Church Courts

With particular reference to the Ecclesiastical Jurisdiction Measure

By Malcolm McQueen

ON July 4th, 1961, the Church Courts Commission presented the Ecclesiastical Jurisdiction Measure to the Church Assembly, which, after a day's debate, gave it General Approval, remitting the Measure to a Revision Committee. So a considerable milestone has been reached by the formulation of this important Measure, representing the most extensive overhaul of the ecclesiastical judicial system for several centuries.

The not unrelated subjects of the relationship between Church and State and of Church Courts have between them occasioned a plethora of reports during the past century. In the latter instance a Royal Commission produced a Special Report in 1831 dealing with the final court of appeal in ecclesiastical cases, and in 1832 a General Report from which emanated considerable parliamentary legislation. Such well known acts as the Church Discipline Act, 1840, the Public Worship Regulation Act, 1874, and later the Clergy Discipline Act, 1892, appeared on the Statute Book. Since 1883 seven commissions have, in whole or in part, reported on the system of church courts with proposals for change, namely, the Royal Commission on Ecclesiastical Courts, 1883; the Royal Commission on Ecclesiastical Discipline, 1906; the Church Assembly Commission on Ecclesiastical Courts, 1926; the Archbishops' Commission on Church and State, 1935; the Archbishops' Commission on Canon Law, 1947; the Church Assembly Commission on Church and State, 1952; and the Archbishops' Commission on Ecclesiastical Courts, 1954, usually known as the Lloyd Jacob Report (after its chairman, Mr. Justice Lloyd Jacob). To hope to grapple with this complicated matter of courts without the aid of of this last Report would be to make one's task extremely difficult. Whatever may be thought of its recommendations the Report is an invaluable book on every aspect of this subject and repays most careful study. I shall draw extensively (and gratefully) on it, but even within the generous confines of this article much must be left unwritten. I leave for instance the history of ecclesiastical courts to the first twenty pages of the Lloyd Jacob Report, whilst the interested reader will find a great deal else beyond this article set down within its eighty pages.

The 1832 Commission's main recommendations were on clergy discipline, which was in future to be dealt with by a separate procedure and by separate courts. Thus there evolved a dual system of courts, on the one hand the ancient Consistory Court at the diocesan level with appeals first to the court of the particular province (the Court of Arches for Canterbury and the Chancery Court of York) and then to the Privy

Council, and, on the other hand, the system for clergy discipline, such offences being divided into two groups: (i) doctrinal, ritual, and ceremonial; (ii) moral, unbecoming conduct, and neglect of duty. Offences in the first group are, broadly speaking, dealt with under the Church Discipline Act, 1940, and the Public Worship Regulation Act, 1874, the provincial court being the court of first instance with appeals to the Judicial Committee of the Privy Council. Offences in the second group come under the Clergy Discipline Act, 1892. These trials are held in the Consistory Court, with appeals either to the provincial court or to the Privy Council. Further discipline measures have been enacted in the past fifteen years by the Incumbents (Discipline) Measure, 1947, and the Church Dignitaries (Retirement) Measure, 1949, whilst in 1951 the Bishops (Retirement) Measure was passed. In all, each diocese now has four courts and five quasi-courts (in which the bishop can pronounce sentence with the accused's consent) and each province has six courts. Well might the Lloyd Jacob Commission, having surveyed the scene, use the phrase "a jungle of courts" to describe the present situation.

