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19.

Is the Redemption of Tithes a desirable measure?

A QUESTION FOR THE TIMES.

A Paper read before the Midland Farmers' Club, at their Meeting, on February 14th, 1881, with the discussion upon it.

“IS THE REDEMPTION OF TITHE

A DESIRABLE MEASURE ?

A QUESTION FOR THE TIMES.”

This paper, prepared by the Rev. W. K. R. Bedford, was read to the Midland Farmers' Club, as follows:—I propose to treat the subject of this paper in a manner as remote from controversy or sentimentality as possible. However in their origin tithes may have been intended as a public endowment for religious and educational purposes, there is no doubt that they have now acquired the condition of a personal property, in most cases with certain duties demanded from their possessor; but in some without any equivalent whatever being given for the impost. The great tithes of many parishes which were annexed in pre-reformation times to monastic foundations, now form no inconsiderable portion of the income of our great revolution aristocracy. A tithepayer as well as a tithereceiver myself, I am by no means surprised at their being looked upon, in these hard times, as an obnoxious impost. When we remember that in many parishes tithes are paid to some non-resident owner—to the Ecclesiastical Commissioners, or to a mere speculative dabbler in cheap investments, it is clear that the payers are likely to feel a natural impatience of these contributions, which are but an extra rent. Even where the tithes of a parish are paid to a resident minister of religion, many changes of late have taken place, which undoubtedly tend to diminish the satisfaction with which the tithe is paid. Those among us who have passed the meridian of life can well remember that the principal tithepayer of a country parish would be the occupant of a good old-fashioned square pew, where he sat as the embodiment of the main pillar of the Church Establishment. But the taste for church restoration set in; square pews were doomed, and while he was proffered the same open bench on which his labourers sat, he saw the retired tradesman from the neighbouring town, who had given £100 to the re-seating the church and put half-a-crown in the offertory bag every Sunday, appointed churchwarden over his head. Seriously, when it is a well-known fact that land cut up for building purposes often becomes practically tithe free in consequence of the payments being infinitesimally divided, so that in the adjoining parish of Aston the income has dwindled from £1,500 to barely £900, in consequence of infinitesimally divided tithe, no longer capable of collection, except under the conditions of unpopularity and misrepresentation, while the agricultural part of the parish, with a stationary population, is in fact paying for the public worship of the urban district, one can understand that the farmer feels that the burden has been practically adjusted upon the old lines of getting as much wool as possible with as little cry—shearing the sheep and letting the sow go free.

Again, in many old parishes which have been divided under Lord Blandford's Act of 1849, the tithepayers of the new parish are called upon to pay to the rector of the mother church instead of to their own vicar ; to a man whom they never see, and whose interests are in main antagonistic ; instead of to the man whose ministrations they profit by and whose character they admire. Considering all this, it is by no means surprising that, as the pinch has been felt in the incomings, this unpalatable outgoing should become a grievance. Believing that any scheme to diminish fixed payments upon the land is useful at the present day, I venture to lay before the Club a few suggestions upon the subject.

One word I would say to those who see something immoral in the idea of disturbing a fixed and legal charge, which, after all, is but an item in the calculation of value under which a tenant takes his farm. If the capitalisation of fixed payments had never been encouraged by our Legislature, there might have been something to say for this view of the case ; but when we know this principle is directly encouraged by the statute book, I think we have a right to ask why it has not sooner been introduced into the tithe system than to apologise for offering it as a suggestion now-a-days. Although the old system of collecting tithes in kind was liable to a great many objections, it had at least the merit of being simple and consistent. It was like the turnpikes—eminently just and eminently unpleasant. The Tithe Commutation Act of 1836, while it materially diminished the friction which was generated by the rude system of taking tithe in kind, substituted a method of payment in some respects too elaborate for justice, and in others deficient in elasticity. In the first place, owing to the defective system of corn returns, the ordinary averages under the Tithe Commutation Act are too high. I need not enter minutely into this part of the question, which has been repeatedly dealt with of late, but direct your attention to two prize essays on this subject in the *Mark Lane Express* of December 6th, which in the main gave a fair summary of the objections to the working of the Act. I do not regard it as altogether a trivial objection that the variation in the tithe takes effect every year, thus introducing a constant element of uncertainty into the payment. It might be less equitable, but I think more desirable, if a longer period of fixity of payment were substituted for an annual average. Again, the Tithe Commutation Act has failed to secure the incumbent's income in just the very cases where it is most desirable that it should be maintained to the full—in those parishes, I mean, where parks and farms have been covered with streets and turned into populous suburbs. The tithe in many such suburban districts has been frittered away to nothing, and as the parson's duties increase, his income diminishes. There is, however, another and more surprising *laches* on the part of the legislature. Prior to the Act of 1836 a large number of parishes had, with praiseworthy forethought, endeavoured to make a better adjustment of their tithe by private Acts of Parliament. From a return issued in 1865, on a motion by Lord John Manners, I gather that, irrespective of a very large number of parishes in which the tithe is altogether extinguished, land having been given in lieu thereof, there are at least 400 parishes in England where the tithe is, in whole or in part, under the name of corn-rent or rent charge, collected under the

