

**GENERAL SYNOD**

**DRAFT CARE OF CATHEDRALS (AMENDMENT) MEASURE**

**REVISION COMMITTEE REPORT**

- Chairman:** The Archdeacon of Sudbury (the Ven John Cox)  
(St E & I)
- Ex Officio Members:  
(Steering Committee)** Mrs Janet Atkinson (Durham)  
Canon David Isaac (Portsmouth)  
Dr Edmund Marshall (Wakefield)  
Mr Tony Redman (St E & I)  
The Dean of Southwark (the Very Revd Colin Slee)  
(Deans)
- Appointed Members:** Sir Patrick Cormack MP (Lichfield)  
The Dean of Exeter (the Very Revd Keith Jones)  
(Deans)  
The Dean of Gloucester (The Very Revd Nicholas  
Bury) (Deans)  
Canon Jeremy Haselock (Norwich)  
Miss Rachel Jepson (Birmingham)
- Consultants:** Dr Richard Gem (to July 2002) - Miss Paula Griffiths  
(from July 2002) (successive Secretaries to the  
Cathedrals Fabric Commission for England - assisted  
by Dr Linda Monckton)  
Mr Colin Pordham (Chapter Clerk, Norwich  
Cathedral) (Ecclesiastical Law Association)

**INTRODUCTION**

1. The draft Care of Cathedrals (Amendment) Measure ("the draft Measure") gives effect to recommendations by the Review Group on the Care of Cathedrals Measure 1990 ("the 1990 Measure"). The Review Group's Report (GS 1417) was debated by the General Synod in July 2001, and was taken forward by a Follow-Up Group; that Group's report was combined with the Explanatory Memorandum for the draft Measure

(GS 1429X), and was before the General Synod in November 2001, when the First Consideration Stage of the draft Measure was taken.

2. The draft Measure was committed to a Revision Committee ("the Committee"), which has held one meeting in order to discharge its functions under S.O. 53. In this its report, except where otherwise stated, references to clauses and schedules of the draft Measure are to those in the version which was before the Synod for First Consideration (GS 1429). Appendix B contains a destination table showing the changes in numbering in the version of the draft Measure, as amended by the Revision Committee, which will come to the Synod for its Revision Stage (GS 1429A).
3. The Committee wishes to place on record its appreciation of the invaluable contribution made to its work and to the draft Measure by Dr Richard Gem, the Secretary to the Cathedrals Fabric Commission for England ("CFCE") to July 2002, who also played a leading part in advising the Review Group and the Follow-Up Group. The Committee was delighted to hear that Dr Gem had been awarded the OBE in the 2002 Birthday Honours. In the closing stages of the Committee's work, Miss Paula Griffiths, who had previously been a member of the staff of English Heritage, succeeded Dr Gem as Secretary to the CFCE and as a consultant to the Committee and also took up office as Secretary to the Council for the Care of Churches. The Committee is also grateful for the assistance it received from its other consultant, Mr Colin Pordham, the Chapter Clerk of Norwich Cathedral. Mr Pordham, who was nominated by the Ecclesiastical Law Association, was also a consultant to the Review Group and the Follow-Up Group.
4. In addition to proposals from the Steering Committee and other members of the Committee, specific proposals for amendment were submitted in accordance with S.O. 53(a) by the following members of the General Synod:-

Mrs Penny Granger (Ely)  
Mr Lee Humby (London)  
Professor David McClean (Sheffield)

As required by S.O.54(b), Appendix A to this report sets out the proposals received from Synod members under S.O. 53(a) which raise points of substance.

5. Mrs Granger and Professor McClean attended part of the meeting of the Committee in person and spoke in support of their proposals. The Committee is also grateful to Professor McClean, who was the Chairman of the Steering Committee for the Cathedrals Measure 1999 ("the 1999 Measure") and of the scrutiny group considering the new constitutions and statutes prepared under that Measure, for his further assistance with its work, in particular on the interrelationship between the 1999 Measure and the draft Measure.
6. The Committee received correspondence from the Royal Institution of Chartered Surveyors ("RICS") proposing an amendment in relation to the role of chartered building surveyors, and this was supported by letters from Canon Paul Mellor (Truro) and Mr David Scott (a member of the RICS). The Committee wishes to record its thanks to Mr Scott, to Ms Jane Kennedy, the Secretary of the Cathedral Architects Association, and to Mr Michael Drury, a member of that Association, all of whom attended part of the Committee's meeting by invitation to speak in relation to the RICS's proposals and answer questions (see paragraphs 74-89 below).
7. In the course of the Committee's work, staff of the Department for Culture, Media and Sport ("DCMS") and English Heritage were consulted about the draft Measure and about amendments which the Committee was minded to make to it. The Committee much appreciates their help, including that of the DCMS's legal advisers and also that of Dr Roger Bland of the British Museum, who until recently dealt with matters relating to the Treasure Act 1996 ("the Treasure Act") at the DCMS.

## **GENERAL CONSIDERATIONS**

8. The Committee was satisfied, in the light of the reports by the Review Group and the Follow-Up Group, the very full consultation which they had conducted with cathedrals and others, and the debates in General Synod, that there was a broad consensus that in general the 1990 Measure was working well and needed only limited amendment. The Committee also concluded, particularly in the light of the debate in the General Synod in November 2001, the very few proposals for amendment that had been submitted and the fact that only one Synod member drawn from the cathedral clergy had written in support of any of the proposals, that the changes to the existing legislation embodied in the draft Measure as it had come before the Synod for First Consideration were broadly acceptable, and again needed only limited changes.

9. At the same time, the Committee noted that if and when the draft Measure became law it would need to be supplemented by a fresh set of Rules. They would fill in the detail of some of the new legislation, and the Committee recognised that this would allow greater flexibility for the future than embodying very detailed provisions in the Measure itself.

### **Cathedrals Measure 1999**

10. The draft Measure had been prepared on the basis that by the time it became law, all cathedrals to which the Cathedrals Measure 1999 ("the 1999 Measure") applied would have new constitutions and statutes under that Measure. Thus the draft Measure could use the terminology of that Measure and need not take account of the provisions in the Cathedrals Measures 1963 and 1976 which were superseded by the 1999 Measure.<sup>1</sup>

### **Review of the Royal Peculiars**

11. The Committee noted the recommendation in the Report by the Review Group on the Royal Peculiars under the chairmanship of Professor Averil Cameron (published in 2001) that the two major Royal Peculiars (Westminster Abbey and St George's Chapel, Windsor) should be brought within the general framework and controls of the 1990 Measure. It also noted that the Government's response to the Review Group's report was not expected until October 2002.
12. The Committee was satisfied that if the Government favoured the Review Group's recommendations on the application of the 1990 Measure, a good deal of further work would be required in order to frame the necessary legislation. Even assuming that such legislation should be by Measure, it would clearly be impossible for the Committee to complete that work in time for the November 2002 Group of Sessions, or even the February 2003 Group of Sessions. Thus, apart from other considerations as to what would be the best legislative vehicle for implementing the proposals regarding the Royal Peculiars, attempting to embody any of them in the present draft Measure would substantially delay its progress.
13. The Committee agreed that, in those circumstances, it should complete its work on the amendment of the 1990 Measure as it applied to cathedrals, and return the draft Measure to the Synod on that basis, without attempting to take on board any proposals regarding the Royal Peculiars.

