



THE
TITHE RENT-CHARGE BILL.

A SPEECH

DELIVERED IN

THE DIOCESAN CONFERENCE OF THE DIOCESE OF
PETERBOROUGH,

On FRIDAY, OCTOBER 21st, 1887.

BY THE

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Archdeacon of Oakham, and Vicar of Wellingborough.

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MY LORD,

The Tithe question is at the present moment, as your Lordship has already observed in this Conference, a burning one. The conflagration, moreover, is not confined to Wales, it is spreading in England. It will, however, be obviously impossible for me to attempt to deal now with the whole question of Tithe Rent-charge. I will only say this upon it, that if Rent-charge *payers* resolve to re-open the whole subject, then Rent-charge *owners* will have a good deal to urge from their point of view. In confirmation of this I may quote the authority of no less a person than Mr. Chamberlain, who spoke in 1880 as follows :—

“One question raised was, whether it was desirable to reconsider the tithes settlement of 1836. As to this, he was not prepared to offer any opinion at all. It was a very large question, with two sides to it, and any alteration in the interest of the tithe-payers would be strenuously resisted by the important body of tithe-owners; and it was not certain whether a strong case might not be made out, if any alteration were to take place, against the tithe-payers, which would be in the favour of the former. He did not doubt that, if there had been no Tithe Commutation Act, the tithes would have been much larger than at present, in consequence of the great increase in the production.” *

* Quoted by Rev. C. A. Stevens, Tithe Rent-charge Papers, No. II., page 32.

In the year 1835 Tithe meant the right to one-tenth of the gross produce of the land and stock upon it. In the year 1887 the Rent-charge, which has taken the place of the Tithe, means *much less* than one-tenth. Certainly a sum of not less than two millions annually has been lost to the Church by the working of the 1836 Act, and it is indeed held by some persons that a sum nearly double that amount would not be an exaggeration.

The special subject, however, before this Conference is the Government Bill* “to amend the law with respect to the recovery and redemption of Tithe Rent-charge.” I must deal with the questions of recovery and redemption separately. I ask then, in the first place, Why is an amendment of the law deemed desirable? To answer this question it is necessary to refer, first of all, to the 1836 settlement. Previously to that date *two* owners had shares in the produce of the soil:—the Landowner, who had the right to a rent, the amount of which was a matter of personal agreement between himself and the tenant; and the Tithe-owner, who had the right to one-tenth of all produced out of and on the land. I must ask you carefully to observe that the amount of the Tithe had nothing to do with the amount of the rent, and that the Tithe was always discharged by the occupier. Upon this state of things came in the 1836 settlement. By this settlement three things were agreed to be done, and were done, and a fourth was intended, and was not done. It was agreed (1) That the produce of the tithe in the previous seven years should determine absolutely the future share of the Tithe-owner in the products of the soil. (2) That Tithe in kind should be abolished. (3) That a “Rent-charge” should be substituted for Tithe. These points were agreed upon. It is, however, most important also to notice that it was unquestionably *intended* by this settlement to arrange that the rights of the Tithe-owner, now merged in a fixed rent-charge, should in future be satisfied by the owner of the land, where the owner and the occupier were different persons. To show that this was, as I assert, the intention of those who framed and brought the Bill into Parliament, it is only necessary to quote the words of two members of the Government.

“Lord John Russell, in introducing the Bill, said, ‘I propose, as Lord Althorp proposed, that the owner of the land, having made an agreement with the tithe-owner, should stand to the tenant, not only in the situation of the landlord, but also in

* As the Bill has been through several editions, it is well to say that the copy in my hands was one of the edition of 22nd July, 1887, printed by order of the House of Commons.

that of the tithe-owner. The income of the clergy would ultimately flow from the land-owners, and not from each tenant or farmer, and the clergy would be relieved from an alternative that now too often exists, either of making personal enemies by pressing his demand, or injuring himself by abandoning it.' Mr. Cutlar Fergusson, a member of the Government, further explained: 'The tenant will no longer be liable to be applied to for the payment of this charge, and the clergyman will have the great advantage of the security afforded him by the liability of the landlord. There is this additional consideration, that the landlord is likely to lose in the payment of tithe; for he is bound to pay the full amount of whatever demand the clergyman becomes entitled to, although being not able perhaps to collect that amount from the tenant. Only consider, then, the difficult situation in which the landlord is placed, whilst the tenant is relieved from the liability of one shilling of tithe. With regard to the clergyman, in addition to his having the security of the landlord, is it not an advantage to him to be able to collect his tithe at once, instead of having to go among 100, or 1000, miserable people for the purpose?'**

