

## Re Emmanuel Church, Leckhampton

Gloucester Consistory Court: Rodgers Ch, 19 July 2014

*Disposal – confirmatory faculty*

The petitioners sought a confirmatory faculty for the disposal of a painting which they had purported to sell for £20,000 through auctioneers. The painting had been donated to the church in about 1949 in memory of a local couple, but was viewed by the current church leadership as irrelevant and not in keeping with the parish's existing churchmanship. It was actively disliked. The parish initially intended simply to throw the painting away, but subsequently made enquiries as to its value and decided to sell it. No faculty was sought. No advice was taken. Alternatives to sale were not considered. The matter only came to light when mentioned during an archdeacon's visitation. The Church Buildings Council (CBC) objected to the disposal. The diocesan advisory committee (DAC) supported it.

In a strongly worded judgment, the chancellor outlined in straightforward language the legal principles applicable to the disposal of movables from a church. She directed that the judgment should be widely published, including to the trade bodies for auctioneers and art and antique dealers.

The chancellor highlighted that parishes could not transfer ownership of an item on sale (or indeed gift) unless a faculty had first been granted. She pointed out that parishes had a significant amount of readily available expert advice accessible to them through the DAC and archdeacons, and emphasised the need to scrutinise, through the faculty process, the disposal of items generously provided by previous generations. The chancellor expressed concern at the insistence of the CBC that anything which came into a church should remain there as part of its history and criticised its policy of non-disposal as having the appearance of a blanket ban. The CBC's inability to balance or assess the mission of the church against concerns about church treasures was unhelpful.

In applying the decision of the Court of Arches in *Re St Lawrence, Wootton* [2014] WLR(D) 176, the chancellor acknowledged that the financial realities of need would have to be a major factor in determining petitions for disposal. The chancellor held that the parish would be bankrupt in the event that the sale was not allowed to proceed and that there was an immediate/short-term need for £50,000 worth of works to be undertaken to secure the integrity of the building. The financial needs were substantial and urgent, but this alone was not sufficient to justify the award of a faculty. She further held that there was really no historic, local or social connection between the painting and the church in question. The confirmatory faculty was granted. [RA]