

THE CASE OF THE COLLEGIATE CHURCH OF ARUNDEL.¹

By EDWARD A. FREEMAN.

The question which, after two trials, has lately been decided in favour of the Duke of Norfolk against the Vicar of Arundel is one which involves many points of historical and antiquarian interest. The point in dispute was whether the building forming the eastern limb of Arundel church was simply the chancel of the parish church, or whether it was in strictness a separate church, formerly belonging to the suppressed college, and now forming, with the other property of that college, an absolute possession belonging to the duke. In the former case the duke would have simply the rights and liabilities held by an inappropriate rector over the chancel of a parish church. In the other case the building would be absolutely at the duke's disposal, as much as a house or a barn that belonged to him. Much that was said at the two trials by counsel, and even by judges, much that has been said in the way of newspaper comment, sounds very wonderful to those to whom the case of Arundel church seemed only a very simple instance of a class to which they were well accustomed. It may therefore be useful to compare the case of Arundel at some length with a number of other cases which have more or less of analogy with it.

It was even doubted at the trial whether there could be in strictness two churches under one roof, that is, whether a building which forms one architectural whole and which in artistic and in ordinary language would be spoken of as a single church, could really contain what, in point of

¹ This paper was first written last year, at the time of the first trial. I had then not seen the documents in full. I have since recast it by the light of the two trials and of a study of the docu-

ments. It is satisfactory to find that such a study thoroughly confirms the conclusion which I had come to by the mere use of the comparative method.

property and use, are two distinct churches. I confess that I was surprised that there could be any doubt upon the subject. The arrangement is a very common one, and it is one which I have always carefully noticed whenever I have come across it. I have myself spoken of it in several monographs in various periodicals and local proceedings, and it must surely be familiar to any one who has studied the different classes of monastic and collegiate churches. The case of Arundel seems singular, simply because both churches are standing, though one is disused, while in most cases one of the two has been pulled down. That is to say, the successive Earls of Arundel have forborne to exercise the right of destruction which the law gave them. In most cases that right has been unsparingly exercised; Arundel is one of the small class of cases in which it has not.

In some collegiate churches, in perhaps the majority of monastic churches, there was no connexion with any parish. The inhabitants of the place where the college or monastery stood had no proprietary rights in the monastic or collegiate church; they had their own distinct parish church, standing quite apart. In other cases the parish church and the monastic or collegiate church stood close together and formed one architectural whole. That is to say, a building which formed architecturally a single church was, as far as use and property were concerned, divided into two churches, one belonging to the parish, the other to the monks or canons. I must here add an interpretation clause for my own article. To avoid endless repetitions and explanations, I shall use the word *monks* to denote all members of religious foundations, and the word *canons* to denote all members of secular foundations, whatever was their title in each particular case. The members of the secular foundations bore various titles—canons, prebendaries, fellows, chaplains, and others; at Arundel the original name was chaplains, for which the name of *fellows* seems to have been a later alteration. But the nature of the foundation was the same, whatever was the title of its members. In these cases of divided churches, the eastern part of the building commonly belonged to the monks or canons, the western part to the parishioners. Most commonly, in the usual case of a cross

church, the parishioners had the nave, while the monks or canons had the choir and transepts. Thus the building, while it formed architecturally a single church, formed in point of possession two churches, which, wherever legal precision was needed, were spoken of severally as the "parish church" and the "abbey church," "priory church," or, as at Arundel, "collegiate church," according to the nature of the foundation. But neither now nor then was such legal precision likely to be always attended to in ordinary speech. A building which, for all architectural and artistic purposes, was one building, was constantly spoken of as one building. The two churches under one roof, forming one architectural whole, were constantly spoken of as one church. Men spoke then, as we should speak now, of "Arundel church" as a whole. And as one part was collegiate, another part parochial, it is not wonderful if the whole was often spoken of sometimes as "collegiate church" sometimes as "parochial church." But whenever legal precision was of importance, the two parts of the building were carefully distinguished by their proper names. And never was the distinction more needed than when one part of the building changed owners. Such a time came amid the changes of the sixteenth century. When the monasteries were suppressed under Henry VIII, and the colleges, partly under Henry VIII, partly under Edward VI, that part of the building which formed the monastic or collegiate church came into the hands of the king with the rest of the monastic or collegiate property, and was dealt with by him or his grantee according to their pleasure in each particular case. It was dealt with precisely as those suppressed churches were dealt with which stood apart from any parish church. Its architectural connexion with the parish church made no difference. But, whatever happened to it, the right of the parish in its part of the building was not touched. That was no more interfered with by the suppression of the monastery or college than it was when the two churches stood altogether apart. The monastic or collegiate church was in most cases altogether pulled down. In others it was dismantled and left as a ruin. In others it was allowed to stand whole, but was disused ; in a few

cases it was bought by the parishioners or given them by some benefactor, and was added to the parish church.

I shall speak throughout of monastic and collegiate churches together, because I cannot see that it makes any difference whether the corporate body which divided the church with the parish was regular or secular. The rights and relations of the corporation towards the parish would be the same in either case. The abbot and monks in one case, the dean and canons or other collegiate body in the other case, might be simply the corporate rector with the rights and liabilities of any other rector, or they might be something more, namely the absolute owners of the monastic or collegiate part of the building. It makes no difference that in the majority of collegiate churches the canons seem to have been simply a corporate rector, while in the vast majority of monastic churches the monks were absolute owners, either of the whole church, if there was no parish attached, or, as has been already said, of part of it when there was a parish attached. The reason is plain; the monks had much more reason to seek for a complete separation from the parishioners than the secular clergy had. In fact, in many collegiate churches the evident object was simply to provide for the better performance of divine service in the parish church. The canons or other clergy were simply a multiplied rector; when the college was suppressed, the rectory passed with the other college property to the king's grantee; but this gave him no rights over the chancel beyond the ordinary rights of a rector. It was his duty to keep up; he had no power to pull down. But where the absolute property of any part of the building was vested in the corporate body, whether monks or canons, the power of destruction passed into the hands of the grantee, and he most commonly put it in force.

