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"In some Cathedrals," the Archdeacon continues, "there are Divinity Lectureships of ancient foundation, as at Chichester and Hereford. It is possible that these might be made more useful to the younger clergy." And he adds:

The Cathedral Commissioners have suggested that it should be provided, as far as possible, in the proposed new statutes, that one or more of the Residentiaries should "give instruction in some branch of sound learning and religious education either in the Cathedral city or in some other suitable place or places in the Diocese" (Canterbury, § 10; Norwich, § 12; Ely, § 10; Wells, § 10; Carlisle, § 8; etc., etc.). But the proposal is not very definite, and exemptions are in every case allowed.

"In what I have now ventured to submit to you," concludes the Archdeacon, "I have not been setting forth any new doctrines, as you will see from the following well-expressed definition of the ideal Chapter, which was written by Bishop Scambler in a letter to Queen Elizabeth, as long ago as 1582: 'That kind of foundation,' he says, 'implieth always a Society of learned men, staied and grounded in all parts of religion, apt to preach the Gospel and convince errors and heresies; . . . and further to assist the Bishop, the head of the Diocese, in all Godly and wholesome consultations; inasmuch that the Cathedral [Church ought to be, as it was, the oracle of the whole Diocese, and a light unto all places lying near to it.' Bishop Scambler combines in this passage all the most important propositions I have wished to urge."

We have quoted Dr. Hannah's suggestions as to Mission Preaching in the Diocese by dignitaries of the Cathedral. We may here remark that several suggestions of interest and practical value, bearing more or less directly on diocesan work by members of the Cathedral body, may be found in a recently-issued Convocational *Report* entitled "Spiritual Needs of the Masses of the People."[1] Of the joint Committee of both Houses of Convocation, by whom this *Report* has been prepared, the Archdeacon of Lewes is a member. Among the many matters touched upon in this document, we are pleased to notice a frequent suggestion, by the clergy consulted, that evangelistic work should be carried on by Canons and other Diocesan Preachers.

Art. V.—ECCLESIASTICAL DILAPIDATIONS.

FROM time to time the law of dilapidations in its application to ecclesiastical properties attracts the attention of that considerable body of the clergy who are in the actual

[1] Convocation of Canterbury, 1885, No. 182.

possession of benefices in the Church of England, or are hoping at some future time to succeed to such benefices, and of that more limited proportion of the laity to whom Church matters present a subject of special interest, and who are anxious to promote the welfare of the Church by providing as far as may be for the temporal well-being of its ministers.

This has been more particularly the case since the passing of the Ecclesiastical Dilapidations Act in the year 1871, since which time the law of dilapidations and the Act of 1871 have been pretty continuously under the consideration of Diocesan Conferences, Rural Decanal Chapters, Church Congresses, and similar gatherings, while the Church papers have opened their columns to those who have wished to make public their grievances or suggestions.

In 1876 a Special Committee of the House of Commons was appointed to consider the subject. They listened to the complaints brought before them by several clergymen; they examined the Archbishop of York, the Secretary of Queen Anne's Bounty, and a few of the Diocesan Surveyors, and were manifestly much struck by a scheme of insurance laid before them in eloquent terms by the Bishop of Peterborough. Their report recommended this scheme to favourable consideration; but failing its adoption they put on record an opinion respecting the Act of 1871, that an "amendment of the law should take place with the least possible delay." On consideration, the scheme of the Bishop of Peterborough did not commend itself to the great body of Churchmen, and the Select Committee's Report was ultimately put on one side by the Secretary of State, who remarked in the House of Commons that while the Report said that amendments were needed, it failed to state definitely what those amendments should be.

The Convocations of York and Canterbury have considered and debated this subject, and appointed divers committees thereon. A Committee of the Lower House of Canterbury has recently brought up a Report and submitted Resolutions which have received the sanction of the House. It is not too much to say that this Committee has shown a far better grasp of the whole bearings of the subject than any that has preceded it, while its Resolutions recognise, to a degree not hitherto common, the good done by the Act of 1871.

As a broad, general proposition it is true that the benefices of the Church of England acquired the glebes and buildings belonging thereto by private gift. No compulsion has ever been exercised, at any rate has ever been exercised by the State, to compel landowners, parishioners, or others to provide residences and glebes for the clergy. Neither has there ever

been any law compelling such persons to maintain the residences of the clergy. Hence from time immemorial the law has called on the clergy themselves to maintain, repair and restore the buildings they occupy and enjoy, in such a way that the Church, or more properly the church of their own parish, should in their time receive no damage; but that its possessions should be handed on from incumbent to incumbent unimpaired in value. When a founder or donor has made over property to a benefice, he has ever had the guarantee of the law that his gift will remain for the perpetual benefit of the incumbents, each of whom, in his time, appropriates, or ought to appropriate, to his personal use such only of the proceeds of the gift as remain after its permanent maintenance is provided for. Incumbents therefore do not occupy their residences entirely free, but on the condition of maintaining them in perpetuity; and it is the ignoring or denying this proposition that has given rise to the great body of the complaints which have been directed against the Act of 1871, and not, as logically they should have been, against the ancient law of dilapidations. In fact, the omission to draw this distinction has given an impractical character alike to the Report of the Select Committee of the House of Commons, to the great mass of the complaints, and to the suggestions made for the amendment of the law.

