

IN THE CONSISTORY COURT  
OF THE DIOCESE OF CARLISLE

RE ST OSWALD DEAN

RE WILLIAM KENNETH WILSON DECEASED

JUDGMENT

delivered on 8 September 2016

*Introduction*

1. Mrs Dorothy Stubbs [the Petitioner] is the niece of William Kenneth Wilson [the Deceased] who died on 3 July 2012 and was buried in the new churchyard of St Oswald Dean, a Grade 1 listed church. The church dates from the 12<sup>th</sup> century and lies on the edge of the village of Dean. It has two churchyards, the older one surrounding the church building and the newer one, which is currently used for burials and where the Deceased is interred, is situated across the road and not visible from the church or old churchyard.
2. On 2 July 2014 a memorial was erected on the Deceased's grave, pursuant to the purported exercise by Revd Sarvananthan Sudharshan, the Priest in Charge, of his delegated authority under the Churchyard Regulations 2010.
3. Such memorial states:

Treasured Memories of  
WILLIAM KENNETH WILSON  
(KEN)

12<sup>th</sup> Nov 1933 - 3<sup>rd</sup> July 2012

FOREVER IN THE HEARTS  
OF THOSE WHO LOVED YOU

REST IN PEACE

4. There are three unusual features of the memorial, namely:
  - 4.1. at the top of the memorial is an etched landscape, which I understand is intended to represent the gateway to heaven;
  - 4.2. there is a flower, believed to be a rose, immediately above the words REST IN PEACE; and
  - 4.3. there is what appears to be a rugby ball bearing the lettering `WTRLFC` in the bottom left hand corner.
5. The Petitioner wishes to add to such existing memorial an engraving of a set square and compass in the bottom right hand corner of the memorial. This was because the Deceased`s lifelong association with Freemasonry, to which I will refer subsequently.
6. It should be recorded that the Petitioner has always wished the memorial to incorporate a set square and compass on the memorial but her request for such addition to the proposed memorial was refused by the Priest in Charge in about February 2014 because he stated that he had no delegated authority to allow such addition to memorial pursuant to the Churchyard Regulations. However, he allowed the unusual features set out in paragraph 4 above, believing that such were within his delegated authority.
7. The Petitioner was advised that she was entitled to make an application for a faculty and, in accordance with paragraph 1.3 of Appendix B of the Churchyard Regulations, on 14 July 2014 I was asked to consider the application on an informal basis. On 18 July 2014 I advised that on the facts of this case if the Petitioner wished to proceed with her application, she should make a formal application by way of petition for a faculty.
8. Accordingly, by her application for a faculty dated 30 June 2015 the Petitioner has sought a faculty for the engraving of a set square and compass to be added to such existing memorial.
9. Prior the making of her application the Petitioner`s request that the proposed memorial contain such engraving was considered and unanimously supported at a meeting of the Parochial Church Council [ `PCC` ] on 1 July 2014. It was expressly recorded that `the PCC needs to try and fulfil the wishes of its parishioners within the parameters of the church regulations`.
10. However, when the matter was referred to the Diocesan Advisory Committee [ `DAC` ] at its meeting on 25 September 2014 it did not recommend that a faculty be granted because `in the opinion of the Committee the stone does not comply with the Diocesan Chancellor`s Regulations`. It seems that the DAC had concerns not only about the addition of a set square and compass but also about the unusual features described in paragraph 4 above.

11. Since I determined that it was expedient for this application to be dealt with on consideration of written representations pursuant to Rule 14 of the Faculty Jurisdiction Rules 2015 and the Petitioner has consented to such a procedure, I determine this Petition on the basis of written representations.

12. In determining this application I propose to discuss the Churchyard Regulations, the reasons for the application, the issue of Freemasonry and my determination of the application.

*The Churchyard Regulations 2010*

13. The Churchyard Regulations 2010 were issued by me and came into force on 1 October 2010.

14. Such Regulations apply generally to all churchyards in the Diocese of Carlisle unless I have, at the request of the Incumbent and the PCC, agreed a special Scheme to meet particular local circumstances. There is no agreed special scheme which relates to St Oswald Dean.

