THE

CHURCHMAN

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ART. I.—THE MORALITY OF THE RITUALIST MUTINY.

A LAYMAN'S VIEW.

IT is a peculiarity, perhaps, inseparable from free institutions, and if so, not to be regretted, that any minority which energetically and persistently complains of a grievance never fails to attract an amount of public attention and sympathy which is quite irrespective of the intrinsic merits of their case, and is by no means necessarily commensurate with the actual numbers of the complainers. This attention is now bestowed on what is popularly known as the Ritualistic party; with the necessary result that their attitude, their claims, and the arguments by which they support them are closely scrutinized.

There are times when a man may justifiably refuse to depart from a position of strict neutrality towards contending parties; but there are also times when a man is bound to take a side. No clergyman, no person who by profession or position is obliged or expected to take a lead in matters of morals, can justify indifferentism when morality itself is involved. The time has now arrived when such men must make up their minds one way or the other on the subject of the present ecclesiastical disputes. Impartiality ceases to be meritorious when it is merely the artificial result of laziness or wilful blindness.

Now the important question which arises for a churchman in regard to the clergymen who have refused to obey the directions of their Bishops and to submit to the decisions of the Courts, is simply this: Shall I give my sympathy to these persons, or not? It is in truth a moral question, and the answer does not necessarily involve as many disputed facts in law and history

as is generally supposed. Let us approach the question as far as we may with a large common sense.

In the first place it is necessary to guard against the impatience which is naturally excited at the difficulty found in convicting and punishing the offenders. That is part of the price we pay for the independence of our clergy at large. They are not removable at pleasure; but so many of them at least as are beneficed, have a freehold in their position, and so long as they do their legal duty, are safe from interference either, on the one hand, from their Bishop—as in the Romish Church—or, on the other, from their congregation, as in the case of Dissenters. What is it but this independence which induces men to exchange curacies for the very smallest benefices? And it must be remembered that their independence may be easily destroyed, but when once destroyed it can never be restored again. The inconveniences of our system are often irksome enough, but they are temporary, and should be patiently endured for the sake of the permanent advantages which lie deep down under the surface..

If the clergy as a rule did no more than their legal duty, the laity might find it advisable to alter their tenure; but they do much more than their legal duty, as a layman may gratefully acknowledge, and much more and much better than they could ever be forced to do by a slavedriver behind them, or payment by results as a stimulus. It is only in an Established Church that the clergy can be as free as they are in the Church of England. It is only license, not liberty, that can be obtained without law, whether in Ireland or in England.

The first thing necessary to be borne in mind is, that until the last few years the Church was undisturbed by Ritualists. The disputes over ritual were bitter enough, indeed, in the sixteenth and seventeenth centuries, but the Church finally settled itself at the Restoration of 1660, in the form which from that time to this has been, if not theoretically perfect, at least sufficient to satisfy plenty of good Christians. It is a matter within everybody's knowledge that albes and chasubles were introduced, or re-introduced, quite lately. The Ritualists themselves see the force of this, and so they have denied the fact. If any one wishes to investigate the fact for himself, let him refer to Mr. Malcolm Maccoll's book on the "Lawlessness, &c.," of the Ritualists, where he will find history ransacked for real and imaginary instances of the use of vestments; and when he has counted up every single instance, even assuming every quoted instance to be true, let him consider what proportion the whole number of those instances bear to the number of services in every parish church in England from 1660 to 1880. We assert, therefore, as a fact, that vestments are, at all events, an innova-

tion, and, as such, require good justification before they are forced on a Church which for more than 200 years has done without them.

