THE PARSON'S FREEHOLD

RUPERT BURSELL, Q.C., LL.B., M.A., D.Phil.
Circuit Judge, Clerk in Holy Orders
Chancellor of the Diocese of Durham

At our annual conference next March the proposed topics for discussion are the parson's freehold and clergy discipline. Although it will necessarily touch upon the latter, this article is primarily concerned with the parson's freehold. It is an attempt to consider some of the ramifications of that freehold now that it is a subject once more to be debated by the General Synod. I do not intend to reach any conclusion as to whether or not that freehold should be abolished[1] or, indeed, as to what should replace it if it is. Rather, I would seek to raise questions that should be considered within the legal sphere whilst that debate continues. In so doing, however, I am only certain of three things: first, that the parson's freehold cannot be considered in isolation; second, that it is essential before anything is abolished that careful stock is taken of what actually is being abolished (otherwise the consequences may be other than intended); and third, that equal care must be given to what, if anything, should replace it. Underlying all this is my own conviction that the law is a framework to regulate a society, in this instance the Church. It may be a bastion to protect the weak or it may be a tool misused by the strong but in the last analysis, once others have decided that it should be altered, the lawyer's duty is to advise and then to implement. There is nothing immutable about the ecclesiastical law.

1. WHAT IS THE PARSON'S FREEHOLD?

(a) *Generally*

On his institution an incumbent becomes responsible for the cure of souls committed to him, whereas on his induction he becomes invested with the temporal part of the benefice.[2] According to Gibson,[3]

> After institution, the Clerk is not complete incumbent, till induction, or, as the Canon-Law calls it, Corporeal Possession. For by this it is, that he becomes seised of the Temporalities of the Church, so as to have power to grant them, or sue for them; by this, he is unexceptionably entitled to plead (as occasion shall require) that he is Parson Imparsonee; and by this also, the Church is full, not only against a common person (for so it is by Institution) but also against the King; and by consequence, it is compleatly full, and the clerk is complete Incumbent or Possessor. On which Accounts, it is compared in the Books of Common Law to Livery and Seisin, by which Possession is given of Temporal Estates. And what Induction worketh in Parochial Cures, is effected by Installment into Dignities, Prebends, Etc. in Cathedral and Collegiate Churches.

Thus, for example, after induction the incumbent has the right to maintain an action for trespass to the glebe; he also becomes entitled to all the profits and

1. If the parson's freehold is abolished, should the similar protection afforded, for example, to cathedral canons also be abolished?
2. Revised Canons Ecclesiastical, Canon C11, para. 1; 14 *Halsbury's Laws of England* (4th ed., 1975), para. 850.
3. *Codex Juris Ecclesiastici Anglicani* (2nd ed., 1761), p. 814-815.

emoluments.[4] He, therefore, has 'a freehold office and [is] entitled to the freehold of the church'.[5] Hence the expression 'the parson's freehold'. Nevertheless, this freehold is not absolute:[6] it is only held until death or until the benefice is legally vacated by him.[7] Moreover, it entails obligations of its own,[8] including residence.[9]

(b) *Avoidance*

Burn[10] describes the ways in which a benefice is avoided as –

1. Death;
2. Resignation;
3. Cession,[11] or the acceptance of an incompatible benefice;
4. Deprivation; and
5. Act of law (as in the case of simony).

To these must now be added –

6. Declaration of avoidance, if an incumbent refuses or fails to resign after proceedings under the Incumbents (Vacation of Benefices) Measure 1977; and
7. In certain circumstances under a pastoral scheme.[12]

For present purposes it is unnecessary to go into all these in any detail but it is important to recognise that the obligations of the incumbent are implied in a number of them, especially in the law as to resignation. In *Attorney-General v Pearson*[13] Lord Eldon, when drawing a comparison between the position of an Anglican Minister and a Protestant Dissenting Minister, said:

> 'The policy of the Established Church has been, by giving the Minister an estate for life in his office, to render him (in a certain degree) independent of his congregation.'

