

PENSATIONES ECCLESIASTICI

Once again exhumations seem to be in the air (so to speak). Not only are remains of a national hero permitted to be returned to South America, but in *Re Durrington Cemetery* [2000] 3 WLR 1322 at 1324C, Chancellor Hill permitted the exhumation of Jewish remains from consecrated ground for re-interment in a Jewish cemetery according to Jewish law because of the provisions of the Human Rights Act 1998. The chancellor made it clear that he did not wish 'to make any definitive statement of general application'. However, the *Church Times* now informs us that remains of a deceased of part Jewish parentage whose funeral was a humanist one have been exhumed in the St Albans diocese. Although the law as stated in *Re Christ Church, Alsager* [1999] Fam 141, [1999] 1 All ER 117, did not in the circumstances permit the exhumation, the consistory court was bound under the Human Rights Act to allow it.¹ Of course, every case is different, but what is now the position of Anglicans who wish exhumation of the remains of their loved ones? It seems odd that exhumation may be permitted for the materialistic purposes of road widening, and enjoined under the Human Rights Act because of the right to freedom of thought, conscience and religion under Article 9 of the European Convention of Human Rights, but denied to the poor Anglican unless he or she is to change her faith! Perhaps the test in the *Alsager* case of what right-minded members of the Church may think should be liberally interpreted.²

On another topic, my eye has been caught by the provisions of the draft Clergy Discipline Measure. Readers will be relieved to find that I do not intend to rehearse the provisions of the ECHR in relation to the Measure if passed into law. However, under section 33(1) it will be the duty of any person in Holy Orders who (whether in England or elsewhere) is convicted of an offence, or is arrested on suspicion of committing an offence, to inform his bishop within twenty-eight days. So, if a cleric is allegedly caught speeding in France when on holiday, he should be careful to pay up at the side of the road. Even if innocent, once the *gendarmérie* arrest him, he must report the matter to the bishop. Beware! Big Brother is watching you ...

Ecclesiasticus

¹ This case is now reported as *Re Crawley Green Road Cemetery, Luton* [2001] 2 WLR 1175.

² See the article by Philip Petchey at page 122 of this *Journal*.