A History of Tithes

Rev. H. W. Clarke, B.A.



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A HISTORY OF TITHES ***

A HISTORY OF TITHES

A
HISTORY OF TITHES

BY THE
REV. HENRY WILLIAM CLARKE, B.A.
TRIN. COLL., DUB.
Author of "The Past and Present Revenues of the Church of England in Wales," and
"The Public Landed Endowments of the Church in Anglo-Saxon Times."

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PREFACE.

In my former[1] as also in my present work, I have taken Selden's "History of Tithes," ed. 1618, as my chief authority. I adopted his views on the interpretation of King Ethelwulf's charter as having been the first legal title deeds of granting tithes to the clergy.

After carefully consulting the best authorities, especially Mr. Kemble, Mr. Haddan, and Bishop Stubbs, I have in my present work adopted their views, that Ethelwulf granted a tenth part of his lands and not the tithes of the lands of his kingdom.

I have also considered Archbishop Egbert's alleged canon for the tripartite division of tithes as an anachronism.

In preparing my former work, I laboured under the great disadvantage of residing too far away from a good public library, where I could consult the best and most recent authorities on the subject.

Just as the sheets of my former work passed through the press, a third edition of Lord Selborne's work, "A Defence of the Church of England against Disestablishment," was published. And in the following year, 1888, appeared his "Ancient Facts and Fictions concerning Churches and Tithes."

I could only then refer in the briefest manner in my former book to his first work. But his two works contain so many erroneous and fallacious statements, that I thought it a public duty to expose and refute

them.

With this view and in order to prepare materials, I had taken steps to have access to the Library and to the manuscripts in the Manuscript Department of the British Museum.

I had not gone far with my work when I found it absolutely necessary to *rewrite* the whole of my "History of Tithes," and to make the present work, as it really is, *quite a new one*.

I had not only to deal with Lord Selborne's works, but also with historians, who wrote private letters to parsons against the threefold division of tithes, which letters contradicted statements made in their own histories which favoured the tripartite division of tithes, and the Church Grith law of A.D. 1014.

The tithe disputes in Wales brought forward crude, erroneous, misleading and ill-digested statements about the origin and history of tithes in this country. "Our Title Deeds," by the Rev. M. Fuller, is a most remarkable specimen of that class.

Directly and indirectly, I have dealt with all these matters in my present work. I mention these facts in order to indicate the absolute necessity I was under of *rewriting* the whole of my history.

And now in reference to Lord Selborne's works, which, owing to his high position, have influenced the opinions of many, one unsound mode of reasoning runs through many parts of them, especially his "Ancient Facts and Fictions." I mean his *inferences from negative evidence*. And these inferences are so cleverly and shrewdly expressed, in the special pleading style, that although I knew they were wrong, yet I found it extremely difficult to prove *how* they were wrong, because they were

based on *negative evidence*. This mode of reasoning in the hands of a shrewd, clever lawyer is most powerful, misleading and embarrassing; and is at the same time most difficult to answer from the nature of the evidence. In order to elucidate my meaning, I shall give one out of many examples. He wants, in support of a certain cause, to sweep away the Church Grith law (A.D. 1014) which enacts the tripartite division of tithes, and this is his mode of reasoning:—"Selden and Spelman were well acquainted with the Worcester (Cottonian) manuscript [he calls it "The Worcester Volume" on the same page]; and, as neither of them made mention of this Church Grith document, *it may be inferred that they did not regard it as having the character or the authority of a law*."[2] The reader of the book would naturally suppose that Selden and Spelman *had seen* the "document," although it is an unquestionable fact that *they had never seen it*, simply because it was never in Sir Robert Cotton's library during his lifetime for them to see. I could not have proved this point if I were not aided by the official catalogue of 1632.

I have often thought that Lord Selborne's error arose in his assuming that all the manuscripts which are now in the Worcester volume, Nero, A. 1, were in the same volume when Selden and Spelman consulted it during the life of Sir Robert. If I am right, it is a clear proof how unsound it is to draw inferences from negative evidence, and how careless he must have been in not having made himself *quite certain* that the "document" was in the volume for them to see. As this is a vital point in the discussion, I have devoted the whole of chapter x. in defence of this Church Grith law. But the *most unfair* part adopted by the opponents of this law is, that whilst they parade, with a great flourish of trumpets, the

opinions of Price and Wilkins against the law, they carefully omit *material evidence* furnished by Archdeacon Hale, which is dead against their opinions (see pp. 107, 108).

Since my former work was published, there appeared in July, 1887, the Parliamentary Return of the Tithes Commutation of 1836. I have dealt with this important information in Chapter XIX., and also in the Appendices.

In Chapter XVII., I have given a very full account of the enormous revenues received from tithes and house rentals by the incumbents of parishes in the City and Liberties of London for the spiritual work of small populations, and which revenues have become a public scandal because valuable endowments are thus wasted.

The "Redemption" of tithes is dealt with in Chapter XVIII.

I have inserted in Chapter XX. the Tithe Act of 1891.

Appendix F contains a summary by counties of the rent charges of England and Wales, taken from the return of 1887.

Appendix G is an analysis of the Tithe Commutation Return as regards (1) the number of old parishes; (2) parishes appropriated and their vicars; (3) parishes which had not been appropriated. Nearly one-half (or 3,864) in England were appropriated. It was worse in Wales, for of 834 old parishes, 468 were appropriated. When we add the sinecure rectories, pluralities and non-residence of incumbents, we can form a correct conclusion as regards the cause of the present position of the

Church of England in Wales.

In addition to the above, I have also given the number of parishes in receipt of lands and money payments in lieu of tithes by numerous Inclosure Acts.

But the most important statistics are given at page 257 as regards the gross aggregate amount of the "Revenues of the Church of England." Hitherto, very small and misleading amounts of these revenues have been given. But the Parliamentary Return, made up in the office of the Ecclesiastical Commissioners and just published, has now given the public, for the first time, a generally correct idea of the gross annual amount, from *permanent sources*, of these revenues, and also the number of benefices and parsonage houses with their *rateable* value, which is *much less* than their *actual* value.

The Return is defective; (1) because it is framed on values in 1886, and (2) it omits the large fluctuating income—about a million a year—from fees, pew-rents, and Easter offerings. Correctly, the gross income in 1890, was £6,825,730. But the permanent income capitalized equals £140,000,000.

My best thanks are due to Walter de Gray Birch, Esq., of the MSS. Department of the British Museum, for his kind assistance and courtesy; also to the officials connected with the Library.

HENRY WILLIAM CLARKE.

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INTRODUCTION.

When engaged in writing the History of the Rise, Progress, and Present Position of the Ecclesiastical Commission for England, I had to deal with the endowments of the Church. My desire was to collect facts as to their origin in the Christian Church generally, and in the Church of England particularly. In searching after truth and facts, I experienced no little difficulty in arriving at correct conclusions, from the various contradictory statements on the subject. One party saw in the payment of tithes a continuity of old Scriptural laws in the Christian Church, payment which Christians were bound to make, whether they liked it or not; passages from the Old and New Testaments were distorted, and forced meanings given to them; apostolical constitutions were forged in support of their payment. What Isidore did as regards his forged decretals we find other writers did as regards tithes, and sham miracles are paraded in their works in support of tithes in the Christian Church. Another party, of whose views John Selden is the impartial exponent, took a more correct view of the subject, and denied that the patriarchal custom, or Mosaic law, bound Christians to the payment of tithes *quâ* tithes. He asserted, with truth, that the Divine Founder of the Christian religion and His apostles left behind them no written instructions for the payment of tithes, but the latter did state how the ministers were to be maintained, viz., on the purely voluntary principle. I am certain it is against the whole tenour of the New

Testament writings, that any funds for the support of those who minister at the altar, or in building or repairing sanctuaries for divine worship, should be collected *vi et armis*. It is revolting to all Christian principles enunciated in the New Testament, that men should be imprisoned, or their goods seized, or, even as it has happened in Ireland within this century, be shot dead, because they refuse to pay tithes. But there have been, and there are still, men in England who unblushingly justify all the above means by which an odious and unscriptural tax should be collected for the support of the ministers of the Church of England. Some foolish writers assert that the payment of tithes is not a tax. It is unquestionably a tax. On the other hand, there have been, and there are still, in England noble-minded, sympathetic, and large-hearted Christians, who have conscientiously opposed such taxation as unscriptural.

For centuries after the Christian Era, the Christians paid no tithes *quâ* tithes. In some of the episcopal writings of the second and third centuries suggestions are thrown out, but nothing more, recommending the payment of tithes according to the Mosaic law; certainly not with the view of handing over to the ministers all the proceeds of such payments, but to supplement the Church funds for the support of the poor, the fabric of the churches, and the ministers. According to the Mosaic law, the priests received but the one-hundredth part of the tithes, for the Levites had also to be provided for.

It was not until the fifth century that canons were passed for the payment of tithes. They were unknown in the British Church when Augustine

landed on our shores, at the end of the sixth century. His mission was a mixture of good and evil. It was good, because it introduced among the Anglo-Saxons an active evangelical spirit. It was evil, because it formed the first link of an alliance between the Church of England and the Church of Rome. From that time forward the bishops of Rome interfered in the discipline and doctrines of the English Church. They sent their legates to England to attend provincial synods and to pass canons for the payment of tithes, without consulting the laity. The Church of Rome never allows the laity to have a share or a voice in any ecclesiastical matters. That was always, and is still, the most prominent feature in her organization. In the eighth century, tithe free-will offerings were first given in England by a few individuals. In the ninth century Charlemagne passed the first lay law for the payment of tithes in his dominions. This was a great victory gained by the Church. His father, in A.D. 755, gave Ravenna to Pope Stephen III., and thus initiated the temporal territorial power of the popes. Milman in his history gives a sad account of the working of the tithe law in the Emperor's territories, so different to the teaching and spirit of the Gospel! The laity, however, refused to pay the tax.

In England, the *custom* of giving tithes as free-will offerings gradually began, as I stated above, in the eighth century, or eleven hundred years ago. The clergy were then quite satisfied with such voluntary offerings. A few only at first gave them; then the number gradually increased, by means of the pressure exercised in the confessional box, in the ninth, tenth and eleventh centuries, until it finally became *customary* for *all* to pay their tithe offerings. The usual question put by the priest from the

confessional box was, Did they duly pay their tithes to God? In A.D. 850 a German bishop in his visitations had specially this article of inquiry, “Si decimas recte darent?” The custom in England gradually changed into a *common right*, and it was by virtue of this common right that people were legally bound to pay tithes. There was no positive law made for their payment. But here is their injustice. When this *custom* commenced, the population of England and Wales could not have exceeded 160,000, with less than a quarter of a million of acres under cultivation, and yet this *custom*, originating under the above circumstances, generated a *common law right*, which legally bound all subsequent generations to the payment of predial, mixt, and personal tithes. I call this barefaced injustice. It is utterly wrong to state, as some Church defenders do, that all the parochial tithe endowments were *voluntarily* bestowed on the Church by the landowners. In a subsequent part I have explained the 2 and 3 Edw. VI., c. 13, s. 5, about barren and waste grounds brought into cultivation, and also the lands and corn rents awarded in lieu of tithes by the various Inclosure Acts passed in the last and present centuries.

Certain writers argue in the most unreasonable manner against the division of tithes in England, and assert that the parson was legally entitled to, and had enjoyed, all his tithes without diminution. Lord Selborne, in his recent works, is the latest supporter of this erroneous view. In another part I have fully explained how untenable these views are.

The Norman monks initiated the appropriation of tithes to monastic bodies. The lands belonging to the four privileged orders were specially exempted from

paying tithes, whilst others purchased bulls of exemption from the popes.

The Third and Fourth Lateran Councils, held in 1180 and 1215 respectively, issued decrees against Infeudations and for the payment of tithes. The latter council gave the English parson a common right to parochial tithes. General Councils in which the laity were unrepresented, had no right to pass decrees for the disposal of the private property of the laity to whatever religious purpose they wished, or for the payment of tithes. Their functions were confined to the discipline and doctrines of the Church.

When monasteries and chantries were swept away by Henry VIII. and his son, the lands, tithes, and all other kinds of property passed to the Crown, and the Crown granted the greater part of the tithes to bishops and chapters in exchange for landed estates which were granted to laymen, many of whose posterity or assignees hold them at the present day. In Edward VI.'s reign about six millions of acres were under cultivation, but from that time to the present over twenty millions of acres of waste lands have been brought under cultivation, and for which tithes are paid.

From A.D. 1547 to 1890, about 5,000 new parishes and districts have been formed, of which 1,530 were formed from A.D. 1547 to 1818, and about 3,470 from 1818 to the end of 1890.

Towards the end of the first quarter of the present century there arose a cry for Church Reform. Dr. Howley, Archbishop of Canterbury, was the first to take steps, in 1829, to reform the then existing abuses in the Established Church, as to episcopal revenues, commendams, non-residence of incumbents, sinecures, pluralities, etc., which were

like so many cancers eating away the body politic. This led to Earl Grey's Royal Commission of Inquiry, dated 23rd of June, 1832; to Sir Robert Peel's Commission, dated 4th February, 1835; to the five remarkable reports of this Commission; to the Episcopal Act and Tithe Commutation Act of 1836; to the Ecclesiastical Commission for England, 1836; to the Pluralities Act of 1838; to the Cathedral Act of 1840; in fine, to the passing, from 1836 to 1890, or fifty-five years, of about one hundred and thirty statutes directly and indirectly affecting the Church of England, besides some thousands of Orders in Council, having the force of Acts of Parliament when published in the *London Gazette*. Yet many Churchmen boastingly assert that the Church of England has received no help from the State (!) The Ecclesiastical Commission is actually a State Department. And what amount of money would have remunerated the members of the various successive governments from 1832, who boldly stepped forward to drag the State Church out of that sink of abuses in which the first Reformed Parliament found her? If our leading statesmen in and after 1832 had not promptly and energetically taken steps to reform the flagrant abuses of the Church, it could not possibly long survive as an Established Church.

The Commutation Act of 1836 settled a long-burning question. The gross value of the tithes was about six millions. These were commuted to four millions. The landlords not only gained two millions, but also increased rentals from the improvements which their tenants made when the tithe was commuted into a corn rent payable in money and permanent in quantity, but fluctuating yearly in value, so that any improved value given to land would not increase the amount of the rent charge.

Again, the landlords gained about half a million a year by the various changes which were made in the extraordinary tithe rent charges. By the Commutation Act, the landlords and not the tenants are the real tithe-rent payers. But the landlords having contracted themselves out of the 80th clause of that Act, and having arranged with the tenants to pay the tithe rent-charge, a good deal of ill-feeling has sprung up in certain parts of the country, especially in Wales, on the part of the farmers against the tithe-owners. The Tithe Act of 1891 makes the owner of the lands and not the occupier liable for the tithe-rent charge.

Henry VIII., as "Supreme Head of the Church of England," made no change in her doctrines, and the clergy received their tithes as hitherto for saying masses for the repose of the souls of departed parishioners, granting absolution, teaching transubstantiation and doctrines as regards purgatory. The tithes and landed endowments were originally granted for teaching these doctrines. But in the reigns of his son and Elizabeth changes were made in both ritual and doctrines, and those incumbents who refused to adopt the doctrines, framed in accordance with those used in the Primitive Christian Church, were deprived of their incumbencies and consequently of their tithes and other Church endowments. But there was no physical transfer made then of such endowments, and the Church was the same Church of England, but reformed. Their successors, who embraced the doctrines against masses, purgatory, absolution, confession, transubstantiation, etc., were appointed on the condition of strictly complying with the Act of Uniformity and of the doctrines enunciated in the Thirty-nine Articles. It was in virtue of such

compliance that they were put in possession by Acts of Parliament of the tithes and other endowments of the Church, which their predecessors had enjoyed. It was purely a change of usufructuary possessors without the least disturbance of the property. The new tenant solemnly engaged to comply with the new laws of the Church; the old tenant refused to do so, and had therefore to leave. That was all. The incoming trustee held his endowments by a Parliamentary Title. The present usufructuary possessors of Church endowments hold them also on the above conditions, and by the same Parliamentary Title. And as Parliament gave the Title, it can also change the Title. But how do matters stand now? Dr. Vaughan, the Roman Catholic Bishop of Salford, in a small pamphlet recently published, says of the Church of England, “Its bishops, ministers and people are busily engaged in ignoring or denouncing those very articles which were drawn up to be their eternal protest against the old religion. The sacramental power of orders, the need of jurisdiction, the Real Presence, the daily sacrifice, auricular confession, prayers and offices for the dead, belief in purgatory, the invocation of the Blessed Virgin and the saints, religious vows, and the institution of monks and nuns—the very doctrines stamped in the Thirty-nine Articles as fond fables and blasphemous deceits—all these are now openly taught from a thousand pulpits within the Establishment, and as heartily embraced by as many crowded congregations. Even the statue of the Blessed Virgin Mary has been recently enthroned upon a majestic altar under the great dome of St. Paul’s.” From these facts Bishop Vaughan claims that England is already “half Catholic.”

A HISTORY OF TITHES.

CHAPTER I.
BEFORE THE CHRISTIAN ERA.

The first instance on record of the payment of tithes is found in Genesis xiv. 20, when Abraham, after having rescued Lot, was returning a victor from the battle with the spoils of war. King Melchizedek met him on the way, and Abraham gave him, in his office of priest of God, “tithes of all.” It is a disputed point whether Abraham meant a tithe of all his property or of all spoils of war which he had with him.

The next instance we find is the vision of Jacob’s ladder. He vowed to God “Of all that Thou shalt give me I will surely give the tenth unto Thee” (Gen. xxviii. 22). It is laid down in the Mosaic law, “And thou shalt surely tithe all the *increase* of thy seed, that the field brought forth year by year” (Deut. xiv. 22). It is important to note the word “increase” in this passage, which in our law courts had often decided disputed cases, whether certain things were tithable or not. For instance, Were all herbs tithable? Only those which man eats. In Leviticus xxvii. 30-32, “All the tithe of the land, whether of the seed of the land, or of the fruit of the tree, is the Lord’s: and the tithe of the herd, or of the flock, even of whatsoever passeth under the rod, the tenth shall be holy unto the Lord.” It was the custom for a person to be at the

sheep-cot with a coloured rod, and as the sheep came out one by one, every tenth was marked with this rod; and that is what is meant by “passing under the rod.”

The priests at Jerusalem received the first fruits and heave offerings, but not the tithes. The heave offerings were the one-sixtieth of the gross produce. But the tithes were devoted to the whole tribe of Levi at Jerusalem, and they gave the tithe of their tithes to the priests—that is, one-hundredth part. It was from this custom, and in order to support the Crusades, that the popes of Rome exacted, early in the fourteenth century, the first fruits and the tithe of the tithes from the hierarchy and beneficed clergy, who were under their spiritual jurisdiction. And when King Henry the Eighth displaced the pope and assumed the supreme authority in the Church, he also exacted the first fruits and tenths. Queen Anne, by an Act passed in 1704, gave the first fruits and tenths back to the Church for the special purpose of augmenting poor livings.

After the destruction of the second temple and the dispersion of the Jews, the payment of tithes among the Jews ceased, because they thought that Jerusalem alone was the place where tithes ought to be paid, and also because it became impossible to trace out the tribe and priesthood to whom alone they were to be paid. It is a question whether the Jews who were converted to Christianity before the destruction of the second temple had paid tithes to the Levites.

The heathen nations seem to have copied and adopted the Jewish custom of paying tithes. We read of the Greeks having paid tithes of the spoils of war to Apollo, and of the Romans to Hercules. But,

properly speaking, they were not the sort of tithes mentioned in the Mosaic Law. They were only arbitrary vows and offerings; but no conclusion can be drawn that they were tithes because tenths were given. Sometimes the heathen offered more and sometimes less than one-tenth.

Some ardent supporters of the payment of tithes make themselves ridiculous in tracing their origin to Adam. They state that Adam paid tithes. Here is their story as stated by Selden: “God charged Adam when there was but one man in the world that he should give Him the tenth part of everything, and to teach his children to do the same; but as there was no man to receive it for Holy Church, God commanded that the tenth part of everything should be burned. In the offerings of Cain and Abel, Abel tithed truly of the best, but Cain tithed falsely of the worst. Cain killed Abel because he said he tithed evil. So people must see that false tithing was the cause of the first murder, and it was the cause that God cursed the earth.”[3]

It is very wrong that Scriptural passages, such as that given above, should be distorted in order to induce people to pay tithes to “Holy Church.”

CHAPTER II.
FROM THE CHRISTIAN ERA TO THE COUNCIL OF MASÇON.

In Apostolical times the Christian ministers were supported by voluntary contributions out of a common fund, and this practice prevailed for four hundred years.[4] Those who preached the Gospel lived by the Gospel, but this Scriptural statement did not mean, as some assert, that they were to live on the payment of tithes, otherwise it would have been stated. St. Paul ordered weekly collections to be made for the saints in the Churches of Galatia and Corinth (1 Cor. xvi. 1, 2). The voluntary contributions of the faithful were collected and put into a common treasure (Acts ii. 44; iv. 34). The liberality of the Christians then far exceeded anything which could have been collected from tithes. And even if tithes had been exacted, it is exceedingly doubtful whether the progress of Christianity would not have been materially checked at its outset.

The Jewish Law, as regards the payment of tithes, was not binding on Christians, no more than the custom of bigamy and polygamy adopted by the Israelites is binding on the Christian Church. There is no injunction in the New Testament binding Christians to pay tithes to their ministers. And when the payment was first urged in the Christian Church, it was supported by references to the Mosaic Law and not to St. Paul's words, viz., "That those who

preach the Gospel should live of the Gospel." There was a growing habit of looking upon the clergy as the successors and representatives of the Levites under the Old Law, and this habit had given an impulse to that claim which they set up to the payment of tithes by the laity.[5]

The Apostolical Constitutions for the Christian Church, collected, as it is alleged, by Pope Clement I., the successor as is said of St. Peter, first bishop of Rome, were fabricated more than eight centuries after apostolical times. Cardinal Bellarmine is honest enough to ignore them. But they imposed on the credulous and were accepted without criticism as genuine, even by canonists, in the tenth and eleventh centuries. Selden thinks they were concocted about A.D. 1000; others think in 1042. In these Constitutions tithes are stated to have been paid by the Christians to the Apostles. Sir H. Spelman (p. 108) thinks the first thirty-five canons are very ancient. "Dionysius Exiguus," he says, "who lived within 400 years after the Apostles, translated them out of Greek."

The fifth canon ordained that first fruits and tithes should be sent to the house of the bishops and priests, and not to be offered upon the altar. The Greek word in the copy is not δεκασμούς. No solid argument for the payment of tithes can be founded on this canon, for if we take the custom of the Anglo-Saxon Churches at the end of the sixth century, which was in accordance with that in primitive times, we find no account for the payment of tithes. "There is no mention of tithes," says Lord Selborne, "in any part of the ancient canon law of the Roman Church, collected towards the end of the fifth century by Dionysius (called Exiguus or the Little), a

Scythian monk who collected 401 Oriental and African canons."[6]

The monks in their cells had sufficient leisure to concoct these Constitutions, and palm them on the credulous as the genuine production of the Apostles. The concocted Constitutions were copied and handed down from century to century without any attempt being made to test their genuineness and authenticity. It seems exceedingly strange that African divines and laymen should refer to the Apostolical Constitutions as an authority for the payment of tithes in apostolic times, although Cardinal Bellarmine, a great champion of "Holy Church," ignored them.[7]

Churchmen like Archdeacon Tillesley, many of whom are in the receipt of tithes or tithe-rent charges, will naturally act like drowning men, and snatch even at passing straws to save the tithes. Could anything, for example, be more childish and absurd than the story of tracing the payment of tithes to Adam? And what makes the case worse is to distort Scripture so as to deceive the people who could neither read nor write, and even those who could read had no open Bible to consult to see for themselves whether these things were so.

Members of the Anglican Church forget when using such weapons as the "Constitutions" in support of tithes, that the very cause of the English Reformation in the sixteenth century was the adoption into the English Church of the traditions and errors of the Church of Rome, which were said to have been handed down by the Apostles in the so-called Apostolical Constitutions, although many of them can be shown to be contrary to the Scriptures. Archdeacon Tillesley does not defend the whole

volume of the so-called Constitutions of Clement I., but he does that part which deals with the payment of tithes. He evidently had forgotten the mechanical axiom, that nothing is stronger than its weakest part. “Because the early Christians,” he says, “were liberal to the Church, therefore it was reasonable that tithes in the ‘Constitutional Apostolical’ were true.” Nothing of the sort, because it does not follow as a logical sequence.

After apostolical times, monthly offerings and oblations, we are informed, were made in all the churches, and were used for three purposes. (1) In maintaining the clergy; (2) in supporting the sick and needy; and (3) in repairing the church fabric. These monthly contributions were in the third century augmented by grants of lands, which were annexed to churches, the revenues derived from which were appropriated to the same three purposes. In A.D. 322 Constantine, the first Christian emperor, published an edict which gave full liberty to his subjects to bestow as large a proportion of their property to the clergy as they should think proper. From all these sources of revenue the Christian Church was rapidly increasing in wealth. But for more than four hundred years after the Christian era there was no authoritative Church canon made for the payment of tithes; and then such canon was founded upon the Mosaic Law. The question then is, are Christians justified in adopting the Mosaic Law for the payment of tithes? This law had no force outside Jewish territory. There is no order in the New Testament for their payment. Among the Jews we fail to find such anomalies, rather scandals and misappropriations, in respect to the distribution of tithes, as are found in England and Wales. The gross amount of tithe-rent charge is slightly over four millions per annum. Add

to this the extraordinary rent charges on hops, the corn rents and extensive lands awarded in lieu of tithes by the large number of Inclosure Acts. Among the Jews we find no record of lay impropriators, schools, colleges, charities and hospitals receiving tithes. Granted, for argument's sake, that the Christian priesthood as succeeding the Mosaic priesthood, claimed the tithes according to the Mosaic Law, then it is a misappropriation of tithes to give them to those outside the priesthood, and who perform no spiritual functions. We must therefore go back to very early times, to the history of tithes in the Christian Church, for the beginning of the scandalous misappropriations of tithe endowment for spiritual purposes. In England the scandal commenced after the Norman Conquest with the Norman monks who were in English monasteries.

About one-fourth of the whole tithe rent charge is appropriated or rather misappropriated to lay purposes by laymen, many of whom are quite unconnected with the religious duties of those parishes from which the tithes arise. Then, again, we have a large extent of land—formerly monastic—which is tithe free. There are also lands in the vicinity of large cities and towns built upon, for which the landlords receive enormous ground rents, and when the leases expire they take possession of the house property. But they pay nothing to the Church for the increased value of their land, which may be one hundred times the yearly value per acre before it was built upon.

In the Christian Church tithes were *at first* given by the faithful as spontaneous offerings, at the urgent solicitations of the clergy. "Nam nemo compellitur," says Tertullian, "sed sponte confert." These

spontaneous tithe free-will offerings were not given in cash but in kind. Some gave a tithe of sheep, others of wool, or of corn, etc., just according to the free-will of the donor. This was the germ of tithes in the Christian Church, which commenced in the fourth century, and were ordered to be paid by canon law about the beginning of the fifth century. These canons were framed and passed by ecclesiastics. The people who paid had no voice in the matter. The canons which were framed afterwards had ordered them to be paid as a right, as a divine law of the Old Testament, and were not to be considered as free-will offerings. Here is just that specimen of arbitrary conduct on the part of the ecclesiastics which would only be tolerated in the dark and middle ages. Tithes were too profitable a source of revenue to be ignored in the Christian Church. A book entitled, "The Englishman's Brief on behalf of his National Church," has been published by the Society for the Promotion of Christian Knowledge. A good cause needs no fiction to bolster it up. In that book there is quite twice as much fiction as fact. The extensive circulation of this mixture has embarrassed many in gaining a correct knowledge of the tithe question from the earliest period to the present time. It is written in the style adopted by special pleaders. It gives a one-sided account of the subject. It asks questions and then furnishes the answers. The answers are most misleading and also erroneous, and it carefully omits a great deal which could be said on the other side. I strongly object to this way in dealing with so important a subject as the history of tithes in this country. To be appreciated, the "Brief" should be impartial, which it is not. It is not my object to review the book here *seriatim*, and to point out what

is fiction and what is fact. In my statements a good deal of the fiction is refuted indirectly without reference to the "Brief." But I may just indicate one remarkable feat of fiction which appears in it. When the Christian religion was first propagated, the writer of the "Brief" would have us to believe that the converted Jews transferred the payment of their tithes from the Jewish to the Christian ministers, just as easily and as quietly as one could transfer the payment of a cheque from one bank to another. Here is the statement, "So that when the Jews and heathen became Christian, throwing off their old religion and adopting the new religion of Christianity, they never dreamt of being less liberal to that form of religion which they loved the more and had adopted, than they had been towards that which they had loved the less and had discarded. Hence the transfer of tithes from the old religion to the new religion."[8] We are not informed upon what authority this statement is made. There is nothing about it in Josephus. There is no order in the New Testament for the payment of tithes. No order of a general or provincial council. We read nothing of this in the writings of the first and second centuries. We read of exhortations to pay tithes in the writings of the third and fourth centuries. We read of canons having been made for their payment in the fifth century. But I have failed to find any evidence to support the statement quoted above from the "Brief."

The Provincial Council of French bishops, held at Masçon in A.D. 586, is commonly considered to have been *the earliest council* which ordained the payment of tithes. It ordained, "Ut decimas ecclesiasticas omnis populus inferat, quibus sacerdotes aut in pauperum usum, aut in captivorum redemptionem erogatis, suis orationibus pacem populo ac salutem

impetrent." Isidore, in his compilation of decrees of councils, makes no reference to this council. Friar Crab is the first to have mentioned it in his edition of the councils under Charles V.

Lord Selborne considers the canon of this council as spurious, because it proves too much, for it wanted to prove that the Mosaic Law, as regards the payments of tithes, was regarded in A.D. 586 not only as binding from the first upon Christians, but also as having been for centuries universally observed. This was going too far, in his lordship's opinion, and therefore he stamped it as spurious. Selden was the first to throw considerable doubt upon the genuineness of this canon at the Council at Masçon.[9] The mistake originated in calling the offerings and oblations tithes. The same mistake is repeated by writers at the present time. For instance, Dr. J. S. Brewer, in his "Endowments and Establishment of the Church of England," 2nd Edition, 1885, translates "portiones" (quoted from Bede), *tithes*. Pope Gregory says in his reply to Archbishop Augustine's question, "Communi autem vita viventibus jam de faciendis *portionibus*, vel exhibenda hospitalite et adimplenda misericordia, nobis quid erit loquendum." "But as for those who live in common, why should we say anything now of making *portions*?" etc. Brewer translates the passage thus, "As for those who are living in common, I need give no advice about dividing *tithes*," etc. Now, the Latin word for tithe is decima, and is so used in all the monastic charters. The same writer states, and he is followed by writers of leaflets for the Church Defence Institution, that the scriptural precept, "To live of the Gospel" (1 Cor. ix. 14), refers to the payment of tithes. I am certain that St. Paul never intended anything of the sort. I fully admit that the

passage may cover a tithe free-will offering, as it would any other free-will offering, but I cannot admit that it implies a compulsory payment of tithes, that is, to carry it to its logical sequence, a distraint on the goods of a person who is unable or unwilling to pay tithe. Such compulsion would be contrary to the spirit of the Gospel of Christ.

I hold strongly to the view that free-will offerings are the only scriptural mode for the maintenance of the Christian ministry, and these are the same kind of offerings to which Pope Gregory referred in his answers to Augustine's questions.

The instances are many in which words of old authors and passages of Scripture are not only strained but intentionally distorted, in order to show the early origin of tithes. There is nothing gained, but much confidence lost, in this critical age by distorting the meaning of, or giving a forced interpretation to, plain words of Scripture, or of secular and religious writers.

The Christian religion had been introduced into Britain at a very early date, and from Britain it passed over to Ireland. Ireland was specially remarkable for her evangelical missionary monks, who visited Scotland, England, and the Continent, for the purpose of converting the heathen. Its geographical position favoured a quiet, retired and contemplative life. Britain served as a *buffer* for many centuries against the piratical devastations of the northern hordes. The inhabitants of Ireland were therefore left in quiet and undisturbed possession of their lands, churches, and monasteries at a time when the inhabitants of Britain were driven from the east and south to the west of the island; their lands were taken from them, their churches and

monasteries were pillaged, and then burnt down by the invaders.

CHAPTER III.
THE ROMAN MISSION TO ENGLAND.

In A.D. 596 Pope Gregory, commonly called Gregory the Great, selected Augustine, prior of St. Gregory's monastery in Rome, to conduct in the same year a mission to Britain in order to convert the people to Christianity. The journey to Britain was then considered a hazardous undertaking, being thought in so remote a part of the world. Even this band of Christian pioneers became disheartened on their journey. Augustine, much discouraged, left his companions in France and returned to Rome, but Gregory sent him back, urging him and them to valiantly carry out their mission.

In 597 Augustine and forty companions landed in the Isle of Thanet. Ethelbert, a noble-hearted, liberal-minded and intelligent heathen, was then King of Kent; but his wife, Bertha, daughter of Charibert, King of Paris, was a Christian. Augustine announced his arrival to the king, and the object of his mission. The king repaired to Thanet and granted an interview to Augustine and his companions. He was much impressed with their external ceremonies, and permitted them to reside in Canterbury, the metropolis of his kingdom. He presented his palace in Canterbury to Augustine as a residence for himself and his successors. On the 2nd of June in the same year the king publicly declared himself a Christian and was baptized. On the 17th November, 597, Augustine went to France and was consecrated archbishop by the Archbishop of Arles, and returned

to England in 598.

There were at that time in the island some British Churches, bishops and clergy, but no divisions of parishes, no parish churches, no connection with the Roman Church, and indubitably no tithes whatever were paid. We are therefore on solid ground in asserting that during the first six hundred years of the Christian era there is no genuine record of tithes in any shape or form having been paid or given to the clergy of this island.

The Roman Mission subsequently produced mighty changes in the Church of England through this initial connection. In the several letters which the popes addressed to the kings and archbishops of England in subsequent centuries, constant references are made to Augustine's mission; and the popes refer to this event as the source of their supreme authority over the Church of England.

King Ethelbert's laws which were passed between 596 and 605, recognise Christianity and the Christian priesthood. Bede informs us that they were enacted by the advice of his Witan.[10]

Article 1. "The property of God and the Church [when stolen, a fine of] twelve-fold; a bishop's property, eleven-fold; a priest's property, nine-fold; a deacon's property, six-fold, etc."[11] The title runs thus, "These are the dooms which King Ethelbert established in the days of Augustine." The Laws of Ethelbert and other Kentish kings are taken by Mr. Thorpe from the *Textus Roffensis*, in possession of the Dean and Chapter of Rochester, and is the only ancient manuscript in which they are found. The manuscript is of the twelfth century.

"We shall hardly," says Mr. Kemble, "be saying too

much if we affirm that the introduction of Christianity was at least ratified by a solemn act of the Witan."[12]

In 601 Augustine received his pall from Rome, died on the 26th of May, 605, and was buried in St. Augustine's Abbey, near the high altar. He was not of the Benedictine order of monks, but followed the order of Pope Gregory in the cloister which he had founded in Canterbury.[13] In 602 he laid the foundation of his cathedral church in Canterbury. In 604 he ordained Mellitus, one of his companions, bishop of London; and Justus, another companion, bishop of Rochester. King Ethelbert granted them London and Rochester respectively as their episcopal sees.[14] These bishops and their clergy were then but missionaries among the heathen Saxons in the country, and being monks, had lived together close to their cathedral churches, from which they proceeded as itinerant preachers to the neighbouring localities. The bishop's church was at first the only one in his diocese, hence it was called *mater ecclesia*. Subsequently it was called the *Cathedral Church*, because the bishop's cathedra, sedes, stool or chair was in the choir and on the same level with the seats of other members of the choir. But now there are only two cathedral churches in England in which the bishop's seat or *throne* is in the choir, and that in a raised position. In all the other cathedrals, the *throne* is placed outside the choir in a conspicuous part of the church.

The bishop's circuit or diocese was the parish. It will hereafter be shown that the origin of parishes was erroneously traced back to the episcopal division of dioceses, when "parish" and "diocese" were synonymous.

The bishop was originally both bishop and rector of the parish or diocese, and the episcopi clerici were his curates.

Augustine, Mellitus, and Justus, and their respective clergy were supported by the offerings and oblations of their flocks, which were brought to the bishop's house, and put into a common fund, which was disposed of by the bishop himself. Canon law gave the bishop the right over all these collections.

Augustine asked Pope Gregory, "Into how many portions ought the oblations given by the faithful to the altar to be divided?" "De his quæ fidelium oblationibus accedunt altari, quantæ debeant fieri portiones?" He answered, "That all emoluments which accrue ought to be divided into four portions, namely, one for the bishop and his family, because of hospitality and entertainments; another for the clergy; a third for the poor; and the fourth for the repair of churches." "Ut in omni stipendio, quod accedit, quatuor debeant fieri portiones; una, videlicet, episcopo et familiæ propter hospitalitatem atque susceptionem, alia clero, tertia pauperibus, quarta ecclesiis reparandis."

The pope added, "But because your brotherhood has been brought up under monastic rules, you ought not to live apart from your clergy in the English Church, which, by God's assistance, has been lately brought to the faith; you ought to follow that course of life which our forefathers did in the time of the primitive Church, when none of them said anything that he possessed was his own, but all things were in common among them." "Sed quia tua fraternitas monasterii regulis erudita, seorsum fieri non debet a clericis suis in ecclesia Anglorum, quæ, auctore Deo nuper adhuc ad fidem adducta est, hanc debet

conversationem instituere, quæ initio nascentis ecclesiæ fuit patribus nostris; in quibus nullus eorum ex his, quæ possidebant, aliquid suum esse dicebat, sed erant eis omnia communia."

He further adds, "But as for those who live in common, why need we say anything of making portions?" "Communi autem vita viventibus jam de faciendis portionibus, nobis quid erit loquendum."[15]

This last passage is thus translated by Mr. Brewer and endorsed by the new editor, Mr. Lewis T. Dibdin, a barrister: "For those who are living in common (*i.e.* the monks) I need give no advice about dividing tithes or offerings among them."[16] It is not only misleading, but bad scholarship to translate "portiones" by "tithes." *Decimæ* is always the word used in Latin for tithes.

The quadripartite division of Church funds mentioned here by the Pope existed in Italy and France. In Spain and other countries the tripartite division was the custom.

Pope Sylvester, early in the fourth century, decreed, it is said, but with which I do not agree, that the revenues of the Church should be divided into four parts. One part should be assigned to the bishop for his maintenance; another part to the priests and deacons and the clergy in general; the third part to the reparation of the churches; and the fourth part to the poor, and to the sick and strangers. [17] Pope Simplicius, in the fifth century, mentions the fourfold division of the Church funds in his third epistle. Pope Gelasius (A.D. 501), in his ninth epistle, renews the regulation of Simplicius, and orders the bishops to divide their diocesan revenues into four

portions and distribute them as above indicated. This was before the establishment of tithes.

Augustine, being a monk, could have no separate share of his own, and the probability is that all the offerings were divided into three but not necessarily equal parts. One part was for the maintenance and clothing of the bishop and his clergy; a portion was given to the poor and strangers, and a portion went towards the repairs of the church and erecting oratories and schools.

Blackstone states that “At the first establishment of parochial clergy, the tithes of the parish were distributed in a fourfold division: one for the use of the bishop; another for maintaining the fabric of the church; a third for the poor, and the fourth to provide for the incumbent. When the sees of the bishops became otherwise amply endowed, they were prohibited from demanding their usual share of these tithes, and the division was into three parts only.”[18]

Wharton, in his “Defence of Pluralities,” refers to the fourfold and then to the tripartite divisions in England.[19]

The rules and vows of the monks prevented them from being scattered over the diocese. They lived together in common and within their monastery. Their chief functions were to instruct the converts, who, when duly prepared, were sent forth by the bishop as ordained itinerant ministers to convert their countrymen in the distant parts of the diocese where there were no churches but crosses erected at convenient spots, and around these crosses the people assembled to hear the word of God, to have their children baptized, and to partake of the Sacrament of the Lord’s Supper. Collections were

always made on such occasions, which the preachers brought and deposited at the bishop's house for the common fund. When the itinerant preachers saw people eager and zealous in their religious duties, they reported the same to the bishop, who caused to be built for them out of the common fund some wooden chapels, which served as chapels of ease to the mother-church. In some cases the bishop had a wooden house constructed close to the chapel, where a priest could permanently reside.

It is very improbable that Augustine preached or solicited the payment of tithes. It is stated in the alleged laws of Edward the Confessor, that "Augustine preached the payment of tithes, which were granted by the king (Ethelbert), and confirmed by the barons and people, but afterwards, by the instigation of the devil, many detained them; and those priests who were rich were not very careful in getting them," etc.[20]

These so-called laws are pure fabrications. Thorpe takes his text from a Harleian manuscript written about the beginning of the 14th century. Internal evidence condemns their genuineness, for in law xi. there is a reference to the Church having been exempted from paying Danegeld, and adds, "This liberty had been preserved by Holy Church even to the time of William the Younger, called Rufus, who sought aid from the barons of England in order to keep Normandy from his brother Robert when he went to Jerusalem; and they granted him four shillings from every ploughland, not excepting Holy Church," etc.[21]

The Rev. Morris Fuller, rector of Ryburgh, states, without the slightest authority, "May it not have a reference to the time of Ethelbert, who began to

reign in Kent A.D. 566, *when tithes were by law paid to the clergy*, and the time of Ina, King of Wessex, who began to reign A.D. 688, *when there was a law by which they were then paid*."[22] There is not one word about tithes in the laws of Ethelbert and Ina. John Pulman, a barrister, ventilated exactly the same opinions in 1864 in his "Anti-State Church Association Unmasked." Fuller copied the erroneous views of Pulman.

CHAPTER IV.

THE FIRST DOCUMENTARY STATEMENT OF TITHES IN ENGLAND.

The first genuine statement of the payment of tithes in England appears in the second book of Archbishop Theodore's (668-690) "Penitential." It was not composed by Theodore himself, but was drawn up under his direction and published with his authority. They are answers given by him to questions asked him on the subject of penance. It is edited by a "Discipulus Umbrensium," or a Disciple of the Umbrians, for the benefit of the English. There is no doubt that this Penitential is genuine. Bishop Stubbs, Mr. Haddan and Professor Wasserschleben accept it as such.[23]

The following three notices of tithes appear in the "Penitential":

1. "Presbitero decimas dare non cogitur." The priest is not compelled to pay tithes.[24]

2. "Tributum ecclesiæ sit, sicut consuetudo provinciæ, id est, ne tantum pauperes inde in decimis aut in aliquibus rebus vim patiantur." Let the offering to the church be according to the custom of the province; that is, that no force should be put upon the poor as to tithes or anything else.[25]

3. "Decimas non est legitimum dare nisi pauperibus et peregrinis, sivi laici suas ad ecclesias." It is not lawful to give tithes except to the poor and strangers, or laymen to their own churches.[26] This

is a prohibition to the clergy against giving the laity presents out of the tithes.

"These articles," says Lord Selborne, "put the payment of tithes on the footing of custom, depending for its observance upon episcopal or clerical influence, rather than ecclesiastical censures,"[27] the anathemas subsequently hurled against all who dared to keep them back from Holy Church.

Theodore's "Penitential" was not a code of laws, but its contents are very important as reflecting the custom and practice existing with regard to tithes in that early age of the Anglo-Saxon Church.

The silence of Bede on Theodore's "Penitential" is brought forward as evidence against it. But Haddan and Stubbs show conclusively that "Bede either did not know the book, or did not consider Theodore as the immediate author."[28]

Bishop Stubbs makes a vital remark on (3). "Tithes are mentioned," he says, "by Theodore in the genuine 'Penitential,' in a way that proves the duty of making the payment, *but not the right of the clergy to the sole use of them*."[29]

Theodore encouraged landowners to build churches on their estates by permitting them to have the appointment of the priests who were to officiate in them.

It is remarkable that Bede, in his ecclesiastical history, mentions the word "decima" only once. It appears in bk. iv. c. 29. Writing of Bishop Eadbert, the successor of Bishop Cuthbert at Lindisfarne, he says, "So that according to the law, he gave every year the tenth part, not only of four-footed beasts, but also of all corn and fruit, as also of garments *to*

the poor." [Ita ut juxta legem, omnibus annis *decimam*, non solum quadrupedum, verum etiam frugum omnium atque pomorum, necnon et vestimentorum partem, *pauperibus* daret]. The law referred to here was the Mosaic or Divine law. Eadbert was made bishop A.D. 688, two years before Theodore died. He gave the tenth part *to the poor*. Bede's history comes down to A.D. 734, and yet this is the only instance in which tithe is mentioned in his writings, and then it was given to the poor—strong evidence as to the common law right of the poor to a share of the tithe.

Dr. Lingard quotes another passage from Bede, which he says appears to him to allude to tithes, viz., "That there was not a village in the remotest parts of Northumbria which could escape the payment of TRIBUTE to the bishop."[30] If Bede alluded to tithes, he would have written *decimæ* and not *tributa*. *Tributum* is from *tribuo*, which is allied to *tribus*, *i.e.*, *pars*, and so *tribus* = to divide into parts. Hence *tributa* = parts or portions. Bede also uses the word "portiones" to express the same idea without any reference whatever to tithes. Theodore, in his "Penitential," uses the two words, *tributum* and *decimæ* in the same passage with separate meanings. *Tributum*—a tax, contribution, tribute, collection, subscription.[31]

Before leaving Theodore's genuine "Penitential," I must refer to the second revised edition of Mr. J. S. Brewer's "Endowments and Establishment of the Church of England," by Chancellor Lewis T. Dibdin, published in 1885. In his preface, the new editor "gratefully acknowledges the valuable aid he received from Dr. Wace and the Bishop of Chester (Dr. Stubbs, now Bishop of Oxford) through more

than one difficulty on endowments as to which he was in doubt."[32]

"With regard," he says, "to tripartition of tithes, the documents quoted in support of it are (as far as I am aware) a spurious passage in the 'Penitential' of archbishop Theodore; see Stubbs' 'Councils,' iii. 173, n. 203."[33] In referring to the volume quoted here, I find that the writers say nothing about this spurious passage, but at p. 203, Haddan and Stubbs give the three passages in Theodore's "Penitential," which "Penitential" *they state is genuine*, and to which I referred in a previous page. Then Mr. Dibdin adds, "An alleged law of Ethelred, 1013." Where did he get 1013? He refers to Wilkins's "Anglo-Saxon Laws," p. 106, but Wilkins gives it as a genuine law of Ethelred enacted in 1014. The fact that he did not transfer this law to his "Concilia" is undoubtedly no argument against its genuineness as a law. I refer for additional information on the law of 1014 to another part of this book, where the Church-Grith law of Ethelred is fully discussed.

"I will not put," says Blackstone, "the title of the clergy to tithes upon any Divine right, though such a right certainly commenced, and I believe as certainly ceased, with the Jewish theocracy. Yet an honourable and competent maintenance for the ministers of the gospel is undoubtedly *jure divino*; whatever the particular mode of that maintenance may be."[34] I quite agree with these remarks. But as Mr. Serjeant Stephens, in his Commentaries, says, "The institution of tithes in its specific form is *odious* to the people and unsatisfactory to the political economists."[35]

Landowners' Churches.

The nobility and landed gentry were not slow in fully appreciating the advantages of resident over itinerant priests. Some of the princes, in changing from place to place, selected certain of the clergy to accompany them for the performance of divine service for their families. The Thanes followed their example and appointed chaplains, for they felt the great inconvenience, especially in winter, in attending services at the mother-church, which might have been at a very considerable distance from their residences. The villagers were even in a worse condition. To remedy these inconveniences, the landowners commenced slowly to erect churches on their estates about A.D. 686, but more actively about A.D. 700. The limits of these were conterminous with the extent of their properties. Hence we find some of the old parishes of very unequal extent. It is impossible to state exactly, in the absence of documentary evidence, the origin of the modern parish churches and much less their endowments. “At the original endowment,” Blackstone says, “of parish churches, the freehold of the church, the churchyard, the parsonage house, the glebe, and the tithes of the parish were vested in the then parson by the bounty of the donor.” Blackstone states here the parson’s common law right to the tithes, but after he receives them the same common law right obliges him to share them according to the usage and canons of the Church. The bishop was originally the recipient and distributor of all Church revenues. The parochial incumbents had taken his place and were bound to distribute them according to the original custom. It would never suit for the poor to collect their own share of the tithes. As Bishop Kennett says, *the parish priest was the bank*.

The manorial church was certainly the germ of the

modern parish church. And we can trace this germ back to A.D. 686. From that time to Edgar's reign the germ rapidly expanded, and the country became dotted all over with manorial or landowners' churches, when Edgar passed his celebrated law which gave these with burial grounds a legal right to one-third part of the tithes of the estate. This Act upsets Blackstone's statement, that the incumbent received all the tithes of the parish. It is true what Mr. Freeman says about the opinion of lawyers. "As for modern writers," he says, "on the subject of the division of tithes, it is utterly useless to go to the opinion of mere lawyers, Blackstone or any other, as giving any help to either side. We may safely go to them to learn what is the law in force at the present moment; *for historical purposes they are worse than useless*."[36] I endorse every word he says. Mr. Fuller did not take this advice, but quotes Blackstone as above. Lawyers are no better informed on this point than other men. When Blackstone wrote his Commentaries, he gave us what was then the accepted law, that the parson had a right to the tithes, and hence he is quoted as the best authority on this point. But he omitted to state that although the parson is *the general collector*, is THE BANK, by common law right, yet as trustee he is only entitled to a share of church funds, and the poor and the church building have also a common law right to a share of what the parson received. Edgar's law, which was re-enacted by Canute, gave the manorial priest but one-third. When, then, did he get the whole? This is answered further on.

