



Ecclesiastical  
Law  
Society

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**NEWSLETTER**  
of  
**THE ECCLESIASTICAL LAW SOCIETY**

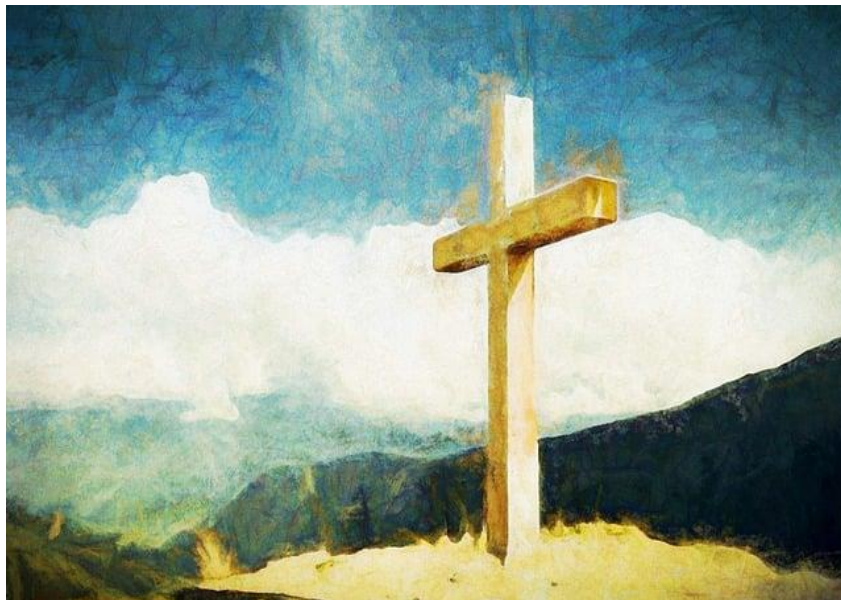
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**No. 1/2024**

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**With all good wishes for Holy Week  
and a happy and blessed Easter**

## NEWS & NOTICES

### BOOK NOW FOR THE 36<sup>th</sup> ELS ANNUAL CONFERENCE THE LAW OF LITURGY IN THE CHURCH OF ENGLAND: DEAD OR ALIVE?



The programme and speaker line-up for our 2024 Day Conference has been confirmed.

This will take place 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?**'

Coffee will be served from 10am, with the conference proper starting at 10.30am. The Annual General Meeting of the Society will take place during the day, and the conference will end with evening prayer at 4:30pm, followed by a drinks reception beginning at 5pm. The ticket price includes morning tea/coffee and lunch. We are grateful to the Vicar, Fr Jonathan Kester, for welcoming us again to St Peter's.

#### Speakers and Sessions

##### Section 1: *The Background of Liturgical Law*

- The Rt Revd Dr Martin Warner, Bishop of Chichester
- The Revd Neil Patterson, Diocesan Director of Vocations & Ordinands and Ministry Development Officer, Diocese of Hereford

##### Section 2: *Liturgy and the Faculty Jurisdiction*

- The Ven Moira Astin, Archdeacon of Reigate
- David Willink, Barrister, Deputy Chancellor of Salisbury and St Albans

##### Section 3: *The Future of Liturgy and Law*

- The Rt Revd Robert Atwell, former Bishop of Exeter
- The Revd Dr Christopher Landau, director of ReSource

The Conference is 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 are available [here](#).

We are grateful to our sponsor **Stone King LLP** for their financial support towards the 2024 conference.

## LAUNCH OF BITESIZE ECCLESIASTICAL LAW



An initiative arising from our Trustees' strategy day last year was the development of a series of 'bitesize' introductory sessions to ecclesiastical law in an accessible and digestible format.

These will consist of monthly 30-minute discussions between The Revd Russell Dewhurst and the Ven Moira Astin about the basics of ecclesiastical law, in a monthly series of accessible 'bitesize' discussions.

