

opposition principally on the grounds that they were 'graven images'. On Sunday 11 March 2007, the objector removed one of the Stations from the wall and smashed it underfoot. The police were called and cautioned him. The objector later met the archdeacon and one of the churchwardens. He explained that it was his intention to cause more damage and/or disruption until the PCC voted to remove the Stations. He stated that he would take no action for three months. The objector refused to give an undertaking to the chancellor not to cause any further damage or disruption. One of the churchwardens petitioned for a restoration order under section 13(5) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and for an injunction. The chancellor refused the restoration order on the basis that the order did not enable him to make an order for the payment of money, in effect to award damages. The chancellor declined to make an order that the objector should himself restore the Station upon his own motion. The chancellor granted the injunction not to cause any further damage to any part of the fabric of the church, to the Stations of the Cross or to any other artefacts therein and not to cause any disturbance or disruption therein. The injunction was permanent, without limit of time. [JG]

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Re Icklesham Churchyard

Chichester Consistory Court: Hill Ch, October 2007

Memorial – churchyard regulations – confirmatory faculty

The petitioner sought a confirmatory faculty permitting the memorial over her late husband's grave to remain in place. The memorial contravened the churchyard regulations in a number of respects, namely the material used, the finish of that material, the lettering used, the use of a photo plaque, the use of kerbstones and the use of blue chippings. The memorial had been erected after the curate of the parish purported to give his consent, even though the proposed memorial was not within those classes for which a minister could give permission under the regulations. In refusing the application, the chancellor adopted the principles set down by Collier Ch in *Re St Paul, Drighlington* (2006), Wakefield Cons Ct (reported at (2007) 9 Ecc LJ 239). Any purported consent for a memorial outside the scope of the minister's delegated authority is a nullity. Both the petitioner and the funeral director had signed forms asserting that the memorial complied with the regulations. In fact, neither had even read the regulations, and the non-compliance was substantial. The chancellor observed that the funeral directors should have taken proper steps to ensure

that all of their staff were apprised of the content of the regulations and that funeral directors are expected to have a full and proper understanding of the faculty jurisdiction and the nature and extent of the authority delegated to ministers concerning the erection of memorials. He ordered the funeral directors to pay 75 per cent of the faculty costs and the priest 25 per cent, and required the funeral directors to reimburse the petitioner monies paid for the erection of the memorial. The chancellor required the memorial to be removed. [RA]

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Byrne v King

Disciplinary Tribunal, Diocese of York, November 2007

Clergy discipline – conduct unbecoming – procedure

The complainant brought an allegation of misconduct against the respondent, an incumbent in the Diocese of York, under the Clergy Discipline Measure 2003. The allegation was that the respondent was guilty of ‘conduct unbecoming or inappropriate to the office and work of a clerk in holy orders’ (section 8(1)(d) of the Measure) and centred on an alleged sexual relationship between the respondent and the former wife of the complainant whilst both were still married. The respondent admitted to having had what was described as a ‘boyfriend/girlfriend’ relationship with the complainant’s former wife after their respective separations but denied that the relationship had been sexual or that his conduct had been in any way improper. The tribunal referred to Canon C 26 (which states, inter alia, that a priest should ‘fashion his life . . . according to the doctrine of Christ’) and the *Guidelines for the Professional Conduct of the Clergy* (sections 3.10 and 10.1 of which require clergy to be faithful in marriage and exhibit a high standard of moral behaviour) in determining whether the conduct of the respondent had been unbecoming or inappropriate. The tribunal heard evidence from a number of witnesses in order to establish the facts of the case. In conclusion, the tribunal unanimously found that ‘between December 2004 and October 2006 the Respondent has pursued an improper, intimate and physical relationship with Mrs B, which fell short of sexual intercourse, which began when they were both still married to and living with their respective spouses.’ This was found to constitute conduct unbecoming and inappropriate to the office and work of a clerk in holy orders. The improper behaviour was compounded by the respondent’s refusal to accept that his behaviour had been wrong. The tribunal ordered that he be removed forthwith from his post and that he be prohibited from exercising the ministry of his orders for four years. During the course of the hearing, the chairman rejected an application from a journalist to attend the hearing. He stated that rule 40 of the