Two particular and subsequently controversial elements in this structure must be noticed. By the Privy Council Appeals Act, 1832, the Crown's appellate jurisdiction was vested in the Judicial Committee of the Privy Council (as already mentioned) with a view to strengthening the law. Many in the Church have subsequently disliked church appeals in the last resort being considered by lay members of a body, however distinguished, that need not comprise churchmen, and have consequently disowned its verdicts. As a result the subject of the final court of appeal has been prominent and contentious in the deliberations of the various commissions (even when specifically omitted from terms of reference) and was indeed an important item in the discussions of the recent Church Courts Commission. Since 1883 each report, with one exception, has agreed that there should be a final court of appeal, and that that final court should not be the Judicial Committee of the Privy Council. The 1883, 1906, and 1926 Reports provided for a court consisting of lay judges who, in various circumstances, could consult the archbishops and bishops. The 1935, 1947, and 1952 Reports provided for a court consisting of laymen and bishops, the 1935 and 1952 Reports recommending two lay and two ordained members, the 1947 Report adding to this number the archbishop of the province in question. How the Church Courts Commission dealt with this problem will be shown in due course.

The other controversial factor has been the bishop's veto. It is obviously both proper and desirable that the bishop should play some initial part in any proceedings against his clergy, but there are those who feel that the power of the bishop's veto is too comprehensive and final. By the Church Discipline Act, 1840, the veto is absolute with no requirement to state reasons. By the Public Regulation Act, 1874, reasons must be given in writing, whilst under the Clergy Discipline Act, 1892, the veto is limited to cases that the bishop considers too trivial or vague to warrant proceedings. The views of the various reports are clearly summarized by the Lloyd Jacob Report: "The 1883 Report proposed (with seven dissentients) that in all clergy

discipline cases the bishop's veto should be retained, on the ground that it was best for the bishop, rather than any private person, to decide whether in any particular case the best interests of the Church were served by the institution of proceedings against a clergyman. The 1947 Report agreed with that of 1883 that the bishop's right of veto should be absolute. But both the 1906 and 1926 Reports thought that in doctrinal and ritual cases the veto might be abolished; the 1906 Report conditionally on the law of public worship being altered to allow reasonable variety, subject to the regulations of the bishops as a body, and the 1926 Report conditionally on this state of affairs being achieved through revision of the Prayer Book. The 1926 Report specially emphasized the importance of retaining the veto in cases of alleged misconduct on the part of a clergyman, on the ground that 'painful experience shows that the clergy in the fulfilment of their duties are peculiarly liable to malicious charges and prosecutions from which the bishop's veto is their only protection'." To underline their agreement with this last sentiment the Lloyd Jacob Commission proposed that the restriction on the veto to cases of frivolity and vagueness should be lifted, so allowing the bishop to exercise his veto absolutely in conduct cases (other arrangements being recommended for doctrinal cases). It will be seen later that this subject of the veto provoked a difference within the Church Courts Commission.

The main principles upon which the Lloyd Jacob Commission worked and their consequent recommendations, form the basis of the proposed Ecclesiastical Jurisdiction Measure. These principles can be summarized as follows. First, the maintenance of the distinction between conduct cases and cases involving doctrine, ritual, and ceremony (known as reserved cases). The relevant draft canons as contained in the 1947 Report would have abolished this distinction. Secondly, the need to reduce drastically the number of courts. Thirdly, provision of a system reasonably hopeful of gaining the Church's confidence. Fourthly, the desirability of including all clergymen of every rank within the reconstructed system of clergy discipline. In conduct cases the Commission recommended one diocesan court, the Consistory, with appeal to the provincial court and with no further appeal possible. Because these cases might be criminal suits, the Commission recommended that the laity should be included in the composition of the Investigating Committee, which would decide whether or not a *prima facie* case existed against the accused. The chairman should therefore be a person legally qualified and a communicant member of the Church of England, whilst the committee should consist of three clergymen and three laymen (with experience in criminal law). In reserved cases the Commission felt strongly that to judicial experience must be added spiritual authority in the form of bishops and convocations each playing an active role in these trials. The Commission therefore proposed one court for the whole Church to be known as the Court of Ecclesiastical Causes Reserved, with no case being tried by this court until a Convocation Court of Inquiry had first been held and agreed that the case should proceed. Having regard to the authority which the Commission envisaged in this new court, the Lloyd Jacob Commission departed from the recommendations in

principle of its predecessors, and maintained that no appeal from its judgments should be considered necessary. (Any person, of course, has the right to apply to the High Court of Justice if there is a sense of lack of justice or abuse of proceedings.) Complaints of an alleged offence in either the conduct or reserved category must be made within three years, and persons qualified to lodge a complaint should be restricted to any person appointed by the bishop (probably the archdeacon), a churchwarden, three communicant members on the electoral roll, or the patron of the benefice.

