

*London
Consistory Court*

IN THE CONSISTORY COURT
OF THE DIOCESE OF LONDON

31/12/99

*Painting
Font*

In the Matter of two Petitions by the Incumbent and
Churchwardens in relation to a painting and the font at
Christ Church, Cockfosters in the parish of Cockfosters

JUDGMENT

The two petitions before me were lodged on 7 April 1997
in the names of the incumbent and the two churchwardens
then in office. New churchwardens, Mr. Michael Penny and
Mr. Graham Foster were elected in April 1997 and together
with the incumbent the Reverend P.A. Rees they have been
responsible for proceeding with the petitions up to and
including a hearing in open Court at which I heard the
views of those in support of and those opposed to the
grant of faculties.

The first petition seeks a faculty authorising

1. Repositioning of a painting from the reredos to elsewhere within the church building;
2. Repositioning of an existing cross to take its place.
3. Associated alterations to lighting and soft furnishings.

By letter dated 1 August 1997 I was informed that the intention of the Petitioners was that the painting would be hung on the north wall of the Joan Hooker Chapel immediately over the stand displaying the Book of Remembrance.

The second petition seeks a faculty authorising

1. Removal and disposal of the font.
2. Introduction of a new portable font.

Both petitions attracted a substantial number of objections. Many of these were followed by formal Particulars of Objection and it was obvious to me that

there were strong feelings within the parish about the proposals. It was significant that some of those objecting did so only in respect of the petition for repositioning the painting and others did so only in respect of the petition to remove and dispose of the font. Although some objections applied to both petitions there was a noticeable degree of individuality about the objections. It was subsequently impressed upon me that there was no question of any group within the parish being objectors, simply a large number of individuals. However, for convenience and to save time and expense at the hearing many of those who pursued their formal objections as parties opponent agreed to have as spokesman, Mr. F. Forney a retired solicitor, who generously and ably presented their case.

Whenever there is an apparent division of opinion within a congregation I consider it desirable to ensure that all relevant material has been placed before the congregation, that the Archdeacon has chaired a meeting within the parish to narrow the issues in dispute, and that all parties understand that there are points in favour and against resorting to a hearing in the Consistory Court before that course is taken. The points in favour include the fact that a hearing not only allows the parties to express their views in public but it

enables the Chancellor to reach an impartial decision after having heard those views together with questioning of both sides. The points against can be said to be the incurring of cost, because a parish in dispute has, under the faculty jurisdiction system, to bear the cost of the fees arising out of the holding of a court (as it would be unfair to burden other parishes with any part of such costs) and the potential for creating unhappy division within the parish.

In this case the details relating to both petitions had been considered by the Diocesan Advisory Committee by the end of 1997 and a meeting was chaired by the Archdeacon of Hampstead on 2 April 1998. It was then suggested that I might deal with the disputes by way of written representations. The possibility of doing this was considered but both the practical difficulties encountered of obtaining the necessary consents in writing and the nature of the disputes led me to the conclusion that I should hold a hearing in open Court. This I did on 7 October 1999, and following the directions I gave on 8 July 1999 the parties commendably concentrated their efforts in putting all their points before me concisely, so that the hearing only occupied one day instead of two as had been considered to be a real possibility.

I would like to record at this stage in my judgment how impressed I was with the amicable way in which the parties conducted themselves towards each other. When the first witness, the incumbent, gave his evidence, Mr. Forney asked if he could address him by his Christian name "Tony" instead of in a formal manner. I had no objection to this and Mr. Rees had not either, but it set the scene for an open and frank debate about the merits of the two petitions before me without animosity or unpleasantness.

I turn now to consider each petition in turn.

The painting

The painting in question was introduced into the church in 1935. The church building dates from 1839 and is unlisted. There is no record of any faculty having been obtained for the introduction of the painting and its positioning above the communion table, but there it has remained for some sixty four years.

After the hearing Mr. Forney wrote to the Registrar by letter dated 19 October 1999, to inform him that the original painting is entitled "Image of Christ" and was painted by Heinrich Hofmann and is owned by the Riverside

Church of New York. Mr. Edward Mills, a resident of Cockfosters all his life, told me in evidence on behalf of the parties opponent that the oil painting in the church (a copy of Heinrich Hofmann's painting) had been commissioned by a Mrs. Lebon and painted by a Mrs. Stevens and was presented to the church in 1935 to mark the first twenty one years of the ministry of the Rev Preb Bertram Hobson.

