

The Vicar and the Squire

The case of *Kemp v Pechell* (1833) and the Tithing of Turnips Act 1835

A talk given to the East Meon History Group by George Bartlett on 19 November 2013

Introduction

In August 1833 a case called *Kemp v Pechell* was decided in the Court of Exchequer. The plaintiff was the vicar of East Meon, the Rev Thomas Cooke Kemp, and the defendant was Captain Samuel George Pechell RN of Bereleigh. The issue was whether Capt Pechell was liable to the vicar for tithes on turnips hoed up for sheep folded on the land where the turnips had been growing. The judge was Lord Lyndhurst, Chief Baron of the Court of Exchequer. He gave judgment in favour of the vicar. In 1835 petitions were presented to Parliament seeking a change in the law as it has been established in the case, and in 1835 the Tithing of Turnips Act 1835 was enacted, reversing the effect of the judgment.

In this talk I will tell you about the case and the Parliamentary proceedings and the background to them, and I will start by talking about the principal personalities involved in the case – the vicar, the squire and the judge.

The Vicar

Thomas Cooke Kemp was Vicar of East Meon, Froxfield and Steep for 41 years, from 1826 to 1867, the longest incumbency that is recorded. He was born at Blickling in Norfolk in 1787, the son of a farmer, Thomas Benjamin Kemp and his wife Jane (née Prettyman, of Redenhall, Norfolk). After school in North Walsham he went up to Caius College, Cambridge, in 1806 as a scholar, coming down in 1810. He was ordained deacon in Norwich in 1819 and priest in 1821.

As East Meon was an episcopal rectory the appointment to the vicarage was in the hands of the bishop. The Bishop of Winchester in 1826 was Sir George Pretymen-Tomline Bt, who had added the Tomline to his existing surname following an inheritance. The Pretymans were an ancient Suffolk landowning family, and it is possible, despite the different spellings of the surname, that he was in some way related to Kemp's mother. Whether or not he was so related, Kemp, as a Norfolk man, would no doubt have commended himself to the bishop. There was also a Norfolk connection with East Meon through the Sharrock family, who were landowners in the parish in the early 19th century, and this connection also may have had something to do with the appointment.

George Pretymen (Pretymen-Tomline as he became), after an outstanding undergraduate career at Cambridge (he had been senior wrangler and Smith's prizeman), became a fellow of Pembroke Hall (later College). When, in 1773, the young William Pitt went up to Cambridge at the early age of 14, Pretymen became his tutor and was hugely influential on the youth's development. They became lifelong friends, and Pretymen was unofficial aide to Pitt during his early years as Prime Minister, was with him when he died in 1806, and wrote a biography of him. In 1787 Pitt had secured for his mentor appointment as Bishop of Lincoln, and Pretymen was translated to Winchester in 1820. His politics were those of a firm Tory – a supporter of the royal prerogative and, as the DNB put it, “an uncompromising friend to the

existing order of things". It is a reasonable assumption that Thomas Kemp's politics were not dissimilar.

The parish to which Kemp was appointed was a large one, embracing as it did not only East Meon and Langrish but also Froxfield and Steep. And it was a living worth having. In addition to the tithes the vicar's income would have included fees and collections. In 1859 the benefice was described as worth £903, with the commuted tithes worth £680 of that, and the incumbent had a glebe of 15 acres and a large vicarage commanding beautiful views (*fig 1*).

