

In the matter of an Appeal against a Scheme for effecting the division of the benefice of St. Bartholomew and St. Luke, Bowling, the union of part thereof with the benefice of Bierley and the union of the remaining part thereof with the benefice of St. John, Bowling, all situate in the diocese of Bradford.

The Parochial Church Council of the Benefice of
St. Bartholomew and St. Luke, Bowling - - - Appellants

and

The Church Commissioners - - - Respondents

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 21ST JANUARY 1965

Present at the Hearing:

LORD MORRIS OF BORTH-Y-GEST.

LORD PEARCE.

LORD UPJOHN.

[Delivered by LORD MORRIS OF BORTH-Y-GEST]

This is an appeal to Her Majesty in Council against a scheme prepared by the Church Commissioners (acting in pursuance of the Pastoral Reorganisation Measure 1949 and the Union of Benefices Measures 1923 to 1952) with the consent of the Lord Bishop of Bradford for effecting the division of the benefice of Saint Bartholomew and Saint Luke, Bowling, and for the union of one part thereof with the benefice of Bierley and for the union of the remaining part thereof with the benefice of Saint John, Bowling. All three benefices are situate in the diocese of Bradford.

The Appellants, the Parochial Church Council of St. Bartholomew and St. Luke, Bowling, make objection to the scheme as a whole rather than to its detailed provisions. The contention of the appellants is that the division of the Parish in the manner proposed would be detrimental to the spiritual life of its parishioners and to the interests of the Anglican Church of the City of Bradford. Having regard to the nature of the objections raised it will be sufficient to record the main provisions of the Scheme. (1) The benefice of Bierley and that part of the benefice of Saint Bartholomew and Saint Luke, Bowling, which coincides with the part of the parish of Saint Bartholomew and Saint Luke Bowling as described in the Schedule to the Scheme are to be permanently united together and to form one benefice with cure of souls under the style of "The United Benefice of Bierley". (2) The parish of Bierley and the aforesaid part of the parish of Saint Bartholomew and Saint Luke, Bowling are also to be united into one parish for ecclesiastical purposes under the style of "The United Parish of Bierley". The part of the parish of Saint Bartholomew and Saint Luke, Bowling, which is described in the Scheme, is the part which lies to the South of that Parish and which is contiguous to and lies just to the north of the Parish of Bierley. (3) Upon the union taking place the incumbent of the benefice of Bierley is to be and has consented to be the first incumbent of the united benefice, and the parsonage house belonging to the benefice of Bierley is to be the parsonage house of the united benefice. (4) The benefice of Saint John Bowling and that part of the benefice of Saint Bartholomew and Saint Luke Bowling not proposed to be united with the benefice of Bierley are to be permanently united together and to form one benefice with cure of souls under the style of "The United Benefice of Saint John, Bowling." (5) The parish of Saint John Bowling and that part (containing the parish Church) of the Parish of Saint Bartholomew and Saint Luke, Bowling, not proposed to be united with the Parish of Bierley are to be united into one parish for ecclesiastical purposes under the style of "The

United Parish of Saint John, Bowling." The part of the parish of Saint Bartholomew and Saint Luke, Bowling which is referred to lies on the north west side of the parish of Saint John, Bowling. (6) Upon the union taking place the incumbent of the benefice of Saint John, Bowling is to be and has consented to be the first incumbent of the united benefice and the parsonage house belonging to the benefice of Saint John, Bowling is to be the parsonage house of the united benefice. (7) There are provisions for the distribution of endowments. To the part of the benefice of Saint Bartholomew and Saint Luke, Bowling which is to be united with the benefice of Bierley there is to be annexed a permanent annuity of £367 10s., which is approximately half of a larger annuity charged on the General Fund in favour of the Benefice of Saint Bartholomew and St. Luke, Bowling, and also a capital sum of £1,268 which represents the net proceeds together with accumulated interest arising from the sale of the former parsonage house of the benefice of Saint Bartholomew and Saint Luke Bowling. All other endowments and property of the said benefice of Saint Bartholomew and Saint Luke Bowling are to be annexed to the part of that benefice which is to be united with the benefice of Saint John Bowling. (8) After the unions have taken effect the Church of Saint Bartholomew Bowling is to be taken down and the materials and the land are to be sold. The net proceeds are to be placed to the credit of the Expenses Fund of the diocese of Bradford. The furnishings as selected by the Lord Bishop of Bradford are to be transferred to the church of Saint John Bowling or to other churches in the Diocese or (as to some only of them) may be sold. A fund now held by the diocesan Board of Finance for the repair of the Church of Saint Bartholomew Bowling and which arose from the sale of the site of the former parish church of Saint Luke, Bowling, is to be placed to the credit of the Expenses Fund of the Diocese.

