

Legend:

- H.S.T. (hoc Supremum Tribunal) means “this Supreme Tribunal”

The Details of the Case

The Bishop of Calgary, the Most Rev. Frederic B. Henry, supported by the recommendation of the Presbyteral Council and of the Diocesan Planning Commission, on July 4, 2006 decrees that extinctive union of the parishes of St. Basil’s, Assumption of the B.V.M., and St. Patrick’s in the city of Lethbridge with effect from November 1, 2006, and the establishment of a new parish under the patronage of All Saints.

The same Ordinary, on August 1, 2011, announced to the parishioners the plan of building a new church with adjoining parish structure for parish activities in place of the suppressed parish churches of St. Basil’s, Assumption of the B.V.M., and St. Patrick’s in Lethbridge, which would be closed to divine worship. Against this decision, an association called Save Our Churches Association (SOCA) was founded with the aim of preserving the aforesaid churches. By a decree of July 10, 2014, the Most Reverend Bishop, Having heard the Presbyteral Council and the Planning Commission, decreed the definitive closure of St. Patrick’s Church for divine worship – it had already been reduced to a few celebrations.

Having in vain petitioned for a revocation of the decree closing St. Patrick’s Church, Mr. Philip Gray, commissioned by Mr. Noronha, in the name of 510 faithful of the new parish of All Saints, and introduced hierarchical recourse to the Congregation for the Clergy on December 23, 2015. Having received the recommendation of the Most Reverend Bishop, the Congregation on August 3, 2016 responded by a declaration of illegitimate closure in fact of St. Patrick’s Church and by a manifestation of uncertainty with regard to the planned construction of a new church. It therefore stated that St. Patrick’s Church was to be opened unless there was a grave reason, in which case, in accord with c1222.2 the reduction of this church to profane use should take place.

The Most Reverend Bishop, having twice heard the Presbyteral Council and obtained its consent, by a decree of October 1, 2016, took the decision of reducing St. Patrick’s Church to profane usage with effect from January 1, 2017. On October 11, 2016, the same bishop rejected a protest against this decree as offered by the procurator of Mr. Noronha. The same Mr. Noronha on November 3 following introduced to the Congregation for the Clergy hierarchical recourse: on November 21, 2016 the Congregation decreed that recourse against the closure of St. Patrick’s Church after the changing of the decree of reduction of this church to lack basis.

By a letter of December 9, 2016, Mr. Noronha, in his own name and that of others who had appealed against the reduction of St. Patrick’s Church to profane usage, appealed to the Congregation for the Clergy seeking a suspension. The Congregation again refused to suspend the episcopal decree.

A new bishop, the Most Rev. William Terrence McGrattan, succeeding the Most Rev. Frederick B Henry, took possession of the Diocese of Calgary on February 27, 2017.

By a decree of March 14, 2017, the Congregation for the Clergy negatively dismissed the recourse of procurator Noronha against the first decree of April 6, 2017.

The same procurator, on July 13, 2017, in his own name and with the mandate of 510 faithful introduced recourse before this Tribunal of the Apostolic Signatura seeking revocation of the decision of

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the Congregation for the Clergy and the re-opening of St. Patrick's Church for divine worship. Following, on April 10, 2018, the procurator petitioned H.S.T. for the suspension of execution of the decree being opposed.

H.S.T., having heard the parties and received notification of the mandates of the advocates of the parties in its Congress (i.e. Meeting) of September 14, 2018, took the decision to again have the matter examined before the Eminent and Most Reverend Judges, and by decree on the same day withdrew the execution of the decree of the Congregation of Bishops. On October 18, 2018, the agreed doubt was formulated: whether there was violation of law in procedure or decision relating to the decree from the Congregation for the Clergy of March 14, 2017 and confirmed on May 3, 2017.

On October 18, 2018, H.S.T. issued a supplementary instruction through questions to the Most Reverend Bishop relating to the state of St. Patrick's Church, eventual buyers, the state of collection of money for the construction of a new church, and also progress in planning, with necessary permits from civil authority, to which he responded by letter on November 30, 2018.