On the other hand, it is equally clear that there were, or had been, monastic churches which were also parochial, and in which the monks had simply the rights of rectors. This I conceive was the case with a number of small monastic churches, chiefly in Wales—I mention that of Penmon in Anglesey, as the last which I have seen—where the whole church is standing, and where there is no sign

of any division having been made. Here, I conceive the monks were simply a corporate rector, so that the dissolution did not affect the rights of the parishioners in the chancel. In other cases the church was in the same way originally held in common by the monks and the parishioners; but disputes arose, as was but natural; and it was agreed to divide the building, the monks taking the eastern part and the parishioners the western. The cases of this kind where the history is recorded give us the key to a number of other cases where the history is not recorded—where at least it is not accessible to me—but which present the same appearances as those whose history is known. When we see a church, known to have been monastic or collegiate, whose western part is standing and is used as a parish church, but whose eastern part is pulled down, ruined, or disused, we may, in absence of proof to the contrary, presume a division of the building between the parish and the monks or canons. It does not follow that the division was in all cases the consequence of a dispute. The church may have been in some cases so divided from the beginning; but it is naturally in those cases where there was a dispute that we get the history in the fullest detail.

It must further be remembered that, if any distinction could be established in this matter between monastic and collegiate churches, a distinction for which I do not see the slightest ground, still that distinction would not apply to Arundel. For there, as the grantee took the place of the college, so the college had before taken the place of the suppressed alien priory. The rights with which the new foundation was clothed would not be smaller than those which had been held by the earlier body; they might conceivably be greater.

I now come to the examples¹ which shew that it was a common practice for a church to be divided between a parish and a monastic or collegiate body, and that in such

¹ I keep to English examples, as I have not given much attention to the matter out of England. But I stumbled on a case of the kind last year at Château du Loir in Maine, where the *cure* kindly volunteered a bit of local history proving the division, not knowing that it would

be specially acceptable.

The double choirs, capitular and parochial, of the great German minsters are the same in principle as the arrangement of which we are now speaking; but the artistic effect is quite different.

cases the two parts were formally spoken of as the "parish church" and the "priory church," or whatever else might be the proper description in that particular case. But we must not look for strict consistency of usage on this point. The church, though divided for purposes of possession and use, still, as a building, formed one whole. When there was no particular necessity to insist on the fact of division, people would naturally speak of the two parts together as a single church. It was only when it was specially needful to insist on the division that the parts would be spoken of severally as the "parish church" and the "priory church" or "collegiate church."

I will begin with a case in which the history of the division is minutely recorded, as having been brought about by a dispute as to the right of visitation. This is the church of Wymondham in Norfolk, first a dependent priory of St. Albans, afterwards an independent abbey. It was also a parish church, and in 1249 a dispute arose as to the right of the archdeacon to visit in it. The question was settled by papal authority in favour of the archdeacon, so far that his right of visitation was established within the parochial part of the church, which is distinctly distinguished as the "parish church." The document is printed in the *Gesta Abbatum Sancti Albani*, i, 355—360. The description of the church, as given in the archdeacon's pleading, is explicit.

"Cum enim ecclesia de Wymundham, de qua agitur, sit parochialis ecclesia, et non cella, ad quam per priorem et conventum vicarius Norwicensi episcopo presentatur, et curam animarum recipit ab eodem, et ad ipsam parochiani confluunt pro divinis, et a vicario ecclesiastica recipiunt sacramenta, monachis ipsius cellæ facientibus intra chorum; ad quam etiam parochianis per publica strata patet ingressus, ipsis vero monachis ad chorum datur aditus aliunde; licet parietes parochialis ecclesie, et chori in quo per monachos deservitur, continui sint, ipsosque sit protegens idem tectum, hujusmodi tamen ecclesia infra cellæ ambitum non consistit, nec ad ipsam indulgentia se extendit."

The decision of the papal court runs as follows:—

"Ut memoratum archidiaconum permittant uti juribus supradictis in dictis ecclesiis pacifice et quiete: nomine autem ecclesiæ de Wymundham parochialem intelligimus ecclesiam, cum vicario, et plebe quæ pertinet ad eandem."

Here we have described, as distinctly as words can describe anything, two churches forming one building

under one roof and with continuous walls, which were yet so distinct in point of possession and use that the archdeacon had jurisdiction in one part of the building and not in the other. But the "*prædictæ ecclesiæ*" in the last extract do not mean the monastic and parochial church, but the two churches of Wymondham and Binham, both of which were concerned in the dispute.

For the later very important history of Wymondham I have not any original document to refer to. I must be satisfied with the account in the *Monasticon* (iii, 328), and in Mr. Petit's paper on Wymondham, in the volume of the *Archæological Institute* at Norwich for 1847, p. 117. Both refer to Blomefield's *History of Norfolk*, which I have not at hand. It appears that the second dispute arose about 1410, this time between the parishioners and the monks, and it was settled by Archbishop Arundel. The way in which the constructive division was made was singular. The monks took the choir and transepts, with the tower which stood immediately west of the crossing, together with the south aisle of the nave. The parishioners had the nave and the north aisle; they also built a tower at the west end. The abbey tower in the middle formed a complete barrier, with a dead wall, between the eastern and western parts of the church. At the dissolution, the parishioners bought the south aisle and the abbey tower. They did not buy the choir and transepts; these therefore were destroyed, and only some ruins are left.

The church of Binham, another cell of St. Albans, was, as I have said, concerned in the same dispute as Wymondham. The western limb is now standing, and forms a complete parish church, with a chancel marked off in its eastern part. It was evidently cut off from the monastic church by a solid wall, forming a *reredos* to the parish high altar, and pierced with the two doors usual in a *reredos*.

Another cell of St. Albans was Tynemouth, where also in 1247 a dispute arose between the church of St. Albans and the Bishop and church of Durham, about the right of visitation. This is recorded by Matthew Paris, (*Chronica Majora*, iv, 609, ed. Luard). The words are

—"super visitatione facienda in ecclesia parochiali, quæ est in monasterio monachorum de Thinemue." In the decision of the question (iv, 615), the dispute "super visitatione ecclesiæ parochialis de Thinemue" is settled by ruling that the bishop and his officials shall have jurisdiction "in illa parte ecclesiæ de Thinemue in qua parochianis divina celebrantur, sine onere procurationis, ita quod de monachis seu alia parte ecclesiæ sive etiam de ipsa cella se nullatenus intromittant."