The introductory discussion between the hosts will be recorded and posted to our Youtube channel. In the second half, the discussion will be opened up to all attending the seminar, and this part will not be recorded. The Zoom discussions are open to members and non-members and is free of charge.

The first session will be held on Tuesday 14 May starting at 5.30pm. The full programme of the sessions planned so far is as follows:

#1 What is Ecclesiastical Law? – We talk about what subjects ecclesiastical law covers and what its status is, focussing especially on the Church of England.

#2 Why Ecclesiastical Law? – We talk about why the church has law and what it is for.

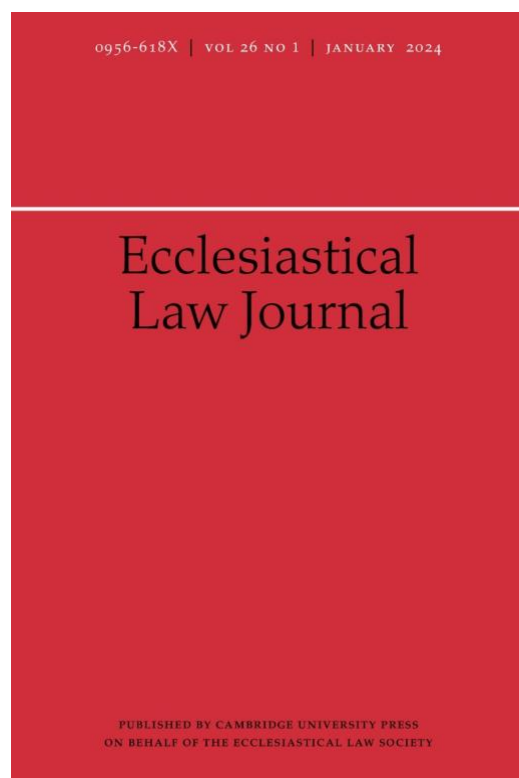
#3 Who's Who in Ecclesiastical Law? – We talk about the roles of chancellors, registrars, archdeacons, and others in the Church of England.

You can sign up to watch these via our website with the link for the first session available [here](#). We would welcome comments and suggestions for future discussions!



*Your 'bitesize' hosts: the Venerable Moira Astin and the Reverend Russell Dewhurst*

## LATEST EDITION OF THE ELJ PUBLISHED



The most recent edition of the Ecclesiastical Law Journal was published in January. It includes stimulating articles on voidable marriages by Sir Nicholas Moyston; the response of the courts to freedom of worship and Covid-19 by Marco Gallimberti and Tania Pagotto; and a fascinating twenty-year retrospective of *Anton Cantlow v Wallbank* (the seminal chancel repair liability case also concerning judicial review and the legal status and authority of the Church of England) by Mark Hill KC.

Further comment comes from Bishop Martin Warner on episcopacy, law and government, and Norman Doe continues his series on rediscovering Anglican priest-jurors, this time considering the life and work of Francis Mason (1566/7 – 1621). The Synod Reports include round-ups from the Church of England, Church in Wales, Church of Ireland, Scottish Episcopal Church and the Church of Scotland, and Moira Astin reflects on the Society's conference last year on Scared Space.

Books reviewed include a new revised edition of Timothy Briden and Kenneth MacMorran's 'A Handbook for Churchwardens and Parochial Church Councillors' and Judith Hahn's 'The Language of Canon Law', as well as a 'critical enquiry' into Enlightenment Theology by Paul Avis and T Clark; a Cambridge Companion to the Council of Trent edited by Nelcon H. Minnich, a discourse on political theory and law by Geminello Preterossi and, for those seeking a dose of history, 'The Visitation of Hereford Diocese in 1397', edited by Ian Forrest and Christopher Whittick.

Case notes are kindly edited by David Willink, and Frank Cranmer provides the Parliamentary Report.

Members have access to the entire run of Journal back issues online. To use this facility, go to [www.ecclawsoc.org.uk](http://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.





# CHRISTMAS QUIZ ANSWERS

You may recall from our last Newsletter that our Communications Officer, Russell Dewhurst, conceived a fantastically topical quiz for members inviting you to guess how competent Chat GPT is on matters of ecclesiastical law! The sources of each paragraph are now revealed.