Unable to deny this successfully, the Ritualist party in the first place fell back on law. "These vestments," they say, "are ordered by the Prayer-book itself, and we are only obeying the Prayer-book." Now this is a legal question as to the proper meaning of the directions given by the Prayer-book; and accordingly it has been over and over again discussed as such in the ecclesiastical courts, and it has been finally settled by the highest court of Appeal—viz., the Queen in Council, to say nothing of other courts, that the Ritualists are *not* obeying the rubric, and that the rubric *does* forbid the vestments. Twice has the question come before this high tribunal; first, in Mr. Purchas's case, and secondly in Mr. Ridsdale's case; with the same result on both occasions, so that there is no longer any possible ground for maintaining that vestments are ordered by the Prayer-book, unless one is prepared to say that this high tribunal twice misinterpreted the rubric. The Ritualists are prepared to say this, and do say it; and we must meet what they say. The judges who decided the first of these two decisions—viz., Mr. Purchas's case, were four in number; Lord Hatherley, the Archbishop of York, the Bishop of London, and Lord Chelmsford. The judges who decided Mr. Ridsdale's case were ten: Lord Cairns, Lord Selborne, Sir James Colvile, the Lord Chief Baron (Sir Fitzroy Kelly), Sir Robert Phillimore, Lord Justice James, Sir Montague Smith, Sir Robert Collier, Sir Baliol Brett (now Lord Justice Brett), and Sir Richard Amphlett, to say nothing of five bishops and an archbishop, who sat at the same time as episcopal assessors. Now who are the Ritualists that they should say that these courts, composed of the most eminent judges and bishops, mistook the law? No doubt, in the second of the two cases, we are told that the court was not unanimous. Well, it has never been contended by the Church party that this purely legal question was free from difficulty, so that it is not surprising to find a difference of opinion. Let us, for the sake of argument, suppose that in each case the court was divided, and that in each case the dissentient minority was as large as possible; still, it can only have consisted of one in the first case, and of four in the second; and there remain six judges out of the ten in the Ridsdale case, and three out of the four in the Purchas case, who *must* have come to the conclusion that the vestments were unlawful, and (according to the Ritualists) have mistaken the law.

The Ritualists feel that this explanation, though theoretically possible, is to the common sense of Englishmen so improbable that it would be useless to rest their case upon this alone. But how do they get out of the difficulty?

Now here we come to one of those matters which are as straws thrown up to show which way the wind is blowing; one of those things by means of which we may obtain a glimpse of the inner workings of these men's minds. When such glimpses have been obtained in sufficient number, we shall be able to form a trustworthy opinion of their inner springs of action, and to apply our knowledge so gained to the explanation of other acts of an apparently ambiguous character, the morality of which can only be judged by the actuating motives.

Not reluctantly, not solemnly, not tentatively, but "with a light heart," the Ritualists do not hesitate to assert recklessly and roundly, that these eminent judges gave a judgment of policy, and against their consciences decided the law to be what all the time they knew it was not. Nothing could be more insulting, more stinging, to any judge than to have such a thing said of him; and if it was the intention of the Ritualists to insult and sting to the very quick, they may rest assured that the end has been fully attained.

But we must not be run away with; we are now upon dry argument. We will not impute an improper motive to a single act; though if, as we proceed in our investigation we find a series of acts each of which requires a stretch of our charity to explain it favourably, the case may be altered. At present, therefore, all we say about this conduct of the Ritualists is, that it requires an exercise of charity to excuse it. We must not be prejudiced by the thought that the Ritualists themselves, in the first instance, might not unreasonably have been restrained by somewhat similar feelings from launching their accusation.

Putting moral considerations aside, and looking at the accusation simply as a move in the game, it has this advantage over the course of declaring the courts to have mistaken the law, that it stops the argument, and leaves the last word with the Ritualists. Suppose a Ritualist arguing the question with a Churchman, and suppose the Churchman quotes these two legal decisions; if then the Ritualist says: "Oh, but the courts mistook the law," there is a certain touch of absurdity and very-far-goneness about the reply which cannot fail to be perceptible. But if, on the other hand, the Ritualist, with a confident and back-stairs sort of knowingness, contemptuously asks, "Why, don't you know those decisions were notoriously based upon policy? Everybody knows that. Why, you *are* behindhand!" what can the man say? He cannot say he knows the contrary, for he was not present in the Privy Council, and he cannot call the slanderer by the name he deserves, inasmuch as it is not at present fashionable to treat the Ritualists otherwise than as good but mistaken persons. Therefore, it is practically an unanswerable argument.