The ancient law of ecclesiastical dilapidations is founded on the constitutions of mediæval ecclesiastics, on custom, and on the judgments of the Law Courts, particularly on the well-known decision of Wise *v.* Metcalfe, a case tried in 1829. The whole judgment of Justice Bailey is most carefully reasoned out, and it concludes as follows: "The incumbent was bound to maintain the parsonage and also the chancel, and keep them in good and substantial repair, restoring and rebuilding when necessary, according to the original form, without addition or modern improvement; and that he was not bound to supply or maintain anything in the nature of ornament to which painting (unless necessary to preserve exposed timbers from decay) and whitewashing and papering belong."

There is another decision given by Lord Campbell in the case of Martin *v.* Roe, quite in accord with the foregoing, which lays down that incumbents are not to be called on to maintain unnecessary or luxurious buildings, such as greenhouses and conservatories, which are associated with observatories, menageries, and aviaries, the luxurious buildings indulged in by incumbents in the thirteenth century, which it was declared by a constitution of Archbishop Othobon, incumbents were not to be called on to maintain.

While, therefore, the law is strict in requiring that the

substantial structures of the buildings shall be maintained, so that they may be handed on practically unimpaired to succeeding incumbents, it treats ecclesiastics with the greatest leniency with regard to all matters of a perishable or unnecessary character.

There is manifestly no analogy between the position of an ecclesiastical tenant of a benefice and a tenant holding under a lease from a landlord. The incumbent pays no rent; he has entered into no agreement, arbitrarily arranged, as to the repairs he is to do; the question of the subdivision of repairs between landlord and tenant does not arise, for the sufficient reason that being his own landlord, the incumbent has no one else with whom to share the repairs. On the other hand, an incumbent is relieved, so far as the law is concerned, from decorative repairs, papering and painting, a heavy portion of the burden usually borne by a lay tenant. An incumbent must, indeed, hand over his premises to his successor in sound structural and substantial repair, or pay the penalty in dilapidations; but he may omit to paper or paint internally for years, and with impunity leave this opening for the display of the taste of his more fastidious or æsthetic successor. In fact, the Courts of Law have in this case arrived at a conclusion which must be felt to be intrinsically reasonable and just, and which in practice is by no means inconvenient.

On those who would alter this law rests the onus of showing that it is unduly burdensome to the clergy, or that it is unjust, and that there are funds available, other than the revenues of the benefice, from which the repairs of the buildings can be provided for.

Those who have been loudest in their calls for amendments have not perceived—or, at any rate, have ignored the fact—that it is the ancient law with which they are at issue, rather than the Act of 1871. A suggestion has been put forward—and it is recognised by the Select Committee of the House of Commons—that there was a "want of a definition of dilapidations." A more complete study of the subject would have shown that the suggestion is quite unfounded. The law is clear—possibly in some cases it is really felt to be only too clear—as to the liabilities of incumbents.

The administration of the law, however, before 1871 was to the last degree uncertain, and it was to obviate this that "The Ecclesiastical Dilapidations Act, 1871," was passed. It is a purely administrative Act, and its passing did not alter the liabilities of the beneficed clergy as to their residences and glebe buildings; and hence, in the nature of things, it is impossible that amendments or alterations, while they are confined to the Act itself, should alter those liabilities.

Nevertheless, it is true that the Act has revolutionized the whole practice of Ecclesiastical Dilapidations. In a word, it has substituted certainty for uncertainty.

The administration of the law is put under the control of the Bishops. It is carried out by officially appointed surveyors.

Before 1871, in cases of vacancy, each incumbent appointed his own surveyor—very possibly a local man with fair knowledge of lay dilapidations, but to whom, from their fewness, ecclesiastical cases could come but rarely; and the principles of the two being directly opposed to one another, his views would naturally be very uncertain. To meet him might be appointed a man of like experience; or a sharp new incumbent would call in a London surveyor who made ecclesiastical dilapidations his speciality, to the infinite confusion of the local man.

Either by compromise or by reference to an umpire, a settlement was ultimately agreed to, and a sum of money passed to the new incumbent. He was, however, in the great majority of cases, given no details as to the dilapidations actually paid for; and, in truth, the whole matter being compromised, no details could be given. The new incumbents laying out the money as it seemed to them best, substantial repairs were very likely to be overlooked in favour of more decorative matters.

For this the Act substituted the official surveyor, who necessarily takes pains to acquaint himself with the whole law of the subject, and who acts equitably, somewhat in the character of umpire, between the two parties. It made provision that the works paid for should be set forth in detail, and full particulars served on the parties interested.