In order to accommodate the painting the panelling of the reredos was altered. There is a gold cross above the painting but this is difficult to see as it is set against the foot of a long stained glass window. The proposal before me is to lower the cross into the position at present occupied by the painting and to insert a new timber veneered back panel into the reredos behind the cross.

The painting, as its title "Image of Christ" indicates, shows a three quarter length gowned figure with his left hand and forefingers raised. Apart from a halo-like light behind his head and a darker surround there is no other feature in the painting. The eyes of the "image" are pronounced and this becomes more obvious the closer one comes to the painting. For some this is a benefit, for others a disadvantage. The parochial church council

minutes and the history set out for me by Mr. Penny show that requests for removal of the painting from above the communion table date back to the 1980's. The matter was specifically referred to the Parochial Church Council for consideration by the Annual Parochial Church Meeting in April 1995. After a full debate on 15 May 1995 the motion carried by 13 votes for and 2 against was "This PCC agrees in principle to seek a faculty to remove the picture from its present position".

In November 1995 and May 1996 the PCC again considered the matter in detail and supported the repositioning by a large majority, 17 votes for and 2 against on the first occasion and 16 votes to nil on the second occasion.

Allowing for the passage of time after the lodging of the petition on 7 April 1997, and possible changes in the composition or attitude of the PCC, I asked for an up to date resolution from the PCC prior to holding a hearing in open Court. At a meeting on 4 April 1999 the resolution which was carried with 13 for, 1 against, was

"This PCC fully supports the petition made in 1997, in respect of the re-siting of the picture on the west wall of the chancel into the side chapel".

For completeness I mention here that at the outset the PCC also considered the question of removal of the painting from the church altogether. Mr. and Mrs. Sage, who appeared before me at the hearing and argued in support of this proposition were supported by others, who had made this point on other occasions. At their meeting on 14 June 1997 the PCC members again discussed total removal and were divided as to whether a question relating to total removal of the painting should be included in a questionnaire being prepared for the congregation. The chairman used his casting vote against inclusion of such a question. I consider that he was right to do so, because the views which were being sought from the congregation by that date were in respect of a petition for a faculty for repositioning the picture in the church and not for a completely different proposition, namely removal from the church altogether.

The history of the PCC's deliberations reveals the care which they have given to the matter over a long period of time. Members of a parochial church council are elected and give their time voluntarily in the service of their church. Like any other body given legal powers and responsibilities the parochial church council has to make decisions about what it regards as being in the best interest of the parish church at any particular time. As

with any other democratically elected body those decisions will not always carry unanimous support from those on the electoral roll. That does not mean that the parochial church council should not proceed to implement its decisions. If unanimity amongst the electorate were a pre-requisite no democratically elected body could ever function!

What a PCC should do, and what has been done in a model way in this case, is to inform and consult with the congregation and those on the electoral roll when any significant form of re-ordering is proposed within the church building.

The question of moving the painting was discussed at a meeting open to any member of the congregation on 16 June 1995. This was chaired by one of the then churchwardens, and the incumbent presented a paper with his theological reflections on the painting. The paper was particularly sensitive to the conflict of views which had arisen. The Revd. P.A. Rees wrote as follows:

"Why should we create conflict by initiating a step that will bring hurt and resentment to not a few devoted members of our congregation? The answer to this is that conflict is inevitable both ways. If

the picture is removed, controversy is caused. But if the picture stays there is the same result. Those who want the picture removed are as convinced and sincere in their convictions as those who wants it to stay. Either way we cannot avoid conflict. The only course open to us is to seek to be guided by scriptural principles applied under the guidance of the Holy Spirit in a calm and loving manner".

This open meeting about the "conflict" was followed during 1996 by personal visits by the then churchwardens to those who had expressed dissent to the proposal. Details were given and drawings put on display long before the lodging of the petition for a faculty. Then in June 1997 a questionnaire was sent to all those on the electoral roll asking them to indicate in anonymous responses whether or not they were in favour of or against the re-siting of the picture. Of the 450 on the electoral roll 302 replied and 70.7% of them were in favour of the re-siting.