There can be no question then as to what was the intention of those who proposed the measure in Parliament. There can be no question also that the intention was not fulfilled, and it is easy to understand how it happened that it was not carried out in practice. Neither landlords nor occupiers cared that it should be, and the words of the Act were not obligatory. The Act said that "the Occupier shall be entitled to deduct the amount from the Rent," *not* "shall deduct." If the three words "be entitled to" had not been inserted in the Act, a very great part of the present difficulty could not have arisen. But Landlords were glad to escape the unpopularity of raising rents to meet the charge, especially as prices were at that particular date declining. And Occupiers knew that the amount of the new Rent-charge did not reach one-tenth of the gross produce of the land,—as the tithe did,—and moreover the value of the Rent-charge in 1837 was below par. So of course it followed naturally enough that the Tenants continued to pay (1) to the Landlords the same rent as before, and (2) to the Rent-charge Owners another sum, supposed to represent one-tenth of the net produce of the land before 1836, but really much less. The good intention of the framers of the Act in this way came to nought, and the Rent-charge Owners and the Land-owners' Tenants have ever since been placed in positions relatively to one another that were never intended, or even contemplated as possible. It is true that the Rent-charge has all along been

* Quoted by Rev. C. A. Stevens, *Tithe Rent-charge Papers*, No. II., page 28.

paid, but paid by the *wrong* person; and so it has come about that the Tenant now often regards the Rent-charge as his forced contribution* to the Church of which perhaps he is not a member, and not what it really is, a property, as rateable, as lettable, and as saleable, as any other property.

Now it is essential to the possession of property that it should be recoverable. How then is Rent-charge when in arrear to be recovered? The answer is—By Distringment; and here it must not be forgotten that there were no County Courts for the recovery of small debts in 1836. Well, now, what is Distringment? It is the legal but forcible seizure of a man's live or dead stock, or it may be even the furniture of his dwelling-house. Distringment for Rent-charge, then, means a forcible entrance into a man's house or farm and the abstraction and sale of his goods, an abstraction and sale, moreover, made by the personal direction of his Clergyman. I do not pause to enquire what future spiritual relations can exist between the man who sells up and the man who is sold up; but in all seriousness, my Lord, I do ask this Conference whether such a mode of recovery of your right, from a man who, remember, was never intended to satisfy it,—from a man, moreover, with whom you never made any agreement that he should satisfy it,—is not enough to make your property stink in the nostrils of every Canaanite in England, and every Perizzite in Wales?† Can you be surprised if he regards your claim as anything but a property, and certainly not a Rent-charge? He calls it a tax, an impost. And here let me quote from a very able article I read in *The Times* of Monday last (Oct. 17th, 1887), contributed by the special correspondent of that paper in Wales. He states that what the opponents of the Church say is this—“‘Why should we contribute to the support of a Church which, as far as we are individually concerned, is not our Church?’ And the fact remains that they make, for the purposes of convenience, a money payment; that the form in which the Church asks for that which represents the profits of her absolute property is not dissimilar to that in which Imperial taxes are demanded. It is a form which renders it almost impossible for the tithe-payer to realize the nature of the property which the Church, by force of law and by force of history, has in the tithe. It is only by appreciating the difficulty which a tenant farmer must feel in realizing the situation that one can recognize the plausibility of the present situation. He says, ‘Why should I contribute; why should not Churchmen support their own Church?’ It is hard to convince him that what he deems

* Agricultural Depression, &c., by R. E. Prothero, Esq., page 8.

† Genesis xxxiv. 30.

to be his contribution is in fact the contribution made by a Churchman in past times, to the loss of his successors. It is hard for him to realize that if the tithe be diverted by Act of Parliament from its present objects, logical justice demands that it should be returned to the successors of the men who consecrated it to the use of the Church."

I am afraid that some considerable share of the blame for the present state of things must rest on the shoulders of the Landlords; but I hesitate to express any views of my own on this point, and so I will quote from one or two of those articles in *The Guardian*, by R. E. Prothero, Esq., which attracted so much interest some little while since. "Landlords cannot be acquitted of a large share of the blame for the present resistance to the payment of tithe."* "But when the tithe-owner gave up his claim to share in the increased profits of the land, what was his *quid pro quo*? He took a fixed rent-charge instead of a tenth of the produce, on the understanding that he would be relieved from the odium and unpopularity which his existing relations with the occupiers necessarily produced. The contract has been performed on the one side, for the landowner has been enriched at the expense of the tithe-owner; it has not been performed on the other, for the tithe-owner is still placed in the unpleasant relation towards the occupier, from which the Legislature intended that he should be relieved. How has this one-sided result been produced? By an arrangement between the landowner and the occupier, entered into for their mutual advantage without the consent of the tithe-owner, often against his will and always against his interest."†

I proceed then now to ask,—What amendments do the Government propose to make in the present mode of recovery of Rent-charge? Three excellent ones are proposed in the Bill. First (section 2), "Distress on the land shall cease." Second, Rent-charge is to be recoverable as a simple contract debt through the County Court. Third, in default of payment a manager and receiver of the land on which the Rent-charge is laid are to be appointed by the Court. The procedure for recovery will be this,—the Rent-charge owner will, in the first instance, move the Court to confirm his claim; the Court will then investigate it, and, if it confirms it, will proceed to enforce it for him. The Conference will see in a moment that the moral effect of this mode of procedure will be totally different to an enforcement of his rights by a Rent-charge owner on his own *ipse dixit*.

