

*Judgment of the Lords of the Judicial Committee of  
the Privy Council on the Appeal of Sheppard v.  
Bennett, from the Court of Arches ; delivered 26th  
March, 1870.*

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Present :

THE LORD CHANCELLOR.  
THE ARCHBISHOP OF YORK.  
THE BISHOP OF LONDON.  
SIR JOSEPH NAPIER.  
LORD JUSTICE GIFFARD.

THE Appeal presented to the Committee upon this occasion is an Appeal from a decision of the Judge of the Court of Arches, by which he has directed certain articles that have been brought against the Rev. William James Early Bennett to be reformed "by omitting all such parts thereof as charge the Respondent in the Appeal 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;'" and the learned Judge came to that conclusion upon two distinct grounds, both of which have been argued before us. We have not had the advantage of hearing counsel on the other side, in consequence of Mr. Bennett not appearing in the course of these proceedings; but, having heard the case very ably and fully argued by Mr. Stephens, we feel ourselves in a condition to pronounce the conclusion at which we have now arrived, namely, that the learned Judge's decision is correct,—although, as there are two grounds upon which that decision was rested, we feel it necessary to explain upon which of those two grounds we think it right to agree with him in his conclusion.

Their Lordships cannot concur in the view which

he appears to have taken as the first ground upon which he rested his decision, but they think that the second ground which he took, and which goes more to the merits and substance of the case, is a substantial ground, and one upon which the Decree may well be, and ought to be, supported.

He states the first of his two grounds thus: "On the grounds, therefore, that this particular charge of heresy was not preferred before the Commissioners, on whose report the subsequent proceedings are founded, and that it was not mentioned in the Letters of Request, or in the Decree or Citation, I should, having regard to the law and practice of this Court and the authorities to which I have adverted, be of opinion that the Articles must be reformed by striking out the portions which relate to it." The reason for his arriving at that conclusion appears to be this. Mr. Bennett had published a certain number of pamphlets or works, and the first step taken under the statute was that of issuing a Commission to inquire whether or not proceedings should be had against him, on account of positions maintained in those publications, this Commission being issued by the bishop pursuant to the statute. What the Commission were directed to inquire into was this: they were to make inquiry as to the grounds of a certain charge made by the Promoter of this proceeding, Mr. Sheppard, against Mr. Bennett, the charge being that he (Mr. Bennett) "had, within the diocese of London, committed an offence against the laws ecclesiastical of this realm, by having caused to be printed and published within the said diocese certain works, in which he advisedly maintains or affirms doctrine contrary or repugnant to the Articles and formularies of the United Church of England and Ireland, the said works being entitled repectively"—and then the titles are set out; after which are these words, "and containing the following among other statements, in respect of which the said charge has been made, that is to say;" and then the Commission proceeds to set forth a number of passages selected from those various writings, all following this heading, "containing the following among other statements."

Upon the finding of the Commission that there

was ground for further proceeding, Letters of Request were forwarded by the Bishop to the Archbishop, requesting that a Citation or Decree should be issued under the seal of the Court of Arches, citing Mr. Bennett "to appear at a certain time and place therein to be specified, and answer to certain Articles, Heads, Positions, or Interrogatories touching and concerning his soul's health, and the lawful correction and reformation of his manners and excesses, and more especially for having offended against the laws ecclesiastical, by having, within two years last past, caused to be printed and published, within the diocese of London, certain works, in which he advisedly maintains or affirms doctrine directly contrary or repugnant to the Articles and formularies of the United Church of England and Ireland, the said works being entitled respectively;" and then all the titles are given, and only the titles of these works; and then the Letters state that the Articles are "to be administered to him, the said William James Early Bennett, at the voluntary promotion of the said Thomas Byard Sheppard;" and the Archbishop is required finally "to hear and determine the said cause according to the law and practice of the Court."

Upon that there follows the Decree or Citation, which, reciting the Commission and reciting the Letters of Request, proceeds to cite the Respondent in the following manner, namely, that he is to answer the charge, the charge being that he has committed an offence by publishing these works, the titles of which are again set forth; and then in the Decree or Citation are also added these words, "containing the following among other statements, in respect of which the said charge has been made, that is to say," then giving the whole of the various passages which were cited from the books in the original proceedings before the Commission.