Of the probability of the accusation being true, every one

must judge for himself. Lawyers will understand easily the impossibility of a number of men, lawyers all their lives and judges at the end, conspiring together to give a corrupt decision, contrary to the "plain words" of the Prayer-book or of any other law. You might just as well be told that six doctors conspired to kill a patient. A single doctor might, perhaps, be accused of such a thing, with a semblance of probability, by any one who was prepared to stand a prosecution for libel; but if it were said that six doctors conspired together to do it in a single case —six doctors against whom nothing of the kind had ever been whispered before or since—then what would be only the presumption of innocence in favour of one individual by himself, becomes the impossibility of guilt in favour of the six together. History is not unacquainted with a Scroggs and a Jeffreys; but they could not have attained their unenviable distinction if they had never presided at more than one trial. And we are asked to believe that in the present day there are six Scroggses or Jeffreyses on the bench together, and all happened to be selected for a single case!

Being driven from all these positions successively, the Ritualists next say that the court which pronounced these two decisions against them was a secular court, and that secular courts ought not to meddle with spiritual matters such as the interpretation of the law as to vestments, and that consequently they cannot recognize any jurisdiction to pronounce the decisions, or defer in any way to such decisions. And, in connection with this point, they raise the large question of the relation between Church and State.

What the State should do for the Church, what the Church should do for the State, where the boundaries between them should be set, how far either should control or guide the other —all these are, happily, questions upon which people may differ as much as they please without any imputation on their motives. They are, in fact, questions for the intellect and not for the heart. But a man must be decently consistent. If you find him justifying himself one day by certain opinions which he tells you he holds on these subjects, and the next day maintaining the opposite opinions for a different purpose, and you are quite sure of the inconsistency and also quite sure he is not a lunatic, you are entitled to say that on one of the two occasions the man must have been *dishonest*. And it must be pointed out that we may have materials which will enable us to characterize the acts and criticize the motives of a numerous and extensive party, though the same materials would not suffice in the case of some single member of the party. Let us explain ourselves.

Far be it from any one who endeavours, in however humble

a way, to be a faithful son of the Church of England as by law established, and to act up to that character to the best of his understanding, to allow himself to jump to the conclusion that any particular person, least of all a clergyman, cannot consistently with a straightforward morality maintain the attitude which has been assumed by Mr. T. Pelham Dale for instance. But our common sense was given to us to be used, and not to be frittered away by sentimental and enthusiastic charity. If we find, or think we find, a man eating the bread of the Church of England, trained in her schools, and after having in the most solemn manner sworn to administer her rites, to submit himself to her regulations and discipline, and to obey her duly constituted officers, entrusted on the faith of those undertakings with the spiritual concerns of her members, nevertheless explaining away his oaths, repudiating the authority of her officers of every kind, violating her rites, and dispersing the flock entrusted to his charge, we may not perhaps be wrong in giving credit to that man's strenuous professions of loyalty and affection; if we are wrong, it will be we hope but a venial mistake, as it will certainly be a generous one, to attribute his conduct to some of the inevitable differences of constitution by which the minds of men have been separated in all ages. Our common sense, however, tells us that the case is completely altered when instead of a single individual we have to deal with an organized party of considerable numbers, who all profess more or less the same object. There is no room for the explanation which is possible in the case of the individual. Mr. Hampden no doubt conscientiously believes the earth to be flat; but then he has no party. The conclusion is inevitable that the Ritualists as a party are not monomaniacs, but are, intellectually at least, open to reason.

Bearing this in mind, let us now pass in review some of the principles by which the Ritualists at present profess to stand, and compare their conduct with those principles. In effect, they maintain that there has been an undue interference by secular courts and Parliament with spiritual matters; that the Queen in Council and the Arches Court as at present constituted are secular courts, and have consequently no jurisdiction to interpret the law of the Church.

