justify the Church of England exception inter alia on the ground that Anglican marriages are booked well in advance. Consequently, the officiant has an opportunity to question the couple closely about their intentions. Silber J allowed the claims under Article 12 and Article 14 of the European Convention on Human Rights. Article 12 stipulates the right to marry and found a family, and Article 14 prohibits discrimination. The learned judge said that he found it difficult to understand how the Home Office could regard all marriages conducted according to Church of England rites as automatically not sham. The factors justifying the Anglican exception applied not only to other Christian marriages but also applied to all religious marriages. Because there was no evidence at all that non-Anglican religious ceremonies are used for sham marriages, there was a 'substantial interference' with the right to marry. Further, the 2004 Act discriminated directly against those unable or unwilling to marry pursuant to the rites of the Church of England. The Home Office did not rely in legal argument on the establishment of the Church of England. Silber J commented, 'Of course there may be cases where for historical reasons some special treatment for the established religion may be justifiable.'

Case summary kindly provided by the Revd Jack PF Harris, Barrister

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Re St Giles, Lincoln
Lincoln Consistory Court: Collier Ch, April 2006
Sale of church property – necessity

A faculty was sought to sell a painting by Vincenzo Damini of an altar design for St Peter-at-Arches, Lincoln, which had been transferred on the demolition of that church to St Giles on its opening in 1936. St Giles is a very impoverished estate and the parish is a UPA parish. Urgent repairs were needed to the church building. Faculties had been sought in 1991 to sell the picture to Lincoln Council (which sale never materialised) and in 1996 to lend it to the library of Lincoln Cathedral. The current application was opposed by the DAC on the basis that boosting parish funds was not sufficient argument. The Council for the Care of Churches did not think that the current circumstances constituted a financial crisis but advised that, if a sale was permitted, it should be restricted to a public institution in Lincoln. Both the DAC and the CCC had the Court of Arches' decision in *Re St Gregory, Tredington* [1972] Fam 236, [1971] 3 All ER 269, in mind when they recommended the petition be rejected. The chancellor cited with approval the interpretation of *Tredington* in *Re St John*

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the Baptist, Halifax (December 2000 unreported; 19 CCCC No 51), Wakefield Cons Ct. The chancellor interpreted the transfer of the painting to St Giles partly as a 'reminder' of the origins of the church and partly as 'decoration'. The chancellor considered that the church could not afford to display the painting and that a digital copy could be made of it. He also considered that this was the last historic connection to Lincoln of a no-longer-existing church. He concluded, however, that the connection between St Giles and the picture was effectively meaningless. If it were a piece of silver plate, he would have described it as 'redundant' (not a term he considered apposite to a work of art). He considered that, as neither the City Council nor the Art Gallery could be persuaded to purchase the picture or make a donation in return for a permanent loan, the value of maintaining a historic link had been lost. Having come to those conclusions, the chancellor felt it hardly necessary to deal with the financial arguments but, nevertheless, he went on to conclude that the petitioners had persuaded him on the balance of probabilities that a good and sufficient reason had been proved. The faculty was granted on the conditions that every effort be made to find a buyer with a Lincoln connection, that digital copies be made and deposited with the parish records with one put on display in the church, and that one copy be given to Lincoln Cathedral Library if they wished for one. The funds of the sale were to be applied by St Giles to its general funds. [JG]

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Re St John the Baptist, Stainton-by-Langworth
Lincoln Consistory Court: Collier Ch, April 2006
Sale of church silver – necessity

A petition was sought to sell four items of silverware. The petitioners claimed that they were redundant and that they wished to use the proceeds to carry out urgent repairs to the fabric of the church. The DAC objected, stating that there was 'insufficient justification' and that money could be found elsewhere for the relatively minor repair work. The CCC recommended that the petition be refused, as the repairs were necessary but not urgent and that the silverware should be deposited in the Cathedral treasury. Expert evidence was submitted that the silverware was not, in fact, connected, as had once been suspected, with a former Bishop of Lincoln. There was also evidence that the repairs required to the church were more substantial than the objecting bodies identified. The chancellor was satisfied that the silverware was redundant. The chancellor approved the law as set out in *Re St Gregory, Tredington* [1972] Fam 236, [1971] 3 All ER 269, Ct of Arches, *St John the Baptist, Halifax* (December 2000 unreported, 19 CCCC

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