

In the Consistory Court of the Diocese of Worcester

Archdeaconry of Dudley: Parish of Redditch, Holy Trinity: Church of Beoley, St Leonard

Faculty petition 14-50 relating to temporary removal of a skull

Final judgment

1. This petition is for a faculty for the carrying out of the following works and purposes at St Leonard's Church, Beoley:

“[a] the temporary removal from the vault beneath the Sheldon Chapel of a skull, possibly that of William Shakespeare, to enable [the carrying out of] a detailed archaeological investigation to include:

- [i] laser scanning,
- [ii] radio carbon dating, and
- [iii] an anthropological assessment, and

[b] the subsequent return of the skull to its [present] resting place.”

(words in square brackets added for clarity). As described below, this overall package was broken down into a number of discrete operations, which could be combined in various combinations.

2. Although the church is medieval in origin, Beoley is now part of Redditch New Town, and the Parish is part of the Redditch Team. The petitioners are therefore, as would be expected, the Team Vicar responsible for St Leonard's Church, and the two churchwardens. However, for reasons that will become apparent, the impetus for this proposal comes from Arrow Media, an independent film company. Arrow Media and the University of Staffordshire will be funding the proposed works and investigations, under the terms of a draft agreement between them and the petitioners.

Introductory points

Whether the court has jurisdiction

3. A preliminary question has been raised as to whether the faculty jurisdiction is engaged at all, in the light of evidence that the skull had previously been removed from its present resting place in the vault, and photographed.
4. I accept that the skull has not been “buried” in the conventional sense of that term; however, it has been placed, hidden or deposited in the vault beneath the Chapel, and then allowed to remain there for a significant period, possibly for several centuries – on the basis of the material produced by the petitioners, since 1780. I note that the decision of the Court of Arches in *Sevenoaks, St Nicholas*,¹ to which I return later in this judgment, related to a proposal to extract a small amount of bone (for DNA testing) from a skeleton that had been buried in 1907 in a family vault, which had previously been opened in 1874 and was re-opened in 1910. In that case, therefore, as in this, there was presumably reasonably straightforward access to the vault containing the skeleton.
5. The fact that the skull that is the subject of the present case has been informally removed on previous occasions does not of itself justify a further removal – albeit on a temporary basis – from the church to a location elsewhere, without authorisation, and certainly does not justify the removal of a small bone fragment from the skull.
6. Further, even if the deposit of the skull were not considered to be analogous to the burial of a full body, so as to bring into play the requirement for a faculty to be obtained for its temporary removal, the faculty jurisdiction also operates to protect at least some objects, including ornaments and furniture, associated with a church (sometimes referred to as “treasures” where they are of particular value) deposited in a church – unlike the system of listed building control applying to secular buildings.

¹ [2005] 1 WLR 1011.

The skull is thus clearly neither part of the church building, nor fixed to it; and it is not a work of art. But is nevertheless of historical interest, if only because of the curious circumstances alleged to have given rise to its presence in the crypt.

7. I am accordingly satisfied that the petition is within the jurisdiction of the court.

Procedural issues

8. The diocesan advisory committee recommended the proposal, without any provisos. The petition was publicised in the usual way, under Part 5 of the Faculty Jurisdiction Rules 2013; and no objections were received in response. The Church Buildings Council subsequently made representations, as noted below.
9. The great majority of unopposed faculty petitions are determined on the basis of written representations, in accordance with Part 13 of the Faculty Procedure Rules 2013. But that applies only where the chancellor considers the written procedure to be expedient. In this case, exceptionally, I was unconvinced by the proposal as originally put forward, especially in the light of the decision in *Sevenoaks, St Nicholas*. I was in particular unconvinced as to the credibility of the reasons put forward to justify the proposed investigation; and I was concerned as to the effect that granting a faculty in this case might have on other proposals for high-profile archaeological explorations, in this diocese and elsewhere.
10. I therefore directed that I was not willing to grant a faculty without first holding an oral hearing at which these matters could be more fully explored; and at which more detailed evidence could be presented from the DAC archaeological adviser, as well as from the petitioners and those proposing to carry out the investigation.
11. I also directed that a request be sent to the Church Buildings Council (“the CBC”) for its advice, and in particular for its views as to the credibility of the reasons put forward for

the investigation. This procedure, under rule 8.7 of the 2013 Rules, provides a valuable means whereby a chancellor can obtain an independent and authoritative view on a proposal that is unopposed but which may nevertheless be of more than merely local importance. This particular petition provides a good example of just such a proposal. I am grateful for the rapid response by the CBC to my request, which enabled the petitioners to respond at the hearing to the concerns it had raised.

