

Chancel Repair Liability: Working Party Report December 18th 2012

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Summary

A working party was set up to investigate Chancel Repair Liability for St John the Baptist Church. The approach was to follow research guidelines published by offices of dioceses and solicitors. Searches were made of National and Local Archives together with House of Lords Records to gain relevant information from Tithe Apportionments and Maps, Acts of Parliament including the Somersham Rectory Acts, Chancel Repairs Act and Record of Ascertainments together with Minutes of the Parochial Church Council.

From these studies it has been established that the 'Lay Rectory' of the Somersham Church was held initially by the Regius Professor of Divinity of Cambridge University and subsequently by The Chancellor, Masters and Scholars. These Lay Rectories were responsible for repairing the chancel. In 1934, a specific Rectory Act repealed the Lay Rectory of Cambridge University and terminated its liability for chancel repairs. In addition, copy of a 'Record of Ascertainments' for the Somersham tithe district shows that all of the rentcharges for the parish were redeemed and also ceased to be subject for chancel repair liability. We, therefore, conclude that there is no liability for repair of the chancel by any lay persons who have ownership of former rectorial land in the parish of Somersham.

Background

The purpose of the working party has been to establish whether there is a liability by any institution or individual(s) for financing the repair of the chancel of the Somersham Church of St John the Baptist. Articles prepared by several dioceses on Chancel Repair Liability recommend that the first step in the process is to determine if there is a 'Lay Rector' (not a spiritual rector), who has a legal obligation to meet the cost of repairs to the church chancel. This type of liability has existed since before the Reformation. It arose as the result of ownership of glebe land by the rector of a parish or his entitlement to tithes. During the 'Middle Ages', many benefices were acquired by lay people. Ownership by a lay rector of benefice property entitled him to the income of the rectory land, but such ownership also carried with it the burden of repairing the chancel of the parish church.

The Lay Rectory of St John the Baptist Church, Somersham

In 1540, Henry VIII founded five Regius Professorships including one of Divinity who became attached to Trinity College on its foundation in 1546. During Tudor times, inflation eroded the value of the stipend of the Regius Professor. As compensation James I annexed the rectory of Somersham to the Regius Professor of Divinity in 1605. This status prevailed until 1882 when the exceptionally large income of the professor was reduced through an Act of parliament, known as the Somersham Rectory Act 1882 (see Financial History of Cambridge University, 2012).

The 1882 Act removed the Rectory of Somersham from the office of the Regius Professor of Divinity and gave it to the University of Cambridge. Clause 9 of the Act states

*'After commencement of this Act the chancellor, masters, and scholars shall out of the tithes, rents, profits, and emoluments of the rectory pay all expenses, charges and other outgoings, **including the costs of repairing the chancel of the parish church of Somersham,***

Responsibility for chancel repair remained in the hands of Cambridge University until 1934 when a further Act of Parliament (Somersham Rectory Act, 1934) transferred this duty to the incumbent. In this Act clause 4-(1) states

'On the date of transfer the Rectory and all the estate and interest which the University shall have immediately before the date of transfer in the churchyard and chancel of the parish church of Somersham shall without any conveyance thereof or any assurance in law other than this Act and without payment therefor become and be by virtue of this Act vested in the incumbent who shall thereafter be styled and designated the rector of Somersham.'

In addition, clause 4-(2) clarifies the position on chancel repair liability by stating

As on and from the date of transfer the liability of the University for the repair of the chancel of the parish church of Somersham.... shall pass to the incumbent ...'

From a search of records in local archives, it appears that Cambridge University spent very little money on the chancel. Parochial Church Council (PCC) minutes of Feb 30, 1930 and Oct 6, 1932 note that repairs were made to the church roof. They do not clarify which part of the roof was in need of repair. Finance for the repairs came mainly from fund raising events of the parishioners. However, a single reference (PCC minutes Feb 20, 1931) provides a record of the vicar having written to the University of Cambridge requesting payment (£7) for the cost of distempering of the chancel walls.

Responsibility of the Parochial Church Council

Another relevant Act is the Chancel Repairs Act, 1932. This Act abolished the jurisdiction of ecclesiastical courts to enforce repairs to the chancel. The power to enforce liability through defined legal proceedings was given to the '*Parochial Church Council*' as the '*Responsible Authority*'. Guidance notes on Chancel Repair Liability by Fussell Wright (2011) emphasise that the PCC are trustees and thus have a duty to protect the rights of the incumbent of the Church to receive funds for major renovations and repairs of the Chancel. The article comments that English Heritage which can provide funding for church repairs has a policy that funding will usually be provided only where the PCC has exhausted their own means to raise funds.

Present-day liability for chancel repairs

Since the University of Cambridge is no longer accountable for chancel repair, the next step in the research of the working party was to examine whether owners of former rectorial land have any liability. A useful guide on searching such liability has been prepared by The National Archives. The guide indicates that the Records of Ascertainments will show the likelihood of liability for chancel repairs of a given property or land.

Hitherto liability for chancel repairs was regarded as particularly attached to tithes and tithe rentcharges. But the Tithe Act of 1936 was designed to abolish tithe rentcharges. Consequently, the extinguishment of tithe rentcharges would also have led to the loss of liability for chancel repairs. To overcome this problem the Commissioners, who were responsible for putting into effect the Tithe Act of 1936 prepared Records of Ascertainments. These records show the liability for each plot of land in 1936 based on the tithe rentcharge. This was done for every parish church in the country.