Now, to proceed by steps in this matter: with reference to the Commission, their Lordships do not think it necessary to dwell at any length upon the proceeding as set forth in the Commission, for this simple reason, the Commission is merely a preparatory step taken by those whom the Bishop is, if he think fit, to call together to consult and advise with him as to whether or not a sufficient *prima facie* case is made out, so as to render it desirable and

fitting that he should have the case further inquired into before a regular tribunal ; and when the Commission sitting for that purpose have once found, as this Commission did find, that there is reason for proceeding, they have performed their duty, and, after that duty is performed, the Bishop, acting upon their suggestion and advice, proceeds by Letters of Request to confer jurisdiction upon the Superior Court to determine the matter, not by way of appeal, but in the first instance, which he by the statute is authorized to do.

When, therefore, that step has been once passed, it seems to their Lordships unnecessary to consider any further what was or was not before the Commission, although in this case nothing will be found to depend upon it, because the subsequent proceedings seem to have taken their regular course. But there may be other cases in which such circumstances will not occur ; therefore, it is desirable that one should at once state what appear to their Lordships to be the proper function and course of proceeding of the Commission, namely, simply advising the Bishop on the matters which are alleged before him, leaving the Bishop to take his own course after that has been done, and to bring the matter in such form as he thinks fit by Letters of Request before the higher Court.

The Bishop then, by the Letters of Request, founds jurisdiction in the higher Court, which could not proceed, except upon such Letters of Request, until the Bishop had heard and disposed of it in his own Court ; and, having so founded the jurisdiction, the Letters also set forth that upon which he desires citation to be issued to the clerk who is alleged to have offended.

In this Citation their Lordships are quite clear that all that is necessary to be done is to state generically the offence with which the Clerk is charged. He must be told undoubtedly what charge it is that is brought against him. But that may be done in terms reasonably precise without going into any minute degree of detail,—so that, in short, he should not be tried on a charge of heresy, when perhaps it may be some other charge which is to be alleged in the Articles. He must have the offence generically stated in such terms as to lead him to know what the matter is which he is



called upon to answer, but the detail of that charge will be made in the Articles to be exhibited, for the purpose of giving him full information. He is expressly told in the Citation that Articles will be exhibited against him. To those Articles he will be called upon to put in his answer; and, as regards the charge itself, it is not necessary that it should enter into the minute details and particulars which it is essential that the Articles afterwards should dwell upon.

Therefore, in this case the Citation seems to have been quite sufficient for the purpose for which it was issued, namely telling Mr. Bennett that he was charged with having, in certain publications of his which were enumerated, offended by setting forth doctrine which was contrary to the doctrines held by the Church of England; and it proceeded in a manner which it is not at all necessary, as it appears to their Lordships, that it should do, to set forth fully certain passages from those works which he is so alleged to have published. But their Lordships do not agree with the learned Judge that those passages are to be taken as forming part of what is technically called the "*præsertim*," or the special subject-matter with which he is charged. The special subject-matter with which he is charged is quite sufficiently set forth for the purpose for which the Citation is issued, as "the having published these "books," in which are contained the passages that are alleged afterwards in the Articles to constitute the offence.

The passages or extracts are set forth in a manner which no doubt left him no reason to complain, because they do state very specially and particularly (more so, their Lordships think, than is absolutely necessary) the particular heads under which he was supposed to have offended. That might have been left to the Articles. They were, however, set forth in the original Citation. Without them he would have no reason to complain whatever, because he would know for what purpose he had been cited before the Court, and he would know in what books the charges would be found. He would also know that in due course of time Articles would be exhibited, bringing before him specifically the nature of those charges.

So far, therefore, we should have thought there

would be no ground for saying that the Promoter should not be at liberty to introduce a charge against Mr. Bennett of impugning the 29th Article, by setting forth that the wicked partake of the Lord's Body and Blood in receiving the Holy Communion, if it had been only on this ground that the passages from the publications supposed to contain that opinion had not been set forth in the citation, provided the passages were to be found in the books, and were afterwards minutely and specifically to be set forth in the Articles which the Respondent would have, ultimately, to answer.