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Now to pass to the Ecclesiastical Jurisdiction Measure itself. Its terms of reference which form the preamble to the Measure include : " To reform and reconstruct the system of ecclesiastical courts of the Church of England, to replace with new provisions the existing enactments relating to ecclesiastical discipline, to abolish certain jurisdictions and fees. . . ." It is only possible here to refer to the Measure's leading provisions (and omitting certain qualifications to these) for the Measure contains no less than eighty clauses.

Part I deals with the Courts, their judges and jurisdiction. The Consistory Court, now the only court at diocesan level (the others have not been specified in this article) is the court of first instance against clergymen for offences not being doctrinal, ritual, or ceremonial, and for faculty cases. Its judge is the chancellor of the diocese, appointed by the bishop, and either a barrister-at-law of seven years' minimum standing, or having held high judicial office. He sits with four assessors (two ordained, two lay) who decide questions of fact with him, whilst questions of law are decided by the chancellor alone. The Arches Court of Canterbury and the Chancery Court of York are respectively the archbishop's court in each province, hearing appeals from the Consistory Court other than faculty ones involving doctrine, ritual, or ceremonial. The judges are five in number, being a barrister of at least ten years' standing, or of high judicial office and acting as judge in both courts, known as Dean of the Arches in Canterbury and as Auditor in York ; two clerks in Holy Orders for each province, appointed by the Prolocutor of the respective Convocation Lower House ; and two laymen of judicial experience appointed by the Chairman of the House of Laity.

Five judges constitute the judges of the Court of Ecclesiastical Causes Reserved to be appointed by Her Majesty, two from persons who have held high judicial office, and three who are or have been diocesan bishops. Besides hearing cases of doctrine, ritual and ceremonial, this court is concerned with suits of duplex querela (suits relating to refusal to institute to a living) and with faculty case appeals in which doctrine, ritual, or ceremonial is involved. Other faculty appeals will continue to be heard by the Judicial Committee of the Privy Council, which in future will cease to have any jurisdiction in discipline cases.

The Measure makes specific provision for a final court of appeal from the Court of Ecclesiastical Causes Reserved. This final court consists of five persons nominated by Her Majesty, of whom three are

Lords of Appeal who declare that they have been confirmed in the Church of England, and two lords spiritual sitting as Lords of Parliament.

Parts II and III concern Offences and the Institution of Proceedings. The offences under the Measure are the same as under the present law, being matters relating to doctrine, ritual, or ceremonial, and other offences which include unbecoming conduct and serious, persistent, or continuous neglect of duty. Proceedings are excluded where political opinions or activities are involved; and in the case of doctrine, ritual, and ceremony, proceedings are instituted only if the offence was committed in the Provinces of Canterbury or York. In other cases the location of the offence carries no restriction. A time limit of three years is laid down as recommended by the Lloyd Jacob Commission, but the categories of qualified complainants differ slightly. In the case of priests or deacons the complaint may be laid by a person authorised by the diocesan bishop; against incumbents or assistant curates, complaints can be laid by six persons or more of full age, whose names are on the parochial roll, whilst the incumbent of the benefice concerned can institute proceedings against an assistant curate.