Now every time that the Ritualists appeal to the temporal courts of law for protection and assistance against the sentences of Lord Penzance, they distinctly recognize the authority of the State and of secular courts in those very matters with which they protest that a secular court has no right to deal. They protest that it is against their consciences to allow Lord Penzance's court to have any jurisdiction, because they say he was set up by Act of Parliament; but they have no conscientious scruples in

recognizing the authority in the same matters of the Queen's Bench Division of Her Majesty's High Court of Justice; as if the latter court had not been set up by Act of Parliament in 1875. If it is sacrilegious in Lord Penzance to suspend him, how can it be otherwise than sacrilegious in the Queen's Bench Division to set him up again? It is to be presumed that the sacrilege (if any) is committed by meddling in the matter at all, and does not depend on which way the decision goes.

Moreover, it is quite an afterthought on the part of the Ritualists that the Queen in Council had no jurisdiction to give the two decisions above referred to. Till those decisions, no one ever heard any objection to the jurisdiction; and indeed the Ritualists themselves, so far from having any conscientious scruples about recognizing the jurisdiction, have voluntarily appealed to the same court on the same matters. Mr. Purchas and Mr. Ridsdale both did so, supported as we know by the whole English Church Union. There was no scruple in those days, when they hoped the decision might be in their favour. It was this very appeal of Mr. Ridsdale, or the English Church Union in his name, that finally established the unlawfulness of the vestments. They now repudiate, and profess that their consciences compel them to repudiate, the jurisdiction of the very court to which they themselves appealed, and in the very case in which they themselves appealed to it.

We are irresistibly reminded of the scene in the *Merchant of Venice*:—

"*Shylock.* You call me, misbeliever, cut-throat dog, and spit upon my Jewish gaberdine. . . . . Well then, it now appears you need my help; Go to, then . . . .

"*Antonio.* I am as like to call thee so again, to spit on thee again, to spurn thee too."

Again we say, such inconsistency may possibly be actuated by the best of motives, but it is ambiguous, and undoubtedly requires explanation.

Sometimes they say that the Court of Arches as it existed in Sir Robert Phillimore's time was the true spiritual court which they would be prepared to obey if it had not been destroyed (as they say) by Parliament in 1874. But Sir Robert Phillimore, the judge of the Arches Court in 1868, decided in that year that it was unlawful to elevate the elements; so that one would expect to find the Ritualists, if they had any regard to consistency, abstaining from such elevation. On the contrary, their consciences (they say) compel them to elevate; and accordingly they disregard the law laid down by the Court of Arches in 1868, as well as the law laid down by it since. Is it possible that they can be sincere in such unreasonableness?

Now let us come to closer quarters with the attitude they

have for the present assumed with regard to the "ornaments rubric." They complain that a secular court, meaning the Judicial Committe of the Privy Council, has misinterpreted "the plain words" of the Prayer-book; and when they insist on wearing illegal vestments, they pretend to justify themselves by declaring that they alone are the upholders of what they call "our beloved Prayer-book" against the intrusion of purely Parliamentary courts; regardless of the fact that the very rubric they appeal to, whatever its true interpretation may be, does in so many words found itself upon Parliament only! The actual words are:—

> And here it is to be noted that such ornaments of the Church and of the ministers thereof, at all times of their ministration, shall be retained, and be in use, as were in this Church of England *by the authority of Parliament* in the second year of the reign of King Edward the Sixth.

Now, whatever be the true interpretation of this rubric, one thing must at all events be clear to everybody who is not sufficiently learned to have lost his senses, and that is, that the rubric sets up something which, in the opinion of the bishops and divines who framed it, rested *upon the authority of Parliament.* And yet this is the rubric of which these gentry have constituted themselves the champions against what they call the unjust claim of Parliament to legislate for the Church.

Could anything be more absurd? The ornaments rubric bases itself on parliamentary authority, but Parliament must not meddle or set up any court to meddle with the ornaments prescribed in the rubric, because they are spiritual matters which Parliament has no right to touch! "The plain words of the Prayer-book" may be retorted upon them with much greater force than they probably anticipated.

