

a posthumous pardon. In the *Gateshead* case, he had refused to permit the commemoration as a martyr of a catholic priest executed for treason. He considered his previous judgment 'too restrictive and less than charitable', particularly given recent improvements in ecumenical relations. He had not taken into account that the calendar of festivals in the Church of England commemorates such figures as Thomas More and John Fisher alongside the protestant martyrs of the age. The faculty was granted. [WA]

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### **Re St Andrew, Bainton**

York Consistory Court: Hill Dep Ch, August 2008  
*Churchyard – bench – objections*

The rector, churchwarden and PCC secretary applied for a faculty to introduce an iron bench into the churchyard extension in memory of a teenager buried there. The DAC offered no objection. A resident of a neighbouring property objected by letter but did not seek to become a party opponent. The deputy chancellor dismissed each of her objections, which included a concern that the provision of a bench would encourage more criminal behaviour in the area, that the bench was of poor workmanship, that the land might be needed for future burials, that another location had first been considered and rejected, and that the family concerned did not attend church. He concurred with the DAC's judgment that the proposed bench would not detract from the character of the Grade I listed building. The faculty was granted until further order, with the particular caveat that, if the objector's fears about the attraction of 'undesirables with a criminal intent' came to be realised, then the faculty could be set aside and the bench ordered to be removed. [WA]

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### **Re St Andrew, Kildwick**

Bradford Consistory Court: Walford Ch, October 2008  
*Re-ordering – funding – economic conditions*

The petitioners sought a faculty for a major re-ordering of the Grade I listed church. The proposals were broadly supported by the DAC, the amenity societies and the district council. There was considerable local opposition. The chancellor noted that the scheme had been devised at a time of 'wholly different

economic conditions' and expressed significant concern about the ability of the parish to raise the substantial sums of money required to finance the project in the current economic crisis. The chancellor indicated a willingness to grant a faculty for a major re-ordering but was not prepared to adjudicate upon the specific elements of the proposals until funding was in place. He directed that he be informed in writing of the progress of fundraising efforts every six months and that the petitioners should indicate how they intended to proceed with the petition by no later than the end of 2010. [RA]

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### **Re Hutton Churchyard**

Court of Arches: Cameron, Dean; Walker and Rodgers Chs,  
November 2008  
*Closed churchyards – 'topple-testing' – memorials*

In breach of a faculty granted in the Bath and Wells Consistory Court permitting the hand-testing of monuments, the local authority used a digital force meter to test monuments in a closed churchyard. This resulted in more than one third of the tested monuments being laid flat. The parish council complained of this breach, seeking an order that the local authority reinstate a sufficient number of those monuments with no known owners to restore the original historic appearance of the churchyard. The chancellor was required to determine:

- i. Whether to grant a confirmatory faculty in relation to the works done in the churchyard; and
- ii. Whether to grant a new faculty authorising the future use of a digital force meter in the testing of monuments.

The chancellor held that the local authority had the legal power to reinstate and make safe monuments of particular historic or aesthetic importance as part of its general obligation under section 215 of the Local Government Act 1972 to keep the churchyard in decent order. He refused to order reinstatement to the extent sought by the parish council. Instead, he made a confirmatory faculty in respect of the works done and imposed a condition that the local authority lodge a plan at the registry for the following three-year period, setting out its proposed actions in relation to monuments laid down or damaged and with no known owner. The local authority appealed, challenging both the standing of the parish council to intervene in the proceedings and the substantive order made by the chancellor.