12. A hearing was duly held at St Leonard's Church on Thursday 22 January 2015, at which evidence was presented by the Revd Paul Irving, the Vicar; Mr Ralph Richardson, a former churchwarden; Mr Kevin Colls, the lead archaeologist in charge of the project; Mrs Victoria Bryant, the archaeological adviser to the DAC; Professor Stanley Wells and Revd Dr Paul Edmondson, from the Shakespeare Birthplace Trust; and Mr John Smithson, Creative Director of Arrow Media. I am grateful to all concerned for their assistance in arranging for the hearing.

Law and good practice

The law

13. Before considering the evidence relating specifically to this proposal, it may be helpful to outline the relevant legal principles governing the determination of petitions of this kind. There have been very many cases in the ecclesiastical courts relating to proposals to exhume human remains from churchyards and other consecrated land. The present proposal is arguably not strictly classifiable as "exhumation", since the skull is not buried in the ground, but I have already noted that at least one recent decision of the Court of Arches, *Sevenoaks St Nicholas*, related to facts not dissimilar to those in the present case – namely the removal of human remains from a vault to enable a sample of bone to be taken to enable DNA testing to be carried out.
14. In *Sevenoaks*, the petitioner wanted the testing to be carried out in order to establish whether there was any scientific support for the belief, firmly held in his family, that

the family was descended from Princess Louise, a daughter of Queen Victoria. The Court started by stating the general principle governing the determination of petitions of this kind:

“13. Both in the *Blagdon* judgment² and in the *Alsager* judgment³ the appellate court was considering an application to exhume the remains of a specific person rather than the removal of a number of remains, possibly of unknown persons. However, the basic principle is the same, namely that it is only when special circumstances have been proved to the satisfaction of the court that a faculty will be granted permitting exhumation of one or more sets of remains.”

Exhumation of human remains for public purposes

14. It has long been accepted that there may be circumstances when a number of remains may be exhumed at the same time and subsequently re-buried. This can occur in order to make way for something of public benefit. ...

15. ... we consider that a crucial point, which needs to be emphasised at the outset, is that the test of special circumstances for exhumation is not the scale of what is proposed but the credibility of the reasons put forward for the exhumation. It is an evaluation of the evidence, which the chancellor has to carry out in determining whether special circumstances have been established. There is no question of it being permissible for that evaluation to be any less rigorous, because the proposed interference will be small. We do not consider that there is an inconsistency between the approach of the court when considering a petition to exhume a number of remains to achieve an objective of public benefit and that adopted when considering a petition to exhume individual remains for some private purpose. To succeed each needs to be based upon a sound factual base providing a convincing reason or reasons for the exhumation proposed.”

15. The Court went on to examine the position as to the taking of DNA samples:

“30. It is apparent to this court that scientific advances are such that new techniques are increasingly likely to be called in aid to establish a variety of matters. DNA testing is well known to be of assistance in criminal investigation (a matter in which the coroner has jurisdiction to order exhumation from consecrated ground). It may be used for identification of a body that has been discovered whose identity is not clearly known, as in the case of the Tsarina and her family. The justification put forward for conducting a DNA test may have practical consequences such as inheritance rights or other property issues. The reasons may be many and varied but the common element, if an application is to succeed, is the proof of a good reason for the exhumation in order to carry out a DNA test. There can be no proper authorisation on the basis of a whim or idle curiosity.

