

ART. XI.—*Killington, Kirkby Lonsdale, its Chapel Salary.*
 No. 1. By the REV. CANON WARE, M.A.

Communicated to the Society at Seascale, September 25th, 1884.

A FEW months ago I had occasion to examine the contents of a bundle of old papers, placed in my hands by the Rev. R. Fisher, and belonging to the Chapelry of Killington, in this parish, to which my attention had been called first, some years ago, by the Rev. H. V. Thompson, then incumbent. I found that some of the papers were so much decayed as to be illegible, others were of small importance or interest; but the greater part related to an old lawsuit concerning the "Chapel Salary," payable at Killington, as in many of the ancient Chapelries in Westmorland. The course of this lawsuit was in some respects singular, and the papers themselves contained many curious and interesting details; I have therefore thought that it might be desirable to lay before the Society an account of them.

The curate of Killington, William Sclater,* claimed 5^s 10^d per annum from Joseph Baynes, senr., in respect of messuages and tenements or lands at Stangerthwaite; 2^s 8^d per annum from James Baynes, Stangerthwaite; 2^s 10^d per annum from Thomas Alexander, Longfellows at Fellside; 4^s 3^d per annum from Thomas Story, Bendrigg; 1^s 10^d per annum from Samuel Parrett, Grassrigg. All these were quakers, and resisted the payments for that reason.

The papers commence with an inquisition, indented and taken at the Moot Hall, in Kendal, January 11th,† 1696,

* So spelt by himself, but by others Slayter, or Slater.

† It must be remembered throughout, that the year then began on March 25th.
 before

before Allan Chambre, William Corke, and Robert Kilner, Esqrs., Anthony Saule and Charles Saule, gentlemen, by virtue of a Commission under the Great Seal of England to them and others directed for the due execution of a Statute, 43 Elizabeth, entitled, "An Act to redress the Misemployment of Lands, Goods, and Stocks of money heretofore given to charitable uses," by the oaths of Joseph Ward and thirteen others (whose names are given),

Who being duly returned impannelled and sworne according to the said statute and commission say upon their oathes that from the time whereof the memory of man is not to the contrary there hath bene and at this present is An Ancient Chappell always heretofore, and now kept in good repaire within the precincts of the Hamlett Townshipp or Chappellry of Killington in the Parish of Kirkby Lonsdale in the said County whereunto the inhabitants within Killington aforesaid did and doe usually resorte to heare divine service and sermons which time out of mind have been and now are duly performed by the curate of the said chappell for the time being. And the jurors aforesaid doe further say upon their oathes that from the time whereof the memory of man extends not to the contrary there hath bene and still is certaine Anuall sumes of money or rents customarily payd by the severall and respective owners and occupyers of the severall Messuages Lands and Tenem^{ts} or parcells of ground within the precincts of the Hamlett Townshipp or Chappellry of Killington aforesaid to the respective curate or curates of the said chappell for the time being commonly called the curate's wages or sallary att two days or feasts yearly and every year (to witt) at Lamas and the feast of the purification of the blessed Virgine Mary by eaven and equall portions. And moreover the jurors aforesaid doe further say upon their oathes that Thomas Story of Killington aforesaid yeom. for the space of Twelve years last past hath been and now is owner or occupyer of one Messuage and Tenement or Lands lying at Bendrigg in Killington within the precincts of the said Chappellry. The owners or occupyers of of which Messuage Tenem^{ts} and Lands lying at Bendrigg aforesaid have time out of mind used and accustomed to pay the yearly sume or Rent of four shillings three-pence p. Annm. to the curate or curates of the said Chappellry for the time being as parte of the said Curate's sallary or wages which yearly rent or sume of four shillings three pence p. ann. the said Thomas Story ought to have pay^d for these last twelve years last past to William Slayter clerke

who

who for these twelve years last past was and now is present curate of the said chappell And lastly the jurors aforesaid doe say and find upon their oathes that Thomas Story aforesaid for the space of twelve years last past hath detayned and not pay^d the said yearly sume or rent of four shillings three pence as above charged to the said William Slayter clerke. Altho' the said William Slayter clerke for the space of twelve years last past and upwards hath beene and now is curate of the said chappell of Killington lawfully and duly admitted thereunto by the proper ordinary and thereby is become lawfully intituled to receive the said yearly sume of four shillings three pence p. anm. soe due from the said Thomas Story for the said twelve years last past as aforesaid in consideration and in respect of his officiating as curate of and at the said Chappell of Killington in the County of Westmorland aforesaid for the time aforesaid.