* Agricultural Depression, &c., page 9.

† Agricultural Depression, &c., page 34.

Moreover there are two valuable and necessary provisoes in the Bill. Section 3, sub-section 2, provides that if the Land-owner believes that the Rent-charge exceeds the profits of the land, and can prove his case, he should get relief. It is also provided, on the other hand, by the next sub-section, that if the Rent-charge owner is dissatisfied with the amount the Court awards him, he may take possession of the land for the whole amount due.

I proceed now to deal for a few moments more with the other subject treated of in the Bill, viz.: the Redemption of Rent-charge. This is a very different matter from the one I have been attempting to put before you, and I, for one, am strongly of opinion it would be very much better dealt with in a separate Bill.

The present rate of Redemption is 25 years' purchase of the Apportionment value. This rate, having regard to present prices and the falling market, is, I cannot but believe, too high. The Bill proposes to reduce this rate to 20 years' purchase of the Apportionment value. Is this too low? The question must be considered from two points of view, that of the Rent-charge *owner*, and that of the Rent-charge *payer*; and, as it happens, I am myself both an owner and a payer of Rent-charge, and therefore better able, to a certain extent, to see both sides of the question than some may be. Looking at the matter from the standpoint of a Rent-charge *owner*, the Government proposal would be this. My £100 of Rent-charge (apportionment value) would be taken as worth 20 years' purchase. I should therefore receive for it £2000, and this would, at 3 per cent., give me an annual income of £60 in lieu of my apportionment value of £100. Now the question to be answered is this:—Is £60 certain *without* any deductions a fair equivalent for £100 of apportionment value *with* deductions for Rates, Land Tax, losses, and cost of collection? I have not the least hesitation, as a Rent-charge owner, in saying that I think the proposed arrangement is a fair one to-day, though I could not have said this ten years ago. Now it must be well remembered, in the first place, that the value of Rent-charge *must* unquestionably fall much lower than it is at present. Last week's* averages,—and they are not the lowest,—represent a value below 67 per cent., out of which the rates, Land Tax, and cost of collection will have to be met, without taking into consideration losses through delay and non-payment altogether. In the second place, endless trouble will be saved the Clergy in respect of the assessment to Rates and Land Tax, and in

* Those for the week ending Oct. 15th, 1887.

the collection of small sums, and such trouble represents time and money also. Thirdly, and I look upon this as of very great importance, the Clergy will be relieved of all business transactions with their Parishioners respecting Rent-charge. This is a relief worth, I think, paying something for. "Higher interests are at stake than those of money. The continuance of the present arrangement imperils the stability of the Church as well as of the fundamental principles of property."* Last, but not least, the proposed Redemption secures, what is of very great importance for the Clergy, a settled income. They will know beforehand what they are going to receive, and also when it will be paid.

On the other hand, looking at this proposal as a Rent-charge *payer*, I have to ask—Is it worth my while, from a business point of view, to redeem? Well, to redeem £100 of apportionment value charged on my land I must sacrifice £2000 of capital, and pay some expenses in addition connected with the Redemption; and in passing let me say that I consider that the expenses attending Redemption at the present time are much higher than are necessary. Now this £2000 of capital paid to relieve my land of the charge represents at the lowest estimate £60 of certain annual income. This amount I lose, and my land will also have to bear the Land Tax and Rates previously paid by the Rent-charge owner. Besides, I must not forget that I may be unable to raise the rent of the land sufficiently to cover the amount now paid by the Tenant to the Rent-charge owner. To sum this up, on the one hand I shall by Redemption rid myself of a charge of uncertain amount and have my land clear, and on the other hand I shall, as the price I pay for this, lose about £70 of income now certain. All things considered, I am strongly inclined to think that I should answer the question in the affirmative. I think it is worth my while as a Rent-charge *payer* to redeem.

But after all, my Lord, the great question behind all others is this—Is Redemption possible at the present time? In the large majority of cases it is certainly not possible. Landlords have not the means. The proposal of the Bill therefore is in consequence, unless other means are devised, likely to remain a dead letter. Redemption will be of little value unless it be general, and it can only be general if it is taken up by the State. What appears to be an admirable scheme for this purpose has been worked out by Mr. Ryde. I can do no more now than just allude to it. It has, if I understand it rightly,

* Agricultural Depression, &c., page 35.

three great merits: it would cost the State nothing, it would benefit the Church, and free the Land.

My Lord, I have only this to say in conclusion. As a Churchman I desire to see all personal grievances removed, even, if necessary, at the loss of some of the Church's income; and as an Englishman I desire that all fixed charges on land should also be removed, so that its use and occupation may be, as far as possible, free.

I beg to move the Resolution which stands in my name—
“That this Conference gives its full approval to the provisions contained in the Government Bill for the recovery and redemption of Tithe Rent-charge.”

This resolution was seconded by S. G. Stopford-Sackville, Esq., and, after some discussion, was put to the Conference, and carried unanimously.