Here the "ecclesia parochialis" is defined to be a part of the general "ecclesia" or "monasterium" (*minster*) of Tynemouth.¹ And, though the whole is now in ruins, the distinction is still clearly marked. The reredos of the parish high altar, plainly set up at the time spoken of by Matthew Paris, is still to be seen across the western arch of the crossing.

The further history of Tynemouth, as given in the *Monasticon*, (iii, 309-310),² shows that in the time of Elizabeth, the "parish kirk," which was then still in use, was distinguished from the "abbey kirk," to the east of it, which was in ruins. A new parish church, apart from the priory, was begun in 1659, and by the end of the seventeenth century the old parish church was unroofed.

In these cases we have part of the building distinguished in legal language as "ecclesia parochialis," while, in one case at least, the two parts were popularly distinguished as "parish kirk" and "abbey kirk." We find the same language in use at Leominster, a church which I have studied very minutely, and of which I wrote an account in the *Archæologia Cambrensis*, and also in the local History of Leominster by the Rev. G. F. Townsend, p. 209. Here we have the witness of Leland (see *Monasticon*, iv, 55). He says:—

"Ther is but one paroch church in Leominster, but it is large, somewhat darke, and of antient building, insomuch that it is a grete lykelyhood that it is the church that was somewhat afore the Conquest. The church of the priorie was hard joyned to the est end of the paroch church, and was but a small thing."

¹ It must be remembered that, besides the use of *monasterium* to mean *monastery*, it also often means *minster*, that is, the church as distinguished from the other buildings, and that whether the church was monastic or secular. The Waltham charter says, with perfect accuracy, that Harold "*construxit monasterium*;" it

would have been inaccurate to say that "*fundavit monasterium*."

² Many more details will be found in the late Mr. W. S. Gibson's History of Tynemouth; but, amidst much declamation, he fails to grasp the history of the divided church.

The parish church, though certainly not "somewhat afore the Conquest," contains the greater part of the twelfth century minster, namely, the nave and north aisle. The south aisle was widened into a large building, with the parish high altar at the east end. The choir and transepts which formed the priory church had plainly been pulled down before Leland's visit. Their foundations were dug up some years back. But the evidence for the distinction at Leominster does not merely rest on the English of Leland. It occurs also in the formal Latin of the will of Philip Bradford in 1458, printed in Mr. Townsend's book, p. 41.

"Lego * * * corpus meum ad sepeliendum in capella sanctæ Annæ infra ecclesiam parochialem Leomynstriae. Item, lego altari S. Petri in ecclesia monachorum ijs. Item, lego altari Sanctæ Trinitatis in ecclesia parochiali ibidem xijd."

This last document gives us another clear case of distinction between the "*ecclesia parochialis*" and the "*ecclesia monachorum*," existing as separate churches within what, speaking architecturally of the building, we should call a single church. This leads us to an entry in Matthew Paris, (*Chronica Majora*, iv, 227, ed. Luard), where, under the year 1242, he records the consecration of "*ecclesia conventualis canonicorum de Waltham*." No one who knows the earlier and later history of Waltham abbey can doubt as to his meaning. The present church consists of the nave only; the choir, transepts, and central tower are gone. The solid wall which ends the church to the east is clearly a carrying up of the reredos of the parish high altar; the doors may be traced. Within this parish church or constructive nave it is alleged that two or three of the eastern bays still form the parish chancel, and that the inappropriate rector, and not the parish, is bound to repair those bays. I do not profess to know whether this claim is good in law; but the mere belief is enough to show historically that the present church of Waltham was a complete parish church with its chancel, distinct from the monastic church to the east of it. That eastern church was the "*ecclesia conventualis*" of Matthew Paris. It was no doubt rebuilt on a larger scale in the thirteenth century, and consecrated afresh, while the parish church to the west of it remained untouched. It is hardly needful to

say that the "canonici de Waltham" in Matthew Paris' entry are the Austin canons put in by Henry II, not the secular canons of the elder foundation of Harold.

In all these cases the monastic church is gone. The grantee exercised his right of property by pulling it down or leaving it in ruins. With these before us we can better understand a crowd of other cases, where we see the same appearances, but where I at least do not know the documentary history. Such are the monastic churches of Worksop, Blyth,¹ Bridlington, Usk, Chepstow, Margam, Deerhurst, Lanercost, Monkton in Pembrokeshire, the collegiate church of Ruthin in Denbighshire, and many others. I speak only of monastic and collegiate churches; they must not be confounded with another class, chiefly found in Norfolk, where the chancels of purely parochial churches have been—illegally, as I conceive—pulled down or allowed to fall into ruin by their lay rectors. The monastic or collegiate church commonly lay to the east of the parochial church; but there is a very singular and puzzling building, the priory of Waybourne in Norfolk, where the two lie in an irregular way side by side. To this point I shall have to come back.

But the grantees did not in all cases exercise their right of pulling down the monastic or collegiate church. In some cases it was added to the adjoining parish church. These cases must be distinguished from those in which the parish at the dissolution became possessed of a monastic church which had never been parochial at all. At Great Malvern, for instance, and at Selby, the parishioners bought the monastic church, and forsook and pulled down the old parish church which stood quite distinct. I am speaking only of cases in which, in a divided church, the monastic part was added to the parochial part. There are good instances of this at

¹ The case of Blyth has some singularities. The eastern limb, with the transepts and central tower, is gone; its site is now part of a garden. The eastern bay of the western limb is standing, but blocked off from the parish church, and open to the garden. There is, in itself, nothing wonderful in this, as the Norman choirs often went far down into the western limb. But in Mr. John Raine's History of Blyth, it is said that, though this bay was cut off from

the church, the parish was held to be bound to repair its vaulted roof. This looks as if the grantee had taken a bay more than his share—perhaps a bay covered by the monastic roodloft. Here again the local historian seems not to have fully understood the division. At Blyth as at Leominster, the parish high altar is not at the east end of the constructive nave, but at the east end of a new body, into which the original narrow south aisle of the nave has been enlarged.

Dorchester, Tewkesbury, and Sherborne. At Dorchester Richard Beauforest, in his will, dated 1554 (printed in Addington's Dorchester, p. 98), says—

"I bequeth the Abbey Church of Dorchester, which I have bought, and the implements thereof, to the Paryshe of Dorchester aforesaid, so that the said Parishioners shall not sell alter or alienate the said Church Implements or any part or parcell thereof withoute the consente of my heires and executors."

