

Pastoral Measure 1968

Ruby Frances Mary Hummerston and another - - *Appellants*

v.

The Church Commissioners - - - - - *Respondents*

REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL DELIVERED THE 19TH
JULY 1978

Present at the Hearing :

LORD EDMUND-DAVIES

LORD FRASER OF TULLYBELTON

LORD SCARMAN

[*Delivered by* LORD SCARMAN]

The Church Commissioners have, in pursuance of the Pastoral Measure 1968, made a Scheme which includes provision for uniting the parishes of St. Mary-le-Tower, St. Lawrence and St. Stephen. The parishes are in the centre of Ipswich and the proposal is that there should be one central parish. The Scheme provides for declaring redundant the parish church of St. Stephen.

The two Misses Hummerston are implacably opposed to the proposal that St. Stephen should be declared redundant. They have, therefore, availed themselves of their right to appeal to Her Majesty in Council against the Scheme.

The present Scheme is not the first that has been made for uniting the central parishes of Ipswich into one. The two Misses Hummerston also opposed an earlier one which would have resulted in St. Stephen becoming a chapel of ease. On that occasion they persuaded a Board of the Judicial Committee that the Scheme should be sent back to the Church Commissioners for re-consideration. They then wanted St. Stephen retained as a parish church.

The dispute now before their Lordships' Board is, like the earlier one, within a very narrow compass. Nobody opposes the Scheme of unity in principle. The question is simply as to the status of St. Stephen. When under the earlier Scheme the proposal was that it should become a chapel of ease, the appellants wanted it retained as a parish church. Now, when the proposal is that it should be declared redundant, they want it retained as a chapel of ease.

Their Lordships do not propose to recite in detail the long and chequered history of the proposal to unite the parishes in central Ipswich. It originated with the report of a working party, which was published in 1968 in a pamphlet entitled "No Secret Plan". The first draft proposal included a provision for one parish church (St. Lawrence) with St. Stephen as a chapel of ease. The appellants were the only members of the St. Stephen's parochial church council to oppose it. They carried their

opposition to the Privy Council. On the 19th November 1973 Lord Kilbrandon delivered the judgment of the Board. He dealt in detail with the history and commented that the essential facts were agreed, and that the dispute was in a narrow compass—a comment as true now as it was then.

In the course of the judgment his Lordship said that their Lordships would have had no hesitation in approving the Scheme but were concerned that the proposal for the new status for the two churches, St. Lawrence and St. Stephen, might well have not been fully appreciated by the parochial church council of St. Stephen when they agreed the draft proposals. The conclusion of the Board was that, since a Scheme of union was not, apart from the status of St. Stephen, opposed and was clearly right in principle, the Scheme should be returned for reconsideration.

The Scheme was reconsidered. On the 20th October 1976 the Church Commissioners made the Scheme now under consideration. It provided for the union of the benefices and parishes in central Ipswich into a new benefice and parish of "Ipswich, St. Mary-le-Tower with St. Lawrence and St. Stephen". To the dismay of the appellants, the Scheme declared St. Stephen to be redundant. Their victory of November 1973 was seen to be a Pyrrhic victory indeed. Now they contend for that which they then so vigorously opposed. Paragraph 6 of their Petition puts it thus:—

"At this point of time they accept that it would be appropriate for St. Stephen's Church to become a chapel of ease in the proposed new parish".

The case for the appellants has been admirably argued by Miss Cameron, their counsel. She has submitted that there is a real possibility of residential development recurring in central Ipswich, which would create a need for a religious use of St. Stephen. Redundancy, if confirmed, would be, in effect, irreversible. A limited religious use in combination with some other use (such as an old people's community centre) was possible: and no convincing reason had been given why the church should not be kept open for worship in conjunction with some other such use.

In their Lordships' view this case lacks all reality. It is born of hope driven to desperation. The Church Commissioners made the following points, which appear to their Lordships to be unanswerable and decisive.

First, there is virtually no resident population in the parishes of St. Lawrence and St. Stephen. The area has become one of commercial development with no further residential development likely. Secondly, the proposed new parish church of St. Mary-le-Tower is 220 yards away from St. Stephen and less from St. Lawrence. Thirdly, after a survey carried out on the 10th January last, an architect has advised that urgent repairs are required to St. Stephen. Finally, it is the view of the Bishop and his advisers that "a second church in the new united parish, whether a parish church or a chapel of ease, would be wholly unnecessary from a pastoral point of view".

There is, therefore, no present need for the church; nor any foreseeable future need; and it would cost a substantial amount of money to keep it in repair.

For these reasons their Lordships have humbly advised Her Majesty that the appeal be dismissed. Their Lordships well understand the depth and sincerity of the appellants' feelings. Unfortunately, their feelings have led them into a course of action which has greatly delayed a re-organisation which all, including themselves, have known to be necessary for years and has involved the diocese and Church Commissioners in heavy expense.

Though it is not usual to give costs in Pastoral Measure appeals, their Lordships think the Church Commissioners are in the exceptional circumstances of this case entitled to their costs.

In the Privy Council

**RUBY FRANCES MARY
HUMMERSTON AND ANOTHER**

v.

THE CHURCH COMMISSIONERS

**DELIVERED BY
LORD SCARMAN**

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