

HOUSE OF LORDS
HOUSE OF COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE
THE ECCLESIASTICAL COMMITTEE

**UNCORRECTED ORAL EVIDENCE: CONSIDERATION OF
THE CHURCH OF ENGLAND (MISCELLANEOUS
PROVISIONS) MEASURE**

TUESDAY 29 OCTOBER 2019

11.05 am

Evidence heard in Public

Questions 1 - 10

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HOUSE OF LORDS

Oral Evidence

Taken before the Ecclesiastical Committee

on Tuesday 29 October 2019

Members present:

Baroness Butler-Sloss (Chair)
Sir Peter Bottomley
Mr Ben Bradshaw
Fiona Bruce
The Earl of Cork and Orrery
Lord Elton
Lord Faulkner of Worcester
Sir Roger Gale
Mr Dominic Grieve
Lord Judd
Lord Lexden
Lord Lisvane
Rachael Maskell
Dame Caroline Spelman
Sir Desmond Swayne
Martin Vickers

Examination of Witnesses

The Venerable Peter Spiers, Archdeacon of Knowsley and Sefton, Chair of the Steering Committee; Clive Scowen, Diocese of London, Member of the Revision Committee; William Nye, Secretary-General of the Archbishops' Council and the General Synod of the Church of England; Becky Clarke, Director of Churches and Cathedrals Department, Church House Westminster; the Reverend Alexander McGregor, Chief Legal Adviser and Head of the Legal Office, Church of England.

Examination of witnesses

Peter Spiers, Clive Scowen, William Nye, Becky Clarke and Alexander McGregor.

Q1 The Chair: We have a considerable number of people. The Venerable Peter Spiers is Archdeacon of Knowsley and chair of the steering committee. Clive Scowen of the diocese of London is on the revision committee. William Nye is secretary-general of the Archbishops' Council. Becky Clarke is director of churches and cathedrals at Church House. The chief legal adviser is the Reverend Alexander McGregor. You are all very welcome. Would members of our Committee please declare any relevant interests?

Fiona Bruce: I am lay canon of Chester Cathedral. I have a question: do we need to keep declaring our interests at the start of every meeting?

The Chair: I am told by the Lords clerk and secretary to the Committee, who really knows what she is talking about, so I always bow to her, that you do.

Christine Salmon Percival: Yes. Because each meeting considers a different substance, because it depends on the content of the Measure, we have to ask for interests to be declared.

The Chair: Thank you. I take it that it relates to current interests.

Christine Salmon Percival: Yes.

The Chair: I have all sorts of past interests, but no current ones.

Lord Lisvane: I am a churchwarden of St Leonard's Church, Blakemere, Herefordshire. I chair the Hereford Cathedral fabric advisory committee and I am married to an Anglican priest, who chairs the Hereford diocesan board of finance.

Lord Elton: In extreme contrast to that, I am a member of a parochial church council in the diocese of Oxford, where I am also a retired, but occasionally functioning, licensed lay minister. I also have a daughter who is a priest in the Church of England, about to lead a team to found a new parish in Manchester.

The Earl of Cork and Orrery: I am a trustee of three different trusts at Chichester Cathedral.

Martin Vickers: I am a member of the Lincoln Cathedral council.

Sir Peter Bottomley: I am parliamentary warden of St Margaret's Church, Parliament Square, and my house is insured by Ecclesiastical Insurance.

Q2 The Chair: Thank you very much. May I welcome all of you for taking the trouble? Please introduce the Measure and perhaps answer the questions, which I know you have had in advance.

Peter Spiers: Thank you very much, first, for allowing us to do this. We know that there are lots of other things on your mind at the moment, but we welcome the opportunity for you to ask questions on this Measure. I

would like to go through a few of the clauses that are of significance, but not all of them.

Clause 1 complements provision being made by a new canon, which will ensure a framework for the formal recognition of religious communities in the Church of England. It will make it easier for a bishop of a diocese to make arrangements for the ordination and licensing of members of formally recognised religious communities.

Clause 2 provides for a national clergy register. Every member of the clergy with authority to exercise ministry in the Church of England will have to be included in this register, and the regulations made under the Measure will be able to stipulate that lay people who have specified forms of authority to exercise ministry must also be included in this register. The register will omit personal contact information, but it will be published by the council and available to any member of the public, free of charge.