Now that this does not mean the whole of the present church of Dorchester, but only a part, is plain from other items in the same will, where the testator bequeaths twenty shillings "to the reparations of my parishe church." He is described as "of the towne of Dorchester;" so "my parish church" can only mean the parochial part of Dorchester church. Leland, too (see Addington, p. 105), says distinctly—

"The Body of the Abbay Chirch servid a late for the Paroche Chirch. Syns the Suppression one (Beauforest) a great riche Man, dwelling in the Toun of Dorchestre, bought the Est part of the Chirch for 140. Poundes, and gave it to augment the Paroch Chirch."

Here we clearly see the distinction between the abbey church which Beauforest bought and gave to the parish, and the parish church to the repairs of which he made a bequest. And we may mark the various forms of language which naturally grew up in speaking of buildings of this kind. Leland, describing what he saw without any legal precision, calls the whole building the "abbey church;" the parochial part he calls indiscriminately, "the body of the abbey church," "the west part of the church," and "the parish church." But in Beauforest's will, as a legal document, more careful language is used. Here the two parts are distinguished as "the abbey church" and "the parish church;" and it strikes me, though I do not feel positively certain, that he uses the words "church of Dorchester" to take in both. For he leaves his body "to be buried in our Lady Ile within the church of Dorchester." Every one at Dorchester would know whether "our Lady Ile" was part of the abbey or of the parish church. At Tewkesbury again, in the inventory of the property of the monastery drawn up by Henry VIII's commissioners (Monasticon, ii, 57), among "buildings deemed

to be superfluous" comes "the church." That this again means only part of the building appears from what follows. I quote the *Monasticon*.

"Rudder says, 'It appears by an ancient deed transcribed into an old council book, that before and at the time of the dissolution, the body of the abbey church was used as the parish church, and that the parish purchased of the king the chancel, steeple, and bells, with the clock and chimes for 483*l*.'"

Here again the local historian does not speak with strict legal precision; but the commissioners do. "The church," in a list of the possessions of the monastery, would be understood only of that part of the building which belonged to the monastery. This the parishioners bought of the king, and added it to what was their own already. "the body of the abbey church," that is the western limb of the minster, which formed the parish church.

The history of Sherborne is given in the *Monasticon*, i, 335. It appears from Leland's account that there also the parishioners had their parish church in the western limb of the cruciform minster. "The body of the abbay chirch dedicate to our Lady, servid ontill a hunderithe yeres syns for the chife parochie chirch of the town." The parishioners had also a building to the west of this, known as All Hallows. A violent quarrel, or rather fight, between the monks and the parishioners in the fifteenth century, led to a settlement, by what authority Leland does not say, by which the parishioners had to withdraw wholly from the minster (St. Mary) and kept only All Hallows. "Postea vero, omnium sanctorum ecclesia, non autem Dominæ Mariæ, tanquam parochialis ecclesia usurpabatur." At the dissolution "the church, steeple (campanile), and churchyard of the monastery" passed to a lay grantee, from whom they were bought by the parish. All Hallows must then have been forsaken, as it now remains a ruin, while the minster forms the parish church. I said something about this matter in the *Somerset Archæological Proceedings* for 1874, where I refer to Professor Willis' paper on Sherborne, in the *Archæological Journal*, vol. xxii, p. 179. The plans are in the same volume, p. 196, and in the *Bristol* volume of the *Institute*, p. 200.

These cases of Dorchester, Tewkesbury, and Sherborne,

further help us to understand another class of cases in which the usual arrangement seems to be reversed, where the eastern part is used as the parish church, and where the western part is destroyed. This is the case at Pershore and Boxgrove. I can find no documents in the Monasticon to explain the reason, but I imagine it to be this. The parishioners became possessed of the monastic part of the church, and as that was often the larger and finer of the two, they did not care to keep up their former parish church to the west of it. At Boxgrove there are distinct signs that there once was a separate church in the ruined nave, as there is the usual reredos, with its doors, carried up so as to make a partition wall. I take this also to be the explanation of the very extraordinary appearances at Llantwit Major in Glamorganshire, where to the west of the present church is a building, roofed but disused, which is known as "the old church," though it is certainly later in date than the part now in use. I can only take this to mean that it is the former parish church, which was disused when the parishioners obtained possession of the larger monastic church to the east of it.¹

We may now come to another exceptional case where the parish church was not at the west end of the monastic church, but at one side of it. I have remarked one very anomalous case at Waybourne; there is one easier to understand at Romsey. There the abbey church is now the parish church. I cannot find anything in the Monasticon about the way in which it became so; but I distinctly remember reading, probably in some local book, a deed of Bishop William of Wykeham, by which it appeared that the parish church of Romsey was then in the north aisle of the nave of the abbey church. The parishioners obtained leave to enlarge their church; the building bears witness to the way in which this was done. They built a double aisle to the north, which has since been pulled down. One can hardly doubt that, when the parishioners became possessed of the whole of the abbey church, they no longer cared to keep up this small addition, and so pulled it down.

But in cases when a church was divided between the

¹ See *Archæologia Cambrensis* for 1858, p. 37.

parish and a monastic or collegiate body, it sometimes happened that the corporate body dispossessed the parishioners. We have seen one case something to this effect at Sherborne. In the Preface to the seventh volume of the edition of Giraldus Cambrensis in the *Chronicles and Memorials* (pp. lxxx—xcix), I have collected the evidence for the fact that no less a church than Lincoln minster was, from its foundation in the time of William the Conqueror to the fourteenth century, a divided possession between the bishop and his chapter and a body of parishioners. Remigius founded his cathedral church in an existing parish church, exactly as the cathedral churches of Truro and Liverpool have been founded in our own time.¹ He of course rebuilt the church on a great scale, but the parishioners kept their right, and occupied the nave of the minster, or part of it. In the fourteenth century a dispute arose between the chapter and the parish, which was ended by common consent by the parishioners leaving the minster, and withdrawing to a separate parish church which was built for the purpose. This case of real divided possession in a cathedral church must be distinguished from cases like those of Ely and Norwich, where a parish has been allowed to occupy part of a cathedral church by some later arrangement. But I believe, though I cannot bring my evidence at this moment, that the occupation of the nave at Carlisle as a parish church was not a case of this last kind, but was a real case of divided possession. At Rochester again, I believe the parish held the nave, and that the parish church hard by was built instead, as at Lincoln. At Llandaff, St. David's, and Bangor, the cathedral church is also parochial. I do not know how the case stands legally; the architectural arrangements have differed at different times.

