

Pastoral Measure 1968

1. The Parochial Church Council and The Trustees of Saint John the Baptist with Saint Mary-le-Port, Bristol and
2. The Parochial Church Council of The Parish of Saint Augustine with Saint George, Bristol *Appellants*

v.

The Church Commissioners

Respondents

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 8TH MARCH 1984

Present at the Hearing:

LORD SCARMAN

LORD ROSKILL

LORD TEMPLEMAN

[Delivered by Lord Scarman]

On the 12th November 1981 the Church Commissioners made a pastoral scheme the purpose of which is no less than the re-structuring of the church's ministry in five parishes covering the centre of Bristol. The scheme provides for the union of five benefices into one which is to be named "The Benefice of the City of Bristol". The five parishes are to be united to create two new parishes to be named respectively "The Parish of Christ Church with Saint George, Bristol" and "The Parish of Saint Stephen with Saint James and Saint John the Baptist, Bristol". The area of the new benefice will comprise the two new parishes, which, however, will continue as distinct parishes.

The parish church of the first-mentioned new parish will be Christ Church, and that of the second will be St. Stephen's.

The consequences of this re-structuring are spelt out in the scheme. There are recited in this judgment only those which are relevant to the determination of the two appeals with which the Board is concerned. First, the ratio of one benefice to two parishes means that one, and only one, full-time clergyman will be responsible for the two parishes. Secondly, the creation of two parishes in place of five inevitably results in a number of churches having to be declared redundant. The number includes St. George's Church and St. John's Church.

The scheme is the culmination of years of discussion and consultation which have included the consideration of possible alternatives. It comes to the Privy Council for confirmation as a scheme which the Bishop of Bristol, the diocesan pastoral committee, and many, though not all, of the parishioners and other interested parties consider to be in the best interests of the city and the diocese.

The fundamental case made for the scheme is that it is designed to meet the specialised needs of the city centre. In terms of pastoral care the city presents a not unfamiliar problem - a diminishing resident population and a large week-day working population. There exist more churches than are needed: and some of them are less well suited to care for the working population than others: for ancient churches were often designed only for worship and have no accommodation for other uses. What is needed is a church near the offices (or other places of employment) with accommodation available not only for worship but also for purposes other than worship. The scheme's retention of St. Stephen's and Christ Church as the parish churches is based on their suitability in location and design to meet the two dissimilar needs of the residents and of the working population. It is not to be doubted that the presence during the week of the working population is a factor of importance. Indeed, but for those who come to the city centre to work, the survival of two parishes in the city centre could be at risk: for the numbers of the resident population barely justify their existence.

Each of the two appeals is primarily against the scheme's declaration of redundancy of a church. But there the resemblance ends. The Parochial Church Council of the existing Parish of St. Augustine with St. George appeal against the redundancy of their parish church, St. George. They accept the scheme in principle but submit that the retention of St. George's as a second church in the new parish of Christ Church with St. George is justified as meeting the needs of the parishioners of the existing parish of which St. George's is the parish church. In the other appeal the Parochial Church Council and the Trustees of St. John the Baptist with St. Mary-le-Port (one of the existing parishes) make a more radical challenge to the scheme. They are seeking to save St. John's Church as a regular place of worship. They would accept a proposal that it be a second church of the new parish of which St. Stephen's is to be the parish church: but they would clearly prefer that St. John's remain as a third parish separate from the two proposed by the scheme and with its own incumbent. Their concern is to retain the church as a place of worship according to the particular evangelical use (based on a firm adherence to the

Thirty-nine Articles) which is, and has been for many years, the distinctive tradition of St. John's. To ensure the maintenance of this evangelical use they believe, no doubt with very real justification, that they need their own incumbent.

The St. George's Appeal.

In his excellently succinct submissions counsel for the appellants argued that in proposing the redundancy of St. George's Church the church authorities were guilty of some factual errors and of an error of judgment in assessing the pastoral needs of the (existing) parish.

The "factual errors" relate to the state of repair of the church and to the finances available to maintain it in good repair. There is here a difference of opinion. The Parochial Church Council and their advisers consider that the church is substantially in good repair and that the funds available (or obtainable) are sufficient to maintain it, and even to contribute towards the expense of the services of a part-time clergyman. The Church Commissioners query both propositions. The advice available to them suggests that more needs doing to the church than the appellants would admit. And, as for finance, the Church Commissioners point to the substantial arrears which, though now belatedly paid, were allowed to accumulate in respect of the parish's quota due to the Diocesan Fund.

Their Lordships are aware of the wealth of Bristol and of the great affection felt by many for this beautiful and elegant "Waterloo" church built to the design of Sir Robert Smirke. Their Lordships will assume that the appellants could find the finance necessary to maintain St. George's as a regular place of worship. But in their Lordships' view questions as to church maintenance and parish funds cannot be decisive when considering a scheme such as this one. It stands or falls upon pastoral need of the city centre assessed against the background of the needs of the ministry of the Church of England as a whole.

