



Ecclesiastical
Law
Society

NEWSLETTER
of
THE ECCLESIASTICAL LAW SOCIETY

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Editor:
Frances Godden
francesgodden@stoneking.co.uk

Executive Secretary:
The Rt. Revd John Ford
execsec@ecclawsoc.org.uk

**The Ecclesiastical Law Society wishes all its
members, friends and readers a happy and peaceful
Advent, Christmastide and Epiphany**



Madonna and Child with Saint John the Baptist, Saint Peter and Two angels, Tuscan c.1290

NEWS & NOTICES

A NOTE FROM THE EDITOR



Welcome to the final Newsletter of the ELS of the year. As 2023 draws to a close we have much to reflect on, with events both at home and further afield continuing to concern and unsettle, but plenty also to celebrate and give thanks for.

This seasonal edition of the Newsletter contains exciting news of upcoming events, some updates regarding the work, activities and members of the ELS, opportunities

further afield for scholars and practitioners of ecclesiastical law, as well as the usual round-up of legislative updates and, of course, our Christmas Quiz, which this year has a particularly topical theme!

However you intend to spend the festive season, I wish you health and happiness for the year ahead, and look forward to our further work and engagement throughout 2024.

Frances Godden, Editor

SAVE THE DATE: 36th ELS ANNUAL CONFERENCE THE LAW OF LITURGY IN THE CHURCH OF ENGLAND: DEAD OR ALIVE?

The 2024 Day Conference has been announced, and will be on Saturday 27 April and will be held at St Peter's Eaton Square, London SW1W 9AL.

The theme of the Conference is 'The Law of Liturgy in the Church of England: Dead or Alive?'

The Conference will be open to members and non-members of the Society. We hope to see as many of you there as possible.



Further details including speakers, a timetable for the day, conference fee and booking arrangements will appear soon [here](#): watch this space!

THRICE TO ROME: Gerald of Wales before the Papal Court of Innocent III 1201 - 1203

Professor Norman Doe, Director, Centre for Law and Religion, Cardiff University, and Bencher, Inner Temple, has written a new community play about the three appearances of Gerald of Wales in Rome before the court of Pope Innocent III in 1201-03. Gerald's account of the trials is re-cast, as a dramatised reading.

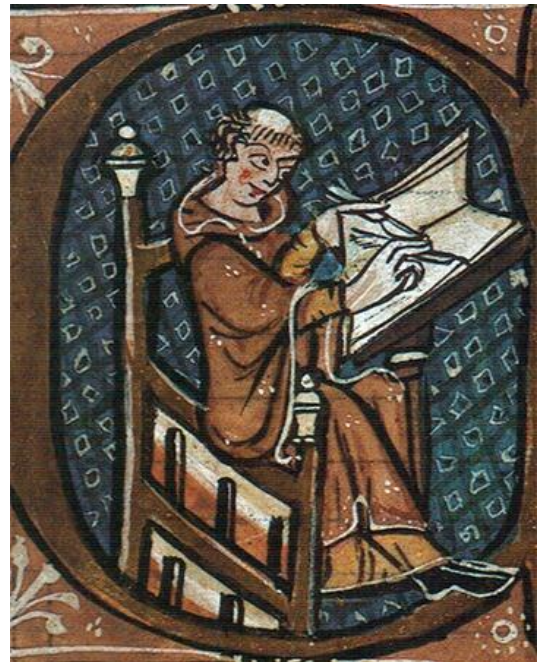


A performance took place at St David's Cathedral in October and was wonderfully well-received.

The next performance will take place at The Temple Church, London, at 6.30 pm on Tuesday 5 March 2024.

The cast at the premiere at St David's Cathedral in October

Gerald is most famous for his books on Wales. But this play re-imagines Gerald as a canon lawyer of European stature. The trials took place when Gerald appealed to the Pope to confirm his election as Bishop of St Davids and to recognise the independence of the church in Wales from the church in England – both opposed by the Archbishop of Canterbury and the King of England.



Following the 800th anniversary of Gerald's death (1223), the performers include current canon lawyers joined by staff of the Temple Church. The play features Gerald, Pope Innocent III, Cardinal Hugolinus (later Pope Gregory IX), and Gerald's opponents: Buongiovanni, Reginald Foliot, and John of Tynemouth. It is narrated in retrospect by the medieval canonist William Lyndwood, assisted by two remarkable sisters, Novella and Bettina, canon law teachers at medieval Bologna and Padua.

