

**FOOTSCRAY ALL SAINTS**

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**JUDGMENT**

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**RE: FOOTSCRAY ALL SAINTS**

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**J U D G M E N T**

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1. Mrs Janis Pullen, the petitioner, by petition dated 10<sup>th</sup> September 2012, seeks a faculty for the erection of a monument in respect of her brother, John Charles Goodwin, who died on 22<sup>nd</sup> February 2011, and whose ashes were interred in the churchyard of All Saints Church, Foots Cray, Kent, in November 2011.
  
2. Before her brother's ashes were interred, Mrs Pullen was given a copy of the parish's Churchyard Rules ("the Rules"). The Rules, as is evident from the first paragraph, were adopted by the Parochial Church Council ("the P.C.C.") on 23<sup>rd</sup> March 1999, and approved by my predecessor as Chancellor of the Diocese of Rochester on 1<sup>st</sup> November 1999. In fact, Mrs Pullen was also given a copy of the Rules when she first made inquiries about the interment of her brother's ashes.
  
3. Mrs Pullen, having read the Rules, decided to have placed in the churchyard, a memorial stone to her late brother. She did not consult the rector about what she proposed to do, but instead spoke to a relative who was involved in stone restoration, and who had contacts with stonemasons involved in such work. Mrs Pullen was put in contact with one of these persons, who was not a monumental stonemason, and according to her letter dated 29<sup>th</sup> December 2012, he agreed to visit the churchyard to "see what the other stones were like". Who this person was, I am not told.
  
4. In due course, Mrs Pullen's contact produced a stone, which in late summer 2012, was laid by him and/or Mrs Pullen. Again there was no communication with the rector either before or after the event. It follows that no permission was sought or obtained for the stone.

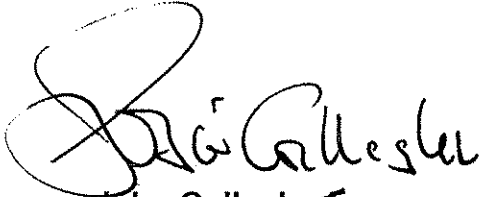
5. When the rector, the Revd Ann Uphill, discovered what had happened, she contacted Mrs Pullen to say that the memorial stone did not conform to the Rules, and that it would have to be replaced with one that did so conform, or that a faculty for it would have to be sought by petition, in the usual way. Accordingly, Mrs Pullen issued and presented a petition: hence the matter now comes before me.
  
6. The rector, in her letter dated 24<sup>th</sup> November 2011, stated that no black stone memorials (as this one is) have been permitted at least since 2001, and that both she and the P.C.C. were concerned about a precedent being set. In a later letter, dated 20<sup>th</sup> December 2012, written after further consultation, the rector confirmed those views, and stated: "The general view is that the rules are there for a reason, that there is sufficient scope within the agreed range of stones/materials that complement the church and its surroundings to offer sufficient choice to anyone organising the placing of a memorial and that there seems no good reason for a special dispensation in this case."
  
7. Mrs Pullen, in her letter dated 29<sup>th</sup> December 2012, described the pressures she had been under from late 2010 onwards and emphasised that she did not deliberately flout the Rules. I accept that.
  
8. Notwithstanding what Mrs Pullen has said, I find as facts:
  - (i) Mrs Pullen was given the Rules on two occasions, and had either actual or constructive notice of their terms, meaning, and effect;
  
  - (ii) Mrs Pullen made no attempt to communicate with the rector to ascertain whether what she proposed to do was acceptable or not;

- (iii) Mrs Pullen did not inform, still less seek permission from, the rector of her desire or intention to place the memorial stone in the form she did;
- (iv) The memorial stone is outwith the Rules;
- (v) The rector and P.C.C. oppose the petition and/or the grant of a faculty for the reasons set out above.

9. Whilst sympathetic to Mrs Pullen's predicament, I am conscious of the stance taken by the rector and P.C.C., which I consider to be entirely reasonable. The upshot is that Mrs Pullen, I regret to say, finds herself in a position of her own making.

10. I do not consider that there are any grounds for dispensing with the Rules in the instant case and so the petition is refused. The stone will have to be removed, and, assuming Mrs Pullen so wishes, replaced by one which complies with the Rules.

Order: Faculty refused, petition dismissed.

  
John Gallagher  
7/11/2013  
Chancellor