The Matter having been properly discussed by the advocates of the parties and the assigned Promoter of Justice, the agreed doubt was presented to us.

In Law and in Fact

For an object of judgement, only consideration of the decree of the Congregation for the Clergy of March 14, 2017, confirmed on May 3, 2017, is relevant, from which the recourse by Mr. Noronha in his own name and with a mandate from many of the faithful of the parish of All Saints against the decree of the Most Reverend Bishop of Calgary of October 1, 2016 was rejected, by which decree the reduction to profane use of St. Patrick's Church in that same parish, already in fact closed in 2011, was decreed.

It is within the power of H.S.T., for which the advocate Andrea Errera acts as Advocate, to challenge the decree of the Congregation for the Clergy because it is sad to be in violation of C1222.2 because of grave errors in procedure or decision. The advocate Martha Wegan, on the contrary, asserted in the name of the Congregation for the Clergy, that the recourse is to be rejected because there was no violation of law.

The Committee of the H.S.T now scarcely at all examines the wide-ranging decision of the Most Reverend Bishop by which he suppressed the parishes of St. Basil's, Assumption of the B.V.M, and St. Patrick's and erected one new parish of All Saints. Nor was pertinent to the object of judgement the acts preceding the decree of October 1, 2016, by which only St. Patrick's Church was reduced to profane use, but only to examine the first recourse to the Congregation for the Clergy against the closing of St. Patrick's Church.

The object of our judicial proceedings is only the legitimacy or lack thereof in process and procedure of the reduction of St. Patrick's Church to profane, not sordid, use (cf.c.1222.2)

According to c.1222.2 a church, which for grave reasons can no longer be used for divine worship, may be reduced by the Bishop to profane, not sordid use. In addition to the presence of grave reasons, a hearing by the Presbyteral Council and the receiving of its consensus is required and also the consent of those who legitimately claim rights, provided that the good souls suffer no damage.

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The arguments brought forth on the part of the appellant notwithstanding, the Most Reverend Bishop observed the prescript in so far as substance in reducing St. Patrick's Church to profane usage by twice consulting the Presbyteral Council and receiving its agreement.

Nor was he obligated to obtain the consent of the parishioners, because no one had any rights to be vindicated in this church (CFC 1222.2). Mere offerings for the building or conservation of the church do not at all beget a right with regard to the future of the church unless given and received according to formal agreement.

Concerning alleged violations of law in decernendo

In judging the subject of a violation of law in decernendo it is necessary to examine both the circumstances and the final decision of the Most Reverend Bishop, namely the reducing of St. Patrick's Church to profane but not sordid use. From the acta it is clear that from the beginning the intention of the Most Reverend Henry was not only the legitimate suppression of three parishes in Lethbridge but also the closing and reducing to profane usage of three existing churches, so that the money necessary for the construction of a new parish church of All Saints might be obtained.

The Most Reverend Bishop legitimately thought that a new parish and a new church would better fit today's pastoral requirements. This intention had the effects of leading, according to the mind of the Most Reverend Bishop and his consulting bodies, to require the selling of the three churches, because there was no other way of providing the money, \$20,000,000 CAN, for the new construction. Because of this, it was stated in the Bishop's decree of October 1, 2016: "The financial requirements to build a larger church necessitates the selling of the three present church sites. It is impossible to finance such a building without this action. With the sale of these three sites the finances for building the new church is assured."

The Most Reverend Bishop began his plan already in 2011 and in fact closed only St. Patrick's Church, which action the Congregation for the Clergy in a letter of August 3, 2016 declared unlawful, recommending the re-opening of the church until its reduction to profane use for grave reasons according to c1222.2 had come about according to the norm of law. The Most Reverend Bishop did not re-open the church, but without delay began the procedure of reducing the church to profane usage. From the acta it is possible to see that the Most Reverend Bishop proceeded to the reduction to profane use of only St. Patrick's Church because of the necessity of obtaining at least some money for the construction of the new church.

