

THE WORK OF DIOCESAN REGISTRARS: THE REPORT OF THE O'CONNOR WORKING PARTY[‡]

A Review

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The Church of England's fascination with Ecclesiastical Law and its Legal Officers has found expression in recent years in the Hilder Commission (1967), the Chester Report (1973), a working group under the Chairmanship of Mr. O.W.H. Clarke on the Remuneration of Registrars, which necessarily involved an inspection of the Registrar's work, and internal reviews in each Diocese of the allocation of work between lawyers and administrators on at least three occasions since 1973. Given this background, there was a marked lack of enthusiasm among Diocesan Registrars for the enquiry mounted by the Working Party chaired by the Revd. B.M.M. O'Connor which is due to come before the General Synod in November 1988. It is very much to the credit of Mr O'Connor and the members of his Working Party, that they have recognised the justice in that feeling and the first recommendation of their Report states that although the administrative and legal processes of the Church should be kept under constant review, there should now be a respite from looking at the work of Registrars in isolation.

The general tenor of the Report met with a warm welcome and general approval from Diocesan Registrars. This must be counted as a tribute to the members of the Working Party. They have worked hard to acquaint themselves with an area of administration which can at times be enormously complex, and in a field where others had worked before, thereby leaving little to be gleaned. The Report makes it clear, although not as a summary recommendation, that the Church will have an increasing need to rely on legal expertise as a result of the complexity of modern legislation and the Registrar needs, therefore, to be part of the inner councils of the Church. The Report does not give any support for those members of the public who seek to marginalise the Registrar.

Any working party report, and particularly a report on the work of lawyers, has to have regard to the General Synod's Resolution which defines its terms of reference. Mr O'Connor's Working Party suffered from the undoubted handicap of being required "to consider and make proposals as to how the work of Registrars can be reduced". Despite the sympathy which the Report expresses for Registrars and their work, it has necessarily had to produce recommendations on the basis of the Resolution, and the paradox therefore arises, that the Registrars like the Report but they do not agree with all the recommendations. Further details are given below.

The Working Party decided to exclude from its considerations two of the main areas of the Registrar's work, namely ecclesiastical disciplinary matters and faculties. It therefore concentrated its aims and purposes on the functions and duties in respect of which the Registrar receives his annual fee. In each case the Working Party has examined the duty or function and enquired, first if the work

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was necessary at all, second whether it needed to be done as at present and thirdly whether it needed to be done by the Registrar. The first two questions are legitimate for every review of administration. The last was imposed upon the Working Party by their terms of reference but it weakens their recommendation. It might be more expensive for such work to be done elsewhere (see Paragraph 21 of the Report) or it might be less efficient for the work to be done elsewhere (see Paragraph 20).

There are other problems. To consider some specific examples, recommendation No. 7 says that churchwardens and secretaries of PCC's should be required first to approach the Archdeacon, the Diocesan Secretary or other appropriate officer of the diocese for advice, who shall be responsible for passing the request to the Registrar if they consider it is a matter which ought properly to go to him. The purpose of this recommendation is to filter out those enquiries which could easily be dealt with by others. While the intention is reasonable, it seems wrong to me in principle to obstruct or restrict the parish officers from seeking proper legal advice. It seems a case where the remedy would be worse than the complaint. The Working Party has assumed that all the forms and documents referred to in the Appendix to the Fees Order are in use in every diocese. It recommends the simplification and standardisation of forms. It is always worthwhile carrying out such a review at regular intervals. It is doubtful, however, whether a form can be devised which is suitable for every occasion. There needs to be some discretion left for the Diocesan Bishop and Registrar.

The Report recommends specifically that a Measure should be introduced to clarify the law relating to sequestration. This subject occupies fifteen paragraphs of the Report and is clearly important. It recommends that new legislation should provide for the Churchwardens and the Rural Dean, etc. to become automatic sequestrators without the need to issue any formal Writ of Sequestration. There are other minor and consequential amendments. The Report's recommendations are practical and sensible. They are supported by the Registrars.

The Report looks forward to the future and the development of a computerised Central Clergy Register and Records. It opens the door a little, therefore, to interesting legal conundrums in the future. It concludes by reminding the General Synod that financial savings ought not to be expected simply by the transfer of work from one place to another, and it reminds the Synod of the need to remunerate its Registrars properly. No doubt there will be an argument about the word 'properly', but the Registrars will note with interest that Mr O'Connor has now been appointed to the Ecclesiastical Fees Commission. Meanwhile, the Report goes to the November Synod where it will, no doubt, attract amendments from both sides of the spectrum.