

Pastoral Measure 1968

**The Parochial Church Council of the Parish of
Holy Trinity, Birkenhead** - - - - - *Appellants*

v.

The Church Commissioners - - - - - *Respondents*

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 6TH MAY 1974

Present at the Hearing:

LORD DIPLOCK
LORD CROSS OF CHelsea
LORD KILBRANDON

[*Delivered by* LORD KILBRANDON]

The Scheme which has been submitted to Her Majesty in Council for confirmation is wider in scope than is common; it is probably also true to say that the problem which the Scheme is designed to solve is unusually pressing and difficult of solution. The Scheme provides for the re-organisation of the whole ministry of the Church of England within the central part of the Rural Deanery of Birkenhead in the Diocese of Chester. That would involve (1) uniting the benefices and parishes of St. Mary and St. Paul, Holy Trinity, St. Anne, St. John, St. Peter with St. Matthew, and St. Mark, the united parish to be called "Birkenhead Priory", (2) the establishing of a team ministry to serve the Priory parish, to be staffed by a Rector and three Vicars at least, and (3) a declaration that the parish churches of the parishes of Holy Trinity, St. Mary and St. Paul, and St. John, and the chapel of ease of St. Matthew, are redundant.

The Scheme is acceptable to all the parishes in the area affected except Holy Trinity; in fact informal co-operation, in advance of union, is now going on between them. The petitioners in the present appeal, the Parochial Church Council of Holy Trinity, object to the Scheme in so far as it proposes to include Holy Trinity benefice and parish in the new Priory Parish, and to declare the church redundant. The petitioners do not object to the union of the other benefices and parishes and the establishment of the team ministry as such. They do, however, express some misgivings as to the efficacy of team ministries in general, and they object to the establishment of a team ministry otherwise than with the consent of all parishes absorbed in it. The petitioners have put forward an alternative plan involving the extension of the boundaries of the parish of Holy Trinity, but this proposal is not before their Lordships, and could only become a debatable issue were the present appeal to be allowed, or had the Scheme, having been returned to the

Commissioners for reconsideration, been proposed to be amended with the agreement of the Bishop after consultation with the Pastoral Committee.

In making recommendations which result in the formulation of draft proposals for submission to the Bishop, and which will form the basis of a Pastoral Scheme, the Pastoral Committee are obliged, by section 2 (2) of the Pastoral Measure 1968, to have regard to (a) the making of provision for the cure of souls in the diocese as a whole, and (b) the traditions, needs and characteristics of individual parishes. These requirements, though neither can be ignored, may have to be balanced against one another if a proposed Scheme seems to lean towards one objective rather than the other. It must, as their Lordships think, be accepted that the Scheme here was conceived in the interests of the diocese as a whole, with special reference to financial and man-power resources. The question seems to be, have the petitioners shown that the Scheme is wrong in as much as it has not paid due regard to the second consideration. Their Lordships put the matter in this way, in order to emphasize, what has been said over and over again, that their Lordships will be very reluctant to substitute their own judgment, based necessarily on a limited knowledge of all the local factors involved, as to what is in the pastoral interests of a diocese or a parish. They would, as has been said more than once, require cogent reasons for dissenting from the recommendations of a Scheme regularly made.

The broad background to the problem facing this part of the diocese, namely Birkenhead, is as familiar as it is distressing, being common to many industrial towns, where church-going inhabitants once thickly populated the streets lying adjacent to manufacturing plants or commercial installations, and do so no longer. The old populations were served by churches charitably provided on an appropriate scale; those churches now stand for the most part too large and too numerous for any congregations which could require or support them. That this is true of Birkenhead, and has been true for a good many years, is made perfectly plain by the Lord Bishop of Exeter, at one time suffragan of Birkenhead, in his affidavit, which it is not necessary to quote *in extenso*; "I gained the impression", he says, "that unless quick action were to be taken to remedy the situation, there would be a complete breakdown of the parochial system, at least in the central area of the town". The present Scheme is represented as the necessary action; it is endorsed as such by his Lordship, by the Lord Bishop of Chester, by the Archdeacon of Chester and, as has been observed, by all but one of the parishes in the area concerned.

A declaration of redundancy is always a sad business; it may be assumed that the grief, unrest and in some cases ill-will to which it may give rise are well known to the pastoral authorities who find themselves under the duty to make such recommendations. They must be quite aware of the price to be paid for a re-organisation which they have judged necessary. Their Lordships have listened in the present appeal, as in other appeals, with sympathy to the arguments against the declaration of redundancy, which they will now proceed to examine. They are conveniently arranged in paragraph 5 of the petition.

A. *Viability as a Parish.* The word "viability" is used to cover a number of aspects. As regards population, their Lordships feel that they cannot accept estimates for the future more favourable than those made in January 1972, and confirmed in July 1973, by the Borough Engineer and Surveyor. These show that the population is declining, and will decline further to a figure of about 2,720 by 1976. This is

directly contradictory of the expectations of the petitioners. Their Lordships are satisfied on the evidence that the congregation, for its size, is lively and enthusiastic. That evidence, however, makes it plain that much of this is due to the remarkable ministry of the vicar, the Reverend D. T. P. Evans. Mr. Evans is now aged 79; when in the comparatively near future he retires, it seems by no means certain, or even likely, that a fresh start under a new vicar will, in face of all the obvious difficulties, be possible without loss of momentum. It is probable that it is Mr. Evans' ministry which is holding the parish together.