I am well satisfied that those on the electoral roll have been fully canvassed for their views. I cannot accept Mr. Mills' suggestion that I should consider the number who responded in favour as a proportion of the whole number on the electoral roll. There may have been many reasons

why the remainder of those on the electoral roll did not respond. I can only take note of those who did respond and the balance for and against revealed by those responses.

The incumbent made it clear that he had responded to rather than initiated the proposal to re-site the picture and his "Theological Reflections" paper was similarly a response to a request from the PCC. He was worried that his position as vicar to all the congregation might be prejudiced by his support for the PCC's views.

He was very concerned about the passive nature of the picture which does not depict Christ in connection with any Gospel incident. He pointed out that its presence detracts from the simple empty cross that is placed above it thus putting in the background the symbol of sacrifice and the Resurrection of our Lord. He recognised that it was possible to defend the picture on aesthetic grounds (although he found the eyes to be glaring and not those of compassion or disappointment) or on the grounds of emotional attachment or tradition, but his personal view was that it could not be justified on the basis of theological principle.

In answer to cross-examination by Mr. Forney, Mr. Rees told him that he recognised that the picture was a comfort to some but others, including some parents, were concerned about its influence upon children to whom the painting might appear to be an accurate representation of Christ.

Mr. Mills gave his evidence with great sincerity on his on behalf, and on behalf of those parties opponent he represented. Some of them had seen and agreed his written statement in which he said:

"The picture of our Lord has for 60 years been much a part of, and a special feature of Christ Church Cockfosters. It is regarded with affection by many, certainly not an object of worship but a reminder that our Lord is the host at the communion table".

He told me in evidence that the picture reminded him that Jesus was a man such as himself. "The only difference for me is that he changed the world and I did not".

He was concerned that more people had not formally opposed the petition and suggested that it might have been because of the question of costs which had been mentioned by the PCC or because people did not want

publicly to oppose the vicar "a man held in high regard who by his concern for people attracts considerable loyalty".

However whatever the reason why the number of formal objections amounted to thirty (some having been reinstated after initial withdrawal of objection) the overall message to me is that the parish by a considerable majority supports the petition.

So what is now to be the way forward?

Mr. and Mrs. Sage explained with equal sincerity to that of Mr. Mills that the painting distracted them from their worship, they found it unsatisfactory scripturally and the eyes worried them. They represent a different viewpoint in the "conflict" identified so long ago by the incumbent.

I have no idea how good a copy the painting is of the original. The Diocesan Advisory Committee expressed the view that it is of little artistic merit in itself. As a copy and judged by those with experience in comparing artistic skills, this is advice which would be material if I were being asked to authorise disposal of the painting. I am not being asked to do so.

I do not consider that I need to make any judgment on the artistic merit of this copy painting. Aesthetics are notoriously difficult, because one person's perception and appreciation of a particular object differs from that of another. The quality of the painting is not the issue here. It is the fact that the painting has become a cause of serious division amongst worshippers at the heart of their worship.

Although I have before me the numbers, which resulted from the survey I have already referred to, I must not just look at numbers but must have regard to the crucial issue which is how this body of worshippers can be drawn together again.

In my judgment the right course is for the cross to take its place at the centre of worship at Christ Church. There can be no room for disagreement about its importance and significance within this congregation.

The painting will be retained and its new position regularised by faculty so that its future in the Hooker chapel will be secure. Those who find it helpful as an aid to prayer will have the opportunity of seeing it when they go into the chapel for private prayer or reflection.

I am sensitive to the fact that as we grow older we have a tendency to want to cling to the familiar and have difficulty in accepting and adapting to change. However, we need also to stand back from personal emotion and look at things in perspective. Our forebears had the wisdom and courage to make changes from time to time for liturgical and other reasons. If they had not done, so we would have inherited many fewer fittings and furnishings in our churches.

Ill-considered change should clearly be resisted but this painting was only introduced into the church almost a century after Christ Church came into being. Although the congregation in 1935 and for many years afterwards apparently approved the change which was made to the reredos to accommodate the painting, the time has now come after careful deliberation by the PCC and full consultation with the congregation and those on the electoral roll, to make another change.

