

of that year that there was income available to place one more clergyman, if not two, on the pay list. On 14th September he made formal application to be placed on the list of annuitants for \$400 per annum. The minutes of the Synod of 1900 contain a report of the standing committee shewing that on 1st October, 1899, defendant Spencer was placed on the pay list of the commutation trust fund for \$400 per annum. He also appears to have been paid in full down to 1902.

In 1902 there was a deficiency in the revenue of the fund. The standing committee resolved "that the opinion of the chancellor of the diocese"—the late Mr. Edward Martin, K.C.—"be obtained as to who should receive the reduced amount, and that the secretary be instructed to act in accordance therewith." Notice of this resolution was sent . . . to the several annuitants interested, including plaintiff and defendant Spencer. Plaintiff took no action upon this notice. The Chancellor did not himself cause any notice to be sent to the interested clergymen, or in any way call upon them to uphold their claims before him or give them any opportunity to be heard. On 15th May, 1902, the Chancellor advised the secretary of his opinion that defendant Spencer "must be regarded as the junior on the pay list, and so is the clergyman to be unpaid owing to there being a deficiency." Of this opinion plaintiff and defendant Spencer were notified. Payment was made to and accepted by plaintiff of his full annuity to 31st October of that year. Defendant Spencer accepted payment of a comparatively small balance which remained after plaintiff's annuity had been paid.

At the Synod of June, 1902, the following amendments to the commutation trust fund by-law of 1894 were adopted:—

"I. Clause VIII., strike out and substitute:

"VIII. (a). Nothing in this by-law shall prevent a change 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 provided the incumbent of the endowed parish is senior to the other clergy who are not annuitants or rectors.

"(b) Any clergyman who shall have resigned his incumbency, either by reason of ill-health or to avail himself of an annuity under the canon from time to time in force under the A. and D. C. fund, shall not thereby forfeit any rights of seniority he may have acquired at the date of his resignation, but he shall (subject always to the provisions of clause V. hereof) be entitled to be placed on this fund as soon as there is income available for him. Provided that in deciding