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CONSISTORY COURT CASES 2005

| <u>DATE</u> | <u>PLACE</u> | <u>DIOCESE</u> | <u>CHANCELLOR</u> |
|-------------|-------------------------|----------------|-------------------|
| 2 January | Henry Mudditt, deceased | Newcastle | McClellan |

Petition for the disinterment of the cremated remains of Henry Mudditt from consecrated ground, to be scattered. This was the wish of Mr Mudditt's wife who has now died without seeking faculty. Petition comes from Mrs Mudditt's daughter to carry out her mother's wishes. Christ Church Alsager and Blagdon Cemetery questions raised. Faculty denied.

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| 18 January | Bentley Emanuel | Lichfield | Shand |
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Installation of a telecommunication aerial on the church tower. Telecommunications company were to erect aerial on a tower block which has since been demolished. Church is in an area of deprivation and the financial returns that this installation would give is much needed. Petition supported by PCC and the DAC but objections from over 180 local residents including the head of the local Primary School, which is close by, who are worried about the location of the aerial and the health risks to the children. Petition dismissed.

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| 21 January | Re: Strood cemetery | Rochester | Goodman |
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In 1958 Mrs. A reserved a plot in Strood Cemetery for her husband who had recently died, to be buried and eventually for own cremated remains to be buried with him. Over the years her two sons-in-law died and their cremated remains buried in caskets in the grave of Mr A. Lately Mrs. A has requested that she not be cremated when she dies, but buried in a coffin in Mr. A's grave. Her daughter and granddaughter now ask permission for the remains of the sons-in-law to be lifted from the grave following Mrs. A's eventual death and placed on top or by the side of Mrs. A's coffin. Faculty granted.

24 January St Martin with the Transfiguration, Hull York Conongsby

Removal of all the pews to be replaced by 65 chairs. Supported by the PCC and DAC. Twenty four written objections, none party opponent. Church was originally equipped with chairs but replaced by pews when a set became available from another church. Petitioners argue that chairs are more versatile for informal gatherings and would attract more of the community into the church. Chancellor decided that because the church is a modern building, the use of chairs enhances the look of it. Faculty granted.

29 January All Saints, Clipstone Southwell Shand
James Gilbert, deceased

The deceased's daughter wishes to exhume her father's cremated remains from the Garden of Rest because she is upset that individual plots are not marked and that flowers left on the grass have been removed. The parish is seeking advice on the setting aside of an area designated for floral tributes. Faculty denied.

1 February St Lawrence, Stratford-sub-Castle Salisbury Wiggs

This is a retrospective faculty to allow the removal and sale of the mediaeval bell frame in the church. Frame originally removed and replaced with a steel one accommodating 6 bells. The frame was to be put on show in a redundant church. However, the church was unable to take the frame so it was sold to a private individual and then a reclamation company who used it to construct a table which was seen advertised in a newspaper. There were many objections to this by local societies. Although unhappy that Faculty Jurisdiction Rules have been broken, faculty was granted.

10 February St Michael and All Angels, Hull York Coningsby

Permission to install telecommunications equipment into the tower of the church and to sign an agreement with the company setting out terms of use. There were over 400 letters of objection relating to possible risk to health from emissions. The company points out that for all the objections there are as many in support. Scientific evidence in the Ripon and Leeds case is relevant to this case and states that emissions from antennas 20 mts from the ground cannot cause any harm to health. Faculty granted on condition of an agreed draft Licence Agreement being submitted.

11 February Mangotsfield Cemetery, Downend Bristol Behrens

Exhumation of cremated remains from consecrated ground. Mrs Walding's son was buried in a plot reserved and paid for by Mr Walding. After divorcing, both parties married again. When Mrs Walding (Suhr upon re-marriage) died, Mr. Suhr arranged for her cremated remains to be buried in her son's plot (which was her wish) with an additional inscription on the headstone, but innocently did not seek the permission of Mr. Walding who now wishes his former wife's ashes to be removed along with the additional inscription. Objections from a number of her relatives believing that she had contributed to the cost of the grave and that it was now hers. Error did not come to light for 7 years because Mr Walding did not visit his son's grave during that time. Practicalities of disinterring remains after 10 years. Because of vehement opposition to Mrs Walding (now Suhr) being separated from her son, petition was denied.

