THE ECCLESIASTICAL EXEMPTION *

II The Present Position

By Ivor Bulmer-Thomas

The first part of this paper ended with the observation that the ecclesiastical exemption given in the Town and Country Planning Act 1932 had been continued in subsequent Acts, and as the exemption given in Sections 56 and 58 of the Town and Country Planning Act 1971 is still the form of the exemption (so far as listed buildings are concerned) it may be as well to set it out in full. It needs first to be said that by section 55 "if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorized under this Part of this Act, he shall be guilty of an offence". The relevant sub-sections are then:

"56. — (1) Section 55 of this Act shall not apply to works for the demolition, alteration or extension of:

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

(b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or

(c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building."

"58. — (1) If it appears to the local planning authority, in the case of a building in their area which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) of this section) serve on the owner and occupier of the building a notice (in this section referred to as a "building preservation notice"):

(a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under Section 54 of this Act; and

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* The first part of this paper, entitled "Origins", appeared in *Transactions*, 1975, Vol. 29., pp. 103–114.

(b) explaining the effect of subsections (3) and (4) of this section.

(2) A building preservation notice shall not be served in respect of an excepted building, that is to say:

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or

(b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or

(c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purpose of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building."

Ancient monuments are excluded from the listed building legislation because they are protected by an older code, but, as we have seen, ecclesiastical buildings in use were excluded from the 1913 Act and the exclusion was repeated in the 1931 Act. This exclusion has again been repeated in the Ancient Monuments and Archaeological Areas Act 1979, which repealed the whole of the 1913 and 1931 Acts, and as this is the present form it needs to be cited here:

"61. — (7) Monument means (subject to subsection (8) below):

(a) any building, structure or work, whether above or below the surface of the land, and any cave or excavation . . .

(8) Subsection (7)*(a)* above does not apply to any building for the time being used for ecclesiastical purposes".[1]

The special reference to houses occupied by a minister of religion calls for explanation.

Section 30. — (2)(a) of the Town and Country Planning Act 1962 stated that a building preservation order shall not be made in respect of "an ecclesiastical building which is for the time being used for ecclesiastical purposes". This "ecclesiastical exemption" raises two separate questions: (1) when is a building an ecclesiastical building? (2) when is a building used for ecclesiastical purposes? Both these questions were tested in 1963 when the Revd. Gordon Lewis Phillips, Rector of St. George's, Bloomsbury, London WC1 at the instigation of the diocese of London sought to demolish his rectory house, No. 6, Gower Street. Neither he nor the diocese wished, in fact, to demolish the house — one of a fine terrace of eighteenth century buildings — and it remains to this day the rectory house of St. George's,

Bloomsbury. What they sought to demonstrate was that they could not be restrained from demolishing it if they so wished. The London County Council took a contrary view and put a building preservation order on the house. When the rector appealed, the Minister of Housing and Local Government upheld the County Council. The rector, with the backing of the diocese, thereupon took the matter to the courts, but by an order dated 20th November 1963, Roskill, J., dismissed the rector's application.[2] The rector then appealed to the Appeal Court. The case was heard on 11th and 12th May 1964, and the Court allowed the appeal and refused the Minister and County Council leave to appeal to the House of Lords.[3]

It is not necessary to consider the arguments used by Lord Denning, Master of the Rolls, supported by Lord Justice Pearson and Lord Justice Diplock in concurring judgements, for deciding that a building preservation order could not be made because No. 6 Gower Street was "an ecclesiastical building" and was "for the time being used for ecclesiastical purposes". When the language of the ecclesiastical exemption was coined the draughtsmen were certainly thinking primarily of churches in use, and probably did not consider whether the words of the exemption could grammatically and in law apply to certain other buildings as well. These are matters on which honest and intelligent men can come to different conclusions. The only point that in retrospect is surprising is that the learned Lords of Appeal did not consider that before No. 6 Gower Street could be demolished it would have to be vacated by its occupants and would cease to be used for any purpose, ecclesiastical or otherwise. As we shall see, this point became crucial in the case of the Howard Chapel, Bedford.

It is not necessary to study the arguments of the Court of Appeal for the reason that they soon ceased to be relevant. When the judgement was delivered, the Ancient Monuments Society represented to the Ministry of Housing and Local Government that, in view of this interpretation of the law, it was necessary to amend the statute to ensure that a parsonage house or other house occupied by a minister of religion was treated as a dwelling house and not exempted from the laws governing other dwelling houses. These representations found a sympathetic hearing — the Ministry had, of course, taken a different view from the Court of Appeal — and the earliest opportunity was taken to clarify the point. This was in the bill which became the Civic Amenities Act 1967. The main purpose of this Act was to establish "conservation areas", but Section 9 reads:

"9. A building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the

duties of his office shall be deemed not to be a building of a description specified in paragraph *(a)* of subsection (2) of section 30 of the Planning Act or paragraph *(a)* of the proviso to subsection (1) of section 27 of the Scottish Planning Act (buildings in respect of which building preservation orders are not to be made); and accordingly after the word 'purposes' in those paragraphs there shall be inserted the words 'other than a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office'".

As we have seen, this interpretation was in due course incorporated in the Town and Country Planning Act 1971. We must now go back a few years to a major development in ecclesiastical legislation.

PASTORAL MEASURE 1968

In 1968 the long-awaited Pastoral Measure introducing a new code for the reorganization of parishes and the disposal of churches regarded by the ecclesiastical authorities as being no longer needed for regular worship was passed by the Church Assembly and sent by Parliament for the Royal Assent. Section 91 laid down:

"91. The provisions of the Town and Country Planning Act 1962 and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorized or regulated by or under this Measure:

"Provided that a declaration of redundancy shall not enable a building preservation order to be made under section 30 of the said Act:

(a) in respect of the redundant building, while the Diocesan Board of Finance is responsible for the care and maintenance of the building under section 49.—(2) of this Measure;

(b) in respect of the redundant building or a part thereof if the building or part of it is to be demolished in pursuance of a pastoral or redundancy scheme;

and no such order shall prevent any alteration or extension approved by the Advisory Board of a redundant building for the purpose of facilitating any use to which the building or any part thereof is or may be appropriated by or under any such scheme."

