

endowment for a proposed church at Boscombe, Bournemouth, and, amongst other stipulations, she made it an abiding condition that the black gown shall be worn in the pulpit unless there shall be any alteration in the law rendering it illegal,' and that any new incumbent should sign the conditions. The church was built, and dedicated to St. John the Evangelist, and in 1895 it was consecrated. In 1891 a question arose, on the further consideration of an action brought to administer the estate of the testatrix, how the legacy, if payable, was to be paid; and North, J., held that the condition as to the black gown was not impossible, but that it was a continuing condition, and that the 1,500*l.* must be carried over to a separate account, with liberty for the incumbent to apply for payment of the income to himself if he performed the conditions. The case is reported 61 Law J. Rep. Chanc. 17; L. R. (1892) 1 Chanc. 95.

The Rev. S. A. Selwyn, the incumbent, now applied for payment to him of the dividends which had accumulated since 1891, and for an order that future dividends should be paid to him as long as he remained incumbent. The executor objected to this on the ground that Mr. Selwyn had not signed the conditions, and that he did not preach in a black gown. Mr. Selwyn replied that he was ready to sign the conditions, but that the wearing of a black gown was illegal, and that that condition therefore failed, so that he was entitled to the dividends as a legacy of personalty released from the condition. North, J., refused the application, and the incumbent appealed.

Their Lordships dismissed the appeal. They said that there was no statute, rubric, advertisement, injunction, or canon which prescribed that to preach in the black gown was illegal; and for three centuries down to a comparatively recent date there had been continual use of it by clergymen of the Church of England when preaching. The case of *Ridsdale v. Clifton*, 46 Law J. Rep. P. D. & A. 27; L. R. 2 P. Div. 276, did not decide that the use of the black gown in preaching was illegal. It contained no allusion to the black gown or to preaching. The sermon did not form part of the administration of the sacrament of the Lord's Supper. Neither could preaching be regarded as one of the other rites of the church within the words of the advertisement of Queen Elizabeth. The warrant in law for the black gown was constant user for centuries.