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<sup>1</sup> During the final stages of its work, the Committee was informed that all the new constitutions and statutes under the 1999 Measure had been approved, and that the last of them to come into force would be in operation by the end of November 2002.

As and when the amendments to the 1990 Measure relating to cathedrals had been finalised and become law, it would then be possible, if that was appropriate, to consider how to adapt the amended 1990 Measure for use in relation to the major Royal Peculiars.

## **DRAFT MEASURE AND PROPOSALS FOR AMENDMENT**

14. As required by S.O. 53(e), the Committee considered the draft Measure clause by clause, together with the proposals for amendment.

### **CLAUSE 1**

15. *Mr Lee Humby* proposed that in clause 1(1)(a), amending section 2(1) of the 1990 Measure, "or otherwise permit" should be inserted after "consent". He explained that the intention behind this was to state the administrative body's duty in terms of a positive duty to ensure that the Measure was complied with.
16. The Steering Committee resisted the proposal, on the ground that it was unnecessary. The background was that the 1990 Measure as it stood prohibited the administrative body (now, under the 1999 Measure, the Chapter) from implementing certain types of proposal without approval from the FAC or the CFCE. The draft Measure would change "shall not implement" to "shall not implement or consent to" in order to make it clear that where a third party - for example a tenant - wished to carry out works of the kind controlled by the Measure, and required the consent of the Chapter in order to do so, the Chapter must obtain approval from the FAC or CFCE before giving that consent.
17. As regards Mr Humby's proposal:-
  - (a) If what he had in mind was that the expression "consent to" should be expanded somewhat to read "consent to or give permission for", the Committee was advised that as a matter of law these additional words made no real change of substance and were unnecessary.
  - (b) If Mr Humby's intention was to make the Chapter liable in the event of a third party carrying out works which came within the Measure without the Chapter's consent or other lawful authority, the Committee was advised that in general the Chapter's duty to manage the cathedral's property (by virtue of section 4(8)(g) of the 1999 Measure) already required it to take reasonable steps to

prevent third parties from carrying out completely unauthorised works of that kind.

- (c) However, there might be some cases where statutory undertakers had compulsory powers. In addition, in the specific case of tenants, there were at present some leases of cathedral property which did not require the tenant to obtain the Chapter's consent for some or all of the works covered by section 2(1) of the 1990 Measure. The Review Group had considered that situation, and had recommended that as a matter of good practice new leases of property within the cathedral precinct should require the Chapter's consent for works by the tenant falling within section 2(1). On the other hand, although it did not appear that this was necessarily what Mr Humby had in mind, any attempt to impose an obligation on the Chapter to renegotiate all existing leases to include such provisions would involve a great deal of work for some cathedrals, and would tend to impair the Chapter's relationship with the cathedral's tenants.

18. For those reasons, the Committee rejected the proposal.
19. **Professor David McClean** proposed that a new paragraph should be added to clause 1(1), providing that in section 2(1)(a) of the 1990 Measure the words "chapter of the cathedral church" should be changed to "corporate body".
20. Professor McClean spoke in support of his proposal, which he pointed out was purely one of drafting. He explained that where a piece of legislation was amended so as to change one term to another term wherever it appeared, there were three ways of achieving that; one, which had been used in the 1999 Measure, was to provide that where the first term appeared it was to be read as referring to the second; another was to provide that every time the first term appeared the second was to be substituted; and the third was to amend each use of the first term individually so as to substitute the second term.
21. It seemed to Professor McClean that in this case the Measure as drafted resulted in a mixture of techniques in relation to the references to the "old style Chapter" as the body which held the title to the cathedral's property, which was likely to cause confusion. He therefore proposed that the draft Measure should make a textual amendment to the reference to the (old style) Chapter in section 2(1)(a) of the 1990 Measure, in the same way as it already did in relation to section 2(1)(a) and section 13(1).

22. Members noted that the sole purpose of the amendment was to ensure that the correct terminology was used in the 1990 Measure for the body which held the cathedral's property. In particular, it would not in any way fetter the powers of the Chapter or require it to seek the consent of the Council or the College of Canons (whose members were also members of the corporate body, along with the members of the Chapter and the Council) for any proposed works. On that basis, the Committee accepted Professor McClean's proposal and a similar amendment to clause 11, relating to section 13(3) of the 1990 Measure. In addition, the Committee asked Standing Counsel to put forward any further drafting amendments he thought appropriate in the light of other suggestions from Professor McClean, both in his original set of proposals and in a separate note. These amendments were later circulated to and accepted by the Committee. Where the following paragraphs of this report record that the Committee decided that a clause or schedule was to stand part of the draft Measure, that is in each case subject to any appropriate drafting amendments.
23. The Committee also agreed an amendment which would add the articles to which section 6A of the amended 1990 Measure applies to those already specified in section 2(1)(b) of the 1990 Measure. This is one of the group of amendments relating to the Treasure Act which are explained in paragraphs 67-70 below.

### ***Clause 1 - Additional Provisions***

24. **Mr Humby** proposed that two additional provisions should be added at the end of clause 1 of the draft Measure:-
  - (a) One of these related to section 2(3) of the 1990 Measure, as amended by the 1994 Measure. Section 2(3) provides, in effect, that where a proposal has been implemented in contravention of section 2 of the 1990 Measure, the work that had been done or other action taken may be approved retrospectively. Under section 6 of the 1990 Measure, as amended by section 7(4) of the Care of Cathedrals (Amendment) Measure 1994 ("the 1994 Measure"), the application for approval in this case must be made to the CFCE. Mr Humby proposed an addition to section 2(3) to the effect that the approval should not affect any disciplinary proceedings which were or might be brought under the Clergy Discipline Measure.
  - (b) His second proposal was for a new provision giving the CFCE power to institute disciplinary proceedings against a clerk in Holy

Orders serving in a cathedral church where a proposal had been implemented in contravention of section 2 of the 1990 Measure.