In other cases again the monastic or collegiate church was neither destroyed nor ruined nor added to the parish church. It was simply disused. Here comes the typical case of Dunster, the account of which is given in

¹ I see that it is the fashion in the newspapers to call the cathedral church of Liverpool the "pro-cathedral," a phrase which may be bracketed with "bishop designate." It is seemingly thought at

Liverpool that, because a church happens to be modern and ugly, it cannot have the formal rank of "*ecclesia cathedralis*."

Collinson's History of Somerset, ii, 18, and of which I have said something in the Transactions of the Somerset Archæological Society (1855, pp. 2—12). The church is a cross church with a central tower. Westward of the tower was a perfect church, with chancel and rood-screen, the latter reaching, according to local custom, right across the church, and approached by a turret in the outer wall of the south aisle. East of the tower was a second choir, fenced off by a second screen. To this the transepts and crossing formed a kind of ante-chapel. Nowhere in short were the arrangements of the class of churches so easily studied as at Dunster, up to the time of a very recent "restoration." The two churches, parochial and monastic, west and east of the tower, were absolutely perfect. The parish church, a perfect parish church, with its screened chancel, remained untouched, with its high altar under the western arch of the tower. The tower with the transepts on each side of it, formed a neutral space between the two choirs. "Restoration" has had its usual effect of wiping out history. The two churches have happily not been thrown into one, but the ancient arrangement has been altogether confused by taking the neutral space under the tower into the parish choir, and removing the parish high altar to the eastern arch of the tower instead of the western. There is thus no space left between the two choirs. The former arrangement, so lately destroyed, was the result of a dispute between the parishioners of Dunster and the monks of the priory there, a cell to the cathedral monastery of Bath. This dispute was settled in 1498 by a composition decreed by three arbitrators, Richard Bere, Abbot of Glastonbury, Thomas Tremayle, a judge, and Thomas Gilbert, a doctor of canon law. The parishioners were to make themselves a separate choir, taking, it would seem, the existing altar of Saint James just outside the roodloft as their high altar. This implies that, up to that time, the monks' choir had been the chancel of the parish church. But now the monks and the people made themselves separate choirs, east and west of the tower, leaving the tower itself free between the two. The words which concern us are :

"Quod vicarius modernus et successores sui vicarii habeant chorum separatum a dictis priore et monachis sumptibus et expensis parochianorum faciendum et erigendum, factum et erectum separandum, et quotiens opus fuerit de novo construendum, in nave ecclesiæ ad altare sancti Jacobi apostoli quod est situatum ex australi parti hostii quod ducit a choro monachorum in navem ecclesiæ."

Some regulations follow about processions, in which the two choirs are distinguished in a marked way,

"Cum dicti prior et confratres per medium *chori sui* euntes egredi incipiant hostium ex parte boreali *chori vicerii et parochianorum*."

There is much that is curious in the history of Dunster church which I leave to Mr. Maxwell Lyte. The above is enough for my purpose, to establish it as one of the best, till late changes the very best, example of a divided church.

Dunster, of which we have the history, gives the key to the church of Ewenny in Glamorganshire. Here, unlike Dunster, part both of the monastic and of the parochial church has been destroyed; but enough is left to show the distinction in the most marked way. The western limb of a cross church forms the parish church, fenced off by a solid reredos across the western arch of the tower. The monks' choir is fenced off by another open screen across the eastern arch, just as at Dunster. The transepts and the crossing are, as they once were at Dunster, neutral. Since the "restoration" of Dunster, Ewenny, unless that too has been "restored" out of its historical value since I was last there, remains the most perfect example of churches of the class.

In arguing this matter, I have been met at every stage with the objection that my instances are drawn from monastic churches, and that we cannot argue from them to churches of seculars. I must repeat that, for the purposes of the present argument, I cannot see any difference between the two. The relations between the parish and the corporate body differed in different places, whether that corporate body was regular or secular. As I before said, disputes and divisions were far more likely to arise in the case of regulars than in the case of seculars. We must therefore be prepared to find our monastic examples many, and our collegiate examples few. But I can see no difference of principle between them. Nor are we wholly without collegiate examples. I have already quoted the

case of Ruthin, where the choir has been destroyed, while the nave remains as the parish church, exactly as in divided monastic churches. Here is at least a presumption of divided possession between the college and the parish. The history of the collegiate church of Howden would, I suspect, throw some important light on the present matter. The choir is in ruins; I can find nothing about it in the *Monasticon*; but I distinctly remember having read—again most likely in some local book—that a case which must have been very like the case of Arundel was argued in a court of law in the reign of Elizabeth. The parish called on the grantee of the college property to repair the choir; this claim could have been made only on the ground that the college choir was the chancel of the parish church. The grantee refused; I can conceive no ground for his refusal, except that the choir was not the chancel of the parish church, but that it was an absolute possession of the college which had passed to him as the grantee of its property. Here was a question of fact, on which it would be dangerous to say anything without knowing the evidence on both sides. Either relation, would be perfectly possible; the question was which was the actual relation in this particular case. My story adds that, while the suit was pending, it was practically settled by the choir falling in, after which neither side thought it worth while to continue the litigation. I tell this only from memory; but it is a point on which I am likely to remember accurately, and the records can doubtless be found somewhere.

