

*Judgment of the Right Honourable the Lords
of the Judicial Committee of the Privy Council
on the Appeal of Sheppard v. Bennett from
the Court of Arches: delivered 8th June,
1872.*

Present at the hearing of the Appeal:

LORD CHANCELLOR.
ARCHBISHOP OF YORK.
BISHOP OF LONDON.
MASTER OF THE ROLLS.
SIR JAMES W. COLVILLE.
SIR JOSEPH NAPIER.
LORD JUSTICE JAMES.
LORD JUSTICE MELLISH.
MR. MOUNTAGUE BERNARD.
SIR MONTAGUE SMITH.

THIS is an Appeal from the final Sentence or Decree pronounced by the Dean of the Arches Court of Canterbury on the 23rd day of July, 1870, and also from two Interlocutory Orders made by the same Judge, in a cause of the office of the Judge promoted by Thomas Byard Sheppard, the Appellant, against the Rev. William James Early Bennett, Vicar of the parish of Frome Selwood, in the Diocese of Bath and Wells, the Respondent, for having offended against the laws ecclesiastical by having, within two years from the date of the institution of the Cause, caused to be printed and published certain works in which he is alleged to have advisedly maintained or affirmed doctrines directly contrary or repugnant to the Articles and Formularies of the United Church of England and Ireland in relation to the Sacrament of the Lord's Supper, such works being entitled respectively "Some Results of the Tractarian Movement of 1833," forming one of the essays contained in a volume entitled "The Church and the World," edited by the Rev. Orby Shipley, Clerk, printed and published in London in the year 1867: "A

Plea for Toleration in the Church of England, in a Letter addressed to the Rev. E. B. Pusey, D.D., Regius Professor of Hebrew, and Canon of Christ Church, Oxford, 2nd edition," printed and published in London in the year 1867; and "A Plea for Toleration in the Church of England, in a Letter to the Rev. E. B. Pusey, D.D., Regius Professor of Hebrew, and Canon of Christ Church, Oxford, 3rd edition," printed and published in London in the year 1868.

The Cause was instituted in the Arches Court of Canterbury by virtue of Letters of Request of the late Lord Bishop of Bath and Wells, in accordance with the provisions of the Act 3rd and 4th of the Queen, cap. 86.

The Respondent was duly cited on the 26th of July, 1869; and the Citation, with Affidavit of Service, will be found in the Appendix at page 6.

No appearance was given to the Citation, and in default of appearance Articles were filed in accordance with the practice of the Court.

On the 30th October, 1869, the Judge, having previously heard Counsel on behalf of the Appellant, directed the Articles to be reformed by omitting such parts thereof as charge the Respondent with contravening the 29th Article of Religion, entitled "Of the wicked which eat not the body of Christ in the use of the Lord's Supper."

From such Decree or Order, a Petition of Appeal was presented, with the permission of the Judge, and the Appeal came before the Judicial Committee of the Privy Council on the 26th day of March, 1870, when the Lords of the Committee, having heard Counsel on behalf of the Appellant, agreed to report to Her Majesty their opinion against the Appeal, and that the Decree or Order appealed from ought to be affirmed, and the cause remitted, with all its incidents, to the Judge of the Court from which the same was appealed.

An Order in Council, confirming the Report of the Judicial Committee, was afterwards made.

The cause was accordingly remitted to the Arches Court of Canterbury, and on the 3rd day of June, 1870, in default of appearance on the part of the Respondent, the Judge of the Court, having heard Counsel on behalf of the Appellant, himself reformed the Articles, and admitted the same as so

reformed, notwithstanding that the Counsel for the Promoter objected to the reformation of the Articles so made by the Judge as being at variance with, and exceeding the reformation directed by, the Order of the 30th October, 1869.

On the 16th day of June, 1870, the Cause came on for hearing, and an application was then made by Counsel that the passages in the 5th, 6th, 7th, and 32nd Articles, which had been struck out by the Judge in his reformation of the Articles, on the 3rd day of June, might be reinstated. The Judge, however, made no further Order thereon, and the hearing of the Cause was continued.

On the 23rd day of July, 1870, the Judge, by his Interlocutory Decree, having the force and effect of a definitive sentence in writing, pronounced that the Proctor for the Appellant had failed in sufficiently proving the Articles, and dismissed the Respondent from the suit.

The present Appeal is from so much of the Interlocutory Decree or Order of the 3rd day of June, 1870, as in effect directs the passages in the 5th, 6th, 7th, and 32nd Articles to be struck out; also from the Interlocutory Decree or Order of the 16th day of June, 1870, whereby, in effect, the Judge declined to allow such passages to be reinstated, and from the final Sentence or Decree of the 23rd day of July, 1870.

The Respondent has not appeared upon the hearing of the Appeal, and the Court has not had that assistance from the argument of Counsel in his behalf which is especially desirable in cases like the present, where the Committee are called upon to advise Her Majesty on matters of grave importance as a Tribunal of Ultimate Appeal.

