

CASE NOTES

EDITED BY RUTH ARLOW
Chancellor of the Diocese of Norwich

Re Aby Churchyard

Lincoln Consistory Court: Bishop Ch, 30 April 2014
Exhumation – medical grounds

In refusing a faculty for the exhumation of the remains of the petitioner's first husband from Aby Cemetery for re-burial in consecrated ground nearer to where she now lived with her new husband, the chancellor held that there were no exceptional reasons to justify exhumation. The medical grounds relied upon by the petitioner, a slipped disc which made it uncomfortable to walk on the uneven ground leading to the grave, were not the type of psychiatric or psychological medical reason envisaged by the Court of Arches in *Re Blagdon Cemetery* [2002] Fam 299. There was no suggestion here of a psychiatric condition linked to the location of the ashes. [Catherine Shelley]

doi:10.1017/S0956618X1400161

Re Field Road Cemetery, Bloxwich

Lichfield Consistory Court: Eyre Ch, 18 May 2014
Exhumation – new cemetery – family grave

The petitioner sought to exhume his father's remains from consecrated ground at Field Road Cemetery, Bloxwich, for their proposed re-interment in a new municipal cemetery which lay on land that the deceased had farmed. The petitioner argued that the opening of the new cemetery constituted exceptional circumstances justifying exhumation and re-burial. The petitioner intended to create a family grave at the new cemetery by re-interring his father alongside his mother in the new cemetery. His mother remained unburied pending the decision about exhumation of his father. The chancellor noted that the categories of exceptional circumstances reviewed in *Re Blagdon Cemetery* are not exhaustive. Even if the facts do fit one or more of those categories, discretion remains to be exercised as to whether in a particular case the facts justify exhumation. In this case the creation of the new cemetery was not so exceptional as to

justify exhumation from a plot that was perfectly suitable and where the mother could also be buried. [Catherine Shelley]

doi:10.1017/S0956618X14001173

Re St Andrew, Shepherdswell

Commissary Court of Canterbury: Ellis Com Gen, 19 May 2014

Interim faculty – subsequent petition

In considering a petition for a final faculty to authorise the introduction of a digital organ which had initially been authorised by an interim faculty, the Commissary General held that consideration of the petition should be from ‘first principles’. It had been made clear to the petitioners that the grant of the interim faculty would not prejudice the consideration of the subsequent petition and they had proceeded at their own risk in laying out £15,000 on the digital organ in reliance on the interim faculty. An objection to the grant of a faculty was received but, in the event, the petitioners’ case for the new instrument was made out and a final faculty was granted. [Alexander McGregor]

doi:10.1017/S0956618X14001185

R (Plantagenet Alliance Ltd) v Secretary of State for Justice and others

Divisional Court: Hallett LJ, Ouseley and Haddon-Cave JJ, 23 May 2014

Exhumation – Secretary of State licence – consultation – historical figure

The remains of King Richard III of England were discovered, more than 500 years after his death, under a public car park in Leicester. The claimant, the Plantagenet Alliance, brought an application for judicial review challenging the decisions of the Secretary of State for Justice, Leicester City Council and the University of Leicester in relation to the grant of a licence for the exhumation of those remains and the plan for their re-interment. The claimant is a not-for-profit entity established by its sole director and shareholder, the sixteenth great-nephew of Richard III, to represent the interests of a number of collateral descendants of that king. The claimant was principally concerned with the location of the re-interment of the remains, there being a proposal to re-inter them within Leicester Cathedral, as the nearest Christian church or churchyard in the parish of the original interment. The plan to re-inter in Leicester Cathedral had been formed after consultation and communication with the Royal Household, Cathedral Chapters of Leicester Cathedral and York Minster, the City Councils of Leicester and York, the Church of England, the Roman Catholic Church, the