This was a naked re-assertion that an ecclesiastical owner was free

to do what he liked with his own — to alter, extend or demolish it without any of the constraints upon other owners. But it was more. Hitherto the ecclesiastical exemption had been confined to churches in use — "ecclesiastical buildings for the time being used for ecclesiastical purposes". Now it was extended to churches of the Church of England which, by definition, were not in use because declared redundant. Indeed, in section 28.—(3) of the Pastoral Measure it was laid down in set terms that "as from the date when a declaration of redundancy takes effect in respect of the whole of a church, the church shall be closed for public worship except as may be provided under Part III of this Measure". (Part III covers appropriation for alternative use including worship and occasional worship in churches vested in the Redundant Churches Fund). Most of us who study these matters had expected a gradual withering away of the ecclesiastical exemption. It was startling to find that, instead of dying away, it was being extended. But the need to get the Redundant Churches Fund set up after long delays was so pressing that no opposition was offered.

Before passing on we may also note that the Pastoral Measure gave a practical extension of the exemption to churches scheduled as ancient monuments which are not being used for ecclesiastical purposes. Section 10.—(1) reads, "The validity of a scheme made and confirmed by Order in Council under this Part of this Measure and notified in the *London Gazette* as aforesaid, or of an order made under this Part of this Measure and notified as aforesaid, shall not be questioned in any legal proceedings", and section 50.—(8) reads, "Sections 9 and 10 of this Measure shall apply, with the necessary modifications, to schemes made and confirmed under this section as they apply to pastoral schemes". The schemes in question are redundancy schemes settling the future of a redundant church. The Ancient Monuments Board can therefore ask for the scheduling of a church which has been declared redundant, but if the Church Commissioners decide to pull it down there is nothing that the Department of the Environment can do to stop them.

There followed an episode which is not without its amusing side. Almost simultaneously with the Pastoral Measure Parliament passed the Town and Country Planning Act 1968 which, *inter alia,* repealed Section 30 of the 1962 Act and for the negative procedure of a building preservation order substituted in Section 40 the positive requirement that works for the demolition of a listed building, or for its alteration or extension, needed "listed building consent" from the local planning authority or the Minister. Section 41 gave an exemption for ecclesiastical buildings for the time being used for ecclesiastical purposes in the same words as used in previous statutes, but this did not cover

churches no longer in use, and the careful extension of the ecclesiastical exemption to redundant churches in Section 91 of the Pastoral Measure would have been useless unless something was done. But, of course, something was quickly done. The Pastoral Measure had provided for the establishment of the Redundant Churches Fund and for grants to it by the Church Commissioners, but it was an essential part of the plan that the Fund should be in part financed by State money. This was authorized by Section 1 of the Redundant Churches and other Religious Buildings Act 1969, and Section 2 read:

> "Section 40 of the Town and Country Planning Act 1968 (which restricts the execution of works for the demolition, alteration or extension of a building for the time being included in a list compiled or approved under Section 32 of the Town and Country Planning Act 1962) shall not apply to the execution of works for the demolition, in pursuance of a pastoral or redundancy scheme (within the meaning of the Pastoral Measure 1968), of a redundant building (within the meaning of that Measure) or a part of such a building".

This section gave the Church of England statutory authority to demolish a listed church declared redundant without seeking listed building consent. The significance was not lost on the Ancient Monuments Society and the Friends of Friendless Churches, but because the need to get the Redundant Churches Fund into operation was even more pressing in 1969 than it had been in 1968 it was allowed to pass without opposition.

Within a few years this extension of the ecclesiastical exemption assumed an even greater significance than was recognized at the time, as we shall now see.

HOWARD CHAPEL, BEDFORD

The Howard Chapel in Mill Street, Bedford, is a fine Georgian building named after John Howard, the prison reformer, who was its patron. It was continuously used for Christian worship according to the usages of the Congregational Church and later of the United Reformed Church from 1774 to 1971. In that year the trustees decided to unite with St. Luke's Presbyterian and Moravian Churches, to demolish the Howard Chapel, to develop the site and to use the proceeds to help church finances. At that time the Howard Chapel was not a listed building, but the proposed demolition brought a storm of protests led by Mr. Richard Wildman, Honorary Secretary of the Bedford Society and a member of the Friends of Friendless Churches, and on 14th May 1971, it was added to the statutory list. The trustees, realizing that if they ceased to use the building for ecclesiastical purposes they would need listed building consent to demolish,

used the vestries and rooms at the back for the monthly church meetings, the meeting of the elders, and a carol service and for social gatherings such as the Women's Fellowship on Tuesdays, the Thursday Circle, and coffee mornings on Saturdays. The trustees hoped that these activities would secure for them the exemption in Section 56.—(1) of the 1971 Act. The Bedfordshire County Council, as the local planning authority, did not agree, and to get an authoritative ruling an originating summons was issued by the Attorney General on 15th March 1973 at the relation of the Bedfordshire County Council against the trustees for a declaration that the building was not "an ecclesiastical building which is for the time being used for ecclesiastical purposes". The summons came in July 1973 before Willis, J., who held (a) that the church had by disuse lost the character of an ecclesiastical building, and that in any event the only ecclesiastical purposes were so infrequent and involved so small a part that the building could not justifiably be regarded as being used for ecclesiastical purposes. The trustees appealed to the Court of Appeal, which reversed the judge's decision, but gave leave to appeal to the House of Lords.[4] The appeal was heard on 17th, 18th and 19th March 1975 by Lord Diplock, Lord Simon of Glaisdale, Lord Cross of Chelsea, Lord Kilbrandon and Lord Salmon, and the unanimous decision of their lordships was given by Lord Cross on 7th May.[5]

At the outset the appellants were given leave to make a submission which had not been made in the courts below, namely, that "ecclesiastical" was equivalent to "Anglican". Their lordships unhesitatingly rejected this limited meaning, which might have been possible in the eighteenth century, but not in an Act of 1913 and subsequent enactments.

Lord Cross noted that the argument, what buildings could and what buildings could not be properly described as "ecclesiastical buildings", raised many questions to which it was unnecessary and would be unwise to give answers. In the context of the particular case which the House was deciding this was undoubtedly right, but the questions are so pertinent that his words are worth quoting.

> "For example, is the expression confined to Christian religious buildings or does it extend to synagogues and mosques? To what extent is the ownership of the building a relevant consideration? Does it make a difference whether the building was built as a church or not? Must one exclude all considerations of user in deciding whether or not the building is an ecclesiastical building? It is enough, I think, to say that whatever test you apply the Howard Church is an ecclesiastical building unless you think, as the judge appears to have thought, that a disused church is not an ecclesiastical building even though it never has

been used and is not being used for secular purposes. On that point the judge was, in my judgement, wrong and the Court of Appeal right".