The Counsel for the Appellant first opened the Appeal from the Interlocutory Order of the Judge of the 3rd day of June, 1870, whereby he adhered to the reformation that he had made in the 5th, 6th, 7th, and 32nd Articles of Charge.

With regard to the reformation of the Articles, the course originally taken seems to be sanctioned by usage; but it appears to their Lordships to be a course attended with considerable inconvenience, and one which might lead to great delay, if not to a miscarriage.

The original Order of the Arches Court directed

the Articles of Charge to be reformed, by omitting all such parts thereof as charged the Respondent with contravening the 29th Article of Religion, and this Order was affirmed on Appeal, on the recommendation of this Committee.

The form of the Order leaves open to further determination by the Court what parts of the Articles of Charge, do, in effect, charge the Respondent with contravening the 29th Article of Religion, and thus opens the door to further discussion and (as in this case) to a further Appeal. In the mean time the Judge himself strikes out such parts of the Articles of Charge as he conceives to be within the previous Order of the Court, and then proceeds to hear the cause with the record so altered. If he should have erroneously struck out parts not affected by the Order, the attention of the accused, in his answer or evidence, will not have been called to the parts struck out, for he would be entitled to consider them as no longer forming part of the charge; but if the Promoter, on Appeal, should succeed in restoring the passages in question, it would obviously become necessary to allow the Respondent an opportunity of meeting the restored charges.

In the present case their Lordships have thought it best to allow the Appellant to conduct his argument as, if the passages which he avers should not have been struck out still remained part of the record, and to found any argument upon such passages as he might be advised, provided the argument did not seek to establish a contravention by the Respondent of the 29th Article of Religion.

But their Lordships think it right to observe that it would be proper, in future, that before any Appeal be presented to Her Majesty in Council, in respect of an Order directing the reformation of Articles of Charge or other pleadings, the actual reformation which appears to the Judge to be required, should be made by him on the face of the Order, so that on Appeal the very passages omitted should be clearly brought under the judgment of this Committee, instead of an Order directing, by general reference, the nature of the alteration required.

On proceeding to the consideration of the Appeal from the final Decree of the Court of Arches, there

is one point which was prominently brought forward in the opening of the case by the counsel for the Appellant, which it appears to their Lordships may be separately disposed of.

The Articles of Charge set forth several passages from the 2nd and 3rd editions of a work published by the Respondent, called "A Plea for Toleration in the Church of England, in a letter to the Rev. E. B. Pusey." Now the 2nd edition of this work was published in 1867, and the 3rd edition in 1868. The 3rd edition contains important corrections of expressions in the 2nd edition, which expressions form part of the charge against the Respondent. The original expressions and their correction are fairly stated and set forth by the Appellant in the 7th Article of Charge. (Appendix, page 18.) The learned Judge, in the Court below (Appendix, page 117), has stated that he has no doubt that the expressions originally used by the Respondent, viz., "the real actual and visible presence of the Lord upon the altars of our Churches," and again, "Who myself adore and teach the people to adore the consecrated elements, believing Christ to be in them—believing that under their veil is the sacred Body and blood of our Lord and Saviour Jesus Christ,"—"contravened the plain and clear intent of the Formularies of the Church." And the learned Judge has also set forth the alterations of these statements made in the 3rd edition of the Respondent's work, and on the passages so altered has found that the Respondent has not been guilty of a contravention of the Articles as alleged by the Promoter. Mr. Bennett's own words, in adopting the altered words, are as follows:—"My meaning and that which passed through my mind in writing the original passages was precisely the same as that which is now conveyed in the words substituted, but as the original words were liable to a different construction from that in which I used them, I therefore most willingly in this edition adopt another formula to express my meaning." The learned Judge has (Appendix, page 117) regretted that these alterations made by Mr. Bennett in his 3rd edition are unaccompanied by any expression of regret or self-reproach on the Respondent's part, for the mischief which his crude and rash expressions have caused. Their Lordships feel

obliged to adopt the censure of the learned Judge on this point.

Upon this state of facts the learned Counsel urged that there had been no retraction of the original user, and that, in default of actual retraction, the learned Judge should have condemned the Respondent in respect of the words used by him in the 2nd edition of his work, though varied by the substituted words in the 3rd edition, and he cited several authorities for the purpose of supporting this argument.

But, without regarding the Respondent's language as a retraction, their Lordships think that it is competent for them to take into consideration any explanation that an accused person may give of the language used by him, and to determine whether such explanation is made *bonâ fide* and is entitled to credit. They attach great importance to the fact that the third edition was published before suit, and they think that they may accept his later words as the more correct expression of the Respondent's meaning.

In proceeding to consider the substance of the charges against the Respondent, their Lordships think it desirable to recall to mind the principles on which former decisions in similar cases have proceeded.

In the cases of *Williams and Wilson* (2 Moore's Reports, New Series, p. 423), their Lordships laid down as follows:—

“These prosecutions are in the nature of criminal proceedings, and it is necessary that there should be precision and distinctness in the accusation. The Articles of Charge must distinctly state the opinions which the Clerk has advisedly maintained, and set forth the passages in which those opinions are stated; and further the Articles must specify the doctrines of the Church which such opinions or teaching of the Clerk are alleged to contravene, and the particular Articles of Religion or portions of the Formularies which contain such doctrines. The accuser is, for the purpose of the charge, confined to the passages which are included and set out in the Articles as the matter of the accusation; but it is competent to the accused party to explain from the rest of his work the sense or meaning of any passage or word that is challenged by the accuser.”

