

Pastoral Measure 1968

Reformation Church Trust - - - - - - *Appellants*

v.

The Church Commissioners - - - - - - *Respondents*

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 27th JULY 1979

Present at the Hearing:

LORD DIPLOCK

LORD EDMUND-DAVIES

LORD SCARMAN

[*Delivered by LORD DIPLOCK*]

This Pastoral Scheme establishing a group ministry for eight parishes in the diocese of Salisbury comes before the Judicial Committee of the Privy Council on an appeal by the Reformation Church Trust who are patrons of two of the benefices affected by the Scheme. The proposed group comprises eight sparsely populated rural parishes strung along some six miles of the river Nadder to the west of the cathedral city. Each has its own parish church and, until comparatively recently, each had its own incumbent. The combined population of the parishes has remained static for several decades, and there are no immediate prospects of any significant increase. Ever since the passing of the Pastoral Measure 1968, parishes such as these have been obvious candidates for pastoral reorganisation so as to provide for the fairer distribution of clerical manpower within the Church of England that has been called for in the Sheffield Report, adopted by the House of Bishops and the General Synod in 1974.

It has been the practice of the Pastoral Committee in the diocese of Salisbury, where this is practicable, to endeavour to find out how contemplated Schemes for pastoral reorganisation are likely to work in practice before incorporating them in a formal Scheme under the Pastoral Measure 1968; and one of the methods that has been adopted for facilitating this is the suspension of the patron's right of presentation to a vacancy in the benefice and the temporary appointment by the bishop of a priest to take charge of it, as is provided by section 67 of the Measure. This course, which their Lordships consider a wise one, was adopted with the Nadder Valley group of parishes.

At the extreme east of the group lies the parish of Burcombe. Presentation to the benefice is suspended but there is a priest in charge who combines with it the post of Diocesan Missioner. To the west of Burcombe lies a central group consisting of four parishes, Barford St. Martin, Baverstock, Dinton and Compton Chamberlayne. The first three of these benefices fell vacant between 1970 and 1973, the rights of presentation were suspended, and a single priest appointed to take charge of them. Further to the west, beyond Dinton and Compton Chamberlayne lie three more parishes, Teffont Evias with Teffont Magna, Fovant, and Sutton Mandeville. Teffont Evias with Teffont Magna fell vacant in 1973 and the right of presentation was suspended. The pastoral history of Compton Chamberlayne, and of Fovant

and Sutton Mandeville of which the appellants are the patrons, calls for a little more elaboration.

One of the objects of the Reformation Church Trust ("the Trust") has been to acquire advowsons with a view to appointing to the benefice an incumbent whose doctrinal position is strictly Evangelical. In 1931 the then incumbent of Sutton Mandeville also owned the advowson of that living. He presented it to the Trust. Later he presented also to the Trust the advowson of the living of Fovant, which adjoins Sutton Mandeville on the east. The advowson of Compton Chamberlayne, the next-door parish to Fovant on its east, had since 1919 belonged to another trust of Evangelical persuasion, the Church Society Trust, whose objects are similar to those of the appellants. Compton Chamberlayne and Fovant were held in plurality from 1951 to 1958, when, upon the death of the rector of Sutton Mandeville, a single incumbent was appointed jointly by the Trust and the Church Society Trust, to all three livings in plurality. In 1971 these three benefices, whose total population is 900, were formally united. The united benefice fell vacant in 1974 and the right of presentation, which by then was vested in the Trust and the Church Society Trust in rotation, was suspended.

The Bishop, the Pastoral Committee and the Church Commissioners are all of the opinion that in the long term no more than two full-time stipendiary clergymen can be provided for the pastoral care of the eight Nadder Valley parishes, with the help of such part-time assistance (if any) from non-beneficed clergy as may be available from time to time. *De facto* that has been the case since 1974. Seven of the parishes are served by two full-time priests in charge, one serving the three western parishes of Teffont Evias with Teffont Magna, Fovant, and Sutton Mandeville; the other serving the four central parishes of Barford St. Martin, Baverstock, Dinton and Compton Chamberlayne. The priest in charge of the easternmost parish of Burcombe is not full-time but, as has been mentioned, combines that office with the post of Diocesan Missioner. In addition the Nadder Valley parishes are fortunate enough at present to enjoy the voluntary help of a retired clergyman resident in Compton Chamberlayne who officiates mainly there and at Burcombe. The Pastoral Scheme gives formal effect to these arrangements, by uniting into a single benefice the three western parishes, uniting into another single benefice the four central parishes, leaving Burcombe as a separate benefice, and establishing a group ministry for the two new united benefices and Burcombe. The priests who are now in charge of the respective parishes will be the first incumbents of the two new united benefices. The right of presentation to the united benefice of "Fovant, Sutton Mandeville and Teffont Evias with Teffont Magna" is to be vested jointly in the appellants and the Bishop of Salisbury who is the patron of Teffont Evias with Teffont Magna.