*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. **Book I, Titulus VIII, Chapter I (Summary)**
- 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. **Chat GPT**
- 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. **Book III, Titulus XXII, Chapter II**

## 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. **Chat GPT**
- 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. **FJR B1 (11a)**
- 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. **FJR B6(9)**

## 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. **Principle 2.4**

- 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. **Chat GPT**
- 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. **Principle 95.1**

#### 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. **ChurchCare – Bats in churches: undertaking works**
- 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. **ChurchCare – New glass for your church**
- 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. **Chat GPT**

#### 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. **Chat GPT**
- 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. **The Archbishop of Canterbury, HL Deb 4 June 1924 vol. 57 cc868-71**
- 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. **The Bishop of Norwich, HL Deb 4 June 1924 vol. 57 cc852-61**



## THE READING CORNER

### ELS well-represented at presentation of new book to the Ecumenical Patriarch

In Istanbul last December a newly-published book was presented to His All-Holiness Bartholomew, the Ecumenical Patriarch of Constantinople and spiritual leader of over 220 million Eastern Orthodox Christians worldwide, to mark His All-Holiness' fiftieth anniversary as a bishop. The book was co-edited by two canonists well-known to the our members: Professor Norman Doe of the School of Law and Politics at Cardiff University, and the Very Rev Grand Ecclesiarch Aetios.



*Left to right: Professor Konstantinos Delikostantis (University of Athens), the Rt Revd Christopher Hill, Professor Norman Doe, His All-Holiness Ecumenical Patriarch Bartholomew, the Very Revd Grand Ecclesiarch Aetios, the Worshipful Mark Hill KC.*

Entitled *Legal Thought and Eastern Orthodox Christianity: The Addresses of Ecumenical Patriarch Bartholomew I* (Routledge, 2023), the Foreword was written by the President of Greece. The book deals with His All-Holiness' invaluable contribution to the development of legal thought on such matters as canon law, religious integration in Europe, human rights, religious freedom, and the environment. Also present at the presentation were the Rt Revd Christopher Hill, President of the Society, and the Worshipful Mark Hill KC, former Chair of the Society and consultant editor of our Journal – both of whom had contributed chapters to the book. At the private audience, Professor Doe presented a letter of good wishes to the Patriarch from the Archbishop of Wales, the Most Revd Andrew John, and Bishop Christopher did likewise from the Archbishop of Canterbury, the Most Revd Justin Welby.

For more details of the book, see: [here](#)

## The Legal History of the Church of England

The first comprehensive analysis of the principal legal landmarks in the evolution of the law of the established Church of England from the Reformation to the present day was published on 22 February 2024.

Edited by Professor Norman Doe KC and ELS Trustee, the Reverend Stephen Coleman, *The Legal History of the Church of England: From the Reformation to the Present* explores the foundations of ecclesiastical law and considers its crucial role in the development of the Church of England over the centuries.

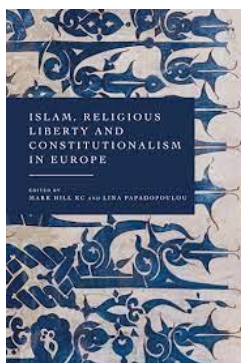
The law has often been the site of major political and theological controversies, within and outside the church, including the Reformation itself, the English civil war, the Restoration and rise of religious toleration, the impact of the industrial revolution, the ritualist disputes of the 19th century, and the rise of secularisation in the twentieth. The book examines key statutes, canons, case-law, and other instruments in fields such as church governance and ministry, doctrine and liturgy, rites of passage (from baptism to burial) and church property.

Published by Bloomsbury, each chapter studies a broadly 50-year period, analysing it in terms of continuity and change, explaining the laws by reference to politics and theology, and evaluating the significance of the legal landmarks for the development of church law and its place in wider English society.