It would be tempting to try to answer the questions that Lord Cross felt obliged to leave unanswered, but the only answer in which I could feel complete confidence is that synagogues and mosques must be regarded as "ecclesiastical buildings" within the meaning of the statute. If the draughtsmen had meant to confine the exemption to Christian buildings used for the purpose of Christian worship they could easily have done so. But though synagogues and mosques must be included, there is beyond doubt a fringe area where it is uncertain whether the building in question should be regarded as "ecclesiastical" or what goes on inside as "ecclesiastical purposes".

The next question considered by Lord Cross was the meaning of the words "for the time being used". The lower courts had assumed that they referred to a period before the works — in this case works of total demolition — started. Only on this assumption would there have been point in considering how many of the limited uses to which the Howard Chapel had been put since April 1971 could be regarded as uses for ecclesiastical purposes and, if they were, whether such minimal uses were sufficient to bring the exception into operation. In the view of Lord Cross the lower courts were wrong in so thinking.

"Under the system introduced in 1968 the execution of works to a listed building is an offence unless section 56 excludes the particular works from the ambit of section 55. So 'for the time being used' must, I think, refer to the time at which the question whether an offence is being committed falls to be determined — that is to say, when the works are being carried out. So if the parties test the question by *quia timet* proceedings, as they did here, the court must look into the future and ask itself whether if the proposed works are carried out the building will be being used for ecclesiastical purposes while they are being carried out or, if not, would be being used for such purposes but for the works".

Lord Cross reinforced this interpretation by noting:

"On this construction the addition of the words 'or would be so used but for the works' to the formula makes very good sense. Some works may not be so extensive as to necessitate the closing of the building while they are being executed but other works may be so extensive that the building has to be closed. The added words make it clear that in the latter case no offence will be committed even though the building is not being used for ecclesiastical purposes when the works are being carried out".

This interpretation made it unnecessary for Lord Cross to

consider whether the Howard Chapel had been used for ecclesiastical purposes since April 1971 — a question that, he observed, he would have found difficult to answer on account of the vagueness of the phrase — and brought him to his conclusion, a conclusion which is so important that it must be given at some length.

> "It is clear that, whether or not it is being used for ecclesiastical purposes today the Howard Church will not be being so used when it is being demolished. The trustees, however, say that it would be being so used for ecclesiastical purposes but for the works of demolition since it was only because they thought they would be able to demolish the building that the trustees joined with St. Luke's and gave up holding services in it. Such a construction of the words 'would be so used but for the works' strikes me as very unnatural. If a stranger who saw the church being demolished were to ask, 'Why is the building not being used as a church?' he would hardly think 'Because the works of demolition which you see in progress make such use impracticable' a satisfactory answer. The real reason would be because the trustees had decided to demolish it. Nevertheless the trustees can — and do — argue that the fact that the opening words of section 56.—(1) refer to works of demolition as well as to works of alteration or extension makes it impossible to limit the works referred to in the phrase 'or would be so used but for the works' in paragraph *(a)* to works which necessitate a temporary closure of the building. These words must, they say, cover works which will make it for ever impossible that the building should again be used for ecclesiastical purposes and oblige one to place on the phrase the strained construction which they have put on it. I see the force of this argument but it overlooks the fact that the opening words of section 56.—(1) govern not only paragraph *(a)* but also paragraphs *(b)* and *(c)*. As applied to *(b)* and *(c)* 'works of demolition' are apt enough; but in the context of paragraph *(a)* they must, I think, be limited to works of partial demolition which will not prevent the rest of the building being once more used for ecclesiastical purposes when they have been completed."

Lord Cross reinforced his conclusion with two subsidiary arguments that need not be reproduced, and said: "For these reasons I would allow the appeal and restore the order of Willis J.". As already noted, the four law lords sitting with him concurred.

Lord Cross's argument is totally convincing, and a layman can only wonder (a) how the draughtsman of the 1913 Act came to import into it a phrase that had such ambiguities in every word, and (b) how it took the lawyers so long to realize that at some point before a church is totally demolished it must cease to be

used for ecclesiastical purposes.

There being no appeal beyond the House of Lords, the judgement in the case of the Howard Chapel means that no listed Nonconformist or Roman Catholic church can lawfully be wholly demolished without listed building consent, nor a listed church belonging to the Church in Wales or the Church of Scotland or the Scottish Episcopal Church. (The Town and Country Planning Act 1971 applies only to England and Wales but there is a parallel Scottish Act). In England no listed church of the Church of England can be wholly demolished by faculty without listed building consent also being obtained. But since the Faculty Jurisdiction Measure 1964 the power of Chancellors to authorize the demolition of churches by faculty has been limited to two special cases — where a Dangerous Structure Notice has been issued or where a new church is to be built on the site or part of it. The normal procedure for the demolition of a church belonging to the Church of England is now by a redundancy scheme under the Pastoral Measure 1968, and these cases are alas! not affected by the Howard Chapel judgement. This is why Section 2 of the Redundant Churches and other Religious Buildings Act 1969 has become even more important than it seemed at the time, for it gives statutory authority for demolitions without listed building consent; and there are far more listed churches in the possession of the Church of England than of all the other religious bodies in the United Kingdom put together.

We thus have a paradox. Whereas, so far as demolitions are concerned, the ecclesiastical exemption used to apply only to churches in use, now it applies only to disused churches of the Church of England. It is section 2 of the Redundant Churches and other Religious Buildings Act 1969 and section 50.—(8) of the Pastoral Measure 1968 which are now at the centre of the argument, and their repeal is an urgent necessity.

Before passing on we may note an ominous argument in a current proposal by which the Howard Chapel judgement might be circumvented. The trustees of the Trinity Methodist Church, Sale, wish to demolish the building, and at a public enquiry early in 1980 they argued that the relatively recent rear building extension, comprising hall and ancillary accommodation, was part of the listed building and that, provided this was used for ecclesiastical purposes, only partial demolition of the church was being proposed and therefore listed building consent was not required. Comment on this argument must be reserved as the outcome is not known at the time of writing and the case could come before the courts: but one moral would seem to be that, in the case of a church at least, only those parts which are of special architectural or historic interest should be listed.