31. We recognise that it can be said that there is an element of curiosity, but far from idle, in all requests to carry out a scientific experiment on human remains. Using curiosity in the sense of inquisitiveness, the police may be curious, as in the Shipman murder inquiry, to discover whether a person (in that instance a former patient) died of unnatural causes, and the coroner (or very infrequently the consistory court in respect of consecrated ground) may be asked for and give permission to exhume the remains so that scientific testing can be carried out prior to the remains later being re-interred. Curiosity about the inheritance of a

² *Blagdon Cemetery* [2002] Fam 299, Court of Arches.

³ *Alsager, Christ Church* [1999] Fam 142, Chancery Court of York.

particular disease may lead to scientific testing on remains. In his statement of evidence Mr Locock drew attention to the investigation of the disease of porphyria in the descendants of King George III for which purpose in the 1990s material was removed from the coffin of Princess Feodora, the eldest great-granddaughter of Queen Victoria, who died in the 1920s. Mr Gledhill also drew attention to the successful DNA testing which took place to identify the heart believed to be that of the son of King Louis XVI of France and his wife Marie Antoinette. The common feature in all these examples is that the curiosity was well-founded, so that there was a strong factual base justifying exhumation.

32. An example of the correct approach to assessment of evidence in a case involving the proposed use of modern scientific techniques is to be found in the full and clear judgment of Hill Ch in *Bosham Holy Trinity*, which was cited to this court. In that case the petitioners sought a faculty to open a coffin under the floor of the church with a view to taking a sample of bone in order to ascertain whether the remains were those of King Harold. The chancellor examined the evidence in support of the theory that King Harold might be buried at Holy Trinity, Bosham and then went on to conclude that the proposal was doomed to failure for several reasons. He said:

"it is a matter of conjecture whether any human remains will be found in the coffin; such remains as may be found are highly unlikely to be those of King Harold since the vast preponderance of academic opinion points to his having been buried at Waltham Abbey."⁴

He then went on to point to the weaknesses in relation to the prospect of recovering material for DNA testing and the lack of any comparator. He continued, at p 138, para 33:

"Whilst I am sympathetic to the continuing quest for knowledge concerning our nation's history, the prospect of obtaining a meaningful result is so remote in this instance that the presumption against disturbance is not displaced. The evidence led by the petitioners fails to come near to the standard required. This aspect of the petition therefore fails."⁵

It is to be noted that in relation to the possibility that the remains of King Harold might be found in the church the chancellor commented, at p 132, para 17, that the proponent "finds himself in a minority of one. His imaginative theory does not bear academic scrutiny".⁶ The venture was therefore highly speculative, and the question is whether Mr Locock's case is more persuasive."

16. Against that background, the Court then examined in detail the basis upon which the petitioner sought to prove that the deceased was indeed the son of Princess Louise. It concluded as follows:

"58. Mr Gledhill, who appeared pro bono, argued every point on behalf of Mr Locock assiduously and well, and the clarity of his presentation was much appreciated. However, at the end of the day, having considered these arguments and all the written material he placed before Goodman Ch and this court, we have concluded that Mr Locock has not made out a case to the necessary standard that there is a real likelihood of a connection between Henry Locock and Princess Louise. Many of his points were pure speculation, as became apparent when we considered them against the books he himself referred to. Regrettably

⁴ *Bosham, Holy Trinity* [2004] Fam 125, Chichester Consistory Court, at para 32.

⁵ Para 33.

⁶ Para 17.

for him much of the argument which he relied upon on this appeal, when analysed, demonstrated improbability, and that has defeated his argument.

59. His reliance, as a reason for exhumation, on the historical interest of establishing that Princess Louise gave birth to a child is not independent of the need to get past the first post. He has failed at the first post and no question of consideration of exceptional circumstances therefore arises for us to determine. The contribution to history would be consequential on a successful result of scientific investigation and is not a justification in itself. We are affirmed in this view by the fact that Mr Locock has been at pains throughout to say that this is very much a personal enterprise. Having failed in his primary argument the second one goes with it.”

17. I therefore also have to determine whether the basis on which it is sought to justify the removal of the skull from the vault at Beoley is any more persuasive than those in the cases referred to above.