14 February St Nicholas, Middleton Chichester Hill

Extension to existing unlisted church building to be built by knocking down a free standing church hall which is at the end of its life. Figures show that 140 attend the church which can only seat 110 people and there are no facilities for families or disabled. Planning permission has been received, DAC and CCC approve but Victorian Society does not. One written objection concerned with the change in the external facades and with the change in the church's character. Separately, there is the matter of re-siting memorials and headstones. Faculty granted.

14 February St Andrew, Tangmere Chichester Hill

Extensive re-ordering including underfloor heating, levelling of floor, new chairs and moving of vestry screen. Three letters of objection concerned with the expense of the heating, costing of the project, lack of consultation and removal of pews (which caused the most concern). Chancellor satisfied that there is due necessity for the works despite objections. Faculty granted.

24 February West Norwood Cemetery Southwark George

Permission to exhume the ashes of Dennis Swaden for re-interment or scattering made by son Paul, who owns the plot, but opposed by 5 other children. Paul claimed his mother was going to leave his father and did not wish her husband to share her grave. Dispute as to who actually paid for the plot, the casket and interment fee although Paul's name appears as the sole owner. Signed documents showing Paul gave permission for his father to be interred in same plot but Paul denies it is his signature. Chancellor satisfied that Dennis was interred without Paul's consent but that because the rest of the family contributed to burial costs, the common intention was there at the time to bury Denis alongside his wife when the time came. Faculty denied. (See supplementary judgment on cost 5 April)

3 March Holy Cross, Uckfield Chichester Hill

Internal redecoration with cornice and glazing repairs and re-ordering of the west end. Confirmatory faculty sought for work already done on the cornice and glazing. One written objection mainly to the use of glass in the doors which was felt would be more appropriate in a contemporary building. Faculty granted.

11 March St Aidan with St George,
Bristol Bristol Behrens

Installation of mobile phone telecommunications equipment to include six antennae, two sited in the west gable and four in the area of the bellcote of this Grade II listed church. One letter of objection on the grounds of the radiation being a health hazard and also indicating that a large number of the community feels the same way. Chancellor ordered a public meeting be held to establish if there is a strongly held feeling in the community, the outcome of which will determine whether or not there be a court case.

20 March St Mary, Nunthorpe York Coningsby

Permission to construct an extension at the west end of the church to provide a meeting area, a galley, storage area, lavatories and an access ramp for the disabled. Some concern over the lack of scale of the two roof lines, different window shapes and other more contemporary designs in the extension but a concerted effort has been made to make the extension as harmonious with the church as possible. Faculty granted

22 March St Mary, Harlow Chelmsford Pulman

For the sale of church silver, some of which was given to the Parish in 1640 by Alexander Stafford. Two silver flagons, not used in over 100 years and at present in a bank safe, valued at £15,000 to £20,000. The Church is in financial need because a number of generous donors have moved away, the Parish purchased a house for the Church Army evangelist and also pays him a salary and there are major maintenance liabilities for the Parish. Faculty has already been refused twice in the past for sale of these flagons. One objection arguing that a substantial number of expensive works had been carried out in the past without the need to “sell the family silver” Faculty denied.

28 March All Saints, Tilford Guildford Jordan

For an extension to this Grade II listed building to wrap around the southwest corner providing a meeting room, kitchen and toilet facilities. Planning permission refused on grounds of extension being unsympathetic to and out of character with the building but later granted on appeal. Local opposition to the design and opposition from Victorian Society. Petitioners were invited to expand on their reasons for need of the extension and the methods by which it would be funded. Faculty granted.

5 April West Norwood Cemetery: Lambeth George
Swaden

Supplementary judgment on costs and leave to appeal to a judgment on 24th February 2005. Ruled that Swaden and the Objectors should pay £500 each. Leave to appeal denied by Chancellor leaving decision to the Dean of Arches as to whether leave to appeal be granted.

5 April St Laurence, Birmingham Birmingham Cardinal

To erect kerbstones around two graves, made of grey Scottish granite to match existing headstone. Petition opposed by vicar and churchwardens. The churchyard is somewhat untidy with kerbstones that have fallen into disrepair and some in tasteless black granite. Kerbstones cause difficulties for the church in terms of maintenance which is why the churchyard is not in good order. Faculty denied.

25 April All Saints, Rothbury Newcastle McClean

To adapt the present SW vestry to create a rest room area with toilet with a new drainage connection and a link to the cold water supply already available in the NW vestry. Supported by PCC and with detailed plans submitted. Objections regarding the disturbance an extractor fan would have so near to the main entrance of the church where people gather and that the SW vestry might be needed as a parish office in the future. Suggested the NW vestry be adapted as it already has running water but the architect disagreed. Faculty granted.