Bede gives an account as early as A.D. 686 of the erection of churches by landowners on their own private estates. "Not very far," he says, "from our monastery, about two miles off, was the country

house of one Puch, an earl. It happened that the man of God [Bishop John of Beverley] was at that time invited thither by the Earl to consecrate a church"[37] [at South Burton, Yorkshire].

"At another time also [A.D. 686] he [Bishop John] was called to consecrate the church of Earl Addi."[38] These landed proprietors, who also had the advowsons, made a provision for the priests of their churches by erecting residential houses and attaching to the churches some glebe lands, from five acres to a hide and more. Add to the glebe the daily oblations. To the land and oblations were added in course of time one-third of the tithe of the produce of the manorial lands. Is it reasonable that a single man should have for his *own personal use all the tithes* of the estate, together with the glebe lands and oblations? No. Originally he had none of the tithes, all of which went to the mother or parish church. Edgar's law, giving him one-third, was re-enacted by Ethelred in 1014, and again re-enacted by Canute, and the one-third of the tithes to the manorial church is to be seen in the Domesday Survey of 1086. The mother or monastic church discharged the poor man's common-law right to a share in the tithes. His common-law right to a share not only in tithes but in oblations also, was as well established as that of the parson's. But the parson in course of time became the recipient of all the tithes in a manner which I shall hereafter explain, and was obliged by the canons and custom of the church to distribute a portion to the poor and to repair the church and defray other church expenses out of the tithes and oblations after having allowed himself his own share.

As Christianity advanced in England the

foundations of private oratories became very numerous, for almost every great man, as soon as he was converted to the Christian religion, built an oratory for the convenience of his family, tenants, and dependents. The bishops had prudently encouraged laymen to build such churches on their estates, and allowed them to have the advowsons. Residences for the incumbents were built close to the churches, and the landowners endowed them with lands varying in extent from five acres to over a hide as I have stated before. In course of time, they endowed them with the one-third of the tithes of their estates, transferring the remaining two-thirds to the monastic or conventual church, which was the mother-church of the entire parish. In these churches all seats were free. Pew-rents were then unknown. The church built by a layman had to be consecrated by the bishop, but the lay owner had the advowson or nomination of the incumbent. This was the origin of lay patronage in the Church of England. The church so built belonged to the manor or estate. When in course of time the property was sold or otherwise disposed of, the church and advowson went with the property. In the change of ownerships, the rectory and advowson were often separated from the manor, and were at first appropriated by the owner to bishops, chapters, or monasteries. At the Reformation, churches and advowsons, which became the property of the Crown, were granted to laymen, and were also granted to archbishops, bishops and chapters. The Crown separated in some cases the advowson from the great tithes, and sold or granted both to the same or different parties. Therefore we find two owners instead of one. The original patron never anticipated this change. An advowson or a rectory may be and is possessed in

shares or turns by several owners. They are strictly treated as property and are dealt with accordingly. The sales of advowsons are carried on at public auctions and by private agents, and are given to the highest bidder. The public sale-room is now less resorted to, owing to the scandal thus created. But the sales are still vigorously pushed on *privately* by family solicitors and professional agents. A living, for example, is worth, say, £800 a year from glebe and tithe-rent charge; the incumbent is old, and the owner of the advowson is desirous of finding a purchaser of next nomination after the death or resignation of present incumbent. A life-interest only is thus purchased. There are other cases in which the advowson is completely sold. The parishioners have no voice in the matter.

As regards the payment of tithes, I shall show that for many years the English bishops and their clergy had threatened and cajoled the simple-minded Anglo-Saxons into the belief that the Church had the right to impose the Levitical obligations upon them. We have only to read the miraculous legends recorded by Bede and others to find out the means by which the clergy had imposed upon the credulity of those simple-minded people. It was by deceit, trickery, hypocrisy, and sham miracles that the Anglo-Saxon bishops and their clergy had obtained tithes, first as free-will offerings, then by legislative enactments, which made these free-will offerings compulsory.

The Confessional.

The Confessional was a powerful instrument in the hands of the clergy by which they obtained the payment of tithes. During the archiepiscopate of

Theodore (668-690) auricular confession began to take the place of public discipline. Theodore's "Penitentiary," which was published with his authority, directed confessors how to conduct themselves in hearing confessions and how to enjoin penance. Confession to the priest was made necessary, not in order to obtain his absolution, but to be informed what sort of penance was required for every offence, and for the several degrees and circumstances of it. The most difficult part of the priest's office was to proportion the private penance to the crime, and Theodore's "Penitentiary" was looked upon as the best rule in this particular.[39] It is remarkable that the earliest mention of tithes in England is found in Theodore's "Penitentiary."

CHAPTER V.
WORKS ATTRIBUTED TO EGBERT, ARCHBISHOP OF YORK (734-766).

Briefly stated, they are—

(1) The "Penitential," a document of the tenth century.[40] There are four books prefaced with twenty-one canons. The first book only is Egbert's.

(2) The "Confessional and Penitential." The fourth book only of the "Penitential" is Egbert's. And as regards the "Confessional," he *may* have translated it.

(3) The Excerptions. Mr. Thorpe takes these from Cott.: Nero, A. 1. They are in Latin, numbering 163. The first twenty-one are ninth century canons. There is another different compilation of excerpts in Corpus Christi College, Cambridge, K. 2. The excerptions which appear in these two manuscripts are not Egbert's.[41]

Sir H. Spelman, Wilkins,[42] Johnson,[43] Bishop Kennett, Dr. Lingard,[44] Kemble, Thorpe,[45] and others believed that the Excerptions were written in the eighth century by the archbishop himself, and some of these writers have referred to them in support of the threefold division of tithes. But there is ample internal evidence in the canons themselves to condemn them as the genuine production of Egbert, or that they could have been written during his archiepiscopate.

If any one should take the trouble or be obliged to refer to Dr. Lingard's History and Antiquities of the

Anglo-Saxon Church, published in two volumes in 1845, he will observe the numerous references which this Roman Catholic historian makes to Egbert's Excerptions and Penitentials, but which are now condemned as spurious. This is a serious matter for his Church, because he mainly supports many important acts of discipline in the Anglo-Saxon Church by such references. But when the references are condemned as spurious, all his arguments founded upon them fall of course to the ground.

Mr. Haddan and Bishop Stubbs say that the excerptions are not Egbert's. What does Mr. Selden say? "An antient collection of divers canons written about the time of Henry the First, with this inscription of equal age, 'Incipiunt excerptiones Domini Egberti Archiepiscopi Eburace Civitatis, de jure sacerdotali' [= Here begin the excerptions of the Lord Egbert, archbishop of the city of York, concerning the duty of priests], hath these words, 'Ut unusquisque sacerdos cunctos sibi pertinentes erudiat, ut sciant qualitèr decimas totius facultatis ecclesiis divinis debitè offerant.' [That every priest teach all that belong to him to know how they are to offer the tithes of all their substance in a due manner to the churches of God.] And immediately follows, 'Ut ipsi sacerdotes à populis suscipiant decimas, et nomina eorum, quicunque dederint, scripta habeant, et secundum authoritatem canonicam coram testibus dividant, et ad ornamentum ecclesiæ primam eligant partem, secundam autem ad usum pauperum atque perigrinorum per eorum manus misericorditèr cum omni humilitate dispensent; tertiam verò sibimet ipsis sacerdotes reservent?" [That the priests themselves receive the tithes of the people, and write down their names and what they have given, and divide it according to canonical authority in the

presence of witnesses, and choose the first part for the ornament of the church, and distribute the second part with their own hands tenderly and with all humility for the use of the poor and strangers; and let the priests reserve the third part for themselves.][46]

"If the credit of this," continues Selden, "be valued by the inscription, then it is about 850 years old. For, that Egbert lived Archbishop of York from the year 743 (?) to 767 (?). But the authority of that title must undergo censure. Whoever made it, supposed that Egbert gathered that law and the rest joined with it out of some former church constitutions; neither doth the name 'Excerptions' denote otherwise. But in that collection some whole constitutions occur in the same syllables, as they are in the Capitularies of Charles the Great, as that of 'unicuique ecclesiæ unus mansque integer,' etc., and some others, which could not be known to Egbert, that died in the last year of Pipin, father to Charles. How came he then by that? And how may we believe that Egbert was the author of any part of those Excerptions? unless you excuse it with that use of the middle times which often inserted into one body and under one name laws of different ages. But admit that; yet, what is 'secundum canonicam autoritatem coram testibus dividant'? The ancientest 'canonica autoritas' for dividing tithes before witnesses is an old Imperial, attributed in some editions to the eleventh year of the reign of Charles the Great, being King of France; in others to the Emperor Lothar the First. But refer it to either of them, and it will be divers years later than Egbert's death. And other mixed passages there plainly show that whosesoever the collection was, much of it was taken out of the Imperial Capitularies, none of which were made in

Egbert's time."[47]

This is a reasonable and argumentative statement of facts. In addition to the above, I may refer to the seventh canon, "That all priests pray assiduously for the life and empire of our lord the emperor, and for the health of his sons and daughters." Again, canon 24 is found in Charlemagne's Capitulary of A.D. 813. Egbert died on the 19th November, 766,[48] and Charles became King of France in 768. These dates are very important in this controversy.

The first twenty-one canons are from the Audain manuscript in the monastery of St. Herbert in the Ardennes. Canons 22 to 28 inclusive are taken from other Gallican Capitulars. These twenty-eight canons were made between A.D. 789 and 816. The remaining 135 canons are taken from other foreign sources.

It is quite unnecessary to introduce into the discussion of the threefold division of tithes in England, doubtful canons, such as the "Excerptions" of Egbert and other writings copied from them. There are, without these, sufficient solid, genuine facts at our command with which to prove the threefold division of tithes in England, and these are stated further on.

CHAPTER VI.
THE FIRST PUBLIC LAY LAW FOR THE PAYMENT OF TITHES.

The first law making the payment of tithes legally imperative was enacted in 779 by Charles, King of France, in a general assembly of his estates, spiritual and temporal, viz., “Concerning tithes, it is ordained that every man give his tithe, and that they be distributed by the bishop’s command.” [De decimis, ut unusquisque suam decimam donet, atque per jussionem pontificis dispensentur.][49]

Charles’s civil law had only enforced by coercion the existing ecclesiastical law or custom of payment of tithes; and the ecclesiastical law was founded upon the Levitical law; but I hold that the Levitical law, as regards tithes, was not binding on Christians. In the New Testament there is no reference whatever to tithes to be given to the Christian priesthood. None of the apostles claimed tithes from their followers.

“The growing habit,” says Kemble, “of looking upon the clergy as the successors and representatives of the Levites under the old law may very likely have given the impulse to that claim which they set up to the payment of tithes by the laity.”[50]

The establishment of the right in England followed the same course as that in France.

It is important to give Milman’s observations on the working of the above law.

"On the whole body," he says, "of the clergy, Charlemagne bestowed the legal claim to tithes. Already, under the Merovingians, the clergy had given significant hints that the law of Leviticus was the perpetual law of God. Pepin had commanded the payment of tithes for the celebration of peculiar litanies during a period of famine. Charlemagne made it a law of the empire; he enacted it in its most strict and comprehensive form as *investing the clergy in a right to the tenth of the substance and of the labour alike of freemen and serf*."

"The collection of tithes was regulated by compulsory statutes; the clergy took note of all who paid or refused to pay; four or eight, or more, jurymen were summoned from each parish as witnesses for the claims disputed; the contumacious were three times summoned; if still obstinate, they were excluded from the Church; if they still refused to pay, they were fined over and above the whole tithe, six solidi; if further contumacious, the recusant's house was shut up; if he attempted to enter it, he was cast into prison to await the judgment of the next plea of the Crown. The tithe was due on all produce, even on animals. The tithe was usually divided into three portions, one for the maintenance of the Church, the second for the poor, the third for the clergy; the bishop sometimes claimed a fourth. He was the arbiter of the distribution; he assigned the necessary portion for the Church, and appointed that of the clergy. This tithe was by no means a spontaneous votive offering of the whole Christian people. *It was a tax imposed by imperial authority and enforced by imperial power.* It had caused one, if not more than one, sanguinary insurrection among the Saxons. It was submitted to in other parts of the empire, not without strong

reluctance. Even Alcuin ventured to suggest that if the apostles of Christ had demanded tithes, they would not have been so successful in the propagation of the Gospel."[51]

Papal Legates in England, A.D. 787.

For 190 years no papal legate appeared in England since Augustine landed on our shores in 597. When Pope Gregory sent his missionaries to England, he thought the whole country was inhabited by English, and so ordered that there should be two provinces, each containing twelve Episcopal sees and governed by two Metropolitans, one at London and the other at York.[52] Still Gregory must have been aware of the existence of a British Church in the island, for British bishops were present at the Synods of Arles, A.D. 314; Sardica, 347; and Rimini, 359.

The following historical facts should be carefully noted. Each of the several divisions of England—call them the Heptarchy or anything else—owed its evangelization to a source not exclusively of the Roman mission. Kent and Essex had certainly remained Christian under the successors of Augustine; but Wessex, with Winchester as its capital, was converted by Birinus a missionary from Northern Italy; East Anglia by Felix, a Burgundian; Northumbria and Mercia by Irishmen; Essex by Cidd and Sussex by Wilfrid. Therefore the Roman mission, after the death of King Ethelbert whose successors relapsed into heathenism, was rather a failure.[53] Augustine was narrow-minded and sectarian, attached to everything Italian. There were seven British bishops then in England. In 602 a meeting was held at which representatives of the Italian and British Churches were present. Augustine demanded

that the Celtic Church should change the time of keeping Easter in order to adopt the Roman time. The British bishops declined to do anything of the sort, and then Augustine lost his temper and rebuked them. His conduct thus exasperated the members of the Celtic Church. The Italians were looked upon as foreigners seeking to lord it over the native Church, and the Scots and Britons were determined to yield their independence to neither threats nor entreaties.

Augustine claimed metropolitan power, but the Celtic bishops haughtily rejected such a proposal.

On the death of Ethelbert, and when a difference arose between his son who succeeded him and Laurentius the archbishop, Laurentius, Mellitus and Justus, were about to throw up the Italian mission in England and retire to Gaul.[54] London was lost, and the whole aspect of the Roman mission was gloomy in the extreme, when the second Archbishop died in 619. Mellitus the third died in 624. Justus who succeeded him had consecrated Paulinus on the 21st of July, 625, as the first Archbishop of York. In 627 King Edwin held a Witenagemót in a *room* where the introduction of Christianity into the Kingdom of Northumbria was discussed. The result was that the king and his nobles were converted to the Christian religion.[55] The fact that a room was capable of accommodating the Witenagemót has led to the conclusion that the number must be small. Paulinus had fled from York in 633, eight years after his consecration, and after the battle of Heathfield. But his place was taken by Bishop Aidan, a missionary from Columba's Irish monastery in Iona, who had established an Episcopal see in Lindisfarne.

There is a letter of Pope Boniface V. to Archbishop Justus, written between April, 624, and October,

625, conferring on him the primacy of all Britain and ending with these words, “Hanc autem ecclesiam utpote specialiter consistentam sub potestate et tuitione sanctæ Romanæ ecclesiæ.”[56] [But this Church as specially remaining under the power and instruction of the Roman Holy Church.]

In 634, Pope Honorius I. conferred on Archbishop Honorius, seven years after his consecration, the primacy of all Britain.[57]

But there is no evidence to show that the Celtic bishops acquiesced in this power of metropolitan over all England conferred by the Pope on the Archbishop of Canterbury. It was therefore an arbitrary assumption of ecclesiastical authority exercised by the Pope of Rome over the Anglo-Saxon Church, simply because a Roman mission was sent to Christianize the Saxon heathen. But other missionaries were at work in the same field, who were quite unconnected with Rome or its bishop.

The time of keeping Easter was the terrible stumbling-block in the way of a union between the Roman and Celtic missionaries.

In A.D. 664, a synod was held at Streaneshalch; the subject of the proper time of keeping Easter was discussed in the presence of King Oswy of Northumberland by Bishop Colman and Wilfrid. In the same year Deusdedit, Archbishop of Canterbury, died. The result was that the king espoused the Roman style.[58] Then followed an interregnum of four years. Wilfrid’s strong opinions about Easter kept him out of the archiepiscopate.

It is vitally important to note this turn of the tide to Rome. I take all particulars from Bede’s Ecclesiastical History. If this turn had not occurred

there would have been two separate and independent Churches in England, the Celtic and the Roman.

In 664 a synod was convened in the monastery of Streaneshalch (Whitby) presided over by King Oswy, who was at first a follower of the Celtic ritual, for the discussion of the proper time for keeping Easter. Bishop Colman spoke for the Celtic Church; Priest Wilfrid for the Roman time. The latter had previously gone to Rome to learn the ecclesiastical doctrine. Colman traced the Celtic time to the teaching of St. John the Evangelist; Wilfrid traced his to St. Peter, and then quoted, “Thou art Peter and upon this rock I will build My Church and the gates of hell shall not prevail against it; and to thee I will give the keys of the Kingdom of Heaven.” This quotation turned the scales, as will be seen from what followed. “Is it true, Colman,” said the King, “that these words were spoken to Peter by our Lord?” “It is true, O King!” “Can you show,” said the King, “any such power given to your Columba?” Colman answered “None.” “Then,” added the King, “do you both agree that these words were principally directed to Peter, and that the keys of heaven were given to him by our Lord?” They both answered, “We do.” Then the King concluded, “And I also say unto you that he is the door-keeper, whom I will not contradict, but will, as far as I know and am able in all things, obey his decrees, lest when I come to the gates of the Kingdom of Heaven, there should be none to open them, he being my adversary who is proved to have the keys.” The King having said this, all present resolved to conform to the Roman ritual. [59] This was not the first nor the last case in England in which St. Peter and the power of the keys did good duty for the Church of Rome. The result of this

discussion turned the scales from Irish to Roman Christianity as the religion of England.

King Oswy had, before the synod met, held the Celtic views. His son, who was present, held the Roman views. The result of this discussion led to serious changes in the Church of England, for in the same year, A.D. 664, the archbishopric of Canterbury became vacant, and Kings Oswy and Egbert sent to Rome Wighard, an Englishman, whom they appointed, there to be consecrated archbishop by the Pope, because there was no metropolitan in England to perform this duty of consecration. He died there, and then the Pope was empowered by the same kings to select and consecrate a suitable person himself. "We have not been able," writes Pope Vitalian, "now to find a man docile and qualified in all respects to be a bishop according to the tenor of your letter."[60] Again, "King Egbert, being informed by messengers that *the bishop they had asked of the Roman prelate* was in the kingdom of France."[61]

From these two quotations, it is beyond all doubt or question that the English kings did ask the Pope to select a qualified person for the see of Canterbury. And it is absurd for Protestant writers, such as Soames, in the face of these quotations, to assert that Theodore's appointment was a piece of skilful manœuvring on the part of the Pope. It was nothing of the sort. It is but reasonable to assume that when Wighard died in Rome, Vitalian wrote at once and informed the English kings of the event, and that they then, although we have not their letters, asked the Pope to choose a man for them. He therefore consecrated Theodore, a Greek by birth and education. We all know what followed. In the same year the Pope conferred on Theodore the "supremacy

over all England."[62] He landed in England in 669, and held his see for twenty-one years. The Churches of the Anglo-Saxon kingdoms were independent of each other up to the arrival of Theodore, who had energetically worked to unite all the Churches under the metropolitan power of Canterbury. Here then we are on solid ground. The Pope's supremacy over all the Churches in England dates from the archiepiscopate of Theodore.

There is no reference to tithes from the publication of Theodore's "Penitential," probably about A.D. 686, until the two legates came to England in 787, or a period of one hundred years, Archbishop Boniface of Mentz, writing to Archbishop Cuthbert between 746 and 749, refers to tithes having then been received by English bishops, "In daily offerings," he says, "and tithes of the faithful, they receive the milk and wool of the sheep of Christ, but they take no care of the Lord's flock." ["Lac et lanas ovium Christi oblationibus cotidianis ac decimis fidelium suscipiunt; et curam gregis Domini deponunt."[63]] Here is an early instance of endowed bishops neglecting their flocks.

This brief sketch will enable the reader to follow further particulars.

King Offa.

Pope Adrian I. had risen from the position of a subject of the empire to that of a sovereign prince through the instrumentality of Charlemagne. Jaenbert, archbishop of Canterbury, thought that by the same person he could exercise sovereign authority, like the Bishop of Rome, over the kingdom of Kent as feudatory of Charlemagne. Offa, the

Mercian king, had assumed the title of King of Kent and treated it as a province of Mercia. The King of France was too shrewd a diplomatist to encourage such a foolish idea as that of the Archbishop against the terrible and powerful Offa. But Offa found out this prelate's intrigues, and instead of sending an army to Kent to crush Jaenbert, he adopted another line of policy of dividing his ecclesiastical province, and having a full-blown archbishop in his own kingdom of Mercia, with his seat at Lichfield, and endowed with the revenues which Jaenbert had drawn from that part of his province.[64]

Offa had thus touched Jaenbert's pocket, a very sore point with some people. In order to carry out his design of changing the bishopric of Lichfield into an archbishopric with metropolitan powers, he sent a special mission to the Pope, and it was during this negotiation that the shrewd Adrian came on the scene in English history. Adrian had reason to fear Offa's power, for there is a letter from Offa to Charlemagne, intriguing to depose Adrian, and put a Frenchman in the chair of St. Peter.[65]

Higbert, bishop of Lichfield (c. 779), was made archbishop by Offa in 785; he first signs the charter as archbishop in 788, but could not act as Metropolitan, and so be on an equality with the Metropolitans of Canterbury and York, without the pallium, which it was taken as granted could only be given by the Pope. The pallium is a long strip of fine woollen cloth, ornamented with crosses, the middle of which was formed into a loose collar resting on the shoulders, while the extremities before and behind hung down nearly to the feet. This pallium gave him the power to ordain the bishops of his province, or to summon them to his synod, or to sit

on the archiepiscopal throne. It was the sign of the Pope's confirmation of his appointment as archbishop.

The Roman Curia at first hesitated to comply with the King's request. Offa was determined to carry his point, and he knew well by what means he could realize his object. He resorted to wholesale bribery among the Roman officials, and thus gained his point.[66] Peter's pence probably was also part of the bargain.[67]

I have gone into details on this subject on account of the results which followed. Hitherto the Church of England was practically independent of the Roman Church. But here was a splendid opportunity for so astute a diplomatist as Adrian to advance Papal supremacy over the Anglican Church. Certainly, Theodore's appointment was a great step in the same direction.

The Pope proposed, and Offa consented, that a mission should be sent to England with a view of holding a council in Mercia, and of making such regulations in the disorganized Church as may be found necessary. Thus the Anglican Church lost her independence, and subsequently became a slave to a foreign bishop and the Roman Curia. For what? What was the *quid pro quo*? To convert the bishopric of Lichfield into an archbishopric with metropolitan power from 788 to 801. The price was too much. Higbert was the only person who ever bore the title of archbishop of Lichfield. He died in 801, and his successor bore the title of bishop.

Legatine Councils in England.

In 786, the two papal legates, accompanied by

Wighood, a French abbot, sent by Charlemagne to assist them, reached England with letters from the Pope to King Offa, Aelfwold, King of Northumbria, and to the two archbishops.

George, Bishop of Ostia, went to King Aelfwold's court, and Theophylact, Bishop of Todi, repaired to Offa's. These kings then summoned councils of their chief men, both spiritual and temporal. The Northern Council assembled in 787; Offa's Council assembled at Calchyth, *i.e.* Chelsea, London, in the same year. The legates placed before each Council the twenty Injunctions, which were drawn up at Rome previous to their departure. After the Injunctions were read out at each Council, they were signed by the two kings, the princes, two archbishops, bishops, and abbots. These ecclesiastical synods, presided over by the kings, were Witenagemóts, and the twenty Injunctions were so many laws regularly and legally passed. The 17th Injunction relates to tithes; therefore the payment of tithes received on this occasion a legal sanction in the two kingdoms of Mercia and Northumbria. Here then we put our fingers on the first case in which tithes in England had been legally ordered to be paid. Previous to 787 there existed the custom of voluntarily paying tithes. Some paid, and some did not. But in this year and in these two kingdoms only, the custom was made a legal obligation by the two Anglo-Saxon Parliaments.

"What copy," says Selden, "of this synod the centuriators had, or whence they took it, I find not. But if it be good authority, *it is a most observable law to this purpose*. Being made with such solemnity by both powers of both states of Mercland (Mercia) and Northumberland, which took up a very great part of England; and it is likely that it was made general to

all England."[68] It is most important to note that for 120 years after these legatine councils were held, there is a dead silence in our laws and chronicles as regards the payment of tithes.

The legates, on their return to Rome, made a report to the Pope of their proceedings in England. The document was published in A.D. 1567 at Basle by the Magdeburg Centuriators, from a manuscript of which they give no account.[69] It contains, however, as Lord Selborne admits, abundant internal proof of authenticity.[70] Yet he adds: "But because it is not probable that, if the Injunctions which we now know from this source only had entered into the body of the public law of the three greatest Anglo-Saxon kingdoms of the eighth century, they would, in this country, have entirely disappeared."[71] When such arguments from negative evidence as to laws are urged, I always think of Mr. Thorpe's wise remarks, that "what we now possess of Anglo-Saxon laws is but a portion of what once existed."[72] It contains twenty Injunctions, and was signed by the two kings and all the bishops, including an Irish and Welsh bishop.

In this document the object of the mission is thus stated: "To travel through and visit the island, and to confirm the authority of the Roman Pontiff acquired there formerly through the mission of Augustine."[73]

First Civil Law in England for Payment of Tithes.

The seventeenth Injunction is this:

"Of giving tithes, as it is written in the law. Thou shalt bring the tenth part of all thy crops or first fruits into the house of the Lord thy God. Again, by

the prophet: ‘Bring,’ he says, ‘all the tithe into My barn, that there may be meat in My house, and prove Me upon this if I shall not open unto you the windows of heaven, and pour out a blessing even to abundance, and I will rebuke the devourer for your sake, who eats and spoils the fruit of your land, and your vineyard shall no more be barren.’ As a wise man says, ‘No man can justly give alms of what he possesseth, unless he had first separated to the Lord what he from the beginning directed to be paid to Him.’ And on this account it often happens that he who does not give a tenth is himself reduced to a tenth. Wherefore we solemnly enjoin that all be careful to give tithes of all that they possess, because it is the special part of the Lord God; and let a man live on the nine parts and give alms, and we advise that these things should be done secretly, because it is written, ‘When thou doest thine alms, do not sound a trumpet before thee.’”[74]

“The terms of this article,” says Lord Selborne, “speak for themselves; their character is evident, being that of a *pastoral precept, not legal enactment*.”[75] He therefore rejects this as a civil enactment for payment of tithes.

“There can be no doubt,” says Haddan and Stubbs, “that the legatine canon, approved by the kings and Witan, had the force of law, although it is uncertain by what means the law was enforced, or whether it was enforced at all.”[76]

And Bishop Stubbs says in his history, “In 787 tithe was made *imperative* by the legatine councils held in England, which, being attended and confirmed by the kings and ealdormen, had the authority of Witenagemóts.”[77]

On the legal aspect of this question, Bishop Stubbs

and Mr. Selden are correct. The tithe Injunction was not made legal or imperative by legatine councils *quâ* legatine councils, but because these councils were actual Witenagemóts, whose consent gave it the force of law in the respective kingdoms of the two kings. They made *legal* what was before *customary*, without attaching any punishment to its non-fulfilment. It will be seen as we proceed that the Anglo-Saxon laws had only endorsed the custom which previously existed of paying tithe. And as this custom became general, so the law enforced its payment. But this penal enforcement was not carried out in the laws of 787, because the custom of paying tithe was not then general.

It is important to notice here that the Anglo-Saxon ceorls, or churls, or freemen, occupying the social position between the thane and slave, had no voice whatever in the passing of the laws. The Witenagemóts, which sanctioned the payment of tithe, and granted away the national property, called folcland, to bishops, cathedral churches, and monasteries, were composed of archbishops, bishops, aldermen, abbots, priests, deacons, princes, dukes, earls, and thanes. In these assemblies, both secular and ecclesiastical laws were enacted, and charters embodying grants of public lands by kings were confirmed and ratified.

In the 17th Injunction, quoted above, there are references to Scripture in support of tithes. The two main positions taken up by Selden in his history of tithes are (1) that the tithes of the Christian Church are not the continuation of the tithes of the Levitical law as put forth by the Church in support of payment, and (2) that tithes had a legal as opposed to a Divine origin in the Christian Church. These two

positions are impregnable, and can never be overthrown. The Levitical tithes were given to the Levites, "for the service of the tabernacle of the congregation."[78] But charity was at the very root of all primitive references to the payment of tithes in the Christian Church. Some writers assent to Selden's second position as stated above, but will not admit that they were given for different purposes to those given to the Levites, and yet they were. In this respect they indicate inconsistency. They would be consistent if they should assert, which they do not, that the English parsons receive their tithes by *Divine right, and in continuation of the Levitical law*; then all the tithes would go to the parson as they went to the Levites. But the history of the origin of tithes in the Christian Church is quite opposed to all this. Those who uphold the Divine right consider the tithes as private professional incomes, and not as trust funds to be used for the benefit of the people. Most of the sermons preached in the eighth century placed the summit of Christian perfection in the payment of tithes. The people in England reluctantly submitted to a general permanent tribute in the shape of tithes.

The obligation of paying tithes was originally confined to predial or the fruits of the earth. But about A.D. 1200 the obligation was extended to every species of profit, and to the wages of every kind of labour. I have already stated the passage from the Old Testament on which the Christian clergy base their claim to personal tithes.

Offa's supposed Law of Tithes in A.D. 794.

Dr. Humphrey Prideaux, Dean of Norwich, published a work on Tithes in 1709, 2nd ed. 1736. The title is, "The Original and Right of Tithes for the

maintenance of the ministry in a Christian Church."

His main object was to prove the Divine in opposition to the legal right of tithes. He quotes questionable authorities in support of his views.

In reference to King Offa, he says, "And in imitation [of Charlemagne's Capitulars] Offa made a law about the year 794, whereby he gave to the Church the tithes of all his kingdom, which the historians tell us was done to expiate for the death of Ethelbert, king of the East Angles, whom in the year preceding he had caused basely to be murdered on his coming to his court to marry his daughter."[79] He quotes as his authority for this story the chronicle of Bromton, abbot of Jervaulx, in Yorkshire, who lived towards the end of the 14th century. Now, in referring to this chronicle, I find that Prideaux made two wrong quotations, viz. (1) that Offa made a law; (2) that he gave tithes of all his kingdom of Mercia. Let John Bromton speak for himself. "This Offa, by the wicked advice of his wife, treacherously (prodicionaliter) put to death St. Ethelbert, king of the East Angles, who was on a visit to him for the purpose of marrying his daughter; in atonement for which sin he brought down his pride to such a degree of humility and penitence that he gave to *Holy Church a tenth of all that belonged to him*."[80]

Roger of Wendover gives a very graphic account of the murder of King Ethelbert by Offa's wife in 792, in order to add his kingdom to Mercia. After his death Offa annexed it to his own.[81]

Polydore Vergil followed Bromton, and Holinshed followed Polydore. Selden quotes from Polydore thus: "Offa's giving the tithe of his estate *to the clergy and the poor*."[82]

Bromton says that he gave the tithe to Holy Church. Polydore explains what Bromton meant by Holy Church; viz., “The clergy and the poor.” Polydore was an Italian priest sent to England by the Pope to collect Peters pence. He was archdeacon of Wells, and wrote a history of England, which he dedicated to Henry VIII. In this history he explains what was meant by “Holy Church” thus: “He (Offa) gave the tenth part of all his goods to priests and other poor men.”[83] Holinshed says, “He granted the tenth part of his goods unto churchmen and poor people.”[84]

The poor were always considered in grants of tithes or offerings, because charity was, and is, the basis of the Christian religion. And this fundamental principle of Christianity runs through all donations to Holy Church in Anglo-Saxon and Norman times.

Lord Selborne considers Bromton’s statement as regards Offa’s grant of tithes, as a “mythical story,”[85] because other chroniclers do not mention it. Is Lord Selborne consistent in pushing on this theory of ignoring any statement which is not confirmed by some other independent writer? Let us take for example, the Ordinances made at Habam about A.D. 1012. They are found only in Bromton’s work. They are not confirmed by any other writer, but are copied by writers from this source. Does Lord Selborne state that they are “mythical,” because other chroniclers do not mention them? No. He admits them as genuine.[86] So does Mr. Thorpe.[87] If Lord Selborne were consistent, he would have rejected them, because they are not confirmed by other independent writers. No one knows from what source Bromton had taken his text.

Lord Selborne admits the other two statements

made by Bromton; viz., (1) King Ethelbert's murder. (2) The grant of Peter's Pence.

Now, it appears to me that this so-called "mythical story" was not unreasonable, (1) because King Offa enacted the payment of tithes in his own kingdom in 787; and (2) because it was a tenth of his own property which was granted. It certainly was not a general enactment for the payment of tithes throughout his kingdom.

Kemble says on this point, "I think that in this case he [Bromton] has probability on his side, if we restrict the grant to Offa's demesne lands, or to a release of a tenth of the dues payable to the King on folcland."[88] This is exactly my opinion also.

Dean Prideaux is not correct when he states, "This law of Offa was that which first gave the Church a civil right in tithes in this land, by way of property and inheritance, and enabled the clergy to gather and recover them as their legal due by the coercion of the civil power."[89] This dignitary of the Church, so often quoted, polluted the tithe question with so much fiction and ill-digested conclusions that he has made the true history of tithes very embarrassing. But there is one comfort that the light which the latest researches have thrown upon the whole tithe question has completely dissipated the numerous fictions which surround it.

It is erroneously stated that when tithes originated in England there were no poor, although our Lord says we should always have the poor among us; and that the owner of the soil was bound to support all that were born on his soil; that they worked and lived for him, and therefore there was no necessity for making provision for the poor out of the tithes. Now on this special point we have overwhelming

genuine documentary evidence that provision was distinctly made for the poor in the first mention of tithes being paid in England. “It is not lawful,” says Archbishop Theodore, “to pay tithes except to the *poor and strangers*.” This is the first instance in which tithes are mentioned in English writings. It is therefore wrong to say that there were no poor in this country when the custom of paying tithes commenced in England. Theodore’s statement was written not later than A.D. 686. The second reference to tithes is in Bede’s “Eccl. Hist.,” where he states that Bishop Eadbert gave (A.D. 686) *one-tenth of his own goods to the poor*.[90] “Not tithes in particular,” says Lord Selborne, “but all church property of every kind was from early times, and down even to the fourteenth century, described as *the patrimony of the poor*. The poor were always, and almost must be in an especial degree, objects of the Christian ministry.”[91]

In Anglo-Saxon times the State did not provide for the poor. It demanded that every man should be answerable for himself in a mutual bond of association with his neighbour, or should place himself under the protection of some lord. The man without means or protection was treated as an outlaw. This was heathenism and not Christianity. The grand humanitarian, philanthropic principles of the Christian religion were taught the Saxon heathen from the very first by the Christian missionaries. Unquestionably these missionaries found poor, outcast Anglo-Saxons to whom they preached the Gospel, and assisted them with their charity and protection. This was the special function of the bishops and their clergy in their dioceses, and monks in their monasteries. When they appealed to the people for their voluntary offerings of tithes, the

strongest point in that appeal was for means to help the poor and strangers, and so tithes went partly towards poor rates, partly towards a church rate to repair the edifice, and partly towards the clerical sustentation fund. These were originally the three distinct functions of tithes in England. There is sufficient evidence for a reasonable conviction on this much-disputed point of the division of tithes.

CHAPTER VII.
KING ETHELWULF'S ALLEGED GRANT OF TITHES.

"But this establishment," says Prideaux, "reached no further than the kingdom of Mercia, over which Offa reigned, till Ethelwulf, about sixty years after, enlarged it for the whole realm of England. And because hereon the civil right of tithes in this land had its main foundation, and this matter hath been much perplexed by those who have wrote of it, both *pro* and *con*, I shall for the clearing of it from all objections and difficulties raised about it, here give a thorough and full account of the whole matter," etc. [92] This erroneous view has been long exploded.

It is amusing to read what Prideaux calls Selden's able and learned history of tithes: "Mr. Selden's wild chimera," and again, "his wild conceit"; but nothing could be wilder than his own *conceit* on the Divine origin of tithes in the Church of England. Another Dean—Comber—also wrote strongly against Mr. Selden's "Tithes."[93]

Mr. Selden had taken Ethelwulf's charter passed in a Witenagemót, A.D. 844, as the first legal title-deed of granting tithes to the clergy. In this view he was followed by Prideaux, Hume, Collier, Rapin, Milman, Echard, and others.

Sir Henry Spelman had taken another view, and supposed the grant to have been the origin of the glebe-lands of the Church; but this opinion was

wrong, because churches had been endowed with glebe lands prior to these grants.

The great question at issue is, “Did Ethelwulf’s charters grant a tithe of yearly increase?” They did not.

I have consulted the following chronicles on this matter:—

(*a*) The Saxon Chronicle under the year A.D. 855 writes: “In this year Ethelwulf, inscribing in a book the tenth part of the land and also of his whole kingdom, dedicated it to God’s praise, and thereby seeking also his own eternal salvation.” [“Decimam terræ suæ et regni quoque totius partem libro inscribens, in laudem Dei, suæque etiam æternal saluti consulens, dicavit.”]

(*b*) Simeon has under A.D. 855: “At this time King Ethelwulf tithed all the empire of his kingdom for the redemption of his own soul and the souls of his ancestors.” [“Quo tempore rex Ethelwulfus decimavit totum regni sui imperium, pro redemptione animæ suæ et antecessorum suorum.”]

(*c*) Huntingdon, under A.D. 854, writes: “Ethelwulf in the nineteenth year of his reign tithed all his land to the uses of the Churches for God’s love and his own redemption.” [“Ethelwulfus decimo nono anno regni sui totam terram suam adopus ecclesiarum decimavit, propter amorem Dei et redemptionem sui.”]

(*d*) Wendover, A.D. 854: “In this same year the magnificent King Ethelwulf conferred upon God and the blessed Mary and all the saints the tenth part of his kingdom free from all secular services, exactions, and tributes.” [“Eodem anno rex magnificus Athelwulfus decimam regni sui partem Deo et Beatæ

Mariæ et omnibus sanctis contulit, liberam ab omnibus servitiis sæcularibus exactionibus et tributis."]

(*e*) Malmesbury says: "Ethelwulf granted to Christ's servants the tenth part of all the ploughlands within his kingdom, free from all duties, and discharged from all liability to disturbance." ["Ethelwulfus decimam omnium hidarum infra regnum suum Christi famulis concessit, liberam ab omnibus functionibus absolutam ab omnibus inquietudinibus."]

(*f*) Asser, surnamed Menavensis, from the place of his birth, writes, under A.D. 855: "In the same year Ethelwulf released the tenth part of his whole kingdom from all royal service and tribute, and by a perpetual inscription offered it as a sacrifice on the cross of Christ to the Trinity for the redemption of his own soul and the souls of his ancestors." ["Eodem anno Æthelwulfus decimam totius regni sui partem ab omni regali servitio et tributo liberavit, in sempiternoque graphio in cruce Christi pro redemptione animæ suæ et antecessorum suorum, uni et trino Deo immolavit."]

Asser was well acquainted with the traditions of the king's house, having been tutor and biographer of Alfred, Ethelwulf's son.

(*g*) Ingulphus, A.D. 855: "It added to the prosperity of the old age (of Guthlæ, Abbot of Crowland) that Ethelwulf, the famous king of the West Saxons, when he recently returned from Rome (where, with his younger son Alfred, he had visited abroad the thresholds of the Apostles Peter and Paul and the most holy Pope Leo), with the free consent of all his prelates and princes who ruled under him, the various provinces of all England, then first endowed

the whole English Church throughout his kingdom with the tithes of the lands and other goods and chattels, by a writing under his own hand in this form," then follows the charter. ["Accessit ad prosperitatem senii sui, quod inclytus rex west saxonum Ethelwulphus cum de Roma, ubi limina Apostolorum Petri et Pauli, ac sanctissimum Papam Leonem, multa devotione una cum juniore filio suo Alfredo peregre visitaverat, noviter revertisset, omnium Prælatorum ac principum suorum, qui sub ipso variis provinciis totius Angliæ præerat, gratuito consensu, tunc primo cum decimis omnium terrarum, ac bonorum aliorum sive catallorum, universam dotaverat ecclesiam Anglicanam per suum regium chirographum confectum inde in hunc modum."][94]

(*a*) Refers to grant of lands, and not tithes; (*b*, *c*) use the word decimavit; (*d*, *e*, *f*) refer to a grant of lands freed from secular services, exactions, and tributes; (*g*) refers to tithes.

The word *decimare* had been often used as regards gifts in tenths quite apart from the idea of tithes. The whole difficulty in reference to Ethelwulf's grants, turns upon his use of the word tenth as a convenient measure for ecclesiastical and other benefactions. This fact testifies to another fact; namely, the growing recognition of the tithe as the clerical portion.[95]

In order to get a correct idea of the application of the charters, it is essentially necessary to make oneself familiar with the proper meanings of "Folcland" and "Bocland."

Folcland and Bocland.

Folcland was the general property of the

community—*i.e.*, Anglo-Saxon national property—*terra fiscalis*, and its possessors were bound to assist in repairing royal vills and in other public works; and were also liable to have travellers quartered upon them for subsistence. They were required to give hospitality to kings and great men in their progresses through the country; to furnish them with carriages and relays of horses, and to extend the same assistance to their messengers, followers, and servants, and even to persons who had charge of their hawks, horses, and hounds. Such are the burdens from which lands were liberated when converted by charter into bocland. For breach of these conditions they were liable to forfeiture or witeraeden; that is, fines. Freemen of all ranks and conditions, as well as common people, held folcland. The possessor had only a life-interest in it. On his demise the king could dispose of it to another. The holder may also possess bocland. Every one was desirous of having grants of folcland, and to convert as much as possible of it into bocland.

Bocland was land held by book or charter. It had been land severed by an act of the government from the folcland, and, by a written instrument was converted into an estate of perpetual inheritance. The possessors of bocland were released from all services to the public except the *trinoda necessitas*; that is, contributing to military expeditions, repairs of castles and bridges. The Church contrived in some cases to obtain exemption from them, but in general its lands, like those of others, were subject to them. The greater part of the charters granting exemptions to the Church, are forgeries. The estates of the higher nobility consisted chiefly of bocland. Bishops and abbots had bocland of their own in addition to what they held in right of the Church. *The Anglo-Saxon*

kings had private estates of bocland, and these estates did not merge in the crown, but were devisable by will, gift, or sale, and transmissible by inheritance in the same manner as bocland held by a subject. Among the Anglo-Saxons royalty was elective. It sometimes happened that on the demise of the king his nearest blood did not succeed to the throne. The former king's private estate did not then pass to his successor, but to his own children. Hence the advantage of a private estate in addition to the demesne or crown lands. The folcland could not be converted into bocland without the consent of the king by and with the advice of his Witenagemót, an expression of the national will in its distribution. There is hardly a Saxon charter creating bocland, which is not said to have been granted by the king with the consent and leave of his nobles and great men. "Cum consilio, consensu et licentia procerum," or similar expressions. If that consent were withheld, the king's grant would be invalid. There was a case of this sort. Baldred, king of Kent, had given to Christ Church, Canterbury, the manor of Malling, in the county of Sussex; but the king having offended his nobles, they refused to ratify his grant, and therefore the grant had not taken effect until King Egbert, in 838, with his counsel assembled at Kingston-upon-Thames, restored the manor to the Church through the action of Archbishop Ceolnoth.[96]

If the king himself received a grant of folcland, he had first to receive the consent of his Witan. Ethelwulf booked twenty hides of folcland to himself in his private capacity, but he had the consent of his Witan;[97] Offa did the same.

When folcland was appropriated to the king's subsistence, that is, to the maintenance of his

household, court, etc., it was said to be held *in demesne*, or let out to farm; afterwards called Terra Regis, or crownland. A great part of the "Terra Regis" of Domesday was folcland, or public property of the State, and the king was only the usufructuary possessor. We have an important definition of Terra Regis at page 75 of the "Exon Domesday," viz., "The demesne land of the king *belonging to the kingdom*," and we find a similar definition in the "Exchequer Domesday."[98]

In dealing with Ethelwulf's charters, it is essentially necessary to state Mr. Kemble's six canons of tests by which the Saxon charter may not only be distinguished from a will or the record of a synodal decree, but whether it is spurious.

These canons are (1) The Invocation; (2) The Proem; (3) The Grant; (4) The Sanction; (5) The Date; (6) The Teste.

(1) The Invocation is a short ejaculation which usually forms the first member of the document. (2) The Proem is a general observation on the virtue of charity to the Church, the nothingness of earthly possessions, and the advantage of purchasing with them heavenly treasures. (3) The Grant, which is the important part of every charter. (4) The Sanction, by which is meant the punishment attached to the violation of the premises. It is called the "Si quis" clause. (5) The Date. (6) The Teste or Subscriptions. In almost all ecclesiastical documents the witnesses subscribed with their own hands.[99]

Ethelwulf's Charters.

In Ethelwulf's Charters we have all these points. I

shall omit 1, 2, and 4, and give here 3, 5, and 6.

(3) Charter A.—"Wherefore I Ethelwulf, king of the West-Saxons, with the consent of my bishops and princes, have resolved on a salutary council and uniform remedy and have determined to make a gift of a certain hereditary portion of land to all ranks *already in possession* of it, whether monks or nuns serving God, or laypeople, always the tenth hide, where it may be the least yet the tenth part perpetually enfranchised so as to be free and protected from all secular services, royal dues, tributes, greater and lesser taxes, which we call 'Witereden' and that it be free from all things for the deliverance of our souls and sins, for serving God only, without military expedition and bridge-building and castle fortification, so that they may more diligently without ceasing pour forth their prayers to God for us, for which we in some degree lighten their secular services," etc.

(5) "Now this Charter of donation was written in the year of the incarnation of our Lord 844, in the seventh Indiction, on the day of the nones of November, in the city of Winchester, in the church of St. Peter, before the high altar."

(6) It was signed by King Ethelwulf, by bishops Elmstan and Aelstan, 6 dukes, 3 abbots, and 16 thanes.

(3) Charter A.—"Quamobrem ego Ethelwulfus, rex Occidentalium Saxonum cum consilio episcoporum ac principum meorum, consilium salubre atque uniforme remedium affirmavi, ut aliquam porcionem terrarum hereditarium antea possidentibus gradibus omnibus, sive famulis et famulabus Dei Deo servientibus, sive laicis, semper decimam mansionem ubi minimum sit tum decimam partem in libertatem

perpetuam perdonare dijudicavi ut sit tutus atque munitus ab omnibus secularibus servitutis, fiscis, regalibus tributis majoribus et minoribus, sive taxationibus quod nos dicimus Witereden; sitque liber omnium rerum pro remissione animarum et peccatorum nostrorum Deo soli ad serviendum, sine expeditione, et pontis instructione, et arcis municione, ut eo diligencius pro nobis ad Deum preces sine cessacione fundant, quo eorum servitutem secularem in aliqua parte levigamus pro honore Sancti Michaelis Archangeli et Sancte Marie Regine gloriose Dei genetricis."

(5) "Scripta est autem hæc donacionis cartula anno Dominicæ Incarnacionis DCCCXLIIII., Indictione vii., die quoque nonas Novembris. In civitate Wentana in ecclesia, Sancti Petri ante altare capitale, et hoc fecerunt."

This Charter is printed by Kemble in the "Codex Diplomaticus," vol. v. p. 93, No. 1048, from a Malmesbury cartulary of the 14th century, Lansd., 417, f. 6, which Haddan and Stubbs collated with a Malmesbury cartulary in the Bodleian Library at Oxford. Wood., donat. 5, of the thirteenth century, see "Councils," iii. p. 630, etc. The rubric in the Bodleian cartulary stands thus: "Quomodo Æthelwulfus Rex decimavit terram suam Deo et sanctæ Ecclesiæ; et quota parte hujus decimæ Meldunensem Ecclesiam ditaverit," etc. ["In what way King Ethelwulf decimated his land to God and Holy Church, and with what part of that tenth he enriched the Church of Malmesbury, for the honour of St. Michael the Archangel and St. Mary."] I have taken the orthography of the charter from Mr. Birch's "Cartularium Saxonicum," ii. No. 447, p. 26.

I have translated *decimam mansionem* as the tenth

hide.

It appears from this Malmesbury cartulary that annexed to it was a statement of particular lands already in possession (*antea possidentibus*) of the monastery which by this charter were enfranchised. But in the copies of this charter the schedule of enfranchised land is omitted except in this particular case of Malmesbury.

As regards the date of this charter, Helmstan, whose name appears in it, was bishop of Winchester from 838 to 852. Swithun succeeded him in 852. If, therefore, the charter be dated 854 with Helmstan's name in it, the date is spurious. I have taken the episcopal dates from Bishop Stubbs's "Registrum Sacrum Anglicanum," ed. 1858.

Wilkins gives the general provisions of this grant with the date A.D. 844, Indiction iv., but makes a serious blot by inserting Swithun's name instead of Helmstan's.[100]

Selden says, "In Malmesbury the date of the first charter is DCCCXLIV, Indict. iv., v. Nonas Novembris; plainly it is false, neither could that Indiction be in the charter of the year DCCCXLIV, which fell in the seventh Indiction."[101]

Ethelwulf's Second Charter of Grants.

