

IN THE COURT OF CHANCERY OF YORK

IN RE CHRIST CHURCH, ALSAGER

Constitution:

Auditor of the Chancery of York,
Chancellor Thomas Coningsby QC,
Chancellor Rupert Bursell QC.

J U D G M E N T

This is an appeal from the decision of Chancellor Lomas sitting in the Consistory Court of Chester. The facts are briefly as follows: the Appellant's father, Arthur Davies, died on the 12th February 1981 and was cremated; his ashes were interred in the Garden of Remembrance in the churchyard of Christ Church, Alsager. The Appellant's mother, Sarah Ellen Davies, died in 1995; although she had been received back into the Roman Catholic Church shortly before her death her body was buried in the same churchyard about 90ft - some 30 paces or so - away from her husband's ashes.

The Appellant is the only relative of the two deceased and wishes that the remains of his parents should rest together in the same grave. He describes his request as simple and sincere. That it is sincere cannot be doubted. Since his mother's remains could not be buried in the Garden of Remembrance compliance with his wish would involve exhumation of his father's ashes. The Appellant discussed his wish with undertakers in 1995 and asked them to make the necessary application. For reasons that are not the fault of the Appellant no petition was made until May 1997.

