

Judge mistakes law in town hall prayer ban

by Francis Bennion

In the High Court case brought by the National Secular Society and Mr Clive Bone against the Town Council of [the ancient Devon seaport of] Bideford, Mr Justice Ouseley described the practice at issue. ‘Public prayers are said at full meetings of the Council. They are thought by some to have been said at the Town Council’s meetings since the era of Queen Elizabeth the First’.

Counsel for the Town Council argued that saying prayers as part of the formal meeting of the council was lawful under section 111 of the Local Government Act 1972. This says ‘a local authority shall have power to do any thing . . . which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions’.

The judge ruled that the practice is not authorised by section 111, and that no other statutory power permits it. He added, however, that ‘the manner in which the practice is carried out in the circumstances of Bideford does not infringe Mr Bone’s human rights nor does it unlawfully discriminate indirectly against him on the ground of his lack of religious belief’.

In my respectful submission the judge was clearly mistaken in holding that the practice of saying prayers was not ‘incidental’ to the discharge of the Council’s functions, bearing in mind the origin of section 111 in the common law and the way it has been interpreted by the courts. [It follows that] an appeal against the judge’s ruling would be likely to succeed [, clearing the way for Bideford’s practice of saying prayers to be resumed].

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References:

None

¹ Published in *The Times* 14 February 2012 (passages in square brackets omitted).