A change now is for the common good to enable a body of Christians who have been temporarily diverted by internal disagreement, to move forward together in harmony.

I realise that Mr. and Mrs. Sage and some others believe that logic dictates that the painting should be removed

from the church and they may be unhappy with the compromise. However their primary objection has been to the present position of the painting as a focal point. I see no reason why the solution suggested by the Petitioners should not be approved.

The particulars of alterations to the reredos have been recommended by the Diocesan Advisory Committee by a certificate dated 15 December 1997. They have suggested that the tracery on either side of the reredos should be extended across the new veneered panel. I can see the merit of this artistically and a condition to this effect will be attached to the faculty.

The font

It is believed that the font was introduced into the back of the nave about a hundred years ago, although Mr. Foster, a churchwarden, said that its history is otherwise unknown.

The font is on a plinth some five feet long by thirty inches wide abutting on to the wall so that it is not possible to circulate around the font.

The Diocesan Advisory Committee commented that the font is of some merit and value. They suggested it was massive occupying some 5 feet square. It is not in fact a square, as I have just stated but it is undoubtedly a substantial structure.

The evidence was that the font has not been used for public baptisms for about twenty five years and private baptisms have become very rare. Mr. Penny explained that it is the custom in this church to baptise from the chancel steps using a portable font and then to present to the congregation those who have been baptised. The congregation can thus see and participate in the service.

Removal of the font has been under consideration by the PCC since 1992. This was with a view to creating more usable space at the back of the church.

The Diocesan Advisory Committee advised that if the font was to be disposed of a new portable font should not simply be selected from a catalogue but should be designed for the purpose.

Having followed this advice the PCC approved details of the new design at their meeting on 15 July 1996 and

drawings were displayed in the church during the late autumn of 1996.

After the lodging of objections to the petition for a faculty the PCC canvassed the views of those on the electoral roll using the same form which was used for responses in relation to re-siting the painting. The result was that out of the 302 responses 69.8% were in favour of removing the stone font and replacing it with the wooden one shown on the drawing displayed at the back of the church during the preceding few weeks.

Mr. Foster referred to the difficulty in maximising the use of the back of the church for services by way of introduction of additional chairs and also the difficulty in producing a satisfactory layout for the display of books and pamphlets because of the presence of the font.

The church is an extremely active one attracting increasing numbers of families and having a very vigorous youth ministry. The pews accommodate about 250 people and additional seating is regularly needed for the 10.30 a.m. services attended by about 300 people including children.

It is implicit in the Petitioners' proposal to remove the font that there is no other location in the church to

which it could conveniently be moved. Having conducted the hearing in the church and looked carefully at the interior, I am satisfied that this is indeed so.

The Bishop of Edmonton, formerly the Archdeacon of Hampstead, confirmed that he had seen chairs in use at two well attended special services. He was involved in the discussions about the new portable font at the Diocesan Advisory Committee. The result was a certificate of recommendation dated 8 October 1997.

From the response to the questionnaire it is clear that there are many who recognise the practical argument for removal of the font. However, on the other side are those who wish to see it retained.

Mrs. P.E. Collins pointed out in her written statement that the font "occupies the traditional position of a font symbolising entry into the Anglican church although it was added to the original building at a later date. It is of important sentimental value to many members of Christ Church"

She also pointed out that it might be used in the future. Furthermore, it provides an excellent place for floral displays for festivals, weddings and funerals. Mrs.

Collins was too modest to say that she is an expert at flower arranging but Mr. Penny brought this point out.

Mr. Forney also argued on behalf of the parties opponent that the present font might return into use in the future and that there would be no difficulty in the congregation turning round to watch the baptisms taking place.

I am sure that those with long attachment to this church are sentimental about the font but sentiment is an argument which has been raised in the past in the Consistory Court and it cannot be the determining factor. As Lord Penzance said in 1892:

"The appellants have put forward their attachment to the old church and its interesting connection with times gone by; but they seem to forget that the sacred edifice has a future as well as a past. It belongs not to any one generation, nor are its interests and conditions the exclusive care of those who inhabit the parish at any one period of time".

(Nickalls v. Briscoe (1892) P269)

I have to take careful note of the fact that the font has not been used for twenty five years and that its main function is now as a flower stand and a place where

chairs can be tucked away. However attractive the flowers may look in this position I have to conclude that the font is not used for its proper purpose because of its location.

