

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

CHANCEL REPAIR (CHURCH COMMISSIONERS'
LIABILITY) MEASURE (HC 773)

CHURCH FUNDS INVESTMENT MEASURE
(HC 772)

Monday 24 March 2025

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The Committee consisted of the following Members:

Chair: SIR JEREMY WRIGHT

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| † Brickell, Phil (<i>Bolton West</i>) (Lab) | † Law, Noah (<i>St Austell and Newquay</i>) (Lab) |
| † Davies, Shaun (<i>Telford</i>) (Lab) | † Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) |
| † De Cordova, Marsha (<i>Second Church Estates Commissioner</i>) | † Mayhew, Jerome (<i>Broadland and Fakenham</i>) (Con) |
| † Edwards, Lauren (<i>Rochester and Strood</i>) (Lab) | † Myer, Luke (<i>Middlesbrough South and East Cleveland</i>) (Lab) |
| † Foxcroft, Vicky (<i>Lord Commissioner of His Majesty's Treasury</i>) | † Pinkerton, Dr Al (<i>Surrey Heath</i>) (LD) |
| Franklin, Zöe (<i>Guildford</i>) (LD) | † Smith, Rebecca (<i>South West Devon</i>) (Con) |
| † Hinder, Jonathan (<i>Pendle and Clitheroe</i>) (Lab) | † Tidball, Dr Marie (<i>Penistone and Stocksbridge</i>) (Lab) |
| † Jones, Lillian (<i>Kilmarnock and Loudoun</i>) (Lab) | Melissa Walker, <i>Committee Clerk</i> |
| † Jopp, Lincoln (<i>Spelthorne</i>) (Con) | |
| † Lam, Katie (<i>Weald of Kent</i>) (Con) | † attended the Committee |

Second Delegated Legislation Committee

Monday 24 March 2025

[SIR JEREMY WRIGHT *in the Chair*]

Chancel Repair (Church Commissioners' Liability) Measure (HC 773)

6 pm

The Second Church Estates Commissioner (Marsha De Cordova): I beg to move,

That the Committee has considered the Chancel Repair (Church Commissioners' Liability) Measure (HC 773).

The Chair: With this it will be convenient to consider the Church Funds Investment Measure (HC 772).

Marsha De Cordova: The lead Measure rationalises the legal basis on which the Church Commissioners are obliged to provide funds to repair the chancels of certain parish churches. The law in this area dates back to before the dissolution of the monasteries in the 16th century. The rule that applied generally in England was that the people of the parish were responsible for maintaining the nave of the church—the main part where people generally stand or kneel during services—and the rector of the parish was responsible for the chancel, which is the easternmost part of the church containing the altar and seats for the clergy.

Legislation over several centuries, beginning with the dissolution of the monasteries in the 1530s and concluding with the establishment of the Church Commissioners in 1947, has resulted in the commissioners inheriting some of the land that had belonged to the rectors of various parishes. Because the land once formed part of a rector's endowment, ownership carries with it the rector's liability to keep in repair the chancel of the relevant parish church.

The commissioners' land carries liability for about 350 parish churches. In some cases, the commissioners have the whole liability; in others, they share it with other landowners. In 2023, they incurred net expenditure of around £354,000 on chancel repairs, which is considerably less than the £608,000 incurred in 2022. They expect expenditure for 2024 and 2025 to be in the region of £1.2 million for each year.

Cathedral chapters carry liability for the chancels of around 200 parish churches. The Church Commissioners currently have a statutory power to make grants to chapters to pay those liabilities. In 2023, the commissioners made net grants of about £124,000 to chapters for that purpose, meeting the entirety of the cathedral chapters' liabilities in that regard.

When land that carries chancel repair liability is sold, the purchaser takes on the liability if it is registered against the title of the land. That has the potential to reduce the value of the land in question and result in lower sale proceeds than would otherwise be the case. If the liability is not registered against the title of the land, a purchaser takes the land free of the liability, in which

case the parish loses out because the liability effectively disappears and the parishioners have to find the funds themselves to keep the chancel in repair.

The lead Measure will cut through some of the complex issues that I have just set out. It will detach chancel liability from any land that currently belongs to the Church Commissioners and turn it into a free-standing statutory obligation. Thus, parishes will no longer need to go to the trouble of registering chancel repair liability for which the commissioners are responsible, the parishes will continue to be entitled to receive payments from the commissioners to maintain the chancels of their churches, and the commissioners will be able to sell land without having to reduce the sale price to take account of a liability having been registered against the title.

The Measure will also simplify matters for cathedral chapters. Instead of having to rely on grants from the Church Commissioners to defray their liability to repair the chancels of various parish churches, chapters will no longer carry the liability; it will be transferred to the commissioners, who will become subject to a direct statutory obligation to meet the liabilities that have, until now, fallen on cathedral chapters. As hon. Members will be aware from the report, the Ecclesiastical Committee has considered this Measure and found it to be expedient.

