

IN THE CONSISTORY COURT OF THE DIOCESE OF LONDON

RE: ST STEPHEN WALBROOK

Faculty Petition dated 1 May 2012

Faculty Ref: 2098

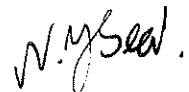
Proposed Disposal by sale of Benjamin West painting, 'Devout Men Taking the Body of St Stephen'

LEAVE TO APPEAL: RULING

1. I handed down judgment allowing the petition in this case on 5 July 2013. There have been no applications by any party for costs; however the Party Opponent submitted a 105 paragraph Application for Leave to Appeal on 30 July 2013. I have considered the entirety of that document in reaching my decision to refuse the application, but I comment specifically only on paragraphs 43-48, in particular paragraph 48.
2. When I first read the papers in this case I considered that the witness statements submitted by the Party Opponent did not demonstrate the objectivity I was entitled to expect from such a body and were certainly not presenting a helpful assessment of Benjamin West and the picture in question. It was for that reason that I decided that I needed relevant, impartial advice from appropriately qualified experts and therefore I approached two distinguished art historians, whose views on the subject matter I did not know and who were both prepared to assist the Court on a pro bono basis.
3. The Court's witnesses viewed the picture and the church and produced their witness statements. Neither I nor the Registry played any part in the production of their statements so, unlike the statements of the other parties, they were not prepared by solicitors and did not contain a section setting out their professional qualifications and experience. When asked about this, the Court's witnesses were too modest to provide details themselves, but so that the other parties knew the qualifications and experience of the Courts witnesses the Registry sent a document, compiled from biographical sources, setting them out. This document was not evidence in the case.
4. In my judgment I set out where, in the evidence, the qualifications and experience of each witness to whom I referred were to be found – including Dr Bettley's (paragraph 23 of the judgment) so paragraph 48 of the Application is inaccurate. As the Court's witnesses' qualifications and experience were not set out in the evidence, I included in

my judgment the biographical details that had been sent to the parties by the Registry, so that anyone (in particular an appellate court) reading the judgment would have the qualifications and experience of all the witnesses identified. Paragraphs 43-48 are therefore a bad point unworthily made.

5. My decision is fact specific, relating to the singular position of this picture and this church and does not set the precedent claimed in the extravagant and alarmist public pronouncements in the media of the Chairman of the Church Buildings Council since the handing down of the judgment. These have only led me to conclude that there is a continuing lack of objectivity. If there are matters of general application in this case or matters where I have erred in law it must be for the Court of Arches to identify and rule accordingly and I refuse leave to appeal.



N. J Seed

7 October 2013