The CBC / English Heritage guidance

18. The Church Buildings Council in its response to my request drew my attention to the publication produced in 2005 jointly by CBC and English Heritage *Guidance for Best Practice on the Treatment of Human Remains Excavated from Burial Grounds in England*. That guidance was produced to assist consistory courts, amongst others. The CBC pointed particularly to paragraph 190 in Annex E6, which relates to *The Ethics of Destructive Sampling of Human Remains*. It notes (so far as relevant) as follows:

“188. Traditionally, osteo-archaeology has been a science based on measurement and visual inspection of bony remains. However, in recent years, techniques which are, to a greater or lesser extent, destructive of human remains have become important. These include microscopic analysis of bone sections, and chemical analyses for stable isotopes, trace elements and ancient DNA, as well as the more established technique of radiocarbon dating. Today, these techniques form an integral part of osteo-archaeology. In general, the public accepts archaeological work on human remains, and in fact it is often the results from work based on destructive sampling (such as DNA analysis) that most interest the layman. In this light it is suggested that destructive sampling is ethically acceptable in certain circumstances. The following points provide guidance.

189. Can the research question(s) be addressed using non-destructive techniques? Destructive sampling should only be contemplated if this is not so.

190. Any programme of destructive analysis on human remains should take place within a planned research programme and should have a realistic prospect of producing useful knowledge.

191. For burials of named individuals, permission should be sought from surviving family members, if known. ...

193. Only the quantity of material considered necessary to address the research questions should be taken as a sample. Any material removed but not destroyed during analysis should be returned to the collection. ...

195. All sampling should be fully documented so that future researchers will know what has been taken.

196. The skeletal element sampled should be fully recorded and measured prior to sampling. Under some circumstances (for instance, if the skeleton is intended for museum display) consideration should be given to producing a cast of parts which will be damaged or destroyed.”

19. That suggests that I should be considering whether the investigation proposed in this case is taking place within a planned research programme, and whether it has a realistic prospect of producing useful knowledge.

The facts

The skull: the story

20. The vault beneath the Sheldon Chapel was described to me by Mr Richardson, who is a retired history teacher and secondary school headmaster, as well as a former churchwarden of St Leonard’s, as follows:

“The Vault is opened every five years in the Quinquennial Inspection. Since all is well down there, it does not occupy much of the Architect’s time. ... It is impossible for those of normal build to enter the ossuary. It is possible to look into it. It contains four stacked skeletons each with a skull on top of each. I suspect these were so stacked in one of the two restorations [in 1922/23 and 1947]. There is a tall bowl in the centre, resembling a deep bucket. It is presumed to be where the innards of Sheldons were placed before burial.

When I first went into the vault, as Church Warden, in 1999, I noticed a skull on the floor by the entrance to the ossuary. As far as I remember, I did not touch it, not then being aware of its possible significance. It was upside down. There was no lower jaw.

... I think I saw the skull again in 2007. It was in the same place and upside down. With the greatest care, I took it outside, placed it on a tree trunk and photographed it. I replaced it with equal care and put it back, but upright as befits the dignity of whoever it was.

I thought the skull small. It seemed to be more for a teenager or possibly a woman.”

21. I did not see into the vault during my visit to Beoley, but I did inspect the chapel above it. It was explained to me that the steps leading up to the chapel are removed on the occasion of each quinquennial inspection (under the inspection of Churches Measure

1955), to enable access to be gained to the vault beneath. Once the survey is complete, the steps are replaced.

22. There is a local tradition that the skull in the vault is that of the poet and dramatist William Shakespeare. It might seem surprising that his skull is resting in the vault at Beoley, when his tomb is in the Church of Holy Trinity at Stratford-on-Avon, some 15 miles away. This is particularly so given the well-known “curse” above that tomb:

“Good frend for Jesus sake forebeare,
To digg the dust enclosed heare;
Bleste be the man that spares thes stones,
And curst be he that moves my bones.”