So in the judgment in the *Gorham* case—

"The question which we have to decide is, not whether the opinions are theologically sound or unsound, not whether upon some of the doctrines comprised in these opinions, other opinions opposite to them may or may not be held with equal or even greater reason by other learned and pious ministers of the Church; but whether these opinions now under our consideration, are contrary or repugnant to the doctrines which the Church of England, by its Articles, Formularies, and Rubrics, requires to be held by its ministers, so that upon the ground of those opinions the Appellant can lawfully be excluded from his benefice." . . . "This question must be decided by the Articles and the Liturgy; and we must apply to the construction of those books the same rules which have been long established, and are by law applicable to the construction of all written instruments. We must endeavour to attain for ourselves the true meaning of the language employed, assisted only by the consideration of such external or historical facts as we may find necessary to enable us to understand the subject-matter to which the instruments relate, and the meaning of the words employed." . . .

"There were different doctrines or opinions prevailing or under discussion at the times when the Articles and Liturgy were framed, and ultimately made part of the law; but we are not to be in any way influenced by the particular opinions of the eminent men who propounded or discussed them, or by the authorities by which they may be supposed to have been influenced, or by any supposed tendency to give preponderance to Calvinistic or Arminian doctrines. The Articles and Liturgy, as we now have them, must be considered as the final result of the discussion which took place; not the representation of the opinions of any particular men, Calvinistic, Arminian, or any other; but the conclusion which we must presume to have been deduced from a due consideration of all the circumstances of the case, including both the sources from which the declared doctrine was derived, and the erroneous opinions which were to be corrected." . . .

"This Court has no jurisdiction or authority to settle matters of faith or to determine what ought in any case to be the doctrine of the Church of England. Its duty extends only to the consideration of that which is by law established to

be the doctrine of the Church of England upon the true and legal construction of the Articles and Formularies."

Lord Stowell had long before said, in the case of *King's Proctor v. Stone*, "If any Article is really a subject of dubious interpretation, it would be highly improper for the Court to fix on one meaning and prosecute all those who hold a contrary opinion regarding its interpretation. It is a very different thing where the authority of the Articles is totally eluded, and the party deliberately declares the intention of teaching doctrines contrary to them."

To the principles thus laid down their Lordships will adhere in the present case.

The attention of the Court has been directed to the successive revisions of the Book of Common Prayer, and to alterations or omissions which have been made in it at different times. Changes by which words or passages inculcating particular doctrines, or assuming a belief in them, have been struck out, are most material as evidence that the Church has deliberately ceased to affirm those doctrines in her public services. At the same time it is material to observe that the necessary effect of such changes, when they stand alone, is that it ceases to be unlawful to contradict such doctrines, and not that it becomes unlawful to maintain them. In the public or common prayers and devotional offices of the Church all her members are expected and entitled to join; it is necessary, therefore, that such forms of worship as are prescribed by authority for general use should embody those beliefs only which are assumed to be generally held by members of the Church.

In the case of *Westerton v. Liddell* (and again in *Martin v. Mackonochie*) their Lordships say "In the performance of the services, rites, and ceremonies ordered by the Prayer Book, the directions contained in it must be strictly observed; no omission and no addition can be allowed." If the Minister be allowed to introduce at his own will variations in the rites and ceremonies that seem to him to interpret the doctrine of the service in a particular direction, the service ceases to be what it was meant to be, common ground on which all Church people may meet, though they differ about some doctrines. But the Church of England has wisely left a certain latitude of opinion in matters of belief, and has not

insisted on a rigorous uniformity of thought which might reduce her communion to a narrow compass.

Dealing only with the 3rd Edition of the Respondent's work, and having regard to their former decision, that the charge of contradicting the 29th Article of Religion as to reception by the wicked should be struck out, their Lordships may consider the remaining charges against the Respondent under three heads:—

1. As to the presence of Christ in the Holy Communion.
2. As to sacrifice in the Holy Communion.
3. As to adoration of Christ present in the Holy Communion.

The Respondent is charged with maintaining under these three heads the following propositions.

1. That in the Sacrament of the Lord's Supper there is an actual presence of the true Body and Blood of our Lord in the consecrated bread and wine, by virtue of and upon the consecration, without or external to the communicant, and irrespective of the faith and worthiness of the communicant, and separately from the act of reception by the communicant; and it was contended by Counsel under this head that the true Body of Christ meant the natural Body.

2. That the Communion Table is an altar of sacrifice, at which the priest appears in a sacerdotal position at the celebration of the Holy Communion, and that at such celebration there is a great sacrifice or offering of our Lord by the ministering priest; in which the mediation of our Lord ascends from the altar to plead for the sins of men.