The sole point remaining, therefore, is to see whether or not the Articles, as set forth, are supported by passages from the works in question, the publishing of which is charged as an offence. Now that, no doubt, is a more grave and important part of the case, and upon this, which is the second ground of objection to the Articles which the learned Judge has directed to be reformed, their Lordships have come to the conclusion, that they ought to agree with him in his decision. He says this,—

“Assuming, however, for the sake of argument,  
 “that these objections do not apply to the present  
 “case, there remains one of even a graver charac-  
 “ter to be stated. This is a highly penal proceed-  
 “ing against the Defendant. It is a criminal suit  
 “for the promulgation of heresy. The particular  
 “charge is not on account of a heresy distinctly  
 “stated or uttered in any sermon, or public act of  
 “preaching, or statement connected with the dis-  
 “charge of his duties as Incumbent of the parish  
 “committed to his charge. It is a heresy alleged  
 “to be contained in an essay or review upon eccle-  
 “siastical events in the Church since the year  
 “1833. It is to be extracted from what purports  
 “to be an historical statement of a trial against  
 “another clergyman as long ago as the year 1856.  
 “The author narrates that Archdeacon Denison was  
 “condemned by the then Archbishop of Canterbury,  
 “for teaching the doctrine of the Real Presence  
 “(not a quite accurate statement, I may observe in  
 “passing), that the sentence was reversed, that a  
 “Protest against the Archbishop's sentence was  
 “signed by seventeen priests; of these the Defen-  
 “dant is said to be one. It is contended, that by  
 “this reference to the Protest, which is in a work

“not mentioned in the Citation, the Defendant has  
 “made himself responsible in this suit, be it ob-  
 “served, for what is contained in that Protest.”

Now, without adopting every word of what is said by the learned Judge in his reasoning upon the subject, in principle it appears to their Lordships to be correct to say, that the Promoter must find, in the first instance, as the foundation of the Articles alleging that erroneous doctrine has been promulgated, something contained in the publication which he alleges the accused to have issued forth, something which lays the ground of the special charge which he puts forth in his Articles; and upon that part of the case it may be well to refer to what has been said by the Lord Chancellor in delivering the opinion of the Judicial Committee in the case of the ‘*Essays and Reviews*,’ the case of the *Bishop of Salisbury v. Williams*, and the mode in which he puts the necessity of stating, in the Articles of charge, the passages upon which the Promoter intends to rely as justifying the Articles. I am citing from 2 Moore’s Reports, New Series, page 423:—“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 dis-  
 “tinctly 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 works the sense or meaning of any  
 “passage or word that is challenged by the accuser.”

Then what has to be done is this: there must be set forth in the Articles, as is set forth here in the 12th, in the 18th, and the 25th Articles, what it is that is charged against the clerk, and what is the Article of Religion or portion of the formularies of the Church containing doctrine, which the clerk is alleged to have impugned. Well, that has been

complied with properly in these Articles so far, by stating that he has impugned the doctrine contained in the 29th Article of our Thirty-nine Articles, and that he has impugned it, because he has stated that the wicked receive the Body and Blood of our Lord in the Holy Communion. So far the Articles perform their duty, but then we have to see whether there are specified the passages in which he, the clerk, is alleged to have stated an opinion controverting that Article. Feeling that to be required, the Promoters refer, in the 12th Article, to the 5th previous Article, as setting forth the passages; in the 18th Article they refer to the 6th Article, and in the 25th Article they refer to the 7th previous Article. To the 5th, 6th, and 7th Articles, therefore, we must look to see what are the passages in the writings of Mr. Bennett in which the erroneous doctrine is said to be contained.

The only passage which has been pointed out to their Lordships' attention in the 5th Article is this: it is a very long Article, and there are numerous passages cited in it, but the only passage bearing upon this point, that is cited, is contained in page 13 of the Appendix, beginning at line 50. Having spoken a good deal about the Real Presence in the previous part, Mr. Bennett proceeds to say:—  
 “Among others, Archdeacon Denison taught the doctrine of the Real Presence to his candidates for ordination; and thence arose the extraordinary trial of the faith which terminated in an ignominious conclusion at Bath.” We observe, therefore, that he refers entirely to Archdeacon Denison's teaching the doctrine of the Real Presence, a doctrine of an entirely different character—whatever be the view of any persons with reference to its being a correct or incorrect doctrine—from that doctrine which is struck at by the 29th of the Thirty-nine Articles, as is evidenced (a fact, as we have already pointed out during the argument) by the very framers of the Articles themselves. The one doctrine may be held, as the learned Judge in the Court below says, without the other doctrine being held by the same person who holds the first. Therefore, we find nothing relating to the 29th Article there.

