

## RECENT CONSISTORY COURT CASES

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### **Re: St. George's Church Unsworth**

(Manchester Consistory Court; Spafford Ch. 12 May 1988)

A faculty was granted authorising the removal and disposal of a screen enclosing the chancel area. Although the Church would be aesthetically the poorer for the removal of the screen (which had been installed in about 1920) the crucial question was whether or not the screen's removal would aid or hinder public worship. The screen made an effective barrier between the congregation on the one hand and the clergy and choir on the other. This was perhaps appropriate in former liturgical practice, but was contrary to the current practice which stressed the gathering of all round the Lord's Table, with no artificial barrier. On balance it was appropriate that the screen should be removed.

### **Re: St. John The Evangelist Whittle-le-Woods**

(Blackburn Consistory Court; Quentin Edwards Ch. July 1987)

A confirmatory faculty was sought for the installation of short wave infra-red electric radiant ("Quartzray") heaters in a large and handsome Victorian church which was a Grade II listed building. The heaters supplemented an oil fired heating system. According to the petitioners the "Quartzray" heaters were a success in terms of comfort, convenience and economy. The Chancellor, however, accepted evidence from the Diocesan Advisory Committee that such heaters were visually obtrusive, seriously marred the interior of the church, and were liable in the long term to have an adverse effect on the fabric. With proper attention the central heating by itself ought to raise the temperature to an acceptable level of 58 degrees F; if necessary the central heating could be supplemented by convector heaters. The parish had already spent £6,000 on the "Quartzray" heaters and the Chancellor was reluctant to order removal of the heaters and the consequential waste of that money. A faculty was accordingly granted limited to four years duration, upon the petitioners undertaking: to instruct an independent heating engineer to prepare a report; to submit copies of the report with the Parochial Church Council's proposals to the Registrar; and to seek further directions of the court upon such proposals. *Per curiam*: The Chancellor said he cannot emphasise too strongly the importance of consulting a qualified and independent engineer before embarking on a new scheme for heating, or supplementing the heating of a church.

### **Re: St. Mary the Virgin Deane**

(Manchester Consistory Court; Spafford Ch. 18 November 1987)

On 4 June 1986 a faculty was granted for the introduction of a movable font. The design eventually submitted was not approved by the Diocesan Advisory Committee. Apart from aesthetic objections the Committee suggested that the font as designed appeared to be materially unstable, with insufficient base for the column, and that the bowl was too small for liturgical use. The grant of a faculty was refused because the Chancellor was not satisfied as to the stability of the proposed font and the size of the basin.

**Re: St. Mary the Virgin Wirksworth**

(Derby Consistory Court: Bullimore Ch. January 1987)

A faculty was granted for the installation of a Makin electronic organ in a parish church, the petitioners having satisfied the Chancellor that there were good reasons for doing so. The petition was not supported by the Diocesan Advisory Committee, from which the petitioners would have been well advised to seek outside disinterested expert advice at an early stage. It was not, however, sensible to rebuild the existing Brindley and Foster organ, which was not of especial merit, musically or historically. The pipe organ was, however, to remain in place until plans were presented with a further petition for the refurbishment of the area in which it stood, and the use of that area for meeting rooms and a vestry.

**Re: St. Mary's Stamford**

(Lincoln Consistory Court: Goodman Ch. 7 July 1987)

By two petitions the Rector and Churchwardens sought faculties (i) for repair of the fabric, the installation of new heating and lighting systems, and the restoration of the chancel ceiling and (ii) for major restoration and improvements to the organ. The substantial cost of this work was to be met primarily from the proceeds of sale of the church hall (amounting to £92,750), but a grant from English Heritage was likely to be made in respect of certain items. The Court was informed that discussions were to be undertaken with the possible result that one or more of the churches in Stamford (including St. Mary's) might be declared redundant under a Pastoral Scheme. The Chancellor concluded that it was bound to be some considerable time before any firm decision was taken as to pastoral reorganisation, let alone any final decision as to redundancy or the ultimate fate of any redundant building. In these circumstances it would not be a proper exercise of discretion for the unopposed petitions to be dismissed or adjourned. It was inappropriate to take into account the effects of possible pastoral reorganisation, unless the moment of final decision was imminent. A faculty is not an order to carry out works but only constitutes permission to act. The Parochial Church Council could be expected to act responsibly and to postpone or modify some of the proposals depending on the progress of reorganisation.

**Re: St. Michael, Kirkby Malham**

(Bradford Consistory Court: Savill Ch. 15 December 1987)

A faculty was refused for the introduction of a banner commemorating General Lambert (one of Cromwell's generals in the Civil War) which was intended to be hung on the wall of the Lady Chapel. Objection was made that the Lady Chapel might become a shrine to the General's memory, and that visitors might see the church (which contained other objects associated with him) as a museum rather than the House of God. The really valid objection, however, was that the banner was a modern replica, the colour and material of which were out of keeping with the interior of the church. Where creative work was sought to be introduced into a church, two tests were to be applied. Did it help and not hinder the worship of God and the mission of the church? Did it help and not hinder the community at large? There was no evidence to suggest that the banner was likely to be of assistance in either of these respects.

**Re: St. Peter's Littleover**

(Derby Consistory Court; Bullimore Ch. 6 May 1987)

In granting a faculty for the extensive re-ordering of the interior of a parish church, the Chancellor made the following observations:

(i) Although some 40 individuals wrote to the Registrar letters of objection, only one observed the requirement in the Rules for an initial notice of objection to be followed by detailed written objections, both of which documents should also have been served on the petitioners. The parties opponent were not, however, to be criticised for that, because no explanation of the procedure was set out on the general citation. It was time the procedure, or at least the form, was changed to tell people what was required.\*

(ii) The Court was assisted by the presentation and use of written proofs of evidence.

(iii) It was for the Parochial Church Council to decide how to raise money for the project. The Chancellor ought only to allow financial considerations to weigh if the Council had not taken proper thought to raising the money and wanted to embark on schemes which reasonable people recognised they could not carry through for lack of funds.

(iv) In a case of this nature it was reasonable for the petitioners to be called upon to justify their proposals at a public hearing; they should therefore pay the court costs.

\* See now Faculty Jurisdiction (Amendment) Rules 1987.

**Re St Botolph without Aldgate**

(London Consistory Court; Newsom, Ch., 16th May 1988)

The Incumbent had permitted an unincorporated association which was not a charity to use the tower room of a parish church. No faculty has been sought for the grant of a licence, so the members of the association were trespassers. At the instigation of the Court a petition was lodged making the incumbent, the churchwardens and (by amendment) the Parochial Church Council as well as the proposed licensee petitioners. The Archdeacon intervened. On advice from counsel, the incumbent decided not to pursue this application for faculty, and gave undertakings concerning the institution of civil proceedings against the members of the association and the supervision of their activities while they remained in occupation of the tower room. The only remaining issue was the association's application to be granted a licence despite the abandonment of the petition by the incumbent. Since, however, the association was not a person in law and could not be a party to the proceedings, the claim for the licence was stayed. The Archdeacon was given liberty to apply for costs against the committee and officers of the association, after due notice to them of the application.