

thereof, and shall and may sue and be sued, answer and be answered unto, in all manner of suits, actions, and proceedings whatsoever, for and in respect of such churches and church yards and all matters and things appertaining thereto."

For many hundred years before this statute, churchwardens were a body corporate whose duties and rights included that of taking care of the goods, repairs, and ornaments of the church: Phillimore's Ecclesiastical Law, pp. 1054, 1465; *Stutter v. Freston*, 1 Str. 52.

They have only the custody of the church building under the minister. If he refuses access to the church, complaint must be made to higher authority: Phill. 1464.

As such corporation they have a special property in distinction to a mere charge, in the organ, bells, bell-ropes, books, vestments, ornaments, and all other goods and chattels belonging to the church which come to them by virtue of their office, and may prefer indictments and sue and be sued in respect of them as a corporation. See Phill. 1484; *Prideaux's Churchwarden's Guide*, 55, 423, et seq.; *Jackson v. Adams*, 2 Bing. N. C. 402; *Morse v. Thorniley*, 4 W. R. 514.

It is also in the power of churchwardens in their corporate capacity to make reasonable agreements beneficial to the parish and thereby to bind the parishioners and their successors as also succeeding churchwardens. . . .

[*Martin v. Nutkin*, 2 P. Wms. 266, Phill. 1484, *Brooke's Churchwarden's Guide*, pp. 105-108, referred to.]

That the agreement in question here must have been regarded by the churchwardens and vestry as of great value to the parish, I think is manifest from the following facts found by the arbitrator: "Mr. Kirkby had been incumbent of the rectory of All Saints church, Collingwood, for about twenty-one years, during the last three years of which period a strong feeling had developed against him in the parish, until by the spring of 1900 a very considerable majority both of the vestry and of the congregation were desirous of a change, and had been doing all in their power to bring this about, and had been agitating in that direction for some time previously. At the Easter vestry in 1898, the rector's stipend had been reduced from \$900 to \$200 per annum, and at the Easter vestry of 1899 a reduction to \$1 per annum had been decided on by resolution of the vestry."