However, the story is told in two articles published in *Argosy* magazine, by an author writing under the nom-de-plume “A Warwickshire Man”: the first, *How Shakespeare’s Skull was Stolen*, published in 1879; and the second, *How Shakespeare’s Skull was Found*, in 1884. The two were published as a pamphlet in 1884. It is now freely available on the web.⁷

23. The first article explained how Dr Frank Chambers, a local doctor, heard at a dinner at Ragley Hall in 1794 that Horace Walpole, art historian and man of letters, had offered £300 at the time of the Shakespeare Jubilee in 1769 to anyone who could obtain the skull of Shakespeare. Chambers accordingly collected a team of three locals, and they broke into Holy Trinity Church, and into the tomb, and removed the skull. Unfortunately Chambers failed to persuade Walpole (by then 77) to purchase the skull; nor was he able to sell it to any of the other guests at the Ragley dinner. He therefore persuaded Mr Dyer, one of the original conspirators, to break open the tomb again and replace the skull.
24. In the second article, Chambers was called out to see a patient, and met Dyer, who explained that he had not replaced the skull in the tomb at Stratford, but had hidden it in the vault of a church. The author of the pamphlet then recounts that he managed

to find the vault in which the skull had been hidden – which was the vault beneath the Sheldon chapel at Beoley.

The significance of the story

25. Mr Richardson explained that the author of the two articles, “A Warwickshire Man”, is thought to have been the Revd C J Langston, vicar of Beoley from 1881 to 1889 – although it is not clear why he should have written in 1879 a pamphlet about an incident in Warwickshire, whilst he was still a vicar in Kent. The only actual references to Beoley are in the second article, written in 1884 whilst Langston was vicar there. There is no suggestion as to who might have been the author of the pamphlet, if not Langston. Mr Richardson also pointed out that many of the details in the pamphlet are verifiably accurate.

26. The story in the 1884 pamphlet was summarised in a guide to St Leonard’s Church written in 1970, probably by the then vicar. It has been the subject of an article in *The Village* magazine (published in Alvechurch) in October 2009, illustrated by photographs of the skull taken by the Richard Peach, the editor,⁸ and a short piece in *Worcestershire Life* in February 2010.⁹ They add no new material, and do not add any weight to the story.

27. The Shakespeare Birthplace Trust was set up by a private Act of Parliament in 1890, and is now governed by the Shakespeare Birthplace, &c, Trust Act 1961. By virtue of section 6(1)(a) of that Act, its objects include the promotion in every part of the world the general advancement of Shakespearian knowledge. Professor Stanley Wells, CBE is one of the foremost Shakespearian scholars, and a former Chairman of the Trust. As the author of numerous books including *Shakespeare Beyond Doubt: Evidence,*

⁷ <http://archive.org/stream/howshakespeare00warw#page/n5/mode/2up>

⁸ <http://home.btconnect.com/platform/pdfs/oct09.pdf>

⁹ http://www.worcestershirelife.co.uk/out-about/places/the_grave_robbers_of_beoley_worcestershire_braved_shakespeare_s_curse_1_1634159

Argument, Controversy (2013), he is no stranger to potentially controversial stories about Shakespeare.

28. He and the Revd Dr Paul Edmondson, who is the co-author of various books with Professor Wells, drew attention to various other publications relating to the story by “A Warwickshire Man”. The well-respected nineteenth-century Shakespearian scholar C M Ingleby notes of the first of the two articles that:

“the *vraisemblance* of this narrative is amazing. But for the poverty of the concluding portion, which is totally out of keeping with the foregoing part, one might almost accept this as a narrative of fact”.¹⁰

More recently, the eminent American Shakespeare scholar Professor Samuel Schoenbaum also mentions the story in his book *Shakespeare’s Lives*. He comments:

“The narrative reads like what it must surely be: a lurid fiction”.¹¹

29. More recently, the Beoley skull also features in a book by historian Simon Andrew Stirling entitled *Who Killed Shakespeare?* Stirling argues in his book that the “Warwickshire Man” story was not entirely convincing. But he nevertheless considers that the skull at Beoley may be that of Shakespeare’s, hidden there by the Sheldons, a powerful Roman Catholic family, after Shakespeare had been murdered during a night out drinking in Stratford, because of his support for Catholicism.
30. In short, Professor Wells concluded that the story by “A Warwickshire Man” was a piece of Gothic fiction, in the manner of Horace Walpole – although he would not discount the possibility that there were grains of truth in it. It is also noticeable that neither that story nor the alternative hypothesis put forward by Starling features at all in Wells’s own book *Is It True What They Say About Shakespeare?* (2007), which refers to a large number of more or less plausible theories about Shakespeare and his plays.