Recital of the grant of Ethelwulf, king of the West-Saxons, to the Church of England, of a tenth of lands, etc. Grant by the same to Huntsige, the thane of land at Worthy, *county of Hants*, Easter, 22 April, 854.

Charter B.—"Wherefore I, Ethelwulf, by the grace of God, king of the West-Saxons, in the holy and most solemn feast of Easter, for the health of my soul

and prosperity of my kingdom and of all the people by Almighty God committed to my care, with my bishops, earls and all my nobles, have resolved on a salutary counsel, that I have not only given the tenth part of the lands through our kingdom to Holy Church, but also have granted to our ministers placed in the same to enjoy them in perpetual liberty; so that such grant shall remain firm and immutable, freed from all royal services, and from all other secular services whatsoever."

Here follows a statement that it had pleased Ælthstan, bishop of Sherborne, and Swithun, bishop of Winchester, with all those serving God, to agree that on every Saturday in each church five psalms shall be sung, and every presbyter shall sing two masses—one for King Ethelwulf and the other for the bishops and nobles, etc.

Then follows the date. "This charter was written in the year of the incarnation of our Lord 854, in the second Indiction, on Easter Day, in our Palace at Wilton."

Charter B.—"Quapropter ego Æthelwulf gratia Dei Occidentalium Saxonum rex, in sancta ac celeberrima Paschale sollempnitate, pro meæ remedio animæ et regni prosperitate et populi ab omnipotente Deo michi conlati consilium salubre cum episcopis, comitibus, et cunctis optimatibus meis perfeci ut decimam partem terrarum per regnum nostrum non solum sanctis æcclesiis darem verum etiam et ministris nostris in eodem constitutis in perpetuam libertatem habere concessimus. Ita ut talis donatio fixa incommutabilisque permaneat ab omni regali servitio et omnium sæcularium absoluta servitute."

"Scripta est autem hæc cartula, Anno Dominicæ

incarnationis DCCCLIIII.; Indictione ii. die vero Paschali in palatio nostro quod dicitur Wiltun."

Then follow the names of the king, two of the king's sons, bishops Alhstan and Swithun, six dukes, two abbots, sixteen thanes.

This is found in Kemble's "Codex Diplomaticus," No. 1054, and he takes his text from the Codex Wintoniensis, MS. Brit. Mus., Add. 15,350, fol. 89.

Mr. Kemble marks this charter as doubtful, but Haddan and Stubbs remark: "This doubt lies on a very large portion of the charters contained in the Codex Wintoniensis. The above is, however, the best specimen of the class of charters which it represents."[102]

Mr. Kemble thinks that Ethelwulf's first grant in 844 does not refer to tithing in the legal sense of the term. The passages found in the ancient chronicles, as quoted above, refer, in his opinion, to two several transactions; one which took place in 854 (844?) before the king's visit to Rome; the second in the year 857, after his return to England. "Ethelwulf," Mr. Kemble says, "being humbled and terrified by the distress of wars and the ravages of barbarous and pagan invaders, devised as a useful remedy thus: he determined to liberate from all those various exactions and services, which went by the general name of 'Witereden,' the tenth part of the estates which, though hereditary tenure had grown up in them, were still subject to the general obligations of folcland, whether they were in the hands of laics or clergy; that when the estate amounted to ten hides, one was to be free; when it was a very small quantity, at all events a tenth was to be enfranchised; and as the greater part of this land was either in the hands of the clergy, or was very likely ultimately to

come there, he granted this act of enfranchisement that on these estates the holders might be the better able to devote themselves to the services of God, all other services being discharged except indeed the inevitable three."[103]

Mr. Kemble further adds, "Ethelwulf did three distinct things at different times:—

"(1) He first released from all payments, except the inevitable three, a tenth part of the folclands or unenfranchised lands, whether in the tenancy of the Church or of his thanes. In this tenth part of the lands, so burdened in his favour, he annihilated the royal rights, regnum or imperium, and as the lands receiving this privilege were secured by charter, the chronicle can justly say that the king booked them to the honour of God.[104]

(2) "The second thing he did was his giving a tenth part of his own private estates of book-land to various thanes or clerical establishments.[105]

(3) "And, lastly, upon every ten hides of his own land, he commanded that one poor man, whether native born or stranger, that is, whether of Wessex or some other kingdom, should be maintained in food or clothing."[106] This is remarkable as the beginning of secular provision for the poor, a proof that there were poor in Anglo-Saxon times, which some deny, in order to show there was no need of a provision for them out of the tithes!

"Mr. Kemble's views," say Haddan and Stubbs, "of the several cartularies, and his interpretation of them, may be regarded as provisionally satisfactory."[107]

Charter C.—Here is an abridgment of the charter given by William of Malmesbury, with altered date

A.D. 855, November 5th, written at Winchester. I give only the grant, so that it may be compared with Charters A and B.

"Wherefore I, Ethelwulf, king of the West Saxons, with the consent of my bishops and princes, resolved on a salutary counsel and also a uniform remedy; viz., to give *a certain portion of my land* to God, the blessed Mary and all the saints, possessing it by a perpetual right; viz., the *tenth part of my land*, so as to be safe, protected and free from all secular services, and also from royal tributes, the greater and less, or from the taxes which we call 'Witereden,'"[108] etc. Attention is drawn to the words in italics.

Selden's Conclusion on Ethelwulf's Charter.

"If we well consider the words of the chiefest of these ancients, that is, Ingulphus, we may conjecture that the purpose of the charter was to make a general grant of tithes payable freely and discharged from all kind of exactions used in that time."[109] Selden is not correct in this conclusion; for if we take the collateral evidence of the chronicles, we shall find that the king's grant referred to land and not to tithe of increase.

Selden says, "In Matthew of Westminster no other *decima* is mentioned in it than *decima terræ meæ*. Out of the corrupted language [of the charter] it is hard to collect what the exact meaning of it was."[110] Here Selden unquestionably expresses a doubt as to the interpretation of the charter. And we are therefore bound to give him credit as having been the first to doubt Ingulph's interpretation of the

charter; namely, that “Ethelwulf first endowed the whole English Church throughout his kingdom with the tithes of the lands.” Therefore I agree with Lord Selborne that Haddan and Stubbs have not done justice to Selden in not having taken this doubtful statement into consideration.[111]

CHAPTER VIII.
TITHE LAWS MADE BY ANGLO-SAXON KINGS.

Prideaux says: “For King Alfred, the son of Ethelwulf, about thirty years afterwards (885), having published a body of laws for the well government of the realm, in one of them strictly enjoins the payment of these tithes to the Church.”[112] He quotes as his authority for this statement, Spelman’s “Concilia,” tome i. p. 360, No. 38: “Decimas, primigenia, et adulta tua Deo dato.” This is the Vulgate translation of the Saxon. Thorpe translates the Saxon thus: “Thy tithes and thy firstfruits of moving and growing things, render thou to God.”[113]

It is important to note that King Alfred placed a long Scriptural preface to his secular laws. He began with the ten commandments, translated and transposed them in a strange manner. It is all in Anglo-Saxon, which Alfred had translated from the Vulgate which they taught him at Rome when there in his younger days. The passage quoted from Spelman is taken from Exodus xxii. 29, and this is in Alfred’s Scriptural preface to his laws. The Vulgate translation is, “Decimas tuas et primitias tuas non tardabis reddere.” [“Thou shalt not delay to give thy tithes and firstfruits.”] The renderings of this passage in the Septuagint, Vulgate, and English Bible, are *paraphrases* and *not translations* of the Hebrew text. For example, “Thou shalt not delay to offer the first

of thy ripe fruits and of thy liquors."[114] Again, "Thou shalt not delay to offer from thy abundance and of thy liquors."[115]

This passage in his preface was not one of his laws on tithes, as Prideaux states. "In King Alfred's laws," says Lord Selborne, "there is nothing about tithes. He made a treaty of peace with Guthrum; in that treaty there was nothing about tithes."[116] I quote his lordship because recently the Rev. M. Fuller has dedicated "Our Title Deeds" to him. Should his lordship take the trouble to read through that book, he would be astonished at some of the statements made in it; *e.g.*, Mr. Fuller says that King Ethelbert of Kent passed laws for the payment of tithes, and that King Alfred passed a law for their payment, quoting, of course, for the second case, Dean Prideaux, who has misled so many on the subject of tithes. "In a code of laws," says Mr. Fuller, "published during Alfred's reign, he in one of them strictly enjoins the payment of these tithes to the Church."[117] And adds, "In this Digest of the laws of his predecessors, Alfred made not a *new* law for tithes; he merely copied from them whose laws have long since been lost."[118] Now, the only reference to tithes in Alfred's laws is the above quotation, which he made in his preface from the Vulgate translation of Exodus xxii. 29.

"No legislative enactment," says Mr. Kemble, "can be shown on the subject of tithes in the codes of Alfred, Ini, or the Kentish kings."[119]

"It is not easy to say," says Johnson, "with what view Alfred put this Scriptural preface to his laws, if it were not to show his great esteem for God's word. There is no hint given that he expected his people should make the judicial precepts of Moses the rule

of their action,"[120] etc.

Again, Mr. Fuller says, "Alfred, with the consent of his Witan, entered into a treaty with Guthrum, by which the former ceded to the latter the provinces of East Anglia and Northumberland upon six conditions, the sixth being, 'If any man withhold tithes, let him pay lah-slit (a fine of twenty shillings) among the Danes, and wite (a fine of thirty shillings) among the English.'"[121] Those Danes were heathen, and it seems strange that they were compelled to pay tithes to the Christian Churches. But this treaty was not concluded between Alfred and Guthrum I., but between his son Edward and a Guthrum II. "Our Title Deeds" must have been very loosely prepared. The rubric to this law states, "This is the ordinance which King Alfred and King Guthrum, and afterwards King Edward and King Guthrum, chose and ordained."[122] "The rubrics to these laws," says Mr. Thorpe, "are very defective in the manuscripts."[123] "The party," adds Mr. Thorpe, "to this treaty with Edward was apparently a second Guthrum, who, according to Wallingford, was living in Edward's time, and probably succeeded Eohric, the immediate successor of Guthrum I."[124] Edward the Elder succeeded his father in 901, and died in 924. The treaty was made in 907. Guthrum I. received East Anglia and Northumberland in 880, and died in 891.

Selden says, "It may be seen by this that some other law preceded for the payment of tithes, or else that the right of them was otherwise supposed clear."[125] There may have been some previous secular law which is now lost. As I have stated before, we have lost most valuable Anglo-Saxon charters and laws during the incursions of the Danes and the disturbed state of the whole country. There

is a dead silence as regards tithes for 120 years between the Council of Chelsea, A.D. 787, and the treaty between Edward and Guthrum, A.D. 909. "What we now possess," says Thorpe, "of Anglo-Saxon laws is but a portion of what once existed."[126]

Athelstan's Law on Tithes.

Athelstan succeeded his father in A.D. 924, and in 927 published the following Ordinance:—

"I, Athelstan the king, with the counsel of Wulfhelm, archbishop, and of my other bishops, make known to the reeves at each burgh, and beseech you in God's name, and by all His saints, and also by my friendship, that ye first of my own goods render the tithes both of live stock and of the year's earthly fruits, so as they may most rightly be either meted or told or weighed out; and let the bishops then do the like from their own goods, and my ealdormen and my reeves the same. And I will that the bishops and the reeves command it to all those who ought to obey them, that it be done at the right term. Let us bear in mind how Jacob the patriarch spake, 'Decimas et hostias pacificas offeram tibi'; and how Moses spake in God's law, 'Decimas et primitias non turdabis offerre Domino.' It is for us to think how awfully it is declared in the books: if we will not render the tithes to God, that He will take from us the nine parts when we least expect; and moreover we have the sin in addition thereto."[127]

This is unquestionably the first general law in England for the payment of predial and mixed tithes. I admit, and have stated, that tithes were paid by Edward's treaty with Guthrum, and that clause in the

treaty implied that they were paid previously, but there was no public law recorded like Athelstan's, which set forth the payment of predial and mixed tithes.

Now, Lord Selborne states that Athelstan's ordinance is not in form a public legislative Act, but merely a royal message addressed to his reeves, bishops, and ealdormen.[128] Against this opinion, I place the opinions of Selden, Kemble, Bishop Stubbs, and Dean Prideaux.

(1) Selden says: "King Athelstan, about the year 930, by the advice and consent of the bishops of the land made a general law for predial and mixed tithes."[129]

(2) Kemble says: "It is well known that the earliest legislative enactment on the subject of tithes in the Anglo-Saxon laws is that of Athelstan, bearing date in the first quarter of the tenth century."[130]

Kemble further adds: "The tithes mentioned by Athelstan is the predial tithe, or that of the increase of the fruits of the earth, and increase of the young of cattle. The nature of the sanction of tithes is obvious; it is the old, unjustifiable application of the Jewish practice, which fraud or ignorance had made general current in Europe."[131]

(3) Bishop Stubbs says: "The formula by which the co-operation of the Witenagemót was expressed is definite and distinct. Alfred issues his code with the counsel and consent of his Witan; Athelstan writes to the reeves with the counsel of the bishops."[132]

Here Bishop Stubbs *includes* Athelstan's law among the examples he gives as regards the definite and distinct formula used to indicate the co-operation of the Witenagemót. And the Bishop's opinion is the

most important because Lord Selborne's objection is founded on a technical point, viz., the *formula* used. But the Bishop admits that the formula used in this case was an indication of the co-operation of the Witenagemót.

(4) Dean Prideaux says, "This law was passed in a Parliament of all England, assembled at Grately, about the year 928, etc."[133]

Dr. Lingard calls the law a "Circular letter which the king sent to his officers. From the tenour of this circular it seems probable that numerous pleas of exemption had been set up in favour of the lands belonging to the Crown, the bishops and the ealdormen, and also of lands held under them by others."[134]

Lord Selborne then agrees with Dr. Lingard; the former calls it "a royal message to his reeves," the latter, "a circular letter from the king to his officers." If so, why should the Parliamentary *formula* have been used?

(5) Mr. Thorpe may also be added to the four. He clearly lays down the rule by which he was guided in classifying and separating the Laws from the *Monumenta Ecclesiastica*. "All ordinances," he says, "proceeding from the king and Witenagemót, whether of a secular or ecclesiastical character, *are considered as Laws*. Those without such sanction, and of a nature strictly ecclesiastical, are placed among the *Monumenta Ecclesiastica*."[135] He placed it among the Laws.

The question here is, What constitutes a Witenagemót? The word means a meeting of the Witan or wise men. It was a counsel of wise men. Our information is indeed very vague as to its

constitution. There is no law extant prescribing or defining the constitution of the Witenagemót. A synod with the king present would constitute a Witenagemót. There is no trace whatever that it was representative or elective, or that there was a property qualification. It is on record that the king named the members who were to attend.[136] But the members were the leading men of the country, viz., the archbishops, bishops, abbots, presbyters and even deacons (the priests and deacons doubtless attended on the bishops), princes, ealdormen and thanes.

The formula used in this law is, "The king, with the council of his archbishops and other bishops." This was a council of wise men presided over by the king. And whether it was called a synod or a council, the laws passed by such a meeting formed the general laws of the kingdom. The objections raised by some writers to the formula used in making Anglo-Saxon laws, and to the words Ordinance, Council and Synod, are groundless and have no force. Mr. Fuller in "Our Title-Deeds" is conspicuous for this sort of objections. He says, "It was *not* an act of the Witan, but was an Ordinance made at a council or synod only, at the council of Greatanlea," etc.[137]

Let us examine the formula used in other laws generally admitted to be laws.

(1) "The Laws of King Edward." "Edward's Ordinances," "King Edward commands all his reeves," etc.[138] There is not a word here about the Witan, archbishop, bishop, etc., yet they are admitted as laws.

Athelstan's secular ordinances passed at the council of Greatanlea,[139] had been enacted by the same Witan which enacted the King's Ordinance to

his reeves as regards tithes. If one is a “Royal message” or “Circular letter,” so are the secular Ordinances. But the latter are admitted to be laws, so therefore are the former.

To carp about the words “council” and “synod,” shows ignorance of the Latin translation of Witenagemót, viz., *concilium*, *conventus*, *synodus*, etc.

“Although synods,” says Kemble, “might more properly be confined to ecclesiastical conventions, *the Saxons do not appear to have made any distinction*, probably because ecclesiastical and secular regulations were made by the same body, and at the same time.

“But it is very probable that the Frankish system of separate houses for the clergy and laity prevailed here also, and that merely ecclesiastical affairs were decided by the king and clergy alone. There are some Acts in which the signatures are those of clergymen only; others in which the clerical signatures are followed by those of the laity; and in one remarkable case of this kind, the king signs at the head of each list, as if he had in fact affixed his mark successively in the two houses as president of each. This is in Codex Diplomaticus, No. 116.”[140]

The Letter of the Kentish Men to King Athelstan.

Dr. Lingard makes the following remark on the thankful acknowledgment which the Kentish men sent the King on the promulgation of his Ordinance dated A.D. 627.

“The meaning is evident; in consequence of the King’s admonition, they promised to pay tithes.”[141]

Mr. Freeman makes some very important observations on the above letter.

"As the other kingdoms merged in Wessex, the Witan of the other kingdoms became entitled to seats in the Gemót of Wessex, now become the common Gemót of the Empire. But Gemót of the other kingdoms seem to have gone on as local bodies, dealing with local affairs, and perhaps giving a formal assent to the resolutions of the central body. The letter of the Kentish men to Athelstan reads like an act of acceptance on the part of a local Gemót, of resolutions passed by the general body."[142]

Mr. Freeman then opposes Dr. Lingard's theory and also Lord Selborne's, "for the resolutions of the general body" were those of "the common Gemót of the Empire." He therefore sides with Selden, Kemble, Stubbs, etc., that the Ordinance passed at Greatanlea was a general law.

But I shall quote the most conclusive evidence to show that the Ordinances passed at Greatanlea were legal enactments, viz., "That they would all hold the frith (peace) as King Athelstan and his Witan had counselled at Greatanlea."[143]

Definition of Tithe.

Tithe was the tenth part of the increase yearly arising and renewing from the profits of lands, the stock upon lands and the personal industry of the inhabitants.[144]

Tithes were (1) Predial, (2) Mixed, and (3) Personal.

(1) Predial tithes were the crops and wood which grew and issued from the ground. (2) Mixed tithes

were wool, sheep, cattle, pigs and milk. They were called *mixed* because they were predial in respect of the ground on which the animals were fed, and personal from the care they required. (3) Personal tithes were the tenth part of the clear gain after charges were deducted; in other words, on net profits of artificers, merchants, carpenters, smiths, masons, and all other workmen. Even the servant-girls paid a tenth of their wages. The Scriptural passage quoted in support of personal tithes is Deuteronomy xii. 6. "And thither ye shall bring your tithes and heave offerings of your hand."

By 2nd and 3rd Edward VI., c. xiii. s. 7, "Every person exercising merchandizes, bargaining and selling clothing, handicraft, or other art or faculty, by such kind of persons and in such places as heretofore within these forty years have accustomably used to pay such personal tithes, or of right ought to pay, other than such as be common day labourers, shall yearly, before the feast of Easter, pay for his personal tithe the tenth part of his clear gains, his charges and his expenses, according to his estate, condition or degree, to be therein abated, allowed and deducted." Sec. 9. "And if any person refuse to pay his personal tithes in form aforesaid, that then it shall be lawful to the ordinary of the diocese, where the party that ought to pay the said tithes is dwelling, to call the same party before him, and by his discretion to examine him by all lawful and reasonable means otherwise than by the party's own corporal oath, concerning the true payment of the said personal tithes." Sec. 12. "Except the inhabitants of the city of London, Canterbury, and the suburbs of the same, and also those of any other town or place that used to pay their tithes by their houses, otherwise than they ought or should have

done before the making of this Act."

The Laws of King Edmund.

He succeeded his brother Athelstan A.D. 940.

The Laws Ecclesiastical. "King Edmund assembled a great synod at London, during the Holy Easter-tide (about A.D. 994), as well of ecclesiastical as of secular degree," etc.

"Of Tithes and Church-Scots."

Act 2. "A tithe we enjoin to every Christian man by his Christendom, and Church-scot and Rome-feoh, and plough-alms. And if any one will not so do, let him be excommunicated."

Act 5. "We have also ordained that every bishop repair the houses of God in his own [district], and also remind the king that all God's churches be well conditioned as is very needful for us."[145]

Church-Scot = *Cyriesceat* = Firstfruits, *primitiæ seminum*. The Jews had been commanded to give firstfruits[146] as well as tithes. Here again the Levitical legislation was taken to be applicable to the Christian ministry, and hence we find firstfruits as well as tithes given to them.

This impost remained a fixed charge upon the land till the time of the Conquest, when it ceased to be generally paid.[147] The first instance of this payment in Anglo-Saxon law is found in the laws of King Ina [A.D. 690]: "Let church-scots be rendered at Martinmas. If any one do not perform that, let him forfeit 60 shillings and render the Church-scot twelve-fold."[148] This Act was passed more than 200 years before the legal enactment of tithes. It is strange that we should find firstfruits but not tithes

enacted by King Ina. The omission proves that tithes were not then paid in Wessex. In Athelstan's law passed at Greatanlea, it is stated, "I will also that my reeves so do that there be given the church-scots."[149] Between the laws of Ina and that of Athelstan, there is no mention of church-scots in Anglo-Saxon laws.

There must have been a large number of landowners' churches erected in the country at the time the above law was passed, for the priests received only one-third of the tithes, the remaining two-thirds was paid to the baptismal churches of the diocese and placed at the bishop's disposal; one-third of the two-thirds was for the repairs of churches. The bishop who had the control of these funds must have neglected their repairs, and this law commanded the bishops not only to repair the churches but also "to remind the king that all God's churches be well conditioned."

If there had been no customary appropriation of tithes, as some assert, why should this law place the expenses of repairing the churches upon the bishops?

We are gravely told by Mr. Fuller that this law passed in A.D. 940 is no law, although presided over by the king, because the meeting was called a "*Synod*" and not a "*Witan*"![150]

Prideaux calls it a law.[151] Selden says: "About 940, Edmund, king of England, in a great synod or council, a kind of Parliament both of lay and spiritual men held in London, made this Act."[152] Kemble, Freeman, Bishop Stubbs, and every writer of distinction admit this to be a proper legislative enactment.

King Edgar's Laws.

Edgar succeeded his brother Edwig, or Edwy, in 959; died 975.

In the following law, Mr. Thorpe takes his text from a collection of two important manuscripts; (1) Corpus Christi MS. 265 (K. 2); (2) Cott. Nero, A. 1, both apparently written in the middle of the 11th century.

"This is the Ordinance[153] that King Edgar, with the counsel of his Witan, ordained, in praise of God and in honour to himself and for the behoof of all his people."

Act 1. "These then are first, that God's churches be entitled to every right; and that every tithe be rendered to the old minster to which the district belongs, and that be then so paid, both from a thane's inland[154] and from geneat-land[155] so as the plough traverses it."

Act 2. "But if there be any thane who on his bocland has a church at which there is a burial place, let him give the third part of his own tithe to his church. If any one have a church at which there is not a burial-place, then of the nine parts, let him give to his priest what he will; and let every church-scot go to the old minster according to every free hearth; and let plough-alms be paid when it shall be fifteen days over Easter."

Act 3. "And let a tithe of every young be paid by Pentecost; and of the fruits of the earth by the equinox; and every church-scot by Martinmas on peril of the full wite which the doom-book specifies; and if any one will not then pay the tithe, as we have ordained, let the King's reeve go thereto, and the

bishop's, and the mass-priest of the minster, and take by force a tenth part for the minster to which it is due; and assign to him the ninth part; and let the eight parts be divided into two; and let the landlord take possession of half, half the bishop; be it a king's man, be it a thane's."[156]

In these laws there is a threefold division of churches. (1) The "old minster," that is the senior church, which name was anciently given to the monastic or cathedral church. (2) A church with a burial place. (3) A church without a burial place. "The old minster," says Selden, "was the ancientest church or monastery where he hears God's service, which I understand not otherwise than of any church or monastery, that is his parish church or monastery. They were in many places the only oratories and auditories that the near inhabitants did their devotions in."[157]

This is the first English law which expressly appropriates tithes. They were previously appropriated according to custom. In the first mention of tithes which is found in Theodore's "Penitential," it is a customary and not a legal appropriation.

CHAPTER IX.
ORIGIN OF OUR MODERN PARISH CHURCHES AND BOUNDARIES.

The church with burial-place, as stated in Art. 2 of King Edgar's laws, clearly indicates the transition which had been going on from the old minster to the landowner's church, from which originated our modern parish churches.

There is the old minster or parish church, then the landowner's church, with burial-place, erected on his private estate for the convenience of his family, tenants, and labourers. This becomes a new parish church within the district of the old minster. Edgar's laws are the first to mention these churches. But since A.D. 675 chapels of ease had been built, but no district, no parish boundary, was assigned to any of them. The slow and gradual manner in which parochial churches became independent, appears of itself an efficient answer to those who ascribe a great antiquity to the universal payment of tithes.[158]

It is impossible to state precisely when parishes in England were formed. There is no record or evidence to show it. They gradually commenced in the latter quarter of the seventh century and increased very much in the eighth century. It is too late to assign the origin of our modern parish churches to the reign of King Edgar. It would be nearer the truth to say that the modern parish churches gradually grew up from Bede's account in A.D. 686, but were not then called parishes. It is evident that the two churches

recorded by Bede were built for the accommodation of those residing on each of the earls' estates. So when churches increased, the jurisdiction of the incumbent of each manorial church was limited by the extent of the landowner's estate. Hence the estate on which the church was built, with burial ground, became the parochial boundary. Some estates were larger than others; hence the parochial areas are very unequal.

The church had a boundary conterminous with the landowner's estate. And by Edgar's law the incumbent received one-third of the tithes of the estate on which the church was built, free from all incidental expenses. The old minster received the remaining two-thirds for the purpose of repairing the churches and relieving the poor and strangers.[159] Edgar's law points out a division of the tithes. But the most important question in reference to Edgar's appropriation is "Why was one-third specially assigned to the priest of the manorial church?" Because that part was the well-recognised priest's share of the tithes.

In Domesday we find several churches in possession of only this one-third of the tithes from the manor or township. Let us take the properties of St. Paul's, London. The Vicar of Cadendon, in Herts, received a third part of the tithe of the demesne; the Vicar of Tillingham, in Essex, assessed at 20 hides in Domesday, had a third part of the great and small tithes of the demesne. The Vicar of Nastock, in Essex, had a third sheaf of the tithe of the demesne; the Vicar of Drayton, in Middlesex, had one-third of the tithe of the demesne; the Vicar of Sutton, which is not in Domesday, had one-third of the tithe. On the other hand, we find vicars on the Chapter estates

receiving ALL the tithes. But the fact existed of Edgar's one-third appearing in the Domesday Survey, which did not record one-third of the churches which were then on the lands surveyed; and if we had in that survey a complete record of the number of churches, we should find a large number of vicars in receipt of Edgar's one-third part of the tithes.

We sometimes find the tithes of a portion of land in one parish, paid to the parish priest of the church of another parish, for this detached piece of land may have belonged to the manorial owner, who built the church on his estate and endowed it not only with the tithes of the lands of the manor but also with the tithes of the land which he possessed in other parishes.

The modern parish system has been erroneously traced back by some[160] to Archbishop Honorius in A.D. 630. Mr. Selden refutes this opinion.[161]

"Honorius primus provinciam in parochias divisit," meant that Honorius was the first to divide his province into bishoprics and not into parishes. The error originated out of a confusion of the original and subsequent meanings of the word "parochia." Originally, "parochia" meant a diocese and also a parish. But in Edgar's reign the words "diocese" and "parish" had two distinct and separate meanings. The distinction had not originated in his reign, but previously and gradually. The *germ* of the modern parish appeared in A.D. 686.[162]

It is important to observe that in speaking of a clergyman's sphere of duty the word "provincia" and not "parochia" was used; *e.g.*, "Quicunque enim presbiter in *propria provincia* aut in aliena," etc.[163]

Selden makes some weighty remarks on Edgar's

law. “But as the first part,” he says, “of his law that gives all tithes to the mother Church of every parish, meant in them a parochial right to incumbent; so also the second part, that permits a third portion of the founder’s tithes to be settled in a church new built, whereto the right of sepulture is annexed, makes a dispensation for a parishioner that would build such a church in his bocland.... *I doubt not that such new erections within old parishes bred also new divisions, which afterwards became whole parishes*, and by connivance of the time took (for so much as was in the territory of that bocland) the former parochial right that the elder and mother Church was possessed of. For that right of sepulture was, and regularly is, a character of a parish church, and as commonly distinguished from a capella.”[164]

Edgar’s law was of great importance. If it were carried out at the present day, the several daughter Churches which have burial grounds would receive a share of the parochial tithes. These district or daughter Churches relieve the mother or parish Church of a large part of the spiritual duties without receiving any part of the spiritual endowments. At no time was this neglected condition so keenly felt as before the creation of the Ecclesiastical Commission. Some private patrons were, and are still reluctant to divide a portion of the parochial tithes among the incumbents of the daughter Churches. But public patrons do so. At the present time, when some well-endowed parishes become vacant, public patrons and some private patrons also, redistribute the tithe endowments among the poorer incumbents of the same parish. But these commendable changes have been brought about by Acts of Parliament and Orders in Council.

In reference to the one-third to the priest of the manorial church, Bishop Kennett says: “Another fair pretext of the religious to regain appropriations, was to desire no more than two parts of the tithe and profits, leaving a third to the free and quiet enjoyment of the parish priest, whom at the same time *they eased from the burthen of repairing the church and relieving the poor, and took that charge upon themselves*. This again was a colour that looked well, for it was but a *returning to the old institution of dividing the profits of a parish into three parts*: one to the priest, one to the church, and a third to the poor. The one-third was called the church’s part, and was expressly excepted as belonging to the priest, and was frequently described as a portion separate from the share of the monks and pertaining to the parish church. It was on this account that the patron’s charter of consenting to an appropriation, did sometimes expressly reserve a third part to the bishop, and for the same reason the bishops of Man had their *Tertiana*, or third part of all churches, in that island. The bishops provided perpetual vicars, who enjoyed a full third of the tithes, and in addition he had oblations and perquisites, which all made his portion often equal to, if not exceeding that of the convent.”[165] These are the words of a bishop of the Church of England. He fully admits the existence of “the old institution of dividing the profits of a parish into three parts,” etc. This old division was not questioned until fifty-eight years ago by Archdeacon Hale, of London, and recently revived by Lord Selborne. I shall presently deal with the opinions of these two writers.

Bishop Kennett further adds, that although there was a threefold division of tithes and oblations in England, yet the whole product of tithes and

offerings was the *bank of each parish church*, and the minister was the *sole trustee* and *dispenser* of them according to the stated rules of piety and charity. This is a most remarkable and vital observation, because in course of time this sole trustee kept all the tithes and oblations to his own personal use, in the same manner as the monks acted in respect to all the profits of the churches appropriated to them after the Norman Conquest.

It may be observed that at one time lay patrons had kept to themselves the two parts for the poor and repairs of the churches, and gave the priest the remaining one-third. This arrangement led to great disorders, because they kept the two parts to their own use and had them infeoffed in them and their heirs, leaving the altarage or small tithes to the parish priest. By conscientious scruples, however, they restored in course of time the two parts to the parochial priests, or religious houses, for distribution to the poor and for repairing the churches.

Canons Enacted under King Edgar.[166]

Canon 55. “And we enjoin that the priest so distribute the people’s alms, that they do both give pleasure to God and accustom the people to alms.”

The following is a gloss on this canon:—“And it is right that one part be delivered to the priest, a second part for the need of the church, and a third part for the poor.”

The text is taken from MS. 201 in Corpus Christi College, Cambridge. The gloss is taken, by Mr. Thorpe, from a Bodleian MS., Junius 121, fol. 25*b*, which he calls “X” in a page between his Preface and Table of Contents. He says the Bodleian MS. is of the

tenth century. Mr. Thorpe's commanding position as an Anglo-Saxon scholar is generally admitted; yet Lord Selborne questions his opinion as to the date of the Bodleian MS. He says it must have been written in the eleventh century, and was copied from the Church Grith; thus dating the MS. a century later than Mr. Thorpe.[167] That could not have been, for the Church Grith law deals only with the tithe, but Edgar's canon deals with all alms, including tithe. And as to the date of the MS., I should prefer the opinion of a disinterested Anglo-Saxon scholar and expert like Mr. Thorpe.

It is probable that the Cambridge MS. is a late copy made in Cnute's reign, and that the Bodleian MS. was a gloss made in the tenth century on the original copy of the canons. The force of the gloss is that the priest was entitled only to one-third part of the people's alms, which included the tithe. The Church Grith law deals only with the tithe, of which a third part was the priest's. The gloss gives the general custom of all the churches of giving the priest only one-third part of all alms, oblations, tithes, etc., and not ALL the alms and oblations in addition to one-third part of the tithes. In principle, the words of the gloss do not differ from the wording of Ethelred's law.

Canon 56. "And we enjoin that priests sing psalms when they distribute the alms, and that they earnestly desire the poor to pray for the people." Why pray for the people? Because they gave alms to them.

Odo, Archbishop of Canterbury.

He was of Danish birth. His father was one of the

Danish chiefs who were engaged in the invasions of England in A.D. 870. Odo was first a soldier in the wars of Edward the Elder. In 926 he was appointed bishop of Ramsbury. He was three times engaged on the battle-field after he became a bishop. In 942 he was appointed Archbishop of Canterbury.

Odo's canons were compiled from Egbert's Excerptions and Legatine Injunctions; the former I have shown not to be Egbert's production. Odo's tenth canon on tithes is the seventeenth Injunction passed at the Council at Calchyth, *i.e.*, Chelsea, in 787.

The Monks.

It gives great pleasure to a certain class of writers to blacken the characters of the monks, and to extol Henry VIII. and the favourites and courtiers who surrounded him. But the present age is too critical and well-informed to be misled by the prejudiced and bigoted statements which have no foundation in fact. The monks were no doubt superstitious, and so were the parochial clergy; but the former were not ignorant men, as Judge Blackstone states in his Commentaries. He was much indebted to them for the preservation of ancient charters, laws, and historical annals, which form so important a part of his Commentaries. The various charters of English liberty, wrung from English sovereigns from time to time, were deposited in the monasteries by the barons for safe keeping, where they were carefully and faithfully preserved by the so-called "ignorant and superstitious monks."

In every great abbey there was a large room called the "Scriptorium," where several writers made it

their sole business to transcribe books for the use of the library. They were generally engaged upon the Fathers, Classics, Histories, etc., etc. There was then no printing press. So zealous were the monks in general for this work, that they often had lands given to them and churches appropriated to them for carrying on the work. In all the great abbeys persons were appointed to take notice of the principal occurrences of the kingdom, and at the end of every year to digest them into annals. The constitutions of the clergy in their national and provincial synods, and even Acts of Parliament, were sent to the abbeys, in order to be duly recorded. The choicest records and treasures of the kingdom were preserved in the monasteries. A copy of the charter of liberties granted by Henry I. was sent to some abbey in every county to be preserved. The abbeys were schools of learning and education, for every convent had one person or more appointed for this purpose, and all the neighbours that desired it, might have their children taught certain branches of education free of charge. In the nunneries, also, young women were taught to work, and to read English and Latin also. Most of the daughters of noblemen and gentlemen were educated in those places.

Again, the monasteries were great hospitals, and most of them were obliged to relieve poor people every day. They served the same purposes of relieving the poor and strangers as the workhouses which originated in the reign of Queen Elizabeth did. When the monasteries were dissolved, and all their properties handed over as a free gift by Parliament to Henry VIII., to do with them as he pleased, there were no longer any places where the poor and strangers could be relieved. If all the monastic properties had then been placed under a Board of

Commissioners to be utilized towards the relief of the poor, an annual income would now be at the command of such Commissioners as would be sufficient to cover the eight and a half millions per annum, the present cost of the relief of the poor of England and Wales, and thus the ratepayers of the kingdom would be relieved of the payment of poor rates. The annual value of all the property was £250,000, including the tithes possessed by the monastic bodies. If we take into account the valuable landed estates which the bishops and chapters were forced to exchange for the monastic appropriated tithes, firstfruits, and tenths, we shall get a revenue of at least £300,000 per annum, which, at the present time, would realize eight and a half millions per annum. To place such vast properties at the *free disposal* of Henry VIII. and his successors on the throne, is the most convincing proof of the subservient and even slavish Parliaments of the Tudor sovereigns.[168]

It is important to observe that we have no trustworthy record of any single event of English history previous to the arrival of Augustine. We have tradition, but nothing more. No great power of writing existed up to that period. But Augustine and his companions did more than introduce Christianity among the Saxons. They also introduced writing, annals, and other forms of Roman civilization. The first Anglo-Saxon charter is dated April 28, A.D. 604, by which Ethelbert, king of Kent, granted to the Cathedral church of Rochester, lands at Southgate. This charter was granted by the advice of Bishop Laurence and of all the king's princes.[169] There are no signatures, but ends with "Amen." The second charter, dated A.D. 605, granting land in Canterbury to found an abbey, is signed by King Ethelbert,

Archbishop Augustine, Edbald the King's son, Duke Hamigisil, Angemund referendarius, Hocca comes, Grafio comes (count or comites of the King), Tangilisil regis optimas, Pinca, and Geddi. The first charter is remarkable, in which Laurence is styled "bishop." Augustine had not died until the 26th May, 605,[170] so he must have consecrated Laurence as Archbishop more than thirteen months before his death. Augustine signed the Charter dated 9th January, 605, as a member of the Witenagemót.

Population.

Mr. Walter de Gray Birch, of the MSS. Department of the British Museum, had discovered in 1883, in the British Museum, a MS. in Anglo-Saxon of the late tenth or early eleventh century. It is the only extant Anglo-Saxon copy. It is the oldest and best text. There is internal evidence that the MS. is a copy of an older one now lost. It is in the Harley Collection of MSS. 3271 f. 6B. It is the earliest census return of the Anglo-Saxon population.[171] There are thirty-four divisions or territorial names which are very ancient. The total is 243,600 hides, which mean families, throughout England. Allowing five to each family, the population of England in A.D. 1066 was 1,218,000. As the sanitary arrangements and medical science were little known among the Anglo-Saxons, I take 10 per 1,000 as the excess of births over deaths. From these data I conclude that in A.D. 597, when Augustine landed in England, the population was 80,000; in A.D. 700, the population was 160,000; in A.D. 800, population 300,000; in A.D. 900, population 600,000; in A.D. 1,000, population 900,000. The population of Kent in A.D. 597 was about 5,500. There is a statement in Bede's

Ecclesiastical History that the population of Kent was 10,000 when Augustine landed, but this was an exaggeration. There were then 21 monasteries in England. Between A.D. 600 and 700, 100 monasteries were built and endowed. Therefore in A.D. 700 there were 121 monasteries for a population of 160,000. Only 29 monasteries were built between 700 and 800, 22 between 800 and 900, 38 between 900 and 1000, and 43 between 1000 and 1066, or 253, but one-half of them were in ruins through Danish invasions, at the time of the Conquest.

I shall now give the population of the country at the periods when tithes were ordered to be paid by civil or ecclesiastical law.

In 787, when the Pope's two legates came to England, the population was about 260,000. The Injunctions read to the Northern Synod were attested by the King of Northumberland, Archbishop of York, Bishops of Hexham, Lindisfarne, Whitherne, Mayo in Ireland, Ethelwin of Bangor, two dukes, two abbots, some presbyters, deacons and thanes.

In the Southern Synod they were attested by the King of Mercia, Archbishop of Canterbury, Bishops of Lichfield, Lindsey, Leicester, Elmham, London, Winchester, Dunwich, Hereford, Selsey, Rochester, Sherborne, Worcester (13 bishops); 3 abbots, 3 dukes, and 1 comes, *i.e.* 16 ecclesiastics and 5 laymen.

It will be seen from these facts that not only was the population small, but ecclesiastics formed the majority in the synods or councils who framed laws and canons for the payment of tithes to the Church. King Athelstan's law made in 927 for the payment of

tithes runs thus:—

"Athelstan, king, with the council of Wulfhelm Archbishop, and of my other bishops, make known to the reeves, etc." Here is the King with a council of bishops making a law for the payment of tithes to bishops themselves and to their clergy. And this is considered the first general law in England for setting forth the payment of predial and mixed tithes. The population then was about 700,000.

In 960, King Edgar passed his tithe laws with and by the advice of his Witan, who included the Archbishop of Canterbury, and bishops. The population then was about 800,000.

Let us now take a glance at the number of bishops in England and Wales up to the time of the Norman Conquest.

Kent had Canterbury and Rochester.

East Saxons: London. East Angles: Dunwich and Elmham.

West Saxons: Dorchester (transferred to Winchester), Sherborne, Mercia (including eight counties), Lichfield, Leicester, Sidnacester (or Lindsey), Worcester, Hereford.

South Saxons: Selsey.

Northumberland: York, Lindisfarne, Hexham.

Sixteen bishops in England and 4 in Wales in A.D. 705, when the population was only 160,000, *i.e.* a bishop for every 8,000. By absorption only 14 bishops in England, 4 in Wales, and 1 in the Isle of Man in 1066, or one bishop for every 66,000 of the population.

Lord Selborne, Bishop Stubbs, and Mr. Haddan[172] say the manorial churches, to which Edgar's laws granted one-third of the tithes, were the type of our own modern parish churches. This I grant. It is *the first Act* of Parliament by which they received tithes. By *custom* the *mother churches* originally received tithes. But it was not by custom, but by an Act of Parliament passed at Andover in A.D. 960, that the type of our modern parishes received one-third of the tithes of the parochial limits.

Up to A.D. 1180, the owners of lands from which tithes arose might give them, as they please, to bishops, chapters, monasteries, or *to the parish churches on their own estates*. Hence, churches erected by landowners after 960 received in *many* cases, up to 1180, *all the tithes* of the new parochial boundaries, and not one-third.

But I disagree with them in limiting the origin of the type of our modern parishes to A.D. 960. I trace the GERM of our modern parishes back to the two earls' churches, consecrated in A.D. 686.[173] Soames, Lappenberg, and Dean Hook refer the origin of our modern parishes to Archbishop Theodore (668 to 693). That Bede's churches were in the north of England does not militate against my view. *It was but the germ*, which gradually expanded.[174]

CHAPTER X.
THE LAWS OF ETHELRED II.

The following nine laws appear in Thorpe's "Ancient Laws," etc.[175]

I. *Council of Woodstock.* Thorpe takes his text from Cott. Titus, A. 27. The MS. is of the thirteenth century, and contains perhaps the best text extant of the old Latin version of the Saxon laws. Wilkins has it among his "Saxon Laws," but omits it in his "Concilia." Bromton also has it.

II. *The Treaty with the Norwegian Kings*, viz., Anlaf, Justin, and Guthmund. Thorpe prints his text from the above MS. Bromton has it Wilkins has it in his "Laws," but not in his "Concilia."

III. *The Council at Wantage* (A.D. 997). Thorpe prints it from the above. Bromton has it. Wilkins has it in his "Laws."

IV. *De Institutis Londoniæ* (prob. A.D. 997). Thorpe prints it from the above, and remarks that it was a most important law as regards the commercial and monetary history of England.

V. *Liber Constitutionum* (A.D. 1008). Thorpe prints it from Cott. Nero, A. 1. Wilkins has it in his "Laws," but not in his "Concilia." Lord Selborne confounds this with the Ordinances passed at Habam.

VI. *Council of Enham* (probably "Ensham in Oxfordshire"). Thorpe prints it from a MS. in Corpus Christi College, Cambridge, 201, which was written

apparently in the middle of the eleventh century, and which he collated with Cott. Claud., A. 3. Wilkins has it in his "Laws" and also in his "Concilia." Spelman dates the council A.D. 1009.

VII. *Grith and Mund.* Thorpe prints it from Cott. Nero, A. 1, collated with MS. C.C. 201 (Nasmith). "These manuscripts," says Mr. Thorpe, "closely agree together." Wilkins has it in his "Laws," but not in his "Concilia."

VIII. *The Ordinances of Habam* (A.D. 1012). Bromton alone gives the text, from which Thorpe copied his text and collated it with the Macro and Holkham manuscripts. Wilkins has printed it in his "Concilia" (i. 295), but not in his "Laws"; Spelman has it ("Concilia," i. 530).

IX. *Church Grith* (A.D. 1014). Thorpe prints it from Cott. Nero, A. 1. collated with C.C. 201. He does not state that these manuscripts closely agree together, as he does the two collated in VII. Wilkins has it in his "Laws," but not in his "Concilia."

N.B.—VI. VIII. and IX. only are in the volume Nero, A. 1.

Bromton has only I. II. III. VIII.

IX. *Church Grith.*

Mr. Thorpe takes his text from the so-called Worcester volume of the Cottonian manuscript, Nero, A. 1, fol. 96 *b*. It begins thus:—

"This is one of the Ordinances which the king of the English composed with the counsel of his Witan, etc."

Art. 6. "And respecting tithe, the king and his

Witan have chosen and decreed, as is just, that one-third part of the tithe which belongs to the Church, go to the reparation of the Church, and a second part to the servants of God, the third to God's poor and to needy ones in thraldom."

Art. 7. "And be it known to every Christian man, that he pay to his Lord his tithe justly, always as the plough traverses the tenth field, on peril of God's mercy, and of the full 'wite,' which King Edgar decreed, that is":—

Art. 8. "If any one will not justly pay the tithe, then let the king's reeve go, and the mass-priest of the minster, or of the 'landrica' (the proprietor of the land, lord of the soil) and the bishop's reeve and take forcibly the tenth part for the minster to which it is due, and assign to him the ninth part; and let the eight parts be divided into two, and let the landlord take possession of half, half the bishop; be it a king's man, be it a thane's."

Art. 9. "And let every tithe of young be paid by Pentecost, on pain of the 'wite'; and of earth's fruit by the equinox or at all events by Allhallow's Mass."

"On comparing these articles," says Lord Selborne, "with King Edgar's laws, it will be seen that, if enacted, they would have omitted the clause in those laws which authorized the payment of one-third of the local tithes to a manorial church having a burial ground."[176]

Dr. Lingard says, "But its (Edgar's) subsequent re-enactment in the reign of Ethelred, and again in the reign of Canute, will justify a suspicion, that in many places its provisions were set at defiance, and in many but very imperfectly enforced."[177]

Bishop Stubbs's references to articles 2 and 44, and to the latter part of the sixth of this law prove (1) that he read the whole law of Church Grith in Thorpe's translation by referring to three articles of this law; (2) that he referred to the third part in this law for the poor and needy in thraldom in support of a certain statement which he made about the poor; (3) that if he thought the law was not genuine or authentic, he would not have quoted from it; (4) and that the very fact of his having quoted from it, proves that he admitted its genuineness. Here are the Bishop's words: "The case of the really helpless poor was regarded both as a *legal* and as a religious duty from the very first ages of English Christianity. St. Gregory, in his instructions to Augustine, had reminded him of the duty of a bishop to set apart for the poor, a fourth part of the incomes of his church. In 1342 Archbishop Stratford ordered that in all cases of impropriation a portion of the tithe should be set apart for the relief of the poor. The *legislation of the Witenagemóts of Ethelred bore the same mark; a third portion of the tithe that belonged to the church was to go to God's poor, and to the needy ones in thraldom*."[178]

Dr. Stubbs cannot go behind what he states above in his published history.

Let us now compare this statement with what he has written since he became a bishop. "The tripartite division, never was adopted in England, and that the passages in support of it are either altogether unauthorized, or merely statements of an ideal state of law conformable to the uses of some foreign churches."[179]

Lord Selborne gives the following extract from a printed letter of Bishop Stubbs to a rural dean of the

diocese of Chester, 12th December, 1885: “The claim of the poor on the tithe was a part of the claim of the Church; and, although this claim *was never made the subject of an apportionment, tripartite or* quadripartite, except in unauthoritative or tentative recommendations, it has never been ignored or disregarded by the Church or Clergy.”[180]

How can Dr. Stubbs reconcile these statements with an actual quotation which he had taken from Ethelred’s law, where the threefold division is stated? It cannot be. Bishop Stubbs and Professor Freeman must be kept strictly to what they have published in their well-known histories until they publicly repudiate what they have written. Private letters which contradict historical statements must be ignored.

Sir Robert Cotton’s Library.

It is essentially necessary, before going further into the discussion of the manuscript of the Church Grith law, to give a sketch of the origin of the Cottonian Library.

Sir Robert Cotton, about A.D. 1588, commenced and continued for about 40 years to collect old charters, laws, seals, coins, etc., etc., which after the dissolution of the monasteries were dispersed through the country from their invaluable libraries. Many of them were secured by the nobility and gentry, but a considerable number fell into the hands of peasants, mechanics, and other persons who were ignorant of their important value and totally careless of their preservation. Valuable books of parchments were sold to grocers, soap-sellers, etc., who used them as they do old newspapers now. Others were

sent out of the country in shiploads to foreign booksellers; the servants used them for scouring candlesticks and rubbing boots. Two noble libraries were sold for forty shillings. Sir Robert found no difficulty in purchasing these valuable documents wherever he could find them. Many of them were loose skins, small tracts or thin volumes. Sir Robert had several of them bound up in one cover. He also obtained by legacy and purchase some of the most valuable manuscripts collected out of the scattered remains of monastic libraries by Josseline, Noel, Allen, Lambarde, Bowyer, Camden and others.