This is a tale of canonical intrigue, Church and State in conflict, and an epic clash between St Davids and Canterbury. It also raises issues with contemporary resonances, about nationhood, justice, and law.

The play will be advertised, with details of ticket prices and booking, on the website of the Temple Church, London: <https://www.templechurch.com/>

Please note this event is not organized by the ELS, and all queries should be directed to the Temple Church, via the link above.

IN DEFENCE OF THE CHANCELLOR: David Etherington KC delivers stirring lecture



On Wednesday 13 September, the Worshipful David Etherington KC, Chancellor of London and Norwich, delivered a lecture to the Ecclesiastical Law Society. This lecture had originally been scheduled for 2022, but was postponed following the death of her late Majesty Queen Elizabeth. It was therefore much anticipated, and a large number of members and guests gathered at St Mary-le-bow Parish Church in London to hear the lecture.

Illustrated with many insights from his experience as an ecclesiastical judge, Chancellor Etherington's lecture continued the conversation begun by the then Dean of the Arches, Charles George, in a lecture in 2019. We were invited to reflect on the advantages of the current system in deciding faculty cases. The conversation continued with questions from the floor, and over drinks following the lecture.



The Society is most grateful to our lecturer, and to St Mary-le-Bow for hosting the event.

Details of the lectures booked for 2024 are featured on our website and listed below. Keep an eye out for updates!

INTERNATIONAL CENTER FOR LAW AND RELIGION STUDIES - CALL FOR CONFERENCE PAPERS

The Accommodation of Religion or Belief in the Public Sphere: Undeserved Privilege or Fundamental Right?



We are glad to share that the President and the Steering Committee of ICLARS have announced that the 7th ICLARS Conference will be held at University of Notre Dame, South Bend, Indiana, USA, from 21 to 23 October 2024. It will be organized jointly by the Religious Liberty Initiative of the University of Notre Dame Law School and by the International Centre for the Study of Law and Religion at Brigham Young University Law School. This call can be freely circulated among all persons and institutions that may be interested in it, and we replicate some of the provided wording below.



Notre Dame Law School

The theme of the conference is:

The Accommodation of Religion or Belief in the Public Sphere: Undeserved Privilege or Fundamental Right?

This conference will focus on this dissonance, seeking proposals from experienced academics and young scholars on all sides of the argument. The aim of the conference is to examine different contemporary discourses on how religion, belief and personal ethics can or must be accommodated in the legal and operational structures of States across the world. Is the traditional discourse based on religious exemptions idiosyncrasy of the Western understanding of religious freedom? Is it adequate to face the demands of freedom of religion or belief conceived as a universal human right? Cross-disciplinary and comparative papers are particularly welcomed.

Proposals for papers and panels Members of ICLARS and scholars from all over the world are invited to submit proposals either for individual papers or for panels co-ordinated by specific institutions or research groups. Proposals for panels are especially welcomed.

The selection of participants and the ordering of speakers will be at the discretion of the Programme Committee. The deadline for responses to this call for papers and panels is **31 January 2024**. Proposals should be sent via web form, available [here](#).

More information is available on the ICLARS website [here](#). Any enquiries about the proposals should be addressed to secretariat@iclars.org and not the ELS.

AN UPDATE FROM THE TRUSTEES

Towards the end of November the ELS Trustees took time out of their weekends to hold a strategy day to discuss the future of the Society. We considered our members and wider beneficiaries, our current and future possible activities, our resources and relationships.

In doing this, we read and reviewed a lot of the very helpful feedback our members have provided following events and considered many useful and inspiring comments to help shape our future activities and endeavours.

Your engagement really is very much appreciated and we look forward to developing the work of the ELS and our promotion of education in ecclesiastical law for the years to come. Thank you for your input and we hope you will continue to support the work of the Society as we seek to implement a number of new initiatives over the coming year.

SAD LOSS OF FELLOW MEMBERS

Two pieces of extremely sad news were received by the Society in early December, concerning two members who have been very well known among us both as friends and through our conferences and journal.



Bishop Colin Buchanan died suddenly on 29 November 2023. Bishop Colin retired as Bishop of Woolwich in 2004, after which he served in the Diocese of Bradford and then Leeds as an Honorary Assistant Bishop.

Colin was an active and engaged member of the ELS and his contributions and presence will be enormously missed.

Tribute is paid to him on the Diocese of Leeds website [here](#).

Rt Revd Colin Buchanan speaking at a recent event.