The Parish of Saint Bartholomew and Saint Luke (which may for convenience hereafter be referred to as the Parish) comprises an industrial and residential area of approximately 200 acres which lie between half a mile and one and a half miles from the centre of the City of Bradford. The Church was consecrated in 1872 at which date it was in a Parish called Saint Bartholomew which had been created by Order in Council out of parts of the Parishes of Saint John, Bowling, Saint Luke and Saint Stephen, Bowling. In about the year 1940 the Parish of Saint Luke was united with the Parish of Saint Bartholomew to form the Parish. The Church of Saint Luke was subsequently demolished.

The last incumbent of the Parish died in the year 1959 and since that date the Parish has been in temporary charge of the incumbent of Saint John Bowling.

In about the year 1960 the Bradford Diocesan Pastoral Committee put forward a plan to divide the Parish between the Parish of Saint Stephen Bowling and Saint James, Manchester Road, Bradford but that plan was not proceeded with after the appointment (in June 1961) of the present Lord Bishop of Bradford.

After the death in 1959 of the last incumbent of the Parish services continued to be held in the Church. During the week of the 12th to 16th February 1962 the roof of the Church was damaged during two very severe gales. In the following May the Lord Bishop visited the Church and in view of the dangers which existed because of its structural condition decided that public worship would have to be suspended and the church temporarily closed. Prior to the closing of the church, which has a seating capacity for 750 people, the average attendance was 10 at morning prayer and 15-20 at evening prayer. In the period prior to the death of the incumbent the attendances were higher.

The scheme now under consideration was initiated in March 1963. The Appellants, the Parochial Church Council, who have a membership of 6 or 7 passed a resolution on the 8th March 1964 unanimously opposing the scheme.

Since the closing of the church a Sunday School for the parish has continued in existence with some 70 scholars on the roll. There has been an average attendance of approximately 40 scholars. A Church Army Captain works in the Parish and works chiefly among children and young people. He lives

in a small and modest house which is in the parish of Saint John Bowling. It is subject to a mortgage the repayments of which are being made by the Parochial Church Council of Saint John, Bowling. The Parish still runs an independent Parish magazine and has a freewill offering scheme.

Certain additional facts call for mention. The population of the Parish in 1961 was approximately 3,600. At the present time it is approximately 2,000. The decrease has resulted from the clearance of unfit dwelling-houses. Consequent upon existing development plans there is an expectation of a further decrease. It is estimated that by the year 1971 the population will be about 1,800.

After the death of the former incumbent in 1959 the parsonage house, which was in poor condition, was sold. It realised £1,028.

The Parish of Bierley has a population of approximately 10,000. The church seats over 400 people. In 1962 the average attendances were as follows: 8a.m.—Holy Communion, 20; 9–30a.m.—Parish Eucharist, 150; 6–30p.m.—Evensong 60.

The Parish of Saint John Bowling has a population of approximately 5,500. The Church seats 500. In 1962 the average attendances were as follows: 8a.m.—Holy Communion 20; 11a.m.—Morning Prayer 140; 6–30p.m.—Evening Prayer 65.

Each of those two parishes is well established and well organised and each has many parochial organisations connected with the Church. It is hoped to appoint a Curate in each of the two parishes.

At the Church of Saint Bartholomew and Saint Luke there has been a tradition of "middle of the road" churchmanship. It is said by the appellants that the tradition of Bierley Parish Church has been "of somewhat higher" churchmanship. No such suggestion is made in regard to the Parish Church of Saint John Bowling.

