LIVING IN SUSPENSE

PROBLEMS AND SOLUTIONS WITH SUSPENSION OF THE RIGHT OF PRESENTATION[1]

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To those familiar with the practice of suspension of the right of presentation this theme may be a sensitive one, arousing perhaps fierce passions. To those unfamiliar it may simply sound like a technical abstraction. I hope that the former, out of consideration for the latter, will allow me the indulgence of setting the scene for this subject by drawing upon the true circumstances of one benefice in a diocese in the southern Province.

1. PUDDINGDALE—A SORRY STORY OF SUSPENSE

The united benefice of Puddingdale—not its real name—had only been in existence for eight years. It consisted of four rural parishes of quite different churchmanship, each with its own PCC. The patron of the living is the bishop for two turns, and the Crown for one turn; at the time in question it was the bishop's turn. Through the pastoral work of the incumbent, Mr Quiverful—not his real name—and a considerable amount of perseverance and mutual effort by the people of the parishes, the benefice over those eight years developed a remarkable degree of coherence, expressed, for example, in a benefice choir serving all of the churches, and work amongst children which drew young people from throughout the benefice. Then, one summer, Mr Quiverful, the Rector, resigned—to move on to another appointment. The benefice, I should add, was viable not only as a unit of mission, but financially too. It paid its quota.

Each of the four secretaries to the PCCs of the united benefice then received a letter from the bishop's chaplain, Obadiah Slope. Writing both as bishop's chaplain and as diocesan secretary, Slope explained that the bishop had asked him to write 'to consult' the four PCCs 'about the appointment of a successor' to Mr Quiverful, and that copies of the letter were going also to the churchwardens, the rural dean and the lay chairman of the deanery synod, as part of the consultation procedure. Each PCC, Slope pointed out, could request a meeting with the bishop or his representative, within twenty-eight days. That was the first paragraph.

In the next sentence Slope went on to say that, 'in the light of the proposals which are currently under discussion in the deanery, the bishop intends to suspend presentation to this benefice and appoint a priest in charge'. The bishop, he continued, 'intends that the period of suspension would be five years in the first instance'. You can imagine the concern and anguish which followed, as the PCCs of the four parishes managed, just within the twenty-eight days mentioned in Slope's letter, to meet and formulate a response to the chaplain's letter. After an extension of time, the parishes were able to communicate some sort of response—perhaps not as robustly as they should have done, but then these were good Christian people, with respect for their bishop, and they did not deal with matters of suspension of presentation every day in their professional and retired lives. The bishop, Dr Proudie, was not won over by the benefice's response and subsequently he signed a Notice of the Suspension of

[1] This paper is based on a lecture of the same title, delivered as part of the London lectures for the Ecclesiastical Law Society on 7th June 2000 at Serle Court Chambers, New Square, Lincoln's Inn.

Presentation under the Pastoral Measure of 1983, which followed the usual form, reciting that he had consulted with the patron and with the PCCs.

The chairman of the benefice group of PCCs, who had now got their act together a little better, duly responded to Dr Proudie, arguing that virtually no consultation had in effect taken place, that it was evident from the beginning that the bishop had intended to suspend all along (contrary to the Pastoral Measure's Code of Practice), and that he had not given his reasons —other than simply alluding to proposals currently being discussed in the deanery (which meant little to the PCCs). Moreover, said the benefice's representative, they were not impressed with the idea of a priest-in-charge which would send out a signal of instability and insecurity within the group of parishes. Dr Proudie himself then wrote back to the parishes, saying he had taken full and careful note of the PCCs' response, and that in signing the Deed of Suspension he was, he said, keeping alive discussions and possibilities about parishes in that part of the diocese, and assuring them that a priest-in-charge would be able to care for the spiritual needs of the benefice in exactly the same way as an incumbent.