There are similar documents relating to the cases of James Baynes, Joseph Baynes, sen., Thomas Alexander, and Samuel Parrett.

Interrogatories, or written questions appear to have been administered in the suit to old inhabitants and others. The following copy of one of the answers is preserved:—

Thomas Hebblethwaite of Killington in the county of Westmorland 56 years of age or thereab^{ts} sworne and examined deposeth and saith:

To the 1st interr. that hee knoweth and hath knowne the hamlett or Townshipp of Killington above 50^{ty} yeares and the Church or Chappell there that being the first place where hee went to schoole and whereunto the inhabitants of the said hamlett or townshipp did then and doe or may now resort (if they please) to heare divine service and sermons as by law establishd but how long since the Church or Chappel there was built or att whose charge this depon^t knowes not, but hath heard of sev'll ancient men above 80^{ty} yeares of age say that they believed it might be very neare 120^{ty} yeares since the same was made pochiall and this depon^t believes it cannot be * * * more since the same was consecrated the walls thereof in pte shewing the antiquity thereof.

To the second interr. he saith that dureing all the tyme of his remembrance and that hee hath been often informed by his this depon^ts father Mr. Robert Hebblethwaite whoe dyed abo^t 9 yeares agoe and was att the tyme of his death above 82 yeares of age and sev'all other ancient inhabitants of that age or neare thereunto in Killington aforesaid that during each of their respective remembrances there had beene a salary or stipend called Preacher * * *

Salary,

Salary anciently paid to the Minister or Curate for the tyme being of the Church or Chappell aforesaid by All the owners or occupyers of all the messuages lands and tenem^{ts} w^{ch} in the hamlett or townshipp there or the greatest part thereof (the owners of the Manor house and the demesne lands thereunto belonging called Killington Hall or Killington demesne only excepted whoe they believed gave the grounde whereon the said Church or Chappell is built and the Church or Chappell yard thereunto belonging for interrreing their dead therein and soe was and is exempted) on the first Sunday after Lammas day and the first Sunday after Candlemas day yearly by equal portions if neither of the said feast dayes happen'd on a Sunday w^{ch} if they soe happen'd then on those dayes and the Sundays next after either of the said feast dayes untill the tyme that the sect or p'fession of Quakers came into Killington aforesaid, And this depon^t further saith that the said Preacher wages or sallary are now payd by all the sev'all and respective owners or occupyers of the messuages lands and tenem^{ts} within Killington aforesaid or by their farmers or ten^{ts} except the Quakers whoe this depon^t believes have allways since Quakers denyed to pay the preacher wages or sallary due to the minister or curate for the tyme being out of their sev'all and respective messuages lands and tenem^{ts} in Killington aforesaid, Althoe this depon^{ts} father did and hee this depon^t doth believe that such Annual paym^{ts} were and are Ancient charges and incumbrances upon ev'y owner and owners of the sev'all and respective messuages lands and tenem^{ts} wthin Killington aforesaid And thus ev'y purchaser taketh soe to be except those people called Quakers, for hee this depon^t above 36 yeares agoe did see a deed of a mortgage of twoe Closes or pcells of lande pcell of a messuage and tenem^t wthin Killington aforesaid w^{ch} bore date in the fifth yeare of the Raigne of Kinge James the first and transcribed a copy of pte thereof by his said fathers order for a prsident wherein a modus in lieu of Tyth Corne and Preachers wages or sallary were therein menconed and certaine coven^{ts} therein betwixt the mortgager and mortgagee that in case the said mortgager did not redeeme the said closes or pcells of lande therein and thereby mortgaged then the said mortgagee should pay the modus therein menconed to the Parson of Kirkby Lonsdale in the said County yearly for ev. and the fourth pte of the Preacher wages wherewith the said messuage and tenem^t were charged wth all, And this depon^t further saith that about the yeare of our Lord 1666 (to the best of this depon^{ts} remembrance) being desired by one James Taylor a Carpenter whoe was and is a moderate Quaker and had then purchased of one Richard Hilton of Killington since dead a

