

stand and that there was overwhelming support for it in the parish, the chancellor directed that a faculty should issue. [Alexander McGregor]

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### **Re St Alkmund, Duffield**

Derby Consistory Court: Bullimore Ch, March 2012

*Rood screen – theology*

The incumbent and churchwardens sought a faculty for the re-ordering of this Grade I listed church, including the relocation of a nineteenth-century chancel screen which was part of a substantial Victorian re-ordering. The Victorian Society, English Heritage and the Society for the Protection of Ancient Buildings objected to the relocation of the chancel screen. The theological tradition of the parish was evangelical and the PCC and incumbent found the screen ‘intrusive’; they wanted to remove it to create a more visible space for the worship band. The petitioners argued that the screen contravened Anglican understandings of justification by faith and Christ’s sacrifice as set out in Articles 7, 11, 15 and 28 of the 39 Articles of Religion through Old Testament theology about sacred space and altars. The chancellor refused to permit the relocation of the chancel screen, on the basis that the necessity for the change was not made out. In dealing with the theological arguments raised by the petitioners, the chancellor observed that, while arguments based on theological and doctrinal grounds are deployable in the consistory court, their use is not to be encouraged. Such arguments are often likely to increase periods of correspondence and consultation, as well as lengthen hearings and judgments. Chancellors should be robust in using their case management powers to rule out the use of such arguments unless persuaded that they would be likely to have an important effect on the outcome of the case. Although the 39 Articles form part of the doctrinal basis of Anglicanism, their application to the issues arising in faculty matters is likely to be controversial and disputable, and reliance on them may generate more heat than light. [Catherine Shelley]

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### **Re St Mary, Stoke Newington**

London Consistory Court: Seed Ch, March 2012

*Pews – Georgian Group*

The parish had two churches, the Old Church, a Grade II\* listed building from 1563, and the New Church, built in 1858 and re-opened in 1958 following repairs

to bomb damage. The Old Church was the secondary centre of worship and little used. Local groups and schools had expressed interest in using it but flexible space, more comfortable seating, heating and accessible facilities were needed to make the building usable and compliant with the Disability Discrimination Act. A faculty for toilet and kitchen facilities, heating, new flooring and storage of the font was uncontroversial, but the removal of Georgian box pews was opposed by the Georgian Group. The chancellor rejected as wrong in law the suggestion that no pre-1840 box pews should ever be removed from a church. Distinguishing the case of *Re Holy Trinity, Horwich* (2011) 13 Ecc LJ 383, the chancellor observed that a representative sample of pews were to be retained within the church, and that the works were reversible as the pew furniture was to be safely stored after disassembly. Further, the pews were so shoddy and in such poor condition that their removal would not adversely affect the character of the church. In addition, the presumption against change was displaced by the compelling Statement of Need. The faculty was granted. [Catherine Shelley]

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### Re West Norwood Cemetery

Southwark Consistory Court: Petchey Ch, March 2012

*Exhumation – lift and deepen – same grave*

The petitioner sought a faculty for the exhumation of his mother's remains for their re-interment in the same grave at a greater depth. The grave in question contained the remains of four family members and the petitioner wished his remains to be interred in the same grave in due course. A change in practice when the cemetery was acquired by the local authority meant that the petitioner's mother had been interred at a depth that precluded a fifth burial in the grave, despite previous practice allowing five burials. The petitioner had challenged this at the time of his mother's burial but his complaints were rejected. The chancellor acknowledged the norm of permanence in Christian burial but observed that different considerations applied to proposals for exhumation and re-interment in the same grave. Those circumstances did not represent an exhumation to which the presumption of permanence applied. He referred to the Archbishops' Council's approval of the practice of lifting and deepening graves in order to create additional burial space where there is a shortage and granted the faculty. [RA]

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