By this time the group of parishes in the benefice was in no mood to back down, and the same points were made again to Dr Proudie, with greater force than before. This time, the bishop wrote back, remarkably, saying that he and his chaplain Slope had now looked again at their standard initial letter about consultation, and that 'we have reworded it to accord more closely to the suggestions of the published Code of Practice', as they were conscious that the bishop should not have made up his mind before the statutory consultations. Nonetheless, continued this disarmingly frank letter from Dr Proudie, 'I think it is unrealistic in practice to expect the bishop to have a totally open mind' and 'it would clearly not,' he said, 'be within the spirit of the Measure, or a good use of people's time and energies, for the bishop to enter into a consultation with the interested parties in the case of every benefice'. The bishop, continued Proudie, 'will only want to engage in consultation when he knows that some pastoral reorganisation is being, or needs to be, considered and that the suspension of presentation is therefore desirable in order to allow the discussions to continue.' I should imagine that that did not provide a great deal of reassurance to the parishes. As to giving reasons, the bishop simply referred the parishes to his pastoral letter, Future Strategy—again, not its real name—which the diocesan synod had endorsed some years before, and which asked each deanery to consider the future deployment of the clergy within its boundaries. That, he said, was why the original letter had spoken of presentation being suspended 'in the light of ongoing discussions in the deanery.' 'At the end of the day,' Proudie said—referring to his decision for the benefice to have a priest-in-charge—'it is the need for some flexibility which I find persuasive in this case.'

The parishes were not impressed, and I do not know for sure where the matter now stands today. One suspects, and anecdotal evidence, at the very least, tends to suggest this, that this set of circumstances is not simply an isolated instance.

Already, from this sorry and incomplete story of Puddingdale, we have heard of the Pastoral Measure 1983, a Code of Practice, the need for consultation and the giving of reasons, the significance of putting in a priest-in-charge as distinct from an incumbent—and these, for many of us, may be well worn themes, so forgive me if, as we turn to consider them, I rehearse the obvious and already known.

2. BACKGROUND TO THE PASTORAL MEASURE 1983

First let us consider the Pastoral Measure 1983. It did not, of course, simply slide down the legislative rainbow one day into our hands. It is a consolidating Measure,

an amending Measure, replacing the Pastoral Measure 1968, which itself was consolidating legislation, following the Benefices (Suspension of Presentation) Measure 1953, which in turn repealed a Measure of 1946 sharing the same title. Indeed, it was in 1946 that the power to suspend the right of presentation first found legislative expression, as part of the post-war reorganisation of the Church struggling with a shortage of clergy and fall in the value of benefice incomes.

In the 1953 Measure the bishop, within twelve months of the benefice's falling vacant, could suspend or postpone the exercise of patronage by giving notice, for a suspension period as it was called, for up to five years. In those days, if the bishop himself was not the patron, the patron's written consent was needed for the exercise of this power. And there was also a provision enabling a one year postponement of the right of presentation without the patron's consent in certain circumstances. The necessity for the patron to give his written consent was swept away by the 1968 Pastoral Measure, when instead he found himself, like the PCC, enjoying only the right to be consulted. Such matters were hotly debated in the National Assembly of the Church of England, as it was then, before the passing of the 1968 Measure, but the bishops' case for change—on this point at least—won the day. Even when that great champion of constitutional safeguards, the Ecclesiastical Committee of Parliament, expressed concerns about the lack of a right of appeal and the possibility of unnecessarily long vacancies, it was felt that a check lay in the need for the pastoral committee's consent while both bishop and committee would, the Ecclesiastical Committee felt, 'be expected to use the power [of suspension] in accordance with their pastoral responsibilities'. When Garth Moore wrote his seminal introduction to canon law, a year before the 1968 Measure, commenting on the evolution of the system of private patronage in which both the patron of the church and the bishop are concerned, he said that it had 'turned out [with] the scales weighted heavily in favour of the patron'.[2] I wonder if he would have made the same observation today?

