

## CASE NOTES

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EDITED BY RUTH ARLOW

Barrister, Deputy Chancellor of the Dioceses of Chichester and Norwich

AND WILL ADAM

Rector of Girton, Ely Diocesan Ecumenical Officer

### **Re St Peter in the Forest, Walthamstow**

Chelmsford Consistory Court: Pulman Ch, February 2008

*Churchyard – tunnel – fee*

Thames Water Utilities Ltd sought permission for the construction of a tunnel beneath one corner of the closed churchyard as part of a pipeline between a desalination plant and a reservoir. At the churchyard, the tunnel would be sunk to a depth of eight metres below the graves. The PCC and the DAC supported the petition. The incumbent opposed it. The chancellor held that the tunnel was not a ‘building’ for the purposes of the Disused Burial Grounds Act 1884 such that construction of the tunnel was not prohibited by that Act. The chancellor observed that the commercial value of a right to tunnel under the churchyard could have been substantial and that the PCC’s obligations to maintain the church fabric meant that it should look to all proper sources of income. He held that it was not an ‘improper ransom’ to sell a right that has capital value for which a commercial enterprise would be willing to pay a proper sum. The chancellor endorsed the figure of £25,000 broadly agreed by the parties as an appropriate sum payable to the parish by Thames Water. [RA]

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### **Re Lambeth Cemetery**

Southwark Consistory Court: George Ch, February 2008

*Exhumation – ‘Confucian-based’ religion*

The petitioner sought permission to exhume the remains of his grandfather, who was buried in 1982, in order for their cremation and removal to Hong Kong for burial at their ancestral temple. The deceased had practised a ‘Confucian-based’ religion, in which clan members were traditionally exhumed and cremated three years after burial and then re-interred in the ancestral burial ground.