Then, having thus referred to what Archdeacon Denison taught as to the doctrine of the Real Pre-



sence, Mr. Bennett proceeds to say:—"The doctrine  
 "(which, of course, is the same doctrine) was con-  
 "demned by the Archbishop of Canterbury in his  
 "own person, but the Judgment was resisted. The  
 "Church was harassed by an unworthy and undig-  
 "nified contest, which ended in nothing, while  
 "several priests of determined mind entered their  
 "solemn protest" (and then, by innuendo, the  
 "framer of the article says, "thereby meaning and  
 "intending a certain Protest signed by, amongst  
 "others, you, the said William James Early  
 "Bennett, and which Protest is hereinafter, in this  
 "Article, set forth")—"against the whole proceed-  
 "ing of the Archbishop, reiterating the doctrine  
 "and challenging a new verdict for the truth.  
 "This protest was signed by seventeen priests, two  
 "of whom were Dr. Pusey and Mr. Keble, and  
 "appealed in 'the first instance, to a free and law-  
 "ful Synod of the Bishops of the Province of  
 "'Canterbury, and then, if need be, to a free and  
 "'lawful Synod of all the Churches of our Com-  
 "'munion, when such, by God's mercy, may be had.'  
 "After this, nothing further was heard of the silly  
 "trial of *Ditcher v. Denison*. It died a natural  
 "death. But what became of the doctrine?"—the  
 "doctrine, clearly the doctrine of the Real Presence.  
 "From 1853, when it passed the judgment of  
 "the Heads of Houses in Oxford, to 1867, when  
 "at length no one is inclined to resist it, it has  
 "grown and multiplied with wonderful rapidity,  
 "according to the saying, *Magna est veritas et præ-*  
 "*valebunt*. In 1857, he whom now it has pleased  
 "God to take to his rest, the saintly John Keble,  
 "set forth the seal and conclusion of the whole, in  
 "his own beautiful and loving way, in a work en-  
 "titled 'Eucharistic Adoration.' From that mo-  
 "ment the whole question has been suffered to  
 "advance in peace."

In those words it is impossible to find a single sentence affecting the 29th Article. As their Lordships have stated before, the doctrine of the Real Presence is not a doctrine in contravention of that Article, whether it be a doctrine in contravention of any other or not.

Then the only way in which it is sought to make out that the doctrine of the 29th Article has been contravened by inference by Mr. Bennett is this,—

the Promoter says there is a reference to the Protest against the Archbishop of Canterbury's Judgment in *Ditcher v. Denison*. He says, further, "That Protest was signed by you, the accused, Mr. Bennett;" and, therefore, "You have so referred to this Protest as to justify us in saying, that you have, within two years, committed the offence of 'impugning the 29th Article.'" The Protest itself was signed far more than two years ago, and it appears to me, therefore, I confess, that it is exactly the same whether the Protest was signed by Mr. Bennett himself or by any other person, and that the Protest is in exactly the same position as the book published by Mr. Keble, or any other work that has been referred to by Mr. Bennett in his own publications. You cannot rely upon the Protest itself as being that on which you can found a ground for charging Mr. Bennett, because, of course he cannot be charged upon that which he signed so many years ago; but you must find a recognition of that Protest,—not merely a reference to it, but a recognition of that Protest, and an adoption of it *in toto*, or an adoption of it so far as it specially teaches any erroneous doctrine. Of course, if Mr. Bennett had set out the Protest, and said, "To this, and every word of it, I agree," or if he had set out the particular part of the Protest which, on reading it, you would say does deal in a manner apparently, at all events, inconsistent with the 29th Article, and said, "As to this portion I agree," or even, possibly, if he had said, (I do not wish to say more, as we are upon a hypothetical case,) "There is nothing in this Protest from beginning to end, which I signed many years ago, from which I see any reason to depart;" any such mode of reference as that might have raised a very different question, but the only reference we find to the Protest is a qualified one, a reference entirely dealing with the doctrine of the Real Presence; and it is impossible, as it seems to their Lordships, to say that, upon that ground, the Promoter is entitled to import into this charge a passage which is not to be found in any one of the books which Mr. Bennett has published, but in a document of a totally different character, one proceeding from sixteen other persons (it is said to have proceeded from him too), and which contains a variety of statements, one of

which is selected to fix a charge upon Mr. Bennett, but as to which Mr. Bennett himself is totally silent in the books before the Court.

It appears to us, therefore, as far as the 12th Article is concerned, which is founded solely upon this 5th Article, that it does not conform to the rule laid down in the *Essays and Reviews* Case, namely, of specifying the passages in which the clerk is said to have offended in such a manner as to bring him within the cognizance of the Court at the present period, namely, a passage or passages written and published by the clerk in those books which he is alleged to have written and published within the last two years.