messuage

message and tenem^t scituate lying and being att or neare Killington Church or Chappell aforesaid to draw him a deed for the same And the said James Taylor bringing the old writings (from the said Richard Hilton) w^{ch} belonged thereunto hee this depon^t founde an Ancient deed purporting to be made in the Raigne of Kinge Charles the first wherein and whereby the owner of the said message and tenem^t was charged to pay half a pecke of meale on (or ?) silver for the same yearly as a modus to the Parson of Kirkby Lonsdale aforesaid (to the best of this depon^ts remembrance in lieu of Tyth Corne and 12^d yearly thereout to the Minister or Curate for the tyme being of the Church or Chappell aforesaid, And hee this depon^t did draw a deed of the said message and tenem^t aforesaid for the said James Taylor and insert * * * * for the paym^t of the said modus yearly to the said Parson and the 12^d yearly to the Minister or Curate of the Church or Chappelle aforesaid for the tyme being according to the forme of the Ancient deed herein before for that purpose menconed And further saith that about the yeare of our Lord 1687 the said James Taylor being desirous to sell the same message and tenem^t againe did sell the same to one John Holme a Quaker and this depon^t did draw the deed from the said James Taylor to the said John Holme and inserted the like clause therein for the paym^t of the said modus and the said 12^d yearly in manner as aforesaid, but when the said deed came to be executed the said John Holme would not have the same executed unlesse that clause was putt out w^{ch} this depon^t was forced to raze the same out of the said deed hee had soe drawne, And this depon^t further saith that the said John Holme some little tyme after sold the said message and tenem^t to one Jno. Bradley a Quaker but before the sale thereof as this depon^t verily believes the said John Holme by the advice and pswasion of one James Baines a Quaker and one John Windson since turnd a Quaker and others of that pswasion destroyed or at least convayd the said old deed made in the said Raigne of King Charles the first, for this depon^t lately made search for the same amongst the writings of the said John Bradley of the message and tenem^t aforesaid and told the said Bradley that there was an old deed wanting w^{ch} belonged to his said message and tenem^t to w^{ch} hee replied there were all the deeds evidences and writings w^{ch} the said * * * Holme delivered to him the said Bradley or words to that effecte, And this depon^t further saith that if the inhabitants w^{thin} Killington should with hold * * * severall and respective Salleryes or Preacher wages due out of their sev'all messages there could not be y^t a year * * * tayne a Minister or Curate there.

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The decree of the Court in accordance with the Inquisition was given on June 14th, 1697. The original decree, in the case of Alexander, is preserved, signed, "Trevor Griffith," and there are copies of those in the cases of Alexander, Jos. Baynes, James Baynes, and Storey. The decree recites the Inquisition and its result; directs the defendants to pay the annual sums with arrears and costs; says that the payments are to be made by the owners or proprietors of the messuages, tenements, or lands; and in default of payment gives power to the Curate to enter and distrain.

Against this decree the defendants appealed, taking exception to certain points. In a paper labelled "Slayter v. Jacobum Baynes, Exceptions to the Decree of the Com^{rs} of Pious uses," James Baynes

Doth except and conceives and is advised by his Counsell that he is not nor ought to be bound by the said order and Decree made by the said Comn^{rs} as aforesaid for the causes and reasons hereafter following.

