

Case.

There is a cottage or school-house with ~~and~~ about four statute acres of Land situate in the Township of Lauckland in the County of York which if let will not find a Tenant who will give the annual rent of 5 £.

It pays no Land-tax or parochial assessments whatsoever.

It is held by Trustees for the purpose of a school, which Trustees are appointed by entries in a Book kept for that purpose: of one of which entries the following is a copy.

Sept: 10th 1790

Whereas Mr Henry Waddington of Crowest one of the Trustees of that school called Eldroth Chapel is dead: we the surviving Trustees whose names are hereunto subscribed do elect Mr Rob: Waddington of Crowest to succeed his Father in the said Trust: as witnesses our Hands the day and Year above witten.

John Coulthurst
Rob: Bradley.

under which is witten the following acceptance

I accept the above Trust and promise to act therein according to the best of my knowledge as witness my hand the day and year above witten.

Rob: Waddington.

There are many appointments and acceptances of the same sort in the same Book the eldest of which is dated 31st Decem: 1748.

No deed of Trust can be found relating to the said premises or any other document in explanation of the said Trust.

The master of such school is appointed by entries in the same Book of which the following is a copy

May 20th 1800

Mr Rob: Waddington and Rob: Bradley Governours of the

Case.

For the Opinion of
Mr Colman.

Two questions.

Samuels Taylor & Coam
for Mr. Penning case.

Samuels Esq: states
that Mr. Colman is
convinced; one of the
most eminent Lawyers
in settlement business.

of the schoolhouse or chapel at Badgers Green commonly called Eldroth Chapel have with the consent and advice of Will^m Currier Vicar of Clapham elected nominated and appointed Will^m Harrison schoolmaster there during his good behaviour as witness our Hands.

Rob^t Waddington
Robert Bralley

The following is a copy of an entry in the same book of the Master's acceptance.

May 20th 1800.

Whereas the Governors of the school or chapel at Badgers Green commonly called Eldroth chapel have with the consent and advice of Will^m Currier vicar of Clapham this day elected nominated and appointed me Will^m Harrison to succeed the late Master. I do hereby oblige myself to attend the said school every day at the usual hours, holidays excepted and such times as have not been usually or heretofore. And I promise on misbehaviour to resign at the Governors pleasure, as witness my Hand.

Witness Ja^s Dupton. M^r Harrison.

There are many other appointments and acceptances in the same book of other masters exactly the same.

The said M^r Harrison was appointed twice; once in 1770; resigned in 1779; and re-appointed in 1800.

The schoolmaster is not obligated to teach any scholars on account of the annual value of the aforesaid premises.

The Master always lives in the House and teaches school there; sometimes occupies the land himself; at other times lets it; and at other times the Trustees have let the land, and paid the rent to the master.

The Master never subscribed before the Bishop the declaration of conformity to the liturgy of the Church of England which is regulated by the 13th & 14th C. II. Chap. 4 sec. 10 - without having so subscribed he was not legally placed in the office: - in which case he would only be tenant at will; see Far: rington v. Midworthy in Burrows settlement causes 109.

2^d. Is the above such an estate as will gain the Master a settlement by residence thereon for 40 days.

Opinion. In the case of Key v. Willmore 2 Bell. 167. it is said that the situation of a schoolmaster is not an office, nor is it I think a public charge, unless where the appointment is in the parishioners or the minister, and the master obliged to teach and receive money for all those who apply to him.

In the present instance it seems to me that this is not a public office or charge within the statute, but a private appointment to the schoolmaster, who is not bound to teach any scholar who applies to him.

But the Master is not an officer of the church, and I am inclined to think that he would have had a settlement if he had lived in the house, which would have given him a settlement by estate.

But inasmuch as he does not appear to have subscribed the declaration in question, I think the question is decided against him by the statute.