

In the Matter of an Appeal against a Scheme for effecting the union of the benefices of All Saints, Clifton, Emmanuel, Clifton and St. Mary the Virgin, Tyndall's Park and for the alteration of the boundaries of certain parishes all in the Diocese of Bristol.

The Parochial Church Council of the Parish of Emmanuel, Clifton, Madeline Hodgson and Maurice Webster Wright - - - - *Appellants*

v.

The Church Commissioners - - - - - *Respondents*

REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 27TH JULY, 1959

Present at the Hearing

LORD TUCKER

LORD JENKINS

SIR JOHN BEAUMONT

[*Delivered by* LORD TUCKER]

The petitioners in the present proceedings appeal against a scheme for the union of the benefices of All Saints, Clifton, Emmanuel, Clifton, and St. Mary the Virgin, Tyndall's Park, and for the alteration of the boundaries of certain parishes in the Diocese of Bristol which scheme has been certified by the Church Commissioners.

The Parochial Church Council of the parish of Emmanuel and Mr. Wright appeal against that part of the scheme which seeks to unite the benefices of Emmanuel and All Saints and to alter the boundaries of parishes in so far as the alterations affect the boundaries of the present parish of Emmanuel. Miss Hodgson appeals against the part of the scheme which unites the benefices of All Saints, Emmanuel and St. Mary the Virgin.

The scheme is a complex one which involves not only the union of the benefices of All Saints, Emmanuel and St. Mary the Virgin and, subject to certain boundary adjustments, the union of the parishes of these benefices in one parish for ecclesiastical purposes, but also for certain alterations in the boundaries of the parishes of Christ Church, Clifton; St. Paul, Clifton; St. John the Evangelist, Clifton; St. Matthew, Kings-down; St. Saviour, Woolcott Park, and St. Nathanael with St. Katherine, Bristol, and for certain patronage exchanges for which the necessary consents have been obtained.

It is to the parts of the scheme which most directly affect the parishes of All Saints and Emmanuel that their Lordships' consideration has been invited.

It should be stated at the outset that the two features of the case which stand out most prominently are (1) the parish church of All Saints was destroyed by enemy action and a large sum is expected to be obtained from the War Damage Commission in respect thereof. The figure mentioned was in the neighbourhood of £80,000. The Church Commissioners are of opinion that this sum should not be used for rebuilding All Saints on its original site or elsewhere in the parish but in building a church or churches in other parts of the diocese where recent development and increase in population require the provision of new churches. (2) The churchmanship of All Saints and Emmanuel is admittedly widely different. All Saints was established as and has always been maintained as an Anglo-Catholic Church and is regarded as the diocesan centre for Anglo-Catholics attracting a large congregation, many of whom come from outside the parish. Emmanuel Church on the other hand was established

and has always been maintained under the patronage of the Simeon Trustees for the purpose of providing an evangelical form of worship.

The parishes of Emmanuel and All Saints adjoin and Emmanuel Church is situate only a few hundred yards from the site of the old All Saints. Both parishes are live centres for their different forms of worship and maintain themselves without outside financial aid. Emmanuel parish had a population of 984 according to the census of 1951 and All Saints 1,787. The respective electoral rolls in 1953 contained 161 and 448 names. The average Sunday morning congregation (including Holy Communion and Matins) at Emmanuel numbers approximately 200 and at All Saints (Low Mass, Sung Mass and High Mass) about 450-500. The services at All Saints are now conducted in temporary premises.

The incumbency of Emmanuel is vacant and the parish is served by a priest-in-charge. Under the scheme Emmanuel Church is to become the parish church of the new united parish of All Saints. The greater part of the parish of Emmanuel is to be severed from the united parish and become annexed to Christ Church, Clifton, a small part is to be severed and annexed to St. Paul's, Clifton. A narrow strip containing some 20-25 houses to the east of Clifton College is to be part of the new united parish of All Saints.

On the one hand it is said that the scheme will involve the dismemberment of the present parish, the dispersal of the congregation and its destruction as a live and active body, the handing over of its church for use for a form of worship to which its founders and present congregation strongly object with the consequent removal of many of its memorials and furnishings and their replacement by those which will be transferred from All Saints.