Mrs. Collins is right in saying that the font occupies the traditional position for a font as near to the principal entrance to the church as possible. This complies with Canon F1 but this Canon also requires that the font "shall be set in as spacious and well-ordered surroundings as possible." I do not consider that this requirement is met by the position of the font. Where there is room for circulation around a font it is possible to give it the dignity and importance which it justifies. That possibility is lacking at Christ Church.

In my judgment the prospect of the font coming back into regular use is so remote that I should not regard this as a reason for its retention. The proposal to rationalise the space at the back of the church and to create a better educational and welcoming area for a growing congregation outweighs the argument in favour of keeping the font. This is particularly so when a new portable font of appropriate design is to replace the stone font.

Mrs. Collins expressed concern on behalf of the parties opponent she represented about the potential cost of removing the font and making good the floor. However, Mr. Penny explained that if the font has to be broken up then this can be done at minimal cost. Furthermore, the cost of the new font will be covered by a legacy.

It is, however, clear that some cost will be incurred in improving the area generally at the back of the church. If this is to be done to a proper standard then it will have to be well designed. I hope that the PCC will consult their experienced inspecting church architect as I believe the space could be used effectively and creatively. It will be desirable to see if a discreet storage arrangement can be devised for the chairs in conjunction with new notice boards and a welcoming desk area.

Now that the principle of removal of the font has been established the PCC should be able to plan the work of removal and renovation of the floor in conjunction with other work which will have to be the subject of another faculty. This should help to minimise the cost.

Although Mr. Penny said that the PCC had made some preliminary inquiries about the sale of the font

commercially there is considerable uncertainty about whether the font could be removed intact. In any event, if another church cannot be found as a new home for the font the proper course is not to sell it but after careful recording, to remove it in pieces and bury it in the churchyard.

The Faculties

For the reasons I have given I am granting faculties in respect of each petition subject to the following conditions:

1. Petition in respect of the painting

(1) Before the painting is removed a set of photographs is taken of the painting in its present position, and dated and placed with the parish records

(2) The painting is repositioned on the north wall of the Joan Hooker chapel;

(3) The tracery of the reredos is extended across the new veneered panel.

2. Petition in respect of the font

(1) Before the font is removed a set of close-up and distance photographs is taken of the font, and dated and placed with the parish records;

(2) Unless within four months from the grant of this faculty another church is found which is willing to have the font as a gift then thereafter the font may be removed in pieces and buried in the churchyard;

(3) In accordance with the recommendation of the Diocesan Advisory Committee the stability of the new font should be checked and, if found to be necessary, pads of suitable thickness should be placed under three of the feet so that they and not the remaining three feet are in contact with the floor;

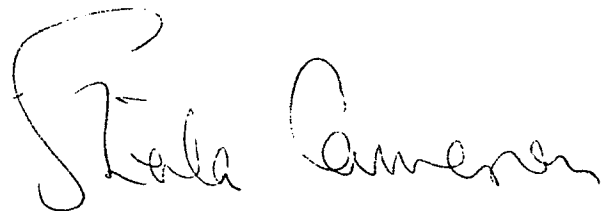
(4) Once the stone font has been removed the new font is to be placed in a suitable position in the church to be agreed with the Archdeacon where it can readily be seen when not in use so that it speaks of the doctrine of baptism not only at service time.

Costs

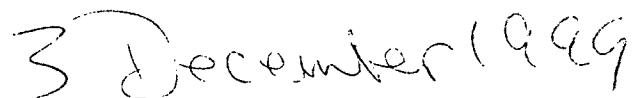
The Petitioners will pay the Court fees in the usual way.
I consider that the hearing was necessary to ensure that the differences of opinion could be fully aired. It is not a case of winning or losing but of asking me to arbitrate which is what I have done.

What I have observed is a body of Christians with enormous energy for doing good temporarily distracted by a divisive parochial issue from their proper course of uniting that energy in spreading the message of the Gospel.

I wish them well in looking outwards together in their mission from now on.

A handwritten signature in cursive script, reading "Stella Ameron".

Chancellor.

A handwritten date in cursive script, reading "3 December 1999".