25. Dr Gem pointed out that approval would not be given under section 2(3) unless the CFCE was satisfied that what had been done was something which should have been approved in the first place. If necessary, the CFCE could impose conditions for making good particular aspects of the works which it would not have allowed if the application for approval had been made before the proposal was implemented. Thus section 2(3) was not a loophole for allowing something that should not have been done and would not have been permitted if the proper procedure had been followed. He also pointed out that the 1994 Measure provided a specific enforcement procedure for the 1990 Measure, based on the role of the bishop as visitor.
26. In view of this, the Steering Committee resisted the proposals. In the Steering Committee's view it was not merely unnecessary but undesirable to introduce provisions relating or referring to the clergy discipline legislation into the 1990 Measure, which had its own separate enforcement mechanism.
27. The Committee rejected the proposal on those grounds.

### ***Clause 1 - General***

28. Subject to the amendment proposed by Professor McClean, the Committee agreed that clause 1 should stand part of the draft Measure.

### **CLAUSES 2 AND 3**

29. There were no proposals for amendment to these clauses. Subject to an amendment to clause 2 which was consequential on the changes agreed by the Committee in relation to chartered building surveyors (explained in paragraphs 91-94 below), the Committee agreed that the two clauses should stand part of the draft Measure.

### **CLAUSE 4**

30. It was agreed that ***Mr Humby's*** proposal relating to clause 4 should be discussed together with two proposals from him for new provisions to be added to the draft Measure, as these dealt with closely related matters (see paragraphs 57-62 below).



31. Subject to that, the Committee agreed that clause 4 should stand part of the draft Measure.

## **CLAUSE 5**

32. The Committee accepted a proposal by the *Steering Committee* for an amendment relating to section 6(1) of the 1990 Measure which forms part of the group of amendments relating to the Treasure Act 1996 (see paragraphs 67-70 below).
33. Subject to this, the Committee agreed that clause 5 should stand part of the draft Measure.

## **CLAUSE 6**

34. There were no proposals for amendment to this clause, and the Committee agreed that it should stand part of the draft Measure.

## **CLAUSE 7**

35. The *Steering Committee* proposed two drafting amendments to this clause. As the body whose legal name is "the Historic Buildings and Monuments Commission for England" is now commonly and indeed universally known as "English Heritage", that name had been used for it in the new provisions which the draft Measure proposed to insert into the 1990 Measure. In order to assist those using the amended 1990 Measure, the Steering Committee now proposed amendments to clause 7 so that the references to the "Historic Buildings and Monuments Commission" in section 8 of the 1990 Measure were also changed to "English Heritage", with an appropriate consequential amendment to section 20 (the definition section) of the 1990 Measure. The Committee noted that paragraph 21 of Schedule 3 to the draft Measure already contained an amendment to section 20 of the 1990 Measure under which the term "English Heritage" in the 1990 Measure meant the Historic Buildings and Monuments Commission for England.
36. The Committee accepted the proposal for the reason given by the Steering Committee.
37. Subject to that amendment and an amendment to give effect to Mrs Granger's proposal (see paragraphs 50-56 below), the Committee agreed that clause 7 should stand part of the draft Measure.

## CLAUSE 8

38. **Mr Humby** proposed an amendment to the new section 10B which was to be added to the 1990 Measure by clause 8. This provided that the CFCE and every FAC should keep a register, in a form prescribed by Rules, of applications for approval dealt with by it, and should make such arrangements as were prescribed for inspection of the register by members of the public. The new section had been included in the draft Measure at the request of the Department for Culture, Media and Sport, so as to give the public similar rights to those they had in relation to applications for secular listed building consent. Mr Humby proposed that the prescribed arrangements should also provide for copies of extracts of the register to be made available on request to members of the public on payment of a fee prescribed by the Rules, which was not to exceed the reasonable cost of making the copies.
39. The Steering Committee saw no objection to members of the public being able to obtain copies of extracts from a register kept under the new section 10B, on payment of a reasonable fee. Some members of the Committee initially suggested that this was a matter that could best be dealt with by guidance as to good practice, and noted that no-one had so far asked to inspect the register which the CFCE was already keeping, in electronic form, on a non-statutory basis. However, there was strong support from some other members of the Revision Committee for an express provision giving members of the public a right to copies along the lines Mr Humby proposed. After discussion, the Committee agreed that a provision of this kind would be helpful for those who wished to obtain information recorded in the registers, and that supplying a copy of the relevant entry might indeed be more convenient for those responsible for keeping the registers than arranging for members of the public to inspect the registers personally. For those reasons, the Committee agreed that such a provision should be added to the draft Measure.
40. However, the Committee accepted that the new provision would not necessarily be in precisely the terms suggested by Mr Humby, and that the drafting would be subject to Standing Counsel's advice. The Committee also agreed that:-
- (a) the right to copies should be confined to extracts from the register itself. The form the register would take would be prescribed by Rules, but even if it included references to other documents, such as large plans or drawings (which might well be difficult and expensive to copy), the right to copies would not extend to them.

A member of the public would of course have had an opportunity to examine the full details of the proposal at the time the application for approval was made under the 1990 Measure;

- (b) the right to copies should be confined to copies of extracts relating to individual applications. Members of the public should not have a right to a copy of an entire register, which over a period of years could well come to contain a substantial amount of material;
- (c) the CFCE or the FAC concerned would have the right to charge a reasonable fee; and
- (d) the CFCE or FAC would also have a discretionary power to supply a copy of the whole register or more extensive extracts, again subject to payment of a reasonable fee, if they considered it appropriate.

41. Subject to those amendments, the Committee agreed that clause 8 should stand part of the draft Measure.

#### **CLAUSES 9-11**

42. There were no proposals for amendment to these clauses, apart from an addition to clause 10 which and is consequential on the provisions agreed by the Committee regarding surveyors and explained in paragraphs 91-94 below, and to the drafting amendment to clause 11 referred to in paragraph 22 above. Subject to those changes, the Committee agreed that the clauses should stand part of the draft Measure.

#### **CLAUSE 12**

43. The *Steering Committee* proposed an amendment to the new section 14 to be substituted by the draft Measure for the existing section 14 of the 1990 Measure, dealing with inspections and reports by the cathedral architect in relation to the cathedral church. The amendment would extend the cathedral architect's responsibilities under the section to any buildings specified by the Chapter which were attached to or adjacent to the cathedral church and used for purposes ancillary to the use of the cathedral church (but excluding buildings used for domestic or residential purposes). The Committee noted that these buildings at present fall within the responsibility of the "close architect or surveyor" under section 20 of the 1999 Measure, so that a consequential amendment would also be needed to Schedule 3 to the draft Measure.