Another case which helps us is that of the collegiate church of Fotheringhay. Here in 1412 Edward Duke of York founded a college, endowed, as at Arundel, with the estates of alien priories. The choir seems to have been built by his father, Duke Edmund, who had designed the foundation of the college, but had not actually carried it out. In 1435 Duke Richard rebuilt the nave. The contract for the building is preserved, and the language used in it seems distinctly to show that the nave formed a parish church distinct from the collegiate choir. William Horwood, freemason, "graunts and undertakes to mak up a new body of a kirk joyning

to the quire of the College of Fodringey, of the same hight and brede that, the said quire is of." And throughout the contract the old building is spoken of as "the quire" and the new building as "the church."¹ The college property was granted in 1553 to John Dudley, Duke of Northumberland; the choir must have passed with it, for it was in ruins when Fotheringhay was visited by Queen Elizabeth. She, finding the tombs of the Dukes of York neglected among the ruins, caused their bodies to be removed into the church and new tombs to be made.²

These cases bring us to the immediate case of Arundel. I should myself, on seeing the choir stand perfect but disused, and knowing that the church had been collegiate, have inferred the history from the appearances. I should have inferred, without documentary proof, that the collegiate choir had been the absolute property of the college, and that it had, as such, passed to the grantee. I should have argued that the case spoke for itself, that the collegiate part of the church, which would most likely have been destroyed if it had been granted to a stranger, had been preserved because the grantee was himself the Earl of Arundel, the representative of the founder, who naturally cared for the tombs of his forefathers and for the buildings which they had raised. That is to say, I should, simply from the analogy of other cases, have assumed the claim which was actually made by the present Earl of Arundel and Duke of Norfolk. Without looking at a single document, the circumstances of the case, as compared with other cases of the like kind, were consistent with that view, and were not consistent with any other. I cannot understand how a parish chancel could come to be disused, unless it were liable to be destroyed. If the Earls of Arundel had been no more than ordinary inappropriate rectors, they could have had no right to cause the disuse of the chancel. Their business would have been to keep it in repair for use. On this theory a monstrous wrong had been done for three

¹ This argument would not be enough by itself, as in parish churches the "church" often means the nave, as opposed to the chancel. But the phrase, "quire of the college," seems to mark

distinct possession, and the destruction of the choir proves the case.

² See the account of Fotheringhay, published by the Oxford Architectural Society, p. 9.

hundred and thirty years, seemingly without any protest. The "onus probandi" undoubtedly lay on those who denied the duke's right.

But the documents which were produced at the trials placed the matter beyond a shadow of a doubt. They start from the foundation of the college of Arundel by Richard Earl of Arundel in 1387. This I may call the second college. It appears from Domesday¹ that at the time of the survey there were secular clerks in the church of Saint Nicolas at Arundel, who had certain dues in the port of Arundel and property elsewhere. These clerks must have given way to Benedictine monks at some time between 1086 and 1094. For the priory was a foundation of the famous Roger of Montgomery, Earl of Shrewsbury, lord of Arundel and Chichester, who made the new foundation a cell to the abbey of Seez of his own foundation. After the French conquest of Normandy, Arundel, as a dependency of Seez, became an alien priory, and underwent the usual ups and downs of such foundations. It was suppressed earlier than the most of its fellows, falling under Richard the Second and not living on to Henry the Fifth. Then the seculars came back in the form of the master and chaplains of Earl Richard's college. His deed of foundation sets forth that the late Earl Richard, his father, had designed to found three chaplains in Arundel church—"in ecclesia parochiali Arundell prioratu monachorum ordinis S. Benedicti, cella subjecta abbathie de Sagio alienigenae in partibus Franciae."² The deed also speaks several times of the "ecclesia parochialis," "parochialis ecclesia per quinque monachos monasterii de Sagio solita gubernari," &c. The elder Earl Richard then changed his mind, and designed to

¹ P. 22. In the first column we read of the tolls of the haven, "de hiis habet S. Nicolaus xxiiii solidos," and in the second column, is the name of Hertinges, "de hoc manerio tenent clerici de S. Nicolao vi hidas."

² The account of the second trial in the Times contained some amusing confusions. Among others, Earl Roger was turned into "an Earl of Arundel." His abbey of Seez was transferred to "*Sens* in France," a leap perhaps suggested by the words "in partibus Franciae," a true

description of Seez in 1387, though not so in Earl Roger's day. Moreover the Benedictine priory was turned into "a priory of St. Benedict," and was supposed to have been suppressed because it belonged "to a foreign order." A year before the Times had fancied that the Earls of Arundel in 1545 were Howards.

Is there any mind for which it is needful to explain that Earl Roger's abbey of Seez, now destroyed, was quite distinct from the cathedral church of Seez, which was standing in June, 1879?

found a college of priests and clerks in his own chapel in the castle. Neither purpose was ever carried out when he died. His son, the younger Earl Richard, was hindered by some difficulty not described from making the foundation in the castle chapel ("*quum idem collegium perpetuò dictà capellà infra castrum nequeat stabiliri*"). Considering then the desolate state ("*desolatio*," "*viduitas*") of the parish church, now that the monks from Seez had, on account of the wars, gone back to their own country, he determined to make his foundation in the parish church. Then arose the college of Arundel, "*Collegium S. Trinitatis Arundell*," instead of the priory. It consisted of thirteen chaplains, of whom one was Warden or Master ("*Custos sive Magister perpetuus*"), one Vice-Master ("*Submagister*"), a third Sacrist and Subchanter ("*Sacrista et Succentor*"). A Subchanter without a Præcentor seems a little anomalous. There were also some inferior members.

There is nothing in the deed of foundation to imply a division of the fabric, or to settle anything as to rights of ownership on the part of either college or parish in different parts of the church. The church is spoken of as one, "*prædicta ecclesia*;" we hear of "*cancellus*," "*magnum altare*," and the like, just as we should in an undivided church, but also just as we might in a divided church, if there was no special reason for insisting on the fact of division. There is nothing about the repair of the fabric at all. And, with a collegiate body, the question of divided or joint ownership might very likely not be stirred at all till some question arose about the liabilities to repair. In course of time such disputes did arise, and the next document distinctly shows that, at all events by the year 1511, Arundel had passed into the class of divided churches.

The document of that year is in some respects the fellow of the Dunster document of 1498, with this difference, that the Dunster document orders the division to be made, while the Arundel document rather implies that it is made already. This is an arbitration by which the two arbiters, Thomas Earl of Arundel and Robert Sherborn

¹ Was this any question as to the position of the chapel, which may well

have hindered consecration "*de solo ad cælum*?"

Bishop of Chichester, decide a dispute between the college and the parish ("major et burgenses ceterique parochiani villæ de Arundel") as to the repair of part of the church described as "*¶e crosse partes.*" These "cross parts" are the transepts and central tower. The dispute was:

"de et super reparatione et sustentione illarum partium ecclesiæ ibidem quæ vulgariter dicuntur '*¶e crosse partes,*' ducentes ab austro per mediam inter chorum et navem ecclesiæ usque ad boream una cum eodem medio et campanili supra illud mediam erecto campanisque ac ceteris omnibus et singulis rebus in eisdem existentibus et ad eadem pertinentibus."