1st. For that att the time of issueing out of the said Comcon and taking of the said Inquisition there was a Bishoppe of Chester in whose diocese the said controversie did arise and that the said Bishopp and his Chancellour were not named Comn^{rs} therein and besides the subject matter of the controversie and matter in variance in this Cause is Foraigne to and not within the power or Cognizance of Comners of charitable uses

2^{ly}. For that the Jury that found the said Inquisition, or the said Comn^{rs} had not any reasonable grounds or sufficient evidence to prove that the said pretended Chappell was ancient or ever consecrated nor that there are or ever were any rents or sumes called Curates wages or sallary of right or duty demandable payable or paid out of or by the owner or occupyers of the messuages and lands in the Exceptants possession lyeing in Stangerthwaite as is found by the said Inquisition :

3^{ly}. For that the said Inquisition or Decree doe not sett forth how the said yearely rent or sume of two shillings and eightpence originally became due whether by deed or will or by whome made or when or what lands are chargeable with or lyable to the payments thereof soe that it does not appeare that the same was such a Guift Assignm^t

Assignm^t Limitacon or Appointm^t as was intended or can bee brought within the influence of the said statute and power of the Com^{rs} of charitable uses.

4^{ly}. For that this Exceptant saith that W^m Baynes this Exceptants Father about 46 years agoe did purchase part of the premisses of and from one James Baynes this Exceptants Grandfather and another part thereof this Exceptant purchased of and from one John Robinson of Kirkby Kendall about twenty years since And about thirty five years since purchased another part thereof from one Robert Hebblethwaite Gen. since deceased, soe much whereof as this Exceptant now is in possession of this Exceptants said Father held and enjoyed the same till the month of May One Thousand Six Hundred Eighty and Five att which time the said W^m Baynes this Exceptants Father for good consideracons conveyed the the same to him this Exceptant And this Exceptant saith that his said Father neither att the time of his purchase nor before had notice of the pretended Rent s^ume Rate or pretended Charitable use or any part thereof or any other such charged or chargeable upon the premises or any part thereof neither had this Exceptant any notice thereof att the time of his purchase thereof from his Father neither was the same ever payd by or demanded of this Exceptants Father d^uring the time he enjoyed it nor of this Exceptant since he became seized thereof untill the late execucon of the said Comicon or some very short time before And therefore this Exceptant doth insist upon the Provisoe contained in the said Statute of y^e 43^d of Queen Elizabeth and prayeth the benefitt thereof that his messuages or lands ought not to be impeached by the said order * * * *

5^{ly}. For that the said Jurors or Com^{rs} att the time of their respective finding or making of the said Inquisition or Decree had noe sufficient evidence that the said Rent or S^ume of Two Shillings Eight pence was att any time of right or by custome payable or was ever payd att all as a Duty if ever payd or if ever att all that the same was noe otherwise than of Courtesy and by way of Free and Voluntary Contribution and meere benevolence.

6^{ly}. This Exceptant saith y^t admitting the said Com^{rs} had a power to make any order or Decree touching the arrears or future payment of the said Rent or S^ume of Two Shillings and Eight pence as for the reasons aforesaid this Exceptant is advised they had not, yet the power of execucon of the said Decree can bee only executed by pro-cesse against the person for breach or contempt for non-performance thereof And the Com^{rs} cannot settle a Legall Interest in the Curate or his successors and invest him or them with a power of Distresse and thereby convert the p^retended payment of the said S^ume of Two Shillings

Shillings and Eight pence into A Rent charge of Inheritance and the said Com^{rs} have therein exceeded the Power delligated to them by the said Comcon upon the said Statute.

7^y. This Exceptant saith that the Com^{rs} have by their Decree charged the Exceptant with the payment of Eleaven Pounds costs to the said W^m Slayter whereas it appears not neither was it nor can it bee proved that the said W^m Slayter was att one shilling charge of the said Comicon Inquisicon or Decree or that the Com^{rs} had any power to Award the same.

8^y. This Exceptant saith y^t y^e said Comicon grounded upon the said Statute directed to the said Com^{rs} and in pursuance or by colour whereof they made their said Decree is not returned into the office of Petty Bagg of this Honourable Court as it ought to bee nor is any Certificate made upon the Back of the said Comicon or otherwise soe as it doth or may appear that the said Decree was made by Authority of the said Comicon or any other Comicon or Authority duely issuing pursuant to the Direction of the said Statute.