The crowning absurdity we have kept for the last, as it was in fact the last consummated. Bearing in mind the contention of the Ritualists, that it is against their conscience to recognize Lord Penzance's court or obey his orders, and that Mr. Dale was obliged to go to prison rather than violate his conscience by obeying those orders, what shall we say to the undertaking voluntarily given by Mr. Dale in order to get out of prison till his appeal was heard on the 11th of January? He actually undertook to obey Lord Penzance's inhibition till the 11th of January as a condition of being at large till that date. He did not undertake to omit this or that ceremony; but in so many words, not to contravene *Lord Penzance's inhibition.*

What was he put in prison for? Not for disobeying the monition, but for disobeying the inhibition; this very inhibition which he has temporarily undertaken to obey. Is it, or is it not against his conscience to obey the inhibition, which is all he

is asked to do? If it is, why not take his services as usual? If it is not, why on earth go to prison again?

The force of folly can no farther go. It *must* be immoral to reduce the reason with which God has endowed mankind to such a level as is necessary for swallowing all these inconsistencies. The moral feeling of mankind revolts against such an outrage to the Intellect; and they who would persuade us that it is demanded by religion can only succeed by first divorcing, and are in fact divorcing, Religion from Morality.

Now our object in pointing out all these inconsistencies is this: After making every possible allowance for enthusiasm, however erroneous, we submit that we have brought together a sufficient number of instances of what must be admitted to be ambiguous conduct, to entitle us to say, without uncharitableness, "This can only be excused by the very purest motives. Your conduct is so extraordinary that when you ask us to accept it as the outcome of sincere Christianity, we cannot do so until we have looked into the rest of your conduct to see whether it is consonant to your professions."

The first instance we will take for this purpose comes to hand in connection with what we have just been discussing. Notwithstanding the fact that the highest court of the realm has twice ruled the meaning of the ornaments rubric to be different from that for which the Ritualists contend, and notwithstanding that this fact is not only well known to them, but has lately been publicly recalled to their notice by the Bishop of Manchester, they are disingenuous enough to persist in retaining the expression "the plain words of the Book of Common Prayer" in the form of resolution which has been sent down from the English Church Union to be passed at its different branches, as if there was no doubt at all about it.

Let us see how Dr. Littledale, one of their great men, writing to the *Times* of December 2, comments on the circumstance that the Queen's Bench Division had granted a rule to show cause why Mr. Dale should not be discharged from prison. He writes:—

> Let him (*i.e.*, Mr. Dale) prove victorious, and what must be the effect on legal, or even thoughtful and dispassionate lay minds? Must it not be one or both of these conclusions—either that Lord Penzance is administering a law of which he knows nothing, and intends to learn nothing (as the late Lord Chief Justice of England, who had a keen appreciation of his merits, not obscurely alleged in a famous pamphlet), or that he is in such a hurry to put down Ritualism that he thrusts the law aside as a cumbrous obstacle, and, to use his own phrase, leaves justice prostrate?

To say nothing of the absurdity to a "legal or even a thoughtful and dispassionate lay mind" of jumping to the conclusion,

that because a judge is overruled on some technical point (a thing which has many times happened to every judge on the bench) therefore he *knows nothing* of the law he has to administer, what shall be said of the malicious addition, "and intends to learn nothing?" That the Lord Chief Justice's pamphlet alleged such a thing, obscurely or not obscurely, is more than untrue; it is slanderous to the Lord Chief Justice himself, who, if alive, would be the first to repudiate the illogical and unmannerly suggestion.

Mr. Dale, writing to the Bishop of London, allows himself to say: "The Zwinglian Calvinism which this Association" (*i.e.*, the Church Association) "seeks to force on us." Not only has this clergyman no ground for saying so, but he ought to have known that it is contrary to the fact. In the same letter Mr. Dale says: "They have proved utterly irreconcilable, notwithstanding every effort on my part to find a *modus vivendi* which could be accepted by me without loss of principle." Why should Mr. Dale's principles be left inviolate, and not the principles of his parishioners? Is it to be all give and no take? If Mr. Dale has in fact offered to give up anything which he could give up without loss of principle, it only shows that he has bullied his parish not only with things that are matters of principle with him, but with things which are not. The truth is, as Mr. Dale well knows, that a *modus vivendi* would readily enough be found if he would only resign his living and go elsewhere; unless, indeed, he interprets *modus vivendi* to signify "means of keeping my living."