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Parts IV and V provide for the conduct of proceedings against bishops, priests, and deacons, for offences not involving doctrine, ritual, and ceremonial; Part VI for offences that do involve these categories. For space and other reasons the proposed procedure against archbishops and bishops in conduct cases is omitted from this article. After the lodging of a complaint against priests and deacons for misconduct or neglect of duty, the bishop has the initial duty of interviewing the complainant and the accused in private, after which he can decide either to allow the complaint to proceed, or that no further steps be taken. In the former instance, the case is referred to the diocesan Investigating Committee, consisting of the lay chairman, three clergymen, and one layman. It will be noticed that this differs from the Lloyd Jacob Commission which recommended three lay members. The Church Assembly at the time expressed some objection to the Lloyd Jacob suggestion, as this would mean that the clerical element on the committee would be in the minority, and only clergy were the proper judges of the conduct of their brethren. The Church Courts Commission differed in their opinion of this, the majority favouring the inclusion of only one lay member (excluding the legal chairman) whilst others maintained that the committee's function was not to decide on whether conduct was becoming or unbecoming, but whether a *prima facie* case existed to put the accused on trial. If the Investigating Committee decides that a case is established the bishop will have now no power of vetoing the consequent proceedings, since the trial must then be held. However, when a complaint has been duly laid and substantiated, the bishop can pronounce sentence after consultation with the complainant and agreement by the accused. Thereupon the case is closed.

As soon as a complaint is lodged against priests and deacons in doctrine, ritual, and ceremonial cases, the diocesan bishop must con-

sider it, and after giving the complainant and the accused the opportunity of seeing him, the bishop shall either refer the case to the Convocation Committee of Inquiry, or veto any further action. The provincial committee concerned, consisting of one member of the Convocation Upper House, two proctors of the Lower House, and two diocesan chancellors, has the task of deciding by a majority vote whether there is sufficient evidence to put the accused on trial. It is important to note that even when the committee decides that there is sufficient evidence for a case to proceed, it may stop any further proceedings on the grounds that the offence is too trivial, or that it was committed under extenuating circumstances, or that further proceedings would not be in the interests of the Church of England. Otherwise the accused is tried before the Court of Ecclesiastical Causes Reserved, which in general will conduct its proceedings similarly to courts for conduct cases. The court must sit with not less than three or more than five assessors drawn from a panel of theologians and liturgiolists. An appeal involving doctrine to the new final court of appeal will mean that this commission will sit with five members of either of the Upper Houses of Convocation, or of eminent theologians who will give such advice to the court on the doctrinal matters in question as the commission may require.

Neither the Court of Ecclesiastical Causes Reserved nor the Commission shall be bound by any decision of the Judicial Committee of the Privy Council in regard to matters of doctrine, ritual, or ceremonial. For many this will not make agreeable reading. It was not really necessary to state this qualification in the Measure, as the institution of a new system of courts precludes any such binding, but the clause was added for clarity's sake and to assuage any doubts felt by those who will not accept the Privy Council's judgments. When speaking in the Church Assembly I took the opportunity of observing that even though the proposed new courts will not be bound, there is nothing, so far as I am aware, to prevent these courts having regard to the Privy Council's judgments.

The inquiry and trial procedure in an archbishop's or bishop's case follows the same lines as that for a priest or deacon, except, of course, that no bishop's veto operates, whilst the Convocation Committee of Inquiry consists of an even number of members of the relevant Upper Convocation House, together with the Dean of the Arches and Auditor.

Part VII deals with commissions of review, to which some reference has already been made. Part VIII is concerned with Censures. Except for the abolition of excommunication, the censures remain the same as under the existing law. Guilt of an offence laid down in the Measure renders liability to any of the following penalties : (i) Deprivation, namely, removal from present or future preferment, unless otherwise permitted by a bishop and archbishop ; (ii) Inhibition, being disqualification from exercising any functions for a specific time ; (iii) Suspension, namely, disqualification for a specified period from performing any right or duty incidental to the preferment, unless the bishop permits, or from residing in the preferment residence ; (iv) Monition, being an order to do or refrain from doing a specific act ; (v) Rebuke. In accordance with the Lloyd Jacob Commission's

recommendation, the penalty for a first offence in doctrine, ritual, or ceremonial cases shall not be more than monition. The bishop has power to depose in the case of deprivation, and (a new provision) an archbishop or bishop can likewise be deposed on a resolution of the relevant Upper House of Convocation, but before such censure of deprivation or sentence of deposition is effective, confirmation must be obtained from Her Majesty by Order in Council. When a clerk in Holy Orders is accused of an offence under the Measure, or of any criminal offence in a temporal court, and the bishop considers that in the best interests of the Church he should not perform his duties pending proceedings, a notice can be served on the clerk inhibiting him from taking any of the services.

