

The Lay-Bishop of Dale.

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THERE have been several excellent and interesting articles on Dale Abbey in recent numbers of the *Journal*, from various different aspects, but no mention seems to have been made of one outstanding peculiarity.

The abbey was not merely exempt from episcopal jurisdiction, but its abbot had actually himself episcopal rights over the parish church of Deepdale.

Those few who understand the origin and history of lay-rectors will therefore not be surprised to hear that, when the abbey was dissolved, these administrative episcopal rights passed to the lay impropiator, who thereby became lay-bishop of Dale.

The parish church of Dale was a Peculiar, and its position as such involved not merely the well-known fact that weddings could take place there without banns, under presumptive license from the lay-bishop, but also the less-known one that an Ecclesiastical Peculiar Court existed, under the authority of which not only did these licences professedly issue, but probate of wills was granted. This is proved from a book presented to the Derbyshire Archaeological Society early in 1942, "Calendars of Wills and Administrations in the Consistory Court of the Bishop of Litchfield and Coventry, 1516 to 1652. Also those in the 'Peculiars' now deposited in the

Probate Registries at Litchfield, Birmingham and Derby, 1529-1652; 1675; 1790; 1753-1790. Edited by W. P. H. Phillimore, M.A., B.C.L., British Record Society, 1892." One of the entries is:

"Derby Probate Registry,

Calendar of original wills transmitted from the Peculiar Court of Dale Abbey, 1753-1790." (19 names follow).

It should be understood, of course, that probate was dealt with only by Ecclesiastical Courts until transferred to the newly set up Court of Probate in 1857. "By the 20 and 21 Vict. c. 77, called 'The Court of Probate Act, 1857,' all the jurisdiction and authority of the ecclesiastical courts, in respect of the granting and revocation of probates of wills and letters of administration in England, was taken from such courts and granted to a court holding its sittings in London, and called the court of probate." (Broom and Hadley's *Commentaries*, vol. III, ch. XV, p. 423).

This, and the fact that weddings took place at Dale without banns, has to be explained, if what is asserted here is contradicted, for no civil official could by any possibility have had the power in those days to sanction marriages, or grant probate. There must, therefore, have been some exceptional ecclesiastical authority, quite distinct from the manorial court, and the writer maintains that it was that of Lay-Bishop.

Canon 63 of 1603 ("Ministers of *exempt* Churches not to marry without Banns, or Licence") lays it down that "Every Minister, who shall hereafter celebrate Marriage between any persons contrary to our said Constitutions . . . under colour of any *peculiar* liberty or privilege claimed to appertain to certain Churches and Chapels, shall be suspended 'per triennium' by the Ordinary of the place where the offence shall be committed." (writer's italics).

It is therefore clear that the Ordinary of Dale was not

the bishop of the diocese, or the ministers would have been suspended. Again, Canon 101 complements this by saying, "No faculty or licence shall be henceforth granted for solemnization of Matrimony betwixt any parties, without thrice open publication of the banns . . . by any person exercising any ecclesiastical jurisdiction, or claiming any privileges in the right of their churches; but the same shall be granted *only by such as have episcopal authority*, or the Commissary for faculties . . . or *Ordinaries exercising of right episcopal jurisdiction* in their several jurisdictions." (writer's italics).

These canons are held by all church lawyers to be enforceable against the clergy, so the only possible explanation of the numerous and regular weddings at Dale, recorded from 1667 onwards (when these canons were not merely enforceable, but enforced), is that Lord Stanhope had episcopal authority, and was an Ordinary "exercising of right episcopal jurisdiction," within his Peculiar of Dale.

All Peculiars, other than royal ones, have been practically abolished for purposes of jurisdiction, which explains how it is that marriage licences from the lay-bishop have ceased to issue; they were deprived of their powers by Acts of 1840 and 1847. "Sec. 10 and 11 Vict. c. 98, and the continuing Acts, and 3 and 4 Vict. c. 86 s. 22." (Anson's *Law of the Constitution*, pt. II, ch. IX, Sect. 3, § 1).

The Church Discipline Act of 1840, for example, gave the bishop of the diocese power to act against clergymen of exempt or peculiar churches in such respect, notwithstanding their exempt position.

What is set out here was contested in the course of an article in the Derby Diocesan Magazine of January, 1931, to which this writer sent a short answer. This produced a rather *ex cathedra* contradiction from the author, but the detailed defence sent in reply was not published, and so

the case apparently went by default. Some of this, however, was printed in the "Notes and Queries" column of *The Derbyshire Advertiser*, on 31st July, 1942, in view of the emergence of new evidence, and, as the *Journal* seems hardly the right place for mere controversy, this note has been confined to a simple statement of the facts, which does not mean that argument in support is lacking.

There is, of course, the memorial tablet on the north side of the chancel to an Earl Stanhope which is as follows:

Sacred
to the memory of Philip Henry
Earl Stanhope
of Chevening in Kent
Lord of this manor
and
Lay Bishop of this church
who died March 2, 1855
aged 73 years.

This tablet is erected by the Parishioners of Dale Abbey.

There are two points to notice:

1. A careful distinction is drawn between his two functions of Lord of the Manor and Lay Bishop of the church.
2. The tablet is erected by the parishioners, not by his tenants.

In fact the inscription is accurate and careful, and must have been drawn up with competent advice—it bears the stamp of some well-informed draughtsman.

