
Essay

Some Observations on a Recent Acquisition

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In 1892 Samuel Montague, the Liberal Member of Parliament for Whitechapel (1885–1900) and founder of a bank which still retains his family name (Midland Montague), presented a painting to the Whitechapel Library Commissioners for their new library in east London. In July 1991 the Museum of London agreed to purchase this painting from the London borough of Tower Hamlets for display in its Early Stuart London Gallery. This apparently straightforward transaction was, in fact, fraught with difficulties both of an ethical and of a legal nature. That a satisfactory outcome was achieved was dependent, in large measure, upon the willingness of both parties to negotiate honestly and fairly in an extremely short period of time while the nation's press speculated on the outcome.

The picture at the centre of the negotiations is a depiction of London from Southwark by an Anglo-Dutch artist, painted around 1650. It is an oil on panel and measures 57.7 x 85.7 cm (unframed) and, prior to sale, had been last seen in *The Image of London* exhibition at the Barbican Art Gallery in 1987.¹ There are only two *paintings* of London before the Great Fire of 1666, this and the one in the Duke of Devonshire's collection at Chatsworth, although there are a series of *engravings* to which both paintings are indebted.² The Museum of London is a social history museum and its subject of study and display is the development of a major international city from the earliest prehistoric settlements in the Thames valley, to the present day. Therefore its collections of works of art are acquired principally for their topographical and historical significance rather than for aesthetic reasons. This work provides a major link in a sequence of paintings of London in the seventeenth century which give a visual context to the artefacts and evidence of London's development before the major architectural changes which took place after the Great Fire.

On 16 May 1991 Globe Town Neighbourhood issued a press release following discussion of the painting at the previous evening's Neighbourhood Committee. The Committee had lodged the painting with Sotheby's, the auction house, for 'valuation and security reasons', and were aware that the 'major outlay in security devices and considerable cost in insurance premiums' were beyond its means. Globe Town is one of the seven Neighbourhoods created by

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London from Southwark. Anglo-Dutch School c. 1650. A rare oil painting depicting London before its destruction in the Great Fire of 1666. Acquired by the Museum of London in July 1991 and reproduced with their kind permission

Tower Hamlets Council in order ‘to decentralise service provision and the decision making process to a local level’. Effectively this gave Globe Town and other Neighbourhoods control of property and goods in their areas. The painting had not been on public view for some time, and the Neighbourhood Committee felt that ‘needs within our community...could be met with the proceeds of the painting’s sale’.³ Tower Hamlets is one of the least wealthy London boroughs and, although Bethnal Green Museum of Childhood (a branch of the Victoria & Albert Museum) was within the borough, there had never been a borough museum or local experience of dealing with the type of collections kept in museums.

On 23 May Sotheby’s wrote a letter to the Museum of London, prior to the production of the sale catalogue, alerting the museum to the painting’s inclusion in a forthcoming catalogue of works to be auctioned on 10 July. After internal discussion it was agreed that the Museum should write to Globe Town Neighbourhood suggesting that the painting be transferred to the Museum for public display or, should they wish to sell it, be transferred (for insurance and security care) until a private treaty sale could be arranged, based on an independent valuation. Sotheby’s had given an estimate of £150,000 – £200,000 but in the summer of 1991 the art market was already hit by the international recession, and this estimate looked optimistic. Unfortunately, interest in the painting was stimulated by a hostile press reaction which branded Globe Town’s actions as

'philistine', 'an utter disgrace' and so forth, and disputes between Globe Town Neighbourhood and Bethnal Green Neighbourhood over title to the painting.⁴

Meanwhile, the Museum informally consulted the groups to which it would have to apply for grant-in-aid if a private treaty sale was possible: the Museums & Galleries Commission/V&A grant-in-aid, the National Art Collections Fund, and the National Heritage Memorial Fund. The Museum had a purchase fund grant of £42,000 in 1991/92 and modest Trust fund monies with which to pay for all of its purchases in that year. Heartened by a positive response by Globe Town Neighbourhood to its letter of 30 May, the Museum sought an independent valuation and began discussion with officers of Globe Town Neighbourhood. The Museum's interest was formally acknowledged in a press release of 1 July⁵ and a deputation from the Museum was invited to an Extraordinary Standing Neighbourhood Committee meeting on 3 July to put its case.

The background papers for this meeting provided clear evidence that Globe Town Neighbourhood had carefully considered its actions before deciding to hear the Museum's views. The papers presented the legal and fiduciary position, the district auditor's requirements in regard to covenants which might apply, the views of the Office of Arts and Libraries, the code of practice of the Museum's Association and the status of any proceeds as capital or revenue. The merits and demerits of auction and private treaty sales were also compared.

It was clear from these papers that Globe Town Neighbourhood was entitled to sell the painting, an issue which the Museum needed to clarify. The gift from Samuel Montague was unconditional, enquiries within the borough archives and to his heir revealed no suggestion of a trust or covenant. An extract from the Whitechapel Library Commission's Minute Book for 1890–1894 recorded on 20 July 1892:

The Chairman reported to the Commissioners that Mr Montague MP had written stating that he had lately purchased at Earl Granville's sale a picture of Old London which he desired to present to the Library and that he would send it for the purpose.

