

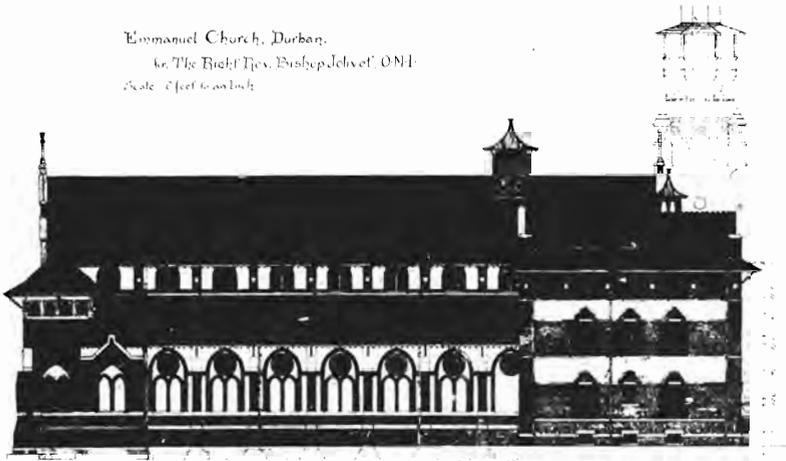
Architects Versus Catholics: The Emmanuel Cathedral Controversy

In recent years, Durban's Roman Catholic community has been involved in a programme to restore the Emmanuel Cathedral in central Durban. In the light of current interest in the Cathedral, it seems especially appropriate to recall the controversy which raged around its original construction, and the court case which brought the dispute to a climax.

The plan of Bishop Charles Jolivet (head of the Roman Catholic mission in Natal), to build a cathedral, was attended by doubt and difficulty from the outset. From 1881, Durban's 2 000-strong Catholic community had worshipped in St Joseph's Church, West Street, where the Catholic Church owned a sizeable section of property. By the late 1890s Bishop Jolivet saw that this site 'had become inconvenient and unsuitable for a church and presbytery', largely because of the increased traffic in the locality.¹ The Bishop was also concerned about the debts which the Church had incurred in its missionary and other work. He therefore proposed to sell most of the Church's West Street properties. With the resultant funds, he would pay the Church's creditors, transfer St Joseph's Church to the quieter area of Greyville, and still have sufficient money to build a large cathedral and presbytery off the main street in Durban. However, over the years, Durban's Catholic congregation had developed strong emotional ties to their church in West Street, and so there was some disquiet amongst local Catholics concerning the Bishop's plans. There were also legal difficulties to surmount: the site on which Bishop Jolivet proposed to erect the cathedral had been granted to the Church for burial purposes only, and so Supreme Court approval had to be obtained for the proposal. The determined Bishop overcame local opposition, obtained the Court order, and prepared to effect his plan.²

In 1901, Bishop Jolivet engaged the services of Messrs Street-Wilson and Paton, a firm of Durban architects, to supervise the construction and erection of the Emmanuel Cathedral and accompanying presbytery. This firm had done a 'great deal of work' for the Bishop, and they were now charged with overseeing the erection of 'the largest and finest Roman Catholic Church in the Colony'.³ The contract price of the cathedral was to be £24 000, of which the architects were to receive a commission of 4%. One half of this commission was duly paid on completion of the plans and specifications, and work commenced at the hands of contractors Mowat and Hill.⁴

Emmanuel Church, Durban.
by The Right Rev. Bishop Jellicoe, O.M.
Scale: 1/2 inch to an inch



South Elevation



West Elevation of Rectory



Section J.K.

Section J.P.



GENERAL EXPLANATION
of the
CATHEDRAL
1902

F. Street Wilson ARIBA
Architect
Durban

Original construction drawing
of the Cathedral by William Street-Wilson and Wallace Paton — 1902.

(Photograph: Emmanuel Cathedral, Durban 1904-79.
Commemorative Brochure)