authority of private Acts of Parliament. There are many variations in these Acts from the General Tithe Commutation Act of 1863. In some cases the averages vary every seven years, in others on the average of seven, in some only on application to the Court of Quarter Sessions; but they are all more or less defective in this point—that not one of them, so far as I am aware, contains any provision for the redemption of tithe, although some of them do contain a provision (in every case, as far as I can discover, inoperative) that the tithe-rent charge or corn-rent should be paid by the “owner.” It will scarcely be believed that legal ingenuity has discovered that this provision does not mean the landlord but the tenant. I cannot undertake to analyse the various provisions of these acts, yet on the whole, I think that these Private Acts take a juster view of the case than the Tithe Commutation Act, and do not deserve the neglect with which they have been treated by the legislature.

In 1878, Mr. Cubitt, M.P. carried an Act to “amend and further extend the Acts for the Commutation of Tithes in England and Wales.” This very useful little act prescribes that on land taken for public purposes—church, chapel, or place of worship, cemetery, elementary school, municipal or public building, or improvements under the Artisan’s Dwelling Act, sewerage farms, gas or waterworks—the rent-charge should be redeemed at twenty-five times its amount; that any tithe rent-charge not exceeding 20s. shall be similarly redeemed on the application either of the owner of the land or of the tithe, and that any tithe rent-charge over 20s. may be redeemed upon the joint application of both parties, and power is given to the Commissioners, upon application either by the land or tithe owner, to order a similar redemption where land is divided for building purposes into lots too small conveniently to apportion the rent charge. There is likewise a clause to facilitate the investment of sums of money thus obtained in the purchase of land. *This Act, however, only applies to such parishes as are under the General Tithe Commutation Act of 1836, and leaves out the 400 parishes above mentioned.*

Not being able (as I am under a Private Act in my own parish) to avail myself of its provisions, I endeavour to have another Act passed, or a clause inserted which would make its application general; and for this end I have had, during the last two years, repeated interviews and correspondence with the Tithe Commissioners and with several members of both Houses of Parliament, and of both sides in politics, but hitherto, from the state of public business, without any definite result. This I do not so much regret, because I am not without hope that, on the lines of Mr. Cubitt’s Act, a bill may be introduced wider in scope and better calculated to assist the agricultural interest. In the first place I think that such a bill ought to recognise the fact that tithes, being a fixed charge on the land, are primarily the concern of the landlord and not of the tenant. I am not endeavouring to assert that under no circumstances whatever should tithes be paid by the tenants; but that, considering their character, they are a legitimate charge upon the estate itself, and should be regarded as an element in its marketable value. In Scotland, indeed, the tithe (there called tiends) is paid, and to some extent con-

trolled by the owners of the land, or, as they are styled heritors ; and this system has worked remarkably well upon the whole.

Recognising this character of tithe as a fixed burthen on the land, I would propose to redeem it on the basis of the Act of 1878, making the Assessment Committee of the Poor-law Union the tribunal to fix the terms on which the redemption should be effected, with of course a right to appeal on the part either of the tithepayers or the owner to the Tithe Commissioners. I would make the redemption of all tithes in the hands of lay impropiators compulsory, and apply the same measure to the cases of small payments included in the Act of 1878, extending the operation of that Act to any money payments assigned in lieu of tithes under Enclosure Acts, the awards of which are enrolled with the clerks of the peace of the various counties. In all other cases I would allow a period of seven years, during which it should be necessary to the redemption of tithe that a mutual agreement should be come to between the tithe-owner and the payers, but at the end of that time, if no terms of redemption had been agreed upon, the Commissioners should proceed to compulsory redemption.

