

The Advice of Mark Hill Q.C.

Mr. Hill was asked to advise whether the contribution of a lay rector was limited to the amount of rentcharge payable from out of the tithe field based upon an interpretation of the Tithe Act 1839.

His conclusion was that there is little direct authority on the point, but he did not accept that it was accurate to accept such a limitation for the following reasons:-

1. A Record of Ascertainments is not there to limit the amount of liability but to indicate what liability particular parcels of land have.
2. The limitation is unworkable because it is unclear whether it is limited to an annual rentcharge value or an accumulated annual value over an unspecified number of years before a demand for payment was made.
3. The view has been rejected by the Law Commission.
4. The case of Wickhambrook PCC -v- Croxford dating back to 1935 states that liability is not so limited although Section 1 of the 1839 Act was not actually under consideration.
5. It is a misreading of the 1839 Act to interpret it this way.

Mr. Hill felt that unless there was a test case on the specific point the idea of limitation was misconceived.