

IN THE LEICESTER CONSISTORY COURT

IN THE MATTER of ALL SAINTS SCRAPTOFT

IN THE MATTER of a REDUNDANT TENOR BELL

CHANCELLOR BLACKETT-ORD

9 January 2012

INTERIM JUDGMENT

1. I have before me a petition for a faculty for the disposal of a tenor bell which belongs to All Saints Scraptoft.
2. The Petition is presented by the Vicar and two churchwardens who seek a faculty to sell the bell to “Folkestone’s Triennial Arts Committee” or (elsewhere in the Petition) to “Folkestone Art Installation” subject to some provisos as to what may become of the bell if it is no longer required by them in the future.
3. The Petition does not state that any professional valuation has been obtained, but states that the Petitioners’ estimate of the value of it is £2,000. They state that they would use any proceeds of sale to pay off the outstanding amount of the loan secured for reroofing the church following the theft of roof lead. No further information is given about the financial position of the church.

4. Fortunately I know a little more about this bell than is revealed from the Petition, because an earlier petition relating to it came before me in March 2011. From this I can state the following facts:
- (a) A ring of six bells was installed at All Saints in 2009 and the existing tenor bell with which we are now concerned was removed as redundant, being out of tune with the others. It was a bell which had been cast by the Watts family in about 1600. It weighs about 5.5cw. (My own researches reveal that Thomas North in *Church Bells of Leicestershire* records that the Watts family were the leading bell founders in Leicester in the early seventeenth century; Hugh Watts, mayor of Leicester when King Charles I visited the city in 1634, cast almost two hundred bells for churches in the county).
 - (b) After 2009 the Church had no use for the redundant tenor bell, but in January 2011 a request was made for it to be lent for a temporary outdoor art project in Folkestone. The Diocesan Bells Adviser, George Dawson, was consulted and the DAC did not oppose the suggestion. Mr Dawson, asked to value the bell, ascertained that the Loughborough bell founders had advised that a replacement bell would cost £9,978 at today's prices. Andrea Schlieker, the curator of the Folkestone Triennial, accordingly agreed to insure the bell for "just under £10,000".
 - (c) In the absence of any objection I then allowed the petition to permit this loan to be made for the duration of the 2011 Folkestone Triennial.
5. The papers accompanying the present Petition state that Mr Eric Cook, the chairman of the All Saints' bells committee, reported to the PCC on 4 October 2011 that the committee organising the art exhibition indicated that they would

like to extend the loan period for the bell, and might be interested in an option to buy it. The PCC are reported to have decided to leave the decision to Mr Cook to do whatever he considered to be in the best interests of the Church.

6. Evidently the presence of the bell in Folkestone as part of an artwork had proved a success. The exhibit was voted by the people of Folkestone as their favourite from that year's entries. Mr Cook reported to the DAC on 14 November 2011 that Ann Katrine Dolven, the artist, had expressed a wish to purchase the bell herself, but (as I understand it) this was overtaken by the suggestion that Folkestone's Triennial Arts Committee would eventually purchase her exhibit in its entirety for permanent display on the beach at Folkestone. He was supportive of the idea.
7. The present faculty petition seeking permission to dispose of the bell to the Committee is dated 13 November 2011. The proposal is that there should be restrictions upon further disposition of the bell by the Committee. These restrictions, slightly amended, are included thus in the DAC certificate:

- “(a) That if, at some future date, the bell is no longer required, the Triennial Committee will undertake to find a museum to display this bell.
- (b) That if no home can be secured for this bell, the Committee will then make the necessary arrangements for the bell to be transported to Taylors Foundry in Loughborough.
- (c) That under no circumstances can this bell be scrapped or exported, as it is a bell Listed by the Church Buildings Council as being of historical significance”.

8. Much information which I would need to decide this Petition is lacking. In particular:
- (a) If the proposal is to sell the bell, I we need to know its value and the proposed price. The estimated value of the bell was stated to be slightly under £10,000 in early 2011 but oddly is now £2,000. Neither seems to be supported by a professional valuation.
 - (b) The proposal seems to have come from the artist, that “the Committee” might buy the bell. I have seen no evidence that “the Committee” is interested in doing so, or upon what terms, or what the legal status of this body might be.
 - (c) My own researches suggest that the organising body of the Folkestone Triennial is not any committee but a Folkestone-based charity called “Creative Foundation”. So far as I know, no-one has made any direct contact with either it or “the Committee.”
9. Although I have no direct evidence of this, I am quite prepared to believe that the tenor bell is redundant as regards All Saints Scraptoft, and the PCC could well do with any money that might be obtained from its sale.
10. But where a proposal is for the removal of an object that I suppose has been intimately connected with the church for a long period of time, and both the object and the church itself are of historical importance, the bond between the two should not be broken lightly. This was a matter in consideration before the Court of Arches in Re St Peter’s Draycott (2009) Fam 93, a case where the removal of a font was refused.

11. I consider that this is sufficiently important that I should not decide the Petition without knowing that there has been consultation with SPAB and English Heritage. They must be notified accordingly.
12. The other area which causes me concern is this. The PCC and the DAC have both expressed concern that after the bell is sold to some such body as “the Committee”, it should be upon condition that its future is safeguarded if that purchaser no longer has use for it.
13. My difficulty is that I do not believe that the proposed restrictions would be enforceable as a matter of law. If a charity were to purchase the bell and then run into financial difficulties, it seems to me that a receiver or liquidator of its assets would be free to dispose of the bell as he wished, for instance by selling the bell abroad or for scrap, and there would be nothing that the PCC could do about it. I am not persuaded that it is possible as a matter of law to structure an arrangement whereby a purchaser somehow receives only conditional ownership of the bell when he acquires it. Even if such an arrangement could be established so that the bell would go to a museum if it was no longer wanted in Folkestone, the purchaser today would hardly pay full market price for the bell, if under an obligation which had the effect of preventing him from disposing of it for full market value in the future.
14. I am sorry that I raise so many questions without proposing any answers. My inclination, however, is that the PCC should remain the owner of the bell but should be granted a faculty to lend it to the relevant Folkestone entity. Then at least their continued ownership of it would give them continued control over its fate in the future.

15. Accordingly I make no order on the Petition at present, and invite the Petitioners to reformulate and clarify their proposals.

MARK BLACKETT-ORD
Chancellor
9 January 2012

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