Moreover, a number of clergy would add 'and independent of his bishop'. Nevertheless, this emphasis on independence, if it is left to stand alone, is too one sided. Indeed the Paul Report[14] concluded:

---

4. See Cripps, *The Law relating to the Church and Clergy* (8th ed., 1937) p. 279. In the days when tithes were important the incumbent had the right after induction to take the tithes and to sue for them if necessary.
5. *Kirton v Dear* (1869) LR 5 CP 217 at 220 *per* Bovill, C.J.
6. According to Phillimore, *Ecclesiastical Law* (2nd ed., 1895), p. 373, quoting Serjeant Stephen, 'it is an estate *per autre vie*'. It has also been suggested that the incumbent has a life interest and the fee is in abeyance (see *Rector and Churchwardens of St. Gabriel, Fenchurch Street v City of London Real Property Co. Ltd.* [1896] P. 95 at p. 101; *Re St. Paul's Covent Garden* [1974] Fam 1 at 4). However the better view seems to be that 'the corporation sole possessed a qualified fee to which special restrictions attached, and which was in abeyance only when the office was vacant': see Robert Megarry and H.R.H. Wade, *The Law of Real Property* (5th ed., 1984), p. 52. See, too, *St. Edmundsbury and Ipswich Diocesan Board of Finance v Clark (No 2)* [1973] 3 All E.R. 902 at 911e. Section 180(2) of the Law of Property Act, 1925, gives a right of disclaimer over interests, etc. vesting during the vacancy: (cp) *Holden v Smallbrooke* (1667) Vaugh. 187 at 199.
7. 14 *Halsbury's Laws*, para. 689.
8. Revised Canons Ecclesiastical, C24; *Halsbury's Laws*, para. 698. Neglect of duty is, of course, an ecclesiastical offence: see *Bland v Archdeacon of Cheltenham* [1972] Fam. 157 at p. 162; 14 *Halsbury's Laws*, para. 1357.
9. See 14 *Halsbury's Laws*, paras 692-697.
10. *Ecclesiastical Law* (2nd ed., 1767), pp. 97-99.
11. Including promotion to a bishopric.
12. See 14 *Halsbury's Laws*, para. 882.
13. (1817) 3 Mer. 353 at p. 403.
14. Leslie Paul, *The Deployment and Payment of the Clergy*, (1964), p. 172. In *Partnership in Ministry* (1967), pp. 49-50, the Fenton Morley Commission stated: 'There is something of great value in the unique tradition of independence which the English clergy have inherited, and which in the past the freehold, with the benefice, have helped to maintain. Such past history is remembered with gratitude, though candour compels the comment that as well as being the bastion for the prophet and sturdy reformer, or a support to the timid, the freehold has on occasion served as a wall to protect the lazy and the indifferent, and as a means of perpetuating a ministry which is not for the good of the Church . . . The Commission . . . appreciates that the reluctance to part with the freehold springs from a desire to retain the essential status and freedom of a parish priest and not from any desire to provide for self-indulgence . . . Security and freedom can be assured without the retention of what still survives of the freehold and be based on foundations equally secure.'

> 'What is for some a guarantee of their freedom is to others a prison from which they can neither be pushed out nor climb out. They can be left there in their loneliness and frustration.'

For these reasons it is worth briefly considering the question of resignation.

(c) *Resignation*

> Phillimore[15] calls resignation a 'grave subject' and Gibson[16] states – '. . . no person appointed to a Cure of Souls, can quit that Cure, or discharge himself of it, but upon good motives, to be approved by the Superior who committed it to him: (for it *may* be, he would Quit it for money, or to live idly, or the like.)'

What is more, there is no obligation upon the bishop to accept a proffered resignation,[17] although acceptance is implied if the resignation has been requested by the bishop.[18] In other words, although the parson's freehold gives a certain independence, the incumbent cannot unilaterally divest himself of its concomitant duties other than by cession or the exchange for another benefice. It may, of course, be argued that in this day and age anyone should be entitled to resign as of right. However, the present law as to resignation may be seen as the other side of the coin recognised by the Church in the draft Ordination of Women (Financial Provisions) Measure, namely the duty of continuing support. Once the Church has expended large sums of money in the training of a clergyman and that clergyman has accepted the emoluments of a benefice, should he be permitted unilaterally to leave the parochial ministry?

2. DEPRIVATION AND AVOIDANCE

(a) *Deprivation*

Deprivation, although thankfully uncommon, is more likely to flow from secular proceedings than from an ecclesiastical censure. Such deprivation may be, for example, if the incumbent is found to have committed adultery in a matrimonial cause or if he is convicted of an offence and is sentenced to a sentence of imprisonment (whether immediate or suspended).[19] Even in such cases deprivation is not automatic, the final decision being taken by the relevant archbishop after consideration of the recommendations of the diocesan and any written representations of the incumbent.[20] These provisions are quite specific and in every case follow a finding by a competent secular court. It seems unlikely, therefore, that many would argue for their abolition. Although it may be argued that the incumbent should be given the right to make oral representations to the archbishop, no doubt such an audience would always be granted if requested.

