

RECENT LEGISLATIVE DEVELOPMENTS

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As anticipated in the January 1989 Journal, *Canon B 43* entitled "Of Relations with Other Churches" and *Canon B 44* entitled "Of Local Ecumenical Projects", both of which were described in the January Journal, were promulgated at the February 1989 Group of Sessions of the General Synod. The Canons came into force immediately.

Section 5 of the *Church of England (Ecumenical Relations) Measure 1988* gives the two Archbishops power to designate the Church to which the Measure is to apply. By Instrument dated 14 March 1989 the Archbishops have designated the following Churches – the Baptist Union, the Methodist Church, the Moravian Church, the Roman Catholic Church in England and Wales and the United Reformed Church. It is anticipated that other Churches will be designated in due course.

Also in February the Revision Stage of the Diocesan Boards of Education Measure took place. The draft Measure had been generally approved by the Synod in February 1987 but revision had been delayed to enable the Synod to take account of the Government's Education Reform Bill which received Royal Assent in July 1988. The draft Measure was needed because the 1955 Measure pre-dated synodical government and was no longer an adequate vehicle for dealing with the delicate matter of the provision of schools which is a joint exercise between diocese and government – both local and national.

The last item of legislation considered by the General Synod in February was the Synodical Government (Amendment) Measure. The purpose of this Measure was to facilitate representation of ethnic minority groups in the General Synod by ensuring that at least 24 were members of the 1990 Synod. If insufficient had been elected by the usual election processes it was proposed to add to the number elected by continuing the count and declaring elected those candidates who had declared themselves to be from ethnic minority groups and who first attained the quota in the further count. In the event, the Synod declined to give general approval to the Measure and therefore the legislation will not proceed.

The Standing Committee of the General Synod have directed that the *Priests (Ordination of Women) Measure* and the related legislation should be considered for revision in Full Synod in November rather than July 1989. This will enable the House of Bishops to produce a Code of Practice on the legislation which is seen as an essential part of the package. Obviously work on the Code could not begin until the shape of the legislation was known following the Revision Committee stage.

Finally, the *Clergy (Ordination) Measure* has been found expedient by the Ecclesiastical Committee of Parliament. The Measure would enable the Synod by Canon to make provision for persons to be ordained who, at present, are barred from ordination because they are divorced and remarried with a former partner still living or because they are married to a person who has been divorced whose former spouse is still living. The Ecclesiastical Committee found the Measure expedient by 10 votes to 9 with one abstention. In accordance with the Enabling Act of 1919 the Synod's Legislative Committee have signified their desire that the Ecclesiastical Committee report should be presented to Parliament. At the time of writing no dates have yet been fixed for the affirmative resolution debates in the two Houses.

At the July Group of Sessions, the Synod will be asked to give Final Approval to the *Diocesan Boards of Education Measure*. The revision stages of the *Care of Cathedrals Measure* and the *Church Representation Rules (Amendment) Resolution* will also be taken. A General Approval debate for the *Care of Churches and Ecclesiastical Jurisdiction Measure* is also planned. The latter Measure is in response to the Synod's request that the recommendations of the Faculty Jurisdiction Report be implemented.

Consecration of Barbara Harris as Suffragan Bishop of Massachusetts

Following the consecration of Barbara Harris as the first woman bishop in the Episcopal Church of the United States a number of questions have been raised concerning her recognition so far as the Provinces of Canterbury and York are concerned, the recognition of any priests or deacons ordained by her and the standing of any members of the Church confirmed by her.

The Archbishop of Canterbury made a statement to the General Synod in November 1988 on behalf of himself and the Archbishop of York after Barbara Harris had been nominated as suffragan bishop. The statement is reproduced here because it is thought to be of general interest to those practising ecclesiastical law.

“While the election of the Suffragan Bishop of Massachusetts is the immediate occasion for this statement, we need to remember that the provinces of Canada and New Zealand have also said that they are now ready to ordain women to the episcopate.

“There are two main questions that I want to address in terms of our relationship with a province that ordains women to the episcopate. Are we in communion? And do we recognise the ministry of a woman bishop?

“First, the nature of communion. In terms of *law* – I am thinking of the Overseas and Other Clergy Measure 1967 – the question is not whether we have ‘full’ communion with another Church, but simply whether we are in or out of communion. If it comes to the test, the Archbishops of Canterbury and York have to determine this in law – although in accordance with the present official position of the Church of England and not simply by private theological judgment.

“Yet *theologically* the situation is more complex than the question of whether we are in or out of communion would suggest. Our ecumenical dialogue has shown us that we already share a high degree of communion with Churches where there is not yet an interchangeability of ministries, such as the Free Churches, the Roman Catholic Church and the Orthodox. This approach was used by Pope Paul VI himself when he spoke of the Roman Catholic and Orthodox Churches as in ‘almost perfect communion’, even though there was no interchangeability of ministry. The Lambeth Conference resolution urged the ‘maintaining of the highest possible degree of communion with provinces which differ’.

“Perhaps it is worth saying that communion in its deepest sense – that profound relationship between God and humankind which we petition for each day as we say ‘Thy Kingdom come’ – will never be perfectly reflected by the earthly Church. Even full communion between Churches has always fallen short of the communion of the Kingdom because of human sin and the failure of charity.

