

to be considered. Accordingly, he reinstated the faculty and gave permission to proceed. [RA/WA]

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Re St Peter, Draycott

Court of Arches: Cameron, Dean; Gage and Bishop Chs, March 2009

Font – fixture or fitting – financial emergency – oral hearings – intervener status

The Victorian Society appealed against the decision of the Bath and Wells Consistory Court granting a faculty permitting the respondents to sell the font from a Grade II listed church. The sale was to be to a public body or by public auction and permission was granted to apply the funds therefrom to defray maintenance costs in respect of the church. The font had been in the church since its consecration. It was large and ornate and had been designed by the celebrated Victorian architect William Burges. The petitioners had been offered a significant sum from a private collector who wished to purchase the font. The parish's quinquennial inspection had revealed significant works required to maintain the church. The petitioners wished to use the proceeds of sale of the font to defray these and other maintenance costs. The Church Buildings Council (CBC) was permitted to intervene for the purposes of the appeal under Rule 24 of the Faculty Jurisdiction (Appeals) Rules 1998 and CPR 52.12A, it not having been a party at first instance.

The court rejected the argument that the chancellor should have held an oral hearing in this case. All parties (including the Victorian Society) had consented to a determination on written representations – thus it could not amount to a legitimate ground of appeal. The court held that

the dictum of the Deputy Dean in *St Gregory, Tredington* [1972] Fam 236 that 'faculties [for the disposal of items] should seldom if ever be granted without a hearing in open court' no longer carries the weight which it did in the past.

but had been superseded by the written representations procedure under Rule 26 of the Faculty Jurisdiction Rules 2000.

The court rejected the CBC's submission that the sacramental nature of a font meant that it could never be sold or disposed of to another use. In the absence of any evidence of whether the font was fixed to the floor of the church other than by its own weight, the court endorsed the chancellor's decision to apply both the

principles applicable to the disposal of chattels under *St Gregory, Tredington* and the *Bishopsgate* questions applicable to the alteration of listed churches. The court outlined and applied the *Tredington* principles and concluded that, although the parish had established that it faced ‘substantial expenditure’, the chancellor had been wrong to conclude that this amounted to a ‘financial emergency’ sufficient to show a ‘good and sufficient ground’ for the purposes of the *Tredington* principles. In reviewing the chancellor’s application of the *Bishopsgate* questions, the court further held that the chancellor had been wrong to find that the parish had proven a ‘compelling financial reason amounting to a necessity’ for those purposes. The appeal was allowed, with the Victorian Society, as appellant, paying the court costs. [RA]

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Re St Mary’s Churchyard, Goring-by-Sea

Chichester Consistory Court: Hill Ch, April 2009

Exhumation – mistake – family grave

The chancellor granted a faculty for the exhumation of the cremated remains of the petitioner’s father and their re-interment in a ‘family grave’. The remains had originally been buried elsewhere in the churchyard, after the petitioner had been told by the funeral directors that the family grave was full. However the remains of the petitioner’s uncle had subsequently been interred in it. The combined effect of innocent mistake and the undoubted desire for family members to be buried in the same grave brought this case within the exceptional class, in accordance with the principles of *Re Blagdon Cemetery* [2002] Fam 299, Ct of Arches. [RA]

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Maga v Roman Catholic Archdiocese of Birmingham

High Court, Queen’s Bench Division: Jack J, April 2009

Child abuse – priest – vicarious liability

Acting by his litigation friend, the Official Solicitor, the claimant alleged serial sexual abuse by an assistant priest in the Archdiocese of Birmingham during the 1970s. The priest disappeared in 1992 and his current whereabouts were unknown. The judge found that the archdiocese did not make sufficient enquiries about the actions of the priest in question when the allegations first came to