Deprivation for an ecclesiastical offence can only arise within proceedings under the Ecclesiastical Jurisdiction Measure, 1963, although even then 'the interests of the parish' are only one of the relevant considerations; it is the gravity

15. Op. cit., p. 385.
16. Op. cit., at p. 823.
17. See 14 *Halsbury's Laws,* para. 924, footnote 4.
18. Ibid, footnote 5. The Incumbents' Resignation Act, 1871, (34 + 35 Vict., c. 44), passed 'to enable clergymen permanently incapacitated by illness to resign their benefices with provision of pensions', has been repealed but provision has, of course, been made for pensions for clergy who retire by reason of infirmity. Presumably modern bishops are trusted to accept resignations upon such grounds, although even under the 1871 Act the bishop was only empowered to cause a commission to issue 'if he [saw] fit'!
19. Ecclesiastical Jurisdiction Measure, 1963, ss 55(1)(a)(c), 56(1); Ecclesiastical Jurisdiction (Amendment) Measure, 1974, s.1. See, generally, 14 *Halsbury's Laws,* para. 1374.
20. Ecclesiastical Jurisdiction Measure, 1963, s. 55(2)(3).

of the offence that really matters.[21] This does not, of course, mean that the proceedings have been contested. If the accused incumbent consents – in other words, if the incumbent admits his guilt – the bishop may pronounce a censure of deprivation.[22] It is understood that a number of proceedings under the Measure have been commenced, although only two[23] have actually reached trial. It is unknown whether some or all of those that did not reach trial resulted in censure or whether the proceedings were stayed on the incumbent's agreeing to resign his benefice. In either event it may be argued that the Measure had therefore in part fulfilled its purpose.

Much criticism has been levelled at the Ecclesiastical Jurisdiction Measure and its abolition has on occasions been mooted, in part no doubt due to what has been seen by some as the inordinate cost of the contested cases. Nevertheless, it may be doubted whether its abolition is a viable proposition. Regrettably there are always likely to be those few who from time to time express views, for example in a sermon or a book, which are contrary to the Christian religion as taught by the Church of England, such as a denial of 'the Trinity or of the deity of Christ'.[24] Could the Church tolerate the public expression of such views by an incumbent? If not, some provision must be made for his removal. Although other denominations[25] and religions[26] may have different disciplinary procedures, each one is nevertheless subject in one way or another to oversight by the law[27] and each one must conduct its procedures in accordance with its rules. Prior at least to disestablishment it is unlikely that disciplinary procedures within the Church of England could realistically be altered to any marked degree. A visitorial jurisdiction could not be created for, example, without a major overhaul of those powers.

In the disciplinary field, therefore, it may be best to conduct a more than superficial reconstruction of the present system. It probably requires simplification. Moreover, is it really satisfactory that only the Court of Ecclesiastical Cases Reserved and a Commission of Review are no longer bound by a decision of the Judicial Committee of the Privy Council in relation to matters of doctrine, ritual and ceremonial when a number of such cases are nowadays regarded as questionable, if not unsound? Any tribunal would in any event hesitate before declining

21. *Bland v Archdeacon of Cheltenham* [1972] Fam. 157 at p. 170.
22. Ecclesiastical Jurisdiction Measure, 1963, ss 31+49. If the accused does not so consent he may nevertheless plead guilty before the court and leave the decision as to censure to the court rather than to the bishop.
23. *Bland v Archdeacon v Cheltenham* [1972] Fam. 157 and *Burridge v Tyler* (unreported), (1990; retrial 1991).
24. The example given by the Court of Arches in *Bland v Archdeacon of Cheltenham* [1972] Fam. 157 at p. 165. One of the charges against the accused was, in effect, one of a contravention of canon 68 of the 1604 Canons by reason of his alleged refusal to baptise a child.
25. See, for example, *Davies v Presbyterian Church of Wales* [1986] 1 All ER 705, HL. At p. 709h Lord Templeman said: 'The duties owed by the pastor to the Church are not contractual or enforceable. A pastor is called and accepts the call. He does not devote his working life but his whole life to the Church and his religion. His duties are defined and his activities are dictated not by contract but by conscience. He is the servant of God. If his manner of serving God is not acceptable to the Church, then his pastorate can be brought to an end by the Church in accordance with the rules. The law will ensure that a pastor is not deprived of his salaried pastorate save in accordance with the provisions of the book of rules. . .'
26. See *Ex parte Wachman*, The Times, 7 February 1991.
27. It is understood that in at least one diocese an attempt has been made to discipline an incumbent by withholding his augmentation. It would be most surprising if such procedure were not the subject of judicial review.

to follow a case decided by such authority. Above all, is there any reason why the Church should not keep a list of competent lawyers prepared to act for nothing, or for reduced fees, and only agree to pay the legal fees of those who wish to be represented by one of those on that list? No doubt the Church is under a moral duty to ensure that those who give up their lives to its service are properly represented; it is also under a duty to ensure a proper stewardship of its funds.