15. Such Regulations provide, inter alia, that:

2.2. **Graves and memorials**

2.2.1. It is unlawful for a memorial to be introduced into a churchyard without permission. Without such permission the relatives of the deceased or any other person have no right to erect a memorial over the grave.

2.2.2. Generally permission to introduce a memorial derives from the Chancellor in the form of a faculty and application may be made at any time to the Chancellor for authorisation to erect any memorial. However, for administrative convenience and to minimise expense, the Chancellor delegates to the Incumbent a discretion to permit the introduction of a memorial providing it is of a type which complies with the detailed provisions contained in Appendix B to these Regulations but Incumbents may refuse to permit the erection of an authorised memorial if they believe that it would be detrimental to the churchyard or it would otherwise be inappropriate for them to exercise such discretion.

...

2.2.5. Incumbents have no discretion to allow the erection of a memorial which does not comply with the detailed provisions contained in Appendix B. Any purported permission given by the Incumbent not within his powers is void and of no effect. If the Incumbent is uncertain whether it is within his powers to authorise the proposed memorial he should consult the Diocesan Registrar.

- 2.2.6. If, in the exercise of his discretion, the Incumbent does not permit the memorial sought or the proposed memorial does not comply with the detailed provisions contained in Appendix B, the Incumbent should so inform an applicant [usually in writing and, where appropriate, setting out his reasons] that he/she is at liberty to apply to the Chancellor for a faculty and provide the name and address of the Diocesan Registrar, who co-ordinates the legal process in relation to faculties and from whom the necessary application form can be obtained.
- 2.2.7. In respect of any application for the introduction of a memorial the written application [which is annexed hereto as Appendix C] shall be used. Permission is always required and no work should be ordered or put in hand until permission has been granted. In particular an applicant is advised not to enter into any agreement with a stonemason before obtaining either the Incumbent's written consent or a faculty.
- 2.2.8. If permission is granted, a copy of the written application, duly completed by the applicant(s), the stonemason and the Incumbent, shall be given to the applicant(s) and the stonemason and the original of such application shall be safely kept within the parish records and shown to the Archdeacon on request.

...

- 2.2.11. It should always be remembered that the churchyard will last for many years and that its character depends on that of all the memorials within it. There is a distinction between private grief and public remembrance and no single memorial can be allowed to spoil that general appearance. A memorial should thus respect its surroundings and should not impose an unreasonable burden on future generations.

...

- 2.2.15. A headstone is a public statement about the person who is being commemorated. Making the right choice of material, design and inscription is important not only to the relatives or friends who are going to provide the memorial, but also to the wider community because of the effect which the headstone may have upon the appearance of the churchyard. ...
- 2.2.16. Also to be encouraged are inscriptions which give a flavour of the life of the person commemorated rather than blandly recording a name and dates. Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved have themselves passed away. A memorial is not the right place for a statement about how members of the family feel about the deceased nor how they would address him or her were they still alive. Excessive sentimentality is to be avoided. Passages of scripture, which have a timeless quality, are to be preferred.

16. Appendix B of such Regulations provide, inter alia, that:

## 1. **Generally**

1.2. Incumbents have a discretion to permit the introduction of a memorial providing it is of a type which complies with the detailed provisions set out below but Incumbents may refuse to permit the erection of the same if they believe that it would be detrimental to the churchyard.

1.3. If the proposed memorial is outside such discretion or the Incumbent declines to exercise such discretion, application should be made to the Chancellor. In most cases the Chancellor will consider the application on an informal basis but he reserves the right in appropriate cases [for example where he may wish seek the advice of the DAC] to require the application to make a formal application by way of petition for a faculty.

...

