

RE: ST. MARTIN, CHIPPING ONGAR, DIOCESE OF CHELMSFORD

Faculty No: 0243

JUDGMENT

PRELIMINARY

1. This Petition is dated 8th November 2011. The DAC Certificate is dated 24th October 2011. The Petitioners seek a faculty to permit the re-ordering of the chancel of the Parish Church of St. Martin, Chipping Ongar, Essex, in the Diocese of Chelmsford. The Petitioners are Rev Susan Cooper, Rector; Mrs Chant; and Mrs Stratton, both churchwardens. On 4.8.11 the Parochial Church Council voted 12 - 3 in favour of the faculty now sought.
2. Several matters are undisputed and I direct that a faculty issue in respect of these. They are (i) re-wiring of the chancel; (ii) improvement of the lighting; (iii) re-decoration; (iv) laying a new carpet in the aisle.
3. The disputed items are (i) whether the faculty jurisdiction procedure has been properly followed. (ii) finance; (iii) use of the chancel; and (iv) removing the "Pankhurst" pews from the church, or, in the alternative moving them to a different place within the church.
4. I shall deal with those matters in the order above. Because the parties agreed I ordered that the matter be dealt with by written representations. I am grateful to the parties for the representations which they have made, the courtesy with which they are expressed, and the clarity and common sense manner used.

THE CHURCH

5. The Church of St. Martins Chipping Ongar is dedicated to St. Martin of Tours who was an officer in the Imperial Guard of the Roman Emperor but from childhood had a secret desire to become a Christian. The Church is early Norman apart from the vestry (1861) the south aisle and the west porch (1884). It is built of flint rubble and re-used Roman bricks.

The roof timbers are probably 14th century. There are many stained glass windows. The carved oak pulpit is late 16th century. The chancel roof is dated 1647 (carved on the central king-post), but the two "scissors" beams above are thought to be 11th century, and probably original. There is a terracotta herringbone pattern floor of bricks laid in about 1830. On top of these are the choir stalls referred to later. There is an anchorite cell in the north wall of the sanctuary where a hermit could take part in the services without being seen. The Church tower is 15th century and contains two bells 1672 and 1737 together with an early 17th century iron "bedstead" clock which strikes the hours but has no dial. It is in good working order, keeps good time and is used for special events. The organ was refurbished in 2005. Pews were first put into the church in about 1749 but the present pews were probably installed in 1860. South aisle pews were installed in 1884. The Pankhurst pews were installed pursuant to a faculty granted in 1931. They are on either side of the chancel. The floor in the nave was replaced in 2001, and a capsule was placed below the floor containing relevant information of that time. 4 rows of pews were removed then to provide a meeting area at the west end of the Church. New internal entrance doors were fitted to the west entrance in 2002. Heating was upgraded in 2007. CCTV was fitted in February 2008. The floor plan of the Church shows a nave with an additional south aisle. To the east of the nave is the chancel and at the east window is a solid stonework altar. Vestries are to the north of the chancel. There is an altar rail in front of the altar. It might be described as a classic English country church. It is both very old, and particularly attractive. It remains well maintained and well used by a loyal and enthusiastic congregation. The Church is listed Grade 1.

WRITTEN REPRESENTATIONS

6. The Party Opponent is Mr. Mockett. He represents the views of all 14 objectors. Mr. Mockett, by letter dated 7th March 2012, agreed that the hearing should be by written representations. The Petitioners agreed. Such a hearing avoids the hostility and occasional lack of courtesy generated by a public hearing in open court. It prevents outsiders from saying "look at those Christians – they argue with each other in their court".

RESOLUTION MEETING

7. On 8th February 2012 I directed that a Resolution Meeting be held before any hearing occurred. The meeting occurred on 29th February 2012 at 7.30pm in the Church Rooms at Chipping Ongar. Both Petitioners and Parties Opponent hoped that some compromises could be achieved and that the issues could be identified. The meeting was attended by the 15 objectors, including Mr. Mockett, and was chaired by an independent mediator Rev. G. Smith. I have been provided with the note of this meeting as well as a transcript of it.

8. The resolution meeting was in part successful. The 4 items in paragraph 2 are agreed. As a result of the meeting a hearing by written representations was also agreed. The issues relating to what remained in dispute were clarified. I am grateful to those involved. All have deeply held views, and compromise is never necessarily easy. The partial success of the meeting is testament to the understanding and goodwill of both the Petitioners and the Parties Opponent.

AS TO (i) WHETHER THE FACULTY JURISDICTION PROCEDURE HAS BEEN PROPERLY FOLLOWED

9. The substance of this objection is that the consultation process should have been wider. This can be a proper objection if it is established.