We have acquired a copy of the Record of Ascertainments for the 'Chancel of the Parish Church of Somersham (St John Baptist)'. The original document is held in The National Archives and records the tithe distribution not only in Somersham, but also Colne and Pidley cum Fenton. The document (see copy below) states

Chancel of the Parish Church of Somersham (St John Baptist)

The Tithe Redemption Commission have ascertained in relation to the above-named Chancel that –

- 1. Liability for repair of that Chancel attached to the ownership of tithe rentcharges agreed or awarded in the above-named districts on the original communication of tithes under the Tithe Acts, 1836 to 125, amounting in aggregate to £1,555----12s-----d.*
- 2. Each of those rentcharges was redeemed under the Tithe Acts 1836 to 1925, or ceased before the second day of October, nineteen hundred and thirty-six, to be subject to liability for the repair of that Chancel.*

It is clear from the second statement of the Record of Ascertainments that present owners of land that were formerly part of the proprietary interest of the Rector of the Somersham Parish are not liable for the costs of repairs to the chancel.

Finally, according to the guidance notes of the National Archives, there are situations where liability may exist but is not documented in the 'Record of Ascertainments'. For example, a landowner may also have been the tithe-owner. Curiously, such an individual was effectively liable to pay tithes to himself. This anomaly was usually resolved by merging the tithe rentcharge in the land and thereby extinguishing the liability to pay tithes by virtue of being entitled to receive them. Ownership of land merged with tithes, however, may continue to carry a liability for chancel repair. To-date, we have been unable to find any record of 'tithe-land mergers' for the parish of Somersham in the on-line catalogue 'TITH 3' of the National Archives or within the Ministry of Agriculture and Fisheries records of Altered Apportionments of 1922 and 1930.

Conclusion

The conclusion of the working party is that there is no liability for chancel repairs of St John the Baptist Church that can be linked to the present ownership of any land in the parish of Somersham that was formerly rectorial land.

Position of the Parochial Church Council

1. This document of the working party was approved by the Parochial Church Council at a meeting held on Monday 18th February, 2013
2. In accepting the conclusion of this report, the Parochial Church Council acknowledges that there is no case for registering a liability on the titles of land in the Parish of Somersham at the Land Registry. It should be noted that the closing date for registration of an interest by the Parochial Church Council is September 30th, 2013.

Acts, Records and Guidance Notes

Chancel Repairs Act (1932) [22 Geo.5 Ch.20] website link:

<http://www.legislation.gov.uk/ukpga/Geo5/22-23/20/contents>

Chancel Repair Guidance Notes (2011) Fussell Wright Aug, 2011 website link:

<http://fussellwrightsolicitors.co.uk/blog/post/chancel-repair-liability-guidance-notes>

Chancel repair liabilities in England and Wales (2012) The National archives website link:

<http://www.nationalarchives.gov.uk/records/research-guides/chancel-repairs.htm>

Financial History of Cambridge University (2012) by Robert Neild Financial Infancy and Reform

Pub: Thames River Press, pp 1-18

Somersham [Huntingdon] Rectory Act (1882) p.p. 1-6 Parliamentary Archives, House of Lords

HL/PO/PU/1/1882/45&46V1n268

Somersham [Huntingdon] Rectory Act (1934) [24 Geo 5] p.p. 1-11 Parliamentary Archives, House of

Lords HL/PO/PB/1/1934/24&25G5cxv

Somersham Parish Church Minutes (1922-1938) Minutes of the parochial Church Council

Huntingdon Library and Archives, Cambridgeshire County Council HP/77/8/5/2

Record of Ascertainments (1948) Tithe Districts: Colne, Pidley cum Fenton, Somersham. The National Archives, Kew

Tithe Apportionments and Maps.

37A Apportionment and plan (6,C; town: 2; surveyor Joseph Jackson, March) 1838 37B-C

Huntingdon Library Archive

Plan of the Titheable Lands in the Paish of Somersham (1841) Feoffees Archive at St John the Baptist church, Somersham

Altered Apportionment of Tithe Rentcharge Under the Tithes Acts 1836 to 1918 MAFF Feb 1922

Huntingdon Library Archive reference 37B-C Altered apportionment and plan (2, C only with plan) 1922

Altered Apportionment of Tithe Rentcharge Under the Tithes Acts 1836 to 1925 MAFF May 1930
Huntingdon Library Archive reference 37D-F Altered apportionment and plan (3,D only with
plan) 1930

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TITHE ACT, 1936.

Section 31 and Seventh Schedule.

Record of Ascertainments.

CHANCEL OF THE PARISH CHURCH OF Somersham (St. John Baptist)

COUNTY Huntingdon

TITHE DISTRICTS $\left\{ \begin{array}{l} \text{Colne} \\ \text{Pidley cum Fenton} \\ \text{Somersham} \end{array} \right.$

The Tithe Redemption Commission have ascertained in relation to the above-named Chancel that—

1. Liability for repair of that Chancel attached to the ownership of tithe rentcharges agreed or awarded in the above-named tithe districts on the original commutation of tithes under the Tithe Acts, 1836 to 1925, amounting in the aggregate to £1,555----12s.----- d.

2. Each of those rentcharges was redeemed under the Tithe Acts, 1836 to 1925, or ceased before the second day of October, nineteen hundred and thirty-six, to be subject to liability for the repair of that Chancel.

IN WITNESS whereof the Official Seal of the Tithe Redemption Commission has been hereunto affixed this *nineteenth* day of *January* nineteen hundred and *forty-eight*



A. R. Lubbock

AUTHORISED BY THE COMMISSION.

Form No. 285A.

(S.O.5177) Wt.P.2890/307 7,000 (2 sorts) 12/38 C.T. Gp.680