

THE ECCLESIASTICAL COMMISSIONERS.

To the Editor of the Irish Ecclesiastical Gazette.

SIR.—Perhaps you or some of your readers would advise me what I ought to do under the following circumstances:

In the year 1854, the value of my benefice was reduced by the opening of the Corn averages. I, of course, informed the Ecclesiastical Commissioners of the reduction, and gave them, in my annual return, a statement of the reduced tithe rent-charge of the parish. The Commissioners subsequently applied to me for a return of the average price of wheat, as fixed by the Quarterly Sessions. I was not, as far as I am aware, under any obligation to answer the question; nor had I any means at the time of knowing the answer, further than my recollection of the newspaper reports of the proceedings; but I gave them, to the best of my ability, and, as I thought, correctly, the information they required. It so happened, however, that I stated the price to be higher than that fixed by the Sessions. The Commissioners then proceeded to calculate the value of my benefice upon that *datum*, and though they must have perceived that there was a difference between the *official* return which I made to them each year of the value of my benefice, and their calculation, based upon my *private* information; and although they had by them other and, no doubt, correct returns of the price of wheat, as fixed by the same Quarter Sessions in the case of other parishes, yet without ever applying to me for an explanation of the discrepancy, they calculated my tax upon the larger amount, and continued to tax me upon it until I found out the error a few months ago. I have now applied to them to refund me the amount which I have overpaid them during the last five years; but the only answer I can obtain from them is that, "one of their rules forbids them to do so; and that an Attorney-General has given it as his opinion that they have no power to break the rule. I have in vain endeavoured to make them perceive the difference between information which I am bound, by Act of Parliament, to give them, and information which I might have refused to give if I had wished. They still persist in saying that their calculation was based on information supplied by myself; and though I have offered to abandon my claim if they can prove to me that I was in any way bound to give them the information in which the mistake occurred, they will neither argue the question nor give me back my money.

Now, Sir, although the sum in question is but a small one, the principle involved is, by no means, of little importance. *Have the Commissioners any right to ignore the official returns which are made by the clergy for the purpose of enabling them to calculate the tax payable by each benefice, and to calculate the tax on private information, no matter from whom derived?* And when by doing so they have obliged a clergyman for several years to pay more than they could legally demand, have they any right to say that their rules not only permit, but oblige them to keep money thus illegally obtained?

I have little doubt indeed—an Attorney-General's opinion notwithstanding—that an appeal to the proper court would enable me to recover the money, but there are many objections against taking such a step. I had thought of sending a statement of the case to each of the Honorary Commissioners, but I feared that they might not wish to interfere in such a matter. Will you, Sir, kindly inform me what I ought to do.

I remain, Sir,

Your obedient servant,

HENRY JELLETT,
Rector of Ahinagh.

[It seems that Mr. Jellett, in the first instance, made the *only* return required by the act governing the proceedings of the Ecclesiastical Commissioners; viz., 3 and 4 William IV., chap.

xxvii. section xviii. If the Commissioners doubted his return, their remedy was to callenche from the *Gazette*, as mentioned below, or to issue a commission of inquiry under the sixth section. It happened that Mr. Jellett's return was the value of the benefice as fixed by the Quarter Sessions—*i.e.*, the competent authority; and the Commissioners issued no inquiry.

Mr. Jellett is in error (against himself) in thinking that the Quarter Sessions can fix the *Corn average*. That quantity of the proportion is *fixed by the Gazette*. What the Sessions have to do is to find the fair proportion in the following sum:—Original sum, a sum to present corn average as original value of benefice is to present value of benefice. (See O'Leary on Ratiocines, page 121.) Instead of taking Mr. Jellett's return of the present value of benefice as *correct*, (to all appearances) settled by the Quarter Sessions, and instead of looking into the *Gazette* for the first and

second terms of that proportion, from which, with the aid of the original value of the benefice, they could now test the accuracy of Mr. Jellett's return, and, of the Quarter Sessions' "Rule of Three," arithmetically, they take a figure gratuitously, and unnecessarily, (against himself), by Mr. Jellett, and do so under their acts. "Ignorance of law excuses no man," they say; but Mr. Jellett was not acting under any *law* when he supplied, in ignorance or oversight, a Corn average *higher* than the *Gazette* did. In the contrary, when the Commissioners availed themselves of his oversight to increase their funds, illegally, they were acting not in ignorance, but in disregard of the law; and, therefore, they should refund their improper overcharge, if not out of their trust funds, at least out of their own masses. Under the sixth section they can amend the valuation of benefices from time to time.]