(b) *Avoidance*

The Incumbents (Vacation of Benefices) Measure 1977 has also been the subject of much criticism, including the question of cost. It is, however, unnecessary to give this Measure particular consideration here in the light of the draft Incumbents (Vacation of Benefices) (Amendment) Measure and the discussion in this journal by the Registrar and Legal Advisor to the General Synod.[28]

3. THE ASSISTANT CURATE

As a comparison it is perhaps worth bearing in mind the legal situation of the assistant curate. The position of an assistant curate (whether or not it is to be regarded as contractual[29]) may be terminated by an incumbent, with the bishop's written permission, by six months notice.[30] Clearly this provision is necessary because the cure of souls lies with the incumbent and it would be impossible if he could not be rid of a person with whom he cannot work. Nonetheless it is of note that, although he too has a vocation that has been accepted by the Church, it has not been suggested that the assistant curate must be recompensed (or found other employment), even if he is dismissed through no fault of his own. Is the position of an incumbent so different that the assistant curate is entitled to no protection (save that afforded by judicial review) while the incumbent is entitled to the protection of the parson's freehold? Perhaps the fact is that the position of the assistant curate should also be under review.

4. SI ENIM, QUID?

If the parson's freehold is indeed to be abolished, what might replace it? In *The Deployment and Payment of the Clergy*[31] Leslie Paul concluded –

> 'The rights inherent in the freehold could not easily be abrogated: the simple abolition of them would be costly and the Church might find itself involved in labyrinthine legal undertakings which would infinitely delay the missionary tasks . . . Though a modification of the freehold seems necessary, a headlong abolition is not proposed.'

It is therefore necessary to consider partial abolition also.

(a) *Paul Report*

The Paul Report suggested[32] that –

> It would seem proper to transform the freehold into a leasehold which gives an incumbent while he holds it the same protection as a freehold, i.e. he cannot be dispossessed of it except through legal processes or voluntary surrender. What would be necessary would

28. (1991) 2 Eccl. L.J. at p. 234-235.
29. See below.
30. Pluralities Act 1838, s. 95; Pastoral Measure 1968, s. 95, Sch. 9. If the bishop refuses such permission, the incumbent may appeal to the archbishop, who will confirm or grant the permission as may seem proper: *ibid.* The bishop may also revoke his licence subject to an appeal to the archbishop: Revised Canons Ecclesiastical, Canon C12, paras 5 + 6.
31. Paul, *The Deployment and Payment of the Clergy*, pp. 171-172.
32. Op. cit., at pp. 172-173.

> be legislation which ensured that as each living fell vacant, then (unless by earlier surrender) the benefice became a leasehold instead of a freehold: if the process of transformation is not to be unduly prolonged, there ought to be an absolute term, i.e. each freehold shall be transformed into leasehold as it falls vacant, or within a term of ten years, whichever comes first . . . A reasonable tenure would be ten years, with opportunity to renew for not more than half that time.

Presumably the ten year transformation rule for existing incumbencies is an attempt to overcome what Leslie Paul saw[33] as the cost and the 'labyrinthine legal undertakings' involved in instant abolition, although it is not obvious why such a compromise would be particularly acceptable to those who see their freeholds as a bastion to be protected at all costs. Moreover, ought a new incumbent to be given an initial period of protection? Once chosen and appointed, should the incumbent be able immediately to leave[34] or, indeed, immediately to be ousted? Acceptance and appointment seem both to entail responsibilities.

These criticisms, however, go to detail. There is a much more fundamental problem: who has the freehold? In law a lessee can only hold a lease of someone else's property. To whom is the benefice, presently vested in the incumbent, to be given? The parochial church council? The bishop? The diocesan board of finance?