The Pastoral Measure 1983, the governing Measure today, has come to us as part of the movement for reform in the structure of the Church. Devotees of the television series *Yes, Minister* will recall that Sir Humphrey's advice, when drafting legislative proposals, was 'always dispose of the difficult bit in the title'. But that surely should not be the case with the Pastoral Measure, the purpose of which is to provide better *pastoral* care, and the preamble speaks of making 'better provision for the cure of souls'. The diocesan *pastoral* committee is a creature, a vital creature, of this Measure, and it is empowered to make recommendations concerning *pastoral* schemes. A considerable proportion of the Measure is concerned with pastoral schemes and pastoral orders.

3. THE CODE OF RECOMMENDED PRACTICE

A word about the Code may be helpful. A working party was appointed in 1973 to consider the effect of the 1968 Pastoral Measure, and this reported to the General Synod in 1975. Out of the recommendations of this report, which recognised some unease among patrons, clerics and laypeople about the use of the power to suspend, came the issuing of a Code of Practice which the working party felt 'would carry compelling weight with all who operate the provisions of the Measure'. The first Code to be issued came in 1976, and it is now into its third edition, following revisions in 1999. It does indeed carry 'compelling weight', running to nigh-on 400 pages. The Code is not authorised by the legislation itself, unlike, say, the Code of Practice under the Incumbents (Vacation of Benefices) Measure 1977 which the

[2] E Garth Moore and Timothy Briden, *Moore's Introduction to English Canon Law* (Mowbray, 2nd edn 1985), p 34.

House of Bishops was required to promulgate, containing rules of guidance. No, this Code simply complements the Pastoral Measure. Yet even a complementary Code, not specifically authorised by the Measure itself, can still rank as quasi-legislation: the extent of its enforceability may not be entirely clear, but I gather that sometimes the contents of Codes of Practice can be considered by the courts.[3]

4. SUSPENSION AND RESTRICTION: SECTIONS 67 AND 69

But let us now proceed with the power to suspend. As I have said, the purpose of the Pastoral Measure is to be pastoral, to enable the provision of the better cure of souls. The point of the power to suspend presentation to a living, we might expect, is to subserve this general aim. Putting it simply, the uniting of two adjoining benefices, which are clearly crying out for a pastoral scheme to take place, could perhaps never happen because a vacancy would not occur in both at the same time. Hence the power to suspend.

The present, and consolidating, Measure of 1983, has kept the same section numbers as found in the 1968 Measure, for the particular restrictions on the right of presentation which concern us: sections 67 and 69. These do need some untangling, and section 69 is undoubtedly a convoluted paper-chase. As before, these sections appear innocuously under the innocent heading of 'Miscellaneous, Administrative and General', in Part IV of the Measure, yet seldom has a provision such as section 67 given rise to so much fear and resentment in our Church. The authors of the present Code are aware of this, when they say: ' As a further means of *allaying apprehensions* about the use of the power of suspension it is recommended that the annual report of the diocesan pastoral committee to the diocesan synod should contain particulars of benefices under suspension and details of the use of the power during the year under review'[4] (my emphasis).

It is sometimes said that there are two sorts of suspension provided for in the Measure: a five year suspension and a one year suspension. But that is an oversimplification. It is section 67 alone which provides expressly for a power of giving notice to begin a suspension period. It is the bishop, the diocesan bishop, who has this power which he 'may' exercise, and as Mark Hill points out, 'A diocesan policy of suspending presentation to all benefices amounts to a fettering of episcopal discretion and is unlawful'.[5] It is, of course, not only patrons and PCCs who enjoy rights, albeit limited ones under the legislation, but also the bishop himself.