¹⁰ *Shakespeare’s Bones*, Trubner & Co, 1883, p 46.

¹¹ *Shakespeare’s Lives*, Oxford, Clarendon Press, 2nd edn, 1991, p 340.

31. Mr Colls accepted that there was very little evidence to suggest that there had been any disturbance of the tomb at Stratford, other than Langston's account. And Mr Irving noted that the Vicar and churchwardens at Holy Trinity Church were not interested in the skull at Beoley, considering the story as to its identity as being without foundation.

The tomb at Stratford

32. In parallel to the proposal to investigate the skull at Beoley, a petition was submitted to the Coventry Consistory Court, to authorise the investigation of Shakespeare's tomb in Holy Trinity Church, Stratford-upon-Avon. The petition was submitted by the Vicar and Churchwardens, and the works was to be carried out by a team from the University of Birmingham under the leadership of Mr Colls. A faculty was duly granted for the carrying out of certain works, and a preliminary report was published in March 2015, of which I have been given a copy by the petitioners.
33. For present purposes, it is sufficient to note that, whilst there is some evidence that may suggest that there has been post-burial activity and disturbance in the vicinity of the traditional burial place at Stratford, there seems to be no suggestion of any evidence indicating an incomplete skeleton, or anything of that nature. In particular, the March 2015 report contains as an appendix a report written in November 2013 by Dr Robert Bearman, the retired Head of Archives and Local Studies at the Birthplace Trust, looking at various stories associated with the ledger stones in Holy Trinity Church. In his conclusion, Bearman refers to the story by "A Warwickshire Man", as follows:

"In 1879, against the background of increasing interest in an official opening of the tomb, there was published in an anonymous article a story that the tomb had been opened in 1794 and the skull removed, re-published five years later in pamphlet form together with an account that the skull had been re-discovered in a burial vault in Beoley church. The author, since identified as C.L. Langston, was the current incumbent at Beoley. The story, though made superficially credible through the clever use of circumstantial details, can in none of its essentials be confirmed and is now generally regarded as witty satire."

34. Nothing in the main report seeks to overturn that conclusion.

The proposed investigations at Beoley

35. Mr Colls is an experienced archaeologist, formerly at Birmingham and now at the Centre of Archaeology at Staffordshire University.¹² He has directed a number of high profile archaeological projects both in the UK and abroad, including many involving the disturbance of human remains. He gave evidence at the hearing to elaborate upon the Written Scheme of Investigation that had been originally produced by the Centre of Archaeology in July 2014. The “phases”, as defined in Mr Colls’s presentation, and the “methods”, as defined in the Scheme of Investigation, do not quite tally, but together they provide a reasonably clear picture of what is proposed.
36. The strategy has been devised around three “options”. Option 1 is the preferred research strategy, centred on the removal of the skull to the laboratories for assessment and scanning. It was originally intended that this would be done in a single day, since it could be done at the same time as the vault was opened up for the quinquennial inspection. However, that survey has now taken place, so removing the tight time constraint; the length of time for which the skull could be away from the church is accordingly open to debate – the description of the works in the schedule to the petition does not specify any particular period. Option 2 allows for investigative work to be carried out within the vault, but not for the removal of the skull elsewhere.
37. The final option is a contingency method using micro-surveying technology that could be developed if access to the vault were not to be permitted. In view of the fact that access to the vault happens routinely every five years, there seems to be little point in prohibiting access to the vault on principle. I have therefore limited my consideration to Options 1 and 2.

