

## THE TRIAL OF BISHOP KING (*READ v BISHOP OF LINCOLN*)

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The trial of Bishop Edward King (1829–1910) and the judgment which issued from it proved a landmark in the history of the Victorian Church of England. The judgment was also a turning point in the history of the Catholic Revival, and the bitter series of ritual disputes to which it gave rise. Edward Norman categorised the trial as ‘One of the most important, as well as one of the most extraordinary episodes in the religious history of the nineteenth century.’<sup>1</sup> R. W. Church, Dean of St Paul’s, hailed the judgment as ‘The most courageous thing that has come out of Lambeth for the last 200 years.’<sup>2</sup> Others, inevitably, given the passions roused by the ritualist controversy, took a more jaundiced view; but few serious Church people were indifferent to the result.

The judgment has to be seen in the context of the Catholic Revival, which by the late nineteenth century had become a formidable influence in the Church of England. The founding fathers of the Oxford Movement, Newman, Keble and Pusey, were much more concerned with doctrine and spirituality than with ritual. Their central aim was to affirm that the Church was not a department of state, nor an association for the reform of manners, but a Divine Society, founded by Jesus Christ and responsible to him as Head. They were contending for what later Nonconformists described as ‘The Crown Rights of the Redeemer’. From the opening salvo of the Movement—Keble’s Assize Sermon of 1833, condemning the government proposal to suppress ten Irish bishoprics—there was an inherent possibility of conflict between Church and State. That conflict is one of the sub-themes of the ritualist disputes, and in particular of the trial of Bishop King in 1889/1890.

Though elaborate ritual was not central to the early phases of the Oxford Movement, the sacraments were. High Churchmen emphasised the frequent celebration of the Eucharist and the Real Presence of Christ in the Sacrament, and their devotion produced not only greater reverence in worship but, in time, a more striking and colourful ritual. As the Movement spread from the University to the parishes, eager young clergy began to introduce a markedly more Catholic ritual into their services. Eucharistic vestments, candles and flowers upon the altar, the eastward-facing position of the celebrant at Holy Communion, the use of incense, bowing or genuflecting to reverence the altar: these became increasingly common accompaniments of High Church worship. They also provoked a backlash among Anglicans who insisted on the fundamentally Protestant nature of their Church, and eventually led to litigation. The disputes kindled deeply felt passions which can be understood only if we take seriously the virulence of anti-Catholicism in Victorian England. The fear and hatred of Rome is difficult for our own more secular society to grasp. Perhaps the nearest contemporary analogy is that of the more extreme Protestant sectarianism in Northern Ireland.

In 1867 a Ritual Commission, chaired by the Archbishop of Canterbury, C. T. Longley, was appointed to inquire into differences of ceremonial practice in the Church of England. Its reports, published in 1867, 1868 and 1870, successively condemned Eucharistic vestments, lighted candles on the altar during Communion, and the use of incense. The commissioners also recommended that the Ornaments

<sup>1</sup> E. R. Norman, *Anti-Catholicism in Victorian England* (Allen & Unwin, London, 1968), p. 105.

<sup>2</sup> Mary Church (ed), *The Life and Letters of Dean Church* (1897), p. 421.

Rubric in the Book of Common Prayer, stating that lawful ceremonial should be that in permitted use under the First Prayer Book of Edward VI, should be left unaltered. That rubric had long been a battle-ground of controversy, and would remain so, despite the pious hopes of the commissioners. They would have liked Parliament to turn their recommendations into law; but with Gladstone, a High Churchman, as Prime Minister, that proved a vain expectation. In 1871 an important legal judgment was given in the case of a ritualist clergyman, the Revd John Purchas, Vicar of St James, Brighton. The Dean of the Arches found in favour of Purchas,<sup>3</sup> but on appeal the Judicial Committee of the Privy Council reversed his decision, and declared Eucharistic vestments, the eastward position, the mixed chalice and the use of wafer bread to be illegal.<sup>4</sup> High Churchmen were incensed.