Now, depending on your perspective, section 67 is either deliciously, or irritatingly, lacking in precision. For a start, as Norman Doe has noted, 'it is not clear whether the pastoral committee's consent must be obtained before or after the consultation process'.[6] Of perhaps greater concern, is that the section does not attempt in any way to set out the circumstances in which this power of suspension may be exercised—something which the Ecclesiastical Committee noted before the 1968 Measure found its way on to the statute book. Is it a completely wide and gaping hole, enabling the bishop to suspend on any ground he likes?—to gain flexibility in diocesan deployment of clergy, as Dr Proudie wanted in our case history, by making the putting in of a temporary priest in charge the purpose of the suspension rather than a consequence of it? Or to suspend so that he can sell off that delightful Queen

[3] See Norman Doe, *The Legal Framework of the Church of England* (Oxford, Clarendon Press, 1996), pp 20ff.
[4] Code, para 9.34.
[5] Mark Hill, *Ecclesiastical Law* (Butterworths, 1st edn, 1995), p 223, n 13. The 2nd edn (Oxford, 2001), para 4.20, is to much the same effects.
[6] Doe, *Legal Framework*, p 192.

Anne parsonage, which the next incoming priest can neither possibly want nor deserve? Or even to suspend in order to exclude the right of the patron, Lady So-and-so, with whom the bishop has clashed over environmental issues and fox-hunting perhaps?

5. THE CONSENT OF THE PASTORAL COMMITTEE

Section 67 does say, 'with the consent [whether it be prior or post] of the pastoral committee', which presumably anchors the power down somewhat. This is Lynne Leeder's argument. The fact that the bishop must obtain the consent of the pastoral committee, she says, 'suggests that the suspension may only occur pending the making of a pastoral scheme or order'[7]—and, as a footnote to this, she says that 'this question was raised in the suspension of presentation of St Luke's, Kingston, by the Bishop of Southwark, in which leave to judicially review the actions of the bishop was granted by the High Court in 1996, but the case was settled before coming on for hearing'.[8] Out of court settlements have their frustrations for lawyers, even if they may be more in keeping with New Testament precepts. The particular details of the St Luke's, Kingston, case are not, of course, really open for discussion, and not least because this restraint and privacy about the case was part of the settlement, and the papers, I gather, lie hidden deep in the church's undercroft.

I have to say I am attracted by Leeder's argument that the requirement of the pastoral committee's consent means that a pastoral scheme or order is in the wind. I suppose one difficulty is that it is *section 69* which is expressly concerned with restricting the right of presentation pending the making of pastoral schemes and orders. Section 69 does not confer a power to suspend. Subsection 1 sets out the circumstances in which a restriction on presentation follows automatically—by operation of the law - when a pastoral scheme or order is in the air. Subsection 2 does give *a* power to the bishop—a power to notify the patron, among other people, that certain matters are being considered as part of a review of pastoral arrangements in the diocese—and from this power to notify, there then follows a restriction of one year, which can be extended to three if these matters being considered then ripen into proposals for a draft scheme or order. The advantage of section 69, from the perspective of the diocese, is that no consultation is required with the patron or the PCC.

But let us return to section 67. If it is not about suspending presentation pending pastoral schemes or orders, then what is it about? If the pastoral committee's consent is needed, then something 'pastoral' must surely be being contemplated? Is it really the case that this section, tucked away in this 'Miscellaneous, Administrative and General' Part of the Measure, is conferring upon a diocesan bishop an almost unfettered right to suspend, a tool to use throughout his diocese in the deployment of clergy? This would be a major change in the law relating to patronage, and the law relating to patronage of benefices has been amended by the Patronages (Benefices) Measure 1986, yet no mention is made of such a significant change of the patron's rights. The law, surely, should not be subject to casual change in this way, and if it was intended to abrogate the right of the patron in such a severe way, then this ought to have been explained at the time and safeguards duly incorporated. My own days as a student looking at statutory interpretation are rapidly receding into the dim past—and this maybe is something which should be explored by others—but surely section 67 does not confer a general power to suspend, and should rather be construed more narrowly as ancillary to the purpose of the Measure.

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[7] Lynne Leeder, *Ecclesiastical Law Handbook* (Sweet & Maxwell, 1997), p 124.
[8] *Ibid*, n 91.