44. The Committee noted that section 20 of the 1999 Measure, which provides for the inspection of and reports on properties other than the cathedral church, had its origins in the Cathedrals Measure 1963, where its object was to preserve the capital value of the cathedral's property by ensuring that necessary repairs and maintenance works were identified and carried out. Section 20 was differently drafted from the corresponding provision in the Cathedrals Measure 1963, and covers all property other than the cathedral which the Chapter is liable to repair and maintain. The Committee noted that, as a result, even where the cathedral church and buildings such as a cloister or chapter house form a single complex, the cloister and chapter house fall within section 20 of the 1999 Measure rather than within the cathedral architect's remit under section 14 of the 1990 Measure. The Committee accepted that this was unsatisfactory, as the complex of buildings concerned should be considered as a whole, and the cathedral architect should make recommendations for them on that basis.
45. The Committee also noted that in practice, the result of the proposed amendment would be very similar to giving the Chapter power to extend the cathedral architect's remit to anything within the "red line" marking the boundary of the buildings subject to the ecclesiastical exemption on the cathedral maps annexed to the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994. However, the Committee accepted that it would not be satisfactory to frame the provision in the draft Measure by reference to those plans, given that some of them were already defective in a few respects, and given the DCMS's view that they could only be altered by a new Statutory Instrument substituting a fresh plans.
46. The Committee agreed that there should be an exclusion for residential property, but that it should relate to buildings used "wholly or mainly" for residential purposes. That was because, for example, the dean's official residence may well contain rooms such as a study in which the dean carries out part of his or her work. Although such a house may, exceptionally, be attached to the cathedral, the Committee noted that it would not come within the ecclesiastical exemption from listed building control, as a result of section 60(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In the Committee's view this justified its being dealt with separately.
47. For those reasons the Committee accepted the proposal, with the modifications explained in paragraph 46 above. In GS 1429A it is

embodied in the revised section 14 of the 1990 Measure which is to be substituted for the existing section 14 by clause 14 of the draft Measure.

### **CLAUSES 13-18 AND SCHEDULES 1-3**

48. There were no proposals for amendment to these provisions, apart from those relating to the role of surveyors discussed in paragraphs 74-94 below. (In the light of the discussion recorded in paragraphs 19-22 above, Professor David McClean withdraw a proposal to delete paragraph 6 of Schedule 3 to the draft Measure. The proposal was intended as consequential on Professor McClean's proposal for a drafting amendment to section 2(1)(a) of the 1990 Measure, and was withdrawn on the basis that Standing Counsel would himself prepare draft amendments. As explained in paragraph 22 above, these were accepted by the Committee; they involved the substitution of a new paragraph for paragraph 6 of Schedule 3 to the draft Measure, and that paragraph now appears in GS 1429A as paragraph 7 of Schedule 3.
49. Subject to an amendment to paragraph 1 of Schedule 1 to the draft Measure to remove the references to provosts in the 1990 Measure, as they would have ceased to exist under the 1999 Measure; an amendment to paragraph 1 of Schedule 3 to remove the definition of "parish church cathedral" in the 1990 Measure, which was no longer needed there in view of other changes made by the draft Measure; and the amendments referred to in paragraph 48 above; the Committee agreed that clauses 13-18 and Schedules 1-3 should stand part of the Measure.

### **NEW PROVISIONS - (1) ROLE OF THE CATHEDRAL COUNCIL**

50. *Mrs Penny Granger*, who was a member of the Council of Ely Cathedral, spoke in support of her proposal. As originally submitted, this was that the 1990 Measure should be amended to require the Chapter, before making certain applications for approval, to obtain the consent of the Council of the cathedral. The applications in question would be those concerning works to the fabric which would involve major expenditure and the sale or disposal of items (including property) of particular value. The figures in both cases could be set by subordinate legislation. Mrs Granger suggested that this would seem to entail an additional provision in section 2 of the 1990 Measure and probably consequential amendment to the 1999 Measure. She thought it important that the principle should be set out in primary legislation, rather than in a Code of Practice as suggested by the Report of the Review Group, as otherwise there was a risk that some Chapters might not implement it.

51. In introducing her proposal, Mrs Granger indicated that she did not wish to insist on a requirement for the Council's consent, but did think it very important that the Council should be consulted in advance about such proposals, and given an opportunity to express its views. She considered this was a proper function for the Council within the overall scheme of governance laid down for cathedrals by the 1999 Measure.
52. The Steering Committee, which would have resisted any requirement for the Council's consent, took the same view as the Review Group regarding a requirement for consultation, namely that this could be adequately dealt with by guidance on good practice.
53. At the outset of the discussion, some other members of the Committee took the same view as the Steering Committee, while others strongly supported Mrs Granger's modified proposal and others saw no objection to it from the point of view of the cathedrals. Members also noted that there was a difference for this purpose between works to the fabric on the one hand and the sale or disposal of property such as cathedral treasures on the other. Works to the fabric involving major expenditure would always appear in advance in the cathedral's budget, so that the Council had an opportunity to discuss them in that context, unless the work was needed in an emergency, in which case a requirement for a meeting of the Council to consider it could create practical problems.
54. Mrs Granger agreed that the category of applications for approval about which she was principally concerned was that within section 6(1)(a)(iv) of the 1990 Measure, relating to objects of outstanding interest, which had to be made to the CFCE. Although section 3(7) of the 1999 Measure gave the Council power to request a report from the Chapter on a proposal to dispose of such an object, to discuss the proposal and declare the Council's opinion on it, and to draw matters to the attention of the Bishop as Visitor or the Church Commissioners, Mrs Granger pointed out that it could not exercise those functions effectively in a case of this kind unless they had advance notice of the proposal. The Committee also noted that a number of cathedrals had provisions in their pre-1999 Measure constitutions and statutes involving the Bishop as Visitor in the decision on such disposals, although these no longer appeared in the constitutions and statutes under the 1999 Measure. In addition, Dr Gem pointed out that it could be helpful for the CFCE to know the Council's views on the proposed disposal of a cathedral treasure.

55. Members noted that it would be possible to amend section 8 of the 1990 Measure, dealing with applications for approval to the CFCE, so that written notice of the proposal had to be sent to the Council (or to the secretary to the Council and the individual members) at the same time as to the FAC, English Heritage and the national amenity societies under section 8(1)(a). Given that it might well be possible to convene a special meeting of the Council at relatively short notice, in addition to its two regular meetings a year, the Council could then discuss the matter if it wished and could also make representations to the CFCE. However, the Committee took the view that this was unsatisfactory in principle, in that it involved one cathedral body making representations to an outside body about the proposed actions of another body within the "cathedral family", and that in any case what was needed was for the Council to have an opportunity to express its views at an earlier stage, when it could still influence what proposals, if any, the Chapter decided to put to the CFCE for approval.
56. After discussion, the Committee decided that it was reasonable to include some provision in the amended 1990 Measure regarding consultation with the Council in certain section 6(1)(a)(iv) cases; on the basis that this should in any case be regarded as good practice, an express provision would not in principle create problems for the Chapter in carrying out its executive role in the cathedral. The Committee decided that the best way of providing for this was to give the CFCE an express power to request a Chapter applying for approval of a sale, loan or other disposal in a section 6(1)(a)(iv) case to consult the cathedral Council if it had not already done so, and inform the CFCE of the Council's views on the proposal. However, it was also agreed that the CFCE should be given a discretion to decide in which cases to do so, as consultation would not be necessary in relation to all proposals within section 6(1)(a)(iv); in particular, Dr Gem explained that at present the majority of applications under that provision were for approval for loans of objects, for example to temporary exhibitions.