It was a timely and excellent opportunity for Cotton, Bodley, and Archbishop Parker. Sir Robert formed his library in one of the best rooms of his London residence called "Cotton House," near the House of Parliament. He permitted persons to consult and copy the manuscripts. It was in that library John Selden obtained his wonderful stock of ancient lore, which made his name immortal. Sir Henry Spelman drank deeply from the same fountain. Other antiquarians were equally indebted to Sir Robert Cotton. As I have already stated, he had many manuscripts bound up in separate volumes, and others he arranged in small parcels. Each volume and parcel contained several parts which were written at different times. He had a list on the first page of the headings of the manuscripts bound up in each volume. It is very important to note that fact, because in the present volume Nero, A. 1, there is the original list made in Sir Robert's time, in which ten headings of Anglo-Saxon manuscripts appear, but *none of Church Mund and Church Grith laws*, because they were not bound up in that volume, and I shall presently prove that these manuscripts were not in the library during the lives of Sir Robert and his son,

but were put there towards the end of his grandson's life. Therefore Selden and Spelman, and other antiquarians who consulted Sir Robert's library, did not and *could not* see the Church Mund and Church Grith laws of King Ethelred II. in the Worcester volume, as it is called, and where they are now bound up. Were they in any other parcel or volume in the library? They were not. Here is the proof. In 1629 the Privy Council ordered the library to be locked up, and a catalogue to be taken of the whole contents of the library in order to find out whether any of the King's books were in it. In 1631 Sir Robert died; and in 1632 an engrossed official catalogue was made out by order of the Privy Council. That catalogue is now in the Cottonian Library, in the British Museum, marked "Add. MSS. 8926." I have carefully examined the roll; it has three seals attached to it; the titles of the manuscripts and books are arranged under thirty-five headings, beginning with "Libri Historici." But there are no press marks such as Nero, A. 1, Claudius, B. 3. Another heading is, "Libri Saxonici," under which every Anglo Saxon manuscript in the library in 1632 was placed; but the Church Mund and Church Grith manuscripts do not appear under this heading. Then when were they placed in the library and in this volume Nero, A. 1? Sir Robert's son and grandson added considerably to the library. Sir John, the grandson, had given permission to Dr. Thomas Smith to make a catalogue of the contents of the fourteen presses. In 1696 Dr. Smith published the first printed catalogue in which the Worcester volume, Nero, A. 1, contains only the same ten Anglo-Saxon headings which appear in the list of 1632. I conclude that the Church Mund and Church Grith laws were not in the Worcester volume in 1695, when Dr. Smith penned his Preface.

An Act of Parliament was passed in 1700 vesting the Library, after the death of Sir John, in trustees, who were Matthew Hutton, John Anstis, and Humphrey Wanley. Sir John died in 1702. The library then passed at once into the custody of the three trustees. The first thing done was to make out a catalogue of the contents of the library on the death of Sir John, when the trustees took possession. In 1705, Wanley, one of the trustees, published his "Antiquæ Literaturæ Septentrionalis Liber, etc." His preface is dated 28th August, 1704. For the first time the Church Mund and Church Grith laws appear in Wanley's Catalogue. He was the first who named the volume Nero A. 1 as the "Worcester" volume, and Platna copied Wanley. From these facts I conclude that the above laws were purchased or otherwise obtained by Sir John Cotton, and were put into the "Worcester" volume between 1695 and 1702. I am aware that Dr. Smith's catalogue was very imperfect, and these laws might have been in the library when he issued his imperfect catalogue. But this is a pure conjecture on my part. My conclusions are based on facts, and not on conjectures. There is not the slightest doubt about the correctness and completeness of the official catalogue of 1632. They were not then in the library.

I have considered these details as vitally essential in the important discussion which is here to follow.

Lord Selborne's "Ancient Facts and Fictions."

He has published a book on "Ancient Facts and Fictions concerning Churches and Tithes," in which he has devoted a large portion to prove that the Church Grith law of A.D. 1014 "was either a draft or

project of laws which the framer, evidently an ecclesiastic of Ælfric's school, wished to have enacted.... There is indeed now written in the margin of that manuscript,[181] in a small modern hand, the date 'Aº. Dom. 1014.'"[182] I have often examined the manuscript, and found the reading to be "Aⁿº. dni. 1014." Lord Selborne gives the reading as it is printed in the Catalogue, but decidedly it is not the reading in the manuscript. It is supposed to have been written by Josseline, secretary to Archbishop Parker. There is internal evidence in article 43 to support this date (1014), viz. "But let us do as is needful to us; let us take to us for an example that which former secular Witan deliberately instituted. Athelstan and Edmund, and *Edgar who was last*," etc.

Ethelred had returned from exile in the spring of 1014, after which this law was passed.

In reference to the above words in italics, Lord Selborne says that Edward (975-979) reigned between Edgar and Ethelred, and therefore Edgar could not have been the last;[183] but it must be remarked also that Edred and Edwy who reigned between Edmund and Edgar, are also omitted in this 43rd article. Then why had the framers of the whole law particularized the names of Athelstan, Edmund, and Edgar, and leave out Edred, Edwy, and Edward? If we look at the arrangement of the Anglo-Saxon laws, we find the order as above, viz., the laws of Athelstan, next those of Edmund, and next the laws of Edgar, none by Edward, then come the laws of Ethelred. The 43rd Article referred to these laws, and therefore Edgar's were the last. So there is no force in Lord Selborne's remarks.

King Ethelred's law on the threefold division of tithes has been found so important in the discussion

on the tripartite division that Lord Selborne has devoted all his eminent legal powers, though unsuccessfully, to upset this Anglo-Saxon law. (1) His first witnesses are Selden, Spelman, Lambarde, Wheelock, and John Johnson.

"Selden and Spelman," says Lord Selborne, "*were well acquainted* with the Worcester (Cottonian) manuscript; and as neither of them made mention of this Church Grith document, it may be inferred that they did not regard it as having the character or the authority of a law."[184]

"If Lambarde, Wheelock, and John Johnson," continues Lord Selborne, "were acquainted with either manuscript—Church and Mund, and Church Grith—(*the contrary supposition is improbable*), the inference as to them also, from their silence about it (*i.e.* the Church Grith) must be the same," *i.e.* that "they did not regard it as having the character or the authority of a law."[185]

I shall examine these five writers *seriatim*.

(1) John Selden published his "History of Tithes" in 1618. I have already proved that the Church Grith law was not in Sir Robert Cotton's library in 1632. It was therefore impossible for Selden to have seen it in the "Worcester manuscript." The "Worcester (Cottonian) manuscript" is a very vague and loose way to express the Worcester (Cottonian) volume Nero, A. 1. The fact is that Selden had never seen or heard of the Church Grith law, otherwise he would unquestionably have referred to such a law in his "History of Tithes." In dealing with Egbert's Excerptions, Selden has quoted largely in his "History of Tithes" from this very volume, which contained the Excerptions, and which volume in his

time had no particular name. In his marginal quotation he merely informs his readers that they were taken from a "MS. in the Biblioth. Cottoniana." We have lost the advantage of his valuable opinion on the Church Grith law, by its absence from the volume from which he had made large quotations on other subjects. I agree with Lord Selborne that Mr. Selden was well acquainted with the contents of the volume; but I totally disagree with his lordship's inference as regards Selden's silence on the Grith Law, because that law was not in the volume for him to see or read; nor was it in the library.

(2) Sir Henry Spelman published his first volume of the "Concilia" in 1639. In this volume he gives only two of King Ethelred's laws out of the nine given by Thorpe. As a matter of fact, he, like Selden, had never seen or heard of the Church Grith law. Spelman was one of Sir Robert's most intimate friends, and had access to every manuscript and book in his library. Lord Selborne assumes without any authority that the so-called Worcester volume in Cotton's Library, open to the inspection of Selden and Spelman, contained *all* the manuscripts which it now contains. If Lord Selborne had only taken the trouble of reading the original list of manuscripts on the first page of the volume, he would see at once that the Church Mund and Church Grith are not in the list of manuscripts contained then in that volume. Therefore Selden and Spelman could not have seen them. The original list, and no more, is in the catalogue of 1632.

(3) William Lambarde, the Kent antiquarian, published his collection of Anglo-Saxon Laws in 1568, in which the Church Grith law does not appear, from which Lord Selborne again *infers* that

Lambarde did not regard it as having the character or the authority of a law. Let us apply his Lordship's canon of criticism to other omissions made by Lambarde in his collection of Anglo-Saxon laws, and then see to what conclusions such inferences lead.

He omitted the Laws of the Kentish Kings, the Laws of William the Conqueror and of Henry I. Then are we to infer that Lambarde saw these "documents," but would not notice them in his collection because "he did not regard them as having the character or authority of laws"?

This is really the logical sequence of Lord Selborne's *inferential* canon of criticism, as regards Lambarde's omission of the Church Grith law. The fact is that he, like Selden and Spelman, had never seen the law.

(4) Wheelock published a second edition of Lambarde's "Laws" in 1644, in which he added the laws of the Conqueror and of Henry I., but omitted the laws of the Kentish kings. Why? Must the answer be according to Lord Selborne's canon of criticism, viz., that "he regarded them as not having the character or the authority of laws"? No. He, like Lambarde, had not seen the Kentish laws or the Church Grith law.

(5) John Johnson published a "Collection of the Laws and Canons of the Church of England," in 1720, mainly founded upon Spelman's "Concilia."

Mr. John Baron, in his new edition of Johnson's collection, published in 1850, says, "Mr. Thorpe publishes some ecclesiastical laws of King Ethelred at pp. 129, 141, 145, which *were altogether unknown* to Johnson"[186] There is at p. 129 "Liber Constitutionum"; at p. 141 "Grith and Mund"; at p.

145 “Church Grith.”

Mr. Baron’s edition is quoted probably one hundred times by Lord Selborne in his “Facts and Fictions” and “Church Defence,” and he must unquestionably have read Baron’s Prefatory statement that “Grith and Mund” and “Church Grith laws” *were unknown* to Johnson. Yet in the face of that statement, Lord Selborne says, “If Lambarde, Wheelock, and John Johnson were acquainted with either manuscript (*the contrary supposition is improbable*), the inference is that they did not regard it (Grith law) as having the character or the authority of a law.” I have taken these five authors *seriatim*, and the general conclusion is that the Grith law was unknown to each and all of them.

II. His sixth witness is Wilkins. Lord Selborne says: —

“David Wilkins was the first to publish the Church Grith in his ‘Leges Anglo-Saxonica,’ where he combined it in a manner, for which the manuscripts afforded no warrant, with the Ordinances of ‘Habam,’ etc. If he had regarded it as an authentic ecclesiastical law when he afterwards (in A.D. 1737) published his great collection of ‘Acts of Councils’ and other English ecclesiastical documents, it must have found a place there, which it does not.”[187]

Dr. Wilkins was also the first to publish the laws of the Kentish kings.

Mr. Thorpe says of Wilkins’s “Concilia,” “As a monument of industry this edition is very creditable to Dr. Wilkins; at the same time it must, though reluctantly, be acknowledged by every one competent to judge, that as a translator of Anglo-Saxon he not unfrequently betrays an ignorance even

of its first principles, that though not unparalleled, is perfectly astounding."[188]

I shall now examine the above statement of Lord Selborne.

I have failed to find that Wilkins combined the Grith with the Ordinances of Habam. These Ordinances do not appear at all in his "Saxon Laws." The four laws of Ethelred which he has are (1) Liber Constitutionum, (2) Mund, (3) Church Grith, (4) Wantage.

Now the "Liber Constitutionum" has 35 articles, of which 19 are ecclesiastical. But Wilkins did not insert it in his "Concilia." And yet Lord Selborne makes no remark on its omission, but he is careful to note the omission of the Church Grith.

III. His seventh witness is Mr. Price,[189] who commenced to edit, under the instructions of the Record Commissioners, an edition of the "Anglo-Saxon Laws." Archdeacon Hale, of London, like Lord Selborne, was a great stickler for the non-admission of any tripartite division of tithes in England. He was mainly guided by Wilkins's edition of 1737, and had not even seen his "Anglo-Saxon Laws," which were published in 1721. But after having written strongly against the tripartite division, a friend referred him to Ethelred's law of 1014, in Wilkins's "Anglo-Saxon Laws." He became anxious on reading it, and stopped a new edition of his work until he could have the point clearly settled. He consulted Mr. Price, who, on the 26th July, 1832, addressed the following letter to him:—

"It is an unauthorized assemblage of points of canon law, gathered indifferently from foreign and home sources, and he did not think it genuine,

because Wilkins had omitted it from his new edition."[190]

The Archdeacon seemed not to be satisfied with this formal opinion, and so after Price's death, which occurred soon after he had written the above letter, he consulted another gentleman, "Whose reputation," says the Archdeacon, "for extensive knowledge of Anglo-Saxon literature is not confined to his own university, or to this country, but whose name I do not consider myself at liberty to mention. He gave me in writing an opinion at variance with that of Mr. Price, and *was in favour of the genuineness of the law of Ethelred*, and his opinion was founded upon the fact of Schmid having published it in his edition of the Anglo-Saxon Laws, and *upon the persuasion that no weight whatever was due to what Wilkins had said or thought upon the subject.*"[191] I have always admired the straightforward manner in which the Archdeacon placed the whole matter before the public. A prejudiced person would have kept back the damaging opinion of the unnamed writer. He is therefore much fairer on this matter than Lord Selborne, Mr. Fuller, and Mr. Chancellor Dibdin, who, while quoting Price's opinion, *carefully avoided any reference whatever* to the second or favourable opinion, although it is printed in a footnote at the page where Price's letter appears.[192]

Reinhold Schmid, to whom the Archdeacon's second referee referred, was Professor of Laws at Jena, and published at Leipzig in 1832 an edition of the "Anglo-Saxon Laws." "This edition," says Mr. Thorpe, "is a very creditable publication, decidedly superior to the preceding ones (*i.e.* Lambarde's and Wilkins's). The version is free from the gross errors of Wilkins and generally correct."[193]

This statement corroborates the independent testimony of the Archdeacon's unnamed writer.

IV. Lord Selborne's eighth witness is Professor Freeman, of Oxford.

"Mr. Freeman," says Lord Selborne, "who seems to have accepted the date A.D. 1014 as evidence that the document represents some public act of that year, was also led to the conclusion that these were 'hardly laws at all,' but mere 'advice,' and an expression of pious and patriotic feeling, a promise of national amendment rather than legislation strictly so called."[194]

I shall give some extracts from Mr. Freeman's letter written in 1885, directly referring to the Church Grith law, and then I shall contrast such opinions with those expressed on the same subject in the last edition of his "Norman Conquest," published in 1877. The reader can then form his own conclusion with regard to the letter and the historical statement.

"The only case" he says in his letter, "of the action of the State in the ancient laws is that to which I have referred in the laws of Ethelred.[195] Here the sixth enactment of 1014, under the head of Church Grith, clearly ordains the threefold division, and that with solemnity.

"Here then at last we come to the threefold division of the tithe enjoined by secular as well as by ecclesiastical authority. *But something is wanting to make legislation perfect.* If we look on a little further to the next clause but one, we shall find a strict enactment about the payment of tithes, and not only an enactment, but *a means prescribed for carrying the enactment into force*. But this is simply copied from an

earlier law of Edgar.[196] And in the law of 1014 it stands almost alone as a real piece of legislation with a sanction. In truth these laws, of which I have found something to say elsewhere,[197] *are hardly laws at all*. As was not wonderful, under the peculiar circumstances of the time, *they are rather an expression of pious and patriotic feeling* (see the last clause), a kind of promise of national amendment than legislation, strictly so called. They go along with the discourses of Archbishop Elfric, *good advice rather than legislation*, rather than with those codes which not only make decrees, but provide means for executing them. In such a collection of recommendations rather than of real statutes we are not at all surprised to find the threefold division of tithe. But it is nowhere found in any of those codes which are real acts of legislation, providing the means for carrying out what is ordained, etc."

Mr. Freeman, in his long private letter, has produced no proof whatever to upset the Church Grith as a proper legal enactment. He has not stated what the *something* was to make the legislation perfect. If he means that no provision was made to carry out what was ordained, he contradicts himself, because he distinctly states above what is true, that as regards the sixth law for the payment of tithes, "means were prescribed, copied from Edgar's laws, for carrying the enactment into force."

It was quite common for an Anglo-Saxon king and his Witenagemót to re-enact some of the laws of his predecessors. So Ethelred re-enacted Edgar's law as to the punishment which would follow the non-payment of tithes. And Cnute re-enacted wholesale the laws of his predecessors.

The most remarkable, inconsistent, and

contradictory part of this letter is the abrupt jump which the writer takes from statements he was making *in support* of the Grith laws, to the statement, "In truth these laws are hardly laws at all."

I now turn to Mr. Freeman's "Norman Conquest" to find what he has written in it about this law. In it we get the mature thoughts of the historian, before Lord Selborne's books appeared.

"It was most likely," says Mr. Freeman, "in a Gemót held on his return, that the King and his Witan passed the laws which bear the date of this year.[198] They relate mainly to ecclesiastical matters, but they contain the same pious and patriotic resolutions as the codes of former years, and they also contain some clauses of a special and remarkable kind. He expressly approves the conduct of certain earlier assemblies held under Athelstan, Edmund, and Edgar, which dealt with ecclesiastical and temporal affairs conjointly, and they seem to deplore a separation between the two branches of legislation which had taken place in some later assemblies." He then refers to sections 36, 37, and 38 of the Church Grith, and adds, "cf. sec. 43, where the three kings are named."

"The laws of this year (1014) again proclaim that one God and one King is to be loved and obeyed."

"*Such is the general summary of the last recorded legislation of Ethelred, conceived in exactly the same tone as the laws of earlier assemblies.*"[199]

Here there is no reference whatever that in this last recorded legislation of Ethelred, "they were hardly laws at all, but rather an expression of pious and patriotic feeling, a kind of promise of national amendment, than legislation strictly so called."

The two statements—one in the History, and the other in a private letter—are contradictory. Contradictory statements coupled with an immense display of pedantry and egotism, characterize the recent writings of this author.[200]

Historians must be kept to the opinions expressed in their published histories until they publicly repudiate them. This Mr. Freeman has not yet done. Private letters which contradict them, are not only worthless, but are injurious. Historians who adopt this plan place themselves in a false position before the public. They cannot run with the hare and hunt with the hounds. They cannot *consistently* address private letters to clerical tithe-owners expressing opinions against the threefold division of tithes, and Church Grith law, which contradict their historical opinions and statements.

V. The next witnesses produced by Lord Selborne are the Old Latin Translators of the Anglo-Saxon laws. “An earlier collection,” he says, “of the Anglo-Saxon laws, translated into Latin in the twelfth century, of which Bromton may be presumed to have made use (though by giving the Habam Ordinances he has shown that he had also access to other materials) contains, with that exception, the same laws which are in Bromton.”

“The Latin translators, therefore, if they were acquainted, as is possible, with the documents omitted in both collections (*i.e.* in their Anglo-Saxon laws, and in Bromton’s), but classed by more modern compilers among the public acts of King Ethelred’s reign, did not regard them as possessing that character in any such sense as to make it fit that they should find a place in a code of Anglo-Saxon laws; and it may be inferred that they found no such place

in any records of a public nature to which those translators had access."[201]

Here, again, his lordship resorts to his stereotyped formula, when laws are omitted by writers that "They did not regard them as possessing the character of laws." I have already shown the several omissions made by various writers in their collections of Anglo-Saxon laws, *because they were unknown to them*. If we adopt Lord Selborne's canon of criticism, we must not only sweep away the Church Grith law, but actually *five* of King Ethelred's laws, because they do not appear in the old Latin version!

I have carefully compared Thorpe's collection with the old Latin version, and the following is the result. There are fifteen Anglo-Saxon laws in Thorpe's collection which are omitted in the old Latin version; viz., the Laws of the Kentish kings—Ethelbert, Lothere, Edric, and Withred. King Alfred's Scriptural Laws, King Athelstan's Decretum Cantianum and Decretum Sapientum Angliæ, King Edmund's Concilium Culintonense, King Edgar's Supplemental Laws, King Ethelred's Liber Constitutionum, Council of Enham, Church and Mund, Church Grith, and Council at Habam; King Cnute's Forest Laws.

Applying Lord Selborne's canon of criticism, we are bound to repudiate every one of these fifteen laws, because they are not in the old Latin version. He cannot draw the line at the Church Grith law, and not include the others.

In the face of these facts, Lord Selborne adds: "The Ancient Latin Version of the Anglo-Saxon laws *was evidently meant to be complete*, and which does contain all the legislature properly so called of Ethelred's predecessors from Alfred downwards (why

not also before Alfred?), and also of Canute."[202] Lord Selborne does not tell us who the Latin translators were, and what opportunities they had, or what materials were at their command to make their code complete. What official position did they occupy? But we know, as an unquestionable fact, that the Latin version was *not complete*, and that up to 1840 we have not had a complete code of Anglo-Saxon laws from extant manuscripts until Mr. Thorpe's was published under the direction and authority of the Commission of Public Records.

"The undoubted legislation Acts," he further adds, "of King Ethelred's reign (viz., the Ordinances of Woodstock and Wantage), and also that to which the Latin date A.D. 1008 is prefixed, have general titles in the Anglo-Saxon text, signifying that they were passed by the king in the national Witenagemót. But the title of the document numbered IX.[203] by Mr. Thorpe, is very different."[204] This is not correct, for the law numbered IX. in Thorpe's, has this title, "This is one of the Ordinances which the King of the English composed with the counsel of his Witan."[205] Now, let us compare this title with those of (1) Woodstock, (2) Wantage, and (3) the Law of A.D. 1008, which Lord Selborne admits to be genuine. (1) "This is the Ordinance which King Ethelred and his Witan ordained."[206] (2) "These are the laws which King Ethelred and his Witan have decreed at Wantage."[207] (3) "This is the Ordinance that the King of the English and both the ecclesiastical and lay Witan have chosen and advised."[208] These facts completely refute Lord Selborne's statements. The general title to the Church Grith law, with the name of the King and Witan, is as strong as that of any of the admitted legal Acts stated by Lord Selborne. Again, if we compare the title of

the Church Grith with that of Athelstan's law, it is even stronger and in much better legal form. Here it is: "I, Athelstan, King, with the counsel of Wulfhelm, archbishop, and of my other bishops, make known to the reeves," etc.[209] Selden, Kemble, and Bishop Stubbs admit, but Lord Selborne denies, the above to be a genuine law of King Athelstan. Lord Selborne criticises the titles of Anglo-Saxon laws made nearly 1,000 years ago in the same critical and technical manner as he would one passed at the present time. Here is an example. The Church Grith law begins thus: "This is *one* of the ordinances which the King of the English composed with the counsel of his Witan." Here is Lord Selborne's note: "This form of expression is singular. I do not think that anything exactly like it is to be found elsewhere."[210] The usual style is, "This is the ordinance," etc., or, "These are the ordinances," etc. But there is really no practical difference.

VI. The next witness is John Bromton, abbot of Jervaulx in Yorkshire, who lived towards the end of the fourteenth century. His history comprises the period from A.D. 588 to A.D. 1198. Brompton copied his collection of Anglo-Saxon laws[211] from the Latin version. But he alone has the text of the Ordinances passed at Habam. He has four of the nine laws of Ethelred.

Lord Selborne says: "Bromton knew no laws of the reign of King Ethelred, except those of Woodstock and Wantage, the Treaty with the Norwegian kings—Anlaf, Justin, and Guthmund (all purely secular), and the Ordinances of Habam, which he only preserved."[212]

The Ordinances of Habam are found only in Bromton's history, and they contain one important

provision as to tithes and other Church dues. Art. 4: "And we charge that every man, for the love of God and all His saints, give church-scot, and his rightful tithe as it stood in the days of our ancestors, when it stood best; that is, as the plough shall pass through the tenth acre, and let every customary due be paid for the love of God to our mother-church to which it is near. And let no one take away from God what belongs to God, and our ancestors have granted."[213]

This Ordinance would indicate a spirit of revolt against the payment of tithes, and that the provisions made by previous kings for their payment were set at defiance. I do not agree with Lord Selborne that this Ordinance grants *all the tithes* and *dues* to the *nearest mother-church*, and thereby cancels or disregards Edgar's law as to the payment of one-third of the tithes to the manorial church with burial ground. [214] The revolt about paying the customary dues or tithes was against payment to the mother-churches and not to the manorial churches. This is a vital distinction as indicating an early revolt against the spiritual parochial endowments having been given to churches which did no spiritual duties in the manorial parishes for them.

Owing to the same spirit of setting the tithe-law at defiance, we find a re-enactment of Edgar's stern law to enforce the payment of tithes in the 6th article of the Church Grith, and a second re-enactment by Cnute. It would be most unreasonable, and indeed absurd, to assume that the Habam Ordinances ignored the claims of the manorial churches to a third of the parochial tithes. The manorial churches in the beginning of the 11th century were too numerous to be deprived of their portions of the

tithes, especially in 1014, when Ethelred, after returning from exile, tried to conciliate the clergy.

Dr. Lingard's opinion is valuable upon this point. "It was probably thought," he says, "that a law so precise (as Edgar's), and so severe—a forfeiture of eight-tenths of the crop—would insure for the future the exact payment of the tithe; but its subsequent re-enactment in the reign of Ethelred,[215] and again in the reign of Canute, will justify a suspicion that in many places its provisions were set at defiance, and in many but imperfectly enforced."[216]

Mr. Fuller, in "Our Title-Deeds," regards Dr. Lingard's silence about the Church Grith law as "inexplicable in every way." The above quotation, as regards this law, clearly proves the charge to be groundless.

As Bromton had copied his Anglo-Saxon laws from the old Latin version, he has not fourteen of the fifteen laws which were omitted in that version.[217]

"It may be asserted," says Lord Selborne, "without risk of error, that *no part* of the Worcester volume, Nero, A. 1 of the Cottonian collection was written before the end of Cnute's reign, who died in 1035, for the volume begins with Cnute's laws, which are followed by those of Edgar, Alfred, Athelstan, Edmund, Ethelred; and after them Grith and Mund, and Church Grith:—all in Anglo-Saxon, *without break*, and in that order."[218]

Every reader of "Facts and Fictions" cannot consult the Worcester volume to judge for himself whether this statement is correct or not. Readers generally accept as true what men of position and education publish, without investigating—for they have not time—the truth of the subject-matter. Mr. Fuller

makes the following candid admission: “In Thorpe’s ‘Anglo-Saxon Laws,’ i. 342, the tripartite division *seems expressly sanctioned by law*; it will be therefore necessary for us to investigate this important fact, and see *if it is not possible to shake its authority and bearing on the case*.”[219] This is exactly the spirit with which certain writers attack the law. Let us test the above quotation from “Facts and Fictions.” The volume contains 184 folios quarto. Folios 1 to 39 form the first tract in the volume; 42 to 56 the second; 57 to 68*b* the third; 71 to 97*b* the fourth, etc.

There was a good deal of guess work in arranging the tracts in this order. They were not written by the same hand; some were written early in the eleventh century, and others in the third quarter of the same century. The laws of Canute, Edgar, and part of Alfred’s, were written in the Conqueror’s reign. A large portion of Alfred’s laws is written in Josseline’s hand, in the 16th century, then a common practice to complete imperfect manuscripts, and the manuscript of Alfred’s laws in the Worcester volume is very imperfect. Then the laws of Athelstan and Edmund may be seen at once to be a much earlier hand, of the first quarter of the 11th century—the period assigned by Thorpe. There is a fragment of Edgar’s laws at folio 89, placed between Edmund’s and Ethelred’s, and in the same handwriting, and fully sixty years earlier than Edgar’s laws, which are at folios 15 to 41. These facts as to dates of handwriting can easily be verified by comparing them with charters of certain dates. I have compared the handwriting in the several tracts with the charters written towards the end of the 10th century, and beginning, middle, and end, of the 11th. The Church Grith law was certainly written before Canute’s death in 1035. There are several breaks in

the volume between the laws of the five kings, although Lord Selborne says, “All in Anglo-Saxon, *without break*.” The first break is of six folios between the first and second parts of Alfred’s laws. Then a second break of no less than twenty-eight folios between the last part of Alfred’s and the beginning of Athelstan’s. Here, then, are two breaks of thirty-four folios, and there are seven heads of other manuscripts on different subjects which are bound up in these breaks of thirty-four folios.

It is quite evident that in the Worcester volume, Nero, A. 1, we have *two incomplete sets* of Anglo-Saxon laws, picked up by Sir Robert Cotton and thus preserved from destruction, which Lord Selborne would lead one to think were *one complete, continuous set of laws* of these five kings. The other parts are lost. I have already given a brief sketch how our antiquarians collected, as best they could, the tons of manuscripts which belonged to the libraries of the dissolved monasteries scattered throughout the country.

Here is one specimen out of many from “Our Title-Deeds,” p. 119, by which Mr. Fuller attempts “to shake the authority” of the Church Grith Law. “A document,” he says, “which Selden casts a slur upon, is surely not one upon which to rest a fact of English history.” Then in a footnote Mr. Fuller adds, “Selden calls it only a sort of document, and passed in a Council in a kind of Parliament, and tells us it remains only a manuscript of or about the time of the *Roman* Conquest. The preface of it shall be here first noted, that the authority of it may be better understood, *i.e.* appraised at its real value.”

Mr. Fuller’s book is dedicated to Lord Selborne, who truly states that Mr. Selden, in his “History of

Tithes," *made no mention of the Church Grith document*.[220] Of course, Mr. Fuller is romancing as usual. Miserable efforts "to shake the authority" of a law. There is not one word of truth in the whole of the above quotations. "Roman Conquest!" Utter nonsense.

Mr. J. S. Brewer.

Mr. J. S. Brewer in "The Endowment and Establishment of the Church of England," supported the tripartite division of tithes. But after his demise, Mr. L. T. Dibdin[221] has edited a new edition in which he opposes Brewer's views. He adopts the views of Archdeacon Hale and Lord Selborne. He states that the supporters of the tripartite division can bring forward only spurious canons and laws to prove their case, and then instances (1) a *spurious passage* in the "Penitential" of Archbishop Theodore, for proof of which he refers to "Haddan and Stubbs, 'Councils,' iii. 173, note 203"; (2) An alleged law of Ethelred (1013), and adds in reference to Ethelred's law, "But the better opinion [he actually blends together the opinions of Price, Stubbs and Selborne] appears to be that the code, of which it is a part, is a private compilation or collection of points of Canon Law gathered indifferently from foreign and home sources, published tentatively, and not recognised as possessing any legislative force. With this exception (if it be one), no English law as distinguished from Ecclesiastical ordinance or opinion, directs the division of tithe into thirds or fourths, or refers to the supposed right of the poor to a share."[222]

As regards the quotation from the well-known writings of Haddan and Stubbs, they actually held the opposite opinion to that attributed to them by

Dibdin. They state that Theodore's "Penitential" is genuine. Here are their words, which may be contrasted with Dibdin's: "In 1851, at Halle, Dr. F. W. Wasserschleben, Professor of Law in the University of Halle, published from a comparison of several continental manuscripts, the work of the 'Discipulus Umbrensium,' which is to be found in our text." They then enumerate nine editions of works published under Theodore's name. They reject all as spurious except the "Discipulus Umbrensium," which they printed from the Corpus Christi College Cambridge MS. 320. The three eminent scholars, Mr. Haddan, Bishop Stubbs and Professor Wasserschleben, pronounce distinctly and emphatically in favour of the genuineness of the treatise of the "Discipulus Umbrensium" as being the genuine "Penitential" of Theodore. The Cambridge manuscript, they assert, was written not later than the eighth century, although the reference to another copy found in lib. ii. c. xii. s. 5 seems to preclude the idea that it is the original.[223]

Bishop Stubbs, in his history, remarks that in this very "Penitential," viz., lib. ii. c. xiv. s. 10, commencing, "Decimas non est legitimum dare," *the clergy had not the sole use of the tithes*.[224]

I refer the reader to pp. 20-23 in this book for a full discussion on this point.

In the second place, as regards Mr. Price's opinion, I must also refer the reader to p. 107.

Cnute's Laws.

These laws are divided into three branches, (1) Ecclesiastical, (2) Secular, (3) Constitutiones de

Foresta.

The text from which Mr. Thorpe prints (1) and (2), is Cott. Nero., A. 1, which was written in the middle of the eleventh century. The text of (3) is from Spelman's "Glossarium Archæologicum." There are twenty-six laws in (1); eighty-five in (2); thirty-four in (3).[225]

In A.D. 1018 at a Witenagemót at Oxford, Cnute confirmed the laws of Edgar. "The laws of Edgar," says Lappenberg,[226] "had shown particular regard to the Danes dwelling in England, while in those of Ethelred, as far as we are acquainted with them, similar provisions do not appear." This was the true reason for Edgar's laws having been adopted as a model by Cnute. He also made use, however, of Ethelred's laws, especially those on Ecclesiastical subjects. It is remarkable to find very many of the articles of "Grith and Mund" and of "Church Grith" embodied in Cnute's laws, although much pains have been taken to prove that these laws were spurious and unauthentic. And yet we find that no less than thirty-six of the forty-four articles in the Church Grith law are incorporated in Cnute's laws! It is interesting to notice how Lord Selborne disposes of the remaining eight. Five (articles 36 to 39 and 43), he says, are of that historical, rhetorical, expostulatory and didactic character as are not proper for laws which could in that or any similar form be enacted by any legislature. One was omitted apparently as superfluous (*i.e.* 41: "If a monk or mass-priest become altogether an apostate, let him be for ever excommunicated, unless he the more readily submit to his duty.") Two remain which were evidently, on consideration, disallowed. One is for the tripartite division of tithes, of which there is no

trace in any later collection of Anglo-Saxon laws, and one is rejected (art. 32) which gave extraordinary aid and protection to abbots and their stewards.[227] Now by rejecting article 32, are we to suppose that the abbots and their stewards were not to be protected by the king's reeves? for the article states, "And the King commands all his reeves in every place that ye protect the abbots on all secular occasions as ye best may; as ye desire to have God's or my friendship, that ye aid their stewards everywhere to right, that they themselves may the more uninterruptedly dwell closely in their minsters, and live according to rule."[228]

It has escaped Lord Selborne's notice that Cnute's confirmation of Edgar's law, which grants one-third of the tithes to the manorial priests, comes to the same thing as the threefold division of tithes in the Church Grith law. The principle is the same in both, namely, that the manorial priest, or the priest of the mother church, was legally entitled to no more than one-third part of the tithes, and that the modern use of taking *all the tithes* was contrary to all rules, laws, and customs. They were never originally given, and would never be given to the priests on any such condition, namely, to convert them all to their own personal use—in fact, to be their own private property or income, as is the case now.

Now the great and important question is, "When and in what way did the manorial priest acquire the other two parts?" How did the third, asks Lord Selborne, pass into the whole? His answer is, "There is not, as far as I know, so much even as a canon of any council, or a decree of any Pope in the nature of a legislative act, enlarging the right, or appropriating tithes generally, to parish churches in England or

elsewhere."[229]

His conclusion is, that as the laity were at liberty to give their tithes to whatever church they wished, "they might with equal right and reason endow parish churches on their own estates with the predial tithes of their lands within the parishes; and the probability was that they would do so. No more likely explanation of the general prevalence of such parochial endowments, where churches were not appropriated to monasteries, has yet been suggested."[230]

Lord Selborne's statement is very plausible, but will not stand investigation. The incumbents were only trustees, and as such received all the tithes. They had a common law right to a usufructuary part only, so had the poor and strangers and the church fabric. But in the various changes which took place in the thirteenth and fourteenth centuries the trustees gave what they liked of the tithes to the poor, and also placed the expenses of repairing the church fabric upon the parishioners. It is too much to assume that the poor and strangers were in a pecuniary position to appeal, as Lord Selborne and others assert, to the superior courts and claim their share of the tithes. A body representing the poor with funds at their disposal might have done so, but it is really too much to expect that the individual poor person had his or her "legal remedy," as they assert, against the parson for his or her part of the tithes. The fact is, that the incumbents began in the thirteenth century to consider themselves not as trustees but actual owners of all the tithes of their parishes, and doled out to the poor some alms, and therefore kept up a semblance of assisting the poor. It is remarkable that lay and clerical rectors in

receipt of the rectorial tithes are bound, up to the present time, to keep the chancel of the church in proper repair, and if blown down, to rebuild it. This is a remnant of the original claim on the tithes to repair the fabric of the church. The monastic rectors set the example of totally neglecting to repair the churches appropriated to them, and the parishioners, for their own comfort and convenience, collected funds among themselves to keep the churches in repair, although it is a fact that the owner of the rectorial tithes was bound by common and canon law to keep in repair the whole church fabric, including not only the chancel but also the body of the church.[231] The secular rectors were not slow in following the example of the religious rectors, and in course of time they saddled the parishioners with the expenses of repairing the body of the church. The present trustees have therefore misappropriated all the tithes to their own use. Again, it is stated by Lord Selborne and others that when the poor laws were enacted, Parliament would have made the tithe-owners contribute to the support of the poor, if it thought they were bound to set apart a portion of the tithes for this purpose. But who were then the law-makers? The majority of them were then in possession of the extensive monastic tithes, and landed properties. It is well known that the properties were handed over to them subject to the same burdens which had been attached to the same properties when they were in possession of the monastic bodies; but the new owners ignored these burdens.

CHAPTER XI.
THE FIRST POOR LAW ACT.

The first Act for the relief of the poor was passed in 1535 (27 Henry VIII., c. xxv.).

"All governors of shires, cities, towns, etc., shall find and keep every aged poor and impotent person which was born or dwelt three years within the same limit, by way of voluntary and charitable alms, etc., with such convenient alms as shall be thought meet by their discretion," etc.

It was in this year (1535) that the lesser monasteries were dissolved. So the first poor law was enacted, to provide for the poor and impotent, in the same year in which the dissolution occurred.

The total annual revenue of *all* the monastic and chantry estates, together with the episcopal and chapter estates surrendered to the Crown, was about £300,000, which, if carefully managed—say by a Board of Commissioners—to provide for the poor, would now realize an annual revenue of eight and a half millions sterling, sufficiently adequate to defray all the expenses of the poor of England and Wales, without a penny expense to the ratepayers. All the vast properties were disgracefully granted away to unprincipled, poor, avaricious favourites and courtiers of Henry VIII., and his children.

It was Cromwell who, in his desire to promote the Reformation, advised the King to divide the abbey lands among the nobles and gentry, either by grant

or sale on easy terms; and that by being thus bound by the sureties of private interest, they might always oppose any return towards the dominion of Rome. [232]

Cromwell's views turned out to be correct, as we know from the conduct of members of Parliament who were in possession of monastic property. In Mary's reign her Parliament, which was so obsequious in all matters of religion, adhered with a firm grasp to their Church lands. Nor could the papal supremacy be re-established by Mary until her sanction was given that they should be allowed the full enjoyment of their Abbey lands, and we may ascribe the zeal of the same class, in bringing back and preserving the reformed Church under Elizabeth, to a similar motive; that, according to the general laws of human nature, they gave a readier reception to truth, which made their estates more secure.[233] They would be any religion, provided they retained their church lands.[234]

The 31 Henry VIII., c. xiii., expressly states that the laity in possession of the lands of the dissolved monasteries were to maintain hospitality. But they never did any such thing, nor were they required to do so. They increased the rentals of the monastic, episcopal and capitular lands fourfold more than had previously been paid, for ecclesiastical lands were let at about one-fourth of their rack-rental value. A good deal of the land was tithe-free, and therefore higher rentals were demanded than for lands which paid tithes. These men made the poor laws; their increased rentals increased pauperism, but they had only a small fractional part to pay themselves towards the maintenance of the poor; the bulk of the rates for the relief of the poor (increased in number by the conduct of these new landlords) was paid by

people unconnected with the land.

"The poor of England," says Blackstone, "till the time of Henry VIII., subsisted entirely upon private benevolence, and the charity of well-disposed Christians. For though it appears by the 'Mirror' that by the Common Law the poor were to be 'sustained by *parsons*, rectors of the church, and the *parishioners*, so that none of them die for default of sustenance;' and though by the statutes 12 Rich. II., c. vii. and 19 Henry VII., c. xii. the poor are directed to be sustained in the cities or towns wherein they were born or where they had dwelt for three years (which seem to be the first rudiments of parish settlements), yet till the statute of 27 Henry VIII., c. xxvi., I find no compulsory method chalked out for this purpose; but the poor seem to have been left to such relief as the humanity of their neighbours would afford them. The monasteries were, in particular, their principal resource."[235]

Here the "Mirror" distinctly states that by Common Law the parson and his parishioners sustained the poor, and by the same Common Law the parson, as trustee, received all the tithes, and by the same law the poor had a claim to a part of those tithes.

It is a favourite argument with Lord Selborne, and others who follow him, that the part allotted out of the tithes for the poor would be insufficient for their support. But he omits the important fact that in one of Edgar's canons it was enacted that the people should also distribute alms to the poor, so that the part allotted out of the tithes was not intended to be the *whole* maintenance which the poor should receive.[236]

In A.D. 960, when Edgar's laws and canons were enacted, the population of England was about 800,000, with about 1,000,000 acres under cultivation. The provision for the poor was more than sufficient.

Mr. Blunt, in his "History of the Reformation," tells us that "A large body of almost starving people was formed by the ruined monks, and those who had been maintained by them, either in labour or charity. Rents were enormously raised by those to whom the monastic grants fell by grants or purchase, the new landlords exacting three or four times more than had been required by the old church landlords. The poverty of the poor and the wealth of the rich drew away class from class and introduced that disintegration of society, which caused so much trouble in the 17th century."[237]

Sir Simon Degge, in his "Parson's Counsellor," says "That there are many pluralists in England that hardly see either of their livings in a year; that all the greatest and best livings in the kingdom are now (1676) held by pluralists, and served by mean curates; that thereby many poor souls are neglected in danger to perish; that in many places two great parishes are left to the care of two boys, who came but the other day from school, and perhaps fitter to be there still, while the shepherd that takes the fleece either feasts it out in his lord's family or takes his ease upon a prebend or deanery; that it is no other than hiring out the sacred trust to pitiful mercenaries at the cheapest rate; that it is a thing of high scandal for one to receive the fees and commit the work to some inferior or raw practitioners; that one end of the law of residence (21 Henry VIII.) was to maintain hospitality; that the best livings in the kingdom are

served with poor curates and no hospitality; that we are now in a far worse condition than before making the Act, for that dispensations from Rome were slow and costly, and that there are ten dispensations for pluralities now to one then." He further added that the revenues of the Church were divided into four parts, and referred to Pope Sylvester as having originated this division; and then used these words:—"*And I would wish every clergyman to remember that the poor have a share in the tithes with him.*"[238]

Referring to this author's words, Lord Selborne says, "Sir Simon Degge was a (not particularly distinguished) lawyer of Charles the Second's time. For his citation of Pope Sylvester, etc., he was called to account in his own day, and in a later edition he defended it lamely enough, maintaining on the authority of some Roman canonists the genuineness of the extracts from synodical Acts of Pope Sylvester published by Isidore, and it must therefore be supposed, of the forgeries in the same collection also."[239]

He carefully avoids giving us the name of the writer who called Degge to account. It was the Rev. Henry Wharton, the author of the "Anglia Sacra."

In 1693 this boy pluralist—the author of "A Defence of Pluralities"—published, under the name of Anthony Harmer, "A Specimen of some Errors and Defects," in Bishop Burnet's "History of the Reformation." For an account of the malicious spirit in which this book was written, see Burnet's Preface to the third volume of his "History of the Reformation." "Here is a writer," says the Bishop, "who is wanting in Christian temper and in decency, and I regret to see such facts and industry soured and spoiled with so ill a temper."[240]

Dr. Cave, author of “Historia Literaria,” who employed Wharton as his amanuensis, in a letter to Archbishop Tillotson, fully corroborates Bishop Burnet’s character of Wharton. The bishop knew who Anthony Harmer was, and his caustic remarks on Wharton’s “Anglia Sacra” were well deserved.[241]

While Lord Selborne traduced the character of Degge, “as a not particularly distinguished lawyer,” he has not a word to say against Henry Wharton’s *legion* of blunders. I shall prove that Sir Simon Degge does not deserve the above character.

Sir Simon Degge was a judge of West Wales in 1660; recorder of Derby in 1661; Knighted in 1669; a bencher of the Inner Temple; in 1673 was high sheriff of Derbyshire. His “Parson’s Counsellor and Law of Tithes” was a leading text book for many years. He dedicated it to a bishop, and in his sixth and last edition in his lifetime, he writes: “To the parsons, vicars, and the rest of the reverend clergy of the Church of England. Your kind acceptance of the former impressions of the book has encouraged me this sixth time to appear in public.” He died in 1704.

In this edition he says, “Nor is there any doubt but that by the Canon Law *the poor ought to have a share in the revenues of the church*, which was all I endeavoured to prove.”[242]

Lord Selborne quotes his closing admonition from the seventh revised edition of 1820, *i.e.* 116 years after Degge’s death: “By all which it appears that *originally* the poor had a share of the tithe.”[243] Degge never wrote these words, and it is not fair nor just to a dead author to publish a garbled edition of his work, and to quote against him from this garbled edition. I have given above his own words from his last edition published in 1703.

The 13 Eliz. c. xx. enacts that the lessor absent above eighty days in a year should lose one year's profits of the benefice, to be distributed by the Ordinary among the poor of the parish.

A subsequent statute (18 Eliz. c. xi. s. 7) confirms the above; and provides that the Ordinary shall grant sequestration of the profits, and in default that every parishioner may retain his tithes; and the churchwarden will take the other profits of the benefice to distribute among the poor.

The rights of the Poor to a portion of the tithes were given by (1) The Act of 1014; (2) 15 Rich. II. c. vi.; (3) 13 Eliz. c. xx.; (4) 18 Eliz. c. xi. s. 7.

When we come to the Act for the relief of the Poor, (43 Eliz. c. ii.) it provides for the taxation of every occupier of lands, houses, tithes impropriate, propriation of tithes, coal mines and underwoods. But it does not take any portion of the tithes for the support of the poor; hence it is argued that the poor had no claim to any portion of the tithes. The fact is, that previously there was no machinery by which their claims could have been carried out. The parochial incumbents were trustees of their property, and as such had many claims on their incomes, the poor had to put up with whatever the trustees wished to give them. And finally the trustees *closed upon all the tithes* as their own.

There is a remarkable instance on record, in which certain parochial rectors *closed upon all the tithes* of their parishes.

Henry de Blois, Bishop of Winchester, founded the Hospital of St. Cross, near Winchester, by his charter dated A.D. 1137, in which he named sixteen churches, with their appurtenances and appendages,

with which he endowed the Hospital. The commuted value of the tithes of these sixteen parish churches is £12,006 per annum. Now, the Hospital has only the tithe-rent charges, amounting to £3,462 per annum, of four out of the sixteen. The Hospital lost all the tithes of twelve parishes, and the twelve rectors are now in possession of them, giving in lieu the insignificant sum of £44 per annum, in the aggregate, as pensions.

Now, when did these twelve rectors close upon all the tithes? It was before the Reformation, because in the reign of Henry VIII. the Hospital had only the four churches. It is highly probable that the twelve rectors closed upon all the tithes during the period of the protracted quarrels between the Bishops of Winchester and the Priors of the Knights of St. John of Jerusalem, as to who should have the appointment of the master of the Hospital.[244]

The parochial incumbents commenced about the beginning of the fourteenth century to close upon all the tithes, and to ignore the claims of poor or church fabric upon these revenues. So at the period of the Reformation, the incumbents claimed to have a prescriptive right to *all the tithes*.[245]

CHAPTER XII.
CANONS FOR PAYMENT OF TITHES.

Alexander III., who was Pope from 1159-1181, was very active in writing to archbishops and bishops of foreign churches, commanding them to order the people to pay tithes. In 1170 he wrote to the Archbishop of Canterbury, and to the Bishop of Winchester on the subject. The former prelate held a provincial synod in 1175, at Westminster, at which were present King Henry II., his crowned son, and all the bishops and abbots of the province. At this Synod the Pope's letter for the payment of tithes was read. In compliance with such orders from a foreign bishop, the Synod commanded all tithes to be paid on crops from the ground and from trees, of young animals, wool, lambs, butter, cheese, etc. Anathemas and excommunications were hurled against all and every one who would not pay tithes.

The Archbishop of York, twenty years after (1195), held a similar synod in his province, which also commanded the payment of tithes; and this synod, like that of Westminster, wound up its proceedings with anathemas and excommunications—the great bugbear of those days—against all who would not pay tithes. These archbishops were only acting up to orders from Rome. They were tools in the hands of the Pope, to carry out the orders of a foreign bishop who usurped supremacy over all other Christian churches.

The most important canon of the English canon

law for the payment of tithes, was that passed in A.D. 1295 (23 Edw. I.), at a provincial synod held in London by Robert Winchelsey, Archbishop of Canterbury (1294-1313). The canon sets forth that on account of the various quarrels, contentions, and scandal, arising between rectors and their parishioners, as regards several customs then in use of paying tithes, some uniform claim was necessary to be set forth. It then ordains that tithes were to be paid on the gross value of all crops from the ground, from trees, herbs, and hay. It also sets forth how tithes were to be paid on the produce of animals, lambs, and wool. If sheep were fed in one place in winter and in a different place in summer, the tithe was to be divided. Similarly, if any one should buy or sell sheep in the middle of the time, and it was known from which parish they came, the tithe of these sheep must be divided, as it followed the two residences. But if it were not known, then that church should have the whole tithe within whose limits at the time of shearing they were found. It further states how milk was to be tithed, and that tithes were to be paid for the pasture of animals, according to their number, and the number of days. Tithes were to be paid on mills, fisheries, bees, etc., etc., which were yearly renewed. There was nothing in this canon about paying tithes on timber wood, because it was part of the inheritance of the land.

The canon then passed from predial to personal tithes. Artificers and merchants were to pay tithes of the profits of their business; and carpenters, blacksmiths, weavers, and all other workmen working for wages, were to pay tithes of their wages. This meant that after deducting all reasonable and necessary expenses, they were to pay the tenth part of the profits.