LOSS OF STATE GRANTS

It was a corollary of the exemption of ecclesiastical buildings in use from the ancient monuments legislation that churches used for ecclesiastical purposes could not receive the grants available for scheduled monuments. After the Second World War the ability of the private owners of great houses to keep them in good repair became very doubtful, and a committee under the chairmanship of Sir Ernest Gowers was appointed by the Chancellor of the Exchequer to consider this problem.[6] The Repair of Churches Commission appointed by the Church Assembly was sitting at the same time under my chairmanship,[7] and the question of State aid for churches was one of the most important questions that we had to consider, indeed the question that had prompted the appointment of the Commission.[8] At that time "State aid" was understood to mean State aid for places of worship generally, and did not have the restricted meaning that it now bears. We decided that one more big voluntary effort — through a Historic Churches Preservation Trust — ought to be made before State aid was invoked, but we took it for granted that, if the report of the Gowers Committee resulted in legislation, the Government would treat churches on the same basis as country houses. My original draft ran, "It is unthinkable that the State should do less for the house of God than it does for the house of the squire". Eric Milner-White, Dean of York and a member of the Commission, who was more deferential to squires than I was, thought this was too strong language, and we modified it, but the substance remained.[9] Accordingly, when legislation was being drafted to give effect to the recommendations of the Gowers Committee I wrote to the Minister of Works to urge that it should apply equally to ecclesiastical and secular buildings even though, so long as the ecclesiastical exemption remained, as a matter of policy rather than of law, grants would not be made for churches. This advice was accepted, and Section 4.—(1) of the Historic Buildings and Ancient Monuments Act, 1953 runs as follows:

"The Minister may, out of moneys provided by Parliament, make grants for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in the repair or maintenance of a building appearing to the Minister to be of outstanding historic or architectural interest, or in the upkeep of any land comprising, or contiguous or adjacent to, any such building, or in the repair or maintenance of any objects ordinarily kept in any such building".

It will be seen that under this section, grants could be made for any building, provided that it was of outstanding interest, whether secular or ecclesiastical, but in practice, owing to the reluctance of the church to give up the ecclesiastical exemption, grants were not made for outstanding churches for the next

quarter of a century. The Church in consequence lost millions of pounds that might have been received, but when the Church under increasing financial pressure agreed to accept State aid, no amendment to section 4 was necessary.

During the next few years I made repeated efforts to persuade the Church Assembly (later the General Synod) to accept State aid and, as a corollary, the abolition of the ecclesiastical exemption. It will be sufficient to notice the debate in the Church Assembly on 12th February 1968, when I was able to move the following motion:[10] "That this Assembly, having considered the implications of the appeal for York Minister and other churches of outstanding architectural or historic interest, is now of the opinion that it can no longer support the exclusion of ecclesiastical buildings in use from the normal planning and preservation procedures, with consequent loss of grants from national funds that would otherwise be available". I argued, and on re-reading the debate I think I argued convincingly, that the Church had already deprived itself of at least £6 million since the 1953 Act was passed, that the conditions attached to grants would present no difficulty as they were already satisfied in the case of churches in use, that the initiative must come from the Church, and that it was desirable to act immediately to get the necessary amendment included in the Bill then passing through Parliament that became the Town and Country Planning Act 1968. It was all in vain. Trivial and unsubstantiated objections were made e.g. that the Church would be prevented from liturgical re-ordering — many would wish that it could be! — and only from the Dean of Worcester, the Very Revd. R.W. Milburn, did I receive wholehearted support. But I sensed that the objections were weakening, and several speakers, including the Archbishop of York (the Rt. Revd. Donald Coggan) and Bishop Healey based their opposition not on any question of substance but on the fact that the Assembly had, in November 1967, appointed a Places of Worship Commission under the chairmanship of Professor Arthus Phillips, and with myself as a member, and that the Commission's report should be awaited. I explained in my reply to the debate that this meant missing the Town and Country Planning Bill, but the Assembly preferred to avoid taking a decision and with obvious relief accepted a motion by the Provost of Portsmouth, "That the question be not now put".

PLACES OF WORSHIP COMMISSION

The Places of Worship Commission was a curious episode in the story. There were twelve members, and we had the following terms of reference:

"To consider the law and practice relating to the repair and maintenance of places of worship in use and their surroundings

and to report.

"To make recommendations to the Assembly as to what further matters relating to places of worship and their surroundings need to be considered and as to the best method of ensuring such consideration".

We had already held one meeting before the debate mentioned above, and it became immediately clear to me that the main reason why we had been appointed was to secure the Assembly's approval for an agreement already reached between a working party of the Council for the Care of Churches on the one hand and the Royal Institute of British Architects and the Ecclesiastical Architects and Surveyors Association on the other under which much higher fees would have been paid for the inspection of churches. I demurred at being asked to give a blanket approval to such an agreement, especially as the National Board of Prices and Incomes was just about to consider architects' fees, and I myself urged that the most important topic we had to consider was State aid for churches and consequently the ecclesiastical exemption. I had the utmost difficulty in getting it accepted that this was within our terms of reference, but eventually it was recognized that it had a place on our agenda.

It soon became clear to me, however, that this question would not be given proper consideration. As a result of exchanges between an official of the Assembly (not himself an officer of the Commission) and a former member of the Assembly who was at the time a Parliamentary Secretary in the Ministry of Housing (though not concerned with historic buildings) a meeting was arranged on 28th July 1969 between certain members of the Commission along with certain other persons who were not members of the Commission and the Joint Parliamentary Secretary in the Ministry who did have the oversight of historic buildings, Lord Kennet. I was excluded from this meeting, and I consider that as a result of my exclusion essential questions were not put to the Minister, nor was he given a correct appreciation of opinion in the Church at large. I was naturally indignant at my quite unconstitutional exclusion, and another meeting with Lord Kennet, at which I was present, was arranged for 16th September 1969; but the pitch had already been queered.

The opponents of State aid made great play subsequently of the fact that at these meetings Lord Kennet had felt obliged to say "There was no money available now and it could be taken that any suggestion of releasing a worthwhile sum was virtually nil", "There was no immediate likelihood of sufficient Exchequer funds being available to make institution of a new system worth while". At the time the country was in the throes of a serious financial crisis, and it was hardly possible for Lord Kennet to

have spoken otherwise. But before that Government came to an end I received from the Chancellor of the Exchequer, Mr. Roy Jenkins, an assurance that if the question of the ecclesiastical exemption could be satisfactorily settled he would be willing to make £500,000 a year available in grants. I could not at the time reveal the source of my information — I subsequently obtained permission to do so — but I made it clear to my colleagues that it was authoritative. It made no difference; they preferred to believe that no money was available, and refused to ask whether any was, and how much, despite constant prodding from me.