9^y. This Exceptant saith that the said Inquisicon is utterly uncertaine and voide for that it finds and the Decree chargeth two thirds of one Messuage and Tenem^t or Lands lying and being in Stangerthwaite whereof this Exceptant is owner or occupyer with the paym^t of the said yearly Sume but does not find as it ought positively whether the Messuage and Tenement alone or the Lands alone or both together or what particular Lands by name Abbuttalls contents of Acres or other discription are chargeable therewith, but have left it att large that the Messuages or some Lands of y^e Exceptants are lyable and the same ought to bee particularly ascertained for all which causes of errors manifestly appearing in the said Decree this Exceptant doth except thereunto And humbly prayeth that the said order and Decree may be reversed annulled and made void And this Exceptant and his Heirs and his said Messuages Lands and premises and every part thereof bee freed and discharged of and from the same and all Processe thereupon or by Colour thereof Issued or Issueing And this Exceptant may be dismissed with his reasonable Costs and Charges in this behalfe wrongfully sustained.

The other defendants made similar exceptions to the decree.

There is preserved the "Answ^r to Def^{ts} Exception : foul draught," in the case of Slayter *v.* Baynes, sen.

In it, after stating the case, Slater says the Exceptant Being duely serv'd with the said Decree under seale of this Honourable

able Court did not p'forme the same but for delay hath put in Excepcions thereunto which this Respond^t hopes this Hono^{ri}ble Court will not contenance but will consider of costs to be paid by the said Exceptant in respect thereof.

He states that in the former trial before the Jury and Commissioners this Exceptant

Did then by his Councill object aye and Crosse Examine the Wittnesses p'duced and sworne on the Repond^{ts} behalfe and urg'd whatever could be alledged ag^t the proofes made which plainly pvd y^e the Chappell was consecrated and of greate Antiquity, and that there then were and ever had beene Rents or Sumes called Curates Wages of right payable and duely paid by the respective Own^{rs} or Occupyers of Messuages Lands and Tenemts within the said Chappelry Exceptinge from some psons who are Own^{rs} or Occupyers of Messuages Lands and Tenem^{ts} within the said Chappelry comonly called Quakers who out of a pretended scruple of conscience or for some simyler cause have for some yeares past withheld and detein'd the same in which number the Exceptant is one of the Chief Ringleaders,

though it had been proved that the former owners of his property had paid them.

2. As to the second and third Excepcions this Respond^t saith that he cannot certainly sett forth how the s^d yearly sume of 5^s 10^d originally became due and payable whether by Deed or will or by whom made—but believes as he has beene inform'd by severall Ancient Inhabitants within the s^d Chappelry that at the time or soone after Consecration of the s^d Chappell an agreem^t was made by the then Inhabitants Owners and Occupyers of Messuages Lands and Tenem^{ts} within the precincts of the said Chappelry, that for and towards the maintenance and support of a Curate who from time to time should officiate as such and pforme the service att the s^d Chappell that A rateable Charge was laid upon every respective Message and Tenem^t and Lands w^{thin} the s^d Chappelry accordinge to the then value thereof, and by a voluntary and pious consent was established among them so as to charge their respective Estates with the paym^t thereof in such p'porcons as they were then severally rated and to descend to their heires chargeable with the s^d sevrall Sumes so rated as afores^d and also when any owners of Messuages Lands and Tenem^{ts} lying within the s^d Chappelry did convey such their respective Messuages Lands Tenem^{ts} the rateable Rent or Sume payable to the Curate of y^e s^d Chappell for y^e time beinge was
always

awayes charged and menconed as a due paym^t issuable thereout for ever and so has beene used and done from time immemoriall and is still used and done within y^e s^d Chappelry, and this Respond^t humbly hopes that such Customary paym^{ts} as aforesaid will fall within the Influence of y^e s^d Statute and power of the Comiconers of Charitable uses and therefore submitts to the judgement of this Hono^{ble} Cort therein And this Respond^t further saith that he cannot ascertaine the particular Lands by name Abbuttalls or Contents of Acres y^t the Exceptant is owner or occupyer of within the s^d Chapelry this Respond^t beinge onely directed by some old Rentalls wherby his predecessors the former Curates of Killington aforesaid did make their Collection, wherein the s^d Messuage and Tenem^t at Stangerthw^{te} enjoyed by the s^d Exceptant is charg'd with the said yearely Payment of 5^s 10^d to y^e Curate of the s^d Chappell for y^e time beinge.