38. In either of the two options, Phase 1 would be to carry out non-invasive investigations. The first method would be to carry out full documentary and archival research. This would not in itself require a faculty, but would be an essential step to ensure that subsequent investigations were limited to those that would lead to the best chance of a worthwhile outcome. The next method would be to carry out laser scanning and 3-D photography of the crypt, focusing on the location of the skull in situ and the other accessible skeletons. As for the skull itself, either it would be taken to the forensic laboratory at Staffordshire University for a high-resolution laser scan (Option 1), or equipment brought to the church to allow a laser scan and photographs of the skull to be taken in the vault (Option 2). The latter would involve more people being in the vault, but would not require the skull to be removed.
39. Phase 2 would be to carry out anthropological analysis of the skull, to indicate the gender, health and lifestyle of the deceased, and any trauma or injury suffered. That could take place either whilst the skull is at the laboratory (Option 1) or in the vault after completion of the laser scans (Option 2). There would also be a survey of the chancel using ground-penetrating radar (GPR), to determine the location of any other vaults and voids.
40. Phase 3 would be to carry out invasive investigations, including radio-carbon dating and DNA analysis. As to the latter, there is a known descendant of Shakespeare's sister whose DNA could also be sampled for comparative testing. This phase would involve the removal from the skull of a small bone sample of around 300mg. It would be possible for the investigation to be structured so that Phase 3 would only be undertaken if Phases 1 and 2 indicated that there was reasonable evidence to support the hypothesis that the skull was indeed that of William Shakespeare.

¹² He is variously referred to in the papers as "Mr Colls" and "Dr Colls"; but research on the internet suggests that he is still only studying for his doctorate at Birmingham.

41. Once the investigation was complete, the skull would be returned to the vault (Option 1); and the vault sealed (both Options).

The television programme

42. Arrow Media is a well-established company producing programmes for television. John Smithson, who gave evidence at the hearing, is the executive producer of the Shakespeare project. He is clearly an extremely able professional. The intention is to produce a 60-90 minute film following the research by the University, investigating what can be learnt about the death and burial of Shakespeare using new technology and science. One of the most appealing aspects of this technology is its non-invasive nature.
43. The film will be broadcast, probably on Channel 4, during 2016, to coincide with the 400th anniversary of Shakespeare's death.

The views of the parish

44. The District Church Council (DCC) of St Leonard's and the Parochial Church Council (PCC) of Redditch Holy Trinity both passed resolutions unanimously supporting the proposal, in the form of Option 1 – on the understanding that the skull would only be away from the vault for a single day. The DCC subsequently modified its position to accept (albeit not entirely unanimously) that it might be helpful if it were possible for the skull to remain at the laboratory for up to one month.
45. The Revd Paul Irving, who appeared at the hearing, presented a statement that had been drawn up jointly by him and the Revd Richard Clark, the Team Rector of Redditch Holy Trinity. This pointed out that there was no claim to possession of the skull of Shakespeare other than that of Beoley St Leonard; and "even if the evidence to this effect is highly tenuous, it is better than the evidence to the contrary". This is not a fishing expedition; there is a real issue to be determined, which is not just whether the skull might be that of William Shakespeare, but whose skull it is, how old it is, and what

we can find out about whoever this person was. Whilst it is understandable to apply twenty-first century scepticism to nineteenth-century storytelling, it would be helpful to sort the matter out once and for all by using the best modern scientific techniques. And any information as to other crypts or vaults, acquired as part of the present investigation, would greatly enhance knowledge of the building.

46. Mr Irving felt that the investigation and any resultant publicity cannot but benefit the church of Beoley and the parish of Redditch, and help them to fulfil their mission objectives. For completeness, he noted that the parish had been offered a modest fee as a reward for its assistance; but that had not been an issue in the balancing exercise carried out by the DCC and the PCC. Mr Richardson too felt that there is a mystery here dating back over 200 years which, like all historical mysteries, merits investigation. And the archaeological investigation would do no permanent harm to the skull.
47. Not a great deal of thought had yet been given as to what would happen if the skull were found to be Shakespeare's – or indeed if that idea was disproved. Either way, the story might generate some publicity and an attendant increase in visitors, although that in turn might lead to security and insurance problems. Mr Richardson considered that, if it were Shakespeare's, the skull should be returned to Stratford, and re-united with the remainder of his remains in his grave – especially in view of the curse.

