

been raised. The chancellor did not consider it appropriate for him to seek to resolve sensitive and difficult doctrinal issues, nor to apply his own subjective aesthetic judgment. Having regard to the support of the DAC and the majority of the PCC, the chancellor held that the will of the majority should prevail and granted the faculty. [RA]

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Re Hagley Municipal Cemetery

Worcester Consistory Court: Mynors Ch, July 2010

Exhumation – Roman Catholicism

The deceased and his widow were both Roman Catholics. The widow petitioned for the exhumation of the deceased's remains from the consecrated area of the local municipal cemetery for their re-interment in the local Roman Catholic cemetery. She argued that exceptional circumstances existed on the basis of mistake in that she had not previously known that a Roman Catholic cemetery existed in the area, that the plot in which her husband was buried was unsafe and vulnerable to a landslip and that the direction in which her husband had been buried was incorrect. The evidence did not support these arguments and the chancellor rejected them accordingly. Nevertheless, the chancellor considered the decision in *Re Putney Vale Cemetery*⁴ and held that a mistake had been made sufficient to amount to exceptional circumstances in that the widow had no understanding of the nature and significance of consecration and therefore did not fully appreciate the permanence of burial in consecrated ground. A faculty was granted. [RA]

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Re Bromsgrove Old Cemetery

Worcester Consistory Court: Mynors Ch, July 2010

Exhumation – scattering of ashes

The deceased's widow petitioned for a faculty for the exhumation of the deceased's cremated remains from the consecrated area of the local municipal cemetery in order that she could scatter them in accordance with his dying wishes. During the last 15 years of his life the deceased had been confined to a wheelchair and had expressed a desire for his remains to be scattered in order that he 'at last could be free'. The widow acknowledged that she had 'selfishly'

4 (2011) 13 Ecc LJ 118.

decided to inter the deceased's remains in order that she would 'have somewhere to visit him and feel close to him'. She was not made aware that the land in question was consecrated. The chancellor distinguished this case from that of a simple 'change of mind', stating that the widow's change of mind arose not from a passing fancy but rather from a serious wish to rectify what she realised to have been an error on her part. He found that special circumstances existed and issued a faculty accordingly. [RA]

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Kings v Bultitrode and another; re Schroder

High Court, Chancery Division: Proudman J, July 2010

Will – charitable donation – cy-près doctrine

The claimant was a solicitor and executor of the will of Mrs S, who had been the leading member of a small independent church, the Ancient Catholic Church. The defendants were the representative of the beneficiaries in the case of partial intestacy and the Attorney General. The court found that the church to which the deceased had bequeathed her residuary estate no longer existed, largely as a result of her death, when members went their separate ways and the building, leased to the deceased, ceased to be used by them. The court held that the gift was dependent on the continued existence of the church. The residuary estate was not therefore the subject of a valid charitable gift. The specific intention of the deceased was such that the estate could not be applied *cy-près* to other charitable purposes and was therefore to be distributed under the rules of intestacy. The court further held that the property and assets of the church (rather than those of the deceased) were to be applied *cy-près* and were to be accounted to the Attorney General. [WA]

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Re Holy Trinity, Eccleshall

Court of Arches: George, Dean; Briden and Box Chs, July 2010

Appeal – recusal of chancellor – evidence – wrong evaluation

The appellants appealed the judgment of Chancellor Coates, sitting in Lichfield Consistory Court,⁵ refusing to grant a faculty for the internal reordering of the

5 (2010) 12 Ecc LJ 258.