3. That adoration is due to Christ present upon the altars or communion tables of the churches, in the Sacrament, under the form of bread and wine, on the ground that under their veil is the Body and Blood of our Lord.

The several positions so maintained are averred, each and all, to be repugnant to the doctrines of our Church, as set forth in the Articles and Formularies in that behalf specially alleged.

Their Lordships are bound to consider, in the first place, what has been affirmed and what has been denied, in reference to the doctrine to which these three statements relate.

The 4th Article of Religion affirms:—

1. That Christ did truly rise from death and took again His body, with flesh and bones and all things appertaining to the perfection of man's nature, wherewith He ascended into Heaven; and there sitteth until He return to judge all men at the Last Day.

In the 28th Article of Religion it is affirmed:—

1. "The Supper of the Lord is not only a sign of the love that Christians ought to have among themselves, one to another, but rather is a Sacrament of our redemption by Christ's death: insomuch that to such as rightly, worthily, and with faith receive the same, the bread which we break is a partaking of the body of Christ, and likewise the cup of blessing is a partaking of the blood of Christ."

2. "Transubstantiation (or the change of the substance of bread and wine) in the Supper of the Lord cannot be proved by Holy Writ; but is repugnant to the plain words of Scripture, overthroweth the nature of a sacrament, and hath given occasion to many superstitions."

3. "The Body of Christ is given, taken, and eaten in the Supper only after an Heavenly and spiritual manner."

4. "The mean whereby the body of Christ is received and eaten in the supper, is faith."

5. "The Sacrament of the Lord's Supper was not by Christ's ordinance reserved, carried about, lifted up, or worshipped."

By the 29th Article of Religion it is affirmed:—

6. "The wicked and such as be void of a lively faith, although they do carnally and visibly press with their teeth (as St. Augustine saith) the Sacrament of the body and blood of Christ, yet in no wise are they partakers of Christ; but rather to their condemnation do eat and drink the sign or sacrament of so great a thing."

By the 31st, it is affirmed:—

7. "The offering of Christ once made is that perfect redemption, propitiation, and satisfaction for all the sins of the whole world, both original and actual; and there is none other satisfaction for sin, but that alone." And—

8. "The sacrifices of masses, in the which it was commonly said that the priest did offer Christ for the quick and the dead to have remission of pain

or guilt were blasphemous fables and dangerous deceits."

9. In the Catechism it is stated that "the Body and Blood of Christ are verily and indeed taken and received by the faithful in the Lord's Supper."

Their Lordships proceed, with these passages before them, to examine the charges made against the Respondent. The first relates to the presence of the Body and Blood of Christ in the Holy Communion.

The Church of England in the passages just cited holds and teaches affirmatively that in the Lord's Supper the Body and Blood of Christ are given to, taken, and received by the faithful communicant. She implies, therefore, to that extent, a presence of Christ in the ordinance to the soul of the worthy recipient. As to the mode of this presence she affirms nothing, except that the Body of Christ is "given, taken, and eaten in the supper only after an heavenly and spiritual manner," and that "the mean whereby the Body of Christ is received and eaten is faith." Any other presence than this—any presence which is not a presence to the soul of the faithful receiver—the Church does not by her Articles and Formularies affirm or require her ministers to accept. This cannot be stated too plainly. The question is, however, not what the Articles and Formularies affirm, but what they exclude. The Respondent maintains a presence which is (to use his own expression) "real, actual, objective," a presence in the Sacrament, a presence upon the altar, under the form of bread and wine. He does not appear to have used the expression "in the consecrated elements" in his 3rd Edition; this is one of the points on which the language of the 2nd Edition was altered. And the question raised by the Appeal is, whether his position is contradictory or repugnant to anything in the Articles or Formularies, so as to be properly made the ground of a criminal charge.

Setting aside the Declaration at the end of the Communion Office, which will be presently considered, we find nothing in the Articles and Formularies to which the Respondent's position is contradictory or repugnant.

The statement in the 28th Article of Religion that the Body of Christ is given, taken, and eaten in

the Lord's Supper, only after a heavenly and spiritual manner, excludes undoubtedly any manner of giving, taking, or receiving which is not heavenly or spiritual. The assertion of a "real, actual, objective" presence, introduces, indeed, terms not found in the Articles or Formularies; but it does not appear to affirm, expressly or by necessary implication, a presence other than spiritual, nor to be necessarily contradictory to the 28th Article of Religion.

The 29th Article of Religion, which is entitled "of the wicked which eat not the Body of Christ in the use of the Lord's Supper," and which affirms that the wicked and such as be void of a lively faith "are in no wise partakers of Christ," may suggest, indeed, an inference unfavourable to the Respondent's statements, but cannot be said to be plainly contradictory of them or necessarily to exclude them. The two propositions, that the faithful receive Christ in the Lord's Supper, and that the wicked are in no wise partakers of Christ, when taken together, do not appear to be contradicted by the statement that there is a real, actual, objective presence of the Body and Blood of Christ in the sacrament after a heavenly and spiritual manner.