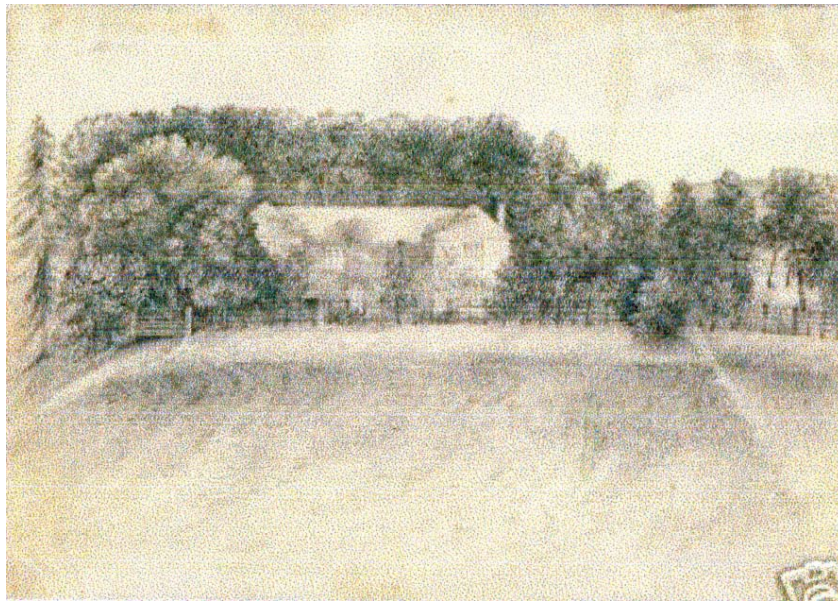


Fig 1 East Meon Vicarage in the mid-19c (probably)

That, of course, was many years after the events with which we are now concerned, but the income, including that from the tithes, was probably little different in 1830. To put the vicar's income in perspective, the weekly wage of an agricultural labourer in Hampshire in 1830 would probably have been about 8 shillings a week, with an increase during harvest-time. If fully employed, therefore, a labourer would have received about £20 a year. But, of course, many labourers would not have been fully employed throughout the year, particularly during the winter months, so that the income of many would have been substantially less than this. Using one of the indices that seek to take the RPI back to former times, the vicar's income would have been the equivalent of £75,000 a year, the labourer's perhaps £1,500.

Kemp had a wife, Jane, and a son and four daughters. Two years after his arrival he had the heartbreaking task of burying one of his daughters, Jane, then aged 3½. The other daughters, Elmira, Sarah and Lucretia survived to adulthood, as did his son, Nunn Robert Prettyman Kemp. After a private education, Nunn followed his father to Caius and into the church, becoming a vicar in the Norfolk of his forebears. He pre-deceased his father.



Fig 2. A Church of England clergyman in 1833 (though not the Rev Thomas Kemp)

The 1841 census records three servants at the vicarage, and no doubt throughout Kemp's time there there would have been a number, either resident in the house or living elsewhere in the village.

I can find no picture of Kemp, but the portrait (*fig 2*) shows another early 19th century parson to suggest how he might have looked. It is of the Rev Sydney Smith, a delightful and charming man, writer and journalist, and one of the wittiest of men, whose epigrams fill a number of columns in the Oxford Dictionary of Quotations. There may be some doubt about whether the Rev Thomas Kemp shared these attributes, or any of them.

The Squire

Samuel George Pechell was born in 1786. A captain in the Royal Navy at the time of the case, he was the grandson of a baronet (Sir Paul Pechell, the 1st baronet) and first cousin of two other Captain Pechells, brothers, each of whom in due course became admirals and respectively the 3rd and 4th baronets. The younger of these two brothers, George Richard Pechell, was Whig MP for Brighton from 1835 until his death in 1860. Pechell, our squire Pechell, purchased Bereleigh in 1824, two years before Kemp arrived, and he lived there with his wife and five children. In contrast to his successor at Bereleigh, George Forbes, who let the farm, Pechell kept the land in hand and farmed it. The area of farmland was about 430 acres, extending northwards from the house. Park Farm was not then within the estate.

The Captain Pechell in the portrait, *fig 3*, is not our Capt Pechell, but his cousin, Capt Pechell MP, whom we shall meet in the Parliamentary Proceedings.



Fig 3 Captain Pechell RN in about 1835 (though not Captain Pechell RN of Bereleigh)

The Judge



Fig 4. John Singleton Copley, Lord Lyndhurst, 1772-1863 Lord Chancellor 1827-30, 1834-5 and 1841-6 Chief Baron of the Court of Exchequer 1831-4



Fig 5 Death of the Earl of Chatham (1778) by John Singleton Copley Snr (1781)

I do have a portrait of the judge, Lord Lyndhurst, *fig 4*.