The fact that since 1833 the Judicial Committee of the Privy Council had been constituted as the final court of appeal in ecclesiastical causes<sup>5</sup> was anathema to the High Church party. In their eyes, here was rank Erastianism. The members of the Judicial Committee were lay judges who had no special theological training to fit them for their sensitive task of adjudicating in matters of doctrine and ritual. They did not consult the body of bishops, who were the appointed guardians and teachers of the Faith. To High Churchmen it was a travesty of Church Order that the definition of faith and the regulation of worship should, in the final analysis, be in the hands of a secular tribunal. Hence many High Church incumbents felt free to ignore the *Purchas* decision, as made by a tribunal lacking all competent spiritual authority.

The next attempt to bring order into what many saw as liturgical chaos was the Public Worship Regulation Act 1874. This measure authorised the two archbishops to appoint a barrister or an ex-judge of the Supreme Court as Judge of the Provincial Courts of Canterbury and York to try ritual suits.<sup>6</sup> The Act allowed appeal to the Judicial Committee of the Privy Council,<sup>7</sup> and Archbishop Tait, who drafted the Bill, also secured provision for a bishop to veto proceedings under the Act if he thought it pastorally right to do so.<sup>8</sup> Despite that conciliatory provision, four priests found guilty of ritual illegalities under the Act went to jail rather than submit. The imprisonment of Arthur Tooth (1877), Pelham Dale (1880), Richard Enraght (1880) and Sidney Green (1881–1882) caused outrage within the High Church party, brought the Act into discredit, and encouraged more bishops to stay proceedings by the use of their veto.

Many moderate Anglicans, while not sympathising with the ritualists, came to see the use of the law and its penalties as a blunt and ineffective instrument in dealing with matters of worship and doctrine. It was common ground between the ritualists and their opponents that the points at issue were not only liturgical, but also doctrinal; ceremonies had clear doctrinal implications, especially in relation to the Eucharist. The Real Presence of Christ in the Sacrament; the nature of the Eucharistic Sacrifice; the practice of Reservation of the consecrated elements; and the adoration of Christ's sacramental presence in them: all these matters of intense doctrinal controversy were involved in the running battles over ritual. What seemed trivial to some, touched the kernel of the Faith for others.

Yet, if recourse to law produced revulsion among some Anglicans, to others it seemed the only way left to preserve the Reformed nature of the Church of England. In 1865 militant Protestant Evangelicals formed the Church Association (the

<sup>3</sup> *Elphinstone v Purchas* (1870) LR 3 A & E 66. Ct of Arches.

<sup>4</sup> *Hebbert v Purchas* (1871) LR 3 PC 605.

<sup>5</sup> Privy Council Appeals Act 1832 (2 & 3 Will 4, c 92), s 3.

<sup>6</sup> Public Worship Regulation Act 1874 (37 & 38 Vict, c 85), s 7.

<sup>7</sup> *Ibid.*, s 9.

<sup>8</sup> *Ibid.*, s 9; *Allcroft v Lord Bishop of London* [1891] AC 666. HL.

'Church Ass' to its opponents), a body designed to combat ritualism, and to use every legitimate means, including litigation, to get rid of it. The Association soon showed its mettle by initiating proceedings in 1867 against Father A. H. Mackonochie, the well-known High Church Vicar of St Alban's, Holborn. Giving judgment in 1868, the Dean of the Arches, Sir Robert Phillimore, declared it to be illegal, in the service of Holy Communion, for the celebrant to elevate the Host, to use incense, and to mix water and wine in the chalice during the service<sup>9</sup>—all standard High Church practices. On appeal to the Judicial Committee, Lord Cairns endorsed these prohibitions, and also ruled out genuflections and the use of lighted candles,<sup>10</sup> which Phillimore had allowed. The Church Association was a determined body, and in 1874, following Mackonochie's disregard of the court's ruling, it instituted fresh proceedings against him.<sup>11</sup> In 1881, at the request of Archbishop Tait, Mackonochie resigned his living. He would never accept the subservience of the Church to the State, and is on record as declaring, 'Let the State send forth the Church roofless and penniless, but free, and I will say "Thank you"'.<sup>12</sup>