It seems best to regard the suggestion of a 'leasehold' as a misunderstood shorthand for a limited right of tenure. Presumably these, like true tenancies, are envisaged as protected by the secular courts but (as they would not be leasehold) a new – though possibly analogous – system would have to be implemented.[35] Moreover, there are the questions: who would be the defendant in such an action, and would there be reciprocal duties enforceable against the incumbent? What is more, as the questions to be argued would presumably be pastoral (whether in relation to the parish or, indeed, to the incumbent and his family), is a secular court the best forum for their resolution?

(b) *Fenton Morley Commission*

The Fenton Morley Commission[36] suggested that every eligible clergyman in a diocese would be taken on the strength of the diocese and be assumed to have accepted the full obligations and benefits of the new system, unless he opted out within six months. Anyone who opted out would remain in his present office under his existing terms of tenure; such tenures would therefore necessarily die out over a period of time. Under the new system two new forms of tenure would be created:[37]

(i) appointment for a term of years, with the possibility of renewal by mutual consent; and

(ii) appointment without term of years but subject to review.

Any clergyman would be entitled to resign at will.[38] The proposals continued that[39] –

32. Op. cit., at pp. 172-173.
33. See above.
34. Other than, perhaps, on appointment to a bishopric. I presume that this 'leasehold' presupposes a *right* to resign.
35. In fact it is not certain that such a jurisdiction would be welcomed by the secular courts once a freehold is no longer being protected.
36. *Partners in Ministry*, p.53.
37. *Partners in Ministry*, p.34.
38. Op. cit., p. 43.
39. Ibid, p. 34.

> Such a fixed term cannot be broken except with the consent of the clergyman concerned, unless a situation has developed in the parish of such a critical nature that in the opinion of the Diocese Ministry Commission[40] it is imperative that a change should be made.

It did not set out how tenures 'without term of years' should be reviewed but presumably any such decision would be subject to judicial review if the rules of natural justice were not followed.

In the case of fixed term tenures the situation was envisaged in which there might be disagreement between the Ministry Commission and a clergyman. Any such disagreement would be referred to a panel consisting of a chairman, two clergymen[41] and two members of the laity, each from a different diocese and drawn from 'an independent body known as the Provincial Board of Referees'.[42] However –

> The duty of the Board would be to deal with such disagreements as are of a pastoral nature and consequently do not demand a formal charge arising out of legal issues. The proceedings should, therefore, be as informal as is consistent with ensuring a fair hearing for all parties. The proceedings must, nevertheless, be conducted in such a way as to make certain that all the circumstances are brought under review.

However, even the decision of such a panel would not be binding on a dissatisfied clergyman.[43] He would be entitled to ask 'the court of the archbishop'[44] –

> . . . to reconsider the matter on its merits and to alter the decision of the Referees and substitute another.

This would be a new civil jurisdiction and the decision of the court would be final. What is not clear, however, is how a 'disagreement of a pastoral nature', which is necessarily without legal parameters, can be the subject of a *judicial* decision. In particular, it would seem that rules of evidence would not be appropriate, especially as they presumably would not apply in the informal proceedings before the panel. In effect this seems to be an attempt to build into these procedures following disagreement a legal objectivity imparted by legal training[45] but in practice governed to a great extent by the rules as to evidence and procedure. Nevertheless, it may be doubted whether this is the best way to impart such a legal approach, even if appropriate. Would it not be better, for example, for the chairman of the referees to have legal qualifications? If it is argued that that might adversely affect the informality of the proceedings, how does it only become appropriate later in an appellate civil jurisdiction acting without rules of law or evidence? Perhaps a better provision, rather than a formal appellate jurisdiction,

40. This was to be comprised as follows: '. . . the bishop of the diocese as chairman *ex officio;* suffragan bishops and archdeacons, together with representatives of the clergy and laity, chosen by the synod in such a way as to ensure that each archdeaconry has an adequate and balanced representation. There should also be nominations from the community at large.'
41. One member of the board should hold a similar office as the clergyman in question.
42. Ibid, p. 40-41.
43. Op. cit., pp. 42-43.
44. Presumably this means the Arches Court of Canterbury and the Chancery Court of York, although the original jurisdiction exercised by these courts was abolished by the Ecclesiastical Jurisdiction Measure 1963, s. 82(2)(b): see ibid, s.1(2)(a).
45. The only judge of the Arches Court of Canterbury and the Chancery Court of York necessarily having legal training is the Dean of Arches: Ecclesiastical Jurisdiction Measure 1963, s. 3(3).

would be the appointment of an entirely independent ombudsman.

