No. 4.

A MEASURE passed by the National Assembly of the Church of England.

To provide for the disposal by sale and otherwise of houses of residence of Deans and Canons of Cathedral Churches or for purposes connected therewith. [29th May 1936.]

Scope.

1. This Measure shall apply to—

(i) all houses of residence attached to any dignity or office the holder of which is a corporation sole in any cathedral church to which the Cathedrals Measure, 1931, applies;

(ii) any other house of residence vested in the cathedral chapter of any such church either under the provisions of this Measure or otherwise:

Provided that nothing in this Measure shall apply to the house of residence of any benefice the incumbent of which is the provost or the dean of a cathedral church or to any house of residence vested in trustees.

Powers exerciseable under Measure.

2. The following powers shall be exerciseable in respect of any house of residence to which this Measure applies or any part thereof (that is to say):—

(i) notwithstanding anything contained in section nine of the Ecclesiastical Leasing Act, 1842, and section six of the Ecclesiastical Leasing Act, 1858, respectively, all the powers conferred by the Ecclesiastical Leasing Acts on ecclesiastical corporations to which those Acts apply (and so that the power of leasing conferred by the said Acts shall not be subject to the provisions of section nine of the Ecclesiastical Leasing Act, 1858); 5 & 6 Vict. c. 108. 21 & 22 Vict. c. 57.

(ii) a power to demolish and to sell the materials;

(iii) a power to grant, at the best rent which may be obtained, a tenancy which does not exceed a tenancy from year to year; and

(iv) a power (in this Measure referred to as "the power of appropriation") to permit such house or any part thereof to be used under the control of the cathedral chapter concerned for some purpose connected with its cathedral church and to adapt the house for the purpose in question.

Powers conferred by Measure to be vested in cathedral chapters.

3. All powers conferred by this Measure in respect of any house of residence whether attached to any dignity or office in a cathedral church or vested in the cathedral chapter of such church shall be vested in and exerciseable by such cathedral chapter. The cathedral chapter shall, in the case of a disposition of a house of residence or part thereof vested in a corporation sole, have power to dispose of the same in the name and on behalf of such corporation sole.

Consents to exercise of powers.

4.—(1) The powers conferred by this Measure shall be exerciseable only with the following consents:—

(i) in the case of the power of granting a tenancy which does not exceed a tenancy from year to year, the consent of the holder of the dignity or office to which the house is attached or for the benefit of which it is held (unless such dignity or office is vacant) or of the dean or canon occupying such house;

(ii) in the case of all other such powers, the consents of—

(*a*) the bishop of the diocese concerned;

(*b*) the Ecclesiastical Commissioners (but so that their consent shall not be required to any exercise of the power of appropriation): Provided that, in any case where the exercise of any power would in the opinion of the Ecclesiastical Commissioners affect any buildings or objects of archæological, historical or artistic interest (including buildings and objects of that character adjacent to or in the vicinity of the house of residence in

respect of which the power is proposed to be exercised), the Ecclesiastical Commissioners shall, before giving their consent, take into consideration the probable consequences of the exercise of the power and the question of what restrictive or other conditions ought to be imposed upon the occasion of a sale or lease thereunder, and, if they consider that any such buildings or objects might be prejudicially affected by the exercise of the power, consult the Ancient Monuments Board for England constituted under the Ancient Monuments Acts, 1913 and 1931, and (if they think fit) any other person or body qualified to advise upon the matter;

(*c*) in the case of a house of residence attached to, or held for the benefit of, or occupied by, the holder of a dignity or office the right of presentation to which is vested in His Majesty, His Majesty;

(*d*) in the case of a house of residence attached to, or held for the benefit of, or occupied by, the holder of a dignity or office, such holder unless the dignity or office is vacant.

(2) The consent of the Ecclesiastical Commissioners to the exercise under this Measure of a power of sale or granting leases or tenancies shall be testified by affixing their seal to the instrument whereby the power is exercised, but before so affixing their seal the Ecclesiastical Commissioners shall satisfy themselves that all other consents required to be given under paragraph (ii) of the preceding subsection have been given, and the sealing by the Ecclesiastical Commissioners of any such instrument shall be conclusive evidence that all consents so required have been given.

Payment of purchase moneys, rents, &c.

5.—(1) Subject to the provisions of this Measure, the provisions of section two of the Ecclesiastical Leasing Act, 1858, shall apply to all capital moneys (including the premium on the grant of any lease and the proceeds of the sale of any materials) arising under any disposition made under this Measure:

Provided that—

(i) the whole or any part of such capital moneys may be applied at the request of the cathedral chapter concerned—

(*a*) in or towards the discharge of any incumbrance affecting the subject matter of such disposition;

(*b*) with the consent of the bishop of the diocese concerned, in the purchase, erection, alteration or improvement of any buildings with a view to providing a residence or adapting the buildings for the purposes of a house of residence in substitution for the house of residence owing to the disposition of which such capital moneys are available;

(*c*) in or towards the discharge of any incumbrance affecting any other property of the cathedral chapter;

(ii) the provisions of the said section of the said Act as to the investment of capital moneys in land shall (subject as aforesaid) have effect, only if and so far as land is acquired under sub-paragraph (*b*) of proviso (i) to this sub-section;

(iii) the dividends arising from the investment of any such capital moneys shall be paid to the cathedral chapter concerned.

(2) Rents or other payments in the nature of income arising under any disposition made under this Measure shall be paid to the cathedral chapter concerned whose receipt or the receipt of whose officer appointed for that purpose shall be a sufficient discharge to the tenant or other person making the payment.

Application of income.

6. Income received by a cathedral chapter under this Measure whether by way of rent, dividend or otherwise, shall be applied—

(*a*) as to such part thereof (if any) as the cathedral chapter may from time to time with the consent of the Ecclesiastical Commissioners determine, in augmentation of the stipend of the dignity or

office the holder of which is affected by the disposition; and

(*b*) subject as aforesaid as part of the capitular revenues of the cathedral chapter concerned.

Provisions as to new residence houses.

7. Any house erected or purchased or acquired upon an exchange under this Measure shall be vested in the cathedral chapter concerned and, if it takes the place of a house of residence attached to a dignity or office or held for the benefit of the holder thereof, shall be held for the benefit of such holder or his successor unless such dignity or office is suppressed, or unless the cathedral chapter concerned with the consent of the Ecclesiastical Commissioners and the bishop of the diocese otherwise determines.

Costs, &c.

8. The cathedral chapter of any cathedral church to which the Cathedrals Measure, 1931, applies shall have power to pay out of their capitular revenues the whole or any part of the costs, charges and expenses of and incidental to the exercise or proposed exercise of any of the powers conferred by section two of this Measure including in the case of the power of appropriation the cost of any necessary alterations to such house.

Existing powers to cease to be exerciseable.

9. After the passing of this Measure, any power hitherto exerciseable independently of this Measure being—

(*a*) a power of leasing; or

(*b*) any such power as is mentioned in paragraphs (ii), (iii) and (iv) of section two of this Measure; or

(*c*) a power of sale or disposal conferred by section eighteen of the Ecclesiastical Commissioners Act, 1841, or sections five, six and seven of the Ecclesiastical Houses of Residence Act, 1842 4 & 5 Vict. c. 39. 5 & 6 Vict. c. 26.

shall cease to be exerciseable otherwise than under and in accordance with this Measure.

Interpretation.

10. In this Measure the expression "house of residence" means a house of residence and all buildings, gardens or other land held therewith.

Short title.

11. This Measure may be cited as the Cathedrals (Houses of Residence) Measure, 1936.