BURIALS ACT.

19 and 20 Victoria, cap. 98, sec. 72.

No Animal No Animal of any description shall be allowed to be buried in Gravé-Graze or to within the limit of any Burial Ground having a sufficient Fence; and in such cases the Owner, or two Justices of the Peace at Petty Sessions to order the Owner, of any animal or Animals so found within said Ground, to pay as a Fine a sum not exceeding Two Shillings and not less than One Shilling for each Animal so found as aforesaid, and to levy and collect the same as a fine in the same manner as Fines for Trespass of Cattle are now levied and disposed of under the Provisions of the Law at present in force in Ireland.

ECCLESIASTICAL FEES.

TO THE EDITOR OF THE TIMES.

Sir.—A ventilation of this subject in your columns is likely to be as efficacious for the public good as a trial before Lord Campbell, and more so than a reference from a jury to a "professional gentleman." With this view, I send you the following specimen of the fees for consecration of churches and bachelors' grounds in another diocese, and far from that of Windesher, the secretaries to the Bishop of which are also the defendants in "Masele v. Burder and Dunning."

Registrar's fee attending consecration £3 3 0
Registrar's clerk ... 1 1 0

Registrar's travelling, coach-hire, and tavern expenses and the like of Chancellor 4 3 6

Sentence fee to Judge, Registrar and officer 0 15 4

The Chancellor's fee and clerk 5 15 6

The Bishop's secretary 2 2 0

The Bishop's servants 1 1 0

Apparitor-General's (the Bishop's bailey) fee 3 3

These fees for work, and without work were demanded in addition to the charges already done, and the case in question, in particular respects a peculiar one, for the consecration was on a Sunday, the 6th after Trinity, so that the fees were earned, or rather, got without earning, on a Sunday, and an interesting contribution was made to its better observance in the ecclesiastical Travelling, coach-hire, and tavern expenses of the Registrar, and the like of the Chancellor." Not, indeed, that these functionaries were thus amusing themselves, for the Chancellor—a distinguished judge—was most probably in his own parish church, and the Registrar—being a venerable archdeacon, a canon of a cathedral, and a country rector—was, perhaps, officiating in one of the capacities elsewhere.

But, dismissing these points, a grave and serious question remains. Are these fees legal or illegal? *Prima facie*, they seem to be illegal. In this action there is very simple, and, as it seems to me, undeniably *proof*; for the canons of 1603 provide (Art. 135) that "No bishop, chancellor, archdeacon, official, nor any registrar of any ecclesiastical courts, nor any minister belonging to any of the said officers or courts, shall hereafter take any other or greater fees than such as were heretofore taken by John late Archbishop of Canterbury (A.D. 1597), and were by him ratified and approved."

New archbishop was Whitgift, and the table of fees so ratified is published in a "Report of a Committee of the House of Commons" (No. 1, A.D. 1600), and it does not specify any fees whatever for consecrations or institutions, nor does it allow any fee above 10s.

Prima facie, then, these fees are clearly illegal, for the canons of 1603 are binding in *foro ecclesiae*, and the particular canon in question enacts the punishment of suspension by the Bishop for violation of its provisions. Nor does there appear to be any legal foundation even for the fees at visitations; for the same committee of the House of Commons reported that, although "it is a general practice of the officers of the ecclesiastical courts to charge fees to the churchwardens of each parish for a visitation, either by a diocesan or the archdeacon," still they (the committees) "have not found any warrant for the charges but the practice of making them."

May I not, then, ask how long is this practice to continue, and if it be a good and laudable act to build churches, is it not the duty of Bishops to prevent their consecration from being a source of illegal profit to their servants, secretaries and officials?

Aologizing for the space I have taken up in your valuable columns, I am, Sir, yours, obediently,

Dec. 15. MEMOR.