Making the assumption in favour of the appellants discussed in the previous paragraph, their Lordships turn to consider their case on pastoral need. St. George's has a fine history of pastoral care, of which Canon Gay's ministry (1930-1975) is magnificent proof. But numbers have fallen. The resident population of the existing parish does not justify a second church in the new parish or, in these days of shortage of clergy, the appointment of a second stipendiary clergyman. Sunday congregations at St. George's, when recorded in 1982, were of the order of 18 persons per service. It was suggested that some of them would have difficulty in making their way

across a main traffic route to Christ Church. But the distance is slight: and dwellers in inner city areas know how, with the aid of pedestrian crossings, to cross busy roads. The needs of two schools, who use the church for their services, were rightly brought to the Board's attention. These needs, however, can easily be met by use either of the Lord Mayor's Chapel or the Cathedral, both of which are available.

A pastoral need for the retention of St. George's as a regular place of worship is not, in their Lordships' opinion, made out. And, when what St. George's may be able to offer is compared with what Christ Church will surely offer, the case for St. George's collapses. Christ Church has a larger average congregation, offers more services, is open daily, and has an active choir. It is smaller than St. George's (which, alas, is to-day an advantage), but possesses a useful crypt. And it is well placed to meet the needs of the working week-day population. Christ Church, for its many positive advantages, has to be retained. The same cannot be said of St. George's.

Counsel developed a further argument against the case put forward by the Church Commissioners. He said that the decision to declare St. George's redundant was influenced by the fact that St. George's Music Trust is ready and willing to take over the church for the purposes of music and drama. That the Trust is willing is, very fortunately, true. But to say that this prospect led the church authorities to declare St. George's redundant is a travesty of the position taken by the Bishop, the Pastoral Committee and the Church Commissioners. There is, in their view and for reasons which the Board find compelling, no case based on pastoral need which can be made out for retaining St. George's as a place of regular worship. Yet to lose so fine a church would be a catastrophe. If it is placed in the care of the St. George's Music Trust which has the funds and the will to use it as a centre for music and drama, the loss will be averted. The church has, in fact, been used for concerts and broadcasting for a number of years: and there is no intention of introducing any use contrary to the spiritual traditions of the place.

For these reasons, and notwithstanding their real sympathy for those who would wish to see St. George's retained as a regular place of worship, their Lordships would dismiss this appeal.

St. John's.

The case of the Church Commissioners for declaring St. John's redundant is of formidable strength. The

church is exquisitely beautiful: the funds exist to enable it to be kept in good repair. But its parishioners have disappeared. Very few residents are left in the existing parish: no resident, so far as is known, is a member of the regular congregation. The church is not open during the week: on Sundays, it attracts a congregation of some 14, or so, all of whom come from outside the parish and a substantial proportion of whom come from outside the diocese. A church which has lost a parish has been taken over by strangers who find it a noble place in which to follow a very special evangelical tradition well outside the mainstream of the churchmanship of the Church of England. They may suffer a severe loss if the church is closed as a place of regular worship: but no diocesan or parish need will go unmet if it is closed. The church, as at present used, serves neither diocese nor parish but its own small congregation drawn to a large extent, if not totally, from outside Bristol.

Dr. Scales, a trustee of the church's fund, put the case against the redundancy of the church. Dr. Scales, though not, so far as the Board is aware, a legal practitioner, knows this jurisdiction well: in 1979, as a trustee of another trust, he argued the case against a pastoral scheme to establish a group ministry for eight parishes in the diocese of Salisbury. He founds his argument in the present appeal on section 2(2) of the Pastoral Measure 1968. Section 2(1) requires the pastoral committee of a diocese to review the arrangements for pastoral supervision in the diocese and, where appropriate, to make recommendations. Sub-section (2) requires the committee to:-

- "(a) have particular regard to the....provision for the cure of souls in the diocese as a whole,.... and
- (b) have regard also to the traditions, needs and characteristics of individual parishes."

St. John's has been used by an extra-parochial congregation for worship in a strict evangelical tradition for many years. They need the church; and their style of worship has been a characteristic of the church, though not the parish, for some time. They have done a great service in keeping the church going as a place of regular worship: and they have been generous in their giving. They represent no financial drain on the funds of the diocese.

Their Lordships sympathise with the wish of the congregation to remain in spiritual possession of St. John's. Dr. Scales submits that they have a case under section 2(2)(b) of the Measure because they have been there long enough to enable them to say that their need and their use of the church are "needs and characteristics" of the parish to which the pastoral committee must have regard.

Their Lordships doubt whether the need of an extra-parochial congregation can rightly be described as a need or characteristic of the parish. But, if it can be, it must inevitably be of much less weight than the pastoral needs of the diocese as a whole. The case against a third church (or a third parish) in the necessary re-structuring of the church's ministry in the centre of Bristol is so great that the interest of this small, extra-parochial congregation, cannot, notwithstanding their devotion and sincerity, prevail. The St. John's appeal must be dismissed.

Their Lordships will, therefore, humbly advise Her Majesty that both appeals be dismissed and that the scheme be confirmed. There will be no order as to costs.