The Places of Worship Commission produced an interim report in 1970, and being unable to sign it, I wrote a minority report, which was printed along with the majority report and an addendum attempting (not very successfully) to rebut me.[11] The majority report was concerned mainly with fees for architects, and on the question of Historic Buildings Council grants it merely said, "We are not ready to report". The addendum said, "It is our intention to deal fully with the subject of State aid in our final report." They never did; there was no final report. On 1st May 1970 the Commission refused by four votes to one (mine) to allow its excellent chairman, Dr. Arthur Phillips — against whom I have no complaint — to enter into discussion with the Ministry about State aid. The formal record of the meeting continues, "The Commission was therefore not at this stage planning to continue negotiations with the Ministry." After this deliberate breaking of negotiations the Commission was never called together again. When it was obvious that the Commission was not going to produce a final report, I wrote, and had printed and distributed at my own expense to members of the General Synod (as the Church Assembly had now become), a final minority report.[12] The opponents of State aid had not been prepared for such a course; and a worried Secretary General sent to members of the Synod a memorandum stating, "This document has not been issued by the General Synod Office, nor has it been considered by the Places of Worship Commission." I was consciously following a technique that I had learnt from Beatrice Webb in her famous minority report on the Poor Law, and I commend it to other members of the Synod when the occasion demands.

The Standing Committee of the General Synod decided in a report dated 15th January 1971 to ask the Synod to discharge the Commission and appoint another one "with wider terms of reference".[13] This was clearly not the consideration of further matters on which the Commission had been asked to advise in the second paragraph of its terms of reference but a transparent device to reconstruct the Commission without me as a member.

The new Commission was not, in fact, set up. The motion

"That the Places of Worship Commission be discharged" was moved by the Provost of Wakefield (the Ven. N. Pare) on 19th February 1971,[14] the debate was adjourned, and the motion was eventually carried (with my support) on 13th July 1971. But the Provost did not then move the promised motion to appoint a new Commission. Instead he moved "That the Council for the Care of Churches be requested as part of its programme for 1972 to consider the law and practice relating to buildings in use or designed and used wholly or in part for worship . . ." With the addition of four words this was identical with a motion that I had myself placed on the agenda, I supported it, and it was carried. A further motion proposed by the Provost of Wakefield requested the Standing Committee to put in hand further discussions with the Department of the Environment and with other Churches on the question of State aid. I moved as an amendment that the Secretary General be instructed to inform the Department that the General Synod would be willing to surrender the ecclesiastical exemption if thereby churches of outstanding architectural or historic interest would qualify for State grants on the same basis as secular buildings, but, when the time allotted for the debate was drawing to an end I withdrew my amendment as I thought it would be fatal not to take some decision, and the motion to remit negotiations to the Standing Committee was carried.[15]

The Places of Worship Commission had apparently been a fiasco, but it had an educative influence in the Church. From that time on it was recognized that there was far more to be said for State aid than had been allowed. One of the papers written for the Commission under the title "State aid a snare and a delusion" could hardly have been written afterwards. But an even greater educative influence was exerted by the inflationary pressures then beginning to be felt by the Church. Slowly the folly of rejecting the State aid which was available for secular buildings on a steadily increasing scale came to be recognized by all but the most intransigent Churchmen. Henceforth the former opponents of State aid concentrated their efforts on trying to see if it could be obtained without surrender of the ecclesiastical exemption.

To this point it had been assumed on all sides that the two things went together. This had only a little while before been made explicit in three ministerial statements. In reply to a question by Lord Jellicoe in the House of Lords on 25th April 1967 Lord Kennet had said:[16]

"I can see the difficulty which would face any Government that was asked to provide State funds for the maintenance of cathedrals without, at the same time, the cathedrals being subjected to the full effects of the Town and Country Planning Acts. The reason I say this is that in all other cases, in all other types of building, the Historic Buildings Council grant goes hand in

hand with the application especially of section 33 of the current Town and Country Planning Act".

The second ministerial statement was contained in a letter that the Prime Minister, Mr. (later Sir) Harold Wilson, had written in a letter to Mr. Joseph Godber, MP, on 4th September 1967[17]:

> "The exclusion of churches and cathedrals originates from the debates on the Ancient Monuments Act 1913, when the Church of England set great store by exemption from that Act because it imposed obligations on owners to notify their intention to demolish buildings. In return for exemption the Church undertook to look after its own buildings and has ever since regarded itself, and has been regarded, as cut off from State financial help . . . When the Church authorities have decided what their policies should be, I can assure you that, should we be approached for help, we shall consider the request most carefully and with an entirely open mind".

The third statement was contained in a letter from the Minister of Housing and Local Government, Mr. Anthony Greenwood (now Lord Greenwood), to myself on 5th January 1968[18]:

> "Turning to your suggestion that we should end the exemption from control which is enjoyed by ecclesiastical buildings in ecclesiastical use, I do not think I can add much to what Wayland Kennet said in the Lords last April in reply to the debate on Lord Jellicoe's question about cathedrals. Exemption from control was given to the Church in return for an undertaking to look after its buildings without financial help from the Government, and there could be no question of changing one half of this arrangement without changing the other. If the Church should want a revision of the financial arrangements, the Government would look at the proposals with an entirely open mind; but the initiative must, I think, come from the Church".

GOVERNMENT ACCEPTANCE

The initiative came fairly soon after the disbandment of the Places of Worship Commission. In October 1971 the Standing Committee of the General Synod in obedience to the motion passed by the Synod appointed a Working Party on State Aid for Churches in Use under the chairmanship of the Bishop of Rochester (the Rt. Revd. Dr. R.D. Say). In the meantime the Council for the Care of Churches (re-named the Council for Places of Worship) does not appear to have published anything on the subjects remitted to it, and although great publicity had been given to a private member's Bill, the Historic Churches Preservation Bill, which had been introduced in the House of

Commons by Mr. Patrick Cormack, it had the fate (unique within my experience) of being reported back to the House from Committee without a single clause agreed. The Standing Committee's Working Party was, however, to result in practical action and eventually in an agreed scheme for the flow of State grants.

One of the problems was that the Standing Committee could act only on behalf of the Church of England, but in the nineteen-seventies any grants for churches and any amendment of the ecclesiastical exemption would have to apply to all ecclesiastical buildings in use in all parts of the United Kingdom. This was not, however, so great a problem as might appear at first sight. There was a body called the Churches Main Committee which had been set up originally to deal with the Government on behalf of all denominations about war damage payments, and it had been kept in existence to negotiate with the Government on financial questions affecting all religious bodies. The Standing Committee had merely to carry this body with it, and in general the representatives of the Roman Catholics and Nonconformists, as well as the Church in Wales and the Scottish Churches, were content to follow the Anglican lead. Their own interests, apart from the Church in Wales, were considerably smaller than that of the Church of England, though curiously fierce opposition to the abandonment of the ecclesiastical exemption came from the representative of the Baptists; at one of the meetings, where I was invited to put the case for ending the exemption, he maintained that "a man is entitled to do what he likes with his own", a proposition long since abandoned by all political parties, and not least by the Liberals.

