

AS TO THE ADMISSIBILITY OF

Application No. 27008/95
by Paul WILLIAMSON
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting
in private on 17 May 1995, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
M.P. PELLONPÄÄ
B. MARXER
G.B. REFFI
B. CONFORTI
N. BRATZA
I. BÉKÉS
E. KONSTANTINOV
G. RESS
A. PERENIC
C. BÍRSAN

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection
of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 2 June 1994 by
Paul WILLIAMSON against the United Kingdom and registered on
7 April 1995 under file No. 27008/95;

Having regard to the report provided for in Rule 47 of the Rules
of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a priest in the Church of England. He was born
in 1948 and lives in Hanworth. The facts of the case, as submitted by
the applicant, may be summarised as follows.

In 1993 two measures were enacted which would lead to the
ordination of women as priests, the Priests (Ordination of Women)
Measure 1993 and the Ordination of Women (Financial Provisions) Measure
1993. The Measures were enacted pursuant to the Church of England
Assembly (Powers) Act 1919, which is an Act of Parliament. The
Financial Provisions measure provided for the payments to priests and
certain others who resigned from ecclesiastical service by reason of
opposition to the ordination of women as priests.

Canon C 4B (Of Women Priests) was made under the Ordination of
Women Measure. It provided, in part, as follows:

"1. A woman may be ordained to the office of priest if she
otherwise satisfies the requirements of Canon C4 as to the
persons who may be ordained as priests."

The applicant considers that it is heresy for the Church of
England to allow the ordination of women to the priesthood, that it is

productive of schism and unlawful. He made a series of challenges to the Measures.

On 1 March 1994 the Court of Appeal refused, on a renewed application, an application by the applicant for leave for judicial review by way of declaratory relief that the Synod of the Church of England acted unlawfully in promulgating Canon C 4B (The Times, 9 March 1994). The Master of the Rolls found that there was no restriction on the scope of matters relating to the Church of England which could form the subject of a measure, and that once a measure had been duly enacted it had the same invulnerability as an Act of Parliament and its validity could not be challenged in the courts. The other members of the Court of Appeal agreed.

On 11 November 1994 Mr. Justice Lightman, in the Chancery Division of the High Court, gave judgment on a summons by the Archbishops of Canterbury and York and the Church Commissioners to strike out the applicant's originating summons of 4 February 1994. Granting the summons to strike out the originating summons as "vexatious and an abuse of process" the judge recalled that there had been for centuries a custom which was part of ecclesiastical law, and thereby of the general law of England, that only men could be ordained to the priesthood. The first women priests had been ordained on 12 March 1994. He found that the issues the applicant was trying to raise were public law issues which should not be dealt with in the Chancery Division, and that the public law issues had already been litigated in the judicial review proceedings. It did not matter that there was no full hearing of those proceedings because leave for judicial review had been refused. Even if he could consider the same matters as those which had been put to the Queen's Bench Division, the judge was bound by precedent. In connection with the Financial Measure, the judge found the legal basis for the payments of compensation to priests and others who resigned was clear from the measure, as was the basis for payment of women priests. He considered that the applicant's contentions were based on his theological views, and were plainly wrong in law.

COMPLAINTS

The applicant alleges a violation of Article 9 of the Convention. He considers that the Ordination of Women Measure is in breach of domestic constitutional law in several respects, and adds that:

- he is required to accept women priests in the church which is against his conscience and belief;
- he is forced to raise money to pay compensation for those who leave the church;
- he is now in a church which has had its identity changed without his being consulted, or having consented;
- he is bound by the oath he gave on ordination, but the meaning of that oath has been varied and he is compromised;
- he is faced with constructive dismissal for not agreeing with the measure; and
- the parochial rights of all parishioners are violated because individuals have to accept the ministrations of a priest, female or male, and cannot in law refuse, despite their conscience being contrary to women priests.

THE LAW

The applicant alleges a violation of Article 9 (Art. 9) of the Convention. This Article provides as follows:

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

The Commission first notes that the applicant remains in his parish and, although he refers to the possibility of "constructive dismissal" in his application, has made no submissions whatever which indicate that he is under a real or immediate threat of dismissal. The Commission also notes that the changes which have been brought about in the Church of England affect the structure of that Church rather than the beliefs of the applicant.

The Commission recalls that it has previously held that, where the requirements of a church are in conflict with a clergyman's beliefs, his freedom of thought, conscience and religion is maintained whilst he can leave his office (*Karlsson v. Sweden*, No. 12356/86, Dec. 8.9.88, D.R. 57 p. 172). Whilst it is true that the ordination of women has only become possible since the applicant took his initial oaths in the Church of England, the Commission notes that the domestic courts which have considered the case have had no doubts as to the lawfulness of the changes in domestic law. Furthermore, the Commission notes that changes in the nature of one's employment, even in the Church of England, can never be completely excluded.

Finally, the Commission recalls that Article 14 (Art. 14) of the Convention prohibits discrimination in connection with Convention rights, and one of the aims of the Church of England in permitting the ordination of women was undoubtedly to achieve greater equality between men and women in that Church's hierarchy.

Even assuming that there has been an interference with the applicant's freedom of thought, conscience and religion, the Commission finds that that interference was "prescribed by law". The Commission also finds that the Synod's concern to abide by its view of scripture can be regarded as coming within the meaning of "protection of ... morals", and the Synod's wish to treat women equally can be regarded as necessary for the "the protection of the rights and freedoms of others".

It follows that the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission unanimously

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber

(M.F. BUQUICCHIO)

President of the First Chamber

(C.L. ROZAKIS)