Part IX relates to Automatic Deprivation following conviction of certain criminal offences or certain immoral acts. In particular, automatic deprivation is to be operative if a decree of divorce or of judicial separation has been pronounced against a clergyman on any ground now available in either instance other than unsoundness of mind. (This clause caught the eye of the popular Press when the Measure was made public.) In earlier debates some disquiet was expressed in the Church Assembly, and it was argued that automatic suspension and not deprivation would be more appropriate, with power given to the bishop to consider the case and deprive if he thought fit. But the Church Courts Commission were of the opinion that this laid an undesirable burden on the bishop, besides which such deprivation did not mean that a future preferment might not be held (with episcopal sanction). The Lloyd Jacob Commission recommended that a bishop should be able to deprive a clergyman who remarries after divorce, or who marries a divorced woman, if in either instance the former spouse is living. The Church Assembly supported this view, but the Courts Commission, whilst expressing disapproval in principle of such marriages, felt that it would be difficult to request Parliament to agree to such a procedure over a course of action that is lawful for the general public.

Part X sets up a Legal Aid Fund to be maintained by the Church Assembly and the Church Commissioners if they think fit, with contributions from each of these bodies. At the same time, power is given to the courts to make an order for payment of costs against either party to a proceedings even when any proposed action is not eventually taken or defended.

Part XI institutes a Rule Committee and sets down its functions.

Part XII is Miscellaneous and General.

Of the four Schedules to the Measure it might be mentioned that the Fourth contains a list of existing enactments for repeal in whole or in part, some fifty in all, from the time of Edward I.

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It is not for me to predict how the Measure will look in its ultimate form after it has been studied by the Assembly at the Revision and Final Approval stages, but as I have previously indicated, the important subjects of the final court of appeal and of the bishop's veto,

require further comment in order to assess the trends of thought behind the Measure.

The Lloyd Jacob Report had been the subject of a good debate in the Assembly in 1954, with a further debate in 1956 which was devoted specifically to this problem of a final court. Those who were present on that latter occasion will not readily forget Archbishop Lord Fisher's spirited defence of the Privy Council. However, the Assembly by a majority—and let it be noted that the minority was a substantial one—followed the line of the successive reports in its rejection of the Judicial Committee. The Church Courts Commission, therefore, had to take these views into account. Agreement in the Commission was eventually reached that the final court should consist of five members, but whether the composition should be three bishops and two lay judges, or *vice versa*, revealed a cleavage of opinion which in turn reflected the Anglo-Catholic and Evangelical outlooks. The former maintained that as the court might have to pronounce a legally binding judgment on what is the Church's doctrine, and as the bishops are the guardians of that doctrine, they should be in the majority. Besides, interpretation of theological documents often required a special knowledge of doctrine and theology with which a lawyer would probably not be adequately equipped. The other viewpoint on the Commission favoured three lay judges, contending that a court's decisions must be based on law and not policy, and that strict legal principles must therefore predominate. As I told the Assembly, I understood it to be fundamental to the system of jurisprudence in this country that law was interpreted by lawyers, trained for that purpose, and that ecclesiastical jurisprudence was a part of that system. Thus the final court of appeal must be a court of law, and that law must be certain of capable and clear interpretation, since the power of the courts to deprive a man of his living and livelihood should not be underestimated. In eventually recommending to the Assembly the acceptance of three lay judges and two bishops, the Commission expressed the belief that the judges and the bishops would work together with understanding, and pointed out that in doctrinal cases the court would be advised by the panel of bishops and theologians for which the Measure made provision. The court would also have before it the decision of the Court of Ecclesiastical Causes Reserved with its majority of three bishops to two lay judges. Notwithstanding the implications of these remarks, I believe that Evangelicals may indeed be satisfied if the lay majority in this court can be secured.

