

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 Benedict, Cambridge

Ely Consistory Court: Gage Ch, August 2009

Sound system – speakers

A faculty was granted for the installation of a new sound system, including the installation of narrow speakers on the pillars of the church, attached by fixings in the mortar of the pillars. The DAC did not recommend the proposed works; the committee has a standard and consistent policy of recommending that speakers be set higher up than was here proposed, to minimise visual impact. The chancellor attended the church for a demonstration of the proposed system and the current system, which made use of higher level, less visually obvious speakers, and concluded that the proposed system produced a distinctly greater quality of sound. [WA]

doi:10.1017/S0956618X10000542

Re Alconbury cum Weston Parish Church

Ely Consistory Court: Gage Ch, August 2009

Chancel stalls

The petitioners sought to dispose of a set of nineteenth century stalls, designed by Ewan Christian, from the chancel of the parish church. The stalls had already been removed from the chancel and stored under the authority of an archdeacon's temporary licence. The congregation of the parish church had recently combined for worship with the congregation of the Methodist Church, prompting a review of worship and use of the space in the church. The Victorian Society did not become a party opponent, but asked that its objection be taken into consideration. The chancellor concluded that whilst the chancel itself was of exceptional quality the stalls were not. He further concluded that it was unlikely that

the PCC would seek to reintroduce the stalls at a later date so ordered the PCC to send a plan for their disposal to the DAC within three months with a reference to the court should the DAC reject their proposal. [WA]

doi:10.1017/S0956618X10000554

Bentley v Anglican Synod of the Diocese of New Westminster

Supreme Court of British Columbia: Kelleher J, November 2009

Canada – same-sex unions – doctrine – property dispute

The action was brought in two combined suits, the plaintiffs being 22 clergy and lay members of four parishes, the defendants being the diocesan synod and Bishop of New Westminster in Canada. The parishes concerned had sought to leave the diocese after the decision of the diocesan synod and bishop to approve a rite for the blessing of same-sex unions. The parishes concerned voted in congregational meetings to ally themselves with the Anglican Network in Canada (ANiC), a grouping of conservative parishes, and to accept episcopal oversight from the Archbishop of the Province of the Southern Cone in South America. The bishop started a canonical process to depose the clergy (who had voluntarily resigned their licences) and invoked a canonical provision to remove lay officers from two of the parishes. The dispute centred on property issues. The bishop held that as the clergy had ceased to be ministers of the Anglican Church of Canada their continued use of the buildings was not lawful. The plaintiffs argued that ‘first, the parish properties are held on trust; second, the terms of the trust require that parish ministry and liturgy be consistent with historic, orthodox Anglican doctrine and practice in full communion with the worldwide Church; third, the bishop’s actions had made performance of the trust impracticable; and fourth, the court should therefore order a *cy-près* scheme directing modification of the terms of the trust.’ The judge concluded that it was not necessary to analyse the purposes of the trust in which the buildings were held as the claim failed on legal principles. The diocese and parish corporations are incorporated under the terms of the Act to Incorporate the Anglican Synod of the Diocese of New Westminster 1893. This makes major decisions within a parish corporation subject to the consent of the diocese’s executive committee and bishop. A parish does not have the right unilaterally to leave the diocese. Consent not forthcoming, the property remains in the hands of the diocese. The judge dismissed the larger part of the claims of the plaintiffs but ruled that the bishop’s removal of parish trustees and appointment of others was illegal. In a separate part of the judgment, the judge ruled that a *cy-près* scheme be established to fulfil the