There is also a chair on the south side of the chancel, of the armed variety, which has always been spoken of in the parish as "The Bishop's Throne." This chair stands at the eastern end of the chancel stalls, and thus is in the exact position of the throne in every one of our ancient cathedrals. The only exception to this is at Ely, where there is no throne at all, the bishop occupying the

principal stall, in succession to the abbot, and the dean that of the prior. A great deal of misconception exists on this point, and, although in our own cathedral at Derby it has been necessary to set the throne to the north of the altar, owing to lack of space, it is to be hoped that this will not be perpetuated when the eastern extension is carried out. It may be true that this is done in some small French cathedrals, and is in keeping with the Roman rule, but the English tradition is clean contrary to such a position, and in this respect happens to be in exact accordance with that of the Eastern-Orthodox Church.

For the bishop's chair within the presbytery is a thing quite separate from his throne, and should only be used in his cathedral when he is himself Celebrant at the Eucharist, just as the *sedilia* are used by the sacred ministers. In a parish church he must needs sit there, of course, because there is no other place.

In the Orthodox East there is always a throne for the bishop on the south side of the *Naos*, outside the *thysiasterion* or "altar," as the presbytery is called; and, when there are stalls for his synod, these run to the west of the throne, as in an English cathedral. But within the altar (i.e. presbytery) is placed a chair without canopy behind the Holy Table, facing west, where he sits as Celebrant only, flanked by his holy synod. The canopied throne outside is called *thronos*, while the chair inside has the name of *synthronos*, as there he sits in company with his co-celebrants.

This is the origin of the chair to the north of the altar; for the very strong English tradition of a square east-end, with the altar set against the eastern wall, necessitated this position, the *sedilia* opposite corresponding to the subordinate stalls around the apse. But remains of the earlier arrangement still exist at Norwich; and St. Augustine's chair at Canterbury, which can be moved about, should normally stand behind the High Altar.

We have, then, at Dale the lay-bishop's throne (a very humble one) in the exact position we should expect it to be found in, which should have been occupied by him—just as a lay-rector should use the rector's stall, being entitled by law to "the principal seat" in the chancel.

Everything tallies with this—the church was a Peculiar, exempt from the jurisdiction of the bishop of the diocese; its lay-bishop had his throne set in the ancient usual place; his Ecclesiastical Peculiar Court, through his registrar, granted probate of wills, and marriage licences were held to issue from it, the clergyman there being taken to be the lay-bishop's surrogate; alterations to the fabric could only be made with his consent, corresponding to a faculty; and the perpetual curate was appointed by him without any reference to the Bishop of Lichfield.

At the time when all this was in force nobody would have dreamt of denying him his title of lay-bishop, but when it passed away, and was forgotten, what more natural than for the uninitiated to think the church was a "private chapel?" In reality, what happened was this. All Peculiars, except the Royal ones, were practically abolished, as has been said; Dale would then become a donative benefice, and although the Bishop of Lichfield should at once have claimed jurisdiction, and insisted upon the right of visitation, and the subjection of the building to his Consistory Court for Faculties, the perpetual curates appointed would still not be presented to the bishop of the diocese for licence by him. Then came the Act of 1898, which transformed all donative benefices into presentative ones. Bishop Ridding, of Southwell, should at that time have seen that, at the next vacancy, the patron's nominee should be presented to him for his licence to the perpetual curacy. But he did not do this, and so, as people did not properly understand the position, the presumption grew up that the building

was private, and so the popular idea of "private chapel" arose.

The same thing happened in the case of other donatives, which had never been peculiars, within the writer's knowledge, and, no doubt, whatever small endowment there may have been would be paid through the estate, and probably supplemented, and so come to be looked upon as entirely a private payment out of the patron's pocket.

But an ecclesiastical parish cannot be served by a private chapel; and does anybody suggest that Dale is not an ecclesiastical parish, or that the church and its graveyard are not consecrated? Church burials could not have taken place in unconsecrated ground, and the act of consecration of itself removes the land from private ownership and makes it Church property—in other words, what is consecrated cannot be private property. (See Blunt and Phillimore's *The Book of Church Law*, page 311 in the Edition of 1872).

So that weddings normally taking place in the church, and funerals in the churchyard, together with the existence of a book of registers, are enough to prove that Dale is by no means a private chapel, nor its minister a chaplain, but on the contrary its incumbent. As recently as 1891 it is spoken of as "the little parish church of Dale," and it had its parish clerk, perpetually mentioned by that title. Indeed, so conscious was he of his ecclesiastical office as such, that for a period prior to *c.* 1750, there being no minister, he actually took upon himself to perform the marriage ceremony. Whether such weddings would have been held to be really valid, if contested, it is not for the writer to say, but it does shew that he considered himself to be in minor orders (as indeed he was), and equivalent to a sub-deacon, and some would say that such an act was no more reprehensible ecclesiastically than for a deacon to do so, although the latter act is perfectly lawful.

This very slight and scrappy article has been contributed for a practical reason rather than an academic one. For, if the impression that the parish church of Dale is a private chapel should be allowed to take root, the outcome some day might be very serious.

Imagine the position if, at the present Lord Stanhope's death, his executors professed to sell it, with what remains of the estate, to a land speculator! If the sale was unchallenged, he might then charge a rent for the use of the church, make visitors pay for admission, let it get out of repair, or, on the other hand, do serious damage to the fabric from the archaeological point of view; while, if he had other religious convictions, he might transfer it to the use of another religion.

It is, then, of vital importance that its true position should be insisted upon, and that no interference with the fabric of so really unique a building should be tolerated until the archaeologists (and what is more, the ecclesiologists) not of Derbyshire only, but of the whole of England, should have had full opportunity to say their say.