Their Lordships do not find it necessary to discuss in detail the various alternative suggestions that were made in the course of the long and conscientious consultations, for composing united benefices out of the Nadder Valley parishes in order to achieve the future economies in clerical manpower that are needed. Suffice it to say that one of the earlier proposals would have involved including Compton Chamberlayne in a united benefice with the three western parishes so as not to split the recently united benefice of Fovant with Compton Chamberlayne and Sutton Mandeville. This would have involved geographical inconvenience for the parishioners of Compton Chamberlayne; and the Parochial Church Council of that parish voiced their objection to it and expressed the wish of the parishioners to be under the pastoral care of the priest in charge of the central parishes of Barford St. Martin, Baverstock and Dinton. This was effected in 1974, since which time the *de facto* arrangements for the pastoral care of the eight parishes in the Nadder Valley have been the same as those to which effect would be given *de jure* by the Pastoral Scheme that is the subject of this appeal.

The arrangements have worked well in practice. The worshippers in each of the parishes have voiced their satisfaction with it by resolutions passed unanimously by their Parochial Church Councils, including those of Fovant

and Sutton Mandeville, since the opposition to the Scheme by the Trust as patron of those two livings has become known. The resolutions express the hope of all the parishes that the Scheme will be confirmed as soon as possible.

The Trust's opposition to the Scheme stems from their desire to retain a right of patronage which will enable them, in conjunction with the Church Society Trust which shares their doctrinal viewpoint, to ensure the presentation, as one of the members of the group ministry for the Nadder Valley, of a clergyman of strictly Evangelical persuasion. To achieve this object they would have Fovant with Compton Chamberlayne and Sutton Mandeville retained intact as one of the united benefices, and Teffont Evias with Teffont Magna added to the central parishes in a united benefice in place of Compton Chamberlayne. This would be inconvenient geographically and would involve imbalance between the work-loads of the incumbents of the united parishes particularly if, as seems not unlikely in the future, Burcombe ceases to enjoy a separate priest in charge; but what, in their Lordships' view, is of paramount importance is that it would be contrary to the wishes of the worshippers in all the parishes affected by the Scheme. Their views have not been formed in haste but after long deliberation and in the light of experience of how the Scheme is likely to work in practice, when what has already been happening *de facto* is given effect to *de jure* under a Pastoral Scheme. Their Lordships note that the Church Society Trust which owns the patronage of Compton Chamberlayne has not persisted in its opposition to the Scheme since the views of the Parochial Church Council were expressed.

Their Lordships do not doubt the sincerity of the motives which have impelled the Trust to persist in their opposition to the Pastoral Scheme up to the point of appealing to Her Majesty in Council, despite the fact that in doing so they are acting against the expressed wishes of the very worshippers for whom they claim the right to choose who shall minister to their spiritual needs. They feel it is their duty to do their best to carry out the wishes of the donor of the two advowsons to restore a strictly Evangelical ministry in Fovant and in Sutton Mandeville. Their influence on the selection of the priests who will serve these two parishes will not, however, disappear when they are united to the Teffonts; the presentation to the united benefice will be exercisable jointly by them and the Bishop. Their Lordships are confident that, given goodwill on both sides, when the next vacancy arises, it will be possible to agree upon an incumbent for the united benefice whose doctrinal views will be acceptable to worshippers in all three parishes, and not repugnant to the doctrinal views which it has been the object of the Trust to foster.

Their Lordships are clearly of opinion that this appeal should be dismissed. In their view, it ought never to have been persisted in after the Parochial Church Councils of the three parishes of Fovant, Compton Chamberlayne and Sutton Mandeville had expressed their approval of the Scheme. It has not been a common practice of their Lordships to order an unsuccessful appellant to pay the Church Commissioners' costs of the appeal; but in the instant case they do not think it right to leave this expense to fall, as it otherwise would, upon diocesan funds. The Trust ought to pay the Church Commissioners' costs of the appeal.

Their Lordships will humbly propose to Her Majesty that the appeal should be dismissed and that the appellants should be ordered to pay to the respondents their costs of the appeal.

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DELIVERED BY
LORD DIPLOCK