28 April St Michael, Arlecdon: Beryl Carlisle Tattersall
 Williams

To reserve a gravespace in the churchyard at St Michael's. Although she attended at St John Cleater Moor and wished to be buried there she was informed by the Rector that the churchyard of St John's was unfit for further burials and that she should apply for burial space at St Michael's. The Vicar at St Michael's chose gravespace A. There were a number of objections on the grounds that petitioner did not attend St Michael's and that space "A" was not the next available gravespace. The petitioner's husband then applied for space "B" which was the next available space and there were no more objections. Faculty granted.

21 May St Paul's, Blackheath Birmingham Cardinal
 Re: Johnson

To exhume cremated remains of Mr Johnson's late wife's parents for scattering in the garden of Remembrance in Lodge Hill crematorium where Mr Johnson's parents' ashes are scattered in accordance with the wish of the late Mrs Johnson. No reason to make an exception to the law that remains should stay undisturbed in consecrated ground. Faculty denied.

22 May St Mary the Virgin, Madresfield Worcester Mynors

Removal of carillon from the church tower for export to Swan Bells in Perth. DAC is split on the matter, CCC and Victorian Society strongly opposed. Disposal sought because the carillon has never been used probably because it had never worked properly. If it remains in the church it will deteriorate further and be lost forever, therefore it would be appropriate to move it to a campanological museum. CCC argue that a church with a carillon that is coeval with the clock and bells is very rare and therefore part of an ensemble of furnishings of exceptional importance, and that with funding it could be restored at some future date. District Council stated that because the church has ecclesiastical exemption from listed building consent, no consent is required from the local authority to remove it and therefore they could not reasonably object to it. Chancellor however requests the Council's view be it for or against removal. Banbury, Bishopsgate and Sherbourne all cited. Conclusion that the carillon is a feature of special historic interest and that there is no real necessity proved for removal in terms of revenue or health and safety. Faculty denied

25 May St Aidan with St George, Bristol Behrens
 Bristol

Following judgment one of 11th March, a public meeting was held attended by about 30 people. One member of community spoke for the installation of telecommunications equipment and seven against on the grounds of it being a health hazard. The small turnout indicated that there was not widespread objection but a number of letters were received and it must now be determined whether the writers wish to become parties to proceedings.

27 May St Peter's, Earley Oxford Bursell

To introduce chippings into an existing memorial and kerbset where at present there is grass. PCC maintain that the chippings in other graves have not weathered well and that although they have been allowed in the past under another incumbency, they do not comply with churchyard regulations. Chancellor deems that the present incumbent and PCC are entitled to decide the future look and upkeep of the graveyard. Faculty denied

31 May St Nicholas Churchyard, Kings Birmingham Cardinal
 Norton Re: William Czyz

Petition to exhume the body of William Czyz by his mother in order to rebury in the same grave as his father, recently deceased. William's was a cot death and his father's wishes were to be buried with his son. Conclusion that there was no reason to make an exception to the law in this case. Faculty denied.

1 June St Mary the Virgin, Bathwick Bath & Wells Briden

Installation of a stone dais to accommodate the existing nave altar and platform and removal of two lines of pews. Twenty one letters of objection including one member of the PCC concerned with the cost of the project, lack of consultation and the visual outcome of raising the level of the nave altar. Faculty granted

6 June St Peter, Henfield Chichester Hill

Proposed new floor and associated re-ordering, originally submitted in September 2004, the notices of which elicited multiple objections from parishioners. Following a visit to the church it was felt that insufficient documentation was available so a Memorandum and Directions was issued. In the 1990's it became apparent that much of the timber was rotten and so a long term plan for re-ordering was proposed, divided into several phases. Objections were to the installation of a kitchen and toilet and adapting the church for "entertainment" purposes but the strongest objection was to the removal of Victorian pews. Satisfied that there is a case for re-ordering but faculty postponed until the matter of phasing, costing, replacement chairs and removal of organ pipes is resolved.