The paper then deals with the sources from which the Exceptant Baynes had acquired his Estate, by inheritance, and purchase from one John Robinson; he believes and hopes to prove that Baynes had notice of the charge upon it, by reason of which there would be an abatement in the purchase money.

This Respond^t is thus rather induced to believe the same for that he has heard John Robinson aforesaid often say y^t while y^e s^d last menconed premisses were in his possession y^t there was a Sallery or Rent due thereout to y^e Curate of Killington afores^d for y^e time beinge which he order'd his Tenn^t or Farm^r of y^e prmisses to pay from time to time as y^e same became due, which he did, and the same was allow'd in paym^t of y^e Rent.

He believes that if the Exceptant would produce his deeds, it would be found that mention of this rent is inserted in the conveyance. But with regard to a property purchased from Bryan Walker,

It may be true the s^d Exceptant may not have and enjoy the whole Messuage Tenement or Land at Stangerthwayte which was formerly * * * by the s^d Bryan Walker for since the said Exceptant became a Quaker he has beene whether * * * or fraudulently with designe to deteine his s^d Rent or customary Sume from the s^d Curate and phaps, likewise to defraud the Rectors or Vicar of the parish Church of his Tythes and customary paym^{ts}, he has beene sometimes exchanging pticular Lands or Closes with one James Baynes

Baynes his Brother who has severall grounds which lye contiguous thereto, so y^t the Lands and Tenem^{ts} of the s^d Exceptant and the s^d James Baynes may be promiscuously till'd and enjoy'd together in Hotch pott nor can be discover'd but by the s^d Exceptant and his s^d Bro^r or one of them.

As to the seventh and eighth exceptions, he says :

That both himself and severall of his friends assisting him therein have beene att very greate charge expense and trouble in prosecuting this affaure against the s^d Exceptant whose chiefe designe as this Respond^t believes is to weary out this Respond^t by a tedious and vexatious suite, knowinge him to be but poore and not very fitt for trouble in lawe.

The next paper is the petition of Joseph Baynes, Senr., dated Oct. 24, 1699, to Sir John Trevor, Master of the Rolls. It is in a very decayed condition ; but it sets forth that on Feb. 21, [1698 ?] Baynes had filed his exceptions to the decree of June 24, 1697, that he had received notice that Slater intended by a Commission to examine witnesses the following Monday, that the inhabitants of Killington were in a combination against him, and most of them contributors to Slater's expenses, and that Slater had summoned them and several of the persons who were on the jury before ; and prays that he may have the carriage of the Commission instead of Slater. In the margin Sir J. Trevor orders that both parties attend on Friday, and meantime the Commission be stayed. According to the next paper the matter was heard by the Master of the Rolls on November 30, 1699, and he orders that Slater be at liberty to renew the Commission. Among the papers is a certified copy of Bishop Chadderton's grant of certain rights to Killington Chapel. The copy must have been obtained with a view to this stage of the trial, as it is dated October 26, 1699. I have copied it accurately, and am not answerable for the difficulties of expanding and construing it, or for the apparent errors of the certified copy.

Universis Christi fidelibus ad quos pntes Lræ nostræ pvenerint
seu quos infra script tangunt aut tangere poterunt quomodolet in
futur

