

D. Goodall Esquire

Appellant

v.

The Church Commissioners

Respondents

ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 21ST NOVEMBER 1983

Present at the Hearing:

LORD SCARMAN

LORD BRIDGE OF HARWICH

LORD BRIGHTMAN

[Delivered by Lord Scarman]

Mr. Donald Goodall appeals against the pastoral scheme under which it is proposed to unite five benefices and parishes in the centre of Dewsbury.

The scheme was made by the Church Commissioners on 1st June 1982, and three days later was presented to the Privy Council for confirmation. It proposes the union of the following benefices and parishes in Dewsbury: All Saints, Saint Mark, Saint Matthew and Saint John the Baptist, Saint John Dewsbury-moor and the benefice of The Trinity, Batley Carr, all parishes in the diocese of Wakefield. The proposal is to create a new benefice to be called the Benefice of the Team Parish of Dewsbury. The benefices and parishes are to be united, and there is to be a team ministry.

The object of the scheme, as is clear from the affidavit of the Bishop of Wakefield and the affidavit of the Bishop of Pontefract, is to improve the church's ministry within the five parishes. Its object is not to save money or to save personnel but to improve the cure of souls.

Mr. Goodall objects to the scheme on a number of grounds. It is important to note at the outset that he is the sole objector who has carried through his petition by representation ultimately to appeal to the Privy Council, as is his right.

It is clear from the detailed history of the matter with which the Board has been presented that the scheme is not some brilliant design thought out upon high and presented as some sort of *fait accompli* to

the clergy and laymen of the parishes. On the contrary, it is a scheme which originated within the parishes and which, after origination, received the warm approval of the Deanery Pastoral Committee and the Diocesan Pastoral Committee. It is a scheme that has been subjected to a considerable degree of consultation and discussion, and has emerged as one, it can fairly be said, which enjoys the approval of those persons most concerned, namely, the clergy and worshippers in the five parishes.

Mr. Goodall has, however, in an argument excellently presented, advanced a number of objections. Their Lordships think he would first say that the picture of a scheme enjoying the approval of those in the parishes and originating from the parishes is not really a fair reflection of the actual facts. However, it is very difficult to understand, even after hearing his careful argument, how he can overcome the lack of any opposition, save his own, and the approval voiced at various meetings and by the parochial church councils concerned.

It may be helpful to take his second point first. He has advanced a number of objections for the consideration of the Board, and it is only just to his argument for their Lordships to consider those objections in the course of this judgment.

The first objection the Board will take, since it arises out of the preliminary matters to which their Lordships have referred, is his point that there was a lack of proper democratic procedure. The objection of irregularity of procedure and lack of consultation is a very frequently raised objection in appeals of this character. Suffice it to say that the procedural steps required of the diocesan authorities, the Bishop and ultimately the Church Commissioners have been taken. The minimum, therefore of consultation required by law has been met in the passage of these proposals, beginning as proposals put to the Bishop, becoming proposals put forward by the Bishop and later advanced finally as a scheme. It would not, however, be a complete answer to Mr. Goodall's case that there was a lack of democratic procedure merely to rely on the statute, although the statute has indeed been complied with. It is necessary in order to appreciate his argument to look a little more fully at the history.

In October 1976, in two of the Parishes (All Saints and Saint Matthew and Saint John) there began weekly meetings of the clergy to discuss matters of common pastoral interest and importance. In September 1978 the priest-in-charge of Saint Mark's joined the group. It was from those small beginnings that the idea of a union of the five central parishes of Dewsbury sprang. They interested the various ecclesiastical committees concerned, they interested

parishioners and, in particular, the parochial church councils. Discussion between various parties developed during the years 1977, 1979 and 1980. Finally, on 13th April 1981, consent would appear to have been obtained to the proposals for the union of the benefices and parishes.

On 14th September 1981 the Bishop issued proposals for the union of the parishes and benefices to "interested parties". That is a phrase defined by the Pastoral Measure. By that time what was afoot must have been plain to everyone concerned, whether or not an interested party as defined by the Measure, and it was clear that what was being proposed received, on the whole, the approval of those affected. Thereafter the course set by the statute was begun, and their Lordships need not list those steps.

Two matters of importance should be observed. There was an open meeting in the parish of Saint Mark, which is of considerable importance since Mr. Goodall is primarily concerned with that parish, but perhaps even more important in the context of this appeal is that in 1982 the Bishop of Pontefract offered to visit Mr. Goodall at his house. The offer was taken up and there was a two hour or more meeting between Mr. Goodall and the Bishop at which the Bishop plainly put - the correspondence is clear - the case for the proposal. Mr. Goodall plainly stated his position and the Bishop indicated the Church's position in regard to Mr. Goodall's objections. Unfortunately, despite that very full meeting Mr. Goodall decided to exercise his undoubted right to maintain his objections, and ultimately to appeal to the Privy Council.