## 2.5. **Inscriptions**

2.5.1. The wording of an inscription must be included in the application and approved by the Incumbent.

2.5.2. Inscriptions should be simple, reverent and theologically acceptable. Three principles should be observed : epitaphs should honour the dead, comfort the living and inform posterity. ...

2.5.3. Brief epitaphs may reflect the life, work, interests or concerns of the deceased, provided that offence is not likely to be caused. Appropriate biblical or other quotations may be helpful in emphasising that life, but these must be entirely compatible with the Christian faith.

...

2.5.6. Representations of objects or motifs appropriate to the life of the deceased or of accepted Christian symbols are permitted.

2.5.7. Photographs and etched images [whether from photographs or otherwise], porcelain or plastic portraits are not permitted nor are the use of pet names, nicknames or personal comments. Bronze or ceramic inserts are not to be used.

2.5.8. A badge or insignia of the Armed Forces of the Crown is permitted provided that the Incumbent has a letter of authority from the branch of the Forces in question.`

...

## 5. **Prohibitions**

5.1. The Incumbent does not have delegated authority to permit the following :

- [a] Kerbs, railings, fencing or chippings.
- [b] Memorials in the shape of a vase, urn, heart, book or statues.
- [c] Memorials incorporating photographs, portraits or etched images.
- [d] Mementoes, windmills, toys or little animals.
- [e] Anything affixed to or hung upon any monument, including insignia, crosses, images, models, paintings or photographs.
- [f] The use of `pet names`.
- [g] Artificial flowers.
- [h] Any arms, crests, badge or insignia [save as permitted pursuant to paragraph 2.5.7. [sic] above].
- [i] any kind of lighting.

## NOTES

1. **An Incumbent has no authority to permit the erection of a memorial which does not comply with these Regulations.**
2. **A memorial which does not comply with these Regulations [whether or not the Incumbent has purported to give his authority] may be removed by order of the Consistory Court.**

17. It may be noted that the Priest in Charge was correct in refusing to approve the set square and compass on the memorial because such was not permitted by Appendix B of the Churchyard Regulations and that accordingly he had no delegated authority to approve it.

18. It should also be noted that for the same reason the Priest in Charge did not have delegated authority to permit the three unusual features to the memorial described in paragraph 4 above. However I unreservedly accept that, in dealing with the Petitioner`s requests in relation to the proposed memorial, he was acting in good faith and was endeavouring to adopt a sympathetic and pastoral approach towards the Petitioner.

19. That said, had I been asked to give an indication as to whether such features should be permitted I would have permitted some, but probably not all, of them.

20. However, notwithstanding the provisions of Regulation 2.2.5, given the time which has elapsed since the memorial was erected and all the circumstances of the case I do not think it would be appropriate, pastorally or otherwise, to order that the memorial should be removed and I decline to make any such order.

### *The reasons for the application*

21. I have already referred to the fact that the application derives from the Deceased`s lifelong association with Freemasonry.

**22.** In her letter dated 9 June 2014 which was produced to the PCC meeting on 1 July 2014 the Petitioner stated that she found the decision of the Priest in Charge:

‘extremely difficult to comprehend, as a badge or insignia of the Armed Forces of the Crown is permitted provided permission has been granted from the forces in question. The Set Square and compass is inoffensive, lots will not know what it represents. Those who care and understand will.

The Masonic [sic] played a huge part of his life, that is why it is so important for his family to have something depicting this on his memorial ideally we would like the Set Square and Compass.’

**23.** In his letter dated 12 June 2014 Mr Keith Hodgson, the Provincial Grand Master of the Provincial Grand Lodge of Mark Master Masons of Cumberland and Westmorland, stated that the Deceased joined Freemasonry over 40 years before his death, ‘progressed through the ranks’, in 2001 ‘was invested as a Grand Officer by the Grand Master HRH the Duke of Kent’ and in 2007 ‘became the Provincial Grand Master for the Mark Degree in Freemasonry’ and represented the Province in this country and abroad on numerous occasions.