It appears to me that, with such good security as the existing tithes afford, no difficulty is likely to be experienced in finding money for paying them off on advantageous terms ; while the superior certainty of the investment which would be substituted for tithe ought to induce the titheowners to render a hearty and liberal co-operation in fixing fair terms of settlement. It is clear that the lay impropiator would be at liberty to use his redemption money as he pleased. But in the case of a clerical titheowner, rector, or vicar, the money would have to be invested as a permanent endowment of the benefice, in land or some other approved security.

I have not alluded to what in some parts of England are known as extraordinary tithes, as I am almost entirely unacquainted with the subject ; but there can be no doubt, from the broad outline of facts, that they stand in pressing need of reform, which could no doubt be included in such an Act as I have sketched out.

I do not think I shall make this short paper too long if I shortly refer to one or two objections which have been stated to such a redemption of tithes as I propose. First, I have been told that it is not well to sever a link between a clergyman and his parishioners. Now I cannot help respectfully observing that the link which consists of paying and receiving money is one which very seldom gives entire mutual satisfaction. Good-feeling may, and in many instances does exist, but it is in spite and not because of the money transaction. I cannot help thinking that at the root of this objection is the idea of which we have sometimes heard—that clergymen ought to have no property, but to be entirely dependent upon their parishioners ; whereas the theory of the English Constitution is precisely the reverse, proceeding upon a sense of the necessity of there being in every parish at least one educated gentleman of independent position. Another idea which seems firmly rooted in the minds of the Tithe Commissioners, and of more than one of the members of Parliament whom I have consulted on

this subject, is that a compulsory redemption of tithe would be unpopular with the tithepayers. Admitting that to be forced to any course is somewhat repugnant to the English notions of independence, when we remember how inefficacious permissive legislation generally is, and how much it is in the power of a single interested or stupid individual to render it of non-effect, I cannot but hope that a little drastic legislation on this subject would in the long run, if not immediately, be cheerfully submitted to. I am sure that the period of seven years during which I suggest settlements might be effected would not be without a number of cases of friendly compromise. Lastly, I have been told that the capitalisation of tithe would make the disestablishment of the Church an easier matter for a Government to undertake. I do not see why this should be the consequence, but I think I shall not be disloyal to the Church of England, if I say, that were the difficulty of dealing with her revenue the only reason against her disestablishment I should not wish her to be preserved.

Let me add one more word. If these suggestions are to have any practical weight some action must be taken by members of farmers' clubs. I should like to see my suggestions compared with others which men of experience are no doubt prepared to make, and submitted to the judgment of those who understand the subject better than I do. But the ball must be set rolling, and now I think is the time to do it. Will the Midland Farmers' Club lend it a hand? (Applause).

Mr. W. FOWLER said he regretted to say that his experience carried him back to the time before the original Tithe Act was passed. For years before that Act was passed he was in the habit of valuing the crops just before the harvest in a large parish, and arranging with the farmers as to what sum they would pay in lieu of paying their tithes in kind. It was not to be understood that they were not lay tithe owners, but referring more particularly to the case where a clergyman of a parish was the recipient of tithe rent charges, the system of tithes was objectionable even under the new system of collection, and therefore it was easy to understand how much more so it was when the tenant farmer had to pay the titheowner whatever price his valuer thought was right, or else the parson came with a wagon and horses and carried the corn out of his fields. That old system was most objectionable, and hence the Tithe Act was most beneficial and kind in its intention to remove the evils of the system. But it was a most disappointing Act in many respects. Most people thought that from passing the Act, tithe rents would be paid by the landlord, and land let free of such charges; but nevertheless the landlords continued to let their farms subject to the payment of tithe rent charges, so the evils of the system were perpetuated. There were many sources of injustice in the provisions of the Act itself. Each Titheowner had to lay before an Assistant Tithe Commissioner a statement, which he had to prove, of what his receipts had been for the seven years previous to the passing of the Act, and the average for the seven years was the amount which each Titheowner was entitled to receive under that commutation. Then it was thought by many that if that sum were fixed in perpetuity it might inflict in the course of time injustice. No one could tell what in years to come the price of corn would be, and therefore the value of the rent-charge.