Clauses 5, 6 and 10 are to do with the cathedrals. Clause 5 on the Cathedrals Fabric Commission makes it possible for a fabric advisory committee to vary any approval for works that it is granted. Clause 6 makes it easier to build on disused burial grounds belonging to cathedrals, provided there is no objection from a relative of anyone buried in the land in question during the last 50 years.

Clause 7 amends the legislation relating to the inspection of churches to make it clear that the inspector appointed under the legislation is appointed by the PCC and is responsible to that body. Before appointing an inspector, a PCC will have to obtain and have regard to advice from the diocesan advisory committee, and there will be statutory guidance from the Church Buildings Council on the appointment and work of inspectors.

Clauses 8 and 9 deal with parochial registers and records. Clause 8 brings the Parochial Registers and Records Measure 1978 up to date to take account of service registers that are kept in electronic form. Clause 9 clarifies the meaning of "records", so that things that are fixed to the fabric of a church, such as benefactors' boards or photographs, are not treated as records and do not need to be deposited in record offices.

Clause 11 imposes a limit of two six-year terms on members of DACs to ensure that their membership is regularly refreshed. Clause 12 is a technical clause, which addresses problems when a diocesan board of finance grants a lease of property to a PCC and tidies that up.

Those are not all the clauses, and you may want to ask questions on those I have not spoken about, but that is my introduction. We welcome questions.

Q3 **The Chair:** Could you help us? I asked a question about members of religious communities. What are they composed of? They are not all clergy, are they?

Peter Spiers: No, they are not. Under new legislation, we have defined religious communities and they are open to lay and ordained.

Q4 **Lord Lisvane:** May I go to Clause 3(1) and the inserted matter (1A)? This is more a gentle inquiry, rather than any criticism. I realise that "deaconess" is the accepted title of the role, but it strikes oddly on the ear, particularly as you have a gender-neutral amendment included elsewhere in the proposed Measure. Would you like to give us a little background to that, because it seems to be the only gender-specific job title around?

Peter Spiers: I think the answer is that some people who were ordained deaconess value that very highly and wish to retain that title. One is normally a deacon for a year in the Church of England before being priested. A deaconess is a specific order. Is that correct?

Alexander McGregor: That is right. Before it was possible for women to be ordained as deacons in the Church of England, and subsequently as priests and bishops, an office was created called deaconess. A deaconess is not a female deacon, despite what may seem to be the case. It was a new, specially created office in the Church, and a large number of women were admitted to the office of deaconess.

When it became possible for women to become deacons, many of them became deacons, but some chose not to and remained deaconesses. There remain female officeholders of the Church of England who are legally deaconesses and not deacons. Therefore, they have to be described separately, if they are to be described at all. I am sorry about that being complicated.

Lord Lisvane: My gentle inquiry has turned out to be highly educational, so thank you very much for that.

Lord Faulkner of Worcester: Are there any deaconesses who are not women?

Alexander McGregor: No.

Lord Faulkner of Worcester: But there could be.

Alexander McGregor: No.

Q5 **Lord Elton:** Can I ask a small question on the same clause? In the diocese of Oxford, and I think in others, there is a lay office called licensed lay minister. I just wanted assurance that that is embraced by the term "lay worker" or "lay officeholder" and that therefore there is no absence.

Clive Scowen: "Reader" is the word that you are looking for in the first line: "A duly authorised deaconess, reader or lay worker". Now the canons provide that someone who is a reader can be called a licensed lay minister and vice versa. Different dioceses have done different things. In Oxford, it is universal, as I understand it. In London, we have a choice; I was licensed as a reader and I choose to be called a licensed lay minister, but it is all the same thing.

Alexander McGregor: Legally, the office is reader, which is why that is here in the legislation.

Q6 **Fiona Bruce:** I have two brief questions on Clause 5. I wonder whether, under Clause 5(1)(5), there is any guidance on what “substantially different” actually means.

Becky Clarke: Guidance on this will be provided by the Cathedrals Fabric Commission, but it will be a matter of establishing that the proposals that are being approved by variation would not be different enough to have engendered different responses, particularly from the statutory consultees, and therefore a potentially different outcome of decision. We will provide guidance. We will also provide case studies, which, in our experience, are a lot more illustrative and helpful. As soon as this comes in, those are ready to go.

