

In the Consistory Court

In the Matter of an application to the Consistory Court for an Injunction against the Dean and Chapter of York Minster

1 The application

1.1 The applicant Christopher Jack Cooper has applied to the Consistory Court of the Diocese of York for an injunction.

1.2 His interest is said to be that he is a Bellringer of 26 years standing, a server in the Diocese of London, and a choir member in several churches in the Diocese of Canterbury.

1.3 He seeks an injunction against the Dean and Chapter of York Minster

1.4 The terms of the injunction he seeks, are that the Dean and Chapter be “forbidden from frustrating the long-serving team of York Minster ringers in continuing their voluntary Godly duties of ringing York Minster’s bells for services according to Minster customs”.

1.5 The grounds upon which he claims to be entitled to such an injunction are said to be “That it is bad in law to prevent the ringing of the Minster bells for services”.

2. My own position

2.1 If this was a matter that fell in any way to be decided on the merits of the dispute that has arisen at York Minster, whether of law or fact, then I would feel obliged to recuse myself on account of the fact that I am the Chair of the Cathedral Council. However on this matter being referred to me it was immediately apparent that the application is fundamentally flawed because there is no jurisdiction in the Consistory Court to grant such an injunction. In my judgement the test laid down in *Locobail (UK) Ltd v Bayfield Properties Ltd [2002] QB 451* as to a perception of bias cannot conceivably arise when the sole issue is the jurisdiction of the court in such a plain case.

3. The issue of jurisdiction

3.1 The application has been launched in the Consistory Court of the diocese under the Faculty Jurisdiction Rules.

3.2 There are two jurisdictional reasons why the court cannot entertain this application and consider the merits of the applicant’s complaint about the conduct of the Dean and Chapter in relation to the ringing of the bells of York Minster.

3.3 First, the Consistory Court has no jurisdiction over the cathedral church of the diocese whatsoever.

3.4 Second, the injunctive power in relation to churches is a power derived from s.13 (4) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, which deals with proposals to carry out works to church buildings or churchyards. I am satisfied that the injunctive powers given to Chancellors is in relation to unlawful activity in relation to the church or the churchyard, but only such activity the nature of which would require a faculty to be granted for it to be done lawfully. The use or non-use of the church, the conduct of services in the church and the ringing or non-ringing of bells would not fall within the jurisdiction of the consistory court in a parish church.

3.5 The Court of the Vicar General of the Province does have a similar jurisdiction to issue injunctions in relation to Cathedrals as does the Consistory Court in relation to parish churches. The Cathedrals Measure 2011 gives the Court a power to issue injunctions but that is limited to an injunction being sought at the instigation of the bishop against a cathedral chapter where it has not obtained necessary consents to carry out works that would affect the heritage issues set out in section 2 of the Measure.

3.6 The very specific wording and limitations of that section confirm me in my view about the limits of the similar powers of the Consistory Court in relation to Parish Churches.

4. Outcome

4.1 For all the reasons set out above this application is dismissed.

His Honour the Right Worshipful Canon Peter Collier QC
Chancellor of the Diocese of York, and
Vicar General of the Province of York

24th October 2016