However, relations between the architects and their Catholic clients soon began to deteriorate. Bishop Jolivet, who regarded himself as 'something of an architect', repeatedly came to the building site and allegedly made observations to the contractors without reporting to the architects.⁵ Furthermore, the Bishop was anxious to have the cathedral completed as soon as possible, as St Joseph's Church was due to be demolished by the end of 1902. But, because of the Anglo-Boer War, it was difficult to obtain trucks to bring the stipulated 'Maritzburg bricks' to Durban. According to William Street-Wilson, an informal discussion was held with Bishop Jolivet, who conceded that, to expedite matters, the builders could use the much-inferior 'Durban bricks'.⁶ Even so, the deadline of December 1902, stipulated in the contract, came and went, and the Catholic community had to worship in the local Drill Hall for five months. In April 1903, the Church was allowed to take possession of one aisle, but this remained the extent of its occupation until December of that year.⁷ To the great chagrin of local Catholics, the memorial service for Pope Leo XIII in July 1903 was confined to the single aisle, while 'the stately building [remained] in unfinished condition, the marble lining of the roof, the tiling of the floor and other matters of detail being incomplete'.⁸ It was only at Midnight Christmas Mass, 1903, that 'the beautiful proportions of the interior were for the first time fully appreciated', as scaffolding was at last removed from the vicinity of the altar.⁹ Stations of the Cross were erected in April 1904, and the cathedral was officially dedicated in November of that year.¹⁰

By this stage relations between the Catholic leaders and the architects had worsened considerably. Bishop Jolivet had died in September 1903, and from this time Father William Murray, financial adviser to the local Church, came to the fore. Father Murray wanted economies made, differences ensued and Father Murray allegedly came to display his disillusionment with the architects and their work by consistently refusing to meet them.¹¹ Furthermore, the cathedral, once completed, was in several respects a disappointment to the local Church. It was admitted even by the architects that the Maritzburg bricks in the lower part of the structure were clearly distinct from the Durban bricks higher up, and the latter bricks shortly began to peel. The granolithic flooring to the corridors and elsewhere began to crack and one of the gables outside soon deteriorated badly.¹²

Not surprisingly, then, when Messrs Street-Wilson and Paton requested payment of the balance of their commission, the Church was extremely reluctant to pay. The disgruntled Church authorities alleged (on dubious legal advice) that the architects' supervision 'was so careless and negligent as to be worthless' to them and as to disentitle the architects to any remuneration at all.¹³ The architects thus decided to take legal action.

The case *Street-Wilson and Paton v Roman Catholic Mission* opened at the Supreme Court, Pietermaritzburg, on 15 October 1906. The Bench comprised the cautious, capable, Natal-born Chief Justice Henry Bale; the English soldier-turned-magistrate and judge, First Puisne Judge William Beaumont; and the highly able Scots graduate and advocate, Second Puisne Judge John Dove Wilson. The architects were represented by advocate and attorney William Burne, while the Catholic Church engaged the services of William Gallwey (instructed by Shepstone, Wylie and Binns).¹⁴



The Cathedral and Cemetery Lane in the early fifties.

(Photograph: Emmanuel Cathedral, Durban 1904-79.
Commemorative Brochure)

The case stretched over four days, and attracted considerable publicity. The local newspapers ran reports on each day's proceedings, under headings such as 'Architects v Mission' and 'Catholic Mission sued'.¹⁵ Interest was taken in the forthright comments made on both sides. William Street-Wilson was highly critical of the local Church leaders. He claimed that on one occasion he had been refused access to Father Murray because the latter was 'dangerously ill', only to see the Father the following day sipping a glass of port wine at a local club (evidently, he remarked, an 'excellent glass' of wine, with restorative capacities). Of Bishop Jolivet he said that 'the Bishop had his own way of doing things', and that there were 'a lot of things I should have liked to have got in writing from the Bishop'. On the other side, Father Murray spoke of the 'unsightly' appearance of the cathedral and of Bishop Jolivet 'turn[ing] in his grave'. In this emotion-charged atmosphere the Bench was prompted to intervene at times to check irrelevancies and to direct witnesses to 'answer first, and explain afterwards'.¹⁶

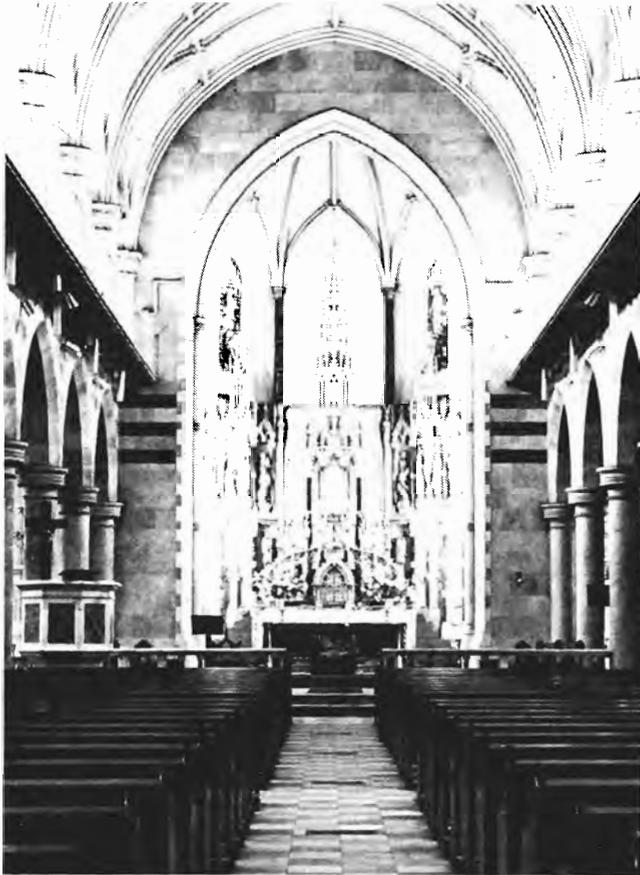
On 18 October 1906, the case concluded with the judgements of the Bench. Chief Justice Bale's decision on the main issue was clear and to the point:

I apprehend that upon his plea as framed the defendant is only entitled to succeed if he can show that there has been, through the negligence of the architects, an entire failure of consideration [recompense] for

fees claimed. That has not been shewn. The buildings still stand, and are capable of being used, [and] for all I know may be capable of being used for many years.¹⁷

With this decision Beaumont and Wilson J.J. concurred, the former claiming that 'it seems to me that it is not possible to contend that the services rendered by the plaintiffs to the defendant are worthless.'¹⁸

The Bench did not, however, decide that the architects had acted blamelessly. All three judges were careful to add that their decision in favour of the plaintiffs did not preclude the Church from bringing a later action to claim for damages arising out of any possible malperformance on the part of the architects. Mr Justice Beaumont affirmed that there can be no doubt that where a professional man is employed and paid for his services, and loss results from his negligence or want of proper skill, he can be held liable'.¹⁹ Therefore, the Court's judgement in favour of the architects was qualified so as to be 'without prejudice to any claim the defendant may have for damages'.²⁰



The Cathedral interior, around 1965

(Photograph: Emmanuel Cathedral, Durban 1904-79.
Commemorative Brochure)

However, the Church, still debt-ridden and possibly fearful of another risky and costly court-case, did not take further action. The architects had won a legal victory, their fees were paid, and the survival of the Emmanuel Cathedral to the present has borne out the Chief Justice's words. Yet, the architects were evidently chastened by their experience: William Street-Wilson conceded that he was 'exceedingly sorry [the cathedral] was as it was'.²¹ And Catholics of today may well ask the question: would a restoration programme on such a vast scale of expense have been required, but for some original 'negligence or want of proper skill'? Father Howard St George, writing in 1979 on the cathedral's structural deficiencies, commented:

It had been estimated [in 1906] that it would have cost between £500 and £700 to replace the bad bricks. It has cost a good deal more in the present year of jubilee when this work has at last been done.²²

NOTES

- ¹ J.B. Brain, *Catholics in Natal II, 1886-1925*, (Durban, 1982).
- ² *Ibid.*
- ³ Natal Archives, Supreme Court, I/5/229/56.
- ⁴ *Ibid.* The final cost of the cathedral rose to £24 659-17-11.
- ⁵ *Ibid.*
- ⁶ *Ibid.*
- ⁷ *Times of Natal*, 17 October 1906.
- ⁸ Emmanuel Cathedral, *Codex Historicus II*, p. 13.
- ⁹ Emmanuel Cathedral, *Codex Historicus*, pp. 21-2.
- ¹⁰ H. St. George, 'Emmanuel: God with us', *Emmanuel Cathedral Durban 1904-1979*, 1979, p. 10.
- ¹¹ Natal Archives, Supreme Court, I/5/229/56.
- ¹² *Natal Witness*, 19 October 1906.
- ¹³ 1906, *Natal Law Reports*, 27, p. 618.
- ¹⁴ 1906, *Natal Law Reports*, 27, pp. 617-624.
- ¹⁵ See e.g. *Natal Mercury*, 18 October 1906 and *Natal Advertiser*, 17 October 1906.
- ¹⁶ Natal Archives, Supreme Court, I/5/229/56.
- ¹⁷ 1906, *Natal Law Reports*, 27, p. 620.
- ¹⁸ 1906, *Natal Law Reports*, 27, p. 623.
- ¹⁹ *Ibid.*
- ²⁰ 1906, *Natal Law Reports*, 27, p. 624.
- ²¹ *Natal Witness*, 17 October 1906.
- ²² St. George, 'Emmanuel: God with us', p. 11.

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