

CASE NOTES

EDITED BY RUTH ARLOW

Barrister, Deputy Chancellor of the Dioceses of Chichester and Norwich

AND WILL ADAM

Rector of Girton, Ely Diocesan Ecumenical Officer

Re St Barnabas, Shore

Manchester Consistory Court: Tattersall Ch, September 2009

Pipe organ – replacement with electronic – funding

The petitioner sought a faculty for the removal of the church's Conacher pipe organ and its replacement with an electronic organ. The DAC and CBC objected to the proposal on the basis that the existing organ was 'a fine organ and a good example of Conacher's work', that inadequate efforts had been made to obtain funding for the refurbishment of the existing organ and that the proposed organ was excessive for the needs of the building. The petitioner and PCC rejected the chancellor's suggestion that further efforts were made to obtain funding for the refurbishment of the existing organ from named bodies, raising concerns about the ongoing maintenance cost of the existing organ and indicating that funds had already been raised for the purchase of the electronic organ. The PCC suggested that the existing organ could be preserved in storage pending a future decision about its future. The petition was refused on the basis that efforts to retain the existing organ had not been exhausted; and the fact that funds had already been raised for a replacement was not a good reason to grant the petition. [RA]

doi:10.1017/S0956618X10000220

Re St Oswald, Walcott

Lincoln Consistory Court: Bishop Ch, September 2009

Sale of bible – good and sufficient reason

The vicar and churchwardens sought a faculty for the sale of a 1611 bible which had long-standing links with parish. The bible had been kept in the church, was in poor condition and was deteriorating. It was proposed that if it were not sold the bible should be kept in the cathedral library where it could be preserved. The petitioners wished to apply half the proceeds of sale to the repair and replacement of lead lights in the church and half to facilitate the mission of God in the parish

and overseas. The chancellor considered the decisions of *Re St Gregory, Tredington* [1972] Fam 236 and *Re St Peter, Draycott* (2009) 11 Ecc LJ 365. The chancellor considered that the burden of proof on the petitioners to show a good and sufficient reason for the sale of the bible was towards the lower end of the scale but nevertheless he refused the petition. The chancellor expressed concern that if such a reason were readily found then parishes would come under great pressure to part with valuable items. There was no financial emergency and the PCC's laudable desire to support missionary work could not amount to a good and sufficient reason in the circumstances. [RA]

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Re St Margaret, Halliwell

Manchester Consistory Court: Tattersall Ch, October 2009

Confirmatory faculty – unauthorised works – costs

The priest-in-charge and a churchwarden petitioned for a faculty for roof repairs. After an oral hearing the chancellor made findings that the petitioners had authorised the undertaking of the proposed works without a faculty despite knowing that one was required and that the DAC did not support their proposal. He further found that the petitioners had completed the petition in a misleading manner and had attempted to conceal the fact that works had already been completed. He ordered that the petitioners should each personally make a contribution of £100 towards the cost of the petition to mark the gravity of their behaviour. [RA]

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Re All Saints, Dulverton

Bath and Wells Consistory Court: Briden Ch, October 2009

Churchyard paths – disabled access

The first part of the petition concerned the alteration of paths in the churchyard, which slopes steeply upwards from the road to the church. The chancellor granted the faculty noting that the court will normally allow reasonable alterations to improve disabled access in line with section 21 of the Disability Discrimination Act 1995. He noted that where decisions (on traffic issues, for example) had been taken by the local planning authority they would not normally be re-examined by the consistory court. However, he noted that the treatment of interred remains that may be disturbed during works in the churchyard was the proper concern of the court and he made the faculty for these works conditional upon the reburial