6 June St John the Evangelist,
Dudley Wood Worcester Mynors

Works to facilitate access to the church for the less mobile to include a ramp outside the north door, creating a new way through the existing clergy vestry and a new accessible WC. Pedestrian access at the moment is through the west door. Disability Discrimination Act 1995 states the duty of a person or organisation who provides goods, facilities and services to the public which would include churches. It also defines a "disability" as including those who are not only confined to a wheelchair, blind or deaf but also those suffering from arthritis, partial sight, Alzheimer's and many more. The DDA also requires that where a physical feature makes it impossible or unreasonable for a disabled person to make use of the service, that feature should be removed or altered or a reasonable means of avoiding such feature should be provided. Concern that providing access for able bodied through one door and for disabled through another door is not providing the same service in the same way as instructed in the DDA. Suggestion that the west door be made accessible for disabled as well as a ramp for the north door. Faculty granted

20 June St Peter's Church, Meavy Exeter Petchey

Re-ordering of the south chapel including relocation of two banners to the south transept and a reproduction painting to the north east wall, disposal of the table and replaced by an oak one, and a simple wall mounted cross of oak made from the timber of an ancient oak tree (the Meavy Oak). One letter of objection with a petition of twenty names. Faculty granted

22 June St Catherine's Church, Littleton Winchester Clark

Replacement of altar with a smaller more convenient one. Mock up of the new design based on a stone altar of the ancient world but made of wood, proved popular. DAC's response somewhat negative and a little confusing, and were unhappy at wood being used to mimic stone. If the use of wood was indeed necessary, the DAC asked for the use of oak rather than pine whereas pine would match the organ and new arch infill. Chancellor disagrees with DAC. Faculty granted

25 June St Margaret, Wrenbury Chester Turner

Permission to retain a memorial in the churchyard of St Margaret's which was placed without permission and does not comply with churchyard regulations. Two written objections regarding design and suitability. It is a double memorial of black polished granite with columns in ruby red and is of the lawn type. Above the inscription is an etched photographic representation of the deceased which has since been painted out. The height and width are normal but the depth is twice that permitted giving it a dominant feel. Faculty was granted on condition that the photographic images be removed permanently, the ruby red columns be replaced by black ones and that any other decoration or inscriptions must seek written approval.

30 June St Mary, Grafton Regis Peterborough Coningsby

Sale of a fifteenth century religious painting, opposed by the DAC and CCC. Petitioners have committed to having a replica painted if the sale of original is granted. Tredington judgment considered Argument that the painting was made for the church as one of a number of panels but petitioners argue that there is no evidence that painting was in the church before early twentieth century. Petitioners have cited difficulties over security of the painting, difficulties of insurance and a serious financial position in meeting the maintenance expenses of the church. Faculty granted.

1 July St Aidan with St George
Bristol Bristol Behrens

Following previous judgments of 11th March and 25th May, the Registrar wrote to all those who wrote letters of objection. Only one replied who did not indicate that she wished to be a party but quoted research carried out by Oxford University into the dangers of telecommunications masts. Without a party objection there cannot be a hearing, therefore the balance of justice is to allow the petition.

14 July St Andrew (Old Church), Hove Chichester Hill

Petition by siblings for exhumation of father's remains from St Andrew's for reburial in Hove Churchyard to join remains of their late mother. Argued that St Andrew's had fallen into disrepair, was plagued by vagrants and was closed to further burials necessitating their mother's burial in another churchyard. In accordance with legal parameters articulated in Blagdon, petition was dismissed.

28 July Christ Church, South Ossett Wakefield Collier

Faculty sought by the PCC to remove a number of illegal monuments in the churchyard in order that they can better manage the churchyard. There were four objections for special consideration. The PCC claims that most parishioners have abided by the regulations and it would be unfair to allow others to flaunt them. Also that the absence of kerbs and fences makes for easier maintenance of the churchyard. Chancellor decided that there were some special cases and therefore permitted certain things to remain but that in relation to other burials that have had no written objections, the petitioners have leave to remove railings, kerbs, chippings and stones.

20 August Branston St Saviour Lichfield Shand

In 2003 the Archdeacon of Stoke granted a licence for removal of two freestanding blocks of choir stalls, a vicar's reading desk, two chairs and a lectern from the chancel, without proper consultation, especially with the choir. Numerous letters of objection submitted showing concern over the abandonment of traditional forms of liturgy while the petitioners argue for mission to younger people. Removal of said stalls would give more room to incorporate different forms of music, dramatic presentations and activities. Faculty granted for the re-ordering to continue but no faculty granted for disposal. Report required as to current storage arrangements and clear proposals for the future

27 September Churchyard, Holy Cross London Seed
 Greenford Magna

Application to remove an existing marble memorial inscribed with a dedication to the petitioner's Mother and replace with a granite one with a joint inscription dedicated to both parents. PCC objected as unsuitable as the Mother's ashes were in the garden of remembrance and the Father's had been scattered in Wales, therefore the stone might suggest it marked the site of interred mortal remains. Also that the original memorial was erected without permission and in a part of the churchyard not now used for memorials. Petition dismissed.