(c) *Contract*

Recently the suggestion has frequently been made that the clergyman's position should be governed by a purely contractual arrangement.[46] Once again this raises the question: in whom should the present legal freehold vest? This, however, is really a subsidiary question.[47] The real question is whether the position pertaining between a clergyman and the Church is one of vocation and conscience, or one of contract and law.[48] To date the answer of the law in relation to unbeneficed clergymen has usually been that it is the former.[49] If the position of the clergy is to be regulated by contract, with whom should that contract be? His stipend is in the main paid by the Church Commissioners but he owes canonical obedience[50] to his diocesan bishop; if he is a parish priest, he has obligations towards his parishioners. If most clergymen are to be employed in future by a diocese, as the Fenton Morley Commission suggested,[51] they might be employed by the Diocesan Board of Finance or its equivalent; the relevant parochial church council might also be joined as another party to the contract.

Again, if the position of the clergyman is to be contractual – quite apart from the question as to what terms it should contain[52] – who is to regulate it? Prima facie, any contractual terms are within the jurisdiction of the civil courts, including the industrial tribunals. Is that the appropriate forum to decide ecclesiastical duties and pastoral matters? If not, is the better forum the consistory court exercising a new civil jurisdiction or, perhaps, a panel of independent referees such as that envisaged by the Fenton Morley Commission?[53] In either event an oversight might be exercised as a last resort by an ombudsman, whether clerical or lay.

5. CONCLUSION

It seems likely from this brief survey that the parson's freehold should not be considered in isolation. Rather, it should be looked at in the wider context of the legal relationship of all the clergy – diocesan, beneficed, non-stipendiary, unemployed, etc.[54] – to the Church. Above all the parson's freehold (and there-

46. For example, this view is reported to be the that of the Archbishop of Canterbury: The Times, 2 August 1991; a similar view was expressed by a non-stipendiary curate in Edinburgh, the Reverend Dr J. Roulston, in a letter to The Times dated the 22 March 1991.
47. The Fenton Morley Commission properly draws a distinction between the legal definition of a benefice and 'a strong psychological factor involved relating to a proper pride of profession' connected with it: op. cit., p. 51.
48. See the *dictum* of Lord Templeman in *Davies v Presbyterian Church of Wales* [1986] 1 All ER 705 at p. 709h, HL.
49. *Re National Insurance Act 1911, Re Employment of Church of England Curates* [1912] 2 Ch. 563; but see *Barthorpe v Exeter Diocesan Board of Finance* [1979] ICR 900 at p. 906C, EAT; see, too, *Re Employment of Ministers of United Methodist Church* (1912) 107 LT 143; *Methodist Conference President v Parfitt [1984]* QB 368, CA; *Scottish Insurance Commissioners v Paul* 1914 SC 16; *Davies v Presbyterian Church of Wales* [1986] 1 All ER 705, HL.
50. Revised Canons Ecclesiastical C14; *Long v Bishop of Cape Town* (1863) 1 Moo PCCNS 411 at p. 445 *per* Lord Kingsdown; *Barnes v Shore* (1846) 8 QB 640; 14 *Halsbury's Laws*, para. 481.
51. *Partners in Ministry* at pp. 22-24.
52. The contract could, of course, have different terms if he were an assistant curate. In any event provision might be made for any obligations of the clergyman towards his parishioners (whether church going or not) as well as for resignation. What contractual terms are appropriate, if any, for a non-stipendiary minister, however?
53. See above.
54. Housing is a related topic, especially when some non-stipendiary clergy are apparently given Church housing. Some argue, too, that the Church owes more than occasional counselling to out of work non-stipendiary clergy/'worker' priests.

fore what replaces it) has psychological, as well as legal, overtones both inside and outside the Church. If the present relationship is replaced with a contractual one, what does that say about a vocation to the ministry? Many people receive training before entering a secular job but do not thereby earn, or expect, 'a job for life'. Is it the acceptance by the Church of an individual's vocation that creates a special relationship lapsing for a few when the vocation is, unhappily, lost? If so, how should this be expressed to the world?

What is more, because legal matters are being dealt with, there is a danger that legal concepts influence too greatly the end result. Rather than adopting a mistaken concept of leasehold, for example, it would be simpler to keep the legal basis of a benefice but to enact that any security of tenure should cease after ten years. Better by far that a decision is first made as to what the best relationship may be between the clergyman and the Church, between the clergyman and his parish. Only then should the lawyers endeavour to reflect that decision within the framework of the law.

https://doi.org/10.1017/S0956618X00001368 Published online by Cambridge University Press