Their Lordships find it quite impossible in the light of the history, to some parts of which reference has been made, to find any lack of - in Mr. Goodall's phrase - "a proper democratic procedure" in the way this scheme has originated. It originated because it was wanted. It has been discussed and developed in the course of discussion and the statutory steps have all been taken. That objection, therefore, in their Lordships' opinion, fails.

The other objections their Lordships will now deal with in the order in which Mr. Goodall developed them in argument. Mr. Goodall's first point and, as he frankly said, his main objection, is that the scheme suffers from lack of definition as to the functions of clergy and the institutions - notably, of course, the church councils - within the parishes. There were too many grey areas in the administration of this proposed united parish, and he submitted that it really was not right that the organisation of the team ministry, the differentiation of function and so forth between the various ministers comprising the team should be left all to the Bishop's licence.

Mr. Goodall is right in saying that the scheme leaves a lot to be worked out by the Bishop and other authorities and by the team ministry when it finds itself in the saddle looking after the spiritual interests of the parish. The Bishop says this is right. In his judgment this is the best way to ensure that the parish, once united, will develop under lively spiritual leadership. Indeed, the ecclesiastical authorities clearly fear the rigidity and inflexibility that might be imposed on this new parish if they took any other course. These arguments are plainly substantial, and the Board sees no reason why full effect should not be given to the spiritual judgment of the Bishop and others in this matter, and therefore that objection fails.

The next point that Mr. Goodall took was the lack of any reference in the scheme to the management and control of the finances of the new parish. He was very concerned - and properly concerned as a parish councillor of many years' standing - at the financial management of the parishes in the past, and as to what would be the financial management of the united parish if it came into being. He said, no doubt with a good deal of justice, that it really is desirable that parish accounts should be prepared and approved by a qualified accountant. He pointed out, no doubt with some justification, that there are apparent inequalities of quota between the parishes of the diocese, and he developed a number of his misgivings about the management and control of parish finances.

There may or may not be some substance in the points that he has made, but none of them is relevant to this proposed scheme. The financial problem is essentially a diocesan problem. This can only be tackled when one is dealing with all the parishes in the diocese. To pre-empt any reforms that might be necessary in the management of the finances of the diocese by introducing some necessarily partial proposals for financial control into this scheme would in the opinion of the diocesan authorities be exceedingly unwise. The Board sees the strength of that position.

Mr. Goodall very properly saw a link between his points of finances and his main point of lack of definition in the scheme. There is a link also in the answer to the point. There are certain matters to do with the financial as well as the spiritual health of the new parish which are better left to be worked out *ambulando*, when the parish is in existence, the team ministry is there and the diocesan authorities have in being a parish whose finances they must ensure are properly managed. That point, therefore, also fails.

There was a minor point, and their Lordships are sure Mr. Goodall will not object to it being to

described, as to consultation. The Measure contains a list of so-called interested parties who must be consulted before a proposal can go forward. Of course, the statute does not preclude the authorities from consulting others. In this case Mr. Goodall says the priest-in-charge of one of the parishes had not been there a very long time but was treated for the purposes of consultation as though he were an incumbent of a benefice. The only difference, of course, between a priest-in-charge and an incumbent of a benefice theoretically is that the incumbent has a right to the benefice and the priest-in-charge has not. That is no reason for not taking the views of the priest-in-charge in those spiritual matters dealing with the cure of souls, of which he must have some knowledge since he is in charge. The point fails.

There were other points about the lack of communication which Mr. Goodall made with which their Lordships do not think it necessary to deal, save only to make one observation. If there has been, as Mr. Goodall clearly thinks there has, a lack of communication between the clergy in the past, there really could not be a more effective remedy for that than the establishment of a team ministry, members of whom will be under a moral as well as a legal duty to act as a team.

In their Lordships' opinion, none of Mr. Goodall's points is sufficient, either alone or in combination with others, to persuade or induce this Board to reject this scheme.

Before leaving the matter their Lordships feel it necessary to observe that one sole objector has delayed for eighteen months or so the introduction of a united parish which the Bishop and those advising him thought and think necessary in the spiritual interests of the parishioners and for the cure of souls. Put like that their Lordships are sure Mr. Goodall will appreciate that he has undertaken a very heavy burden in maintaining his opposition for so long. This is his right and nobody can complain as a matter of law that he has exercised his right, but it is necessary that their Lordships, having considered his objections, should say that perhaps Mr. Goodall was unwise and shortsighted not to see in February 1982, after his meeting with the Bishop of Pontefract, that he was imposing a spiritual burden upon his fellow parishioners which really his case on a fair analysis did not justify.

Their Lordships therefore will humbly advise Her Majesty that the appeal should be dismissed and the scheme confirmed. The appellant must pay the respondent's costs of this appeal.

