

HOUSE OF COMMONS (REMOVAL OF CLERGY DISQUALIFICATION) ACT 2001

EXPLANATORY NOTES

BACKGROUND

4. Prior to the Act, certain clergy were disqualified by statute from becoming members of the House of Commons. The statutory provisions were set out in the House of Commons (Clergy Disqualification) Act 1801 and section 9 of the Roman Catholic Relief Act 1829. The clergy specifically referred to in these two enactments were “person[s] having been ordained to the office of priest or deacon, or being a minister of the Church of Scotland”, and “person[s] in holy orders in the Church of Rome”.
5. In 1951 (In Re MacManaway) the Privy Council decided that the 1801 Act not only disqualified persons ordained in the Church of England, but also all persons ordained by a bishop in accordance either with the order of the Church of England or with other forms of episcopal ordination. In the particular case of Reverend James G. MacManaway, this included ordination according to the use of the Church of Ireland. Thus, in broad terms, those clergy who were ordained by a bishop were subject to the disqualification whereas clergy and ministers of religion who were not ordained by a bishop were not subject to the disqualification.
6. The Clergy Disqualification Act 1870, however, provided a procedure which enabled Church of England clergy to relinquish their clerical positions and, after a period of six months, be freed from the parliamentary disqualification. There is no equivalent statutory procedure for clergy of other churches.
7. The Home Affairs Committee Report on Electoral Law and Administration (House of Commons Session 1997-1998) recommended reform -

“We therefore recommend that, with one exception, all restrictions on ministers of religion standing for, and serving as, Members of Parliament be removed; the exception would be in respect of all serving bishops in the Church of England who, for so long as places are reserved for their senior bishops in the House of Lords, should remain ineligible to serve as Members of the Commons
8. The position of Lords Spiritual differs from others who sit in the House of Lords. Section 5 of the Bishops Act 1878, whilst not itself conferring the right of bishops to sit in the House of Lords, provides that the number of bishops who may sit is not to be further increased. The number is limited to 26. The Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester are always summoned to sit in the House of Lords; the other 21 seats are filled by diocesan bishops summoned on the basis of seniority of date of becoming a diocesan bishop in the Church of England (other than the bishoprics of Sodor and Man and of Gibraltar in Europe). The House of Lords Standing Order No. 6 states that bishops to whom a writ of summons has been issued are not Peers but are Lords of Parliament. When sitting in the House of Lords, such bishops are “Lords Spiritual”.

These notes refer to the House Of Commons (Removal of Clergy Disqualification) Act 2001 (c.13) which received Royal Assent on 11 May 2001

9. Siobhain McDonagh introduced a Private Member's Bill to rectify the position under the Ten Minute Rule Procedure on 16 June 1999. It had cross party support, but failed at 2nd Reading. The Government stated that it was sympathetic, but wanted to consult the churches before changing the law. The Church of England, Church of Scotland and Church of Ireland and the Roman Catholic Church in England and Wales and in Scotland and Ireland were subsequently consulted and were content for the statutory disqualifications to be removed.