Canon Liddon, in a letter to the *Guardian* of the 24th November last, says: "Mr. Dale's persecutors are endeavouring to coerce him into professing a conviction which he feels unable to accept."[1] Now Mr. Dale's prosecutors are not endeavouring to coerce him into professing anything whatever. It is difficult to conceive how Canon Liddon can have been ignorant of what everybody else knows, that Mr. Dale is prosecuted for no profession or non-profession of any conviction, but simply for not conducting the services in the way in which, when both he and Canon Liddon took their orders, they both believed they would have to conduct them. The charitable explanation of ignorance on Canon Liddon's part is more difficult when we observe the malicious substitution of the word "persecutors" for "prosecutors."

[1] Dr. Pusey commits himself to the same statement in the same paper. He writes: "Mr. Dale is in prison, not as some say, for the use of vestments, but for the great truth which the persecutors too acknowledge it to be their aim to exterminate, and which they hope to exterminate through it. He is imprisoned for contravening a biassed and unjust judgment of an authority constituted without the consent of the Church."

In the same number of the *Guardian* there is reported a crowded and influential meeting of the party. The speeches are reported at length. The speakers appear to have been selected, and certainly included some of the most prominent men of the party. Let us take, as an example of their spirit, the speech of Mr. C. W. Wilshere of Welwyn:—

> The Archbishop holds us up to public reprobation because we neither regard the opinion of the hundred bishops assembled at Lambeth, nor that of the convocation of Canterbury. The hundred bishops declared their opinion that no change should be made in long-established ritual without the consent of the ordinary. Theoretically this is excellent advice. But we cannot forget, &c. &c.

Well, if the gentleman was minded to display his Christian modesty to advantage, he could not perhaps begin better than by discussing in this manner the most solemn assembly of the English Church that has ever been held.

> Our bishops, taking possession of their episcopal thrones with the writ of *premunire* in the one hand, and the record of a blasphemous mock-election in the other, cannot be trusted, &c.

Of course the Bishops cannot be expected to fare better than the Pan-Anglican Synod. Of the Archbishop of Canterbury:—

> Nor is the author of the Public Worship Regulation Act, and ally of Colenso, the most fitting advocate of confidence in the wisdom and orthodoxy of the Episcopate (cheers).[1]

The speaker thus treats of Convocation:—

> As to that big vestry, the Convocation of Canterbury, it has itself distinctly confessed that although on two or three occasions consulted when parliamentary legislation affecting the Church was in contemplation, it has no authority to speak formally in the Church's name. For Canon 139, of 1604, declares that a national synod (not a provincial convocation) is the Church of England by representation. And as in such a body the two archbishops with their suffragans alone would sit as of right, and alone would decide, may Heaven preserve us from its revival until we have orthodox bishops canonically elected (cheers).

It would have been sufficient for the gentleman's argument, though not for his feelings, to have omitted this imputation of heterodoxy.

The Lower House of the Convocation of Canterbury, left to itself, voted against the abolition of the ornaments rubric. It was only

[1] In connection with this charitable insinuation that the Archbishop is heterodox with the heterodoxy popularly associated with the Bishop of Natal, we may call attention to a letter in *The Times* of Dec. 23 from Bishop Piers Claughton, forcibly condemning a similar attempt of the Dean of St. Paul's to connect the defenders of the Royal Supremacy with Mr. Voysey's doctrines.

when the Upper House appeared in its midst that the proctors for the clergy, dazed at the sight of their lordships in their scarlet robes, surrendered in an access of flunkeyism the ritual of the altar to those who were banded together to abolish it.

Of course Lord Penzance cannot be let off. He is "the judicial blunderer to whom our primates committed the rule of the Church."

It is needless to multiply instances. We assert that the specimens we have given are trustworthy samples of what everybody may see for himself. Thereupon we assert that such things are inconsistent with any form of real Christianity; that though any one man may possibly do these things and yet be morally blameless, there is no such possibility when we consider the party as a whole. And further, if we have been compelled to come to this conclusion, we are not to be blamed for want of charity if we suppose similar motives to have actuated the ambiguous conduct to which we have above referred.