**24.** Mr Hodgson concludes his letter by stating at in his view it is ‘fitting that the Masonic Symbol should be represented on his headstone’ and observes that the symbol of a set square and compass ‘is unique to Freemasons and can be seen in most cemeteries in this area and Ken Wilson being the head of a Masonic order deserves this distinction.’

**25.** No evidence has been produced to me that such symbol appears in any Church of England churchyards in the Diocese.

**26.** With her letter dated 20 June 2015 the Petitioner attached documentation demonstrating that the Square and Compasses were acknowledged as the signs of a Master Builder or Masons, who were employed throughout the Christian world to build magnificent cathedrals and that:

**26.1.** the tomb slab of Master William de Wermington who died about 1350 shows him carrying ‘a compass and a small square’;

**26.2.** one of the stained glass windows in Rouen Cathedral ‘has a tribute to its builders by illustrating the square and compasses’; and

**26.3.** a Spanish picture of 1461 shows ‘the working tools of a humble carpenter’ which include a square and compasses.

**27.** Such documentation continues ‘it would seem that a square and compass has been an acceptable Christian symbol for many centuries’. I am not satisfied that such is the case.

## *Freemasonry*

**28.** The issue of Freemasonry was considered by the General Synod of the Church of England in July 1987 in a debate on a Report *Freemasonry and Christianity : Are they compatible?*

**29.** The Report stated that it was `clear that some Christians have found the impact of Masonic rituals disturbing and a few perceive them as positively evil`. Some believed that Masonic rituals were `blasphemous` because God`s name `must not be taken in vain, nor can it be replaced by an amalgam of the names of pagan deities`. It noted that Christians had withdrawn from Masonic lodges `precisely because they perceive their membership of it as being in conflict with their Christian witness and belief`. The Synod`s primary theological objection centered upon Freemasonry`s use of the word `Jahbulon`, which is the name used for the Supreme Being in Masonic rituals, and is an amalgamation of Semitic, Hebrew, and Egyptian titles for God.

**30.** The final paragraph of that report stated as follows:

`This Report has identified a number of important issues on which, in the view of the Working Group, the General Synod will have to reflect as it considers `the compatibility or otherwise of Freemasonry with Christianity`. The reflections of the Working Group itself reveal understandable differences of opinion between those who are Freemasons and those who are not. Whilst the former fully agree that there are clear difficulties to be faced by Christians who are Freemasons, the latter are of the mind that the Report points to a number of very fundamental reasons to question the compatibility of Freemasonry and Christianity.`

**31.** By a majority of 394 votes in favour and 52 against General Synod passed the following motion:

`That this Synod endorses the Report of the Working Part [GS 784A], including its final paragraph, and commends it for discussion by the Church.

**32.** In fact at national level there have been no formal developments since the 1987 debate.

**33.** It is contended by some Christians that Freemasonry posits an alternative [God as the Great Architect of the Universe whose name is revealed in the rite of the Holy Arch as Jahbulon] to the Christian understanding of the God the Holy Trinity and is thus idolatrous.

**34.** The Roman Catholic Church has a long standing opposition to Freemasonry and there have been many papal pronouncements on the incompatibility of Catholic doctrines and Freemasonry. That church still prohibits membership in Freemasonry because it concluded that Masonic principles are irreconcilable with the doctrines of the church. The 1983 Congregation for the Doctrine of the Faith`s *Declaration on Masonic associations* states that



the `faithful who enrol in Masonic associations are in a state of grave sin and may not receive Holy Communion` and that membership in Masonic associations is prohibited.

**35.** By contrast the Methodist Church recommends that its members should not belong to Freemasonry although it does not prohibit it. The 1985 Conference of the Methodist Church of Great Britain asked Methodist Freemasons to reconsider their membership of Freemasonry and banned the use of Methodist premises for Masonic meetings. The 1996 Conference affirmed that there was no absolute bar on a Methodist being a Freemason but concluded that there will still `hesitations about the wisdom` of a Methodist joining a Masonic lodge and that there were unresolved concerns relating to the openness of Freemasonry and the compatibility of Masonic practice with Christian doctrine.