The "Declaration of Kneeling" should now be considered. It is as follows:—

"Whereas it is ordained in this office for the administration of the Lord's Supper, that the communicants should receive the same kneeling (which order is well meant for the signification of our humble and grateful acknowledgment of the benefits of Christ therein given to all worthy receivers, and for the avoiding of such profanation and disorder in the Holy Communion, as might otherwise ensue), yet, lest the same kneeling should by any persons, either out of ignorance or infirmity, or out of malice and obstinacy be misconstrued and depraved, it is hereby declared, that thereby no adoration is intended, or ought to be done either unto the sacramental bread or wine there bodily received, or unto any corporal presence of Christ's natural Flesh and Blood, for the sacramental bread and wine remain still in their very natural substances, and therefore may not be adored (for that were idolatry, to be abhorred of all faithful Christians), and the natural Body and Blood of our Saviour Christ are in Heaven, and not here; it being against the truth of Christ's

natural Body to be at one time in more places than one."

This Declaration originally appeared in the second Prayer Book of Edward VI, A.D. 1552, in which book the position of kneeling was positively enjoined upon those who received the Sacrament. It was issued by the King, and was ordered by the Council to be appended to the Prayer Book, but after the book had received the sanction of Parliament, so that it was not of statutory authority. From the Prayer Book of Elizabeth (1559) the Declaration was omitted. In 1662 it was inserted in the present Prayer Book, and became of equal authority with the rest of the Prayer Book. The form of the Declaration was somewhat altered; the words "Unto any real and essential presence there being of Christ's natural Flesh and Blood" were altered to "unto any corporal presence of Christ's natural Flesh and Blood," and the words "true natural Body" became "natural Body."

It was urged for the Appellant that, since the Church recognizes only one Body of Christ, the natural and now glorified Body which is spoken of in the Fourth Article of Religion, and since the Declaration asserts that this Body is "in Heaven and not here," the only presence in the Sacrament which can be held consistently with the Declaration is a presence to the soul of the communicant.

It was insisted that the word "natural" applied to the Body of Christ can convey no additional meaning, unless it be used to distinguish the true Body of Christ, which is His natural Body, from the Church, which is His Body in a mystical or figurative sense; and that the expression "corporal presence" cannot mean a presence in the manner or under the conditions in and under which material bodies are present or exist in space; that it must mean or include any presence whatever in the elements, as contradistinguished from a presence to the spiritual apprehension of the receiver. There can be no question, it was argued, as to the mode or manner of the presence; for no mode or manner of presence is conceivable which would reconcile the proposition that the true Body of Christ is in the elements, with the proposition that the natural Body is in Heaven and not here.

Their Lordships are of opinion that these infer-

ences, whether probable or not, are by no means of that plain and certain character which the conclusion they are asked to draw from them requires. The matters to which they relate are confessedly not comprehensible, or very imperfectly comprehensible, by the human understanding; the province of reasoning as applied to them is therefore very limited; and the terms employed have not, and cannot have, that precision of meaning which the character of the argument demands. Concerning the mode of reception of the Body and Blood of Christ by the faithful communicant, the Church affirms nothing more than that it is heavenly and spiritual, and that the mean whereby we receive is faith.

Nor can their Lordships accede to the argument that the words "Corporal Presence of Christ's natural Flesh and Blood" must be understood as the Appellant understands them, and the phrase "Corporal Presence" regarded merely as an equivalent for the different expression in lieu of which it was substituted. On the contrary, it is at the least probable that, as the Declaration itself was introduced in order to conciliate scruples in one quarter, the alteration made in it was designed to remove objections entertained against it in another.

Their Lordships could not advise the condemnation of a clergyman for maintaining that the use in 1662 of the word "corporal" instead of the words "real and essential" in the Declaration of Kneeling was an intentional substitution, implying that there may be a real or essential presence as distinguished from a corporal presence.

The Respondent has nowhere alleged in terms a corporal presence of the natural Body of Christ in the elements; he has never affirmed that the Body of Christ is present in a "corporal" or "natural" manner. On the contrary, he has denied this, and he speaks of the presence in which he believes as "spiritual," "supernatural," "sacramental," "mystical," "ineffable."

II. The next charge against the Respondent is, that he has maintained that the Communion Table is an altar of sacrifice, at which the priest appears in a sacerdotal position at the celebration of the Holy Communion, and that at such celebration there is a great sacrifice or offering of our Lord by

the ministering priest, in which the mediation of our Lord ascends from the altar to plead for the sins of men.

The Church of England does not by her Articles or Formularies, teach or affirm the doctrine maintained by the Respondent. That she has deliberately ceased to do so would clearly appear from a comparison of the present Communion Office with that in King Edward's First Book, and of this again with the Canon of the Mass in the Sarum Missal.

This subject was fully discussed before their Lordships in *Westerton v. Liddell*, when it was decided that the "change in the view taken of the sacrament naturally called for a corresponding change in the altar. It was no longer to be an altar of sacrifice, but merely a table at which the communicants were to partake of the Lord's Supper."