“I now turn for the moment to my second question: Do we recognise a woman bishop? This brings me to speak of ecclesiastical law. But before that, a necessary disclaimer. To state what the official position of the Church of England currently appears to be – that is, to speak of the formal position in ecclesiastical law – is not to make a final judgment on the theology of women priests or bishops. Still less is it to deny the spiritual fruitfulness of the ministry of a woman bishop or priest. In a divided Church we have long since learned to acknowledge the gifts of grace given through ministries that Anglicans cannot yet regard as juridically interchangeable with their own. This must be borne in mind in all that now follows.

“The Synod will need no reminding that it is necessary to change the ecclesiastical law if the orders of women priests are to be accepted. By declining to pass the Women Ordained Abroad Measure the General Synod maintained the bar on women priests ministering in the Church of England under the terms of the Overseas Clergy Measure. In that Measure there is an implicit assumption, correct at the time of its being passed, that the orders of clergy of overseas Anglican provinces were indeed recognised by the Church of England. This is made clear by the explicitly stated ground for the granting of archiepiscopal permission to minister for clergy ordained in Churches *not* in communion with the Church of England: namely, that their orders are recognised and accepted by the Church of England. I believe that this principle is important in interpreting the present official position.

“The 1967 Measure also makes provision for the two archbishops, with the concurrence of the bishop of the diocese, to give their consent and licence for bishops consecrated in other provinces, or Churches in communion, to perform episcopal functions within the Church of England. But as with priests, so with bishops: the implication of the legislation is that their orders are accepted by the Church of England. This is again made explicit for bishops consecrated by Churches not in communion, where the ground for the archiepiscopal licence is the recognition and acceptance of their episcopal orders by the Church of England. I have laboured this point because of complications which may follow when we come to the question of those ordained by a woman bishop.

“In this case it is clear enough that women priests so ordained would be unable to minister as priests within the Church of England. But it has been put to me that the same might not be the case for men ordained by a woman bishop. It might be argued that, on a strict interpretation of the 1967 Measure, they could be licensed simply because the Archbishop of Canterbury and York can give this permission to male clergy episcopally ordained overseas or in a Church in communion with the Church of England. I do not, however, think that I can accept and act upon such a theologically paradoxical understanding of the Measure because, as I have already indicated, the real grounds for archiepiscopal permission do not seem to be simply ordination within a Church in communion, since precisely the same permission may be given to clergy ordained in Churches not in communion. The implied ground is surely the recognition of orders. The other interpretation would involve the theological absurdity of being able to recognise and accept the ministry of male priests or deacons but not the ministry of the woman bishop who ordained them.

“But is the non-recognition of the ministry of a woman bishop, as the law now stands, incompatible with our communion with the Episcopal Church? It certainly places restrictions on our communion but surely does not render us out of communion.

“I have already given reasons for my mistrust of an over-simplistic understanding of being either in or out of communion. Ecumenical experience furnishes an interesting analogy with the present situation: we are in communion with the Church of South India, yet this makes no difference in ecclesiastical law to the question of the few remaining non-episcopally ordained presbyters: they could not minister in the Church of England under the Overseas Clergy Measure, but we do not go on to say that we are not in communion. On this analogy, our communion with the Church in the United States remains – although there are restrictions on communion brought about by our different practices regarding the ordination of women.

“I ought finally to say something about those confirmed by a woman bishop. Here at least I can be simple and brief. Though confirmation is important, canon law clearly states that admission to communion is to be given to those who are episcopally confirmed, or ready and desirous to be confirmed. It surely cannot be in doubt that those who have been confirmed by a woman bishop are in such a state. We can affirm this about those confirmed by a woman bishop without implying the recognition of the episcopal ministry of the woman bishop.

“As I see the position, it seems clear enough that the Church of England does not canonically accept the ministry of either women priests or bishops of other Churches, unless and until the ecclesiastical law is changed specifically to allow this or to allow the Church of England itself to ordain women to the orders of priest or bishop. Nor are we able to accept clergy ordained by a woman bishop as long as her episcopate is not officially accepted. Nevertheless, this by no means destroys all communion. There are many shared holy things which maintain our communion, and we must also recognise that there is still an official recognition and acceptance of the major part of the orders of the American Church. If we do not share the richness of communion that we once did, we still share much more than we presently do with our Catholic, Orthodox and Protestant ecumenical partners, where no ministry is yet officially interchangeable.

“Whatever the differences, I hope that neither we nor the other provinces that ordain women to the episcopate will forget all those things which continue to unite us as well as the profound experience of communion in the One Lord that we experienced at the Lambeth Conference. With the assistance of the Eames Commission I hope that we shall now begin to work out the painful but honest relationship between our provinces, not only in faithfulness to where our Churches actually are in the matter of the ordination of women but also in faithfulness to each other’s experience of the living tradition of the One Church of Jesus Christ.

“In the meantime we must respect one another in love, learn from one another and give each other space to take our own decisions. If we can do this we shall actually have an experience, as at the Lambeth Conference, of a richer communion of Christian life in spite of a restricted communion in Christian ministry.”