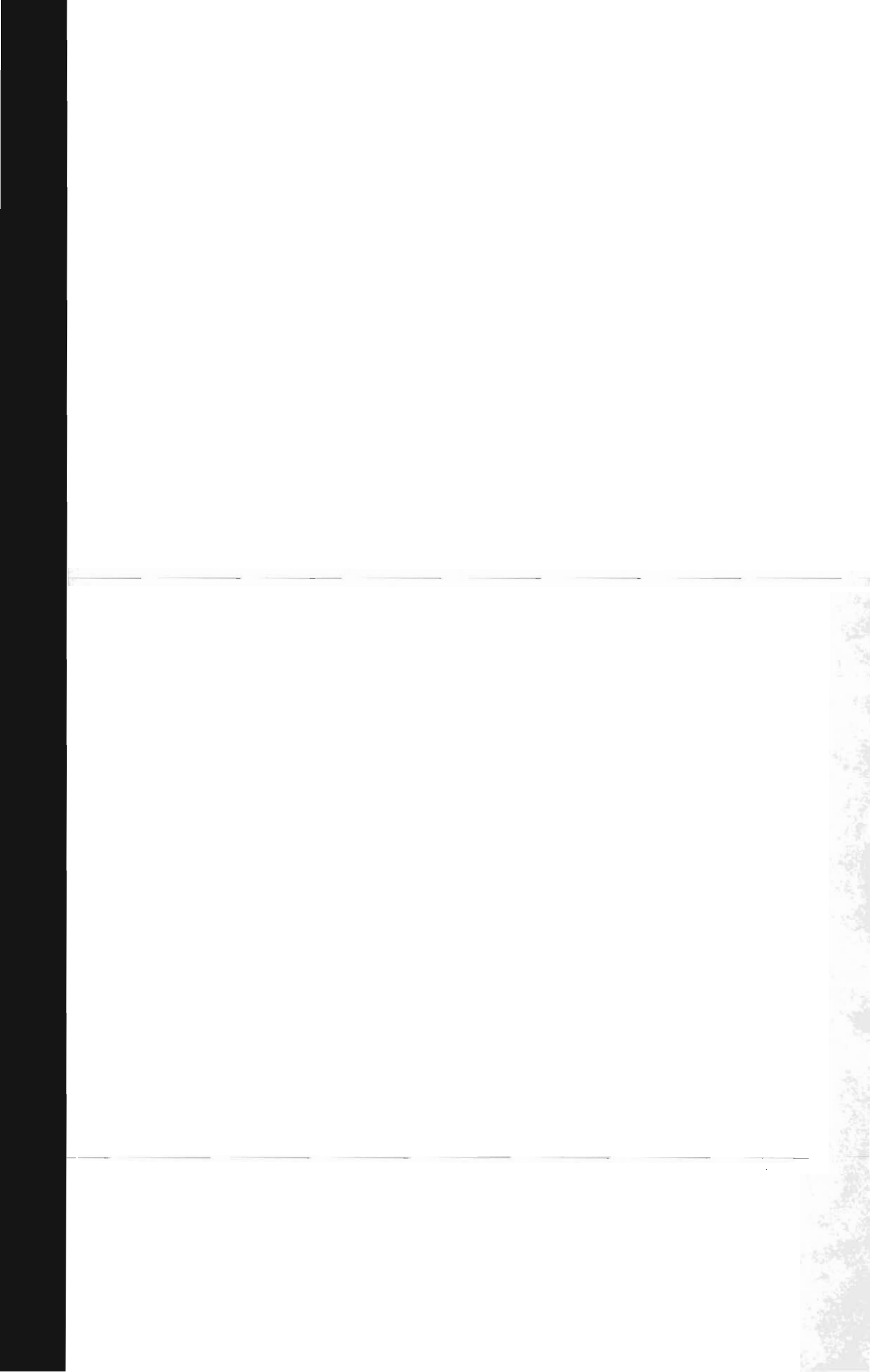
The appellants are undoubtedly animated by a devotion to their Parish and have made every endeavour to maintain parish life in recent years. They urge that if the Church is made usable and if, in order to save expense, restoration is limited to what is essential and if a vigorous incumbent is appointed the life and work of the Parish could be and would be revived. They submit that the scheme now being considered does not pay due regard to the traditions needs and characteristics of the Parish. They further submit that the scheme reveals no proposals concerning the use to which or any need for which released funds would be applied and that the Scheme fails to show that the best possible provision is being made for the ministry of the Word and Sacraments. They submit that such part of the parish of Bierley as contains part of the Parkside housing estate (a housing estate built since the last war) might be united with the parish. Part of that housing estate now lies within the Parish. Pointing to the relative geographical positions of the three Churches they suggest that worshippers would be spared the hazards of crossing certain roads which carry heavy traffic if they could worship in the Church of Saint Bartholomew and Saint Luke rather than elsewhere. Though the appellants recognise that under the proposals of the scheme there will be benefit to the Diocese in that (a) certain financial resources will be released which could be applied generally for Diocesan purposes and (b) a potential incumbent would be released or made available for duties elsewhere in the Diocese, they urge that these advantages inevitably arise whenever it is proposed to divide one parish between others and do not suffice to justify the scheme and that under it the parish will not benefit but will suffer.

