

IN THE MATTER of the Pastoral Reorganisation Measure, 1949; the Union of Benefices Measures, 1923 to 1936; and the Ecclesiastical Commissioners (Powers) Measure, 1938

AND

IN THE MATTER of a Scheme for effecting the union of the Benefice of Kentish Town, St. Martin, and the Benefice of Haverstock Hill, Saint Andrew, both situate in the Diocese of London

BETWEEN

THE PAROCHIAL CHURCH COUNCIL OF THE PARISH OF
ST. ANDREW HAVERSTOCK HILL AND THE PAROCHIAL
CHURCH COUNCIL OF THE PARISH OF ST. SILAS
KENTISH TOWN - - - - - *Appellants*

AND

THE CHURCH COMMISSIONERS FOR ENGLAND *Respondents*

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 11TH MAY, 1953

Present at the Hearing :

LORD PORTER

LORD REID

SIR JOHN BEAUMONT

[Delivered by LORD PORTER]

The Scheme put forward in the present instance by the Church Commissioners comes before their Lordships for approval or disapproval upon objection taken by the Parochial Church Councils of two of the parishes affected by the Scheme viz.: those of St. Andrew Haverstock Hill and St. Silas Kentish Town.

The Scheme is propounded under the provisions of the Pastoral Reorganisation Measure 1949, the Union of Benefices Measures 1923 to 1936 and the Ecclesiastical Commissioners (Powers) Measure 1938.

It is not necessary for their Lordships to set out the steps required by these several Acts for the initiation of a Scheme since they have been duly complied with and the question at issue does not raise any assertion of failure to comply with any formality but only whether having regard to all the circumstances of the case it is desirable that their Lordships should humbly advise Her Majesty to approve it.

Before discussing the merits of the case however it is necessary that the matters which are directed to influence the judgment of the Commissioners in coming to their decision to promulgate a Scheme should be set out. They will be found in sections 3 (1) (a) and (2) (a) and (b) of the Pastoral Reorganisation Measure and in section 4 (1) of the same Measure. Their provisions are as follows:—

“3.—(1) It shall be the duty of the Committee from time to time as may be directed by the bishop to make a general survey of the diocese either as a whole or in sections, and after consultation so far as is practicable with the incumbents and parochial church councils concerned to make recommendations for the better provision for the cure of souls within the diocese or any part thereof. In particular the Committee may in relation to any two or more benefices or parishes recommend—

(a) the exercise of any one or more of the powers contained in the Union of Benefices Measures, 1923 to 1936, including power—

- (i) to unite two or more benefices ;
- (ii) to divide any benefice and to unite all the several parts thereof to other benefices ;
- (iii) to sever from any benefice any part or parts thereof and to unite the part or parts so severed to any other benefice or to other benefices ; or
- (iv) to alter the boundaries of any parish by annexing thereto any contiguous area whether portion of another parish or extra-parochial ;

(2) In making their recommendations the Committee shall take into account each of the following matters—

(a) the making of the best possible provision for the ministry of the Word and Sacraments in the diocese as a whole, including the provision of appropriate spheres of work and conditions of service for all persons engaged in the cure of souls and the provision of reasonable remuneration for such persons ;

(b) respect for the traditions, needs and characteristics of individual parishes ;”

“4.—(1) Where by any provisional proposals it is recommended that any one or more of the powers contained in the Union of Benefices Measures, 1923 to 1936, should be exercised, the Commissioners may prepare a scheme to give effect to such recommendations, and all the provisions of the Union of Benefices Measures, 1923 to 1936, shall apply to such a scheme as if it had been based upon the report of a commission of enquiry constituted under the said Measures and approved by the bishop of the diocese affected.”

Their Lordships need only point out that amongst the considerations which are to weigh with the Commissioners are that the recommendations which they may make should be directed to better provision for the cure of souls within the diocese or any part thereof and the making of the best possible provision for the ministry of the Word and Sacraments in the diocese as a whole.

The only further provisions to which reference need be made are those contained in section 2 (6) of the Union of Benefices Measure 1923 and section 2 of the Union of Benefices (Amendment) Measure which repeals it. They are in the following terms :—

“2.—(6) The commissioners shall in making any report under this Measure have full regard to the circumstances and interests of the parishes affected by their inquiry, and it shall be the duty of each and every of the commissioners to consider the matters under inquiry in their relation to such circumstances and interests and to the interests of religion in England generally.”

“2.—(1) The commissioners to whom a commission under the principal Measure has issued shall have due regard to the interests of religion generally as well as to the circumstances and claims of the parishes affected by their inquiry and shall determine in their discretion the effect of all these considerations and shall report accordingly.

(2) Subsection (6) of section two of the principal Measure is hereby repealed.”

It will be observed that in the first of these sections the interests of the parishes affected are put first and precede the interests of religion in England generally, whereas in the second the reverse is the case:—the interests of religion generally is first enjoined “as well as the circumstances and claims of the parishes affected”.

Both considerations however are to be borne in mind under either of the Measures.

The conditions of the parishes affected and their Churches are not the subject of difference between the parties concerned though the inferences to be drawn from them are disputed.

The three parishes concerned are St. Martin Kentish Town, St. Andrew Haverstock Hill and St. Silas Kentish Town.

The proposal is to unite the first two parishes, making St. Martin the parish Church, pulling down the Church of St. Andrew and selling the site. It is further proposed to sever part of the parish of St. Andrew and add it to the parish of St. Silas. It is estimated that after the changes the populations of the two remaining parishes will be approximately:— St. Martin's between 14,000 and 15,000 and St. Silas 10,000. The Sittings available amount to:—St. Martin's 1,000, St. Silas 750 and St. Andrew's 650.