## **NEW PROVISIONS – (2) APPEALS - PROPOSALS BY MR HUMBY**

57. **Mr Humby** put forward proposals for three provisions regarding appeals:-
- (a) a new provision in section 9 of the 1990 Measure, relating to appeals to the CFCE, under which, where an application was made to the FAC for approval and approval was given, or given subject to conditions, any person who submitted representations under section 7 of the Measure would have a right to appeal to the CFCE.

(Under the original 1990 Measure, the only body entitled to appeal is the Chapter, in a case where approval is refused or given subject to conditions);

- (b) a new provision in section 10 of the 1990 Measure, relating to review by a Commission of Review, under which, where the CFCE had granted approval for an application, or granted approval subject to conditions, irrespective of whether the application was made directly to it or came to it on appeal, any person who had submitted representations in relation to the application under section 7 or 8 of the Measure would have a right to request that the CFCE's decision should be reviewed by a Commission of Review. (Under the original 1990 Measure, the only body able to request a review is the Chapter, in a case where the CFCE has refused approval or given it subject to conditions); and
- (c) a new provision in section 5 of the 1990 Measure, under which, where a FAC determined under that section that a proposal did not require approval under the 1990 Measure, any person would be able to appeal to the CFCE against the decision. (At present, there is no appeal to the CFCE against a determination by a FAC under section 5 that approval is or is not required under the 1990 Measure.)

58. The Steering Committee opposed the proposals. In their view, subject to a proposal which the Steering Committee itself was putting forward (see paragraphs 63-66 below), they shared the Review Group's view that the right to appeal against decisions of a FAC or the CFCE on whether to approve an application should be confined to the Chapter. This has been one of the underlying principles accepted at the time the 1990 Measure was passed, and given that the application would relate to the property of the cathedral, and that the Chapter was the body with the executive authority in relation to the cathedral and its property, the Steering Committee considered that the principle still held good. In any case, Committee thought it would certainly not be acceptable to allow a right to appeal or to request a review to anyone and everyone who had submitted representations.
59. The Steering Committee did not consider an appeal was necessary or desirable in cases under section 5(1)(a) or 5(2) of the 1990 Measure (as proposed to be amended by the draft Measure). It was also pointed out that Mr Humby's proposal regarding section 5 would grant a right of appeal to any person, without limitation, but only against a decision that



no approval was required, and that the Chapter would presumably not wish to appeal against such a decision.

60. The Steering Committee also drew attention to the implications of the proposals as regards the staffing requirements and other costs of running the CFCE.
61. Members noted that, although the situation there was not on all fours with that under the Measure, the Government Green Paper on Planning was not minded to allow third party appeals in relation to applications for planning permission. It was suggested that the Government might need to give that further consideration, but that even if third party appeals were allowed in the future in planning cases, they would need to be limited to clearly defined categories of appellants, and that in this respect Mr Humby's proposals were much too wide.
62. For those reasons, the Committee rejected the proposals.

### **NEW PROVISIONS - (3) APPEAL BY TENANT**

63. The *Steering Committee* proposed that in one type of case a tenant of property within the cathedral precinct should have a right of appeal to the CFCE against a decision of an FAC refusing approval or granting it subject to conditions, or a right to request a review by a Commission of Review of such a decision by the CFCE. This right would arise where the tenant wished to carry out works to or on the property which fell within the terms of section 2(1)(a) of the 1990 Measure and which required the Chapter's consent, and where the Chapter accordingly applied to the FAC or the CFCE for the necessary approval in order to give that consent.
64. Given the tenant's proprietary interest in the land, it seemed to the Steering Committee that if the approval was refused or given subject to conditions, it was just and reasonable to allow the tenant to appeal. However, if the appeal had to be brought by the Chapter, the Chapter might not wish to pursue an appeal, particularly if it had reservations about the proposed works (albeit not sufficiently strong ones to withhold consent in any event). Even if it was willing in principle to appeal at the tenant's request, it might well insist on arrangements which ensured that all its costs would be covered, and it would not necessarily conduct the appeal and argue the case precisely as the tenant wished. The Steering Committee had considered whether, even so, some means could be found of allowing the tenant to appeal in the name of the Chapter, but came to

the conclusion that this would be complex and not necessarily entirely satisfactory, and that the better course would be to make the legal provisions reflect the reality of the situation and give the tenant a right of appeal (or a right to request a review) in these cases.

65. Dr Gem outlined the particular case which had highlighted the need for a provision of this kind. There, a tenant of a substantial part of the precinct wished to carry out major work for which it needed planning permission, as well as the consent of the Chapter, so that the Chapter in turn would need approval under the amended 1990 Measure. The tenant would of course apply for planning permission in its own name, and if planning permission was refused it had the normal right of appeal. It seemed unfair in those circumstances that even if the tenant obtained planning permission it would have no right of appeal against an adverse decision under the 1990 Measure.
66. The Committee agreed, for those reasons, to accept the proposal, which is embodied in a new section 10C to be added to the 1990 Measure by clause 10 of GS 1429A.

#### **NEW PROVISIONS - (4) TREASURE ACT 1996**

67. The *Steering Committee* proposed a group of amendments relating to the Treasure Act. This Act, passed in 1996, replaced the common law on treasure trove with new statutory provisions applying to a wider category of objects which fall within the definition of "treasure" in the Act, and which normally vest in the Crown, but which, if of sufficient importance, will go to the British Museum or some other museum. The categories of objects which constitute treasure can be widened still further by subordinate legislation. At the time the Bill which became the 1996 Act was before Parliament, the Government gave a commitment to bring forward an Order under section 2 of the Act excluding from the definition of "treasure" objects which would not have been treasure trove under the previous law and which were found in association with a burial on consecrated land or which were otherwise subject to Church of England's own legal controls. The Committee noted that the terms of that Order were in course of being finalised.
68. However, the Government concession was agreed on the basis that the Church would deal with the items concerned in a manner which was analogous to that under the Act. In order to achieve that in relation to cathedrals, the Steering Committee were proposing amendments to the 1990 Measure so that:-