futur Willmus Miseracone dinâ Cestriens. Epus Salutm in Authore salutis; ex parte comoran et Inhitan de Killington et Furthbancke paroïæ de Kirkbie Lonsdale nræ Cestrien Diæc, gravi querela et humili peticone nobis demonstrat, Q^d quum a dictâ Ecclia suâ poch per decem, novem, octo, septem et ad minus, sex mille passus ita possit et remot sunt, ut nec mortuor nec decedent corpora ad sepultura in dicta Ecclia paroch ferre possunt nec parvulos suos ad baptism portare sine magno tam anintæ quam corporis piculo nec ad dina audiend ac sacramenta et sacramentalia inibi prout Xianos decet ac de jure tenentur picipiend * * * * propter loci distantia aquaru inundacones et procell, tempo * * * * hiemal illis in partibus sæpe sævien sine eorum magnis sumptibus laborum molestiis et incomodis, ullo modo possunt in ea de re Ut in Capella quod scituat. infra territor Hamlett sive Domin de Killington Furthbank prd et vulgatr vocat Killington Chappell Dina celebrentur sacramenta ministrentur illis prd Inhitant ac oia quæ ad cultum dinum pertinent p Ministrum Curatum seu Cappellan idoneum eorum sumptu ac salaria conducend inibi fiant in tam amplis modo et forma prout in dict Ecclia paroch de Kirkbie jam fiunt aut fieri debent Licentiam et Facultatem nras concedere et imptire Dignaremur nobis humilr est supplicatum, Quo circa Nos Willmus miseracone Dina Cestriens Epus antedcus tam prdcæ Ecclie paroch de Kirkbie Lonsdale qm Capellæ de Killington præd. Ordinarius supplicen dict Inhitan de Killington et Furthbancke peticon * * * * ac eidem eo magis favena quod eam ad divini * * * * cultus decorem et incrementum tendere intelligimus, ut in dicta igr Capellâ vocat. Killington Chapell infra fines et limites hamlett sive Domin de Killington et Furthbancke scituat per quemcuq Ministrum Curatum sive Capellan idoneum et legtmum ac ltime ordinat authate nra seu sufficienter approbat de tempore in tempus sumptib et expens. dict Inhitan conducend Dina celebrentur Sacramenta et Sacramentalia ministrentur, Matrimonia solenizentur, Corpora Mortuor in eadem Capellâ seu Cœmiterio ejusdem, sepeliantur eademq licitè inibi audire et picipere, nec non iisd interee hamlet sive Domin prd Inhitan libere valeant et possunt, adeo liberè in tam ampiis modo et forma, put nunc aut nup in Ecclia de Kirkbie Lonsdale ead audire et picipere seu iisd interee tenebantur Tenore * * * * Liam et Facultatem quantum in nobis est, et quantum de jure possims pro Nobis et successoribus nris concedimus p. pntes, proviso * * * *

Vera est hæc Copia Licentiæ sive Facultatis saltem ejus quod superest, Licentiæ sive Facultatis Inhabitantibus de Killington et Furthbancke concessæ in Libro publico in Registro Domini Episcopi Cestriæ,

Cestriæ, scriptæ et relatæ, Collacone cum eadem Copiâ et Facultate in dicto Libro scriptâ, fidelr factâ hoc 26^o Octobris An^o Dni 1699^o.

Per me Hencum Prescott No^m Pub^m
Registrataii Deputatum.

There was some further obscure squabbling upon the question of the carriage of the Commission. I find instructions to Slater's counsel, dated December 7, 1699, to get the costs taxed and to oppose a further application of Baynes to the Master of the Rolls to take the carriage of the Commission from Slater and give it to himself. It appears that November 23rd had been previously agreed on by both parties for the examination of witnesses.

Which time Mr. Husband one of y^e Respond^{ts} Com^{rs} appointed as a convenient Time for himselfe, But he happening to Comitt Mrimony on y^t day and not giving ye Respond^t Notice of it, ye Respond^t attended with his witnesses, But Mr. Husband not coming ye Comicon was not executed.

It is added that

It is very well known y^t Excepcions are genrilly putt in only for Delay.

There is an affidavit of Slater's attorney, Josias Lambert, on the same matter. The costs were taxed by order of court on December 9th.

There is also preserved a rough draft of interrogatories to be put to witnesses on the part of Slater as against Baynes, when the Commission for examination of witnesses should be held in January, 1669, but it does not bring out any new feature in the case.

Then comes a curious incident in the story. The curate of Killington (who signs himself "William Sclater,") deposes on oath, February 5, 1699, that on January 18 he attended at Kendal the execution of a Commission, directed to Charles Rigby, Esq., Benjamin Whitehead, * * * Chambre, Esq., Wm. Husband gent. Commissioners appointed for examination of witnesses in a cause depending in the Petty Bag office of the court and was there arrested

at

at the suit of Charles Saule gent. for £150 (costs of the former Commission) and detained in custody to the very great disturbance of the execution of the Commission. And he instructs his counsel Mr. Pauncefoote to move for the arrest of Charles Saule, (who had been a Commissioner and Clerk to the Commission in the former enquiry), and of Nicholas Atkinson the bailiff, for contempt of court in arresting Slayter while attending the Commission. The Master of the Rolls orders their arrest in a paper dated March 2, 1699.