Because of this the unfortunate blunder was committed of making the tithe rent-charge variable every year according to the preceding seven years. The apportioned sum at first ought to have been a fixture—(hear, hear). In every position of life it was desirable—and he was sure in no case more than the farmers, who had often to struggle to meet the payments imposed upon them—to know exactly what they had to meet. They did not like to have an uncertain amount hanging over their heads. More than that, the practical working of that system of apportionment had been most unfortunate in its results, because after seven years' high prices the tithe rent-charge was raised—at the present time it was about 10 per cent.—whilst the price of corn went down; and the consequence was that the farmers were struggling under difficulties when the tithe rent-charge was high—(hear). The system was most grossly and unfortunately unjust in its operation. The mode in which tithe rent-charge was recoverable was also objectionable. It could only be recovered by distraint, and it was so absolutely and so literally prescribed by the original Tithe Act that there was no suitable mode of recovery except by distraint, and then only in respect of two years. The latter provision was very proper. In a subsequent Act of Parliament a clause was inserted to the effect that where any occupier of land left it with unpaid arrears of tithe rent-charge, which he was legally or equitably bound to pay, it was competent for the landowner or succeeding tenant, after ten days' notice of distress, to pay the amount and to recover the amount as an ordinary debt by County Court action. It was difficult to understand why it would not have been better that the titheowner should have been allowed to proceed by action in the same way as others. He confessed that he was strongly of opinion that it was advisable that tithes should be redeemable. The extraordinary pressure that the present system created in some parishes on poor land was marvellous. He received the tithes in a poor, strong clay parish in Shropshire. The tithes were from 6s. to 7s. an acre, and the land at the best of times was not worth more than about £1. At the present time many of those lands were let for 10s. to 15s. per acre. Yet the tithe was kept up to its original sum. Addressing himself to the question of redemption, Mr. Fowler said he received for some years the tithes of the Rev. Canon Lonsdale, who was the owner of small tithes in a number of parishes. His (Canon Lonsdale's) nominal income from tithes was about £800 a year, and there were 850 payers, whose indebtedness varied from 1s. to 4s. each. Fancy the resident vicar of the parish having to receive £800 from 850 payers! The tenant knew he could not put them in the County Court for sums so small, and that if he could he would not, and the result could be imagined. This was a striking instance of the ill effects of the system—(hear, hear).

Mr. E. M. COLEMAN remarked that the question under discussion was one in which he had taken some interest, and as their friend Mr. Bedford requested members of the club to lend a hand in pushing the ball along, he proposed to add his mite to the discussion—(hear, hear). He agreed in the main with what Mr. Bedford had said, and coming, as the paper did, from a gentleman, a great portion of whose income was derived from tithes, they must consider his proposals very liberal. So far as his (the speaker's) experience went it had led him to the conclusion that the tithes should in every case be paid by the

property owner and not by the tenant. The present custom was absurd when it compelled one tenant to pay tithe for his farm and allowed the tenant of adjoining land to go free. He was not only of opinion that tithes should be paid by the landlord, but that they should be fixed, and not variable. The Act now had been in operation forty-four years, and it showed how very carefully the amount was arrived at when they found that on the average the tithe that had been paid had only exceeded the amount fixed by the Commutation Act by 3 per cent. He thought no injustice would be done to titheowners if the amount fixed by the Commutation Act were finally settled as being the amount that should be fairly payable in the future. The extraordinary tithe paid in some parishes formed another strong argument why tithes should be fixed and not variable. He would certainly support Mr. Bedford in his opinion that the tithes should be paid by the owner and not by the tenant, and would use it as an argument for the redemption, because of the unpleasant connection which often existed between the clergyman who had to receive tithes and his parishioners. It was often a most unfortunate cause of ill-feeling between the clergyman and his parishioners, and one which led the parishioners to look upon their clergyman as their enemy, especially in depressed times. Tithes had been described as an obnoxious impost, and although he thought no one who looked into the matter could doubt that tithes were as much the property of the titheowner as any other kind of property, he was of opinion that the time had come when some very serious consideration should be given to the question. He would not only insist upon tithes, where they are payable, being paid by the landlord, but would strongly support an arrangement by which they could be redeemed whenever the titheowner or tithepayer wished it. Mr. Bedford went so far as to say that where the redemption could be arranged in a friendly way within seven years from the passing of the Act he would make it compulsory. He (Mr. Coleman) would not go so far as that, because if neither the titheowner nor the tithepayer felt it necessary to make an alteration no one else need be interested in doing so. He should like to see a system introduced whereby if a titheowner wished to redeem the tithes he could do so on some fair, fixed basis, and at a small cost. If the redemption money were fixed at 25 years purchase upon the amount fixed by the Commutation Act, every titheowner or tithepayer might insist upon redemption on those terms, and no possible injury could be done to anybody. If the proceeds of the redemption were invested in Consols or in the purchase of land it was probable that the titheowner would derive an income almost equal to that which he formerly derived, and he would, in addition, be relieved from all inconveniences of collecting. The tithepayer, too, would be freed from the present annoyance. In order to put the question in a practical form before the club he begged to propose the following resolution:—"That this meeting heartily thanks the Rev W. K. R. Bedford for his able paper upon tithes, and expresses its opinion that every tithe rent-charge ought to be paid by the landlord and not by the tenant; and, further, that it is extremely desirable that tithe rent-charges should be converted from variable to fixed payments, and that every owner and payer of tithe rent-charges should have the power to compel redemption thereof upon a fair and reasonable fixed basis"—(applause).