10. In this case I agree with the Archdeacon of Harlow. The Archdeacon considers that all proper steps were taken. All the persons present at the Resolution Meeting knew all about what was in issue. There is no letter from anyone saying "I did not know what it is all about"; nor a letter saying "I could not see the plans, nor understand what was being discussed". The re-ordering of the chancel was under discussion for several years, the project starting in 2007. The subject was discussed at every Annual Parish Church Meeting, with plans being on display in the Church and comments requested. Plans were also displayed at an open Town Council Meeting to which all residents were invited. Articles were published at intervals

in the Parish Magazine and in the free town newspaper. The Petitioners in their letter of 17th January 2012 say:

“ When there has been no input from the Church, the editor of the newspaper has occasionally written his own article and this has sometimes caused misunderstanding.”

Proper notices were displayed. There is no obligation in my judgement to consult individually each member of the electoral roll. That would be far too onerous. Equally, although the Parish Church has a mission to all residents in the parish, it is not required that every person should be personally consulted. It is sufficient that publicity is given to the proposals. They were discussed regularly, and the plans could be seen if anyone asked.

11. One person argued that a published plan had not shown the correct position of the moveable altar. I regard this objection as too slight to be taken into account. The matters referred to were later apparent to all the people who were objectors.

12. I am therefore not able to say that the procedure is in some material manner defective.

AS TO (ii): FINANCE

13. The Petitioners propose to fund the work using a generous bequest from Mrs. Lussigne. I am not told the rest of the detail of the Will nor when she died. The words of the bequest are:

“I give devise and bequeath the whole of my estate subject as aforesaid (note: what is “aforesaid” is the bequest to her husband) equally between the following:

(a)

(b) the Parochial Council of St. Martins Ongar Essex for the purposes of the Fabric Fund.

(c) and (d) follow”.

The Testator has placed no restriction on how the Fabric Fund are to spend the money. It is therefore for the PCC to select how the Fabric Fund money is to be spent, and this must be on the fabric of the church. "Fabric" includes internal decoration as well as the structure of the church.

14. It is not possible to give weight to what it is thought that the Testator Mrs. Lussigneau might have agreed to do or might not have agreed to. This is because the Testator left the money free of all restrictions to the Fabric Fund of the PCC.

15. But even if it was possible to give weight to this, the evidence of what she would have wanted is weak, thin and unconvincing. There is no statement from any witness saying "She said to me "I do not want my money used to fund removal of the choir (Pankhurst) pews"".

16. Use of the bequest only for "current maintenance" is not suggested in the bequest. It is usual for the current congregation to pay for ongoing maintenance and not to rely on bequests. Though unusual, there is no reason why the P.C.C. should not decide to use a bequest for current maintenance. It is a matter within the discretion of the elected P.C.C.

17. In these circumstances I am not able to take into account whatever the generous testator Mrs. Lussigneau may have thought.

AS TO (iii): USE OF THE CHANCEL

18. It is not for the Chancellor to decide how the chancel is to be used. This is a matter for the incumbent. The Chancellor's responsibility here is to decide whether a faculty should be granted to permit work to be carried out on the fabric of the church.

AS TO (iv): MOVING THE PANKHURST PEWS

19. Emeline Pankhurst was born on 14th July 1858 and she died on 14th June 1928. She visited this church on a few occasions as a visitor to the parish. She stayed in the village with her friends Alfred and Kitty Marshall. Mr. and Mrs. Marshall arranged for the money to pay for

the oak choir stalls to replace old seats. They are positioned in the choir. They are well designed and made by a skilled cabinet maker. I refer to these stalls as the Pankhurst pews.

20. The Pankhurst pews are part of the historic fabric of St. Martin's Church. The Faculty notice dated 15th March 1931 records that they were designed by Francis Augustus Richards M.A. F.R.I.B.A and made by Mr. A Robinson of Bennets Yard, Westminster. The inscription proposed, as recorded on that Faculty notice, was "in memoriam Emmeline Pankhurst 1931 to be placed in small letters on the east end of the north choir stall." A P.C.C. minute of 2.2.1931 records:

"Mrs. Walter proposed and Miss Mott seconded that the gift through Mr. and Mrs. Marshall of oak choir stalls to replace old seats be accepted. This was carried after consideration of the said plan and it was agreed to ask for the offer to (be) put in the legal form".

The Faculty notice dated 23rd March 1931 gave as the reason for the new stalls ". . . those now designed will add to the artistic merits of the Church and be a better aid to worship".

21. This evidence shows that these pews were especially designed and built for this Church. They are to commemorate Emmeline Pankhurst who is a major figure in the nation's history of democracy. They were given in her memory because she had worshipped there albeit irregularly and only as a visitor.

22. Although they have not been in the church for centuries, they have been there now for many decades.

23. In Re: St. Mary's Banbury 1987 Fam. 136 the Dean of the Arches said:

"When a church is listed as a building of special architectural or historic interest a faculty which would affect its character as such should only be granted in wholly exceptional circumstances, the circumstances clearly showing a necessity for such a change."