- (a) in the event of the discovery within the cathedral precinct of any item which would have been treasure under the 1996 Act but for the exemption, the cathedral administrator must notify the CFCE within fourteen days of the discovery, and on receiving that notification the secretary of the CFCE must report the matter to the Secretary of State for Culture, Media and Sport or a person or body nominated by him (which might, for example, be the British Museum);
  - (b) as soon as practicable the item must be entered in the cathedral Inventory and designated in the Inventory as an item of treasure, in accordance with directions given by the Commission;
  - (c) the Chapter would require the approval of the CFCE (not the FAC) before implementing any proposal for the sale, loan or other disposal of such an item;
  - (d) In the event of the Chapter making a proposal for the sale or disposal of such an item, the British Museum or another museum nominated by the British Museum must be offered a prior option to purchase the item, at a valuation arrived at by a procedure to be prescribed by Rules; and
  - (e) the rule-making power in relation to cathedrals in section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 should be expanded so that the Rule Committee under that Measure had power to make Rules covering any other matters, for example issues related to those set out above or procedural matters, arising in relation to the exemption from the 1996 Act.
69. On that basis, the Committee approved the proposals, for the reasons given by the Steering Committee, subject to the outcome of consultation with staff of the DCMS. The Committee was subsequently informed that the DCMS staff regarded what was proposed as satisfactory, subject to some changes in the detailed wording which were accepted by the Committee, and this has been embodied in clause 6 of the version of the draft Measure which the Committee is returning to the Synod (GS 1429A).
70. One specific point which members of the Committee had raised was the meaning of the term "museum" in paragraph 68(d) above; on the advice of the DCMS staff, the draft Measure uses the term "registered museum", which is defined as having the same meaning as in the Code of Practice issued under section 11 of the Treasure Act, or such other meaning as the

Secretary of State may specify. The Committee noted that under the present Code of Practice<sup>2</sup> a "registered" museum is one with Registration from Resource: the Council for Museums, Archives and Libraries. The DCMS staff saw no objection to a cathedral museum or treasury being registered with Resource if it was able to satisfy the normal criteria for registration, so that in an appropriate case it could be given a prior option to purchase an object found within the precinct of another cathedral.

## **NEW PROVISIONS - (5) CONSOLIDATION**

71. **Professor McClean** spoke in support of his proposal that the 1990 Measure (as amended) and the 1994 Measure should be consolidated as soon as possible. He pointed out that a person who needed to consider a particular provision of the 1990 Measure after the present Measure was passed would need to look side-by-side at the original text in the 1990 Measure, the amendments in the present Measure and any other amendments that had been made. In the case of secular legislation that was not normally a major problem, as commercial publishers produced reliable citators in which one could track down the amendments, or other aids to using the legislation. However, in the case of ecclesiastical legislation, these means of finding amendments were less reliable, and a person who wished to refer to the 1990 Measure would be faced with a difficult task.
72. Producing consolidating legislation provided the user with a complete and up-to-date text, and there was a special procedure for such legislation in the Standing Orders of the Synod. Professor McClean thought the Ecclesiastical Committee itself might query the absence of such legislation. However, he appreciated the concern that the Ecclesiastical Committee might raise questions about provisions which had been transferred unamended from the original Measures and which Parliament had accepted "the first time round".
73. The staff took the view that it was now too late to draft a separate consolidation Measure to go forward in parallel with the present draft Measure. However, they supported the idea of consolidation as soon as possible after the present Measure had received the Royal Assent. Members accepted this, and the Committee wishes to put on record its strong recommendation to the Business Committee to that effect. So far as the attitude of the Ecclesiastical Committee was concerned, it was suggested, and Sir Patrick Cormack agreed, that the best course would be

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<sup>2</sup> A copy of this will be available at the Information Desk at the November 2002 Group of Sessions.

to inform the Committee of the position, and of the intention to bring forward a consolidating Measure, when the present Measure had received Final Approval and was laid before the Committee. On that basis, it was hoped that there should not be any real problem over the Ecclesiastical Committee seeking to reopen provisions which had appeared in the original legislation, had not attracted any adverse comment from the Ecclesiastical Committee at that stage, and had not been amended since.

## **NEW PROVISIONS - (6) THE ROLE OF CHARTERED BUILDING SURVEYORS**

74. The RICS, in a letter from Dr Stuart Poore, its Policy Officer, had submitted a proposal to the Revision Committee that the 1990 and 1999 Measures (which at present require the "cathedral architect" to be a person registered as an architect) should be amended to permit the appointment of chartered building surveyors with appropriate expertise to fulfil the functions of cathedral architects. (The RICS recognised that in that event it might be more appropriate to revive the title "surveyor of the fabric" as an alternative to "cathedral architect".) Dr Poore drew attention to the growing number of chartered building surveyors with expertise in the care and conservation of historic buildings, and to the fact that their particular strength lay in the handling of the existing building, which made them at least as suitable as architects for work to the existing fabric - indeed, they could already undertake periodic inspections of important parish churches. Dr Poore also gave a brief account of the RICS's accreditation scheme for surveyors in conservation, and English Heritage's attitude.
75. The RICS's submission was supported by letters from :-
- (a) Mr David Scott, of Scott & Co of Truro, a chartered building surveyor who already did work for Truro Cathedral on properties other than the cathedral church; and
  - (b) Canon Paul Mellor of Truro, supporting the letter from Mr Scott.
76. With the agreement of the Chairman of the Committee, both the RICS and the Cathedral Architects Association ("CAA") were invited to nominate representatives to attend the meeting and to speak and answer questions in relation to the proposal, so as to inform the Committee's decision. The RICS nominated Mr David Scott; the CAA nominated Ms Jane Kennedy (the Secretary of the CAA and cathedral architect of Ely Cathedral) and Mr Michael Drury (cathedral architect of Salisbury and

Portsmouth Cathedrals and Westminster Roman Catholic Cathedral, and a member of the CFCE).

77. The Committee also had before it the joint CAA/CFCE publication "The Role and Duties of the Cathedral Architect"<sup>3</sup>, which it took into account in its deliberations.
78. Mr Scott spoke first, and gave a brief account of the RICS and the nature and scope of the chartered surveyors' profession. He explained that chartered building surveyors with expertise in relation to historic buildings and their conservation and repair represented a fairly narrow speciality within the profession, but one to which the RICS attached importance. He gave an account of his own qualifications, involvement and professional work in the field.
79. Mr Scott also stressed that the RICS did not wish to usurp the role of architects. He did not envisage that chartered building surveyors would wish to take on projects for the design of large new structures, for which architects were particularly qualified by their training. However, the RICS wished to argue that the role of the cathedral architect as such, as set out in "The Role and Duties of the Cathedral Architect", was one which suitably qualified and experienced chartered building surveyors could fulfil equally well, and that they should therefore be treated as on an equal footing with suitably qualified architects so far as appointment to such posts was concerned.
80. He stressed the expertise of suitably qualified and experienced chartered building surveyors in relation to the conservation of the existing fabric of historic ecclesiastical buildings, and pointed out that since the Care of Churches and Ecclesiastical Jurisdiction Measure 1992, they were able to undertake quinquennial inspections on parish churches, including very large and important Grade I listed churches. It had been argued that cathedrals were different. However, while cathedrals clearly differed among themselves, Mr Scott questioned whether there were any real differences in principle between cathedrals and parish churches which were relevant for this purpose, for example as regards either size or age. There were differences in the legal structures of parishes on the one hand and cathedrals on the other, but Mr Scott, who was himself a member of the FAC for Truro Cathedral, did not see that this created any obstacle to chartered building surveyors working for and in cathedrals.

