

**Mrs. B. Pim and Others**    -    -    -    -    -    -    *Appellants*

v.

**The Church Commissioners**    -    -    -    -    -    *Respondents*

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REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 20TH  
MARCH 1975

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*Present at the Hearing :*

LORD WILBERFORCE

VISCOUNT DILHORNE

LORD EDMUND-DAVIES

[*Delivered by* LORD WILBERFORCE]

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This Pastoral Scheme, made by the Church Commissioners on 1st November 1973, relates to certain parishes and benefices in the diocese of Southwark. The parish and benefice which is primarily affected is that of Christ Church, Brixton Road. The Scheme provides for the union of this benefice with that of St. Stephen, South Lambeth. The existing ecclesiastical parish of Christ Church would be divided; a portion would be united with the parish of St. Stephen; another portion, the greater part, would be united with the parish of St. John the Divine, Kennington. The parish Church, Christ Church, would become redundant. There would also be alterations in the parishes of St. Stephen, St. Michael, Stockwell, and St. Mark, Kennington. No objection has been stated as regards these latter alterations as such, but, as presented, they form part of the Scheme as a whole.

Petitions of appeal against the Scheme have been filed by Miss A. Reynolds, Mrs. R. W. Wilson, Mrs. B. Pim and Mr. E. G. Townsend, objecting to the proposed dismemberment of the parish and benefice of Christ Church and it is this aspect of the Scheme which their Lordships have had to consider in the present appeal. Their Lordships therefore begin by stating the principal facts relating to this parish.

Christ Church is a fairly compact parish lying along Brixton Road: the greater part, in area, lies to the east of the road, the smaller part to the west. The parish Church itself is on the western portion and is actually on Brixton Road. This is a busy thoroughfare and shopping street, as to which there have been proposals for widening to which later reference will be made.

The parish Church is a remarkable building completed about 1900 in the Byzantine style. It is capable of seating over 1,000 people. The interior is spacious, without columns, and with a sloping floor: there is an organ said to be excellent and the acoustics are praised. The Church is designed so as to conform with the traditions of the Evangelical form of worship.

without a high altar and with a low pulpit. There are no steps to the entrance, which makes for easy access for prams and invalid chairs. The Church is said to be subject to a preservation order.

Attached to the Church is a good sized hall annexe with room for two badminton courts. This is vested in trustees upon trusts limiting its use but it appears that it can be used for youth activities and, subject to heating problems, as a meeting place for the elderly. The parish vicarage used to be situated on the eastern boundary of the parish, where it adjoins the parish of St. John the Divine. It was vacated some two years ago and has suffered damage from vandalism. Adjoining this vicarage there is a Church primary school. This, it appears, has an excellent reputation and though it takes pupils from other parishes, its connection with the parish and with the Church of Christ Church appears to have reality and life.

Turning now to the proposals of the Scheme, St. Stephen, Lambeth, is a new Church built in 1968 with seating for about 300. Their Lordships were not told why this was thought necessary with Christ Church lying not far away. It lies in fact less than half a mile (crow's flight) west of Christ Church, and is nearer still to the westernmost part of Christ Church parish. To get there from Christ Church parish it is necessary to cross Clapham Road, a busy thoroughfare. For the last two years or so the pastoral care of Christ Church parish has been undertaken by the incumbent at St. Stephen, with the assistance of a curate, but there appears to have been some reduction in the services provided, and some lessening of contact with parish activities.

St. John the Divine, Kennington, to which it is proposed that the eastern portion of Christ Church should be transferred, has a Church, and adjoining parsonage house, some 200 yards east of the boundary between the two parishes. There are no apparent difficulties of access to this Church for those parishioners of Christ Church living east of Brixton Road who might wish to go there. However the services at this Church are in the Anglo-Catholic tradition and might not appeal to those who value the distinctive Evangelicalism of Christ Church.

Their Lordships will now summarise the arguments for and against the Scheme.

The main argument for it is based upon considerations of manpower and resources. These considerations are very real and pressing at the present time, and though in such proceedings as the present they tend to be stated in a somewhat stereotyped form, their Lordships have no doubt as to their reality or as to the problems they create for Diocesan Pastoral Committees and for the Bishops of dioceses. The reorganisation suggested in this area is claimed to be justified by savings of manpower and of expense. Christ Church is said to be too large for the present requirements of the parish: its congregations are small, particularly so in relation to the size of the Church. The Scheme is claimed to produce a rationalisation of the parishes, into units of 7,500 (St. Mark's), 8,500 (St. John's) and 10,000 (St. Stephen's). It is stated that the Scheme has been carefully considered, together with all practicable alternatives, and after all proper consultations. These, it is said, have obtained general agreement.