The rector was also to receive his mortuary fees, viz., the clothes worn by the person before dying, also a horse and cow. These fees were to be paid as a satisfaction to the Church for the personal tithes which he had forgotten, or wilfully neglected to pay in his lifetime.[246] Henry VIII. fixed a money payment in lieu of the mortuary fees. This was the origin of burial fees. If parishioners would not pay their tithes, they were to be excluded from the Church until they did so; and if they continued contumacious, other ecclesiastical censures would follow. An Act was passed, 2 and 3 Edward VI. c. xiii. s. 9, that modified and limited the payments of personal tithes. "That in all such places where handicraftsmen have used to pay their tithes within these forty years, the same custom of payment of tithes to be observed and to continue; and if any person refuse to pay his personal tithes, etc., it shall be lawful for the Ordinary of the same diocese to call the same party before him, and by his discretion to examine him by all lawful and reasonable means, other than by the party's own corporal oath, concerning the true payment of the said tithes."

The main difficulty in collecting personal tithes arises in the want of any method of discovery.

In A.D. 1343, a canon was passed at a provincial synod of Canterbury, held at St. Paul's, London, that all manner of timber was tithable.[247] This canon led to bitter strife, because wood had not been previously tithable; for, like mines and quarries, it was thought to be a part of the inheritance of the land. Timber was not tithable in the important canon of 1295. It does not yield annual profits; yet the tithe of wood is due by common law right.

In reference to making canons at synodical

meetings, it was both profitable and pleasant work for ecclesiastics. The laymen who had to pay were not permitted to be present to express an opinion in the matter. The tithe system was a very elastic band. It was stretched as population and agriculture increased. We have the principle of development exhibited in a remarkable degree in the tithe question. As the power and influence of the bishops of Rome increased in the dark and middle ages, so did tithes. Yet we are unblushingly told that tithes were the free voluntary offerings of private individuals. I admit this to a limited extent. The question is, Did all the landowners freely and voluntarily grant tithes of the produce of their lands to the rectors of parishes? The synodical meetings to which I have referred, prove that they were not so given, but were arbitrarily exacted by the anathemas of the Church, and by ecclesiastical and civil courts.

Things became tithable by the canons of 1295 and 1343, which were not thought of in the days of Kings Offa and Ethelwulf. Provincial synodical canons of the dark and middle ages had a pretending binding force upon the people. But those ecclesiastics had put the last straw upon the donkey's (people's) back in their synod of 1343. The young British House of Commons, then only seventy-eight years old, was roused to opposition. In 1343, 1344, 1347, and 1351, the House petitioned Edward III. against the canon of 1343, but the petitions led to no satisfactory result.[248] The Commons succeeded, however, in 1371, in limiting the power of the canon. It was enacted[249] that trees of twenty years' growth and upward should not be tithable, and that if a suit should be commenced in any spiritual court for the payment of such tithes, a prohibition should issue. This was the first victory gained by the House

of Commons as regards tithes. The failures in the above years were caused by ecclesiastical influence exercised over the King. There had been previous Acts on Church questions, such as the Mortmain Act of 1297, which was a much bolder step than that of 1372, but it was rather the production of King Edward I. himself than any action of the House of Commons, owing to the nervous state of feeling among the lay nobility to check the extensive alienation of property to the monasteries which deprived the King of help towards the defence of the country. The nobility were also becoming extremely jealous of the growing power and luxurious living of the monastic bodies, and also of the Church dignitaries.

The Statute of Mortmain had forbidden the King's subjects from bequeathing lands and tenements to the *religiosi* without the King's license. But the shrewd, cunning monks eluded the Act by licenses of alienation. Here we have another instance of ecclesiastical ingenuity in devising plans to evade the law. Testators left property in perpetuity to support priests to pray for their souls. Hence originated thousands of chantries throughout the country, but they followed the same fate as the monasteries. Much landed property had thus indirectly passed into the hands of ecclesiastics. In 1531, an Act was passed that all such wills would not in future hold good for more than twenty years. The Legislature thought that twenty years' prayers were sufficient to get a testator's soul out of purgatory, and that twenty years' revenue amply remunerated the priest for his services.[250]

The House of Commons was not a century old when a Bill was brought in, "That no statute or

ordinance of the clergy be granted without the assent of the Commons, and that the Commons be not subjected to any constitutions *which the clergy make for their own advantage*, without the assent of the Commons, for the clergy do not wish to be subjected to any statute or ordinances made by the Commons without the consent of the clergy."

From the angry tone of the Commons on the canon of 1343, may we not naturally infer that if the House existed in 1175 or 1195, or at an earlier date, or was a little older in 1295, when the most important canon was passed, that they would have made a similar energetic protest that "They would not be subjected to any canons which the clergy made for their own advantage without the assent of the Commons"? I have already fully explained that the popes, archbishops, bishops, chapters, secular clergy and monks, took advantage of their position in the dark and middle ages in imposing on the credulity of the simple and innocent laypeople, by pretending that the Christian priesthood were the successors of the Mosaic priesthood, and therefore were entitled by Divine right to the tithes enacted by the Mosaic laws, and even a great deal more of the tithes which those cunning and crafty ecclesiastics added thereto by their numerous canons passed by them at councils and synods where no layman dare appear.

In the "Englishman's Brief for his National Church," to which I have before referred, it is asked (Q. 21), "Is it not hard on the cultivators of land that they should have to pay tithes on its produce?" The answer given is, that there is really no hardship in the matter. "If a person rents land which in every respect is tithe-free, he pays so much more rent for it; if it be subject to tithes, he pays so much less. In

any case he pays the same amount," etc. This answer was written for the purpose of misleading the reader. The landlord will try to get as high a rent for his land which is not tithe-free as the landlord who has his land tithe-free. But another important question arises. Why should the whole burden of paying tithes fall upon land? There was a time when personal tithes were also paid. Scripture was quoted in support of these tithes. But they are all now abolished, and only land—and not all the land—has to pay tithes.

The Earl of Selborne makes the following remarks in his pamphlet: "The Endowment and Establishment of the Church of England." "The rectorial tithes of Selborne, which belong to a college at Oxford,[251] were in 1882, £447; the vicarial tithes, which alone belong of right to the Vicar of Selborne, were £336. The rectorial or lay tithes of two parishes in Basingstoke also belong Magdalen, Oxford, were in the same year £1,617. A lady received the rectorial tithes of Bishop's Sutton, amounting to £1,431; and one of the London Companies, those of Chertsey, amounting to £1,112." I have placed in the Appendix a statement as to the recipients of the clerical appropriations; also the impropriations of colleges, schools, hospitals and charities, as they appear in the Tithe Commutation Return of 1887.

In the "Brief," it is asked (Q. 28): "Were not many of the Endowments which the Church of England now holds given to the Church of Rome?" No, is the answer, and it adds, "Not a single endowment was given to the Church of Rome." Both question and answer are misleading. The Church of England was never *the Church of Rome*. The correct way to put the question, but which would not suit the misleading

object the author of the "Brief" had in view, is, "Were not almost all the endowments, which the Church of England now holds, given to her when she held the same doctrines as the Church of Rome?" Yes. The main object of the grants and endowments of land, churches, tithes, etc. was that perpetual prayers should be offered up by the recipients and their successors for the souls of the benefactors, of their families and relatives. The benefactors believed in the doctrine of purgatory, and in the efficacy of prayers to bring their souls out of it. The Church of England in pre-Reformation days believed and taught the same lucrative doctrine. It also taught that works of charity and not faith were stepping-stones to heaven. Two churches, E and R, held the same doctrines, and both received large endowments in tithes, lands, etc., in support of such doctrines. For centuries E was in possession of such endowments, but in the sixteenth century E repudiated the doctrines by the teaching of which E had obtained the endowments from certain benefactors who otherwise would not have given them. Parliament permitted E to hold the ancient endowments on certain conditions specified in Acts of Parliament, and E now dishonestly ignores the conditions, holds the doctrines repudiated, but keeps a firm grip on the ancient endowments. E has but a parliamentary title to the ancient endowments. And as such, Parliament has the right to change and convert the endowments, if it should think proper, to other purposes. At the period of the Reformation there was no physical transfer of the endowments from the old to the new trustees; from incumbents who would not conform to the Acts of Parliament, to those who did conform. The incumbents who were in possession of the endowments before the Acts were passed, and who

conformed to the Acts when passed, were left in possession of them, and as their successors similarly conformed to the Acts, they peaceably entered into possession; so there was no physical transfer of the property, but there was a change of trustees when the old trustees declined to conform to the Acts of Parliament, but no change when they did conform. It is therefore very clear that the Church of England holds her ancient endowments by a parliamentary title, just as the Sovereign does the throne. And the logical sequence is that Parliament has the right, if it should think proper, to convert the endowments to any other use, especially when the present holders are frequently ignoring the conditions upon which they were granted at the Reformation.

It is not quite correct to say at page 52, in the "Brief," that all the monastic endowments have been swept away and confiscated to the Crown. The properties of the alien priories are now enjoyed by some of our wealthy colleges and public schools. Henry VIII. had endowed, out of the monastic properties, six bishoprics and chapters, of which five bishoprics exist at the present day. Again, Christ Church, Oxford, the aristocratic college for the sons of our nobility, was built and endowed out of the property of over twenty monasteries which were confiscated, with the full sanction of both King and Pope, in order to supply Cardinal Wolsey with funds to build and endow "Cardinal College," Oxford. This college receives at present £40,000 per annum gross from tithe-rent charges. Again, the eight conventual chapters were not only left in possession of all their monastic endowments, but also received in augmentation of their incomes a great deal of the properties of some of the dissolved monasteries. For example, Canterbury received almost all the

endowments of St. Augustine's monastery.

The year 1836 was a turning-point in the episcopal and capitular endowments; the 6 & 7 William IV. c. lxxvii. created the Ecclesiastical Commission. The commissioners utilized the endowments in order to provide for the spiritual destitution of large parishes. Up to 1890, upwards of 5,700 benefices have received £971,700 per annum in perpetuity towards augmenting the incumbent's incomes. We must add to this the enormous capital sums which have been expended out of the Common Fund of the Commissioners, in erecting some thousands of new parsonages, repairing and clearing off mortgages of others. The average net income of the "Common Fund" is more than one million a year. The gross income of the "Common Fund" of the Ecclesiastical Commissioners, on the 31st August, 1890, was £1,722,709; it disbursed that year £1,140,334, leaving a balance of £582,374.[252]

Fully four-fifths of the properties in the hands of the Ecclesiastical Commissioners has come, partly from the ancient public landed endowments granted to archbishops, bishops, and chapters by Anglo-Saxon kings with the consent of their respective Witenagemóts; and partly from the monastic rectorial tithes which were transferred by the Crown to the above corporations in lieu or exchange of landed estates surrendered to the Crown at the period of the Reformation.

The duties performed by the parochial priests for the tithes were their regular duties, including (1) saying mass, (2) praying for the dead, and (3) invoking the saints. But by Acts of Parliament the mass has been suppressed, the dead by some are not prayed for, and the saints are no longer invoked by

some who now enjoy the tithe-rent charges.

It is stated in the "Brief" that "when the principal parochial endowments were given, papal supremacy was not admitted by the Church of England, and Roman doctrines were not held." I have already explained the active part the popes and legates of Rome had taken to introduce the payment of tithes in England. There is not a shadow of doubt that the supremacy of the popes of Rome was admitted by the Church of England when tithes, the principal endowment, commenced to be paid first by custom and afterwards by compulsion in the Anglo-Saxon Church. The Roman doctrines followed the supremacy. The archbishops from the time of Augustine received their palls from the Pope, and Pope Boniface V., in a letter dated A.D. 624, conferred the primacy of all Britain on Justus, Archbishop of Canterbury. The letter contained these remarkable words, "Hanc autem ecclesiam utpote specialiter consistentem sub potestate et tuitione sanctæ Romanæ ecclesiæ."[253]

Again in 634 Pope Honorius I. conferred the primacy to Canterbury, and again in 668 Pope Vitalian gave the supremacy *over all England* to Archbishop Theodore.[254]

It must be noted that the endowments of the Church were not all given at once, but were spread over a period of about six hundred years. The period will be longer if we take the time in which the waste and barren lands of Edward VI.'s Act were brought into cultivation; and again the lands and corn-rents awarded by the Inclosure Acts of last and present centuries in lieu of tithes. So the above quotation from the "Brief," like a great deal more of the book, is nothing but twaddle. The parochial endowments

commenced on a small scale in the latter part of the seventh century, when landowners commenced to build churches upon their own estates, and they increased in the eighth and ninth. First the endowments consisted of church, parsonage and glebe; then tithes were added first as free-will offerings. The Norman Conquest made great changes in the Church of England. The Norman monks, who looked on the Pope and obeyed him as the supreme head of the Church, introduced a new plan by inducing landowners to appropriate their churches with their glebe and tithe endowments to them. To give an idea of the enormous impetus which had been given to the erection of monasteries from 1066 to 1215, or 150 years, there were 427 erected in England, possessing extensive endowments in lands and tithes. Add 130 up to A.D. 1066, and we get 557, as the total number in 1215. I have selected 1215, for by the Council of Lateran tithes were henceforth to be paid to the parochial clergy, thus abolishing from 1215 the system of appropriating parochial tithes to monasteries and other bodies. The decadence of building and endowing monasteries commenced with the reign of Richard I. (1189). Tithes were not given to monasteries until after 1066, and from this year to 1215 they had received the tithes of some thousands of parishes. Of course they put vicars in the parishes to perform the religious duties, and allowed them at first certain stipends, but afterwards the small tithes. The question now is, In what respect did the Church of England differ in doctrines and discipline from the Church of Rome from the seventh to the thirteenth centuries, and from the thirteenth to the sixteenth centuries? The parochial system continued in course of formation for 600 years. During this time the

Church received the principal parochial endowments. It cannot be stated with truth that the "Roman doctrines were not held by the Church of England" during this period of 600 years. Neither can it be said with truth that "papal supremacy was not admitted by the Church of England" during the same period.

There is no doubt whatever that the original donors of Church endowments would never have given them to men who not only ignored but utterly detested their most dearly cherished doctrinal views, viz: (1) the mass, (2) prayers for the dead, and (3) praying to the saints. To support this statement, I shall give a quotation from a speech delivered in the House of Lords by Archbishop Howley, in 1840, when speaking on the Cathedral Bill. "They must consider," he says, "in what times many of the donations of property were made. The persons who have made them might, and probably would, if living in the present day, wish to see them applied in a very different manner." These remarks were made in reply to the following observations delivered in the same debate by Dr. Sumner, Bishop of Winchester. "What right" he asked, "had the Legislature so to deal with property given for *certain specific purposes*, not by the State, but by individuals, for ever?" The Archbishop pointedly stated in the speech quoted above, that the "certain specific purposes" existed no longer.[255]

It is again stated in the "Brief" that tithes are not endowments(!) and that they were given "without any specific conditions being attached to their payment." Is it reasonable to think that tithes were given to the parish priest without a "*quid pro quo*"? Is not the "*quid pro quo*" implied in his office? The

"Brief" further observes at p. 52: "It is an interesting work for all zealous people concerned in such matters to see, as a matter of public trust, that those who now possess such property[256] shall fulfil the conditions attached to its original grant or bequest." I cannot defend for one moment the enrichment of the nobility and gentry of this country with Church spoliation. But I ask myself the question: "Do the Bishops of Chester, Gloucester and Bristol, Oxford and Peterborough and their respective chapters, 'fulfil the conditions attached to the original grant or bequest of the property which they possess?'" We must not forget that the King who endowed them with monastic property, passed the Act commonly called "The Whip with its Six Strings," and, further, that he died in the full belief of the doctrines of the Church of Rome, then the doctrines of the Church of England, of which he was the supreme head.

CHAPTER XIII.
APPROPRIATION OF TITHES TO MONASTERIES.

From A.D. 1000 to A.D. 1215 is a remarkable period in the history of the English Church and English monasteries. The monasteries were built and richly endowed with lands, churches, and tithes. All these were conveyed by deeds of gifts to their perpetual use. The benefactions were given for the special purpose of prayers being perpetually said by the monks in their respective churches for the repose of the souls of the donors and their relatives. In some cases the monasteries received the tithes without any churches; but when they received churches with the cure of souls, then the monastic corporations became rectors by virtue of which they were in possession of all the tithes of each parish. For many centuries the benefactions were conveyed by lay owners, without any reference to the king or bishop, for they were considered as private property, which the owner may dispose of to whom he pleased. Subsequently it was necessary, before such grants could be given, to obtain the licence of the king and bishop in order to complete the scheme. After the Conquest, the Norman monks invented the system of having churches with their tithes appropriated to them. Previous to the Conquest there were no appropriation of churches, but patrons granted to monasteries, bishops or chapters the advowsons of the churches. As religious services had to be performed in the church appropriated, the monastic

body had either to depute one of their own fraternity in Holy Orders to do the duty, or to appoint a deputy or vicar to act for them and to whom they gave most miserable stipends. This latter alternative became the general rule. But the abbot or prior took care to get the lion's share of both parochial tithes and offerings. The capitular bodies, nuns and religious military orders imitated the practice of the monks and received similar licences for appropriating churches from the king and bishop. The same system was adopted by single persons, such as deans, chancellors, treasurers, precentors, and archdeacons. Even parochial incumbents had nominated vicars to do their work, and they themselves became sinecure rectors. The pretext which the monks had given to gain appropriations was to obtain two parts of the tithes and profits, leaving a third to the parish. These two parts were for the relief of the poor and the repair of the church; but in course of time they neglected both poor and fabric, and the parishioners, for their own comfort, had actually subscribed towards a fabric fund and hence originated church rates which were, like tithes, at first purely voluntary, but subsequently became compulsory.

When the practice of appropriating churches, with their glebe and tithe endowments, was first introduced by the Norman monks in England, the patrons or owners considered that they were transferring a freehold property, and therefore thought the conveyance did not require the bishop's confirmation. The patron conveyed his gift by placing the deed of conveyance and a knife or cup upon the altar of the church of the monastery, as this was then the usual mode of livery of seisin. In the deeds of conveyances some are given "Canonicis ibidem Deo servientibus," etc.; others, "Canonicis

regularibus ibidem Deo servientibus," etc.; and, "Monachis ibidem Deo servientibus," etc.

The lay patrons sometimes exercised the power of discharging the incumbent of his church and appointing another in his place. The church was not as now, the incumbent's freehold property. He then held his position according to the will of the patron. We have sufficient evidence on this point. It is stated in the Acts of the Third Lateran Council of A.D. 1179-80, "So far has the boldness of laymen been carried, that they collate clerks to churches without institution from the bishops, *and remove them at their will*; and, besides this, they commonly dispose as they please of the possessions and goods of churches." This council condemned "arbitrary consecrations," as Selden calls them, of laymen. "Before the Council of Lateran (evidently the third), any man might give his tithes to what spiritual person he would."[257] Four English bishops sat at this council. The Council gave the death-blow to arbitrary appropriations of tithes by laymen, without the consent of the bishop, to whatever church or monastery they pleased. It was ordained by this Council that no religious orders should receive any appropriations of churches or tithes without the assent of the bishop. In Anglo-Saxon times the tithes were given to the parish churches, but from A.D. 1066 to A.D. 1200, they were also given to monasteries, bishops, and capitular corporations. "Arbitrary consecrations of tithes," says Blackstone, "were in general use till the time of King John, which was probably owing to the intrigues of the regular clergy or monks of the Benedictine and other rules, under Archbishop Dunstan and his successors, who endeavoured to wean the people from paying their dues to the secular or parochial clergy. A

layman, who was obliged to pay his tithes somewhere, might think it good policy to erect an abbey, and there pay them to his own monks, or grant them to some abbey already erected, and thus have masses for ever sung for his soul."[258] Not only had laymen appropriated tithes to episcopal, capitular, and monastic corporations, but, in Lord Selborne's opinion, they may also have given them to parish churches. Hence, he thinks, *the true origin of the endowment of parish churches with tithes*.

The decree of the Third Lateran Council, making void arbitrary appropriations of tithes, was at first opposed by the laymen of England, and so the practice continued. But the English hierarchy from that time opposed the practice, and by degrees it gradually ceased.

Pope Innocent III., in a decretal epistle which he addressed to the Archbishop of Canterbury about A.D. 1200, owing to the continued arbitrary appropriation of tithes by laymen in face of the decrees of the Third Lateran Council, enjoined the payment of tithes to the parsons of the respective parishes. But the epistle had no binding force on the lay subjects of this kingdom.

The arbitrary appropriation of tithes by landowners to monasteries, although according to their rights, was contrary to canon law.[259] At a national synod held at Westminster in 1125 (25 Henry I.) it was constituted that no abbot, prior, monk, or clergyman should accept a church or tithe or any other ecclesiastical benefice from a layman without the authority and assent of his own bishop. The lay patrons paid no attention to this canon, because they thought it was an ecclesiastical encroachment upon the rights of property. It was a

part of the supremacy over the civil power which the Church was then usurping wherever she found weak instruments. In the reigns of Richard I. and John, however, laymen's investitures gradually ceased. The Church became supreme. Archbishop Anselm was a very strong supporter of papal canons which inhibited the custom of lay investiture. The struggle continued after his death. The practice at the present time is, the patron nominates or presents, the bishop institutes, and the archdeacon inducts. But before the reigns of Richard I. and John, the lay patrons nominated, instituted, and inducted. The bishop had no voice in the matter. The practice, as I have already stated, was condemned and made void by the Third Lateran Council held in 1180.

At the General Council of Lateran, held in 1215, the arbitrary appropriation of tithes to monasteries or other ecclesiastical corporations which were not parochial, was strongly condemned, and the tithes were commanded to be paid in future to the parish churches. This council therefore gave the parsons the parochial right to tithes. It was certainly very wrong to hand over the parochial tithes to outsiders who did no parochial work and took no interest whatever in the parishes from which they drew large incomes, while the parochial clergy who did the work were most miserably remunerated. But we find that when the parsons received the tithes they became wealthy, indolent, and vicious. We have the trustworthy testimony of Wickliffe himself for this statement. No man could possibly write or speak stronger than he did against the conduct of the monks and secular clergy of his time.

In King John's reign the papal power was supreme in England, and therefore the canon law gained

strength as England became weak, particularly after Pope Innocent III. issued his interdict against the kingdom.

The decrees of the Council of Lateran, A.D. 1215, had not disturbed the then existing appropriations of tithes to monasteries, but were directed towards the future, and made void all new grants of tithes to monasteries after the date of this council. The council is a landmark for the following arrangements: (1) The tithes of parishes, which before A.D. 1215 could have been given by the owners of the property to any church they pleased, either in or out of the kingdom, were henceforth to be given only to the parsons of the parishes from which they arose. (2) The tithes which had been appropriated to corporations outside of the parishes, continued to be given to them. (3) The tithes which the parsons possessed before A.D. 1215 could not be appropriated afterwards to any other person. Therefore the tithes which rectors received were those which they possessed at the date of this council, and all tithes created after A.D. 1215.

The parish system which commenced in its germ about A.D. 686 was completed about A.D. 1200, thus covering a period of over five hundred years in its development.

From the beginning of the 13th century, tithes became payable to the parsons of the parishes by *common right*. But monasteries and chapters had to show their title to them either by *grants* or by *prescriptions*. We may thus trace tithes in England from their origin, (1) as free-will offerings; (2) compulsory payment to some religious body, and (3) compulsory payment only to the incumbents of parishes. It is an error to state that all the tithes of

England were paid freely. I have stated enough to show that it was not so.

Tithes appropriated to monasteries were of two kinds—(1) Monastical, (2) Parochial. With reference to (1), the monastic bodies performed no spiritual functions for the tithes which the benefactors had granted them out of demesnes which had no churches annexed. For these tithes they had distributed alms to the sick, the poor, and stranger who called at their gates; and said masses perpetually in their own churches for the souls of their founders and benefactors, and those of their heirs and relatives.

As regards the second case, they received churches, with the tithes and glebe lands annexed thereto, as a free gift from the owners, and had therefore the cure of souls. They purchased the advowsons of other churches, and even built churches themselves, of which as owners they possessed the advowsons. At first if the churches were near the monasteries, they sent members of their community, who were in holy orders, to perform the religious duties. But when the churches were situated at a considerable distance, and became numerous, the monastic bodies employed curates or vicars to perform the religious duties. These at first received no part of the tithes as their salaries, but only a small sum of money, just what the monks liked to give, and the miserable sum they allowed varied from year to year as it suited the caprices of the monks, who received all the tithes, offerings, and oblations. In the king's licence, permitting the appropriation, there was the usual condition which the monks ignored, "that an adequate portion be allowed the vicar out of the profits of the church."

The wretched salaries of the curates or vicars produced great scandal and complaints. As the curate or vicar was liable to be dismissed at any moment by the appropriator, he was not likely to insist too rigidly on the sufficiency of his stipend, and so the miserable salary was continued after the passing of Richard II.'s Act. The bishops were much to blame in this matter. Some of them had been monks themselves from their youth; others were anxious to be buried among the monks, or their anniversaries kept by them. These considerations induced some, but not all of the bishops, to favour the appropriation of churches to monasteries. Again, the rich monasteries were able to bribe the bishops, and even the papal curia, and they did so; they allowed the bishops pensions out of the tithes, and even appropriated some of their churches, *i.e.* the rectorial tithes of their churches, to the bishop's table, on condition that he, as bishop, allowed them to receive churches with all their endowments from the lay owners.[260]

The preaching friars and John Wickliffe opened the people's eyes as to the monastic luxuries, and the poverty of the vicars whom they employed to do their work. The age of building monasteries and granting extravagant endowments had passed, never again to be revived, but there was a growing tendency to sweep all the monasteries away. The scandalous manner in which the monastic bodies had paid the vicars induced Parliament to pass the following Act in 1392.[261]

"In Appropriation of Benefices there shall be Provision Made for the Poor and the Vicar."

> "In every licence from henceforth to be made in the chancery of the appropriation of any parish church, it shall be expressly contained and comprised that the diocesan of the place, upon the appropriation of such churches, shall ordain, according to the value of such churches, a convenient sum of money to be paid and distributed yearly of the fruits and profits of the same churches, by those that shall have the said churches in proper use, and by their successors, to the poor parishioners of the said churches in aid of their living and sustenance for ever; and also that the vicar shall be well and sufficiently endowed."

Lord Selborne remarks on this statute: "This law had nothing to do with tithes in particular, or with fruits and profits of any churches not appropriated to monasteries. If there had been then (*i.e.* in 1391) a law for a partition of tithes, as against all rectors, giving the poor one-third, or any other definite share, no such legislation could have been necessary; nothing would have been wanting, except simply to *enforce that existing law*."[262]

These remarks are open to grave objections. The law refers to a provision being made for the vicar as well as for the poor. When a church was appropriated to a monastery, it simply meant that the monastic corporation appropriated all the endowments, lands and tithes of that church together with all oblations. The monastic corporation placed a deputy, called a vicar, in the parish to perform the ecclesiastical duties, and allowed him such a wretchedly poor stipend, insufficient to keep soul and body together. As for the poor of the parish, it is too much to expect, as Lord Selborne remarks above,

that the poor of 1391, or 500 years ago, had their legal remedy against the powerful and rich monastic corporation in order to enforce their common law and legal rights to one-third of the tithes. Why, in this enlightened and advanced age, as compared with 1391, the poor are coerced and defrauded of their rights by the wealthy, who know that they have not the means "to enforce their rights" in the superior courts—a luxury which can only be enjoyed by those who have a good banking account.

Lord Selborne says the law had nothing to do with tithes in particular, and yet the provision for the vicar, namely the small tithes, formed his main endowments. This law, no doubt, referred to all the endowments of the vicar. The statute did not move the monastic bodies, who had still the power of removing at pleasure the vicar of the parish, until the Act 4 Henry IV. c. xii. (1402) was passed. "That from henceforth in every church appropriated, or to be appropriated, a secular person be ordained perpetual vicar, canonically instituted and inducted to the same, and *convenably endowed by the discretion of the Ordinary*, to do divine service, to inform the people and to keep hospitality there." What is meant by keeping hospitality? To provide for the poor out of the endowments. Here is a list of the small tithes:—

Sir John de Cobham, appropriated Horton Kirby Church to Cobham Chantry. The Bishop of Rochester, when confirming this appropriation in 1378, assigned the vicar all the oblations, obventions, the tithe of flax, hemp, milk, butter, cheese, cattle, calves, wool, lambs, geese, ducks, pigs, eggs, wax, honey, apples, peas, pigeons, fisheries of ponds, rivers and lakes, fowling, merchandizing, trade, herbage, pasture, feedings, mills; all the herbage of

the churchyard, and all other small tithes arising within the said parish. The bishop taxed all at seven marks = £4 13*s.* 4*d.* per annum. The chantry was to repair the chancel and parsonage house, but the vicar was to pay the procurations of the archdeacon. At the dissolution of monasteries, the parsonage and advowson were given to the Crown, who granted them away by sale. At the present time the impropriators receive £848, and Queen's College, Oxford, £200 12*s.* tithe-rent charge per annum from Horton parish, whilst the vicar receives £266 12*s.* from the small tithes above stated, and has thirty-four acres of glebe. The present patron is H. B. Rashleigh, who is also the vicar, and his curate is C. Rashleigh. This is a good specimen parish as regards the distribution of tithes, and also the patronage, for £1,050 of the rent charge is in lay hands, and the advowson or patronage is a marketable commodity, and now in possession of the present vicar. It is also important to note that the vicarage has been augmented by Queen Anne's bounty by the purchase of an estate at Brockhull in the same parish. We note that J. K. Rashleigh is vicar of Luxulyan, diocese of Truro; patron, Sir C. Rashleigh, Bart. There is an immense number of livings in possession of incumbents, obtained either by purchase or by family patronage.

The appropriator gave the vicar the small tithes because he found them more difficult to collect than the great tithes.

It is unreasonable to state that an unmarried parish priest with a free parsonage house would be allowed to enjoy all these tithes as his own income. No, for he was to keep hospitality. The rectors or monastic bodies, who had the great tithes, kept the chancel of

the church in repair. And up to the present time, the owners of the great or rectorial tithes, *and not the owners of any other church endowment*, are legally bound to keep the chancels in good repair, and if they fall down, to build them up again. What is this but a compliance with the original division of tithes by which a portion was set apart for the repairs of the church. And, as I shall show, these repairs included the whole building, but in course of time the rectors kept the tithes and shifted this responsibility on the shoulders of the parishioners, which led to church rates. They did the same as regards the portion for the poor, who were pecuniarily unable to maintain their claims in the higher courts, to which legal remedy Lord Selborne refers.

In King Edmund's law[263] the bishops were ordered to keep the churches in repair, as the whole tithes of the parish went to them; but in Canute's laws of 1018, all the parishioners were ordered to keep their churches in repair. Canute's change from the bishops to the parishioners can only be explained from the fact that the dilapidated condition of the churches, the result of the Danish invasions, and a general destruction of property throughout the country, made the funds at the bishops' disposal insufficient for the purpose, and so the burden was thrown generally upon the inhabitants. But when the country increased in riches and prosperity, the liability for the repairs of the chancel was again, and is still, placed on the owners of the great or rectorial tithes.

The following canon 4 is taken from the provincial constitutions of John Stratford, Archbishop of Canterbury, made in a provincial council in London,

10th of October, 1342.

"Whereas ecclesiastical men are entrusted with dispensing of tithes and other things belonging to the church, *that the poor by their prudent management may not be defrauded*; yet the religious of our province having churches appropriate, do so apply the fruits of them to their own use, *as to give nothing in charity to the poor parishioners*, being regenerate sons of the churches, *to whom they are bound to do this* more than to strangers; by which means such as owe tithes and ecclesiastical dues become not only indevout, but invaders, destroyers and disturbers, to the danger of their own souls and theirs, and to the scandal of many; therefore with the approbation of this sacred council, we ordain that the said religious, having ecclesiastical benefices appropriate, be compelled by the bishops every year to distribute to the poor parishioners a certain portion of their benefices, in alms to be moderated at the discretion of the bishops in proportion to the value of such benefices, under pain of sequestration of the fruits and profits thereof, till they yield a reasonable obedience in the premisses."[264]

The inference to be drawn from this canon, and from the subsequent statute of 15 Richard II. c. vi. (1391), is that the poor had a claim on the tithes and other endowments; and this claim is admitted by Bishop Stubbs. But Lord Selborne, Fuller, and others, stoutly deny this claim. No doubt, the canon and Act refer to appropriated churches, when the avaricious monks retained all the tithes to their own use. But the inference above is generally applicable to all tithes. If not, what right had a provincial synod to make a canon, compelling appropriators who had neglected the poor to distribute to the poor, under

the severe penalty of sequestration, a portion of the appropriated property? and almost all this property, unquestionably, consisted of tithes.

The vicar-perpetual of Henry IV.'s Act must not be confounded with the later "perpetual curate," who by a recent Act is now styled "vicar." The former is endowed with the small or vicarial tithes; the latter is not so endowed.

The most important parts of Henry IV.'s Act are, (1) permanently endowing the vicar, which, as regards tithes, equalled one-third part; and (2) giving the vicar as permanent a position in the parish as the rector.[265] But the autocratic freehold tenure has been grossly abused. This abuse, within the past thirty years, has much increased, owing to the lack of discipline and inability of the bishops to correct insubordinate and law-breaking parsons.

There is no parochial council to check the conduct and actions of the autocratic endowed incumbent. He snaps his fingers at the parishioners, bishop, archdeacon, rural dean, or any other episcopal officer. He is the bishop of his own parish. His freehold tenure and endowments make him independent and absolute master for life within his parochial limits.

CHAPTER XIV.
INFEUDATIONS—EXEMPTIONS FROM PAYMENT OF TITHES.

Infeudations are the conveyances of the perpetual right of tithes to laymen.

The Third Council of Lateran, held in *A.D.* 1180, was the first to forbid infeudations. Such conveyances, although frequent on the Continent, were not so in England until the general dissolution of monasteries. Very little of the lands, tenements, and tithes in possession of the alien priories was given away or sold to laymen when Parliament had at various times alienated the same. The properties were bestowed on other monasteries and on colleges for religious and educational purposes. In the latter case, the owners were clergymen. This was not so with the enormous properties of the dissolved monasteries and chantries which Parliament had given to Henry VIII. and Edward VI. The amount of confiscated property was about £250,000 per annum. If this vast property had been placed under the management of Commissioners, it would realize an annual income at the present time, of eight and a half millions, quite sufficient to defray all the expenses which are now paid by the ratepayers for the maintenance of the poor in England and Wales.

I shall deal here only with the tithes, which form but a small part of the immense properties which were then confiscated, and which Henry VIII., Edward VI., and Elizabeth lavishly bestowed on the

numerous poor hungry court favourites and court flunkeys, who were the ancestors of many who are now high in the peerage. The War of the Roses had swept away the ancient nobility of England, and in their places sprang up a crowd of poor hungry men who surrounded Henry VIII. and his children. Nothing could possibly turn out more opportune for them than the confiscation of the vast monastic properties which Parliament handed over to Henry VIII. and Edward VI. to do with them as they thought proper. What could possibly be better for these poor court sycophants? We have only to open out the county histories of the country, and there we shall find very sad accounts of the manner in which the vast monastic estates had been given away to the ancestors of some of the aristocracy. Archbishops, bishops, and chapters had to surrender to the Crown numerous manors which had been given by Anglo-Saxon kings to their predecessors out of folcland which was the national property of the Anglo-Saxons. These manors were afterwards given away by the Crown to these poor hungry court favourites, and thus formed the title-deeds of many aristocratic families who now carry high heads in the country.

The 32 Henry VIII. c. viii. gave the king power (1) to grant the properties to whom he wished; (2) that such persons should be free from the payment of tithes if such lands had been exempted previous to the dissolution; and (3) that the lay-owners of monastic lands could claim tithes from them. So, then, laymen who claimed tithes were called *impropriators*, because they were *improper* persons to receive them. But the same may have been said of the lay-monks, nuns, military orders, etc., who had at one time been in the receipt of tithes.

The total tithe-rent charge gross is £4,053,985; of this, lay impropriators receive £962,290, or a little less than one-fourth. Therefore we may take it as a general statement that laymen receive about one-fourth of the tithes. To this must be added the large estates which are tithe-free, and from which enhanced rents are received.

Exemption from Paying Tithes by Religious Houses.

All abbots, priors, and other heads of monasteries had originally paid tithes. But Pope Paschal II. exempted generally all the *religiosi* from tithes on lands which were under their own management. About A.D. 1160, Pope Adrian IV. limited this exemption to the Templars, Hospitallers, and Cistercians, who alone were exempted from paying tithes for lands which were then, but not afterwards, acquired under their own immediate management. The privilege did not extend to lands let to farmers, but only to those which they occupied before the Council of Lateran A.D. 1215, which confirmed the above exemptions. A fourth order—the Premonstratensian—was added by Pope Innocent III. These were called the four privileged orders. After the passing of the Mortmain Act, which gave a terrible blow to the monastic bodies, the privileged order of Cistercians purchased bulls of exemption from paying tithes for their lands, tenements, and possessions let to farmers, and also for the lands which they acquired since 1215. These bulls had the force of law in the English canon law, and were allowed in actions for tithes. This objectionable mode of purchasing bulls of exemption was put a stop to in 1400 by 2 Henry IV. c. iv. which subjected

the purchaser to premunire.[266] The Statute of Premunire was passed in 1393 (16 Richard II. c. v.) against "Procuring at Rome or elsewhere, any translations, processes, excommunications, bulls, instruments, or other things which touch the king, against him, his crown and realm, and all persons aiding or assisting therein shall be put out of the king's protection, their lands and goods forfeited to the king's use, and they shall be attached by their bodies to answer to the king and his council, or process *præmunire facias* shall be made out against them, as in any other cases of provisors."

The lands of the four privileged orders which were thus exempted from paying tithes, are exempted up to the present day, because at the dissolution of the monasteries, the 31 Henry VIII. c. xiii., provided that all lands held by the monasteries, and exempted from tithes, should also be exempted when vested in the Crown, and the same Act extended the exemption to all those who should become possessors of such Crown property. There is also 2 Edward VI. c. xiii. This explains the fact that some of the present holders of monastic property pay no tithes; some do; and others are tithe-owners.

CHAPTER XV.
MONASTERIES.

In giving a history of tithes, it is absolutely necessary to give a brief account of the monasteries and monastic property in England.

Immediately after Augustine came to England, the age of building monasteries commenced. Before his arrival there were about twenty-one monastic establishments in the island not of the Benedictine order. The first British monastery, properly so-called, was established at Glastonbury, by St. Patrick, about *A.D.* 433. Previous to his arrival there was a sort of hermitage there, but when he came he formed the hermits into a society, framed monastic rules for their guidance, and made himself their abbot.

A monastery was a place where people of both sexes lived alone, secluded from the common employment of the world for sacred duties and devotion. Monk, A.-S. *munuc*, through the Latin *monachus*, Greek μοναχός = solitary. Nun, Latin *nonna*. The British monks and nuns married until the Benedictine rule was rigidly enforced by King Edgar and Archbishop Dunstan in the tenth century. The religious houses may be classified thus—cathedral churches, abbeys, and priories. There were four chief officers in the abbeys and priories—(1) the chamberlain, who provided the monks' clothing; (2) the cellarer catered for them; (3) the treasurer or bursar collected their rents and other revenue, and paid all their expenses; and (4) the sacrista or sexton

took charge of the buildings and church, and all the utensils, books, pictures, etc., in them.

The Benedictine monks were originally laymen, working in a very praiseworthy manner with their hands to support themselves. Some were ordained as the needs of the monastery required, and although ordained, they were still monks, and resided within the walls of their convent. The monastic life had taken a great hold as early as the seventh century upon the Anglo-Saxon kings and nobles. But we must look to the Norman period for the full development of monastic institutions in this country. The mode of life and dress of the monks and nuns fascinated the Anglo-Saxons, and struck them with awe. The monasteries were richly endowed with estates. They also monopolized the rich mortuary fees. The treasures of the Anglo-Saxon kings, of their families, and of wealthy laymen, were poured into the monasteries. But the time was fast approaching when all those costly buildings, rich treasures, and priceless libraries, were to be swept away and destroyed by foreign savage hordes. The Danes made their first appearance in England A.D. 787. They were implacable enemies of the Christian religion. Between A.D. 858 and 878 they rifled and burnt the British monasteries. Plunder was always their game, and therefore they first attacked the monasteries because they were defenceless, and contained immense wealth. This vandalism was disastrous to the nation, because it dried up the only channel of learning and education in the land, and destroyed the only existing libraries. The monasteries were the treasure-houses for charters and privileges granted by kings and nobles from time to time, which were deposited for safety in these sanctuaries. A carefully-written history of the country was also kept in many

of the monastic libraries. The destruction of the monasteries by the Danes, and the dispersion of their inmates among the villages, gave a powerful impetus to the erection of more parish churches; for, after the departure of the Vandals, it was much cheaper to build a wooden church than to rebuild a monastery. The monastic churches served, up to the time of their destruction, as the parochial churches in many places. When these were destroyed, the nobility, wealthy landowners and bishops, exerted themselves to supply not only the deficiencies, but to increase the number of parish churches. The inmates of the monasteries scattered through the villages took, no doubt, an active part in church-building.

The monasteries remained in ruins until the reign of King Edgar, who was a great supporter of the Church, and seemed to be under the complete control of Archbishop Dunstan—the first episcopal pluralist—the originator of a practice, contrary to the primitive custom of the Church, which, in subsequent centuries, was carried to a most scandalous extent. Wolsey, in more modern times, held several bishoprics at the same time, and yet one of his great objects was the reformation of the Church. But he should have commenced at home. The ostensible reason assigned in Dunstan's time for his conduct, was that there was a dearth of suitable men for the episcopal appointments; but the real cause was, as in the case of Bishop Oswald, to carry out the scheme for removing the seculars and bringing the monks into the cathedral churches. In Wolsey's time the same ostensible reason could not be urged. But the revenues of a multiplicity of bishoprics were necessary to maintain his pride and extravagant living, and to build palaces, which he presented to an ungrateful king.

The leading church ideas of King Edgar during his reign were, (1) to rebuild the monasteries which lay in ruins, and (2) to drive the married clergy out of the convents, replacing them by monks. Dunstan, Athelwold of Winchester, and Oswald of Worcester (afterwards of York), were the king's chief agents in carrying out his schemes. It does not appear that any of the other bishops had taken an active share in the work. Before King Edgar's reign, the monasteries were filled with secular clergymen, who did duty outside their monasteries.

The English monks passed through three reformations: (1) At the Council of Cloveshoe, A.D. 747, where no reference was made to Benedict's rule, although it had been framed in 529 and approved of by the Pope in 595. (2) At the Council of Winchester, A.D. 965, where Benedict's rule was prominently set forth for general adoption. The monks were henceforth to confine themselves to their cloisters, to have no parochial cure of souls, and to adopt celibacy. These facts alone prove that the discipline of the Roman Church on the Continent, was imported into the English Church long before the Norman Conquest. Some writers, in treating of tithes and other church endowments, strive to show that the Church of England, before the Conquest, had not the same doctrines as the Roman Church. The object of this line of erroneous argument is to show that the endowments of the Church of England were given to her when her doctrines were different from those of the Church of Rome. The system of doctrinal development which was going on in the Roman Church on the Continent, was introduced and adopted in the Church of England by her hierarchy and priests. (3) At the Council of London, A.D. 1075, where monks were enjoined to adhere more strictly

to the rule of Benedict.

As I have stated above, before King Edgar's reign the monasteries were convents of secular married clergy, whose children kept up a monopoly of all the valuable appointments in the establishments. The result was certainly most pernicious to church and people. The clergy grew more and more indolent and illiterate, and their thoughts were entirely absorbed in the worldly affairs of their families, to the neglect of their spiritual duties. Although the monks had many faults, yet the English nation owes them a large debt of gratitude. They were better educated than the secular clergy; were more refined, and were therefore better able to raise the standard of civilization in the country. That is what the married clergy could not then have done. The monasteries were the only schools where the children of the kings, nobility and gentry could be educated. King Edward the Confessor received his early training in the monastery of Ely. Their schools formed models for our most ancient universities. The monasteries were like so many burning torches in the midst of darkness and ignorance, and were the only sources which could then supply men intellectually capable of occupying episcopal positions. Some of the noblest benefactors to the Church were bishops taken from the cloisters.

The Norman Conquest.

At the time of the Conquest, there were in England about 130 monasteries and cathedral churches, possessing about one-twelfth of the land. There were then nineteen bishoprics in England and Wales exclusive of the Isle of Man. Most of the Saxon bishops and abbots were replaced by Normans. The

change was good. Some writers censure the Norman rulers for the change. But a better educated and more refined class of men had taken their places. A careful study of their lives and acts, as recorded in the “Monasticon,” will corroborate my statement.

All the property given to the religious houses in Anglo-Saxon times, was held in common. But the Norman bishops changed this arrangement in the cathedral churches. They divided the property and assigned to the canons what revenues they thought fit, and kept the rest of the church lands for their own personal use. These bishops had also initiated another innovation in the distribution of the cathedral revenues, which continued until 1840. They gave separate endowments of lands or tithes or both to the deans, priors, chancellors, treasurers, precentors, vicars choral, archdeacons, and prebendaries, for their own personal use, and quite separate from the common fund, of which the four principal officers had also their shares. Some of the Norman bishops purchased landed estates out of their own episcopal revenues, which they divided into prebends, and endowed prebendaries with them; other bishops divided some of the episcopal estates into prebends. Landed estates were also given by private donors which formed new prebendal endowments. These kind of endowments ceased about the thirteenth century. By the Cathedral Act of 1840, all the separate estates, amounting to about £60,000 per annum, were vested in the Ecclesiastical Commissioners for the Common Fund.

At the time of the Conquest, the nineteen cathedral churches were composed of secular canons, except two, viz., Winchester and Worcester, which were composed of Benedictine monks. These two were

subsequently increased to eight, viz., Canterbury, Durham, Carlisle, Ely, Norwich, and Rochester, and so continued until the general dissolution of monasteries, when they were formed into secular chapters by changing the priors into deans, and chapters into canons. The fact that there were only two conventual chapters at the time of the Conquest, indicates that the seculars more than held their own in face of the powerful patronage and protection of King Edgar and Archbishop Dunstan. It is doubtful whether this had been an improvement. The ranks of the episcopal order, as I have hitherto stated, were generally recruited from the monks, because competent men could not be found elsewhere. The magnificent and artistic cathedrals of this country, had been designed and built by men connected with the monkish order. There is Durham, by William de Carilepho, formerly a Norman abbot; Ely, by its last abbots; Gloucester, by its abbots; Rochester, by Bishop Gundulf, a monk; Bishop Wacelin, in 1070, commenced to rebuild Winchester, and William of Wickham finished it; Bishop Wolstan laid the foundation of Worcester in 1084, etc.

The following table of monasteries, taken from Bishop Tanner's "Notitia Monastica," published in 1695, will give an idea of the powerful impetus which the Norman Conquest had given to their erection in this country.

	Benedictines.	Austin order.	Cluniacs.	Cistercians.	Colleges.	Pre
William I.	16	6	6			
William II.	7	2	4			

Henry I.	30	40	5	10	4	
Stephen	15	25	4	35	1	
Henry II.	22	30	6	20	3	
Richard I.	6	4		1		
John.	7	11		7		
Henry III.	4	15	1	9		
Edward I.	3	2			3	
Edward II.	2	2				
Edward III.	3	6		1	17	
Richard II.						
Henry IV.					4	
Henry V.		1			6	
Henry VI.					8	
	115	144	26	86	52	

To 531, add 130 before the Conquest; total, 661.

Alien Monasteries.

The governing bodies of the foreign or alien monasteries, to which landed estates, tenements, tithes, churches, etc., in England were granted, had built priories in convenient parts of England on their manors, and sent monks from their own monasteries

to occupy them. The principal duties which these monks performed, were to collect the revenues from the properties, and transmit the money to the heads of the foreign monasteries. In fact they were their resident agents in this country. It is stated that not less than £2,000 a year, a sum equal to £60,000 at the present time, was forwarded, in the reign of Edward III., to Cluny, in France, by the twenty-six Cluniac priories in England. King Edward I., in his wars with France, was the first to put a stop to the transmission of money from the alien priories in England to the heads of the foreign monasteries in France. They were dissolved by Henry V. and Henry VI.

Owing to the pomp and luxuries of the hierarchy and monastic bodies, a religious revolutionary wave passed over this country in the thirteenth century. The main indications were, (1) the Lateran Council in 1215; (2) the appearance in England in 1217 of the Dominican, and in 1224 of the Franciscan preaching friars; (3) the Mortmain Act of 1279. The religious mania for building and richly endowing monasteries commenced to decline in Edward I.'s reign. The Franciscan order was founded in A.D. 1208, and the Dominican in 1215. Pope Innocent III. approved of both orders in 1215. The ruling idea of these mendicant friars was the elevation of poverty to a virtue; but, strange to say, that before they were in existence many years they became the richest orders in Christendom. Wherever they were located they became the strongest supporters of the papacy, and for two hundred years members of these orders occupied the papal throne.

The friars in England, by their powerful and zealous preaching, had become very popular, to the

great loss of the parochial clergy, who were steeped in ignorance and indolence. In their sermons and pamphlets, the friars strongly advised the people to pay no tithes to the parsons; that tithes were but alms, and may be given to any charitable use, and that the parsons had no parochial rights to them. The result was that the people gave the tithes to the friars, both personal and predial, as alms. The parish priests seriously felt the diminution of their revenues. Convocation, of course, moved vigorously in the matter.[267]

The begging friars knew how to draw water to their own fountains, and succeeded well. But “Holy Church” proved too powerful for them. They were pronounced *heretics* for preaching against the payment of tithes to the parsons, and for receiving the parsons’ tithes themselves. But those cunning, crafty friars were only changing the course of the “alms” into their own channel. Apostolic poverty was written high on their banners, and yet they soon surpassed the parsons in luxury and indolence.