The retention or abolition of the bishop's veto in doctrinal, ritual, and ceremonial cases divided the Courts Commission. (All, I believe agreed that in conduct cases it was necessary.) The disagreement over the veto was such that four of us members felt bound to record that division in the form of a dissent. Clause 37(1) (a) empowers the bishop to decide if he thinks fit that no further step be taken against a priest or deacon in these cases. Those favouring this retention of the veto take their stand on supporting the present law, maintaining that without the veto clergymen would be subject to trivial or vindictive charges, especially owing to the divergence between law and practice in public worship. When the law has been brought up to

date the need for the veto might cease, but that situation has not been reached. Both the supporters and the opponents of the veto referred to the Lloyd Jacob Report in arguing their case. That Report observed that whilst divergence between law and practice exists and continues, the proposed procedure for dealing with ritual and ceremonial cases should remain subject to the Church Discipline Act, 1840, and the Public Worship Regulation Act, 1874, thus attracting the bishop's veto. At the same time it was eventually desirable to place the procedure on a wider basis of inquiry for all three cases than the present system permitted—hence the proposed Convocation Court of Inquiry. In the Assembly I readily agreed that some form of inquiry was necessary to meet a complainant's right, and that some form of veto was required to safeguard an accused against wrongfulness. Yet the Measure's safeguards were indeed extensive—qualified complainants at the outset, and in spite of a *prima facie* case being proved three wide (some would say too wide) powers of dismissal by the Convocation Committee of Inquiry. The Lloyd Jacob Commission had rightly stressed the pastoral role that the bishop should play by endeavouring to settle the dispute amicably in private, and had suggested that a month should be allowed for this attempt. Moreover, the set-up for reserved cases was on a national basis, affecting the whole Church. To retain, therefore, a personal and diocesan veto, not uniform and varying from diocese to diocese, was to cut right across an important new principle embodied in the more representative Convocation Committee. Furthermore, although the Lloyd Jacob Report contained the proviso concerning the law and practice, yet that commission proposed that doctrinal cases should forthwith be subject to the new procedure of the Convocation Committee and freed from the bishop's veto. The Measure, on the other hand, contains no such proviso, so that, if passed in its present form, all three cases (doctrinal, ritual, and ceremonial) affecting priests and deacons, will be subjected to a *double* veto, bishop's and convocation's. The encouraging Evangelical lay support in the Assembly strengthens my belief that the opportunity should now be taken to abolish the bishop's comprehensive veto (other and adequate safeguards being provided), particularly as the Church's confidence is being sought for the proposed new courts.

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In concluding this article I want to stress briefly the contemporary setting in which the revision of the Church's courts should be viewed, for whilst the proposed system of courts can be examined in isolation, it would be unwise not to recognize it as part of a larger picture. It is no exaggeration to say that the revision of the canons has made this revision of the courts complementary and inevitable. That popular phrase " the mind of the Church " requires today a wider set of ecclesiastical laws and a more autonomous system of administering them. The new courts and the personnel for staffing them may (or may not) gain the confidence of clergy and laity, but it is certain that without a change in the law to be administered the Measure will find little favour. (We may deplore this outlook but we cannot deny