Section 69 is concerned with matters arising under sections 17, 18 and 20 to 22 of the Measure (that is, to do with creating, altering, dissolving benefices, parishes and extra-parochial places (s17), holding benefices in plurality, (s18), and establishing team and group ministries or ending or altering them (ss 20—22)). But the operation of restrictions on presentation under this section—whether those flowing automatically, or those put in place by bishop's notice—the fact of there being restrictions in place under section 69 does not preclude the use of the power of suspension under section 67. The Code specifically allows for this;[9] indeed, it appears to say that you can slide from section 69 restrictions into section 67 suspension, but not vice versa. If you have suspended under section 67, then it can only be renewed under section 67, rather than reliance being placed on restriction rights of presentation under section 69.[10] So Leeder's suggestion, stemming from her reference to the St Luke's case, may still be right—that the requirement for the consent of the pastoral committee may well mean that a pastoral scheme or order is pending.

And, of course, the pastoral committee has other concerns, aside from these matters. The diocesan pastoral committee has a very wide role. Section 2(3) of the Measure sets out some of its duties:

> 'The pastoral committee shall at all times (a) have particular regard to the making of provision for the cure of souls in the diocese as a whole, including the provision of appropriate spheres of work and conditions of service for all persons engaged in the cure of souls and the provision of reasonable remuneration for such persons; and (b) have regard also to the traditions, needs and characteristics of individual parishes'.

This expression 'having regard ... to the provision of appropriate spheres of work and conditions of service for all persons engaged in the cure of souls' is an interesting one. Indeed, the authors of the Code consider that this might, and they only use the word 'might', provide the basis for suspension of presentation to sell off the parsonage house.[11] I think that must surely be open to challenge in the courts; otherwise we could soon find that 'having regard to conditions of service would mean that the diocesan pastoral committee might concern itself, not simply with housing, but with holiday arrangements, days off, and all sorts of other matters which are properly, in my view, a matter for the bishop and his clergy, dealt with, if necessary, by an *Ad Clerum*.

No, it would seem, and this is my submission, that the reference in section 67 to the bishop's needing the consent of the pastoral committee must mean that the contemplation of the possibility of suspending in his mind must relate to something legitimate within the task and duties of that committee—which would include, principally, pastoral schemes and orders, but would embrace other forms of pastoral reorganisation and matters of pastoral supervision within the diocese. The Code speaks of the House of Bishops' 'noting' that the coupling of a sector ministry post with a suspended benefice was within the scope of a pastoral reorganisation in the Measure.[12] I have to say I am intrigued as to how the House of Bishops can resolve to note that a precise set of circumstances is envisaged in the Measure. I thought that was the role of the judiciary. I am inclined to think that the reduction of an incumbent's post to, say, a half-time post—and that is what we are talking about, from the parish's perspective—is not a pastoral scheme within the Measure.

[9] *Code*, para 9.28.
[10] *Code*, para 9.29.
[11] *Code*, para 8.6
[12] *Code*, para 9.21.

But if it were apparent that a bishop wanted to suspend for a more obviously extreme reason following a run-in with a private patron (Lady So-and-so and the clash over fox-hunting), or wanting to penalise a parish because it was quota-capping for some reason, or because it had taken certain resolutions on an aspect of human sexuality or whatever, then such foundations for considering suspension could not, surely, come within the contemplation of the words of the Measure. The Code itself recommends that the use of the power to suspend 'should, in the main, be confined to benefices where pastoral reorganisation is under consideration or in progress, and occasionally [and questionably, I would add], where a change of parsonage house is planned'.[13] In short, I would submit that a bishop must have a valid legal reason to suspend. Section 67 gives him the power to do so, as an ancillary power to pastoral reorganisation. But the suspension must, I would maintain, be subservient to the aim of ensuring better pastoral care, rather than simply being a tool to give flexibility in deployment across the diocese. Section 67, together with the restrictions of section 69, is the only lawful way to keep a benefice vacant so that that benefice can go into a pastoral scheme.

