

Seizure for Visitation Fees 1866

Much excitement has prevailed in this neighbourhood during the week, in consequence of some seizures of the property of churchwardens having recently been made in order to recover sums due from them for visitation fees. The circumstances under which these levies were made were as follows.

Mr Edmund Cusse was a few years since elected churchwarden of the parish of Winterbourne Gunner. Having served for some time he gave notice to the proper authorities that he wished to continue in office no longer. No other churchwarden was, however, chosen by the parish, and consequently Mr Cusse, against his own will, as he states, has remained in office up to the present time, for want of a successor.

For the last several years there have been no vestry meetings held in the parish of Winterbourne Gunner, and at each successive visitation of the Archdeacon of Sarum there have been no funds with which to pay the customary fees. Under these circumstances the authorities have foregone the claim, but this year a suit was instituted in the Court of Common Pleas against Mr Cusse for the sum of 2/15s, by Mr Macdonald, the Diocesan Registrar. Mr Cusse did not defend the action, and consequently judgment was obtained against him.



The issue of a writ followed, and on Tuesday last the horse and phaeton of Mr Cusse, which were then at the yard of the Three Swans Hotel, Salisbury, were seized by Mr Coombs, a sheriff's officer. Notice of sale by auction was immediately given, and on Thursday afternoon last, at three o'clock, Mr Coombs proceeded to sell in the yard of the Three Swans. From the nature of the circumstances there was a numerous attendance.

Before the sale Mr E Cusse asked the sheriff's officer what sum he wished to realise, and that official replied, 13/ 14s. Mr Cusse said "I protest altogether against the sale." The auctioneer intimated his intention of proceeding when Mr Cusse said "Having said thus much, I beg to retire."

The biddings then commenced, and the horse and trap were ultimately knocked down to Mr H Figs for the sum of 19/ odd.

Mr Cusse did not refuse the payment of the visitation fees on legal or contumacious grounds, but simply because he had no means of recovering the amount from the parish.

We understand that upwards of 20 writs against churchwardens in this archdeaconry for the recovery of visitation fees were served in the Corn Exchange, in this city, in one day. It is certainly time that steps should be taken to bring the anomalous position of churchwardens with respect to these fees before the attention of the Legislature. Meantime, we can inform churchwardens that the claim for visitation fees is perfectly legal.

In the "Jurist", Vol. IX., N.S. 354, a case will be found reported which bears on the point. It was that of "Shephard and Another v Payne and Another." This was an action in the Court of Common Pleas, brought by the Registrars of the Archdeaconry Court of Colchester against the churchwardens of the parish of Little Totham, in the county of Essex, for visitation fees for three years. It was argued before the full Bench in January 1862, and on the 2nd of June in the same year Mr Justice Willes, in delivering judgment, held: 1 That the office was freehold; 2 That its existence was essential to some of the functions of the archdeacon; 3 That the fees claimed were reasonable for the service rendered; 4 That the same are by usage payable, though the churchwardens may not appear; 5 That the churchwardens, as representatives of the parish in respect of the custody of its property and the care of the fabric of the church, are bound to make presentments to the Archdeacon at his periodical visitations as to the state of the church; 6 That, even if without funds, it does not follow that they could avoid the burden. His Lordship concluded by directing the judgment of the Court to be entered for the plaintiffs.

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