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CASE NOTES

EDITED BY JUSTIN GAU
Barrister, Deputy Chancellor of the Diocese of Lincoln
AND RUTH ARLOW
Barrister, Deputy Chancellor of the Diocese of Chichester

Re Small, Deceased

Manchester Consistory Court: Tattersall Ch, October 2005
Memorials – churchyard regulations

S had chosen and paid for the memorial stone that he wished to have placed on his grave when he was diagnosed with a terminal illness. A family member had returned a signed copy of the churchyard regulations before his death. After his death permission was sought to erect the stone. It had been made but, as it was heart-shaped, was contrary to the regulations. The petitioners stated that they did not realise the memorial offended against the churchyard regulations and identified other heart-shaped memorials already erected in the churchyard as justification for the application. The chancellor was satisfied that the petitioners had in fact been made aware of the churchyard regulations and was also satisfied that, as the other memorials were few in number, illegal and erected very many years previously there was no precedent set to allow the petition, accordingly the petition was refused. [JG]

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Re St Nicholas, Remenham

(Oxford Consistory Court: Bursell Ch, January 2006)
Memorials – photographs

P applied for a faculty for the erection of a memorial to her son, which included a ceramic plaque with a black and white photograph of the deceased scanned on to it. The memorial was to be erected close to a similar memorial to P's husband, which had been erected without a faculty in 1988. The chancellor refused that part of the faculty relating to the ceramic plaque on the grounds that such a memorial did not comply with the diocesan churchyard rules and that there

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was no good reason to depart from those rules. In so deciding, he found that the illegally erected memorial could not create a precedent in favour of such memorials. [RA]

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Re St Paul, Drighlington
(Wakefield Consistory Court: Collier Ch, August 2006)
Monuments – illegal additions – removal

During the incumbent's sick leave between July 2003 and January 2004 a number of illegal monuments were erected in a section of the churchyard, and items such as kerbs and chippings were added to various graves. Notices were put in the parish magazine and in the churchyard urging the families to remove illegally added items. The chancellor considered *Re Johnson and Hulme deceased* (1995) 14 CCCC, 5 and *Re St Mary Westham* (1999) 18 CCCC, 29 and *Re St Matthew, Boughton* (2002) 21 CCCC, 30. The chancellor felt a balance had to be made between the feelings of the bereaved and the wider community interest in the proper management of the whole churchyard. He was quite persuaded that the difficulties caused by the unlawful items justified the granting of a faculty for their removal under section 3 of the Faculty Jurisdiction Measure 1964. [JG]

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New Testament Church of God v Stewart
(Employment Appeals Tribunal, October 2006)
Employment – unfair dismissal – minister – contractual relationship

The New Testament Church of God, based in the United States, is a company limited by guarantee in the United Kingdom and a registered charity, with 108 churches and 295 ordained ministers, of whom 88 are based in churches. Ministers receive payment for services rendered, sometimes referred to as salary and sometimes as stipend. Pastors' remuneration is paid out of a local tithe paid by church members. Mr Stewart was ordained in 1984 and ministered at the Harrow church. In 1999, after an audit suggested to the Church's National Office that there were accounting irregularities at the Harrow church, it was agreed that Mr Stewart would in future be paid through the National Office. A further audit in January 2005 again revealed

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