



He went on to note that the Constitution of Uganda provided for freedom ‘to subscribe to [a] certain faith and to unsubscribe’ and that ‘Once you subscribe to a certain faith, you must abide by its tenets’. The canons of the Church provided procedures for the appointment of bishops and for resolving disputes about their election – and ‘Courts cannot appoint a bishop for the Church’. Application dismissed; parties to bear their own costs ‘to promote reconciliation in the church’.

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Re St Paul, Caton-with-Littledale

Blackburn Consistory Court: Hodge Ch, 29 October 2023 [2023] ECC Bla 6 *Grave reservations – general principles*

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The petitioners, who were resident within the parish, applied for a faculty for the reservation of a grave plot. The incumbent did not consent to the petition; the policy of the PCC was not to support new applications for reservation as the churchyard would be full in less than ten years.

The court set out a series of propositions that could assist in determining such a petition. In respect of the PCC’s policy, the court noted that while such a policy could not be conclusive, and it could not remove the court’s over-arching discretion, where the PCC had adopted a policy that is considered, reasonable and fair, the court would only be justified in departing from that policy in exceptional circumstances. Anyone seeking a reservation in the face of such a policy would need to show that their case is markedly out of the ordinary.

Where the remaining burial space is limited, the court would take particular note of the fact that a reservation could prejudice the rights of those entitled to interment in the churchyard. In those circumstances, a faculty would not normally be granted, and the petitioner will have to demonstrate sufficient justification for the court to take the exceptional course of allowing a reservation in such circumstances. Even where such a justification is demonstrated, it would not, in the absence of exceptional circumstances, usually be right to extend the duration of the faculty beyond the period for which the churchyard is likely to have space for burials. Should such a faculty be granted for a limited duration, it would remain open to the petitioner to

apply for an extension. Whether or not one would be granted would depend upon the prevailing circumstances, including the petitioner's personal circumstances; whether arrangements had been made to provide additional space for burials; the views of the incumbent; and any current policy of the PCC towards reservations.

In the present case a faculty was granted, but limited to a period of seven years with permission to apply to extend. Limiting the initial duration of the faculty to seven years would ensure no-one with a right of burial was prejudiced by the grant, notwithstanding the imminent capacity constraints.

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Re Holy Trinity and St Jude, Halifax

Leeds Consistory Court: Hill Ch, 30 November 2023
[2023] ECC Lee 3

Contractors' obligation – faculty jurisdiction

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Following the grant of a faculty for the felling of particular trees in the churchyard, the petitioners' contractor in error felled two trees not covered by the faculty. A petition was issued for a confirmatory faculty; the contractor was added as an additional party.

The contractor candidly acknowledged, in response to a question asked in directions, that it was not familiar with the faculty jurisdiction. The court said:

'12. It cannot be restated often enough that those whose business includes work on church buildings or in churchyards of the Church of England must be familiar with the process and procedures of the faculty jurisdiction and have a firm grasp of the principle that unless a faculty (or other authorisation) has been obtained, any work done will be unlawful. As I observed in *re All Saints, Buncton* [2018] ECC Chi 1, at paragraph 80:

"... contractors should always, invariably and without fail obtain a copy of the relevant faculty (or other authorisation) before they commence any works ..."