University of Bristol

Professor Dr Gerhard Robbers University of Trier

Stephen Slack Registrar and Chief Legal Adviser to the General Synod

Professor Marco Ventura Catholic University of Leuven

Professor John Witte Ir 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 20, 2018, which includes print and online access, is  $f_{17}$ 8 (US \$331 in USA, Canada and Mexico) for institutions and individual subscribers. Single parts are £68 (US \$127 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, University, Shaftesbury Road, Cambridge CB2 8Bs; or in the USA, Canada and Mexico: Cambridge University Press, One Liberty Plaza, New York, NY 100060.

#### 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 /18. 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.

© The Ecclesiastical Law Society 2018

Printed in the UK by Bell and Bain Ltd, Glasgow

# Contents

E				

1 Will Adam

ARTICLES

- 3 Marriage, Polygamy and the Criminal Law of Conspiracy Christopher Grout
- 16 Hidden Treasure: The Church of England's Stewardship of Its Silver Plate Philip Petchey

COMMENT

Justice and Mercy: An Enigmatic Yet Crucial Relationship for the Application of Canon Law
Thomas Schüller

#### GOVERNMENT AND PARLIAMENTARY REPORT

59 Frank Cranmer

SYNOD REPORTS

- 64 General Synod of the Church of England Stephen Slack
- 67 General Assembly of the Church of Scotland Jason Lingiah
- 70 Governing Body of the Church in Wales Lynette Chandler
- 74 General Synod of the Church of Ireland
  Kate Turner
- 76 General Synod of the Scottish Episcopal Church John F Stuart

BOOK REVIEWS

- 81 Law and Legality in the Greek East: The Byzantine Canonical Tradition, 381–883, by David Wagschal
  Review by W Becket Soule OP
- 83 The Abbots and Priors of Late Medieval and Reformation England, by Martin Heale
  Review by Dom Aidan Bellenger OSB
- 84 Making Martyrs East and West: Canonization in the Catholic and Russian Orthodox Churches, by Cathy Cairdi Review by W Becket Soule OP

- 87 Women's Rights and Religious Law: Domestic and International Perspectives, edited by Fareda Banda and Lisa Fishbayn Joffe
  Review by Brigitte Clark
- The Confluence of Law and Religion: Interdisciplinary Reflections on the Work of Norman Doe, edited by Frank Cranmer, Mark Hill, Celia Kenny and Russell Sandberg Review by Stephen Coleman
- Religion and Public Policy: Human Rights, Conflict and Ethics, edited by Sumner B Twiss, Marian G Simion and Rodney L Petersen

  Review by Malcolm Evans
- 96 Faith in Public Debate: On Freedom of Expression, Hate Speech and Religion in France & The Netherlands, by Esther Janssen Review by Richard Mullender
- 99 From Your Gods to Our Gods: A History of Religion in Indian, South African, and British Courts, by Marco Ventura Review by Terry Biddington
- The Church of England and Divorce in the Twentieth Century: Legalism and Grace, by Ann Sumner Holmes

  \*Review by Richard Lindley\*
- 103 Canon Law and Episcopal Authority: The Canons of Antioch and Serdica, by Christopher W B Stephens

  \*Review by Paul Avis\*\*
- Gratian the Theologian, by John C Wei; and Gratian's *Tractatus de Penitentia*: A New Latin Edition with English Translation, by Atria A Larson *Review by W Becket Soule OP*
- Conciliarism and Church Law: Studies on Franciscus Zabarella and the Council of Constance, by Thomas E Morrissey

  \*Review by Paul Avis\*\*

CASE NOTES

111 Edited by Ruth Arlow

129 ERRATUM