Slater then instructs his counsel to move to stay Saule's proceedings for debt; and Lambert (Slater's attorney) makes affidavit, June 18, 1700, that Saule (who is described as of Saulewood Hall, Westmorland, attorney) has absconded and cannot be found.

I do not understand clearly whether in arresting Slater Saule was acting in collusion with the Quakers, and trying to put obstacles in Slater's way; or whether he was only looking after his own pecuniary interests in the matter.

The next recorded step in the case is an order by the Lord Keeper of the Great Seal that the case of Joseph Baynes v. Will^m Slayter be set down for hearing on February 11, 1700.

Then follows the petition from Slayter to Sir Nathan Wright, Lord Keeper of the Great Seal. He sets forth the main facts of the case as before stated;

That y^e Exceptant who is a Quaker and sev^{ll} other persons of y^e same Perswasion out of a prtended scruple of conscience denyed to pay yo^r Peticon^r y^e yearely sums of money charged upon their Estates;

and recites the finding of the Commission of 1696 :

That y^e Exceptant having taken Exceptions to the s^d Decree y^e Cause came to be heard before yo^r Lordsp^p on y^e 7th of this Instant March and yo^r Lordsp^p was pleased to affirm y^e s^d Decree as to the arrears and growing paym^{ts} but Reversed so much thereof as Related to the Power of Distresse and Costs given by y^e Com^{rs} and as yo^r Pet^r apprehended Reserved the Cost^s of y^e Suite untill yo^r Lordsp^p should

see

see how y^e Decree would be complied withall. But as y^e Reg^r has taken y^e Minutes there is no mencon made thereof.

That if y^e Exceptant be secure from payment of Costs he will put yo^r Peticoner to all y^e Expence that is possible before he will comply with yo^r Lordsp^s Decree and in case he Refuses paym^t yo^r Peticoner must be forced to signe and Inroll y^e Decree and make out a Writ of Execucon thereof w^{ch} will cost yo^r Pet^r much more then all y^e Arrears and ye Growing Paym^{ts} are worth and after yo^r Peticoner hath prosecuted him to an Attachment he can have no more then £10 costs by y^e Course of y^e Court unless Costs of Suite are Reserved. Yo^r Peticoner therefore humbly Prayes that y^e Reg^r and All parties may attend yo^r Lordsp^s and that y^e s minutes may be Rectified and amended.

There are three copies of this, with the original which is signed by the Lord Keeper.

20 March 1700. Lett both sides with the Register attend me on the matter of this Petition the next day of Peticons whereof give notice forthwith. N. Wrighte. ls.

On March 31 (now 1701) the Lord Keeper gave his decision with respect so Slater's petition thus made. This paper is much damaged by damp and decay. But it appears that no one attended to oppose Slater's application, and it was ordered that Baynes

do pay unto y^e s^d Respondent his costs to be taxed by a Ma^r unless y^e s^d Exceptant upon Notice hereof to his * * * in y^e Pettibagg shall on y^e first day * * * next Terme shew unto this Court good Excuse to y^e contrary.

Lastly I find Slater's formal release to Joseph Baynes, dated 25th October 1701, and reciting the order of the Commission on June 14, 1697. Slater gives a formal receipt for £5 5s. paid to him for the arrears, releases Baynes from the costs of the suit, and relinquishes the power of distress given by the decree of the Commission, so far as he has power to do so. There are similar papers as to Thomas Storey and James Baynes, and drafts of the release with letters to Baynes and Storey annexed.

It is pleasant to find that the curate and his family reaped

reaped some benefit from his hardfought lawsuit. It appears from the Killington registers that William Sclater became "Clarke Preacher of Killington" in 1677. He was buried February 15th, 1724, and was succeeded by his son, another William Sclater, who retained the living till his death, December 20, 1778, father and son thus being in office during the long period of 101 years.