Here the eastern limb is "chorus," the western is "navis." But the architectural "chorus" is not in 1511 the chancel of the parish church, whether it was so or not in 1387. Just as at Dunster, just as at Binham, there is a distinct parish chancel, only occupying a somewhat singular place, one different from that which it occupied at Dunster and Binham, but not very different from that which it occupied at Leominster and Blyth. When I was first at Arundel in 1853, the parish church with the parish altar was in the south transept. That this was no modern arrangement springing out of the dissolution of the college, appears from the document which we have now in hand. The arbiters decree:

"Quod onus sustentationis ac reparationis insulæ¹ australis dictæ ecclesiæ, quæ cancellus parochialis vulgariter nuncupatur, pertineat solum et insolidum ad præfatos magistrum et socios² et eorum successores in perpetuum. Et quod onus sustentationis ac reparationis alterius insulæ borealiter situatæ simul cum navi ecclesiæ et insulis ejus ad præfatos majorem, burgenses, et parochianos qui pro tempore fuerint, in perpetuum pertineat. Et insuper quod onus sustentationis ac reparationis illius mediæ partis quæ campanile vocatur, in pavementis, muris, columnis, singulisque dicti campanilis appenditiis tam intus quam extra, subtus quam supra, perpetuis futuris temporibus per dictes partes æqualiter supportetur et sustineatur."

Nothing can be plainer. There is a perfect parish church with its chancel, wholly apart from the choir of the college. The parishioners, according to universal custom, repair the nave and its aisles. The college, as rectors, repair the parish chancel; its unusual architectural position makes no difference; wherever placed, it is equally the parish chancel, the repair of which is borne by the

¹ The Latin *ala* became *isle* or *ile*, the older spelling; *aisle* is modern. *Isle* or *ile* is here translated back into *insula*.

² The *capellani* of 1387 seems by 1511

to have grown into the higher rank of *socii*. In the later documents both names are used.

holders of the rectorial tithes, that is, in this case, by the college. The north transept the arbitrators adjudge to the parish; the tower they make a common possession. One would like to know what the exact nature of the dispute was, and on what grounds the earl and the bishop came to their decision. In most cases, where the eastern limb has perished, the transepts have perished with it, showing that they formed part of the suppressed church. Here at Arundel the case was clearly otherwise. But this peculiarity does not touch the main point. Westward of the "chorus" or eastern limb there was in 1511 a complete parish church, following the ordinary law of parish churches, its nave repaired by the parish, its chancel by the rectors. Of the "chorus" itself nothing is said; it was out of the reckoning; whatever it was in 1387, in 1511 it had become a separate church belonging to the college, with regard to which the parishioners had neither rights nor burthens.

The force of the document of 1511 is rather to assume the division as something existing than to ordain it as something new. We may either take it as explaining the vaguer language of 1387, or else we may infer that the division took place at some time between the two dates. The main point is that in 1511 Arundel was a divided church, containing two choirs, in one of which, placed in the south transept, the college had the ordinary rights and duties of rectors, while the other, forming the eastern limb, the architectural choir, was the choir, the collegiate church, of the college, apart from the parish.

Each of the documents explains the one which comes after it. We now come to the document of 1545, bearing date December 12 of that year. This followed very closely on the Act of Parliament of that year, the first act for the suppression of colleges, that which simply gave the king power to suppress, while the act of Edward the Sixth two years' later absolutely suppressed those colleges which escaped under Henry. The college by this deed gives up to the king all its possessions of every kind. They are thus described, as far as concerns us now:

"Reddimus * * * totam cantariam sive collegium nostram prædictum. Ac etiam totum seitum, fundum, circuitum, ambitum vel præcinctum, ac ecclesiam, campanile, et cimiterium ejusdem cantariæ sive collegii, cum

omnibus et omnimodis domibus, edificiis, ortis, pomariis, gardinis, terra et solo, infra dictum circuitum et præcinctum cantariæ sive collegii prædicti."

Fourteen days later, December 26, the king grants all this to Henry, Earl of Arundel, in consideration of good services and of the sum of 1000 marks. The words which concern us are :

"*Damus et concedimus eidem comiti totum scitum, fundum, ambitum, circuitum, et præcinctum, nuper ecclesiæ collegiatæ sive collegii Sanctæ Trinitatis de Arundell in comitatu nostro Sussexiæ, alias dictæ nuper collegii sive cantariæ Sanctæ Trinitatis de vel in Arundell in comitatu nostro Sussexiæ, modo dissolutæ, ac etiam campanile et cimiterium ejusdem nuper collegii sive cantariæ. Ac etiam omnia et singula mesuagia, domos, edificiæ, structuras, horrea, grangeas, columbaria, ortos, pomaria, gardina, stagna, vivaria, terram, fundum, et solum, nostra quæcunque infra scitum ambitum circuitum et præcinctum dictæ nuper ecclesiæ collegiatæ collegii sive cantariæ prædictæ existentes, aut dictæ nuper ecclesiæ collegiatæ collegio sive cantariæ aliquo modo dudum spectantes sive pertinentes, ac parcellam possessionum et reventionum ejusdem ecclesiæ collegiatæ collegii sive cantariæ dudum existentes.*"

Nothing can be plainer than that the college here surrenders to the king, and that the king grants to the earl, something which is described as a church, "*ecclesia*," and which is further defined in the second grant as the "*collegiate church*,"—"ecclesia collegiata." What was the building which was thus granted? Clearly not the whole building which was doubtless, then as now, commonly spoken of as "*Arundel church*," and which might be even spoken of either as "*the parish church*" or as "*the collegiate church*," one of those names in strictness belonging to part of the building, and the other to another part. The college could have no right to surrender to the king those parts of the building which belonged to the parish, the nave, nave aisles, and north transept, nor yet the south transept or parish chancel, within which they had simply the rights and duties of rectors. The "*collegiate church*" which they surrendered could have been only those parts of the building which are left untouched in the award of Earl Thomas and Bishop Sherborn, those parts in which they had an absolute property, that is the eastern limb, the "*chorus*" of that document, the constructive choir namely, and the Lady chapel to the north of it. As a matter of fact, that is what they did surrender. These parts have ever since been the possession of the successive Earls of