Jerome Mayhew (Broadland and Fakenham) (Con): This appears to be a very sensible proposal. I noticed that the parishes of Brundall, St Lawrence, Great Plumstead, St Mary and Buxton, St Andrew are all in my constituency. Am I right in thinking that as a result of the Measure, their liability for the repair costs of their chancels will not be increased, that there will be no increased liability for parishioners and that it will just make the process of applying for payment from central funds much simpler?

Marsha De Cordova: That is correct. This Measure is about making it simpler and the parishes will not incur any additional liabilities or charges.

The second Measure is another piece of reforming legislation. It updates legislation dating from 1958 dealing with pooled investment funds that belong to various Church of England bodies. Those are collectively known as the CBF—Central Board of Finance—Church of England Funds, but I shall refer to them as the funds going forward. Approximately 11,500 church bodies invest in these funds, including diocesan boards of finance, parochial church councils and cathedral chapters. The current assets of the funds are in the region of £3 billion.

The legislation authorising these investment funds, the Church Funds Investment Measure 1958, is out of date and prevents these funds from becoming regulated funds. To address that, the Measure enables the transfer of the funds to a "charity authorised investment fund". The structure for that type of fund was created in 2016 by the Financial Conduct Authority working with the Charity Commission. It has significant advantages for investors. First, charity authorised investment funds are jointly regulated by the Charity Commission and the Financial Conduct Authority, which offers investors greater protection and reassurance that the funds are regulated and overseen in accordance with the industry best practice, while maintaining their charitable status.

Secondly, no VAT is payable on the fees of the managers of these funds, resulting in modest cost savings for charities that invest in them.

The Measure enables the trustees of the CBF Church of England Funds to transfer the assets of the funds to a charity authorised investment fund. The result will be that instead of being unregulated, the funds will be authorised and regulated jointly by the FCA and the Charity Commission. VAT will also cease to be payable on the investment managers' fees, resulting in a cost saving to church investors. The Ecclesiastical Committee has found this Measure, too, to be expedient.

6.8 pm

Katie Lam (Weald of Kent) (Con): It is a pleasure to serve under your chairmanship, Sir Jeremy.

The Church of England has been at the heart of our national life for centuries. It is our national Church and it plays an important role in many of the great ceremonies and occasions that bring our country together. Even in an age of increasing secularisation, parish churches are a central organising pillar of many of our communities. For many, especially for people who live in villages like those in my constituency, the Weald of Kent, the parish church is where we meet, celebrate, marry and grieve.

The Church of England is also arguably Britain's largest heritage organisation. It is responsible for the upkeep of more than 16,000 church buildings, more than 12,500 of which are listed by Historic England in recognition of their enormous historical and architectural value.

Given the Church's continued significance in our national life, the financial decisions taken by and on behalf of the Church are a matter of significant public interest. I am therefore heartened that we have an opportunity to debate the Measures before us today, which provide some transparency for the public around the Church of England's finances and the legal liability for chancel repair.

It is right that there should be clear, accountable structures providing oversight of how and why the Church of England spends its money. It is for that reason that rule 2 paragraph (6) of the National Institutions Measure 1998 stipulates that after the end of each year, the Archbishops' Council

"shall cause a certificate to be issued to the Church Commissioners to the effect that the application and distribution of the sums made available by them as aforesaid has been in accordance with subsection (3) above."

Could the Second Church Estates Commissioner, representing the Church Commissioners, please disclose the amount certified under the Measure for each year since the provision came into force, and place copies of the relevant certificates in the House of Commons Library?

Last year, the Church Commissioners for England launched a programme, dubbed Project Spire, to provide reparations in relation to historical transatlantic slavery. The commissioners have committed £100 million to the fund, which is intended to be distributed through:

"initiatives led by and for people of African descent, through a reparative and intersectional lens"

These are thought to be impact investments, which by their nature are suboptimal commercially, and grants and research projects, which produce no financial return. Any money that is given in grants, used to pay for

research, or forgone as the result of commercially suboptimal investments, is money that is not available for hard-pressed parishes.

The project seems to be a departure by the Church Commissioners from their core duties. The funds are intended for the upkeep of parish churches, the management of historical records and the provision of salaries for members of the clergy. A commitment to wide-ranging historical reparations clearly falls outside the scope of the commissioners' charitable duties, yet little information about the funds' structure or management has been made public. We simply do not know how the Church Commissioners are attempting to justify the use of these funds according to their charitable aims, nor do we know the details of conversations between the Church Commissioners and the Charity Commission about how the fund will be structured and administered lawfully—or whether it can be. We do not know whether the idea of a separate fund was considered, or perhaps is still being considered.