The case for the Petitioners, putting it in very general terms, is that Christ Church is at the present a living and viable entity with a character and quality of its own; that the Scheme has been devised upon assumptions regarding the area and its future development, which, if at one time possibly valid, are not so at the present time; that no good case has been made out, either on grounds of manpower saving or expense, for the

present Scheme; that the needs of this area are best served by preserving the present unit and combination of Church, Church School and Church Halls, together with the voluntary workers who support their activities; that the viability of Christ Church should not be judged from the situation which has prevailed there in the last two years during which Christ Church has had no incumbent of its own. The Petitioners have put forward their case in writing, and appeared before their Lordships to support and amplify their contentions: this they did with impressive sincerity.

Their Lordships desire at the outset to make clear, as they have often done in the past, that they recognise that questions involving the union or reorganisation of ecclesiastical parishes are the responsibility of the Church authorities, to whose care this matter is entrusted under the Pastoral Measure 1968. To reconcile the painful pressures of finance and manpower with the inevitable dislocation and often distress which follow from the closing of churches and the splitting of parishes, is essentially their task and their Lordships entirely accept that in this, as in other cases, many of the conflicting considerations may have been present to the minds of those who have drawn up and presented the Scheme. At what point hard practical arguments must prevail over sentiment, tradition and personal loyalties is a matter for the judgment of the Church Commissioners.

But the Measure has given to individuals a right of appeal to the Judicial Committee of the Privy Council, on which their Lordships conceive themselves to have a judicial responsibility. If objections are genuinely brought forward and supported by factual evidence, their Lordships must take them into account. They will not lose sight of the fact, as underlined above, that the Scheme has the support of responsible bodies within the Church of England, which, in some cases, may well have considered the very objections now urged and weighed them up. But it is not enough, their Lordships would venture to state, for the Church Commissioners to rest upon general assertions in the face of specific objections, where these seem to be of a concrete and relevant character. Not everything, in these cases, can be decided upon figures or statistics: but where these are relevant their Lordships are entitled to expect that, prior to the hearing, proper information is obtained, of which notice is given to Petitioners, and placed before their Lordships in a form in which it can be considered with the other evidence.

Their Lordships take into account what was said by this Board in the recent case relating to Holy Trinity, Birkenhead. The words used by their Lordships on that occasion were intended to provide practical guidance to petitioners and to the Church Commissioners in presenting their case. Their Lordships' approach in the present case is squarely within the spirit of what was there said. But their Lordships would emphasise that the measure of their task is that laid down in the Pastoral Measure 1968 s.8 and that these proceedings are essentially an appeal. To treat particular expressions provided for guidance as if they had statutory force, is a process which may have its dangers if it encourages respondents to rest too easily upon a presumption in favour of the validity of Schemes, to the neglect of relevant and up to date evidence upon matters in issue.

Their Lordships can now state the considerations which have impelled them to allow the appeals by the present Petitioners.

In the first place, they cannot escape the impression that the present Scheme, which replaced an earlier version conceived on different lines, has been devised upon assumptions regarding the area and environment

of the parish of Christ Church which require revision since they were formed. The parish is, as has been stated, split by Brixton Road. This highway was, it appears, planned to be developed into a six-lane quasi-motorway. Obviously this would be a strong argument for reallocating the areas on either side to adjoining parishes. But this plan was abandoned, or shelved, in 1974. Without it, considerations as to access, instead of supporting the Scheme, now work against it. Crossing Brixton Road, though no doubt disagreeable, is not difficult: there is a light-controlled crossing just by the Church, and parishioners are used to crossing the road for shopping purposes. On the other hand, to get to St. Stephen's, it is necessary to cross Clapham Road, which has a bad accident record, with the aid of a zebra crossing. Moreover it is necessary to pass through certain streets and areas which are unfamiliar and intimidating at least to the elderly.

Further, the development plans for the parish area have been in course of modification—there is nothing exceptional about that. The Pastoral Scheme, as the respondents' answer states, took into account a proposed redevelopment, called the Myatts Fields development, which would produce a self-contained community on the eastern part of the parish. But the present policy (no doubt itself impermanent) is in favour of rehabilitation of existing houses, with direction towards Brixton Road, thus preserving the existing orientation of the parish.