Before we conclude, we must notice an objection which has been made to the imprisonment of Mr. Dale and Mr. Enraght, on the ground that it would have been better to wait to the end of the three years appointed by the Public Worship Regulation Act. The Archbishop of Canterbury in an address to the rural deanery of Westbere spoke of "the very unwise course lately taken by the four churchwardens representing the parishioners of St. Vedast, Foster Lane, in pressing for the imprisonment of their pastor on a writ of contumacy."

The Bishop of Manchester is reported to have said at Blackburn, referring to the imprisoned clergymen, that he regretted that the law should have taken that particular form, and he would be glad if they could be released from prison and punished by other penalties. And the Bishop of London has expressed similar views.

We must say that we entirely concur in regretting that imprisonment was found necessary. It is due to the Church Association who have borne the burden and heat of the day in maintaining the Established Church in its established form, to quote their own language to the same effect. In a meeting on the 6th of December, by unanimous resolution, they "regretted that any necessity should have arisen for the enforcement by imprisonment for contempt of court, of the judgments obtained against the Rev. T. P. Dale and other clergymen."

It is no part of our purpose to vindicate the proceedings of the aggrieved laity or of the Church Association. They require no vindication from the scurrilous abuse of their opponents. The particular objection, however, which is taken to this particular proceeding, becomes important from the high position of

the three prelates; and being based, as we think, on a misapprehension of the legal difficulties attending any other alternative, deserves more attention. We must premise that we have only an outsider's knowledge of the case.

We all know that the temporal courts, besides the final sentences which they award for the regular criminal offences, have the power of enforcing their orders, whether made in the course of the proceedings, or as final judgments, by summary proceedings for contempt of court; as where a man, while a suit is proceeding, endeavours to prejudice the case by improper comments in a newspaper, or by threatening a witness, or where a witness refuses to answer, or where a defendant disobeys an injunction in a Chancery suit. The Ecclesiastical Courts had a similar power of enforcing their orders. But it is not the same power; they cannot send a man off to prison on their own authority for contempt of court, or, as as it is called in the Ecclesiastical Courts, contumacy. They inform the Lord Chancellor of the contumacy, or, in technical language, they "signify" it to him, and there their authority stops. It is the Lord Chancellor who then, on his own responsibility, imprisons the party until he shall submit.

So matters stood until the passing of the Public Worship Regulation Act of 1874. That Act provided a new and alternative procedure for those who chose to proceed under it.[1]

It provided that upon proof of the offence, the sentence of the court should be a monition, enjoining the party to desist from the conduct in question. Then it provides that this monition may be forced by "inhibition," and that if the inhibition remain in force for three years the living is to become void *ipso facto*, without more ado. Now what is "inhibition?" Whatever it may mean, it was not before the passing of this Act, known to the ecclesiastical law as a punishment for a beneficed clergyman. The word itself, indeed, was not unknown. When a litigant in

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[1] This Act was intended to provide a cheaper and more expeditious remedy than the old procedure, and one which should be less encumbered with technicalities. The remedy actually provided by it is no less expensive, is slower in its effect, and literally bristles with doubtful points and technicalities. No lawyer can say for certain what it means. Was it, then, a useless piece of legislation? By no means. By passing it on the second reading, *without a division*, and in its other stages by enormous majorities, after a declaration by two such prominent and influential persons, on either side of the house, as Mr. Gladstone and Lord Cranbrook (then Mr. Gathorne Hardy) that it should be opposed by them with all their might, the British public—the law-abiding, church-loving public, which thinks more of the quiet and humble discharge of duty than of demonstrations and public meetings, whether on the right or the wrong side—just showed its teeth. Moreover, it was necessary to provide some method of appointing a new judge.

an Ecclesiastical Court, whether in a civil or criminal suit, appealed from one court to a higher court, the higher court was wont at once to "inhibit" the inferior court. It said, in effect, to the inferior court, "Take notice that this suit has been appealed to us, and until we have heard and decided the appeal and have sent your judgment back to you, either affirmed or reversed, you must hold your hand and not enforce your judgment, or do anything to the prejudice of the appeal." So also at a visitation, when the bishop "visits" his diocese to see that all is going on right, he usually "inhibits" all inferior jurisdictions of archdeacons, rural deans and so forth. When the Archbishop visits his province, the jurisdiction of the bishops themselves is similarly "inhibited," or paralyzed as it were, for the time.