Further contributors include fellow ELS Trustee Paul Barber, former ELS Chair Mark Hill KC and Dean of the Arches and Auditor, Morag Ellis KC.

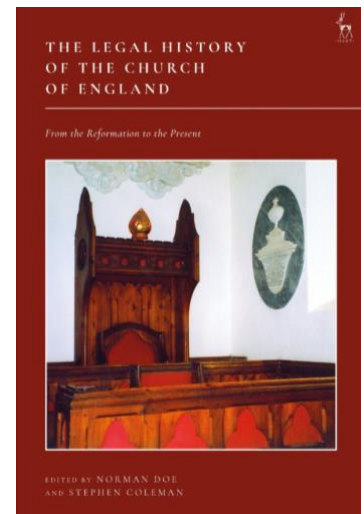
**SAVE THE DATE:** There will be a book launch at the Grosvenor Chapel, London, on Thursday 16 May at 6pm, preceded by Evensong. More details to follow.

## Islam, Religious Liberty and Constitutionalism in Europe



Former ELS Chair Mark Hill KC has continued to be productive with the publication of *Islam, Religious Liberty and Constitutionalism in Europe*, which he has co-edited with Lina Papanodiolou. Published in February 2024, this volume examines the challenges for Europe's legal and political framework within the context of an increasing Muslim population and the prominence of Islamic belief.

Contributors range from academics at leading universities to former judges and politicians. Its 19 chapters focus on constitutional challenges, human rights with a focus on religious freedom, and securitisation and Islamophobia, while adopting supranational and comparative approaches. For a 20% discount off the purchase, go to [www.bloomsbury.com](http://www.bloomsbury.com) and use code GLR AT5.





## DATES FOR THE DIARY 2024

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

### Wednesday 24 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](#).

### Thursday 23 May 2024 – The Grosvenor Chapel, London at 6pm



Stuart Jones of Birketts LLP and Registrar of the Dioceses of London and Norwich will speak on "The developing work of the Legal Advisory Commission: reflections from a current member".

Details [here](#).

### Thursday 18 July 2024 – the Grosvenor Chapel, London at 6pm



The Reverend Dr Robin Ward will speak on ‘The heathen in his blindness bows down to Wood and Stone’ – the canonical erudition of Canon Edmund Gough de Salis Wood SSC (1841-1932), an essay in Anglo-Catholic jurisprudence.

Details [here](#).

### Thursday 12 September 2024 – the Grosvenor Chapel, London at 6pm



The Right Reverend Martin Seeley, Bishop of St Edmundsbury and Ipswich, will speak on “Rebuilding Trust”

Details [here](#).

### Tuesday 12 November 2024 – the Grosvenor Chapel, London at 6pm

The Revd Dr Flora Winfield will discuss “Furthering the mission of the Church of England and making better provision for the cure of souls: reviewing the Mission and Pastoral Measure 2011.”

Details [here](#).

**The ELS is grateful to **Birketts LLP** for their sponsorship of the 2024 London lectures.**

*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](mailto: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](#).

## LEGISLATION UPDATE

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

### A new definition of “extremism”

The Westminster Government **has announced a new definition of “extremism”**:

‘Extremism is the promotion or advancement of an ideology based on violence, hatred or intolerance, that aims to:

1. negate or destroy the fundamental rights and freedoms of others; or
2. undermine, overturn or replace the UK’s system of liberal parliamentary democracy and democratic rights; or
3. intentionally create a permissive environment for others to achieve the results in (1) or (2).’

It replaces the 2011 definition of ‘vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs’.

In advance of the Government’s statement, the Archbishops of Canterbury and York **warned** that any new definition risked ‘disproportionately targeting Muslim communities’ and called on the Government ‘to reconsider its approach and instead have a broad-based conversation with all those who it will affect’. Perhaps more surprisingly, three former Conservative Home Secretaries – Priti Patel, Sajid Javid and Amber Rudd – were among a dozen signatories to **an open letter** which urged securing a cross-party consensus before announcing any new official definition.