The rigours of the law, it seemed, as applied to determined ritualists, issued either in imprisonment or the loss of living. Many Anglicans, and by no means only High Church ones, were unhappy with such outcomes. Meanwhile, the litigation continued. It was the Church Association which supported and funded the legal action against Bishop King in 1888. That action, given the conscientious conviction of the members, was a bold and courageous step to take. King, who had been Bishop of Lincoln since 1885, was not only the leading High Church bishop on the Bench; he was also renowned for his transparent goodness and holiness of life. Even Edward Norman, whose sympathies are generally with King's opponents, concedes that 'There is always something distasteful about criticizing the mistakes of a saint'.<sup>13</sup> By its action, the Church Association was making clear that it was proceeding at law without fear or favour, personalities aside, on a matter of fundamental principle. Moreover, since the Public Worship Regulation Act 1874 had given bishops the discretionary power to stop ritual proceedings against their clergy—a power they had been prepared to use—the Church Association sought the opportunity of a test case to bring charges against the bishop himself.

The coming storm began, a cloud no bigger than a man's hand, in a Lincolnshire parish. In the autumn of 1886, Mr Ernest de Lacy Read, a churchwarden of Cleeceum-Cleethorpes in the Lincoln diocese, brought charges of ritualism, including the wearing of vestments, against his High Church rector, the Revd J. P. Benson. Bishop King used his veto to bar the prosecution, though at the same time bringing pastoral pressure to bear on Benson to adopt a simpler, more traditional Eucharistic practice. Read, a local solicitor, was not satisfied, and appealed against King's decision to the Archbishop of Canterbury, Edward White Benson. The Primate refused to take up the case, and so Read, backed by the Church Association, decided to indict King himself. On 22 June 1888 the Association petitioned Archbishop Benson to try Bishop King for ritual acts contrary to the Prayer Book, allegedly committed at Communion Services held in Lincoln Cathedral on 4 December 1887 and at the parish church of St Peter-at-Gowts, Lincoln High Street, on 18 December 1887. The acts complained of were:

- (1) mixing water with the sacramental wine during the service and subsequently consecrating the Mixed Cup;

<sup>9</sup> *Martin v Mackonochie* (1868) LR 2 A & E 116. Ct of Arches.

<sup>10</sup> *Martin v Mackonochie* (1868) LR 2 PC 365.

<sup>11</sup> *Martin v Mackonochie* (No 2) (1874) LR 4 A & E 279. Ct of Arches.

<sup>12</sup> Cited in John Shelton Read, *Glorious Battle: The Cultural Politics of Victorian Anti-Catholicism* (Tufton Books/Church Union Publications, London, 1998), p. 136.

<sup>13</sup> Norman, *Anti-Catholicism*, p. 110.

- (2) standing in the 'eastward position' during the first part of the Communion service;
- (3) standing during the Prayer of Consecration on the west side of the table, in such manner that the congregation could not see the manual acts performed;
- (4) causing the hymn *Agnus Dei* to be sung after the Consecration prayer;
- (5) pouring water and wine into the paten and chalice after the service and afterwards drinking such water and wine before the congregation;
- (6) the use of lighted candles on the Communion table or on the retable behind, during the Communion service, when not needed for the purpose of giving light;
- (7) during the Absolution and Benediction making the sign of the Cross with up-raised hand facing the congregation.<sup>14</sup>

Archbishop Benson was in a quandary as to whether or not to hear the case. E. S. Talbot, Warden of Keble College, Oxford, and a leading High Churchman, was clear that the Primate should refuse to act. Writing to Randall Davidson, Dean of Windsor, in June 1888, Talbot urged:

'Surely the only course is for the Archbishop to decline to take up the case. I know that it may involve risks, first of attack by way of application for mandamus, then through Parliament. But even if these are possible (and the latter is most doubtful) the risks are well worth taking. He would be fighting for what on every ground of policy and principle we should desire—the right of the Church's Chief Officer to independence and discretion in the exercise of his functions.'

