

The Law Gazette

Ecclesiastical law; disinterment of ashes -- Re Church Norton Churchyard

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Const Ct (Judge Quentin Edwards QC Ch): 9 November 1987

On the death of the petitioner's husband in 1975 an oak box containing his ashes was interred in a plot set aside for the burial of cremated remains in a churchyard in the parish where they had recently gone to live.

The plot became very neglected and was no longer in use after 1985.

The petitioner intended to return to the place where she and her husband had lived for 40 years and where her family had a grave.

She sought a faculty to authorise the removal of her husband's remains from the churchyard to the family grave.

The petition was unopposed but the Archdeacon of Chichester intervened at the chancellor's request.

Paul Bodkin (solicitor with Chamberlain, Martin & Spurgeon, Selsey) for the petitioner.

The archdeacon in person.

Judge Quentin Edwards QC Ch said that, on a petition for disinterment, there was a burden on the petitioner to show that the presumed intention of those who had committed the body or ashes to a last resting place and into the court's protection was to be overborne.

The finality of Christian burial should be respected, and the court should make no distinction between a body and ashes.

The possible trend towards taking the remains of loved relatives from place to place so that they might more easily be visited should be discouraged.

The lapse of time since the interment of the ashes of the petitioner's husband was so great that that alone appeared to be a reason for refusing the petition, but it had to be viewed against the rest of the evidence, and the petitioner had said that if she had thought the matter over fully at the time she would have buried the ashes in the family grave.

The strongest feature, however, was the likely future of the present plot.

The parochial church council would be able to present a strong case for clearing and re-turfing it.

Should such a petition be presented, the present petitioner would have a good case for a provision authorising her to remove her husband's ashes to another consecrated burial ground.

Faculty granted.

(WLR)

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