In the case of All Saints the Parochial Church Council objected to the draft scheme but on 9th June after its certification by the Church Commissioners passed the following resolution: "That this Parochial Church Council having considered the question of an appeal to the Privy Council, whilst still upholding its objections and holding the view that the Church Commissioners' scheme is a mistake, resolves, in the light of Counsel's advice, not to prosecute an appeal". The case for All Saints has accordingly been presented to their Lordships by Miss Hodgson who claims to be voicing the views of the parishioners in objecting to the use of the money to be obtained for the destruction of All Saints for the building of some unspecified church in some undefined place instead of its replacement in its original site as promised them and for the purpose of refurnishing which the congregation has to the knowledge of the church authorities collected some £30,000.

All the petitioners have stressed the duty imposed upon the Pastoral Committee by section 3 (2) (b) of the Pastoral Reorganisation Measure 1949 to take into account "respect for the traditions, needs and characteristics of individual parishes" and have argued that this requirement cannot have received proper consideration.

In reply to these contentions it was contended on behalf of the Church Commissioners that it is also the duty of the committee under section 3 (2) (a) to take into account "the making of the best possible provision for the Ministry of the Word and Sacraments in the diocese as a whole" and to weigh these requirements against those of section 3 (2) (b). It was said that in these days the provision of an incumbent for a parish with a population of less than 1,000 in a diocese of the nature of Bristol cannot be justified and that the needs of the parishioners of Emmanuel will be sufficiently provided for by their inclusion in the parishes of St. Paul and Christ Church where the churchmanship is of a kind similar to that of Emmanuel, while in the case of All Saints they will be provided with an existing church which can be adapted for their use and thus leave a large sum of money available for use in areas where there is greater need.

It has not been considered necessary for present purposes to do more than present the respective cases in broad outline. The evidence on each side deals with many matters of detail which need not be set out but to all of which their Lordships have given careful consideration.

In seeking to arrive at a just conclusion after weighing these considerations one against the other their Lordships feel themselves to be much handicapped by lack of information essential to a proper determination of the matters in issue.

It is said that the decision not to rebuild All Saints is justified by the urgent need for churches elsewhere, but their Lordships have been given no evidence as to where the new church or churches are to be built nor as to the present need for new churches. According to the evidence and information supplied by counsel on behalf of the Church Commissioners a diocesan Church Development Appeal was launched in 1956 in which it was stated that the estimated cost of essential work was £450,000 and that every endeavour had been made to reduce this sum "by a wise use of War Damage payments, and by a deliberate policy of disposing of redundant sites and buildings, and of uniting parishes in which this could be done without unfairness to the parishioners" by which they hoped to reduce the cost to about £250,000. Their Lordships were informed that this sum has now been obtained or promised and that this covers the estimated requirements up to 1960. As to the requirements beyond 1960 or the estimated cost thereof no evidence has been given. Furthermore their Lordships were told that before the War Damage Commission would pay money for the erection of a new church on a different site they would require information as to the proposed site and cost.

Their Lordships would require similar information before deciding whether the requirements at the proposed site were sufficiently compelling to outweigh the claims of All Saints to the rebuilding of their church.

In the course of the hearing it was suggested by the appellants that if the population of Emmanuel does not justify an incumbent then a preferable solution would be the union of the benefices of Emmanuel and St. Paul's, and that if a case could be made out for using the All Saints war damage compensation elsewhere the parishes of All Saints and St. Mary the Virgin might be united and the church of St. Mary the Virgin become the parish church of the united parishes both of which have Anglo-Catholic traditions and services.

Their Lordships were informed that these alternatives have been considered and rejected. They were by no means convinced that the objections relied on were insuperable but desire to express no concluded opinion thereon until the Church Commissioners have had a further opportunity of considering the matter and of submitting evidence thereon if they so decide. For these reasons their Lordships will humbly propose to Her Majesty that the Scheme be returned to the Church Commissioners pursuant to section 10 (5) of the Union of Benefices Measure 1923 as amended in 1936 for re-consideration in the light of this report, but with liberty to restore the appeal within six months and file further evidence should they decide after re-consideration not to propose any variation thereof or to withdraw it.

In the Privy Council

THE PAROCHIAL CHURCH COUNCIL OF
THE PARISH OF EMMANUEL, CLIFTON,
MADELINE HODGSON AND MAURICE
WEBSTER WRIGHT

v.

THE CHURCH COMMISSIONERS

DELIVERED BY LORD TUCKER

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