Benson thought otherwise. He believed that if he refused to act, the complainants would almost certainly apply to the Court of Queen's Bench for a writ of mandamus, which would compel him to hear the case. An appeal by the prosecution to the Judicial Committee of the Privy Council elicited the ruling on 3 August 1888 that the Archbishop had jurisdiction in the case,<sup>15</sup> and Benson decided to go ahead.

At the human, personal level, Benson and King shared a number of common ties. Both were born in 1829; both were of Yorkshire descent; both had served in Lincoln, where Benson had been Chancellor of the cathedral from 1872 to 1877. In temperament, however, they were very different. King emphatically did not welcome the drama and publicity of the trial; Benson, who was something of an expert in the field of liturgical history, rather revelled in it. The Archbishop was by no means unsympathetic to High Church practice, but was determined to act with judicious impartiality in what he knew would be a *cause célèbre*.

There was no exact parallel for such a trial of one of his diocesans by the Archbishop. The nearest parallel was the case of Bishop Watson of St David's, whom Archbishop Tenison in 1699, sitting with six episcopal assessors, deprived of his office for scandalous life and conduct.<sup>16</sup> The charges in that case, however, were moral, not liturgical, and King's blameless life was universally acknowledged. Benson chose six bishops from the Southern Province to sit with him in court as assessors, but reserved judgment to himself. At least two of the assessors—Browne of Winchester and the learned Stubbs of Oxford—appear to have disagreed with Benson that he had sole jurisdiction in the case. Indeed, Stubbs served only under protest at the hearings at Lambeth Palace, and could be heard muttering during the trial. 'This is not a court; it is an Archbishop sitting in his Library.'<sup>17</sup> Stubbs had been a member of the 1883 Ecclesiastical Courts Commission, whose members had

<sup>14</sup> A. C. Benson, *Life of Edward White Benson* (2 vols, 1899), II, 354.

<sup>15</sup> *Ex parte Read* (1888) 13 PD 221, PC.

<sup>16</sup> Cited in G. K. A. Bell, *Randall Davidson, Archbishop of Canterbury* (3rd edn) (Oxford University Press, 1952), p. 28. See *Bishop of St David's v Lucy* (1699) 12 Mod Rep 237.

<sup>17</sup> See Bell, *Davidson*, p. 132.

argued—*nem. con.*—that if a bishop were tried, it should be ‘by a tribunal of com-provincial Bishops’.<sup>18</sup> This view was endorsed by King’s legal advisers—Sir Walter Phillimore (1845–1929) and Sir Horace Davey (1833–1907)—and he accepted their counsel. Though he agreed to answer the charges, he made at the outset of the proceedings a courteous disclaimer as to the composition of the court, arguing that he should have been tried by his peers, namely all the bishops of the Southern Province. The trial opened on 12 February 1889, and the tension between Church and State was present from the start. Sir James Parker Deane (1812–1902), a lawyer of the old school, was Benson’s Vicar-General for the Province and Diocese of Canterbury. Sir James was one of the last of the ‘Civilians’, trained in Doctors’ Commons, and took the view that he alone should preside, in doctor’s robes and full-bottomed wig, over the formal opening business of the case. Benson, however, firmly insisted on sitting with him, lest the High Church party should accuse him of Erastianism. The mills of the trial ground on exceedingly slowly. On 11 May 1889 Benson delivered an elaborate judgment maintaining the competence of his court to try Bishop King,<sup>19</sup> and on 4 February 1890 the hearing of the case began. It was fully reported, and aroused strong feelings both in the press and among the general public. King did not relish controversy, but was prepared to stand his ground for what he believed was the wider good of the Church. He was no rabid ritualist himself, and in the service at St Peter-at-Gowts had simply followed the pattern of worship to which the parish was accustomed. In 1881 he had been one of thirty-two signatories to a memorial drawn up by Dean Church of St Paul’s, and presented on 10 January to Archbishop Tait. It pleaded for ‘a tolerant recognition of divergent Ritual Practice’.<sup>20</sup> King was no Romaniser, as he was often accused of being by his opponents. Indeed, he was at times severely critical of what he termed ‘the Roman system’. He was, however, determined to stand for tolerance of reasonable diversity and proper freedom of worship for High Church Anglicans. Henry Scott Holland claimed that, for all his gentleness, King had ‘the spirit of an old war-horse’; and King himself was apt to acknowledge, ‘God has not given me a *chin* for nothing’. Throughout the trial he exemplified his own aphorism that ‘Gentleness is not weakness, but restrained strength’.

