

Re Brown

Newcastle Consistory Court: McClean Ch, April 2008

Exhumation – mistake – delay

The petitioner's late husband died at the age of 50 in 1983. The petitioner was hospitalised through illness brought about by her grief, and the funeral was arranged by her daughters while she was hospitalised. The burial took place in Alnwick, where the petitioner had lived for just over a year, on a temporary basis with her husband, who had been looking for work. Unknown to the petitioner's daughters, the petitioner and her husband had determined to be buried in Darlington where they had lived for twenty years. The petitioner sought a faculty for the exhumation of her late husband's remains and their re-burial in Darlington. The chancellor considered the decision in *Blagdon*¹ and ruled that this was an unusual case – it was not a classic case of 'mistake', although he accepted that there was a mistake in that the daughters acted in ignorance of their parents' wishes, and there was no 'change of mind' in relation to the move to Darlington, as they had lived there for twenty years. The delay was explicable on the basis of a lack of knowledge of whether or how the mistake could be rectified. The faculty was granted. [JG]

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Appeal of the Reverend David King

Chancery Court of York: Cameron, auditor with assessors, April 2008

Clergy Discipline – conduct unbecoming – penalties – suspension

The appellant was the incumbent of a benefice in the diocese of York. A clergy discipline tribunal had determined that his conduct had been unbecoming of a clerk in holy orders in respect of his relationship with a woman to whom he was not married.² The tribunal had imposed a penalty amounting to immediate deprivation from his preferment and prohibition from exercise of the function of his orders for four years. The appeal was against penalty only. The appellant claimed that the sentence was excessively severe, took no account of the appellant's pastoral care of his benefice and previous parishes, and did not give credit for the time that he had been suspended from duty pending the determination of the tribunal. The court dismissed all three points of the appeal and upheld the penalty imposed. In dismissing the appeal, the court noted that, while the Clergy Discipline Commission's Guidelines on Penalties mention removal from office

1 *Re Blagdon Cemetery* [2002] Fam 299, [2002] 4 All ER 482, (2002) 6 Ecc Lj 420.

2 A case note of the first instance decision is at (2008) 10 Ecc Lj 253–254.

and prohibition as ‘usually appropriate in cases of adultery’, such a penalty may also be appropriate in cases such as this one where the misconduct had fallen short of adultery. The court upheld the tribunal’s finding that the appellant was guilty of serious misconduct and that the penalty imposed was appropriate. The court found that the tribunal had given proper regard to the evidence before them of the appellant’s character and pastoral skills, and noted that the appellant had at no time shown repentance or remorse. The court held that there was a distinction between the bishop’s discretionary power to suspend a priest during proceedings under the Measure and a penalty imposed by the tribunal for proven misconduct. The court stated that ‘we do not consider that a period of suspension should be taken into account when a disciplinary tribunal, or this court, is determining the appropriate penalty in a particular case’. In this case, the period of prohibition was ordered to begin on the date of the confirmation of the penalty by the Chancery Court. [WA]

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Re Cotes

Lichfield Consistory Court: Coates Ch, May 2008

Plate – gift – proprietary interest

In 1660, an ancestor of the petitioner gifted four pieces of plate to St Peter’s, Woodcote unconditionally. In February 2007, the church was deconsecrated. Technically, the church is still in use because the necessary pastoral scheme has not been put into effect. The petitioner, who did not live in the parish, petitioned for a faculty to gift three of the items in question to the church of St James, Cotes Heath and for the fourth item, a silver flagon, to be given to himself. Neither the parish nor the Council for the Care of Churches supported the application, and the DAC made no comment. The chancellor ruled that the petitioner had no proprietary interest in the items. Even if the petitioner did have a proprietary interest in the plate, the chancellor ruled that he would still not grant a faculty for any item to be ‘gifted’ in the way requested to a private individual without there being an extremely good reason for doing so. No such good reason had been advanced here. The petition was dismissed. [JG]

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Re St Giles, Shrewsbury

Lichfield Consistory Court: Coates Ch, May 2008

Font – repositioning – necessity

The petitioners sought to move the font from the south door to a position on the north wall adjacent to the Lady Chapel and to remove five pews from the north