The thirty-first Article of Religion, after laying down the proposition (which is adopted also, in words nearly the same, in the Prayer of Consecration), that "the offering of Christ once made, is that perfect redemption, propitiation, and satisfaction for all the sins of the whole world, both original and actual," and that "there is none other satisfaction for sin but that alone," proceeds, on the strength of these propositions, to say that "the sacrifices of masses, in the which it was commonly said that the Priest did offer Christ for the quick and the dead to have remission of pain or guilt, were blasphemous fables and dangerous deceits."

It is not lawful for a clergyman to contradict, expressly or by inference, either the proposition which forms the first part of this Article, or any proposition plainly deducible from the condemnation of propitiatory masses which forms the second part of it, and is stated as a corollary to the first.

It is not lawful for a clergyman to teach that the Sacrifice or offering of Christ upon the Cross, or the redemption, propitiation, or satisfaction, wrought by it, is or can be repeated in the ordinance of the Lord's Supper; nor that in that ordinance there is or can be any sacrifice or offering of Christ which is efficacious in the sense in which Christ's death is efficacious, to procure the remission of the guilt or punishment of sins.

It is well known, however, that by many divines of eminence, the word Sacrifice has been applied to the Lord's Supper in the sense not of a true propitiatory or atoning Sacrifice, effectual as a satisfaction for sin, but of a rite which calls to remembrance and represents before God that one true Sacrifice. To take one example, Bishop Bull says :—

“In the Eucharist then Christ is offered, not hypostatically, as the Trent Fathers have determined, for so he was but once offered, but commemoratively only; and this commemoration is made to God the Father, and is not a bare remembering or putting ourselves in mind of Him. For every Sacrifice is directed to God, and the oblation therein made, whatsoever it be, hath Him for its object, and not man. In the Holy Eucharist, therefore, we set before God the bread and wine, ‘as figures or images of the precious Blood of Christ shed for us, and of his precious Body’ (they are the very words of the Clementine Liturgy), and plead to God the merit of his Son's Sacrifice once offered on the Cross for us sinners, and in this Sacrament represented, beseeching Him for the sake thereof to bestow His heavenly blessings on us.”—Bull's Works, vol. ii. p. 22.

The distinction between an act by which a satisfaction for sin is made, and a devotional rite by which the satisfaction so made is represented and pleaded before God, is clear, though it is liable to be obscured, not only in the apprehension of the ignorant, but by the tendency of theologians to exalt the importance of the rite till the distinction itself well nigh disappears. To apply the word sacrifice in the sense in which Bishop Bull has used it to the ordinance of the Lord's Supper, though it may be liable to abuse and misapprehension, does not appear to be a contravention of any proposition legitimately deducible from the thirty-ninth Article. It is not clear to their Lordships that the Respondent has so used the word “sacrifice” as to contradict the language of the Articles.

III. Their Lordships now proceed to the third charge, which relates to the adoration of Christ present in the Sacrament.

The 20th and 27th Articles of Charge contain the false doctrines alleged to be held by Mr. Bennett. The 20th charges that he affirms the doctrine that

adoration or worship is due to the consecrated bread and wine.

The 27th, that he affirms that adoration is due to Christ present upon the altars of our churches in the Sacrament of the Holy Communion, under the form of bread and wine, on the ground that under their veil is the Sacred Body and Blood of our Lord (the passages referred to for proof are set out in the 7th Article).

The 31st Article charges that these doctrines are contrary to the 28th Article of Religion, and the Declaration on Kneeling.

The passages relied on as the ground of these charges are the following:—

“The reader will observe that in the two first editions, at page 3, the words were: ‘*The real actual and visible Presence of our Lord upon the Altars of our Churches.*’ In the present edition he will find at page 2 the following words substituted: ‘*The real and actual Presence of our Lord under the form of bread and wine upon the Altars of our Churches.*’ He will also observe that, at page 14 in the former editions, the words were:—‘*Who myself adore and teach the people to adore the consecrated Elements, believing Christ to be in them—believing that under their veil is the sacred Body and Blood of my Lord and Saviour Jesus Christ.*’ He will now find the following words substituted:—‘*Who myself adore and teach the people to adore Christ present in the Sacrament, under the form of Bread and Wine, believing that under their veil is the sacred Body and Blood of my Lord and Saviour Jesus Christ.*’”

“The three great doctrines on which the Catholic Church has to take her stand are these:—I, The Real Objective Presence of our Blessed Lord in the Eucharist; II, ‘The sacrifice offered by the Priest;’ and III, The adoration due to the Presence of our Blessed Lord therein.”

“Well, I do not know what others of my brethren in the Priesthood may think,—I do not wish to compromise them by anything that I say or do,—but seeing that I am one of those who burn lighted candles at the Altar in the daytime; who use incense at the Holy Sacrifice; who use the Eucharistic Vestments; who elevate the Blessed Sacrament; who myself adore, and teach the people to adore, Christ present in the Sacrament, under the form of bread

and wine; believing that under their veil *is the sacred Body and Blood of my Lord and Saviour Jesus Christ*;—seeing all this it may be conceived that I cannot rest very much at ease under the imputations above recited.”