In considering the scheme it is necessary to consider whether full account is taken of the making of the best possible provision for the ministry of the Word and Sacraments in the diocese as a whole and also whether there is due respect for the traditions, needs and characteristics of the Parish.

It is beyond question that a difficult situation now presents itself in the Parish. There has been no incumbent since 1959. Since that year there has been no parsonage house. Since 1962 the church has not been used and it would not have been safe to use it. When the storm damage in 1962 brought it about that the Church could not be used the question as to the

best provision to be made, in all the circumstances, for the needs of the Parish was under consideration. For that reason it is fair to recognise that until decisions could be made it would have been inappropriate to undertake expensive repair work. Undoubtedly and inevitably however there has been serious further deterioration since the church became unsafe for use: this has been due partly to weather conditions but also partly to wanton and culpable acts causing damage. In the result one estimate is that the cost of repairing the fabric is likely to be some £20,000 and that with the added cost of considerable internal work and internal furnishings the overall figure could be as high as £40,000. While the Appellants contest the necessity of carrying out many of the items of work provided for in these figures and contest that the cost of work that would now be necessary would be any figure approaching in magnitude those quoted Their Lordships consider that the necessary cost would inevitably be considerable. Assuming that a sum of money to cover the cost could from some source be made available, the question would arise whether having regard to all the circumstances both in the Parish and in the Diocese, such sum could not be more advantageously expended elsewhere. Their Lordships are forced to the conclusion that the minimum of essential work to make the church usable would cost a sum that would be beyond the range of what could be raised by voluntary effort within the Parish. While Their Lordships can form no opinion as to what the cost of necessary work would be it would not be prudent to disregard the estimates that have been presented.

The scheme now being considered will, as is conceded, release certain resources for diocesan use. There is augmentation by the Diocese of the incomes of the incumbents of the benefices of Bierley and of Saint John Bowling. If an incumbent were appointed to the benefice of Saint Bartholomew and Saint Luke Bowling some augmentation by the Diocese of the benefice income would be needed. If a parsonage house were provided the relatively small sum yielded by the sale of the former parsonage house would not go far towards the cost. If the present proposals are affirmed it is estimated that the amount needed for the augmentation of benefice incomes could be reduced so as to effect a saving of nearly £980 a year. Though the precise application of any funds that the present scheme would release for the Diocese may not be specifically outlined the Lord Bishop in his affidavit points to the fact that redevelopment and rehousing and the creation of new residential areas are taking place in parts of the Diocese some distance away from the Parish: if the scheme is affirmed a potential incumbent for those areas will be released. But though the needs of the Diocese as a whole are compelling, full account must be taken of the traditions, needs and characteristics of the Parish. Nor can these be the less considered even though there are and have been all the difficulties resulting from the circumstances that since 1959 there has been no incumbent and no parsonage house and that since May 1962 the church has been unused and unusable. The added circumstance that the population in the Parish has declined and is declining gives measure to the devotion of those who have sought to maintain parish life. Their Lordships have given consideration to the respective locations of the churches in the two parishes of Bierley and of Saint John Bowling and to the distances of those churches from the places of residence of people in the Parish. They have also had in mind the evidence which shows that the two parishes are well established well equipped and well organised. If the scheme is approved it would seem likely that the church of Saint John Bowling would be the nearer of the two churches for the greater part of the residents in the Parish to reach. No difference in tradition of churchmanship between that Church and the Church of Saint Bartholomew and Saint Luke is suggested. Their Lordships cannot think that such differences as relate to Bierley Parish Church should create any real difficulty. All the evidence points to the view that the scheme pays full regard to the needs as well as to the traditions of the Parish. The devotion and loyalties of the Appellants can with advantage to themselves and to all others concerned be joined with and allied to the existing devotions and loyalties in the two parishes. From every point of view the scheme now proposed seems to Their Lordships to provide the best solution of the problems that arise. Their Lordships will therefore propose to Her Majesty that the scheme be affirmed.



In the Privy Council

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The Parochial Church Council of the Benefice of St. Bartholomew and St. Luke, Bowling—Appellants

1.

The Church Commissioners—Respondents

DELIVERED BY

LORD MORRIS OF BORTH-Y-GEST