The gross income of St. Martin's is at present £657, of St. Andrew's £410, and of St. Silas £479. At the time when the Scheme was promulgated the income of St. Andrew's was subject to a charge of £109 for the pension of a retired vicar but he has since died.

Under the Scheme the respective gross figures would be £689 for St. Martin's and £580 for St. Silas, leaving £168 for addition to the diocesan stipends fund. Presumably the £109 above referred to will now increase the last named figure.

The only other figures which need be quoted are those dealing with the attendances at the various services at the three Churches which are set out below:—

(a) *St. Martin Kentish Town*

			<i>Time</i>	<i>Average Attendance</i>
Holy Communion every Sunday	...	...	8.0 a.m.	10 to 15
First and third Sundays in month	...	...	12.0	10 to 15
Second Sunday in month	...	...	7.45 p.m.	15 to 20
Matins and Sermon	...	...	11.0 a.m.	30 to 40
Evensong and Sermon	...	...	6.30 p.m.	40 to 60

(b) *St. Andrew Haverstock Hill*

			<i>Time</i>	<i>Average Attendance</i>
Holy Communion	...	...	8.0 a.m.	3
Children's Service	...	...	11.0 a.m.	20
Holy Communion	...	...	11.45 a.m.	6
Evensong and Sermon	...	...	6.30 p.m.	6 to 10

(c) *St. Silas Kentish Town*

			<i>Time</i>	<i>Average Attendance</i>
Holy Communion	...	...	8.0 a.m.	10
Sung Eucharist and Sermon	...	...	11.0 a.m.	65
Evensong and Sermon	...	...	6.30 p.m.	20

On the face of it these figures lend strong support to the Scheme and their importance is enhanced by an affidavit of Mr. Biscoe, an architect and surveyor, who made a report on the condition of St. Andrew's Church in January, 1953 at the instigation of the London Diocesan Fund. He estimates that some £5,000 would be required to carry out essential repairs, and states that the value of the site of St. Andrew's if the Church was pulled down would not be more than £700.

The distance between St. Martin's and St. Andrew's is not more than $\frac{1}{4}$ mile at most and St. Silas is less than $\frac{1}{2}$ mile from either Church.

The Archbishop of Canterbury has consented to the pulling down of St. Andrew's; the Bishop of London has approved the Scheme and the vicar of St. Martin's and the priest in charge of St. Andrew's support it, though it must be remembered that the last named Church has suffered from the absence of a permanent vicar throughout the war

and that its activities have been handicapped in this way and by the threat of extinction. The vicar of St. Silas, though he does not approve the Scheme, has consented to the proposed alteration of boundaries if it is confirmed.

On the other hand the opposition to the Scheme was voiced with conviction and force by Mr. Burrige, a Churchwarden of St. Andrew's who spoke on behalf of the Parochial Church Councils of St. Andrew's and St. Silas.

He represented that the Church was founded and its erection and maintenance made possible by subscriptions from a working class population and an anonymous donor, together with the transfer of the site less than 100 years ago, and deplored that these gifts should be diverted from the uses for which they were intended. Such objection however is met by the Acts which enable a Scheme to be made and must be considered in conjunction with the surrounding circumstances.

Nor can their Lordships lay great stress on the hope and belief that the sum required for repair (be it £5,000 or, as the opponents aver, no more than £700 or £800) and for maintenance would be obtained.

The Church of St. Andrew has indeed in times past raised enough to maintain itself and indeed to provide some money for the purposes of the diocese and work of the Church in general, but times have changed, expenses greatly increased and a stipend which was sufficient before the late war has today become quite inadequate. Moreover their Lordships have been and are obliged to be much influenced by the smallness of the congregations of all three Churches though they recognize that they must have been and are still affected by the incidence of war and in the case of St. Andrew's by the lack of a permanent priest.

What, however, has given their Lordships most concern is the size of the new parish of St. Martin and the allegation that the incumbents of two such large parishes as that and St. Silas could not cope with the needs of so populous a district. As Mr. Burrige said, the important thing is not the immediate congregations but the spiritual needs of the population in the parishes.

Their Lordships have given the most earnest consideration to this aspect of the case, to the allegation that there is need for a third Church to stand as a witness to the doctrines of the Church of England, and to the difficulty of pastoral supervision over so great a number.

They feel that the enlarged parish of St. Martin extends to a limit beyond which a parish priest could not effectively oversee the congregation which would fall to his charge.

Nevertheless they feel constrained to give their support to the Scheme. They, like the Commissioners, have the duty to take account of the making of the best possible provision for the ministry of the Word and Sacraments in the diocese as a whole in addition to the traditions, needs and characteristics of the individual parishes.

To allow the parishes to remain as they are would in their view be to leave too much to chance. They feel that having regard to the conditions now obtaining they would not be justified in trusting that the faith and hope expressed by Mr. Burrige would be fulfilled or that in any near future the spiritual life of the district would be sufficiently revived so as to justify the continued existence of three parishes. Ideally smaller parishes are desirable and if the needs of the diocese were not so great or indeed if the finances of the parishes themselves were more satisfactory there might be ground for leaving the position unchanged.

As it is their Lordships are of opinion that the alteration effected by the Scheme is necessary and will humbly advise Her Majesty that it be approved.



In the Privy Council

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