it.) Page 73 of the Lloyd Jacob Report sets this down with a frankness that is at least commendable, even though its reasoning and aim provokes radical disagreement : " In this connection it is encouraging to note signs of better things. In the process of revising the canons the Convocations and the House of Laity of the Church Assembly have agreed in principle to the draft Canon XIII, Of Lawful Authority, under which optional or temporary variations from the forms of service ordered by the Book of Common Prayer can be given lawful authority. This machinery should enable the Church to bring to an end some of the divergence between the law and practice of its public worship. Another new canon (no. XVII), Of the Vesture of Ministers during the Time of Divine Service, will, if it becomes law, abrogate the opinion of the Judicial Committee of the Privy Council in Hebbert *v.* Purchas (1871), L.R. 3 P.C. 605, and Ridsdale *v.* Clifton (1877), 2 P.D. 276, that a clergyman, while officiating at Holy Communion, is not permitted to wear a chasuble, and so make legal what for years has been a widespread practice. But these two canons are not more than a beginning in the work of revising the Church's ritual and ceremonial law, a work which we consider essential, if as the Church Assembly desired . . . proper provision is to be made for the trial of offences against the law. We venture to hope that the Convocations and the House of Laity of the Church Assembly will take the opportunity afforded by the revision of the Canons of repealing by Canon or Measure those parts of the ritual and ceremonial law which are no longer observed and over which recourse to a court of law would not now be thought proper. For the successful working of a court for the correction of ritual and ceremonial offences, not only must the law of public worship be related to present-day practice, but it must be framed in such a way that the full width of Church tradition will find a place in its framework, and full allowance be made for variations in ceremonial necessitated by local circumstances.

" Against this background we would desire to see a renewed appreciation of uniformity as a principle of liturgical worship. The law should be obeyed, not because of the sentence imposed in an ecclesiastical court on conviction of an offence against it, but because uniformity in public worship is itself a thing of value. . . ." (These last sentiments will find an echo in many hearts.)

Should then the law be changed to make the Measure's proposals effective? On the contrary, but the one is intimately linked with the other. The Measure may reach the Statute Book in advance of changes in the law. A motion was therefore moved in the Church Assembly to provide that those sections dealing with offences involving matters of doctrine, ritual, or ceremonial, should not come into force earlier than six months after the canons dealing with Lawful Authority have been promulged. This was not approved, but it should not be assumed that the Church would be content for long to regard such cases as being better dealt with under the new Measure if the law remains unchanged.

The main subject of this article is a piece of legal and administrative machinery, but it is grounded also in deep principles. Every opportunity must therefore be seized of ensuring that the Evangelical voice

of conviction is heard in the central councils of the Church. (There have lately been some encouraging instances of such positive and effective contributions.) May God give strength and guidance for the witness and work that lie ahead, that fundamental scriptural principles are not jeopardized, and that true justice is dispensed by means of this Measure.

The Thirty-Nine Articles: Their Value in the Twentieth Century

By John Tiller

Apart from an occasional outburst, such as those made recently by the Dean of St. Paul's,[1] when for a moment we wonder again whether the Church has *ipso facto* excommunicated itself by the terms of its own Fifth Canon, it has become increasingly clear since the war that the painful tension in which the Thirty-Nine Articles held many an unhappy subscribing cleric has been resolved. This is not to say that any enactment or official announcement by voice of authority has granted relief to troubled consciences. Far from it: outwardly all remains exactly as before. Nor has there been any change of character in the clergy themselves leading to a universal and wholehearted acceptance of the Articles. On the contrary, what has been agreed upon is that adverse after-effects from the bitter pill of subscription should be avoided by dissolving it in the waters of Lethe. The Articles themselves have been banished by ignorance and forgetfulness from the councils and pulpits of the Church, except when formal occasion demands otherwise. No mention is made of the Articles during negotiations with the other Churches: the doctrinal confession of the Church of England is considered certain to be irrelevant, or at any rate an inconvenient hindrance to close understanding and ultimate unity.

Failing to find any agreed form of doctrine, then, do our Christian brethren from elsewhere seek to investigate our past in an attempt to discover where we stand? As like as not they will be informed that ours is not a confessional church.[2]

In this situation we have cause to be grateful to those like Dean Matthews, because at least they remind us that the problem really still exists of Articles subscribed to, but not believed in or obeyed. And it