Mr. JOHN LOWE, in seconding the motion, expressed pleasure that the meeting had had an opportunity of listening to Mr. Fowler on the subject, for if they were to search Birmingham over they could not find a gentleman who had had larger experience in this matter of tithe-collecting and paying—(hear, hear). His useful and practical information would be looked upon with a great deal of respect when published thereafter. If they had been in a position to prepare a bill for Parliament he (Mr. Lowe) should have been proud to put his name on a bill in conjunction with Mr. Fowler—(hear, hear). As Mr. Fowler spoke regardless of fear or favour from either tithepayer or receiver, he endorsed every word he had said. He did not agree with Mr. Coleman where he would leave it in some cases optional as to the redemption of tithes. He hoped that if the subject was dealt with by the Legislature there would be no option whatever in the matter of redemption, but that it should be done at once, done entirely, completely, and effectually—(applause). If people had an idea that the thing could be delayed, that was to say, that it was optional as to whether they should do it or not, a remnant of a very disagreeable character would be left in the country. He hoped that if the subject was dealt with by the Legislature there would be an entire sweep, that the whole thing would be done away with on the most equitable terms possible, the value of the tithe being paid to whomever the receiver might be, so that the matter might be done with for ever. He entirely agreed with Mr. Coleman and Mr. Fowler that a future payment in lieu of tithes should be a part of the rent, and that there should be no double payment in any form. Let the tenant who wanted to take a farm know what he had to pay, and he would then have no doubt as to the money he must find to meet his liabilities—(applause).

Mr. E. DEAKIN suggested an amendment adopting the first part of the motion as to the paper, but omitting the latter half, and substituting therefore—“That no measure dealing with tithe that did not compel redemption could be considered satisfactory.” They had heard very able arguments to show that the tithe which was variable and not fixed had very great objections. To him there appeared to be equally great objections to a tithe which was fixed; therefore the only alternative which was left to them was redemption, pure and simple. The objection to tithe being fixed was that, assuming it was received in the proper way by the incumbent, the resident vicar, or rector, it must be received by him in the way of income, and must be as useful to him as income in a changed state of society as it was at the present moment. If they had a fixed tithe they had a fixed income to the rector, with everything else variable. By looking at what had taken place only in the last half-century they knew how money varied in value. Of this they could not have a better illustration than the position of the King's Norton Grammar School as compared with that of Birmingham. He believed the former, when they had the option, took a grant of money instead of a grant of land; and now they were simply paupers, while the other body was rolling in wealth. Therefore the clergy might very naturally object to take a fixed payment in the variable commodity of money in place of the variable interest they now had in land. Of course it seemed most

desirable that tithe should be abolished, for the reason that in face of the immense foreign competition with which they had now to deal they must have land as unencumbered and free as possible. If they were to meet that foreign competition it was only by freeing the land from as many as possible of the ancient burdens that it was now encumbered with, and tithe seemed to be one of them. Originally there was an object in keeping tithe on the land, because money did not settle the question, and the successive incumbents had to have income which was not forthcoming. Now the same money that now brought the incumbent a comparatively small income in many other investments would bring a much better one, and at the same time not bring him into obnoxious juxta-position with those with whom he lived. Of course every labourer was worthy of his hire, and the village clergyman who spent his time in improving the moral and intellectual condition of those around him, was as worthy as any other man—(hear, hear). But if the depreciation in the value of money went on as in the last half-century, a man who could manage finely on £500 a year might find himself in the next century with £500 in the position of a man who now received half that income. There appeared no other course but the passing of compulsory measures for the redemption of tithes, allowing the receiver of tithe to invest—or the proper authorities to invest—money, so that the receiver shall have an income which would increase with the rate of society. Another reason why tithes variable should be abolished if tithes fixed were not, which was ably put by a friend, was that until all corn grown was considered by the tithe average the farm was being legally robbed—(hear, hear). With the amount of decay of wheat that went on during the bad seasons it was very hard that this wheat should not be taken into consideration—(hear, hear).