6. THE NEED FOR CONSULTATION

Of course, section 67 is not simply about suspending with the pastoral committee's consent but also after various consultations and in the course of these consultations with the bishop's giving his reasons for considering the possibility of using his power to suspend. What is the nature of these consultations, and what about the reasons?

Consultation, as one can imagine, is a slippery word. *Halsbury's* editors, at least those of the elderly Church Assembly Edition which I have, take the view that for 'consultation' it is not necessary that a vote of the PCC be obtained,[14] and they refer us generally to the case of *Re Union of Benefices of Whippingham and East Cowes, St James*[15] which was an appeal to the Judicial Committee of the Privy Council against a scheme made under the Pastoral Reorganisation Measure 1949. This case is cited for the proposition in *Halsbury* that:

> 'To constitute consultation it is not necessary that a vote of the PCC should be taken, nor is it essential, though it is desirable, that whoever represents the pastoral committee in consulting the council should state that he has been requested to see and consult the council, to ascertain their views and to report them to the committee, but a full and sufficient opportunity must be given to the members of the council to ask questions, and to submit opinions'.[16]

Although not specifically relating to the statutory duty to consult when a bishop is considering whether or not to suspend, that clearly is helpful—indeed common sense, to avoid 'consultation' deteriorating into a veneer for letting people know about an already predetermined course of action. This sort of consultation, real rather than virtual consultation, is a far cry from the anecdote which came to my ears about a churchwarden, munching his toast and marmalade before dashing out to work, being telephoned briefly by the diocesan bishop, only to find out later that that was the consultation required under section 67!

When struggling to get some grip on what might be entailed in this statutory duty to consult, the Code, as we may expect, comes to our aid:

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[13] *Code*, para 9.24.
[14] *Halsbury's Laws of England* (3rd edn, 1955), para 210, n (*t*).
[15] *Re Union of Benefices of Whippingham and East Cowes, St James* [1954] AC 245, [1954] 2 All ER 22, PC.
[16] *Halsbury* (3rd edn), para 671, n (*d*).

> 'It will be apparent that the bishop should not have made his mind up before carrying out these statutory consultations; it is recommended that his letter to those who have to be consulted should indicate that the matter is open and that he is consulting them so that he can take their views properly into account when he comes to make his decision'.[17]

When we return to the letter from Mr Slope, in which in the same breath as talking about consultation, he also refers to the bishop's intention to suspend, we can see why he and Dr Proudie, perhaps spurred on by the diocesan registrar to whom the benefice's representatives had sent a copy of their reply, put their heads together and redrafted their standard form initial letter.

Consultation, proposals, possible meetings, the expressing of views—this is the language of the Pastoral Measure. Not only consultation by a bishop considering whether or not to suspend under section 67, but also consultation by the diocesan pastoral committee in formulating draft proposals. If, for instance, the reduction of a full incumbent's post down to a half-time post were being considered, and it were being argued that it was within the scope of the Measure, if only by analogy to a pastoral scheme, then—quite apart from any consultation required in relation to the possible suspension—the diocesan pastoral committee is required to ascertain the views of the interested parties.[18] One such 'interested party' is the PCC of any parish which would be affected,[19] and in the case of a PCC, the pastoral committee is specifically required, before reaching its decision, to afford to each PCC, or its representative if it prefers, an opportunity of meeting the pastoral committee, or a subcommittee or a representative.[20] The diocesan pastoral committee, a creature of the Measure, can only act in such a way as set out by the Measure, and if it goes beyond its powers in the subject matter of its recommendations, which may exceed the scope of the Measure, or if it short-circuits the consultation procedure in formulating those recommendations, then presumably its actions could be held to be *ultra vires*.