Secondly, the Church Commissioners' case in so far as based upon consideration of manpower and finance was distinctly lacking in content. What is said is that the staffing has been a Vicar and Curate for both Christ Church and St. Stephen and that a united parish with a vicar and curate provides a clear and necessary saving in manpower. The Petitioners argue against both sides of this equation and say that it does not take into account the availability of lay workers. Their conclusion is that the savings would be inconsiderable.

Against this it did not seem to their Lordships that it was sufficient for the Commissioners to bring forward general statements of policy or broad evidence of trends in manpower and population, and their Lordships did not think it right to take account of fresh figures presented at the hearing and projections based upon them which the Petitioners had no opportunity to test. There remains a considerable area of uncertainty in this matter.

If, under the heading of clerical manpower, it was not clear what saving was anticipated still less was this so with regard to other (*e.g.* maintenance) staff. No specific information on this point was brought forward at all.

It was suggested that the Church building would itself become a liability, but the petitioners seemed to have support for their contention that its condition, both externally and internally, was good and it did not appear that the finances of the Church, which though not opulent are perfectly sound, would not be able to keep the Church up, at any rate for some time. A further element of uncertainty related to the proceeds of realisation of the vicarage as compared with the future cost of housing an incumbent. Their Lordships' opinion was that the Church Commissioners had not been able to make good this part of their case against the assertions of the Petitioners.

A third part of the case may be said to be that which related to the life of the Parish as a viable institution. It has already been mentioned that the Church has a strongly Evangelical character—it still uses the

1662 Communion Service. The Scheme indeed recognised the fact, but the respondents used a number of arguments to justify discontinuance of this form of worship in this place. First it was said that differences in worship are, in these ecumenical times, becoming less significant. This may be true generally, but this congregation certainly finds value in its chosen form. St. Stephen might be acceptable as an alternative to some, but for those living east of Brixton Road, it might be necessary to find other churches, thus dispersing the existing feeling of community. It was said that part of the congregation at Christ Church came from outside the parish. This does not seem a strong argument: it shows the vitality of the existing tradition, and hardly justifies depriving parishioners of its benefit.

Further, there seemed to their Lordships to be value in the combination of the Church, the School, and the Church Halls. The Petitioners spoke convincingly and from experience of the difficult character of the parish and of the value to it of these institutions centred on the Church. Their Lordships appreciate that if the parish were to develop as seemed possible (*i.e.* through severance by Brixton Road and by redevelopment) this factor would become less important. But as things are, it requires justification to cut off the root of these living institutions. It does not appear a sufficient answer to this to set forth hopes that the same work, with the same voluntary workers, would survive into the reorganised units. The Petitioners were convinced of the contrary, and their fears impressed their Lordships.

Their Lordships must finally refer to the matter of consultation—one of the greatest importance. The Church Commissioners and the Diocesan Pastoral Committee have, their Lordships accept, done their best to get general agreement. All the incumbents of the parishes were consulted and all Parochial Church Councils have agreed to the Scheme. Such consensus is undoubtedly to be respected. The Petitioners did not agree that consultation had been full or fair. In particular they said that the interests of Christ Church since the departure of the Rev. J. Gutteridge had not been represented, clerically, by anyone having sole concern with Christ Church and that the Parochial Church Council had been pressurised into (a majority) approval. Their Lordships do not wish to enter too deeply into these matters, which would necessitate reference by name to persons concerned. All they would say is that they are not convinced that the Council's decisions were taken with full knowledge of the implications of the Scheme and of its alternatives. They accept that the Church authorities have been anxious to avoid public debate and controversy, for reasons which can be understood. But the price of this has been the impression that they were determined to put the Scheme through and to confine their consultations within narrow bounds. No doubt the statutory obligations as to notice and publication were complied with, but their Lordships cannot, on an appeal, overlook wider considerations of understanding and consent by those affected.

For these reasons their Lordships, recognising the problems which face the Church of England in this district and the necessity, sooner or later, for some reorganisation of parishes, reached the conclusion on the evidence that the objections against the Scheme ought to prevail.

In accordance with section 8 (4) (a) of the Pastoral Measure 1968 they have reported to Her Majesty in Council their proposal that the appeal be allowed.

**In the Privy Council**

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**MRS. B. PIM AND OTHERS**

**v.**

**THE CHURCH COMMISSIONERS**

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DELIVERED BY  
**LORD WILBERFORCE**