The Standing Committee, in discussions with the Ministry, decided to make enquiries into the cost of repairing churches and available resources in two rural areas of the dioceses of Norwich and Lincoln with a supplementary study of two urban areas — Newcastle and Cheltenham — as pilot schemes to help in deciding the total amount of State aid that would be required. These inquiries need not be taken too seriously and have long since been forgotten, because all the facts needed for making an assessment were already known; but they were motions that it was thought desirable to go through, and they saved some faces. In the end the Government was ready to announce that it accepted the principle of State aid for historic churches in use other than cathedrals — which it was thought in the light of successful appeals could continue to raise the money they needed from voluntary sources for some time to come. The announcement was made in a written answer to Mr. Terry Walker, MP, by Mr. John Silkin on behalf of the Secretary of State for the Environment on 30th January 1975[19]:

"Historic buildings grants are not at present made to buildings in ecclesiastical use, which are exempt from control over the demolition of listed buildings and scheduled ancient monuments. A working party of the General Synod of the Church of England has pursued with the Government, and through the Churches Main Committee with the other denominations, the possibility of such grants being made available for historic churches in use; and has, in consultation with my Department, carried out studies of the estimated costs of repair and the resources available to meet them in sample areas.

"After considering these studies and other representations from the General Synod, the Government have accepted in principle the case for some measure of State aid for historic churches and other ecclesiastical buildings in use, subject to agreement being reached on the amount of aid, conditions, methods and other relevant matters, and also having regard to the implications for public expenditure. On the basis of the studies, the aid involved, which would not extend to cathedrals, is not expected to exceed £1 million per annum at 1973 prices.

"My right hon. friend (the Secretary of State for the Environment), in consultation with my right hon. and learned friend the Secretary of State for Wales, will be inviting the General Synod and, through the Churches Main Committee, the other denominations, to discuss the matters to be agreed with representatives of my Department."

At this point there was still no hint that the Goverment were prepared to waive or relax the condition that the ecclesiastical exemption be ended. When allowance is made for inflation, the estimate of £1 million a year was substantially in line with the suggestion of £500,000 a year that had won Mr. Roy Jenkins' acceptance five years earlier.

In pursuance of the Government's announcement a new working party consisting of officials from the Department of the Environment, the General Synod and the Churches Main Committee was set up. It had for its chairman Mr. Vivian D. Lipman, Director of Ancient Monuments and Historic Buildings, and it was largely due to his wise and patient guidance that the delicate matters to be resolved were brought to an agreed conclusion. This was announced by the Parliamentary Secretary, Lady Birk, in a written answer to the Bishop of Rochester in the House of Lords on 11th November 1976.[20] An annex to the answer was circulated at the time, and as it is mainly paragraphs (i), (ii), (viii) and (ix) of the annex that are relevat to this paper they are here reproduced along with Lady Birk's answer:

"It was announced on 30th January 1975 that the Government

had accepted in principle the case for State aid for historic churches and other ecclesiastical buildings in use, other than cathedrals. This was subject to agreement being reached on the conditions for aid and other relevant matters. Representatives of the Government and of the religious denominations have met and produced the annexed agreed recommendations. These the Government are prepared to accept, subject to their being accepted also by the General Synod of the Church of England and the Churches Main Committee. The proposals apply to Wales where the scheme will be administered by my right hon. friend, the Secretary of State for Wales. My right hon. friend, the Secretary of State for Scotland has had comparable discussions with religious denominations and agreement has now been reached on the basis of a pilot scheme.

"In the present economic circumstances, the Government are unfortunately unable to give a specific date for the start of the scheme in England and Wales or for extension in Scotland. There is, however, a considerable amount of detailed planning for implementation still to be done and, on the assumption that the proposals are accepted by the denominations, we shall set this in train so that grants can start to be paid as soon as money becomes available".

ANNEX

"(i) The scheme would be operated by the Secretary of State for the Environment and the Secretary of State for Wales on the recommendation of the respective Historic Buildings Council, appropriately strengthened as necessary . . .

"(ii) With the exception of cathedrals of the Church of England and the Church in Wales, the scheme would apply to all churches recommended by the Council as being outstanding as buildings of architectural or historic interest. Additionally, all church buildings in *outstanding* conservation areas could be eligible for conservation grants . . .

"(viii) The scheme would run for an initial period of not less than five years. During this time, it would not be necessary to legislate on the ecclesiastical exemption from listed building control. Following the House of Lords judgement in the Bedford case, listed churches of denominations other than the Church of England cannot be demolished without listed building consent. For the Church of England, the Church Commissioners would agree with the Government that during the initial period they would consult the Secretary of State for the Environment before proceeding to order the demolition of a listed church (or an unlisted church in a conservation area);

and would suspend the proceedings in order to enable the Secretary of State to hold a non-statutory local public inquiry, which he would do, on the advice of the H(istoric) B(uildings) C(ouncil) *(a)* wherever the proposed demolition was against the advice of the Advisory Board for Redundant Churches; or *(b)* in cases of special importance, he considered it appropriate to do so in the light of representations received, including those of the Church Commissioners or of the local planning authorities. The Secretary of State would send the Commissioners the report of the inquiry, which together with his conclusions, and the reasons given by the Church Commissioners for accepting or rejecting the Secretary of State's views would all be published. The working of this consultation procedure would be reviewed by the Government and the Church authorities at the end of the initial period.

"(ix) The General Synod of the Church of England for its part will undertake to review the faculty jurisdiction system (under which the alteration of churches *inter alia* is controlled) and try to complete the review within five years. It is recognized that these are matters for the Church of England and the Consistory Courts, but the Government would welcome any modifications which could help to allay any disquiet on the part of local authorities and the general public about the present arrangements".

Paragraphs (i) and (ii) mean that the procedure and the tests for grants to churches in use would be the same as for secular buildings, and this was in accordance with the advice of the Ancient Monuments Society and the Friends of Friendless Churches. The Government had been under some pressure to make the Historic Churches Preservation Trust the channel for aid, at least in England.