We must now go to the 6th Article, upon which the 18th Article is founded. In that 6th Article there is a somewhat nearer approach to a recognition, but still very far from being an actual adoption,—a somewhat nearer approach, say, to a recognition of the alleged erroneous doctrine by Mr. Bennett, in consequence of the peculiar wording of his reference to a work published, not by himself, but by Dr. Pusey, some considerable time since.

The passage is to be found on page 17 of the appendix, letter M, line 31:—"Then followed, in 1855, your voluminous work." Then the framer of the Article says, "meaning thereby the work of the Rev. E. B. Pusey, entitled, 'The Doctrine of the Real Presence as contained in the Fathers from the death of S. John the Evangelist to the Fourth General Council vindicated, in Notes on a Sermon, 'The Presence of Christ in the Holy Eucharist,' preached A.D. 1853 before the University of Oxford.'" And Mr. Bennett goes on, "being principally a catena of the Fathers, to prove the catholicity of the doctrine which you advocated. And then followed again, in 1857, in order to bring the doctrine fully home, and apply it to the English Church, another volume, concerning which there could be no mistake, for it bore this remarkable title, 'The Real Presence of the Body and Blood of Our Lord Jesus Christ the Doctrine of the English Church, with a Vindication of the Reception by the Wicked, and of the Adoration of Our Lord Jesus Christ truly Present.' And then followed upon this the work of our most dearly lamented friend John Keble, entitled, 'Eucharisti-

“ ‘cal Adoration,’ in which is clearly set forth that  
 “ very worship which we are now endeavouring to  
 “ follow, that very adoration which we now teach our  
 “ people to use as due and right to give to the ‘ Pre-  
 “ sence of our Blessed Lord upon our altars.’ ”

The first remark to be made upon that quotation is this, that it is quite clear that Mr. Bennett is not adverting to the doctrine of the reception by the wicked, because if that had been so, and if he was referring to Dr. Pusey’s pamphlet as indicating the truth of that peculiar error (if such it be), then the Promoter would have found the passage in Mr. Bennett’s own work. He would have set forth the passage in which Mr. Bennett, speaking of that doctrine, cites Dr. Pusey with approbation as supporting him in that view. What is quite clear from the ending of the passage is this, that he is here supporting the doctrine of the Adoration and the doctrine of the Real Presence. Those are subjects on which have been framed other Articles, as to which he is called upon by the learned Judge in the Court below to answer. The Articles exist upon both those heads, and those Articles he will have to answer. Dealing with that, he says in effect that the catholicity of the doctrine advocated by Dr. Pusey has been fully brought home to the English Church. Then he gives the title of the work, which involves three subjects, the Real Presence, the Reception by the Wicked, and the Adoration of our Lord as being Present. These are all totally distinct heads of doctrine. Then he says, to show to which he is referring, “ And then followed upon this the work  
 “ of our most dearly lamented friend John Keble,  
 “ entitled, ‘ Eucharistical Adoration,’ in which is  
 “ clearly set forth that very worship which we are  
 “ now endeavouring to follow, that very adoration  
 “ which we now teach our people to use,” and so on.

It is clear, therefore, what are the particular points, as clear as the previous case to which he is calling attention, namely, the Real Presence and the Adoration ; and it is too much to say that, because a title embodies three subjects, and the Respondent speaks approvingly of the work, and speaks of it as establishing the doctrine as to two of those subjects, therefore he is to be held as having expressed approbation as to the third doctrine con-



tained in the title-page. Although he intimates that he is glad to receive the book, because there can be no mistake on the particular points which he wishes to hold forth to the public as being the right and proper doctrine, there is no ground for coming to the conclusion that, because he thus approves, as he does clearly approve, of the work as supporting these two doctrines, therefore *ex necessitate* he must be held to approve of the third doctrine, and that, consequently, such work of Dr. Pusey is to be held forth as a ground for supporting the 18th Article. In other words, it would be to make him answerable for Dr. Pusey's doctrine without his having distinctly and avowedly in words adopted it.