5 October St Mary, Longstock Winchester Hill

Installation of stained glass window in memory of Jane Bown, wife of Reverend Canon Bown, non-stipendiary priest-in-charge of Longstock. No objections, supported by PCC with two reservations – that the personal subject matter dominates the window and that the colours are a little garish. Chancellor satisfied that the stained glass window will not adversely affect the appearance of this Grade I listed building and that the subject matter is appropriate. Design drawings modified to select colours which relate to other windows in the church and that details of the proposed lettering are submitted for approval. Faculty granted

10 October Christchurch, Sparkbrook Birmingham Cardinal

An Instrument under s18 of The Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to demolish Christchurch as quickly as possible in the interests of health and safety. The Victorian society has objected to the demolition being “fast tracked” instead of going through the usual pastoral measure route. The church which was already in a dire state, was damaged further by the tornado on 28th July 2005, worship at the church has ceased and the organ removed as beyond repair. The site and building is dangerous and has already been broken into three times, therefore demolition is necessary and the Instrument signed.

27 October Re: Peter Small, deceased Manchester Tattersall

Faculty to erect a heart shaped memorial stone in grey granite fitted onto a york stone plinth as chosen by the deceased himself, having seen like memorials in the churchyard. Permission was sought after the memorial had been made and permission was subsequently refused given the provisions of the Diocesan Churchyard Regulations. The DAC neither supported nor objected while the PCC voted by a substantial majority to oppose. There were three letters of support and one opposing. Petitioners had signed a copy of the Regulations but said they were told it was just to promise that they would keep the grave area clean and well tended and did not mention shape of memorials. It was concluded that having signed the one page document, it must be assumed that it had been read and understood and therefore that the petitioners were not misled in any way. Faculty denied

10 November St Mary the Virgin, East Chinnock Bath & Wells Briden

Sale of two coffin stools unopposed by the PCC and members of the parish but objection from DAC on the grounds that they pre-dated the modifications of the church in the Victorian period. Petitioners wish to sell as they have not been used for at least 50 years and will not be used by modern undertakers for safety reasons. Also that their condition is deteriorating and the money realised could be used for the church's other needs. It was suggested that their condition was reasonable and could be conserved and also that they could be used for other purposes than supporting potentially heavy loads. Petition dismissed.

16 November St Margaret of Scotland Durham Bursell
Castletown

Due to the imminent closure and ultimate demolition of St Margaret of Scotland, petitioner is asking that a chalice, which had been given to the church in memory of his aunt who died in 1973, be re-allocated to the Church of St Mary Magdalene, Millfield where the family now worship and where his aunt's memory is still honoured by the community. The church of St Bede, Town End Farm expressed an interest in the chalice pointing out that churches with the closest affinity have first option during disposal of items and that the parishioners of St Margarets were anxious for the items to go to St Bede's pointing out that a gift given in perpetuity should not then be taken back. DAC stated that the chalice was associated with a paten and that they had no objections to both being transferred to St Bede's. St Bede's was reminded to make a faculty application, as should St Mary Magdalene, if they wished to receive the chalice and paten. Chancellor has decided that the chalice and paten be transferred to St Mary Magdalene where the petitioner's family and friends worship and where they will have a special significance.

22 November Emmanuel Church, Bentley Arches, Canterbury Cameron, Bursell
Briden

Appeal from decision of 18 Jan 2005 where faculty was denied for installation of mobile telephone aerials. Grounds for appeal: in referring to "the duty of the parish church to give primacy under the Faculty Jurisdiction Measure to mission" the Chancellor misdirected himself in law which led to him attaching disproportionate weight to the "subjective perception of hazard" resulting in an erroneous evaluation of the evidence. Secondly that the Chancellor took into account the scientifically unproven concerns of local residents as to health hazards, which should have been treated as irrelevant and thirdly that the Chancellor attached undue weight to the level of local opposition which in his view was likely to undermine the mission and worship of the church. In conclusion, the appeal is allowed and faculty granted.

7 December St Andrew's Church, Penrith

Carlisle

Tattersall

To undertake substantial works to this Grade I listed church including removal of Victorian font, alterations to seating and removal of pews and the felling of two yew trees. In consultation with English Heritage it was recommended that any work involving ground disturbance be undertaken under archaeological supervision. Four objectors who wished their concerns be considered. Faculty granted with conditions