The views of the Diocesan advisory committee and the Church Buildings Council

48. I invited Mrs Victoria Bryant, the archaeological adviser to the Diocesan Advisory Committee (DAC), to attend the hearing to provide an objective view as to the worth of what was proposed. She explained that, following investigations, she was satisfied as to the credibility of the organisation intending to carry out the investigations in this case, in particular as to its research ability, and its experience of dealing with human remains, and ensuring their security once away from the church.

49. She considered that the project might bring benefits to the parish, in that the accurate recording of the vault under the Sheldon Chapel (and possibly the location of any other vaults) would increase the general knowledge of the church. More generally, she accepted that it was as useful to disprove an assertion as to prove that it was true. And she supported the idea of viewing the project as being in two parts – Phases 1 and 2 (the non-invasive investigations, as described above) and Phase 3.
50. She accepted that, in the field of secular archaeology, the intervention with human remains is very sensitive; and normally tombs would be left undisturbed as far as possible. She would have been opposed to excavation as such; but here there is a skull that has already been moved, and that no longer has any context. If the operation was carried out professionally and with respect, with minimal intervention into the skull, she did not consider that it would be wrong in principle.
51. The Church Buildings Council (CBC) in its written response drew attention to the 2005 *Best Practice* guidance produced jointly by CBC and English Heritage, an extract from which appears earlier in this judgment. It noted that the basis for the proposed investigation appears to be the uncorroborated stories of the Revd C J Langston, described by the petitioners as a recounting of “events that allegedly took place”. Mr Langston had written his account 100 years after those events, and no new evidence had been produced to suggest that he had any credible primary source – or indeed any supporting evidence. The CBC considered that this did not form a cogent and compelling case for the investigation, and that there is therefore no justification for the disturbance of the disarticulated human remains in the burial vault. It accordingly advised against the proposed temporary removal and investigation of the skull unless more convincing evidence is produced which would suggest that the project has a realistic chance of success. But it did not formally object to the petition.

Conclusions

52. I consider that the story by “A Warwickshire Man” reads, to use Professor Wells’s phrase, like a piece of Gothic fiction. It was written around a century after the events to which it purported to relate. Merely because many of the circumstantial details were accurate proves nothing – the same could no doubt be said of any half-competent historical novel. That is also the opinion of Professor Schoenbaum, who described the tale as “lurid fiction”. Dr Bearman categorises it as “witty satire”. Even Mr Stirling finds the story unconvincing – before substituting for it another story of his own that is arguably even more fanciful. There is no indication of any corresponding evidence from Stratford in support of the truth of the story – indeed quite the reverse. Mr Richardson seemed to be at least willing to suspend disbelief sufficiently to justify the investigation; but Mr Irving and Mr Clark, in my view correctly, summarised the evidence as to the skull being that of Shakespeare as being “highly tenuous”.

53. I have seen no scholarly or other evidence that comes anywhere near providing any support for the truth of the story. I have already noted that Professor Wells concluded that that one could not discount the possibility that there is a grain of truth in it; but that is perhaps the lowest possible standard of proof, just above something being classified as complete fabrication.

54. It follows that the skull in the crypt at Beoley is simply that – a disarticulated human skull, of wholly unknown age and gender. There is no evidence as to when, how or why it ended up in the vault beneath the Sheldon chapel. And there is in particular nothing whatsoever to link it to William Shakespeare.

Decision

55. It follows from the above conclusion that the curiosity as to the skull at Beoley has no factual base whatsoever to justify exhumation, removal or investigation. The whole enterprise is entirely speculative. As in the *Bosham* case, the evidence led by the petitioners fails to come near to the standard required; and the proposed research has no realistic prospect of producing useful knowledge.

56. The petition accordingly fails.

Costs

57. The court costs, including the correspondence fees of the registrar, are to be paid by the Petitioners, on the assumption that those costs will be met on its behalf by Staffordshire University and Arrow Media in accordance with clause 21 of the draft agreement between them and the Petitioners.

CHARLES MYNORS

Chancellor

3 April 2015