Mr. COLEMAN explained that his suggestion was that the money derived from a redemption of the tithe should be invested in Consols or land, giving the titheowner a right to have it invested in land if he could find a suitable property, which it seemed to him would put the question of future increase in value at rest. He could not see how his friend could have the tithes redeemed and yet have them rise and fall in the future. His suggestion was that the tithe should be got rid of entirely and that money should be invested.

Mr. FOWLER said he should like the resolution passed to be “That all tithe rent-charge should be redeemed upon equitable terms under a compulsory Act of Parliament.”

Ultimately it was decided to divide the resolution into two parts, one dealing with the vote of thanks and the other with the opinion of the club on the subject of tithes; and after consultation with Mr. Deakin, Mr. COLEMAN said he would amend his resolution to read as follows:—“That this meeting expresses its opinion that every tithe rent-charge ought to be paid by the landlord, and not by the tenant; and that an Act for the compulsory redemption of all tithe rent-charges on a fair and reasonable fixed basis should be passed at the earliest possible period.”

The resolution as amended was unanimously adopted.

Mr. S. TONKS then proposed a hearty vote of thanks to the Rev. W. K. R. Bedford for his valuable paper, saying that he was very pleased to find a clergyman bringing the important subject of tithes before the club—(hear, hear). He was of opinion that the sooner tithes were redeemed, the better it would be for the Church and the nation at large.

Mr. WALTERS said, that, as an old parishioner of Mr. Bedford, it gave him the greatest pleasure to second the vote of thanks.

The vote of thanks was heartily accorded, and the proceedings terminated.

The following is a copy of a letter written in 1873 by Mr. W. Fowler to the Vicar, to whom he referred in his speech (reported above) as to the owner who had to collect a nominal income of £800 from 850 payers :—

REV. AND DEAR SIR,

“Under the existing law there is no remedy against a refractory tithepayer, except by way of distraint.

This is an anomaly without any possible justification.

Tithe rent-charge is in every sense analogous to rent, and the Legislature has acknowledged this fact by providing that a titheowner may distrain for the amount legally due within the limit of two years.

This limitation is reasonable and proper, because it prevents an undue accumulation of liability by the laches of the titheowner to the detriment of the landlord or the succeeding tenant.

But an ordinary landlord has *also* the power to sue a defaulting tenant, if he prefers that remedy to the more offensive method of distraining, and there can be no good reason why the same privilege should not be extended to the titheowner.

The original Tithe Act was framed on the theory that from and after the passing of the Act, all landowners would pay the tithe rent-charge and let their lands free from the charge.

Unfortunately this was not made compulsory, and consequently the theory has never been acted upon, except to a very limited extent.

Numberless tenants, relying upon the unwillingness of the titheowner to distrain, and knowing that no action would lie for the recovery of arrears of tithe rent-charge, habitually defy the Tithe Collector and ultimately quit their farms, leaving unpaid arrears of rent charge, for which the Tithe Act provided no remedy, except by distress upon the land to the prejudice of the landlord or incoming tenant.

No action would be for the recovery of such arrears because by the 67th Section of the Tithe Act, 1836—

“No person whomsoever is personally liable to the payment of the rent-charge.

To remedy this evil in certain cases, a clause was inserted in the Act, 14th and 15th Vic. c. 25, to the following effect, viz.—

“If any tenant of land shall quit, leaving unpaid any tithe rent-charge which he was by the terms of his tenancy legally or equitably bound to pay, and the titheowner shall give ten days notice of distraint; the landlord or incoming tenant may pay the amount, and recover the same from the outgoing tenant as if the same were a debt by simple contract.”

It is only under such circumstances that a titheowner has any power whatever of recovering tithe rent-charge otherwise than by distraint; and the objections to such a mode of proceeding on the part of a resident clerical titheowner are so powerful and so obvious that the practical result in many instances, and notably in your own case, is that a very large proportion of the nominal income of the living is necessarily lost.

