

RECENT CONSISTORY COURT CASES

Edited by TIMOTHY BRIDEN, Barrister

Re: St. Leonard, Middleton

(Manchester Consistory Court; Spafford Ch. 23rd November 1989)

A faculty was granted for the laying-up of a Royal British Legion standard in a parish church, on the grounds that the D.A.C. supported the application and the laying-up of such a standard was akin to the placing of regimental colours in churches. It was, however, inappropriate that other worthy organisations should lay-up their standards, colours or flags. The proportions of the building would soon be obscured if the practice became widespread. Accordingly a petition for the introduction of a guide movement flag to be displayed in a frame was dismissed.

Re: St. Mary Magdalene, Clitheroe

(Blackburn Consistory Court; Quentin Edwards Ch. 1990)

A petition for a faculty for the re-ordering of the east end of a parish church (dating from 1152 but rebuilt in 1828) was dismissed on the grounds that:

1. There was inadequate consultation within the congregation and the wider parish. The proper course, which was not followed, would have been to hold a public meeting.
2. Plans of sufficient accuracy were not made available.
3. There was no sufficient estimate of the costs.
4. In any event the design of the re-ordering was unsatisfactory, in particular with the choir facing the congregation which would result in a loss of solemnity and reverence.

As to costs, the Chancellor ordered the petitioner to pay the costs of the parties opponent because the parties opponent had reasonably objected to proposals which had not been properly formulated.

Re: St. Mary, Grendon

(Peterborough Consistory Court; Coningsby Ch. 23rd January 1990)

A faculty for the provision of a porcelain photographic plaque on a gravestone was dismissed. Such plaques are, in principle, inconsistent with the type of memorial which ought to be allowed in a church burial ground, and could only be permitted if the petitioners were able to show exceptional grounds. There were no such grounds. In particular, the presence in the churchyard of a similar plaque, which had wrongly been authorised by the incumbent, and which constituted a violation of the faculty jurisdiction, did not provide any justification for granting a faculty.

Re: St. Margaret, Prestwich

(Manchester Consistory Court; Spafford Ch. 27th January 1990)

A faculty was sought for the introduction of a timber screen incorporating a painting by Graeme Wilson to be called "The Madonna of the Passion". On aesthetic grounds the proposal was acceptable. The objectors had, however, made a valid criticism of a vote taken at a public meeting and a ballot of the congregation. The question posed in each instance did not separate the screen from the painting, so that those in favour of the screen were obliged to vote in favour of the painting as well. In the circumstances a faculty for the painting was issued, but not until 1st May 1990. It was for the P.C.C. to decide meanwhile whether to proceed with the commissioning of the painting.

Re: All Saints, Brenchley

(Rochester Consistory Court; Goodman Ch. 31st January 1990)

A faculty was granted for the introduction of a memorial plaque into the church where his family worshipped, commemorating a young boy who was tragically killed while playing cricket. The plaque had been returned to the petitioner when the school in which it had been displayed was closed. It was possible to place the plaque in an inconspicuous part of the church. The P.C.C. and the D.A.C. supported the proposal. The petitioner had made out exceptional circumstances which justified the granting of a faculty. An order was made that the plaque should be fixed in position at the direction of the incumbent, and that the petitioner should pay £100 to the P.C.C. towards the maintenance of the building.

Re: All Saints, Otley

(Bradford Consistory Court; Savill Ch. 5th March 1990)

A faculty was granted for the re-ordering of a Grade A listed parish church by moving the font to the South transept and creating a self-contained meeting room to accommodate up to 150 people at the west end. The Chancellor considered that Canon F1(2) permitted the font lawfully to be placed anywhere in the church, but that it should be at a focal point. On the evidence, the proposed re-siting would assist in the conduct of worship and result in an improvement to the building. The conversion of the west end, which had been carefully designed with advice from the Diocese, English Heritage and the Council for the Care of Churches, would not cause appreciable damage to the fabric and was fully reversible. The case for conversion was overwhelming. The re-ordering would not adversely affect the architectural or historical interest in the church; dictum of the Dean of the Arches in *Re. St. Mary's, Banbury*, (1987) Fam. 136 followed. Although the petition was unsuccessfully opposed, no order for costs was made against the party opponent since her submissions had assisted the Court, and costs would in any event be recouped from the sale of premises rendered superfluous by the provision of the meeting room.

Re: All Saints, Orpington

(Rochester Consistory Court; Goodman Ch. 13th March 1990)

A petition for the erection of a black granite headstone, in a part of the churchyard where there were several hundred gravestones of the kind usually permitted, was dismissed. Monuments of black or red granite or white marble were generally discouraged because they did not weather and stood out starkly against other monuments. The D.A.C. did not recommend the proposal. An exception in favour of the petitioners could not possibly be made where an established pattern had developed over the preceding eight years.

Re: St. Anselm, Belmont

(London Consistory Court; Newsom Ch. 24th April 1990)

A petition for a faculty for an aumbry was dismissed, notwithstanding the consent of the bishop to reservation of the sacrament, because the proposal had never been put to the general body of parishioners and there was evidence of dissatisfaction within the parish. There had been too many changes, too fast and without a sufficient consensus among the existing congregation. The petitioners were unable to establish a necessity for change capable of justifying the exercise of the Court's discretion in their favour.