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<sup>3</sup> A copy will be available at the information desk at the November 2002 Group of Sessions.

81. Mr Scott went on to give an account of the RICS accreditation scheme for surveyors in conservation and the stringent requirements which it embodied, and up-dated the information on the scheme given in Dr Poore's letter. He explained that at present there were only 53 surveyors with this accreditation. English Heritage and the Heritage Lottery Fund would require accreditation on the part of both architects and surveyors for grant-aided work as from April 2003.
82. After referring to the ancient title of "Surveyor of the Fabric", which was still in use for the architects of some cathedrals, Mr Scott argued that to allow a cathedral to instruct a suitably qualified and experienced chartered building surveyor would offer the Church and its cathedrals a wider choice. In some cases, it would also mean the cathedral could instruct a person working locally where that was not possible at present, which was an important factor in the South-West.
83. Ms Kennedy and Mr Drury stressed that being a cathedral architect was not simply a matter of seeing to the regular conservation of the fabric. It also involved the broad task of taking responsibility for advising on the unity of the living building as a whole, and the impact (possibly subtle) of changes and new work (although a different architect might be brought in to undertake a major building project). For this, they considered expertise in design was essential. Similarly, the cathedral architect's role involved advising on the impact of proposed work outside the cathedral on the setting of the cathedral. Just as an archaeologist was a person with specialist expertise, the architect was a specialist, with specific training in design. Architects and chartered buildings surveyors had different training, which fitted them for different roles. While it was possible for an individual chartered surveyor to have a gift for design work, and while it was also true that by no means all architects would make good cathedral architects, it was more satisfactory to confine appointment as a cathedral architect to those whose professional training specifically covered design, and who thus had a much better prospect of being able to carry out the work satisfactorily than those who did not have specific training in the field. However, Mr Drury accepted that this raised a question mark over using a chartered building surveyor to carry out quinquennial inspections for some of the larger and more important non-cathedral churches.
84. Ms Kennedy and Mr Drury also referred to the relevant accreditation scheme which was available for architects, although it was not an RIBA scheme. They explained that there were substantially more architects with accreditation in conservation than there were chartered building surveyors.

85. Some members were particularly concerned about the issues of professional competence and accountability, and how far the relevant professional bodies would be willing to take an active role in ensuring this. Mr Drury and Ms Kennedy pointed out that the architect would work under a contract with the cathedral, which could be terminated if his or her work proved unsatisfactory, although the RIBA was also available in case of professional misconduct. While agreeing with the position under contract, Mr Scott took the view that the RICS's commitment to its accreditation scheme meant that one could expect it to be willing to take firm action if a chartered building surveyor with accredited status failed to carry out work of the kind covered by the accreditation to a satisfactory standard.
86. The Committee considered the method of appointment of the cathedral architect under the current legislation in the 1990 Measure, which required the Chapter to consult the CFCE before making the appointment. Members also noted that in the case of the archaeologist the 1990 Measure required the CFCE to recognise his or her qualifications and expertise as appropriate, and considered the possibility of a similar provision for chartered building surveyors who were appointed to what is now the post of cathedral architect. Dr Gem explained that the special provision regarding archaeologists had been included in the 1990 Measure because there are no standard professional qualifications for archaeologists, as there were for architects and chartered surveyors. In general, the CFCE's role in relation to the appointment of cathedral architects took the form of advice on the appointment process rather than on the qualifications or suitability of individual candidates.
87. The representatives of both the RICS and the CAA agreed that it would not be satisfactory to "split up" the role of the cathedral architect between two or more persons, thus losing the essential element of overview of the whole building.
88. Mr Scott saw no problem in a suitably qualified and experienced chartered building surveyor undertaking the role which Mr Drury and Ms Kennedy had outlined, and considered that they would have sufficient training in the design aspects to do so. In his final submission he stressed that it was only right, and to the advantage of the Church and its cathedrals, to allow a particular Chapter to appoint as "cathedral architect" a person, whether an architect or a chartered building surveyor, who had appropriate professional qualifications, training, expertise and



experience and who the Chapter considered would be suitable for that office in the particular cathedral.

89. Mr Scott, Ms Kennedy and Mr Drury then withdrew to allow the Committee to discuss the RICS's proposal in the light of the information they had provided. Mr Tony Redman, who could be regarded as having a personal interest in the proposal, also withdrew for this part of the Committee's deliberations.
90. The Committee noted that if the RICS's proposal was accepted, the choice of the person to fulfil the role of "cathedral architect" for the particular cathedral would be one for the Chapter, and there would be nothing to compel the Chapter to appoint a surveyor as opposed to an architect. Particularly in view of the small "pool" of suitably qualified surveyors and the major differences between individual cathedrals, there seemed to be no danger in the foreseeable future of the surveyors completely supplanting the role of architects in relation to cathedrals.
91. The Committee also accepted that if the Church were to perpetuate something in the nature of a restrictive practice in its legislation, it would need to be able to point to a clear justification for this. In discussion, it became clear that what the Committee had heard from the representatives of the two professional bodies had produced a general consensus among members (even those who had initially been doubtful) that it was only right and in the interests of cathedrals to give Chapters the choice of appointing either an architect or a suitably qualified and experienced chartered building surveyor to what was at present the office of the cathedral architect. On a vote, this proposition was accepted *nem con*.
92. The Committee considered whether the amendments to the legislation to give effect to this should require the CFCE to confirm that the qualifications and expertise of an individual chartered building surveyor were suitable for the particular post. After discussion, it was agreed that the best course was to leave that decision entirely in the hands of the Chapter, but subject to a requirement for consultation with the CFCE (as at present) and any other persons or bodies the Chapter thought fit, in order to ensure that all chartered building surveyors appointed to cathedral architect posts, and all new architects appointed to such posts after the amendments came into force, had appropriate qualifications and expertise. In principle, the Committee thought that all such persons should have accreditation in building conservation, but accepted that, especially in view of the changes which were currently taking place it

would not be practicable to prescribe particular accreditation schemes in the draft Measure.