In the 7th Article, which is referred to in the 25th, and, indeed, both in the 6th and 7th Articles, there is another passage, on which it is alleged that the learned Judge in the Court below ought to have admitted the 25th Article. I am reading from the 6th Article, where the words are,—“ That  
 “ the said propositions so hereinbefore in this Article  
 “ referred to as having been maintained by the said  
 “ Archdeacon Denison are certain propositions  
 “ maintained by him in certain works or writings,  
 “ for which he was cited to appear before the then  
 “ Archbishop of Canterbury, under 3 & 4 Vict. c. 86,  
 “ at a Court held by his Grace in the City of Bath,  
 “ in the year 1856, and are as follows:—‘ 1. That  
 “ ‘ the Body and Blood of Christ are really present  
 “ ‘ in the Consecrated Bread and Wine. 2. That  
 “ ‘ the Body and Blood of Christ are really present  
 “ ‘ in the Consecrated Bread and Wine after a man-  
 “ ‘ ner not material, or, as it is said “ corporal,” but  
 “ ‘ immaterial and spiritual. 3. That the Body and  
 “ ‘ Blood of Christ being really present after an im-  
 “ ‘ material and spiritual manner in the Consecrated  
 “ ‘ Bread and Wine are therein and thereby given  
 “ ‘ to all, and are received by all who come to the  
 “ ‘ Lord’s Table.’ ”

Now, Mr. Bennett has not given his explicit approbation to those three propositions which are cited by the pleader, and only cited by the pleader, as being the propositions which were in question in Archdeacon Denison's case; but all he has said is this: “ We have the celebrated legal case of Arch-  
 “ deacon Denison. Archdeacon Denison maintained,

“in various propositions, the Real Objective Presence of our Blessed Lord in the Eucharist. His doctrine was impugned, and he was cited before the Church Courts. The Archbishop of Canterbury, *in propria personá*, came to Bath to try the question. It broke down.” There, again, he is only saying exactly what he said before. He says that the Archdeacon maintained the doctrine of the Real Presence, and the pleader puts it thus: “Besides that, there were several other doctrines, and because there were I have a right to hold Mr. Bennett answerable as having set forth now within these two years passages in which he impugns the 29th Article of the Church of England.”

The 25th Article, which refers to the 7th, is in the same words as the 18th, and subject to exactly the same remarks. It refers to the 7th Article; and on page 20 of the appendix the passage is found again about Mr. Keble and the Eucharistic Adoration. At the bottom of page 20 are the words: “Archdeacon Denison maintained in various propositions the Real Objective Presence of our Blessed Lord in the Eucharist. His doctrine was impugned, and he was cited before the Church Courts.” All that has been read before, and also the passage about the Archbishop of Canterbury *in propria personá* going down to try the question. Then it goes on: “Nothing could be shown to prove that it was a false doctrine, or to dislodge the Archdeacon from the position which he then maintained, and still does maintain, and, maintaining, is still Archdeacon of Taunton. Is it fair, then, to ignore this matter of history, these facts known universally; and, when they thus stand out unassailable, to treat them as though they never had been? Is it fair, when the doctrines have thus been proved over and over again to be true, still to recur to them, and pronounce them false, and to say that ceremonies, because they symbolize them, and draw with them a reverential worship attached to them, make us idolatrous?”

Then the pleader sets out the propositions, and he wishes to fasten his logic upon Mr. Bennett as being Mr. Bennett's logic, and to treat the propositions of Archdeacon Denison as being propositions

adhered to by Mr. Bennett, upon which he is entitled to rely as impugning, on the part of Mr. Bennett, the 29th Article.

Now, I confess, having gone through those passages, it seems to me (and their Lordships appear to concur) that the Articles which are to specify the doctrines impugned must specify the opinions which the Clerk has advisedly maintained, and they must set forth the passages in which those opinions are maintained. It is not a compliance with those requisites to set forth other passages in works which he has approved of generally, because those works contain passages which that Clerk has not by his own publication supported, maintained, or accepted in their totality and generality. No man certainly would be safe if it were to be held that, because approbation is expressed by him of a particular writer upon topics such as these, where the shades of opinion of all men are so minute, and so very delicate and refined, according to the turn of each person's mind,—he were to be made answerable for opinions as being his which are not his, but are contained in some work of the general character of which he has expressed his approbation.

It appears, therefore, to their Lordships that the learned Judge was justified on that ground in directing the Articles to be reformed in the particulars which he has mentioned, because the Articles do not set forth the passages from Mr. Bennett's work in which Mr. Bennett maintains any doctrine impugning the 29th Article.

As to what may subsequently take place in the Court below it is not for their Lordships to pronounce an opinion. They have merely to deal with the Appeal as it comes before them. They have simply to say whether the Judge was right or not in directing the Articles to be reformed to the extent to which he has directed them to be reformed.

Therefore, being of the same opinion as the learned Judge, their Lordships will humbly recommend to Her Majesty that the Appeal be dismissed; and, as Mr. Bennett has not appeared, there will be nothing said about costs.

