

THE GENERAL SYNOD OF THE CHURCH OF ENGLAND

BRIAN HANSON

Registrar and Legal Adviser to the General Synod

This Report covers three Groups of Sessions held in February, July, and November 1996.

In February, general approval was given to the Pensions Measure and it was then sent to a Revision Committee. That version of the Measure had six main purposes—

- (1) to limit the liability of the Church Commissioners for clergy pensions under the existing arrangements to benefits arising from service prior to a future date to be appointed (known as the past service scheme);
- (2) to establish a new scheme (known as the funded scheme) with a separate fund in the trusteeship of the Pensions Board, from which pensions and related benefits would be provided in respect of service after the appointed date;
- (3) to allow the Commissioners to use capital funds in addition to income, in meeting pension costs;
- (4) to allow for the possibility of the Commissioners discharging part or all of their liability in respect of past service by transferring assets of an appropriate value in relation to that liability to the new pensions fund;
- (5) to allow for the payment of transitional assistance by the Commissioners towards the contributions payable to the new fund to meet the projected costs of future service benefits;
- (6) to provide for the reconstitution of the Pensions Board, having regard to the requirements of the Pensions Act 1995 in relation to membership of trustee bodies.

Synod members submitted amendments in the usual way and, because assets of the Church Commissioners were being referred to in the legislation, unusually the Social Security Select Committee of the House of Commons asked that Parliamentarians be given the opportunity to comment on the draft Measure before Final Approval and its submission to the Ecclesiastical Committee of Parliament. As a result of these discussions the clause enabling the Commissioners to make capital payments to the Pensions Board in order to discharge their past service liability was removed from the Measure. Parliamentarians saw this change as central to their wish to see the Commissioners' assets safeguarded.

With regard to the Commissioners' power to give transitional assistance towards diocesan contributions for future service benefits to the funded scheme, Parliamentarians did not wish this to be open ended. As a result the Revision Committee restricted the power to a maximum period of seven years.

At the Revision Stage of the Measure in full Synod this November an amendment was included in the Measure, against the advice of the Steering Committee, to require the Commissioners to pay contributions for clergy employed by those Church of England world mission agencies which are members of the Partnership for World Mission. At the same group of sessions the Measure was given final approval by overwhelming majorities in all three Houses and now goes to Parliament.

The Churchwardens Measure (called the Lay Office-Holders Measure when generally approved in November 1995) (see (1996) 4 Ecc. LJ 18, p. 524) was con-

sidered for revision in full Synod at the July Sessions, revision being completed at the November Sessions. With regard to the six year maximum period of service for churchwardens, the Revision Committee decided that the power to waive this restriction should be left to the meeting of parishioners. The Measure also requires candidates for the office of churchwarden not to have any convictions under Schedule 1 of the Children and Young Persons Act 1933. On the question of the minister's right to ensure that there is at least one churchwarden with whom he or she could work, the Measure requires all nominations to be submitted prior to the meeting of parishioners. Under clause 3(5) the minister can, in certain circumstances, make one choice from among the nominated candidates, and then there will be an election for the remaining position. The Revision Committee decided that, while the power to suspend a churchwarden was necessary, no acceptable arrangement to remove a person entirely from office could be found. No amendments of any consequence were carried at the revision in full synod and the Measure is now remitted to the Steering Committee in respect of final drafting.

Following a debate in the November 1994 Sessions on the Report 'Heritage and Renewal' concerning the Church's cathedrals, the General Synod asked for legislation to implement the main recommendations. At the November Sessions 1996 the draft Cathedrals Measure was introduced. Part I of the Measure consists of provisions concerned with the establishment of the bodies recommended in 'Heritage and Renewal' and with their membership and functions; provisions concerning the bishop and the dean; and provisions on matters which must or may be dealt with in a cathedral's constitution or its statutes (clauses 1 to 12). Clauses 13 to 20 contain provisions concerning property and clauses 21 to 27 contain provisions concerning finance. Clauses 28 to 32 deal with the revision of a cathedral's constitution and statutes, and clauses 33 to 40 contain miscellaneous and general provisions. The draft Measure has three Schedules. Schedule 1 deals with transitional provisions, including provisions for the framing and bringing into operation of a cathedral's new constitution and statutes in accordance with the provisions of the Measure; Schedule 2 contains minor and consequential amendments and Schedule 3 contains repeals. With the exception of section 39 to 42 of the Cathedrals Measure 1963 (containing special provisions relating to certain cathedral churches) the whole of the 1963 Measure will be repealed by the draft Measure, together with the whole of the Cathedrals Measure 1976. The Measure was generally approved by the Synod and now goes to a Revision Committee.

At the same Group of Sessions the Synod also considered for general approval the National Institutions Measure and Amending Canon No 21 which are the outcome of deliberations following the publication of the Turnbull Report 'Working as one Body'. The Measure establishes an Archbishops' Council with the objects of co-ordinating, supporting and generally furthering the work and mission of the Church of England. The Church Commissioners are placed under a duty to determine the amount of the income from their assets which is to be made available to the Council each year and the Council is placed under a duty to distribute the sums received having regard to the requirements of the Ecclesiastical Commissioners Act 1840 concerning making additional provision for the cure of souls. The Council is also placed under a duty of making an annual report to the Synod. Functions are to be transferred to the Council from the Commissioners by an order-making power which can only be exercised after consultation by the Archbishops with the Prime Minister, the Commissioners and any body affected. Such orders will have to be laid before the General Synod and will require an affirmative resolution in both Houses of Parliament. The number of Church Commissioners will be reduced from 95 to about 30. The Standing Committee of the General Synod will be abolished and a number of its functions will pass to a smaller Business Committee of the Synod whilst other functions will go to the

Council. The Measure also provides for the transfer of staff, by agreement with the existing employers, to a common employer. After debate, the Measure and Canon were given general approval by the Synod and have been remitted to a Revision Committee. The Synod also agreed that there should be a longer than usual Revision Committee stage (reporting back in November 1997) in order to enable dioceses and Parliamentarians to submit comments on the text for consideration by the Committee.

At the same (crowded) November Group of Sessions the Report 'Under Authority' (being the report of the General Synod Working Party reviewing clergy discipline and the working of the Ecclesiastical Courts) was debated. The ELS had significant input by virtue of its submission to the Working Party. The resulting report was well received by the Synod subject to amendments being carried to prevent 'witch-hunts' of the clergy either concerning their doctrinal orthodoxy, political opinions or lifestyle and also asking for a grievance procedure. The Synod passed a motion requesting legislation to be prepared. It is hoped a draft Measure may be ready for general approval by the Synod in November 1997.