His name suggests that he was a Hampshire man. He was not, very much not. He was John Singleton Copley Jr, an American by birth, and a refugee to England. Born in Boston in 1772, his mother was the daughter of Richard Clark, a tea importer, whose tea the mob had dumped in Boston harbour in December 1773. His father, John Singleton Copley Sr, in view of the dangers to his young family, sent his wife and children to England, where they arrived in the summer of 1775, when Copley Jr was three.

Copley Sr was a painter – self-taught, he became a portrait painter of some renown and met with success in England. Perhaps his best known picture was the grand portrayal of what is always referred to as the death of Chatham in the House of Lords, *fig 5*. The Earl of Chatham, William Pitt the elder, Tory Prime Minister during the seven years war (1756-63), when the foundations of the British Empire were laid by the addition of India and Canada to the possession of the American colonies, collapsed during a speech in the House of Lords, in which he strenuously opposed the withdrawal of troops from the American colonies. The picture shows him being attended by his sons John and William, the latter then 18 and only 6 years away from becoming Prime Minister.

After an outstanding academic career at Cambridge, Copley Jr went to the Bar. He first achieved conspicuous success when defending a Luddite charged with writing two threatening letters, and in 1817, now Sergeant Copley, he successfully defended one of the Spa Hill rioters, who had been charged with having levied war against the king. Views he expressed to his contemporaries in private about this time suggested that he was something of

a radical himself, and when shortly afterwards he embarked on a political career as a Tory he was accused of abandoning his principles in the cause of self-seeking, accusations that pursued him ever afterwards. The reality, however, was that he had no strong political convictions, and he grew comfortably into the role of a right-wing politician.

Copley became Lord Chancellor, taking the title of Baron Lyndhurst in 1827. There was a quick succession of Prime Ministers (Canning, Goderich and Wellington) before the Whig government under Earl Grey came to office in 1830.

Lyndhurst's first wife, Sarah (or "Dolly" as she was known) was a widow of Waterloo, and 23 years younger than Lyndhurst, *Fig 6*. Together they held extravagant parties at their house in George Street, Hanover Square, which became a principal centre of London fashion. Dolly had a number of lovers of high rank, although it has to be said that the King's brother, the Duke of Cumberland, cannot be counted among them: his attempted rape of her was unsuccessful. Among her admirers was Earl Grey, the Reform Bill Prime Minister. The change of government in 1830, when Grey formed his administration, meant that Lyndhurst ceased to be Lord Chancellor, and he was left with only the Lord Chancellor's pension of £3,000 (about £250,000 in today's money), quite insufficient for his lifestyle. Grey solved the problem, possibly at Dolly's behest, by pushing out the Chief Baron of the Exchequer, Sir William Alexander, and having Lyndhurst installed in his stead. The salary was £7,000. Lyndhurst remained in the post for almost 4 years before, at the end of 1834, he became Lord Chancellor again in Peel's very short first administration.

What was Lyndhurst, *Fig 7*, like,? Walter Bagehot, writing shortly after Lyndhurst's death in 1863 and having referred to the "picturesque features of his mind and character", went on:

"The characteristic of his intellect was the combination of great force and great lucidity. Every sentence from him was full of life and energy. His face and brow were, perhaps unrivalled in our time for the expression of pure intellect, and he preserved the physical aptitude for public oratory to an old age..."



Fig 6 Sarah ("Dolly"), Lady Lyndhurst



Fig 7 Lord Lyndhurst

[The] singular vigour of his conversation charmed those who resorted to him, and they were led to believe that a man who talked so very well could hardly have acted very ill...

Few men led a laxer life; few men, to the very end of their life, were looser in their conversation; but there was no laxity in his intellect. Everything there was braced and knit. Great oratory is but a transitory art... Few will recur to Lord Lyndhurst's speeches, but those who do will find some of the best, if not the very best, specimens in English, of the best manner in which a man of great intellect can address and influence the intellects of others."

The young Queen Victoria once said to her first Prime Minister, Lord Melbourne, that she disliked Lord Lyndhurst because he was a bad man, to which Melbourne, rather amused, replied: "Do you dislike all bad men, for that comprises a large number!" Of course, given what the Queen meant by bad, he would no doubt have included himself in that number.