Truly, however amongst the reasons for the closing of the church for worship in 2011 is to be reckoned the fact that the church is in a ruinous condition today and that restoration would require \$3,500,000 CAN to \$4,500,000 CAN. The value of the small church of St. Patrick with the attached parish structure was, according to the estimated valuation given to this Supreme Tribunal by the new bishop on November 30, 2018, only \$1,824,300 CAN. The same Most Reverend McGrattan, having at the same time considered everything, asserted that it would be more suitable to demolish the whole structure and sell the land.

The condition of things from the time of impugning the decree of the Congregation may thus be described: St. Patrick's Church was closed with consequent ceasing of conservation of the building and loss of value, while the two other churches, namely St. Basil's and Assumption of the B.V.M., remain

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open for worship. The planned construction of a new church continues in a preliminary state. With a foreseen cost of \$20,000,000 CAN, in ten years, from 2008 to 2018, only \$4,682,824 CAN has been collected, even though some parishioners oppose the planned construction. It is evident that the minimum sum required for the beginning of construction is \$10,000,000 CAN. Collection of money has been suspended pending the end of the case before H.S.T.

The Most Reverend Bishop acquired land for the construction of a new church on the periphery if Lethbridge and distant from the churches of the suppressed parishes, but, however, suitable water, electricity, sewers, etc. provided by municipal law were lacking, although the Most Reverend Bishop attributed this difficulty to the opposition of the members for the conservation of the church (SOCA). The Most Reverend Bishop, on November 30, 2018, in response to questions from this Supreme Tribunal explained that permission from the civil authority had been granted at the end of 2018 and that the conclusion of preparatory work on the ground site was expected in February 2019. In the same letter, the Most Reverend Bishop asserted that the plans for the new church would be completed by June 2019, so that work could begin in April 2021 and be completed in 2023. It is to be acknowledged that the number of inhabitants in the midst of the city is generally decreasing while that in the suburbs is increasing.

Taking all of this into consideration, the question which the Committee of H.S.T. faced was whether in this case grave reasons exist for St. Patrick's Church to be reduced to profane but not sordid use, or not. The decree of the Congregation for the Clergy of March 14, 2017 recognized that the Most Reverend Bishop would try in vain to find a solution acceptable to all parishioners. The legitimate decision of the Ordinary was considered, whether the construction of a new church and the money necessary for this constituted grave reasons for the reduction of St. Patrick's Church to profane use.

The Congregation already in a circular letter of April 30, 2013 asserted that the gravity of reasons in C1222.2 did not finally consist in only one element, but could be constituted "from a combination of just causes, each insufficient in itself." This combination of causes/reasons, each not grave in itself, is weighted by objective examination, not by arbitrary examination of differing hard facts in a given case, for example from circumstances, from the state of a place, from finances, or from the possible wealth of a community of the faithful.

According to the constant jurisprudence of H.S.T., as the Promoter of Justice rightly noted, on the contrary, it is required that at least one of the causes/reasons/grounds be sufficiently grave, so that it alone may provide a motive for the reduction of a church to profane usage: "The Sacred Congregation for the Clergy holds that even if all the causes/reasons/grounds are not certain, taken as a whole, the Ordinary can form the concept of the existence of a cause/reason/ground that is legally acceptable. This is true just if only one cause/reason/ground is legally valid and certain: in fact, certainty is not generated by a heap of probabilities. The Ordinary says...that he thinks, for his part, that "the pastoral causes" added to all the other of the Code are of the exclusive evaluation of the Ordinary. This cannot be admitted: these pastoral causes must be well specified so that judgement can be given as to whether or not they are secundum legem." From a letter of the Most Eminent Prefect of H.S.T., P. Felci, July 24, 1978 to the Secretary of State regarding a question of the execution of an affirmative sentence H.S.T. prof. n. 903/77CA, coram Felci, April 8, 1978.

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The jurisprudence of H.S.T. applies this principle that at least one of the grounds/reasons/causes is required to be well-grounded and acceptable, which itself is proportionate to the importance of the matter, such as the reduction of a sacred building to profane usage, nor can it be from the mere accumulation of reasons not pertaining to the matter.