Their Lordships agree with the learned Judge of the Court below that the doctrine charged in the 20th Article, namely, that adoration is due to the consecrated elements, is contrary to law, and must be condemned. But they have admitted, as the learned Judge has done, Mr. Bennett's explanation of that language, and therefore they are not called upon to condemn Mr. Bennett under the 20th Article. The 27th Article of Charge therefore alone remains for decision; it is as follows:—

“That in or by the passages lettered N, O, and S, hereinbefore set forth in the seventh preceding Article you have maintained or affirmed and promulgated the doctrine that adoration is due to Christ, present upon the Altars (thereby referring to the Communion Tables) of the Churches of the said United Church of England and Ireland in the Sacrament of the Holy Communion under the form of bread and wine, on the ground that under their veil is the sacred Body and Blood of our Lord and Saviour Jesus Christ.”

Their Lordships have now to consider whether or not the passages from the Respondent's writings above set forth are necessarily repugnant to or contradictory of the 28th Article of Religion, or of the Declaration of Kneeling, as alleged in the 31st Article of Charge.

The Declaration of Kneeling states that, by the direction that the communicants shall receive the consecrated elements kneeling, “no adoration is intended or ought to be done either to the Sacramental bread and wine there bodily received, or to any corporal presence of Christ's natural Flesh and Blood.”

According to this declaration, neither the elements nor any corporal presence of Christ therein ought to be adored.

The 28th Article lays down that “the Sacrament of the Lord's Supper was not by Christ's ordinance, reserved, carried about, lifted up or worshipped.”

In the 25th Article it had been affirmed that

"the Sacraments were not ordained by Christ to be gazed upon, or to be carried about, but that we should duly use them."

It was laid down in *Martin v. Mackonochie* that such acts as the elevation of the cup and paten, and kneeling and prostration of the minister before them, were unlawful, because they were not prescribed in the Rubric of the Communion Office, and because acts not prescribed were to be taken as forbidden. Their Lordships in that judgment adopted the words of the Committee in *Westerton v. Liddell*; "for the performance of the services, rites, and ceremonies ordered by the Prayer Book, the directions contained in it must be strictly observed; no omission and no addition can be permitted."

It follows then that the Church of England has forbidden all acts of adoration to the Sacrament, understanding by that the consecrated elements. She has been careful to exclude any act of adoration on the part of the minister at or after the consecration of the elements and to explain the posture of kneeling prescribed by the Rubric. If the charge against Mr. Bennett were that he had performed an outward act of adoration on any occasion in the service, the principles laid down in *Martin v. Mackonochie* would apply to this case. Such an act could not be done except in the service, because the Sacrament may not be "reserved." But even if the Respondent's words are a confession of an unlawful act it is questionable whether such a confession would amount to false doctrine. And it is also fair to remember, in the Respondent's favour, that the judgment in the case of *Martin v. Mackonochie*, which established the unlawfulness of introducing acts of adoration, was not delivered until December 23, 1868, after the publication of the words that are now impugned. Some of their Lordships have doubted whether the word "adore," though it seems to point rather to acts of worship, such as are forbidden by the 28th Article, may not be construed to refer to mental adoration, or prayers addressed to Christ present spiritually in the Sacrament, which does not necessarily imply any adoration of the consecrated elements or of any corporal or natural presence therein.

Upon the whole, their Lordships, not without doubts and division of opinions, have come to the con-

clusion that this charge is not so clearly made out as the rules which govern penal proceedings require. Mr. Bennett is entitled to the benefit of any doubt that may exist. His language has been rash, but as it appears to the majority of their Lordships that his words can be construed so as not to be plainly repugnant to the two passages articulated against them, their Lordships will give him the benefit of the doubt that has been raised.

Their Lordships having arrived at the conclusion that they must advise Her Majesty that the Appeal must be dismissed, feel bound to add that there is much in the Judgment of the learned Judge in the Court below with which they are unable to concur. The learned Judge has endeavoured to settle by a mass of authorities what is the doctrine of the Church of England on the subject of the Holy Communion. It is not the part of the Court of Arches nor of this Committee, to usurp the functions of a Synod or Council. Happily their duties are much more circumscribed, namely, to ascertain whether certain statements are so far repugnant to, or contradictory of, the language of the Articles and Formularies, construed in their plain meaning, that they should receive judicial condemnation.

Their Lordships will not attempt to examine in detail the catena of authorities which the Judge of the Arches has brought together, nor that of the learned Counsel who appeared for the Appellant. No mode of argument is more fallacious on a subject so abstruse and of so many aspects; short extracts, even where candidly made, as in this case, give no fair impression of an author's mind. Thus Dean Jackson is quoted in the judgment; but the quotation omits the preceding sentence* which gives to the whole passage a meaning difficult to reconcile with the purpose for which it is used; while the opinion of this eminent divine would have been more correctly represented by referring also to the following remarkable passage in a previous chapter of his work: "What need then is there of His bodily presence in the Sacrament, or of any other presence than the influence or emission of virtue from His heavenly sanctuary into our souls? He has left us the consecrated elements of bread and wine, to be unto us more than the hem of His

* Works, vol. x, p. 41.

garment. If we do but touch and taste them with the same faith by which this woman touched the hem of His garment, our same faith shall make us whole."* Several of those who are cited by the learned Judge are living persons of greater or less note, who cannot rank as authorities for the history of a great controversy.