In Re: St. Steven's Walbrook 1987 Fam. 146 Sir Ralph Gibson said:

“The right approach, in my view, is to exercise the discretion as I think Parliament intended that it should be exercised, namely in accordance with established principles; and that includes, of course, having full regard to all the circumstances including the interest of the community as a whole in the special architectural or historic attributes of the building and the desirability of preserving the building and any features of special architectural or historic interest which it possesses. The discretion, however, is to be exercised in the context that the building is used for the purposes of the Church, that is to say in the service of God as the Church, doing its best, perceives how that service is to be rendered.”

24. Section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (the CCM) provides:

“Any person or body carrying out functions of care and conservation under this Measure or under any other enactment or rule of law relating to churches shall have due regard to the role of a church as a local centre of worship and mission.”

25. This latter point is significant here. The Petitioners and the PCC want to move the place at which the elements are consecrated for Holy Communion from the altar at the East end of the Church to the new portable altar to be placed at the junction of the nave and the chancel. I permit the introduction of this new furniture because this is unopposed.

26. Consecration using this portable altar at this place has a particular spiritual and pastoral purpose. Younger families and newer worshippers have tended to sit in the south side of the Church. From their places they cannot see the Priest at the altar consecrating the elements. If consecration occurs at a place which they can see, worshippers in the south side of the Church are able to play their full part in the worshipping community with other worshippers who could also see the altar at the east end.

27. I consider that consecration of the elements using the new table at the junction of the nave and the chancel contributes positively to the role of the Church as a local centre of worship and ministry.

28. Consecration of the bread and the wine is only one part of the Holy Communion service. A most important part is the administration of communion to the people. In St. Martins Church Chipping Ongar communion can be received at the old altar or at the junction of the nave with the chancel. It is here that removal of the Pankhurst pews is involved.

29. Although the Pankhurst pews are only 80 years old in a Church dating from 1080, I find that they have become a significant part of the historic fabric of this Church. The fabric of a Church changes over the centuries, usually by being added to rather than by parts being removed. The discreet, almost unseen, inscription adds to the importance of these pews in the Church. The pews were made for this position. It would be wrong to say that they are ordinary, or unimportant stalls and that for this reason they can therefore be removed from the Church. As part of the historic fabric of the Church they are also part of the history of this area and of its people and of their work.

30. But that is not to say that the Pankhurst pews must remain forever in their present position. There are some criticisms of these stalls. The front stall on each side is said to be uncomfortable. This might be improved by cushioning, by extending the seat, or by other means.

31. The Diocesan Advisory Committee (DAC) regard the proposals now before me as important for the worship and for the ministry in this Church. They support, with some enthusiasm, removing the Pankhurst pews. I place weight on what the DAC advise. This is because its members have a wide range of experience and they are knowledgeable about both Christian ministry and the maintenance of Church fabric especially in this diocese. As they would be the first to agree, they are there to advise me – not to direct me.

32. I conclude, firstly, that moving the Pankhurst pews from their present position can be permitted. This is because such a move contributes to the worship and work of the Church. Their historic context does not require these stalls to remain in their present position.

33. Secondly, I conclude that it would be wrong to permit these stalls to be removed from St. Martin's Church, Chipping Ongar. This is because of their historical significance to this Church and to this community.

34. It will therefore be necessary to find a place in the Church where the stalls can be properly positioned. The place must be such that the pews are capable of being used for worship by congregation or by choir.

35. I therefore direct that a Faculty issue to permit removal of the Pankhurst pews and to permit installation of a brick paver floor where they stood. That Faculty is subject to the condition that an alternative place is to be found within the Church for the Pankhurst pews before removal of the pews occurs.

36. I direct that the papers are returned to me for further consideration within 56 days, that is before 30th September 2012 with the Petitioners and Party Opponent's proposals for the positioning of the stalls. I express the hope that this can be agreed.

37. It follows also that I do not permit the stalls to be removed from the Church nor may they be sold. Temporary removal may be considered while the new place is prepared. It may be that other pews will need to be removed to provide a place for these stalls. I will later consider whether this is to be ordered, and what consequential orders (including sale) may be made.

THE FACULTY

38. In the Petition items (i) to (viii) are therefore allowed. At page 8 Paragraph (J) disposal of any item in or belonging to the Church: I do not permit the choir stalls and priest's

stall to be disposed of. The radiators may be disposed of. A further order will be needed as to the installation of the Pankhurst pews, with the possible removal of other pews.

FURTHER CONSIDERATIONS

39. I appreciate that much work has gone into preparing this Petition, and that my decision will be a disappointment to many. It may be that some variation from what was sought or from what has been granted may be requested. If this can be agreed, so much the better, for I can then allow it.

40. If it cannot be agreed, further consideration must be given to this. It would in my judgment be better to do that in the Church so that I can see precisely what each party is seeking to argue for.



GEORGE PULMAN Q.C.
Chancellor of the Diocese of Chelmsford

18th July 2012