England in 1833

England in 1833 had a population of 12 million (in 2011 it was 53 million). Economically it was the most advanced country in the world, but in 1833 it was still in the throes of an agricultural depression that had followed a boom during the years of the Napoleonic wars. A Corn Law had been introduced, preventing the import of wheat until a price of 80s per quarter had been reached on the home market, but this failed to solve the problem. It resulted in great price fluctuations and high prices. There was high unemployment, which had been exacerbated by the returning military after 1815. (In 1811 1 in 5 of the male population had been in the army.) There was extensive poverty. Demonstrations of discontent were met with repression by a government fearful of the example of the French Revolution, the most extreme example of which was the so-called Peterloo massacre in Manchester in 1819. Luddism, with the destruction of machines by those convinced that these were the cause of unemployment, was an expression of the anger of the urban poor. In the countryside the equivalent were the Swing riots.

The Swing riots of 1830 were disturbances of the agricultural population in which various acts of destruction were carried out – arson, machine-breaking and so forth - with threatening letters sent in the name of a mythical Captain Swing (just as their industrial counterparts had invoked the name of Ned Ludd). The number of incidents was assessed at the time to be at least 1,475. The greatest number in any one county was 208 – in Hampshire, although I am not aware of any in East Meon.

The great deficiencies in the Parliamentary system were apparent to all, particularly the representation of boroughs. Some boroughs had MPs even though they had a mere handful of electors (or, in one case, none at all) – the rotten boroughs – whereas some major cities had no MPs at all (Manchester, for instance, with a population of 310,000). Diehard Tories, however, opposed reform, partly, possibly primarily, because the Whigs were the party of trade and industry, but also out of conviction that in general things worked pretty well despite the anomalies. The Parliamentary battle was fierce, and the reform was almost lost when in the summer of 1832, Lyndhurst successfully moved a wrecking amendment in the house of Lords. It was only the agreement on the part of the King, William IV, that he would create sufficient peers to see the Bill through that eventually saw it passed later that year.

Amid all this, the ancient system of tithes, enabling the church to finance itself from the produce of the lands of the inhabitants, had by 1826 become the subject of widespread

dislike. It was an issue that was swept along with the more general clamour about reform of the Parliamentary electoral system.

East Meon in 1833

The 1831 census is not yet available in a useful form, but the 1841 census is undoubtedly a good guide as to the composition of the population eight years earlier. The population, including Langrish and Ramsdean, as well as the areas surrounding the village, was about 1200. The numbers employed and their occupations were these:

265	agricultural labourers
75	domestic servants
27	farmers
12	blacksmiths
7	carpenters
6	bricklayers
5	shoemakers
4	butchers
4	wheelwrights
3	grocers
3	schoolteachers
3	publicans
3	millers
2	bakers
2	woodmen
2	limeburners
2	brickmakers
1	surgeon
1	tailor
1	maltster
1	carrier
1	saddler
1	gardener
1	hawker
1	collector
1	excise officer
1	gamekeeper
1	clerk in holy orders

It was thus a community founded almost entirely on agriculture, with those who were not themselves employed on the land providing the necessary supporting services. The tithe award of 1851 shows that 70 of the population were paying tithes to the vicar. The tithe payers were not simply the farmers, therefore, but included others who occupied and cultivated small pieces of land – agricultural labourers, wheelwrights, a tailor, a brickmaker and so forth. The position would no doubt have been very similar in 1830.

Tithes

Tithes were a primitive form of taxation of great antiquity. One tenth of the produce of the land was payable in kind to the rector of a parish. The concept was that the tithes should pay for the parish priest and for the maintenance of that part of the church (the chancel) for which the rector was responsible. The rector was responsible for providing for the cure of the souls of the parishioners, and he might discharge this responsibility (as here in East Meon) by appointing a vicar. If he did this, some of the tithes (the “great tithes”) went to the rector, while the others (the “small tithes”) went to the vicar. By the time of tithe reform, some tithes had been the subject of commutation, substituting a money payment for the payment in kind.