7. AND THE CONSEQUENCE....

The frequent effect of suspension, apart from a sorry state of relations which can sometimes exist between parish and bishop, and a sense of suspicion and mistrust, is, of course, the licensing of a priest-in-charge. There is, I suppose, a degree of circularity in the argument here, for the only way of creating a priest-in-charge is, presumably, by suspension or restriction of presentation, and yet on a right and strict reading of the Pastoral Measure, the creation of a priest-in-chargeship should really be a consequence, an ancillary outcome, of the suspension. I am not sure where that takes us! A priest-in-charge, we are often told, is 'a vicar or rector in all but name'—it is just a question of legal niceties. So we often get told. I have to say that I am always suspicious when a set of circumstances is reduced to legal niceties. Legal niceties, like healthy legalism, are surely needed in the life of the Church—in the interests of justice, equity and clarity. Many parishes know, many priests know, many bishops know—for why else do they suspend?—that there can be the world of difference between the parson and his freehold, as distinct from a priest-in-charge. Even on the level of the competence and ability of the priest. There is, probably rightly, no ecclesiastical career structure, yet most priests do look to the day when they are instituted or collated into the spiritualities and inducted into the temporalities, and they hear those words, 'Receive the cure of souls which is both thine and

[17] *Code*, para 9.22.
[18] Pastoral Measure 1983, s 3(1).
[19] *Ibid*, 3(2)(c).
[20] *Ibid*, s 3(6).

mine'—or 'yours and mine' in these less poetic times. A priest-in-chargeship may well attract the young person wanting to cut his or her teeth in a sole post, or it may well appeal to someone beginning to wind down in his or her twilight ministry; but the person it will not easily attract is the competent, vigorous, energetic, visionary priest who is presently beneficed. I am always amused when positions are described as being 'of incumbent status', when the position of incumbent, the beneficed cleric, is not one of status in that sense.

As the Church of England's Legal Advisory Commission perceptively points out, 'A priest-in-charge may have possession of the keys in order to carry out his duties, but his possession does not symbolise any greater right to control the use of the church than that of churchwardens, the PCC or the bishop (in their own spheres)...'[21] Contrast that with the incumbent—as when I received the key on 26 March 1996. Now, of course, in many sets of circumstances the priest in charge is seen as having the cure of souls, and the word 'minister' in many contexts includes a priest-in-charge. But not always. The 'legal niceties' that distinguish a priest in charge from an incumbent mean that he is neither entitled, nor bound, to live in the parsonage house—although if appointed for a benefice to which a suspension period applies he may be required by the bishop to live there.[22] The priest in charge has not the same control over the closure and use of the church building. The priest in charge cannot designate a particular burial plot on his own authority. The priest in charge has no proprietary interest; he cannot initiate proceedings of a civil or criminal nature against a trespasser or someone who has committed a civil wrong or criminal act. So, quite apart from the recruitment and appointment question relating to able candidates, there are significant differences between the beneficed cleric and his 'in-charge' counterpart.

This paper was intended to comment on problems and solutions with suspension of the right of presentation. I have alluded frequently to the problems, not just in Puddingdale—and inevitably from the standpoint of the parish. I fear that I have fallen short on offering solutions. I have hesitated to elaborate upon judicial review, not least because there are others far more competent to do so, but I have to say that I do consider it a shame that we have not had a decision on matters such as those which Leeder claims to have arisen in St Luke's, Kingston. That would only be a part solution, in resolving a particular set of circumstances, and providing a degree of clarity about the interpretation of the Measure. But just as the Church emerging from the throes of the Second World War, with drastic shortages of clergy and falling income, had to engage in pastoral reorganisation and reform of its structures and ways of working, so too the Church over half a century later finds herself desperately short of clerics and yet unable to pay for further clerics if potential candidates were to come surging forward. But the way to the future cannot be by using—misusing, I would argue—a Pastoral Measure in the way that it seems to be being operated in our Church today. Maybe it is time for another Pastoral Measure. Meanwhile we are left in suspense.

[21] *Legal Opinions concerning the Church of England* (Church House Publishing, 1994), p 214b.
[22] Pastoral Measure 1983, s 68(4).