Arundel, who have dealt with them as they thought good. As a matter of fact, those parts of the building did become their possession, a possession which was dealt with in quite another way from the parish chancel in the south transept. There the earl succeeded to the college in the ordinary position of a rector, a position involving a duty to keep up, but giving no right to pull down. But the "chorus," the "ecclesia collegiata," the grantee had a full right to pull down, a right which most grantees exercised freely. We may be sure that, if Earl Henry had done like most other grantees, if he had done as John Duke of Northumberland did at Fotheringhay, and had pulled down everything east of the tower, there would have been no dispute. It is simply because Earl Henry was less destructive than most of his class that any dispute has arisen. The course which he chose to take was the rarest of all. The commonest course was to pull down the monastic or collegiate part of the church altogether, but to sell or give it to the parish was, as we have seen, not very uncommon. Earl Henry did neither. He did not pull the collegiate church down, neither did he give it to the parish. He kept it standing, but disused. So unusual a course has been misunderstood, and people have fancied, though the existence of the parish chancel in the south transept should have taught them better, that the disused eastern limb was, what architecturally it seemed to be, the chancel of the parish church, and that the successive Earls of Arundel, in keeping that part of the building in their own hands, had been, for three hundred years and more, abusing their rights as lay rectors. But the award, the surrender, the grant, the transfer which actually took place, all hang together. Taken together, they show that within the building which in common language would be called "Arundel church," the college possessed in absolute property the "chorus," the eastern limb, that they surrendered it to the king, and that the king granted it to the earl. And to those who have studied this class of buildings there is nothing wonderful in the whole story. Or rather the only wonderful thing is that Earl Henry did not pull down the church which was granted to him. Had it been a church at the other end of England, which con-

tained the tombs, not of his own forefathers, but of the forefathers of somebody else, he would most likely have dealt by it as John Dudley dealt by Fotheringhay.

The only point of doubt is whether Earl Henry took quite all that the grant gave him. Along with the church and churchyard, the college surrendered to the king, and the king granted to the earl, the tower or *campanile*. Now in the first trial one of the counsel for the vicar treated this as a *reductio ad absurdum*, as if it was impossible that the tower of the church could be the duke's property. It seems to me by no means impossible that it may be so; the words of the grant seem to imply it. In the various cases which I have gone through, the central tower has sometimes been destroyed with the choir, sometimes left standing. When it was destroyed, it must have been the property of the corporate body, which therefore passed to the grantee, and a grant of the tower is not uncommon in such grants. At Waltham the central tower was destroyed, and the parishioners built themselves a new tower at the west end. At Wymondham and Tewkesbury the parishioners bought the tower of the king. Here at Arundel, the college and the parish clearly had a joint right, if not a joint property, in the tower. But most likely the freehold was in the college; the words of the surrender and grant imply it. But, if so, the property of the college, and afterwards of the earl, in the tower was a property subject to the parishioners' right of joint use. The tower therefore could not have been pulled down by the earl or taken to his sole use. But I suspect that the freehold of it belongs to the Duke of Norfolk.¹

I have found it argued on the vicar's part that the example of Dunster does not apply, because the ground plans of Dunster and Arundel are not exactly the same, and because the division between the two parts of the

¹ This view seems borne out by a curious passage in the award. "Proviso quod omnes et singulæ reparationes dicti campanilis nunc necessariae resarciantur et fiant citra festum Michaelis proximum futurum, ac quod dicti major, burgenses, et parochiani habeant pro interesse si velint unam clavem per quam possint reparationes dicti campanilis necessarias,

si velint, supradidere, ita quod, si id non facient, imputetur eis." This looks as if, though the parishioners had rights in the tower and bore a share of the cost of its repairs, yet the actual ownership of it was in the college. It was clearly not the parishioners who were actually doing the repairs.

church is not made in exactly the same way. I answer that, in the long list of examples which I have put together, we have many kinds of ground plans, and many ways of making the division. Several of the churches of which I have spoken are not cruciform churches at all. Dorchester, Llantwit, Fotheringhay, Waybourne, have ground-plans which have no likeness to those of either Dunster or Arundel ; but the division may be seen in all of them. At Dorchester and Fotheringhay it is a matter of distinct documentary evidence. The division was often made by a solid reredos ; it was so at Wymondham, Binham, Ewenney, Waltham ; but there is no reason to think that it was always so made. In some of the cases which I have gone through such a way of making the division is clearly impossible. It could hardly have been so at Dorchester or Fotheringhay ; and the division is much less likely to be so made in a collegiate church than in a monastery. Even when the part which the canons occupied was their absolute property, they had not the same temptation which the monks had to fence themselves wholly off from the parishioners. An open screen would serve their purpose just as well as a solid reredos. To my mind therefore it proves nothing, that the two parts of Arundel church, or the two churches, whichever we choose to call them, were divided by a screen and not by a solid wall.

I have looked specially to this class of churches for five and twenty years and more ; perhaps they have had a special charm for me, because nobody seemed to understand them. And the result of this examination was, before I made any reference to documents, to make me say with perfect confidence that the claim now made by the Duke of Norfolk was in strict analogy with a great number of undoubted historical examples. The appearances of the building were consistent with the duke's argument, and they were not consistent with any other. But it is satisfactory to find how completely the documents support my view formed without them, and to find two successive courts decide in accordance with the plain facts of history. To me of course the question is simply one of historical fact, where the only object is to find out what the facts are. I certainly have no satisfaction in seeing a church, or

part of a church, in private hands ; but the plain facts of history cannot be got over. Two Acts of Parliament, of Henry VIII and Edward VI, caused the property of the colleges and chantries, including in some cases the fabrics of churches, to pass into lay hands. Nothing but a repeal of those Acts of Parliament can take them away from their present owners.

I have two more remarks to make, one on each side. First, I can see no authority for the name "Fitzalan chapel," which has been given in modern times to the collegiate choir. I have shown that there is a good deal of laxity in the way of speaking of these buildings ; but the name "Fitzalan chapel" does not occur in the documents, and I can hardly conceive that such a name can ever have been in use. Secondly, I must protest against a late so-called "restoration" at Arundel, which, as usual, destroys the history of the building. I was there in April 1880, and found that the parish altar, which in 1853 still stood in its ancient place in the south transept, had been moved under the central tower, to the confusion of the whole story.