One of the authorities is so questionable, that it requires a passing examination. The learned Judge, after quoting the 28th Article of Religion, introduces as "a '*contemporanea expositio*,' from the compiler of this article, which cannot, I think, be gainsaid," a letter from Bishop Gheast to Cecil, under the date 1556 (probably a mistake for 1566) explaining the sense which he put upon the word "only" in the 28th Article. Gheast does not say that he was the "compiler" of the 28th Article, all but one sentence of which had been in substance in the Articles of 1552; and the context shows that he used the word "Article" only of this sentence, which, he says, was "of mine own penning." Upon the faith of this letter, genuine or not, avowedly written for a personal purpose ("for mine own purgation") is founded an exposition of the words "only after a heavenly and spiritual manner," as meaning that though a man "took Christ's Body in his hand, received it with his mouth, and that corporally, naturally, really, substantially, and carnally . . . yet did he not for all that see it, feel it, smell it, nor taste it." Upon this alleged exposition their Lordships feel themselves free to observe that the words "only after a heavenly and spiritual manner," do not appear to contain or involve the words "corporally, naturally, and carnally," but to exclude them; and that it is the Article, and not the questionable comments of a doubtful letter written for personal motives, which is binding on the Clergy and on this Court.

Their Lordships recall once more, in acknowledging the learning that has been brought to bear upon this case, the principle which this Committee has long since laid down. "There were different doctrines or opinions prevailing or under discussion at the times when the Articles and Liturgy were framed, and ultimately made part of the

* Works, vol. ix, p. 611.

law ; but we are not to be in any way influenced by the particular opinions of the eminent men who propounded or discussed them, or by the authorities by which they may be supposed to have been influenced, or by any supposed tendency to give preponderance to Calvinistic or Arminian doctrines. The Articles and Liturgy, as we now have them, must be considered as the final result of the discussion which took place ; not the representation of the opinions of any particular men, Calvinistic, Arminian, or any other ; but the conclusion which we must presume to have been deduced from a due consideration of all the circumstances of the case, including both the sources from which the declared doctrine was derived, and the erroneous opinions which were to be corrected.”*

Citations from established authors may be of use to show that “the liberty which was left by the Articles and Formularies has been actually enjoyed and exercised by the members and ministers of the Church of England.”* But, to say the least, very few of the quotations in the judgment exhibit the same freedom of language as do the extracts from Mr. Bennett. And after every authority had been examined, there would still remain the question that is before this Committee, whether the license or liberty is really allowed by the Articles and Formularies—whether anything has been said by the Respondent which plainly contradicts them. If the Respondent had made statements contradicting the Articles or Formularies, the citation of great names would not have protected him ; if he has not done so, he is safe without their protection.

There is one passage in the judgment which seems especially to call for comment :—

“With respect to the second and corrected edition of his pamphlet, and the other work for which he is articulated, I say that the objective, actual, and real presence, or the spiritual, real presence, a presence external to the act of the communicant, appears to me to be the doctrine which the Formularies of our Church, duly considered and construed so as to be harmonious, intended to maintain. But I do not lay down this as a position of law, nor do I say that what is called the Receptionist Doctrine is inadmis-

* Judgment of Privy Council, Gorham Case.

sible; nor do I pronounce on any other teaching with respect to the mode of presence. I mean to do no such thing by this judgment. I mean by it to pronounce only that to describe the mode of presence as objective, real, actual, and spiritual, is certainly not contrary to the law."

Their Lordships regret that the learned Judge should have put forth this extra-judicial statement, in which he adopts words that are not used in the Articles or Formularies as expressing their doctrine. The word "receptionist" is as foreign to the Articles as the word "objective." Their Lordships have already said that any presence which is not a presence to the soul of the faithful receiver, the Church does not by her Articles and Formularies affirm. They need not ask whether there is really any doubt as to the admissibility of the doctrine of Hooker and Waterland, who appear to be described as "Receptionists," in the Church of which they have been two of the greatest ornaments.

Their Lordships have not arrived at their decision without great anxiety and occasional doubt. The subject is one which has always moved the deepest feelings of religious men, and will continue to do so. There might have been expected from a theologian dealing with this subject, if not a charitable regard for the feelings of others, at least a careful preparation and an exactness in the use of terms. The very divine whose opinions Mr. Bennett seems to have sought to represent, was obliged himself to point out how erroneous was his statement of those opinions. The Respondent corrected the manifest error without an expression of regret at the pain he may have caused to many by his careless language. Even in their maturer form, his words are rash and ill-judged, and are perilously near a violation of the law. But the Committee have not allowed any feeling of disapproval to interfere with the real duty before them, to decide whether the language of the Respondent was so plainly repugnant to the Articles and Formularies as to call for judicial condemnation; and, as these proceedings are highly penal, to construe in his favour every reasonable doubt.

There will be no order as to costs, as the Respondent has not appeared.