As the figures relating to the chancel repair Measure show, the new fund could not come at a worse time. According to the National Churches Trust, nearly 1,000 historic cathedrals, churches and chapels across England are at risk of falling into disrepair. However, rather than providing the funding needed for those crucial repairs, the Church Commissioners are choosing to allocate £100 million to an ill-conceived, opaque fund for reparations. That seems to be a dereliction of their primary duty, and directly undermines the Church Commissioners' role as stewards of our national history.

The horrors of slavery and slave trading are as old as organised human society. Shamefully, Britain was no exception from participation, but we were exceptional in being among the first people in the history of the world to abolish both. We went on, rightly and proudly, to do penance for slavery by spending resources, ships, money, political capital and the lives of Royal Navy sailors in fighting slavery across the globe for 150 years. It is certainly not feasible to demand financial reparations from every institution with a tangential relationship to that awful trade.

In the Church of England's case, its involvement is said to stem from its connection with Queen Anne's Bounty—a charity created by statute to support poorer members of the clergy—which invested in wide variety of companies over its 243-year history, and in turn, that charity's involvement in the South Sea Company. Queen Anne's Bounty acquired South Sea Company annuities, and later shares in its trading activities, at a point when it was not involved in the slave trade, although it subsequently became so in 1722. Those shares were all disposed of by 1730 and, overall, the result was a substantial loss.

The Church as an institution did not endorse the slave trade—indeed, many Church of England ministers were at the forefront of the fight against this evil practice, and as far as anyone is able to tell, Queen Anne's Bounty did not make money from it at all. It is therefore wrong of the Church Commissioners, with the apparent approval of Church leaders, to allocate millions of pounds that they hold on behalf of others to reparations, at a time when so many parishes desperately need support. It is particularly wrong to do so in this manner, which is opaque, unaccountable, and evasive.

[Katie Lam]

In the light of the direct involvement of the archbishops, bishops, and clergy in the Church Commissioners' governance, and in order to get the full picture of the Church's financial position, which is necessary to debate the Measures properly, I ask the Second Church Estates Commissioner the following questions. What information can she provide on when discussions about Project Spire began between the Charity Commission and the Church Commissioners? What legal advice, if any, has been obtained to ensure that the proposals for Project Spire are within the statutory powers of the Church Commissioners, and can it be published? Which grant-making power will be used to make any relevant grants? What other statutory powers do the Church Commissioners intend to use to facilitate Project Spire, bearing in mind that, as a statutory corporation, they can act only in accordance with powers granted by statute?

Are the commissioners proposing to set up a new charity to administer Project Spire, the Bishop of Salisbury's remarks at last month's General Synod meeting suggest? The Bishop of Salisbury also specified that it is necessary to seek approval from the Charity Commission for the project. If the project is already within the rules, why is that necessary? If the Church Commissioners are confident that this activity is permitted by law, under what section of which statute? If Project Spire will instead be *ultra vires*—which is to say, unlawful—have the Church Commissioners spoken to the Charity Commission about this? If so, what problems were identified—

The Chair: Order. Forgive me for interrupting, but the hon. Lady will know that the measure we are debating is quite narrow in scope. I have allowed her some latitude, but I know that she will want to direct her remarks specifically to the content of the Measures. Of course, I would not expect the Second Church Estates Commissioner to respond to anything that is not within the confines of the Measures.

Katie Lam: Thank you, Sir Jeremy. I would add, though, that the very funds that the Church Commissioners might supply, for example, for chancel repairs, may be the same funds that have been allocated to Project Spire. The underlying money that we are talking about for these Measures is all the same, and therefore I do believe that these questions are relevant.

I would like to ask two final questions specifically regarding the chancel repair Measure. What is the position of third-party landowners against whom a claim for 100% of the liability has been made by a parochial church council under the Chancel Repairs Act 1932, for which the Church Commissioners would formerly have been regarded as jointly liable under that Act? Finally, will a PCC now have to make two claims, one under the Chancel Repairs Act 1932, and one under this Measure, where the Church Commissioners do not hold 100% of the liability?

6.16 pm

Marsha De Cordova: As you rightly highlighted, Sir Jeremy, the Measures are quite narrow, but the hon. Member for Weald of Kent was given much time to talk about important projects, such as Project Spire. A lot of her questions have been dealt with. If she would like written answers, I suggest she table them as written questions. I also point to the fact that a number of her questions have been answered, so she can also check those. In relation to the Archbishops' Council certificates, these were published on 3 February. She can check those records. I am very happy to write to her on anything I have missed.

Question put and agreed to.

CHURCH FUNDS INVESTMENT MEASURE (HC 772)

Resolved,

That the Committee has considered the Church Funds Investment Measure (HC 772).—(*Marsha de Cordova.*)

6.17 pm

Committee rose.