Q7 **Fiona Bruce:** Thank you. My second question is on Clause 5(3)(1A). What is the prescribed period for an appeal? It must be by reference to a previous Measure.

Becky Clarke: I believe the prescribed period for appeal is 28 days, which is the same as the consultation period beforehand. It is 28 days’ consultation beforehand and, after a decision, 28 days of the formal notification being displayed on a form 10, which is the relevant form.

Q8 **Lord Lisvane:** Might I go on to Clause 12(3): “are to be regarded as having always had effect”? The intention of this may simply be to dispel any lingering doubt, but there is an element of retrospectivity about it. I wonder whether our witnesses would like to comment on that.

Alexander McGregor: Where this situation has arisen in the past, sometimes the Land Registry has agreed to register such a lease and sometimes it has declined to. Declining to register such leases has happened more frequently recently, but we did not want there to be any question about the past leases that have indeed been registered by the Land Registry. We did not want to cause trouble in particular for the Land Registry, because of course it gives a title guarantee and it would be unfortunate if someone could challenge that on a pure technicality.

Lord Lisvane: There is no undecided issue from the past that would be affected in any way by this provision.

Alexander McGregor: We are not aware of any particular case that is undecided, no.

Lord Lisvane: Thank you very much.

Q9 **The Chair:** I have one last point. Under Clause 6 on disused burial grounds, I gather that the proposal is to build on disused burial grounds when the bodies are still there, the bones are still there. That happens anyway in other parts. What happens if somebody objects?

Becky Clarke: If somebody objects, a case would be heard about it. If it is a disused burial ground of a church, it would be heard by the relevant chancellor in that diocese. If it is under the jurisdiction of the care of cathedrals Measure, it would be heard by the Cathedrals Fabric Commission for England, which, particularly on licensing for the treatment

of human remains, has taken on the responsibilities of the Ministry of Justice. The presumption is always non-disturbance of human remains. If there is an objection predicated on there being disturbance of human remains, our presumption is always non-disturbance.

For many disused burial grounds, there is no mapping of where bodies are actually buried. In very many cases, when we get applications like this, which we refuse at the moment because they are not legally allowed, they are for very light-touch builds with mitigating constructions, raft foundations for example, which means that bodies would not have to be disturbed in any way. The objections would be heard, as for any other case, by the Cathedrals Fabric Commission before permission is granted.

The Chair: Do the bones get moved at all, or is it impossible to tell which site is which?

Becky Clarke: It depends. With some burial grounds, it is very clear where graves are laid, and there would be a presumption not to disturb them unless doing so was absolutely essential, for example to install new drainage required to keep a building safe, as happened recently at Canterbury Cathedral. If bones are disturbed, they are always reburied, as soon as possible, in the nearest consecrated area. In the case of a cathedral, that is usually within the cathedral grounds.

The Chair: That seems fine. Does anybody have any other questions?

Lord Judd: May we raise any points at random?

The Chair: Yes, of course—any points that are relevant to this Measure.

Q10 **Lord Judd:** I have a question about the burial grounds. You stipulate whose permission must be gained or who can object, and you list various family members. Supposing someone did not have any family but had a group of friends who cared desperately about them as a person, are there any provisions for them to intervene in such a situation?

Alexander McGregor: The persons who fall within the statutory definition of relative here are in a special position, because if the burial took place within the past 50 years they have an absolute veto over burying on the grave site. That is the special position of those within the definition of relative.

But anyone else may raise an objection if they wish, which would then be considered on its merits. For someone who did not have any family within these descriptions, their friends could nevertheless come along and object. It is just that they would not have an absolute veto in the way that family members would.

Lord Judd: That is not stipulated in this, is it?

Alexander McGregor: Yes, it is. Well, it is not stipulated here that anyone can object, because that comes from the general process, either in the

consistory court or in the Cathedrals Fabric Commission process, in which notices are put up and then anyone who wishes to raise objections can.

The Chair: Thank you very much for very helpful, clear expositions. I particularly thank the chief legal adviser for coming back extremely quickly on my questions. We are very grateful to you. It was a great help.

If there is nothing else anybody wants to ask the members of the Church, if you would like to leave we will deliberate on this. When that is completed, we will ask you if you would not mind coming back to have a totally informal session, which will not be recorded.