Tithes were classified as Predial (crops – corn, hay, wood, etc), Mixed (animal produce – the young of cattle and sheep, milk, eggs and wool), and Personal (the product of labour – mills, fishing, etc). Great tithes, payable to the rector, consisted of corn, hay and wood. Small tithes, payable to the vicar, consisted of all predial tithes other than corn, hay and wood, plus mixed and personal tithes. Local custom and precedent, however, determined on what precisely tithes were payable and whether to the rector or to the vicar. There was no dispute that in East Meon tithes on all crops of turnips were payable to the vicar.

Turnips and sheep

A large number of varieties of turnip had been developed – no fewer than 40 by 1836, and in 1767 the Swedish turnip or swede had been introduced with its impregnable winter hardiness. Turnips were a labour-intensive crop. They needed to be thinned and weeds had to be kept down, and at that time they had to be harvested individually. So the sight of an army of labourers moving across a turnip-field with hoes was a common sight.



The sheep in the photograph, *fig 8*, are Texels, a relatively recent introduction to this country and as different as could be from the sheep that would have been grazing the Bereleigh acres in 1833. Then, in all probability, the sheep would have been Southdowns, one of the two great breeds that had been developed in the 18th century. (The other was the Leicester.)

Fig 8 Turnips and sheep

Sheep grazing was controlled by wattle hurdles, the predecessors of electric fencing, and the folded sheep could thus be moved progressively across a field to ensure that it was grazed most efficiently. The practice that gave rise to the dispute between the vicar and the squire was to put the hoeing labourers beyond the hurdles behind which the sheep were grazing, and in front of a further line of hurdles, and they would hoe up the turnips before letting the sheep through.

The hearing



Fig 9 Gray's Inn Hall



Fig 10 The Lord Chancellor sitting in Lincoln's Inn Old Hall

The trial took place in Gray's Inn Hall, *fig 9*. I have no picture of the Chief Baron sitting in Gray's Inn Hall, but the arrangement would have been similar to this picture of the Lord Chancellor sitting in Lincoln's Inn Old Hall, *fig 10*. Evidence was given by sworn statement, but none of the papers in the case survive. Having heard the argument of counsel on either side, the Chief Baron reserved judgment.

The judgment

There was no dispute that crops of turnips harvested and removed from the field were titheable as predial small tithes, with the tithes, therefore, being payable to the vicar. There was also no dispute that turnips grazed by livestock without having been hoed up were not titheable. The issue was whether turnips hoed up and eaten in the field were titheable.

For the Defendant two arguments were advanced – firstly, that the mere hoeing up of the turnips did not amount to the harvesting of a crop; and, secondly, that they were in any event not titheable because it was not practicable to set aside as tithes every tenth turnip so hoed up. Lord Lyndhurst rejected both arguments. It was sufficient, he said, that the turnips had been severed from the land, and it was not impracticable to retain every tenth turnip so severed. He referred to a number of decided cases.

Parliamentary proceedings

Early in 1835 there was a general election and Captain Richard George Pechell RN (whose portrait appears above) was elected as the Whig MP for Brighton. He evidently decided to take advantage of his new position to right the wrong that he thought had been done to his cousin by Lord Lyndhurst's judgment. An important feature of early-19th century politics consisted of petitions to Parliament, and these had flourished during the years of agitation for Parliamentary reform. Petitions to change the law had an ancient history and were generally addressed to a particular MP or peer. Captain Pechell in his crusade exploited the procedure to the full. On 19 June 1835, as recorded in Hansard, he rose in the House of Commons to present a petition that he had recently received:

Captain Pechell: I rise pursuant to notice to present a Petition from Samuel G Pechell Esq, a Captain in the Royal Navy, and farming his own land in the county of Hampshire, complaining of the vexatious proceedings of his vicar, the Rev Thomas Cook Kemp and praying for a speedy commutation of tithes. I beg to state that in the remarks I may feel it to be my duty to make I do not intend to convey any censure on the clergy generally...I shall request the indulgence and favour of the House while I recapitulate some details...It appears that in 1826 the Rev Thomas Kemp entered on his vicarage and immediately gave notice that all compositions for tithes should cease, the petitioner's composition at the time being £19 9s 6d though only valued at £11 19s. He had therefore been paying £11 10s 6d more than the value [the gallant member's maths were evidently not good], which composition he was still willing to continue to the new vicar, knowing how essential it was to keep on a good footing with the clergyman, as well on his own account, as being a magistrate, as for the common benefit of society. The reverend gentleman however refused the composition and actually proposed an increase of 20 per cent, which was of course refused by the whole parish. The vicar then commenced a series of vexatious proceedings in tithing hay and grass, and positively made no distinction between the grass cut daily for the husbandry of horses and the grass cut for other purposes. At last a claim was set up for the tenth acre of all turnips grown on the farm, which, being for the depasturing of the sheep, could not be tithed. This claim was resisted because the tithe of agistment for the sheep fed on those turnips had been tendered. The vicar then proposed to bring a friend to settle all differences; and this friend actually turned out to be his own solicitor, who took advantage of the unreserved conversation of the petitioner, the consequence of which was that a notice was soon served on him of a suit being commenced in the Court of Exchequer for the tithes of turnips generally, and the vicar refused to make any specific demand which might have been settled by arbitration or before two justices. The trial, however, proceeded, the claim for turnips generally was abandoned, but the tithe of turnip that had been pecked up in advance of the fold was demanded. The custom of the country and the common practice is to peck up the turnips to prevent any damage to the flock by the turnip-greens and to prevent them from running to seed. The turnips in this case were were pecked up or hoed in the part of the field not hurdled off but which was in the course of being so hurdled; and even part of the flock had access to the whole field. But the Chief Baron decided that because the entire flock had not access at the time of the pecking or hoeing of the turnips so pecked up they were liable to tithes, thus drawing a line beyond which turnips could not be hoed or pecked. Chief Baron Lyndhurst said the turnips might be pecked up in the rear of the fold but not in advance of it. Now was there ever anything so absurd as this and so very injurious to the system of turnip cultivation? If these turnips had been severed and removed from the spot either for sale or for feeding cattle or cows in a yard, then the vicar was clearly entitled to his tithe, and such could easily be set out. But how is it possible to set out the tithe of turnips hoed up and left on the spot for the sheep which already have access to them? Therefore no distinction is made between turnips pulled up for sale and those left on the ground for depasturage. Here therefore is a case in which the vicar gets the tithes of all sheep fed on the turnips and sold before shearing time, as well as the tithe of all lambs and wool and the benefit of the manure produced on the ground for the succeeding crop. It appears that the Chief Baron confounded this case of pecking up the turnips for feeding to the flock on the spot with those cases decided 120 years ago of turnips removed for sale. It is well known to many hon members connected with country affairs that formerly turnips were only grown on the richer soils and were removed either for sale or for feeding in yards and stalls, but that in the modern system of cultivation the turnip crop has been adopted on very poor and inferior soils which were thereby prepared for a crop of corn.

Now I contend that it was practically impossible to set out the tithes of turnips intended for depasturage; and I defy the Chief Baron and all the Barons of the Exchequer to point out how the object can be attained.

Captain Pechell went on to inform the House that the costs that his cousin had been ordered to pay to the vicar amounted to £166 2s 5d on a claim for the tithes of turnips that was only for £3 6s, and he then read the petition. Hansard then records the response of the Attorney-General, Sir John Campbell:

Sir John Campbell A-G: It seems to me to be a very proper petition to bring before the house...I must protest, however, against this House being in any manner considered as a court of appeal...Though I differ from the opinions of the noble Lord who decided the case, still he is eminent for his learning and impartiality, and I have no doubt but the decree was made in strict conformity of the law.