The sudden death of Araba Taylor, Deputy Chancellor of Southwark, was announced on 8 December. She was 62 years old. She is warmly remembered on her chambers website [here](#).



Those who joined our Conference in June (pictured, left) will recall Araba's stimulating and thought-provoking presentation on contested heritage: 'Hidden Faults and Presumptuous Sins'.

Her loss will be hugely felt.

Rt Revd John Inge, ELS Chair Elizabeth Wilson, Araba Taylor and Janet Berry at the ELS Day Conference in June

We extend our deep condolences to Colin and Araba's families. May they rest in peace and rise in glory.

LATEST EDITION OF THE ELJ PUBLISHED



The most recent edition of the Ecclesiastical Law Journal was published in September. It includes stimulating articles on religious liberty (particularly in the context of the American Constitution) by John Witte, Jr; confidentiality and the right to privacy (with a focus on the Roman Catholic Church) by Clyde Muropa, and consideration of the historic portrayal of the Constitution of the Church of England by Norman Doe, which is responded to by Alison Milbank. Further comment comes from Bradley S Billings who considers canon law and the ministry of the 'episcopal assistant' in the Anglican Communion. Books reviewed include publications regarding church courts in the 17th century; Christianity and constitutionalism; Christian jurists and legal collections in the first millennium, and law and religion in the Commonwealth.

Members have access to the entire run of Journal back issues online. To use this facility, go to www.ecclawsoc.org.uk and click Login. If you aren't sure of your password, click "Forgot Password" enter your email address. When you have logged in, click on the "Members" menu title, then "Journal Archive" and follow the link. The latest edition of the has been published and sent to members of the Society who receive it without additional charge.

A MESSAGE FROM THE EDITOR OF THE ELJ

Read on for a message from the Editor of the [Ecclesiastical Law Journal](#), Ben Harrison.

Dear Members,

I wanted to thank you all for your support of the Society, and your subscription to the Ecclesiastical Law Journal, throughout 2023. The Journal serves an important and leading role in fostering new ideas, debates and academic research in the study of law and religion. Your support makes that possible.

I hope that the Journal continues to be stimulating and interesting for you. If so, please do consider telling your friends and colleagues about the work of the Society and encourage them to join as well!

*As I set out in my report to the AGM, the Journal's internal appearance will change slightly from January 2024. We are in the final stages of production. Given the Christmas holiday period and the extra production work that has been required, there is a small chance that the **hard copy** won't land through your letter boxes until late January / early February 2024. Please bear with us. I'm confident that the online version will be available on time. Do look out for further updates.*

If any members have any particular feedback for the editorial board to consider, they should not hesitate to get in touch with me via email.

I wish you all a blessed Christmas, and a Happy New Year!

B.H.

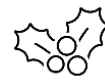
Editor of the ELJ

Benjamin Harrison
Editor of the Ecclesiastical Law Journal





CHRISTMAS QUIZ



It's that time of year again, and our Communications Officer, Russell Dewhurst, has conceived a fantastically topical quiz for members – good luck, and the answers will be in the first edition of the Newsletter in 2024.

ChatGPT has been in the news in 2023 for generating fake case citations incorporated into legal briefs. It seems every ecclesiastical lawyer needs to be attuned to influence of AI, so why not spend this Christmas season seeing if you can spot its handiwork?

In the following quiz, only two out of the three excerpts are genuine in each case. The third is a 'fake' created by ChatGPT. Can you spot which of the three is fake in each case?

1. Canons from Lyndwood's Provinciale (1430)

- a) Forasmuch as the sons of persons of churches and priests may not by the law enjoy ecclesiastical benefices of their fathers by immediate succession, if they any such benefices of their fathers have occupied or enjoyed, let him be expelled and put from the same.
- b) Furthermore, it is decreed that all members of the clergy, regardless of their rank, shall wear a clerical collar. This white band, encircling the neck, shall serve as a visible sign of their consecration to the service of God and the Church.
- c) We straitly forbid all Archdeacons, deans and officials that they presume not to exercise or require by themselves, or by any other, any exactions or tallages of their subjects.