93. The Committee also agreed that it would not be appropriate for a chartered building surveyor to hold an office with the title of "cathedral architect". Thus the 1990 and 1999 Measures should be amended to refer to "the cathedral architect or surveyor of the fabric". This would make it possible for an individual cathedral to use either the term "architect", where a registered architect held the post, or "surveyor of the fabric", where the person concerned was a chartered building surveyor or where the cathedral had continued to use the historic title "Surveyor of the Fabric" for the cathedral architect. However, that provision would continue to be subject to section 11(a) of the 1999 Measure, which permits the statutes of an individual cathedral to provide for the use of some other title.
94. The Committee agreed that, in due course, the constitution and statutes of each cathedral should be amended to give effect to the decisions set out in the previous three paragraphs. This would be in keeping with one of the general principles underlying the 1999 Measure, namely that the constitution and statutes should be kept up-to-date and reflect the current position and should thus be amended as and when necessary. However, the draft Measure should also ensure that a Chapter would have the option of appointing a chartered building surveyor, subject to the requirements set out above, if a vacancy arose before the cathedral Council had amended the constitution and statutes.

## **LONG TITLE**

95. The Committee noted that the draft Measure in the form in which it came before the General Synod on First Consideration already contained amendments to the 1999 Measure, and that more would be needed because of the decisions the Committee had taken. It was therefore agreed that the Long Title should refer to amendment of the 1999 Measure as well as the 1990 Measure.

John Cox  
On behalf of the Revision Committee

14th October 2002

## **APPENDIX A**

### **PROPOSALS RECEIVED BY THE REVISION COMMITTEE**

## **UNDER S.O. 53(a) WHICH RAISED POINTS OF SUBSTANCE**

### **Mrs Penny Granger (Ely)**

Before making certain applications for approval under the 1990 Measure, the Chapter should be required by the amended Measure to obtain the consent of the Council of the cathedral. The applications in question would be those concerning works to the fabric involving major expenditure and the sale or disposal of items (including property) of particular value. The value limits could be set by subordinate instruments. This would seem to entail an additional provision in section 2 of the 1990 Measure and probably consequential amendments in sections 3 and 4 of the 1999 Measure.

### **Mr Lee Humby (London)**

1. In clause 1(a), after "consent" insert "or otherwise permit".
2. In clause 1, at the end insert:-

"(2) In section 2(3) of the 1990 Measure after "compliance with this section" insert ", but such approval shall not affect any disciplinary proceedings which are brought or may be brought under the Clergy Discipline Measure.

(3)The Commission may institute disciplinary proceedings under the Clergy Discipline Measure against a Clerk in Holy Orders serving in a cathedral church where a proposal has been implemented in contravention of this section."

3. In section 9(1) of the 1990 Measure, renumber sub-section 1 as (1)(a) and insert after that sub-section:-

"(b) Where, on an application made by the administrative body for the approval of the fabric advisory committee, approval is given or is given subject to conditions, any person who submitted representations under section 7 of this Measure may within the prescribed period appeal to the Commission."

4. In section 10 of the 1990 Measure insert:-

"(2) Where, on a application for approval made to the Commission (including an application being dealt with by the Commission under section 9(2) of this Measure), or on an appeal to the Commission under

section 9(1) of this Measure the decision of the Commission is to approve the proposal, whether or not such approval is given subject to conditions, any person who submitted representations under section 7 or, as the case may be, section 8 of this Measure, may by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the decision be reviewed by a Commission of Review constituted under this section.",

and re-number the subsequent sub-sections accordingly.

5. In clause 4, at the end insert:

"(4) Any person may appeal to the Commission against a decision of the fabric advisory committee given under section 1(a) or (2) above that an application for approval of a proposal is not required."

6. In clause 8, insert at the end of the new section 10B:-

"Such arrangements shall also provide that copies of extracts of the register shall be made available upon request to members of the public upon payment of such fee as may be prescribed, which shall not exceed the reasonable cost of making such copies."

### **Professor David McClean (Sheffield)**

Proposal that the 1990 Measure, as amended by the Cathedrals Measure 1999 and the draft Measure, should be consolidated, as should the Care of Cathedrals (Supplementary Provisions) Measure 1994; request to Revision Committee to seek leave to introduce a draft Consolidation Measure under S.O. 47.

### **Notes:-**

(1) Professor McClean also proposed drafting amendments.

(2) Canon Paul Mellor wrote to the Revision Committee, after the period specified in S.O. 53(a), in support of a proposal by the Royal Institution of Chartered Surveyors.

## APPENDIX B

### DESTINATION TABLE

GS 1429- CLAUSE ETC NUMBER		GS 1429A CLAUSE ETC NUMBER
<b>1</b>	Approval for cathedral works	<b>1</b>
	1(1)(a)	<b>1(a)</b>
		<b>1(b)</b>
	1(1)(b)	<b>1(c)</b>
		<b>1(d)</b>
<b>2</b>	Functions of the Cathedrals Fabric Commission for England	<b>2</b>
<b>3</b>	Functions of fabric advisory committee	<b>3</b>
<b>4</b>	Powers of fabric advisory committee in relation to application of section 2	<b>4</b>
<b>5</b>	Body to which application for approval to be made	<b>5</b>
	5(1)	5(1)
		5(2)
		5(3)
	Treasure	<b>6</b>
<b>6</b>	Applications for approval of fabric advisory committee	<b>7</b>
<b>7</b>	Applications for approval of Cathedrals Fabric Commission	<b>8</b>
		8(1)
	7(1)	8(2)
	7(2)	8(3)
	7(3)	8(4)

<b>8</b>	Conditions applying to approval and registers of applications		<b>9</b>
	Right of appeal by tenant		<b>10</b>
<b>9</b>	General duties of approval bodies		<b>11</b>
<b>10</b>	Appointment of cathedral archaeologist		<b>12</b>
	10		12(1)
			12(2)
<b>11</b>	Inventories and precinct plans		
	11(1)		13(1)
			13(2)
	11(2)		13(3)
	11(3)		13(4)
<b>12</b>	Reports and inspections by cathedral architects or surveyors of the fabric		<b>14</b>
<b>13</b>	Reports by cathedral archaeologists and maintenance of records		<b>15</b>
<b>14</b>	Repeal of section 18 of 1990 Measure		<b>16</b>
<b>15</b>	Amendment of Schedule 1 to 1990 Measure		<b>17</b>
<b>16</b>	Amendment of Schedule 2 to 1990 Measure		<b>18</b>
<b>17</b>	Other amendments		<b>19</b>
<b>18</b>	Citation and commencement		<b>20</b>
<b>Sch 1</b>	Amendment of Schedule 1 to the Care of Cathedrals Measure 1990		<b>Sch 1</b>
<b>Sch 2</b>	Amendment of Schedule 2 to the Care of Cathedrals Measure 1990		<b>Sch 2</b>
<b>Sch 3</b>	Other amendments		<b>Sch 3</b>
	paras 1-2		paras 1-2
	para 3		para 3
			para 4
	paras 4-6		paras 5-7