

Pastoral Measure 1968

Ruby Frances Mary Hummerston and another - - *Appellants*

v.

The Church Commissioners - - - - - *Respondents*

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 19TH NOVEMBER, 1973

Present at the Hearing:

VISCOUNT DILHORNE

LORD CROSS OF CHELSEA

LORD KILBRANDON

[*Delivered by* LORD KILBRANDON]

In virtue of a Scheme, under the Union of Benefices Act 1919 and relevant Measures, affirmed by Order in Council gazetted on 6th November 1925, the benefice of St. Lawrence Ipswich and the benefice of St. Stephen Ipswich were united together to form one benefice under the style of St. Lawrence with St. Stephen, Ipswich. The matters now before their Lordships are a Scheme, made by the Church Commissioners in pursuance of the Pastoral Measure 1968, for uniting the parish of St. Lawrence with the parish of St. Stephen, together with representations made by two parishioners of St. Stephen, who have appealed to Her Majesty in Council against the Scheme. Not only are the essential facts relative to these matters agreed between the Commissioners and the appellants, but it appeared in the course of the discussion before their Lordships that the dispute between the parties lies in very narrow compass. It can therefore be disposed of without elaboration.

Both parishes are of great antiquity, St. Stephen's being the oldest rectory in Ipswich. They are now in the position of so many city parishes, namely, that of having been deserted by the inhabitants who once formed their congregations. The churches remain, and while there are, as one would have expected, certain maintenance problems, these are not so serious as to be material to the present appeal. St. Stephen's church is an ancient building of great architectural and antiquarian interest. It is always open, and it receives many visitors. The church of St. Lawrence is not so old or, it seems, so interesting, none of it being earlier than the fifteenth century. The two churches share one congregation, who unite to attend the services held alternately in either. St. Lawrence has an electoral roll of 26, St. Stephen of 30. St. Lawrence has a parochial church council of 9, St. Stephen of 10. It is a remarkable fact that both churches are self-supporting, with no insoluble financial problems, and each pays its diocesan quota. It is quite plain that the union of the benefices has been a highly successful one; a vigorous joint congregational life has been going on in these churches for nearly half a century.

It is in these circumstances not surprising that a further step, namely union of the parishes, should have seemed good. Draft proposals were accordingly made by the diocesan Pastoral Committee, under the powers conferred on them by the Pastoral Measure 1968, and in particular section 3 and section 16(1)(a). Draft proposals before they are submitted by the Pastoral Committee to the Bishop for onward transmission by him, if approved, to the Church Commissioners, must be laid by the Committee before "interested parties" in order that their views may be ascertained. These parties include the patrons of the benefice and the parochial church councils. Their Lordships will deal later with a point arising, in the present case, from the reference to the patron; as regards the parochial church councils of St. Lawrence and St. Stephen the Scheme, as it now stands, was approved by both of them.

The appellants were the only members of the St. Stephen's parochial church council who, when the draft was laid before the council at a meeting, opposed it. It is now represented that there are other members of that council who, having become more fully acquainted with the terms of the Scheme, oppose it also, although they are not parties to the appeal, nor have they signified their adherence to the views which the appellants represent.

On a first examination of the problem, the proposed union of the parishes, after so long an experience of a successful union of the benefices, must look like good sense. There has already been a union of congregations, and this is a great tribute to the parishioners of each parish. In these circumstances the simplification of administration—which means, at bottom, the saving of time and trouble to those who for so long have devoted themselves to the service of the two churches—is a most desirable objective. It will have no effect on the services of either church, the spiritual life of the congregation, the availability of St. Stephen's for private devotions or for the visits of persons interested in its fabric and history, or the financial stability of either church. When so small a number of persons to be served is in question, the existence of two parochial church councils and two electoral rolls concerning a single congregation, is hard to justify. So far, accordingly, their Lordships would have had no hesitation in approving the Scheme and dismissing the appeal.