As regards finances, although these may appear to be precarious, their Lordships do not attach great importance to that. There are poor parishes in every diocese, and they have to be supported by the diocese if they are required for the church-people of their district. The question is whether Holy Trinity is so required; if the petitioners are right in saying that it is, then its poverty is irrelevant. If they are wrong, their case against the inclusion of Holy Trinity in the team ministry can hardly succeed.

Repairs are dealt with under the heading of *Architectural Considerations*. There is no substantial point on the parsonage house.

B. *Parochial Feeling*. Their Lordships have endeavoured, earlier, to show that they can easily appreciate the feelings of a congregation in such a situation as the present. They would wish to add that the trouble of obtaining signatures, many from irrelevant sources, and especially the expense of reproducing them, are not commensurate with the effect they are likely to have in an appeal under section 8 of the Measure. Their Lordships are, however, surprised to see, in the paragraph of the petition dealing with the proposed team ministry, a suggestion that if Holy Trinity ceased to exist many of the congregation might "cease to receive the ministrations which the Church has to offer, especially bearing in mind the intense feeling that the proposed closure of Holy Trinity has already generated". Another example of the same attitude is seen in the cessation of the Girl Guides and Brownies pending the determination of the present dispute, which is given as a reason for depriving the children in the area of advantages apparently unconnected with any parochial reorganisation. These attitudes go some way to explain the use of the expression "inward-looking" as applied to Holy Trinity in the Answer.

C. *Architectural Considerations*. Architecturally, Holy Trinity is interesting and unusual. Its merits as a building must remain a matter of taste. The interior, at least of the nave and chancel, is bright and well kept. The latest quinquennial review (November 1973) sets out a formidable list of necessary and desirable repairs, some long outstanding. In the interests of economy an estimate was not provided, but a round figure of £10,000 was quoted. The petitioners have received an estimate of £4,000 for what are called "essential repairs". There is said to be £3,000 available on deposit for this purpose. Their Lordships take much the same view about repairs as they do of the financial situation in general. Many churches, from cathedrals downwards, are in urgent need of extensive repairs. Often they have to do without them, except in so far as limited resources will meet the cost of annual patching and bare security. It may be that, if Holy Trinity were to survive as a parish, money would be found to keep the fabric together, although with the declining population, and the fairly imminent change of incumbent, this is somewhat speculative. It is not, however, a point which much influences their Lordships in their consideration of the Scheme.

D. *Relationship to New Parish and Team Ministry*. It is specifically provided by section 19 (1) of the Measure that a Pastoral Scheme may

provide for the establishment of a team ministry. That being so, the reasons for doing so in Birkenhead seem to be clear and convincing. Their Lordships' attention was directed to the Report of a Working Party, set up by the London Diocesan Pastoral Committee, on Team Ministries. With one possible exception, the present Scheme seems to be consistent with the conclusions of the Working Party. There has been ample preparation, and indeed the present co-operation to which reference has been made must be the best kind of preparation. The Working Party, do, however, say that there must be "a genuine and general willingness in all participating parishes"; this is absent in Birkenhead. It would, nevertheless, probably be wrong to regard this requirement as *sine qua non*, if that were to mean that one small and declining parish could frustrate a scheme of team ministry which those responsible rightly considered to be the only proper solution for the area. The pastoral authorities and the respondents say that to omit Holy Trinity from the team ministry, and to allow that parish to minister in parallel with it, would indeed frustrate the scheme. Their Lordships agree with that, finding as they do the reasons given in paragraph 8 of the Answer wholly convincing.

The result is that it has not been shown that there are cogent reasons for dissenting from the recommendations made. Their Lordships will therefore humbly advise Her Majesty that the appeal be dismissed and the Scheme confirmed.

Their Lordships would wish to add that this appeal has shown in a bright light the difficult and in some ways unsatisfactory nature of the jurisdiction which has been conferred upon them. They are called upon to review the proposals of those who have direct responsibility for pastoral care, together with the authority, experience and qualifications which enable them to discharge that responsibility. It is not necessary to point out that their Lordships are in very different case. That is why they will not, unless for irregularity of procedure, for excess of jurisdiction, or on cogent evidence of erroneous judgment, refuse to confirm a Pastoral Scheme. If this were more widely known or more closely attended to it may be that appeals would be less frequent. But in the present case, their Lordships feel the less confident in their ability to assess the expediency and review the scope of a team ministry, which is something outside their personal experience, and requiring the most delicate decisions on the part of those whose responsibility is primarily exercisable. It may be that this is a special instance of the general proposition that their Lordships' jurisdiction in pastoral matters is of a rather anomalous character.



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In the Privy Council

THE PAROCHIAL CHURCH COUNCIL
OF THE PARISH OF BIRKENHEAD,
HOLY TRINITY

v.

THE CHURCH COMMISSIONERS

DELIVERED BY
LORD KILBRANDON

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