2. Excerpts from the Faculty Jurisdiction Rules

- a) Christmas trees: Fire safety guidelines are strictly adhered to. Appropriate fire-retardant materials are used and electrical components are installed and maintained safely. Regular inspections of the tree and its decorations are conducted to ensure they remain in good condition and do not pose any safety hazards.
- b) The installation of equipment for receiving, or for receiving and sharing, wireless broadband services: The equipment does not adversely affect the church's protection against lightning. Any cable runs are secured so as to minimise the risk that they become loose.
- c) The digging of a cable trench and the installation of cables, and the attachment of wiring, in the trench: A plan showing the proposed route of the trench is submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter and the archdeacon approves the route proposed.

3. Principles of Canon Law Common to the Churches of the Anglican Communion (2022)

- a) Law is intended to express publicly the theological self-understanding and practical policies of a church.

- b) Legal systems continually evaluate and improve their processes to ensure fairness and consistency. This may involve regular review of laws and regulations to address any potential biases or discriminatory practices.
- c) A church is free to establish relations of ecclesial communion with churches not in the Anglican Communion as permitted by the discipline of each ecumenical partner.

4. Statutory Guidance

- a) Applications for licences have to be supported by several surveys, which are generally undertaken during the summer months when bats are active. Therefore, it is vital that you consider the possible presence of bats and schedule any surveys that may be required into your work plan at the earliest opportunity.
- b) Proposals for stained glass in churches arise generally because of the desire to commemorate an event in parish life, or to commemorate the life of someone who has contributed a great deal to the community.
- c) Institutions or individuals endeavouring to create VR replicas are exempt from the requirement of seeking formal approval through the grant of faculty, otherwise necessary for alterations or modifications to consecrated church buildings.

5. Speeches made by Lords Spiritual in the House of Lords, 1923

- a) Yet, let us tread cautiously, for while we may embrace modernity, we cannot forsake the timeless principles upon which our Church was built. Our ecclesiastical laws, like the foundation stones of a great cathedral, must remain steadfast, binding us together through the ages.
- b) I have for over half a century been engaged, as a member of ecclesiastical bodies, in ecclesiastical discussions, and any of your Lordships who, like myself, have been in such debates will find it difficult to recall a single week of such discussions in which the dilapidation question has not figured largely. It has been the common talk of every ecclesiastical gathering, because the difficulty is a ceaseless one; the hardship and the inequality have been real, and the desire to amend it has been real, but the practical way of doing it has been found quite extraordinarily difficult.
- c) It will be remembered that during the debates on the Church Assembly Act. it was difficult to find any satisfactory method that would combine the spiritual independence of the Church with the rightful powers of Parliament in dealing with matters that concern us as citizens as well as Churchmen. Much time was spent in hammering out a satisfactory way by which the rights of the Church, on the one hand, and the rights of the State, on the other, should be safeguarded and united together in the common cause of righteousness.



LYNDWOOD LECTURE 2023

On Wednesday 15 November 2023, the Society was honoured to host the Lyndwood Lecture, a biennial event, established in 1996, and organised alternately by the Ecclesiastical Law Society and the Canon Law Society of Great Britain and Ireland.



The lecturer this year was the Rt Hon Dame Caroline Spelman, on the topic 'Sustaining the Church in the 21st Century'. Caroline Spelman served as the Member of Parliament for Meriden in the West Midlands from 1997 to 2019. From May 2010 to September 2012 she was the Secretary of State for Environment, Food and Rural Affairs. Dame Caroline served as Second Church Estates Commissioner from 2015 to 2019. We thank Dame Caroline for her fascinating lecture.

It was very good to join with friends from our sister society, the Canon Law Society of Great Britain and Ireland. The Lyndwood Lecture takes its name from William Lyndwood (1375-1446), sometime bishop of St David's, a distinguished diplomat and canonist, most noted for the publication of the Provinciale, an early authoritative commentary on canon law.

The Society is grateful to the Rector and Churchwardens of St Mary-le-Bow Parish Church for hosting the lecture.



Left to right: ELS trustee Revd Stephen Coleman, Chair of the ELS Elizabeth Wilson, the Rt Hon. Dame Caroline Spelman, and Fr Francis Bradley, President of the CLSGBI

ECUMENICAL PATRIARCH AT 2025 CONFERENCE



The ELS is delighted to confirm that, in 2025, the Society will mark the 1700th anniversary of the first Ecumenical Council at Nicaea with a weekend conference, at which the Society will be very honoured to welcome as keynote speaker His All-Holiness the Ecumenical Patriarch Bartholomew.

Bartholomew I is the 270th archbishop of Constantinople and Ecumenical Patriarch, since his enthronement on 2 November 1991. In accordance with his title, he is regarded as the *primus inter pares* (first among equals) in the Eastern Orthodox Church, and as the spiritual leader of the Eastern Orthodox Christians worldwide.