### Charities Act 2022: commencement

The **Charities Act 2022 (Commencement No. 3, Consequential, Saving and Transitional Provisions) Regulations 2024** brought into force the third tranche of provisions of the Charities Act 2022 on 7 March:

- S.1: alteration of charitable company’s purposes.
- S.2: amendments to constitution of CIOs.
- S.3: powers of unincorporated charities).
- In s.18 (exceptions to restrictions on dispositions or mortgages of charity land), ss.(1) in so far as it relates to the provisions of s.18 mentioned in sub-paragraphs (b) to (d) of this paragraph, ss.(2)(a), ss.(2)(c) and ss.(3)(a).

- S.23: Information to be included in certain instruments.
- S.29: Powers relating to appointments of trustees.
- S.31: Remuneration etc of charity trustees etc.
- S.33: Gifts to merged charity.
- S.34: Vesting declarations: exclusions.
- S.35: Vesting permanent endowment following a merger (for the remaining purposes).
- S.37: Public notice as regards Commission orders etc (for the remaining purposes).
- S.40: Minor and consequential provision (in so far as it relates to the provisions brought into force by paragraph 13 of Schedule 1).
- The following paragraphs of Schedule 2 (minor and consequential amendments): 1 (in so far as it relates to paragraphs 2 to 10 of Schedule 2), 2–10, 29, 38 (for the remaining purposes) and 42–44.

### **Charity law in England & Wales: guidance updates**

The Charity Commission has issued comprehensive updates to its various guidance notes to reflect the latest changes in the law introduced by the Act – for which see *Charities Act 2022: information about the changes being introduced*. Links to the updated guidance notes are as follows:

- *Change your charity structure*
- *Collaborative working and mergers: an introduction (CC34)*
- *Dissatisfied with one of the Charity Commission’s decisions: how can we help you?*
- *Environmental responsibility for charities*
- *Finding new trustees (CC30)*
- *How to close a charity*
- *How to link charities*
- *How to make changes to your charity’s governing document (CC36)*
- *How to merge charities*
- *How to transfer charity assets to another charity*
- *Permanent endowment: rules for charities*
- *Register of merged charities*
- *Royal Charter charities*
- *Sales, leases, transfers or mortgages: what trustees need to know about disposing of charity land (CC28)*
- *Statutory inquiries into charities: guidance for charities (CC46)*
- *Trustee expenses and payments (CC11)*
- *Use of church halls for village hall and other charitable purposes (CC18)*
- *Village halls: answers to some common questions*
- *Work with other charities*

In addition, *Lexology* has a helpful explainer on the latest tranche of changes brought in by the 2022 Act, [here](#).

## **Charities (Regulation and Administration) (Scotland) Act 2023: commencement**

The first tranche of provisions of the **Charities (Regulation and Administration) (Scotland) Act 2023**, which confers additional powers on the Office of the Scottish Charity Regulator (OSCR), comes into effect on 1 April:

- S.8: Appointment of interim trustees by OSCR.
- S.10: Preservation of and access to charity accounts and independent reports on accounts.
- S.11: Independent reports: minor and consequential modifications.
- S.12: Removal of non-responsive charities for failure to submit accounts.
- S.15: Inquiries about former charities etc.
- S.17: Ability to issue positive directions.
- S.18: Charities which it is not appropriate for OSCR to regulate: (the section confers power to refuse registration for lack of connection to Scotland).

### ***Higgs v Farmor's School***

The Court of Appeal has given permission to appeal the judgment in *Higgs v Farmor's School* [2023] EAT 89, in which the Archbishops' Council intervened. Mrs Higgs, a pastoral administrator and work experience manager at the school, was dismissed after complaints about her Facebook posts on relationship education in primary schools: she had re-posted someone else's post and headed it, "PLEASE READ THIS! THEY ARE BRAINWASHING OUR CHILDREN!" She lost at the ET but succeeded, at least in principle, before the EAT; however, the EAT concluded at [91] that "this is not a case where it can properly be said that only one outcome is possible, and the appropriate disposal must be for this matter to be remitted for determination".