Thus it will be seen that the surveyor's work is done in an official way, and that it is open to the inspection and review of the parties interested in the result; and it is not to be wondered at that the reports of men of experience working under such circumstances should be found very generally to be of such a character as not to be modified under the very sufficient provisions for appeal which are embodied in the Act.

When the matter is settled between the new incumbent and his predecessor or his representatives, it becomes the duty of the former to have the necessary repairs executed under the supervision of the surveyor, and hereby an improvement in the condition of church property of a most important kind is now seen to have been effected. By the process of securing that at each vacancy at least the buildings are surveyed, and that they are then put into repair, and that the money recovered for dilapidation is expended on them, a far higher state of repair is established than in former times; while before long, when all benefices will have passed under the Act, the heavy cases of dilapidations, frequently pointed to as causing

great hardships to widows and surviving relatives of incumbents, will be things of the past.

It is open to incumbents themselves to carry out the principle, suggested by the Act, of periodical surveys, to be followed by the execution of such repairs as the surveyor shall find necessary. In order to encourage incumbents in applying the voluntary clauses of the Act a certificate is granted them on the execution of the repairs which exempts them from liability for dilapidations for a period of five years, in case during that time they vacate their benefices.

Every incumbent, therefore, may now obtain information as to his liabilities, which in so limited a time as five years ought not to become very onerous, and by his own action save much trouble, anxiety, and expense to his heirs or representatives.

This constitutes a system of insurance against dilapidation risks of a very perfect kind, and it can be worked much more economically as to office and surveying expenses than any system emanating from a central office: while there is an equitability in each man's repairing the buildings he enjoys, which it would be difficult to equal by any adjustment of premiums.

It would be incorrect and indeed manifestly futile to speak as though, even under the Act of 1871, dilapidations presented no difficulties, and that incumbents might not, under certain circumstances, find themselves unfortunately placed.

Many incumbents who entered on their benefices before 1871 received but a small portion of the amounts which ought to have been secured for them on account of the dilapidations of the buildings which they took over, and as to the expenditure of the sums actually received, they were probably not well advised, and so wants of reparation may have been allowed to accumulate. Even yet a man may succeed an incumbent whose estate is insolvent, and find himself with a responsibility to execute repairs, and no funds available.

In such cases the Act allows the repairs to be put on the future revenues of the benefice by means of a loan from Queen Anne's Bounty, a resource not exactly in itself equitable or desirable, but it is difficult to suggest any more efficient way of solving the question unless some external funds can be drawn on, and none such have yet been pointed out.

There are other sections in the Act relieving incumbents from special difficulties. They are, however, subject to the reasonable condition that the reliefs they afford should be applied by the incumbent during his tenure of office. There is probably no foundation for the suggestions sometimes made, that the Act has been systematically, or even occasionally,

harshly administered. If it is believed to be harshly drawn, it is because a large number of its provisions have been overlooked by the critics.

It is sometimes said to be hard that an incumbent who has laid out money in improvements or additions to the buildings of his benefice, should not be allowed to set off such improvements against the claims for dilapidations. The recognition of such a principle would involve great difficulties in adjusting claims, and lead to long disputes; and as the necessary repairs must be provided for in some way, the living would have to be burdened by a loan. As a fact, however, legislation, which is far more complete in regard to ecclesiastical than to ordinary property, has, by means of the "Gilbert's Acts," already provided for improvements, if only they are such as a bishop and patron can approve, being charged on the benefice by means of loans from Queen Anne's Bounty. Those who, in making additions, have not thought proper to avail themselves of such aid must be content to be numbered among those donors to the Church by whose generosity the ecclesiastical property throughout the country has been accumulated; and it is the merest act of justice to recognise how very largely the beneficed clergy themselves have contributed of late years, from their own resources, to the improvement of their benefices.

Dilapidations can never be an altogether pleasing subject. It is associated with and in fact arises from that decay which is inherent in all mundane things. Storms will beat on our houses, wind and water will find out their weak places, the worm will attack the wood, posts and fences will decay, and buildings wear out, do what we will. The evil of these things can be checked, and an accumulation of dilapidations avoided by timely care, and the Ecclesiastical Dilapidations Act has done something to compel, and much more to encourage, the application of that care by the clergy to the buildings of the benefices they enjoy. It has done much to adjust simply, cheaply, and efficiently questions of the duty as to the maintenance of buildings of persons holding property with an absolute ownership, hardly inferior to that of freeholders, but for a period strictly limited and in the highest degree uncertain. It is well after fourteen years of severe, if not well-directed, criticism, that the Act should be declared by so competent and at the same time so deeply interested a body as the Lower House of the Convocation of Canterbury, in the Resolutions passed on the 1st May last, to have effected much good, and practically to be incapable of any amendments calculated to be beneficial to the clergy.

LACY W. RIDGE.