A truly sincere and honest Englishman then appeared on the scene. John Wickliffe, rector of Lutterworth, who died A.D. 1384, preached the same views about tithes as the friars did. He strongly asserted that tithes were only alms, and may be given for any religious use, or retained, according to the will of the donor. The Church, of course, considered his statement rank heresy, and a council of ecclesiastics condemned his opinions as heretical. The cry, “the Church in danger,” was then heard as loudly as in our own times whenever any salutary changes for her improvement have been suggested, or when scandals and abuses are attempted to be removed. The most important and latest example

occurred in 1840, when the so-called Cathedral Act was passed.[268] Oxford and Cambridge Universities petitioned Parliament against this Act. Oxford took the lead and strongly protested against all church reforms and improvements originating within the Church (which our leading statesmen then advocated) by means of a better and an equal distribution of church revenues. Oxford urged in 1840 that a large State grant should be made to the Church in order to supply the existing deficiencies of religious instruction. This was simply an impertinent application for State aid when the revenues of the Church were wasted in a disgraceful manner by her own officers. The twenty-six archbishops and bishops appointed before 1836, had received five and a half millions of money from their *episcopal* revenues alone. Counsel were actually engaged, who appeared at the bar of the House of Lords to oppose the Cathedral Act of 1840, which has turned out one of the most beneficial acts for the amelioration of the Church which our leading statesmen could then devise. Sir R. Inglis, M.P. for Oxford, called the Bishops Act of 1836 and the Cathedral Act of 1840, "Confiscations which were leading to the utter destruction of the Church of England." Let us compare this statement with that made in Parliament in 1882 by Sir John Mowbray, who now represents the same constituency. "The Ecclesiastical Commissioners," said Sir John, "augmented the value of livings in upwards of 4,700 out of 15,000 parishes into which England and Wales are divided. From 1836 to 1882 they added £19,000,000 to the property of the Church, besides eliciting £4,000,000 from private sources in the shape of contributions, making a total of £23,000,000, which represents an annual income of £690,000."[269]

In the 43rd Report (1891) of the Commissioners, the following statement appears: “During a period of fifty years, from 1840 (when the Common Fund was first created) to 31st October, 1890, the Commissioners have augmented and endowed upwards of 5,700 benefices with annual payments charged on the fund, or by the annexations of lands, tithes, etc., or by the grant of capital sums for the erection of parsonage houses, etc., to the value of about £781,400 per annum, in perpetuity, equivalent to a capital sum of about £23,469,000. The value of benefactions from private sources, of lands, tithes, stock, cash, etc., secured to various benefices, and met for the most part by grants from the Commissioners, exceeds £164,340 per annum in perpetuity, equivalent to a permanent increase of endowment of say £4,930,000, apart from a sum of about £26,000 per annum, contributed by benefactors to meet the Commissioners’ grants for curates in mining districts. Thus the total increase in the incomes of benefices made by the Commissioners or resulting from the benefactions accepted, and met by them, exceeds £971,700 per annum, and may be taken to represent a capital sum of about £29,179,000.”[270]

The foregoing statement is the best proof as to the absurd and short-sighted remarks of Sir. R. Inglis and his followers in 1840. The net income of the Common Fund is now over one million per annum. It has taken more than 125 Acts of Parliament directly and indirectly relating to the Church, and some thousands of Orders in Council to drag the State Church out of the sink of abuses in which it was found in 1832 when the first Reform Act was passed.

There were also grave and serious abuses in the

Church in Wickliffe's days. He was as hostile to the Pope's supremacy as he was to the compulsory payment of tithes. He held that kings were superior to popes, and therefore that appeals from spiritual to temporal tribunals were just, right, and lawful. Time proved that his opinion on this point was correct. He must have been a man of great boldness to question in those days the supremacy of the popes. We, living in the end of the nineteenth century, can take a historical survey of the various changes and struggles which occurred, as regards the popes' supremacy, since Wickliffe's time. He utterly detested the monks for their luxurious and worldly habits. The parochial clergy also did not escape his lash. He preferred the good old custom of one paying one's tithes, according to one's own free-will, to good and godly men, who were able to preach the gospel; and he condemned in his complaint to King Richard II. and his Parliament, the practice of compelling people to pay tithes.[271]

If we examine the charters which appropriated tithes to monasteries, we shall find that the tithes are stated therein to be given as *alms in perpetuity*. As regards tithes given to rectors and vicars of parishes, the usual style of the grant ran thus: "The tithes were granted as *free, pure, and perpetual alms for ever*." The words in italics are most remarkable. Richard de Clare, Earl of Herts, gave the rectorial tithes of Brenchley and Yalding, in Kent, to Tunbridge Priory *in pure and perpetual alms*. Robert de Crevequer, founder of Leeds Abbey about 1137, gave the canons there *in free and perpetual alms*, all the churches on his estates, with their glebe lands, tithes, and advowsons. King John had appropriated the rectory of Bapchild, in Kent, to the Dean and Chapter of Chichester, on the recommendation of the Bishop of

Chichester, to be held *in free, pure, and perpetual alms*. The chapter received £437 a year tithe-rent charge; vicar, £167. William de Auberville, in 1192, gave to the priory of West Langdon the rectories of Oxney and of St. Mary's, Liddon, *in pure and perpetual alms*.[272] I have given here only a few examples to show how the tithes had been granted by the owners to parishes and monasteries. Yet in the face of these grants, episcopal, cathedral and parochial, incumbents claim the tithes as their own exclusive property. But Wickliffe and the friars were much better judges of the facts than church defenders at the present time. They truly asserted that the tithes were by custom originally given as alms or free-will offerings without any compulsion whatsoever; and Wickliffe gave some additional information, viz., that they were given only to good and godly men who were able to preach the gospel. The fact that the landowners had given their tithes for any religious use to monks who were mostly laymen, to nuns, to the religious military orders, to foreign monasteries, I say that this proves to demonstration that tithes were not due by divine or legal right to the evangelical priesthood; that tithes were property which could have been and were disposed of, like any other kind of property, to whatever use the benefactor or owner wished. But by clerical pressure at home, by threats of anathemas and excommunications, by the power of the confessional box, and by ecclesiastical pressure from Rome, the English landowners, and also those who paid personal tithes, had slowly come round to the practice of paying them to the parochial clergy not as their exclusive income, but as trustees reserving an adequate portion of the tithes for their own personal use, and dividing the remainder among the poor and stranger, and for repairing the church.

But the trustees appropriated all the tithes to their own personal use, and relieved the poor and repaired the church out of alms and contributions of the parishioners. These are the real facts of this disgraceful case of clerical trustees misappropriating the tithes to their own personal use, and this misappropriation has been going on at least 500 years, which gives them a prescriptive right to all the tithes. I have already sketched out how this misappropriation commenced, and the inability of the poor to obtain redress.

The following extract, taken from one of the charters granting tithes to monasteries, indicates how tithes were given:—

> CHARTER OF EARL RANDULPH GERNONS OF CHESTER TO THE MONASTERY OF CHESTER.
>
> "Universitati vestræ notum facio me dedisse *in elemosina in perpetuum* Deo et S. Mariæ ecclesiæ S. Werburgæ et Rudulpho abbati et conventui dictæ ecclesiæ pro salute animæ Hugonis comitis, prædictæ ecclesiæ fundatoris ac pro salute animæ Randulphi comitis patris mei, et antecessorum meorum, et pro salute animæ meæ, et Christianorum omnium, omnem decimam integriter et plenariè omnium reddituum meorum civitatis Cestriæ," etc.[273]

This earl died in A.D. 1153. Earl Hugh Lupus, the refounder, who died in 1101, granted many manors, churches, and tithes, as *alms in perpetuity*. All the early parochial records are lost, and therefore in dealing with the old parishes we are at a great disadvantage. It is not so with the monasteries. The monastic bodies, free from Danish invasions, had

carefully preserved all their charters of grants, because they had often to produce their title deeds when claims were made by others to some of the property which they possessed, and also when some of their property had been lost or taken from them by force or by kings. It was not so with regard to lands and tithes held by parochial incumbents.

CHAPTER XVI.
THE DISSOLUTION OF MONASTERIES.

What precedents had Henry VIII. to guide him in dissolving the monasteries?

(1) Edward I., in A.D. 1295, seized the property of the alien priories.

(2) In 1324 (17 Edward II.) the lands and tenements held in England by the Templars were, by Act of Parliament, seized and transferred to the Knights Hospitallers, when the services of the former were no longer required for purposes for which the property had been assigned to them.

(3) Edward III., in 1337, seized the alien priories, and let out the lands and tenements, until there was peace with France in 1361. The most valuable of them were naturalized, and thus became free from the yoke of any foreign monastery, and could elect their own priors.

(4) Richard II. bestowed on the Carthusians several of the smaller alien priories which Edward III. had seized.

(5) In the reign of Henry IV. the House of Commons suggested, in 1404, that the clergy, including the *religiosi*, should be deprived of all their temporalities, in order to furnish funds for the defence of the kingdom and for the maintenance of a large army. A similar proposal was made in 1410, but the king, directly influenced by the Archbishop of Canterbury, would not listen to the suggestions.

These facts indicate the growing unpopularity of the Church even at that early period of the life of the House of Commons. The Statute of Mortmain in 1279, the Statutes of Provisors in 1351 (25 Edward III. c. vi.), and 1353 (27 Edward III.), the Statute of Premunire in 1393, are all so many previous illustrations of the growing hostile feeling of Parliament towards the Church, monastic establishments, and the pope of Rome.

(6) In the reign of Henry V. another attack was made upon the property of the Church by the Parliament which met in 1415, but the tact of the Archbishop of Canterbury on this occasion, as well as in 1404 and 1410, saved the property. The Parliament granted the King, however, all the property of the alien priories, except those which were free and could elect their own priors. Henry V. built and endowed six colleges and three religious houses, principally out of the property of the suppressed priories.

(7) Henry VI. founded and endowed Eton College and King's College, Cambridge, out of the same suppressed property.

(8) Cardinal Wolsey, with the approval of King Henry VIII. and the Pope, suppressed over twenty small religious houses in A.D. 1523, in order to furnish funds to build and endow his college—Cardinal College, now Christ Church, Oxford—the richest in that University.

These are instructive and interesting facts. Large monastic endowments were devoted to building and richly endowing colleges and schools for the sons of the wealthy men of the country. In the Appendices will be found a complete account of the gross amounts of tithe-rent charges which the colleges of

Oxford and Cambridge, and some of the public schools receive. I should also gladly give the monastic manors and glebe lands, quite separate from the vicarial glebe lands, which these colleges and schools also received, but I have not the information. But I supply the large patronage they have at their disposal. And I may state that of all Church patronage, the most objectionable is collegiate and public school patronage. Broken-down old dons, fellows, and teachers of schools, men full of eccentricities, totally unfit for parish work, are pensioned off with college livings, which are generally well endowed with glebe lands and tithes, and each with a rural population of a few hundreds. Here they end their days in ease and quietness, after giving the best and most active part of their lives to tutorial work in their respective colleges and schools. The wealthy parochial endowments of the collegiate and scholastic livings are out of all proportion to the population and *parish work*, which in their cases is *nil*. In purchasing advowsons, the colleges select country parishes with large endowments, small areas, and small populations.

I have stated eight cases for Henry VIII.'s guidance in dissolving the monasteries. I shall now state his own action in the matter.

In 1533 (24 Henry VIII. c. xii.) the Statute for the Restraint of Appeals to Rome was passed. In 1534 Parliament made him "Supreme head of the Church of England." He therefore took the Pope's place, and received the firstfruits and tenths. In 1535 Commissioners were appointed to take the value of all ecclesiastical benefices, in order to settle the firstfruits and tenths. In 1536 the valuation was completed. In 1535, by 27 Henry VIII. c. xx., for

tithes to be paid throughout the realm. In 1536 (28 Henry VIII. c. xvi.), the power of the Pope over tithes in England was finally extinguished. The monks viewed the King's conduct in taking the Pope's place with the most bitter hostility. They constantly used their influence to excite the feelings of the people against the King. Henry knew all this, and that he could never alienate them from the Pope. The subsequent conduct of the King and his ministers was guided more by political expediency than on religious or moral grounds. There was but one course open to the King, and that was to dissolve all the religious houses. It was a bold, arduous, and dangerous step. The morality of these houses was the only vulnerable point in which he thought he could successfully carry out his plan. He first obtained an Act of Parliament empowering him "to visit, order, and reform all errors and abuses in religion." This was the lever which Henry's agents used to expose every real and imaginary immoral act, and thus create hostility in the minds of the people against them. A Royal Commission was issued in 1535 with unlimited power to visit the monasteries. In 1536 the report was finished. But the original was destroyed in Queen Mary's reign. We must be careful as to what credence should be given to evidence taken down and reported upon by such Commissioners as Leigh and Leyton, who had not scrupled to suborn witnesses. An Act was passed in 1536 (27 Henry VIII. c. xxviii.), which dissolved every monastery with a revenue of less than £200 per annum, and transferred to the King all the monasteries, priories, and other religious houses, all the sites, circuits, churches, chapels, advowsons, patronage, manors, granges, lands, hereditaments, tithes, pensions, annuities, rights, etc., which belonged to such

monasteries; and that "The king shall have them in as large and ample a manner as the governors of those houses possessed them. That he was to have and to hold them, his heirs and assigns, to do and use therewith his and their own wills, to the pleasure of God and to the honour and profit of this realm." And the Act further states that "Those who take the above property from the king shall have, hold, and enjoy the same *in like manner, form, and condition as before the Act of Dissolution*." Those who took the property were therefore subject to the same limitations, privileges, and burdens as the *religiosi* were. By this Act, 376 houses were dissolved and their properties vested in the Crown. The King received £32,000 per annum from the estates, and also he received jewels and personal effects valued at £100,000. He gave small pensions to some abbots, priors, and monks; others he transferred to larger monasteries. The houses were stripped of their lead, bells, glass, and materials, which were sold to the neighbouring gentry.

The conditions upon which all the vast monastic property was given by Parliament to the King were, "That they were to be used to the pleasure of God and to the honour and profit of this realm." Did Henry VIII. or his successors carry out these conditions? They certainly did not. The property of the alien priories was insignificantly small as compared with the enormous properties which Parliament granted to Henry VIII. But there was this distinction between them. Almost all the former properties were devoted to religious and educational purposes. Laymen received little or nothing. But the case was very different with Henry VIII.'s confiscations. The courtiers and favourites were most eager to share, and did obtain, monastic estates and

tithes, and also episcopal and capitular landed estates, which some of their successors still hold, others sold them, and thus much of the property has been handed down to the present time through a long line of purchasers.

Henry VIII. intended to create twenty-one new bishoprics, and out of the proceeds of the monastic properties to suitably endow them. But he created and endowed only six. The courtiers and favourites of Henry, Edward, and Elizabeth, who received inferior monastic lands, induced these sovereigns to make certain of the archbishops, bishops, and chapters exchange their good lands for the inferior lands of the courtiers and favourites, and also to exchange impropriated tithes for lands of equal value belonging to episcopal and capitular corporations. These exchanges were very numerous in the reigns of Edward and Elizabeth. Hasted, in his "History of Kent," makes the following remark, "Cranmer observing that his stately palaces excited the envy of the courtiers, *passed them away with their estates to the King*." For example, Otford Palace and its beautiful parks. Archbishop Warham spent £33,000, an enormous sum in those days, in rebuilding the palace. Cranmer, in 1538, was ordered to surrender the palace and the manor of Otford and Sergeants Otford to Henry VIII. Edward VI. granted the Little Park of Otford on lease to Sir Henry Sidney. Elizabeth granted Sergeants Otford and the Little Park on lease to Sir Robert Sidney. James I. granted the palace and Greater Park to Sir Thomas Smith. Edward VI. granted the parsonage and advowson of Shoreham with the Chapel of Otford to Sir Anthony Denny, who exchanged them with the Dean and Chapter of Westminster for the advowson of Cheshunt in Herts. The Chapter had £702, tithe rent

charge from Otford; there was no vicar; and £806 10*s.* from Shoreham; total £1,508 16*s.*

Hasted says of Knole manor and manor house: "Cranmer observing *murmurings among the hungry courtiers of the archbishop's palaces*, compounded with Henry VIII. to give up the best and richest manors; therefore, in 1538, Cranmer gave to the King the manors of Otford, Wrotham, Bexley, Northflete, Maidstone, Knole, Sergeants Otford, Sevenoke, Shoreham, Chevening, Panters, and Brytains, with their appurtenances." Here were twelve manors given in one swoop to satisfy Henry VIII.'s "hungry courtiers," who were "murmuring" for the spoils. The reader will have to consult Hasted's "Kent," to know the courtiers and favourites to whom these manors were granted.

An Act was passed, 1 Elizabeth c. xix., which authorized the Queen to take in her hands, on the voidance of any bishopric, so much of the lands belonging to it as should be equal in value to the monastic confiscated rectorial tithes belonging to the Crown in that diocese, and to exchange such tithes for lands. Some of these lands were then given to her ministers and favourites, some were kept by the Crown, and others sold to furnish funds for national purposes, so as to prevent application to Parliament for money. It was in this manner that bishops and cathedral chapters lost so much landed property which the Crown granted as above stated, and the court favourites, soon after they received the grants, sold the estates and parsonages to the highest purchaser. Here then were landed estates, with endowments and advowsons of the churches belonging to such estates FREELY granted away. Lord Cobham's to the Cecils, for instance, who almost

immediately sold the properties which they freely received from the Crown, and applied the proceeds to their own personal use.

Now, as regards the suppression of the larger monasteries, they were to be carried out, if possible, by voluntary surrender. I shall show that this was purely a sham. The Commissioners, no doubt, tried in every way to persuade them to surrender by promising the abbots and priors good pensions during life, because no charges of immorality could have been preferred against them. In 1536-7, there were but three surrenders. In 1537-8 there were twenty-four. The Commissioners induced those who surrendered to persuade others to follow their example, for it was the King's policy to let the public see that the surrenders were voluntarily made. When persuasion failed, the Commissioners used threats, and so we read that the monks of the Charterhouse were committed like common felons to Newgate, where five of them died, and five more were on the point of death from the cruel and barbarous treatment they received within the walls of that prison. But the most revolting act of pure despotism on the part of Henry VIII. was the execution of Whiting, abbot of Glastonbury, Coke, abbot of Reading, and Beche, abbot of St. John's, Colchester. These despotic acts drove terror into those who had not yet surrendered. In 1538-9, one hundred and seventy-four surrendered, and in 1539-40, seventy-six. In April, 1539, a slavish Parliament ratified the surrenders up to that time, and allowed the King to extend the Act to all the other monasteries which had not yet surrendered, by 31 Henry VIII. c. xiii., "An Act for the dissolution of monasteries and abbeys," by which about 277 monasteries of the value of £200 a year or upwards, were dissolved; and

what makes their dissolution more remarkable and important, is that all the property of 193 of them was and is discharged of tithes up to the present time. Over 653 monasteries were dissolved by the Acts of 1536 and 1540, with properties equal to £250,000 per annum. In the preamble of the above Act we do not find those grave charges hurled against monks which appear in the Act which suppressed the smaller monasteries in 1535.

In order to pass the above Acts, some of the nobility were promised estates by free gifts from the King, others obtained them by easy purchase. The members of the House of Commons were also promised large shares, and of course Henry's agents dangled before the people: "No more subsidies, no fifteenths, no loans, no common aids," as the wealth of the dissolved monasteries was considered ample to maintain an army of 40,000 men, and so all taxation may in future be dispensed with! The Church was also to be conciliated. There were to be twenty-one bishoprics created, with cathedrals, deans, and chapters all endowed out of the property. This number was, however, reduced to six. Westminster existed only for about nine years. Five now exist. Gloucester and Bristol were united in 1836; but when sufficient funds are collected to endow the Bristol bishopric, they are to be separated.

In 1540, there were 653 monasteries suppressed. In 1546, 90 colleges, 110 hospitals, and 2,347 chantries, with all their properties, were handed over to the King by 1 Edward VI. c. xiv., the preamble of which runs thus: "To convert to good and godly uses the chantries, or in erecting grammar schools to the education of youth in virtue and godliness, and in further augmenting of universities and *better*

provision for the poor and needy." This provision for the use of the chantry estates lamentably failed. Neither the universities nor the poor were benefited. Like the monastic estates, the hungry and avaricious courtiers who surrounded the young king, had received the property for their own personal use.

The capital value of all the property handed over to Henry VIII., Edward VI. and Elizabeth would equal £200,000,000 at the present time.

The 27 Henry VIII. c. xx. (1536) provides that "all tithes should be paid according to the ecclesiastical laws and ordinances of the Church of England, and after the laudable usages of the parish or place where the party dwelt."

The 32 Henry VIII., c. vii. s. 5 (1541): "No tithes are to be paid for lands discharged from paying tithes, or are not chargeable in the payment of tithes."

CHAPTER XVII.
TITHES IN THE CITY AND LIBERTIES OF LONDON.

In the early history of the Christian Church, the citizens of London made oblations or offerings at every mass on Sundays and holidays, and such oblations were applied to the relief of the poor, the repairs of the church and the support of the clergy. From these purely voluntary oblations grew up a custom in the City of London, that every person paying 20*s.* a year rental should give to God and the Church, ½*d.* for every Sunday or Apostle's day, the vigil of which was a fast. If he paid only 10*s.* a year rental, he was to give ¼*d.* This amounted in the former case to 2*s.* 6*d.* in the pound, and 1*s.* 3*d.* in the latter, per annum. These were customary payments, and were applied for the same three purposes—poor, fabric and clergy. As these customary payments were found to decrease, it was deemed necessary to promulgate an order to permanently fix the customary payments. Bishop Roger took up the subject immediately after his consecration as Bishop of London. The following are the facts of the case:—

(1) In A.D. 1228, in the reign of Henry III., Bishop Roger, surnamed Niger, or Le Noir, of London, made a constitution or modus, that every occupier of a house should offer as his tithe to his parish church, ½*d.* for 20*s.* a year rental, and ¼*d.* for 10*s.* a year rental, for every Sunday and every Apostle's day, whereof the evening was fasted. There were fifty-two

Sundays and eight Apostles' days in the year that were fasted. Two shillings and sixpence a year was then the amount of the *modus decimandi* which the former occupier had to pay, and one shilling and three pence a year the latter. The amounts would be less when any of the Apostles' days fell upon Sundays.

The above particulars appear in the Records in the Town Clerk's office, London. It is a well-known point in law that a house *quâ* house is not liable for the payment of tithes. Tithes were paid for what issued or grew out of the ground. Enormous house properties have been erected in and around all our cities and towns, for which one penny as tithe-money has never been paid, and yet the house property in the City and Liberties of London, and landed property throughout the country, have to pay a modus and tithe-rent charges.

(2) Bishop Roger's modus was paid for 160 years, viz., from 1229 to 1389, when Archbishop Arundel, of Canterbury, interfered with the arrangement in the latter year. He was not satisfied with the interpretation put upon Bishop Roger's Constitution as regards the number of Apostles' days, and so he added twenty-two more saints' days, thus increasing the payments from 2*s.* 6*d.* to 3*s.* 5*d.* a year, and this he did without consulting the payers. The citizens of London were quite indignant at the additional number of saints' days, and placed on record their protest against the same for the information of future generations. There were constant quarrels between the citizens and their clergy in the ecclesiastical courts, and at the Pope's court at Rome, with regard to the payment of the extra 11*d.* The Archbishop appealed to the Pope as to the soundness of his

interpretation, and as a matter of course, Pope Innocent VII., in 1403, confirmed the interpretation. But the Pope's bull did not pacify the citizens of London. They considered the additional 11*d.* a cheat —a fraud. Besides, the Pope's bull could not compel them to pay the additional amount. In 1453, however, it appears, by a record in the Town Clerk's office,[274] that Archbishop Arundel's order is declared by the Common Council to be "destructory rather than declaratory, and that it was obtained surreptitiously and deceptiously, without assent on the part of the citizens, or summoning them." I should imagine that the Church, with its terrible ecclesiastical courts made them pay the 3*s.* 5*d.*, for we find no change in the payment until 1535, when the whole subject was considered by the Privy Council, who made an order for the payment of 2*s.* 9*d.* in the pound. Therefore in the same year an Act was passed,[275] authorizing the citizens of London to pay their tithes at the rate of 2*s.* 9*d.* in the pound. Ten years later another Act was passed,[276] "That the citizens and inhabitants of the City of London and Liberties of the same shall yearly, without fraud or covin, for ever pay their tithes to the parsons, vicars, and curates of the said City, and their successors for the time being, after the following rate: For every 10*s.* rent by the year of all houses, shops, warehouses, cellars, tables, etc., within the City and Liberty, 16½*d.*; and for every 20*s.* rent by the year, 2*s.* 9*d.*; and so above the rent of 20*s.* by the year, ascending from 10*s.* to 10*s.*, according to the rate aforesaid."

(3) The next account of tithes in London was after the great fire in 1666. An Act which I call the first Fire Act was passed in 1670,[277] for the better settlement of the maintenance of the parsons, vicars

and curates in the parishes of the city of London burnt by the great fire. The preamble runs thus:—

"Whereas the tithes in the city of London were levied and paid with great inequality, and are, since the late dreadful fire there, in the rebuilding of the same, by taking away some houses, altering the foundations of many, and the new erecting of others, so disordered, that in case they should not for the time to come be reduced to a certainty, many contrivances and suits of law might arise, be it enacted that the annual certain tithes of every parish in the City of London and its Liberties, whose churches have been demolished or in part consumed by the late fire, be paid according to the sum opposite each."

Sec. 3. "Which respective sums of money to be paid in lieu of tithes within the said respective parishes, and assessed as hereinafter is directed, shall be and continue to be esteemed, deemed and taken to all intents and purposes, to be the respective annual maintenance (over and above glebes and perquisites, gifts and bequests to the respective parson, vicar and curate of any parish for the time being, or to their successors respectively, or to others for their use) of the said respective parsons, vicars and curates, who shall be legally instituted, inducted and admitted in the respective parishes."

In subsequent sections assessments were ordered to be made before the 24th July, 1671, upon all houses, shops, warehouses, cellars, and other hereditaments, except parsonage and vicarage houses.

Three transcripts were to be made by the assessors, containing the respective sums to be payable out of all the premises within each parish; one was for the

Lord Mayor, the second for the Bishop of London's registry, and the third was to remain in the vestry. The payments were to be made in four quarterly payments.

If any inhabitant should refuse payment the Lord Mayor should issue his warrant of distress on his goods. If the Lord Mayor should refuse to issue his warrant, then it shall be lawful for the Lord Chancellor, or Keeper of the Great Seal, or any two or more of the barons of his Majesty's Court of Exchequer to issue warrants of distress.

The payments made by 22 & 23 Car. II. c. xv. (1670) were increased by 44 George III. c. lxxxix. (1804).

As the City and Liberties of London are converted into offices, banks, warehouses, etc., and are almost depopulated, it is important and instructive to give the names of the parishes which appear in the Fire Act of 1670, with the respective annual sums allowed in 1670 and the modified annual sums allowed in 1804. The first sum is for 1670, the second for 1804, and the third shows net income in 1890, with population from Clergy List, 1891.

H = house.	A.D. 1670.		A.D. 1804.			Net Income in 1890.	
	£	*s.*	£	*s.*	*d.*	£	
1. All Hallows, Lombard Street	100	0	200	0	0		[278
2. S. Bartholomew, Exchange	100	0	200	0	0		[278

3.	S. Bridget, alias Brides	120	0	200	0	0			[278
4.	S. Bennet Fink	100	0	200	0	0			[278
5.	S. Michael, Crooked Lane	100	0	200	0	0			[278
6.	S. Dionis Backchurch	120	0	200	0	0			[278
7.	S. Dunstan-in-the-East	200	0	333	6	8		536	
8.	S. James', Garlickhithe	100	0	200	0	0			[278
9.	S. Michael, Cornhill	140	0	233	6	8	now	935	H
10.	S. Michael Bassishaw	132	11	220	18	4		250	
11.	S. Mary, Aldermanbury	150	0	250	0	0		250	
12.	S. Martin, Ludgate	160	0	266	13	4			[278
13.	S. Peter, Cornhill	110	0	200	0	0		2,150	H
14.	S. Stephen, Coleman Street	110	0	200	0	0		750	
15.	S. Sepulchre	200	0	333	6	8		536	H
16.	All Hallows, Bread Street, and S. John Evangelist	140	0	233	6	8			[278
17.	All Hallows the Great, and All Hallows the Less	200	0	333	6	8		618	

18.	S. Albans, Wood Street, and S. Olaves, Silver Street	170	0	283	6	8	680	
19.	S. Anne and Agnes, and S. John, Zachary	140	0	233	6	8	400	H
20.	S. Augustin and S. Faith	172	0	286	13	4	638	
21.	S. Andrew, Wardrobe, and S. Anne, Blackfriars	140	0	233	6	8	320	H
22.	St. Antholin and St. John Baptist	120	0	200	0	0		[278
23.	S. Bennet, Gracechurch, and S. Leonard, Eastcheap	140	0	233	6	8		[278
24.	S. Bennet, Paul's Wharf, and S. Peter's, Paul's Wharf	100	0	200	0	0		[278
25.	Christ Church, Newgate Street, and S. Leonard, Foster Lane	200	0	333	6	8	461	H
26.	S. Edmund the King and S. Nicholas Acons	180	0	300	0	0	1,150	H

27.	S. George, Botolph Lane, and S. Botolph, Billingsgate	180	0	300	0	0		380	H
28.	S. Lawrence, Jewry, and S. Magdalen, Milk Street	120	0	200	0	0		683	
29.	S. Margaret, Lothbury, £100; and S. Christopher £120	220	0	366	13	4			[278
30.	S. Magnus and S. Margaret, New Fish Street	170	0	283	6	8			[278
31.	S. Michael Royal and S. Martin Vintry	140	0	233	6	8		235	
32.	S. Matthew, Friday Street, and S. Peter, Westcheap	150	0	250	0	0			[278
33.	S. Margaret Pattens, and S. Gabriel, Fenchurch	120	0	200	0	0	now	830	H
34.	S. Mary-at-Hill and S. Andrew Hubbard	200	0	333	6	8		400	H

35.	S. Mary Woolnoth, and S. Mary Woolchurch	160	0	266	13	4	now 800	H	
36.	S. Clement, Eastcheap, and S. Martin Orgar	140	0	233	6	8	350	H	
37.	S. Mary Abchurch, and S. Lawrence, Pountney	120	0	200	0	0	590	H	
38.	S. Mary, Aldermary, and S. Thomas the Apostle	150	0	250	0	0			[278
39.	S. Mary-le-Bow; S. Pancras, Soper Lane, and All Hallows, Honey Lane	200	0	333	6	8			[278
40.	S. Mildred, Poultry, and S. Mary Colechurch	170	0	283	6	8			[278
41.	S. Michael, Wood Street, and S. Mary Staining	100	0	200	0	0	255		

42.	S. Mildred, Bread Street, and S. Margaret, Moses	130	0	216	13	4	280	
43.	S. Michael, Queenhithe, and Trinity	160	0	266	13	4		[278
44.	S. Mary Magdalene, Old Fish Street, and S. Gregory by S. Paul	120	0	200	0	0		[278
45.	S. Mary Somerset, and S. Mary Mounthaw	110	0	200	0	0		[278
46.	S. Nicholas, Cole Abbey, and S. Nicholas, Olave	130	0	216	13	4		[278
47.	S. Olave, Old Jewry, and S. Martin Pomroy	120	0	200	0	0		[278
48.	S. Stephen, Walbrook, and S. Benet, Sherehog	100	0	200	0	0	774	H
49.	S. Swithin and S. Mary, Bothaw	140	0	233	6	8	451	

50.	S. Vedast, Foster Lane, and S. Michael-le-Quern	160	0	266	13	4		[278]
	Total	£7,164	11	£12,240	18	4	£15,702	

With respect to other parishes in the City and Liberties of London which are not included in the Fire Act, the incumbents received the tithes specified in the Acts 27 Henry VIII., c. xxi. and 37 Henry VIII. c. xii., viz., 2*s.* 9*d.* in the pound upon the rentals of the houses. The whole sum was paid into the common treasury of the parish, and was applied to three purposes, viz. (1) the support of the clergy; (2) the relief of the poor; and (3) the repairs of the church. Here is the tripartite division.[279] By the London (City) Tithes Act, 27, 28 Vict. c. cclxviii. (1864), annual fixed sums are paid in lieu of tithes, but subject to a revision on the first avoidance of the benefice that happens after the expiration of a period of 28 years from the passing of the Act.

These are the benefices:—

		£	*Pop.*
S. Andrew Undershaft	Fixed sum per annum	2,500	315
S. Katherine Colman	”	1,550	277
S. Olave, Hart Street	”	2,600	255
All Hallows, London Wall	”	1,700	535

All Hallows, Barking	”	2,000	350
S. Ethelburga	”	950	199
	Total	£11,300	2,106

Sec. 17 of this Act made legal the prospective agreements between the incumbent and vestry as regards the *fixed annual sums* in lieu of tithes, viz.:—

	£	*Pop.*
S. Alphege, London Wall,—as appeared in *London Gazette*, 31 Aug., 1869	1,350	31
St. Martin Outwich, Threadneedle Street,—as appeared in *London Gazette*, 24 Feb., 1871	2,250	
St. Peter-le-Poer, Broad Street, as appeared in *London Gazette*, 27 Sept., 1864	1,725	530
	£5,325	

By Sec. 18, *All Hallows Staining*, Mark Lane. Population, 175.

Agreement published in the *London Gazette*, 21 March, 1865, Tithes commuted for fixed annual sum of £1,600. Out of the proceeds of this tithe-rate, two new churches—All Hallows, Bromley, and S. Anthony, Stepney—have been built, and their vicars endowed each with £500 per annum, and the balance is accumulating for the erection of a third church and the endowment of its vicar.

The tithes of the following parishes have been commuted by local Acts.

£

S. Andrew, Holborn. 4 George IV. c. cxviii.	Fixed annual net sum	700	
S. Giles, Cripplegate. 7 George IV. c. liv.	”	1,800	[280]
S. Botolph without, Bishopsgate. 6 George IV. c. clxxvi.	”	2,500	[281]

The rector of S. Giles-in-the-Fields has a charge of £300 net a year on next avoidance of S. Botolph without, Bishopsgate.

Under the London (City) Tithes Act, 1879, portions of the sums payable as above have been redeemed, the consideration being such sum as will, if invested in 3 per cent. consols., produce an annual sum equal as near as may be to the annual amount of such rent-charge. The consideration is paid to the Ecclesiastical Commissioners, who pay the dividends on the stock to the incumbents.

It is important to give *seriatim* some further particulars about the above benefices.

(1) Of the £2,500 of *S. Andrew Undershaft, w. S. Mary-at-Axe*, eight parishes receive in the aggregate £500 a year.[282] The Bishop of London is patron; the rector is Bishop Billing, his suffragan; his net income is £2,057, with £375 a year for house rented; total, £2,432. Church accommodation, 210; population, 315.

(2) The fixed tithe of *S. Catherine Colman* is £1,550, out of which six parishes at Bethnal Green receive in the aggregate £400, S. Thomas Charterhouse £150, the rectors of S. Giles-in-the-Fields £100, and S. Mary, Whitechapel, £500 per annum.[283] Bishop of London, patron; rector, Bishop

Wilkinson; income, £1,500 per annum, including £1,100 a year from rentals. Church accommodation, 290; population, 277.

Here are two rich London benefices in the gift of the Bishop, who gave them to his two suffragan bishops; the Bishop of London sticks fast to his own £10,000 a year, and gives nothing to his suffragans from this immense income.

(3) *S. Olave, Hart Street, w. All Hallows Staining.* Rector's gross income, £2,050,[284] of which S. Olave's, Mile End, has £600 per annum, and house. Church accommodation, 250; population, 430.

(4) *All Hallows, London Wall*; fixed tithe £1,700; church accommodation, 250; population, 535; patron, Lord Chancellor; present rector was appointed in 1834; on next vacancy £1,400 will be divided into four parts; the rector will take one part £350 + £300 = £650; Holy Trinity, Barking Road, £350; S. Gabriel, Canning Town, £350; St. Luke, Victoria Dock, £350.

(5) *All Hallows Barking*; fixed tithe, £2,000; church accommodation, 600; population, 350; the incumbent has 4 curates for a population of 350 (!); they are all well looked after.

(6) *S. Ethelburga*; fixed tithe, £950; income, £1,050; church accommodation, 300; population, 199. On next avoidance, £400 a year will be given to S. Botolph without, Aldgate.

(7) *S. Alphege, London Wall*; fixed tithe, £1,350; church accommodation, 200; population, 31; on which S. George-in-the-East has a charge of £500 per annum. The rector has £925 for 31 of population!

(8) *S. Martin Outwich*, Threadneedle Street, was

pulled down and sold; fixed tithe, £2,250. Three churches erected out of proceeds, and vicars endowed, thus. The charges on this tithe are £600 Holy Trinity, Dalston; £300 Christ Church, Stepney; £592 S. Peter's, Limehouse; rector of S. Helen, Bishopsgate with S. Martin Outwich, receives £858 per annum, with house. Population, 541.

(9) *S. Peter-le-Poer w. S. Benet-Fink*; fixed tithe, £1,725; church accommodation, 690; population, 530. The charges on this tithe are £125, S. Mary Charterhouse; £200 a year each to Holy Trinity, Haverstock-hill; Old Saint Pancras; St. Peter's, Regent Square; S. Mary, Somers Town; and; £100 to Holy Cross, S. Pancras. The rector has a gross income of £1,000 a year.

(10) *S. Giles', Cripplegate*; commuted tithe, £1,800; subject to revision every ten years; in 1890 the value = £1,100, with house; population, 2,473; S. Luke's, Old Street, has a charge of £200 a year net.

(11) *S. Martin, Ludgate, w. S. Mary Magdalene* and *S. Gregory by S. Paul*. The tithes of S. Gregory were commuted under sect. 12 of S. Paul's Cathedral Minor Canons Act, 1875, by agreement published in the *London Gazette* of 19th March, 1878, for a *fixed annual sum of* £4,000, receivable by the holder of the beneficial lease granted by the minor canons. When the lease will lapse, the Ecclesiastical Commissioners will receive the £4,000 per annum. What does the vicar get who has to look after the 1,200 parishioners? £468, plus £100 from the E.C., arising out of local claim. The minor canons must have received £10,000 at least for that lease.

(12) *S. Mary Abchurch w. S. Laurence*; income, £590, with house; population, 236.

(13) *S. Catherine Cree w. S. James, Duke's Place*; income, £583; population, 1,480. The latter was united to former by Order in Council, *Gazette*, 6th May, 1873, taking £300 net a year, which it had from 1867, from S. Peter's, Cornhill.

(14) *S. Dunstan-in-the-East*; income, £536, from house property chiefly; population, 442.

(15) *S. Bartholomew the Great w. Smithfield*; income, £650; population, 2,373.

(16) *S. Botolph without, Aldersgate.* By 7 Geo. IV. c. cxvi., the tithes were commuted for a fixed sum of £1,150 per annum payable to the Dean and Chapter of Westminster as rectors. This sum, less £300 a year payable to the vicar, they leased, and the lessee retains £850 a year. Income of vicar, £390; population, 3,330.

(17) *S. Botolph without, Bishopsgate*, has been given. Has a house.

(18) *S. Dunstan-in-the-West, Fleet Street.* By 1 Geo. IV. c. lix., the tithes were commuted to an annual payment by the ratepayers of £359, of which £5 went to the Crown. By an order in Council dated 16th April, 1886, S. Thomas in the Liberty of the Rolls was united to the above parish, but the church of S. Thomas was taken down and the site and materials sold. The proceeds are to go towards building another church elsewhere, erecting a new parsonage for the rector of S. Dunstan and augmenting his income, which is £500 per annum; population, 2,300.

These eighteen incumbents receive £18,632, or average of over £1,000 each per annum. But it must be noted that the lessees of three parishes receive

£11,350 per annum, in lieu of tithes, from the ratepayers, viz.: S. Botolph without, Aldgate, £6,500; S. Gregory-by-S.-Paul, £4,000; and S. Botolph without, Aldersgate, £850. This £11,350 is not included here in any of the incumbent's incomes.

But here arises the public scandal. Eleven of these eighteen incumbents receive £13,341 per annum for an aggregate population including children, of 3,886, or £3 9*s.* per head.

The populations are taken from the census of 1881; and it is probable that a considerable reduction in population will appear from the census returns of 1891. But the clerical incomes are not reduced.

Again, twenty-six incumbents of Fire parishes receive £15,702 for a population of 14,000. If we compare the income of £350 for the incumbent of only one of the parishes in Bethnal Green, with a population of close on 14,000, with the £15,702 for a similar population in the aggregate, we at once perceive the public scandal.

Again, eleven incumbents of the Fire parishes have £8,050 for an aggregate population of 7,000. If we take a single parish outside of the City and Liberties of London, we shall find it with a population much larger than 7,000, and yet the incumbent would consider himself fortunate to receive a net income of £300 per annum.

I have now given sufficient data to prove that there exists reasonable grounds for the public scandal as regards the parishes in the City and Liberties of London. It is not my province to suggest remedies, but to indicate facts and figures.

But eleven incumbents to receive £13,341 for an

aggregate population of 3,886 forms the coping-stone not to a public scandal, but to a *public disgrace*, in this Christian country.

But the greatest public disgrace of all is to see the Bishop of London himself receiving £10,000 net per annum, with three suffragan bishops not paid by him, but paid out of parochial revenues.

Then, on the top of the hill, is S. Paul's Cathedral, with *a net* income of £25,000 per annum, and with palatial residences, which recently cost £20,000, close to the cathedral, for the canons. Truly it may be said of them, *Lac et lanas ovium Christi suscipiunt, sed curam gregis Domini deponunt.*

The City of London Tithes Act of 1879 (42 & 43 Vict. c. clxxvi.) provides for the commutation of tithes and payments in lieu of tithes arising or growing due in certain parishes in the City of London, and for the redemption of rent-charges charged upon lands under the above Act.

By the Christ Church (City) Tithe Act, 1879 (42 & 43 Vict. c. xciii.), S. Bartholomew's Hospital receives in lieu of tithes the annual sum of £1,800, which is levied and collected as tithe rates by the hospital from persons rateable to poor rates in that parish. Tithes in arrears are recoverable by distress in the same manner as stated in the Commutation Act of 1836. The vicar of Christ Church, Newgate Street, with S. Leonard, Foster Lane, has £456 per annum; population, 1,380. This is a Fire parish.

Mr. Edward Jeffries Esdaile and his successors are the owners by purchase, £20,000, of the tithes of the parish of S. Botolph without, Aldgate. Disputes arose after the Act of 1879 as to payments to be made to Mr. Esdaile in respect of tithes. An Act was therefore

passed in 1881, called, “The City of London Tithes, S. Botolph without, Aldgate,” (42 & 43 Vict. c. cxcvii.) to commute the tithes.

By sec. 3 of this Act, the tithe-owner is to receive £6,500 a year in lieu of tithes, which was to be levied and collected by the churchwardens from the persons by law rateable to poor rates, and shall be assessed on the annual rateable value of the houses assessed for poor rates. The £6,500 a year was to be paid by the churchwardens to the tithe-owner after the 29th September, 1881, by two half-yearly payments. The cost of making and collecting the tithe-rates is to be paid by the ratepayers, and is to be exclusive of the £6,500. The owners of houses can redeem the tithes as if they were rent-charge under the Tithes Commutation Act of 1836.

CHAPTER XVIII.
THE COMMUTATION ACT OF 1836[285].

Up to the time that this Act was passed, the tithe-owner claimed in kind the tenth part of the gross produce of the land, without contributing anything towards cultivation or improvement. In fact, the claim retarded both, and the object of the Act was to advance and not to keep back the cultivation and improvement of the land. The tithe was a tax upon labour and capital. The collection of tithes became both unpopular and obnoxious.

"Tithes are a tax," says Archdeacon Paley, "not only upon industry, but upon that industry which feeds mankind. They operate as a bounty upon pasture. The burden of the whole tax falls upon tillage, that is, upon that precise mode of cultivation which it is the business of the State to relieve and remunerate in preference to every other."[286]

"The tithe," says Adam Smith, "is always a great discouragement both to the improvement of the landlords and to the cultivation of the farmers. The one cannot venture to make the most important, which are generally the most expensive, improvements, nor the other to raise the most valuable, which are generally, too, the most expensive, crops, when the Church, which lays out no part of the expense, is to share so very largely in the profit."[287]

Agricultural depression, during the four years

previous to 1836, and the growing discontent of agricultural tithe-payers, demanded a speedy solution of this problem. Statesmen tried to solve it before Lord Russell attempted the task. Lord Althorp tried it in 1833, and again in 1834, but failed on both occasions. His three principal propositions were: (1) To substitute a money payment in lieu of tithes in kind; (2) The rent-charge to bear a fixed proportion to the rent payable on the land; and (3) To redeem the tithe by twenty-five years' purchase, or the creation of a rent-charge of equal value. The second proposition was the weakest. Any attempt to establish a proportion between the tithe and rent would end in failure, for the two had no similar foundation. Tithe was founded upon produce, but rent was not. Lord Althorp would make tithe to fluctuate with rent, retaining a fixed proportion of rent-charge. In principle it was a tax on capital, and therefore failed.

In 1835, Sir Robert Peel, when Prime Minister, introduced a Bill on the same subject. The principle contained in his Bill was that there should be a fixed money payment in the shape of a corn-rent in lieu of tithes, varying yearly according to the price of the three corns—wheat, barley, and oats; that it should be a voluntary arrangement between the tithe-owner and tithe-payer. The machinery to carry out this Bill was to appoint three Commissioners, viz., two by the Crown, and one by the Archbishop of Canterbury. These Commissioners should appoint Assistant Commissioners. Within a month after he had introduced this Bill, his Government went out of office, on the 8th of April, 1835.

Lord John Russell, a member of Lord Melbourne's Government which succeeded Sir Robert Peel's, took

up the subject of tithes by introducing a Bill on the 9th of February, 1836. “Tithe,” said his lordship, “was a discouragement to industry, a penalty on skill, a heavy mulct on those who expended the most capital and displayed the greatest skill in the cultivation of the land.” These were true words; and it gives one pleasure to observe that he had the courage to boldly express his opinions. But his boldest statement was that “tithes were the property of the nation.” This remark has again and again been quoted by the opponents of tithes, and it has as often been contradicted by the defenders of tithes.

Lord Russell rejected Lord Althorp’s plan which related to the establishment of a proportion between tithe and rent. He adopted the machinery and some other parts of Sir Robert Peel’s Bill. The principles contained in Lord Russell’s Bill were that the landowner or tenant might agree with the tithe-owner *to commute the tithe*, whether paid by modus or composition or otherwise, *into a corn-rent payable in money and permanent in quantity, but fluctuating yearly in value*, so that in future any improved value given to land would not increase the amount of the rent-charge. The corns were to be wheat, oats, and barley. The base of calculation was to be the average tithe paid for the seven years previous to Christmas, 1835. The arrangement was to be voluntary up to the 1st October, 1838, then compulsory. The Bill was at first but tentative, and was materially changed in its progress through the House.

The Commutation Act made a great change. The tithes were no longer to be paid on the produce or *increase* of the land, as stated in the Mosaic Law, upon which law the payment of tithes in the Christian Church was founded. Before the passing of

the Act, the tithe-owner had to sue the tithe-payer for arrears, but after the Act was passed, he had the power to distrain on the land for arrears, and the Act further empowers the tithe-owner to go on any other land belonging to the same landowner which may be in the same parish to recover the arrears of rent-charge, should the land from which the tithe was due be unable to satisfy his claim and costs. The tithe-owner has a prior claim to the landlord's.

The following statement will serve as an illustration of Lord Russell's Act. A money payment was fixed by the Tithe Commissioners on an average of seven years' payment of tithes. Let this be £100; the third of which, or £33 6*s.* 8*d.*, is for wheat, a similar sum for barley, and oats. The average prices of the three corns per bushel for the seven years' previous to 1835 was—for wheat, 7*s.* 0¼*d.*; for barley, 3*s.* 11½*d.*; for oats, 2*s.* 9*d.* The tithe-payer has to pay in respect of his £100 rent-charge the price of 94·95 bushels of wheat, 168·42 bushels of barley, and 242·42 bushels of oats. Early in January of every year a duly authorized advertisement is inserted in the *London Gazette* by order of the Comptroller of Corn, stating the average prices of wheat, barley, and oats for the seven years then next preceding. The serious objection to this plan is that the average prices of the three cereals are calculated on the prices sold to the millers, which included the cost of freight of one or more middlemen, instead of calculating on the prices sold by the farmers. This false system enhances the value of the rent-charge.

Supposing that for any year, say 1885, wheat was advertised in the *London Gazette* at 5*s.* 1¾*d.* per bushel; barley, 3*s.* 11¾*d.*; oats, 2*s.* 8¾*d.*, what has the tithe-owner to receive for £100 tithe-rent charge?

He receives (94·95 × 61¾*d.* + 168·42 × 47¾*d.* + 242·42 × 32¼*d.*) = £90 10*s.* 3½*d.*

The 80th section of the Act says that "any tenant who shall pay any such rent-charge shall be entitled to deduct the amount thereof from the rent payable by him to his landlord, and shall be allowed the same in account with his landlord." There are few instances in which the tenants deduct the tithes from their rents according to this section. The general practice is that the farmer, in his lease or agreement, agrees to pay the tithes himself to the tithe-owner, and the rent is computed accordingly. The tenant therefore pays the rent-charge for the landlord. If a tenant should take a farm without making any such agreement, then the 80th section comes into force. But in the other case the landlord contracts himself out of the 80th section. There is no doubt that the Legislature in 1836 intended that the landlords should pay the rent-charges, and thus prevent any friction which may occur in the collection between the clergyman and his parishioners. To remove this friction, the Government brought in a Bill in 1890.