The conference will take place in Chichester from 20th to 22nd June 2025. More details will follow in due course.

DATES FOR THE DIARY 2024

Our full programme for 2024 will include lectures, conferences, and training events both in person and online. Details and dates will be published on our website as soon as details become available. Events open for booking so far include:

Wednesday 30 April 2024 – online lecture at 5.30pm



Jan Hallebeek on “Introduction to the Canon Law of the Old Catholic Churches (Union of Utrecht)”

Details [here](#).

ELS Lectures are free of charge and are open to members and non-members save where otherwise stated. Where held in person, spaces are limited and prior booking (through the website) is essential. Booking closes 48 hours before the event (or when the event is full), but please contact the Executive Secretary execsec@ecclawsoc.org.uk for late availability requests. If you find you can no longer attend, please cancel your booking to make the space available for someone else.

And, in case you missed it...

The *Ecclesiastical Law Society* has its own dedicated YouTube channel – you can sign up to subscribe and view past recordings of lectures and interviews [here](#).

Recent additions include:

Charlotte Gauthier, doctoral researcher in History at Royal Holloway, University of London, presented a lecture on “*Ecclesia Anglicana’ on the Eve of the Reformation*” which is available to view [here](#).

LEGISLATION UPDATE

Thanks as ever go to Frank Cranmer for these useful contributions.

Burials and burial law

Scotland: In August, the Scottish Government opened a series of **consultations on aspects of burials and burial law**:

- statutory inspection of burial authorities, cremation authorities and funeral directors;
- a funeral director licensing scheme;
- management of burial grounds, application for burial, exhumation, private burial and restoration of lairs (ie grave sites); and
- regulation of alkaline hydrolysis (aka “water cremation”).

England & Wales: In November, the Law Commission announced further details about the timing of its project on burial and cremation law. The project is being split into three strands:

- new and currently unregulated methods of dealing with remains after death such as alkaline hydrolysis and human composting (early 2024);
- grave reuse and the necessary safeguards to be included in any proposals for reform, and what may be done with cremated ashes (autumn 2024);
- who has the right to decide about the remains of a deceased person’s body and who is responsible for making arrangements after a death (at the end of 2025).

Church Representation Rules (Amendment) Resolution 2023

The **Church Representation Rules (Amendment) Resolution 2023** came into force on 1 August.

Elections and non-party campaigning

The **Non-party campaigning: draft code of practice** under the provisions of ss 110A and 100B of the Political Parties, Elections and Referendums Act 2000 came into force in November. The Code applies to UK Parliamentary general elections and to elections for the Northern Ireland Assembly. It does not apply to elections to the Senedd or Scottish Parliament unless the regulated period (the period when the spending laws apply) for either of those elections overlaps with the regulated period for a UK General Election.

Family law in Scotland

The Scottish Government has given early warning of **a consultation on whether marriages of under-18s should be banned**; it will take place in summer 2024. It will also cover several other areas of family and succession law:

- the Scottish Law Commission’s draft Bill to reform the law on a cohabitant’s financial rights against his or her former partner when they separate;
- whether the simplified forms-based divorce and dissolution procedure should include cases where a couple have children under 16 and they are not in dispute about their welfare;
- a cohabitant’s entitlement to financial provision from his or her deceased partner’s estate where that partner has died intestate; and
- making Regulations on qualifying requirements for religious and belief bodies with celebrants who solemnise marriage and register civil partnerships.

Levelling-up and Regeneration Act 2023

The **Levelling-up and Regeneration Act** was given Royal Assent in October. Section 82 (Powers of parish councils) inserts a new section 19A into the Local Government Act 1894 (provisions as to small parishes) clarifying the powers of parish and town councils to make grants to places of worship. That section does not apply to community councils in Wales.

Terrorism (Protection of Premises) Bill

In the King's Speech it was announced that the Government will hold a further consultation on the Bill to ensure that the proposed standard tier duties (which will apply to almost all places of worship) will “strike the right balance between public protection and avoiding undue burdens on smaller premises such as village halls, churches and other community venues”.

Disestablishing the Church of England?

The **Disestablishment of the Church of England Bill** – a private Member's bill “to disestablish the Church of England; to make provision for the protection of freedom of religion or belief; and for connected purposes” – was introduced in the House of Lords on 6 December by Lord Scriven, read a first time and ordered to be printed.

