

Re St Bartholomew, Cresswell

Newcastle Consistory Court: Hodson Ch, April 2010

Memorial – confirmatory faculty – pastoral consequences

The incumbent had received and approved an application for a memorial in the churchyard. The application stated that the proposed memorial was to be a ‘black granite wedge’, within the permitted dimensions for memorials in churchyards in the diocese. When installed it appeared that the memorial was in the shape of an open book and exceeded the permitted dimensions. The chancellor, in refusing the faculty sought, noted that, as well as exceeding the permitted dimensions, the memorial was of a design ‘generally considered inimical to churchyard locations’ and was ‘itself badly executed’. The chancellor, recognising the pastoral consequences, refrained from making a restoration order in the hope that an appropriate compromise could be reached between the petitioners and the incumbent. He noted that the family had not been well served by the monumental masonry firm, but that his criticisms of the firm could have no legal force as the firm concerned were neither parties to, nor gave evidence in, the case. [WA]

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Re St John, Walsall Wood

Lichfield Consistory Court: Coates Ch, April 2010

Exhumation – reserved gravespace – mistake

The widow of B had reserved a gravespace by faculty next to her husband’s grave. The grant of the faculty had been noted in the burial register but the grave had not been marked. Subsequently the body of H had been buried by mistake in the space, in a service not conducted by the incumbent. The incumbent discovered the mistake straightaway. The widow of B was not content to transfer her reservation to another space, and the mother of H was not content for her son’s body to be exhumed and reburied elsewhere. H had died suddenly abroad, and his body had already been exhumed once (in Spain) and reburied. The Archdeacon of Walsall petitioned the court for a faculty for the exhumation and reburial of the body of H. The diocesan churchyard regulations state that where a mistake of this kind has been made that this is ‘likely to amount to a good and proper reason’ for exhumation, if promptly discovered. In *Re Blagdon Cemetery* [2002] Fam 299, the court stated that in such cases a faculty for exhumation may ‘readily be granted’. Counsel for the opponent mother of H submitted that ‘likely’ and ‘readily’ did not equate to ‘will always’ and ‘inevitably’ and that the chancellor retained discretion. The chancellor was unwilling to overturn the court’s previous decision to grant a faculty for the reservation of the gravespace and noted the views of the family of B and the promptness of