The proceedings were open to the public, and Maggie Benson, the Archbishop’s outspoken daughter, was one of those who sat in on the trial. She thought the whole thing a storm in a liturgical tea-cup. As she wrote to a friend,

‘I can’t help being astonished at a man so absolutely saintly making such a tremendous fuss about such trifles, or if he doesn’t think them trifles he must be horribly materialistic. All the same, I hope it may go in his favour—if it doesn’t, I wonder what he’ll do.’<sup>21</sup>

Miss Benson might have reflected that the ‘tremendous fuss’ about these ritual matters had been made, not by King, but by the Church Association. As to King’s materialistic views, we may remember William Temple’s dictum that Christianity is the most avowedly ‘materialistic’ of all the great religions: the religion not simply of the Word, but of the Word made flesh.

King was quite clear in his own mind that ritual could run to extravagance and absurdity, but in his considered judgment, *abusus non tollit usum*. Preaching at St Barnabas, Oxford, a Tractarian parish in a poor quarter of the city, he anticipated objections to an enriched liturgy:

<sup>18</sup> The six assessors were Temple (London), Stubbs (Oxford), Thorold (Rochester), Wordsworth (Salisbury), Atlay (Hereford) and Browne (Winchester).

<sup>19</sup> *Read v Bishop of Lincoln* (1889) 14 PD 88.

<sup>20</sup> Berdmore Compton, *A Popular Review of the Judgment of the Archbishop of Canterbury in the Case of the Bishop of Lincoln* (1891), p. 13. Compton was a former Vicar of All Saints, Margaret Street.

<sup>21</sup> R. T. Davidson and W. Benham, *Life of A. C. Tait* (2 vols. London, 1891), II, 424n.

'People say that it will run into extravagance, that strange things are done. Most likely it is so from the very nature of the case':

but that risk, he contends, must be taken, in order

'to bring the truth to the poor and simple-minded. ... It is folly to question whether we can face large congregations, and then, being intimidated, give up because there are some who do things a little out of taste, a little out of order and time, and a little odd.'<sup>22</sup>

He preached that sermon in 1872, and by the time of his trial the ritualist controversy had intensified; but his basic stance was unchanged.

King had strong support during the trial from High Church Anglicans, from the English Church Union, and from his own diocese. Petitions on his behalf were widely signed, and money raised to defray his legal expenses. He also enjoyed the sympathy of some who, though not themselves High Church, yet recognised that it was a distortion of the truth to present this bishop as a Romanising zealot. He was in fact moderate and eirenical in his High Churchmanship. The particular ritual customs for which he was indicted were actually widely practised, without harm or complaint, in many English parish churches at that time. They were, as Owen Chadwick points out, 'exceedingly moderate customs, more moderate (as was observed) than were practised in London churches attended by the prime minister and the Prince of Wales.'<sup>23</sup>

On 21 November 1890 Benson delivered his long-awaited judgment.<sup>24</sup> At the start of his trial, King had written to every incumbent in the Lincoln diocese with a word of explanation and hope:

'... it is not, and it has never been, my desire to enforce any unaccustomed observance on an unwilling congregation; but my hope now is that this prosecution may, in God's providence, be so overruled as ultimately to promote the peace of the Church by leading to some authoritative declaration of toleration for certain details of ritual observance, in regard to which I believe that they are either in direct accordance with the letter of the Prayer Book, or at the least in loyal and perfect harmony with the mind of the Church of England.'<sup>25</sup>

King's hopes were to a large extent realised when Benson delivered his judgment. It was long and learned, the fruit of much study in liturgical history. The Archbishop had striven to provide liturgical guidelines based, not on the legal precedents of the Judicial Committee of the Privy Council, but on the rubrics of the Book of Common Prayer, and the traditional practice and usage of the Church. In searching for precedent and tradition, he took for granted the continuity of the English Church across the Reformation divide, an assumption which High Church Anglicans warmly endorsed. Benson's findings were in effect a bold assertion of spiritual independence for the Church, in ordering its own worshipping life, as opposed to regulation by the state.