In the Commutation Act, although the rent-charge is to be paid by the landlord, yet the tithe-owner cannot bring an action against him for any arrears, but is bound by the act to distrain on the land. The tenant has therefore two landlords. Hence we find in years of agricultural depression that tenants who receive a deduction in the half-year's rents from their landlord, seek also for a deduction from their second landlord, the tithe-owner. These applications are generally made to parochial incumbents, who prefer making the deduction asked for than run the odium resulting from distraints on the lands of their parishioners. Other tithe-owners, such as the

Ecclesiastical Commissioners, impropriators, colleges, schools, etc., will make no deduction whatever, but sternly carry out the provisions of the Act by making distraints on the lands. Similar conduct was pursued before the passing of the Commutation Act. The parochial clergy, in the most sympathetic manner, accepted very low tithes in years of agricultural depression, but the clerical appropriators and all the impropriators strictly exacted every part of their tithes.

When the Commutation Bill was passing through Parliament, it was urged that many landlords were often absent from the country for a considerable time, and therefore if the rent-charges were not paid, the tithe-owners would find it very difficult to get payment from absent landlords, who had no agents in the country. The law was therefore framed to enable the tithe-owners to distrain on the lands for arrears, just in the same manner as the landlords could distrain for arrears of rent. This was the origin of dual landlordism as it appears in the Act.

The rent-charges are liable to parliamentary, parochial, county, and other rates, charges, and assessments, to which the tithes were liable. The great injustice of tithe-rent charges is that they are levied only upon agricultural produce, thus leaving free of such charges the extensive city and town lands. The lands in the vicinity of large cities and towns, which produced a rental £3 per acre, and tithe, 10*s.*, when converted to building purposes produce enormous ground-rents, besides a reversion of the house property at the expiration of the leases. In such cases the tithe-owner receives no tithe on the building value. Thus the value of the landlord's acre is increased one hundredfold, but the tithe is not

increased, and thus the growing value of the land leaves no part of it for the support of religion.

Let us take, for example, the enormous house properties in London held by three dukes, viz., Westminster, Portland, and Bedford. They pay but a small amount of rent-charge compared with their rentals.

When the Commutation Act was passed, there was much boasting by the supporters of the Church as to the humility of the clergy who had not petitioned Parliament, or held any meetings to protest against the Bill while passing through Parliament. There was good reason for such silent acquiescence. The Church made a good bargain under the circumstances. The expenses of collecting the tithes in kind sometimes reached 50 per cent, of the gross value. The tithe-owner is now relieved of all this expense and trouble, and the Act has given him a firm security.

Sir James Caird, in his book, entitled, “Landed Interest,” says, “Since the passing of the Tithe Commutation Act, in 1836 to 1876, the rent of tithable land increased from thirty-three millions a year to fifty millions a year. The tithe-rent charge in 1836 was four millions, and is about the same still.” He then asserts that the Church has lost two millions a year by the Act. In 1890, there is a considerable reduction in the rentals throughout the country, owing to agricultural depression. The repeal of the Corn Laws has led to the introduction of such large quantities of wheat from foreign countries, that our farmers, with their heavy rents, rates, taxes, and tithe-rent charges, are unable to compete with foreign producers. It is calculated that what is produced in England and Wales for the maintenance of the population, would only suffice for three

months out of the twelve, and that nine months' provisions are imported from foreign countries and from Ireland and Scotland. It is therefore doubtful that if the Commutation Act were repealed, whether the tithe-owners would receive more from tithes in kind than the gross rent-charge of four millions per annum. But it would be utterly unreasonable, and practically impossible now, to repeal this Act, as Church defenders want, and have a re-valuation; and even some go so far as to assert that the tithe in kind should again be collected. Now, one statement is sufficient to overthrow these assertions. The main object of the Commutation Act of 1836 was to prevent tithe-owners from receiving an increased quantity of tithes from increased agricultural improvements. So long as this system continued, landlords and tenants were always unwilling to sink capital in agricultural improvements, because a large part of the profits would be claimed by the tithe-owners who had not expended a shilling to realize these profits. But all this was changed by the Commutation Act; and, consequently, both landlords and tenants have expended, since 1836, enormous sums of money in improvements. Therefore, if there were now a re-valuation, it would be estimated upon present improvements, which it was the main object of the Commutation Act to prevent. And the re-valuation would be a gross injustice on those who sank their money in improvements. On the other hand, I must admit, in justice to the tithe-owners, that the repeal of the Corn Laws had never been anticipated when the Act of 1836 was passed, and it is an unquestionable fact that the repeal of these laws has brought about the present diminution of rent-charges, which are based upon the prices of three cereals, the most important being wheat, which

has been and will be the most important and extensive article of importation from foreign countries, and its growing diminution of cultivation in England and Wales. The tithe, or tithe-rent charge being national property, and no compensation being made when the Corn-Laws were repealed, which obviously would affect, in course of time, the prices of the cereals in England, it seems to me that an act of injustice to this class of property was perpetrated when the Corn-Laws were repealed, and when no counterbalancing compensation was given, or provision made in the Act to meet any future diminution of this property *below par*, which diminution may be traced to the operations of this Act. This national property should be carefully safeguarded, especially against landlords, who, in the majority, are the law-makers.

Redemption of Tithe-Rent Charge.

The force of this observation is keenly felt when the property is put up for sale. It will be difficult to frame a Redemption Act, for one party will calculate the price at *par value*; another party, at the current annual value, which is now so much below par. And it is uncertain when the upward turn in the average annual value will occur, and when it does occur, it will be very small and slow. This is what makes the redemption question so difficult to deal with. In the Tithe Act of 1891, the provision for redeeming the tithe-rent charge is omitted and postponed. In framing a Redemption Bill, everything will turn on the meaning attached to the word *value*. Two values will be the salient points for discussion: (1) *Present market value* of the tithe-rent charge; and (2) *a fair value*. The most opposite opinions will be found to

prevail on these two vital points. Let us take £100 of the "commuted value," and put it in the market for sale. The present value (1891) of the £100 is £73 3*s.* 3¾*d.* Present purchaser will reason thus: Depreciation, £24; rates and other charges, £20 = £100 - 44 = £56. Having arrived at this amount, the next important question the purchaser will ask himself, How many years' purchase shall I give? Some will say twenty, but a reasonable man will say twenty-five, and will offer 56 × 25 = £1,400 for the £100 of the "commuted value." Again, there is a powerful body, and among them the Ecclesiastical Commissioners, who would probably not sell at £1,400. They would start from *par value* and only allow a deduction for rates and other charges, *i.e.*, £ 100 - 20 = £80, and would not sell for less than twenty-five years' purchase on this value, *i.e.*, £80 x 25 = £2,000. These are the salient facts with which the framers of any Redemption Bill will have to deal. There may be a *modus vivendi* arrived at by "splitting the difference," and selling £100 say for £1,800, and other amounts in the same proportion. The Bill will never pass except both parties will agree to a *modus vivendi*, as above sketched out. But in my opinion, the price should not be less than £2,000.

The following statement is taken from the Tithe Commissioners' Report, dated 4th July, 1887.

	£
1. Clerical Appropriators	681,695
2. Parochial Incumbents	2,415,040
3. Lay Impropriators	766,334
4. Schools, Colleges, etc	196,055
	£4,059,124

The recipients of (1) and (4) are stated in the Appendix.

In 1891, the depreciation is £967,419, and the total gross value is £3,061,705. Assuming £2,000 to be the price by Act of Parliament of £100 commuted value; the Government would advance to the landowners £58,837,965 at £4 per cent., and would hand over stock at £2¾ per cent. to this amount to the Ecclesiastical Commissioners, in trust for the parochial incumbents and clerical appropriators. They would pay the dividends, amounting to £1,705,200 per annum, to the incumbents, etc., just as they do the dividends on other properties vested in them.

Now, in 1891, the same tithe-owners receive about £1,734,152 net. The depreciation in value of tithe is, we may say, at its *nadir*. Therefore the income from stock should not be less than this nadir value, and hence the purchasing value should not be less than £2,000. The property is national, and therefore care should be taken to maintain its value, and to prevent landowners, as in 1836, from getting another large slice of this national property.

The Extraordinary Tithe-Rent Charge.

On one important point, Lord Russell had deviated from its leading principle in the second reading of the Bill. A deputation of Middlesex market-gardeners waited upon him after the Bill was introduced, who pointed out that they had expended a large amount of capital on improvements of their market-gardens during the past seven years, and that if they were to pay a rent-charge on the average of these seven years, they would continue liable to a very heavy

charge, while the owners of arable land or common land in their neighbourhood, paying very low tithe composition, would come into competition with them and thus ruin them. This argument had actually influenced his lordship even against his own will, and so he introduced an extraordinary rent-charge, calculated on each acre, in addition to the ordinary rent-charge on hop grounds, orchards, and market-gardens, brought into new cultivation. In introducing this Bill, and before the Middlesex market-gardeners influenced him, Lord Russell used these remarkable words: "Whatever might be done with orchards and gardens now existing, he felt considerable difficulty in rendering land that might be converted into orchards or gardens in future, liable to increased tithes. Orchards were a precarious and uncertain description of property, and frequently did not bear in certain years; and in respect of garden lands, if the Legislature allowed the question to be opened again from time to time, it would give rise to incessant disputes."[288]

Although he thus modified his views in the second reading, yet he was thoroughly opposed to the principle. And his prophetic words stated above, were fully realized in the subsequent amendment Acts which were absolutely necessary as regards the modification of extraordinary rent-charges. No extraordinary charge was to be made the first year for new cultivations, and only one-half of the charge for the second year, but the full charge was to be made in the third year. In thus deviating from the principle of his Bill, he made the following remark: "Tithes on extremely valuable crops, such as hops, orchards, and market-gardens, could not be allowed to enter into an average for a general commutation." From the passing of the Act in 1836, up to the

present time, this extraordinary rent-charge has been a fruitful source of discontent, because it is a tax on capital and labour, against which the principle of the Commutation Act was framed.

It kept almost stationary the cultivation of hops and market-gardens, instead of extending them. The hop proprietors were at the time in favour of the petition of the market-gardeners. When lands would go out of cultivation of hops, or of orchards, or of market-gardens, then they would be subject only to the ordinary rent-charge. But all new cultivations were to pay the extraordinary rent-charge, which in some cases reached as high as 30*s.* per acre. When this amount was added to the ordinary charge, the whole profit was absorbed, especially since the hop growers have now to compete with foreign countries, which pay no tithes nor duty on hops imported into this country.

It may be said that the duty on hops, having been repealed since 1862, the reduction of about £4 5*s.* per acre must have benefited the hop growers. The fact is, that the landlords and not the tenants mainly derived the profits from the reduction. Before 1836, there were 56,300 acres of hops cultivated; in 1880 there were 66,703 acres.

The Market-Gardens Act of 1873 was passed on account of a burst of popular indignation against the conduct of the Vicar of Gulval, in Cornwall, who endeavoured to enforce the payment of an extraordinary tithe-rent charge of 1*s.* 6*d.* per acre on 213 acres brought into new cultivation. It was enacted that the provisions relating to the extraordinary charge on market-gardens, newly cultivated as such, *should only apply to parishes where such charge was distinguished at the time of*

commutation.

In 1839 (2 & 3 Vict. c. lxii. s. 27) an Act was passed in a quiet manner which placed orchards as regards the extraordinary tithe-rent charge on the same footing as the Act of 1873 (36 & 37 Vict. c. xlii.) placed the market-gardens. The Acts of 1839 and 1873 admit that extraordinary rent-charges are wrong in principle, and that those on hops should have been abolished.

In 1886 an Act was passed (49 & 50 Vict. c. liv.) in the preamble of which it is stated that the extraordinary rent-charge levied under previous Acts, is an impediment to agriculture, and therefore the Act should have been limited, and power given to redeem the same. It is enacted that after the passing of this Act, no extraordinary charge shall be made or levied under the Tithe Commutation Acts on any hop ground, orchard, fruit plantation, or market-garden newly cultivated as such. The Land Commissioners are authorized to fix the capital value of the extraordinary charge payable on each farm or parcel of land at the date of the passing of the Act. The third section indicates the manner in which the capital value is to be ascertained. Such land is to be charged with the payment of an annual rent-charge equal to four per centum on the capitalized value of the extraordinary charge, in lieu of the extraordinary charge. This rent-charge shall be payable half-yearly on the days on which the extraordinary charge was made payable. Arrears of rent-charge are to be recovered in one of the High Courts of Justice, or a County Court, “or in the same way that rent charge in lieu of ordinary tithe is recoverable, and subject to like conditions, or by entry upon and perception of the rents and profits of the land subject to such rent-

charge." The rent-charge is not to be subject to any parochial, county or other rate, charge, or assessment. The rent-charge may be redeemed by the owner or other person interested in any land, subject to an extraordinary charge or rent-charge substituted therefor. The redemption money is to be paid to the Governors of Queen Anne's Bounty, to be applied for the benefit of the incumbent, if the owner be the incumbent of a benefice. Provision is made for the redemption of the rent-charge in other cases of ownership. If the tenant had contracted, before the passing of the Act, to pay the extraordinary rent-charge to the owner, he shall do so no longer, but pay to his landlord during his tenancy the rent-charge substituted for the extraordinary charge. The landlord is then made liable for the payment of the rent-charge to the owner, notwithstanding any agreement to the contrary which the tenant had made with his landlord. The Ecclesiastical Commissioners are empowered to adjust the fixed charges made before the passing of the Act, on the income of benefices in receipt of extraordinary tithes in favour of other benefices, or of district churches or chapelries within the parishes of which the incumbents are in receipt of extraordinary tithes.

Lord John Russell, when introducing the Tithe Commutation Bill, said these words: "The income of the clergy will now flow from the landlord and not from the farmer, and the clergyman will be relieved from an alternative that too often exists, either of making personal enemies by pressing his demand, or of injuring himself by abandoning it." His lordship, in his "Recollections and Suggestions," makes the following statement: "All the evils of the tithe system were the subject of fair compromise and permanent settlement by the Act of 1836. Three Commissioners,

two of whom were appointed by the Crown and one by the Archbishop of Canterbury, were empowered, after examination, to proceed by certain fixed rules to a final adjudication. In about seven years this process was completed, and a work from which Pitt had shrunk was accomplished."

In reading this statement one may smile at the "permanent settlement." Ever since 1836 there has been a continuous struggle going on down to 1886 on the subject of "Extraordinary tithe-rent charge."

CHAPTER XIX.
TITHES OF CHURCH IN WALES.

As the Church of England in Wales is becoming one of the burning political questions of the day, I shall give a sketch of the value and appropriation of the tithe-rent charge of Wales, including the parishes in Monmouth and Salop, which are in Welsh dioceses. The figures are taken from the official Tithe Commutation Return of 1887.

	Bangor.	Llandaff.	St. Asaph.	St. David's.	Total.
	£	£	£	£	£
Clerical Appropriators	9,539	12,297	31,047	26,831	79,734
Parochial Incumbents	27,939	31,306	42,618	47,307	149,170
Lay Impropriators	5,941	9,748	21,732	23,389	60,810
Schools, Colleges, etc.	2,378	273	1,736	2,164	6,551
	45,817	53,624	97,133	100,488	296,265

By the operations of the Ecclesiastical Commissioners, when Parliament vested in them the tithe-rent charges of all the archbishops, bishops, chapters, etc., a large quantity of rent-charges was annexed to benefices. The following table indicates the ownerships in 1890:—

	Bangor.	Llandaff.	St. Asaph.	St. David's.	Total.
	£	£	£	£	£

Ecclesiastical Commissioners	2,162	8,347	14,118	18,674	43,301
Parochial Incumbents	35,781	35,376	58,499	56,939	186,595
Lay Impropriators	4,969	9,646	20,565	21,978	57,158
Schools, Colleges, etc.	1,289	255	1,736	2,100	5,380
Chapters	1,616		2,215		3,831
	45,817	53,624	97,133	100,488	296,265

It is important to state who were the clerical appropriators, schools, colleges, etc., in receipt of tithes in 1836. As regards the lay impropriators, it would entail enormous work to get their names. The Tithe Commissioners have their names in each apportionment. But in very many cases the property has, since 1836, changed hands, either by sale, wills, etc.

The endowments of the Welsh bishops and Cathedral churches were taken from the parochial tithes. This meant spiritual destitution in such Welsh parishes. The Norman conquerors seized and held the Welsh episcopal and Cathedral endowments; then the bishops and chapters seized the parochial tithes, and at the time of the Reformation, the Crown annexed additional parochial tithes in augmentation of episcopal and capitular incomes. These tithes were not, as in England, monastic, but were actually taken from the parish clergy by virtue of the Crown's prerogative as head of the Church.

Diocese of Bangor.

Bishop of Bangor had from 16 parishes, £5,560; viz., £3,258 in his own diocese; £2,302 in the diocese of St. Asaph. The Ecclesiastical Commissioners (E. C.), when this property was vested in them, annexed £3,701 to parochial

incumbents in the diocese, and retained to £1,859.

Bishop of Lichfield and Coventry held £1,456 10*s.* from 4 parishes. The E. C. annexed to parishes £863 1*s.* 9*d.*, and retained to £593 8*s.* 3*d.*

Jesus College, Oxford, £1,089 9*s.* 10*d.* This college annexed to the two parishes £239 17*s.* 8*d.*

The principal of this college £738 10*s.* from three parishes. He annexed them to the parishes subject to the payment to him of £270 per annum net.

University College, Oxford, has £37, which it still holds.

The Dean and Chapter had no endowments collectively, but separately, thus:—

	£	*s.*	*d.*	
Dean	1,020	0	0	from two parishes.
Treasurer	200	0	0	
Archdeacon of Merioneth	227	15	11	
Prebendary of Penrynydd	434	14	0	
	£1,882	9	11	

By an Act of 1 James II. (1685), the Dean and Chapter received the tithes of five parishes in Montgomeryshire for the service and repairs of church. They amount to £1,616, which they still possess.

Diocese of Llandaff.

The Bishop received £1,872 from 11 parishes. The

Bishop of Gloucester and Bristol received £430 from two parishes.

The Chapter received £4,487 from 28 parishes. And in addition to this enormous sum, the Chapter's separate estates amounted to £1,922 from 16 parishes. Here, then, is a total of £6,409 per annum, taken from 44 parishes by the Chapter of Llandaff.

But this is not the end of the depletion of parochial endowments. The Dean and Chapter of Gloucester received £2,618 from 12 parishes; and the Dean and Chapter of Bristol £966 from 5 parishes. Here, then, is a total of £12,297 per annum, taken from 76 parishes in this diocese alone by two bishops and three chapters.

Diocese of St. Asaph.

This was the most lamentable diocese in Wales.

The Bishop received £8,121 per annum from 23 parishes.

Bishop of St. David's, £800 from one.

The Dean and Chapter received £1,649 from three parishes. By 29 and 30 Charles II., they received £1,370 from 4 parishes for "Domus and Fabric."

The Chapter's eight separate estates amounted to £6,084 from 14 parishes, viz., Dean, £1,987; Precentor, £1,585; Chancellor, £868; Treasurer, £350; four Prebendaries, £1,294.

The Dean and Chapter of Oxford, £2,513 from 4 parishes.

The Dean and Chapter of Winchester, £2,205 from two parishes.

The Vicars-Choral received £846 from three parishes.

The total is £23,588 from 54 parishes; add £2,302 received by the Bishop of Bangor from 4 parishes, which has already been stated under “Bangor Diocese,” or £25,890 from 58 parishes in the Diocese of St. Asaph, was received per annum by three bishops and three chapters.

There were 15 sinecure rectories in this diocese in 1836, with incomes amounting in the aggregate to £6,227 commuted value. The rectors of these benefices had no duties whatever to perform. They received handsome incomes and nothing to do for them. Here was the rich harvest for the bishop’s sons and other relatives. The benefices were all in the bishop’s patronage. Bishop Luxmoore, who was bishop of St. Asaph from 1815 to 1830, had an income of £12,000 per annum, and his two sons and two relatives had between them £15,000 a year from the diocese, *i.e.* £27,000 per annum received by the father, his two sons and two relatives, at a time when the total net receipts by *all the working clergy* of this diocese amounted to only £18,000 per annum.[289]

Diocese of St. David’s.

The Bishop received	£4,563	from	25	parishes in this diocese.
Bishop of Gloucester and Bristol	845	”	4	parishes.
Bishop of Chester	260	”	1	parish.
Bishop of Lincoln	400	”	2	parishes.
Total	£6,068	for four bishops from 32 parishe		

£

Chanter and Chapter received	6,324	from	34	parishes.
Dean and Canons of Windsor	1,824	”	5	”
Total	£8,148			

Chapter’s separate estates:—

	£			
Precentor	384	from	2	parishes.
Chancellor	327	”	2	”
Prebendaries	8,892	”	37	”
Vicars Choral	1,063	”	6	”
Archdeacon of Brecon	785	”	4	”
Archdeacon of St. David’s	364	”	1	”
Total	£11,815			

Four sinecure rectories £971

Summary of this Diocese.

	£
Four Bishops	6,068
Two Chapters	8,148
Separate Estates and Prebends, etc.	11,815
	£26,031
Four sinecure rectories	971
Total from 123 parishes	£27,002

It is a very serious matter in reference to the prebendal estates. The Act of 1840 vested all these estates in the Ecclesiastical Commissioners. The prebendaries anticipated what was coming, and

therefore granted leases on the lives of mere infants. The result was lamentable to the parishes. No help from the tithe-rent charges could be given them until the leases lapsed. It is now 1891, *i.e.*, fifty-one years after the passing of the Act, and yet sixteen leases of the thirty-seven are still running. And so all the rent-charges of these parishes have for so many years been diverted from these parishes, and so parochial destitution has continued in this diocese. As the leases expire, the Ecclesiastical Commissioners come into possession of the property, and then, *but not till then*, are steps taken to annex to parishes certain portions of this property. The Ecclesiastical Commissioners have often, in a very kind manner, granted to parishes in England and Wales annuities out of the common Fund, in regard to local claims, in anticipation of the lapse of the leases on tithes, lands, mines and house property.

Tithe-rent Charge now in Possession of the Ecclesiastical Commission in Wales.

The Ecclesiastical Commissioners are in possession (1889) of—

In Wales proper	£29,169
In Monmouth	4,505
In Salop	207
Total amount *commutation value* in their possession in the four Welsh dioceses	£33,881

Of the £29,169, I shall give the gross amount of tithe-rent charge in each county, and also the amount still outstanding on beneficial leases.

	£	*s.*	*d.*						
Anglesey	901	0	0	in possession of E. C.					
Brecon	2,387	14	0	”	and	£603	6	8	on lease
Cardigan	1,117	1	0	”		450	0	0	” ”
Carmarthen	3,821	4	4	”		1,123	6	0	” ”
Carnarvon	777	11	8	”					
Denbigh									
	6,714	19	3	”		581	6	8	”
Flint	2,776	6	8	”					
Glamorgan	4,705	16	9	”					
Merioneth	611	17	9	”					
Montgomery	726	18	1	”					
Pembroke									
	2,286	3	10	”		820	16	0	”
Radnor	2,342	12	3	”		2,192	18	0	” ”
				in poss. of E.C.					on lease
	£29,169	5	8			£5,772	13	4	1891.

In this statement we get the actual amount which was outstanding on beneficial leases in 1891, viz., in St. David’s Diocese, £5,191 6*s.* 8*d.* on the prebendal tithes only; in St. Asaph’s, £581 6*s.* 8*d.*

The annual payments out of the Common Fund in 1889 to the Church in Wales were the following:—

	£
Bishops	17,100
Deans	2,800
Canons	5,600
Minor Canons	1,270
Domus and Fabric	1,800
Four archdeacons	1,060
St. David’s College, Lampeter	1,500

Interest on Capital Grants for Cathedral repairs	893
	32,023
To parochial incumbents	35,611
Total from the Common Fund	£67,634

The net annual income derived by the E. C. for 1888 from property in Wales was £28,796. Therefore £38,838 was a free grant out of the Common Fund to the Church in Wales in 1889, and the amount was much larger for 1890.

The value in 1889 of £29,169 commuted tithes in Wales, was £23,014, which was all that the Ecclesiastical Commissioners can be credited with.

By a parliamentary return, issued 30th June, 1890, the E. C. state that in 1885 they had £23,798 of depreciated value of the commuted tithes. The amount in possession of the E. C. varies from year to year on account of (1) depreciation of value; (2) the falling in of beneficial leases, and (3) annexations of all or part of this property to parishes to satisfy local claims when the leases expire.

The total gross revenues from tithes, glebes, Common Fund of E.C., Queen Anne's Bounty, etc., of bishops, chapters and incumbents, in the four Welsh dioceses were in 1890 £325,226; curates, etc., £55,000 additional. Church population, including children, 350,000. Nonconformist population = 1,400,000.

The Welsh parochial incumbents receive, gross,	£186,595	tithe-rent charge.
The vicars choral, Domus and Fabric	3,831	

Ecclesiastical Commissioners	43,301
Total	233,727
Impropriators	57,158
Colleges, schools, hospitals, etc.	5,380
	£296,265

So, in 1891, the *net* amount of the £233,727 which goes to the Church is £130,872. This net amount varies annually.

757 incumbents in the twelve Welsh counties and Monmouth receive £186,595 *gross* tithe-rent charges from *these thirteen counties*. Average for each, gross £245, and in 1891, *net* £150. This income is exclusively from tithes.

CHAPTER XX.
TITHE ACT, 1891.

[54 VICT. CH. VIII.]

ARRANGEMENT OF SECTIONS.

Section.

1. Liability of owner to pay tithe rentcharge, and modification of contracts with tenants.
2. Recovery of tithe rentcharge through County Court.
3. Rules.
4. Lands occupied rent free, etc.
5. Restrictions as to costs.
6. Rating of owner of tithe rentcharge.
7. Power of appeal.
8. Remission of tithe rentcharge when exceeding two-thirds annual value of land.
9. Definitions.
10. Commencement and application of Act and saving.
11. Repeal.
12. Extent of Act and short titles.

SCHEDULE.

Chapter VIII.

An Act to make better provision for the Recovery of Tithe Rentcharge in England and Wales.

[54 Vict. c. viii., 26th March, 1891.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Liability of owner to pay tithe rentcharge, and modification of contracts with tenants.

I.—(1) Tithe rentcharge as defined by this Act issuing out of any lands shall be payable by the owner of the lands, notwithstanding any contract between him and the occupier of such lands, and any contract made between an occupier and owner of lands, after the passing of this Act, for the payment of the tithe rentcharge by the occupier shall be void.

(2) Where the occupier is liable under any contract made before the passing of this Act to pay the tithe rentcharge, then he shall cease to be bound by that part of his contract, but he shall be liable to pay to the owner such sum as the owner has properly paid on account of the tithe rentcharge which such occupier is liable under his said contract to pay, exclusive of any costs incurred or paid by the owner in respect of such tithe rentcharge, and every receipt given for such sum shall state expressly that the sum is paid in respect of that tithe rentcharge: Provided that where the lands, out of which any tithe rentcharge issues, are occupied by several occupiers who have contracted to pay the tithe rentcharge, any of such occupiers shall be liable only to pay such proportion of the sum paid by the owner of the lands on account of that tithe rentcharge as the rateable value of the lands occupied by him bears to the

rateable value of the whole of the lands occupied by such occupiers.

(3) Such sum shall be recoverable from the occupier by distress in like manner as is provided by sections eighty-one and eighty-five of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, and the enactments amending those sections, and not otherwise.

Recovery of tithe rentcharge through County Court.

II.—(1) Where any sum due on account of tithe rentcharge issuing out of any lands is in arrear for not less than three months, the person entitled to such sum may, whatever is the amount, apply to the County Court of the district in which the lands or any part thereof are situate, and the County Court, after such service on the owner of the lands as may be prescribed, and after hearing such owner if he appears and desires to be heard, may order that the said sum, or such part thereof as appears to the Court to be due, be, together with the costs, recovered in manner provided by this Act, and tithe rentcharge as defined by this Act shall not be recovered in any other manner.

(2) Where it is shown to the Court that the lands are occupied by the owner thereof, the order shall be executed by the appointment by the Court of an officer who, subject to the direction of the Court, shall have the like powers of distraint for the recovery of the sum ordered to be paid as are conferred by the Tithe Acts on the owner of a tithe rentcharge for the recovery of arrears of tithe rentcharge, and no greater or other powers; and if

there is no sufficient distress the person entitled to the sum ordered to be recovered may proceed to obtain possession of the lands under section eighty-two of the Tithe Act, 1836.[291]

(3) In any other case the order shall be executed by the appointment by the Court of a receiver of the rents and profits of the lands, and of any other lands which would be liable to be distrained upon for the tithe rentcharge to which the order refers under the provisions of section eighty-five of the Tithe Act, 1836, and where any of such lands are held at one rent together with other lands in another parish, the Court shall apportion the rent between the said lands and the lands in the other parish in proportion to their rateable value, in which case the payment of such apportioned rent by the occupier to the receiver shall in every respect, as between the occupier and the owner of the lands, be deemed to be a payment on account of the total rent payable to the owner of such lands.

(4) Subject to the prescribed regulations, the County Court shall have the same powers over receivers as in any other case, and may confer on the person appointed receiver any powers which the Court can confer upon persons appointed receivers, but the court shall not have power to order the sale of lands.

(5) Any sum ordered by the Court under this section to be recovered shall be payable by a trustee in bankruptcy, sheriff, or officer of a Court who is in possession of the lands, in like manner as if it were tithe rentcharge recoverable under the Tithe Acts.

(6) Where the occupier of the lands out of which the tithe rentcharge issues is liable under any contract made before the passing of this Act to pay

the tithe rentcharge, and is consequently liable by virtue of this Act to pay the amount thereof to the owner of the lands, the owner of such lands shall serve notice of such liability on the owner of the tithe rentcharge, and thereupon, before an order under this section is made, there shall be such service on the occupier in addition to the owner as may be prescribed, and a hearing of such occupier if he appears and desires to be heard. Any owner of the lands who fails to serve such notice as aforesaid on the owner of the tithe rentcharge, shall not be entitled to recover from the occupier any sum which he has paid on account of the tithe rentcharge as aforesaid, unless and until he has, after notice to the occupier of his application for the same, obtained from the County Court a certificate that there was good and sufficient cause for the failure to give such notice, and that the occupier has not been prejudiced thereby.

(7) Rules under this Act may regulate the procedure practice and costs under this Act in County Courts, and may direct what service shall be good service for the purposes of this Act on the owner or occupier of any lands or the owner of any tithe rentcharge, and may provide that, if the owner of any lands is not known, any proceeding under this Act may be taken against the owner of the lands without naming the person who is the owner.

(8) The fees payable on the proceedings under this section shall not exceed those set forth in the schedule to this Act, and the fees, charges, and expenses in or incidental to any distress under this Act shall be the same as are for the time being payable under the Law of Distress Amendment Act, 1888.[292]

(9) Nothing in this Act shall impose or constitute any personal liability upon any occupier or owner of lands for the payment of any tithe rentcharge, or any other sum recoverable or payable under this Act, and the Court shall not, by virtue of this Act, or of the County Courts Act, 1888,[293] have any power to imprison any such occupier or owner by reason only of the non-payment of such tithe rentcharge or other sum, and shall in any other case have no other or greater powers of fine or imprisonment than are conferred by the County Courts Act, 1888.

Rules.

III.—(1) The Lord Chancellor may, after consultation with the Rule Committee of County Court Judges, make rules for carrying this Act into effect, and for regulating, providing, and prescribing any matter authorised by this Act to be regulated, provided, or prescribed by rules under this Act. In framing such rules, regard shall be had to making the procedure as simple and inexpensive as is practicable.

(2) Every rule under this Act shall be laid before each House of Parliament within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the then next ensuing session, and if an address is presented to Her Majesty by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such rule may be annulled, Her Majesty may thereupon, by Order in Council, annul the same; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have

been taken under the same.

Lands occupied rent free, etc.

IV.—Where a receiver appointed under this Act of the rents and profits of any lands satisfies the County Court that the lands are let on such terms as not to reserve a rent sufficient to enable the receiver to recover from the owner thereof the sum ordered to be recovered, the Court, after such service on the owner and occupier of the lands as may be prescribed, and after hearing such owner and occupier if they appear and desire to be heard, may direct that the order for such recovery shall be executed as if the occupier were the owner of the lands: Provided that any such occupier shall be entitled in addition to any other remedy, unless he would have been liable to pay the tithe rentcharge under any contract made before the passing of this Act, to deduct from any sums at any time becoming due from him to the landlord under whom he holds, any amount which shall have been recovered from him under this section in respect of tithe rentcharge or costs, with interest thereon at the rate of four per centum per annum: Provided further, that such occupier shall be entitled, notwithstanding anything in this Act, to recover from such landlord by action at law any such amount which shall have been recovered from him under this section as aforesaid as money paid on the account of such landlord.

Restrictions as to costs.

V.—(1) An application to a County Court for an order under this Act may be made on behalf of the tithe-owner by his agent, although not a solicitor.

(2) On any application to a County Court for an order under this Act, no costs either of a solicitor or of a witness shall be allowed in any case where the amount claimed is paid without further proceedings, nor where notice of intention to apply for time to pay the tithe-owner's claim has been given (except in cases where costs could be allowed by the Court on a judgment summons), and when notice of opposition has been given within the prescribed time, the costs of a solicitor shall only be allowed for work done subsequent to the notice.

Rating of owner of tithe rentcharge.

VI.—(1) Any rate to which tithe rentcharge is subject shall be assessed on and may be recovered from the owner of the tithe rentcharge, in the like manner and by the like process as on and from any occupying ratepayer; and so much of any Act as authorises any rate on tithe rentcharge to be assessed on or recovered from the occupier of any lands out of which the tithe rentcharge issues is hereby repealed.

(2) If the collector of the rate satisfies the County Court that he is unable to recover in manner aforesaid any rate assessed on the owner of any tithe rentcharge, the Court may, after such service on the owners of the tithe rentcharge, and of the lands out of which the tithe rentcharge issues, as may be prescribed, and after hearing such owners, if they appear and desire to be heard, order the owner of the lands to pay such tithe rentcharge to the collector until the amount of the rate, and any costs allowed by the Court, are fully paid; and the order may be executed as if it were an order under this Act for the payment of a sum due on account of the tithe rentcharge.

(3) The Court may, if satisfied that the circumstances justify it, make such order as aforesaid in respect of any future rate, either generally or during the time limited by the order.

(4) The expression "rate" in this section means a poor rate, highway rate, general district rate, borough rate, and every other rate assessed on an owner of tithe rentcharge by a public authority for public purposes; and the expression "collector" means the overseer, surveyor of highways, rate-collector, or other person authorised, for the time being, to collect the rate.

Power of appeal.

VII. If any party in any action or matter under this Act shall be dissatisfied with the determination or direction of the judge of the County Court in point of law or equity, or upon the admission or rejection of any evidence, the party aggrieved by the judgment, direction, decision, or order of the judge may appeal from the same to the High Court, in such manner and subject to such conditions as may be for the time being provided by the rules of the Supreme Court regulating the procedure on appeals from inferior courts to the High Court.

Remission of tithe rentcharge when exceeding two-thirds annual value of land.

VIII.—(1) Where a sum is claimed on account of tithe rentcharge issuing out of any lands, and the County Court is satisfied that, if the sum claimed is paid, the total amount paid on account of the tithe rentcharge for the period of twelve months next

preceding the day on which the sum claimed became payable, will exceed two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of Schedule B. to the Income Tax Act, 1853,[294] or as certified as hereinafter mentioned, the Court shall order the remission of so much, whether the whole or part of the sum claimed, as is equal to the excess, and the amount so ordered to be remitted shall not be recoverable; and if the Court is satisfied that neither such remission, nor the liability thereto, has been taken into account in estimating the rateable value of the tithe rentcharge, the Court may remit such amount of any then current rate assessed on the owner of the tithe rentcharge as appears to the Court to be proportionate to the amount of the remission of tithe rentcharge.

(2) Where the lands out of which any tithe rentcharge issues are assessed for the purposes of the said Schedule B. together with other lands, the surveyor of taxes for the parish in which the lands are so assessed, on the application of the owner or occupier of the lands, shall divide the annual value in such assessment between the lands out of which any tithe rentcharge issues and the other lands, and give notice of the annual value of the lands as determined on such division to the applicant and to the owner of the tithe rentcharge; and if either of them is dissatisfied with the annual value so determined, he may appeal to the general commissioners of income tax for the division in which the lands are assessed, and those commissioners, after due notice to and hearing the parties or their agents if any of them wishes to be so heard, shall finally determine the proper division of the annual value; and the annual value of lands so

determined as aforesaid shall, for the purposes of this section, be the annual value of the lands as ascertained for the purpose of the said Schedule B.

(3) For the purposes of this section the owner of tithe rentcharge shall have the same right of appeal as the owner of lands, whether under the enactments relating to the said assessment or under this section.

(4) If in any case the annual value of any lands is not ascertained and entered in the assessment for the purpose of the said Schedule B., the general commissioners of income tax for the division in which the lands are situate shall, on the application of the owner or occupier of the lands, ascertain the annual value of the lands for the purpose of the said Schedule B., and inform the applicant of the same.

(5) The commissioners of taxes shall on demand and payment of one shilling give a certificate of the amount of the annual value of any lands under this section.

(6) Where it appears from any award that a special apportionment has been made in pursuance of section fifty-eight of the Tithe Act, 1836,[295] whereby tithe rentcharge has been charged specially upon certain closes of land in different proportions, and to the exclusion of certain of them, the Court shall not grant a remission under this section unless satisfied that the applicant would have been entitled to such remission if no such special apportionment had been made.

(7) Where two or more tithe rentcharges issue out of the same lands, and a remission of tithe rentcharge has been made by a County Court under this section, the amount paid by the owner of the lands on account of tithe rentcharge shall be divided

between the owners of such tithe rentcharges in proportion to the amount thereof as fixed by the apportionment or any altered apportionment.

(8) This section shall not apply to any lands other than those used solely for agricultural or pastoral purposes or for the growth of timber or underwood.

Definitions.

IX.—(1) A reference in this Act to the "owner" of lands or tithe rentcharge,—

(*a*) if the ownership of the lands or rentcharge is vested in the Queen in right of Her Crown, means the Commissioners of Woods, in substitution for the Queen; and

(*b*) if the ownership of the lands or rentcharge is vested in the Duke of Cornwall, means the keeper of the records of the Duchy of Cornwall, in substitution for the Duke of Cornwall; and

(*c*) in any other case, means the same officers or persons as are mentioned in the Tithe Act, 1836.[296]

(2) In this Act, unless the context otherwise requires,—

The expression "tithe rentcharge" means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes any rentcharge into which a corn-rent has, either before or after the passing of this Act, been converted under the Tithe Act, 1860,[297] and which is subject to the like incidents as such tithe rentcharge as aforesaid; but does not include a rentcharge payable under the Extraordinary Tithe Redemption Act, 1886,[298] nor

a rentcharge payable under the Tithe Act, 1860,[299] in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

The expression "prescribed" means prescribed by rules under this Act.

Commencement and application of Act and saving.

X.—(1) This Act shall extend to every sum on account of tithe rentcharge which first becomes payable on or after the half-yearly day of payment of such tithe rentcharge which occurs next after the passing of this Act, whether such sum accrued before or after that day, and shall not extend to sums due on account of tithe rentcharge which were in arrear before the passing of this Act, nor, except so far as relates to the assessment and recovery of rates, shall it extend to tithe rentcharge issuing out of the lands of a railway company.

(2) A sum on account of tithe rentcharge shall not be recoverable under this Act unless proceedings for such recovery have been commenced before the expiration of two years from the date at which it became payable.

(3) Nothing in this Act shall alter the priority of any tithe rentcharge in relation to any other charge or incumbrance upon any lands.

(4) Any enactment in the Tithe Acts or in the Extraordinary Tithe Redemption Act, 1886, directing any expenses, rentcharge, or other sums to be recovered as tithe rentcharge, shall, as respects any sum becoming due after the passing of this Act, be

construed to refer to the recovery of tithe rentcharge under this Act, save that the owner of the lands shall not be entitled to obtain any remission under this Act.

Repeal.

XI. Section eighty-four of the Tithe Act, 1836, is hereby repealed.

Extent of Act and short titles.

XII.—(1) This Act shall not extend to Scotland or Ireland.

(2) This Act may be cited as the Tithe Act, 1891.

(3) The Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, intituled "An Act for the Commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1836, and that Act and the enactments amending the same passed before the passing of this Act are in this Act referred to and may be cited as the Tithe Acts.

(4) The Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter ninety-three, intituled "An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1860.

(5) The Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter thirty-four, intituled "An Act for

granting to Her Majesty duties on profits arising from property, professions, trades and offices," is in this Act referred to and may be cited as the Income Tax Act, 1853.

Schedule

Fees under Section 2 of the Tithe Act, 1891.

Where the sum claimed does nor exceed five pounds:

For notice of application to the Court	One shilling.
For making the order	One shilling and sixpence.

Where the sum claimed exceeds five pounds:

For notice of application to the Court	One shilling for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.
For making the order	One shilling and sixpence for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.

But the total fee in any one case shall not exceed—

For notice of the application	Ten shillings.
For making the order	Fifteen shillings.

Remark on the Tithe Act, 1891.

I. i. The main principle of this Act, is that the tithe

rentcharge is in future payable by the owner of the lands and not by the occupier, unless he is also owner. The same principle existed in the Tithe Commutation Act of 1836. But unfortunately the 80th section of that Act, out of which landlords contracted themselves, says that "any tenant who shall pay any such rentcharge, shall be entitled to deduct the amount thereof from the rent payable by him to his landlord, and shall be allowed the same in account with his landlord." Very few tenants deducted the tithes from their rents according to this section. It therefore became the general practice for the tenants in their leases or agreements, to agree to pay certain rents to the landlord, and also the tithe rentcharge to the tithe-owner. This Act carries out the intention of the Commutation Act in making the landowners liable to the payment of the tithe rentcharge. The Lords made a wise addition to subsection 1, viz. that, "Any contract made between an occupier and owner of lands *after* the passing of this Act, for the payment of tithe rentcharge by the occupier, *shall be void*." The Bill on leaving the Commons, provided, in subsection 2, for contracts made *before* the passing of this Act, but made no provision against contracts made *after* the passing of the Act, thus leaving the door open to contracts which may be made *after* the passing of the Act.

The owner of the lands is now the collector of the tithe-owner. And the great advantages which the tithe-owner derives from this Act increase the market value of the rentcharge fully 25 per cent; and it will materially increase the value of the rentcharge when redeemed.

I. 3. It gives power to the owner to distrain for the sum equivalent to the tithe rentcharge paid by the

owner of the lands and due by the occupier under a contract made previous to the passing of this Act, according to section 85 of the Act of 1836. The present Act thus transfers the unpopular system of distraint from the tithe-owner to the owner of the lands. No doubt section 85 was framed with a view of preventing tenants escaping payment by removing produce and stock from one field to another.

II. 1. To recover the tithe rentcharge through the County Court is new machinery. It is a new buffer between the tithe-owner and tithe-payer; it removes all immediate friction between the clergyman and his tithe-paying tenant. The subject of “fees” and “costs,” was the most contentious point in passing the Bill through Committee of the House of Commons. The Lords introduced the amendment, that “costs” should be recovered as in the case of an ordinary action in the County Court. This amendment will be extremely irritating to the small landowners, especially in Wales. It will also be a fruitful source of irritation to tithe-payers and of legal persecution by tithe-owners through their agents. The Lords’ amendment, introduced by Lord Selborne, was truly compared by Sir William Harcourt to “tares sown among wheat.” The Tithe Act of 1836 gave 21 days to the occupier to pay his tithe after it had fallen due, but this Act gives three months to the owners of the lands. This is a reasonable time, for the landlord has often to wait six months and even longer for his rents.

II. 2. By this, the tithe-owner can, in default of payment on distraint, take possession of the lands, and derive all the advantages of the tillage, and keep possession for years without rendering any compensation to the occupier. This is but one of the many cases which show that the Act was wholly

framed in the interest of the tithe-owner, and disadvantageous to the tithe-payer. The security and stringent means for recovering tithe rentcharge are all advantages to the tithe-owner.

II. 5. The tithe-owner has a prior claim to all other creditors.

II. 9. The owner of the lands, or the occupier, cannot be imprisoned for non-payment of the tithe rentcharge, but may be fined or imprisoned as regards other matters in the execution of County Court warrants.

IV. The object which the framers of this section in the House of Lords had in view was to prevent collusion, as stated in their debates, between the owner of the lands and the occupying tenant. They based the assertion on the groundless assumption that certain landowners and farmers would enter into a conspiracy to defraud the tithe-owner. This discovery was reserved for the Lords. So section 4 contradicts section 1 subsection 1. The last proviso in section 4 was added by the House of Commons to protect the occupier by giving him a remedy against the landowner. The landowner may have been impecunious, and therefore let his land free of rent for some years, on condition that the tenant should erect certain buildings on the farm or put the farm and fences into better order; or he may let his lands for a sum down with a small rental; or the lands may have been let on beneficial leases on payment of a fine with a small reserve rental. But all these are common arrangements without any reference to collusion. The Lords, however, thought differently. But the most important point for consideration is, that this section upsets the main principle of the Act, namely, that the landowner, and not the occupier,

should pay the tithe rentcharge. This section makes the latter pay it under certain circumstances, but which he can recover from his landlord in the manner stated.

VI. 1. In consequence of a decision in the Law Courts, if a tithe-owner should make default in payment of rates, as many have done, the only remedy for the collector was to recover from the occupier for a debt which was none of his; and the only remedy which the occupier had for this payment was to recover it from his landlord; and the landlord was to recover it from the tithe-owner. Here was a remarkable roundabout way to recover payment of rates from the proper person—the tithe-owner. Many tithe-owners, in order to annoy and irritate rate-collectors and tithe-payers, would not pay the rates. They knew well and took advantage of the legal ruling, and so they would not pay until rate-collectors, tithe-payers, and landlords, had to go through the above legal process to get payment of the rates from them. And so this subsection was framed in order to put a stop to such conduct on the part of tithe-owners, who are now bound to pay the rates, and it also repeals any part of any Act which authorizes payment from the occupier of rates on tithe rentcharge.

VIII. 1. This is generally called the “Relief Clause.” Quite a *misnomer*. This paltry relief was given for the great benefits and advantages which the tithe-owners derive from this Act. The relief will affect only a few farms in each county. In estimating the annual value of the lands, the valuable building erected will be taken in the valuation, and so tend to diminish the amount of remission of tithe rentcharge.

APPENDIX A.

Archbishops and Bishops.

Statement of commuted tithes in possession of Archbishops and Bishops in 1836. See (1) and (4) at p. 210.

		£	*s.*	*d.*				
1.	Bishop of Bangor	5,560	11	10	in	3	counties	from
	” Bath and Wells	1,831	11	0	in	Somerset		”
	Archbishop of Canterbury	30,713	16	7	in	4	counties	”
	Bishop of Carlisle	7,353	16	2	”	2	”	”
5.	” Chester	14,702	16	4	”	8	”	”
	Chichester	2,118	18	1	”	1	”	”
	Durham	1,181	16	9½	”	2	”	”
	Ely	16,764	3	4	”	7	”	”
	Exeter	1,027	10	0	”	2	”	”
10.	” Gloucester & Bristol	10,191	1	4½	”	7	”	”
	Hereford	8,022	16	4	”	3	”	”
	Lichfield	7,128	12	7	”	4	”	”
	Lincoln	7,676	7	1	”	3	”	”
	London	7,538	4	1	”	3	”	”
15.	” Llandaff	2,936	7	7	”	3	”	”
	Norwich	7,926	7	4	”	2	”	”

	Oxford	4,844	19	9	”	4	”	”
	Peterborough	140	0	0	”	1	”	”
	Rochester	4,451	9	4	”	3	”	”
20.	” Salisbury	3,683	14	5	”	2	”	”
	St. Asaph	8,126	0	0	”	4	”	”
	St. David’s	5,363	0	0	”	7	”	”
	Winchester	3,685	0	0	”	2	”	”
	Worcester	1,803	1	6	”	1	”	”
25.	Archbishop of York	24,944	13	7	”	3	”	”
		£189,718	11	0				from 4

It must be noted, that these are commuted tithes; but the tithes were much higher in value.

APPENDIX B.

CHAPTERS.

		£	s.	d.			
Dean and Chapter of	Bangor	1,616	0	0	in	1	county
”	Bristol	11,578	2	7	in	5	counti
”	Canterbury	22,548	8	4	”	5	”
”	Carlisle	12,104	19	7½	”	3	”
”	Chester	1,028	13	5	”	1	”
”	Chichester	8,883	8	2	”	3	”
”	Durham	15,321	19	1½	”	3	”
”	Ely	10,762	16	2	”	4	”
”	Exeter	14,636	17	4	”	4	”
”	Gloucester	6,654	2	3	”	4	”
”	Hereford	10,371	1	2	”	4	”
”	Lichfield	6,738	9	5	”	5	”
”	Lincoln	5,111	3	3	”	6	”
”	Llandaff	4,642	0	0	”	2	”
”	London	10,681	4	11	”	4	”
”	Manchester	2,596	10	11	”	1	”
”	Norwich	11,329	3	8	”	2	”
”	Oxford	39,785	1	10	”	18	”
”	Ripon	1,376	8	3	”	1	”
”	Rochester	15,394	18	4	”	4	”
”	Salisbury	11,282	0	8	”	5	”
”	St. Asaph	3,018	10	10½	”	3	”
”	St. David’s	6,323	12	8	”	5	”

	”	Wells	7,382	7	9	”	3	”
	”	Westminster	9,794	6	4	”	8	”
	”	Windsor	29,887	9	2	”	16	”
	”	Winchester	14,988	10	5	”	7	”
	”	Worcester	12,033	4	0	”	6	”
29.	”	York	6,357	3	9	”	3	”
			£314,276	14	3			

APPENDIX C.

