

Alsager [1999] Fam 142, and then cross-applied as a check the test applicable in the southern province from *Re Blagdon Cemetery* [2002] Fam 299. The reasons advanced by the petitioner satisfied neither the *Alsager* test of there being a good and proper reason for the exhumation with which most right-thinking members of the Anglican Church would agree nor the *Blagdon* test of being exceptional. The father's reaction of horror at the thought of the exhumation and re-interment would be shared by most right-thinking members of the Anglican Church. The petition was dismissed. [RA]

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Re SS Peter and Paul, Bath (Bath Abbey)

Arches Court of Canterbury: George Dean, 11 March 2018

[2018] EACC 2

Costs

Having been refused permission to appeal and ordered to pay the petitioners' reasonable costs of responding to the application for permission and the court costs of the application, the Victorian Society made representations that it should not have to bear those costs. It argued that the court should be reluctant to penalise a statutory amenity society, especially where the resources of the church concerned are large compared to the resources of the amenity society. Relying on the decision of *Re St Mary, Sherborne* [1996] Fam 63, the Victorian Society further argued that the petitioners' costs should not include the costs of employing counsel and solicitors, and, as any other costs would be minimal, none should be awarded. In relation to court costs, referring to its decision in *Re St John the Baptist, Penshurst (No 2)* (30 March 2015, unreported), the court observed that, where permission to appeal has been granted, there is generally a public interest in the hearing taking place. The position, however, is different where an application to appeal has been refused. There is no public interest in encouraging hopeless applications for permission, rather the opposite. In relation to the petitioners' costs, the court refuted the suggestion that the *Sherborne* decision included a ruling that legal costs would never be allowed. Statutory amenity societies should not be discouraged from participating in the faculty jurisdiction, including appeals, but, both on a substantive appeal and where permission to appeal has been refused, there is no sound reason why they should be exempt from the usual parties' costs order. The original order for costs was upheld and the Victorian Society ordered to pay the costs of making these further representations. [RA]

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