It is now clear, however,—what was not at all apparent from the Petition, Answer and associated documents—that the only solid basis for the opposition to the Scheme was the proposed status for the two churches respectively. The Scheme provides for one parish church, St. Lawrence, to which St. Stephen is to be a chapel of ease. It is this proposal alone, as part of the scheme of union, to which objection is now taken, except for a technical point, to be afterwards dealt with, about the statutory reference to the patron.

In proposing a Scheme such as the present, the Pastoral Committee is, by virtue of section 2(2)(b) of the Measure, under an obligation to have regard to the "traditions, needs and characteristics of individual parishes." That the Commissioners recognise that obligation is apparent from the fact that they quote those words in paragraph 2 of their Answer. Their Lordships are of opinion that the Scheme as it now stands does not have proper regard to the traditions, needs and characteristics of the parish of St. Stephen. The union of the parishes, which appears to be in the interests of both, does not require that the church of one or other cease to be a parish church. This is made quite plain by section 27(1)(b) of the Measure. Moreover, it now appears, and was disclosed for the first time during the course of the hearing of the appeal, that the draft proposals originally made by the Pastoral Committee did in fact provide for both churches remaining parish churches, but that the St. Lawrence

parochial church council, when the matter came before them at a meeting on 11th February 1971, approved of the proposals only on condition of their amendment to the effect "that instead of two Parish Churches there should be one Parish Church, and that it should be St. Lawrence." Although the parochial church council of St. Stephen agreed to the proposals as amended, it may well be that they were not aware that the Pastoral Committee had proposed, and must have been prepared to recommend to the Bishop, that St. Stephen be not reduced to the status of a chapel of ease, and must therefore have been of the opinion that such reduction was not essential to a desirable scheme of union.

Not only was no explanation of the necessity for one parish church only given to their Lordships, but there is also a positive consideration against so providing at this time. A report by Working Parties in the diocese, entitled "No Secret Plan", was shown to the Board; it contains suggestions for diocesan reorganisation, and in particular, on page 14, there are proposals for Central Ipswich which would entirely change the pastoral arrangements in that area, and involve a wider union of parishes including St. Lawrence and St. Stephen. In these circumstances it would seem reasonable that, while a union of these two parishes might facilitate the larger operation, the status of the churches themselves should remain unchanged in the meantime. Their Lordships are accordingly not prepared to advise that this Scheme be confirmed.

The appellants also contend that the respondents have failed to comply with the requirements of section 3 (2)(b) of the Measure, in the matter of ascertaining the views of the patron. The respondents in reply say that the patrons of St. Stephen are the Church Patronage Society, and that the Society has been duly served with a notice of the Scheme. Their Lordships have some doubt whether an appellant, who has no interest in the patronage of a benefice, has a *locus standi* to complain that the person served as patron is not in fact the patron. However that may be, since the appellants do not deny that the Society is patron, but merely say that they do not know whether the Society can show a good title as such, the contention is really unarguable.

Their Lordships' advice could, in the circumstances, take one of two forms. Under section 8 (4) of the Measure, the appeal might be allowed, "in which case the Scheme shall be of no effect, but without prejudice to the making and submission of a further Scheme", or alternatively the Scheme might be returned to the Commissioners for reconsideration, whereupon the Commissioners may, under section 8 (5), amend the Scheme, with the agreement of the Bishop given after consultation with the Pastoral Committee. Since a scheme of union in principle is clearly in the interests of both parishes, and is not now, apart from the question of the status of the church of St. Stephen, opposed, their Lordships consider that the second of these alternatives should be adopted. They will therefore humbly advise Her Majesty that the Scheme be returned to the Commissioners for reconsideration. Their Lordships are of opinion that in accordance with the usual practice each party should bear its own costs.

In the Privy Council

**RUBY FRANCES MARY
HUMMERSTON AND ANOTHER**

v.

THE CHURCH COMMISSIONERS

**DELIVERED BY
LORD KILBRANDON**