Benson found substantially in favour of King. He declared legal: the eastward position; lighted candles on the altar; the mixed chalice (provided it were mixed before, not during, the service); the *Agnus Dei*; and the ablution of the vessels. Against King, he ruled that the manual acts must be visible to the people, and the sign of the Cross should not be used.

<sup>22</sup> A. C. Benson, *Life and Letters of Maggie Benson* (London, 1918), pp. 112–113.

<sup>23</sup> Edward King, *Ezra and Nehemiah: the examples for priests and laymen in the present movement in the Church of England* (Oxford, 1872), p. 15.

<sup>24</sup> *Read v Bishop of Lincoln* [1891] P 9.

<sup>25</sup> Cited in G. W. E. Russell, *Edward King, Sixtieth Bishop of Lincoln* (1912), pp. 166–167.

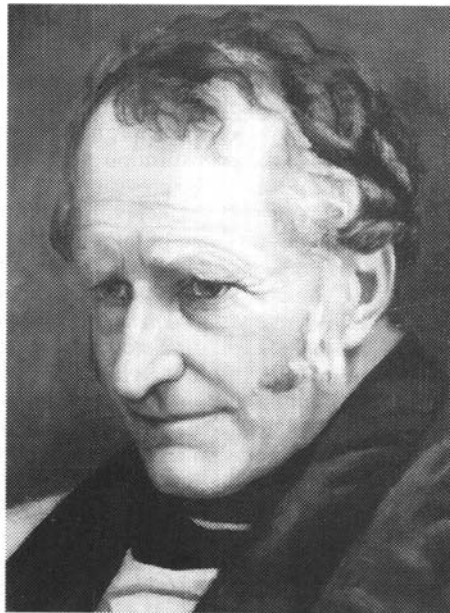


King readily accepted the judgment, and on 5 December 1890 wrote to Sub-dean Clements of Lincoln:

'On the whole, Church-people are, I think, thankful for the Judgement. I am, myself, very thankful for the true Principles on which it has been based. . . . I am no Ritualist, as you know; but, where the doctrine is sound, I rejoice that our simpler (and, I believe, often better and holier) brethren may have the help which sound and sight may be to true devotion.'<sup>26</sup>

The Church Association appealed to the Judicial Committee against the judgment, and the appeal was rejected on 2 August 1892.<sup>27</sup> Had the appeal been allowed, King's letters make it clear that he would not have accepted the ruling of a secular court which countermanded the Archbishop's ruling in a court spiritual. On 5 December 1892 King wrote to his chaplain, 'I am very thankful that we have been spared a great collision between Church and State. I do not think the country is ready for it, and it would have split the Diocese in two.'<sup>28</sup> As Owen Chadwick judiciously observes,

'In the tension of the time a truculent Bishop of Lincoln could have split the Church of England in two. It was a mercy for the established Church that the new Bishop of Lincoln was a man without truculence.'<sup>29</sup>



Bishop Edward King, *from a portrait in the possession of the Diocese of Lincoln.*

<sup>26</sup> Russell, *Edward King*, pp. 189–199.

<sup>27</sup> *Read v Bishop of Lincoln* [1892] AC 644, PC.

<sup>28</sup> Lincoln Record Office, Larken Deposit III/17.

<sup>29</sup> Owen Chadwick, *Edward King, Bishop of Lincoln 1885–1910* (Lincoln Minster Pamphlets, 2nd series, No. 4, 1968), p. 19.