Just over two weeks later, on 6 July 1835, Captain Pechell rose again in the House to present another petition. This one, he said, was “most numerous signed from certain owners and occupiers of land in the vicinity of Chichester, Arundel and Worthing, expressing their alarm at the recent decree of the Court of Exchequer in the tithes cause, *Kemp v Pechell*.” He went over the ground of his previous speech and asserted that Lord Lyndhurst had been wrong and had not understood the cases on which he had based his decision. He also threatened, as he put it, “to bring to light some stronger facts which would strengthen the case of the petitioners. The defendant,” he said, “has shown the most honourable intention throughout, and his conduct affords a perfect contrast to that of the plaintiff, who is his vicar.” And, brandishing a judgment in another similar case recently decided, he said that the Hampshire clergymen certainly appeared to mark out the unfortunate naval officers for their prey and plunder.

Less than three weeks more were to pass before on 24 July 1835 the gallant captain was on his feet again presenting yet another petition. This one, he said, was “most numerous and respectably signed by the flock-masters on the South Downs and others” in west Sussex. He went on:

“The petition is signed by a large party of agriculturists who own among them no less a number than 38,180 sheep...The petition may be viewed as coming from these 38,180 sheep, who beg to be permitted to enjoy their ancient privilege of feeding on turnips uncontaminated by the law of tithes in kind, to which process they have never (till lately) been liable, and they are now deprived of the tenth part of the food that was sown for their advantage.”

After this rather unpersuasive introduction he asked to be permitted to bring in two bills, one reversing the effect of Lord Lyndhurst’s judgment and the other providing for all small tithes claims to be brought before the magistrates rather than in the superior courts. I do not know what happened to the second of these, but the first bill sped through Parliament and was on the statute book as an Act in a matter of weeks.



In the House of Lords it was the Duke of Richmond who conducted the bill, *fig 11*. Though a Tory, and for the most part of right-wing views, the 5th Duke of Richmond was of an independent mind, and he had been the sole Tory in Lord Grey's Reform Bill government. It was no doubt sheep-farming on the South Downs that forged a common outlook with the Whig MP for Brighton on the issue of the tithing of turnips. In the Commons Pechell had asserted that Lord Lyndhurst had got the law wrong.

Fig 11 The 5th Duke of Richmond 1791-1860

The Attorney-General had pointed out that it was not the role of Parliament, however, to act as a court of appeal, and in the Lords, when one peer suggested that the decision was only a first instance decision (and by implication, therefore, did not establish a precedent), Richmond interjected: "It was a decision of Lord Lyndhurst." In other words, the decision must have been correct, and it was the law that was wrong and needed amending. So amended it was – in a single sentence.

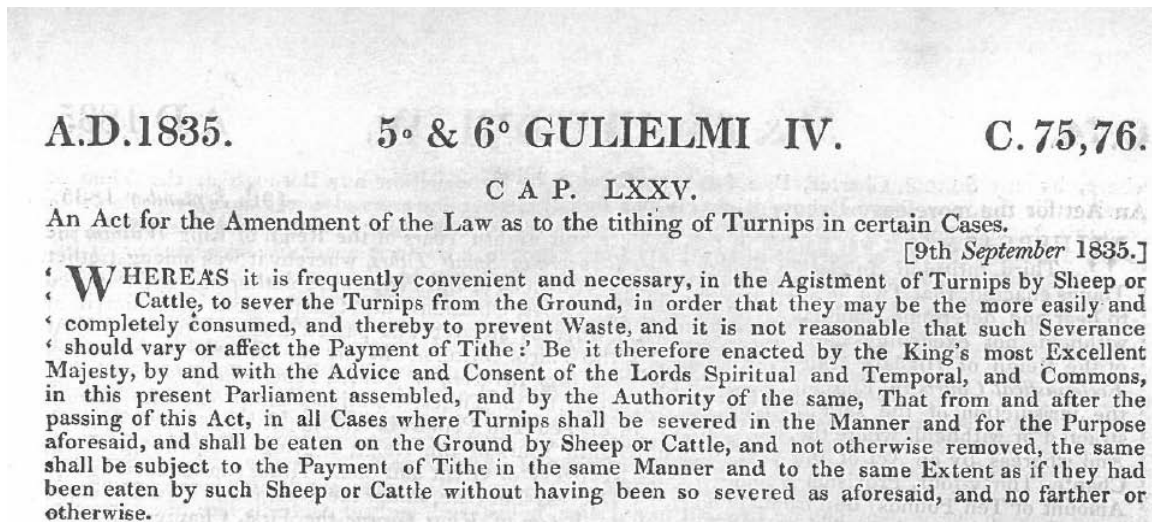


Fig 12. The Bill received the Royal Assent on 9 September 1835. It provided:

"Whereas it is frequently necessary, in the Agistment of Turnips by Sheep or Cattle, to sever the Turnips from the Ground, in order that they may be the more easily and completely consumed, and thereby to prevent Waste, and it is not reasonable that such Severance should vary or affect the payment of Tithe: Be it therefore enacted... That from and after the passing of this Act, in all cases where Turnips shall be severed in the Manner and for the Purpose aforesaid, and shall be eaten on the Ground by Sheep or Cattle, and not otherwise removed, the same shall be subject to the Payment of Tithes in the same Manner and to the same Extent as if they had been eaten by such Sheep or Cattle without having been so severed as aforesaid, and no farther or otherwise."

Subsequent events

In 1836 the Tithe Act was passed, the comprehensive reform measure that provided for the commutation of most tithes into a rentcharge. This was done, parish by parish, by awards made by the Tithe Commissioners. It was a process that took a number of years, and the East Meon award was completed in 1851. Every parcel of land, no matter how small, had to be mapped and assessed, so that the map and its accompanying schedules form an invaluable source of information about the parish, its agriculture and those who lived there at the time. One hundred years after the 1836 Act, the Tithe Act 1936 provided for the transfer to the Government of tithe rentcharges, compensating the tithe owners with Government stock. All such rentcharges were eventually abolished by the Finance Act 1977.

Conclusion

So what are we to make of the dispute? What was it that motivated the vicar to spend a very large amount of money on the litigation, risking still more in the costs that he would have to have paid to the defendant if he had lost? Was it pure greed? The timing of his claim was no doubt due to the imminence of tithe reform. The prospect of compulsory commutation would have made it important to ensure that his entitlement was not undervalued, and in this he may well have received encouragement from fellow parsons similarly placed and perhaps even the bishop. But a wholesale attempt to raise all tithes in the parish, including those paid by agricultural labourers, would suggest a gross insensitivity – if indeed the allegations made against him in Parliament in this respect were correct. Was there perhaps something more, a wounding personal insult, perhaps, that led him to pursue his claim against Pechell? Did the squire share the arrogance so clearly displayed in Parliament by his MP cousin? We can only speculate.

What happened afterwards to the vicar, the squire and the judge?

The 1851 census records a Robert Smith, “Clerk of the Established Church”, as resident in the High Street. This suggests that by then the vicar may have been employing a curate to relieve him of some at least of his duties. His long incumbency continued until he died in 1867 at the age of 80. One of his executors was John Christmas of Oxenbourne, who farmed about 700 acres, and whose tithes, at just over £18 a year, had made a modest contribution to the vicarial funds – although a greater one, it should be said than had been derived from Bereleigh. The amount of money he left, though not insubstantial, was about 5 or 6 times his annual income, so he had not saved a great amount of it over the years. It would be wrong, without more, however, to presume, that he had used his income for purely selfish purposes.

Alone of our three principal characters, Captain Pechell of Bereleigh, died relatively young, at the age of 55 in 1840. Bereleigh was then sold, together with its then 464 acres, and I presume that it was George Forbes, who was resident there in 1851 and let the farm to a tenant, who bought it.

Lord Lyndhurst served a further term as Lord Chancellor, in Sir Robert Peel’s Tory administration of 1841-6. He lived to the age of 91 and became a figure of some veneration in the mid-Victorian age. Benjamin Disraeli was his protégé, and, though substantially different characters, they had much in common. Both were outsiders – the American and the

Jew – both delighted in the game of politics, and both used intellect, panache and charm in equal measure to achieve what they wanted.

And how are things now, 180 years after the events I have been describing? East Meon as a wholly agricultural community has disappeared, although its agriculture thrives. Whiggism has long since been eradicated from Bereleigh, which is now a Tory stronghold. And of one thing we can be quite sure – that the relations between the Vicar and the Squire have never been better.