

Re William Philip Allen, Michael Larkin and Michael O'Brien, all deceased
 Manchester Consistory Court: Tattersall Ch, August 2007
Exhumation – identification

The petitioner was an historian from County Cork, who sought the exhumation of the cremated remains of three of the 'Manchester Martyrs', who had been executed after being convicted of the murder of a police officer in 1867 during a successful attempt to free two prominent Fenians who were being transported to the County Jail in West Gorton. The three had been interred in the prison precincts and their remains were re-interred at Strangeways Prison and then re-interred in Blackley Cemetery when Strangeways Prison was rebuilt. The petitioner contended that it had been the wish of each of the deceased to be buried in Ireland. The petitioner was unrelated to any of the deceased, but the deceased's surviving relations supported the petition, as did the Vicar General of the Diocese of Cork. The remains had been cremated during the period when they had been exhumed from Strangeways Prison. Of the 60 bodies, 45 had been identified, with the remaining 15 each being described simply as 'an un-named Fenian'. The three were part of the group of 15. No record was made of the order in which the caskets were interred and so it was not possible to identify which caskets contained the cremated remains of the three deceased. The issues for the chancellor were: whether the 60 caskets of the cremated remains were individually marked, and whether the cremated remains of the three deceased were identifiable by cremation references given by the petitioner. The chancellor was satisfied on the evidence that there was a reasonable prospect that the caskets were individually marked. The chancellor was not satisfied that there was any evidence that the three deceased's remains were marked with the cremation reference numbers given by the petitioner. The chancellor was not prepared to allow the petitioner to amend his application to authorise the exhumation of all 15 'un-named Fenians' on the basis that he did not know the identities of the deceased, nor whether they wished to be buried in Ireland or not, nor whether the person's nearest relatives could be contacted. If the petitioner could find out the identities of the nearest relatives he could make a further application. The petition was refused. [JG]

doi: 10.1017/S0956618X08001324

Re Holy Cross, Newcastle

Newcastle Consistory Court: McClean Ch, September 2007
Restoration order – injunction

The chancellor had granted a faculty for the installation of a set of Stations of the Cross in September 2006. There had been one objector, who pursued his

opposition principally on the grounds that they were 'graven images'. On Sunday 11 March 2007, the objector removed one of the Stations from the wall and smashed it underfoot. The police were called and cautioned him. The objector later met the archdeacon and one of the churchwardens. He explained that it was his intention to cause more damage and/or disruption until the PCC voted to remove the Stations. He stated that he would take no action for three months. The objector refused to give an undertaking to the chancellor not to cause any further damage or disruption. One of the churchwardens petitioned for a restoration order under section 13(5) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and for an injunction. The chancellor refused the restoration order on the basis that the order did not enable him to make an order for the payment of money, in effect to award damages. The chancellor declined to make an order that the objector should himself restore the Station upon his own motion. The chancellor granted the injunction not to cause any further damage to any part of the fabric of the church, to the Stations of the Cross or to any other artefacts therein and not to cause any disturbance or disruption therein. The injunction was permanent, without limit of time. [JG]

doi: 10.1017/S0956618X08001336

Re Icklesham Churchyard

Chichester Consistory Court: Hill Ch, October 2007

Memorial – churchyard regulations – confirmatory faculty

The petitioner sought a confirmatory faculty permitting the memorial over her late husband's grave to remain in place. The memorial contravened the churchyard regulations in a number of respects, namely the material used, the finish of that material, the lettering used, the use of a photo plaque, the use of kerbstones and the use of blue chippings. The memorial had been erected after the curate of the parish purported to give his consent, even though the proposed memorial was not within those classes for which a minister could give permission under the regulations. In refusing the application, the chancellor adopted the principles set down by Collier Ch in *Re St Paul, Drighlington* (2006), Wakefield Cons Ct (reported at (2007) 9 Ecc LJ 239). Any purported consent for a memorial outside the scope of the minister's delegated authority is a nullity. Both the petitioner and the funeral director had signed forms asserting that the memorial complied with the regulations. In fact, neither had even read the regulations, and the non-compliance was substantial. The chancellor observed that the funeral directors should have taken proper steps to ensure