Thanks were recorded and the matter was referred to the 'Book Committee' for a decision on where the painting might be hung in the Library. Samuel Montague was a generous benefactor for, in addition to the painting which cost 30 guineas, he gave books and £700 towards building works. None of these gifts carried express conditions which would constitute a trust and therefore the painting could be construed as an 'absolute gift' and became the 'absolute property' of the authority to keep or sell. Title to the painting had descended as 'an absolute gift' from the Whitechapel Library

Commissioners (1892) via Stepney Metropolitan Borough Council (1901) to Tower Hamlets Borough Council (1965) and the last had delegated their powers to Globe Town Neighbourhood.⁶

The Office of Arts and Libraries had no power to intervene, and the Library Association's guidelines cover the sale of rare books and manuscripts but not works of art exhibited in libraries. However, in regard to sale, the Library Association state 'There should be wide consultation about the sale within the library and academic community' and 'if a sale is to proceed, intentions should be well publicised and other institutions given the opportunity to discuss private purchase. Sale by auction may not necessarily be the best method'.⁷ The relevance of this advice to the sale of its painting was not something that Globe Town ever noted although it did append an extract from the Museum Association's code of practice to its papers for the meeting. Not administering museums, it is not a member, although it made reference to the code as enshrining 'best practice'. The key sections read:

In cases in which an arrangement for the exchange, gift or private treaty sale of material is not being made with an individual museum, the museum community at large must be advised of the intention to dispose of material...Any monies received by a governing body from the disposal of specimens or works of art should be applied for the benefit of the museum collections...⁸

The Museum's deputation were given a fair opportunity to put their views and to be questioned on them during a lively debate. It became clear, however, that the independent valuation of £150,000 and Globe Town's view that £200,000 was required were too far apart given the fact that Globe Town also wanted the Museum to pay Sotheby's withdrawal fee of something in excess of £30,000. On 5 July, after consultations with the Chairman of the Museum's Board of Governors, the Museum withdrew. Then on 9 July, the day before the sale, and after renewed press speculation, the matter was re-opened. Globe Town officers indicated a willingness to reduce the price to £170,000 and Sotheby's were persuaded to reduce their fee to £18,000 (plus tax). The Museum was offered six months in which to raise the money to complete purchase and a joint press release issued to this effect.

Superficially, it is a case of 'all's well that ends well'. In fact, in many respects, this episode was less than satisfactory. The painting was in the public domain in Globe Town and has remained so by virtue of a private treaty sale. The Museum would not have bid at auction, as this would have contravened the Museums' Association code of practice to which it subscribes, and it will always regret that, for whatever reasons, it or another agency was not approached by Globe Town before the painting was placed with Sotheby's.

Those who have little contact with them do not recognise that auction houses see all transactions as financial ones whether the outcome is a sale or not. For valuing the painting, storing and photographing it and writing a catalogue entry Sotheby's reaped a handsome reward, even at a reduced rate. Auction houses depend on museums and galleries and their expertise to ensure that their opinions are of an acceptable standard. This, however, is a one way street, as the circumstances outlined above suggest. A colleague of mine once proposed a small percentage premium payable to museums and galleries by the auction houses as fair acknowledgement of the 'research and development' work upon which the auction houses depend. It was derided as unworkable, but correctly feared as a simple and beneficial subsidy which a government less in thrall to market forces might easily adopt and enforce even in a recession.

The other disappointments came from unexpected quarters. Both NACF and NHMF declined to assist the Museum in its acquisition of the painting. They had, generously, assisted the Museum on previous occasions but this was an unexpected set-back. However, MGC/V&A grant-in-aid provided a much appreciated sum of £50,000 and the Museum and a number of enthusiastic and knowledgeable individuals and institutions found the remainder just within the six months limit. The painting is now on public display again, as Samuel Montague had intended, fewer than five miles from its original home. Globe Town have placed the proceeds into the Globe Town Trust which provides assistance to the elderly within the neighbourhood. Research on the painting and its relationship to others of this date continues slowly owing to funding difficulties but undoubtedly will, one day, benefit scholarship and auction houses in equal measure.

Notes

- 1 M. Warner, *The Image of London, Views by Travellers & Emigrés 1550–1920*, London 1987.
- 2 I. Scouloudi, *Panoramic Views of London 1600–1666*, London 1953.
- 3 *News from Globe Town*, 'Future of "The View of London"' 16 May 1991.
- 4 *The Times*, 25 May 1991; *The Daily Telegraph*, 10 June 1991; *The Independent*, 25 June 1992.
- 5 *News from Globe Town*, 'Extraordinary SNC for painting', 1 July 1991.
- 6 Unrestricted agenda and additional legal advice (tabled), Extraordinary SNC, Globe Town, 3 July 1991.
- 7 Library Association, *Sales of Rare Books & Manuscripts*, extract from Code of Practice.
- 8 Museums Association, *Code of Practice*.