We can only guess what "inhibition" means in the Public Worship Act by trying to find some analogy (which may after all be fanciful) with the inhibition already known to the law. It is laid down in Ayliffe's "Parergon" (one of the great authorities in ecclesiastical matters) that the court inhibited loses its jurisdiction, and the judge becomes "as a private man" in that case. It would seem, therefore, that a clergyman "inhibited" under the Public Worship Act, becomes "as a private man," and, if so, this inhibition would seem to be equivalent to suspension *ab officio*.

The principal legal question raised in Mr. Dale's case is whether the orders of the court, made in suits under the Public Worship Act, can be enforced by the same summary process by which orders made under the old procedure could have been enforced. The Act does not say so; but neither does it say they cannot. The Ritualists (or rather their counsel) have of course to maintain that these orders cannot be so enforced: the Church party have to argue the contrary. No one (except a Ritualist) can say for certain which is right. The arguments *pro* and *con* are so nicely balanced, that either side would be justified in appealing up to the House of Lords itself. Moreover, how can any one say that an order of "inhibition" has been disobeyed until it is first of all decided what inhibition means?

But though this is the principal point in the case, the public will not fail to have observed all the other technicalities raised on behalf of Mr. Dale. If none of these latter technicalities had been raised now, they would undoubtedly have been raised at the end of the three years prescribed by the Act. At the end of that time, when we should all have been expecting that Mr. Dale would lose his living *ipso facto*, and that the scandal of a three years' defiance of the law would terminate, Mr. Dale would quietly raise all these technical objections to the previous proceedings against him, and if any single one

succeeded, the whole of the suit would have been in vain! Surely no scandal would have been equal to that. But by trying the *significavit*, the churchwardens have compelled the other side to show its hand. If there has been any technical error, it is far better that it should be brought out at once than after three years' weary waiting. The risk involved in waiting for the "slow but sure process of the Act" was so enormous, that it was hardly fair to ask the churchwardens to run it. Moreover, the error might have been repeated over and over again in other suits before it was discovered. So Dale was first "signified;" but the Ritualists would not move. It was only when Enraght and Green were also threatened, that the Ritualist lawyers could be induced to show their hand. We respectfully submit to the three bishops that, though imprisonment is to be deplored, it may have been, under the circumstances, absolutely necessary.

NOTE.—Since this Article was written, Mr. De la Bere, of Prestbury, a notorious mutineer, has incurred the sentence of deprivation. We rejoice that in the ecclesiastical proceedings against him imprisonment has not been found necessary. If, indeed, he wishes to go to prison he will have plenty of opportunity, but the orders which, for this purpose, he must resist, will probably be those of a temporal Court in a prosaic action of trespass or ejectment.

ART. II.—DAVID LIVINGSTONE.

The Personal Life of David Livingstone, LL.D., D.C.L. Chiefly from his Unpublished Journals and Correspondence in the possession of his Family. By WILLIAM GARDEN BLAIKIE, D.D., LL.D., New College, Edinburgh. With Portrait and Map. London: John Murray. 1880.

PERHAPS Florence Nightingale, writing out of her womanly sympathy to Livingstone's daughter on the arrival in England of the news of his death, went a little too far when she called him "the greatest man of his generation;" yet her very striking and beautiful letter, printed in Dr. Blaikie's "Life" (p. 458), rightly points out his peculiar place in the history of our time. "There are few enough," she says, "but a few statesmen. There are few enough, but a few great in medicine, or in art, or in poetry. There are a few great travellers. But Dr. Livingstone stood alone as the great Missionary Traveller, the bringer-in of civilization; or rather the pioneer of civilization—he that cometh before—to races lying in darkness. I always think of him as what John the Baptist, had he been living in the nineteenth century, would have been."