meaningful to him. The court observed that his fortitude in the face of death, however he has come by it, would be the envy of many people in better mental health. An operation against his will would take away his remaining independence and dignity. The application was refused. [Frank Cranmer]

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Re St Mary, Southgate
Chichester Consistory Court: Hill Ch, 6 October 2015
Consultation – amenity societies – rules 8(5) and 9(3) of the Faculty Jurisdiction Rules 2013

The Twentieth Century Society raised objections to certain aspects of the various substantial repair and replacement works for which the petitioners sought a faculty, but chose not to be come a party opponent in the case. In granting the faculty the chancellor observed that interplay between rules 8(5) and 9(3) of the Faculty Jurisdiction Rules 2013 (continued in rules 9(5) and 10(3) of the Faculty Jurisdiction Rules 2015) may need reconsideration by the Rules Committee, as their combined effect could lead to procedural delay. On a strict reading, an amenity society which elects to send representations in the form of a letter under rule 9(5)(1)(a) of the 2015 Rules in preference to particulars of objection would appear to have a second opportunity of becoming a party opponent under rule 10(3). The chancellor considered that this could not have been the intention of those framing the Rules, given the finality suggested in the language of rule 9(5). [RA]

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Re Christchurch, Lye
Worcester Consistory Court: Mynors Ch, 6 October 2015
Trees

The local authority petitioned for a faculty permitting the felling of two apparently healthy beech trees which were the subjects of tree preservation orders. The trees were in the closed churchyard, responsibility for the maintenance of which had passed to the local authority. The Parochial Church Council, the Diocesan Advisory Committee and various local residents objected to the proposal. The trees were a substantial contributory factor in the subsidence of a property on the adjoining high street. The subsidence and damage would continue indefinitely unless the building was underpinned at a cost in excess of £40,000 or the

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trees were felled. If the trees were not felled the local authority would be liable in an action in nuisance for the cost of underpinning the adjacent premises. The chancellor held that the court was entitled to conclude that the local authority, in bringing the petition, had carried out a proper balancing exercise between the amenity of the trees and the cost of the underpinning. The chancellor referred to the decision of *Re White Waltham (No 2)* [2010] Fam 146 and held that the situation was akin to the position where a local authority had determined an application for planning permission in relation to works for which a faculty was also sought. The court was entitled to accept the decision of the local authority as a reasoned starting point from which to begin its own deliberations and it was not appropriate for the court to force the local authority to pay for the underpinning when it had concluded that it was unwilling to do so. [RA]

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Storey v Government Communications Headquarters
Employment Appeal Tribunal: Simler J, 22 October 2015
Refusal of employment – security concerns – mental health – religious beliefs

Mr Storey, a devout Christian, brought an application alleging unlawful discrimination on the grounds of his disability or religious beliefs. His application for a post at GCHQ had been rejected 18 months later. He had experienced psychotic episodes in the past; and there was a risk that he would experience them in the future, which could interfere with his work and pose a potentially serious security risk. The Employment Tribunal (ET) had found the religious claim strongly interlinked to that of direct disability discrimination and had noted Mr Storey's statement that, if required to choose between his loyalty to his country and his loyalty to God, he would choose his loyalty to God whatever the outcome. However, he had not been discriminated against unlawfully because his adverse treatment was not on the grounds of his disability or religious beliefs but because of security concerns and the risks to national security that he posed. The ET did not consider separately the national security exemptions in section 59 of the Disability Discrimination Act 1995 and Regulation 24 of the Employment (Religion and Belief) Regulations 2003. It had concluded that any comparator in materially the same circumstances as Mr Storey would have been treated in precisely the same way and had rejected his claim of direct discrimination on grounds of religion or belief. Mr Storey appealed.

Simler J began from the conclusion that Mr Storey's Christian belief was not in itself an issue for GCHQ. The ET had found that the claim was interlinked to the claim of direct disability discrimination; given that Mr Storey's psychosis had included a significant religious element, that had been a proper conclusion

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