According to the Fathers of the Committee of H.S.T., from the examination of all the factors enumerated in the decree of the Congregation it is established that grave grounds/reasons/causes for the reduction of St. Patrick's Church to profane use are absent. By weighing objectively the chronological succession of events carried out by the Most Reverend Bishop and today's condition of the new parish, it is established that only the selling of St. Patrick's Church closed from 2011 and reduced to profane use in 2016, to constitute minimally a proportional arson related to this end, so that the Most Reverend Bishop was tempted to obtain from the sale money for the beginning of the construction of the new church. Besides the selling only of St. Patrick's Church, the value of which in 2018 was estimated at less than \$1,824,300 CAN, not even sufficient to begin work, with \$4,682,824 collected there was not at all the projected sum of \$10,000,000 CAN required to begin construction.

From an accurate consideration of the circumstances of place and time it is clearly evident that the decision of 2017, namely to reduce St. Patrick's Church to profane usage was not at all supported by grave reason/ground/cause, because without selling at the same time the other churches as well and a further supply of money, proportionate to expenses, it is not possible for the new church to be built. In other words, there fails to be a causal connection between the decree of the Congregation given in 2017 and the possibility of building a new church.

Further, the Congregation for the Clergy itself in its letter of August 3, 2016 to the Most Reverend Henry, shone light upon the weight of two arguments put forward with regard to the construction of a new church: the opposition of a number of the faithful to the closing of St. Patrick's Church and the uncertainty regarding the size of the new proposal related to the land selected and the obtaining of necessary funds for the completion of construction. Because of this it urged the immediate re-opening of St. Patrick's Church and careful examination as to whether or not there might be grave reasons for reduction to profane usage according to c 1222.2. Furthermore, it wondered whether monies obtained through the frugal, good economic condition of the new parish might suffice for the intended construction without selling St. Patrick's Church.

Advocate Wegan defended the reasoning of the Congregation, asserting that the proposed building of a new church indirectly involved the selling of the three churches for the decree of July 4, 2006 erecting a new parish was not at all recent but led to 2007, namely to the time of the announcing of the construction of a new church.

This argument does not at all prove the existence of a grave reason/cause/ground for reduction to profane usage, to which it pertains. A grave reason would consist in the impossibility of keeping up three churches together with the construction of a new church with its adjoining parish building, and not at all in the mere plan of construction of a new church. First of all the matter to be object to is the application of the basic idea according to which the selling and demolition of already existing churches is permitted to accomplish the building of a new church, which carried with it the demolition of many churches of a place leading to a lack of pastoral activity simply in order to make a material gain, which does not fit at

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all with the principal purpose of the church, divine worship, because it is always possible for other buildings to be added without the necessity of demolishing those already in existence, in particular when a building has historical value and is visited by the people of God.

First of all, other ways of raising money are to be sought rather than selling churches, in particular, when, as in this case, it would seem, not enough would be raised. The argument that these is a grave reason/cause/ground is not sustained because, in fact, the three churches were not reduced to profane use, but only St. Patrick's Church, which was not sufficient for the construction of the new church, nor even for the beginning thereof, and the unfortunate results which followed came after the unlawful closure in fact in 2011 for this church then became endangered and lost value. According to the letter of the Most Reverend Bishop of November 30, 2019 the demolition of the church appears opportune. Time and circumstances as expressed by the decree of the Most Reverend Bishop and confirmed by the decree of the Congregation for the Clergy of March 14, 2017 demonstrate, that, at least at this time, there do not exist grave reasons/causes/grounds for the reduction of St. Patrick's Church to profane, not sordid usage.

Conclusion

Having fairly examined everything, both in law and in fact, the undersigned Fathers, invoking the Name of Christ, sitting for the Tribunal and having God alone before us, respond to the doubt as follows:

Affirmative, or it is established to be in violation of the law in decernendo relating to the decree of the Congregation of the Clergy March 14, 2017.

Given at Rome, from the seat of the Supreme Signatura of the Apostolic Tribunal, March 12, 2021