		Dean.	Precentor.	Chancellor.	Treasurer.	Prebend
		£	£	£	£	£
1.	Chichester	1,439	853	525	891	7
	Durham	1,457				3
	Ely					3
	Exeter	2,505	215	1,054	1,219	2
5.	Hereford	843	503	655	479	1
	Lichfield				3,320 [300]	14
	Lincoln	6,478	9			9
	St. Paul's, London		583	1,711	1,592	3
	Salisbury	5,507	2,429	3,253	3,258	16
10.	Wells	2,041	355	340	800	4
	York	4,412	563	1,094		6
	Southwell Coll. Church					3
	Heytesbury					
	"					1
	Dean of S. Buryan					
15.	"					
	Middleham					
Wales—						
	Bangor	1,020			200	
	Llandaff			185	435	[301] 1
	St. Asaph's	1,988	1,585	868	350	1
19.	St. David's		384	326	[302]	[301] 8

I have given £314,276 as the total tithe-rent charges of 29 chapters; to this add £158,770 for separate prebendal and vicars-choral estates, etc., and we get the enormous revenue of £473,046, or £716,000 in tithes for 29 chapters, and only for tithes, without regard to the chapters' landed and mineral estates. There is nothing similar to this to be found in any other Christian country in the world. It is even shocking when we add the above to their respective chapters, viz.:—

	£		£		£
1. Chichester	8,883	+	11,463	=	20,346
Durham	15,322	+	5,072	=	20,394
Ely	10,762	+	3,406	=	14,168
Exeter	14,636	+	7,193	=	21,629
5. Hereford	10,371	+	4,148	=	14,519
Lichfield	6,738	+	18,173	=	24,911
Lincoln	5,111	+	15,797	=	20,908
London	10,681	+	6,936	=	17,617
Salisbury	11,282	+	30,366	=	41,648
Wells	7,382	+	8,470	=	15,852
11. York	6,357	+	12,534	=	18,891
WALES—					
Bangor	1,616	+	1,655	=	3,271
Llandaff	4,642	+	1,718	=	6,360
St. Asaph	3,018	+	6,085	=	9,103
15. St. David's	6,323	+	9,502	=	15,825
					£265,542

N.B.—The Vicars-Choral of ten Cathedrals possessed £10,278 tithe-rent charge, and 22 Archdeacons had £17,906, of which the Archdeacon of Surrey had £4,539 per annum, a most scandalous

amount from parishes in Surrey and Hampshire; the Archdeacon of Canterbury had £3,009 per annum.

Summary of A, B, and C:—

	£	£
Archbishops and Bishops		189,718
Chapters	314,276	
Separate estates of Principals and Prebendaries	148,492	
Vicars-Choral of ten Cathedrals	10,278	
		473,046
Twenty-two Archdeacons		17,236
Sinecure Rectories in Wales, erroneously inserted among "Clerical Appropriators"		1,695
		£681,695

A very useful lesson is derived from a study of the tithe-rent charges in possession of the Colleges of Oxford and Cambridge in 1836.

APPENDIX D.

Oxford.

		£
1.	King’s	357
	Corpus Christi	1,333
	Exeter	807
	All Soul’s	2,355
5.	Magdalene	2,886
	University College	2,958
	Jesus[303]	3,576
	Oriel	1,487
	Pembroke	292
10.	Brasenose	115
	Balliol	1,491
	Queen’s	2,451
	Trinity	2,620
	Merton	5,125
15.	St. John’s	779
	Wadham	955
17.	Winchester, or New College	10,311
	Total	£42,898

Cambridge.

		£
1.	King’s	10,408
	Catherine’s Hall	430
	Jesus	1,543
	Christ	2,637

5.	Corpus Christi	150
	Magdalene	1,318
	University College[304]	4,110
	Emmanuel	481
	Pembroke	3,154
10.	Gonville and Caius	1,292
11.	Queen's	10
	St. John's	5,048
	Clare	2,004
	Downing	5
	St. Peter's	639
	Trinity	33,441
17.	Trinity Hall	976
		£67,646
Oxford		£42,898
Cambridge		67,646
Total for 34 Colleges		£110,544

Schools, Charities, and Hospitals = £80,520 [305]
Companies and Corporations = £10,971

Christ Church, Oxford, has £39,785 of tithes from eighty-two parishes in eighteen counties. I have not included the amount here, because it is placed among the Chapters, yet all the property is collegiate.

Summary of Colleges, Schools, etc.:—

	£
Oxford, 17 Colleges	42,898
Cambridge, 17 Colleges	67,646
Winchester School	7,258

Eton College	8,484
Wimborne	2,416
Other smaller Schools	11,362
Hospitals	32,000
Charities	8,276
Municipal Corporations	5,562
Public Companies	6,024
Governors distributing Church Revenues	4,129
	£196,055

The disclosures made in the Tithe Commutation Return of 1887 (Lord Wolmer's) as regards the extent of the prebendal and other separate estates, are most astonishing. The four principal officers—Dean, Precentor, Chancellor, and Treasurer—of certain cathedrals, were endowed with separate estates in tithes and lands, in addition to their shares of the Chapter properties. Then the prebendal estates were in the aggregate enormous. I am now dealing only with tithe property. And it is well to remark again that we should add one-half of the commuted value to the commuted value in order to ascertain the original tithe value, according to Sir John Caird's opinion, that the commuted value of tithes = 4 millions, was 2 millions less than the tithe value = 6 millions. I must also remark, that the rentals of the episcopal, capitular and prebendal tithes, were only one-third their rack-rental value, because the owners had for centuries let all their properties on beneficial leases for years, or on lives for one-third their rack-rental value. The lessees retained the other two-thirds. The tithe-payers had to pay them their tithes in full. In 1835, appeared, for the first time since the reign of Henry VIII., an official Parliamentary Report of the revenues of the Church. The creation of the

Ecclesiastical Commission in 1836, and the passing of the Cathedral Act of 1840, led to investigations as to the actual rack-rental value of the episcopal, capitular, and prebendal properties. The leasehold property with which the Act of 1840 vested the Commissioners was ascertained to be only one-third of its rack-rental value, and it was also found that the same remark applied to all the church properties which were let on beneficial leases. This was a vital discovery. The Commissioners set about their Herculean work of enfranchising all the leasehold estates in order that they should obtain for the Church, the two-thirds which the wealthy lessees were receiving. The leases for years are of course long ago in possession of the Commissioners; but a great many leases for lives are still running on, although it is now fifty-one years since the Act of 1840 was passed.

It was never anticipated by Sir Robert Peel, Lord Russell, and other Church reformers, that the net income of the Common Fund of the Ecclesiastical Commissioners would be over one million per annum. Any person who would have said so then would have been considered insane. In 1840 the idea of enfranchising all the leasehold property of the church was not for one moment thought of, and if it were, that it could never be realized.

Without going into the history of the Ecclesiastical Commission, it is essentially necessary to state that this Commission has cleared away, as far as public patronage is concerned with Acts of Parliament, the gross, yes, the disgraceful waste of church endowments. For instance, the present Archdeacon of Surrey, instead of receiving about £6,000 a year, of which £4,539 came from the tithe-rent charges, has a

canonry in Winchester Cathedral, gross income £1,000 per annum, and the vicarage of Frensham, with net income £400 and house. An Order in Council divided, respecting vested interests, the Archdeacon's enormous income among poor benefices and endowed new churches in the parishes where the tithes arose. This is a good specimen of all the operations of the Commissioners. Incumbents possessing enormous incomes, whose benefices were in public patronage, have been dealt with by Orders in Council, and by private Acts of Parliament, in a similar manner, on the next avoidances, when the new incumbents were appointed, on very reduced incomes, and the residue divided among the poorer incumbents in the same parishes. Then as regards the episcopal, capitular, and prebendal revenues, the Commissioners allow the bishops and chapters their incomes as set forth in Acts of Parliament and Orders in Council, and with the residue of the immense property, they satisfy local claims of parishes where the tithes arose or landed estates were situate. As for the prebendal properties, separate estates of capitular offices, sinecure rectories and dissolved canonries, the Cathedral Act of 1840 vested them in the Ecclesiastical Commissioners for the good of the Common Fund, but Parliament allowed local claims on the tithes only. In a subsequent Act (1860), the local claims were extended, rather unwisely, to all kinds of church property. Hence we find many country parishes, with a population of a few hundreds, richly endowed and furnished with comfortable, well-built parsonages. The incumbents claim this by virtue of the extension clause of the local claims. The Commissioners have therefore been bound to satisfy local claims of hundreds of parishes with populations varying from 150 to 300, while the

teeming populations of the town parishes have to go without help from the above resources. About £360,000 per annum has been given out of the Common Fund to satisfy local claims up to 1890. The Commissioners were opposed to this extension clause, and it was not in the Bill, but was inserted and carried by members of Parliament after the Bill was introduced, who had churches on their own estates, and in their neighbourhood, where large church endowments existed. The clause included all the landed estates and house property of the bishops, chapters, prebendaries, sinecure rectories, etc. In London there are lamentable cases of small incomes in parishes where there are no local claims, and large incomes of adjacent parishes, arising from local claims.

For example, the Finsbury estate in London consists of three acres of land, which were given, in the fourteenth century, by a layman to St. Paul's for the support of one prebendary. The Corporation of London leased this estate from the dean and chapter, and built valuable houses upon it. The Act of 1840 vested this property, on the expiration of the lease, in the Ecclesiastical Commissioners. In 1867 the lease expired, and the Commissioners came into possession of £60,000 *per annum* from the rentals of this property. By the Act of 1840, there would be no local claim, for none of this revenue came from tithes. But by the Act of 1860, there was a local claim. Hence eighteen district churches within the parish had their incumbents' incomes raised to £500 a year each; new costly parsonage houses were erected, and large annual sums are allowed to the churchwardens of all these churches for the church services and repair of churches. But not a shilling was given to the poor incumbents in the adjacent

populous parochial districts.

APPENDIX E.

The Septennial Average Prices of Wheat, Barley, and Oats from 1835 to 1890, or 55 years, taken from Willich's Tithe Commutation Tables.

Per London Gazette	WHEAT, per imperial bushel.		BARLEY, per imperial bushel.		OATS, per imperial bushel.		Value of Tithe Rent Charge £100.	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	£	*s.*
To Christmas 1835 on 9th Dec. 1836	7	0¼	3	11½	2	9	100	0
To Christmas 1836	6	8½	3	11¾	2	9	98	13
do. 1837	6	6¾	3	11¼	2	8¾	97	7
do. 1838	6	6¼	3	9¾	2	8	95	7
do. 1839	6	9	3	11¼	2	9¼	98	15
do. 1840	6	11¾	4	1	2	10¾	102	12
do. 1841	7	3¾	4	2	2	11¼	105	8
do. 1842	7	7½	4	1¼	2	10½	105	12
do. 1843	7	7¾	4	0½	2	9½	104	3
do. 1844	7	7	4	1¼	2	9	103	17
do. 1845	7	4	4	1½	2	9	102	17
do. 1846	7	0½	4	0	2	8½	99	18
do. 1847	7	1¼	4	1½	2	9¼	102	1
do. 1848	6	10¼	4	1¼	2	8¾	100	3
do. 1849	6	7½	4	1¼	2	8½	98	16
do. 1850	6	5¼	4	0	2	8	96	11

do.	1851	6	2¾	3	10¼	2	7½	93	16	1
do.	1852	6	0½	3	9½	2	6¾	91	13	
do.	1853	6	0	3	9½	2	6¼	90	19	
do.	1854	6	0¾	3	7¾	2	6	89	15	
do.	1855	6	6	3	8½	2	7½	93	18	
do.	1856	6	11¼	3	11¼	2	9¼	99	13	
do.	1857	7	2¾	4	3½	2	11	105	16	
do.	1858	7	4	4	5½	3	0¼	108	19	
do.	1859	7	4½	4	6½	3	1¼	110	17	
do.	1860	7	4½	4	7¼	3	2	112	3	
do.	1861	7	0¾	4	7¼	3	1	109	13	
do.	1862	6	8¾	4	7½	3	0	107	5	
do.	1863	6	3½	4	5¾	2	11¼	103	3	1
do.	1864	6	0	4	3¼	2	10	98	15	1
do.	1865	5	11½	4	2¼	2	9½	97	7	
do.	1866	6	0¾	4	3	2	9¾	98	13	
do.	1867	6	3¼	4	3¾	2	10¼	100	13	
do.	1868	6	5¼	4	5¼	2	11	103	5	
do.	1869	6	3½	4	6¼	2	11¾	104	1	
do.	1870	6	4	4	6¼	3	0¼	104	15	
do.	1871	6	7½	4	7¾	3	1¼	108	4	
do.	1872	6	10¾	4	9¼	3	1½	110	15	1
do.	1873	7	0¾	4	10	3	1¾	112	7	
do.	1874	6	10¾	4	11	3	2¼	112	15	
do.	1875	6	6¾	4	10	3	2½	110	14	
do.	1876	6	6¼	4	9	3	2½	109	16	1
do.	1877	6	8½	4	10¼	3	3¼	112	7	
do.	1878	6	6¼	4	11	3	3	111	15	
do.	1879	6	3½	4	10¼	3	2¾	109	17	
do.	1880	6	0½	4	8¾	3	2¼	107	2	1
do.	1881	5	10¼	4	6	3	0¾	102	16	

do.	1882	5	10¼	4	4½	2	11¼	100	4
do.	1883	5	9¼	4	3¾	2	10¼	98	6
do.	1884	5	4¾	4	1¾	2	9	93	17
do.	1885	5	1¾	3	11¾	2	8¼	90	10
do.	1886	4	11	3	10	2	7½	87	8
do.	1887	4	8½	3	8½	2	6¼	84	2
do.	1888	4	5½	3	7½	2	5	80	19
do.	1889	4	2¼	3	6¼	2	4¼	78	1
do.	1890	4	0¼	3	5¾	2	3½	76	3
								5536	6
General average for the last 55 years								£100	13

APPENDIX F.

Summary of Tithe-rent charges, copied from the Parliamentary Tithes Commutation Return, 1887.

Counties.	RENT CHARGES.			
	Payable to Clerical Appropriators.	Payable to Parochial Incumbents.	Payable to Lay-Impropriators.	Pa S C
Bedford	£3,599	13,276	£3,429	
Berks	18,978	46,726	18,763	
Bucks	4,214	28,605	13,652	
Cambridge	15,156	50,201	5,741	
Chester	15,630	33,208	13,217	
Cornwall	12,218	61,175	26,834	
Cumberland	10,517	9,965	4,425	
Derby	7,193	21,000	10,096	
Devon	30,910	115,691	28,365	
Dorset	9,485	62,184	13,766	
Durham	11,367	28,071	13,340	
Essex	15,253	159,018	53,988	
Gloucester	18,650	53,478	12,983	
Hereford	20,018	47,601	6,312	
Hertford	13,156	43,667	16,217	
Huntingdon	1,065	10,860	2,109	
Kent	71,048	143,881	35,217	
Lancaster	13,122	36,179	20,650	
Leicester	1,461	25,244	3,809	

Lincoln	17,695	80,295	23,208	
Middlesex	4,533	16,828	5,388	
Monmouth	6,635	17,195	5,673	
Norfolk	31,023	203,016	33,340	
Northampton	1,671	27,027	2,473	
Northumberland	17,187	24,634	27,881	
Nottingham	10,004	20,516	6,642	
Oxford	9,614	31,997	7,054	
Rutland	739	6,891	606	
Salop	3,496	66,427	34,939	
Somerset	23,141	104,994	25,749	
Southampton	21,309	103,467	26,163	
Stafford	20,501	33,474	20,733	
Suffolk	7,044	155,097	37,751	
Surrey	7,465	48,287	19,247	
Sussex	24,807	103,019	28,040	
Warwick	2,812	29,654	10,545	
Westmoreland	756	3,155	1,907	
Wilts	41,352	77,705	18,587	
Worcester	11,961	42,128	8,598	
York	57,247	91,697	57,727	
	614,032	2,277,539	705,174	1
WALES.				
Anglesey	£2,667	£12,065	£2,139	
Brecon	4,616	11,722	3,270	
Cardigan	3,251	4,979	10,475	
Carmarthen	6,640	7,419	14,707	
Carnarvon	2,133	11,139	3,012	
Denbigh	13,413	16,602	5,525	
Flint	6,607	12,192	4,528	
Glamorgan	7,114	16,854	5,592	

Merioneth	2,034	6,889	542	
Montgomery	7,688	14,991	3,824	
Pembroke	4,779	15,243	7,206	
Radnor	6,721	7,406	348	
	67,663	137,500	61,168	
England	614,032	2,277,540	705,167	1
Total	£681,695	£2,415,040	£766,335	£1

General total of the four items, £4,059,126.

APPENDIX G.

Analysis of the Tithe Commutation Return in Appendix F, showing (1) the number of Old Parishes in England and Wales; (2) the number not appropriated, and the number appropriated, to which is added a full explanation of the analysis.

	Counties.	Parochial Rectors. 1	Appropriated Rectors. 2	Impropriated Rectors. 3	Colle Sch Hosp etc Rect 4
	ENGLAND.				
	Bedford	25	3	12	
	Berks	65	26	33	
	Bucks	63	9	42	
	Cambridge	40	19	8	
	Chester	51	21	18	
	Cornwall	81	28	86	
	Cumberland	31	26	23	
	Derby	47	16	50	
	Devon	245	83	104	
10	Dorset	167	29	48	
	Durham	30	20	17	
	Essex	237	28	99	
	Gloucester	109	49	39	
	Hereford	80	80	29	

	Hertford	64	15	26	
	Huntingdon	36	7	11	
	Kent	176	143	63	
	Gloucester	28	11	31	
	Leicester	75	7	33	
20	Lincoln	188	38	67	
	Middlesex	23	8	14	
	Monmouth	44	40	30	
	Norfolk	447	86	102	
	Northampton	91	8	16	
	Northumberland	18	16	43	
	Nottingham	41	27	22	
	Oxford	74	20	25	
	Rutland	24	6	2	
	Salop	116	8	87	
30	Somerset	252	89	107	
	Southampton	171	33	48	
	Stafford	46	32	53	
	Suffolk	319	16	123	
	Surrey	74	13	42	
	Sussex	160	59	62	
	Warwick	48	7	45	
	Westmoreland	13	3	8	
	Wilts	131	69	50	
	Worcester	73	31	16	
40	York	155	117	156	
	Total	4158	1346	1890	
	WALES.				
	Anglesey	50	10	13	
	Brecon	27	24	15	
	Cardigan	15	15	31	

	Carmarthen	14	21	39
	Carnarvon	40	10	13
	Denbigh	20	22	7
	Flint	14	15	2
	Glamorgan	58	29	29
	Merioneth	22	8	4
	Montgomery	26	15	11
	Pembroke	62	27	40
12	Radnor	18	26	2
	Total	366	222	206
	In England	4158	1346	1890
	Total in England and Wales	4524	1568	2096

Column 1 indicates that nearly one-half of the parochial tithes in England and Wales were appropriated to archbishops, bishops, chapters, monasteries, colleges, etc. There are 8,856 old parishes in England and Wales. Columns 2, 3, and 4 give the number of appropriated rectories, total 3,985. So we have 3,985 old parishes deprived of their rectorial tithes. Who have these? Column 2 are archbishops, bishops, chapters, vicars-choral, and archdeacons. Column 3 are what are sometimes called “Lay Rectors,” *i.e.*, impropriated rectors, namely, lay persons in receipt of rectorial tithes, resulting from the dissolution of monasteries and the dispersion of their tithes by the Crown to laymen. Columns 3 and 4 are lay persons receiving tithes from 2,417 parishes, amounting to gross £962,390, or nearly a million a year. Appendices A, B, and C, give the rectors in column 2. Appendix D gives the 321 in column 4. As regards column 3, the tithe-rent charges are dealt with as private property, and as

such is constantly changing hands by sales or otherwise.

In columns 6 and 7, 3,985 appropriated and impropriated rectors of the old parishes employed 2,916 vicars. But column 6, or 347 parishes, have vicars, but no rectors.[306] Again, the 1,568 clerical rectors in column 2 employed only 1,176 vicars, and the remaining 392 parishes had no vicars. Again, the 2,096 impropriated rectors in column 3 employed only 1,525 vicars, and the remaining 564 parishes had none. Again, the 321 college, etc., rectors employed 207 vicars, and the remaining 102 parishes had none.

I refer the reader to the summary of tithe-rent charges at page 253. (1) The Clerical Appropriators having £681,695, number 1,568. They are classified in Appendices A, B, and C. (2) The Parochial Incumbents receiving £2,415,040, consist of rectors, 4,524 + 3,263 vicars = 7,787. (3) Lay Impropriators receive £766,334; they number 2,096. (4) Schools, colleges, etc., receive £196,055; they number 321, and are classified in Appendix D, page 247.

APPENDIX H.

Lands and Money Payments in Lieu of Tithes.

The number of parishes in which awards were made under the Inclosure Acts, in 29 counties, was 989.[307] These parishes do not appear in the Tithe Commutation Return of 1887.

	Parochial Rectors.	Appropriated Rectors.	Impropriated Rectors.	College, School, etc., Rectors.	Vicars.	To
Parishes	435	63	477	14	548	9
Add the tithe number at	4,524	1,568	2,096	321	3,263	8,8
Total	4,959	1,631	2,573	335	3,811	9,8

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To 9,845 are added 200 benefices in London, Canterbury, Isle of Man, etc., which receive tithe-taxes from houses, also fixed and variable incomes from commuted tithes. Therefore, 10,045 benefices derive incomes from tithes. The total number of benefices is 13,979. Of the remaining 3,934, 464 are not endowed with tithes or glebes, and 3,470 were formed between A.D. 1818 and A.D. 1890. As regards the 9,845 parishes, it is important to notice that the tithes of one-half or 4,886 in England and Wales, were *impropriated*, that is, *alienated* from the parishes, and 4,959 were *not alienated*.

The total number of beneficed clergy in England, Wales, Isle of Man and Channel Islands, may be

taken as 13,979 (as very few benefices are now held in plurality), viz., England 13,048, Wales 856, Isle of Man 34, Channel Islands 41. In the census of 1881, the number of *civil parishes* was stated to be 14,926, hence 947 were consolidated. The benefice may consist of one or many parishes united. For example, at page 192, there are 43 parishes united into 11 benefices, so 13,979 benefices mean about 15,000 parishes. 11,667 benefices have parsonage houses, 2,312 have not.

APPENDIX I.

Aggregate Summary of Revenues of Church of England.[308]

	Gross income of property derived from	
	Ancient Endowments.	Private Benefactions since 1703.
I. Archiepiscopal and Episcopal Sees	87,827	11,081
II. Cathedral and Collegiate Churches	192,400	
III. Ecclesiastical Benefices	3,941,057	272,605
IV. Ecclesiastical Commissioners	1,247,827	
V. Queen Anne's Bounty		700
	5,469,171	284,386
	5,753,557	

Its capitalized value is about £140,000,000.

The return deals only with the *permanent sources* of revenues. Hence it omits fees, pew-rents and Easter offerings. The return was made from values in 1886. The Commissioners' own gross income in 1890 was £1,320,000, and not £1,247,827. The gross income of the beneficed clergy is by this return £4,810,662 or gross £344 a year each, net £262. To find net income, I have allowed £1,140,000 to cover depreciation and expenses out of £2,592,000 tithe-rent charge, 1890.

The total *rateable* value of the episcopal, capitular

and parsonage houses = £11,151 + £18,928 + £518,054 respectively = £548,133. The rack-rental value is about £800,000 a year.

Dealing with the fluctuating part of the beneficed clergy's income, we may safely estimate fees, pew-rents and Easter offerings at £1,000,000 a year. In arriving at this amount I have been guided by certain well-known official data. (1) The average fluctuating incomes of the 115 rectors in the old parish of Manchester were, for 1890, £142 each. (2) The 987 benefices of Wales and Monmouth had, in 1890, £10 each. My conclusion, therefore, is that 4,600 benefices get, like Manchester, £653,000; 4,600 get £300,000; and 4,779 get the Welsh rate, viz., £48,000. Total, £1,000,000. It varies from one to one and a half millions a year.

In 1890 we may safely take the following as the correct gross aggregate revenues of the beneficed clergy:—£3,941,057 + £272,605 + £617,000 (C.F.) + £1,000,000 = £5,830,662 or £415 each; net £334 calculated like the net £262 above. But £6,000,000 a year for the 13,979 incumbents is nearer the truth. Add to 11,667 with parsonages, a rental of £52 a year for house = net average for each of the 11,667 £386. We have, at last, a correct idea of the *immense wealth* of the beneficed clergy alone.

FOOTNOTES

[1] "The History of Tithes from Abraham to Queen Victoria," 1887.

[2] "Facts and Fictions," pp. 280, 281.

[3] Selden's "History of Tithes," p. 169.

[4] Van Espen, "jus Univ. Canon," pars. ii. sec. 4.

[5] See Kemble's "Anglo-Saxons," New Ed.: 1876, vol. ii. 473.

[6] "Facts and Fictions," pp. 9, 47.

[7] See the Animadversions on Selden's "History of Tithes," in 1621, by Dr. R. Tillesley, Archdeacon of Rochester.

[8] Page 34.

[9] "Ancient Facts and Fictions," Edition 1888, pp. 47, 48. Selden, p. 58.

[10] "Hist. Eccl." ii. 5: cum consilio sapientium.

[11] Thorpe's "Ancient Laws," etc. i. 3.

[12] "Saxons in England," ii. 205.

[13] Hook's "Archbishops," i. 134.

[14] The three bishoprics were thus *State creations* in the kingdom of Kent, and were then *established* and *endowed by the State*, with the approval of the Witenagemót. See Hook, i. 59.

[15] Bede, "E. H.," lib. i. c. xxvii.

[16] "Endowments and Establishment of the Church of England," p. 39, ed. 1885. Mr. Dibdin is Chancellor of the Dioceses of Rochester, Exeter, and Durham, and official of two archdeaconries.

[17] Canon 4.

[18] "Comms.," bk. i. ch. ii. pp. 372-3, ed. 1765.

[19] p. 87.

[20] Thorpe, i. 435, Law viii.

[21] See the Laws in Thorpe, i. pp. 3-43, also pp. 103-151.

[22] “Our Title Deeds,” p. 53.

[23] Haddan and Stubbs, “Councils,” iii. 191, note.

[24] Lib. ii. c. ii. § 8.

[25] Lib. ii. c. xiv. § 9.

[26] Lib. ii. c. xiv. § 10.

[27] “Facts and Fictions,” p. 107.

[28] Haddan and Stubbs, “Councils,” iii. 174.

[29] “Const. Hist.,” i. 227, note 3, ed. 1874.

[30] “Anglo-Saxon Church,” i. 183; Bede, “Ep. ad Egb.,” ii.

[31] Scheller’s Latin Lexicon, edited by Riddle, 1835.

[32] Preface, pp. 2, 3.

[33] p. 156.

[34] “Com.,” bk. ii. ch. iii. p. 25, ed. 1765.

[35] Vol. ii. p. 732.

[36] Letter addressed to Mr. Fuller, as it appears in “Our Title Deeds.”

[37] “E. H.,” lib. v. c. iv.

[38] Bede, “E. H.,” lib. v. c. v.

[39] Johnson’s “Laws and Canons,” i. 87.

[40] Bodl. MS. 718.

[41] See Haddan and Stubbs, “Councils,” iii. 413.

[42] “Con.,” ii. 258.

[43] “Laws and Canons,” i. 181, ed. 1850.

[44] “Antiq. of the Ang.-Sax.,” i. 93, note.

[45] "Ancient Laws," ii. 97.

[46] Thorpe's "Ancient Laws," etc., i. 98, Canons 3 and 5.

[47] "History of Tithes," ed. 1618, pp. 196-198. Selden quotes in the margin, "*MS. in Biblioth. Cottoniana*," which clearly indicates that he did not know it as the "*Worcester*" volume; or "*Worcester, Nero, A, 1*."

[48] Consecrated Archbishop A.D. 734; died Nov. 19, 766, Stubbs's "Registrum Sacrum Anglicanum."

[49] Baluze, i. 141, 142; Selden, c. vi. s. 7.

[50] "The Saxons in England," ii. 473.

[51] Milman, ii. 292, etc.

[52] Bede, "Eccl. Hist.," i. 27, 29.

[53] Stubbs, "Const. Hist.," i. 217, ed. 1874.

[54] Bede, "E. H.," ii. 6.

[55] Bede, "E. H.," ii. c. xiii. See Kemble's "Saxons," ii. 241.

[56] Birch, "Cartularium Saxonicum," i. No. 15.

[57] *Ibid.*, i. No. 20.

[58] Bede, "E. H.," iii. c. 25.

[59] Bede, "E. H.," bk. iii. c. xxv., Dr. Giles's translation.

[60] "Secundum vestrorum scriptorem tenorem" (Bede, "E. H.," iii. c. xxix.).

[61] Bede, "E. H.," iv. c. i.

[62] Birch, "Cart. Sax.," i. No. 24.

[63] Haddan and Stubbs, "Councils," iii. 360.

[64] Hook's "Lives of Archbishops," i. 245,

246.

[65] Haddan and Stubbs, “Councils,” iii. 360.

[66] “Lives of the Two Offas” (Matt. Paris, ed. 1640, p. 21).

[67] “Henry of Huntingdon,” book iv. See also Pope Leo III.’s letter to King Kenwulf of Mercia, in Haddan and Stubbs, “Councils,” iii. 523, 525.

[68] Selden, “History of Tithes,” c. viii. s. 2, p. 201.

[69] “Basileæ,” 1567; “Centuria,” viii. c. ix. pp. 574, 575.

[70] Haddan and Stubbs, “Councils,” iii. 461.

[71] “Facts and Fictions,” p. 154.

[72] “Ancient Laws,” Preface, p. vii.; see pp. 69, 70.

[73] Haddan and Stubbs, “Councils,” iii. 444, 447.

[74] Haddan and Stubbs, “Councils,” iii. 456.

[75] “Facts and Fictions,” p. 145.

[76] “Councils,” iii. 637, note.

[77] “Constitutional History,” i. 228, ed. 1874.

[78] Num. xviii. 21.

[79] “Original and Right of Tithes,” p. 102.

[80] “Historiæ Anglicanæ Scriptores, x.,” edited by Roger Twysden, ed. 1652, fol. p. 776. Chronicon Johannis Bromton.

[81] “Flowers of History,” i. 158-163. See Dr. Giles’s ed., 1846.

[82] “History of Tithes,” c. viii. p. 208.

[83] “Hist. Angl.” lib., iv. 99, ed. 1649.

[84] “History of England,” bk. vi. c. vi.

[85] “Facts and Fictions,” p. 138.

[86] *Idem*, pp. 269, 270.

[87] “Ancient Laws,” i. 336.

[88] “Saxons in England,” ii. 447, note.

[89] “The Original and Right of Tithes,” p. 103.

[90] Bede, “E. H.,” lib. iv. c. xxix.

[91] “Facts and Fictions,” p. 23.

[92] pp. 103, 104.

[93] “An Historical Vindication of the Divine Right of Tithes,” by Dr. Thomas Comber, ed. 1682.

[94] T. Gale, “Rer. Angl.,” vol. i. p. 17.

[95] Haddan and Stubbs, “Councils,” iii. 637, note.

[96] Birch, “Cartularium Saxonicum,” i. No. 587.

[97] *See* No. 260 of Kemble’s “Codex Diplomaticus.”

[98] Allen’s “Inquiry into the Rise and Growth of the Royal Prerogative in England.” New edition, 1849, edited by B. Thorpe, p. 135 *et passim*. Kemble’s “Codex Diplomaticus,” Introd. p. civ. *et passim*. Ed. 1839.

[99] Kemble, “Codex Diplomaticus,” ed. 1839, vol. i. Introd. p. ix.

[100] “Concilia,” i. 184.

[101] “Hist. of Tithes,” p. 210. Ed. 1618.

[102] Haddan and Stubbs, “Councils,” iii.

638.

[103] “Saxons in England,” ii. 485.

[104] As an illustration, see Charter A, dated 5th Nov., 844.

[105] As an illustration, see the Second Charter B, A.D. 854, and Charter C, 5th Nov., 855.

[106] Charter A.D. 857, Will. of Malms, lib. ii. § 113. Haddan and Stubbs, “Councils,” iii. 846. “The Saxons in England,” ii. 489.

[107] Haddan and Stubbs, “Councils,” iii. 638.

[108] *Ibid.* iii. 641.

[109] Selden, “Hist. of Tithes,” pp. 205, 206.

[110] *Idem*, c. viii. p. 205.

[111] See Haddan and Stubbs, iii. p. 636, note.

[112] “The Original and Right of Tithes,” p. 124, ed. 1736.

[113] “Ancient Laws,” i. p. 53, No. 38.

[114] English Bible.

[115] Hebrew translation.

[116] “Facts and Fictions,” p. 180.

[117] “Our Title Deeds,” p. 63.

[118] *Idem*, p. 64.

[119] “Saxons in England,” ii. 477.

[120] “Laws and Customs,” i. 315.

[121] “Our Title Deeds,” pp. 64, 65.

[122] Thorpe, i. 167.

[123] *Idem*, i. 166, note.

[124] *Idem*, i. 166, note.

[125] Selden, c. viii. s. 3, p. 204.

[126] Preface, p. vii.

[127] Thorpe's "Ancient Laws," i. 197.

[128] "Facts and Fictions," p. 185.

[129] "Hist. of Tithes," c. viii. s. 6, p. 213.

[130] "Saxons in England," ii. 476.

[131] *Idem*, Appendix ii. B. p. 545.

[132] "Const. Hist.," i. 127, ed. 1874.

[133] "Original and Right of Tithes," p. 127.

[134] "Hist. and Antiq. of the Anglo-Saxon Church," i. 184, 185, ed. 1845.

[135] "Ancient Laws," Preface, xiv. note 1.

[136] See *Idem*, i. 241.

[137] p. 70.

[138] Thorpe's "Ancient Laws," i. 159.

[139] Supposed to be Greatley, near Andover, Hants.

[140] "Saxons," ii. 203.

[141] "Anglo-Saxon Church," i. 185.

[142] "The Norman Conquest," i. III, ed. 1867.

[143] "Ancient Laws," i. 241.

[144] Blackstone's "Comms.," bk. ii. 24, ed. 1766.

[145] Thorpe, "Ancient Laws," i. 245-247.

[146] Deut. xviii. 4.

[147] "Saxons in England," ii. 492, 493. Selden, p. 215.

[148] "Ancient Laws," i. 105.

[149] Thorpe, i. 197.

[150] “Our Title Deeds,” p. 72.

[151] “Original and Right of Tithes,” p. 128.

[152] Selden, p. 215.

[153] Made at Andover, A.D. 960.

[154] That which he retains in his own hands.

[155] Land granted out for services.

[156] Thorpe’s “Ancient Laws,” i. 263.

[157] “Hist. of Tithes,” ed. 1618, pp. 262, 263.

[158] Hallam’s “Middle Ages,” vii. 142.

[159] See p. 85.

[160] Stow, Camden, Spelman, and Lingard.

[161] “History of Tithes,” c. ix. s. 3.

[162] See p. 25 for Bede’s statement of the earls’ churches.

[163] Theodore’s “Penitential,” s. 7, in Haddan and Stubbs, iii. 185.

[164] “History of Tithes,” c. ix. s. 4, pp. 264, 265.

[165] “The Case of Impropriations, etc.,” pp. 16-31, ed. 1704.

[166] Thorpe, ii. 257.

[167] “Facts and Fictions,” p. 262.

[168] Tanner’s “Not. Monas.,” edited by James Nasmith, 1787, Preface xix., xx.

[169] Cum consilio Laurencii Episcopi et omnium principum meorum. Cod. Dip. i.

[170] Stubbs says 604. See his “Registrum Sacrum Anglicanum.”

[171] See Birch’s account of this MS. in vol. 40 of the *Journal of the Archæological*

Association.

[172] “Facts and Fictions,” pp. 173, 293.

[173] See p. 84 for Selden’s weighty remarks.

[174] See p. 25.

[175] Vol. i. pp. 28-341.

[176] “Facts and Fictions,” p. 279.

[177] “Anglo-Saxon Church,” i. 187, ed. 1845.

[178] “Const. Hist.,” i. 177, iii. 600, ed. 1878. His reference, Thorpe, i. 177, viii. ss. 2, 44, should be ix. ss. 2, 44.

[179] Quoted in “Our Title Deeds,” by Rev. M. Fuller, p. 107.

[180] “A Defence of the Church,” etc., 4th ed., p. 158.

[181] Church Grith.

[182] “Facts and Fictions,” pp. 277, 281.

[183] “Facts and Fictions,” p. 283.

[184] *Idem*, pp. 280, 281.

[185] “Facts and Fictions,” p. 281.

[186] Johnson’s “Laws and Canons,” preface, p. vii.

[187] “Facts and Fictions,” p. 281.

[188] Thorpe’s Preface, xxi.

[189] “Facts and Fictions,” p. 282.

[190] Hale’s “Antiquity of the Church Rate System,” App., p. 51, ed. 1837.

[191] *Idem*, App., p. 51, footnote.

[192] See for omissions “Facts and Fictions,” p. 282; “Fuller,” p. 120; Dibdin, p. 156, ed. 1885.

[193] Thorpe's "Ancient Laws," Preface, xxi.

[194] "Facts and Fictions," pp. 279, 280. Mr. Fuller gives Mr. Freeman's letter in full in "Our Title Deeds," p. 164.

[195] Thorpe, i. 342; Schmid, "Gesetze der Angelsachsen," 244.

[196] Thorpe, i. 262; Schmid, 186.

[197] "Norman Conquest," i. 368.

[198] In the margin of the "Norman Conquest" is, "Ethelred's return and legislation, Lent, 1014."

[199] "Norman Conquest," i. 368, 3rd ed. 1877.

[200] See his pedantic, erroneous and misleading articles in the February and June numbers of the *Contemporary Review* for 1891, on the "Landed Endowments of the Church." Compare pp. 191, 192, of former article with p. 490 vol. iv. and p. 41 vol. v. of the "Norman Conquest," on lands in the four Northern Counties, and his remarks upon my article in the January number of the same Review, for a case of *sheer pedantry*.

[201] "Facts and Fictions," 269-270.

[202] "Church Defence," Appendix, p. 361, ed. 1888.

[203] "Church Grith."

[204] *Idem*, Appendix, p. 362.

[205] Thorpe, i. 341.

[206] *Idem*, i. 281.

[207] *Idem*, p. 293.

[208] *Idem*, p. 305.

[209] *Idem*, i. 195.

[210] “Facts and Fictions,” 278, note 2.

[211] Twysden’s “Scriptores,” x. p. 898, ed. 1652.

[212] “Facts and Fictions,” 269.

[213] Thorpe, i. 338.

[214] p. 270.

[215] Lingard thus accepts the Grith law as genuine.

[216] “Anglo-Saxon Church,” i. 187.

[217] See p. 112.

[218] “Facts and Fictions,” p. 280.

[219] “Our Title-Deeds,” p. 119.

[220] “Facts and Fictions,” p. 281.

[221] See p. 17, Note 2.

[222] “The Endowment and Establishment of the Church of England,” pp. 156, 157, ed. 1885.

[223] Haddan and Stubbs, “Councils,” iii. 191, 203.

[224] “Const. Hist.,” ed. 1880; i. 261, note 1.

[225] Thorpe’s “Ancient Laws,” i. 359-430.

[226] Thorpe’s translation, ii. 201, ed. 1845.

[227] “Facts and Fictions,” 286, 287.

[228] Thorpe, i. 348.

[229] “Facts and Fictions,” 305, 306.

[230] *Ibid.*, 309, 310.

[231] John de Athon, who wrote commentaries in the middle of the fourteenth century on the “Constitutions of Otho,” a papal legate that held a council in London in 1237, informs us that the canon law imposed on the

rector the reparation of his church, meaning the nave as well as the chancel. Folio ed. 1504.

[232] Burnet, i. 223.

[233] Hallam's "Const. Hist.," i. 78.

[234] Queen Mary was for bringing in a Bill to restore the monastic lands, "But the noble lords in Parliament clapped their hands upon their swords, declaring that so long as they were able to wear a sword by their side, with their Abbey lands they would never part" (Hook's "Archbishops," vol. viii. p. 399).

[235] Blackstone's "Commentaries," bk. i. 348, ed. 1765. "The Mirror of Justice," by Andrew Horne, p. 14, ed. 1646.

[236] Burn's "Hist. of the Poor Laws," p. 3, ed. 1764. See p. 86 for Edgar's canon.

[237] Blunt's "History of the Reformation," i. 389.

[238] "Parson's Counsellor," p. 79, 6th ed. 1703.

[239] "Church Defence," etc., pp. 154, 155.

[240] See Burnet's letter to Dr. Lloyd, Bishop of Lichfield and Coventry.

[241] "He had in his hands a whole treatise which contained only the faults of ten leaves of the 'Anglia Sacra.'... The errors are so many and so gross that often the faults are as many as the lines, sometimes they are two to one."—Bishop Burnet's Reflections on Atterbury's "Convocation."

[242] "Parson's Counsellor," p. 83, ed. 1703.

[243] "Church Defence," etc., ed. 1888, p. 154.

[244] See a full history of this charity in the "31st Report of the Charity Commissioners,"

1837-8, vol. xxiv., p. 843, etc.

[245] Matth. Paris, under A.D. 1240, has these words: “Cum ex auctoritatibus sanctorum patrum fructus ecclesiarum in certos usus, puta ecclesiæ, ministrorum et pauperum.” Mr. Fuller quotes the passage and thus translates: “That since, by the authority of the Holy Fathers, the revenues of the church were appropriated to the definite use of the church,” p. 139. There he stops, and omits, *ministers and poor*. The rectors of Reading referred to the tripartite division of their revenues, viz., to the church, ministers and poor. But it did not suit Fuller to give a fair, complete translation of the passage, because it referred to the tripartite division of the church revenues.

[246] See canon in Latin in Selden, c. viii. s. 26, pp. 233, etc.

[247] See Johnson, “Laws and Canons,” ii. 387, ed. 1851.

[248] 45 Ed. III. c. iii.

[249] See Selden, pp. 237-240; also Rot. Parlt., 17 Ed. III., art. 28; 18 Ed. III., art. 9; 21 Ed. III., art. 48; 25 Ed. III., art. 37.

[250] 23 Henry VIII. c. x.

[251] Alienated priory property given to Magdalen by Henry VI.

[252] See 43rd Report, 1891.

[253] “Cartularium Saxonicum,” edited by Birch. Vol. i. No. 14, p. 21.

[254] *Idem.*

[255] “Hansard’s Debates,” House of Lords, 1840.

[256] The confiscated monastic property.

[257] Coke's "Reports," part ii. p. 44 (b).

[258] "Commentaries," bk. ii. c. iii. p. 27, ed. 1765.

[259] See chap. xi. p. 297 in Selden's "History of Tithes," ed. 1618, for a full explanation of "arbitrary consecrations," as he called them.

[260] Kennett, p. 65.

[261] 15 Rich. II. c. vi.

[262] "Defence of the Church," etc., 4th ed. 1888, p. 155.

[263] See p. 43.

[264] Johnson's "Laws and Canons," ii. 364.

[265] It is important to note (1) that Edgar's law gave the manorial priests a legal right to one-third part of the tithes; (2) that the bishops in apportioning the permanent endowment of the vicar-perpetual, by 4 Hen. IV., ch. xii. (1402), were guided by Edgar's law in appropriating one-third part and selecting the small tithes, to which, if insufficient, they added a portion of the great tithes; (3) that the vicar, who previously held his position at the will of the patron, had by this Act obtained a freehold permanent position for life; (4) that 8,500 vicars now beneficed have been so circumstanced by Acts of Parliament.

[266] Selden, "History of Tithes," pp. 406, 407; Philimore, 493.

[267] Selden, p. 166.

[268] 3 and 4 Vict., c. cxiii.

[269] "Hansard's Debates," House of Commons, 31st March, 1882.

[270] 43rd Report of the Ecclesiastical Commissioners (1891), p. vii.

[271] Selden: “History of Tithes,” p. 291.

[272] See Hasted’s “History of Kent,” ed. 1778, under the above parishes.

[273] “Monasticon,” vol. i.

[274] Letter Book K., 32 Henry VI.

[275] 27 Henry VIII. c. xxi.

[276] 37 Henry VIII. c. xii.

[277] 22 & 23 Charles II., c. xv.

[278] These parishes are united to other parishes. 41 parishes out of the 86 are united thus—

(1) Numbers 1, 6, and 23 = 4 parishes, are united under one rector, whose net aggregate annual income = £800; total population, 481.

(2) Numbers 2, 29, 40, and 47 = 7 ditto; rector’s ditto = £1,060 and house; population, 661.

(3) Number 3 and Bridewell = 2 ditto; rector’s ditto = £450 H; pop., 2,163.

(4) Number 4 and S. Peter-le-Poer = 2 ditto; rector’s ditto = £1,000; pop., 1,200.

(5) Numbers 5 and 30 = 3 ditto; rector’s ditto = £582 and house; pop., 432.

(6) Numbers 8 and 43 = 3 ditto; rector’s ditto = £680 H; pop., 474.

(7) Numbers 12 and 44 = 3 ditto; rector’s ditto = £568; pop., 1,200.

(8) Numbers 16 and 39 = 5 ditto; rector’s ditto = £810; pop., 272.

(9) Numbers 22 and 38 = 4 ditto; rector’s ditto = £840 H; pop., 285.

(10) Numbers 24, 45 and 46 = 6 ditto; rector’s ditto = £660 and house; pop., 297.

(11) Numbers 32 and 50 = 4 ditto; rector's ditto = £600 H; pop., 360.

11 incumbents = 43 parishes = £8,050 = 7,163 population.

S. Peter-le-Poer and Bridewell included above are not in the Fire Acts.

The total incomes of the 37 incumbents from the 86 Fire parishes were in 1890, £22,852; aggregate population, 12,000.

By the revised Fire Act of 1804, £12,241 of the £22,852, comes from the Fire rates paid by the ratepayers of these parishes; the balance, £10,611, comes from ground-rents and house-rents of properties which belong to the incumbents of the respective parishes.

The average NET annual income of each of the 37 incumbents was, in 1890, £642, for an average population of 572, or £1 2*s.* per head, including children.

(*a*) S. Michael, Cornhill, has over £700 a year from house rentals; (*b*) the present rector of S. Peter's, Cornhill, has £2,500 a year from rentals of two houses on glebe estate, out of which he pays £300 a year net to S. James, Duke's Place; he has also £200 from Fire Act; *i.e.*, £2,400 a year for 196 parishioners including children. On next avoidance the £2,200 will be divided into five shares; he gets one; and four other benefices get £440 each. His income will then be £440 + £200 by Fire Act = £640. (*c*) The rector of S. Edmund the King and S. Nicholas Acons has a net income of £1,150, for 222 parishioners; viz., £300 by Fire Act and £850 from ground-rents and interest on £18,000, the price of a house sold belonging to the benefice [see 26th Report, p. 86, of the Ecclesiastical Commissioners].

[279] Report of the Special Committee in relation to tithes, submitted to the Court of Common Council, May, 1812, City Records.

[280] Subject to revision every ten years. In 1890 the value = £1,100 per annum.

[281] Revised every ten years. In 1890 the value = £1,500 per annum.

[282] See Orders in Council, dated 8th August, 1853, and 8th June, 1854.

[283] *Ibid.*, 20th May, 1847; 7th May, 1877; and 5th January, 1851.

[284] See 23rd Report, p. 429, of Ecclesiastical Commissioners for 1871.

[285] 6 & 7 William IV. c. lxxi.

[286] Paley's "Moral and Political Philosophy," ii. 406.

[287] Smith's "Wealth of Nations," iii. 274.

[288] Hansard's Debates, vol. xxxi. Feb. 9, 1836.

[289] For full particulars on this subject, see my book, "Past and Present Revenues of the Church of England in Wales."

[290] £800 from St. Asaph already given.

[291] 6 & 7 Will. IV. c. lxxi.

[292] 51 & 52 Vict. c. xxi.

[293] 51 & 52 Vict. c. xliii.

[294] 16 & 17 Vict. c. xxxiv.

[295] 6 & 7 Will. IV. c. lxxi.

[296] 6 & 7 Will. IV. c. lxxi., ss. 12, 13.

[297] 23 & 24 Vict. c. xciii.

[298] 49 & 50 Vict. c. liv.

[299] 23 & 24 Vict. c. xciii.

[300] The Bishop of Lichfield had as Prebendary £1,540 per annum, which is included here.

[301] Archdeacons not included here.

[302] Included in Bishop's.

[303] £3,067 is from eight parishes in Wales; and of this amount, the Principal of Jesus College, Oxford, is the owner of £1,532 10*s.*

[304] £2,402 for the Margaret Professor from Terrington, in Norfolk.

[305] Including Winchester School, £7,258 per annum; Eton, £8,484; Wimborne, £2,416. In Wales, All Soul's has £875; University, Oxford, £37; Christ College, Cambridge, £370.

[306] The 347 impropriated rectors received, by Inclosure Acts, lands or payments in lieu of tithes, and are, therefore, excluded from the Tithe Return.

[307] Parliamentary Return, "Tithe Commutation," published 26th March, 1867.

[308] Taken from the Parliamentary Return just published, viz., "Revenues of the Church of England," 23rd of June, 1891.

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