**36.** A similar position of discouraging membership of Freemasonry is adopted by the Free Church of Scotland and the Baptist Union of Great Britain and Ireland.

**37.** For the purposes of this judgment it is not necessary for me to determine whether Christianity and Freemasonry are compatible. However, I believe that I am entitled to note from the decisions of the General Synod and other Christian churches that there is clearly some debate and doubt as to whether the two are compatible and that the addition of a Masonic symbol on a memorial in a Church of England churchyard is likely to be controversial.

*Determination of this application*

**38.** Having considered all the matters put before me I have decided to decline to grant a faculty to allow the Petitioner to add to such existing memorial on the Deceased`s grave an engraving of a set square and compass in the bottom right hand corner of the memorial.

**39.** My reasons for so concluding is as follows:

**39.1.** Although in her communication with the PCC the Petitioner drew an analogy with badges or insignia of the Armed Forces which are permitted by the Churchyard Regulations, I have no doubt that what is sought by the Petitioner is not permitted by Regulation 5.1 [h] of the Churchyard Regulations given that such Regulation expressly prohibits `any arms, crests, badge or insignia` except in certain circumstances for an insignia of the Armed Forces of the Crown.

**39.2.** Although I accept that Regulation 2.5.6. of the Churchyard Regulations permits `representations of objects or motifs appropriate to the life of the deceased or of accepted Christian symbols` [and indeed, for example, I have on occasions allowed representations of sheep, sheepdogs or tractors for memorials for deceased farmers] such provision was not intended to allow *multiple* representations of objects or motifs appropriate to the life of the deceased. To have provided otherwise would be to permit

an infinite number of objects or motifs appropriate to the life of a deceased person appearing on a memorial which I consider would be undesirable and inappropriate.

- 39.3.** In any event I am satisfied that I have a broad discretion as to the extent to which I should authorize such representations of the life of the Deceased by objects or motifs on a memorial in any given case.
- 39.4.** On the facts of this case there are already many [in fact I believe too many] `objects or motifs appropriate to the life of the deceased` on the Deceased`s memorial and in the exercise of my discretion I believe that it would be wholly inappropriate that there should be yet another representation [namely an engraving of a set square and compass] albeit that I accept that it is an object or motif which was relevant to the life of the Deceased.
- 39.5.** I do not accept that what is proposed is an accepted Christian symbol. Moreover I am satisfied that the Masonic symbol of a set square and compass is considered to be un-Christian by some Christians.
- 39.6.** The Petitioner herself concedes that such Masonic symbol will not be understood by many people and, given that the purpose of an inscription is to `honour the dead, comfort the living and inform posterity`, I do not think that it is appropriate that a memorial should contain a symbol which will not be recognised or understood by many.
- 39.7.** Although, as I have already stated, I make no judgment as to whether Freemasonry is compatible with Christianity, I cannot help but note that when it last discussed the subject the General Synod of the Church of England, by a very sizeable majority, by accepting the last paragraph of the Report *Freemasonry and Christianity : Are they compatible?*, decided that there were a number of very fundamental reasons to question the compatibility of Freemasonry and Christianity. Moreover this approach seems to be shared among other Christian denominations.
- 39.8.** Regulation 2.5.3 provides that `epitaphs may reflect the life, work, interests or concerns of the deceased` but `these must be entirely compatible with the Christian faith`. Having regard to the controversy as to Freemasonry as set out above, I believe it would be detrimental to the churchyard and inappropriate to allow such a controversial symbol as that sought by the Petitioner to be added to the Deceased`s existing memorial.

#### *Conclusion*

- 40.** It thus follows that I dismiss the Petitioner`s application.

**41.** In accordance with the practice of the court the Petitioner must pay the costs of determining the application.

**GEOFFREY TATTERSALL QC**

**CHANCELLOR OF THE DIOCESE OF CARLISLE**