

superannuated list thereof; but on his removing from the diocese, not being superannuated, or on his coming under ecclesiastical censure, his claim shall meanwhile be suspended. Provided, however, that in special cases a discretionary power with respect to the enforcement of this rule shall be accorded to the Bishop, with the concurrence of the standing committee.

“VIII. Nothing in this by-law shall be construed so as to prevent an exchange being made between the incumbent of an endowed parish and an annuitant of this fund, provided such change has the sanction of the Bishop, and any clergyman who by reason of ill-health shall resign his incumbency, shall be entitled to be placed on the list of the annuitants as aforesaid.”

In 1898 plaintiff, who was incumbent of St. Peter's parish, which was not an endowed rectory, and did not yield an income of \$1,200 per annum, and who had for some time been pressing upon the Synod of Niagara a claim against its mission fund, and also a claim to be put upon the commutation trust fund, placed his case in the hands of the late Mr. B. B. Osler. A letter from Mr. Osler stating his client's claims was brought before the meeting of the standing committee on 9th May, 1898, when the following resolution was passed: “That, subject to the conditions of the by-law, the Rev. T. Geoghegan (plaintiff) be placed on the commutation fund list for \$400 per annum from 1st April, 1898, provided that all other claims preferred by him on the diocese or the funds thereof be abandoned.” . . . Plaintiff on 13th May, 1898, accepted this arrangement, and continued to receive his annuity of \$400 until the year 1902, when, owing to a deficiency of income, his right to further payment was questioned. The first instalment of his annuity was paid to plaintiff in June, 1898.

Defendant Spencer was in 1897-8 rector of Thorold. He received from his rectory, for the year ending 31st March, 1898, \$373.95. The sum of \$26.05 being required to raise his net income from this source to \$400, he made claim for that amount under clause (a) of sec. III. of the by-law of 1894. This claim was also allowed at the meeting of the standing committee held on 9th May, 1898, and payment was accordingly then made. For the year ending 31st March, 1899, he received \$42.12. . . .

In 1899 defendant Spencer resigned his rectorship of Thorold, and became incumbent of Hagersville and Jarvis, a parish not an endowed rectory, and yielding an income less than \$1,200 per annum. He was notified . . . in May