I do not hesitate to say, that, if you had the power to summon the defaulters to the County Court, this heavy annual loss might be reduced to very trifling proportions, without the smallest hardship or injustice being inflicted upon a simple human being.

The existing law in fact, while professedly giving the titheowner a special and exceptional power of enforcing his rights by distress deprives him of the usual and ordinary means of enforcing payments which every creditor in the country possesses with regard to every other species of debt.

It is only common justice to the titheowner that he should be placed in the same position as other landlords. that is to say, that he should have power to distrain if he sees fit to do so, or if he prefers it to proceed against his debtor through the ordinary tribunals of the country.

No one can be much better qualified to give an opinion on the subject than myself, because for years before the Commutation of tithes, I used to value growing crops, agree with the farmers, and afterwards receive the agreed sums in lieu of the tithe of the crops.

I have also apportioned the tithes in very many parishes, and have received the rent tithe in several parishes ever since the tithes were apportioned.

I give it my decided opinion that it is a gross injustice to the titheowners generally, and particularly to resident Clerical owners of small tithes, like yourself, that they are debarred by law from that easy and simple means of enforcing payment of their just claims which is open without, so far as I know, any exception to every other creditor in the Kingdom.

There is another anomaly attending the existing state of affairs which ought to be remedied, viz. ; the difficulty of expense of re-apportioning the sums charged upon lands which afterwards become divided and sold or let in smaller lots.

In many parishes there is only what is called a farm apportionment, that is, one gross sum charged upon a farm instead of a separate charge upon each field.

This never ought to have been allowed—it was a great and fundamental error in the original Act.

The result is that when a farm is afterwards divided into two, or ten, or twenty different occupations, the gross amount of rent-charge remains chargeable in one sum upon the whole of the lands originally charged with it, and in thousands of instances equitable divisions are made, but no legal re-apportionment is made because every one interested shirks the expense and trouble.

The evil is particularly felt in parishes like yours where numberless cases of sub-division are continually occurring, and where the difficulty of collecting the tithe rent-charge is greatly increased in consequence.

It is very desirable that a periodical legal re-appointment should be made compulsory, but it would in my opinion be better still if the redemption of tithe rent-charge and especially of small tithes were enforced by Act of Parliament.

I remain, Revd. and Dear Sir,

Yours faithfully,

W. FOWLER.”

APPENDIX.

THE REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON EXTRAORDINARY TITHE RENT-CHARGE.

The following are the recommendations of the committee :—

That the provisions of the Tithe Commutation Acts Amendment Act, 1873, should be extended to hop grounds, and that no new districts should be assigned.

That the Tithe Commissioners should be empowered, upon the joint application of the owner of any land now charged or chargeable with an extraordinary rent-charge under the Tithe Commutation Acts, and the person entitled to the receipt of the said charge, to direct that the same should be commuted into an additional ordinary rent-charge, or should be redeemed by payment by the landowner of a sum to be agreed upon, subject to the approval of the Tithe Commissioners, when the rent-charge is payable to any spiritual person, in respect of his benefice or cure, and the redemption money, if any, to be paid to the Governors of Queen Anne's Bounty, and to be applied by them, under section 8 of 9 and 10 Vic. c. 73, in the augmentation of such benefice or cure.

That any owner of land in a parish paying an extraordinary tithe rent-charge may apply to the Tithe Commissioners to commute or redeem the same, and the Tithe Commissioners shall (in the event of the parties not agreeing) make an enquiry into the net value of the extraordinary charge upon the land so sought to be redeemed; and, for that purpose, hear evidence on behalf of the extraordinary tithepayer and receiver, and declare the net value of the extraordinary charge, taken on an average of the net receipts for the previous seven years, and the terms upon which the extraordinary charge on the various lands belonging to the said landowner in such parish may be commuted or redeemed. And, in case of redemption, all the land of such landowner situate in such parish shall, for the future, be free of all rent-charge except the ordinary rent-charge.

The committee further recommend that power should be given to the Governors of Queen Anne's Bounty to invest the redemption-money of the extraordinary rent-charge in any security in which the Court of Chancery now permits trustees to invest their trust funds, and also that tenants for life, trustees, and other persons having a limited interest in any estate of which the whole or any portion is liable to the extraordinary charge, should be enabled by law to raise the funds necessary for such redemption and to charge them upon such estate.