The two societies had to consider more carefully whether the compromise scheme for an initial period of not less than five years outlined in paragraphs (viii) and (ix) was acceptable. We should have preferred to see the Government stick to the principle that there should be no State aid without surrender of the ecclesiastical exemption; and by that date opinion in the Church of England had so changed, and the need for financial help in a period of rapid inflation was so great, that we thought the Church authorities would have agreed to surrender the exemption. But this compromise enabled an agreed scheme to be brought forward much earlier than would otherwise have been the case, and without it there might have been much wrangling in the General Synod which would have delayed the operation of the scheme still further. Moreover, the Government had not abandoned the stand taken by all previous administrations since

1913, and there was reason to hope that the termination of the exemption had not been dropped but merely postponed for five years — with an undertaking that in this initial period the Church Commissioners would to some extent behave, in the matter of demolitions at least, as though they were bound by the same procedure as secular owners. There was also the consideration that Mr. Lipman enjoyed the confidence of the amenity world to a degree unprecedented among civil servants, and we felt that very powerful arguments would be needed to reject a scheme that had his backing. Accordingly, although we should like to have seen the exemption terminated at that point, we made known that we would support the scheme.

GENERAL SYNOD'S ACCEPTANCE

The scheme was brought before the General Synod in the form of a report from the Standing Committee on 17th February 1977,[21] and in commending it the Bishop of Rochester had this to say about the ecclesiastical exemption:[22]

"We succeeded in convincing the Government, fairly early during our negotiations, that control exercised by the Church of England over alterations to churches and over their demolition was, in general, under the Faculty Jurisdiction Measure and the Pastoral Measure, every bit as effective as the listed building control of secular buildings has been hitherto; and that in the Inspection of Churches Measure we had a system for impressing upon parishes the advantages of orderly maintenance of historic buildings that was without any real counterpart, as yet, in the secular sphere. Recognizing these achievements, the Government does not seek, initially at least, to review the statutory ecclesiastical exemption of churches from listed building control. In the case of other denominations, there has lately been a judicial decision that had shown such exemption to be rather less extensive than had been supposed".

The bishop's words made it ominously clear that the Church of England authorities intended to fight hard to secure State aid without a surrender of the exemption. His views of the superiority of the Church of England's system of control over the secular do not accord with the experience of the Ancient Monuments Society and the Friends of Friendless Churches, and the contrary views of these two societies have been fully set out in documented evidence to which reference will be made later. What the bishop had to say about the Inspection of Churches Measure can be readily accepted as the principal author of that Measure was the writer of this paper, but inspection does not prevent demolition or unsuitable alteration or conversion.

Dr. Say informed the Synod that the Churches Main Comm-

ittee had already indicated its readiness to accept the proposals on behalf of the other Churches, and the Synod gave its approval on behalf of the Church of England without a dissenting voice. So far had opinion progressed.

The conditions for acceptance by the State were thus fulfilled, and the scheme was brought into operation in the year beginning 1st April 1978. Even when allowance is made for continuing inflation, the grants offered exceeded the £1 million at 1973 prices that had been offered. It would, however, be outside the scope of this paper to consider the progress of the scheme. We must now consider what was done by the Church of England to meet the Government's requirements for postponing examination of the ecclesiastical exemption.

FACULTY JURISDICTION COMMISSION

It was not until March 1980 that the General Synod appointed a commission to inquire into the faculty jurisdiction and related matters. The chairman was the Bishop of Chichester (the Right Revd. Dr. Eric Kemp), who was the sole survivor in the Synod of the commission that had produced the Faculty Jurisdiction Measure 1964. The terms of reference of the commission were:

"To review the operation of the Faculty Jurisdiction Measure 1964 and, more generally, to consider how and in what ways the Church of England should monitor and, where appropriate, control in the interest both of the Church and of the wider community, the process of maintaining, altering and adapting churches in use for worship, taking account *inter alia* of the operation of the Inspection of Churches Measure 1955, the Pastoral Measure 1968 (and proposed Amendment Measure), the Ecclesiastical Exemption and the making available of State aid towards the cost of repair and maintenance of churches of historical and architectural interest.

"(Note: the expression 'churches in use for worship' includes cathedral churches, even though these are not within the scope of either the Faculty Jurisdiction itself or the Inspection of Churches Measure, and are not in receipt of State aid.)"

The terms of reference do not give the prominence to the ecclesiastical exemption that we would have wished — as we have seen, this was the *fons et origo* of the commission — but it is there. Joint evidence was submitted by the Ancient Monuments Society and the Friends of Friendless Churches, and these two bodies made the termination of the ecclesiastical exemption the main thrust in their argument. The relevant paragraphs of the evidence are:

"In the opinion of the two societies the retention of the

ecclesiastical exemption in the last quarter of the twentieth century is an unjustified and unjustifiable anachronism. It is the last relic of a host of ecclesiastical privileges. 'Benefit of clergy' was the name given in the twelfth century to a claim successfully asserted by the ecclesiastical authorities that every *clericus* should be exempt from the jurisdiction of the temporal courts and be subject only to the spiritual courts. This is precisely what the ecclesiastical exemption means today in the case of the Church of England — that in matters of listed building control the Church of England should be exempt from the normal jurisdiction; and in the case of other religious bodies under no control at all. 'Benefit of clergy' — and a clerk had come to mean anyone who could read the opening verse of Psalm 51 — persisted in some form till 1827 and 1841; the right of the clergy to tax themselves through Convocation died in 1664; the power of the Prerogative Courts of Canterbury and York over the estates of deceased persons was transferred to a State court in 1857. No one in his senses would dream of reviving these ecclesiastical privileges today; but the ecclesiastical exemption from vital elements of the planning laws still finds misguided supporters.

"This is said in no spirit of anti-clericalism. Though we cannot know the religious views of all our members, the officers and governing bodies of the two societies include men who are as devoted Churchmen as any supporters of the ecclesiastical exemption. We do not believe it to be in the interest of the Church itself that it should cling to this exceptional privilege.

"Indeed, we are fully content that the Church of England or any other religious body should make rules governing its own buildings provided that they are supplementary to the ordinary law of the land and do not enable its officers to escape the obligations of other citizens. The fact that a soldier is subject to military law does not exempt him from obeying the laws that other citizens have to observe. At the outset we wish to make clear that, in seeking to bring ecclesiastical buildings under the same laws as other buildings we are not attempting to abolish the faculty jurisdiction of the Church of England. For one thing the faculty jurisdiction covers areas of which the planning laws take no cognisance — the ornaments of a church, for example and all unlisted churches. There will be an area where an applicant will, if we get our way, have to satisfy both the ecclesiastical and the State requirements, but this happens already in the case of new churches, and gives rise to few complaints. As the application in both cases will probably be made by the architect the applicant will have little more to do than to put his signature on the forms. Many of the applications with which we are concerned are so important that a second hurdle may not be unacceptable. There are many fields where a dual application is the rule; for example,

an extension to a house may require planning consent and will also have to satisfy the Building Regulations".

