

**THE
CHURCHWARDEN'S
GUIDE**

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The churchwarden's guide by Anonymous

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ANONYMOUS

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SECOND EDITION.

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INTRODUCTION.

IN addressing Churchwardens on the subject of their Duties, the writer labours under the disadvantage of being unable to give instructions proper for their guidance with the simplicity and certainty which are desirable.

This is owing to the mixed character of the office. The Churchwarden is a lay officer, and, as such, accountable to the Common Law Courts; but his office is mainly conversant with Ecclesiastical things, and this brings him within the jurisdiction of the Ecclesiastical Courts.

Common Law and Ecclesiastical Law are founded on different principles, and proceed on different Rules of practice. Hence their decisions often require nicely to be distinguished in order to render them consistent, and sometimes they conflict. In particular, the modern Ecclesiastical judgments contain many doubts and questionings of the ancient cases and text-writers of the Common Law; and as these doubts and questionings are moved and opened on principles derived from the Canon Law, or other sources very recondite and sometimes inaccessible, it is difficult to say

what propositions are sound Law, except those which have recently gone under the review of both the Common Law and the Ecclesiastical tribunals.

In the following pages as much of such perplexed matter as is possible has, together with the authorities, been thrown into the form of Notes. But no expedient at the command of a compiler can clear the subject of obscurity and uncertainty.

ON having Notice of your being elected Churchwarden, you should ascertain whether you have been duly elected; for should your election be subsequently declared void and set aside, you might be made personally liable for acts done by you while acting, as you supposed, in the character of Churchwarden.

With regard, therefore, to what constitutes a good election, know that the party elected Churchwarden must be a resident householder in the Parish; and that every such parishioner is liable to be elected Churchwarden, except a few professional and official persons, who are *exempt*, and a few who are *disqualified*. Poverty is no disqualification, as the parishioners may trust whom they like. The election must take place early in Easter

Exempt.]—Persons legally exempt are: Peers, Members of Parliament, Clergymen, Roman Catholic Ministers, licensed Dissenting Preachers, Counsellors, Physicians, Surgeons, Apothecaries, Excise and Custom House Officers, Militia Men, registered Seamen.

Disqualified.]—The disqualified Persons are: Aliens, Infants under ten years of age, Jews, Papists, Felons.

week. It should be according to the custom of the Parish. The most common custom is, that the Churchwardens should be elected by the joint consent of the minister and parishioners; or, if they cannot agree, the one to be chosen by the minister, the other by the parishioners. A curate may nominate a Churchwarden in the absence of the minister. The election by the parishioners is made in Vestry duly assembled, by their votes. The Vestry may annul the election by excusing the party elected before he is admitted to make the declaration in lieu of an oath.

If entitled to be exempt from the office, you must apply to the Court of Queen's Bench for a Writ of Privilege to the Ecclesiastical authority, called the Ordinary (*i.e.* the Bishop of the diocese, or the Archdeacon, official or surrogate), not to administer the declaration of office.

Protestant Dissenters and Quakers have no exemption from the office; but may do the duties by *Deputy*, approved of by the parishioners, and duly declared in.

But if you are satisfied that you have been duly elected, and are not exempt, your next care must be to attend before the Ordinary to be admitted to make and subscribe the *Declaration* in lieu of an oath. This is usually done at the Visitation; but the Ordinary is *bound to admit you* on the first application. If the Ordinary refuse you, the

Deputy.—Stat. 1 W. & M. c. 18, ss. 7, 11.

Bound to admit you.—The Ordinary's function is ministerial; Bac. Abr. Churchwardens, A.; and, in general, he cannot control or examine into the election; Morgan v. Cardigan, 1 Salk. 166; but may object against a disqualified