The evidence proceeded to list the defects of the faculty jurisdiction in comparison with the planning procedures. The major defect was stated to be that it was a legal procedure, quite unsuited to the questions to be decided, and particular objections were made on the ground of the limitation of interested parties, the liability of an unsuccessful party to bear the costs of his opponent, the rigidity of the procedure which frequently makes it impossible to bring out all the facts, the innocent liability to be judged guilty of contempt, and the conditions imposed by Chancellors without statutory authority.

Since the inauguration of State aid there had been several matters to cause concern. The church of St. Michael at Stourport-on-Severn — Gilbert Scott's last design executed by his son Oldrid after his death with some variations of his own — had been effectively destroyed under the authority of a faculty granted in the Consistory Court of Worcester in order that a new building of much inferior quality might be built on part of the site for the joint use of the Church of England and the United Reformed Church. (The walls, reduced in height, were left standing). Although Lady Birk's answer in the House of Lords on 11th November 1976 had allowed that the Secretary of State for the Environment might order a non-statutory local inquiry on his own initiative if he thought fit, a subsequent interpretation by the Department said that he would do so only if the Advisory Board or the local authority disagreed with the proposal of the Church Commissioners to demolish a listed church; and as neither the Advisory Board nor the local authorities can be trusted to ask for preservation this was a serious whittling away of Lady Birk's undertaking. The case of Annesley Old Church brought to light a further whittling away. This ruined church is both listed in Grade A and a scheduled ancient monument, and when the Church Commissioners revived in 1980 proposals for demolition that they had postponed in 1977 under pressure, opponents demanded a local non-statutory enquiry. The Department would not agree because it was a scheduled monument. There had been no hint in 1976 that Lady Birk's undertaking would not apply to listed buildings which were also scheduled monuments, and, indeed, a building which is scheduled as well as listed should be given greater protection, not less. The ordering of such non-statutory local inquiries was intended as the core of the initial period, but not till the end of 1980 was one held into the proposed demolition of Holy Trinity, Rugby, also a Grade A building.

From what has been recited above it is clear that the termin-

ation of the ecclesiastical exemption at the end of the initial period should by no means be taken for granted. The ecclesiastical authorities obviously intend to fight hard to retain it while continuing to receive grants, and in the campaign for termination the Ancient Monuments Society and the Friends of Friendless Churches have not received the support from other bodies that they had a right to expect.

In retrospect it is probably unfortunate that when the Local Authorities (Historic Buildings) Act 1962, which first made provision for contributions by local authorities towards the repair and maintenance of buildings of historic or architectural interest, became law the same policy was not followed as in the case of the Historic Buildings and Ancient Monuments Act 1953, that is to say, as a matter of policy rather than of law grants would not be made for ecclesiastical buildings for the time being used for ecclesiastical purposes so long as the ecclesiastical exemption persisted. No one appears to have considered this question at the time, possibly because the grants given by local authorities were at first minimal, but gradually local authorities began to give grants for the repair of churches as well as secular buildings. When York Minster opened its appeal for £2 million, substantial sums were contributed by local authorities. This probably encouraged the idea in ecclesiastical circles that it would be possible to get State aid without surrendering the exemption. It would, indeed, have been difficult to get several hundred local authorities to follow a uniform practice without the sanction of law, and perhaps it was a mistake to have allowed the 1953 Act to apply to churches no less than to secular buildings. If the words "save for an ecclesiastical building for the time being used for ecclesiastical purposes" had been added at the end of section 4.—(1) of that Act, similar words could, and probably would, have been added in section 1.—(1) of the 1962 Act, and the termination of the ecclesiastical exemption would then have come about simultaneously with the inauguration of State aid.

The next step lies with the Faculty Jurisdiction Commission, and it is to be hoped that it will advise the General Synod to conform to the ordinary law of the land.

Notes and References

1. For a practical extension of the exemption to churches not in use which have been scheduled as ancient monuments, see below.
2. *All England Law Reports,* 1963, vol. 3, p. 984.
3. *All England Law Reports,* 1964, vol. 2, pp. 824—827, "Phillips v. Minister of Housing and Local Government and Another."
4. *Weekly Law Reports,* 1974, vol. 3, p. 308; *All England Law Reports,* 1974, vol. 3, p. 273.
5. *Weekly Law Reports,* 1975, vol. 2, pp. 961—970; *The Times,* 8th May 1975.
6. Committee on Houses of Outstanding Historic or Architectural Interest.

7. *The Preservation of our Churches,* being the report of the Repair of Churches Commission appointed by the Church Assembly. London, Church Information Board, 1952.
8. A suggestion in the annual report of the Central Council for the Care of Churches that State aid might have to be considered had created a flurry. "Some of us are averse from any suggestion of State aid, but in view of the increasing disquietude among those specially interested in such matters throughout the country, such an approach can hardly be ruled out if no other means can be found", *The Repair of Churches,* 1951, C.A. 999.
9. *The Preservation of our Churches,* pp. 32–33.
10. Church Assembly, *Report of Proceedings,* 1968, vol. XLVIII, pp. 17–36.
11. Church Assembly, *Interim Report of the Places of Worship Commission,* 1970, C.A. 1777.
12. General Synod, Places of Worship Commission, *Final Minority Report by Mr. I. Bulmer-Thomas,* available from Mr. Bulmer-Thomas, 12 Edwardes Square, London W8 6HG.
13. GS 21.
14. General Synod, *Report of Proceedings,* 1971, vol. 2, pp. 206–209.
15. General Synod, *Report of Proceedings,* 1971, vol. 2, pp. 273–283.
16. HL Deb.[5] 282, 525–6.
17. Cited in Church Assembly, *Report of Proceedings,* 1968, vol. XLVIII, p. 20.
18. *Ibid.*
19. HC Deb.[5] 885, 235–6;
20. HL Deb.[5] 377, 856–860. The question and answer were also issued by the General Synod on 15th November 1976 as GS 316A.
21. GS 316.
22. General Synod, *Report of Proceedings,* 1977, vol. 8, p. 280. The debate occupies pp. 278–289.